



**Parks, Recreation  
and Historic Preservation**

**ANDREW M. CUOMO**  
Governor

**ERIK KULLESEID**  
Commissioner

November 18, 2020  
Mr. Brian Reilly  
Audit Director  
Office of the State Comptroller  
110 State Street  
Albany, NY 12236-0001

Dear Mr. Reilly,

The Office of Parks, Recreation and Historic Preservation (OPRHP) has reviewed the Office of the State Comptroller's (OSC) final report 2019-S-59 (Report), titled "Compliance With Navigation Law," which was conducted to determine if OPRHP is adequately monitoring and enforcing requirements to ensure boaters' safety and quality of life on State waters. Our responses to the recommendations contained in OSC's report are enclosed.

Sincerely,

Erik Kulleseid  
Commissioner  
Office of Parks, Recreation and Historic Preservation

**Office of Parks, Recreation and Historic Preservation**  
**Response to the Office of the State Comptroller**  
**Final Report 2019-S-59**  
**Compliance with Navigation Law**

**Recommendation 1:** Develop a structured process for coordinating marine law enforcement activity across waterways with shared jurisdictions.

**OPRHP June 12, 2020 response to 2019-S-59 draft report:** As noted in the Draft Audit, NYSPP does not have statutory authority to direct the allocation of other State or local law enforcement resources. Accordingly, OPRHP disagrees with the Draft Audit characterization of the NYSPP as the lead agency for statewide enforcement of the Navigation Law which can develop a structured process to coordinate law enforcement activities across waterways with shared jurisdiction. Acknowledging this lack of authority yet recommending the NYSPP take action to coordinate marine law enforcement activities unreasonably suggests that the NYSPP are falling short of a duty that they do not have. Similar to its many other law enforcement activities the NYSPP participates in marine law enforcement functions with LEA partners.

- The NYSPP assist the Marine Services Bureau to facilitate multiple statewide marine education programs such as Safe Boater Courses and Marine Law Enforcement (MLE) schools each year. Its mission is “to provide quality boating safety and marine law enforcement patrols in those areas of the State determined to be in need of coverage.” These patrols are established “whenever possible, in coordination with existing local, county and state marine patrol.” The NYSPP conduct regular assessments and change patrol areas based on traffic volume/complaints received while coordinating with local LEAs. This coordination, which is not always accomplished using a written agreement, is paramount in completing its mission.
- The NYSPP also conduct larger joint marine law enforcement details where formal correspondence such as an Incident Action Plan is completed that outlines each agency’s role during that specific enforcement campaign.
- One tool used by NYSPP and other LEAs is the Marine Law Enforcement Resource Page maintained by the Marine Services Bureau. This webpage link allows sharing of marine related reports and information. As a result of this audit, the Marine Services Bureau will implement and manage a Marine Law Enforcement contact list on this page. This will allow quick access to marine contacts throughout the State for all participating LEAs. NYSPP will establish a separate Marine LEA contact list compiled after the submission of each Zone’s Marine Operational Plan. NYSPP Zones participating in Marine Law Enforcement are required to submit a Marine Operational Plan at the beginning of each summer season. This plan outlines their enforcement efforts for the season with scheduled events and patrols along with those coordinating LEAs. Each Zone will now be required to provide the most up-to-date contact information for their local marine law enforcement contacts.
- With regard to communication, the NYSPP is also connected through the mobile radio system which allows for communication with other LEAs by means of radio transmissions throughout the Zones. All NYSPP Marine patrols, when going in and out of service on a vessel, call in to their dispatch centers and advise that they will be on marine patrol and available should any marine related calls come in or emergencies arise.
- The New York State Park Police strive to build a mutually beneficial partnership with every participating LEA in the State. This is accomplished by maintaining an open communication line at the Zone level and Statewide. These working relationships have been fostered through interagency communication, mutual support, personal contacts and relationships built and passed down over the years. The NYSPP continue to support and communicate with their marine law enforcement partners, both in day to day patrols and marine operations, to ensure safe recreating and boating on all New York State waterways.

**OPRHP Implementation as of November 18, 2020:** The Marine Services Bureau updated their Marine Law Enforcement Resource Page contact list for LEAs that have marine patrols. Additionally, each NYSPP Zone was required to provide the most up-to-date contact information for their local marine law enforcement contacts in their 2020 Marine Operational Plan and will be required to do so going forward.

While the audit acknowledged NYSPP does not have statutory authority to direct the allocation of other State or local law enforcement resources, nor is NYSPP the lead agency for statewide enforcement of the Navigation Law, it nonetheless concluded that more structured communication and coordination could be undertaken with other law enforcement entities. Given these limitations and others, however, NYSPP has not identified a means to develop such a structured process for coordinating marine law enforcement activity across waterways with shared jurisdictions. The methods in which the NYSPP participates in marine law enforcement functions with LEA partners was described in detail in OPRHP's response appended to the Report.

**Recommendation 2:** Develop processes to improve the accuracy and completeness of the Annual Navigation Activity Reports, which may include:

- Requesting Activity Reports from localities that do not submit Activity Reports if historical information supports that they conduct marine law enforcement; and
- Obtain, on a sample basis, supporting documentation for information reported on the Activity Report.

**OPRHP June 12, 2020 response to 2019-S-59 draft report:** The Marine Services Bureau will modify the Activity Report as follows:

- Include an instruction page with examples to better assist agencies in interpreting how to properly fill out the form. This would include when it is appropriate to use our recommended boarding report form.
- Separating out the Vehicle and Traffic (Registration) citations from the Navigation Law citations. This will provide a more reliable total number of actual Navigation Law citations by not including Registration violations. We will also make it clear that citations issued for violations of local laws are not to be included in the totals submitted.
- Add a line to record other Navigation Law citations; not just the primary ones already specified on the report. Part of this will be to modify the statement currently adjacent to the totals blank which says that totals should reflect all tickets. Again, this will make the "totals" easier to tabulate and more accurate to interpret.
- Add a category that includes number of citations of local law related to speed on the water. Several municipalities are authorized to and have adopted local speed regulations pursuant to the Navigation Law.

Additionally, the Marine Services Bureau, upon learning of a marine law enforcement patrol that is active but has not submitted any Activity Reports to OPRHP will request that they submit a report.

The Marine Services Bureau will randomly select 3 Activity Reports each year that will be reviewed with the submitting agency to verify the information submitted.

**OPRHP Implementation as of November 18, 2020:** A revised Annual Navigation Activity Report form was completed and distributed to agencies in November 2020 to record information for the 2020 boating season. The completed Activity Reports are due to Marine Services on December 1, 2020. An accompanying memo from the Marine Services Bureau explained the changes to the Activity Report and notified our partners that we intend to routinely review the information entered on the Activity Reports, including the supporting documentation.

The Marine Services Bureau has also drafted a review form for the purpose of reviewing the Activity Reports. We will annually choose three agencies and prioritize the review of their Activity Reports using the following criteria:

1. An agency that is obligated to submit the Activity Report fails to do so.
2. An agency that is subject to review for another reason (i.e., equipment request).
3. If there are less than 3 agencies subject to a review based on the first two criteria, random reviews will be conducted based on alphabetic groupings of A to H, I to P, and O to Z. A spreadsheet will be maintained to ensure reviews are rotated in a fair manner and duplication is avoided.