



STATE OF WASHINGTON  
**UTILITIES AND TRANSPORTATION COMMISSION**

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**Date:** May 26, 2022

**To:** Gregory Kopta, Administrative Law Judge, Administrative Law Division

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

**Re:** **TV-220274 Octopus Movers Services LLC**

Evaluation of Safety Management Plan, Recommendations regarding the company's safety rating, and the cancellation of provisional household goods mover operating authority (THG-068516)

On April 14, 2022, Commission staff (Staff) completed a routine safety investigation of Octopus Movers Services LLC, (Octopus Movers 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 C.F.R. § 385.5 and 385.7. In this case, Octopus Movers has until June 13, 2022, to come into compliance with applicable laws and rules by obtaining commission approval of a safety management plan.

**The proposed unsatisfactory safety rating was based on three violations of critical regulations – 49 C.F.R. § 395.8(a)(1), 396.3(b), and 396.17(a).**

“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. Thirty violations of 49 C.F.R. § 395.8(a)(1) – Failing to require driver to make a record of duty status.
2. Two violations of 49 C.F.R. § 396.3(b) – Failing to keep minimum records of inspection and vehicle maintenance.

3. Two violations of 49 C.F.R. § 396.17(a) – Using a commercial motor vehicle not periodically inspected.

In an April 27, 2022, Notice of Intent to Cancel, the Commission instructed Octopus Movers to submit its proposed safety management plan no later than May 23, 2022.

On May 6, 2022, the Commission issued a penalty assessment against the Company in the amount of \$2,700 because of violations discovered during the safety investigation. The penalty includes:

1. A \$100 penalty for one violation of WAC 480-15-555 for failing to conduct or retain paperwork containing criminal background checks for a household goods carrier in the state of Washington as required.
2. A \$2,100 penalty for 21 violations of 49 C.F.R. § 391.45(a) for using a driver not medically examined and certified.
3. A \$100 penalty for one violation of 49 C.F.R. § 391.51(a) for failing to maintain driver qualification file on each driver employed.
4. A \$100 penalty for 30 violations of 49 C.F.R. § 395.8(a)(1) for failing to require driver to make a record of duty status.
5. A \$100 penalty for one violation of 49 C.F.R. § 396.3(a)(1) for an out-of-service violation caused when a tire contacted a commercial motor vehicle (CMV).
6. A \$100 penalty for two violations of 49 C.F.R. § 396.3(b) for failing to keep minimum records of inspection and vehicle maintenance.
7. A \$100 penalty for two violations of 49 C.F.R. § 396.17(a) for using a CMV not periodically inspected.

On May 11, 2022, Octopus Movers paid the \$2,700 penalty in full.

On May 20, 2022, the Company 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.
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 the Company's safety management plan and concludes it is acceptable and meets the requirements of 49 C.F.R. § 385. The plan demonstrates that Octopus Movers has taken appropriate action to develop a compliant safety program and implemented a system, that if followed, should prevent future repeat violations.

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

The Company took all the required steps to bring its safety operations into compliance with Commission regulations. Octopus Movers 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: (1) upgrade the proposed unsatisfactory safety rating to conditional, (2) not cancel the Company's permit, and (3) extend the provisional operating authority for good cause, until such a time that the Company receives a satisfactory safety rating.

Staff has verified with the Company that it has waived its right to a hearing and is recommending that the Brief Adjudicative Proceeding scheduled for June 6, 2022, be cancelled.