



U.S. Department  
Of Transportation  
**Federal Motor Carrier  
Safety Administration**

**RECEIPT OF IMMINENT HAZARD DISQUALIFICATION ORDER**  
(TX-2024-5000-IMH)

I, JERRY HERNANDEZ, hereby acknowledge receipt of the **IMMINENT HAZARD DISQUALIFICATION ORDER** (TX-2024-5000-IMH) issued by the United States Department of Transportation, Federal Motor Carrier Safety Administration to me on this 29<sup>th</sup> day of March, 2024 at 2:32 o'clock p.m. I received the **IMMINENT HAZARD DISQUALIFICATION ORDER** (TX-2024-5000-IMH) at the location of St. David's ER - 3201 SH 71 E, Bastrop TX 78003 (address).

  
\_\_\_\_\_  
JERRY HERNANDEZ



U.S. Department  
Of Transportation  
**Federal Motor Carrier  
Safety Administration**

**CERTIFICATE OF SERVICE**

I, Zachary B. Atchison, certify that the **IMMINENT HAZARD**

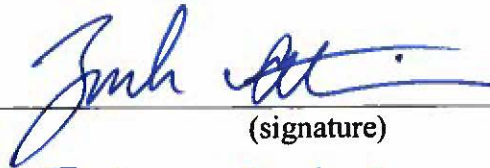
**DISQUALIFICATION ORDER (TX-2024-5000-IMH)** issued by the United States

Department of Transportation, Federal Motor Carrier Safety Administration to JERRY

HERNANDEZ was served this 29<sup>th</sup> day of March 2024 at 2:32 o'clock P.m. by

personally handing it to JERRY HERNANDEZ at the location of:

St. David's ER - 3201 SH71 E, Bastrop TX 78602



(signature)

Zachary B. Atchison

(name)

Sergeant (TX DPS)

(title)

305 Eskew St

(business address)

Bastrop TX 78602

512-581-4250

(office telephone number)

**UNITED STATES DEPARTMENT OF TRANSPORTATION  
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION**

**JERRY HERNANDEZ**

**Texas Commercial  
Driver's License**

)  
) **Order No.:** TX-2024-5000-IMH  
)  
) **Service Date:** 03/29/2024  
)  
) **Service Time:** 2:32 pm  
)

**IMMINENT HAZARD DISQUALIFICATION ORDER**

This is an Imminent Hazard Disqualification Order (“ORDER”) issued by the Secretary of the United States Department of Transportation (the “Secretary”) pursuant to 49 U.S.C. §§ 31310(f) and 521(b)(5)(B) and 49 CFR § 383.52 and pursuant to a delegation of authority to the Field Administrator, Western Service Center, Federal Motor Carrier Safety Administration (“FMCSA”). This ORDER applies to Jerry Hernandez, a commercial motor vehicle driver (also referred to as “you,” “your,” and/or “Hernandez”).

The Secretary and the FMCSA find that your continued operation of any commercial motor vehicle (CMV), as defined in 49 CFR § 383.5 constitutes an **imminent hazard** to public safety. This finding means that based upon your present state of unacceptable safety compliance, your operation of any commercial motor vehicle substantially increases the likelihood of serious injury or death if not discontinued immediately.

In addition, pursuant to 49 CFR § 383.52, the determination that your operation of CMVs constitutes an imminent hazard results in you being disqualified from operating any CMV for which a commercial driver’s license is required. The initial period of disqualification is for 30 days from the service date of this ORDER and is effective immediately. Additionally, the Field Administrator proposes a disqualification of one year, from the service date of this ORDER, which will take effect in 30 days unless you submit a request for administrative review or the

Field Administrator rescinds this ORDER pursuant to Section IV below. This disqualification is separate from any other disqualification to which you may have been, or will be, subject. This disqualification will be transmitted to the jurisdiction where you are licensed and will become a part of your driving record maintained by that jurisdiction.

**EFFECTIVE IMMEDIATELY YOU MUST CEASE OPERATING  
ANY COMMERCIAL MOTOR VEHICLE IN INTRASTATE OR INTERSTATE  
COMMERCE.**

**YOU ARE PROHIBITED FROM OPERATING ANY COMMERCIAL MOTOR  
VEHICLE IN INTRASTATE OR INTERSTATE COMMERCE AT ANY TIME DURING  
WHICH THIS ORDER IS IN EFFECT.**

If you are served this ORDER while operating a CMV in intrastate or interstate commerce, you must immediately park such vehicle and arrange for a fully qualified driver to take over operation of the vehicle. You may not continue to operate the CMV.

**I. JURISDICTION**

You are a driver of CMVs in intrastate commerce. You are subject to the Federal Motor Carrier Safety Regulations (“FMCSRs”) in 49 CFR Parts 382 and 383 as well as the Orders of the USDOT and FMCSA. *See* 49 U.S.C. §§ 506, 507, 13501, 31133, 31136, 31301 and 31306. You are required to comply with federal statutes and regulations including those pertaining to controlled substance and alcohol use. *See* 49 CFR Parts 40, 382, and 383.

**II. BASIS FOR ORDER**

The basis for determining that your operation of a CMV poses an imminent hazard to the public is that you have failed to exercise an appropriate duty of care to the motoring public when operating a CMV. You drove a CMV after using controlled substances, including marijuana and cocaine, in violation of 49 CFR § 382.213. You drove a CMV into oncoming traffic and hit a school bus and a passenger car killing a 5-year-old child in the school bus as well as an adult in a

passenger car behind the school bus. Moreover, you have a history of using controlled substances while being employed as a professional CMV driver. Your blatant violations of the FMCSRs and disregard for the safety of the motoring public demonstrated by these actions substantially increases the likelihood of serious injury or death to you and the motoring public.

The specific deficiencies that substantially increase the likelihood of serious injury or death are as follows:

1. On or about September 2, 2020, you refused a required reasonable suspicion controlled substances test under 49 CFR § 382.307 after having told your employer that you recently used illegal drugs and would test positive. You violated 49 CFR § 382.211 when you refused to submit to a required test. Subsequently, you sought treatment from a substance abuse professional.

2. On or about December 15, 2022, you tested positive for controlled substances (marijuana) on a follow-up controlled substances test ordered by the substance abuse professional referenced above under 49 CFR § 382.311. Subsequently, you sought treatment from a substance abuse professional again.

3. On or about April 11, 2023, you tested positive for controlled substances (cocaine) on a follow-up controlled substances test ordered by the substance abuse professional referenced above under 49 CFR § 382.311. You sought treatment after you tested positive but failed to complete any treatment plan as required by 49 CFR § 382.503.

4. On March 22, 2024, you were driving a concrete pump truck (CMV) for FJM Concrete Pumping LLC (USDOT No. 3885564) with a gross vehicle weight in excess of 26,001 pounds in Bastrop County, Texas, when you crossed lanes into oncoming traffic. You struck a school bus carrying dozens of children ages 4-6 and adults who were returning to school from a

field trip. You also struck another vehicle that was following the school bus. You killed a 5-year-old student in the school bus and the driver of the other vehicle. Many other children and adults in the school bus were injured. Following the fatal crash, you were taken to a hospital. You refused to consent to controlled substance testing. Later, a warrant to conduct controlled substance testing was issued. Thereafter, you admitted to law enforcement that you used controlled substances prior to the crash. You admitted to using marijuana the night before the crash and cocaine the day of the crash in violation of 49 CFR § 382.213. Furthermore, at the time of the crash, you were a prohibited driver under 49 CFR §§ 382.215 and 382.503 based on the April 2023 positive drug test and your failure to complete the return to duty process.

### **III. REMEDIAL ACTION**

To abate the imminent hazard, and before you may operate a commercial motor vehicle in intrastate or interstate commerce, provide evidence to demonstrate compliance with the FMCSRs to the FMCSA Western Service Center Field Administrator. **You may not operate a commercial motor vehicle in intrastate or interstate commerce until you have fully complied with the Remedial Actions outlined in this section.**

1. You must complete the return to duty process. You must be evaluated by a substance abuse professional (SAP). You must provide an accurate account of your alcohol and controlled substances use history for the last five years and a copy of this ORDER at the initial SAP consultation. You must successfully complete the substance abuse education and/or treatment program as recommended by the SAP, pass return-to-duty testing, and otherwise satisfy all requirements set forth in 49 CFR §§ 382.503 and 382.605 and 49 CFR part 40, subpart O. The SAP evaluation, program completion, and return-to-duty testing must occur after the service date of this ORDER. You



must demonstrate full compliance with all SAP assessments and evaluation recommendations and return-to-duty testing. You must provide documentation satisfactory to the Field Administrator that you have completed the SAP evaluation, required education, and return-to-duty process and otherwise complied with 49 CFR part 40, subpart O.

2. You must demonstrate that you will not report for duty, remain on duty, or operate CMVs while using or under the influence of controlled substances as identified in 49 CFR § 382.213.
3. You must comply with all Orders issued by FMCSA.

#### **IV. RESCISSION OF ORDER**

You are subject to this ORDER until the ORDER is rescinded in writing by FMCSA.

**Until the ORDER is rescinded, you are prohibited from operating any CMV, as defined by 49 CFR § 383.5, in interstate or intrastate commerce.** This ORDER will not be rescinded until the Field Administrator for FMCSA's Western Service Center determines the remedial action requirements, specified in Section III of this ORDER, are fully satisfied and acceptable documentation is submitted.

Any request to rescind this ORDER and documentation demonstrating satisfactory completion of the remedial action requirements must be sent to the Field Administrator, Western Service Center, with a copy to the Division Administrator, Texas Division, via electronic mail or to the following addresses:

Field Administrator, Western Service Center  
Federal Motor Carrier Safety Administration  
12600 W. Colfax Ave., Suite B-300  
Lakewood, CO 80215  
[wscenf@dot.gov](mailto:wscenf@dot.gov)

Division Administrator, Texas Division  
Federal Motor Carrier Safety Administration  
300 E. 8<sup>th</sup> Street, Suite 130  
Austin, TX 78701  
[mctxoff@dot.gov](mailto:mctxoff@dot.gov)

## **V. FAILURE TO COMPLY**

Failure to comply with the provisions of this ORDER will subject you to an action in the United States District Court for equitable and/or declaratory relief and civil penalties. You may be assessed civil penalties of up to \$6,974 for violations of this ORDER. Each day you operate in violation of this ORDER will constitute a separate violation and subject you to a separate penalty. *See* 49 USC §§ 521(b)(2)(C). Knowing and/or willful violation of the provisions of this ORDER may also subject you to criminal penalties. *See* 49 USC § 521(b)(6).

## **VI. ADDITIONAL PENALTIES FOR VIOLATIONS**

Any driver who violates Federal requirements, including the FMCSRs, is subject to civil and/or criminal penalty provisions. Penalty provisions are separate and distinct from this ORDER. Penalties may be assessed for violations of Federal requirements, including the FMCSRs and Orders of the FMCSA, previously discovered, discovered after service of this ORDER, and discovered during subsequent investigations.

## **VII. RIGHT TO REVIEW**

You have the right to administrative review pursuant to 5 U.S.C. § 554 and 49 CFR § 383.52(c). 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 Field Administrator, Western Service Center, via electronic mail or at the following addresses. To ensure your request is received and reviewed in an expedited manner, electronic mail is recommended.



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

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 for review should state the material facts which you believe dispute or contradict the finding that your continued operation of a commercial motor vehicle constitutes 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 § 383.52.* This ORDER is separate and independent from all other Orders or actions that may be issued by the 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: March 29, 2024



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Brandon A. Poarch, Field Administrator  
U.S. Department of Transportation  
Federal Motor Carrier Safety Administration  
Western Service Center