

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

**REDCO TRANSPORT, LTD  
USDOT 1670585**

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) **Order No.: TX-2013-5002-IMH**  
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) **Service** 9/6/13  
) **Date:** \_\_\_\_\_  
)  
) **Time:** 18:24  
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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), 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 REDCO TRANSPORT, LTD (USDOT No. 1670585) and to its officers, agents, and employees, (referred to herein as “you,” “your”, and/or “REDCO”) and the 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 commercial motor vehicle(s) 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 FROM ALL DISPATCHING LOCATIONS**

Your commercial motor 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.

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

Commercial motor vehicles may only be moved upon the written approval of the Field Administrator for FMCSA's Western Service Center.

**I. JURISDICTION**

REDCO is a motor carrier engaged in interstate and intrastate transportation of property and hazardous materials, in 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, the Federal Hazardous Materials Regulations ("HMRs"), 49 C.F.R. Parts 171-180, 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, 5121, 13501, 31133, 31136, and 31144.)

REDCO 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 REDCO, 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 REDCO's motor carrier operations and the continued operation of commercial motor vehicles pose an imminent hazard to the public is that REDCO fails to ensure that its drivers comply with hours of service and records of duty status requirements, including limitations on maximum driving time and on-duty hours and permits widespread falsification of records of duty status and driving in excess of allowable limits. REDCO also fails to comply with driver controlled substances and alcohol use and testing requirements, and uses drivers despite not having ensured the driver is qualified to operate a commercial motor vehicle. Individually and cumulatively, these violations and conditions of operation substantially increase the likelihood of serious injury or death to REDCO's drivers and the motoring public.

## **III. BACKGROUND**

On August 12, 2013, a REDCO driver operating a company commercial motor vehicle in the State of Louisiana crashed into a motor vehicle that was parked along the shoulder of the roadway; the crash resulted in three fatalities. At the time of the crash, FMCSA's Safety Measurement System (SMS) which measures a motor carrier's relative safety performance showed REDCO's Behavioral Analysis and Safety Improvement Categories ("BASICS") at elevated levels, including two BASIC categories at "alert" status above FMCSA's intervention thresholds; REDCO's Driver Fitness Basic was at 97.7%, Crash Indicator BASIC at 73.2% and Hours of Service Compliance BASIC at 55.7%. The August 12, 2013 crash was REDCO's fourth recordable crash in six months, and twelfth crash in 24 months.

FMCSA's Texas Division immediately initiated an in-depth compliance review on REDCO's motor carrier operations.<sup>1</sup> During the compliance review the Investigator discovered serious violations of the FMCSRs, including patterns of violation of critical regulations related to hours of service requirements and controlled substances and alcohol testing, as well as additional violations related to the carrier's failure to ensure its drivers are properly qualified to operate commercial motor vehicles; patterns of violation of five critical regulations were documented. Specifically, the compliance review disclosed that REDCO permits its drivers operating commercial motor vehicles in interstate commerce to falsify records of duty status and significantly exceed maximum hours of service driving times in patent disregard for the safety of the driver and the public. Further, REDCO has no effective safety management controls to monitor its drivers for hours of service compliance, or to prevent its drivers from falsifying their records of duty status and exceeding maximum driving times; safety management controls REDCO committed to establishing as part of its request for safety rating upgrade have not been implemented or continued.<sup>2</sup> The hours of service regulations establish the standards for the safe operation of commercial motor vehicles, and are intended to guard against the cumulative effects of fatigue which accompany prolonged periods of on-duty and driving time. The regulations are designed to ensure that drivers have ample recuperative rest time before assuming any driving duties.

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<sup>1</sup> The compliance review was initiated on August 12, 2013 and completed on September 6, 2013.

<sup>2</sup> On June 9, 2011 FMCSA conducted a focused compliance review of REDCO's motor carrier operations; the review resulted in a Conditional safety rating. On November 27, 2012 REDCO submitted a request to change its safety rating based on corrective action pursuant to 49 C.F.R. § 385.17. In its request to change its rating REDCO submitted a safety management plan which included corrective actions REDCO claimed it had implemented to remedy its safety management deficiencies, including violations of hours of service requirements discovered during the 2011 review.

During roadside inspections conducted in the last five months, four REDCO drivers were found to be so significantly in violation of hours of service requirements, that they were placed out of service during the inspections and not allowed to continue driving until able to do so lawfully. During the compliance review the investigator discovered significant falsification of nearly 25% of the records of duty status reviewed, more than double the 10 percent violation rate that FMCSA deems to be a critical pattern of non-compliance,<sup>3</sup> and such falsification involved 90% (10 of 11) of the drivers checked. Moreover, the REDCO drivers are routinely falsifying records of duty status to conceal violations of maximum driving times.<sup>4</sup> For example, on March 27, 2013 REDCO's, Driver A, drove approximately 26.75 hours without a qualifying 10 hour break; Driver A drove approximately 15.75 hours over the 11 hour driving limit and falsified his records of duty status to show more than 20 hours of rest time in either the sleeper berth or off-duty. On May 2, 2013 REDCO's Driver B, drove approximately 32 hours without taking a qualifying break of 10 hours; Driver B drove approximately 21 hours over the 11 hour driving limit and falsified his record of duty status to show that he spent more than 22 hours in the sleeper berth. On May 15, 2013 REDCO's Driver B, drove approximately 30.25 hours without taking a qualifying break of 10 hours; Driver B drove approximately 19.25 hours over the 11 hour driving limit and falsified his record of duty status to show that he spent more than 20 hours in the sleeper berth. On, July 29, 2013 REDCO's Driver C, drove approximately 16.75 hours without taking a qualifying break of 10 hours; Driver C drove approximately 5.75 hours over the 11 hour driving limit and falsified his record of duty status to show that he spent more than 10 hours in the sleeper berth.

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<sup>3</sup> See 49 C.F.R. Part 385 App. B § II(g).

<sup>4</sup> The Investigator documented that 50% of the records of duty status that were found to be significantly false were falsified to conceal driving in excess of maximum driving times.

Additionally, REDCO fails to have basic safety management controls in place to ensure that its drivers are subject to, and comply with, controlled substances and alcohol testing requirements. REDCO uses drivers before receiving negative pre-employment controlled substances testing results, and fails to test its drivers for controlled substances and alcohol use after crashes as required. Further, REDCO fails to ensure its drivers are properly qualified to operate commercial motor vehicles, including failing to conduct checks on the driver's history, including any history of controlled substances and alcohol use, and failing to conduct driving history checks to ensure that the drivers do not have poor driving records.

#### **IV. REMEDIAL ACTION**

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

A. REDCO 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.

B. REDCO must establish safety management controls and procedures to ensure that its drivers do not falsify records of duty status, and do not exceed maximum driving times.

C. REDCO must establish safety management controls and procedures to ensure that each and every driver subject to the commercial driver's license requirements of 49 C.F.R. Part 383, the Licencia Federal de Conductor (Mexico) requirements, or the commercial drivers license requirements of the Canadian National Safety Code that it employs is subject to, and complies with, the controlled substances and alcohol testing requirements of 49 C.F.R. Part 382, and is tested for controlled substances and alcohol use. REDCO must provide documentation of

such testing, including copies of custody and control forms and test results reviewed by a medical review officer, to the Field Administrator for FMCSA's Western Service Center.

D. REDCO must establish safety management controls and procedures to ensure that each and every driver it uses has a valid commercial driver's license and 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. REDCO must ensure that each and every driver it uses to operate a commercial motor vehicle has been medically examined and certified as required, and must provide medical certificates for each and every driver to the Field Administrator for FMCSA's Western Service Center. REDCO must check the driving history, including the driver's controlled substances and alcohol use and testing history, and 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. REDCO must provide documentation of driver history checks and copies of driver records for each and every driver to the Field Administrator for FMCSA's Western Service Center.

E. REDCO 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 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, and you have taken necessary action and your safety rating is not unsatisfactory, 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 IV of this ORDER have been fully satisfied and acceptable documentation submitted.

Before this ORDER may 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 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 transfer of any commercial motor vehicle by you 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, REDCO 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. 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 REDCO's Federal operating authority registration or its USDOT Number. In order for REDCO to resume motor carrier operations transporting property in interstate or intrastate commerce, REDCO 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.

## **VI. FAILURE TO COMPLY**

Failure to comply with the provisions of this ORDER may subject REDCO to an action in the United States District Court for equitable relief and punitive damages. REDCO 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 a copy sent to Adjudications Counsel, 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

A copy of any request for administrative review should also be sent to the Field Administrator at the following address:

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 REDCO's operation of commercial motor vehicles in 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: 9/6/2013

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