

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of

WASTE MANAGEMENT OF
WASHINGTON, INC.,

Petitioner,

Seeking Exemption from the Provisions of
WAC 480-70-201 Relating to Medical
Waiver Requirement.

DOCKET TG-190746

ORDER 01

GRANTING
EXEMPTION FROM RULE

BACKGROUND

- 1 On August 27, 2019, Waste Management of Washington, Inc., (Waste Management or Company) filed with the Washington Utilities and Transportation Commission (Commission) a petition requesting an exemption from WAC 480-70-201.
- 2 WAC 480-70-201 requires solid waste companies to use drivers that have been medically examined and certified by a medical examiner listed on the National Registry of Medical Examiners.
- 3 In its Petition, Waste Management stated its driver, John O’Meara, has been medically certified to operate commercial motor vehicles when accompanied by a medical waiver due to a prior medical condition. Waste Management has included a note from John O’Meara’s doctor stating he is qualified to drive commercially. The Company seeks an exemption of the medical waiver requirement on behalf of Mr. O’Meara.
- 4 Washington State Department of Licensing (DOL) issues medical waivers to drivers with a commercial driver license (CDL) that operate in intrastate commerce. DOL cannot issue an intrastate medical waiver to Mr. O’Meara because the driver does not drive commercial motor vehicles that require a CDL.
- 5 The Federal Motor Carrier Safety Administration (FMCSA) issues medical waivers in the form of an exemption letter or a skill performance evaluation certificate to interstate drivers. FMCSA cannot issue a medical waiver because John O’Meara does not drive a commercial motor vehicle in interstate commerce.

- 6 Commission staff (Staff) reviewed the request and recommends granting Waste Management's request for exemption, subject to the following condition(s):
- (a) Driver John O'Meara must maintains a valid medical examiner's certificate provided by a medical examiner listed on the National Registry of Medical Examiners whenever operating a commercial motor vehicle as defined in WAC 480-70-196.
 - (b) The Company must maintain in John O'Meara's driver qualification file a doctor's statement that the driver's medical condition is not likely to interfere with his ability to safety operate a commercial motor vehicle and that the doctor's opinion is that the driver's condition is likely to remain stable for the time period that the medical certificate is valid.

DISCUSSION

- 7 We agree with Staff's recommendation and grant Waste Management's petition seeking exemption from the provisions of WAC 480-70-201 relating to the medical waiver requirement on behalf of driver John O'Meara subject to the conditions that Staff recommends.
- 8 Under WAC 480-70-051, the Commission may grant an exemption from the provisions of any rule in WAC 480-70 if doing so is consistent with the public interest, the purposes underlying regulation, and applicable statutes. Here, the Company provided documentation that a qualified medical doctor has assessed Mr. O'Meara and deemed him fit to operate a commercial motor vehicle for the period during which his medical certificate is valid. In light of these circumstances, we find that granting the requested exemption will not create additional safety risks, and that doing so is therefore consistent with WAC 480-70-051. We note that the Company must renew its request for exemption each time Mr. O'Meara's medical certificate is renewed.

FINDINGS AND CONCLUSIONS

- 9 (1) The Commission is an agency of the State of Washington vested by statute with the authority to regulate the rates, rules, regulations, practices, accounts and affiliated interests of public service companies, including solid waste companies.
- 10 (2) Waste Management is engaged in the business of providing solid waste services within the state of Washington and is a public service company subject to Commission jurisdiction.

- 11 (3) Waste Management is subject to WAC 480-70-201, which requires solid waste companies to use drivers that have been medically examined and certified.
- 12 (4) Under WAC 480-70-051, the Commission may grant an exemption from the provisions of any rule in WAC 480-70, if doing so is consistent with the public interest, the purposes underlying regulation, and applicable statutes. See also WAC 480-07-110.
- 13 (5) This matter came before the Commission at its regularly scheduled meeting on September 12, 2019.
- 14 (6) After review of the petition filed in Docket TG-190746 by Waste Management on August 27, 2019, and giving due consideration, the Commission finds that the exemption is in the public interest and is consistent with the purposes underlying the regulation and applicable statutes and should be granted subject to the conditions that Staff recommends.

ORDER

THE COMMISSION ORDERS:

- 15 (1) Waste Management of Washington, Inc., is granted an exemption from WAC 480-70-201, relating to the medical waiver requirement for driver John O'Meara.
- 16 (2) This exemption is subject to the following condition(s).
- (a) Driver John O'Meara must maintain a valid medical examiner's certificate provided by a medical examiner listed on the National Registry of Medical Examiners at all times while driving a commercial motor vehicle.
- (b) Waste Management of Washington, Inc., must maintain in John O'Meara's driver qualification file a doctor's statement that the driver's medical condition is not likely to interfere with his ability to safely operate a commercial motor vehicle and that the doctor's opinion is that the driver's condition is likely to remain stable for the time period the medical certificate is valid.
- 17 (3) The Commission retains jurisdiction over the subject matter and Waste Management of Washington, Inc., to effectuate the provisions of this Order.

The Commissioners, having determined this Order to be consistent with the public interest, directed the Secretary to enter this Order.

DATED at Lacey, Washington, and effective September 12, 2019.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARK L. JOHNSON
Executive Director and Secretary