

---

---

**Thomas P. DiNapoli  
COMPTROLLER**



**Audit Objective .....2**

**Audit Results - Summary.....2**

**Background.....3**

**Audit Findings and  
Recommendations .....3**

Carrier Compliance .....3  
*Recommendations*.....7

Unregistered Carriers and  
Drivers .....7  
*Recommendation*.....9

Criminal History Checks .....10  
*Recommendations*.....10

**Audit Scope and Methodology.....11**

**Authority .....11**

**Reporting Requirements .....11**

**Contributors to the Report.....12**

**Appendix A - Auditee Response...13**

**Appendix B - State Comptroller's  
Comments .....19**

---

---

**OFFICE OF THE  
NEW YORK STATE COMPTROLLER**

**DIVISION OF STATE  
GOVERNMENT ACCOUNTABILITY**

---

**DEPARTMENT OF MOTOR  
VEHICLES**

**BUS DRIVER LICENSING  
AND OVERSIGHT**

**Report 2005-S-53**

---

---

## AUDIT OBJECTIVE

Our objective was to determine whether the Department of Motor Vehicles (Department) monitors bus drivers to ensure that they meet certain licensing requirements specified in State Law.

## AUDIT RESULTS - SUMMARY

According to the New York State Vehicle and Traffic Law, individuals must meet certain requirements before they can drive buses carrying passengers. For example, they must be licensed by the State to drive such vehicles, pass a medical examination every two years, pass a practical driving test every two years, and maintain a safe driving record both on and off the job. At the time of our audit, a total of 63,252 school bus drivers and 28,971 non-school bus drivers were licensed by the State.

Bus drivers may be employed by school districts, municipalities, public authorities or private companies. These carriers are expected to arrange for their drivers' medical examinations and driving tests, and ensure all licensing requirements are met before the individuals are allowed to drive. The Department is supposed to review the driver records of each carrier, at least once every three years, to ensure that the carriers are fulfilling this responsibility.

We found that the Department is performing the required three-year reviews, but the review process is not effective enough to ensure compliance at all carriers. For example, we reviewed driver records at 13 selected carriers. All the carriers had recently been reviewed by the Department, but more than half were in substantial noncompliance with licensing requirements. We recommend improvements in the Department's review process that could help reduce the rate of

noncompliance. In particular, we recommend greater attention be given to carriers with a history of noncompliance.

Bus drivers must be registered with the Department. However, some drivers are not registered, and as a result, they are not included in the Department's three-year reviews. In our visits to the 13 sampled carriers, we identified 22 unregistered drivers at three carriers. We recommend actions that can be taken by the Department to identify such drivers.

Individuals who are convicted of certain serious criminal offenses are not supposed to drive buses. While criminal history checks are required and performed for school bus drivers, current laws allow school bus drivers to operate buses for a 90-day period while their backgrounds are checked. Criminal history checks are not required and are not performed for drivers of other buses. We also found that the carriers did not have a final qualification letter for 12.2 percent of the school bus drivers' files reviewed. The final determination letter is sent to the carrier once the results of the criminal history check is completed and it has been determined that the applicant does not have any disqualifying offenses. We recommend that the Department seek statutory changes to allow criminal history checks to be performed for all bus drivers.

Our report contains three recommendations for improving the Department's monitoring of carrier compliance with certain licensing requirements for bus drivers. Department officials generally agreed with our recommendations and have taken steps to implement them.

This report, September 4, 2007, is available on our website at: <http://www.osc.state.ny.us>. Add or update your mailing list address by contacting us at: (518) 474-3271 or Office of the State Comptroller  
Division of State Government Accountability  
110 State Street, 11<sup>th</sup> Floor  
Albany, NY 12236

## BACKGROUND

According to Article 19-A of the New York State Vehicle and Traffic Law (Law), individuals must meet certain requirements before they can drive buses carrying passengers. Under the Bus Driver Licensing Program, the Department of Motor Vehicles (Department) is responsible for ensuring that these requirements are met.

According to the Law, bus drivers must be licensed by the State to drive buses. To obtain such a license, they must complete a special application process that is administered by the Department. To retain the license, they must pass a medical examination every two years, pass a behind-the-wheel driving test every two years, pass a written or oral driving examination every two years, be observed driving by a certified examiner once a year, and maintain a safe driving record both on and off the job. Also, the Department must notify bus drivers' employers of any accidents and any driving infractions, occurring in New York State, either on or off the job.

There are additional requirements for school bus drivers, as they must be fingerprinted for a criminal history check during the license application process.

Bus drivers may be employed by school districts, municipalities, public authorities or private companies. These carriers are expected to arrange for their drivers' medical

examinations and driving tests/observations, and ensure they comply with all requirements contained in the Law before they are allowed to drive.

The carriers should either contract with or employ test examiners who have been certified by the Department, and ensure that all driving tests and observations are administered by these examiners. To ensure that their drivers are maintaining a safe driving record both on and off the job, the carriers are required to perform an annual review of each driver's abstract of driving citations (this abstract is maintained by the Department). The carriers also must maintain records documenting their drivers' compliance with the requirements contained in the Law, and must file an annual affidavit of compliance with the Department.

The Law requires the Department to review the driver records of each carrier at least once every three years to determine whether the carriers are adequately ensuring that their drivers meet the requirements contained in the Law. These three-year reviews are performed by examiners in the Department's 14 regional Testing and Investigations Units.

According to Department records, as of May 17, 2005, a total of 2,565 carriers were registered with the Department. In addition, at that time, 63,252 school bus drivers and 28,971 non-school bus drivers were licensed by the Department.

## AUDIT FINDINGS AND RECOMMENDATIONS

---

### *Carrier Compliance*

---

We evaluated the adequacy of the carriers' practices related to licensing bus drivers. As part of our evaluation, we visited 13 carriers and examined selected driver records at these

carriers. We found the carriers did not always comply with Program requirements. For example, several carriers did not annually review the employees' driving records, or observe the defensive driving. We found that improvements are needed if the Department's review process is to serve its intended purpose and ensure bus drivers are, in fact, meeting the requirements contained in the Law.

### **Review of Driver Records at 13 Carriers**

To determine whether carriers are adequately ensuring that their drivers meet the requirements contained in the Law, we examined driver records at 13 carriers. We judgmentally selected these 13 carriers on the basis of their geographic location, their size, and the type of drivers they employed (school and non-school). We selected three carriers in New York City, three on Long Island, two in western New York, two in central New York, two in the Hudson Valley region, and one in northern New York. Ten of the 13 carriers had drivers qualified to provide school bus service.

According to Department records, the 13 carriers had a total of 1,255 drivers. At the 10 carriers with more than 20 drivers, we reviewed a random sample of 20 driver files. At the three carriers with fewer than 20 drivers, we reviewed all the driver files. In total, we reviewed 246 driver files, of which 182 were for drivers who were qualified to drive school buses.

The purpose of our review was to determine whether the documentation in the driver files showed that the drivers were in compliance with the licensing requirements contained in the Law. For example, each file should contain evidence that the driver passed a medical examination every two years and the carrier performed annual reviews of the individual's abstract of driving records.

At 4 of the 13 carriers, the files indicated that the drivers were in compliance with the requirements with minimal exceptions. At two of the carriers, we found minor instances of noncompliance, and at the remaining seven carriers, we found substantial noncompliance. At these seven carriers (three of which provided school bus service), many of the files lacked documentation of the driver's compliance with one or more critical requirements. For example:

- In 54 of the 126 files that we reviewed at the seven carriers (42.9 percent), the carrier's annual review of the abstract of driving records was not documented for one or more years. In these instances, either there was no abstract in the file for a particular year (and thus no evidence a review had been performed for that year) or it was not done timely.
- In 34 of the 126 files (26.9 percent), a biennial medical examination was not documented. In these instances, either there was no record of a medical examination for a particular two-year period, the examination record was incomplete, or the medical examination was not performed within the required two-year time frame.
- In 31 of the 126 files (24.6 percent), the certified examiner's annual observations of the driver were not documented for one or more years. In these instances, either no observations were documented for a particular year, the observations were not fully documented, or the observations were not timely (i.e., they were not made within the required one-year time frame).
- In 84 percent of the files for school bus drivers, there was no interim qualification letter, and in 12.2 percent of these files, there was no final qualification letter. The Department sends these letters to the

carriers when the applicants' criminal history checks are completed. Drivers are allowed to operate buses for a 90-day period while their backgrounds are checked.

(Department officials replied to our draft report that the high percentage of missing interim letters was because they are not needed in all instances.)

**Auditor's Comment:** Our audit results reflect only those instances where the interim letter was applicable and the carrier should have received the letter.

Thus, more than half the carriers in our sample were not adequately ensuring that their drivers met the licensing requirements contained in the Law. As a result of this lax oversight by the carriers, the safety of the public was not protected to the full extent intended by the Law. We recommend the Department follow up with these seven carriers to ensure the deficiencies we identified are corrected.

In response to our recommendation, Department officials informed us they had initiated the follow-up reviews and had already completed reviews at four of the seven carriers. They stated that one of the reviews identified noncompliance sufficient to request a disciplinary hearing for the carrier, one found minor violations, and two found records were now acceptable.

### **Department Review Practices**

In its three-year reviews of the carriers' driver records, the Department is supposed to determine whether the carriers are adequately ensuring their drivers' compliance with the licensing requirements. If substantial noncompliance is identified at a carrier, the carrier may be required to appear at a hearing

before an administrative law judge, where it could be fined or even lose its license to operate.

We examined recent three-year reviews at the 13 carriers in our sample to determine whether the Department had conducted the required reviews, and if so, whether the Department's findings were similar to ours. Specifically, we examined all the three-year reviews conducted at the 13 carriers between February 28, 2002 and December 22, 2005 (our visits to the carriers were made during 2006).

We found that the Department fulfilled its legal responsibility, as it reviewed each of the carriers at least once during this period and conducted each review within the required three-year timeframe. In total, the Department conducted 28 reviews at the 13 carriers.

We also noted that, broadly speaking, the Department's findings were similar to ours, as substantial noncompliance was identified in 3 of the 28 three-year reviews. A formal disciplinary hearing was requested as a result of one review with substantial noncompliance and one review resulted in a formal warning letter to the carrier.

Thus, the Department is fulfilling the letter of its regulatory responsibility by conducting three-year reviews of driver records at each carrier. However, the reviews are supposed to ensure that carriers comply with the licensing requirements contained in the Law, and it appears that the review process is not effective enough to ensure compliance at a number of carriers.

As part of our audit, we interviewed the Department examiners who performed the reviews in the ten regions we visited (the 13 carriers in our sample were located in these

ten regions). We noted a number of areas in which improvements could be made in the review process.

For example, if a carrier has 30 or more drivers, the Department examiner is supposed to select a random sample of driver files for review. The files are to be selected from driver rosters maintained by the Department (an electronic roster of the drivers at each carrier is maintained at the Department's Central Office).

However, the Department's rosters are not complete, because they include only drivers who are currently employed by the carriers. Former drivers who were employed during the three-year review period are not included. As a result of these exclusions, the carriers' practices may not be fully evaluated during the review process; and non-compliant drivers, who could be re-employed in the future, may not be identified. We recommend the sampling methodology be revised to include all drivers employed by the carrier during the review period. Department officials told us that the current computer system limits their ability to generate lists of inactive drivers, and they are in the planning stages for a replacement system.

We also note that two of the regions do not follow the sampling guidelines and review all driver files whenever possible. We question whether this is the best use of the examiners' time, as the time spent reviewing the additional files (many of which may be fully compliant) might be better spent at carriers with significant problems. We recommend the Department instruct the two regions to follow the sampling guidelines, and monitor the regions to ensure the guidelines are followed.

According to the Department's procedures for the three-year reviews, if significant problems

are identified in the review of the sampled files, a subsequent follow-up sample of driver files should be selected at the carrier to ensure that the carrier's practices have improved. However, this procedure is not followed, as all the examiners we interviewed said that they did not take follow-up samples. As a result, improvements are less likely to be made at carriers with significant problems. We recommend the Department instruct its examiners to perform the required follow-up reviews, and monitor the examiners to ensure that the reviews are performed.

Department officials stated that carriers with a history of noncompliance are reviewed more often. However, the Department does not have a tracking system to ensure that problem carriers are actually reviewed more often. We also found that the Department has not developed formal criteria for identifying "problem" carriers. Instead, each region uses its own judgment in determining whether there is "substantial" noncompliance at a carrier and whether disciplinary action (i.e., a hearing or a warning letter) should be taken.

A uniform definition of problem carriers and a system to track reviews would provide greater assurance that non-compliant carriers are identified consistently and receive greater oversight. We recommend such a definition and such a tracking system be developed. Department officials stated that they are evaluating how to develop an objective way to identify carriers that may warrant more frequent reviews.

The only carrier reviews performed by the Department are full-scale three-year reviews. More limited interim reviews are not performed. As a result, carriers may receive little or no oversight for periods of up to three years. If a carrier is using non-compliant drivers, this is a long time to be without oversight. We recommend the Department

develop a process for scheduling limited interim reviews, especially at carriers with a history of noncompliance. We also recommend such reviews be conducted on an unannounced basis (carriers are usually given two-weeks notice before a three-year review).

Testing and Investigations officials told us that they have instructed their examiners to have carriers send their drivers' files into the Department's office for review. They believe this practice is more efficient because only one examiner is needed to review the files instead of the two that are needed when the files are reviewed at the carrier's office. The officials further noted that travel to and from the carrier's office is eliminated, and examiners can review files in between other tasks at the office. We acknowledge these benefits, but note that there are also benefits when examiners are able to make on-site observations of the carrier's operations. We also note that carriers have complained that records are kept too long at the Department's office. We therefore recommend reviews be conducted at the carrier's office to the extent feasible.

Finally, some of the carriers in our sample were repeatedly found to have high non-compliance rates. We recommend stronger enforcement actions be considered for such carriers. For example, if such carriers were sent warning letters in the past, disciplinary hearings should be sought in the future. If the carriers were fined in the past, larger fines or other more severe penalties should be sought in the future.

### **Recommendations**

1. Follow up on the seven carriers to ensure the deficiencies we identified are corrected.
2. Make the following improvements in the

periodic reviews of carriers' driver records:

- Revise the driver file sampling methodology to include all drivers who were employed by the carrier during the review period.
- Ensure the Department's driver file sampling guidelines are followed by all the regions.
- Ensure follow-up reviews of driver files are performed as required.
- Develop formal criteria for identifying "problem" carriers that require more frequent reviews and establish a formal tracking system to ensure that such carriers receive more frequent reviews.
- Establish procedures for conducting unannounced, interim reviews, especially at carriers with a history of noncompliance.
- Conduct three-year reviews at the carrier's office to the extent feasible.
- Impose progressively stronger penalties when carriers are repeatedly found to be in noncompliance with licensing requirements.

---

### *Unregistered Carriers and Drivers*

---

Three-year reviews are conducted at carriers that are registered with the Department. If a carrier is not registered with the Department, neither the carrier nor its drivers will be subject to any oversight from the Department. Similarly, if a driver for a registered carrier is not registered with the Department, he or she will not be listed on the Department's driver rosters and thus will not be included in the

driver samples that are examined in the three-year reviews.

There are various actions the Department could take to identify unregistered carriers and unregistered drivers. However, we found the Department generally is not taking these actions. We recommend the Department routinely attempt to identify unregistered carriers and drivers.

### **Curbside Verifications**

In 1991, the Department submitted a memorandum to the State Legislature requesting that the Vehicle and Traffic Law be amended to allow the Department to perform a certain type of unannounced inspection: the curbside verification. In this type of inspection, a bus driver who was stopped by a Department examiner would have to show the examiner his or her driver's license and the bus's registration and insurance documentation. The examiner would check these documents against Department records, determine whether the carrier and driver were registered with the Department, and determine whether the driver's qualifications (e.g., biennial medical examination and biennial driving test) were on record as being up-to-date.

In its memorandum to the Legislature, the Department stated that some carriers repeatedly failed to register their drivers with the Department, but it was difficult for the Department to detect these unregistered drivers because it lacked the authority to perform curbside verifications. In 1991, the Legislature amended the Vehicle and Traffic Law to authorize curbside verifications.

The Department then amended its Regulations to identify the circumstances in which curbside verifications might be performed (e.g., in response to complaints or if carriers were found to employ unregistered or

unqualified drivers). However, despite these changes in the Law and Regulations, the Department performed no curbside verifications. In fact, the Department did not even develop written curbside verification procedures for its examiners to follow.

When we asked Department officials why curbside verifications were not being performed, they cited the following concerns:

- Newly registered bus drivers would incorrectly be identified as unregistered if their registrations had yet to be fully processed and recorded in the Department's files.
- The personal safety of Department examiners could be at risk while performing curbside verifications.
- It was not clear what methods should be used in detaining the bus drivers or whether a second person (such as a law enforcement officer or another examiner) should be present to help.
- The carriers' businesses could be disrupted and the riding public could be inconvenienced.
- Corporate and municipal policies might prohibit non-school personnel from entering school property and boarding school buses.

We acknowledge the validity of these concerns, but believe they all can be addressed by the appropriate procedures. For example, curbside verifications at schools could be done in coordination with school officials and after the students have left the bus. To minimize the disruptiveness, the verifications could be performed as drivers returned to the carrier at the end of their shifts. To address the concern about newly registered drivers, the Department could wait

for all pending registration transactions to be processed before concluding that a driver was in fact unregistered. To address the concern about examiner safety, curbside verifications could be performed in conjunction with the Department of Transportation's truck inspections, which are overseen by law enforcement officials.

In not developing a process for performing curbside verifications, the Department is limiting its ability to identify unregistered carriers and drivers and is not addressing the statutory authority that has been provided to the Department. We recommend such a process be developed and curbside verifications be performed routinely when complaints are received about carriers, when carriers are found to employ unregistered or unqualified drivers, and in the other circumstances specified in the Department's Regulations. Subsequent to our audit fieldwork, Department officials told us they had developed and piloted a curbside verification process.

#### **Other Methods for Identifying Unregistered Carriers and Drivers**

The Department of Transportation (DOT) is responsible for inspecting school buses and certain other types of passenger vehicles. Accordingly, DOT maintains lists of the carriers that are subject to inspection. The Department could compare these lists to its own lists of registered carriers to determine whether all carriers operating in New York State are in fact registered with the Department.

Department officials told us that they perform such comparisons. However, none of the comparisons had been documented, so we were unable to determine whether they had been as thorough as necessary. We performed such a comparison for a random sample of 100 carriers and initially identified

several carriers that were listed on DOT's records but not on the Department's records. Department officials were able to explain the discrepancies (e.g., some of the carriers were recorded under different names on the two lists), but documentation of this reconciliation process should be maintained for supervisory review and to provide assurance the comparison was actually done.

The Department could also take other proactive steps to identify unregistered carriers. For example, it could review carrier advertisements and carrier entries in telephone books and confirm that the carriers are in fact registered with the Department. However, the Department does not do this.

To identify unregistered bus drivers, Department examiners could compare the Department's roster of drivers to the carrier's roster during its three-year reviews of the carriers. The examiners could also compare the names on the Department's roster with the names listed in the carrier's daily driver logs (these logs must be maintained for DOT's review). However, neither comparison is performed by Department examiners during the three-year reviews.

During our visits to the 13 carriers, we performed both comparisons and identified 22 drivers at three carriers who were not on the Department's roster at the time they were listed in the driver logs. Department officials stated that a review of the carriers' driver logs would be incorporated into their review processes.

#### **Recommendation**

3. Develop and implement proactive methods for identifying unregistered carriers and drivers, including but not limited to the following:

- Develop procedures for performing curbside verifications.
- Routinely perform curbside verifications in the circumstances specified in the Department's Regulations. Document the reason for each verification as well as its results.
- Periodically compare the carriers listed in DOT's records with the carriers listed in the Department's records to determine whether any unregistered carriers are operating, and maintain documentation of the comparisons.
- Require examiners on three-year reviews to compare the Department's driver roster with the carrier's driver roster and daily driver log to determine whether any unregistered drivers have been employed by the carrier.

---

### *Criminal History Checks*

---

According to the Vehicle and Traffic Law, individuals who have been convicted of certain serious criminal offenses (such as rape and sexual abuse) are permanently disqualified from driving buses containing passengers. As part of the license application process, school bus drivers must be fingerprinted for a criminal history check. As a result, individuals who have been convicted of disqualifying offenses can be denied school bus driver licenses. However, current laws allow school bus drivers to operate buses for a 90-day period while backgrounds are checked. Criminal history checks are not required and are not performed for drivers of other types of buses. Therefore, individuals convicted of offenses that would have disqualified them from becoming a school bus

driver, may be allowed to drive other types of buses.

Department officials told us that they support legislation requiring criminal history checks on all bus drivers. They told us that such legislation was proposed in 1984, but it was vetoed by the Governor. However, we note that legislation since that time has authorized criminal history checks in many fields. We also note that criminal history checks for non-school bus drivers are not prohibited by law. We recommend the Department seek statutory changes so that it can initiate a process for performing such checks.

We also determined that improvements could be made in the fingerprinting process used by the Department in its criminal history checks of school bus drivers. In this process, the applicants' fingerprints are taken by the Department and submitted to the Division of Criminal Justice Services (DCJS). DCJS then performs the criminal history checks and sends the results of the checks to the Department. However, the process would be quicker and more efficient if fingerprint scanning technology was used. This technology is already used by the Department for certain types of criminal history checks (those involving licenses to transport hazardous materials), and is also used by the Waterfront Commission of New York Harbor.

### **Recommendations**

4. Seek statutory changes to allow for criminal history checks of non-school bus drivers.
5. Use fingerprint scanning technology or other methods to make the criminal history checks of bus drivers more efficient.

## AUDIT SCOPE AND METHODOLOGY

We audited the Department's oversight of bus driver licensing activities for the period April 1, 2002 through February 28, 2006. To accomplish our objective, we met with Department and carrier officials to confirm and enhance our understanding of the Bus Driver Licensing Program. We also reviewed Department and carrier records relating to bus drivers. We attempted to arrange our own curbside verifications with the Department's participation, but were unable to obtain the Department's agreement on this matter.

We visited 13 of the 2,565 carriers listed in Department records as of May 2005. We judgmentally selected these 13 carriers on the basis of their geographic location, their size, and the type of drivers they employed (school and non-school). We selected three carriers in New York City, three on Long Island, two in western New York, two in central New York, two in the Hudson Valley region, and one in northern New York. During each visit, we interviewed carrier officials and reviewed a random sample of driver files for compliance with the licensing requirements contained in the Vehicle and Traffic Law. We conducted our audit in accordance with generally accepted government auditing standards.

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. 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 functions do not affect our ability to conduct independent audits of program performance.

## AUTHORITY

The audit was performed 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.

## REPORTING REQUIREMENTS

We provided a draft copy of this report to Department officials for their review and comment. Their comments were considered in preparing this final audit report, and are included as Appendix A. Appendix B contains State Comptroller's comments which address certain comments contained in the Department's response. Department officials generally agreed with our recommendations.

Within 90 days of the final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the Department of Motor Vehicles shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons therefor.

---

## **CONTRIBUTORS TO THE REPORT**

Major contributors to this report include Carmen Maldonado, Robert Mehrhoff, Steve

Goss, Brandon Ogden, Doug Abbott, Sharon Salembier, Rebecca Tuczynski and Thierry Demoly.

APPENDIX A - AUDITEE RESPONSE



NEW YORK STATE  
DEPARTMENT OF MOTOR VEHICLES  
AUDIT SERVICES

DAVID J. SWARTS  
Commissioner

EDWARD J. WADE  
Director of Audit Services

July 20, 2007

Ms. Carmen Maldonado, Audit Director  
Office of the State Comptroller  
Division of State Government Accountability  
123 William Street – 21<sup>st</sup> Floor  
New York, NY 10038

Re: 2005-S-53 Draft Audit Report

Dear Ms. Maldonado:

This letter is in reference to the New York State Comptroller's draft audit findings of audit report number 2005-S-53, which addresses the Department of Motor Vehicle's bus driver licensing program and oversight. We are providing you with this letter to report what steps have been taken with regards to implementing recommendations contained in the above mentioned audit report. Overall, we are satisfied with the outcome of this audit and welcome opportunities to improve our processes.

Please note the following suggestions and clarifications we have regarding the report:

**Background Section, page 3, paragraph 3:**

*"Also, the Department must notify school bus drivers' employers if they commit any driving infractions, either on or off the job."*

This is stated as part of the additional requirements for school bus drivers when in fact it is done for all bus drivers. It should be moved to the preceding paragraph and should also include accidents, and clarify that the infractions and accidents would be those occurring in New York State.

\*  
Comment  
1

**Carrier Compliance Section, page 4, bulleted paragraph 1:**

The sentence "...the abstract of driving citations was not documented..." should read "... the abstract of driving records was not documented...".

\*  
Comment  
1

\* See State Comptroller's Comments, page 19

**Carrier Compliance Section, page 4, bulleted paragraph 4:**

The interim qualification letter percentage is high because not all carriers would receive this letter in all instances. Carriers who hire drivers with 19-A fingerprints already captured and on file (19-A school bus qualified) will only get a final qualification letter once Driver Program Regulation (DPR) connects the driver to the carrier (at application). No interim qualification letter is issued. In addition, drivers could have been on the carrier's roster before the early 1990's implementation of these interim letters, in which case these documents would not ever be available.

\*  
**Comment**  
1

**Department Review Practices Section, page 5, paragraph 5:**

The report states "the Department is fulfilling the letter of its regulatory responsibility by conducting three-year reviews of driver records at each carrier. However, the reviews are supposed to ensure that drivers comply with the requirements contained in the Law, and it appears that the review process is not effective enough to ensure compliance at a number of carriers."

\*  
**Comment**  
1

We want to clarify that our reviews are supposed to ensure the *carriers*, not drivers, comply with the requirements in the Law. We believe this review process is effective. Our reviews find most carrier records comply with the Law, or are brought into compliance at the conclusion of the review. We do not consider individual incidents or missing procedures indicators of serious non-compliance requiring penalties. We use the reviews as an opportunity to provide the carriers with instructional comments to ensure continuous improvement. Serious violations (e.g. expired or absent physicals, lack of two-year testing) do result in drivers being immediately disqualified until corrected. If a carrier is found to be in substantial non-compliance after a review, or continues to have violations after having been warned, a request for a hearing is made and civil penalties and/or suspension is sought.

**Audit Scope and Methodology Section, page 10:**

It should be noted that the carrier OSC wanted to do a curbside verification on did not qualify for such according to the Section 6.18(b) of the Commissioner's Regulations. That is the major reason the Department did not agree to it.

\*  
**Comment**  
2

Section 6.18(b)

The verification process set forth in paragraph (a) of this section will be initiated if the Department of Motor Vehicles:

- (1) has been unsuccessful in obtaining driver or motor carrier compliance with any of the provisions of Article 19-A of the Vehicle and Traffic Law or of this Part, or
- (2) has received evidence of the existence of a driver or motor carrier heretofore unknown or unreported to the department, or
- (3) has received evidence that a driver or motor carrier has failed to comply with any of the provisions of Article 19-A of the Vehicle and Traffic Law, or of this Part, or
- (4) has conducted a motor carrier record review or departmental hearing and is verifying compliance therewith, or
- (5) is investigating a vehicular accident which occurred when a driver was operating a vehicle while in the employ of a motor carrier.

\* See State Comptroller's Comments, page 19

Please note the following concerning the audit recommendations:

**Recommendation 1: Follow up on the seven carriers to ensure the deficiencies identified are corrected.**

DMV has completed follow-ups of the five of the seven carriers OSC audited. We reviewed the findings for the other two carriers and determined that they are currently in compliance.

The DMV findings are:

1. Southern Tier Stages: Binghamton Testing & Investigation (T&I) did not find violations that rose to level of charges. Most OSC identified violations were due to timeliness of procedures. T&I issued the carrier a warning on 7/16/2006.
2. D&F Travel: Buffalo T&I did a record review and found records acceptable on 9/8/2006. Most OSC violations were regarding late paperwork.
3. The Master's Coach: Albany T&I did a record review on 4/18/2006 and found the records to be acceptable. OSC found overdue procedures, missing abstracts, and missing final and interim qualification letters.
4. Hampton Luxury Liner: Suffolk T&I conducted a record review on 6/2/2006 and found non-compliance sufficient to request a hearing. The carrier was charged with 19 violations and accepted a waiver of hearing offer of a \$2,800.00 civil penalty. OSC found that the carrier had missing and late paperwork violations.
5. Classic Coach – Bohemia: Suffolk T&I reviewed the carrier record in January 2007 and issued a warning. The records were in current compliance, however, the carrier had completed some procedures late.
6. Atlantic Express Coachways, Inc.: Operations reviewed the OSC audit summary for this carrier. According to OSC, it appears most violations were for untimely procedures of previous periods; procedures for the most current period were completed timely. The carrier's files are now in compliance.
7. Outstanding Transport, Inc.: Operations reviewed the OSC audit summary for this carrier. According to OSC, the carrier had some procedures that were not done timely, however, there are no major problems with the carrier's current compliance.

**Recommendation 2: Make the following improvements in the periodic reviews of carriers' driver records:**

- **Revise the driver file sampling methodology to include all drivers who were employed by the carrier during the review period.**  
The new 19-A database system is expected to be ready for use by DPR and Operations T&I Units in November 2007. This system will produce a report to be used for 19-A record reviews that will identify both the carrier's current active drivers as well as those drivers who were employed by the carrier during the prior three-year period.
- **Ensure the Department's driver file sampling guidelines are followed by all the regions.**
- **Ensure follow-up reviews of driver files are performed as required.**  
We will reinforce with all T&I Units that the driver sampling methodology must be followed and that follow-up reviews of the driver files are performed as required. This information will be shared at the next quarterly meetings with the Principal Motor Vehicle License Examiners to be held on 7/19/2007 and 7/26/2007, as well as in a statewide training program for all T&I staff that will commence before the end of 2007.
- **Develop formal criteria for identifying "problem" carriers that require more frequent reviews and establish a formal tracking system to ensure that such carriers receive more frequent reviews.**  
The new 19-A system will produce a report that will identify "problem carriers" based on their record review history or newness and schedule more frequent record reviews as necessary. It will also provide for a formal tracking system. New carriers will be scheduled for a review at 13 months. Carriers that received a warning on their last review will be scheduled for their next review at 24 months. Carriers found in violation and had a hearing requested after their last review will be scheduled for a review in 18 months.
- **Establish procedures for conducting unannounced, interim reviews, especially at carriers with a history of non-compliance.**
- **Conduct three-year reviews at the carrier's office to the extent feasible.**  
We will establish procedures for conducting unannounced, interim reviews and will conduct them at the carrier's place of business to the extent possible.

- **Impose progressively stronger penalties when carriers are repeatedly found to be in non-compliance with licensing requirements.**

We agree that there should be progressive penalties for carriers that repeatedly violate the law. A carrier found to have minor violations that have been corrected or updated should be given a warning. If on the next review the carrier continues to have violations, a hearing waiver may be given whereby a civil penalty is assessed by DPR, or an actual administrative hearing held. When a hearing is held, a civil penalty ranging from \$500.00 to \$2,500.00 for each sustained violation and/or a suspension of the carrier's vehicle registrations may be imposed by an Administrative Law Judge (ALJ). Article 19-A of the Law does allow for penalties after a hearing ranging from \$500.00 to \$5,000.00 for repeat violations by a carrier within an 18-month period. The Department can and does request the ALJ to consider the carrier's prior record of violations for purposes of assessing more than the minimum penalty. The amount of any civil penalty assessed, however, is decided by the particular ALJ, not by the Department.

**Recommendation 3: Develop and implement proactive methods for identifying unregistered carriers and drivers, including but not limited to the following:**

- **Develop procedures for performing curbside verifications.**
- **Routinely perform curbside verifications in the circumstances specified in the Department's Regulations. Document the reason for each verification as well as its results.**

Procedures to perform curbside verifications have now been developed. Two pilot curbside verifications reviews were conducted, one in upstate NY in May of 2006, and one in the downstate region in November of 2006. In June 2007, two actual curbside verifications were conducted in New York City. We will use curbside verification in circumstances where we deem it necessary. When complete, the reason and results will be documented.

- **Periodically compare the carriers listed in DOT's records to the carriers listed in the Department's records to determine whether any unregistered carriers are operating, and maintain documentation of the comparisons.**

We have and will continue to compare DOT's carrier information with ours. Better documentation of the comparisons will be maintained. It should be noted that the DOT carrier list would never exactly match the 19-A carrier list. DOT's list includes carriers that may require DOT's inspection, yet not 19-A driver certification. We routinely review DOT's Weekly Bulletin on new carrier applicants and communicate with them concerning the need for 19-A certification once DOT approves new operating authority. Carriers that fail to comply will be suspended. A computerized spreadsheet of new carrier notifications is now being maintained and updated regularly.

- **Require examiners on three-year reviews to compare the Department's driver roster to the carrier's driver roster and daily driver log to determine whether any unregistered drivers have been employed by the carrier.**

Examiners have been instructed to request a roster of drivers from the carriers they are reviewing for purposes of comparing it with the Department's driver roster for that carrier. We have and will continue to work jointly with DOT in certain carrier reviews where they can assist us in using the DOT required driver daily log records. It should be noted that carriers are only required to maintain the log records for six months, and log records may not be consistent from carrier to carrier. Furthermore, log records are filed in a vehicle file in chronological order, and not by driver. Because of this, we feel they are of limited value in routine 19-A record reviews.

**Recommendation 4: Seek statutory changes to allow for criminal history checks of non-school bus drivers.**

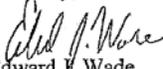
We would support legislation requiring criminal history checks of all bus drivers.

**Recommendation 5: Use fingerprint scanning technology or other methods to make the criminal history checks of bus drivers more efficient.**

We agree that use of scanning technology would make the criminal history checks for bus drivers more efficient. We are currently looking for ways to implement this.

We will continue to look for improvement opportunities such as these and always welcome a chance to better serve the citizens of this State. If you have any questions concerning this matter, please contact me at (518) 474-0881.

Sincerely,

  
Edward J. Wade  
Director

---

## APPENDIX B - STATE COMPTROLLER'S COMMENTS

---

1. We have revised the report to reflect information in the Department's official response.
2. Department officials replied to our draft audit report that the major reason for not agreeing to curbside check during our field work was that the carrier OSC selected did not qualify for such a check. Contrary to their response, during the audit we requested to do curbside checks at three carriers and we named one of the three. However, at no point did

Department officials advise us that any carrier did not qualify for such a check. If they had identified such carriers, we would have replaced them with carriers who are subject to a curbside check. After waiting some time for a decision, as to how or when the curbside checks would be done, we issued our preliminary findings report to the Department recommending that they formalize the procedures for curbside checks.