



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

Received  
Records Management  
11/01/21 07:52  
State Of WASH.  
UTIL. AND TRANSP.  
COMMISSION

**Date:** November 1, 2021

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

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

**Re:** **TV-210741 and TV-210742 Established Moving & Storage of Seattle Inc., d/b/a Established Moving & Storage**  
Evaluation of Safety Management Plan, Recommendations regarding the company's safety rating, and the cancellation of solid waste operating authority (THG-067984)

On September 21, 2021, Commission staff (Staff) completed a routine safety investigation of Established Moving & Storage of Seattle Inc., d/b/a Established Moving & Storage, (Established 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 Established 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, 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, Established Moving has until November 19, 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 two violations of critical regulations – 49 C.F.R. § 391.45(a) and 395.3(b)(2).**

“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. Three hundred fifty-four violations of Title 49 C.F.R. § 391.45(a) – Using a driver not medically examined and certified.

2. Thirteen violations of Title 49 C.F.R. § 395.3(b)(2) – Requiring or permitting a property-carrying commercial motor vehicle driver to driver after having been on duty 70 hours in 8 consecutive days.

In an October 5, 2021, Notice of Intent to Cancel, the Commission instructed Established Moving to submit its proposed safety management plan no later than November 3, 2021.

On October 5, 2021, the Commission issued a penalty assessment against Established Moving in the amount of \$36,000 because of violations discovered during the safety investigation.<sup>1</sup> The penalty includes:

1. A \$500 penalty for five violation of WAC 480-15-555 for failing to complete a criminal background check for every person the carrier intends to hire.
2. A \$35,400 penalty for 354 violations of 49 C.F.R. § 391.45(a) for using a driver not medially examined and certified.
3. A \$100 penalty for 13 violations of 49 C.F.R. § 395.3(b)(2) for requiring or permitting a property-carrying commercial motor vehicle driver to drive after having been on duty 70 hours in eight consecutive days.

On October 28, 2021, Established 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. Established Moving requested the Commission decide on its request for mitigation based on the information the Company provided in its corrective action documents.

On October 28, 2021, Established 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 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.

---

<sup>1</sup> TV-210742

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 Established Moving's 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-210741 and TV-210742 be consolidated.

Documentation of driver qualifications, maintenance forms, hours of service forms, and internal training communications were included in the plan. Established Moving reported that they have contracted with Advanced Testing Solutions of Florida to assist the Company in qualifying its drivers according to regulations. The plan also detailed training to be provided to all management personnel and drivers.

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

Staff recommends the Commission accept Established Moving's safety management plan, 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 \$36,000 to \$15,000. Staff further recommends that \$10,000 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 violations of critical regulations, and (3) Established Moving pay the \$5,000 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	December 1, 2021	\$500
2	January 5, 2022	\$500
3	February 1, 2022	\$500
4	March 1, 2022	\$500
5	April 1, 2022	\$500

6	May 2, 2022	\$500
7	June 1, 2022	\$500
8	July 1, 2022	\$500
9	August 1, 2022	\$500
10	September 1, 2022	\$500

Staff recommends the Commission grant the Company's request for payment arrangements. Established Moving 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.

Staff confirmed with the Company that it waived its right to a hearing and recommends that the brief adjudicative proceeding scheduled for November 17, 2021, be cancelled.