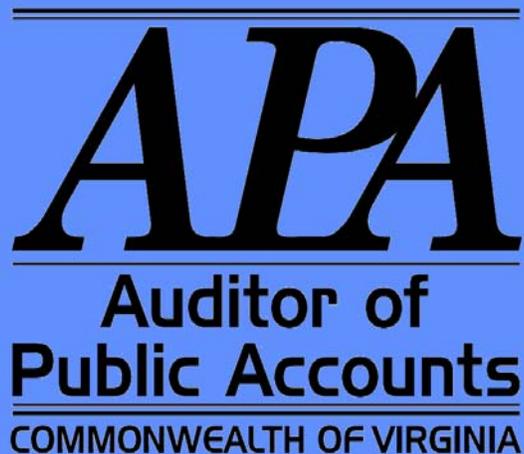


**DEPARTMENT OF AGRICULTURE
AND
CONSUMER SERVICES
AND THE
VIRGINIA AGRICULTURE COUNCIL**

**REPORT ON AUDIT
FOR THE YEARS ENDED
JUNE 30, 2010 AND JUNE 30, 2011**



AUDIT SUMMARY

Our audit of the Virginia Department of Agriculture and Consumer Services and the Virginia Agriculture Council found:

- proper recording and reporting of all transactions, in all material respects, in the Commonwealth Accounting and Reporting System;
- a matter involving internal control and its operations necessary to bring to management's attention; and
- an instance of noncompliance with applicable laws and regulations that is required to be reported.

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AUDIT FINDING AND RECOMMENDATION

Improve Oracle Database Security

The Department of Agriculture and Consumer Services (Department) does not use the concept of least privilege when limiting access to Oracle audit logs and to certain Oracle system files.

The Center for Internet Security (CIS) Oracle best practices recommends limiting access to audit logs and certain system files. Additionally, the Commonwealth's information security standard, SEC501-06, also requires agencies to "grant IT system users' access to IT systems and data based on the principle of least privilege."

Since our recommendation included descriptions of security mechanisms, we have communicated the details of this weakness to the Department's management in a separate document marked Freedom of Information Act Exempt under Section 2.2-3705.2 of the Code of Virginia.

We recommend that the Department dedicate the necessary resources to implement the appropriate CIS best practice internal controls and to comply with the Commonwealth's information security standard. These controls will improve the overall security posture of the database and better protect the sensitive data it contains.

AGENCY HIGHLIGHTS

The Department of Agriculture and Consumer Services (Department) is responsible for all laws and regulations relating to consumer protection and the promotion of agriculture in the state of Virginia. The Department is located within the Secretariat of Agriculture and Forestry and has four divisions: the Commissioner's Office, Division of Animal and Food Industry Services, Division of Consumer Protection, and Division of Marketing and Development. The Department employs about 498 employees who work in field agencies; five regional diagnostic animal health laboratories located in Warrenton, Lynchburg, Ivor, Harrisonburg, and Wytheville; an international office in Hong Kong; and the headquarters in Richmond.

The Commissioner's Office is comprised of the Offices of Administrative and Financial Services, Policy Planning and Research, Human Resources, Communications, Internal Audit, and the Milk Commission. These units provide administrative, technical, and audit support to the Department. The division also develops and implements policies, legislation, and regulations for the promotion of agriculture and protection of Virginia consumers, and establishes producer pricing for milk.

The Division of Animal and Food Industry Services is comprised of five program areas: Animal Care and Health Policy, Dairy and Food Safety, Laboratory Services, Meat and Poultry Services, and Veterinary Services. This division supports Virginia agriculture by performing regulatory and diagnostic testing, providing training for veterinary accreditation, and informing the public of import and export requirements for livestock and poultry to prevent and control the spread of disease. The division also enforces regulations within retail food, food processing, manufacturing, and warehouse establishments. The division protects Virginia's agricultural economic interests and performs food and dairy inspections.

The Division of Consumer Protection is comprised of five program areas: Charitable Gaming, Consumer Affairs, Pesticide Services, Plant and Pest Services, and Product and Industry Standards. This division protects consumers against fraudulent, deceptive, and illegal practices in the marketplace; issues pesticide business licenses; and registers pesticide products. The division also inspects establishments and commodities covered by commodity laws, such as fertilizer. Charitable Gaming has three units: Audit, Enforcement and Inspection, and Game Training and Licensing. The Charitable Gaming office is responsible for the administration and enforcement of charitable gaming laws and Board regulations. It also provides permitted organizations and bingo callers with training and technical assistance and conducts audits of qualified organizations to ensure compliance with state laws and regulations. The Weights and Measures office, part of the Product and Industry Standards program, regulates commercial use of all weights and measures equipment and standards, monitors motor fuel quality, and operates a nationally accredited Metrology Lab to ensure calibration standardization.

The Division of Marketing and Development is comprised of six program areas: Agriculture and Forest Development Services, Commodity Services, Domestic Sales and Market Development, International Marketing, Livestock Marketing, and Promotions. This division promotes and markets Virginia products including livestock, poultry, eggs, grains, fruits, vegetables, peanuts, horses, and wines for domestic and international sales. The division also handles the U.S. Department of Agriculture (USDA) food distribution and operation of the Virginia's Finest program, which identifies, differentiates, and promotes high quality, Virginia-produced and processed agricultural products. The division is also responsible for the oversight of the 16 commodity boards.

Commodity Boards

Virginia's agricultural commodity boards work to enhance the sale of Virginia's farm commodities by conducting market development and promotional, educational and research programs. The individual boards, comprised of producers and agribusiness representatives, provide programs and projects that benefit

their commodities by using taxes and fees collected by the Department of Taxation (Taxation) for the majority of the boards. Once collected, Taxation passes the revenues to the Department who then provides the funds to the Boards for use.

The Boards may use the revenue for administration and programs or accumulate the revenue for future contingencies or projects. Individual boards spend and manage funds in accordance with the Code of Virginia. Additionally, each Board submits an annual report to the Department, public, and General Assembly, which summarizes the purpose of the Board along with relevant financial activity.

Each Board has one program director, who conducts the Board’s daily operations. Board directors are either Department employees or a contractor funded by associations, who provides services on behalf of the Boards. It is the responsibility of the Board directors to seek out project ideas and present the ideas to the Boards for consideration. The Department procures all contracts on behalf of the Board following the Virginia Public Procurement Act. The 16 Commodity Boards and their corresponding revenue sources consist of the following.

<u>Commodity Board</u>	<u>Source of Revenue</u>
Virginia Apple Board	Excise tax of .025 cents per bushel for growers who produce 5,000 bushels or more on a five year average
Virginia Cattle (Beef) Industry Board	Excise tax of 25 cents per head of cattle sold in Virginia
Virginia Corn Board	Excise tax of 1 cent per bushel collected
Virginia Cotton Board	Excise tax of 85 cents per bale of cotton ginned
Virginia Egg Board	Excise tax of 5 cents per 30 dozen case and 11 cents per 100lbs of liquid eggs or liquid equivalent
Virginia Horse Board	Fee of \$1.50 for equine infectious anemia test and \$3 per ton of manufactured equine feed
Virginia Potato Board	Excise tax of 2 cents per 100 pounds of potatoes for growers in Virginia.
Virginia Marine Products Board	License taxes, license fees, and permit fees paid in Virginia
Virginia Peanut Board	Excise tax of 30 cents per hundred pounds
Virginia Pork Industry Board	Excise tax of 40 cents of \$100 value of porcine animals sold in Virginia
Virginia Sheep Industry Board	Excise tax of 50 cents per sheep sold in Virginia
Virginia Small Grains Board	Excise tax of one-half of one percent of the selling price of grain
Virginia Soybean Board	Excise tax of 2 cents per soybean bushel
Virginia Bright Flue-Cured Tobacco Board	Excise tax of 20 cents per 100 pounds of all poundage sold by the owner
Virginia Dark-Fired Tobacco Board	Excise tax of 20 cents per 100 pounds of all poundage sold by the owner
Virginia Wine Board	General fund appropriation consisting of a determined percentage of ABC sales for the year

Virginia Winery Distribution Company

Pursuant to Section 3.2-102 of the Code of Virginia, the Commissioner created the Virginia Winery Distribution Company (Corporation), a non-profit, non-stock corporation. The Corporation promotes, develops, and sustains markets for the licensed Virginia wineries and farm wineries. Additionally, the

Corporation provides wholesale wine distribution centers for wineries and farm wineries licensed in accordance with Section 4.1-207 of the Code of Virginia.

The Corporation allows wineries that produce 3,000 cases or less of wine per year the opportunity to distribute wine using the Corporation as the wholesaler. The Corporation’s Board of Directors consists of the Commissioner and four members appointed by the Board of Agriculture and Consumer Services. During fiscal year 2010, the Corporation contracted with the Virginia Distributing Company to provide information system, recordkeeping, recording, and processing of winery transactions. The Corporation also contracted with Alliance Consulting to provide customer service to current and prospective wineries that use the Corporation’s distribution services. During fiscal year 2011, the Corporation began using OnlineOrderDesk.com to provide a new online ordering system for restaurants and retailers to purchase Virginia wine.

Virginia Agricultural Council

The Virginia Agricultural Council (Council) provides a mechanism for financing agricultural research, education, and services. The Council is a separate agency; however, the Department provides support services to the Council. The Governor appoints 15 of the Council’s 18 members. The ex-officio members include the Commissioner, the Dean of the College of Agriculture and Life Sciences of Virginia Polytechnic Institute and State University, and the Dean for Agriculture and Extension of Virginia State University.

Funding comes from assessments levied on certain agricultural supplies used by farmers and fee revenue as established by the Code of Virginia. The Code of Virginia charges the Council with the management of the Virginia Agriculture Foundation Fund. The Council’s primary purpose is to expend funds that provide for programs of agricultural research and education and agricultural services. The table below compares the Council’s fiscal year 2010 and 2011 budgeted funding to actual expenses.

Analysis of Budgeted and Actual Expenses by Fund
for Fiscal Years Ended June 30, 2010 and 2011

Dedicated Special	<u>Original Budget</u>	<u>Final Budget</u>	<u>Expenses</u>
Revenue			
FY 2010	\$490,334	\$490,334	\$428,024
FY 2011	\$490,334	\$490,334	\$359,212

Expenses are less than budgeted each year because the grants provided through this program are for projects that take several years to complete, spanning multiple fiscal years. Therefore, expenses are dependent on when the grantee expends the funds.

Financial Information

The Department receives a combination of general fund appropriations, special revenue funds, and federal grants, with general fund support being the majority of the budget. Special revenue funds are the collection of fees for services such as animal health laboratory services, commercial pesticide applicator licenses, charitable solicitations registrations, feed inspections, and certain commodity taxes. Four federal grants are over half of federal revenues, and include the Cooperative Agreement with States for Intrastate Meat and Poultry Inspection; Plant and Animal Disease, Pest Control, and Animal Care; the Emergency Food Assistance Program; and State Administrative Expenses for Child Nutrition.

The table below compares the Department’s fiscal year 2010 and 2011 budgeted funding to actual expenses by fund.

Analysis of Budgeted and Actual Operating Expenses by Fund
for Fiscal Years ending June 30, 2010 and June 30, 2011**

2010	<u>Original Budget</u>	<u>Final Budget</u>	<u>Expenses</u>
General Fund	\$28,275,784	\$30,656,046	\$28,311,912
Special Fund*	21,272,665	23,482,623	17,557,919
Federal Fund	<u>7,688,814</u>	<u>11,598,272</u>	<u>9,020,589</u>
Totals	<u>\$57,237,263</u>	<u>\$65,736,941</u>	<u>\$54,890,420</u>

2011	<u>Original Budget</u>	<u>Final Budget</u>	<u>Expenses</u>
General Fund	\$26,711,960	\$27,942,775	\$26,328,185
Special Fund*	22,551,334	24,311,802	17,645,844
Federal Fund	<u>8,012,044</u>	<u>11,265,797</u>	<u>8,839,518</u>
Totals	<u>\$57,275,338</u>	<u>\$63,520,374</u>	<u>\$52,813,547</u>

*Includes special revenue, special dedicated revenue, and trust and agency funds.

**Table excludes capital budget and expenditure amounts.

Expenses

The Department spends its resources in four primary areas listed in the table below by fiscal year.

	<u>FY 2010</u>		<u>FY 2011</u>	
Agriculture	\$30,267,243	55%	\$27,655,077	52%
Consumer Protection and Regulation	14,344,455	26%	15,073,514	29%
Charitable Gaming	1,571,131	3%	1,514,906	3%
Administration	<u>8,707,591</u>	16%	<u>8,570,050</u>	16%
Totals	<u>\$54,890,420</u>		<u>\$52,813,547</u>	

The Department's largest expense is for personnel costs associated with its approximately 498 positions. Other major expenses include Contractual Services, which include contracts for services with various organizations including performance of laboratory studies and research. Transfer payments include transfer of funds to the Boards and their private associations. The table below shows the approximate percentage of expenditures by major object for the fiscal years audited.

	<u>FY 2010</u>	<u>FY 2011</u>
Personal Services	58%	61%
Contractual Services	13%	14%
Transfer Payments	19%	14%
Continuous Charges	6%	7%
Supplies and Materials	3%	3%
Equipment	1%	1%

In addition to its operating expenses, the Department had approximately \$400 thousand in fiscal year 2010 and \$4.7 million in fiscal year 2011 in capital project expenses. The following table provides detailed expenses for the Department's capital projects. The Harrisonburg Laboratory project is complete. The Department is building the Eastern Shore projects together, and estimates they will be complete in fiscal year 2013. There is approximately \$1.5 million in unexpended appropriations remaining on the Eastern Shore projects at the end of fiscal year 2011.

Capital Project Expenses for Fiscal Years 2010 and 2011

	<u>2010</u>	<u>2011</u>
Maintenance Reserve	\$110,005	\$ 270,233
Harrisonburg Laboratory Project	-	19,315
Eastern Shore Marketing and Inspection Office	41,240	951,517
Eastern Shore Seafood Facility	<u>254,144</u>	<u>3,453,343</u>
Total capital project expenses	<u>\$405,389</u>	<u>\$4,694,408</u>

General Funds

The Department's General Fund had approximately \$5.4 million in reductions for fiscal year 2010. The agency used various strategies to absorb these cuts, including reducing travel costs, shifting general fund costs to non-general funds, reducing matching grants for the Farmland Preservation Purchase of Development Rights program, increasing some laboratory fees, and eliminating various positions throughout the Department. There were no additional budget reductions in fiscal year 2011. However, due to ongoing budget reductions in prior years, the original appropriation for fiscal year 2011 was lower than in the past.

Special Funds

The special revenue funds are primarily excise taxes for the Commodity Boards and a variety of different license, registration, inspection, and service fees, as shown in the table below. The Department's special fund expenses for fiscal years 2010 and 2011 were approximately \$5.9 and \$6.6 million, respectively less than budgeted for several reasons. The budget included matching funds for a federal gypsy moth abatement program. However, the gypsy moth infestation was not as high as anticipated, requiring less work and less matching funds. The budget also included special revenue funds to support positions that were vacant. Lastly, the Department delayed some expenses to plan for the possibility that federal grant funding would not be available for existing needs.

Source of Fees for Special Funds

Fiscal Years 2010 and 2011

<u>Source</u>	<u>2010</u>	<u>2011</u>
Licenses, Permits, Fees, and Other Sources	\$ 6,788,943	\$ 6,723,311
Inspection of Agriculture Product Fees	5,679,776	5,868,848
Commodity Taxes*	2,760,833	2,435,149
Economic Poisons Reg. and Analysis Fees	2,113,942	2,137,535
Animal Health Laboratory Fees	1,169,442	1,238,696
Charitable Organization Registration Fees	<u>1,140,887</u>	<u>1,241,499</u>
Total	<u>\$19,653,823</u>	<u>\$19,645,038</u>

*Includes commodity excise tax and promotional fees

Virginia Pesticide Control Act Fund

The Department has several dedicated special funds including the Virginia Pesticide Control Act Fund. The source of funding for the Virginia Pesticide Control Act Fund is pesticide product, pesticide business, and pesticide applicator registration fees. The Department uses these funds for pesticide certification and enforcement activities. We found that the fund continues to accumulate a cash balance as shown in the table below.

Virginia Pesticide Control Act Fund Financial Summary
Fiscal Years 2009 through 2011

	<u>2009</u>	<u>2010</u>	<u>2011</u>
Beginning Fund Balance	\$3,652,555	3,053,075	3,194,075
Revenues	2,644,785	2,876,865	3,005,384
Expenses/Transfers	<u>(3,244,265)</u>	<u>(2,735,865)</u>	<u>(2,559,255)</u>
Ending Cash Balance	<u>\$3,053,075</u>	<u>\$3,194,075</u>	<u>\$3,640,204</u>

In an effort to use these funds since 2009, the Pesticide Control Board has approved and funded small projects for outreach to the lawn care industry, pesticide-use surveys, bed bug outreach, and the impact of pesticides on honeybees. The Department developed a proposal for a termiticide residue project, but the Pesticide Control Board never moved forward with this project. As of July 1, 2012, the Pesticide Control Board will consolidate into the Board of Agriculture and Consumer Services. After this consolidation, the Department intends to fund activities related to the topics below from the cash reserves at an estimated cost of \$1 million.

- Continuation and expansion of honey bee research project
- Continuation and expansion of bed bug research and outreach
- Termiticide residue study
- Pesticide use survey
- Outreach to lawn care and nursery industries
- Training programs for individuals with limited English proficiency
- Certification prep courses
- Implementation of online product registration and renewal
- Implementation and deployment of automated field inspection functionalities

Federal funds

Federal funds consist of 13 monetary grants administered by the Department during the fiscal year. Over 75 percent of the Department's federal activity relates to nine federal programs administered by the U.S. Department of Agriculture (USDA). The USDA grants include state administrative expenses for child nutrition; cooperative agreements with states for intrastate meat and poultry inspection; plant and animal disease, pest control, and animal care; and for the Emergency Food Assistance program, including food commodities and administrative costs.

The primary reason that the Department did not spend federal appropriations each fiscal year was the reduction in federal grant funding for various programs throughout the agency, from gypsy moth abatement to animal and food industry services. In addition, in fiscal year 2011, the Department increased the appropriation for the food distribution program by nearly \$1 million in late May because the program planned

one more transfer of operating support to the local food banks in fiscal year 2011. However, there was a delay in the transfer because the program needed to complete verification of the vouchers, and the Department did not make the transfer until July.

Non-monetary federal awards

The Emergency Food Assistance Program (TEFAP) helps supplement the diets of low-income persons by providing them with emergency food and nutrition assistance. The USDA distributes food commodities to the Department, which in turn distributes the food to selected local agencies, usually food banks, which deliver the food to local groups that serve the public. The USDA bases the amount of food to distribute to the Department on Virginia's low-income and unemployed population. In fiscal years 2010 and 2011, the Department received and distributed food commodities valued at \$13.2 and \$10.9 million, respectively. In those same years, the Department also distributed over \$22.0 and \$27.4 million worth of food commodities through the National School Lunch Program, a federally assisted meal program operating in public and nonprofit private schools, and residential child-care institutions.

Upcoming Changes

The 2012 General Assembly passed the Governor's plan to reorganize portions of the Executive Branch of state government. This reorganization moved the investigative and consumer complaint functions of the Office of Consumer Affairs into the Office of the Attorney General. The regulatory function remains at the Department. In addition, the Pesticide Control Board consolidated into the Board of Agriculture and Consumer Services. The Seed Potato and Potato Boards consolidated into the Potato Board. The Bright Flue-Cured Tobacco and Dark-Fired Tobacco Boards consolidated into the Tobacco Board. These changes are effective as of July 1, 2012.



Commonwealth of Virginia

Auditor of Public Accounts

Walter J. Kucharski
Auditor of Public Accounts

P.O. Box 1295
Richmond, Virginia 23218

August 22, 2012

The Honorable Robert F. McDonnell
Governor of Virginia

The Honorable John M. O'Bannon, III
Chairman, Joint Legislative Audit
and Review Commission

We have audited the financial records and operations of the **Department of Agriculture and Consumer Services** and the **Virginia Agriculture Council** (Agencies) for the years ended June 30, 2010 and June 30, 2011. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Audit Objectives

Our audit's primary objective was to evaluate the accuracy of recorded financial transactions on the Commonwealth Accounting and Reporting System (CARS) and in the Agencies' internal accounting system, review the adequacy of the Agencies' internal controls, and test compliance with applicable laws and regulations.

Audit Scope and Methodology

The Agencies' management has responsibility for establishing and maintaining internal control and complying with applicable laws and regulations. Internal control is a process designed to provide reasonable, but not absolute, assurance regarding the reliability of financial reporting, effectiveness and efficiency of operations, and compliance with applicable laws and regulations.

We gained an understanding of the overall internal controls, automated and manual, sufficient to plan the audit. We considered quantitative and qualitative significance and control risk in determining the nature and extent of our audit procedures. Our review encompassed controls over the following significant cycles, classes of transactions, and account balances.

Capital assets
Appropriations
Payroll expenses
Construction procurement and management
CARS reconciliations
Spa Surety Payments
Revenues and collection of accounts receivable
Information system security
Virginia Winery Distribution Company

We performed audit tests to determine whether the Agencies' controls were adequate, had been placed in operation, and were being followed. Our audit also included tests of compliance with provisions of applicable laws and regulations. Our audit procedures included inquiries of appropriate personnel, inspection of documents, records, and contracts, and observation of the Agencies' operations. We tested transactions and performed analytical procedures, including budgetary and trend analysis.

Conclusion

We found that the Agencies properly stated, in all material respects, the amounts recorded and reported in the Commonwealth Accounting and Reporting System and in the Agencies' internal accounting system. The Agencies record their financial transactions on the cash basis of accounting, which is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America. The financial information presented in this report came directly from the Commonwealth Accounting and Reporting System.

We noted a matter involving internal control and its operation and compliance with applicable laws and regulations that requires management's attention and corrective action. This matter is described in the section entitled "Audit Finding and Recommendation."

Exit Conference and Report Distribution

We discussed this report with management on August 30, 2012. Management's response to the finding identified in our audit is included in the section titled "Agency Response." We did not audit management's response and, accordingly, we express no opinion on it.

This report is intended for the information and use of the Governor and General Assembly, management, and the citizens of the Commonwealth of Virginia and is a public record.

AUDITOR OF PUBLIC ACCOUNTS

DBC/clj



COMMONWEALTH of VIRGINIA

Department of Agriculture and Consumer Services

PO Box 1163, Richmond, Virginia 23218

Phone: 804/786-3501 • fax: 804/371-2945 • Hearing Impaired: 800/828-1120

www.vdacs.virginia.gov

Matthew J. Lohr
Commissioner

September 7, 2012

Mr. Walter J. Kucharski
Auditor of Public Accounts
James Monroe Building
101 North 14th Street
Richmond, VA 23219

Dear Mr. Kucharski:

We have reviewed the draft audit report for the Virginia Department of Agriculture and Consumer Services ("VDACS" or "the agency") and the Virginia Agricultural Council for the years ended June 30, 2010 and June 30, 2011. We agree that the agency did not use the concept of least privilege when limiting access to Oracle audit logs and to certain system files and the practice should be implemented.

It is the goal of management to follow best practices; however, the agency must prioritize functions due to limited resources. We view the risk of compromise of our Oracle audit and system file information as a low risk. We agree that increasing controls is important and we have taken steps that will mitigate and remedy the audit issues raised.

Thank you for the opportunity to respond to the fiscal year 2010-2011 APA audit.

Sincerely,

A handwritten signature in black ink that reads "Matthew J. Lohr".

Matthew J. Lohr
Commissioner

C: The Honorable Todd P. Haymore, Secretary of Agriculture and Forestry
Sandra J. Adams, Deputy Commissioner

VIRGINIA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
(as of June 30, 2011)

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Roy E. Seward, Secretary

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