
Program Audit: Manufacturing Milk Program

*Prepared for the Committee on Legislative Research
by the Oversight Division*

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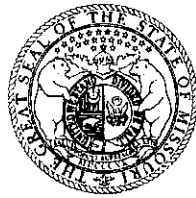
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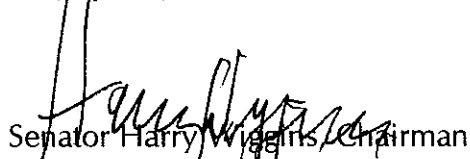
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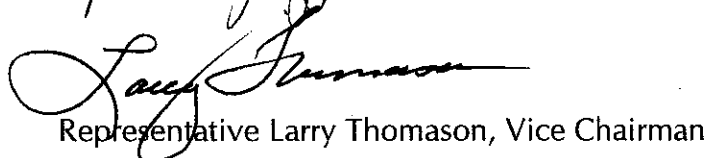
Members of the General Assembly:

As authorized by Chapter 23, RSMo, the Committee on Legislative Research adopted a resolution in May, 1996 directing the Oversight Division to undertake a program audit of the State Contracted Manufacturing Dairy Plant Inspection and Grading Program which included the examination of records and procedures in the State Milk Board to determine and evaluate program performance in accordance with program objectives, responsibilities, and duties as set forth by statute or regulation.

The accompanying report includes Oversight's comments on internal controls, compliance with legal requirements, management practices, program performance and related areas. We hope this information is helpful and can be used in a constructive manner for the betterment of the state program to which it relates.

Respectfully,


Senator Harry Wiggins, Chairman


Representative Larry Thomason, Vice Chairman

EXECUTIVE SUMMARY

The State Milk Board is a twelve member board assigned to the Department of Agriculture for budgetary purposes but independent from the Department with respect to substantive matters. The Board is responsible for enforcing the laws pertaining to the sanitation and quality standards of milk. Since 1982, the Board has also been responsible for enforcing the Missouri Manufacturing Milk and Dairy Market Testing Law. Approximately 5% of the milk regulated by the Board is manufacturing grade milk which is used for making cream cheese, cottage cheese, sour cream, butter and various other processed dairy foods. The Manufacturing Milk Program is funded entirely by General Revenue. The State Contracted Manufacturing Dairy Plant Inspection and Grading Fee Fund, established in 1985 to receive payments from USDA, has never been used because the USDA has not elected to contract with the State Milk Board. Manufacturing plants, laboratories, field inspectors, bulk haulers, testers, graders, and samplers pay a modest licensing fee to the Board to defray the costs of the program.

Has the State Milk Board's structuring of program operations been effective in assuring sanitation and quality standards of milk are met? Fieldmen inspecting manufacturing milk producers on the Board's behalf are not independent of the producers they inspect. They are employed by third parties, usually dairy cooperatives, to purchase milk for processing. Their primary responsibility is to procure milk from the producers they also inspect. A sample of 37 producers who were inspected by both the USDA and the contracted industry fieldmen revealed 43% received failing scores by USDA while they had received passing scores by the fieldmen. In fact, four of them received such low scores by USDA that they should have been taken off the market and not allowed to sell their milk for public consumption. Inspections and certifications of farms producing and selling milk for manufacturing purposes were not always completed in a timely manner. Of a sample of 80 producers, 52 or 65% were uncertified. Of these 52 uncertified producers, 7 of them were uncertified for over a year. The Board's monitoring of the timeliness of inspections and certifications has not been adequate to assure the public that federal and state regulations are being complied with. While the Board currently requires routine testing for the presence of pesticides in Grade A fluid milk, it does not test raw manufacturing milk or manufacturing milk products. Because most pesticide and other toxic residues collect in the fat cells of milk, the level of pesticides, if present, would be more concentrated in a manufactured milk product than that found in fluid milk. Oversight recommends these screenings be implemented at a cost of approximately \$37,500 to \$45,000 annually.

Is the State Milk Board Using Its Resources Efficiently and Effectively in Administering the Manufacturing Milk Program?

The fees collected for permit and licensure have not been sufficient to cover the cost of the program. During the audit period the Board collected fees of approximately \$12,000 to \$15,000 annually and had to supplement their program income with \$103,000 to \$130,000 annually from General Revenue funds. The revenue from the manufacturing milk program covers only ten percent of the program costs, while Missouri's Grade A milk program is almost entirely funded by industry. Oversight recommends changes in statutes and procedures to fund the manufacturing milk program by industry as is currently done in most other states. During its examination of Milk Board staff duties and functions, Oversight determined that the Board is not maximizing its staff resources. In addition, some of the program's office procedures appear to be outdated with many manual functions which should be automated. The Department of Agriculture's budget document has included a decision item for the Board to expand inspections in the manufacturing milk program. If current staff were used efficiently, Oversight's time study indicates much of the expanded testing program could be accomplished using existing staff.

This audit includes detailed findings and recommendations for changes in management practices and procedures related to the Manufacturing Milk Program administered by the State Milk Board. The State Milk Board's official responses to the findings and recommendations are incorporated into the report. Our audit was performed in accordance with generally accepted government auditing standards as they relate to program and performance audits. We did not examine departmental financial statements and do not express an opinion on them.

We acknowledge the cooperation and assistance of staff of the Department of Health during the audit process.

Jeanne A. Jarrett, CPA, CGFM
Director, Oversight Division

Introduction

The Joint Committee on Legislative Research directed the Oversight Division to conduct a program audit of the Missouri State Milk Board's Manufacturing Milk Program. The Missouri State Milk Board (SMB) was created in 1972 with the passage of HB 1280. In 1974, the State Milk Board was transferred to the Department of Agriculture under a Type III transfer which means the State Milk Board is independent of the Department of Agriculture except for budgetary control.

In 1982, the Manufacturing Milk Program, including the Missouri Manufacturing Milk and Dairy Market Testing Law, was transferred from the Department of Agriculture to the State Milk Board by Executive Order 82-9. The State Contracted Manufacturing Dairy Plant Inspection and Grading Fee Fund was created by HB 291 in 1985. The fund was created to receive payments from the United States Department of Agriculture for contracted manufacturing dairy plant inspections or grading. Amounts appropriated from the fund are to be used to defray the cost of the contracted manufacturing milk inspection and grading program.

Objectives

The primary purpose of the audit was to provide the General Assembly with information regarding the effectiveness and efficiency with which the State Milk Board carries out its responsibilities for the regulation of manufacturing milk. The specific audit objectives were:

- Determine if the SMB is complying with laws, rules and policies relating to the Manufacturing Milk program; and whether the SMB has developed adequate procedures to ensure safe and sanitary manufacturing milk.

- Determine if the SMB is using its resources efficiently and effectively in carrying out its responsibilities for regulation of manufacturing milk.
- Determine how the SMB's method of funding program activities and structuring program operations compares to those of other manufacturing milk producing states.
- Determine the costs and implications of establishing a program to test manufacturing milk for pesticide contamination.

Scope

The scope of the audit focused on reviewing the SMB's procedures for regulating manufacturing milk producers, haulers, and processors. Information was obtained and reviewed from state fiscal years 1995 to date.

Methodology

The Oversight Division conducted the audit in accordance with Government Auditing Standards issued by the Comptroller General of the United States as those standards relate to program and performance audits. The methods used by the Oversight Division included analyzing samples of transactions and evaluating management controls to the extent necessary to fulfill audit objectives. The principal method used to measure objectives was conducting interviews with agency personnel. In addition, staff performed on-site testing of controls and procedures, including direct observation of staff performing their duties such as farm and plant inspections. The SMB provided information requested, including policies, procedures manuals, forms used by staff, and manufacturing milk producer and plant records.

Background

The State Milk Board is a twelve member board authorized by Section 196.941 RSMo. The SMB is independent with respect to substantive matters relating to policies and regulative functions, but is assigned to the Department of Agriculture for budget purposes. The board is responsible for enforcing the laws pertaining to the sanitation and quality standards of milk. Since 1982, the SMB has also been responsible for enforcing the provisions of section 196.520 through 196.610 which is the Missouri Manufacturing Milk and Dairy Market Testing Law. Approximately 5% of the milk regulated by the SMB is manufacturing grade milk which is used for making cream cheese, cottage cheese, sour cream, butter, and various other processed dairy foods.

The SMB manufactured milk program is funded entirely by General Revenue. The State Contracted Manufacturing Dairy Plant Inspection and Grading Fee Fund, which was established in 1985 to receive payments from the USDA, has never been used because the USDA has not elected to contract with the SMB. Manufacturing plants, laboratories, field inspectors, bulk haulers, testers, graders, and samplers pay a modest licensing fee.

Findings

Recommendations

Agency Responses

FINDING #1: Fees collected in the manufacturing milk program are insufficient to cover the cost of the program.
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The SMB has not established any producer license fees or been given the authority to assess production fees, such as those allowed in the Grade A program. Also, the permit and licensure fees assessed by the SMB are very minimal.

The manufacturing milk program is currently funded entirely by general revenue. The SMB assesses fees to manufacturing milk plants, and a minimal licensure fee to fieldmen, laboratories, receiving stations, testers, graders, samplers, and bulk milk

haulers. All annual license fees are three dollars with the exception of fieldmen which are ten dollars. Producers are not charged any type of fee. The revenue generated from these fees is approximately 10% of the cost of the program. During the audit period, the SMB collected fees totaling between \$12,000 and \$16,500 annually. During that time, the SMB received general revenue funding of \$103,000 to \$130,000 for the manufacturing milk program.

While the revenue from the manufacturing milk program covers approximately ten percent of the program costs, Missouri's Grade A milk program is almost entirely funded by industry. The SMB assesses a fee of 5-cents per hundred pounds for Grade A milk produced within the state and 4-cents per hundred pounds for Grade A milk imported. However, there is no such provision in the statutes to collect this type of fee in the manufacturing milk program.

According to state and federal regulations, the manufacturing milk must be regulated in order to be sold. Industry representatives in Missouri and other states surveyed reported manufacturing producers are typically paid nearly 90% of the Grade A milk price. Manufacturing milk producers received an average of \$14.53 per hundred weight for their milk in October 1996. While the regulation of manufacturing milk is a public health issue, it would appear the industry derives a significant benefit from the program. Therefore, it would seem appropriate to assess fees based on milk production to manufacturing producers, as well, so the industry would generate sufficient revenue to cover all, or a substantial part, of program costs.

Ohio has established a program in which the milk industry is assessed 63% of the cost of their program and general revenue funds the remaining 37%. Ohio contends that the industry reaps the greater benefits; however, consumers also benefit from the higher standards attained and are expected to contribute funds.

Iowa, Minnesota, and Kansas primarily fund their manufacturing milk programs by industry. Iowa charges a fee of 1/2-cent per hundred weight. Minnesota charges an inspection fee of \$25 per farm, and also charges for re-inspections when return visits are required. Kansas charges 1-cent per hundred weight to the producer, plus an additional 3/4-cent per hundred weight to the plant.

The SMB has been unsuccessful in its requests for increased general revenue funding to test manufacturing milk for pesticides and to conduct farm inspections.

If the cost of the manufacturing milk program was partially funded by industry, it is likely there would be funds available for pesticide testing and state inspections.

RECOMMENDATION TO FINDING #1

Oversight recommends the SMB develop a plan to require dairy producers or the dairy industry to contribute to the cost of the manufacturing milk program and, if necessary, seek legislative authority to do so.

Agency Response to Finding #1

State Milk Board:

The Milk Board has attempted through legislation to establish an inspection fee for manufacturing milk, but the bills were thwarted by the opposition of the state's largest milk co-operative, Mid-Am, along with Farm Bureau. The problem is unlike grade A – the opposition states the check-off or fee cannot be passed to consumers on manufacturing products.

The Board does not see the increase of license fees as a solution, since legally all fees collected by a general revenue funded program must be deposited into the general fund unless a fee based fund is developed and ear-marked. Traditionally, Missouri has not allowed a fund to exist for a sole purpose use without repealing the same amount general revenue from the program. A dual funded program would be hard to maintain and the Board has been subject to extensive general revenue cuts in the past years.

The Board continues to evaluate possible funding alternatives for a program with dwindling assets and sources but still is important to our state's dairy industry and the consumers of Missouri.

FINDING #2: Producers are not always inspected and recertified in a timely manner.

The SMB is responsible for certifying manufacturing dairy producers. The SMB relies on the industry fieldmen to ensure that manufacturing milk farms are inspected annually. The SMB maintains a computerized printout of the inspection

dates; however, the SMB does not regularly monitor producer records to ensure producers are recertified within twelve months of their prior certification date, as required by federal regulation. Fifty-two of the 80 producers sampled (65%) continued to sell milk while they were uncertified. Of the 52 uncertified producers, 36 were uncertified for a period in excess of 31 days; 25 of those 36 producers remained uncertified for a period in excess of 90 days; and 7 of those 25 producers were uncertified for over a year.

Federal regulations require every farm producing and selling milk for manufacturing purposes be inspected and certified to ensure they are meeting minimum quality standards. Certified farms must be inspected annually after their initial certification to determine eligibility for recertification. The federal regulations state that "no milk for manufacturing purposes produced on an uncertified farm shall be bought or sold." Accordingly, the SMB must ensure that the farms are certified within one year of their prior certification in order to continue selling milk. While industry fieldmen conduct the inspections, the SMB should monitor the timeliness of the certifications to ensure that standards of quality and purity associated with healthful and wholesome milk and dairy products are maintained for manufactured dairy products.

Failure to regularly monitor the certification process does not provide adequate control over the regulation of manufacturing milk farms. Milk produced on uncertified farms is not in compliance with federal guidelines; and the SMB cannot ensure milk supplies are safe for consumption. When timely inspections are not conducted, the SMB has a duty to ensure that uncertified producers are not allowed to sell milk.

RECOMMENDATION TO FINDING #2

Oversight recommends the SMB closely monitor the status of the inspections conducted by the industry and ensure that producers who are not certified do not sell milk.

Agency Response to Finding #2

State Milk Board:

The State Milk Board has addressed delinquent inspections in the past. This has been a problem associated with the use of industry fieldmen to perform manufacturing farm inspections from the inception of the program.

The Board feels the substitution of state inspectors for industry personnel is the only practical solution. The procedures used by the Board do attempt to seek out and require "annual" certification of producers without penalizing the farmer, who in our opinion should not be penalized for industry's lack of performance, especially since those producers very likely are producing good milk with adequate facilities.

FINDING #3: Fieldmen inspecting manufacturing milk producers on the SMB's behalf are not independent of the producers they inspect.
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Manufacturing milk producers are inspected by "approved industry fieldmen" who are licensed by the SMB. The fieldmen are employed by third parties, usually dairy cooperatives, to purchase milk for processing. The fieldmen's primary responsibility is to procure milk from producers.

Federal regulations require producers to maintain a minimum score of 85% to be certified to sell milk. Oversight compared a sample of inspections done by the industry fieldmen to those completed by SMB staff and to inspections completed by the USDA. In both cases, the industry fieldmen scored producers approximately 12% higher than the independent agencies. When the USDA conducted its inspection in January 1991, 16 of the 37 producers inspected, or 43%, received failing scores. That means the sanitary conditions of the producers' facilities and practices were so poor they should have been taken off the market and not allowed to sell their milk for public consumption. In contrast, the industry fieldmen had given all 37 producers passing scores. In fact, four of the producers USDA said should be taken off the market had received perfect scores from the industry fieldmen on their last inspection.

The SMB decided to allow industry fieldmen to conduct the required farm inspections in an effort to cut program costs. Considering the current number of producers, Oversight believes it is possible for the SMB to complete the farm inspections using existing SMB staff. (See related finding on staffing efficiency.) If SMB inspections of all the manufacturing producers are not possible, the SMB should consider inspecting as many producers as resources will allow.

When inspectors are not independent of the producers they inspect very little reliance can be placed on the inspections completed. Furthermore, industry

representatives said they believed it would be better for the state to assume the inspection role so they would be free to do their job of procuring milk.

RECOMMENDATION TO FINDING #3

Oversight recommends the SMB discontinue the practice of using industry personnel to conduct regulatory inspections.

Agency Response to Finding #3

State Milk Board:

We agree. We will continue to seek resources with which to conduct state inspections of manufacturing milk producers.

The industry personnel are performing a state inspection under agreement dating back to 1982 in which the state was to replace them with state inspectors within a few years of program startup. This procedure is sanctioned by USDA requirements in place and was the only option available to the Board at the time, since only half the existing budget was transferred to SMB from Agriculture with the executive order and 2600 producers were shown to exist by Agriculture.

FINDING #4: The SMB is not testing manufacturing milk for pesticides.
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The SMB does not test raw manufacturing milk or manufacturing milk products for the presence of pesticides. The United States Department of Health and Human Services requires the SMB to operate its Grade A milk program under a control which insures that milk supplies are free from pesticide contamination. The SMB currently requires routine pesticide testing of all Grade A fluid milk on a semi-annual basis.

In the absence of pesticide testing of manufacturing grade milk, the SMB cannot assure the public that milk supplies are free from pesticide contamination. The processing of most manufactured milk products, such as cheese and butter, includes eliminating most of the water from the milk leaving the fat. Because most pesticide and other toxic residues reside in the fat cells of milk, the level of pesticides, if

present, would be more concentrated in a manufactured milk product than that found in fluid milk.

Routine pesticide screening would also provide a needed deterrent for producers to ensure that their products are free of pesticides. It would be reasonable to assume that manufacturing milk producers would be more careful in their use of pesticides if they knew that pesticide screenings were being conducted on their milk.

The SMB has requested increased general revenue funding to provide for the pesticide testing of manufacturing milk, however, their requests have been denied. In their most recent budget request, the SMB estimated the costs of pesticide testing to be \$38,000 to \$100,000.

There are approximately 150 manufacturing milk routes to be tested twice per year. The three local health laboratories who currently test Missouri's Grade A milk for pesticides, along with several public and private laboratories, were contacted. The laboratories quoted the cost of testing the additional manufacturing milk from \$125 to \$150 per sample or \$37,500 to \$45,000 annually. Those costs do not include the costs associated with collecting and shipping samples to the laboratory. For economical reasons, the SMB should contract with the laboratory charging the least to test the manufacturing milk samples.

RECOMMENDATION TO FINDING #4

Oversight recommends the SMB establish a requirement that unannounced pesticide screening be conducted on all raw manufacturing milk on a semi-annual basis. This may include establishing a pesticide inspection fee or requesting additional funding.

Agency Response to Finding #4

State Milk Board:

The State Milk Board agrees with the need to test manufacturing milk for pesticides and has historically requested a decision item appropriation to pay for this function.

The Board will continue to ask for an appropriation to fund contracted testing for the presence of pesticides in manufacturing milk.

FINDING #5: The State Milk Board is not maximizing its use of staff resources.
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For the past several years, there have been between two to three FTE assigned to the manufacturing milk program. The number of staff has remained constant, while the number of manufacturing producers has declined steadily. During the audit period there were 2.6 FTE assigned to the manufacturing milk program.

The SMB's time accounting records are not sufficiently detailed to determine precisely the amount of time required to complete each activity performed by staff. Accordingly, Oversight developed an estimated time study based on discussions with SMB staff and observations of staff performing their assigned duties.

Oversight's time study was based on completing field activities at the SMB's frequency "goal" levels which in some cases are more frequent than is legally required. Oversight's time study estimated that the majority of field work, such as inspection of labs, plants, receiving stations, and pasteurizers; and the collection of milk and water samples, could be accomplished with approximately 1 FTE.

The SMB manufacturing milk program routinely exhausts its expense and equipment appropriation each year. However, the manufacturing milk program usually lapses some personal services appropriation. This expense and equipment shortfall may prevent the SMB from taking on additional responsibilities that would generate any travel costs.

The Department of Agriculture budget document has included a decision item for the SMB to expand inspections in the manufacturing grade program. If current staff were redirected, Oversight's time study indicates much of the expanded testing program could be accomplished using existing staff.

RECOMMENDATION TO FINDING #5

Oversight recommends the SMB review current responsibilities and adjust staff duties to maximize use of personal services resources.

Agency Response to Finding #5

State Milk Board:

The time study for accomplishing current and "new" activities was not based on feasible estimates in total from SMB experience. Additionally, we feel the existing positions were not fully analyzed as to required duties other than field activities. The plant inspector position also has supervisory duties over the manufacturing program which requires his time in audit activity and reports from his, and the other position. He also has liaison activities with USDA and FDA, not to mention industry equipment and plan reviews for compliance with regulations. The laboratory officer position has record keeping and entry duties in addition to field activity and helps with pre-hearing conferences for producers and some can receiving station inspection work. The secretary for this program was relegated to part-time due to budget cuts previously made. The program coordinator/field auditor was eliminated in 1993 rather than a specific compliance position. The duties at that time was relegated to remaining positions.

The Board will agree to reducing its personnel request due to the decline in manufacturing farms to some extent, but the spread of farms, required travel time between, anticipated hauler inspections, realistic time requirements for existing duties, and duties accomplished by positions not considered in the time analysis such as sewage, water well construction and sampling for federal programs are included, we feel existing personnel could not accomplish all the new activities. At least two additional persons, located in outparts of the state, are required to efficiently cover the territory in which manufacturing activity exists.

FINDING #6: Some SMB office procedures are inefficient.

Some SMB office procedures could be performed more efficiently. The SMB has not adequately modernized its office practices to gain efficiency.

- A.) The manufacturing milk industry tests milk samples for the presence of somatic cells, bacteria, antibiotics, sediment and water adulteration. The industry is required to provide the SMB office in Jefferson City with the results on Form 21 entitled "Notice of Probational or Undergrade Milk Quality." The SMB must timely record the data and issue "stop sale" orders

when applicable. Upon receiving the Form 21's in Jefferson City, the secretary photocopies the test results and mails them to Springfield for data entry. The original is filed in the producer's file at the SMB office. After the results are entered into a computer in Springfield, the data is transferred onto a diskette and mailed back to Jefferson City to be down-loaded into the main computer in Jefferson City.

The SMB mission is to ensure milk being used in manufacturing processes is safe for consumption. To do so, the SMB must promptly record, analyze and take appropriate action on the laboratory test results. It would be beneficial for the Jefferson City and Springfield offices to share data electronically.

The current procedure causes a delay in the receipt of milk sample information. A delay in the transfer of this information allows producers to sell milk that does not comply with federal regulations.

- B.) The computer system utilized by the SMB is not set up to automatically track data related to the regulated population. The SMB keeps a handwritten list and/or manually reviews files to determine when license renewals or plant inspections are due. The SMB relies on the industry to inspect and certify producers in a timely manner. They also manually review computerized milk sample data on over 700 producers to determine when enforcement actions such as stop sale orders and prehearings should be issued. This process would be more reliable and efficient if maintained in an automated format.

Without a method for reviewing records, plant inspections have sometimes exceeded the six months expected by the SMB and the twelve months required by federal regulation and some producers have been allowed to sell milk while they were not certified.

Programming the SMB's computer to facilitate monitoring data related to the regulated population would assist the SMB in ensuring state and federal regulations are followed.

RECOMMENDATION TO FINDING #6

Oversight recommends the SMB establish more efficient office procedures such as updating their computer system to provide for on-line inquiry and exception

reporting which could be accessed by field personnel. Additionally, data entry functions should be assigned to clerical staff.

Agency Response to Finding #6

State Milk Board:

The Milk Board has developed its data processing system from skills and knowledge available through its personnel. All past attempts to acquire outside help has failed due to bid process problems and lack of funding. The current process does work in practical operation, considering the actual public health threats are handled immediately, with paper work and reports following afterward. The follow ups performed by the laboratory officer are physical searches of industry records, which although not timely for data processing purposes, does allow a full accounting of reports of tests and required actions. This is documented in the correspondence from this position.

FINDING #7: The SMB does not always issue stop sale orders as required by federal regulations.

When the SMB receives test results that would require issuance of a stop sale order, the SMB does not usually issue the stop sale order if they are notified the producer has quit selling milk and is currently out of business. The SMB requires prehearings for producers who obtain three stop sale orders within a twelve month period.

When a producer voluntarily goes out of business, the SMB purges their computer records. If the SMB fails to issue a stop sale order to a producer who has temporarily left the market, this producer is able to re-renter the market with a new record and avoid the stop sale order and possibly a prehearing.

The SMB should issue stop sale orders to producers every time a stop sale order is required by federal regulations, regardless of the producer's current business status, as the producer may re-enter the market.

RECOMMENDATION TO FINDING #7

Oversight recommends the SMB issue stop sale orders every time one is required by federal regulations, regardless of whether the producer is currently selling milk or not.

Agency Response to Finding #7

The laboratory officer reviewed her records which are not computer entries for various reasons. The principal factor in this finding are Arkansas industry laboratories. This problem of un-timely reporting requires SMB action at the time found, by field audit of the laboratory officer, regardless of the number of high counts, will hopefully be corrected in large part by the Department of Agriculture Milk Lab assuming those industry sample tests this past December. For a producer to return to the market again requires a good test, thus clearing any stop sale previously issued by anyone. A year lapse would purge any record of past stop sales issued or unissued; they are not used to establish long range records as these records are not felt to be an important issue in current milk testing.

The Board strives to keep adequate records with its current system, but would welcome the opportunity to develop and use a more fool proof system considering it is relying on testing generally outside its direct supervision.

FINDING #8: The SMB does not always maintain data which includes a producer's prior violations.

The SMB tracks producers using producer numbers assigned by the industry, rather than using its own identifying system. When a producer begins selling milk to a different processor, they are issued a new number by that processor. Unless the SMB staff happens to remember a specific producer and transfers their information, the SMB will enter the new number into its computer system and set the producer up with an empty record. The SMB purges the information contained under the former industry number, as if the producer is no longer in business.

The SMB maintains the hard copy of test results alphabetically by producer name. However, the SMB takes enforcement actions based on the computerized data maintained by industry number rather than producer name. When a producer has

received a set number of stop sale orders, the SMB requires a prehearing. Therefore, it is critical for the SMB's computerized files to contain all information applicable to a particular producer. If a producer has two stop sales in a calendar year, they can avoid the third stop sale (which leads to a prehearing) by merely switching to another processor. In effect, producers sometimes start over with a clean record when they are assigned a new industry number.

RECOMMENDATION TO FINDING #8

Oversight recommends the SMB develop a system to identify producers and track historical data that remains with individual producers as long as they are regulated by the SMB.

Agency Response to Finding #8

State Milk Board:

The milk testing policies of the manufacturing milk program are developed to keep violative milk off the market, not specifically to establish individual producer histories beyond a previous 12 month period. If the producer establishes enough violations with the 12 month window, he will be subject to legal actions as evidenced by past Board hearings and stated policies. If the producer stays under the 12 month designated frequency of violations, his record is not maintained with all past histories. There is a transfer procedure in regulation requiring records to be transmitted company to company, but USDA also states that if previous records are not received, the producer may sell with new company establishing new record using accelerated sampling.

The SMB could establish a more sophisticated record system using data processing if funds become available to acquire outside help and software.

FINDING #9: The SMB has not established a program to inspect the bulk haulers of manufacturing milk.

Many of the 600 bulk milk haulers licensed by the SMB are also licensed to transport Grade A milk. Those haulers are inspected under the Grade A program. However, bulk milk haulers who only transport manufacturing milk and are not

licensed to transport Grade A milk are not inspected on a regular basis. The haulers of manufacturing milk are required to adhere to the same sanitary procedures for sampling, loading, transporting, and unloading milk as Grade A haulers. However, there is no state or federal regulation requiring inspections of bulk milk haulers who transport manufacturing milk.

The SMB has indicated they do not have the financial resources to conduct these inspections. However, to ensure the delivery of safe, wholesome manufacturing milk, it is necessary to require inspections of manufacturing milk haulers to verify the haulers are complying with established sampling and sanitation standards.

RECOMMENDATION TO FINDING #9

Oversight recommends the SMB take the necessary steps to ensure bulk haulers of manufacturing milk are regularly inspected. Such steps may include obtaining additional funding or appropriation authority.

Agency Response to Finding #9

State Milk Board:

The budget request for farm inspectors (expanded inspections) also includes duties to inspect manufacturing grade milk haulers. The existing personnel cannot expend the time required to track down and inspect haulers due to their existing duties. Hauler inspections are one of the most demanding, timewise, that grade A inspectors do. The Board will continue to request additional funding for inspectors to accomplish the newly suggested manufacturing grade inspection activities. The grade A contract agencies cannot assume duties without additional funding, since by law grade A fee monies cannot fund manufacturing activities.