



**HUMAN PERFORMANCE FACTORS ATTACHEMENT**

**July 5, 2019 Interim Progress Report #2**

**Randolph, NH**

**HWY19MH010**

(7 pages)

## MEMORANDUM

FROM: Marie Breen, MassDOT General Counsel and  
Jamey Tesler, Acting Registrar of Motor Vehicles  
RE: Review of State-to-State Communications and Actions Underway  
***Interim Progress Report #2***  
DATE: July 5, 2019

This report updates the Preliminary Review memorandum we provided to you on July 1<sup>st</sup> and updates progress made on the Registry of Motor Vehicles review of the state-to-state data sharing and communications concerning violations by Massachusetts licensed drivers. This report includes progress on the next steps and actions identified in the July 1<sup>st</sup> report and additional actions and next steps as of the close of business, Wednesday, July 3<sup>rd</sup>. We note that much of the progress reported herein is the direct result of the dedication and hard work of the RMV staff. Staff teams are in place to continue the important work of reviewing and acting on previously unprocessed out of state violation notices this weekend, on both Saturday and Sunday.

As documented in more detail below, the key changes since the first interim report on July 1<sup>st</sup> are as follows:

- All remaining suspensions based on the unprocessed out of state notifications identified in Quincy headquarters on Wednesday June 26 have been processed, with 940 suspensions issued pertaining to 746 unique drivers. This process is now completed.
- Additional processes are being developed to ensure that all incoming out-of-state notifications received by mail are scanned and reviewed and that any notifications triggering suspension actions are acted upon either the day the notification is received or within one business day after.
- A comprehensive review has been completed of all additional locations where unprocessed out of state violations may have been stored, including Quincy headquarters, all service centers, the Registry's archives stored in Concord and a private document storage location. Boxes of out of state violations from 2011 through 2017 were pulled from the registry's archives and reviewed, and while some had been processed it could not be determined that all of the notifications had been processed. The three-step process described in the July 1<sup>st</sup> report has therefore been initiated for 72 boxes of violation notices recovered from the Concord archives, and, as of the close of business on July 3<sup>rd</sup>, an additional 168 suspensions for 130 unique drivers have been processed. The work of triaging those materials has begun and will continue through the weekend and until all suspensions are completed.
- Grant Thornton has been engaged to perform the External Audit to conduct an end-to-end forensic audit and process review of the process for receiving and acting on out-of-state notifications.
- The RMV has begun a reorganization to ensure that safety issues are elevated. This initiative will include the creation of a Deputy Registrar for Safety and the establishment of clear lines of responsibility for all driver licensing and enforcement functions that will be shifted to this senior manager.
- As reported in the July 1<sup>st</sup> Interim Report, we have addressed the software issue and reviewed and cleared the queue of out of state CDLIS notifications. We are preparing draft legislation to make requirements to obtain and retain Commercial Drivers Licenses (CDL) more stringent.

- An initial test was successfully completed of the process for reviewing all Massachusetts licensure records against the National Driver Registry, establishing that such a review is possible. The National Driver Registry exchange will commence Monday, July 15<sup>th</sup>.

### **Organizational and Policy Changes:**

Beginning with this interim report, we are adding this section to summarize how the ongoing lessons from the Zhukovskyy case and resulting end-to-end review of the Registry's state-to-state data sharing processes are being translated into action in the form of organizational and process changes at the Registry. While there will undoubtedly be important lessons learned from the external audit and the reviews by various federal and state agencies, the Registry will not wait until those reviews conclude to make needed changes in organization, processes and personnel.

These reviews are focusing on the Registry's compliance with all existing federal and state requirements with regard to both Commercial Drivers Licenses (CDLs) and other drivers' licenses. As we document those requirements, we are also beginning to consider whether existing state requirements are sufficiently stringent to address the issues raised by the Zhukovskyy case and ensure that the privilege of holding a Commercial Drivers License is granted only to those whose driving and criminal records indicate that they are capable of safely driving commercial vehicles.

### **Next Steps:**

- Acting Registrar Jamey Tesler, with your concurrence, will restructure his senior management team to include a Deputy Registrar for Safety. Recruitment for this position is starting immediately.
- We are developing additional recommendations for restructuring all of the Registry's safety-related functions, including issuance and oversight of Commercial Drivers Licenses and enforcement activities including hearings and suspensions. Clear lines of responsibility will be established under the new Deputy Registrar for Safety.
- We are developing draft legislation to make requirements to obtain Commercial Drivers Licenses (CDL) more stringent and ensure that the privilege of holding a Commercial Drivers License is granted only to those whose driving and criminal records indicate that they are capable of safely driving commercial vehicles.

### **Commercial Drivers Licenses**

#### **Additional Findings:**

The Preliminary Findings in the July 1<sup>st</sup> report stand; no additional information at this time.

#### **Actions Taken To Date:**

- The ATLAS system software fix that was developed to address the date issue identified in the July 1<sup>st</sup> report continues to be monitored. No additional issues have been identified.
- Staff continues to conduct a daily review of the electronic and paper CDL notifications and presently there is no queue of unprocessed CDLIS notifications.

### **Next Steps:**

- The July 1<sup>st</sup> report stated under Next Steps that the promised external audit “will include an end-to-end review of all electronic and manual processes for processing incoming and outgoing notices regarding CDLs in order to ensure that they fully comply with all federal and state requirements.” That external audit is now underway, with the firm of Grant Thornton having been retained to conduct an end-to-end audit and process review of the process for receiving and acting on out-of-state notifications.
- Next week we will meet with the Massachusetts Inspector General’s Internal Special Audit Unit and the US DOT Inspector General’s office to discuss the CDL process and look forward to their review of past and new practices

### **Out of State Notifications**

As described in the July 1<sup>st</sup> report, unprocessed out-of-state paper notifications were identified in our preliminary review.

### **Additional Findings:**

- As we have begun to process notifications received from other states on a daily basis, we are learning more about both the volume and nature of those notifications.
- State-to-state notifications can relate to a violation in another state by a Massachusetts licensed driver, but can also be generated when a driver moves from another state to Massachusetts. When a licensed driver moves from state to another state, the “pointer” or “ownership” of the driver’s record moves with the driver causing states from across the nation with any information on the relocating driver to send all driver information to the new state.
- These two broad categories result in a substantial amount of paper notifications from other states. Between July 1 and July 3, the RMV received 1,300 pieces of mail from other states. However, only a relatively small proportion of these mail notifications involve matters that will require suspension.
- As reported in our July 1<sup>st</sup> Interim Report, in any given year, the RMV issues roughly 230,000 suspensions for matters ranging from non-payment to serious driving offenses such as OUI or motor vehicle homicide. You will recall in May of 2019, 36,076 suspension actions were issued, again impacting a smaller number of individuals, including 11,814 for non-payment default, 12,810 for surchargeable events, 537 “immediate threat” reports, 734 chemical test refusals and 2,221 OUI suspensions.
- Based on this information, additional processes are being developed to ensure that all incoming out-of-state notifications received by mail are scanned and reviewed and that any notifications triggering suspension actions are acted upon either the day the notification is received or within one business day after.

### **Actions Taken To Date:**

- In addition to the 53 mail bins referred to in the July 1<sup>st</sup> interim report, five boxes of unprocessed notices from other states dating back to March 2018 were identified in a records room at Quincy headquarters, bringing the total to 58. These 58 containers have been reviewed and processed. The three-step process (triage, look up and suspend) as described in the July 1<sup>st</sup> report was followed.
- All remaining suspensions based on the unprocessed out of state notifications identified in Quincy headquarters have now been processed, with 940 suspensions issued pertaining to 746 unique drivers.
- Archives Search. The “Next Steps” section of the July 1<sup>st</sup> report indicated that “the RMV will also be working to determine what happened to the pre-September 2016 backlog, beginning by accessing materials stored in RMV archives.” A review of all Registry locations was initiated to ascertain whether any additional out of state records violation notices had been stored without being fully processed. This search included the RMV storage facilities, all 30 service centers, MassDOT headquarters at Ten Park Plaza and a commercial storage facility used by RMV. With this search concluded, all remaining mailed out of state notifications that constituted the so-called pre-2016 backlog and/or that were stored without being fully processed have been located.
- As summarized above, one additional set of out of state notifications was identified during this search process. Seventy-two archived boxes of out of state violations from 2011 through 2017 were retrieved from the archives in Concord. While these boxes were labelled with the dates 2014-2017, documents in the boxes were dated as far back as 2011. While some of these notices had been processed, it could not be determined that all of the notifications had been processed. The three-step process described in the July 1<sup>st</sup> report has therefore been initiated for all of these boxes of violation notices. This process will be applied to all notices going back five years, as any older matters are dealt with in the normal course of the five year re-licensure process. As of the close of business on July 3, an additional 168 suspensions for 130 unique drivers have been processed. The work of triaging those materials will continue today, Saturday and Sunday.
- External Auditor. The “Next Steps” section of the July report stated that MassDOT is in the process of securing the services of an audit firm to conduct an end-to-end audit and process review of the process for receiving and acting on out-of-state notifications. The auditors will be asked to produce a preliminary report with a detailed timeline of how state-to-state notifications have been handled and final recommendations within 60 days. The firm of Grant Thornton has been engaged as set forth in more detail below.
- National Driver Registry Check. The “Next Steps” section of the July report indicated that “out of an abundance of caution, and to ensure our records are up to date, we have decided to conduct a comprehensive review of all Massachusetts licensure records against the National

Driver Registry to ensure that state records accurately reflect all information in the NDR and that any needed actions affecting licensure status are taken expeditiously (rather than waiting until a driver applies for re-licensure, at which time all items in the NDR will be automatically addressed). “ Discussions with both the National Highway Traffic Safety Agency and the American Association of Motor Vehicle Administrators went well, and an initial test of a small sample size indicated that the 5.2 million record review is possible. Given the size of this dataset, this review will have to be done in batches over five days, with results coming a day and a half after each batch is entered. Given the need for some additional adjustments to our system, further testing to refine the system, and the capabilities of the systems, we believe the exchange will begin by Monday, July 15th.

- **Board and IG Oversight.** In the July 1st report, “we proposed engaging with the MassDOT Board of Directors Finance and Audit Committee, as well as MassDOT Internal Audit, the Inspector General’s Internal Special Audit Unit for MassDOT.” Betsy Taylor, the Chair of the MassDOT Board of Directors Finance and Audit Committee met with Secretary Pollack on Wednesday, July 2 and reviewed the proposed Scope of Work for the external auditors. The MassDOT Internal Audit team has been instrumental in bringing aboard the external auditors, and audit team members familiar with the RMV have been on site this week. We are meeting with the Inspector General’s ISAU next week and updating them on our initial findings, with particular emphasis on the CDL program.
- The July 1st report also stated that “Registry officials and MassDOT counsel will meet with and brief both the U.S. Department of Transportation’s Inspector General and the Federal Motor Carrier Safety Administration, the RMV’s federal oversight agency.” The USDOT Inspector General’s office will be joining the meeting with the IG’s ISAU next week.
- The July 1st report stated “as we complete the process of working through the backlog of documents identified at RMV Headquarters, the RMV will also be working to determine what happened to the pre-September 2016 backlog, beginning by accessing materials stored in RMV archives.” As discussed above, we recalled an additional 72 boxes from the Concord archives and are actively processing those records. As previously explained, no other unprocessed records have been identified.

### **Next Steps and Recommendations**

- **End-to-End Review and Forensic Audit.** Grant Thornton has been engaged to perform the scope of work summarized below. Initial findings will be available and a final report will be issued in 60 days.
  - Conduct a root cause analysis with respect to the circumstances that prevented the RMV’s timely revocation of a Massachusetts commercial driver’s license (CDL) following an out of state notification of a disqualifying event as has been widely and publicly reported over the past week.
  - Gain an understanding of processes, internal controls, and policies with respect to the timely processing by the RMV of state-to-state notices of motor vehicle violations.

- Recommend improvements with respect to risk management, internal controls, protocols, and policies impacting the effectiveness and efficiency of RMV responses to reports of motor vehicle violations that may warrant or require the suspension or revocation of passenger and/or commercial driver licenses.
  - Review the RMV's organizational structure and make recommendations as necessary to establish clear lines of responsibility and accountability for responding to state-to-state communications about motor vehicle violations and administering license suspensions and revocations for passenger and commercial vehicle licenses.
  - Issue a preliminary report of the findings, particularly on the sufficiency of processes and any reorganization recommendations.
- Assessment of Organizational Structure and Focus. The Registry of Motor Vehicles serves both an important customer service role and a critical public safety role. Our state-to-state review has revealed that the organization has struggled to maintain and balance the necessary and appropriate focus, prioritization and allocation of resources to these twin missions, creating an environment that allowed for the failures we have identified. Our initial review points convincingly at an immediate need to reprioritize the public safety mission of the organization, and we will, working with both the outside audit firm as well as other stakeholders, develop and recommend structural changes to the organization to be presented to the MassDOT Board of Directors. These recommendations will include the creation of a new leadership position and team responsible for safety and compliance.
- Additional Recommendations. Upon the completion of the end-to-end review by Grant Thornton and our federal and state oversight agencies, and after a thorough best practices review of other driver registries across the country, we will have additional recommendations about the resources and processes necessary for the safety of the motoring public.