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Chapter 1

Topics of Special Interest

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Topics of Special Interest

Introductory Comments

1.1 On 7 December 1999 I tabled Volume 1 of the 1999 Report of the Auditor General. At that time I indicated that due to the lateness in government closing the accounts for the year ended 31 March 1999 it was not possible to provide our normal commentary on the Province's financial results or to prepare our chapter on financial indicators. The financial statements have now been finalized and our comments can be found in this chapter. For the second year we have prepared a chapter on financial indicators which examines the Province's financial condition from the perspective of sustainability, flexibility and vulnerability. The results of this work can be found in Chapter 2.

1.2 We have also completed a major piece of work in the Department of Health and Community Services, where we reviewed the inspection of food service establishments. We concluded that the current systems and practices are insufficient in ensuring that the food service establishments in the Province are complying with the Regulations under the Health Act. Our findings and recommendations on this topic can be found in Chapter 5.

Significance of a Qualified Audit Opinion

1.3 Last year we did not agree with how the Province accounted for its investment in New Brunswick Power Corporation, or the \$364 million in transitional assistance received from the government of Canada in connection with the implementation of the Harmonized Sales Tax. In our opinion these were major disagreements, and as a result we gave a qualified opinion on the Province's financial statements for the year ended 31 March 1998. In other words, we did not believe the financial statements fairly presented the financial results for the year in question. In fact we believed the Province incurred a deficit of \$267.3 million. The Province reported a surplus of \$61.7 million.

1.4 Subsequent to the release of the financial statements there were occasions when the seriousness of this qualification was downplayed by the view being expressed that this simply represented a "disagreement among accountants". I am not sure how widespread this view might be but I do feel compelled to react. My concern is that the role of my Office, or in reality auditors anywhere, could be greatly diminished if the significance of a qualification can be dismissed as a "disagreement among accountants".

1.5 To fully appreciate the significance of a qualification it is important to first realize that there are two distinct parties involved.

There is the party that prepares the financial statements, in this case the government, and the party that audits them, in this case the Office of the Auditor General. The Office of the Auditor General is independent of the government, as set out in the Auditor General Act.

1.6 A risk in any audit is that the preparer of the financial statements may have a bias as to what the financial results should look like. For instance a business may want to report a steady growth in earnings. A charitable organization may want to report that most of their donation receipts were used for bona-fide charitable activities. A government may want to report a surplus. And sometimes accounting rules are stretched to reach these objectives. The auditor is only interested in the financial results being what they should be. There are no biases.

1.7 To assist preparers and auditors in conducting their work there are generally accepted principles, which provide guidance on how transactions are to be accounted for and reported. In Canada reliance is placed on the principles adopted by the Canadian Institute of Chartered Accountants (CICA) and the Public Sector Accounting Board (PSAB). In the vast majority of cases the auditor will agree with the accounting treatment adopted by the preparer. There may be situations, however, where the auditor is not pleased with the treatment given a transaction but, since it falls within the realm of “professional judgement”, there is no basis to disagree. In other words it could be argued that one treatment is just as fundamentally sound as another treatment. Then there are those rare situations where the auditor concludes that the preparer is wrong, and the statements must be changed or else there will be a qualified opinion.

1.8 Even in these situations, it must be realized that a final conclusion is not reached until there is a clear understanding of the preparer’s position. This is obtained by sharing views, referencing accounting principles and perhaps researching other authorities on the matter. A lot of time is spent trying to reach a mutually satisfactory conclusion, but when one cannot be reached, the auditor must qualify his opinion. And this will only be done when the auditor believes the preponderance of evidence supports his position.

1.9 So what does all this mean? Well, it means that a qualified audit opinion sends a message, and that message is that the auditor believes the financial statements, as prepared, are biased towards meeting an objective of the preparer. It may be argued that this is all a reader of the financial statements and auditor’s report need understand. Sometimes the reasons behind a disagreement between the preparer and the auditor are not easy to understand. But even without this understanding, the very fact that the auditor, who is independent, disagrees with the preparer, who is biased, should send a strong message that the financial results are not credible. Understanding a qualified opinion in this light is

much more revealing than believing it is simply “a disagreement among accountants”.

Engagement of the “Independent Auditor”

1.10 During the month of June, it was reported that the government was planning to engage an independent auditor to review the government books. We were concerned about this reference to an independent auditor because under the Auditor General Act, the Auditor General is the independent auditor of the Province of New Brunswick. We communicated our concern to the government and we were pleased to note that all subsequent references to the engagement were in the context of a “financial review of the Province of New Brunswick.” It is still common however to hear and read about the engagement in the context of an independent audit. I have been asked on a number of occasions to explain the role of my Office in light of the engagement of this new independent auditor. I thought it would be useful to explain the differences between the role of my Office and that of an auditing firm that the government may engage.

1.11 The first difference is the accountability or reporting relationship. Under the Auditor General Act, the Auditor General is an officer of the Legislative Assembly. This means that I am accountable to the Legislative Assembly and I communicate my findings, opinions and recommendations to that body. A firm that is engaged by the government of the day to undertake a study or review is only accountable to that government.

1.12 A second difference is with respect to the scope of our work. A firm engaged by the government can only do what they have been asked to do. In the case of Grant Thornton, they were engaged to examine twelve things, of which six were related to accounting issues. So in this sense the scope of their work was limited. There may have also been limitations on how long they could take and how much they would be paid. It is also conceivable that in consulting type engagements there may be other restrictions imposed by the government. These are significant differences from the environment under which I and the members of my Office operate. With the benefits and protection of the Auditor General Act, there are no limitations on what we can look at, or who we can talk to. There are no provisions that would permit anyone to restrict the work we do or to influence the time we take on projects, our opinions or recommendations.

Our Audit Opinion in 1999 was Unqualified

1.13 One year ago, as stated earlier, we did not agree with how the Province accounted for its investment in New Brunswick Power Corporation, or the \$364 million in transitional assistance received from the government of Canada as a result of sales tax harmonization. These disagreements were of such magnitude that we issued a qualified opinion.

1.14 Last year we also did a significant piece of work in documenting the major improvements to the financial statements of the

Province over the previous ten years. We did this because one of the performance indicators for our own Office is to measure, on an annual basis, the extent to which the accounting and reporting recommendations made by PSAB are accepted and implemented by the Province. What we found was that the Province had made significant progress over the ten-year period, but three major areas of non-compliance still existed:

- failure to include hospital corporations in the provincial reporting entity;
- accounting for concessionary loans; and
- accounting and reporting for tangible capital assets held by the Province.

1.15 This year we were extremely pleased to see the Province make the necessary adjustments concerning its investment in New Brunswick Power Corporation and its accounting for the sales tax transitional payment. This enabled us to express an unqualified opinion on the Province's financial statements. In addition the Province, for the first time, included the hospital corporations in the provincial reporting entity and properly accounted for its concessionary loans. What this means is that the Province's financial statements are now presented substantially in accordance with PSAB recommendations except for the accounting and reporting of tangible capital assets. We see this as a significant milestone, because as we move forward the readers of the Province's financial statements will be able to draw conclusions and make decisions with the knowledge that all liabilities have been recorded and all significant Crown corporations and agencies are included.

Changes in Net Debt

1.16 The net debt of a government, and annual changes to it, have become significant financial indicators. An increase in net debt is seen as placing greater demands on taxpayers' resources in the future, whereas a reduction in net debt is seen as increasing a government's flexibility and sustainability. An annual surplus will reduce net debt whereas a deficit will increase it.

1.17 The net debt of a government is the amount by which liabilities exceed financial assets. Financial assets are those assets that could provide resources to discharge existing liabilities or finance future obligations. If in any year a government generates revenues in excess of expenditures, it will have a surplus, and this will result in a reduction in net debt.

1.18 For our 1999 Report we thought it would be useful to examine the changes in net debt in the Province of New Brunswick over the past ten years. Our reason for examining these changes is that, over the years, not all the changes in net debt arose from reported surpluses and deficits. This is because one-time accounting adjustments that are needed to implement new accounting policies may be made directly against the opening net debt position for a year. These adjustments are never reflected in the reported surpluses or deficits. Exhibit 1.1 shows the

effects on net debt of the reported surpluses and deficits for the last ten years, and the cumulative effect of accounting adjustments.

Exhibit 1.1

*Changes in Net Debt
(millions of dollars)*

Net debt 1 April 1989	2,993.1
Changes related to reported surpluses and deficits	
1990 deficit	20.1
1991 deficit	173.4
1992 deficit	366.6
1993 deficit	297.4
1994 deficit	290.7
1995 deficit	64.0
1996 surplus	(51.1)
1997 surplus	(125.4)
1998 surplus	(61.7)
1999 deficit	164.3
Change in net debt due to deficits exceeding surpluses	1,138.3
Changes due to accounting changes	1,780.6
Net debt 31 March 1999	5,912.0

1.19 As can be seen, the net debt of the Province has increased from \$2,993.1 million at 1 April 1989 to \$5,912.0 million at 31 March 1999. Of this increase, \$1,138.3 million was due to deficits exceeding surpluses and the remainder, \$1,780.6 million, was due to retroactive adjustments being made directly to net debt. There were a number of adjustments to net debt over the ten-year period but the most significant was in 1994 when government recorded a \$1,645.7 million liability for pensions. Another major increase took place in 1998 when \$289.8 million was set up for retirement pay, vacation pay, summer pay for teachers and workers' compensation benefits. A reduction in net debt of \$376.2 million occurred in 1995 when government recognized its investment in Crown corporations for the first time.

1.20 It is important to realize that the various adjustments that have been made were only recognizing realities. For instance the fact that the Province in 1998 recognized \$289.8 million for unrecorded liabilities, was not of itself the problem. The problem was that these liabilities, although never recognized, did in fact exist. While our preference certainly is to see the proper accounting performed at the time a decision is made, we realize that accounting practice evolves over time. Sometimes it is necessary to make a large, one-time adjustment in order to bring the accounting records into line with generally accepted current practice.

1.21 We now believe, however, that our Province is at a stage where all significant adjustments that should have been made have been made. In the future we would expect to see the annual statement of revenue and expenditure capture the results of all decisions in the year that had an impact on the government's financial position. This should lead to better decision making. It should also result in a more meaningful trend analysis of net debt, one that changes only by surpluses and deficits.

Tangible Capital Assets

1.22 At the present time there is no reporting on the Province's financial statements of the cumulative investment in tangible capital assets. The Province's annual expenditures on capital assets are reported, but the cumulative investment in assets such as hospitals, schools, highways and bridges is not disclosed. To the extent that these assets are used in the delivery of services for a number of years, there should be an annual allocation of their cost. This does not happen in the Province of New Brunswick.

1.23 PSAB's view on the matter is as follows:

Governments need to present information about the stock of tangible capital assets and its amortization in the summary financial statements to demonstrate stewardship and the cost of using those assets to deliver programs.

1.24 Flowing from this view are specific principles, some of which are as follows:

tangible capital assets should be accounted for and reported as assets on the statement of tangible capital assets;

tangible capital assets should be recorded at cost; and

the cost...of a tangible capital asset with a limited life should be amortized over its useful life in a rational and systematic manner appropriate to its nature and use by the government.

1.25 We acknowledge that the PSAB guidance for tangible capital assets is relatively new. However, there is a lot of work to be done leading up to full compliance and we would encourage the government to develop an implementation plan. The first step would be to identify all tangible capital assets and their cost. This would remedy a significant shortcoming which currently exists in that government does not have a complete and easily accessible record of what it owns. With good records on tangible capital assets, the government would be able to fulfil its stewardship responsibility to New Brunswick taxpayers, and be positioned to implement further PSAB principles related to tangible capital assets such as amortization and the costing of programs.

Chapter 2

Indicators of the Province's Financial Condition

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Indicators of the Province's Financial Condition

Background

2.1 In 1997, a research report published by the Canadian Institute of Chartered Accountants defined financial condition as a government's "financial health as measured by sustainability, vulnerability and flexibility, looked at in the context of the overall economic and financial environment."¹

Scope

2.2 The purpose of this chapter is to provide readers with useful information about the Province's financial condition using the CICA research report as a guideline.

2.3 Though many potential indicators of sustainability, vulnerability and flexibility were considered in preparing the research report, only ten indicators were found which were relevant, necessary, measurable and clear to users of government financial information. Of these, our Office has concluded that six can be considered meaningful in the context of the Province of New Brunswick. They are:

- Sustainability*
 - *Net debt as a percentage of gross domestic product (GDP)*
 - *Change in net debt and GDP*
- Flexibility*
 - *Cost of servicing the public debt as a percentage of total revenue*
 - *Own source revenue as a percentage of GDP*
- Vulnerability*
 - *Federal government transfers as a percentage of total revenue*
 - *Foreign currency debt as a percentage of total debt for provincial purposes*

Restatement of Financial Results

2.4 In this chapter, our analysis is based on the current year financial statements as presented in the Public Accounts. Prior year numbers used in our analyses may include restated figures obtained from the Office of the Comptroller. These figures are restated for the effect of changes to accounting policies as explained in Note 2 to the financial statements of the Province.

¹ *Indicators of Government Financial Condition*, 1997 published by the Canadian Institute of Chartered Accountants.

2.5 The 1999 financial statement revenue figures include an upward adjustment of \$121.0 million relating to the harmonized sales tax transitional payment and a reduction of \$450.0 million in investment income from the New Brunswick Power Corporation. These two adjustments result in a one-time reduction in income of \$329.0 million in 1999, and a corresponding increase in net debt. These adjustments relate to the qualification of our opinion on the 1998 provincial financial statements.

Results in Brief

2.6 In general, the five-year trends in sustainability, flexibility and vulnerability show that the Province of New Brunswick's financial condition has improved except for the proportion of federal government transfers to total provincial revenue (vulnerability).

2.7 The two-year trends in sustainability, flexibility and vulnerability are not as favourable as the five-year trends.

2.8 Some of the unfavourable impact on flexibility and vulnerability shown by the two-year trend can be attributed to the required adjustments in 1999 to the harmonized sales tax transitional payment and the investment in New Brunswick Power Corporation.

Sustainability

2.9 Sustainability is the degree to which a government can maintain existing programs and meet existing creditor requirements without increasing the debt burden on the economy.¹

2.10 It is now well understood by the general public that increases in the cost of servicing the public debt can directly impact the quantity and quality of programs and services to which the public has access. Accordingly many provinces, including New Brunswick, are striving to reduce their debt in order to ensure an optimum amount of funding is allocated to programs and services.

2.11 There are circumstances when governments may tolerate increases in their debt load. For example, when revenues are increasing, a higher cost of servicing the public debt might be tolerated without impacting existing programs and services. However, the ability to generate such revenues (e.g. through taxes, user fees, or licenses) is closely linked to the performance of the economy.

2.12 Therefore, any growth in New Brunswick's debt must remain in line with growth in the economy to ensure that our Province can sustain its programs and services. If debt is growing faster than the economy, New Brunswick will suffer reduced capacity for sustainability. Programs and services offered to the public may eventually suffer.

¹ *Indicators of Government Financial Condition*, 1997 published by the Canadian Institute of Chartered Accountants.

Net debt as a percentage of GDP as a measure of sustainability

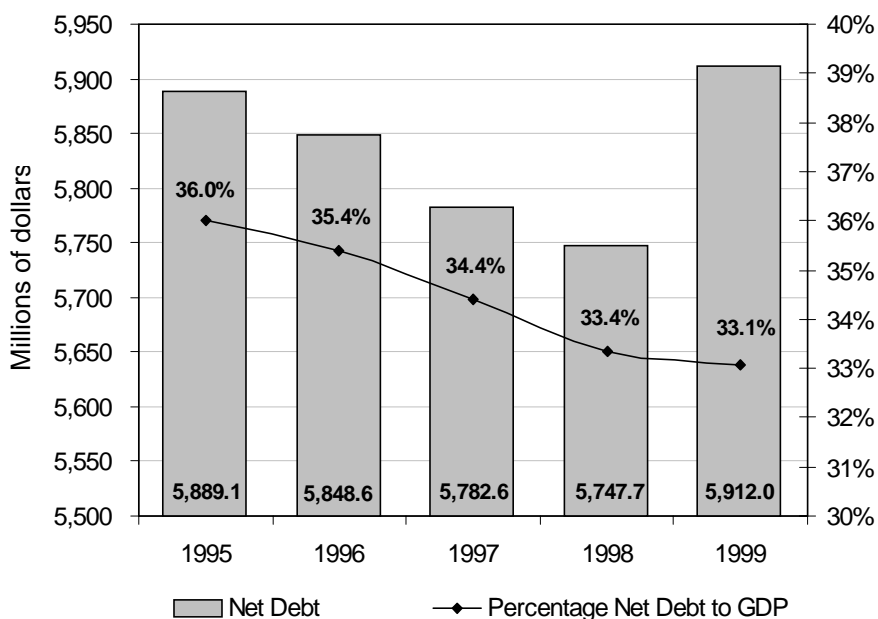
2.13 Gross Domestic Product (GDP) is the total value of all goods and services produced in the province during a specific period. GDP is often used to measure the growth of the economy.

2.14 Net debt is an accounting measure of the extent to which total liabilities of the Province exceed financial assets. The net debt of the Province increases with deficits and decreases when surpluses are experienced. The financial statements for 1999 indicate that net debt stands at \$5,912.0 million - \$22.9 million more than its level five years ago.

2.15 However, the New Brunswick economy has also grown. Exhibit 2.1 shows that the Province's net debt to GDP ratio decreased (favourable) in the period 1995 to 1999 - showing the Province's increasing ability to sustain existing programs and services. In 1999, growth in the economy exceeded growth in the net debt (favourable) even after the adjustments for the harmonized sales tax transitional payment and New Brunswick Power Corporation are considered.

Exhibit 2.1

Net debt as a percentage of GDP¹ for the last five years



2.16 The 1998-99 provincial budget forecast called for nominal GDP growth to be 3.7% in 1999. Currently, the average of private sector forecasts of nominal 1999 GDP growth is 4.6%. Should these forecasts be accurate the effect on our chart would be a more favourable trend.

¹ GDP information provided by N.B Statistics Agency.

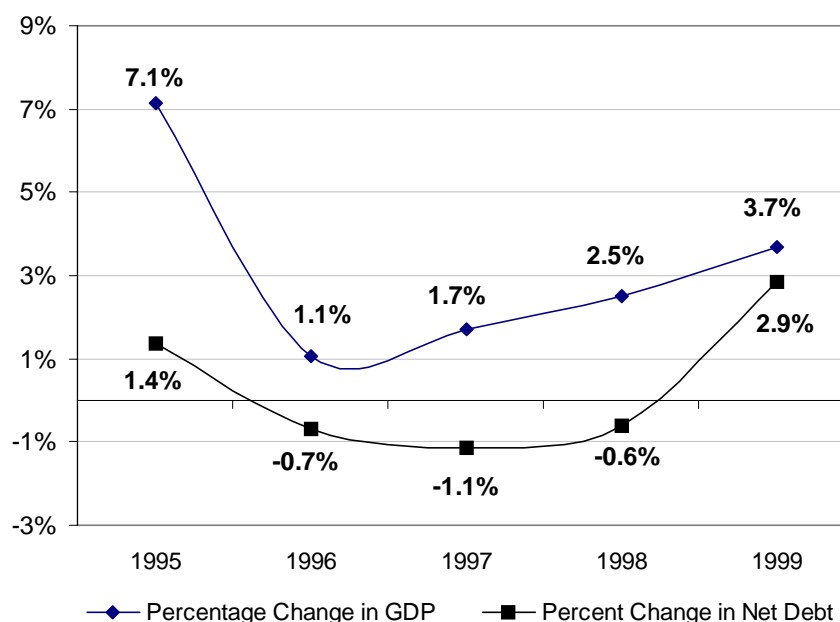
Change in net debt and GDP as a measure of sustainability

2.17 The Province can influence sustainability in two ways: by increasing surpluses (decreasing deficits) and by increasing growth in the economy. Though governments use various political, legislative and regulatory powers to stimulate the economy, the effect is neither guaranteed nor timely.

2.18 The rate of growth in the surplus or deficit and their impact on net debt is much more controllable. Exhibit 2.2 shows that the Province has experienced economic growth in excess of growth in the net debt (favourable) in each of the last five years.

Exhibit 2.2

Change in net debt and GDP¹
for the last five years



Flexibility

2.19 Flexibility is the degree to which a government can increase its financial resources to respond to rising commitments, by either expanding its revenues or increasing its debt burden.²

2.20 Funding for programs and services is provided by either revenue or borrowing during the year. It is a useful measure of flexibility to know to what extent the Province is able to raise revenue from existing and potential sources should new commitments arise.

¹ GDP information provided by N.B. Statistics Agency.

² *Indicators of Government Financial Condition*, 1997 published by the Canadian Institute of Chartered Accountants

Cost of servicing the public debt as a percentage of total revenue (or “interest-bite”) as a measure of flexibility

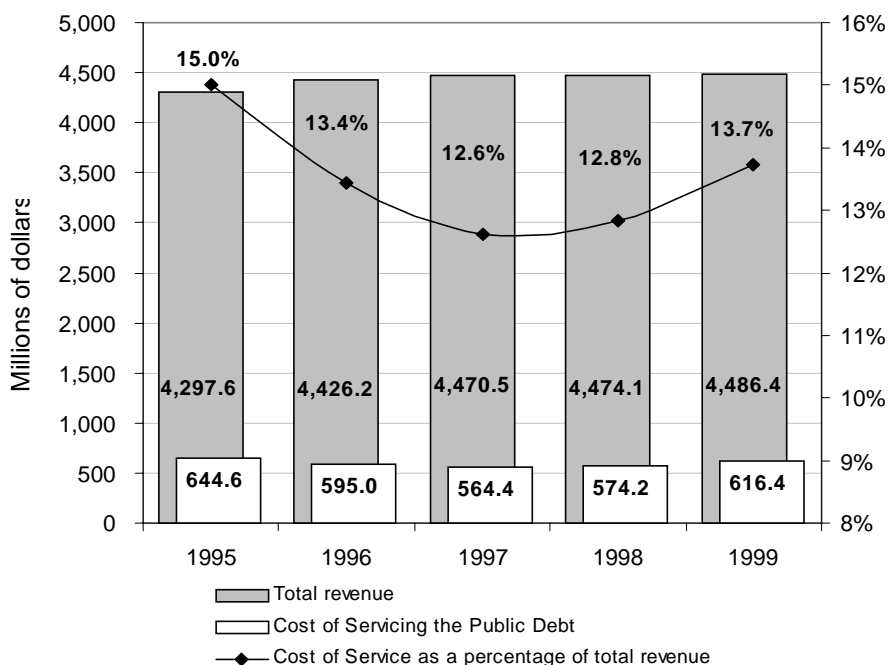
2.21 One of the most publicized factors which affects the flexibility of governments is the cost of servicing the public debt.

2.22 The cost of servicing the public debt is comprised mainly of interest on the funded debt of the Province. It also includes foreign exchange paid on interest and maturities during the year, the amortization of foreign exchange gains and losses, and the amortization of discounts and premiums which were incurred on the issuance of provincial debt. It does not include principal repayments on the funded debt of the Province.

2.23 Exhibit 2.3 shows debt servicing costs as compared to total provincial revenue for the last five years.

Exhibit 2.3

Cost of servicing the public debt as a percentage of total revenue for the last five years



2.24 This exhibit shows the cost of servicing the public debt increased in 1999 over 1998 but still remains \$28 million lower than its 1995 peak of \$644.6 million dollars. It also shows that the Province has decreased its overall “interest-bite” percentage from its 1995 level of 15% to its current level of 13.7%. This indicates that the Province has more of its total revenues available for current needs today than it did five years ago. This suggests some increased flexibility in the long term. However in the last two years there has been an increase (unfavourable) in the cost of servicing the public debt as a percentage of total revenue.

Own source revenue as a percentage of GDP as a measure of flexibility

2.25 One could assume that any additional funding for new programs or services might not be possible from existing revenue sources. A reasonable alternative would be to raise revenue from new provincial

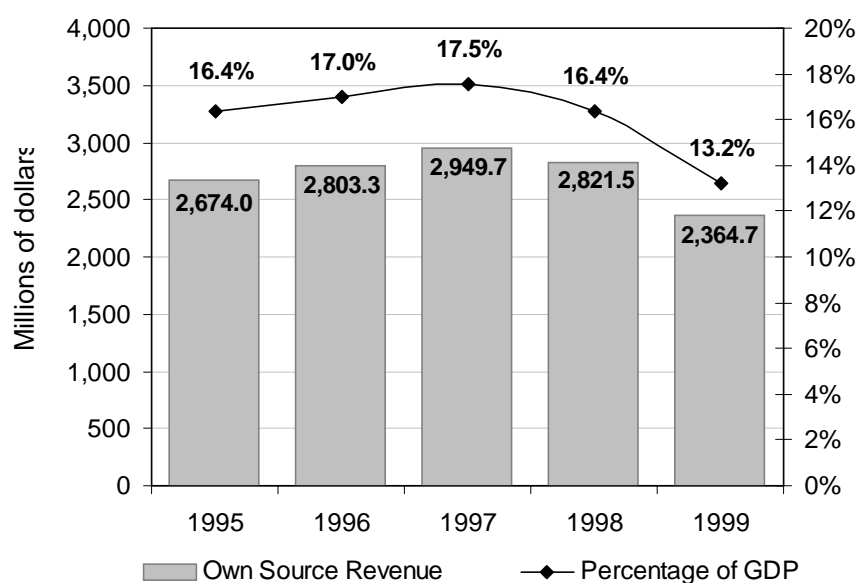
sources. However, the Province is only able to extract a finite amount of dollars from the economy of New Brunswick before the economy begins to falter. Though the exact capacity of the economy to bear such a burden is not known, one can determine the relative increase or decrease over time.

2.26 Exhibit 2.4 shows the extent to which the Province has removed dollars from the provincial economy through taxes and user fees/licenses during the last five years.

2.27 This exhibit shows that the dollars extracted by the Province from the New Brunswick economy as a percent of GDP gradually increased (unfavourable) from 1995 to 1997. This indicates a decrease in flexibility. However, in 1998 this trend in provincial own-source revenue reversed (favourable) and in 1999 it stands at 13.2% of New Brunswick GDP.

2.28 The large decrease in own-source revenue in 1999 is mainly attributable to the reduction of \$450.0 million in investment income from the New Brunswick Power Corporation. But even without this adjustment, own-source revenue as a percentage of GDP would have declined in 1999.

Exhibit 2.4
Own source revenue as a
percentage of GDP¹
for the last five years



Vulnerability

2.29 Vulnerability is the degree to which a government becomes dependent on, and therefore vulnerable to, sources of funding outside its control or influence, both domestic and international.²

¹ GDP information provided by N. B. Statistics Agency.

² Indicators of Government Financial Condition, 1997 published by the Canadian Institute of Chartered Accountants.

Federal government transfers as a percentage of total revenue as a measure of vulnerability

2.30 Funding for programs and services can only come from two sources: revenue or borrowing.

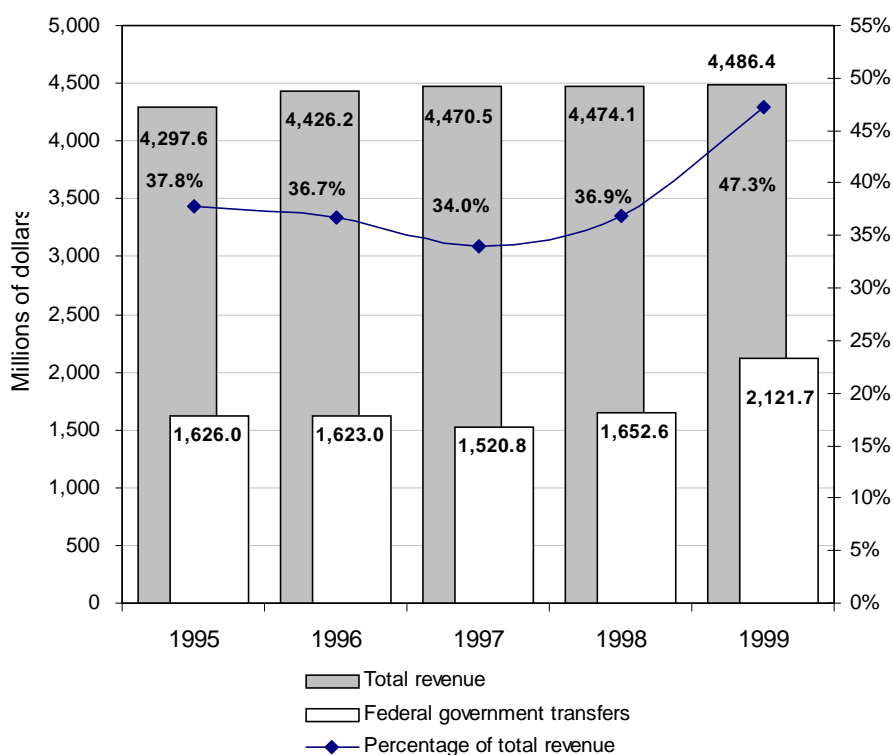
2.31 In 1999, 47% of the Province's total revenue came from federal transfers. This is significant because revenue from federal sources is not considered to be as controllable as revenue generated in the Province.

2.32 Own-source revenue is more controllable because the government can directly impact the amount generated using tax legislation as well as implementation or adjustment of user-fees/ licensing rates. Federal transfers are subject to very different variables - few of which are under the jurisdiction of the provincial government. Federal fiscal policy decisions can severely impact provincial governments by determining the amount and timing of future transfers.

2.33 Increasing New Brunswick's reliance on federal transfers will leave the Province more vulnerable to variables outside of its own control. Exhibit 2.5 details the Province's reliance on federal transfers over the last five years.

Exhibit 2.5

Federal government transfers as a percentage of total revenue for the last five years



2.34 This exhibit demonstrates that approximately 47 cents of each dollar of revenue received by the Province comes from the federal government. This ratio changed significantly in 1999. In 1999 total revenue has been affected by adjustments to the harmonized sales tax

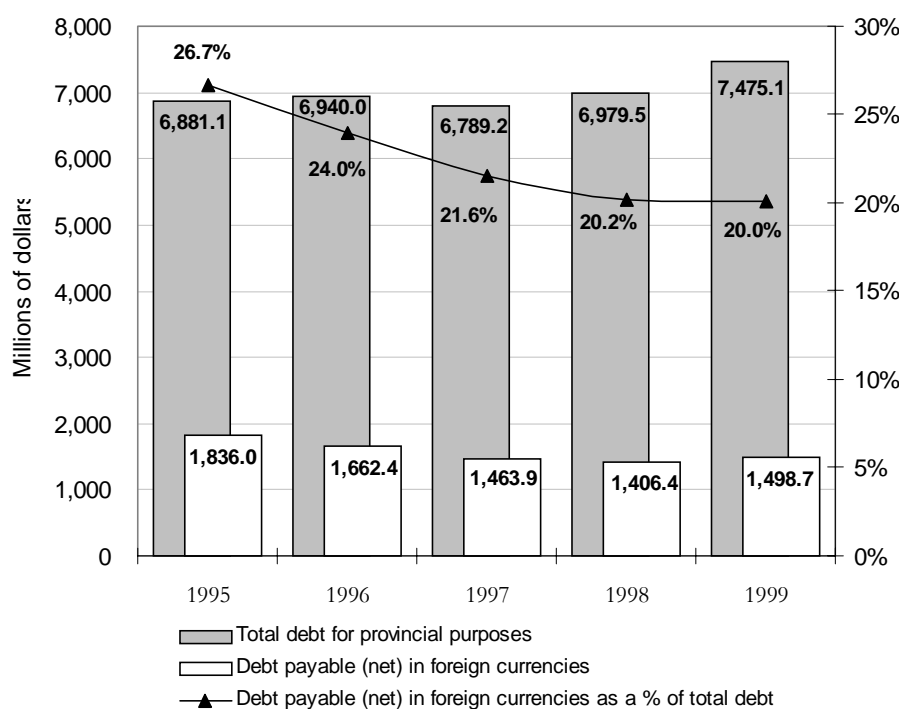
transitional payment and the investment in New Brunswick Power Corporation. Federal revenue has been affected by the adjustment to the harmonized sales tax transitional payment. This accounts for part of the increase. However, there would still be an increase (unfavourable) to approximately 42% if the adjustments to the harmonized sales tax transitional payment and the investment in New Brunswick Power Corporation were excluded from the calculation.

Foreign currency debt as a percentage of total debt for provincial purposes as a measure of vulnerability

2.35 When borrowing is required, there are choices to be made by the Province. For instance, if the Province chooses to issue its debt in a foreign currency instead of Canadian dollars, the Province will assume the risk of foreign exchange fluctuations. Such fluctuations can increase or decrease the amount ultimately payable in Canadian dollars for interest, and later, redemption of foreign currency debt.

Exhibit 2.6

Exposure to foreign currency risk for the last five years



2.36 Exhibit 2.6 shows the relationship of foreign currency debt to total debt for provincial purposes over the last five years. The Province has several alternatives to reduce (hedge) the risk associated with debt repayable in foreign currencies:

- purchasing assets denominated in foreign currencies for the Province's sinking fund;
- entering into debt swap agreements which allows repayment of the debt in Canadian dollars; and
- entering into forward contracts (which allow the Province to purchase foreign currency at a stipulated price on a specified future date).

2.37 The exhibit reflects the Province's exposure to foreign currency risk after eliminating the effect of hedges against foreign currency fluctuations.

2.38 The above exhibit demonstrates that the Province's vulnerability to foreign currency risk has declined (favourable) over the last five years. The overall exposure has decreased (favourable) from its 1995 level of 26.7% to 20.0% in 1999.

Summary

2.39 Exhibit 2.7 summarizes the financial indicators used in this chapter and outlines the impact of the two and five year trends on the financial condition of the Province.

2.40 In general, the five year trends in sustainability, flexibility and vulnerability show that the Province of New Brunswick's financial condition has improved. The only exception is federal government transfers as a percentage of total revenue.

2.41 The two year trends for all of the indicators are not as favourable as the five year trends. Some, although not all, of this impact is attributable to the required adjustments to the harmonized sales tax transitional payment and the provincial investment in New Brunswick Power Corporation.

Exhibit 2.7

Summary of financial indicators

Financial Indicator	1999	Impact on Financial Condition of the Province	
		2 year trend	5 year trend
<i>Sustainability</i>			
Net debt as a percentage of GDP	33.1 %	Favourable	Favourable
Change in net debt and GDP	3 %/4 %	Favourable	Favourable
<i>Flexibility</i>			
Cost of servicing the public debt as a percentage of total revenue	13.7 %	Unfavourable	Favourable
Own source revenue as a percentage of GDP	13.2 %	Favourable	Favourable
<i>Vulnerability</i>			
Federal government transfers as a percentage of total revenue	47.3 %	Unfavourable	Unfavourable
Foreign currency debt as a percentage of total debt	20.0 %	No significant change	Favourable

Chapter 3

Financial Audits in Departments and Crown Agencies

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Financial Audits in Departments and Crown Agencies

Background

3.1 The Legislative Assembly approves the budget that sets out the government's financial plans. The duties imposed on our Office require us to audit the actual financial results and report our findings to the Legislative Assembly.

3.2 Our audit work encompasses financial transactions in all government departments. As well, we audit pension plans and other trust funds.

3.3 We also audit the Crown Corporations, Boards, Commissions and other Agencies which are listed below. By the date this Report is released we will have issued audited financial statements of all of these agencies for the year under review.

3.4 Agencies included in the Public Accounts:

- Advisory Council on the Status of Women
- Algonquin Golf Limited
- Algonquin Properties Limited
- Kings Landing Corporation
- Lotteries Commission of New Brunswick
- NB Agriexport Inc.
- New Brunswick Credit Union Deposit Insurance Corporation
- New Brunswick Crop Insurance Commission
- New Brunswick Highway Corporation
- New Brunswick Municipal Finance Corporation
- New Brunswick Research and Productivity Council
- Premier's Council on the Status of Disabled Persons
- Provincial Holdings Ltd.
- Regional Development Corporation
- Youth Council of New Brunswick

3.5 Other Agencies:

- Le Centre communautaire Sainte-Anne
- Legal Aid Fund
- New Brunswick Public Libraries Foundation
- New Brunswick Women's Institute

Scope

3.6 To reach an opinion on the financial statements of the Province, we carry out audit work on the major programs and activities in departments. In addition, we audit major revenue items and a sample of expenditures chosen from all departments. We also test controls surrounding centralized systems.

3.7 We take a similar approach to our testing of the Province's pension plans. Our objective in doing this work is to reach an opinion on the financial statements of each plan.

3.8 Because of the limited objectives of this type of audit work, it may not identify matters which might come to light during a more extensive or special examination. However, it often reveals deficiencies or lines of enquiry which we might choose to pursue in our broader-scope audit work.

3.9 It is our practice to report our findings to senior officials of the departments concerned, and to ask for a response. Some of these findings may not be included in this Report, because we do not consider them to be of sufficient importance to bring to the attention of the Legislative Assembly.

3.10 Our work in Crown agencies is usually aimed at enabling us to give an opinion on their financial statements. During the course of this work, we may note errors in accounting records or weaknesses in accounting controls. We bring these matters to the attention of the agency, together with any recommendations for improvement.

3.11 This chapter of our Report summarizes issues related to departments, pension plans and Crown agencies which we consider to be significant to the members of the Legislative Assembly.

3.12 Our examination of the matters included in this chapter of our Report was performed in accordance with generally accepted auditing standards, and accordingly included such tests and other procedures as we considered necessary in the circumstances. The matters reported should not be used as a basis for drawing conclusions as to compliance or non-compliance with respect to matters not reported.

**General Expenditure
Test Results**

3.13 As discussed under "Scope", we select for testing a sample of expenditures from all government departments. This sample is selected using statistical sampling techniques. The approach is designed to give

us confidence that, in total, provincial expenditures reported on the financial statements are correct in all material respects.

3.14 Our tests are not just designed to reveal monetary errors, of which there are few. We also check to ensure the expenditure is properly approved, is reasonable in the circumstances and complies with the legislation, regulations and policies which give authority to the transaction. We find more deficiencies in these areas. When we suspect a deficiency is more than just an isolated incident, we may schedule additional audit work in that particular area to confirm or deny our suspicions. This additional work may take place in a subsequent audit year.

3.15 We noted the following deficiencies in our 1999 audit of expenditures:

- individuals who were not on an approved signing authority list but who authorized a document, or who exceeded their authorized spending limit (7 items);
- no evidence that goods were received (1 item);
- no signature for spending authority (1 item);
- incorrect classification of expenditures (2 items); and
- documentation did not support the payment made (3 items).

3.16 We want to emphasize that the Province spends in excess of \$4 billion each year. The instances referred to in this chapter of our Report represent a tiny fraction of these expenditures. No large organization can operate perfectly, all the time. Errors can occur, and mistakes can be made. By far the overwhelming majority of transactions processed by the Province are accurate, authentic and in compliance with established policies and legislation. Our role is to ensure that this continues to be the case.

Losses Through Fraud, Default or Mistake

3.17 Section 13(2) of the Auditor General Act requires us to report to the Legislative Assembly any case where there has been a significant deficiency or loss through fraud, default or mistake of any person.

3.18 During the course of our work we became aware of the following significant losses. Our work is not intended to identify all instances where losses may have occurred, so it would be inappropriate to conclude that all losses have been identified.

Department of Human Resources Development

- Cheques cashed by persons not eligible to receive the funds. This loss is comprised of social assistance cheques that recipients reported lost or stolen. \$90,724

Department of Justice

- Cash shortages and amounts paid out in error. \$1,234

Department of Natural Resources and Energy

- Loss of equipment \$6,937

3.19 Losses reported by our Office only include incidents where there is no evidence of break and enter, fire or vandalism.

3.20 The Province reports in Volume 2 of the Public Accounts the amount of lost tangible public assets (other than inventory shortages). In 1999, the Province reported lost tangible public assets in the amount of \$167,786.

Department of Finance***Pension funds***

3.21 Early in the year we completed our audits of seven provincial pension funds with year ends of 31 December 1997 and 31 March 1998. We issued a management letter to the Department, outlining a number of issues arising during the course of these audits. These issues were relatively minor, dealing with financial statement disclosure and reconciliations of various reports received by the Department related to pension fund activities. The Department responded positively to our recommendations.

3.22 We also raised an issue relating to the calculation of reciprocal transfers into the Teachers' Pension Plan. An error in the program logic could result in inaccurate calculations of the amounts to be transferred. The Department indicated that the error has been corrected, and a project initiated to recalculate and adjust all transfers received since 1 January 1996.

**Department of Health
and Community
Services**

3.23 As a result of our work in the Department in connection with our audit of the Province for the year ended 31 March 1999, we made a number of observations and recommendations.

3.24 We noted weaknesses in the payment process for Family and Community Social Services (FCSS) clients. These weaknesses included the use of out-of-date information to calculate payments, insufficient documentation to support payments, inconsistencies in completing client assessments and inconsistencies in file documentation. We recommended that standards be set for file management, that there be consistency in the documentation maintained on clients and that files should be kept current.

3.25 The Department agreed with our recommendations and indicated that steps were underway to address the issues we raised.

3.26 We also noted that over the past three fiscal years there has been substantial overspending on ambulance services despite increases to the budget. We recommended the Department ensure that the budget is a reasonable estimate reflecting the operating needs of the program.

3.27 In response, the Department stated that program changes have been adequately planned and budgeted for. However, the budget process has not kept up with the pace of increases in human resource costs due to unionization of staff, a decrease in volunteerism and decreased availability of part-time/on call staff.

3.28 In updating our previous year's comments, we noted that year-end settlements with hospital corporations and nursing homes were now up to date. However, the audited financial statements for at least 23 of the 60 nursing homes were not received by their legislated due date, 31 July 1999. Moreover, only two regional hospital corporations submitted audited, board-approved financial statements by the same, legislated, due date. The Department said it would attempt to improve compliance by sending out more advance instructions and reinforcing the content requirements and due dates.

Kings Landing Corporation

3.29 For the third consecutive year we found it necessary to bring to the attention of the Corporation weaknesses in internal controls surrounding site admissions and the use of tickets. This is a key area in the operation of the Corporation and we indicated our concern at the lack of action to address this issue.

3.30 The Corporation agreed that corrective action was not implemented as intended. Written instructions have now been given to staff, and the Controller will monitor compliance.

3.31 Also for the third consecutive year we addressed the weaknesses in controls surrounding the Emporium's sales terminals. The Corporation stated that they are continuing to implement better controls and inventory management applicable to the system for the Emporium. As funds become available, they intend to improve their computer systems.

New Brunswick Credit Union Deposit Insurance Corporation

3.32 In 1998 we reported the failure of the Corporation to create a deposit insurance fund. Such a fund is required under the Credit Unions Act.

3.33 On 30 September 1999, the board of directors of the Corporation approved the trust indentures and the investment policies required for the establishment of a deposit insurance fund. In December 1999, the Credit Union Stabilization Boards transferred title to \$1,770,200 to the Corporation.

3.34 We are pleased to report that the Corporation now has a deposit insurance fund, and is in compliance with its governing legislation.

Chapter 4

Crown Agencies Audited by Others

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Crown Agencies Audited by Others

Background

4.1 We do not audit the financial statements of the Crown Corporations, Boards, Commissions and other Agencies listed below.

4.2 Agencies included in the Public Accounts:

- Board of Commissioners of Public Utilities
- Forest Protection Limited
- Kingsbrae Horticultural Garden Inc.
- New Brunswick Investment Management Corporation
- New Brunswick Liquor Corporation
- New Brunswick Museum
- New Brunswick Power Corporation
- Provincial hospital corporations
- Service New Brunswick
- Strait Crossing Finance Inc.
- Workplace Health, Safety and Compensation Commission of New Brunswick

4.3 Other Agencies:

- Atlantic Lottery Corporation Inc.

4.4 The Auditor General Act requires the auditors of these agencies to submit the agencies' audited financial statements to our Office annually. The auditors must also provide copies of any reports and recommendations arising out of their audits.

Scope

4.5 We review the financial statements and other documents as they are received. We also visit the auditors periodically to review their working papers. We do this to determine whether we can continue to rely on their work in carrying out our audit of the financial statements of the Province. During the year we reviewed the 1999 working papers of the auditors of New Brunswick Power Corporation, the Workplace Health, Safety and Compensation Commission of New Brunswick and Forest Protection Limited.

New Brunswick Power Corporation

4.6 We were satisfied with the work done by the auditors of the Corporation for the year ended 31 March 1999.

4.7 The auditors issued a management letter to the Corporation at the conclusion of their audit. The auditors noted that a large number of issues raised in the previous year had been resolved to their satisfaction. However, they again stressed the importance of password security for information systems, and continued to encourage the completion of a disaster recovery plan for critical operations.

4.8 A number of new matters were raised by the auditors in their 1999 management letter. These related to documenting and reporting risk management activities, signing authorities and policies relating to the capitalization of expenditures.

4.9 The auditors also recommended that management review the existing liabilities for the costs of disposing of irradiated nuclear fuel and decommissioning Point Lepreau Generating Station. These costs were being accumulated over the remaining useful life of Point Lepreau Generating Station, on the assumption that it would continue operating until the year 2014. This assumption has now been changed to the year 2008. Management indicated that the irradiated fuel management and decommissioning cost studies (last updated in 1995-96) will be updated in 1999.

Workplace Health, Safety and Compensation Commission of New Brunswick

4.10 We were satisfied with the work done by the auditors of the Commission for the year ended 31 December 1998.

4.11 The auditors issued a management letter to the Commission at the conclusion of their audit. The auditors were pleased to note progress relating to a number of recommendations made in their previous years' letters. However, they did note that a computer security committee, formed to address recommendations relating to computer controls, had not yet become operational. They recommended, and management agreed, that this committee commence operations promptly.

4.12 Other issues raised by the auditors related to assessment reports, checking of assessment rates, the duties of assessment officers, the absence of segregation of duties in the financial services section and the absence of senior management approval of journal entries. Management agreed with the recommendations and noted the actions that have been taken or will be taken to address the issues raised.

Forest Protection Limited

4.13 We were satisfied with the work done by the auditors of the corporation for the year ended 31 March 1999.

Hospital Corporations

4.14 Seven of the eight auditors of hospital corporations issued management letters following the completion of their audits of the financial statements for the year ended 31 March 1999. These letters

dealt with weaknesses in internal controls in areas such as payroll and purchasing. They also included recommendations to improve accounting procedures, for example the tracking of equipment purchases and related depreciation.

Chapter 5

Department of Health and Community Services

Food Safety

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Department of Health and Community Services Food Safety

Background

5.1 Most people occasionally, if not regularly, consume food from public food service establishments. In New Brunswick, food service establishments include restaurants, take-outs, mobile canteens, catering kitchens, bakeries, hospitals, nursing homes, and schools.

5.2 The Public Health Branch, in the Department of Health and Community Services, provides services to ensure the safe handling of food. Improper handling of food can contribute to an increased risk of food poisoning. To help reduce this risk, the Department has Public Health Inspectors (inspectors) that among other roles have the responsibility to inspect food service establishments. There are 42 inspectors in New Brunswick, working out of the seven Regional Public Health Offices. They inspect for compliance with the Provincial Health Act and Regulations.

5.3 Our Office has an interest in the theme of safety. We believe that in order to ensure the safety of the people of New Brunswick, the government must provide assurance that people and organizations are complying with the safety standards and regulations set for the Province. We believe that food safety is significant, not only because it is of interest to the public (everyone eats and everyone is concerned with food safety) but also, food safety is significant because noncompliance with the regulations has the potential to cause discomfort, sickness or even death.

Scope

5.4 Public Health Inspectors perform inspections under five programs: 1) food control, 2) environment control – community sanitation (water and sewage), 3) communicable disease control – disease investigation, 4) institutional health – daycares and community residences, and 5) recreational sanitation. Although food control involves food recalls and food emergencies in addition to the inspection of food service establishments, this audit covered only the inspection function within the food control program.

5.5 The main objective for this audit was to determine if the Department of Health and Community Services has systems and practices in place that ensure food service establishments in the Province are complying with food safety standards (Health Act and Regulations).

5.6 Our first step was to gain background knowledge on the food control program in New Brunswick. We carried out interviews at the central office and at one public health regional office. The interviews helped provide us with additional sources of information and documentation. Based on the information received, we identified the audit objective listed above and to provide further focus to our audit efforts we developed criteria to use as the basis or standards for our review.

5.7 We then obtained audit evidence by interviewing more staff at the central office; by visiting three more public health regional offices where we did interviews, obtained copies of inspection reports and other documents, and shadowed an inspector while performing an inspection; and by reviewing and analyzing documentation. We compared the audit evidence against the audit criteria in order to develop the findings, conclusions and recommendations that are presented in this chapter.

Results in Brief

5.8 There are 42 Public Health Inspectors that are responsible for inspecting the 2,870 licensed food service establishments in seven regions of the Province. All 42 inspectors have their professional designation - Certified Public Health Inspector (Canada) - CPHI(C). However, we are concerned by the lack of commitment to a professional development program for this group of professionals.

5.9 None of the seven regions are performing inspections in accordance with the risk-based model as reported in the Department's annual report and explained by central office.

5.10 Only 82% of the food service establishments we tested got inspected in 1998-99. There is a lot of variation between the regions in both inspection coverage and inspection frequency.

5.11 With the number of establishments increasing at the same time as the number of inspections stays the same or decreases, it means that inspection coverage is slipping.

5.12 Nine percent of the food service establishments tested had inspections that were over one year old. There are four food service establishments in one region that have not been inspected for over three years. One establishment still in operation was last inspected on 9 February 1994.

5.13 The majority of the food service establishment inspections performed detect that there are violations. Where a follow-up

inspection is warranted, it is only performed in less than half of the cases. We reviewed an inspection report that had several violations that we consider serious (i.e. rodents, unacceptable food storage methods), yet no follow-up inspection was done.

5.14 The regions do not have an inspection schedule to serve as a guide in accomplishing their inspection frequency goal.

5.15 The Regulations relating to food service establishments are not consistently applied by all inspectors.

5.16 There is no policy and procedures manual to serve as a reference for inspections of food service establishments. The regions have identified a need for guidance and have specified areas where policy is needed. We identified several areas where there are inconsistencies between inspectors and between the regions. We also noted a difference in what inspectors interpret their role to be. Our interviews with inspectors and Regional Team Managers indicated that the risk of impaired objectivity does exist.

5.17 We are concerned that some inspectors give operators advance notice of an inspection.

5.18 Inspection reports are understandable and relevant. But, they are not complete because not all the attributes specified in the Regulations are incorporated into these reports. The reports are not consistently prepared by all inspectors.

5.19 The Department's enforcement policy is not being followed. In general, we found that the regions do not revoke a license for noncompliance.

5.20 Under the current legislation and policies, inspectors do not have authority to enforce the legislation. However, new legislation is in progress which has much stronger enforcement power than the current legislation.

5.21 Inspectors do promote compliance with the Regulations by making both verbal and written suggestions for improvement when conducting inspections and by conducting food-handling courses.

5.22 Not all new food service establishments are inspected prior to being issued their first license.

5.23 None of the regions are complying with the Department's policy stating, "*At no time is any establishment to be allowed to operate without a valid license,*" and the Department is not enforcing the Regulation requiring that all food service establishments operating in the Province are licensed.

5.24 Some institutions require a food service establishment license (schools, nursing homes, and hospitals) and some institutions, such as daycares, do not.

5.25 Licensing is not conditional upon compliance with the Regulations; it is a separate administrative function that is not integrated with inspection results.

5.26 The annual license fee for a food service establishment with a seating capacity of greater than fifty has remained the same (\$125) since September 1988. Since the annual license fees are based on the cost recovery principle, we question whether the Department is recovering the targeted percentage of costs.

5.27 Monitoring procedures for the food service establishment inspection function are limited. There are no quality control procedures to ensure the completeness and consistency of inspections.

Staffing of Inspector Positions

5.28 The first three audit criteria relate to the inspector position. They address the qualifications, training, objectivity, and authority that the inspectors should have and the policies and procedures that should guide their work.

Inspectors should be qualified, adequately trained and objective.

Qualifications

5.29 There are 42 Public Health Inspectors in New Brunswick, working from the seven Regional Public Health Offices. Certified Public Health Inspector (Canada) - CPHI(C) - is a professional designation that is awarded to people who successfully complete an education program and final examination. We examined the personnel files and spoke with a representative from the Canadian Institute of Public Health Inspectors. We were able to confirm that all 42 inspectors have their professional designation; thus we conclude they are qualified.

Training

5.30 In our province, inspectors check for compliance with the Provincial Health Act and Regulations. The Regulations for licensed food service establishments are very technical and comprehensive. In assessing whether or not inspectors are trained, we looked for the means of educating the professional inspector to do the work specific to our province. We were also interested in the ongoing training and professional development provided to the Province's experienced inspectors.

5.31 All food service establishments in the Province are subject to the same standards – the Regulations. The Regulations are subject to interpretation. We looked for a provincial training policy that would ensure consistency in training in all seven health regions. There is no provincial training policy. Other disciplines on the regional teams, such

as the Public Health Nurses, have an orientation manual. There is no orientation manual for inspectors.

5.32 Interviews with inspectors revealed two training concerns: the inconsistent application of the Regulations and the lack of opportunity for continuing professional development.

5.33 Inconsistent application of the Regulations was most obvious in two situations that we encountered. The first situation is when there is a rotation of the assigned geographical areas, and an inspector is responsible for inspecting a food service establishment that had previously been inspected by a co-worker. We observed an inspection where the operator complained. The operator said that the inspector was requesting him to do alterations that were different from the alterations requested by the last inspector only a few months earlier. The second situation deals with food service establishments near the health regions' borders and near the borders of assigned geographical areas. Neighbors talk and so do neighboring businesses that are in competition with one another. When an inspector in one region or area has a different interpretation of a Regulation or a different approach to enforcement than a co-worker in a neighboring region or area, operators complain about inequity. Inspectors and one Regional Team Manager (RTM) said that it is frustrating to both the operators and the inspectors when the Regulations are not consistently applied by all inspectors.

5.34 The second training concern expressed by the inspectors is the lack of opportunity for continuing professional development. It is our understanding that inspectors are provided with some training opportunities. Specific examples were provided to us. We received no complaints on the training provided. The concern expressed to us related to the lack of professional development specific to the inspectors' work. One RTM and inspectors in each of the three regions we visited expressed this concern. We were told that training relevant to food control is not available in the Province, and requests to take out-of-province professional development are not often granted due to lack of funding.

5.35 There are no financial resources specifically allocated to training and professional development for inspectors. The Public Health Branch has a budget of \$20,000 for out-of-province travel and conferences that is to provide for both central office and the seven regional offices. The Branch has an additional \$20,000 budget for in-province education days. These two budgets are to provide for all 284 professional staff (nurses, inspectors, nutritionists, etc.) in the seven regions. We feel that the funds budgeted for training are inadequate for this group of health professionals.

5.36 Some of the Regulations that apply today date back to 1963. We feel the age of the Regulations coupled with the lack of ongoing

professional development pose a risk to the Province. We understand that new legislation is forthcoming. When the new Regulations are established, all Public Health Inspectors should receive training in order to ensure a consistent understanding and application of the Regulations.

Objectivity

5.37 Inspectors should be objective. They should be unbiased in performing inspections and preparing their inspection reports. They should avoid situations where their objectivity could be questioned.

5.38 The Public Health Branch does not have a conflict of interest policy for inspectors; however, there is a Board of Management conflict of interest policy that applies to government employees. Our interviews with inspectors and RTMs indicated that the risk of impaired objectivity does exist. Currently, there are only limited and inconsistent means of reducing this risk.

5.39 We believe that rotating the establishments assigned to the inspectors is an important way of reducing the risk of impaired objectivity. We asked each of the seven regions if they rotated food service establishments. Two regions reported that they did rotate and the other five regions said they did not rotate. One region said that they have some inspectors that have been inspecting the same establishments for over twenty years. We acknowledge that there is some temporary rotation in all regions as the inspectors cover-off for one another during vacations. Also, there has been some rotation when a new inspector has joined a region and an area was carved out for that person.

Conclusion

5.40 Our conclusion is that this criterion is partially met.

5.41 We were pleased to learn that all of the inspectors employed by the Department to perform inspections are qualified CPHI(C)s. However, we are concerned by the lack of specific training and ongoing professional development that is provided to this group. We are concerned also by the lack of consistency in interpretation and application of the provincial Regulations. And, we are concerned with the risk of impaired objectivity.

Recommendations

5.42 The Department should establish a training policy that encompasses both training of newly hired inspectors and continuing professional development of experienced inspectors. Among other things, the training for new inspectors should include an orientation to New Brunswick's legislation and specific training on Regulations, policies and procedures relevant to their work.

5.43 The Department should consider the potential benefits of accessing specialized out-of-province training for inspectors.

5.44 Current training needs should be identified and assessed. A training plan should be established to reflect these needs and it should be incorporated into the financial budget.

5.45 When the new Regulations are established, all Public Health Inspectors should receive training in order to ensure a consistent understanding and application of the Regulations.

5.46 In an attempt to reduce the risk of the loss of objectivity, the conflict of interest policy should be communicated and monitored. Consideration should be given to ways of reducing the risk of impaired objectivity. We believe that rotating food service establishments amongst the inspectors would be helpful. A quality control/professional review system would be both practical and effective.

Departmental response

5.47 *Agreed. Health and Community Services (HCS) is in the process of developing a formal orientation plan for newly hired inspectors and will establish a policy outlining its use. A policy on continued professional development is not required as a stand-alone document. HCS will stress the need for continuing education and lifelong learning and will work with the NB Branch of the Canadian Institute of Public Health Inspectors to make this happen. Nationally, the Canadian Institute of Public Health Inspectors is also looking at continuing education as a personal responsibility for re-licensing.*

5.48 *HCS recognizes the benefits of making specialized training available. While we continue with out-of-province support with limited funding available, we will actively explore opportunities to bring the “expertise” into New Brunswick, allowing more of our professionals an opportunity to participate.*

5.49 *Training needs will be assessed. A training plan and budget will be established and will become a part of the individual’s work plan and part of the branch work plan.*

5.50 *All Public Health Inspectors will receive training on the new act, regulations and their interpretation and application. As well, standard operating procedures (SOPs) and practice guidelines are being developed and are planned to be ready by summer 2000.*

5.51 *The Department of Finance’s Policy on Conflict of Interest will be brought to the attention of all Public Health Inspectors. The policy will be included in the orientation plan to be developed for new inspectors. SOPs are being developed for the food inspection program. Staff rotation expectations will be considered and will be integrated into the work plan process.*

Inspectors should possess and exercise authority to enforce the Act and Regulations relating to food service establishments.**Possessing enforcement authority**

5.52 Legislation and policy dictate authority to enforce the Act. The current legislation and policies relating to food service establishments are very old. We are aware that new legislation is forthcoming.

5.53 In determining whether inspectors possess authority to enforce the Act, we examined the legislation and policies that are currently in place. The Health Act gives inspectors the authority to inspect establishments and the authority to seize food. Inspectors do not have the authority to require an establishment to cease operations. A Regulation under the Health Act gives the district medical health officer (DMHO) the authority to revoke a license and thus cause the establishment to cease operations.

5.54 The Department has a policy titled *Licensing & Inspection of Food Service Establishments*; it is commonly referred to as “the enforcement policy”. It is a 1976 document that was reissued in October 1995. The purpose of the policy is “to determine and enforce compliance with the regulation”. Enforcement is addressed by nine detailed procedures. The procedures deal with documenting all violations; discussing violations with the owner and setting a date for compliance; issuing an inspection report; doing follow-up inspections; revoking a license; and pressing charges for operating without a license.

5.55 We believe the intent of this policy is to give the inspector indirect involvement in the authority to enforce the legislation. The intent of the policy is consistent with our interpretation of the intent of the legislation.

5.56 Under the current legislation and policies inspectors do not have direct authority to enforce the legislation. However, new legislation is in progress. The new Act was assented to in February 1998, but it is still not proclaimed because it awaits seven sets of Regulations. The Department hopes to have the new Regulations ready by September 2000. We reviewed the new Act. We were pleased to see that it has much stronger enforcement power than the current legislation. It gives inspectors and the DMHOs the ability to issue “orders”. Orders “require a person to take or refrain from taking any action that is specified”. Orders may include a variety of actions including closing of premises.

5.57 Since inspectors do not possess enforcement authority, we moved our focus up to the level at which the authority exists - DMHO level - to assess whether the authority to enforce the Act and Regulations is being exercised.

Exercising enforcement authority

5.58 Although some of the terminology is outdated, we found the enforcement policy to be very informative, specific and thorough. We

tested for compliance with the policy. In general, we conclude that the enforcement policy is not being followed. When we assessed compliance with each of the nine procedures, in most cases, some inspectors and regions were complying with the procedures and other inspectors and regions were not. There are two procedures that do have widespread compliance: inspectors do issue a copy of the inspection report to the establishment; and most regions reported that they did press legal charges when a food service establishment operated without a license. Some of the deficiencies in compliance with the other seven procedures in the enforcement policy include the following.

- We shadowed four inspectors from three different regions while they performed a routine inspection of a food service establishment. (We observed six inspections in total.) Only one of the four inspectors noted all violations on the inspection form; the other three inspectors recorded only some of the violations.
- Although each of the four inspectors discussed the inspection report with the owner or person in charge, in only one case was a date set for compliance.
- Of the six inspections that we observed, we believe a follow-up inspection was required at three of the establishments. In only one case was a date set for compliance and a follow-up inspection done at that time. Also, we reviewed a sample of 163 inspection reports from four regions. Several of the reports having violations did not have a date set for compliance. In only a few cases was there evidence of a follow-up inspection. Specific examples where we think follow-up or enforcement was lacking include the following:
 - A Fredericton establishment with its most recent inspection report dated 28 April 1997 stated a follow-up date for one month, but apparently no follow-up inspection was done.
 - Two establishments had scores in the range 70% – 79%, yet there was no follow-up performed. One of these had several violations that we consider serious (i.e. rodents, unacceptable food storage methods). The other was a high-risk establishment, a hospital, with a score of 77.
 - We saw three consecutive inspection reports for one establishment over a thirteen-month period that all had the same violation: there was no hand-washing sink in the kitchen.
- There are four procedures in the policy dealing with the roles of the supervisor and the DMHO in enforcing the Regulations and revoking a license. This is where the process breaks down. We asked four regions if their office has ever closed down a food service establishment. Three of them reported that a license has not been revoked for over five years. The other region reported that they are usually able to convince the food service establishment to close and

avoid the embarrassment and trouble of having their license revoked. Different people reported that the political environment acted as a deterrent to revoking a license.

5.59 Inspectors do promote compliance with the Regulations relating to food service establishments by making both verbal and written suggestions for improvement when conducting inspections and by conducting food-handling courses.

5.60 One inspector indicated that he would like to have more enforcement authority. He suggested that inspectors could be given the authority to issue tickets and fines to food service establishment owners for violations. For example, if a food service establishment did not have their license publicly displayed as required by the Regulations, the inspector would issue a ticket requiring the owner to pay a specified fine. He thought that this practice is being used in another province. It seems reasonable that there would be more incentive for the food service establishments to comply with the Regulations if there was a penalty for not complying.

Conclusion

5.61 Our conclusion is that this criterion is not met.

5.62 Although the inspectors definitely have indirect involvement in enforcement, under the current legislation, they do not have authority to enforce the Act and Regulations relating to food service establishments. It is the district medical health officer (DMHO) that has the authority to enforce the legislation and revoke a license for noncompliance. It appears that this authority is not being exercised because, although some food service establishments are not complying with the Regulations, their licenses are not being revoked.

5.63 The Public Health Branch recognizes their responsibility and the importance of enforcing compliance with the Regulations as stated in their 1976 enforcement policy, *"The food service establishment regulations are designed to ensure the safe handling, preparation and serving of food. Therefore, a uniform procedure and policy is required in the licensing and inspection program to determine and enforce compliance with the regulation."* However, the policy is old, it is not being followed by all inspectors and regions and it is not being monitored. As a result of this, not all food service establishments are complying with all of the Regulations and specific violations are not always corrected promptly.

Recommendations

5.64 The inspection function should serve as a means of determining and enforcing compliance with the Act and Regulations relating to food service establishments. Enforcement actions should be used to ensure compliance with the Regulations. The enforcement policy should be updated to reflect the organization's changes - the

accountability links and the reporting system. The amended policy should be distributed and monitored.

5.65 We encouraged the Department to continue its efforts to complete the Regulations as soon as possible, for the recently assented new Public Health Act.

5.66 The Department's enforcement policy states, "*Our Food Service Establishment license must be treated with no less respect than is required for a driver's license or motor vehicle license. It is not a revenue producer but a control measure to protect the health of the public.*" With the same analogy to a driver's license in mind, we recommended that "ticketing" be considered as a means of enforcing compliance with the Regulations.

5.67 We encouraged the Department to explore other means of enforcement. For example, having the food service establishment post its most recent inspection report could be a requirement having enforcement benefits. The watchful eye of the consumer in this competitive environment could serve as a strong incentive for food service establishment operators to comply with legislation requirements.

Departmental response

5.68 *SOPs are being developed for the food inspection program. An updated compliance and enforcement expectation will be included, reflecting the organizational changes, with applicable responsibility and accountability links. The SOPs and practice guidelines will be distributed to inspectors, Regional Team Managers, Regional Directors and to Regional Medical Officers of Health. Monitoring procedures will be established for the regional and provincial levels. Quality assurance will be implemented and procedures assessed against these developed standards. Auditing will be implemented. The Department and inspectors have a dual role, enforcement and education, both will be integrated within the SOPs and practice guidelines and the effectiveness will be monitored.*

5.69 *HCS has given high priority to the regulatory review process. It is hoped to have new regulations in place by Summer 2000.*

5.70 *Early discussions in the development of the new Public Health Act concluded that ticketing authority would not be requested for public health inspectors. Your recommendation will cause HCS to revisit the applicability of this enforcement tool. The concept has merit.*

5.71 *HCS will explore other enforcement options such as posting of inspection reports. All violations do not have equal risk, therefore discussion will be required on how to inform and educate the consumer.*

Inspectors should be guided by documented policies and procedures. Their responsibilities should be clear.

5.72 The function of inspecting food service establishments is highly decentralized. Decentralization has both advantages and disadvantages. One of the potential disadvantages is inconsistency from one region to another. Having central policies with ongoing monitoring can reduce the risk of inconsistency. Since there are 42 inspectors working from seven health regions, the risk of inconsistency exists.

Documented policies and procedures

5.73 There is no policy and procedures manual for inspections of food service establishments. Central office has issued individual policies and guidelines over time, but there is no one reference manual.

5.74 Staff in the regions reported the need for guidance in specific areas. A couple of the RTMs have prepared a binder with documentation on food inspections and have distributed it to their inspectors. But the contents varied substantially from region to region and this did not happen in all regions. The RTMs reported that this was done on their own initiative and cautioned us against referring to the binder as a policy manual.

5.75 From our visits to four regions and our observations while shadowing four inspectors, we noted the following areas of inconsistency. It is likely that the Department's work would benefit if there were policies providing guidance in these areas:

- performing inspections:
 - time taken to do an inspection ranged from less than ten minutes to over two hours;
 - hygiene practices of the inspector (use of hairnet/head cover and washing hands);
 - equipment used (thermometers, flashlights, cameras);
 - inclusion of the establishment's equipment while operating and its washrooms; and
 - manner in which the manual inspection report is prepared.
- the contents of inspection files;
- the frequency of performing inspections;
- the rotation of food service establishments assigned to inspectors;
- monitoring of the inspectors and the inspection function;
- the involvement of the inspectors prior to issuing the first license to an establishment;
- license renewal procedures: timing, dating and signing the renewal license, follow-up of establishments whose license expired; and
- the food-handling course:
 - duration of the course ranges from ½ day to 2 days;

- offerings per year range from one to ten; and
- some regions have an exam with a certificate for successful participants and others do not.

5.76 Inspectors indicated frustration with the lack of consistent guidance. At times, inspectors and RTMs consult with one another or central office when they are faced with making decisions for which there are no policies or guidelines. The result of not having policies is well articulated by an RTM who said, *"The obvious problem is inconsistency and the watchful eye of other entrepreneurs whose business is being affected by individuals who escape the regulations."*

Role and responsibilities

5.77 There appears to be some inconsistency in what inspectors believe their role to be. Some think their role is to educate operators and encourage compliance with the Regulations; others feel it is their role to enforce and monitor compliance with the Regulations; and still others feel it is their role to both educate and enforce. With new legislation in the making, this is the perfect time for the Department to clarify the role of the inspectors in our province.

Conclusion

5.78 Our conclusion is that this criterion is partially met.

5.79 Although there have been some individual policies and guidelines issued over the past 25 years, there is no policy and procedures manual to serve as a reference for inspections of food service establishments. The regions have identified a need for guidance and have specified areas where policy is needed. We identified several areas where there are inconsistencies between regions. We also noted a difference in what inspectors interpret their role to be.

Recommendations

5.80 **Appropriate policies and procedures for the food control program should be clearly established, properly documented, effectively communicated and distributed to staff, and reviewed on an annual basis. In preparing a policy and procedures manual, the regions should be consulted as some regions have valuable information that is worth sharing and the inspectors know particular areas where guidance is needed.**

5.81 **Policies and procedures should address the following, among other things.**

- **the goal of the food control program and the objectives of activities (inspections, food-handling courses, complaint response);**
- **the responsibilities of the inspectors;**
- **training procedures for newly hired inspectors and ongoing training for existing staff;**
- **the conflict of interest policy to promote objectivity;**

- the inspection process including the enforcement of the Regulations, the inspection reports, and the means of handling complaints from the public;
- the accountability links and the reporting system; and
- the responsibility for monitoring adherence to policies and procedures.

Departmental response

5.82 *Agreed. Policies, SOPs and practice guidelines are being developed. A process has been initiated that ensures significant involvement of regional staff.*

Planning and Conducting of Inspections

5.83 The next three audit criteria relate to the inspection function. They address the purpose of performing inspections, the scheduling of inspections and the inspection report.

Inspection procedures should measure compliance with the Act and Regulations relating to food service establishments.

Inspection procedures

5.84 In reviewing inspection procedures, we examined current practice and the tools available to inspectors. The review also included an examination of how the inspectors use these tools.

5.85 At the time of our review, some inspectors were performing manual inspections using a document called *Inspection Report - Food Service Establishment*. Other inspectors were performing automated inspections using handheld computers referred to as the TNG (The iNspectoR General).

5.86 Our concern is that neither approach ensures a complete inspection. We counted over one hundred conditions in the Regulations; the manual and TNG lists have 44 and 68 conditions respectively. The issue is that the lists use general terms that are subject to interpretation. For example, the TNG has “utensil condition” as one item on the list for the inspector to verify; however, there are at least nine conditions specified in the Regulations relating to the condition, cleansing and storage of utensils and dishes. The manual inspection form has “public washrooms” as one item on the list for the inspector to verify; however, there are at least thirteen conditions specified in the Regulations relating to the location, number, sinks, toilets, urinals, floor, supplies, water quality, cleansing and condition. We believe that it is highly unlikely that the manual and TNG lists are adequate in triggering the inspector’s memory to verify all the conditions specified in the Regulations and thus perform a complete inspection.

5.87 Another important consideration is how the inspectors use the manual form and the TNG. Even if these two tools did provide a complete list of all the food service establishment requirements, it would not ensure a complete inspection. Using the list as a checklist and indicating for each item whether or not there was compliance would

result in a complete inspection. However, if the inspector did exception reporting and only used the list to identify and report violations, then there is no assurance that all the conditions were verified.

5.88 Our finding from observing four inspectors performing six inspections is that most inspectors perform exception reporting. Only one of the four inspectors used the list as a checklist ensuring that all the listed items had been verified. The other three inspectors used exception reporting. Our review of a sample of manual inspection reports supports this observation. Most of the reports we examined had only items with violations marked; there was no evidence that the remainder of the items had been verified.

5.89 We believe that performing surprise inspections is key in measuring compliance with the Regulations. If the operator is informed in advance that an inspection will be performed, then this would not necessarily provide a true representation of their normal situation. One of the four inspectors that we shadowed informed the operator in advance that we would be doing an inspection. We observed this inspector do two inspections; both operators were given advance notice of our inspection.

5.90 The inspection reports generated from the TNG and the manual form both provide a space for a score. No violations would result in a score of 100. This would appear to be a useful tool in measuring compliance with the Regulations and comparing the performance of different food service establishments. However, it is the inspector's option as to whether or not he/she calculates the score on the manual report or has the score printed on the TNG report. As a result, some inspection reports show a score and others do not. As well, inspectors have the flexibility to change the score. For example, one inspector may deduct five points for improper temperature control whether the establishment has only one refrigerator not working properly or four refrigeration units at improper temperatures, whereas another inspector may deduct five points for each refrigeration unit having an improper temperature.

5.91 Inspectors have different views on scoring. Some like it and feel it acts as an incentive to the operators to comply and thus get a higher score. Some dislike it, as operators view this as a percentage and may feel their operation is in a much better position than they actually are. For example, it can be misleading because it is possible to obtain a score in the 90s yet be a real health risk with improper temperature control and rodents. Some question the scoring procedure because they realize that the checklist is not complete in assessing all the conditions specified in the Regulations, yet it totals 100. Based on these findings and comments, we believe the current scores are meaningless.

5.92 Currently, the practice of self-inspection by food service establishment operators is not being used. We believe that a self-inspection checklist could serve as a useful tool. Self-assessments signed by food service establishment owners that are submitted to the regional office for review could be an effective procedure for measuring compliance. This practice could be used at specific times such as license renewal time and during the summer months when the inspectors are the busiest. Administration of self-inspections could be assigned to support staff or perhaps even a summer student and thus not require any time of the inspectors.

Conclusion

5.93 Our conclusion is that this criterion is partially met.

5.94 Inspectors perform inspections with the aid of a form when performing manual inspections and the TNG handheld computer when performing automated inspections. Both of these tools provide a list of attributes for the inspector to verify and are useful in measuring compliance with some of the Regulations. However, neither the manual form nor the TNG provides a complete list of all the conditions specified in the Regulations and our findings indicate that most inspectors use these tools for exception reporting rather than as a checklist. We therefore conclude that inspection procedures are not complete in measuring compliance with all the Regulations.

5.95 We are concerned that some inspectors may give operators advance notice of an inspection. We believe that this could reduce the effectiveness of the inspection.

5.96 The current scoring practices do not provide an effective means for measuring compliance with the Regulations.

Recommendations

5.97 Inspections should measure compliance with the Act and Regulations relating to food service establishments. The inspection checklists should be reviewed and updated to ensure that all Regulations and legislated requirements are covered by the inspection. The checklist should not be so stringent that it eliminates the opportunity to use professional judgement in non-critical areas of the inspection.

5.98 All routine inspections should be unannounced. There should be a valid reason for giving the operator of a food service establishment advance notice of an inspection.

5.99 The issues concerning scoring should be resolved. If it is decided that scoring is beneficial and is to be used, then inspectors should be given guidance to ensure that it is used consistently.

5.100 The practise of self-inspection should be considered. We believe that self-assessments that are signed by food service

establishment owners and submitted to the regional office for review could be an effective procedure for measuring compliance.

Departmental response

5.101 *HCS agrees that inspections should measure compliance with the Act and Regulations relating to food service establishments. With the regulations being rewritten, our inspection tools will be revised to reflect the new regulatory approach. The use of checklists will be explored in the development of the SOPs, and training of staff and auditing of procedures will become part of practices in the future.*

5.102 *A directive will be sent out early in the new year clarifying our expectations with respect to unannounced/announced inspections. In most instances, an announced inspection is a result of a follow-up inspection to verify compliance.*

5.103 *The value use of scoring will be addressed in the development of policies and SOPs.*

5.104 *The practice of self-assessment will be explored in the development of policy and SOPs, and as we refine our knowledge of individual establishments and the process of risk assessment.*

Routine inspections should be done to control risks in accordance with a predetermined coverage plan. Non-routine inspections should also be done when appropriate, to address complaints received from the public and to determine if identified deficiencies have been corrected.

Frequency of inspections

5.105 The 1997-98 Annual Report for the Department of Health and Community Services states, “*Inspections of food service premises are done routinely. The number of inspections done per year is based on risk category or inspection result.*” Central office staff explained the risk-based model to us. Food service establishments are rated as being low, medium, or high risk. This warrants one, two or three inspections per year respectively. Attributes used for classifying establishments into risk groups include the complexity of food preparation and the sensitivity of the population being served. For example, an establishment preparing food for a hospital rates high risk.

5.106 We visited one regional office and tested a sample of food service establishments. We found that the inspectors were classifying each establishment as low, medium or high risk, but the desired number of inspections per year based upon this assigned risk were not being done. We surveyed the remaining six regions and learned that none of the other regions were following the risk-based model. Each region had a goal for inspection frequency. There was a substantial difference in the frequency goals reported by the regions. The goals ranged from two inspections per year to once per calendar year. The latter goal could result in a lapse of 23 months between inspections.

5.107 We tested a sample of 117 food service establishments from four regions to determine the actual inspection frequency. (This represented approximately 7% of the food service establishments in these regions.) We examined all inspection reports for the period 1 April 1998 to 31 March 1999 for each food service establishment in our sample. Our findings are presented in Exhibit 5.1.

Exhibit 5.1

Inspection frequency - The number of inspections performed in one year

Region	Number of inspections performed on FSEs during 1998-99			
	none	1	2	3 or more
Saint John	3.3%	35.0%	41.7%	20.0%
Fredericton	52.6%	47.4%	0.0%	0.0%
Bathurst	36.4%	50.0%	9.1%	4.5%
Miramichi	6.3%	75.0%	18.8%	0.0%
Total Sample	17.9%	45.3%	25.6%	11.1%

Notes:

FSE is an abbreviation for *Food Service Establishment*.

Inspectors have responsibilities under five programs:

- 1) food control, 2) environment control,
- 3) communicable disease control, 4) institutional health, and
- 5) recreational sanitation.

This audit covered only the inspection function within the food control program.

5.108 The following are observations relating to Exhibit 5.1.

- Eighteen percent of the food service establishments tested were not inspected during the 1998-99 year; 45% of the food service establishments tested were inspected once during the 1998-99 year; 26% were inspected twice; and 11% were inspected three or more times.
- There is significant variation between the four regions tested with respect to inspection frequency.
- Inspection frequency was lowest in Fredericton where none of the food service establishments tested were inspected more than once during the year and 53% of the establishments tested had not been inspected during the year.
- Inspection frequency was highest in Saint John where 62% of the food service establishments tested were inspected two or more times during the year and only 3% of the establishments tested had not been inspected during the year.
- In Bathurst, half of the food service establishments tested (50%) had been inspected once during the year, but 36% of the establishments tested had not been inspected during the year.

- In Miramichi, most of the food service establishments tested (75 %) had been inspected once during the year, and only 6 % of the establishments tested had not been inspected during the year.
- With the possible exception of Bathurst, none of the four regions tested met their inspection frequency goal. The goals reported to us were: Bathurst – once per calendar year, Fredericton – two to four times per year based on risk assessment, Miramichi – twice per year, and Saint John – twice per year.

Inspection coverage and scheduling

5.109 Another insight to inspection coverage was obtained by reviewing the Department's annual report for the past several years. Information from this review is presented in Exhibit 5.2.

Exhibit 5.2

Total inspections compared to total food service establishments

	1997-98	1996-97	1995-96	Notes
Licensed Food Service Establishments	3,001	2,965	2,656	
Inspections	4,258	4,758	4,700	(1)

Note: (1) The 1995-96 Annual Report stated that more than 4,700 inspections were conducted.

5.110 Exhibit 5.2 indicates the following.

- The number of food service establishments has increased in each of the past three years.
- The number of food service establishment inspections was consistent in 1995-96 and 1996-97, but then dropped by over ten percent in 1997-98.
- With the number of establishments increasing at the same time as the number of inspections staying the same or decreasing, it means that inspection coverage is slipping.

5.111 To ensure that all licensed food service establishments are subject to inspection, we tested two regions. We compared a complete list of all licensed food service establishments in the region to lists of establishments assigned to each inspector. We are pleased to report that all licensed food service establishments in both regions were assigned to an inspector and therefore subject to inspection.

5.112 Inspectors in the regions are responsible for several programs; food control is only one of five. Within the food control program, food service establishment inspections is only one of several functions for which they are responsible. With the diversity of their concurrent responsibilities, we believe it is essential for the inspectors to be organized with a work plan and a schedule for inspections.

5.113 We were surprised to find that none of the regions we visited had an inspection schedule. Each inspector has his/her own way of

managing their workload. We mentioned earlier that none of the four regions tested met their inspection frequency goal. The likelihood of achieving these goals would increase if the goals were incorporated into a predetermined coverage plan and then arranged into an inspection schedule.

Year of the most recent inspection

5.114 We examined the date of the last inspection for each food service establishment in three regions. Our findings are presented in Exhibit 5.3.

Exhibit 5.3
Aging analysis of inspections

Region	Year of last inspection					Total FSEs
	1999-00	1998-99	1997-98	1996-97	Prior to 1996	
Moncton	34.4 % 250	64.1 % 465	1.2 % 9	0.3 % 2	- 0	726
Fredericton	18.4 % 107	61.3 % 356	14.1 % 82	5.5 % 32	0.7 % 4	581
Miramichi	47.0 % 78	53.0 % 88	- 0	- 0	- 0	166
Grand Total	29.5 % 435	61.7 % 909	6.2 % 91	2.3 % 34	0.3 % 4	1473

Notes: FSE is an abbreviation of Food Service Establishment

Sample coverage is 51.3 % of all FSEs in New Brunswick.

Information for the year 1999-00 is from April 1/99 to Aug. 30/99.

Inspectors have responsibilities under five programs:

- 1) food control
- 2) environment control
- 3) communicable disease control
- 4) institutional health, and
- 5) recreational sanitation.

This audit covered only the inspection function within the food control program.

5.115 In commenting on Exhibit 5.3, we note that inspections performed in 1999-2000 are considered very recent. Inspections performed in 1998-99 are considered current. Inspections performed in 1997-98 or before are considered to be over one year old. Inspections performed in 1996-97 or before are considered to be over two years old. And, inspections performed prior to 1995-96 are considered to be over three years old.

- Inspections are most current in the Miramichi region and least current in the Fredericton region.

- There are four food service establishments in the Fredericton region that have not been inspected for over three years. One establishment was last inspected on 9 February 1994; we confirmed with the region that this date is correct and that the establishment is still in operation.
- Thirty percent of the food service establishments tested had inspections done very recently (in 1999-2000). By region, this ranged from 18% in Fredericton to 47% in Miramichi.
- While 30% of the establishments tested had inspections done very recently, a further 62% had current inspections (done in 1998-99). By region, this was quite consistent ranging from 53% in Miramichi to 64% in Moncton.
- Nine percent of the food service establishments tested had inspections that were over one year old (performed in 1997-98 or before). By region, this ranged from none in Miramichi to 20% in Fredericton.

Frequency of violations

5.116 Using our sample of inspection reports, we examined the frequency of violations and have the following observations.

- 89% of the food service establishments inspected in our sample had violations reported.
- The frequency of violations was relatively consistent between the regions tested, ranging from 86% to 100%.

Follow-up inspections

5.117 In reviewing the sample of inspection reports, we also noted if there was a date set for compliance and if follow-up inspections were done. We also noted situations where we felt that a follow-up inspection was warranted but not performed. We found the following.

- There was a date set for compliance in only 14% of the inspection reports citing violations.
- For each inspection report citing violations, we reviewed the nature of each violation and the number of violations; then using our judgement we decided whether the inspection results warranted a follow-up inspection. Examples of violations that would not require a follow-up inspection include soap or paper towel missing from the hand-washing sink, improper labelling of food, and minor repairs. Examples of violations that would require a follow-up inspection include the presence of rodents, the absence of a hand-washing sink, and improper temperatures in refrigerators and freezers. We concluded that a follow-up inspection was not required in 69% of the cases; it was required and performed in 15% of the cases and it was required but not performed in 16% of the cases.

5.118 Earlier in this chapter, we suggested that the practice of self-assessment be used. We believe that self-assessments could also

serve as a useful inspection follow-up tool. A self-assessment signed by the food service establishment owner stating that the violation has been corrected, that is submitted to the regional office for review, could be an effective procedure for addressing violations.

Public complaints about a food service establishment

5.119 Our work relating to complaints about a food service establishment, received by the inspectors from the public, was limited to interviews. We were told that complaints are investigated promptly. One region informed us, *“Complaints are followed-up and recorded on a regional complaint form. If a problem is verified, information is given to the operator on how to correct the problem and a revisit occurs in 14 days. If the complaint is unfounded, a routine inspection will be carried out in 6 months time.”* From our discussions with other regions we noted that there are inconsistencies in the processing of complaints, including how they are documented and whether the complainant is informed of the findings.

Conclusion

5.120 Our conclusion is that this criterion is not met.

5.121 None of the seven regions are performing inspections in accordance to the risk-based model as reported in the annual report and explained by central office. There is a substantial difference in the frequency goals reported by the regions and the regions do not have an inspection schedule to serve as a guide in accomplishing their goal. Although non-routine inspections are done to address complaints received from the public, they are not always done to determine if identified deficiencies have been corrected.

5.122 We noted several other inconsistencies between regions including: their actual inspection frequency and coverage, the age of their inspections, the performance of follow-up inspections, and the processing of complaints.

Recommendations

5.123 By doing risk assessments of food service establishments, inspectors will be able to determine the required inspection frequency, plan the necessary activities and then schedule them accordingly. Risk assessments should be updated on an annual basis.

5.124 Inspections should be done in accordance with the predetermined coverage plan. An inspection schedule should be compiled on an annual basis. It should be updated as needed to ensure compliance with policies throughout the year. To use resources more effectively, higher-risk food service establishments should be targeted as having priority in the schedule.

5.125 All violations that have been identified should be addressed. When appropriate, follow-up inspections should be done to determine if identified deficiencies have been corrected.

5.126 The practice of self-inspection and reporting should be considered as a means of follow-up to determine if identified deficiencies have been corrected.

5.127 Complaints received from the public should be documented upon receipt. They should be investigated within a reasonable period and the results should be documented. The originator of the complaint should be advised within a reasonable period of the findings and the actions taken by the Department.

Departmental response

5.128 *Agreed. Categorization of establishments, based on risk, is a means to prioritize allocation of limited resources. A means will be developed to validate the risk category on an annual basis supported by a process of audits of inspection reporting and a system of quality assurance.*

5.129 *Inspection frequencies should be based on risk category and inspection result. Work plans and work scheduling will become part of our way of doing business in the future. This issue has been raised with the Regional Directors. An interim arrangement pending the development of a new electronic information management system will be discussed with all staff involved and the Regional Directors. Interim directives will be introduced early in the new year.*

5.130a coverage plan [for inspections] will be developed.

5.131 *Staff will be advised of the current policy provisions requiring a discussion with the operator on inspection findings, an agreement on compliance time-frame and follow-up inspections. The SOPs, when developed will add clarity to the expectation.*

5.132 *The value and potential use of self-inspection and reporting will be considered. Its potential strengths and weaknesses will be examined along with the variables of risk assessment and compliance history.*

5.133 *Complaint handling will be specifically addressed in the SOPs.*

Inspection reports should be understandable, relevant, complete, and consistently prepared.

Inspection reports

5.134 While performing the inspection, the inspector prepares an inspection report that is printed in two copies; one copy is given to the food service establishment and the other copy is taken to the regional office to be filed. The inspection report can be either manually prepared or done using the TNG, in which case an automated report is printed. The contents of the inspection report are: statistical information (name and address of the establishment, name of the owner, seating capacity, number of employees, etc.), date, a list of violations and suggestions for correcting, inspector comments, a score, and signatures (both the operator and the inspector sign the report).

5.135 For information to be useful, it must be understood. We feel that the inspection report is understandable. The report format is simple and the wording is clear. Inspection results are discussed with the operator at the end of an inspection. This also helps in making the inspection report more understandable.

5.136 Inspection reports are relevant if they help individuals evaluate compliance with the Regulations. Inspection reports are relevant because they list violations and the corrective action necessary.

5.137 In assessing completeness of inspection reports, we considered whether the inspection measured compliance with all the Regulation requirements, whether all violations were included in the report (as required by the Department's enforcement policy) and whether the standard report format was used (the presence of the date, signatures, etc.).

5.138 There is no assurance that an inspection measures compliance with all the Regulation requirements. Using the inspection checklists does not ensure complete coverage of all the Regulation requirements because all the requirements are not documented on the checklists and some inspectors use exception reporting.

5.139 From our review of the sample of 117 food service establishments in four regions, we have the following comments on the completeness of the standard inspection report.

- Only 14% of the reports with violations included a date for correction (as required by the Department's enforcement policy).
- 85% of the reports were properly signed by the operator.
- All of the reports in our sample were properly signed by the inspector.
- Only 20% of the manual inspection reports had the information portion at the top completed.

5.140 In order for inspection reports to be useful for making comparisons, they must be consistently prepared. We have already addressed several issues that relate to consistency. The following findings also indicate that the inspection reports are not consistently prepared.

- There appears to be too much discretion in what inspectors record as a violation or an observation. One region informed us, *"Each inspector uses his own judgement as to what must be included in the report, i.e. what deficiencies are noted."*
- Some inspectors mark off each item on the checklist, but the majority use the list for exception reporting.

- The score is sometimes not present. (Providing the score is not a requirement.)

Conclusion

5.141 Our conclusion is that this criterion is partially met.

5.142 Inspection reports are understandable and relevant. Neither the manually prepared inspection report nor the TNG inspection report is complete because not all the attributes specified in the Regulations are incorporated into these reports. Also, these reports are not always prepared in a manner that records all the violations that are present. The inspection report is not consistently prepared by all inspectors.

Recommendations

5.143 **Inspection reports should be complete. The reports should document all areas of non-compliance with the Regulations with dates for correction and have signatures of both the operator and the inspector.**

5.144 **The inspection report should be consistently prepared by all inspectors.**

Departmental response

5.145 *Agreed. This shortcoming has been discussed with the Regional Directors and corrective action will be taken.*

5.146 *Training, practice guidelines and SOPs will lead to more consistent application of the act and regulations; as well, a process will be developed to ensure technical and administrative audit.*

Integrating the Results of Inspections

5.147 The following audit criterion deals with inspection results. It addresses how the results of inspections are used and the relationship between the licensing and the inspection functions.

The license process should incorporate the results of inspections.

5.148 The Regulations require all food service establishments to be licensed. There is an annual license fee and the license expires 31 March.

Non-compliance with legislation - operating without a valid license

5.149 Section 116 of the Regulation requires a food service establishment to be licensed. We tested for unlicensed food service establishments by examining the report called "*Listing of Unlicensed Establishments*" from all seven regions at two intervals of time (April and June 1999). For three regions, we confirmed that the food service establishments listed as unlicensed on the June report were still operating. Our findings are presented in Exhibit 5.4.

5.150 From these findings we conclude that none of the regions are complying with the Department's policy stating, "*At no time is any establishment to be allowed to operate without a valid license,*" and the Department is not enforcing section 116 of the Regulation requiring that all food service establishments operating in the Province are licensed.

Exhibit 5.4
Unlicensed food service
establishments in April and in
June 1999

Region	Unlicensed FSEs	
	April 1999 %	June 1999 %
Moncton	19.0	2.9
Saint John	23.0	3.8
Fredericton	24.9	3.1
Bathurst	41.2	2.6
Edmundston	25.7	10.1
Campbellton	14.5	1.7
Miramichi	15.1	3.0
Province-wide	23.8	3.6

Note: FSE is an abbreviation for *Food Service Establishment*.

5.151 The following are observations relating to Exhibit 5.4.

- Only 76.2% of the food service establishments were licensed and authorized to operate at 1 April 1999.
- All of the seven regions had at least 14% of their food service establishments unlicensed at some point in April. Bathurst had the highest percentage of unlicensed establishments (41.2%) and Campbellton had the lowest (14.5%).
- All the regions had some unlicensed food service establishments in June, almost three months after their license had expired. In total, there were 103 unlicensed establishments in June; this represented 3.6% of the Province's food service establishment population. Edmundston had 10.1% at that time. Campbellton had the lowest percentage of unlicensed establishments in June (1.7%).

Does the inspector make a recommendation for licensing on the inspection report?

5.152 The Department's policy states, "*If the previous license was not revoked, we cannot justify withholding the new one. An annual inspection or assessment of an eating establishment is required, but this does not have to be carried out just prior to licensing. This can be done in December or January, with only a routine inspection and recommendation by the inspector during February or March.*" We believe the intent of the policy is that inspectors are supposed to make a recommendation for licensing and the inspection reports are supposed to be reviewed prior to renewing the license. Neither of these activities is occurring and this is widely known within the Branch. We were informed by inspectors, RTMs and central office staff that the licensing and inspection functions are two separate activities. Support staff are responsible for licensing. License renewals are an administration function that is not integrated with inspections or inspection results.

Does the region review inspection reports prior to renewing the license for a food service establishment?

5.153 Interviews with central office, RTMs and support staff in the regions provided consistent oral evidence that license renewals were automatic providing the food service establishment completed the application and paid the proper license fee. If the previous license was not revoked, the new one was not withheld. Also, in compliance with the Department's policy, the regions are not waiting until 31 March to issue the new licenses. The license renewal process usually starts in February with license renewal forms being mailed to all food service establishments. As mentioned above, none of the regions ensure that an annual inspection has been done. With regard to the procedure that states, *"a notice is to accompany the license application forms stating that it is an infraction of the regulation to operate after March 31st without a valid license,"* we found that two regions are complying and the other five are not.

Do the regions revoke a license if the establishment has terrible inspection results (i.e. if the establishment is not complying with the regulations)?

5.154 In general, we found that the regions do not revoke a license for noncompliance. We asked four regions if their office has ever closed down a food service establishment. Three of them reported that a license has not been revoked for over five years. The other region reported that they are usually able to convince the food service establishment to close and avoid the embarrassment of having their license revoked. Another factor involved with revoking a license was the time and documentation required in order to revoke a license and inevitably get involved in a court case.

Are new food service establishments inspected before obtaining their first license?

5.155 We tested for compliance with the Department's policy in regard to licensing new food service establishments. The policy states, *"For new establishments, there must be compliance with the regulations prior to a license being issued."* Our findings suggest that although there is partial compliance with this policy, not all new food service establishments are inspected prior to being issued their first license.

5.156 For example, in one region, we tested twenty-six newly licensed food service establishments. We examined the date on the first inspection report and compared it to the date on the food service establishment's license to determine if the establishment had been inspected prior to being licensed. Thirteen of the food service establishments had been inspected prior to being licensed and thirteen had not been.

5.157 We interviewed an inspector who has been performing his job for over twenty years. He reported that he only inspects after a food service establishment is licensed. He indicated it is the licensing process that actually puts a food service establishment on the inspection list. In another region we interviewed an inspector who has been performing his job for over five years. He reported that floor plans are reviewed and preliminary inspections are performed before a new operation is given its food service establishment license; a complete inspection is done soon after opening in order to inspect the food-handling procedures.

Should daycares require a food service establishment license?

5.158 We shadowed an inspector doing an inspection of a newly licensed food service establishment. It fared poorly in complying with the Regulations. The inspection report was five pages in length and resulted in a score of 61.

5.159 We were surprised to learn that although some institutions require a food service establishment license (schools, nursing homes, and hospitals), there are other institutions, such as daycares, that do not.

5.160 The Department has a risk assessment document that provides guidance on risk categories and risk assessment criteria. The memo states, *"it is important to note that an establishment fits into a category based primarily on: the complexity of the menu i.e. foods served, the volume of persons served and/or the vulnerability of the population served e.g. hospital patients – nursing home residents. Do not categorize an establishment based on performance."*

5.161 Using the Department's risk assessment criteria, we believe that daycares are high risk due to the following characteristics. They serve a vulnerable population that is high risk based on age (children six months to age five). They serve food several times each day (morning snack, lunch, afternoon snack; some facilities serve breakfast). Daycare menus are under the watchful eye of paying parents who demand nutritious meals that usually involve more complicated food preparation. Daycares are usually small operations that are likely to have staff that is untrained in proper food handling procedures. A 1991 food safety document prepared by the Province of Ontario titled *"Hazard Analysis Critical Control Point Protocol"* indicates that full menu day nurseries are high risk. School cafeterias do require a food service establishment license. In comparison to schools, we believe that daycares have higher food risks and should be subject to the same rigorous inspection as schools and other food service establishments.

5.162 Public Health inspectors are responsible for performing a comprehensive annual inspection of daycares to verify that the institution has acceptable sanitation, ventilation, lighting etc. Food storage and preparation areas fall under sanitation. We reviewed the form used by the inspectors to guide their inspection of daycares in four regions. We were surprised that all regions were not using one standard form. Although there was variation in the inspection forms, most of the content was similar. We are concerned with the limited inspection of the kitchen facilities that these forms suggest.

The annual license fees

5.163 The annual license fees are based on the cost recovery principle. There are different fees for different food service establishments depending on their size, complexity etc.

5.164 We examined the history of the license fee. A license fee of \$10/year for food service establishments was first introduced in

legislation in 1966. We were told that it originated with the purpose of obtaining and maintaining a registry of food service establishments for the Province. In the mid-seventies, "cost recovery" became a principle for the Department and the fee was increased substantially to recover a percentage of the cost of inspections. Legislation in 1983 distinguished between different types of food service establishments and listed their respective fees. Legislation in 1988, 1992 and 1993 made minor changes to license fees. Through all these legislation changes, the annual license fee for a food service establishment with a seating capacity of greater than fifty has remained the same (\$125) since September 1988. Since the annual license fees are based on the cost recovery principle, we question whether the Department is recovering the targeted percentage of costs.

Conclusion

5.165 Our conclusion is that this criterion is not met.

5.166 The license process does not incorporate the results of inspections. Inspectors do not make a recommendation for licensing on the regular inspection report. Inspection reports are not reviewed prior to renewing the annual license for a food service establishment. The regions do not revoke a license if the establishment has terrible inspection results. And, new food service establishments are not always inspected before obtaining their first license. Licensing is not conditional upon compliance with the Regulations; it is a separate administrative function that is not integrated with inspection results.

Recommendations

5.167 We recommended that licensing be used as a means of enforcing the Regulations. The licensing and inspection functions should work together. All new food service establishments should be inspected prior to being issued their first license. Inspection results should be reviewed as part of the annual license renewal process. Revoking a license for not complying with the Regulations should be practiced. To facilitate the integration of the licensing and inspection functions, the Department should consider staggered license expiry dates.

5.168 The standard license renewal letter should be amended to include a statement that it is an infraction of the Regulation to operate after 31 March without a valid license.

5.169 Stronger efforts should be made to encourage all food service establishments to obtain their annual license by 31 March. The Department should consider implementing a late payment penalty fee for establishments choosing not to pay until after their license has expired on 31 March.

5.170 The Department should consider requiring daycares to comply with the Regulations for food service establishments. We believe that daycares have high food related risks and should be subject to the same rigorous inspection as schools and other food

service establishments. The Department should consider whether there are other provincially licensed institutions, such as adult residential facilities, that perhaps should be required to comply with the food service establishment Regulations.

5.171 The form used by inspectors to guide their inspection of daycares should be standardized and used consistently by all regions in the Province. We are concerned with the limited inspection of the kitchen facilities that the current forms suggest.

5.172 The annual license fees, and in particular the annual license fee for a food service establishment with a seating capacity of greater than fifty, should be reviewed to determine whether the Department is recovering the targeted percentage of costs. The fees should be changed if appropriate.

Departmental response

5.173 *Agreed. All of these points are being addressed in the current regulatory review and will be incorporated in the policy, SOPs and practice guidelines being developed.*

5.174 *The policy will be revised as part of the policy and SOPs initiative underway. In the meantime, attention will be drawn to its current applicability.*

5.175 *A directive will be sent out early in the new year to include consistent, appropriate wording reflecting [operating without a license] in all renewal letters.*

5.176 *Responsibility for compliance will be conveyed to all establishments, the Department will monitor compliance, enforcement will be improved. Late payment fees and other options to improve compliance will be considered as the new policies and SOPs are developed.*

5.177 *A directive will be sent out early in the new year outlining a consistent process for dating licenses. Other administrative aspects will be integrated with the SOP process.*

5.178 *The scope of food premises for licensing is being addressed through the current regulatory review.*

5.179 *Forms and inspection process are being addressed in the development of SOPs.*

5.180 *The current fee structure is being evaluated in the regulatory review. Direction will be sought on the degree of cost recovery to be applied.*

Program Monitoring and Reporting

5.181 The last two audit criteria relate to management and accountability of the inspection function. They address monitoring of inspectors and their work, and reporting the program's performance.

Monitoring procedures should measure the completeness and consistency of inspections.

Monitoring procedures

5.182 Monitoring procedures for the food service establishment inspection function are limited. The Branch's structure is decentralized with almost no reporting of the food service establishment inspection function to central office. The only information reported to central office is the number of inspections performed in the regions. There is no monitoring of the results of food service establishment inspections by central office. Central office concedes that their monitoring is very limited.

5.183 In the regions, there is a variety of monitoring activities. Each RTM we spoke to has a different opinion on monitoring the work of inspectors. Consequently, there is a lot of variation in how the inspection function is monitored in the regions. In general, we found there is very little monitoring of the food service establishment inspection function. The following conditions support this conclusion.

- Inspection coverage and frequency is not monitored.
- General information necessary for monitoring is not readily available. Information such as a list of violations with the frequency of occurrence, the number of inspections completed by each inspector during the year, the number of inspections performed at each establishment during the year, etc. was not available and could not be easily provided. There are no regularly prepared reports provided for monitoring.
- There are no quality control procedures. No one reviews inspection reports for completeness or consistency; our findings indicate that the inspection reports are neither complete nor consistently prepared. In general, the only time that records are monitored is in relation to an inspector's performance evaluation. There is inconsistency in how the inspectors apply the Regulations; this causes frustration for both food service establishment operators and inspectors.
- There is very little monitoring of the inspectors. Inspection schedules do not exist. Inspection reports are not reviewed. Employee evaluations are not done on an annual basis in all regions.
- There is substantial variation in the number of food service establishments assigned to each inspector, both within some regions and between regions. If all the Province's food service establishments were equally distributed among the inspectors, each inspector would be responsible for 68 establishments. Comparing regions, the average number of establishments assigned to the

inspectors ranged from 55 in both Edmundston and Miramichi to 81 in Moncton. Within the Moncton and Fredericton regions, there were large ranges in the number of establishments assigned to the individual inspectors.

- In some regions, the inspectors are on different teams reporting to different managers. In these regions, no one individual is responsible for food service establishment inspections and food control. This results in the duplication of some responsibilities and the omission of others.

5.184 It is likely that monitoring of the food service establishment inspection function is lacking because:

- policies and procedures for the food control program are inadequate; and
- there is instability in the organizational structure of the Branch. Within the past three years, the Public Health Branch has undergone two reorganizations. The Inspector Supervisor positions were eliminated in the Branch's reorganization approximately three years ago.

5.185 Throughout this chapter, we have cited many examples of inconsistency between inspectors and between the regions. We feel that this is the result of two conditions currently existing within the food control program. First, there is a lack of documented policies and procedures to guide the inspectors. And secondly, coupled with the first condition, there is a lack of monitoring.

Conclusion

5.186 Our conclusion is that this criterion is not met.

5.187 Monitoring procedures do not measure the completeness and consistency of inspections.

Recommendations

5.188 Means of monitoring and reporting on the inspection function should be established and performed regularly. The accountability links should be clarified and a reporting system should be established.

5.189 The responsibility for monitoring adherence to policies and procedures should be clearly assigned to one person at central office.

5.190 Quality control procedures should be established.

5.191 In the regions, an inspection schedule should be compiled on an annual basis, and updated as needed, to ensure that all food service establishments get inspected. The schedule, and all amendments, should be approved by the Regional Team Manager or Regional Director.

5.192 Public Health Inspector workloads should be examined and adjusted if necessary.

Departmental response

5.193 *Agreed. Roles, responsibilities and accountabilities for monitoring and reporting will be clarified in the policy and SOP process.*

5.194 *Central office functions will be covered in the SOPs addressing roles, responsibilities and accountabilities. It is also the responsibility of the Regional Directors to manage.*

5.195 *Quality control, quality assurance, auditing and continuous quality improvement will be addressed in policy and SOPs and is consistent with recommendations being considered in the regulation development currently underway.*

5.196 *This issue [an inspection schedule] will be addressed in the roles, responsibilities and accountability policies.*

5.197 *A workload measurement project re inspector workload is currently underway; results will be available before April 2000. Adjustments will be considered as indicated.*

There should be performance indicators and monitoring procedures for evaluating performance of the food service establishment inspection function.

Performance indicators

5.198 The Department does not have performance indicators or ongoing monitoring procedures for evaluating performance of the food service establishment inspection function.

5.199 Ongoing monitoring of performance is an important element of an effective management system. The deficiencies in monitoring of the inspection function, in general, were discussed in the previous section.

5.200 Performance evaluation often begins with individual employee evaluations. Interviews with inspectors and RTMs suggested that employee evaluations on inspectors are not done regularly on an annual basis in all regions. We obtained the forms used to evaluate an inspector's performance in three regions. Each of the three forms was different.

5.201 The Project Manager of the Food Control Program informed us that the program had not been evaluated within the past five years. The Director of Program Analysis and Evaluation confirmed that their Division had not done work on the food control program. The Director of Internal Audit for the Department also reported that their division has not recently done work in this area.

Conclusion

5.202 Our conclusion is that this criterion is not met.

5.203 The Department does not have formalized performance indicators and monitoring procedures for evaluating performance of the food service establishment inspection function.

Recommendations

5.204 The Department should establish performance indicators and ongoing monitoring procedures for evaluating performance of the food service establishment inspection function at both the regional and provincial levels.

5.205 The food service establishment inspection function should attempt to lower the level of violations. The level of compliance with the Regulations should be monitored and evaluated.

5.206 A means of hearing and addressing “suggestions for improving performance” from staff and food service establishment operators should be established.

Departmental response

5.207 *Agreed. Performance indicators and outcomes will be developed as part of our continuous quality improvement.*

5.208 *[The level of compliance] and other performance indicators will be incorporated into our program.*

5.209 *Consultation and feedback mechanisms will be developed as part of our process of continuous quality improvement.*

Conclusion

5.210 The Department of Health and Community Services has some systems and practices in place that are useful in measuring compliance with food safety standards. However, the current systems and practices are insufficient in ensuring that the food service establishments in the Province are complying with the Regulations under the Health Act.

5.211 The inspection function has been part of the Public Health Branch for some time. There is opportunity to improve the effectiveness and efficiency of this function. This chapter provides several recommendations to aid in achieving this. Many of our recommendations may apply equally to other types of inspections done by the inspectors. We encouraged the Department to maximize the value of the recommendations by adopting them where possible for the other inspection types. We believe the food control program should make changes and we hope our work will help improve the inspection function as a whole.