



STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

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October 18, 2019

Mark L. Johnson, Executive Director and Secretary
Washington Utilities and Transportation Commission
P.O. Box 47250
Olympia, WA 98504-7250

RE: *Washington Utilities and Transportation Commission v. Fife Maritime Inc.*
Commission Staff's Response to Application for Mitigation of Penalties
Docket TE-190825

Dear Mr. Johnson:

On October 8, 2019, the Washington Utilities and Transportation Commission (Commission) issued a penalty assessment against Fife Maritime Inc., (Fife Maritime or Company), in the amount of \$200 for violations of Washington Administrative Code (WAC) 480-30-221, Vehicle and Driver Safety Requirements, which adopts Title 49 Code of Federal Regulations (49 CFR) Part 390 – Federal Motor Carrier Safety Regulations; General, and 49 CFR Part 396 – Inspection, Repair, and Maintenance, as follows:

- **One violation of 49 CFR § 390.35 – Making, or causing to make fraudulent or intentionally false statements, fraudulent or intentionally false entries on records, and/or reproducing records for fraudulent purposes.** Fife Maritime signed the annual review of driver Chris Prestel on May 18, 2017; however, the Company did not obtain the driver's motor vehicle record until June 28, 2017.
- **Nine violations of 49 CFR § 396.11(a) – Failing to require driver to prepare driver vehicle inspection report.** Fife Maritime failed to require its drivers to prepare a driver vehicle inspection report on nine occasions.

On October 8, 2019, Fife Maritime filed with the Commission its application for mitigation of penalties. In the request for mitigation, Jon Fife, President of Fife Maritime, admits the violations and believes the penalties should be reduced for reasons set out in the response.

On September 30, 2019, the Company submitted to staff a corrective action safety plan in which the Company acknowledges the violations and describes steps it took to prevent future occurrences. Staff addresses the Company's request for mitigation, as follows:

- **Mitigation Request: 49 CFR § 390.35 – Making, or causing to make fraudulent or intentionally false statements, fraudulent or intentionally false entries on records, and/or reproducing records for fraudulent purposes.** Fife Maritime states it signed the annual review of driver Chris Prestel prior to obtaining the driver's motor vehicle record but had no intention of being fraudulent or misleading. The Company states it will have all drivers' annual reviews complete prior to the annual due date and it installed a program that lists all requirements for the annual review of drivers. Mr. Fife admits the mistake was human error and that he should have paid more attention to the documents he signed.
- **Staff response:** Staff appreciates Fife Maritime's candid response to this violation and that the Company implemented procedures intended to prevent future occurrences; however, staff does not support or recommend mitigating the penalty. The Company should be aware of the requirement to complete an annual driver check. Staff agrees with Mr. Fife that he should have a full understanding of documents prior to signing them and attesting that a driver is qualified to operate Company vehicles on public roads. The assessed penalty is \$100 for one occurrence of this first-time violation, staff recommends no mitigation.
- **Mitigation Request: 49 CFR § 396.11(a) – Failing to require driver to prepare driver vehicle inspection report.** Fife Maritime states Washington State Patrol informed the Company during a safety audit that driver vehicle inspection reports must be completed two to three times per week, and not at the completion of each day's work. Fife Maritime states it implemented a checklist for its drivers, which includes a section for completing driver vehicle inspection reports.
- **Staff response:** The Company implemented a new driver checklist to prevent future occurrences of this violation. Because the Commission assessed a "per category" penalty of \$100 for nine occurrences of this first-time violation, staff recommends no mitigation of this penalty.

Fife Maritime is a small company that operates three commercial motor vehicles and employs eight drivers. The Company reported \$530,681 in gross revenue for 2018. Staff recommends no mitigation of the \$200 penalty.

If you have any questions, please contact Jason Hoxit, Compliance Investigator, Transportation Safety, at (360) 867-8305, or by email at Jason.Hoxit@utc.wa.gov.

Sincerely,

/s/ Mathew Perkinson
MATHEW PERKINSON
Assistant Director, Transportation Safety