

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT: TE-240822

PENALTY AMOUNT: \$1,700

Fife Maritime Inc.
2917 SW 332nd Place
Federal Way, WA 98023

The Washington Utilities and Transportation Commission (Commission) believes Fife Maritime Inc. (Fife Maritime or Company) violated Washington Administrative Code (WAC) 480-30-221, Vehicle and Driver Safety Requirements, which adopts Title 49 Code of Federal Regulations (49 C.F.R.) Part 391 - Qualification of Drivers and 49 C.F.R. Part 396 - Inspection, Repair, and Maintenance.

Revised Code of Washington (RCW) 81.04.405 allows penalties of \$100 for each violation. In the case of an ongoing violation, every day's continuance is considered a separate and distinct violation.

On October 29, 2024, Commission Motor Carrier Safety Investigator Tracy Cobile completed a routine safety inspection of Fife Maritime and documented the following violations:

- **Five violations of 49 C.F.R. § 391.21(a) - Using a driver who has not completed and furnished an employment application.** Fife Maritime failed to obtain completed driver applications for drivers Steve Desitter, Martin Guirado, Tracy LeBlanc, Randy Sherman, and Mike Somorano.
- **Three violations of 49 C.F.R. § 391.25(a) - Failing to make an inquiry into the driving record of each driver to the appropriate State agencies in which the driver held a commercial motor vehicle operator's license at least once every 12 months.** The Company failed to acquire the driving records of Martin Guirado, Randy Sherman, and Mike Somorano at least once every 12 months.
- **Eleven violations of 49 C.F.R. § 391.45(a) - Using a driver not medically examined and certified.** Fife Maritime allowed driver Randy Sherman to operate a motor vehicle without a valid medical certificate on 11 occasions between July 3, 2024, and September 29, 2024.
- **Three violations of 49 C.F.R. § 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 Martin Guirado, Randy Sherman, and Mike Somorano.

- **Three violations of 49 C.F.R. § 396.3(b)(3) - Failing to keep a record of inspection, repairs and maintenance indicating their date and nature.** The Company failed to maintain a preventative maintenance program for three CMVs.
- **Two violations of 49 C.F.R. § 396.11(a) - Failing to require driver to prepare driver vehicle inspection report (DVIR).** The Company failed to require drivers John Fife and Michael Germainis to prepare driver vehicle inspection reports on two occasions.
- **Two violations of 49 C.F.R. § 396.17(a) - Using a commercial motor vehicle not periodically inspected.** Fife Maritime failed to annually inspect two of its commercial motor vehicles (CMV).

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

1. **How serious or harmful the violations are to the public.** The violations noted are serious and potentially harmful to the public. Passenger transportation companies that: (1) use drivers that have not completed employment applications, (2) fail to obtain annual driving records for its drivers, (3) use drivers who are not medically certified, (4) fail to maintain inquiries into drivers' driving records, (5) fail to have drivers prepare vehicle inspection reports, (6) use CMVs not periodically inspected, and (7) fail to implement preventative maintenance programs for CMVs put their customers and the traveling public at risk. These violations present significant safety concerns.
2. **Whether the violations were intentional.** Considerations include:
 - Whether the Company ignored Commission staff's (Staff) 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 violations.

On April 18, 2017, the Commission received the Company's application for charter and excursion service authority. In the application, Jon Fife, President of Fife Maritime, acknowledged the Company's responsibility to understand and comply with applicable motor carrier safety regulations.

On May 5, 2017, Staff provided new entrant safety regulation training to Fife Maritime, which included providing technical assistance pertaining to 49 C.F.R. Part 391 and 49 C.F.R. Part 396.

On September 23, 2019, Staff completed a routine safety investigation of the Company where violations of 49 C.F.R. 391.21(a), 391.25(a), 396.3(b)(3), and 396.11(a) were identified.

The Company knew or should have known about these requirements.

3. **Whether the Company self-reported the violations.** Fife Maritime did not self-report these violations.

4. **Whether the Company was cooperative and responsive.** The Company was cooperative throughout the safety investigation.
5. **Whether the Company promptly corrected the violations and remedied the impacts.** Fife Maritime corrected violations as they were discovered.
6. **The number of violations.** Staff identified 19 violation types with a total of 53 individual occurrences during the routine safety investigation of Fife Maritime. Of those violations, Staff identified seven violation types with 29 individual occurrences that warrant a penalty in accordance with the Commission’s Enforcement Policy.
7. **The number of customers affected.** Fife Maritime last reported traveling 68,950 miles for 2023. These safety violations present a public safety risk.
8. **The likelihood of recurrence.** The Company was cooperative throughout the safety investigation. Staff provided technical assistance with specific remedies the Company could use to assess how well its safety management plan operates and how to begin improving its safety performance. In light of these factors, Staff believes the likelihood of recurrence is low.
9. **The Company’s past performance regarding compliance, violations, and penalties.** On October 8, 2019, the Commission assessed a \$200 penalty against Fife Maritime in Docket TE-190825 for safety violations of 49 C.F.R. § 390.35 and 49 C.F.R. § 396.11(a).

On November 15, 2019, the Company paid that penalty in full
10. **The Company’s existing compliance program.** Jon Fife, Safety Director, is responsible for the Company’s safety compliance program.
11. **The size of the Company.** The Company employs 15 drivers and operates four commercial motor vehicles. The Company reported \$314,035.98 in gross revenue in 2023.

The Commission’s Enforcement Policy provides that some Commission requirements are so fundamental to safe operations that the Commission will issue mandatory penalties for each occurrence of a first-time violation.¹ The Commission generally will assess penalties by violation category, rather than per occurrence, for first-time violations of those critical regulations that do not meet the requirements for mandatory penalties. The Commission will assess penalties for any equipment violation meeting the Federal Motor Carrier Safety Administration’s “out-of-service” criteria and also for repeat violations of critical regulations, including each occurrence of a repeat violation.

The Commission has considered these factors and determined that it should penalize Fife Maritime \$1,700 (Penalty Assessment), calculated as follows:

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

- Five violations of 49 C.F.R. § 391.21(a) - Using a driver who has not completed and furnished an employment application. The Commission assesses a \$100 “per category” penalty for these repeat violations.
- Three violations of 49 C.F.R. § 391.25(a) - Failing to make an inquiry into the driving record of each driver to the appropriate State agencies in which the driver held a commercial motor vehicle operator's license at least once every 12 months. The Commission assesses a \$100 “per category” penalty for these repeat violations.
- Eleven violations of 49 C.F.R. § 391.45(a) - Using a driver not medically examined and certified. The Commission assesses a penalty of \$100 for each occurrence of these critical-type violations, for a total of \$1,100.
- Three violations of 49 C.F.R. § 391.51(b)(2) - Failing to maintain inquiries into driver's driving record in driver's qualification file. The Commission assesses a \$100 “per category” penalty for these critical violations.
- Two violations of 49 C.F.R. § 396.11(a) - Failing to require driver to prepare driver vehicle inspection report (DVIR). The Commission assesses a \$100 “per category” penalty for these repeat critical-type violations.
- Two violations of 49 C.F.R. § 396.17(a) - Using a commercial motor vehicle not periodically inspected. The Commission assesses a \$100 “per category” penalty for these critical violations.
- Three violations of 49 C.F.R. § 396.3(b)(3) - Failing to keep a record of inspection, repairs and maintenance indicating their date and nature. The Commission assesses a \$100 “per category” penalty for these repeat violations.

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 violations and contest the penalty through evidence presented at a hearing or in writing. Alternatively, if there is a reason for the violations that you believe should excuse you from the penalty, you may ask for mitigation (reduction) of the 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 to contest the violations or for mitigation of the penalty 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 violations 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 their decision.

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.
- Admit the violations but request mitigation of the penalty amount.

Please indicate your selection on the enclosed form and submit it electronically through the Commission's web portal at <https://efiling.utc.wa.gov/Form> **within FIFTEEN (15) days** after you receive this Penalty Assessment.² If you are unable to use the web portal, you may submit it via email to records@utc.wa.gov. If you are unable to submit the form electronically, you may send a paper copy to the Washington Utilities and Transportation Commission, PO Box 47250, Olympia, Washington 98504-7250.

If you wish to make a payment online, please use this link: [Make a Payment Now \(wa.gov\)](#).³

If you do not act within 15 days, the Commission may take additional enforcement action, including but not necessarily limited to suspending or revoking your certificate to provide regulated service, assessing additional penalties, or referring this matter to the Office of the Attorney General for collection.

DATED at Lacey, Washington, and effective November 14, 2024.

/s/ James E. Brown II
JAMES E. BROWN II
Interim Director, Administrative Law
Division

² <https://efiling.utc.wa.gov/Form>.

³ <https://www.utc.wa.gov/documents-and-proceedings/online-payments/make-payment-now>

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT TE-240822

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, 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(s) occurred.
 Enclose \$1,700 in payment of the penalty.
 OR Attest that I have paid the penalty in full through the Commission's payment portal.
2. **Contest the violation(s).** I believe that the alleged violation(s) did not occur for the reasons I describe below **(if you do not include reasons supporting your contest here, your request will be denied):**
- 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(s), but I believe that the penalty should be reduced for the reasons set out below **(if you do not include reasons supporting your application here, your request will be denied):**
- 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 they make a materially false statement which they know 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 their 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.