



STATE OF WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION

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**Date:** December 3, 2021

**To:** Andrew O'Connell, Administrative Law Judge, Administrative Law Division

**From:** Jason Sharp, Motor Carrier Safety Supervisor, Transportation Safety Division

**Re:** **TV-210786 and TV-210787 Ultimate Movers LLC**  
Evaluation of Safety Management Plan, Recommendations regarding the company's safety rating, and the cancellation of solid waste operating authority (THG-068277)

On October 7, 2021, Commission staff (Staff) completed a routine safety investigation of Ultimate Movers LLC, (Ultimate Movers or Company) which resulted in a proposed unsatisfactory safety rating.

Commission rules prohibit motor carriers from operating beginning on the 61st day after the date of the notice of a proposed unsatisfactory rating. A company may request a change in its safety rating based on evidence that it has taken corrective actions to address the identified violations, and that its operations currently meet the safety standard and factors in 49 C.F.R. § 385.5 and 385.7. In this case, Ultimate Movers has until December 7, 2021, to come into compliance with applicable laws and rules by obtaining commission approval of a safety management plan.

**The proposed unsatisfactory safety rating was based on four violations of critical regulations – 49 C.F.R. § 391.45(a), 391.51(a), 395.8(a)(1), and WAC 480-15-555.**

“Critical” regulations are those identified as such where non-compliance relates to management and operational controls. These are indicative of breakdowns in a company's management controls. Patterns of non-compliance with a critical regulation are linked to inadequate safety management controls and higher than average accident rates.

**Critical violations discovered during investigation:**

1. Sixty violations of Title 49 C.F.R. § 391.45(a) – Using a driver not medically examined and certified.
2. Three violations of Title 49 C.F.R. § 391.51(a) – Failing to maintain driver qualification file on each driver employed.
3. Ninety violations of Title 49 C.F.R. § 395.8(a)(1) – Failing to require a driver to prepare a record of duty status
4. Two violations of WAC 480-15-555 – Failing to conduct or retain paperwork containing criminal background check for a household goods carrier in the state of Washington as required.

In a November 3, 2021, Notice of Intent to Cancel, the Commission instructed Ultimate Movers to submit its proposed safety management plan no later than November 24, 2021.

On November 3, 2021, the Commission issued a penalty assessment against Ultimate Movers in the amount of \$6,600 because of violations discovered during the safety investigation.<sup>1</sup> The penalty includes:

1. A \$200 penalty for two violations of WAC 480-15-555 for failing to conduct or retain paperwork containing criminal background check for a household goods carrier in the state of Washington as required.
2. A \$6,000 penalty for 60 violations of 49 C.F.R. § 391.45(a) for using a driver not medically examined and certified.
3. A \$100 penalty for three violations of 49 C.F.R. § 391.51(a) for failing to maintain driver qualification file on each driver employed.
4. A \$100 penalty for 90 violations of 49 C.F.R. § 395.8(a)(1) for failing to require a driver to prepare a record of duty status.
5. A \$100 penalty for one violation of 49 C.F.R. § 396.3(b) for failing to keep minimum records of inspection and vehicle maintenance.
6. A \$100 penalty for one violation of 49 C.F.R. § 396.17(a) for using a commercial motor vehicle not periodically inspected.

On November 17, 2021, Ultimate Movers filed with the Commission its application for mitigation of penalties. In the request for mitigation, the Company admitted the violations and believed that the penalty should be reduced. Ultimate Movers requested the Commission decide on its request for mitigation based on the information the Company provided in its corrective action documents.

On November 24, 2021, Ultimate Movers submitted a safety management plan addressing each violation noted during the investigation. Staff only recommends approving a safety management plan that addresses the following seven items:

1. The plan must address each acute, critical, or serious violation discovered during the most recent investigation. It must also include corrective actions that address other violations noted during the investigation.
2. Identify why the violations were permitted to occur.
3. Discuss the actions taken to correct the deficiency or deficiencies that allowed the violations to occur. Include actual documentation of this corrective action.
4. Outline actions taken to ensure that similar violations do not reoccur in the future. The plan must demonstrate that the company's operations currently meet the safety standard and factors specified in 49 C.F.R. § 385.5 and 385.7. To do so, the plan must demonstrate the company now has adequate safety management controls in place which function effectively to ensure acceptable compliance with applicable safety requirements.

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<sup>1</sup> TV-210787

5. If the request includes actions that will be conducted in the near future, such as training, reorganization of departments, purchasing of computer programs, etc., companies must include a detailed description of the activity or training and a schedule of when that activity will commence and when it will be completed.
6. Include any additional documentation relating to motor carrier safety and the prevention of crashes that the company believes supports its request.
7. Include a written statement certifying the company will operate within federal and state regulations and the company's operation currently meets the safety standard and factors specific in 49 C.F.R. § 385.5 and 385.7. A corporate officer, partner, or the owner of the company must sign the statement.

### Summary and Recommendations

Staff reviewed Ultimate Movers' safety management plan and concludes it is acceptable and meets the requirements of 49 C.F.R. § 385. The plan demonstrates that the Company has taken appropriate action to develop a compliant safety program and implemented a system, that if followed, should prevent future repeat violations.

Staff recommends that Dockets TV-210786 and TV-210787 be consolidated.

Documentation of driver qualifications, accident register, maintenance, hours of service records, and criminal background documents were included in the plan.

The Company took all the required steps to bring its safety operations into compliance with Commission regulations. Ultimate Movers submitted a safety management plan that addresses each violation, identifies how the violations occurred, describes the steps taken to correct them, and put controls in place to ensure the Company maintains compliance.

Staff recommends the Commission accept the Ultimate Movers' safety management plan, upgrade its safety rating to conditional, not cancel the Company's permit, and extend the provisional operating authority for good cause, until such a time that the Company receives a satisfactory safety rating.

In response to the request for mitigation, the Company corrected each violation and took steps to prevent future occurrences. Staff recommends reducing the assessed penalty of \$6,600 to \$3,300. Staff further recommends that \$2,000 of the reduced penalty be suspended for a period of two years before being waived, on the conditions that: (1) Staff conducts a follow-up safety investigation at least six months from the date of an Order, (2) the Company may not incur any repeats critical violations, and (3) Ultimate Movers pay the \$1,300 portion of the penalty that is not suspended, based on a mutually agreeable proposed payment plan with Staff as follows:

Payment Plan		
Installment	Due Date	Amount
1	January 3, 2021	\$350
2	February 1, 2022	\$350
3	March 1, 2022	\$350
4	April 1, 2022	\$250

Staff recommends the Commission grant the Company's request for payment arrangements. Ultimate Movers is aware that if it fails to pay any installment by the due date, the entire remaining balance, including the suspended penalty, will immediately become due and payable without further Commission order.