

ATTACHMENT #15

HERMAN'S TRUCKING POST-ACCIDENT COMPLIANCE REVIEW

(10 Pages)



US DOT #
354713

Legal: HERMAN'S TRUCKING INC
Operating (DBA):

MC/MX #: 292150

Federal Tax ID: (EIN)

Review Type: Compliance Review (CR)

Scope: Principal Office

Location of Review/Audit: Company facility in the U. S.

Territory:

Operation Types Interstate Intrastate

Carrier: HM HM

Shipper: N/A N/A

Cargo Tank: N/A

Business: Corporation

Gross Revenue:

for year ending: 12/31/2011

Company Physical Address:

181 JACOBSTOWN-COOKSTOWN RD
WRIGHTSTOWN, NJ 08562

Contact Name:

Phone numbers: (1)

(2)

Fax

E-Mail Address:

Company Mailing Address:

181 JACOBSTOWN-COOKSTOWN RD
WRIGHTSTOWN, NJ 08562

Carrier Classification

Authorized for Hire

Private Property

Cargo Classification

Building Materials
Construction

Machinery, Large Objects
Other: Landscape Material

Liquids / Gases in Cargo Tanks

Hazardous Materials

3 Combustible liquid

Carried

Bulk

Does carrier transport placardable quantities of HM? Yes

Is an HM Permit required?

N/A

Driver Information

Inter Intra

< 100 Miles:

18

2

>= 100 Miles:

Average trip leased drivers/month: 0

Total Drivers: 20

CDL Drivers: 20

Equipment

Owned Term Leased Trip Leased

Owned Term Leased Trip Leased

Truck

17

0

0

Truck Tractor

6

0

0

Trailer

8

0

0

HM Cargo Tank Truck

1

0

0

Power units used in the U.S.: 24

Percentage of time used in the U.S.: 100





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Review Date:
03/07/2012

Part A

QUESTIONS regarding this report or the Federal Motor Carrier Safety or
Hazardous Materials rules may be addressed to the Office of Motor Carriers at:

One Independence Way, Suite 120
Princeton, NJ 08540
(609) 275-2604

This report will be used to assess your safety compliance.

Person(s) Interviewed

Name:

Title: Secretary

Name:

Title: Mechanic





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Part B Violations

1 STATE	Primary: 391.51(b)(2) CFR Equivalent: 391.51(b)(2)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 1	Checked 1
Description Failing to maintain inquiries into driver's driving record in driver's qualification file. Example Driver: Initial MVR was not conducted within 30 days of employment					
2 FEDERAL	Primary: 391.51(b)(5)	Discovered 2	Checked 5	Drivers/Vehicles In Violation 2	Checked 5
Description Failing to maintain a note relating to the annual review of the driver's driving record as required by 391.25(c)(2). Example Driver: Trip Date: 1/02/2012 Annual list filled out but annual review on bottom of page not filled in or signed					
3 FEDERAL	Primary: 391.51(b)(6)	Discovered 1	Checked 5	Drivers/Vehicles In Violation 1	Checked 5
Description Failing to maintain a list or certificate relating to violations of motor vehicle laws and ordinances required by 391.27. Example Driver: Trip Date: 11/02/2011 Only driver's information was completed (form not signed, dated, or violations/no violations not indicated)					
4 STATE	Primary: 392.2 CFR Equivalent: 392.2	Discovered 1	Checked 1	Drivers/Vehicles In Violation 1	Checked 1
Description Operating a motor vehicle not in accordance with the laws, ordinances, and regulations of the jurisdiction in which it is being operated. Example Driver: Trip Date: 2/16/2012 Vehicle operated over the 80,000 pound GRWR.					
5 FEDERAL	Primary: 395.8(a)	Discovered 6	Checked 107	Drivers/Vehicles In Violation 2	Checked 5
Description Failing to require driver to make a record of duty status. Example Driver: Trip Date: 1/11/2012					





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Part B Violations

6 FEDERAL	Primary: 396.11(c)(1)	Discovered 6	Checked 36	Drivers/Vehicles In Violation 3	Checked 5																												
Description Failing to certify that repairs were made or were not necessary. Example Truck: 54 (NJ-AM834P) Trip Date: 1/20/2012																																	
Safety Fitness Rating Information: Total Miles Operated 1,056,614 Recordable Accidents 3 Recordable Accidents/Million Miles 2.84			OOS Vehicle (CR): 1 Number of Vehicle Inspected (CR): 12 OOS Vehicle (MCMS): 2 Number of Vehicles Inspected (MCMS): 5																														
Your proposed safety rating is : CONDITIONAL			<table border="1"><thead><tr><th>Rating Factors</th><th></th><th>Acute</th><th>Critical</th></tr></thead><tbody><tr><td>Factor 1:</td><td>S</td><td>0</td><td>0</td></tr><tr><td>Factor 2:</td><td>S</td><td>0</td><td>0</td></tr><tr><td>Factor 3:</td><td>S</td><td>0</td><td>0</td></tr><tr><td>Factor 4:</td><td>S</td><td>0</td><td>0</td></tr><tr><td>Factor 5:</td><td>S</td><td>0</td><td>0</td></tr><tr><td>Factor 6:</td><td>U</td><td>-</td><td>-</td></tr></tbody></table>			Rating Factors		Acute	Critical	Factor 1:	S	0	0	Factor 2:	S	0	0	Factor 3:	S	0	0	Factor 4:	S	0	0	Factor 5:	S	0	0	Factor 6:	U	-	-
Rating Factors		Acute	Critical																														
Factor 1:	S	0	0																														
Factor 2:	S	0	0																														
Factor 3:	S	0	0																														
Factor 4:	S	0	0																														
Factor 5:	S	0	0																														
Factor 6:	U	-	-																														

This rating will become the final rating 60 days from the date indicated on a forthcoming official notice from the Federal Motor Carrier Safety Administration headquarters in Washington, D.C.

However, if this rating improves a previous Unsatisfactory rating, it will become effective on the date of the official notice from the FMCSA headquarters.

Corrective actions must be taken for the violations (deficiencies) listed on Part B of this review. Title 49 CFR Sections 385.15 and 385.17 provide for administrative review and a change to a safety rating based on corrective actions, respectively. A request for a change to a safety rating under section 385.17 may be made at any time. A motor carrier may request, in writing, a change in the rating by providing evidence of corrective actions to the Field Administrator for the FMCSA Service Center in which the carrier maintains its principal place of business. (See 49 CFR 385.17 for additional details). A request for administrative review under section 385.15 must be made within 90 days of the date of the proposed safety rating issued under section 385.11(c) or a final safety rating issued under section 385.11(b), or within 90 days after denial of a request for a change in rating under section 385.17





Part B Requirements and/or Recommendations

1. For all Investigations:

- **Understand Why Compliance Saves Time and Money:** Compliance with FMCSRs will not only save lives, but also saves your business time and money. Tracking how much your business spends on non-compliance activities can help you understand the many benefits of compliance to your business and why safety is good business.
- **Document and Follow Through on Action Plans:** Document and follow through on action plans to ensure the actions you are taking are creating improvement in safety management and compliance.
- **NOTICE:** A pattern and/or repeated violations of the same or related acute or critical regulations (violations of the same Part in Title 49, Code of Federal Regulations) will cause the maximum penalties allowed by law to be assessed under Section 222 of the Motor Carrier Safety Improvement Act of 1999 (MCSIA). A pattern of violations means two or more violations of acute and/or critical regulations in three or more Parts of Title 49, Code of Federal Regulations discovered during any eligible investigation. Repeated violations means violation(s) of an acute regulation of the same Part of Title 49, Code of Federal Regulations discovered in an investigation after one or more closed enforcement actions within a six year period and/or violation(s) of a critical regulation in the same Part of Title 49, Code of Federal Regulations discovered in an investigation after two or more closed enforcement actions within a six year period.
- **NOTICE:** 49 CFR Part 391.23 requires prospective employers to, at a minimum, investigate a driver's employment information, crash record, and alcohol and controlled substances history from all employers the driver worked for within the previous 3 years.

The Pre-Employment Screening Program (PSP) is a screening tool that assists motor carriers in investigating crash history and roadside safety performance of prospective drivers. The PSP allows motor carriers to purchase 5 years of crash data and 3 years of roadside inspection data from the Federal Motor Carrier Safety Administration's (FMCSA) Motor Carrier Management Information System (MCMIS). Records are available 24 hours a day via Web request. Motor carriers should visit the following website for more information:
<http://www.psp.fmcsa.dot.gov/Pages/default.aspx>

- All motor carriers and truck drivers are needed to fight against terrorism and hijacking. You could be a target. Protect yourself, your trucks, your cargo, and your facilities. Discuss with your employees/drivers the "Security Measures for Truck Drivers and Companies" which were provided and reviewed with motor carrier official. Motor carriers should visit the following website for more information:
<http://www.fmcsa.dot.gov/documents/Hijacking-Brochure.pdf>

For all Investigations where the carrier has been involved in 2 or more recordable crashes:

The Division Administrator/State Director will continue to consider preventability when a motor carrier contests a proposed safety fitness rating. The motor carrier may deem that the recordable accident rate is not a fair means of evaluating its accident factor (Factor 6) on the CR report. If so, the motor carrier must submit the compelling evidence within seven calendar days if the proposed rating is Unsatisfactory and 10 calendar days if the proposed rating is Conditional to:

Division Administrator/State Director
Federal Motor Carrier Safety Administration
1 Indendance Way, Suite 120
Princeton, NJ 08540

Compelling evidence must be limited to official police accident reports and official insurance accident investigation reports.

For all Investigations resulting in a proposed conditional or unsatisfactory rating:

385.15





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Part B Requirements and/or Recommendations

If you believe the proposed rating is in error and there are factual and procedural issues in dispute, Part 385.15 (copy provided) outlines procedures for petitioning the Federal Motor Carrier Safety Administration for an administrative review of these findings. Your petition should be addressed to:

Chief Safety Officer
Federal Motor Carrier Safety Administration
1200 New Jersey Avenue SE,
Washington, DC 20590

385.17

In addition, a request for a revised rating based on corrective actions may be made at any time. Part 385.17 (copy provided) outlines the procedures for such a request. The request must be made in writing, must describe the corrective action taken and must include other documentation that may be relied upon as a basis for the requested change. Address your written request to:

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

Ensure that a CC copy of the letter is mailed to:
Division Administrator/State Director
FMCSA, New Jersey Division
1 Independence Way, Suite 120
Princeton, NJ 08540

This letter should be submitted as soon as possible. If you have a proposed Unsatisfactory or Conditional Rating the letter must be submitted prior to the effective date of your Unsatisfactory or Conditional Rating.

Information on your compliance status, roadside inspections, regulatory changes, accident countermeasures and hazardous material incident prevention manual is available on the Internet at the Federal Motor Carrier Safety Administration's web site at <http://www.fmcsa.dot.gov/> and <http://www.safer.fmcsa.dot.gov/>.

For all Investigations that did not result in a Cooperative Safety Plan:

You may prepare a corrective action letter, addressing the measures taken to correct the violations identified within this report. Submit this letter, and any additional evidence necessary to prove the corrective action has been taken to

Division Administrator/State Director
FMCSA, NJ Division
1 Independence Way, Suite 120
Princeton, NJ 08540

2. Ensure that all drivers are fully and properly qualified before operating in interstate commerce. Maintain a complete file as required for each driver, documenting the qualification process.
3. Ensure that drivers provide a 10-year employment history on their employment application.
4. Obtain a copy of each driver's driving record and review it annually.
5. Do not allow drivers to drive interstate unless they have been physically re-examined each 24 months.
6. Review the circumstances under which a CDL is required. CDL and drug testing rules apply to both interstate and





Part B Requirements and/or Recommendations

intrastate commerce.

7. Ensure that all drivers subject to pre-employment, random, reasonable cause, post accident, return to duty, and/or follow-up controlled substance testing are tested as required by 49 CFR Parts 40 and 382 of the FMCSR.
8. DOT drug testing rules require that employers test for marijuana, cocaine, opiates, amphetamines, and phencyclidine (PCP).
9. Maintain all required controlled substance testing records including yearly summaries, quarterly summaries, test information, test results, records of training etc., as required by 49 CFR Parts 40 and 382 of the FMCSR .
10. Ensure that all vehicles are properly marked with your name or trade name and U.S. DOT number. If your vehicles are also periodically operating for other carriers, they must be marked with that carrier's name and U.S. DOT#.
11. Establish a systematic maintenance records program for all vehicles. Maintain a complete file for each subject vehicle, recording all repair, maintenance and inspection operations performed.
12. Require all drivers to prepare a written inspection report for each day a vehicle is operated. Ensure that each report is signed by the driver, certified, and reviewed if defects are reported.
13. Keep all driver vehicle inspection reports, signed, certified, and reviewed as required on file for at least 90 days.
14. Maintain completed roadside inspection forms for 12 months from the date of inspection at the carrier's principal place of business.
15. Notice: On October 1, 2005, the FMCSA published a final rule revising the hours of service regulations for commercial motor vehicle drivers. Under the new rule, driver may drive 11 hours after 10 consecutive hours off-duty, but may not drive beyond the 14th hour after coming on-duty. Similar to existing rules, drivers may not drive after being on-duty for 60 hours in a seven-consecutive-day period or 70 hours in an eight-consecutive-day-period. This on-duty cycle may be restarted whenever a driver takes at least 34 consecutive hours off-duty. A short haul provision was also added allowing drivers of property carrying CMV's which do not require a Commercial Driver's License for operation and who operate within a 150 air mile radius of their normal work reporting location are not required to keep records of duty status (RODS).

Carriers and commercial motor vehicle drivers are required to comply with the current hours-of-service rules through September 30, 2005. Compliance with the "new" regulations is mandatory for carriers, except passenger-carrying operations, beginning on October 1, 2005. Passenger-carrying motor carriers and drivers are not subject to the new maximum driving limits. For more information on these regulations, please access the FMCSA website at <http://www.fmcsa.dot.gov/>.

16. Require all drivers to prepare complete and accurate records of duty status for each day, and to submit them within 13 days. Maintain all duty status records on file, with all supporting documents, for at least 6 months.
17. If you want some drivers to use the 100 air-mile radius exemption, make sure that the drivers meet all terms of the exemption, including being released from duty no more than 12 hours from when they report for duty. Logs must be prepared if a driver does not meet the 12 hour requirement.
18. Maintain, for a period of three years after an accident occurs, an accident register.
19. Maintain copies of all accident reports required by State or other governmental entities or insurers.





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Part B Requirements and/or Recommendations

20. Conduct periodic internal reviews of your maintenance, hazardous materials handling, driver qualification, hours of service control, accident reporting, training, and other safety systems to ensure continued compliance.
21. Ensure that all employees who handle hazardous materials are properly trained as required. See Subpart H of part 172 of Title 49, Code of Federal Regulations (CFR).
22. For questions about DOT numbers or biennial updates: 800-832-5660 or 703-280-4001
For questions about licensing, authority or MC numbers: 202-366-9805
For questions about insurance: 202-385-2423
For household goods complaints: 888-DOT-SAFT (888-368-7238)
23. If you have any questions concerning this report, please contact the Federal Motor Carrier Safety Administration, U.S. Department of Transportation, 1 Independence Way Suite 120, Princeton, NJ 08540. Telephone (609-275-2604) Fax (609-275-5108)





U.S. Department
of
Transportation

**Federal Motor
Carrier Safety
Administration**

1200 New Jersey Ave., S.E.
Washington, DC 20590

March 15, 2012
In reply refer to:
Your USDOT No.: 354713
Review No.: 957267/CR

SECRETARY
HERMAN'S TRUCKING INC
181 JACOBSTOWN-COOKSTOWN RD
WRIGHTSTOWN, NJ 08562

Dear MARILYN STELLJES:

The proposed motor carrier safety rating for your company is:

CONDITIONAL

This proposed CONDITIONAL rating is the result of an onsite compliance review and evaluation of your safety fitness completed on March 7, 2012. A CONDITIONAL rating indicates that your company does not have adequate safety management controls in place to ensure compliance with the safety fitness standard that could result in occurrences of violations listed in 49 C.F.R. 385.5(a-k).

This proposed CONDITIONAL rating becomes a final rating and goes into effect on May 15, 2012.

Immediate action must be taken to correct any deficiencies or violations discovered during the compliance review. Your operation was found to be deficient with respect to the applicable safety regulations in the following areas:

Part	391	QUALIFICATIONS OF DRIVERS
Part	392	DRIVING OF MOTOR VEHICLES
Part	396	INSPECTION, REPAIR AND MAINTENANCE
Part	395	HOURS OF SERVICE OF DRIVERS
RECORDABLE CRASH RATE		

Please refer to the copy of the compliance review left at your office for more specific guidance regarding areas in need of corrective action.

You may obtain further information from the local Federal Motor Carrier Safety Administration office listed below:

U.S. Department of Transportation
Federal Motor Carrier Safety Administration
ONE INDEPENDENCE WAY, SUITE 120
PRINCETON, NJ 08540
Telephone No.: 609-275-2604

Joseph P. DeLorenzo
Director, Office of Enforcement and
Compliance

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