



STATE OF NEW YORK
DEPARTMENT OF TRANSPORTATION
ALBANY, N.Y. 12232

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JOAN McDONALD
COMMISSIONER

ANDREW M. CUOMO
GOVERNOR

April 22, 2014

John Buyce, CPA, CIA, CGFM
Office of the State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, NY 12236-0001

Dear Mr. Buyce:

As required by Section 170 of the Executive Law, the New York State Department of Transportation (NYSDOT) is providing the following report on actions taken to implement the Office of the State Comptroller's recommendations included in your audit titled *Selected Aspects of the Motor Carrier Safety Assistance Program*.

Recommendation 1: Actively monitor carrier compliance with the requirements for certification that vehicles have been repaired. Develop strategies to improve carrier compliance, particularly for those with poor safety histories and out-of-service violations.

Draft Report Response: NYSDOT relies on a variety of tools to identify carriers with poor safety performance as a means to direct its enforcement actions. During both State and Federal compliance reviews, vehicle maintenance and repair records for vehicles with roadside violations, as well as other vehicles, are reviewed. NYSDOT also has a repair verification program, whereby NYSDOT inspectors visit carriers with the sole purpose of verifying the correction of violations observed on the roadside.

As a means to augment these actions, NYSDOT will begin examining the information in our existing tracking system for the unreturned inspection reports, including number of out-of-service violations, severity of specific out-of-service violations and the carrier's overall roadside safety performance, to identify poorly performing carriers domiciled in New York. NYSDOT will focus additional enforcement actions on these poorly performing New York carriers such as warning letters and Notices of Violations and will prioritize the carrier for repair verification visits or compliance reviews. NYSDOT will develop parameters for when additional actions will be taken, the frequency of these

actions and the appropriate fine levels to be assessed. NYSDOT will then perform a pilot study to make necessary modifications and improvements. Full implementation is expected by April 1, 2014.

90-Day Update: NYSDOT has completed the pilot study and has fully implemented a risk-based process that identifies New York State domiciled carriers that have been issued out-of-service violations and have not returned inspection reports certifying that vehicles have been repaired. Carriers that are deemed high-risk are selected for enforcement and scheduled for compliance reviews. Since implementing this process, NYSDOT has issued subsequent Notices of Violations to those carriers that have not repaired the cited defects prior to operating the vehicles and issued warnings to those that have completed the necessary repairs but failed to return the signed inspection report.

NYSDOT will continue using this process to identify carriers for enforcement and periodically will assess the risk-based criteria to provide assurance that carriers with poor safety histories and out-of-service violations continue to be targeted for enforcement.

Recommendation 2: Impose progressive enforcement actions, such as compliance reviews and Notices of Violation, when carriers are found to have continued to operate out-of-service vehicles.

Draft Report Response: NYSDOT is committed to ensuring the safety of the traveling public. Of the 207 repeat violations resulting from the 196 inspections noted in the audit, at least 189 (91 percent) had either additional enforcement actions taken or the violation no longer presented a danger to public safety, i.e., the carrier was out of business, the vehicle was no longer in service, or correction of the violation had been verified.

As an enhancement to our program, NYSDOT will perform compliance reviews or issue Notices of Violation(s) to New York domiciled carriers identified as continuing to operate commercial vehicles without making appropriate repairs to previously discovered out-of-service violations.

As a clarification regarding the inspection report data presented in the audit, the findings of the audit focus on NYSDOT's action related to vehicle out-of-service violations; however, the 90,368 inspection reports with out-of-service violations referenced consist of 76,229 reports with one or more out-of-service vehicle violations, with the balance of the inspection reports related to out-of-service violations for the driver. Of these 76,229 inspection reports with vehicle out-of-service violations issued, about 36 percent (27,567) were returned on time, 26 percent (19,653) were returned late and 38 percent (29,009) were never returned.

90-day Update: During calendar year 2013, NYSDOT conducted follow-up compliance reviews of all New York State domiciled motor carriers that were cited for operating out-of-service vehicles. As a result, NYSDOT issued Notices of Violations or warnings for those carriers found to have operated an out-of-service vehicle prior to repair. For the first quarter of calendar year 2014, seven New York State domiciled motor carriers were

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cited for operating out-of service vehicles. Five of those carriers have been issued Notices of Violations; the remaining two are being scheduled. In addition, follow-up compliance reviews are and will continue to be scheduled when warranted.

Should you need additional information, please contact William B. Leonard, Director of the Motor Carrier Compliance Bureau, at (518) 457-1046.

Sincerely,

A handwritten signature in blue ink, appearing to read "Phillip Eng", with a long horizontal flourish extending to the right.

Phillip Eng, P.E.
Executive Deputy Commissioner

cc: Honorable Andrew M. Cuomo, Governor of the State of New York
Honorable Thomas P. DiNapoli, State Comptroller
Honorable Jeffrey D. Klein, Temporary President and Majority Coalition Leader
Honorable Dean G. Skelos, Temporary President and Majority Coalition Leader
Honorable Sheldon Silver, Assembly Speaker
Honorable Joseph D. Morelle, Assembly Majority Leader
Honorable Brian Kolb, Assembly Minority Leader
Honorable John A. DeFrancisco, Chairman, Senate Finance Committee
Honorable Liz Krueger, Ranking Minority Member, Senate Finance Committee
Honorable Herman D. Farrell, Jr. Chairman, Assembly Ways and Means Committee
Honorable Robert C. Oaks, Ranking Minority Member, Assembly Ways and Means Committee
Robert L. Megna, Division of the Budget
