



NATIONAL TRANSPORTATION SAFETY BOARD

Office of Highway Safety
Washington, DC 20594-2000

MOTOR CARRIER FACTORS

HWY22MH006

A. CRASH INFORMATION AND SUMMARY

For a summary of the crash, refer to the *Crash Information and Summary Report*, which can be found in the NTSB docket for this investigation.

B. MOTOR CARRIER FACTORS GROUP

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C. SUMMARY

This investigative report addresses the motor carrier history and operations of the commercial motor vehicle (CMV) involved in this crash, a 2017 Ford Transit van towing a 2019 Salvation trailer, owned and operated by the University of the Southwest of Hobbs, New Mexico. This report also details the regulatory applicability, employment history of the driver of the CMV, the University’s management safety practices and regulatory oversight by both the Federal Motor Carrier Safety Administration (FMCSA) and the State of New Mexico.

D. MOTOR CARRIER HISTORY AND OPERATIONS

The motor carrier in this collision was the University of the Southwest (USW). USW is a private non-denominational Christian school located in Hobbs, New Mexico. The USW celebrated its 60th anniversary in 2022 and is currently registered as a 501(c)(3) organization.¹ The USW had approximately 1,200 total students, 310 attend the actual physical campus and an additional 700-800 attend on-line. USW had approximately 100 paid employees.

According to the FMCSA’s Motor Carrier Management Information Systems (MCMIS), USW has been registered with FMCSA since 2004 and was assigned USDOT number 836792. Per USW’s latest MCS-150 (dated 02/22/2021), the carrier self-registered as an Interstate Private Motor Carrier of passengers (non-business).²

The carrier reported on its MCS-150 it utilized (2) school buses that carried >16 passengers and (2) 9-15 passenger vans.³ NTSB investigators confirmed that the carrier had 2 buses with capacities for 29 and 23 passengers, and two Ford Transit vans with capacities for 15 and 12 passengers. The carrier also employed 3 commercial driver’s license (CDL) drivers who were

¹ Section 501 (c) (3) is a portion of the U.S. Internal Revenue Code (IRC) and a specific tax category for nonprofit organizations. Organizations that meet Section 501 (c) (3) requirements are exempt from federal income tax.

² MCS-150 is described further at the following website: [FMCSA Form MCS-150 \(dot.gov\)](https://www.fmcsa.dot.gov/mcs-150)

³ Motor Carrier Attachment – MCS-150 downloaded 03/16/2022

utilized to operate the carrier's buses, one was a full-time employee of USW and two were contract employees hired by the trip. The carrier's vans were non-CDL required vehicles.

1.0 Driver Qualification/Hiring Process

The Ford van driver in this case was employed as the coach of the golf team, operating the non-CDL required vans owned by USW as part of his responsibilities as a coach. Prior to operating any vehicles operated by USW, the university required a driver to have a valid driver's license issued by a state, submit a copy of a driver's record from the Bureau of Motor Vehicles and have motor vehicle insurance.

2.0 Management Safety Practices

USW has several manuals, policies and procedures regarding safety and transportation related issues.

The policy titled, "*Driver Procedures*" covered adherence to speed limits, trip routing, driver's hours of service, pre and post trip inspection procedures.

The "*Vehicle Use and Transportation Policy*" within the *Staff Handbook 2019* outlined USW's driver qualification process. A driver had to upon hiring:

- Be at least 21 years old
- An employee or officially recognized representative of the University
- Provide an annual copy of driver's license
- Provide proof of insurance
- Provide a three-year history from the Bureau of Motor Vehicles
- An approved driver's list request form

Also outlined were:

- Removal from the list
 - 25+ years old – 2 or more moving violations
 - 21-24 years old – 1 or more moving violations
- Cellular phone and electronic use prohibitions

USW employed a fulltime Transportation Manager. During an interview with FMCSA and NTSB, the Transportation Manager stated they did not require a road test, had no requirements or planned driver training and no recurrent safety training for coaches or other employees that operated vehicles owned or leased by the University.

NTSB investigators inquired if the USW had made any changes or improvements to its policies and procedures since the crash. The response email related that USW would be outsourcing most of its student transportation and that USW had signed a provider contract with a bus company. Further stated was that if the university transported any students, it would be in a

passenger car or van without a trailer. The position of Transportation Manager was no longer filled and responsibilities for student transportation fell under the Director of Facilities.

3.0 Federal Oversight – Federal Motor Carrier Safety Administration (FMCSA)

The primary mission of the Federal Motor Carrier Safety Administration (FMCSA) is to reduce crashes, injuries and fatalities involving large trucks and buses.

The FMCSA was established as a separate administration within the U.S. Department of Transportation (USDOT) on January 1, 2000, pursuant to the Motor Carrier Safety Improvement Act of 1999. FMCSA is headquartered in Washington, DC and employs more than 1,000 people in all 50 States and the District of Columbia, all dedicated to improving the safety of commercial motor vehicles (CMV) and saving lives.⁴

3.1 Regulatory Applicability

The 2017 Ford van and 2019 Salvation trailer were evaluated to determine if they were covered by the commercial vehicle regulations under 49 Code of Federal Regulations (CFR) or Federal Motor Carrier Safety Regulations (FMCSRs). The Ford’s gross vehicle weight rating (GVWR) was determined to be 9,000 lbs. The trailer’s GVWR was determined to be 3,500 lbs. The resulting GVWR combination was 12,500 lbs. and being used in interstate commerce, making the combination vehicle a “commercial vehicle” subject to certain Federal Motor Carrier Safety Regulations (FMCSRs).⁵ The van had seating for 11 passengers and a driver.

The USW listed itself as private motor carrier of passengers (non-business) on the MCS-150. After consultation with the Federal Motor Carrier Safety Administration (FMCSA), it was determined by FMCSA that USW was a private motor carrier of passengers (business) (PMCP – Business).⁶ Business PMCPs provide private, interstate transportation of passengers in the furtherance of a commercial enterprise. USW is a non-denominational Christian private college, 501 (C) 3 that has been in business for 60 years. As a PMCP – Business, the carrier is exempt from certain regulations, see **Table 1**.

Table 1. Applicable Federal Regulations

49 CFR Part	Topic
382	Controlled Substance and Alcohol Testing*
383	Commercial Driver’s License*

⁴ <https://www.fmcsa.dot.gov/mission>

⁵ 49 CFR 390.5

⁶ 49 CFR 390.5

390	General
391	Qualification of Drivers
392	Driving of Motor Vehicles
393	Parts & Accessories
395	Hours of Service
396	Inspection, Repair and Maintenance

*Part 382 and 383 only apply to buses with a passenger capacity of 16 or more people (including the driver) or a gross vehicle weight rating of 26,001 lbs. or more.

The driver of the van was not required to have a CDL as his vehicle had a combined gross vehicle weight rating of less than 26,000 lbs. and the seating capacity was less than 16 passengers. The driver was required to be medically certified by a medical professional on FMCSA’s approved medical examiner list under 49 CFR 391.41.

3.2 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 an enforcement and compliance model that allows the FMCSA and its state partners to contact a larger number of carriers earlier to attempt to address safety problems before crashes occur. Along with CSA, the FMCSA also rolled out an 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).

3.3 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

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

violations of regulations pertaining to records of duty status (RODS) as they relate to HOS requirements and the management of CMV driver fatigue *Example violations*: false HOS RODS and operating a CMV while ill or fatigued. (FMCSR Parts 392 and 395)

- **Driver Fitness** — Operation of CMVs by drivers who are unfit to operate a CMV due to lack of training, experience, or medical qualifications. *Example violations*: Failure to have a valid and appropriate commercial driver’s license (CDL) and being medically unqualified to operate a CMV. (FMCSR Parts 383 and 391)
- **Controlled Substances and Alcohol** — Operation of CMVs by drivers who are impaired due to alcohol, illegal drugs, and misuse of prescription or over-the-counter medications. *Example violations*: Use or possession of controlled substances/alcohol. (FMCSR Parts 382 and 392)
- **Vehicle Maintenance** — Failure to properly maintain a CMV and/or properly prevent shifting loads. *Example violations*: Brakes, lights, and other mechanical defects, failure to make required repairs, and improper load securement. (FMCSR Parts 392, 393, and 396)
- **Hazardous Materials (HM) Compliance** — Unsafe handling of HM on a CMV. *Example violations*: Release of HM from package, no shipping papers (carrier), and no placards/markings when required. (FMCSR Part 397 and Hazardous Materials Regulations Parts 171, 172, 173, 177, 178, 179, and 180)
- **Crash Indicator** — Histories or patterns of high crash involvement, including frequency and severity based on information from state-reported crashes

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

- The number of adverse safety events (violations related to that BASIC or crashes).
- The severity of violations or crashes.
- When the adverse safety events occurred (more recent events 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). Percentiles from 0 to 100 are then determined by comparing the BASIC measurements of the carrier to the measurements of other carriers in the peer group. A percentile of “100” indicates the worst performance.

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

intervention and resource management.⁸ USW was classified as a passenger carrier under this criterion.

Table 2. 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 passenger and hazardous materials 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 USW displayed no alert in any of the BASICs due to a lack of prior roadside inspections.

The carrier had not been subject to the FMCSA New Entrant Program and since obtaining its USDOT number, the carrier has had no compliance reviews (CRs)/Safety Reviews prior to the crash and postcrash CR.

3.4 Intervention Selection Rules¹¹

3.4.1 Vehicle Maintenance BASIC Requiring Investigation

All carriers whose vehicle maintenance BASIC requires investigation must be investigated onsite.

3.4.2 Carriers with fewer than 2 BASICs Requiring Investigation

Offsite Investigations are the recommended intervention type for carriers with two or fewer BASICs requiring investigation unless the carrier otherwise requires an Onsite Investigation.

3.4.3 Carriers with more than 2 BASICs Requiring Investigation

An Offsite or Onsite Focused Investigation maybe conducted on non-HM carriers with up to five BASICs or HM carriers with up to six BASICs (excluding the Vehicle Maintenance BASIC), requiring investigations unless an Onsite Comprehensive Investigation is otherwise required.

⁸ Retrieved from www.fmcsa.dot.gov.

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

¹⁰ FMCSA 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 Excerpts from FMCSA Memorandum (MC-ECS-2019-001) regarding Compliance Safety Accountability Program National Rollout dated January 31, 2019

Onsite Comprehensive Investigations are required when all the applicable BASICs are to be investigated. An Onsite Comprehensive Investigation is required if all six BASICs are investigated for a non-HM carrier or if all seven BASICs are investigated for an HM carrier.

When deciding whether to conduct an offsite investigation on eligible carriers, Division Offices should consider factors including, (1) prior interventions, (2) safety performance using trending tools, (3) number of BASICs at or above the threshold level, and (4) nature and severity of roadside violations.

A focused CR normally does not result in a safety rating and usually is classified as “non-rated” when completed, however it may result in an adverse safety rating (conditional or unsatisfactory).¹² A comprehensive CR may also be used if the carrier was involved in a crash or there has been a complaint made. A comprehensive CR addresses all aspects of the carrier’s operation and normally results in a safety rating. The safety rating is determined by the FMCSA using safety rating methodology outlined in 49 CFR 385.5 which evaluates patterns of critical and acute violations.¹³

3.4.4 Post-Crash Actions by FMCSA

FMCSA conducted an onsite comprehensive investigation of the USW on April 19, 2022. As a result of this CR, the following violations of the FMCSRs were cited:

- 391.51(a) – Failing to maintain driver qualifications file on each driver employed (not the crash driver) This is a critical violation
- 395.8(k)(1) – Failing to preserve driver’s records of duty status supporting document for 6 months (not the crash driver) This is a critical violation
- 396.17(a) – Using a commercial motor vehicle not periodically inspected (crash vehicles) This is a critical violation
- 382.701(b)(1) – Failing to conduct an annual query (not the crash driver)
- 382.711(b) – Failing to register for the Clearinghouse (not the crash driver)
- 391.45(a) – Using a driver not medically examined and certified (the crash driver)

¹² 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.

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 and/or operational controls that show a pattern of non-compliance. A list of acute and critical violations is listed in Appendix B of 49CFR385.

- 391.51(b) – Failing to maintain driver qualification file in accordance with 391.51(b) (not the crash driver)
- 395.8(j)(2) – Failing to obtain form driver, used for the first time or intermittently, a signed statement giving the total time on duty during the previous 7 days and time at which last relieved from duty (not the crash driver)
- 396.3(a) – Failing to systematically inspect, repair, maintain, or cause to be systematically inspected, repaired, and maintained all motor vehicles and intermodal equipment subject to your control (not the crash vehicles)
- 396.3(a)(2) – Failing to inspect pushout windows, emergency doors, and emergency marking lights in buses at least every 90 days (not the crash vehicle)
- 396.3(b) – Failing to keep minimum records of inspection and vehicle maintenance (the crash trailer)
- 396.17(c) – Using a commercial motor vehicle not periodically inspected in accordance with minimum standards (not the crash vehicles)

As a result of this post-crash CR, FMCSA did not pursue any punitive actions (civil fines) and proposed a conditional safety rating.¹⁴

4.0 State Oversight - State of New Mexico

The State of New Mexico adopted the FMCSRs effective 1979 under the New Mexico Motor Transportation Act 65-1-2. Under these regulations, the state participates in the Motor Carrier Safety Assistance Program grant program enforcing the FMCSRs through roadside inspection program described below.¹⁵

5.0 Roadside Inspections

Approximately 4 million commercial motor vehicle inspections are conducted every year throughout North America to ensure the large trucks and buses driving on our roadways are operating safely. Specially trained inspectors in each state, jurisdiction, territory and province inspect commercial motor vehicles based on inspection procedures and criteria created by Commercial Vehicle Safety Alliance (CVSA), known as the North American Standard Inspection Program.

There are eight levels of inspections ranging from the Level I Inspection, which evaluates both the driver and vehicle, to inspection levels with a more specific area of focus, such as Level VI for radioactive materials and Level VIII for electronic inspections.

¹⁴ Motor Carrier Attachment – Post Crash Compliance Review

¹⁵ [SB0486 \(nmlegis.gov\)](https://www.nmlegis.gov/SB0486)

The North American Standard Level I, Level V and Level VI are the only inspections that may result in issuance of a CVSA decal placed on the vehicle. Passed Level VI Inspections result in issuance of a special Level VI CVSA decal. To qualify for a CVSA decal, a vehicle must not have any critical violations according to the North American Standard Out-of-Service Criteria.

Inspections must be performed by North American Standard Level I, Level V or Level VI certified inspectors. The term “certified” means the government employee performing inspections and/or affixing CVSA decals must have successfully completed a training program approved by CVSA.¹⁶

USW had no recorded roadside inspections prior to the crash. Texas DPS Troopers conducted a postcrash inspection of the vehicles involved in the crash. Resulting in discovery of violations of the trailer not having an annual inspection or license plate lamp. The driver not having a medical certificate and the van not having an annual inspection. A FMCSA Safety Investigator conducted two Level V inspections on the 29 and 23 passenger buses owned by USW as part of the post-crash review. The 23-passenger bus had an unsecured or discharged fire extinguisher and the 29-passenger bus was placed out of service due to having a flat axle 2 left inside tire and not having proper emergency markings on the bus’s emergency exits.¹⁷USW’s remaining 15 passenger van was not inspected due to the GVWR being less than 10,000 pounds and it not meeting the regulatory definition of a commercial vehicle.

6.0 Crash Reports

Prior to this crash, USW had no reportable collisions listed in the past 365 days as required to be documented by the FMCSRs.

E. Crash Driver

The driver in this crash was a 26-year-old male from Hobbs, New Mexico. The driver held a valid Class C driver’s license from the State of Texas. The license was issued December 2019 and had an expiration date of February 2026. The driver had no permissions and was restricted to corrective lenses. The driver had originally obtained a Texas driver’s license in March 2011. The most recent 3-year driver’s history submitted to USW showed that the driver had no convictions or prior crashes.

7.0 Driver Qualifications

The driver in this crash held a Class C license for 11 years. In addition to his experience, he had been required to complete several training requirements while he was previously employed as a Graduate Assistant Golf Coach at East Texas Baptist University (ETBU). ETBU required all potential van drivers to watch “The National Driving Test” video produced by Costal Training Technology Corporation as well as “Defensive Driving 15-Passenger Vans” produced by the National Safety Council. After review of the videos, there was an accompanying test that the driver must pass. Finally, ETBU required the drivers to pass an “in van” driver evaluation road test.

¹⁶ [Inspections - CVSA – Commercial Vehicle Safety Alliance](#)

¹⁷ Motor Carrier Attachment – FMCSA Level V inspections

The driver was required but did not have a DOT medical certificate and had never been subject to a DOT Physical examination (391.41).

8.0 Employment History

The driver in this crash had been employed by USW since July 9, 2021. Prior to his employment with USW, he had worked at two other universities. **Table 3** outlines the driver's previous employment.

Table 3. Previous Employment

University	Job Title	Dates
East Texas Baptist University	Graduate Assistant Men's and Women's Golf	July 1, 2019 to July 1, 2021
Howard Payne University	Assistant Men' and Women's Golf Coach	August 1, 2018 to June 30, 2019

9.0 Controlled Substance and Alcohol Testing

The driver in this crash did not have a CDL or operate any vehicle that required him to have a CDL. Therefore, he was not subject to the preemployment controlled substance and alcohol testing, and random testing requirements required under the FMCSRs (Part 382).

10.0 Driver's Hours of Service

The driver in this crash was not subject to the hours-of-service rules as the driver was operating within the 150 air-mile radius of the USW (395.1(e)). For further information on the driver's schedule, refer to the *Human Performance Group Chair's Factual Report*.

F. Attachments

Motor Carrier Attachment – MCS-150 Downloaded 03/16/2022

Motor Carrier Attachment – Post Crash Compliance Review

Motor Carrier Attachment – FMCSA Level V inspections

Submitted by:

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