



STATE OF WASHINGTON
 UTILITIES AND TRANSPORTATION COMMISSION

621 Woodland Square Loop S.E. • Lacey, Washington 98503

P.O. Box 47250 • Olympia, Washington 98504-7250

(360) 664-1160 • TTY 1-800-833-6384 or 711

Received
 Records Management
 10/05/21 14:29
 State Of WASH.
 UTIL. AND TRANSP.
 COMMISSION

October 5, 2021

Amanda Maxwell, Executive Director and Secretary
 Washington Utilities and Transportation Commission
 P.O. Box 47250
 Olympia, WA 98504-7250

RE: *Washington Utilities and Transportation Commission v. Waste Management of Washington, Inc.*
 Commission Staff's Response to Application for Mitigation of Penalties
 Docket TG-210621

Dear Ms. Maxwell:

On September 13, 2021, the Washington Utilities and Transportation Commission (Commission) issued a penalty assessment against Waste Management of Washington, Inc.,¹ (Waste Management or Company) in the amount of \$19,600 for violations of Washington Administrative Code (WAC) 480-70-201, Vehicle and Driver Safety Requirements, which adopts Title 49 Code of Federal Regulations (49 CFR) Part 383 – Commercial Driver's License Standards; 49 CFR Part 391 – Qualification of Drivers; 49 CFR Part 392 – Driving of Motor Vehicles; 49 CFR Part 393 – Parts and Accessories Necessary for Safe Operation; and 49 CFR Part 396 – Inspection, Repair and Maintenance, as follows:

- **Seventy-six violations of 49 CFR § 383.23(a) – Operating a commercial motor vehicle without a valid commercial driver's license (CDL).** Waste Management

¹ Waste Management of Washington, Inc. d/b/a Waste Management of Ellensburg; Waste Management of Greater Wenatchee; Waste Management of Spokane; Waste Management-Rainier; Waste Management-Northwest; Waste Management-Sno-King; Waste Management of Kennewick; North Cascade Disposal; Recycle America; Rural Skagit Sanitation; Federal Way Disposal; Nick Raffo Garbage; R.S.T. Disposal; Tri-Star Disposal; Western Refuse; Port-O-Let; Stanwood Camano Disposal; Waste Management; Waste Management of Seattle; Waste Management of Skagit County; Waste Management of Yakima; Washington Waste Hauling & Recycling; Brem-Air Disposal; Olson's Sanitation Service; Valley Garbage; Waste Management - South Sound; Waste Management of Addy; WM Healthcare Solutions of Washington; Waste Management - North Sound; Waste Management – Marysville.

allowed driver Clifton Pollatz to operate a commercial motor vehicle without a valid CDL on 76 occasions between November 9, 2020, and March 8, 2021.

- **One violation of 49 CFR § 391.23(c) – Failing to investigate driver’s background within 30 days of employment.** The Company failed to investigate Chadwick Nunley’s driving background within 30 days of employment. Chadwick Nunley was hired on May 30, 2017, and the driver’s background investigation was conducted on July 5, 2017.
- **One hundred six violations of 49 CFR § 391.45(a) – Using a driver not medically examined and certified.** Waste Management allowed drivers Amanda Driesen and Lester Rano operate a commercial motor vehicle without a valid medical certificate on 106 occasions between October 14, 2020, and April 9, 2021.
- **Two violations of 49 CFR § 391.51(b)(2) – Failing to maintain inquiries into driver’s driving record in driver’s qualification file.** The Company failed to maintain inquiries into the driving records of Amanda Driesen and Lester Rano.
- **Two violations of 49 CFR § 391.51(b)(4) – Failing to maintain the responses of each state agency to the annual driver record inquiry required by 49 CFR § 391.25(a).** Waste Management failed to maintain annual driver abstracts for Bryn Erdman and Amanda Driesen.
- **One violation of 49 CFR § 391.51(b)(5) – Failing to maintain a note relating to the annual review of the driver’s driving record as required by 49 CFR § 391.25(c)(2).** The Company failed to maintain a note relating to the review of Vincent Olsen’s driving record.
- **Twenty-one violations of 49 CFR § 391.51(b)(6) – Failing to maintain a list or certificate relating to violations of motor vehicle laws and ordinances required by 49 CFR § 391.27.** The Company failed to maintain a list or certificate of all violations of motor vehicle traffic laws and ordinances for drivers Thomas Furin, James Thomas, Peter Clark, James Smith, Frederick Brown, Corey Glader, Eric Crowder, Darrell George Jr., Chadwick Nunley, Calvin Rusho, Gregory Thomas, Scott Crandall, Hugo Macias, Joe Saythavy, James Peters, Amanda Driesen, Shayne Meuli, Leo Bachand, Gilberto Ocampo Jr., Robert Main, and Vincent Olsen.
- **Three violations of 49 CFR § 391.51(b)(9) – Failing to place a note related to the verification of the medical examiner’s listing on the National Registry of Certified Medical Examiners required by 49 CFR § 391.23(m) in driver qualification file(s).** Waste Management failed to verify the medical examiners listed on the medical certificates of drivers Lester Rano, Anthony Brandenburg, and Todd Stewart with the national registry.
- **One violation of 49 CFR § 392.9(a)(2) – Failing to secure vehicle equipment.** Commission staff (Staff) discovered a commercial motor vehicle with a pair of orange

chocks on the battery box loose and not secured.² This commercial motor vehicle was placed out-of-service.

- **One violation of 49 CFR § 392.9(a)(2) – Failing to secure vehicle equipment.** Staff discovered a commercial motor vehicle with vehicle equipment loose and unsecured inside the hydraulic arm tub.³ This commercial motor vehicle was placed out-of-service.
- **One violation of 49 CFR § 393.45(b)(2) – Brake hose or tubing chafing and/or kinking.** Staff discovered a commercial motor vehicle with the right-side axle brake hose or tubing frayed.⁴ This commercial motor vehicle was placed out-of-service.
- **One violation of 49 CFR § 393.51 – No or defective brake warning device or pressure gauge.** Staff discovered a commercial motor vehicle with a defective primary air pressure gauge.⁵ This commercial motor vehicle was placed out-of-service.
- **Two violations of 49 CFR § 396.3(a)(1) – Tire in contact with brake hose.** Staff discovered two commercial motor vehicles with a tire contacting the brake hose.⁶ These commercial motor vehicles were placed out-of-service.
- **One violation of 49 CFR § 396.3(a)(1) – Tire in contact with another part of the vehicle.** Staff discovered a commercial motor vehicle with its tire contacting the hydraulic air line.⁷ This commercial motor vehicle was placed out-of-service.
- **Six violations of 49 CFR § 396.11(a)(3)(ii) – Failing to certify that repairs were made or were not necessary.** Waste Management failed to certify whether repairs were made or not necessary on six occasions between February 12, 2021, and April 30, 2021.

On September 28, 2021, Waste Management filed with the Commission its application for mitigation of penalties. In the request for mitigation, Adam Winston, Director of Operations for Waste Management, admits the violations, provides a safety management plan that describes in detail the corrective actions the Company has taken to remedy the violations and prevent recurrence, and asks that the penalties be reduced.

In addition, Waste Management requests mitigation of the \$6,500 imposed penalty in Docket TG-190495, and refers to the corrective actions taken in response to the penalty assessment in this docket as a reason to support reduction of the imposed penalty.

² Equipment Identification Number 417647.

³ Equipment Identification Number 212093.

⁴ Equipment Identification Number 103597.

⁵ Equipment Identification Number 633392.

⁶ Equipment Identification Numbers 103599 and 266307.

⁷ Equipment Identification Number 264761.

Amanda Maxwell

October 5, 2021

Page 4

In response to Waste Management's application for mitigation of penalties, the Company: (1) remedied the violations identified in the follow-up safety investigation; (2) submitted a detailed safety management plan describing the safety management controls administered to prevent recurrence; (3) partnered with a vendor that automates motor carrier safety compliance notifications to prevent the potential for oversight; (4) provided training to its drivers, maintenance technicians, and location managers; and (5) implemented an annual training program for its location managers. Staff addresses the penalties, as follows:

- The Commission assessed penalties in the amount of \$700 for seven out-of-service violations of 49 CFR § 392.9(a)(2), 49 CFR § 393.45(b)(2), 49 CFR § 393.51, 49 CFR § 396.3(a)(1), and 49 CFR § 396.3(a)(1). Staff recommends no mitigation for these out-of-service violations.
- The Commission assessed "per category" penalties in the amount of \$700 for 36 repeat violations of 49 CFR § 391.23(c), 49 CFR § 391.51(b)(2), 49 CFR § 391.51(b)(4), 49 CFR § 391.51(b)(5), 49 CFR § 391.51(b)(6), 49 CFR § 391.51(b)(9), and 49 CFR § 396.11(a)(3)(ii). Staff recommends no mitigation for these repeat violations.
- The Commission assessed a penalty of \$7,600 for 76 violations of 49 CFR § 383.23(a). Staff recommends the penalty be reduced to \$3,800.
- The Commission assessed a penalty of \$10,600 for 106 violations of 49 CFR § 391.45(a). Staff recommends the penalty be reduced to \$5,300.
- The Commission imposed the suspended penalty of \$6,500 against Waste Management for failing to satisfy each requirement of Order 03 in Docket TG-190495. Staff recommends no mitigation for the imposed penalty, as the penalty amount was already mitigated in Order 01 in Docket TG-190495.

Staff recommends the penalty of \$19,600 be reduced to \$10,500. Staff further recommends that \$5,500 of the reduced penalty be suspended for a period of two years before being waived, on the conditions that: (1) Staff conducts a focused safety investigation of 49 CFR Parts 383 and 391 in two years or as soon thereafter as practicable to review the Company's compliance, (2) the Company not incur any repeat violations of critical regulations, and (3) Waste Management pays the \$5,000 portion of the penalty that is not suspended.

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,



Digitally signed by Sharp, Jason (UTC)
Date: 2021.10.05 12:37:53 -0700

Jason Sharp
Motor Carrier Safety Supervisor, Transportation Safety