A Report
to the
Montana
Legislature

Performance Audit

Inspection and Enforcement Activities for Retail Food Establishments

Department of Public Health and Human Services

November 2010

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10P-06

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November 2010

The Legislative Audit Committee
of the Montana State Legislature:

This is our performance audit of Inspection and Enforcement Activities for Retail Food Establishments managed by the Food and Consumer Safety Section in the Department of Public Health and Human Services.

This report provides the Legislature information about inspection and enforcement activities conducted for the retail food program. This report includes recommendations for improving retail food establishments' inspection and enforcement activities by complying with state law and utilizing existing management information at the Food and Consumer Safety Section.

We wish to express our appreciation to the Food and Consumer Safety Section personnel for their cooperation and assistance during the audit.

Respectfully submitted,

/s/ Tori Hunthausen

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Legislative Auditor

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Appointed and Administrative Officials

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MONTANA LEGISLATIVE AUDIT DIVISION

PERFORMANCE AUDIT

Inspection and Enforcement Activities for Retail Food Establishments

Department of Public Health and Human Services

NOVEMBER 2010 10P-06 REPORT SUMMARY

The Department of Public Health and Human Services can increase public health protection and reduce unhealthful conditions at retail food establishments.

Context

The Food and Consumer Safety Section is administered by the Department of Public Health and Human Services. The section is responsible for providing public health protection through the delivery of technical services, education and training, and enforcement of health protection through local health departments serving Montana counties. The section goal is to prevent and eliminate conditions and practices at retail food establishments which can potentially endanger public health.

To achieve this goal the section is repsonsible for ensuring retail food establishments are licensed. In 2009, the section licensed 7,670 retail food establihsments. The money collected from licensing fees is used to fund program operations and reimburse local boards of health for annual inspections conducted on the establishments by county sanitarians.

Annual inspections on retail food establishments are required by state law and must be completed by either state or local health officers. Inspections are completed on establishments in order to detect and document risk factors that could increase the likelihood of waterborne and foodborne illnesses. These risks include the following: food from unsafe sources, time/temperature of food, cross contamination, and poor employee hygeine.

Results

Audit work found annual inspections are not always occurring as required in statute. For example, in fiscal year 2009, only 84 percent of retail food establishments in Montana were inspected. There were no counties in fiscal year 2009 where annual inspections were completed on all retail food establishments.

Audit work also indicated program operations could be further improved by reviewing and verifying existing management information collected by the section. For example, quarterly inspection reports from county sanitarians could be reviewed and verified in order to comply with statutory responsibilities regarding inspections on retail food establishments.

Management has improved some of the Food and Consumer Safety Section operations, such as priortizing the collection of annual license fees that were delinquent. The section increased the amount of license fees collected by $27,516 in 2009. Additionally, during the course of our audit work, the section began establishing a food safety task force or advisory council as outlined in statute.

To address concerns found during our audit work, we made recommendations to improve program operations, which include the following:

- Develop a plan to comply with state law regarding inspections on retail food establishments.
- Establish a food safety task force or advisory council.

- Review quarterly inspection reports.
- Verify inspections are being conducted.
- Assure balance remaining from license fees is being used for program operations.
- Verify which counties have elected to participate in the retail food program payment schedule.

Recommendation Concurrence	
Concur	3
Partially Concur	0
Do Not Concur	0

Source: Agency audit response included in final report.

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Chapter I – Introduction

Introduction

The Food and Consumer Safety Section (section) is administered by the Public Health and Safety Division in the Department of Public Health and Human Services. The section is responsible for providing public health protection through the delivery of technical services, education and training, and enforcement of health protection through local health departments serving Montana counties. The goal of the section is to reduce the incidence of diseases which may occur as a result of unhealthful conditions present at the facilities overseen by the section. The section oversees the following programs:

- Food, Drug, and Cosmetics
- Pool and Spas
- Public Accommodations
- Body Art
- Retail Food
- Wholesale Food
- Trailer Courts and Campgrounds

Based on legislative interest regarding the equity of retail food establishment license fees as they are charged to the many different types of food service establishments and the extent to which local governments are being obligated to pay for retail food establishment inspection activities, we focused our initial assessment work on operations involving retail food establishments.

The Retail Food Program (program) is responsible for regulating retail food establishments in order to prevent and eliminate conditions and practices which can potentially endanger public health and occur at retail food establishments. These include factors that increase the risk of unsafe food sources and practices which may lead to foodborne and waterborne illnesses and cause public health concerns. Additionally, the program is responsible for licensing retail food establishments, collecting license fees, and dispersing funds to counties.

Audit Objective

Our initial assessment work focused on determining the extent to which local and state governments are responsible for paying for inspections on retail food establishments and how different establishments are charged for their license fees. License fees were raised during the 2009 legislative session to increase funding for program operations.

Furthermore, the Association of Montana Public Health Officials conducted a county survey in 2009 which determined the department is generally reimbursing counties 25-30 percent of the cost of inspections from fees collected from licensing establishments. Our initial assessment work identified other risks associated with compliance of state law and public health safety. We developed the following objective for evaluating the program:

- Determine whether current Food and Consumer Safety Section inspection and enforcement activities for the Retail Food Program meets public protection as outlined in statute.

Audit Scope and Methodologies

The scope of the audit focused on issues related to the section's retail food program inspection and enforcement activities. Audit work examined whether the program is being managed in order to achieve the outcome of protecting public health. Audit work also examined if the program's inspection and enforcement activities comply with state law. In order to accomplish our audit objective, we reviewed department documents for fiscal year 2008 and for fiscal year 2009. The following methodologies were completed during our audit:

- Reviewed laws, rules, policies, and procedures applicable to section inspection programs, including retail food establishments.
- Interviewed section staff to determine their program responsibilities.
- Interviewed county sanitarians to determine their role in the program.
- Reviewed other states' retail food programs to determine similarities and differences between program responsibilities.
- Reviewed quarterly inspection reports for fiscal year 2008 and fiscal year 2009 to determine whether inspections on retail food establishments are occurring.
- Reviewed establishment inspection lists for fiscal year 2008 and fiscal year 2009 to determine the number of delinquent retail food establishments.
- Reviewed information from a study group formed by the section to review program issues.
- Reviewed program expenditures and revenues for fiscal year 2008 and fiscal year 2009.
- Reviewed a survey on local government funding for inspection programs conducted by the Association of Montana Public Health Officials.
- Reviewed a 1996 performance audit on the Food and Consumer Safety Section.

Report Organization

The report contains four chapters. Chapter II provides a brief description of the state and local shared responsibility for the program as well as presents background information on funding for the retail food program. Chapter III provides information and presents recommendations related to the program's statutory responsibilities. Chapter IV provides information and presents recommendations related to the program's use of management information to effectively manage the program.

Chapter II – Program Background

Introduction

This chapter provides an overview of the program, the shared responsibility outlined in statute between the state and local government to protect public health through inspections of retail food establishments, and how the program is funded.

Retail Food Program

The program is responsible for licensing retail food establishments and also provides training and information to county sanitarians regarding retail food inspection activities. A retail food establishment is a fixed or mobile restaurant where food or drink is prepared and served to the public. Per state law, a person operating an establishment shall procure an annual license from the department. In 2009, the department licensed 7,670 retail food establishments. The money collected from the license fees is used to fund program operations and annual inspections conducted at the establishments. There are eight staff members in the Food and Consumer Safety Section, which include a section supervisor, one program manager for each of the four programs, two licensing and administrative staff, and a training coordinator. Program managers are licensed sanitarians and are responsible for training and educating county sanitarians.

State and Local Shared Responsibility

The department has a shared responsibility regarding inspections on retail food establishments with local governments in order to assure the protection of public health against illnesses and counter threats to the health of the public at large. This responsibility is outlined in §50-50-301(1), MCA, which requires both state and local health officers, sanitarians-in-training, and registered sanitarians investigate and inspect retail food establishments once a year and make reports to the department. Inspections are completed on retail food establishments in order to detect and document risk factors that include:

- Food from unsafe sources
- Time/temperature management
- Cross contamination
- Poor employee hygiene

Per statute, this is a state and local shared responsibility. However, in practice the local boards of health have county sanitarians inspect retail food establishments throughout the counties. As defined in statute, local boards of health are a county, city, city-county, or district board of health. The local boards of health either employ a county sanitarian

or contract with a neighboring county's sanitarian to conduct inspections on retail food establishments. Historically, one of the section's primary roles in inspection activities for retail food establishments is to reimburse the counties through their local boards of health for the inspections completed by county sanitarians.

State and Local Shared Funding

The department is responsible for reimbursing local boards of health for inspection activities from a Local Board Inspection Fund (LBIF) created by the department. The funds used to reimburse the local boards of health come directly from annual license fees collected for retail food establishments. A small percentage of the license fees for retail food establishments are also used to fund the retail food program.

State Funding

As required by §50-50-205(1)(a), MCA, 90 percent of all license fees must be deposited into the LBIF, five percent into the state's General Fund, and five percent into a state Special Revenue Account. The table below illustrates the current costs for license fees and how they are distributed to the different accounts as outlined in statute.

Table 1
Annual License Fees for Retail Food Establishments

# of Employees	Fee Per License	90% Allocated to the Local Board Inspection Fund	5% Allocated to the General Fund	5% Allocated to a Special Revenue Account*
2 or less	$85	$76.50 per license	$4.25	$4.25
>2	$115	$103.50 per license	$5.75	$5.75

* Late fee charges ($25 per expired license) are allocated to the Special Revenue Account.

Source: Compiled by the Legislative Audit Division from information from Montana state law.

In accordance with §50-50-305, MCA, the department shall pay to a local board of health an amount from the LBIF account to be used only for inspecting establishments licensed under the chapter and enforcing the provisions of the chapter as long as there is a functioning board of health as required by law. In fiscal year 2009, the program deposited $529,308 in retail food establishment license fees into the LBIF. The program reimbursed counties $486,651 for their inspection activities conducted on retail food establishments. A balance of $42,657 remained in the LBIF. As indicated in statute, this balance can be used by the department to carry out provisions of the chapter, which may include inspection and enforcement activities.

County Funding

A study from the Association of Montana Public Health Officers of inspection costs for all food and consumer safety programs determined program license fees are covering 25-30 percent of inspection costs for all programs in the Food and Consumer Safety Section. The remaining costs for the inspection activities are absorbed by the counties. The retail food program has the most licensed establishments in the program. Therefore, most of the inspection costs are generated from the program.

Presently, most counties are reimbursed for their inspection activities through the means of a cooperative agreement payment schedule between the department and the local boards of health. As indicated in §50-50-104, MCA, the department may enter into cooperative agreements with other state agencies and other political subdivisions of the state to carry out chapter provisions. The cooperative agreement payment schedule has been in existence for approximately two years. The cooperative agreement includes payment schedules for all programs in the section, including the program. Counties must sign and return the cooperative agreement to the department in order to participate. If counties elect not to sign the cooperative agreement they are then reimbursed per inspection completed. The following table illustrates the retail food program payment schedule as outlined in the cooperative agreement.

Table 2
Retail Food Program Payment Schedule

Percent of Licensed Establishments Inspected by the County During the Licensure Year	Local Board Inspection Fund Disbursement by Percent
90%-100%	100%
85%-89%	90%
80%-84%	85%
75%-79%	83%
Below 75% will result in a payment per inspection completed.	

Source: Compiled by the Legislative Audit Division from department program records.

Prior to the cooperative agreement, counties were reimbursed for retail food inspections per each inspection they completed. The retail food program payment schedule was established by the department in order to give the counties an incentive by providing a larger percent of eligible reimbursed monies for the amount of inspections completed per county.

Chapter III – Statutory Responsibilities Relating to Inspection and Enforcement Activities

Introduction

As part of our audit work, we evaluated how the department meets its responsibilities relating to retail food establishment inspections and enforcement activities as outlined in state law. This chapter concludes on whether the department is meeting its responsibilities as outlined in statute and presents two recommendations to the department.

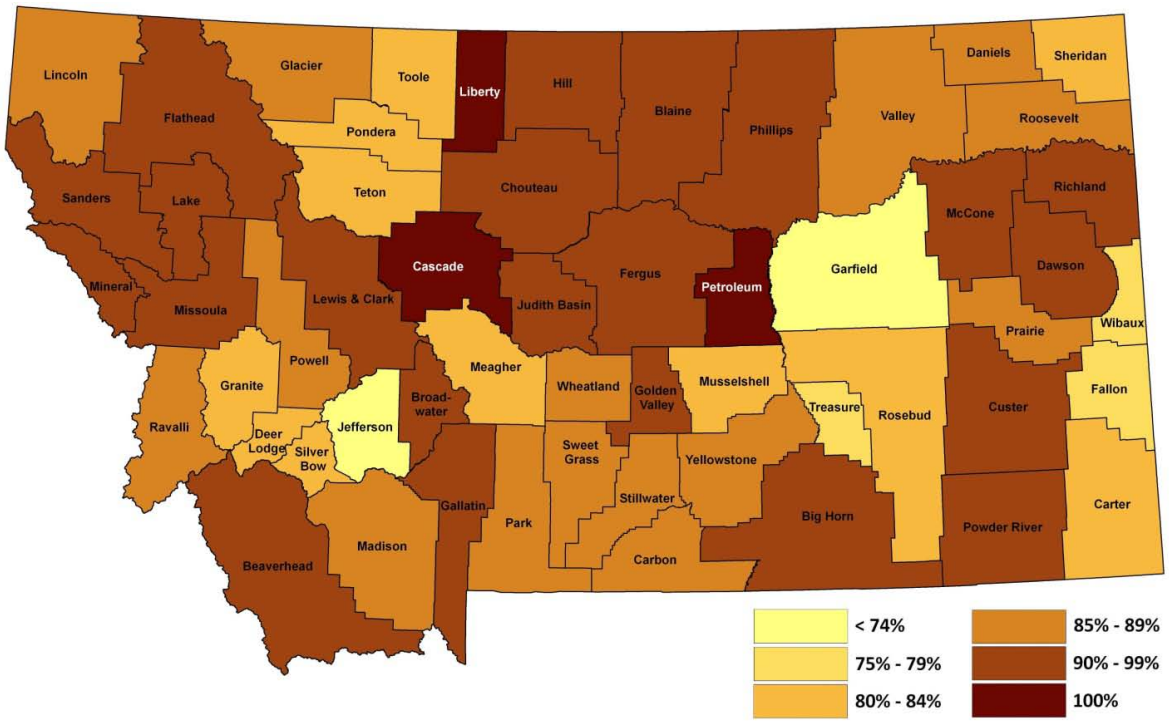
Retail Food Establishments Must Be Inspected Annually

In order to protect the public from waterborne and foodborne illnesses that can be spread through food and water contamination, inspections on retail food establishments must be completed annually. According to §50-50-301, MCA, state and local health officers, sanitarians-in-training, and registered sanitarians shall make investigations and inspections of establishments once a year and make reports to the department as required under rules adopted by the department. The department sends spreadsheets listing all licensed retail food establishments on a quarterly basis to county sanitarians responsible for inspecting retail food establishments. County sanitarians are responsible for marking which establishments they have inspected and on what date the inspections were completed on these spreadsheets. These spreadsheets are then sent back to the department to update quarterly inspection reports.

Annual Inspections Are Not Always Occurring

As part of our audit work, we reviewed quarterly inspection reports for the last two fiscal years in order to determine if they were being conducted as outlined in statute. Our audit work indicated in fiscal year 2008, 90 percent of retail food establishments in Montana received one inspection by a county sanitarian. Only two out of the 56 counties inspected 100 percent of the retail food establishments in their county for fiscal year 2008. The following map illustrates the percentage of inspections completed in each county.

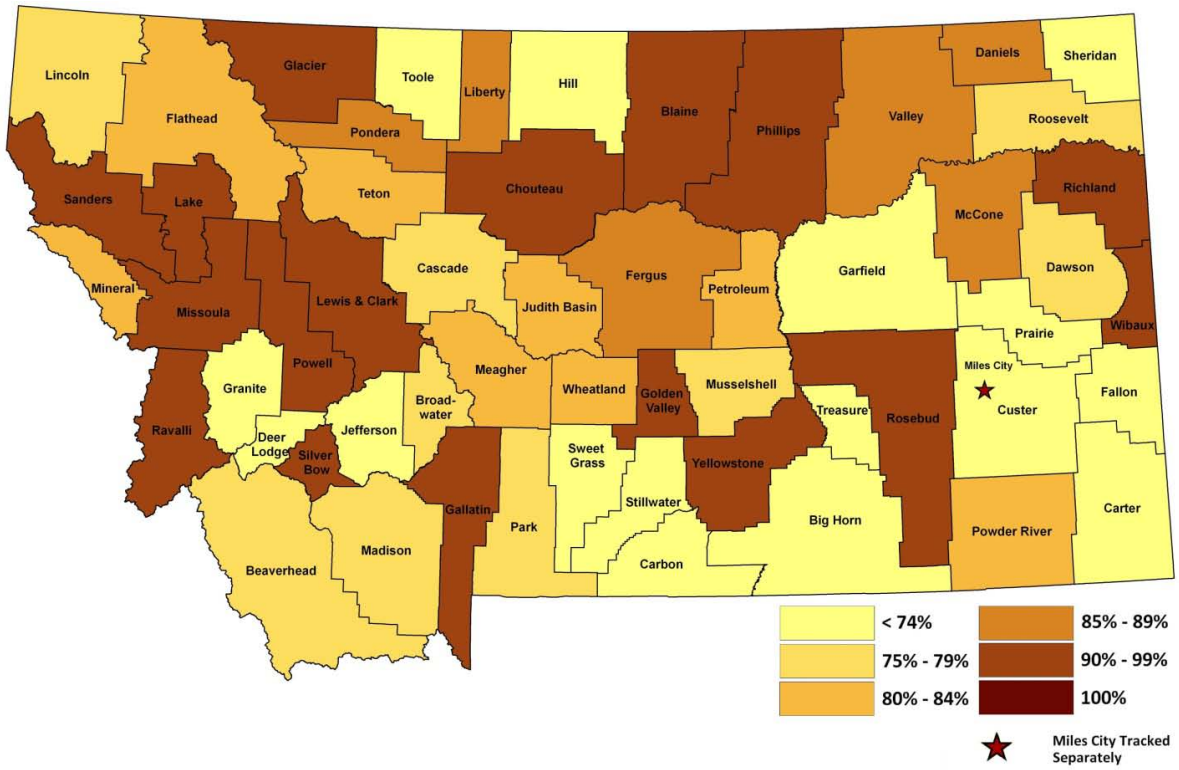
Figure 1
Percentage of Retail Food Inspections Completed By County
(Fiscal Year 2008)



Source: Compiled by the Legislative Audit Division from department program records.

Our audit work indicated in fiscal year 2009, 84 percent of retail food establishments in Montana received one inspection by a county sanitarian. There were not any counties that inspected 100 percent of the retail food establishments in their county for fiscal year 2009. The following map illustrates the percentage of inspections completed in each county for fiscal year 2009.

Figure 2
Percentage of Retail Food Inspections Completed By County
(Fiscal Year 2009)



Source: Compiled by the Legislative Audit Division from department program records.

As the maps above illustrate, annual inspections were not completed on all retail food establishments for fiscal year 2008 and fiscal year 2009, in accordance with state law. As outlined in statute, inspections are a shared responsibility between state and local governments. However, retail food establishment inspections have historically been conducted by county sanitarians, and have not been conducted by the department's retail food program staff.

Other Food and Consumer Safety Programs Inspect Establishments

Other Food and Consumer Safety programs have the same shared statutory responsibility with local governments to ensure inspections are completed for their particular program. However, unlike the Retail Food Program, other program staff engage in inspections throughout the year. For example, the department has a cooperative agreement with one local government which states the department will

assume all responsibility associated with the regulation, inspection, and approval of products for a particular wholesale food manufacturing facility. The cooperative agreement was established because the county did not have adequate resources to inspect this wholesale establishment. Additionally, there are other programs within the section, such as the Pool and Spas and Body Art programs, where counties have been given the option of choosing whether or not to inspect the establishments in the program. If counties choose not to inspect the establishments within their program, the responsibility lies with the department to complete the inspections.

Program Needs to Work With Local Boards to Comply With State Law

While the program compiles quarterly inspection reports from the counties, the information is only used to determine the amount of reimbursement the counties are eligible to receive as outlined in the cooperative agreement payment schedule. The program does not use this information to determine which retail food establishments have not been inspected throughout the state. Historically, the program has not worked with the local boards of health to comply with state law regarding inspections on retail food establishments. For example, in fiscal year 2008, one county did not inspect any retail food establishments. This issue went unknown until the local board of health realized they had not received reimbursement funds for retail food establishment inspection activities from the program.

Inspections are completed on retail food establishments in order to protect public health against foodborne and waterborne illnesses. These illnesses are typically caused by improper food handling, which may be identified when sanitarians complete inspections on establishments. Without the proper inspection frequency, establishments could be at risk for serving unsafe food. As indicated in state law, inspection activities should be conducted by state or local health officers. In order to comply with state law regarding inspection activities, the program should work with the local boards of health to develop a plan to comply with state law regarding inspections on retail food establishments.

RECOMMENDATION #1

We recommend the department develop a plan to comply with statutory responsibilities outlined in §50-50-301, MCA.

Food Safety Task Force or Advisory Council

Section 50-50-103, MCA, states the department shall establish a food safety task force or advisory council to assist in the development of administrative rules or to review any proposed legislation related to the provisions of the chapter. State law also requires the task force or advisory council be composed of equal numbers of representatives of state and local government and industry. The department shall present administrative rules and any legislation to be proposed by the department to the task force or advisory council prior to its proposal or introduction. In 2009, statutory changes occurred which required the department to provide copies of legislation for review to the task force or advisory council and to provide to the legislature any comments of the task force or advisory council when the department learns of proposed legislation related to the provisions of the chapter which has not been proposed by the department. While the section has not established a food safety task force or advisory council, they have established a group which discusses section issues with state and local representatives.

Food and Consumer Safety Study Group

In the last two years, the section has been working to establish positive relationships between the section and county sanitarians. In order to establish this relationship, section staff developed a Food and Consumer Safety Study Group. The group was formed in 2008 and consists of department staff and several county sanitarians. The study group's discussions have since evolved into reviewing the following issues within the section:

- Updates to statutory authorities and administrative rules.
- Data systems that support Food and Consumer Safety programs.
- State and local relationships.
- Long-term funding for the program.

The section's efforts to improve relationships with local sanitarians are important. However, in order to assist in the development of administrative rules and review any proposed legislation, the section should establish a food safety task force or advisory council in accordance with state law.

Section Is Contacting Industry for Membership

Section 50-50-103, MCA, requires the food safety task force or advisory council be composed of equal numbers of representatives for the food industry and representatives of state and local government. During the course of our audit work, the section began soliciting industry members in October 2010 for membership. It will be important for the section to establish the food safety task force or advisory council prior to the next legislative session, in order to be in compliance with state law when reviewing any proposed legislation for the program.

RECOMMENDATION #2

We recommend the department establish a food safety task force or advisory council as outlined in §50-50-103(2)(b), MCA.

Chapter IV – Management Information

Introduction

As part of our audit work, we evaluated management information collected by the program staff to determine how it is used to guide program operations. This chapter presents our findings related to how the program can improve the use of existing management information in order to help guide program operations. The chapter presents one recommendation to the department.

Use of Management Information Can Be Improved

Management is responsible for establishing and maintaining agency internal controls, which are used by managers to ensure programs operate efficiently and effectively, and are in conformance of state laws. As part of these controls, it is essential for management to both utilize and verify management information to make sure a program is achieving intended results.

Over the course of our audit work, we noted the department historically has not used or verified existing management information to effectively manage the operations of the program. As previous chapters illustrated, this has resulted in noncompliance with state law regarding inspections on retail food establishments. The department has focused on other statutory responsibilities such as operating the licensing program for retail food establishments, reimbursing local boards of health for their county sanitarians inspection activities on these establishments, and providing technical assistance and training to the county sanitarians.

Management Information Could Help Guide Program Operations

The following management information is already available to program staff but has not been used to determine the effectiveness of the program:

- Quarterly inspection reports.
- Balance of remaining retail food establishment license fees in the Local Board Inspection Fund
- Counties participating in the Retail Food Program payment schedule

Quarterly Inspection Reports Are Not Reviewed

As previously discussed, the program does not use quarterly inspection reports to track which retail food establishments have not been inspected throughout the year. Rather, the program only uses this information to track the amount of reimbursements the counties are eligible to receive for inspection activities. The program also does not verify

retail food establishments are being inspected. This could provide county sanitarians an incentive to self-report more inspections than are being completed, because the payment schedule reimburses counties based on a percentage of inspections completed.

Local Board Inspection Fund Balance

The LBIF is used to reimburse the local boards of health for all section inspection activities. According to state law, the balance can be used to carry out provisions of the chapter. Our audit work indicated as of fiscal year 2009 there was a balance of $70,504 in the LBIF, with $42,657 coming directly from retail food establishment license fees for fiscal year 2009. The program purchased an upgrade to enhance the existing computer system with the fund balance in fiscal year 2010. Remaining fund balances in the LBIF should be reviewed in order to identify additional resource needs for the section. For example, remaining LBIF funds could be used to fund inspections on retail food establishments that are not being inspected by county sanitarians.

Managing County Reimbursement

The cooperative agreement payment schedule between the department and the local boards of health includes a payment schedule for retail food establishment inspection activities. If a county does not sign the cooperative agreement they are reimbursed per inspection completed. During our audit work, we found there were counties which had claimed they had signed the cooperative agreement, but the program did not include them in the signee list for the retail food establishment payment schedule. In order for the local boards of health to be reimbursed as outlined in the payment schedule, the section must receive a signed copy of the cooperative agreement. The section requested counties sign and return the cooperative agreements before December 19, 2009. As part of our audit work, we reviewed the program list of signed cooperative agreements and found there were eleven counties that did not sign the cooperative agreement for fiscal year 2010. Interviews with those counties indicated four out of those eleven counties did sign the cooperative agreement. Following audit work, the section contacted counties to remind them about signing and returning the cooperative agreement and received three signed cooperative agreements as of October 18, 2010. The section should develop a process to verify which counties have elected to participate in the cooperative agreement in order to make certain counties receive all eligible funds as outlined in the cooperative agreement.

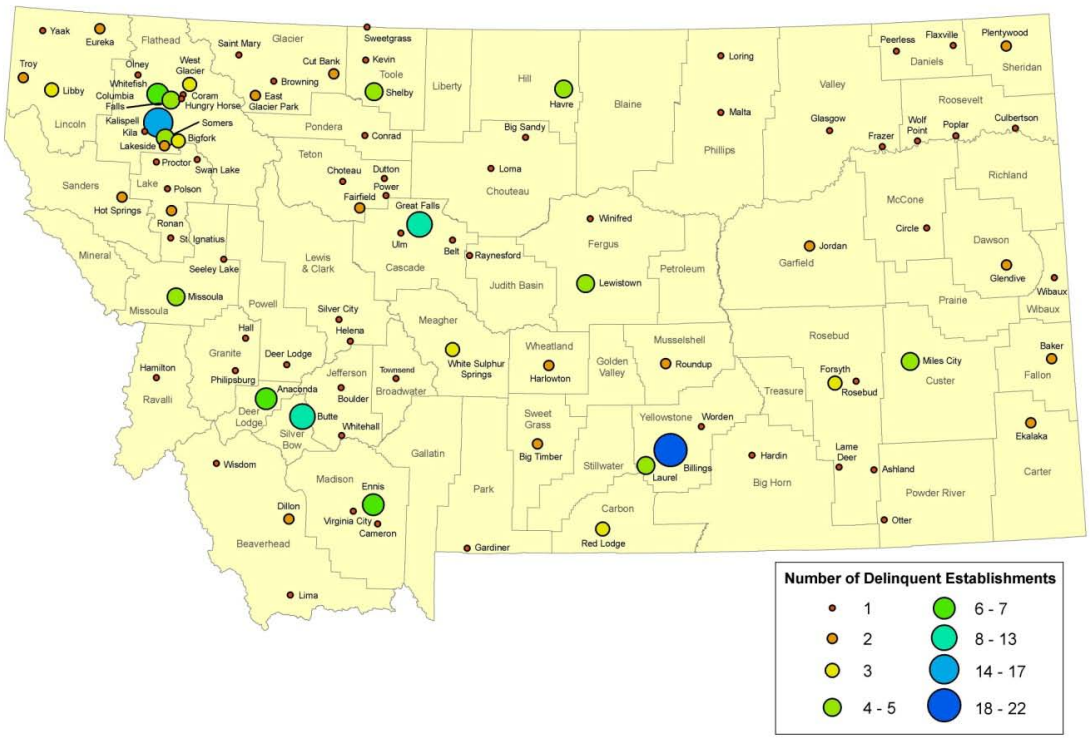
Use of Delinquent Establishment List Proven Successful

There are retail food establishments which do not pay their annual license fees. These establishments then become delinquent on paying their annual license fees for operating the establishments. Collecting license fee monies is essential for the funding of the program because 90 percent of the license fee is used to reimburse counties for their inspection activities and 10 percent is used to cover program costs.

As part of our audit work, we reviewed the program's delinquent retail food establishment list for fiscal year 2008 and fiscal year 2009. Our review indicated in fiscal year 2008, there was a total of $32,776 in uncollected license fees from delinquent establishments and in fiscal year 2009, there was a total of $5,260 in uncollected license fees from delinquent establishments.

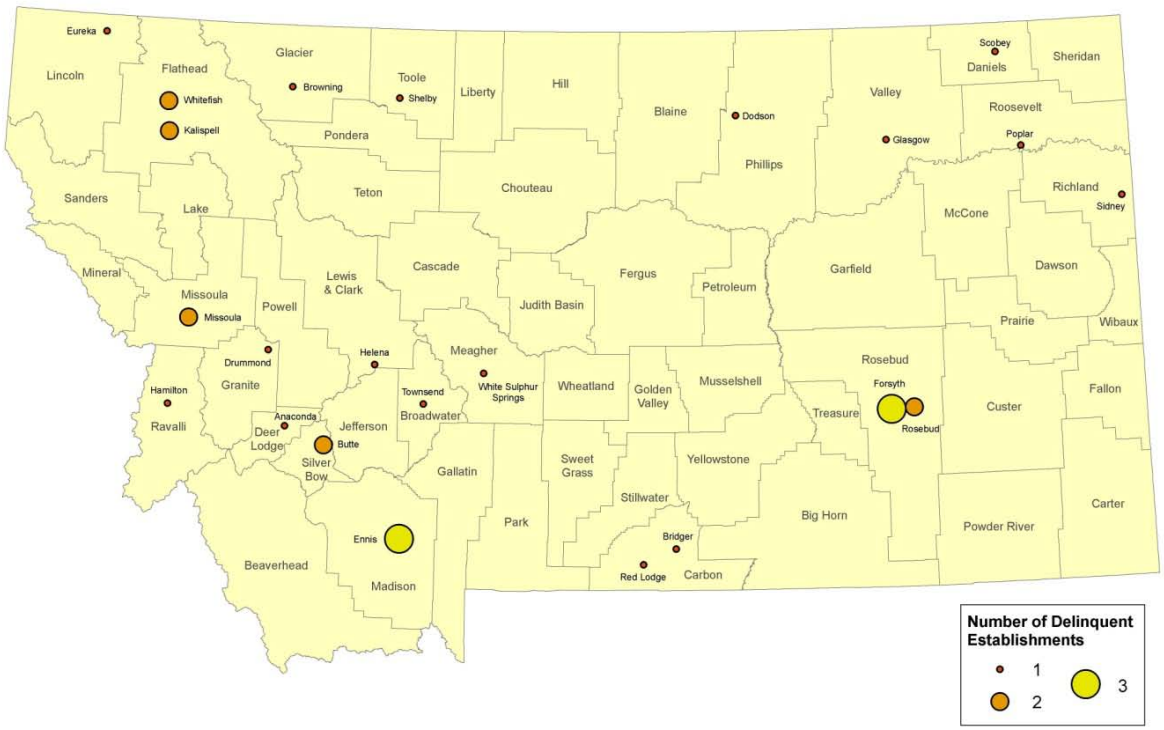
In fiscal year 2009, new program management made it a priority to collect delinquent license fees. In order to complete this task, program staff began utilizing the list they have of delinquent establishments in each county. They shared the list with county sanitarians, and the sanitarians began contacting delinquent establishment owners in attempts to collect the delinquent license fees. The maps below illustrate the number of delinquent establishments throughout the state for fiscal year 2008 and fiscal year 2009.

Figure 3
Number of Delinquent Retail Food Establishments by City
(Fiscal Year 2008)



Source: Compiled by the Legislative Audit Division from department records.

Figure 4
Number of Delinquent Retail Food Establishments by City
(Fiscal Year 2009)



Source: Compiled by the Legislative Audit Division from department program records.

As illustrated in the above maps, the section collected a large portion of the delinquent license fees from retail food establishments in fiscal year 2009 due to their utilization of the existing management information and enforcement help from county sanitarians.

Management Information Can Be Used to Improve the Program

The department has not prioritized the use of management information as a tool for ensuring the program is functioning as intended. As our audit work demonstrated, the program is not ensuring inspections on retail food establishments are occurring, nor is the program verifying the data in the quarterly inspection report is an accurate depiction of how many establishments are inspected by the county sanitarians. The program should be reviewing remaining LBIF funds to determine if the funds can be used to carry out provisions of the chapter. Additionally, the program has not verified which counties have elected to participate in the cooperative agreement. As illustrated

with the utilization of the delinquent establishment list, if management information is used it can improve program operations and compliance with state law.

RECOMMENDATION #3

We recommend the department ensure the program functions as intended by utilizing existing management information to:

A. *Review quarterly inspection reports to ensure inspections are being conducted, and verify information from county sanitarians is accurate.*

B. *Review remaining balance from retail food establishment license fees to evaluate available resources to meet provisions of the chapter, such as annual inspection requirements.*

C. *Verify which counties participate in the retail food program payment schedule.*

Department of Public Health and Human Services

Department Response

DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

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November 1, 2010

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Helena, Montana 59620-1705

Dear Ms. Hunthausen:

The Department of Public Health and Human Services has reviewed the Inspection and Enforcement Activities for Retail Food Establishments Performance Audit (10P-06) completed by the Legislative Audit Division. Our responses and corrective action plans for each recommendation are provided below.

RECOMMENDATION #1

We recommend the department develop a plan to comply with statutory responsibilities outlined in 50-50-301, MCA.

Response: Concur

Corrective Action: The department will work closely with local health jurisdictions to monitor and improve compliance with inspection schedules. As part of this effort, the department has initiated a review and feedback process to ensure that progress is monitored quarterly and results are shared with key local contacts. As part of this process, state staff will contact areas at-risk of non-compliance to identify barriers and assist as feasible to ensure compliance. Documentation of barriers identified, proposed solutions and actions taken at the state and local level will be maintained and made available for review. The first review was completed September 30, 2010 and the process will be ongoing.

Planned Completion Date: Complete

RECOMMENDATION #2

We recommend the department establish a food safety task force or advisory council as outlined in 50-50-103(2)(b), MCA.

Response: Concur

Corrective Action: The department has appointed a *Food Safety Advisory Council.* As required by statute, equal representation from food establishments and state and local government will be achieved. The Council will assist in the development and review of administrative rules or any proposed legislation from the department, and as added in 2009, will be asked to review and comment on any proposed legislation the department is aware of.

The department has not drafted or proposed any rule revisions or legislation in this area since 2001-2002. At that time, the department relied on the assistance of an advisory group as required by the statute. After the work was completed the group was disbanded with the intention of re-establishing as needed. However, changes in the statute made in 2009 require the availability of an advisory group to review any proposed legislation the department becomes aware of. As a result, DPHHS has been working to reestablish a council in preparation of the 2011 session and to assist with the department's work in this area.

Planned Completion Date: November 15, 2010

RECOMMENDATION #3

We recommend the department ensure the program functions as intended by utilizing existing management information to:

A. **Review quarterly inspection reports to ensure inspections are being conducted, and verify information from county sanitarians is accurate.**
B. **Review remaining balance from retail food establishment license fees to evaluate available resources to meet provisions of the chapter, such as annual inspection requirements.**

C. Verify which counties participate in the retail food program payment schedule.

Response: Concur

Corrective Action:

A. The department has recently implemented an internal review of quarterly inspection reports. Each quarter, staff review the number of inspections performed to monitor and report the progress of each county. The intent is to verify that inspections are being performed on a regular basis and identify any issues that may lead to lower inspection rates. If concerns are noted, state staff will contact the county sanitarian(s) to identify the cause and offer assistance. In addition to reviewing lists of inspections completed, FCS has initiated a process requiring the submission of a random sample of local reports each quarter. Reports are selected by FCS and reviewed by state staff. This process will assist the state program in verifying inspections have occurred as well as identifying potential training needs of sanitarians and establishment operators.

   Planned Completion Date: Complete

B. Balances from license fees collected and reimbursements to counties for inspections performed are currently monitored by the licensing staff. The department has directed staff to contact counties identified in quarterly inspection report reviews as deficient in inspection performance. The department may use available resources, including staff and fund balances, to assist the county in meeting inspection requirements.

   Planned Completion Date: Complete

C. The department has developed a Cooperative Agreement (agreement) outlining a payment schedule intended to improve compliance and reimbursement for required inspections. Each county has the option to sign and return the agreement to the department. To improve tracking, the department is now notifying each jurisdiction after receipt of a signed agreement. In addition, counties not submitting an agreement are contacted to verify their decision to not participate.

   Planned Completion Date: Complete

We appreciate the effort that your staff put into this audit and look forward to using these recommendations to continue improving operations within the Food and Consumer Safety Section.

Sincerely,

Anna Whiting Sorrell

Director

cc. Jane Smilie, Administrator
Jim Murphy. Bureau Chief
Melissa Tuemmler, Section Supervisor
Marie Matthews, Audit Liaison