



Division of Hotels and Restaurants Improves Operations and Makes Progress in Meeting Inspection Goals

at a glance

Consistent with our recommendations, the Division of Hotels and Restaurants has improved its operations and is making progress toward completing the food and lodging inspections required by law. Although not yet achieving full statutory compliance, overall inspections have increased significantly since our last review. These increases are due to the Legislature appropriating the division more staff as well as to improvements in division technology. However, if the division cannot eventually achieve long-term statutory compliance, it may need to pursue revenue-generating options identified in our prior report and use such funds to hire more inspectors.

As we recommended, the division also has improved its sanctioning process, which has boosted productivity and provided better disclosure to food and lodging establishments. In addition, the division enhanced its website to improve its usefulness for Florida consumers. Lastly, per our recommendation, the division adopted two new performance measures that better reflect its core mission.

Scope

In accordance with state law, this progress report describes actions taken by the Legislature and the Department of Business and Professional Regulation's Division of Hotels and Restaurants to address the findings and recommendations of our 2005 report.^{1,2}

Background

The Division of Hotels and Restaurants regulates the food and lodging industries to protect the public from unsafe and unsanitary facilities. Regulating food service establishments helps protect against foodborne illness, which can be lethal to children, the elderly, and those with compromised immune systems. Regulating public lodging facilities (e.g., hotels and apartments) helps ensure that tourists and residents are reasonably protected from fire and other safety hazards. Exhibit 1 shows the variety of establishments regulated by the division.

Exhibit 1

The Division Regulates Several Types of Food and Lodging Establishments

Food Service	Public Lodging
<ul style="list-style-type: none">• Restaurants• Theme Park Food Carts• Caterers• Hot Dog Carts• Mobile Food Dispensing Vehicles• Vending Machines• Temporary Events (e.g., Seafood and Ethnic Food Festivals)	<ul style="list-style-type: none">• Hotels• Motels• Apartments• Rooming Houses• Bed And Breakfasts• Resort Condominiums and Dwellings

Source: *Florida Statutes* and *Florida Administrative Code*.

¹ Section 11.51(6), *F.S.*

² *Division of Hotels and Restaurants Improves Operations But Not Meeting Inspection Goals*, OPPAGA Report No. [05-51](#), November 2005.

The division performs its primary functions through five functional areas—Bureau of Sanitation and Safety Inspections, Office of Compliance and Licensure, Hospitality Education, Bureau of Elevator Safety, and Office of the Director.

The Bureau of Sanitation and Safety Inspections inspects food and lodging establishments to ensure that they conform to health and safety standards.³ The division's 2006-07 annual report states that bureau staff conducted 146,938 inspections and identified 754,911 violations. Of these, 475,475 violations were classified as critical problems that posed serious safety hazards, such as inadequate systems for sewage and wastewater, contaminated food, and inadequate fire detection systems. The remaining 279,436 violations were classified as non-critical and included deficiencies such as failure to use hair restraints in restaurants and unclean floors, walls, and ceilings in food and lodging facilities.⁴

The Office of Compliance and Licensure licenses food and lodging facilities and takes action against facilities found to repeatedly violate program requirements. This action may include entering into settlement agreements, which are negotiated formalized agreements between noncompliant operators and the division.⁵

Hospitality Education seeks to bring noncompliant food and lodging operators into compliance through education. Operators typically agree to education training as part of a settlement agreement with the division.

Elevator safety monitors private inspectors that conduct elevator safety checks and responds to complaints.

The Office of the Director oversees the program's operations. The office also coordinates with the department's legal staff regarding enforcement, compliance, and emergency closure of

³ The bureau has seven districts that are headquartered in Miami, Margate, Fort Myers, Orlando, Tampa, Jacksonville, and Panama City Beach.

⁴ Operators must correct most non-critical violations before the next division inspection, while most critical violations must be corrected within 60 days. The division can demand immediate correction of critical violations, issue a notice of closure, and/or turn these cases over to its Office of Compliance and Licensure for further action.

⁵ These agreements typically include a corrective action plan, payment of a fine, and enrollment in the division's Hospitality Education Program to teach the operator safe and sanitary methods of operation.

establishments that pose an immediate public health and safety threat.

The division is funded by licensing fees paid by the industry. According to the division's 2006-07 annual report, it regulated 43,971 food service establishments, 17,942 lodging facilities, and 19,022 apartments. The division was appropriated \$15 million from the Hotel and Restaurant Trust Fund for Fiscal Year 2006-07, and has 297 authorized positions, 183 of which are inspectors.⁶

Our 2005 review concluded that although the Division of Hotels and Restaurants had improved its operations in recent years, it had not inspected food establishments, public lodging, and apartments as often as required by law for several years. Inspection shortfalls were due mainly to staffing cuts, changes in inspection field procedures, and problems implementing handheld computers. Because inspections gauge compliance with health and safety requirements, this problem increases risks to the public. Options for resolving this situation included

- increasing fees to fund additional positions and
- reducing the number of inspections required by administrative rule and law.

We also found that the division's system for sanctioning license holders who have violated state regulations is multi-layered and time-consuming and it could do a better job of reflecting its public safety mission if it improved consumer access to its website and adopted performance measures that reflected core mission activities and results.

Current Status

The Legislature and the Division of Hotels and Restaurants have taken steps to address the issues highlighted in our 2005 review. The division has improved its operations and is making progress toward completing the food and lodging inspections required by law, with overall inspections increasing significantly since our review. These increases are due to the Legislature appropriating the division more staff as well as to improvements in division technology. Moreover,

⁶ Eighteen of the division's 297 employees are assigned to its elevator safety program, which will be evaluated in an upcoming OPPAGA review.

as we recommended, the division has improved its sanctioning process, which has boosted productivity and provided better disclosure to food and lodging establishments. The division also has improved its website to make it more consumer-friendly and has adopted two new performance measures that better reflect its core mission.

The overall number of inspections has increased but does not yet meet statutory requirements

Although not yet in statutory compliance, the division has increased the number of inspections it conducts each year through additional staff and improved technology.

As shown in Exhibit 2, although the percentage of restaurants that were inspected as required by law has declined, the division is doing a better job of completing inspections for other types of facilities under its jurisdiction. Specifically, in Fiscal Year 2006-07, the division significantly improved its inspection rates for public lodging establishments (e.g., hotels and motels) and apartment buildings. When we conducted our 2005 review, the vast majority of these facilities went uninspected, while the division targeted its inspection resources to food service establishments. The division now provides inspection services more evenly across the food and lodging establishments within its jurisdiction. However, the drop in inspection rates for food service establishments is problematic, as these establishments can be a source of foodborne illnesses.

**Exhibit 2
The Division Is Doing a Better Job of Inspecting All Types of Facilities Under Its Jurisdiction**

	Percentage of Establishments Inspected in Fiscal Year	
	2004-05	2006-07
Food service establishments	94%	78%
Public lodging	22%	75%
Apartment buildings	32%	98%
All Facilities ¹	74%	83%

¹ These numbers include required follow-up inspections.
Source: Division of Hotels and Restaurants Statutory Performance Statewide Summary.

The inspection frequency gains are directly related to increases in inspection staff. The Legislature appropriated 25 new positions to the division since our last review. As these inspectors complete their

training and certification requirements, the division anticipates stronger productivity gains.^{7,8}

Inspection frequency increases were also the result of division technology improvements. Specifically, the division increased inspector productivity by working to remedy problems with handheld computers that we highlighted in our prior report. Previously, inspectors reported that it was a median of 25% faster to simply write inspections by hand than try to complete inspection reports using handheld computers, due to a variety of technical problems (e.g., malfunctions in uploading and downloading information to the agency server, poorly organized drop down menus, and difficult navigation between screens). To address these concerns, agency technical teams enhanced handheld computer hardware components and re-engineered the software. Currently, the division reports that the re-engineered computers have boosted inspector productivity by 9%. Expectations are that production will increase further as inspectors become more familiar with the equipment and software enhancements.

Despite these improvements, it is unclear whether the division will be able to meet its statutory inspection requirements and maintain performance long-term. From 1996 to 2005 the hotel and restaurant industry steadily grew at over 2% a year. Although growth has now leveled off at slightly more than 1% a year, the division may still need to hire more inspectors over time.⁹ If such action is necessary to ensure public safety, the division could consider our previous suggestions for revenue generation and use these funds to hire additional inspectors. These suggestions included

⁷ The division reports it takes approximately 12 months to fully train and certify an inspector. Approximately 20% of its inspection staff is not yet fully trained and certified, due to training the newly appropriated positions and normal inspector attrition.

⁸ Although the number of inspections conducted by the division has not met statutory requirements, the quality of its food service inspections has been commended by the U.S. Food and Drug Administration (FDA). On February 26, 2007, the FDA commended the division for adapting and working toward a series of best management practices and standards for food safety operations. The division was the first agency in the southeast (consisting of nine states and two U.S. territories) to pass peer review for implementation of any of the FDA standards.

⁹ The department's Fiscal Year 2008-09 Legislative Budget Request includes 39 additional inspector positions, which the department reports would allow it to meet statutory requirements.

- basing restaurant fees on the number of seats in each restaurant;
- basing lodging fees on the number of rooms in each facility;
- implementing a re-inspection fee for repeat violators; and
- increasing the fee for reviewing restaurant safety plans.

Streamlined sanctioning procedures now benefit staff and licensees alike

Since our prior review, the division has changed its once onerous multi-phased sanctioning process, which required licensees to waive their rights to a hearing before being informed of the sanctions against them. According to division officials, the division modified its procedures so that at the onset of the sanctioning process licensees are informed of what their sanction will be. As before, the division advises licensees that the sanctions can be appealed to the Division of Administrative Hearings. The division reports that disclosing this information at the onset has enabled staff to spend less time with violators, thereby improving staff productivity. Consequently, the division reports that it has been able to absorb a 16% increase in sanctioning activity without any declines in productivity or increases in staff.¹⁰

The division improved the consumer-friendliness of its website

To address our concerns about the accessibility and navigability of its website, agency technical teams have made several enhancements that improve the site's consumer value. For example, technical enhancements now enable consumers to

quickly look up a food or lodging establishment's last inspection report, see what violations occurred, and determine if any disciplinary actions were taken. In addition, more intuitive search procedures now allow users to search on variable names (such as Wendy, Wendy's, Wendys, etc.); previously, consumers who did not enter the specific establishment name were unable to access such information. Moreover, users can now search multiple establishments via a "new search" button on each screen. These changes can help consumers make informed decisions about the establishments they patronize, using information compiled by the primary regulatory entity. According to division officials, the agency's technical team continues to make incremental website changes to help ensure sustained consumer value.

The division has added new performance measures to better reflect its core mission

Because the division's performance measures did not sufficiently reflect its public safety mission, we previously recommended that the division adopt additional measures that assessed the number of reported foodborne illness outbreaks and cases and the percentage of food and lodging establishments inspected in accordance with statutory inspection frequency requirements.

The division has adopted measures showing the percentage of food and lodging establishments inspected as required by law and will report benchmark data to the Legislature in its Fiscal Year 2008-09 Long Range Program Plan. We continue to believe that the division should also report the number of foodborne illness cases and outbreaks, which would help the Legislature and citizens determine how well the division is meeting its mission of protecting the public.

¹⁰ Productivity gains achieved by this streamlining process resulted in the division being the recipient of six Davis Productivity Awards in 2006 for its efforts in this area.

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