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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

November 19, 2019

Howard A. Zucker, M.D., J.D.
Commissioner
Department of Health
Corning Tower
Empire State Plaza
Albany, NY 12237

Re: Oversight of Public Water Systems
Report 2019-F-34

Dear Dr. Zucker:

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 have followed up on the actions taken by officials of the Department of Health to implement the recommendations contained in our audit report, *Oversight of Public Water Systems* (Report [2017-S-45](#)).

Background, Scope, and Objective

In New York State, the Department of Health (Department) oversees the delivery of drinking water to ensure it is suitable for human consumption. This oversight includes efforts to ensure that public water systems (PWSs) comply with State Public Health Law and State Sanitary Code requirements as well as U.S. Environmental Protection Agency (EPA) requirements. The Department sets Maximum Contaminant Level (MCL) limits and requires that PWSs monitor the water for them. An MCL violation requires a broad range of actions by the PWS, including public notification, additional monitoring, and corrective actions, as necessary, to reduce or mitigate the contaminant level in the drinking water and return to compliance. Department district offices and local health departments (for purposes of this report, we refer to these collectively as "Offices") conduct the day-to-day oversight of PWSs. They also enter data into the EPA's Safe Drinking Water Information System (SDWIS), which the Department and EPA use to monitor PWS compliance with drinking water safety requirements.

As of September 2019, there were 9,086 PWSs in New York (2,840 community PWSs and 6,246 non-community PWSs). The Department reports that nearly 95 percent of all New Yorkers receive their drinking water from PWSs operating in the State. Of those, about 86 percent get their water from community PWSs, which are systems that serve

the same people year-round – generally those in residences such as houses, apartments, and condominiums in cities, towns, and mobile home parks.

We issued our initial audit report on September 24, 2018. The audit objective was to determine whether the Department was providing effective oversight of the State's PWSs to ensure water was suitable for people to drink. Our audit scope covered the period January 1, 2014 to March 26, 2018.

We found the Department had taken various actions to safeguard the quality of drinking water delivered to PWS customers. However, we identified opportunities for improved oversight, particularly regarding PWS compliance as well as system and procedural controls. For example, when MCL violations occurred, the Offices we visited did not always take appropriate and/or timely action to hold PWSs accountable for required follow-up, such as notifying the public. As a result, the Department had less assurance that PWSs were appropriately addressing these occurrences. In addition, there are emerging contaminants with known adverse health effects that the Department continues to study to determine whether maximum limits and regulations are appropriate.

The objective of our follow-up was to assess the extent of implementation, as of November 7, 2019, of the two recommendations included in our initial audit report.

Summary Conclusions and Status of Audit Recommendations

Department officials addressed the problems we identified in the initial audit. Of the report's two recommendations, both were implemented.

Follow-Up Observations

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.*

Status – Implemented

Agency Action – The Department has taken steps to ensure safe drinking water is distributed to the public. This includes updating guidance and oversight of the implementation and documentation requirements pertaining to MCL violations. The Department has also updated its drinking water training modules, which are provided for Offices' staff at a bi-annual course about regulatory requirements for PWSs, including MCL violation responses, water treatment, PWS inspections, and sanitary surveys.

The Department is updating and redesigning SDWIS to improve the efficiency of identifying and reporting violations. Officials expect these upgrades will be fully operational by the end of 2019. In addition, the Department is in the process of implementing procedures for electronic data reporting from laboratories directly into SDWIS – helping to ensure data accuracy by reducing its reliance on manual data entry.

The Department's regional offices have completed a series of site visits to Offices to review the Offices' efforts in implementing required public water supply protection procedures. During the visits, Regional Field Coordinators reviewed documentation maintained by Offices for a sample of identified contaminants to determine whether the Offices accurately reported any violations in SDWIS, issued proper and timely notifications to the public, and initiated other appropriate corrective actions. The Department expects to have all reviews completed by the end of 2019.

Recommendation 2

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

Status – Implemented

Agency Action – The Department prioritized contaminants based on recommendations obtained from the State's newly formed Drinking Water Quality Council (Council). The Council, whose membership includes representatives from government, academia, drinking water systems, and the public, is charged with providing the Department with science-based recommendations about emerging contaminants in drinking water to protect public health. In addition, the Department reviewed existing Source Water Assessments – developed for all PWSs in the State – and prioritized and sampled PWSs that were potentially vulnerable to man-made contamination. The Department has also contracted with the Center for Clean Water Technology at Stony Brook University to develop and evaluate methods to remove emerging contaminants from drinking water supplies, with an initial focus on 1,4-dioxane in groundwater. The contract represents the initial phase of a State-sponsored, multi-year program to proactively address emerging contaminants in drinking water.

Major contributors to this report were Ed Durocher, Cynthia Herubin, Claudia

Christodoulou, Anthony Calabrese, and James Rappaport.

We thank the management and staff of the Department for the courtesies and cooperation extended to our auditors during this review.

Very truly yours,

A handwritten signature in black ink that reads "Brian Reilly". The signature is written in a cursive style with a large, prominent "B" and "R".

Brian Reilly, CFE, CGFM
Audit Director

cc: Ms. Lori Conway, Department of Health