



X-RAY MACHINES FEES AND INSPECTIONS

Report # R-1415DOH-019 • January 6, 2016

Purpose of this project:

We wanted to:

- Determine whether controls were in place to ensure inspections are conducted timely.
- Determine whether controls were in place to ensure fees are appropriately collected and deposited in the Radiation Protection Trust Fund (Trust Fund).
- Evaluate efforts to identify unlicensed X-ray machines operating in the State of Florida.
- Validate the accuracy of the inspector's findings using calibrated Unfors test equipment.
- Assess the validity and reliability of performance measures presented in the Department of Health's (Department, DOH) *Long-Range Program Plan* (LRPP) dated September 30, 2014 related to the X-ray Machines Control Program (Program).

What we examined:

We examined the period January 1, 2014 through December 31, 2014 for controls related to the objectives above in the Program. We analyzed data related to inspections of devices and collection of registration fees. Pursuant to Section 20.055(2)(b), *Florida Statutes*, we assessed the validity of performance measures presented in the Department's LRPP dated September 30, 2014 related to the Program for the period July 1, 2013 through June 30, 2014.

ISSUES AND RECOMMENDATIONS

Our review found no material issues related to controls over the processing of registration fees deposited in the Trust Fund, efforts to identify unlicensed X-ray machines, or the accuracy of inspector's findings. However, the following issues reflect areas that the Program's management should address:

1. Inspections of X-ray tubes were not always completed or reported as completed by the scheduled due date.

- The Department is authorized in Section 404.22(1), *Florida Statutes*, to inspect any location in the state in which a radiation machine is installed in order to determine whether the facility, the machine and its components, and techniques and procedures meet specified standards.
- Rule 64E-5.501(84), *Florida Administrative Code (FAC)*, defines an X-ray tube (tube) as any electron tube which is designed for the conversion of electrical energy into X-ray energy. There is an X-ray tube in each X-ray machine.
- The frequency of inspections for the various professions is stipulated in Section 404.22(5)(b), *Florida Statutes*.
- The Program considers an X-ray inspection assignment as overdue when they exceed the scheduled due date. The Program provides a 90-day window to perform the inspection prior to the scheduled due date.
- According to the Bureau of Radiation Control's (Bureau) database, 2,067 of the 16,674 X-ray tubes inspected during 2014 were inspected after the scheduled due date. We prepared an analysis by Inspection Region (Region) of inspections completed during 2014, inspections

completed after the scheduled due date with an aging of those inspections. Please see **Exhibit 1**. Bureau management explained that a few of the inspections were not actually late, but the data was incorrect in the database.

- The scheduled inspection of another 1,780 tubes where an inspection was due during 2014 was not completed as of March 31, 2015. 1,109 of these inspections were due September 30, 2014 or earlier.
- Bureau management explained that the Broward and Fort Myers Regions experienced staffing issues as one of the reasons inspections were not completed timely.
 - The Bureau's inspectors may perform other priority duties as assigned that take precedence over X-ray inspections. Inspection priorities include (in order of priority) incidents, investigations, and several other types of assignments.
 - However, past due X-ray tube inspections are required to take priority over current X-ray tube inspections.
 - Some Regions did not complete past due inspections before completing currently due inspections.

We recommend the Bureau place emphasis on scheduled X-ray inspections that are past due and address staffing resource issues to ensure all X-ray inspections are completed within the required statutory deadlines.

2. Some Registrants did not pay fees timely.

- Section 404.162(1)(a), *Florida Statutes*, provides that, "The [D]epartment may modify, deny, suspend, or revoke a license or a registration, or impose an administrative fine...for the violation of any provision of this chapter, rule promulgated hereunder, or term or condition of any license or registration issued by the [D]epartment."
- Rule 64E-5.511(2)(b), *FAC*, stipulates "[r]enewal fees are due before October 28 annually." Registration fees are due "[w]ithin 30 days after acquiring a radiation machine." If the machine is acquired within 120 days of October 28, the "registration fee...[is] due on October 28."
- A Registrant is any person who is registered and legally obliged to register with the Department under Chapter 64E-5, *FAC*.
- The Bureau's process for attempting to collect past-due amounts is to send a written second and third notice, followed up with a phone call. If still unpaid, the Bureau advises the Department's Office of the General Counsel, which could result in an administrative complaint and/or settlement agreement.
- The Program collected \$2,619,535 in fees during 2014
- The following fees and fines that were collected for registrations that expired before or during our audit period of 2014 were not received timely.

Annual Registration/Renewal Fees Due October 28, 2011 Registration Expiring October 28, 2012	\$223
Annual Registration/Renewal Fees Due October 28, 2012 Registration Expiring October 28, 2013	1,759
Annual Registration/Renewal Fees Due October 28, 2013 Registration Expiring October 28, 2014	4,223
Other fees and fines received after the due date	1,699
Total	<u>\$7,904</u>

- The Bureau often learns about new tubes from the installer of the machine, who is required to report the installation to the Bureau. The Registrant is required but may not know to or initially comply with the requirement to notify the Bureau.

- We noted that the Bureau did not always collect the registration fee for newly-acquired tubes within 30 days of acquisition. We identified examples where the Bureau received the registration fee more than 30 days past the due date for persons registering with the Bureau for the first time and already-registered persons registering additional tubes. The amount totaled \$17,853 during the period January 1, 2014 through March 31, 2015.

We recommend Program staff implement a process to improve more timely collection of renewal fees in addition to registration fees for new Registrants and additional tubes.

3. The Program's Standard Operating Procedure that discusses the timely deposit of receipts did not agree with Department policy.

- The Program primarily receives receipts through the mail.
- The Program's Standard Operating Procedure (SOP), *Mail Opening, Receiving and Depositing Fees*, explained, "Deposits must be taken to the bank once they total \$150 or once a week."
- The SOP was less restrictive than DOHP 57-07-15, *Cash Handling*, which requires receipts be deposited, "by the close of business (COB) the next business day." The Department's policy provides that receipts received through the mail should be deposited "within two business days unless an item has insufficient detail to process and requires research."

We recommend the Program revise its Standard Operating Procedure titled, "Mail Opening, Receiving and Depositing Fees", to agree with Department Policy 57-07-15.

4. The Bureau did not report uncollected registration/renewal fees at fiscal year-end to be recorded as Accounts Receivable in year-end financial statements.

- \$32,937 in uncollected fees as of June 30, 2014 for the 284 facilities that had not paid their 2013-14 renewal fees which were due October 29, 2013, was not reported into the Department's online *Year-end Forms Reporting System* for inclusion in year-end financial statements.
- DOHP 56-66-13, *Accounts Receivable*, explains Program offices, "shall provide an annual report of accounts receivable balances for financial statements per the 'Year-End Financial Statement' policy."
- As of the date of this report, DOH management had not fully concluded whether the uncollected fees should be considered as a recorded Accounts Receivable item.

We recommend the Bureau obtain a final determination from the Bureau of Finance & Accounting or other appropriate source as to whether uncollected fees as of fiscal year-end should be recorded as Accounts Receivable. Should the final determination be that uncollected fees should be recorded, the balance at the end of each fiscal year should be reported in the online Year-end Forms Reporting System.

5. The Bureau's Performance Measure in the Department's Long-Range Program Plan was not based on performance.

- The Bureau published one performance measure in the Department's LRPP dated September 30, 2014. This was a compilation from various programs in the Bureau, as well as cooperative work performed for the Bureau by the Division of Medical Quality Assurance. It was reported as the "Number of radiation facilities, devices and users regulated" and included the following components:
 - The number of radiologic technologists and radiologist assistants.
 - The number of tubes registered.
 - The number of radioactive materials licenses.
 - The number of lasers registered.
 - The number of low-level radioactive waste inspections.
 - The number of pre-mine acres to be surveyed.
 - The number of post-mine acres to be surveyed.
- The performance measure was not a valid performance measure as some of the attributes did not represent work performed by Bureau staff, but more accurately represented the number of DOH customers attempting to be compliant by registering as obligated by State law.
- We did not test reliability of the above measure, as it was not valid.
- As we began our review project, the Bureau requested that the entire performance measure above be deleted and the following two new measures be added to the LRPP:
 - Percent of radioactive material inspection violations corrected in 120 days.
 - Percent of X-ray Machine inspection violations corrected in 120 days.

We recommend the Bureau continue with efforts to replace the current performance measure with measures that are more valid for the Bureau.

6. The Bureau last updated its procedure used to determine enforcement actions in 1996.

- The Department has circulated a proposed draft procedure since 2014, but it has not been published.
- The document still references the Department of Health and Rehabilitative Services and refers to rules in *Florida Administrative Code* that were moved under Chapter 64 for the Department of Health.

We recommend the Bureau publish updated procedures used to determine enforcement actions.

OTHER CONSIDERATIONS

- Section 381.0011(7), *Florida Statutes*, provides that "[i]t is the duty of the Department of Health to...provide surveillance and control of radiological...hazards." The Bureau shares in collaborative efforts with the Department's Division of Medical Quality Assurance (MQA). MQA maintains data regarding all licensed health professionals. A periodic proactive comparison of the Bureau's known registrants of X-ray tubes with MQA's known licensed health professionals could yield possible exceptions where a health professional that may possess X-ray tubes has not registered those X-ray tubes with the Bureau.

SUPPLEMENTAL INFORMATION

Section 20.055, *Florida Statutes*, charges the Department's Office of Inspector General with responsibility to provide a central point for coordination of activities that promote accountability, integrity, and efficiency in government.

Mark H. Boehmer, CPA, Senior Management Analyst II, conducted the review under the supervision of Michael J. Bennett, CIA, Director of Auditing.

Our methodology included interviewing management and staff at Central Office, as well as at the Program's Orange Park office. We reviewed applicable laws, rules, policies and procedures. We analyzed data maintained in the Bureau's X-ray database. We also accompanied the Bureau's inspectors on inspections of X-ray machines in Broward and Clay counties.

This project was not an audit, as industry-established auditing standards were not applied. Internal Audit Unit procedures for the performance of reviews were followed and used during this project.

We want to thank management and staff in the Department's Bureau of Radiation Control in the Division of Emergency Preparedness and Community Support for the information and documentation they provided, and for their cooperation throughout the review.

CONTACT INFORMATION

Copies of final reports are available on our website at: www.floridahealth.gov
(Search: internal audit)

If you have questions or comments related to the information provided in this report, please contact the Director of Auditing, Florida Department of Health by the following means:

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EXHIBIT 1

Inspection Region	Number of Machines Scheduled to be Inspected during 2014	Number of Machines Inspected after Scheduled Due Date	Number of Days Inspection Date was after Scheduled Due Date	Percent of Machines Inspected after Scheduled Due Date
Broward		184	1-90 days	
		116	91-180 days	
		27	181-365 days	
	Total	1,447	327	22.60%
Central		228	1-90 days	
		56	91-180 days	
		2	181-365 days	
	Total	4,749	286	6.02%
Fort Myers		468	1-90 days	
		37	91-180 days	
		2	181-365 days	
	Total	1,877	507	27.01%
Miami		287	1-90 days	
		79	91-180 days	
		27	181-365 days	
	Total	2,781	393	14.13%
Orange Park		429	1-90 days	
		55	91-180 days	
		8	181-365 days	
	Total	2,285	492	21.53%
Tampa		33	1-90 days	
		8	91-180 days	
		0	181-365 days	
	Total	3,030	41	1.35%
Orange Park Non-inspection Staff		14	1-30 days	
		0	31-90 days	
		0	91-180 days	
		0	181-365 days	
	Total	102	14	13.73%
Polk		6	1-90 days	
		1	91-180 days	
		0	181-365 days	
	Total	403	7	1.74%
STATEWIDE TOTAL	16,674	2,067		

APPENDIX A: MANAGEMENT RESPONSE

	Recommendation	Management Response
1	<p>We recommend the Bureau place emphasis on scheduled X-ray inspections that are past due and address staffing resource issues to ensure all X-ray inspections are completed within the required statutory deadlines.</p>	<p>We concur.</p> <p>Though our action plan will address the oldest inspections, with the recent loss of two inspection full time equivalents (FTE) we can only expect to decrease the overdue inspection volume over time.</p> <p>We have implemented the following changes to address the issues.</p> <ol style="list-style-type: none"> 1. Central Office staff now manage and staff the Broward region inspections. The past due inspection volume will not increase. 2. Inspection regions are now better balanced because positions have been reallocated. Although this process will not fully staff the regions to 100% of the incoming assignment volume, all the regions will be staffed to at least 75%. This will not solve the past due inspection backlog but it will slow or prevent the further increase of the past due assignment volume. 3. The Fort Myers Region is no longer an issue after it became fully staffed and was able to address past due assignments with a full staff. 4. Two of the regions that have the most significant volume of past due inspections are the Northern (Jacksonville) and Southern (Miami/Broward). These regions have implemented a priority assignment policy that will assign only past due inspections (oldest). Although this policy will result in all their completed inspections being past due, it will prevent the length in past due periods of the assignments. Although there are insufficient inspectors to catch up on the assignment backlog, they can try maintaining equilibrium. If the regions can inspect the past due volume to match the incoming volume, they will eventually cycle through all the past dues until all assignments are performed at or near their proper frequencies. 5. As this review report explained, it has been the Bureau's policy to prioritize past due inspections. We will continue to follow the policy and prioritize past due inspections in all inspection regions. Furthermore, the Bureau is working to address all anomalous past due assignments in the database. <p>Conclusion- The Bureau's Inspection Program will prevent further significant regression of overdue inspection volume so long as the Bureau can maintain current staffing.</p> <p><i>Contact:</i> Jerry Bai <i>Anticipated Completion Date:</i> January 1, 2017</p>
2	<p>We recommend Program staff implement a process to improve more timely collection of renewal fees in addition to registration fees for new Registrants and additional tubes.</p>	<p>We concur.</p> <p>We are working with the Office of General Counsel to process administrative complaints to collect the fees. However, the Bureau will discuss this issue with that office to determine whether additional measures may be taken.</p> <p><i>Contact:</i> Cynthia Becker <i>Anticipated Completion Date:</i> December 1, 2016</p>

3	We recommend the Program revise its Standard Operating Procedure titled, "Mail Opening, Receiving and Depositing Fees", to agree with Department Policy 57-07-15.	<p>We concur.</p> <p>We have revised and implemented the Standard Operating Procedure.</p> <p><i>Contact:</i> Wanda Newberry</p> <p><i>Completed</i></p>
4	We recommend the Bureau obtain a final determination from the Bureau of Finance & Accounting or other appropriate source as to whether uncollected fees as of fiscal year-end should be recorded as Accounts Receivable. Should the final determination be that uncollected fees should be recorded, the balance at the end of each fiscal year should be reported in the online Year-end Forms Reporting System.	<p>We concur.</p> <p>The Bureau of Finance and Accounting has concluded that uncollected registration/renewal fees are not considered Accounts Receivable and therefore should not be recorded at fiscal year-end.</p> <p><i>Contact:</i> Wanda Newberry</p> <p><i>Completed</i></p>
5	We recommend the Bureau continue with efforts to replace the current performance measure with measures that are more valid for the Bureau.	<p>We concur.</p> <p>We have addressed this issue.</p> <p><i>Contact:</i> Cynthia Becker</p> <p><i>Completed</i></p>
6	We recommend the Bureau publish updated procedures used to determine enforcement actions.	<p>We concur.</p> <p>We identified this issue prior to the Inspector General's review. We drafted an updated procedure in September 2014 and the rule process initiated. The procedure was adopted in rule June 3, 2015.</p> <p>We will determine whether the procedure needs review and approval by the Department's Office of Chief of Staff.</p> <p><i>Contact:</i> Cindy Becker</p> <p><i>Anticipated Completion Date:</i> July 1, 2016</p>