

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

AUTOBUSES ZACATECANOS, LLC)	Order No.: TX-2013-5001-IMH
)	
USDOT 1439371)	Service
)	Date: _____
)	
)	Time: _____
)	

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), (2), and (5), 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), Lakewood, Colorado. This ORDER applies to AUTOBUSES ZACATECANOS LLC’s (USDOT No. 1439371) (referred to herein as “you,” “your”, and/or “AUTOBUSES ZACATECANOS”) operation of its commercial motor vehicles.

The Secretary and the FMCSA find your operations and your continued operation of commercial motor vehicles (herein “commercial motor vehicles,” “vehicles,” and/or “motor 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 the commercial motor vehicle(s) poses an **imminent hazard** to public safety.

EFFECTIVE IMMEDIATELY
YOU MUST CEASE ALL COMMERCIAL MOTOR VEHICLE OPERATIONS
IN THE UNITED STATES INCLUDING ALL INTERSTATE AND INTRASTATE
TRANSPORTATION OF PASSENGERS FROM ALL DISPATCHING
LOCATIONS OR TERMINALS.

Effective immediately, you must cease operating any commercial motor vehicles, specifically including the commercial motor vehicles listed in Appendix A to this ORDER, in the United States. “Operate” or “Operating” includes without limitation all foreign, interstate and intrastate transportation by drivers from all dispatching locations or terminals. Commercial motor vehicles and their drivers now in the United States in foreign, 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 passengers can be safely accommodated. (*See* 49 C.F.R. § 386.72(b)(4) and (5)).

NO ADDITIONAL PASSENGERS MAY BE LOADED OR TRANSPORTED,
NOR MAY ANY COMMERCIAL MOTOR VEHICLE(S) BE OPERATED IN
FOREIGN, INTERSTATE OR INTRASTATE COMMERCE WHILE THIS ORDER IS
IN EFFECT.

AUTOBUSES ZACATECANOS’ commercial motor vehicles, specifically including the commercial motor vehicles listed in Appendix A to this ORDER, may not be operated in the United States in foreign, interstate or intrastate commerce by any other motor carrier or any driver; such commercial motor vehicles may not be operated even without passengers. Unless otherwise approved in writing by the Field Administrator, any movement of AUTOBUSES ZACATECANOS’ commercial motor vehicles in the United States to any storage or repair or

other location for the purposes of repair, sale, or final destination must be accomplished only by towing, such that the commercial motor vehicle itself is not driven or operated; AUTOBUSES ZACATECANOS' commercial motor vehicles may be moved only upon the written approval of the Field Administrator for FMCSA's Western Service Center.

Within twelve (12) hours of your receipt of this ORDER, you must submit to the Field Administrator in writing by fax and/or electronic mail (email) the location of each of the commercial motor vehicles identified in Appendix A of this ORDER. Your submission must be sent to:

Field Administrator
(303) 407-2339 (fax)
WSCENF@dot.gov (electronic mail)

I. JURISDICTION

AUTOBUSES ZACATECANOS is a passenger motor carrier engaged in foreign and interstate commerce in the United States using commercial motor vehicles and employing drivers 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, 31136, and 31144.)

AUTOBUSES ZACATECANOS is required to comply, and to ensure its drivers comply, with the FMCSRs and Orders of the USDOT and FMCSA. (49 C.F.R. § 390.11). This ORDER shall have the force and effect of any other Order issued by the FMCSA and is binding upon AUTOBUSES ZACATECANOS, as well as any and all of its officers, members, directors, successors, assigns and closely affiliated companies.

II. BASIS FOR ORDER

The basis for determining that AUTOBUSES ZACATECANOS' motor carrier operations and the continued operation of commercial motor vehicles pose an imminent hazard to the public is that AUTOBUSES ZACATECANOS fails to ensure that its commercial motor vehicles are systematically and properly inspected, repaired and maintained. AUTOBUSES ZACATECANOS fails to repair or cause to be repaired in a competent manner its commercial motor vehicles, and fails to ensure that its mechanics are knowledgeable and qualified. AUTOBUSES ZACATECANOS fails to ensure that the commercial motor vehicles it operates meet minimum safety standards, and AUTOBUSES ZACATECANOS operates commercial motor vehicles with significant safety defects resulting in failed safety inspections. Further, AUTOBUSES ZACATECANOS fails to ensure its drivers comply with hours of service requirements, including limitations on maximum driving time and on-duty hours. AUTOBUSES ZACATECANOS also fails to have safety management controls in place to ensure that its drivers are qualified to operate commercial motor vehicles in United States.

Individually and cumulatively, these violations and conditions of operation substantially increase the likelihood of serious injury or death to AUTOBUSES ZACATECANOS' drivers, passengers and the motoring public.

III. BACKGROUND

On or about April 25, 2013 FMCSA initiated an in-depth compliance review of the motor carrier operations of AUTOBUSES ZACATECANOS. During the compliance review FMCSA and its designated inspectors conducted inspections on 4 commercial motor vehicles under the control of, and operated by, AUTOBUSES ZACATECANOS. Serious noncompliance and safety defects were discovered during every vehicle inspection. During the

inspections of the 4 vehicles, FMCSA discovered 34 violations of Federal safety requirements; 15 of the 34 violations were out-of-service violations that individually required the vehicles be placed out of service. Further, all of the four vehicles had inadequate and/or obstructed and inadequate emergency exit equipment. Each of the four vehicles inspected was ordered out of service.

Moreover, AUTOBUSES ZACATECANOS does not have basic safety management controls to ensure that its commercial motor vehicles are systematically inspected, maintained and repaired, and that the commercial motor vehicles it operates meet minimum safety standards. AUTOBUSES ZACATECANOS' drivers do not perform revised daily vehicle inspections. AUTOBUSES ZACATECANOS personnel do not perform vehicle inspections, maintenance or repairs; the mechanic used by AUTOBUSES ZACATECANOS conducts repairs only on an as-requested basis, and is not familiar with the FMCSRs or requirements for inspection, repair and maintenance of parts and accessories as set forth in the regulations essential to ensure safe operations. Additionally, AUTOBUSES ZACATECANOS knowingly dispatches vehicles before defects discovered during inspections have been corrected.

AUTOBUSES ZACATECANOS fails to control its drivers' compliance with hours of service requirements, and AUTOBUSES ZACATECANO routinely allows its drivers to significantly exceed maximum driving times. AUTOBUSES ZACATECANOS drivers do not record on-duty or driving time while in Mexico; trips completed by AUTOBUSES ZACATECANOS drivers begin in Zacatecas, Mexico, approximately 10 hours from the Mexico-United States international border and continue to California and Colorado. AUTOBUSES ZACATECANOS' commercial motor vehicles do not have compliant sleeper berths, and the carrier does not use en-route staged drivers. Additionally, AUTOBUSES

ZACATECANOS does not have safety management controls and procedures in place to ensure that its drivers are qualified to operate commercial motor vehicles in the United States.

The investigations of AUTOBUSES ZACATECANOS' commercial motor vehicles and operation disclose ongoing violations of the FMCSRs demonstrating a continuing general disregard for safety. The unsafe and dangerous condition of AUTOBUSES ZACATECANOS' commercial motor vehicles along with its failure to adequately inspect, maintain and repair its commercial motor vehicles, failure to ensure its drivers comply with hours of service requirements and failure to ensure its drivers are qualified to operate commercial motor vehicles in the United States substantially increases the likelihood of serious injury or death. This condition of operations is an imminently hazardous and potentially deadly risk for AUTOBUSES ZACATECANOS' drivers and passengers, and for the motoring public.

IV. REMEDIAL ACTION

To eliminate this imminent hazard, and before AUTOBUSES ZACATECANOS will be permitted to resume operation of commercial motor vehicles, AUTOBUSES ZACATECANOS must take specific steps to ensure and demonstrate compliance with the FMCSRs.

A. AUTOBUSES ZACATECANOS must ensure and demonstrate that each and every commercial motor vehicle it operates or intends to operate in the United States is in a safe operating condition and in full compliance with 49 C.F.R. Part 393 (Parts and Accessories Necessary for Safe Operations) and Part 396 (Vehicle Maintenance), and that all defects and deficiencies have been corrected and repaired. AUTOBUSES ZACATECANOS must also specifically ensure and demonstrate that emergency egress equipment and mechanisms are in operating condition and full compliance.

B. AUTOBUSES ZACATECANOS must establish safety management controls and procedures that ensure that each and every commercial motor vehicle it operates 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 is obtained and maintained as required.

C. AUTOBUSES ZACATECANOS must ensure that its employees, contractors and/or agents used to inspect and maintain each and every commercial motor vehicle it operates 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.

D. AUTOBUSES ZACATECANOS must require its drivers to conduct pre- and post-trip commercial motor vehicle inspections, and must require its drivers to prepare Driver Vehicle Inspection Reports at the end of each day and establish procedures to ensure that reported safety defects and/or deficiencies are before the vehicle is again operated as required by 49 C.F.R. Part 396.

E. AUTOBUSES ZACATECANOS must ensure that each and every commercial motor vehicle it operates in the United States is periodically inspected as required and in accordance with 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.

F. AUTOBUSES ZACATECANOS must establish safety management controls and procedures to ensure that defects and deficiencies discovered during inspections of its commercial motor vehicles are repaired prior to the vehicle being operated. AUTOBUSES

ZACATECANOS must ensure that no commercial motor vehicle that fails, or has failed, a safety inspection is used for the transportation of passengers prior to necessary repairs being made.

G. AUTOBUSES ZACATECANOS must contact FMCSA's Texas Division Administrator and arrange for inspection of each of its commercial motor vehicles by an FMCSA inspector or an inspector designated by FMCSA prior to operating such commercial motor vehicle in the United States.

H. AUTOBUSES ZACATECANOS must establish safety management controls and procedures to ensure that its drivers comply with hours of service requirements as set forth in 49 C.F.R. Part 395, including maximum driving times.

I. AUTOBUSES ZACATECANOS must establish safety management controls and procedures to ensure that each and every driver it uses is qualified to operate a commercial motor vehicle and that it has obtained and maintains all required documentation showing the qualification of each driver as required by 49 C.F.R. Part 391. AUTOBUSES ZACATECANOS must check the driving record of each and every driver it uses to operate a commercial motor vehicle and obtain copies of the driving records for each driver. AUTOBUSES ZACATECANOS must provide copies of driver records for each and every driver to the Field Administrator for FMCSA's Western Service Center.

J. AUTOBUSES ZACATECANOS must establish safety management controls and procedures to ensure that each and every driver that operates a commercial motor vehicle has the necessary drivers' license, including any required endorsements, for the motor vehicle(s) the driver operates, and that the driver's license is current and valid.

K. AUTOBUSES ZACATECANOS must ensure that all of its employees, including all drivers, are adequately trained in the requirements of the FMCSRs and that they are able to conduct motor carrier operations in the United States consistent with those regulations.

V. RESCISSION OF ORDER

You are subject to this ORDER unless and until the ORDER is rescinded in writing by FMCSA. Unless and until this ORDER is rescinded, AUTOBUSES ZACATECANOS is prohibited from operating any commercial motor vehicle in the United States, specifically including the vehicles listed in Appendix A of this ORDER, 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 IV of this ORDER have been fully satisfied and acceptable documentation submitted.

Before this ORDER may be rescinded AUTOBUSES ZACATECANOS must comply with the provisions of this ORDER, eliminate the problems constituting the imminent hazard that its operations and vehicles pose, and adequately demonstrate to the Field Administrator for FMCSA's Western Service Center the actions taken to eliminate the safety problems.

AUTOBUSES ZACATECANOS cannot avoid this ORDER by continuing operations under the name of another person or company. Any sale, lease or other transfer of any commercial motor vehicle by AUTOBUSES ZACATECANOS requires the written approval of the Western Service Center Field Administrator. Any such action taken in anticipation of this ORDER must cease immediately.

Prior to rescission of this ORDER, AUTOBUSES ZACATECANOS 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 non-compliance and a time table for these steps.

3. Develop and certify the commitment of AUTOBUSES ZACATECANOS to comply with the FMCSRs.

4. 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 of the request and documentation to the Division Administrator, Texas Division, at the following addresses:

Terry D. Wolf, Field Administrator
Western Service Center
Federal Motor Carrier Safety Administration
12600 West Colfax Avenue, Suite B-300
Lakewood, Colorado 80215

Joanne Cisneros, Division Administrator
Texas Division
Federal Motor Carrier Safety Administration
903 San Jacinto Blvd., Suite 101
Austin, Texas 78701

Rescission of this ORDER does not constitute a reinstatement of AUTOBUSES ZACATECANOS' USDOT Number or its United States Federal operating authority registration. In order for AUTOBUSES ZACATECANOS to resume motor carrier operations transporting passengers in the United States, AUTOBUSES ZACATECANOS will be required to apply to reactivate its USDOT number registration, reapply for 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.

VI. FAILURE TO COMPLY

Failure to comply with the provisions of this ORDER may subject AUTOBUSES ZACATECANOS to an action in the United States District Court for equitable relief and punitive damages. AUTOBUSES ZACATECANOS may be assessed civil penalties of up to \$25,000 for a violation of this ORDER. (49 U.S.C. § 521(b)(2)(F) and 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 and imprisonment for a term not to exceed one year. (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 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). If requested, administrative review shall occur within 10 days. (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 copies sent to both Adjudications Counsel and the Field Administrator, Western Service Center at the following addresses:

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

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

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

The request must state the material facts at issue which you believe dispute or contradict the finding that AUTOBUSES ZACATECANOS' operation of its commercial motor vehicles in the United States in foreign, interstate or intrastate commerce constitutes 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, and any request for administrative review of this ORDER does not attach to or apply to any other order or action.

Date: May 10, 2013

William R. Pader *WRP*
Terry D. Wolf, Field Administrator
United States Department of Transportation
Federal Motor Carrier Safety Administration

APPENDIX A

Bus #	Year	Make	VIN#	License Plate
9759	2001	MAST	3CETT451915019759	MX 960RP1
1924	1998	DINA	3ABBBFHAXWS001924	TX T09360
1031	2008	MAST	3M9HS4DA78A041031	MX 180RK6
08	2005	DINA	3A9PBAAB15A002350	ZA 085RK7