

STATE OF CONNECTICUT



FY 20 PERFORMANCE AUDIT COMPLIANCE REPORT

**The Department of Public Health's Monitoring of Public
Water Systems and Enforcement of Drinking Water Laws
(Follow-Up Report)**

AUDITORS OF PUBLIC ACCOUNTS

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Executive Summary

In February 2019, the Auditors of Public Accounts published a performance audit entitled [*The Department of Public Health's Monitoring of Public Water Systems and Enforcement of Drinking Water Laws*](#). This report is a follow-up to that audit which summarizes the Department of Public Health's (DPH) responses related to its implementation of each recommendation. We did not independently verify these responses, nor does this report conform to Generally Accepted Government Auditing Standards. We asked the department for any documentation that demonstrated its implementation of our recommendations.

Audit objectives. The objectives of the performance audit of the Department of Public Health's (DPH) Drinking Water Section (DWS) were to:

1. Assess whether the Drinking Water Section effectively monitors public drinking water systems in the state to ensure safe drinking water.
2. Evaluate whether the Drinking Water Section protects public health by effectively utilizing available water quality enforcement procedures and tools. In addition, DWS should ensure enforcement actions are appropriate, timely, consistent, and achieve compliance from public water systems.

Audit findings and DPH response. We found that since 2012, the State of Connecticut consistently met or exceeded key federal water quality performance measures. Those measures include the percentages of community public water systems and the state's population served by community water systems meeting all health-based standards.

At the same time, however, we identified several areas for improvement within the Department of Public Health's monitoring of public water systems and enforcement of public drinking water laws. Specifically, we found:

- DPH should strengthen certain enforcement practices;
- DPH rarely assessed or collected civil penalties for drinking water violations;
- DPH did not properly record civil penalty receivables and receipts;
- The DPH sanitary survey process (i.e., onsite inspections) performance was mixed and some monitoring efforts were lacking;
- The water sampling process had limited oversight;
- Non-state-operated public water systems outperformed state-operated systems in several areas;
- DPH did not sufficiently document critical enforcement procedures; and
- DPH should improve its deficient data management practices

We developed 17 recommendations to help strengthen DPH oversight of public drinking water in the state. In March of 2019, the Drinking Water Section (DWS) created a team to review the audit report and developed an internal review process to discuss the report's findings and recommendations. DWS management staff along with two staff members who served as unbiased facilitators supported a methodology that individually reviewed each recommendation in a group

discussion with DWS supervisors. DWS refers to the initial group discussion with supervisors as the Internal Assessment Phase. When this phase is completed, the next phase which is Implementation, which is followed by Verification. DWS completed the Internal Assessment Phase for all findings and implemented changes to address some of the findings.

Status of recommendations. The department indicates that it implemented 7 recommendations, while it is still working on addressing the other 10 recommendations. The table below summarizes the DPH compliance status (as reported by the department) of each of the recommendations as of July 2020.

**Implementation Status of
The Department of Public Health’s Monitoring of Public Water
Systems and Enforcement of Drinking Water Laws Performance Audit
(2019)**

Assess Enforcement Processes and Develop Tracking System

Recommendation 1. The Department of Public Health should assess its enforcement processes and develop better management practices and tracking systems to ensure that it issues appropriate enforcement actions for all violations and closes violations in a timely manner. The department should also escalate enforcement action, if needed, to ensure violators comply with orders.

DPH Response

An initial assessment of the enforcement process has been performed. Draft policies and standard operating procedures (SOP) are developed and additional refinement is being identified. Codes need to be created in the enforcement data system (SDWIS) to identify when compliance is "on hold." Additional staff would be needed to allow for completion and implementation of the policy.

Status: In Progress

Develop Notification and Testing Guidelines for Noncompliant Systems

Recommendation 2. The Department of Public Health should develop written guidelines to prescribe when it should provide public notification and test water samples in the event a public water system fails to do so, especially for acute public health violations or when the system is noncompliant for an extended period.

DPH Response

This procedure is currently in practice and refinement of an official policy is drafted and under review. Issuance of Public Notices and water quality testing by DWS at public water systems will be performed in accordance with the finalized policy. Timeliness and duration of violations will be included within the policy. According to DPH, additional staff to conduct that workload may be needed.

Status: In Progress

Develop Guidelines for Escalation of Enforcement Actions

Recommendation 3. The Department of Public Health should develop specific written guidelines for the escalation of enforcement actions from informal to formal, including the imposition of civil penalties. The department should clearly define appropriate enforcement timeframes, particularly for health-based violations. It should also monitor and report the performance of its enforcement actions in its annual compliance report, including the median number of days it takes for violations to return to compliance by violation type and the number of remaining open violations at year-end.

DPH Response

While staff, in general, follow a process to change informal to formal enforcement actions and adding civil penalties, finalized civil policy procedures and SOPs are needed. Amending the Annual Compliance Report will require additional data to be pulled and gathered. This will increase current staff work demands. According to DPH, additional staff may be needed.

Status: In Progress

Assess Consistency and Appropriateness of Civil Penalty Guidelines

Recommendation 4. The Department of Public Health should assess its current civil penalty regulations, civil assessment calculation method, and its actual use of civil penalties. The purpose of this assessment is to ensure that those regulations and practices remain consistent with current water purity objectives, include all regulatory violations, consider the seriousness of violations, and determine whether DPH can realistically collect the final penalties.

DPH Response

DPH staff have completed an assessment of civil penalties, and reviewed the new revision of the statute regarding civil penalties. Drafted civil penalties have been created and will be shared shortly with all DWS supervisors for their review. A new drafted state calculation method has also been created and will be shared shortly. Actual issuance of civil penalties under the newly drafted legislative language has not occurred. Completion of the schedule and other requirements under Public Act 18-268, including maintaining the schedule, and tracking civil penalties would necessitate additional staff, according to DPH.

Status: In Progress

Develop Comprehensive Civil Penalty Policies and Procedures

Recommendation 5. The Department of Public Health should develop comprehensive civil penalty policies and procedures that:

- a. Provide adequate guidance to staff in calculating, adjusting, and recording penalties to ensure practices are appropriate, fair, and consistent with statutory requirements;
- b. Consider the use of penalties for a broader range of violations or articulate explicit strategies for violators that do not receive a civil penalty to follow to achieve compliance in an expeditious manner; and
- c. Outline specific escalation procedures to ensure timely enforcement of water quality violations.

DPH Response

The DWS initiates immediate formal enforcement actions when acute maximum contaminant level violations and action level exceedances occur. Along with the civil penalty procedure development, an enforcement escalation policy and procedure is needed to formalize the process and is also in the process of being developed. A finalized escalation policy and civil penalty procedures would result in additional workloads. According to DPH, this would be an area that would need additional resources to fully implement.

Status: In Progress

Develop a Standardized Penalty Calculation Worksheet

Recommendation 6. The Department of Public Health should develop and implement a standardized penalty calculation worksheet to use in every case that imposes a penalty. The worksheet should show the evolution of the final penalty calculation, including any adjustments to the penalty amount, the rationale for those adjustments, a listing of the various orders issued for the same violations, and the final amount collected.

DPH Response

A draft civil penalties schedule and SOP are in development; however, to fully implement, the department reports it will require additional staff and resources.

Status: In Progress

Ensure Compliance with Collection Procedures

Recommendation 7. The Department of Public Health should ensure compliance with collection procedures for delinquent accounts to confirm that the department made all reasonable efforts to collect penalties.

DPH Response

According to DPH, the official collections procedure issued by Department of Administrative Services is followed, according to DPH's fiscal office. DPH maintains that all current collections processes are in compliance with State of Connecticut guidelines. Additional goals would focus on creating an internal training on DPH/DAS fiscal processes. Additionally the DWS will start to hold quarterly communication meetings with DPH fiscal office to ensure fiscal updates are discussed and understood.

Status: Completed

Report Amount of Civil Penalties Assessed and Collected Annually

Recommendation 8. The Department of Public Health should annually report the amount of civil penalties it assessed and collected in its Public Water Systems Annual Compliance Report.

DPH Response

As of July 2020, the Drinking Water Section publishes its amount of civil penalties assessed and collected in its Public Water Systems Annual Compliance Report. While a draft SOP may still be needed, the procedure and action is completed. DPH reports that additional staff would provide more efficiency in assessing and tracking civil penalties.

Status: Completed

Ensure Core-CT Accurately Reflects Civil Penalty Collections

Recommendation 9. The Department of Public Health’s Fiscal Services and Drinking Water Sections should ensure that they reflect collection information and receipts related to civil penalties in Core-CT.

DPH Response

The DWS currently enters collection and receipts information in Core-CT. The DWS plans to refine the process and put in place measures to further ensure an accurate accounting of the receipts can be made. To further refine the action, DWS plans to meet with DPH fiscal office to revisit a 2014 policy that had been the basis for DWS civil penalties.

Status: In Progress

Resolve Outstanding Sanitary Survey Deficiencies

Recommendation 10. The Department of Public Health should examine whether significant deficiencies from public water system sanitary survey inspections conducted in past years remain unresolved beyond their required resolution dates. DPH should prioritize cases and take any necessary formal enforcement to ensure deficiencies are resolved, and should update the drinking water database as necessary.

DPH Response

This recommendation is achieved according to DPH. Additional staffing may be considered to make the process easier and faster.

Status: Completed

Monitor Requirement for Sanitary Survey Inspection Completions

Recommendation 11. The Department of Public Health should continue to monitor sanitary survey unit resources, training, and procedures to ensure the number of completed yearly inspections continues to meet or exceed the number required under state regulation. If the department anticipates a shortfall in any given year, it should take the necessary steps to boost the number of inspections to ensure that it meets regulatory requirements.

DPH Response

This recommendation is achieved. According to DPH, additional staffing could make the process easier and faster.

Status: Completed

Ensure Sanitary Survey Data is Timely, Complete, and Accurate

Recommendation 12. The Department of Public Health should ensure that its sanitary survey staff enters timely, complete, and accurate data into the department’s automated system for drinking water. DPH management should have appropriate monitoring in place to ensure the database contains the necessary sanitary survey information for proper oversight.

DPH Response

Training has been provided by the Rule Implementation Unit on the importance of the accuracy and timely completion of data included into the section’s automated data systems. In addition, supervisors will periodically ‘spot check’ to ensure data accuracy is maintained.

Status: Completed

Improve Integrity of Water Sampling Process

Recommendation 13. The Department of Public Health should strengthen and add to existing strategies and procedures to maintain or improve the integrity of the water sampling process. Examples of additional improvements follow.

- a. Require Environmental Laboratory Certification Program personnel to check samples used for analysis to ensure systems took samples from locations on their sampling plan.
- b. Require Environmental Laboratory Certification Program personnel to inspect sampling facilities that are associated with but physically separate from the laboratories they serve.
- c. Provide additional information technology training to Environmental Laboratory Certification Program personnel, when necessary, to enhance fraud detection.
- d. Consider random water sample checks by the Department of Public Health personnel as an overall check on public water systems. To implement this procedure, DPH staff could take samples from a small selected group of public water systems while performing sanitary surveys.
- e. Ensure that subordinates of any certified operator, who perform sampling, receive appropriate sample collection training. DPH can verify this by requiring a periodic sign-off affirmation by the certified operator.

DPH Response

In December 2019, the DWS through the Department of Public Health has been given oversight of the Laboratory Certification Program. During the time of the original audit, this was not the case. Presently, a complete evaluation of all common practices is underway for the laboratory certification program. Additionally, a new laboratory certification program lead is the process of being hired. We have been informed that it is the priority of the DWS to ensure the new lead will review and comply with the audit recommendations.

Status: In Progress

Closely Monitor State-Operated Public Water Systems

Recommendation 14. The Department of Public Health should closely monitor state-operated public water systems for violations of safe drinking water requirements. DPH should prioritize its monitoring with an emphasis on health-based violations having the most impact on drinking water safety.

DPH Response

DWS closely monitors all public water systems regardless of who is operating them. According to DPH, additional staff would provide more consistent efforts and efficiency.

Status: Completed

Address Designated Priority Systems

Recommendation 15. The Department of Public Health should give specific attention to any public water system that the Environmental Protection Agency identified as a priority system under its Drinking Water Enforcement Response Policy. DPH should work to bring the system into full compliance with federal requirements.

DPH Response

DWS currently does give specific attention to public water systems identified as a priority system and works with them to return them to compliance. This is also achieved through the successful implementation of the EPA's Enforcement Targeting Tool (ETT), quarterly. According to DPH, additional staffing for compliance/ enforcement review would provide an increase of efficiency of work that is already completed.

Status: Completed

Develop Comprehensive Enforcement Procedures Where Lacking

Recommendation 16. The Department of Public Health should develop or amend all procedures related to enforcement activities and responsibilities to ensure that it documents and sufficiently details all activities to ensure compliance with laws and regulations. In addition, DPH should provide adequate direction to staff and conform to current practices, as appropriate.

DPH Response

DWS is currently assessing what it has and what it does not have for current SOPs for the section. In early 2020, updating SOPs was assigned to many compliance units to refine and complete all current standard practices. Next steps include, centralizing a specific file to hold all SOPs should be created to ensure easy accessibility among all staff to find SOPs. According to DPH, additional staff would be needed to fully implement the SOP's and Policies that are being developed.

Status: In Progress

Assess Management Practices to Ensure Data Validity and Reliability

Recommendation 17. The Department of Public Health should assess its data management practices and management controls over water quality violation and enforcement data to ensure that it is valid and reliable.

DPH Response

Currently, the department reports that DWS staff consistently update and moderate all data coming into the section. Clarification on current procedures in timeliness of data should be captured in a refined SOP on how often and consistently the data system (SDWIS) is updated on all different types of content (sanitary surveys, orders, compliance measures). Creation of a new dashboard to highlight some essential data metrics is being developed. According to the department, additional staffing would provide needed assistance in data management review and issuance of reliable / valid enforcement violations.

Status: In Progress