### 43 UNITED STATES DEPARTMENT OF TRANSPORTATION FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

JAYPUR LOGISTICS, LLC

USDOT NO. 3150073 MC NO. 104343 Order No.: TX-2022-5003-IMH

) Service Date: May 7, 2022 ) Service Time: 9:13 72

# IMMINENT HAZARD OPERATIONS OUT-OF-SERVICE ORDER

This is an Imminent Hazard Operations Out-of-Service Order ("ORDER") issued by the Secretary of the United States Department of Transportation (the "Secretary") pursuant to 49 U.S.C. §§ 521(b)(5)(A), 13905(f), 31132(3), 31133(a)(10), 31134, 31144(c)(1), and 49 CFR § 386.72(b)(1), and pursuant to a delegation of authority to the Regional Field Administrator, Western Service Center, Federal Motor Carrier Safety Administration ("FMCSA"), and the United States Department of Transportation ("USDOT"). This ORDER applies to Jaypur Logistics, LLC (USDOT No. 3150073) (referred to as "you," "your," or "Jaypur"). Additionally, this ORDER applies to all your officers, agents, and employees and to all commercial motor vehicles owned or operated on your behalf.

The Secretary and the FMCSA find your continued operation of any commercial motor vehicle ("CMV")<sup>1</sup> in interstate or intrastate commerce constitutes an <u>imminent hazard</u>. This finding means that based upon your present state of unacceptable safety compliance, your

<sup>1</sup> Under 49 CFR § 390.5T, a commercial motor vehicle includes "any self-propelled or towed motor vehicle used on a highway in interstate commerce to transport passengers or property when the vehicle—(1) [h]as a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of 4,536 kg (10,001 pounds) or more, whichever is greater; or (2) [i]s designed or used to transport more than 8 passengers (including the driver) for compensation; or (3) [i]s designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation."

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operation of any CMV substantially increases the likelihood of serious injury or death if not discontinued immediately.

## **EFFECTIVE IMMEDIATELY YOU MUST**

# **CEASE ALL COMMERCIAL MOTOR VEHICLE OPERATIONS IN** INTERSTATE AND INTRASTATE TRANSPORTATION.

Your vehicle(s) and driver(s) now in interstate or intrastate commerce may proceed to the next scheduled stop where the cargo on board can be safely secured. However, drivers Aisha Green, Lionel Richard, Freddie Watts, Timothy White, Michael Williams, Robert Williams are already prohibited from performing safety-sensitive functions under 49 CFR § 382.503 based on their positive test for controlled substances, as reflected in FMCSA's Drug and Alcohol Clearinghouse ("DACH"), and failure to complete the requirements of Part 40, Subpart O. Accordingly, these drivers are ordered out-of-service and must cease driving immediately. See 49 CFR § 386.72(b)(4) and (5).

# YOU MAY NOT LOAD OR TRANSPORT ANY ADDITIONAL CARGO OR **OPERATE ANY COMMERCIAL MOTOR VEHICLE IN INTERSTATE OR INTRASTATE COMMERCE WHILE THIS ORDER IS IN EFFECT.**

"Operate" or "operating" includes without limitation all interstate and intrastate transportation by your drivers from all dispatching locations or terminals.

Commercial motor vehicles may not be operated in interstate or intrastate commerce by you or on your behalf.

# Within eight (8) hours of the service of this ORDER, you must submit to the **Regional Field Administrator in writing by electronic mail the location of each CMV** under your control. You must identify the vehicle by year, make, model, and vehicle identification number (VIN). You must include a copy of the current registration. You TX-2022-5003-IMH

# <u>must also identify the street address, city, and state of the location of each vehicle, and</u> you must identify the driver last operating the vehicle. Your submission must be sent to:

Regional Field Administrator <u>WSCENF@dot.gov</u> (electronic mail)

Any sale, lease, or other transfer of equipment under your control and/or direct assignment of contracts or other agreements for service by you requires written approval by the Regional Field Administrator.

You cannot avoid this ORDER by continuing operations under the name of another person or company. See 49 CFR § 386.73.

# I. JURISDICTION

You conduct motor vehicle operations in interstate commerce using a combination of motor vehicles with a gross vehicle weight rating ("GVWR") of 26,001 pounds or more. You are therefore subject to Federal motor carrier safety statutes and regulations, including the Federal Motor Carrier Safety Regulations ("FMCSRs"), 49 CFR Parts 350-399, and the alcohol and controlled substances regulations at 49 CFR Part 40, as well as Orders of the USDOT and FMCSA. *See* 49 U.S.C. §§ 506, 507, 13501, 31133, 31136, 31144, and 31306. You are required to comply, and to ensure your drivers comply, with the FMCSRs, alcohol and controlled substances regulations, and Orders of the USDOT and FMCSA. *See* 49 U.S.C. § 31135(a); 49 CFR § 390.11.

This ORDER has the force and effect of any other Order issued by FMCSA and is binding on you, and all owners, officers, members, directors, successors, assigns, and closely affiliated companies. This ORDER applies to all motor carrier operations and all vehicles owned, leased, rented or otherwise operated by you.

### II. BACKGROUND AND BASIS FOR ORDER

The basis for determining that your motor vehicle operations pose an imminent hazard to the public is your continued widespread noncompliance with the FMCSRs, including regulations in 49 CFR Part 382, (Controlled Substances and Alcohol Use and Testing), 49 CFR Part 383 (Commercial Driver's License Standards), 49 CFR Part 391 (Qualifications of Drivers), 49 CFR Part 393 (Parts and Accessories Necessary for Safe Operation), 49 CFR Part 395 (Hours of Service of Drivers), and 49 CFR Part 396 (Vehicle Inspection, Repair, and Maintenance).

FMCSA's investigation and inspections by FMCSA's state partners reveal that you lack safety management controls to ensure that your drivers operate your CMVs safely and that your CMVs are in safe operating condition. The cumulative violations of the FMCSRs substantially increase the likelihood of death or serious injury to your drivers and the motoring public and establishes an imminent hazard.

The specific deficiencies that substantially increase the likelihood of serious injury or death if not discontinued immediately are as follows:

#### A. Egregious Safety Violations

During an investigation conducted in April 2022 and roadside inspections over the last two years, extensive and repeated violations were discovered in 49 CFR Parts 382, 383, 391, 393, 395, and 396 that demonstrate your lack of safety management controls. The proposed safety rating based on the compliance investigation is Unsatisfactory.

#### 1. Alcohol and Controlled Substances

Despite a safety audit in May 2019, which you failed due to your lack of a random testing program, and a compliance investigation in June 2020 in which investigators cited you for using a driver prior to receiving a negative pre-employment controlled substances test, you TX-2022-5003-IMH PAGE 4 OF 18

still have failed to implement an effective alcohol and controlled substances testing program.

You have allowed six drivers to operate CMVs while prohibited in the DACH and before completing the requirements of Part 40, Subpart O, in violation of 49 CFR § 382.503. At least four of your drivers were prohibited from driving at the time you hired them, as reflected in the DACH, based on a positive test for controlled substances. According to information provided by you, these drivers were hired January 1, 2022, December 15, 2021, April 17, 2021, and April 6, 2021. The four drivers still have not completed the requirements of Part 40, Subpart O, yet they are or have been drivers for Jaypur in violation of 49 CFR § 382.503. Additionally, on February 11, 2022 and May 21, 2021, roadside officers discovered two other drivers who operated CMVs for Jaypur while prohibited in the DACH and before completing the requirements of Part 40, Subpart O in violation of 49 CFR § 382.503.

You have not implemented a random testing program, in violation of 49 CFR § 382.305, and have allowed at least five of your drivers to operate CMVs prior to receipt of a negative pre-employment drug test, in violation of 49 CFR § 382.301(a). Further, on May 21, 2021 and December 10, 2021, you failed to conduct post-crash alcohol and controlled substances testing, in violation of 49 CFR § 382.303(a) and (b).

You failed to conduct the required DACH pre-employment queries in violation of 49 CFR § 382.701(a). You did not register for FMCSA's Drug and Alcohol Clearinghouse ("DACH") until February 11, 2022, after FMCSA's investigation started, and as of April 26, 2022, you have not conducted any queries in the DACH.

During roadside inspections of CMVs on interstate trips on February 1, 2021 and January 16, 2021, roadside officers cited your drivers for driving under the influence in violation of 49 CFR § 392.4. Additionally, on March 10, 2022, February 21, 2021, and February 1, 2021, during roadside inspections of CMVs on interstate trips, officers cited three TX-2022-5003-IMH PAGE 5 OF 18 of your drivers for on-duty possession of drugs or alcohol in violation of 49 CFR §§ 392.4 and 392.5(a)(3).

On December 10, 2021, your driver caused a single vehicle crash. Your driver was transported to the hospital and your CMV was towed. The roadside officer indicated that traveling too fast for conditions and drugs were probable contributing factors to the crash.

### 2. Driver Qualification

Your safety management practices do not ensure that only qualified drivers with proper licenses and medical examiner's certificates operate your CMVs. You have no driver qualification file for at least two drivers, in violation of 49 CFR § 391.51(a), and you failed to maintain inquiries into the driving record for another three drivers, in violation of 49 CFR § 391.51(b)(2). As specified below, you also allowed, required, permitted or authorized seven drivers to operate CMVs without current commercial driver's licenses ("CDLs") or in violation of restrictions on their CDLs or commercial learner's permits ("CLPs"), in violation of 49 CFR § 383.37(a).

- a) On March 10, 2022, the Mississippi Department of Public Safety conducted a roadside inspection of your CMV and driver. During the inspection, the roadside officer discovered that your driver possessed only a commercial learner's permit and did not have a CDL driver in the CMV with him as required.
- b) On December 24, 2021, the Oklahoma Highway Patrol conducted a roadside inspection of your CMV and driver. During the inspection, the roadside officer discovered that your driver was operating a CMV without a CDL.
- c) On October 13, 2021, the Colorado State Patrol conducted a roadside inspection of your driver. During the inspection, the roadside officer discovered that your driver was operating a CMV without a CDL.

- d) On August 26, 2021, the Motor Carrier Safety Unit of the Alabama Law Enforcement Agency conducted a roadside inspection of your driver. During the inspection, the roadside officer discovered that your driver was operating a CMV without a CDL.
- e) On March 23, 2021, the Texas Department of Public Safety, Commercial Vehicle Enforcement Unit conducted a roadside inspection of your CMV and driver. During the inspection, the roadside officer discovered that your driver was operating a CMV without a CDL.
- f) On November 17, 2020, the Pasadena Police Department conducted a roadside inspection of your driver. During the inspection, the roadside officer discovered that that your driver was operating a CMV without a CDL.
- g) On August 21, 2020, the Colorado State Patrol conducted a roadside inspection of your CMV and driver. During the inspection, the roadside officer discovered that that your driver was operating a CMV without a CDL.
  - 3. Unsafe Driving

Your safety management practices do not ensure that your drivers safely operate CMVs, including operating in accordance with the laws, ordinances and regulations of the jurisdiction in which the CMVs are operated, as required by 49 CFR Part 392.

On May 21, 2021, your driver caused a single vehicle crash resulting in injuries to two passengers including a 3-year old child who was not wearing a seat belt. Your driver was cited for failing to maintain his lane in violation of K.S.A. § 8-1522(a). This is also a violation of 49 CFR § 392.2. Additionally, your driver informed the investigating officer that he must have fallen asleep and was, therefore, operating a CMV while fatigued in violation of 49 § CFR 392.3.

In another single vehicle crash on December 10, 2021, the Missouri roadside officer indicated that traveling too fast for conditions and drugs were probable contributing factors to the crash.

Additionally your drivers were cited with the following unsafe driving violations while operating your CMVs in interstate commerce:

- a) Failure to obey traffic control device in violation of 49 CFR § 392.2 on November 22, 2021, September 21, 2021, and March 30, 2021.
- b) Speeding 11-14 mph over the speed limit in violation of 49 CFR § 392.2 on November 21, 2021.
- c) Speeding 6-10 mph over the speed limit in violation of 49 CFR § 392.2 on April 8, 2021, February 21, 2021, January 29, 2021, and August 3, 2020.
- d) Improper lane change in violation of 49 CFR § 392.2 on August 19, 2021.
- e) Failure to use hazard warning flashers in violation of 49 CFR § 392.22(a) on May 5, 2021, February 12, 2021, January 14, 2021, and January 8, 2021.
- f) Failure to use a seat belt while operating a CMV in violation of 49 CFR § 392.16 on January 4, 2022 and October 6, 2021.
- g) Lane restriction violation in violation of 49 CFR § 392.2 on April 6, 2021.
- h) Unauthorized passenger, 2 years old, on board CMV in violation of 49 CFR 392.60(a) on May 15, 2021.
- i) Unlawfully parking and/or leaving CMV in the roadway in violation of 49 CFR § 392.2 on August 13, 2021 and May 5, 2021.
  - 4. Hours of Service

You fail to have a system in place to monitor your drivers' hours of service compliance as required by 49 CFR Part 395. During the April 2022 compliance investigation, FMCSA TX-2022-5003-IMH PAGE 8 OF 18 requested records of duty status ("RODS") for five drivers. You failed to maintain RODS for four drivers, in violation of 49 CFR § 395.8(k)(1). For the fifth driver, you were able to obtain RODS from your driver but only after the compliance investigation started. Therefore, you failed to require this driver to forward RODS within 13 days of completion in violation of 49 CFR § 395.8(a)(2)(ii). Without RODS, neither you nor enforcement officials have any way of monitoring whether your drivers are driving beyond the hours of service limits.

During FMCSA's April 2022 compliance review, you provided a driver list identifying 29 drivers, 15 of which were current drivers. Roadside officers have inspected 19 of these 29 drivers at least once during the previous 24 months and cited 14 of the 19 drivers with out-ofservice violations in 49 CFR Part 395. Of the 15 current drivers, roadside officers have inspected 10 and cited 7 with out-of-service violations in 49 CFR Part 395.

Overall, roadside officers discovered hours of service violations (49 CFR Part 395) in 46% of your roadside inspections and out-of-service hours of service violations in 28%. Examples of the types of hours of service violations roadside officers discovered include: (1) no record of duty status, (2) driving beyond the 11 hour driving limit, (3) driving beyond the 14 hour duty period, (4) failing to retain previous 7 days records of duty status, and (5) false records of duty status.

#### 5. Vehicle Maintenance and Inspection

In both the May 2019 safety audit and the June 2020 compliance review, FMCSA discovered that you failed to keep vehicle maintenance records and advised you to take corrective action. Despite these interventions, you do not have a systematic vehicle inspection, repair, and maintenance program in place to prevent the operation of unsafe CMVs in violation of 49 CFR § 396.3(a). Further, you do not maintain inspection, repair, and maintenance records for your vehicles in violation of 49 CFR § 396.3(b)(1) and (2). TX-2022-5003-IMH

During FMCSA's April 2022 compliance review, you provided an equipment list identifying 18 truck-tractors. Roadside officers have inspected 11 of these truck-tractors at least once during the previous 24 months and discovered vehicle maintenance violations on ten and out-of-service violations on eight.

Overall, your vehicle out-of-service rate is 40.5%, compared to the national average of 21.2%. Some of the particularly egregious vehicle maintenance violations roadside officers discovered are:

- a) On February 4, 2022, the Montana Department of Transportation inspected your CMV that was operating in interstate commerce. During the inspection, the roadside officer discovered that neither the left nor right brake lights of the trailer were working, in violation of 49 CFR § 393.9(a).
- b) On December 24, 2021, the Oklahoma Highway Patrol inspected your CMV that was operating in interstate commerce. During the inspection, the roadside officer discovered that (1) both front brakes on the truck tractor were non-working in violation of 49 CFR § 396.3(a)(1) and (2) the rear left tail lamp was inoperable.
- c) On October 6, 2021, the Missouri State Highway Patrol inspected your CMV that was operating in interstate commerce. During the inspection, the roadside officer discovered that 10 bundles of shingles were not secured on the trailer, in violation of 49 CFR § 393.100(c).
- d) On April 20, 2021, the Oklahoma Highway Patrol inspected your CMV that was operating in interstate commerce. During the inspection, the roadside officer discovered that all four brakes on the trailer were non-working, in violation of 49 CFR § 396.3(a)(1).

- e) On April 6, 2021, the Oklahoma Highway Patrol inspected your CMV that was operating in interstate commerce. During the inspection, the roadside officer discovered that (1) at least 20% of the service brakes on the CMV were defective in violation of 49 CFR § 396.3(a)(1) and (2) the tire pressure of an inside tire on the trailer's axle 5 measured completely flat, zero pounds per square inch ("PSI"), in violation of 49 CFR § 393.75(a)(3).
- f) On March 23, 2021, the Texas Department of Public Safety, Commercial Vehicle Enforcement inspected your CMV that was operating in interstate commerce.
  During the inspection, the roadside officer discovered slick tires, less than 2/32 inch of tread, side by side on axle 2 of the truck tractor, in violation of 49 CFR § 393.75(c).
- g) On March 22, 2021, the California Highway Patrol inspected your CMV that was operating in interstate commerce. During the inspection, the roadside officer discovered that both the left and right rear tail lamps were inoperative, in violation of 49 CFR § 393.9.
- h) On March 9, 2021, the Mississippi Department of Transportation inspected your CMV that was operating in interstate commerce. During the inspection, the roadside officer discovered that all four brakes on the trailer were non-working, in violation of 49 CFR § 396.3(a)(1).
- i) On February 9, 2021, the Louisiana State Police inspected your CMV that was operating in interstate commerce. During the inspection, the roadside officer discovered that (1) the truck tractor's right inside tire on axle 3 was flat with 30/105 PSI, in violation of 49 CFR § 393.75(a)(3) and (2) the trailer's left outside tire on axle 4 was flat with 30/120 PSI, in violation of 49 CFR § 393.75(a)(3).

j) On January 7, 2021, the Missouri State Highway Patrol inspected your CMV that was operating in interstate commerce. During the inspection, the roadside officer discovered that (1) all four brakes on the trailer were non-working, in violation of 49 CFR § 393.48(a) and (2) all of the required lamps on the towed vehicle were inoperative due to no electrical connection, in violation of 49 CFR § 393.23.

#### B. Lack of Knowledge of Safety Regulations

Jaypur's sole owner, Purav Shah, fails to comply with and appears to lack any knowledge of the FMCSRs, in violation of 49 CFR § 390.3T. For example, when interviewed, Mr. Shah indicated he did not conduct controlled substance testing or maintain driver qualification files for owner-operators.

Additionally, Mr. Shah does not appear to know who is operating under his DOT number, what vehicles they are using, or what they are carrying. During the April 2022 compliance investigation Mr. Shah provided a driver list with 29 drivers. However, according to Jaypur's roadside inspections, approximately 50 drivers not on this list operated CMVs for Jaypur in 2021. Similarly, Mr. Shah provided an equipment list identifying 18 truck tractors but roadside data shows over 50 additional power units used by Jaypur. Finally, Mr. Shah denied transporting any hazardous materials ("HM"), however, on at least two occasions roadside officers discovered Jaypur transporting HM. Jaypur does not have proof of the insurance required for HM carriers in violation of 49 CFR § 387.7(d), did not provide HM training to its drivers in violation of 49 CFR § 177.800(c)/172.704(c), and did not register with DOT as an HM carrier in violation of 49 CFR § 107.608(b).

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#### C. Effect of Violations

Your complete and utter disregard for the FMCSRs substantially increases the likelihood of serious injury or death for your drivers and the motoring public if your operations TX-2022-5003-IMH PAGE 12 OF 18 are not discontinued immediately. Your entire operations constitute an imminent hazard to safety which may only be abated by the complete cessation of your operations.

### **III. REMEDIAL ACTION**

To eliminate this imminent hazard, and before you will be permitted to resume your motor carrier operations placed out of service by this Order, you must take specific steps to ensure and demonstrate compliance with the FMCSRs including the following:

- 1. You must implement and maintain a controlled substance and alcohol testing program in accordance with 49 CFR Parts 40 (Procedures for Transportation Workplace Drug and Alcohol Testing Programs) and 382 (Controlled Substances and Alcohol Use and Testing).
- 2. You must establish safety management controls and procedures to ensure that drivers that operate commercial motor vehicles, as defined in 49 CFR § 382.107, in interstate and intrastate commerce comply with the prohibitions and limitations on the use of alcohol and controlled substances in accordance with 49 CFR Part 382.
- 3. You must access FMCSA's Drug and Alcohol Clearinghouse as required and establish safety management controls and procedures to ensure that you perform all required employer functions, including conducting pre-employment queries as required by 49 CFR § 382.701. You must immediately cease using any drivers currently prohibited in the DACH.
- 4. In accordance with 49 CFR Part 383, you must establish safety management controls and procedures to ensure that each and every driver that operates a commercial motor vehicle, as defined in 49 CFR § 383.5, in interstate or intrastate commerce has the necessary driver's license, including any required endorsements, for the motor vehicles the driver operates.
- 5. In accordance with 49 CFR part 391, you must qualify each driver that operates on your behalf and maintain complete driver qualification files. In accordance with 49 CFR § 391.51(b)(2), you must obtain and maintain motor vehicle records for all drivers.
- 6. You must demonstrate that your drivers will operate CMVs in accordance with the laws, ordinances, and regulations of the jurisdiction(s) in which you are operating.

- 7. You must establish safety management controls and procedures to ensure that your drivers comply with the hours of service requirements as set forth in 49 CFR Part 395 including ensuring that your drivers: (1) prepare and submit records of duty status using the appropriate method, (2) retain and submit supporting documents, (3) do not exceed maximum driving times, and (4) do not falsify records of duty status. Your safety management controls must also ensure that you maintain drivers' records of duty status and supporting documents for 6 months in accordance with 49 CFR § 395.8(k)(1).
- 8. You must establish safety management controls and procedures that ensure that each and every CMV you operate or intend to operate, whether owned, rented, leased or otherwise used, is safe and is systematically and properly inspected, maintained, and repaired as required by 49 CFR Part 396, and that documentation of inspections, maintenance and repair are obtained and maintained as required. Your safety management controls must ensure that your drivers complete Driver Vehicle Inspection Reports when required in accordance with 49 CFR § 396.11.
- 9. You must contact FMCSA's Texas Division and arrange for inspection of each of your CMVs by an FMCSA inspector or an inspector designated by FMCSA.
- 10. In accordance with 49 CFR § 390.3T(e), you must be knowledgeable of and comply with the federal motor carrier statutes and regulations. You must ensure that your compliance and safety management controls apply to both company drivers and owner-operators driving on your behalf.
- 11. You must comply with all Orders issued by FMCSA.

# IV. RESCISSION OF ORDER

You are subject to this ORDER unless and until this ORDER is rescinded in writing by FMCSA. Until this ORDER is rescinded and you have a valid and active USDOT number and, as applicable, operating authority registration, you are prohibited from operating any commercial motor vehicle, as defined by 49 CFR § 390.5T, in interstate and/or intrastate commerce. This ORDER will not be rescinded until the Regional Field Administrator for FMCSA's Western Service Center has determined that the Remedial Action requirements, specified in Paragraph III of this ORDER, have been fully satisfied and acceptable documentation submitted.

Before this ORDER may be rescinded, you must comply with the provisions of this

ORDER, eliminate the deficiencies constituting the imminent hazard that your CMV operations

pose, and provide evidence to the Regional Field Administrator for FMCSA's Western Service

Center of the actions taken to eliminate the associated safety problems.

Any request to rescind this ORDER and documentation demonstrating satisfaction of the Remedial Action requirements must be directed to the Regional Field Administrator, Western Service Center, with a copy to the Division Administrator, Texas Division, at the

following addresses:

Regional Field Administrator, Western Service Center Federal Motor Carrier Safety Administration 12600 West Colfax Avenue, Suite B-300 Lakewood, CO 80215 wscenf@dot.gov

Division Administrator, Texas Division Federal Motor Carrier Safety Administration 903 San Jacinto Blvd., Suite 1100 Austin, TX 78701 mctxoff@dot.gov

In order for you to resume motor carrier operations in interstate or intrastate commerce, you will be required to apply for any required operating authority registration and demonstrate that you are fit and willing and able to comply with: 1) the statutory and regulatory registration requirements; 2) applicable safety regulations including the FMCSRs; 3) the commercial motor vehicle safety requirements of employers and employees set forth in 49 U.S.C. § 31135; 4) the safety fitness requirements set forth in 49 U.S.C. § 31144; and 5) minimum financial responsibility requirements established under 49 U.S.C. § 13906 and 31139.

To be eligible for registration, you must not be subject to any other order prohibiting you from operating in interstate commerce.

#### V. ENFORCEMENT OF ORDER

This ORDER, issued pursuant to 49 U.S.C. §§ 521(b)(5)(A), 13905(f), 31144(c)(1) and (5), 31132(3), 31133, and 31134 and 49 CFR § 386.72(b)(1), is an Order of, and enforceable by, the Secretary. Violations of this ORDER may subject you to civil penalties and may also result in an action in the United States District Court for equitable relief and punitive damages. You may be assessed civil penalties of up to \$29,893 for each violation of this ORDER. *See* 49 U.S.C. §§ 507, 521(b)(2)(F) and 521(b)(4) and 49 CFR Part 386 App. A. § IV(g)). You may also be assessed civil penalties of not less than \$11,956 for providing transportation requiring registration, including operating a CMV in interstate commerce, without USDOT number registration. *See* 49 U.S.C. §§ 14901, 14702-03, 507, 521(b)(2)(F) and 31134. If violations are determined to be willful, criminal penalties may be imposed, including a fine of up to \$25,000 and imprisonment for a term not to exceed one year. 49 U.S.C. § 521(b)(6)(A).

#### VI. PENALTIES FOR VIOLATIONS OF FEDERAL REQUIREMENTS

Any person, including any CMV operator, employer, and/or motor carrier that violates Federal requirements, including the FMCSRs, and/or permits its employee(s) to violate Federal requirements is subject to civil and/or criminal penalty provisions. Penalty provisions for violations of Federal statute and regulations are separate and distinct from this ORDER. Penalties may be assessed for the violations of Federal requirements, including the FMCSRs and Orders of the FMCSA, previously discovered, discovered after the service of this ORDER, and/or discovered during subsequent investigations.

### VII. RIGHT TO REVIEW

You have the right to administrative review under 5 U.S.C. § 554 and 49 CFR § 386.72(b)(4). If requested, administrative review must commence within ten days after the petition for review is filed and must be concluded as expeditiously as practicable but may run longer than ten days from the date of issuance of such Order or the filing of the petition for review. See 49 U.S.C. § 521(b)(5) and 49 CFR § 386.72(b)(4). A request for review must be addressed to the Assistant Administrator, United States Department of Transportation, Federal Motor Carrier Safety Administration, with a copy sent to Adjudications Counsel and the Regional Field Administrator, Western Service Center, via electronic mail or at the following addresses:

Assistant Administrator Federal Motor Carrier Safety Administration 1200 New Jersey Avenue, S.E. Washington, DC 20590

Adjudications Counsel (MC-CCA) Federal Motor Carrier Safety Administration Office of the Chief Counsel 1200 New Jersey Avenue, S.E. Washington, DC 20590 FMCSA.Adjudication@dot.gov

Regional Field Administrator, Western Service Center Federal Motor Carrier Safety Administration 12600 W. Colfax Ave., Suite B-300 Lakewood, CO 80215 wscenf@dot.gov

The request must state the material facts at issue which you believe dispute or contradict the

finding that your CMV operations in interstate or intrastate commerce constitute an imminent

hazard to the public.

# A REQUEST FOR ADMINISTRATIVE REVIEW DOES NOT SUSPEND OR

DELAY YOUR DUTY TO COMPLY WITH THIS ORDER IMMEDIATELY. See 49

CFR § 386.72(b)(4). This ORDER is separate and independent from all other orders or actions that may be issued by FMCSA or other jurisdiction, and does not amend or modify any other orders or actions.

Any request for administrative review of this ORDER does not attach to or apply to any other order or action.

Date: April <u>26</u>, 2022

Scott G. Hernandez Regional Field Administrator United States Department of Transportation Federal Motor Carrier Safety Administration