
**Thomas P. DiNapoli
COMPTROLLER**



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**OFFICE OF THE
NEW YORK STATE COMPTROLLER**

**DIVISION OF STATE
GOVERNMENT ACCOUNTABILITY**

DEPARTMENT OF HEALTH

**COMPLIANCE WITH
EXECUTIVE ORDER 134 -
ENVIRONMENTAL IMPACT
OF CLEANING FACILITIES**

Report 2008-S-23

AUDIT OBJECTIVE

The objective of the audit was to determine whether the Department of Health is in compliance with Executive Order 134 requirements, including purchasing and using environmentally preferred cleaning products.

AUDIT RESULTS - SUMMARY

Executive Order (Order) 134 was issued January 5, 2005 to reduce the environmental impact of cleaning State facilities. The Order requires all State agencies to procure and use cleaning products with properties that minimize the potential impacts to human health and the environment. The Order also requires State agencies to conduct an assessment describing the efforts undertaken to comply with the Order, and provides agencies six months from the date of the Order to transition to conforming products.

The Department of Health's (Health) mission is to ensure that high quality and appropriate health services are available to all New York State residents at a reasonable cost. Health operates its programs through a central office located in Albany, and seven regional offices. Health is also responsible for five health care facilities that are engaged in patient care. These include Helen Hayes Hospital, which offers specialty rehabilitation services; and four homes for the care of veterans and their dependents.

We found that Health was not in compliance with the Order. Health did not complete the initial assessment due on January 5, 2006; did not transition to conforming products within six months of the Order; had not required its facilities and offices to purchase and use environmentally preferred cleaning products and had not completed the required biennial assessment.

In 2006 the Department appointed three individuals to oversee compliance with assessment requirements. We also noted that the Department increased compliance activities after we commenced our audit in February 2008.

Our audit report contains five recommendations. Health officials generally agree with our recommendations. They indicate several steps that have been taken to implement them.

This report, dated September 30, 2008, is available on our website at:

<http://www.osc.state.ny.us>.

Add or update your mailing list address by contacting us at: (518) 474-3271 or Office of the State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, NY 12236

BACKGROUND

Executive Order (Order) 134 was issued January 5, 2005 to reduce the environmental impact of cleaning State facilities. The Order requires all State agencies to procure and use cleaning products having properties that minimize the potential impacts to human health and the environment. The Order also required each State agency to conduct a formal assessment of their programs to promote environmentally safe cleaning by January 4, 2006, and to retain and make this assessment report available to employees and the general public. Agencies are required to update their assessments biennially.

The Order also directed the Office of General Services (OGS) to guide State agencies with selecting and procuring environmentally safe cleaning products. OGS has compiled a list of more than 700 environmentally preferred cleaning products including floor finishing

and stripping products. Most products are certified by either Green Seal (through its GS-37 certification) or by Environmental Choice. Green Seal and Environmental Choice are recognized authorities in the field of environmentally safe cleaning products.

Health's mission is to ensure that high quality and appropriate health services are available to all New York State residents at a reasonable cost. Health is the principal State agency that interacts with the Federal and local governments, health care providers and program participants for the State's Medicaid program. Health operates its programs through a Central Office located in Albany, and seven regional offices located in Troy, Syracuse, Rochester, Buffalo, New Rochelle, Central Islip and New York City. Health is also responsible for five health care facilities that are engaged in patient care (Helen Hayes Hospital, which offers specialty rehabilitation services, and four homes for the care of veterans and their dependents in Oxford, New York City, Batavia and Montrose). Health leases 30 buildings to support the Central Office and regional offices, and Health owns five healthcare facilities and two laboratories. Contractors and employees provide housekeeping and maintenance for these facilities, and are responsible for purchasing cleaning products.

Most of Health's cleaning products are procured from Ecolab. During the State fiscal year ending March 31, 2007, Health spent about \$700,000 on housekeeping supplies and materials. This amount includes cleaning products, soaps that may be used for personal care, and cleaning supplies such as mops and scouring pads.

AUDIT FINDINGS AND RECOMMENDATIONS

Compliance with Order

The Order requires State agencies to:

- procure products and use practices that reduce or minimize the risks of harmful effects to employees, custodial workers, visitors, and other building occupants, as well as the environment;
- encourage contractors supplying goods and services to select and procure such products; and
- encourage lessors and building managers to select and procure such products.

The Order provided State agencies six months from the date of the Order to transition to conforming products. This enabled agencies to conform in a manner that avoided waste of existing inventories, accommodated the establishment of supply chains for new products, enabled the training of personnel in appropriate work practices, and allowed the phase out of products and practices that did not conform to the Order.

In addition, the Order requires State agencies to assign an individual who will be responsible to:

- assess current facility management practices and use of cleaning products;
- evaluate whether these products conform to the Order;
- identify and procure conforming cleaning products; and
- document the reasons for selecting products that do not conform to the Order

and include these reasons in the report required by the Order.

We found that Health's Central Office was aware of the Order and its provisions. However, officials at five of the nine locations we visited (two State-owned and three leased) indicated that they were not aware of the Order until after we initiated our audit. The other four facilities were reportedly made aware of the Order through vendor seminars or as the result of an OGS contract.

We determined that as of April 11, 2008, Health was not in compliance with the Order even though it was aware of its provisions. For example, Health did not transition to conforming products within six months of the Order, and there was no documentation it that required its facilities and offices to purchase and use environmentally preferred cleaning products or have landlords of leased space do the same. We were initially informed that Health assigned one employee to assess management practices and use of cleaning products, for leased facilities. It appeared that no one was assigned to assess the practices of State-owned health care facilities and labs until we commenced our audit. However, we were subsequently informed that in 2006 Health also assigned two staff to assess these facilities also.

Further, the initial assessment of the leased facilities did not progress very far. For example, no assessment of the products in use was conducted. We note that the individual responsible for the assessment took the initiative to contact all of the leased facilities several times, in an attempt to complete the required assessments, and to encourage them to use environmentally preferred cleaning products. However, this person told us that in 2005 there were insufficient resources to visit the leased sites. Consequently, the

assessment effort mostly consisted of phone calls requesting cooperation. Therefore, neither the required assessment report due on January 5, 2006, nor the biennial update assessment reports due on January 5, 2008 were completed.

In addition, the Order requires the completion of a biennial assessment for all facilities. OGS sent an e-mail to all State agencies in February 2008 reminding the agencies to complete their biennial assessments and stated they were due in "Spring 2008," not in January 2008, as the Order requires. Health started its biennial assessment in February 2008. As of April 11, 2008, Health had only collected assessments from four of its 37 facilities, three from leased facilities and one from a State-owned lab.

Without the required assessments being completed, employees and the general public do not have the necessary information on what efforts have been undertaken by Health to comply with the Order.

Recommendations

1. Notify all landlords, appropriate employees and cleaning contractors about the requirements of the Order.
2. Conduct assessments for all buildings used, whether owned or leased, and review and update this assessment biennially, as required by the Order.
3. Establish a procedure for making the biennial assessments available to employees and the general public.

Procurement of Environmentally Preferred Products

The Order requires State agencies to procure and use cleaning products having properties that minimize the potential impacts to human health and the environment consistent with the maintenance of the effectiveness of these products for the protection of public health and safety. To determine whether Health procured environmentally preferred products, we reviewed invoices for recently purchased cleaning products and interviewed employees in charge of purchasing. We found the purchase orders showed the facilities purchasing both environmentally preferred and non-environmentally preferred cleaning products. We reviewed 16 invoices for six facilities, during period April 2006 through March 2008. We determined that 33 cleaning products were purchased during this time. Of these, 12 were environmentally preferred.

Officials at two of Health's owned facilities told us that since they were informed of the Order in February 2008, they have started to identify cleaning products to replace those that do not conform to the Order.

Recommendation

4. Inform all facilities to only purchase environmentally preferred products that are on OGS' preferred list (or certified by either Green Seal or Environmental Choice), or document the reasons for purchasing and/or using non-environmentally preferred products.

Use of Environmentally Preferred Cleaning Products

We inspected maintenance closets, storage areas and cleaning carts at nine facilities that we visited. We inspected a total of 116

cleaning products (77 at the five State-owned facilities and 39 at the four leased facilities).

We found 34 products that were environmentally preferred (19 at the state-owned facilities and 15 at the leased facilities). The environmentally preferred products being used at the facilities included glass cleaners, floor finishers, floor strippers, bathroom cleaners and a carpet cleaner. The remaining 82 products were not environmentally preferred (58 at the State-owned facilities and 24 at the leased facilities). We also found that all nine facilities were utilizing non-environmentally preferred cleaning products, such as floor finish; wax stripper; all-purpose cleaner; glass cleaner and hand soaps that could be replaced with environmentally preferred cleaning products.

Of the four leased buildings that we visited, one is owned and operated by OGS. Building management was aware of the Order and utilized four environmentally preferred cleaning products such as floor cleaners, floor strippers, and all purpose cleaners. Two leased facilities were using environmentally preferred cleaning products by coincidence and not because of the Order. The last leased space is cleaned by a contractor that was not informed of the Order. However, of the 18 products used by the contractor, four were environmentally preferred.

Based on our interviews with officials at these facilities, the use of these environmentally preferred products was not based on any directives received from Health.

As a result of using non-compliant products, Health has not yet realized the benefits to the environment and the health and safety of occupants of Health facilities that could be derived from implementation of the Order.

Recommendation

5. Phase out the use of non-environmentally preferred cleaning products within a timely manner, as required by the Order and dispose of those that are no longer being used.

AUDIT SCOPE AND METHODOLOGY

We conducted our audit in accordance with generally accepted government auditing standards. We audited Health's procurement and use of environmentally preferred cleaning products, as required by the Order. Our audit covered the period January 5, 2005 through March 31, 2008.

To accomplish our objectives, we interviewed Health central and facility officials, building managers and reviewed lease agreements. To determine whether Health and their facilities procure and use cleaning products, we interviewed Health central office officials to determine what steps they took to implement and comply with the Order. At each facility that claimed to be using environmentally preferred cleaning products we reviewed purchases of cleaning products and at all locations we examined cleaning product inventories to determine the types of cleaning products purchased and in use. To determine if Health has encouraged its landlords and building managers to use environmentally preferred cleaning products we reviewed lease agreements and interviewed Health officials and building managers. In addition, we judgmentally selected five out of seven Health-owned facilities and four out of the 30 leased buildings to conduct on-site reviews.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's

financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these functions do not affect our ability to conduct independent audits of program performance.

AUTHORITY

We performed this audit 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.

REPORTING REQUIREMENTS

We provided a draft copy of this report to Department officials for their review and comment. Their comments were considered in preparing this report and are included in their entirety as Appendix A. In addition, Appendix B contains State Comptroller's Comments to address statements in the Department's response.

Within 90 days after final release of this report, as required by Section 170 of the Executive Law, the Commissioner of Health shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons therefor.

CONTRIBUTORS TO THE REPORT

Major contributors to this report include Frank Patone, William Challice, Mike

Solomon, Todd Seeberger, Scott Heid, Jennifer Bachinsky, Rachelle Luchkiw, Melissa Landrio, and Sue Gold.

APPENDIX A - AUDITEE RESPONSE



Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

Richard F. Daines, M.D.
Commissioner

Wendy E. Saunders
Chief of Staff

July 18, 2008

Michael Solomon, Audit Manager
Office of the State Comptroller
Division of State Services
State Audit Bureau
110 State Street, 11th Floor
Albany, New York 12236

Dear Mr. Solomon:

Enclosed are the Department of Health's comments on the Office of the State Comptroller's draft audit report 2008-S-23 on "Compliance With Executive Order 134 – Environmental Impact of Cleaning Facilities."

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in black ink, appearing to read 'Wendy Saunders'.

Wendy E. Saunders
Chief of Staff

Enclosure

cc: Stephen Abbott
Laurie Duncan
Val S. Gray
Marybeth Hefner
Nancy K. Kim
Sandra Pettinato
Robert W. Reed
Susan Solomon

**Department of Health
Comments on the
Office of the State Comptroller's
Draft Audit Report 2008-S-23 on
“Compliance With Executive Order 134 – Environmental
Impact of Cleaning Facilities”**

The following are the Department of Health's (Department) comments in response to the Office of the State Comptroller's (OSC) draft audit report 2008-S-23 on "Compliance With Executive Order 134 – Environmental Impact of Cleaning Facilities", including general comments followed by responses to the specific recommendations contained in the report.

General Comments:

1. The report states that the Department did not complete the initial assessment required in 2006. Oversight of implementation of Executive Order 134 (EO) was the responsibility of the Office of General Services (OGS). The Department submitted information to OGS in 2006 and was advised at that time that the information was adequate.
2. The report states that since the time that OSC initiated its audit in February 2008, the Department has taken steps to implement and to come into compliance with the EO. To clarify, the Department had initiated renewal activities prior to being contacted by the OSC, based on an OGS request.
3. The report states that as of April 11, 2008, the Department had assigned an individual responsibility for completing the required assessments at leased spaces. This assignment actually occurred in 2006, at which time two additional individuals were also assigned the same responsibility for other locations; one for the Health Facilities and the other for Wadsworth Laboratories. All locations were provided relevant information on the EO in 2006.
4. The report recognizes that the individual assigned responsibility for the leased sites took the initiative to contact all leased facilities several times in an attempt to complete the assessments and to encourage the use of environmentally preferred cleaning products, although "...there were insufficient resources to visit the leased sites. Consequently, the assessment effort mostly consisted of phone calls requesting cooperation." To clarify, site visits are not a requirement. OGS directives issued in 2006 and again in 2008 state that the EO requires State Agencies to "encourage lessors and building managers who provide leased space to State Agencies to select and procure such (environmentally preferred cleaning) products. Therefore, even though the EO **does not** require compliance from lessors, the EO does encourage compliance." By contacting and furnishing landlords relevant information, and reporting back to OGS, the Department achieved compliance with the EO requirements relative to leased sites.

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**Comment
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**Comment
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2**

*See State Comptroller's Comments, page 11

5. The report states that the auditors "reviewed lease agreements" as a means to determine whether the Department encouraged its landlords and building managers to use environmentally preferred cleaning products. Since most existing lease agreements were executed prior to the EO and run for multiple years, they would not be a good indicator for the OSC's stated purpose. It is relevant to note that the Department understands that OGS has plans to incorporate provisions requiring the use of environmentally preferred products into future lease agreements.

*
Comment
3

Recommendation #1:

Notify all landlords, appropriate employees and cleaning contractors about the requirements of the Order.

Response #1:

As of February 2008, all Department landlords, building managers and facility directors have been notified of the requirements of the EO, with the exception of OGS-controlled facilities for which OGS is responsible for promoting the use of environmentally preferred cleaning products.

Recommendation #2:

Conduct assessments of all buildings used, whether owned or leased, and review and update this assessment biennially, as required by the Order.

Response #2:

The Department has requested the assessment information from all sites. It has submitted an initial report to OGS based on the responses received, and continues to follow-up with sites that are delinquent in submitting the information. When all information is received, a final report for 2008 will be prepared and submitted to OGS, and subsequently updated at least biennially.

Recommendation #3:

Establish a procedure for making biennial assessments available to employees and the general public.

Response #3:

When finalized, the Department will post the 2008 biennial report on its intranet site for employees to access, and will additionally make copies available to the public upon request.

*See State Comptroller's Comments, page 11

Recommendation #4:

Inform all facilities to only purchase environmentally preferred products that are on OGS' preferred list (or certified by either Green Seal or Environmental Choice), or document the reasons for purchasing and/or using non-environmentally preferred products.

Response #4:

Management of all Department-owned facilities have been informed of the requirement to only purchase environmentally preferred products that are on OGS' preferred list (or certified by either Green Seal or Environmental Choice) or to otherwise document the reasons for purchasing and/or using non-environmentally preferred products. Some facilities are already fully compliant, while some others are depleting existing inventory before making the switch. In addition, although the Department cannot require use of environmentally preferred products in leased sites with pre-existing leases, it continues to strongly encourage their use and has noticed increased use and acceptance of these products since its initial 2006 discussions with these landlords and building managers. It's additionally relevant to note that for the OGS-controlled facilities where Department staff are located, promoting the use of these products is the responsibility of OGS.

Recommendation #5:

Phase out the use of non-environmentally preferred cleaning products within a timely manner, as required by the Order and dispose of those that are no longer being used.

Response #5:

As noted in Response #4 above, all Department-owned facilities are either already compliant or are in the process of depleting existing inventory before making the switch to environmentally preferred products. Any existing inventory is being phased-out within a timely manner.

APPENDIX B - STATE COMPTROLLER'S COMMENTS

1. Implementation of Executive Order 134 was the responsibility of the State agencies, not OGS, whose role was to provide guidance on the Order's implementation. In addition, OGS was unable to confirm to us that they advised DOH that the information provided was adequate.
2. Our report reflects that steps were taken by DOH in 2006 to hire additional staff for the completion of the assessments at other than its leased facilities, and that efforts were made to contact and encourage compliance with the Order at the leased facilities. However, as we note these efforts did not result in compliance with the Order.
3. We recognize that the lease agreements were executed before the Order came into effect. To satisfy our audit objectives, we did not solely review lease agreements in effect before the Order. We also visited leased facilities and followed up with DOH officials to assess the results of encouraging leased facilities to comply with the Order.