

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

)	Order No.: NJ-2012-0001-IMH
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)	
J & A TRANSPORTATION, INC.)	Service
USDOT 1869103)	Date: _____
)	
JOSEPH ARMSTRONG,)	Service
Individually)	Date: _____
)	
CLAYTEA ARMSTRONG,)	Service
Individually)	Date: _____
)	
WATRINA ARMSTRONG,)	Service
Individually)	Date: _____
)	
ALTERICK D. SANDERS,)	Service
Individually)	Date: _____
)	
HARRY S. BARRETT,)	Service
Individually)	Date: _____
)	

OPERATIONS OUT-OF-SERVICE ORDER

This notice is an Operations Out-of-Service Order (“ORDER”) by the United States pursuant to 49 U.S.C. § 521(b)(5)(A), 49 U.S.C. § 31144(c)(1) and (2), 49 U.S.C. § 31144(c)(5), and 49 C.F.R. § 386.72(b)(1), and pursuant to delegation of authority to the Field Administrator, Eastern Service Center, Federal Motor Carrier Safety Administration (FMCSA), United States Department of Transportation (USDOT), Glen Burnie, Maryland. This ORDER applies to J & A TRANSPORTATION, INC., USDOT number 1869103, Joseph Armstrong, individually, Claytea Armstrong, individually, Watrina Armstrong, individually, Alterick D. Sanders, individually, and Harry S. Barrett, individually (referred to collectively herein as “YOU,” “YOUR,” and/or “J & A Transportation, Inc.”).

The United States finds the condition of your operation of commercial motor vehicles constitutes an "imminent hazard." This finding means that based upon your present state of unacceptable safety compliance, your failure to adequately establish and maintain safety management systems, your failure to ensure your drivers are qualified, and the condition of your commercial motor vehicles, your motor carrier operation substantially increases the likelihood of serious injury or death if not discontinued immediately.

EFFECTIVE IMMEDIATELY, YOU MUST CEASE ALL COMMERCIAL MOTOR VEHICLE OPERATIONS, INCLUDING ALL INTERSTATE AND INTRASTATE TRANSPORTATION OF VEHICLES AND/OR GOODS BY DRIVERS FROM ALL DISPATCHING LOCATIONS OR TERMINALS.

If you are served this ORDER while operating a commercial motor vehicle in interstate or intrastate commerce, vehicles in transit may proceed to their next scheduled stop where the cargo on board can be safely secured. Thereafter, you may not continue to operate the commercial motor vehicle. (See 49 C.F.R. § 386.72(b)(4) and (5)).

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

I. JURISDICTION

J & A Transportation, Inc., is a motor carrier engaged in interstate commerce and is therefore subject to the Federal Motor Carrier Safety Regulations ("FMCSR"), 49 C.F.R. Parts 350-399, as well as the Orders of the USDOT and FMCSA. (See 49 U.S.C. §§ 506, 507, 13501, 31133 and 31136.) J & A Transportation, Inc., is required to comply, and to ensure its drivers comply, with the FMCSR (49 C.F.R. § 390.11). This ORDER applies to Joseph Armstrong, Claytea Armstrong, Watrina Armstrong, Alterick D. Sanders, Harry S. Barrett, and J & A

Transportation, Inc., as well as any and all officers, 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, including but not limited to a 2002 Peterbilt tractor, VIN 1XP5DB9X92D579117, and a 2004 Peterbilt tractor, VIN 1XP5DB9X34D822990. You may not use lessees, lessors, owner-operators, affiliates, assigns or other commercial motor vehicles or motor carriers to conduct any continued operations.

II. BASIS FOR ORDER

The basis for determining that your motor carrier operations pose an imminent hazard to the public is your failure to comply with vehicle maintenance and repair regulations, vehicle out-of-service orders, drivers' log requirements, and drivers' hours of service requirements, thereby posing a continuing imminent hazard to the public. Your safety management oversight is deficient. Individually and cumulatively, these violations and conditions of operation substantially increase the likelihood of serious injury or death to your drivers and to the motoring public.

III. BACKGROUND

J & A Transportation, Inc., is managed and/or controlled by Claytea Armstrong, Watrina Armstrong, and Joseph Armstrong. The carrier employs two drivers: Alterick D. Sanders and Harry S. Barrett. J & A Transportation, Inc., was the subject of a New Entrant safety audit on July 16, 2010. J & A Transportation, Inc., failed the July 16, 2010 audit because it did not have basic safety management controls in place, and its New Entrant operating authority was revoked on November 1, 2010. On January 5, 2011, J & A Transportation, Inc., submitted an untimely Corrective Action Plan ("CAP") in an attempt to address the deficiencies noted in the safety audit. The CAP did not provide proof of a controlled substances and alcohol testing policy, supervisor training, or random alcohol testing. On January 7, 2011, FMCSA notified J & A

Transportation, Inc, that its CAP was not accepted and its New Entrant operating authority remained revoked.

In May 2011, the FMCSA New Jersey Division attempted to conduct a mandatory safety investigation on J & A Transportation, Inc. On September 19, 2011, after several unsuccessful attempts to schedule an investigation, the FMCSA New Jersey Division inactivated J & A Transportation, Inc.'s DOT number. Thereafter, FMCSA received information that J & A Transportation, Inc., continued to operate commercial motor vehicles in interstate commerce, despite that fact that it had no active DOT number, no active operating authority, and insufficient safety management. On February 15, 2012, the FMCSA New Jersey Division issued a Notice to Produce records to J & A Transportation, Inc. The Notice to Produce was unanswered. J & A Transportation has repeatedly defied FMCSA out-of-service orders and has not allowed FMCSA investigators to conduct mandatory inspections.

J & A Transportation, Inc., has continued to operate commercial motor vehicles in interstate commerce without adequate safety management, operating authority, adherence to hours of service, log and records of duty status ("RODS") requirements, a drug and alcohol program, or an adequate vehicle maintenance program. J & A Transportation, Inc.'s roadside inspections demonstrate the dispatch of vehicles known to be unsafe. Specifically, J & A Transportation, Inc., was cited for vehicle maintenance violations, including out-of-service violations, on October 31, 2011 (49 CFR § 393.75(a) - driving on flat tire, inadequate tread depth), November 16, 2011(49 CFR § 393.75(c) – inadequate tire tread depth, December 5, 2011 (49 CFR § 393.75(c) – tire fabric exposed, inadequate tire tread depth, 49 CFR § 396.3(a)(2) – brakes out of service), January 12, 2012 (49 CFR § 393.75(c) – tire tread depth), January 25, 2012 (49 CFR § 393.75(c). – inadequate tire tread depth; 49 CFR § 393.9 – inoperable rear stop and tail lamps); and February 15, 2012 (49 CFR § 396.3 – tractor unable to maintain air pressure with service brakes applied and engine idle).

J & A Transportation, Inc., shows blatant disregard for safety and adherence to the FMCSR. The roadside inspections demonstrate a pattern and practice of requiring or permitting drivers to falsify RODS or to exceed the maximum hours of service limitations. J & A Transportation, Inc., was cited for driver out-of-service violations at roadside on January 31, 2012 (49 CFR § 395.8(e) – false reports of records of duty status) and February 15, 2012 (49 CFR § 395.8(e) – false reports of records of duty status, and 49 CFR § 395.8 – failure to submit original logs within 13 days). J & A Transportation, Inc.’s log violation rate is 50 percent; its log out-of-service violation rate is 30 percent. Between September 21, 2011 and February 15, 2012, J & A Transportation, Inc., was cited on 5 separate occasions for violations of 40 CFR 392.9a(a) – operating without the required operating authority.

J & A Transportation’s drivers and vehicles also have been cited for roadside violations involving vehicle maintenance, hours of service, and false RODS while purportedly operating J & A Transportation, Inc.’s vehicle - the 2004 Peterbilt tractor, VIN 1XP5DB9X34D822990 - for another motor carrier. Harry S. Barrett was cited during roadside inspections on March 2, 2012 (49 CFR § 390.21(a) – vehicle not marked in accordance with regulations; listed carrier and DOT number do not match company carrying for; listed as not active), February 9, 2012 (49 CFR § 393.75(c) – tire tread depth; 49 CFR § 396.17(c) - operating without a periodic inspection; 49 CFR §§ 393.9(t) and 393.25(f) – inoperable tail lamps and stop lamps; 396.3(a)(1) – inspection repair and maintenance: vehicle must be started by hotwiring ignition), February 8, 2012 (49 CFR § 393.75(a)(1) – tire belt material exposed; 49 CFR § 393 – multiple inoperable tail and stop lamps; 49 CFR § 395.3(a)(2) – violation of 14 hour rule; 49 CFR § 395.8(3) – false RODS), and January 29, 2012 (49 CFR § 393.75 – cords showing on trailer tire, third tractor axle “so worn that no tread remains;” 49 CFR § 395.8(f)(1) – false RODS; 49 CFR § 390.21(a) – tractor marked with wrong DOT number; 396.17(c) – operating without periodic inspection; 392.2(w) – exceeding vehicle gross weight.

FMCSA relies upon the Safety Measurement System (“SMS”) to assess a motor carrier’s on-road performance in six Behavior Analysis and Safety Improvement Categories (“BASICS”). The SMS quantifies on-road safety performance and ranks each motor carrier’s relative performance in each BASIC by computing a percentile score on a 0 to 100 scale, with 100 indicating the worst performance. The SMS assessment of J & A Transportation, Inc., covers the 24-month period ending on January 24, 2012. J & A Transportation, Inc., has SMS scores which reflect its poor safety performance. J & A Transportation, Inc., was found to be seriously deficient in 3 of the seven 7 BASICS: Unsafe Driving (66.9%), Fatigued Driving (hours-of-service 94.5%), and Vehicle Maintenance (98%).

IV. REMEDIAL ACTION

To eliminate this imminent hazard, and before you will be permitted to resume those operations placed out of service by this ORDER, you must undertake positive steps which will ensure and demonstrate compliance with the FMCSRs.

YOU MUST COMPLY WITH THE PROVISIONS OF THIS ORDER.

- 1. J & A Transportation, Inc., must comply with vehicle repair, maintenance and out of service regulations. J & A Transportation, Inc., must require its drivers to prepare Driver Vehicle Inspection Reports at the end of each day, implement a procedure so that its drivers can report safety defects and/or deficiencies and establish procedures to ensure that reported safety defects and/or deficiencies are repaired immediately before the commercial motor vehicle is operated again. J & A Transportation, Inc., must train its drivers and ensure all drivers understand the meaning of a roadside out of service order and comply with roadside out of service orders.**
- 2. J & A Transportation, Inc., must ensure its drivers accurately and fully complete their daily records of duty status and submit them to the carrier within 13 days of their completion.**

J & A Transportation, Inc., must maintain drivers' records of duty status and all supporting documents for a minimum period of 6 months. Further, J & A Transportation, Inc., must ensure that all records of duty status are accurate by using all means available to it and by comparing each with all supporting documentation.

3. J & A Transportation, Inc., must comply with all Orders, document requests, inspection requests and audit requests issued by FMCSA and must submit to the Field Administrator a plan detailing how J & A Transportation, Inc., will (i) train all drivers used by J & A Transportation, Inc., or its successors or assigns, on compliance with the HOS regulations and vehicle inspection, repair and maintenance regulations, (ii) monitor the compliance of all drivers used by J & A Transportation, Inc., or its successors or assigns with the HOS regulations and vehicle repair and maintenance regulations, and (iii) ensure that all drivers used by J & A Transportation, Inc., or its successors or assigns are dispatched in such a way that scheduled routes may be completed within the maximum driving and on-duty hours, as provided in 49 CFR 395.3.

4. J & A Transportation, Inc., must take immediate, aggressive and progressive steps to control drivers' hours of service.

5. J & A Transportation, Inc., must implement a dispatch system that ensures that no driver will be dispatched on any trip unless the driver has the necessary available hours of service to complete the trip in accordance with 49 C.F.R. part 395.

6. J & A Transportation, Inc., must ensure that all drivers and supervisors are adequately trained in the requirements of the FMCSRs and that they are able to conduct motor carrier operations consistent with those regulations.

7. **J & A Transportation, Inc., must implement and maintain a drug and alcohol testing program, including training, pre-employment testing, reasonable suspicion testing, post-accident testing and random testing procedures.**

V. RECISSION OF ORDER

Before this ORDER is rescinded, you must comply with the provisions of this ORDER, eliminate the problems constituting the imminent hazard that your operations pose and submit a safety management plan to the Field Administrator, Eastern Service Center, Federal Motor Carrier Safety Administration, United States Department of Transportation, which specifically outlines the actions taken to eliminate the safety problems. You cannot avoid this Operations Out-of-Service ORDER by continuing operations under the name of another person or company. Any sale, lease or other transfer of equipment and/or direct assignment of contracts or other agreements for service by you requires the written approval of the Eastern Service Center Field Administrator. Any such action taken in anticipation of this Operations Out-of-Service ORDER must cease immediately. You must have this ORDER rescinded by the Eastern Service Center Field Administrator before you may continue interstate or intrastate operations. Prior to rescission of the ORDER, you will be required to:

1. **IDENTIFY THE CAUSE FOR ITS NONCOMPLIANCE.**
2. **DEVELOP AND SUBMIT TO THE FIELD ADMINISTRATOR A DETAILED PLAN OF ACTION THAT ADDRESSES EACH AREA OF NON-COMPLIANCE, THE STEPS IT INTENDS TO TAKE TO OVERCOME ITS NON-COMPLIANCE AND A TIME TABLE FOR THESE STEPS (THE SAFETY MANAGEMENT PLAN).**
3. **DEVELOP AND CERTIFY YOUR COMMITMENT TO COMPLY WITH THE FMCSRS.**

4. EXECUTE THE SAFETY MANAGEMENT PLAN AND SUBMIT TO THE FIELD ADMINISTRATOR CERTIFICATION BY ALL OWNERS AND COMPANY OFFICIALS.

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

Field Administrator, Eastern Service Center
Federal Motor Carrier Safety Administration
801 Cromwell Park Drive, Suite N
Glen Burnie, MD 21061

Division Administrator, New Jersey Division
Federal Motor Carrier Safety Administration
One Independence Way, Suite 120
Princeton, NJ 08540

VI. FAILURE TO COMPLY

Failure to comply with the provisions of this Operations Out-of-Service ORDER may subject you to an action by the United States Attorney in the United States District Court for equitable relief and punitive damages. You may be assessed civil penalties of up to \$16,000 per day for each day it continues the proscribed interstate or intrastate operations after the effective date and time of this ORDER. (49 C.F.R. Part 386, App. A, § IVg)). If violations are determined to be knowing and willful, criminal penalties may be imposed, including a fine of up to \$25,000 and a prison term of one year, or both. (49 U.S.C. § 521(b)(6)(A)).

VII. PENALTIES FOR 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, previously discovered, discovered after the service of this Order, and/or discovered during subsequent investigations.

VIII. RIGHT TO REVIEW

You have a right to administrative review in accordance with 5 U.S.C. § 554 pursuant to 49 C.F.R. § 386.72(b)(2). If requested, administrative review shall occur within 10 days of the issuance of this ORDER. (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, with a copy sent to the Field Administrator, Eastern Service Center at the following addresses:

Assistant Administrator
Federal Motor Carrier Safety Administration
1200 New Jersey Avenue SE
Washington, DC 20590

Field Administrator, Eastern Service Center
Federal Motor Carrier Safety Administration
801 Cromwell Park Drive, Suite N
Glen Burnie, MD 21061

The request must state the material facts at issue which you believe dispute or contradict the finding that your operation constitutes an "imminent hazard" to the public.

A REQUEST FOR REVIEW DOES NOT IN ANY WAY DELAY YOUR DUTY

TO COMPLY WITH THIS ORDER IMMEDIATELY..

Date: 4/3/12


Robert W. Miller, Field Administrator
United States Department of Transportation
Federal Motor Carrier Safety Administration