



New York State Office of the State Comptroller
Thomas P. DiNapoli

Division of State Government Accountability

Amusement Park and Fair Ride Safety

Department of Labor



Report 2013-S-73

August 2014

Executive Summary

Purpose

To determine if the Department of Labor (Department) is adequately monitoring and enforcing safety conditions of amusement park and fair rides. The audit covered the period January 1, 2011 through May 14, 2014.

Background

The Department is responsible for protecting the safety and health of workers and the public. As part of this role, its Industry Inspection Unit is responsible for inspecting rides at all amusement parks, fairs, and other venues located outside New York City. Each ride must be inspected at least once each year and may be inspected more often, usually each time it is set up. For the period January 1, 2011 through December 31, 2013, the Department issued over 5,000 ride permits and collected more than \$530,000 in permit revenues. Records indicate that, during this three-year period, 42 Department staff made over 4,800 site visits to conduct inspections of rides across the State. In 2013 alone, Department staff performed more than 9,000 individual inspections on about 1,700 different rides. The results of each inspection are available online for public access.

Key Findings

- Over the three-year period, there were 24 ride-related accidents or incidents reported, two of which resulted in fatalities. Department inspectors promptly responded to each situation, in many cases the same day.
- Based on our audit and analysis, we are reasonably assured the Department's procedures are adequate to ensure that the rides offered at fixed-base amusement parks, the New York State Fair, and the many county fairs operated across the State are properly inspected and authorized before being placed into service.
- Department officials consider temporary rides to be a higher safety risk than permanent structures and, though not required by law, make it a priority to inspect them each time they are assembled. Although our analysis did not identify specific problems, the transient and seasonal nature of events like local carnivals and bazaars poses a greater risk that all necessary inspections may not have been performed. As a result, our auditors will be conducting additional visits to these smaller events throughout the summer of 2014 to ensure timely inspections have been performed.
- The Department's inspection database contains a vast amount of ride permit and safety information; however, managers are not able to use this data to perform even basic data analytics to evaluate trends and improve monitoring efforts.

Key Recommendation

- Develop, in conjunction with the Office of Information Technology Services, a system that can be used to easily and readily store, access, and analyze relevant Unit information.

Other Related Audit/Report of Interest

[Department of Agriculture and Markets: Electronic Ticket Sales at the 2011 New York State Fair \(2011-S-37\)](#)

State of New York
Office of the State Comptroller

Division of State Government Accountability

August 12, 2014

Mr. Peter M. Rivera
Commissioner
Department of Labor
Building 12, State Office Campus
Albany, NY 12240

Dear Commissioner Rivera:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage government resources efficiently and effectively and, by so doing, providing accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities, and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report of our audit entitled *Amusement Park and Fair Ride Safety*. 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.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

Office of the State Comptroller
Division of State Government Accountability

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This report is also available on our website at: www.osc.state.ny.us

Background

The Department is responsible for protecting the safety and health of workers and the public. The Division of Safety and Health (Division) oversees one facet of this: the protection of the public in the area of amusement rides.

The Division's Industry Inspection Unit (Unit) is responsible for inspecting rides at amusement parks, fairs, and other venues operating outside New York City. New York City itself regulates similar operations within its five boroughs. Structures subject to Unit inspection include any permanent (i.e., those at large amusement parks) or temporary (i.e., those set up at transient fairs) ride that is power-operated and for which an admission fee is charged, as well as any building used as an entertainment play area at a carnival, amusement park, or fair which is intended to amuse or startle its participants (e.g., funhouses, laser tag venues). Each ride must be inspected, at a minimum, once a year and may be inspected multiple times each year (i.e., each time a ride is erected). Coin- or token-operated rides are excluded.

Rides are not allowed to operate without a yearly inspection and must have a Unit-issued permit indicating the ride has met all safety requirements. Permits are valid for one year, and ride owners must contact the Unit to initiate the permit process (which includes filing of application, payment of non-refundable \$100 application fee per ride, and providing proof of insurance). Owners may apply to permit more rides than they intend to use (e.g., as a fallback in the event a ride does not pass inspection in time for the operating season), and the fee is paid for each application regardless of whether a permit is actually obtained. For the period January 1, 2011 through December 31, 2013, the Department issued over 5,000 permits and collected more than \$530,000 in revenue. For the same time period, 42 inspectors made over 4,800 site visits to inspect rides across the State. For calendar year 2013, records indicate over 9,000 individual ride inspections were conducted for almost 1,700 rides permitted that year. The results of each inspection are available online for the public to access.

Audit Findings and Recommendation

Our review of records maintained by the Department showed that the Unit conducted required inspections at the amusement parks and State/county fairs operating outside New York City. The Unit also conducted inspections at many smaller events (including various carnivals, festivals, and celebrations). We also found that Unit inspectors responded promptly to investigate each of the two dozen ride-related accidents and incidents that were reported over the three-year period.

Based on our audit and analysis, we are reasonably assured the Department's procedures are adequate to ensure that the rides offered at fixed-base amusement parks, the New York State Fair, and the many county fairs operated across the State are properly inspected and authorized before being placed into service. However, although no specific problems came to our attention, because of limited information on the locations and dates of smaller events served by transient ride operators, there is less assurance that all necessary inspections have been performed in this area. As a result, our auditors will be conducting additional visits to these smaller events throughout the summer of 2014 to ensure timely inspections have been performed.

Much of our audit relied on analysis of information recorded in the Unit's inspections database. We identified several shortcomings in functionality of this system that, if corrected, would allow the Unit to make better use of its stored data to monitor and manage the inspection process.

Inspections and Accident Response

Using the information contained in the database, we reviewed and analyzed data inspections performed at various venues around the State. Between 2011 and 2013, these records show 42 Department staff made over 4,800 site visits to conduct inspections of rides across the State. Documentation supported inspections were completed at all major amusement parks (those containing eight or more rides), at the State and county fairs, and at numerous traveling or short-term carnivals, bazaars, and festivals.

We also reviewed accident and incident data, and found 24 such events recorded over the three years ending December 31, 2013, two of which involved fatalities. (The Department defines an "accident" as any event in which an injury is sustained during ride operation, whereas an "incident" does not involve injury, but may be reported if there is general mechanical failure, and may or may not be related to a particular ride). For all 24 events, we found that the rides involved had been inspected prior to the accident/incident as required and that inspectors responded timely to investigate each case; 11 of the 24 events were responded to on the same day they were reported.

Permanent Structures

Permanent structures are rides located at amusement parks and other venues, such as shopping malls. Because these rides do not generally change location and are not frequently disassembled and reassembled, Department officials consider them a lower safety risk. Additionally, while

there are over 250 locations in the State that have at least one permanent ride, only 15 have more than eight rides located on the premises. We reviewed inspection data and verified that each of these 15 locations was inspected between January 1, 2013 and December 31, 2013.

We also conducted site visits to three of these locations where we matched inspection records to rides found on site, inspection stickers, and permit files. Due to the timing of our testing (between March and May 2014), we were not able to view all the rides during operation. Rides may still be added or removed before the operating season opens. As a result, given the nature of the industry, an accurate population cannot be formed for testing until the start of operating season. Even so, at each location we found valid inspections in place for each ride that the park intended to use during the upcoming season.

Temporary Structures

Temporary rides are those assembled at fairs, traveling carnivals, and other short-term events. These rides are assembled, operated, and then disassembled multiple times each year. Department officials therefore consider these rides to be a higher safety risk and, although not required by law, make it a priority to inspect them each time they are assembled at a new venue.

According to records maintained by the Department of Agriculture and Markets, there were 51 fairs scheduled across the State in 2013, including the New York State Fair in Syracuse. We confirmed that inspections were conducted at 48 of these events. Of the other three, two - originally scheduled for Monroe County and Afton - were canceled, and only one - the Greene County Fair - was not visited by an inspector due to timing and staffing shortages.

We could not obtain reliable information on the population of other temporary events held, or the total number of rides that should have been inspected, due to the database's limitations and because events and rides change from year to year. Further, the timing of our testing precluded us from visiting most of these events during operation. However, we were able to conduct limited testing at certain festivals that occurred early in the operating season. At one such event, we noted one of several rides was operating without a current permit. We immediately notified Department officials, who subsequently informed us that all the rides had been inspected, but that the inspector had forgotten to issue the physical permit for that specific attraction ride. They also indicated that network issues precluded the inspection data from being uploaded to the database on the same day it was conducted. Our intent is to continue with similar testing during the remainder of 2014 to determine whether both permanent and temporary rides have current inspections during the operating season.

Database Capabilities

The Unit uses an internal online database to record and retain all information collected on amusement park and fair ride inspections. The database, which inspectors connect to and update through laptops when on site at venues, contains owner information as well as data on inspections performed (date, inspector name, inspection result [pass/fail]), violations, accidents, and

insurance certifications. While we did not find any immediate risks that would impact the Unit's ability to inspect rides as mandated or to ensure public safety, we did note areas of improvement that would allow the Unit to make maximum use of its stored data.

Although the inspection database contains a vast amount of ride permit and safety information, it cannot perform data analytics and thus limits the Unit's monitoring ability. Even simple tasks such as determining the total number of permanent and temporary rides inspected can't be easily accomplished. Some reports can be run from the database, such as the number of outstanding violations by operator; however, management cannot perform trend analysis, easily determine the number of permanent or temporary rides inspected, determine the number of rides located in each region, or perform a variety of other useful analyses. Additionally, no information is maintained in the database on specific inspector activity (e.g., how much time is spent on travel, inspections, or training). Officials stated that supervisors do receive weekly activity logs; however, the information is not retained after the supervisors' review.

The Unit's effectiveness and efficiency could be improved if managers and supervisors had better access to useful data. Trend analysis and analytics can show weaknesses or anomalies in operating activities that are not otherwise apparent, allowing management and staff to adjust activities and focus their resources in a more effective manner.

Recommendation

1. In conjunction with the Office of Information Technology Services, develop a system that can be used to easily and readily store, access, and analyze relevant Unit information.

Audit Scope, Objectives, and Methodology

The objective of our audit was to determine if the Department of Labor is adequately monitoring and enforcing safety conditions of amusement park and fair rides. The audit covered the period January 1, 2011 through May 14, 2014.

To accomplish our audit objectives, and determine whether associated internal controls are adequate, we audited the Department's processes for conducting inspections of rides at amusement parks, fairs, and other venues. As part of our examination, we obtained and reviewed incident and inspection data from January 1, 2011 through December 31, 2013. We also reviewed the Department of Labor's policies and procedures, interviewed agency officials, and conducted site visits. Where available, we validated data from the Department's inspection database against information on amusement parks and scheduled fairs or festivals maintained by independent sources, such as the Department of Agriculture and Markets.

We conducted our 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.

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 under 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 formal comment. We have considered the Department's comments in preparing this report and have included them in their entirety at the end of it. Department officials generally agreed with our recommendation. Also, our comments addressing certain Department statements are included in the report's State Comptroller's Comments.

Within 90 days after final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the Department of Labor 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 recommendation contained herein, and if the recommendation was not implemented, the reasons why.

Contributors to This Report

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Vision

A team of accountability experts respected for providing information that decision makers value.

Mission

To improve government operations by conducting independent audits, reviews and evaluations of New York State and New York City taxpayer financed programs.

Agency Comments



New York State Department of Labor
 Andrew M. Cuomo, Governor
 Peter M. Rivera, Commissioner

July 11, 2014

VIA E-MAIL and FIRST CLASS MAIL

John Buyce, Audit Director
 Division of State Government Accountability
 Office of the State Comptroller
 110 State Street
 Albany, New York 12236

Re: Department's Response to Amusement Park and Fair Ride Safety

Dear Mr. Buyce:

Enclosed please find the New York State Department of Labor's ("the Department") response to Office of the State Comptroller ("OSC") Report 2013-S-73 regarding Amusement Park and Fair Ride Safety. While we agree with those OSC recommendations that arose out of the *comprehensive analysis*, we take issue with certain aspects of the audit report that are incomplete and therefore misleading.

On page 5, under Audit Findings and Recommendation, the second paragraph states: "However, although no specific problems came to our attention, because of limitations in the data available on smaller events served by transient ride operators, there is less assurance that all necessary inspections have been performed in this area." This section as currently worded may be interpreted in a way that suggests the Department has not performed required inspections. This is wholly misleading. The Department performs all required inspections. OSC auditors were in fact in possession of all inspection records but they were simply unable to view certain rides due to the time of year they chose to conduct the audit. OSC was fully aware that the amusement ride season runs from June through September.

We respectfully request that additional language be added to clarify the seasonal nature of amusement park ride inspections and that the timing of the audit is the reason why the OSC assessment was incomplete in this area.

On page 6, under Temporary Structures, the third paragraph states: "However we were able to conduct limited testing at certain festivals that occurred early in the operating season. At one such event, we noted one of several rides was operating without a current permit. We immediately notified the Department officials....." The event referenced occurred on May 17; it was reported to the Department officials on May 19, which was after the audit period of January 1, 2011 through May 14, 2014. At the exit conference conducted on May 14, 2014, OSC representatives stated they would conduct comprehensive field inspections during the ride season and any findings based on a

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* See State Comptroller's Comments on page 12.

comprehensive examination would be covered in a separate report. Nevertheless, OSC chose to affix the above mentioned anecdote to the final report.

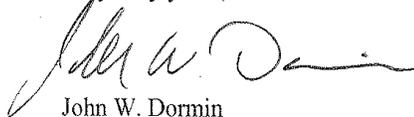
Obviously we are deeply concerned that a single anecdote told outside the context of *the comprehensive field inspection OSC has yet to complete* is by its very nature misleading and has the potential to compromise the reliability of the entire document. It is troublesome that OSC chose to tell this single anecdote and attach it to an otherwise comprehensive audit of Department records, particularly in light of the fact that OSC was informed, prior to publishing this report, that the ride in question was indeed inspected *before* OSC's visit and found to be safe. The fact that the inspector did not update the permit sticker is a management issue that has already been rectified.

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We request that the anecdote be removed from the report as unreliable and invite OSC to complete its field audit.

The audit's recommendations regarding improvement to the Department's database capabilities will be closely considered. We appreciate the time and effort of your staff and look forward to any and all opportunities to improve on our performance.

Very truly yours,



John W. Dornin
Acting Director of Internal Audit

State Comptroller's Comments

1. Department officials have misinterpreted the basis for our concern. Our inability to be reasonably assured that all of the smaller carnivals and festivals served by transient ride operators were routinely inspected is based neither on a lack of inspection records nor on the fact that these events were not operating at the time of our review. Rather, our concern stems from the limited amount of independent information on the location and timing of these events against which to validate whether all events were inspected. We have revised our final report to clarify this point.
2. We acknowledge the Department's professional and rapid response to this incident, as well as its explanation that the problem was the result of simple human error rather than a lack of inspection. We cite this example to illustrate the increased risk associated with smaller, less regularly scheduled events and, in turn, the reason why our auditors will continue to visit events like carnivals and local festivals throughout the summer of 2014. As of July 15, our staff have visited over two dozen additional venues as part of this effort and in each case have found all rides were properly permitted and inspected.