



STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

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Date: June 17, 2022

To: Michael Howard, Administrative Law Judge, Administrative Law Division

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

Re: **TV-220340 Move Dudes LLC**

Evaluation of Safety Management Plan, Recommendations regarding the company's safety rating, and the cancellation of household goods operating authority (THG069378)

On May 12, 2022, Commission staff (Staff) completed a routine safety investigation of Move Dudes LLC, (Move Dudes or Company) which resulted in a proposed conditional safety rating.

Provisional household goods companies must achieve a satisfactory safety rating prior to receiving permanent status. As the Company has yet to achieve a satisfactory safety rating, the Commission afforded Move Dudes the same opportunity as companies that receive a proposed unsatisfactory safety rating to provide evidence, in the form of an approved safety management plan, showing that the company took corrective action to address the identified violations.

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 CFR § 385.5 and 385.7. In this case, Move Dudes has until July 8, 2022, to come into compliance with applicable laws and rules by obtaining Commission approval of a safety management plan.

The proposed conditional safety rating was based on one violation of critical regulations – 395.8(a)(1).

“**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. Five violations of 49 C.F.R. § 395.8(a)(1) – Failing to require driver to make a record of duty status.

In a May 25, 2022, Notice of Intent to Cancel, the Commission instructed Move Dudes to submit its proposed safety management plan no later than June 8, 2022.

On June 8, 2022, the Commission issued a penalty assessment against Move Dudes in the amount of \$100 because of violations discovered during the routine safety investigation. The penalty includes:

1. A \$100 penalty for five violations of 49 CFR § 395.8(a)(1) for failing to require a driver to prepare a record of duty status.

On June 16, 2022, Move Dudes 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 CFR § 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.
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 CFR § 385.5 and 385.7. A corporate officer, partner, or the owner of the company must sign the statement.

Summary and Recommendations

Staff reviewed Move Dudes' safety management plan and concludes it is acceptable and meets the requirements of 49 CFR § 385. Move Dudes' safety rating was proposed conditional because Company management interpreted the requirement to track driver's hours of service as documenting only driving time, rather than all on-duty time worked by commercial drivers. Move Dudes has implemented a system for tracking all on-duty hours for each driver, as well as tracking driver's hours worked for other employers. Because of the Company's actions, Staff recommends the Commission not cancel Move Dudes' provisional permit and upgrade the Company's proposed conditional safety rating to satisfactory.

Move Dudes has not yet responded to the penalty assessment and the \$100 remains unpaid.

Staff confirmed with the Company that it waives its right to a hearing and recommends that the Brief Adjudicative Proceeding scheduled for June 22, 2022, be cancelled.

The Company took all the required steps to bring its safety operations into compliance with Commission regulations. Move Dudes 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.

Documentation of driver hours of service records, driver road tests, and USDOT motor carrier update information were included in the plan.