

**THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS**

Before Commissioners: Andrew J. French, Chairperson
Dwight D. Keen
Annie Kuether

In the Matter of the Suspension of Operating)
Authority of **C&G Underground LLC of**)
Kansas City, Kansas, for Failure to Comply)
with New Entrant Safety Requirements as) Docket No. 25-TRAM-276-OOS
Required by the Motor Carrier Safety Statutes,)
Rules and Regulations.)

**ORDER ADOPTING THE FEDERAL MOTOR CARRIER SAFETY
ADMINISTRATION'S ORDER AND SUSPENDING OPERATING AUTHORITY**

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having reviewed the records and being duly advised in the premises, the Commission makes the following findings:

I. Legal Standards

1. Pursuant to K.S.A. 66-1,108b, 66-1,111, 66-1,112, and 66-1,114b, the Commission is given full power, authority and jurisdiction to supervise and control motor carriers, as defined in 49 C.F.R. 390.5 and as adopted by K.A.R. 82-4-3f, doing business or procuring business in Kansas, and is empowered to do all things necessary and convenient for the exercise of such power, authority, and jurisdiction.

2. Pursuant to K.S.A. 66-1,129a, 66-1,130, and 66-1,142b, the Commission may suspend operations, revoke, or amend certificates, and initiate sanctions or fines against every motor carrier and every person who violates any provision of Kansas law in regard to the regulation of such motor carriers and persons, or who fails to obey any order, decision, or regulation of the Commission.

3. Pursuant to K.S.A. 66-1,129(a)(7), no public motor carrier of property, household goods or passengers or private motor carrier of property shall operate, or allow the operation of, any commercial motor vehicle on any public highway in this state without following rules and regulations consistent with the federal motor carrier safety assistance program.

II. Analysis

4. On November 7, 2024, the Federal Motor Carrier Safety Administration (FMCSA) forwarded a notice (Federal Notice) of violation(s) of the federal motor carrier safety regulations to C&G Underground LLC (Carrier), wherein Carrier was given 60 days to comply with the regulations or its New Entrant Registration would be revoked.¹ A copy of the Notice is attached hereto as Attachment “A” and is hereby incorporated by reference. Carrier failed to act upon the FMCSA’s Federal Notice.

5. On January 6, 2025, the FMCSA issued Carrier an Order to Revoke “New Entrant” Registration and Cease All Interstate Transportation (Federal Order), attached hereto as Attachment “B” and is hereby incorporated by reference, due to Carrier’s failure to agree to the FMCSA’s safety audit.

6. Pursuant to the Federal Order, Carrier’s operations were placed out of service immediately and Carrier must immediately cease all interstate motor carrier operations in the United States.²

7. Carrier is a motor carrier as defined in 49 C.F.R. 390.5 and as adopted in K.A.R. 82-4-3f, which operates commercial motor vehicle(s) in interstate commerce in a manner that requires Commission authority.

¹ See Attachment A.

² See Attachment B.

8. Carrier is registered as a motor carrier with the U.S. Department of Transportation (USDOT), and operates under USDOT Number 4245047.

9. The Commission finds Carrier's failure to comply with requirements of a new entrant audit is a violation of K.S.A. 66-1,129(a)(7).

10. Therefore, the Commission finds that the Federal Order be adopted and that the Carrier's intrastate motor carrier operations be suspended, other than such motor carrier operations excepted from the Commission's regulation under K.S.A. 66-1,129, until such time as the carrier takes the necessary steps to become compliant. This includes submitting to the Commission verifiable evidence of the correction of the violation(s) noted in Federal Order including, but not limited to, proof of federal reinstatement and attendance of a Commission-sponsored safety seminar within thirty (30) days from the date of this Order. A schedule of dates and locations for the safety seminar can be found at the Commission's website http://www.kcc.state.ks.us/trans/safety_meetings.htm. The proof of attendance at the safety seminar should be timely submitted to Litigation Counsel within five (5) days of completion.

THEREFORE, THE COMMISSION ORDERS:

A. The Federal Motor Carrier Safety Administration's Order to Revoke "New Entrant" Registration and Cease All Interstate Transportation issued on January 6, 2025, is hereby accepted and adopted.

B. C&G Underground LLC of Kansas City, Kansas is to be suspended and ordered to immediately cease all intrastate Kansas commercial motor carrier operations, other than such motor carrier operations excepted from the Commission's regulation under K.S.A. 66-1,129, until such time as Carrier presents to Staff verifiable evidence, including, but not limited to, proof of federal reinstatement documenting the correction of the safety concerns identified in the FMCSA's

January 6, 2025, Order to Revoke “New Entrant” Registration and Cease All Interstate Transportation. This Order may also attach and apply to the operations of successor entities, including any motor carrier entity or entities established or used to avoid the consequences of any Order to cease operations or suspend operating authority.

C. C&G Underground LLC is hereby ordered to attend a Commission-sponsored safety seminar within thirty (30) days from the date of this Order and timely provide Litigation Counsel with written proof of attendance within five (5) days of completion.

D. **Pursuant to K.S.A. 77-537 and K.S.A. 77-542, any party may request a hearing on the above issues by submitting a written request, setting forth the specific grounds upon which relief is sought, to the Executive Director, at 1500 S.W. Arrowhead Road Topeka, Kansas 66604, within fifteen (15) days from the date of service of this Order.** Pursuant to K.S.A. 66-1,129a, hearings will be held within ten (10) days upon written request. Failure to timely request a hearing will result in a waiver of Carrier’s right to a hearing, and this Order will become a Final Order.

E. Failure to comply with the provisions of this Order may result in further sanctions to include, but not limited to, the assessment of civil penalties and/or the impoundment of commercial motor vehicles found operating in violation of this Order and any other remedies available to the Commission by law, without further notice.

BY THE COMMISSION IT IS SO ORDERED.

French, Chairperson; Keen, Commissioner; Kuether, Commissioner

Dated: 01/23/2025



Lynn M. Retz
Executive Director

AAL/km

ATTACHMENT “A”



U.S. Department of
Transportation
**Federal Motor
Carrier Safety
Administration**

1200 New Jersey Ave., S.E.
Washington, DC 20590
November 7, 2024

In reply refer to:
USDOT Number: 4245047

CESAR GUERRA
OWNER
C&G UNDERGROUND LLC
6812 NW 104TH ST
KANSAS CITY, MO 64154

IMPORTANT - SAFETY AUDIT FAILURE NOTICE

**Action Required: Out of Service/New Entrant Registration Revocation Warning Letter
Planned Revocation Date of December 22, 2024**

On November 1, 2024 a New Entrant Safety Audit was conducted on C&G UNDERGROUND LLC. The safety audit is required under Part 385 of Title 49 of the Code of Federal Regulations (specifically 49 CFR section 385.307(b)) of all motor carriers after receiving new entrant registration. Based on the findings of that safety audit, the Federal Motor Carrier Safety Administration (FMCSA) determined that C&G UNDERGROUND LLC has not yet established required basic safety management controls necessary to ensure safe operation as a motor carrier.

In accordance with section 385.319, C&G UNDERGROUND LLC is hereby advised that its USDOT New Entrant registration will be REVOKED on December 22, 2024 AND its motor carrier operations placed out-of-service resulting in C&G UNDERGROUND LLC being FORBIDDEN TO OPERATE IN INTERSTATE COMMERCE unless C&G UNDERGROUND LLC takes necessary action(s) to remedy its safety management practices to ensure compliance with the regulations below WITHIN 45 DAYS OF THE DATE OF THIS LETTER. In accordance with section 385.325, if the new entrant provides evidence of corrective action acceptable to the FMCSA within the prescribed period for submission of corrective action, the agency will provide written notification to the new entrant that its DOT new entrant registration will not be revoked and it may continue operations. **Note that mere submission of a corrective action plan will not extend the [45/60] day period or prevent the possible revocation of the new entrant registration. Motor carriers are urged to submit corrective action plans promptly and in accordance with the guidance provided during the safety audit to allow FMCSA to review the submission and make a final determination on the corrective action plan prior to the planned revocation date.**

If the written response (Corrective Action Plan) is submitted within 15 days of the date of this letter, FMCSA can ensure that the Corrective Action Plan will be reviewed and a decision will be rendered before the planned revocation date. If the Corrective Action Plan is submitted after 15 days of the date of this letter, FMCSA makes no assurances that the Corrective Action Plan will be reviewed before the 45 day period expires and C&G UNDERGROUND LLC new entrant registration could be revoked and C&G UNDERGROUND LLC could be placed Out-of-Service.

C&G UNDERGROUND LLC's written response (Corrective Action Plan) should:

1. Include a copy of this letter;
2. Address each violation listed below;
3. Identify why the violation(s) were permitted to occur;
4. Explain actions taken to correct the violation(s) and include evidence and supporting documentation demonstrating the corrective action;
5. Describe actions taken (e.g., implementation of new policies, procedures, etc) to ensure that the violation(s) will not reoccur in the future.

General Question 1 - Financial Responsibility, Section 387.7(a)

Driver Question 12 - Alcohol & Controlled Substance Testing Program, Section 382.115(a), 382.115(b)

Driver Question 29 - Commercial Drivers License, Section 383.23(a)

Maintenance Question 2 - Annual Inspections, Section 396.17(a)

Maintenance Question 7 - Vehicle Repair and Maintenance, Section 396.9(c)(2)

Evidence of corrective action, together with any supporting documentation, must be submitted via a mail system with a tracking number to:

DAVINA L. FARMER: NE CAP
MIDWESTERN SERVICE CENTER
U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION
600 HOLIDAY PLAZA DRIVE, SUITE 240
MATTESON, IL 60443
Email: MSCCAP@DOT.GOV
Phone: 708-283-3564
Fax: 877-547-0381

You may also submit your information via fax or email and maintain evidence the information was submitted.

Depending on State laws, you may be subject to suspension and/or revocation of vehicle registration privileges.

If C&G UNDERGROUND LLC believes that FMCSA committed an error in determining that its basic safety management controls are inadequate, under 49 CFR 385.327, C&G UNDERGROUND LLC may request that FMCSA conduct an administrative review. The request for administrative review must explain the error C&G UNDERGROUND LLC believes FMCSA committed, in its determination that its safety management controls are inadequate, and include a list of all factual and procedural issues in dispute and any other information or documents supporting your argument. Under section 385.327(e)(1), a request for administrative review must be submitted to the Field Administrator identified below within 90 days of the date of this notice.

WINSOME LENFERT: NE/CAP ADMIN REVIEW
MIDWESTERN SERVICE CENTER
U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION
600 HOLIDAY PLAZA DRIVE, SUITE 240
MATTESON, IL 60443

Although the request for administrative review may be submitted any time within 90 days of the date of this notice, the request should be submitted no later than fifteen (15) days of the date of this notice if C&G UNDERGROUND LLC wants to ensure FMCSA will be able to issue a final written decision before C&G UNDERGROUND LLC's new entrant registration is revoked and its operations placed out-of-service on December 22, 2024.

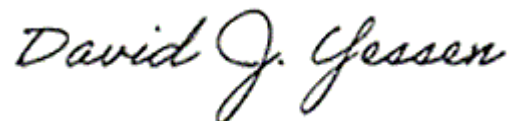
If C&G UNDERGROUND LLC's USDOT New Entrant registration is revoked under section 49 CFR section 385.329(a), C&G UNDERGROUND LLC may reapply for new entrant registration no earlier than 30 days after the effective date of this revocation. C&G UNDERGROUND LLC must submit an updated MCS-150 (Motor Carrier Identification Report); provide evidence that it has basic safety management controls in effect and the deficiencies that resulted in revocation of its registration were corrected; and restart the 18-month new entrant monitoring period. Reapplication may be made via FMCSA's web site (<http://safer.fmcsa.dot.gov>) or by submitting a MCS-150 form. The form may be obtained by calling FMCSA's technical support at 1-800-832-5660 or via the FMCSA web site.

During the safety audit, additional areas of non-compliance listed below were discovered. Although these violations were not the cause of the failure of the safety audit and C&G UNDERGROUND LLC is not required to submit evidence of corrective action for these violations, they are important requirements for motor carrier operations. Non-compliance with any applicable Federal requirement may result in enforcement action and/or civil penalties.

- General Question 2 - Evidence of financial responsibility, Section 387.7(d)
- Driver Question 1 - Driver Application, Section 391.51(b)(1)
- Driver Question 2 - State Motor Vehicle Record, Section 391.51(b)(2)
- Driver Question 3 - Driver Road Test or Equivalent, Section 391.51(b)(3)
- Driver Question 4 - Annual Driver Record, Section 391.51(b)(4)
- Driver Question 7 - Medical Examiner's Certificate, Section 391.51(b)(7)
- Driver Question 9 - Driver Safety Performance History, Section 391.53(a)
- Operations Question 14 - Vehicle Operation, Section 392.2
- Operations Question 15 - Cargo Securement, Section 392.9(a)(1)
- Maintenance Question 1 - Vehicle Maintenance, Section 396.3(b)
- Maintenance Question 4 - Evidence of Periodic (Annual) Inspections, Section 396.21(b)(1)
- Maintenance Question 5 - Driver Vehicle Inspection Reports, Section 396.11(a)
- Maintenance Question 8 - Vehicle Maintenance Program, Section 396.3

Please contact your local FMCSA Division Administrator if you have any questions.

Sincerely,



David J. Yessen, Chief, Compliance Division

ATTACHMENT “B”



U.S. Department of
Transportation
1200 New Jersey Ave. S.E.
Washington, D.C. 20590

**Federal Motor Carrier
Safety Administration**

January 6, 2025

In reply refer to:
USDOT Number: **4245047**

**C&G UNDERGROUND LLC
6812 NW 104TH ST
KANSAS CITY, MO 64154**

**ORDER TO REVOKE "NEW ENTRANT" REGISTRATION AND CEASE
ALL INTERSTATE TRANSPORTATION U.S. DOT Number: 4245047**

This Order is issued pursuant to 49 CFR 385.325(b). On November 7, 2024 C&G UNDERGROUND LLC was notified that its USDOT New Entrant registration would be revoked and its interstate operations placed out of service unless C&G UNDERGROUND LLC took action to remedy its safety management practices and submit in writing evidence of necessary corrective action within 45 days. Because C&G UNDERGROUND LLC has failed to submit sufficient evidence of the necessary corrective action, C&G UNDERGROUND LLC's USDOT New Entrant registration is hereby revoked and its interstate operations placed out of service, effective immediately. C&G UNDERGROUND LLC must immediately cease all Interstate motor carrier operations in the United States.

Failure to comply with this order may subject the carrier to a penalty in accordance with 49 USC 521 (b)(2)(a) and the minimum/maximum penalty schedule in 49 CFR Part 386 Appendix A and B.

In accordance with 49 CFR 385.327, C&G UNDERGROUND LLC may request an administrative review if it believes Federal Motor Carrier Safety Administration (FMCSA) has committed an error in determining that its basic safety management controls are inadequate and/or that its corrective action under section 385.319(c) is insufficient. Under section 385.327(c) (1), the request must be submitted within 90 days of the date of the notice of FMCSA determining that its basic safety management controls are inadequate resulting in failure of the safety audit or under section 385.327(e) (2) within 90 days of the date that of the notice that FMCSA determined that the corrective actions are insufficient. The request for administrative review must include a description of the error(s) believed made by FMCSA in its determination and include a list of all factual and procedural issues disputed and any supporting information or documentation. The Field Administrator's decision will constitute final agency action. A request for administrative review must be submitted to:

WINSOME LENFERT: NE/CAP ADMIN REVIEW
U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION
MIDWESTERN SERVICE CENTER
600 HOLIDAY PLAZA DRIVE, SUITE 240
MATTESON, IL 60443
Email: MSCCAP@DOT.GOV
Phone: 708-283-3564
Fax: 877-547-0381

Under section 385.329, C&G UNDERGROUND LLC may reapply for USDOT New Entrant registration no earlier than 30 days from the date of this Order. In order to reapply C&G UNDERGROUND LLC must begin the application process from

the beginning, submit an updated Motor Carrier Identification Report (MCS-150), submit adequate evidence that the violations that resulted in the USDOT New Entrant registration revocation and adequate basic safety management controls have been established, and restart the 18-month new entrant monitoring period. Reapplication may be made via the FMCSA web site (<http://safer.fmcsa.dot.gov>) or by submitting a MCS-150 form. The form may be obtained by calling FMCSA support services at 1-800-832-5660 or via the FMCSA web site at <http://www.fmcsa.dot.gov>.

Contact your local FMCSA office if you have questions about what corrective actions must be submitted and where to submit them.

Sincerely,

A handwritten signature in cursive script that reads "David J. Yessen".

David J. Yessen
Chief, Compliance Division

CERTIFICATE OF SERVICE

25-TRAM-276-OOS

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of first class mail and electronic service on 01/23/2025.

Cesar Guerra, OWNER
C&G Underground LLC
6812 NW 104th St
Kansas City, MO 64154
aruiz@cg-underground.com

AHSAN LATIF, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
ahsan.latif@ks.gov

/S/ KCC Docket Room
KCC Docket Room