

NATIONAL TRANSPORTATION SAFETY BOARD



Washington, D.C. 20594

Safety Recommendation

Date: July 26, 1993**In Reply Refer To:** H-93-27 and -28

Ms. Jane Garvey
Acting Administrator
Federal Highway Administration
400 7th Street, S.W.
Washington, D.C. 20590

On Sunday, July 26, 1992, about 11:10 a.m., the driver of a charter bus traveling from Brooklyn, New York, to Vernon, New Jersey, lost control of the bus as it descended a steep hill. The bus struck a car, overturned on its right side, slid and spun on its side, uprighted, and struck another car before coming to rest. A fire ensued, burning the bus and the second car. Twelve passengers were ejected from the bus during the collision; six of them died. The driver and the other 37 bus passengers sustained minor to serious injuries. The two car drivers sustained minor injuries, and the car passenger was uninjured.¹

The National Transportation Safety Board determines that the probable cause of the accident was the busdriver/owner's² failure to maintain the bus adequately and his deliberate disregard in choosing to operate the bus with known brake deficiencies. Contributing to the accident was the failure of the New York Department of Transportation (NYDOT) to inspect the bus and ensure that its deficiencies were corrected. Also contributing to the accident was the inadequacy of the Federal Highway Administration's (FHWA's) system for identifying motor carriers.

¹For more information, see Highway Accident Report—*Charter Bus Loss of Control, Overturn, and Fire, Vernon, New Jersey*, July 26, 1992 (NTSB/HAR-93/02).

²The busdriver was the owner of the company, Golden Sons, Inc., to which the bus belonged.

The Safety Board believes that the FHWA has been diligent in its oversight functions concerning the Motor Carrier Safety Assistance Program (MCSAP), its chosen criteria and followup of safety/compliance reviews, and various other safety activities, such as training, for which it is responsible. Delegating the responsibility for conducting safety/compliance reviews to the States will expose more carriers to this level of oversight. However, previous investigations have identified a gap in the FHWA's system of identification. Although the FHWA believed that this problem had been mitigated through State MCSAP inspections, this investigation shows that a large gap still exists in the present system of motor carrier identification.

When the investigation revealed that at the time of the accident Golden Sons was not listed on the Motor Carrier Management Information System (MCMIS) even though 18 months earlier the Interstate Commerce Commission (ICC) had authorized it to begin operations, the Safety Board decided to find out whether the omission was an isolated instance. The Safety Board obtained from the ICC a list of all the carriers to which it had granted operating authority between 1988 and 1991. From the list the Safety Board randomly selected 632 passenger carriers and asked the FHWA how many of them were listed on the MCMIS as of August 11, 1992. The FHWA found that 291 had not been entered on the MCMIS and that of the 291, 206 were conducting operations that were subject to the FHWA.

In order to ensure that all of the oversight activities conducted by the FHWA are effective and to gauge the usefulness of these activities and set further goals for the agency, it is essential that the FHWA identify the entire motor carrier population subject to its jurisdiction. The Safety Board realizes that the FHWA has limited resources and relies on the States to assist in the oversight and enforcement of the safety regulations. The States must also be responsible for motor carrier oversight, including the identification of motor carriers within their States.

Golden Sons was operating in interstate commerce and, therefore, was subject to the rules and regulations promulgated by the FHWA. The FHWA was unaware of Golden Sons' operations; consequently there was no Federal safety oversight of this carrier. The Safety Board believes that the FHWA cannot oversee the motor carrier industry without timely and accurate identification of the motor carrier population. Otherwise, the FHWA cannot ensure that motor carriers will be appropriately scrutinized.

The FHWA should have discovered from the *ICC Register* that Golden Sons had authority to conduct interstate operations. The FHWA should then have entered the information on the MCMIS so that the carrier would be included in the selection process for a compliance review. Had the FHWA reviewed Golden Sons, it probably would have been rated unsatisfactory.

The Safety Board believes that the FHWA should assign a high priority to identifying carriers. Currently, the FHWA has conducted safety/compliance reviews of approximately 41 percent of the identified motor carrier population. If a carrier is not listed on the MCMIS, it is not likely to be selected for a safety or compliance review, which the Safety Board believes is one of the most effective oversight activities that the FHWA and the States can perform.

If the carrier population is underestimated, the elements of Government that are responsible for allocating resources to the FHWA for its safety program, as well as the FHWA itself, cannot realistically estimate the resources necessary to achieve any specified or desired level of oversight. If the size of the carrier population is unknown, it is not possible to know what percentage of the population is being reviewed by the FHWA. Inaccurate population data may also seriously hamper any attempt to improve the effectiveness of such programs as the MCSAP or Safetynet.

After a carrier files an MCS-150 (Motor Carrier Identification Report), it does not have to update the form if it changes its name or address. The FHWA may, as a result, "lose" such a carrier or inadvertently assign it more than one USDOT number, which in turn could result in the data about the carrier being scattered among several separate files. Thus the safety and compliance review selection process could be hindered, and it becomes advantageous for a carrier with an unsatisfactory rating to avoid updating its MCS-150.

Requiring a carrier to notify the FHWA of any changes in its name, address, and operations would not impose an undue burden on it. Such a requirement could be helpful in locating carriers using a minimum of resources, in enhancing the safety and compliance review selection process, and in improving the FHWA's administration of its rules. Therefore, the Safety Board believes that the FHWA should require any carrier that changes its name or principal place-of-business address to update its MCS-150 promptly.

Some carriers may not be aware that they must file an MCS-150, and some of those that are aware may ignore the requirement in an effort to avoid FHWA oversight. Simply reviewing the ICC's data is not sufficient. Only about 26 percent of the known carrier population is registered with the ICC; the other 74 percent is subject only to the MCS-150 filing requirements.

In 1984 the Safety Board recommended that the FHWA use State records to enhance its *carrier identification program*. In response to this recommendation the FHWA maintained that MCSAP roadside inspections would adequately identify any previously unknown carriers as a result of this accident. It is clear that MCSAP inspections alone are inadequate to identify all motor carriers.

The FHWA could have identified Golden Sons from ICC records; it also could have identified it from New York records because two State agencies, the New York Department of Motor Vehicles (NYDMV) and the NYDOT, knew about the carrier, as they knew about the majority of the other ICC-authorized New York-based carriers chosen for the Safety Board's random sample.

As a result of Vernon and other accidents, the NYDMV obtained a list of passenger carriers from the ICC and instituted procedures to identify those out-of-State passenger carriers that may be subject to its regulations.

The Safety Board believes that the NYDMV's assertive stance in instituting carrier identification procedures will improve its ability to identify motor carriers and, in turn, improve safety oversight. Further, the Safety Board believes that the FHWA should institute similar procedures and survey each State's record systems to determine which can be used to identify interstate motor carriers. Such sources should be systematically and regularly consulted to identify carriers and enter them on or remove them from the MCMIS.

The Safety Board finds it inconsistent that the FHWA believes that it is necessary to verify the accuracy of data obtained from outside sources before it enters a carrier onto the MCMIS, but does not systematically verify the data already on the MCMIS. The Safety Board believes that data about a carrier that has been recently authorized by the ICC or recently entered on State records is much more likely to be accurate than data that has been on the MCMIS for several years.

At least 87 percent of the Safety Board's sample of ICC-authorized passenger carriers were or should have been entered on the MCMIS. The ICC records appear to be reasonably reliable about which motor carriers are active. The FHWA's need to verify the accuracy of the data before entering it onto its system seems unfounded, at least for data from the ICC. The Safety Board believes that the fact that up to 13 percent of the ICC carrier population should not be entered on the MCMIS does not justify the FHWA delaying the entry of the data about the rest of the ICC population. The Safety Board believes that from a safety perspective, entering the carriers on the MCMIS and thereby exposing them to the FHWA's safety oversight is far more important than attempting to verify the accuracy of the data in advance. However, the Safety Board believes that the FHWA should continue to verify the accuracy of the data once the carriers are placed on the MCMIS.

As the FHWA gains experience with each State system, it should be able to determine how reliable each data source is in identifying those carriers subject to FHWA oversight. The Safety Board believes that the FHWA should discontinue the practice of verifying identification data from other sources before entering them onto the MCMIS if experience indicates that such data are usually reliable.

The FHWA's failure to identify the carriers that are subject to its jurisdiction has been a recurring issue since the Safety Board made its initial recommendation to the FHWA concerning this matter in 1978. Although passenger carriers are supposedly assigned a high priority in FHWA's process of selecting carriers for compliance reviews, Golden Sons and 46 percent of the sampled ICC-authorized passenger carriers were not on the MCMIS at the time of this accident.

Furthermore, the FHWA's position concerning carrier identification procedures, especially with respect to ICC-authorized carriers, the Safety Board believes, has been inconsistent. Although the FHWA noted in a December 1988 rulemaking that it monitored the *ICC Register* to identify those carriers applying for operating authority, an FHWA witness testified at the

Safety Board's public hearing that the FHWA had not monitored the *ICC Register* since the early 1980s.

Although the FHWA has responded positively to the Safety Board's recommendations about improving carrier identification procedures, the changes it implemented were apparently neither permanent nor effective. Therefore, despite the FHWA's position that as a result of this accident it now is effectively identifying ICC-authorized carriers, the Safety Board believes that the FHWA needs to develop and implement a comprehensive and permanent program to identify all motor carriers subject to its jurisdiction.

The Safety Board believes that the FHWA continues to have difficulty identifying carriers because it does not assign this activity the priority it deserves. The Safety Board realizes that the FHWA has limited resources and that a concerted effort is required to improve the carrier identification system.

The FHWA does not make full use of the data available from the ICC, and it does not systematically access State record systems. The Safety Board concludes that the FHWA's system for identifying carriers is inadequate.

Therefore, the Safety Board recommends that the Federal Highway Administration:

Require any carrier that changes its name or principal place-of-business address to update its MCS-150 promptly. (Class II, Priority Action) (H-93-27)

Develop a systematic and continual process of identification of carriers subject to the Federal Highway Administration's jurisdiction that includes the immediate entry of new carriers onto the Motor Carrier Management Information System, systematically accessing available State record systems, and maintaining contact with the Interstate Commerce Commission concerning new motor carriers. Devise a method of verifying that the process results in the identification of the entire carrier population. (Class II, Priority Action) (H-93-28)

Also, the Safety Board issued Safety Recommendation H-93-29 to the New York Department of Motor Vehicles, H-93-30 to the New York Department of Transportation, H-93-31 to the American Association of Motor Vehicle Administrators, H-93-32 to the United Bus Owners of America, and H-93-33 to the American Bus Association.

Chairman VOGT, Vice Chairman COUGHLIN, and Members LAUBER, HART, and HAMMERSCHMIDT concurred in these recommendations.



By: Carl W. Vogt
Chairman