



Motor Carrier Attachment –

Post Crash Compliance

Review

Andrews, Texas

HWY22MH006

(32 Pages)

UNITED STATES DEPARTMENT OF TRANSPORTATION



U.S. DOT#: 836792
MC/MX#: 0

Legal: UNIVERSITY OF THE SOUTHWEST
Operating (DBA):

Investigation Date:
04/19/2022

Investigation Type: Onsite Comprehensive Investigation

Location of Investigation: Company principal place of business (PPOB)

Extent of Operations: Entire Operation

Physical Address

6610 NORTH LOVINGTON HIGHWAY
HOBBS, NM 88240
United States

Mailing Address

6610 NORTH LOVINGTON HIGHWAY
HOBBS, NM 88240
United States

Contact Information

Contact Name: [REDACTED]
Email: [REDACTED]@USW.EDU
Phone: (575)492-2106 **Cell:** [REDACTED] **Fax:** ()-

Business and Financial

Business Type: Other
Name of Gross Revenue Provider: [REDACTED]
Title of Gross Revenue Provider: CHIEF FINANCIAL OFFICER
Gross Revenue: \$13,500,000.00 **For Year Ending:** 05/21/2021
Federal Tax ID: [REDACTED] (EIN)

Operation Classification and Type

Type of Operation: Non-HM Interstate Carrier, Non-HM Intrastate Carrier

Operation Classification

For-Hire Motor Carrier
Passengers
Mini-bus (16 or more passengers, including driver.)
Van (15 or fewer passengers, including the driver.)
Private Motor Carrier
Passengers – Business

Cargo

Passengers, Other (Baggage/ sports equipment)

Equipment

	Owned	Term Leased	Trip Leased
Mini-Bus 16+	2		
Van 9-15	2		
Trailers	1		

Driver Information

Drivers	Intrastate	Interstate
< 100 Miles		
> = 100 Miles		4

Power units used in the U.S.: 4
Percentage of time used in the U.S.: 100%

Average trip leased driver/month: 0
Drivers with CDL: 3
Total Drivers: 4

Person(s) Interviewed

Name: [REDACTED]	Title: CFO
Name: [REDACTED]	Title: TRANSPORTATION MANAGER
Name: [REDACTED]	Title: CAMPUS STEWART

Questions

Questions about this report or the Federal Motor Carrier Safety or Hazardous Materials regulations may be addressed to the Federal Motor Carrier Safety Administration at:	2440 Louisiana Blvd NE, Suite 520 Albuquerque, NM 87110 Phone: (505) 346-7858 Fax: (505) 346-7859
--	--

This report will be used to assess your safety compliance.

Violations

1. Primary: 391.51(a)

Failing to maintain driver qualification file on each driver employed.



Critical

At least 10% of the number checked had violations

Violations Discovered

Fed	State	Total
2		2

Checked

Fed	State	Total
2		2

BASIC Impacted

Driver Fitness

Rating Factor 2:

Driver = Part 391

Example/Notes:

Driver name, [REDACTED]

Trip date, 03/12/2022

Description of violation, driver [REDACTED] drove from Hobbs, NM to Victoria, TX and did not have a driver qualification DQ file as required.

Drivers/Vehicles in Violation

Fed	State	Total
2		2

Checked

Fed	State	Total
4		4

2. Primary: 395.8(k)(1)

Failing to preserve driver's records of duty status supporting documents for 6 months.



Critical

At least 10% of the number checked had violations

Violations Discovered

Fed	State	Total
9		9

Checked

Fed	State	Total
9		9

BASIC Impacted

Hours-of-Service Compliance

Rating Factor 3:

Operational = Part 395

Example/Notes:

Driver, [REDACTED]

Trip date, 11/20/2021

Description of Records not retained, records of duty status not provided.

Drivers/Vehicles in Violation

Fed	State	Total
4		4

Checked

Fed	State	Total
4		4

3. Primary: 396.17(a)

Using a commercial motor vehicle not periodically inspected.



Critical

At least 10% of the number checked had violations

Violations Discovered

Fed	State	Total
2		2

Checked

Fed	State	Total
4		4

BASIC Impacted

Vehicle Maintenance

Rating Factor 4:

Vehicle = Part 396

Example/Notes:

Vehicle, V2

Trip date, 03/15/2022

Description of violation, Vehicle V2 did not have an annual inspection as required.

Drivers/Vehicles in Violation

Fed	State	Total
2		2

Checked

Fed	State	Total
4		4

4. Primary: 382.701(b)(1)

Failing to conduct an annual query.

Violations Discovered

Fed	State	Total
3		3

Checked

Fed	State	Total
3		3

Example/Notes:

Driver name, [REDACTED]

Trip date, 11/20/2021

Description of violation, the motor carrier dispatched driver [REDACTED] from Hobbs, NM to Alpine, TX a distance of 190 miles and did not perform an annual query in the Drug & Alcohol Clearinghouse program.

Drivers/Vehicles in Violation

Fed	State	Total
3		3

Checked

Fed	State	Total
3		3

5. Primary: 382.711(b)

Failing to register in the Clearinghouse.

Violations Discovered

Fed	State	Total
1		1

Checked

Fed	State	Total
1		1

Example/Notes:

Driver name, [REDACTED]

Trip date, 11/20/2021

Description of violation, the motor carrier dispatched driver [REDACTED] in a commercial motor vehicle consisting of 16 plus passenger vehicle from Hobbs, NM to Alpine, TX a distance of 190 miles. The motor carrier did not register in the Drug & Alcohol Clearinghouse Program.

Drivers/Vehicles in Violation

Fed	State	Total

Checked

Fed	State	Total

6. Primary: 391.45(a)

Secondary: 391.11(a)

Using a driver not medically examined and certified.

Violations Discovered

Fed	State	Total
1		1

Checked

Fed	State	Total
4		4

Example/Notes:

Driver name, [REDACTED]

Trip date, 03/14/2021

Description of violation, during the time of dispatch driver [REDACTED] had not been medically examined.

Drivers/Vehicles in Violation

Fed	State	Total
1		1

Checked

Fed	State	Total
4		4

7. Primary: 391.51(b)

Secondary: 391.51(a)

Failing to maintain driver qualification file in accordance with 391.51(b).

Violations Discovered

Fed	State	Total
2		2

Checked

Fed	State	Total
2		2

Example/Notes:

Driver name, [REDACTED]

Trip date, 11/20/2021

Description of violation, the motor carrier dispatched driver [REDACTED] from Hobbs, NM to Alpine, TX a distance of 190 miles and did not have a complete driver qualification file, employment application, driver inquiry and investigation.

Drivers/Vehicles in Violation

Fed	State	Total
2		2

Checked

Fed	State	Total
2		2

8. Primary: 395.8(j)(2)

Failing to obtain from driver, used for the first time or intermittently, a signed statement giving the total time on duty during the preceding 7 days and time at which last relieved from duty.

Violations Discovered

Fed	State	Total
2		2

Checked

Fed	State	Total
2		2

Example/Notes:

Driver name, [REDACTED]

Trip date, 11/20/2021

Description of Violation, no record of statement previous 7 days was provided.

Drivers/Vehicles in Violation

Fed	State	Total
2		2

Checked

Fed	State	Total
2		2

9. Primary: 396.3(a)

Failing to systematically inspect, repair, and maintain, or cause to be systematically inspected, repaired, and maintained, all motor vehicles and intermodal equipment subject to your control

Violations Discovered

Fed	State	Total
1		1

Checked

Fed	State	Total
1		1

Example/Notes:

03/23/2022 - The FMCSA and State partners have identified violations across multiple inspections at the roadside over the previous 24 months that are reflected in the Vehicle Maintenance BASIC of the Carrier Safety Measurement System, including:

Trip date, 11/20/2021

Driver's name, [REDACTED]

Vehicle number, 2

Drivers/Vehicles in Violation

Fed	State	Total

Checked

Fed	State	Total

10. Primary: 396.3(a)(2)

Failing to inspect pushout windows, emergency doors, and emergency marking lights in buses at least every 90 days.

Violations Discovered

Fed	State	Total
1		1

Checked

Fed	State	Total
2		2

Example/Notes:

Vehicle Number, 1

Driver Name, [REDACTED]

Trip Date, 11/11/2021

Description of Violation, the motor carrier's last inspection was performed on 08/09/2021. Vehicle #1 was dispatched from Hobbs, NM to Ft. Worth, TX without a 90 emergency exit inspection.

Drivers/Vehicles in Violation

Fed	State	Total
1		1

Checked

Fed	State	Total
2		2

11. Primary: 396.3(b)

Failing to keep minimum records of inspection and vehicle maintenance.

Violations Discovered

Fed	State	Total
1		1

Checked

Fed	State	Total
4		4

Example/Notes:

Vehicle license number, NM 83077TRK, 2019 enclosed utility trailer

Trip date, 03/15/2022

Drivers/Vehicles in Violation

Fed	State	Total
1		1

Checked

Fed	State	Total
4		4

12. Primary: 396.17(c)

Using a commercial motor vehicle not periodically inspected in accordance with minimum standards.

Violations Discovered

Fed	State	Total
2		2

Checked

Fed	State	Total
2		2

Example/Notes:

Vehicle, Bus #1

Trip date, 03/10/2022

Description of violation, Bus #1 was dispatched from Hobbs, NM to Victoria, TX .

Drivers/Vehicles in Violation

Fed	State	Total
2		2

Checked

Fed	State	Total
2		2

Safety Fitness Rating

Your proposed safety rating is: **CONDITIONAL** 1 UNSATISFACTORY rating factor and 2 or fewer CONDITIONAL rating factors. Corrective actions must be taken for any violations (deficiencies) identified in this report. See below for more information.

RATING FACTORS	RATING	ACUTE	CRITICAL
Factor 1: General = Parts 387 and 390	Satisfactory	0	0
Factor 2: Driver = Parts 382, 383 and, 391	Conditional	0	1
Factor 3: Operational = Parts 392 and 395	Unsatisfactory	0	1
Factor 4: Vehicle = Parts 393 and 396 OOS Vehicles (CR): 1 Number of Vehicles Inspected (CR): 2 OOS Vehicles (MCMIS): 0 Number of Vehicles Inspected (MCMIS): 0 OOS Rate: 50%	Conditional		1
Factor 5: Haz. Mat. = Parts 397, 171, 177 and, 180	N/A	N/A	N/A
Factor 6: Accident Factor = Recordable Rate Total Miles Operated: 18,320 Recordable Accidents: 1 Recordable Accidents/Million Miles: 54.59	Satisfactory	N/A	N/A

Effective date: You will receive an official notice of proposed safety rating from the Federal Motor Carrier Safety Administration in Washington, D.C. The Conditional rating will take effect 45 days after the date of the official notice.

However, if this rating improves a previous Unsatisfactory rating, it will become effective on the date of the official notice from the FMCSA headquarters.

You may request a safety rating upgrade based on corrective action under 49 CFR 385.17 and/or an administrative review under 49 CFR 385.15.

Change to safety rating based on corrective action: You may request a change to a safety rating under 49 CFR 385.17 at any time by providing evidence that you have taken actions to correct the deficiencies that resulted in the safety rating. You must make this request in writing to the Field Administrator for the FMCSA Service Center in which you maintain your principal place of business. A pending request for a change in safety rating under 49 CFR 385.17 will not delay the effective date of the rating.

Administrative Review: You may appeal your proposed safety rating in a petition filed under 49 CFR 385.15 if you believe FMCSA made an error in assigning your safety rating. You must submit your appeal within 90 days of the date of the proposed safety rating or within 90 days after denial of a request for a change in rating under section 385.17(i). If the safety rating improves a previous Unsatisfactory rating, it becomes effective immediately and you must submit your appeal within 90 days of the final safety rating. A petition under section 385.15 will not delay the effective date of the rating unless the Chief Safety Officer grants a stay.

You must submit your appeal in writing to: Chief Safety Officer, Federal Motor Carrier Safety Administration, 1200 New Jersey Ave., S.E., Washington, DC 20590-0001.

DataQs: If you dispute the violations recorded in the Violations section of this investigation report, and the violations were not used in the calculation of your safety rating, you may submit a Request for Data Review (RDR) through DataQs. The DataQs system is the method to remove violations that did not affect your safety rating. DataQs is an online system that allows a motor carrier or driver to request and track a review of Federal and State issued data that it believes to be incomplete or incorrect. To submit an RDR, go to <https://dataqs.fmcsa.dot.gov>.

Process Breakdown and Remedies

BASIC: Hours-of-Service Compliance

Process Breakdown: Policies and Procedures

The University of the Southwest; does not have a policies process or procedures in place to account for, review and maintain records of duty status for short haul or long haul trips.

Specific Recommended Remedies

To implement Safety Improvement Practices, the following list are recommended practices related to Policies and Procedures:

1. Develop a policy and procedure describing how management will monitor and track logs for falsification.
2. Establish a policy that prohibits dispatchers from assigning a load to drivers without hours available to complete the load on time.
3. Develop a policy stating that drivers should not violate their Hours-of-Service (HOS) Out-of-Service (OOS) order under any circumstances, and immediately contact the carrier when a driver is placed OOS.
4. Develop a policy requiring drivers to report their available hours to dispatch during "check-in" calls.
5. Develop policies and procedures for ensuring proper retention of Record of Duty Status (RODS) according to regulations.
6. Develop a policy stating that drivers are required to submit all Records of Duty Status (RODS) and supporting documentation, such as expense receipts, within 13 days of the end of the trip.
7. Establish a policy stating that drivers are required to check with their supervisor, manager, or dispatcher to review their "fit-for-duty" status before starting a job, and that drivers who are ill to the extent that their ability and/or alertness is impaired are prohibited from working on safety-sensitive assignments.
8. 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 Hours-of-Service (HOS) violations.
9. Develop a policy that discourages long-distance trips that depart at night and outlines acceptable route-scheduling procedures.
10. Develop a policy that prohibits drivers from deviating from stated itineraries without appropriate management approval, and advise customers of this policy.
11. Establish a policy to ensure that drivers enter all compensated time, including time spent working for a non-motor carrier, on their Record of Duty Status (RODS) or prior seven-day duty statement.
12. Develop a dispatch policy that discourages use of drivers who have worked various hourly shifts prior to any long-distance trips.

BASIC: Driver Fitness

Process Breakdown: Policies and Procedures

The University of the Southwest does not have a policies and procedures in place to ensure drivers driving commercial motor vehicles are fully qualified, and that complete driver qualification files are maintained on each driver.

Specific Recommended Remedies

To implement Safety Improvement Practices, the following list are recommended practices related to Policies and Procedures:

1. Develop a policy for the periodic review (at least twice per year) of driver qualification files. The motor carrier should not rely on

third-party sources, such as insurance agencies. The procedure should include controls to ensure that documents requiring renewals are in place, to remind drivers of expiration dates on medical certificates, so they can schedule another physical examination in advance, and to prevent falsification of documents related to driver qualification.

2. Establish a policy requiring all new (since 2003) Commercial Driver's License (CDL) drivers to submit documentation of entry-level driver training in - for example, driver qualification requirements, Hours of Service (HOS), driver wellness, and whistleblower protection - or to take entry-level training provided by the carrier.
3. Develop a policy for document retention and recordkeeping, including documents that are to be in the possession of the driver as proof of credentials.
4. Develop a process to ensure that operations will always have the proper amount of fit drivers. This process would address how to deal with issues such as sick leave, vacation, training, suspension, and termination.
5. 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 Driver Fitness Violations.

BASIC: Vehicle Maintenance

Process Breakdown: Policies and Procedures

The University of the Southwest does not have policies and procedures in place to adequately track and ensure that all vehicles under their control are systematically inspected, repaired and maintained.

Specific Recommended Remedies

To implement Safety Improvement Practices, the following list are recommended practices related to Policies and Procedures:

1. Develop a procedure ensuring that vehicle defects that impact safety and/or safety compliance are reported, repaired, and certified before the vehicle is operated.
2. Develop procedures to ensure that management is notified of vehicle defects through the use of Driver Vehicle Inspection Records (DVIRs) and other communication channels, such as driver call-in and e-mail from mechanics.
3. Develop a policy ensuring that drivers are qualified to complete thorough and timely Driver Vehicle Inspection Records (DVIRs) by the end of the day of the trip and prior to a subsequent assignment.
4. Establish a policy requiring drivers to submit copies of all roadside inspections to carrier management within 24 hours.
5. Develop policies and procedures requiring drivers to immediately notify appropriate management of any roadside vehicle Out-of-Service (OOS) order.
6. 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 vehicle maintenance violations.
7. Develop systematic procedures for inspecting maintenance items critical to fire-safety and emergency evacuation - for example, checking wheel-hub lubrication levels according to the manufacturer's recommended inspection intervals, checking wheels for signs of excess heat every time the motorcoach is parked, regularly inspecting wiring and electrical systems for short circuits, and inspecting emergency-exit operation and markings.

Recommendations

1. **Acute and Critical Violations**

Acute and/or Critical violations were recorded on this investigation report. These violations will impact your safety record.

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

2. **Additional Information**

Please visit the CSA outreach site for additional guidance: <https://csa.fmcsa.dot.gov>.

3. **A copy of your profile can be obtained by accessing the Portal.**

A copy of your carrier profile can be obtained at no cost from the FMCSA Portal (<https://portal.fmcsa.dot.gov/login>).

4. **Conduct periodic internal reviews. (non-HM)**

Conduct periodic internal reviews of your driver qualification, hours of service control, maintenance, accident analysis/reporting, training, and other safety systems to ensure continued compliance with the FMCSR.

5. **Obtain a copy of each driver's driving record and review it.**

Obtain a copy of each driver's driving record and review it annually.

6. **Require drivers to prepare complete and accurate records.**

Require all drivers to prepare complete and accurate records of duty status for each day, and to submit them within 13 days. Maintain all duty status records on file, with all supporting documents, for at least 6 months.

7. **Duty status records must be kept on file for 6 months.**

Ensure that all documents supporting records of duty status (such as toll, fuel repair and other on-the-road expense receipts, as well as invoices, bills of lading, dispatch records, etc.) are kept on file for at least 6 months.

8. **Obtain new driver's on-duty-time for past 7 days.**

Obtain from any driver used for the first time (or intermittently) a signed statement showing the total time on-duty during the preceding seven (7) days and the time at which the driver was last relieved from duty.

9. **150-mile exemption terms must be met.**

If you want some drivers to use the 150 air-mile radius exemption, make sure that the drivers meet all terms of the exemption, including being released from duty no more than 14 hours from when they report for duty. Logs must be prepared if a driver does not meet the 14 hour requirement.

10. **Ensure that all drivers' logs are accurate.**

Ensure that all drivers' records of duty status (logs) are accurate. Check them against "supporting documents" to verify accuracy. Prohibit falsification of logs by any driver. Review the rules on supporting documents. Take appropriate action against drivers who falsify logs.

11. **Ensure that inspections are done at proper intervals.**

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.

12. **Guide to understanding Federal safety regulations is available at website**

FMCSA's "MOTOR CARRIER SAFETY PLANNER" is a free online guide with forms and documents that can help you better understand and comply with safety regulations. Check: <https://csa.fmcsa.dot.gov/safetyplanner>

13. **Provide pre-trip safety information to motorcoach passengers**

Provide pre-trip safety information to motorcoach passengers. For information about the Basic Plan for Motorcoach Passenger Safety Awareness that was published by the Federal Motor Carrier Safety Administration, go to the Agency's Web site at: <http://www.fmcsa.dot.gov/about/outreach/bus/bus-safety-awareness-plan.htm>

14. **SMS website**

You are encouraged to review your company's SMS results and take action to make the roads safer for everyone. Your public safety records are available at the following website: <http://ai.fmcsa.dot.gov/sms>. Also visit <https://portal.fmcsa.dot.gov> which provides real time data and the opportunity to review your safety data. You will need to use your PIN number that has been provided by FMCSA. Registration and access is free.

15. **North American Standard Inspection Level I Process**

For an overview of the complete North American Standard Inspection Level I process, you can obtain a brochure or view a video at <https://www.fmcsa.dot.gov/international-programs>.

16. **Clearinghouse Registration - Employer**

Ensure you are registered in the Clearinghouse by visiting <https://clearinghouse.fmcsa.dot.gov>.

17. **Drug and Alcohol Clearinghouse**

Find out your responsibilities and requirements for FMCSA's Drug and Alcohol Clearinghouse by visiting <https://clearinghouse.fmcsa.dot.gov>.

18. **Clearinghouse Annual Query**

Ensure annual queries are conducted in the Clearinghouse at least once per year. You may conduct a full or limited query to fulfill this requirement.

19. **Clearinghouse Pre-employment Query**

Ensure pre-employment (full) queries are conducted in the Clearinghouse before hiring a driver to perform a safety sensitive function.

20. **Defensive Driving**

Require drivers for the carrier attend a commercial motor vehicle defensive driving course to help prevent future crash and accidents.

21. **Accident Countermeasures website has strategies and forms.**

Accident Countermeasures is a set of defensive strategies designed to reduce preventable accidents. The strategies and forms for implementing accident countermeasures can be found on the FMCSA website at: <http://www.fmcsa.dot.gov/forms/print/accident.htm>

22. **Obtain copies of the regulations, forms, interpretations, manuals.**

Copies of the regulations, forms, interpretations, and manuals are available from a variety of sources. Check the FMCSA website for a current list of suppliers. www.fmcsa.dot.gov/safety-security/eta/index.htm

23. **10-year driver employment history required.**

Ensure that drivers provide a 10-year employment history on their employment application.

24. **Physically unqualified drivers cannot drive in interstate commerce**

Do not allow physically unqualified drivers to drive in interstate commerce.

25. **Do not schedule trips requiring drivers to speed.**

Do not schedule or require drivers to make trips requiring them to exceed posted speed limits in order to complete the run within the hours of service limits.

26. **Review with drivers procedure for pre and post trip inspections.**

Review with your drivers periodically the procedures for doing pre-trip and post-trip inspections. Ensure that safety defects reported by drivers on their Vehicle Inspection Reports (VIR) are repaired before the vehicle is re-dispatched. Require drivers to prepare Vehicle Inspection Reports on a daily basis. Keep them on file for 90 days.

Safety Investigator Narrative

Investigators who contributed to the review:

Name	Title	Inspector ID (e.g., SI Code)
RICHARD RIVERA	Primary SI	US0937

Investigation Scope

Start Date: 3/21/2022

Investigation Type: Onsite Investigation, Comprehensive

Reason(s) for Investigation: Significant Crash

Comments

General comments:

This assignment was conducted as a full comprehensive review investigation due to a significant high profile crash that resulted in 9 fatalities. Seven fatalities from a 12 passenger van in combination with a utility trailer, and 2 from a pick up truck, as well as 2 additional injuries that remained in the hospital as of the day this investigation began.

This investigation was performed on a Private Motor Carrier of Passengers, PMCP (Business). This designation was determined by FMCSA HQ personnel that this carrier, The University of the Southwest is a PMCP of Business.

This investigation involved working with Shawn D. Currie, Highway Accident Investigator representing the National Transportation Safety Board (NTSB). The NTSB was present to conduct their own investigation.

For purposes of this investigation, the University of the Southwest will be described as the motor carrier.

Company Information

Company Owners and Partners/Officers/Members of the Company

Name	Title	In Charge of Safety Management?	Received Report?	Present for Close-Out?
[REDACTED]	PRESIDENT	No	No	No
[REDACTED]	CFO	No	No	No
[REDACTED]	TRANSPORTATION MANAGER	Yes	No	Yes
[REDACTED]	CAMPUS STEWART	No	No	No

Comments

General comments:

[REDACTED] was identified as the person who is the Transportation Manager for the university. Mr. [REDACTED] is the former CFO and is now retired as of 12/31/2021. Ms. [REDACTED] is the current CFO as of 11/01/2021. Mr. [REDACTED] is the Campus Stewart and made himself available if needed. Dr. [REDACTED] University President, was not available for any portion of this review. The university is a campus that currently has 300 Under Graduate Students enrolled and on campus. As well as 800 Graduate Students with online services, for a total of 1100 students currently enrolled.

Business Information And Finance

The financial condition of the subject, focusing on any information that impacts the carrier's safety, is as follows: (The objective is to gather information to support making safety assessments determining if the carrier is reincarnated)

The motor carrier's finances are stable and present no current issues. No reincarnation was discovered.

The carrier's major assets such as buildings, land, airplanes, other companies, etc. are:

The university stated that university campus property is owned by the university. There are no other business or properties to report.

Description of the carrier's business process model:

The university explained that they offer 2 big pockets of students. Under Graduate Students which take the summer months off and Graduate Students that begin new classes every 8 weeks. The university is a year round education institution.

Major impacts to the business that affected the financial condition were:

The university stated that the Corona Virus Pandemic affected the university's under graduate program. However the university's current financial situation is stable.

The following details describe the nature of the business and how it is structured. This includes a description of the business profit model, such as how the carrier makes money, what is acceptable profit, how the carrier makes up for losses, etc.:

The university stated that revenue is generated from donations, dormitory revenues and tuition fees. The tuition fees is the main source of revenue for the university. The motor carrier uses commercial motor vehicles to transport students and staff for different university events. The tuition fees cover the cost of the transportation to attend local and out of state events. It was also explained that the university also has financial investments in the oil and gas industry as well. All fees, donations and investments, contribute to the university's reported gross revenue.

General comments:

The university stated that for tax purpose this is a Non-profit class- 501 (c) 3.

Operations & Cargo Classification

General comments:

When needed the motor carrier uses an 8' long utility trailer in combination with the passenger vans. The utility trailer is used to carry excess baggage as well as sports equipment.

Driver/Vehicle Information

General comments:

Mileage was provided by Transportation Manager [REDACTED] further explanation provided in the Crash section of this review.

Compliance History

Prior Investigations

No Prior Investigations

Safety Audits

No Safety Audits

Closed Enforcement Cases

No Closed Enforcement Cases

Comments

All recurring violations discovered during prior investigations were:

The motor carrier/university has not been subject to review or safety audit by the State of New Mexico DPS or the Federal Motor Carrier Safety Administration FMCSA.

Techniques used in discovering violations for use in subsequent investigations were:

The carrier's history was researched in MCMIS, EMIS the Safety Profile and by interviewing the motor carrier.

General comments on Compliance History:

None further.

Authority & Insurance

Does the motor carrier have the appropriate type of authority? No, they don't have authority but they don't need it

Explanation of any authority lapses or revocations:

Not applicable

Explanation if authority is not applicable:

The University of the Southwest operates as a PMCP Business therefore are not subject to federal operating authority.

Does the motor carrier have the appropriate level of insurance? No, they don't have insurance, but they don't need it

What is the amount noted on the MCS 90 or MCS 90B if applicable?

Explanation of any insurance lapses:

The University of the Southwest operates as a PMCP Business therefore are not subject to federal insurance requirements.

General comments:

██████████ CFO stated that the insurance coverage for staff, students and vehicles is performed with Legacy Insurance Company.

CDLIS (Driver's License Check)

Was a CDLIS check conducted? Yes

List of drivers for which a CDLIS check was performed:

The following drivers were checked using the CDLIS System check:

1. ██████████
2. ██████████
3. ██████████

General comments:

CDLIS System Check results show that ██████████ and ██████████ have valid CDL's with valid medical status. At the time that the CDLIS check was performed records show that driver ██████████ CDL status as Eligible with The medical status as blank. Driver ██████████ presented a medical card that shows valid until 03/25/2022. Driver ██████████ stated he has not driven any of the vehicles since November 2021. Records of milage reports that were verified support driver ██████████ claim.

Driver ██████████ stated that he already had an appointment to renew his medical card and would correct the issue with the local office of the DMV.

Driver ██████████ was not cited due to no evidence discovered that the drivers CDL status was Eligible at the time of his last dispatch.

Pre-Investigation Narrative

Carrier Operations Description

General overview of the carrier's safety operation, including the personnel responsible for safety management:

Safety management for the motor carrier is the responsibility of ██████████ Transportation Manager. To stay informed of the rules and regulations Mr. B ██████████ stated he browses through the FMCSA website. He also stated that occasionally he would drive to the DPS, New Mexico weight station located at Hwy 180 heading east to Seminole, TX., to ask questions and gather information. Mr. ██████████ experience began in 1998 when he was trained to drive a water truck for Nicholas Water Service and then obtained his CDL that year. Mr. ██████████ then went to work for Haliburton from 1999 to 2001 and continued driving and working for various companies. In 2017 he was hired as a contract driver for the university. In 2018 he was hired as a full time employee of the university as the Transportation Manager to the present time.

In an interview with [REDACTED] the interview revealed that he was not fully knowledgeable with the FMCSR since the university is not an actual trucking or bus company.

The approximate length of time the carrier/shipper has been in business is:

The university has a long history dating back 60 years. 10 years ago the university changed names from College of the Southwest to University of the Southwest. The carrier's MCS-150 new name change shows as filed on 10/15/2013.

Description of the company location and the principal place of business, maintenance facilities, etc. (including the extent and nature of any divisions or business locations of the company):

The PPOB listed for the motor carrier/ The University of the Southwest is the location listed on the MCS-150.

The following is atypical about the carrier's operation:

Nothing atypical to report.

Explanation of interstate versus intrastate operations:

The university conducts both intra and interstate transportation. Extra curricular activities may take place anywhere within the State of New Mexico as well as events in far East Texas, Louisiana and Kansas.

Significant findings regarding accuracy of registration data (MCS-150 data), including an explanation of the source(s) of information used to evaluate the accuracy of the information, are:

The university's current MCS-150 shows the university as a PMCP for Non business. It was determined that this carrier is a PMCP of Business. This determination was conducted by FMCSA-HQ personnel that this carrier, the university is a PMCP of Business.

Explanation for prior MCS-150 forms submitted:

1. 2007 to 2012 carrier filed MCS-150 as PMCP Business by Dr. Gary Dill
2. 2013 carrier filed MCS-150 as PMCP Non Business by Dr. Gary Dill
3. Gap of non filing
4. 2018 carrier filed MCS-150 as PMCP Non Business by Ron McBee CFO
5. 2019 and 2021 carrier filed MCS-150 as PMCP Non Business by Mitchell Barnett, Transportation Manager.

Ms. [REDACTED] CFO stated that she became employed by the university as of 11/01/2021. Ms. [REDACTED] has been involved with the university for about 20 years since she and her husband were both board members through out different years. Ms. [REDACTED] further stated that she could not explain why the MCS-150 was changed in 2013 from the Business status to Non Business. Dr. [REDACTED] and CFO [REDACTED] are now retired from the university.

Was the motor carrier involved in emergency relief efforts? No

The motor carrier's exemptions (e.g. 395, MAP 21, utility service vehicle) were:

The University of the Southwest is claiming an exemption for the usage of ELDs since long distance trips are less than 8 days in a 30 day period. As well as trips that were and are done under the short haul exemption.

Affiliation or Reincarnation

Date New Applicant Screening (NAS) was run: 3/21/2022

Description of potential affiliated and reincarnated carrier(s), and the method by which they were determined not to be affiliated/reincarnated carrier(s):

N/A

Requested Documents

List of documents requested including the date requested

The carrier was asked to provide the following documents:

1. Driver list
2. Vehicle list
3. Driver policy
4. Driver qualification files
5. Maintenance Files
6. Documentation pertaining to the D/A program
7. Job description for the position of Golf Coach

Reasons for delays or extensions

None

Pre-Investigation Comments

Was Carrier Profile obtained: Yes

Date Carrier Profile was obtained: 3/21/2022

Explanation of where the carrier maintains its documents, including where documents are maintained someplace other than at the principal place of business (includes whether or not the motor carrier was given 48 hours to produce records not located at the principal place of business):

All the documents that the university maintains are maintained at the PPOB and were provided at the time of request.

Were there any issues that posed barriers to the pre-investigation process? (e.g., locating or reaching the motor carrier, availability and accuracy of information, etc.) No

Specific details in conversations or observations that influenced the investigation process:

Much discussion was based on the university stating that they didn't realize certain rules and regulations applied to them. The motor carrier is a university that's primary focus is education and not transportation. [REDACTED] Transportation Manager stated on several occasions that he and the university did not mean to operate out of compliance. They just didn't know, understand and realize all the aspects for a complete transportation program.

General comments on the Pre-Investigation Narrative:

The transportation provided by the motor carrier is a year round service that is used for many different events. Such as; student academics, science fairs, sporting events, golf, tennis, track, basketball, volleyball for men and women. The carrier also contracts out to M & M Tours USDOT #357862, a local motor coach charter company when needed.

A description for the position of Golf Coach was provided by the university. The document provided describes the position as; Head Men's and Women's Golf Coach. The document explains in detail a full list of responsibilities associated with the position. This is a position within the university that reports directly to the Athletic Director identified as [REDACTED]

Drivers with Red Flag Violations

No drivers with red flag violations

Comments

General comments:

Their are no Red Flag Drivers to report, no Red Flag Driver violations discovered.

Violations with Planned Enforcement Action

Violations with planned enforcement action:

None

General comments:

None further

Unsafe Driving

Sampled Drivers

List of the driver(s) for the sample, and if applicable, the timeframe reviewed.

The university does not have any drivers that were found in violation for unsafe driving.

Requested Documents

List of the documents requested and produced by the motor carrier.

The carrier was asked to provide a policy concerning unsafe driving.

Comments

The records reviewed to meet the sample were:

A policy was provided. [REDACTED] stated that he did not know if the drivers signed any documentation showing that the drivers received

and understood the policy.

Sampling was expanded beyond minimum amount, or could not be reached in accordance with the eFOTM, because:

Sampling was not expanded.

Explanations or statements by motor carrier officials not otherwise documented explaining motor carrier operations or providing additional context or support for findings:

██████████ stated that he along with the H/R department, perform a once a year review on himself and the two other CDL drivers Mr. and Mrs. ██████████. This review is usually done at the end of the school year sometime in May or June. The reviews are notarized which occurs after the annual MVR has been submitted and approval from the insurance agent.

General comments:

No unsafe driving violations to report.

Crash

Number of recordable crashes missing from profile: 0

Did you use the CAT? No

ACE Crash List

To view the ACE Lists, please go to Attachments by clicking the paper clip icon in the Navigation Pane. To access the Navigation Pane, click on View in the menu --> Show/Hide --> Navigation Pane --> Attachments.

Crash List

List of all recordable crashes used in calculating crash rate

Crash on 03/15/2022 at 2017 hours; 03/11/2022 Golf Coach and Driver ██████████, signed for keys to van #2 (V2) on Friday afternoon. The driver used the van on Monday on 03/14/2022 from the university in Hobbs, NM at 0500 hours and arrived at 0815 hours to the Ranchland Hills Golf Course in Midland, TX. The purpose for the trip was to participate in a golf tournament. The tournament was scheduled for 03/14/2022 to 03/16/2022, the tournament was a sponsored event by Tank Logic. Monday 03/14/2022 was a practice round for the students. The students and Coach ██████████ would get a feel of the greens and layout of the course. The coach chose to return that day so that the students could sleep in their own bed. Coach/driver ██████████ and students returned to campus by 1800 hours the same day. Tuesday 03/15/2022 (the day of the crash) Coach/driver ██████████ gathered students at 0400 hours and departed to continue in the golf tournament, in Midland, TX. The drive is 90 miles away and would normally take about 1 1/2 to 2 hours drive time. Coach/driver ██████████ and students would then participate in the second day of the golf tournament. At about 1900 hours the coach and students had dinner at Chick Filet fast food restaurant, departed and should have arrived to the campus by 2100 hours according to the itinerary. The crash occurred at 2017 hours in Andrew County Texas.

This information was provided by ██████████ and ██████████, Athletic Director for the university.

No crash or accident reports have been provided as of 03/25/2022 by the Texas DPS or the NTSB.

04/04/2022, NTSB Investigator Shawn Currier latest update concerning the crash/ accident report was that Texas DPS was still waiting for

DNA results to come in before completing the report process.

Comments

The method of discovery of missing crashes was:

The motor carrier's past history was checked by reviewing MCMIS, the Carrier Safety Profile and by interviewing the carrier. The only crash noted is the fatal crash for the date of 03/15/2022 which is the reason for the investigation.

Mileage was determined using the following method:

The motor carrier does not have actual mileage reports or IFTA fillings for quarterly reporting. Mr. [REDACTED] obtained miles from the odometer readings off of each of the vehicles. Each time a vehicle is dispatched for a trip the driver logs in the beginning and ending odometer readings. Mr. [REDACTED] simply added the readings for a total amount.

General comments:

Explanation for the gross vehicle weight rating for Van #2 (V2) in combination with the trailer. Registrations for Bus #1, Bus #2, Van #1 (V1) and the trailer were provided. A registration for Van #2 (V2) was not provided due to being in the vehicle damaged in the fire. The motor carrier did provide a New Mexico Certificate of Title for vehicle Van #2 showing the registered owner as University of the Southwest. The tile shows VIN number 1FBZX2CG5HKB20954 as the assigned VIN number and the (DGVW) as 0. NTSB Investigator Shawn Currie provided a 5 page Vehicle Information Report from the FORD Manufacturer showing in great detail all of the components of the vehicle, engine and body. The report provides a matching VIN number to Van #2 (V2). On page 2 of 5 the report shows GVWS with explanation 9000 lb. GVW, for the gross vehicle weight rating.

The university's copy of the New Mexico Certificate of Title for trailer shows VIN number 7GG1E0815KW008058 as the assigned VIN number. The registration for the trailer was inside the trip binder for Van #1(V1). The registration shows the VIN number matching to the registration. The (DGVW) for both the tile and the registration show as 3500 lbs. The registration lists the vehicle trailer as; Make SALV, Body Type UT, ENCLOSED trailer.

In conclusion, The GVWR of the van and the trailer's GVWR combined for a Gross Combination Weight Rating GCWR of 12500 lbs., total, at the time of the crash.

HOS Compliance

Sampled Drivers

List of the driver(s) for the sample, and if applicable, the timeframe reviewed.

The following drivers were reviewed in part 395:

1. [REDACTED] 11/01/2021 to 11/30/2021
2. [REDACTED] - 02/01/2022 to 03/02/2022
3. [REDACTED] 02/15/2022 to 03/15/2022
4. [REDACTED] -02/15/2022 to 03/15/2022

Requested Documents

List of the documents requested and produced by the motor carrier.

Mileage records show that driver/manager [REDACTED] drove on an interstate trip past 150 miles on 11/20/2021 from Hobbs, NM to Alpine TX. Driver [REDACTED] last drove on an interstate trip past 150 miles on 02/10/2022 from Hobbs, NM to Victoria TX. And driver [REDACTED] last drove on an interstate trip past 150 miles on 03/07 2022 to 03/10/2022 from Hobbs, NM to Liberal, KS.

Driver [REDACTED] did not exceed the 150 mile radius at the time of the crash.

These time periods were requested for review but were not available.

Comments

The records reviewed to meet the sample were:

Since the university is not a typical passenger motor carrier for hire. The university takes a different approach to recording drivers time and not to exceed the 10, 15 and 60 hour work week rules. The motor carrier stated that all time records are conducted using an ELD APP from Keep Trucking on the drivers personal phones. The drivers use this whether they exceed the 150 mile radius or not. The Keep Trucking APP is a free version with no customer service, connectivity to the vehicles, back up records or contract involved. Mr. [REDACTED]

[REDACTED] has not driven a CMV in the past 14 days he could not show actual driving time and events when he was last dispatched. The motor carrier/university does not review any of the records for exceeding drive time or any accountability. The motor carrier does not retain any records for HOS in a 6 month period. The university can only rely on an itinerary, which is subject to change.

It was explained by CFO [REDACTED], that [REDACTED] and [REDACTED] are salaried employees assigned to a 40 hour a week work schedule Monday thru Friday. Since they are employees on salary they are expected to put in a 40 hour a week work schedule, but, with some flexibility. Meaning, if an employee exceeds eight hours due to driving associated with an event. The employee may flex the next day to come in at a later time or leave early.

Based on this explanation, drivers [REDACTED] and [REDACTED] do not work on the weekends therefore subtracting 8 days off in a 30 day period. For a total of 22 days each, at a minimum that would need to be kept for hours of service records.

Drivers [REDACTED] and [REDACTED] are not salaried employees of the university. Therefore, at a minimum, the university needed to maintain 6 days of hours of service records.

Sampling was expanded beyond minimum amount, or could not be reached in accordance with the eFOTM, because:

The university did not reach the minimum amount due to not having any type of records retention for hours of service. Violation will be noted.

Explanations or statements by motor carrier officials not otherwise documented explaining motor carrier operations or providing additional context or support for findings:

[REDACTED] explained that a big portion of his job is to coordinate with the different coaches and drivers to use the passenger vehicles when needed. He also stated that he researches the routes for drive time and directs the drivers to use more traveled highways and interstates. This is preferred, in the event of a breakdown or blown tire, access to services may be easier and for student safety as well.

The following supporting documents were used to review HOS:

The university's process is as follows; coaching staff and staff members are assigned credit cards for fuel and trip expenses. The fuel

receipts are turned in to [REDACTED], Assistant to [REDACTED], CFO. Ms. [REDACTED] reviews all the purchases and then approves them for payment. The actual receipts are kept in expense folders for each trip. Ms. [REDACTED] showed where the trip folders are kept and stored. She explained that the board of education requires that they keep record of trip expenses for 5 years. As for the itineraries themselves there is no system to save them. It was explained that they are just sitting in emails and are not saved or stored with any type of system.

Explanation of how the number checked was determined if the carrier did not maintain all supporting documents and a violation is cited:

The university does maintain records of receipts as explained in the box above.

General comments:

[REDACTED] stated that the drivers along with himself only use the ELD APP at the time of their over the road dispatch to stay in compliance and not exceed driving time. He admitted that it never occurred to him to review, store and maintain any records for any time periods after the dispatched trips.

As for the vans, it is difficult to know when the vans became commercial motor vehicles subject to 395, while in combination with the utility trailer exceeding the 10001 GCVWR. There is no record to know if on the day of a trip that a coach/driver used a van and connected to the trailer. The trip itinerary may show a request for the trailer due to excess equipment or baggage. However that is subject to change on the day of the trip.

Vehicle Maintenance

Vehicle Inspection Data

The types of vehicles inspected were:

Two commercial motor vehicles controlled by the motor carrier were inspected. Two Level V inspections were performed on these vehicles:

1. Bus #1-Inspection report #US0937220040, result; two OOS violations discovered, vehicle placed OOS.
2. Bus #2-Inspection report #US0937220041, result; one non-critical violation discovered, CVSA decal placed on the vehicle.

Inspections were required because:

The motor carrier was subject to a comprehensive compliance review due to a high profile crash.

Explanation of why vehicles were not inspected and inspections were required:

The university had a total of 5 motor vehicles prior to the crash which occurred on 03/15/2022. Van #2 (V2) was in combination with the utility trailer on the day of the crash. Van #2(V2) is a total loss and all that remains is burnt rubble. The trailer sustained heavy damage to the front left side. Both vehicles remain at the towing yard. NTSB Investigator Shawn Currie provided photos of the vehicles showing the extreme damage. For obvious reasons explained these vehicles were not inspected.

For the remaining passenger van identified as Van #1(V1), this vehicle was not inspected. Van #1(V1) GVWR is 9000 lbs., according to the VIN sticker. As of the day of the inspections, Van #1 was not in combination with a trailer therefore not exceeding the 10001 weight limit. Based on this situation Van #1 was not inspected.

Explanation of how the results did or did not tie into the carrier's breakdown in maintenance and/or the disposition of any vehicle inspections performed during the investigation (e.g. vehicle repaired or towed):

The university/ motor carrier has not been subject to any roadside inspections. However, inspections that were performed at the time of the investigation shows an ineffective maintenance program.

Aspects of the carrier's maintenance program and facilities:

The university does perform light maintenance when needed. Such as changing light bulbs or to retighten a license plate. for heavier routine maintenance, oil changes and repair work the carrier relies on A & C Autotech, located across the street from the university, telephone number 575-3[REDACTED]. The mechanic service is owned and operated by [REDACTED]. Mr. [REDACTED] is also the inspector that performs annual inspections for the motor carrier as well.

This Investigator attempted to speak to Mr. [REDACTED] to review his experience and qualifications. A phone interview was finally conducted with him.

On 03/29/2022 while conducting an unrelated investigation with a MAP 21 carrier. It was noted that Mr. [REDACTED] was the inspector involved with performing annual inspections for that carrier as well. Mr. [REDACTED] did answer his phone at that time. Mr. [REDACTED] was asked to explain the annual inspection process as well as his qualifications while on speaker phone. It was determined that Mr. [REDACTED] is very mechanically inclined and is knowledgeable of diesel engine repair. However, Mr. [REDACTED] could not explain or provide any reference to FMCSR regulations part 393, 396 and primarily Appendix G as required. Bus #1 was given an annual inspection on 02/17/2022 and shows [REDACTED] as the inspector on that date. On 03/23/2022 this Investigator inspected Bus #1 and placed the vehicle out of service for 6 identified emergency exits that were not marked or with operating instructions. Upon Mr. [REDACTED] telephone interview and the out of service condition it was determined that [REDACTED] is currently not qualified to be performing annual inspections. Violation will be noted.

Sampled Equipment

List of equipment identified for the sample and timeframe, if applicable.

The motor carrier uses two 16 plus mini buses, two passenger vans and one utility trailer.

1. Bus #1
2. Bus #2
3. Van #1 (V1)
4. Van #2 (V2)(involved in crash)
5. Utility trailer

Requested Documents

List of the documents requested and produced by the motor carrier.

The carrier was asked to provide the following documents:

1. Maintenance files
2. Annual Inspections
3. 90 emergency exit inspection

4. Receipts of repair or routine maintenance

Comments

The records reviewed to meet the sample were:

The carrier's maintenance system is based on a vehicle binder that remains in the vehicles. The vehicle registration, annual inspection and emergency 90 day emergency exit inspections are in the vehicle binders. explanation;

1. Bus#1, vehicle registration lists the vehicle as a bus, annual inspection performed on 02/17/2022, 90-emergency exit is present, last entry was 08/09/2021.
2. Bus#2, vehicle registration lists the vehicle as a truck, annual inspection performed on 03/01/2022, 90-emergency exit is present, last entry was on 01/24/2022
3. Van#1 (V1)(15 passenger) vehicle registration lists the vehicle as a passenger vehicle, DGVW 0, VIN sticker shows this vehicle as a 9000 lb GVWR, not subject to maintenance review, not listed as a CMV.
4. Van #2(V2)(vehicle in crash)(12 passenger) title to vehicle lists the vehicle as a passenger vehicle, with a known gross vehicle weight rating as 9000 lbs.
5. Utility trailer registration shows the 8' trailer as having a D.G.V.R as 3500 lbs.

Sampling was expanded beyond minimum amount, or could not be reached in accordance with the eFOTM, because:

Sampling was met and was not expanded.

Explanations or statements by motor carrier officials not otherwise documented explaining motor carrier operations or providing additional context or support for findings:

None at this time.

General comments:

None further

Drug and Alcohol Clearinghouse

Has the carrier registered with the Drug and Alcohol Clearinghouse?: No

Comments

General comments:

The university's USDOT number and name were entered in the Drug and Alcohol Clearinghouse Program. Results shows that the motor carrier did not register, nor were the CDL drivers entered as well.

██████████ stated that he thought that by having a valid account with the D/A consortium. That the D/A Clearinghouse program was the same program. He did not realize that he had to register the university and the drivers in the program. Violations will be noted.

Controlled Substances & Alcohol

Sampled Drivers

List of the driver(s) for the sample, and if applicable, the timeframe reviewed.

Drivers listed:

1. [REDACTED]
2. [REDACTED]
3. [REDACTED]

Requested Documents

List of the documents requested and produced by the motor carrier.

The following documents were requested:

1. Drug & Alcohol policy
2. MIS report for 2021
3. Driver list mis report, for 2021, D/A policy is covered in the school campus policy,

Random Testing

Is the carrier Subject to Part 382?: Yes

Name of Consortium(s)/TPA(s): Legacy Medical Services, LLC.

Number of drivers required to have a CDL hired in the past 365 days: 0

Calendar year reviewed: 2021

Number of pre-employment test results checked during this review: 0

Were any pre-employment violations found? No

Were the random testing percentages for drug testing met for the prior year? Yes

Were the random testing percentages met for alcohol testing for the prior year? Yes

Did the motor carrier use any positive-tested driver? No

Did the motor carrier complete all post-accident tests (if required)? N/A

Comments

The records reviewed to meet the sample were:

The university provided a campus school policy that covers drug and alcohol abuse. The drivers list shows no new drivers hired within the past 365 days. The MIS report was provided by Legacy Medical Services showing that the large pool and university drivers have met the testing requirements for 2021.

Sampling was expanded beyond minimum amount, or could not be reached in accordance with the eFOTM, because:

Sampling was met and was not expanded.

Any problems discovered with the consortium:

None to report.

Explanations or statements by motor carrier officials not otherwise documented explaining motor carrier operations or providing additional context or support for findings:

None to report.

General comments:

The carrier uses Legacy Medical Services, LLC., telephone 575-964-8550. The point of contact is [REDACTED] she verified that the university is a customer in good standing, no positive or refusal tests to report and has met all the testing requirements.

Driver Fitness

Sampled Drivers

List of the driver(s) for the sample, and if applicable, the timeframe reviewed.

The following drivers were reviewed in part 391:

1. [REDACTED]
2. [REDACTED]
3. [REDACTED]
4. [REDACTED]

Requested Documents

List of the documents requested and produced by the motor carrier.

The carrier was asked to provide driver qualification files for 4 drivers.

Comments

Medical exemptions or variances discovered for drivers during the investigation:

No medical exemptions to report.

The records reviewed to meet the sample were:

The motor carrier provided partial D/Q files for drivers [REDACTED] and [REDACTED]. The employment application was very basic and did not show or list 3 year inquiry of previous employers, applicants experience, moving violation or 10 years driving/work history. Violations will be noted.

On the day of the crash, 03/15/2022, Coach and Driver [REDACTED] used a passenger van in combination with a utility trailer. The gross combination vehicle weight rating exceeded 10001 lbs., this would have required Coach/Driver [REDACTED] to be fully qualified to drive the vehicle. The university could not provide documentation for the drivers medical status. Violation will be noted.

Sampling was expanded beyond minimum amount, or could not be reached in accordance with the eFOTM, because:

Sampling was not expanded beyond 4 drivers.

Explanations or statements by motor carrier officials not otherwise documented explaining motor carrier operations or providing additional context or support for findings:

[REDACTED] stated that H/R services maintains his driver qualification file. [REDACTED] was unaware that the university needed to maintain D/Q files for [REDACTED] since they are contract employees. Violation will be noted.

General comments:

None further.

Conclusion

SI Comments

Additional comments on the investigation:

This review mostly involved [REDACTED], Transportation Manager for the University of the Southwest. [REDACTED] was cooperative, polite, professional and showed remorse during the review process. [REDACTED] produced the requested documents in a timely manner.

Conclusion

Statements made by officials relative to correcting the violation(s) discovered during the investigation:

[REDACTED] expressed that he was truly sorry for this tragic event especially since he personally knew the Golf Coach [REDACTED] and another student which became fatal. [REDACTED] stated that what ever is encountered as a violation, that he would see to correcting the violations and come within compliance as per FMCSA regulations.

Additional information that explains and/or provides context for the violations cited, increases the accuracy of the evaluation process, and would aid the follow-up Investigator:

During this review it was observed that the university personnel involved with transportation by highway. Did not know and fully

understand all the requirements to meet the safety regulations. For example; the university has a valid and up to date Drug and Alcohol program. [REDACTED] stated that since the university has a valid D/A program, that, that should automatically cover the Drug & Alcohol Clearinghouse Program. Two separate programs with different requirements but assuming they are one.

General comments:

None further.

Planned Action

The following are selected enhanced enforcement action(s): Compliance Monitoring

Enforcement is planned for the following violation(s) and/or part(s) (if applicable):

Since the university has not participated in any safety audits or compliance review actions and the carrier has shown a willingness to come into compliance, compliance monitoring is recommended.

Note if an IH Order was issued as a result of the investigation and the effective date of the IH order:

The motor carrier is not classified as an Imminent Hazard, no IH order issued.

Comments

General comments:

None further.

Documents Provided to Carrier

Completed Date: 4/19/2022

List of materials provided to the motor carrier: Carrier Corrective Action Checklist, Investigation Report, Safety Fitness Rating Explanation, Upgrade Documents including 385.15 and 385.17

Comments

Indicate if an amendment was made to the compliance investigation report after the close-out and provide an explanation of the changes made to the report. The method used to provide the motor carrier with an amended copy was as follows:

No amendment was performed.

General comments:

During the close out portion of this review, the carrier was provided a copy of the investigation report, safety fitness explanation, request for upgrade and a carrier corrective action checklist.

Carrier Acceptance

Company Owners and Partners/Officers/Members of the Company

The source of the information for any additional owners or partners/officers/members of the company noted:

No other owners, co-owners or partners were identified.

Carrier refused to accept the investigation report: No

Closeout was performed with the highest ranking official: Yes

General comments:

A close out session was completed with This Safety Investigator reviewed the violations listed in the violations section of this report; each violation was discussed at length and openly. The carrier acknowledges the problem areas and agreed to the suggestions to them as well as accepting ownership of the violations discovered. This carrier will be receiving a Conditional Safety Rating.

ACE Driver List

To view the ACE Lists, please go to Attachments by clicking the paper clip icon in the Navigation Pane. To access the Navigation Pane, click on View in the menu --> Show/Hide --> Navigation Pane --> Attachments.

ACE Equipment List

To view the ACE Lists, please go to Attachments by clicking the paper clip icon in the Navigation Pane. To access the Navigation Pane, click on View in the menu --> Show/Hide --> Navigation Pane --> Attachments.