



STATE OF WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION

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**Date:** October 25, 2019

**To:** Rayne Pearson, Director, Administrative Law Division

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

**Re:** **TV-190788 Diarra Moving & Delivery Services LLC**

Evaluation of safety management plan, recommendation regarding company safety rating, and extension of provisional household goods operating authority (THG068034)

On September 16, 2019 staff completed a routine safety investigation of Diarra Moving & Delivery Services LLC (Diarra Moving or company) resulting 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 Diarra Moving the same opportunity as companies that receive a proposed unsatisfactory safety rating to provide evidence, in the form of an approved safety management plan, 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 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, Diarra Moving has until November 15, 2019, to come into compliance with applicable laws and rules by obtaining commission approval of a safety management plan.

**The company's proposed conditional safety rating is based on two violations of two critical regulation types – 49 CFR § 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. Thirty 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.

2. Four violations of WAC 480-15-555 – Failure to complete a criminal background check for every person the carrier intends to hire.

In an October 3, 2019, Notice of Intent to Cancel Permit, the commission instructed the company to submit its proposed safety management plan no later than November 1, 2019.

On October 23, 2019, Diarra Moving 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 Diarra Moving's 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 not cancel the company's permit 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 confirmed with the company that it waives its right to a hearing. Staff recommends that the brief adjudicative proceeding scheduled for November 12, 2019, be cancelled.

The company took all the required steps to bring its safety operations into compliance with commission regulations. Diarra Moving 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 criminal background checks, bills of lading, driver qualifications, hours of service records, and vehicle maintenance records are included in the plan.