

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

NOTICE OF PENALTIES INCURRED AND DUE  
FOR VIOLATIONS OF LAWS AND RULES

PENALTY ASSESSMENT: TC-160332  
PENALTY AMOUNT: \$200

PACIFIC NORTHWEST TRANSPORTATION SERVICES, INC  
DBA CAPITAL AEROPORTER  
2745 29<sup>TH</sup> AVENUE SOUTHWEST, SUITE B  
TUMWATER, WA 98512

The Washington Utilities and Transportation Commission (Commission) believes that you have committed violations of Washington Administrative Code (WAC) 480-30-221 – Vehicle and Driver Safety Requirements, which requires auto transportation companies to comply with Title 49 Code of Federal Regulations (CFR) Part 391 Qualifications of Drivers. Revised Code of Washington (RCW) 81.04.405 allows penalties of one hundred dollars for every such violation. In the case of an ongoing violation every day's continuance is considered a separate and distinct violation.

On March 21, 2016, Commission Motor Carrier Investigator Sandi Yeomans conducted a compliance review of Pacific Northwest Transportation Services, Inc. d/b/a Capital Aeroporter (Capital Aeroporter) and documented the following violations of critical regulations:

- **One violation of CFR Part 391.52(b)(2) – Failing to maintain driving record inquiries in driver's qualification file.** Capital Aeroporter failed to maintain driving record inquiries in the qualification files of drivers Jeffery Dunlap, Oscar Bailey, and Chris Hoffman.
- **One violation of CFR Part 391.51(b)(7) – Failing to maintain medical examiner's certificate in driver's qualification file.** Capital Aeroporter failed to maintain medical examiner's certificates in the qualification files of drivers Paul Vitous and Chris Hoffman.

The Commission considered the following factors in determining the appropriate penalties for these violations:

1. **How serious or harmful the violation is to the public.** The violations noted are serious and potentially harmful to the public. Companies that fail to maintain complete driver qualification files put the traveling public at risk. A driver whose driving privilege has been invalidated in another state or with an undocumented medical condition could present serious safety concerns.
2. **Whether the violation is intentional.** Considerations include:

- Whether the company ignored Commission Staff's (Staff's) previous technical assistance; and
- Whether there is clear evidence through documentation or other means that shows the company knew of and failed to correct the violation.

Capital Aeroporter is a well-established company and has operated for many years with no violations of these types. Commission Transportation Safety staff conducted compliance reviews and provided technical assistance to Capital Aeroporter in 2005, 2008 and 2012, and noted only minor, if any violations.

The company knew, or should have known, about these requirements.

3. **Whether the company self-reported the violation.** The company did not self-report these violations.
4. **Whether the company was cooperative and responsive.** Company representatives were cooperative throughout the process and expressed their desire to correct the violations.
5. **Whether the company promptly corrected the violations and remedied the impacts.** Staff provided technical assistance, and the company expressed its interest in correcting the violations, although staff has not yet seen evidence of correction.
6. **The number of violations.** The number of critical violations noted is small.
7. **The number of customers affected.** Capital Aeroporter reported travelling 1.3 million miles in 2015. Many customers and the travelling public were potentially put at risk by these violations.
8. **The likelihood of recurrence.** This company has been through several compliance reviews, yet these are first-time violations. Staff believes that the company should be able to make the necessary administrative and operational changes to ensure these or similar violations do not reoccur.
9. **The company's past performance regarding compliance, violations, and penalties.** These violations are the company's first violations of this type.
10. **The company's existing compliance program.** Historically the company's compliance program has been adequate in its ability to ensure compliance with critical safety regulations.
11. **The size of the company.** Capital Aeroporter operates 23 commercial vehicles with 36 drivers. The company reported \$2.3 million in gross revenue for 2015 and logged 1.3 million miles.

The violations noted in the compliance review were first-time violations, but the Commission's Enforcement Policy provides that some Commission requirements are so fundamental to safe operations that the Commission will issue penalties for a first-time violation, regardless of whether staff has previously provided technical assistance on specific issues.<sup>1</sup> In other cases, the Commission may assess penalties for critical violation types when the same violations were noted in previous compliance reviews and staff provided the company with technical assistance to avoid future violations.

**The Commission has considered these factors and determined that Capital Aeroporter should be penalized \$200 -- \$100 each for both violations of WAC 480-30-221 which adopts CFR Parts 391 as follows:**

- One violation of CFR Part 391.52(b)(2) – Failing to maintain driving record inquiries in driver's qualification file. This is a first-time violation, but the Commission grants no leeway with violations of this type.
- One violation of CFR Part 391.51(b)(7) – Failing to maintain medical examiner's certificate in driver's qualification file. This is also a first-time violation, but the Commission grants no leeway with violations of this type.

This information, if proven at a hearing and not rebutted or explained, is sufficient to support the penalty assessment.

Your penalty is due and payable now. If you believe the violations did not occur, you may deny committing the violation and contest the penalty assessment through evidence presented at a hearing or in writing. The Commission will grant a request for hearing only if material issues of law or fact concerning the violation require consideration of evidence and resolution in a hearing. Any contest of the penalty assessment must include a written statement of the reasons supporting that contest. Failure to provide such a statement will result in denial of the contest.

If there is a reason for the violations that you think should excuse you from the penalty, you may ask for mitigation (reduction) of this penalty through evidence presented at a hearing or in writing. The Commission will grant a request for hearing only if material issues of law or fact require consideration of evidence and resolution in a hearing. Any request for mitigation must include a written statement of the reasons supporting that request. Failure to provide such a statement will result in denial of the request. *See* RCW 81.04.405.

If you properly present your request for a hearing and the Commission grants that request, the Commission will review the evidence supporting your dispute of the violation or application for mitigation in a Brief Adjudicative Proceeding before an administrative law judge. The administrative law judge will consider the evidence and will notify you of his or her decision.

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<sup>1</sup> Docket A-120061 – Enforcement Policy of the Washington Utilities & Transportation Commission – Section V.



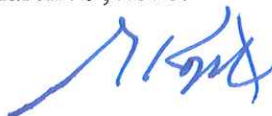
**You must act within 15 days after receiving this notice** to do one of the following:

- Pay the amount due.
- Contest the occurrence of the violations.
- Request mitigation to contest the amount of the penalty.

Please indicate your selection on the enclosed form and send it to the Washington Utilities and Transportation Commission, Post Office Box 47250, Olympia, Washington 98504-7250, **within FIFTEEN (15) days** after you receive this notice.

**If you do not act within 15 days**, the Commission may refer this matter to the Office of the Attorney General for collection. The Commission may then sue you to collect the penalty.

DATED at Olympia, Washington, and effective March 29, 2016.



GREGORY J. KOPTA  
Administrative Law Judge

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION  
PENALTY ASSESSMENT TC-160332

**PLEASE NOTE:** You must complete and sign this document, and send it to the Commission within 15 days after you receive the penalty assessment. Use additional paper if needed.

I have read and understand RCW 9A.72.020 (printed below), which states that making false statements under oath is a class B felony. I am over the age of 18, am competent to testify to the matters set forth below and I have personal knowledge of those matters. I hereby make, under oath, the following statements.

1. **Payment of penalty.** I admit that the violation occurred and enclose \$ \_\_\_\_\_ in payment of the penalty.

2. **Contest the violation.** I believe that the alleged violation did not occur for the reasons I describe below:

a) I ask for a hearing to present evidence on the information I provide above to an administrative law judge for a decision

OR  b) I ask for a Commission decision based solely on the information I provide above.

3. **Application for mitigation.** I admit the violation, but I believe that the penalty should be reduced for the reasons set out below:

a) I ask for a hearing to present evidence on the information I provide above to an administrative law judge for a decision

OR  b) I ask for a Commission decision based solely on the information I provide above.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing, including information I have presented on any attachments, is true and correct.

Dated: \_\_\_\_\_ [month/day/year], at \_\_\_\_\_ [city, state]

\_\_\_\_\_  
Name of Respondent (company) – please print

\_\_\_\_\_  
Signature of Applicant

RCW 9A.72.020:

“Perjury in the first degree. (1) A person is guilty of perjury in the first degree if in any official proceeding he makes a materially false statement which he knows to be false under an oath required or authorized by law. (2) Knowledge of the materiality of the statement is not an element of this crime, and the actor’s mistaken belief that his statement was not material is not a defense to a prosecution under this section. (3) Perjury in the first degree is a class B felony.”