



STATE OF WASHINGTON
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
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Date: August 5, 2016

To: Chairman Dave Danner
Commissioner Philip Jones
Commissioner Ann Rendahl

From: David Pratt
Assistant Director, Transportation Safety

Re: Findings of July 2016 follow up safety compliance investigation
of Ride the Ducks of Seattle – Docket TE-151906

Background

On Sept. 24, 2015, a Ride the Ducks vehicle was involved in a multi-vehicle incident on the Aurora Bridge in Seattle, Washington that resulted in five fatalities and numerous injuries.

On Sept. 28, 2015, the commission ordered an emergency suspension of Ride the Ducks' excursion service carrier authority. The commission instructed its safety compliance staff to conduct a comprehensive investigation into the company's safety practices, including maintenance of vehicles, driver safety, and other operational issues.

The safety investigation, completed in December 2015, revealed over 440 violations including one violation of an acute regulation and six violations of critical regulations. *The investigation resulted in an unsatisfactory safety rating.*

On December 22, 2015, the Commission issued Order 05, lifting the suspension of Certificate No. ES-00146 to operate and provide excursion services held by Ride the Ducks of Seattle, LLC but only using its "Truck Duck" vehicles.

Order 05 also required Ride the Ducks of Seattle, LLC d/b/a Seattle Duck Tours to request and receive a change to its unsatisfactory safety rating by January 29, 2016, including but not limited to obtaining Commission approval of a safety management plan. Another condition required the company to add a second staff member to every tour so that the driver is responsible only for operating the vehicle.

On January 27, 2016, Order 06 upgraded the safety rating for Ride the Ducks of Seattle, LLC from unsatisfactory to conditional. Commission staff were instructed to conduct a follow-up compliance review inspection within six months of the date of the Order and again within one year. Staff will

conduct another safety inspection after two years and issue a safety rating for Ride the Ducks of Seattle, LLC d/b/a Seattle Duck Tours based on the outcome of that inspection.

On May 3, 2016, Order 08 approved a settlement agreement between staff and the company with conditions. The Commission ordered Ride the Ducks to pay a total penalty of \$308,000 with \$152,000 suspended on the condition that Ride the Ducks of Seattle, LLC commits no new violations of the following laws or regulations for a period of 24 months, effective the date of the Order.

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|-----------------------------|----------------------|
| a) 49 CFR Part 383.37 | d) 49 CFR Part 395.5 |
| b) 49 CFR Part 391.45 | e) 49 CFR Part 395.8 |
| c) 49 CFR Part 391.51(b)(7) | f) RCW 81.04.530 |

Investigation Findings

Investigators Mat Perkinson and Sandi Yeomans began a compliance investigation on July 11, 2016 and completed it on July 28, 2016. The investigation covered the period from the closing date of the previous investigation, December 15, 2015, through July 11, 2016.

During this compliance review investigation, staff inspected the carriers' vehicles, books, and records to ensure the company is in compliance with required safety standards. Staff conducted an onsite examination of Ride the Ducks' operations such as drivers' hours of service, maintenance and inspection, driver qualification, commercial drivers' license requirements, insurance, accidents, hazardous materials, and other safety and transportation records to determine whether Ride the Ducks meets the safety fitness standard. Vehicle inspections also were conducted.

At the conclusion of the investigation, staff also checked to see if the company had committed any repeat violations from the 2015 investigation. Staff found no repeat violations.

Violations Discovered:

One violation of 49 CFR Part 391.21(a) – Using a driver who has not completed and furnished an employment application. Driver Paul Langer's employment application does not include employment history. The application also fails to specify whether or not previous employment was subject to the Federal Motor Carrier Safety Regulations (FMCSR).

Three violations of 49 CFR Part 395.8(h)(5) – Failing to record the name of the city, town, or village, with State abbreviation where each change of duty status occurs. Drivers William Elmer, Robert Merry, and Randal Nelson's logbooks did not list at each change of duty status the name of the city, town, or village with State abbreviation.

A copy of the staff investigation is included as Attachment A.

Recommendations

Staff found only minor recordkeeping violations during its review. The acute and critical violations found during the December 2015 investigation have been corrected and the company is in compliance. Staff recommends no further action at this time and will conduct another follow-up investigation in February 2017.