



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

**HUMAN PERFORMANCE FACTORS GROUP CHAIRMAN'S  
FACTUAL REPORT**

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**A. CRASH INFORMATION**

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

Vehicle 1: 2016 Ram 2500 Crew Tradesman Pick-up 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 (no injuries)

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 FLHTKEL

Operator #9: 45-year-old male (deceased)

Passenger #9: 42-year-old female (deceased)  
Vehicle #10: 2015 Harley Davidson FLST  
Operator #10: 52-year-old female (injured)  
Vehicle #11: 2007 Harley Davidson FLHRSE3  
Operator #11: 51-year-old male (injured)  
Vehicle #12: 2019 Harley Davidson FLXH  
Operator #12: 54-year-old male (no injuries)  
Vehicle #13: 2006 Harley Davidson FLTRI  
Operator #13: 70-year-old male (injured)  
Passenger #13 69-year-old female (injured)  
Vehicle #14: 2015 Harley Davidson FLHTKS  
Operator #14: 46-year-old male (injured)  
Passenger #14 48-year-old female (injured)  
Date: Friday, June 21, 2019  
Time: 6:26 p.m. Eastern Daylight Time  
NTSB #: **HWY19MH010**

## **B. HUMAN PERFORMANCE FACTORS GROUP**

Dennis Collins, Senior Human Performance Factors Investigator, Group Chairman  
NTSB Office of Highway Safety  
490 L'Enfant Plaza East, S.W., Washington, DC 20594

## **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 HUMAN PERFORMANCE FACTORS INVESTIGATION**

The human performance factors factual investigation focused on the behavioral, medical, operational, and environmental factors associated with the driver of the 2016 Dodge 2500 pickup truck (hereafter the pickup).

Given the circumstances of the crash, examination of the human performance factors associated with the motorcyclists was limited to the effects, if any, of alcohol consumption on their ability to react to the lane encroachment by the pickup.

## **1. Driver of the Pickup**

### **1.1. Background**

The driver of the Dodge was a 23-year old male. He is a legal permanent resident of the United States (U.S.) and a Ukrainian citizen. At the time of the crash, he had lived in the U.S. for 13 years and held a class “A” Massachusetts commercial driver’s license (CDL) with no endorsements and the “E” restriction.<sup>1</sup> His license was issued in August 2018 and had an expiration date in December 2021. He also held a medical examiner’s certificate for commercial driver medical certification, issued in August of 2018 and expiring in August of 2020.<sup>2</sup> A check of the National Driver Register (NDR) Problem Driver Pointer System (PDPS)<sup>3</sup> for the driver on 6/27/2019 found the following:

- An archived pointer<sup>4</sup> from Ohio dated 9/25/2016;
- A pointer from Connecticut dated 5/28/2019;
- A pointer from Massachusetts dated 6/17/2019; and
- A pointer from New Hampshire dated 6/24/2019.

In addition, the NDR check also indicated that at the time of the check the driver was not eligible to drive in Connecticut, Massachusetts, and New Hampshire due to refusing a chemical test (Connecticut) and the subject of this investigation, the crash near Randolph, NH (Massachusetts and New Hampshire).

According to the motor carrier, the driver had begun working for the company on June 19, 2019, two days prior to the crash.<sup>5</sup> He had made several deliveries and pickups using the pickup truck and trailer during those three days. He was uninjured in the crash. Through his attorney, the driver declined to be interviewed by NTSB investigators.

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<sup>1</sup> See section 1.13 for details on the driver’s license.

<sup>2</sup> See section 1.4 of this report for additional details.

<sup>3</sup> Human Performance Attachment: National Driver Register Problem Driver Pointer System Check.

<sup>4</sup> The NDR contains information on the revocation, suspension, cancelation, or denial or driving privileges or conviction of serious traffic offenses. The NDR “points” to the State of record for specific information on the action taken, hence the term “pointer”.

<sup>5</sup> Available as an attachment to the *Motor Carrier Factors Group Chairman’s Factual Report*.

## 1.2. Pre-Crash Events

Using information from an interview with his employer,<sup>6</sup> bills of lading,<sup>7</sup> information from/interviews of consignees,<sup>8</sup> cell phone data,<sup>9</sup> cell phone records,<sup>10</sup> police interviews,<sup>11</sup> and EZ Pass records,<sup>12</sup> investigators generated the following table of the driver's activities in the days prior to the crash. All times in the table are in Eastern Daylight Time (EDT).

Table 1. Driver Activities Prior to the Crash

Tuesday, June 18, 2019		
<i>Time</i>	<i>Description</i>	<i>Source</i>
UNKNOWN	Driver awakes	N/A
1:46:14 p.m.	Driver sends outgoing text – first activity of day	Cell records
11:58:54 p.m.	Driver sends outgoing text – last activity of day	Cell records
Wednesday, June 19, 2019		
<i>Time</i>	<i>Description</i>	<i>Source</i>
1:27:16 a.m.	Driver sends outgoing text – first activity of day	Cell records
1:49:09 a.m.	Driver sends outgoing text	Cell records
4:26:52 a.m.	Driver sends outgoing text	Cell records
~7:00 a.m.	Driver departs from West Springfield, MA	Employer
7:05:36 a.m.	Driver fuels at 77 West Street, Springfield, MA	Cell data
7:40 a.m.	Driver passes through Ludlow East toll, Route 90	EZ pass
8:20 a.m.	Driver passes through Hopkinton East toll, Route 90	EZ pass
10:51 a.m.	Driver delivers a vehicle in Truro, MA	Customer
1:04:44 p.m.	Driver fuels at 258 Quincy Avenue, Braintree, MA	Cell data
2:54 p.m.	Driver picks up a vehicle in Londonderry, NH	Customer
3:23 p.m.	Driver passes through Hampton Ramp toll, Route 95	EZ pass
3:52 p.m.	Driver passes though York, Maine line toll, Route 95	EZ pass
4:23 p.m.	Driver passes though S. Portland / Downtown toll, 95	EZ pass
5:09 p.m.	Driver passes through Gardiner I-295 toll	EZ pass
5:33:00 p.m.	Driver delivers a vehicle in North Augusta, ME	Cell data
6:27:51 p.m.	Driver fuels in Newport, ME	Cell data
11:08:19 p.m.	Driver makes outgoing call – last activity of day	Cell records
Thursday, June 20, 2019		
<i>Time</i>	<i>Description</i>	<i>Source</i>
7:24:02 a.m.	Driver receives incoming call – first activity of day	Cell records
8:36 a.m.	Driver makes delivery in Bangor, ME	Cell data/customer
10:50 a.m.	Driver picks up 2 vehicles in Thomaston, ME	Cell data/customer
12:35 p.m.	Driver passes through Falmouth, ME toll, Route 95	EZ pass

<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

<sup>8</sup> Human Performance Attachment: Transcripts/Narratives of Investigative Interviews.

<sup>9</sup> Human Performance Attachment: Data from Driver's Cellular Phone.

<sup>10</sup> Human Performance Attachment: Driver Cellular Records

<sup>11</sup> Human Performance Attachment: Selected Statements from Police Report.

<sup>12</sup> Available as an attachment to the *Motor Carrier Factors Group Chairman's Factual Report*.

Thursday, June 20, 2019 (continued)		
<u>Time</u>	<u>Description</u>	<u>Source</u>
1:17 p.m.	Driver passes through York, Maine toll, Route 95	EZ pass
1:39:58 p.m.	Driver fuels at 108 Ocean Road, Greenland, NH	Cell data
1:50 p.m.	Driver passes through Hampton, NH toll, Route 95	EZ pass
3:40 p.m.	Driver delivers a vehicle in Franklin, MA	Customer image
5:06:03 p.m.	Driver fuels at 1045 Danielson Pike, Scituate, RI	Cell data
6:00 p.m.	Driver delivers a vehicle in Brooklyn, CT	Customer
11:19:53 p.m.	Driver sends outgoing text – last activity of day	Cell records
Friday, June 21, 2019		
<u>Time</u>	<u>Description</u>	<u>Source</u>
6:52:16 a.m.	Driver makes outgoing call – first activity of day	Cell records
7:00-8:00 a.m.	Driver departs his residence in Westfield, MA	Police interview
7:36 a.m.	Driver passes through Westfield – West (MA) toll, Rt 90	EZ pass
9:18 a.m.	Driver passes through Canaan, NY toll, Route 90	EZ pass
9:28 a.m.	Driver passes through Albany, NY toll, Route 90	EZ pass
10:24 a.m.	Driver picks up a vehicle in Mechanicville, NY	Police report
~2:00 p.m.	Driver calls his father	Police interview
4:08 p.m.	Driver fuels at 2886 Route 302 Wells River, VT	Cell data
6:00 p.m.	Driver drops a vehicle in Gorham, NH	Police interview
6:03:01 p.m.	Driver makes outgoing call – last activity before crash	Cell records
6:10 p.m.	Driver departs dealership in Gorham	Police interview
6:26 p.m.	<b>ESTIMATED TIME OF CRASH</b>	
6:35:04 p.m.	Driver makes outgoing call to his employer	Cell records

At the time of the crash, the driver had just delivered a vehicle to a dealership in Gorham, NH and was reportedly returning to West Springfield, MA. The distance from the dealership to the crash location is approximately 10.5 miles.<sup>13</sup>

### 1.3. General Health

The driver declined to be interviewed, so no direct information on his general health was gathered.

### 1.4. Medical Examination Report for Commercial Motor Vehicle Driver Fitness Determination (CDL Medical Exam)

Commercial drivers in the United States are required be medically certified as being physically qualified to drive a commercial vehicle.<sup>14</sup> In Massachusetts, where this driver was licensed, drivers must meet the requirements specified in the *Federal Motor Carrier Safety Regulations* (FMCSRs). These examinations result in one of four outcomes with respect to medical qualification:

<sup>13</sup> Distance determined using Google Maps.

<sup>14</sup> 49 Code of Federal Regulations §391.41.

- The driver is found to meet the standards in 49 *Code of Federal Regulations* (CFR) §391.41 and is given a 2-year certificate;<sup>15</sup>
- The driver is found to meet the standards, but requires periodic evaluation for one or more conditions and is qualified for 3 months, 6 months, or 1 year;
- The driver is temporarily disqualified due to a condition or medication; or;
- The driver is found not to meet the standards.

Investigators located a CDL medical exam for the driver performed in August 2018. In that exam, the driver indicated no health history or other health conditions.<sup>16</sup> He indicated he had not undergone any surgeries. He stated he was not taking any prescription, over the counter, or herbal medications, had not used an illegal substance in the last two years, and had not ever failed a drug test or been dependent on an illegal substance. The examiner made no notations in the driver health history review section. The driver's blood pressure, pulse rate, urinalysis, vision, and hearing were within normal limits. His height was listed as 5' 10" and his weight was listed as 144 pounds. A physical examination was unremarkable.

The driver stated that he was not sure if he had ever been denied a USDOT/FMCSA<sup>17</sup> medical certificate or had been issued one for less than two years. The driver was qualified for two years. The performing examiner was a chiropractor who was on the registry of certified medical examiners.

## **1.5. Medical Providers**

Two medical providers who had previously prescribed medications for the driver were identified during the investigation and their records were subpoenaed.<sup>18</sup>

## **1.6. Medications (Prescription, Over-the-Counter, Other)**

### **1.6.1. Pharmacy Records**

A canvas of pharmacies near the driver's home revealed no current prescriptions<sup>19</sup> in his name.

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<sup>15</sup> For more information on who must be examined and the examination process, please see 49 CFR §391.43 and 49 CFR §391.45.

<sup>16</sup> These items included "Have you used an illegal substance within the past two years?" (Question 31) and "Have you ever failed a drug test or been dependent on an illegal substance?" (Question 32).

<sup>17</sup> United States Department of Transportation/Federal Motor Carrier Safety Administration.

<sup>18</sup> Records not received as of 12/6/2019

<sup>19</sup> In this context, a current prescription is one dispensed on a date and in a quantity such that if the dosing instructions were followed, the driver would have been taking the medication at the time of the crash.

## 1.7. Drug and Alcohol Information

Investigators were able to gather information on the driver's drug and alcohol use from several sources:

- When interviewed by an NTSB investigator, a prior employer of the driver stated he terminated the driver because the driver's behavior<sup>20</sup> led the employer to believe the driver was using drugs.<sup>21</sup>
- The former director of a faith-based residential rehabilitation program stated to the press that the driver had attended the program approximately two years before this crash and had struggled with alcohol, cocaine, and heroin abuse.<sup>22</sup>
- On February 11, 2019, the driver had contact with police officers in Baytown, Texas, after demonstrating behavior consistent with intoxication. After the driver consented to a search, officers found a glass pipe in his pockets. The driver was arrested for possession of drug paraphernalia.<sup>23</sup>
- On May 11, 2019, officers in East Windsor, Connecticut, contacted the driver after he was reported revving his vehicle and jumping around outside it. The responding officer suspected the driver was under the influence of drugs and administered a field sobriety test. Based on his performance, the driver was arrested for operating a motor vehicle under the influence of drugs/alcohol. The driver completed a breathalyzer test (which was negative) but refused a urine test for drugs.<sup>24</sup>
- Immediately after the crash, the driver gave a statement to police in which he said he smokes marijuana;<sup>25</sup>
- After the crash, a person who claimed to have personal knowledge of the driver called the police and stated he was an "avid" cocaine user and also used heroin.
- When interviewed post-crash by police, the driver's family indicated he had a history of drug abuse, including beginning to smoke "weed" (marijuana) when 15 or 16 years old and a three-month stay at a rehabilitation facility in Pennsylvania in 2017. The family further stated they suspected the driver used drugs based on his behavior, but never witnessed such use.

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<sup>20</sup> According to the employer, the driver was acting strangely, talking differently, and was "kind of shaky".

<sup>21</sup> Available as an attachment to the *Motor Carrier Factors Group Chairman's Factual Report*.

<sup>22</sup> <https://www.bostonglobe.com/metro/2019/06/27/more-arrests-drug-abuse-detailed-for-man-charged-crash-that-killed-seven/KH4gR5zx0an2y8ikHOkOVP/story.html>, accessed on August 13, 2019.

<sup>23</sup> See <https://boston.cbslocal.com/2019/06/26/volodymyr-zhukovskyy-randolph-nh-crash-police-body-cam-texas-drugs/>, accessed August 13, 2019.

<sup>24</sup> Human Performance Attachment: East Windsor Police Case/Incident Report.

<sup>25</sup> See *Selected Statements from Police Report*.

- When arrested on June 24, 2019, by the Massachusetts State Police on a New Hampshire arrest warrant stemming from this crash, the driver made the following admissions:
  - He (the driver) has a drug problem;
  - He sniffs heroin and uses cocaine, but does not use in the truck;
  - He used two bags of “Superman” branded heroin and 0.5 grams of cocaine on June 21, 2019 at approximately 8:00 a.m.;
  - He uses 3 to 4 bags of heroin a day;
  - He drinks “Red Bull” and eats chocolate to help with the effects of the drugs;
  - He used on the night of June 20, 2019 between 9:00 and 10:00 p.m.;
  - He could feel the effects of the cocaine after leaving his last delivery;
  - He was ready to return home and use again on June 21<sup>st</sup>;
  - He stated he was “fine and okay to drive” and not impaired at the time of the crash;
  - He stated he wasn’t “crashing” from the drugs but was at that point when the crash near Randolph, NH occurred.
- After being transported to the Coos County Corrections Department in Stewartstown, New Hampshire, the driver told jail staff<sup>26</sup> he was detoxing from “dope” and alcohol, was an alcoholic, and used 10 bags of heroin a day.

### **1.8. Previous Toxicological Testing**

In December of 2018, the driver underwent a pre-employment DOT drug test<sup>27</sup> when seeking employment with FBI Express; the results of this testing were negative. While working for FBI, the driver was selected for a random drug test in February of 2019; again, the results were negative.<sup>28</sup>

On June 3, 2019, the driver was operating a truck-tractor in combination with an auto carrier in Baytown, Texas, when he ran off the road and the vehicle overturned. The driver told

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<sup>26</sup> See *Selected Statements from Police Report*.

<sup>27</sup> DOT urine drug testing is limited to identifying urinary metabolites of amphetamine, methamphetamine, cocaine, codeine, morphine, heroin, phencyclidine (PCP), methylenedioxyamphetamine (MDMA), methylenedioxyamphetamine (MDA), methylenedioxyethylamphetamine (MDEA), tetrahydrocannabinol (THC), oxycodone, oxymorphone, hydrocodone, and hydromorphone.

<sup>28</sup> Per NTSB policy, drug test results for living operators are medical records. As such, they are not included in the docket but were reviewed by an NTSB Medical Officer and the Human Performance Group Chairman.



responding officers that he was cut off by another vehicle, swerved to avoid a collision, and overturned.<sup>29</sup> While the driver was not cited or charged, FBI Express requested he undergo post-crash drug and alcohol testing. The driver provided a sample for testing on June 7, 2019.<sup>30</sup> Testing on this sample was negative.

### 1.9. Post-Crash Toxicology

After the crash, the driver voluntarily gave a blood sample to the New Hampshire State Police (NHSP), completing a consent form at 8:12 p.m. Samples were drawn by medical personnel at Weeks Medical Center at 8:37 p.m. and 9:33 p.m.<sup>31</sup> on June 21, 2019.<sup>32</sup> Due to the pending criminal case against the driver, the remaining portion of the sample is being preserved and is not available for analysis by the Federal Aviation Administration (FAA) Forensic Sciences Laboratory.

Analysis of the sample by the state of New Hampshire Department of Public Safety Forensic Laboratory<sup>33</sup> was positive for several drugs; the results of this analysis are summarized in Table 2.<sup>34</sup>

Table 2. Drugs Found in Driver's Blood

Drug	Concentration	Expanded Uncertainty
<b>Benzoyllecgonine</b>	1058 ng/ml	+/- 159 ng/ml
<b>Fentanyl</b>	6.7 ng/ml	+/- 1.3 ng/ml
<b>Acetyl fentanyl</b>	0.33 ng/ml	+/- 0.07 ng/ml
<b>Norfentanyl</b>	3.3 mg/ml	+/- 0.6 ng/ml
<b>Morphine</b>	17 ng/ml	+/- 2 ng/ml
<b>6-MAM</b>	<1.0 ng/ml	N/A

Benzoyllecgonine<sup>35</sup> is an inactive primary metabolite of cocaine and is excreted in the urine of cocaine users; for this reason, it is the compound tested for in most substantive cocaine urinalyses.<sup>36</sup>

Fentanyl is a Schedule II<sup>37</sup> synthetic opioid approved by the Food and Drug Administration (FDA) as an analgesic and anesthetic. It is approximately 100 times more potent than morphine

<sup>29</sup> Human Performance Attachment: Texas Peace Officer's Crash Report.

<sup>30</sup> 49 Code of Federal Regulations Part 382.303 requires an employer to have a driver involved in crashes that meet certain criteria submit to post-crash alcohol and drug testing. For drug testing, if the test is not administered within 32 hours of the crash, the employer is to cease attempts to have the testing performed and document why the test was not administered within the 32-hour window. The driver's test on June 7, 2019 was outside the 32-hour window.

<sup>31</sup> A third sample was drawn for statistical purposes at 8:37 p.m.

<sup>32</sup> Human Performance Attachment: Post-crash Blood Draw.

<sup>33</sup> Human Performance Attachment: Report of Laboratory Examination.

<sup>34</sup> The sample was negative for acetone, ethanol, isopropanol, methanol, amphetamines, barbiturates, benzodiazepines, buprenorphine, cannabinoids, carisoprodol, ketamine, methadone, and zolpidem

<sup>35</sup> See <https://www.sciencedirect.com/topics/medicine-and-dentistry/benzoyllecgonine>, accessed October 22, 2019.

<sup>36</sup> See <https://pubchem.ncbi.nlm.nih.gov/compound/Benzoyllecgonine>, accessed October 22, 2019.

<sup>37</sup> The Controlled Substances Act of 1970 established five classifications, or "schedules" for controlled substances. Schedule II substances have a high potential for abuse and a currently accepted medical use in the United States.

and 50 times more potent than heroin as an analgesic. Like other opioid analgesics, its effects include relaxation, euphoria, pain relief, sedation, confusion, drowsiness, nausea, vomiting, pupillary constriction, and respiratory depression.<sup>38</sup>

Acetyl fentanyl is a Schedule I<sup>39</sup> potent opioid analgesic similar to fentanyl. It is approximately 16 times more potent than morphine. Its effects include analgesia alteration in mood, euphoria, drowsiness, respiratory depression, suppression of cough reflex, constriction of pupils (miosis), and impaired gastrointestinal motility.<sup>40</sup>

Norfentanyl is the primary inactive metabolite of fentanyl. It would be expected to be found in the urine of persons using fentanyl.<sup>41</sup>

Morphine is a non-synthetic narcotic derived from opium. In the United States, morphine is a Schedule II narcotic.<sup>42</sup> It is used medically to treat both chronic and acute pain. Its effects include analgesia (pain relief), drowsiness, headache, nervousness, nausea, and respiratory depression, and mood changes.<sup>43</sup> It is also a metabolite of both codeine and heroin.

6-monoacetylmorphine (6-MAM) is an active, unique, metabolite of heroin. As an active compound, it has effects similar to heroin but is somewhat more potent. Being unique to heroin, its presence in urine confirms heroin use. Trace amounts of 6-MAM are excreted for approximately 6-8 hours following heroin use.

Heroin is a Schedule I<sup>44</sup> opioid extracted from the seed pod of certain varieties of poppy plants. Heroin produces euphoria followed by a twilight state of sleep and wakefulness, drowsiness, respiratory depression, constricted pupils, nausea, a warm flushing of the skin, dry mouth, and heavy extremities. Overdoses can cause slow and shallow breathing, blue lips/fingernails, clammy skin, convulsions, coma, and death.<sup>45</sup>

## **1.10. Psychological Factors**

No information could be gathered on the driver's psychological state at the time of the crash due to his refusal to be interviewed.

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<sup>38</sup> Drug Enforcement Administration. "Drugs of Abuse: A DEA Resource Guide." Drug Enforcement Administration, US Department of Justice, 2017, pages 40-41.

<sup>39</sup> Schedule I substances have no currently accepted medical use and have a high potential for abuse.

<sup>40</sup> Drug Enforcement Administration Drug and Chemical Information – Acetyl Fentanyl. Available from: [https://www.deadiversion.usdoj.gov/drug\\_chem\\_info/acetylfentanyl.pdf](https://www.deadiversion.usdoj.gov/drug_chem_info/acetylfentanyl.pdf), accessed October 22, 2019.

<sup>41</sup> See <http://www.premiertox.com/drug-metabolite/fentanyl>, accessed October 22, 2019.

<sup>42</sup> Drug Enforcement Administration. "Drugs of Abuse: A DEA Resource Guide." Drug Enforcement Administration, US Department of Justice, 2017, page 45.

<sup>43</sup> See <https://medlineplus.gov/druginfo/meds/a682133.html>, accessed October 22, 2019.

<sup>44</sup> Schedule I substances have a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety use under medical supervision.

<sup>45</sup> Drug Enforcement Administration. "Drugs of Abuse: A DEA Resource Guide." Drug Enforcement Administration, US Department of Justice, 2017, page 42.

### 1.11. Psychological Factors

Due to the driver's refusal to be interviewed, no direct information could be gathered on his sleep habits, sleep quality, or sleep history. However, based on external sources of information, investigators were able to estimate the time the driver had available for sleep and/or rest<sup>46</sup> in the days preceding the crash. This information is presented graphically in Figure 1 and is summarized in Table 3.

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<sup>46</sup> Please note that this is time *available* for rest and there is no way for investigators to tell if the driver obtained rest/sleep during that time or engaged in other activities.



Table 3 Summary of Driver Time for Rest

From		To		Elapsed Time
Date	Time	Date	Time	
June 19, 2019	1:49 a.m.	June 19, 2019	4:26 a.m.	2 hours 37 minutes
June 19, 2019	11:08 p.m.	June 20, 2019	7:24 a.m.	8 hours 16 minutes
June 20, 2019	11:20 p.m.	June 21, 2019	6:52 a.m.	7 hours 33 minutes

The Vehicle Factors Group Chairman, during his post-crash inspection of the vehicle, determined the pickup had been modified to create a sleeping space in the cab. Based on the driver’s known activity, it appears he utilized this sleeping space the night of June 19<sup>th</sup> to the morning of June 20<sup>th</sup>. The Motor Carrier Factors Group Chairman determined similar modifications had been made to the carrier’s other vehicles. For additional details on these modifications, please see the *Motor Carrier Group Chairman’s Factual Report*.

### 1.12. Training/Experience

NTSB investigators interviewed one of the driver’s previous employers, the owner of “Universe Express”. The owner stated the driver began working for the company in June of 2016 as a helper; his duties included loading and unloading cars, conducting inspections, and completing paperwork. At some point in 2018, the owner of the company and the driver attended a two-day truck driving school in Missouri to obtain their Class “A” CDLs.<sup>47</sup> After obtaining their CDLs, the two operated a truck-tractor in a driver/co-driver operation, hauling automobiles. According to the employer, the driver began acting strangely, talking differently, and described him as “kind of shaky” in November of 2018. In December of 2018, the owner terminated the driver’s employment.<sup>48</sup>

The driver started employment with FBI Express Incorporated in December of 2018. He was let go from FBI on June 7, 2019 due to his failure to complete post-accident drug testing in a timely manner and a history of damage to transported vehicles.<sup>49</sup> He began working for Westfield Transport Incorporated on June 19, 2019, two days before the crash. For additional information on the driver’s experience and employment history, please see the *Motor Carrier Group Chairman’s Factual Report*.

### 1.13. Licensing

The driver held a class “A” Massachusetts commercial driver’s license<sup>50</sup> with no endorsements and the “E” restriction.<sup>51</sup> His license was issued in August 2018 and expires in

<sup>47</sup> The driver’s Massachusetts CDL was issued in August of 2018 with no endorsements and the “E” restriction. See section 1.13 of this report.

<sup>48</sup> See *Narratives and Transcripts of Investigative Interviews*.

<sup>49</sup> Human Performance Attachment: Excerpts from the Driver’s FBI Express Incorporated Qualification File.

<sup>50</sup> Allows the operation of any combination of vehicles with a gross combination weight rating (GCWR) of 26,001 or more pounds, provided the GVWR of the vehicle(s) being towed is in excess of 10,000 pounds. (Holders of a Class A license may, with any appropriate endorsements, operate all vehicles within Class B, C, and D.)

<sup>51</sup> The Massachusetts E restriction limits the driver to commercial motor vehicles with automatic transmissions.

December 2021. He held a medical examiner’s certificate for commercial driver medical certification, issued in August of 2018 and expiring in August of 2020.

An examination of the Massachusetts full certified driving history<sup>52</sup> indicated the driver had a significant history including accidents, violations, and sanctions; these led to several license suspensions. None of these occurred in a commercial vehicle. The driver’s relevant traffic offenses appearing on his Massachusetts driving record are summarized in Table 4. His license suspensions are summarized in Table 5. Note that each offense can carry a suspension; multiple offenses can lead to multiple, overlapping suspensions.

Table 4. Summary of Driver Motor Vehicle Violations

Date of Offense	Violation
4/7/2012	Unlicensed operation of motor vehicle
4/7/2012	Reckless operation of motor vehicle
4/7/2012	Speeding
4/7/2012	Surchargeable accident – property damage
6/14/2013	Miscellaneous equipment violation
12/1/2016	NDR Violation – Ohio (illegal drug possession)
2/18/2019	Improper lane/location

Table 5. Summary of Driver License Suspensions

Date	Reason for Suspension	Duration	Reinstatement Date (Actual)
4/13/2014	Improper equipment (from 6/14/13) Surchargeable accident (from 4/7/12)	Indefinite	9/26/2015
10/7/2014	Improper equipment (from 6/14/13)	Indefinite	10/28/2016
12/31/2016	NDR-Financial Responsibility (offense in OH) NDR-Illegal Drug Possession (offense in OH)	Indefinite	5/2/2017
6/24/2019	Regulatory complaint (refusal in CT 5/11/19)	Indefinite	N/A
6/24/2019	Immediate threat (6/21/19 crash)	Indefinite	N/A

#### 1.14. Distractions Inside the Vehicle

According to the motor carrier, they do not provide company phones to their drivers.<sup>53</sup> The driver’s personal phone was in his possession at the time of the crash; the phone was seized by the NHSP after the crash. Examination of provider records<sup>54</sup> and of data from the phone indicated the driver was not using his phone at or near the time of the crash. In a statement to police, the driver said he was reaching for an energy drink at the time of the crash.<sup>55</sup> No other potential distractions inside the vehicle were identified.

<sup>52</sup> Human Performance Factors Attachment: Driver Massachusetts RMV Record.

<sup>53</sup> The interview with the Motor Carrier is available as an attachment to the *Motor Carrier Factors Group Chairman’s Factual Report*.

<sup>54</sup> See *Driver Cellular Telephone Records*.

<sup>55</sup> See *New Hampshire Law Enforcement Interviews*.

### 1.15. Distractions Outside the Vehicle

Investigators conducted a visual examination of the crash scene under conditions like those at the time of the crash and did not observe any unusual or distracting environmental features. Video of the westbound approach to the scene of the crash was taken at that time.<sup>56</sup>

### 1.16. Crash Trip

As detailed above, at the time of the crash, the driver had completed his last delivery and was returning to the West Springfield, Massachusetts area. The trip had begun at approximately 7:00 a.m. that day.

## 2. Motorcyclists

### 2.1. Post-Crash Toxicology

Following the crash, some of the motorcycle operators were toxicologically tested. The fatally injured were forensically tested as part of their autopsies. Those transported to local emergency rooms were clinically tested as part of their treatment. Those that were uninjured or refused treatment were not tested. The method and results of that testing for each motorcycle operator are shown below.

Table 6. Motorcycle Operator Blood Alcohol Content (BAC)

Operator Number <sup>57</sup>	Testing Type	BAC (%)
2	Forensic	0.135
3	NONE	N/A
4	Clinical	<0.01
5	Forensic	0.071
6	**	**
7	Forensic	0.063
8	Forensic	0.0
9	Forensic	0.07
10	NONE	N/A
11	NONE	N/A
12	NONE	N/A
13	NONE	N/A

<sup>56</sup> Human Performance Attachment: Video of Westbound Approach to Scene of Crash.

<sup>57</sup> In the NTSB numbering scheme, the driver of the pickup truck was operator #1; he is discussed earlier in this report.

### 3. Other Factors

#### 3.1. Global Positioning System (GPS) Location

NTSB investigators used the Compass application on an iPhone 6s running version 12.3.1 of the operating system to determine the coordinates of the crash scene:

Latitude: 43° 21' 32" N (43.35888889)  
Longitude: 71° 21' 41" W (-71.36138889)

#### 3.2. Weather

The closest representative National Weather Service (NWS) observation site to the accident site was from Mount Washington Regional Airport (KHIE), Whitefield, NH, located 7 ½ nautical miles west of Randolph, NH, at an elevation of 1,072 ft. The airport had a federally installed Automated Surface Observation System (ASOS) and reported the following conditions:<sup>58</sup>

At 1752 EDT the winds were reported from the northwest (310°) at 12 mph. The visibility was 10 miles or more, with clear skies below 12,000 ft. The temperature was 69° F and the dew point temperature was 49° F with a relative humidity of 49%. In the 24 hours prior approximately 0.64 inches of rain was reported with rain ending on June 20th at 2012 EDT. No rain was reported on June 21, 2019.

At 1852 EDT KHIE reported wind from the northwest at 310° at 10 knots, the visibility was 10 miles or more with partly cloudy skies, a temperature of 61° F and a dew point of 51° F with a relative humidity of 70%.

#### 3.3. Illumination

According to the U.S. Naval Observatory Astronomical Applications Department,<sup>59</sup> for the accident location on June 21, 2019, sunrise was at 5:01 a.m., sun transit was at 12:47 p.m., and sunset would have been at 8:33 p.m. At the time of the crash, the sun was at an altitude of 19.85 degrees and an azimuth of 283.83 degrees east of true north. This data is shown graphically in Figure 3; the sun's position is indicated by a yellow line.

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<sup>58</sup> Human Performance Attachment: Weather Report.

<sup>59</sup> Human Performance Attachment: USNO Astronomical Data.





Figure 2. Graphic Representation of the Sun's Position

Investigators visited the scene of the crash when the sun was in a position similar to the one it was in at the time of the crash.<sup>60</sup> It was noted that while the sun was in the forward field of view for a westbound driver, its altitude was such that it was not visible through the windshield; no glare or contrast issues were observed.

### 3.4. Witnesses to the Driver/Pickup Truck Prior to the Crash

During the course of their investigation, the New Hampshire State Police interviewed many witnesses and other persons with information relevant to the crash. A total of 13 individuals witnessed a truck matching the description of the truck involved in this crash driving erratically on June 21, 2019; seven of those witnesses stated the truck was, at least partially, in the opposing lane. Specific witness statements included:

- One witness observed a vehicle similar to the one involved in this crash driving erratically on Interstate 91 in Springfield, Massachusetts at approximately 7:00 a.m. on the morning of June 21, 2019. The pickup was described as halfway into another lane and “all over the road”;
- At approximately 4:30 p.m. on June 21, 2019, another witness observed a similar vehicle driving erratically on Route 302, with the pickup crossing the center line several times;
- At approximately the same time, a third witness observed a similar vehicle driving erratically at the intersection of Route 2 and Route 115. The pickup forced the witness to the right;

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<sup>60</sup> At the time of observation, the sun was at an elevation of 19.94 degrees and an azimuth of 283.7 degrees east of true north.

- Three members of the Littleton Fire Department, returning from a call at approximately 4:30 p.m. on June 21, 2019 told investigators they observed the pickup travel into the breakdown lane and almost strike their fire truck;
- Another driver observed the pickup cross halfway over the center line on Route 2;
- Two employees of the business in Gorham where the driver delivered a vehicle stated the driver was driving erratically and nearly struck one of them; and
- Just prior to the crash, a witness saw the pickup travel into the opposing lane and almost strike another vehicle.

### **3.5. Connecticut Laws on Driving Under the Influence/Implied Consent**

As described in section 1.8 of this report, the driver was arrested for operating a motor vehicle under the influence of drugs/alcohol on May 11, 2019, just over one month before this crash. At that time, he tested negative for alcohol but refused a urine test for drugs. Connecticut General Statutes Chapter 248 Section 14-227b governs driver implied consent for toxicological testing in the state. Subsection (a) reads:<sup>61</sup>

“Any person who operates a motor vehicle in this state shall be deemed to have given such person's consent to a chemical analysis of such person's blood, breath or urine and, if such person is a minor, such person's parent or parents or guardian shall also be deemed to have given their consent.”

Subsection (c) covers the actions taken by a police officer if a driver refuses such a test:

“If the person arrested refuses to submit to such test or analysis or submits to such test or analysis, [...] the police officer, acting on behalf of the Commissioner of Motor Vehicles, shall immediately revoke and take possession of the motor vehicle operator's license or, if such person is a nonresident, suspend the nonresident operating privilege of such person, for a twenty-four-hour period. The police officer shall prepare a report of the incident and shall mail or otherwise transmit in accordance with this subsection the report and a copy of the results of any chemical test or analysis to the Department of Motor Vehicles within three business days [...]”

Subsection (e) (1) describes the actions to be taken by the Commissioner of Motor Vehicles upon receiving a report of refusal:

“Except as provided in subdivision (2) of this subsection, upon receipt of such report, the Commissioner of Motor Vehicles may suspend any operator's license or nonresident operating privilege of such person effective as of a date certain, which date shall be not later than thirty days after the date such person received notice of such person's arrest by the police officer. Any person whose operator's license or nonresident operating privilege has been suspended in accordance with this subdivision shall automatically be entitled to a hearing before the commissioner to be held in accordance with the provisions of chapter 54 and prior to the effective date of the suspension. The commissioner shall send a suspension notice to such person informing such person that such person's operator's license or nonresident operating privilege is suspended as of a date certain and that such person is entitled to a hearing prior to the effective date of the suspension and may schedule such

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<sup>61</sup> Available from [https://www.cga.ct.gov/current/pub/chap\\_248.htm#sec\\_14-227b](https://www.cga.ct.gov/current/pub/chap_248.htm#sec_14-227b), accessed 10/4/2019.

hearing by contacting the Department of Motor Vehicles not later than seven days after the date of mailing of such suspension notice.”

In accordance with these statutes, the driver’s refusal to submit to a urine drug test triggered an immediate suspension of the driver’s nonresident driving privileges in Connecticut for 24 hours. Under Connecticut General Statutes 14-227a(g)(1)(C) - (3)(C), his nonresident driving privileges would have been suspended for 45 days with a further requirement for an ignition interlock device for one year.<sup>62</sup> The statute does not distinguish between an operator’s license and a CDL; all the driver’s operating privileges within the state are suspended.<sup>63</sup>

### **3.6. Connecticut Communication with Massachusetts**

The state of Connecticut sent two notifications – one electronic and one paper - to the state of Massachusetts (the state of license issuance) regarding the suspension of the driver’s nonresident driving privileges in the Connecticut. Each is discussed in a subsection below.

#### **3.6.1. Electronic Notification**

Since the driver held a commercial driver’s license (CDL), Connecticut entered notification of the suspension of the driver’s nonresident driving privileges into the Commercial Driver’s License Information System (CDLIS) program on May 29, 2019. CDLIS is a nationwide computer system that enables state driver licensing agencies to ensure that each commercial driver has only one driver’s license and one complete driver record by having the states:

- Share information regarding convictions and withdrawals of driving privileges for CDL holders;
- Transfer the driver record when the CDL holder moves to another state; and
- Respond to requests for driver status and history.

CDLIS was established in section 12007 of the Commercial Motor Vehicle Safety Act (CMVSA) of 1986 and is based on Federal Motor Carrier Safety Regulations (FMCSRs) codified in 49 CFR 383 and 384.<sup>64</sup> CDLIS is operated by the American Association of Motor Vehicle Administrators (AAMVA). All 50 states and the District of Columbia currently participate in CDLIS.

The electronic notice<sup>65</sup> listed a citation date of May 11, 2019, a conviction date of June 10, 2019 (thirty days after the driver’s arrest), and an AAMVA Code Dictionary (ACD) code of A12.<sup>66</sup>

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<sup>62</sup> After a period to allow for a hearing and appeal, the driver’s refusal would have been treated as a conviction under the law.

<sup>63</sup> Human Performance Attachment: Email from Connecticut traffic safety resource prosecutor.

<sup>64</sup> Commercial Driver’s License Information System (CDLIS) Overview, available from <https://www.aamva.org/CDLIS/>, accessed October 10, 2019.

<sup>65</sup> Human Performance Attachment: Suspension Notice.

<sup>66</sup> An ACD of A12 indicates the driver refused to submit to a test for alcohol under the state’s implied consent law.

The state native code was listed 14227B, indicating the underlying offense was a violation of Connecticut Code Section 14-277b (described above).

The notice from CDLIS was received by the Massachusetts Registry of Motor Vehicles (RMV) ATLAS<sup>67</sup> software on the same day it was sent. The notice was diverted into a queue requiring manual intervention, as at that time, ALTAS had been intentionally configured not to automatically process notifications with a revocation/conviction effective date in the future.<sup>68</sup> This queue had been assigned to the RMV's SPEX unit, the team within the RMV's Driver Licensing department that supports state-to-state (S2S)<sup>69</sup> verification.

However, an independent audit conducted at the behest of the RMV following this crash determined that the queue was not being monitored at the time of the notification from Connecticut.<sup>70</sup>

### **3.6.1. Paper Notification**

The paper notification was received by the Merit Rating Board (MRB) of the Massachusetts RMV on June 4, 2019. The MRB was the department with the responsibility for processing paper notifications from other states concerning infractions in those states of drivers licensed by Massachusetts. The post-crash audit determined the MRB had effectively ceased processing paper out-of-state notifications<sup>71</sup> shortly after the deployment of ATLAS release 1.<sup>72</sup> The MRB had not processed the driver's Connecticut suspension at the time of the crash.

### **3.7. Massachusetts Laws Governing the Suspension or Revocation of Nonresident Driving Privileges of Drivers Licensed by Massachusetts**

The Commonwealth of Massachusetts General Laws Part I, Title XIV, Chapter 90F, Section 8, reads in part:<sup>73</sup>

If the registrar receives official notice, in any form which he deems appropriate, including electronic transmission that a resident of the commonwealth, or any person licensed to operate a motor vehicle or commercial motor vehicle under the provisions of chapter ninety or ninety F, or any applicant therefor, has been disqualified, is in violation of an out-of-service order or has had his license or right to operate suspended, revoked or canceled in another state or country, the registrar shall not issue a license to such person who is an applicant, and if a license has already been issued he shall revoke said license immediately without a hearing; provided however, if said license or right to operate is subsequently reinstated by the other state or country, the person may reapply for said license revoked by the registrar subject to regulations established by the registrar. The combined

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<sup>67</sup> ATLAS is a browser-based software used by the RMV to manage and maintain records.

<sup>68</sup> ATLAS had been configured this way because such a pattern of dates may indicate data integrity errors.

<sup>69</sup> The S2S verification service is a voluntary means for states to electronically check with all other participating states to determine if the applicant currently holds a driver license or identification card in another state.

<sup>70</sup> Human Performance Attachment: Commonwealth of Massachusetts, Registry of Motor Vehicles, Grant Thornton LLP Final Report, October 4, 2019.

<sup>71</sup> Ibid.

<sup>72</sup> ATLAS Release 1 was deployed on March 26, 2018.

<sup>73</sup> Available from: <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXIV/Chapter90F/Section8>, accessed October 18, 2019.

electronic record of the registry of motor vehicles shall be the official record of the registrar for purposes of admissibility in any court.”

If the out of state offense is related to operating under the influence of alcohol or drugs, including chemical test refusals and failures, Massachusetts treats such offenses as if they occurred in the Commonwealth, with the RMV determining if the offense is similar to any existing laws in Massachusetts and applying any penalties that may be required.<sup>74</sup>

The consequences for a person holding a Massachusetts CDL refusing to submit to a chemical test is covered by General Laws Part I, Title XIV, Chapter 90F, Section 9, which reads in part:

“Section 9. (A) Any person, who holds a license to operate a motor vehicle, a license to operate a commercial motor vehicle or is unlicensed, is disqualified from operating a commercial motor vehicle and is prohibited from operating a commercial motor vehicle for a period of not less than 1 year if convicted of a first violation of:

- (1) Operating a commercial motor vehicle or a motor vehicle under the influence of alcohol or drugs;
- (2) Operating a commercial motor vehicle while the alcohol concentration in the person's blood or breath is 0.04 or more;
- (3) Leaving the scene of an accident involving a commercial motor vehicle or a motor vehicle driven by the person;
- (4) Refusing to submit to a chemical test or analysis of the person's breath or blood after operating a commercial motor vehicle or a motor vehicle; or [...]

Under this law, the driver would have been disqualified and prohibited from operating a commercial vehicle for a period of not less than one year for a first offense.<sup>75</sup> However, as detailed in section 1.14 of this report, the driver had previously been convicted of DUI in July of 2014; therefore, Massachusetts would have disqualified him from holding any driver’s license issued by the state for at least ten years up to and including life.<sup>76</sup>

### **3.8. Massachusetts Actions Following the Crash**

Following the crash, investigation revealed the driver’s Connecticut refusal, the revocation of his non-resident driving privileges in Connecticut, the communication of that revocation to Massachusetts, and the failure of Massachusetts to process the revocation. In response, the Massachusetts Registry of Motor Vehicles (RMV) began a review of its state-to-state data sharing processes.

As of July 1, 2019,<sup>77</sup> the RMV had begun looking into the processing of the electronic and paper notifications from Connecticut. With respect to the electronic notification, the RMV determined why it had not been automatically processed by ATLAS (the future conviction date)

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<sup>74</sup> See <https://www.mass.gov/service-details/out-of-state-suspensions-and-revocations>, accessed October 18, 2019.

<sup>75</sup> General Laws, Part I, Title XIV, Chapter 90F, Section 11 specifies a one-year disqualification for a first offense/refusal, a three-year disqualification for an offense/refusal while transporting hazardous materials, and a lifetime disqualification for a second offense/refusal.

<sup>76</sup> The law allows the registrar to establish conditions under which the disqualification for life may be reduced to a period of not less than 10 years.

<sup>77</sup> Human Performance Attachment: July 1, 2019 Memorandum on the Preliminary Review of State-to-State Communications and Actions.

and had also determined that no RMV personnel had been assigned to review the ATLAS queue. When reviewed prior to July 1, there were 365 notices in the queue. It was determined that 353 were duplicates of reports already adjudicated. The remaining 12 were alcohol related, 9 of which were duplicative of other issues already adjudicated. Of the final three, only the one for this driver warranted an automatic suspension. The ATLAS software had been modified to allow suspension date within one year of receipt.

With respect to the paper notification, the RMV determined the MRB had begun processing out-of-state notifications in the fall of 2016. For undetermined reasons, the MRB stopped processing these notifications in March of 2018, instead storing them. At the time of review, the RMV had discovered 53 bins containing tens of thousands of unprocessed notices. The RMV implemented a new process on June 28, 2019 which required all out-of-state notices to be processed within one business day and established a system to provide RMV managers with information on these notices in real time. The RMV began processing the backlog, with a focus on high-priority issues. As of June 30, 546 individuals had been suspended. The RMV also initiated a review of all Massachusetts driver records (approximately 5.2 million records) against the NDR and began the process to initiate an external audit.

As of July 5, 2019,<sup>78</sup> the RMV had completed processing the 53 bins of notifications, resulting in suspensions of 746 unique drivers. A further examination of storage locations uncovered and additional five boxes of unprocessed paper notifications; as of July 3<sup>rd</sup>, an additional 130 drivers had been suspended as a result. A firm had been retained to conduct the external audit and a reorganization of the RMV, including the creation of a Deputy Registrar for Safety, had begun.

On July 12, 2019,<sup>79</sup> the RMV provided a third update. All unprocessed out-of-state paper notification had been processed, resulting in the suspension of 1,607 unique drivers. The processing of 5.2 million Massachusetts drivers against the data in the NDR had begun, as had the forensic external audit. The RMV had instituted a policy to mail notifications to the licensing state when an out-of-state, non-CDL<sup>80</sup> driver is suspended in Massachusetts.

On October 4, 2019, the final report on the external audit was released. The report reached the following conclusions:<sup>81</sup>

- Massachusetts had a long-standing policy of not prioritizing out-of-state notifications;
- The RMV lacked effective operational control; and
- Risk management over the RMV was inadequate.

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<sup>78</sup> Human Performance Attachment: July 5, 2019 Interim Progress Report #2.

<sup>79</sup> Human Performance Attachment: July 12, 2019 Interim Progress Report #3.

<sup>80</sup> Drivers with CDLs would continue to be handled via CDLIS.

<sup>81</sup> See *Commonwealth of Massachusetts, Registry of Motor Vehicles, Grant Thornton LLP Final Report, October 4, 2019*, pages 12-15.

The report examined the processing of electronic and paper notifications from out-of-state as they were at the time of this crash as well as the changes made by the RMV since. The report made a number of recommendations, including the following that directly address the circumstances which led to the pickup driver's suspension not being processed:<sup>82</sup>

- That each queue within a Work Group contain only work items relevant to that specific Work Group or a filtering process be put in place to allow employees to easily access within each queue the work items relevant to their work group;
- RMV management coordinate with the ATLAS software developer to establish a clear and linear relationship of work items, work queues, and Work Groups;
- MassDOT Audit Operations, on a frequent basis, evaluate the design and operating effectiveness of controls around the out-of-state notification process, both incoming and outgoing, for CDL and Class D licenses;
- RMV consider the risk of not immediately suspending a driver with an impending out-of-state suspension and evaluate the feasibility of accelerating such suspensions in Massachusetts;
- RMV consider whether the current configuration of ATLAS, which allows for suspensions with an effective date of up to one year in the future, is reasonable, based on the policies of other jurisdictions.
- RMV regularly use the monthly CDLIS Timeliness and Accuracy Summary Workbook prepared by AAMVA as a tool to benchmark the RMV's performance against other jurisdictions and to identify processes weaknesses that need to be addressed; and
- RMV create one unit, under the Enforcement Division, to be responsible for all matters related to the processing and adjudication of any out-of-state notifications (from notification to driver record posting), both inbound and outbound, for CDL and Class D licenses.

NTSB investigators contacted the RMV to determine what actions had been taken in response to the final audit report; the Chief Compliance Officer indicated their actions included:<sup>83</sup>

- Hiring a Chief Compliance officer responsible for conducting an enterprise-wide risk analysis and beginning that analysis.
- Creating a new internal unit, the Out-of-State (OOS) unit, with responsibility for both electronic and paper out-of-state notifications.
- Employing a Deputy Registrar for Safety to oversee the OOS unit.

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<sup>82</sup> *Ibid*, pages 51-58.

<sup>83</sup> Human Performance Attachment: RMV Email Update.

- Processing out-of-state suspension notices for the most serious offenses within one business day, including notices with future effective dates, with an immediate suspension.
- Having the OOS unit process the backlog of paper notifications.
- Merging the SPEX unit into the OOS unit.
- Engaging in dialog with other States on ways to improve and automate the sharing of driver information, particularly in terms of processes and partnerships.

### **3.9. Federal Regulations Governing Commercial Drivers**

#### **3.9.1. Controlled Substances**

In the United States, commercial drivers are subject to prohibitions and regulations regarding the use of controlled substances. 49 CFR 382.213 states in part:<sup>84</sup>

“(a) No driver shall report for duty or remain on duty requiring the performance of safety sensitive functions when the driver uses any drug or substance identified in 21 CFR 1308.11 Schedule 1.”

As described in section 1.7 of this report, the driver had a significant history related to controlled substance misuse and, as detailed in section 1.9 of this report, post-crash toxicology indicated he had recently misused controlled substances.

#### **3.9.2. Implied Consent**

Under 49 CFR 383.72,<sup>85</sup> “any person who holds a CDL is considered to have consented to such testing as is required by any state or jurisdiction in the enforcement of 383.51(b)(2)(i) and 392.5(a)(2) of this chapter. Consent is implied by driving a commercial motor vehicle.”

#### **3.9.1. Disqualification**

The term *disqualification* is defined in 49 CFR 383.5, which reads:<sup>86</sup>

“*Disqualification* means any of the following three actions:

The suspension, revocation, or cancellation of a CLP or CDL by the State or jurisdiction of issuance.

Any withdrawal of a person’s privileges to drive a CMV by a State or other jurisdiction as the result of a violation of State or local law relating to motor vehicle traffic control (other than parking, vehicle weight or vehicle defect violations).

A determination by the FMCSA that a person is not qualified to operate a commercial motor vehicle under Part 391 of this subchapter. “

<sup>84</sup> See <https://www.law.cornell.edu/cfr/text/49/382.213>, accessed 6/8/2018.

<sup>85</sup> See <https://www.law.cornell.edu/cfr/text/49/383.72>, accessed October 25, 2019.

<sup>86</sup> See <https://www.law.cornell.edu/cfr/text/49/383.5>, accessed October 25, 2019.



Some convictions or refusals result in disqualifications of pre-defined lengths; these are specified in 49 CFR 383.51.

### **3.10. Federal Actions Post-crash**

On October 22, 2019, the US Department of Transportation Office of Inspector General announced that, in light of the problems uncovered in the RMV's internal review, the officer was self-initiating an audit to assess FMCSA's oversight of State driver's licensing agencies' actions to disqualify commercial drivers when warranted. The audit was to begin immediately and would be conducted at FMCSA Headquarters and other selected locations.<sup>87</sup>

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<sup>87</sup> For further information, please see the *Motor Carrier Group Chairman's Factual Report*.

## **E. DOCKET MATERIAL**

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

### LIST OF ATTACHMENTS

Human Performance Attachment: National Driver Register Problem Driver Pointer System Check.

Human Performance Attachment: Transcripts/Narratives of Investigative Interviews.

Human Performance Attachment: Data from Driver's Cellular Phone.

Human Performance Attachment: Driver's Cellular Records.

Human Performance Attachment: Selected Statements from Police Report.

Human Performance Attachment: East Windsor Police Case/Incident Report.

Human Performance Attachment: Texas Peace Officer's Crash Report.

Human Performance Attachment: Post-crash Blood Draw.

Human Performance Attachment: Report of Laboratory Examination.

Human Performance Attachment: Excerpts from the Driver's FBI Express Incorporated Qualification File.

Human Performance Attachment: Driver's Massachusetts RMV Record.

Human Performance Attachment: Weather Report.

Human Performance Attachment: Video of Westbound Approach to Scene of Crash.

Human Performance Attachment: USNO Astronomical Data.

Human Performance Attachment: Email from Connecticut traffic safety resource prosecutor.

Human Performance Attachment: Suspension Notice.

Human Performance Attachment: Commonwealth of Massachusetts, Registry of Motor Vehicles, Grant Thornton LLP Final Report, October 4, 2019

Human Performance Attachment: July 1, 2019 Memorandum on the Preliminary Review of State-to-State Communications and Actions.

Human Performance Attachment: July 5, 2019 Interim Progress Report #2.

Human Performance Attachment: July 12, 2019 Interim Progress Report #3.

Human Performance Attachment: RMV Email Update.

LIST OF PHOTOGRAPHS

NONE

END OF REPORT

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