



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

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

A. CRASH INFORMATION

Location: State Highway 2 (SH-2), Randolph, in Coos County, New Hampshire

Vehicle #1: 2016 Ram 2500 Crew Tradesman Pickup pulling a flatbed trailer

Operator #1: 23-year-old male (no injuries)

Vehicle #2: 1998 Harley Davidson FLHT

Operator #2: 59-year-old male (deceased)

Vehicle #3: 2019 Harley Davidson FLTRXS

Operator #3: 48-year-old male (injured)

Passenger #3: 47-year-old female (no injuries)

Vehicle #4: 2006 Harley Davidson FLSTI

Operator #4: 45-year-old male (injured)

Vehicle #5: 2012 Harley Davidson FLHTCUSE7

Operator #5: 58-year-old male (deceased)

Vehicle #6: 2012 Harley Davidson FLSTI

Operator #6: 57-year-old male (injured)

Vehicle #7: 2005 Harley Davidson FLHTCU

Operator#7: 62-year-old male (deceased)

Vehicle #8: 2007 Harley Davidson FLHTCU

Operator #8: 58-year-old male (deceased)

Passenger #8: 58-year-old female (deceased)

Vehicle #9: 2012 Harley Davidson FLHTK EL

Operator #9: 45-year-old male (deceased)
Passenger #9: 45-year-old female (deceased)
Vehicle #10: 2015 Harley Davidson FLST
Operator #10: 52-year-old-female (not injured)
Vehicle #11: 2007 Harley Davidson FLHRSE3
Operator #11: 51-year-old male (injured)
Date: Friday, June 21, 2019
Time: 6:26 p.m. local time
NTSB #: **HWY19MH010**

B. MOTOR CARRIER FACTORS GROUP

Michael S. Fox, Motor Carrier Factors /Operations Investigator, Group Chairman
NTSB Office of Highway Safety
490 L'Enfant Plaza East, S.W., Washington, DC 20594

Robert Comire, Special Agent
Federal Motor Carrier Safety Administration
50 Mall Road, Suite 212
Burlington, MA 01803

Tanya Chavez, Special Agent
US Department of Transportation Office of Inspector General

Trooper First Class Seth B. Turner
New Hampshire State Police- Troop G
Motor Carrier Enforcement Unit
23 Hazen Drive, Concord, NH. 03305

C. CRASH SUMMARY

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

D. DETAILS OF THE MOTOR CARRIER FACTORS INVESTIGATION

This investigative report addresses the motor carrier factors associated with the operations of the 2016 Ram 2500 (Vehicle 1) involved in this crash, identified as Westfield Transport Inc. This report documents the carrier history, safety culture, hours of service compliance, drug and

alcohol testing, as well as the employment history of the subject Westfield Transport driver. This report will also address the Federal oversight of the Westfield Transport Inc. and discuss the actions taken by the regulator post-crash. Additionally, this report will briefly review State oversight of motorcycle safety in both New Hampshire and Massachusetts.

1. Motor Carrier Operations – Westfield Transport Inc.

The motor carrier of Vehicle 1 in this accident is identified as Westfield Transport Inc. (Westfield). According to the Federal Motor Carrier Safety Administration (FMCSA) Motor Carrier Management Information System (MCMIS), the carrier was issued USDOT number 2896429. The MCMIS database shows the carrier the carrier was registered as a “For-Hire” interstate motor carrier on July 8, 2016. MCMIS shows the carrier filed their first MCS-150 on October 11, 2016.¹ At the time of the crash, the carrier held valid operating authority, MC # 973476. The carrier was authorized to transport motor vehicles and general freight. The carrier operated from their principal place of business (PPOB) located at a residence in West Springfield, Massachusetts. NTSB and FMCSA investigators conducted an on-site visit at the carrier’s PPOB and interviewed the carrier’s President and carrier Operations Manager.

1.1. Westfield Company History

Westfield Transport filed articles of Incorporation with the State of Massachusetts on December 13, 2011.² According to the carrier, Westfield began operations in 2013 as a medical transport company using sedans to transport persons needing transportation to and from medical appointments. The company began operations in Westfield Massachusetts and that is how the company name originated. In 2016 the carrier made a business decision to expand the business into automobile hauling and used a 3rd party safety consultant company to obtain their USDOT number located in West Springfield, Massachusetts.³

1.2. Westfield Business Model

The carrier claimed to transport only automobiles. The carrier used a broker service called “Central Dispatch” to obtain loads.⁴ The carrier recruited drivers from word of mouth, walk-ins, and craigslist.com. The carrier obtained loads from the Central Dispatch load board and paid each driver 25 percent of the revenue generated by the load. The carrier stated that employees were not given benefits (i.e. medical, retirement etc.) and drivers were paid weekly. The carrier operated in the Northeast United States that included: Massachusetts, Rhode Island, Connecticut, New York, New Hampshire, Pennsylvania, Vermont, and Maine. Although requested, the carrier did not provide the annual fleet miles to Investigators.

1.3. Company Structure

According to Westfield owners the company has a total of five staff personnel:

¹ See Motor Carrier Attachment- Westfield Transport MCS-150.

² See Motor Carrier Attachment- Westfield Transport Articles of Incorporation.

³ DLD 3rd Party Service- www.dld.ent@comcast.net

⁴ For additional information, see Central Dispatch Website: <https://www.centraldispatch.com/contact-us/>

- President
- Owner / Operations Manager - responsible for fleet operations / dispatch / hiring and firing of drivers.
- Two office persons [both located in North Carolina]. Investigators had no contact with these individuals during the on-site visit.
- Owner’s wife - responsible for company paperwork.

1.3.1. Vehicles and Drivers

The NTSB requested a list of all drivers and vehicles used by the motor carrier over the preceding year. The carrier failed to provide investigators an accurate list. For example, the carrier stated that he had seven (7) trucks in their fleet, however the carrier’s insurance company provided a list indicating that there were eight (8) vehicles. The carrier owned and operated vehicles that were commercial driver’s license (CDL) and Non-CDL required equipment.⁵ At the time of the crash the carrier owned eight power units all of which were pickup trucks in combination with goose neck automobile transport trailers. The carrier’s equipment is detailed in **Table 1**.

Table 1. Westfield Transport Inc. Equipment

Make	Model	Year	VIN	GVWR
Dodge	Ram 2500	2016	3C6UR5CL9GG24xxxx ⁶	12,000 lbs.
Dodge	Ram 4500	2017	3C7WRLEL8HG72xxxx	43,000 lbs.
Dodge	Ram 4500	2017	3C7WRLDL0HG73xxxx	39,000 lbs.
Chevrolet	Silverado 3500	2018	1GB4KYEY4JF23xxxx	14,000 lbs.
Dodge	Ram 3500	2018	3C7WRTCL9JG24xxxx	14,000 lbs.
Dodge	Ram 2500	2017	3C6UR5DL9HG67xxxx	14,000 lbs.
Ford ⁷	F350	2016	1FT8W33DT6GED3xxxx	14,000 lbs.
GMC	3500	2019	1GD42TCY5KF11xxxx	14,000 lbs.

At the time of the crash the carrier stated he employed 6 drivers.⁸ The carrier’s insurance company provided a list of drivers that did not match the list provided to Investigators; the carrier’s

⁵ §323.5 CDL is required if: (1) Combination Vehicle (Group A)—having a gross combination weight rating or gross combination weight of 26,001 pounds or more, whichever is greater, inclusive of a towed unit(s) with a gross vehicle weight rating or gross vehicle weight rating (GVWR) of more than 10,000 pounds, whichever is greater; or (2) Heavy Straight Vehicle (Group B)—having a gross vehicle weight rating or gross vehicle weight of 26,001 pounds or more, whichever is greater; or (3) Small Vehicle (Group C) that does not meet Group A or B requirements but that either— (i) Is designed to transport 16 or more passengers, including the driver; or (ii) Is of any size and is used in the transportation of hazardous materials as defined in this section.

⁶ 2016 Dodge Ram 2500 was the striking vehicle operated by Westfield.

⁷ See Motor Carrier Attachment- Pilgrim Insurance Policy (The Ford F350 was not identified by the carrier in the insurance documents and discovered after the on-site visit and provided by the local Pilgrim Insurance Company representative.

⁸ See Motor Carrier Attachment- Driver List Provided by Westfield Transport.

insurance company six (6) additional drivers were identified that were not on the carrier's current or previous driver list.⁹ For additional information regarding carrier's insurance see **Section 2**.

1.4. Company Safety Culture

The carrier did not have a corporate safety plan, did not have any written policies, no written procedures or any standard operating procedures manuals. The carrier did not provide any training or training materials for drivers. Furthermore, the carrier did not provide any driver handbook outlining any methodology of the company's procedures or rewards /disciplinary program. The carrier stated that they provided drivers with a bonus if they achieved "Zero Violations" during a roadside inspection but failed to produce any evidence of such actions. The carrier stated that he held monthly safety meeting with the drivers via phone but none of these meetings were documented or memorialized in any documents.

Per the carrier, the accident driver as well as the other Westfield drivers had to meet the following minimum driver qualification standards:

- Be 21 years of age or older
- Have no drug offenses on their driver's license record
- Hold a valid license
- Pass a road test; and
- Meet insurance company approval

1.4.1. Driver Qualification

Under 49 CFR §391 drivers who operate a commercial motor vehicle that exceeds a GVWR 10,001 lbs. that operates in interstate commerce must have a Driver Qualification (DQ) file.¹⁰

A person shall not drive a commercial motor vehicle unless he/she is qualified to drive a commercial motor vehicle. Except as provided in §391.63, a motor carrier shall not require or permit a person to drive a commercial motor vehicle unless that person is qualified to drive a commercial motor vehicle.

All of the Westfield's drivers, including the accident driver, met the provisions of these regulations and Westfield was required to have a DQ file for each driver. Under §391.51 driver qualification files must include the following:

(a) Each motor carrier shall maintain a driver qualification file for each driver it employs. A driver's qualification file may be combined with his/her personnel file.

⁹ See Motor Carrier Attachment- Mass-Trans Insurance Email Correspondence.

¹⁰ Retrieved from: <https://www.fmcsa.dot.gov/regulations/title49/b/5/3>

- (1) The driver's application for employment completed in accordance with §391.21;
- (2) A copy of the motor vehicle record received from each State record pursuant to §391.23(a)(1);
- (3) The certificate of driver's road test issued to the driver pursuant to §391.31(e), or a copy of the license or certificate which the motor carrier accepted as equivalent to the driver's road test pursuant to §391.33;
- (4) The motor vehicle record received from each State driver licensing agency to the annual driver record inquiry required by §391.25(a);
- (5) A note relating to the annual review of the driver's driving record as required by §391.25(c)(2);
- (6) A list or certificate relating to violations of motor vehicle laws and ordinances required by §391.27;
- (7)(i) The medical examiner's certificate as required by §391.43(g) or a legible copy of the certificate.

Additionally, each motor carrier must conduct a background check on each perspective driver. Under §391.23 the motor carrier is required to conduct an investigation and inquiries to the perspective driver's safety performance history. The investigation should include:

- (1) An inquiry, within 30 days of the date the driver's employment begins, to each State where the driver held or holds a motor vehicle operator's license or permit during the preceding 3 years to obtain that driver's motor vehicle record.
- (2) An investigation of the driver's safety performance history with Department of Transportation regulated employers during the preceding three years.

The regulations go on to state:

(b) A copy of the motor vehicle record(s) obtained in response to the inquiry or inquiries to each State required by paragraph (a)(1) of this section must be placed in the driver qualification file within 30 days of the date the driver's employment begins and be retained in compliance with §391.51. If no motor vehicle record is received from the State or States required to submit this response, the motor carrier must document a good faith effort to obtain such information and certify that no record exists for that driver in that State or States. The inquiry to the State driver licensing agency or agencies must be made in the form and manner each agency prescribes.

(c)(1) Replies to the investigations of the driver's safety performance history required by paragraph (a)(2) of this section, or documentation of good faith efforts to obtain the investigation data, must be placed in the driver investigation history file, after October 29, 2004, within 30 days of the date the driver's employment begins. Any period of time required to exercise the driver's due process rights to review the information received, request a previous employer to correct or

include a rebuttal, is separate and apart from this 30-day requirement to document investigation of the driver safety performance history data.

(2) The investigation may consist of personal interviews, telephone interviews, letters, or any other method for investigating that the carrier deems appropriate. Each motor carrier must make a written record with respect to each previous employer contacted, or good faith efforts to do so. The record must include the previous employer's name and address, the date the previous employer was contacted, or the attempts made, and the information received about the driver from the previous employer. Failures to contact a previous employer, or of them to provide the required safety performance history information, must be documented. The record must be maintained pursuant to §391.53.

The accident driver's DQ was reviewed and was not in compliance with §391.51. Missing from the accident driver's DQ file: his application for employment (§391.21); the investigation and inquiries (§391.23); and the driver investigation history file (§391.53). Investigators reviewed additional Westfield drivers DQ files and discovered similar non-compliance with DQ file requirements.

1.4.2. Drug and Alcohol Testing

The carrier operated CDL required equipment and compliance of Part 382/40 was reviewed. Investigators determined that the carrier did not have a random drug and alcohol testing program per §382.301 and failed to perform a pre-employment drug testing for drivers who operated vehicles that required a CDL required under §382.301. Also missing was the reasonable suspicion testing training for supervisors and educational training materials for the subject drivers.

1.4.3. Hours of Service (HOS)

The carrier was required to maintain records of duty status for their drivers per Part 395. The carrier utilized electronic logs or Automatic On-board Recording Devices (ABORD) for HOS compliance.¹¹ The carrier used a vendor called "KeepTrucking.com" for the hardware and software for the ABORDs.¹²

The carrier produced downloaded logs for several of their drivers. Investigators reviewed HOS compliance using EZ pass toll reports, fuel receipts and other supporting documents. Investigators identified 28 of 150 of the reviewed logs were falsified.¹³ After the initial interview, the carrier manager notified the NTSB that "he had lied to investigators" about some of the logs that were reviewed. A subsequent interview with the owner took place on June 26, 2019.¹⁴ During this interview, the carrier manager stated that he had lied about the circumstances of first load that was transported by the accident driver originated under Bill of Lading (BOL) #20527751.¹⁵

¹¹ *Automatic on-board recording device* means an electric, electronic, electromechanical, or mechanical device capable of recording driver's duty status information accurately and automatically as required by §395.15. The device must be integrally synchronized with specific operations of the commercial motor vehicle in which it is installed. At a minimum, the device must record engine use, road speed, miles driven, the date, and time of day.

¹² For more information on this vendor see: <https://keeptruckin.com/>

¹³ See Motor Carrier Attachment- Westfield Transport Compliance Review.

¹⁴ See Motor Carrier Attachment- Westfield Transport Interviews.

¹⁵ See Motor Carrier Attachment- Accident Driver's Bills of Lading.

According to the carrier manager, the carrier president picked up BOL# 20527751 in Grand Rapids, Michigan that was to be delivered in Truro, Massachusetts. The carrier president stated that on June 18, 2019 he came on duty at 7:30 a.m. and went off duty at 9:00 p.m. A copy of carrier president log for June 18, 2019 is shown in **Figure 1**.

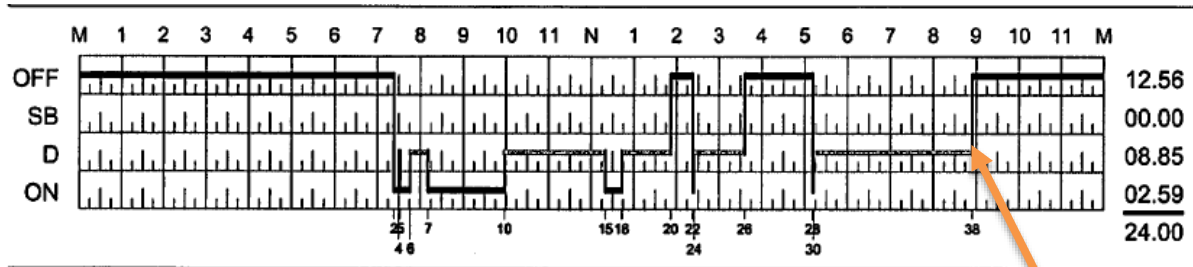


Figure 1. Carrier president’s log for June 18, 2019 (Continued to drive)

On June 26, 2019 the carrier manager stated that he provided false statements about the carrier president’s logs when he went off duty at 9:00 p.m. He stated that the carrier president did not go off-duty but continued to drive for an additional 6 hours and drove the load back to West Springfield (the start of the falsification is highlighted by the orange arrow in **Figure 1**). The carrier president stated that he actually went off duty at 3:00 a.m. on June 19, 2019. See **Figure 2** for additional details.

Inspection of the president’s log for June 19 - 21, 2019 showed the driver located 13.3 miles east of Dunkirk, New York. Because the ABORD program is GPS generated, the driver’s log should have shown as West Springfield, Massachusetts, the truck’s physical location at that time. See **Figure 2** for additional details.

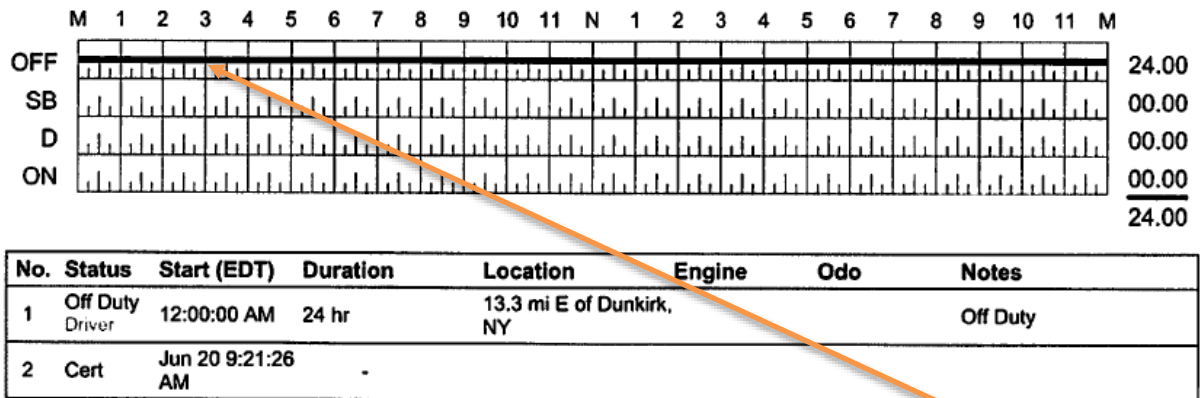


Figure 2. Carrier log for June 19 showing off duty for 24 hours (Driver drove until 3:00a.m.)

Investigators asked how it was possible for the log to reflect a location that was different from the actual location of the truck, and the owner stated: “I disconnected the smart phone cable from the transmitter box. When you do this, it is unable to transmit data so the log shows the last destination which was Dunkirk, New York, but in fact the driver was back here in West

Springfield.”¹⁶ The carrier further elaborated and stated to investigators “we can’t make the trips because of the rules.” The carrier showed investigators on his app on his smart phone how he was able to manipulate and edit the duty status on his logs. Additional logs provided by the carrier showed similar issues of falsification and that the logs had been manipulated with the KeepTrucking software. The carrier demonstrated to investigators how to disconnect the smart phone from the transmitter in an exemplar vehicle which prevented the device from transmitting data to the iCloud. **Photo 1** documents the exemplar vehicle and the KeepTrucking ABORD transmitter box.



Photo 1. ABORD transmitter box. Orange arrow shows box disconnected.

1.4.4. FMCSA Registered ELD Providers

According to the FMCSA website there are 507 registered ELD providers that are self-certified by the manufacturer. The website also indicates that there are 12 providers listed as “revoked ELDs.” The website states that the FMCSA does not endorse any electronic logging device. The website does indicate that KeepTrucking was on the approved self-certified list at the time of the crash and the writing of this report.¹⁷

1.4.5. Vehicle Maintenance

Investigators requested the vehicle files for the accident vehicle and other fleet vehicles. The carrier failed to produce records that indicated a systematic method of repairs and services as required under §396.3. The carrier was also missing driver vehicle inspection reports and periodic

¹⁶ See Motor Carrier Attachment- Westfield Transport Interview.

¹⁷ See <https://eld.fmcsa.dot.gov/List> for additional information.

inspection. For additional information concerning vehicle maintenance see the *Vehicle Factors Group Chairman Report* in the docket.

1.4.6. Westfield Fleet with Sleeper Berth

The Massachusetts State Police (MSP), the NTSB and the FMCSA inspected the carrier's fleet. All of the carrier's vehicles were weighed by MSP to verify the combination weight ratings and to determine what vehicles required CDLs.¹⁸ The entire Westfield fleet including the accident vehicle had been modified with the rear seats had been removed and a mattress had been placed to create a makeshift sleeping area. **Images 2-3** document the sleeper berth for the exemplar vehicle.



Images 2-3 Exemplar Vehicle with non-compliant sleeper berth.¹⁹

2. Insurance

Part 387 of the FMCSRs states the minimum levels of financial responsibility required by motor carriers of property operating vehicles in interstate, foreign, or intrastate commerce. The regulation states: “the purpose of these regulations is to create additional incentives to motor carriers to maintain and operate their vehicles in a safe manner and to assure that motor carriers maintain an appropriate level of financial responsibility for motor vehicles that operate on public highways.” The levels of liability insurance are dictated by the commodity transported for property carriers and the vehicle's seating capacity for passenger carriers.²⁰

Westfield produced an insurance policy of \$1 million that met the minimum requirements of liability under §387.303.²¹ The carrier's insurance provider was Pilgrim Insurance Company located in Boston, Massachusetts. The carrier's local agent was Mass Trans Insurance located in West Springfield, Massachusetts who is a broker for Pilgrim Insurance.

¹⁸ See Motor Carrier Photos 1-5.

¹⁹ See §393.76 Sleeper berth specifications for additional information.

²⁰ See §387.303 Security for the protection of the public: minimum limits for additional information.

²¹ Freight vehicles of 10,001 pounds (4,536 kilograms) or more GVWR- Oil listed in §172.101 of this title; hazardous waste, hazardous materials and hazardous substances defined in §171.8 of this title and listed in §172.101 of this title.

2.1. Mass Trans Insurance Company

On July 22, 2019 the NTSB interviewed Mass Trans Insurance company president.²² According to the president, Westfield had been a client since 2014. The president stated that the carrier's wife was employed as a customer service representative but left two years ago. He also stated that according to the policy, Pilgrim would not be renewing Westfield's policy in August 2019 because the carrier failed to provide a complete driver list. The president was questioned about how drivers were added. He explained that the carrier would send in an email requesting to "add" or "delete" a driver. This was the same process used to add or delete a vehicle or trailer. The president was further questioned if the company had any process to vet a driver, i.e. if there were any minimum standards for points assessed on a license or prohibition for speeding, reckless driving, DUI or other infractions? The president stated "no." The president further stated that there was no vetting process and drivers were added to the policy so long as they held a license regardless of driving history. It should be noted that the motor carrier told investigators that all drivers, including the accident driver, needed to be approved by the insurance company. The insurance company president however stated this was not accurate and there was no approval process required to add a driver.

2.1.1. Insurance Issues

According to the Mass-Trans president, the motor carrier called and notified him on the evening of June 21, 2019 that there had been a crash and inquired what he (the carrier) should do. The Mass-Trans president stated that a claim needed to be opened. However, Westfield had not added the accident driver to their policy as a covered driver. After the phone call, the motor carrier sent an email to Mass-Trans at 7:49 pm (one hour and 19 minutes after the crash) requesting that the accident driver be added to the policy.²³ Since the insurance company works Monday through Friday, the accident driver was added to the policy on Monday June 24, 2019 at 11:47.²⁴ The accident driver had been operating a CMV for three days without being insured.

In their review of Westfield, investigators determined that one of the drivers working for the company did not have a valid driver's license. The CDLIS report for this driver showed that he held a New Jersey driver's license however it had been suspended on December 13, 2018.²⁵ According to emails provided by Mass-Trans, Westfield had sent an email to add this driver to their policy on February 26, 2019.²⁶ According to the email sent by Westfield it included a copy of this driver's MVR that was attached to the email showing the driver was suspended effective December 2018 until October 20, 2022.²⁷ Although both the carrier and the insurance company knew this driver was suspended, he was still added to the carrier's policy on February 26, 2019.²⁸ Logbooks for this driver indicated he had been driving a CMV in interstate commerce since his hire date in February 2019 until the day of the crash.

²² See Motor Carrier Attachment- Mass-Trans Insurance Company Interview.

²³ See Motor Carrier Attachment- Mass- Trans Email Correspondence

²⁴ See Motor Carrier Attachment- Mass-Trans Email Correspondence.

²⁵ See Motor Carrier Attachment- Accident Driver's CDLIS Report.

²⁶ See Motor Carrier Attachment- Mass-Trans Email Correspondence.

²⁷ See Motor Carrier Attachment- Westfield Transport Suspended Driver Driving Record.

²⁸ See Motor Carrier Attachment- Mass-Trans Email Correspondence.

The list of drivers provided by Mass-Trans did not match the list of drivers provided by Westfield. As mentioned, the insurance company had 6 drivers listed that did not match the motor carrier’s list.²⁹ Furthermore, the list of drivers from Pilgrim Insurance listed only two drivers (the owner and the carrier president) and no other drivers.

3. Accident Driver

The accident driver declined an interview with the NTSB. The NTSB attempted to contact and interview family members at the driver’s residence to learn about the driver and his previous employment history. The accident driver’s home address is located in West Springfield, Massachusetts. It should be noted that on the mailbox on the front of the residence was a sign that said “DAKS Express.” Additionally, parked in the driveway and in front of the house were vehicles that were marked and identified as “Vlad’s Transport.” See **Images 1-2** for additional details.



Image 2. DAKS Express Inc.



Image 3. Vlad’s Transport Vehicle

On July 23, 2019 NTSB investigators interviewed the parents and sister of the accident driver. According to the parents the driver had “a lot” of driving jobs and only mentioned his recent employment at FBI Express. The driver’s parents were also questioned by investigators to determine if he had been in a drug rehabilitation program. [REDACTED]

[REDACTED].³⁰ For additional information on the drug and alcohol history, see the *Human Performance Factual Report*.

²⁹ See Motor Carrier Attachment- Mass-Trans Westfield Driver List.

³⁰ Previous Neighbors for the carrier were also interviewed by investigators. See Motor Carrier Attachment- Westfield Transport’s Previous Neighbor Interview for additional details.

3.1. Accident Driver's Driving History

At the time of the crash, the accident driver held a Massachusetts Class A CDL. The license was issued August 2018 and had an expiration of December 2021. The CDL had one restriction- "No manual transmission equipped CMV." The CDLIS report for the driver listed four convictions and two accidents.³¹

According to the accident driver's Massachusetts Registry of Motor Vehicles (RMV) driving history report, the driver had the following offenses on his record:

- Improper lane location- 2/18/2019
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- Suspended 6/18/2013 to 12/1/2016

NTSB investigators learned that the accident driver should have been disqualified for refusal of a chemical test for impairment following an operating under the influence charge in Connecticut on May 11, 2019. Notification of the refusal was not processed by the RMV. For additional information concerning the accident driver's CDL history see the *Human Performance Factual Report*.

3.2. Accident Driver's Employment History

Records and interviews indicated the accident driver was employed by several motor carriers and non-DOT regulated businesses prior to working for Westfield. The following sections provide details concerning the accident driver's employment history.

3.2.1. Universe Express

Records indicated that one of the first jobs the accident driver held was with Universe Express. NTSB investigators interviewed the owner of Universe Express USDOT 2458630 on June 29, 2019.³² The owner of the company stated that the accident driver started to work for the company in June 2016 as a helper. His duties included loading and unloading cars from the trailers, conducting inspections of vehicles for the insurance companies, and completing paperwork. The carrier owner stated that he and the accident driver decided to obtain their CDLs and went to a two-day truck driver school in Missouri. After obtaining their CDLs the owner and the accident driver operated a 2015 Freightliner truck-tractor and semitrailer combination and ran split sleeper berth hauling automobiles for approximately 6 months.

The carrier used a third-party driver qualification company called Carrier Concepts Inc., located in Louisville, Kentucky. The Manager of Carrier Concepts provided a copy of the accident

³¹ See Motor Carrier Attachment- Accident Driver CDLIS Report.

³² See Motor Carrier Attachment- Universe Express Interview.

driver’s DQ file, training records and drug testing results.³³ During the driver qualification process, the accident driver was required to obtain his DOT medical certification and went to the same DOT medical examiner (ME) as the owner located in Louisville, Kentucky, 40218.

The Universe Express owner stated that in November 2018 the accident driver began acting strangely and was talking differently and acting “kind of shaky.” In December 2018 and decided to terminate the driver.

3.2.2. FBI Express

The accident driver’s MVR indicated that he was in a recent crash in a CMV owned by FBI Express Inc. On June 27, 2019 investigators interviewed the Manager at FBI Express USDOT 2192976, located in West Springfield, Massachusetts. According to the Manager, the accident driver began employment with FBI Express on December 18, 2018 as a tractor-trailer driver hauling automobiles. During his employment at FBI Express the accident driver received two roadside inspections on February 18, 2019 and May 1, 2019.³⁴

The driver submitted to a pre-employment drug test on December 18, 2018 which was negative.³⁵ Additionally, the accident driver was selected for a random DOT drug test on February 4, 2019 which was negative. According to the FBI Express manager, the accident driver had a roll over crash in Texas on June 3, 2019. The FBI manager attempted numerous times to contact the driver to obtain the required DOT post-crash drug/alcohol tests. On June 7, 2019 the manager made contact with the driver and sent the driver for the post-crash drug test which was negative. FBI Express terminated the accident driver when he returned the truck to the terminal in West Springfield, Massachusetts.

3.2.3. Accident Driver’s Employment

According to the carrier the accident driver was hired on June 19, 2019. With the available information the NTSB determined that the accident driver had seven (7) jobs after completing high school. A summary of the accident driver’s employment history is shown in **Table 4**.

Table 4. Accident Driver’s Employment History

Employer	Position Held	Dates of Employment	Reason for leaving
Home schooled	Student	8/04 to 5/16	Graduated
Liquiri’s Pizza	Waiter	2/10 to 2/14	More money
Alinee Home Improvement	Self Employed	3/14 to 4/15	Better job
Vlad’s Transportation	Dispatcher	5/15 to 6/16	New job
Universe Express	Helper	6/16 to 8/18	CDL School
Universe Express	CDL Truck Driver	8/18 to 12/18	Terminated
FBI Express	CDL Truck Driver	12/18/18 to 6/7/19	Terminated (crash)
Westfield Transport	Truck Driver	6/19/19 to 6/21/19	Crash

³³ See Motor Carrier Attachment- Universe Express DQ File for the Accident Driver.

³⁴ See Motor Carrier Attachment- Accident Driver Roadside Inspection Reports.

³⁵ See Motor Carrier Attachment- FBI Express Drug Tests for Accident Driver.

3.3. Accident Driver Drug and Alcohol Testing

Although the accident driver held a commercial driver’s license (CDL) at the time of the crash, he was assigned and operated a vehicle that had a GVWR under 26,001 lbs. Per the FMCSRs the accident driver was not subject to the drug and alcohol testing requirements of Part 382/40 and the carrier did not and was not required to conduct a pre-employment drug test.³⁶

Investigators determined the accident driver was subject to a total of four DOT drug tests. As mentioned in his previous employment with Universe Express the driver had a pre-employment drug test that was negative. While employed at FBI Express he was subject to three DOT drug tests: pre-employment, random, and a post-crash drug tests that were all negative. On May 11, 2019 the driver was arrested in Connecticut for operating a vehicle under the influence (OUI) and refused a drug test. Consequently, the driver was subject to disqualification under §383.51.³⁷ For additional information concerning the driver’s drug testing see the *Human Performance Factual Report* in the docket.

3.4. Accident Driver’s Hours of Service

Although Westfield used ABORDs, the accident driver’s truck had an ABORD that was not functional and or not utilized. Subsequent to the subject crash, the driver reported to New Hampshire State Police that he was using a paper logbook; this logbook was compromised in the post-crash fire. Investigators relied on bills of lading, EZ pass records, interviews, and cell phone data to reconstruct the driver’s hours of service. This information is documented in **Table 5**.

Table 5. Accident Driver’s HOS Prior to the Crash

Date	Time	Jurisdiction	Location	Source	Hours
Wednesday June 19, 2019					
6/19	~7:00am	N/A	Carrier yard	Interview	
6/19	07:40am	Mass DOT	Ludlow east	EZ pass	
6/19	08:20am	Mass DOT	Hopkinton East	EZ pass	
6/19	10:51 am	Consignee BOL 20527751	21 Fishermans Rd, Truro, MA	Interview	
6/19	1:04pm	Fuel receipt	Braintree, MA	Fuel receipt	
6/19	2:54pm	Consignee BOL 20547470 (pickup)	54 Wentworth Ave Londonderry, NH	Interview	
6/19	3:23pm	NH DOT toll	Hampton Ramp	EZ pass	
6/19	3:52pm	Maine toll	York Maine line	EZ pass	
6/19	4:23pm	Maine toll	S Portland downtown Portland	EZ pass	
6/19	5:09pm	Maine Toll	Gardiner I-295	EZ pass	

§382.103- Applicability for drug and alcohol testing:

(a) This part applies to service agents and to every person and to all employers of such persons who operate a commercial motor vehicle in commerce in any State and are subject to:

- (1) The commercial driver's license requirements of part 383 of this subchapter;
- (2) The Licencia Federal de Conductor (Mexico) requirements; or
- (3) The commercial driver’s license requirements of the Canadian National Safety Code.

³⁷ See Human Performance Attachment- RMV State to State Initial Report.

6/19	5:33pm	Consignee BOL 20547470	26 Gabriel Drive Augusta Maine	Cell data	
6/19	~9:00pm	Consignee pickup BOL 13538643	Thomaston, ME	Interview	14:00 hours
Thursday June 20, 2019					
6/20	8:36am	Consignee BOL 67450	Bangor Motor Sports 34 Banair Rd, Bangor, ME	Cell data & Interview	
6/20	10:50am	Consignee BOL 354393	Shepard Toyota 181 New County Road, Rockland, ME	Interview	1:34 hours
6/20	12:35pm	Toll	Falmouth Maine	Toll	1:30 hours
6/20	1:17pm	Toll	York, Maine	Toll	
6/20	1:39pm	Fueling	108 Ocean Rd, Greenland, NH	Cell data	
6/20	1:50pm	Toll	Hampton, NH	Toll	
6/20	3:40pm	Consignee BOL 354393	Planet Chrysler Jeep 400 E Central St, Franklin, Mass	Interview	
6/20	5:06pm	Fueling	Scituate, RI	Fuel Receipt	
6/20	~6:00pm	Consignee BOL 13538643	Vachon Ford 455 Providence Rd Brooklyn, CT	Interview	~8:39 hours
Friday June 21, 2019					
6/21	7:36am	Mass DOT	Westfield – West	EZ pass	1:43 hours
6/21	9:18am	Toll	Canaan, NY	EZ pass	
6/21	9:28am	Toll	Albany, NY	EZ pass	
6/21	10:24am	Consignee BOL 13509627	Picks up car at New Country Toyota 202 Route 146 Mechanicville, NY	Interview	
6/21	4:08pm	Fueling	Wells River, VT	Fuel Receipt	
6/21	6:00pm	BOL 13509627	Delivery Gorham, NH	Police Interview	
6/21	~6:27pm	NH State police	Randolph NH	NHSP	3:47 hours
			****Crash***		~11:00 +

3.4.1. Accident Driver's HOS reconstruction

In addition to supporting documents which were used to reconstruct the driver's hours of service, the NTSB utilized forensic data from the driver's cellphone obtained by NHSP. The data included photographs, logbook pages and fuel receipts containing time, date, and location information. See **Image 1** for additional details.³⁸

³⁸ See Human Performance Attachment- Data from Driver's Cellular Phone.



Image 1. Cell Phone Photo of Accident Driver’s Logbook for June 19, 2019.

NTSB investigators determined that the accident driver falsified his log on June 19, 2019. According to the EZ Pass the driver was on-duty driving in Maine at 5:09 p.m. however the driver recorded that he was in his sleeper berth from 5:00 p.m. until 11:59 p.m. in New Hampshire. Furthermore, interviews conducted by the NTSB indicated the driver was on-duty driving when he made a pickup order at Thomaston, Maine at 9:00 p.m.³⁹ With the exception of the June 19th log, investigators did not have any additional logs to determine any other HOS violations.

4. Federal Oversight – FMCSA

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 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,

³⁹ See Motor Carrier Attachment- Accident Driver Bills of Lading.

(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).

4.1.1. CSA BASICS

- **Unsafe Driving** — Operation of CMVs by drivers in a dangerous or careless manner. *Example violations:* Speeding, reckless driving, improper lane change, and inattention. (Federal Motor Carrier Safety Regulations (FMCSRs) 49 CFR Parts 392 and 397)
- **Hours-of-Service (HOS) Compliance** — Operation of CMVs by drivers who are ill, fatigued, or in non-compliance with the HOS regulations. This BASIC includes violations of regulations pertaining to records of duty status (RODS) as they relate to HOS requirements and the management of CMV driver fatigue. *Example violations:* false HOS RODS and operating a CMV while ill or fatigued. (FMCSR Parts 392 and 395)
- **Driver Fitness** — Operation of CMVs by drivers who are unfit to operate a CMV due to lack of training, experience, or medical qualifications. *Example violations:* Failure to have a valid and appropriate commercial driver’s license (CDL) and being medically unqualified to operate a CMV. (FMCSR Parts 383 and 391)
- **Controlled Substances and Alcohol** — Operation of CMVs by drivers who are impaired due to alcohol, illegal drugs, and misuse of prescription or over-the-counter medications. *Example violations:* Use or possession of controlled substances/alcohol. (FMCSR Parts 382 and 392)
- **Vehicle Maintenance** — Failure to properly maintain a CMV and/or properly prevent shifting loads. *Example violations:* Brakes, lights, and other mechanical defects, failure to make required repairs, and improper load securement. (FMCSR Parts 392, 393, and 396)
- **Hazardous Materials (HM) Compliance** — Unsafe handling of HM on a CMV. *Example violations:* Release of HM from package, no shipping papers (carrier), and no placards/markings when required. (FMCSR Part 397 and Hazardous Materials Regulations Parts 171, 172, 173, 177, 178, 179, and 180)
- **Crash Indicator** — Histories or patterns of high crash involvement, including frequency and severity based on information from state-reported crashes.

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


- The number of adverse safety events (violations related to that BASIC or crashes).
- The severity of violations or crashes.
- When the adverse safety events occurred (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 and 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 4** represents the thresholds set by the FMCSA that help prioritize agency intervention and resource management.⁴⁰ Westfield was classified as a For-Hire property carrier and falls under the “all other motor carriers” criteria.

Table 4. BASIC thresholds.⁴¹

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, an alert symbol  is displayed in any designated BASIC where the carrier has exceeded the corresponding threshold.⁴² This is also referred to as having an “alert” in a BASIC. At the time of the crash, Westfield had three Crash BASIC in alert status. The following data reflects the other BASICs at the time of the crash:

- Unsafe Driving- 76 percentile (Alert)
- Hours of Service- 82 percentile (Alert)
- Driver Fitness - 97 percentile (Alert)
- Vehicle Maintenance- 56 percentile

The carrier entered the FMCSA New Entrant Safety Assurance Program on July 8, 2016 and had a passing New Entrant Safety Audit on October 21, 2016.⁴³ The SA did not identify any violations. The carrier exited the New Entrant Safety Assurance Program on January 9, 2018. According to the FMCSA annual reports to Congress, the New Entrant pass rate for Safety Audits represents an average of 87.4 percent for the past 5 years.⁴⁴

⁴⁰ Retrieved from: www.fmcsa.dot.gov.

⁴¹ Retrieved from: <http://csa.fmcsa.dot.gov/FAQs.aspx>.

⁴² 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>.

⁴³ See Motor Carrier Attachment- Westfield Transport Safety Audit.

⁴⁴ See Motor Carrier Attachment- Motor Carrier Safety Progress Reports FMCSA.

4.2. Roadside Inspection Data

In the 24-month period following the SA, the motor carrier had a total of 48 driver inspections and 36 vehicle inspections. The driver out of service (OOS) rate was 20.8 percent versus a national rate of 5.51 percent and the vehicle OOS was 16.6 percent versus a national average of 20.72 percent. By February 2019 the carrier had 3 BASICS in alert status. For a summary of the Westfield Transport roadside inspections and associated drivers see **Table 5** for additional details.

Table 5. Summary of Roadside Inspection Violations for Westfield Transport

Date	Pickup Truck	Trailer	Driver / drivers	Roadside Inspection Violations	BASICS in Alert
7/8/16 – Entered New Entrant program					
7/8/16	Truck A	Trailer a	Owner		0
9/21/16	Truck A	Trailer a	Owner		
11/21/16	Truck A	Trailer a	Owner		
12/06/16	Truck A	Trailer a	Owner		
12/28/16	Truck A	Trailer a	Owner		
1/18/17	Truck B	Trailer b	Owner		
11/21/17 ⁴⁵	Truck B	Trailer b	Owner	2 OOS driver violations	1
1/9/18 - Exited new entrant program					
2/13/18	Truck C	Trailer c	Driver 2		1
2/22/18	Truck C	Trailer c	Driver 2		1
3/1/18	Truck D	Trailer d	Driver 3	1 OOS driver violation	1
3/9/18	Truck A	Trailer a	Driver 4	- 2 OOS vehicle violations - 3 other violations	1
3/12/18	Truck A	Trailer a	Driver 4	1 OOS driver violation 1 OOS vehicle violation 1 other driver violation	1
5/2/18	Truck C	Trailer c	Driver 2		2
5/10/18	Truck A	Trailer a	Driver 5		2
5/29/18	Truck B	Trailer b	Owner		2
6/1/18	Truck C	Trailer c	Driver 2	-1 OOS driver violation -2 other driver violations -3 other vehicle violations	2
6/6/18	Truck B	Trailer b	Owner	1 other vehicle violation	2
6/29/18	Truck C	Trailer c	Driver 2		2
8/15/18	Truck C	Trailer c	Driver 2		2
9/11/18	Truck A	Trailer a	Driver 5		1
9/13/18	Truck A	Trailer a	Driver 5		1
9/18/18	Truck A	Trailer a	Driver 5		1
9/21/18	Truck A	Trailer a	Driver 5		1

⁴⁵ As a result of this inspection, Westfield Transport received a FMCSA Warning Letter regarding Hours of Service compliance on January 12, 2018.

9/26/18	Truck C	Trailer c	Driver 2		1
9/26/18	Truck E	Trailer e	Driver 6	-1 OOS driver violation -1 other driver violation	1
9/27/18	Truck E	Trailer e	Driver 6 and Driver 7	-1 OOS driver violation -3 other driver violations -1 other vehicle violation	1
10/4/18	Truck E	Trailer e	Driver 6		1
10/18/18	Truck F	Trailer f	Driver 8	1 other vehicle violation	1
10/26/18	Truck G	Trailer b	Owner		1
10/31/18	Truck E	Trailer e	Driver 6	-2 OOS vehicle violations -7 other vehicle violations	1
11/19/18	Truck H	Trailer g	Driver 7	3 other vehicle violations	1
11/23/18	Truck F	Trailer h	Driver 8		1
11/27/18	Truck E	Trailer e	Driver 6	2 OOS vehicle violations	1
12/11/18	Truck I	Trailer g	Driver 8	2 OOS vehicle violations	2
12/18/18	Truck C	Trailer c	Driver 5	-1 OOS driver violation -1 driver violation	2
1/3/19	Truck J	Trailer i	Driver 9	2 other vehicle violations	2
1/29/19	Truck A	Trailer a	Driver 5	5 other vehicle violations	2
2/4/19	Truck E	Trailer e	Driver 7		3
2/7/19	Truck K	Trailer g	Driver 6	4 other vehicle violations	3
2/8/19	Truck E	Trailer e	Driver 7		3
2/12/19	Truck E	Trailer e	Driver 6		3
2/14/19	Truck B	Trailer c	Driver 6		3
2/21/19	Truck H	Trailer j	Owner	-2 OOS driver violations -1 other vehicle violation	3
3/4/19	Truck H	Trailer j	Driver 10	-2 OOS driver violations -1 other driver violation	3
3/13/19	Truck B	Trailer c	Driver 10	1 other driver violation	3
3/25/19	Truck H	Trailer g	Owner		3
3/29/19	Truck K	Trailer e	Driver 10	1 other driver violation	3
4/2/19	Truck H	Trailer g	Driver 11	-2 OOS driver violations -2 OOS vehicle violations -4 other vehicle violations	3
4/23/19	Truck J	Trailer k	Dartanyan Gasanov and Driver 10	-1 other driver violation -3 other vehicle violations	3
4/25/19	Truck H	Trailer l	Driver 9		3
5/7/19	Truck H	Trailer j	Driver 5		3
5/23/19	Truck J	Trailer k	Driver 5		3
5/31/19	Truck J	Trailer k	Driver 9		3
6/3/19	Truck B	Trailer c	Driver 9		3
6/13/19	Truck B	Trailer c	Owner		3
Crash					

6/21/19 ⁴⁶	Truck A	Trailer a	Crash-involved driver		
6/26/19	Truck J	Trailer k	Driver 12		
6/26/19	Truck H	Trailer j	Driver 5		
6/26/19	Truck B	Trailer c	Driver 6		
6/26/19	Truck K	Trailer e	Driver 11		
6/26/19	Truck E	Trailer m	Driver 7		

4.3. Post-Crash Compliance Review

The carrier had not had any compliance reviews (CRs) prior to this crash. As a result of this crash, the FMCSA initiated a Post-Crash CR. The CR contained 25 violations of the FMCSRs that included the following:

- §382.305-Failing to implement a random drug/alcohol testing program
- §383.37(a)-Allowing, requiring, permitting a driver to operate a CMV that does not have a current CLP or CDL or does not have a CLD or CDL with proper endorsements
- §390.35-Making fraudulent or intentionally false entry on inspection and maintenance record
- §395.8(e)(2)-Disabling, deactivating, disengaging, jamming or tampering with an on-board recording device or ELD
- §395.8(e)(1)- Making or permitting a driver to make a false report of duty status
- §396.11(a)- Failing to require a driver to prepare a vehicle inspection report
- §396.17(a)- Using a commercial motor vehicle not periodically inspected
- §391.51(b)(7)(ii)- Failure to obtain from the current licensing state and placed in the driver qualification file, a motor vehicle record that contains medical certification status within 15 days of new medical card being issued
- §382.301(a)-Using a driver before the motor carrier has received a negative pre-employment-controlled substance test result
- §382.601. (a)-Failing to provide educational materials explaining requirements of part 382 and employer drug and alcohol program policies
- §382.603-Failing to ensure person designated to determine that drivers undergo reasonable suspicion testing receive 60 minutes training for alcohol and /or 60 minutes of training for controlled substances
- §390.15(b)- Failing to maintain, for a period of 3 years after an accident, an accident register
- §391.15(a)- Using a disqualified driver
- §391.21(a)- Using a driver who has not furnished an employment application
- §391.23(a)- Failing to investigate driver’s background

⁴⁶ Inspection dated 6/21/19 was conducted on the accident vehicle post-crash. Inspections dated 6/26/19 were conducted on the carrier fleet post-crash. Westfield Transport Drivers were interviewed during the 6/26/19 inspections. For additional information, see Motor Carrier Attachment- Westfield Transport Driver Interviews.

- §391.23(c)-Failing to investigate driver’s background within 30 days of employment
- §391.23(e)(1)-Failing to investigate the driver’s alcohol and controlled substances history for the past 3 years
- §391.51(b)(2)-Failing to maintain inquires into drivers driving record in driver’s qualification file
- §392.2 -Operating a commercial motor vehicle not in accordance with laws, ordinances, and regulations of the jurisdiction in which it was being operated
- §395.3(a)(2)-Requiring or permitting a property carrying commercial motor vehicle driver to drive after the end of the 14th hour coming on duty
- §395.8(a)(3)(i)-Requiring or permitting a property carrying commercial motor vehicle driver to drive more than 11 hours
- §395.8(e)(1)-False reports of records of duty status (inaccurate)
- §395.8(j)(2)-Failing to obtain from driver, used the first time or intermittently a signed statement giving the total time on duty during the preceding 7 days and at which last time relieved from duty
- §396.3(b)(2)-Failing to have a means of indicating the nature and due dates of various inspection and maintenance operations to be performed
- §396.3(b)(3)-Failing to keep a record of inspection, repairs and maintenance indicating their date and nature

The post-crash CR that resulted in an Unsatisfactory Safety Rating.⁴⁷ The Massachusetts Division Office processed a Notice of Claim (NOC) for Westfield for \$12,880 however the FMCSA Eastern Service Center never served the NOC to the motor carrier. According to MCMIS the carrier updated their MCS-150 on August 16, 2019 stating that the company went out of business.⁴⁸

4.4. Potential Reincarnated / Chameleon Carrier Operations

When a motor carrier attempts to avoid and allude FMCSA oversight by reestablishing the company under another name, it is referred to as being classified as a “Chameleon Carrier.” This attempt to avoid oversight is often due to violations, crashes, being placed Out-of-Service or Imminent Hazard Orders. Such carriers will reopen or “reincarnate” into another motor carrier with a new USDOT number and new location and or new name to avoid detection.⁴⁹ Under §385.1001 reincarnated carriers is defined as “motor carriers with common ownership, common management, common control, or common familial relationship.” The FMCSRs provide additional explanation, prohibitions and consequences regarding motor carriers who violate these regulations. These include:

§385.1005 Prohibition.

⁴⁷ See Motor Carrier Attachment- Westfield Compliance Review.

⁴⁸ See Motor Carrier Attachment- Westfield Transport MCS-150s.

⁴⁹ For additional information on Chameleon Carriers see Report to Congress:

<https://www.fmcsa.dot.gov/mission/policy/implementation-risk-based-vetting-methodology-identify-chameleon-carriers-applying>

Two or more motor carriers shall not use common ownership, common management, common control, or common familial relationship to enable any or all such motor carriers to avoid compliance, or mask or otherwise conceal non-compliance, or a history of non-compliance, with statutory or regulatory requirements prescribed under 49 U.S.C. Chapter 311, subchapter III, or with an order issued under such requirements.

§385.1007 Determination of violation.

(a) *General.* The Agency Official may issue an order to suspend or revoke the registration of one or more motor carriers if he or she determines that the motor carrier or motor carriers have reincarnated or affiliated to avoid regulatory compliance or mask or otherwise conceal regulatory noncompliance, or a history of noncompliance.

(b) *Reincarnation or affiliation.* The Agency Official may determine that one or more motor carriers are reincarnated if there is substantial continuity between entities such that one is merely a continuation of the other. The Agency Official may determine that motor carriers are affiliates if business operations are under common ownership, common management, common control or common familial relationship. To make these determinations, the Agency Official may consider, among other things, the factors in 49 CFR 386.73(c) and examine, among other things, the records identified in 49 CFR 386.73(d).

(c) *Regulatory noncompliance.* The Agency Official may determine that a motor carrier or its officer, employee, agent, or authorized representative, avoids regulatory compliance or masks or otherwise conceals regulatory noncompliance, or a history of noncompliance by operating or attempting to operate a motor carrier as a reincarnated or affiliated entity to:

- (1) Avoid complying with an FMCSA order;
- (2) Avoid complying with a statutory or regulatory requirement;
- (3) Avoid paying a civil penalty;
- (4) Avoid responding to an enforcement action; or
- (5) Avoid being linked with a negative compliance history.

5. Affiliated Motor Carriers to Westfield Transport

5.1. East Transport

During the on-sight inspection of Westfield Transport investigators determined that a second motor carrier also located at the same PPOB and also owned by the president of Westfield Transport.⁵⁰ This second motor carrier was identified as East Transport LLC. According to the MCMIS database East Transport obtained USDOT 3208682 on November 5, 2018 and at the time of the crash was in the New Entrant Safety Program. According to the East Transport MCS-150

⁵⁰ See Motor Carrier Attachment- Letters of Incorporation for East Transport.

the company had one truck and one driver. East Transport held operating authority to transport automobiles.

Investigators questioned the owner why he had a second operation with a different name the carrier replied “I don’t know. I just open it to make a little extra money.” According to the MCMIS carrier profile one of the Westfield divers was also working for East Transport as well.⁵¹ The carrier profile also indicated that East Transport was operating the same vehicle and driver on May 31, 2019 that was also being used in Westfield Transport operations. This vehicle had undergone 14 roadside inspections under the name of Westfield Transport.⁵²

After conducting the CR on Westfield Transport, FMCSA attempted to conduct a Safety Audit on East Transport, but the carrier failed to attend. FMCSA sent notification to East Transport that they would be subject to out of service and revocation on August 9, 2019. On August 19, 2019 East Transport updated their MCS-150 stating that the company was out of business.⁵³

5.2. DAKS Express

On July 24, 2019 NTSB investigators conducted a site visit at DAKS Express in West Springfield, Massachusetts; the PPOB is the same home address for the accident driver and the same PPOB for VLADS Transport. NTSB investigators requested to meet with the DAKS Express president, however she informed NTSB investigators that she was a living in North Port, Florida and could not attend the interview. NTSB investigators met with a DAKS Express driver who served as the carrier representative. Investigators met with a DAKS Express in living room of the accident driver. The DAKS Express driver presented a file box that contained some driver files and other documents for DAKS Express. At this location there were no file cabinets, files, records, office space, or maintenance equipment. Additionally, no vehicles were garaged at this location and no drivers reported at this location. Furthermore, there was no manager, supervisor for DAKS Express and no dispatch office located at this address. The DAKS Express driver stated that the company president lived in Florida and keep the company records there in Florida.⁵⁴ The DAKS Express driver presented a Massachusetts CDL but stated he also lived in Florida.

Investigators asked the driver why was the company’s PPOB was listed at that address when the owner lives in Florida and no equipment is stored here. The driver stated that “some brokers what to match the Form W-9 and the physical address.” According to the MCS-150 filed to the FMCSA for DAKS Express on June 11, 2019, the carrier listed the PPOB at New Bridge Street, West Springfield. According to the FMCSR’s interpretation under §390.5 “**Question 31:** What location may a motor carrier designate for as its principal place of business?” The regulation states the following:

In instances where a motor carrier has more than one terminal or office the regulations do not explicitly place a restriction on which location the motor carrier may designate as principal place of business. The definition states that the location is normally the carrier’s headquarters; The rule does not require motor carriers to use the company's

⁵¹ See Motor Carrier Attachment- MCMIS Carrier Profile East Transport.

⁵² See Motor Carrier Attachment- East Transport and West Transport Carrier Profiles.

⁵³ See Motor Carrier Attachment- East Transport MCS-150.

⁵⁴ See Motor Carrier Attachment -DAKS Express Interview.

corporate headquarters as its principle place of business. However, the motor carriers are limited to using an actual place of business of the motor carrier. Moreover, a motor carrier may designate as its principle place of business only locations that contain offices of the motor carrier's senior most management executives, management officials or employee employees responsible for the administration, management and oversight of safety operations in compliance with the FMCSRs and hazardous material regulations. In determining its principle place of business a motor carrier must consider the following factors a) The relative importance of the activities performed at each location, and if this factor is not determined it if then b) time spent at each location by motor carrier management or corporate officers.

The FMCSA authorized representative will use the 2 factors in determining whether a motor carrier has designated an appropriate location for its principle place of business. In addition, the FMCSA will also consider whether the location is operated, controlled or owned by the motor carrier, whether operations relating to the transportation.

A motor carrier may not designate as its principle place of business any location where the motor carrier is not engaged in business operations related to the transportation of persons or property. For example, a post office box centers or commercial Courier service establishments that receive and hold Mail or packages for 3rd party pick up may not be designated as a principle place of business. A motor carrier may not designate the office of the consultant, service agent, or attorney as the motor carrier's principle place of business if the motor carrier is not engaged in operations related to the transportation of persons or property at that location.

According to the FMCSRs under §385.306 states: What are the consequences of furnishing misleading information or making a false statement in connection with the registration process? A carrier that furnishes false or misleading information, or conceals material information in connection with the registration process, is subject to the following actions:

- (a) Revocation of registration.
- (b) Assessment of the civil and/or criminal penalties prescribed in 49 U.S.C. 521 and 49 U.S.C. chapter 149.

5.3. Potential Chameleon Carriers

NTSB investigators reviewed principal information, contact information, addresses, vehicle VIN's and driver information and determined that there are 18 potential motor carriers that have commonality or affiliations with Westfield Transportation indicating a possible chameleon carrier scenario. The subject carriers, USDOT numbers and shared elements, commonalities, affiliations are documented in **Table 6**.

Table 6. Potential Reincarnated / Chameleon Carriers

Carrier Name	Starting date of operation	Shared elements	Current Status^a
East Transport	11/26/2018	Owned by same principals, same address	Out of service (OOS); safety audit refusal
East2West Transport	08/22/2019	The manager worked as a driver at Westfield Transport; Driver with a suspended license at Westfield employed as a driver	Active (in new entrant program)
3 Brothers Transport	01/17/2017	Same email and vehicle tag	Active
Hgl Transport	06/13/2011	Same vehicle identification number (VIN) shared	Active
County Transport Inc	06/21/2018	3 of same vehicles (same plates and VIN)	OOS; safety audit refusal
Ec Transport	03/02/2018	Same driver and 2 vehicles shared	Active
Njc Transport Inc	01/04/2018	2 vehicles shared	Inactive
Baily International of Atlanta	11/10/1997	Same driver shared	Active
Baystate Metal Solutions	12/06/2010	Same driver shared	Inactive
Belaz Inc	08/13/2010	Same VIN shared	Active
Vlad Transport		Same address as accident driver; Accident driver worked as a dispatcher	No USDOT # ^b
DAKS Express	03/27/2015	Same address as accident driver; same address as Vlad's Transport; same driver shared	Active
Expo Transport	01/ 29/ 2019	Same driver shared	Active
Info Car	05/ 08/ 2014	Same driver shared	Inactive
Karen Gilbert (AKP Trucking)	05/ 13/ 2015	Same driver shared	Active
Kb Xpress Corp	11/ 17/ 2017	Same driver shared; this driver became the manager at East2West Transport	Active
Walker Transport	08/ 27/ 2009	Same VIN shared	Inactive
Robert Brown	04/ 11/ 2001	Same driver shared	Active
Teto Express Inc.	05/ 10/ 2019	Same VIN shared	OOS; safety audit refusal
Us Car Trans LLC	03/ 31/ 2015	Same driver shared	Active
Stepbystep Trans Auto	07/ 02/ 2019	Same driver shared	Active

Carrier Name	Starting date of operation	Shared elements	Current Status ^a
<p>^a OOS indicates that the USDOT had revoked the carrier's operating license. Inactive indicates that the carrier did not renew the operating license.</p> <p>^b Vlad Transport is a medical transport company and does not require a USDOT number.</p>			

5.3.1. Additional Potential Reincarnated Motor Carriers

NTSB investigators identified other motor carriers that had other associations and or affiliations with Westfield. For example, another car hauler named Dad Transportation USDOT 2988884 parked their trucks in the same yard next to Westfield's fleet.⁵⁵ Dad Transportation has the same address and phone number as another auto hauling motor carriers that is out of service for refusal of a Safety Audit (SA). Three additional motor carrier was identified that was also affiliated with Dad Transportation that also including one that was OOS for refusal for a SA.

6. Imminent hazard.

Under certain circumstances, FMCSA can deem a motor carrier an "Imminent Hazard." An Imminent hazard (IH) under §386.72 is defined as follows: (a) Whenever it is determined that an imminent hazard exists as a result of the transportation by motor vehicle of a particular hazardous material, the Chief Counsel or Deputy Chief Counsel of the FMCSA may bring, or request the United States Attorney General to bring, an action in the appropriate United States District Court for an order suspending or restricting the transportation by motor vehicle of the hazardous material or for such other order as is necessary to eliminate or ameliorate the imminent hazard, as provided by 49 U.S.C. 5122. In this paragraph, "imminent hazard" means the existence of a condition that presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment may occur before a notice of investigation proceeding, or other administrative hearing or formal proceeding, to abate the risk of harm can be completed.

6.1. IH Oder Not Issued to Westfield

During the on-site inspection at Westfield, the FMCSA investigator initiated the process to issue an IH Order on the carrier. Ultimately, however, the FMCSA determined that case against Westfield Transport did not rise to the level of an IH and subsequently the IH Order was not issued. The NTSB made an official inquiry to the FMCSA asking for clarification on why the carrier was not issued an IH Order and FMCSA submitted the following response:

"Per your inquiry dated September 18, 2019, please find below the Federal Motor Carrier Safety Administration's (FMCSA) response.

On June 25, 2019, the FMCSA Massachusetts Division began its investigation of Westfield Transport, Inc. Two NTSB investigators were present during the review. Based

⁵⁵ See Motor Carrier Photos 9-10.

on FMCSA's interviews of carrier officials and review of documents provided by the carrier, FMCSA documented the following acute and critical violations of the Federal Motor Carrier Safety Regulations:

49 CFR 382.305 – failing to implement a random controlled substances and/or alcohol testing program.

49 CFR 383.37(a) – allowing, requiring, permitting or authorizing a driver to operate a CMV during any period in which the driver does not have a CDL.

49 CFR 390.35/396.3(b) – making a fraudulent or intentionally false entry on a vehicle maintenance record.

49 CFR 395.8(e)(2) – disabling or disengaging an AOBRD or ELD.

49 CFR 395.8(e)(1) – making or permitting a driver to make a false record regarding duty status.

49 CFR 396.11(a) – failing to require driver to prepare a driver vehicle inspection report.

49 CFR 396.17(a) – using a commercial motor vehicle not periodically inspected.

On August 9, 2019, FMCSA issued the carrier a proposed unsatisfactory safety rating as a result of the violations discovered during the compliance review. That proposed safety rating will become final on October 9, 2019, unless the carrier submits acceptable corrective action.

According to the records of the Commonwealth of Massachusetts, Westfield Transport, Inc. filed its Articles of Voluntary Dissolution to dissolve the corporation. On August 16, 2019, Westfield Transport, Inc. filed its Form MCS-150 Out-of-Business Notification with FMCSA. FMCSA has no evidence that Westfield Transport, Inc. continues to operate as a motor carrier subject to FMCSA's jurisdiction.

FMCSA considered whether the conditions of the operation of Westfield Transport, Inc. rose to the level of imminent hazard under 49 CFR 386.72(b). The standard for issuance of an Imminent Hazard Out-of-Service Order is that a violation of 49 U.S.C. 31502, or the Motor Carrier Safety Act of 1984, or the Commercial Motor Vehicle Safety Act of 1986, or a regulation issued under any such Act, "substantially increases the likelihood of serious injury or death if not discontinued immediately." This analysis includes a comprehensive look at the facts and circumstances of the violations discovered during the compliance review to determine if that standard was met. In this case, the analysis of the violations discovered concluded the imminent hazard standard was not met; noting that none of the violations discovered impacted the June 21, 2019 crash. Also, as stated above, it is clear the company is now defunct and no longer operating.

FMCSA also considered whether there is any condition of the driver involved in the June 21, 2019 crash that substantially increases the likelihood of serious injury or death if not discontinued immediately, thereby supporting the issuance of an Imminent Hazard Out-of-Service Order against him. FMCSA considered that the driver remains in jail. Upon information and belief, if the driver is released, it will only be to the custody of U.S. Immigration Customs and Enforcement (ICE). FMCSA concluded that the driver has no reasonable likelihood of driving a CMV from jail or from ICE custody, which will make it difficult if not impossible to establish the imminence of any hazard. For this reason, FMCSA has deferred decision on whether to issue an Imminent Hazard Out-of-Service Order against the driver. FMCSA will continue to monitor the driver’s status and will reconsider its enforcement options if circumstances warrant.

During the investigation, FMCSA became aware that the owners of Westfield Transport, Inc. also operated East Transport, LLC, a motor carrier in the FMCSA New Entrant Program. There is no prohibition against operating more than one motor carrier, unless such operations are for the purpose of evading FMCSA’s oversight. 49 CFR 386.73. FMCSA attempted to conduct a New Entrant Safety Audit of East Transport, LLC; however, the carrier failed to appear for the audit. On August 9, 2019, FMCSA revoked East Transport, LLC’s New Entrant Registration for failing to submit to a New Entrant Safety Audit and ordered it to cease all interstate transportation. According to the records of the Commonwealth of Massachusetts, East Transport, LLC filed a Certificate of Cancellation notifying the Commonwealth that it had ceased all operations. FMCSA has no evidence to support a conclusion that East Transport, LLC continues to operate as a motor carrier subject to FMCSA’s jurisdiction.”⁵⁶

6.2. IH Orders Between 2000 and 2020

From calendar year 2000 to 2020, the FMCSA has issued 43 driver IH Orders and 129 carrier IH Orders for a total of 172 IH Orders. The highest volume of IH Orders was issued in the year 2012 when they issued 43 carrier IH Orders and 5 driver IH Orders. For additional information on the number of IH Orders issued between 2000 and 2020 see **Table 7**.

Table 7. IH Orders Issued between 2000-2020

Calendar Year	Total IH Orders Issued	Driver IH	Carrier IH
2020	1	1	0
2019	1	1	0
2018	3	2	1
2017	13	10	3
2016	12	5	7

⁵⁶ For examples of previously issued FMCSA IH Orders see Motor Carrier Attachment- Examples of FMCSA IH Orders.

2015	10	4	6
2014	12	1	11
2013	40	8	32
2012	48	5	43
2011	16	1	15
2010	5	3	2
2008	2	1	1
2007	1	0	1
2005	1	0	1
2004	2	1	1
2001	1	0	1
2000	4	0	4
Total	172	43	129

7. State Oversight of Motorcycle Safety

7.1. New Hampshire Motorcycle Safety

State oversight for administering motorcycle requirements falls under the New Hampshire Department of Transportation, Department of Motor Vehicles (DMV). Motorcyclists have the same rights and responsibilities on public roads as other highway users. Anyone who operates a motorcycle in New Hampshire must have a current, valid motorcycle license or a New Hampshire motorcycle permit.⁵⁷

7.1.1. Motorcycle License Requirements

Applicants for a New Hampshire motorcycle license must pass a vision test and provide proof of their fitness to drive a motorcycle. Applicants can prove fitness to operate a motorcycle by either passing a motorcycle Basic Rider Class or by taking a DMV motorcycle skills test.

Applicants for a motorcycle license must be at least 16 years old. Any applicant under 18 years old must successfully complete a motorcycle the Basic Rider Class and provide a parental permission form in order to apply for a motorcycle license or permit.

7.1.2. New Hampshire Helmet Laws

Nineteen states and the District of Columbia have universal helmet laws covering some riders usually people younger than 18. New Hampshire does not have a legal requirement that motorcycle operators or passengers wear a helmet.

⁵⁷ Retrieved from: <https://www.nh.gov/safety/divisions/dmv/driver-licensing/motorcycle/training.htm>

7.2. Massachusetts Motorcycle Safety

State oversight for motorcycle safety in Massachusetts falls under the jurisdiction of the Massachusetts Registry of Motor Vehicles. The minimum requirements are:

- Be at least 16
- Be a resident of Massachusetts.
- Not hold a driver's license or learner's permit in any other state.
- Be clear of outstanding obligations to any state.
- Meet minimum Class D or Class M driver's license medical standards

You must be at least 16 year of age to apply for a motorcycle learner's permit. If you are under 18 years of age, you must obtain the written consent of a parent, legal guardian, Department of Children and Families, or boarding school headmaster. Written consent must be given by signing the Class D, M, or D/M license and ID card application.⁵⁸

After you obtain a motorcycle learner's permit, you must take and pass a Class M road test or complete the Motorcycle Rider Education Program (MREP).⁵⁹ course to obtain a motorcycle license. If under 18, you must take the MREP course and complete all junior operator requirements to get a license.

8. Jarheads Motorcycle Club of New England

The motorcyclists riding in formation involved in this crash belonged to the Jarhead Motorcycle Club of New England based out of Plymouth, Massachusetts. Their club is one of six chapters in New England. To be a member of the club one must be a Marine veteran or served as a Navy corpsman. Their mission is to raise money for other veterans. Members of the club had traveled up to New Hampshire the day before the crash and were staying at the Mount Jefferson View Inn located in Randolph, New Hampshire. The club was there in Randolph to attend their annual meeting which was to be held at the Inn the following day on Saturday (the day after the crash). On the evening of the crash, some of the club members were scheduled to go to the local Gorham American Legion and help with a fund-raising event. The American Legion is located 10.6 miles away from the Mount Jefferson View Inn. The group of riders that departed the Inn consisted of 15 motorcycles and 21 riders including the passengers. The group of motorcycles had just entered the highway and were approximately a quarter mile from the Inn when the crash occurred.

8.1. Crash Involved Motorcycles

This crash involved 12 motorcycles and 21 total riders including the passengers. Although not required all of the operators and passengers were wearing a motorcycle helmet. It should be

⁵⁸ Retrieved from: <https://www.mass.gov/how-to/apply-for-a-motorcycle-class-m-learners-permit>

⁵⁹ MREP- Ibid.

noted that the operators of two of the motorcycles involved in this crash were operating motorcycles with automatic braking systems (ABS). See **Image 3** for additional information. The operator located in position 3 was equipped with ABS see the *Survival Factors Group Chairman Report* for additional information. According to statements from the operators of these motorcycles, that during the crash sequence they were able to maneuver out of the path of the oncoming truck and bring their motorcycles to emergency stop without turning over their motorcycles. These two operators were uninjured.



Image 3. Crash Involved Motorcycle equipped with ABS.

E. DOCKET MATERIAL

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

LIST OF ATTACHMENTS

Motor Carrier Attachment - Westfield Transport Inc. MCS-150s

Motor Carrier Attachment - Westfield Transport Articles of Incorporation

Motor Carrier Attachment - Westfield Transport Pilgrim Insurance Policy

Motor Carrier Attachment- Driver List Provided by Westfield

Motor Carrier Attachment- Westfield Transport's Previous Neighbor Interview

Motor Carrier Attachment- Mass-Trans Insurance Email Correspondence

Motor Carrier Attachment- Westfield Transport Compliance Review

Motor Carrier Attachment- Westfield Transport Interviews

Motor Carrier Attachment- Accident Driver's Bills of Lading

Motor Carrier Attachment- Mass-Trans Insurance Interview

Motor Carrier Attachment- Westfield Transport Suspended Driver Driving Report

Motor Carrier Attachment- Accident Driver CDLIS Report

Motor Carrier Attachment- Universe Express Interview

Motor Carrier Attachment- Universe Express DQ File for Accident Driver

Motor Carrier Attachment- Accident Driver Roadside Inspection Reports

Motor Carrier Attachment- FBI Express Drug Tests for Accident Driver

Motor Carrier Attachment- Westfield Transport Safety Audit

Motor Carrier Attachment- Motor Carrier Safety Progress Reports FMCSA

Motor Carrier Attachment- Westfield Transport Driver Interviews

Motor Carrier Attachment- Letters of Incorporation for East Transport

Motor Carrier Attachment- MCMIS Carrier Profile for East Transport

Motor Carrier Attachment- East Transport MCS-150

Motor Carrier Attachment- DAKS Express Interview
Motor Carrier Attachment- Examples of FMCSA IH Orders

LIST OF PHOTOGRAPHS

Motor Carrier Photo 1 - Westfield Transport Fleet Vehicle
Motor Carrier Photo 2 - Westfield Transport Fleet Vehicle
Motor Carrier Photo 3 - Westfield Transport Fleet Vehicle
Motor Carrier Photo 4 - Westfield Transport Fleet Vehicle
Motor Carrier Photo 5 - Westfield Transport Fleet Vehicle
Motor Carrier Photo 6 - East Transport Fleet Vehicle
Motor Carrier Photo 7 - East Transport Fleet Vehicle
Motor Carrier Photo 8 - 3 Brothers Transport Vehicle
Motor Carrier Photo 9-10 Dad Transportation Vehicle
Motor Carrier Photo 11-15 Massachusetts State Police Weighing Westfield Trucks
Motor Carrier Photo 16 Westfield Truck with Lettering Removed

END OF REPORT

Michael S. Fox
Senior Highway Accident Investigator