

# MAINE STATE LEGISLATURE

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DIVISION OF REGULATIONS  
MAINE DEPARTMENT OF AGRICULTURE



*FOR THE PEOPLE*

ANNUAL REPORT  
1994



1994 YEAR END REPORT

MAINE DEPARTMENT OF AGRICULTURE

FOOD AND RURAL RESOURCES

Bernard W. Shaw  
Commissioner

BUREAU OF PUBLIC SERVICE

Peter W. Curra  
Director

DIVISION OF REGULATIONS

Clayton F. Davis  
Director

ADMINISTRATIVE - SECRETARIAL

Joyce Beaulieu

Jean Tenney

Deanne Savoy

Jan Dice

John Czapiewski

Kim Cornish

1994 LICENSES ISSUED

CONSUMER FOOD PROGRAM

1. Food Establishments	6,221
2. Redemption Centers	315
3. Beverage Plants	192
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	6,728

FEED, SEED AND FERTILIZER

1. Seed Labelers	86
2. Seed Dealers	791
3. Feeds	354
4. Fertilizers	199
5. Plant & Soil Amendments	26
6. Lime Materials	28
	<hr/>
	1,484

DAIRY PROGRAM

1. Frozen Desert	70
2. Certificate of Competency	13
3. Milk Licenses	51
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	134

WEIGHTS AND MEASURES PROGRAM

1. Weighmaster	288
2. Scale, Dealer and Repairman	154
3. Meter Repairman & Dealer	155
4. Gas Pump Registrations	1,440
5. Wood Scalars	1,491
6. Apprentice Wood Scalars	50
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	3,578

MONIES DEPOSITED ON A MONTHLY BASIS

MONTH	MONEY
January	\$85,562.00
February	\$46,177.00
March	\$97,762.00
April	\$26,653.00
May	\$22,887.00
June	\$35,120.00
July	\$21,216.00
August	\$16,236.00
September	\$15,130.00
October	\$13,412.00
November	\$23,546.00
December	\$121,317.00
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	\$525,018.00



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WEIGHTS AND MEASURES

SUPERVISOR

Stanley K. Millay

METROLOGIST

Danny M. Newcombe

INSPECTORS

Richard Amero      Harold Prince

Conrad Brown      Bill French

John Cunningham      Steve Giguere

Arthur Sawyer      Raymond Bryant



## INTRODUCTION:

The heart of Maine's Weights and Measures program is regulation of the marketplace to maintain equity.

We strive to be educators and helpers rather than law enforcers. We believe Maine's businesses need guidance and assistance in complying with the ever increasing rules and regulations they are faced with.

For the last 20 years, there have been eight State Weights and Measures Inspectors to cover the entire State of Maine. Currently, there are 30 local sealers of weights and measures who are appointed by more than 100 municipalities to test the gas pumps and scales within their jurisdictions. These local sealers are not trained to do investigations of fraud and are only expected to test devices and report their findings to the State. All investigations and complaints are handled by our staff of eight.

Commerce in the State of Maine has grown tremendously over the past 20 years due to increases in population and the subsequent demand for goods and services. Consequently the number of weighing and measuring devices have increased, and at the same time, these devices have become more sophisticated and more difficult to accurately test. As the amount of commerce has increased so has the number of complaints about inaccurate measurement to the point where answering complaints and doing follow-up work, where we have found violations, takes up much of our inspection time. Since the inspection staff has not increased, routine testing has become our last priority and sadly, since it is an important function of our mission.

The demand for our services in the Metrology Laboratory is growing faster than our ability to deal with it. There are ISO requirements for some Maine businesses wishing to export their products (see the detailed information about ISO in the Metrology Laboratory near the end of this report). Last year, Maine's export trade, which has increased by 100% in the past five years, amounted to 1.1 billion dollars. Such growth is being challenged by competition from emerging countries like the former Soviet Union.

We in Weights and Measures believe we should be doing all we can to give Maine businesses a step up in entering or expanding

into the global market. This is why we have requested funds to up-grade some of our out-dated and worn-out calibration equipment.

The following is a list of general categories in our jurisdiction within which we have attempted to give a general overview of items of interest and set forth some current issues.

WOOD:

In 1985, the Legislature passed a wood measurement law which created a wood scaler license requirement for anyone who measures wood within the State of Maine (Retail firewood sales exempted). The law requires standardization of measurement systems and it requires a written record be maintained for accountability. It seems to be working fairly well except for weight scale in the summer months and promptly providing measurement slips.

One of the problems we have encountered is that most cutters and haulers get paid based on "piece work", that is, they only get paid if they do something to wood, and then they get paid as contractors and are not subject to many of Maine's wage laws. When payment is based on weight scale, the wood is weighed and a price per ton is paid. During the summer months wood dries very quickly and thus loses weight. The longer the delay before it is weighed, the less it weighs, and therefore a smaller amount of money is paid. There are a few provisions in the law to help this situation, but unfortunately, all of them involve a confrontation with the boss by the aggrieved party. Generally, we have found that an employee who complains very much gets fired.

Another problem is in the case of landowners not getting all of the measurement slips for all of the wood removed from their land. Typically, we find a landowner coming to an agreement, (many times verbal), with a contractor on what will be cut and how much will be paid. A few months into the cutting, the landowner becomes suspicious and asks for an accounting or calls us to see what his or her rights are. When we try to investigate, we find some of the mills are reluctant to release information and we find many times that the records of the contractor are so incomplete that it is impossible to determine where the wood went. We believe the law needs to be strengthened to require that correct information be provided to licensed scalers.

#### FIREWOOD:

Every fall, we receive complaints of short measurement of firewood. Between 30 and 40 complaints on average each year prove that consumers are not receiving the amount of firewood they pay for. Usually, the vendors correct the problem after they receive a copy of our report. Occasionally, stronger enforcement action is required by the Consumer Fraud Division of the Attorney General's Office.

Maine law defines a cord as 128 cubic feet of stacked wood. Measure the length, width and height of the pile in feet, multiply these three numbers together and then divide by 128. The answer is the number of cords you have. The law also allows vendors to sell by the loose thrown cord. This entails a measurement of the container, usually a truck body. Determine the total cubic feet the same as in the previous example and then divide by 180 for 12" and 16" wood and 195 for 24" wood and you will have the number of loose thrown cords. If you are the buyer, and you have just had a load dumped in your yard, and you agreed to loose thrown cords, you can determine if you received enough wood by stacking it and determining the cubic volume in feet and then dividing this amount by 116. If you do not have nearly as many loose thrown cords as you paid for, you probably were shorted. If you believe you were cheated, or if you want more information please do not hesitate to contact us.

#### PETROLEUM:

Weights and Measures Inspectors test many petroleum measuring devices including gas pumps, bulk plant metering systems, tanker compartments, and retail vehicle tank meters. We are responsible for enforcing some gas pump labeling requirements like gas pump topper signs, prices, and gasoline-oxygenate blends.

Did you know that engine fuel sold at retail containing at least 1 percent by volume of any oxygenate or combination of oxygenates shall be identified as "with" or "containing", or similar wording, the specific type of oxygenate in the engine fuel? For example, the label may read "contains ethanol" or "with MTBE/ETBE." This information shall be posted on the upper 50 percent of the dispenser front panel in a position clear and conspicuous from the driver's position, in a type at least 127 mm (1/2 inch) in height, 15 mm (1/16 inch) width of type. The

retailer must be provided, at the time of delivery of the fuel, on an invoice, bill of lading, shipping paper, or other documentation, a declaration of any oxygenate or combination of oxygenates present in concentrations of at least 1 percent by volume in the fuel.

The Clean Air Act of 1990 impacted Maine with the controversial auto emissions testing program and with a reformulated gasoline requirement in nine of Maine's counties. As the January 1, 1995 deadline for selling reformulated gas approaches, many station owners are asking questions on how to comply. Their concerns are about dispenser labeling requirements for reformulated gas and about price variations between areas which do not have to have the more expensive reformulated product. It is estimated that 400 million gallons of gasoline is sold annually in the nine counties effected.

We received many complaints about motor fuel quality during the past year and we responded to a number of complaints by taking samples and sending them to a laboratory for analysis. Most of these complaints were about octane content. We do not have the funds to do meaningful fuel quality testing so we have no idea how widespread this problem may be.

Technology has advanced to the point where portable electronic octane analyzers are available at reasonable cost to screen gasoline samples before sending them to the octane engines for official testing. These laboratory tests, (required for enforcement actions) cost an average of \$150 per sample.

In 1992, the Legislature enacted a law which requires that this office register all commercial motor fuel dispensers and collect an \$8.00 fee per dispensing nozzle. This fee was already collected by the sealers when they did testing. Now the device owner need only pay once annually and not have to pay piece meal a number of bills each year. This has been a great time savings for our inspection staff and has made it easier for gasoline retailers.

In 1994, we finally got money to replace the 1974 Ford tractor we used to haul the bulk meter testing trailer. This truck was worn out (twice) and had become a safety issue for us. The new truck is a diesel and, besides being safer around the bulk plants, should provide us with many years of service.

## SCALES:

We test scales whose capacities range from a few ounces to over 100,000 pounds. Each of our inspectors has a variety of weights to handle most of the scales they encounter in their areas. Large capacity scales are tested by one of two test trucks. We are responsible for verifying the accuracy of approximately 625 high capacity devices, including shipping scales, cement scales, asphalt scales, wood scales and fertilizer scales. Hundreds of millions of dollars of commerce occur annually based on the measurements of these scales. Small errors amount to significant figures while the larger errors can amount to several thousand dollars for each occurrence. For example, a winter audit test of one scale showed an error in favor of the scale operator of \$25,000 per day. Investigation showed that this problem had been on-going for at least three weeks. This amounted to an approximate \$375,000 impact on the consumers who were selling their products over this scale. The scale was shut down immediately and the problem was corrected. In another case, a company lost over \$106,000 in product inventory in a six week period due to faulty calibration by a licensed service company. In yet another case, a paper company scale was found to be frozen and not working properly. This error, calculated at \$1360 per day, was a loss to the customers providing biomass material to this company. While the scale was closed for repairs, the company had to burn oil, at a cost of \$100,000 per day, instead of biomass material, (which is less expensive than oil). These errors are a sample of what we find and correct as a result of our regular testing program.

This year we have requested funds to replace our tractor trailer unit. The current vehicle is a 1969 Mack and has an even older trailer with which we haul our test weights. The maintenance bill on these two pieces of equipment was over \$7000 this past year. Two years prior, repairs were in excess of \$20,000. These costs do not represent labor performed by our Weights and Measures staff which we estimate saved the Department more than \$8000. The safety issue involved with transporting the amount of weights necessary to test large capacity scales is a significant factor in this part of our program. When this vehicle is out of service, we are not testing and we are not collecting the testing fees, so not only is business and industry effected, but the State is also losing substantial revenue.

This past year, we lost 56 working days because of breakdown

time. Additionally, the inspector who operates this large scale truck spent 14 days working on it to keep it going. This amounts to 12 weeks of time which was lost which could have been devoted to large scale testing. The inspector who handles large scale testing estimates an average of three scales per day could have been tested during this down-time and more than \$23,000 in testing fees would have been collected.

We test scales at random on a statewide basis. In most cases, we are not accompanied by repair people nor do we give advance warning.

The State of Maine has an established fee schedule which will be applied to regular scale tests regardless of any tests performed by repair people or service companies.

In cases where the scale fails, action taken will depend on the nature of the problem. Serious errors may necessitate immediate rejection and subsequent removal from commercial use. However, a reasonable amount of time to effect repairs is granted in most cases.

Rejected devices can be returned to service by a registered repair technician who is authorized to do so.

It is the sole responsibility of the owners, operators, and repair people who install and operate weighing and measuring devices to do so in compliance with all of the applicable rules.

Scale performance is directly related to proper operation and maintenance so we strongly recommend a regular preventive maintenance program. Scale owners can utilize their own repair people or they can contract with an outside service company. Either way, this office must be notified in writing within 10 days of any repairs, installations, or broken security seals.

There is no expiration date on approval seals. The scale is only as good as its performance and this performance is evaluated from time to time by tests performed by unbiased third parties (us).

#### DEALERS AND REPAIR PERSONS:

Weighing and measuring devices including scales of all kinds can be purchased from many places in and out of Maine. They must

be legal for commercial use and have type approval.

Maine law requires that anyone engaged in the business of dealing in, selling, buying, exchanging, or trading in weighing devices be registered as a dealer with this office.

Anyone wishing to be registered as a dealer or repair person should contact us for application information.

It is our responsibility to ensure that repair technicians have proper and adequate testing equipment and the necessary knowledge to place weighing and measuring devices into commercial service.

#### PACKAGING:

In 1993, we conducted a survey of 50 retail seafood outlets to see if a proper tare was taken on sales of lobster. Tare is the weight of bags, paper, trays, containers and other packaging materials, and can not be used as part of the weight to calculate the price charged to the consumer. We had a failure rate of nearly 20%. Offenders were warned and repeat offenders were referred to the Attorney General's Office for action. One of these paid a \$2,000 fine.

In 1994, we conducted a survey of 48 stores and found a failure rate of 27%. Some of these were repeat offenders from last year and will be subjected to further enforcement action. First time failures will be warned and instructed on how to take proper tare and will be re-inspected in the future.

According to information forwarded from the Maine Lobster Council, there were 27.5 million pounds of lobster caught and landed in Maine in 1993. We estimate that at least 2 to 4 million pounds are sold throughout the outlets described above. At an average retail price of \$3.50 per pound, we are talking about 7 to 14 million dollars worth of transactions. We have found that 27% of the outlets tested were overcharging their customers when selling live lobsters. It is difficult to calculate the exact overcharge in money, but if only 1 million bags were used and 27% were sold in error, then 270,000 consumers were overcharged. We wish we had more time to devote to this type of problem.

The Nutrition Labeling and Education Act of 1990 has had a profound effect on how state and local jurisdictions may conduct

their package checking programs.

Under the act, state and local laws that are not "identical" to corresponding FDA requirements are preempted. This preemption is intended to provide uniformity in labeling requirements and eliminate non-uniform state and local laws, regulations, formal and informal policies, and other non-uniform enforcement practices that prevent firms from conducting efficient and cost-effective business in all 50 states.

Jurisdictions may continue to enforce state or local regulations on foods where there is no Federal requirement, and continue to enforce existing state and local laws if they are "identical" to FDA regulations.

Federal Courts have ruled that FDA has jurisdiction over all food products made from ingredients shipped in interstate commerce, regardless of the amount of the ingredient present, even though the finished product has not moved in interstate commerce. Therefore, products that have not entered interstate commerce but are made of ingredients shipped in interstate commerce are subject to preemption.

If you have specific questions, please contact this office and we will try to get an answer for you.

PROPANE:

In the last few years propane sales have increased dramatically and, consequently, we have had to assign one person nearly full-time to testing LPG meters. Our inspector in Aroostook County does the LPG work up there.

During 1994, 20 new LPG trucks and 20 fill plants with meters were added to the number we are responsible for and there are 8 more trucks being readied for service as this is written.

This year we sent four people to a week long training session on LPG meters and one of these will be assigned to testing LPG on a part-time basis to help alleviate the regular inspector's work load.

As an example, in 3 instances major errors were found where the customer was not getting as much product as they were being charged for. Fortunately, these particular problems were found before much damage was done. This type of error in a meter which



pumps the volume these three do, amounts to an overcharge of \$48,600 annually.

In four cases, companies had lost at least \$17,000 before we discovered the error. In another case, a company documented a \$7000 loss in one month before our inspection discovered the problem.

#### LAND-FILLS:

This past year, we have received numerous complaints about how trash is measured at land-fills. The most common complaint is that the land-fill operator determines the charge by guessing at the measurement of trash in the load. In one case, the operator was charging by the pound but had no scales. In a few other cases, the operators are charging by the cubic yard but are not measuring the size of the container. In some cases the operator has a chart which says how many cubic yards are in a car or truck, or large truck, or pick-up, or in a compact truck, or truck with side boards, etc. At least two places state that they charge on a full load basis so that a half load of trash costs as much as a full load to dispose of. Another location says that compacted waste is \$12 per yard and non-compacted waste is \$6 per yard. We are not sure how total yardage is accurately measured.

Currently we are visiting land-fills to collect data on how charges are determined. When enough information has been gathered, we will meet with industry and municipal representatives to try to find a solution to the measurement violations taking place.

#### NEW AND PROPOSED RULES:

##### SCALES

Ever since the National Conference on Weights and Measures established a definition for "concentrated load capacity of a vehicle, axle-load, or livestock scale", there has been confusion over how this term is to be applied to the actual use of the scale. In addition, there has been disagreement over how this term is to be used by the scale manufacturer when advertising the intended use of the product to the potential purchaser. Therefore, a newly revised definition was made which states: Concentrated load capacity (CLC) is a capacity rating of a vehicle, axle-load, or livestock scale, specified by the

manufacturer, defining the maximum load concentration for which the weighbridge is designed. In the case of vehicle and axle-load scales, it is the maximum axle-load concentration for a group of two axles with a centerline spaced 4 feet apart and an axle width of 8 feet for which the weighbridge is designed. This capacity is for both test and use.

#### COMPRESSED NATURAL GAS AN ALTERNATIVE FUEL

With the advent of the push for alternative fuels, compressed natural gas has come into the arena of retail engine fuel. With it came the need for a method of sale and design specifications for dispensers.

A new section was added to the law on mass flow CNG dispensers to require that devices other than those used for fleet sales and price contract sales must be of the computing type; in addition, the devices must indicate the total quantity, the unit price, and the total price of each delivery. The dispenser must display the mass measured for each transaction; the mass may be displayed either continuously on an external or internal display accessible to an inspector or it must display the quantity in mass units by using controls on the device.

A second new requirement specifies that, for CNG dispensed as an engine fuel, the delivered quantity must be indicated in "gasoline gallon equivalent (GGE) units" or "gasoline liter equivalent (GLE) units." A third condition requires that the equivalent conversion factor for the unit selected for use (either GLE or GGE) be permanently and conspicuously marked on the face of the dispenser.

#### METHOD OF SALE OF COMMUNICATION PAPER

A method of sale for communication paper has been adopted this year which requires packaged bond, mimeo, spirit duplicator, xerographic or fan folded computer paper to be labeled by length, width, and count. Due to the changing marketplace and consumer practices, these products are moving more and more into the retail sales arena. It has become necessary to alter label formats from traditional methods, which were understood by the business users, to a format that complies with the Fair Packaging and Labeling Act and is not confusing or deceptive to the retail consumer.

## AUTOMATIC WEIGHING DEVICES

Currently, rules are being developed to regulate automatic weighing systems in the package shipping industry and hi-speed checkweighers used in meat and poultry plants.

### 1994 COMPLAINTS RECEIVED:

Gasoline octane below posted amount  
Gasoline gallons not correct  
Gasoline price different from posted amount  
Gasoline discount for cash in error  
Gasoline credit card over charge for credit  
Gasoline pump in error  
Gasoline pump top signs missing or in error  
Scales in error  
Deducting from total weight to determine wages in piece work  
Failure to take proper tare when selling packages by weight  
Inaccurate parking meters  
Inaccurate taxi meters  
Retail firewood sales  
Commercial wood law violations  
Improper weighing of propane cylinders  
Short measure of shrimp  
Short measure of lobsters  
Errors in fuel oil delivery trucks  
Errors in LPG delivery trucks  
Violations by registered repair technicians  
Error in measuring air-conditioner gas  
Over-charging by landfills and recycling centers  
Weighing or measuring equipment inadequate or not legal  
Deliberate mislabeling of pre-packaged containers  
Not legal scales on fork trucks in shipping warehouses  
On-board weighing systems on trash trucks

## 1994 BREAKDOWN OF DEVICE INSPECTIONS AND CALIBRATIONS

### RETAIL FUEL PUMPS

Inspected: 2874  
Adjusted: 151  
Rejected: 110  
Error: 9%

### SMALL CAPACITY SCALES

Inspected: 1849  
Adjusted: 7  
Rejected: 46  
Error: 3%

### BULK MILK TANKS

Calibrated: 56

### LARGE CAPACITY SCALES

Inspected: 110  
Adjusted: 4  
Rejected: 41  
Error: 37%

### SARDINE CARRIERS

Calibrated: 6

### PACKAGE CHECKING STATEWIDE

Inspector days: 33  
Lot size packages: 16524  
Errors found: 1319  
Error: 8%

### TARE INSPECTIONS:

Inspections: 104  
Errors found: 22  
Error: 21%

FUEL QUALITY SAMPLES

Tested: 4

Error: 0

COMMERCIAL WOOD INSPECTIONS

38

COMMERCIAL WOOD COMPLAINTS

16

FIREWOOD COMPLAINTS

48

MISCELLANEOUS COMPLAINTS

107

TAXI METERS

99

FUEL TRUCK METERS

Inspected: 27

Adjusted: 25

Rejected: 2

Error: 100%

BULK OIL PRESSURE METERS

Inspected: 305

Adjusted: 98

Rejected: 31

Error: 43%

PROPANE METERS

Inspected: 255

Adjusted: 133

Rejected: 75

Error: 82%

## 1994 METROLOGY REPORT

### NIST LABORATORY ACCREDITATION

The National Institute of Standards and Technology, (NIST), through its Office of Weights and Measures, accredits metrology laboratories at the state level. Accreditation is necessary to claim measurement traceability to the National Standards. Measurement traceability is necessary for many government activities, law enforcement, and for commercial activities as well.

NIST accreditation criteria have been updated to meet the demands of our global economy, specifically to meet the prerequisites of ISO 9000. ISO 9000 is a quality control system which has been adopted by more than 90 countries in an effort to standardize measurements and reduce trade barriers. The global and regional trade agreements are reinforcing ISO 9000 and companies who do not meet ISO criteria are being forced from some of their export markets. This is especially true of European, United Kingdom, and Pacific Rim countries. (A small Maine manufacturer of medical supplies recently informed me that they had lost their Australian and European markets because they were not ISO 9000 compliant). This laboratory will assist the company by providing NIST traceable measurements for its efforts to comply with ISO criteria if it decides to do so.

Exports account for a large part of the manufacturing economy within this state. Industry compliance with ISO 9000 will become necessary if we are to remain competitive in the World market and thus keep our exporting industries healthy.

Impact to the taxpayers in this state is very difficult to quantify. One of the missions of the Weights & Measures program is to provide technology transfer from NIST to business and industry. Upgrading the laboratory to stay current with NIST accreditation criteria at class 1 & 2 is a sound investment for the future of Maine's business and manufacturing climate. The laboratory facility is structurally sound but is equipped with 1960s equipment. Maine is in a relatively comfortable condition as many states will be building new facilities from the ground up at costs in the millions. We can provide state of the art with a small investment in equipment and training. In fact; I suggest that our calibration services should be promoted to assure that industry is fully aware of the services we offer.

The availability of accuracy class I and II calibration services is limited and becoming more so. New Hampshire and Rhode Island no longer have NIST accreditation and Vermont and Massachusetts are not expected to offer class I and II services after this year. New Hampshire based companies are

contacting this laboratory for these services and so is New Hampshire Weights and Measures. Last week the New Hampshire Public Health Laboratory requested that we calibrate their class II standards in order to meet FDA accreditation criteria. (They chose Maine over Connecticut because of turn around time, Connecticut is working to near capacity).

Funding requests totaling \$75,500 have been made to bring our laboratory into compliance with updated NIST accreditation criteria. This should ensure that the State of Maine will be able to meet the demands of a growing global economy.

#### TESTS AND CALIBRATIONS

The following devices were tested or calibrated during 1994 in the metrology laboratory.

Tuning forks	80
Linear measures	12
Shellfish measures	124
Retort thermometers	20
5 gallon measures	86
lrg vol meas. >5 gal tankers	21
grav meters	5
master meters	1
mag induction meters	4
mag induction meters	2
gravimetric calibrations	10
Round Robins	5
class III wt kits	91
misc class III wts	117
class I & II wt kits	24
50 lb class III wts	284
500 lb class III wts	12
1000 lb class III wts	83
police axle scales	271
small scales	4
package checks	5
chronometers	6
-----	
TOTAL TESTS	1,267
REVENUES COLLECTED	\$9,441.00

Note: Of the above 1,267 tests, 570 were performed for no fee in support of the State and Local Weights & Measures program, State law enforcement programs, and other State activities.

Four weeks were spent training, two weeks at conferences, 6 days at TQM council meetings, one week preparing accreditation materials and control charts, 7 days of shutdown, two weeks on vacation, and an estimated four weeks on related Weights and Measures work.

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**DAIRY INSPECTION**

James Bartlett

Supervisor

**INSPECTORS:**

Glendon Mehuren

Audrey E. Slattery

Clyde Spaulding



## YEAR END REPORT 1994

Mr. Robert Clark retired from the Department after almost 38 years of state service. His knowledge and experience will be greatly missed. Jim Bartlett has been promoted to the position of Supervisor of Dairy Inspection in his place, leaving a vacancy in the field. Glendon Mehuren, of Searsmont was hired to fill this vacancy.

The controlling interest in Grant's Dairy in Bangor was purchased by Garelick Farms of Franklin, Massachusetts. Several years ago Grant's Dairy constructed a new building on the west side of Bangor. Finished product from the existing plant is trucked to and stored in a new cold box located at this location. By June 1, 1995, new processing and packaging facilities will be installed in this building. The new plant is supposed to be the most technologically advanced facility on the east coast.

During the past year the dairy industry saw still more farms go out of business. Thirty three (33) farms went out while seventeen (17) farms started up giving the state a net loss of 16 farms. At the present time there are five hundred ninety four (594) dairy farms left in Maine.

Garelick Farms, Franklin, Mass. began picking up milk in the state March 1, 1994. They started with a trailer load every other day from eleven (11) producers. A new rating was done the week of November 21, as they have increased their number of producers to twenty (20). The amount of milk shipped every two (2) days is approximately 90,000 lbs.

This past year, the dairy inspection unit assumed the responsibility of inspecting the domesticated deer farms. The number of farms has increased from 32 to 42. These farms raise red, fallow, sika deer for both meat and breeding purposes. A great deal of interest continues to be shown by prospective growers.

David James of Charlotte, went out of business this past year, but is getting ready to ship milk again. He will be trucking his milk to Cherryfield and transferring it onto a bulk truck at Wayne Smith's farm. West Lynn Creamery will be buying the milk.

The moratorium by the state on rBST was lifted in February. Through the hearing process, the Maine quality seal was amended to include restrictions on rBST. It is not known at this time how much, if any,

is being used in the state.

This past May , Lab Quality Assurance Branch / Food and Drug Administration (LQAB/FDA) , changed the requirements for the care of water samples after the samples are taken. The new requirements require that samples be refrigerated and kept at the same temperature as milk samples (33~-40~) until tested and that they be tested within thirty (30) hours from the time they were taken. Because of the method used for testing , samples are required to be delivered to the laboratory no later than 2:00 on Tuesday of each week. Although the lab is accepting water samples for one complete week (will accept as late as 2:00 PM on Friday ) each month , this makes sampling of water very inefficient.

A great deal of progress has been made at the farm level in the areas of the storage of drugs and the use of improperly labled drugs. This is all due to the increase in the familiarity and knowledge of the program by the veterinarians and milk producers. As time passes, more and more screening and confirmatory tests are being tested and approved for use in the field. Awareness of these tests also causes the user to become more cautious when administering medicinals.

Management has been participating in the Total Quality Management program as mandated by the administration. These training sessions are teaching us that by working as a team , our tasks can be done more quickly and much more efficiently.

Janice Bureau , the Laboratory Evaluation Officer since the lab was moved to Augusta in November, 1986 , resigned from her position to spend more of her time with her two young children. She was replaced by Linda Stahlnecker. Linda came to us from Northeast Laboratories located in Winslow.

Audrey Slattery and James Bartlett attended the U S Public Health training seminar in Albany , N.Y. this past October. This meeting is a very beneficial one in that all participants are involved in training exercises involving the federal inspections we are responsible for. We are also brought up to date by FDA with new policies and procedures that we need to be aware of when doing these inspections. Attendance at these meetings is mandatory in order that Milk Sanitation Rating Officers maintain their certification.

Due to depressed milk prices , some dairy farmers have shown an interest in bottling the milk produced on their respective farm. This milk will be sold locally at the retail level. At present we have six (6) licensed raw milk dealers in the state.

This past summer , a new frozen dessert manufacturer started making ice cream in Madison. The name of the establishment is Kennebec Ice Creamery and is owned and operated by Frank Tolman and Patricia Ayotte.

Most of the state experienced excellent weather for planting , growing and harvesting crops this year. There should be plenty of feed around to last through the spring.

Schwan's Sales Enterprises experienced a serious outbreak of salmonella in ice cream in October of this year. Finished product manufactured at Schwan's Marshall , Minn. plant were suspect and being recalled by the company. Products were recalled from 35 states. The causes of the problem were : 1. The tanker trucks hauling the ice cream mix to the freezer plant were back hauling raw eggs and the truck was not being effectively cleaned. 2. The ice cream mix was not re-pasteurized at the plant where the finished frozen product was manufactured (this is not a requirement with frozen desserts as it is with milk).

Reciprocity of inspections between states is finally being observed by Massachusetts and Connecticut. The elimination of these other inspectors is making inspections by our inspectors more acceptable to the farmers. It is also alleviating the frustrations experienced by producers from being over inspected.

Computerization of the dairy inspection reports by the office was started this year. Also , the revision of the filing system for all farm inspections, water samples, tank charts and such individual producer information was completed. The ancient ledger system was put on the shelf. This system is much less time consuming and much easier to access for information for ratings and check ratings. It is planned that plant inspections , equipment tests , water samples and all other pertinent plant information will also be included on the computer system.

## NORTHERN REGION

The number of farms going out of business continues to exceed the number of new ones going in. The fewer farms produce as much or more milk. Included in the out of business group is the only commercial sheep milk farm that was in Maine.

One new goat milk cheese processor started with a new pasteurized designed especially for small operations. Interest in the production of goat milk and cheese continues to be high, but the high cost of equipment and buildings discourages many potential operations.

State of Maine Cheese moved from Rockland to Rockport. The new location is on U. S. Route #1 with much better exposure for store sales. Their milk bottling operation was temporarily halted and then restarted on a limited basis at the new location, with sales limited to their store.

## 1994 Dairy: Southern Maine Annual Report

The dairy farming business in southern Maine saw the continuing decline of commercial milk producing farms. However, the rate of decline was the same as in 1993 and the number of new operations was greater than in 1993. (1993 out of business:12, new 1; 1994 OOB 12, new 4). Milk processing plants and single service plastic milk container manufacturers all continued on in business.

Raw milk, goat's milk and goat's milk cheese manufacturing continues to be popular based on the number of inquiries to either begin this type of operation or locate the nearest products for purchase. Dairy operations are becoming intergrated business involving vegetable stands, cross-country ski operations, natural foods stores or any other type of niche. One dairy farm began milking six Jersey cows and proceeded to make ice cream and frozen yogurt in another building on the farm. The ice cream and yogurt was then sold retail at the farm. Another dairy farm diversified into the bottling and sale of organic raw milk. The consumer foods program guidelines for organic products and MOFGA certification are the basis for the organic label. The "organic" cows are kept identified and separated from the rest of the commercial milk herd. They are milked first and the milk goes into the "organic milk" bulk tank. The milk is bottled into glass quarts and half-gallons and sold in natural foods stores.

Appendix N of the Pasteurized Milk Ordinance regarding drug residue monitoring and penalties for any milk supply testing positive for antibiotics involved 18 farms statewide. Six of these farms were in southern Maine. Of these 6, 41,557 lbs. of antibiotic contaminated producer milk was comingled with 100,932 lbs. of milk on the trucks. A total of 142,489 lbs. or 16,568 gallons of milk was destroyed in manure pits. Antibiotic storage and labeling requirements as part of the farm inspection is not as common a debit as when it was first introduced. Producers seem to be conscientious about storage and use. Thus the reasons given

for antibiotics in the milk supply are mistakenly milking a dry-treated cow or putting a fresh cow into the tank too early.

Several southern Maine dairy farms were voluntarily involved in a corn silage and milk sampling program. Larradex is a pesticide used as a fly control treatment on chicken manure. This treated manure is then spread on cornfields. A number of corn silage and milk samples were taken from farms known to be using treated chicken manure as a fertilizer and farms not using it. All of these samples tested negative for cyromazine and melamine.

Southern Maine dairies established a policy regarding the use of rBST. The dairies believe that although this FDA approved hormone is safe, they elect not to accept milk from cows treated with it to increase milk production. The Maine Milk Quality seal regulations were re-written to incorporate this aspect when using the seal on milk containers. The two large dairies in southern Maine each use this seal on their milk labels.

The FDA sponsored Northeast Regional Milk Seminar was attended in Albany New York. State Rating Officers are required to attend as part of recertification.

PLANT INSPECTION DEBITS

Percent Of Plants Having The Specified Debit

	1993	1994
Floors	32	35
Walls and Ceilings	32	41
Doors and Windows	26	18
Separate Rooms	32	35
Water Supply	0	12
Handwashing Facilities	0	5
Milk Plant Cleanliness	55	41
Equipment Construction	39	41
Cleaning and Sanitizing of Equipment	32	41
Storage of Cleaned Equipment	9	18
Storage of Single Service	19	35
Protection From Contamination	45	58
Vat Pasteurization (air space thermometers)	0	12
H.T.S.T.	12	0
H.T.S.T. Charts	12	0
Cooling	0	24
Cooling Water	20	0
Bottling and Capping	36	12
Headcovering	0	0
Surroundings	16	5
Lighting / Ventilation	6	5
Toilet rooms		5

FARM INSPECTION VIOLATION SUMMARY

<u>ITEM</u>	<u>PERCENTAGE</u>	
	1993	1994
Barns:		
Floors	8	12
Walls & Ceilings	31	16
Separate Stalls	2	4
Lighting	4	1
Feed Storage	3	1
Overcrowding & Ventilation	9	12
Cleanliness	45	41
Cowyard	5	7
Milkrooms:		
Floors	12	10
Walls & Ceilings	15	9
Lighting & Ventilation	6	9
Milkhouse Openings & Miscellaneous	14	24
Cleanliness	31	26
Water Supplies:		
Construction & Bacteria	4	18
Utensils & Equipment:		
Construction	11	11
Cleanliness	5	10
Sanitization	3	10
Storage	12	19



Milking:

Flanks, Uppers & Teats	9	1
**Protection From Contamination	8	18
Handwashing Facilities	7	7

Insects and Rodents:

Manure Disposal	5	10
Insects & Rodents	16	-
Milkhouse Openings	16	19
Approved Pesticides & Rodenticides	0	0
Surroundings Neat & Clean	2	3

\*\*Debits of improper storage and labeling of animal drugs

SUMMARY OF DAIRY PRODUCT SAMPLING  
AND LABORATORY ANALYSIS

	<u>1993</u>	<u>1994</u>
<u>Retail Raw Milk</u>		
Producers	5	6
Samples	71	33
Tests	449	215
Violations	18	1
<u>Raw Milk &amp; Cream for Pasteurization</u>		
Processors	12	6
Samples	158	114
Tests	604	638
Violations	10	8
<u>Pasteurized Milk and Cream</u>		
Processors	13	11
Samples	586	569
Tests	3618	3420
Violations	110	100
<u>Cottage Cheese</u>		
Processors	1	1
Samples	24	19
Tests	94	77
Violations	5	8
<u>Sour Cream</u>		
Processors	2	2
Samples	22	20
Tests	66	61
Violations	7	4
<u>Buttermilk</u>		
Processors	2	3
Samples	22	25
Tests	66	106
Violations	2	1

Egg Nog

Processors	4	2
Samples	8	5
Tests	22	30
Violations	0	1

Butter

Processors	1	2
Samples	12	12
Tests	30	24
Violations	0	1

Frozen Desserts & Mixes

Processors	17	16
Samples	102	77
Tests	509	394
Violations	31	18

Goat Cheese

Processors	6	5
Samples	39	17
Tests	76	34
Violations	0	1

Single Service (plastic jugs & containers)

Processors	3	3
Samples	239	210
Tests	468	266
Violations	0	0

Farm Waters

Samples		306
Tests		313
Violations		77

TOTAL SAMPLES		1407
TOTAL TESTS		5578
TOTAL VIOLATIONS		220

DAIRY FARM INSPECTION SUMMARY

<u>Farm Inspections</u>	<u>1993</u>	<u>1994</u>	<u>% of Change</u>
Farm Inspections	1442	1336	- 07
Farm Re-Inspections	50	49	- 02
Water Samples	418	306	- 27
Number of Farms	636	594	- 07

Milk Storage Temperatures

	<u>1993</u>	<u>Violations</u>	<u>% Violations</u>
Stores checked	* 104	5	5 %
Schools checked	22	0	0 %

\* Milk Storage Temperatures being done by consumer food inspectors.

SANITATION COMPLIANCE RATINGS SUMMARY

	<u>1993</u>			<u>1994</u>		
	<u>Passed</u>	<u>Failed</u>	<u>Total</u>	<u>Passed</u>	<u>Failed</u>	<u>Total</u>
Ratings	17	0	17	8	0	8
Check Ratings	5	1	6	4	0	4
Re-Rating	2	0	2	0	0	0

1994 Positive Antibiotic Milk

<u>#farms</u>	<u>#Milk (Producer)</u>	<u># Milk (Commingled)</u>	<u># Milk Total (Destroyed)</u>
19	170,267	382,789	553,056

These positives were found by certified laboratory technicians while routinely testing commingled milk from bulk milk pickup tankers. Every tanker is sampled and screened for antibiotics every time they deliver a load of milk to a milk plant or receiving station. If a tanker is found to be positive, then each sample from each producer on the truck is tested to find which producer is the guilty party. Although there is a lot of room for improvement, to only have 18 positive tests for the entire year (considering that the nearly 600 dairy farms in Maine are being picked every other day) this indicates that the farms are making a very good effort to keep drug residues out of the food supply.

1994 YEAR END REPORT

MAINE DEPARTMENT OF AGRICULTURE

FOOD AND RURAL RESOURCES

Bernard W. Shaw

Commissioner

BUREAU OF PUBLIC SERVICE

Peter W. Curra

Director

DIVISION OF REGULATIONS

Clayton F. Davis

Director

CONSUMER FOODS

Gerald L. Prentice

Supervisor

INSPECTORS:

Mary Bryant

Sylvia Fanning

Jerry Bishop

Pamela Fischer

Gerald Chestnut

Peter Stevens

Heidi Chadbourne

Randy Trahan



## CONSUMER FOODS UNIT

Constant and inevitable changes have continued to be the rule rather than the exception within the Division of Regulations in 1994. A continuing squeeze in budget matters has again been coupled with the ever increasing list of responsibilities accepted by this division. Public Health related inspections have always been our base responsibility and this year as is normal the numbers of businesses requiring such inspections has increased. This annual increase is an indicator that more Maine Citizens are going into business for themselves which is encouraging. Our efforts to cover our responsibilities have always been second to none and with a smaller office staff in the past few years and an inability to expand our inspection staff we have the concern that our professionalism could be effected adversely. That is a valid concern. Education in food processing safety being one main thrust of our program, and with shortage of available time spent on our part adversely effects not only food processors and retailers but also the consumers of Maine.

In. 1994 we've been dealing with the addition of the Maine; Seed, Feed and Fertilizer program as well. This program was a complete division within the department staffed by two full time inspectors and a Supervisor, all trained in the complexities involved. Now this too is a responsibility of the Consumer Foods Unit and the necessary time and resources for training food inspectors is difficult and time consuming. Training here, as in consumer foods issues, is a consistent



issue. Industry updates, new products, and updating computer files make training a year round initiative and necessity. We are still working with ways to incorporate this new system into our schedule.

Our goals for 1995 are very clear in the Division of Regulations. One goal is to maintain our absolute commitment to the public service aspect of our job. This commitment stems from the fact that the people of Maine deserve just that. The prevention of food born illness, involving direct personal contact with all of those people working in the food processing industry is a must, both for education and for enforcement of Maine's food laws. Being able to answer questions is a must. We learn from our constituents as they learn from us. A partnership between this division and the people we serve is a must. It is our responsibility to have access to new information available to us through joint efforts with other States, other Departments and Federal Agencies. This is in keeping with our goal to remain a contemporary informed unit, able to serve the public in a fashion to which they are entitled. Our goal is to demonstrate to the public that we are always an ally; and not as is so often the image portrayed of State Employees. Our goal is to focus on the issues of public safety in the best way we can regardless of available resources. We will keep our end of the bargain.

Our goal is to achieve these things while dealing with the additional projects assigned to us such as enforcement of the Maine bottle Law. This law easily demands a healthy slice of our pie, responding to complaints and helping others to interpret the law while trying to keep up with its various

interpretations ourselves.

Another major project for all of us is the United States Food and Drug, (FDA) Federal and State Inspection Program. This is an initiative whereby the Division of Regulations Inspectors do inspections essentially for the FDA under contract for a fee. This contract requires a great deal of time but has enabled us through contract payments to add some level of funding to our division. This requires additional inspections of seafood and other food processors, food warehouse facilities and food salvage operations. These inspections are done by our unit for our own program as well.

Another extra curricular project we administer is the retail store self inspection program. This will ultimately boost the self reliance level of some of the retailers enabling them to more efficiently govern their own sanitation programs, although we will continue to visit and support their efforts. This is strictly a voluntary program.

These are some of the directions we are going in and injected into all of this our commitment to public service will remain a major goal.

## **INSPECTOR TRAINING**

**1994**

During the course of 1994 Inspectors received the following training.

1. Two of our inspectors attended a Nutrition Labeling and Education Act training course in Portland. Major

changes in food labeling are expected to give consumers the kind of food labeling important to public health and nutrition awareness. Much remains to be done, requiring the education and support of State Food Officials throughout the United States.

2. All Staff attended a 2 day "hands on" food store Hazard Analysis Critical Control Point. (HACCP) course in Augusta. Inspectors interviewed industry volunteers to determine critical factors in food processing practices at stores and how controlling these critical factors can prevent food born illness

3. Two inspectors, who served as FDA Standardized and Certified training officers for the retail store inspection program, were standardized by FDA Regional Food Specialists in the use of the new national 1993 Model Food Code at retail level. This new food code consists of model requirements for safeguarding public health and assuring that food is unadulterated and honestly presented when offered to the consumer at all points of retail sale. The Code emphasizes preventing food safety problems rather than detecting problems after the fact. The Model Code provides the latest scientific based advice and rationales about preventing food born illness.

4. Consumer Foods Inspectors, as part of their new responsibilities as Seed, Feed and Fertilizer Inspectors, attended a seed inspection class conducted by The United States Department of Agriculture in Augusta. Seed Laws and seed sampling methods were highlighted. All inspectors have also participated in two staff meeting classes in Feed and Fertilizer

sampling and record keeping procedures. This will be on going.

### **AFDO CONFERENCE**

Maine Agriculture and Northeast food and drug Officials hosted the National Conference of The Association of food and Drug Officials in Portland, Me. This past June the Division of Regulations was in charge of local arrangements for this conference. There were 260 AFDO Conference attendees, with 40 States and Canada represented; the largest attendance in recent years. The consumer Foods Inspector in charge of planning shared all information with his assistant inspector, assuring coverage of all activities at all times during this 6 day conference. A detailed itinerary developed for each Division of Regulations conference helper resulted in 100% satisfaction for all conference attendees. No aspect of this conference was overlooked. Commendations from the Association of Food and Drug Officials and Northeast food and Drug Officials were received by all division of Regulations conference staff. This was a most successful experience in cooperation for the division of Regulations, under the excellent guidance of the lead Consumer Foods Inspector.

### **STATE - FEDERAL CONTRACTS.**

The US Food and Drug Administration contracted with the Consumer Foods Unit to perform 80 inspections of warehouses, bakeries, Food Processing establishments and food salvage operations. Explaining the Nutrition

Labeling and Education Act. at these inspections is a new responsibility included in the 1994-1995 contract with the FDA

### **RETURNABLE CONTAINER INITIATIVE**

1994 saw the addition of three new laws to "THE BOTTLE BILL"

1. requiring returned deposit containers to have been sold in Maine.
2. amending the plastic connector law
3. allowing the retail sale of certain aseptic packaging (juice boxes and pouches)

Compared to past years, these changes did not require a concentrated effort of inspector activity, other than normal vigilance during routine store and redemption inspections. It did however create a notable added burden to the office staff with numerous questions, and complaints

We expect that the first mentioned law will be tested soon as illegal containers are creating a financial burden for Maine. We are working with other agencies to insure that investigative resources will be available to pursue such test cases vigorously. One inspector spent a considerable amount of time assisting these other agencies, even though the position for this activity was eliminated two years ago. Total redemption activity is running at about 97% of containers sold, and seems to be increasing at about 1% per year.

While stores do complain about the added burden of the bottle bill on their staff and their limited space, the great number of redemption centers who are eager for

business have allowed most stores to deal with the bottle bill with minimal trouble. There are stores which import products from out-of-state and they do have the burden of deposit labeling, additional handling fee payments to redemption centers, re-cycling and quarterly reports and payments to the Treasury Dept. We spend a great deal of time assisting these stores in complying and with the redemption centers around them in explaining how these special products are handled. The vast majority of complaints from redemption centers are those concerning products which they take in for which they can not find pickup. In this state the responsibility for containers falls on the shoulders of the retail seller. This division has neither the man power nor the resources to keep track of all new containers and their distributors throughout the state. Nor do we require that a distributor register a particular product with us before it is offered for sale. We're sure that this was not envisioned when the bill was written.

New products and containers are constantly being added to retail shelves for the consumer to try. With the introduction of new products comes the responsibility of approving labels and the constant vigilance of the inspector during normal inspections to make sure these new products comply with the The Bottle Law.

They include:

1. bottled waters except distilled waters
  - a. flavored
  - b. unflavored.
2. juice and juice type drinks
3. soda

4. beer
5. wine
6. liquor

These include glass, metal and plastic containers in sizes up to and including 4 liters. The variety of packages seems to be increasing, with plastic variations on the rise.

### **MAPLE SYRUP**

Of the 226 Maple Syrup Producers licensed for the 1994 season the majority of syrup was produced on the vast tracts of land owned by the paper industry in the North Maine Woods. 52 Sugar camps in this region bordering Quebec utilized 579,850 TAPS as tallied by the Consumer Food Inspectors during the annual inspection of these food production establishments. The average number of taps per camp is 11,151. The largest facility has 40,000 taps and the smallest has 3,000. Total production in this region is estimated at approximately 135,272 gallons. Producers in Central, Southern and Western Maine produced approximately 14,728

The 1994 season was particularly notable for the high sugar content of the sap. Many producers reported a 4.5% sugar level in the raw sap which is close to double the content normally found. The length of time necessary to boil a gallon of syrup was lowered and this time difference will often yield a lighter color grade of syrup. In addition the technology available to producers is extraordinary. Gone are the days of buckets and horse drawn sleds through the woods. Today they are using plastic tubing, vacuum pumps, reverse osmosis machines, piggy back evaporators, electronic

takeoffs and much more. One facility, during the peak of the season, was producing 1 barrel of syrup an hour. This facility also produced over 500 barrels of syrup with a majority of the barrels being light amber. More pounds of light amber syrup were indeed produced, and some was perceived by inspectors to be the lightest they had yet seen.

Vermont's maple industry was jolted by news of lead detected in their product. Maine therefore began a testing program in order to ascertain the level of concern warranted. The departments dedication to yearly inspections of syrup production facilities for sanitation and equipment standards is long running. This encouraged an earlier divergence from the use of lead base solders and materials for production equipment used for sap and syrup contact.

### **NEW ENGLAND SMALL FOOD PROCESSORS PROJECT**

**(Courtesy of Dr. Alex L. Camire)**

The University of Maine cooperative Extension has been cooperating with the department of Agriculture Division of regulations on the New England Small Food Processors Project being funded through a grant from the USDA Extension Service's Food Safety and Quality Initiative.

These businesses, many of them home-based, contribute significantly to the economic health of New England. The goals of the project are to provide current resources and training in the following areas;

Current local, state and federal food safety regulations;

Food processing technologies that will maintain and/or



improve product quality

Sanitation methods to prevent potential microbiological, chemical or physical hazards; and

Food Safety practices that include Hazard Analysis Critical control Point (HACCP) and Good Manufacturing Practices (GMPS)

In addition, the project staff is working with small food processors, state economic development and regulatory agencies and the six land grant universities to develop and support an expanded network of small food processing businesses in New England. It will enable businesses to link with researchers and regulators who can help them solve their food safety problems.

## **OBJECTIVES OF NEEDS ASSESSMENT SURVEY**

**(Courtesy of Dr. Alex L .Camire)**

The objectives of the Needs Assessment Survey of New England small-scale processors are as follows:

1. To determine the relative size of the company i.e., number of employees, years in business and gross food sales.
2. To determine current food safety practices and employee training in food safety, sanitation and HACCP
3. To determine what resources companies are using for information and training in food safety and related topics.

4. To determine those areas of training that are of the most interest to the small-scale processors.

5. To correlate company size, number of employees and gross food sales with

- a. current food safety practices
- b. current level of food safety training
- c. interest level in selected workshop topics concerning food safety

#### **Food Safety Fact Sheets**

Three fact sheets recently developed in cooperation with the Division of Regulations (HACCP, GMPS and Use of Chlorine) have been an important educational tool for inspectors in dealing with these issues in their regulatory visits.

AS a result of meetings with Inspector Jerry Bishop, Cooperative Extension and the Division of Regulations have come up with ideas for another series of fact sheets dealing with hand washing, use of cutting boards and use of hand gloves.

#### **Maine Food Safety Advisory Committee**

The Division of Regulations has actively supported the project and is represented on the project Advisory Committee headed by Dr. Alex Camire and Dr. Mahmoud El-Begearmi, University of Maine Cooperative Extension  
The following are committee members:

Inspector Jerry Bishop

Supervisory Inspector Gerald Prentice  
Willis Cobb, Supervisory Investigator, FDA  
Compliance Officer Bernard Hall USDA, FSIS  
Dr. Bob Slabyj  
Dr. Al Bushway  
Dr. Ilene Arnold, Supervisory Veterinary Medical  
Officer  
Geoff Beckett, Assistant State Epidemiologist  
Stu Redfield, Maine Wild Blueberry Company  
Olive Dubord, University of Maine Cooperative Extension

### **SEED \* FEED \* FERTILIZER**

Ever since 1990 when, due to budget cuts we lost our two full time inspectors and the supervisor positions, the rules and regulations governing seeds, animal feeds and plant fertilizers have been assigned to the Consumer foods Unit.

Some training in the area of Seeds, ( lawn garden and agricultural field seeds, ) has begun, with plans for training in feed and fertilizer products to begin in the near future.

Once training has been completed, current plans call for each of the eight food inspectors to assure compliance with all of the requirements of the Seed, Feed and Fertilizer laws and regulations within each of their assigned territories.

This will be an large undertaking, with a heavy addition to the inspectors work load. One inspector already has well over one thousand (1,000) retail food license establishments to administer to. The others are close to this figure, the average is 843. We have

to do the very best we can, with what we have to work with. It seems to make more sense to distribute the additional work load among the eight inspectors rather than ask one individual to handle the entire program. Two new systems designed to provide more up-to-date and accurate information were designed and implemented by one of our inspectors this year. One is a simplified inspection reporting form and the other is a computer program providing dealer/product listings, either State-wide or by inspector area. This program will provide such information as contacts, phone numbers, locations, major brands, dealer or manufacturer, medicated or non-medicated manufacturer, as well as date of last inspection. With the recent retirement of the former program Supervisor the supervision for the program now rests with the Consumer Foods Supervisor, with a former program inspector acting as advisor. That Former program inspector is now a Consumer Foods Inspector.

### **SEEDS**

In mid-march of this year our Consumer Foods Inspectors attended a training course on Seed inspection by the United States Department of Agriculture. The course was conducted by U.S.D.A.'s Federal Northeast Seed Marketing Specialist. This course along with previous experience, resulted in three inspectors obtaining authorization cards from the U.S.D.A. to perform duties concerning the Federal Seed Act. There are over 500 State Seed Inspectors nationwide authorized to perform such work.

There were 791 retail seed dealers and 86 commercial seed labelers, (6 from the State of Maine), who

licensed with this department this year. Total income deposited to the General Fund Account from this program was \$6,535. Current State Law requires a \$5 license fee for retail dealers and a \$30 license for commercial labelers.

### **FEEDS**

State law requires product registration by all Commercial Feed manufacturers selling in Maine at \$30 per product. In addition to commercial feed stuffs, pet food regulations require that all brands sold in Maine be registered at \$40 per product.

In addition to product registration and labeling regulations, all manufactures must stand behind ingredient listings and any guarantees or claims. Feed medications must also be closely, monitored by the State in co-operation with the FDA.

The number of commercial feed manufacturers applying for product registration in 1994 was 190. In addition, there were 153 pet food manufacturers and another 11 registering as both. This brought to a grand total, 354 firms registering products. This is comparable with figures from the previous two years. The total income from product registration in 1994 was \$129,124 deposited to the general Fund Account compared with \$109,177 in 1993. The increase in revenue is accounted for by a small increase in product registration fees.

### **FERTILIZER PRODUCTS**

As with feeds, state Law requires product registration by manufacturers of all fertilizers,

liming materials and plant and soil amendment products offered for sale in Maine.

Companies must stand behind any and all guarantees or claims made on their products. In 1994 there were 199 fertilizer manufacturers, 28 lime and 26 plant and soil amendment manufacturers, for a grand total of 253 firms registering products with the /State of Maine. This shows a notable increase over the 193 companies, which registered in 1993.

On the income side, fertilizer products are registered at the rate of \$14 per plant element, which resulted in \$58,156. Liming materials are registered at \$50. per product, which brought us \$2,500 and plant and soil amendment products are \$25 per product, amounting to \$1,050. The grand total was \$61,706. which was deposited to the General Fund Account. Even with the notable increase in number of firms registering, records indicate a drop in income from 1993 figures of \$74,097.

#### **NOTE:**

All States have laws and regulations pertaining to product` registration fees and consumer protection on; Commercial Seed, Feed and Fertilizer materials.

#### **DOMESTICATED DEER**

In 1989 the legislature passed a law allowing domesticated deer( Fallow, Red and Sika) to be raised and processed in Maine for food. Since then 42 Maine farms have been licensed by the Division of

Regulations to raise deer. Currently the only deer being slaughtered are Fallow Deer and Red Deer. These animals dress out between 50 and 75lbs. The meat is sold in restaurants throughout the state but mostly in the Southern part of the State.

The Fallow deer ranchers have formed a CO-OP and have worked out a deal with a distributor in the Kennebunk area to supply venison for the coming year.

The Red Deer ranchers have a little bit of a dilemma on their hands. The velvet antlers, which grow each year, have a higher market value than the meat itself, but in order to get a large enough antler to market the animal must be 4-5 years old, too old to be slaughtered for meat. So currently there are no Red Deer being slaughtered for food. In addition one rancher is selling his mature 2 year olds to hunting ranches in the mid west area. Market forces dictate the most economical use of the deer.

## **BUFFALO**

Maine is fortunate to have a breeder of American Bison, commonly known as Buffalo. These animals are increasing in numbers nation wide, primarily in the Western States. The Buffaloes are not crossbred and are very winter hardy. Buffaloes are more resistant to disease than beef cattle and require less care due to their stalwart nature. Buffalo are far less damaging to the environment and often are actually beneficial. Buffalo meat is slowly growing in popularity and the Maine breeder is now finishing his facility in preparation for the sale of the meat. The Consumer Foods Unit will gladly work with this breeder in his

efforts to make buffalo meat available to the consumers of Maine

## CONSUMER COMPLAINTS

On a daily basis the Consumer Food Unit responds to complaints of various magnitudes from consumers and Maine's food industry.

As advocates of these individuals it is important that the Consumer Foods Unit act upon their concerns in a professional and timely manner. This has always been the case.

In January 1994 the Consumer Food Unit developed a new systematic approach for the collection, storage and analysis of data relating to Consumer complaints involving food products, food establishments and food tampering.

In 1994 The Consumer Foods Unit logged in 52 food related complaints using this new system. This is a small portion of the complaints in total which are often resolved at first contact. These complaints ranged from foreign objects being found in a food product to food products which were suspected to have caused food borne illnesses.

It is a some what common occurrence for consumers to find foreign objects in food products. Most of the time these complaints can be explained as an object which is associated with the manufacturing process of the product. Manufacturers normally have strict sanitation guide lines and quality control programs to ensure consumer confidence but from time to time such incidents do happen.

Also a common factor for consumer complaints is that of



food born illness. Most complaints imply the last food product the consumer may have ingested. This is not necessarily the case as many food born illnesses may not show symptoms for as many 72 hours after ingestion of an adulterated food. Rarely food born illness confirmed by a physician. All complaints are treated with due concern.

In 1994 the Consumer Foods Unit physically responded to 10 establishment complaints. Establishment complaints are essentially reports of alleged poor sanitation practices. Here again many are resolved over the telephone through clarification of food laws. The Consumer Food Unit responds in a timely manner to all complaints. An all to common occurrence is that valuable time is wasted in answering false complaints. Disgruntled employees or customers sometimes involve this division in their persoanal arguments.

The last yet most serious category of complaints is that of **food tampering**. In 1994 the Consumer Food Unit responded to 14 such complaints. Tampering can best be described as the intentional adulteration of a consumer food or food product.

The Consumer Foods unit continues to work closely with Federal, State and Local Law Enforcement Agencies to investigate these complaints, food tampering is an extremely serious crime putting any person at risk of injury or death and any food industry at risk of needless harm or destruction.

### **A FISHY TALE**

Consumer fraud is to common an occurrence. In January 1994. This Division received several complaints from

retailers that they suspected haddock fillets purchased from a Maine seafood dealer were not haddock but were substituted with **Cod fillets**.

Visual examination to determine species identification is not an accurate test. The consumer food unit developed and published a Consumer Guide for species identification of cod and haddock to make consumers more aware of the problem of substituting. These pamphlets can be found in retail stores around the State.

The Consumer Foods Unit opened an investigation into the business practices of one seafood dealer. Random sampling from the firm's customers was conducted. These haddock fillets were then tested by the FDA's Winchester Environmental and Analytical Laboratory for species identification.

The majority of haddock samples tested were proven to be cod not haddock as we and the retailers suspected. The complaint was submitted to the Attorney General's Office for prosecution. In October the Attorney General's Office obtained a consent agreement against this firm which insured that this practice would be curtailed and a fine of \$3,000 was paid.

### **AH! THE INSPECTORS LIFE**

Consumer food inspectors are faced with a much more diversified workload than most people are aware of. Available time for Public Health Inspections is difficult to come by due to the demands of other initiatives and programs. the following is a list of just a few added responsibilities; that the reader may understand where we are from day today.

1. Prepared staph and other food borne disease store handouts.
2. Prepared pamphlet for consumer to compare cod and haddock fillets
3. Located feed and fertilizer dealers
4. During normal inspections check seed packages for proper labeling
5. Fill out dairy case reports for dairy division.
  
6. Help prepare annual report, weekly reports and monthly work activity reports.
7. Attended USDA Seed Inspection School
8. Planned and helped plan the execution of local arrangements, detailed itineraries for The National Association of Food and Drug Officials annual Conference in Portland, Me.
9. Attended 4 day AFDO conference in Portland, Me.
10. Reviewed and edited new consumer complaint forms/guide lines
11. Prepared list for Department of Human Services on facilities which use a private water supply
12. HACCP interpretation (HAZARD ANALYSIS CRITICAL CONTROL POINTS)
13. Investigated Food tampering incidents
14. New License Application Committee ( worked on new license application form)
15. Reviewed and studied materials/manuals for Seeds Feeds and Fertilizer
  
16. Checked several restaurants for bottle law compliance.

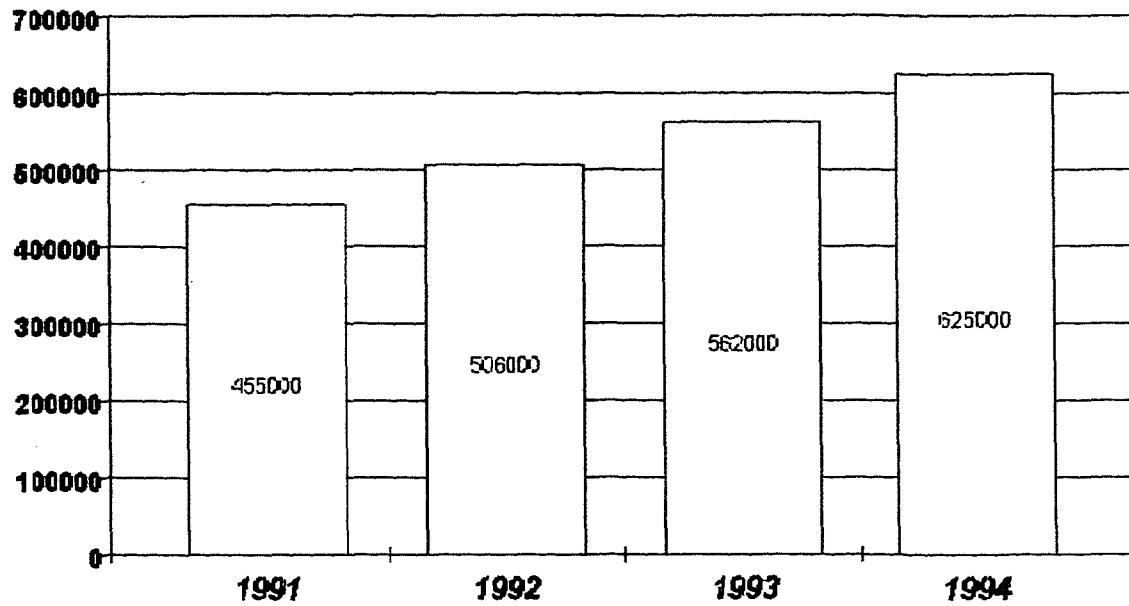
17. Inspected and witnessed Domestic Deer Slaughter.
18. Trained other inspectors in Deer Slaughter techniques.
19. Prepared potentially hazardous food processing guides for stores.
20. Contacted delinquent license renewals and collected fees.
21. Completed FY 94 FDA Contract Officer duties after supervisor resigned in April. Reviewed all inspection reports re-assigned replacements for out of business establishments and billed FDA for contract inspections completed.
22. Drafted corrections for Smoked Fish Regulations.
23. Field work with the FDA Food Specialist for certification in new 1993 Food Code
24. Studied 1993 Food Code.
25. Introduced self inspection program to new facilities and contacted previous participants for their input.

In addition to all of these extra duties there are numerous telephone calls. A general consensus is that each inspectors logs approximately 1300 calls a year. These range from being called out at night for a catastrophe calls for setting up appointments, from other inspectors, from supervisor or director and responding to calls from small processors and home food producers. We spend many hours responding to telephone calls. Our job involves much planning, scheduling and the returning and initiating of telephone calls outside of scheduled working hours. In addition to trying to reach persons when they're home, callers may request

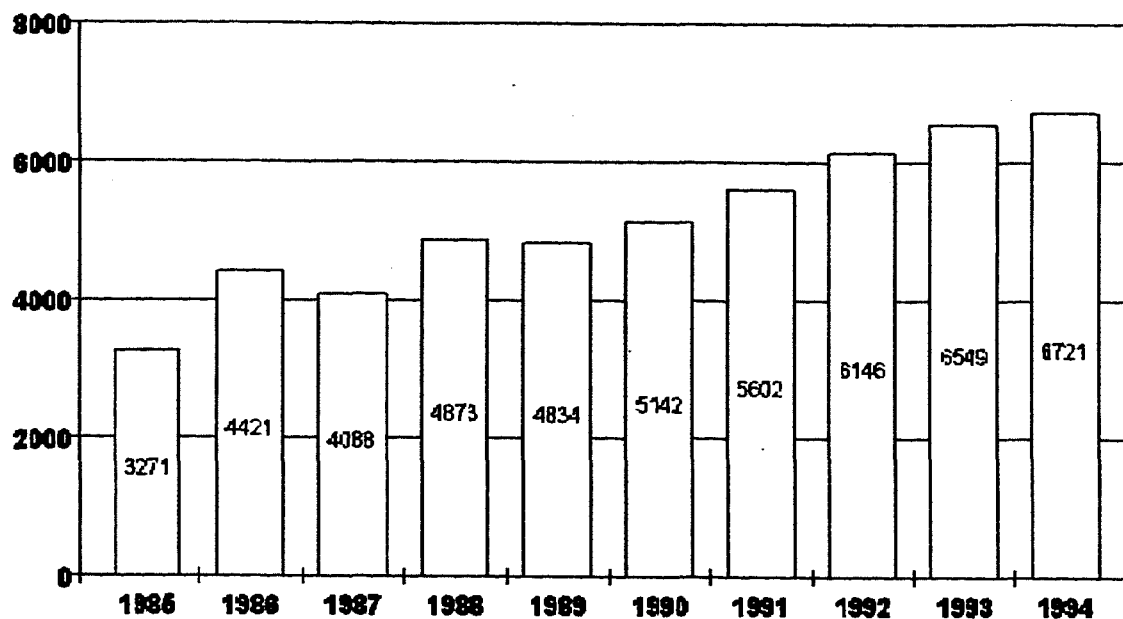
that we call back after 8 at night and before 7 in the morning etc. Consumer food inspectors are on call 24 hours a day, everyday of the year and often are not able to rely on a preset daily work schedule.

The assorted graphs on the following pages quite accurately convey the the activities and structure of the Division of Regulations Consumer Foods Unit.

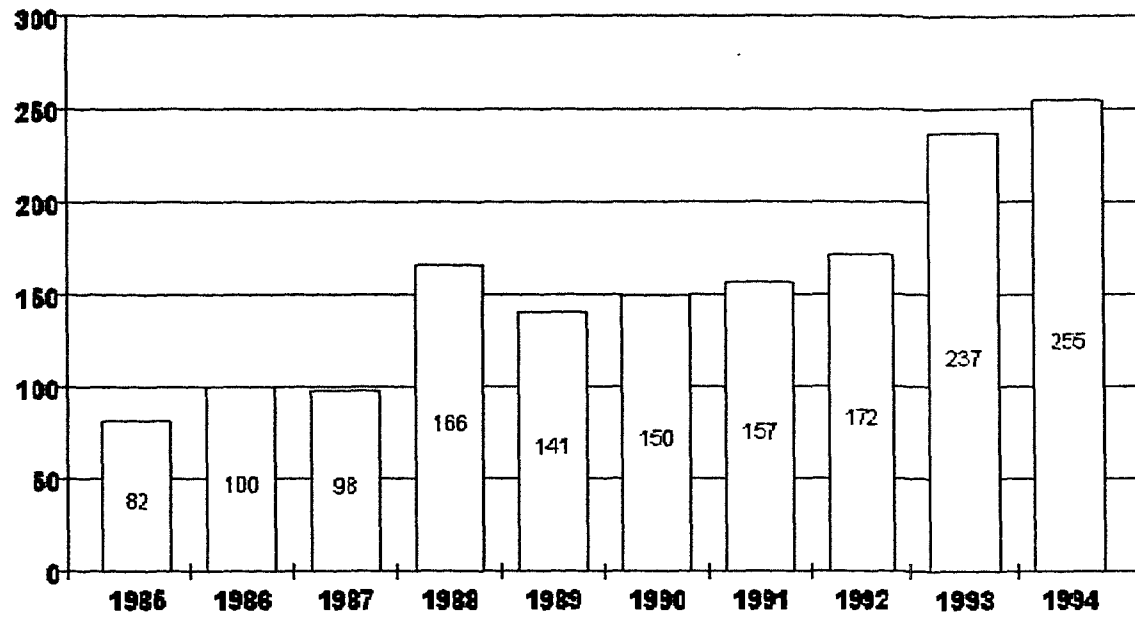
### NUMBER OF MAPLE TAPS (STATE OF MAINE)



### TOTAL LICENSES ISSUED FOOD ESTABLISHMENTS

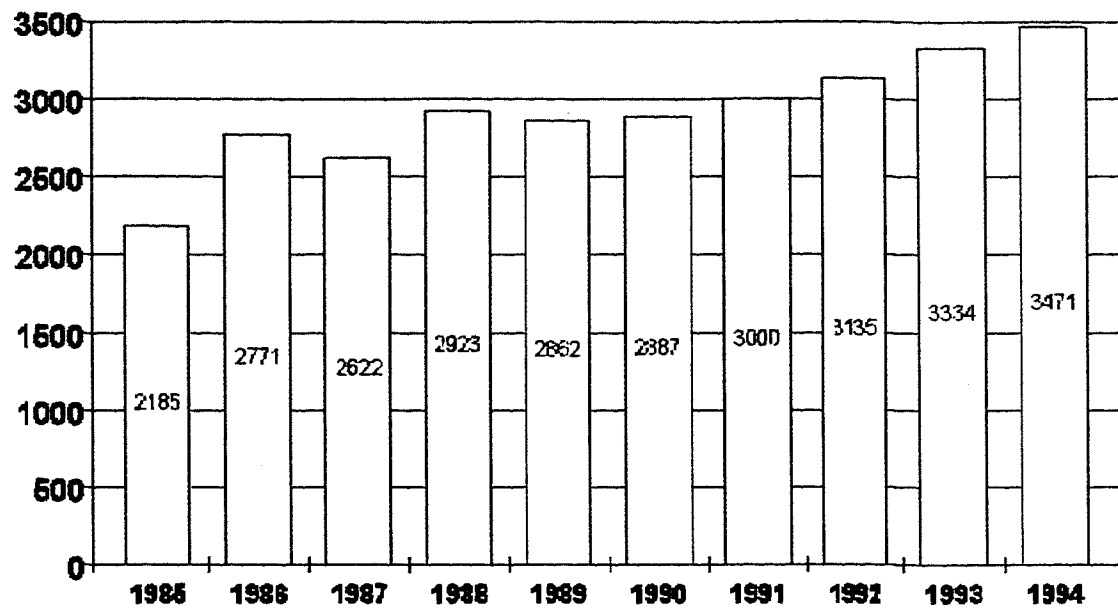


### NUMBER OF FOOD STORAGE WAREHOUSES

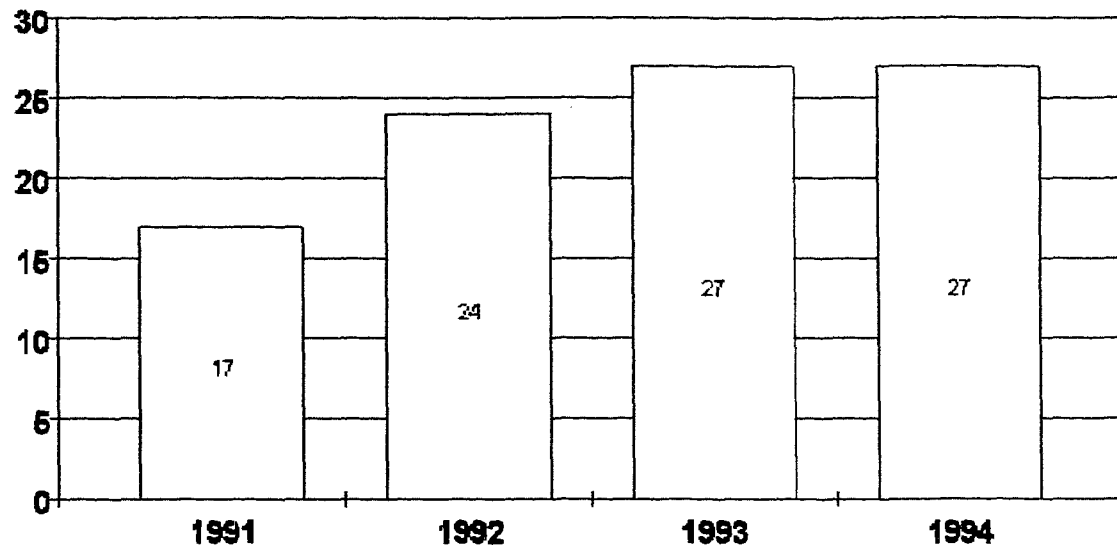




### NUMBER OF RETAIL GROCERY

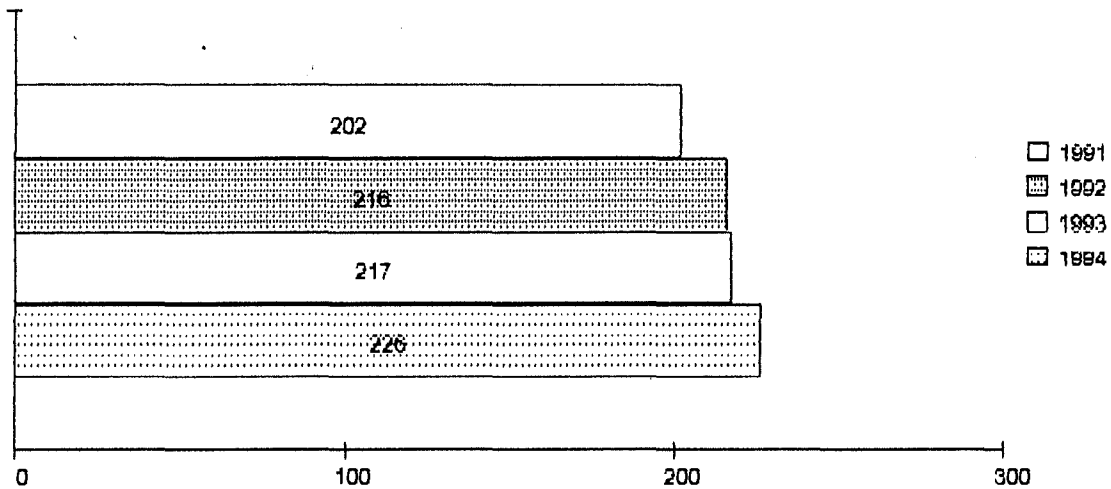


**NUMBER OF SALVAGE FOOD OPERATIONS**



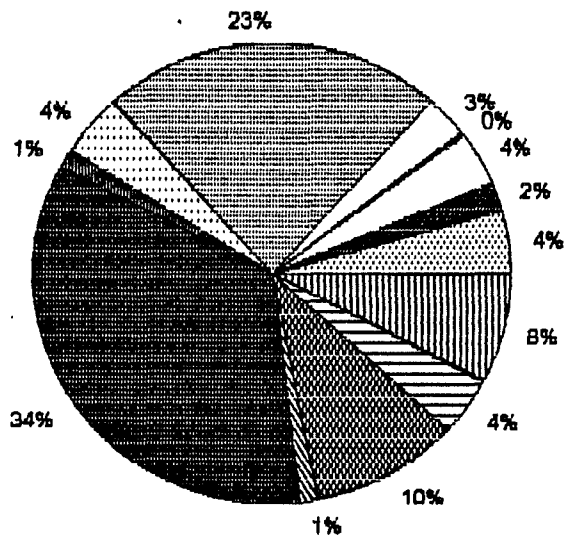
***INCLUDES SALVAGE PROCESSORS , RETAILERS AND DISTRIBUTORS***

## NUMBER OF MAPLE SYRUP PRODUCERS



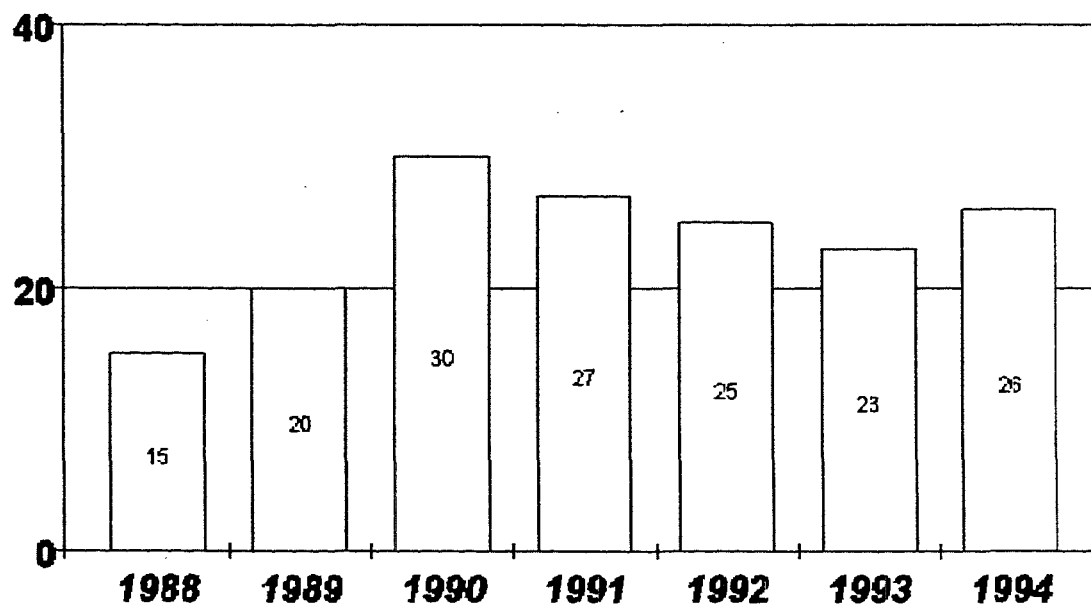
**NUMBER OF CAMPS**

**INSPECTOR HOURS (TOTAL % BY CATERGORY)**

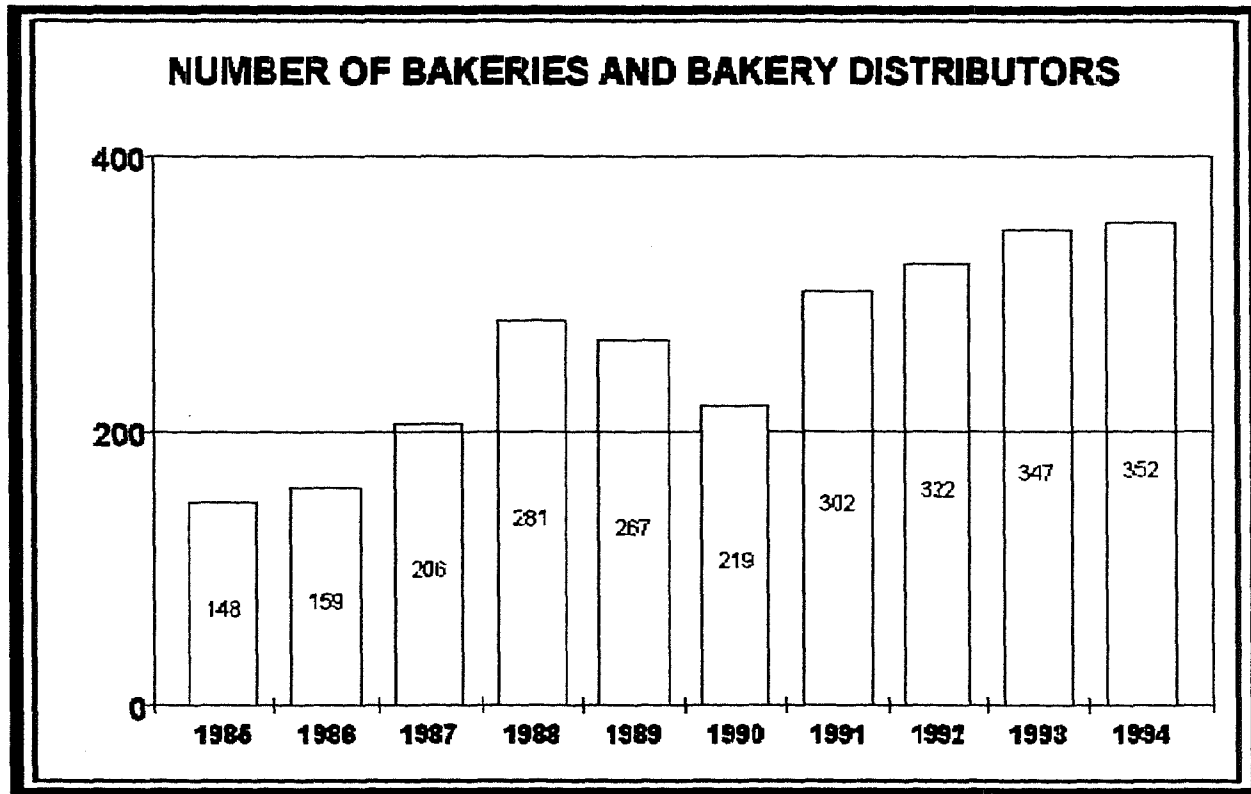


-  VACATION
-  COMP TIME
-  HOLIDAY
-  ADMINISTRATIVE LEAVE
-  SHUTDOWN DAYS
-  TRAVEL
-  MEETINGS
-  REDUCED WEEK
-  INSPECTIONS
-  TRAINING
-  SPECIAL PROJECTS
-  TELEPHONE
-  PAPER WORK

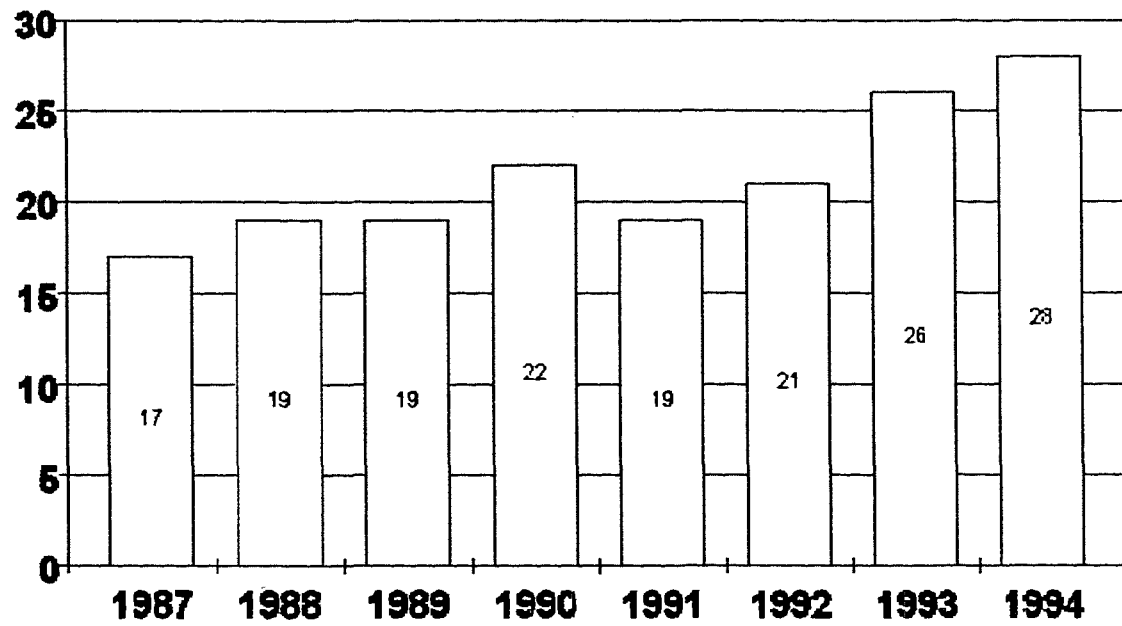
**NUMBER OF PLANT AND SOIL AMENDMENTS**



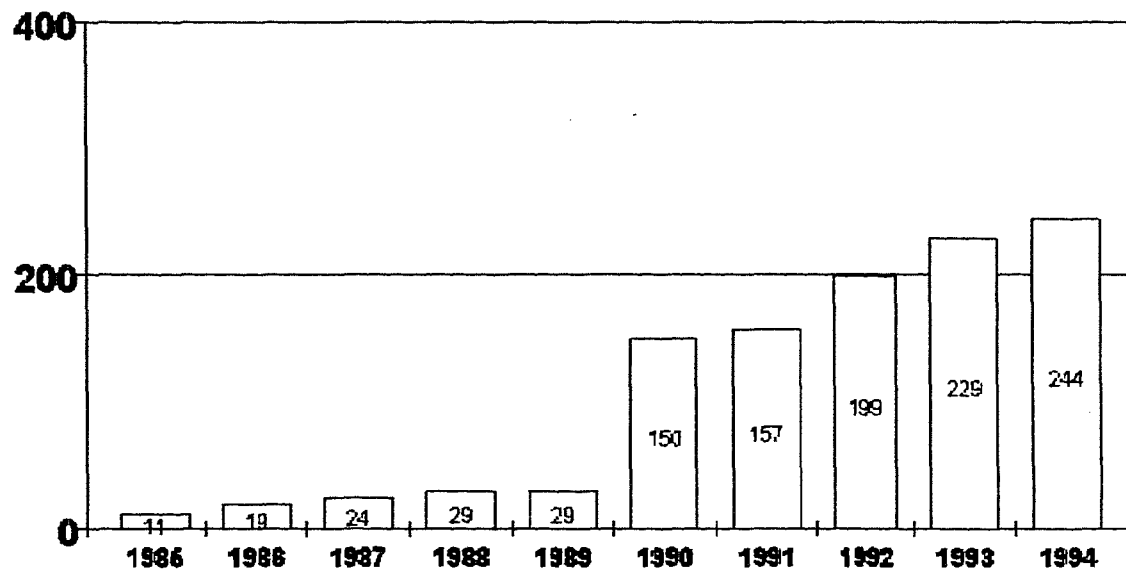
### NUMBER OF BAKERIES AND BAKERY DISTRIBUTORS



### NUMBER OF BLUEBERRY PROCESSORS



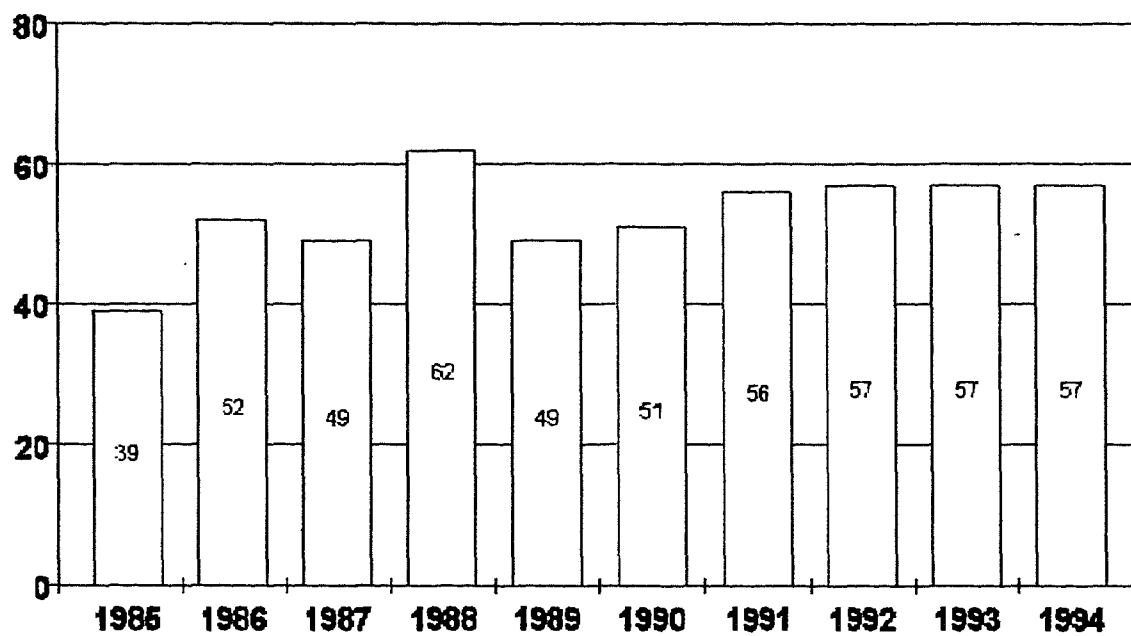
### NUMBER OF BOTTLING PLANTS



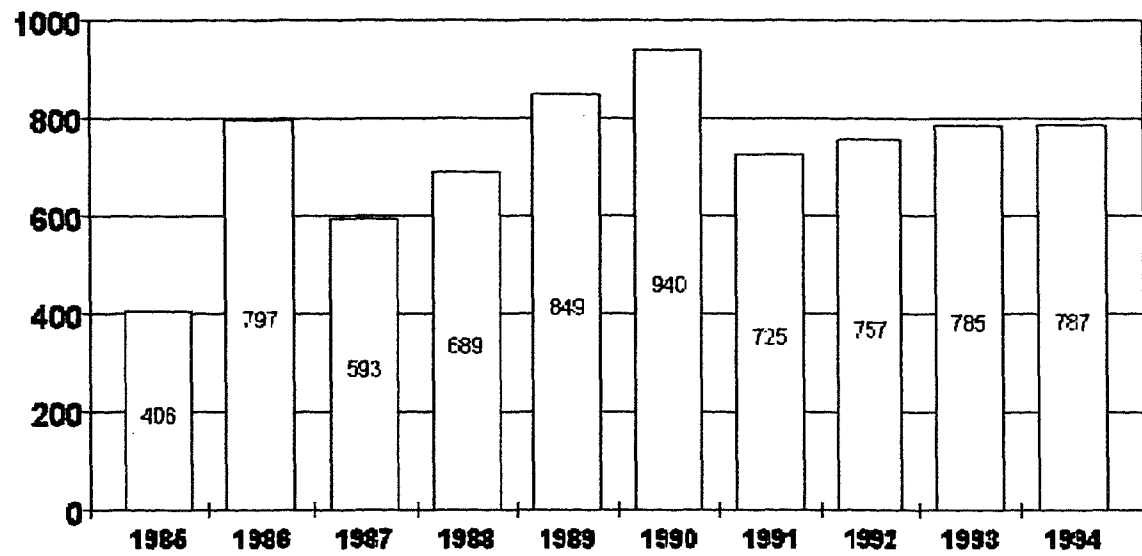
INCLUDES INSTATE AND OUT OF STATE BOTTLERS AS OF 1990



### NUMBER OF CIDER MILLS

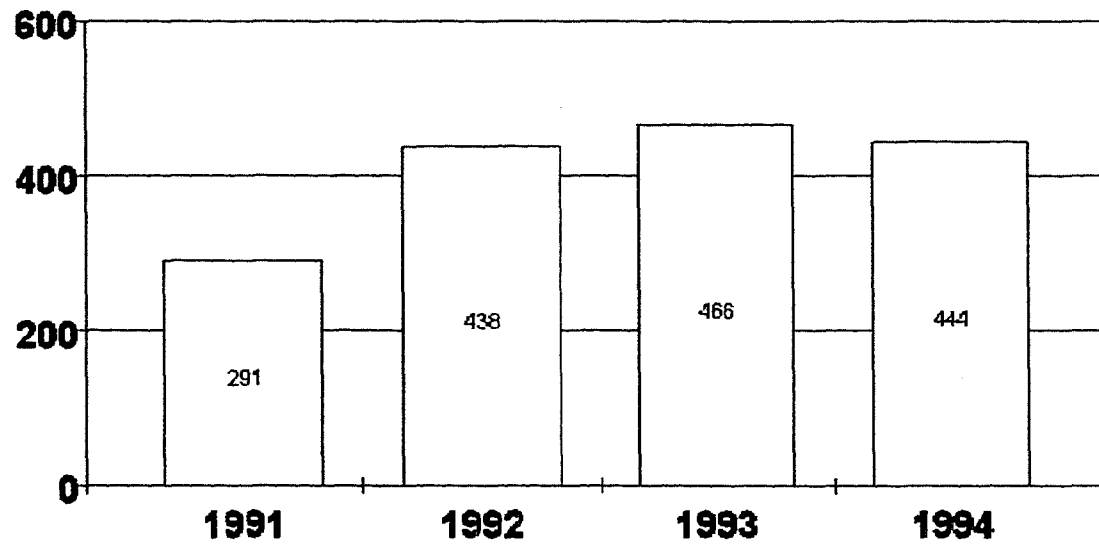


**NUMBER OF HOME FOOD (COTTAGE INDUSTRY)**



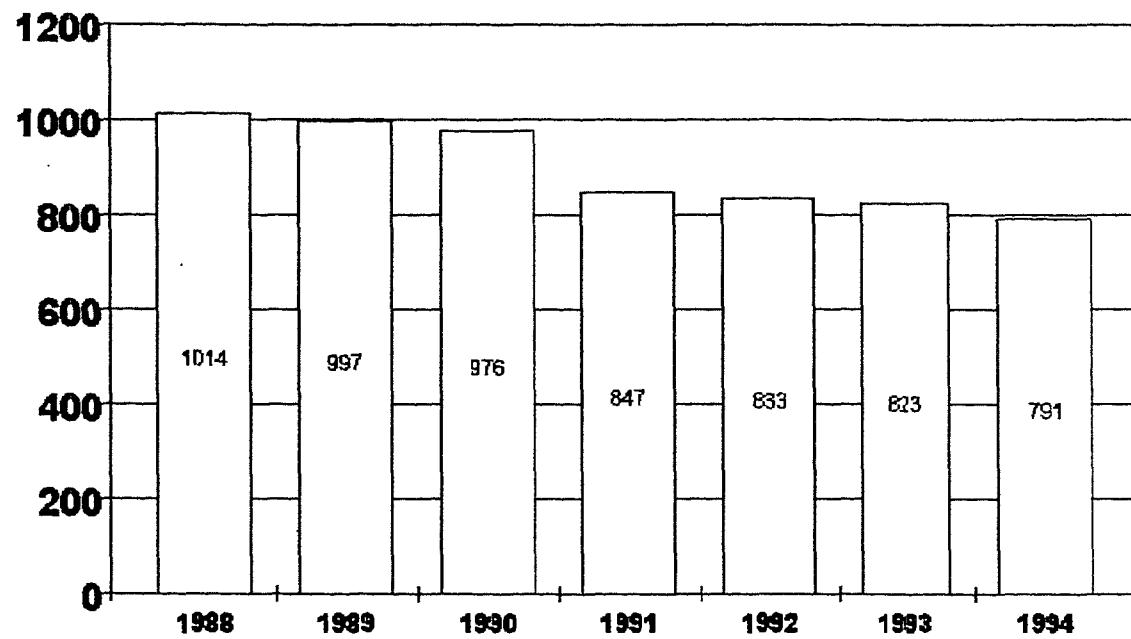
**HOME CRABMEAT PROCESSORS WERE SEPARATED FROM HOMEFOOD IN 1991**

### NUMBER OF CRABMEAT PROCESSORS

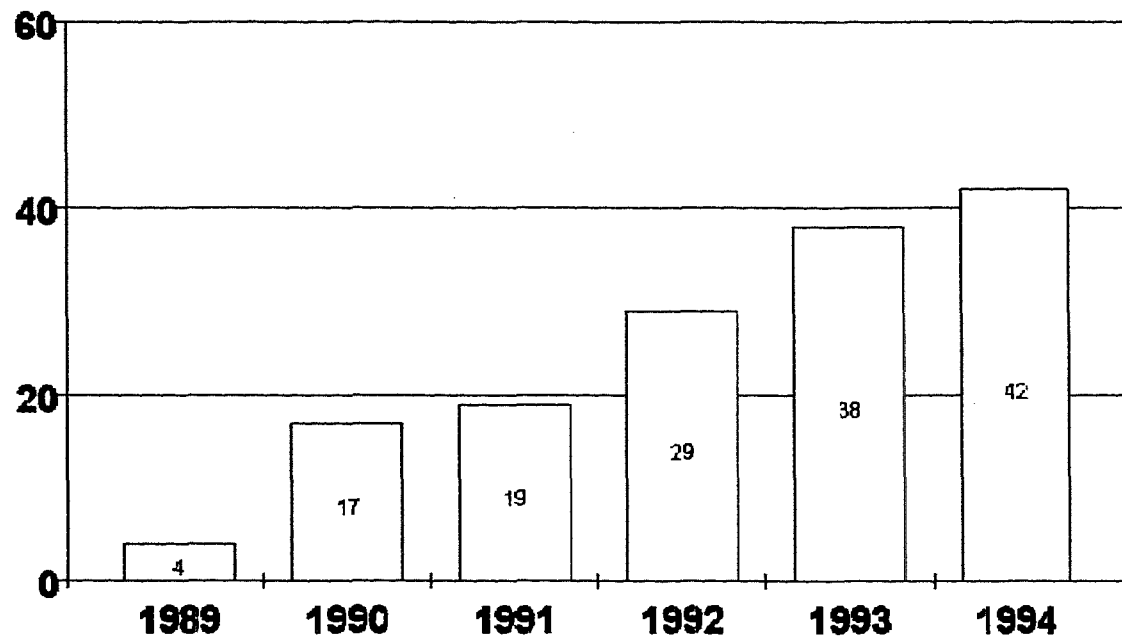


HOME CRABMEAT PROCESORS WERE SEPARATED FROM HOME FOOD IN 1991

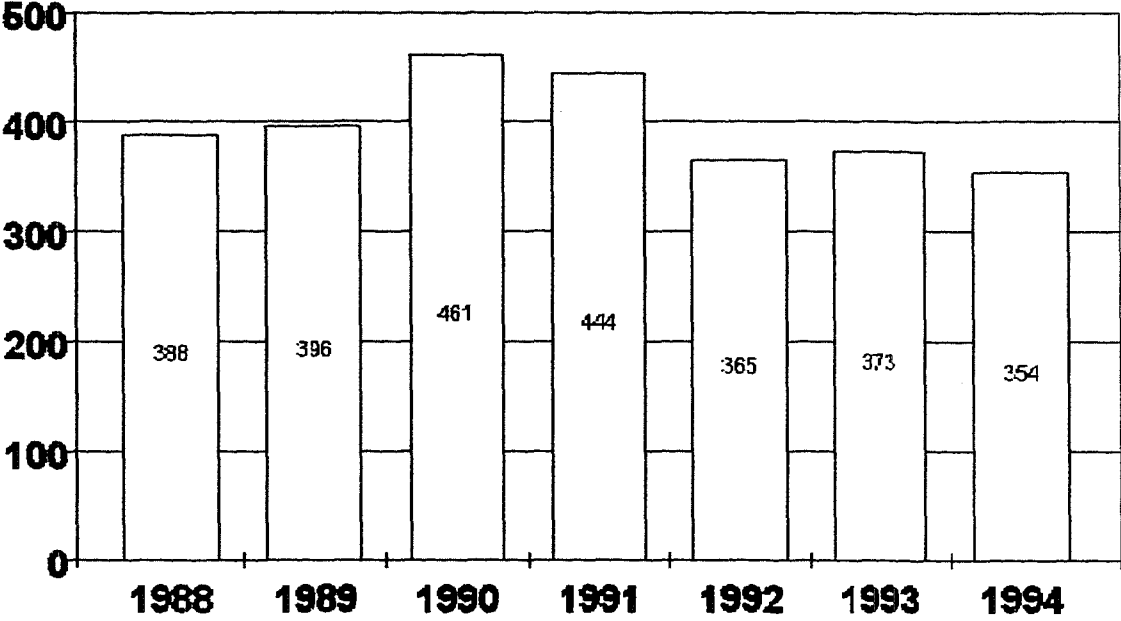
### NUMBER OF SEED DEALERS



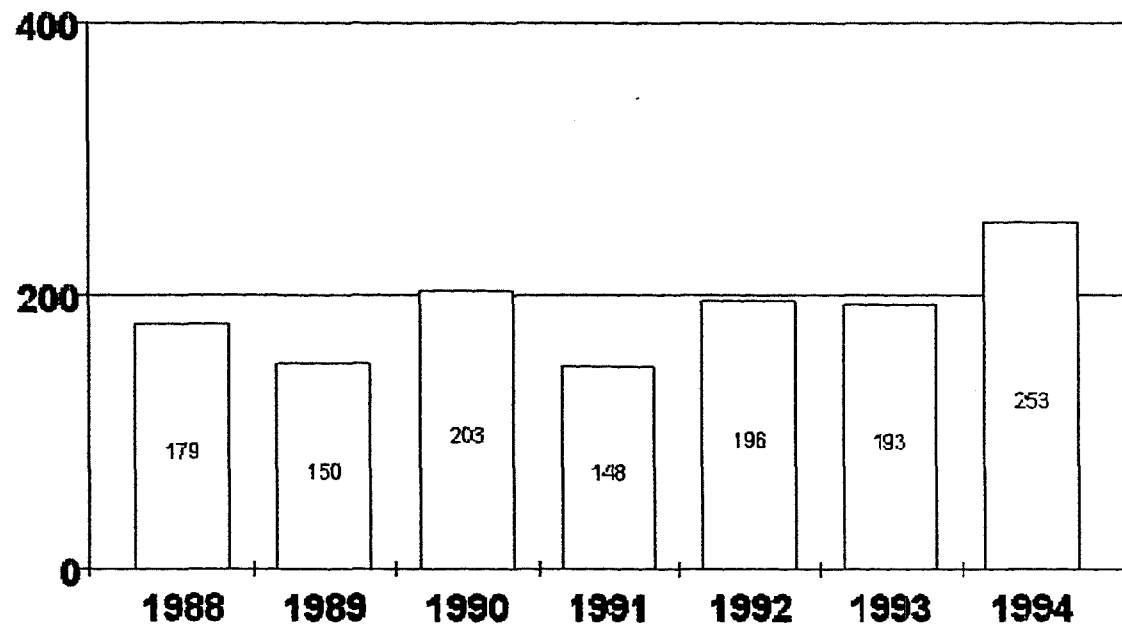
**NUMBER OF DOMESTIC DEER FARMS (INCLUDES FALLOW, RED, SIKA)**



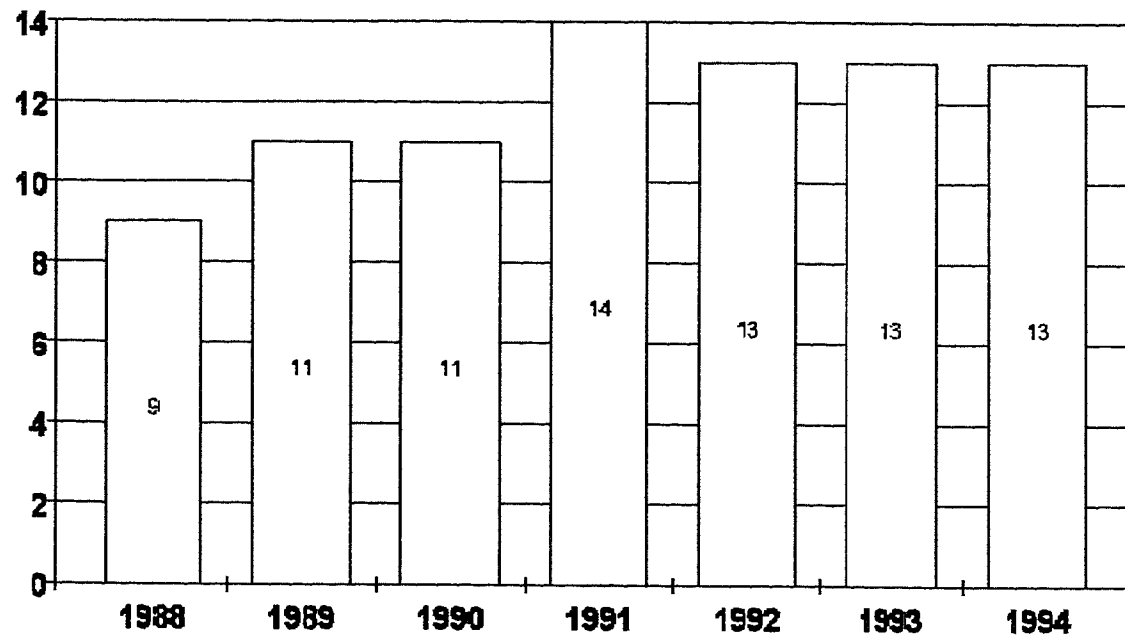
**NUMBER OF FEED REGISTRATIONS**



**NUMBER OF FERTILIZER REGISTRATIONS**

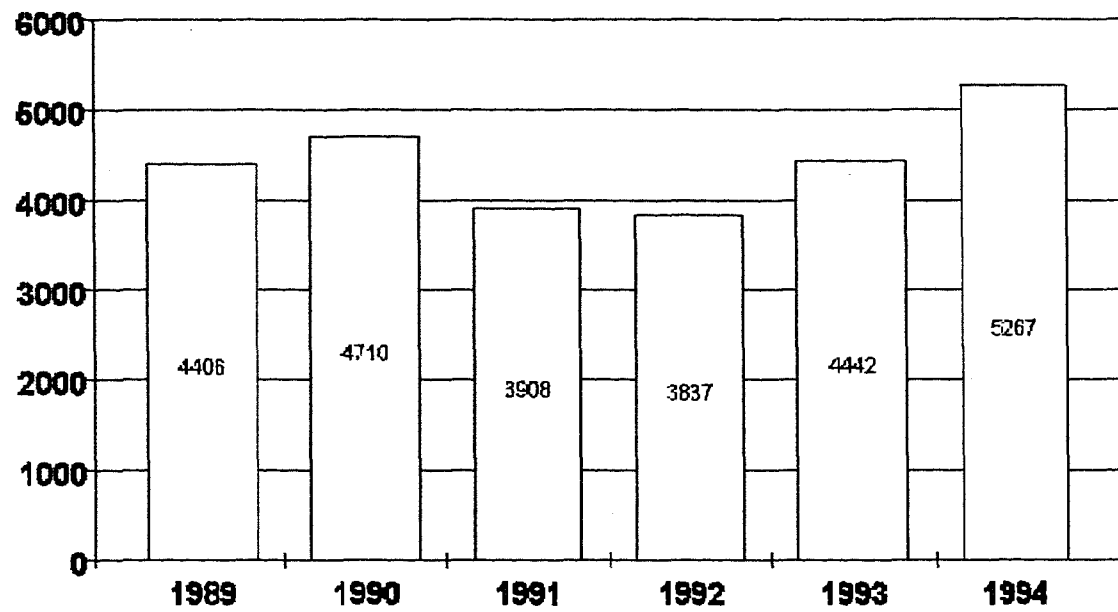


### NUMBER OF ICE MANUFACTURERS

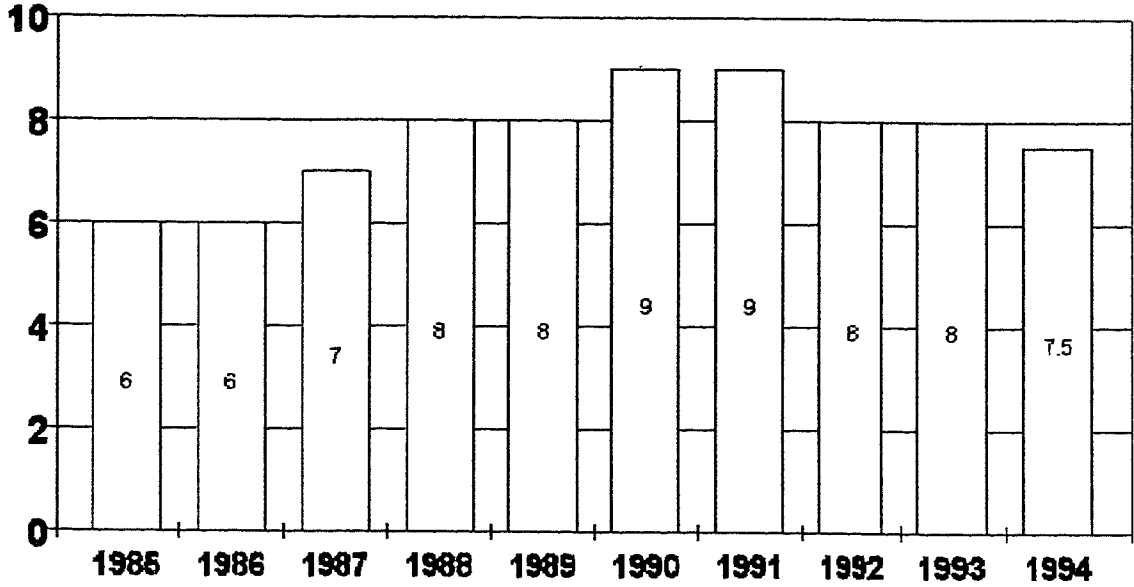




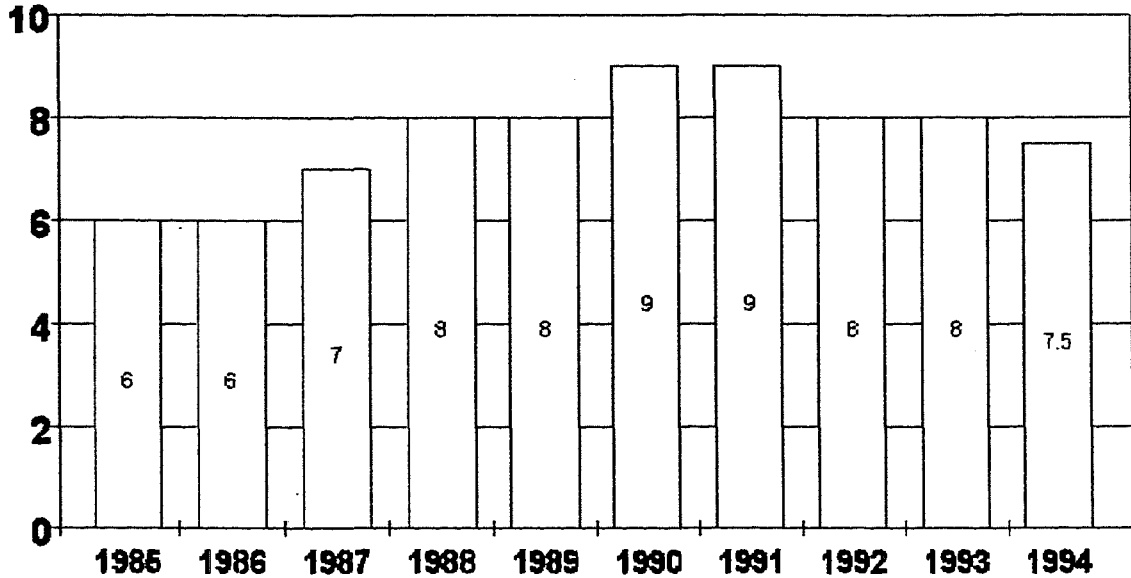
### TOTAL INSPECTION COMPARISON



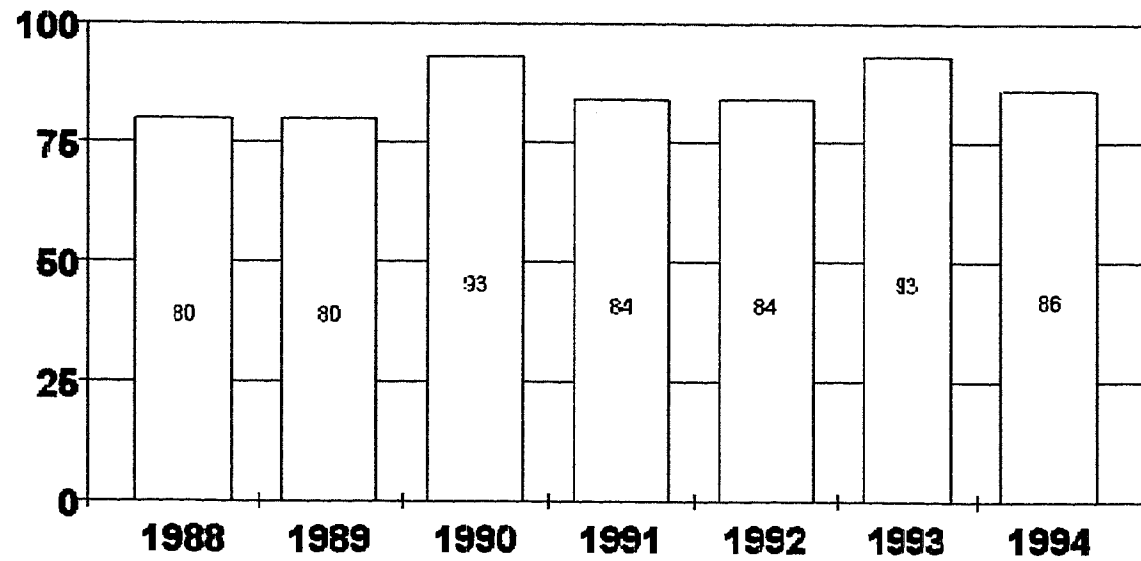
# NUMBER OF CONSUMER FOODS INSPECTORS



# NUMBER OF CONSUMER FOODS INSPECTORS

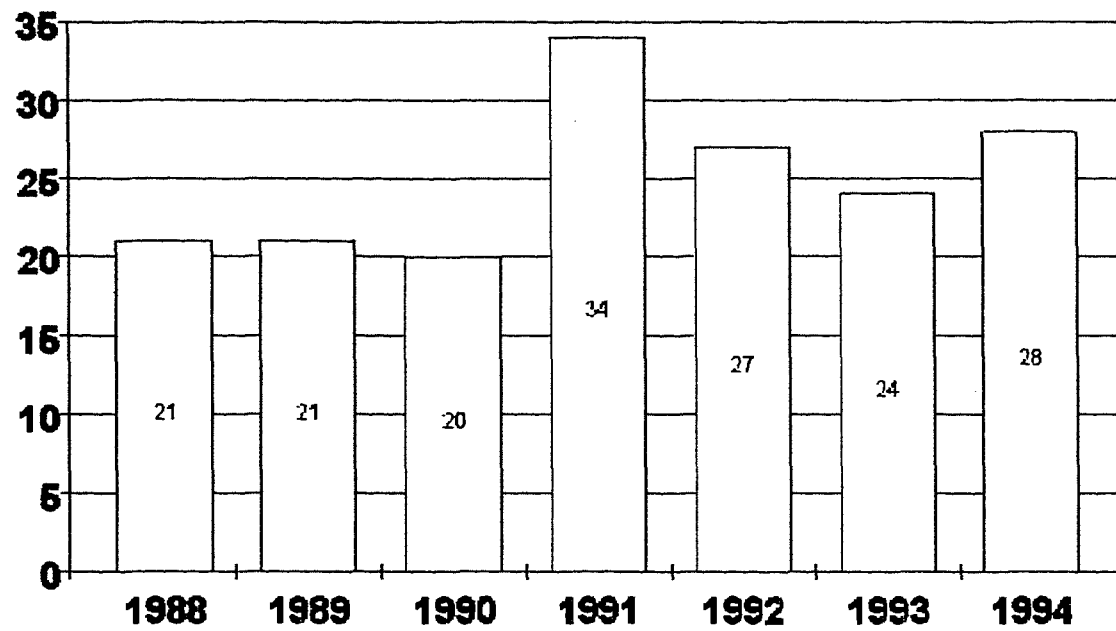


### **NUMBER OF SEED LABELERS**

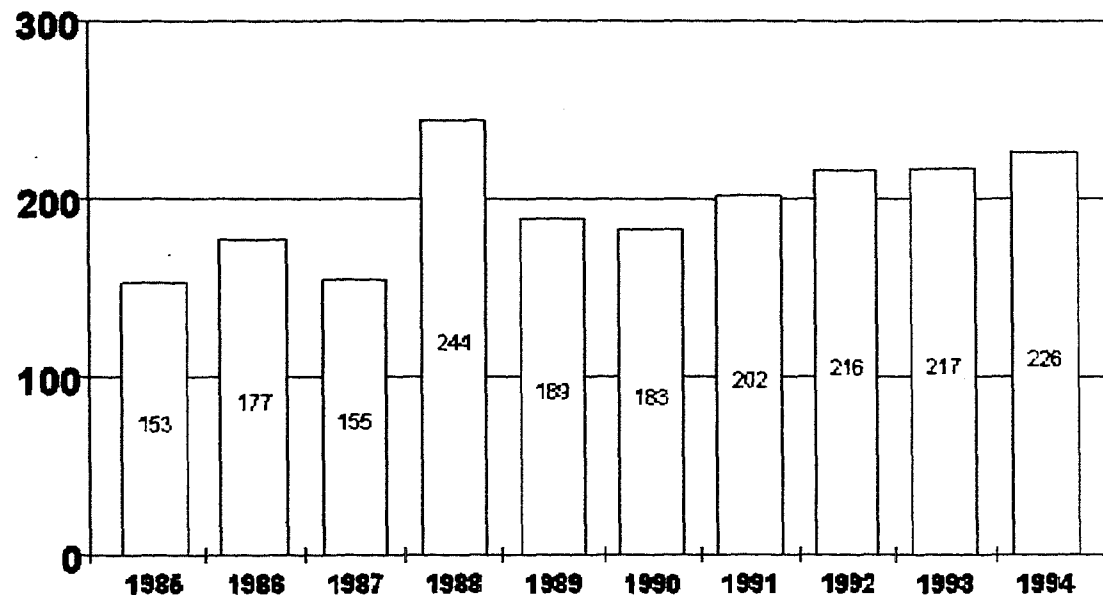


**ONLY SIX SEED LABELERS ARE IN STATE**

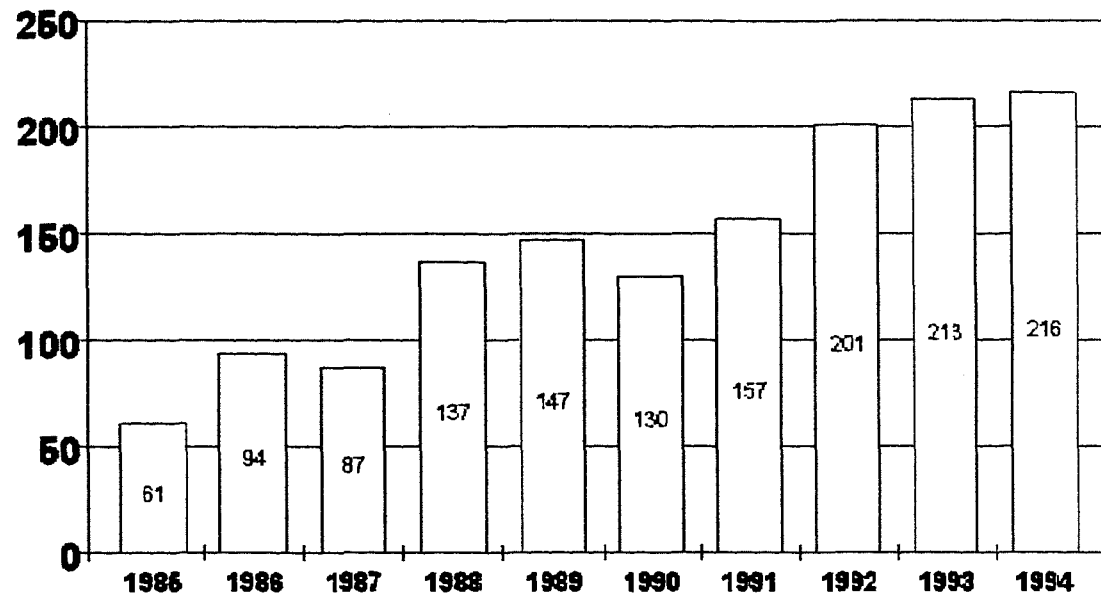
**NUMBER OF LIMING MATERIALS REGISTRATIONS**



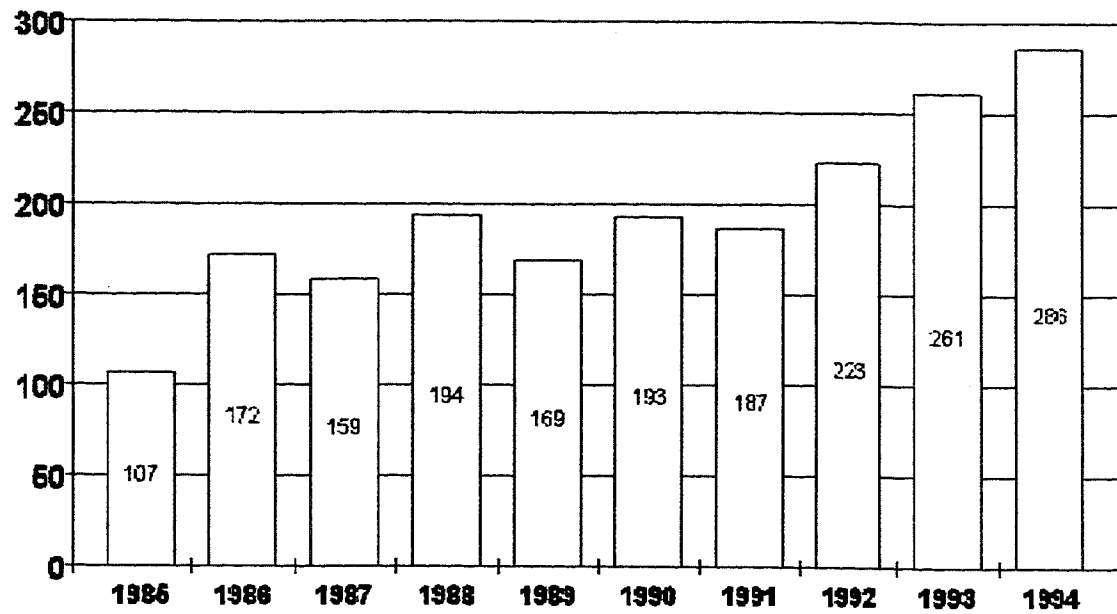
### NUMBER OF MAPLE SYRUP PRODUCERS



### NUMBER OF MOBILE VENDORS

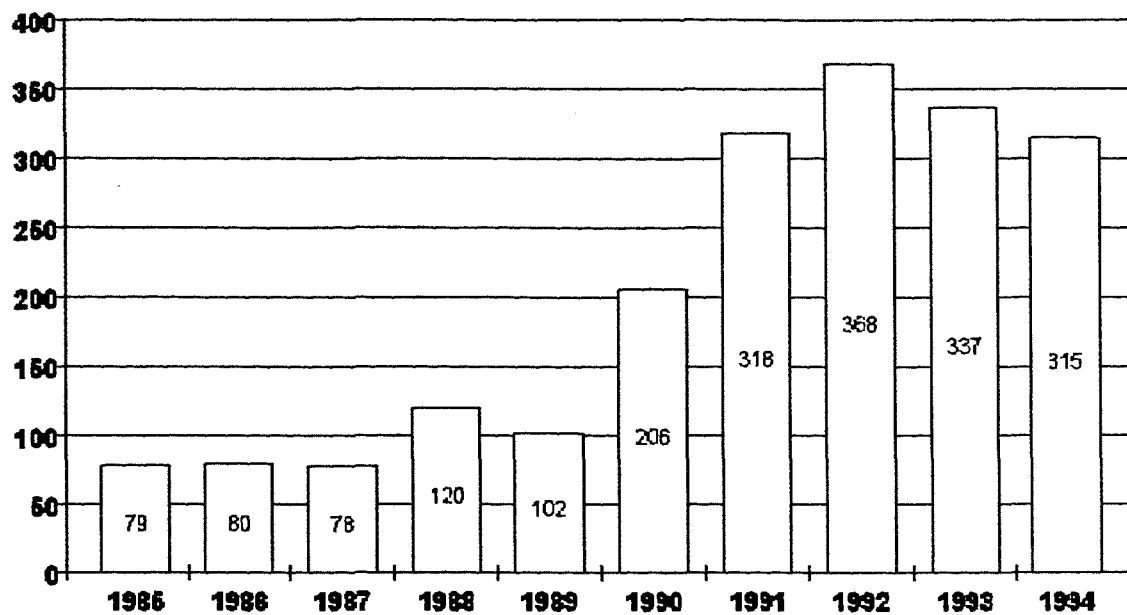


### NUMBER OF FOOD PROCESSORS





### NUMBER OF REDEMPTION CENTERS



**1994 YEAR END REPORT**

**MAINE DEPARTMENT OF AGRICULTURE  
FOOD AND RURAL RESOURCES**

Bernard W. Shaw  
Commissioner

**BUREAU OF PUBLIC SERVICE**

Peter W. Curra  
Director

**DIVISION OF REGULATIONS**

Clayton F. Davis  
Director

**ANIMAL WELFARE UNIT**

Thomas S. Eddy  
District Humane Agent

Kim A. Cornish  
Account Clerk II



## ANIMAL WELFARE

Animal Welfare Unit has spoken at three seminars: Kim Cornish talked for town clerk's annual convention to explain laws relating to the procedures they must follow, Tom Eddy, Chip Ridky, and Kim Cornish talked at the Maine Federation of Humane Societies annual seminar explaining who we are and what we do, and Tom Eddy talked at the Maine Animal Control Officers Association annual seminar on use of animal control equipment. Animal Welfare was very active in assisting the Maine Animal Control Officers Association in producing their annual meeting in August.

Animal Welfare set up a booth at the State of Maine Pet Expo at the Civic Center in Augusta. The Expo lasted three days. The Animal Welfare Unit's table was beside Board of Pesticides. It was a positive public relations for the Department of Agriculture.

District Humane Agent, Thomas Eddy, inspects 110+ pet shops, 136+ boarding kennels, 71+ animal shelters and 31+ breeding kennels. Unannounced inspections take place a minimum of once a year, and the following items are examined: primary structure, temperature control, sanitation, food practices, noise, ventilation, lighting, record keeping, disease prevention and other related activities such as quarantine areas. Agent Eddy works closely with Inland Fish & Wildlife on importation and selling of reptiles, amphibians, and exotic animals.

Agent Eddy also investigates any complaints against the facilities that he licenses. General complaints are on over crowding, sick and dead animals, and filthy conditions. Mr. Eddy has had to close several shelters this year due to parvo virus - a contagious disease.

Tom Eddy gives two hour lectures to the Maine Criminal Justice Academy students on the laws pertaining to animal welfare.

State wide dog licensing is handled through this office. 488 Municipal clerks and 8 dog recorders received in October a large 1995 dog licensing package which included: 1995 year stickers for the dog tags, updated municipal instruction books, updated dog license number books, municipal dog licensing poster, and monthly dog license report forms. A notice informing dog owners that a late fee of \$3.00 will be in effect after January 31st was requested by the clerks to be sent again this year.

In 1993 approximately 135,000 dogs were licensed. This number has more than doubled since 1992. It is estimated that 145,000 dogs will be licensed in 1994. There are several reasons for this increase in dog licensing and the two most important is the enforcement of the "Municipal Warrant for Prosecuting Unlicensed Dog Owners-Keepers" and the rabies disease crossing the state borders. In 1994 confirmed rabies cases were: 1 cat, 1 skunk, 3 bats, and 6 foxes. The fox strain of rabies has been brought in from Canada and the skunk strain of rabies has been brought in from New Hampshire. There will possibly be an explosion of rabies cases in the spring of 1995 when the animals have come out of hibernation.

In order for a dog to be licensed, a rabies vaccination certificate, and often a spay or neuter certificate has been issued for each animal by a local veterinarian who has performed these procedures on that dog. The source of these rabies and spay/neuter certificates for cats as well as dogs is this office.

One of the uses of the dog licensing fees that are collected is for paying for stray dogs kept in animal shelters. The law requires that stray dogs be kept six days before adoption and eight days before euthanasia. This holding period gives the owners the time to find their

lost dog. Stray dog claim forms are completed by the animal shelter, animal control officer, and the municipality that has found the dog and are sent to this department for payment. Animal Shelters are reimbursed \$2.50 a day for a maximum of six days for each stray dog not claimed by their owner. There was \$61,920 paid to animal shelters for stray dog claims in 1994. This figure is low compared to the total strays held in the state. Very few shelters process the claims because they are time consuming and they charge the towns enough directly to cover their costs.

This office also issues calf and pig scramble permits for the state fairs. Eighteen fairs requested permits which covered 18 pig scrambles and 2 calf scrambles. We are seeing less and less fairs practicing this ritual.

This unit is also active in working with the Animal Welfare Advisory Committee in law amendments and has submitted thirteen pages for the 117th Legislature, 1st Regular Session. Cat licensing and wolf-hybrid ownership will be reviewed by the committee for the 118th Legislature, 1st Regular Session.

Complaints of animal cruelty are often routed through this office to appropriate enforcement officers. A greater emphasis has been placed on utilizing and training local respondents.

Inland Fisheries & Wildlife determines what wildlife species are allowed to be brought into Maine and what species pet shops are allowed to sell. The Animal Welfare Unit and Agent Eddy work very closely with Inland Fisheries & Wildlife for cost efficiency between the two departments. The Unit collects the fees for both pet shop licensing and the \$25 fee charged for a blanket importation permit from Inland Fisheries & Wildlife. This assists the pet shop owner deal with only one department.

Kim Cornish with the assistance of Agent Eddy, the Animal Control Officers Association, the Maine Municipal Association, the Criminal Justice Academy, and Gail Goodwin at the Lewiston-Auburn SPCA is preparing the "Animal Control Officer's Manual". This manual will cover such topics as: the legal authority for animal control, animal care and control skills (i.e. canine and feline behavior, canine and feline identification, first aid for small animals, capture and restraint of animals, sanitation, and working with your animal shelter), safety (i.e. rabies and animal control equipment), human relations and interpersonal communication, record keeping, animal control officer's job description, and information on animals regulated by other departments (i.e. zoos and circuses, wildlife, livestock). This manual is scheduled to be completed by June of 1995 to be mailed with the new law books. This manual should be extremely helpful to people and facilities that deal with animals and animal complaints.

Ms. Cornish is working with Inland Fisheries & Wildlife to offer a low cost state-wide human pre-exposure rabies immunization program. Human pre-exposure rabies vaccine is given before exposure to the disease. It is given as a series of three injections, in the arm, over a period of one month. Pre-exposure prophylaxis is given for two reasons: first, to protect the person against an unknown exposure to the rabies virus, and second, to reduce the amount of treatment needed after a known exposure to rabies. According to "Rabies Prevention-United States, 1991", published by the Immunizations Practices Advisory Committee (ACIP) of the Centers for Disease Control, Atlanta, pre-exposure rabies prophylaxis should be offered to persons working in high risk groups living in endemic areas such as: animal control officers and any others involved in animal control, veterinarians and staff, animal shelter workers, public safety officers primarily responsible for animal control, dairy and livestock inspectors, livestock and slaughterhouse workers, taxidermists, trappers, wildlife rehabilitators, and others whose

occupations bring them into close or constant contact with wild and/or domesticated animals. Over 4,000 letters were sent between Animal Welfare and Inland Fisheries & Wildlife to contact as many people as possible that fall under the ACIP guidelines. The state is charging \$170 for the three series of shots and it is estimated that it would cost the individual more than \$600 to have the immunizations done privately. If there is a rabies exposure and the person exposed has not had the preventive rabies shots it will cost over \$1,025 to be vaccinated. It has been a very positive program for the public's safety and many telephone calls have come in requesting more information. These calls have included other state agencies interested in vaccinating their employees and veterinary clinics from New Hampshire.

Ms. Cornish has completed an animal control officer list which combines important information for any agency to reach a particular person in a particular town or unorganized territory about animal concern or problem. Using "Rbase" databases listed animal control officers, municipalities, sheriff departments, police departments, county officers, game wardens, animal shelters, federal agents, state humane agents and state veterinarians, and Maine's Indian Nations. This list is sorted by town and list for each town the telephone numbers for the animal control officer, law enforcement agency, town clerk, animal shelter for taking strays, and the game warden. This list will be used state wide by law enforcement agency, animal shelters, and animal control officers.

**ANIMAL WELFARE DEPOSITS FOR 1994 - \$410,776**

	<b>Dog Lic.</b>	<b>Kennel Lic.</b>	<b>Rabies Cert.</b>	<b>Spay/ Neuter</b>	<b>Animal Shelter</b>	<b>Boarding Kennel</b>	<b>Pet Shop</b>	<b>Breeding Kennel</b>	<b>Research Facilities</b>
<b>Jan</b>	48964	2740	470	110	440	1300	5200	400	50
<b>Feb</b>	122690	9166	259	131	20	200	400		
<b>Mar</b>	44256	2880	312	77	30	100	300		
<b>April</b>	38391	2040	213	78	45	100	300	50	
<b>May</b>	37061	1900	463	165	10	100	400		350
<b>June</b>	20268	920	363	89	40	150		50	300
<b>July</b>	13285	620	212	78		50			50
<b>Aug</b>	8786	286	127	69	20		200	100	
<b>Sept</b>	7254	460	246	35	20		400	100	
<b>Oct</b>	5709	200	246	35	20		400	100	
<b>Nov</b>	6481	374	448	65	380	100		100	
<b>Dec</b>	9265	400	265	59	720	4400	4000	600	
<b>TOT</b>	362410	21986	3435	929	1704	6600	11400	1450	750