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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

May 26, 2004

Antonia C. Novello, M.D., M.P.H., Dr. P.H.
Commissioner
Department of Health
Corning Tower
Empire State Plaza
Albany, NY 12237

Re: Permitting and Inspection of Swimming
Pools and Bathing Beaches
Report 2003-S-26

Dear Dr. Novello:

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, we audited the Department of Health's oversight of the permitting and inspection of swimming pools and bathing beaches. Our audit covered the period January 1, 2001 through August 31, 2003.

A. Background

The Department of Health (Department) is responsible for overseeing about 7,850 public bathing facilities (6,350 swimming pools and 1,500 bathing beaches) operating in New York State (State). To operate in the State, a bathing facility must have a valid permit and comply with the health and safety requirements in relevant sections of the State Public Health Law, the State Sanitary Code (Code) and the Department's Environmental Health Manual (Department policy). In addition, facility operators may be required to comply with the requirements of any local sanitary codes. According to Department officials, a local sanitary code must be at least as stringent as the State Sanitary Code. The Department's Bureau of Community Environmental Health and Food Protection (Bureau) is responsible for overseeing the State's bathing facilities to ensure that facilities comply with the Code. The Bureau makes policy and provides technical assistance and training, as needed, to staff in four regional offices (Capital District, Central, Metropolitan and Western) and at local health departments (LHDs). Regional offices directly oversee 46 LHDs, which comprise 36 county health departments, 9 Department district offices (responsible for 21 "small" upstate counties) and the New York City Department of Health and Mental Hygiene. LHDs conduct the day-to-day regulation of bathing facilities, including reviewing and approving safety plans and permit

applications; issuing permits; doing annual inspections and issuing violations; verifying the correction of violations; and taking appropriate enforcement action.

The Code requires bathing facilities to obtain an annual operating permit from the LHD. According to the Code, year-round facilities (indoor swimming pools) must apply to the LHD for an operating permit 30 days before the current permit expires. Seasonal bathing facilities (beaches and pools that generally operate from Memorial Day to Labor Day) must apply to the LHD for an operating permit at least 30 days before the opening of the facility. As part of the application process, the facility must also submit a written safety plan, or have an existing plan on file with the LHD, that contains 25 elements detailing the facility's layout and maintenance, its procedures for supervising bathers, and its procedures for safety and emergency situations. Upon LHD review and approval of the application and review of the safety plan, the LHD will issue an operating permit to the bathing facility. Bureau officials recommend that bathing facilities submit a new safety plan to the LHD every other year, but the frequency of this submission is actually determined by each LHD.

According to Department policy, the LHDs should inspect each bathing facility at least once during the duration of the operating permit. The LHD inspectors are required to report public health hazards and general violations found during inspections. Public health hazards are conditions that pose an imminent threat to the health or safety of the public, such as inadequate supervision of bathers, lack of lifesaving equipment, or unmarked water depth. The Code requires that all public health hazards be immediately corrected. If a public health hazard is found during the inspection, the bathing facility is given the opportunity to correct the problem immediately. If this is not possible, the affected section of the facility (or the entire facility, depending on the nature and severity of the problem) is shut down until the hazard is corrected. According to Bureau officials, the facility's file at the LHD should contain documentation of the correction of these hazards. This documentation can include re-inspection, documentation submitted to the LHD or notes made by the inspector.

General violations are less severe than public health hazards and do not pose an imminent threat to public health and safety. Some examples of general violations include: inadequate water depths for diving; facility operating permit not posted; the fence around the pool lacks self-closing or self-latching doors; or pool filters were not properly operated or maintained. Although facilities are required to correct general violations, the Bureau does not require LHDs to document the corrective actions taken to address them.

Regional offices are responsible for providing oversight, training and technical assistance to LHDs. Regional offices use quarterly performance measure reports generated by the Department's Environmental Health Information and Permit System (eHIPS) to monitor LHDs in their respective regions. LHDs that do not currently use the eHIPS system submit this information to their regional offices so their data can be entered in eHIPS and included in the performance measures reports. Regional offices use the performance measures reports to verify that LHDs received safety plans from, issued permits to and inspected all the public bathing facilities in their respective jurisdictions. If regional office managers identify exceptions through their analyses of performance measures reports, they contact the responsible LHD to resolve the problems. Regional offices address resolution of exceptions during quarterly site visits to LHDs.

According to Bureau officials, the Bureau uses the same procedures and the same system (eHIPS) to oversee bathing facilities as it does to oversee children's camps. However, our prior audit (Report 2002-S-24, issued April 28, 2003) concluded the Department was not adequately monitoring the issuance of permits to children's camps. Our prior audit found that eHIPS data was unreliable, and thus of limited value for monitoring LHD activities. The audit also found the Department had no formal procedures for conducting periodic site visits to LHDs, and identified serious deficiencies in LHD performance related to their issuance of permits to children's camps. In response to our prior audit's recommendations, the Department issued specific review protocols requiring that regional office staff visit the LHDs in their jurisdiction during either 2003 or 2004 to perform in-depth reviews of selected children's camps and food service programs monitored by these LHDs. According to Department officials, regional office staff will verify that LHDs use and maintain all appropriate forms; review safety plans for completeness; confirm eHIPS accuracy by comparing it with LHD file information; and review LHD performance measure reporting. Regional office staff will then create a summary report to document everything that was discussed during the site visit. These reports are submitted to the Bureau for its review. At the time of our audit, each of the regional offices was at a different stage in implementing these protocols.

B. Audit Scope, Objectives and Methodology

We audited the Department's oversight of the permitting and inspection of public bathing facilities for the period January 1, 2001 through August 31, 2003. The objectives of our performance audit were to determine whether Department regional office oversight provides reasonable assurance that LHDs permit and inspect all bathing facilities, and whether LHDs ensure that facilities comply with the Code by taking appropriate enforcement action and by documenting that violations have been corrected.

To accomplish our audit objectives, we reviewed applicable laws, rules and regulations; obtained and reviewed policies and procedures issued relative to permitting, inspecting, violation and enforcement activities; and interviewed Department, regional office and LHD officials. We also visited five of 46 LHDs, as follows: Oneida County, Onondaga County, Orange County, New York City Department of Health and Mental Hygiene, and the Oneonta District. We selected these LHDs because, together, these LHDs oversee 1,499 bathing facilities that constitute a representative geographic cross-section of public bathing facilities in the State. We randomly selected 160 of these 1,499 facilities and reviewed the applications, safety plans and inspections on file for these facilities at LHDs for the period of January 1, 2001 through August 5, 2003 (the last day we visited LHDs). We reviewed these documents to determine if LHDs approved facility safety plans, issued permits and did facility inspections in accordance with the Code.

Our audit focused on the public bathing facilities regulated by the Department. We did not include State-operated bathing facilities in this audit. According to Department officials, State-operated bathing facilities, such as those run by the Department of Environmental Conservation or Office of Parks, Recreation and Historic Preservation, are exempt from Department regulations, since such facilities are regulated by their respective governing agencies.

We conducted our audit in accordance with generally accepted government auditing standards. Such standards require that we plan and perform our audit to adequately assess the

practices of the Department that are included in our audit scope. Further, these standards require that we understand the Department's internal control structure and its compliance with those laws, rules and regulations that are relevant to the operations included in our audit scope. An audit includes examining, on a test basis, evidence, supporting transactions recorded in the accounting and operating records and applying such other auditing procedures as we consider necessary in the circumstances. An audit also includes assessing the estimates, judgments and decisions made by management. We believe our audit provides a reasonable basis for our findings, conclusions and recommendations.

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, several of which are performed by the Division of State Services. 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 management functions do not affect our ability to conduct independent audits of program performance.

C. Results of Audit

The Department is responsible for protecting the health and safety of swimmers at bathing facilities in New York State. To fulfill this responsibility, Department regional offices should ensure that LHDs timely issue permits to and inspect all operating facilities; LHDs, in turn, should ensure facilities comply with Code requirements and promptly correct any violations. However, as in our prior audit, we found regional offices do not ensure that LHDs properly carry out their permit issuance and inspection activities because eHIPS data in performance reports is incomplete and inaccurate. Further, we found LHDs do not always require facilities to conform to the Code. In visits to sampled LHDs, we identified some facilities that opened without an operating permit, and others that were issued permits without having submitted a complete safety plan. We also found that LHDs do not always maintain documentation to show that facilities have corrected violations identified during inspections. To better ensure a safe and healthy environment at bathing facilities, the Department should expand its newly developed review protocols for regional offices to the permitting and inspection of bathing facilities, and require LHDs to adhere to Code requirements in overseeing these facilities.

1. Regional Office Oversight of LHDs

The regional offices are responsible for the direct oversight of the LHDs and use performance measures reports from eHIPS and the LHDs to identify missing permits, inspections or written safety plans. However, these reports provide only raw data and do not enable regional offices to determine whether LHDs inspect and issue permits to bathing facilities in a timely manner, or whether inspections or safety plans comply with the Code.

We identified similar weaknesses in a prior audit, and the regional offices recently began visiting LHDs as part of the Department's new protocols. While we noted improvement in the

regional offices' oversight of LHDs, especially for children's camps and food protection programs, each of the regions is at a different stage of implementing the protocols and each region covers different areas during their reviews. We reviewed one site visit summary report prepared by each region under the new protocols. It appears that each of the regions adequately prepares summaries of their LHD visits and addresses the issues from the protocols: eHIPS, children's camps and food protection, LHD performance measures and training needed by LHD staff. The Department should continue to implement its protocols at the regional offices and expand the protocols to require regional office reviews of the permitting and inspecting of bathing facilities.

2. LHD Oversight of Bathing Facilities

The Department directly oversees bathing facilities through the efforts of LHDs, whose responsibilities include inspecting and issuing permits to all operating facilities, and enforcing facilities' compliance with various Code requirements. However, our tests at five LHDs found some facilities had opened for the season without permits, and others had submitted incomplete safety plans. We also found LHDs did not consistently document actions facilities had taken to correct public health hazards identified during inspections. To adequately protect swimmers at bathing facilities, Department and LHD officials should consistently adhere to all relevant Code requirements.

a. Enforcing Deadlines for Permit Applications

The Code requires a year-round bathing facility to apply for an operating permit 30 days before the current permit expires or at least 30 days before the opening of a seasonal bathing facility. However, Department officials stated they do not require LHDs to adhere to this 30-day requirement. Rather, the Department allows the LHDs to require that a facility apply for and be issued a permit before the facility opens for the bathing season.

During our visits to the five LHDs, we determined that the LHDs did not always issue operating permits before facilities opened for the bathing season. We reviewed 409 permit applications in the LHDs' files for our sample of 160 bathing facilities to determine whether the operating permits for these facilities were issued before the facility opened for the bathing season. For 85 of the 409 applications in our sample (21 percent), permits were issued after the facility opened. Permits were issued late because the LHD did not review and approve the facility's application timely, or because the facility did not submit the permit application to the LHD timely. Moreover, 43 of the 409 applications (11 percent) did not show evidence of LHD review and approval.

Officials from two LHDs (Orange County and Oneonta District) stated that the opening date found on the permit application is only a proposed opening date from a previous year and not necessarily the date the bathing facility actually opened. According to these LHD officials, they do not require bathing facilities to document their opening and closing dates on a yearly basis. Officials told us they assume that no outdoor bathing facility opens before Memorial Day. While this assumption may be accurate, LHDs should nonetheless require facilities to document their opening and closing dates on a yearly basis. With an accurate record of each facility's opening and closing

dates, the LHD will be better able to ensure it issues a current operating permit before the facility opens, in compliance with the Code.

The Department should enforce the 30-day requirement stated in the Code to ensure LHDs issue permits in a timely manner. Generally, permits are issued late because the facility has delayed in applying for a permit, or the LHD has delayed in reviewing and approving the application. If the LHDs required facilities to submit their permit applications 30 days in advance, as the Code requires, LHDs would have the time needed to process the applications and issue the permits to facilities before they begin their operations. Officials at one LHD (Oneida County) have used an enforcement program since 2000 to encourage timely applications. Those year-round facilities that do not renew their operating permits before the permits expire, or who do not renew their permits, are assessed a \$100 fee for late filing. The Department should consider extending this practice statewide to encourage on-time permit renewals.

b. Ensuring Written Safety Plans Comply With the State Sanitary Code

Prior to the opening of a bathing facility, the facility must submit its safety plan to its LHD. According to the Code, the LHD must review the safety plan before issuing the facility's annual operating permit, including determining if the safety plan contains all 25 required elements. According to Department policy, if a facility already has an approved safety plan on file with the LHD, the LHD need only review the approved plan for continued acceptability. In addition, the Bureau recommends that facilities submit new safety plans every other year. Each of the five LHDs we visited had different requirements for the amount of time a facility's safety plan is valid. One LHD (Oneida) requires facilities to submit a new safety plan every year; two LHDs (Onondaga and Orange) require facilities to submit a new safety plan every six years; and two LHDs (Oneonta and New York City Department of Health and Mental Hygiene) require facilities to submit new safety plans only when changes are made to existing plans.

During our visits to the five LHDs, we reviewed the safety plans that the 160 facilities in our sample had prepared for 2001, 2002, and at the time of our review in 2003. We determined that these 160 facilities should have prepared a total of 406 safety plans during this timeframe as follows: 152 plans in 2001; 157 plans in 2002; and 97 plans in 2003. (In 2001 and 2002, eight and three facilities were not operational, respectively.) We reviewed these safety plans to determine whether the safety plans complied with the Code and Department policy, and whether the LHDs reviewed and approved these safety plans before the facilities' operating permits were issued. We determined:

- 185 of the 406 safety plans (46 percent) were incomplete, in that they were missing one or more of the sections required by Department policy (e.g., facility design; evacuation routes; search procedures for missing swimmers; chlorine handling procedures; and emergency access procedures);
- 67 of the 406 safety plans (17 percent) were missing evidence of LHD review and approval;
- 19 of the 406 safety plans (5 percent) were reviewed and approved by the LHD after the operating permit had been issued and the facility had opened for business; and

- 18 of the 406 safety plans (4 percent) were missing.

Since the safety plan addresses procedures that ensure swimmers' safety, the LHDs should review and approve these procedures before issuing a facility's operating permit and before the facility opens for the season. Without such procedures, a facility could be unprepared to cope with an emergency situation, which could jeopardize swimmers' safety. The Department should require facilities to submit their safety plans every other year, as recommended by the Bureau, and ensure LHDs review and approve safety plans before issuing operating permits, in accordance with the Code.

One LHD (New York City Department of Health and Mental Hygiene) has developed a standard safety plan template, which it provides to each of the bathing facilities it oversees. Facilities complete and submit the finished document to the LHD. The standard format allows LHD officials to easily check for the completeness and accuracy of each plan. In fact, we found that all of the 142 safety plans we reviewed in New York City contained all of the elements required by the Code. We recommend that the Department consider extending this practice statewide to all LHDs to help ensure bathing facilities submit complete safety plans that contain all the required elements.

c. Conducting Inspections

Department policy requires the LHDs to inspect bathing facilities at least once during the duration of the facility's operating permit. Many bathing facilities, such as indoor pools, are open all year and can be inspected any time during the year. Other bathing facilities, such as beaches and outdoor pools, are usually not open until the summer months and can be inspected only during June, July and August. Some LHDs, including the five LHDs we visited, choose to conduct re-inspections at selected facilities for various reasons including correction of public health hazards and investigation of complaints. During our review, we noted that the LHDs we visited performed 166 more inspections than required for the 160 facilities in our sample.

During our visits to the 5 LHDs, we reviewed 306 inspections for our sample of 160 bathing facilities to determine whether the LHD conducted the inspection, and did it in a timely manner. We identified two facilities that were not inspected by the LHDs, and two other facilities that were not inspected until near the end of their operating seasons. When a facility is not inspected, or is inspected late in the season, the Department and the public lack assurance that the facility is operating safely, and is free of hazards that could be dangerous for swimmers, especially hazards of a systemic nature. Although the Department policy does not specify the timing of an inspection, we believe, and DOH officials concur, that an inspection performed close to the beginning of the facility's operating season is most beneficial to the safety of swimmers. Performing an inspection at the end of a facility's operating season does not ensure the safety of swimmers, especially if the facility operated for its entire season with one or more public health hazards. We recommend that the Department develop a tracking system to ensure that bathing facilities are inspected during their operating season and to ensure these inspections occur soon after the facility opens for the season.

d. Correcting Inspection Violations

The LHD inspectors are required to report violations found during inspections. The Code requires that all public health hazards be immediately corrected. According to Bureau officials, the LHD must maintain documentation of the correction of these violations in the facility's file. This documentation proves the correction was made, and can be in the form of a re-inspection that confirms the correction; documentation of corrective work submitted to the LHD; or notes made by the inspector. Since general violations are not viewed as posing as significant a safety or health risk as public health hazards, the Bureau does not require LHDs to document their correction in the facility's file.

As noted earlier, the 5 LHDs we visited conducted 306 inspections during our audit period at the 160 sampled facilities. Two LHDs (Orange and Onondaga Counties) did not identify any public health hazards that had not been corrected in 71 inspections at 36 facilities. The remaining 3 LHDs (New York City Department of Health and Mental Hygiene, Oneonta District, Oneida County) reported 134 public health hazards during 235 inspections at the remaining 124 facilities. We found these LHDs did not have the required documentation of corrections for 60 of the 134 identified public health hazards (45 percent). When a facility is cited for a public health hazard, the facility is required to correct an existing dangerous condition to maintain its operating permit. Without documentation that the hazard has been corrected, the LHD has no evidence that the facility has really addressed a problem that can pose a danger to swimmers. Thus, it is essential that the Department make sure LHDs document the correction of public health hazards in their facility files, as required by the Code.

During these same inspections, all 5 LHDs reported 753 general violations. We determined that, for 546 of these violations (73 percent), there was no evidence that the facility had corrected the violation. Although the Code does not require the LHD to document a facility's correction of a general violation, uncorrected violations may constitute a risk to the safety of swimmers. Given that the LHDs had no evidence that facilities had corrected 73 percent of the 753 general violations found during the inspections of our 160 sampled facilities, the Department should consider requiring the LHDs to document the correction of general violations to ensure the safety of swimmers.

Recommendations

1. *Continue to implement the Department's new protocols for improving regional office oversight of LHDs and expand the protocols to require regional office reviews of the permitting and inspecting of bathing facilities.*
2. *Enforce the 30-day permitting requirement of the Code to ensure bathing facilities are permitted prior to opening.*
3. *Consider extending statewide to all LHDs Oneida County's practice of assessing a late fee on facilities that do not renew their operating permits prior to the expiration of their current permits.*

4. *Require facilities to submit their written safety plans every other year as recommended by the Bureau, and ensure LHDs review safety plans for continued acceptability before issuing operating permits, in accordance with the Code and Department policy.*
5. *Consider extending statewide the structured safety plan format developed by the New York City Department of Health and Mental Hygiene.*
6. *Develop a tracking system to ensure that bathing facilities are inspected as required during their operating season.*
7. *Ensure that all public health hazards are corrected, and that corrections are documented in the LHD facility files.*
8. *Consider requiring that LHDs document correction of general violations.*

We provided draft copies of the matters contained in this report to Department of Health officials for their review and comment. We considered their comments in preparing this report. Department officials generally agreed with the report's recommendations and identified actions taken or planned to implement them. A complete copy of the Department's response is included as Appendix A. Appendix B contains State Comptroller's Notes, which address matters of disagreement contained in the Department's response.

Within 90 days after the final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the Department of Health 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.

Major contributors to this report were Kevin McClune, Al Kee, Sheila Emminger, Todd Seeberger, Dennis Graves, Vicki Wilkins, David Bell and Nancy Varley.

We wish to thank the management and staff of the Department of Health for the courtesy and cooperation extended to our auditors during this audit.

Very truly yours,

William P. Challice
Audit Director

cc: Robert Barnes

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DEPARTMENT OF HEALTH

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Antonia C. Novello, M.D., M.P.H., Dr.P.H.
Commissioner

Dennis P. Whalen
Executive Deputy Commissioner

February 11, 2004

Kevin M. McClune
Audit Director
Office of the State Comptroller
110 State Street
Albany, New York 12236

Dear Mr. McClune:

Enclosed are the Department of Health's comments on the Office of the State Comptroller's (OSC) draft audit report (2003-S-26) entitled "Permitting and Inspection of Swimming Pools and Bathing Beaches."

Thank you for the opportunity to comment.

Sincerely,



Dennis P. Whalen
Executive Deputy Commissioner

Enclosure

cc: Mr. Bills
Mr. Cambridge
Mr. Howe
Mr. Reed
Mr. Sackett
Mr. Svenson
Mr. Tramontano
Mr. Van Slyke

**Department of Health
Comments on the
Office of the State Comptroller's
Draft Audit Report 2003-S-26
Entitled "Permitting and Inspection of
Swimming Pools and Bathing Beaches"**

The following are the Department of Health's (DOH) comments concerning the recommendations contained in the Office of the State Comptroller's (OSC) draft audit report (2003-S-26) entitled "Permitting and Inspection of Swimming Pools and Bathing Beaches." Comments are separated into two sections: Section I contains comments on overall findings and conclusions that are viewed as incorrect or involve erroneous interpretation, and Section II contains the Department's responses to the audit report's eight specific recommendations.

Section I – Comments on Findings and Conclusions

1. Page one states "To operate in the State, a bathing facility must have a valid permit and comply with the health and safety requirements in relevant sections of the State Public Health Law, the State Sanitary Code (Code) and the Department's Environmental Health Manual (EHM)."

An additional statement should be included to indicate that "In addition to the Public Health Law and the State Sanitary Code, facility operators may be required to comply with the requirements of any local sanitary codes. A local code must be at least as stringent as the State Sanitary Code."

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Note
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2. Pages two, four, six and eight state that a bathing facility must submit a written safety plan as part of the annual application process and that it must be reviewed and approved prior to permit issuance. This statement is incorrect and needs to be revised to reflect that: "Department policy (EHM Procedure Item 206) states that for facilities with an approved plan on file, the local health department (LHD) need only review the previously approved safety plan every other year to ensure continued acceptability and make recommendations to the operator as necessary." The Code requires that a safety plan must be approved and kept on file at the pool, but its approval and review is not directly linked to the application process.

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Note
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3. Page two states "Department policy requires the LHDs to inspect each bathing facility at least once during the duration of the operating permit." This statement should be revised to clarify that the Department recommends (not requires) an annual inspection. Department policy, as stated in EHM Procedure Item 202, indicates that bathing facilities be inspected in accordance with municipal health service plans or district office workplans.

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Note
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Section I - Responses to Findings and Conclusions (continued):

4. Page two describes violations as “general violations” that are actually Public Health Hazards (PHH) in the Code. The following “violations” should be deleted from this listing as “general violations.”

Lack of a fence around a pool	6-1.4(b)(12) “Failure to provide and maintain an enclosure around the swimming pool that will prevent access....”	<div style="border: 1px solid black; padding: 5px; text-align: center;">* Note 1</div>
Inappropriate chlorine levels in a pool	6-1.4(b)(2) “Failure to provide the minimum disinfectant residual levels....”	
Improperly functioning pool filters	6-1.4(b)(3) “Failure to continuously operate the swimming pool’s filtration and disinfection equipment.”	

5. Page two states that the “...prior audit...concluded that the Department’s oversight of children’s camps was inadequate.” As used here, the word “inadequate” is very general and misleading. The audit of the Children’s Camp Program led OSC to conclude that the Department was not adequately monitoring the issuance of permits to children’s camps based on their findings that the Environmental Health Information and Permit System (eHIPS) is unreliable, and formal procedures for conducting periodic site visits were not in place. Regional office staff have implemented the evaluation protocols that were revised following the children’s camp audit. The Department disagreed with OSC’s assessment that the program oversight was inadequate, but acknowledged that there is always room for improvement.

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6. Page five states that “Officials...assume that no bathing facility opens before Memorial Day.” This statement should indicate that the pools being referred to are outdoor pools.

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Note
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7. Page six states that “...160 facilities should have prepared a total of 406 safety plans...” Based on Department policy requiring LHD review of approved safety plans every other year as explained in item 2 above, LHD staff should have reviewed 320 plans for the 160 facilities for 2001, 2002, and 2003, not 406 plans as indicated. The calculated percentages should be revised (185 of 320, 58%; 67 of 320, 21%; 19 of 320, 6%; and 18 of 320, 6%).

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Note
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8. Page six states, “...safety plans...were missing one or more of the sections required by the Code.” The examples given in the paragraph are not Code requirements but instead are Department policy described in EHM Procedure Item 206, and are found on form DOH-2286.

*
Note
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Section II - Responses to Recommendations are provided below.

Recommendation #1:

Continue to implement the Department's new protocols for improving regional office oversight of LHDs and expand the protocols to require regional office reviews of the permitting and inspecting of bathing facilities.

Response #1:

The Department will expand the new protocols currently in use for the Children's Camp and Food Protection Programs to include the Swimming Pools and Bathing Beaches Program.

Recommendation #2:

Enforce the 30-day permitting requirement of the Code to ensure bathing facilities are permitted prior to opening.

Response #2:

The 30-day period was established to provide LHDs time to process application materials. The Department will continue to stress the need for LHDs to issue a permit prior to operation and consideration will be given to the possibility of amending the Code to require operators to submit application materials 45 days in advance of opening.

Recommendation #3:

Consider extending statewide to all LHDs, Oneida County's practice of assessing a late fee on facilities that do not renew their operating permits prior to the expiration of their current permits.

Response #3:

The Department disagrees with this recommendation. Operating a facility without a valid permit is a violation of the Sanitary Code. The Department's district offices currently initiate an administrative enforcement action for operating without a valid permit.

* Note 3

Recommendation #4:

Require facilities to submit their written safety plans every other year as recommended by the Bureau, and ensure LHDs review and approve safety plans before issuing operating permits, in accordance with the Code.

Section II - Responses to Recommendations (continued):

Response #4:

As stated in comment #2 in Section I, LHDs are required to review and approve safety plans, but this process is not linked to the permit application process. Approved safety plans on file with the LHDs should be reviewed every other year to ensure that they reflect any changes in status or operation.

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Note
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Recommendation #5:

Consider extending statewide the structured safety plan format developed by the New York City Department of Health and Mental Hygiene.

Response #5:

The Department will consider revising the safety plan guide to follow the format developed by the New York City Department of Health and Mental Hygiene.

Recommendation #6:

Develop a tracking system to ensure that bathing facilities are inspected as required during their operating season.

Response # 6:

A tracking system exists through eHIPS, where LHDs enter inspection data into the eHIPS reporting system. The LHDs and regional offices use eHIPS as a tracking system to verify that all facilities are inspected as required. The Department will continue to stress the need for LHDs to enter data in a timely manner and utilize the data to track the status of inspections for bathing facilities.

Recommendation #7:

Ensure that all public health hazards are corrected, and that corrections are documented in the LHD facility files.

Response #7:

The Department will provide guidance and oversight to LHDs regarding their procedures for documenting correction of PHHs. This will be accomplished through visits to the LHDs conducted by regional office staff.

Recommendation #8:

Consider requiring that LHDs document correction of general violations.

Section II - Responses to Recommendations (continued):

Response #8:

The Department will consider procedures to document the correction of “general violations.” One option being considered is to require facility operators to notify the LHD in writing when noted violations are corrected. Violations and corrections could in turn be entered into eHIPS and monitored by the Department.