



# Alberta Transportation

## Commercial Vehicle Safety

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February 2018

## About This Audit

The *National Safety Code*<sup>1</sup> requires carriers with commercial vehicles to have a safety fitness certificate before these vehicles operate on Canadian highways. Through the *Motor Vehicle Transport Act*,<sup>2</sup> Transport Canada delegates monitoring and enforcement of the code to the provinces and territories.

In Alberta, the Department of Transportation is responsible for regulating and enforcing carriers with commercial vehicles that travel within the province, wherever they are registered.<sup>3</sup> The department monitors whether carriers comply with various acts, regulations and codes. When a carrier does not comply, the department can suspend the carrier's safety fitness certificate until it takes corrective measures. Non-compliance does not automatically mean there are unsafe commercial vehicles on the road. It means a carrier is not operating within all required transportation legislation.

The department has a *Progressive Intervention and Discipline Policy*,<sup>4</sup> which provides guidance to department staff regarding what actions to take when carriers fail to comply with the law. When notified of non-compliance, carriers are given a reasonable period of time to remediate identified deficiencies. If a carrier still does not comply, the department will suspend its licence to operate until the carrier completes remediation.

Our 2009 audit and 2014 follow-up audit found that the department's processes to monitor and enforce safety standards for commercial vehicles were inadequate. We found the department did not:

- consistently comply with its policy to take progressive disciplinary and enforcement action against non-compliant carriers
- have a reliable process to identify and follow up on carrier-related complaints received and entered into the system by the Department of Justice and Solicitor General

## Audit Objective and Scope

The objective of this follow-up audit was to determine whether the Department of Transportation had implemented our outstanding 2009 recommendation<sup>5</sup> to consistently apply its policy of progressive sanctions against carriers that persistently fail to comply with transportation legislation.

The scope for this audit was limited to the Department of Transportation.<sup>6</sup> We audited the processes and controls applied by the department to implement our recommendation over the period March 2016 to July 2017.

1 *National Safety Code for Motor Carriers*, Standard #14, referenced in *Motor Carrier Safety Fitness Certificate Regulations*, SOR / 2005-180, establishes the motor carrier safety rating framework by which each jurisdiction assesses the safety performance of motor carriers.

2 The *Motor Vehicle Transport Act*, RSC 1985, c 29 (3rd Supp).

3 A "carrier" under section 130 of the *Traffic Safety Act*, RSA 2000, CT-6, means an owner of a commercial vehicle in respect of which a "certificate is issued or who holds a certificate or is required to hold a certificate."

4 *Progressive Intervention and Discipline Policy – Carrier Services Monitoring Program*.

5 *Report of the Office of the Auditor General—October 2009*, page 117 (repeated July 2014).

6 Our 2009 audit included an examination of processes at the Department of Justice and Solicitor General. All recommendations made to that department were assessed as implemented in our 2014 follow-up audit.

## Audit Responsibilities

The department is responsible for regulating carriers operating in Alberta. Our responsibility is to express an independent conclusion on whether the department has effective processes to take timely and appropriate disciplinary and enforcement action against non-compliant carriers.

We conducted our audit in accordance with Canadian Standard on Assurance Engagements 3001 issued by the Auditing and Assurance Standards Board (Canada). The Office of the Auditor General applies Canadian Standard on Quality Control 1 and, accordingly, maintains a comprehensive system of quality control, including documented policies and procedures regarding compliance with ethical requirements, professional standards and applicable legal and regulatory requirements. The Office complies with the independence and other ethical requirements of the Chartered Professional Accountants of Alberta Rules of Professional Conduct, which are founded on fundamental principles of integrity and due care, objectivity, professional competence, confidentiality and professional behaviour.

## What We Examined

Our follow-up audit examined the department's processes to apply its *Progressive Intervention and Discipline Policy* on carriers that do not comply with transportation legislation. We also examined the department's process to identify and follow up on carrier complaints received through Justice and Solicitor General. Department management asserted to us prior to our follow-up that they had implemented the recommendation.

We reviewed the policies and procedures for each process and examined samples to assess if the department had implemented our recommendation. We conducted our field work between July and October 2017.

## Conclusion

Because of the significance of the findings described below, we conclude that the Department of Transportation was still not, as of July 1, 2017, consistently following its policy of taking timely and appropriate enforcement action against non-compliant carriers. In the eight years since our original audit, the department has made improvements to its systems. The department has improved its processes to identify and follow up on all carrier complaints received. However, we found insufficient improvement in the consistency of enforcement actions from our 2014 follow-up audit findings, and senior management was not aware of these continued inconsistencies.

## Why This Conclusion Matters to Albertans

With economic expansion and a growing population, more commercial vehicles are on Alberta's roads than ever before. Albertans need to know that Alberta's commercial vehicle safety programs will identify high-risk carriers, deal with them appropriately, and ultimately help reduce risks while ensuring the goods transported on our highways make it to their destination.

# Findings and Recommendations

## Progressive Sanctions—Repeated

### Context

The department is responsible for monitoring whether commercial carriers comply with various acts, regulations and codes.<sup>7</sup> It does this by:

- receiving and processing complaints and concerns from drivers, law enforcement, other government departments and the general public
- investigating regulation breaches, imposing corrective actions and administering penalties for those carriers that breach regulations
- monitoring statistical information on carrier safety—the *National Safety Code* requires the province to take corrective actions against carriers posing the greatest risk to public safety

The department has a *Progressive Intervention and Discipline Policy* that provides guidance for intervention when carriers fail to comply with the law. The policy is designed so that disciplinary and enforcement action increases in severity when carriers repeatedly do not comply. Each event may result in several levels of intervention, including issuing a warning letter, providing deadlines to correct deficiencies, administering fines, and cancelling the safety fitness certificate, operating authority certificate and vehicle registrations.

When the department identifies that a carrier is not complying with legislation, the department sends a letter to the carrier communicating the fix needed, the date by which the fix is required, and the consequences of missing that date. The letter states that a failure to comply by the due date will result in immediate suspension of the carrier's safety fitness certificate until it is verified that each outstanding condition has been met.

We found in our 2009 audit that the department did not always take timely and appropriate disciplinary and enforcement actions against non-compliant carriers. As a result, carriers continued to contravene legislation for months after being informed of their infraction. Our 2014 follow-up audit found that the department had implemented a *Progressive Intervention and Discipline Policy*, but department staff did not consistently apply it. We also found that the department did not appropriately identify and follow up on carrier complaints received through the Department of Justice and Solicitor General.

We recommended that the department enforce compliance on all carriers that persistently fail to comply with rules and regulations.

### Criteria: the standards of performance and control

The Department of Transportation should clearly define and consistently apply enforcement standards across the province.

### Our follow-up audit findings

#### Key Finding

The department is still not consistently applying its *Progressive Intervention and Discipline Policy*.

<sup>7</sup> *Traffic Safety Act* RSA 2000, c. T-6 Commercial Vehicle Safety Regulation, Alta Reg 121/2009.

**Carrier complaint handling**

We previously found that the department did not have a reliable process to identify and follow up on carrier-related complaints received and entered into the system by Justice and Solicitor General. Although the complaints were logged into a shared handling system, neither the department nor Justice and Solicitor General had processes to alert the other of the complaint and to ensure it was adequately followed up.

In this follow-up audit we found that the department has improved its processes to identify and communicate complaints in its complaint handling system by creating procedures and user guides for department staff to effectively use its Transportation Safety Information System.

When a staff member at Justice and Solicitor General enters a complaint into the system, they are required to assign it to the proper department. The system automatically notifies Transportation staff when a complaint is ready for handling.

We tested a sample of complaints entered by Justice and Solicitor General and assigned to the department. We found the department received notification of complaints and followed the required procedures to appropriately handle them.

**Consistent application of the *Progressive Intervention and Discipline Policy***

We found in this follow-up that the department has made improvements to its monitoring, including new tools in its Transportation Safety Information System to:

- support the electronic management of carrier files and review processes
- track historical information, follow-up items and due dates
- provide additional reporting to monitor carrier performance

However, the department is still not consistently applying its enforcement policy and processes, particularly in regard to timeliness of enforcement. The department's procedure<sup>8</sup> to enforce the policy is to suspend any carrier the next business day if it does not meet a deadline to comply with legislation. The department has zero tolerance for non-compliance. However, from our examination of a sample of carrier files, we found:

- department staff did not provide correspondence to the carrier within the six-month timeframe required to issue an administrative penalty—as a result, penalties were removed or not applied
- appropriate disciplinary action was not taken, because the department lacked current information and department staff had unclear guidance on what action to apply
- because of a lack of proper follow-up and monitoring, either non-compliant carriers were not suspended or it took over two weeks to issue the suspension from the date of required compliance

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8 *Compliance Administrative Procedures Manual.*

We sampled files where suspension should have occurred according to the department's procedures, finding:

- fatigue violations—driver logs indicated hours of operation longer than permitted, and drivers had insufficient rest between shifts<sup>9</sup>
- non-compliance with *National Safety Code* requirements—the carriers did not have required policies and procedures to adhere to the safety code (for example, maintenance, safety or training programs are not documented)

The department compliance coordinator runs a "Follow-up Item Report" every Monday, which lists carriers that have infractions that are overdue or coming due within the next 10 days. The report is provided to department staff, who are assigned carriers to monitor. We found that data captured in these reports is inaccurate, as staff are not updating the due dates in accordance with department procedures. In addition, the report does not provide sufficient detail to understand the severity of the infraction or actions taken by the carrier to rectify it.

No reporting was provided to senior management. The lack of reporting contributed to ineffective oversight of the enforcement of progressive sanctions.

We asked senior management why this recommendation is still outstanding after eight years. Our audit findings prompted management to examine why, and they identified that the department has not applied enough resources or oversight for staff to consistently apply the *Progressive Intervention and Discipline Policy*.

To fully implement this recommendation, department senior management need to improve its oversight so that department staff are consistently applying and documenting disciplinary and enforcement action against carriers that fail to comply with transportation legislation.

#### RECOMMENDATION: Progressive sanctions—repeated

We recommend for the third time that the Department of Transportation consistently comply with its policy to take disciplinary and enforcement action against non-compliant carriers.

#### Consequences of not taking action

Without timely and appropriate enforcement action taken against high-risk carriers, commercial vehicles that are a potential risk to public safety may continue to operate, and carriers may not believe there are meaningful consequences of being non-compliant.

<sup>9</sup> In the definition of "fatigue violation," the department also includes instances where carriers fail to keep adequate time records for drivers.