



Consumer Protection: Restaurant Inspections

2012-MS-2



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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

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Dear County Officials:

A top priority of the Office of the State Comptroller is to help local government officials manage government resources efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of local governments statewide, as well as compliance with relevant statutes and observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations and school district governance. Audits also can identify strategies to reduce costs and to strengthen controls intended to safeguard local government assets.

Following is a report of our audit titled Consumer Protection: Restaurant Inspections. This audit was conducted pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the General Municipal Law.

This audit's results and recommendations are resources for local government officials to use in effectively managing operations and in meeting the expectations of their constituents. If you have questions about this report, please feel free to contact the local regional office for your county, as listed at the end of this report.

Respectfully submitted,

*Office of the State Comptroller
Division of Local Government
and School Accountability*



State of New York Office of the State Comptroller

EXECUTIVE SUMMARY

Title 10, Chapter 1, Part 14 of the New York Code, Rules and Regulations (the New York food sanitary code) requires that owners and operators of food service establishments (FSEs) operate their premises in such a way as to avoid imminent health hazards. The New York State Department of Health (DOH) and local (county) health departments all monitor compliance with the State Sanitary Code (Code). County health departments issue permits and conduct unannounced annual inspections of FSEs to evaluate food workers' practices, how food is stored and processed, and the temperatures at which FSEs cook, cool, hold, and reheat foods. Inspections document the existence of Code violations. A "red violation" is considered to pose an imminent health risk; the FSE must cease operations (or the part affected by the violation) until it is corrected. A "blue violation," which generally relates to problems with maintenance and cleanliness, must be corrected during a timeframe set by the inspector.

Counties used a risk-based approach in determining how often FSEs should be inspected. FSEs are categorized as high-risk (e.g., schools and nursing homes), medium-risk (e.g., fast food restaurants and pizza shops), and low-risk (e.g., bars and doughnut shops). DOH guidance recommends, but does not require, that counties inspect high-risk FSEs an average of twice a year, medium-risk FSEs once a year, and low-risk FSEs once every two years.

County health departments also track complaints about FSEs reported by consumers. County health department inspectors are responsible for responding to and resolving complaints in a timely manner.

Scope and Objective

The objective of our audit was to determine whether county health departments ensure public safety by inspecting food service establishments' compliance with Code requirements for the period January 1, 2010 through December 31, 2011. Our audit addressed the following related question:

- Do counties conduct timely inspections of FSEs and promptly address consumer complaints?

Audit Results

We found that all five counties have adequate controls in place to ensure that FSEs are operating in conformance with the Code: the counties conduct inspections of FSEs at least once a year and

verify that FSEs correct any violations found during inspections. Columbia and Cortland could increase consumers' assurance of protection against food-borne illness by inspecting high-risk FSEs twice a year – as do the other three counties - in accordance with DOH recommendations. We also found that all five counties follow up on consumer complaints in a timely manner. As a result, we concluded that these counties' inspection and monitoring practices are effective in reducing the risk of food hazards at FSEs, and in protecting consumers from food-borne illnesses.

Comments of Local Officials

The results of our audit and recommendations have been discussed with county officials and their comments, which appear in Appendix B, have been considered in preparing this report.

Introduction

Background

Title 10, Chapter 1, Part 14 of the New York Codes, Rules and Regulations (State Sanitary Code) requires that owners and operators of food service establishments (FSEs) avoid imminent health hazards in operating their premises. An FSE, which is defined as a place where food is prepared and intended for individual portion service, includes the site at which the individual portions are provided, whether consumption occurs on or off the premises. For example, caterers are defined as FSEs. The term excludes food processing establishments; retail food stores; private homes where food is prepared or served for family consumption; and food service operations, where a distinct group mutually provides, prepares, serves, and consumes the food (e.g., a “covered-dish supper” limited to a congregation, club, or other defined organization). The New York State Department of Health’s (DOH) Bureau of Community Environmental Health and Food Protection, local health departments, and the DOH Center for Environmental Health all monitor compliance with the State Sanitary Code (Code).

Local (county) health departments issue permits and conduct unannounced annual inspections of FSEs to evaluate food workers’ practices, including the manner in which they receive and store foods, how they process foods, and the temperatures at which they cook, cool, hold, and reheat foods. The DOH Food Service Establishment Inspection Report (Inspection Report) is the standard form that local health departments use to document their inspections. The Code has established two major categories for violations: critical items directly related to factors that cause food-borne illness (coded red), and items that do not directly cause food-borne illness but could negatively affect the FSE’s operation (coded blue).

- Red violations generally involve the food source and condition, food cooking and storage temperatures, sanitary practices, water and sewage, pest control, and the use of poisonous materials. Examples include unpasteurized milk and milk products; toxic chemicals that are improperly labeled, stored, or used, so that contamination of food can occur; and potentially hazardous foods that are not kept at or below 45 degrees Fahrenheit.¹

¹ All degrees are stated in Fahrenheit form.

Improper cooling and reheating are major causes of food-borne illness. Potentially hazardous foods requiring refrigeration must be cooled by an adequate method so that every part of the product is reduced from 120 degrees to 70 degrees within two hours, and from 70 degrees to 45 degrees or below within four additional hours. Bacteria that cause food poisoning grow at temperatures between 45 and 120 degrees. The cooling requirement limits the time that potentially hazardous food is in the temperature range at which harmful bacteria can grow. Foods particularly important to meet the cooling requirement include soups, sauces, gravies, stews, rice, chili, whole turkeys, turkey breasts and whole roast beef.

- Blue violations relate to the design and maintenance of the establishment, as well as cleanliness. Examples include employees' use of tobacco, eating, or drinking during food preparation; employees' failure to wear hair restraints; serving raw foods that are not properly washed prior to serving, and the presence of insects and rodents.

According to DOH, 36 counties conduct inspections at the local level; the remaining 21 counties' inspections are performed by inspectors from DOH district offices. Local government units can adopt their own charters, local laws, and ordinances that specify requirements for FSEs in relation to permits, inspections, fines and fees. Local requirements may be more stringent than the requirements of the Code, but at a minimum, they must be consistent with it.

DOH provides guidance on the frequency of inspections and recommends that local governments use a risk-based approach in inspecting food operations. Each county categorizes all FSEs within its jurisdiction as high-risk, medium-risk, or low-risk establishments.

- High-risk establishments serve potentially hazardous foods that require extensive processing on the premises, including manual handling, cooling, reheating, and holding of foods, and transporting hot or cold ready-to-eat meals. This category includes establishments and institutions, such as nursing homes, schools, and hospitals, which often serve large numbers of meals to the aged, children, or the infirm.

- Medium-risk establishments often serve potentially hazardous foods, but the risk of food-borne illness is lower because there is rapid turnover between preparation and service. Examples of establishments in this group are fast food restaurants, submarine shops, pizza shops, some retail bakeries, some mobile food establishments (e.g., concession stands), and short-order breakfast and lunch restaurants.
- Low-risk establishments serve no potentially hazardous foods (except for items like prepackaged sandwiches and cream-filled donuts), but the regulatory concerns relate more to sanitation and maintenance. Examples of establishments in this category include bars, taverns, retail doughnut shops, some temporary food operations, and coffee shops.

We audited five counties (Albany, Columbia, Cortland, Niagara, and Oswego) that perform Code inspections of FSEs. Table 1 provides relevant statistics for all these counties.

Table 1: Relevant County Statistics			
County	2011 Budget (in Millions)	2011 Health Department Budget (in Millions)	2011 Approximate Polulation
Albany	\$601	\$9.4	304,000
Columbia	\$149	\$7.2	63,000
Cortland	\$118	\$7.4	49,000
Niagara	\$291	\$12.2	216,000
Oswego	\$189	\$16	122,000

The health department in each of these counties conducts the inspections of FSEs and receives and addresses consumer complaints. Table 2 details the work performed by each department for 2011.

Table 2: Summary Information from Counties for 2010 and 2011^a								
County	FSEs	Staff Levels		Inspections Conducted		High Risk Inspections		Complaints
		Inspectors	FTEs^b	2010	2011	2010	2011	
Albany	1,393	15	4.5	1,731	1,523	442	339	346
Columbia	230	4	1.6	211	207	56	44	18
Cortland	209	6	.74	293	218	145	81	47
Niagara	952	11	3.1	1,259	1,204	543	514	77
Oswego	401	6	1.26	494	398	92	72	107
Totals	3,185	42	11.2	3,988	3,550	1,278	1,050	595
^a Inspection data for 2011 shows inspections done as of a specific date in the fall of 2011 (the end of field work date at each county) rather than the counties' inspection performance for the entire 2011 calendar year.								
^b Full time equivalent dedicated to FSE inspections.								

Objective

The objective of our audit was to determine whether county health departments ensure public safety by inspecting food service establishments' compliance with Code requirements. Our audit addressed the following related question:

- Do counties conduct timely inspections of FSEs and promptly address consumer complaints?

Scope and Methodology

For the period January 1, 2010 to December 31, 2011, we interviewed county officials, reviewed inspection reports and data, reviewed inspection testing, conducted field visits to businesses, and reviewed complaint documentation.

We conducted our audit in accordance with generally accepted government auditing standards (GAGAS). More information on such standards and the methodology used in performing this audit is included in Appendix C of this report.

Comments of Local Officials

The results of our audit and recommendations have been discussed with county officials and their comments, which appear in Appendix B, have been considered in preparing this report.

Restaurant Inspections

Counties should provide consumers with reasonable assurance that FSEs are safely storing and preparing food that they serve to the public. We found that all five counties have adequate controls in place to ensure that FSEs are operating in conformance with the Code: the counties conduct inspections of FSEs at least once a year and verify that FSEs correct any violations found during inspections. Columbia and Cortland could increase consumers' assurance of protection against food-borne illness by inspecting high-risk FSEs twice a year — as do the other three counties — in accordance with DOH recommendations. We also found that all five counties follow up on consumer complaints in a timely manner. As a result, we concluded that these counties' inspection and monitoring practices are effective in reducing the risk of food hazards at FSEs, and in protecting consumers from food-borne illnesses.

Inspection Activities

County officials have a duty to ensure that FSEs doing business in their counties are operating in accordance with the requirements of the Code. DOH recommends that local governments use a risk-based approach in performing FSE inspections to use county resources in the most effective manner to reduce the risk of imminent food hazards that can jeopardize public health. DOH Technical Reference provides recommended guidance for counties to follow in conducting inspections. The DOH guidance states that the frequency of inspection of any FSE should be based on the potential risk to the public at the establishment. DOH guidance recommends, but does not require, that counties inspect high-risk establishments an average of twice a year,² medium-risk establishments once a year, and low-risk establishments once every two years. High-risk facilities operated seasonally may be inspected once a year.

Overall, we found that counties are using a risk-based approach, and are inspecting high-risk FSEs on an annual basis and taking steps to protect the consumer. Three of the five counties (Albany, Oswego, and Niagara) inspect high-risk FSEs twice each year and

² According to DOH guidelines, the second annual inspection can be a Hazard Analysis and Critical Control Point (HACCP) evaluation of high-risk menu items conducted according to DOH guidelines. The HACCP is an individualized inspection that addresses specific higher risks at the FSE and is aimed at educating the FSE in mitigating and eliminating those risks.

medium and low-risk FSEs once each year, consistent with DOH guidance. However, both Cortland and Columbia inspected high-risk FSEs just once a year. Cortland inspected FSEs consistent with DOH guidance in 2010, but changed its process in 2011 to only inspect all FSEs once each year. According to Cortland officials, the County did not have available staff to complete two inspections at high-risk FSEs in 2011 because of staff turnover. Columbia inspects both high-risk and medium-risk FSEs once a year, and inspects low-risk FSEs every two years. Columbia officials stated that they do not have the resources to conduct two inspections each year.

Each county tracks all inspections of FSEs on a computer system administered by DOH. According to DOH's system, each of the five counties conducted at least annual inspections of high-risk FSEs to ensure their conformance with Code requirements in 2010; all the counties except for Columbia inspected high-risk FSEs twice in 2010, as recommended by DOH guidance. For 2011, we were not able to verify that the counties had completed all their annual inspection activities for the year because we concluded our audit fieldwork in the Fall of 2011. (See Table 2 for 2011 inspection statistics.) However, subsequent to fieldwork, each county informed us their staff had completed all planned high-risk inspections for 2011.

To confirm inspection performance, we judgmentally selected 100 FSEs (20 FSEs in each county) and conducted site visits to determine if the FSE had an operating permit and if the county had conducted an annual inspection. We found that all 100 businesses had valid permits and had been inspected in 2010; 94 of the 100 FSEs had been inspected at least once in 2011 at the time of our sample selection.

We also reviewed 251 individual Inspection Reports for these 100 FSEs to determine the results of the county's inspection and to examine how the county had documented the FSE's compliance with established procedures and/or local law. The Inspection Reports cited these FSEs for a total of 601 violations, comprising 77 red violations and 524 blue violations. Table 3 details the number and types of violations in each county.

Table 3: Results of Inspections				
County	Number of Inspections Tested	Number of Violations	Red Violations	Blue Violations
Albany	42	105	13	92
Columbia	36	28	0	28
Cortland	48	166	10	156
Niagara	70	171	27	144
Oswego	55	131	27	104
Total	251	601	77	524

When the county cites an FSE for a red violation, the FSE must correct the violation immediately. If the FSE does not address the problem immediately, the county can make the FSE cease operations, or the part of its operations related to the violation, until the violation has been corrected. This action is considered necessary to protect the public from bacteria associated with food poisoning in potentially hazardous food.

Some examples of the red violations included the following:

- Raw eggs stored directly over other food items – raw eggs can be contaminated with Salmonella, a bacteria responsible for a type of food poisoning.
- Raw meat stored above vegetables in kitchen; raw fish filets stored on a shelf above food that does not require cooking prior to serving — juices from uncooked meat or fish on a top shelf may contaminate raw vegetables or other items underneath, risking bacteriological infection.
- Chicken, cheeses, cold cuts not being stored at proper temperatures; raw chicken strips thawing in tub of standing water; turkey on counter at room temperature — improperly thawed or unrefrigerated food may reach and stay at temperatures between 45 and 120 degrees, allowing bacteria to grow.
- Wasp spray and paint stored by food — food can be contaminated with harmful chemicals.

The FSEs cited for the 77 red violations in our sample corrected the violations immediately; none of these FSEs had to close operations because they delayed in correcting the cited problems.

When a county cites an FSE for a blue violation, the business must correct the violation within a time frame set by the inspector. Blue violations relate to the design and maintenance of the establishment, as well as its cleanliness, but are not viewed as evidence of an imminent health hazard. Therefore, the FSE can generally continue in operation pending correction of the problem.

Some examples of blue violations include the following:

- Workers not wearing hair restraints
- Dirty and greasy floors
- Hand washing signs not displayed
- Improper dishwashing techniques used.

If the blue violation is considered significant enough to warrant another review, the county will conduct a reinspection — usually within a month — to ensure that the violation has been addressed. The reinspections typically deal with issues that take longer to correct. For example, if an FSE had a pipe break in the bathroom, fixing the problem could take longer than a day or two. In a case like this, the county would reinspect the FSE when the FSE informed the county that the violation was corrected.

We found that counties conducted reinspections in accordance with county criteria. We selected 40 reinspections to determine the average response time. We found that the response time, on average, was 13 business days. The reinspection average range was 2.8 business days up to 20 business days.

We concluded that, overall, counties are taking adequate steps to protect consumers by reducing the risk of food hazards at FSEs. By increasing the frequency of inspections at high-risk FSEs to twice a year, in conformance with DOH guidance, Columbia and Cortland can increase their assurance that these FSEs are complying with Code requirements. Both Cortland and Columbia officials informed us that they planned to conduct inspections at high-risk FSEs twice a year in 2012.

Consumer Complaints

The public has a right to expect that county officials will promptly respond to consumer complaints about potential Code violations at FSEs. We found that all five counties were successful in recording, investigating, and resolving consumer complaints in

a timely manner because the counties have effective systems for receiving and tracking complaints. These county health departments can track complaints to monitor the complaint response time and the complaint resolution.

County officials told us that they address all complaints in a timely manner, and address those complaints related to potential food-borne illness immediately. As shown in Table 4, our tests of response data confirmed that counties generally respond to complaints within one to three days; counties generally respond to complaints dealing with personal illness or food-borne illness within 24 hours.

We judgmentally selected³ a total of 143 complaints for review. Table 4 details our test results.

Table 4: Complaint Response Analysis			
County	Complaints Tested	Average Response Time (in days)	Percentage of Complaints Responded to Within 24 Hours
Albany	50	2.7	64
Columbia	18	1.6	72
Cortland	25	.8	76
Niagara	25	1.5	68
Oswego	25	3.1	64
Total	143		

We found that counties are effectively responding to consumer complaints in a timely manner to help ensure that the public is protected from food hazards that can lead to foodborne illness.

Recommendation

1. Counties should consider conducting inspections at high-risk FSEs consistent with DOH guidance, as resources permit.

³For four of the five counties, we selected complaints on a non-bias judgmental basis; for Columbia, we reviewed all 18 complaints received.

PART 1 – CRITICAL ITEMS

- *1. FOODS ADULTERATED OR RECEIVED FROM UNAPPROVED SOURCES. 14-1.10, 1.31, 1.33, 1.34, 1.120, 1.121, 1.122****
- A. Unpasteurized milk and milk products used
 - *B. Water/ice: unsafe, unapproved sources, cross connections
 - C. Home canned goods, or canned goods from unapproved processor found on premises
 - D. Canned goods found in poor condition (Leakers, severe dents, rusty, swollen cans)
 - E. Meat and meat products not from approved plants
 - F. Shellfish not from approved sources, improperly tagged/labeled, tags not retained 90 days
 - G. Cracked/dirty fresh eggs, liquid or frozen eggs and powdered eggs not pasteurized
 - H. Food from unapproved source, spoiled, adulterated on premises
- 2. FOODS NOT PROTECTED FROM CONTAMINATION, TEMPERATURES NOT MEASURED. 14-1.10, 1.31, 1.40, 1.41, 1.43, 1.71, 1.85, 1.110**
- A. Prepared food products, contact equipment or work surfaces which have had prior contact with raw foods and where washing and sanitizing of the food contact surface has not occurred to prevent contamination
 - B. Food workers prepare raw and cooked or ready to eat food products without thorough handwashing and sanitary glove changing in between
 - C. Cooked or prepared foods are subjected to cross-contamination from raw foods
 - *D. Unwrapped/potentially hazardous foods are reserved
 - E. Accurate thermometer not available or used to evaluate potentially hazardous food temperatures during cooking, cooling, reheating and holding
- 3. FOODS NOT PROTECTED FROM CONTAMINATION BY WORKERS. 14-1.10, 1.70, 1.71, 1.72, 1.80**
- *A. Food workers prepare foods when ill with a disease transmissible by foods such as: diarrhea ("stomach flu"), hepatitis, acute respiratory infection, vomiting or have infected cuts or burns on their hands
 - B. Food workers do not wash hands thoroughly (generate lather) after visiting the toilet, coughing, sneezing, smoking or otherwise contaminating their hands
 - C. Food workers do not use proper utensils (tongs, spoons, spatulas, sanitary gloves) to eliminate bare hand contact with cooked or prepared foods
- 4. FOODS NOT PROTECTED FROM CONTAMINATION BY OTHER SOURCES. 14-1.10, 1.31, 1.40, 1.60, 1.90, 1.91, 1.92, 1.100**
- *A. Toxic chemicals are improperly labeled, stored or used so that contamination of food can occur
 - B. Acid foods are stored in containers or pipes that consist of toxic metals (antimony, cadmium, copper, zinc, lead)
 - *C. Foods or food area/public area contaminated by sewage or drippage from waste lines.
- *IMMINENT HEALTH HAZARD – REFER TO 10 NYCRR SECTION 14-1.10**
****NUMBER LISTED REFER TO 10 NYCRR SUBPART 14-1**
- *5. IMPROPER COOLING AND REFRIGERATED STORAGE OF POTENTIALLY HAZARDOUS FOODS. 14-1.10, 1.35, 1.40, 1.44**
- A. Potentially hazardous foods are not kept at or below 45°F during cold holding, except smoked fish not kept at or below 38°F during cold holding. Actual T _____ °F
 - B. Potentially hazardous foods are not cooled by an approved method where the food temperature can be reduced from 120°F to 70°F or less within two hours and 70°F to 45°F within four hours. (Potentially hazardous foods that are cooling may be uncovered during the cooling period) Actual T _____ °F, Time _____ Hours
 - C. Potentially hazardous foods are not stored under refrigeration except during necessary preparation or approved precooling procedures. (room temperature storage) Actual T _____ °F
 - D. Potentially hazardous foods such as salads prepared from potatoes or macaroni are not prepared as recommended using prechilled ingredients and are not prechilled to 45°F or less as recommended before they are stored on buffet lines. Actual T _____ °F
 - E. Enough refrigerated storage equipment is not present, properly designed, maintained or operated so that all potentially hazardous foods are cooled properly and stored below 45°F as required.
- 6. IMPROPER HOT HOLDING OF POTENTIALLY HAZARDOUS FOODS. 14-1.10, 1.40, 1.45**
- *A. Potentially hazardous foods are not kept at or above 140°F during hot holding. Actual T _____ °F
 - B. Enough hot holding equipment is not present, properly designed, maintained and operated to keep hot foods above 140°F
- 7. INADEQUATE COOKING AND REHEATING OF POTENTIALLY HAZARDOUS FOODS. 14-1.82, 1.83, 1.86**
- A. All poultry, poultry stuffing, stuffed meats and stuffings containing meat are not heated to 165°F or above. Actual T _____ °F
 - B. All pork or any foods containing pork are not heated to 150°F or above. Actual T _____ °F
 - C. All shell eggs or foods containing shell eggs are not heated to 145°F or above except by consumer request. Actual T _____ °F
 - D. All ground meat and foods containing ground meat are not heated to 158°F or above except by consumer request. Actual T _____ °F
 - E. Other potentially hazardous foods requiring cooking are not heated to 140°F or above. Actual T _____ °F (Exception: rare roast beef or rare beef from solid cuts may be served at 130°F or above)
 - F. Precooked, refrigerated, potentially hazardous foods are not reheated to 165°F or above within two hours. Actual T _____ °F, Actual Time _____ Hours
 - G. Commercially processed, precooked potentially hazardous foods are not heated to 140°F or above within two hours. Actual T _____ °F, Actual Time _____ Hours
 - H. Whole frozen poultry or poultry breasts, other than a single portion, are being cooked frozen or partially thawed.

PART 2 – ESTABLISHMENT SANITATION, DESIGN AND MAINTENANCE

- 8. FOOD NOT PROTECTED IN GENERAL 14-1.40 THROUGH 1.45, 1.50, 1.80, 1.81, 1.86, 1.87, 1.88, 1.97, 1.100, 1.110, 1.180****
- A. Food not protected during storage, preparation, display, transportation and service, from potential sources of contamination (e.g., food uncovered, mislabeled, stored on floor, missing or inadequate sneeze guards, food containers double stacked)
 - B. In use food dispensing utensils improperly stored
 - C. Improper use and storage of clean, sanitized equipment and utensils
 - D. Single service items reused, improperly stored, dispensed, not used when required
 - E. Accurate thermometers not available or used to evaluate refrigerated or heated storage temperatures
 - F. Improper thawing procedures used
 - G. Raw foods not properly washed prior to serving
- 9. POOR HYGIENE AND ACTIVITIES OF FOOD WORKERS. 14-1.71, 1.72, 1.176, 1.177**
- A. Inadequate personal cleanliness
 - B. Tobacco is used: eating, drinking in food preparation, dishwashing, food storage areas
 - C. Hair is improperly restrained.
 - D. Dressing rooms dirty, not provided, improperly located
- 10. POOR SANITARY DESIGN, CONSTRUCTION, INSTALLATION OF EQUIPMENT AND UTENSILS. 14-1.90 THROUGH 1.96, 1.100, 1.101, 1.102**
- A. Food (ice) contact surfaces are improperly designed, constructed, installed, located (cracks, open seams, pitted surfaces, tin cans reused, uncleanable or corroded food contact surfaces)
 - B. Non-food contact surfaces and equipment are improperly designed, constructed, installed, maintained (equipment not readily accessible for cleaning, surfaces not smooth finish)
- 11. IMPROPER CLEANING, WASHING AND SANITIZING OF EQUIPMENT AND UTENSILS. 14-1.110 THROUGH 1.117**
- A. Manual facilities inadequate, technique incorrect: mechanical facilities not operated in accordance with manufacturer's instructions
 - B. Wiping clothes dirty, not stored properly in sanitizing solutions
 - C. Food contact surfaces not washed, rinsed and sanitized after each use and following any time of operations when contamination may have occurred
 - D. Non-food contact surfaces of equipment not clean
- 12. IMPROPER SANITARY FACILITIES AND CONTROLS. 14-1.10, 1.130, 1.140 THROUGH 1.143**
- A. Hot, cold running water not provided, pressure inadequate
 - B. Improperly functioning on-site sewage disposal system, improper/unapproved municipal sewer connection
 - C. Plumbing and sinks not properly sized, installed, maintained: equipment and floors not properly drained
 - D. Toilet facilities inadequate, inconvenient, dirty, in disrepair, toilet paper missing, not self-closing doors, missing hand wash signs
 - E. Handwashing facilities inaccessible, improperly located, dirty, in disrepair, improper fixtures, soap and single service towels or hand drying devices missing
- 13. IMPROPER GARBAGE AND RUBBISH DISPOSAL 14-1.150**
- A. Adequate, leakproof, non-absorbent, vermin-proof, covered containers not provided where needed.
 - B. Garbage storage areas not properly constructed or maintained, creating a nuisance
- 14. INADEQUATE INSECT/RODENT CONTROL 14-1.40, 1.60, 1.160**
- A. Insects, rodents present.
 - B. Effective measures not used to control entrance (rodent/insect-proof construction) Harborage areas available for rodents, insects and other vermin
 - C. Pesticide application not supervised by a certified applicator/in accordance with label directions/in accordance with applicable laws
- 15. IMPROPER CONSTRUCTION AND MAINTENANCE OF PHYSICAL FACILITIES. 14-1.88, 14-1.170 THROUGH 1.175, 1.180, 1.181, 1.182, 1.183**
- A. Floors, walls, ceilings, not smooth, properly constructed, in disrepair, dirty surfaces
 - B. Lighting and ventilation inadequate, fixtures not shielded, dirty ventilation hoods, ductwork, filters, exhaust fans
 - C. Premises littered, unnecessary equipment and article present, living quarters not completely separated from food service operations, live animals, birds and pets not excluded
 - D. Improper storage of cleaning equipment, linens, laundry unacceptable
- 16. MISCELLANEOUS, ECONOMIC VIOLATION, CHOKING POSTER, TRAINING. 14-1.73, 1.190**
- ** NUMBERS LISTED REFER TO 10 NYCRR SUBPART 14-1**

APPENDIX B

RESPONSES FROM LOCAL OFFICIALS

We provided a draft copy of this global report to the five counties we audited and requested responses. We received response letters from all but Columbia County, which did not submit a response letter during the response period. The counties generally agreed with our audit report. However, two counties had comments about staffing and budget issues, which we respond to below.

The following comments were excerpted from the four responses we received.

Overall Comments:

- Albany County officials: “We believe that the results of your recent audit were very positive and we are grateful for the constructive feedback that your audit team provided. We find this audit can be used as a tool to further strengthen our program.”
- Niagara County official: “As a local agency, we face substantial challenges in meeting our immediate public health responsibilities to include food safety due to funding issues and competing state and local priorities. We strongly believe that food safety is a priority that requires priority resources.”

Staffing and Budget Information:

- Oswego County officials: “...the budget information relative to the various health departments, i.e., the 2011 Health Department Budget figures, neither makes nor demonstrates a fair comparison from county to county... A reader may think that Oswego County Health Department’s budget is greatly inflated compared to other Counties, i.e., that Oswego County spends a far greater amount on public health programs than much larger counties, by population.”
- Cortland County officials: “The audit was not all inclusive of the total workload of the inspectors.”

OSC Response

The budget information presented in the background table of the report was provided directly by each county, and is included to give readers the context they need to understand how the FSE inspection process operates within a larger health department. In addition to budget information, we also presented background information on the number of inspectors and full-time equivalent inspectors working on FSE inspections. We recognize that county health departments have other functions in addition to FSE inspections, but those functions were not part of the scope of this audit.

APPENDIX C

AUDIT METHODOLOGY AND STANDARDS

We reviewed the County's policies and procedures for conducting inspections of FSEs. As part of this process, we reviewed the inventory of FSEs, annual inspections reports, the risk assignment process, inspection and testing documentation, complaint review documentation and reinspection documentation. We conducted detailed testing of inspection documentation, conducted site visits to verify permit placement within FSEs, interviewed County and Department officials, and reviewed other documentation related to the objective for the audit scope period.

Specifically:

- We made site visits to 20 FSE locations throughout each county. We selected these locations on a non-bias judgmental basis to determine if the operating permits were current and consistent with county documentation.
- We reviewed 20 inspection reports, which we selected on a non-bias judgmental basis, to verify that the inspection took place. We compared the reports with county records.
- We reviewed and verified documentation for a non-bias judgmental sample of reported consumer complaints at four of the five counties; in Columbia, we reviewed all 18 complaints received.

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

APPENDIX D

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