

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Investigation of LEAVENWORTH SHUTTLE & TAXI, LLC For Compliance with WAC 480-30-221	DOCKET TE-161021 <i>(Consolidated)</i>
In the Matter of the Penalty Assessment Against LEAVENWORTH SHUTTLE & TAXI, LLC In the amount of \$19,800	DOCKET TE-161020 <i>(Consolidated)</i> DECLARATION OF SANDRA YEOMANS

- 1 I, Sandra Yeomans, under penalty of perjury under the laws of the State of Washington, declare as follows:
- 2 I am over 18 years of age, a citizen of the United States, a resident of the State of Washington, and competent to be a witness.
- 3 I am employed by the Washington Utilities and Transportation Commission (Commission), where I have worked as a Special Investigator in the Transportation Division since August 19, 2015. My duties include conducting investigations of companies that may be operating in violation of Commission rules or State statutes enforced by the Commission. As part of those duties, I investigate whether companies are in compliance with the safety rules of the Commission, found in WAC 480-30 and Title 49 C.F.R. I have been employed by the Commission for approximately three years.
- 4 On November 19, 2018, I completed a safety investigation of Leavenworth Shuttle & Taxi, LLC (“Leavenworth Shuttle & Taxi” or “the Company”).
- 5 I discovered four violations of 49 C.F.R. § 382.305(i)(2) – Failing to ensure that each driver subject to random alcohol and controlled substances testing has an equal chance of being selected each time selections are made. The Company did not have the correct employees in the controlled substance and alcohol testing program for each quarterly draw in 2017.
- 6 I discovered one violation of 49 C.F.R. § 391.45(a) – Using a driver not medically examined and certified. The Company allowed Michael Kaelin to drive on 24 occurrences without a valid medical certificate.


- 7 I discovered 25 violations of 49 C.F.R. § 395.8(a)(1) – Failing to require a driver to prepare a record of duty status using appropriate method. The Company allowed Michael Kaelin to drive nine times and Dallas Grant to drive 16 times without completing a record of duty status in the month of August 2017.
- 8 I discovered 82 violations of 49 C.F.R. § 396.11(a) – Failing to require a driver to prepare a driver vehicle inspection report. The Company allowed Michael Kaelin to operate a vehicle 15 times in July, 19 times in August, and eight times in September 2018 without completing a driver vehicle inspection report. The company allowed Dallas Grant to operate six times in July, 18 times in August, and 16 times in September 2018 without completing a driver vehicle inspection report.
- 9 My assignment report, detailing the violations I discovered during the safety investigation, is attached to my declaration as Attachment A.

DATED at Olympia, Washington, and effective this 18th day of December, 2018.


SANDRA YEOMANS


ATTACHMENT A

Washington Utilities Transportation Commission

	US DOT # 2393914	Legal: LEAVENWORTH SHUTTLE & TAXI LLC Operating (DBA): LEAVENWORTH SHUTTLE & TAXI					
	MC/MX #:	State #: CH65060	Federal Tax ID: 46-2366842 (EIN)				
Review Type: Compliance Review (CR)							
Scope:	Principal Office	Location of Review/Audit: Company facility in the U. S.				Territory:	
Operation Types		Interstate	Intrastate	Business: Corporation			
Carrier:	N/A	Non-HM		Gross Revenue: \$500,000.00			
Shipper:	N/A	N/A		for year ending: 12/31/2017			
Cargo Tank:	N/A						
Company Physical Address:							
11610 EAGLE CREEK RD LEAVENWORTH, WA 98826							
Contact Name: David Witt							
Phone numbers: (1) 509-670-1849 (2) Fax							
E-Mail Address: leavenworthshuttle@outlook.com							
Company Mailing Address:							
11610 EAGLE CREEK RD LEAVENWORTH, WA 98826							
Carrier Classification							
Authorized for Hire							
Cargo Classification							
Passengers							
Equipment							
	Owned	Term Leased	Trip Leased		Owned	Term Leased	Trip Leased
Motor Coach	6	0	0	Van, 9-15	4	0	0
Power units used in the U.S.:10							
Percentage of time used in the U.S.:100							
Does carrier transport placardable quantities of HM? No							
Is an HM Permit required? N/A							
Driver Information							
	Inter	Intra	Average trip leased drivers/month: 0				
< 100 Miles:		4	Total Drivers: 4				
>= 100 Miles:			CDL Drivers: 2				



ATTACHMENT A

	LEAVENWORTH SHUTTLE & TAXI (LEAVENWORTH SHUTTLE & dba) U.S. DOT #: 2393914 State #: CH65060	Review Date: 11/19/2018
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Part A

QUESTIONS regarding this report or the Federal Motor Carrier Safety rules may be addressed to the Office of Motor Carriers at:


Sandi Yeomans
P.O. Box 47250 Olympia WA 98504-7250
(360) 664-1237 sandra.yeomans@utc.wa.gov

This report will be used to assess your safety compliance.

<u>Person(s) Interviewed</u>	
Name: David Witt	Title: Owner
Name:	Title:



ATTACHMENT A

	LEAVENWORTH SHUTTLE & TAXI (LEAVENWORTH SHUTTLE & dba) U.S. DOT #: 2393914	State #: CH65060	Review Date: 11/19/2018
	Part B Violations		

Part B Violations

1 STATE CRITICAL	Primary: 395.8(a)(1) Secondary: 395.8(a)	Discovered 25	Checked 60	Drivers/Vehicles In Violation 2 Checked 4
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Description
 Failing to require a driver to prepare a record of duty status using appropriate method.

Example
 Driver: Michael Kaelin
 Trip Date: August 1, 9, 10, 14, 15, 17, 18, 23, and 25.
 Description of Violation: Failing to make a record of duty of status.

Driver: Dallas Grant
 Trip Date: August 4, 5, 6, 12, 13, 14, 15, 17, 19, 20, 22, 23, 24, 25, 26, and 27
 Description of Violation: Failing to make a record of duty of status.

2 STATE CRITICAL	Primary: 396.11(a) CFR Equivalent: 396.11(a)	Discovered 82	Checked 97	Drivers/Vehicles In Violation 3 Checked 5
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Description
 Failing to require driver to prepare driver vehicle inspection report.

Example
 Driver name: Michael Kaelin
 Vehicle Number: 1GJHG39K191155602
 Trip Date: July 2, 4, 5, 7, 8, 12, 13, 14, 15, 19, 20, 21, 22, 23, and 24. August: 1, 2, 3, 4, 5, 6, 7, 8, 12, 14, 15, 16, 17, 18, 21, 22, 23, 25, and 30. September 1, 6, 15, 20, 21, 22, 27, and 29
 Description of Violation: Not completing vehicle inspections reports.

Driver name: Dallas Grant
 Vehicle Number: 1GAHG9K681111185
 Trip Date: July 26, 27, 28, 29, 30, and 31. August 3, 4, 5, 6, 12, 13, 14, 15, 17, 19, 20, 22, 23, 24, 25, 26, 27, and 31.
 September: 1, 2, 3, 9, 10, 14, 15, 16, 17, 21, 22, 23, 24, 28, 29, and 30.
 Description of Violation: Not completing vehicle inspections reports.

3 STATE CRITICAL	Primary: 396.17(a) CFR Equivalent: 396.17(a)	Discovered 3	Checked 3	Drivers/Vehicles In Violation 3 Checked 3
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Description
 Using a commercial motor vehicle not periodically inspected.


Example
 Vehicle: 1GAHG9K681111185
 Date of trip: 9/27/2018

Vehicle: 1GJHG39K191155602
 Trip Date: 9/29/2018

Vehicle: 1GAHG39K881153485
 Trip Date: 9/27/2018



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	LEAVENWORTH SHUTTLE & TAXI (LEAVENWORTH SHUTTLE & dba) U.S. DOT #: 2393914	State #: CH65060	Review Date: 11/19/2018
	Part B Violations		

Part B Violations

4 STATE	Primary: 382.305(b)(1)	Discovered 1	Checked 1	Drivers/Vehicles	
	CFR Equivalent: 382.305(b)(1)			In Violation 1	Checked 1

Description
 Failing to conduct random alcohol testing at an annual rate of not less than the applicable annual rate of the average number of driver positions.
 Driver name: Hilary Mason
 Trip date: 07/28/2017
 Calendar year: 2017

5 STATE	Primary: 382.305(i)(2)	Discovered 4	Checked 4	Drivers/Vehicles	
	CFR Equivalent: 382.305(i)(2)			In Violation 4	Checked 4


Description
 Failing to ensure that each driver subject to random alcohol and controlled substances testing has an equal chance of being selected each time selections are made.
Example
 Draw date 01/10/2017, pool shows three drivers, two not removed.
 Draw date 04/11/2017, pool shows two drivers, one not removed.
 Draw date 07/06/2017, pool shows two drivers, one not removed.
 Draw date 10/02/2017, pool shows three drivers, two not removed.

6 STATE	Primary: 391.45(a)	Discovered 1	Checked 5	Drivers/Vehicles	
	Secondary: 391.11(a) CFR Equivalent: 391.45(a)			In Violation 1	Checked 5

Description
 Using a driver not medically examined and certified.
Example
 Driver name: Michael Kaelin
 Trip date: 9/13/2018
 Description of violation: No valid medical card from 7/26/2017 to 10/4/2018.



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Part B Violations		

7 STATE	Primary: 396.11(c)(1) CFR Equivalent: 396.11(c)(1)	Discovered 4	Checked 39	Drivers/Vehicles In Violation Checked 3 5
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Description
 Failing to certify that repairs were made or were not necessary.
 Driver Name: Dallas Grant
 Vehicle Number: 1GAHG9K681111185
 DVIR Date: 9/6/2018
 Trip Date: 9/6/2018
 Violation Description: Failing to sign driver vehicle report from previous trip.

Driver Name: Michael Kaelin
 Vehicle Number: 1GJHG39K191155602
 DVIR Date: 9/18/2018
 Trip Date: 9/18/2018
 Violation Description: Failing to sign driver vehicle report from previous trip.

Driver Name: Michael Kaelin
 Vehicle Number: 1GAHG39K881153485
 DVIR Date: 9/27/2018
 Trip Date: 9/27/2018
 Violation Description: Failing to sign driver vehicle report from previous trip.

Driver Name: Michael Kaelin
 Vehicle Number: 1GAHG9K681111185
 DVIR Date: 9/5/2018
 Trip Date: 9/5/2018
 Violation Description: Failing to sign driver vehicle report from previous trip.

8 STATE	Primary: 396.13(c) CFR Equivalent: 396.13(c)	Discovered 3	Checked 39	Drivers/Vehicles In Violation Checked 3 5
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Description
 Failing to require driver to sign the last vehicle inspection report when defects or deficiencies were noted.

Example
 Driver Name: Dallas Grant
 Vehicle: 1GAHG9K681111185
 Trip Date: 9/7/2018


Driver Name: Michael Kaelin
 Vehicle: 1GJHG39K191155602
 Trip Date: 9/20/2018

Driver Name: Michael Kaelin
 Vehicle: 1GAHG9K681111185
 Trip Date: 9/6/2018

Safety Fitness Rating Information: Total Miles Operated 120,000 Recordable Accidents 0 Recordable Accidents/Million Miles 0.00	OOS Vehicle (CR): 0 Number of Vehicle Inspected (CR): 5 OOS Vehicle (MCMIS): 0 Number of Vehicles Inspected (MCMIS): 0
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	LEAVENWORTH SHUTTLE & TAXI (LEAVENWORTH SHUTTLE & dba) U.S. DOT #: 2393914	Review Date: 11/19/2018
Part B Violations		

Your proposed safety rating is : CONDITIONAL	Rating Factors		
		Acute	Critical
	Factor 1:	S	0
	Factor 2:	S	0
	Factor 3:	U	0
	Factor 4:	C	2
	Factor 5:	N	0
	Factor 6:	S	-



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	LEAVENWORTH SHUTTLE & TAXI (LEAVENWORTH SHUTTLE & dba) U.S. DOT #: 2393914 State #: CH65060	Review Date: 11/19/2018
Part B Requirements and/or Recommendations		

1. Within 15 days, send a letter to the UTC describing what actions you have taken in response to this review to ensure that you are complying with the Motor Carrier Safety Regulations.

Identify each violation and why the violations were permitted to occur.

Address the actions taken to correct the deficiency or deficiencies that allowed the violations to occur. Include actual documentation of this corrective action (new policies, procedures, training programs etc.).

Outline actions taken to ensure that similar violations do not reoccur in the future.

Address your response to:

Washington Utilities and Transportation Commission
Attention: Sandi Yeomans
PO Box 47250
Olympia, WA 98504-7250
or sandra.yeomans@utc.wa.gov

2. DRIVER FITNESS BASIC PROCESS BREAKDOWN: Monitoring and Tracking

DESCRIPTION OF PROCESS BREAKDOWN: Leavenworth Shuttle & Taxi failed to monitor the due dates for driver certificates and allowed drivers to operate vehicles without a valid medical certificate.

BASIC SPECIFIC RECOMMENDED REMEDIES

Implement Safety Improvement Practices: The following are recommended practices related to Monitoring and Tracking Processes.

Implement an effective process for monitoring and documenting all drivers' job functions, training, qualifications, renewal dates, disclosed medical conditions, and operational restrictions, including those of drivers on a waiver program or with impairments that may be satisfied by a Skill Performance Evaluation certificate, to ensure that assignments are covered by qualified drivers.

Evaluate personnel who are monitoring driver fitness performance by making sure they are reviewing driver-assignment and qualification files; applying the performance standards fairly, consistently, and equitably; and documenting the evaluations.

When monitoring and tracking any driver-fitness-related issue, always assess whether it is individual or represents a systemic breakdown in one of the Safety Management Processes (Policies and Procedures, Roles and Responsibilities, etc.).

Passenger Carrier Only:

Monitor all drivers who are used on an intermittent basis to ensure that they are medically qualified and have the proper license class and endorsement ("P" or "S").

Monitor and track driver-fitness-related passenger complaints and assess safety implications.

Seek Out Resources:


Contact industry associations to get resources and ideas on safety improvement practices from other carriers in the industry.

3. HOS COMPLIANCE BASIC PROCESS BREAKDOWN: Roles and Responsibilities

DESCRIPTION OF PROCESS BREAKDOWN: Leavenworth Shuttle & Taxi does not have someone responsible for maintain hours of service records with supporting documents.



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BASIC SPECIFIC RECOMMENDED REMEDIES

Implement Safety Improvement Practices: The following are recommended practices related to Roles and Responsibilities.

Define and document roles and responsibilities of managers and supervisors for monitoring compliance with Hours-of-Service (HOS) policies.

Ensure that managers are responsible for reviewing Records of Duty Status (RODS) for accuracy and for disciplining those who falsify their logs.

Assign responsibility for making sure that all Records of Duty Status (RODS) are collected and stored for six months.

Ensure that drivers are responsible for informing the carrier when they are sick, keeping accurate Records of Duty Status (RODS), and planning their route so that it can be completed efficiently within Hours-of-Service (HOS) rules.

Define and document roles and responsibilities of drivers and dispatchers as they pertain to Hours-of-Service (HOS) policies and procedures.

Passenger Carrier Only:

Define and document responsibilities for verifying that Hours of Service (HOS) and available hours for separate operations within-company are accounted for, including part-time, intermittent, and relief drivers, and for "extended day".

Designate a manager to collect and evaluate all fatigue-related customer complaints and their safety implications.

Seek Out Resources:

Contact industry associations to get resources and ideas on safety improvement practices from other carriers in the industry.

4. VEHICLE MAINTENANCE BASIC - INSPECTION-REPAIR-MAINTENANCE PROCESS BREAKDOWN: Monitoring and Tracking

DESCRIPTION OF PROCESS BREAKDOWN: Leavenworth Shuttle & Taxi does not have a system in place to monitor when vehicles are due for inspections.

BASIC SPECIFIC RECOMMENDED REMEDIES

Implement Safety Improvement Practices: The following are recommended practices related to Monitoring and Tracking Processes.

Check all inspections and relevant records, such as Driver Vehicle Inspection Records (DVIRs), pre-trip and annual inspections, and maintenance and repair records, to ensure that company inspection, repairing, and maintenance policies and procedures are adhered to and properly documented.


Ensure that Driver Vehicle Inspection Records (DVIRs) are effectively coordinated with maintenance and operations, result in timely corrective measures, and are verified during pre-trip inspections as applicable.

Implement a system for keeping accurate records of employee inspection, repair, and maintenance training needs, including updates on a carrier's fleet or equipment and completed training, via software, a checklist in the driver's file, and/or another appropriate method.

Maintain inspection, repair, maintenance, vehicle identification, and communication records to help evaluate the performance of all staff (drivers, dispatchers, mechanics, and managers) involved in fleet maintenance and the effectiveness of compliance with vehicle maintenance policies, procedures, and regulations.



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Part B Requirements and/or Recommendations		

Evaluate personnel who are monitoring vehicle maintenance performance by making sure they are using Driver Vehicle Inspection Records (DVIRS), roadside inspections, and other data; applying performance standards fairly, consistently, and equitably; and documenting evaluations.

When monitoring and tracking vehicle maintenance issues, always assess whether an issue is individual or represents a systemic breakdown in one of the Safety Management Processes (Policies and Procedures, Roles and Responsibilities, etc.).

Passenger Carrier Only:

Monitor manufacturer recalls through <http://www.nhtsa.dot.gov>; consult with manufacturer service representatives to keep current with service bulletins for proactive maintenance, especially with regard to preowned buses.

Monitor and track vehicle-maintenance-related passenger complaints and assess safety implications.

Seek Out Resources:

Contact industry associations to get resources and ideas on safety improvement practices from other carriers in the industry.

5. VEHICLE MAINTENANCE BASIC - INSPECTION-REPAIR-MAINTENANCE PROCESS BREAKDOWN: Training and Communication

DESCRIPTION OF PROCESS BREAKDOWN: Leavenworth Shuttle & Taxi failed to educate and communicate to the drivers the need for driver vehicle inspection reports.

BASIC SPECIFIC RECOMMENDED REMEDIES

Implement Safety Improvement Practices: The following are recommended practices related to Communication and Training.

Convey expectations to all applicable staff for adhering to vehicle inspection, repairing, and maintenance regulations and company policies and procedures, and for executing responsibilities by providing new-hire and refresher training, and establish communication channels such as newsletters and/or meetings focused on conflicts between vehicle availability and repair requirements.

Ensure that all employees understand and accept their responsibility for timely communication of safety issues related to fleet inspection, repair, and maintenance to the appropriate individuals.

Ensure that managers and supervisors articulate their commitment to and establish communication with employees concerning vehicle inspection, repair, and maintenance.

Ensure that carriers with non-English-speaking employees who need to communicate with English-speaking employees and to understand English-language literature, such as the manufacturer's guide, have ways to deal successfully with language barriers.


Ensure that all drivers, dispatchers, managers, mechanics, and technicians receive training, including methods and tools, and appropriate certifications to fulfill their responsibilities and documentation requirements regarding vehicle inspection, repair, and maintenance, as required by regulations and company policies.

Train mechanics to be able to differentiate between safety-related defects and other defects - for example, by recognizing that defective wheel ends can lead to wheel separation.

Ensure that drivers are trained in vehicle Out-of-Service (OOS) rules, their responsibilities in adhering to them, and the carrier's procedures for reporting OOS violations and communicating appropriately with other personnel.



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Part B Requirements and/or Recommendations		

Train all staff who are required to monitor and track vehicle maintenance on the appropriate company policies, including those related to discipline and incentives.

Provide hiring officials with guidance on how best to attract, screen, and qualify applicants who are most likely to adhere to vehicle inspection, repairing, and maintenance regulations and company policies and procedures.

Reinforce training to drivers, mechanics, and other employees about vehicle maintenance policies, procedures, and responsibilities, using job aids, post-training testing, and/or refresher training. Encourage informal feedback among drivers and mechanics so that they can help each other to improve.

Passenger Carrier Only:

Provide training on procedures related to fire safety and emergency evacuation, such as checking wheel-hub lubrication levels according to the manufacturer's recommended inspection intervals, checking wheels for signs of excess heat every time the motorcoach is parked, regularly inspecting wiring and electrical systems for short circuits, and inspecting emergency-exit operation and markings.

Contact industry associations to get resources and ideas on safety improvement practices from other carriers in the industry.

6. Require all drivers to prepare a written inspection report for each day a vehicle is operated. Ensure that each report is signed by the driver, certified, and reviewed if defects are reported.
7. Ensure that the persons or entities that perform preventative maintenance inspections on your equipment are abiding by agreed time or mileage intervals. Ensure that records are kept of such periodic preventative maintenance inspections. Take corrective action, if schedules are not being adhered to.
8. Review with your drivers periodically the procedures for doing pre-trip and post-trip inspections. Ensure that safety defects reported by drivers on their Vehicle Inspection Reports (VIR) are repaired before the vehicle is re-dispatched. Require drivers to prepare Vehicle Inspection Reports on a daily basis. Keep them on file for 90 days.
9. Understand Why Compliance Saves Time and Money: Compliance with FMCSRs will not only save lives, but also saves your business time and money. Tracking how much your business spends on non-compliance activities can help you understand the many benefits of compliance to your business and why safety is good business.

Document and Follow Through on Action Plans: Document and follow through on action plans to ensure the actions you are taking are creating improvement in safety management and compliance.


NOTICE: A pattern and/or repeated violations of the same or related acute or critical regulations (violations of the same Part in Title 49, Code of Federal Regulations) will cause the maximum penalties allowed by law to be assessed under Section 222 of the Motor Carrier Safety Improvement Act of 1999 (MCSIA). A pattern of violations means two or more violations of acute and/or critical regulations in three or more Parts of Title 49, Code of Federal Regulations discovered during any eligible investigation. Repeated violations means violation(s) of an acute regulation of the same Part of Title 49, Code of Federal Regulations discovered in an investigation after one or more closed enforcement actions within a six year period and/or violation(s) of a critical regulation in the same Part of Title 49, Code of Federal Regulations discovered in an investigation after two or more closed enforcement actions within a six year period.

NOTICE: 49 CFR Part 391.23 requires prospective employers to, at a minimum, investigate a driver's employment information, crash record, and alcohol and controlled substances history from all employers the driver worked for within the previous 3 years.

The Pre-Employment Screening Program (PSP) is a screening tool that assists motor carriers in investigating crash history and roadside safety performance of prospective drivers. The PSP allows motor carriers to purchase 5 years of crash data and 3 years of roadside inspection data from the Federal Motor Carrier Safety Administration's



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(FMCSA) Motor Carrier Management Information System (MCMIS). Records are available 24 hours a day via Web request. Motor carriers should visit the following website for more information:
<http://www.psp.fmcsa.dot.gov/Pages/default.aspx>

All motor carriers and truck drivers are needed to fight against terrorism and hijacking. You could be a target. Protect yourself, your trucks, your cargo, and your facilities. Discuss with your employees/drivers the "Security Measures for Truck Drivers and Companies" which were provided and reviewed with motor carrier official. Motor carriers should visit the following website for more information:
<http://www.fmcsa.dot.gov/documents/Hijacking-Brochure.pdf>

PLEASE NOTE: The violations discovered during this compliance review may affect the civil penalty proposed in any subsequent Notice of Claim. In addition, your history of prior violations of the Federal Motor Carrier Safety Regulations, Federal Hazardous Material Regulations or the Federal Motor Carrier Commercial Regulations may also affect the civil penalty proposed in any subsequent Notice of Claim. Receipt of this report acknowledges your understanding that the violations discovered by the WUTC during this review may be used to calculate any civil penalty proposed as a result of this review.

Serious violations were recorded on this investigation report. These violations will impact your safety record. Furthermore, these violations may result in a follow-up investigation at a later date unless adequate evidence of corrective action is forwarded to our office:

Utilities and Transportation Commission
Attn: Sandi Yeomans
1300 S. Evergreen Park Dr. SW
P.O. Box 47250
Olympia, WA 98504-7250

The Division Administrator/State Director will continue to consider preventability when a motor carrier contests a proposed safety fitness rating. The motor carrier may deem that the recordable accident rate is not a fair means of evaluating its accident factor (Factor 6) on the CR report. If so, the motor carrier must submit the compelling evidence within seven calendar days if the proposed rating is Unsatisfactory and 10 calendar days if the proposed rating is Conditional to:

Utilities and Transportation Commission
Attn: Sandi Yeomans
1300 S. Evergreen Park Dr. SW
P.O. Box 47250
Olympia, WA 98504-7250

Compelling evidence must be limited to official police accident reports and official insurance accident investigation reports.

385.15

If you believe the proposed rating is in error and there are factual and procedural issues in dispute, Part 385.15 (copy provided) outlines procedures for petitioning the Utilities and Transportation Commission for an administrative review of these findings. Your petition should be addressed to:


Utilities and Transportation Commission
Attn: Sandi Yeomans
1300 S. Evergreen Park Dr. SW
P.O. Box 47250
Olympia, WA 98504-7250

385.17

In addition, a request for a revised rating based on corrective actions may be made at any time. Part 385.17 (copy provided) outlines the procedures for such a request. The request must be made in writing, must describe the corrective action taken and must include other documentation that may be relied upon as a basis for the requested



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change. Address your written request to:


Utilities and Transportation Commission
Attn: Sandi Yeomans
1300 S. Evergreen Park Dr. SW
P.O. Box 47250
Olympia, WA 98504-7250

This letter should be submitted as soon as possible.

Passenger Carriers: This review will result in a Proposed Safety Rating. The findings indicate you are currently operating at an unsatisfactory level of safety compliance. A written notice of proposed unsatisfactory rating will be sent to you by the WUTC via U.S. Mail. If you fail to obtain an improved rating within 45 days of the date that notice is sent, the unsatisfactory rating will become final and you must cease intrastate operations.



ATTACHMENT A

	LEAVENWORTH SHUTTLE & TAXI (LEAVENWORTH SHUTTLE & dba) U.S. DOT #: 2393914 State #: CH65060	Review Date: 11/19/2018
Part C		

Reason for Review: Enforcement Follow-up
Planned Action: Compliance Monitoring

Parts Reviewed Certification:

325	382	383	387	390	391	392	393	395	396	397	398	399	171	172	173	177	178	180
	✓	✓	✓	✓	✓	✓	✓	✓	✓									

Prior Reviews

5/2/2017
 9/7/2016

Prior Prosecutions

Unsat/Unfit Information

Is the motor carrier of passengers subject to the safety fitness procedures contained in 49 CFR part 385 subpart A, AND does it transport passengers in a commercial motor vehicle?

Yes - Intrastate

Does carrier transport placardable quantities of hazardous materials?

Unsat/Unfit rule:

Not Applicable

Corporate Contact: David Witt

Corporate Contact Title: Owner

Special Study Information:

Remarks:

INVESTIGATIVE REPORT RECEIVED BY:

Name: David Witt
 Title: President
 Carrier/Shipper Name: Leavenworth Shuttle & Taxi, LLC
 Date: November 19, 2018

REASON FOR THE INVESTIGATION:

This investigation was assigned to Sandi Yeomans, Special Investigator from the Washington Utilities and Transportation Commission (commission) as a two year follow-up for an "Unsatisfactory" review rating per orders TE-161021 and TE-161020. Carrier was also assessed a \$14,800 penalty of which \$10,000 was suspended for two years as long as the carrier received at least a "Conditional" rating and no repeat violations of WAC 480-30-221. The carrier was required to pay \$4,800 of the penalty. Payment was made in full November 2016. In May 2017, a six-month non-rated review was conducted. The carrier had critical violations 395.8(a) and 395.5(b)(2).

SCOPE OF THE INVESTIGATION:

The investigation was assigned to Special Investigator Sandi Yeomans on October 1, 2018. The carrier was contacted on October 2, 2018 and a full investigation was set for October 8, 2018 at 894 Hwy 2, Suite L, Leavenworth, WA. Present at the start of the review was Special Investigator Sandi Yeomans and company representative David Witt (owner).


SMS was checked on October 2, 2018 and it was noted no BASICS were in alert status.

CARRIER OPERATION DESCRIPTION:

The carrier began operations in April 2013. The governing officers are David Witt and Lucinda Witt. The carrier is an authorized for-hire passenger carrier that operates in intrastate commerce as a charter and excursion company around the Leavenworth area. The carrier currently owns 10 vehicles and employs four part-time drivers. Mr. Witt is one of the four drivers. The carrier's gross revenue as stated by David Witt for fiscal year ending in December 31, 2017 was \$500,000. The carrier is not and has not been involved in any emergency relief efforts in the last 365 days. Mr. Witt stated that they traveled 120,000 miles in 2017. The property at 894 Hwy 2, Suite L, Leavenworth, WA is the primary place of business and



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is rented by Leavenworth Shuttle & Taxi, LLC. The location of the vehicles is 11610 Eagle Creek Rd, Leavenworth, WA, Mr. Witt's personal residence.

PRE-INVESTIGATION:

On October 2, 2018, a carrier information packet was emailed to the carrier requesting investigation information, the records that would need to be reviewed, and the information the carrier would need to make available. The carrier was requested to fill-out and return the carrier information packet with a list of all commercial motor vehicle drivers utilized in the past 12 months and a list of all commercial motor vehicles utilized in the last 12 months prior to the start of this investigation. The carrier packet was returned October 4, 2018. On Monday, October 8, 2018, the documents requested were made available to the investigator for review. The carrier supplied insurance documentation, pre-trip inspection forms and maintenance files and records for each unit. A copy of the carrier's profile was obtained through MCMIS on October 3, 2018.

CDLIS (DRIVER LICENSE) CHECK:

In accordance with the eFOTM, All drivers were to be checked. Leavenworth Shuttle & Taxi, LLC has four drivers (David Witt, Charles Six, Dallas Grand, Michael Kaelin). All four drivers' license status/histories were required to be checked. Two drivers' license status/histories were checked through Department of Licensing on October 9, 2018. The two CDL driver was checked through CDLIS on October 9, 2018. All drivers showed no violations and current licenses.

AUTHORITY

The carrier is a for-hire passenger carrier operating in intrastate commerce and required to have operating authority. Commission files were checked and the carrier has a valid charter and excursion permit at the time this investigation began. Leavenworth Shuttle & Taxi LLC operates under the USDOT number 2393914. Leavenworth Shuttle & Taxi LLC has intrastate authority through the Commission under permit number CH65060. No revocations or violations were noted.

INSURANCE

The carrier is an authorized for-hire passenger carrier currently operating in intrastate commerce and is required to maintain a minimum level of public liability of \$5,000,000. A check with the carrier's insurance shows a \$5,000,000 Auto Liability with Mitchell Reed & Schmitten Insurance, Inc. The carrier is in intrastate commerce and is not required to maintain an MCS-90 through L&I. Form E on file with Utilities and Transportation Commission matches this insurance. See part 387.

RED FLAG DRIVERS:

A&I (SMS) was checked through Portal on October 3, 2018 and the carrier has no drivers with red flag violations in the last 365 days.

DRUG AND ALCOHOL SUPPLEMENTAL REVIEW

This is a full comprehensive investigation therefore a Drug and Alcohol Supplemental Review was not required.

HAZARDOUS MATERIALS SUPPLEMENTAL REVIEW

Leavenworth Shuttle & Taxi, LLC does not transport any hazardous materials. A Hazardous Materials Supplemental Review is not required.

INVESTIGATION:


This is a comprehensive investigation that checked Parts 376, 380, 382, 383, 387, 390, 391, 392, 393, 395 and 396.

Parts 171, 172, 173, 177, 178, 180, & 397 Hazardous Materials

Leavenworth Shuttle & Taxi, LLC does not transport any hazardous materials. These Parts were not required to be checked.



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Part 40 and Part 382

Leavenworth Shuttle & Taxi, LLC is currently enrolled in a random controlled substance and alcohol testing program with Confluence Health. Confluence Health is located at 317 N Mission St, Wenatchee, WA 98801. The contact at Confluence Health is Jose Morales. Mr. Morales contact number is (509) 665-5853. Carrier is in a combined Wenatchee pool with 362 participants. Random tests are done on a quarterly basis.

Random pool was not compliant.

Draw date 01/10/2017, pool shows three drivers, two not removed.
Draw date 04/11/2017, pool shows two drivers, one not removed.
Draw date 07/06/2017, pool shows two drivers, one not removed.
Draw date 10/02/2017, pool shows three drivers, two not removed.

Four violations of 382.305(i)(2) for failing to ensure that each driver subject to random alcohol and controlled substances testing has an equal chance of being selected each time selections are made.

The testing rate required for controlled substances is 25% and 10% for alcohol of the average number of drivers. Wenatchee pool quarterly average number of drivers was 362 for 2017 requiring 91 controlled substance and 37 alcohol tests. The Wenatchee pool tested below the control rate by completing 76 controlled substance and 29 alcohol tests for 2017. Leavenworth Shuttle & Taxi LLC was require to test one controlled substance and one alcohol test for 2017. Leavenworth Shuttle & Taxi LLC failed to test at the required rate by testing one controlled substance and zero alcohol test for 2017.

One critical violation of 382.305(b)(1) for failing to test random alcohol test at the annual rate.

Mr. Witt is responsible for handling Leavenworth Shuttle & Taxi LLC's drug and alcohol testing program and is specifically named as the Designated Employer Representative (DER) in Leavenworth Shuttle & Taxi LLC's drug and alcohol policy. Mr. Witt received at least 60 minutes of training on alcohol misuse and controlled substance and provided a certificate.

No positive tests were identified.

No reasonable suspicion tests were conducted.

Leavenworth Shuttle & Taxi LLC's hired one CDL driver since October 6, 2017. The pre-employment test result for Charles Six was checked to verify the driver did not operate a CDL vehicle prior to Leavenworth Shuttle & Taxi, LLC receiving a negative test result. The drug test results compared to the driver's record of duty status (RODS) show that no driver operated a commercial motor vehicle before Leavenworth Shuttle & Taxi, LLC received negative drug test results.

No post-accident tests were required.

Part 376 Lease and Interchange of Vehicles

Leavenworth Shuttle & Taxi, LLC does not lease vehicles.

Part 380 Special Training

Leavenworth Shuttle & Taxi, LLC does not operate long combination vehicles (LCVs). The carrier has not employed drivers that meet the definition of entry level driver.

Part 383 Commercial Drivers' License


Leavenworth Shuttle & Taxi, LLC employed two CDL drivers over the past 365 days. In accordance with eFOTM drivers' license checks were conducted using CDLIS. Charles Six and Davit Witt showed current licenses and no violations.

Part 387 Financial Responsibility

The carrier's vehicles are insured with Mitchell, Reed & Schmitt Insurance, Inc., underwriters of Zurich American Insurance Company, Policy number BAP 9016710. The insurance agent is Marggie Simmons at P.O. Box 249,



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Leavenworth, WA., contact number (509) 548-6050. Investigator verified the carrier maintained \$5,000,000 in Auto Liability coverage without a lapse in the last 365 days.

Part 390 General FMSCR

The carrier has not been involved in any DOT-recordable accident in the last 365 days. Leavenworth Shuttle & Taxi, LLC's MCS-150 is current with the schedule.

Part 391 Qualification of Drivers

The carrier employed nine drivers during the last 365 days. Per eFOTM guidelines, a sample size of five Driver's Qualification Files were inspected. The drivers files inspected were: Dallas Grant, Michael Kaelin, Jeff Millard, Charles Six, and Skye Solly.

Michael Kaelin and Jeff Millard had a lapse in their medical certification. The inspector noted that Mr. Millard did not drive between the time his medical certificate expired and his termination date. Michael Kaelin had 24 occurrences: August 2, 3, 4, 8, 11, 16, 18, 21, 22, and 30. September 1, 4, 5, 6, 8, 13, 15, 19, 20, 21, 22, 27, and 29. October 3, 2018.

One critical type violation of 391.45(a) for using a driver not medically examined and certified. This is a repeat violation from September 7, 2016 inspection and in contradiction of stipulation stated in Order 1 in Docket TE-161021.

In accordance with FMCSA Memorandum MC-ECS-2012-004 medical certificates for 25 percent of the driver qualification file sample size (five) were selected for verification. Two medical certificates were confirmed.

Driver Name: Skye Solly
 Date of Birth: 05/03/1991
 Driver License Number: SOLLYSJ093KC
 ME's License/Certificate Number: PA60646227
 Date of Issuance of the MEC: 01/16/2018
 National Registry Identification Number: 3803381938
 Phone Number: (509) 663-8711
 Date and Time Contacted: 10/08/2018 @ 2:02 pm, talked to Edith.
 Results: MEC Check: Valid expires on 01/16/2020

Driver Name: Dallas Grant
 Date of Birth: 3/12/1983
 Driver License Number: GRANTDE172DK
 ME's License/Certificate Number: PA10005335
 Date of Issuance of the MEC: 10/03/2018
 National Registry Identification Number: 7592912169
 Phone Number: (509) 663-8711
 Date and Time Contacted: 10/05/2018 @ 2:02 pm, talked to Edith.
 Results: MEC Check: Valid expires on 10/03/2020

Part 392 - Driving of Commercial Motor Vehicles

Leavenworth Shuttle & Taxi, LLC is an intrastate carrier and at the time of this investigation the carrier is current on its annual regulatory fees.

David Witt was informed about using radar detectors and texting while driving. Leavenworth Shuttle & Taxi, LLC is not required to pay UCR fees.


Part 395 - Hours of Service

Leavenworth Shuttle & Taxi, LLC utilized nine drivers during the last 365 days. In accordance with eFOTM procedures, a sample size of five Records of Duty Status (RODS) is required to be checked for a 30-day period. Leavenworth Shuttle & Taxi, LLC only performed 39 trips in a 30 day period from August 1, 2018 to August 30, 2018.

RODS were checked based on time sheets, trip logs, and calendar with schedule of trips. The following violations were



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discovered.

Leavenworth Shuttle & Taxi, LLC did not have drivers fill out a log sheet for trips that lasted over 12 hours on a short haul exemption. Twenty-five hours of service logs were not completed for records of duty status. Michael Kaelin: August 1, 9, 10, 14, 15, 17, 18, 23, and 25. Dallas Grant: August 4, 5, 6, 12, 13, 14, 15, 17, 19, 20, 22, 23, 24, 25, 26, and 27. This is a repeat violation from April 2, 2017 compliance investigation.

Twenty-five critical violations of 395.8(a)(1) for failing to require a driver to prepare a record of duty status using appropriate method.

Part 393 & 396 - Maintenance and Inspection

Leavenworth Shuttle & Taxi, LLC owns and operates ten vehicles that are classified as commercial motor vehicles in intrastate commerce in the last 365 days.

In accordance with eFOTM procedures, a sample size of 150 DVIR's were to be checked for the last 90 days however, Leavenworth Shuttle & Taxi, LLC only performed 94 trips in the last 90 days.

Leavenworth Shuttle & Taxi, LLC did not have drivers prepare a driver vehicle inspection report for each trip.

Eighty-two critical violations of 396.11(a) for failing to require drivers to complete driver vehicle inspection report. This is a repeat violation of September 7, 2016 compliance investigation.

Leavenworth Shuttle & Taxi, LLC did not determine if repairs on driver vehicle inspection reports were necessary or completed.

Four violations of 396.11(c)(1) for failing to certify that repairs were made or were not necessary.

Leavenworth Shuttle & Taxi, LLC did not have the driver sign the previous report when defects were noted.

Three violations of 396.13(c) for failing to require driver to sign the last vehicle inspection report when defects or deficiencies were noted.

Leavenworth Shuttle & Taxi, LLC did not have vehicles periodically inspected.

Three critical violations of 396.17(a) for using a commercial motor vehicle not periodically inspected.

Vehicle Inspections:

In accordance with eFOTM, a sample size of five vehicles were inspected. The inspections resulted in the following violations:

Two violations of 393.9 for inoperable required lamp.

The inspection is in the Aspen report.

CLOSING INTERVIEW:

The closing interview was conducted on November 19, 2018 at 894 Hwy 2, Suite L, Leavenworth, WA. Present at the closing interview were Investigator Yeomans, along with company representative David Witt (owner). This investigation resulted in a "Conditional" safety rating.


All members of Leavenworth Shuttle & Taxi, LLC were very cooperative throughout the entire scope of this investigation. Technical assistance was also provided to the carrier during the process of this review.

FOLLOW-ON ACTION:

Continued compliance monitoring and penalties for repeat violation 382.305(i)(2). Critical violations 391.45(a), 395.8(a)(1), and 396.11(a). Penalties for critical violation 396.17(a). Penalties for critical type violation 382.305(b)(1). Necessitate



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suspended penalties of \$10,000 for violation of order TE161020.

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