



**MOTOR CARRIER FACTORS GROUP CHAIRMAN'S
FACTUAL REPORT**

Palm Springs, CA

HWY17MH005

(19 pages)

**NATIONAL TRANSPORTATION SAFETY BOARD
OFFICE OF HIGHWAY SAFETY
WASHINGTON, D.C.**

**MOTOR CARRIER FACTORS GROUP CHAIRMAN'S
FACTUAL REPORT**

A. CRASH INFORMATION

Location: Westbound Interstate 10 (I-10) near post mile marker 32.5, near Palm Springs, Riverside County, California

Vehicle #1: 1996 MCI Motor coach

Operator #1: USA Holiday

Vehicle #2: 2015 International Pro-Star Truck in combination with a 2013 Utility 3000 R Semi-trailer

Operator #2: Tri State Collision, LLC

Date: October 23, 2016

Time: Approximately 05:16 a.m. Pacific Daylight Time (PDT)

Transported: 30 Bus Passengers, 1 Truck Driver

Fatalities: 12 Bus Passengers, 1 Bus Driver

NTSB #: **HWY17MH005**

B. MOTOR CARRIER FACTORS GROUP

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C. CRASH SUMMARY

For a summary of the crash, refer to the *Crash Summary Report* in the docket for this investigation.

D. DETAILS OF THE MOTOR CARRIER FACTORS INVESTIGATION

This investigative report addresses the motor carrier history and operations of the vehicles involved in this crash, a 1996 MCI motorcoach (bus), owned and operated by USA Holiday of Alhambra, California and a 2015 International Pro-Star Truck in combination with a 2013 Utility 3000 R Semi-trailer (truck) owned and operated by Tri-State Collision LLC of Eufaula, Alabama. This report also details the employment history of the drivers of both vehicles, safety culture and regulatory oversight of both motor carriers' operations.

The bus driver was returning to the Los Angeles area from the Red Earth Casino in Thermal, California. The truck driver's trip originated in Madisonville, Louisiana, where he picked up the cargo load with a destination in Rancho Cucamonga, California.

1. USA Holiday's History and Operations

The first motor carrier in this crash was USA Holiday. According to the Federal Motor Carrier Safety Administration (FMCSA) Motor Carrier Management Information System (MCMIS), the carrier was issued United States Department of Transportation (USDOT) number 809233. The carrier was registered as an Interstate "For-Hire" motor carrier with a primary place of business in Alhambra, California. The carrier had an active operating authority and had been issued Motor Carrier (MC) # 359846. USA Holiday was a "for-hire" carrier of passengers. Per the carrier's latest MCS-150¹, the carrier had one motor coach and one driver in its employ.² During this investigation, staff discovered there was an additional driver employed by the carrier. Also discovered was that the carrier was not operating interstate.

NTSB investigators learned through an interview with an employee (part-time driver), that the owner of the carrier was the driver. The owner reportedly kept all his carrier records and files in a luggage compartment on the bus in a plastic storage tote. After an exhaustive search of the crash site, bus and debris, investigators were unable to locate any recent records. Numerous

¹ Motor Carrier Identification Report

² MCS -150 dated July 22, 2016, see Motor Carrier Factors Attachment #1.

records from 2005 and 2006 were located, but no driver qualification files or current records of duty status were located.

2. Carrier History

According to FMCSA's data, the carrier applied for operating authority on May 6, 1999. At the time of the crash, the primary route was transporting passengers from the Los Angeles, California area to different casinos within the state of California.

2.1. Company Hiring Practices/Safety Culture

Since the owner was the operator and deceased, there is no way for NTSB investigators to determine the safety culture or practices of the carrier.

3. State of California Oversight

Regulating passenger-carrying operating authority in California is a shared responsibility between, the Public Utilities Commission (PUC), the Department of Motor Vehicles (DMV) and the California Highway Patrol (CHP). The CHP is the designated law enforcement agency responsible for regulatory compliance of the California Vehicle Code (CVC) relating to the safe operation of commercial motor vehicles. The Motor Carrier Safety Operations (MCSO) Program is part of the CHP's Commercial Enforcement Program. CVC requires the CHP to inspect every designated maintenance facility, or terminal, or any person who operates any regulated vehicle or carriers must designate those terminals, which will be subject to the Basic Terminal Inspection program (BIT).

Under the CVC the CHP conducts inspections of commercial motor vehicles (CMV's) and on-site terminal inspections of motor carrier operations. Some of the MCSO programs are highlighted below.

3.1 CHP- Basic Inspection of Terminals Program/Annual Inspections

CVC requires the CHP to inspect every designated maintenance facility, or terminal, or any person who operates any regulated³ truck or trailer every 25 months (BIT) and 13 months for carriers operating buses (Annual). Carriers must designate those terminals, which will be subject to the Basic Inspection of Terminals program or Annual Inspection program for passenger carriers.

3.2 DMV Pull Notice Program

Vehicle Code section 1808.1 requires all drivers who possess a Class A or Class B CDL to be enrolled in the Department of Motor Vehicles (DMV) Pull Notice Program. The Pull Notice Program provides notice to employers, including self-employed drivers, when a driver is convicted of a violation of CVC, has a crash posted to his or her driving record, is classified as a negligent operator, or has his or her license suspended or revoked. Employers must obtain reports periodically on all their Class A or B drivers and must review the reports. Employers must maintain

³ Regulated Vehicles designated under CVC Section 34501.12(a).

the report on file and keep a record stating the report was reviewed and must be signed and dated and kept on file for inspection by the CHP.

According to California DMV, the carrier enrolled in the pull notice program in 2001 and was receiving notifications as required.

3.3 Terminal Inspections

Division 14.8 of the CVC outlines the CHP's authority and mandate to conduct terminal inspections and describes the vehicles and records that are subject to CHP inspection. Terminal inspections are similar to the Safety Audits and Compliance Reviews conducted by the FMCSA however the CHP's inspection emphasis is more focused on vehicles and compliance with California laws.⁴ During Terminal Inspections CHP is required to inspect a portion or all of the carrier's fleet. California Vehicle Code Section 34501(c)(1) requires the Department to inspect every designated maintenance facility, or terminal, of any person who operates any bus at least once every 13 months.

The California Highway Patrol had conducted a review of this carrier in April of 2016 and found the carrier's records to be satisfactory.

3.4 Inspection Process and Rating

Four categories of a motor carrier's operation are inspected for purposes of establishing a safety rating. These categories include inspection of the following:

1. The carrier's preventive maintenance program.
2. The condition of the carriers regulated vehicles.
3. The carrier's hours of service or time records.
4. If applicable, compliance of the Hazardous Material Regulations.

Completion of the Terminal Inspection will result in either a "satisfactory" (S) or "unsatisfactory" (U) rating in each category and an overall rating for the terminal. A rating of "satisfactory" ("S" rating) rating means that the carrier was found in compliance with all the applicable laws and regulations and all inspection categories were found satisfactory. If any inspection category is found unsatisfactory, then the terminal will receive an unsatisfactory "U" rating. Unsatisfactory means that the carrier was found to be out of compliance in several areas or violation were discovered of a serious nature. Those which, whether imminently dangerous or not, represent consistent failure on the part of the motor carrier to comply with applicable requirements.

⁴ CHP Manual 84.6, Chapter 7, p. 7-1. (OUO)

The last USA Holiday CHP pre-crash inspection was on April 6, 2016 that resulted in a “Satisfactory” rating. The CHP had conducted 13 total pre-crash annual inspections on USA Holiday since 2007. Results of those inspections are found in **Table 1**.⁵

Table 1. California Highway Patrol Annual inspection results

Date	Maintenance Rating	Driver Rating	Equipment Rating	Hazmat Rating	Terminal Rating	Inspection Category
4/6/2016	Satisfactory	Satisfactory	Satisfactory	Not Applicable	Satisfactory	G. Tour Bus
4/2/2015	Satisfactory	Unsatisfactory	Satisfactory	Not Applicable	Unsatisfactory	G. Tour Bus
2/20/2014	Satisfactory	Satisfactory	Satisfactory	Not Applicable	Satisfactory	G. Tour Bus
2/26/2013	Satisfactory	Satisfactory	Satisfactory	Not Applicable	Satisfactory	G. Tour Bus
2/14/2012	Satisfactory	Satisfactory	Satisfactory	Not Applicable	Satisfactory	G. Tour Bus
12/9/2010	Satisfactory	Satisfactory	Satisfactory	Not Applicable	Satisfactory	G. Tour Bus
8/3/2010	Satisfactory	Satisfactory	Satisfactory	Not Applicable	Satisfactory	G. Tour Bus
3/23/2010	Satisfactory	Unsatisfactory	Satisfactory	Not Applicable	Unsatisfactory	G. Tour Bus
3/11/2009	Satisfactory	Satisfactory	Satisfactory	Not Applicable	Satisfactory	G. Tour Bus
11/12/2008	Unsatisfactory	Satisfactory	Unsatisfactory	Not Applicable	Unsatisfactory	G. Tour Bus
7/22/2008	Unsatisfactory	Satisfactory	Unsatisfactory	Not Applicable	Unsatisfactory	G. Tour Bus
1/4/2008	Conditional	Satisfactory	Satisfactory	Not Applicable	Conditional	G. Tour Bus
9/27/2007	Unsatisfactory	Satisfactory	Unsatisfactory	Not Applicable	Unsatisfactory	G. Tour Bus

4. FMCSA Oversight

4.1. CSA and SMS

In 2010, the FMCSA introduced the Compliance, Safety, Accountability (CSA) system as an initiative to improve large truck and bus safety and ultimately reduce crashes, injuries, and fatalities that are related to CMVs. It introduced a new enforcement and compliance model that allows the FMCSA and its state partners to contact a larger number of carriers earlier in order to address safety problems before crashes occur. Along with CSA, the FMCSA also rolled out a new operational model called the Safety Measurement System (SMS), which replaced its predecessor, known as the SAFESTAT model. SMS uses a motor carrier’s data from roadside inspections, (including all safety-based violations), state-reported crashes, and the Federal Motor Carrier Census to quantify performance in the following Behavior Analysis and Safety Improvement Categories (BASICS).

⁵ <https://www.chp.ca.gov/programs-services/programs/commercial-vehicle-section/carrier-inspection-results>

4.2. CSA BASICS⁶

- **Unsafe Driving** — Operation of CMVs by drivers in a dangerous or careless manner. *Example violations:* Speeding, reckless driving, improper lane change, and inattention. (FMCSR Parts 392 and 397)
- **Hours-of-Service (HOS) Compliance** — Operation of CMVs by drivers who are ill, fatigued, or in non-compliance with the HOS regulations. This BASIC includes violations of regulations pertaining to records of duty status (RODS) as they relate to HOS requirements and the management of CMV driver fatigue. *Example violations:* false HOS RODS, and operating a CMV while ill or fatigued. (FMCSR Parts 392 and 395)
- **Driver Fitness** — Operation of CMVs by drivers who are unfit to operate a CMV due to lack of training, experience, or medical qualifications. *Example violations:* Failure to have a valid and appropriate commercial driver’s license (CDL) and being medically unqualified to operate a CMV. (FMCSR Parts 383 and 391)
- **Controlled Substances and Alcohol** — Operation of CMVs by drivers who are impaired due to alcohol, illegal drugs, and misuse of prescription or over-the-counter medications. *Example violations:* Use or possession of controlled substances/alcohol. (FMCSR Parts 382 and 392)
- **Vehicle Maintenance** — Failure to properly maintain a CMV and/or properly prevent shifting loads. *Example violations:* Brakes, lights, and other mechanical defects, failure to make required repairs, and improper load securement. (FMCSR Parts 392, 393, and 396)
- **Hazardous Materials (HM) Compliance** — Unsafe handling of HM on a CMV. *Example violations:* Release of HM from package, no shipping papers (carrier), and no placards/markings when required. (FMCSR Part 397 and Hazardous Materials Regulations Parts 171, 172, 173, 177, 178, 179, and 180)
- **Crash Indicator** — Histories or patterns of high crash involvement, including frequency and severity based on information from state-reported crashes

A carrier’s measurement for each BASIC depends on the following:

- The number of adverse safety events (violations related to that BASIC or crashes).
- The severity of violations or crashes.
- When the adverse safety events occurred, (events that are more recent are weighted more heavily).


⁶ CSA Methodology retrieved from www.fmcsa.dot.gov

After a measurement is determined, the carrier is then placed in a peer group (i.e., other carriers with similar numbers of inspections/carrier size). Percentiles from 0 to 100 are then determined by comparing the BASIC measurements of the carrier to the measurements of other carriers in the peer group. A percentile of “100” indicates the worst performance.

The FMCSA established threshold levels that would require agency action. Unsafe Driving, HOS, and Crash BASICs were set at lower thresholds because of their inherent risk. Additionally, passenger and hazmat carriers have lower thresholds than all other carriers because of their inherent risk. **Table 2** represents the thresholds set by the FMCSA that help prioritize agency intervention and resource management.⁷

Table 2. BASIC thresholds.⁸

BASIC	Passenger Carrier	HM Carrier	All Other Motor Carriers
Unsafe Driving, HOS, Crash	50%	60%	65%
Driver Fitness, Drug & Alcohol, Maintenance	65%	75%	80%
Hazardous Materials	80%	80%	80%

On a carrier’s SMS profile, which is publicly available on the SAFER website for only passenger carriers, an alert symbol  is displayed in any designated BASIC where the carrier has exceeded the corresponding threshold.⁹ This is also referred to as having an “alert” in a BASIC. At the time of the crash, the carrier displayed no alerts. The SMS profile also shows that at the time of the crash, the carrier’s vehicle out of service rate was 0 percent. The carrier’s driver out of service rate was 0 percent, both less than the national average of 20.7 percent and 5.5 percent respectively. A reason for this low percentage is lack of inspection data.

Since 2007, the carrier has had two compliance reviews (CRs) and an assessment prior to the crash. A focused CR is used when two or fewer BASICs have exceeded their thresholds or when only certain portions of the CFR relate to the carrier’s operations. A focused CR normally does not result in a safety rating and is usually classified as “non-rated” when completed, however it may result in an adverse safety rating (conditional or unsatisfactory)¹⁰. A comprehensive CR is used when three or more BASICs have exceeded their thresholds. A comprehensive CR may also be used if the carrier was involved in a crash or there has been a complaint made about the carrier. A comprehensive CR addresses all aspects of the carrier’s operation and normally results in a safety rating. The safety rating is determined by FMCSA using safety rating methodology outlined

⁷Retrieved from www.fmcsa.dot.gov

⁸Retrieved from <http://csa.fmcsa.dot.gov/FAQs.aspx>.

⁹FMCSA BASIC information publically available for Passenger and Hazardous Material carriers only. See additional information at the FMCSA Safer website: <http://safer.fmcsa.dot.gov/CompanySnapshot.aspx>.

¹⁰ Safety rating or rating means a rating of “satisfactory”, “conditional”, or “unsatisfactory” using the factors prescribed in 49CFR385.7 as computed under the Safety Fitness Methodology. **Safety Ratings:** (1) **Satisfactory** means a motor carrier has in place, functioning safety management controls to meet the safety fitness standards prescribed in 49CFR385.5. (2) **Conditional** means a motor carrier does not have adequate safety management controls in place to ensure compliance with the safety fitness standards that could result in occurrences listed in §385.5 (a) through (k). (3) **Unsatisfactory** 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** means that a safety rating has not been assigned to the motor carrier by FMCSA.

in 49CFR385.5 which evaluates patterns of critical and acute violations¹¹. **Table 3** summarizes the carrier’s CR history.

Table 3. Compliance Reviews.

Type of CR	Review Date	Safety Rating
Comprehensive review	01/12/2007	Satisfactory
Focused review	05/10/2012	Non-Rated
Assessment	09/03/2013	Non-Rated
Post- Crash	11/23/2016	Non-Rated

The comprehensive compliance review in 2007 was conducted because of an ongoing passenger carrier enforcement activity. As a result, the following violations were identified:

- No operating authority
- Failure to maintain driver qualification files
- Drug and Alcohol testing violations
- False records of duty status

The 2012 compliance review was a focused review. It was also conducted as part of an ongoing passenger carrier enforcement activity. As a result, investigators discovered the carrier used a suspended driver on November 17, 2011. The suspended driver was the same bus driver involved in this crash,

The 2013 compliance review was listed as an assessment. The purpose of the assessment was to conduct a quick look at the carrier due to a lack of carrier data in SMS. Once assessed, the carrier then entered a list to be prioritized for future review. There were no violations noted and it was determined the carrier was operating only intra-state and possessed no operating authority due to not having the appropriate level of insurance.

¹¹ Acute violations are those identified where non-compliance is so severe as to require immediate corrective action by the motor carrier regardless of the overall safety posture of the carrier. Critical violations relate to management and/or operational controls that show a pattern of non-compliance. A list of acute and critical violations are listed in Appendix B of 49CFR385.

A post-crash compliance review was conducted by FMCSA. As a result, a second driver was identified. The following violations were noted and were cited by FMCSA in an enforcement case:

- No pre-employment drug testing (second driver)
- Drug and alcohol sample size and randomness issues

4.3. Carrier Roadside Inspections

According to the MCMIS carrier profile, USA Holiday had five terminal inspections from December 9, 2010 to April 2, 2015 and no roadside inspections.¹² As a result of these inspections no drivers were placed out-of-service (OOS) and no vehicles were placed OOS. Both inspection categories had a zero percent average; in comparison to the national average of 5.5 percent OOS for drivers and 20.7 percent for vehicle's OOS.¹³ The MCMIS profile also indicated the carrier had no DOT reportable¹⁴ crashes.

4.4. Drug and Alcohol Testing

Under 49 Code of Federal Regulations (CFR) 382.305, motor carriers are required to randomly test all subject drivers to random drug and alcohol testing. The carrier had met the requirements for the bus driver involved in the crash. A post-crash toxicology test performed by the Civil Aeronautical Medical Institute (CAMI) was negative for tested drugs, for further information refer to the *Human Performance Group Chairman's Factual Report*.

4.5. Hours of Service

At the time of the crash, the driver was reportedly using a logbook for accountability of the driver's hours of service. The record of duty status/logbook was lost in the crash investigators could not determine hours of service regulation compliance. However, with the bus's scheduled departure and return times, the route was 3 to 4 hours in each direction. The driver of the bus was allowed 10 hours of driving time¹⁵.

5. Bus Driver History

5.1. Bus Driver's Driving Record

The bus driver in this crash was a 59-year-old-male. At the time of the crash the driver held a valid California Class B CDL with a passenger endorsement. The driver was issued his most recent California CDL on July 6, 2016 with an expiration date of September 2021. There were no restrictions on the CDL. A driver's license history was obtained from CHP. The record

¹² USA Holiday MCMIS Profile (excerpts), See Motor Carrier Factors Attachment #2

¹³ Roadside Inspection OOS Rates for both Large Truck and Bus Statistics Fiscal Year 2015, retrieved from: <https://csa.fmcsa.dot.gov/>

¹⁴ 49CFR390.5 defines a reportable crash as any CMV crash resulting in a fatality, injury or tow away due to disabling damage

¹⁵ 49CFR393.5

identified, 13 traffic violation convictions of the California Vehicle Code beginning March 2002. **Table 4** contains the convictions and dates of offense.

Table 4. Motor Vehicle Convictions.

Date	State	Violation
March 8, 2002	California	Stop Sign/Signal violation
September 5, 2005	California	Speed >70Mph
June 10, 2006	California	License Class violation Failure to Appear
January 15, 2007	California	Backing on highway Open container
February 5, 2011	California	Lane violation
October 3, 2011	California	Lane violation CMV violation ¹⁶
November 5, 2011	California	Lane violation CMV violation ¹⁷
December 6, 2011	California	Cell phone violation
November 2, 2013	California	Failure to appear

¹⁶ No further information available

¹⁷ No further information available

5.2. Medical Certification

Effective May 21, 2014, medical examiners conducting DOT medical examinations must be listed on the National Registry of Certified Medical Examiners.¹⁸ The bus driver's medical certification identified National Registry number 3237801650, as the medical professional who performed the DOT physical. According to the FMCSA National Registry, this medical professional holds the proper certifications under the federal regulations.

At the time of the crash, the driver held a valid DOT medical certificate with an issue date of July 6, 2016 and an expiration date of July 6, 2018. There were no restrictions listed on the medical certificate. For further medical certificate information, see *Human Performance Group Chairman's Factual Report* in the docket for this investigation.

5.3. Bus Driver's Crash History

According to the California Department of Motor Vehicles records, the bus driver has had six previous reportable crashes since December 1998. According to the crash report obtained by NTSB investigators, on June 24, 2016 the bus driver was the victim of a hit and run crash while operating a passenger vehicle.¹⁹ The other five crash reports were beyond the records retention requirements for the records to be retained and were not available to investigators.

5.4. Bus Driver's Hours of Service

Investigators were unable to obtain records of duty status or payroll records to determine the bus driver's compliance with hours of service regulations.

6. Tri-State Collision's History and Motor Carrier Operations

The second motor carrier in this crash was Tri-State Collision LLC. According to the FMCSA Motor Carrier Management Information System (MCMIS), the carrier was issued USDOT number 1446432 for registration purposes²⁰ only on December 28, 2005. On November 21, 2011, the carrier was removed from the new entrant program and granted permanent status. The carrier's primary place of business was in Eufaula, Alabama. The carrier had an active operating authority and had been issued MC # 791679. Tri-State Collision was a "for-hire" carrier of refrigerated goods, general freight and fresh produce. Per the carrier's latest MCS-150, the carrier had 10 truck tractors, 12 semi-trailers and 10 drivers in its employ.²¹

Tri-State Collision was formed on May 27, 2005 as a registered corporation with the state of Alabama. During an interview with the owner, it was learned that the carrier grew out of an existing towing company into the separate property carrier it is today. The carrier is a small "for hire" property carrier with the primary place of business in Eufaula, Alabama. The carrier receives

¹⁸ 49CFR391.42 Schedule for use of medical examiners listed on the National Registry of Certified Medical Examiners

¹⁹ CHP Crash Report #9535-2016-8637, see Motor Carrier Factors Attachment #3

²⁰ A registration only DOT number is not valid as operating authority

²¹ MCS -150 dated May 3, 2016, see Motor Carrier Factors Attachment #4

most of its loads (>90%) from a local broker and travels throughout the southeast and western United States.

6.1. Hiring practices

Investigators interviewed the owner of the carrier. The owner stated he advertised openings on Craigslist and by word of mouth through his current drivers. Once an applicant expressed interest, they called the office and approximately 2-3 pages of information was taken to being the application process. The applicant submitted a driving history, was subject to an interview and a pre-employment drug test. The carrier preferred drivers with at least two years' experience and it was ultimately up to the insurance carrier if the driver was employable or not.

6.2. Driver Training

Initial driver training and an evaluation was conducted for all newly hired drivers. The owner stated this consisted of walk around inspection training and a road test. The purpose of the road test was to determine the competency of the driver. Things that were noted not grinding gears, maintaining the lane, smooth operating, etc.

6.3. Safety Culture

The owner stated the carrier did not have many written safety policies. He cited a safety belt and cellular phone policy. Investigators requested copies of these policies. The carrier provided the safety belt policy and a signed copy for the truck driver's acknowledgment of the policy, but stated the safety consultant they were using had done away with the cell phone policy. The carrier provides a safety incentive bonus of \$50 for every clean (no violations) roadside inspection and \$100 for a clean level 1 inspection²².

6.4. Hours of Service

The carrier did not have a fatigue management policy, and relied upon the drivers to call if there was a problem. The carrier utilized the "keep current" guidance from JJ Keller in regards to logbooks. Logbooks were spot checked by the company's hired safety consultant and reports were forwarded to the owner of the carrier. The owner admitted to not looking at the report as often as he should. It was discovered that the safety consultant was auditing the logbooks by comparing the records of duty status to fuel slips. Investigators also learned that the carrier's vehicles were equipped with a Fleetmatics®²³ GPS system that registers the trucks location every 90 seconds while the truck is in motion. This information was not being utilized in the logbook audit process.

²² A Level 1 inspection is a complete examination of the driver and vehicle

²³ Fleetmatics® is a public limited company providing software as a service to fleet management based in Ireland. It offers web-based and mobile application solutions that provides fleet operators with information on vehicle location, speed, mileage and fuel usage.

7. FMCSA Oversight

At the time of the crash, the carrier displayed alerts in Hours of Service (98) and Crash (67). The carrier had an Hours of Service alert since August of 2013. The SMS profile also shows that at the time of the crash, the carrier's vehicle out of service rate was 16 percent, below the national average of 20.7 percent. The carrier's driver out of service rate was 19 percent and exceeding the national average of 5.5 percent.

Since receiving its DOT number in 2005, the carrier had never been subject to a compliance review. A new entrant safety audit was conducted in 2011 and the carrier subsequently failed. As a result, the carrier was required to complete a corrective action plan (CAP) and submit that plan to FMCSA. In the CAP, the carrier showed it had corrected the controlled substance and alcohol testing deficiencies discovered during the safety audit and had also corrected its record keeping issues.

The carrier had been issued a CSA warning letter for Hours of Service exceeding the BASIC alert threshold on September 6, 2013²⁴.

A post-crash compliance review was conducted by FMCSA. As a result of that review, the following violations of the Federal Motor Carrier Safety Regulations (FMCSRs) were discovered:

- Failure to maintain driver qualification file on each driver employed (Critical)
- Making or permitting a driver to make a false report regarding duty status (Critical)
- Requiring or permitting a property-carrying CMV driver to drive after the end of the 14th hour after coming on duty
- Failing to ensure a CMV driver logs a 30 minute rest break on their RODS
- Requiring or permitting a property-carrying CMV driver to drive after having been on duty 70 hours in 8 consecutive days
- False records of duty status (inaccurate)
- Failing to require the driver to prepare RODS in form and manner prescribed
- Failing to preserve a driver's record of duty status for 6 months
- Failing to maintain evidence of inspector's qualifications

FMCSA determined the safety rating of the carrier to be conditional, due to the violations discovered during the compliance review.

²⁴ CSA Warning letter, see Motor Carrier Factors attachment #5

7.1. Carrier Roadside Inspections

According to the MCMIS carrier profile, Tri-State Collision had 48 roadside inspections during the period from 12/09/2010 to 04/02/2015.²⁵ These inspections resulted in 19 percent of the drivers being placed out-of-service (OOS) and 16 percent of the vehicles being placed OOS. This is in comparison to the National Average of 5.0 percent OOS for drivers and 20.3 percent for vehicle's OOS.²⁶ The MCMIS profile also indicated the carrier had four DOT reportable crashes. However, FMCSA ruled that one of the crashes (truck v. deer) was non-preventable and not applicable for rating purposes.

8. Truck Driver History

8.1. Driver Qualifications/Employment History

The truck driver was identified as a 50-year-old male. According to carrier records the driver was hired as a driver September 22, 2016. At the time of the crash the driver held a valid Georgia Class A CDL, with an endorsement "T" for double and triple trailers. The driver was issued his latest Georgia CDL on March 25, 2016. The current CDL was due to expire in August 2020. There were no restrictions on the CDL. During an interview, the driver stated he had originally been trained by the US Army to operate heavy vehicles. He then attended training while employed by FedEx in 2000 to obtain a civilian CDL. The truck driver was first issued a Georgia CDL on June 8, 2001. Investigators were able to locate three prior carriers where the truck driver had worked. **Table 6** is a summary of those carriers and the dates of employment.

Table 6. Prior employers

Carrier	Date of Employment
FedEx Freight	April 2000 to April 2004
Sunco Carriers	April 2004 to December 2011
R.E. Garrison	December 2011 to September 2016

Investigation revealed that the truck driver had been an owner/operator leased to Sunco Carriers from April 2004 to December 2011. In a job application, the driver listed the reason for

²⁵ Tri-State Collision MCMIS Profile (excerpts), See Motor Carrier Factors attachment #6

²⁶ Roadside Inspection OOS Rates for both Large Truck and Bus Statistics Fiscal Year 2015, retrieved from: <https://csa.fmcsa.dot.gov/>

leaving Sunco was E-logs.²⁷ While at Sunco, the driver reported having obtained an award for 500,000 safe miles driven. Investigation also revealed the truck driver was dismissed from RE Garrison truck, his next employer, for safety issues (speeding conviction).

8.2. Truck Driver Crash History

During his employment with Sunco, carrier records list a preventable DOT reportable crash on August 21, 2009. The crash was described as a backing crash and there were not any further details available.

8.3. Medical Certification

Effective May 21, 2014, medical examiners conducting DOT medical examinations must be listed on the National Registry of Certified Medical Examiners.²⁸ The truck driver's DOT indicated National Registry number 8343724872, as the medical professional who performed the DOT physical. According to the FMCSA National Registry, this medical professional held the proper certifications under the federal regulations.

At the time of the crash, the driver held a valid DOT medical certificate with an issue date of January 13, 2015 and an expiration date of January 13, 2017. There were no restrictions listed on the medical certificate. Investigation revealed that the medical professional was under indictment for conducting thousands of allegedly fraudulent DOT medical exams.²⁹

For further medical certificate information, see *Human Performance Group Chairman's Factual Report* and *Medical Group Chairman's Factual Report*.

8.4. Drug and Alcohol Testing

The truck driver had records of two pre-employment drug tests on December 12, 2011 and September 19, 2016 and a post-crash drug test completed on October 23, 2016. All three test were negative for the controlled substances tested in the standard DOT drug testing protocols. For further information on post-crash toxicological testing, see the *Human Performance Group Chairman's Factual Report* in the docket for this investigation.

8.5. Truck Driver's Driving Record

Investigators locate numerous past traffic violations on the truck driver's driving record³⁰. See **Table 7** for further information.

²⁷ E-logs are electronic logs or Electronic On-Board Recording Devices

²⁸ 49CFR§391.42 Schedule for use of medical examiners listed on the National Registry of Certified Medical Examiners

²⁹<https://www.justice.gov/usao-ndga/pr/chiropractor-indicted-falsifying-medical-examination-records-commercial-drivers>

³⁰ RE Garrison driver qualification files, CDLIS, DMV files

Table 7. Driver's convictions

Date	State	Violation
October 12, 1992	Georgia	Speeding (75 in 55)
April 1, 1993	Georgia	Speeding (64 in 45)
April 7, 1993	Alabama	Speeding (50 in 35)
October 10, 1993	Georgia	Speeding (70 in 55)
July 1 1994	Georgia	Speeding (78 in 55)
October 12 1994	Georgia	Speeding (70 in 55)
December 23, 1994	Alabama	Speeding (78 in 55)
March 5, 1995	Florida	Speeding (80 in 65)
March 29, 1995	Georgia	Failure to maintain insurance
February 7, 1996	Georgia	Failure to obey stop sign
June 19, 2006	Georgia	Speeding (70 in 55)
October 20, 2009	New York	Speeding (NFI)
January 3, 2011	Georgia	Obscured license plate
February 15, 2015	Kansas	Improper lane change or location
August 30, 2016	New Mexico	Speeding (60 in 45)

In addition to these convictions, the truck driver had two other violations noted on a roadside inspection report conducted on February 15, 2015 in Kansas. These two violations were for logbook not current and Failure to obey a traffic control device. The driver was not cited for either of these two additional violations.

8.6. Hour of Service

At the time of the crash, the carrier was using paper logbooks for accountability of the driver's hours of service (HOS). The carrier is supposed to adhere to the property-carrying HOS

requirements §395.3, which states: “No motor carrier shall permit or require any driver used by it to drive a property-carrying commercial motor vehicle, nor shall any such driver drive a property-carrying commercial motor vehicle:

(1) More than 11 hours following 10 consecutive hours off duty; or

(2) For any period after having been on duty 14 hours following 10 consecutive hours off duty.

(b) No motor carrier shall permit or require a driver of a passenger-carrying commercial motor vehicle to drive, nor shall any driver drive a passenger-carrying commercial motor vehicle, regardless of the number of motor carriers using the driver’s services, for any period after—

(1) Having been on duty 60 hours in any 7 consecutive days if the employing motor carrier does not operate commercial motor vehicles every day of the week; or

(2) Having been on duty 70 hours in any period of 8 consecutive days if the employing motor carrier operates commercial motor vehicles every day of the week.

CHP officers at the crash scene recover the logbook pages for the day of the crash and for days prior. The truck tractor was equipped with a Fleetmatics® GPS system. This system transmits every 90 seconds while the vehicle is in motion. Investigators obtained a Fleetmatic’s® download for the previous 30 days prior to the crash. Investigators compared the Fleetmatic’s® information to the driver’s hand-written logs from the date of the crash back to October 14, 2016.

Investigators also utilized the GPS data to reconstruct the driver’s hours of service from October 14th until the day of the crash. After examining the reconstructed logs and calculating the driver’s hours of service, it was discovered that the driver had numerous 11, 14 and 70-hour rule violations from October 15, 2016 up until the time of the crash.

Table 8 compares the driver’s logbook entries to recovered GPS data and notes violations of the 11 and 70-hour rule.

Table 8 Hours of Service Discrepancies

Date	Logbook Hours	GPS Hours
October 23, 2016 ^a	2.25	2.25
October 22, 2016 ^a	11.0	9.25
October 21, 2016 ^a	10.75	13*
October 20, 2016 ^a	10.75	9.75*

October 19, 2016 ^a	0	5.0
October 18, 2016 ^a	6.75	5.25
October 17, 2016 ^a	10.5	12.25*
October 16, 2016 ^a	10.5	15*
October 15, 2016 ^a	11.0	14.75*
October 14, 2017	7.25	7.25

*In violation of the 11-hour rule

^a In violation of the 70-hour rule

E. DOCKET MATERIAL

The following attachments are included in the docket for this investigation:

LIST OF ATTACHMENTS

- Attachment #1 - MCS-150 USA Holiday
- Attachment #2 - USA Holiday MCMIS Report
- Attachment #3 - CHP Crash Report
- Attachment #4 - MCS-150 Tri-State Collision
- Attachment #5 - CSA Warning letter
- Attachment #6 - Tri-State Collision MCMIS Report

END OF REPORT

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