

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

GEG CONSTRUCTION, INC.) **Order No.: MA-2014-5001-IMH**
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USDOT NO.: 1503585) **Service Date:** _____
)
GIL GOMES) **Service Date:** _____
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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 Transportation 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 Regional Field Administrator, Eastern Service Center, Federal Motor Carrier Safety Administration (“FMCSA”), United States Department of Transportation (“USDOT”), Glen Burnie, Maryland. This Order applies to **GEG Construction, Inc.** and **Gil Gomes**, individually (referred to collectively herein as “you”, “your”, “it”, and/or “GEG Construction”), and to all vehicles owned or operated by or on behalf of GEG Construction, including without limitation the commercial motor vehicles identified in Schedule A, attached hereto.

The Secretary and FMCSA find GEG Construction’s operations and continued operation of any commercial motor vehicle (including without limitation those identified in Schedule A), referred to herein as “commercial motor vehicles” and/or “vehicles,” constitutes an **imminent hazard**. This finding means that based upon your present state of unacceptable safety compliance, your operation of any commercial motor vehicle(s) poses an **imminent hazard** to public safety.

Effective immediately, you must cease operating any commercial motor vehicle, specifically including the commercial motor vehicles LISTED IN SCHEDULE A. “Operate” or “Operating” includes without limitation all interstate and intrastate transportation by drivers from all dispatching locations or terminals. GEG Construction’s commercial motor vehicle(s), including but not limited to the commercial motor vehicles listed in Schedule A, may not be operated in interstate or intrastate commerce by any other motor carrier or any driver. Any movement of GEG Construction’s commercial motor vehicles, specifically including the commercial motor vehicles identified in Schedule A, to any storage, repair, or other location for the purposes of repair, sale, storage, or final destination must be accomplished only by towing, such that the commercial motor vehicle itself is not driven or operated. GEG Construction’s commercial motor vehicles may be moved only upon the written approval of the Regional Field Administrator for FMCSA’s Eastern Service Center.

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 can be safely secured. (See 49 C.F.R. § 386.72(b)(4) and (5)).

GEG CONSTRUCTION MAY NOT LOAD OR TRANSPORT ANY ADDITIONAL CARGO, NOR MAY GEG CONSTRUCTION OPERATE ANY COMMERCIAL MOTOR VEHICLE IN INTERSTATE OR INTRASTATE COMMERCE WHILE THIS ORDER IS IN EFFECT.

Within eight (8) hours of the service of this Order, GEG Construction must submit to the Regional Field Administrator in writing by facsimile the location of each of its commercial motor vehicles, including without limitation the vehicles identified in Schedule A hereto. The submission must be sent to:

Regional Field Administrator
443-703-2253 (facsimile)

I. JURISDICTION

GEG Construction is a property motor carrier engaged in interstate commerce using commercial motor vehicles 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, 5121, 13501, 31133 and 31136, and 31144). GEG Construction 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. Gil Gomes is the President of GEG Construction and is the individual directly responsible for management, control, direction, and oversight of the operations of GEG Construction. This Order has the force and effect of any other Order issued by FMCSA and is binding upon GEG Construction, as well as any and all of its 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 GEG Construction, including but not limited to the vehicles identified in Schedule A hereto.

II. BASIS FOR ORDER

The basis for determining that GEG Construction's motor carrier operations pose an imminent hazard to the public is GEG Construction's widespread and serious noncompliance with Federal safety regulations. GEG Construction uses vehicles that are not periodically inspected in accordance with State and federal regulations, and fails to keep minimum records of inspection and vehicle maintenance. GEG Construction's President, Gil Gomes, refuses to ensure that GEG Construction's vehicles are periodically inspected, asserting that he does not "believe" in such inspections and that the cost is prohibitive. GEG fails to correct defects listed on motor vehicle roadside inspection reports and falsely certifies that all violations have been corrected. GEG Construction's grossly inadequate maintenance program substantially increases the risk of serious injury or death and is an imminently hazardous and potentially deadly condition, substantially increasing the likelihood of serious injury or death for GEG Construction's drivers and the motoring public.

GEG Construction's driver oversight is also egregiously deficient. GEG Construction allowed a driver who is not medically examined and certified to operate a commercial motor vehicle after being informed approximately one week earlier that the driver had no medical certificate. GEG Construction also allowed a driver without a valid commercial driver's license to operate a commercial motor vehicle. GEG Construction fails to maintain inquiries into its drivers' driving records in the drivers' qualification files, fails to maintain medical examiner's certificates in the drivers' qualification files, fails to require its drivers to complete and furnish employment applications, and fails to investigate its drivers' backgrounds and alcohol and controlled substances history.

Individually and cumulatively, these violations and conditions of operation substantially increase the likelihood of serious injury or death to GEG Construction's drivers and the public.

III. BACKGROUND

On or around March 6, 2014, FMCSA completed an investigation of GEG Construction. FMCSA chose to investigate GEG Construction based on its elevated BASIC (Behavior Analysis and Safety Improvement Category) scores for Unsafe Driving (95.8%), Driver Fitness (98.5%), and Maintenance (98.6%).¹ As part of its investigation, FMCSA completed a compliance review of GEG Construction. The findings of the compliance review resulted in FMCSA assigning a proposed safety rating of "Unsatisfactory" to GEG Construction.

FMCSA's investigation revealed that GEG Construction does not have a systematic vehicle inspection, repair, and maintenance program in place to prevent the operation of unsafe motor vehicles² and was unable to produce most of the required vehicle records of routine maintenance or repairs of deficiencies noted on roadside inspections.³ FMCSA's Safety Management System reveals that GEG Construction has

¹ The SMS is a tool for assessing available roadside performance data and ranking an entity's relative performance in any of the six Behavior Analysis and Safety Improvement Categories (BASICS). The SMS quantifies the on-road safety performance of individual entities to identify entities with significant safety problems, determine the specific safety problems an entity exhibits, and monitor safety problems through the Intervention Process. The SMS computes a percentile for each BASIC on a 0-100 scale and assigns a percentile rank to each BASIC, with 100 indicating the worst performance.

² See 49 C.F.R. § 396.3(a) ("Every motor carrier . . . must systematically inspect, repair, and maintain, or cause to be systematically inspected, repaired, and maintained, all motor vehicle . . . equipment subject to its control.")

³ See 49 C.F.R. § 396.3(b) (Motor carriers must maintain records for each motor vehicle they control for 30 consecutive days. The required records include: (1) an identification of the vehicle including company number, if so marked, make serial number, year, and tire size; (2) a means to indicate the nature and due date of the various inspection and

a vehicle out-of-service rate of 83% for roadside inspections. GEG Construction has not demonstrated that this problem has been fixed.

On September 23, 2013, a GEG Construction vehicle was subject to a roadside inspection. Based on the discovery of several safety-related defects during this inspection, including a failure to have an operational parking/emergency brake on a vehicle equipped with hydraulic brakes, the vehicle was placed out-of-service. On or about October 7, 2013, GEG Construction certified to the inspecting agency that the defects had been corrected; however, on November 13, 2013, this same vehicle was again subject to a roadside inspection and nine (9) of the previously cited defects, including the out-of-service defect, had not been corrected. Between October 7, 2013 and November 13, 2013, GEG Construction repeatedly dispatched this unsafe vehicle.

FMCSA's investigation also found that GEG Construction uses unqualified inspectors to periodically inspect its vehicles. When FMCSA's investigator asked the inspectors to self-certify that they were qualified to inspect and repair brakes, the inspectors refused. Moreover, GEG Construction has been cited at roadside inspections for operating vehicles without annual inspections, but at the time FMCSA's investigation, Gil Gomes told FMCSA's investigator that GEG Construction's vehicles are not taken for annual inspections because such inspections cost \$100 or more. Mr. Gomes further told FMCSA's investigator that he did not "believe" in taking vehicles for annual inspections. Mr. Gomes' statement supports a finding that he has little or no regard for the safe operation of commercial motor vehicles and that the hazardous condition of GEG Construction's motor carrier operations is due in large part to his

maintenance operations to be performed; and (3) a record of inspection, repairs, and maintenance indicating their date and nature.)

management philosophy and safety practices.

Finally, GEG Construction's oversight of its drivers is also egregiously deficient. GEG Construction allowed a driver who is not medically examined and certified to operate a commercial motor vehicle. GEG Construction also allowed a driver without a valid commercial driver's license to operate a commercial motor vehicle. GEG Construction fails to maintain inquiries into its drivers' driving records in the drivers' qualification files, fails to maintain medical examiner's certificates in the drivers' qualification files, fails to require its drivers to complete and furnish employment applications, and fails to investigate its drivers' backgrounds and alcohol and controlled substances history.

IV. REMEDIAL ACTION

To eliminate this imminent hazard, and before GEG Construction will be permitted to resume operations placed out of service by this ORDER, GEG Construction must take specific steps to ensure and demonstrate compliance with the FMCSRs. GEG Construction must comply with all Orders issued by FMCSA and must submit to the Regional Field Administrator a plan demonstrating how GEG Construction will:

1. Drastically change its company and management philosophy regarding driver oversight and vehicle maintenance.

2. Establish an effective commercial motor vehicle maintenance program to inspect, maintain, and repairs its fleet and ensure compliance with the FMCSRs. GEG Construction must ensure and demonstrate that vehicle maintenance and safety is a company priority and must ensure and demonstrate that inspection records are accurately completed.

3. 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 and abide by procedures to ensure that reported safety defects and/or deficiencies are repaired immediately before the commercial motor vehicle is operated again. GEG Construction 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.

4. 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. GEG Construction must ensure that no commercial motor vehicle that fails, or has failed, a safety inspection is used for the transportation of property prior to necessary repairs being made and the vehicle passing an appropriate safety inspection.

5. 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 by a qualified person, as required by 49 C.F.R. Part 396, and that documentation of inspections, maintenance and repairs are obtained and maintained as required.

6. Ensure and demonstrate that its vehicles are in a safe operating condition and are in full compliance with 49 C.F.R. Part 393 (Parts and Accessories Necessary for Safe Operations) and Part 396 (Vehicle Maintenance). GEG Construction must contact FMCSA's Massachusetts Division and arrange for inspection of each of its commercial motor vehicles by an FMCSA inspector or an inspector designated by FMCSA.

7. Train all mechanics and inspectors on the tools, methods, requirements for vehicle maintenance and periodic inspections found at 49 C.F.R. Parts 393, 396, and 396 (Appendix G). GEG Construction must provide the curriculum for the training course, and this course must include a written assessment that tests the mechanic's or inspector's knowledge of the applicable regulations.

8. Ensure that 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.

9. Ensure that it does not allow a driver who does not have a valid commercial driver's license to drive a commercial motor vehicle.

10. Ensure that it does not allow a driver who has not been medically examined and certified within the previous 24 months to drive a commercial motor vehicle.

11. Ensure that it makes and maintains inquiries into all drivers' driving records, background, and alcohol and controlled substances history in the driver's qualification file, in a manner consistent with 49 C.F.R. Part 391.

V. RESCISSION OF ORDER

GEG Construction is 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 GEG Construction has a valid and active USDOT number and operating authority registration (if applicable), GEG Construction is 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 Eastern 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 resuming motor carrier operations GEG Construction must comply with the provisions of this Order, eliminate the problems constituting the imminent hazard that its operations pose, and adequately demonstrate to the Regional Field Administrator's satisfaction the actions taken to eliminate the safety problems. GEG Construction cannot avoid this Order by continuing operations under the name of another person or company, including without limitation ACG Trucking, or any person or company owned, controlled, or managed by Gil Gomes. Any sale, lease, or other agreements for service by GEG Construction requires the written approval of the Eastern Service Center Regional Field Administrator. Any such action taken in anticipation of this Order must cease immediately.

Prior to rescission of the Order, GEG Construction 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 time table for these steps.**
- 3. Certify in writing the commitment of GEG Construction 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 Regional Field

Administrator, Eastern Service Center, with a copy to the Division Administrator,
Massachusetts Division, at the following addresses:

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

Division Administrator, Massachusetts Division
Federal Motor Carrier Safety Administration
50 Mall Road, Suite 212
Burlington, MA 01803

Rescission of this Order does not constitute a reinstatement of GEG
Construction's USDOT Number. In order for GEG Construction to resume motor
carrier operations in the United States, GEG Construction will be required to apply to
reactivate its USDOT Number registration.

VI. FAILURE TO COMPLY WITH THIS ORDER

Failure to comply with the provisions of this Order may subject GEG
Construction to an action in the United States District Court for equitable relief and
punitive damages. GEG Construction may be assessed civil penalties of up to \$25,000
for each 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. 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 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 and 49 C.F.R. § 386.72(b)(4). An administrative review, if requested, must occur within 10 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 FMCSA's Adjudications Counsel and the Regional Field Administrator, Eastern Service Center at the following addresses:

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

Federal Motor Carrier Safety Administration
Office of the Chief Counsel - Adjudications
1200 New Jersey Avenue S.E., W61-323
Washington, DC 20590


Regional Field Administrator, Eastern Service Center
Federal Motor Carrier Safety Administration
802 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 GEG Construction's operations constitute an "**imminent hazard**" to the public. **A REQUEST FOR 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 be issues 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.

Date: March 11, 2014



Curtis L. Thomas
Regional Field Administrator
United States Department of Transportation
Federal Motor Carrier Safety Administration

SCHEDULE A

YEAR	MAKE	MODEL	TAG NUMBER	VIN
2006	Ford	F650/Dump Truck	MA N40428	3FRNF65R96V249494
1999	Ford	DRWSUP/Dump Truck	MA N26722	1FDXF46F7XEC54510
1992	Chevrolet	5000/Util	MA P3301	J8BE5B1U8N3001351
1999	Ford	DRWSUP/Dump Truck	MA R11928	1FDAF57F8XEE75432
2001	Chevrolet	Pick up	MA 91756	1GCJK33171F203826
2007	Econ	Utility Trailer	MA Z7543	42EDPHE4771000614
1993	Gener	Utility Trailer	MA A40499	112HTN306PL041540