



STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

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Date: November 3, 2023

To: Bijan Hughes, Administrative Law Judge, Administrative Law Division

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

Re: **TV-230785 Industry Movers, Inc.**

Evaluation of Safety Management Plan, Recommendations regarding the company's safety rating, and the cancellation of household goods operating authority (THG-069879)

On September 21, 2023, Commission staff (Staff) completed a routine safety investigation of Industry Movers, Inc., (Industry Movers 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 Industry Movers 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 Title 49 Code of Federal Regulations (49 C.F.R.) § 385.5 and 385.7. In this case, Industry Movers has until November 20, 2023, to come into compliance with applicable laws and rules by obtaining Commission approval of a SMP.

The proposed conditional safety rating was based on violations of two critical regulations – Washington Administrative Code (WAC) 480-15-555(1) and 49 C.F.R. § 395.8(a)(1).

“**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 violation discovered during investigation:

1. Five violations of WAC 480-15-555(1) – Failure to complete a criminal background check for every person the carrier intends to hire.
2. Thirty violations of 49 C.F.R. § 395.8(a)(1) – Failing to require a driver to prepare a record of duty status using the appropriate method.

On October 3, 2023, the Commission issued a penalty assessment against Industry Movers in the amount of \$600 because of violations discovered during the safety investigation. The penalty includes:

1. A \$500 penalty for five violations of WAC 480-15-555(1) for failing to complete a criminal background check for every person the carrier intended to hire.
2. A \$100 penalty for thirty 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.

In an October 4, 2023, Notice of Intent to Cancel, the Commission instructed Industry Movers to submit its proposed SMP no later than October 31, 2023 .

On October 12, 2023, Industry Movers filed its response to the penalty assessment, admitting the violations, and requesting that the penalties be mitigated.

On November 2, 2023, Industry Movers submitted a SMP addressing each violation noted during the investigation. Staff only recommends approving a SMP 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.

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 November 3, 2023, Industry Movers submitted a "Waiver of Hearing" letter to the docket.

Summary and Recommendations

Staff reviewed Industry Movers' SMP and determined it is acceptable and meets the requirements of 49 C.F.R. § 385.

Documentation of driver qualifications, hours of service records, inspector qualifications, leasing documents, and criminal background checks were included in the plan.

The Company took the required steps to bring its safety operations into compliance with Commission regulations. Industry Movers submitted a SMP 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:

1. The Commission does not cancel Industry Movers' provisional permit;
2. Maintain the Company's safety rating of conditional; and
3. The Commission extends the Company's provisional period until such a time that Industry Movers 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, Industry Movers provided Staff with evidence that it corrected each violation and implemented procedures to prevent future occurrences. Staff recommends that \$300 of the assessed penalty be suspended for two years and then waived, with the following conditions:

1. Industry Movers 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 critical violations upon reinspection; and
4. Industry Movers pay the \$300 that is not suspended.

Staff and Industry Movers came to a mutual agreement on a proposed payment plan, as follows:

Payment Plan		
Installment	Due Date	Amount
1	November 20, 2023	\$100
2	December 20, 2023	\$100
3	January 22, 2024	\$100

Staff recommends the Commission grant the Company's request for payment arrangements. Industry Movers 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 has verified with the Company that it waives its right to a hearing and is recommending that the Brief Adjudicative Proceeding scheduled for November 14, 2023, be cancelled.