



# Special Report

February 2008

## Pennsylvania Department of the Auditor General Bureau of Special Performance Audits

### Follow-up: Pennsylvania's inspection and licensing of restaurants and other eateries

#### Summary

##### Corrective actions reported

The Department of Agriculture has told us its new computer system has enabled the following improvements:

- Databases for licensing information and inspection results are now linked so that Agriculture can prevent license renewals in certain cases.
- Inspectors have new computers and can better standardize their inspections.
- Inspection reports are available to the public on Agriculture's Web site.
- Agriculture is collecting more data from the city and county health departments who conduct their own inspections.

Other actions reported by Agriculture:

- Has 8 new permanent inspectors as of early 2008; also hired new director, assistant director, temporary inspectors; eliminated inspection backlog.
- Certified 54,300+ food handlers in the private and non-profit sectors.

#### Background

The Pennsylvania Department of Agriculture, referred to in this report as "Agriculture," has state oversight responsibilities for food businesses under the Public Eating and Drinking Places Law and the Food Act. Agriculture licenses and inspects restaurants and other eating and drinking places where no local governments have elected to do so.

On November 16, 2005, we released a special performance audit, *Inspection and Licensing of Restaurants and Other Eateries*, reporting Agriculture's performance for the period January 1, 2002, through December 31, 2004.

Our audit was conducted in accordance with generally accepted government auditing standards, which require us to follow up on significant findings and recommendations. Therefore, based on written responses and meetings with Agriculture at various times between December 2006 through mid-February 2008, we developed this publication to report actions that Agriculture said it has taken since the release of our audit. We performed limited steps to determine the reliability of the reported actions, but we have not audited those actions. Accordingly,

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Jack Wagner, Auditor General

[www.auditorgen.state.pa.us](http://www.auditorgen.state.pa.us)

they are subject to future audit at the Auditor General's discretion.

## **P**rior audit findings

In the November 2005 audit, we reported serious deficiencies related to the inspection process:

- Agriculture issued licenses prior to the performance of a required inspection. (Finding 1 of prior audit)
- Agriculture identified violations during inspections but did not follow up to ensure correction. (Finding 2)
- Agriculture did not provide useful information to the public about restaurants and other food service businesses with violations. (Finding 3)
- Agriculture did not establish procedures to monitor or coordinate the activities of all the local government entities that inspect eating places in the state. (Finding 4)
- Agriculture did not inspect restaurants in state-owned or state-leased office buildings that serve thousands of people daily. (Finding 5)

Our report included 20 recommendations to address the 5 findings.

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## **D**etails: Corrective actions reported since audit

At our request, Agriculture officials provided our audit team with status updates since the release of the audit. For example, on February 8, 2008, the officials met with us; earlier, on December 27, 2006, and November 27, 2007, Agriculture Secretary Dennis Wolff provided Auditor General Wagner with signed status reports attesting to Agriculture's efforts to implement changes

described in the audit report. Details follow:

- Agriculture said that, in November 2005, it began to use its new computerized system that integrated licensing and inspection results into one database. The system enables Agriculture to prevent an automatic license renewal for food facilities showing a "closure" on their records. Such "closures" occur when inspectors request facilities to shut down—even for a few hours—to correct violations.
- Agriculture said it eliminated the backlog of 4,000 "old" inspections delinquent as of December 31, 2004 (including the Capitol cafeteria, prior Finding 5), as we reported for our audit period. According to Agriculture, it has since reduced the number of delinquent "new" inspections. Specifically, overdue inspections totaled 1,662 in November 2007 and 922 in January 2008, when 69 inspections were overdue by more than 12 months.
- A \$1 million grant from the Centers for Disease Control enabled Agriculture to provide computers to local health departments so they could standardize inspections and include the data in Agriculture's new database. Of the 189 local health departments conducting their own inspections, 20 chose to participate in Agriculture's system as of December 31, 2007, with 26 more expected to participate in the coming months.
- Agriculture now posts inspection reports of 25,000+ eateries, plus food recalls and alerts, at [www.agriculture.state.pa.us](http://www.agriculture.state.pa.us).
- On November 8, 2007, we confirmed that Agriculture's Web site listed a toll-free number, 1-866-366-3723, for complaints or questions.

- Agriculture said it hired a new director, assistant director, and eight permanent food inspectors as of early 2008.
- Agriculture said that it continues to train and certify food handlers— 54,000 as of January 31, 2008.
- Since 2006, Agriculture said that it has issued 1,671 warning letters to out-of-compliance food establishments under its jurisdiction.
- In July 2007, the Pennsylvania House of Representatives passed House Bill 1422 to improve Agriculture’s ability to enforce food safety regulations at retail food-service establishments and standardize the inspection and reporting process across the state. The bill is under review by the Senate.

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## **C**onclusions

Based on our review of Secretary Wolff’s signed representations to us and our meetings with senior officials, Agriculture appears to be taking our recommendations and our follow-up work seriously. Agriculture has made positive changes, thereby improving the overall inspection and licensure of food-service establishments in Pennsylvania. Accordingly, we do not believe it is necessary to conduct an entirely new audit at this time. However, because more improvements are necessary and certain issues are still unresolved, we will monitor Agriculture’s performance by continuing to seek progress reports.

Overall, our follow-up efforts have resulted in three conclusions:

### **Conclusion 1: Agriculture must still do more to improve its restaurant inspection**

### **program so the public is assured that Pennsylvania’s eateries are safe and clean.**

Agriculture has told us it will continue to make progress. Following through aggressively with this commitment will help to assure the public that eating places are safe and clean.

The public has good reason to expect improved performance from our government. According to estimates from the federal government’s Centers for Disease Control and Prevention in Atlanta, Georgia, foodborne illnesses cause 76 million illnesses, 300,000 hospitalizations, and 5,000 deaths in the United States each year.<sup>1</sup> Additionally, media attention to foodborne illness and to the possibility of bio-terrorism has intensified the public’s interest in the safety of our food supply.

### **Conclusion 2: Agriculture must still implement some of our recommendations and must communicate more and better with the public about these issues.**

- **Licenses are still awarded to non-compliant food businesses.** Agriculture reported to us that it continues to renew licenses for restaurants whose overall status was deemed “non-compliant” during their last inspection.
- **Re-inspections are still not timely.** Agriculture said that imminent dangers to the public are addressed immediately because inspectors either remain at facilities or close them temporarily until corrections are made. In cases of uncorrected high-risk violations, Agriculture’s own policy requires a re-

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<sup>1</sup> Centers for Disease Control and Prevention, <http://www.cdc.gov/foodsafety/>. Accessed November 20, 2007.

inspection within 10 days of the original inspection. However, in performing a follow-up review of Agriculture's Web site, we found *out-of-compliance* food service establishments that had gone for six months or more without re-inspections.

- **The volume of inspections is so substantial that Agriculture must seek greater attention from the Governor to address the workload.** Agriculture must inspect approximately 54,000 food businesses. To comply fully with the Public Eating and Drinking Places Law and the Food Act, each inspector would therefore be responsible for an average of 750 establishments—conducting inspections and re-inspections and answering questions. Both Agriculture and the Governor should call on the General Assembly to address this problem.
- **Agriculture still does not revoke or suspend licenses.** Agriculture said it neither revoked nor suspended any food facility's license since the release of our November 2005 audit report. In defending this record, Agriculture insists that inspectors close facilities on the spot for several hours or days until certain high-risk violations are corrected. Still, the facilities are not required to post signage saying that the temporary closure resulted from health or safety violations. Accordingly, such closures do not carry the same weight as suspending or revoking a license. By imposing more significant consequences for critical violations,

Agriculture could better assure the public that facilities take the inspection process seriously.

- **The public still does not have easy access to numerous inspection reports.** The *Restaurant Inspection Database* link is difficult to locate on Agriculture's Web site. Until our meeting with Agriculture on February 8, 2008, the link was not on Agriculture's home page. Also, Agriculture does not post the reports for food businesses inspected by 169 local health departments, or for food-manufacturing firms or warehouses.
- **Web site does not go much beyond basics.** Although Agriculture has come a long way in providing information, the Web site would be better if it had certain other search options. For example, consumers should be able to search easily for facilities with temporary closures in their histories, particularly since Agriculture seems to utilize these closures instead of license suspensions or revocations. In the online reports, Agriculture notes these closures, but Web users can find them only through the tedious process of looking through inspection reports one by one.

**Conclusion 3:  
Agriculture has been working with the General Assembly to address inadequacies in legislation.**

House Bill 1422 will address certain inadequacies in the law by bringing it more current. For example, the bill will increase the amounts of allowable fines that were established more than 60 years ago.

**The mission of the Department of the Auditor General is to improve the performance of government so that it improves the quality of life for all Pennsylvanians. Auditor General Jack Wagner is the Commonwealth's elected independent fiscal watchdog, conducting financial audits, performance audits, and special investigations. The Department of the Auditor General conducts more than 5,000 audits every year.**