



State of Rhode Island and Providence Plantations

Department of Administration  
BUREAU OF AUDITS  
One Capitol Hill  
Providence, RI 02908-5889  
TEL #: (401) 574-8170

March 22, 2013

Mr. Edward D'Arezzo  
Deputy Director  
Department of Health  
Three Capitol Hill  
Providence, RI 02908

Dear Mr. D'Arezzo:

The Bureau of Audits has completed its limited scope review of the status of the recommendations from our November 2011 Audit of the Office of Food Protection, Food Safety Program, Rhode Island Department of Health. Our limited scope status update review was conducted in accordance with Rhode Island General Laws §35-7-3. The categories of status included here in have been discussed with Dr. Ernest Julian, Chief of Food Protection and we have considered all comments in the preparation of our report.

RIGL §35-7-3(b) states, "... Within one year following the date on which the audit report was issued, the bureau of audits may perform a follow-up audit for the purpose of determining whether the department, agency or private entity has implemented, in an efficient and effective manner, its plan of action for the recommendations proposed in the audit report."

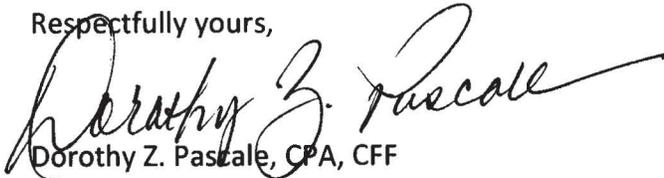
Mr. Edward D'Arezzo

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We would like to express our sincere appreciation to you and the management and staff of the Office of Food Protection, for the cooperation and courtesy extended to the members of our team during the course of this limited scope review.

Respectfully yours,

A handwritten signature in black ink, reading "Dorothy Z. Pascale". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Dorothy Z. Pascale, CPA, CFF

Deputy Chief

c—Dr. Ernest Julian, Chief, Office of Food Protection, Department of Health  
Kenneth Kirsch, Deputy Director, Department of Administration  
Peter Marino, Director, Office of Management and Budget  
Honorable Daniel DaPonte, Chairperson, Senate Committee on Finance  
Honorable Helio Mello, Chairperson, House Finance Committee  
Dennis Hoyle, CPA, Auditor General  
Tom Evans, State Librarian (5)

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## Executive Summary

The Bureau conducted a follow-up review to its November 2011 audit of the Office of Food Protection, Food Safety Program in accordance with Rhode Island General Law (“RIGL”) 35-7-3(b).

The Bureau categorized the status of the 17 recommendations to be:

- Complete 7
- Partially Complete 3
- Not Complete 4
- Constrained 3

The details of the prior recommendations and our related observations can be found in the *Status of Prior Recommendations/Corrective Actions* section of this limited scope review report.

## Objective

The Bureau of Audits (Bureau) conducted a follow up audit of the Office of Food Protection, Food Safety Program to assess and report the status of the recommendations in its November 2011 report. The follow-up was conducted as required by RIGL 35-7-3(b), “... Within one year following the date on which the audit report was issued, the bureau of audits may perform a follow-up audit for the purpose of determining whether the department, agency or private entity has implemented, in an efficient and effective manner, its plan of action for the recommendations proposed in the audit report.”

## Scope and Methodology

This limited scope review focused on the status of the recommendations reported in the November 2011 Audit of the Office of Food Protection, Food Safety Program. The Bureau did not perform additional auditing procedures or processes during this limited scope review.

Our work was limited to determining the implementation status of suggested improvements and classifying these recommendations into the following categories:

- **Complete:** The recommendation has been implemented as noted in the report.
- **Partially Complete:** The recommendation is in the process of being implemented
- **Not Complete:** The Office agrees with the recommendation but has not begun work.

- **Constrained:** The recommendation cannot be implemented due to limitations from sources other than the Office of Food Protection (i.e., RI law constraint, union contract work rule, etc.).

Whenever appropriate, an Observation paragraph is presented to further develop the status of the prior studies' suggestions and to present the Bureau's related explanations, and/or additional recommendations.

### **Introduction**

The Office of Food Protection (OFP) is a program within the State Department of Health. Its mission is to protect and promote public health and prevent disease by assuring the safety and quality of the food supply. The OFP employs inspectors who are responsible for the administration, implementation, and enforcement of the Food Code. These individuals have day-to-day contact with the food industry and are responsible for investigating food-borne illness complaints and performing the following types of inspections:

- New establishment/new license,
- New owner for an existing establishment,
- Establishment damaged by fire or flood,
- FDA contracted inspection,
- Routine inspection, and
- Re-inspection due to critical violations found during routine inspection.

Our limited scope review reports the changes made by the agency and recommendations implemented.

### **Status of Prior Recommendations/Corrective Actions**

The requirements of Rhode Island State Law are confusing as to whether Certified Food Managers need to renew the NRA ServSafe Certification subsequent to the five-year expiration date. [Finding 1]

Recommendation: The Bureau recommends that the OFP clarify its requirements in all written certification and renewal materials and on its website; and if possible, notify all current certified managers in food safety as to the State requirements.

Status: **Completed**

Discussion: The requirements for Food Safety Manager have been posted on the Office of Food Protection's website to reduce confusion. The application and instructions for Manager Certified in Food Safety have been updated to clearly state the Rhode Island certification is only valid for three years.

Current State requirement that food establishments hire a manager certified in food safety is deficient, in that in most cases it does not mandate a food safety manager to be present during the preparation of all potentially hazardous foods. [Finding 2]

Recommendation: The Bureau recommends that the OFP pursue legislation [possibly similar to House Bill 5086 introduced in the 2011 legislative session] requiring a manager certified in food safety be present during the preparation of all potentially hazardous foods.

**Status: Constrained**

Discussion: The Office of Food Protection is in support of legislation requiring a manager certified in food safety be present during preparation of all potentially hazardous foods.

Bureau Observation: This recommendation is constrained due to lack of legislative action to date.

The OFP does not currently mandate nor promote the certification of food service workers who handle food. [Finding 3]

Recommendation: Propose legislation or create a regulation that would require food handlers/workers to attain a basic knowledge of food safety by taking a self-study course culminated by an examination and the issuance of a food handler/worker card.

**Status: Constrained**

Discussion: The OFP supports the mandating and promoting of the certification of food service workers who handle food.

Bureau Observation: This recommendation is constrained due to lack of legislative action to date.

State Law does not require that municipalities first obtain approval from the OFP before granting a Certificate of Occupancy or Victualing and/or Beverage License to a food establishment that prepares food on its premises. [Finding 4]

Recommendation: Propose legislation that would require municipalities to obtain approval or proof of licensing from the OFP prior to granting a Certificate of Occupancy and a Victualing and/or Beverage License to an establishment that prepares food on its premises.

**Status: Constrained**

Discussion: The OFP agrees with the finding and recommendation, and proposed legislation to require municipalities to first obtain approval from the OFP prior to granting a Certificate of Occupancy and a Victualing and/or Beverage License to an establishment that prepares food on its premises.

Bureau Observation: This recommendation is constrained due to lack of legislative approval to date.

Managers in the OFP are not applying standard operating procedures for the conduct of inspections in a consistent and uniform manner. [Finding 5]

Recommendation: All managers should ensure that OFP staff is conducting inspections in a consistent and uniform manner in conformity with standard operating procedures. The director of the agency must ensure that managers are applying office standards consistently and properly.

**Status: Completed**

Discussion: The OFP initiated a quality assurance process with additional performance measures posted on the Department's dashboard and assessed by management on a monthly basis. The OFP is working toward developing a Quality Assurance Unit in the Department. This unit will work on updating policies and procedures, scheduling inspectors, and evaluation of processes within the office. Currently, the OFP is holding monthly training sessions and using the dashboard reports to identify and address outliers to help increase office uniformity.

Organization by field offices that no longer exist has resulted in inefficiencies in the assignment of staff and inconsistencies in the inspection process. [Finding 6]

Recommendation: The Bureau recommends the OFP eliminate assignments by "field offices" and instead assign inspections based on factors such as expertise, need, and staff availability.

**Status: Not Complete**

Discussion: Although "field offices" do still exist, the OFP plans to reorganize the office by federal and state units and move away from the current geographic "field office" organization.

There is a lack of organization and control over scheduling of inspections and oversight of the inspectors' assignments. [Finding 7]

Recommendation: Develop a uniform methodology for selecting and assigning routine inspections, new establishment inspections, and follow-up inspections to ensure that all food establishments are inspected within the time period required by statute, regulation, and/or policy. Additionally, this methodology should consider a more efficient approach in addressing daily complaints.

**Status: Partially Complete**

Discussion: The OFP has increased control and oversight over inspectors' assignments with the distribution of Blackberry cellular phones to all inspectors. Dashboard reports of inspections by category and inspector are produced for the Chief, and monthly reports are produced for the supervisors. The dashboard reports help the Supervisors and the Chief of OFP look at inspections across all inspectors and to identify possible training issues or areas for possible improvement.

Bureau Observation: The Bureau met with all three supervisors of the OFP. Each supervisor manages and schedules their assigned staff differently. The Bureau noted that every supervisor obtains a weekly schedule from the inspectors for the following week. The supervisors review this schedule to verify that the inspectors are focusing their inspections geographically from day to day, and prioritizing inspections properly. Depending on the supervisor, inspectors are guided towards establishments to focus their efforts or, they are able to set their schedule independently. Two of the three supervisors meet with their inspectors on a weekly basis to discuss problem areas and the schedule for inspections, the other supervisor does meet with their staff to discuss these items but not weekly. The Supervisors are now provided a listing of establishments requiring re-inspection and supervisory action on a monthly basis. This helps the Supervisors manage if an inspection required follow-up action and make sure that the action is completed in a reasonable amount of time.

The Bureau recommends that the Supervisors continue to guide their inspectors to focus on high risk areas and to inspecting establishments that have not been inspected in an extended period of time.

The OFP does not have a uniform risk rating methodology for determining inspections. [Finding 8]

Recommendation: Management should maintain a risk rating for all establishments; such rating should be updated each time an establishment is inspected. Management should implement standard operating procedures to define the risk ratings and frequency for which they should be updated and use this as a platform for scheduling inspections. The Bureau noted that the OFP implemented this recommendation during the course of this audit.

**Status: Partially Complete**

Discussion: During the Bureau's 2011 audit of OFP, the Chief did assign a risk rating to all establishments. However, to date, this risk rating has not been updated within the Garrison system.

Bureau Observation: The Bureau obtained an updated listing of licensed establishments and noted that there are still establishments with no risk rating associated.

The Bureau recommends that the Garrison System be updated for the OFP Chief assigned risk categorization and be the driving force as to which inspections should occur.

Current staffing levels cannot accommodate the required number of annual inspections. [Finding 9]

**Recommendation:** The Bureau recommends management increase the total number of inspectors assigned to this unit by at least 12 inspectors, a number that must be re-evaluated periodically in consideration of the number of licenses issued and the average number of annual inspections being performed by inspectors.

**Status: Completed**

**Discussion:** Since the Bureau's audit in 2011, an additional eight inspectors have been hired, two positions are currently in the hiring process, and three positions are going to be posted for applicants to begin applying within the next few months. Although there are more inspectors, it takes approximately six months to a year to fully train an inspector to handle complex inspections and respond to food borne illness complaints.

There is no systematic process for generating letters of suspension to licensees or follow-up procedures for ensuring timely collection of licensing revenues. [Finding 10]

**Recommendation:** The licensing system should automatically generate and deliver the letters for mailing to the operations center. The OFP should not be involved with the process of mailing out the lack-of-payment, pending suspension, and suspension notifications. The licensing section must ensure that all notices comply with the requirements of Rhode Island General Laws, specifically RIGL § 23-1-20 entitled "Compliance order."

**Status: Not Complete**

**Discussion:** The OFP agreed with generating automatic suspension letters and had a target completion of November 1, 2012. However, the process for generating and mailing failure to renew suspension letters remains unchanged to date.

**Bureau Observation:** The Bureau notes that the manual process for generating letters of suspension to licensees is cumbersome, but is currently not inhibiting the job responsibilities of the food inspectors as it is handled by the clerical staff.

The Bureau still recommends there be a systematic process for generating and mailing letters of suspension to licensees or follow-up procedures for ensuring timely collection of licensing revenues.

The OFP did not prepare and submit a statutorily required quarterly report relative to the hiring of the on-site consultant Data Manager. [Finding 11]

Recommendation: We recommend that the OFP comply with RIGL §42-149-3 and submit the quarterly reports to the chairpersons of the House and Senate Finance Committees and the State Budget Office relative to the hiring of the on-site consultant Data Manager.

Status: **Not Complete**

Discussion: The on-site consultant for OFP is included on the statutorily required quarterly report per RIGL §42-149-3 at ten hours per week. The amount paid to this consultant is correct on the report, but the number of hours reported is inaccurate. The consultant works a 35 hour week in OFP, as opposed to the ten reported.

Bureau Observation: The Bureau contacted the requisitioner at the Department of Health to inform her of the inaccurate number of hours reported for the on-site consultant. The Bureau recommended this be corrected going forward.

The number of hours allowed under the purchase order for the engagement of a Data Manager differs from the actual hours outlined in the cost proposal submitted by the vendor. [Finding 12]

Recommendation: We recommend that the OFP ensure that the hours worked and invoiced by the Data Manager Consultant do not exceed the number of hours allowed by the purchase order. If additional hours are required, we recommend that this matter be rectified with the Division of Purchases, and the purchase order be amended.

Status: **Completed**

Discussion: The Bureau obtained the Garrison purchase order and noted that a change order was submitted to update the hours worked of the Data Manager to full time. The OFP corrected the purchasing matter to meet the recommendation.

Access to the Garrison System was not terminated with respect to some former employees of the OFP, and there is not a comprehensive policy over administration of user access to the system. [Finding 13]

Recommendation: Management must implement a procedure whereby access to state systems, including the Garrison System, is immediately terminated upon the departure/termination of OFP employees. Management should also immediately terminate access for those former employees currently active in the system. Additionally, the OFP should develop a comprehensive process for the administration of user access to the Garrison System, including procedures for written access requests, documented review of required privileges, and management review of permissions granted.

**Status: Completed**

Discussion: The Bureau obtained an updated listing of user access within Garrison from the Data Manager. All individuals on the listing are current employees with the exception of third party inspectors for schools and farm/food processing (employees of DEM). The informal policy is for a supervisor to notify the Data Manager when an employee is no longer working for the OFP, and the Data Manager will promptly remove his/her access to the system.

The Bureau found that OFP is exceeding its statutory responsibilities per review of the Food/Water Licensing Coordination Policy and Procedures by performing duties that are the responsibility of the Drinking Water Quality Program. [Finding 14]

Recommendation: The Bureau recommends that OFP refer owners of food establishments to DWQ for proper handling of drinking water supply/well licenses and immediately cease performing drinking water supply/well reviews. Due to the limited staff within OFP, all resources need to be directed toward the inspection and regulation of food establishments for the benefit of the public.

**Status: Completed**

Discussion: The OFP is no longer handling cases involving Drinking Water Quality for establishments serving 25 people or less, as it was exceeding its statutory responsibility per the Food/Water Licensing Coordination Policy and Procedures. All individuals are now appropriately directed to the Drinking Water Quality office.

Procedures for gathering evidence in matters related to food-borne illness outbreaks are not always followed and such procedures should be reviewed to ensure that they are necessary in addressing the actual risk of a disease. [Finding 15]

Recommendation: The Bureau recommends that procedures be implemented to prevent this from occurring. These procedures may include but are not limited to the following:

- Provide staff training on the process and related forms that are to be used.
- Make the required forms and checklists part of the Garrison System to ensure that the information is readily available.
- Ensure that a copy of the electronic forms/checklist is kept on all desktops in case Internet access to Garrison is not available.
- Require that the sampling kit be kept with the inspectors/seniors at all times, so they are ready to respond when needed.
- Require that sampling kit is restocked after an investigation.
- Ensure that management consistently applies the guidelines for these types of inspections.
- Review policies and procedures to ensure that measures taken are evidenced-based, and employ processes that have been demonstrated to reduce actual risk of disease.

Status: **Partially Completed**

Discussion: The OFP is in the process of implementing the procedures included above to increase efficiency when responding to food-borne illness complaints/outbreaks.

- The prior epidemiologist updated and revised the food-borne illness checklist and received feedback on such revisions during the process from the supervisors of the OFP.
- The food-borne illness checklist forms have been emailed to each inspector and a copy has been saved to the shared drive, which is accessible by all inspectors when in the field.
- Training sessions have been held regarding food-borne illness complaint follow-up and all inspectors are given a sampling “to go” kit when ready to go into the field.
- The OFP has made an effort for inspectors to restock the sampling kits; however, this is still haphazardly completed. It is the intention of the Office to use funds from the Rapid Response Team grant for new supplies.
- Trainings have been held internally, by the FDA, and the Office of Infectious Disease to provide inspectors with additional guidance on how to respond to a food borne illness complaint and outbreak.
- Policies and procedures will be reviewed in greater detail when the Quality Assurance Unit.

Bureau Observation: The Bureau finds the OFP to be on the right track to addressing the finding and the OFP to be taking appropriate action to meet the Bureau’s recommendations.

The OFP does not have uniform policies or procedures for addressing, recording, or following up on complaints received. [Finding 16]

Recommendation: The Bureau recommends that policies be developed and procedures implemented for addressing, recording, and following up on complaints received.

**Status: Not Complete**

Discussion: The OFP agrees with the recommendation but has not begun work to date. The estimated completion date for having uniform policies and/or procedures for addressing, recording, and following up on complaints received is June 30, 2013.

Bureau Observation: Several significant changes have been made to increase the training and recording of food-borne illness complaint follow-up as noted above at "Procedures for gathering evidence in matters related to food-borne illness outbreaks are not always followed and such procedures should be reviewed to ensure that they are necessary in addressing the actual risk of a disease." Also, the addition of a Quality Assurance Unit will help ensure policies and procedures remain up to date. The Bureau finds it reasonable that the OFP will address this finding before the fiscal year end.

The OFP, in calculating the Federal reimbursement amount for FDA-required inspections, has been using non-current wage information. As a result, the OFP has been understating payroll costs in its reimbursement calculation, consequently receiving less money in Federal reimbursements than it is entitled. [Finding 17]

Recommendation: For all future FDA reimbursement calculations, the OFP should be using the Salary and Wage Projection File produced by the State Budget Office. It should also be used for the upcoming fiscal year when calculating the projected cost of performing the FDA contract inspections.

**Status: Completed**

Discussion: The Bureau obtained the fiscal year 2013 FDA reimbursement calculation and the Salary, Wage, and Projection file. The schedules obtained and the calculation of Federal reimbursement has been updated to include more up to date salary and wage data. The amounts used appear reasonable as based on the SWP file received from the State of Rhode Island Budget Office.