

Office of the Auditor General
Performance Audit Report

Regulatory Monitoring Division
Department of State

December 2018

The auditor general shall conduct post audits of financial transactions and accounts of the state and of all branches, departments, offices, boards, commissions, agencies, authorities and institutions of the state established by this constitution or by law, and performance post audits thereof.

Article IV, Section 53 of the Michigan Constitution



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Office of the Auditor General

Report Summary

Performance Audit

Regulatory Monitoring Division (RMD)

Department of State

Report Number:
231-0220-18

Released:
December 2018

RMD's mission is to maintain effective oversight of licensed vehicle dealers, registered repair facilities, certified mechanics, and breath alcohol ignition interlock installation centers. Section 257.1317 of the *Michigan Compiled Laws* allows representatives from the Department of State to make periodic unannounced inspections of the premises, part records, and parts inventory of registered facilities. RMD regulated 5,647 licensed vehicle dealers and 31,687 certified mechanics as of May 23, 2018 and 8,915 registered repair facilities as of June 8, 2018. RMD incurred expenditures of \$5.2 million for fiscal year 2017 and had 20 employees as of June 1, 2018.

Audit Objective			Conclusion
Objective #1: To assess the effectiveness of RMD's efforts to inspect vehicle dealers and repair facilities.			Moderately effective
Findings Related to This Audit Objective	Material Condition	Reportable Condition	Agency Preliminary Response
RMD should improve its inspection process because 4 (9%) of the 46 vehicle dealers and 10 (27%) of the 37 repair facilities that we reviewed had never received an inspection. In these instances, the dealers had a license, on average, for nearly 12 years and the repair facilities had been registered for over 17 years (<u>Finding #1</u>).		X	Agrees

Audit Objective			Conclusion
Objective #2: To assess the effectiveness of RMD's efforts to document, investigate, and resolve consumer complaints.			Effective
Findings Related to This Audit Objective	Material Condition	Reportable Condition	Agency Preliminary Response
None reported.			Not applicable.

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December 27, 2018

The Honorable Ruth Johnson
Secretary of State
Richard H. Austin Building
Lansing, Michigan

Dear Secretary Johnson:

This is our performance audit report on the Regulatory Monitoring Division, Department of State.

We organize our findings and observations by audit objective. Your agency provided the preliminary response to the recommendation at the end of our fieldwork. The *Michigan Compiled Laws* and administrative procedures require an audited agency to develop a plan to comply with the recommendations and to submit it within 60 days of the date above to the Office of Internal Audit Services, State Budget Office. Within 30 days of receipt, the Office of Internal Audit Services is required to review the plan and either accept the plan as final or contact the agency to take additional steps to finalize the plan.

We appreciate the courtesy and cooperation extended to us during this audit.

Sincerely,

A handwritten signature in black ink that reads "Doug Ringler". The signature is written in a cursive, flowing style.

Doug Ringler
Auditor General

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AUDIT OBJECTIVES, CONCLUSIONS, FINDINGS, AND OBSERVATIONS

INSPECTING VEHICLE DEALERS AND REPAIR FACILITIES

BACKGROUND

The Regulatory Monitoring Division (RMD) is primarily responsible for conducting inspections of used vehicle* dealers prior to those businesses being licensed by the Department of State; conducting compliance inspections of all vehicle dealers, assembled vehicles, and repair facilities; and verifying mechanic certifications. Although not required by statute, RMD's goal is to inspect every licensed vehicle dealer and registered repair facility once every 4 years. RMD reported that inspections are scheduled using a risk-based approach by which entities with pending complaints receive priority in the scheduling process. For each inspection, RMD regulation agents* complete a standardized form, enter inspection details in RMD's License 2000 System (L2K), and obtain supervisory approval. During calendar year 2017, RMD completed 435 prelicense inspections of used vehicle dealers, 861 compliance inspections of vehicle dealers, and 809 compliance inspections of repair facilities (see Exhibit #1).

AUDIT OBJECTIVE

To assess the effectiveness* of RMD's efforts to inspect vehicle dealers and repair facilities.

CONCLUSION

Moderately effective.

FACTORS IMPACTING CONCLUSION

- RMD developed policies that clearly outlined the processes for inspections of vehicle dealers and repair facilities.
- RMD assigned regulation agents by geographic area to complete inspections of vehicle dealers and repair facilities.
- Regulation agents completed weekly travel plans and appropriately reported to RMD management the status of vehicle dealers and repair facilities inspected.
- Regulation agents prioritized inspections of vehicle dealers and repair facilities based on the potential risk associated with the entity.
- Reportable condition* related to recommended improvements to the inspection process (Finding #1).

* See glossary at end of report for definition.

FINDING #1

Improvements to inspection process needed.

RMD should improve its inspection process for vehicle dealers and repair facilities. Improvements may help ensure that vehicle dealers properly record vehicle titles and that repair facilities use licensed mechanics who are certified to complete needed repairs.

RMD has an informal policy to inspect licensed vehicle dealers and registered repair facilities at least once every 4 years; however, this standard is neither documented in its operating procedures nor supported by Michigan statute. We reviewed the inspection histories as of June 30, 2018 for 46 licensed vehicle dealers and 37 registered repair facilities and completed a query of all repair facilities listed in L2K as of May 23, 2018. The results of our review of RMD's inspection process are summarized in the following table:

Length of Time From License or Most Recent Inspection	Initial Inspection					
	Never Inspected as of June 30, 2018		Not Completed Within 5 Years of License Date		Most Recent Inspection Prior to June 30, 2018	
	Vehicle Dealers	Repair Facilities	Vehicle Dealers	Repair Facilities	Vehicle Dealers	Repair Facilities
5 to 10 years	1	2	4	0	4	2
10 to 15 years	3	3	0	3	0	0
15 to 20 years	0	2	0	0	10	5
>20 years	0	3	1	4	2	0
Total dealers or facilities	4	10	5	7	16	7
Average years	11.8	17.2	12.6	20.2	14.5	15.2

Our review disclosed that RMD did not inspect all licensed vehicle dealers or registered repair facilities within 5 years of the license date or prior inspection. We noted:

- a. Relating to the 46 licensed vehicle dealers tested:
 - (1) For the 4 (9%) that never received an inspection, it had been 8 to 14 years since the issuance of the licenses.
 - (2) 5 (11%) received initial inspections from 8 to 27 years after the vehicle dealers received their licenses.
 - (3) 16 (35%) of the most recent inspections, as of June 30, 2018, occurred between 5 and 21 years ago.
- b. Relating to the 37 registered repair facilities tested:
 - (1) For the 10 (27%) that never received an inspection, it had been 5 to 31 years since the issuance of the registrations.
 - (2) 7 (19%) received initial inspections from 10 to 30 years after the repair facilities received their registrations.
 - (3) 7 (19%) of the most recent inspections, as of June 30, 2018, occurred between 6 and 19 years ago.

- c. Of the 8,986 active registered repair facilities listed on L2K as of May 23, 2018, we estimate that approximately 2,800 (31%) of those facilities registered before January 1, 2014 have never received an inspection.

RMD stated that staffing shortages and the inability of its current software system to provide needed information for scheduling inspections prevented RMD from completing inspections in a timely manner.

RECOMMENDATION

We recommend that RMD improve its inspection process for vehicle dealers and repair facilities.

**AGENCY
PRELIMINARY
RESPONSE**

The Department of State provided us with the following response:

The Department agrees with the recommendation and will continue its efforts at improving the general compliance inspection process for vehicle dealers and repair facilities. Staffing shortages and the inability of the department's existing software system to provide information for identifying needed inspections are important factors to consider regarding the effectiveness of the department's inspection process.

Consumer protection is a key element of the department's overall mission. As presented by the auditors in the Supplemental Information, the department places its highest priority on investigating consumer complaints.

To assist in the improvement of compliance inspections the department has already filled a vacant regulation agent position and is in the process of hiring an additional two regulation agents. In addition to investigating consumer complaints, these agents will also conduct general compliance inspections, assembled vehicle inspections and pre-licensing inspections.

The department is also working on the development of a new software system (Customer and Automotive Records System), which is being designed so that it will provide robust reporting functionality to indicate inspection timeframes and the identification of facilities that have not been inspected within set timeframe parameters.

DOCUMENTING, INVESTIGATING, AND RESOLVING CONSUMER COMPLAINTS

BACKGROUND

RMD is responsible for investigating consumer complaints of vehicle dealers or repair facilities for which it has jurisdictional authority, including misrepresentations of a vehicle's condition and unsatisfactory repairs. Consumer complaints are received by mail, telephone, fax, and e-mail or via the Department of State's Web site. Investigations include a desk review of the consumer's supporting documentation; site visits; and interviews of staff at the entity under investigation. RMD attempts to investigate, close, or forward the complaint to another agency for resolution or enforcement activity within 150 days from the date that RMD receives the complaint. Complaints received are required to be documented in L2K. During calendar year 2017, RMD reported that it investigated 2,288 complaints (see Exhibit #1).

AUDIT OBJECTIVE

To assess the effectiveness of RMD's efforts to document, investigate, and resolve consumer complaints.

CONCLUSION

Effective.

FACTORS IMPACTING CONCLUSION

- RMD developed operating policies on processing complaints and has flowcharted the investigative process.
- RMD documented, investigated, and resolved the 42 consumer complaints that we reviewed related to 16 licensed vehicle dealers, 14 registered repair facilities, and 12 certified mechanics.
- RMD forwarded a notice of noncompliance to the party that the complaint was made against when a rule violation was identified.
- RMD generally closed complaints within 150 days of receipt or forwarded them to other agencies for resolution.
- RMD has developed an environment in which complaints receive priority for completion.

SUPPLEMENTAL INFORMATION

UNAUDITED
Exhibit #1

REGULATORY MONITORING DIVISION (RMD)

Department of State

Inspections Completed and Complaints Investigated
From January 1, 2013 Through December 31, 2017

Used Vehicle Dealer Prelicense Inspections Completed

	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>
January - March	130	109	119	141	141
April - June	134	138	111	129	115
July - September	146	130	122	106	89
October - December	129	115	124	106	90
Total	<u>539</u>	<u>492</u>	<u>476</u>	<u>482</u>	<u>435</u>
Percentage increase (decrease)		(8.7%)	(3.3%)	1.3%	(9.8%)

Dealer Inspections Completed

	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>
January - March	252	235	286	279	154
April - June	314	229	211	269	246
July - September	344	302	205	242	241
October - December	446	229	209	209	220
Total	<u>1,356</u>	<u>995</u>	<u>911</u>	<u>999</u>	<u>861</u>
Percentage increase (decrease)		(26.6%)	(8.4%)	9.7%	(13.8%)

Repair Facility Inspections Completed

	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>
January - March	253	156	203	310	184
April - June	261	225	257	271	207
July - September	354	218	186	230	218
October - December	316	218	258	257	200
Total	<u>1,184</u>	<u>817</u>	<u>904</u>	<u>1,068</u>	<u>809</u>
Percentage increase (decrease)		(31.0%)	10.6%	18.1%	(24.3%)

Complaints Investigated and Completed

	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>
January - March	283	245	254	442	296
April - June	329	413	311	481	526
July - September	248	344	432	408	947
October - December	276	363	443	348	519
Total	<u>1,136</u>	<u>1,365</u>	<u>1,440</u>	<u>1,679</u>	<u>2,288</u>
Percentage increase (decrease)		20.2%	5.5%	16.6%	36.3%

Source: RMD's Annual Reports.

REGULATORY MONITORING DIVISION
Department of State

Licensed Vehicle Dealers, Registered Repair Facilities, and Certified Mechanics by County
As of May and June 2018

<u>County</u>	<u>Dealers</u>	<u>Repair Facilities</u>	<u>Mechanics</u>
Alcona	4	8	46
Alger	4	8	32
Allegan	87	121	575
Alpena	27	59	143
Antrim	29	20	84
Arenac	22	28	89
Baraga	3	10	21
Barry	25	68	313
Bay	79	115	508
Benzie	14	20	83
Berrien	87	159	379
Branch	57	55	149
Calhoun	81	136	463
Cass	23	46	118
Charlevoix	14	34	91
Cheboygan	21	44	135
Chippewa	28	52	129
Clare	39	51	156
Clinton	19	70	281
Crawford	7	16	50
Delta	37	70	181
Dickinson	30	59	124
Eaton	56	116	443
Emmet	28	52	131
Genesee	289	312	1,300
Gladwin	23	32	119
Gogebic	24	28	39
Grand Traverse	72	112	370
Gratiot	51	53	172
Hillsdale	31	50	173
Houghton	32	65	114
Huron	56	72	186
Ingham	150	193	651
Ionia	39	71	320
Iosco	21	34	99
Iron	8	17	38
Isabella	62	68	198
Jackson	93	142	630
Kalamazoo	126	217	671
Kalkaska	14	31	110
Kent	363	549	1,855
Keweenaw	1	1	8
Lake	7	6	44
Lapeer	63	81	471
Leelanau	1	13	43
Lenawee	61	97	438

This exhibit continued on the next page.

REGULATORY MONITORING DIVISION
Department of State

Licensed Vehicle Dealers, Registered Repair Facilities, and Certified Mechanics by County
As of May and June 2018

<u>County</u>	<u>Dealers</u>	<u>Repair Facilities</u>	<u>Mechanics</u>
Livingston	50	126	700
Luce	7	13	34
Mackinac	6	9	35
Macomb	391	674	3,010
Manistee	14	28	112
Marquette	36	67	245
Mason	20	34	111
Mecosta	22	34	150
Menominee	29	36	70
Midland	50	81	300
Missaukee	11	19	68
Monroe	82	101	440
Montcalm	58	103	384
Montmorency	5	13	41
Muskegon	122	159	551
Newaygo	34	60	255
Oakland	447	811	2,754
Oceana	10	31	119
Ogemaw	18	29	92
Ontonagon	5	10	35
Osceola	17	32	141
Oscoda	5	17	30
Otsego	29	44	138
Ottawa	206	270	956
Presque Isle	8	27	76
Roscommon	30	45	111
Saginaw	126	186	602
Sanilac	41	66	249
Schoolcraft	5	18	50
Shiawassee	48	79	424
St. Clair	86	142	766
St. Joseph	42	63	178
Tuscola	59	71	291
Van Buren	54	82	369
Washtenaw	103	218	651
Wayne	784	1,398	3,922
Wexford	39	58	186
Non-Michigan	140	0	268
Total	<u>5,647</u>	<u>8,915</u>	<u>31,687</u>

Source: Dealers and Mechanics - The OAG generated these figures from information provided by the Regulatory Monitoring Division from L2K software on May 23, 2018.

Repair Facilities - The OAG generated these figures from information taken from the Department of State Web site on June 8, 2018.

AGENCY DESCRIPTION

RMD's mission* is to maintain effective oversight of licensed vehicle dealers, registered repair facilities, certified mechanics, and breath alcohol ignition interlock installation centers. Section 257.1317 of the *Michigan Compiled Laws* allows representatives from the Department of State to make periodic unannounced inspections of the premises, part records, and parts inventory of registered facilities. Section 257.1318(1) of the *Michigan Compiled Laws* requires owners of motor vehicle repair facilities to maintain reasonable business records and to ensure that those records are available for inspection.

RMD regulated 5,647 licensed vehicle dealers and 31,687 certified mechanics as of May 23, 2018 and 8,915 registered repair facilities as of June 8, 2018 (see Exhibit #2). RMD incurred expenditures of \$5.2 million for fiscal year 2017 and had 20 employees as of June 1, 2018.

* See glossary at end of report for definition.

AUDIT SCOPE, METHODOLOGY, AND OTHER INFORMATION

AUDIT SCOPE

To examine selected activities and records related to RMD. We conducted this performance audit* in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

PERIOD

Our audit procedures, which included a preliminary survey, audit fieldwork, report preparation, analysis of agency responses, and quality assurance, generally covered October 1, 2015 through June 30, 2018.

METHODOLOGY

We conducted a preliminary survey of RMD to gain an understanding of the division and to establish our audit objectives, scope, and methodology. During our preliminary survey, we:

- Interviewed RMD personnel and analyzed applicable information to obtain an understanding of the organizational structure and operational responsibilities of RMD.
- Reviewed applicable sections of the *Michigan Compiled Laws*, administrative rules, and RMD policies and procedures.
- Reviewed RMD's annual reports for calendar years 2015, 2016, and 2017.
- Performed analytical review procedures to analyze inspection completion and complaint investigation trends.
- Obtained the populations for and calculated the number of licensed vehicle dealers, registered repair facilities, and certified mechanics by county.
- Obtained regulation agents' geographic areas of responsibility and calculated each agent's assigned caseload.
- Determined the frequency of inspections for 10 randomly sampled licensed vehicle dealers and 9 judgmentally sampled licensed vehicle dealers.

* See glossary at end of report for definition.

- Determined the frequency of inspections for 10 randomly sampled registered repair facilities and 12 judgmentally sampled registered repair facilities.
- Reviewed the timeliness of complaint investigations for 10 randomly sampled licensed vehicle dealers and 10 randomly sampled registered repair facilities.
- Traced 5 randomly sampled vehicle dealer license applications and 5 randomly sampled repair facility registration applications to L2K for accuracy.

OBJECTIVE #1

To assess the effectiveness of RMD's efforts to inspect vehicle dealers and repair facilities.

To accomplish this objective, we:

- Reviewed inspection reports completed during April 2018 for 2 of 15 judgmentally sampled regulation agents to verify the completeness and accuracy of the data recorded in L2K for:
 - 10 licensed vehicle dealers.
 - 11 vehicle dealers who applied for a license.
 - 9 registered repair facilities.
- Judgmentally sampled dealers and facilities with a history of complaints from January 1, 2017 through December 31, 2017 to validate that RMD prioritized inspections for:
 - 12 of 959 licensed vehicle dealers.
 - 27 of 1,145 registered repair facilities.
- Randomly and judgmentally sampled inspection histories to determine the frequencies of inspections for:
 - 46 of 5,647 licensed vehicle dealers.
 - 37 of 8,986 registered repair facilities.
- Identified a population of 3,362 repair facilities in L2K that received a license prior to January 1, 2014 and randomly sampled 61 to determine if the facilities received an inspection.
- Reviewed 8 judgmentally sampled weekly travel plans for 2 of 15 regulation agents completed during April 2018 to determine that the plans matched daily activity reports and that the agent inspected facilities in the same geographical area during travel status.

Our random samples were selected to eliminate any bias and enable us to project the results to the entire population. Other samples were selected using a risk-based approach. As a result, because our selections were judgmental, we could not project our results to the respective populations.

OBJECTIVE #2

To assess the effectiveness of RMD's efforts to document, investigate, and resolve consumer complaints.

To accomplish this objective, we:

- Reviewed all 16 licensed vehicle dealers and all 12 certified mechanics that had customer complaints investigated and closed during 2017 to determine the time frame it took to resolve or conclude on the complaint; the adequacy of the documentation provided; and whether RMD notified the consumer of the investigation results.
- Randomly sampled 14 of 298 registered repair facilities that had customer complaints investigated and closed during 2017 to determine the time frame it took to resolve or conclude on the complaint; the adequacy of the documentation provided; and whether RMD notified the consumer of the investigation results. We randomly sampled the registered repair facilities to enable us to project the results to the entire population.
- Judgmentally sampled 17 licensed vehicle dealers from a population of 616 licensed vehicle dealers, registered repair facilities, or certified mechanics that had 3 or more documented complaints between August 5, 2004 and July 3, 2018 to determine the outcome and/or disciplinary actions that were generated as a result of the complaints. Because we used a judgmental sample, we could not project our results to the entire population.

CONCLUSIONS

We base our conclusions on our audit efforts and any resulting material conditions* or reportable conditions.

When selecting activities or programs for audit, we direct our efforts based on risk and opportunities to improve State government operations. Consequently, we prepare our performance audit reports on an exception basis.

* See glossary at end of report for definition.

AGENCY RESPONSES

Our audit report contains 1 finding and 1 corresponding recommendation. The Department of State's preliminary response indicates that it agrees with the recommendation.

The agency preliminary response that follows the recommendation in our report was taken from the agency's written comments and oral discussion at the end of our fieldwork. Section 18.1462 of the *Michigan Compiled Laws* and the State of Michigan Financial Management Guide (Part VII, Chapter 4, Section 100) require an audited agency to develop a plan to comply with the recommendations and to submit it within 60 days after release of the audit report to the Office of Internal Audit Services, State Budget Office. Within 30 days of receipt, the Office of Internal Audit Services is required to review the plan and either accept the plan as final or contact the agency to take additional steps to finalize the plan.

PRIOR AUDIT FOLLOW-UP

Following is the status of the reported findings from our April 2011 performance audit of Selected Activities of the Bureau of Regulatory Services, Department of State (231-0220-10):

Prior Audit Finding Number	Topic Area	Current Status	Current Finding Number
1	Instructor and Provider Qualifications	Not in scope of this audit.	
2	Examiner On-Site Inspections	Not in scope of this audit.	
3	Driver Assessment Reexaminations	Not in scope of this audit.	
4a	Access Control Policies and Procedures	Complied	Not applicable
4b	Identification of Roles and Activities in L2K	Complied	Not applicable
4c	Assignment and Authentication of Individual User Accounts	Not in scope of this audit.	

SUPPLEMENTAL INFORMATION

Our audit report includes supplemental information presented as Exhibits #1 and #2. Our audit was not directed toward expressing a conclusion on this information.

GLOSSARY OF ABBREVIATIONS AND TERMS

effectiveness	Success in achieving mission and goals.
L2K	License 2000 System.
material condition	A matter that, in the auditor's judgment, is more severe than a reportable condition and could impair the ability of management to operate a program in an effective and efficient manner and/or could adversely affect the judgment of an interested person concerning the effectiveness and efficiency of the program. Our assessment of materiality is in relation to the respective audit objective.
mission	The main purpose of a program or an entity or the reason that the program or the entity was established.
OAG	Office of the Auditor General.
performance audit	An audit that provides findings or conclusions based on an evaluation of sufficient, appropriate evidence against criteria. Performance audits provide objective analysis to assist management and those charged with governance and oversight in using the information to improve program performance and operations, reduce costs, facilitate decision-making by parties with responsibility to oversee or initiate corrective action, and contribute to public accountability.
regulation agent	RMD staff responsible for completing investigations of vehicle dealers and repair facilities and processing consumer complaints.
reportable condition	A matter that, in the auditor's judgment, is less severe than a material condition and falls within any of the following categories: an opportunity for improvement within the context of the audit objectives; a deficiency in internal control that is significant within the context of the audit objectives; all instances of fraud; illegal acts unless they are inconsequential within the context of the audit objectives; significant violations of provisions of contracts or grant agreements; and significant abuse that has occurred or is likely to have occurred.
RMD	Regulatory Monitoring Division.
vehicle	Motorized vehicle, recreational vehicle, trailer, semitrailer, or pole trailer, when driven or moved on a street or a highway.



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