



STATE OF WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION

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**Date:** September 2, 2020

**To:** Samantha Doyle, Administrative Law Judge, Administrative Law Division

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

**Re: TV-200625 and TV-200626 (Consolidated) Pro Movers LLC d/b/a Groovin Movin**  
Evaluation of Safety Management Plan, Recommendations regarding the company's safety rating, and the cancellation of household goods operating authority (THG066237)

On July 7, 2020, Commission staff (staff) completed a routine safety investigation of Pro Movers LLC d/b/a Groovin Movin (Pro 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 CFR 385.5 and 385.7. In this case, Pro Movers has until September 5, 2020, 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 four violations of critical regulations – 391.45(a), 391.51(a), 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. Thirteen violations of WAC 480-15-555 – Failing to complete a criminal background check of prospective employee.
2. Twenty-four violations of Title 49 CFR § 391.45(a) – Using a driver not medically examined and certified.
3. Two violations of Title 49 CFR § 391.51(a) – Failing to maintain driver qualification file on each driver employed.

4. One hundred seven violations of Title 49 CFR § 395.8(a)(1) – Failing to require driver to prepare a record of duty status using the appropriate method.

On July 16, 2020, the commission issued a penalty assessment against Pro Movers in the amount of \$4,200 as a result of violations discovered during the routine safety investigation.<sup>1</sup> The penalty includes:

1. A \$1,300 penalty for five violations of WAC 480-15-555 for failing to complete a criminal background check of prospective employee.
2. A \$2,400 penalty for 24 violations of 49 CFR § 391.45(a) for using a driver not medically examined and certified.
3. A \$100 penalty for two violations of 49 CFR § 391.51(a) for failing to maintain a driver qualification file on each driver employed.
4. A \$100 penalty for one violation of 49 CFR § 393.75(b) for operating a commercial motor vehicle with the front tire tread depth less than 2/32 of an inch on a major tread groove.
5. A \$100 penalty for 107 violations of 49 CFR § 395.8(a)(1) for failing to require drivers to prepare a record of duty status.
6. A \$100 penalty for one violations of 49 CFR § 396.3(b) for failing to keep minimum records of inspection and vehicle maintenance.
7. A \$100 penalty for one violations of 49 CFR § 396.17(a) for using a commercial motor vehicle not periodically inspected.

On July 16, 2020, Pro Movers filed with the commission a request for relief of the penalty assessment. The commission accepted this request considering it a request for mitigation of penalties. In the request for mitigation, Andrey Goncharuk, owner of Pro Movers, cited lack of work due to the coronavirus as a hardship and stated he did not have the money to pay the penalty.

In a July 20, 2020, Notice of Intent to Cancel Certificate, the commission instructed Pro Movers to submit its proposed safety management plan no later than August 13, 2020.

During the scheduled brief adjudicative proceeding on August 27, 2020, staff provided a recommendation in response to the Company's request for mitigation of the penalty. Staff testified that Goncharuk provided some proof of corrective action by producing a medical certificate for himself. Staff recommended that the penalty assessed for the 24 violations of 49 CFR § 391.45(a) be reduced from \$2,400 to \$1,200. This recommendation would reduce the total penalty assessment from \$4,200 to \$3,000.

On August 28, 2020, Pro Movers submitted a safety management plan during a second brief adjudicative proceeding. Staff was instructed by the presiding administrative law judge to submit staff's evaluation of the plan by close of business on September 2, 2020.

Staff only recommends approving a safety management plan that addresses the following seven items:

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<sup>1</sup> TV-200625

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 Pro Movers' safety management plan and concludes it is not sufficient to justify an upgrade to the company's safety rating, and it fails to demonstrate that adequate corrective actions have been taken to address the violations cited during the safety investigation. As required by 49 CFR § 385.17(c), a motor carrier must base its request for upgrade upon evidence that it has taken corrective actions and that its operations currently meet the safety standard and factors specified in 49 CFR § 385.5 and 385.7 and must include a written description of corrective actions taken and other documentation that may be relied upon as a basis for the requested change to the proposed rating.

Pro Movers' plan fails to demonstrate that the Company understands the safety regulations that it was found to be in violation of or how to ensure future compliance. Pro Movers addressed each violation discovered and vaguely explains why the violations occurred. The plan fails to accurately demonstrate that each violation has been corrected or that the Company has sufficient safety management controls in place to ensure these violations do not reoccur in the future. Because the Company failed to submit an acceptable safety management plan, staff recommends that the Company's proposed unsatisfactory safety rating remain unsatisfactory.

A company policy manual, partial documentation of a driver qualification file and vehicle maintenance receipts were included in the plan. The Company policy manual appears to be a terms sheet for customers and fails to address applicable safety regulations.