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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

February 8, 2005

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

Mr. Wayne E. Bennett
Superintendent
Division of State Police
Building 22
1220 Washington Avenue
Albany, NY 12222

Re: Security Measures Relating to the
Transportation of Hazardous Materials
Report 2002-S-36

Dear Messrs. Boardman and Bennett:

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 audited the Department of Transportation's truck inspection program, including selected activities of the Division of State Police related to truck inspections in connection with the transportation of hazardous materials for the period April 1, 2001 through April 30, 2003.

A. Background

In 1985, the State Legislature authorized the Department of Transportation (DOT) to participate in the Motor Carrier Safety Assistance Program (MCSAP), otherwise known as the truck inspection program. MCSAP provides Federal financial assistance to states to reduce the number and severity of accidents and hazardous materials incidents involving commercial vehicles. The Federal Motor Carrier Safety Administration (FMCSA), the federal oversight agency, sets forth the conditions for program participation by states and local jurisdictions. FMCSA promotes the adoption and uniform enforcement of safety rules, regulations, and standards compatible with the Federal Motor Carrier Safety Regulations and Federal Hazardous Material Regulations for both interstate and intrastate motor carriers and drivers. Due to homeland security considerations, FMCSA has recognized that commercial vehicles can be used

as potential weapons of terrorism. This requires that the truck inspection program include security measures that adequately address the potential risks inherent in the commercial motor carrier industry, particularly in regards to the transportation of hazardous materials.

DOT is the designated lead agency for New York State's truck inspection program and is responsible for applying for the annual Federal funding for the three agencies involved with the program: DOT, the Division of State Police (DSP), and the Department of Motor Vehicles (DMV). DOT is also responsible for processing of all grant payments, providing computer support to law enforcement agencies involved in the program, and coordinating the overall program. For the federal fiscal year (FFY) 2002 (October 1, 2001 through September 30, 2002), program funding totaled \$10,013,332. The Federal government contributed 80 percent and the State contributed 20 percent. Of this amount, DOT received \$5,669,716; DSP received \$3,878,872 and DMV received \$464,744.

Roadside inspections are the primary function of DOT's participation in the program. MCSAP inspectors, which include DOT truck inspectors and specially trained New York State Police troopers and local law enforcement officers, perform the inspections. DOT cannot perform truck inspections unless State or local law enforcement officers are present at the inspection site. The inspection teams work out of six regional locations.

Inspections are to be conducted in accordance with the North American Standard Truck Inspection (NASTI) procedures, which are based on Federal regulations for the truck inspection program. There are six levels of truck inspections. The procedures and items to be inspected vary based on the specific level of inspection. There are additional inspection procedures when a driver transports hazardous materials. For FFY 2002, the number of truck inspections conducted by DOT's program totaled 134,899, a 120 percent increase over the 61,256 truck inspections conducted in FFY 2001.

The truck inspections can have several outcomes: no violations, minor violations, out-of-service violations, or a combination of minor and out-of-service violations. Out-of-service violations must be fixed before the driver may operate the vehicle again. The vehicle may be repaired on-site or towed for repairs. The driver receives a copy of the inspection report. Truck carriers have 15 days to repair and send in the repair documentation to DOT.

B. Audit Scope, Objective, and Methodology

We have audited DOT's truck inspection program, including related truck inspection activities of DSP, concerning the transportation of hazardous materials for the period April 1, 2001 through April 30, 2003. The objective of our performance audit was to determine whether DOT has established inspection methods that are appropriate for the environment in which it operates.

To accomplish our objective, we conducted interviews with officials and staff at DOT and other State agencies, and reviewed relevant data. We judgmentally selected eight inspection sites and observed roadside inspections performed by DOT and DSP. In addition, we sent out questionnaires to 35 other states and obtained responses from 11. The questionnaires were sent to gain an overview of how other states are conducting their truck inspection.

We conducted our audit in accordance with Generally Accepted Government Auditing Standards. Such standards require that we plan and perform our audit to adequately assess those DOT operations that are within our audit scope. Further, these standards require that we understand DOT's internal control structure and compliance with those laws, rules and regulations that are relevant to the operations included in our audit scope. An audit includes examining, on a test basis, evidence supporting transactions recorded in the accounting and operating records, and applying such other auditing procedures as we consider necessary in the circumstances. An audit also includes assessing the estimates, judgments and decisions made by management. We believe our audit provides a reasonable basis for our findings, conclusions and recommendations. Our audit of DSP was limited to reviewing their policy and procedures relating to their truck inspection process, requesting information of DSP officials, and observing their participation in truck inspections.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State, several of which are performed by the Division of State Services. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under Generally Accepted Government Auditing Standards. In our opinion, these management functions do not affect our ability to conduct independent audits of program performance.

C. **Results of Audit**

Our audit identified findings and made recommendations for corrective action on matters pertaining to DOT's inspection methods in the current environment. These findings and recommendations were presented in detail to DOT and DSP officials throughout the audit. To further assure security of the truck inspection programs of these agencies, these findings and recommendations are not included in this report. Subsequent follow-up audits will be made on the detailed findings and recommendations to help insure improvements in DOT and DSP operations.

Recommendation

To DOT and DSP:

Implement the recommendations detailed to officials during the audit for strengthening security measures related to the transportation of hazardous materials.

Major contributors to this report were Gerald Tysiak, John Gimberlein, Charles Krahula, Kathleen Hotaling, Nadiuska Piedra, and Paul Bachman.

We wish to thank the management and staff of the Department of Transportation and the Division of State Police for the courtesies and cooperation extended to our auditors during this audit.

Very truly yours,

Carmen Maldonado
Audit Director

cc: Robert Barnes, Division of the Budget
John Samaniuk, Department of Transportation