Office of
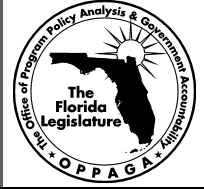## Program Policy Analysis
And Government Accountability

John W. Turcotte, Director

October 1998

Follow-Up Report on
Hotel and Restaurant Regulation

Abstract

- **The Division of Hotels and Restaurants has not implemented our recommendation to adopt a risk-based inspection system to target those establishments posing the greatest potential health risks to the public. However, it has implemented an in-depth inspection program designed to minimize threats to the public health.**

- **Although the division has taken steps to more vigorously pursue selected types of unlicensed establishments, it continues to lack an effective method of identifying and licensing temporary food service events.**

- **The division continues to spend $600,000 a year for a management information system that does not readily provide the kinds of information it needs to efficiently and effectively protect the public health and safety. This problem is not expected to be corrected until July 1, 2000.**

- **The division could realize a net savings of $91,963 by supplying cars with useful vehicle lives of three to six years to those inspectors driving over 15,000 miles a year.**

Purpose

In accordance with state law this follow-up report informs the Legislature of actions taken by the Department of Business and Professional Regulation in response to our 1996 report.[1,2] This report presents our assessment of the department's actions addressing the 1996 findings and recommendations.

Background

Because unsafe lodging structures and unsanitary food handling practices can pose serious risks to the public, the Division of Hotels and Restaurants regulates lodging and public food service establishments as well as selected temporary food service events. The division licenses and inspects these establishments and events to ensure compliance with state health and safety standards. The division is housed within the Department of Business and Professional Regulation and, through its regulatory and education programs, helps to protect businesses against financial losses resulting from foodborne illness and safety hazards.

---

[1] Section 11.45(7)(f), F.S.

[2] *Review of Hotel and Restaurant Regulation*, Report No. 96-24, December 23, 1996.

As of June 30, 1998, the division regulated approximately 30,600 public lodging establishments, 35,732 public food service establishments, and 5,320 temporary food service events. Regulated lodging establishments include hotels, motels, rooming houses, transient and non-transient apartments, and resort condominiums and dwellings.[3] Regulated food service establishments include restaurants, mobile food dispensing vehicles, caterers, vending machines, theme park food carts, and satellite service units that prepare and/or serve individual meals for immediate consumption on the premises, take out, or delivery. The division also regulates temporary food service events, such as seafood festivals, chili cook-offs, and ethnic food festivals.

Prior Findings

OPPAGA previously reported that the public's health and safety may be jeopardized because the division had not developed a system to sanction repeat violators, targeted resources to those areas of greatest risk, or developed a system to successfully identify unregulated establishments.

Factors contributing to the division's problems were an antiquated computer system, frequent management turnover (four agency secretaries and four division directors in a six-year period), and ineffective methods to assess division performance.

OPPAGA recommended that the division

- conduct a risk assessment to determine the relative risks various categories of food and lodging establishments pose and base inspection frequencies upon these risks;

- upgrade its management information system to provide on-line access to management data, track inspection and enforcement trends, and efficiently produce management reports;

- improve the detection of unregulated establishments by matching its improved hotel and restaurant database against other government databases, such

as the Department of Revenue's database of registered businesses; and

- develop measurable goals, objectives, and performance measures so that the Legislature and division managers can monitor the extent to which the program is achieving its stated purpose.

Current Status

Action Taken

The division has implemented an in-depth inspection program designed to minimize threats to the public health. The division has improved inspections by implementing the Hazard Analysis of Critical Control Points (HACCP) inspection. An HAACP inspection, developed by the U.S. Food and Drug Administration, concentrates on those critical points in the food preparation process where contamination and risk for foodborne illness is greatest. Inspectors test food temperatures at critical points, review employee training plans, check equipment calibration records, inspect hand washing facilities, and make recommendations to the establishment's management.

For those restaurants completing the HAACP, the division will conduct only one additional inspection for the year. Unlike the division's routine inspections which take approximately 45 minutes and are unannounced, the HAACP-based inspections take three to four hours and restaurants must voluntarily agree to the inspection in advance. The division seeks voluntary agreement from restaurants because it realizes that inspections pull licensees away from their normal activities of serving the public.

The division has made other improvements to its inspection program including developing a district office tracking system. The system measures inspector productivity and helps ensure that all facilities receive the required number of inspections during the year. The division continues to stress

---

[3] Transient apartments are apartment units or buildings that are made available to guests on a temporary basis. Nontransient apartments are apartment units or buildings that are available for rent to tenants as their residence.

education during the inspection process, as division officials believe the cause of repeated violations is lack of food service training. When inspectors must take enforcement action, the division has developed an enforcement manual to help ensure consistency.

A risk-based inspection program is still needed. By failing to base inspections on the relative risks various types of establishments pose, the division discounts the fact that some establishments have exemplary safety and sanitation histories and may have internal standards superior to the division's. State resources would be better directed to those establishments whose sanitation and safety record is still in need of the division's inspection efforts.

Officials have taken steps to identify unlicensed establishments. As an efficient method of identifying unlicensed establishments, the division has implemented our recommendation of matching the hotel and restaurant database against the Department of Revenue's database of registered businesses. Such matching readily flags those businesses that are in operation but not licensed by the Division of Hotels and Restaurants. Department legal staff were studying the Department of Revenue's standard contract for this procedure during the course of our 1996 review. In September 1998, this contract was finally signed. The agency should begin immediately matching databases.

The division has also assigned six inspectors to devote a portion of their time to seeking out unlicensed establishments, contacting the owners, and bringing them into compliance. Compliance helps ensure that licensees are educated about foodborne illness and other safety threats to the public welfare. Failure to license these establishments also deprives the program of an estimated $2.3 million a year in licensing fees used to support the program.

The division has made technological improvements. The division has developed a computerized enforcement tracking system that partially addresses the problem of repeat violators. This system lists licensees who, because of serious violations, must appear before division officials or risk such sanctions as emergency closures or fines. The tracking system enables the division to determine if it has had to take serious action with a particular violator in the past. While this information is important, the division needs a system that also flags repeat violations, not just violators. Such a system would better help the division know where to target its enforcement and education efforts.

The division has also made other technological improvements that have improved its general operations. These include purchasing 22 new personal computers, the ongoing development of a division-wide intranet system, and purchasing optical scanners. The division plans to convert its inspection reports to a "bubble" format which can be read by optical scanners and input directly into the computer. The scanners are expected to reduce data entry time and errors by clerical staff.

The division is developing measures to provide benchmarks for assessing its performance. These performance measures are to be incorporated into the agency's strategic plan and could enable managers to monitor the extent to which the program is achieving its stated purpose. The agency submitted its performance measures to be used for performance-based program budgeting to the Governor's Office of Planning and Budgeting in September 1998.

Action Not Taken

The division continues to lack an effective method of identifying and licensing temporary food service events. Although the division estimates that as many as 18,000 temporary food service events may be unregulated, it still has not developed any systematic plan or criteria for regulating these events. The division cites staff shortages and lack of knowledge about the events occurring as reasons for not regulating these events.

Developing formal criteria which categorizes temporary food service events by the types of food and number of people served, and basing inspection decisions on these criteria, would help the division address this problem. While not all temporary food service events require regulation, others clearly do. Events like church suppers may not require regulation. Seafood festivals that serve thousands and could potentially result in lethal foodborne illness do. A risk assessment would help address these issues.

Identifying and regulating these events might be easier if the division developed a risk-based

inspection program for its restaurants. Time saved by reducing inspections for those restaurants with exemplary sanitation and safety records would potentially provide staff more time to regulate temporary food service events.

Since the occurrence and location of temporary food service events throughout the year is somewhat predictable, the division could allocate its resources to account for the seasonal nature of these events. These events often occur during holidays and at spring break. Moreover, they are often issued operating permits by local governments. Using its criteria for the types of events to inspect, the division should work with local officials to find out when these events will occur and inspect them accordingly. The division continues to rely on an inadequate management information system.

At a cost of $600,000 a year, the division uses a management information system that was developed in the 1970s before the advent of personal computers. Two independent studies commissioned by the department in 1991 chronicled the high annual operating cost and inefficiency of this system.[4] These problems persist.

In general, the system does not provide management with the information it needs to efficiently and effectively regulate. Among its limitations, the system cannot readily run comparisons between inspectors and districts to identify inconsistent enforcement actions, analyze general enforcement trends, or flag those establishments showing serious repeat violations. In 1995, the FDA issued a report criticizing the division for not discouraging repeat violators, a criticism that could be more effectively addressed with a system that would automatically flag those establishments with successive critical violations.

To address this problem and other related agency-wide problems, the Department of Business and Professional Regulation is in the process of converting all of its divisions, including the Division of Hotels and Restaurants, to a new department-wide management information system. A four-phase conversion has the division scheduled for phase three, beginning July 2000.

Need for More Efficient Use of Vehicles

In our 1996 report, we reported that it is cheaper for the state to furnish cars to employees who drive more than 15,000 miles a year than it is to reimburse the employees 29 cents a mile.[5] The division's hotel and restaurant inspectors frequently use their own cars to drive to establishments they are inspecting. Eighteen of these inspectors are driving more than 15,000 miles a year. The division could realize a net savings of $91,963 by supplying cars with useful vehicle lives of three to six years to those inspectors driving over 15,000 miles a year.[6]

---

[4] *Strategic Information Planning Study* for the Florida Department of Business Regulation, Andersen Consulting Group, 1991; *An Assessment of the Computer Applications in the Department of Business Regulation*; Thomas James, Danny Hawkings, Gene Sherron, 1991.

[5] *Review of Personal Vehicle Use by State Employees*, Report No. 96-12, October 16, 1996. This report used the 1995 state vehicle contract price and a cost of capital rate of 5.7%. (The cost of capital rate, supplied by the Department of Insurance and Treasurer, was Florida's average earned interest yield for Fiscal Year 1995-96.) As provided by the Department of Management Services' Division of Motor Vehicle and Watercraft Management, the useful lives of these vehicles ranged from three to six years, depending on the mileage driven. Comparing reimbursement vs. new car purchases, net present value analysis showed state-owned vehicles to be the cheapest alternative for cars driven over 15,000 miles annually. Generally, the more miles a car was driven beyond 15,000 miles, the more savings were realized.

[6] This analysis used the same methodology as the previous study noted above. The updated cost of capital figure, supplied by the Department of Insurance and Treasurer, was 6.13%. The 1998 state vehicle contract price was supplied by the Department of Management Services.