



PERFORMANCE AUDIT REPORT

**Food Safety Programs in Kansas: Evaluating
Possible Costs and Efficiencies of Combining Them**

Executive Summary ***with Conclusions and Recommendations***

**A Report to the Legislative Post Audit Committee
By the Legislative Division of Post Audit
State of Kansas
October 2003**

Legislative Post Audit Committee

Legislative Division of Post Audit

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LEGISLATIVE DIVISION OF POST AUDIT

800 SW Jackson
Suite 1200
Topeka, Kansas 66612-2212
Telephone (785) 296-3792
FAX (785) 296-4482
E-mail: LPA@lpa.state.ks.us
Website:
<http://kslegislature.org/postaudit>
Barbara J. Hinton, Legislative Post Auditor

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LEGISLATURE OF KANSAS
LEGISLATIVE DIVISION OF POST AUDIT

800 SOUTHWEST JACKSON STREET, SUITE 1200
TOPEKA, KANSAS 66612-2212
TELEPHONE (785) 296-3792
FAX (785) 296-4482
E-MAIL: lpa@lpa.state.ks.us

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To: Members of the Kansas Legislature

This executive summary contains the findings and conclusions, together with a summary of our recommendations and the agency responses, from our completed performance audit, *Food Safety Programs in Kansas: Evaluating Possible Costs and Efficiencies of Combining Them*.

This report includes several recommendations for transferring all food safety functions into a single agency so that resources can be used more efficiently. In addition, regardless of whether inspection programs are combined into one agency, the report recommends that KDHE and the Department of Agriculture convene a task force to develop risk-based inspection frequencies (each food or food process would be inspected at frequencies that reflect their relative food safety health risk in relation to other foods and processes) and to develop and propose the regulatory and statutory changes needed to accomplish those frequencies. We would be happy to discuss these recommendations or any other items in the report with you at your convenience.

If you would like a copy of the full audit report, please call our office and we will send you one right away.

A handwritten signature in black ink that reads "Barbara J. Hinton". The signature is fluid and cursive.

Barbara J. Hinton
Legislative Post Auditor

EXECUTIVE SUMMARY

LEGISLATIVE DIVISION OF POST AUDIT

Overview of Kansas' Food Safety Inspection Programs

Kansas has a number of programs that inspect facilities that produce or sell food for human consumption. These programs include the Meat and Poultry Inspection Program, the Dairy Inspection Program, and the Egg Inspection Program, all which are housed within the Kansas Department of Agriculture. The fourth program, the Food Protection Program is housed within the Kansas Department of Health and Environment (KDHE). page 3

The Department of Agriculture and the Animal Health Department have other inspection programs that inspect facilities producing or selling food items, but these programs don't have food safety as their main objective. These programs include the Weights and Measures Program, Plant Protection and Weed Control Program, Grain Warehouse Inspection Program, Kansas Grain Inspection Service, and Animal Disease Control.

Question 1: Could Food Safety Inspection Programs In Kansas Be Combined To Streamline Operations, Save Money, and Improve Food Safety?

Several factors suggest that Kansas' current food safety system needs to be improved. *Kansas' system is modeled after the federal system, which has been criticized as being inconsistent in oversight and inefficient in its use of resources. Kansas has some of these same problems.* page 7

Kansas' food safety system has a number of inefficiencies that can increase costs. These inefficiencies include:

Inspectors from more than one agency or program inspect the same businesses. Grocery stores are the most likely to see multiple inspectors from the Department of Agriculture and KDHE. This fragmented approach is more costly to the State than if all or most areas of a business' operation could be inspected during one visit.

Inspection territories currently overlap even when inspectors aren't going to the same business. Inspectors may not be inspecting the same establishments, but they do go to the same cities to perform inspections. If inspection functions were better coordinated, staff could be assigned to inspect all (or at least more) facilities within a single territory, reducing the need for multiple inspectors to travel to the same location.

Some types of establishments are inspected more often than seems necessary, causing inefficient use of inspection staff. For example, federal law doesn't specify how often custom meat processing plants need to be inspected, but Department of Agriculture officials said it's likely they'd need to conduct 24 inspections per year in order to meet federal performance standards. During calendar year 2002, inspectors conducted an average of 39 processing inspections at each of these plants, about 60% more than may have been needed.

Coordination can be improved in situations where regulatory authority overlaps. Here's what we found:

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The Departments of Health and Environment and Agriculture don't routinely share records that could assist in regulation. For example, we reviewed inspection records in 5 rural counties and found 7 businesses that it seemed likely KDHE should be inspecting but wasn't.

Overlapping regulatory authority can delay response times. In two recent cases that required KDHE and the Department of Agriculture to coordinate (wheat tainted with a herbicide and uninspected meat being sold in a grocery store), it's likely that responses would have been more timely if inspection programs were housed in one agency or if there was a plan in place to coordinate their roles. In both cases, the federal agencies involved contributed to the delays.

Many inspectors say coordination should be improved. A survey of KDHE and Department of Agriculture food safety inspection staff showed that 57% of those that had been involved in an event that required coordination thought the coordination was only somewhat or not well coordinated, while 43% said events were well coordinated or very well coordinated.

Kansas food safety inspection requirements are sometimes inconsistent. For example:

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Some high risk establishments aren't required to be inspected regularly. Kansas law currently doesn't require retail food stores or food processing plants to be inspected on a regular basis. Some of these groceries have delis, seafood counters, bakeries, and also process meat.

Kansas laws require similar businesses to be regulated differently. We found significant differences in how meat processing is regulated. For example, State-inspected meat plants must be inspected often (inspections occurred more than twice per week in 2003), while there is no inspection requirement for meat processing at grocery stores. Similarly, milk processing plants regulated by the Department of Agriculture were inspected an average of 9 times each in 2003, while juice or cider processing plants regulated by KDHE aren't required to be inspected.

A 2002 change to the licensing laws has resulted in portions of several large food manufacturers being uninspected. To eliminate duplicate licensing of some facilities by KDHE and the Department of Agriculture, the 2002 Legislature re-defined the establishments KDHE is responsible for regulating. In response, KDHE removed 75 processing plants from its licensing and inspection lists. In all, 31 of those plants were primarily meat processing plants whose operation is thoroughly inspected by the Department of Agriculture or the USDA. However, 31 of the remaining 44 plants are considered by KDHE to inherently pose a high food safety risk.

Combining food safety inspection programs could produce several benefits. Several other states have taken a more coordinated approach to food safety by placing responsibilities within a single department, typically agriculture. A single agency housing all programs could provide the incentive to regulate similar food businesses and processes more consistently. In addition, communication should improve because the information could be shared more easily.

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Kansas can realize some significant savings and improve food safety if food safety inspections are combined and inspections are changed to a risk-based approach. Inspections can be grouped in any number of ways, but reorganizing functions into the following groups seemed the most reasonable to us:

- dairy inspection, focusing on dairy establishments plus other beverage processing facilities.
- food processing inspection, including meat slaughter and processing plants
- retail sales inspections, including restaurants and grocery stores

Using these groupings, we calculated how many resources would be needed to operate a combined food safety inspection program under three inspection frequencies:

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1. Continuing to do inspections at the current rate could save the State about \$90,000 per year. The primary savings under this scenario comes from eliminating duplicate drive time caused by the current overlap in territories for KDHE inspectors and contracted local health departments.
2. Conducting inspections only as often as required by law could generate about \$1.2 million in annual savings. This could, however, deteriorate the quality of the State's food safety system, because certain facilities that should be inspected aren't required by law to be inspected.
3. Conducting inspections under a risk-based approach would generate nearly \$680,000 in annual savings. Under this scenario, we assumed that all types of establishments would continue to be inspected, but at

frequencies that appear to better reflect their relative risk (compared to each other) to the public's health and safety.

Most of the potential savings we identified from regrouping food safety inspection activities could be achieved whether or not those activities were combined into a single agency. However, placing the programs in one agency could be critical to achieving a risk-based inspection approach, and could lead to better coordination, improved communication, and more consistent regulations. Regardless of how the State's food safety inspection programs are organized, KDHE needs to improve its ability to extract data from its licensing and enforcement databases.

Kansas needs to continue taking steps to become prepared for intentional threats to food safety. page 19
Compared to preparedness for other disasters, Kansas is least prepared for bioterrorism threats. The State is developing a bioterrorism preparedness and response plan, but food safety issues that impact the public will be only a small part of the plan.

Conclusion. page 20
Although the State hasn't experienced a high number of food-borne illness outbreaks, Kansas' current food safety system has a number of problems caused by having 2 separate agencies share food safety inspection responsibilities: inefficiencies increase costs, some establishments are inspected more frequently than necessary, some high-risk establishments aren't inspected frequently enough, and communication isn't complete and routine. Housing all inspection programs in a single agency would make it more likely that a comprehensive food safety regulatory system will be planned and implemented. In our opinion, the foundation for such a system should include inspection frequencies that are based on the relative food safety health risk posed by the food product or processes, and the system could – like Wyoming's – be based on similarities in food safety laws and regulations rather than focusing on the differences. Once these risks and the appropriate inspection frequencies are identified, Kansas will need to take the steps necessary to restructure current inspection frequencies and staff inspection duties. This action has the potential to save money for the State, but it also has great potential for improving overall food safety in Kansas.

Recommendations. page 20
The Legislature should transfer all food safety functions into a single agency so that resources can be used more efficiently. If all food programs are transferred to the Department of Agriculture, a plan for communicating with KDHE'S Bureau of Epidemiology and Disease Prevention should be put into place. Regardless of whether inspection programs are combined into one agency, KDHE and the Department of Agriculture should convene a task force to develop risk-based inspection frequencies, and to develop and propose the regulatory and statutory changes needed to accomplish those frequencies. If the State's food-safety inspection programs aren't combined into one agency, plans for communication and coordination

should be developed and implemented, inspection duties should be realigned to form three inspection groups either through Memorandum of Understanding or legislation, overlap that currently exists in some facilities should be eliminated, and the two agencies should work together to ensure the food processing plants dropped by KDHE due to a change in licensing fees are properly inspected. Finally, KDHE should find a more efficient system for extracting data from its Food Protection databases.

Agency Response. *The agencies submitted a joint response that generally agreed with the recommendations directed to them.*

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This audit was conducted by Laurel Murdie, Jill Shelley, and Amy Thompson. Cindy Lash was the audit manager. If you need any additional information about the audit's findings, please contact Ms. Murdie at the Division's offices. Our address is: Legislative Division of Post Audit, 800 SW Jackson Street, Suite 1200, Topeka, Kansas 66612. You also may call us at (785) 296-3792, or contact us via the Internet at LPA@lpa.state.ks.us.