

UNITED STATES DEPARTMENT OF TRANSPORTATION  
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

SORBON TRANSPORT, INC.  
USDOT NO. 2536669

)  
) Order No.: CO-2015-5000-IMH  
)  
) Service Date: February 12, 2015  
) Service Time: 2:05 pm  
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**IMMINENT HAZARD**  
**OPERATIONS OUT-OF-SERVICE ORDER**

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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), 49 U.S.C. § 13905(f), 49 U.S.C. § 31144(c)(1) and (5), 49 U.S.C. § 31133(a)(10), 49 U.S.C. § 31134, and 49 C.F.R. § 386.72(b)(1), and pursuant to a delegation of authority to the Field Administrator, Western Service Center, Federal Motor Carrier Safety Administration ("FMCSA"), United States Department of Transportation ("USDOT"). This Order applies to **Sorbon Transport, Inc. (USDOT No. 2536669), a motor carrier, and its officers, agents, and employees** (hereinafter collectively referred to as "you," "your," "it," and/or "Sorbon Transport"), and to all commercial motor vehicles owned or operated by or on behalf of Sorbon Transport, including those commercial motor vehicles identified in Appendix A attached hereto.

The Secretary and the FMCSA find your operations and continued operation of any commercial motor vehicle (hereinafter referred to as "commercial motor vehicles" and/or "vehicles") in the United States constitute an **imminent hazard**. This finding means that based upon your present state of unacceptable safety compliance, your operation of any commercial motor vehicle poses an **imminent hazard** to public safety.

**EFFECTIVE IMMEDIATELY YOU MUST CEASE ALL COMMERCIAL  
MOTOR VEHICLE OPERATIONS INCLUDING ALL INTERSTATE AND  
INTRASTATE TRANSPORTATION.**

Your vehicles and their drivers now in interstate or intrastate commerce may proceed to their next immediate destination. *See* 49 C.F.R. § 386.72(b)(4) and (5). You may not load or transport any additional freight or property while this order is in effect.

**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 drivers from all dispatching locations or terminals. Sorbon Transport’s commercial motor vehicles may not be operated in interstate or intrastate commerce by any other motor carrier or any driver, even without freight. Any movement of Sorbon Transport’s commercial motor vehicles, including its trailers, to any storage, repair, or other location for the purposes of repair, sale, storage, or final destination must be accomplished only by towing, such that the commercial motor vehicle itself is not driven or operated. Your commercial motor vehicles may be moved, including by tow, only upon the written approval of the Field Administrator for FMCSA’s Western Service Center.

**Within eight hours of your receipt of this Order, you must submit to the Field Administrator in writing by facsimile or electronic mail (email) the location of each commercial motor vehicle under your control. You must identify the vehicle, including tractor, power unit, and/or trailer, by year, make, model and vehicle identification number (VIN). 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 faxed or emailed to the Field**

**Administrator at 303-407-2339 or [WSCENF@dot.gov](mailto:WSCENF@dot.gov).**

You cannot avoid this Order by continuing operations under the name of another person or company. If you intend to sell, lease, loan or otherwise transfer or allow the use of any commercial motor vehicle, including any trailer, to any other person, motor carrier, or business, you must provide written notice to the Field Administrator no less than three business days before any such sale, lease, loan, transfer or use.

## **I. JURISDICTION**

Sorbon Transport is a motor carrier engaged in interstate commerce using commercial motor vehicles and is therefore subject to the Federal Motor Carrier Safety Regulations (“FMCSRs”), 49 C.F.R. Parts 350-399, and the alcohol and controlled substances regulations at 49 C.F.R. Part 40, as well as the Orders of the USDOT and FMCSA. *See* 49 U.S.C. §§ 506, 507, 13501, 31133 and 31136, and 31144. You are required to comply, and to ensure your drivers comply, with the FMCSRs and Orders of the USDOT and FMCSA. 49 C.F.R. § 390.11.

This Order has the force and effect of any other Order issued by FMCSA and is binding upon Sorbon Transport as well as any and all of its 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. BASIS FOR ORDER**

The basis for determining that Sorbon Transport’s motor carrier operations pose an imminent hazard to the public is serious ongoing widespread noncompliance with Federal safety regulations and statutes, including the FMCSRs.

Sorbon Transport does not adequately maintain its commercial motor vehicles in violation of 49 C.F.R. Part 396. You have no effective maintenance program. You fail to retain maintenance records for your vehicles. You fail to require your drivers to make driver vehicle inspection reports. You fail to do periodic annual inspections on your vehicles. On at least one recent occasion, you operated a vehicle loaded with cargo (automobiles), and the trailer brakes were in such disrepair that the vehicle was inoperable with the brakes connected. You instructed your driver to unhook the brakes to the loaded trailer and continue his trip.

Furthermore, Sorbon Transport does not adequately comply with Hours of Service (HOS) regulations in violation of 49 C.F.R. Part 395. Upon demand, you refused to produce complete records of duty status or supporting documents for your drivers. Furthermore, you produced no records to show that you ensure that your drivers comply with HOS regulations. On at least one recent occasion, you allowed your driver to violate the 14-hour rule at 49 C.F.R. § 395.3 two times during one trip, which was discovered during a roadside inspection.

Sorbon Transport also fails to adequately comply with Controlled Substances and Alcohol regulations in violation of 49 C.F.R. Parts 40 and 382. You identified five current drivers, but none of these drivers underwent pre-employment controlled substances testing before beginning operations with Sorbon Transport. Only one of the five drivers is currently enrolled in your random controlled substances and alcohol program. Three of the four individuals enrolled in your random controlled substances and alcohol program were not identified as drivers for Sorbon Transport.

Individually and cumulatively, these violations and conditions of operation substantially increase the likelihood of serious injury or death to you, your drivers, and/or the motoring public.

### **III. BACKGROUND**

On or about February 9, 2015, FMCSA began conducting an investigation into the motor carrier operations of Sorbon Transport. Upon lawful demand, Sorbon Transport initially denied all access to records, facilities and equipment, including commercial motor vehicles. After a second demand to inspect records, facilities and equipment, you allowed limited access to records. Although you admitted that you maintained documents responsive to the demand, you refused to allow inspection and copying of those records. After a few hours with safety investigators and with no reasonable explanation, you instructed federal investigators to leave your facility and refused any further cooperation or inspection of records, facilities and equipment.

You also refused to allow inspection of your commercial motor vehicles after notice and demand. On February 9, 2015, safety investigators served a demand to inspect all of your commercial motor vehicles on February 10, 2015, at your principal place of business or nearest inspection facility for those vehicles on the road. On February 10, 2015, you failed to make all of your commercial motor vehicles available for inspection. You allowed inspection of only one vehicle. You refused to allow inspection of two vehicles that were parked at your principal place of business even though they were available to inspect, and you intentionally removed one vehicle from your principal place of business that was there on February 9, 2015, after being instructed by safety investigators to keep the vehicle on the property and available for inspection the next day. Of the nine vehicles known to be operated by you, Sorbon Transport allowed inspection of only two<sup>1</sup> vehicles despite notice and demand by authorized federal transportation officials.

On February 9-10, 2015, you were unable to produce records indicating you had any sort

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<sup>1</sup> One vehicle was inspected the prior day.

of maintenance program for your company. You were unable to produce records to show you had any sort of vehicle files for the commercial motor vehicles you operate. You also were unable to produce any records of driver vehicle inspection reports or annual inspections on the vehicles you operate. The only maintenance record you produced was a 3-page document with handwritten notes that did not include any dates or preventative maintenance plan.

Maintenance violations at the roadside are indicative of your failure to comply with maintenance regulations. On February 6, 2015, one of your vehicles (2007 Peterbilt, VIN 1XP7D49X47D662305 and 1998 Trailer, VIN 1W9CE5023WH157242) was inspected in Colorado Springs, CO. Eight serious vehicle out-of-service conditions were identified on the combination vehicle rendering it unsafe to operate. Six other maintenance-related violations were identified during the inspection. In addition, during the inspection, you instructed your driver to unhook the brakes to the trailer and continue operating. On or about February 9, 2015, the vehicle, including the trailer, was towed from the inspection facility to a local lodging facility in Colorado Springs, CO. On February 12, 2015, the vehicle was no longer at the lodging facility in Colorado Springs, CO, and Sorbon Transport claimed it did not know the whereabouts of the vehicle or its cargo.

On February 9, 2015, another vehicle (2007 Freightliner, VIN 1FUJA6CK77PY19549 and 1997 Trailer, VIN 1S9CB5320VP297228) was inspected in Aurora, CO. Two serious vehicle out-of-service conditions were identified on the trailer rendering the vehicle unsafe to operate. The out-of-service conditions of the trailer were similar to those discovered during the February 6, 2015 inspection on a different vehicle. Twelve other maintenance-related violations were identified on the combination vehicle during the inspection. Prior to February 2015, your drivers were inspected only two other times in December 2014, noting HOS violations on one

inspection.

On February 9-10, 2015, you refused to produce complete records related to hours of service requirements. You claimed you had records but would not access or search for said records despite demands from safety investigators. You did produce limited records of duty status for a single trip. Those records of duty status reflected multiple HOS violations.

On February 9-10, 2015, you refused to produce any records related to controlled substances and alcohol requirements. You claimed you had records but would not access them for investigators. Records obtained from your third-party consortium, Foley Carrier Services, indicate at least one positive controlled substances test on a driver. Furthermore, one of your drivers was convicted of driving under the influence of alcohol in 2010.

This was the first investigation conducted on Sorbon Transport, which began operations in or around April 2014. Sorbon Transport's principal Jovidon Sorbon operated other automobile transporting motor carriers prior to April 2014. Mr. Sorbon was the principal and representative of Five Star Auto Transporter, LLC (USDOT 2354804). On October 18, 2013, a compliance review was conducted on Five Star Transporter, LLC. The compliance review resulted in a proposed Unsatisfactory safety rating, which became effective December 23, 2013. Mr. Sorbon also operated Sorbon Auto Trans, LLC (USDOT 2421230) at times between operating Five Star Transporter, LLC, and Sorbon Transport. Sorbon Auto Trans, LLC, also had FMCSR compliance problems.

#### **IV. REVOCATION OF OPERATING AUTHORITY REGISTRATION AND SUSPENSION OF USDOT NUMBER REGISTRATION**

49 U.S.C. § 13905(f)(2) requires FMCSA to revoke the operating authority registration of a motor carrier if the FMCSA finds that such carrier has been conducting unsafe operations

which are an imminent hazard to public health or property. Additionally, pursuant to 49 U.S.C. § 31134(c)(1), the Secretary is required to suspend the USDOT number registration of a motor carrier if the Secretary determines that the motor carrier's operating authority registration is subject to revocation as a result of such imminent hazard finding. Accordingly, pursuant to 49 U.S.C. § 13905(f)(2), Sorbon Transport's operating authority registration is revoked, and pursuant to 49 U.S.C. § 31134(c)(1), Sorbon Transport's USDOT number registration is suspended.

## **V. REMEDIAL ACTION**

To eliminate this imminent hazard, and before Sorbon Transport will be permitted to resume 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 establish a DOT controlled substance and alcohol testing program in compliance with 49 C.F.R. Parts 40 (Procedures for Transportation Workplace Drug and Alcohol Testing Programs) and 382 (Controlled Substances and Alcohol Use and Testing) and provide evidence of this program to the Western Service Center Field Administrator.
2. You must establish safety management controls and procedures to ensure that your drivers comply with HOS requirements as set forth in 49 C.F.R. Part 395. Your safety management system must ensure that your drivers comply with HOS requirements and do not exceed maximum driving times. You must establish safety management controls and procedures to require drivers to prepare and submit records of duty status and associated supporting documents as required, ensure that drivers' records of duty status are checked, ensure that your drivers are not violating HOS requirements, ensure drivers do not falsify records of duty status, and ensure that each driver accurately completes his or her records of duty status in the form and manner required under 49 C.F.R. Part 395.
3. You must ensure and demonstrate that each and every commercial motor vehicle you operate or intend to operate, whether owned, rented, leased or otherwise used, is in a safe operating condition and in full compliance with 49 C.F.R. Part 393 (Parts and Accessories Necessary for Safe Operation) and Part 396 (Inspection, Repair and Maintenance), and that all defects and deficiencies have been corrected and repaired.
4. You must establish safety management controls and procedures that ensure that each and every commercial motor vehicle you operate or intend to operate, whether owned, rented, leased or otherwise used, is systematically and properly inspected, maintained and



repaired as required by 49 C.F.R. Part 396, and that documentation of inspections, maintenance and repair are obtained and maintained as required.

5. You must ensure that each commercial motor vehicle you operate or intend to operate, whether owned, rented, leased or otherwise used, has been and is periodically inspected as required by 49 C.F.R. Part 396 and Appendix G to Subchapter B of Chapter III, and that such periodic inspections are conducted by qualified inspectors.

6. You must ensure that employees, contractors and/or agents used to inspect and maintain each commercial motor vehicle it operates and/or intends to operate are trained and qualified to conduct such inspections, maintenance and repairs, and documentation of training and qualifications is maintained in accordance with 49 C.F.R. Part 396.

7. You must require drivers to conduct pre-trip and post-trip commercial motor vehicle inspections, and must require drivers to prepare Driver Vehicle Inspection Reports in accordance with 49 C.F.R. § 396.11 and establish procedures to ensure that reported safety defects and/or discrepancies are corrected before the vehicle is again operated as required by 49 C.F.R. Part 396.

8. You must establish safety management controls and procedures to ensure that defects and deficiencies discovered during inspections of your commercial motor vehicles are repaired prior to the vehicle being operated. You must ensure that no commercial motor vehicle that fails, or has failed, a safety inspection is used prior to necessary repairs being made and the vehicle passing an appropriate safety inspection.

9. You must ensure that all drivers are adequately trained in the requirements of the FMCSRs and that they are able to conduct motor carrier operations consistent with those regulations.

## **VI. RESCISSION OF ORDER**

Sorbon Transport's motor carrier operations are subject to this Order unless and until this Order is rescinded in writing by FMCSA. Unless and until this Order is rescinded, and until such time as you have a valid and active USDOT number and operating authority registration (if applicable), you are prohibited from operating any commercial motor vehicle in interstate and/or intrastate commerce. This Order will not be rescinded until the Field Administrator for FMCSA's Western Service Center has determined that the Remedial Action requirements specified in Paragraph V of this Order have been fully satisfied and acceptable documentation submitted.

Before this Order will be rescinded, you must comply with the provisions of this Order, eliminate the problems constituting the imminent hazard that your operations pose, and adequately demonstrate to the Field Administrator for the FMCSA's Western Service Center the actions taken to eliminate the safety problems. You cannot avoid this Order by continuing operations under the name of another person or company.

Any sale, lease, or other agreements involving your commercial motor vehicles or motor carrier operations require three business days written notice to the Field Administrator. Any such action taken in anticipation of this Order must cease immediately.

Prior to rescission of the Order, Sorbon Transport will be required to:

1. Identify the cause for its noncompliance.
2. Develop a detailed Safety Management Plan of action that addresses each area of non-compliance, the steps it intends to take to overcome its noncompliance, and a time table for these steps.
3. Execute the Safety Management Plan and provide certification by all owners and officers.

Any request to rescind this Order and documentation demonstrating satisfaction of the Remedial Action requirements must be directed to the Field Administrator, Western Service Center, with a copy to the Division Administrator, Colorado Division, at the following addresses:

Field Administrator, Western Service Center  
Federal Motor Carrier Safety Administration  
12600 West Colfax Avenue, Suite B-300  
Lakewood, CO 80215

Division Administrator, Colorado Division  
Federal Motor Carrier Safety Administration  
12300 West Dakota Avenue, Suite 130  
Lakewood, CO 80228

Rescission of this Order does not constitute a reinstatement of your USDOT Number or operating authority registration. In order for Sorbon Transport to resume motor carrier

operations transporting property in interstate or intrastate commerce, Sorbon Transport will be required to apply to reactivate its USDOT number registration, and if its operations require Federal operating authority, apply for new operating authority registration and demonstrate that it is 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 31138.

## **VII. ENFORCEMENT OF ORDER**

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), § 31133, and § 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 Sorbon Transport to civil penalties and may also result in an action in the United States District Court for equitable relief and punitive damages. Sorbon Transport may be assessed civil penalties of up to \$25,000 for each 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). Sorbon Transport may also be assessed civil penalties up to \$10,000 for providing transportation requiring registration, including operating a commercial motor vehicle in interstate commerce, without operating authority registration and up to \$25,000 for operating a commercial motor vehicle 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) and 526.

## **VIII. PENALTIES FOR VIOLATIONS OF FEDERAL REQUIREMENTS**

Any motor carrier or driver 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.

## **IX. RIGHT TO REVIEW**

You have the right to administrative review under 5 U.S.C. § 554 and 49 C.F.R. § 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 C.F.R. § 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, and should be sent to the attention of Adjudications Counsel by facsimile or electronic mail as follows:

By Fax:

Adjudications Counsel (MC-CCA)  
(202) 366-3602

or electronic mail:

FMCSA.Adjudication@dot.gov

with a copy mailed or sent by commercial delivery service to the Assistant Administrator and Adjudications Counsel at the following address:

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

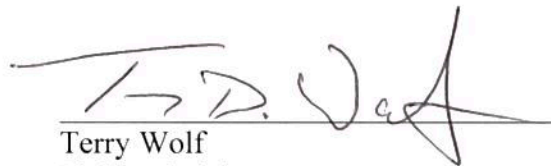
A copy of any request for administrative review must also be sent to the Field Administrator by mail, email and/or facsimile as follows:

Field Administrator, Western Service Center  
Federal Motor Carrier Safety Administration  
12600 West Colfax Avenue, Suite B-300  
Lakewood, CO 80228  
Fax: (303) 407-2339  
Email: WSCENF@dot.gov

The request must state the material facts at issue which you believe dispute or contradict the finding that your operations constitute an “**imminent hazard**” to the public.

**A REQUEST FOR ADMINISTRATIVE REVIEW DOES NOT IN ANY WAY  
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: February 12, 2015



Terry Wolf  
Field Administrator  
United States Department of Transportation  
Federal Motor Carrier Safety Administration

## APPENDIX A

1. 2007 Peterbilt Truck (VIN 1XP7D49X47D662305), Unit number 4004
2. 1998 Trailer (car hauler) (VIN 1W9CE5023WH157242) (License Plate 5836KE)
3. 1997 Trailer (car hauler) (VIN 1S9CB5320VP297228) (License Plate 3196LB), Unit T-4003