



Office of the Washington State Auditor
Pat McCarthy

Accountability Audit Report

Department of Agriculture

For the period July 1, 2021 through June 30, 2023

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**Office of the Washington State Auditor
Pat McCarthy**

July 22, 2024

Derek Sandison
Director
Department of Agriculture
Olympia, Washington

Report on Accountability

Thank you for the opportunity to work with you to promote accountability, integrity and openness in government. The Office of the Washington State Auditor takes seriously our role of providing state and local governments with assurance and accountability as the independent auditor of public accounts. In this way, we strive to help government work better, cost less, deliver higher value and earn greater public trust.

Independent audits provide essential accountability and transparency for Department operations. This information is valuable to management, the governing body and public stakeholders when assessing the government's stewardship of public resources.

Attached is our independent audit report on the Department's compliance with applicable requirements and safeguarding of public resources for the areas we examined. We appreciate the opportunity to work with your staff and value your cooperation during the audit.

Sincerely,

Pat McCarthy, State Auditor
Olympia, WA

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AUDIT RESULTS

Results in brief

This report describes the overall results and conclusions for the areas we examined. In most of the areas we examined, Department operations complied, in all material respects, with applicable state laws, regulations, and its own policies, and provided adequate controls over safeguarding of public resources.

As referenced above, we identified areas where the Department could make improvements. These recommendations are included with our report as a finding.

We also noted certain matters related to cash handling over the Livestock Identification and Pesticide Management programs, out-of-state employee travel, and purchase card transactions that we communicated to Department management and the Director in a letter dated July 15, 2024. We appreciate the Department's commitment to resolving those matters.

Additionally, as noted under the Related Reports – Special Investigations section of this report, certain matters were examined and reported as part of a separate engagement.

In keeping with general auditing practices, we do not examine every transaction, activity, policy, internal control, or area. As a result, no information is provided on the areas that were not examined.

About the audit

This report contains the results of our independent accountability audit of the Department of Agriculture from July 1, 2021 through June 30, 2023.

Management is responsible for ensuring compliance and adequate safeguarding of public resources from fraud, loss or abuse. This includes the design, implementation and maintenance of internal controls relevant to these objectives.

This audit was conducted under the authority of RCW 43.09.310, which requires the Office of the Washington State Auditor to examine the financial affairs of all state agencies. Our audit involved obtaining evidence about the Department's use of public resources, compliance with state laws and regulations and its own policies and procedures, and internal controls over such matters. The procedures performed were based on our assessment of risks in the areas we examined.

Based on our risk assessment for the years ended June 30, 2023 and 2022, the areas examined were those representing the highest risk of fraud, loss, abuse, or noncompliance. We examined the following areas during this audit period:

- Inspection compliance for egg processing plants and egg handlers
- Cash handling – Livestock Identification and Pesticide Management
- Payments for employee travel
- Collection of licensing and fee revenue
- Purchase card payments

SCHEDULE OF AUDIT FINDINGS AND RESPONSES

Washington State Department of Agriculture July 1, 2021 through June 30, 2023

2023-001 The Washington State Department of Agriculture did not have adequate internal controls over and did not comply with state law and Department policies related to egg production and egg packing plant inspections.

Background

The Washington State Department of Agriculture established the Food Safety Program (FSP) that is responsible for the regulation, licensing and inspection of food processing facilities, food storage warehouses, dairy farms and processing plants, cottage food operations, custom meat facilities, eggs and marijuana-infused edibles. Eggs and egg products are an important source of the state's total food supply and are used in food in various forms. Therefore, it is essential, in the public interest, that the health and welfare of consumers be protected. To that end, in 1975, the State implemented the Washington Wholesome Eggs and Egg Products Act (Act) under the Revised Code of Washington (RCW) 69.25 to prevent the sale of misbranded or adulterated egg products.

Under the Act, the Department, through the FSP, is required to perform continuous inspections at egg production plants. To meet this requirement, the Department implemented a policy to inspect egg production plants yearly. The Act also requires inspections at egg packing plants at least once each calendar quarter.

Additionally, under Washington Administrative Code (WAC) 16-167-050(2), the Department has adopted federal food for human consumption requirements under 21 CFR 100-118 and 21 CFR 120-190. The Department uses current good manufacturing practices under 21 CFR 117, which covers personnel disease control and cleanliness, condition of plant and grounds, pest control, sanitation of facilities, as well as equipment and utensils.

Description of Condition

The Department did not have adequate internal controls over and did not comply with state law and Department policies related to egg production and egg packing plant inspections.

Frequency of inspections

Egg packing plants

The Department did not inspect egg packing plants at least once each calendar quarter during the audit period as RCW 69.25.080(4) requires. During the audit period, state law required the Department to perform 548 inspections, but it only performed 11 (2 percent).

Egg production plants

The Department did not continuously inspect egg production plants during the audit period as RCW 69.25.080(1) requires. During state fiscal year 2022, state law required the Department to inspect 68 egg production plants, but it only inspected five of these plants. During state fiscal year 2023, the Department only performed six of the 69 required inspections.

Of the 11 total inspections the Department performed during the audit period, it did not perform eight within one year of the previous inspection.

Inspections

For all 11 inspections that the Department performed during the audit period, it did not have documentation to support that it properly inspected federal personnel cleanliness requirements in accordance with federal law and state rule.

Department inspectors used a digital checklist that pre-populated all inspection criteria as conforming to all requirements before the inspector viewed it. The inspector would only make changes to the checklist if they noted a discrepancy during the inspection. Therefore, there was no way to determine if the inspector reviewed and approved an affirmative response, or if only the system automatically selected the response.

Additionally, the Department's inspection system configurations during the audit period were missing three personnel cleanliness inspection criteria that federal regulations require. When we brought this to the Department's attention, it immediately updated the digital checklist to include the missing criteria. Moreover, its inspection system was also configured in a way that could lead to improper documentation showing that inspectors reviewed inspection criteria when they may not have.

Cause of Condition

Frequency of inspections

The Department policies and procedures state that all egg inspections should occur based on risk assessment, which was yearly during the audit period. This timeline does not comply with state law that requires inspections at least once each calendar quarter. The FSP Manager approved this policy most recently in 2020, but this has been a long-standing written policy, that former FSP managers approved, since 2015.

Additionally, the Department does not have adequate internal controls to ensure that it continuously inspects egg production plants yearly according to its own frequency schedule. The Department said that it did not perform the required number of inspections because of a staffing shortage and because management believed the presence of inspectors on site increased the risk of spreading the avian flu.

Inspections

The Department could not support the inspection of three personnel cleanliness criteria due to an oversight by the Department in the setup of the digital inspection checklist.

Additionally, the Department configured the digital checklist with criteria pre-checked for ease of use and to help ensure that the inspector did not miss inspection criteria.

Effect of Condition

By not performing inspections as required by state law and Department policies, there is an increased risk that eggs unfit for human consumption may reach the consumer, posing serious health and safety risks.

Because this finding reports noncompliance with state law, RCW 43.09.312 (1) requires the Office of Financial Management to submit the agency's response and plan for remediation to the Governor, the Joint Legislative Audit and Review Committee, and the relevant fiscal and policy committees of the Senate and House of Representatives.

Recommendation

We recommend the Department:

- Implement policies and procedures to ensure it performs egg packing plant inspections quarterly, as required by state law, and performs egg production plant inspections annually
- Properly inspect and document all inspection criteria in accordance with federal regulation

Department's Response

We agree that RCW 69.25.080(4) references a quarterly inspection frequency. However, we would again like to point out that this requirement was put in place with the creation of 69.25 almost 50 years ago (in 1975) when WSDA had a stand-alone egg inspection program. Today, the WSDA Food Safety Program not only covers shell egg facility inspections but is also responsible for regulation of food processing plants, food storage warehouses, cottage food operations, cannabis-infused edible processors, custom meat operations, hemp extract processors, milk processing plants, and milk producers. Even in years with no COVID restrictions or high pathogenic avian influenza considerations, which were serious issues in SFY22 and SFY23, the program does not have sufficient inspection staff to visit egg facilities quarterly.

For the statistics related to re-inspections for SFY22 and SFY23, we do not believe the numbers are as precise as they need to be. For SFY22, we believe it is more accurate to say that 3 of 4 egg producer inspections (instead of 4 of 5) did not occur within 12 months since it is not reasonable to expect an inspection for a firm that had since gone out of business. Additionally, the figures for SFY23 should say 0 out of 3 were not done within 12 months and 3 others have not yet reached the 12-month mark since last inspection in SFY23.

We do not dispute that 21 CFR 117.10(b)(1-2,6) for item 2C was not displayed in the list of potential violations in the online inspection order for the 11 inspections. Furthermore, we thank you for noting that we made immediate corrections to update the system settings to display the GMP reference for item 2C. However, we do want to reiterate that, had the violation covered by item 2C actually been noted by any of the inspectors for those 11 inspections, they would have immediately reached out to management to have the item added to the electronic list so that it could be documented. We do also hope that the audit findings will recognize that we provided you with a fillable PDF inspection report file. This inspection report file is available to all inspectors and can be used as a backup if there is an issue

with our electronic inspection system and management is not available to immediately correct the error. Therefore, on any of the 11 inspections the inspectors had a way to document item 2C had it been noted as a violation.

We train our inspectors to be familiar with the regulations that apply to the type of firm that they are inspecting. Training includes reading the pertinent regulations, participating in inspections with an experienced inspector, being evaluated by a supervisor or experienced inspector while leading an inspection, and attending a class in that type of inspection if one exists. We also expect our inspection staff to have regulations accessible while conducting an inspection for quick reference when there is any question about a possible violation or a need to provide justification to the firm representative. The expectation is that our inspection staff know the violations that they need to be looking for without having to work down a checklist. Deviations from regulatory requirements are noted as they are observed and documented. A lack of a violation mark is an indication of compliance for an item number.

The PDF debit criteria sheet that was provided to you is only an inspector help document to make it easy for inspection staff to quickly identify the appropriate reference for the violation that they are identifying. It is also a nice resource to provide firms that are unfamiliar with the regulations or that want a quick reference for requirements. It is not considered a checklist nor is it intended to be used in that way.

Additionally, we do not believe that quarterly inspections are necessary. The WSDA Food Safety Program is in discussion with the agency's Administrative Regulations Program to have the RCW revised as we do not believe that quarterly inspections of egg facilities are needed to protect public health.

Auditor's Remarks

The Department performed an inspection during state fiscal year 2022 of the firm that had later gone out of business. Therefore, the firm was still open at the time of inspection and should be included as not being inspected within 12 months of the prior inspection. We did not include this firm in our review of state fiscal year 2023 inspections when it was no longer in business. Also, during the state fiscal year, six inspections were performed, two of which were initial inspections as this was their first as they were new that year. Of the four other inspections performed, two were last inspected in 2019 and two were last inspected in 2021. Therefore, all six inspections were due and four were past the Department's 12-month inspection requirement.

The Department was unable to provide any documentation that the requirements of 21 CFR 117.10(b)(1-2,6) were viewed by the inspectors. A lack of a violation is not sufficient evidence that inspection of the criteria occurred.

While the Department believes that quarterly inspections are unnecessary for egg packing plants, current regulations require these quarterly inspections in the interest of public safety. Additionally, the Department has not met its own risk-based annual inspection frequency for egg production plants, which are on the same site as egg packing plants in most instances. Therefore, even if the packing plant inspection frequency requirement was reduced from quarterly, the Department still has not inspected egg production plants timely in accordance with its own policies and procedures.

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

RCW 69.25.080, Continuous inspection at processing plants-Exemptions-Condensation and destruction of adulterated eggs and egg products-Reprocessing-Appeal-Inspection of egg handlers, states, in part:

(1) For the purpose of preventing the entry or movement in intrastate commerce of any egg product which is capable of use as human food and is misbranded or adulterated, the director shall, whenever processing operations are being conducted, unless under inspection by the United States department of agriculture, cause continuous inspection to be made, in accordance with the regulations promulgated under this chapter, of the processing of egg products, in each plant processing egg products for commerce, unless exempted under RCW 69.25.170. Without restricting the application of the preceding sentence to other kinds of establishments within its provisions, any food manufacturing establishment, institution, or restaurant which uses any eggs that do not meet the requirements of RCW 69.25.170(1)(a) in the preparation of any articles for human food, shall be deemed to be a plant processing egg products, with respect to such operations.

(4) The director shall cause such other inspections to be made of the business premises, facilities, facilities, inventory, operations, and records of egg handlers, and the records and inventory of other persons required to keep records under RCW 69.25.140, as he or she deems appropriate (and in the case of shell egg packers, packing eggs for the ultimate consumer, at least once each

calendar quarter) to assure that only eggs fit for human food are used for such purpose, and otherwise to assure compliance by egg handlers and other persons with the requirements of RCW 69.25.140, except that the director shall cause such inspections to be made as he or she deems appropriate to assure compliance with such requirements at food manufacturing establishments, institutions, and restaurants, other than plants processing egg products. Representatives of the director shall be afforded access to all such places of business for purposes of making the inspections provided for in this chapter.

Title 21 U.S. Code of Federal Regulations (CFR), Chapter I Food and Drug Administration, Department of Health and Human Services, Subchapter B Food for Human Consumption, states, in part:

Section 117.10 Personnel.

(b) Cleanliness. All persons working in direct contact with food, food-contact surfaces, and food-packaging materials must conform to hygienic practices while on duty to the extent necessary to protect against allergen cross-contact and against contamination of food. The methods for maintaining cleanliness include:

(1) Wearing outer garments suitable to the operation in a manner that protects against allergen cross-contact and against the contamination of food, food-contact surfaces, or food-packaging materials.

(2) Maintaining adequate personal cleanliness.

(6) Wearing, where appropriate, in an effective manner, hair nets, headbands, caps, beard covers, or other effective hair restraints.

WAC 16-167-050, General requirements, states, in part:

The following provisions of 21 CFR Chapter I are adopted as Washington requirements for regulating food in intrastate commerce.

(2) All parts of Subchapter B – Food for Human Consumption, except for part 119.

Department of Agriculture Policy/Procedures FS-301, Risk-Based Inspections, states, in part:

(3) FSCS prioritizes inspections according to determined inspectional frequencies and allocates inspection resources to cover the Compliance, Critical and High risk inspections as a high priority, and the medium and low risk firms as medium and low priority.

RCW 43.09.312, Post-audits of state agencies under RCW [43.09.310](#)—
Noncompliance—Remediation—Referral to attorney general.

(1) Within thirty days of receipt of an audit under RCW 43.09.310 containing findings of noncompliance with state law, the subject state agency shall submit a response and a plan for remediation to the office of financial management. Within sixty days of receipt of an audit under RCW 43.09.310 containing findings of noncompliance with state law, the office of financial management shall submit the subject state agency's response and a plan for remediation to the governor, the state auditor, the joint legislative audit and review committee, and the relevant fiscal and policy committees of the senate and house of representatives.

(2) If, at the next succeeding audit of the subject state agency, the state auditor determines that the subject state agency has failed to make substantial progress in remediating the noncompliance with state law, the state auditor shall notify the entities specified in subsection (1) of this section.

(3) Upon receipt of a notification under subsection (2) of this section, a fiscal or policy committee of the senate or house of representatives may refer the matter to the senate committee on facilities and operations or the executive rules committee of the house of representatives, which committee may refer the matter to the attorney general for appropriate legal action under RCW 43.09.330.

RELATED REPORTS

Financial

We perform an annual audit of the statewide basic financial statements, as required by state law (RCW 43.09.310). Our opinion on these financial statements is included in the Annual Comprehensive Financial Report (ACFR). The ACFR reflects the financial activities of all funds, organizations, agencies, departments and offices that are part of the state's reporting entity. The results of that audit are published in a report issued by the Office of Financial Management in December of each year and can be found at www.ofm.wa.gov.

Federal programs

In accordance with the Single Audit Act, we annually audit major federal programs administered by the state of Washington. Rather than perform a single audit of each agency, we audit the state as a whole. The results of that audit are published in a report issued by the Office of Financial Management in March of each year.

Special investigations

We issued a report on a misappropriation of public funds at the Department. That report is available on our website, <http://portal.sao.wa.gov/ReportSearch>.

INFORMATION ABOUT THE DEPARTMENT

The Washington State Department of Agriculture serves the people of Washington by supporting the agricultural community and promoting consumer and environmental protection. The Department carries out more than 25 distinct programs including: Animal Health, Livestock Identification, Food Assistance, Food Safety, Food Safety Lab, Animal Feed Regulation, Agricultural Fairs, Commodity Commissions, Nursery Inspection, Organic Certification, Pesticide Regulation, Dairy Nutrient Management, Fertilizer Regulation, Plant Protection, Planting Stock Certification, Invasive Pests, Chemical and Hop Lab, Weights And Measures, Commission Merchants, Grain Inspection, Fruit And Vegetable Inspection, Seed Inspection/Certification, Grain Warehouse Audit, and International and Regional Marketing.

A Director is appointed by the Governor to oversee the Department's activities as well as its approximately 950 employees. Approximately 750 employees work year-round and approximately 200 employees work seasonally, primarily as fruit and vegetable inspectors and insect trappers. For the 2023-2025 biennium, the Department's budget was \$433.04 million.

Contact information related to this report

Address:	Department of Agriculture P.O. Box 42560 Olympia, WA 98504-2560
Contact:	Natasha Roberts, Chief Financial Officer
Telephone:	(360) 902-1988
Website:	www.agr.wa.gov

Information current as of report publish date.

Audit history

You can find current and past audit reports for the Department of Agriculture at <http://portal.sao.wa.gov/ReportSearch>.

ABOUT THE STATE AUDITOR'S OFFICE

The State Auditor's Office is established in the Washington State Constitution and is part of the executive branch of state government. The State Auditor is elected by the people of Washington and serves four-year terms.

We work with state agencies, local governments and the public to achieve our vision of increasing trust in government by helping governments work better and deliver higher value.

In fulfilling our mission to provide citizens with independent and transparent examinations of how state and local governments use public funds, we hold ourselves to those same standards by continually improving our audit quality and operational efficiency, and by developing highly engaged and committed employees.

As an agency, the State Auditor's Office has the independence necessary to objectively perform audits, attestation engagements and investigations. Our work is designed to comply with professional standards as well as to satisfy the requirements of federal, state and local laws. The Office also has an extensive quality control program and undergoes regular external peer review to ensure our work meets the highest possible standards of accuracy, objectivity and clarity.

Our audits look at financial information and compliance with federal, state and local laws for all local governments, including schools, and all state agencies, including institutions of higher education. In addition, we conduct performance audits and cybersecurity audits of state agencies and local governments, as well as state whistleblower, fraud and citizen hotline investigations.

The results of our work are available to everyone through the more than 2,000 reports we publish each year on our website, www.sao.wa.gov. Additionally, we share regular news and other information via an email subscription service and social media channels.

We take our role as partners in accountability seriously. The Office provides training and technical assistance to governments both directly and through partnerships with other governmental support organizations.

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