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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

February 28, 2002

Mr. Joseph H. Boardman
Commissioner
Department of Transportation
State Office Building Campus – Building #5
Albany, NY 12232

Re: Report 2001-F-39

Dear Mr. Boardman:

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law we have reviewed actions taken by officials of the New York State Department of Transportation (Department) as of January 5, 2002, to implement recommendations contained in our audit report, *Status of Railroad Bridge Inspection Program* (Report 99-S-12) issued on August 31, 2000. That audit examined the status of the Department's Railroad Bridge Inspection Program (Program) to determine the status of the Program implementation, whether the Department effectively monitors railroad compliance with the Program's requirements and that all railroad bridges in the State are safe for the loads imposed.

Background

Since 1944, railroads have been required to make a thorough inspection of every bridge, trestle and culvert it owns or uses at least once in every calendar year and annually certify the safety of all such structures. Initially, these certifications were submitted to the Public Service Commission. Since 1974 the certifications are submitted to the Department. In 1988, the State Legislature established the Temporary Task Force On Railroad Bridges (Task Force) to report on the ownership, jurisdiction, inspection procedures and maintenance of all bridges under which or over which railroad tracks are located. In April 1992, the Task Force issued its report which recommended requiring railroads to provide a bridge inventory to the Department, giving the Department specific authority to adopt rules and regulations related to railroad bridges and having the Department develop a definition of a railroad bridge. The Task Force also stated that the railroad bridge definition could be patterned after the highway bridge definition (which includes structures with spans exceeding 20 feet), but recommended further study to determine the minimum span length of railroad bridges.

Using the Task Force's recommendations as a guide, the State Legislature amended Section 236 of the State Highway Law (Law) in 1994 to better protect highway users, train passengers and people who live near railroad bridges from the dangers posed by the structural failure of these

bridges. The Law authorized the Department to establish and oversee a Railroad Bridge Inspection Program and to develop railroad bridge inspection guidelines and standards. The Legislature extended the timetable for phasing in the Program in 1996, and again in 1998. The Legislature amended the Highway Law in 1994 to add a definition of a railroad bridge which the Department has interpreted as excluding a significant number of bridges and elevated structures (e.g., bridges under 21 feet, elevated subway tracks, viaducts and trestles).

Between 1994 and 1999 the Department promulgated a series of rules and regulations that were either adopted, amended or postponed thus delaying full implementation of the inspection and certification requirements until March 15, 2001. As of November 15, 2001, Department officials still did not consider the Program to be fully implemented.

The Department did not receive or request additional funding for overseeing railroad bridge inspections, and manages the Program with existing funds and staff. Currently, only one employee is working on entering data for this Program. As of November 15, 2001, Department records show 41 of 45 railroads operating in the State own or use a total of 2,835 railroad bridges (This figure represents 8 more railroads, and 168 less railroad bridges than was indicated in our prior audit report). It should be noted that, in 1991, the Task Force reported a total of 8,730 structures that were over 20 feet long including about 6,200 elevated subway spans in New York City that are not included in the inventory data reported to the Department as of November 15, 2001. Also, there are a total of 2,185 railroad bridges that are between 5 feet and 20 feet long. Railroad bridges that are less than 20 feet are not required to be included in the inventory data. Department officials object to the use of this data because it has not been confirmed and might be overstated because the definition of a bridge is not standardized. For example, bridges with several spans might be counted as several bridges, while Department officials would count it as one bridge.

Summary Conclusions

In our prior audit, we identified several weaknesses in the Department's Program. The Program had not been fully implemented due to delays that resulted from a number of factors. These factors include the numerous changes made in the Law, the extensions that were granted to phase-in the Program and the time required for the Department to develop Regulations to carry out the Program.

Our follow-up review shows Department officials have made progress in enforcing compliance with the bridge inventory reporting requirements and is working towards completing the data input of the inventories received. They have informed the railroads that their inventory must include viaducts and trestles. Department officials believe they have staff that can be used on a part-time basis to enforce railroad compliance with Department regulations and have developed bridge inspection standards for the railroads to use. Developing procedures to test bridge inspections is being considered.

However, we believe the Department has not done all it could to implement the Program. There continues to be differences between the number of railroad bridges owned and used by railroads, and the inventory data, in the Department's records. The Department has not developed procedures to verify that the railroads report all their bridges and has not entered the inventory data

received thus far in its own database. In addition, the line capacity data for 677 bridges is missing and line capacity data is not reviewed to ensure it meets Department regulations. The Department also did not do a study to determine whether bridges spanning less than 20 feet should be included in railroad bridge inventories. Further, all railroads were required to provide the Department with their bridge inspection certifications as of March 15, 2000, but as of November 15, 2001, three of the 45 railroad companies had not submitted the certifications.

Summary of Status of Prior Audit Recommendations

Of the six recommendations contained in the prior audit report, two were implemented, three were partially implemented, and one was not implemented.

Follow-up Observations

Recommendation 1

Enforce compliance with railroad bridge inventory reporting requirements.

Status – Implemented

Agency Action – The Department is enforcing compliance with bridge inventory reporting requirements and documented that 43 of 45 railroads complied. Officials indicated but did not document that the bridges utilized by the two remaining railroads are owned and reported by other railroads.

Recommendation 2

Develop and implement procedures to ensure the inventories railroads submit are data entered, complete and include the line capacity for each bridge and ensure line capacity is being determined in compliance with the regulations.

Status – Partially Implemented

Agency Action – The Department has not developed and implemented procedures to ensure that the inventories railroads submit are data entered, complete and include line capacity for each bridge. The Department does maintain a database where all inventories received should be data entered, however, the database continues to be incomplete. We found that 7 railroads have no inventory in the database; the bridge inventory for 3 railroads have yet to be data entered; and we were advised that the railroad bridge inventory of four railroads were included in the inventory of "other railroads." However, there is no indication of which specific railroads included those bridges in their inventory. There are also unexplained differences between the number of reported bridges and the number inputted into the inventory for three railroads. Additionally, the line capacity data for 677 bridges is missing and line capacity data is not reviewed to ensure it complies with Department regulations.

Recommendation 3

Determine the options that are available to the Department for assigning other staff resources to the implementation of the Program. If this assessment indicates that additional resources are needed, then the Department should prepare a resource request and submit it to the Division of the Budget.

Status – Partially Implemented

Agency Action – Department officials represented that in their assessment they do not need additional staff to implement the Program and that this recommendation is implemented. We were informed they utilize the employees in their Department whenever needed. Department employees have been utilized to review bridge inspection procedures submitted by the railroads to assure they meet Department regulations. However, they have not been utilized to regularly sample bridge inspections for Department regulation compliance nor to help with the data input of the inventory database.

Recommendation 4

Expedite the development, and document the process that will be used to analyze railroads' Inspection Procedures and inspector's qualifications for compliance with Program requirements.

Status – Implemented

Agency Action – The Department has developed and documented the process they will use to analyze the adequacy of each railroad's inspection procedures and whether the bridge inspector's has suitable qualifications for the Program. The Department provided documentation of a procedural checklist entitled: "Railroad Bridge Management and Inspection Procedure Compliance Review Procedure and Checklist." Department officials indicate this checklist is used as a guideline to assess, and analyze railroad inspection procedures, and inspector's qualifications when documentation is submitted by the railroads. The checklist is returned to a railroad if there are any discrepancies or missing information. The railroad is required to resubmit, and complete the areas indicated.

Recommendation 5

Develop procedures to sample inspections and ensure that all inspections are being done in accordance with bridge inspection standards.

Status – Not Implemented

Agency Action – The Department is considering developing procedures for sampling inspections to ensure inspections are done in accordance with bridge inspection standards. Department officials informed us that although they have not started regularly testing bridge inspections, they have reviewed the bridge inspections submitted by two railroads, but did not provide the

documentation. In addition, three railroads have not submitted their annual bridge inspection certifications.

Recommendation 6

Implement the Task Force's recommendation to further study the structures, which should be covered to provide maximum public safety.

Status – Partially Implemented

Agency Action – On November 7, 2001, the Department mailed a form letter to each railroad company covering Section 230 of the State Highway Law. The correspondence defined a bridge as spanning 20 feet or more and thus must be included in a railroad's inventory of bridges. Also covered was the Federal Railroad Administration's definition of a bridge as spanning at least 12 feet. The railroads were instructed to review their inventory submission to ensure that all bridges meet the definition of spanning at least 20 feet. Also, the railroads were alerted that the inventories should include viaducts and trestles. However, Department officials have not performed any study to determine whether a bridge that spans less than 20 feet should be included in the inventory. Department officials believe this recommendation is implemented because they have decided that 20 feet is appropriate and is what the Law requires.

Major contributors to this report were Brenda Maynard, Richard Perreault and Abraham C. Markowitz.

We would appreciate your response to this report within 30 days, indicating any additional actions planned to address the recommendations discussed in this report. We also thank Department of Transportation management and staff for the courtesies they extended during our review.

Very truly yours,

Carmen Maldonado
Audit Director

cc: Deirdre Taylor, DOB
John Samaniuk, DOT