



STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

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Date: October 3, 2019

To: Rayne Pearson, Director, Administrative Law Division

From: Mathew Perkinson, Assistant Director, Transportation Safety Division

Re: TV-190705 and TV-190706 WA Big Guys Movers LLC
Evaluation of safety management plan, recommendation regarding company's safety rating, and cancellation of household goods operating authority (THG067450)

On August 16, 2019 staff completed a routine safety investigation of WA Big Guys Movers LLC d/b/a WA Big Guys Movers; WABGM (WA Big Guys Movers or company) resulting in a proposed *unsatisfactory* safety rating.

Provisional household goods companies must achieve a satisfactory safety rating prior to receiving permanent status.

Commission rules prohibit motor carriers from operating beginning on the 61st day after the date of the notice of a proposed unsatisfactory safety rating. A company may request a change in its safety rating based on evidence that it took corrective actions to address identified violations, and its operations currently meet the safety standard and factors in 49 CFR § 385.5 and 385.7. In this case, WA Big Guys Movers has until October 16, 2019, to come into compliance with applicable laws and rules by obtaining commission approval of a safety management plan.

The company's proposed unsatisfactory safety rating is based on 35 violations of five critical regulation types – 391.45(a), 391.51(a), 391.51(b)(2), 395.8(a)(1) 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. Three violations of Title 49 CFR § 391.45(a) – Using a driver not medically examined and certified.
2. Two violations of Title 49 CFR § 391.51(a) – Failing to maintain driver qualification file on each driver employed

3. Two violations of Title 49 CFR § 391.51(b)(2) – Failing to maintain inquiries into driver’s driving record in driver’s qualification file.
4. Twenty-three violations of Title 49 CFR § 395.8(a)(1) – Failing to require a driver to prepare a record of duty status using the appropriate method.
5. Five violations of WAC 480-15-555 – Failing to acquire criminal background check of prospective employee.

As a result of the violations, WA Big Guys Movers was issued a penalty of \$2,700 on September 9, 2019.

In a September 13, 2019, Notice of Intent to Cancel Permit, the commission instructed the company to submit its proposed safety management plan no later than October 4, 2019.

On September 17, 2019, WA Big Guys Movers filed with the commission its application for mitigation of penalties.

On September 30, 2019, WA Big Guys Movers submitted a safety management plan addressing each violation noted during the investigation. Staff only recommends approving a safety management plan that addresses the following 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 WA Big Guys Movers' 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 the company's safety rating to *conditional* and extend its provisional operating authority for good cause until staff conducts a follow-up safety investigation at least six months from the date of the Order. Staff further recommends that the dockets TV-190705 and TV-190706 be consolidated.

Staff confirmed with the company that it waives its right to a hearing and is recommending that the brief adjudicative proceeding scheduled for October 11, 2019, be cancelled.

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 \$2,700 to \$1,350. Staff further recommends that \$675 of the penalty be suspended for a period of two years before being waived, on the conditions that: (1) the company may not incur any repeat violations of critical regulations, (2) the company maintains a conditional safety rating, and (3) the company pays the \$675 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. WA Big Guys Movers submitted a safety management plan that addresses each violation, identifies how they occurred, describes the steps taken to correct them, and put controls in place to ensure the company maintains compliance.

Documentation of driver qualifications, employee background checks, hours of service records, and vehicle maintenance records were included in the plan.