



Department of Health

ANDREW M. CUOMO
Governor

HOWARD A. ZUCKER, M.D., J.D.
Commissioner

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

July 2, 2019

Mr. Kenneth Shulman
Assistant Comptroller
Division of State Government Accountability
NYS 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-62 entitled, "DOH Oversight of Food Service Establishments."

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

Sincerely,

A handwritten signature in black ink, appearing to read "Sally Dreslin". The signature is fluid and cursive, with a long horizontal stroke at the end.

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-62 entitled,
"DOH Oversight of Food Service Establishments"**

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-62 entitled, "DOH Oversight of Food Service Establishments" (the Report).

Recommendation #1

Implement procedures to incorporate periodic data analysis and consistent use of EHIPS [Environmental Health Information Permitting System] reporting mechanisms to:

- Assess the performance of designated health department functions that need improvements;
- Identify patterns and/or areas of concern involving non-compliance with the Code; and
- Provide information to regional offices and designated health departments to assist them in the most effective allocation of staff resources (i.e., to more effectively assign FSIO-certified inspectors and assess risk levels of Establishments).

Response #1

The Department has updated the formal, annual review of local health department (LHD) programs by Regional Office staff using a uniform survey tool. Regional Office staff have already begun conducting assessments of LHDs and will continue throughout 2019. For each LHD, the program review tool will be used to evaluate performance across many aspects of the food protection program including: establishment permitting, frequency of inspection of establishments, percentage of high-risk inspections performed by a certified Food Service Inspection Officer, identification and correction of public health hazards, enforcement, and foodborne illness complaint investigation. The Department is also reviewing its guidance on Regional Office oversight of LHD programs and will revise it as necessary to ensure that it is current and consistent with Department expectations.

EHIPS already contains various report functions which allow LHDs to use permit and inspection data to effectively implement their food protection program. These reports were developed with significant input from LHDs to address their data needs. Further, the Department is beginning a project to enhance EHIPS design and functionality. This will include the addition of information reporting tools necessary to meet the needs of the LHDs and the Regions. To assist LHDs with appropriate allocation of staff resources to food service inspections, the Department is working to incorporate a compliance-based prioritization element into food service inspection frequency guidance.

Recommendation #2

Ensure that designated health departments take enforcement action for Category I violations, or document justification for not doing so, especially for Establishments that demonstrate a pattern of repeated violations.

Response #2

The Department is now monitoring LHD enforcement actions as part of program reviews by Regional staff as discussed in Recommendation #1. The Department has reviewed the Public Health Hazard Category designations within EHIPS to ensure that enforcement action is prescribed where appropriate. The Department is currently reviewing its guidance on enforcement and will revise it to provide additional clarification on expectations as necessary.

Recommendation #3

Take steps to improve the accuracy and completeness of EHIPS data including, but not necessarily limited to:

- Implementing procedures for input, quality assurance, and utilization of information; and
- Developing fixes for data errors and the inability to transmit data from designated health departments to EHIPS.

Response #3

The Report identifies certain inaccuracies and inconsistencies in inspection data entered or transferred into EHIPS, including issues with Suffolk County not effectively providing inspection data to the Department. Suffolk County has since resolved the issues associated with data transfer and the missing data is now available. Regional staff will continue to monitor and ensure timely transmission of facility and inspection data by counties using data transfer methods.

Data transfer issues aside, the number of inaccuracies identified were relatively few and do not significantly impact the Department's ability to evaluate statewide trends. However, the Department agrees that it is important to minimize data inaccuracies. The Department requires LHDs to maintain accurate and reliable records of their inspection and permit activities and is committed to continuing the implementation of electronic inspection forms, which reduces data entry steps necessary to import data to EHIPS. Electronic inspection forms have built-in checks and balances that must be met for successful data transmittal/submittal to occur. Data submitted via electronic forms is instantaneous with internet connectivity and is less prone to errors than manual entry.

The Department is working to expand the use of electronic inspection reports throughout its programs and encouraging their use across all LHDs. One of the barriers identified by LHDs is the age of the equipment previously distributed by the Department and challenges with securing dedicated funds at the local level to purchase replacement and updated equipment. The Department has obtained grant funding to replace existing iPads/Tablets for LHD inspection staff, and expand capacities for electronic inspection form utilization, statewide.

Recommendation #4

Develop procedures that provide a basic framework for complaint investigations to improve consistency and standardize the information recorded for investigations.

Response #4

The Department does not differentiate between foodborne illness complaint and outbreak investigations. Standard procedures and guidance for investigation of illness complaints are provided to LHDs as part of the Department's outbreak investigation guidance since many foodborne outbreaks are identified through the investigation of foodborne illness complaints. Each LHD is required to develop and maintain a surveillance system to record complaints and identify possible foodborne disease incidents/outbreaks, verify the incident/outbreak and notify the Department Regional Office if an outbreak is identified. More prescriptive standardization of complaint/outbreak investigation procedures is impractical because LHDs differ in their organizational structure and available resources.

As noted in the Report, the Department is developing a statewide complaint system which will provide a central reporting mechanism to be accessed and monitored by both environmental health and communicable disease staff at the local and state level. The system is currently live on the Department's Health Commerce system and is being pilot tested by LHD, Regional and Central office staff. Full implementation is planned later this year. The Department is also revising its outbreak investigation guidance to include more robust technical reference material in addition to the existing procedural guidance.