



STATE OF WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION

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**Date:** February 9, 2024

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

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

**Re:** **TV-231020 Marsik Movers LLC**

Evaluation of Safety Management Plan, Recommendations regarding the company's safety rating, and the cancellation of household goods operating authority (THG-068754)

On March 23, 2019, the Washington Utilities and Transportation Commission (Commission) issued a provisional household good operating permit to Marsik Movers LLC (Marsik Movers or Company).

On March 9, 2022, Commission staff (Staff) completed the initial safety investigation of Marsik Movers which resulted in a proposed conditional safety rating.

As provisional household goods companies are required to achieve a satisfactory safety rating prior to receiving permanent authority, the Company was afforded 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 49 C.F.R. § 385.5 and 385.7.

On May 6, 2022, the Commission issued Order 01 Consolidating Dockets; Approving Safety Management Plan; Extending Provisional Period in Dockets TV-220168 and TV-220169 (consolidated). The Commission order:

1. Dockets TV-220168 and TV-220169 are consolidated;
2. The Commission approved Marsik Movers' SMP;
3. The Company's safety rating is set as conditional; and

4. Marsik Movers provisional period is extended until the earlier of the following: (1) Marsik Movers LLC achieves a satisfactory safety rating and permanent operating authority or (2) the Commission finds good cause to cancel the Marsik Movers LLC's operating authority.

On January 25, 2023, Staff completed a follow-up safety investigation of Marsik Movers which resulted in a proposed conditional safety rating. As a result, the Company was again afforded the opportunity to present a SMP to demonstrate correction of the identified violations.

On March 24, 2023, the Commission issued Order 01 Approving Safety Management Plan; Maintaining Safety Rating in Docket TV-230061. The Commission ordered that:

1. Marsik Movers' SMP was approved;
2. The Company's safety rating be maintained as conditional; and
3. Marsik Movers' provisional period is extended until such time as the Company achieves a satisfactory rating.

On December 14, 2023, Staff completed the second follow-up safety investigation of Marsik Movers which resulted in a proposed conditional safety rating.

**The proposed conditional safety rating was based on violations of critical regulation – 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 violations discovered during investigation:**

1. Six violations of Title 49 C.F.R. § 395.8(a)(1) – Failing to require a driver to prepare a record of duty status. (Critical)

On December 19, 2023, Marsik Movers submitted its initial SMP. Staff reviewed the plan and determined that it failed to demonstrate that the Company understood the regulatory requirements that were documented in the investigation report, nor did the plan show that the Marsik Movers had established safety management controls to prevent future occurrences of violations.

On December 28, 2023, the Commission issued a Notice of Intent to Cancel (NOIC); Notice of Prehearing Conference; Complaint for Penalties; and Notice of Brief Adjudicative Proceeding (BAP); Setting Time for Oral Statements in Docket TV-231020. The BAP was scheduled for January 31, 2024. The notice instructed Marsik Movers to submit its proposed SMP no later than January 17, 2024. The NOIC further notified the Company that the Commission intended to cancel the permit and authority on February 13, 2024, unless Marsik Movers obtains Commission approval of a safety management plan prior to that date.

On January 18, 2024, following several drafts of the SMP being sent back to the Company, Staff notified Marsik Movers that the SMP was not accepted and provided a detailed response addressing where the SMP was deficient.

On January 31, 2024, the Commission held the scheduled BAP. At the hearing, Staff testified to the discovered violations and explained how the safety rating was calculated. Further, Staff testified that Marsik Movers had not submitted an acceptable SMP, and at that time, the Company was not compliant with the safety regulations. Staff stated that it would submit an evaluation to the docket if the Company were to submit a new SMP prior to the cancellation of the permit.

On February 9, 2024, Marsik Movers submitted an updated SMP addressing each violation identified during the safety 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.

### **Summary and Recommendations**

Staff reviewed Marsik Movers' SMP and determined 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.

Documentation of an updated accident register, hours of service, vehicle maintenance, interstate registrations, and company policy information were included in the plan. Additionally, The Company provided evidence that it has created a compliance tracking system using calendar reminders for future compliance dates.

The Company took all the required steps to bring its safety operations into compliance with Commission regulations. Marsik 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 the Commission accept Marsik Movers SMP. Staff further recommends that the Commission not cancel the Company's provisional permit and extend the provisional period a third time with conditions:

1. Marsik Movers owner, Marcel Filip, complete Commission sponsored household goods industry safety training, either through the Commission's online learning system or the live virtual class provided by Staff, scheduled for March 20, 2024;
2. Staff conduct a follow-up safety investigation at least six months from the date of an Order;
3. Marsik Movers must obtain a satisfactory safety rating following the investigation;
4. Upon reinspection, the Company may not incur repeat critical violations of 49 C.F.R. § 395.8(a)(1); and
5. Failing to meet any of these conditions would constitute grounds for cancellation of the Company's provisional permit.

#### **Additional information requested by Judge Hughes regarding Company operations**

1. Company miles driven under UTC authority – Per 2022 annual report filing, Marsik Movers claims operating 45,000 regulated intrastate miles in 2022.
2. Total UTC regulated moves – Per 2022 annual report filing, Marsik Movers completed 276 UTC regulated household goods moves during 2022.
3. Investigation History
  - a. March 9, 2022, Initial safety investigation – conditional safety rating
    - i. Violations impacting safety rating
      1. 49 C.F.R. § 391.51(a) – Failing to maintain driver qualification file on each driver employed. (Critical)
      2. WAC 480-15-555 – Failing to conduct/retain paperwork containing criminal background checks or hiring an individual with a disqualifying conviction for a household goods carrier in the state of Washington. (Critical type)
      3. 49 C.F.R. § 395.8(a)(1) - Failing to require a driver to prepare a record of duty status. (Critical)

4. 49 C.F.R. § 396.17(a) – Using a commercial motor vehicle not periodically inspected. (Critical)
- b. January 25, 2023, follow-up safety investigation – conditional safety rating
    - i. Violations impacting safety rating
      1. WAC 480-15-530 – Operating a motor vehicle without having in effect the required minimum levels of financial responsibility coverage. (Acute)
  - c. December 14, 2023, second follow-up safety investigation – proposed conditional safety rating
    - i. Violations impacting safety rating
      1. 49 C.F.R. § 395.8(a)(1) - Failing to require a driver to prepare a record of duty status. (Critical)