

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

**Manrique Agramon dba
Monique Trucking**

**USDOT NO. 3888730
MC NO. 1429012**

)
) **Order No.: CA-2024-5000-IMH**
)
) **Service Date: July ____, 2024**
) **Service Time: _____**
)

**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 Manrique Agramon dba Monique Trucking (USDOT No. 3888730) (referred to as “you,” “your,” or “Monique Trucking”). 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”)¹ in interstate or intrastate commerce constitutes an **imminent hazard**. This finding means that based upon your present state of unacceptable safety compliance, your

¹ 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.”

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.

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

Regional Field Administrator
WSCENF@dot.gov (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 prior written notice to 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 395 (Hours of Service of Drivers), and 49 CFR Part 396 (Vehicle Inspection, Repair, and Maintenance).

FMCSA's investigation reveals a complete failure of Monique Trucking and its owner to implement any aspect of a Safety Management Plan. During an investigation completed on June 25, 2024² and in roadside inspections beginning in October 2022, extensive and repeated violations were discovered in 49 CFR Parts 382, 383, 391, 395, and 396 that demonstrate your lack of any safety management controls. You lack any safety management controls to ensure that your drivers are qualified to operate your CMVs, that your drivers operate your CMVs safely, and that your CMVs are in safe operating condition. The cumulative violations of the FMCSRs, as more fully described below, substantially increase the likelihood of death or serious injury to your drivers and the motoring public and establish that your entire motor carrier operation is 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

1. Alcohol and Controlled Substances

You failed to implement an alcohol and controlled substances testing program in violation of 49 CFR § 382.115. You also failed to register in the Drug and Alcohol Clearinghouse ("DACH" or "Clearinghouse") in violation of 49 CFR § 382.711(b).

During the compliance investigation in June 2024, you confirmed that you had not implemented a drug and alcohol testing program in 2022, 2023, or 2024. You are not conducting any random or pre-employment drug and alcohol testing. Moreover, given that

² The proposed safety rating based on the June 2024 compliance investigation is Unsatisfactory.
CA-2024-5000-IMH

you are not registered in the Clearinghouse, you do not know if any of your drivers have a history of positive test results or if they are currently prohibited in the Clearinghouse.

2. Driver Qualification

You fail to ensure that only qualified drivers with proper licenses and medical examiner's certificates operate your CMV(s).

On June 11, 2024, your driver Ignacio Cruz Mendoza ("driver Mendoza") was involved in a crash while operating your CMV in Colorado. While attempting to pass other vehicles, he collided with three of those vehicles, killing one of the drivers, lost a load of steel pipes, and jack-knifed into the northbound lanes where your CMV collided with another vehicle.

At the time of the crash, driver Mendoza's commercial driver's license ("CDL") was not valid. Driver Mendoza's CDL had been downgraded to a non-commercial driver status based on an expired medical certificate on February 10, 2024. Nonetheless, you hired driver Mendoza on April 10, 2024, and then allowed him to operate a CMV on June 11, 2024, the day of the fatal crash, without a CDL or commercial learner's permit ("CLP") in violation of 49 CFR § 383.37(a).

Prior to the June 11, 2024 fatal crash, you allowed another driver to operate a CMV without a valid license. On October 27, 2022, a roadside inspection shows Jorge Leyva Alvarado ("driver Alvarado") operated a CMV without a CDL and was placed out-of-service ("OOS") under 49 CFR § 383.23(a) for operating a CMV without a CDL. On November 25, 2022, a roadside inspection shows driver Alvarado operated a CMV without the appropriate license, and was placed OOS, this time under 49 CFR § 391.11(b)(5), for not having a valid operator's license for the CMV being operated.

Despite the roadside inspections placing you on notice of your drivers' license status and the requirement to ensure that drivers are qualified, you continue to fail to qualify drivers

before you allowed them to drive. When questioned about your driver qualification practices during the June 2024 compliance review, owner Mr. Agramon admitted that your hiring process of drivers involves only collecting a copy of the drivers' CDL cards and sending the license to insurance. However, Mr. Agramon also admitted failing to send new driver information to insurance on specific occasions. Mr. Agramon stated that he did not send insurance any information about driver Mendoza, the driver involved in the fatal crash on June 11, 2024.

You also use drivers who have not completed and furnished an employment application in violation of 49 CFR § 391.21(a); you fail to investigate drivers' background in violation of 49 CFR § 391.23(a); and you fail to keep driver qualification file for at least 3 years after termination of driver's employment in violation of 49 CFR § 391.51(c).

3. 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. You do not require your drivers to complete records of duty status ("RODS") in violation of 49 CFR § 395.8(a)(1).

The June 11, 2024 post-crash roadside inspection shows driver Mendoza was placed OOS for failing to have a record of duty status using the appropriate method. The inspection report noted that Colorado State Patrol was unable to find any electronic logging device ("ELD") in the vehicle. There is no indication that Driver Mendoza prepared any records of duty status, including during the time leading up to the crash or on the day of the crash.

Prior to the June 11, 2024 crash, your drivers had five roadside inspections, and were placed OOS on four out of five occasions for hours of service related violations. On October 27, 2022, a roadside inspection shows driver Alvarado placed OOS for having no ELD or completed paper RODS. On May 12, 2023, a roadside inspection shows driver Octavio

Ahumada Ruiz placed OOS for having no ELD or completed paper RODS for the current day or load. On August 8, 2023, a roadside inspection shows driver Luis Enrique Valenzuela-Mosqueda placed OOS for not having the paper RODS filled out for any days; he provided a logbook that was blank. On May 1, 2024, a roadside inspection shows driver Alvarado placed OOS for having no record of duty status.

When questioned about your hours-of-service practices during the June 2024 compliance review, owner Mr. Agramon stated that he was aware ELDs were required, but never installed them. Mr. Agramon also stated that he never learned to do RODS, and that he leaves it up to drivers to do RODS, including telling drivers “to ask around” on how to complete RODS, and that he cannot be chasing “them around.”

Without RODS, you have no way of monitoring whether your drivers are driving beyond the hours-of-service limits.

4. Vehicle Maintenance and Inspection

You fail to keep minimum records of inspection and vehicle maintenance in violation of 49 CFR § 396.3(b). You also fail to ensure that your vehicles are inspected on an annual basis in violation of 49 CFR § 396.17(a).

In the June 11, 2024 post-crash roadside inspection, you were cited with numerous vehicle maintenance violations, including four out-of-service violations under 49 CFR §§ 393.75(a)(1) and 393.75(a)(3) for various tire issues, and one out-of-service violation under 49 CFR § 393.207(f) for “Deflated air suspension; Airbag passenger side destroyed.” In addition, the vehicle with VIN ending in 01200, was cited for “Cargo - Damaged securement devices/tiedowns: 8, 4” nylon tiedowns all failed.”

Your prior inspection history also shows a disregard for sufficient tiedowns. On August 8, 2023, a roadside inspection shows the vehicle with VIN ending in 22304, was placed OOS

CA-2024-5000-IMH

under 49 CFR § 393.110(b) for “[i]nsufficient tiedowns to prevent forward movement for load not blocked by headerboard, bulkhead, or other cargo.: Front 2 pallets weighed approximately 8,000 lbs - 1 web strap used. Middle 2 pallets - 1 web strap only.”

During a May 12, 2023 roadside inspection, you were cited with eight vehicle maintenance violations, including 49 CFR § 392.8 - failing to inspect/use emergency equipment, 49 CFR § 393.11RT - retroreflective material not affixed as required for trailers manufactured after December 1993, 49 CFR § 393.19 - inoperative/defective hazard warning lamp, 49 CFR § 393.9 - inoperative required lamp, 49 CFR § 393.95(f) - no/insufficient warning devices, 49 CFR § 393.9H - inoperable head lamps, 49 CFR § 393.11TL - truck-tractor lower rear mud flaps retroreflective sheeting/reflex reflective material requirements for vehicles manufactured after July 1997, and 49 CFR § 393.9TS - inoperative turn signal.

When questioned about vehicle maintenance during the June 2024 compliance review, owner Mr. Agramon stated that he threw away the papers, and explained, “It’s a bunch of paperwork; nobody keeps papers anymore.” During the June 2024 compliance review, Mr. Agramon was able to provide a white plastic bag with some invoices and receipts. The majority were from 2022, only five were from 2023, and none were from 2024.

B. Lack of Knowledge of Safety Regulations

Monique Trucking’s owner, Mr. Agramon, appears to lack knowledge of the FMCSRs, in violation of 49 CFR § 390.3T. When interviewed during the June 2024 compliance investigation, Mr. Agramon was unfamiliar with driver qualification requirements and controlled substances testing requirement. When asked about pre-employment drug and alcohol testing, Mr. Agramon stated “I didn’t know I had to do drug tests.” When asked about

driver qualification files, Mr. Agramon similarly stated that he did not know that he had to do them.

C. Past Operations While Inactivated Or In Violations of FMCSA Orders

You have repeatedly engaged in conduct designed to evade regulation and oversight by the FMCSA. California Highway Patrol (“CHP”) began contacting you for a New Entrant Safety Audit in October 2022. In November of 2023, you informed a CHP Officer that you were not operating and were out of business, and Monique Trucking was inactivated on November 15, 2023 based on its assertion that it was out of business. Despite being inactivated, you continued to operate. Bills of lading obtained from you during the June 2024 compliance investigation show that you accepted various interstate loads from December 1 to December 14, 2023.

You then reactivated your company, submitting an updated Motor Carrier Identification Report (“Form MCS-150”) on December 15, 2023. After you reactivated, CHP again began to contact you to schedule a safety audit, but you failed to respond. As a result, an Out of Service Order was issued, effective April 16, 2024.

Despite being placed out of service, you continued to operate after April 16, 2024. A May 1, 2024 roadside inspection placed you OOS for “Operating in violation of FMCSA Operational Out of Service order for Failure to permit a Safety Audit” in violation of 49 CFR § 385.337(b). The officer that conducted the May 1, 2024 roadside investigation informed driver Alvarado that Monique Trucking was subject to a federal out of service order. After being informed of this fact, driver Alvarado stated he had an additional USDOT Number, and showed the officer a poster board sign with 3894417 TPO Transports handwritten on it. During the June 2024 investigation, you were questioned about Monique Trucking’s use of the TPO

Transports sign, and Mr. Agramon stated that he suggested using the TPO Transport sign so that Monique Trucking could get loads under TPO.

You filed an updated Form MCS-150 in late May 2024 to reinstate your DOT number, and you were automatically reinstated on June 3, 2024.

Your pattern of inactivation and reactivation prevented FMCSA and CHP from conducting a safety audit.

D. 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 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 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 register for FMCSA's Drug and Alcohol Clearinghouse as required under 49 CFR § 382.711.
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. 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).
6. 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.
7. You must ensure that each CMV you operate or intend to operate, whether owned, rented, leased or otherwise used, has been and is periodically inspected as required by 49 CFR § 396.17 as well as 49 CFR pt. 396, app. A.
8. In accordance with 49 CFR § 391.51, you must create and maintain complete driver qualification files.
9. You must have your drivers complete and furnish an employment application in accordance with 49 CFR § 391.21(a).
10. You must investigate your drivers' background in accordance with 49 CFR § 391.23(a).
11. You must keep driver qualification file for at least three years after termination of driver's employment in accordance with 49 CFR § 391.51(c).
12. You must update your principal place of business address by filing a Form MCS-150.
13. In accordance with 49 CFR § 390.3T(e), you must be knowledgeable of and comply with the federal motor carrier statutes and regulations.
14. 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, California 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

Mari Vel Ramirez-Hembeck, Division Administrator
916-930-2778 (fax)
cadivdemand@dot.gov
501 I Street, Suite 9-300
Sacramento, CA 95814

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 \$33,252 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 \$13,300 for providing transportation requiring registration, including operating a CMV in interstate commerce, without operating authority registration, and up to \$18,758 for operating a CMV in interstate commerce without USDOT number registration. *See* 49 U.S.C. §§ 14901, 14702-03, 507, 521(b)(2)(A) 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: July 2, 2024

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