



Department of Health

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SALLY DRESLIN, M.S., R.N.
Executive Deputy Commissioner

December 20, 2018

Mr. Kenneth Shulman
Assistant Comptroller
New York State Office of the State Comptroller
110 State Street, 10th Floor
Albany, New York 12236

Dear Mr. Shulman:

Pursuant to the provisions of Section 170 of New York State Executive Law, I hereby transmit to you a copy of the New York State Department of Health's comments related to the Office of the State Comptroller's final audit report 2017-S-45 entitled, "Oversight of Public Water Systems."

Please feel free to contact Estibaliz Alonso, Assistant Commissioner, Office of Governmental and External Affairs at (518) 473-1124 with any questions.

Sincerely,

Sally Dreslin, M.S., R.N.
Executive Deputy Commissioner

Enclosure

cc: Estibaliz Alonso

**Department of Health
Comments on the
Office of the State Comptroller's
Final Audit Report 2017-S-45 entitled,
Oversight of Public Water Systems**

The following are the Department of Health's (Department) comments in response to the Office of the State Comptroller's (OSC) Final Audit Report 2017-S-45 entitled, "Oversight of Public Water Systems."

Background: The Department maintains a robust and progressive drinking water protection program to protect the over 95% of New York residents who are served water by regulated Public Water Systems (PWSs), and also has regulations and/or programs in place to further protect those using private wells or drinking bottled water. New York State has several rules and regulations that go above and beyond the United States Environmental Protection Agency (US EPA) federal regulations and standards for the protection of drinking water.

As stated in the OSC Audit Report, New York State PWSs achieve a high level of compliance with drinking water Maximum Contaminant Levels (MCLs), with 98 percent of the systems having no violations in 2016 compared to the national average of 92.1 percent. In fact, from 2013 through 2015, 97 percent of New York State PWSs had no violations and from 2016 through 2017, 98 percent of systems had no violations. The Department attributes this to rigorous activities to protect sources of drinking water and actions taken by the PWSs under the guidance and oversight of the Department, its District Offices, and local health departments.

Many other states and national organizations look to the Department for guidance and/or technical expertise because of the leadership role it plays. The Department works with professional organizations to assist drinking water regulators, public drinking water operators, engineers, and scientists with drinking water issues including regulations, reducing contaminants, water system design, and protection of watersheds.

With respect to emerging contaminants, New York State is a national leader in investigating their presence in drinking water and taking actions to address exposures. In 2016, Governor Andrew M. Cuomo established a Statewide Interagency Water Quality Rapid Response Team (WQRRT) charged with identifying and developing plans to swiftly address drinking water contamination concerns, as well as related groundwater and surface water contamination problems. Since the WQRRT was established, the Department, in collaboration, with other state agencies has provided extensive assessment of source water vulnerabilities and conducted targeted sampling at over 250 PWSs and thousands of private wells for emerging contaminants, including perfluorooctanoic acid (PFOA) and perfluorooctane sulfonate (PFOS). When contamination was identified in drinking water, the Department provided guidance and assistance to support follow-up actions by the PWSs and other relevant entities to protect the public. The Department, with the assistance of the WQRRT, continues to examine PWSs for vulnerabilities and initiates actions to investigate and address contamination concerns.

In addition, the Department convened the Drinking Water Quality Council established by New York State Public Health Law §1113 to provide recommendations to the Department on emerging contaminants in drinking water. The Council had five meetings to examine the occurrence, toxicology, and treatment costs for 1,4 dioxane, PFOA, and PFOS; and at the December 18, 2018 meeting, the Council recommended MCLs for the three contaminants. The Department is considering those recommendations and will commence a rule making process. Additionally, the

Department has been working with the Stony Brook Center for Clean Water Technology to promote pilot projects for the treatment of 1,4-dioxane. The Department has also initiated actions to address Harmful Algal Blooms (HABs), another emerging contaminant, through monitoring at vulnerable PWSs. In 2018 alone, the Department collected and analyzed samples for the presence of HABs at 50 PWSs. The Department continues to work with the NYS Department of Environmental Conservation to develop and implement action plans, as part of the Governor's 2018 initiative to combat HABs at 12 target waterbodies and statewide.

Recommendation #1

Ensure that safe drinking water is distributed to the public through a robust monitoring program that, at a minimum:

- Directs Offices to both follow Department procedures for initiating appropriate corrective action and maintain adequate documentation whenever a PWS has an MCL violation;
- Requires Offices to verify that PWSs have issued timely public notifications of MCL violations to consumers;
- Promptly reports MCL violations in SDWIS and closes them out after the PWS has returned to compliance;
- Ensures Offices account for the status and compliance actions taken to address old active MCL violations and take any necessary actions to return the PWS to compliance; and
- Establishes and communicates procedures that reinforce consistent practices for appropriately and timely updating SDWIS MCL violation information.

Response #1

The Department agrees in principle with this very broad recommendation, and notes that it is already implementing many of these suggestions as part of its regulatory enforcement regime. The standardization, monitoring, assessment, and oversight of the drinking water program statewide is a high priority of the Department. Many of the recommendations suggested in the OSC Audit Report are either in the process of or will be addressed through minor enhancements to existing procedures. The recommendations fall into two general categories: Procedures and Documentation and SDWIS reporting. The Department is addressing, and will continue to address, these issues as described below.

Procedures and Documentation: The Department maintains guidance for its District Offices and the local health departments through over 70 Environmental Health Manual (EHM) items outlining policies and procedures related to water supply oversight. They help ensure consistent program implementation across staff, programs, and offices. The Department's regulations under 10 NYCRR Subpart 5-1 and the EHM items provide detailed instructions concerning the issuing of notice of violations, corrective actions (including sampling), public notification, and data reporting. The Department recently amended Subpart 5-1 to conform with specific requirements in the US EPA federal regulations. The Department is revising applicable EHM items for consistency and will expand this effort to enhance specificity and clarity. The revised EHM items will detail the type and scope of documentation and retention related to MCL violations. As part of this process, the Department may also determine whether new or improved forms are needed to standardize documentation.

Along with the recent revisions to regulations in Subpart 5-1, the Department already has begun to develop additional training and education opportunities for staff and water system operators. For example, the Department offers training to its District Office and local health department environmental health staff through the Basic Environmental Health Course, and it recently amended the water supply protection module for the Fall of 2018. The water supply module is comprised of 13 training areas covering regulatory requirements for public water systems including how to respond to an MCL violation; water treatment; public water system inspections and sanitary surveys; and other areas. The amended trainings will be offered two times a year with the first delivered in October 2018. The Department has also committed to enhancing its partnership with American Water Works Association by presenting periodic topical webinars to their members. The first of these topical webinars was conducted on June 5, 2018 where Department staff provided information on when, why, and how public water systems should test for the algal toxin microcystin. The goal of this webinar was to help public water systems be ready to respond if HABs are found in their source water.

The above efforts will achieve consistency between staff, programs, and offices, and will improve documentation to ensure all applicable requirements of Subpart 5-1 are standardized across State and county offices.

SDWIS/State Reporting: The Department uses the Safe Drinking Water Information System (SDWIS) data platform which was developed by the US EPA to monitor PWS compliance with drinking water regulations. The US EPA's SDWIS is a legacy application in use since 1999 that is minimally supported by US EPA. This presents numerous challenges for the District Office and local health department staff who use it to report PWS data. With funding from the \$2.5 billion water quality investment as part of the FY 2017 Enacted Budget, the Department, with the assistance of the NYS Office of Information Technology Services (ITS), updated SDWIS in late July 2018 to the most current US EPA version. These upgrades improve efficiency of reporting and identification of violations. The Department is also beginning the process of implementing electronic data reporting from the laboratories directly into SDWIS. This will increase data accuracy and reduce manual data entry by staff. Finally, the Department and NYS ITS are collaborating on long-term plans for SDWIS to enhance functionality.

As upgrades to the SDWIS data platform are made, the Department will develop guidance through an EHM item, instructions, tutorials, and other documentation to clarify the reporting procedures for entering data into SDWIS. Such documentation will address the concerns identified in the OSC Audit report, including close out procedures, reporting of public notification, violation dates, and other data reporting issues. The Department will assess training needs upon release of these materials and provide training, as necessary.

Recommendation #2

Prioritize actions to regulate emerging contaminants with known adverse health effects.

Response #2

The Department agrees that prioritizing actions to address emerging contaminants is important and, contrary to the suggestion by OSC, has consistently done so and will continue to be a national leader on this front. The Department aggressively champions efforts to address emerging contaminants in drinking water that pose a potential health risk.

- The Department, in conjunction with the newly formed Drinking Water Quality Council, will continue to review data and information related to emerging contaminants. As recommendations from the Council are made, the Department will review the recommendations and take appropriate action. As part of the WQRRT, the Department, in collaboration with other state agencies, has provided extensive assessment, sampling, and follow-up actions at PWSs and private wells to address emerging contaminants.
- The Department, also reviewed, existing Source Water Assessments, developed for all PWSs in the state under the Source Water Assessment Program, and based on this review, prioritized and sampled one hundred PWSs that had the potential to be vulnerable to man-made contamination.
- The Department has also proactively offered laboratories the ability to become certified to test for four emerging contaminants, 1,4 dioxane, PFOA, PFOS, and the HAB toxin microcystin, through the Department's Environmental Laboratory Approval Program.
- After extensive technical review, the Department recently approved an Advanced Oxidation Process drinking water treatment system to remove 1,4-dioxane. This is the first treatment system of its kind in New York State.
- Additionally, the Department continues to work with the Stony Brook Center for Clean Water Technology to promote pilot projects to develop additional treatment technologies for 1,4-dioxane.
- The Department continues to initiate actions to address HABs, at and near public water systems. In 2018, the Department collected and analyzed samples for the presence of HABs at 50 PWSs. The Department continues to work with the NYS Department of Environmental Conservation to develop and implement action plans, as part of the Governor's 2018 initiative to combat HABs at 12 target waterbodies and statewide.

The Department will continue its actions to address emerging contaminants in drinking water to protect the public.