

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

Daya Trucking, LLC USDOT NO. 3020203)) Order No.: GA-2018-5001-IMH)) Service Date: _____)) Service Time: _____)
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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), 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 CFR § 386.72(b)(1), and pursuant to a delegation of authority to the Regional Field Administrator, Southern Service Center, Federal Motor Carrier Safety Administration (“FMCSA”), United States Department of Transportation (“USDOT”). This Order applies to **the motor carrier operations of Daya Trucking, LLC (USDOT No. 3020203) and its officers, agents, and employees** (hereinafter collectively referred to as “you,” “your,” “it,” and/or “Daya Trucking, LLC” or “Daya”), and to all commercial motor vehicles owned or operated by or on behalf of Daya.¹

¹ On March 21, 2018, the Regional Field Administrator for FMCSA’s Southern Service Center and Harjeet Kaur, Owner of Daya Trucking, LLC and Ekam Truck Line, LLC, signed a Stipulated Order on Consent to Consolidate and Merge Motor Carrier Records, agreeing that the FMCSA safety, performance, compliance, and enforcement records of Daya Trucking, LLC and Ekam Truck Line, LLC, including any orders previously issued, would be permanently consolidated and merged. It was also agreed and stipulated that the safety registration and operating

The Secretary and the FMCSA find your operations and continued operation of any commercial motor vehicle (hereinafter referred to as “commercial motor vehicle,” “vehicle,” and/or “CMV”) 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 OF PROPERTY.

Your vehicles and their drivers now in interstate or intrastate commerce may proceed to their next immediate destination. *See* 49 CFR § 386.72(b)(4) and (5).

YOU MAY NOT LOAD OR TRANSPORT ANY ADDITIONAL FREIGHT OR PROPERTY, NOR MAY YOU OPERATE ANY COMMERCIAL MOTOR VEHICLE(S) 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. Daya Trucking, LLC’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 Daya Trucking, LLC’s commercial motor vehicles to any storage, repair, or other location for repair, sale, storage, or final destination must be accomplished only by towing, such that the commercial motor vehicle is not driven or operated. Your

authority of Ekam Truck Line, LLC was permanently revoked and its USDOT number was inactivated.

commercial motor vehicles may be moved, including by tow, only upon the prior written approval of the Regional Field Administrator for FMCSA's Southern Service Center.

Within eight hours of your receipt of this Order, you must submit to the Regional Field Administrator in writing by facsimile the location of each commercial motor vehicle 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 faxed to the Regional Field Administrator at 404-327-7349.

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 to any other person, motor carrier, or business, you must provide written notice to the Regional Field Administrator no less than five business days before any such sale, lease, loan, transfer or use.

I. JURISDICTION

Daya Trucking, LLC is a motor carrier engaged in interstate commerce using commercial motor vehicles² and is, therefore, subject to the Federal Motor Carrier Safety Regulations ("FMCSRs"), 49 CFR Parts 350-399, 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

² The term "commercial motor vehicle" includes any self-propelled motor vehicle used on a highway in interstate commerce to transport property or passengers when the vehicle has a gross vehicle weight rating or gross vehicle weight of 10,001 pounds or more. *See* 49 CFR § 390.5.

Orders of the USDOT and FMCSA. 49 CFR § 390.11.

This Order has the force and effect of any other Order issued by FMCSA and is binding upon Daya Trucking, LLC as well as any and all of its 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. BASIS FOR ORDER AND BACKGROUND

The basis for determining that Daya's motor carrier operations pose an imminent hazard to the public is Daya's widespread noncompliance with Federal safety regulations, including the FMCSRs, evasion of those regulations, and falsification of records. Indeed, Daya does not have safety management controls in place to ensure drivers operate its CMVs safely, drivers are qualified to operate its CMVs, and CMVs are properly inspected, repaired, and maintained.

A. Reincarnation – Non-compliance with FMCSA Orders

In March of 2018, FMCSA initiated a compliance investigation of Daya's motor carrier operations after receiving information that Daya may be a reincarnated and/or affiliated entity of Ekam Truck Line, LLC ("Ekam"). In 2017, following a compliance investigation based on numerous safety violations, FMCSA had assigned Ekam a proposed Unsatisfactory safety rating. Ekam agreed to enter into a Consent Order as a condition of upgrading its proposed safety rating to Conditional and, in 2018 was subject to the Consent Order. The Consent Order required Ekam to take specific actions to improve safety and prohibited Ekam and any owners and individuals related to Ekam from applying for registration as another motor carrier.

Ekam, however, failed to comply with virtually all provisions in the Consent

Order and instead evaded the Consent Order by applying for registration as Daya. 49 U.S.C. §§ 14906/524. As a result of Ekam's breach of the Consent Order, on March 24, 2018, FMCSA reinstated Ekam's Unsatisfactory safety rating and placed Ekam's motor carrier operations out-of-service. By consent, following discovery of the reincarnation, FMCSA also merged and consolidated the FMCSA safety and enforcement records of Daya and Ekam.

B. Hours of Service

Daya fails to monitor the dispatch of its drivers to ensure drivers who are operating its CMVs comply with maximum hours-of-service ("HOS") limitations, as set forth in 49 CFR § 395.5, and do not falsify their records of duty status ("RODS") in an attempt to conceal operating over HOS limitations, as delineated in 49 CFR § 395.8(e)(1). Daya does not review its drivers' RODS for falsification and does not review RODS for completeness, accuracy, or violations of maximum HOS regulations. *See* 49 CFR § 390.11 (Whenever a duty is prescribed for a driver or a prohibition is imposed upon the driver, it shall be the duty of the motor carrier to require observance of such duty or prohibition.) Daya also has a non-compliant Automatic On-Board Recording Devices ("AOBRD") system in which drivers can alter their RODS and can manually input odometer readings, a violation of 49 CFR § 395.15(i)(3). Further, the AOBRD system does not identify edited data when reproduced in printed form, a violation of 49 CFR § 395.15(i)(7). Daya's AOBRD system from January 1, 2018 through February 28, 2018 recorded 4,802 hours of unidentified driving time resulting from 51 instances of drivers unplugging their AOBRDs while operating CMVs or loose cables. Daya never reviewed, annotated, or corrected drivers' AOBRD records to include the missing 4,802 hours of driving time. Daya's inaction resulted in the drivers having inaccurate RODS, false RODS, or possible concealed HOS violations.

See 49 CFR § 395.3 (11-hour-rule, 14-hour rule, and 70-hour rule). For example, the Daya AOB RD system showed Driver K.P. had 3 interrupted driving events and 8 hours and 33 minutes of unidentified driving time. On March 1, 2018, Driver K.P. tampered with the AOB RD device by disconnecting the device that records duty status from the AOB RD device, a violation of 49 CFR § 395.8(e)(2). Driver K.P. recorded his duty status as off-duty in Orangeburg, South Carolina on March 1, 2018 from 4:31 a.m. to 12:00 a.m. After Driver K.P. disconnected the device, GPS records show that Driver K.P. continued to drive. The GPS records show that Driver K.P. drove through South Carolina, Georgia, Florida and to Brewton, Alabama during his off-duty status period. On March 2, 2018, Driver K.P. again tampered with the AOB RD device by disconnecting the device that records duty status from the AOB RD device, a violation of 49 CFR § 395.8(e)(2). Driver K.P. recorded his duty status as off-duty 7.9 miles west of Ruston, Louisiana on March 2, 2018 from 9:35 a.m. until 11:00 p.m. EST. After Driver K.P. disconnected the device, GPS records show that Driver K.P. continued to drive. The GPS records show that Driver K.P. drove to Shreveport, Louisiana, through Texas, and into New Mexico during his off-duty status period. In its review of Daya's RODS, FMCSA found a 42% violation rate of drivers submitting false RODS. Further, Daya was not able to provide FMCSA with 40 of its drivers' RODS and 58 required supporting documents necessary to verify the accuracy of the drivers' RODS in violation of 49 CFR § 395.8(k)(1).

C. Driver Qualification

Daya's failure to monitor the dispatch of its drivers includes a failure to ensure that only qualified drivers operate its CMVs. Because it does not have these safety management controls in place, Daya allowed seven drivers to operate its CMVs before receiving negative pre-employment controlled substance test results in violation of 49 CFR § 382.301(a) and

four drivers to operate its CMVs known to have tested positive for a controlled substance in violation of 49 CFR § 382.215. *See also* 49 CFR §§ 391.11(b)(4)/391.11(a) (A person must be physically qualified to drive a CMV.) Daya also allowed three drivers to operate its CMVs without possessing a current medical examiner's certificate in violation of 49 CFR § 391.45(b)(1)/391.11(a) and five drivers to operate its CMVs without current CDLs or with suspended CDLs in violation of 49 CFR 383.37. Further, Daya fails to maintain complete driver qualification files with the requisite employment applications, prior employer inquiries, medical certificates, and driver road test certificates, a violation of 49 CFR § 391.51.

D. Vehicle Inspection and Maintenance

Daya does not have a systematic vehicle inspection, repair, and maintenance program in place to prevent the operation of unsafe CMVs. Daya does not have a means of indicating the nature and due date of the various inspection and maintenance operations to be performed on its CMVs, a violation of 49 CFR § 396.3(b)(2). Daya also does not retain periodic inspection reports on all vehicles as required by 49 CFR § 396.21(b). During roadside inspections of Daya's CMVs over the past 12 months, Daya's vehicles have been placed out-of-service at a rate of 46% and cited for 16 violations including inoperative required lamps (§ 393.9), exposed tire fabric (§ 393.75), brake out of service (§ 396.3(a)), defective or missing axle positioning parts (§ 393.207(a)), and oil or grease leaks from hubs (§ 396.5(b)).

E. Effect of Violations

Daya's complete and utter lack of compliance with the FMCSRs, and its efforts to avoid as set forth above, substantially increases the likelihood of serious injury or death for its drivers and the motoring public if the operations of Daya are not discontinued

immediately. Daya's entire operations constitute an imminent hazard to safety which may only be abated by the cessation of Daya's entire operations.

III. REMEDIAL ACTION

To eliminate this imminent hazard, and before Daya will be permitted to resume its 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 establish safety management controls and procedures to ensure that you comply with the recordkeeping requirements of the hours of service regulations in 49 CFR § 395.8 and ensure that those records are true and accurate. You must establish procedures to prevent disabling, deactivating, disengaging, jamming, or otherwise blocking or degrading a signal transmission or reception, or reengineering, reprogramming, or otherwise tampering with an automatic on-board recording device so that the device does not accurately record and retain required data, as set forth in 49 CFR § 395.8(e)(1).

2. You must establish safety management controls and procedures to ensure that your drivers comply with HOS requirements as set forth in 49 CFR 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 CFR Part 395.

3. You must demonstrate that you maintain driver qualification files, as required by 49 CFR Part 391. You must demonstrate that every driver you use has completed and furnished an employment application. You must investigate each driver's background within 30 days of employment and must maintain a copy of the response from each State agency in the driver's qualification file. You must demonstrate that you obtain from each driver an annual list of traffic violations and an annual Motor Vehicle Record, and that you perform an annual review of each driver's driving record. You must demonstrate that you perform a three-year previous employment check on your drivers before operating a commercial motor vehicle, in accordance with 49 CFR § 391.23. You must demonstrate that you have ensured each driver possesses the requisite driver's license and DOT medical examiner's certificate as well as ensured that a copy of each driver's license and medical examiner's certificate is maintained in the driver's qualification file. You must establish policies and procedures to ensure that you only dispatch drivers who are qualified and satisfy the requirements of 49 CFR Parts 383 and 391.

4. You must establish a DOT controlled substance and alcohol testing program in compliance with 49 CFR 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 Southern Service Center Regional Field Administrator.

5. You must ensure that you received a negative pre-employment controlled substances test for each driver before using that driver to perform safety-sensitive functions. You must establish policies and procedures to ensure that you do not dispatch a driver who has tested positive for controlled substances or alcohol until that driver has completed the return-to-duty process in 49 CFR Part 40.

6. You must 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 full compliance with 49 CFR Part 393 (Parts and Accessories Necessary for Safe Operation) and Part 396 (Inspection, Repair and Maintenance), and that all defects and deficiencies are corrected and repaired.

7. 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 CFR Part 396, and that documentation of inspections, maintenance and repair are obtained and maintained as required.

8. 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 CFR Part 396 and Appendix G to Subchapter B of Chapter III, and that qualified inspectors conduct such periodic inspections.

9. You must ensure that employees, contractors and/or agents used to inspect and maintain each commercial motor vehicle you operate and/or intend 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 CFR Part 396.

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

11. You must contact FMCSA's Georgia Division and arrange for inspection of each of your commercial motor vehicles by an FMCSA inspector or an inspector designated by FMCSA.

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

13. You must provide an accurate and complete list of motor carriers, brokers, or freight forwarders you have any relationship with, including but not limited to financial relationships.

13. You must comply with all Orders issued by FMCSA.

IV. RESCISSION OF ORDER

Daya Trucking, LLC'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 Regional Field Administrator for FMCSA's Southern Service Center has determined that the Remedial Action requirements specified in Paragraph IV 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 Regional Field Administrator for the FMCSA's Southern 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 vehicle(s) or motor carrier operations require five business days' written notice to the Regional Field Administrator. Any such action taken in anticipation of this Order must cease immediately.

Before rescission of the Order, Daya Trucking, LLC 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 timetable 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 Regional Field Administrator, Southern Service Center, with a copy to the Division Administrator, Georgia Division, at the following addresses:

Regional Field Administrator, Southern Service Center
Federal Motor Carrier Safety Administration
1800 Century Blvd.
Suite 1700
Atlanta, GA 30345

Division Administrator, Georgia Division
Federal Motor Carrier Safety Administration
Two Crown Center
1745 Phoenix Boulevard, Suite 380
Atlanta, GA 30349

Rescission of this Order does not constitute a reinstatement of your USDOT Number or grant of operating authority registration. In order for Daya Trucking, LLC to resume motor carrier operations in interstate or intrastate commerce, Daya Trucking, LLC will be required to apply 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 or 31139.

To be eligible for registration, Daya Trucking, LLC must not be subject to any other order prohibiting it from operating in interstate commerce. Because Daya Trucking, LLC is also subject to an order to cease operations based on an Unsatisfactory safety rating, any application for operating authority registration will be rejected unless its safety rating has been upgraded.

V. 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), 49 U.S.C. § 31133, 49 U.S.C. § § 31134, and 49 CFR § 386.72(b)(1), is an Order of, and enforceable by, the Secretary. Violation of this Order may subject Daya Trucking, LLC to civil penalties and may also result in an action in the United States District Court for equitable relief and punitive damages. Daya Trucking, LLC may be assessed civil penalties of up to \$26,126 for each violation of this Order. 49 U.S.C. §§ 507, 521(b)(2)(F) and 521(b)(4) and 49 CFR Part 386 App. A. § IV(g). Daya Trucking, LLC may also be assessed civil penalties of not less than \$10,450 for providing transportation requiring registration, including operating a commercial motor vehicle in interstate commerce, without operating authority registration and up to \$14,739 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).

VI. 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.

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, 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

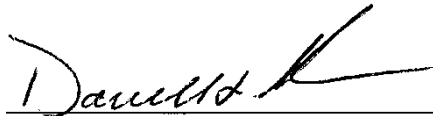
A copy of any request for administrative review must also be sent to the Regional Field Administrator by mail and/or facsimile as follows:

Regional Field Administrator
Southern Service Center
Federal Motor Carrier Safety Administration
1800 Century Blvd
Suite 1700
Atlanta, GA 30345
Fax: (404) 327-7349

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.



Darrell L. Ruban
Regional Field Administrator
United States Department of Transportation
Federal Motor Carrier Safety Administration
Southern Service Center