



STATE OF 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

October 16, 2014

Steven V. King, 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. PMC Moving, LLC*
Commission Staff's Response to Application for Mitigation of Penalties
Docket TV-143221

Dear Mr. King:

On September 18, 2014, the Washington Utilities and Transportation Commission (commission) issued Penalty Assessment TV-143221 against PMC Moving, LLC (PMC Moving) in the amount of \$5,900, for one violation of WAC 480-15-560, which requires household goods carriers to comply with CFR Part 396 – Inspection, repair and maintenance, and 58 violations 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 391 - Qualification of drivers as follows:

- **\$100 for one violation of WAC 480-15-560 – Using a commercial motor vehicle not periodically inspected.** None of PMC Moving's three vehicles received a periodic inspection in the past 12 months. This is a critical regulation but these are first-time violations, so the Commission assessed a penalty of \$100 for one violation of this type. Future violations of this regulation will result in penalties assessed for each violation.
- **\$5,800 for 58 violations of WAC 480-15-570 – Using a driver not medically examined and certified.** PMC Moving's three drivers drove a total of 58 days without medical certification. These are first-time violations, but the Commission grants no leeway with this type of violation.

On October 6, 2014, PMC Moving filed with the commission its application for mitigation of penalties (Mitigation Request). John Lutz, owner of PMC Moving, admitted the violations but asked that the penalty amount be reduced for the reasons set out in the response.

PMC Moving operates as a household goods carrier under permit number THG-64060. On July 29, 2014, Motor Carrier Safety Inspector Alan Dickson conducted a compliance review inspection at the carrier's terminal. Compliance reviews are an in-depth examination of the motor carrier's compliance with regulations that the FMCSA has identified as "acute" or "critical."¹ Acute regulations are identified where noncompliance is so severe as to require immediate corrective actions by a motor carrier regardless of the overall safety posture of the motor carrier. Violations of critical regulations are generally indicative of breakdowns in a carrier's management controls. Non-compliance with acute regulations and patterns of non-compliance with critical regulations are quantitatively linked to inadequate safety management controls and usually higher than average accident rates.² Mr. Dickson found 168 total violations, all of which were first-time violations.

The commission's Enforcement Policy, however, provides that some commission requirements are so critical to safe operations that the commission may issue penalties for a first-time violation, even if staff has not previously provided technical assistance on specific issues.³ Of the 168 violations found, 61 were of critical regulations.

In the Mitigation Request, Mr. Lutz requests a significant reduction in the assessed penalty based on the following factors. Staff's response to each factor is included below:

PMC Moving Mitigation Request: The commission's January 2011 Household Goods training did not emphasize that all drivers are required to be medically certified for local moving companies.

Staff Response: As indicated in the penalty assessment, John Lutz and John Donohue, PMC Moving's owners, both attended the Commission's household goods industry training. Both Mr. Lutz and Mr. Donohue verified receiving this training, including specific information on qualification of drivers, by initialing the enclosed "Verification of Training Received" form at the training.⁴ As a regulated household goods moving company, it is Mr. Lutz's responsibility to be familiar with, and remain educated about, all laws, rules and requirements. Staff recommends no mitigation.

¹ Code of Federal Regulations, [Appendix B to Part 385—Explanation of safety rating process](#)

² *Id.*

³ Docket A-120061 – Enforcement Policy of the Washington Utilities & Transportation Commission – Section V.

⁴ Verification of Training Received form, enclosed.

PMC Moving Mitigation Request: One of the company's drivers, Tyler Prall, only drove 10 days in June 2014 instead of the 21 days reported by Mr. Dickson.

Staff Response: Prior to the compliance review, Mr. Dickson requested the specific records that he would review during the compliance review, including driver hours of service records for each PMC Moving employee. Based on the documents Mr. Dickson was provided, it appeared that Mr. Prall drove on 21 days during June 2014.⁵ In the Mitigation Request, Mr. Lutz did not provide any evidence that supports his claim that Mr. Prall only drove on 10 of those days. Staff recommends no mitigation.

PMC Moving Mitigation Request – All of PMC Moving's drivers have been medically examined as of October 1, 2014.

Staff Response: Staff appreciates that Mr. Lutz is working on complying with driver medical certification requirements. However, confusion about the requirements is not a mitigating factor. As a regulated household goods moving company, it is Mr. Lutz's responsibility to be familiar with, and remain educated about, all laws, rules and requirements. PMC Moving's drivers were not medically certified as required at the time of the compliance review; therefore, no mitigation is appropriate.

Mr. Lutz did provide copies of current medical reports for all three of his drivers. Unfortunately, these reports do not meet the requirements for medical certification. In order for medical certifications to be valid, commercial motor vehicle drivers must be examined and certified by a practitioner listed on the National Registry of Certified Medical Examiners (National Registry).⁶ Only medical examiners that have completed training and successfully passed a test on the Federal Motor Carrier Safety Administration's physical qualification standards are listed on the National Registry.

Mr. Dickson informed Mr. Lutz of the National Registry requirements when they spoke on October 1st. However, none of the three practitioners who evaluated PMC Moving's drivers was on the National Registry. This means PMC Moving's drivers are currently not medically certified and continue to be in violation of WAC 480-15-570.

⁵ PMC Employee Hours Log June 2014, enclosed.

⁶ CFR 391.43 – Medical examination, certificate of physical examination.

PMC Moving Mitigation Request - PMC Moving provided a compliance plan within 15 days as requested.

Staff Response: The compliance review took place on July 29, 2014. Mr. Dickson met with PMC Moving for a closing interview on August 27, 2014. The violations were discussed and Mr. Lutz was told to submit a compliance plan to the commission within 15 days (by September 11, 2014). Mr. Lutz's compliance plan was not post-marked until September 12, 2014.⁷ No mitigation is appropriate.

PMC Moving Mitigation Request - The company's vehicles have now been inspected and certified.

Staff Response: Vehicle inspections are required annually. This information was covered in the commission's Household Goods Mover training and Mr. Lutz initialed the verification form acknowledging that he received training. At the time of the compliance review, the vehicles were not inspected as required. Mr. Lutz did not provide any new information or support for why the penalties should be mitigated. Staff recommends no mitigation.

As stated in the penalty assessment, the commission could have assessed up to \$6,100 in penalties against PMC Moving for the violations found in the compliance review. Instead, based on the specific factors outlined in the penalty assessment, the commission assessed \$5,900 in penalties. In its Mitigation Request, PMC Moving did not provide any new information that supports further mitigation of the penalty; therefore, staff recommends the request be denied. Staff does not oppose payment arrangements on the penalty amount.

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.

Sincerely,



David Pratt
Assistant Director, Transportation Safety

Enclosures

⁷ PMC Moving's compliance plan, enclosed.

VERIFICATION OF TRAINING RECEIVED

ID 5926
TAG-64060

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.

Lynnwood Assignment # 111 023

Name of HHG Company (as registered) and Permit No. PMC MOVING, LLC HG-64060		Date of Training 1/19/11	Name of Trainer(s) Suzanne Stillwell
Name of Attendee (please print clearly) JOHN ALEX LUTZ	Phone Number (206) 446-3009	Email address professional.moving.co@gmail.com	
Safety Regulations	Attendee must sign below, then initial each line acknowledging that training was received for each subject.		
	<input checked="" type="checkbox"/> <u>John A. Lutz</u>		
Applicability/Definitions/Acronyms	JL		
Drug and Alcohol Testing	JL		
Pre-Employment Drug Testing	JL		
Post Accident Testing	JL		
Random Testing	JL		
Selection & Notification	JL		
Reasonable Suspicion Testing	JL		
Subpart B Prohibitions	JL		
Drug & Alcohol Policy	JL		
Consequences for Engaging in Drug & Alcohol Use	JL		
Commercial Driver's License Vehicles that require a CDL/Endorsements	JL		
Qualifications for Drivers	JL		
Entry Level Driver Training	JL		
Driver Qualification File	JL		
Multiple Employer Driver	JL		
Driver Operations	JL		
Inspection and Use of Equipment	JL		
Pre-Trip Inspection	JL		
Accident Register	JL		

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

VERIFICATION OF TRAINING RECEIVED

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.

Name of HHG Company (as registered) and Permit No.	Date of Training	Name of Trainer(s)
PMC MOVING, LLC H9 64060	1/17/10	TOM McVAUGH
Name of Attendee (please print clearly)	Phone Number	Email address
JOHN JOSEPH DONOGHUE	425) 773-8383	PROFESSIONAL.MOVING.CO@GMAIL.COM
Safety Regulations	Attendee must sign below, then initial each line acknowledging that training was received for each subject.	
	X <u>John Donoghue</u>	
Applicability/Definitions/Acronyms	JD	
Drug and Alcohol Testing	JD	
Pre-Employment Drug Testing	JD	
Post Accident Testing	JD	
Random Testing	JD	
Selection & Notification	JD	
Reasonable Suspicion Testing	JD	
Subpart B Prohibitions	JD	
Drug & Alcohol Policy	JD	
Consequences for Engaging in Drug & Alcohol Use	JD	
Commercial Driver's License Vehicles that require a CDL/Endorsements	JD	
Qualifications for Drivers	JD	
Entry Level Driver Training	JD	
Driver Qualification File	JD	
Multiple Employer Driver	JD	
Driver Operations	JD	
Inspection and Use of Equipment	JD	
Pre-Trip Inspection	JD	
Accident Register	JD	

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

PMC MOVING, LLC

EMPLOYEE HOURS LOG

PMC MOVING, LLC 14928 19th Ave W Lynnwood WA 98087 (206) 446.3009



PAY PERIOD #12 JUNE 1-15

DATE	NICK URBACH	JULIAN LAVE	TYLER PRALL	CHRIS DEMS	ROGER DEAN	JOHN LARGENT	GREGG SMITH
SUN JUNE 1		3.0					
MON JUNE 2	7.0	9.0	9.0		3.0		
TUE JUNE 3	9.25	5.5	5.5		7.5	9.0	6.5
WED JUNE 4		3.75	3.75		9.25		9.25
THU JUNE 5		3.0	3.0			3.75	
FRI JUNE 6	9.0	9.0	11.75				
SAT JUNE 7	4.75				9.0	9.25	9.0
SUN JUNE 8					4.75		
MON JUNE 9	7.75		4.25				
TUE JUNE 10	9.25	9.25	9.25		7.75	4.25	4.25
WED JUNE 11	8.5	8.5	2.5		9.25		4.0
THU JUNE 12		2.75	9.25		2.5	4.0	
FRI JUNE 13					2.5		9.25
SAT JUNE 14							
SUN JUNE 15							
TOTALS	55.5	50.75	57.75			30.25	

TOTAL PAY AMOUNTS

TOTALS	55.5 HRS @ \$17.00 \$943.50	50.75 HRS @ \$16.00 \$812.00	57.75 HRS @ \$15.00 \$866.25			30.25 HRS @ \$16.00 \$484.00	
	3.0 HRS OFF	3.0 HRS OFF					

WEEKLY BREAKDOWN	NICK URBACH	JULIAN LAVE	TYLER PRALL	CHRIS DEMS	ROGER DEAN	JOHN LARGENT	GREGG SMITH
SUN JUNE 1 - SAT JUNE 7	30.0	33.25	32.5	—	33.5	22.0	24.75
SUN JUNE 8 - SAT JUNE 14	25.5	20.5	25.25	—	22.5	8.25	17.5

PMC MOVING, LLC EMPLOYEE HOURS LOG

PMC MOVING, LLC 14928 19th Ave W Lynnwood WA 98087 (206) 446 3009



PAY PERIOD #13 JUNE 16-30

DATE	NICK URBACH	JULIAN LAVÉ	TYLER PRALL	JOHN LARGENT	GREGG SMITH	JASON	JOHN DUNN
MON JUNE 16	7.25	10.25	10.0	9.5	7.25		
TUE JUNE 17	12.5	5.5	12.0		12.25	5.5	
WED JUNE 18	6.25	4.25	4.25	6.25			
THU JUNE 19		7.0	7.0		4.75	4.75	
FRI JUNE 20	6.75	7.75	7.75	6.75	5.25	6.75	
SAT JUNE 21					4.0	4.0	
SUN JUNE 22							
MON JUNE 23		8.25	8.75	6.25	8.75		8.25
TUE JUNE 24	12.25	12.0	12.0	12.0		12.25	12.25
WED JUNE 25	8.25	10.0	10.0	8.75	8.25		
THU JUNE 26	10.5		10.5	6.0	10.5		
FRI JUNE 27	6.0	8.25	9.75	11.5	9.75	6.0	11.5
SAT JUNE 28	13.5	13.25	8.5		9.25		11.75
SUN JUNE 29							
MON JUNE 30	15.0	8.75 ^a	10.5	14.75	10.5		8.75
TOTALS	87.75	74.75	90.5	77.25			

TOTAL PAY AMOUNTS

	340 hours	11.75 hrs OT @ \$16.00 = \$187.00	400 hours	4.0 hrs OT @ \$11.00 = \$44.00
TOTALS	67.75 hrs @ \$17.00 = \$1,152.75	74.75 hrs @ \$16.00 = \$1,196.00	90.5 hrs @ \$15.00 = \$1,357.50	77.25 hrs @ \$11.00 = \$849.75
330.25 hrs	\$1,491.75	\$1,196.00	\$1,357.50	\$1,081.00

WEEKLY BREAKDOWN	NICK URBACH	JULIAN LAVÉ	TYLER PRALL	JOHN LARGENT	GREGG SMITH	JASON	JOHN DUNN
SUN JUNE 15 - SAT JUNE 21	32.75	34.75	41.0	22.5	33.5	21.0	✓
SUN JUNE 22 - SAT JUNE 28	50.5	51.75	59.5	44.0	46.5	18.25	43.75

PMC MOVING, LLC
14928 14th Ave W
NWWOOD WA 98087



SEATTLE WA 980
12 SEP 2014 PM 7 L



WASHINGTON UTILITIES &
TRANSPORTATION COMMISSION
ATTN: John Foster
P.O. BOX 47250
OLYMPIA WA 98504-7250

98504-7250



Attn: John Foster

PMC MOVING

UTC # THG-64060

USDOT# 2015694

This is John Alex Lutz following up from last month's UTC Vehicle Inspection report performed by Alan Dickson. I've reviewed the analysis and all the information within as well as the recommendations on the second half of the report. Following are responses to the key areas that needed to be updated along with what actions we are taking.

Medical Exams – All three of our drivers (Nicholas Urbach, Julian Lavé, and Tyler Prall) will have medical examinations done in the next 30 days. Their results will be kept in their file and they will be required to get a check up every 24 months or for any new driver we hire on.

Vehicle Maintenance – I have scheduled an appointment with Andy's Auto in Mountlake Terrace, WA (where we always take our fleet vehicles) for Tuesday Oct 7 to do a full inspection on all 3 trucks. The inspection will be headed by Corey who is a fully certified mechanic and has done such inspections. We do however keep our trucks well-maintained and have since created Vehicle Maintenance Log Book for all 3 trucks.

USDOT #'s – all 3 trucks now have both USDOT #'s and UTC #'s visibly displayed.

Driving Exam – On Mon Sept 8 we had all 3 drivers (Nicholas Urbach, Julian Lavé, and Tyler Prall) take a basic driving exam in our 24ft Ford F650 Truck. We had them do the following: approximately a 3 mile drive around area, including a short freeway drive; Park the truck, Parallel Park; Backing around corner, backing up to office door; among others. All drivers performed very well on the test and I put their results along with my notes in their respective files.

Driver's Abstracts – We will be having all our drivers provide us with their abstracts and that will be kept in their files. We will have them provide this once a year.

DVIR Reports – Since 2010 we have done a mileage/time log for our trucks and employees and have kept that on file. We will be sure to have our drivers begin to sign off on the DVIR reports and enforce a stricter policy that if a defect does occur that it is documented right away.



For any questions or general feedback, please call @ (206) 446.3009 or email;

professional.moving.co@gmail.com
