



State's Food Safety Programs Have Improved Performance and Financial Self-Sufficiency

at a glance

Consistent with our recommendations, the Departments of Agriculture and Consumer Services, Business and Professional Regulation, and Health have taken steps to improve the performance and financial self-sufficiency of their food safety programs. Two of the agencies have also made or are planning improvements to increase public access to inspection data. While the agencies have discussed options to more consistently report performance data, they have not yet agreed upon common protocols.

Scope

In accordance with state law, this progress report informs the Legislature of actions taken by the Departments of Agriculture and Consumer Services, Business and Professional Regulation, and Health in response to a 2008 OPPAGA report that examined Florida's food safety programs.^{1,2}

Background

Three Florida agencies operate food safety programs—Department of Agriculture and

Consumer Services (DACS), Department of Business and Professional Regulation (DBPR), and Department of Health (DOH). In general, DACS regulates grocery stores and supermarkets, as well as bakeries and convenience stores that offer food service, while DBPR regulates restaurants, and DOH regulates facilities such as hospitals, nursing homes, and schools that serve high-risk populations. Each agency issues licenses or permits to the food establishments that fall within their regulation and conducts food safety inspections of these establishments. Depending on the severity of violations, inspectors may require food items be removed from sale and destroyed or can close or fine the food establishment.

Our 2008 report found that the three agencies worked cooperatively to reduce instances of duplicate inspections. However, we also identified several concerns about the programs' operations.

- The three did not inspect food establishments as frequently as required by their established criteria.
- Licensing and other inspection fees charged by two departments (DACS and DOH) were insufficient to cover program costs.
- The agencies provided varying levels of public access to inspection results via agency websites.

¹ Section 11.51(6), *F.S.*

² *State Food Safety Programs Should Improve Performance and Financial Self-Sufficiency*, OPPAGA [Report No. 08-67](#), December 2008.

- Each department used a different methodology to measure its performance.

To address these concerns, we recommended the agencies take additional steps to ensure their financial self-sufficiency and make inspection data more available to the public. In addition, we recommended that the Legislature direct the agencies to adopt a consistent methodology for measuring performance and authorize DBPR to use a risk-based approach to target its resources to restaurants that pose the greatest threat to public health.

Current Status

Consistent with our recommendations, the state's food safety agencies have taken steps to improve their performance and financial self-sufficiency. In addition, the agencies have made or are planning improvements to increase public access to inspection results data. However, the departments have not yet adopted consistent methodologies for reporting performance information and the Department of Business and Professional Regulation has not established inspection frequencies using a risk-based model.

Food safety agencies are improving their performance.³ Two agencies are doing a better job ensuring that regulated food establishments are inspected as frequently as required, although budget reductions have affected performance. For Fiscal Year 2008-09, DBPR reported that 98% of facilities were inspected at least twice during the year, an increase from 87% in the prior fiscal year.⁴ DOH similarly reported that it inspected 84% of high-risk facilities (e.g., hospitals and nursing homes) at least four times during Fiscal Year 2008-09, up from 70% the previous fiscal year.

DACS met its internal performance goals for inspecting low-risk facilities, examining all of

these firms at least once during the year, and it conducted at least two inspections at 92% of medium low-risk facilities. However, the agency met its goal to conduct at least four routine inspections of high-risk facilities (e.g., supermarkets with sushi bars and bakeries) for only 64% of these facilities in Fiscal Year 2008-09, a 10% decrease from the prior fiscal year.⁵ In addition, the agency inspected only 55% of medium high-risk facilities at least three times during the year, a decrease from 76% the prior year. Department officials attribute these declines to the effect of budget reductions.⁶

Two agencies have improved financial self-sufficiency. State law provides that in general, licensing, inspection, and regulatory fees be sufficient to cover the state's regulatory costs. At the time of our review, only DBPR generated sufficient revenue to cover regulatory costs. Consistent with our recommendation, DACS and DOH have taken steps to increase financial self-sufficiency of their food inspection programs.

DACS increased its food inspection fees (including re-inspection fees) in October 2008. As a result, the department ended Fiscal Year 2008-09 with a \$1.3 million surplus. The department plans to perform a financial assessment each fiscal year in order to anticipate and project when additional fee increases may be necessary.

DOH has also increased food safety inspection fees, but its regulatory costs continue to exceed program revenues. In April 2009, the department increased annual sanitation certificate fees by 19% to 31%, depending on the type of establishment. Officials reported that these fees covered an estimated 47% of program costs in Fiscal Year 2009-10, an increase from 30% in Fiscal Year 2007-08. DOH officials plan to implement additional fee increases over several years so that the program will be financially self-sufficient by

³ Because the three departments measure performance differently, results are not comparable across agencies.

⁴ Requirements for two inspections per year could be met with one unannounced and one follow-up inspection or an initial licensing inspection and one unannounced inspection.

⁵ Percentages include only food service firms serving the public.

⁶ Due to budget cuts, the department has not filled food safety inspector vacancies, resulting in a workload increase from 350 to 425 firms per inspector.

Fiscal Year 2014-15. Program officials plan to evaluate progress toward financial self-sufficiency at the end of Fiscal Year 2009-10.

DOH is also improving the program's self-sufficiency by better targeting its inspections of high-risk facilities. DOH has established new inspection frequencies requirements, effective October 2010, that are consistent with U.S. Food and Drug Administration recommendations. These new requirements will reduce the frequency of inspections for facilities that do not serve highly susceptible populations. Under the revised requirements, 1,200 facilities will go from two inspections a year to one while 1,500 facilities will be subject to three rather than four inspections per year.⁷

Both DACS and DOH have increased fees charged for additional inspections that are conducted when a facility receives a poor or unsatisfactory inspection.⁸ Such re-inspection fees can give facilities an incentive to maintain compliance with sanitation standards in order to avoid paying these fees. Agency officials reported that the fee increases did not significantly reduce the number of food establishments that failed inspections in Fiscal Year 2008-09; however, the agencies do not always charge the re-inspection fee the first time they revisit a facility. Instead, DACS charges the re-inspection fee only if the facility fails the re-inspection, while DOH charges a re-inspection fee at the time of a second follow-up visit. To avoid the need to subsidize inspection activities with other funds, the three agencies should continue to monitor their program costs and modify fees as necessary to achieve self-sufficiency consistent with legislative intent.

Two agencies are taking steps to increase public access to inspection data. Public

access to comprehensive web-based inspection data helps citizens and visitors make informed decisions about where they purchase food products. DBPR provides full restaurant inspection reports on its website, and DACS and DOH are taking steps to enhance the electronic information available to consumers.

Consistent with our recommendation, DACS plans to update its online food safety inspection information as part of an overall upgrade of its data systems. The department recently received a federal grant to re-engineer its electronic Food Safety Inspection System, and part of the upgrade includes reporting inspection data for all regulated facilities on its website by the end of Fiscal Year 2011-12. Until then, the department will continue to report food safety inspection summary information for grocery stores and supermarkets only.

DOH has developed a system to report food safety inspection data on its website. The department's website currently includes data such as establishment name, address, date of inspection, and summary inspection results. The department provides this information in a searchable system that it updates weekly. To provide additional inspection information in an electronic format, department officials plan to expand online information as resources become available.

Food safety agencies have not adopted consistent methodologies for assessing performance. Our prior review noted that each of the three food safety agencies used a somewhat different methodology for measuring performance, which made comparisons across agencies unreliable. To address this issue, an informal tri-agency workgroup recently discussed the need to identify different types of inspections (e.g., licensing, routine, complaint, and re-inspections) and determine which inspections should be counted as meeting agency goals. While the three agencies did not reach agreement, they plan to continue these discussions. If they are unable to resolve this

⁷ In addition, the 2010 Legislature passed two bills (House Bills 1143 and 5311) that would reduce the number of food safety inspections the department performs. The Governor signed House Bill 5311 into law (Ch. 2010-161, *Laws of Florida*) on May 28, 2010.

⁸ DACS increased re-inspection fees from \$110 to \$135, while DOH increased re-inspection fees from \$30 to \$75.

issue, the Legislature may wish to require the three agencies to standardize how they report inspection data.

DBPR has not adopted inspection frequencies using risk-based model. Risk-based inspection frequency models consider the risk posed by different types of facilities, and enable regulators to target limited resources to the highest risk facilities. While DACS and DOH consider the risks posed by different types of facilities when establishing inspection frequency goals, current state law requires DBPR to inspect all restaurants twice per year regardless of the type of facility.

DBPR officials reported that due to resource constraints, they have not proposed legislation to modify current inspection requirements.

While the U.S. Food and Drug Administration has proposed a risk-based inspection model for states, DBPR officials indicate that adopting this model would require the department to conduct three inspections per year for many restaurants, an increase from the two inspections currently required by Florida law. DBPR reports that this increased workload would require an additional 142 food safety inspectors as well as additional computers, vehicles, inspection tools, and training. However, the department could consider a less costly risk-based approach to risk-based inspections, such as targeting restaurants with a pattern of non-compliance for additional oversight while reducing inspections for facilities that consistently meet inspection standards.

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