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May 14, 2025

James V. McDonald M.D., M.P.H.
Commissioner
Department of Health
Corning Tower Building
Empire State Plaza
Albany, NY 12237

Jackie Bray
Commissioner
Division of Homeland Security and Emergency Services
1220 Washington Avenue
State Office Campus, Building 7A, Suite 710
Albany, NY 12226

Re: Oversight of Water Supply
Emergency Plans
Report 2024-F-32

Dear Dr. McDonald and Commissioner Bray:

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 (DOH) and the Division of Homeland Security and Emergency Services (DHSES) to implement the recommendations from our initial audit report, *Oversight of Water Supply Emergency Plans* (Report [2021-S-39](#)).

Background, Scope, and Objective

DOH is responsible for overseeing the delivery of drinking water to ensure that it's suitable for people to drink. Its Bureau of Water Supply Protection (Bureau) has responsibilities that include providing regulatory oversight of the operation, design, and quality of public drinking water supplies. The Bureau also assists with water system security, emergency preparedness and response, and the protection of critical drinking water system infrastructure. DOH officials explained that although they cannot assure water resources are protected from threats—and that not all threats can be mitigated—they work with water systems, through a multitude of programs, to identify potential threats to their water resources. Nearly 95% of all New Yorkers receive water from public water supply systems in New York State.

The State Public Health Law (Law) requires community water systems that supply drinking water to more than 3,300 people (Water Systems) to prepare and submit a Water Supply Emergency Plan (Plan) to DOH for approval at least once every 5 years. Plans must include both an Emergency Response Plan (ERP) and a Vulnerability Analysis Assessment

(VA). In the VA, Water Systems identify any vulnerabilities that could be caused by non-intentional events, such as floods and power outages, as well as vulnerabilities to intentional events, such as vandalism and terrorism, along with an anticipated corrective action in place for any identified vulnerabilities. According to DOH officials, the ERP is one of many tools that may be useful in responding to emergencies. The first ERPs were to be submitted to DOH on or by December 31, 1990. Prior to final submission of its Plan, each Water System is required under the Law to publish a notice in the area it serves, stating that the proposed Plan is available for review and comment by the public. Information that a Water System determines could pose a security risk to its operation if publicly disclosed, such as the content of the VA, is exempt from this requirement.

DHSES' Critical Infrastructure Protection Unit (Unit) works with government agencies and private entities to conduct assessments of the vulnerability of critical infrastructure to terrorist attack and other natural and man-made disasters and to develop strategies that may be used to protect the infrastructure from these threats. According to its website, the Unit defines critical infrastructure as physical and information technology systems vital to communities and whose incapacity or destruction would have a debilitating impact on physical or economic security, public health, or safety. Water and wastewater systems are among the 16 identified critical infrastructure sectors.

Subsequent amendments to the Law added a requirement that Water Systems include a Cybersecurity Vulnerability Assessment (CVA) in their VA, identifying vulnerabilities to terrorist attack and cyberattack, to be submitted to DOH by January 1, 2018. Pursuant to a 2016 Executive Law amendment, DOH must make a copy of the VA and CVA sections of each Plan (collectively referred to as an Assessment) available for DHSES' review. Based on its review, DHSES may issue recommendations or general guidance to Water Systems to enhance protections against terrorist attack and cyberattack.

There are nearly 9,000 public water systems in New York State, including more than 2,800 community water systems. As of October 4, 2024, 313 of those systems were required to submit a Plan. As with our initial audit, we excluded the New York City Water System from our follow-up work.

The objectives of our initial audit, issued June 27, 2023, were to determine if DOH was providing sufficient guidance and oversight to ensure that Water System operators had completed and submitted updated ERPs timely, including VAs, to DOH as required. An additional objective was to determine whether DOH and DHSES were effectively collaborating to share relevant information regarding the VAs and to ensure that any recommended follow-up actions occur. The audit covered the period January 2017 to January 2023 for DOH and April 2019 to November 2022 for DHSES.

The audit found that Plans for most of the 317 Water Systems that were required to submit them were current and available. However, there were several instances where it had been more than 10 years since the last ERP or VA submission, and some Water Systems had never submitted a CVA. Additionally, there was limited participation by Local Health Department (LHD) staff in calls and site visits where DHSES communicates recommendations to Water Systems. Further, the audit found little collaboration between DOH and DHSES to follow up on risks identified by DHSES reviews. Finally, we found that DOH didn't verify whether Water Systems issued the required public notice of Plan availability.

The objective of our follow-up was to assess the extent of implementation, as of February 2025, of the five recommendations included in our initial audit report.

Summary Conclusions and Status of Audit Recommendations

DOH and DHSES officials have made significant progress in addressing the problems we identified in the initial audit report. Of the report's five audit recommendations, four have been implemented and one has not been implemented.

Follow-Up Observations

To DOH:

Recommendation 1

Develop and implement a method to monitor the timeliness of Water Systems' Plan submissions and to follow up on requested revisions.

Status – Implemented

Agency Action – DOH has implemented a method to monitor the timeliness of Water Systems' Plan submissions and to follow up on requested provisions by requiring more frequent monitoring. In July 2024, DOH updated its Water Supply Emergency Plan Review and Enforcement Protocols to require the use of quarterly status reports to identify Water Systems that have not submitted required 5-year updates and those that have not responded to comment letters and notices of violations from DOH. According to DOH officials, these reviews had been done on a biannual basis prior to this update. The quarterly status reports identify information such as the Water System name, the plan status (e.g., plan due date and whether it was received, whether revisions were required), and prior actions taken by DOH. Using this information, DOH can evaluate any outstanding information and take the necessary steps to follow up with the relevant Water System(s).

We reviewed the October 2024 quarterly status report used by DOH and found it tracked examples of actions taken by DOH, which were supported by administrative action letters to Water Systems requiring them to submit Plan updates.

Recommendation 2

Develop and communicate guidance regarding LHD participation at site visits and calls with Water Systems that incorporates consideration of the nature and extent of the risks identified.

Status – Implemented

Agency Action – DOH has communicated guidance to LHDs recommending they incorporate discussion of cyber and physical threats during routine site visits and calls with Water Systems. DOH shares recommendations from DHSES for improving cyber and physical security with LHDs.

Recommendation 3

Provide guidance to LHDs that addresses both effective use of SDWIS in monitoring Plan compliance and practices for reviewing Assessments.

Status – Implemented

Agency Action – DOH updated guidance to LHDs during our initial audit that included the effective use of the Safe Drinking Water Information System (SDWIS) in monitoring Plan compliance, along with a checklist to aid in reviewing Assessments. This guidance wasn't available to us during our initial audit, but we reviewed it as part of our work on this follow-up. DOH's Protocol for Review and Endorsement of Water Supply Emergency Plans (Review Protocols) provides guidance for LHDs to use when evaluating Plans. This includes screenshots for tracking Plans in SDWIS where information, such as the dates the Plans were received and approved, is captured. In addition, the Review Protocols specifically note that LHDs should give additional consideration to certain areas, including cybersecurity. DOH has also updated a checklist of yes or no questions for LHDs to use when reviewing the Plans to ensure key components are completed.

Recommendation 4

Take action to determine, on a sample basis, whether Water Systems issue the required public notice of Plan availability for review and comment.

Status – Not Implemented

Agency Action – DOH hasn't taken action to determine whether Water Systems issue the required public notice of Plan availability for review and comment. During our initial audit, DOH officials stated that the Law was unclear regarding whether public notice was a requirement of just the initial Plan submission or of all subsequent submissions. In their response to our audit, however, they stated that their interpretation of the Law was that it required public notice of Plan availability for public comment only when the Plans were prepared for initial submission (i.e., by December 31, 1990) and not for each subsequent submission.

To DOH and DHSES:

Recommendation 5

Establish a method to strengthen the follow-up on recommendations that DHSES communicates to Water Systems.

Status – Implemented

Agency Action – DOH and DHSES have taken steps to strengthen the follow-up on the recommendations that DHSES communicates to Water Systems. In 2023, DHSES began providing DOH with quarterly reports and an annual summary that include information such as the date and subject of the outreach (cyber/physical/both) and the recommendations provided to the Water System. In February 2024, DOH also provided the DHSES summary of recommendations for improving the cyber and physical security of Water Systems to City and County Directors of Environmental Health. As noted under Recommendation 2, DOH also encouraged LHDs to participate in calls and site visits with Water Systems to discuss these security and preparedness recommendations.

Major contributors to this report were Brian Krawiecki, Patrick Lance, and James Rappaport.

DOH and DHSES officials are requested, but not required, to provide information about any actions planned to address any unresolved issues discussed in this follow-up within 30 days of the report's issuance. We thank the management and staff of DOH and DHSES for the courtesies and cooperation extended to our auditors during this follow-up.

Very truly yours,

Sharon L. Salembier, CPA, CFE
Audit Manager

cc: Melissa Fiore, Department of Health
Brian Jackson, Division of Homeland Security and Emergency Services