



STATE OF WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION

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**Date:** May 10, 2024

**To:** Connor Thompson, Administrative Law Judge, Administrative Law Division

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

**Re:** **TV-240169 PNW Moving and Delivery LLC**

Evaluation of Safety Management Plan, Recommendations regarding the company's safety rating, and the cancellation of household goods mover operating authority (THG-067549)

On March 11, 2024, Commission staff (Staff) completed a follow-up safety investigation of PNW Moving and Delivery LLC, (PNW 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 PNW 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, PNW Moving has until May 10, 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 four violations of acute and critical regulations – 49 C.F.R. § 395.8(a)(1), WAC 480-15-530, 480-15-550, and 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. Sixty-one critical violations of 49 C.F.R. § 395.8(a)(1) for failure to require a driver to prepare record of duty status using the appropriate method.
2. One acute violation of WAC 480-15-530, with 129 occurrences identified, for operating a commercial motor vehicle without having in effect the required minimum levels of financial responsibility coverage.
3. One acute violation of WAC 480-15-550, with 129 occurrences identified, for operating a commercial motor vehicle without having adequate cargo insurance coverage.
4. Eleven critical violations of WAC 480-15-555(1) for failure to complete a criminal background check for every person the carrier intends to hire.

In an April 9, 2024, Notice of Intent to Cancel, the Commission instructed PNW Moving to submit its proposed SMP no later than April 18, 2024.

On April 24, 2024, PNW Moving submitted an initial SMP for staff review.

On April 26, 2024, Staff notified PNW Moving that its SMP was not accepted and provided detailed information as to where the plan was deficient. That same day, PNW Moving submitted another draft of its SMP for Staff to review. The Company was notified on May 2, 2024, that the plan was not accepted and further explanation regarding the deficiency of the plan was provided by Staff.

On May 2, 2024, the Commission held the scheduled brief adjudicative proceeding. Staff testified to the Company's non-compliance with conditions established in Order 01 in dockets TV-220133 and TV-220134 (consolidated), as well as the violations identified during the Company's follow-up investigation.

Staff recommended that the Commission cancel PNW Moving's provisional permit for failure to obtain a satisfactory safety rating after failing to follow two previous SMPs approved by the Commission. As part of Staff's testimony, Staff requested \$338,900 in administrative penalty be issued based on discovered violations as follows:

- One acute violation of WAC 480-15-530, with 129 occurrences identified, for operating a commercial motor vehicle without having in effect the required minimum levels of financial responsibility coverage. Staff recommended a penalty of \$100 for each occurrence of this acute violation, for a total of \$12,900.
- One acute violation of WAC 480-15-550, with 129 occurrences identified, for operating a commercial motor vehicle without having adequate cargo insurance coverage. This was a repeat violation from the 2022 compliance investigation. Staff recommended a penalty of \$500 for each occurrence of this repeat acute violation, for a total of \$64,500.
- Eleven critical violations of WAC 480-15-555(1) for failure to complete a criminal background check for every person the carrier intends to hire. This is a repeat violation

from the 2020 and 2022 compliance investigations. Staff recommended a penalty of \$500 for each occurrence of these repeat critical violations, for a total of \$5,500.

- One violation of 49 C.F.R. § 390.19(b)(2) for failing to file the appropriate form under 49 C.F.R. § 390.19(a) every twenty-four months according to the schedule. This is a repeat violation from the 2022 compliance investigation. Staff recommended a penalty of \$100 for this repeat violation.
- Three violations of 49 C.F.R. § 391.21(a) for using a driver who has not completed and furnished an employment application. This a repeat violation from the 2022 compliance investigation. Staff recommended a penalty of \$100 for these repeat violations.
- Three violations of 49 C.F.R. § 391.51(b)(3) for failing to maintain a road test certificate in the driver's qualification file, or a copy of the license or certificate the motor carrier accepted as equivalent. This is a repeat violation from the 2022 compliance investigation. Staff recommended a penalty of \$100 for these repeat violations.
- One violation of 49 C.F.R. § 391.51(b)(4) for failing to maintain the responses of each state agency to the annual driver record inquiry required by 49 C.F.R. § 391.25(a). Staff recommended a penalty of \$100 for this repeat violation.
- Sixty-one violations of 49 C.F.R. § 395.8(a)(1) for failing to require drivers to make a record of duty status. Staff recommend a penalty of \$500 for each occurrence of these repeat critical violations, for a total of \$30,500.
- One critical-type violation of 49 C.F.R. § 396.3(b) for failing to keep minimum records of inspection and vehicle maintenance. This a repeat violation from the 2022 compliance investigation. Staff recommended a penalty of \$100 for this repeat violation.
- Forty-Five violations of RCW 81.80.075(1) for engaging in business as a household goods carrier in commerce without a valid permit issued by the Washington Utilities and Transportation Commission. Staff recommended the maximum penalty of \$5,000 for each occurrence of this violation, for a total of \$225,000.

Further, Staff testified that though PNW Moving had not submitted an acceptable SMP, it would continue to review any future submittals from the company until the cancellation of the permit.

On May 9, 2024, PNW Moving submitted a SMP addressing each violation noted during the investigation. Staff reviewed the SMP to ensure that it addressed the following seven requirement:

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.

### **Summary and Recommendations**

Staff reviewed PNW 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 driver qualifications, maintenance, insurance, hours of service records, criminal background, accident reporting, company registration, policy, and training documents were included in the plan. The plan contains internal spreadsheets, calendar reminders for future compliance due dates, and PNW Moving offers to submit records of duty status for its drivers to Staff for the next three months for review.

On paper, the Company took all the required steps to bring its safety operations into compliance with Commission regulations. PNW Moving submitted a SMP that addresses each violation, identifies how the violations occurred, describes the steps the Company took to correct the violations that could be corrected, and put controls in place to ensure the Company maintains compliance.

Staff's recommendation as to the cancellation of PNW Moving's provisional permit remains unchanged, despite the submittance of an acceptable SMP. This recommendation is based on the overall safety performance of the Company and its demonstrated non-compliance with previous SMPs and Commission orders.

Regarding the penalty, Staff recommends that \$338,900 be assessed against PNW Moving. With the cancellation of the provisional permit, Staff recommends suspending the penalty in its entirety for two years, and then waived, on condition that PNW Moving ceases and desists operating as a household goods carrier unless it obtains from the Commission the permit necessary to conduct such operations.