



STATE OF WASHINGTON  
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION  
1300 S. Evergreen Park Dr. S.W., P.O. Box 47250 • Olympia, Washington 98504-7250  
(360) 664-1160 • TTY (360) 586-8203

April 28, 2011

David W. Danner, Executive Director and Secretary  
Washington Utilities and Transportation Commission  
1300 S. Evergreen Park Dr. SW  
P. O. Box 47250  
Olympia, Washington 98504-7250

RE: *Washington Utilities and Transportation Commission v. Moving and Storage Solutions, Inc.*  
Commission Staff's Response to Application for Mitigation of Penalties  
Docket TV-110656

Dear Mr. Danner:

On April 15, 2011, the Washington Utilities and Transportation Commission (commission) issued Penalty Assessment TV-110656 against Moving and Storage Solutions, Inc. (Moving and Storage Solutions) in the amount of \$500, for one violation of Washington Administrative Code (WAC) 480-15-570, which requires household goods carriers to comply with parts of Title 49, Code of Federal Regulations (CFR), including Part 382, which governs controlled substance and alcohol use and testing. Specifically, the commission alleged that Moving and Storage Solutions failed to receive a negative pre-employment controlled substance test result for a driver who operated company vehicles.

On April 25, 2011, Moving and Storage Solutions filed with the commission its application for mitigation of penalties (Mitigation Request). Moving and Storage Solutions admitted the alleged violation but asked that the penalty amount be waived.

Moving and Storage Solutions operates as a household goods carrier in Washington under permit number HG-11850. On April 5 and 6, 2011, Motor Carrier Safety Section staff (staff) conducted a compliance review of the company's terminal safety records and equipment. As a result of that inspection, staff found that Moving and Storage Solutions had not received negative pre-employment controlled substance test results for a driver who was operating company equipment. Specifically, employee Chad Luna drove prior to undergoing a pre-employment controlled substance test.

In its Mitigation Request, Moving and Storage Solutions does not dispute that the violations occurred. The company states that it was not aware of the requirement to conduct pre-employment drug tests. Moving and Storage Solutions asks for a waiver of the penalties due to its ignorance of the law at the time the violations occurred.

The drug and alcohol testing requirements apply to every person and to all employers of such persons who operate commercial motor vehicles in the state of Washington. Through their incorporation in the commission's rules in WAC 480-15-570(3) and WAC 480-15-999, the federal requirements in CFR Part 382.301(a) expressly apply to all household goods carriers in Washington. These regulations serve to protect passenger safety and the safety of the driving public.

On September 22, 2010, Phil Bryan, representing Moving and Storage Solutions, attended the commission's household goods and tariff training. During the safety regulations portion of the training, the subject of drug and alcohol testing, including pre-employment drug testing, was covered in detail. Mr. Bryan initialed the form titled, "Verification of Training Received" indicating he had received the training.<sup>1</sup>

With such recent and comprehensive technical assistance from the commission, there are no exceptions for ignorance of the law. Moving and Storage Solutions is responsible for understanding and complying with the regulations that apply to it as a household goods carrier. This includes ensuring that all of its drivers, prior to performing safety-sensitive functions, undergo pre-employment controlled substance testing with a negative test result.

Staff does not support mitigating the assessed penalty based on Moving and Storage Solutions' Mitigation Request and recommends the request be denied.

If you have any questions, please contact Betty Young, Compliance Investigator, Transportation Safety, at 360-664-1202, or by e-mail at [byoung@utc.wa.gov](mailto:byoung@utc.wa.gov).

Sincerely,



David Pratt  
Assistant Director, Transportation Safety

Enclosures

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<sup>1</sup> See Verification of Training Received form signed by Phil Byran, enclosed.

# VERIFICATION OF TRAINING RECEIVED

2337  
HR-11856

This document is used to record completion of training in specific topics important to the operations of household goods carriers operating in the State of Washington. It will become part of the motor carrier file maintained by the Commission.

Assignment # 110242

Name of HHG Company (as registered) and Permit No. <i>Moving + Storage Solutions</i>	Date of Training <i>9-22-2010</i>	Name of Trainer(s) <i>SUZANNE Stillwell + Rick Smith</i>
Name of Attendee (please print clearly) <i>Phil BRYAN</i>	Phone Number <i>(360) 676-5267</i>	Email address <i>Phil@movingstorage Solutions.com</i>
<b>Safety Regulations</b>	Attendee must sign below, then initial each line acknowledging that training was received for each subject.	
Applicability/Definitions/Acronyms	<i>AS</i>	
Drug and Alcohol Testing	<i>AS</i>	
<del>Pre-Employment Drug Testing</del>	<i>AS</i>	
Post Accident Testing	<i>AS AS</i>	
Random Testing	<i>AS AS</i>	
Selection & Notification	<i>AS AS</i>	
Reasonable Suspicion Testing	<i>AS AS</i>	
Subpart B Prohibitions	<i>AS AS</i>	
Drug & Alcohol Policy	<i>AS</i>	
Consequences for Engaging in Drug & Alcohol Use	<i>AS</i>	
Commercial Driver's License Vehicles that require a CDL/Endorsements	<i>AS AS</i>	
Qualifications for Drivers	<i>AS AS</i>	
Entry Level Driver Training	<i>AS</i>	
Driver Qualification File	<i>AS AS</i>	
Multiple Employer Driver	<i>AS AS</i>	
Driver Operations	<i>AS AS</i>	
Inspection and Use of Equipment	<i>AS AS</i>	
Pre-Trip Inspection	<i>AS AS</i>	
Accident Register	<i>AS</i>	

Hours of Service	AB
Maximum Driving Times	AB
34- Hour Restart	AB
Non-CDL Drivers Short-Haul Exception	AB
16-Hour Short Haul Exception	AB
100 Air Mile Radius Driver	AB
Driver's Duty Status Record	AB
Driver's Log Book Requirements	AB
Inspection, Repair & Maintenance Records	AB
Driver Vehicle Inspection Report	AB
Periodic Inspection	AB
Marking of Motor Vehicles	AB
Equipment Leasing	AB
Safety Compliance Review (CR)	AB
Rules and Tariff Training	
Permits	AB
Insurance	AB
Advertising	AB
Estimates	AB
Loss & Damage Protection (Valuation)	AB
Bill of Lading	AB
Rates (Hourly-Rated Moves)	AB
Rates (Mileage-Rated Moves)	AB
Storage	AB
Complaints and Claims	AB
Annual Reports & Regulatory Fees	AB