



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

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

A. CRASH INFORMATION

Location: Intersection of Northern Boulevard and Main Street, Flushing, NY

Vehicle #1: 2015 Motor Coach Industries Motorcoach

Operator #1: Dahlia Group Inc., of Flushing, NY

Vehicle #2: 2015 New Flyer Transit Bus

Operator #2: New York City Transit

Vehicle #3: 2009 Honda Odyssey

Operator #3: Parked at curb, not running, unoccupied

Vehicle #4: 2002 Toyota Sequoia

Operator #4: Parked at curb, not running, occupied by two passengers (one in the driver's seat, and one in the right-front passenger seat)

Date: Monday, September 18, 2017

Time: 6:16 a.m. Eastern Daylight Time (EDT)

NTSB #: **HWY17MH015**

B. MOTOR CARRIER FACTORS GROUP

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C. DETAILS OF THE MOTOR CARRIER FACTORS INVESTIGATION

This investigative report addresses the motor carrier history and operations of the two vehicles involved in this crash, a 2015 MCI motorcoach, owned and operated by Dahlia Group Inc of Flushing, New York and a 2015 New Flyer Transit bus owned and operated by the New York City Transit Authority of Brooklyn, New York. This report also details the employment history of the drivers of both vehicles, safety culture and regulatory oversight of both motor carriers' operations.

The motorcoach driver was en route to pick up passengers on Main Street between 37th and 39th Avenue in Flushing, New York and then was to continue to Washington, DC for a chartered tour. The transit bus was on its route within the borough of Queens, New York¹.

1. Dahlia Group Inc's History and Operations

The first motor carrier in this crash was Dahlia Group Inc (Dahlia). 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 1788395 in 2008. Dahlia was subject to and passed a New Entrant Safety Audit on January 20, 2009. The carrier was registered as an Interstate "For-Hire" motor carrier with a primary place of business in Flushing, New York. The carrier had an active operating authority and had been issued Motor Carrier (MC) # 651472. Dahlia was a "for-hire" carrier of passengers. Per the carrier's latest MCS-150², the carrier stated they had five motor coaches and six drivers in its employ³. During this investigation, staff discovered Dahlia operated 16 motorcoaches and employed 20 drivers. Dahlia's business is primarily transporting passengers that travel to the United States from Korea, Taiwan and China on trips booked through travel agencies in their home countries. Once the passengers arrived in the US, Dahlia would transport them on arranged chartered tours to various destinations.

¹ Route Q20B (Jamaica to College Point, Queens)

² Motor Carrier Identification Report

³ MCS -150 dated January 24, 2017, see Motor Carrier Factors Attachment – MCS-150 Dahlia

1.1. Carrier History

According to FMCSA's data, the carrier obtained its operating authority on July 2, 2008 as Dahlia Group Inc. and passed a New Entrant Safety Audit on January 20, 2009.

The carrier had an additional carrier name and USDOT number associated with its operations: Dahlia Group, Inc USDOT 2480072. This carrier was owned by the same principles as the New York based Dahlia. This second carrier was based out of Boston, Massachusetts and had a MCS-150 filing date of February 28, 2014. The Boston based Dahlia entered the new entrant program and passed its new entrant safety audit on June 23, 2014. The second carrier was no longer active. It had originally been utilized to transport passengers from the Boston area to casinos. The carrier lost its contract for these casino trips upon the death of the company president and the remaining owner inactivated the Boston carrier. The buses from this Boston group were sold back to the bus dealership where they had been purchased or were acquired by the Flushing based Dahlia and are used in its current operations. In speaking with the owner, she stated Dahlia had been in business since 2000 from its New York location.

1.2. Company Hiring Practices/Safety Culture

NTSB investigators interviewed the carrier's operations manager, who stated he was responsible for new hires. During that interview the manager was asked to describe the carrier's hiring practices. When there is an opening for a driver, the carrier sometimes advertises the opening. For the most part, all new hires are from word of mouth, driver referrals. The manager would then require the prospective driver to fill out an application and provide an abstract of his/her driving record for review. The application and abstract were reviewed for violations. The manager preferred drivers with three or more years of commercial driving experience. Once that step was complete, the applicant would be sent for a pre-employment alcohol and controlled substance tests. Once a negative result was obtained from the alcohol and controlled substance tests and the driver produced a valid medical certificate, a test drive was administered by the manager. The manager looked for speeding issues, nervousness, and general control of the vehicle on the highway and city streets. If the manager decided the applicant met his expectations, the applicant was then hired as a driver. The manager admittedly had not conducted inquiries with any previous employers of applicants as required⁴.

The motorcoach driver involved in this crash was not subjected to the hiring process as described. The manager informed investigators that the driver had been hired by the male president/owner of Dahlia who had passed away in July of 2017. The manager was unaware of the process used by the deceased owner, and unaware when the motorcoach driver involved in the crash was hired. After reviewing the motorcoach driver's qualification file, a pre-employment controlled substance test and New York State driver's license abstract were located for the motorcoach driver. Comparing these documents with the carrier's payroll records for 2016, a hire date of June 3, 2016 was established for the motorcoach driver.

⁴ 49CFR391.23(a)

There were no written policies in place to cover the hiring process. The only written policy was the regulatory require alcohol and controlled substance testing policy.

In the 12 months prior to the crash, Dahlia had five drivers cited on roadside inspection reports for unsafe driving acts. There was no evidence of disciplinary action taken for these violations nor was there a policy in place to address these issues

The operations manager stated he was responsible for reviewing the drivers' logbooks to ensure that they were accurate and not in violation of the hours of service regulations. The manager stated that due to his workload, he was unable to adequately manage the logbook reviews.

1.3. State of New York Oversight

Regulating passenger-carrying operating authority in New York is a shared responsibility between, the Department of Transportation (DOT), the Department of Motor Vehicles (DMV), and the New York State Police (NYSP). The state of New York utilizes New York Vehicle and Traffic Law, Article 19-A⁵ to ensure that passenger carrying drivers are qualified to operate passenger carrying vehicles. The basic requirements of Article 19-A are:

- Completion of pre-employment and biennial medical examinations and any required follow-ups
- Submission of pre-employment and annual driver license abstracts
- Submission of fingerprints of school bus drivers for criminal history review
- Completion of annual defensive driving observations
- Completion of biennial road tests
- Completion of biennial oral and written tests

Passenger carriers are required to provide a complete updated list of active drivers, so those drivers can be properly monitored. Investigation revealed that the motorcoach driver in this crash was not on the Article 19-A list maintained by the carrier and submitted to the state of New York.

Dahlia was subject to three Article 19-A audits by the state of New York prior to the crash, the latest being completed on January 11, 2017⁶. In the Article 19-A audits conducted on November 18, 2013 and December 5, 2014, the motorcoach driver from this crash was listed as a driver with annotations of "file missing" in both reviews. Numerous record keeping violations were cited by investigators. The motorcoach driver involved in the crash was not listed as driver as he was required to be and subsequently was not subject to the January 2017 review. As a result of the January 2017 audit, 92 violations of New York's Article 19-A were discovered. Most of the violations were for late physicals and late or missing driver's record reviews. Numerous violations were repeat violations from the previous reviews. There were also two violations for misrepresenting a certificate of compliance. Where company representatives signed affidavits

⁵ <https://dmv.ny.gov/motor-carriers/information-and-forms-article-19>

⁶ Motor Carrier Factors Attachment – DMV Audit Article 19-A Report, Dahlia January 2017

stating the carrier was complying with Article 19-A. These affidavits were dated July 13, 2015 and June 7, 2016.

Carriers with violations discovered are subject to a civil penalty. Carriers may waive their right to an administrative hearing by paying a waiver amount that is substantially less than the amount that could be imposed if found to have committed the violations at the administrative hearing. In the three pre-crash cases Dahlia had elected to utilize the waiver option to address violations discovered.

A post-crash audit was conducted by New York DMV, there were 82 violations discovered and submitted to the DMV for a potential enforcement case. Many of these violations were due to the motorcoach driver not being listed as a driver by Dahlia as required by DMV's Article 19-A rules. On March 13, 2018 the enforcement case was settled by a mutual agreement between the principals of Dahlia and DMV. As a result, a civil penalty (fine) was agreed to and Dahlia agreed to surrender their operating authority to DMV. Dahlia also agreed not to operate within New York State as Dahlia or as a new carrier.

1.4. FMCSA Oversight

1.4.1. 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).

1.4.2. CSA BASICS⁷

- **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)

⁷ CSA Methodology retrieved from www.fmcsa.dot.gov

- **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).


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 1** represents the thresholds set by the FMCSA that help prioritize agency intervention and resource management.⁸

⁸Retrieved from www.fmcsa.dot.gov

Table 1. BASIC thresholds.⁹

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.¹⁰ This is also referred to as having an "alert" in a BASIC.

At the time of the crash, the carrier displayed an alert in the unsafe driving category (85). The alert had been active since July of 2015. 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 2.9 percent, both less than the national average of 20.7 percent and 5.5 percent respectively.

Since 2007, Dahlia has had four comprehensive compliance reviews (CRs) prior to the crash. There are two types of CR, a focused and a comprehensive. A focused CR is used when two or fewer BASICs have exceeded their thresholds, when only certain portions of the CFR relate to 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)¹¹. 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. In Dahlia's case all four pre-crash CRs were required by MAP-21¹². 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 in 49 Code of Federal Regulations (CFR) 385.5 which evaluates patterns of critical and acute violations¹³. **Table 2** summarizes the carrier's CR history.

⁹Retrieved from <http://csa.fmcsa.dot.gov/FAQs.aspx>.

¹⁰FMCSA BASIC information publicly available for Passenger and Hazardous Material carriers only. See additional information at the FMCSA Safer website: <http://safer.fmcsa.dot.gov/CompanySnapshot.aspx>.

¹¹ 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.

¹² <https://www.fhwa.dot.gov/map21/>

¹³ 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

Table 2. Compliance Reviews.

Type of CR	Review Date	Safety Rating
Comprehensive review	September 18, 2009	Satisfactory
Comprehensive review	July 2, 2011	Satisfactory
Comprehensive review	January 20, 2013	Satisfactory
Comprehensive review	September 20, 2015	Satisfactory
Comprehensive review/Post crash	October 3, 2017	Conditional

A post-crash compliance review was conducted by FMCSA and resulted in a conditional rating. The following violations were noted and were cited by FMCSA:

- No random alcohol testing for CY 2016
- Drug and alcohol sample size and randomness issues
 - Testing pool included 6 drivers that were no longer employed
 - Testing pool did not include 13 current drivers
- False records of duty status
- 10-hour rule violation by the crash driver on September 2, 2017
 - Driver drove 11.6 hours
- Crash driver's lack of application, failing to investigate driver's background

2. Carrier Roadside Inspections

According to the MCMIS carrier profile, Dahlia had 30 roadside inspections between May 20, 2016 and August 31, 2017.¹⁴ 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

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.

¹⁴ Motor Carrier Factors Attachment - Dahlia Group Inc MCMIS Profile (excerpts),

average; in comparison to the national average of 5.5 percent OOS for drivers and 20.7 percent for vehicle's OOS.¹⁵ The MCMIS profile also indicated the carrier had one DOT reportable¹⁶ crash on February 8, 2016.

2.1. Controlled Substance and Alcohol Testing

Under 49 CFR 382.305, motor carriers are required to randomly test all subject drivers to random drug and alcohol testing. The carrier had met the testing requirements for the motorcoach 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*.

As cited in the post-crash compliance review, Dahlia's controlled substance and alcohol testing program had several issues. Dahlia had failed to have any random alcohol testing done as required in CY2016. The pool of drivers for random testing should have contained 22 drivers. There were 19 discrepancies discovered. Dahlia had included 6 drivers who were no longer employed by them and should have been removed from the random pool and 13 current drivers that should have been included in the random pool were not. Dahlia also had failed to provide employees with a written policy on misuse of alcohol and controlled substances.

3. Motorcoach Driver's History

3.1. Motorcoach Driver's Driving Record

The motorcoach driver in this crash was a 49-year-old-male. At the time of the crash the driver held a valid New York Class B Commercial Driver's License (CDL) with a passenger endorsement. The driver was issued his first New York CDL on February with an expiration date of May on his current CDL. There were no restrictions on the driver's CDL.

A review of the motorcoach driver's New York State driver's license abstract showed a conviction November 21, 2011 in Manhattan, NY for improper turn while operating a motorcoach. A Commercial Vehicle Driver's License Information System (CDLIS) check on the driver's license showed only a conviction in Connecticut on April 10, 2015 for driving under the influence (DUI)¹⁷. Further investigation revealed that the DUI offense occurred while the motorcoach driver was driving a car. 49 CFR 383.51 requires a CDL holder who is convicted of a DUI offense in a "non-CDL required vehicle" shall have the CDL privilege withdrawn for 1 year.

Investigators were able to determine that the state of Connecticut properly notified New York state of the conviction. New York's computer system was not programmed to enact the year withdrawal for a non-CDL required vehicle drunk driving offense by a CDL holder. New York

¹⁵ Roadside Inspection OOS Rates for both Large Truck and Bus Statistics Fiscal Year 2015, retrieved from: <https://csa.fmcsa.dot.gov/>

¹⁶ 49CFR390.5 defines a reportable crash as any CMV crash resulting in a fatality, injury or tow away due to disabling damage

¹⁷ New York State calls the same offense Driving While Intoxicated (DWI)

has since corrected this issue and an offense such as this would now be logged as a disqualifying offense resulting in a CDL withdrawal.

Investigators requested FMCSA conduct an audit to determine if this instance described above was isolated or was more widespread than originally discovered. FMCSA conducted an internal review of Section 116-Administrative Per Se for a BAC ¹⁸ at or over .08 percent reported by States in the CDLIS program during the January 1, 2017 to November 1, 2017 timeframe. These convictions were transmitted to 24 - different States, 3 - Canadian provinces and 1 -Mexico. **Table 3** provides the numbers of incidents and the states and other jurisdictions they were reported to.

Table 3 State of Record and Number of Records Reviewed

AZ – 1	MI – 7	ON – 1
CA – 6	MN – 1	PA – 2
CO - 22	MO – 2	SC – 4
FL – 8	MS – 1	SK – 1
GA – 1	MT – 1	TN – 5
IL – 8	MX – 1	TX - 3
IN -1	NM – 3	WA – 2
KY – 10	NY – 2	WI – 2
LA – 1	OH – 15	
ME – 1	OK – 1	

FMCSA determined all jurisdictions took the appropriate action to disqualify the driver for the proper period in every case. FMCSA also reviewed State Compliance Records Enterprise (SCORE) System to determine if any States had existing discrepancies related to taking disqualification for an Administrative Per Se convictions. As a result, it was determined that the state of Wyoming has a known issue with imposing the correct disqualification for Administrative Per Se convictions. Wyoming has a corrective action plan approved by FMCSA and is seeking legislation in 2018 to address the deficiency.

3.2. Motor Coach Driver Employment History

Investigators determined that the motorcoach driver had several prior jobs driving commercially. **Table 4** outlines the known previous driving employment by the motorcoach driver.

¹⁸ Blood Alcohol Content

Table 4. Previous Employment History

Employer	Dates	Source
Dahlia Group Inc.	March 10, 2009 to August 12, 2012	NYC Transit application/Dahlia Article 19-A review
NYC Transit	August 12, 2012 to April 26, 2015	NYC Transit Records
Unknown produce vendor	May 2015 to June 2016	Spouse's interview
Dahlia Group Inc.	June 3, 2016 to crash	Dahlia's records

The motorcoach driver was suspended and subsequently terminated from his job with NYC Transit for a DUI arrest in Connecticut as the result of a collision in a car on April 10, 2015.¹⁹ The motorcoach driver then drove a produce delivery truck before going back to work for Dahlia. FMCSA investigators and staff reviewed the incomplete driver qualification file of the motorcoach driver and found that a New York State motor vehicle record was obtained on June 3, 2016 and pre-employment drug test was conducted on June 2, 2016.

3.3. Medical Certification

Effective May 21, 2014, medical examiners conducting DOT medical examinations must be listed on the National Registry of Certified Medical Examiners. The motorcoach driver's medical certification identified National Registry number , 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 December 9, 2015 and an expiration date of December 9, 2017. 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.

3.4. Motorcoach Driver's Crash History

The CDLIS results showed a prior collision June 2, 2016 in New York in a non-CDL vehicle. Investigators were able to locate two other crashes where the motorcoach driver was involved. Both occurred in Connecticut, one May 25, 2010 where the motorcoach driver was operating was hit by pickup truck while on Interstate 95 while operating another motorcoach. And

¹⁹ Motor Carrier Factors Attachment – Connecticut Crash Report 1500199749

another on April 10, 2015, where the driver fled the scene of a crash in his personal car and was subsequently arrested for the drunk driving offense listed above.

3.5. Motorcoach Driver's Hours of Service

At the time of the crash, the driver was using a logbook for tracking hours of service. The logbook was recovered from the motorcoach at the crash scene. Examination of the logbook revealed the motorcoach driver had from September 9th to 15th off and completed a trip from Flushing, New York to Kingston, Massachusetts and back between September 16th and 17th. The last entry made by the motorcoach driver in his logbook was on September 17th at 1:15 pm in Essex, Connecticut, showing off-duty status. The driver had returned to the carrier's place of business in Flushing, New York and had taken approximately 12 hours off-duty prior to beginning his work day on the 18th. The driver started his work day on September 18th at 6:11 am. This information was determined by utilizing security video footage at the carrier's place of business, showing the motorcoach driver taking the motorcoach out of the yard. The driver had started his trip at approximately 6:11 am the day of the crash. No hours of service violations were discovered beyond the log not being current for the crash trip or the previous seven days.

4. New York City Transit History and Carrier Operations

The second motor carrier in this crash was New York City Transit (NYC Transit). According to the FMCSA Motor Carrier Management Information System (MCMIS), the carrier was issued USDOT number on December 10, 1987. The carrier's primary place of business was in Brooklyn, New York. The carrier had an active operating authority and had been issued MC # 206005. NYC Transit was a "for-hire" carrier of many commodities, hazardous materials, and passengers. Per the carrier's latest MCS-150, the carrier had 547 straight trucks, 27 truck tractors, 60 semi-trailers, 29 hazardous materials cargo tank trucks, 4,512 motorcoaches (transit buses) and 21,811 drivers in its employ.²⁰ NYC Transit, Department of Buses is a division of the Metropolitan Transit Authority and reportedly has the largest bus fleet in North America. The average ridership is 2.4 million persons a day, 764 million annually, on 238 local, 13 Select Bus Service, and 74 express routes in the five boroughs of New York City.

4.1. Hiring Practices

NYC Transit has a well-established and extensive hiring process. NYC Transit posts an announcement of an open competitive exam notification. Potential drivers apply and pay a fee and are screened for automatic disqualifying factors. The disqualifiers are divided into must haves and must not haves. Applicants must have a valid Class B CDL with a passenger endorsement or a non-CDL with a Class B permit with a passenger endorsement and these applicants must have had an unrestricted license for more than 3 years. Applicants must not have had, any license revocation in the previous 3 years, no more than 4 points in the previous 3 years no crashes within the previous 12 months and no impending traffic infractions. If the applicants do not have an automatic disqualifier, a Bus Operator Selection Survey (BOSS) is then administered. BOSS is a selection process consisting primarily of a pre-employment screening survey and structured

²⁰ MCS -150 dated September 21, 2017, Motor Carrier Factors Attachment – MCS-150 NYC Transit

interview process, the 75-item BOSS survey is administrable by means of paper-and-pencil or online via computer.

The next step in the process is a medical and alcohol and controlled substance screening. If the candidate passes that step, they are given a date to report to training.

4.2. Driver Training

NYC Transit has an in-depth training program for newly hired drivers. NYC Transit provides student bus operators 7 to 10 days to learn the basic skills required to operate a bus. Student bus drivers are evaluated by instructors on their potential ability to pass the New York State Commercial Driver's License road test. At the end of each day of training, the instructor will rate the student's performance on a Daily Task Checklist.

These daily checklists provide a uniform standard, which illustrate the required tasks and skills needed by a student bus driver before he/she begins route training. Every student is provided communication as to their strengths and weaknesses at the end of each day. Areas of improvement are identified as well.

If, by the end of the 7th day of training, the student has not satisfactorily completed all required tasks, up to 3 days of additional training and evaluation will be provided. The individual time will focus on individual deficiencies. If, after 10 days, the student fails to satisfactorily accomplish all driving tasks, they will be dismissed from training. NYC Transit has an approximate 23% failure rate during initial driver training.

Students that pass the initial training will then continue to route training. Route training is on-the-road training on specific bus routes.

Drivers are also subject to a probationary period which may be extended if issues are discovered. NYC Transit has an approximate 11% dismissal rate through the probationary period.

4.3. Safety Culture

NYC Transit has an established safety program. This program includes numerous policies and procedures covering pre-trip, operating and post-trip procedures. Policies cover the prohibition on the use of cellular phones and other hand held electronic devices, speed in certain areas, use of seatbelts, use of brakes and other normal and emergency operational issues. These policies are all contained in the *Student Bus Operator Instruction Manual* and are reviewed during the initial training period.

4.4. Hours of Service

NYC Transit is not subject to the hour service restrictions that a traditional commercial passenger carrying company would be regulated by. NYC Transit uses a computerized time card system to track drivers' work hours. NYC Transit policy prohibits drivers from working assignments that have less than eight consecutive hours off in any twenty-four-hour period. This

policy also requires employees to have at least eight consecutive hours off prior to coming on duty.²¹

4.5. FMCSA Oversight

At the time of the crash, NYC Transit displayed an alert in Crash (100). The SMS profile also shows that at the time of the crash, the carrier's vehicle out of service rate was 0 percent, below the national average of 20.7 percent. The carrier's driver out of service rate was 0 percent also below the national average of 5.5 percent. The 0 percent rates were due to a lack of inspection data. FMCSA would not have prioritized NYC Transit for a Compliance Review even though the alert was present. This was due to there only being one alert in a BASIC and the fact that many of the crashes the BASIC score of 100 was based upon would not rise to the level of a recordable federal crash.²²

Since receiving its DOT number in 1987, NYC Transit had never been subject to a compliance review. As a quasi-governmental agency, NYC Transit is exempt from many of the Federal Motor Carrier Safety Regulations. Regulations covering CDL and alcohol and controlled substance testing are the only relevant regulations addressed by FMCSA.

4.6. Roadside Inspections

There was no history of roadside inspections for NYC Transit recorded by FMCSA. As a quasi-governmental agency, NYC Transit's buses are not subject to the same routine roadside inspections as a normal for-hire passenger carrier would be.

4.7. New York State Oversight

The state of New York inspects carriers to ensure compliance and safety. These inspections are classified as Article 19-A inspections under the New York Vehicle and Traffic Laws. Some of the requirements for drivers and carriers under Article 19-A are a bi-annual road test, written test and medical examination and an annual review of the driver's license abstract, interview and observation ride are required. In June of 2017, the State of New York conducted an Article 19-A audit. As a result of that audit, there were two record keeping errors for the sample size of 120 drivers that were reviewed. A driver was listed as no longer active that the state had not received a "drop notice" on. And the second violation was for a driver that failed his medical examination and was still listed as an active driver. These errors were corrected by the carrier as noted on the audit report.²³

²¹ NYC Transit Bulletin No. 01.33.07

²² To be a recordable crash for FMCSA purposes, it must involve a fatality, personal injury or disabling damage to one of the vehicles involved.

²³ Motor Carrier Factors Attachment – DMV Audit Article 19-A Report, NYC Transit June 2017

5. Transit Bus Driver's History

5.1. Transit Bus Driver's Driving Record

The transit bus driver in this crash was a 45-year-old-male. At the time of the crash the driver held a valid New York Class B CDL with a passenger endorsement. The driver was issued his first New York CDL on September 24, 2007 with an expiration date of on his current CDL. There were no restrictions on the driver's CDL. A Commercial Vehicle Driver's License Information System (CDLIS) check on the driver's license showed no convictions. A review of the transit bus driver's New York State driver's license abstract showed a conviction October 26, 2005 in Brooklyn, New York for speeding. A further review of the transit bus driver's employment application revealed the driver self-reported two additional traffic convictions. October 1997, failing to stop for a red light and May 2002, changing lanes without signaling, both in Brooklyn, NY. All violation listed were not committed in a commercial vehicle and were prior to the driver obtaining his CDL.

5.2. Medical Certification

The transit bus driver was exempt from being required to hold a medical certificate. He was examined by one of NYC Transit's physicians on February 26, 2016 and medically cleared to operate. The medical examination was a requirement under New York's Article 19-A laws and was more extensive than a normal medical examination for CDL purposes. For further information refer to the *Human Performance Factors Group Chairman's Factual Report*.

5.3. Transit Bus Driver's Crash History

A review of the CDLIS and driver's abstract for the transit bus driver did not disclose any prior crashes. After reviewing the NYC Transit files, several minor incidents involving damage to vehicles were discovered. None of these incidents rose to the level of a reportable traffic crash²⁴.

Table 5 outlines the incidents.

Table 5. Incident History

Date of Incident	Preventability determination by NYC Transit
May 8, 2008	Unknown
July 3, 2008	Unknown
May 12, 2011	Non-preventable

²⁴ To be a reportable traffic accident in New York State, the incident requires a fatality or personal injury or damage exceeding \$1000 to property of any one person

July 20, 2012	Non-preventable
August 30, 2013	Non-preventable
July 8, 2015	Preventable

5.4. Transit Bus Driver's Hours of Service

The transit bus driver was not subject to the hours of service regulations and was utilizing a computer-based time card to account for his hours. The transit bus driver had been on vacation from September 10th to 16th. He returned to duty at 12:44 am on the 17th and worked until 9:44 am. On September 18th, he began his shift at 3:54 am. September 18th was a regularly scheduled day off for the driver and he was working an overtime shift.

D. DOCKET MATERIAL

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

LIST OF ATTACHMENTS

Motor Carrier Factors Attachment - MCS-150 Dahlia Group Inc.

Motor Carrier Factors Attachment - Dahlia Group Inc. Group Profile

Motor Carrier Factors Attachment - Connecticut Crash Report # 1500199749

Motor Carrier Factors Attachment - MCS-150 NYC Transit

Motor Carrier Factors Attachment - DMV Audit Article 19-A Report, NYC Transit, June 2017

Motor Carrier Factors Attachment - DMV Audit Article 19-A Report, Dahlia January 2017

END OF REPORT

Shawn Currie

Motor Carrier Factors Investigator