



New York State Office of the State Comptroller
Thomas P. DiNapoli

Division of State Government Accountability

Dairy Inspections

Department of Agriculture and Markets



Report 2014-S-16

October 2014

Executive Summary

Purpose

To determine if the Department of Agriculture and Markets (Department) is adequately monitoring the inspection of dairy processing in New York State. The audit covered the period January 1, 2013 through July 21, 2014.

Background

The Department's mission is to foster a competitive food and agriculture industry that benefits producers and consumers alike. The Milk Control and Dairy Services Unit (Unit) within the Department is responsible for inspecting the State's dairy industry. Inspections performed by the Unit include farm, plant, bulk tank, pasteurization, and Certified Milk Inspector (CMI) inspections. CMIs are private contractors who are certified by the Department to inspect dairy farms and obtain milk samples in accordance with applicable State and Federal laws. Unit inspectors are required to evaluate these records quarterly. The Unit also responds to consumer and producer complaints, conducts and supervises the licensing of certified industry inspectors, and performs economic industry functions such as ensuring dairy products are properly represented in labeling and advertising and ensuring an adequate supply of milk for the public.

Key Findings

- The Unit performed approximately 6,000 inspections at almost 1,400 locations (e.g., plants, farms, bulk tankers) in calendar year 2013. Despite staffing shortages, the Unit does not have a backlog of safety inspections; all mandated inspections had been completed for 2013. However, the staffing shortfalls have required the Unit to cut back on other activities or goals it also considers important to quality control and safety such as delivery vehicle inspections, plant raw and pasteurized milk sampling, and butterfat testing.
- Inspectors consistently rated establishments in accordance with prescribed procedures and followed the appropriate disciplinary action (e.g., imposing fines) when required.
- The Unit's inspections database is incomplete. Unit management cannot perform trend analysis or a variety of other useful analyses on complete inspection information. The effectiveness and efficiency of the Unit could be improved if managers and supervisors had access to complete data.

Key Recommendation

- Develop the current capabilities of the Milk Inspection Program database, in conjunction with the Office of Information Technology Services, to easily and readily store, access, and analyze all inspection information.

Other Related Audit/Report of Interest

[Department of Agriculture and Markets: Food Safety Monitoring \(2013-S-27\)](#)

State of New York
Office of the State Comptroller

Division of State Government Accountability

October 6, 2014

Mr. Richard A. Ball
Commissioner
Department of Agriculture and Markets
10B Airline Drive
Albany, NY 12235

Dear Commissioner Ball:

The Office of the State Comptroller is committed to helping State agencies, public authorities and local government agencies manage government resources efficiently and effectively and, by so doing, providing accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report of our audit entitled *Dairy Inspections*. The audit was performed 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.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

Office of the State Comptroller
Division of State Government Accountability

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Background

The Department of Agriculture and Markets' (Department) mission is to foster a competitive food and agriculture industry that benefits producers and consumers alike. The Milk Control and Dairy Services Unit (Unit) is responsible for inspecting the State's dairy industry. Inspections performed by the Unit include farm, plant, bulk tank, pasteurization, and Certified Milk Inspector (CMI) inspections. CMIs are private contractors certified by the Department to inspect dairy farms and obtain milk samples in accordance with applicable State and Federal laws. Unit inspectors are required to evaluate these records quarterly. The Unit also responds to consumer and producer complaints, conducts and supervises the licensing of certified industry inspectors, and performs economic industry functions such as ensuring dairy products are properly represented in labeling and advertising and ensuring an adequate supply of milk for the public.

The Unit created a Milk Control Manual (Manual) that establishes the internal processes and procedures for conducting its mandated inspections as well as other non-mandated activities. Mandated inspections are conducted according to the frequency established by the Food and Drug Administration (FDA) in its Grade "A" Pasteurized Milk Ordinance (PMO); the majority of inspection types are to be done every 90 days. The Unit rates establishments on a scale from 1 to 4 for each inspection. A rating of "1" or "2" denotes only minor or incidental violations. A rating of "3" or "4" denotes major violations; a rating of "4" is given only when extraordinary action is needed, such as terminating operations.

Audit Findings and Recommendations

Inspections

The Unit, as of April 2014, is operating with 30 inspectors and has 10 positions vacant. Also, between July 2008 and March 2014 the Unit's Assistant Director position was vacant, leaving the Director to assume both roles in the interim. Despite these shortfalls, we found mandated safety inspections had been completed for calendar year 2013, with the Unit performing approximately 6,000 inspections on almost 1,400 establishments (e.g., plants, farms, bulk tankers). While the Unit has managed to complete all mandated safety inspections, the staffing shortfalls have required the Unit to cut back on other activities and goals it also considers important to quality control and safety. The Unit has had to prioritize its efforts, and certain activities not mandated by the PMO, such as delivery vehicle inspections, plant raw and pasteurized milk sampling, and butterfat testing, have been reduced in order to complete the mandated inspections. For example, the Unit conducted only about 40 labeling reviews in the 2013 calendar year. While not mandated by the PMO, labeling reviews verify that information such as ingredients, nutrition information, and coloring specifics are displayed as required to consumers.

We reviewed inspection data and conducted site visits to determine if facilities were rated consistently, in accordance with established procedures, and if proper disciplinary actions were being taken when necessary. We selected a sample of 27 establishments that received a rating of "3" or greater. We found the Unit took appropriate legal action (e.g., imposing fines) when required.

Our review of inspection data showed very few establishments received major violations (i.e., ratings of "3" and "4"). Specifically, 14 of 28 inspectors (50 percent) rated less than 5 percent of their establishments as "3." For the remaining inspectors, ratings ranged from 5 percent to 39 percent. Both officials and inspectors stated that the number of "3" and "4" ratings has decreased because many of the problem facilities have been eliminated (i.e., closed their business). Additionally, officials stated that geographic location may have played a part in the variances in ratings. We did concur that the inspector who gave out the highest number of "3" ratings was located in New York City where, officials stated, there are problems with some of the smaller dairy producers.

We conducted site visits at six establishments which were judgmentally selected based on the ratings they received. We reviewed the inspection process with four inspectors at each facility and found the inspectors consistently and correctly applied criteria when assessing each facility. Also, we found the on-site condition matched the previous ratings given. For example, those establishments that historically received a rating of "1" had few if any problems and received the same rating again. Similarly, locations that had previously received a rating of "3" demonstrated problems that once again warranted a similar rating.

Database Capabilities

As of June 2014, the Unit did not have a single database capturing a complete record of all dairy inspections conducted. The Unit utilizes a Milk Inspection Program (MIP) database for recording and retaining inspection reports. However, the database is incomplete and does not maintain information for inspections requiring complex reports; these reports are kept electronically as spreadsheet files in a separate location. Therefore, analytics such as trend analysis cannot be performed on the entire inspection population.

Management uses its inspectors' daily activity log (Dailies) database to perform certain monitoring functions. This database contains information about each inspector's work activities: for example, types of inspections performed, amount of time spent on report writing, travel, training, and administrative functions. Management uses this information to closely monitor the inspectors by determining inspector productivity and other essential analytics. We reviewed the inspectors' activity log data for calendar year 2013 and found no issues or inconsistencies with inspector activity. However, the Dailies database does not include information regarding establishment inspection ratings (i.e., 1, 2, 3, or 4). At this time, inspection ratings can be found in the actual inspection reports, which are housed in either the MIP database or the spreadsheet files.

The databases' weaknesses do not pose an apparent risk to the Unit's ability to perform dairy inspections or to ensure public safety, based on our analysis of inspection data for calendar year 2013, which showed no backlog of inspections. However, the effectiveness and efficiency of the Unit could be improved if managers and supervisors had better access to all useful data. For example, they could perform analyses on complete MIP data, which would include inspection ratings not currently available in the Dailies database. Trend analysis and analytics can show weaknesses or anomalies in operating activities that are not otherwise apparent, allowing management and staff to adjust activities to focus resources in a more effective manner.

Department officials stated they will be working with the New York State Office of Information Technology Services (ITS), which has a memorandum of agreement with the Department to provide all information technology services, to develop the capabilities of the MIP database to include all types of inspection reports. Officials stated ITS is expected to begin work on the project in July 2014. Officials stated that this work was previously delayed due to staffing restrictions.

Recommendation

1. Develop the current capabilities of the MIP database, in conjunction with the Office of Information Technology Services, to easily and readily store, access, and analyze all inspection information.

Audit Scope, Objective, and Methodology

The objective of our audit was to determine if the Department of Agriculture and Markets is adequately monitoring the inspection of dairy processing in New York State. The audit covered the period January 1, 2013 through July 21, 2014.

To accomplish our objective, we interviewed Department officials, examined Department inspection records, visited establishments, and reviewed the Department's policies and procedures. We familiarized ourselves with the internal controls related to dairy inspection and assessed their adequacy related to our testing, and analyzed Department data to evaluate frequency and timeliness of inspections, inspectors' activities, and response to consumer complaints, for the period January 1, 2013 through December 31, 2013. Specifically, we identified the number of inspections needed for establishments, bulk tankers, pasteurizers, and quality control reviews using the inspection rates established in the PMO and determined if there was a backlog of inspections.

We performed data reliability testing on three of the Department's data systems that contained data pertinent to our audit objective. We encountered significant issues in testing the reliability of the inspection data due to an error in how the data was originally compiled. However, after using the Dailies database to verify the number of inspections, we were able to obtain a data population we consider reasonably accurate and reliable for testing. There are some variances in the totals for vat pasteurization inspection numbers due to the difference between our calculations and the Department's. We concluded this was merely a difference in interpretation of the inspection data and did not affect the data or our testing. Also, there were variances due to beginning-of-year and end-of-year timing, but we found these to be inconsequential. We found the consumer complaint database was missing data fields when compared to the original consumer complaints received; however, since there were only 53 complaints for calendar years 2013, we were able to add in the missing fields from the inspection documents to make the data accurate and reliable for testing. The inspector's daily activity log data was of undetermined reliability as we had no source documentation to test against. We cannot conclude on the completeness of the three data systems we tested; however, this was not a significant restriction to our audit testing.

We conducted our performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

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

The audit was performed pursuant to the State Comptroller's authority under Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

Reporting Requirements

A draft copy of this report was provided to Department of Agriculture and Markets officials for their review and comment. Their comments were considered in preparing this final report and are attached at the end of this report.

Within 90 days after final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the Department of Agriculture and Markets 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 recommendation contained herein, and if the recommendation was not implemented, the reasons why.

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Vision

A team of accountability experts respected for providing information that decision makers value.

Mission

To improve government operations by conducting independent audits, reviews and evaluations of New York State and New York City taxpayer financed programs.

Agency Comments



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Andrew M. Cuomo
Governor

Richard A. Ball
Commissioner

September 18, 2014

SENT BY EMAIL

Mr. John Buyce
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110 State Street, 11th floor
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Re: 30 Day Response to Draft Audit Report
Dairy Process Monitoring (2014-S-16)

Dear Mr. Buyce:

We have reviewed the Draft Audit Report 2014-S-16 *Dairy Process Monitoring* issued by your office and concur with the findings and recommendation as presented in the report. Below is the Department's response to the one recommendation made in the report.

Recommendation 1: Develop the current capabilities of the Milk Inspection Program (MIP) database, in conjunction with the Office of Information Technology Services, to easily and readily store, access, and analyze all inspection information.

Response: The Office of Information Technology Services (ITS) approved the Department's Project Request in May 2014 with a July 2014 start date. ITS programming staff have begun a system analysis including a review of the data elements to be included in this upgrade for the MIP Database. The results will be utilized to prepare the Project Design Plan. The project is expected to be completed by July 2015.

Thank you for the contribution you and your audit staff make toward assisting agencies in advancing their mission including their responsibility to maintain a sound system of internal controls.

Should you need additional information, kindly contact Casey McCue, Director of the Milk Control and Dairy Services at (518) 457-1772.

Sincerely yours,

Richard A. Ball
Commissioner