



STATE OF WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION

621 Woodland Square Loop S.E. • Lacey, Washington 98503

P.O. Box 47250 • Olympia, Washington 98504-7250

(360) 664-1160 • TTY (360) 586-8203

State Of WASH.  
UTIL. AND TRANSP.  
COMMISSION

02/02/21 15:14

Received  
Records Management

**Date:** February 2, 2021

**To:** Rayne Pearson, Administrative Law Judge, Administrative Law Division

**From:** Mathew Perkinson, Assistant Director, Transportation Safety Division

**Re:** **TV-201010 and TV-201011 New Horizons Moving LLC**  
Evaluation of Safety Management Plan, Recommendations regarding the company's safety rating, and the cancellation of household goods operating authority (THG068042)

On December 30, 2020, Commission staff (staff) completed a routine safety investigation of New Horizons Moving LLC (New Horizons Moving 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 CFR § 385.5 and 385.7. In this case, New Horizons Moving has until March 1, 2021, 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 six violations of critical regulations – 49 CFR § 391.45(a), 391.51(a), 395.8(a)(1), 396.3(b), 396.17(a), 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-two violations of 49 CFR § 391.45(a) – Using a driver not medically examined and certified.
2. Five violations of 49 CFR § 391.51(a) – Failing to maintain driver qualification file on each driver employed.

3. Thirty-one violations of 49 CFR § 395.8(a)(1) – Failing to require a driver to prepare a record of duty status using the appropriate method.
4. Three violations of 49 CFR § 396.3(b) – Failing to keep minimum records of inspection and vehicle maintenance.
5. Three violations of 49 CFR § 396.17(a) – Using a commercial motor vehicle not periodically inspected.
6. Ten 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.

On January 8, 2021, the commission issued a penalty assessment against New Horizons Moving in the amount of \$7,700 as a result of violations discovered during the routine safety investigation.<sup>1</sup> The penalty includes:

1. A \$1,000 penalty for 10 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 \$6,200 penalty for 62 violations of 49 CFR § 391.45(a) for using a driver not medically examined and certified.
3. A \$100 penalty for five violations of 49 CFR § 391.51(a) for failing to maintain driver qualification file on each driver employed.
4. A \$100 penalty for 31 violations of 49 CFR § 395.8(a)(1) for failing to require a driver to prepare a record of duty status using the appropriate method.
5. A \$100 penalty for one violation of 49 CFR § 396.3(a)(1) for using a commercial motor vehicle that had a tire contacting the pitman arm, creating an out-of-service condition.
6. A \$100 penalty for three violations of 49 CFR § 396.3(b) for failing to keep minimum records of inspection and vehicle maintenance.
7. A \$100 penalty for three violations of 49 CFR § 396.17(a) for using a commercial motor vehicle not periodically inspected.

In a January 14, 2021, Notice of Intent to Cancel, the commission instructed New Horizons Moving to submit its proposed safety management plan no later than February 9, 2021.

On January 18, 2021, New Horizons Moving 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.

---

<sup>1</sup> TV-201011

On January 26, 2021, New Horizons Moving 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 New Horizons Moving's safety management plan and concludes it is acceptable and meets the requirements of 49 CFR § 385. Because of the Company's actions, staff recommends the commission upgrade New Horizons Moving's safety rating to conditional and extend its provisional period until such a time that the Company achieves a satisfactory safety rating. Staff further recommends that Dockets TV-201010 and TV-201011 be consolidated.

Staff confirmed with the company that it waived its right to a hearing in both dockets and recommends that the brief adjudicative proceeding scheduled for February 23, 2021, be cancelled.

In response to the request for mitigation, the Company corrected each violation and took steps to prevent future occurrences. Staff recommends mitigating the reduced penalty of \$7,700

to \$3,850. Staff further recommends that \$2,000 of the 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 repeat violations of critical regulations, and (3) New Horizons Moving pays the \$1,850 portion of the penalty that is not suspended.

The Company took all the required steps to bring its safety operations into compliance with commission regulations. New Horizons Moving 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 qualifications, vehicle maintenance, hours of service, and criminal background check information were included in the plan.