



National Transportation Safety Board

Washington, D.C. 20594-2000

Safety Recommendation

Date: May 8, 2006

In reply refer to: H-06-17

Mr. Warren E. Hoemann
Acting Administrator
Federal Motor Carrier Safety Administration
400 Seventh Street S.W.
Washington, D.C. 20590-0001

On October 1, 2003, a multivehicle accident occurred on the approach to an Interstate 90 (I-90) toll plaza near Hampshire, Illinois.¹ About 2:57 p.m., a 1995 Freightliner tractor-trailer chassis and cargo container combination unit was traveling eastbound on I-90, approaching the Hampshire–Marengo toll plaza at milepost 41.6, when it struck the rear of a 1999 Goshen GC2 25-passenger specialty bus. As both vehicles moved forward, the specialty bus struck the rear of a 2000 Chevrolet Silverado 1500 pickup truck, which was pushed into the rear of a 1998 Ford conventional tractor-box trailer. As its cargo container and chassis began to overturn, the Freightliner also struck the upper portion of the pickup truck's in-bed camper and the rear left side of the Ford trailer. The Freightliner and the specialty bus continued forward and came to rest in the median. The pickup truck was then struck by another eastbound vehicle, a 2000 Kenworth tractor with Polar tank trailer. Eight specialty bus passengers were fatally injured, and 12 passengers sustained minor-to-serious injuries. The bus driver, the pickup truck driver, and the Freightliner driver received minor injuries. The Ford driver and codriver and the Kenworth driver were not injured.

The National Transportation Safety Board determined that the probable cause of the accident was the failure of the Freightliner truck driver, who was operating his vehicle too fast for traffic conditions, to slow for traffic. Contributing to the accident was the traffic backup in a 45-mph zone, created by vehicles stopping for the Hampshire–Marengo toll plaza. The structural incompatibility between the Freightliner tractor-trailer and the specialty bus contributed to the severity of the accident.

The Leisure Pursuit Charters, Inc., (Leisure) specialty bus was rear-ended and thus did not initiate the accident. Nonetheless, the Safety Board reviewed the motor carrier's operations as part of the accident investigation. In addition, the Federal Motor Carrier Safety Administration (FMCSA) conducted a postaccident compliance review of Leisure and issued the company a

¹ For more information, read National Transportation Safety Board, *Multivehicle Collision on Interstate 90, Hampshire–Marengo Toll Plaza, Near Hampshire, Illinois, October 1, 2003*, Highway Accident Report NTSB/HAR-06/03 (Washington, DC: NTSB, 2006).

safety rating of “conditional” because of its violation of safety regulations for both drivers and their vehicles. These violations included:

- Failing to randomly test drivers for controlled substances and alcohol,
- Failing to investigate a driver’s background,
- Failing to maintain a list or certificate relating to violations of motor vehicle laws and ordinances,
- Failing to maintain medical examiners’ certificates in drivers’ qualification files,
- Operating a motor vehicle providing transportation without the required registration or beyond the scope of the registration,
- Requiring or permitting a driver to drive after having been on duty for more than 70 hours in 8 consecutive days,
- Failing to keep a record of tests on push-out windows, emergency doors, and emergency door marking lights on buses, and
- Using a commercial vehicle not periodically inspected.

By the very nature of these violations—all of which are safety-related—Leisure placed its passengers at risk, along with the general public who shared the road with Leisure’s vehicles and drivers.

During its investigation, the Safety Board determined that Leisure had been operating on a revoked interstate authority at least eight times before the accident. On January 29, 2002, the FMCSA had revoked Leisure’s operating authority because of inadequate insurance; however, according to Leisure’s president, he had not received the revocation letter due to an office move. During the FMCSA postaccident compliance review, inspectors discovered that Leisure had conducted at least eight interstate charters after having its operating authority revoked. On one of these trips, a driver for Leisure had been pulled over for a Motor Carrier Safety Assistance Program roadside inspection (driver only); because of the limited nature of the inspection, the company’s revoked operating status was not identified, and the FMCSA was not notified that the company was operating on revoked authority. Because of the safety violations found during the postaccident compliance review, and the fact that Leisure had been operating without authority during these violations, the Safety Board reviewed the process by which the FMCSA monitors passenger carriers that have lost operating authority to verify that they are no longer providing for-hire interstate charter services to the public.

Once a company receives a final notification of operating status revocation, it is listed in the FMCSA databases as “inactive.” Although Leisure’s operating status was revoked and its assigned motor carrier number was inactive, the company continued to provide charters to the public. Leisure was knowingly operating without proper authority and in violation of safety requirements, while being paid by customers to whom it was providing uninspected vehicles and drivers who lacked medical examination certificates or background checks, as documented in the

FMCSA compliance review. Had the accident not occurred, these violations probably would have continued because Leisure was not listed as active in FMCSA databases, and the databases provided no link between roadside inspection and the inactive operating status of the carrier. The FMCSA believed that the company had stopped operating as a result of the notice of revocation; however, it had no measures in place to verify that the company had indeed ceased operations. This situation represents a breakdown in the FMCSA process of operating authority revocation meant to protect the public from illegally operating and potentially unsafe companies.

Further, once a carrier becomes inactive—even though it is not removed from the FMCSA databases that are used to determine the need for a compliance review or safety audit—it is no longer targeted for a compliance review because it is not registered as active. Given the inactive designation and in the absence of roadside inspection statistics, the FMCSA is unlikely to identify an illegally operating carrier as a high-risk carrier for a compliance review. The FMCSA programs to protect passengers and the traveling public are directed to carriers with an active operating status.

In a 2004 address to the United Motorcoach Association, the FMCSA administrator stated that the agency recognizes the reality of passenger carriers operating without proper authority and promised to work with association members to get uninsured and other illegal motorcoach operators off the highways. The method discussed to prompt field action was cross checking insurance revocations with roadside inspection and accident databases. The Safety Board has received no indication from the FMCSA that it has initiated this process. In January 2004, the FMCSA informed the Safety Board that inactive passenger carriers would be discovered and subsequently placed in out-of-service status by means of roadside inspections. However, in 2004, of the approximately 776,550 registered buses, only 5.5 percent underwent roadside inspections. Further, as a result of the new Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), the FMCSA cannot conduct *roadside* inspections of passenger carriers. In light of such numbers and the SAFETEA-LU legislation, the likelihood of inspectors detecting a passenger carrier operating on a revoked authority is extremely low. The Safety Board is very concerned that the FMCSA does not have a method to guarantee that passenger carriers whose authority has been revoked will be expeditiously identified and prevented from further unsafe operations or that they will cease operations.

Without a process to verify that the operations of revoked passenger carriers have ceased, undetected inactive carriers can continue to provide unsafe service to the public and operate on the Nation's highways without oversight. Other motor carriers can similarly circumvent the system, operating on revoked authority without the required amount of insurance and violating key safety regulations. Such motor carriers would not be identified unless one of their vehicles was either inspected at a "planned stop," as dictated in the SAFETEA-LU legislation, or involved in a fatal accident, a situation that allows commercial passenger buses to essentially travel unchecked. An agency whose mission is to ensure safe transportation must close this loophole, which undermines the effectiveness of Federal safety regulations. The FMCSA process of notifying the operator in violation of its revocation is only a first step in preventing unsafe carriers from continuing operation. Relying on the possibility of an inspection or involvement in a fatal accident to catch those carriers operating without authority is not sufficient as a safety net.

The FMCSA indicates that it has begun a project to develop a more effective operational model for its enforcement and compliance activities, referred to as the Comprehensive Safety Analysis (CSA) 2010 Initiative. However, full implementation of any changes in the safety rating process is not expected until 2010. The Safety Board is concerned that this long time frame jeopardizes the safety of the traveling public through unnecessary exposure to possibly unsafe commercial motor vehicles.

Moreover, though FMCSA staff have indicated that the CSA 2010 Initiative is a top-to-bottom evaluation of the compliance review system, Safety Board staff have identified the separate issue of passenger carriers operating on revoked licenses as another problem area within the FMCSA's oversight of commercial motor carriers. The Safety Board understands that all changes resulting from the FMCSA's compliance review evaluation would be implemented by 2010, with proposed rulemaking notices issued in the time leading up to the effective date. However, the CSA 2010 Initiative was first announced almost 2 years ago, and the Board has received no information regarding implementation of the initiative, nor is the Board aware of any public document outlining the specific steps the agency plans to take to accomplish the review and to implement changes.

The Safety Board believes that waiting 4 more years for significant action to be taken to amend the troubled motor carrier compliance review system is unacceptable. Failing to expeditiously implement a program to verify that revoked passenger carriers do not continue to operate will continue to negatively affect the safety of the traveling public. Given the lengthy implementation process for the CSA 2010 Initiative and the uncertainty of results, the Safety Board fully expects that the FMCSA will not wait to develop a program based on the outcome of the CSA 2010 project. The Safety Board concludes that the FMCSA's process for revocation of operating authority is inadequate because, as this accident demonstrates, it fails to follow up and verify that the out-of-service carrier has ceased operations.

The National Transportation Safety Board therefore makes the following recommendation to the Federal Motor Carrier Safety Administration:

Establish a program to verify that motor carriers have ceased operations after the effective date of revocation of operating authority. (H-06-17)

As a result of this accident investigation, the Safety Board also issued safety recommendations to the U.S. Department of Energy, the U.S. Department of Transportation, the Federal Highway Administration, the American Association of State Highway and Transportation Officials, and the International Bridge, Tunnel and Turnpike Association. In addition, the Safety Board reiterated two recommendations to the National Highway Traffic Safety Administration.

Please refer to Safety Recommendation H-06-17 in your reply. If you need additional information, you may call (202) 314-6177.

Acting Chairman ROSENKER and Members ENGLEMAN CONNERS, HERSMAN, and HIGGINS concurred in this recommendation.

[Original Signed]

By: Mark V. Rosenker
Acting Chairman