



U.S. Department
of Transportation

**Federal Motor Carrier
Safety Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

December 20, 2013

Sergio Tristan Maldonado
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Mexico Buena Vista

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Notice of Conditional Rating and Order of Proposed Revocation

The motor carrier safety rating for SERGIO TRISTAN MALDONADO DBA TRISTAN TRANSFER is:

CONDITIONAL

This CONDITIONAL rating is the result of a compliance review and evaluation of the safety fitness of SERGIO TRISTAN MALDONADO DBA TRISTAN TRANSFER completed on December 20, 2013. A CONDITIONAL rating indicates that SERGIO TRISTAN MALDONADO DBA TRISTAN TRANSFER does not have adequate safety management controls in place to ensure compliance with the safety fitness standard prescribed in 49 CFR § 385.5.

Specifically, the company was found to be deficient in the following areas:

49 CFR § 382.301(a) – Using a driver before the motor carrier has received a negative pre-employment controlled substance test result,

49 CFR § 382.601 – Failing to provide educational materials explaining requirements of Part 382 and employer's drug and alcohol program policies,

49 CFR § 382.603 – Failing to ensure person designated to ensure drivers undergo reasonable suspicion testing receive 60 minutes of training for alcohol and 60 minutes of training for controlled substances,

49 CFR § 391.21(a) – Using a driver who has not completed and furnished an employment application,

49 CFR § 391.23(e)(1) – Failing to investigate the driver's alcohol and controlled substances history for the previous 3 years,

49 CFR § 391.51 – Failing to maintain driver qualification file on each driver employed,

49 CFR § 395.3(a)(2)- Requiring or permitting a property-carrying commercial motor vehicle driver to drive after the end of the 14th hour after coming on duty,

49 CFR § 395.3(b)(2)- Requiring or permitting a property-carrying commercial motor vehicle driver to drive after having been on duty for more than 70 hours in 8 consecutive days.

49 CFR § 395.8(a) – Failing to require driver to make a record of duty status,

49 CFR § 395.8(j)(2) – Failing to obtain from driver used for the first time or intermittently, a signed statement giving the total time on duty during the preceding 7 days and time at which last relieved from duty,

49 CFR § 396.3(b)(2) – Failing to have a means of indicating the nature and due date of the various inspection and maintenance operations to be performed,

49 CFR § 396.11(a) – Failing to require driver to prepare driver vehicle inspection report.

Immediate action must be taken to correct deficiencies or violations discovered during the compliance review. Please refer to the copy of the compliance review report you received regarding areas in need of corrective action.

Participation in the U.S.-Mexico Cross-Border Long-Haul Trucking Pilot Program

On July 25, 2013, SERGIO TRISTAN MALDONADO DBA TRISTAN TRANSFER was granted a certificate of registration for Provisional Operating Authority (Provisional Operating Authority) to participate in the Cross-Border Long-Haul Pilot Program (Pilot Program) authorizing transportation in the United States beyond U.S. municipalities and commercial zones on the U.S.-Mexico border. Operations under the Provisional Operating Authority are subject to subpart B of Part 385 of Title 49 of the Code of Federal Regulations (49 CFR §§ 385.101 – 385.119) and the terms and conditions of the Pilot Program.

Pursuant to 49 CFR § 385.111, if a Mexico-domiciled motor carrier with Provisional Operating Authority is assigned a “Conditional” rating following a compliance review, the Federal Motor Carrier Safety Administration (FMCSA) will revoke the motor carrier’s Provisional Operating Authority in 30 days unless within 10 days the motor carrier demonstrates that the compliance review contains a material error; or within 30 days, the motor carrier submits adequate evidence of necessary corrective actions.

In accordance with 49 CFR § 385.111, you are hereby advised FMCSA is initiating a revocation proceeding of SERGIO TRISTAN MALDONADO DBA TRISTAN TRANSFER’s Provisional Operating Authority to conduct transportation in the United States beyond the U.S. municipalities and commercial zones. SERGIO TRISTAN MALDONADO DBA TRISTAN TRANSFER’s Provisional Operating Authority will be revoked on January 19, 2014, unless within 10 days of this notice SERGIO TRISTAN MALDONADO DBA TRISTAN TRANSFER demonstrates that the compliance review contains material error, or SERGIO TRISTAN MALDONADO DBA TRISTAN TRANSFER submits adequate evidence of necessary corrective actions within 30 days of this notice.

Material error is a mistake or series of mistakes that resulted in an erroneous safety rating or an erroneous determination that the carrier does not exercise the necessary basic safety management controls. If SERGIO TRISTAN MALDONADO DBA TRISTAN TRANSFER believes that the compliance review contains material error, FMCSA recommends that SERGIO TRISTAN MALDONADO DBA TRISTAN TRANSFER submit its evidence of material error as quickly as possible, but such evidence must be received by FMCSA no later than December 30, 2013. It should be submitted in writing, in English, to:

William A. Quade
Associate Administrator for Enforcement (MC-E)
Federal Motor Carrier Safety Administration
1200 New Jersey Avenue, SE
Washington, DC 20590

A copy should be sent to:

Federal Motor Carrier Safety Administration
Western Service Center
12600 W. Colfax Ave, Suite B-300
Lakewood, CO 80215

If SERGIO TRISTAN MALDONADO DBA TRISTAN TRANSFER does not submit evidence of material error or does not demonstrate that the compliance review contains material error, SERGIO TRISTAN MALDONADO DBA TRISTAN TRANSFER may submit evidence of necessary corrective action to:

Federal Motor Carrier Safety Administration
Western Service Center
12600 W. Colfax Ave, Suite B-300
Lakewood, CO 80215

In order to allow sufficient time to review the corrective action submission before the revocation of Provisional Operating Authority takes effect on January 19, 2014. **FMCSA recommends that SERGIO TRISTAN MALDONADO DBA TRISTAN TRANSFER submit its evidence of necessary corrective action as quickly as possible.** FMCSA may not be able to review corrective action submittals before the revocation takes effect if the submittal is received by FMCSA later than 15 days after the date of this notice.

A Mexico-domiciled motor carrier subject to subpart B of Part 385 of Title 49 of the Code of Federal Regulations (49 CFR §§ 385.101 – 385.119) may request FMCSA conduct an administrative review if it believes the FMCSA has committed an error in assigning a safety rating or suspending or revoking the carrier's Provisional Operating Authority. To request administrative review, the carrier must submit its request in writing, in English, to:

William A. Quade
Associate Administrator for Enforcement (MC-E)
Federal Motor Carrier Safety Administration
1200 New Jersey Avenue, SE
Washington, DC 20590

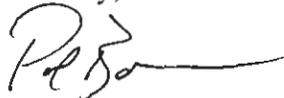
In its request for administrative review, the carrier must explain the error it believes the FMCSA committed in assigning the safety rating or revoking the carrier's Provisional Operating Authority, and include any information or documents that support its argument. FMCSA will complete its administrative review no later than 10 days after FMCSA's Associate Administrator receives the request for review. The decision of the Associate Administrator will constitute final agency action.

A Mexico-domiciled motor carrier whose Provisional Operating Authority has been revoked may reapply no sooner than 30 days after the date of revocation. The Mexico-domiciled motor carrier will be required to initiate the application process from the beginning and will be required to demonstrate how it has corrected the deficiencies that resulted in revocation of its registration. It will also have to undergo a new pre-authorization safety audit. If the applicant motor carrier has been subject to a rated compliance review, it must have a Satisfactory safety rating in order to apply for Provisional Operating Authority to participate in the Pilot Program.

FMCSA will make a final determination based upon the documentation submitted and any other additional relevant information. A written decision will be issued by FMCSA.

If you have any questions, please contact FMCSA's Western Service Center at the address above or at (303) 407-2350.

Sincerely,



For Joseph P. DeLorenzo
Director, Office of Enforcement
and Compliance

cc: Process Agent