

# APPENDICES

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## APPENDIX A

### **RCW 46.44.010 Outside width limit.**

The total outside width of any vehicle or load thereon must not exceed eight and one-half feet; except that an externally mounted rear vision mirror may extend beyond the width limits of the vehicle body to a point that allows the driver a view to the rear of the vehicle along both sides in conformance with Federal National Safety Standard 111 (49 C.F.R. 571.111), and RCW [46.37.400](#). Excluded from this calculation of width are certain devices that provide added safety, energy conservation, or are otherwise necessary, and are not designed or used to carry cargo. The width-exclusive devices must be identified in rules adopted by the department of transportation under RCW [46.44.101](#). A width-exclusive device must not extend more than three inches beyond the width limit of the vehicle body.

[2005 c 189 § 1; 1997 c 63 § 1; 1983 c 278 § 1; 1961 c 12 § [46.44.010](#). Prior: 1947 c 200 § 4; 1937 c 189 § 47; Rem. Supp. 1947 § 6360-47; 1923 c 181 § 4, part; RRS § 6362-8, part.]

### **RCW 46.44.020 Maximum height — Impaired clearance signs.**

It is unlawful for any vehicle unladen or with load to exceed a height of fourteen feet above the level surface upon which the vehicle stands. This height limitation does not apply to authorized emergency vehicles or repair equipment of a public utility engaged in reasonably necessary operation. The provisions of this section do not relieve the owner or operator of a vehicle or combination of vehicles from the exercise of due care in determining that sufficient vertical clearance is provided upon the public highways where the vehicle or combination of vehicles is being operated; and no liability may attach to the state or to any county, city, town, or other political subdivision by reason of any damage or injury to persons or property by reason of the existence of any structure over or across any public highway where the vertical clearance above the roadway is fourteen feet or more; or, where the vertical clearance is less than fourteen feet, if impaired clearance signs of a design approved by the state department of transportation are erected and maintained on the right side of any such public highway in accordance with the manual of uniform traffic control devices for streets and highways as adopted by the state department of transportation under chapter [47.36](#) RCW. If any structure over or across any public highway is not owned by the state or by a county, city, town, or other political subdivision, it is the duty of the owner thereof when billed therefor to reimburse the state department of transportation or the county, city, town, or other political subdivision having jurisdiction over the highway for the actual cost of erecting and maintaining the impaired clearance signs, but no liability may attach to the owner by reason of any damage or injury to persons or property caused by impaired vertical clearance above the roadway.

[1984 c 7 § 52; 1977 c 81 § 1; 1975-'76 2nd ex.s. c 64 § 7; 1971 ex.s. c 248 § 1; 1965 c 43 § 1; 1961 c 12 § [46.44.020](#). Prior: 1959 c 319 § 26; 1955 c 384 § 1; 1953 c 125 § 1; 1951 c 269 § 20; 1937 c 189 § 48; RRS § 6360-48.]

### **RCW 46.44.030 Maximum lengths.**

It is unlawful for any person to operate upon the public highways of this state any vehicle having an overall length, with or without load, in excess of forty feet. This restriction does not apply to (1) a municipal transit vehicle, (2) auto stage, private carrier bus, school bus, or motor home with an overall length not to exceed forty-six feet, (3) an articulated auto stage with an overall length not to exceed sixty-one feet, or (4) an auto recycling carrier up to forty-two feet in length manufactured prior to 2005.

It is unlawful for any person to operate upon the public highways of this state any combination consisting of a tractor and semitrailer that has a semitrailer length in excess of fifty-three feet or a combination consisting of a tractor and two trailers in which the combined length of the trailers exceeds sixty-one feet, with or without load.

It is unlawful for any person to operate on the highways of this state any combination consisting of a truck and trailer, or log truck and stinger-steered pole trailer, with an overall length, with or without load, in excess of seventy-five feet. "Stinger-steered," as used in this section, means the coupling device is located behind the tread of the tires of the last axle of the towing vehicle.

These length limitations do not apply to vehicles transporting poles, pipe, machinery, or other objects of a structural nature that cannot be dismembered and operated by a public utility when required for emergency repair of public service facilities or properties, but in respect to night transportation every such vehicle and load thereon shall be equipped with a sufficient number of clearance lamps on both sides and marker lamps upon the extreme ends of any projecting load to clearly mark the dimensions of the load.

Excluded from the calculation of length are certain devices that provide added safety, energy conservation, or are otherwise necessary, and are not designed or used to carry cargo. The length-exclusive devices must be identified in rules adopted by the department of transportation under RCW [46.44.101](#).

[2012 c 79 § 1; 2005 c 189 § 2; 2000 c 102 § 1; 1995 c 26 § 1; 1994 c 59 § 2; 1993 c 301 § 1; 1991 c 113 § 1; 1990 c 28 § 1; 1985 c 351 § 1; 1984 c 104 § 1; 1983 c 278 § 2; 1979 ex.s. c 113 § 4; 1977 ex.s. c 64 § 1; 1975-'76 2nd ex.s. c 53 § 1; 1974 ex.s. c 76 § 2; 1971 ex.s. c 248 § 2; 1967 ex.s. c 145 § 61; 1963 ex.s. c 3 § 52; 1961 ex.s. c 21 § 36; 1961 c 12 § [46.44.030](#). Prior: 1959 c 319 § 25; 1957 c 273 § 14; 1951 c 269 § 22; prior: 1949 c 221 § 1, part; 1947 c 200 § 5, part; 1941 c 116 § 1, part; 1937 c 189 § 49, part; Rem. Supp. 1949 § 6360-49, part.]

#### **RCW 81.01.010 Adoption of provisions of chapter 80.01 RCW.**

The provisions of chapter 80.01 RCW, as now or hereafter amended, apply to Title 81 RCW as fully as though they were set forth herein.

[1961 c 14 § 81.01.010.]

#### **RCW 81.04.070 Inspection of books, papers, and documents.**

The commission and each commissioner, or any person employed by the commission, shall have the right, at any and all times, to inspect the accounts, books, papers and documents of any public service company, and the commission, or any commissioner, may examine under oath any officer, agent or employee of such public service company in relation thereto, and with reference to the affairs of such company: PROVIDED, That any person other than a commissioner who shall make any such demand shall produce his authority from the commission to make such inspection.

[1961 c 14 § 81.04.070. Prior: 1911 c 117 § 77; RRS § 10415.]

#### **RCW 81.04.380 Penalties — Violations by public service companies.**

Every public service company, and all officers, agents and employees of any public service company, shall obey, observe and comply with every order, rule, direction or requirement made by the commission under authority of this title, so long as the same shall be and remain in force. Any public service company which shall violate or fail to comply with any provision of this title, or which fails, omits or neglects to obey, observe or comply with any order, rule, or any direction, demand or requirement of the commission, shall be subject to a penalty of not to exceed the sum of one thousand dollars for each and every offense. Every violation of any such order, direction or requirement of this title shall be a separate and distinct offense, and in case of a continuing violation every day's continuance thereof shall be and be deemed to be a separate and distinct offense.

[1961 c 14 § 81.04.380. Prior: 1911 c 117 § 94; RRS § 10443.]

**RCW 81.04.530 Controlled substances, alcohol.**

A person or employer operating as a motor carrier shall comply with the requirements of the United States department of transportation federal motor carrier safety regulations as contained in Title 49 C.F.R. Part 382, controlled substances and alcohol use and testing. A person or employer who begins or conducts commercial motor vehicle operations without having a controlled substance and alcohol testing program that is in compliance with the requirements of Title 49 C.F.R. Part 382 is subject to a penalty, under the process set forth in RCW 81.04.405, of up to one thousand five hundred dollars and up to an additional five hundred dollars for each motor vehicle driver employed by the person or employer who is not in compliance with the motor vehicle driver testing requirements. A person or employer having actual knowledge that a driver has tested positive for controlled substances or alcohol who allows a positively tested person to continue to perform a safety-sensitive function is subject to a penalty, under the process set forth in RCW 81.04.405, of one thousand five hundred dollars.

[1999 c 351 § 6.]

**RCW 81.70.020 – Definitions**

Unless the context otherwise requires, the definitions and general provisions in this section govern the construction of this chapter:

- (1) "Commission" means the Washington utilities and transportation commission;
- (2) "Person or persons" means an individual, a corporation, association, joint stock association, and partnership, their lessees, trustees, or receivers;
- (3) "Public highway" includes every public street, road, or highway in this state;
- (4) "Motor vehicle" means every self-propelled vehicle with seating capacity for seven or more persons, excluding the driver;
- (5) Subject to the exclusions of RCW 81.70.030, "charter party carrier" means every person engaged in the transportation over any public highways in this state of a group of persons, who, pursuant to a common purpose and under a single contract, acquire the use of a motor vehicle to travel together as a group to a specified destination or for a particular itinerary, either agreed upon in advance or modified by the chartered group after leaving the place of origin;
- (6) Subject to the exclusion of RCW 81.70.030, "excursion service carrier" means every person engaged in the transportation of persons for compensation over any public highway in this state from points of origin within the incorporated limits of any city or town or area, to any other location within the state of Washington and returning to that origin. The service must not pick up or drop off passengers after leaving and before returning to the area of origin. The excursions may be regularly scheduled. Compensation for the transportation offered or afforded must be computed, charged, or assessed by the excursion service company on an individual fare basis;
- (7) "Customer" means a person, corporation, or other entity that prearranges for transportation services with a charter party carrier or purchases a ticket for transportation services aboard an excursion service carrier;
- (8) "Double-decker bus" means a motor vehicle with more than one passenger deck. A person using a double-decker bus must comply with the maximum height vehicle requirements contained in RCW 46.44.020;
- (9) Subject to the exclusions of RCW 81.70.030, "party bus" means any motor vehicle whose interior enables passengers to stand and circulate throughout the vehicle because seating is placed around the perimeter of the bus or is nonexistent and in which food, beverages, or entertainment may be provided. A motor vehicle configured in the traditional manner of forward-facing seating with a center aisle is not a party bus. A person engaged in the transportation of persons by party bus over any public highway in this state is considered engaging in the business of a charter party carrier or excursion service carrier;
- (10) "Permit holder" means a holder of an appropriate special permit issued under chapter 66.20 RCW who is twenty-one years of age or older and who is responsible for compliance with the requirements of section 8 of this act and chapter 66.20 RCW during the provision of transportation services.

**RCW 81.70.270 Scope of regulation.**

It is the duty of the commission to regulate charter party carriers and excursion service carriers with respect to safety of equipment, driver qualifications, and safety of operations. The commission shall establish such rules and regulations and require such reports as are necessary to carry out the provisions of this chapter.

[1989 c 163 § 10; 1988 c 30 § 7.]

**RCW 81.70.280 - Insurance or bond for liability and property damage.**

(1) In issuing certificates under this chapter, the commission shall require charter party carriers and excursion service carriers to procure and continue in effect during the life of the certificate, liability and property damage insurance from a company licensed to make liability insurance in the state of Washington or a surety bond of a company licensed to write surety bonds in the state of Washington on each motor-propelled vehicle used or to be used in transporting persons for compensation, in the following amounts:

- (a) Not less than one hundred thousand dollars for any recovery for personal injury by one person; and
- (b) Not less than three hundred thousand dollars for any vehicle having a capacity of sixteen passengers or less; and
- (c) Not less than five hundred thousand dollars for any vehicle having a capacity of seventeen passengers or more for all receiving personal injury by at least one act of negligence; and
- (d) Not less than fifty thousand dollars for damage to property of any person other than the insured.

(2) The commission shall fix the amount of the insurance policy or policies or security deposit by giving consideration to the character and amount of traffic, the number of persons affected, and the degree of danger which the proposed operation involves. The liability and property damage insurance or surety bond must be maintained in force on each motor-propelled vehicle while in use. Each policy for liability or property damage insurance or surety bond required by this section must be filed with the commission and kept in effect. Failure to file and maintain the required insurance is cause for the revocation of the certificate.

[2007 c 234 § 59; 1989 c 163 § 11; 1988 c 30 § 8.]

**RCW 81.70.310 Application of Title 81 RCW.**

All applicable provisions of this title relating to procedure, powers of the commission, and penalties shall apply to the operation and regulation of persons under this chapter, except as those provisions may conflict with the provisions of this chapter and rules and regulations issued thereunder by the commission.

[1988 c 30 § 11.]

**RCW 81.04.380 Penalties — Violations by public service companies.**

Every public service company, and all officers, agents and employees of any public service company, shall obey, observe and comply with every order, rule, direction or requirement made by the commission under authority of this title, so long as the same shall be and remain in force. Any public service company which shall violate or fail to comply with any provision of this title, or which fails, omits or neglects to obey, observe or comply with any order, rule, or any direction, demand or requirement of the commission, shall be subject to a penalty of not to exceed the sum of one thousand dollars for each and every offense. Every violation of any such order, direction or requirement of this title shall be a separate and distinct offense, and in case of a continuing violation every day's continuance thereof shall be and be deemed to be a separate and distinct offense.

[1961 c 14 § [81.04.380](#). Prior: 1911 c 117 § 94; RRS § 10443.]

**WAC 480-30-191 Bodily injury and property damage liability insurance.**

(1) Insurance coverage. A company must have bodily injury and property damage liability insurance covering each motor vehicle it operates in the state of Washington.

(a) The insurance policy must be written by an insurance company authorized to write insurance in the state of Washington.

(b) The insurance policy must include the Uniform Motor Carrier Bodily Injury and Property Damage Liability Endorsement (Form F).

(c) If a company operates without the required insurance coverage, the commission may take immediate compliance action as described in WAC 480-30-171.

(2) Insurance limits. The minimum limits of required bodily injury and property damage liability insurance for motor vehicles operated by companies are:

Motor vehicles that:	Must have bodily injury and property damage insurance or surety bond with the following minimum limits:
Have a passenger seating capacity of fifteen or less (including the driver)	\$1,500,000 combined single limit coverage
Have a passenger seating capacity of sixteen or more (including the driver)	\$5,000,000 combined single limit coverage

(3) Insurance filings. A company must file and maintain a Uniform Motor Carrier Bodily Injury Property Damage Certificate of Insurance (Form E) as a condition of being issued and maintaining a certificate to operate as a passenger transportation company.

(a) The Form E is a standard motor carrier insurance form recognized by the insurance industry and is normally filed with the commission by an insurance company rather than an insurance agent.

(b) The Form E must be issued in the company name exactly as it appears on the company's certificate or application for certificate.

(c) The Form E filing must remain in effect until canceled by a Notice of Cancellation (Form K). The Form K must be filed with the commission by the insurance company not less than thirty days before the cancellation effective date.

(d) A company may file a Uniform Motor Carrier Bodily Injury and Property Damage Liability Surety Bond (Form G) instead of the Form E.

(4) Insurance binders. The commission will accept an insurance certificate or binder for up to sixty days.

(a) An insurance certificate or binder may be canceled by written notice filed with the commission at least ten days before the cancellation effective date.

(b) An insurance certificate or binder must be replaced by a Form E within sixty days of filing, or before the expiration date, whichever occurs first.

(c) Insurance certificates or binders must show:

(i) The commission as the named insurance certificate holder;

(ii) The company name, exactly as it appears on the company's certificate or application for a certificate, as the insured;

(iii) The insurance company name;

(iv) The insurance policy number;

(v) The insurance policy effective and expiration dates;

(vi) The insurance limits of coverage; and

(vii) The agent's or other insurance representative's signature.

[Statutory Authority: RCW 80.01.040, 81.04.160, 81.12.050, 81.68.030, and 81.70.270. 06-13-006 (General Order No. R-533, Docket No. TC-020497), § 480-30-191, filed 6/8/06, effective 7/9/06.]

**WAC 480-30-221 Vehicle and driver safety requirements.**

(1) Companies must comply with all state and local laws and rules governing licensing, vehicle safety, and driver safety. Companies must also comply with the parts of Title 49, Code of Federal Regulations (49 C.F.R.), adopted by reference, that are shown in the following chart. Information about 49 C.F.R., including the version adopted by the commission and where to obtain copies is set out in WAC 480-30-999.

<b>49 C.F.R. Part:</b>		<b>Notes:</b>
Part 40 -	Procedures For Transportation Workplace Drug and Alcohol Testing Programs	Entire Part 40 is adopted and applies to Washington intrastate operations.
Part 382 -	Controlled Substance and Alcohol Use and Testing	Entire Part 382, including definition of commercial motor vehicle, is adopted and applies to Washington intrastate operations.
Part 383 -	Commercial Driver's License Standards; Requirements and Penalties	Entire Part 383, including definition of commercial motor vehicle, is adopted and applies to Washington intrastate operations.
Part 379 -	Preservation of Records	Entire Part 379 is adopted and applies to Washington intrastate operations.
Part 380 -	Special Training Requirements	Entire Part 380 is adopted and applies to Washington intrastate operations.

Part 385 -	Safety Fitness Procedures	Entire Part 385 is adopted and applies to Washington intrastate operations.
Part 390 -	Safety Regulations, General	Entire Part 390 is adopted and applies to Washington intrastate operations, with the following exceptions:  (1) The terms "motor vehicle," "commercial motor vehicle," and "private vehicle" are not adopted. Instead, where those terms are used in Title 49 C.F.R., they have the meanings assigned to them in WAC <a href="#">480-30-036</a> (Motor vehicle and private vehicle) and WAC <a href="#">480-30-211</a> (Commercial motor vehicle).  (2) Whenever the term "director" is used in Title 49 C.F.R., it means the commission.
Part 391 -	Qualification of Drivers	Entire Part 391 is adopted, with the following exceptions:  (1) Part 391.49 (alternative physical qualification standards for the loss or impairment of limbs) is not adopted for drivers who operate vehicles exclusively within Washington state. Instead refer to WAC <a href="#">480-30-226</a> for intrastate medical waivers.
Part 392 -	Driving of Motor Vehicles	Entire Part 392 is adopted and applies to Washington intrastate operations.
Part 393 -	Parts and Accessories Necessary for Safe Operation	Entire Part 393 is adopted and applies to Washington intrastate operations.
Part 395 -	Hours of Service of Drivers	Entire Part 395 is adopted and applies to Washington intrastate operations.
Part 396 -	Inspection, Repair, and Maintenance	Entire Part 396 is adopted and applies to Washington intrastate operations.
Part 397 -	Transportation of Hazardous Materials, Driving and Parking Rules	Entire Part 397 is adopted and applies to Washington intrastate operations.

(2) Companies must:

(a) Maintain all motor vehicles in a safe and sanitary condition; and

(b) Ensure that vehicles are free of defects likely to result in an accident or breakdown.

(3) No company, its agents, officers, or employees, will allow any article, commodity, or substance to be loaded in or on any motor vehicle used by the company to transport passengers that is dangerous to the lives and safety of passengers.

(4) No company, its agents, officers, or employees will allow any article, commodity, or substance to be loaded in or on any motor vehicle used by the company to transport passengers that is prohibited by the hazardous materials rules in Title 49 C.F.R. from being transported on passenger-carrying vehicles.

(5) All motor vehicles operated under the provisions of this chapter are at all times subject to inspection by the commission or its duly authorized representatives.



(6) The commission will place out-of-service any motor vehicle having safety defects identified in the *North American Uniform Out-Of-Service Criteria*. Information about the *North American Uniform Out-Of-Service Criteria* including the version adopted and where to obtain copies is set out in WAC [480-30-999](#). A company must not operate any vehicle placed out-of-service until proper repairs have been completed.

(7) The commission will place out-of-service any driver meeting criteria identified in the *North American Uniform Out-Of-Service Criteria*. A company must not allow a driver who has been placed out-of-service to operate a motor vehicle until the conditions causing the driver to be placed out-of-service have been corrected.

[Statutory Authority: RCW [80.01.040](#), [80.04.160](#), [81.04.160](#), and [34.05.353](#). 11-04-041 (Docket A-101466, General Order R-562), § 480-30-221, filed 1/25/11, effective 2/25/11. Statutory Authority: RCW [80.01.040](#), [81.04.160](#), [81.12.050](#), [81.68.030](#), and [81.70.270](#). 06-13-006 (General Order No. R-533, Docket No. TC-020497), § 480-30-221, filed 6/8/06, effective 7/9/06.]

**WAC 480-30-241 Commission compliance policy.**

(1) The commission is authorized to administer and enforce laws and rules relating to passenger transportation companies. The commission may delegate authority to the commission staff to inspect equipment, drivers, records, files, accounts, books, and documents. The commission may also delegate to its staff authority to place vehicles and drivers out-of-service and to arrest without warrant, or issue citations to any person found violating this chapter in the presence of its staff as provided under RCW 81.04.460.

(2) The commission encourages voluntary compliance with statutes, rules, and commission orders.

(3) The commission will enforce statutes, rules, and commission orders through:

(a) A program emphasizing education and technical assistance.

(b) A compliance program including:

(i) Investigation and resolution of complaints;

(ii) Safety compliance reviews of drivers and equipment;

(iii) Economic compliance audits including, but not limited to, rates and billing practices of auto transportation companies;

(iv) Coordinated roadside enforcement; and

(v) Cooperative agreements with other agencies to enable effective enforcement and appropriate use of resources.

(4) Where necessary to ensure compliance with statutes, rules, and commission orders, the commission may pursue:

(a) Administrative actions that the commission believes will best ensure future compliance by the violating company, including, but not limited to, warnings, sanctions, or penalty assessments under the provisions of chapter 81.04 RCW;

(b) Suspension or cancellation of a company's certificate:

(i) When the commission believes education and penalties have not been, or will not be, effective to secure compliance;

(ii) For willful violations of legal requirements; or

(iii) For serious actions including, but not limited to, misrepresentation;

(c) Enforcement action against violators based on information collected by commission staff; or

(d) Proceedings in district and superior court.

[Statutory Authority: RCW [80.01.040](#), [81.04.160](#), [81.12.050](#), [81.68.030](#), and [81.70.270](#). WSR 06-13-006 (General Order No. R-533, Docket No. TC-020497), § 480-30-241, filed 6/8/06, effective 7/9/06.]

**WAC 480-30-999 - Adoption by reference.**

In this chapter, the commission adopts by reference all or portions of regulations and standards identified below. They are available for inspection at the commission branch of the Washington state library. The publications, effective dates, references within this chapter, and availability of the resources are as follows:

(1) North American Standard Out-of-Service Criteria (OOSC) is published by the Commercial Vehicle Safety Alliance (CVSA).

(a) The commission adopts the version in effect on April 1, 2014.

(b) This publication is referenced in WAC 480-30-221 (Vehicle and driver safety requirements).

(c) The North American Out-of-Service Criteria is a copyrighted document. Copies are available from CVSA.

(2) Title 49 Code of Federal Regulations, cited as 49 C.F.R., including all appendices and amendments is published by the United States Government Printing Office.

(a) The commission adopts the version in effect on October 1, 2014.

(b) This publication is referenced in WAC 480-30-221 (Vehicle and driver safety requirements) and WAC 480-30-226 (Intrastate medical waivers).

(c) Copies of Title 49 Code of Federal Regulations are available from the U.S. Government Online Bookstore, <http://bookstore.gpo.gov/>, and from various third-party vendors.

[Statutory Authority: RCW 80.01.040, 80.04.160, 81.04.160, and 34.05.353. WSR 15-06-048 (Docket A-143302, General Order R-579), § 480-30-999, filed 3/2/15, effective 4/2/15; WSR 14-05-001 (Docket A-131761, General Order R-574), § 480-30-999, filed 2/5/14, effective 3/8/14; WSR 13-05-023 (Docket A-121496, General Order R-569), § 480-30-999, filed 2/11/13, effective 3/14/13; WSR 12-05-063 (Docket A-111722, General Order R-564), § 480-30-999, filed 2/15/12, effective 3/17/12; WSR 11-04-041 (Docket A-101466, General Order R-562), § 480-30-999, filed 1/25/11, effective 2/25/11; WSR 09-01-171 (Docket A-081419, General Order R-554), § 480-30-999, filed 12/23/08, effective 1/23/09. Statutory Authority: RCW 80.01.040, 81.04.160, 81.12.050, 81.68.030, and 81.70.270. WSR 06-13-006 (General Order No. R-533, Docket No. TC-020497), § 480-30-999, filed 6/8/06, effective 7/9/06. Statutory Authority: RCW 80.01.040, 80.04.160, 81.04.160 and 34.05.353. WSR 05-21-022 (Docket No. A-050271, General Order No. R-521), § 480-30-999, filed 10/10/05, effective 11/10/05; WSR 04-01-152 (General Order No. R-511, Docket No. A-030852), § 480-30-999, filed 12/22/03, effective 1/22/04; WSR 02-18-033 (Docket No. A-020379, General Order No. R-501), § 480-30-999, filed 8/26/02, effective 9/26/02. Statutory Authority: RCW 80.01.040, 80.04.160, 81.04.160, and 34.05.310. WSR 01-20-061 (Docket No. A-010827, General Order No. R-491), § 480-30-999, filed 9/28/01, effective 10/29/01.]

### §385.3 Definitions and acronyms.

*Applicable safety regulations or requirements* means 49 CFR chapter III, subchapter B—Federal Motor Carrier Safety Regulations or, if the carrier is an intrastate motor carrier subject to the hazardous materials safety permit requirements in subpart E of this part, the equivalent State standards; and 49 CFR chapter I, subchapter C—Hazardous Materials Regulations.

*CMV* means a commercial motor vehicle as defined in §390.5 of this subchapter.

*Commercial motor vehicle* shall have the same meaning as described in §390.5 of this subchapter, except that this definition will also apply to intrastate motor vehicles subject to the hazardous materials safety permit requirements of subpart E of this part.

*FMCSA* means the Federal Motor Carrier Safety Administration.

*FMCSRs* mean Federal Motor Carrier Safety Regulations (49 CFR parts 350-399).

*HMRs* means the Hazardous Materials Regulations (49 CFR parts 171-180).

*Motor carrier operations in commerce* means commercial motor vehicle transportation operations either—

- (1) In interstate commerce, or
- (2) Affecting interstate commerce.

*New entrant* is a motor carrier not domiciled in Mexico that applies for a United States Department of Transportation (DOT) identification number in order to initiate operations in interstate commerce.

*New entrant registration* is the registration (US DOT number) granted a new entrant before it can begin interstate operations in an 18-month monitoring period. A safety audit must be performed on a new entrant's operations within 12 months after receipt of its US DOT number for motor carriers of property and 120 days for motor carriers of passengers, and it must be found to have adequate basic safety management controls to continue operating in interstate commerce at the end of the 18-month period.

*PHMSA* means Pipeline and Hazardous Materials Safety Administration.

*Preventable accident* on the part of a motor carrier means an accident (1) that involved a commercial motor vehicle, and (2) that could have been averted but for an act, or failure to act, by the motor carrier or the driver.

*Reviews.* For the purposes of this part:

(1) *Compliance review* means an on-site examination of motor carrier operations, such as drivers' hours of service, maintenance and inspection, driver qualification, commercial drivers license requirements, financial responsibility, accidents, hazardous materials, and other safety and transportation records to determine whether a motor carrier meets the safety fitness standard. A compliance review may be conducted in response to a request to change a safety rating, to investigate potential violations of safety regulations by motor carriers, or to investigate complaints or other evidence of safety violations. The compliance review may result in the initiation of an enforcement action.

(2) *Safety audit* means an examination of a motor carrier's operations to provide educational and technical assistance on safety and the operational requirements of the FMCSRs and applicable HMRs and to gather critical safety data needed to make an assessment of the carrier's safety performance and basic safety management controls. Safety audits do not result in safety ratings.

(3) *Safety management controls* means the systems, policies programs, practices, and procedures used by a motor carrier to ensure compliance with applicable safety and hazardous materials regulations which ensure the safe movement of products and passengers through the transportation system, and to reduce the risk of highway accidents and hazardous materials incidents resulting in fatalities, injuries, and property damage.

(4) *Roadability review* means an on-site examination of the intermodal equipment provider's compliance with the applicable FMCSRs.

*Safety ratings.* (1) *Satisfactory safety rating* means that a motor carrier has in place and functioning adequate safety management controls to meet the safety fitness standard prescribed in §385.5. Safety management controls are adequate if they are appropriate for the size and type of operation of the particular motor carrier.

(2) *Conditional safety rating* means a motor carrier does not have adequate safety management controls in place to ensure compliance with the safety fitness standard that could result in occurrences listed in §385.5 (a) through (k).

(3) *Unsatisfactory safety rating* means a motor carrier does not have adequate safety management controls in place to ensure compliance with the safety fitness standard which has resulted in occurrences listed in §385.5 (a) through (k).

(4) *Unrated carrier* means that a safety rating has not been assigned to the motor carrier by the FMCSA.

[53 FR 50968, Dec. 19, 1988, as amended at 56 FR 40805, Aug. 16, 1991; 62 FR 60042, Nov. 6, 1997; 67 FR 12779, Mar. 19, 2002; 67 FR 31983, May 13, 2002; 69 FR 39367, June 30, 2004; 72 FR 36788, July 5, 2007; 73 FR 76818, Dec. 17, 2008; 75 FR 17240, Apr. 5, 2010; 77 FR 28450, May 14, 2012; 78 FR 58481, Sept. 24, 2013; 78 FR 60232, Oct. 1, 2013; 80 FR 59073, Oct. 1, 2015]

### **§385.5 Safety fitness standard.**

The satisfactory safety rating is based on the degree of compliance with the safety fitness standard for motor carriers. For intrastate motor carriers subject to the hazardous materials safety permit requirements of subpart E of this part, the motor carrier must meet the equivalent State requirements. To meet the safety fitness standard, the motor carrier must demonstrate it has adequate safety management controls in place, which function effectively to ensure acceptable compliance with applicable safety requirements to reduce the risk associated with:

- (a) Commercial driver's license standard violations (part 383 of this chapter),
- (b) Inadequate levels of financial responsibility (part 387 of this chapter),
- (c) The use of unqualified drivers (part 391 of this chapter),
- (d) Improper use and driving of motor vehicles (part 392 of this chapter),
- (e) Unsafe vehicles operating on the highways (part 393 of this chapter),
- (f) Failure to maintain accident registers and copies of accident reports (part 390 of this chapter),
- (g) The use of fatigued drivers (part 395 of this chapter),
- (h) Inadequate inspection, repair, and maintenance of vehicles (part 396 of this chapter),
- (i) Transportation of hazardous materials, driving and parking rule violations (part 397 of this chapter),
- (j) Violation of hazardous materials regulations (parts 170-177 of this title), and
- (k) Motor vehicle accidents and hazardous materials incidents.

[77 FR 28454, May 14, 2012]

**§385.7 Factors to be considered in determining a safety rating.**

The factors to be considered in determining the safety fitness and assigning a safety rating include information from safety reviews, compliance reviews and any other data. The factors may include all or some of the following:

- (a) Adequacy of safety management controls. The adequacy of controls may be questioned if their degree of formalization, automation, etc., is found to be substantially below the norm for similar carriers. Violations, accidents or incidents substantially above the norm for similar carriers will be strong evidence that management controls are either inadequate or not functioning properly.
- (b) Frequency and severity of regulatory violations.
- (c) Frequency and severity of driver/vehicle regulatory violations identified during roadside inspections of motor carrier operations in commerce and, if the motor carrier operates in the United States, of operations in Canada and Mexico.
- (d) Number and frequency of out-of-service driver/vehicle violations of motor carrier operations in commerce and, if the motor carrier operates in the United States, of operations in Canada and Mexico.
- (e) Increase or decrease in similar types of regulatory violations discovered during safety or compliance reviews.
- (f) For motor carrier operations in commerce and (if the motor carrier operates in the United States) in Canada and Mexico: Frequency of accidents; hazardous materials incidents; accident rate per million miles; indicators of preventable accidents; and whether such accidents, hazardous materials incidents, and preventable accident indicators have increased or declined over time.

(g) Number and severity of violations of CMV and motor carrier safety rules, regulations, standards, and orders that are both issued by a State, Canada, or Mexico and compatible with Federal rules, regulations, standards, and orders.

[53 FR 50968, Dec. 19, 1988, as amended at 58 FR 33776, June 21, 1993; 72 FR 36788, July 5, 2007]

### **Appendix B to Part 385—Explanation of Safety Rating Process**

- (a) Section 215 of the Motor Carrier Safety Act of 1984 (49 U.S.C. 31144) directed the Secretary of Transportation to establish a procedure to determine the safety fitness of owners and operators of commercial motor vehicles operating in interstate or for
- (b) eign commerce. The Secretary, in turn, delegated this responsibility to the Federal Motor Carrier Safety Administration (FMCSA).

(b) As directed, FMCSA promulgated a safety fitness regulation, entitled “Safety Fitness Procedures,” which established a procedure to determine the safety fitness of motor carriers through the assignment of safety ratings and established a “safety fitness standard” which a motor carrier must meet to obtain a *satisfactory* safety rating.

(c) Critical regulations are those identified as such where noncompliance relates to management and/or operational controls. These are indicative of breakdowns in a carrier's management controls. An example of a critical regulation is §395.3(a)(1), requiring or permitting a property-carrying commercial motor vehicle driver to drive more than 11 hours.

(d) The safety rating process developed by FMCSA is used to:

1. Evaluate safety fitness and assign one of three safety ratings (*satisfactory*, *conditional*, or *unsatisfactory*) to motor carriers operating in interstate commerce. This process conforms to 49 CFR 385.5, Safety fitness standard, and §385.7, Factors to be considered in determining a safety rating.

2. Identify motor carriers needing improvement in their compliance with the Federal Motor Carrier Safety Regulations (FMCSRs) and applicable Hazardous Materials Regulations (HMRs). These are carriers rated *unsatisfactory* or *conditional*.

2. Identify motor carriers needing improvement in their compliance with the Federal Motor Carrier Safety Regulations (FMCSRs) and applicable Hazardous Materials Regulations (HMRs). These are carriers rated Unsatisfactory or Conditional.

(e) The hazardous materials safety permit requirements of part 385, subpart E apply to intrastate motor carriers. Intrastate motor carriers that are subject to the hazardous materials safety permit requirements in subpart E will be rated using equivalent State requirements whenever the FMCSRs are referenced in this appendix.

(f) The safety rating will be determined by applying the SFRM equally to all of a company's motor carrier operations in commerce, including if applicable its operations in Canada and/or Mexico.

#### **I. SOURCE OF DATA FOR RATING METHODOLOGY**

(a) The FMCSA's rating process is built upon the operational tool known as the CR. This tool was developed to assist Federal and State safety specialists in gathering pertinent motor carrier compliance and accident information.

(b) The CR is an in-depth examination of a motor carrier's operations and is used (1) to rate unrated motor carriers, (2) to conduct a follow-up investigation on motor carriers rated *unsatisfactory* or *conditional* as a result of a previous review, (3) to investigate complaints, or (4) in response to a request by a motor carrier to reevaluate its

safety rating. Documents such as those contained in driver qualification files, records of duty status, vehicle maintenance records, and other records are thoroughly examined for compliance with the FMCSRs and HMRs. Violations are cited on the CR document. Performance-based information, when available, is utilized to evaluate the carrier's compliance with the vehicle regulations. Recordable accident information is also collected.

## II. CONVERTING CR INFORMATION INTO A SAFETY RATING

(a) The FMCSA gathers information through an in-depth examination of the motor carrier's compliance with identified “acute” or “critical” regulations of the FMCSRs and HMRs.

(b) Acute regulations are those identified as such where noncompliance is so severe as to require immediate corrective actions by a motor carrier regardless of the overall safety posture of the motor carrier. An example of an acute regulation is §383.37(b), allowing, requiring, permitting, or authorizing an employee with more than one Commercial Driver's License (CDL) to operate a commercial motor vehicle. Noncompliance with §383.37(b) is usually discovered when the motor carrier's driver qualification file reflects that the motor carrier had knowledge of a driver with more than one CDL, and still permitted the driver to operate a commercial motor vehicle. If the motor carrier did not have such knowledge or could not reasonably be expected to have such knowledge, then a violation would not be cited.

(c) Critical regulations are those identified as such where noncompliance relates to management and/or operational controls. These are indicative of breakdowns in a carrier's management controls. An example of a critical regulation is §395.3(a)(1), requiring or permitting a property-carrying commercial motor vehicle driver to drive more than 11 hours.

(d) The list of the acute and critical regulations which are used in determining safety ratings is included at the end of this document.

(e) Noncompliance with acute regulations and patterns of non-compliance with critical regulations are quantitatively linked to inadequate safety management controls and usually higher than average accident rates. The FMCSA has used noncompliance with acute regulations and patterns of noncompliance with critical regulations since 1989 to determine motor carriers' adherence to the Safety fitness standard in §385.5.

(f) The regulatory factors, evaluated on the basis of the adequacy of the carrier's safety management controls, are: (1) Parts 172 and 173; (2) Parts 387 and 390; (3) Parts 382, 383, and 391; (4) Parts 392 and 395; (5) Parts 393 and 396 when there are less than three vehicle inspections in the last 12 months to evaluate; and (6) Parts 397, 171, 177 and 180.

(g) For each instance of noncompliance with an acute regulation or each pattern of noncompliance with a critical regulation during the CR, one point will be assessed. A pattern is more than one violation. When a number of documents are reviewed, the number of violations required to meet a pattern is equal to at least 10 percent of those examined.

(h) However, each pattern of noncompliance with a critical regulation relative to Part 395, Hours of Service of Drivers, will be assessed two points.

### A. Vehicle Factor

(a) When a total of *three or more inspections are recorded in the Motor Carrier Management Information System (MCMIS) during the twelve months prior to the CR or performed at the time of the review*, the Vehicle Factor (Parts 393 and 396) will be evaluated on the basis of the Out-of-Service (OOS) rates and noncompliance with acute regulations and/or a pattern of noncompliance with critical regulations. The results of the review of the OOS rate will affect the Vehicle Factor rating as follows:

1. If a motor carrier has three or more roadside vehicle inspections in the twelve months prior to the carrier review, or three vehicles inspected at the time of the review, or a combination of the two totaling three or more, and the vehicle OOS rate is 34 percent or greater, the initial factor rating will be *conditional*. The requirements of Part 396, Inspection, Repair, and Maintenance, will be examined during each review. The results of the examination could lower the factor rating to *unsatisfactory* if noncompliance with an acute regulation or a pattern of noncompliance with a critical regulation is discovered. If the examination of the Part 396 requirements reveals no such problems with the systems the motor carrier is required to maintain for compliance, the Vehicle Factor remains *conditional*.

2. If a carrier's vehicle OOS rate is less than 34 percent, the initial factor rating will be *satisfactory*. If noncompliance with an acute regulation or a pattern of noncompliance with a critical regulation is discovered during the examination of Part 396 requirements, the factor rating will be lowered to *conditional*. If the examination of Part 396 requirements discovers no such problems with the systems the motor carrier is required to maintain for compliance, the Vehicle Factor remains *satisfactory*.

(b) Nearly two million vehicle inspections occur on the roadside each year. This vehicle inspection information is retained in the MCMIS and is integral to evaluating motor carriers' ability to successfully maintain their vehicles, thus preventing them from being placed OOS during roadside inspections. Since many of the roadside inspections are targeted to visibly defective vehicles and since there are a limited number of inspections for many motor carriers, the use of that data is limited. Each CR will continue to have the requirements of Part 396, Inspection, Repair, and Maintenance, reviewed as indicated by the above explanation.

#### *B. Accident Factor*

(a) In addition to the five regulatory rating factors, a sixth factor is included in the process to address the accident history of the motor carrier. This factor is the recordable accident rate for the past 12 months. A recordable accident, consistent with the definition for "accident" in 49 CFR 390.5, means an occurrence involving a commercial motor vehicle on a highway in motor carrier operations in commerce or within Canada or Mexico (if the motor carrier also operates in the United States) that results in a fatality; in bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or in one or more motor vehicles incurring disabling damage that requires the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

(b) Recordable accidents per million miles were computed for each CR performed in Fiscal Years 1994, 1995 and 1996. The national average for all carriers rated was 0.747, and .839 for carriers operating entirely within the 100 air mile radius.

(c) Experience has shown that urban carriers, those motor carriers operating primarily within a radius of less than 100 air miles (normally in urban areas) have a higher exposure to accident situations because of their environment and normally have higher accident rates.

(d) The recordable accident rate will be used to rate Factor 6, Accident. It will be used only when a motor carrier incurs two or more recordable accidents occurred within the 12 months prior to the CR. An urban carrier (a carrier operating entirely within a radius of 100 air miles) with a recordable accident rate greater than 1.7 will receive an *unsatisfactory* rating for the accident factor. All other carriers with a recordable accident rate greater than 1.5 will receive an *unsatisfactory* factor rating. The rates are a result of roughly doubling the national average accident rate for each type of carrier rated in Fiscal Years 1994, 1995 and 1996.

(e) The FMCSA will continue to consider preventability when a motor carrier contests a rating by presenting compelling evidence that the recordable rate is not a fair means of evaluating its accident factor. Preventability will be determined according to the following standard: "If a driver, who exercises normal judgment and foresight could have foreseen the possibility of the accident that in fact occurred, and avoided it by taking steps within his/her control which would not have risked causing another kind of mishap, the accident was preventable."

*C. Factor Ratings*

(a) Parts of the FMCSRs and the HMRs having similar characteristics are combined together into five regulatory areas called “factors.”

(b) The following table shows the five regulatory factors, parts of the FMCSRs and HMRs associated with each factor, and the accident factor. Factor Ratings are determined as follows:

**FACTORS**

Factor 1 General = Parts 387 and 390

Factor 2 Driver = Parts 382, 383 and 391

Factor 3 Operational = Parts 392 and 395

Factor 4 Vehicle = Parts 393 and 396

Factor 5 Haz. Mat. = Parts 397, 171, 177 and 180

Factor 6 Accident Factor = Recordable Rate

“Satisfactory”—if the acute and/or critical = 0 points

“Conditional”—if the acute and/or critical = 1 point

“Unsatisfactory”—if the acute and/or critical = 2 or more points

**III. SAFETY RATING***A. Rating Table*

(a) The ratings for the six factors are then entered into a rating table which establishes the motor carrier's safety rating.

(b) The FMCSA has developed a computerized rating formula for assessing the information obtained from the CR document and is using that formula in assigning a safety rating.

**MOTOR CARRIER SAFETY RATING TABLE**

<b>Factor ratings</b>		<b>Overall Safety rating</b>
<b>Unsatisfactory</b>	<b>Conditional</b>	
0	2 or fewer	Satisfactory
0	more than 2	Conditional
1	2 or fewer	Conditional
1	more than 2	Unsatisfactory
2 or more	0 or more	Unsatisfactory



### B. Proposed Safety Rating

(a) The proposed safety rating will appear on the CR. The following appropriate information will appear after the last entry on the CR, MCS-151, part B.

“Your proposed safety rating is SATISFACTORY.”

OR

“Your proposed safety rating is CONDITIONAL.” The proposed safety rating will become the final safety rating 45 days after you receive this notice.

OR

“Your proposed safety rating is UNSATISFACTORY.” The proposed safety rating will become the final safety rating 45 days after you receive this notice

(b) Proposed safety ratings of *conditional* or *unsatisfactory* will list the deficiencies discovered during the CR for which corrective actions must be taken.

(c) Proposed *unsatisfactory* safety ratings will indicate that, if the *unsatisfactory* rating becomes final, the motor carrier will be subject to the provision of §385.13, which prohibits motor carriers rated *unsatisfactory* from transporting hazardous materials requiring placarding or more than 15 passengers, including the driver.

## IV. ASSIGNMENT OF FINAL RATING/MOTOR CARRIER NOTIFICATION

When the official rating is determined in Washington, D.C., the FMCSA notifies the motor carrier in writing of its safety rating as prescribed in §385.11. A proposed *conditional* safety rating (which is an improvement of an existing *unsatisfactory* rating) becomes effective as soon as the official safety rating from Washington, D.C. is issued, and the carrier may also avail itself of relief under the §385.15, Administrative Review and §385.17, Change to safety rating based on corrective actions.

## V. MOTOR CARRIER RIGHTS TO A CHANGE IN THE SAFETY RATING

Under §§385.15 and 385.17, motor carriers have the right to petition for a review of their ratings *if there are factual or procedural disputes*, and to request another review after corrective actions have been taken. They are the procedural avenues a motor carrier which believes its safety rating to be in error may exercise, and the means to request another review after corrective action has been taken.

## VI. CONCLUSION

(a) The FMCSA believes this “safety fitness rating methodology” is a reasonable approach for assigning a safety rating which best describes the current safety fitness posture of a motor carrier as required by the safety fitness regulations (§385.9). This methodology has the capability to incorporate regulatory changes as they occur.

(b) Improved compliance with the regulations leads to an improved rating, which in turn increases safety. This increased safety is our regulatory goal.

## VII. LIST OF ACUTE AND CRITICAL REGULATIONS.

- §382.115(a) Failing to implement an alcohol and/or controlled substances testing program (domestic motor carrier) (acute).
- §382.115(b) Failing to implement an alcohol and/or controlled substances testing program (foreign motor carrier) (acute).
- §382.201 Using a driver known to have an alcohol concentration of 0.04 or greater (acute).
- §382.211 Using a driver who has refused to submit to an alcohol or controlled substances test required under part 382 (acute).
- §382.213(b) Using a driver known to have used a controlled substance (acute).
- §382.215 Using a driver known to have tested positive for a controlled substance (acute).
- §382.301(a) Using a driver before the motor carrier has received a negative pre-employment controlled substance test result (critical).
- §382.303(a) Failing to conduct post accident testing on driver for alcohol (critical).
- §382.303(b) Failing to conduct post accident testing on driver for controlled substances (critical).
- §382.305 Failing to implement a random controlled substances and/or an alcohol testing program (acute).
- §382.305(b)(1) 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 (critical).
- §382.305(b)(2) Failing to conduct random controlled substances testing at an annual rate of not less than the applicable annual rate of the average number of driver positions (critical).
- §382.309(a) Using a driver who has not undergone a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02 (acute).
- §382.309(b) Using a driver who has not undergone a return-to-duty controlled substances test with a result indicating a verified negative result for controlled substances (acute).
- §382.503 Allowing a driver to perform safety sensitive function, after engaging in conduct prohibited by subpart B, without being evaluated by substance abuse professional, as required by §382.605 (critical).
- §382.505(a) Using a driver within 24 hours after being found to have an alcohol concentration of 0.02 or greater but less than 0.04 (acute).
- §382.605(c)(1) Using a driver who has not undergone a return-to-duty alcohol test with a result indicating an alcohol concentration of less than .02 or with verified negative test result, after engaging in conduct prohibited by part 382 subpart B (acute).
- §382.605(c)(2)(ii) Failing to subject a driver who has been identified as needing assistance to at least six unannounced follow-up alcohol and/or controlled substance tests in the first 12 months following the driver's return to duty (critical).
- §383.23(a) Operating a commercial motor vehicle without a valid commercial driver's license (critical).
- §383.37(a) Knowingly allowing, requiring, permitting, or authorizing an employee who does not have a current CLP or CDL, who does not have a CLP or CDL with the proper class or endorsements, or who operates a CMV in violation of any restriction on the CLP or CDL to operate a CMV (acute).

- §383.37(b) Knowingly allowing, requiring, permitting, or authorizing an employee with a commercial driver's license which is suspended, revoked, or canceled by a state or who is disqualified to operate a commercial motor vehicle (acute).
- §383.37(c) Knowingly allowing, requiring, permitting, or authorizing an employee with more than one commercial driver's license to operate a commercial motor vehicle (acute).
- §383.51(a) Knowingly allowing, requiring, permitting, or authorizing a driver to drive who is disqualified to drive a commercial motor vehicle (acute).
- §387.7(a) Operating a motor vehicle without having in effect the required minimum levels of financial responsibility coverage (acute).
- §387.7(d) Failing to maintain at principal place of business required proof of financial responsibility (critical).
- §387.31(a) Operating a passenger carrying vehicle without having in effect the required minimum levels of financial responsibility (acute).
- §387.31(d) Failing to maintain at principal place of business required proof of financial responsibility for passenger carrying vehicles (critical).
- §390.15(b)(2) Failing to maintain copies of all accident reports required by State or other governmental entities or insurers (critical).
- §390.35 Making, or causing to make fraudulent or intentionally false statements or records and/or reproducing fraudulent records (acute).
- §391.11(b)(4) Using a physically unqualified driver (acute).
- §391.15(a) Using a disqualified driver (acute).
- §391.45(a) Using a driver not medically examined and certified (critical).
- §391.45(b)(1) Using a driver not medically examined and certified during the preceding 24 months (critical).
- §391.51(a) Failing to maintain driver qualification file on each driver employed (critical).
- §391.51(b)(2) Failing to maintain inquiries into driver's driving record in driver's qualification file (critical).
- §391.51(b)(7) Failing to maintain medical examiner's certificate in driver's qualification file (critical).
- §392.2 Operating a motor vehicle not in accordance with the laws, ordinances, and regulations of the jurisdiction in which it is being operated (critical).
- §392.4(b) Requiring or permitting a driver to drive while under the influence of, or in possession of, a narcotic drug, amphetamine, or any other substance capable of rendering the driver incapable of safely operating a motor vehicle (acute).
- §392.5(b)(1) Requiring or permitting a driver to drive a motor vehicle while under the influence of, or in possession of, an intoxicating beverage (acute).
- §392.5(b)(2) Requiring or permitting a driver who shows evidence of having consumed an intoxicating beverage within 4 hours to operate a motor vehicle (acute).
- §392.6 Scheduling a run which would necessitate the vehicle being operated at speeds in excess of those prescribed (critical).
- §392.9(a)(1) Requiring or permitting a driver to drive without the vehicle's cargo being properly distributed and adequately secured (critical).

- §395.1(h)(1)(i) Requiring or permitting a property-carrying commercial motor vehicle driver to drive more than 15 hours (Driving in Alaska) (critical).
- §395.1(h)(1)(ii) Requiring or permitting a property-carrying commercial motor vehicle driver to drive after having been on duty 20 hours (Driving in Alaska) (critical).
- §395.1(h)(1)(iii) Requiring or permitting a property-carrying commercial motor vehicle driver to drive after having been on duty more than 70 hours in 7 consecutive days (Driving in Alaska) (critical).
- §395.1(h)(1)(iv) Requiring or permitting a property-carrying commercial motor vehicle driver to drive after having been on duty more than 80 hours in 8 consecutive days (Driving in Alaska) (critical).
- §395.1(h)(2)(i) Requiring or permitting a passenger-carrying commercial motor vehicle driver to drive more than 15 hours (Driving in Alaska) (critical).
- §395.1(h)(2)(ii) Requiring or permitting a passenger-carrying commercial motor vehicle driver to drive after having been on duty 20 hours (Driving in Alaska) (critical).
- §395.1(h)(2)(iii) Requiring or permitting a passenger-carrying commercial motor vehicle driver to drive after having been on duty more than 70 hours in 7 consecutive days (Driving in Alaska) (critical).
- §395.1(h)(2)(iv) Requiring or permitting a passenger-carrying commercial motor vehicle driver to drive after having been on duty more than 80 hours in 8 consecutive days (Driving in Alaska) (critical).
- §395.1(o) Requiring or permitting a property-carrying commercial motor vehicle driver to drive after having been on duty 16 consecutive hours (critical).
- §395.3(a)(1) Requiring or permitting a property-carrying commercial motor vehicle driver to drive without taking an off-duty period of at least 10 consecutive hours prior to driving (critical).
- §395.3(a)(2) Requiring or permitting a property-carrying commercial motor vehicle driver to drive after the end of the 14th hour after coming on duty (critical).
- §395.3(a)(3)(i) Requiring or permitting a property-carrying commercial motor vehicle driver to drive more than 11 hours (critical).
- §395.3(a)(3)(ii) Requiring or permitting a property-carrying commercial motor vehicle driver to drive if more than 8 hours have passed since the end of the driver's last off-duty or sleeper-berth period of at least 30 minutes (critical).
- §395.3(b)(1) Requiring or permitting a property-carrying commercial motor vehicle driver to drive after having been on duty more than 60 hours in 7 consecutive days (critical).
- §395.3(b)(2) Requiring or permitting a property-carrying commercial motor vehicle driver to drive after having been on duty more than 70 hours in 8 consecutive days (critical).
- §395.5(a)(1) Requiring or permitting a passenger-carrying commercial motor vehicle driver to drive more than 10 hours (critical).
- §395.5(a)(2) Requiring or permitting a passenger-carrying commercial motor vehicle driver to drive after having been on duty 15 hours (critical).
- §395.5(b)(1) Requiring or permitting a passenger-carrying commercial motor vehicle driver to drive after having been on duty more than 60 hours in 7 consecutive days (critical).
- §395.5(b)(2) Requiring or permitting a passenger-carrying commercial motor vehicle driver to drive after having been on duty more than 70 hours in 8 consecutive days (critical).

- §395.8(a) Failing to require driver to make a record of duty status (critical).
- §395.8(e) False reports of records of duty status (critical).
- §395.8(i) Failing to require driver to forward within 13 days of completion, the original of the record of duty status (critical).
- §395.8(k)(1) Failing to preserve driver's record of duty status for 6 months (critical).
- §395.8(k)(1) Failing to preserve driver's records of duty status supporting documents for 6 months (critical).
- §396.3(b) Failing to keep minimum records of inspection and vehicle maintenance (critical).
- §396.9(c)(2) Requiring or permitting the operation of a motor vehicle declared “out-of-service” before repairs were made (acute).
- §396.11(a) Failing to require driver to prepare driver vehicle inspection report (critical).
- §396.11(a)(3) Failing to correct Out-of-Service defects listed by driver in a driver vehicle inspection report before the vehicle is operated again (acute)
- §396.17(a) Using a commercial motor vehicle not periodically inspected (critical).
- §396.17(g) Failing to promptly repair parts and accessories not meeting minimum periodic inspection standards (acute).
- §397.5(a) Failing to ensure a motor vehicle containing Division 1.1, 1.2, or 1.3 (explosive) material is attended at all times by its driver or a qualified representative (acute).
- §397.7(a)(1) Parking a motor vehicle containing Division 1.1, 1.2, or 1.3 materials within 5 feet of traveled portion of highway or street (critical).
- §397.7(b) Parking a motor vehicle containing hazardous material(s) other than Division 1.1, 1.2, or 1.3 materials within 5 feet of traveled portion of highway or street (critical).
- §397.13(a) Permitting a person to smoke or carry a lighted cigarette, cigar or pipe within 25 feet of a motor vehicle containing Class 1 materials, Class 5 materials, or flammable materials classified as Division 2.1, Class 3, Divisions 4.1 and 4.2 (critical).
- §397.19(a) Failing to furnish driver of motor vehicle transporting Division 1.1, 1.2, or 1.3 (explosive) materials with a copy of the rules of part 397 and/or emergency response instructions (critical).
- §397.67(d) Requiring or permitting the operation of a motor vehicle containing explosives in Class 1, Divisions 1.1, 1.2, or 1.3 that is not accompanied by a written route plan (critical).
- §171.15 Carrier failing to give immediate telephone notice of an incident involving hazardous materials (critical).
- §171.16 Carrier failing to make a written report of an incident involving hazardous materials (critical).
- §172.313(a) Accepting for transportation or transporting a package containing a poisonous-by-inhalation material that is not marked with the words “Inhalation Hazard” (acute).
- §172.704(a)(4) Failing to provide security awareness training (critical).
- §172.704(a)(5) Failing to provide in-depth security awareness training (critical).
- §172.800(b) Transporting HM without a security plan (acute).
- §172.800(b) Transporting HM without a security plan that conforms to Subpart I requirements (acute).

- §172.800(b) Failure to adhere to a required security plan (acute).
- §172.802(b) Failure to make copies of security plan available to hazmat employees (critical).
- §173.24(b)(1) Accepting for transportation or transporting a package that has an identifiable release of a hazardous material to the environment (acute).
- §173.421(a) Accepting for transportation or transporting a Class 7 (radioactive) material described, marked, and packaged as a limited quantity when the radiation level on the surface of the package exceeds 0.005mSv/hour (0.5 mrem/hour) (acute).
- §173.431(a) Accepting for transportation or transporting in a Type A packaging a greater quantity of Class 7 (radioactive) material than authorized (acute).
- §173.431(b) Accepting for transportation or transporting in a Type B packaging a greater quantity of Class 7 (radioactive) material than authorized (acute).
- §173.441(a) Accepting for transportation or transporting a package containing Class 7 (radioactive) material with external radiation exceeding allowable limits (acute).
- §173.442(b) Accepting for transportation or transporting a package containing Class 7 (radioactive) material when the temperature of the accessible external surface of the loaded package exceeds 50 °C (122 °F) in other than an exclusive use shipment, or 85 °C (185 °F) in an exclusive use shipment (acute).
- §173.443(a) Accepting for transportation or transporting a package containing Class 7 (radioactive) material with removable contamination on the external surfaces of the package in excess of permissible limits (acute).
- §177.800(c) Failing to instruct a category of employees in hazardous materials regulations (critical).
- §177.801 Accepting for transportation or transporting a forbidden material (acute).
- §177.835(a) Loading or unloading a Class 1 (explosive) material with the engine running (acute).
- §177.835(c) Accepting for transportation or transporting Division 1.1, 1.2, or 1.3 (explosive) materials in a motor vehicle or combination of vehicles that is not permitted (acute).
- §177.835(j) Transferring Division 1.1, 1.2, or 1.3 (explosive) materials between containers or motor vehicles when not permitted (acute).
- §177.817(a) Transporting a shipment of hazardous materials not accompanied by a properly prepared shipping paper (critical).
- §177.817(e) Failing to maintain proper accessibility of shipping papers (critical).
- §177.823(a) Moving a transport vehicle containing hazardous material that is not properly marked or placarded (critical).
- §177.841(e) Transporting a package bearing a poison label in the same transport vehicle with material marked or known to be foodstuff, feed, or any edible material intended for consumption by humans or animals unless an exception in §177.841(e)(i) or (ii) is met (acute).
- §180.407(a) Transporting a shipment of hazardous material in cargo tank that has not been inspected or retested in accordance with §180.407 (critical).
- §180.407(c) Failing to periodically test and inspect a cargo tank (critical).
- §180.415 Failing to mark a cargo tank which passed an inspection or test required by §180.407 (critical).

§180.417(a)(1) Failing to retain cargo tank manufacturer's data report certificate and related papers, as required (critical).

§180.417(a)(2) Failing to retain copies of cargo tank manufacturer's certificate and related papers (or alternative report) as required (critical).

[62 FR 60043, Nov. 6, 1997, as amended at 63 FR 62959, Nov. 10, 1998; 65 FR 11907, Mar. 7, 2000; 68 FR 22513, Apr. 28, 2003; 70 FR 50070, Aug. 25, 2005; 72 FR 36789, July 5, 2007; 72 FR 71269, Dec. 17, 2007; 75 FR 17244, Apr. 5, 2010; 76 FR 26897, May 9, 2011; 76 FR 81186, Dec. 27, 2011; 77 FR 28450, 28454, May 14, 2012; 77 FR 59826, Oct. 1, 2012; 79 FR 59456, Oct. 2, 2014; 80 FR 59073, Oct. 1, 2015]

### §390.5 Definitions.

[Link to an amendment published at 78 FR 52653, Aug. 23, 2013.](#)

[Link to a delay published at 80 FR 63702, Oct. 21, 2015.](#)

[Link to an amendment published at 80 FR 63711, Oct. 21, 2015.](#)

Unless specifically defined elsewhere, in this subchapter:

*Accident* means—

(1) Except as provided in paragraph (2) of this definition, an occurrence involving a commercial motor vehicle operating on a highway in interstate or intrastate commerce which results in:

(i) A fatality;

(ii) Bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or

(iii) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle(s) to be transported away from the scene by a tow truck or other motor vehicle.

(2) The term accident does not include:

(i) An occurrence involving only boarding and alighting from a stationary motor vehicle; or

(ii) An occurrence involving only the loading or unloading of cargo.

*Alcohol concentration* (AC) means the concentration of alcohol in a person's blood or breath. When expressed as a percentage it means grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

*Bus* means any motor vehicle designed, constructed, and/or used for the transportation of passengers, including taxicabs.

*Business district* means the territory contiguous to and including a highway when within any 600 feet along such highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks, or office buildings which occupy at least 300 feet of frontage on one side or 300 feet collectively on both sides of the highway.

*Charter transportation of passengers* means transportation, using a bus, of a group of persons who pursuant to a common purpose, under a single contract, at a fixed charge for the motor vehicle, have acquired the exclusive use of the motor vehicle to travel together under an itinerary either specified in advance or modified after having left the place of origin.

*Commercial motor vehicle* means any self-propelled or towed motor vehicle used on a highway in interstate commerce to transport passengers or property when the vehicle—

- (1) Has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of 4,536 kg (10,001 pounds) or more, whichever is greater; or
- (2) Is designed or used to transport more than 8 passengers (including the driver) for compensation; or
- (3) Is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or
- (4) Is used in transporting material found by the Secretary of Transportation to be hazardous under 49 U.S.C. 5103 and transported in a quantity requiring placarding under regulations prescribed by the Secretary under 49 CFR, subtitle B, chapter I, subchapter C.

*Conviction* means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or prorated.

*Covered farm vehicle*—

- (1) Means a straight truck or articulated vehicle—
  - (i) Registered in a State with a license plate or other designation issued by the State of registration that allows law enforcement officials to identify it as a farm vehicle;
  - (ii) Operated by the owner or operator of a farm or ranch, or an employee or family member of a an owner or operator of a farm or ranch;
  - (iii) Used to transport agricultural commodities, livestock, machinery or supplies to or from a farm or ranch; and
  - (iv) Not used in for-hire motor carrier operations; however, for-hire motor carrier operations do not include the operation of a vehicle meeting the requirements of paragraphs (1)(i) through (iii) of this definition by a tenant pursuant to a crop share farm lease agreement to transport the landlord's portion of the crops under that agreement.
- (2) Meeting the requirements of paragraphs (1)(i) through (iv) of this definition:
  - (i) With a gross vehicle weight or gross vehicle weight rating, whichever is greater, of 26,001 pounds or less may utilize the exemptions in §390.39 anywhere in the United States; or
  - (ii) With a gross vehicle weight or gross vehicle weight rating, whichever is greater, of more than 26,001 pounds may utilize the exemptions in §390.39 anywhere in the State of registration or across State lines within 150 air miles of the farm or ranch with respect to which the vehicle is being operated.

*Crash*—See accident.



*Direct assistance* means transportation and other relief services provided by a motor carrier or its driver(s) incident to the immediate restoration of essential services (such as, electricity, medical care, sewer, water, telecommunications, and telecommunication transmissions) or essential supplies (such as, food and fuel). It does not include transportation related to long-term rehabilitation of damaged physical infrastructure or routine commercial deliveries after the initial threat to life and property has passed.

*Direct compensation* means payment made to the motor carrier by the passengers or a person acting on behalf of the passengers for the transportation services provided, and not included in a total package charge or other assessment for highway transportation services.

*Disabling damage* means damage which precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs.

(1) *Inclusions.* Damage to motor vehicles that could have been driven, but would have been further damaged if so driven.

(2) *Exclusions.* (i) Damage which can be remedied temporarily at the scene of the accident without special tools or parts.

(ii) Tire disablement without other damage even if no spare tire is available.

(iii) Headlamp or taillight damage.

(iv) Damage to turn signals, horn, or windshield wipers which makes them inoperative.

*Driveaway-towaway operation* means an operation in which an empty or unladen motor vehicle with one or more sets of wheels on the surface of the roadway is being transported:

(1) Between vehicle manufacturer's facilities;

(2) Between a vehicle manufacturer and a dealership or purchaser;

(3) Between a dealership, or other entity selling or leasing the vehicle, and a purchaser or lessee;

(4) To a motor carrier's terminal or repair facility for the repair of disabling damage (as defined in §390.5) following a crash; or

(5) To a motor carrier's terminal or repair facility for repairs associated with the failure of a vehicle component or system; or

(6) By means of a saddle-mount or tow-bar.

*Driver* means any person who operates any commercial motor vehicle.

*Driving a commercial motor vehicle while under the influence of alcohol* means committing any one or more of the following acts in a CMV: Driving a CMV while the person's alcohol concentration is 0.04 or more; driving under the influence of alcohol, as prescribed by State law; or refusal to undergo such testing as is required by any State or jurisdiction in the enforcement of Table 1 to §383.51 or §392.5(a)(2) of this subchapter.

*Electronic device* includes, but is not limited to, a cellular telephone; personal digital assistant; pager; computer; or any other device used to input, write, send, receive, or read text.

*Emergency* means any hurricane, tornado, storm (e.g. thunderstorm, snowstorm, icestorm, blizzard, sandstorm, etc.), high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, mud slide, drought, forest fire, explosion, blackout or other occurrence, natural or man-made, which interrupts the delivery of essential services (such as, electricity, medical care, sewer, water, telecommunications, and telecommunication transmissions) or essential supplies (such as, food and fuel) or otherwise immediately threatens human life or public welfare, provided such hurricane, tornado, or other event results in:

(1) A declaration of an emergency by the President of the United States, the Governor of a State, or their authorized representatives having authority to declare emergencies; by the FMCSA Field Administrator for the geographical area in which the occurrence happens; or by other Federal, State or local government officials having authority to declare emergencies, or

(2) A request by a police officer for tow trucks to move wrecked or disabled motor vehicles.

*Emergency condition requiring immediate response* means any condition that, if left unattended, is reasonably likely to result in immediate serious bodily harm, death, or substantial damage to property. In the case of transportation of propane winter heating fuel, such conditions shall include (but are not limited to) the detection of gas odor, the activation of carbon monoxide alarms, the detection of carbon monoxide poisoning, and any real or suspected damage to a propane gas system following a severe storm or flooding. An “emergency condition requiring immediate response” does not include requests to refill empty gas tanks. In the case of a pipeline emergency, such conditions include (but are not limited to) indication of an abnormal pressure event, leak, release or rupture.

*Emergency relief* means an operation in which a motor carrier or driver of a commercial motor vehicle is providing direct assistance to supplement State and local efforts and capabilities to save lives or property or to protect public health and safety as a result of an emergency as defined in this section.

*Employee* means any individual, other than an employer, who is employed by an employer and who in the course of his or her employment directly affects commercial motor vehicle safety. Such term includes a driver of a commercial motor vehicle (including an independent contractor while in the course of operating a commercial motor vehicle), a mechanic, and a freight handler. Such term does not include an employee of the United States, any State, any political subdivision of a State, or any agency established under a compact between States and approved by the Congress of the United States who is acting within the course of such employment.

*Employer* means any person engaged in a business affecting interstate commerce who owns or leases a commercial motor vehicle in connection with that business, or assigns employees to operate it, but such terms does not include the United States, any State, any political subdivision of a State, or an agency established under a compact between States approved by the Congress of the United States.

*Exempt intracity zone* means the geographic area of a municipality or the commercial zone of that municipality described in appendix F to subchapter B of this chapter. The term “exempt intracity zone” does not include any municipality or commercial zone in the State of Hawaii. For purposes of §391.62, a driver may be considered to operate a commercial motor vehicle wholly within an exempt intracity zone notwithstanding any common control, management, or arrangement for a continuous carriage or shipment to or from a point without such zone.

*Exempt motor carrier* means a person engaged in transportation exempt from economic regulation by the Federal Motor Carrier Safety Administration (FMCSA) under 49 U.S.C. 13506. “Exempt motor carriers” are subject to the safety regulations set forth in this subchapter.

*Farm vehicle driver* means a person who drives only a commercial motor vehicle that is—

- (a) Controlled and operated by a farmer as a private motor carrier of property;
- (b) Being used to transport either—

- (1) Agricultural products, or
- (2) Farm machinery, farm supplies, or both, to or from a farm;
- (c) Not being used in the operation of a for-hire motor carrier;
- (d) Not carrying hazardous materials of a type or quantity that requires the commercial motor vehicle to be placarded in accordance with §177.823 of this subtitle; and
- (e) Being used within 150 air-miles of the farmer's farm.

*Farmer* means any person who operates a farm or is directly involved in the cultivation of land, crops, or livestock which—

- (a) Are owned by that person; or
- (b) Are under the direct control of that person.

*Fatality* means any injury which results in the death of a person at the time of the motor vehicle accident or within 30 days of the accident.

*Federal Motor Carrier Safety Administrator* means the chief executive of the Federal Motor Carrier Safety Administration, an agency within the Department of Transportation.

*For-hire motor carrier* means a person engaged in the transportation of goods or passengers for compensation.

*Gross combination weight rating (GCWR)* is the greater of:

- (1) A value specified by the manufacturer of the power unit, if such value is displayed on the Federal Motor Vehicle Safety Standard (FMVSS) certification label required by the National Highway Traffic Safety Administration, or
- (2) The sum of the gross vehicle weight ratings (GVWRs) or the gross vehicle weights (GVWs) of the power unit and the towed unit(s), or any combination thereof, that produces the highest value. Exception: The GCWR of the power unit will not be used to define a commercial motor vehicle when the power unit is not towing another vehicle.

*Gross vehicle weight rating (GVWR)* means the value specified by the manufacturer as the loaded weight of a single motor vehicle.

*Hazardous material* means a substance or material which has been determined by the Secretary of Transportation to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce, and which has been so designated.

*Hazardous substance* means a material, and its mixtures or solutions, that is identified in the appendix to §172.101, List of Hazardous Substances and Reportable Quantities, of this title when offered for transportation in one package, or in one transport motor vehicle if not packaged, and when the quantity of the material therein equals or exceeds the reportable quantity (RQ). This definition does not apply to petroleum products that are lubricants or fuels, or to mixtures or solutions of hazardous substances if in a concentration less than that shown in the table in §171.8 of this title, based on the reportable quantity (RQ) specified for the materials listed in the appendix to §172.101.

*Hazardous waste* means any material that is subject to the hazardous waste manifest requirements of the EPA specified in 40 CFR part 262 or would be subject to these requirements absent an interim authorization to a State under 40 CFR part 123, subpart F.

*Highway* means any road, street, or way, whether on public or private property, open to public travel. “Open to public travel” means that the road section is available, except during scheduled periods, extreme weather or emergency conditions, passable by four-wheel standard passenger cars, and open to the general public for use without restrictive gates, prohibitive signs, or regulation other than restrictions based on size, weight, or class of registration. Toll plazas of public toll roads are not considered restrictive gates.

*Interchange* means—

- (1) The act of providing intermodal equipment to a motor carrier pursuant to an intermodal equipment interchange agreement for the purpose of transporting the equipment for loading or unloading by any person or repositioning the equipment for the benefit of the equipment provider, but it does not include the leasing of equipment to a motor carrier for primary use in the motor carrier's freight hauling operations; or
- (2) The act of providing a passenger-carrying commercial motor vehicle by one motor carrier of passengers to another such carrier, at a point which both carriers are authorized to serve, with which to continue a through movement.
- (3) For property-carrying vehicles, see §376.2 of this subchapter.

*Intermodal equipment* means trailing equipment that is used in the intermodal transportation of containers over public highways in interstate commerce, including trailers and chassis.

*Intermodal equipment interchange agreement* means the Uniform Intermodal Interchange and Facilities Access Agreement (UIIFA) or any other written document executed by an intermodal equipment provider or its agent and a motor carrier or its agent, the primary purpose of which is to establish the responsibilities and liabilities of both parties with respect to the interchange of the intermodal equipment.

*Intermodal equipment provider* means any person that interchanges intermodal equipment with a motor carrier pursuant to a written interchange agreement or has a contractual responsibility for the maintenance of the intermodal equipment.

*Interstate commerce* means trade, traffic, or transportation in the United States—

- (1) Between a place in a State and a place outside of such State (including a place outside of the United States);
- (2) Between two places in a State through another State or a place outside of the United States; or
- (3) Between two places in a State as part of trade, traffic, or transportation originating or terminating outside the State or the United States.

*Intrastate commerce* means any trade, traffic, or transportation in any State which is not described in the term “interstate commerce.”

*Lease*, as used in §390.21(f) and subpart F of this part, means a contract or arrangement in which a motor carrier grants the use of a passenger-carrying commercial motor vehicle to another motor carrier, with or without a driver, for a specified period for the transportation of passengers, in exchange for compensation. The term *lease* includes an interchange, as defined in this section, or other agreement granting the use of a passenger-carrying commercial motor vehicle for a specified period, with or without a driver, whether or not compensation for such use is specified or required. For a definition of *lease* in the context of property-carrying vehicles, see §376.2 of this subchapter.

*Lessee*, as used in subpart F of this part, means the motor carrier obtaining the use of a passenger-carrying commercial motor vehicle, with or without the driver, from another motor carrier. The term *lessee* includes a motor carrier obtaining the use of a passenger-carrying commercial motor vehicle from another motor carrier under an

interchange or other agreement, with or without a driver, whether or not compensation for such use is specified. For a definition of *lessee* in the context of property-carrying vehicles, see §376.2 of this subchapter.

*Lessor*, as used in subpart F of this part, means the motor carrier granting the use of a passenger-carrying commercial motor vehicle, with or without a driver, to another motor carrier. The term *lessor* includes a motor carrier granting the use of a passenger-carrying commercial motor vehicle to another motor carrier under an interchange or other agreement, with or without a driver, whether or not compensation for such use is specified. For a definition of *lessor* in the context of property-carrying vehicles, see §376.2 of this subchapter.

*Medical examiner* means the following:

- (1) For medical examinations conducted before May 21, 2014, a person who is licensed, certified, and/or registered, in accordance with applicable State laws and regulations, to perform physical examinations. The term includes but is not limited to, doctors of medicine, doctors of osteopathy, physician assistants, advanced practice nurses, and doctors of chiropractic.
- (2) For medical examinations conducted on and after May 21, 2014, an individual certified by FMCSA and listed on the National Registry of Certified Medical Examiners in accordance with subpart D of this part.

*Medical variance* means a driver has received one of the following from FMCSA that allows the driver to be issued a medical certificate:

- (1) An exemption letter permitting operation of a commercial motor vehicle pursuant to part 381, subpart C, of this chapter or §391.64 of this chapter;
- (2) A skill performance evaluation certificate permitting operation of a commercial motor vehicle pursuant to §391.49 of this chapter.

*Mobile telephone* means a mobile communication device that falls under or uses any commercial mobile radio service, as defined in regulations of the Federal Communications Commission, 47 CFR 20.3. It does not include two-way or Citizens Band Radio services.

*Motor carrier* means a for-hire motor carrier or a private motor carrier. The term includes a motor carrier's agents, officers and representatives as well as employees responsible for hiring, supervising, training, assigning, or dispatching of drivers and employees concerned with the installation, inspection, and maintenance of motor vehicle equipment and/or accessories. For purposes of subchapter B, this definition includes the terms *employer*, and *exempt motor carrier*.

*Motor vehicle* means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highways in the transportation of passengers or property, or any combination thereof determined by the Federal Motor Carrier Safety Administration, but does not include any vehicle, locomotive, or car operated exclusively on a rail or rails, or a trolley bus operated by electric power derived from a fixed overhead wire, furnishing local passenger transportation similar to street-railway service.

*Motor vehicle record* means the report of the driving status and history of a driver generated from the driver record, provided to users, such as, drivers or employers, and subject to the provisions of the Driver Privacy Protection Act, 18 U.S.C. 2721-2725.

*Multiple-employer driver* means a driver, who in any period of 7 consecutive days, is employed or used as a driver by more than one motor carrier.

*Operating authority* means the registration required by 49 U.S.C. 13902, 49 CFR part 365, 49 CFR part 368, and 49 CFR 392.9a.

*Operator*—See driver.

*Other terms*—Any other term used in this subchapter is used in its commonly accepted meaning, except where such other term has been defined elsewhere in this subchapter. In that event, the definition therein given shall apply.

*Out-of-service order* means a declaration by an authorized enforcement officer of a Federal, State, Canadian, Mexican, or local jurisdiction that a driver, a commercial motor vehicle, or a motor carrier operation is out of service pursuant to 49 CFR 386.72, 392.5, 392.9a, 395.13, or 396.9, or compatible laws, or the North American Standard Out-of-Service Criteria.

*Person* means any individual, partnership, association, corporation, business trust, or any other organized group of individuals.

*Previous employer* means any DOT regulated person who employed the driver in the preceding 3 years, including any possible current employer.

*Principal place of business* means the single location designated by the motor carrier, normally its headquarters, for purposes of identification under this subchapter. The motor carrier must make records required by parts 382, 387, 390, 391, 395, 396, and 397 of this subchapter available for inspection at this location within 48 hours (Saturdays, Sundays, and Federal holidays excluded) after a request has been made by a special agent or authorized representative of the Federal Motor Carrier Safety Administration.

*Private motor carrier* means a person who provides transportation of property or passengers, by commercial motor vehicle, and is not a for-hire motor carrier.

*Private motor carrier of passengers (business)* means a private motor carrier engaged in the interstate transportation of passengers which is provided in the furtherance of a commercial enterprise and is not available to the public at large.

*Private motor carrier of passengers (nonbusiness)* means private motor carrier involved in the interstate transportation of passengers that does not otherwise meet the definition of a private motor carrier of passengers (business).

*Radar detector* means any device or mechanism to detect the emission of radio microwaves, laser beams or any other future speed measurement technology employed by enforcement personnel to measure the speed of commercial motor vehicles upon public roads and highways for enforcement purposes. Excluded from this definition are radar detection devices that meet both of the following requirements:

- (1) Transported outside the driver's compartment of the commercial motor vehicle. For this purpose, the *driver's* compartment of a passenger-carrying CMV shall include all space designed to accommodate both the driver and the passengers; and
- (2) Completely inaccessible to, inoperable by, and imperceptible to the driver while operating the commercial motor vehicle.

*Regional Director of Motor Carriers* means the Field Administrator, Federal Motor Carrier Safety Administration, for a given geographical area of the United States.

*Residential district* means the territory adjacent to and including a highway which is not a business district and for a distance of 300 feet or more along the highway is primarily improved with residences.

*School bus* means a passenger motor vehicle which is designed or used to carry more than 10 passengers in addition to the driver, and which the Secretary determines is likely to be significantly used for the purpose of transporting preprimary, primary, or secondary school students to such schools from home or from such schools to home.

*School bus operation* means the use of a school bus to transport only school children and/or school personnel from home to school and from school to home.

*Secretary* means the Secretary of Transportation.

*Single-employer driver* means a driver who, in any period of 7 consecutive days, is employed or used as a driver solely by a single motor carrier. This term includes a driver who operates a commercial motor vehicle on an intermittent, casual, or occasional basis.

*Special agent* See appendix B to subchapter B—Special agents.

*State* means a State of the United States and the District of Columbia and includes a political subdivision of a State.

*Texting* means manually entering alphanumeric text into, or reading text from, an electronic device.

(1) This action includes, but is not limited to, short message service, emailing, instant messaging, a command or request to access a World Wide Web page, pressing more than a single button to initiate or terminate a voice communication using a mobile telephone, or engaging in any other form of electronic text retrieval or entry, for present or future communication.

(2) Texting does not include:

(i) Inputting, selecting, or reading information on a global positioning system or navigation system; or

(ii) Pressing a single button to initiate or terminate a voice communication using a mobile telephone; or

(iii) Using a device capable of performing multiple functions (*e.g.*, fleet management systems, dispatching devices, smart phones, citizens band radios, music players, *etc.*) for a purpose that is not otherwise prohibited in this subchapter.

*Trailer* includes:

(1) *Full trailer* means any motor vehicle other than a pole trailer which is designed to be drawn by another motor vehicle and so constructed that no part of its weight, except for the towing device, rests upon the self-propelled towing motor vehicle. A semitrailer equipped with an auxiliary front axle (converter dolly) shall be considered a full trailer.

(2) *Pole trailer* means any motor vehicle which is designed to be drawn by another motor vehicle and attached to the towing motor vehicle by means of a “reach” or “pole,” or by being “boomed” or otherwise secured to the towing motor vehicle, for transporting long or irregularly shaped loads such as poles, pipes, or structural members, which generally are capable of sustaining themselves as beams between the supporting connections.

(3) *Semitrailer* means any motor vehicle, other than a pole trailer, which is designed to be drawn by another motor vehicle and is constructed so that some part of its weight rests upon the self-propelled towing motor vehicle.

*Truck* means any self-propelled commercial motor vehicle except a truck tractor, designed and/or used for the transportation of property.

*Truck tractor* means a self-propelled commercial motor vehicle designed and/or used primarily for drawing other vehicles.

*Use a hand-held mobile telephone* means:

- (1) Using at least one hand to hold a mobile telephone to conduct a voice communication;
- (2) Dialing or answering a mobile telephone by pressing more than a single button, or
- (3) Reaching for a mobile telephone in a manner that requires a driver to maneuver so that he or she is no longer in a seated driving position, restrained by a seat belt that is installed in accordance with 49 CFR 393.93 and adjusted in accordance with the vehicle manufacturer's instructions.

*United States* means the 50 States and the District of Columbia.

[53 FR 18052, May 19, 1988]

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#### **SMC 11.60.050**

##### **Outside width limits.**

The total outside width of any vehicle or load thereon shall not exceed eight and one-half (8½) feet; provided, that no rear vision mirror may extend more than five (5) inches beyond the extreme limits of the body; provided further, that excluded from this calculation of width are safety appliances such as clearance lights, rub rails, flexible fender extensions, mud flaps, and splash and spray suppressant devices, and appurtenances such as door handles, door hinges, and turning signal brackets and such other safety appliances and appurtenances as the Traffic Engineer may determine are necessary for the safe and efficient operation of motor vehicles, and provided further, that no appliances or appurtenances may extend more than two (2) inches beyond the extreme limits of the body. (RCW 46.44.010)

(Ord. [112092](#) § 20, 1984.)

#### **SMC 11.60.060**

##### **Maximum height—Impaired clearance—Signs.**

No person shall operate any vehicle unladen or with load exceeding a height of fourteen (14) feet above the level surface upon which the vehicle stands provided that this height limitation shall not apply to authorized emergency vehicles or repair equipment of a public utility engaged in reasonably necessary operation. The provisions of this section shall not relieve the owner or operator of a vehicle or combination of vehicles from the exercise of due care in determining that sufficient vertical clearance is provided upon the streets or alleys where such vehicle or combination of vehicles is being operated. No liability shall attach to the City by reason of any damage or injury to persons or property by reason of the existence of any structure over or across any street or alley where the vertical clearance above the roadway is fourteen (14) feet, or more, or where such vertical clearance is less than fourteen (14) feet if impaired clearance signs are erected and maintained on the side of any such street or alley in a conspicuous location at a distance of not less than two hundred feet (200') and not more than three hundred feet (300'). If any structure over or across any street or alley is not owned by the City, it shall be the duty of the owner thereof when billed therefor to reimburse the City for the actual cost of erecting and maintaining such impaired clearance signs. (RCW 46.44.020)

(Ord. [112092](#) § 7, 1984; Ord. [108200](#), § 2(11.60.060), 1979.)

#### **SMC 11.60.130**

##### **Maximum lengths.**

**A.** It is unlawful for any person to operate upon the streets and alleys of the City, any vehicle other than a municipal transit vehicle having an overall length, with or without load, in excess of forty feet (40'); provided, that an auto stage or school bus shall not exceed an overall length, inclusive of front and rear bumpers, of forty



feet (40'); provided further, that any such school bus constructed prior to April 1, 1977, shall be equipped with three (3) axles; provided further, that any school bus constructed on or after April 1, 1977, and in excess of thirty-six feet six inches (36' 6") shall be equipped with three (3) axles; provided further, that the route of any auto stage in excess of thirty-five feet (35') or school bus in excess of thirty-six feet six inches (36' 6") upon or across the public highways shall be limited as determined by the Department of Transportation for state highways, or by the City's legislative authority for City streets, alleys and roads.

**B.** It shall be a violation for any person to operate on the streets and alleys, any combination of vehicles that contains a vehicle of which the permanent structure is in excess of forty-eight feet (48').

**C.** It shall be a violation for any person to operate upon the streets and alleys any combination consisting of a tractor and semitrailer that has a semitrailer length in excess of forty-eight feet (48') or a combination consisting of a tractor and two trailers in which the combined length of the trailers exceeds fifty-nine feet (59').

**D.** It shall be a violation for any person to operate on the streets and alleys any combination consisting of a truck and trailer with an overall length, with or without load, in excess of sixty-five feet (65'), or a combination consisting of a tractor and a stinger steered semitrailer that has an overall length in excess of sixty-five feet (65') without load or in excess of seventy feet (70') with load.

**E.** "Stinger steered" as used in this section means a tractor and semitrailer combination that has the coupling connecting the semitrailer to the tractor located to the rear of the centerline of the rear axle of the tractor.

**F.** These length limitations do not apply to vehicles transporting poles, pipe, machinery, or other objects of a structural nature that cannot be dismembered and operated by a public utility when required for emergency repair of public service facilities or properties, but, in respect to night transportation every such vehicle and load thereon shall be equipped with a sufficient number of clearance lamps on both sides and marker lamps upon the extreme ends of any projecting load to clearly mark the dimensions of the load.

**G.** The length limitations described in this section are exclusive of safety and energy conservation devices, such as mud flaps and splash and spray suppressant devices, refrigeration units or air compressors, and other devices that the department determines to be necessary for safe and efficient operation of commercial vehicles. No device excluded under this subsection from the limitations of this section may have, by its design or use, the capability to carry cargo. (RCW 46.44.030) (Ord. [112092](#) § 21, 1984.)

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

	)	
WASHINGTON UTILITIES AND	)	DOCKET TE-151906
TRANSPORTATION COMMISSION,	)	
	)	ORDER 01
Complainant,	)	
	)	NOTICE OF EMERGENCY
v.	)	ADJUDICATION AND ORDER
	)	SUSPENDING CERTIFICATE
RIDE THE DUCKS OF SEATTLE,	)	
L.L.C. d/b/a SEATTLE DUCK TOURS,	)	NOTICE OF HEARING ( <b>Set for</b>
	)	<b>October 1, 2015, at 9:30 a.m.)</b>
Respondent.	)	
.....	)	

- 1 By September 30, 2015, Commission Staff will file a complaint against Ride the Ducks of Seattle, LLC d/b/a Seattle Duck Tours (Ride the Ducks). The complaint will allege that Ride the Ducks has operated at least one of its vehicles, Duck 6, in an unsafe manner resulting in at least five deaths and scores of injuries in a single incident occurring on September 24, 2015. The Washington Utilities and Transportation Commission (Commission) must act quickly for the public’s health, safety, and welfare. This important governmental interest mandates emergency suspension of the certificate held by Ride the Ducks, Certificate No. ES-00146, pending investigation and inspection of Ride the Ducks’ entire fleet of vehicles and drivers. This immediate cessation of service is warranted. Ride the Ducks has agreed to suspension of its activities pending the Commission’s investigation. A prompt and adequate post-suspension process will follow this summary action.
  
- 2 A more detailed account of the dispute will be reflected in the complaint, which will be available for inspection at the Commission's office located at Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington, and on the Commission's website at [www.utc.wa.gov](http://www.utc.wa.gov).
  
- 3 Pursuant to RCW 34.05.422(4), RCW 34.05.479, WAC 480-07-620, RCW 81.70.240, and WAC 480-30-171(1)(e), the Commission initiates this emergency adjudicative proceeding to prevent or avoid immediate danger to the public health, safety or welfare.

- 4 The Commission has jurisdiction over the subject matter pursuant to the provisions of chapters 81.01 RCW, 80.01 RCW, 81.04 RCW, and 81.70 RCW, chapter 480-30 WAC, chapter 480-07 WAC, and chapter 34.05 RCW. Specific provisions include but are not limited to: RCW 80.01.040, RCW 81.04.070, RCW 81.04.110, RCW 81.04.160, RCW 81.04.380, RCW 81.04.385, RCW 81.04.405, RCW 81.04.410, RCW 81.04.460, RCW 81.70.270, RCW 81.70.310, and WAC 480-30-206, WAC 480-30-211, WAC 480-30-213, WAC 480-30-216, and WAC 480-30-221. Also applicable are RCW 34.05.422(4), RCW 34.05.479, and WAC 480-07-620, emergency adjudicative proceedings.
- 5 THE COMMISSION GIVES NOTICE That in accordance with WAC 480-07-440(1)(a) and RCW 34.05.479(4), the Commission has determined that good cause exists for this matter to be heard on shortened notice.
- 6 **NOTICE IS HEREBY GIVEN That this matter will be heard on Thursday, October 1, 2015, beginning at 9:30 a.m., in the Commission’s hearing room, second floor, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.**
- 7 If any party or witness needs an interpreter or other assistance, please fill out the form attached to this notice and return it to the Commission.
- 8 **THE COMMISSION GIVES NOTICE that any party who fails to attend or participate in the prehearing conference set by this Notice, or any other stage of this proceeding, may be held in default in accordance with RCW 34.05.440. The parties are further advised that the sanction provisions of WAC 480-07-450 are specifically invoked.**
- 9 The names and mailing addresses of all parties and their known representatives are as follows:

Complainant: Washington Utilities and Transportation  
Commission  
1300 S. Evergreen Park Drive S.W.  
P.O. Box 47250  
Olympia, WA 98504-7250

Representative: Sally Brown  
Senior Assistant Attorney General  
1400 S. Evergreen Park Drive S.W.  
P.O. Box 40128  
Olympia, WA 98504-0128  
(360) 664-1193

Respondent: Ride the Ducks of Seattle L.L.C.  
d/b/a Seattle Duck Tours  
516 Broad Street Suite 210  
Seattle, WA 98109

Representative: Tom Ismon  
Brian Tracey  
Steve Burnstead  
516 Broad Street Suite 210  
Seattle, WA 98109

- 10 The Commissioners of the WUTC and Administrative Law Judge Gregory J. Kopta, from the Utilities and Transportation Commission’s Administrative Law Division, will preside during this proceeding.
- 11 Notice of any other procedural phase will be given in writing or on the record, as the Commission may deem appropriate during the course of this proceeding.

DATED at Olympia, Washington and effective September 28, 2015.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chairman

ANN E. RENDAHL, Commissioner

Inquiries may be address to:

Executive Director and Secretary  
Washington Utilities and Transportation  
Commission  
Richard Hemstad Building  
1300 S. Evergreen Park Drive S.W.  
P.O. Box 47250  
Olympia, WA 98504-7250  
(360) 664-1160

**NOTICE**

PLEASE NOTE: The hearing facilities are accessible to interested people with disabilities; that smoking is prohibited; and if limited English-speaking or hearing-impaired parties or witnesses are involved in a hearing and need an interpreter, a qualified interpreter will be appointed at no cost to the party or witness.

The information needed to provide an appropriate interpreter or other assistance should be stated below and returned to Washington Utilities and Transportation Commission, Attention: Steven V. King, 1300 S. Evergreen Park Drive SW, P. O. Box 47250, Olympia, WA 98504-7250. (PLEASE SUPPLY ALL REQUESTED INFORMATION)

Docket No.: \_\_\_\_\_

Case Name: \_\_\_\_\_

Hearing Date: \_\_\_\_\_ Hearing Location: \_\_\_\_\_

Primary Language: \_\_\_\_\_

Hearing Impaired (Yes) \_\_\_\_\_ (No) \_\_\_\_\_

Do you need a certified sign language interpreter:

Visual \_\_\_\_\_ Tactile \_\_\_\_\_

Other type of assistance needed: \_\_\_\_\_

English-speaking person who can be contacted if there are questions:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone No.: (\_\_\_\_) \_\_\_\_\_

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND	)	DOCKET TE-151906
TRANSPORTATION COMMISSION,	)	
	)	
Complainant,	)	
	)	COMPLAINT FOR VIOLATIONS
v.	)	OF VEHICLE SAFETY RULES
	)	
RIDE THE DUCKS OF SEATTLE, L.L.C.	)	
d/b/a SEATTLE DUCK TOURS,	)	
	)	
Respondent.	)	
.....	)	

1 The Washington Utilities and Transportation Commission (Commission) on its own motion, and through its Staff, alleges as follows:

**I. BACKGROUND**

2 This complaint concerns violations of Commission rules governing the operations of passenger transportation companies.

3 Commission staff (Staff) alleges that Ride the Ducks of Seattle, LLC d/b/a Seattle Duck Tours (Ride the Ducks of Seattle or Company) violated various sections of the Code of Federal Regulations, Title 49, and WAC 480-30-221 by operating at least one of its vehicles, Duck 6, in an unsafe manner causing at least five deaths and dozens of injuries in a single incident that occurred on September 24, 2015.

4 While the cause of the accident has not been identified, any number of factors may have contributed to it, including the Company’s maintenance of its vehicles, driver safety, or other operational issues. Until Staff conducts a comprehensive investigation of the Company’s safety practices, the scope of potential safety issues cannot be established.

5 One area of concern is related to information the Commission received from the National Transportation Safety Board (NTSB). In 2013, Ride the Ducks International discovered a potentially dangerous failure point in the axle housing of its tour vehicles, including some of those vehicles used by Ride the Ducks of Seattle. According to a statement issued by the NTSB to the Seattle Times, the vehicle involved in the September 24 accident was

not repaired.<sup>1</sup> Through its investigation, Staff will determine whether the Company received the service bulletin issued by Ride the Ducks International advising it of issues with the axle housing, and what steps the Company took, if any, to remedy the defect in its vehicles.

6 On September 28, 2015, the Commission held an emergency hearing and issued a Notice of Emergency Adjudication and Order Suspending Certificate, and Notice of Hearing set for October 1, 2015, at 9:30 a.m.

7 Because of the unsafe operations that resulted in a fatal collision, the potential for continuing safety violations, and Staff's overall lack of confidence in the Company's operations at this juncture, Staff requests the Commission continue to suspend the Company's Certificate No. ES-00146 pending investigation and inspection of Ride the Ducks of Seattle's entire fleet of vehicles and drivers, and take appropriate action based on Staff's findings.

## II. PARTIES

8 The Washington Utilities and Transportation Commission is an agency of the state of Washington, authorized by state law to regulate the rates, services, facilities, and practices of public service companies, including passenger charter carriers, under the provisions of Title 81 RCW.

9 Ride the Ducks of Seattle is a passenger charter carrier subject to regulation by the Commission pursuant to RCW 80.01.040(2), and RCW 81.70.

## III. JURISDICTION

10 The Commission has jurisdiction over the subject matter pursuant to the provisions of chapters 81.01 RCW, 80.01 RCW, 81.04 RCW, and 81.70 RCW, chapter 480-30 WAC, chapter 480-07 WAC, and chapter 34.05 RCW.

## IV. APPLICABLE LAW AND REGULATION

11 The Commission issues certificates to passenger charter carriers under RCW 81.70.230 and WAC 480-30-121.

<sup>1</sup> "5<sup>th</sup> crash victim dies; NTSB says Duck did not receive recommended safety fix," Seattle Times, September 27, 2015, <http://www.seattletimes.com/seattle-news/transportation/5th-crash-victim-dies-ntsb-says-duck-did-not-receive-recommended-safety-fix/>, accessed on September 28, 2015.



12 Under RCW 81.70.250, the Commission may cancel, revoke, or suspend any certificate issued under this chapter on grounds of a violation of any provision of RCW 81.70 or of a Commission regulation established under this chapter.

13 Pursuant to WAC 480-30-221, passenger charter carriers under the Commission's jurisdiction must comply with parts of Title 49 CFR listed in the Commission rule.

#### **V. CAUSE OF ACTION - Violation of WAC 480-30-221**

14 The Commission, through its Staff, re-alleges the allegations contained in paragraphs 2 through 11 above.

15 The Commission further alleges that Ride the Ducks of Seattle violated WAC 480-30-221 by violating Title 49 CFR.

#### **VI. REQUEST FOR RELIEF**

16 Staff requests that the Commission suspend Certificate No.ES-00146 pending Staff's investigation and inspection of Ride the Ducks of Seattle's entire fleet of vehicles and drivers.

17 Staff further requests that following the investigation, the Commission take appropriate action based on Staff's findings.

#### **VIII. PROBABLE CAUSE**

18 Based on Staff's presentation regarding the fatal accident and the Company's operations at the emergency hearing held on September 28, 2015, and consistent with RCW 80.01.060, the Commission finds probable cause exists to issue this Complaint.

DATED at Olympia, Washington, and effective September 29, 2015.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

RAYNE PEARSON  
Administrative Law Judge

Inquiries may be addressed to:

Executive Director and Secretary  
Washington Utilities and  
Transportation Commission  
Richard Hemstad Building  
1300 S. Evergreen Park Drive S.W.  
P. O. Box 47250  
Olympia, WA 98504-7250  
(360) 664-1160

BEFORE THE  
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION,

Complainant,

v.

RIDE THE DUCKS OF SEATTLE, L.L.C.  
d/b/a SEATTLE DUCK TOURS,

Respondent.

DOCKET TE-151906

JOINT STIPULATION

1 This Joint Stipulation is entered into by the Staff of the Washington Utilities and Transportation Commission (“Staff”) and Ride the Ducks of Seattle, L.L.C. d/b/a Seattle Duck Tours (“Ride the Ducks” or “Company”), collectively, the Parties. This Joint Stipulation is subject to the Commission’s approval and acceptance.

2 This Joint Stipulation is entered into for the purpose of clarifying the Parties’ positions regarding the Commission’s September 28, 2015, summary action suspending the Company’s certificate (No. ES-00146) to operate and provide excursion services. The suspension is in effect, pending a comprehensive Staff investigation and inspection of the safety of the Company’s drivers and operating fleet of vehicles, including review of relevant operations and maintenance records. Staff’s investigation is brought about by the September 24, 2015, incident described in the Commission’s September 28, 2015, Notice of

Emergency Adjudication and Order Suspending Certificate, and September 29, 2015,  
Complaint for Violations of Safety Rules.

3 In the context of an Emergency Adjudicative Proceeding, the Administrative Procedure Act limits the scope of emergency action to “only such action as is necessary to prevent or avoid the immediate danger to the public health, safety, or welfare that justifies use of emergency adjudication.”<sup>1</sup> The law requires that an agency implement the least restrictive reasonable means to protect the public with respect to the time and nature of the cessation of services.

4 The Parties stipulate as follows:

1. Ride the Ducks stipulates to the suspension of its excursion certificate (No. ES-00146) pending conclusion of the presently ongoing investigation by the Staff of the Commission, in accordance with Paragraphs 2, 3 and 4;
2. Commission Staff stipulates that, if feasible, it will first investigate the Company’s “Truck Duck” vehicles. Unlike the “Stretch Duck” vehicles, which were built on World War II-era chassis and allegedly have defective axles, the Truck Duck vehicles have a different chassis and axle system.
3. The Parties’ joint objective is to return to service, if appropriate, within thirty days, those Truck Duck vehicles that have passed regulatory inspection in a satisfactory manner. The Parties’ joint objective is also to return to service the “Stretch Duck” vehicles that have passed regulatory inspection in a satisfactory manner, within a reasonable period of time.

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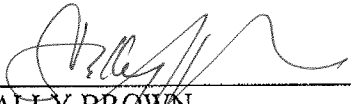
<sup>1</sup> RCW 34.05.479(2).


4. If appropriate, within thirty days of the date of this Joint Stipulation, the Parties will confer regarding the status of the investigation and report back to the Commission at that time. The Parties will arrive at and jointly propose a hearing schedule at the conclusion of Staff's investigation.

DATED this 30<sup>th</sup> day of September 2015.

ROBERT W. FERGUSON  
Attorney General

PATTERSON BUCHANAN FOBES &  
LEITCH, INC., P.S.

  
\_\_\_\_\_  
SALLY BROWN  
Senior Assistant Attorney General  
Counsel for Washington Utilities and  
Transportation Commission Staff

  
\_\_\_\_\_  
DUNCAN FOBES, WSBA No. 14964  
Counsel for Ride the Ducks of Seattle,  
L.L.C.  
d/b/a Seattle Duck Tours

[Service Date October 1, 2015]

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND	)	
TRANSPORTATION COMMISSION,	)	DOCKET TE-151906
	)	ORDER 02
Complainant,	)	
	)	ORDER ADOPTING JOINT
v.	)	STIPULATION AND CONTINUING
	)	TEMPORARY SUSPENSION OF
RIDE THE DUCKS OF SEATTLE,	)	CERTIFICATE
L.L.C. d/b/a SEATTLE DUCK TOURS,	)	
	)	
Respondent.	)	
.....	)	

**BACKGROUND**

- 1 Following emergency adjudicative proceedings conducted pursuant to RCW 34.05.479 on September 28, 2015, the Washington Utilities and Transportation Commission (Commission) entered Order 01, Notice of Emergency Adjudication and Order Suspending Certificate (Order 01). Order 01 suspends Certificate No. ES-00146 to operate and provide excursion services held by Ride the Ducks of Seattle, LLC d/b/a Seattle Duck Tours (Ride the Ducks or Company) pending the results of a Commission staff (Staff) investigation and inspection of Ride the Ducks’ entire fleet of vehicles, drivers, and operations. The Commission found such swift action was necessary to prevent or avoid immediate danger to the public health, safety, and welfare in the wake of the incident on September 24, 2015, in Seattle involving a Ride the Ducks vehicle that resulted in the death of five people and serious injuries to scores of others. The Commission noticed a hearing for October 1, 2015, to enable the Company to respond to the suspension and to establish appropriate procedures for conducting this adjudication.
  
- 2 On September 29, 2015, Staff filed a complaint alleging that Ride the Ducks has operated at least one of its vehicles, Duck 6, in an unsafe manner resulting in the incident on September 24. Staff alleges that Ride the Ducks has violated state and federal safety regulations and requests that the Commission suspend the Company’s certificate until Staff has completed its investigation. Staff further requests that the Commission take such action as the results of that investigation warrant.

**DOCKET TE-151906  
ORDER 02****PAGE 2**

- 3 On September 30, 2015, Ride the Ducks and Staff filed a Joint Stipulation in which they stipulated as follows:
1. Ride the Ducks stipulates to the suspension of its excursion certificate (No. ES-00146) pending conclusion of the presently ongoing investigation by the Staff of the Commission.
  2. Commission Staff stipulates that, if feasible, it will first investigate the Company's "Truck Duck" vehicles. Unlike the "Stretch Duck" vehicles, which were built on World War II-era chassis and allegedly have defective axles, the Truck Duck vehicles have a different chassis and axle system.
  3. The Parties' joint objective is to return to service, if appropriate, within thirty days, those Truck Duck vehicles that have passed regulatory inspection in a satisfactory manner. The Parties' joint objective is also to return to service the "Stretch Duck" vehicles that have passed regulatory inspection in a satisfactory manner, within a reasonable period of time.
  4. Within thirty days of the date of this Joint Stipulation, the Parties will confer regarding the status of the investigation and report back to the Commission at that time. The Parties will arrive at and jointly propose a hearing schedule at the conclusion of Staff's investigation.
- 4 On October 1, 2015, the Commission conducted the hearing noticed in Order 01. Ride the Ducks and Staff agreed that, pursuant to the Joint Stipulation, Staff will conduct a comprehensive investigation and inspection of the Company's vehicles and operations that is not limited to regulatory inspection of those vehicles.<sup>1</sup> Accordingly, the investigation will cover all safety aspects of the Company's operations, including but not limited to the extent and impact of any restricted sight lines, choice of routes, and potential driver distractions. At the hearing, Staff explained the broad nature of this investigation and inspection process, and how it intends to coordinate with other state and federal agencies. These parties also agreed that the thirty days referenced in the Joint

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<sup>1</sup> Public Counsel is not a party to the Joint Stipulation, but Public Counsel stated that it has no objection to the Commission adopting that stipulation.

**DOCKET TE-151906  
ORDER 02****PAGE 3**

Stipulation is an aspirational goal and that Staff will act promptly and reasonably but will take the time necessary to conduct a complete investigation. Finally, the parties agree that the suspension of Ride the Ducks' certificate will remain in place until the Commission enters an order authorizing resumption of service.

- 5 Patricia K. Buchanan and Duncan K. Fobes, Patterson Buchanan Fobes & Leitch, Inc., P.S., Seattle, represent Ride the Ducks. Sally Brown, Senior Assistant Attorney General, Olympia, represents Staff. Simon ffitch, Senior Assistant Attorney General, Seattle, represents Public Counsel.

**DISCUSSION AND DECISION**

- 6 We remain deeply concerned with the safety of Ride the Ducks' vehicles and operations in light of the tragic incident on September 24, 2015, that claimed the lives of five people and seriously injured many more. A thorough and complete investigation of the safety of the Company's vehicles and operations is vital to the Commission's mission to protect the public health, safety, and welfare. We will not permit Ride the Ducks to provide excursion services until that investigation is complete and we are satisfied that the Company's fleet of vehicles and operations do not pose a threat to public safety.

- 7 We appreciate Staff's commitment to conduct the requisite investigation expeditiously and comprehensively and the Company's agreement to cooperate with that investigation. We adopt the Joint Stipulation as the Company and Staff clarified that stipulation during the hearing today. Consistent with the thirty-day aspirational goal in the Joint Stipulation, we will conduct a status conference on November 3, 2015, to determine the extent to which Staff has completed or anticipates completing its investigation and to address any resulting procedural issues.

- 8 **THE COMMISSION GIVES NOTICE That the Commission will conduct a status conference in this matter on Tuesday, November 3, 2015, beginning at 9:30 a.m., in the Commission's hearing room, second floor, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.**

**ORDER**

THE COMMISSION ORDERS That

- 9 (1) The Commission adopts the Joint Stipulation filed by Ride the Ducks of Seattle, LLC d/b/a Seattle Duck Tours and Commission Staff.



**DOCKET TE-151906  
ORDER 02**

**PAGE 4**

- 10 (2) Commission Staff will conduct a comprehensive investigation of the safety of the vehicles and operations of Ride the Ducks of Seattle, LLC d/b/a Seattle Duck Tours and its compliance with applicable safety regulations and standards.
- 11 (3) Certificate No. ES-00146 to operate and provide excursion services held by Ride the Ducks of Seattle, LLC d/b/a Seattle Duck Tours remains suspended pending further Commission action.

DATED at Olympia, Washington and effective October 1, 2015.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chairman

PHILIP B. JONES, Commissioner

ANN E. RENDAHL, Commissioner

**DOCKET TE-151906  
ORDER 02**

**PAGE 5**

**NOTICE**

PLEASE NOTE: The hearing facilities are accessible to interested people with disabilities; that smoking is prohibited; and if limited English-speaking or hearing-impaired parties or witnesses are involved in a hearing and need an interpreter, a qualified interpreter will be appointed at no cost to the party or witness.

The information needed to provide an appropriate interpreter or other assistance should be stated below and returned to Washington Utilities and Transportation Commission, Attention: Steven V. King, 1300 S. Evergreen Park Drive SW, P. O. Box 47250, Olympia, WA 98504-7250. (PLEASE SUPPLY ALL REQUESTED INFORMATION)

Docket No.: \_\_\_\_\_

Case Name: \_\_\_\_\_

Hearing Date: \_\_\_\_\_ Hearing Location: \_\_\_\_\_

Primary Language: \_\_\_\_\_

Hearing Impaired (Yes) \_\_\_\_\_ (No) \_\_\_\_\_

Do you need a certified sign language interpreter:

Visual \_\_\_\_\_ Tactile \_\_\_\_\_

Other type of assistance needed: \_\_\_\_\_

English-speaking person who can be contacted if there are questions:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone No.: (\_\_\_\_) \_\_\_\_\_

BEFORE THE  
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION,

Complainant,

v.

RIDE THE DUCKS OF SEATTLE, L.L.C.  
d/b/a SEATTLE DUCK TOURS,

Respondent.

DOCKET TE-151906

MOTION OF RESPONDENT TO  
EXPEDITE HEARING

**I. RELIEF REQUESTED**

1 An evidentiary hearing is currently set for January 5, 2015. In accordance with the Commission’s rules and the Constitutional guarantees of due process, Ride the Ducks of Seattle (“RTDS”) respectfully requests a hearing to partially lift the suspension be set for December 16, 2015 or as soon as possible thereafter. The Commission’s counsel and Staff have been working extremely diligently, cooperatively, and in good faith; however, the effects of delaying a hearing for the partial reinstating of RTDS’ operating certificate until after December 16, 2015 will be devastating for Ride the Ducks of Seattle, its employees, and their families. Before filing this motion, the Parties’ respective counsel have conferred in good faith.

**II. STATEMENT OF FACTS**

2 Ride the Ducks of Seattle (“RTDS”) is a local business that employed approximately 130

employees, many of whom depend on RTDS to support their families. Declaration of Brian Tracey ¶ 3 (November 6, 2015). RTDS is also an integral part of the local tourism industry and economy. Tracey Decl. ¶ 3. Each day that RTDS is unable to operate brings it closer to being unable to continue to employ its employees. Tracey Decl. ¶ 2-7. To date, RTDS has already had to lay off or reduce the hours of 48 employees, and many employees have claimed unemployment. Tracey Decl. ¶ 4.

3 In RTDS's long history of operations, it has never had a prior safety-related complaint filed against it by the Commission.

4 RTDS has worked cooperatively with the Staff of the Washington Utilities and Transportation Commission ("WUTC Staff") since the accident on September 24, 2015 on the Aurora Bridge involving one "Stretch Duck" vehicle. It has continued to cooperate with the Commission after the Commission suspended RTDS's certificate under emergency adjudication proceedings on September 28, 2015.

5 RTDS agreed to keep the temporary suspension of its operating certificate in place while the Parties worked toward their joint goal of returning to operations the newer "Truck Duck" vehicles that passed inspection and qualified drivers by October 30, 2015. This objective would allow the newer "Truck Ducks" to return to operations so that RTDS could continue to support its employees, other local businesses, and its customers, while at the same time allow the WUTC Staff to take all the additional time it needed to investigate the "Stretch Duck" vehicles that spurred the present Complaint.

6 The law requires the agency to implement the least-restrictive reasonable means to protect the public with respect to the *time* and nature of the cessation of services. Joint Stipulation at p. 2; *see also* Order Adopting Joint Stipulation at p. 3.

7 On November 3, 2015, the Commission held a status conference to determine the extent the Staff had completed or anticipated completing its investigation. The Staff estimated that it would complete its final report by early December.

8 On November 4, 2015, the Commission gave notice that the Staff must complete its investigation by December 15, 2015, and that an evidentiary hearing to consider whether to continue the suspension of RTDS's Certificate (No. ES-00146) would be set for January 5, 2016.

9 The Commission's setting of the hearing for after the holiday season deprives RTDS of one of its peak operating periods, and will likely result in additional lay-offs for employees who are counting on RTDS to support their families during this time. Tracey Decl. ¶ 7.

10 If a hearing is set on December 16, 2015, RTDS can at least provide certainty to its employees as far as their employment status is concerned. See Tracey Decl. ¶ 7.

### III. STATEMENT OF ISSUES

11 Should the Commission set a hearing for December 16, 2015, or as soon as possible when, delaying a hearing harms Ride the Ducks of Seattle, its employees, and their families through the holiday season?

### IV. EVIDENCE RELIED UPON

12 Respondent relies on the Declaration of Brian Tracey, and the papers previously filed or submitted to the Commission in this matter.

### V. ARGUMENT AND LEGAL AUTHORITY

13 Under WAC 480-07-620(6), the Commission must "proceed as quickly as feasible" to complete the proceedings. Indeed, delay in providing a post-deprivation hearing can violate the Constitution. See e.g., *Price v. City of Seattle*, 2005 WL 1189585, at \*7 (W.D. Wash.

2005) (Pechman J.) (indicating that failing to provide post-impound hearing related to one's personal vehicle "within a reasonable amount of time" could violate due process even if a hearing was eventually provided).

14 Here, Ride the Ducks of Seattle has the same goal as the Commission: to ensure that safe vehicles are on the roads, and that accidents like the one on the Aurora Bridge never happen again. In light of this shared goal, RTDS agreed to temporarily suspend its operating certificate with the goal of getting "Truck Ducks" back in operation by October 30, 2015. The "Truck Ducks" have a different axle and chassis system than the "Stretch Duck" that spurred the present Complaint. RTDS cannot withstand a delay of more than two additional months after October 30, 2015 without substantial risk of more layoffs.

15 RTDS, its employees, and their families will suffer significant hardship if the hearing date is not moved to December 16, 2015. RTDS will not be able to operate during one of its peak periods, and will not have an income stream that is greatly needed to continue to employ its employees. Its remaining employees will also be left with great uncertainty with respect to their employment during the holiday season.

16 In view of the approach Commission took in *WUTC v. Airport Transporter Association, LLC*, Docket No. TE-140035 (the "ATA Case") and the allegations in the Complaint in this case, the Commission should not set the hearing for almost two months from now while continuing the suspension of RTDS's certificate. In the ATA Case, a driver knowingly operated a commercial motor vehicle without a commercial driver's license on five occasions, was declared out of service, and then intentionally decided to drive anyway. Despite the willful and repeated safety violations in the ATA Case, ATA was only assessed a \$1,000 penalty. ATA's certificate was not suspended.


17 Continuing to suspend RTDS's certificate longer than necessary because of an accident involving one "Stretch Duck" vehicle, while "Truck Duck" vehicles and qualified drivers are safe, does not serve the public's interest. The Commission has never previously filed a Complaint against Ride the Ducks of Seattle for any safety violations in its long history; Ride the Ducks of Seattle has cooperated fully with the Commission with the joint goal of ensuring the public safety;<sup>1</sup> and delaying the hearing will cause significant hardship to Ride the Ducks, its employees, and their families during the holiday season.

## VI. CONCLUSION

18 RTDS respectfully requests that a hearing to partially reinstate its certificate be set for December 16, 2015 or as soon as possible.

DATED this 6<sup>th</sup> day of November, 2015.

PATTERSON BUCHANAN  
FOBES & LEITCH, INC., P.S.

 WSBA 44294  
PATRICIA K. BUCHANAN, WSBA No. 19892  
DUNCAN K. FOBES, WSBA No. 14964  
Counsel for Ride the Ducks of Seattle, L.L.C.  
d/b/a Seattle Duck Tours

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<sup>1</sup> Moreover, RTDS has proactively taken steps above and beyond any regulatory requirement to improve safety when its operations resume. For example, RTDS has agreed to add an additional crew member to each tour.

BEFORE THE  
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION,

Complainant,

v.

RIDE THE DUCKS OF SEATTLE, L.L.C.  
d/b/a SEATTLE DUCK TOURS,

Respondent.

DOCKET TE-151906

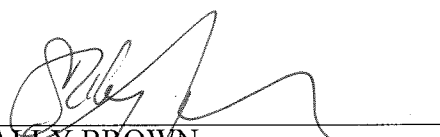
RESPONSE OF COMMISSION  
STAFF TO MOTION OF RIDE THE  
DUCKS OF SEATTLE TO  
EXPEDITE HEARING

1 This is in response to RTDS’s motion to expedite the Commission’s hearing on whether to partially lift the suspension of RTDS’s certificate to operate from January 5, 2016, to December 16, 2015, or as soon as possible thereafter. Motion at 1. RTDS would like to return its Truck Ducks to the streets of Seattle as soon as possible, while consenting to affording Commission Staff “all the additional time it need[s] to investigate the ‘Stretch Duck’ vehicles.” Id. at 2.

2 As stated at the November 3, 2015, hearing, Commission Staff will file its investigation report on December 15, 2015. Commission Staff will be prepared to state its position and offer evidence on whether the Commission should lift or continue the suspension of RTDS’s operating certificate no earlier than December 18, 2015. Accordingly, Commission Staff supports moving the hearing to a date no earlier than December 18, 2015.

DATED this 9<sup>th</sup> day of November 2015.

ROBERT W. FERGUSON  
Attorney General



SALLY BROWN  
Senior Assistant Attorney General  
Counsel for Washington Utilities and  
Transportation Commission Staff



[Service Date November 10, 2015]

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND	)	DOCKET TE-151906
TRANSPORTATION COMMISSION,	)	
	)	
Complainant,	)	ORDER 03
	)	
v.	)	ORDER RESCHEDULING
	)	EVIDENTIARY HEARING
RIDE THE DUCKS OF SEATTLE,	)	
L.L.C. d/b/a SEATTLE DUCK TOURS,	)	<b>(Now set for Monday, December 21,</b>
	)	<b>2015, beginning at 9:30 a.m.)</b>
Respondent.	)	
.....	)	

**BACKGROUND**

- 1 Following emergency adjudicative proceedings conducted pursuant to RCW 34.05.479 on September 28, 2015, the Washington Utilities and Transportation Commission (Commission) entered Order 01, Notice of Emergency Adjudication and Order Suspending Certificate (Order 01). Order 01 suspends Certificate No. ES-00146 to operate and provide excursion services held by Ride the Ducks of Seattle, LLC d/b/a Seattle Duck Tours (Ride the Ducks or Company) pending the results of a Commission staff (Staff) investigation and inspection of Ride the Ducks’ entire fleet of vehicles, drivers, and operations. The Commission found such swift action was necessary to prevent or avoid immediate danger to the public health, safety, and welfare in the wake of the incident on September 24, 2015, in Seattle involving a Ride the Ducks vehicle that resulted in the death of five people and serious injuries to scores of others.
  
- 2 On September 29, 2015, Staff filed a complaint alleging that Ride the Ducks has operated at least one of its vehicles, Duck 6, in an unsafe manner resulting in the incident on September 24. Staff alleges that Ride the Ducks has violated state and federal safety regulations and requests that the Commission suspend the Company’s certificate until Staff has completed its investigation. Staff further requests that the Commission take such action as the results of that investigation warrant.

**DOCKET TE-151906  
ORDER 03****PAGE 2**

- 3 On October 1, 2015, the Commission conducted a hearing and entered Order 02. The Commission adopted a Joint Stipulation between Ride the Ducks and Staff that Staff will conduct a comprehensive investigation and inspection of the Company's vehicles and operations. Consistent with Staff's aspiration to complete the investigation within 30 days, the Commission scheduled a status conference on November 3, 2015, to determine the extent to which Staff has completed or anticipates completing its investigation and to address any resulting procedural issues. As the parties agreed, the Commission continued the suspension of Ride the Ducks' certificate pending further Commission action.
- 4 On November 3, 2015, the Commission conducted a status conference. Staff represented that it anticipates completing its investigation and filing its report in early December. The Company requested a hearing on the suspension of its certificate within days – or at most two weeks – of Staff's filing. The Commission established a December 15, 2015, deadline for Staff to file its investigation report and scheduled an evidentiary hearing for January 5, 2016.
- 5 On November 6, 2015, Ride the Ducks filed a motion to expedite the hearing. Ride the Ducks contends that conducting a hearing after the holiday season would deprive the Company of one of its peak operating periods and would likely result in significant hardship to the Company, its employees, and their families. Ride the Ducks requests a hearing date of December 16, 2015, to address the continued suspension of the Company's operating authority as expeditiously as possible.
- 6 On November 9, 2015, Staff filed its response to Ride the Ducks' motion. Staff represents that it will file its investigation report on December 15, 2015, and will be prepared to state its position and offer evidence on whether the Commission should lift or continue the suspension no earlier than December 18, 2015. Staff supports moving the hearing to a date no earlier than December 18.

**DISCUSSION AND DECISION**

- 7 The Commission grants the motion to reschedule the evidentiary hearing. The Commission scheduled the hearing for January 5, 2016, to provide Ride the Ducks with sufficient time to review Staff's investigation report and prepare a response. If the Company believes it can adequately respond to the report within a shorter period, we will provide the Company with that opportunity. To accommodate Staff's needs to prepare, the Commission will conduct the hearing on December 21, 2015.

**DOCKET TE-151906  
ORDER 03****PAGE 3**

- 8 The December 21 hearing is limited to Commission consideration of evidence and argument on whether suspension of Ride the Ducks' certificate "is necessary to prevent or avoid immediate danger to the public health, safety, or welfare."<sup>1</sup> The Commission will establish a procedural schedule to address the remaining allegations in the complaint at a later date.
- 9 By 5:00 p.m. on December 17, 2015, each party must file with the Commission and serve on the other parties the following:
- (a) All exhibits the party intends to introduce into the evidentiary record or otherwise use during the hearing. The Commission requires electronic copies (in native format, if available, and searchable Adobe Acrobat) and five paper copies of each exhibit. These documents must conform to the format and publication guidelines in WAC 480-07-395 and WAC 480-07-460. The paper copies of the exhibits must be three-hole punched and organized into sets that are tabbed, labeled, and grouped according to the witness sponsoring the exhibits. Each exhibit must be labeled with the name of the party and numbered sequentially (*e.g.*, Staff-1, Staff-2, etc.).
  - (b) A list of all exhibits the party intends to introduce into the evidentiary record in the form of the Commission's standard exhibit list.
  - (c) A list of all witnesses the party intends to call to testify during the hearing and a brief description of the subject about which the witness will testify. To make the most efficient use of hearing time, each witness' qualifications and background should be provided in writing and marked and offered as an exhibit, rather than stated orally.
- 10 **THE COMMISSION GIVES NOTICE That the Commission reschedules the evidentiary hearing on whether to continue the suspension of Certificate No. ES-00146 to Monday, December 21, 2015, beginning at 9:30 a.m., in the Commission's hearing room, second floor, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.**

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<sup>1</sup> RCW 34.05.479(2).

**DOCKET TE-151906  
ORDER 03**

**PAGE 4**

**ORDER**

THE COMMISSION ORDERS That

- 11 (1) The Commission grants the motion of Ride the Ducks of Seattle, LLC d/b/a  
Seattle Duck Tours to reschedule the hearing.
- 12 (2) The Commission will conduct the evidentiary hearing on whether suspension of  
Certificate No. ES-00146 is necessary to prevent or avoid immediate danger to  
the public health, safety, or welfare on December 21, 2015, beginning at 9:30 a.m.

DATED at Olympia, Washington and effective November 10, 2015.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

GREGORY J. KOPTA  
Administrative Law Judge

**DOCKET TE-151906  
ORDER 03**

**PAGE 5**

**NOTICE**

PLEASE NOTE: The hearing facilities are accessible to interested people with disabilities; that smoking is prohibited; and if limited English-speaking or hearing-impaired parties or witnesses are involved in a hearing and need an interpreter, a qualified interpreter will be appointed at no cost to the party or witness.

The information needed to provide an appropriate interpreter or other assistance should be stated below and returned to Washington Utilities and Transportation Commission, Attention: Steven V. King, 1300 S. Evergreen Park Drive SW, P. O. Box 47250, Olympia, WA 98504-7250. (PLEASE SUPPLY ALL REQUESTED INFORMATION)

Docket No.: \_\_\_\_\_

Case Name: \_\_\_\_\_

Hearing Date: \_\_\_\_\_ Hearing Location: \_\_\_\_\_

Primary Language: \_\_\_\_\_

Hearing Impaired (Yes) \_\_\_\_\_ (No) \_\_\_\_\_

Do you need a certified sign language interpreter:

Visual \_\_\_\_\_ Tactile \_\_\_\_\_

Other type of assistance needed: \_\_\_\_\_

English-speaking person who can be contacted if there are questions:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone No.: (\_\_\_\_) \_\_\_\_\_

BEFORE THE  
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION,

Complainant,

v.

RIDE THE DUCKS OF SEATTLE, L.L.C.  
d/b/a SEATTLE DUCK TOURS,

Respondent.

DOCKET TE-151906

MOTION OF RESPONDENT FOR  
PROTECTIVE ORDER

**I. RELIEF REQUESTED**

1 RTDS respectfully requests that a protective order be entered that prohibits the disclosure of  
RTDS’s financial information, and that any documents submitted in this proceeding first  
require the redaction of RTDS’s financial information. Before filing this motion, the  
Parties’ respective counsel have conferred in good faith.

**II. STATEMENT OF FACTS**

2 Ride the Ducks of Seattle, LLC (“RTDS”) is a privately held company. Declaration of  
Brian Tracey ¶ 2. RTDS is not publicly traded and does not rely on public funding. Brian  
Tracey ¶ 2.

3 RTDS has worked cooperatively with the Staff of the Washington Utilities and  
Transportation Commission (“WUTC Staff”), and other governmental investigators, since  
the accident on September 24, 2015 on the Aurora Bridge involving one “Stretch Duck”

vehicle. Brian Tracey ¶ 3.

4 During this investigation the WUTC came into possession of documents and records  
containing RTDS's private, closely-held financial information. Brian Tracey ¶ 3.

5 RTDS understands that its private, closely-held financial information has been, or may be,  
included in reports or documents that will be submitted in this proceeding. *See* Brian Tracey  
¶ 3.

6 Disclosure of RTDS's private, closely-held financial information will cause RTDS to be at a  
competitive disadvantage in the future. Brian Tracey ¶ 4. Disclosure of RTDS's financial  
information will adversely affect RTDS's ability to negotiate, maintain, and revise various  
agreements and contracts. Brian Tracey ¶¶ 4-5.

### III. STATEMENT OF ISSUES

7 Should the Commission enter a protective order prohibiting the disclosure of RTDS's  
financial information, and requiring the redaction of any of RTDS's financial information in  
documents that will be filed publicly in this proceeding?

### IV. EVIDENCE RELIED UPON

8 Respondent relies on the Declaration of Brian Tracey, and the papers previously filed or  
submitted to the Commission in this matter.

### V. ARGUMENT AND LEGAL AUTHORITY

9 WAC 480-07-010 provides that scope of WAC 480-07 concerns, among other things,  
adjudicative proceedings, and that WAC 480-07 establishes procedural rules that should be  
read in "conjunction with the Administrative Procedure Act and Titles 81 RCW." WAC  
480-07-010. The enabling statute for WAC 480-07-010, RCW 80.01.040, provides that the  
Commission shall perform all duties under Title 81 RCW. Thus presumably, the procedural

rules in WAC 480-07 apply to adjudications under Title 81 RCW. If not, then the ‘default’ procedural rules of Washington’s Administrative Procedures Act, RCW 34.05.446, apply. In either instance, a protective order is appropriate.

**A. A protective order is appropriate under WAC 480-07-420(1).<sup>1</sup>**

10 Under WAC 480-07-420(1), the Commission may enter a standard protective order when the parties reasonably anticipate that discovery in a proceeding will call for the production of “confidential information.” WAC 480-07-420(1). While commercial information is not specifically defined within WAC 480-07-420, its definition may be gleaned from how “commercial information” is defined elsewhere in WAC 480-07, and related statutory authority. WAC 480-07-160(2) defines “confidential information” as including “financial information” as well as information meeting an exemption requirement under the Public Records Act. WAC 480-07-160(2)(a) & (c); *see e.g.* RCW 80.04.095 (protection for records containing commercial information and listing “financial information” as including in the definition of commercial information) and RCW 81.77.210 (same).<sup>2</sup>

11 Here, RTDS requests redaction of its financial information, including its “gross income.” RTDS’s “financial information” is unquestionably “confidential information” as that term is used under WAC 480-07-420(1). Thus, for this reason alone entry of the standard protective order is appropriate.

12 Additionally the financial information is confidential because it meets an exemption requirement under the Public Records Act. *See* RCW 42.56.050. RCW 42.56.050 prohibits

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<sup>1</sup> WAC 480-07-420(3) also permits the entry of a protective order to prevent the disclosure of “commercial information” such as the financial information here. WAC 480-07-420(3)(g) mirrors Civil Rule 26(c) which is discussed in greater detail below in Section B, *infra*.

<sup>2</sup> **Importantly**, RCW 81.70.310 expressly adopts all provisions in Title 81 that relate to “procedure [and] powers of the commission” unless there is a specific conflict with RCW 81.70. RCW 81.77.210 relates to procedure and/or the powers of the commission. Thus, RCW 81.70.310 adopts RCW 81.77.210, which expressly calls for protection of financial information, and is another grounds for entry of a protective order.



the disclosure of private information that would be highly offensive to a reasonable person and is not a legitimate concern of the public. *Id.* Protective orders are regularly entered in civil litigation in accordance with Washington's Public Disclosure Act's exemption for one's privacy rights, including orders that protect: tax returns, financial statements, banking records, and similar financial information. *E.g. Aexel v. Seattle Financial Group, Inc.*, No. 1023720832014, WL 2457807 (Wash. Super. March 23, 2014) (Inveen, J.).<sup>3</sup>

13 First, requiring public disclosure and thus scrutiny of RTDS's financial information, and by extension portions of the private financial information of its ownership, is highly offensive just as would be asking a private individual to disclose their salary or how much debt they have. Not only would disclosure be highly offensive, disclosure of RTDS's financial information could cause RTDS real and significant damage to its ability to negotiate various contacts in the future. Public knowledge of a small, privately held company's financial information causes a competitive disadvantage for such companies. Indeed, one of the primary reasons companies choose to remain privately held rather than go public is the right of non-disclosure of financial information. Disclosure of RTDS's financial information in this proceeding would eviscerate its right of non-disclosure, and put it at a competitive disadvantage. Disclosure of RTDS's financial information would compromise its ability to compete fairly with other private companies that are not required to disclose their financial information, and would unfairly prejudice RTDS's ability to negotiate future contracts.

14 Second, RTDS's financial information is not of legitimate public concern, and opening its financial information to scrutiny by the general public, its competitors, and vendors is highly offensive to its privacy interests. RTDS is a small, privately held company. It is not publically traded, and does not rely on government funding for its operations. Its financial

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<sup>3</sup> See also Article I, Section 7 of the Washington State Constitution.

information is therefore not a matter of public record, nor is it a matter of public concern.

15 An order requiring the redaction of RTDS's financial information from any public available record submitted in this proceeding will not cause any prejudice. The Parties' joint goal of ensuring public safety will not be impacted by the requested protective order. Indeed, when confidential income data that would violate one's privacy interest can be redacted from a public record, the proper course is to redact the confidential income data and release the rest of the record. *See* RCW 42.56.210(1).

**B. A protective order is appropriate under RCW 34.05.446.**

16 The relevant portion of Washington's Administrative Procedures Act, RCW 34.05, also allows the presiding officer to enter protective orders under the superior court civil rules. RCW 34.05.446. Civil Rule 26(c) allows a protective order to be entered to protect a party from undue burden or expense including that "commercial information not be disclosed or be disclosed only in a designated way." CR 26(c).

17 A trial court has substantial latitude to decide when a protective order is appropriate and what degree of protection is required given the unique character of the discovery process. *King v. Olympic Pipeline Co.*, 104 Wash.App. 338, 16 P.3d 45, *amended on reconsideration, review denied*, 143 Wash.2d 1012, 21 P.3d 290 (2000). The commission routinely enters protective orders pursuant to RCW 34.05.446. *See e.g., In the Matter of the Petition of Olympic Pipe Line Co. et al.*, No. TO-031973 & TO-081785 (October 14, 2008). And the courts uphold those protective orders. *See TRACER v. Washington Utilities and Transp. Com'n*, 2002 WL 1608448, at \*10 (Wn. App., 2002).<sup>4</sup>

18 CR 26(c) permits a trial court to forbid publication of information obtained through

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<sup>4</sup> The Commission entered a protective order pursuant to RCW 34.05.446. The Court ruled the "protective order was an appropriate means of balancing protecting [sic] the confidential business information against the procedural rights of the parties to the hearing."

discovery upon a showing of “good cause.” *Rhinehart v. Seattle Times* 98 Wash.2d 226, 654 P.2d 673 (1982). To determine if “good cause” exists for a protective order, the court must balance the interests served by protecting the confidentiality of the information (*e.g.*, ensuring the full and truthful disclosure of relevant facts and protecting individuals’ legitimate privacy interests in avoiding unwanted publicity) against the interests served by allowing publication of the information (*e.g.*, informing the public of matters of legitimate public concern) under the circumstances.

19 In *Rhinehart*, the Washington Supreme Court ruled that there has never been a question that commercially valuable information, such as financial information, warrants protection under CR 26(c). *Id.* at 236.


20 Here, in accordance with *Rhinehart* and as discussed at length above, allowing the publication of the financial information obtained during the Commission Staff’s investigation intrudes upon RTDS’s right to privacy. Disclosure of the financial information will cause RTDS very real and immediate financial consequences. At the same time, disclosure of the financial information will serve no legitimate public interest, nor is it relevant to any fact finding in this adjudication to determine the partial reinstating of RTDS’s operating certificate. Accordingly, the balancing of the applicable interests supports entry of the requested protective order requiring the redaction of RTDS’ financial information in any publicly filed document in this proceeding.

## VI. CONCLUSION

21 RTDS respectfully requests that a protective order be entered that prohibits the disclosure of RTDS’s financial information, and that any documents submitted publicly in this proceeding first require the redaction of RTDS’s financial information.

DATED this 20<sup>th</sup> day of November, 2015.

PATTERSON BUCHANAN  
FOBES & LEITCH, INC., P.S.

  
\_\_\_\_\_  
for PATRICIA K. BUCHANAN, WSBA No. 19892  
DUNCAN K. FOBES, WSBA No. 14964  
Counsel for Ride the Ducks of Seattle, L.L.C.  
d/b/a Seattle Duck Tours

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION,	)	DOCKET TE-151906
	)	
Complainant,	)	ORDER 04
	)	
v.	)	
	)	ORDER DENYING MOTION FOR
RIDE THE DUCKS OF SEATTLE,	)	PROTECTIVE ORDER
L.L.C. d/b/a SEATTLE DUCK TOURS,	)	
	)	
Respondent.	)	
.....	)	

**BACKGROUND**

- 1 The Washington Utilities and Transportation Commission (Commission) initiated emergency adjudicative proceedings pursuant to RCW 34.05.479, as well as complaint proceedings, against Ride the Ducks of Seattle, LLC d/b/a Seattle Duck Tours (Ride the Ducks or Company) arising from the incident on September 24, 2015, in Seattle involving a Ride the Ducks vehicle that resulted in the death of five people and serious injuries to many others. Pending Staff’s comprehensive investigation and inspection of the Company’s vehicles and operations, the Commission has suspended the Company’s Certificate No. ES-00146 to operate and provide excursion services to prevent or avoid immediate danger to the public health, safety, and welfare. Staff will file a report on its investigation on December 15, 2015, and the Commission has scheduled an evidentiary hearing for December 21, 2015, to determine whether to lift the suspension.
- 2 On November 20, 2015, Ride the Ducks filed a Motion of Respondent for Protective Order (Motion). The Company represents that during Staff’s investigation, it “came into possession of documents and records containing [Ride the Ducks’] private, closely held financial information” and that this “information has been, or may be, included in reports or documents that will be submitted in this proceeding.”<sup>1</sup> Ride the Ducks asserts that disclosure of this financial information would put the Company at a competitive disadvantage and would “adversely affect [Ride the Ducks’] ability to negotiate, maintain, and revise various agreements and contracts.”<sup>2</sup>

<sup>1</sup> Motion ¶¶ 4-5.

<sup>2</sup> *Id.* ¶ 6.

- 3 Ride the Ducks offers three bases on which the Commission can and should enter a protective order preventing disclosure of the Company’s financial information. First, WAC 480-07-420(1) authorizes the Commission to enter a standard protective order “when parties reasonably anticipate that discovery in a proceeding will call for the production of confidential information.” Ride the Ducks claims that its financial information is “confidential information” as the Commission has defined that term.
- 4 Second, the Company claims that its financial information is exempt from disclosure under the privacy exemption in the Public Records Act (PRA or Act) because such disclosure “[w]ould be highly offensive to a reasonable person, and . . . is not of legitimate concern to the public.”<sup>3</sup> Ride the Ducks asserts that courts regularly enter orders that protect financial information from disclosure pursuant to this exemption.
- 5 Third, the Company contends that the Administrative Procedure Act (APA) “allows the presiding officer to enter protective orders under the superior court civil rules. Civil Rule 26(c) allows a protective order to be entered to protect a party from undue burden or expense including that ‘commercial information not be disclosed or be disclosed only in a designated way.’”<sup>4</sup> The Washington Supreme Court, according to Ride the Ducks, has “ruled that there has never been a question that commercial valuable information, such as financial information, warrants protection under CR 26(c).”<sup>5</sup>

### DISCUSSION AND DECISION

- 6 We deny the Motion. Washington law requires the Commission to “make available for public inspection and copying all public records, unless the record falls within the specific exemptions of [the PRA] or other statute which exempts or prohibits disclosure of specific information or records.”<sup>6</sup> The Act “shall be liberally construed and its exemptions narrowly construed to promote [its] public policy and to assure that the public interest will be fully protected.”<sup>7</sup> Washington courts have long emphasized that the PRA “is a strongly worded mandate for broad disclosure of public records.”<sup>8</sup>

<sup>3</sup> RCW 42.56.050.

<sup>4</sup> Motion ¶ 16 (citations omitted).

<sup>5</sup> *Id.* ¶ 19.

<sup>6</sup> RCW 42.56.070(1).

<sup>7</sup> RCW 42.56.030.

<sup>8</sup> *Hearst Corp. v. Hoppe*, 90 Wn.2d 123, 127, 580 P.2d 246 (1978).

- 7 Ride the Ducks has not identified any provision in statute that specifically exempts or prohibits disclosure of the Company's financial information. The Company misinterprets the Commission's procedural rules to provide such an exemption. WAC 480-07-420(1) authorizes the Commission to enter a standard protective order to prohibit disclosure of "confidential information," which WAC 480-07-160 defines as "any information submitted under a claim of confidentiality under RCW 80.04.095." However, this regulation applies only to companies regulated by the Commission under Title 80 RCW. Ride the Ducks cannot make any claim of confidentiality under our rules because the Commission regulates the Company under Title 81 RCW, not Title 80. Except for solid waste collection companies the Commission regulates, the legislature has not provided companies regulated under Title 81 any comparable process to shield confidential information from disclosure.<sup>9</sup> The Commission's procedural rules, therefore, do not authorize the Commission to enter its standard protective order in this docket.
- 8 Nor does the PRA's exemption protecting personal privacy apply in the circumstances presented here. Ride the Ducks cites no appellate court decision that has concluded RCW 42.56.050 exempts a company's financial information from disclosure.<sup>10</sup> To the contrary, the Washington Supreme Court has found that nothing in a taxpayer's financial data on file with a county assessor's office "reveals intimate details of anyone's private life" that this exemption protects.<sup>11</sup> As a regulated transportation company, Ride the Ducks has a statutory obligation to submit financial data to the Commission without the ability to designate that submission as confidential.<sup>12</sup> The Company thus has no reasonable expectation such information is exempt from public disclosure. Indeed, RCW 80.04.095 and RCW 81.77.210 would be superfluous if the PRA exempted the financial information that all public service companies provide to the Commission.<sup>13</sup>

<sup>9</sup> The legislature recently enacted a confidentiality statute in Title 81, RCW 81.77.210, after the Commission had promulgated WAC 480-07-160, but that statute is specific to solid waste collection companies and thus is inapplicable here.

<sup>10</sup> Ride the Ducks cites only an unpublished superior court order as authority for this proposition. Such orders, however, are not precedential or binding on the Commission outside the context of cases in which the Commission is a party.

<sup>11</sup> *Hearst*, 90 Wn.2d at 138.

<sup>12</sup> *E.g.*, RCW 81.04.080.

<sup>13</sup> The legislature does provide a PRA exemption in RCW 42.56.330 for documents designated as confidential under RCW 80.04.095 and RCW 81.77.210, but as noted above, this exemption does not apply to any transportation companies subject to Commission jurisdiction except solid waste collection companies. Further, the exemptions for valuable commercial or financial information in RCW 42.56.270 do not include the information for which Ride the Ducks seeks protection.

- 9 The APA also does not authorize the Commission to enter the protective order the Company requests. RCW 34.05.446(3) provides that an agency’s “presiding officer may decide whether to permit the taking of depositions, the requesting of admissions, and all other *procedures* authorized by rules 26 through 36 of the superior court civil rules.” (Emphasis added.) By its terms, this statute is procedural and does not create any substantive authority. Civil Rule 26(c) on which the Company relies addresses protective orders as a means of limiting one party’s obligation to provide information to the other during discovery. Ride the Ducks, however, states that Staff already has the financial information the Company seeks to protect. Once provided to the Commission, the documents are public records subject to the PRA, and neither the APA nor the superior court civil rules confers any authority on the Commission to prevent disclosure of those public records.<sup>14</sup>

### ORDER

- 10 THE COMMISSION ORDERS That the Motion of Respondent for a Protective Order is DENIED.

DATED at Olympia, Washington and effective November 30, 2015.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chairman

PHILIP B. JONES, Commissioner

ANN E. RENDAHL, Commissioner

<sup>14</sup> We nevertheless note that pursuant to the APA and the Commission’s procedural rules, the Commission has the authority to enter an order permitting Ride the Ducks to withhold information that Staff or any other party has requested prior to disclosing that information. WAC 480-07-425.



## **Ride the Ducks of Seattle - Safety Overview**

### **Provided by Ride the Ducks of Seattle**

This document provides an overview of Ride the Ducks of Seattle's rigorous training, safety and maintenance procedures. Within this framework, we present a detailed look at the organization's systems and policies; taken together, these steps speak to a broader culture of safety that we will continue to build upon and expand into the future.

#### **Captain Training Overview**

Ride the Ducks of Seattle (RTDS) Captains must be expert drivers on the roadways and excellent navigators and seafarers on the waterways. RTDS' current Captain staff has successfully completed a minimum training program that consists of 240 total training hours over a six-week period.

Within the 240 hours Captains are required to complete:

- A classroom Drug and Alcohol training session.
- Red Cross First Aid and CPR training.
- Duck Familiarization and Inspections classroom and hands-on training.
  - o Inspections practices are certified by WA State during CDL Test and RTDS prior to passenger carrying operations.
- Classroom Drive Training, Driving Basics Training and Introductory Drive Session.
- USCG Certified and Regulated Marine Training Course.
- Waterborne Operations and Emergency Procedures Drills (Man Overboard, Fire, Flooding, Evacuation, etc).
  - o Successful completion required to continue in class and to qualify for Merchant Mariner Credential.
- 10 full days of on-route training with an instructor. Feedback for improvement and growth is given daily and as needed throughout training sessions.
- Six days of various training (Communications, Breakdowns/Accidents, Boat Ramp Ops., Tour Information, CDL Testing Preparations).
- One CDL test day. CDL tests are conducted at the WA State testing facility by a Washington State certified and employed CDL tester.
- Five days of dress rehearsal, audit and review, and green light tours. These days are done as if no trainers are on board. Check sheets are used to ensure compliance with WA State laws and RTDS procedures and policies.
  - o Each captain goes through several ride-alongs by training supervisors to ensure safety and performance quality.
- Training may, and has been, extended for candidates who need more focus on any area of study.

### Daily Safety Briefings

The Ride the Ducks of Seattle operations team executes face-to-face safety briefings with Captains at least five days per week. These briefings are used to focus their attention to a specific item or concern. This could range from inspection procedures, route operations, emergency procedures, day-to-day operations, etc. The daily briefings also give Captains an opportunity to point out any issues they currently have or have observed with the route, Ducks, operations, etc.

**RTDS Training Requirements:** Note that WA State has no continuing education requirements for commercial drivers. RTDS regularly does ride-alongs and driver reviews using a very detailed point system review document/criteria (attached). Additionally, all drivers are required to attend RTDS continuing education sessions, be present for morning briefings and return to duty protocols.

### Captain Continuing Education

**RTDS Captains** are required to enhance and maintain their training by attending required continuing education sessions. Each Captain must attend three two-hour training sessions per quarter on a range of topics, including emergency drills (USCG required), operations and tour development.

**Emergency drills** include, but are not limited to: MOB (Man Overboard), fire on-board, flooding, collision on land/water, grounding, medical emergency, abandon ship, loss of steering on water, and loss of propulsion. These drills are done as close to real-life situations as safely possible while on the road/water.

**Operations Courses** focus on philosophy, culture and decision-making as it relates to safety at RTDS. Topics have included situational awareness (using USCG handbook), back to driving basics, rules of the road revisited, sailboats, inspections, accidents and on-road emergencies.

**Tour Development Courses** are created to enhance the tour experience for guests.

**Captain Return to Duty Training:** If a Captain takes a leave of absence or is inactive for a period of time, they are required to go through an update and policy classroom session, an inspections review/audit, and a driving audit. This is followed by on-water emergency drills and a "tour greenlight or audit." Complete comfort and abilities verification is required before releasing the Captain to in-service duty.

### Captain Staffing

Prior to even entering the training program, Captains are required to meet stringent background checks, and many have prior experience as military or commercial pilots, professional maritime captains or commercial drivers.

#### Minimum Requirements:

- Clear driving record.
- Completely drug-free and participate in DOT and USCG pre-employment/random drug testing.

- Pass and keep current DOT and USCG medical screens/physicals.
- 120 days of operational sea time since 16 years of age; of which 45 are in the last 3 years. 1 day = 4 hours minimum.
- Ability to remain calm under pressure, make smart decisions and learn from past experiences.

**Staff Experience:** RTDS employs staff and Captains from all different backgrounds. RTDS has on staff:

- 2 military-trained and retired combat helicopter pilots
- 1 retired commercial airline pilot
- 2 engineers (1 mechanical, 1 civil)
- 3 business owners
- 2 commercial fishing boat Captains
- 1 cruise ship Captain
- 3 vessel delivery crew
- Others with varying maritime and relevant professional backgrounds

## Maintenance and Inspections

**Personnel:** Ride the Ducks of Seattle employs ten full-time maintenance technicians, one maintenance foreman and one fleet maintenance manager. Each maintenance team member must have a minimum of two years of experience in vehicle maintenance or a comparable experience from an accredited training program prior to coming to work for our organization.

During a 90-day learning, training and review process, maintenance technicians are instructed on how to inspect a Duck and the policies and procedures embedded in RTDS operations, component rebuilds and emergency procedures. All inspectors have completed requirements to qualify as an annual commercial vehicle maintenance inspector and commercial vehicle brake inspector.

RTDS offers a continuing education incentive where maintenance technicians can utilize work time and receive reimbursements to obtain ASE certifications in varying automotive disciplines.

**Daily Vehicle Inspections:** RTDS executes a “two sets of eyes” policy for daily inspections. Each Duck that has ever and will ever be sent out on tours or training will have been inspected thoroughly by a maintenance technician and the Captain.

Washington state does not require a mechanic to check a vehicle daily, neither before nor after day of operation. The one exception is if the driver writes up a defect in a post-trip report. In that case, a mechanic would inspect the vehicle.

RTDS goes beyond “Satisfactory” (highest rating by the UTC) and requires mechanics to check every Duck before it is allowed to operate. Captains cannot use a Duck for a tour if it has not been checked by a mechanic and if the mechanic did not fill out and sign a detailed inspection form.

The RTDS-required safety inspection is above and beyond the requirements for a Commercial Passenger Vehicle and USCG Certificated Passenger Carrying Vessel (requirements document attached).

**Periodic and Annual Maintenance:** RTDS completes annual DOT inspections of each Duck in operation and annual inspections by the USCG in compliance with RTDS' Certificate of Inspection. The inspections are robust, comprehensive and extremely detailed.

Periodic or preventive maintenance is performed by RTDS maintenance technicians on regimented schedules. Whether it is an oil change, a grease job, brake inspection or auxiliary steering cable replacements, everything is scheduled on a very specific timeline.

**Lock-Out or Red-Tag System:** RTDS executes a Red-Tag system to ensure any Duck with a maintenance concern is removed and kept out of service until the concern is eliminated.

**Notification of Repairs:** If a repair to a Duck requires RTDS to break a watertight envelope, the USCG must be notified and may require inspection by the USCG. If any hot work or modification to current configuration takes place, the USCG must be notified and may require inspection (notification of repairs attached).

**Readiness Rate:** RTDS has maintained a greater than 95 percent readiness rate on all tours scheduled. That means in scheduling maximum tours per day and annually, RTDS maintenance staff has been able to accommodate while fulfilling all specified required inspections and protocols.

### UTC Compliance Audit 2012

Ride the Ducks of Seattle was given a satisfactory rating (highest rating) by the UTC in 2012 upon their completion of a thorough compliance audit and vehicle inspection (copy of report available upon request).

Every year, each Duck that is operational is required to be inspected by the USCG. These inspections are based on NVIC 1-01, 46 CFR and the USCG T-Boat Inspection Book (CG-840TI).


A 2015 USCG Marine Training Course compliance audit resulted in zero non-conformities and a fully-compliant ranking (copy of report upon request).

### Outcomes and Awards


Ride the Ducks of Seattle Fleet Maintenance Manager was awarded with a certificate of appreciation from the USCG Sector Seattle Commander for exemplary training and workmanship.

In 2016 RTDS will be testing and implementing on-board video recording equipment to use as training, review and accident prevention.

## Washington Utilities and Transportation Commission

	<b>US DOT #</b> 1905507	<b>Legal:</b> RIDE THE DUCKS OF SEATTLE <b>Operating (DBA):</b>			
<b>MC/MX #:</b>	<b>State #:</b> ES-146	<b>Federal Tax ID:</b> [REDACTED] (EIN)			
<b>Review Type:</b> Compliance Review (CR)					
<b>Scope:</b>	Principal Office	<b>Location of Review/Audit:</b> Company facility in the U. S.			<b>Territory:</b>
<b>Operation Types</b>	<b>Interstate</b>	<b>Intrastate</b>			
<b>Carrier:</b>	N/A	Non-HM	<b>Business:</b> Corporation		
<b>Shipper:</b>	N/A	N/A	<b>Gross Revenue:</b> \$9,609,975.00		<b>for year ending:</b> 12/31/2014
<b>Cargo Tank:</b>	N/A				
<b>Company Physical Address:</b>					
516 BROAD STREET SEATTLE, WA 98109					
<b>Contact Name:</b> Brian Tracey					
<b>Phone numbers:</b> (1) 206- 441-4687 (2) Fax					
<b>E-Mail Address:</b> brian@ridetheducksofseattle.com					
<b>Company Mailing Address:</b>					
516 BROAD STREET SEATTLE, WA 98109					
<b>Carrier Classification</b>					
Authorized for Hire					
<b>Cargo Classification</b>					
Passengers					
<b>Equipment</b>					
	<b>Owned</b>	<b>Term Leased</b>	<b>Trip Leased</b>	<b>Owned</b>	<b>Term Leased</b>
Minibus, 16+	20	0	0		
Power units used in the U.S.: 20					
Percentage of time used in the U.S.: 100					
<b>Does carrier transport placardable quantities of HM?</b> No					
<b>Is an HM Permit required?</b> N/A					
<b>Driver Information</b>					
	<b>Inter</b>	<b>Intra</b>	<b>Average trip leased drivers/month:</b> 0		
<b>&lt; 100 Miles:</b>	0	35	<b>Total Drivers:</b> 35		
<b>&gt;= 100 Miles:</b>	0	0	<b>CDL Drivers:</b> 35		



 <p>WASHINGTON <b>UTC</b> UTILITIES AND TRANSPORTATION COMMISSION</p>	<p><b>RIDE THE DUCKS OF SEATTLE</b> U.S. DOT #: 1905507</p>	<p>Review Date: 12/15/2015</p>
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State #: ES-146


**Part A**

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

Wayne Gilbert  
P.O. Box 47250, Olympia, WA 98504  
360-664-1232, cell: 360-528-0239, email: wgilbert@utc.wa.gov

**This report will be used to assess your safety compliance.**


**Person(s) Interviewed****Name:** Brian Tracey**Title:** CEO**Name:** Joe M. Hatten**Title:** Fleet Maintenance Manager

	<b>RIDE THE DUCKS OF SEATTLE</b>	Review Date:
	U.S. DOT #: 1905507	State #: ES-146

### Part B Violations

1	Primary: 383.37(b)	Discovered	Checked	Drivers/Vehicles	
STATE				In Violation	Checked
ACUTE		1	51	1	51
<p><b>Description</b> Allowing, requiring, permitting, or authorizing an employee to operate a CMV during any period in which the driver has a CLP or CDL disqualified by a State, has lost the right to operate a CMV in a State, or has been disqualified from operating a CMV.</p> <p><b>Example</b> Driver name: Jeff Myers Trip date: 7/14/15 (Duck 4)</p> <p>Jeff Myers CDL was inactivated by WA State DOL on 4/4/15 following the expiration of his medical certificate.</p>					
2	Primary: 382.305(b)(2)	Discovered	Checked	Drivers/Vehicles	
STATE				In Violation	Checked
CRITICAL		6	20	6	20
<p><b>Description</b> Failing to conduct random controlled substances testing at an annual rate of not less than the applicable annual rate of the average number of driver positions.</p> <p><b>Example</b> Driver name: Lacie Simpson Trip date: 8/30/15 (Duck 3) Calendar year: 2014</p> <p>Only 14 random drug tests were completed of the 20 required in 2014.</p>					
3	Primary: 380.509(b)	Discovered	Checked	Drivers/Vehicles	
STATE				In Violation	Checked
		26	51	26	51
<p><b>Description</b> Failing to maintain a copy of the driver's training certificate in the driver's personnel or qualification file.</p> <p><b>Example</b> Driver name: Kenneth St. John Trip date: 6/28/15 (Duck 1) Date of training: 5/26/15</p> <p>Carrier failed to maintain a copy of the entry level driver's training certificate on file with the required information in accordance with Part 380.513.</p>					
4	Primary: 382.305(b)(1)	Discovered	Checked	Drivers/Vehicles	
STATE				In Violation	Checked
		1	4	1	4
<p><b>Description</b> 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.</p> <p><b>Example</b> Driver name: Lacie Simpson Trip date: 8/30/15 (Duck 3) Calendar year: 2014 Average number of drivers positions: 2014 Average 39 (38.84)</p> <p>Only 3 of the 4 required random alcohol tests were completed in 2014.</p>					



	<b>RIDE THE DUCKS OF SEATTLE</b>	State #: ES-146	Review Date:
	U.S. DOT #: 1905507		12/15/2015

### Part B Violations

5 STATE	Primary: 382.305(i)(3)	Discovered 2	Checked 9	Drivers/Vehicles In Violation 1	Checked 7
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**Description**

Failing to ensure that drivers are tested within the selection period.

**Example**

Driver name: Megan Lee  
 Selection date: 4/3/15  
 Trip date: 5/24/15 (Duck 21)  
 2nd Quarter Selection

Out of 9 random drug and alcohol selections during the 2nd quarter, 1 driver of 7 failed to test as required. The carrier failed to test Megan Lee for drugs and alcohol after she was selected.

6 STATE	Primary: 382.305(k)(2)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 1	Checked 1
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**Description**

Failing to ensure that random testing dates are reasonably spread throughout the calendar year.

**Example**

Driver name: Lacie Simpson  
 Trip date: 8/30/14 (Duck 3)

In 2014 the carrier had drivers entered into their random drug and alcohol pool during all 4 quarters with selections made each quarter, and only tested during 1st, 3rd, and 4th quarters.

7 STATE	Primary: 382.601(b)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 1	Checked 1
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**Description**

Failing to provide to employees a written policy on misuse of alcohol and controlled substances that meets the requirements of 382.601(b) 1-11.

**Example**

Driver name: Jeff Myers  
 Trip date: 7/14/15 (Duck 4)

Policy is missing information concerning the effects of alcohol and controlled substances use on an individual's health, work, and personal life; signs and symptoms of an alcohol or a controlled substances problem (the driver's or a co-worker's); and available methods of intervening when an alcohol or a controlled substances problem is suspected, including confrontation, referral to any employee assistance program and/or referral to management.

8 STATE	Primary: 390.15(b)(1)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 1	Checked 1
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**Description**

Failing to keep an accident register in the form and manner prescribed.

**Example**

Driver name: Peter T. Esty  
 Accident/trip date: 2/7/15 (Duck 18)

Register failing to show city and state of accident, number of injuries, number of fatalities, and whether any hazardous materials, other than fuel spilled from the fuel tanks of motor vehicles involved in the accident were released.





	<b>RIDE THE DUCKS OF SEATTLE</b>	Review Date:
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### Part B Violations

9 STATE	Primary: 390.19(b)(2)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 1	Checked 1
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**Description**

Failing to file the appropriate form under 390.19(a) (MCS-150, 150B, or 150C) each 24 months according to the schedule.

**Example**

Driver name: Steve Kodish  
Trip date: 6/24/15 (Duck 1)

Carrier failed to ensure a current MS-150 was on file with DOT, previous was filed on 6/22/09.

10 STATE	Primary: 391.21(a)	Discovered 51	Checked 51	Drivers/Vehicles In Violation 51	Checked 51
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**Description**

Using a driver who has an incomplete employment application.

**Example**

Driver name: Thor Radford  
Trip date: 6/26/15 (Duck 1)

Carrier failed to ensure a complete application was on file. Applications are missing the date of birth for all employees.

11 STATE	Primary: 391.23(b)	Discovered 3	Checked 51	Drivers/Vehicles In Violation 3	Checked 51
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**Description**

Failing to maintain a copy of the motor vehicle record(s) obtained in response to the inquiry to each State within 30 days of the date of the driver's employment begins.

**Example**

Driver name: Robert Krauthamer  
Trip date: 8/23/15 (Duck 1)

Carrier hired Robert Krauthamer on 1/29/15. Abstract was obtained on 9/22/15, outside the 30-day window.

Driver name: Mizrain Rodriguez-Rubio  
Trip date: 9/5/15 (Duck 3)

Carrier hired Mizrain Rodriguez-Rubio on 4/20/15. Abstract was obtained on 1/13/15, outside the 30-day window.

Driver name: Patrick Najou  
Trip date: 9/2/15 (Duck 3)

Carrier hired Patrick Najou on 2/16/15. Abstract was obtained on 9/3/15, outside the 30-day window.



	<b>RIDE THE DUCKS OF SEATTLE</b>	Review Date:
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### Part B Violations

12 STATE	Primary: 391.25(a)	<b>Discovered</b> 21	<b>Checked</b> 51	<b>Drivers/Vehicles In Violation</b> 21	<b>Checked</b> 51
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**Description**

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.

Driver name: Phillip Harjo

Trip date: 8/16/15 (Duck 7)

Carrier failed to pull the driver record within 12 months, pulling abstract on 1/30/14 and the next one on 9/19/15.

13 STATE	Primary: 391.25(b)	<b>Discovered</b> 21	<b>Checked</b> 51	<b>Drivers/Vehicles In Violation</b> 21	<b>Checked</b> 51
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**Description**

Failing to review the driving record of each driver to determine whether that driver meets minimum requirements for safe driving or is disqualified to drive.

**Example**

Driver name: Phillip Harjo

Trip date: 8/16/15 (Duck 7)

Carrier failed to review the driving record within a 12 month period.

14 STATE	Primary: 391.27(a)	<b>Discovered</b> 21	<b>Checked</b> 51	<b>Drivers/Vehicles In Violation</b> 21	<b>Checked</b> 51
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**Description**

Failing to require drivers the carrier employs to prepare and furnish with a listing of all violations of motor vehicle traffic laws and ordinances at least once every twelve months

**Example**

Driver name: Thomas Van Gorder

Trip date: 7/15/15 (Duck 21)

Carrier failed to require drivers to complete a listing of all violation of motor vehicle traffic laws at least once every 12 months, 5/29/14 was the first and the next was not until 9/8/15.

15 STATE	Primary: 391.45(b)(1) Secondary: 391.11(a)	<b>Discovered</b> 1	<b>Checked</b> 51	<b>Drivers/Vehicles In Violation</b> 1	<b>Checked</b> 51
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**Description**

Using a driver not medically examined and certified during the preceding 24 months.


**Example**

Driver name: Jeff Myers


Trip date: 7/14/15 (Duck 4)

Last examination date: 4/3/14 and expired on 4/3/15



 <b>RIDE THE DUCKS OF SEATTLE</b> U.S. DOT #: 1905507		State #: ES-146		Review Date: 12/15/2015	
<b>Part B Violations</b>					
16 STATE	Primary: 391.51(b)(4)	<b>Discovered</b> 2	<b>Checked</b> 51	<b>Drivers/Vehicles In Violation</b> 2	<b>Checked</b> 51
<b>Description</b> Failing to maintain the responses of each State agency to the annual driver record inquiry required by 391.25(a). Driver name: Steven Kodish Trip date: 7/23/15 (Duck 3)  Carrier failed to maintain an annual drivers abstract for calendar year 2014.  Driver name: Dylan Richardson Trip date: 7/11/15 (Duck 1)  Carrier failed to maintain an annual drivers abstract for calendar year 2015.					
17 STATE	Primary: 391.51(b)(7)	<b>Discovered</b> 1	<b>Checked</b> 51	<b>Drivers/Vehicles In Violation</b> 1	<b>Checked</b> 51
<b>Description</b> Failing to maintain medical examiner's certificate in driver's qualification file. <b>Example</b> Driver name: Adam Clemons Trip date: 8/18/15 (Duck 1)  Carrier failed to maintain copies of medical examiner's certificate within the driver's qualification file.					
18 STATE	Primary: 391.51(b)(9)	<b>Discovered</b> 51	<b>Checked</b> 51	<b>Drivers/Vehicles In Violation</b> 51	<b>Checked</b> 51
<b>Description</b> 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 391.23(m) in driver qualification file(s).  <b>Example</b> Driver name: Thomas Van Gorder Trip date: 7/15/15 (Duck 21)  Carrier failed to place a note in the driver qualification file related to the verification of the medical examiner's listing.					
19 STATE	Primary: RCW 81.70.280 Secondary: WAC 480.30.191(3) CFR Equivalent: 392.2	<b>Discovered</b> 1	<b>Checked</b> 1	<b>Drivers/Vehicles In Violation</b> 1	<b>Checked</b> 1
<b>Description</b> Failing to ensure the policy for liability or property damage insurance or surety bond required by this section is current and filed with the Washington State Utilities and Transportation Commission. <b>Example</b> Driver name: Tommy Johnson Trip date: 7/9/15 (Duck 11)  Carrier failed to ensure Liability Insurance Form E was current and on file with the WUTC.					



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### Part B Violations

20 STATE	Primary: 395.5(b)(2)	Discovered 35	Checked 1230	Drivers/Vehicles In Violation	Checked 41
<p><b>Description</b> Requiring or permitting a passenger-carrying commercial motor vehicle driver to drive after having been on duty 70 hours in 8 consecutive days.</p> <p><b>Example</b> Dates of 8-day period: 7/25-8/1/2015 Driver name: Patrick Najou Date/Time Violation Begins: 8/1/2015 (Duck 6) at 11:43am Mr Najou exceeds his 70hr on-duty in previous 8 days. At 12:00pm Mr Najou began a second tour and operated another 3 tours each lasting 90 minutes. Total hours driven in violation: 28 through 8/5/2015</p>					
21 STATE	Primary: 395.8(a)	Discovered 93	Checked 1230	Drivers/Vehicles In Violation	Checked 41
<p><b>Description</b> Failing to require driver to make a record of duty status.</p> <p><b>Example</b> Driver name: Aaron Zingerman Trip date: 7/28/15 (Duck 21)</p> <p>Carrier failed to require driver's to make a record of duty status (log book) in accordance with 395.8(a)(1) when exceeding limitations for short-haul operations.</p>					
22 STATE	Primary: 396.13(c)	Discovered 90	Checked 570	Drivers/Vehicles In Violation	Checked 20
<p><b>Description</b> Failing to require driver to sign the last vehicle inspection report when defects or deficiencies were noted.</p> <p><b>Example</b> Driver name : Patrick Najou Vehicle: Duck 3 Trip date: 7/13/2015 Duck 3 was found to have a defect however the driver on 7/14/15 did not sign that the defect was corrected.</p>					
23 STATE	Primary: 396.21(b)	Discovered 3	Checked 20	Drivers/Vehicles In Violation	Checked 20
<p><b>Description</b> Failing to retain periodic inspection report for 14 months from date of inspection.</p> <p><b>Example</b> Vehicle identification: Duck 12 Trip date: 6/25/15</p> <p>Duck 12 does not have an annual periodic inspection on file completed in 2013. Also in violation is Duck 14 and 15.</p>					



<b>RIDE THE DUCKS OF SEATTLE</b> U.S. DOT #: 1905507	State #: ES-146	Review Date: 12/15/2015
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### Part B Violations

24 STATE	Primary: 396.25(e)	Discovered 8	Checked 8	Drivers/Vehicles In Violation 8	Checked 8
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#### Description

Failing to retain evidence of brake inspector's qualifications.

Mechanic: Joseph C. Hatten

Date Hired: 2/9/12

Vehicle: Duck 1

Date of Inspection: 12/13/14

Trip date: 6/23/15

Also in violation: Brandon Wooden, Zack Ellet, Jonathan Raymond, Reggie Brandon, Bob Cook, James Thornton, Mitchell Barker

#### Safety Fitness Rating Information:

Total Miles Operated 241,000  
Recordable Accidents 2  
Recordable Accidents/Million Miles 8.30


OOS Vehicle (CR): 0  
Number of Vehicle Inspected (CR): 18  
OOS Vehicle (MCMIS): 0  
Number of Vehicles Inspected (MCMIS): 18

Your proposed safety rating is :

**UNSATISFACTORY**

Rating Factors		Acute	Critical
Factor 1:	S	0	0
Factor 2:	U	1	1
Factor 3:	S	0	0
Factor 4:	S	0	0
Factor 5:	N	0	0
Factor 6:	U	-	-



	<b>RIDE THE DUCKS OF SEATTLE</b> U.S. DOT #: 1905507	Review Date: 12/15/2015
<b>Part B Requirements and/or Recommendations</b>		

### 1. DRIVER FITNESS BASIC PROCESS BREAKDOWN: Monitoring and Tracking

DESCRIPTION OF PROCESS BREAKDOWN: Ride the Ducks of Seattle has not implemented an adequate monitoring and tracking system to ensure that all drivers are qualified and all documents located within driver qualification files are completed and updated as required.

#### BASIC SPECIFIC RECOMMENDED REMEDIES:

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

Ride the Ducks of Seattle must implement an adequate tracking and monitoring system to ensure compliance with all applicable sections of 380, 382, 383, 390 and 391.

- 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.
- Review and retain each driver's Motor Vehicle Record (MVR) at least annually to ensure compliance with company policies, Federal regulations, and State and local laws and ordinances related to driver fitness. If a driver seems to have numerous violations, the MVR should be reviewed more often. Random MVR checks in addition to annual checks are also effective. File the MVR in each driver's driver qualification file after review.
- Maintain each driver's investigation history file in a secure location with limited and controlled access for as long as the driver is employed and for three years thereafter.
- Maintain roadside inspection reports, moving violation records, training records, the Commercial Driver's License (CDL), the dispatch schedule, bills of lading, and the medical report to help evaluate the performance of all staff involved in qualifying drivers (dispatchers and managers) and the effectiveness of the policies and procedures.
- Implement a system for keeping accurate records of employee driver fitness training needs, such as entry-level training, and completed training, via software, a checklist in the driver's file, and/or another appropriate method.
- 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.
- Regularly evaluate the company's driver fitness-related inspection results via the Federal Motor Carrier Safety Administration's (FMCSA) website at <http://ai.fmcsa.dot.gov/SMS>. Assess violations for process breakdowns and how to remedy them. Use data to help implement an effective process beyond self-reporting to monitor, document, and evaluate compliance with driver-fitness regulations and company policies.
- 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.).
- 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.

Everything that should be included in a Driver Qualification File:

1. Drivers Application for Employment: See Part 391.21(b)
2. Driver Investigative History File
3. Inquiry to State Agencies for driving record: Must be made within 30 days of the date of employment begins
4. Annual Review of Driving Record: At least once every 12 months
5. Annual Driver's Certification of Violations: At least once every 12 months
6. Drivers Road Test and Certificate (or equivalent)
7. CDL Drivers Medical Examiner's Certificate: Must be verified in the National Registry of Certified Medical Examiners
8. Entry-Level Driver-Training Certificate

### 2. CONTROLLED SUBSTANCES AND ALCOHOL BASIC PROCESS BREAKDOWN: Policies and Procedures



	<b>RIDE THE DUCKS OF SEATTLE</b> U.S. DOT #: 1905507	Review Date: 12/15/2015
<b>Part B Requirements and/or Recommendations</b>		

DESCRIPTION OF PROCESS BREAKDOWN: Ride the Ducks of Seattle has had issues with selected drivers being tested as required. With a large number of drivers not being tested the carrier was not able to meet the 50% testing of average drivers for controlled substances as required. The carrier has seasonal operations which sometime result in several months of drivers being unaccessible after being selected. There are no procedures in place to update and communicate with the Third Party Administrator each quarter prior to selection to avoid these violations.

#### BASIC SPECIFIC RECOMMENDED REMEDIES

Implement Safety Improvement Practices: The following are recommended practices related to Policies and Procedures.

- Develop a written company policy incorporating by reference all regulations regarding controlled substances and alcohol use, testing, training, and records retention for all employees.
- Develop a policy requiring drivers to submit copies of all citations for moving violations to carrier management within 24 hours.
- Establish a process to ensure that drivers who are randomly tested can be immediately removed if they are found to be positive and that they do not return to safety-sensitive duties until they have complied with the "return-to-duty" process.
- Establish written policies and procedures that promote, verify, and enforce adherence to all controlled-substance and alcohol rules and regulations. Procedures should be tailored to company operations and should provide specific checks and guidelines for interacting with a consortium, if applicable.
- Establish a process to ensure that test results are properly safeguarded from unauthorized disclosure to prospective employers without specific written consent and from disclosure under any circumstances to insurance companies and other nonqualified parties, in accordance with regulations.
- Develop a policy to ensure that all alcohol testing is conducted immediately before or after the period that employees are performing a safety-sensitive function. Drivers can be tested on their day off only for controlled substances. Once notified of their selection, drivers must proceed immediately to the testing facility. If a driver refuses to go, this should be considered as equivalent to a positive result.
- Consider developing a driver selection protocol that uses valid random-number-generator software on a monthly basis to select, by driver identification number, 5 to 8 percent of drivers for controlled-substance testing and 2 to 5 percent for alcohol testing. This will ensure selection of 50 percent of drivers for controlled-substances testing and 10 percent for alcohol testing per year, given fluctuations in the driver workforce over the course of the year.
- Develop a written and progressive disciplinary policy focused on taking corrective action to ensure drivers comply with regulations and policies. A progressive disciplinary policy could include, among other things, written warnings, suspensions, or work restrictions, monetary penalties, and termination. This policy should also specify consequences for any carrier official who knowingly and willfully allows controlled-substance and alcohol violations.

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

DESCRIPTION OF PROCESS BREAKDOWN: Ride the Ducks of Seattle has not implemented an adequate monitoring and tracking system to ensure that all documentation was completed and updated as required on all vehicles (Ducks).

#### BASIC SPECIFIC RECOMMENDED REMEDIES

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

Ride the Ducks of Seattle must ensure current systems are utilized to the fullest extent possible in order to prevent any process breakdown in sections 393 and 396.

Ensure that all Driver Vehicle Inspection Records (DVIRs) are annotated with either defects corrected or defects need not be corrected for safe operation of vehicle.

- 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



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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 through the next driver (Captain).
- Require mechanics to note whether parts came from inventory or were ordered, to ensure accuracy of maintenance records.
- 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.
- 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.).

4. Establish a system to control passenger-carrying drivers' hours of service. Do not dispatch drivers who don't have adequate hours available to complete assigned trips legally. Do not allow drivers to exceed the 10, 15, and 60/70-hour limits.
5. Your drivers use the 100 air-mile radius exemption, make sure that the drivers meet all terms of the exemption, including being released from duty no more than 12 hours from when they report for duty. Logs must be prepared if a driver does not meet the 12 hour requirement.
6. 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.

Seek Out Resources:

- You are encouraged to review your company's record at the following website: <http://ai.fmcsa.dot.gov/SMS>. You will need to use your PIN Number that has been provided by the FMCSA.
- Contact industry associations to get resources and ideas on safety improvement practices from other carriers in the industry.

7. The Washington Utilities and Transportation Commission (UTC) adopted the Federal Motor Carrier Safety Administration (FMCSA) rules of 49 CFR and regulations pertaining to Commercial Motor Vehicle's safety, along with the Revised Code of Washington, and Washington Administrative Codes pertaining to Commercial Motor Vehicle safety and regulations.

How to request an upgrade to your INTRASTATE safety rating based on corrective actions:

Within fourteen (14) days from receipt of your proposed rating, you may request in writing, a change in the rating based on corrective actions. You should do so as soon as possible so the UTC has the opportunity to review your corrections and make a final decision.

Your submission should be as detailed as possible and must:

1. Address each violation on the most recent Compliance Review. Any corrective actions you include to address other violations noted on your review may also be considered.
2. Identify why the violations cited were permitted to occur.
3. Discuss the actions taken to correct the deficiency or deficiencies that allowed the violations to occur. Include actual documentation of this corrective action with your petition. (For example: documentation may include items such as new policies and procedures, training programs and sign-in lists, or copies of missing drug/alcohol tests.





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4. Outline actions taken to ensure that similar violations do not reoccur in the future. YOU MUST DEMONSTRATE THAT YOUR OPERATIONS CURRENTLY MEET THE SAFETY STANDARD AND FACTORS SPECIFIED IN 49 CFR 385.5 and 385.7. To do so, you must demonstrate that you now have adequate safety management controls in place which function effectively to ensure acceptable compliance with applicable safety requirements.

5. If your request includes actions that will be conducted in the near future, such as training, reorganization of departments, purchasing of computer programs, etc, include a detailed description of the activity or training and a schedule of when that activity will commence and when it will be completed.

6. Include any additional documentation relating to motor carrier safety and the prevention of crashes that you believe supports your request.


7. Include a written statement certifying the carrier will operate within federal and state regulations and the carrier's operation currently meets the safety standard and factors specific in 49 CFR 385.5 and 385.7. A corporate officer; partner, or the owner of the company must sign the statement.

Address your response to:

You must submit your request to:

Attn: Dave Pratt  
Assistant Director, Transportation Safety  
Washington Utilities and Transportation Commission  
1300 S. Evergreen Park Dr. SW  
P.O. Box 47250  
Olympia, WA 98504-7250  
Work: (360) 664-1100  
Fax: (360) 586-1150



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**Reason for Review:** Compliance Review

**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**

1/24/2013

**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?

No

Does carrier transport placardable quantities of hazardous materials?

Unsat/Unfit rule:

Not Applicable

**Corporate Contact:** Brian Tracey

**Corporate Contact Title:** CEO

**Special Study Information:**

**Remarks:**

INVESTIGATIVE REPORT RECEIVED BY:

Name: Brian Tracey

Title: CEO/President/Owner

Carrier Name: Ride the Ducks of Seattle, LLC dba Ride the Ducks of Seattle

Date: December 15, 2015

**REASON FOR INVESTIGATION:**

This investigation was initiated on Ride the Ducks of Seattle, LLC due to a fatal accident that took place on Thursday, 9/24/15.

**SCOPE OF INVESTIGATION:**

SMS was checked on 9/24/15 and it was noted no BASICs were in alert status.


The investigation was assigned to Special Investigator Wayne Gilbert on 9/24/15. The carrier was contacted on 9/24/15 and a full investigation was set for 9/28/15 at the carrier's maintenance facility located at 4203 9th Ave. NW, Seattle, WA. This is the location where all records and equipment are maintained. The carrier's listed principal place of business where mail is received and the corporate headquarters is located at 516 Broad St., Seattle, WA 98109. Present at the start of the review were Special Investigators Wayne Gilbert and Francine Gagne, Federal Motor Carrier Safety Administration (FMCSA) Special Investigator Nolan Rice, Ride the Ducks of Seattle LLC representative was Ms. Margaret Singbeil (Finance Manager).

Members of the National Transportation Safety Board (NTSB) and the Seattle Police Department were also present to conduct their own separate investigations.

Driver Eric Bishop was involved in a fatality accident which occurred on the Aurora Ave Bridge in Seattle, WA on 9/24/15. He was driving Duck #6.

**CARRIER OPERATION DESCRIPTION:**



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The carrier began operations in 1997. The governing officers are Brian Tracey, Owner and Chief Executive Officer and Michelle "Mikie" Coffman, Vice President and General Manager. Ryan Johnson is the director of operations and is responsible for following the safety guidelines as set forth by the US Department of Transportation. Joe M. Hatten is the fleet maintenance manager and is responsible for managing a team of mechanics and shop helpers to keep vehicles in safe, good working condition at all times. Margaret Singbeil is the finance manager who served as a point of contact for any and all information that was requested throughout the duration of this investigation. The carrier is an authorized for-hire passenger carrier that operates in intrastate commerce as an excursion service company in Seattle and King County. The carrier currently owns twenty 37-passenger busses (converted military amphibious vehicles) and currently employs 35 CDL drivers. The carrier's gross revenue as annotated by Margaret Singbeil for fiscal year ending in 12/31/14 was \$9,609,975. The carrier is not and has not been involved in any emergency relief efforts in the last 365 days. The carrier last updated their VMT (Vehicle Miles Traveled) on 6/22/09.

#### PRE-INVESTIGATION:

On 9/24/15, a compliance investigation questionnaire was emailed to the carrier from the local FMCSA office requesting investigation information, the records that would need to be reviewed and the information the carrier would need to make available. On Monday, 9/28/15, the following records and documents were made available to the investigative team for review:

#### Accident Information:

- Listing of all accidents within the past 365 days

#### Driver Qualification Files:

- A listing of all drivers used within the past 12 months

#### Insurance and Economic Documentation:

- A current copy of MCS 150
- Valid proof of insurance

#### Equipment Maintenance:

- All maintenance files and records for each unit, including leased units
- Files and records including evidence of annual inspections, repair receipts/work orders
- Certifications or qualifications of persons performing annual inspections and brake repair and adjustments
- Copies of driver daily vehicle inspection reports (DVIR's) for the last 90 days

#### Drug and Alcohol Testing Records:

- All administrative records related to alcohol and controlled substances testing
- Name and contact information of the drug and alcohol consortium
- Annual report for previous year
- Pre-employment test results for all drivers hired in the last 365 days
- Random selection list and test results
- Educational materials provided drivers
- Company written drug and alcohol policy

#### Hours of Service Records:

- All records of duty status (log books or time cards) for previous six months

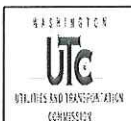
A copy of the carrier's profile was obtained through MCMIS on 9/24/15. The carrier currently has a "Satisfactory" safety rating through the Washington Utilities and Transportation Commission (UTC) from a compliance review completed on 1/24/13.

#### CDLIS (DRIVER LICENSE) CHECK:

FMCSA conducted CDLIS checks on all CDL personnel during the scope of this investigation. All CDL status/history were checked through CDLIS. One driver checked was in violation of his CDL in the last 365 days. See Part 383 below for details about this violation.

#### AUTHORITY:



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The carrier is a for-hire passenger carrier operating in intrastate commerce and required to have operating authority. UTC files were checked and the carrier had a valid excursion service carrier certificate at the time this investigation began. On 9/28/15 the UTC suspended the excursion certificate.

#### INSURANCE:

The carrier is an authorized for-hire passenger carrier 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 \$1,000,000 General Liability and an additional \$19,000,000 in Excess coverage effective 4/15/13 with T.H.E. Insurance. The carrier is in intrastate commerce only and is not required to maintain an MCS-90 through L&I. See Part 387 below for details.

#### DRIVERS WITH RED FLAG VIOLATIONS:

A&I (SMS) was checked through Portal on 9/24/15 and the carrier has no drivers with red flag violations in the last 365 days.

#### DRUGS AND ALCOHOL SUPPLEMENTAL REVIEW:

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

#### HAZARDOUS MATERIALS SUPPLEMENTAL REVIEW:

Ride the Ducks of Seattle does not transport any hazardous materials. A hazardous materials supplemental review was not required.

#### INVESTIGATION:

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

#### PARTS 171, 172, 173, 177, 178, 180 & 397 HAZARDOUS MATERIALS

The carrier does not transport hazardous materials.

#### Part 376 Lease and Interchange of Vehicles

Ride the Ducks of Seattle does not lease vehicles.

#### Part 380 - Special Training Requirement

The carrier does not operate long combination vehicles (LCVs). Ride the Ducks of Seattle has employed 26 drivers that meet the definition of entry level driver. Although a comprehensive training plan does exist and is provided to each operator, the carrier has not maintained entry level driver training certificates in accordance with Part 380.509(b). This resulted in 26 violations of Part 380.509(b) because Ride the Ducks of Seattle failed to maintain a copy of the entry level driver's training certificate.


#### Part 382 - Controlled Substances and Alcohol Use Testing

The following portion in Part 382 was completed by FMCSA Special Investigator Nolan Rice from his Focused Investigation: We incorporated his findings into this report.

Ride the Ducks of Seattle is currently enrolled in a random controlled substance and alcohol testing program with U.S. Healthworks out of Valencia, CA 800-340-3810.

Because this is a large carrier with a large amount of seasonal, and or intermittent drivers, a sample of the last full selection period (2nd quarter 2015) was used in checking compliance with Part 382.305(i)(3). The carrier's 2015 weekly payroll summary for DOT regulated drivers was used to check that each driver was available for testing. It was found that in the second quarter selections 7 drivers were selected for a total of 9 tests, and 1 selected driver Megan Lee failed to test for both drugs and alcohol even though she worked during the whole quarter. The carrier will be cited for failing to test all



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selected drivers during a selection period.

During 2014 - 24 random drug tests were selected during the 4 quarters and only 14 CDL drivers/mechanics were tested as required for drugs.

During 2014 - 5 random alcohol tests were selected during the 4 quarters and only 3 CDL drivers/mechanics were tested as required for alcohol.

During the review Margaret Singbeil produced a detailed spreadsheet based on CDL driver and mechanics actual operating hours during each week of each month of 2014. These figures were used to give the carrier the most detailed and actual summary of driver positions. Initial driver averages received from the C/TPA were found to be inconsistent with the carrier's initial figures of employees. The TPAs numbers were found to be much higher than the carriers requiring more tests, the carriers data was used to get the most accurate accounting of drivers. Additionally both the carrier's and consortiums drug and alcohol confirmations were used to verify tests completed. It was found that the consortium did not give credit to the carrier on multiple drug and alcohol tests completed. All tests displayed by both the carrier and TPA were used giving credit from both sources. Based on the payroll figures, Ride the Ducks of Seattle had the following driver averages:

1st Qtr: 29.3  
 2nd Qtr: 48.1  
 3rd Qtr: 44.58  
 4th Qtr: 33.4

2014 Average 39 (38.4)  
 Drug tests required - 20 (19.5), 14 completed  
 Alcohol tests required - 4 (3.9), 3 completed

Ride the Ducks of Seattle did not meet the required drug testing or alcohol testing percentages in 2014.

No positive drivers were identified as operating commercial motor vehicles for this carrier.

Ride the Ducks of Seattle hired 14 drivers in the previous 365 days. As a result five pre-employment tests results were checked with eFOTM. All drivers checked were tested as required and trips were reviewed to verify drivers were not allowed to operate a CDL vehicle prior to a negative result being received.

Ken St. Johns  
 Thor Radford  
 Mizrain Rodriguez  
 Dorin Ellis  
 Ryan Hawkins

Ride the Ducks of Seattle produced a drug and alcohol policy that was missing the following CFR required information: 382.601(b)(11), Drug and Alcohol educational material explaining the effects of usage. The policy was written more or less inclusive of a USCG regulated drug and alcohol program with no reference to FMCSRs. Additionally the policy contradicted FMCSRs on post-accident testing allowing the carrier to disregard post-accident testing if they felt the driver was not at fault.

One violation of Part 382.305(b)(1) and 6 critical violations of Part 382.305(b)(2) were discovered.


Also, two violations occurred in Part 382.305(i)(3), and one violation each in Part 382.305(k)(2), and Part 382.601(b).

#### Part 383 - Commercial Driver's License

During a check of all drivers' CDL status, it was noted that one driver, Jeff Myers, had an expired medical card as of 4/3/15 and subsequently had his CDL suspended through the Washington Department of Licensing on 4/3/15. The carrier allowed Mr. Myers to operate a commercial motor vehicle on at least 11 different occasions after that date: 7/14, 7/15, 7/21, 7/22, 7/28, 7/29, 8/4, 8/5, 8/15, 8/16, 8/18

One violation was discovered on Part 383.37(b). This violation was repeated a total of 11 times on separate occasions during our sample size for part 395.



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### Part 387 - Financial Responsibility

The carrier's vehicles are insured by T.H.E. Insurance Co., Policy #ELP0011174-02. Their insurance agent is Kay Allen or Desiree Meehan, with a contact telephone number of (727) 367-6900. The carrier is an authorized for-hire carrier of non-hazardous materials and is required to have a minimum liability coverage amount of \$5,000,000. Staff contacted the carrier's insurance agent and verified the carrier maintained \$1,000,000 in General Liability coverage and another \$19,000,000 in Excess coverage without lapse in the last 365 days. It was found that Ride the Ducks of Seattle failed to ensure that a current Form E was provided and on file with the UTC. Insurance history for the last 10 years has been obtained by the carrier and reviewed by the investigator and there has been no lapse in coverage.

One violation of RCW 81.70.280 was discovered during this portion of the review because Ride the Ducks of Seattle failed to ensure the updated Form E was on file with UTC.

The carrier updated the Form E filing prior to the end of this review.

### Part 390 - General FMCSR

The carrier has been involved in two DOT-recordable accidents in the last 365 days and does have an accident record on file. The first recordable accident took place on 2/7/15 in Seattle and the carrier's accident register fails to show city and state of accident, number of fatalities, and whether any hazardous materials, other than fuel spilled from the fuel tanks of motor vehicles involved in the accident were released. The second accident was the fatal accident that took place on 9/24/15 in Seattle.

Ride the Ducks of Seattle's MCS-150 form shows the VMT was last updated on 6/22/09. The carrier was advised to update the MCS-150 VMT and to update the information every two years as required.

One violation of 390.15(b)(1) was discovered during this portion of the review because Ride the Ducks of Seattle failed to keep an accident register in the form and manner prescribed.

One violation of 390.19(b)(2) was discovered during this portion of the review because Ride the Ducks of Seattle failed to file the appropriate MCS-150 form under 390.19(a) each 24 months according to the schedule. This is a repeat violation noted during the carrier's last compliance review in 2012.

The carrier updated the MCS-150 prior to the end of this review.

### Part 391 - Qualifications of Drivers

The carrier employed 51 drivers during the last 365 days. Per eFOTM guidelines, a sample size of 13 Driver's Qualification Files would be inspected; however, due to the nature of this investigation, the sample size was increased and all 51 driver qualification (DQ) files were checked.

51 violations of 391.21(a) were discovered during this portion of the review because all Ride the Ducks of Seattle employee applications were missing the employee's date of birth. The date of birth is required by FMCSA 391.21(a) and is used to assist in determining minimum age requirements.

Three violations of 391.23(b) were discovered because Ride the Ducks of Seattle hired two drivers and failed to obtain a copy of each driver's abstract in their DQ files within 30 days of being hired.

Violations found for the following drivers:


Robert Krauthamer hired on 1/29/15 and abstract obtained on 9/22/15  
 Mizrain Rodriguez hired on 4/20/15 and abstract obtained on 1/13/15  
 Patrick Najou hired on 2/16/15 and abstract obtained on 9/3/15

Twenty One violations of 391.25(a) were discovered because the carrier failed to obtain drivers' driving records each 12 months on 21 drivers.

Violations found for the following drivers:

Jeff Myers, James Rawson, Alex Christensen, Kristan Liechti, Ellis Johnson, Megan Lee, Jeremy Temple, Troy Johnson,



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Phillip Harjo, Randal Nelson, Richard Tanner, Stephen Wickleder, Aaron Zingerman, Martin Mackenzie, Curt Nakon, Thom Hubert, Steven Kodish, Peter Esty, Jeremy Gollyhorn, Alan Campbell, Cole Higgs

Twenty One violations of part 391.25(b) were discovered because the carrier failed to review drivers' driving records within the 12-month period on 21 drivers.

Violations found for the following drivers:

Jeff Myers, James Rawson, Alex Christensen, Kristan Liechti, Ellis Johnson, Megan Lee, Jeremy Temple, Troy Johnson, Phillip Harjo, Randal Nelson, Richard Tanner, Stephen Wickleder, Aaron Zingerman, Martin Mackenzie, Curt Nakon, Thom Hubert, Steven Kodish, Peter Esty, Jeremy Gollyhorn, Alan Campbell, Cole Higgs

Twenty One violations of 391.27(a) were discovered because the carrier failed to require 21 drivers to furnish a listing of all motor vehicle violations at least once every twelve months.

Violations found for the following drivers:

Jeff Myers, James Rawson, Alex Christensen, Kristan Liechti, Ellis Johnson, Megan Lee, Jeremy Temple, Troy Johnson, Phillip Harjo, Randal Nelson, Richard Tanner, Stephen Wickleder, Aaron Zingerman, Martin Mackenzie, Curt Nakon, Thom Hubert, Steven Kodish, Peter Esty, Jeremy Gollyhorn, Alan Campbell, Cole Higgs

One violation of 391.45(b)(1) was discovered because the carrier allowed a driver that was not medically certified to operate a CMV. Driver Jeff Myers' medical certificate on file expired on 4/3/15. Mr Myers drove 11 days during our sample period while the card was expired: 7/14, 7/15, 7/21, 7/22, 7/28, 7/29, 8/4, 8/5, 8/15, 8/16, and 8/18.

Two violations of 391.51(b)(4) were discovered because the carrier failed to maintain each State agency's response in regard to the annual driver's abstract for the following Captains/Drivers:

Steve Kodish - Calendar year 2014  
 Dylan Richardson - Calendar year 2015

One violation of 391.51(b)(7) was discovered because the carrier failed to maintain a copy of the driver's medical card for driver Adam Clemons within the DQ file.


51 violations of 391.51(b)(9) were discovered because the carrier failed to maintain a note relating to the verification of medical examiner listing on the National Registry of Certified Medical Examiners within the driver qualification files.

The carrier is a medium size carrier (21 to 100 drivers) and the number of Medical Examiners' Certificates (MEC) to be checked is not less the 15% of the eFOTM sample size of 13, or two MEC's. In accordance with FMCSA Memorandum MC-ECS-2012-0004 two driver's medical examiners certificates were selected for verification.

Driver Name: Sarah Chido  
 Date of Birth: [REDACTED]  
 Driver License Number: [REDACTED]  
 ME's License/Certificate Number: PA10003609  
 Date of Issuance of the MEC: 02/06/2015 - 02/06/2017  
 National Registry Identification Number: 8839804553  
 Phone Number: [REDACTED]  
 Date and Time Contacted: 11/06/2015 @ 1:50pm  
 Person Contacted: Mandy - US Healthworks  
 Results: MEC Check Confirmed

Driver Name: Dorin Ellis  
 Date of Birth: [REDACTED]  
 Driver License Number: [REDACTED]  
 ME's License/Certificate Number: PA10002305  
 Date of Issuance of the MEC: 04/18/2015 - 04/17/2017  
 National Registry Identification Number: 6903793226  
 Phone Number: [REDACTED]  
 Date and Time Contacted: 11/06/2015 @ 1:42pm  
 Person Contacted: Talley - US Healthworks



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Results: MEC Check Confirmed

#### Part 392 - Driving of Commercial Motor Vehicles

Ride the Ducks of Seattle is an intrastate carrier and at the time of this investigation the carrier is current on its annual regulatory fees.

#### Part 395 - Hours of Service

The carrier employed 51 drivers during the last 365 days. In accordance with eFOTM procedures, a sample size of 11 Records of Duty Status (RODS) is required to be checked for a 30-day period. However, based on the nature of this investigation, staff included all drivers' RODS.

Ride the Ducks of Seattle operated most of its service under the short haul exemption of Part 395.1(e) within the last 365 days.

For this investigation staff reviewed the 30-day period of 7/20/15-8/18/15 and found the carrier employed 41 total drivers during this period that could be checked for RODS. This required that 1,230 RODS be checked.

A total of 35 violations for Part 395.5(b)(2) were discovered during this portion of the review after the carrier required or permitted 14 driver's to drive after having been on duty 70 hour in eight consecutive days on 35 separate occasions.

Drivers in violation of the 70 hour rule:

Patrick Najou - 7/23, 7/24, 8/1, 8/2, 8/3, 8/4, 8/5  
 Alan Campbell - 7/20, 7/31, 8/1, 8/2, 8/3  
 Randal Nelson - 8/3, 8/4, 8/7, 8/8  
 Thom Hubert - 7/29, 7/30, 7/31  
 Mizrain Rodriguez - 8/4, 8/5, 8/6  
 Tommy Johnson - 7/30, 7/31  
 Eric Bishop - 8/2, 8/3  
 Vince Jovanovich - 7/20, 8/6  
 Curt Nakon - 8/13, 8/15  
 Thomas Van Gorder - 7/21  
 Jeremy Temple - 7/30  
 Kenneth St. John - 8/4  
 Randy Graham - 8/11  
 Edward Rybar - 8/11


A total of 93 violations of Part 395.8(a) when 31 drivers failed to make a record of duty status in accordance with 395.8(a)(1) after exceeding the short-haul operations exemption on 93 separate occasions.

Drivers in violation of 12 hour rule:

Aaron Zingerman - 7/28, 8/5  
 Adam Clemons - 7/29, 8/6, 8/17  
 Alan Campbell - 7/30, 8/3  
 Cole Higgs - 7/22, 7/28  
 Curt Nakon - 8/6, 8/11, 8/18  
 Dan Jonson - 8/16  
 Derek Swart - 7/24  
 Ellis Johnson - 8/6, 8/12, 8/13  
 Greg Silcox - 8/8  
 Jeff Myers - 7/22, 7/28, 7/29, 8/5, 8/16, 8/18  
 Jeremy Temple - 7/23  
 Kenneth St. John - 7/20  
 Lacie Simpson - 8/8, 8/16  
 Marcus Luce - 7/29, 8/4, 8/10, 8/11  
 Martin Mackenzie - 7/20, 7/26, 7/27, 7/30, 7/31, 8/2, 8/6, 8/7, 8/9, 8/10, 8/13, 8/16, 8/17  
 Megan Lee - 7/20  
 Mizrain Rodriguez - 8/6





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Neal Lane - 8/15  
 Patrick Najou - 7/29, 7/31, 8/8  
 Peter Esty - 8/4, 8/8, 8/15, 8/18  
 Philip Harjo - 8/1, 8/2, 8/16  
 Randal Nelson - 7/28, 8/2  
 Randy Graham - 7/23, 8/7, 8/10, 8/17  
 Sarah Chido - 8/13  
 Steve Kodish - 7/23, 7/24, 8/7, 8/8, 8/13  
 Stephen Wickleder - 7/24, 7/26, 7/31, 8/1, 8/7, 8/8, 8/9, 8/15, 8/16  
 Thom Hubert - 7/27, 7/28, 8/8  
 Tommy Johnson - 7/23  
 Vince Jovanovich - 7/24, 7/30, 8/6, 8/8, 8/12, 8/13, 8/15  
 Eric Bishop - 8/15  
 Moti Krauthamer - 8/10, 8/12

Driver logs were checked by comparing pay time cards to daily timesheets, DVIR's, and Fuel Credit Card Statements. No false records were discovered.

#### Part 393 & 396 - Maintenance and Inspection

The carrier has operated 19 vehicles in intrastate commerce the last 365 days; however, the carrier currently owns 20 vehicles. One vehicle, Duck 20, was recently purchased and has not been used to transport passengers. The carrier stated that all vehicle maintenance is performed at the carrier's maintenance facility.

#### Daily Vehicle Inspection Records (DVIRs):

In accordance with eFOTM, a sample size of DVIRs for seven vehicles would normally be checked for a 30-day period. However, based on the nature of this investigation, the review included all DVIRs for the 19 vehicles used in intrastate commerce over the last year.

After checking a total of 570 DVIRs, staff discovered that on 90 separate occasions a DVIR was noted with a discrepancy from the previous day and the carrier failed to have the driver sign stating those discrepancies were either repaired or did not require repair.

A total of 90 violations of 396.13(c) were discovered because the carrier failed to require the driver to sign the last vehicle inspection report when defects or deficiencies were noted.

#### Vehicle Maintenance Records:

On 10/27/15, Investigators Gilbert and Gagne visited Ride the Ducks of Seattle to specifically discuss the carrier's maintenance program and schedule. The carrier uses a comprehensive program called TATEM 20/20. This program tracks all current maintenance and schedules future preventative maintenance. Combined with nightly inspections of all vehicles by mechanics, the program and the carrier meet all requirements set forth in 396.3(b).

In accordance with eFOTM, a sample size of five vehicle maintenance files would normally be reviewed. However, based on the nature of this investigation, staff included all 20 vehicle maintenance files.

A total of three violations of 396.21(b) were discovered because the carrier failed to retain annual periodic inspection reports for a period of 14 months from the date of the inspection.

#### Duck vehicles with violations:


Duck 12 - No record of annual inspection accomplished in 2013  
 Duck 14 - No record of annual inspection accomplished in 2013  
 Duck 15 - No record of annual inspection accomplished in 2013

#### Vehicle Inspections:

In accordance with eFOTM, a sample size of five vehicles would normally be inspected. However, based on the nature of this investigation, staff included all 18 operational vehicles. Duck 20 was recently purchased and non-operational and Duck 6 is unavailable due to the accident on 9/24/15.

On 10/6 - 10/7/15, Investigators Foster, Gilbert, and Gagne conducted vehicle inspections on 10 of the Truck Duck vehicles



	<b>RIDE THE DUCKS OF SEATTLE</b> U.S. DOT #: 1905507	Review Date: 12/15/2015
<b>Part C</b>		

at the carrier's maintenance facility. During this portion of the investigation staff conducted Level VII inspections per CVSA guidelines. In addition, Ride the Ducks of Seattle maintenance staff also pulled back the boots covering a portion of the axle, exposing a portion of the axle housing for a visual inspection of the axle. Two defects were found during these inspections:

- The carrier had not placed a copy of the completed annual inspection maintained on each vehicle.
- One vehicle, Duck 11, had a cracked tie rod boot. This defect was pointed out to maintenance personnel and replaced shortly after this inspection.

These violations are noted in the ASPEN Reports. Truck Ducks are Ducks 7 and 9 through 18. The carrier now maintains copies of the completed annual inspection on each vehicle and has replaced the cracked tie rod boot prior to the end of this review.

On 11/16 - 11/17/15, Investigators Foster, Gilbert and Gagne conducted vehicle inspections on eight of the nine Stretch Duck vehicles at the carrier's maintenance facility. Representatives from the NTSB and Seattle PD, and Ride the Ducks International were also present. During this portion of the investigation staff conducted Level VII inspections per CVSA guidelines. In addition, Ride the Ducks of Seattle maintenance staff also removed the boots covering a portion of the axle, exposing the axle housing for a visual inspection. Stretch Ducks are Ducks 1 through 6, 8, and 19 through 21. (Note: there is no Duck 13.) Two defects were found during these inspections:

- The carrier had not placed a copy of the completed annual inspection maintained on Ducks 2, 4, 19, and 21. (Corrected prior to the end of this investigation.)
- One vehicle, Duck 1 was placed Out-of-service for having required brake lights in-op. (Corrected on-site prior to the end of this inspection.)
- Two vehicles, Duck 8 and 21 had wheel hubs leaking.

These violations are noted in the ASPEN Reports.

A total of eight violations of 396.25(e) were discovered because eight different mechanics performed brake inspections/repairs and the carrier failed to retain evidence that the mechanics had brake inspector qualifications.

The carrier updated all brake inspector qualification paperwork prior to the end of this review.

#### CLOSING INTERVIEW:

The closing interview was conducted on 12/15/15 at the Utilities and Transportation Commission Building. Present at the closing interview were Investigators Foster, Gilbert and Gagne, and UTC Assistant Director for Transportation Safety Dave Pratt, Brain Tracey, Ryan Johnson, Joe M. Hatten and Isaac Hoffman represented Ride the Ducks of Seattle. This investigation resulted in a proposed "Unsatisfactory" safety rating.


Ride the Ducks of Seattle was very cooperative throughout the entire scope of this investigation. Mr. Tracey and his organization was receptive to the recommendations and did express a sincere desire to come into compliance with the Federal Motor Carrier Safety Regulations. The carrier was advised that staff will recommend the commission issue administrative penalties.

#### DOCUMENTS PROVIDED TO THE CARRIER:

The carrier was provided with several copies of "Your Guide to Achieving a Satisfactory Safety Record, Revised March 2014", "How to request an upgrade to your safety rating determination based on corrective action", copies of CFR 385.13, 385.15 and 385.17 Safety Fitness Procedures, "Fitness Rating Explanation", "Customized checklist for safety rating upgrade request based on corrective action,"

#### FOLLOW-ON ACTION:



	<b>RIDE THE DUCKS OF SEATTLE</b> U.S. DOT #: 1905507	Review Date: 12/15/2015
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State #: ES-146

**Part C**

<b>Upload Authorized:</b>	<b>Yes</b>	<b>No</b>	
<b>Authorized by:</b>			<b>Date:</b>
<b>Uploaded:</b>	<b>Yes</b>	<b>No</b>	<b>Failure Code:</b>
<b>Verified by:</b>			<b>Date:</b>



## DRIVER/VEHICLE EXAMINATION REPORT

Aspen 3.0.0.17



Washington State Patrol  
Commercial Vehicle Enforcement Section  
P.O. Box 42614  
Olympia, WA 98504-2614  
360-596-3815

Report Number: WAU007000066  
Inspection Date: 11/16/2015  
Start: 09:55 AM PT End: 10:13:20 AM PT  
Inspection Level: VII - Jurisdictional Mandate  
HM Inspection Type: None

RIDE THE DUCKS OF SEATTLE  
516 BROAD STREET  
SEATTLE, WA 98109

USDOT#: 01905507

Phone#: (206)441-4687

MC/MX#:

Fax#:

State#:

Location: 4203 9TH AVE NW

Highway:

County: KING, WA

Driver:

License#:

State:

Date of Birth:

CoDriver:

License#:

State:

Date of Birth:

Shipper:

MilePost:

Origin: SEATTLE, WA

Bill of Lading:

Destination: SEATTLE, WA

Cargo: EMPTY

## VEHICLE IDENTIFICATION

Unit	Type	Make	Year	State	Plate #	Equipment ID	VIN	GVWR	CVSA #	CVSA Issued #	OOS Sticker
1	BU	GMC	1945	WA	DUKW1	DUCK 1		8,000			

## BRAKE ADJUSTMENTS

Axle #	1	2	3
Right	N/A	N/A	N/A
Left	N/A	N/A	N/A
Chamber	HYDR	HYDR	HYDR

## VIOLATIONS

Vio Code	Section	Unit	OOS	Citation #	Verify	Crash	Violations Discovered
393.9	393.9(a)	1	Y		U	N	Inoperable Required Lamp: BRAKE LIGHTS IN-OP

HazMat: No HM Transported.

Placard: No

Cargo Tank:

Special Checks: Local Enforcement

Pursuant to authority contained in Title 49, Code of Federal Regulations, Section 396.9(c), I hereby declare vehicles with defects followed by an "Y" in the "Out of Service" column in the violations discovered section of this report OUT OF SERVICE. No person shall remove the out of service stickers applied to these vehicles, or operate such vehicles until the out of service defects have been repaired and the vehicles have been restored to safe operating condition.

The undersigned certifies that all violations noted on this report have been corrected and action has been taken to assure compliance with the Federal Motor Carrier Safety and Hazardous Materials Regulations insofar as they are applicable to motor carriers and drivers. False certifications of the required repairs are required to be prosecuted with penalties up to \$10,000.

Signature Of Repairer X: \_\_\_\_\_ Facility: \_\_\_\_\_ Date: \_\_\_\_\_

NOTE TO DRIVER: This report must be furnished to the motor carrier whose name appears at the top of this report. [49 CFR 396.9(d)(1)]

NOTE TO MOTOR CARRIERS: Pursuant to authority contained in Title 49, Code of Federal Regulations, Section 396.9(d)(3), within 15 days of the inspection sign below certifying all violations noted on this report have been corrected. Return the completed form to the address indicated on the upper left corner of the form, AND retain a copy at the principal place of business or where the vehicle is housed for 12 months from the date of the inspection. Failure to return this report with the required certification can result in penalties up to \$1,000 per day for each day the violation continues, up to a total of \$10,000.

Signature Of Motor Carrier X: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

Report Prepared By:  
WAYNE GILBERT

Badge #:  
WAU584

Copy Received By:

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01905507 WA WAU007000066

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## DRIVER/VEHICLE EXAMINATION REPORT

Aspen 3.0.0.17



Washington State Patrol  
 Commercial Vehicle Enforcement Section  
 P.O. Box 42614  
 Olympia, WA 98504-2614  
 360-596-3815

Report Number: WAU007000064  
 Inspection Date: 11/16/2015  
 Start: 09:10 AM PT End: 9:28:42 AM PT  
 Inspection Level: VII - Jurisdictional Mandate  
 HM Inspection Type: None

## RIDE THE DUCKS OF SEATTLE

516 BROAD STREET  
 SEATTLE, WA 98109

USDOT#: 01905507

Phone#: (206)441-4687

MC/MX#:

Fax#:

State#:

Location: 4203 9TH AVE NW

MilePost:

Shipper:

Highway:

Origin: SEATTLE, WA

Bill of Lading:

County: KING, WA

Destination: SEATTLE, WA

Cargo: EMPTY

## VEHICLE IDENTIFICATION

Unit	Type	Make	Year	State	Plate #	Equipment ID	VIN	GVWR	CVSA #	CVSA Issued #	OOS Sticker
1	BU	GMC	1944	WA	DUCK2	DUCK 2		8,000			

## BRAKE ADJUSTMENTS

Axle #	1	2	3
Right	N/A	N/A	N/A
Left	N/A	N/A	N/A
Chamber	HYDR	HYDR	HYDR

## VIOLATIONS

Vio Code	Section	Unit	OOS	Citation #	Verify	Crash	Violations Discovered
396.17C	396.17(c)	1	N		N	N	Operating a CMV without proof of a periodic inspection

HazMat: No HM Transported.

Placard: No

Cargo Tank:

Special Checks: Local Enforcement

NOTE TO DRIVER: This report must be furnished to the motor carrier whose name appears at the top of this report. [49 CFR 396.9(d)(1)]

NOTE TO MOTOR CARRIERS: Pursuant to authority contained in Title 49, Code of Federal Regulations, Section 396.9(d)(3), within 15 days of the inspection sign below certifying all violations noted on this report have been corrected. Return the completed form to the address indicated on the upper left corner of the form, AND retain a copy at the principal place of business or where the vehicle is housed for 12 months from the date of the inspection. Failure to return this report with the required certification can result in penalties up to \$1,000 per day for each day the violation continues, up to a total of \$10,000.

Signature Of Motor Carrier X: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

Report Prepared By:  
WAYNE GILBERTBadge #:  
WAU584

Copy Received By:

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01905507 WA . WAU007000064

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## DRIVER/VEHICLE EXAMINATION REPORT

Aspen 3.0.0.17



Washington State Patrol  
 Commercial Vehicle Enforcement Section  
 P.O. Box 42614  
 Olympia, WA 98504-2614  
 360-596-3815

Report Number: WAU007000067  
 Inspection Date: 11/16/2015  
 Start: 10:13 AM PT End: 10:30:54 AM PT  
 Inspection Level: VII - Jurisdictional Mandate  
 HM Inspection Type: None

RIDE THE DUCKS OF SEATTLE  
 516 BROAD STREET  
 SEATTLE, WA 98109

USDOT#: 01905507

Phone#: (206)441-4687

MC/MX#:

Fax#:

State#:

Location: 4203 9TH AVE NW

Highway:

County: KING, WA

Driver:

License#:

State:

Date of Birth:

CoDriver:

License#:

State:

Date of Birth:

Shipper:

MilePost:

Origin: SEATTLE, WA

Bill of Lading:

Destination: SEATTLE, WA

Cargo: EMPTY

## VEHICLE IDENTIFICATION

Unit	Type	Make	Year	State	Plate #	Equipment ID	VIN	GVWR	CVSA #	CVSA Issued #	OOS Sticker
1	BU	GMC	1945	WA	DUCK3	DUCK 3		8,000			

## BRAKE ADJUSTMENTS

Axle #	1	2	3
Right	N/A	N/A	N/A
Left	N/A	N/A	N/A
Chamber	HYDR	HYDR	HYDR

VIOLATIONS: No Violations Were Discovered.

HazMat: No HM Transported.

Placard: No

Cargo Tank:

Special Checks: Local Enforcement

NOTE TO DRIVER: This report must be furnished to the motor carrier whose name appears at the top of this report. [49 CFR 396.9(d)(1)]

NOTE TO MOTOR CARRIERS: Pursuant to authority contained in Title 49, Code of Federal Regulations, Section 396.9(d)(3), within 15 days of the inspection sign below certifying all violations noted on this report have been corrected. Return the completed form to the address indicated on the upper left corner of the form, AND retain a copy at the principal place of business or where the vehicle is housed for 12 months from the date of the inspection. Failure to return this report with the required certification can result in penalties up to \$1,000 per day for each day the violation continues, up to a total of \$10,000.

Signature Of Motor Carrier X: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

Report Prepared By:  
 WAYNE GILBERT

Badge #:  
 WAU584

Copy Received By:

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01905507 WA WAU007000067

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## DRIVER/VEHICLE EXAMINATION REPORT

Aspen 3.0.0.17



Washington State Patrol  
 Commercial Vehicle Enforcement Section  
 P.O. Box 42614  
 Olympia, WA 98504-2614  
 360-596-3815

Report Number: WAU007000065  
 Inspection Date: 11/16/2015  
 Start: 09:28 AM PT End: 9:55:26 AM PT  
 Inspection Level: VII - Jurisdictional Mandate  
 HM Inspection Type: None

RIDE THE DUCKS OF SEATTLE

516 BROAD STREET

SEATTLE, WA 98109

USDOT#: 01905507

Phone#: (206)441-4687

MC/MX#:

Fax#:

State#:

Location: 4203 9TH AVE NW.

MilePost:

Shipper:

Highway:

Origin: SEATTLE, WA

Bill of Lading:

County: KING, WA

Destination: SEATTLE, WA

Cargo: EMPTY

Driver:

License#:

State:

Date of Birth:

CoDriver:

License#:

State:

Date of Birth:

## VEHICLE IDENTIFICATION

Unit	Type	Make	Year	State	Plate #	Equipment ID	VIN	GVWR	CVSA #	CVSA Issued #	OOS Sticker
1	BU	GMC	1945	WA	DUCK4	DUCK 4		8,000			

## BRAKE ADJUSTMENTS

Axle #	1	2	3
Right	N/A	N/A	N/A
Left	N/A	N/A	N/A
Chamber	HYDR	HYDR	HYDR

## VIOLATIONS

Vio Code	Section	Unit	OOS	Citation #	Verify	Crash	Violations Discovered
396.17C	396.17(c)	1	N		N	N	Operating a CMV without proof of a periodic inspection

HazMat: No HM Transported.

Placard: No

Cargo Tank:

Special Checks: Local Enforcement

NOTE TO DRIVER: This report must be furnished to the motor carrier whose name appears at the top of this report. [49 CFR 396.9(d)(1)]

NOTE TO MOTOR CARRIERS: Pursuant to authority contained in Title 49, Code of Federal Regulations, Section 396.9(d)(3), within 15 days of the inspection sign below certifying all violations noted on this report have been corrected. Return the completed form to the address indicated on the upper left corner of the form, AND retain a copy at the principal place of business or where the vehicle is housed for 12 months from the date of the inspection. Failure to return this report with the required certification can result in penalties up to \$1,000 per day for each day the violation continues, up to a total of \$10,000.

Signature Of Motor Carrier X: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

Report Prepared By:  
WAYNE GILBERTBadge #:  
WAU584

Copy Received By:

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01905507 WA WAU007000065

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## DRIVER/VEHICLE EXAMINATION REPORT

Aspen 3.0.0.17



Washington State Patrol  
 Commercial Vehicle Enforcement Section  
 P.O. Box 42614  
 Olympia, WA 98504-2614  
 360-596-3815

Report Number: WAU007000068  
 Inspection Date: 11/16/2015  
 Start: 10:30 AM PT End: 10:53:58 AM PT  
 Inspection Level: VII - Jurisdictional Mandate  
 HM Inspection Type: None

RIDE THE DUCKS OF SEATTLE  
 516 BROAD STREET  
 SEATTLE, WA 98109

USDOT#: 01905507

Phone#: (206)441-4687

MC/MX#:

Fax#:

State#:

Location: 4203 9TH AVE NW

Highway:

County: KING, WA

Driver:

License#:

State:

Date of Birth:

CoDriver:

License#:

State:

Date of Birth:

Shipper:

MilePost:

Origin: SEATTLE, WA

Bill of Lading:

Destination: SEATTLE, WA

Cargo: EMPTY

## VEHICLE IDENTIFICATION

Unit	Type	Make	Year	State	Plate #	Equipment ID	VIN	GVWR	CVSA #	CVSA Issued #	OOS Sticker
1	BU	GMC	1945	WA	DUCK5	DUCK 5		8,000			

## BRAKE ADJUSTMENTS

Axle #	1	2	3
Right	N/A	N/A	N/A
Left	N/A	N/A	N/A
Chamber	HYDR	HYDR	HYDR

**VIOLATIONS:** No Violations Were Discovered.

**HazMat:** No HM Transported.

**Placard:** No

**Cargo Tank:**

**Special Checks:** Local Enforcement

NOTE TO DRIVER: This report must be furnished to the motor carrier whose name appears at the top of this report. [49 CFR 396.9(d)(1)]

NOTE TO MOTOR CARRIERS: Pursuant to authority contained in Title 49, Code of Federal Regulations, Section 396.9(d)(3), within 15 days of the inspection sign below certifying all violations noted on this report have been corrected. Return the completed form to the address indicated on the upper left corner of the form, AND retain a copy at the principal place of business or where the vehicle is housed for 12 months from the date of the inspection. Failure to return this report with the required certification can result in penalties up to \$1,000 per day for each day the violation continues, up to a total of \$10,000.

Signature Of Motor Carrier X: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

Report Prepared By:  
WAYNE GILBERT

Badge #:  
WAU584

Copy Received By:

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01905507 WA WAU007000068

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## DRIVER/VEHICLE EXAMINATION REPORT

Aspen 3.0.0.17



Washington State Patrol  
 Commercial Vehicle Enforcement Section  
 P.O. Box 42614  
 Olympia, WA 98504-2614  
 360-596-3815

Report Number: WAU007000062  
 Inspection Date: 10/07/2015  
 Start: 09:02 AM PT End: 9:37:28 AM PT  
 Inspection Level: VII - Jurisdictional Mandate  
 HM Inspection Type: None

RIDE THE DUCKS OF SEATTLE  
 516 BROAD STREET  
 SEATTLE, WA 98109

USDOT#: 01905507 Phone#: (206)441-4687  
 MC/MX#: Fax#:  
 State#:

Location: 4203 9TH AVE NW  
 Highway:  
 County: KING, WA

MilePost:  
 Origin: SEATTLE, WA  
 Destination: SEATTLE, WA

Driver:  
 License#: State:  
 Date of Birth:  
 CoDriver:  
 License#: State:  
 Date of Birth:

Shipper:  
 Bill of Lading:  
 Cargo: EMPTY

## VEHICLE IDENTIFICATION

Unit	Type	Make	Year	State	Plate #	Equipment ID	VIN	GVWR	CVSA #	CVSA Issued #	OOS Sticker
1	BU	STUDE	2008	WA	DUCK7	DUCK7	M23508	8,000			

**BRAKE ADJUSTMENTS:** No Brake Measurements Recorded.

## VIOLATIONS

Vio Code	Section	Unit	OOS	Citation #	Verify	Crash	Violations Discovered
396.17C	396.17(c)	1	N		N	N	Operating a CMV without proof of a periodic inspection

**HazMat:** No HM Transported.

**Placard:** No **Cargo Tank:**

**Special Checks:** Local Enforcement

NOTE TO DRIVER: This report must be furnished to the motor carrier whose name appears at the top of this report. [49 CFR 396.9(d)(1)]

NOTE TO MOTOR CARRIERS: Pursuant to authority contained in Title 49, Code of Federal Regulations, Section 396.9(d)(3), within 15 days of the inspection sign below certifying all violations noted on this report have been corrected. Return the completed form to the address indicated on the upper left corner of the form, AND retain a copy at the principal place of business or where the vehicle is housed for 12 months from the date of the inspection. Failure to return this report with the required certification can result in penalties up to \$1,000 per day for each day the violation continues, up to a total of \$10,000.

Signature Of Motor Carrier X: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

Report Prepared By:  
 WAYNE GILBERT

Badge #:  
 WAU584

Copy Received By:

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01905507 WA WAU007000062

## DRIVER/VEHICLE EXAMINATION REPORT

Aspen 3.0.0.17



Washington State Patrol  
Commercial Vehicle Enforcement Section  
P.O. Box 42614  
Olympia, WA 98504-2614  
360-596-3815

Report Number: WAU007000069  
Inspection Date: 11/16/2015  
Start: 10:54 AM PT End: 11:10:35 AM PT  
Inspection Level: VII - Jurisdictional Mandate  
HM Inspection Type: None

RIDE THE DUCKS OF SEATTLE  
516 BROAD STREET  
SEATTLE, WA 98109

USDOT#: 01905507

Phone#: (206)441-4687

MC/MX#:

Fax#:

State#:

Location: 4203 9TH AVE NW

Highway:

County: KING, WA

Driver:

License#:

State:

Date of Birth:

CoDriver:

License#:

State:

Date of Birth:

Shipper:

MilePost:

Origin: SEATTLE, WA

Bill of Lading:

Destination: SEATTLE, WA

Cargo: EMPTY

## VEHICLE IDENTIFICATION

Unit	Type	Make	Year	State	Plate #	Equipment ID	VIN	GVWR	CVSA #	CVSA Issued #	OOS Sticker
1	BU	GMC	1945	WA	DUCK8	DUCK 8		8,000			

## BRAKE ADJUSTMENTS

Axle #	1	2	3
Right	N/A	N/A	N/A
Left	N/A	N/A	N/A
Chamber	HYDR	HYDR	HYDR

## VIOLATIONS

Vio Code	Section	Unit	OOS	Citation #	Verify	Crash	Violations Discovered
396.5B	396.5(b)	1	N		N	N	Oil and/or grease leak: Hubs on front axle both sides have a minor leak

HazMat: No HM Transported.

Placard: No

Cargo Tank:

Special Checks: Local Enforcement

NOTE TO DRIVER: This report must be furnished to the motor carrier whose name appears at the top of this report. [49 CFR 396.9(d)(1)]

NOTE TO MOTOR CARRIERS: Pursuant to authority contained in Title 49, Code of Federal Regulations, Section 396.9(d)(3), within 15 days of the inspection sign below certifying all violations noted on this report have been corrected. Return the completed form to the address indicated on the upper left corner of the form, AND retain a copy at the principal place of business or where the vehicle is housed for 12 months from the date of the inspection. Failure to return this report with the required certification can result in penalties up to \$1,000 per day for each day the violation continues, up to a total of \$10,000.

Signature Of Motor Carrier X: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

Report Prepared By:  
WAYNE GILBERT

Badge #:  
WAU584

Copy Received By:

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01905507 WA WAU007000069

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## DRIVER/VEHICLE EXAMINATION REPORT

Aspen 3.0.0.17



Washington State Patrol  
 Commercial Vehicle Enforcement Section  
 P.O. Box 42614  
 Olympia, WA 98504-2614  
 360-596-3815

Report Number: WAU007000061  
 Inspection Date: 10/07/2015  
 Start: 08:31 AM PT End: 9:02:06 AM PT  
 Inspection Level: VII - Jurisdictional Mandate  
 HM Inspection Type: None

RIDE THE DUCKS OF SEATTLE

516 BROAD STREET  
 SEATTLE, WA 98109

USDOT#: 01905507

Phone#: (206)441-4687

MC/MX#:

Fax#:

State#:

Location: 4203 9TH AVE NW

Highway:

County: KING, WA

Driver:

License#:

State:

Date of Birth:

CoDriver:

License#:

State:

Date of Birth:

Shipper:

MilePost:

Origin: SEATTLE, WA

Bill of Lading:

Destination: SEATTLE, WA

Cargo: EMPTY

## VEHICLE IDENTIFICATION

Unit	Type	Make	Year	State	Plate #	Equipment ID	VIN	GVWR	CVSA #	CVSA Issued #	OOS Sticker
1	BU	KAISR	2006	WA	DUCK9	DUCK9	04515818	8,000			

BRAKE ADJUSTMENTS: No Brake Measurements Recorded.

## VIOLATIONS

Vio Code	Section	Unit	OOS	Citation #	Verify	Crash	Violations Discovered
396.17C	396.17(c)	1	N		N	N	Operating a CMV without proof of a periodic inspection

HazMat: No HM Transported.

Placard: No

Cargo Tank:

Special Checks: Local Enforcement

NOTE TO DRIVER: This report must be furnished to the motor carrier whose name appears at the top of this report. [49 CFR 396.9(d)(1)]

NOTE TO MOTOR CARRIERS: Pursuant to authority contained in Title 49, Code of Federal Regulations, Section 396.9(d)(3), within 15 days of the inspection sign below certifying all violations noted on this report have been corrected. Return the completed form to the address indicated on the upper left corner of the form, AND retain a copy at the principal place of business or where the vehicle is housed for 12 months from the date of the inspection. Failure to return this report with the required certification can result in penalties up to \$1,000 per day for each day the violation continues, up to a total of \$10,000.

Signature Of Motor Carrier X: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

Report Prepared By:  
 WAYNE GILBERT

Badge #:  
 WAU584

Copy Received By:

Page 1 of 1



01905507 WA WAU007000061

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## DRIVER/VEHICLE EXAMINATION REPORT

Aspen 3.0.0.17



Washington State Patrol  
 Commercial Vehicle Enforcement Section  
 P.O. Box 42614  
 Olympia, WA 98504-2614  
 360-596-3815

Report Number: WAU007000058  
 Inspection Date: 10/06/2015  
 Start: 01:08 PM PT End: 1:31:40 PM PT  
 Inspection Level: VII - Jurisdictional Mandate  
 HM Inspection Type: None

RIDE THE DUCKS OF SEATTLE  
 516 BROAD STREET  
 SEATTLE, WA 98109

USDOT#: 01905507 Phone#: (206)441-4687  
 MC/MX#: Fax#:  
 State#:

Location: 4203 9TH AVE NW  
 Highway:  
 County: KING, WA

MilePost: Shipper:  
 Origin: SEATTLE, WA  
 Destination: SEATTLE, WA

Bill of Lading:  
 Cargo: EMPTY

Driver:  
 License#: State:  
 Date of Birth:  
 CoDriver:  
 License#: State:  
 Date of Birth:

## VEHICLE IDENTIFICATION

Unit	Type	Make	Year	State	Plate #	Equipment ID	VIN	GVWR	CVSA #	CVSA Issued #	OOS Sticker
1	BU	JEEP	2007	WA	DUCK10	DUCK10	4J0520	8,000			

**BRAKE ADJUSTMENTS:** No Brake Measurements Recorded.

## VIOLATIONS

Vio Code	Section	Unit	OOS	Citation #	Verify	Crash	Violations Discovered
396.17C	396.17(c)	1	N		N	N	Operating a CMV without proof of a periodic inspection

**HazMat:** No HM Transported.

**Placard:** No **Cargo Tank:**

**Special Checks:** Local Enforcement

NOTE TO DRIVER: This report must be furnished to the motor carrier whose name appears at the top of this report. [49 CFR 396.9(d)(1)]

NOTE TO MOTOR CARRIERS: Pursuant to authority contained in Title 49, Code of Federal Regulations, Section 396.9(d)(3), within 15 days of the inspection sign below certifying all violations noted on this report have been corrected. Return the completed form to the address indicated on the upper left corner of the form, AND retain a copy at the principal place of business or where the vehicle is housed for 12 months from the date of the inspection. Failure to return this report with the required certification can result in penalties up to \$1,000 per day for each day the violation continues, up to a total of \$10,000.

Signature Of Motor Carrier X: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

Report Prepared By:  
 WAYNE GILBERT

Badge #:  
 WAU584

Copy Received By:

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01905507 WA WAU007000058

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## DRIVER/VEHICLE EXAMINATION REPORT

Aspen 3.0.0.17



Washington State Patrol  
 Commercial Vehicle Enforcement Section  
 P.O. Box 42614  
 Olympia, WA 98504-2614  
 360-596-3815

Report Number: WAU007000055  
 Inspection Date: 10/06/2015  
 Start: 09:09 AM PT End: 9:46:06 AM PT  
 Inspection Level: VII - Jurisdictional Mandate  
 HM Inspection Type: None

RIDE THE DUCKS OF SEATTLE  
 516 BROAD STREET  
 SEATTLE, WA 98109

USDOT#: 01905507 Phone#: (206)441-4687  
 MC/MX#: Fax#:  
 State#:

Location: 4203 9TH AVE NW  
 Highway:  
 County: KING, WA

MilePost:  
 Origin: SEATTLE, WA  
 Destination: SEATTLE, WA

Shipper:  
 Bill of Lading:  
 Cargo: EMPTY

Driver:  
 License#: State:  
 Date of Birth:  
 CoDriver:  
 License#: State:  
 Date of Birth:

## VEHICLE IDENTIFICATION

Unit	Type	Make	Year	State	Plate #	Equipment ID	VIN	GVWR	CVSA #	CVSA Issued #	OOS Sticker
1	BU	REO	2007	WA	DUCK11	DUCK11	52511792	8,000			

**BRAKE ADJUSTMENTS:** No Brake Measurements Recorded.

## VIOLATIONS

Vio Code	Section	Unit	OOS	Citation #	Verify	Crash	Violations Discovered
396.3A1	396.3(a)(1)	1	N		N	N	Inspection, repair and maintenance of parts & accessories: Tie Rod Boot Cracked Left Front
396.17C	396.17(c)	1	N		N	N	Operating a CMV without proof of a periodic inspection

**HazMat:** No HM Transported.

**Placard:** No **Cargo Tank:**

**Special Checks:** Local Enforcement

NOTE TO DRIVER: This report must be furnished to the motor carrier whose name appears at the top of this report. [49 CFR 396.9(d)(1)]

NOTE TO MOTOR CARRIERS: Pursuant to authority contained in Title 49, Code of Federal Regulations, Section 396.9(d)(3), within 15 days of the inspection sign below certifying all violations noted on this report have been corrected. Return the completed form to the address indicated on the upper left corner of the form, AND retain a copy at the principal place of business or where the vehicle is housed for 12 months from the date of the inspection. Failure to return this report with the required certification can result in penalties up to \$1,000 per day for each day the violation continues, up to a total of \$10,000.

Signature Of Motor Carrier X: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

Report Prepared By:  
 WAYNE GILBERT

Badge #:  
 WAU584

Copy Received By:

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01905507 WA WAU007000055

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## DRIVER/VEHICLE EXAMINATION REPORT

Aspen 3.0.0.17



Washington State Patrol  
Commercial Vehicle Enforcement Section  
P.O. Box 42614  
Olympia, WA 98504-2614  
360-596-3815

Report Number: WAU007000057  
Inspection Date: 10/06/2015  
Start: 12:35 PM PT End: 1:07:36 PM PT  
Inspection Level: VII - Jurisdictional Mandate  
HM Inspection Type: None

RIDE THE DUCKS OF SEATTLE  
516 BROAD STREET  
SEATTLE, WA 98109

USDOT#: 01905507

Phone#: (206)441-4687

MC/MX#:

Fax#:

State#:

Location: 4203 9TH AVE NW

Highway:

County: KING, WA

Driver:

License#:

State:

Date of Birth:

CoDriver:

License#:

State:

Date of Birth:

Shipper:

MilePost:

Origin: SEATTLE, WA

Bill of Lading:

Destination: SEATTLE, WA

Cargo: EMPTY

## VEHICLE IDENTIFICATION

Unit	Type	Make	Year	State	Plate #	Equipment ID	VIN	GVWR	CVSA #	CVSA Issued #	OOS Sticker
1	BU	STUDE	1972	WA	DUCK12	DUCK12	M60331	8,000			

BRAKE ADJUSTMENTS: No Brake Measurements Recorded.

## VIOLATIONS

Vio Code	Section	Unit	OOS	Citation #	Verify	Crash	Violations Discovered
396.17C	396.17(c)	1	N		N	N	Operating a CMV without proof of a periodic inspection

HazMat: No HM Transported.

Placard: No

Cargo Tank:

Special Checks: Local Enforcement

NOTE TO DRIVER: This report must be furnished to the motor carrier whose name appears at the top of this report. [49 CFR 396.9(d)(1)]

NOTE TO MOTOR CARRIERS: Pursuant to authority contained in Title 49, Code of Federal Regulations, Section 396.9(d)(3), within 15 days of the inspection sign below certifying all violations noted on this report have been corrected. Return the completed form to the address indicated on the upper left corner of the form, AND retain a copy at the principal place of business or where the vehicle is housed for 12 months from the date of the inspection. Failure to return this report with the required certification can result in penalties up to \$1,000 per day for each day the violation continues, up to a total of \$10,000.

Signature Of Motor Carrier X:

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Report Prepared By:  
WAYNE GILBERT

Badge #:  
WAU584

Copy Received By: \_\_\_\_\_

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01905507 WA WAU007000057

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## DRIVER/VEHICLE EXAMINATION REPORT

Aspen 3.0.0.17



Washington State Patrol  
 Commercial Vehicle Enforcement Section  
 P.O. Box 42614  
 Olympia, WA 98504-2614  
 360-596-3815

Report Number: WAU007000056  
 Inspection Date: 10/06/2015  
 Start: 11:19 AM PT End: 11:32:26 AM PT  
 Inspection Level: VII - Jurisdictional Mandate  
 HM Inspection Type: None

RIDE THE DUCKS OF SEATTLE  
 516 BROAD STREET  
 SEATTLE, WA 98109

USDOT#: 01905507 Phone#: (206)441-4687  
 MC/MX#: Fax#:  
 State#:

Location: 4203 9TH AVE NW  
 Highway:  
 County: KING, WA

MilePost: Shipper:  
 Origin: SEATTLE, WA  
 Destination: SEATTLE, WA

Bill of Lading:  
 Cargo: EMPTY

Driver: State:  
 License#: State:  
 Date of Birth: State:  
 CoDriver: State:  
 License#: State:  
 Date of Birth: State:

## VEHICLE IDENTIFICATION

Unit	Type	Make	Year	State	Plate #	Equipment ID	VIN	GVWR	CVSA #	CVSA Issued #	OOS Sticker
1	BU	STUDE	1952	WA	DUCK14	DUCK14	M23060	8,000			

**BRAKE ADJUSTMENTS:** No Brake Measurements Recorded.

## VIOLATIONS

Vio Code	Section	Unit	OOS	Citation #	Verify	Crash	Violations Discovered
396.17C	396.17(c)	1	N		N	N	Operating a CMV without proof of a periodic inspection

**HazMat:** No HM Transported.

**Placard:** No **Cargo Tank:**

**Special Checks:** Local Enforcement

NOTE TO DRIVER: This report must be furnished to the motor carrier whose name appears at the top of this report. [49 CFR 396.9(d)(1)]

NOTE TO MOTOR CARRIERS: Pursuant to authority contained in Title 49, Code of Federal Regulations, Section 396.9(d)(3), within 15 days of the inspection sign below certifying all violations noted on this report have been corrected. Return the completed form to the address indicated on the upper left corner of the form, AND retain a copy at the principal place of business or where the vehicle is housed for 12 months from the date of the inspection. Failure to return this report with the required certification can result in penalties up to \$1,000 per day for each day the violation continues, up to a total of \$10,000.

Signature Of Motor Carrier X: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

Report Prepared By:  
 WAYNE GILBERT

Badge #:  
 WAU584

Copy Received By:

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01905507. WA WAU007000056

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## DRIVER/VEHICLE EXAMINATION REPORT

Aspen 3.0.0.17



Washington State Patrol  
 Commercial Vehicle Enforcement Section  
 P.O. Box 42614  
 Olympia, WA 98504-2614  
 360-596-3815

Report Number: WAU007000060  
 Inspection Date: 10/07/2015  
 Start: 08:05 AM PT End: 8:40:00 AM PT  
 Inspection Level: VII - Jurisdictional Mandate  
 HM Inspection Type: None

RIDE THE DUCKS OF SEATTLE  
 516 BROAD STREET  
 SEATTLE, WA 98109

USDOT#: 01905507

MC/MX#:

State#:

Location: 4203 9TH AVE NW

Highway:

County: KING, WA

Phone#: (206)441-4687

Fax#:

MilePost:

Origin: SEATTLE, WA

Destination: SEATTLE, WA

Driver:

License#:

Date of Birth:

CoDriver:

License#:

Date of Birth:

Shipper:

Bill of Lading:

Cargo: EMPTY

State:

State:

## VEHICLE IDENTIFICATION

Unit	Type	Make	Year	State	Plate #	Equipment ID	VIN	GVWR	CVSA #	CVSA Issued #	OOS Sticker
1	BU	STUDE	2008	WA	DUCK15	DUCK15	M21142	8,000			

**BRAKE ADJUSTMENTS:** No Brake Measurements Recorded.

## VIOLATIONS

Vio Code	Section	Unit	OOS	Citation #	Verify	Crash	Violations Discovered
396.17C	396.17(c)	1	N		N	N	Operating a CMV without proof of a periodic inspection

**HazMat:** No HM Transported.

**Placard:** No

**Cargo Tank:**

**Special Checks:** Local Enforcement

NOTE TO DRIVER: This report must be furnished to the motor carrier whose name appears at the top of this report. [49 CFR 396.9(d)(1)]

NOTE TO MOTOR CARRIERS: Pursuant to authority contained in Title 49, Code of Federal Regulations, Section 396.9(d)(3), within 15 days of the inspection sign below certifying all violations noted on this report have been corrected. Return the completed form to the address indicated on the upper left corner of the form, AND retain a copy at the principal place of business or where the vehicle is housed for 12 months from the date of the inspection. Failure to return this report with the required certification can result in penalties up to \$1,000 per day for each day the violation continues, up to a total of \$10,000.

Signature Of Motor Carrier X: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Report Prepared By:  
 WAYNE GILBERT

Badge #:  
 WAU584

Copy Received By:

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01905507 WA WAU007000060



## DRIVER/VEHICLE EXAMINATION REPORT

Aspen 3.0.0.17



Washington State Patrol  
Commercial Vehicle Enforcement Section  
P.O. Box 42614  
Olympia, WA 98504-2614  
360-596-3815

Report Number: WAU007000054  
Inspection Date: 10/06/2015  
Start: 08:51 AM PT End: 9:04:53 AM PT  
Inspection Level: VII - Jurisdictional Mandate  
HM Inspection Type: None

RIDE THE DUCKS OF SEATTLE  
516 BROAD STREET  
SEATTLE, WA 98109

USDOT#: 01905507 Phone#: (206)441-4687

MC/MX#: Fax#:

State#:

Location: 4203 9TH AVE NW

Highway:

County: KING, WA

Driver:

License#:

State:

Date of Birth:

CoDriver:

License#:

State:

Date of Birth:

Shipper:

MilePost:

Origin: SEATTLE, WA

Bill of Lading:

Destination: SEATTLE, WA

Cargo: EMPTY

## VEHICLE IDENTIFICATION

Unit	Type	Make	Year	State	Plate #	Equipment ID	VIN	GVWR	CVSA #	CVSA Issued #	OOS Sticker
1	BU	AMGE	1972	WA	DUCK16	DUCK16	M51251	8,000			

**BRAKE ADJUSTMENTS:** No Brake Measurements Recorded.

## VIOLATIONS

Vio Code	Section	Unit	OOS	Citation #	Verify	Crash	Violations Discovered
396.17C	396.17(c)	1	N		N	N	Operating a CMV without proof of a periodic inspection

**HazMat:** No HM Transported.

**Placard:** No

**Cargo Tank:**

**Special Checks:** Local Enforcement

NOTE TO DRIVER: This report must be furnished to the motor carrier whose name appears at the top of this report. [49 CFR 396.9(d)(1)]

NOTE TO MOTOR CARRIERS: Pursuant to authority contained in Title 49, Code of Federal Regulations, Section 396.9(d)(3), within 15 days of the inspection sign below certifying all violations noted on this report have been corrected. Return the completed form to the address indicated on the upper left corner of the form, AND retain a copy at the principal place of business or where the vehicle is housed for 12 months from the date of the inspection. Failure to return this report with the required certification can result in penalties up to \$1,000 per day for each day the violation continues, up to a total of \$10,000.

Signature Of Motor Carrier X: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

Report Prepared By:  
WAYNE GILBERT

Badge #:  
WAU584

Copy Received By:

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01905507 WA WAU007000054

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## DRIVER/VEHICLE EXAMINATION REPORT

Aspen 3.0.0.17



Washington State Patrol  
 Commercial Vehicle Enforcement Section  
 P.O. Box 42614  
 Olympia, WA 98504-2614  
 360-596-3815

Report Number: WAU007000053  
 Inspection Date: 10/06/2015  
 Start: 08:17 AM PT End: 8:51:24 AM PT  
 Inspection Level: VII - Jurisdictional Mandate  
 HM Inspection Type: None

RIDE THE DUCKS OF SEATTLE  
 516 BROAD STREET  
 SEATTLE, WA 98109

USDOT#: 01905507

Phone#: (206)441-4687

MC/MX#:

Fax#:

State#:

Location: 4203 9TH AVE NW

Highway:

County: KING, WA

Driver:

License#:

State:

Date of Birth:

CoDriver:

License#:

State:

Date of Birth:

Shipper:

MilePost:

Origin: SEATTLE, WA

Bill of Lading:

Destination: SEATTLE, WA

Cargo: EMPTY

## VEHICLE IDENTIFICATION

Unit	Type	Make	Year	State	Plate #	Equipment ID	VIN	GVWR	CVSA #	CVSA Issued #	OOS Sticker
1	BU	JEEP	1972	WA	DUCK17	DUCK17	022519145	8,000			

BRAKE ADJUSTMENTS: No Brake Measurements Recorded.

## VIOLATIONS

Vio Code	Section	Unit	OOS	Citation #	Verify	Crash	Violations Discovered
396.17C	396.17(c)	1	N		N	N	Operating a CMV without proof of a periodic inspection

HazMat: No HM Transported.

Placard: No

Cargo Tank:

Special Checks: Local Enforcement

NOTE TO DRIVER: This report must be furnished to the motor carrier whose name appears at the top of this report. [49 CFR 396.9(d)(1)]

NOTE TO MOTOR CARRIERS: Pursuant to authority contained in Title 49, Code of Federal Regulations, Section 396.9(d)(3), within 15 days of the inspection sign below certifying all violations noted on this report have been corrected. Return the completed form to the address indicated on the upper left corner of the form, AND retain a copy at the principal place of business or where the vehicle is housed for 12 months from the date of the inspection. Failure to return this report with the required certification can result in penalties up to \$1,000 per day for each day the violation continues, up to a total of \$10,000.

Signature Of Motor Carrier X: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Report Prepared By:  
 WAYNE GILBERT

Badge #:  
 WAU584

Copy Received By: \_\_\_\_\_

Page 1 of 1



01905507 WA WAU007000053

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## DRIVER/VEHICLE EXAMINATION REPORT

Aspen 3.0.0.17



Washington State Patrol  
 Commercial Vehicle Enforcement Section  
 P.O. Box 42614  
 Olympia, WA 98504-2614  
 360-596-3815

Report Number: WAU007000059  
 Inspection Date: 10/06/2015  
 Start: 01:31 PM PT End: 1:58:56 PM PT  
 Inspection Level: VII - Jurisdictional Mandate  
 HM Inspection Type: None

RIDE THE DUCKS OF SEATTLE  
 516 BROAD STREET  
 SEATTLE, WA 98109

USDOT#: 01905507

Phone#: (206)441-4687

MC/MX#:

Fax#:

State#:

Location: 4203 9TH AVE NW

Highway:

County: KING, WA

Driver:

License#:

State:

Date of Birth:

CoDriver:

License#:

State:

Date of Birth:

Shipper:

MilePost:

Origin: SEATTLE, WA

Bill of Lading:

Destination: SEATTLE, WA

Cargo: EMPTY

## VEHICLE IDENTIFICATION

Unit	Type	Make	Year	State	Plate #	Equipment ID	VIN	GVWR	CVSA #	CVSA Issued #	OOS Sticker
1	BU	KAISR	2011	WA	DUCK18	DUCK18	4M2209	20,500			

**BRAKE ADJUSTMENTS:** No Brake Measurements Recorded.

## VIOLATIONS

Vio Code	Section	Unit	OOS	Citation #	Verify	Crash	Violations Discovered
396.17C	396.17(c)	1	N		N	N	Operating a CMV without proof of a periodic inspection

**HazMat:** No HM Transported.

**Placard:** No

**Cargo Tank:**

**Special Checks:** Local Enforcement

NOTE TO DRIVER: This report must be furnished to the motor carrier whose name appears at the top of this report. [49 CFR 396.9(d)(1)]

NOTE TO MOTOR CARRIERS: Pursuant to authority contained in Title 49, Code of Federal Regulations, Section 396.9(d)(3), within 15 days of the inspection sign below certifying all violations noted on this report have been corrected. Return the completed form to the address indicated on the upper left corner of the form, AND retain a copy at the principal place of business or where the vehicle is housed for 12 months from the date of the inspection. Failure to return this report with the required certification can result in penalties up to \$1,000 per day for each day the violation continues, up to a total of \$10,000.

Signature Of Motor Carrier X: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Report Prepared By:  
 WAYNE GILBERT

Badge #:  
 WAU584

Copy Received By:

Page 1 of 1



01905507 WA WAU007000059

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**DRIVER/VEHICLE EXAMINATION REPORT**

Aspen 3.0.0.17



**Washington State Patrol**  
**Commercial Vehicle Enforcement Section**  
 P.O. Box 42614  
 Olympia, WA 98504-2614  
 360-596-3815

**Report Number:** WAU007000063  
**Inspection Date:** 11/16/2015  
**Start:** 08:34 AM PT **End:** 9:10:47 AM PT  
**Inspection Level:** VII - Jurisdictional Mandate  
**HM Inspection Type:** None

RIDE THE DUCKS OF SEATTLE  
 516 BROAD STREET  
 SEATTLE, WA 98109

**USDOT#:** 01905507 **Phone#:** (206)441-4687  
**MC/MX#:** **Fax#:**  
**State#:**

**Location:** 4203 9TH AVE NW  
**Highway:**  
**County:** KING, WA

**MilePost:**  
**Origin:** SEATTLE, WA  
**Destination:** SEATTLE, WA

**Driver:**  
**License#:** **State:**  
**Date of Birth:**  
**CoDriver:**  
**License#:** **State:**  
**Date of Birth:**

**Shipper:**  
**Bill of Lading:**  
**Cargo:** EMPTY

**VEHICLE IDENTIFICATION**

Unit	Type	Make	Year	State	Plate #	Equipment ID	VIN	GVWR	CVSA #	CVSA Issued #	OOS Sticker
.1	BU	GMC	1945	WA	B72766Z	DUCK 19	S	8,000			

**BRAKE ADJUSTMENTS**

Axle #	1	2	3
Right	N/A	N/A	N/A
Left	N/A	N/A	N/A
Chamber	HYDR	HYDR	HYDR

**VIOLATIONS**

Vio Code	Section	Unit	OOS	Citation #	Verify	Crash	Violations Discovered
396.17C	396.17(c)	1	N		N	N	Operating a CMV without proof of a periodic inspection

**HazMat:** No HM Transported.

**Placard:** No **Cargo Tank:**

**Special Checks:** Local Enforcement

NOTE TO DRIVER: This report must be furnished to the motor carrier whose name appears at the top of this report. [49 CFR 396.9(d)(1)]

NOTE TO MOTOR CARRIERS: Pursuant to authority contained in Title 49, Code of Federal Regulations, Section 396.9(d)(3), within 15 days of the inspection sign below certifying all violations noted on this report have been corrected. Return the completed form to the address indicated on the upper left corner of the form, AND retain a copy at the principal place of business or where the vehicle is housed for 12 months from the date of the inspection. Failure to return this report with the required certification can result in penalties up to \$1,000 per day for each day the violation continues, up to a total of \$10,000.

Signature Of Motor Carrier X: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

Report Prepared By:  
 WAYNE GILBERT

Badge #:  
 WAU584

Copy Received By:

Page 1 of 1



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**DRIVER/VEHICLE EXAMINATION REPORT**

Aspen 3.0.0.17



**Washington State Patrol**  
**Commercial Vehicle Enforcement Section**  
**P.O. Box 42614**  
**Olympia, WA 98504-2614**  
**360-596-3815**

**Report Number:** WAU007000070  
**Inspection Date:** 11/16/2015  
**Start:** 11:10 AM PT **End:** 11:36:36 AM PT  
**Inspection Level:** VII - Jurisdictional Mandate  
**HM Inspection Type:** None

**RIDE THE DUCKS OF SEATTLE**  
**516 BROAD STREET**  
**SEATTLE, WA 98109**

**USDOT#:** 01905507 **Phone#:** (206)441-4687  
**MC/MX#:** **Fax#:**  
**State#:**

**Location:** 4203 9TH AVE NW  
**Highway:**  
**County:** KING, WA

**MilePost:**  
**Origin:** SEATTLE, WA  
**Destination:** SEATTLE, WA

**Shipper:**  
**Bill of Lading:**  
**Cargo:** EMPTY

**VEHICLE IDENTIFICATION**

Unit	Type	Make	Year	State	Plate #	Equipment ID	VIN	GVWR	CVSA #	CVSA Issued #	OOS Sticker
1	BU	GMC	1945	WA	B72765Z	DUCK 21		8,000			

**BRAKE ADJUSTMENTS**

Axle #	1	2	3
Right	N/A	N/A	N/A
Left	N/A	N/A	N/A
Chamber	HYDR	HYDR	HYDR

**VIOLATIONS**

Vio Code	Section	Unit	OOS	Citation #	Verify	Crash	Violations Discovered
396.17C	396.17(c)	1	N		N	N	Operating a CMV without proof of a periodic inspection
396.5B	396.5(b)	1	N		N	N	Oil and/or grease leak: Front Passenger side hub leaking

**HazMat:** No HM Transported.

**Placard:** No **Cargo Tank:**

**Special Checks:** Local Enforcement

**NOTE TO DRIVER:** This report must be furnished to the motor carrier whose name appears at the top of this report. [49 CFR 396.9(d)(1)]

**NOTE TO MOTOR CARRIERS:** Pursuant to authority contained in Title 49, Code of Federal Regulations, Section 396.9(d)(3), within 15 days of the inspection sign below certifying all violations noted on this report have been corrected. Return the completed form to the address indicated on the upper left corner of the form, AND retain a copy at the principal place of business or where the vehicle is housed for 12 months from the date of the inspection. Failure to return this report with the required certification can result in penalties up to \$1,000 per day for each day the violation continues, up to a total of \$10,000.

Signature Of Motor Carrier X: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

Report Prepared By:  
 WAYNE GILBERT

Badge #:  
 WAU584

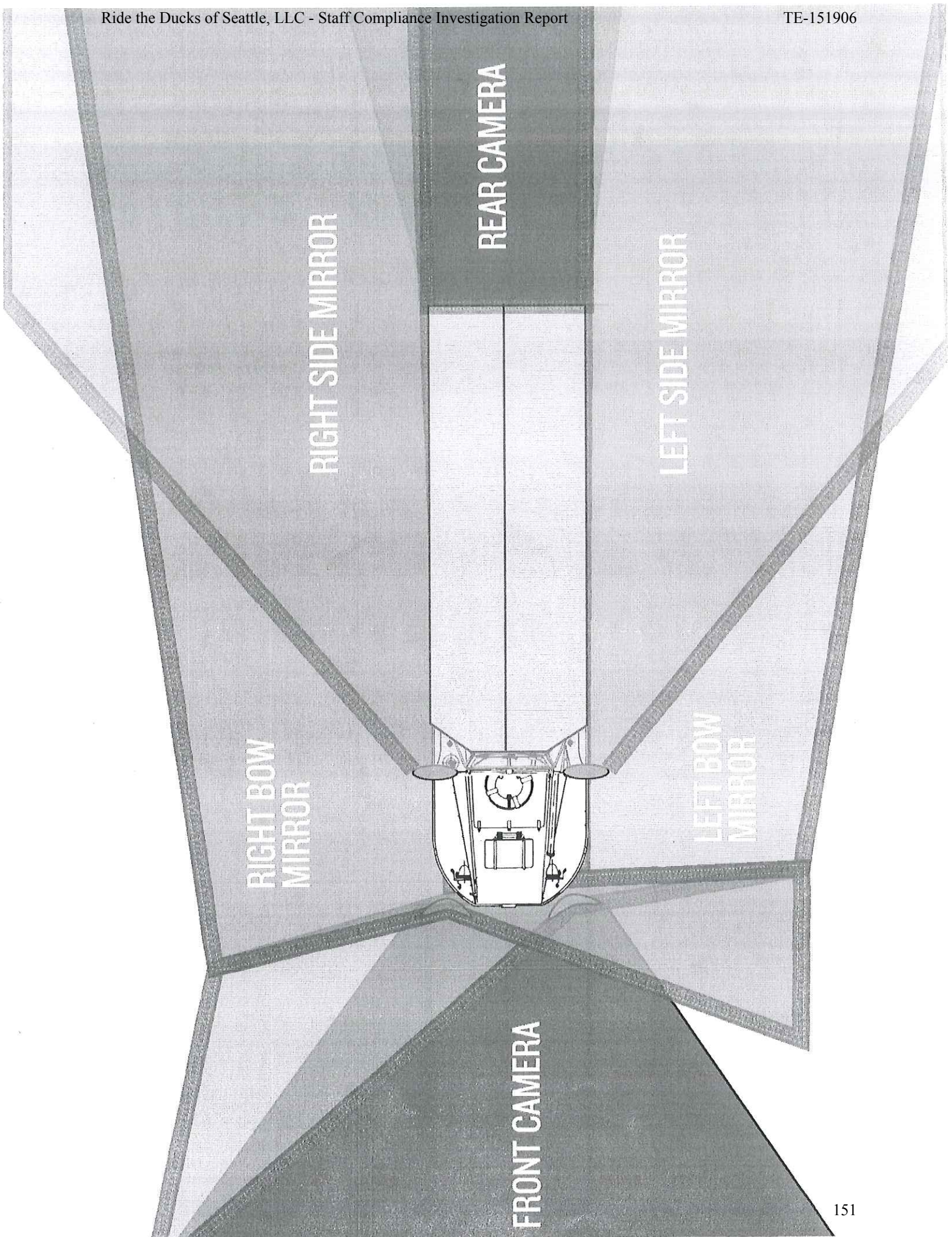
Copy Received By:

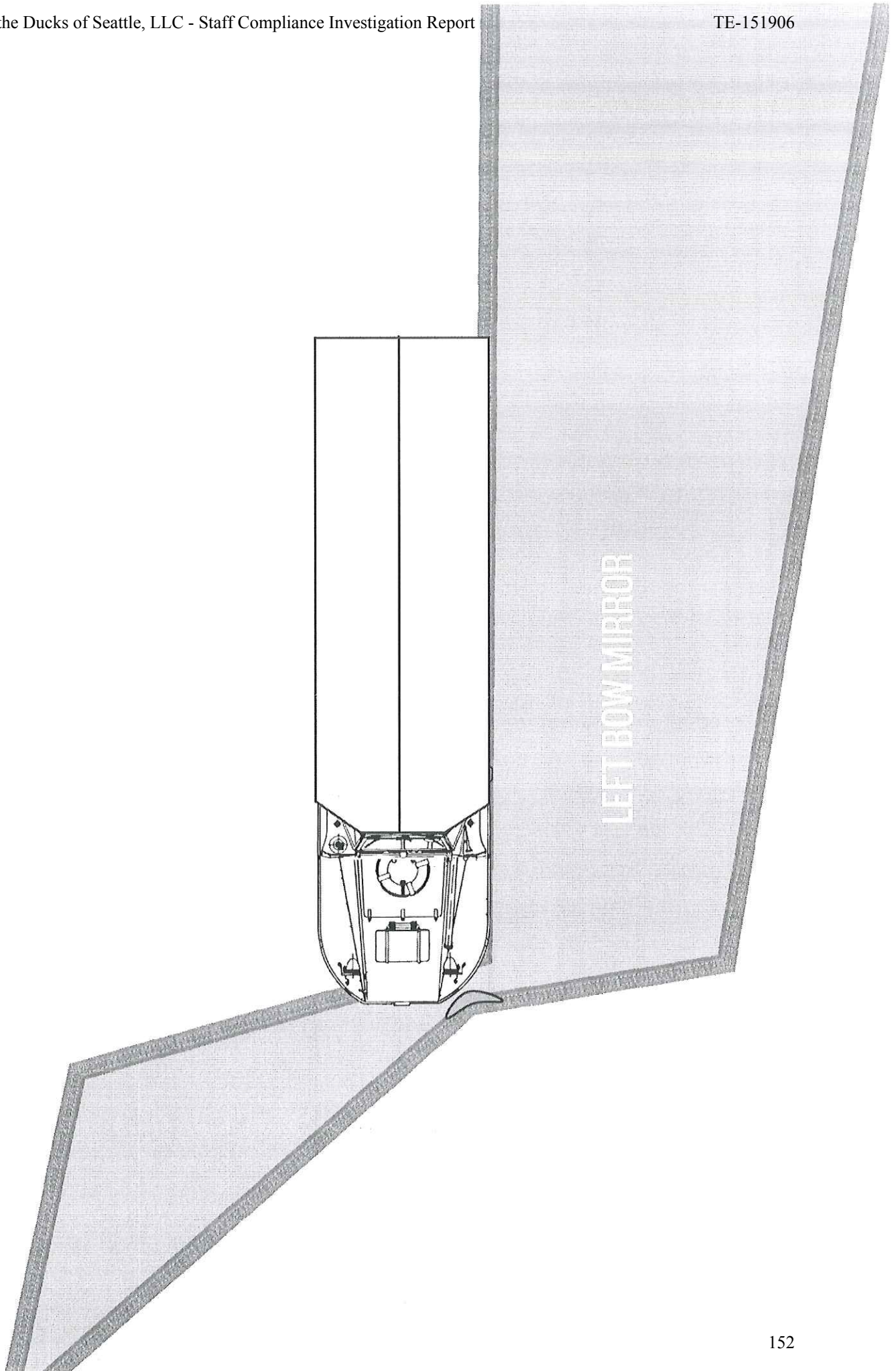


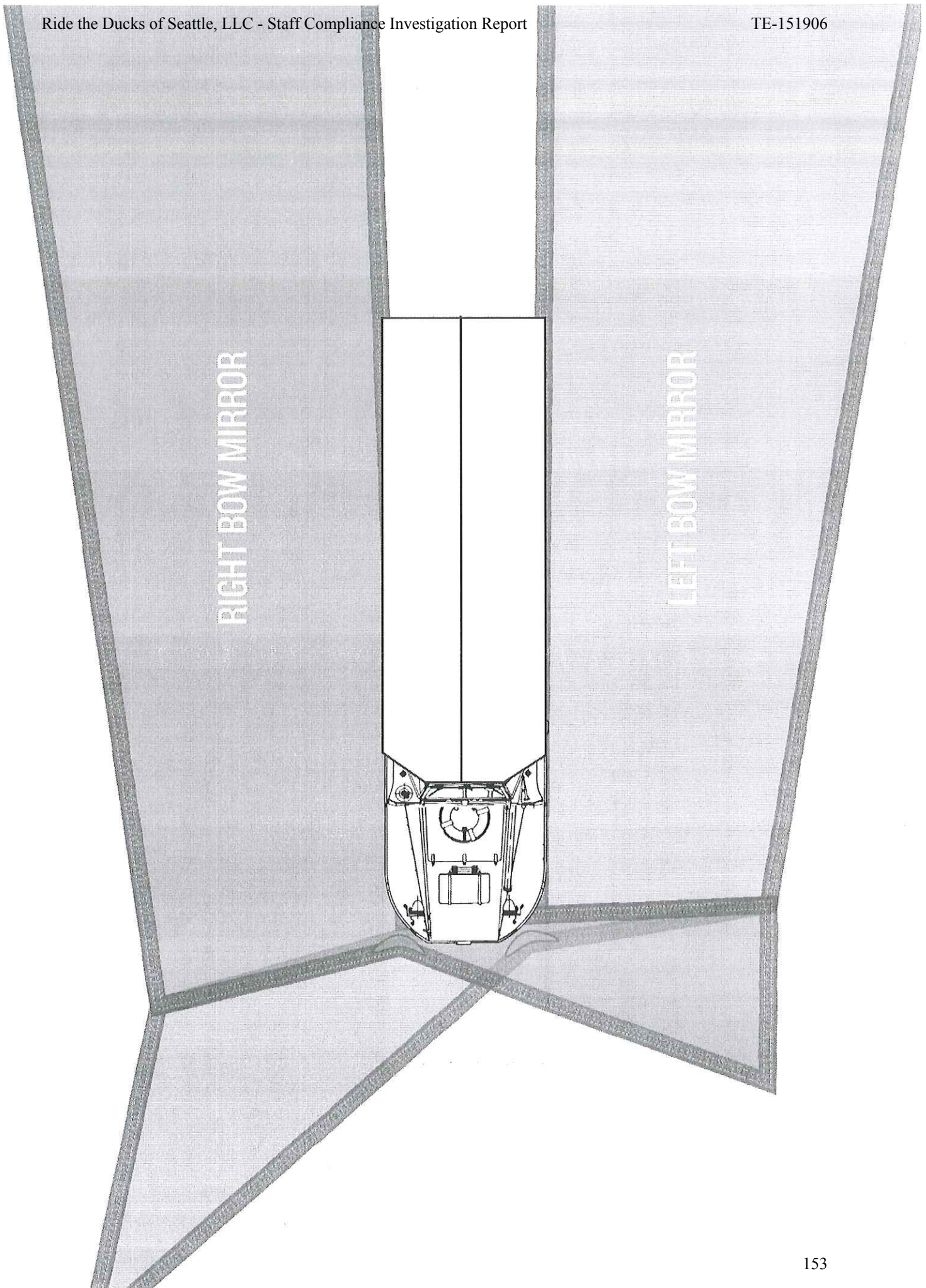
01905507 WA WAU007000070

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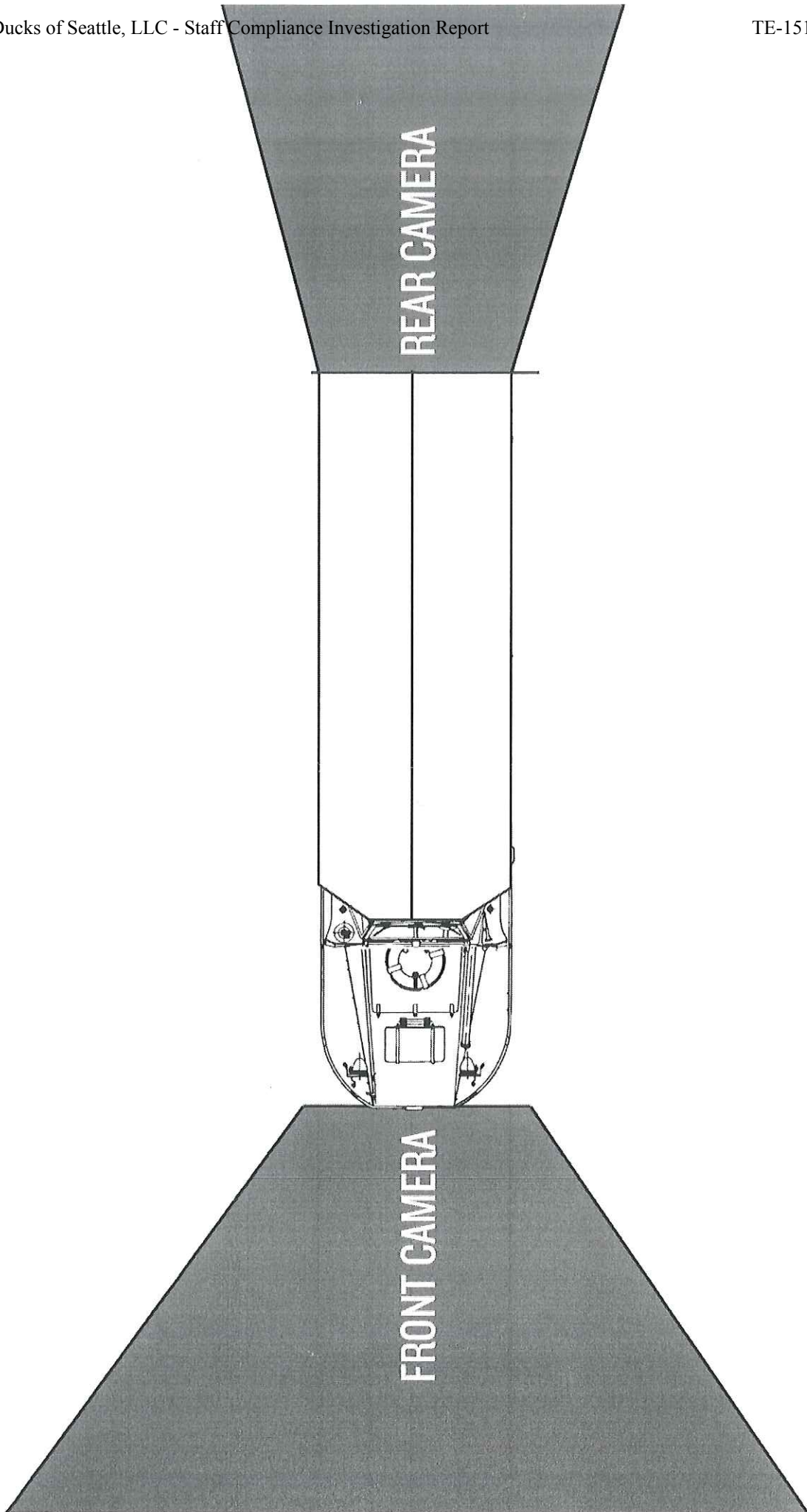
X \_\_\_\_\_









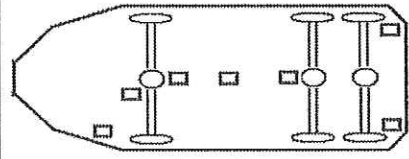


**RIDE THE DUCKS OF SEATTLE DOT & USCG INSPECTION FORM**

Refer to the Captain's Operational Manual to ensure proper compliance when conducting this inspection.

Date of Operation \_\_\_\_\_ Duck # \_\_\_\_\_ Vessel License: WN \_\_\_\_\_ License Plate: \_\_\_\_\_ Radio # \_\_\_\_\_

Inspection List	Pre-Trip Initials		Post-Trip	Mechanic Only	
	Captain	Mechanic	Captain	Pre-Trip	Inspection List
Read and acknowledge log from previous day					Check coolant level & cap
Review emergency check-off list, placarding, and signage					Check power steering fluid
Check license, registration, fuel card & required documentation					Check engine oil
Run blower for three (3) minutes (Gas Ducks Only)					Check transmission fluid
Check the reserve brake system electric motor (Engine OFF)					Check transfer case fluid
Check ignition and system warning devices					Check both batteries
Check vapor detection system (Gas Ducks Only)					Check front differential fluid
Determine fire door configuration; Verify position					Check rear differential fluid
Locate fuel shut-offs handles (1 on Diesel Ducks)					Inspect propeller mechanism
Check high temperature alarm system					Inspect accessible U-Joints
Check bilge high water alarm system					Inspect the alternator
Check operation of ALL bilge pumps					Inspect engine belt(s)
Check fuel gauge operation & Fuel level					<b>Printed Mechanic Name:</b>
Check voltmeter: minimum 12 Volts					
Check oil pressure gauge: minimum 20 PSI					<b>Comments:</b>
Check all lights for functionality and visibility					
Check horn					
Check all remaining dash gauges, switches & indicators					
Check windshield and wipers					
Mirrors are clean and adjusted for MAX visibility; not broken					
Check hand and foot throttle for proper operation					
Check VHF radio, mobile phone, stereo/PA system					
Check power steering system operation					
Check service brake operation & hydraulic checks (3-for-5)					
Check parking brake system					
Check brake interlock system					
Verify two (2) charged & secure handheld fire extinguishers					
Flares, HH bilge pump, fire buckets & three (3) reflective triangles					
Side curtains operational; find release handles					
PFD's: Proper stowage, condition, minimum 39 Adult/ 32 Child					
First aid kit and boat hook					
Two (2) secure life rings, one (1) floating strobe, one (1) throw bag					
Two chock blocks (2), fully stocked tool kit, & safety vest					
Check condition and operation of entryway/watertight door					
All seat secured no large rips or tears					
Interior of Duck is clean					
Engage and disengage the propeller					
Visually check hull integrity; Check hull for fresh damage					
Check inside hull cavity (NO water, fuel, or excessive oil)					
Verify sea chest access hatches are sealed & in good condition					
Check fuel pump area for leaks (Gas Ducks Only)					
Check tires, wheels, wheel seals & lug nuts					
Check steering mechanisms (links, arms, rods)					
Check front brake mechanism, fittings, and lines					
Check left/right front suspension					
Check steer axle knuckle boots					
Check front and rear drive shaft housings and boots					
Check front and rear hinge bracket assembly					
Check rear brake mechanism, fittings, and lines					
Check left/right rear suspension					
Check propeller, rudders, cutlass bearing, and v-strut					



**Daily Plug Inspection**  
**Mechanics:** Place a dash (/) on each plug location if it is securely in place and the integrity is verified, then Initial the box to confirm completion.  
**Captains:** Place a dash (\) on each plug location if it is securely in place and the integrity is verified, then Initial the box to confirm completion.

Initials (Mechanic) \_\_\_\_\_ Initials (Captain) \_\_\_\_\_

Is this a training Duck?: YES / NO \_\_\_\_\_

Fuel Card belongs to Duck# \_\_\_\_\_

# of Tours: \_\_\_\_\_

Gallons: \_\_\_\_\_

Time of Fill-Up: \_\_\_\_\_

Odometer Reading: \_\_\_\_\_

If any system or item failed to work properly or if any discrepancy has occurred, the Captain must record the issue in the driver's log and notify the maintenance team immediately. This write-up should be legible and should completely and specifically identify and describe the issue. It is mandatory that once the maintenance team has been notified, a work order is created so the issue can be addressed appropriately.

**Driver Comments:**

I certify that I am trained, prepared and competent to perform the proper procedures during the following events: hull breach, man overboard, high temp alarm or fire onboard, loss of steering and/or propulsion and any event(s) requiring the need for curtain release, fuel shut-off, the activation of the engine compartment closure system, passengers to don PFDs and/or any water towing occurrence. I certify that I am trained and competent to operate this vehicle. I affirm that I am knowledgeable of this vehicle's specific configuration and that I have reviewed the different variations of modifications and on-board engagement systems. I certify that I understand the purpose of and am trained as to when and how to use and respond to each of the following devices and/or on-board warning systems: life rings, PFDs, boat hook, throw bag, curtain release system, CO2 system, fire extinguishers, engine compartment closures, hull plugs, shaft housings, boots, high temp alarm, vapor detection alarm, bilge high water alarm system, hull dewatering pumps, emergency pump operation, emergency braking and the auxiliary steering system.

**I certify that I have performed a Department of Transportation Inspection and United States Coast Guard Inspection as required by the law.**

Maint. Inspector: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Captain: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Captain \*\*: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_

\*\* Third signature by next driver required by DOT if repair or maintenance was required during original inspection or previous date of service.

## Main Tour Route:

From 516 Broad St.

1. Turn Right out of parking lot of RTD onto northbound 5<sup>th</sup> Ave. N.
2. Get into turn lane to take immediate left onto Harrison St.
3. EMP Turnaround
4. Turn Right onto southbound 5<sup>th</sup> Ave. N.
5. Turn Right onto Broad St. (Right lane)
6. Continue on Broad St. across the train tracks and head south on Alaskan Way.
7. Continue to King St.
8. Turn Left on King St.
9. Turn Left on 1<sup>st</sup> Ave. S.
10. Continue on 1<sup>st</sup> Ave. to Pike St.
11. Turn Right on Pike St.
12. Left on 4<sup>th</sup> Ave.
13. Right on Battery St.
14. Continue onto NB 99
15. Exit onto Bridge Way on north end of Aurora Bridge
16. Right on N. 39<sup>th</sup> St.
17. Right on Stoneway N.
18. Continue straight onto N. Northlake Way
19. Sunnyside Boat Ramp
20. Leave lake turn left onto N. Northlake Way
21. Left onto N. 34<sup>th</sup> St.
22. Left onto Fremont Ave. N./4<sup>th</sup> Ave. N. (Fremont Bridge)
23. Left onto Westlake Ave.
24. Continue onto 9<sup>th</sup> Ave. N.
25. Right on Mercer St.
26. Left on 5<sup>th</sup> ave. N.
27. Left on Harrison St.
28. Right on Taylor Ave.
29. Right on Thomas St. to the alley for parking lot.

### 2015 Route and Detours

The Official Route with all additions, detours  
56 Views

All changes saved in Drive

Add layer Share

Official Tour Route

Individual styles

Seattle Center T-Booth

Westlake Center T-Booth

SC to Broad St.

Broad St. to Alaskan Way

Alaskan Way

King St.

1st Ave. St to 1st Ave

Pike St. to 4th Ave.

4th Ave to Battery St.

Battery St.

NB SR 99 "Aurora Ave"

Bridge Way and N. 99th St.

Stone Way N.

N. Northlake Way

Lake Union Tour Route

Ramp to Stoneway (Return F...

N. Pacific St. (Right out of th...

Bridge Way to SR99 (Return ...

SR 99

Thomas St. to SC Parking

Valley St. (Westlake Ducks)

SR99 to John St. (Westlake ...

Return from Fremont on Wies...

Westlake Ave

8th Ave. (Behind the County)

Mercer St. to 6th Ave. II

Westlake to Denny

9th Ave. to Denny

### Ride the Ducks of Seattle Tour Route:

#### Contents:

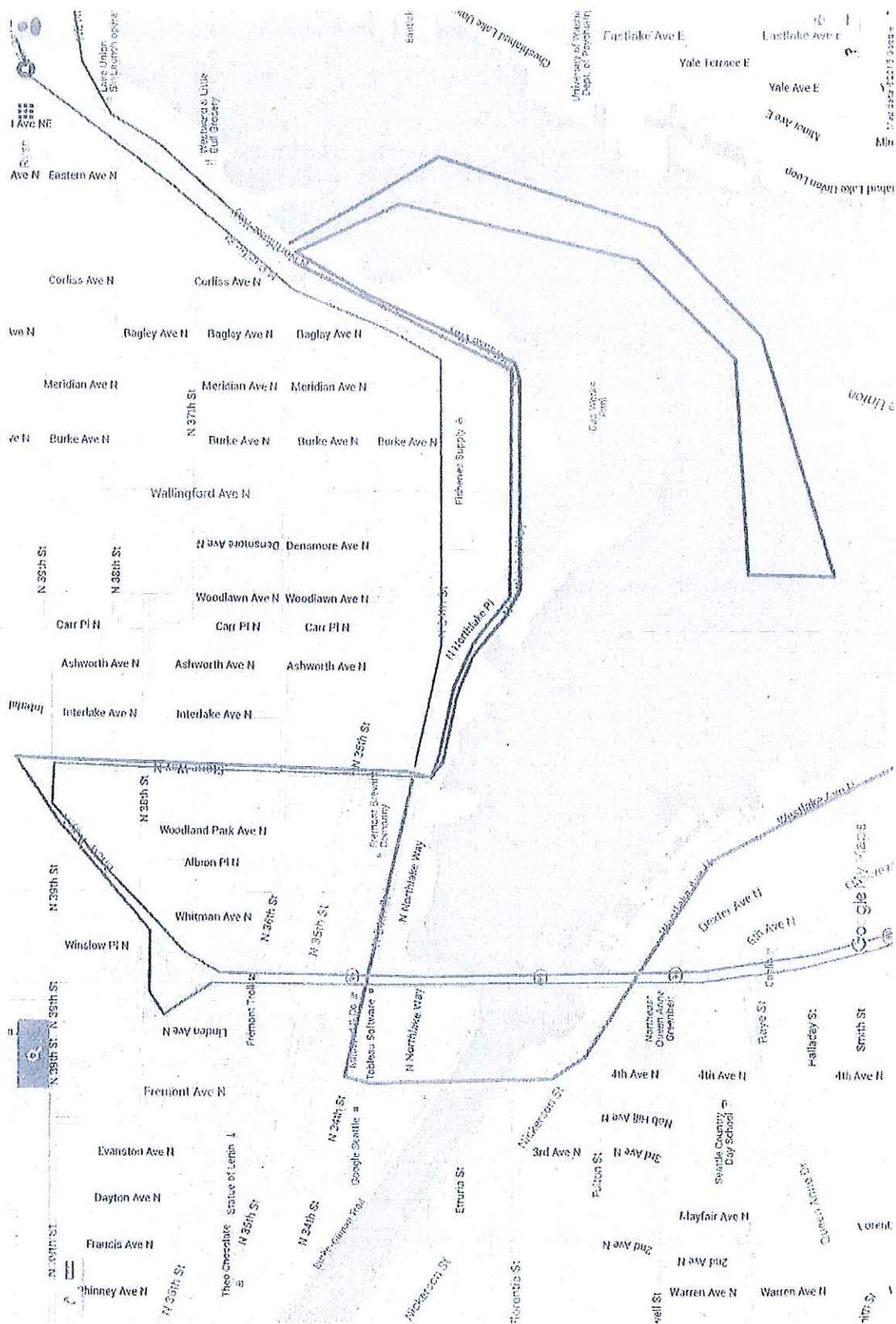
Page 1: Cover Page and Key to street and color coding

Page 2: North End. Fremont and Lake Union

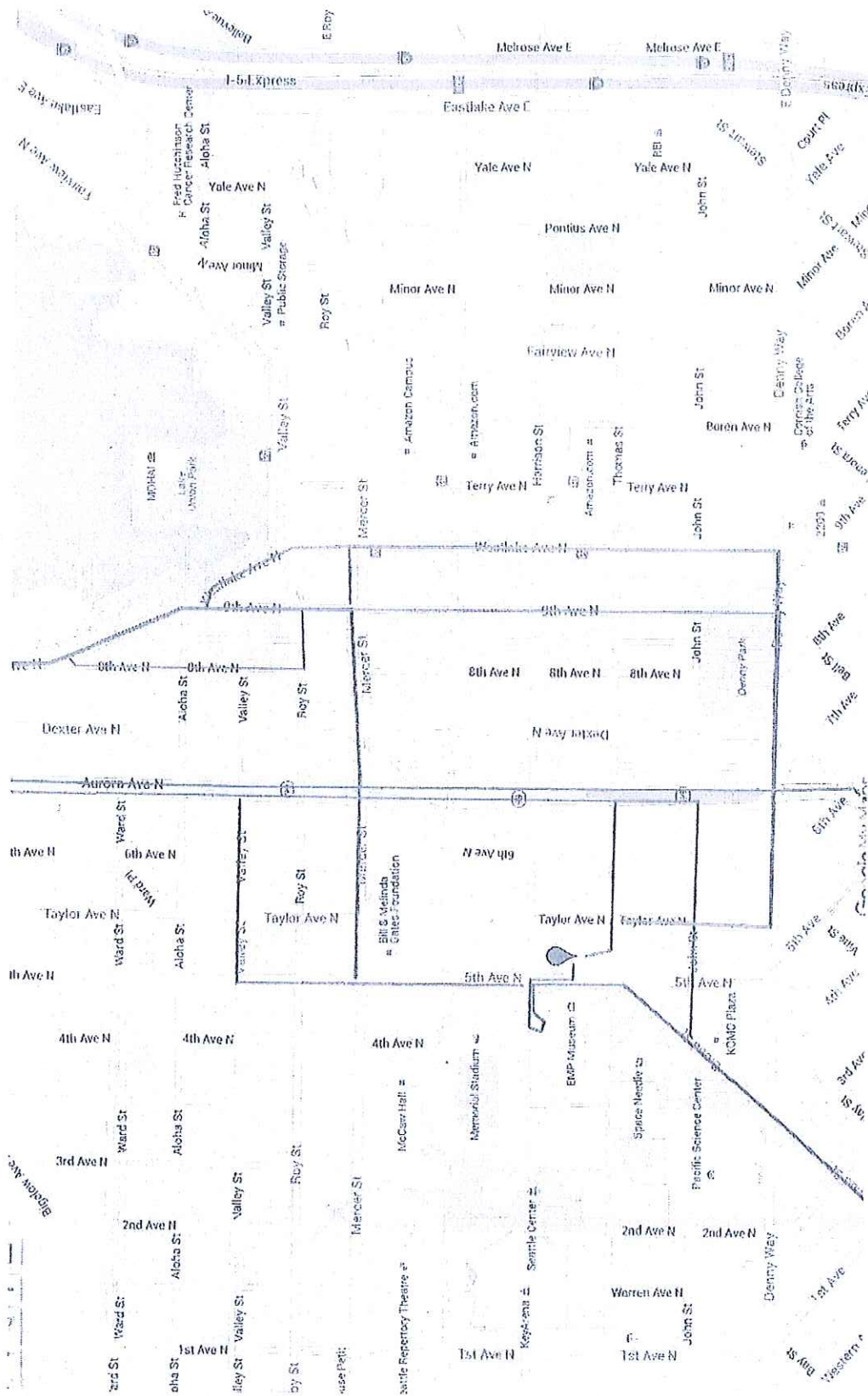
Page 3: North Mid. SR 99 and/or Westlake Ave. N.

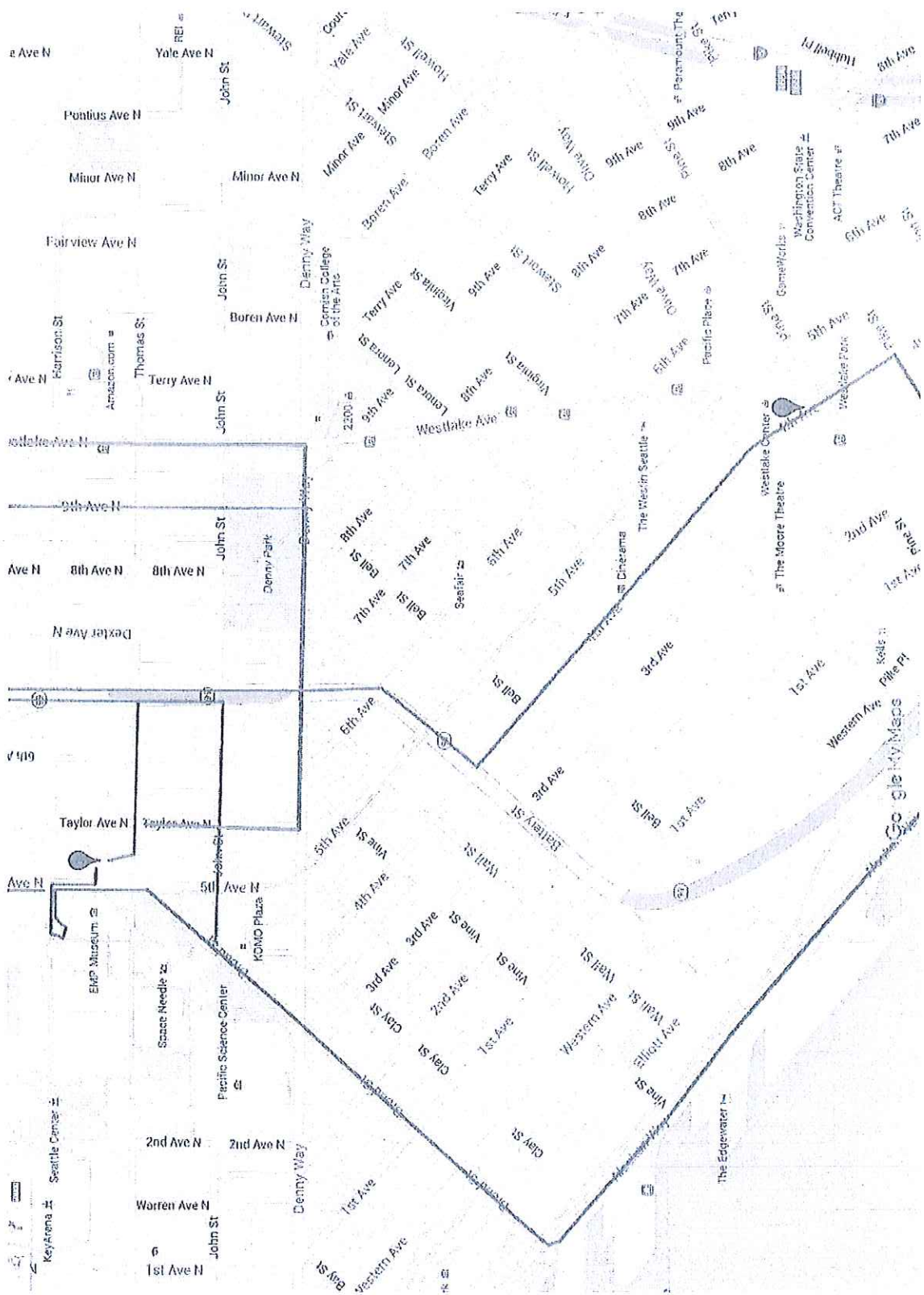
Page 4: South Mid. SR 99, Westlake Ave. N., Seattle Center

Page 5: South End. Downtown, Pioneer Square













### Ride the Ducks of Seattle Revised Tour Route 10-22-2015

**Objective:** Provide an outline and map of the 2015 Official Revised Tour Route.

*Note: Changes from previous routes include the removal of all operations on the Aurora Bridge and Pike St. Official route will be trained as such. Alternate routes for traffic congestion, events, and road construction/closures not include.*

**Map Information:** **Blue lines** indicate route prior to water portion, **Red lines** indicate route after water portion, **Green** lines indicate water portion.

**Google Map Link:** Attached is a google link to an interactive map.

- [https://www.google.com/maps/d/edit?mid=z77a90zDU-h4.kfIK\\_o3bLIV&usp=sharing](https://www.google.com/maps/d/edit?mid=z77a90zDU-h4.kfIK_o3bLIV&usp=sharing)

#### Packet Table of Contents:

Page 2: Turn by turn outline of the main route.

Page 3: North Tour Route Map

- Streets included in view - Westlake Ave. N., N. 34<sup>th</sup> St., N. Northlake Way, and Lake Union water portion

Page 4: North-Central Tour Route Map

- Streets included in view - Westlake Ave. N., Westlake Ave., 9<sup>th</sup> Ave. N.

Page 5: Central Tour Route Map

- Streets included in view – Westlake Ave. N., 9<sup>th</sup> Ave. N., Mercer St., 5<sup>th</sup> Ave. N., Harrison St., Taylor Ave., Thomas St., Broad St.

Page 6: Waterfront to Bell Town Tour Route Map

- Streets included in view – Broad St., Alaskan Way, 1<sup>st</sup> Ave., Virginia St., Westlake Ave.

Page 7: South Tour Route Map

- Streets included in view – Alaskan Way S., S. Main St., 1<sup>st</sup> Ave. S., 1<sup>st</sup> Ave.

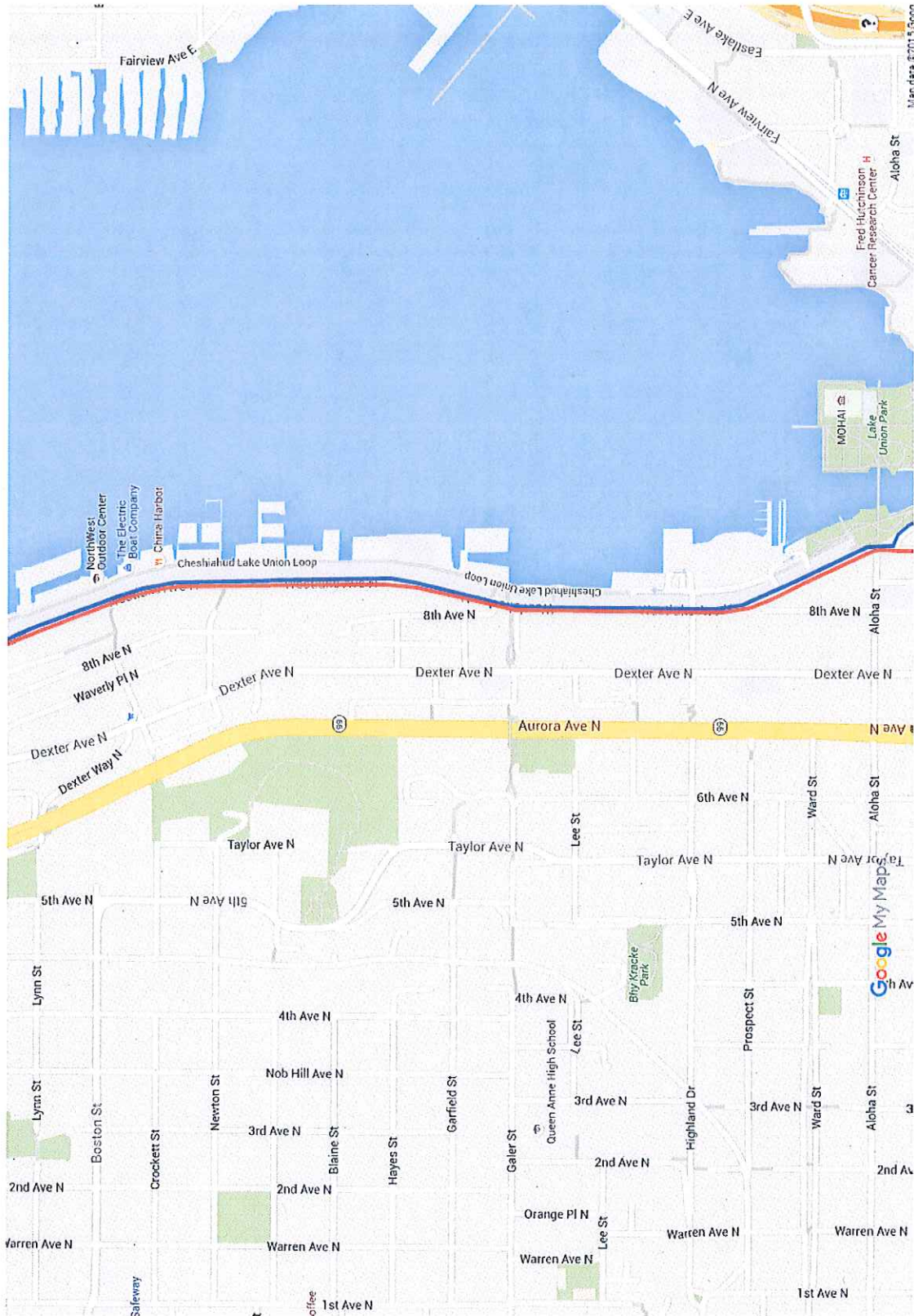
Page 8: Entire Route Map

### Official Tour Route: Turn by Turn

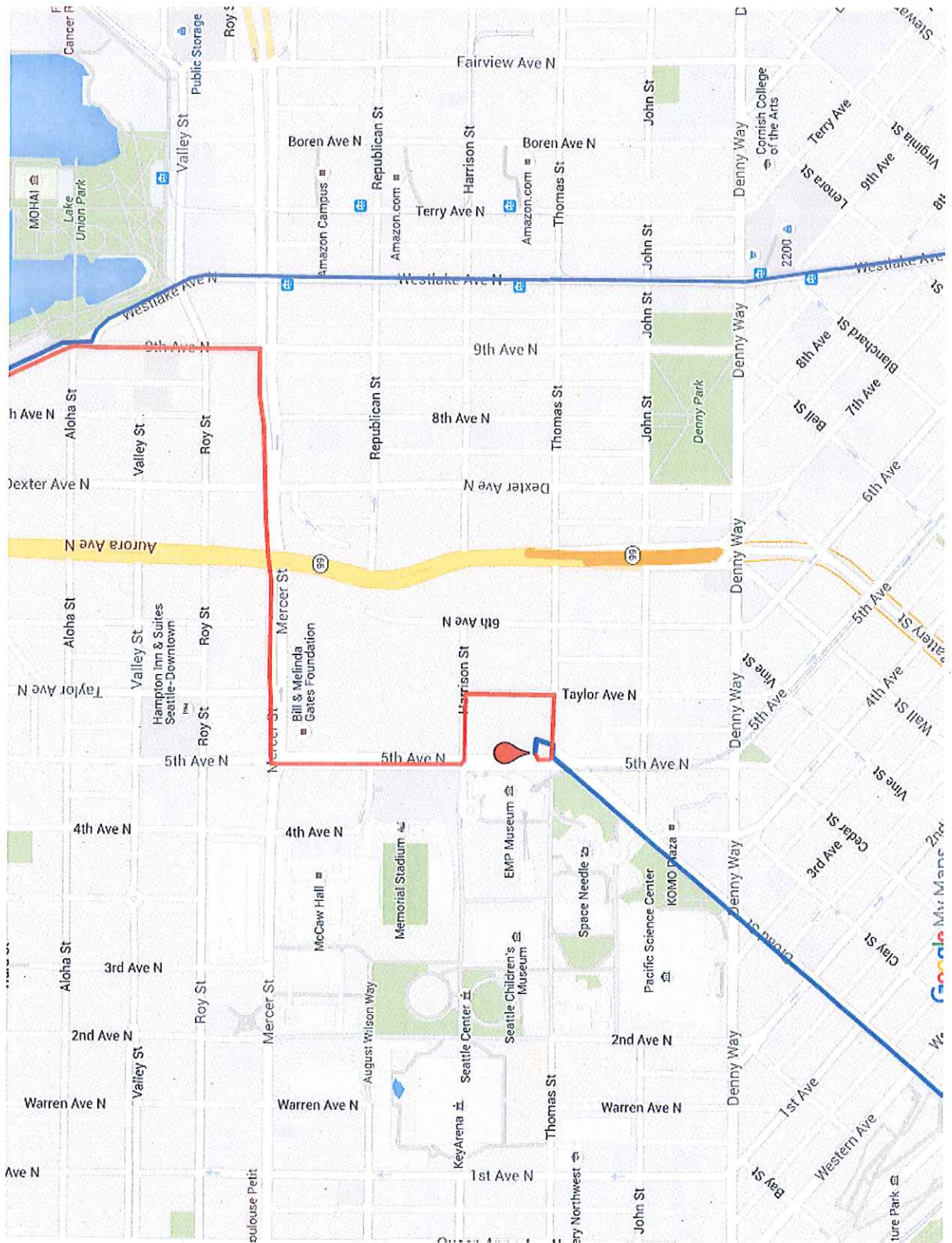
1. Starting at Seattle Center: 516 Broad St.
2. Exit parking lot onto the alley way and turn Right onto Thomas St.
3. Continue through Thomas St. intersection onto WB Broad St. (Right Lane)
4. Continue on Broad St. to Alaskan Way.
5. Head South on Alaskan Way. (Left Lane)
6. Left onto S. Main St.
7. Left onto 1<sup>st</sup> Ave. S.
8. Continue on 1<sup>st</sup> Ave. S. to 1<sup>st</sup> Ave.
9. Continue to Virginia St.
10. Turn Right on Virginia St.
11. Left on Westlake Ave.
12. Continue across Mercer St. to Westlake Ave. N.
13. Right to stay on NB Westlake Ave. N.
14. Cross Fremont Bridge and turn Right onto N. 34<sup>th</sup> St.
15. Turn Right onto N. Northlake Way and continue to the Sunnyside Boat Ramp
16. Water Portion
17. After exiting the lake, turn Left onto N. Northlake Way
18. Left onto N. 34<sup>th</sup> St.
19. Left onto Fremont Ave. (Cross Fremont Bridge)
20. Slight left onto Westlake Ave. N.
21. Stay Right onto 9<sup>th</sup> Ave. N.
22. Right onto Mercer St.
23. Left onto 5<sup>th</sup> Ave. N.
24. Left onto Harrison St.
25. Right onto Thomas St.
26. Right onto 5<sup>th</sup> Ave. N.
27. Right in Seattle Center Parking Lot (516 Broad St.)



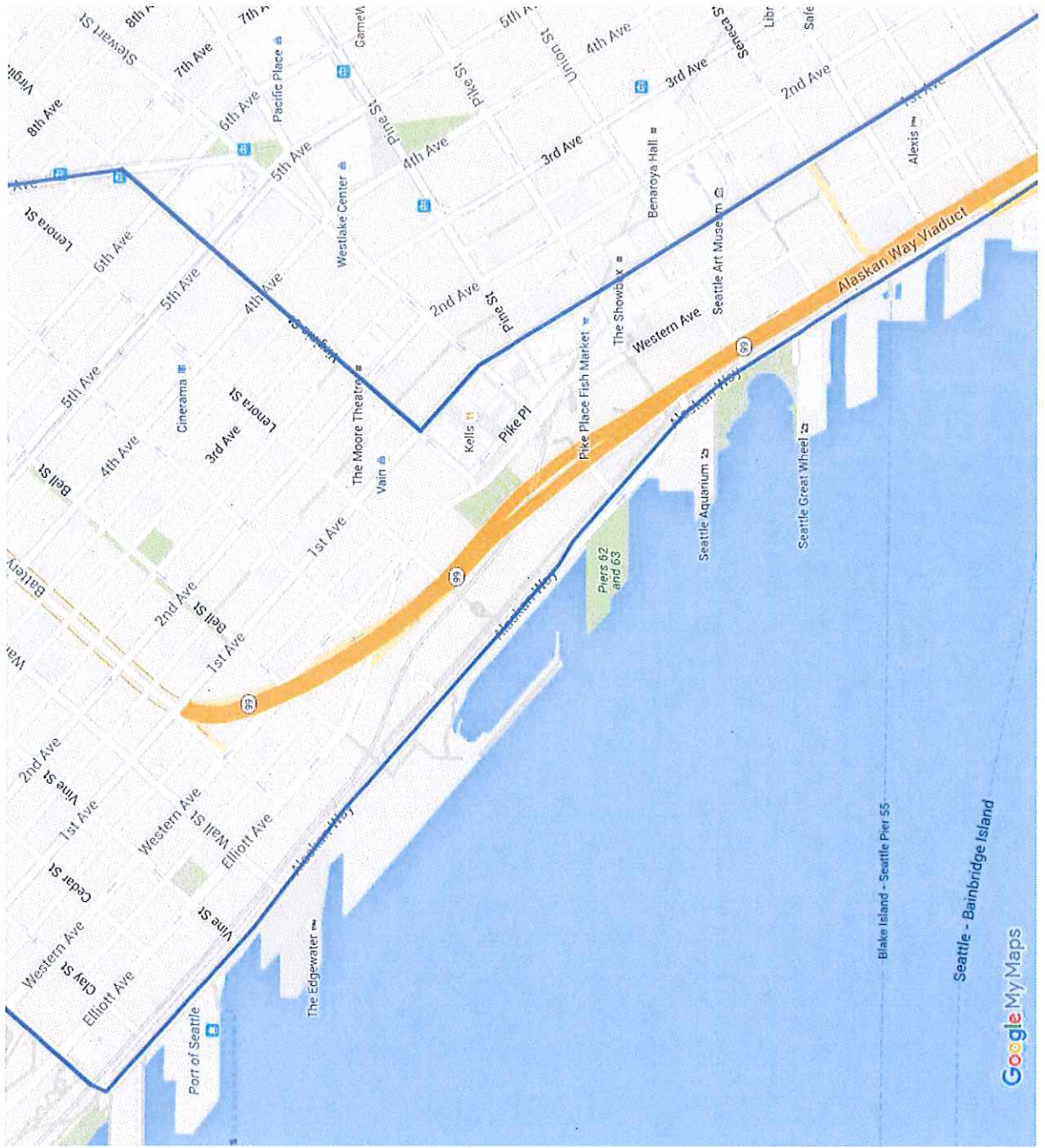
North Central Tour Route Map (Westlake Ave. N.)



Central Tour Route Map (Westlake Ave. N., 9th Ave. N., Mercer St., Harrison St., Taylor St., Thomas St., Broad St., 5th Ave. N.)



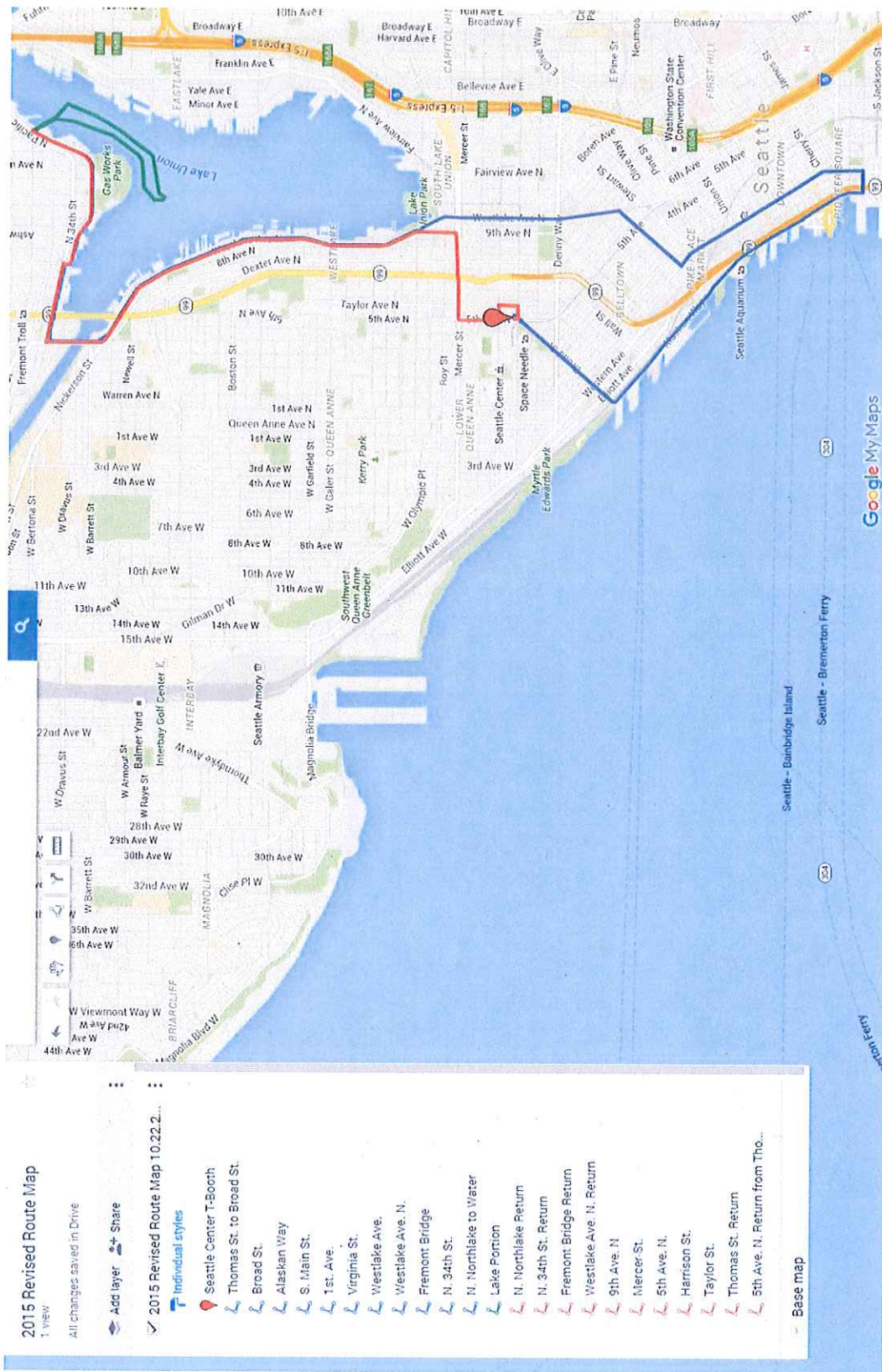
Waterfront to Bell-Town Tour Route Map (Broad St., Alaskan Way, 1st Ave., Virginia St., Westlake Ave.)

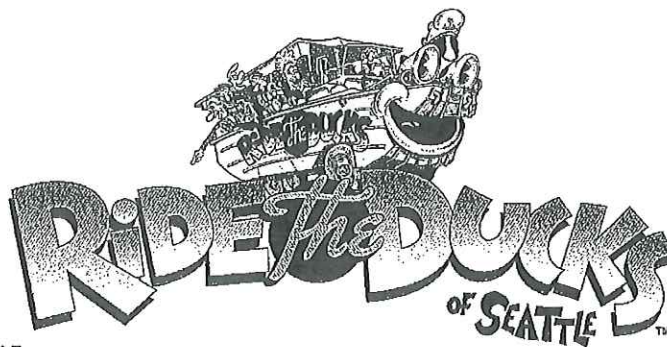






**Entire Route:**





Date: October 8, 2015

From: Brian Tracey, Ride the Ducks of Seattle, LLC (RTDS)

To: Dave Pratt, Washington UTC Staff

Re: Number of Employees on Duck Tours

I understand that the Washington Utilities and Transportation Commission has tasked you with reporting on any issues regarding driver behavior or distraction. As part of our unwavering commitment to safety, I am writing to share a change we are taking proactively to address concerns we have heard from some members of the community.

Currently, our Duck captains are responsible both for the land and water operation of the Duck vehicles as well as narration along a tour route. I believe that our practices are safe and I am not aware of any Duck accident caused by driver distraction. However, RTDS wants to go above and beyond in making safety our first priority.

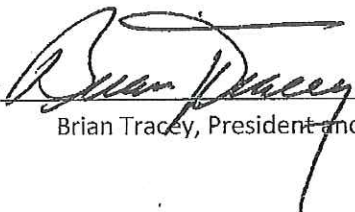
When RTDS has been cleared to return to service, we will do so with two employees aboard. One will be responsible for land and water operation of the Duck. The other will be responsible for the tour, including tour narration and other entertainment.

We are making this change because the safety of our passengers and others on our roads is our most important consideration.

Thank you,

RIDE THE DUCKS OF SEATTLE, LLC

By:

  
Brian Tracey, President and CEO

**Dimensions of Ride the Ducks Seattle fleet and examples and photos, including dimensions, of other types of large vehicles operated on Seattle streets.**

	<b>Width</b>	<b>Height</b>	<b>Length</b>
<b>Stretch DUCK</b>	102 inches	134 inches	33 feet
<b>Truck DUCK</b>	102 inches	150 inches	33 feet
<b>Transit bus</b>	102 inches	132 inches	40 feet
<b>Cement truck</b>	103 inches	147 inches	35 feet, 3 inches
<b>Refuse truck</b>	102 inches	139 inches	34 feet
<b>Delivery van</b>	96 inches	123 inches	31 feet



**Stretch Duck #4  
102 inches wide; 134 inches high; 33 feet long.**



**Transit bus**  
**102 inches wide; 150 inches high; 40 feet long.<sup>i</sup>**



**Cement truck**  
**103 inches wide; 147 inches high; 35 feet, 3 inches long.<sup>ii</sup>**



**Refuse truck**  
**102 inches wide; 139 inches high; 34 feet long.<sup>iii</sup>**



**Parcel delivery van  
96 inches wide; 123 inches high; 31 feet long.<sup>iv</sup>**

<sup>i</sup> 2003 New Flyer DE40LF Transit Bus as operated by Sound Transit.  
<http://www.newflyer.com/pix/Brochures/hybridbrochure.pdf>

<sup>ii</sup> Kenworth 10-yard cement truck as operated by Salmon Bay Sand & Gravel. (115" wide over mirrors, per diagram.) <http://www.sbsg.com/resources/resource-tools/>

<sup>iii</sup> Heil DuraPack 5000 rear loading refuse body on Mack TerraPro cabover chassis, as operated on the University of Washington campus.  
[http://www.heil.com/sites/default/files/pdf/ESG\\_HeilDuraPack5000\\_BrchRvsns\\_FAir.pdf](http://www.heil.com/sites/default/files/pdf/ESG_HeilDuraPack5000_BrchRvsns_FAir.pdf)  
[http://www.seattle.gov/util/cs/groups/public/@spu/@garbage/documents/webcontent/spu02\\_014603.pdf](http://www.seattle.gov/util/cs/groups/public/@spu/@garbage/documents/webcontent/spu02_014603.pdf)  
[https://www.washington.edu/facilities/building/recyclingandsolidwaste/files/FS\\_DesignManual.pdf](https://www.washington.edu/facilities/building/recyclingandsolidwaste/files/FS_DesignManual.pdf)  
<http://www.macktrucks.com/~media/files/brochures/mack%20refuse%20brochure.ashx?as=1>

<sup>iv</sup> Morgan Olson P1200 delivery van on Ford F59 chassis as operated by Fed Ex. <http://morganolson.com/wp-content/uploads/2015/02/FXGwivSSp1200rev0015.pdf>  
[http://morganolson.com/wp-content/uploads/2015/02/Morgan\\_Olson\\_FORD\\_F59.pdf](http://morganolson.com/wp-content/uploads/2015/02/Morgan_Olson_FORD_F59.pdf)

Ride the Ducks of Seattle  
Amphibious Vehicle Information Page

Duck #	VIN Number	Vessel Number	HIN Number	License Plate	Make	Model	Year
1	353-112262	WN 5474 RM	353112262	DUKW 1	GMC	DUCK	1945
2	353-14899	WN 5283 RM	35314899	DUCK 2	GMC	DUCK	1944
3	353-11380	WN 4924 NP	35311380	DUCK 3	GMC	DUCK	1945
4	353-15696	WN 1369 NT	35315696	DUCK 4	GMC	DUCK	1945
5	353-10908	WN 8455 NS	35310908	DUCK 5	GMC	DUCK	1945
6	353-15140	WN 7838 NP	35315140	DUCK 6	GMC	DUKW/AMP	1945
7	M23508	WN 1508 NX	M23508	DUCK 7	STUDE	DUKW/AMP	1952
8	353-11566	WN 4258 NR	35311566	DUCK 8	GMC	DUCKW	1945
9	042-515818	WN 2236 NT	042515818	DUCK 9	KAISE	DUCK	1970
10	4J0520	WN 4970 NV	4J0520	DUCK 10	JEEP	DUKW/AMP	1966
11	525-11792	WN 7454 NV	52511792	DUCK11	REO	DUKW/AMP	1980
12	M60331	WN 1509 NX	M60331	DUCK12	STUDE	DUKW/AMP	1972
14	M23060	WN 2731 NY	M23060	DUCK 14	STUDE	DUKW/AMP	1952
15	M21142	WN 2732 NY	M21142	DUCK 15	STUDE	DUKW/AMP	1952
16	M51251	WN 7442 NZ	M51251	DUCK 16	AMGE	DUCK/AMP	1972
17	22519145	WN 7441 NZ	022519145	DUCK 17	JEEP	DUCK/AMP	1972
18	4M2209	WN 4276 RP	4M2209	DUCK 18	KAISER	SIDCX33	1968
19	353-21978	WN 4338 SB	MSZMT361H303	DUCK 19	GMC	DUCK	1945
20	353-18659	WN 4339 SB	MSZMT362H303	DUCK 20	GMC	DUCK	1945
21	353-19388	WN 4337 SB	MSZMT947F303	DUCK 21	GMC	DUCK	1945

## Photos from Duck Vehicle Inspections – Oct. 6-7, 2015

### Truck Ducks



Duck 16



Duck Vehicle driver video screen – rear camera view



Duck Vehicle driver left side mirror view

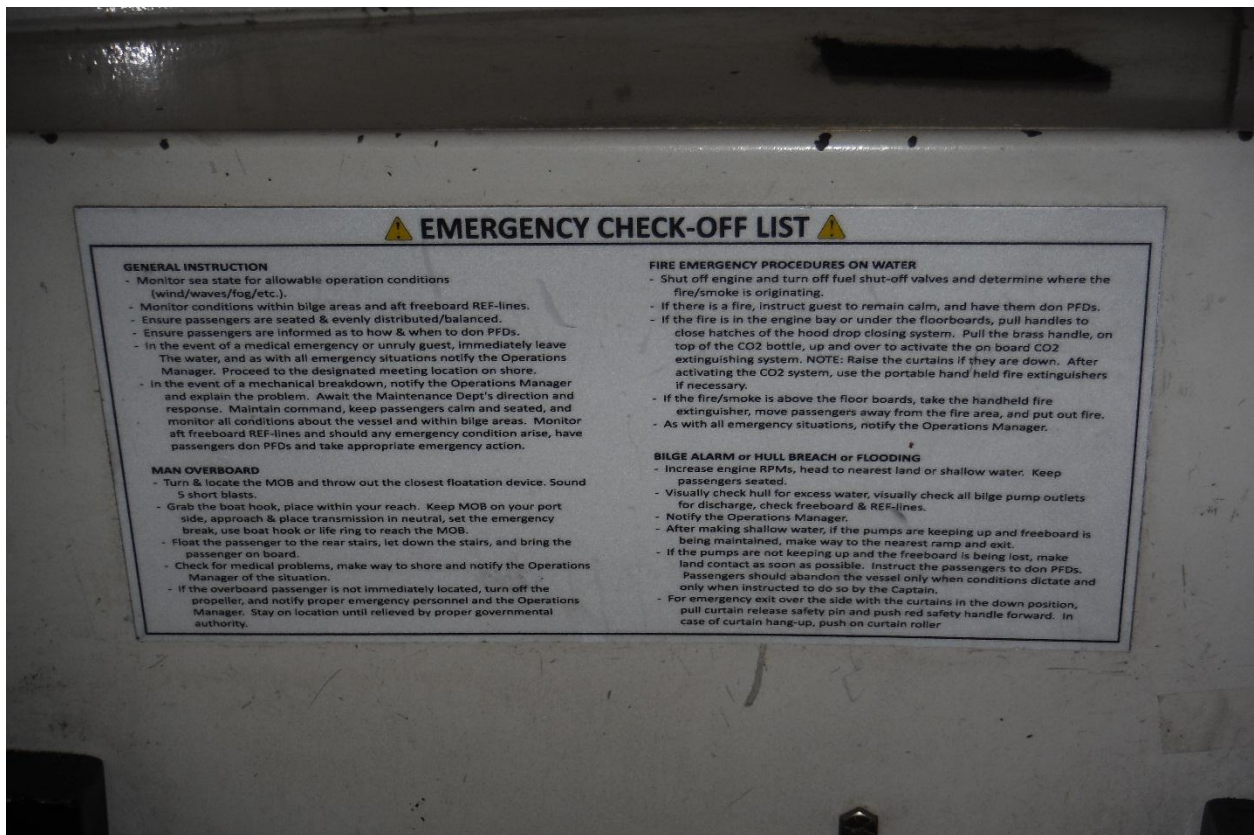


Duck Vehicle safety label





Duck Vehicle safety label



Duck Vehicle safety label



Ride the Ducks training simulator



UTC Safety Investigators



UTC Safety Investigators

**RIDE THE DUCKS INTERNATIONAL**  
Fleet Operations & Safety  
2320 West Highway 76  
Branson MO 65616

**Bulletin No. SB-00-14-13**  
**Release Date: 10/01/13**  
**Effective Date: 10/01/13**  
**Supersedes: N/A**  
**Completion Date: Prior 2014**  
**Applicable to: All Stretch Ducks**  
**Total Pages: 7**

## SERVICE BULLETIN

**REASON FOR RELEASE:** To avoid axle fractures and to strengthen the connection where the knuckle housing ball connects to the axle housing. See Fig 1

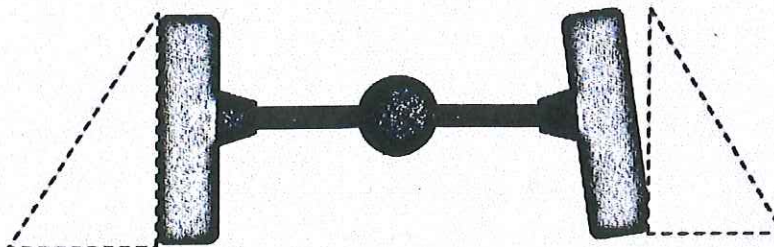
**Urgency:** As soon as practical and prior to operating 2014. Until such time this bulletin is reconciled, all maintainers are to add the daily visual inspection of the front wheels.

**Daily Inspection:** Due to the axle knuckle boots covering the connection in question, the visual detection of a failing axle housing is not possible. However, during visual examination, with the (front wheels straight) you identify a wheel or wheels as being (vertically canted) the Duck should be removed from service, the damaged axle housing removed (scrapped) and replaced with an axle housing that has been modified in accordance with this Service Bulletin.

**Directions:** Provide below are instructions of the modification that once completed will reconcile this Bulletin.

1. Parts required for modification Fig 2
2. Preparations for modification Fig 3
3. Example of parts fit-up Fig 4
4. Welding Fig 5
5. View of mods complete Fig 6

**EXAMPLE  
CANTED FRONT WHEEL**



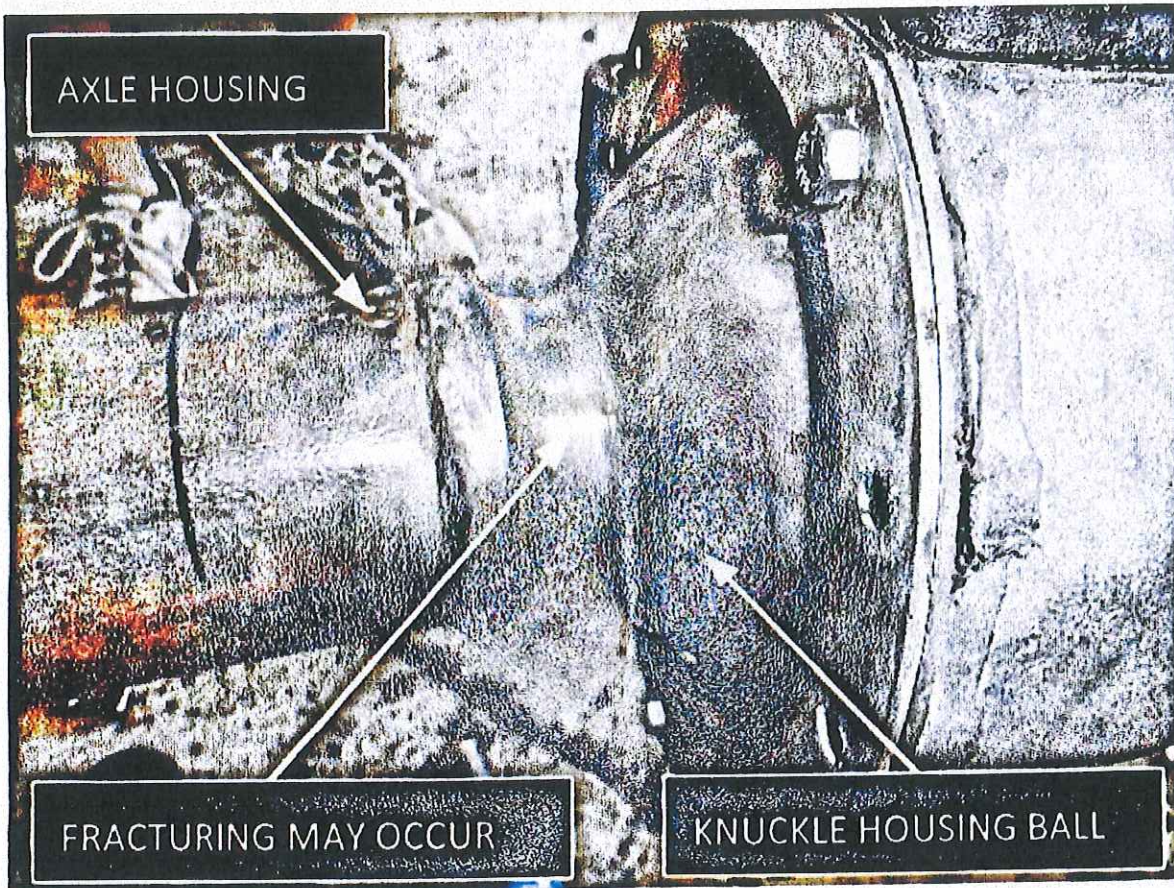
**NOTE:** All work must be performed by qualified personnel. Use only authorized components, specified or provided by Ride The Ducks. All applicable OSHA safety standards and safe industry practices must be observed. Observe all safety information contained in the manufacturers manuals. Make available this bulletin and all related technical information to personnel using the equipment.

**CONTACT US VIA EMAIL**  
**RTDI FLEET OPS HOTLINE: 417 266 7676**  
**RTDI PARTS: 417 266 7626**

**RIDE THE DUCKS INTERNATIONAL**  
Fleet Operations & Safety  
2320 West Highway 76  
Branson MO 65616

**Bulletin No. SB-00-14-13**  
**Release Date: 10/01/13**  
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**Applicable to: All Stretch Ducks**  
**Total Pages: 7**

Fig 1



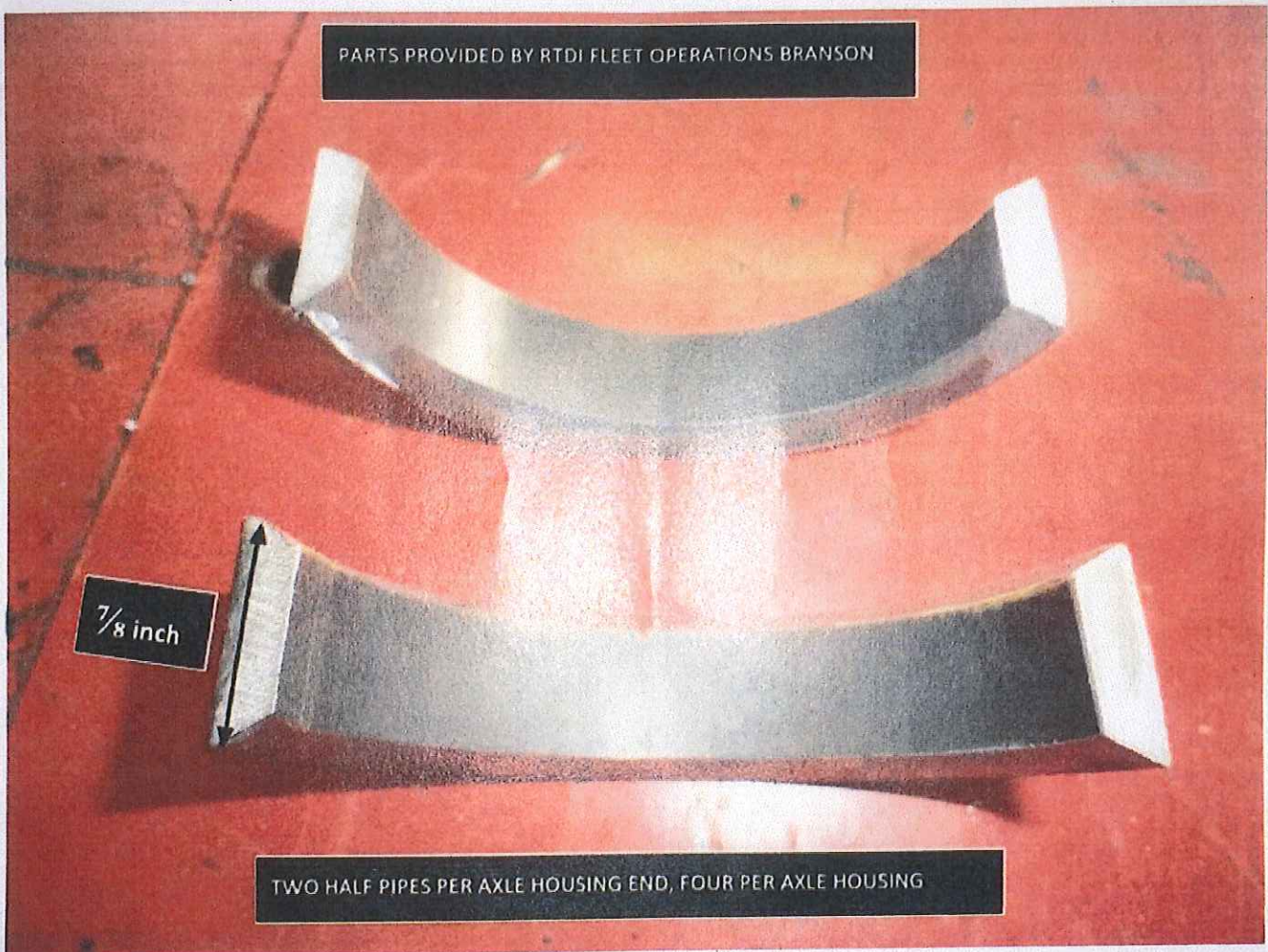
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Fig 2



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RTDI PARTS: 417 266 7626

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2320 West Highway 76  
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Completion Date: **Prior 2014**  
Applicable to: **All Stretch Ducks**  
Total Pages: 7

**Fig 3**



1. Remove axle from the Duck
2. Set axle housing on a secure stand
3. Remove Boot and hardware
4. Thoroughly clean (remove all grease)
5. Examine axle housing for fractures

Note: Bent or fractured axle housings are not to be modified.

*NOTE: All work must be performed by qualified personnel. Use only authorized components, specified or provided by Ride The Ducks. All applicable OSHA safety standards and safe industry practices must be observed. Observe all safety information contained in the manufacturers manuals. Make available this bulletin and all related technical information to personnel using the equipment.*

[CONTACT US VIA EMAIL](#)

RTDI FLEET OPS HOTLINE: 417 266 7676

RTDI PARTS: 417 266 7626

**RIDE THE DUCKS INTERNATIONAL**  
Fleet Operations & Safety  
2320 West Highway 76  
Branson MO 65616

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Applicable to: All Stretch Ducks  
Total Pages: 7

Fig 4



*NOTE: All work must be performed by qualified personnel. Use only authorized components, specified or provided by Ride The Ducks. All applicable OSHA safety standards and safe industry practices must be observed. Observe all safety information contained in the manufacturers manuals. Make available this bulletin and all related technical information to personnel using the equipment.*

[CONTACT US VIA EMAIL](#)  
RTDI FLEET OPS HOTLINE: 417 266 7676  
RTDI PARTS: 417 266 7626



**RIDE THE DUCKS INTERNATIONAL**

Fleet Operations & Safety  
 2320 West Highway 76  
 Branson MO 65616

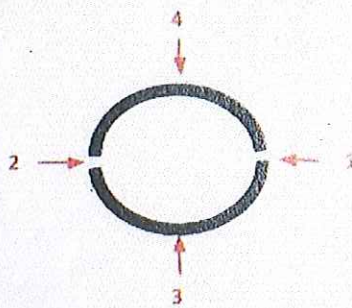
Bulletin No. SB-00-14-13  
 Release Date: 10/01/13  
 Effective Date: 10/01/13  
 Supersedes: N/A  
 Completion Date: Prior 2014  
 Applicable to: All Stretch Ducks  
 Total Pages: 7

Fig 5



Tack weld half pipes in place as shown in photo

1. Center half pipe in detent gap between ball end and axle housing
  2. Secure pipes in place with (vise grip) finger clamp
  3. Tack weld in the sequence provided below
  4. Ensure the axle housing stand is capable to allow the axle housing to rotate
  5. All welds must be done in a flat position
  6. Welder setting (spray arc)
    - .035 Steel hard wire
    - 75% Argon 25% Carbon Dioxide or 90% - 10%
    - Gas flow setting 30
- Pending on your machine
- Volts 30-32 / Amps 200-210



TACK WELDING

FLAT POSITION



WELDING

1. Apply 2 inches of weld in flat position then rotate axle housing 180 degrees.
2. Continue step (1) until all weld joints are filled

*NOTE: All work must be performed by qualified personnel. Use only authorized components, specified or provided by Ride The Ducks. All applicable OSHA safety standards and safe industry practices must be observed. Observe all safety information contained in the manufacturers manuals. Make available this bulletin and all related technical information to personnel using the equipment.*

CONTACT US VIA EMAIL  
 RTDI FLEET OPS HOTLINE: 417 266 7676  
 RTDI PARTS: 417 266 7626

**RIDE THE DUCKS INTERNATIONAL**  
Fleet Operations & Safety  
2320 West Highway 76  
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Fig 6



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**Photos from Duck Vehicle Inspections - Nov 16-17, 2015**



Stretch Duck axle housing



Stretch Duck axle with 2003 Ride the Ducks International modification



Stretch Duck axle with 2003 RTDI modification – possible cracked weld