

**A Special Performance Audit
of the
Pennsylvania Department of Agriculture's**

Inspection of Retail Gas Pumps in Pennsylvania

January 2007

**Pennsylvania Department of the Auditor General
Jack Wagner, Auditor General**



COMMONWEALTH OF PENNSYLVANIA
OFFICE OF THE AUDITOR GENERAL
HARRISBURG, PA 17120-0018

JACK WAGNER
AUDITOR GENERAL

January 30, 2007

The Honorable Edward G. Rendell
Governor
Commonwealth of Pennsylvania
225 Main Capitol Building
Harrisburg, Pennsylvania 17120

Dear Governor Rendell:

This report contains the results of the Department of the Auditor General's special performance audit of the Pennsylvania Department of Agriculture's inspection of retail gas pumps in Pennsylvania. The audit covers primarily the period of August 1, 2005, through August 1, 2006 (although some data is as recent as January 5, 2007), and was conducted in accordance with *Government Auditing Standards* as issued by the Comptroller General of the United States.

It is unprecedented for the Governor and an audited entity to announce radical changes to an audited program within two days of receiving a draft audit report. Not only did you acknowledge in a news release on December 20, 2006, that the Department of Agriculture had been unable to satisfy its legal requirements to inspect gas pumps annually to ensure that accurate amounts of fuel were being dispensed, but you also announced plans to add and train more inspectors, provide additional equipment, improve the database, and develop better ways to reach and involve consumers in the process. We appreciate the cooperation to implement these important changes.

As we explain in our audit report, we understand how a 1996 legislative change led to the Department of Agriculture's inability to meet its inspection mandate. Ten years after this change in law freed counties from the requirement to conduct their own gas pump inspections, more than 40 counties have ended their inspection programs and shifted the duties to the state. Overall, the Department of Agriculture has experienced a dramatic increase in responsibility but has seen little or no increase in staff or resources.

Some other key points:

- **The state must prepare for even more responsibility.** Looking ahead, the Department of Agriculture must continue to prepare for even more responsibility as other counties, too, give up their gas pump inspection programs and the associated costs. Our auditors checked 23,341 inspection decals on 15,767 pumps at 2,110 gas

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stations and found that two of every ten decals were outdated at stations under the state's jurisdiction, and one in every ten decals was outdated at stations under county or city jurisdiction. These numbers must improve, as must the Department's efforts to follow-up on inspections that identified faulty pumps.

- **The state should seriously consider octane testing.** For consumers, the *quality* of gasoline is just as important as the quantity, yet we found that our state law does not require octane testing. Surprisingly, Pennsylvania is one of only four states that do not include this testing during gas pump inspections. Therefore, I call on both your office and the Department of Agriculture to work with the General Assembly to consider at least random octane testing at stations across the state.
- **The state must be sensitive to consumer concerns about gas prices.** The average price of self-serve regular unleaded gas has increased 71 percent over the past six years. The highest recorded national average for a gallon of gas in 2006 was \$3.04 in early August, and the highest national average *ever* recorded was \$3.06 in late summer 2005, according to the Mid-Atlantic American Automobile Association. The Mid-Atlantic AAA also reported that consumers could again face \$3 per gallon prices in 2007. The concerns about gas prices underscore why the Administration and the Department of Agriculture must follow through on your planned improvements.

Pennsylvania taxpayers should view your announced improvements as evidence that state government agencies can work together to identify and resolve significant problems quickly. I look forward to following up to report on your progress, and I trust we can count on your positive response to our other recommendations you have not yet addressed, including the consideration of octane testing. In that way, the gas pump inspection program in Pennsylvania can serve consumers as well and as comprehensively as the programs of other states.

Sincerely,



JACK WAGNER
Auditor General

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Results in Brief

When Pennsylvania drivers paid more than \$3.00 a gallon for low-octane gas in the summer of 2006, they expected some assurance they were getting every drop of gas they paid for, and no less.

Drivers who bought high-octane gas for \$4.00 a gallon expected assurances they were getting the right amount of gas and the high octane level as well.

Unfortunately, Pennsylvania's government could provide no such assurances, either then or now:

- In the case of gasoline *quantity*, the Pennsylvania Department of Agriculture is required by law to inspect gas pumps for accuracy. But inspectors cannot keep up with their duties.
- In the case of gasoline *quality*, particularly octane levels, the Department of Agriculture is not mandated to verify octane ratings during its inspections. Pennsylvania is one of only four states (in addition to Alaska, Nebraska, and Ohio) not conducting this testing. Therefore, drivers might pay for high-octane gas but get low octane instead.

Our conclusions are based on field work that began when Auditor General Jack Wagner dispatched 36 auditors to all 67 counties of the Commonwealth in August 2006 when gas prices were at their highest. Completing most of their visits during a two-week period, the auditors traveled to 2,110 gas stations, looked at 15,767 pumps, and examined 23,341 dated inspection decals to see if inspections were current.

For inspections that were the responsibility of the state, instead of local county or city governments, we found the following:

- Seven percent of the pumps had no inspection decals, meaning they likely were not inspected. (Pumps can have

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more than one decal, depending on the number of flow meters inside the pump.)

- All the remaining pumps had decals, but almost 2 out of every 10 of those decals were outdated, meaning those pumps were overdue for inspection. Most were overdue by one to six months, but some were overdue by four years.
- New pumps had not always been inspected within 15 days of their installation.
- The Department of Agriculture did not maintain a compilation of follow-up inspections for rejected pumps, including dates and deficiencies. We therefore could not conclude that inspections occurred within 15 days of their repair as required.

We found similar but slightly better performance results during our visits to stations in counties that had their own inspection programs.

Originally, state law required counties to perform their own inspections, but the law was changed in 1996 to make the county programs optional. As a result, counties started to give up their local gas pump inspection programs and turn them over to the state. In large part, it is that shift in responsibility that caused the state to get so far behind.

The situation is likely to get worse, as we explain in our report. However, we note two positive signs. First, the Department of Agriculture did not attempt to hide its problems from our auditors and, in fact, recognized that it must actively address fuel dispenser inspections. Second, the Department said it viewed this audit as a constructive measure and had already been assessing various options for improvement, such as initiating various legislative changes and seeking additional funding alternatives.

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One thing is clear: Changes **must** be made, not only by the Department of Agriculture but also by the Governor's office, which is responsible for the Department of Agriculture. In some cases, legislative action by the General Assembly might also be needed.

In the meantime, Pennsylvania should become far more proactive in educating its consumers about what to look for when they buy gas and seeking their involvement to observe and report concerns. Other states have done so, and Pennsylvania is missing a real opportunity to serve and protect gasoline customers and retailers alike. Both of those groups pay state taxes and have every right to receive better service in that regard. They will get that service if the Department of Agriculture, with solid support from the Governor's office, responds positively to this audit.

We can already report an encouraging start: Within two days of receiving a draft of this audit report for review and comment, the Department of Agriculture—in tandem with the Governor's office—took the unprecedented step of announcing improvements that mirrored many of our recommendations. We will follow up at the appropriate time to evaluate how well the Department of Agriculture is implementing those announced improvements, and we will also then determine the status of our other recommendations.

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Introduction and Background

In Pennsylvania, the state's Department of Agriculture is required by law to ensure that all retail gas pumps are inspected at least once each year.¹ According to its records, the Department inspected 30,026 motor fuel dispensers in calendar year 2005.²

The objectives of an inspection are to verify that pumps are dispensing the same amount of gas that customers see displayed on the pump, and also to ensure customer safety. The Department of Agriculture (which refers to itself as "PDA") published the following about its inspections:

The cumulative costs of tiny measurement inaccuracies can be enormous. An error of slightly more than one tablespoon per five gallons at the gas pumps adds up to more than \$125 million every year.

Did you know that PDA's Division of Weights and Measures inspects gas pumps annually? Inspectors test fuel dispensers for accuracy, break away switches, hose conditions, octane labeling, and price calculations to ensure equity in the marketplace. Cumulative costs of very tiny measurement inaccuracies can be enormous and detrimental to the economy. It has been estimated that an error of slightly more than one tablespoon per five gallons at the gas pump amounts to [more than] \$125 million annually.³

The message is clear. People who buy gasoline in Pennsylvania must be assured they are getting the amount of

¹ The Consolidated Weights and Measures Act is the Act of December 18, 1996 (P.L. 1028, No. 155), codified at 3 Pa.C.S. § 4101 *et seq.* Section 4112(b) of that Act, 3 Pa.C.S. § 4112(b), states that "[I]t shall be the duty of the department [Department of Agriculture] at least once within a 12-month period, or more frequently if deemed necessary, to assure that all . . . retail motor fuel dispensers are inspected and tested to ascertain if they are correct."

² March 2006, *Annual Report 2005*, Pennsylvania Department of Agriculture, Bureau of Ride and Measurement Standards, Division of Weights and Measures.

³ July 29, 2005, Pennsylvania Department of Agriculture, *Inside PDA Newsletter*, available online at <http://www.agriculture.state.pa.us/agriculture/cwp/view.asp?a=390&q=135565>. Accessed on November 3, 2006. Emphasis added.

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gas they pay for. Equally important, gas retailers must be confident they are being paid for the amount of gas their pumps dispense. These statements are true whatever the price of gas, but the significance rises in proportion to the price.

Please note that, although Department of Agriculture inspectors look at octane labeling as stated in the previous newsletter excerpt, Pennsylvania law does not require the testing of the octane level itself. Surprisingly, Pennsylvania and only three other states (Alaska, Nebraska, Ohio) do not mandate this testing.

With regard to quantity, the importance of fuel pump accuracy was underscored in 1996 when Pennsylvania's General Assembly passed the Consolidated Weights and Measures Act, which—as its name implies—consolidated and amended earlier weights and measures laws. Previously, counties and cities were *required* to have their own weights and measures programs, including the gas pump inspections. The 1996 law made the Department of Agriculture the ultimate overseer of fuel pump accuracy and allowed counties and cities to shut down their programs if they chose to do so.

Shutting down their local programs is precisely what many counties have done since the 1996 law took effect on February 16, 1997. As of November 2006, the Department of Agriculture was directly responsible for inspections of gas pumps in 44 counties and 2 cities. The most recent additions to the state's workload were the counties of Berks, Chester, and Monroe when they ended their own inspections in 2005, and the city of New Castle, which ended its own inspections in 2006.

For each county and city that still operates its own program, the Department of Agriculture developed memorandums of understanding spelling out what the local inspection programs must do and what information they must report. The 1996 law itself lists various requirements and also says that each county

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and city must submit data about inspections to the Department of Agriculture at least yearly.

The next two pages illustrate gas pump inspection programs according to which level of government is responsible: state, county, or city.

Additional History

The history of the weights and measures program and the effects of the 1996 consolidation are outlined in greater detail in *A Reexamination of Pennsylvania's Weights and Measures Program*, published in November 1998 by the state's Legislative Budget and Finance Committee.⁴

The 1998 report followed up on a previous report the Committee issued in 1995, in which the Committee identified numerous recurring operational, administrative, and compliance problems and made recommendations to address those problems. The Committee's subsequent 1998 assessment found that the Department of Agriculture had initiated some improvements, such as planning for a statewide inspection database and reporting system, and developing more specific memorandums of understanding as required by the Consolidated Weights and Measures Act.

The 1998 report also noted that, in spite of the improvements, the Department of Agriculture did not know the extent to which it was meeting its annual inspection requirements, nor was it able to effectively coordinate state and local inspection efforts. Also discussed was Pennsylvania's status as one of only four states without a requirement for octane testing.

⁴ The Legislative Budget and Finance Committee is a joint bipartisan committee of the Pennsylvania General Assembly.

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**The state Department of Agriculture inspected gas pumps in
44 counties that did not have their own inspection programs.**

State inspectors are responsible for 44 counties	Number of total stations according to Dept. of Agriculture records	Number of stations we visited
Armstrong	47	30
Bedford	46	29
Berks	<i>unknown</i>	46
Bradford	58	25
Butler	95	50
Cambria	78	44
Cameron	5	4
Carbon	44	14
Chester	<i>unknown</i>	62
Clarion	36	22
Clinton	30	18
Crawford	42	17
Dauphin	116	62
Erie	128	51
Fayette	74	41
Forest	5	4
Fulton	15	9
Indiana	52	23
Jefferson	27	15
Lackawanna	136	30
Lawrence	46	25
Lebanon	61	26
Lehigh	119	39
Luzerne	184	136
Lycoming	66	45

<i>continued</i> State inspectors are responsible for 44 counties	<i>continued</i> Number of total stations according to Dept. of Agriculture records	<i>continued</i> Number of stations we visited
McKean	46	31
Mercer	52	43
Mifflin	30	20
Monroe	<i>unknown</i>	44
Montgomery	305	33
Northumberland	73	36
Perry	36	20
Pike	38	18
Potter	26	8
Schuylkill	87	35
Snyder	27	20
Somerset	57	25
Susquehanna	42	22
Tioga	44	20
Union	23	14
Venango	30	26
Warren	30	25
Washington	92	36
Wyoming	22	15
Total	2,570	1,358

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**County governments inspected gas pumps in
 23 counties that had their own inspection programs.**

23 counties that use their own inspectors	Total no. of stations according to Dept. of Agriculture records	Total no. of stations according to county records*	No. of stations we visited	<i>continued</i> 23 counties that use their own inspectors	<i>continued</i> Total no. of stations according to Dept. of Agriculture records	<i>continued</i> Total no. of stations according to county records*	<i>continued</i> No. of stations we visited
Adams	<i>unknown</i>	<i>no answer</i>	18	Huntingdon	<i>unknown</i>	<i>no answer</i>	18
Allegheny	<i>unknown</i>	<i>no answer</i>	118	Juniata	<i>unknown</i>	12	14
Beaver	<i>unknown</i>	80	38	Lancaster	<i>unknown</i>	209	39
Blair	<i>unknown</i>	62	36	Montour	<i>unknown</i>	12	7
Bucks	<i>unknown</i>	212	38	Northampton	<i>unknown</i>	117	29
Centre	<i>unknown</i>	72	34	Philadelphia	<i>unknown</i>	<i>no answer</i>	41
Clearfield	<i>unknown</i>	73	28	Sullivan	<i>unknown</i>	13	7
Columbia	<i>unknown</i>	41	25	Wayne	<i>unknown</i>	50	18
Cumberland	<i>unknown</i>	100	49	Westmoreland	<i>unknown</i>	193	32
Delaware	<i>unknown</i>	158	30	York	<i>unknown</i>	200	51
Elk	<i>unknown</i>	24	15	Total	<i>unknown</i>	1,741	731
Franklin	<i>unknown</i>	85	33				
Greene	<i>unknown</i>	28	13				

*Although we attempted to contact every county listed here to determine its number of stations, some counties did not respond. In addition, other counties provided us with estimates only, and still other counties gave us estimates verbally that did not reconcile to paper documentation they sent us later. For the latter cases, we list the number of stations for which the counties provided supporting documentation; otherwise, we list the number of stations based on the counties' oral estimates.

**City governments inspected gas pumps in 3 cities
 that had their own inspection programs.**

3 cities that use their own inspectors	Total no. of stations according to Dept. of Agriculture	Total no. of stations according to city records	No. of stations we visited
Meadville	<i>unknown</i>	4	4
New Castle*	<i>unknown</i>	<i>no answer</i>	6
Scranton	<i>unknown</i>	38	11
Total	<i>unknown</i>	42	21

*On November 20, 2006, the Department of Agriculture notified us that New Castle had discontinued its own inspections on June 29, 2006.

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**Objectives,
Scope, and
Methodology**

The Department of the Auditor General conducted this special performance audit to provide an independent assessment of the Pennsylvania Department of Agriculture's compliance with the state's Consolidated Weights and Measures Act, specifically the requirement for annual inspections of retail motor fuel dispensers. We conducted our work according to *Government Auditing Standards* as issued by the Comptroller General of the United States.

Objectives

We began our audit with one primary objective, stated in the form of this question:

- Did the Department of Agriculture ensure that retail gasoline pumps were inspected at least once each year as required to assure the public that pumps dispensed the right amount of gas? (See Finding One.)

As we addressed that question, we developed several others:

- How did the Department of Agriculture follow up when its inspectors found pumps that did not dispense the right amount of fuel? (See Finding Two.)
- In the cases where county and/or city governments had responsibility for retail gasoline pump inspections, what did the Department of Agriculture do to oversee those local entities? (See Finding Two.)
- Did the gas prices posted on the pumps match the gas prices advertised on gas stations' signage? (See Q & A, Appendix A.)

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Scope

Our audit covered the inspection activities of the Department of Agriculture and the related county and city entities for the one-year period from August 1, 2005, to August 1, 2006, unless otherwise indicated.

Methodology

To carry out our objectives, we did the following:

- Reviewed pertinent laws, regulations, policies, and procedures.
- Visited 2,110 gas stations throughout the state and checked 15,767 gasoline or diesel pumps for current inspection decals. These visits took place during the first two weeks of August 2006 at a time when gas prices reached their highest and public concern was significant.
- Accompanied Department of Agriculture inspectors on six inspections in three of the Department's four regions.
- Interviewed Department of Agriculture officials and others familiar with weights and measures inspections.
- Contacted all 23 counties that have their own inspection programs; interviewed local official(s) from every county except the following four that did not respond to our calls (most of which we made in mid-August 2006) or that we were otherwise unable to reach:
 - 1) Adams County: We tried at least three times to call the telephone and fax numbers that the Department of Agriculture's Web site posted for the Adams County Weights and

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Measures Office. Both numbers sounded like fax numbers when answered. Our further search for different phone numbers yielded only the same telephone numbers.

- 2) Allegheny County: We made six calls to the telephone number that the Department of Agriculture's Web site posted for the Allegheny County Weights and Measures Office. Each time, we reached a recorded message saying that all inspectors were in the field. We left a message each time asking for a return call but did not receive a call back.
- 3) Huntingdon County: We called the telephone number that the Department of Agriculture's Web site listed for the Huntingdon County sealer (weights and measures officials are known as "sealers"). We did reach the sealer whose name was listed on the Web site, but he said he had retired. He gave us the telephone number for the person he said now handles the inspection duties, but we did not receive return calls when we left two messages at that number.
- 4) Philadelphia County: On five occasions, we reached someone at the Philadelphia County weights and measures office and asked for someone in charge of gas pump inspections to return our calls. Our calls were not returned.

We completed most of our field work and research by November 2, 2006, but continued to follow up through December 18, 2006, which is the date we provided a draft report to the Department of Agriculture. On December 22, 2006, we met with Department officials to review the draft report, at which time we exchanged additional questions and answers about the report, agreed on minor edits, and discussed the press release issued on December 20, 2006,

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by the Department of Agriculture and the Governor to announce program improvements.

Also on December 22, 2006, we again visited a Dauphin County gas station we had visited twice before (see page 16).

The Department of Agriculture provided a formal written response to this audit on December 28, 2006, in addition to issuing its press release of December 20, 2006. We have included the response and the press release in the appendix to this report.

Findings and Recommendations

We developed **2 findings** during our review of the Department of Agriculture's performance for the audit period, and we present **10 recommendations** to address the issues we identified. We included time frames for the implementation of our recommendations, and we will follow up within the next 12 to 24 months to determine the status of the findings. In so doing, we will work collaboratively with the Department of Agriculture to meet an important government auditing standard that promotes government accountability:

Providing continuing attention to significant findings and recommendations is important to ensure that the benefits of audit work are realized. Ultimately, the benefits of an audit occur when officials of the audited entity take meaningful and effective corrective action in response to the auditors' findings and recommendations. Officials of the audited entity are responsible for resolving audit findings and recommendations directed to them and for having a process to track

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their status. If the audited entity does not have such a process, auditors may wish to establish their own process.⁵

At the time of our follow-up, we will determine a subsequent course of action. For example, we may issue a status update jointly with the audited entity, issue an update independently, or conduct a new audit entirely.

⁵ Standard 7.30, *Government Auditing Standards*, 2003 revision, U.S. Government Accountability Office.

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Finding One: The Department of Agriculture did not ensure that all gas pumps in Pennsylvania were inspected for accuracy at least yearly as required by law.

Resulting conclusion:	If drivers filled their gas tanks at uninspected pumps, they may not have received the amount of gas they paid for, especially during our audit period when gas prices were highest. Gas retailers might also have been shortchanged. The state must overhaul its gas pump inspection program to make it better.
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Drivers could have been shortchanged when they purchased gas anywhere in Pennsylvania unless they knew to look at the pumps for current inspection decals.

In August 2006, when gas prices were highest, Auditor General Jack Wagner⁶ dispatched 36 auditors to all 67 Pennsylvania counties to see if retail gas pumps bore current inspection decals. Decals indicate that pumps are tested for accuracy and safety, but not for octane levels. Only three other states (Alaska, Nebraska, Ohio) do not mandate octane testing.

- For the retail establishments we visited that were under the state's control, we found that slightly more than two out of every ten pumps had outdated decals or none at all.
- For retail establishments we visited that were under county or city control, just one in ten pumps had either outdated or no decals. But counties have been turning their inspection programs over to the state since 1996 when a change in law allowed them do so. It has now become almost impossible for the state to keep up with the added inspections.

The tables on the next two pages show the raw data collected by our auditors, and the narrative that follows the tables presents our analysis.

⁶ Prior to January 2005 when Auditor General Jack Wagner began his term as Pennsylvania's independent auditor general, he served as a state senator and, in fact, voted for the passage of the Consolidated Weights and Measures Act.

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Breakdown of audit results by number of gas stations visited

	<p>2,110 total gas stations were visited by auditors:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 2px;">1,358 stations (9,828 pumps) were under state jurisdiction.</td> </tr> <tr> <td style="padding: 2px;">731 stations (5,795 pumps) were under county jurisdiction.</td> </tr> <tr> <td style="padding: 2px;">21 stations (144 pumps) were under city jurisdiction.</td> </tr> </table>	1,358 stations (9,828 pumps) were under state jurisdiction.	731 stations (5,795 pumps) were under county jurisdiction.	21 stations (144 pumps) were under city jurisdiction.
1,358 stations (9,828 pumps) were under state jurisdiction.				
731 stations (5,795 pumps) were under county jurisdiction.				
21 stations (144 pumps) were under city jurisdiction.				
<i>State jurisdiction</i>	<p>281 stations of the 1,358 under state jurisdiction, or 21 percent, had one or more pumps with outdated inspection decals or no inspection decals at all:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 2px;">28 of the 281 stations had <i>no</i> decals on any pumps.</td> </tr> <tr> <td style="padding: 2px;">253 of the 281 stations had <i>outdated</i> decals on all or some pumps.</td> </tr> </table>	28 of the 281 stations had <i>no</i> decals on any pumps.	253 of the 281 stations had <i>outdated</i> decals on all or some pumps.	
28 of the 281 stations had <i>no</i> decals on any pumps.				
253 of the 281 stations had <i>outdated</i> decals on all or some pumps.				
<i>County jurisdiction</i>	<p>92 stations of the 731 under county jurisdiction, or 13 percent, had one or more pumps with outdated inspection decals or no inspection decals at all:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 2px;">13 of the 92 stations had <i>no</i> decals on any pumps.</td> </tr> <tr> <td style="padding: 2px;">79 of the 92 stations had <i>outdated</i> decals on all or some pumps.</td> </tr> </table>	13 of the 92 stations had <i>no</i> decals on any pumps.	79 of the 92 stations had <i>outdated</i> decals on all or some pumps.	
13 of the 92 stations had <i>no</i> decals on any pumps.				
79 of the 92 stations had <i>outdated</i> decals on all or some pumps.				
<i>City jurisdiction</i>	<p>4 stations of the 21 under city jurisdiction, or 19 percent, had one or more pumps with outdated inspection decals:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 2px;">0 of the 4 stations had <i>no</i> decals on any pumps.</td> </tr> <tr> <td style="padding: 2px;">4 of the 4 stations had <i>outdated</i> decals on all or some pumps.</td> </tr> </table>	0 of the 4 stations had <i>no</i> decals on any pumps.	4 of the 4 stations had <i>outdated</i> decals on all or some pumps.	
0 of the 4 stations had <i>no</i> decals on any pumps.				
4 of the 4 stations had <i>outdated</i> decals on all or some pumps.				

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Breakdown of audit results by number of inspection decals examined

	<p>23,341 inspection decals were examined by auditors:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 5px;">12,530 decals were on 9,138 pumps at the 1,358 stations under <i>state</i> jurisdiction.** (690 additional pumps bore <i>no</i> decals.)</td> </tr> <tr> <td style="padding: 5px;">10,626 decals were on 5,593 pumps at the 731 stations under <i>county</i> jurisdiction.** (202 additional pumps bore <i>no</i> decals)</td> </tr> <tr> <td style="padding: 5px;">185 decals were on 137 pumps at the 21 stations under <i>city</i> jurisdiction.** (7 additional pumps bore <i>no</i> decals.)</td> </tr> </table>	12,530 decals were on 9,138 pumps at the 1,358 stations under <i>state</i> jurisdiction.** (690 additional pumps bore <i>no</i> decals.)	10,626 decals were on 5,593 pumps at the 731 stations under <i>county</i> jurisdiction.** (202 additional pumps bore <i>no</i> decals)	185 decals were on 137 pumps at the 21 stations under <i>city</i> jurisdiction.** (7 additional pumps bore <i>no</i> decals.)
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<i>State jurisdiction</i>	<p>2,751 of the 12,530 state decals, or 22 percent, were outdated or had undeterminable dates:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 5px;">2,220 of the 12,530 decals, or 18 percent, were outdated.</td> </tr> <tr> <td style="padding: 5px;">531 of the 12,530 decals, or 4 percent, had undeterminable dates.</td> </tr> </table>	2,220 of the 12,530 decals, or 18 percent, were outdated.	531 of the 12,530 decals, or 4 percent, had undeterminable dates.	
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<i>County jurisdiction</i>	<p>1,123 of the 10,626 county decals, or 11 percent, were either outdated or had undeterminable dates:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 5px;">936 of the 10,626 decals, or 9 percent, were outdated.</td> </tr> <tr> <td style="padding: 5px;">187 of the 10,626 decals, or 2 percent, had undeterminable dates.</td> </tr> </table>	936 of the 10,626 decals, or 9 percent, were outdated.	187 of the 10,626 decals, or 2 percent, had undeterminable dates.	
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<i>City jurisdiction</i>	<p>29 of the 185 city decals, or 16 percent, were either outdated or had undeterminable dates:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 5px;">18 of the 185 decals, or 10 percent, were outdated.</td> </tr> <tr> <td style="padding: 5px;">11 of the 185 decals, or 6 percent, had undeterminable dates.</td> </tr> </table>	18 of the 185 decals, or 10 percent, were outdated.	11 of the 185 decals, or 6 percent, had undeterminable dates.	
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** Gas pumps can have more than one decal, depending on the number of meters inside the pump. Meters regulate the flow of gas.

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Discussion of results

What we looked for:

1. At the state level – Of the 2,110 retail gas stations we visited, there were 1,358 for which the state Department of Agriculture had direct inspection responsibility. Accordingly, at these 1,358 stations, we examined gas and diesel pumps—9,828 in total—to determine if each pump was posted with one or more dated state inspection decals and, if so, the date of each decal.⁷
2. At the county and city level – At the 731 sampled stations under county jurisdiction, and at the 21 sampled stations under city jurisdiction, we examined 5,939 gas and diesel pumps (5,795 county and 144 city) to determine if and when each pump was inspected.

When we measured:

Primarily August 1 through 11, 2006. (Exceptions: We visited 3 stations in Susquehanna County on July 31, 2006, and 20 stations on the Pennsylvania Turnpike between August 15 and September 13, 2006.)

How we measured:

Most state and county inspection decals showed a month and year of inspection. Therefore, we concluded that decals dated August 2005 or later indicated current inspection status as of our visit. Chester County, an exception, is discussed later.

Seven percent of the pumps we sampled bore no inspection decals at all.

Key results

- **We could not determine whether 7 percent of the pumps had been inspected at all.** Seven percent of the pumps that should have had *state* inspections, and 3.5

⁷ We looked at all gas pumps at the stations we visited, but we looked only at diesel pumps when our auditors could do so without risk to their safety. For example, we deemed it too unsafe for auditors to enter the diesel fuel bays at truck plazas.

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percent of the pumps that should have had *county* or *city* inspections, had *no* evidence of *any* inspections. Specifically, auditors found no inspection decals at all—either on the pump or elsewhere within the station. Possible reasons: Pumps were never inspected (more plausible with newly installed pumps), were awaiting re-inspection, or had decals removed (either intentionally or otherwise, such as during cleaning with a power washer).⁸

Almost 2 pumps out of every 10 were inspected less frequently than once each year.

- **The state inspected almost two out of every ten pumps late.** The state inspectors were late in inspecting almost 2 pumps out of every 10; the county or city inspectors were late in inspecting about 1 out of every 10. Conversely, the state did inspect 8 of 10 pumps on time, and the counties or cities did inspect 9 of 10 pumps on time. Accordingly, the Department of Agriculture was within reach of ensuring that all gas pumps statewide were inspected each year, but it still did not meet the requirements of the law and therefore could not assure drivers that they received the amount of gas for which they paid.
- **For the late inspections, the state’s tardiness ranged from 1 month to 4 years.** The table that follows breaks down the number of non-current state inspection decals:

Percent of all 2,220 outdated <u>state</u> decals in our sample	How outdated were the inspections in our sample?
54 %	1 – 6 months
24 %	7 – 12 months
17 %	1 – 2 years
4 %	2 – 3 years
1 %	3 – 4 years

⁸ Section 4142(a)(4) of the Consolidated Weights and Measures Act, 3 Pa.C.S. § 4142(a)(4), prohibits the removal of any tag, seal, or mark from devices that have been inspected.

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Problems were especially bad in Chester County because the state was already too far behind in other counties to start taking over yet another one.

Newly installed pumps were also not inspected as quickly as required. A station just a few miles from the Department of Agriculture headquarters in Dauphin County went for almost all of 2006 with no inspection decals on its new pumps.

- **The state did not inspect pumps in Chester County for at least 10 months after that county gave up its local program.** Almost all the inspection decals with undeterminable dates were found in Chester County, which stopped performing its own inspections in September 2005. In August 2006—nearly a year later—we found no state decals at the stations we visited. Instead, the pumps still bore the Chester County decals from 2005. Although the county decals did not include the month, county officials told us they had conducted all the 2005 inspections between March and September of that year. Therefore, in order to keep the Chester County inspections current, the state would have had to be almost finished with all its new 2006 inspections by the time we visited. As just noted, however, we found no 2006 state decals at any station.

- **The state did not always inspect new pumps within 15 days as required.** When new pumps are installed, they must be inspected within 15 days.⁹ We found at least two examples to show that this requirement was not met:
 - a) Chester County – A manager at a Chester County station explained that eight new pumps had been installed in early July 2006 but had not been inspected as of our visit about four weeks later on August 8. We visited the station again on October 17, 2006, and found that the pumps had still not been inspected. The station manager said a state inspector informed him that the state was running about 8 months behind.

 - b) Dauphin County – At a Dauphin County location, we learned that 8 new pumps were installed in January 2006 but had not been inspected as of our visit on August 7, 2006. Our visits on October 17 and again on December 22 revealed that the pumps were *still* not inspected, meaning that all 8 pumps operated for almost an entire year without being checked for accuracy.

⁹ 70 Pa. Code § 6.6(c)(1).

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Discussion of causes

We identified three primary causes for the Department of Agriculture's failure to ensure that gas pumps statewide were inspected annually for accuracy as the law requires. Before we begin our discussion, however, we note that the Department of Agriculture already recognizes the problems. Throughout this audit, Department officials responded to our questions and requests for information quickly and fully, providing direct answers that did not attempt to minimize or camouflage our ultimate findings. Overall, it is our judgment that the Department would like to find solutions as much as we would like to see solutions found, but it cannot take action on its own without help from the Governor and the General Assembly.

- **Cause #1. The state's inspection workload increased from a low of 4 counties to a high of 44 counties, but the number of permanent inspectors stayed the same.**

Backlogs began to build when counties dropped their own inspection programs and shifted the duties to the state. The state is now responsible for 44 counties but has no more permanent inspectors than when it was responsible for only 4 counties.

Department of Agriculture officials explained that, prior to passage of the 1996 Consolidated Weights and Measures Act, the state performed gas pump inspections only in 4 counties that were unable to perform their own inspections. With the 1996 law, when cities and counties were permitted to give up their programs and shift the job to the state, many of them did so. The reason cited most frequently, according to Department officials, was that counties and cities found that running their own programs was resource-intensive and therefore difficult to maintain.

A total of 40 counties ended their inspection programs since 1996, and they were required to give the Department of Agriculture only 30 days' notice. Thus, the Department's workload has grown from 4 counties to 44, an increase of 11 times! At the same time, the Department had only 17 permanent full-time inspectors during our audit period, the same number it had in 1997.

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State inspectors have many other weights and measurement devices to inspect in addition to gas pumps. About one-third of each inspector's time is spent on gas pumps, which means that the 24 inspectors would be more like 8 inspectors if their duties were restricted to gas pumps.

It is unrealistic for the state to expect the equivalent of 8 inspectors to inspect, re-inspect, and document inspection results for more than 30,000 gas pumps at thousands of stations throughout Pennsylvania.

In 2005, the Department of Agriculture added 7 full-time but temporary inspectors to its Weights and Measures Division staff to help with fuel pump inspections. Each temporary inspector serves for a period of between 8 and 9 months, according to Department officials.

The sheer scope of an inspector's responsibility plays a significant role in contributing to the backlog of gas pump inspections. The 24 weights and measures inspectors (17 permanent and 7 temporary) are also responsible for inspecting numerous other devices, such as scales and UPC scanners in grocery stores, small- to large-capacity scales and scanners used by other retailers, timing devices at car washes or in washers and dryers at laundromats, timers in parking meters, and anything else routinely used to weigh or measure something for sale. Therefore, the fact that 23 counties inspect their own gas pumps brings little relief to state inspectors when they still might have to travel to all the counties to inspect other types of weights and measuring devices. (The memorandums of understanding spell out the division of state duties versus county or city duties. The only exception is Philadelphia County, which does not delegate any of its duties to the state.)

Looked at another way, based on the Department of Agriculture's estimate that only about one-third of each inspector's time is spent inspecting gas pumps, 24 inspectors with *other* duties are equivalent to 8 inspectors with duties restricted solely to gas pumps. It is unrealistic to expect 8 full-time equivalents to inspect, re-inspect, and document inspection results for more than 30,000 pumps¹⁰ at thousands of stations throughout Pennsylvania.

On the next page, the Department's position description for a weights and measures inspector lists the full scope of duties and illustrates how gas pump inspections fit in.

¹⁰ In its 2005 annual report (published in March 2006), the Department of Agriculture reported that it inspected 30,026 fuel dispensers in calendar year 2005.

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Position Description

Weights and Measures Inspector

Weights and Measures Division, Pennsylvania Department of Agriculture

Work hours: 37.5 hours weekly, M-F

Reports to: Weights and Measures Supervisor

Salary range for 17 permanent inspectors: \$ 29,770 to \$ 44,871 annually

Salary for 7 temporary inspectors: \$ 15.22 hourly

Unfilled positions as of August 2006: 2 permanent, 2 temporary

Position Purpose: Providing equity in the marketplace for consumers and retailers.

Description of Duties:

- ✓ Conducts package checking inspections.
- ✓ Conducts price verification inspections.
- ✓ Conducts examination of retail motor fuel dispensers.
- ✓ Inspects and tests mechanical and electronic scales up to 400,000 pounds.
- ✓ Enforce[s] laws and regulations as set forth in [the Consolidated and Weights and Measures Act.]
- ✓ Conducts examination of commercially used weighing, measuring and counting devices in accordance with the guidance of National Institute of Standards and Technology (NIST) and the National Conference on Weights and Measures (NCWM) handbooks.
- ✓ Follows guidance in the Bureau of Ride & Measurement Standards Policy & Procedures Manual and other state and agency related documents.
- ✓ Insures that new devices found in the marketplace are type approved and appropriate for the intended use.
- ✓ Conducts inspections in support of special projects, surveys, audits and consumer complaints.
- ✓ Recommends schedules and prepares weekly and monthly reports for activities performed in [the inspector's] multi-county area.
- ✓ Operates and maintains a laptop computer and database for assigned areas of responsibility.
- ✓ Requests warning and prosecutions based on investigations of violations.
- ✓ Prepares citations, documentation and evidence for presentation to magistrates on all summary cases.
- ✓ Performs all duties in a courteous and professional manner when dealing with the public.
- ✓ Maintain[s] assigned equipment in good working order.
- ✓ Schedules annual equipment certification at the state metrology lab at least eleven months in advance of the expiration date.
- ✓ Be constantly aware of the hazardous products sometimes used during tests.
- ✓ Be aware of safety precautions when handling 25, 50, 500, or 1000 pound weights.
- ✓ May, on occasion, be required to stay overnight or work extended hours depending on job locations.
- ✓ Performs all other duties assigned.

Prepared from job description provided by the Pennsylvania Department of Agriculture, August 2006

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Officials from the Department of Agriculture predict that, eventually, nearly every county will turn its entire weights and measures program over to the state. If that prediction holds true, an already burdened and backlogged state program will inherit even more locations and duties and get still further behind. The problem is made still worse by the fact that, as mentioned earlier, local programs are required (via memorandums of understanding between the Department and the local programs) to give the Department only 30 days' notice that they are ending their own inspections.

Surprisingly, Department officials said they do not find this short 30-day time frame to be unreasonable. In fact, the Department indicated it accepted the responsibility for the City of New Castle's inspections with no advance notice whatsoever. While this issue may not be a problem for the state when it takes over inspections for a city that has only a dozen or so gas stations, little or no notice sets an unmanageable precedent for the already backlogged inspectors.

▪ **Cause #2. The state's equipment is inadequate.**

The Department of Agriculture uses precisely measured 5-gallon hand-carried containers to test whether pumps dispense that same amount of fuel. As if they were customers buying gas, inspectors stand at each gas pump and fill the test container until the pump reads five gallons; if the gas reaches the five-gallon mark of the measured container (plus or minus a tolerance of only about a tablespoon), the pump is judged to be accurate. The inspector performs various other checks (hose conditions, for example) and either passes or rejects the pump. The inspector must then walk to the station's storage tank that supplies the pumps and empty the just-tested gas into the appropriate tank. Even though each inspector carries two 5-gallon containers, the process is neither efficient nor

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without risk because he or she keeps walking back and forth to empty the containers into the appropriate storage tank before the next pump can be tested.

It is far more efficient to use test trailers rather than the 5-gallon hand-carried containers, but the Department of Agriculture had only four trailers to use during all of 2006, one for each of the Weights and Measures Division's four regions. Three test trailers have three 109-gallon storage tanks, and the other trailer has three 105-gallon tanks. Inspectors could therefore test and accumulate about 20 five-gallon samples of the same type of gas, or a cumulative total of approximately 65 five-gallon samples of up to three different fuels, before emptying the tested samples into the appropriate storage tanks.

Department officials noted that the productivity of each inspector increases substantially when test trailers are used, and we acknowledge the accompanying logic. In a performance-measuring example, the officials said the Department had conducted 3,000 more inspections in 2005 after a fourth trailer was added to its inventory, even though the division at the time was short one inspector.

During our field work, the Department of Agriculture was negotiating with Chester County to purchase its one test trailer that the county no longer needed after shifting its program to the state. On December 22, 2006, when we met with Department officials to discuss this audit report one last time before releasing it, the officials said the Chester County trailer had been purchased and should be in use by the start of 2007. They also said they were purchasing a smaller test truck from Bucks County and that it should be in use by February 1 of the new year.

Even with the new equipment, however, Department officials project that it would take 10 more trailers—at a Department-estimated cost of \$30,000 each—if the state inspected gas pumps in all of Pennsylvania's 67 counties.

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- **Cause #3. The Department of Agriculture’s computerized database was too inadequate for management to use effectively as a potential problem-solver.**

An inadequate database provides little help in getting inspections on track.

The Department of Agriculture has three databases in which the Weights and Measures Division stores inspection information, but the information that can be entered into each database is limited. For various technical reasons, the three databases cannot simply be merged or consolidated. Department officials told us they were working with their information technology staff to address the inadequacies.

During our audit period, the inadequacies of the computerized system meant that the Department could not produce the type of inspection data that management could have analyzed to enhance the inspection program overall. Although it is impossible to know how much any such analyses might have improved the Department’s performance in meeting its inspection mandate, even small improvements would have aided in collecting, automating, and centralizing data.

An example of a very obvious data inadequacy became clear to us when we learned that the Department of Agriculture did not know exactly how many gas stations existed across the state at any given point in time. This inadequacy is illustrated by the number of “unknown[s]” in the tables on pages 4 and 5 of this report. Those “unknowns” mean that the Department did not have this information.

As the ultimate overseer of all the state’s gas pumps, the Department should know at the very least where the retailers are located. But when we asked the Department of Agriculture for the total number of retail providers in Pennsylvania as of August 1, 2006, separated by county, the Department explained why it could not provide a complete list:

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The [list we have provided] shows the number of establishments in each county and the number of meters at each establishment. These lists are established by previous inspections, with some records being established from a listing from the county [officials] after the county opts out of the program. It should be noted that the data provided is entered by multiple individuals (regional office staff and weights and measures supervisors) and as such has room for error, with some of the old records requiring deletions, being out of business.¹¹

Trying to get at the information in another way, we asked the Department what percentage of *total* fuel dispensers was represented by the number 30,026, which is the number of dispensers inspected only by state inspectors in 2005, not county inspectors. However, the Department said this:

It is difficult to precisely determine the percentage of all fuel dispensers because some counties report their inspections and others do not. As well, it is difficult to obtain a specific number of devices under our [the state's] control, with county programs shutting down their programs and the phase in period for our Inspectors to work the additional inspections into their inspection cycles. Finally, it should be noted that the total in the state will change daily with new stations opening and others closing on a constant basis.¹²

¹¹ August 11, 2006. Department of Agriculture's written response to questions submitted by the Department of the Auditor General.

¹² Ibid.

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The Consolidated Weights and Measures Act requires counties to provide the Department of Agriculture with reports annually, or at any time as the Department may require.¹³ Therefore, the Department should be able to get all the information it needs to have a single, comprehensive database.

The effect of not having such a database goes beyond being able to locate all gas pumps for annual inspections. A more comprehensive database could help the Department monitor follow-ups that are required when pumps fail the annual inspections, and could also store and sort inspection details useful for ongoing analyses.

Because we previously found serious database problems in an unrelated Department of Agriculture program (restaurant inspections) about a year ago, and because those problems are still being resolved, we are left to wonder if the Department's information technology inadequacies are systemic rather than isolated within a specific program.¹⁴ Therefore, we continue the discussion of database inadequacies in Finding Two.

Before we leave this finding, we must note that the Department of Agriculture, as forthcoming as it has been in cooperating with and responding to our auditors, would raise its public service to far greater levels if it actually involved the public in its gas pump inspection program. Other states have done so, as we point out in Appendix A, Questions and Answers. Indeed, at minimal cost, the Department of Agriculture can seek public input and gain consumer confidence by actively asking gas customers and retailers to monitor transactions at the pump closely and report any problems to the Department immediately via a 24/7 toll-free telephone number. In that way, the Department can wisely redirect some of its thinly

¹³ 3 Pa.C.S. § 4125(b)

¹⁴ *Performance Audit of Inspection and Licensing of Restaurants and Other Eateries of the Pennsylvania Department of Agriculture*, Pennsylvania Department of the Auditor General, November 2005.

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stretched resources to problem spots while still trying to meet its routine inspection mandates.

Discussion of newly announced improvements

Within two days of receiving the draft of this report, including the 10 accompanying recommendations, the Department of Agriculture and the Governor's office announced they would improve the gas pump inspection program. Many of the announced improvements—for example, obtaining more funding and resources (for staff and equipment), addressing the information technology shortcomings, implementing a toll-free telephone number for complaints, developing consumer and retail education and outreach—correspond directly to recommendations in this report.

It is unprecedented for the governor and an audited entity to announce such radical changes to an audited program just days after we provide responsible officials with a draft audit report. Pennsylvania taxpayers should view the announcement as an acknowledgement that their state government can respond quickly when significant problems are identified.

The quick response also shows that auditors and auditees do not have to have contentious relationships as is sometimes the case, and that the two—in this case the Department of the Auditor General and the Department of Agriculture—can work together constructively as we have done throughout this audit. We will follow up with the Department of Agriculture at the appropriate time to evaluate the changes that it and the Governor have announced, and also to determine the status of the other recommendations we have made in this report.

Recommendations

1. The Department of Agriculture should evaluate and subsequently overhaul its gas pump inspection program so

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that customers of gas retailers and the retailers themselves are better served. Options might include the following, some of which require legislative action, and all of which require support from the Governor's office:

- (a) Give serious consideration to octane testing.
- (b) Evaluate how to redistribute resources and funding within the Department.
- (c) Evaluate how to obtain more funding and resources (for staff and equipment) from other sources if absolutely necessary.
- (d) Evaluate how to assess inspection or pump registration fees, but only after determining how to assess such fees without impacting customers or small retailers.
- (e) Consider asking the Legislative Budget and Finance Committee to take a fresh look at the Consolidated Weights and Measures Act, which clearly has not worked as successfully as intended.
- (f) Consider how to pursue a program of fewer inspections for retailers with a history of accuracy, safety, and compliance.
- (g) Consider how to pursue an option whereby inspections, as well as the imposition of fines, can be focused on retailers with a pattern of noncompliance and whose pumps have been deemed on more than one occasion to be inaccurate or unsafe.

Target date to consider all the above: Immediate.

2. The Department of Agriculture, with support from the Governor's office, should pursue capital funds to purchase more test trailers so its inspectors can conduct more inspections with far greater efficiency and less risk. *Target date: Immediate.*
3. The Department of Agriculture should modify its agreements with counties and cities to require those local programs to give more than 30 days notice before turning the program over to the state. The Department would then have more time to plan

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for these additional responsibilities. *Target date: December 31, 2007.*

4. The Department of Agriculture should give the highest priority not only to resolving its centralized database inadequacies but also to recognizing that its information technology problems may be so systemic and serious as to require far greater management attention and intervention. We have worded this recommendation strongly because, a year ago, we identified this same centralized database issue—which is still being resolved—in another Department of Agriculture program (restaurant inspections). *Target date: Immediate.*

5. The Department of Agriculture should seek coverage through the media and also enhance its Web site to explain how and why gas customers and retailers should closely monitor transactions at the pumps. In addition, the Department should ensure that its inspection decals contain a toll-free telephone number that accepts consumer calls or messages 24/7 for the reporting of safety and accuracy issues (e.g., damaged pump hoses, inaccurate price calculations, or outdated inspection decals), which the Department should then investigate/inspect immediately. *Target date: Begin planning a communications and public relations strategy immediately; implement this recommendation in full by July 1, 2007.*

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Finding Two: For gas pumps that failed inspection, the Department of Agriculture could not show exactly how it followed up to see if the pumps were fixed correctly before the public started re-using them.

Resulting conclusion:	Drivers could have been shortchanged at gas pumps even <i>after</i> inspections were performed if rejected pumps were put back in service before they were re-inspected. Again, the Department of Agriculture must find ways to overhaul its gas pump inspection program to make it work better for customers of gas retailers and for the retailers themselves.
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When inspectors find fuel pumps that dispense too little or too much fuel, or that are unsafe, the pumps must be re-inspected within 15 days of their repair to ensure that the repairs meet certain standards and are working accurately.¹⁵

Additionally, “failed” pumps should be removed from use until re-inspections take place, but retailers who have their pumps repaired—and who notify the Department promptly—may put them back into service for 15 days while awaiting re-inspection. If the inspectors do not return within the 15 days, the pumps must be removed from use until the re-inspection is completed.¹⁶ However, the Department of Agriculture said the *owner* is responsible for removing the pump from use until the inspector returns. In short, the Department relies on the honor system.

¹⁵ 70 Pa. Code § 6.6(c)(1).

¹⁶ 70 Pa. Code § 6.6(d).

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Discussion of results

What we looked for:

1. At the state level – We tried to determine the number of pumps that were rejected, the dates of rejection, the reasons for rejection, and the dates of re-inspection.
2. At the county and city level – We attempted to determine how the Department of Agriculture monitored the county and city programs.

When we measured:

We asked the Department of Agriculture to provide us with a report for the period of August 1, 2005, to August 1, 2006, showing the dates that any pumps were rejected and the reasons, as well as the dates that rejected pumps were repaired and re-inspected.

How we measured:

We intended to calculate how much time elapsed between the dates that pumps were rejected, repaired, and re-inspected. In that way, we expected to determine if the Department of Agriculture met its mandate to re-inspect rejected pumps within 15 days after receiving notification that they had been repaired. We also intended to calculate how many pumps had been rejected, analyze the reasons for rejection, and then compare and report the results from county to county.

As part of our process, we interviewed local officials, Department of Agriculture officials, and others with explicit knowledge of, or experience within, the local or state programs.

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Key results

- **The Department of Agriculture could offer a description of the follow-up process that its inspectors were supposed to follow:**

Fuel providers found to be out of compliance with the laws and regulations have their devices rejected by the inspector conducting the inspection. When the device is minimally out of tolerance, they are allowed to keep the device in service and given a short period of time to have it serviced prior to re-inspection. If the device is found to be a safety hazard or significantly out of tolerance, the device is taken out of service (stop-use) until repairs are completed.¹⁷

When gas pumps failed inspections because they were inaccurate, there was no proof to show that the state's inspectors performed re-inspections within 15 days from the date the pumps were fixed.

- **The Department could not, however, provide reports showing how it knew whether or not inspectors actually monitored the follow-up process.** When we asked Department officials how they knew with certainty, for example, whether retailers removed pumps from service within 15 days of repair, the Department was unable to provide supporting data.
- **The Department of Agriculture could tell us it rejected 4,402 fuel dispensers in 2005 but could not tell us when they were re-inspected or why they had been rejected.** Although the Department could tell us that its inspectors rejected 4,402 fuel dispensers in calendar year 2005,¹⁸ it

¹⁷ August 11, 2006. Department of Agriculture's written response to questions submitted by the Department of the Auditor General.

¹⁸ March 2006, *Annual Report 2005*, Pennsylvania Department of Agriculture, Bureau of Ride and Measurement Standards, Division of Weights and Measures.

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could not provide us with a report showing when the dispensers might have been re-inspected after being corrected, or even why they were rejected in the first place. Regarding dates, the officials said that the lists they maintained accounted only for the timeliness of initial inspections, not re-inspections. Regarding reasons for rejection, the officials also said their lists did not include such reasons or even an aggregate number of those that were rejected for inaccurate dispensing.¹⁹ Specifically, the Department of Agriculture said this:

There is no list showing why a dispenser was rejected. A small percentage is for accuracy. Some of the other reasons for rejection are, but not limited to, [lighted display] burned out, dry-rotted hose, a handle that leaks, bad anti-drain valve, liquid underneath the dispenser, missing security seals, and predominance of errors on the side of the device owner.²⁰

Interviews with gas station personnel suggested that the Department's actual performance did not always conform to the 15-day re-inspection requirement: Two examples follow:

1. Bedford County – According to a manager at a Pennsylvania Turnpike service plaza in Bedford County, a state inspector noted in June 2006 that a diesel pump was broken. The manager told us the pump was repaired soon thereafter and that he had called inspectors to request a re-inspection. However, as of our visit on September 13, 2006, which was at least 6 weeks after the manager said he called the state, the inspectors had still not returned and the pump was

¹⁹ August 11, 2006. Department of Agriculture's written response to questions submitted by the Department of the Auditor General.

²⁰ Ibid.

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still in service. The Department of Agriculture told us it had no record that it was notified by either the station or a registered repairer.

2. Cambria County - An employee at a truck stop in Cambria County said a diesel pump was rejected during an annual inspection in June 2006. When we visited the station on August 7, 2006, the pump was in service but had no decal. The station said the pump had been repaired on July 18, 2006. Therefore, if the station notified the Department on that date, the Department of Agriculture should have re-inspected the pump and provided a decal before we visited on August 7.

- **The Department of Agriculture did not impose fines for pumps that were rejected.** Although the Department has the authority to impose fines and penalties when retailers do not comply with the Consolidated Weights and Measures Act, such fines and penalties were not imposed. Specifically, the Department responded in two ways to our question about fines, referring first to “previous years” and then to “the last year”:

Imposed and ordered penalties are implemented by the inspector, with any monetary penalties being pursued with the approval [of] the supervisory and managerial staff. Due to the high compliance of the device owners, monetary penalties have been significantly reduced in the previous years, with those imposed being collected as deemed by the judicial system.²¹

No fines were issued within the last year—compliance with [inspectors’] directions,

²¹ August 11, 2006. Department of Agriculture’s written response to questions submitted by the Department of the Auditor General.

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along with no evidence of tampering or deliberate misconduct, did not warrant this action.²²

- **The Department of Agriculture did not ensure that counties with their own programs were current with inspections.** As stated previously, the Department of Agriculture is required by law to ensure that all retail gas pumps are inspected and tested at least once a year to ascertain if they are correct. The Department is not freed from this duty when counties and cities have (or have had) their own inspection programs. In those cases, the Department might have tried at least to sample some of the pumps on its own. When we asked Department officials if they had done so, they said that the professionalism displayed at the county level made sampling unnecessary. However, they added that they would conduct inspections of county programs in response to complaints.

- **The Department of Agriculture did not maintain much data from counties and cities that had their own inspection programs, thereby neglecting a real opportunity for supervising those programs and protecting consumers.**

In the absence of testing a sample of pumps in the counties/cities with their own inspection programs, the Department of Agriculture should have proactively used the data it collected from these programs. The Department would then have known enough about the local programs to look for indicators of potential significant deficiencies that warranted further investigation.

The Department did (and still does) have memorandums of understanding with each of the local programs. The

²² September 22, 2006. Department of Agriculture's written response to questions submitted by the Department of the Auditor General.

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memorandums of understanding require (just as the law mandates) the local programs to submit written reports annually or at other times that the Department might require, and also require the locals to maintain separate inspection records and supporting documents for three years. But the Department missed a significant opportunity to perform at a higher standard when it simply entered the local program data into an annual statistical report and sent it without further analysis to the General Assembly.²³ Specifically, if the Department had better maintained and analyzed the data, it could have spotted potential deficiencies and/or trends based on such indicators as (a) no reports submitted, (b) few or zero rejections of fuel dispensers during inspections, and/or (c) complaints filed by consumers.

- **Department of Agriculture officials said they had no enforcement options if counties did not comply with terms of the memorandums of understanding.** For example, Philadelphia County had not submitted a report to the Department since January 2005 and, according to the Department, still does not communicate with Department officials. Indeed, when we tried to interview officials from all the local programs, Philadelphia was one of only four counties (Adams, Allegheny, and Huntingdon were the others) that did not return our calls or that we otherwise could not reach. The fact that Philadelphia County has not submitted a report since January 2005 means that the Department of Agriculture's 2005 annual report contained only one month of inspection data for that county, and that the Department's upcoming 2006 report to the General Assembly will not include Philadelphia County data at all. Stated another way, the only officials who know how well or how poorly gas station inspections are being carried out

²³ On or before March 1 of each year, the Department of Agriculture is required to submit a report to the General Assembly to describe the activities of state, county, and city weights and measures inspectors. 3 Pa.C.S. § 4110(d).

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in Philadelphia are not talking, and the Department of Agriculture and the General Assembly are not getting the information they need to make assessments on their own.

- **County officials said they had a good rapport with the Department of Agriculture.** Department officials said they are careful about criticizing the local programs because the counties or cities might simply opt out of their programs with only 30 days' notice, thereby shifting even more duties to the Department. When we interviewed local officials,²⁴ they confirmed they had a good rapport with the Department. This continued good rapport is problematic only if it extends to the point where the Department ignores its duties as a regulator. We did not see any evidence of this behavior (other than possibly the Department's absence of data analysis and/or the imposition of fines as discussed), but we also did not audit that issue because our objective was focused on whether or not annual inspections were completed.

- **County officials were consistent in their description of inspection procedures they followed, but there is no consensus about whether local programs or the state program does the best job overall.**

Local officials we interviewed all described the same procedures used to inspect pumps on a "pass" and "reject" basis. Furthermore, no local officials reported seeing any kind of fraudulent behavior on the part of retailers. According to local and state officials, one example of such behavior might be tampering with the internal meters that

²⁴ Throughout this report, we have typically used the familiar term "local officials" when talking about the people responsible for local programs. These local officials are more technically called "sealers." During our interviews, we learned that most of the local programs—regardless of size or number of pumps—were each operated by a "chief sealer" and in some cases a "deputy sealer." Among the counties who talked with us, only Bucks and Westmoreland counties said they had additional inspectors on their staffs.

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regulate the gas flow.²⁵ Another example of behavior might be purposely running a station's fuel pipelines under asphalt in sunny areas to increase the fuel's temperature, since fluctuations in gasoline temperatures cause density changes that in some cases might cause measurement inaccuracies.

Regarding inconsistencies in inspection practices, a significant difference is the charging of fees. Specifically, the Department of Agriculture does not assess fees either for inspection or pump registration. Some county or city programs, on the other hand, do assess pump registration fees. According to the Department, pump registration fees are charged by the counties of Adams, Blair, Bucks, Cambria, Centre, Cumberland, Northampton, and the city of Scranton.²⁶ Chester County also charged pump registration fees before opting out of its weights and measures program at the end of 2005. The law does not authorize the Department of Agriculture to charge *any* fees, whether for inspections or pump registration.²⁷ Department officials said that local officials, however, have assessed their fees based on the rationale that the law does not specifically prohibit the local programs from doing so.

Charging for inspections or for pump registration might be keys to survival for local programs when budgets are tight. The state might wish to seek legislative relief to assess such charges if doing so will allow the state to add the resources it needs.

As far as who can do the best job with inspecting gas pumps and carrying out an entire weights and measures program overall, that is an open question. We learned during our interviews that some counties and cities believe

²⁵ Inspectors and registered repairers can use special pliers to leave a certain imprint when a meter is "sealed" after inspection and/or repair. If generic pliers are used instead, an inspected meter could be tampered with so that inspectors could not tell. We did not audit whether all inspectors and registered repairers use the special pliers, but the Department told us it purchases these pliers for inspectors.

²⁶ September 22, 2006. Response from the Department of Agriculture.

²⁷ 3 Pa.C.S. § 4114.

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it is they who can do best because the state lacks both funds and manpower. Some local officials also believe that, because they are part of the local community, their influence with local retailers is greater, as is their interest in making local programs work. The Department of Agriculture itself noted that counties might be more timely with their own programs because their inspectors are familiar with the area and can better observe when new establishments open.²⁸ Again, those issues were not part of our audit, but they are worth future exploration.

Discussion of causes

We identified two primary causes for this finding about the Department of Agriculture's weaknesses related to follow-ups.

- **Cause #1. The Department of Agriculture's computerized database was too inadequate for management to use effectively as a monitoring tool.**

A discussion of the Department of Agriculture's inadequate centralized database has already been presented in Finding One of this report. We emphasize again, however, that the Department's top management must recognize, acknowledge, and resolve the apparent systemic and severe nature of this information technology problem. With staff resources so limited and responsibilities so extensive, the gas inspection program—and any other program that suffers from limited staff resources—simply cannot be administered properly without a single, comprehensive, and accurate database to guide and track monitoring activities.

- **Cause #2. The Department of Agriculture has not seemed to demonstrate an appropriate balance between**

²⁸ September 22, 2006. Response from the Department of Agriculture.

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**its role as an industry promoter and an industry
regulator.**

The mission of the Department of Agriculture as a whole is to promote agriculture and related industries.²⁹ “Related industries” in this case would include the petroleum industry and its subsets.

Missing in the Department’s mission statement is a reference to the customers who buy and use the products of agriculture and related industries. These customers keep the state’s industries in business and need their own protections, too.

In our discussions with Department of Agriculture officials, it was clear they understood the importance of consumer protection in the gas pump inspection program, both in pump accuracy and pump safety. To that end, Department officials said that representatives of the Weights and Measures Division try to attend events such as the state’s annual farm show and other public events, where the representatives provide information about the kinds of inspections their division performs.

Although that kind of public outreach is good and should be continued, more must be done. When we searched the Department of Agriculture’s online press releases and looked at its Web site, and when we conducted a further search of the Internet media stories, we saw little evidence that the Department had worked to increase its public visibility as gas prices peaked. As we noted earlier in this report, it was only on December 20, 2006, two days after we presented a draft of this report to the Department of Agriculture, that the Department and the Governor announced aggressive steps to protect consumers.

²⁹ The Department’s mission statement is published on its Web site, which is accessible at <http://www.agriculture.state.pa.us>.

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Asking for consumer feedback, arranging for and announcing more inspections, reaching out to the public through the media, and putting retailers on notice that monitoring would be heightened—all these actions would have shown a more equal balance between promoting the industry and protecting consumers.

Unfortunately, the lack of public outreach—particularly through the media when stories about gas prices appeared almost daily—raises the question about whether the Department is sensitive enough to consumers. This question is important because decreased consumer sensitivity often contributes to a program’s poor performance. We certainly did not find decreased consumer sensitivity during our visits and interviews with *any* of the Department of Agriculture officials who took part in this audit. However, it is possible that this program did not receive top priority when it “competed” with other Department of Agriculture programs for resources and dollars, whether for staff, public/media relations, consumer outreach, or information technology. Accordingly, that issue is worth further exploration within the next 12 to 24 months when we follow up on this audit.

Recommendations

6. The Department of Agriculture should ensure that all inspections and re-inspections are recorded accurately in its database. The Department should then use this information to ensure the timeliness of all inspections and re-inspections. *Target date: Begin planning immediately; implement this recommendation in full by June 30, 2007.*
7. The Department of Agriculture should ensure that—in a centralized database—it captures accurate and detailed information not only from its own inspections but also from county and city weights and measures programs. Included should be names and addresses of stations, number of

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pumps and meters, inspection and re-inspection dates, results of inspections, and the reasons for any rejections. *Target date: June 30, 2007.*

- 8.** The Department of Agriculture should modify its memorandums of understanding with counties and cities to standardize the reporting of inspection data so that local programs all report their data in the same format, thereby making it more efficient for the state to maintain the data. *Target date: July 1, 2007, concurrent with the start date of new memorandums of understanding. The current memorandums of understanding expire on June 30, 2007.*
- 9.** The Department of Agriculture should examine how it can better enforce its memorandums of understanding with local programs while, at the same time, maintaining good working relationships with those programs. *Target date: Immediate.*
- 10.** The Department of Agriculture should reach out to the public through the media to demonstrate a much more visible sensitivity to consumer protection issues. Increasing gas inspections, for example, as well as announcing the need for public involvement in monitoring transactions at gas pumps, represent only two of many options. This recommendation is closely related to recommendation #5. *Target date: Immediate.*

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**Appendix A Questions and answers about gas pump
inspections in Pennsylvania**

The following is information that we obtained during the course of our audit. Although the answers contain unaudited information because the questions did not fall directly within our very focused audit objectives, the information is helpful to understanding the gas pump inspection program in Pennsylvania and also serves to present questions that may be looked at in future audits.

1. Did Pennsylvania conduct octane testing at fuel dispensers?

No, Pennsylvania is one of four states that do not perform octane testing. Such testing is not required by the present law. While Weights and Measures inspectors are required to test and make sure calibrations are accurate on fuel pumps, they are not required to test the different levels of octane offered. Therefore, customers have no state government assurance they are getting the octane rating they pay for, an assurance that would be most significant to customers who choose gas with the highest octane.

According to the Department of Agriculture, implementing an octane testing program is expensive and at this time not included in the Department's budget. However, the Department did perform a pilot program to test octane ratings in 1999, at which time it found that less than 1 percent of the test samples did not meet octane levels. However, the Legislative Budget and Finance Committee reported the following in its November 1998 report that we discussed earlier in this audit report:

In 1990, [the Pennsylvania Association of Weights and Measures] conducted a random

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testing of octane levels being sold throughout the Commonwealth. The tests indicated a 17 percent failure rate, with 7 of the 40 tests failing by more than .5 or one-half octane number. . . . [S]uch evidence suggests that Pennsylvanians could be paying millions of dollars for octane they do not receive.

2. What was the average price of gas during the audit?

Octane Level	Price Range	Lowest County Average	Highest County Average
87	\$2.79- \$3.55	Berks \$2.89	Bucks \$3.16
89	\$2.89- \$3.99	Berks \$3.03	Bucks/ Delaware \$3.28
93	\$2.99- \$3.99	Susquehanna \$3.15	Bucks \$3.39

3. At the stations auditors visited, did the advertised prices match the prices on the pumps?

The Department of Agriculture explained that, although there is no requirement to advertise prices on outdoor signage, prices that are advertised must correspond with those on the pump. During our fieldwork, we looked at signage for both gasoline prices and diesel prices:

Gasoline prices

- Of the 2,110 stations that we visited, 2,108 sold gasoline (the others sold only diesel fuel).
- Our auditors surveyed price information at 2,076 of the 2,108 stations.
- Of the 2,076 surveyed stations:
 - ✓ There were 34 stations that did not advertise their prices on outdoor signage.
 - ✓ Of the 2,042 stations that used the outdoor signage, there were 39 stations whose advertised prices for gasoline did *not* match the prices on the pumps.

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Diesel fuel prices

- Of the 2,110 stations we visited, 768 sold diesel fuel.
- Our auditors surveyed price information at 731 of the 768 stations.
- Of the 731 surveyed stations:
 - ✓ There were 157 stations that did not advertise their prices on outdoor signage.
 - ✓ Of the 574 stations that used the outdoor signage, there were 6 stations whose advertised prices for diesel fuel did *not* match the prices on the pumps.

4. Did any retailers that auditors sampled offer full service at the pumps, or have stations gone totally with the self-serve option?

Self-serve stations are clearly in the majority. Auditors checked at 2,019 stations in the sample of 2,110 to see how many offered the full-serve option. There were just 295 stations that offered the full-serve option, and each of those stations had an average of 4 full-service pumps, or 1,169 full-service pumps in total.

5. How current were the inspections of the pumps at the Pennsylvania Turnpike Service Plazas?

Nine out of ten pumps at the turnpike plazas had current inspection decals.

Auditors checked all the gasoline pumps and the majority of the diesel pumps at 25 Pennsylvania Turnpike service plazas.³⁰ State inspectors were responsible for 16 of the

³⁰ On its Web site, www.paturmpike.com, the Pennsylvania Turnpike Commission states that there are 21 service plazas located along the Pennsylvania Turnpike. We surveyed all the service plazas during our

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stations, while county inspectors were responsible for inspecting pumps at the remaining 9 service plazas (i.e., Allegheny, Beaver, Bucks, Cumberland, Lancaster, and Westmoreland counties).

The chart that follows shows the results.

Gas pump inspections along the Pennsylvania Turnpike: Were they current?	State's responsibility	County's responsibility
	Service plazas we visited	16
Gas/diesel pumps we checked	235	106
Pumps <i>without</i> decals	34	5
Pumps <i>with</i> decals	214	134
Up to date	149	95
Outdated	24	0
Unknown	41	39

The “unknown” inspection stickers were found primarily in Bucks and Chester counties, where inspection decals contained only the year (2005) and not the month. Auditors therefore could not determine the exact inspection dates in these cases.

6. Did the Department of Agriculture receive complaints from consumers or issue fines to gas retailers?

Officials from the Department of Agriculture told us that its Division of Weights and Measures received 89 complaints specifically pertaining to fuel pumps between August 1, 2005, and August 1, 2006, but that it issued no fines

fieldwork. Our count of 25 service plazas rather than 21 has resulted from surveying some east-bound and west-bound service plazas individually.

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whatsoever. Examples of complaints included incorrect price computations, fuel quality, leaking hoses, flow meters that advanced too quickly, missing inspection decals, and pumps that failed to print receipts.

7. How did the Department of Agriculture learn of stations that opened, re-opened, or closed?

Department of Agriculture officials told us they learn of new establishments when inspectors drive by the new stations, or when sellers, installers, and repair people notify the Department.

This system is clearly not a good one. For example, we learned during our visits that a station in Snyder County re-opened under new ownership on August 14, 2006, but the inspection decals on the existing pumps were dated July 2004. The new owner said he had contacted the Department of Agriculture on August 18, 2006, to request that the pumps be inspected, and that an inspector had subsequently stopped by, left a business card, and said he would return. As of our first visit to this station on October 8, 2006, the inspector had not returned. On November 30, 2006, we visited the station again and found October 2006 decals on the pumps, meaning that an inspection had occurred after our previous visit. The Department of Agriculture later explained that its inspector had been off work from July to early October because of an injury (not job related), that the Department had no temporary inspectors for that area at that time, and that a Department supervisor was aware of the problem and had been in contact with the station owner.

8. What happens during an inspection?

We observed 6 inspections. Our observation of a typical inspection follows:

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- Upon entering the station, the inspector presented his badge to the manager, made the proper introductions, and asked the station manager to hold the receipts on the pumps until the pumps were inspected.
- Prior to dispensing any fuel, the inspector located the underground fuel tanks. The caps of the underground tanks were color-coded to indicate the type of fuel—in this case (there is no standard) they were red for high-grade octane, blue for medium-grade, white for low-grade, yellow for diesel fuel, and brown for kerosene.
- The inspector removed the tank caps and placed an orange safety cone by each cap to alert drivers.
- The inspector retrieved two containers (each was a 5-gallon hand test container) from his vehicle and began his first inspection. (Every 5-gallon hand test container is tested by a state lab once yearly.)
- The inspector performed the following procedures:
 - ✓ He examined the exterior of the pump to check that the display screen was working and the hose was not frayed or torn.
 - ✓ He opened the front panel of the pump to ensure that the seal (from a repairer or from a previous inspection) was intact.
 - ✓ He looked for leaks.
 - ✓ He tested the flow meters inside the pumps for accuracy by dispensing fuel into the 5-gallon containers. (In our observations, there were two meters in each pump, one to measure out the high-grade fuel and the other to measure out the low-grade fuel.)
 - ✓ Using the pump's display as a guide, the inspector pumped 5 gallons of the high-grade fuel into one of

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the test containers at a normal flow. Then he pumped 5 gallons of the low-grade fuel into the other test container at a normal flow. (A “normal” flow means that the fuel is actually dispensed at the fastest speed, which is likely the flow used by a typical consumer.)

- ✓ The inspector recorded the “tolerance” to show whether the fuel he just pumped was equal to, greater than, or less than the 5-gallon marking on the test container. A “0” tolerance means there is no discrepancy; a tolerance of plus or minus “6,” which is about a tablespoon (equal to about 1 cubic inch), is acceptable for routine inspections. If the deviation is greater than plus or minus 6, the pump fails inspection. (On re-inspection, for any deviation greater than plus or minus “3,” the pump fails re-inspection.)
- ✓ Next, the inspector emptied each hand test container into the appropriate underground tank, allowing the fuel to drain from each canister for at least 45 seconds.
- ✓ The inspector returned to the pump and conducted a 5-gallon test for the mid-grade fuel. Because the mid-grade fuel represented a “blend” of the high- and low-grade fuels, the inspector tested both meters simultaneously as the gas was dispensed.
- ✓ Because there was not a separate underground tank for the mid-grade blend of fuel, the inspector emptied the test container(s) into the low-grade underground storage tank so as not to lower the octane of the fuel in the high-grade storage tank.
- ✓ The inspector then moved to the next pump and repeated the process until all pumps were inspected.
- ✓ The inspector affixed dated inspection decals to each pump to indicate that the pumps had passed inspection.

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- ✓ The inspector then checked the receipts he had asked the station manager to hold. As a result, the inspector ensured that the price per gallon multiplied by the number of gallons was equal to the price that had been charged.
 - ✓ The inspector reviewed the results of the entire inspection with the station manager, asked the manager to sign the inspection results form, gave the manager a copy, kept a second copy for himself, and said he would subsequently mail the original form to his regional supervisor.

9. What are some reported examples of positive actions and initiatives taken by other states?

- **Michigan strives for high public visibility.**
Car and Driver magazine reported in November 2006 that the Michigan Department of Agriculture’s “pump inspectors are now working weekends to gain visibility in the public eye.”³¹

The magazine also said that (a) actual occurrences of customers being shortchanged are rare, but that drivers’ complaints—1,552 in 2005—parallel rising gas prices; (b) the state displays a toll-free hot line number on every pump and takes every complaint seriously; (c) one in every five complaints results in a violation; and (d) only five stations in 2005 were fined for having inaccurate pumps, but one station was fined \$55,000 and put on probation for shortchanging customers by as much as \$100,000 in a year.³²

³¹ November 2006. “The Pump Police,” by Dave Vanderwerp, *Car and Driver*. Accessed on December 27, 2006, at <http://www.caranddriver.com/features/11760/tech-stuff-the-pump-police.html>.

³² *Ibid.*

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Also of interest is action taken by Michigan’s governor in August 2005. When gas prices increased, she announced that the Department of Agriculture would hire additional inspectors and re-distribute staff internally to increase pump inspections. The governor urged citizens to contact the state—either by calling toll-free or by going online—if they thought they were being shortchanged at gas pumps.³³

- **Ohio is pursuing octane testing and fines.**
Legislation was introduced to “authorize county auditors to spot check gasoline or test every pump for the octane level and impurities that can damage vehicles,” according to an Ohio senator. Gas retailers would be warned or fined up to \$2,000 if the quality of their gas does not meet standards.³⁴
- **Arizona fielded complaints and imposed fines.**
The Arizona Department of Weights and Measures “is normally hard-pressed to stay on top of gas pumps that don’t measure up,” according to a department official quoted in the *Arizona Daily Star*.³⁵ The state inspected stations about once every three years, relying instead on more than 2,300 consumer complaints to call attention to problems. The state also imposed fines.
- **Arizona provides inspection results on its Web site.**
The Arizona Department of Weights and Measures offers helpful consumer information on its Web site at <http://azdwm.gov/Shoppers/gasstations.htm>. The

³³ August 30, 2005. “State [Michigan] to boost gas pump inspections,” *The Bellaire Review*, published by West Shore Publications, LLC. Accessed on July 25, 2006, and December 26, 2006, at http://www.westshorepub.com/bellairereview/default.php?action=getArticle&article_id=1922.

³⁴ December 8, 2006. “Leaders pushing for fuel quality bill,” by Candice Brooks Higgins, *The Middletown [Ohio] Journal*. Accessed on December 26, 2006, at <http://www.middletownjournal.com/hp/content/oh/story/news/local/2006/12/07/mj120806fueltest.html>.

³⁵ July 30, 2006. “Is pump giving you what you pay for?” by Enric Volante, *Arizona Daily Star*, April 23, 2006. Accessed on July 30, 2006, and December 26, 2006, at <http://www.azstarnet.com/sn/gaspump/125948>.

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department also provides an online inspection search at http://azdwm.gov/dwm/pv/Inspection_Search.asp. The online search feature is not very user-friendly, but it provides more information than that provided by the Pennsylvania Department of Agriculture.

- **Missouri enhanced inspection equipment.**
On each of its 17 inspection trucks, the Missouri Department of Agriculture installed test measure units consisting of three five-gallon test measures and three 80-gallon storage tanks. The Department said it tests all the state's 125,000 gas pumps twice a year for accuracy and "is one of the first states to be completely outfitted with the new equipment."³⁶

10. What is the budget and the staff complement for the Department of Agriculture overall, and for the Weights and Measures Division only?

	2004-05 Actual Cost	2005-06 Actual Cost	2006-07 Budgeted Cost	2006-07 additional resources
Budget				
Department overall *	\$200.3 million	\$294.6 million	\$307.3 million	+ \$1.3 million
Weights/ Measures division **	\$1.5 million	\$1.6 million	\$1.7 million	+ \$1.2 million
Staff complement				
Department overall ***	638	659	659	+ 22
Weights/ Measures division **	21	21	24	+ 18

* Data is from 2006-07 Governor's Executive Budget. Additional resources column includes \$127,454 to fund additional administrative/clerical support for the Weights and Measures Division. Actual cost totals for 2006-07 will not be available until July 2007.

** Funding and complement numbers are for field staff only, not administration or clerical support.

*** Additional resources column includes 4 clerical support positions for Weights and Measures.

Source: Pennsylvania Department of Agriculture, January 5, 2007

³⁶ February 2, 2004. "New Equipment Revolutionizes Gasoline Pump Inspections," *Agriculture News*, Missouri Department of Agriculture. Accessed on July 25, 2006, and December 26, 2006, at <http://www.mda.mo.gov/NewsAndEvents/Press/2004/PR02022004.htm>.

Commonwealth of Pennsylvania



DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
DENNIS C WOLFF

RECEIVED
AUDITOR GENERAL
2006 DEC 28 A 9 43
ADMINISTRATION

December 28, 2006

Honorable Jack Wagner
Auditor General
Department of the Auditor General
229 Finance Building
Harrisburg, PA 17120

Dear Auditor General Wagner:

The Department appreciates the review of retail gas pump compliance in Pennsylvania. The Performance Audit entitled 'Inspection of Retail Gas Pumps in Pennsylvania' highlights the challenges the Department has experienced since the Consolidated Weights & Measures Act was amended in 1996 (Act 155). This Act made numerous changes but most notably, it provided counties the option of operating a Weights & Measures program. The simple change of the word 'shall' to 'may' opened the flood gates for counties to eliminate their local program and transfer the responsibility to the state, making the Department of Agriculture responsible for the Weights & Measures program. Prior to Act 155, the Department had four counties to oversee, compared to 44 counties today. For the remaining counties, we maintain a Memorandum of Understanding, which outlines the responsibilities of the county and sets forth reporting responsibilities and is being revised for 2007.

The Consolidated Weights & Measures Act, in addition to transferring responsibility, also defines what is a weighing and measuring device. This includes such things as gas pumps, supermarket scanners, and parking meters. It is important to note that while the focus of this report is gas pumps, the Department's responsibilities are not limited to these devices. One example: In the summer of 2005, consumers complained about the accuracy of parking meters which, prior to 1996, would have been a local responsibility but was now the Department's problem to solve. This caused the Department to pull our inspectors off gas pump inspections for nearly six months, all as a result of Act 155.

Since 2003, the Department has provided supplemental resources and staff to parallel these actions. Management explored numerous proposals to address the proliferation of counties shutting down and transferring their program. To fix the problem, a comprehensive plan was developed and recently announced by Governor Rendell. The plan includes:

Auditor General Wagner
Page 2
December 28, 2006

- Add 22 full-time professional inspectors and staff to ensure all retail gas pumps and home heating fuel trucks are inspected annually. These new staff will supplement the existing workforce and provide continuity in inspections performed to meet the highest level of quality and cost efficiency.
- Equip all staff with laptop computer technology to accurately and thoroughly record inspection activity and compliance history.
- Provide additional specialized equipment for retail fuel inspection meters.
- Install a new, statewide, consolidated weights and measures information technology system to improve field inspections, schedule re-inspections and consumer reporting. This system will also provide the Department of Agriculture an efficient way to share inspection information with county governments. Business owners will also be notified electronically if devices are determined to be out of compliance. In addition, the system will be used to maintain the equipment inventory.
- Implement a statewide consumer complaint e-mail and toll-free phone number, which is expected to be in operation by mid January, to register complaints and allow rapid response to problems.
- Develop a consumer and retail education and outreach program.
- Provide all inspectors in-service training on the latest calibration techniques and safety procedures.

This comprehensive plan will help the Department aggressively deal with gas pump inspections as a result of Act 155.

Regarding the Department's role in checking octane rating, the General Assembly in 1999 appropriated funds to us to perform a Gasoline Quality Testing Pilot Program. The program was designed to determine if there was a problem with posted octane levels in gasoline and if they were labeled correctly. The pilot program randomly sampled 491 samples. This included 35 samples that were split and tested by both the North Carolina State laboratory and a contracted private laboratory. The results demonstrated that over 99.9918% of the samples show octane levels for all grades were correctly labeled. With this success rate, it was determined a mandatory program at that time was unnecessary.

The Department would like to thank the Auditor General's Office for conducting this audit, which will be very helpful in finalizing and refining the Department's comprehensive plan. We appreciate the shared interest in protecting Pennsylvania consumers.

The Department appreciates the dedication and help we received from the Auditor General's team in strengthening the Consolidated Weights & Measures program in Pennsylvania.

Sincerely,



Dennis C Wolff

Press release issued by the Pennsylvania Department of Agriculture and the Governor's office within two days of receiving our draft audit report

(reprinted from <http://www.agriculture.state.pa.us/agriculture/cwp/view.asp?A=390&Q=142691>)

GOVERNOR RENDELL SAYS PENNSYLVANIA TO BOOST MEASUREMENT DEVICE INSPECTIONS IN TIME FOR WINTER FUEL SEASON

Additional Inspectors Being Added, Complaint Hotline Planned

Dec. 20, 2006

HARRISBURG – Consumers and businesses will be better protected against inaccuracies in devices that weigh and dispense fuel as a result of significant improvements to the state's inspection processes announced today by Governor Edward G. Rendell.

Twenty-two full-time inspectors and staff will be added to the Department of Agriculture's weights and measures program, and each will be equipped with new laptop computer technology to improve the efficiency and accuracy of the inspection process.

“By adding professional inspectors and providing them with the tools they need, we can better confirm the accuracy of gas pumps, heating fuel dispensers and scales, helping to ensure fair commerce across the state,” Governor Rendell said. “The demands on the state's device inspection staff have greatly increased, and it is vital to the welfare of consumers and businesses that we meet those demands.”

State law was changed in 1996 to allow counties to discontinue their own inspection programs and hand those responsibilities to the state. Since the enactment of Act 155, 39 counties have been added to the state's inspection program. The state is now responsible for inspections in 44 of the 67 counties.

All scales, ranging from small-retail to large-capacity truck scales, truck-mounted fuel meters, liquid-petroleum gas meters, retail fuel pumps, and all consumer scanning systems must be inspected annually.

continued on next page

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To better serve Pennsylvania's consumers and businesses, Governor Rendell is taking historic actions that, for the first time, will allow the Department of Agriculture to satisfy the requirements of Act 155:

- Adding 22 full-time professional inspectors and staff to ensure all retail gas pumps and home heating fuel trucks are inspected annually. These new staff will supplement the existing workforce and provide continuity in inspections performed to meet the highest level of quality and cost efficiency.
- Equipping all staff with laptop computer technology to accurately and thoroughly record inspection activity and compliance history.
- Providing additional specialized equipment for retail fuel inspection meters.
- Installing a new, statewide, consolidated weights and measures information technology system to improve field inspections, schedule re-inspections and consumer reporting. This system will also provide the Department of Agriculture an efficient way to share inspection information with county governments. Business owners will also be notified electronically if devices are determined to be out of compliance. In addition, the system will be used to maintain the equipment inventory.
- Implement a statewide consumer complaint e-mail and toll-free phone number, which is expected to be in operation by mid January, to register complaints and allow rapid response to problems.
- Develop a consumer and retail education and outreach program.
- Provide all inspectors in-service training on the latest calibration techniques and safety procedures.

To help implement the changes specific to fuel device inspections, PennDOT and the Department of Revenue are providing motor fuels and motor license funds.

To register a complaint regarding fuel pumps or other weights and measures devices, visit www.agriculture.state.pa.us, and click on "Bureaus," then on "Ride and Measurement Standards."

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The Rendell Administration is committed to creating a first-rate public education system, protecting our most vulnerable citizens and continuing economic investment to support our communities and businesses. To find out more about Governor Rendell's initiatives and to sign up for his weekly newsletter, visit his Web site at: www.governor.state.pa.us.

**Inspection of Retail Gas
Pumps in Pennsylvania**

*Pennsylvania Department of the Auditor General
Jack Wagner, Auditor General
January 2007*

**Audit Report
Distribution List**

This report was distributed to the following officials upon its release:

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Standards

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