



STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

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Date: August 20, 2024

To: Eliza Manoff, Administrative Law Judge, Administrative Law Division

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

Re: **TV-240545 San Juan Moving Company**

Evaluation of Safety Management Plan, Recommendations regarding the company's safety rating, and the cancellation of household goods mover operating authority (THG-070801)

On July 9, 2024, Commission staff (Staff) completed a routine safety investigation of San Juan Moving Company, (San Juan Moving 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 San Juan Moving the same opportunity as companies that receive a proposed unsatisfactory safety rating to provide evidence, in the form of an approved safety management plan (SMP), 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 C.F.R. § 385.5 and 385.7. In this case, San Juan Moving has until September 7, 2024, to come into compliance with applicable laws and rules by obtaining Commission approval of a SMP.

The proposed conditional safety rating was based on three violations of acute and critical regulations – 49 C.F.R. § 395.8(a)(1), WAC 480-15-530, and WAC 480-15-555(1).

“**Acute**” violations are those identified as such where non-compliance is so severe as to require immediate corrective actions by a motor carrier regardless of the overall safety posture of the motor carrier.

“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.

Acute and Critical violations discovered during investigation:

1. Ten critical violations of 49 C.F.R. § 395.8(a)(1) for failing to require a driver to prepare a record of duty status using the appropriate method.
2. One acute violation with two occurrences of WAC 480-15-530 for failing to maintain liability insurance while operating a motor vehicle as required.
3. Two critical violations of WAC 480-15-555(1) for failure to complete a national criminal background check for an employee.

In a July 26, 2024, Notice of Intent to Cancel, the Commission instructed San Juan Moving to submit its proposed SMP no later than August 21, 2024.

On August 2, 2024, the Commission issued a penalty assessment against San Juan Moving in the amount of \$4,000 because of violations discovered during the safety investigation. The penalty was calculated as follows:

1. A \$200 penalty for two violations of WAC 480-15-530 for failing to maintain liability insurance while operating a motor vehicle as required.
2. A \$200 penalty for two violations of WAC 480-15-555(1) for failing to complete a national criminal background check for an employee.
3. A \$3,400 penalty for 34 violations of 49 C.F.R. § 391.45(a) for using a driver not medically examined and certified.
4. A \$100 for one violation of 49 C.F.R. § 391.51(a) for failing to maintain driver qualification file on each driver employed.
5. A \$100 penalty for 10 violations of 49 C.F.R. § 395.8(a)(1) for failing to require a driver to prepare a record of duty status using the appropriate method.

On August 12, 2024, the Company filed its response to the penalty assessment, admitting the violations, and requesting that the penalties be mitigated. In the application for mitigation, the Company did not request a hearing, but rather requested the Commission decide based solely on information that it provided in its SMP.

On August 14, 2024, San Juan Moving submitted a SMP addressing each violation noted during the investigation. Staff reviewed the SMP to ensure that it addressed the following seven requirements:

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.
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.

On August 19, 2024, San Juan Moving submitted a "Waiver of Hearing" letter to this docket.

Summary and Recommendations

Staff reviewed San Juan Moving's SMP and concludes it meets the legal requirements of 49 C.F.R. § 385. The plan demonstrates that the Company has taken corrective action to develop a compliant safety program and implemented systems that if followed, should prevent future repeat violations.

Documentation of company policies, driver qualifications, vehicle maintenance, hours of service records, and criminal background documents were included in the plan. Additionally, the plan contains calendar reminders for future compliance due dates.

The Company took the required steps to bring its safety operations into compliance with Commission regulations. San Juan Moving submitted a SMP that addresses each violation, identifies how the violations occurred, describes the steps the Company took to correct the violations, and put controls in place to ensure the Company maintains compliance. Staff recommends the Commission:

1. Not cancel San Juan Moving's provisional permit;
2. Maintain the Company's conditional safety rating; and
3. Extend the Company's provisional period until such a time that San Juan Moving achieves a satisfactory safety rating, or the Commission finds good cause to cancel the Company's operating authority.

In response to the Company's mitigation request, the Company was cooperative throughout the safety investigation, provided staff with evidence that it corrected these first-time violations, and implemented procedures to prevent future occurrences. Staff recommends that the \$4,000 assessed penalty be reduced to \$2,000. Further, Staff recommends \$1,000 of the reduced penalty be suspended for two years and then waived, with the following conditions:

1. San Juan Moving maintains a conditional safety rating;
2. Staff perform a follow-up safety investigation at least six months from the date of the order;
3. The Company does not incur repeat acute or critical violations upon reinspection; and
4. San Juan Moving pays the \$1,000 that is not suspended

Staff has verified with the Company that it waives its right to a hearing and is recommending that the Brief Adjudicative Proceeding scheduled for September 4, 2024, be cancelled.