

**BEFORE THE  
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION**

<b>In the Matter of</b>	)	
	)	<b>Case No. OH-2016-5000-IMH</b>
<b>GARFIELD TRUCKING, LLC</b>	)	
	)	
<b>US DOT 1882948</b>	)	<b>Service Date:</b> <u>10/19/15</u>
	)	<b>Service Time:</b> <u>3:30pm</u>
	)	<b>Person Served:</b> <u>Bob Lautanen</u>

**IMMINENT HAZARD  
OPERATIONS OUT-OF-SERVICE ORDER**

This is an Imminent Hazard Operations Out-of-Service Order ("ORDER") issued by the Secretary of Transportation (the "Secretary") pursuant to 49 U.S.C. § 521(b)(5)(A), 49 U.S.C. §§ 31133(a)(10), 13905, 31134, and 31144, and 49 C.F.R. § 386.72(b)(1) pursuant to a delegation of authority to the Field Administrator, Midwestern Service Center, Federal Motor Carrier Safety Administration (FMCSA), United States Department of Transportation (USDOT), Matteson, Illinois. This ORDER applies to GARFIELD TRUCKING, LLC, USDOT No. 1882948 (referred to herein as "you," "your," and /or "GARFIELD TRUCKING, LLC").

The Secretary and FMCSA find that GARFIELD TRUCKING, LLC's operations and continued operation of any commercial motor vehicle (referred to herein as "commercial motor vehicles" and/or "vehicles"), constitute 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 vehicles poses an **imminent hazard** to public safety.

**EFFECTIVE IMMEDIATELY, YOU MUST CEASE ALL COMMERCIAL  
MOTOR VEHICLE OPERATIONS, INCLUDING ALL INTERSTATE OR**

**INTRASTATE TRANSPORTATION FROM ALL DISPATCHING LOCATIONS OR TERMINALS.**

The commercial motor vehicles may not be operated in interstate or intrastate commerce while this Order is in effect. A commercial motor vehicle may be moved to a location for purposes of repair, sale, storage, or final destination only upon approval from the Acting Field Administrator for FMCSA's Midwestern Service Center. Commercial motor vehicles and their drivers now in interstate or intrastate commerce may proceed to their next immediate destination, which is defined as the next scheduled stop for vehicles already in motion where the cargo on board can be safely secured. *See* 49 C.F.R. § 386.72(b)(4) and (5).

Within eight (8) hours of the service of this Order, you must submit to the Acting Field Administrator in writing by facsimile the location of each of GARFIELD TRUCKING, LLC's commercial motor vehicles. Your submission must be faxed to:

Acting Field Administrator  
FMCSA- Midwestern Service Center  
708-283-3579

**I. JURISDICTION**

GARFIELD TRUCKING, LLC operates as a motor carrier engaged in interstate commerce and is subject to the requirements of the Federal Motor Carrier Safety Regulations 49 C.F.R. Parts 350-399 (FMCSRs), as well as the Orders of the United States Department of Transportation and FMCSA in accordance with 49 U.S.C. §§ 506, 507, 13501, 31133, 31144, and 31306. GARFIELD TRUCKING, LLC is required to comply with, and to ensure that its drivers comply with, Federal motor carrier statutes and regulations including the FMCSRs. *See* 49 C.F.R. § 390.11, 49 U.S.C. § 31135(a).

This ORDER has the force and effect of any other ORDER issued by FMCSA and is binding upon GARFIELD TRUCKING, LLC and its officers, members, directors, successors, assigns and closely affiliated companies. This ORDER applies to all motor carrier operations and

to all motor vehicles owned, leased, rented or otherwise operated by and/or for GARFIELD TRUCKING, LLC.

## II. BASIS FOR ORDER

The basis for determining that GARFIELD TRUCKING, LLC's motor carrier operations pose an imminent hazard to the public is that GARFIELD TRUCKING, LLC, has engaged in and continues to engage in a pattern and practice of blatantly ignoring and/or violating significant provisions of the Federal Motor Carrier Safety Regulations. GARFIELD TRUCKING, LLC has willfully failed to adequately maintain its commercial motor vehicles, failed to monitor and ensure its drivers do not commit hours of service violations, violated out-of-service orders, and denied FMCSA access to conduct further investigations. GARFIELD TRUCKING, LLC's flagrant disregard for compliance with safety regulations poses an ongoing and continuing imminent hazard to safety which substantially increases the likelihood of serious injury or death if not discontinued immediately.

## III. BACKGROUND

One of GARFIELD TRUCKING, LLC's vehicles was inspected most recently on October 4, 2015 and was cited for operating in violation of two out-of-service orders including an October 13, 2014 Unsatisfactory/Unfit out-of-service order.<sup>1</sup> GARFIELD TRUCKING, LLC and its driver were cited for 43 violations, including 13 out-of-service violations as follows:

Unit/ Driver	Violation Code	Violation Category	OOS (Y/N)	Violation Description
1	385.13(A)(2)	ALL OTHER	Y	OPERATING A COMMERCIAL

<sup>1</sup> GARFIELD TRUCKING, LLC was subject to a compliance review in August 2014, which uncovered multiple acute and critical violations including: 49 C.F.R. §§ 382.305 (failing to implement a random controlled substance and alcohol testing program in FY 2013 or 2014); 49 C.F.R. § 383.37(b) (driver was disqualified from holding a CDL due to a failure to file medical certification information), 49 C.F.R. § 382.301(a) (using a driver before obtaining a negative pre-employment test); 49 C.F.R. § 395.8(e) (false reports of records of duty status - the carrier was not checking logs); and 49 C.F.R. § 396.3(b) (failing to keep minimum records of inspection and vehicle). Further, FMCSA also found violations of 49 C.F.R. §§ 391.25(b), 391.45(b)(1), and 395.8(i). An enforcement action resulted, and GARFIELD TRUCKING, LLC was also placed out-of-service effective February 23, 2015, for failure to pay the civil penalty.

		VEHICLE DEFECTS		MOTOR VEHICLE AFTER THE EFFECTIVE DATE OF AN UNSATISFACTORY RATING - ALL OTHER CARRIER TYPES
1	386.84(A)(1)	ALL OTHER DRIVER VIOLATIONS	Y	OPERATING WITH SUSPENDED REGISTRATION FOR NON-PAYMENT OF A CIVIL PENALTY
1	396.3(A)(1)	BRAKES, OUT OF ADJUSTMENT	Y	BRAKES OUT OF SERVICE: THE NUMBER OF DEFECTIVE BRAKES IS EQUAL TO OR GREATER THAN 20 PERCENT OF THE SERVICE BRAKES ON THE VEHICLE OR COMBINATION
1	393.47(E)	BRAKES, OUT OF ADJUSTMENT	N	CLAMP OR ROTO TYPE BRAKE OUT-OF-ADJUSTMENT
1	393.53(B)	BRAKES, ALL OTHERS	N	CMV MANUFACTURED AFTER 10/19/94 HAS AN AUTOMATIC AIRBRAKE ADJUSTMENT SYSTEM THAT FAILS TO COMPENSATE FOR WEAR
1	393.47(E)	BRAKES, OUT OF ADJUSTMENT	N	CLAMP OR ROTO TYPE BRAKE OUT-OF-ADJUSTMENT
1	393.47(E)	BRAKES, OUT OF ADJUSTMENT	N	CLAMP OR ROTO TYPE BRAKE OUT-OF-ADJUSTMENT
1	393.9(A)	LIGHTING	N	INOPERABLE HEAD LAMPS
1	LIGHTING	LIGHTING	N	TRUCK-TRACTOR LOWER REAR MUD FLAPS RETROREFLECTIVE SHEETING / REFLEX REFLECTIVE MATERIAL REQUIREMENTS FOR VEHICLES MANUFACTURED AFTER JULY 1997
1	393.83(G)	EXHAUST DISCHARGE	N	EXHAUST LEAK UNDER TRUCK CAB AND/OR SLEEPER
1	393.67(C)(7)	FUEL SYSTEM	N	FUEL TANK FILL PIPE CAP MISSING
1	393.78	WINDSHIELD	N	WINDSHIELD WIPERS INOPERATIVE/DEFECTIVE
1	393.45(B)(2)	BRAKES, ALL	N	BRAKE HOSE OR TUBING

		OTHERS		CHAFING AND/OR KINKING UNDER VEHICLE
1	393.60(C)	WINDSHIELD	N	DAMAGED OR DISCOLORED WINDSHIELD
1	393.207(A)	SUSPENSION	N	AXLE POSITIONING PARTS DEFECTIVE/MISSING
1	393.55(C)(1)	BRAKES, ALL OTHERS	N	TRUCK TRACTOR MANUFACTURED AFTER MARCH 1, 1997 NOT EQUIPPED WITH AN ANTILOCK BRAKE SYSTEM.
1	393.95(A)	EMERGENCY EQUIPMENT	N	NO/DISCHARGED/ UNSECURED FIRE EXTINGUISHER
1	396.17(C)	PERIODIC INSPECTION	N	OPERATING A CMV WITHOUT PROOF OF A PERIODIC INSPECTION
2	396.17(C)	PERIODIC INSPECTION	N	OPERATING A CMV WITHOUT PROOF OF A PERIODIC INSPECTION
2	393.47(E)	BRAKES, OUT OF ADJUSTMENT	N	CLAMP OR ROTO TYPE BRAKE OUT-OF-ADJUSTMENT
2	393.47(E)	BRAKES, OUT OF ADJUSTMENT	N	CLAMP OR ROTO TYPE BRAKE OUT-OF-ADJUSTMENT
2	393.53(B)	BRAKES, ALL OTHERS	N	CMV MANUFACTURED AFTER 10/19/94 HAS AN AUTOMATIC AIRBRAKE ADJUSTMENT SYSTEM THAT FAILS TO COMPENSATE FOR WEAR
2	393.48(A)	BRAKES, ALL OTHERS	N	INOPERATIVE/DEFECTIVE BRAKES
2	393.48(A)	BRAKES, ALL OTHERS	N	INOPERATIVE/DEFECTIVE BRAKES
2	393.45UV	BRAKES, ALL OTHERS	Y	BRAKE TUBING AND HOSE ADEQUACY UNDER VEHICLE
2	393.45UV	BRAKES, ALL OTHERS	Y	BRAKE TUBING AND HOSE ADEQUACY UNDER VEHICLE
2	393.45UV	BRAKES, ALL OTHERS	Y	BRAKE TUBING AND HOSE ADEQUACY UNDER VEHICLE
2	393.75(C)	TIRES	N	TIRE-OTHER TREAD DEPTH LESS THAN 2/32 OF INCH
2	393.201(A)	FRAMES	Y	FRAME CRACKED / LOOSE / SAGGING / BROKEN
2	393.201(A)	FRAMES	Y	FRAME CRACKED / LOOSE /

				SAGGING / BROKEN
2	393.201(A)	FRAMES	Y	FRAME CRACKED / LOOSE / SAGGING / BROKEN
2	393.201(A)	FRAMES	Y	FRAME CRACKED / LOOSE / SAGGING / BROKEN
2	393.201(A)	FRAMES	Y	FRAME CRACKED / LOOSE / SAGGING / BROKEN
2	393.201(A)	FRAMES	N	FRAME CRACKED / LOOSE / SAGGING / BROKEN
2	393.86(A)(2)	ALL OTHER VEHICLE DEFECTS	N	REAR IMPACT GUARD HAVING IMPROPER WIDTH - TRAILER MANUFACTURED ON OR AFTER JANUARY 26, 1998
2	393.100(A)	LOAD SECUREMENT	Y	NO OR IMPROPER LOAD SECUREMENT
D	392.2FT	ALL OTHER DRIVER VIOLATIONS	N	STATE OR INTERNATIONAL FUEL TAX (IFTA) VIOLATION
D	392.2IRP	ALL OTHER VEHICLE DEFECTS	N	IRP APPORTIONED TAG OR REGISTRATION VIOLATION
D	395.8(F)(1)	NO LOG BOOK, LOG NOT CURRENT, GENERAL LOG VIOLATIONS	N	DRIVERS RECORD OF DUTY STATUS NOT CURRENT
1	390.21(B)	ALL OTHER VEHICLE DEFECTS	N	CARRIER NAME AND/OR USDOT NUMBER NOT DISPLAYED AS REQUIRED
1	392.2	ALL OTHER VEHICLE DEFECTS	N	FAILURE TO PAY UCR FEE
D	395.8(E)	FALSE LOG BOOK	Y	FALSE REPORT OF DRIVERS RECORD OF DUTY STATUS
D	395.8	ALL OTHER HOURS OF-SERVICE	N	RECORD OF DUTY STATUS VIOLATION (GENERAL/FORM AND MANNER)

On October 13, 2015, FMCSA visited the address listed for GARFIELD TRUCKING, LLC to conduct an unscheduled review due to the roadside violations. The FMCSA investigators observed an out-of-business notification on the door to GARFIELD TRUCKING,

LLC's premises and left a demand for access letter and an administrative subpoena for documents. GARFIELD TRUCKING, LLC continues to deny FMCSA access as of the date of this Order.

GARFIELD TRUCKING, LLC maintains a management philosophy that is adversarial to safe operations of commercial motor vehicles and compliance with federal motor carrier safety regulations. Due to the denial of access, GARFIELD TRUCKING, LLC has been unwilling to produce proof to FMCSA that it has a safety program, and in fact evidences a company-wide intent to avoid regulation. GARFIELD TRUCKING, LLC's refusal to allow FMCSA access, and GARFIELD TRUCKING, LLC's significant vehicle maintenance and records of duty status violations leads to the conclusion that GARFIELD TRUCKING, LLC has no safety program at all.

GARFIELD TRUCKING, LLC's flagrant operation of unsafe vehicles with out-of-service conditions, ineffective or nonexistent inspection program, hours of service violations, failure to monitor its drivers, and adversarial management philosophy substantially increases the likelihood of serious injury or death to its drivers and the motoring public.

#### **IV. REMEDIAL ACTION**

To eliminate this imminent hazard, and before GARFIELD TRUCKING, LLC will be permitted to resume operations placed out-of-service by this Order, GARFIELD TRUCKING, LLC, must take specific steps to ensure and demonstrate compliance with the FMCSRs. GARFIELD TRUCKING, LLC must comply with all Orders issued by FMCSA and must take the following steps and submit to the Acting Field Administrator a plan and evidence detailing how GARFIELD TRUCKING, LLC will:

1. Refrain from operating in violation of any out-of-service order.

2. Allow FMCSA access to perform an immediate compliance review of GARFIELD TRUCKING, LLC's motor vehicle operations.
3. Ensure that its commercial motor vehicles are in safe operating condition, in compliance with 49 C.F.R. Part 393 (Parts and Accessories Necessary for Safe Operations), and Part 396 (Vehicle Maintenance), and there is an adequate maintenance program in place to ensure compliance with the FMCSRs. GARFIELD TRUCKING, LLC must submit proof of annual inspections on all motor vehicles it uses prior to operating.
4. Ensure that drivers are required to prepare Driver Vehicle Inspection Reports when required, and implement a procedure so that drivers can report safety defects and/or deficiencies and ensure that the reported safety defects and/or deficiencies are repaired immediately, including defects found on roadside inspections.
5. Implement a policy that ensures motor vehicles operated by GARFIELD TRUCKING, LLC are not operated in such a condition as to likely cause an accident or a breakdown of the vehicle.
6. Take aggressive and progressive steps to monitor and control drivers' hours of service in compliance with 49 C.F.R. Part 395. This includes implementing a system to ensure that all drivers accurately and timely complete their records of duty status and submit these records to GARFIELD TRUCKING, LLC within 13 days of their completion. GARFIELD TRUCKING, LLC must implement a system of retaining drivers' records of duty status and demonstrate an auditing system that ensures the records of duty are accurate.
7. Ensure that all drivers are adequately trained on the requirements of the FMCSRs and that they are able to conduct motor carrier operations consistent with the regulations.

8. Provide certification of the commitment to comply with the FMCSRs from all owners, members, managers, or individuals that have responsibility for performing hiring/firing, hours of service monitoring, scheduling or directing vehicle inspection repair or maintenance.

#### **V. RESCISSION OF ORDER**

GARFIELD TRUCKING, LLC is subject to this ORDER unless and until the ORDER is rescinded in writing by FMCSA. Unless and until this ORDER is rescinded, GARFIELD TRUCKING, LLC is prohibited from operating any commercial motor vehicle in interstate and/or intrastate commerce. This ORDER will not be rescinded until the Acting Field Administrator for FMCSA's Midwestern Service Center has determined that the Remedial Action requirements specified in Paragraph IV of this ORDER have been fully satisfied and acceptable documentation had been submitted.

Before resuming motor carrier operations, GARFIELD TRUCKING, LLC must comply with the provisions of this ORDER, eliminate the problems constituting the imminent hazard that its operations pose, and adequately demonstrate to the Acting Field Administrator's satisfaction the actions taken to eliminate the safety problems. **GARFIELD TRUCKING, LLC cannot avoid this ORDER by continuing operations under the name of another person or company.** Additionally, any sale, lease, or other agreements of commercial motor vehicles and/or direct assignment of contracts or other agreements for service by GARFIELD TRUCKING, LLC requires the written notice of the Midwestern Service Center Acting Field Administrator. Any such action taken in anticipation of this ORDER must cease immediately.

Before selling, leasing, or otherwise transferring any CMV, including without limitation the CMVs listed in Schedule A attached hereto, GARFIELD TRUCKING, LLC must first provide to the Midwestern Service Center Field Administrator at least three (3) business days advance written notice of the transfer. The notice must be delivered to the Regional Field

Administrator at the address in this Section V., must identify by full legal name, address, and USDOT number the person to whom the transfer will be made, and must include a copy of any document(s) memorializing the transfer. If GARFIELD TRUCKING, LLC has made any such transfer taken in anticipation of this ORDER, it must immediately send such notice to the Field Administrator.

Prior to the rescission of this ORDER, GARFIELD TRUCKING, LLC will be required to:

- 1. Identify the cause for your noncompliance.**
- 2. Develop a detailed Safety Management Plan of action that addresses each area of noncompliance, the steps it intends to take to overcome its noncompliance, and a timetable for these steps. The Safety Management Plan must address each element outlined in section IV.**
- 3. Develop and certify in writing the commitment of GARFIELD TRUCKING, LLC to comply with the Federal Motor Carrier Safety Regulations.**
- 4. Execute the Safety Management Plan and provide certification by all owners, members and officers.**

Any request to rescind this ORDER must be in writing. Written documentation demonstrating satisfaction of the Remedial Action requirements must be directed to the Acting Field Administrator, Midwestern Service Center, with a copy to the Division Administrator, Ohio Division, at the following addresses:

Acting Field Administrator, Midwestern Service Center  
Federal Motor Carrier Safety Administration  
4749 Lincoln Mall Drive, Suite 300A  
Matteson, Illinois 60443

Division Administrator, Ohio Division  
Federal Motor Carrier Safety Administration  
200 N. High Street, Room 609

Columbus, Ohio 43215

## **VI. FAILURE TO COMPLY**

This ORDER, issued pursuant to 49 U.S.C. § 521(b)(5)(A), 49 U.S.C. § 13905(f), 49 U.S.C. § 31144(c)(1) and (5), 49 U.S.C. § 31133, 49 U.S.C. § 31134 and 49 C.F.R. § 386.72(b)(1), is an Order of, and enforceable by, the Secretary.

This ORDER, issued pursuant to 49 U.S.C. § 521(b)(5)(A), 49 U.S.C. § 13905(f), 49 U.S.C. § 31144(c)(1) and (5), 49 U.S.C. § 31133, 49 U.S.C. § 31134 and 49 C.F.R. § 386.72(b)(1), is an Order of, and enforceable by, the Secretary.

Violation of this ORDER may subject GARFIELD TRUCKING, LLC to civil penalties and may also result in an action in the United States District Court for equitable relief and punitive damages. GARFIELD TRUCKING, LLC may be assessed civil penalties of up to \$25,000 for a violation of this ORDER. (49 U.S.C. §§ 507, 521(b)(2)(F), and 521(b)(4) and 49 C.F.R. Part 386 App. A. § IV(g)). GARFIELD TRUCKING, LLC may also be assessed civil penalties up to \$10,000 for providing transportation requiring registration, including operating a CMV in interstate commerce, without operating authority registration (49 U.S.C. §§ 14901, 14702-03) and up to \$25,000 for operating a CMV in interstate commerce without USDOT number registration (49 U.S.C. §§ 507, 521(b)(2)(F) and 31134). Violations of this ORDER may also subject GARFIELD TRUCKING, LLC to criminal penalties, 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) and 526).

## **VII. ADDITIONAL PENALTIES FOR OTHER VIOLATIONS**

Any 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 statutes 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.

#### **VIII. RIGHT TO REVIEW**

You have the right to administrative review in accordance with 5 U.S.C. § 554 pursuant to 49 C.F.R. § 386.72(b)(4). Subsequent to the issuance of the ORDER, opportunity for review shall be provided in accordance with section 554 of title 5, except that such review, if requested, shall occur not later than ten days after issuance of such ORDER. (49 U.S.C. § 521(b)(5) and 49 C.F.R. § 386.72(b)(4)). FMCSA interprets this requirement to mean that if a petition for review is filed within ten days of issuance of such ORDER, a 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. 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 FMCSA's Adjudication's Counsel by mail and electronic mail, and the Acting Field Administrator, Midwestern Service Center at the following addresses:

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

Federal Motor Carrier Safety Administration  
Office of the Chief Counsel- Adjudications  
1200 New Jersey Avenue S.E. W61-323  
Washington, D.C. 20590  
FMCSA.Adjudication@dot.gov

Acting Field Administrator, Midwestern Service Center  
Federal Motor Carrier Safety Administration  
4749 Lincoln Mall Drive, Suite 300A  
Matteson, IL 60443

The request must state the material facts at issue which you believe dispute or contradict the finding that GARFIELD TRUCKING, LLC's operations constitute an imminent hazard to the public.

**A REQUEST FOR ADMINISTRATIVE REVIEW DOES NOT IN ANY WAY SUSPEND OR DELAY YOUR DUTY TO COMPLY WITH THIS ORDER IMMEDIATELY.** This ORDER is separate and independent from all other orders or actions that may be issued by FMCSA, and does not amend or modify any other such orders or actions. Any request for administrative review of this ORDER does not attach to or apply to any other order or action.

Date: 10-19-2015



Max Strathman, Acting Field Administrator  
United States Department of Transportation  
Federal Motor Carrier Safety Administration