

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

WTSA US EXPRESS LLC,)	Order No.: WI-2012-5000-IMH
USDOT 1814463,)	
)	Service
TADEUSZ WRZESNIEWSKI,)	Date: _____
Individually, and)	
)	Time: _____
ADRIAN WRZESNIEWSKI)	
Individually.)	Person Served: _____

**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. § 31144(c)(1) and (2), 49 U.S.C. § 31144(c)(5), 49 C.F.R. § 386.72(b)(1), and 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"), Darin G. Jones. This ORDER applies to **WTSA US EXPRESS LLC**, USDOT Number 1814463, **TADEUSZ WRZESNIEWSKI**, and **ADRIAN WRZESNIEWSKI** (collectively referred to herein as "you," "your," and/or "**WTSA**"), as well as any and all officers, directors, successors, assigns and closely affiliated companies.

The Secretary and the FMCSA find your continued operations and the continued operation of your commercial motor vehicles (identified in ATTACHMENT A attached hereto and hereinafter referred to as "commercial motor vehicles") constitute an "**IMMINENT HAZARD.**" This finding means that based upon your present state of unacceptable safety compliance, your operation of commercial motor vehicles poses an imminent hazard to the public.

EFFECTIVE IMMEDIATELY YOU MUST CEASE ALL COMMERCIAL MOTOR VEHICLE OPERATIONS, INCLUDING ALL INTERSTATE OR INTRASTATE TRANSPORTATION OF COMMERCIAL MOTOR VEHICLES AND/OR GOODS BY DRIVERS. FURTHER THE COMMERCIAL MOTOR VEHICLES IDENTIFIED IN ATTACHMENT A, ATTACHED HERETO, ARE PROHIBITED FROM BEING OPERATED IN INTERSTATE OR INTRASTATE COMMERCE BY ANY OTHER MOTOR CARRIER OR ANY DRIVER.

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. You may not continue to operate the commercial motor vehicle after this point. (See 49 C.F.R. § 386.72(b)(4) and (5)).

NO ADDITIONAL CARGO MAY BE LOADED OR TRANSPORTED, NOR MAY THE COMMERCIAL MOTOR VEHICLES BE OPERATED IN INTERSTATE OR INTRASTATE COMMERCE WHILE THIS ORDER IS IN EFFECT. A COMMERCIAL MOTOR VEHICLE MAY BE MOVED TO A LOCATION TO BE REPAIRED ONLY UPON APPROVAL FROM THE FIELD ADMINISTRATOR, FMCSA MIDWESTERN SERVICE CENTER.

I. **JURISDICTION**

WTSA is a motor carrier engaged in interstate and intrastate commerce and is therefore subject to the Federal Motor Carrier Safety Regulations (“FMCSRs”), 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 31306).. WTSA is required to comply, and to ensure all drivers comply, with the FMCSRs. (49 C.F.R. § 390.11). This ORDER applies to **WTSA US EXPRESS LLC, TADEUSZ**

WRZESNIEWSKI , Individually, and **ADRIAN WRZESNIEWSKI** , Individually (collectively referred to herein as “you,” “your,” and/or “**WTSA**”), 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 commercial motor vehicles identified in ATTACHMENT A, attached hereto. 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 that WTSA fails to monitor and ensure that its drivers comply with drivers' hours of service requirements, drivers' qualification requirements, commercial drivers' licensing requirements, and the controlled substances and alcohol testing requirements. WTSA fails to monitor drivers' compliance with vehicle roadside inspections and the orders of State law enforcement personnel to cease operating commercial motor vehicles unless and until identified out-of-service conditions are corrected. Individually and collectively, these violations and conditions of operation substantially increase the likelihood of serious injury or death to WTSA drivers and to the motoring public.

III. **BACKGROUND**

On or about May 14, 2012, FMCSA initiated an investigation of WTSA uncovering violations of the FMCSRs so widespread as to demonstrate a continuing and flagrant general disregard for compliance with the FMCSRs. Indeed, WTSA's operations are reckless, with its management unable to demonstrate basic safety management controls despite repeated investigations and enforcement actions.

WTSA does not monitor its drivers' hours of service (HOS) to ensure that its drivers do not violate the HOS regulations. WTSA's negligent oversight of its drivers results in drivers operating commercial motor vehicles at a time when they may be fatigued because of driving in excess of the maximum driving time, driving after the maximum on-duty time, and/or other HOS regulations.

In addition, WTSA does not follow FMCSA mandated controlled substance and alcohol testing requirements to ensure that its drivers are able to safely operate its commercial motor vehicles. WTSA does not conduct pre-employment testing, and is not testing all of the drivers for controlled substance and alcohol tests as required. WTSA has openly defied two (2) State issued out-of-service orders and permitted driver Adrian Wrzesniewski to continue operating commercial motor vehicles despite being placed out of service and ordered to cease operating his vehicle after he was cited for transporting alcohol in the cab of his vehicle and for consuming alcohol within 4 hours before operating a CMV. WTSA also fails to follow FMCSA driver qualification requirements to ensure that its drivers are qualified to operate its commercial motor vehicles. In blatant defiance of two (2) State issued out-of-service orders WTSA has allowed driver Adrian Wrzesniewski to continue operating commercial motor vehicles without a valid medical certificate. WTSA does not have a proper system in place to prevent the operation of commercial motor vehicles by drivers without proper commercial drivers' licenses. WTSA has defied five (5) State issued out-of-service orders and allowed both Tadeusz Wrzesniewski and Adrian Wrzesniewski to continuing operating commercial motor vehicles with commercial driver's licenses that were previously revoked, or disqualified.

In a May 30, 2012 sworn statement provided to John Seidl, a Special Agent and Safety Investigator for the Wisconsin Division of the Federal Motor Carrier Safety Administration, you admitted:

1. WTSA was not enrolled in a drug and alcohol testing program.
2. Drivers Tadeusz Wrzesniewski and Adrian Wrzesniewski were not pre-employment alcohol and drug tested or enrolled in random alcohol and drug testing programs.
3. WTSA did not require drivers to possess CDL's before operating commercial motor vehicles.
4. Drivers Tadeusz Wrzesniewski and Adrian Wrzesniewski did not possess valid CDLs.
5. WTSA did not require drivers to be medically certified as qualified to operate commercial motor vehicles.
6. Drivers Tadeusz Wrzesniewski and Adrian Wrzesniewski did not possess valid medical certificates.
7. WTSA did not ensure that drivers accurately and fully complete their daily records of duty status and submit them to the carrier within 13 days of completion.

WTSA's continued and blatant disregard for the FMCSRs establishes an imminently hazardous and potentially deadly risk for its drivers and the motoring public.

IV. REMEDIAL ACTION

To abate this imminent hazard, and before WTSA will be permitted to resume operations placed out of service by this Order, WTSA must take specific steps to ensure and demonstrate compliance with the FMCSRs.

YOU MUST COMPLY WITH ALL PROVISIONS OF THIS ORDER

- 1. The commercial motor vehicles identified in Attachment A to this Order may not be operated in interstate and/or intrastate commerce by any entity or by any individual until you have fully complied with the Remedial Actions set forth in this section.**

- 2. WTSA 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.**
- 3. WTSA 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. WTSA must ensure that every driver it plans to use has a valid commercial driver's license.**
- 4. WTSA 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 Midwestern Service Center Field Administrator. WTSA must use only those laboratories certified by the U.S. Department of Health and Human Services' Substance Abuse and Mental Health Services Administration for the analysis of urine specimens.**
- 5. WTSA 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. WTSA must ensure that all drivers are adequately trained in the requirements of the FMCSRs and that they are able to accurately complete their RODS in accordance with those regulations.**
- 7. WTSA must comply with all Orders issued by FMCSA.**

V.
RECISSION OF ORDER

Before resuming motor carrier operations, WTSA must comply with the provisions of this Order, eliminate the problems constituting the imminent hazard that its operations pose, and adequately demonstrate to the Field Administrator, Midwestern Service Center, Federal Motor Carrier Safety Administration, United States Department of Transportation, the actions taken to eliminate the safety problems. **WTSA 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 WTSA requires the written approval of the Midwestern Service Center Field Administrator. Any such action taken in anticipation of this Operations Out-of-Service Order must cease immediately. WTSA must have the Order rescinded by the Midwestern Service Center Field Administrator before it may continue interstate or intrastate operations.

Prior to rescission of the Order, WTSA will be required to:

- 1. IDENTIFY THE CAUSE FOR ITS NONCOMPLIANCE.**
- 2. DEVELOP 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 THE COMMITMENT OF WTSA TO COMPLY WITH THE FMCSRs.**
- 4. EXECUTE THE SAFETY MANAGEMENT PLAN AND PROVIDE CERTIFICATION BY ALL OWNERS AND COMPANY OFFICIALS. FOR**

PURPOSES OF THIS PARAGRAPH, “OWNERS AND COMPANY OFFICIALS” MEANS ANY PERSON OWNING MORE THAN A 10 PERCENT SHARE IN WTSA, ALL REGISTERED CORPORATE OFFICERS AND ANY INDIVIDUAL RESPONSIBLE FOR OR PERFORMING HIRING, QUALIFYING, OR SCHEDULING OF DRIVERS, OR SCHEDULING OR DIRECTING VEHICLE INSPECTION, REPAIR AND/OR MAINTENANCE.

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

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

Division Administrator, Wisconsin Division
Federal Motor Carrier Safety Administration
1 Point Place, Suite 101
Madison, Wisconsin 53719

VI. **FAILURE TO COMPLY**

Failure to comply with the provisions of this Operations Out-of-Service Order may subject WTSA to an action by the United States Attorney in the United States District Court for equitable relief and punitive damages. WTSA 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. § IV(g)). If violations are determined to be willful, criminal penalties may be imposed, including a fine of up to \$25,000 or imprisonment for a term not to exceed one year, or both. (49 U.S.C. § 521 (b)(6)(A)).

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, previously discovered, discovered after the service of this ORDER, and/or discovered during subsequent investigations.

VIII.
RIGHT TO REVIEW

You have the right to an administrative review in accordance with 5 U.S.C. § 554 pursuant to 49 C.F.R. § 386.72(b)(4). If requested, administrative review shall occur within 10 working days of the issuance of this ORDER. (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, Midwestern Service Center, at the following addresses:

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

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

The request for review should state the material facts which you believe dispute or contradict the finding that your continued operation of a commercial motor vehicle in interstate or intrastate commerce 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: _____

Darin G. Jones, Field Administrator
United States Department of Transportation
Federal Motor Carrier Safety Administration

Attachment A

POWER UNITS (TRACTORS)

<u>Make</u>	<u>Vehicle Identification Number</u>
Volvo	4V4NC9TH33N347787
Volvo	4V4ND4JJXYN249479

TRAILERS

<u>Make</u>	<u>Year</u>	<u>Vehicle Identification Number</u>
Great Dane	2004	1GRAA06204W700233
Utility	2002	1UYVS253X2U708302