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In Cooperation with:

Virginia Department of Agriculture
and Consumer Services
Joseph W. Guthrie, Commissioner

February 20, 2024

USDA releases 2022 Census of Agriculture data

The U.S. Department of Agriculture's (USDA) National Agricultural Statistics Service (NASS) on Tuesday, February 13, 2024 announced the results of the 2022 Census of Agriculture. The information collected directly from producers shows a continued decline in the total number of Virginia farms. However, the data also show an increase in the number of new and beginning (operating 10 or fewer years on any farm) producers.

“We are pleased to provide updated Census of Agriculture data to all those who serve U.S. agriculture, especially the producers who gave their time to complete the questionnaire. Census of Agriculture data tell a story. This comprehensive snapshot every five years helps data users to see trends and shifts in the industry over time and helps producers do business,” said NASS Administrator Hubert Hamer. “Overall, though there are always changes across U.S. agriculture, the data remain largely consistent with the previous ag census. Data users will also notice some new data on the topics of hemp, precision agriculture, and internet access.”

Ag census data provide valuable insights into demographics, economics, land use and activities on Virginia farms such as:

- There were 38,995 farms in Virginia down 10% from 2017 with an average size of 187 acres up 4% on 7.3 million acres of farmland down 6%. That is 29% of all Virginia land.
- Family-owned and operated farms accounted for 95% of all Virginia farms and operated 89% of land in farms.
- Virginia farms produced \$5.49 billion in agricultural products, up from \$3.96 billion in 2017. With farm production expenses of \$4.35 billion, Virginia farms had net cash income of \$1.48 billion. Average farm income increased to \$38,058. A total of 37% of farms had positive net cash farm income in 2022.
- Farms with internet access continued to increase from 74% in 2017 to 78% in 2022.
- A total of 2,559 farms used renewable energy producing systems compared to 2,318 farms in 2017, a 10% increase. Solar panels account for 85% of the renewable energy producing systems in Virginia.
- The 1,273 farms with sales of \$1 million or more were 3% of Virginia farms. They sold almost three-fourths of all agricultural products in Virginia. The 32,456 Virginia farms with sales of \$50,000 or less accounted for 83% of farms.
- The average age of all producers was 59.2, up 0.7 years from 2017. This is a smaller increase than average age increases between prior censuses.
- There were 20,378 farmers with 10 or fewer years of experience, an increase in the number of beginning farmers from 2017 of almost 8%. Beginning farmers in Virginia are younger than all farmers, with an average age of 48.6.
- The number of producers under age 35 was 5,139, comprising 8% of all Virginia producers. The 4,008 farms with young producers making decisions tend to be larger than the overall average in both acres and sales.
- In 2022, 25,237 female producers accounted for 37% of all producers. Fifty-nine percent of all farms had at least one female decision maker.

The full Census of Agriculture report as well as publication dates for additional ag census data products can be found at nass.usda.gov/AgCensus. Ag census data can also be found in NASS's searchable online database, Quick Stats.

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NASS is the federal statistical agency responsible for producing official data about U.S. agriculture and is committed to providing timely, accurate, and useful statistics in service to U.S. agriculture.

USDA is an equal opportunity provider, employer, and lender.

BOARD OF AGRICULTURE AND CONSUMER SERVICES

**Patrick Henry Building
East Reading Room
1111 E. Broad Street
Richmond, Virginia**

Thursday, March 21, 2024

9 A.M.

1. Call to order
2. Roll call
3. Approval of draft Board meeting minutes from December 7, 2023
4. Board member reports
5. Commissioner's Report to Board – Joseph Guthrie, Commissioner of Agriculture and Consumer Services
6. Proposed fast-track action to amend 2 VAC 5-675 (Regulations Governing Pesticide Fees Charged By the Department of Agriculture and Consumer Services) – Liza Fleeson Trossbach, Program Manager, Office of Pesticide Services
7. Final stage- 2 VAC 5-317 (Regulations for Enforcement of the Noxious Weeds Law) – David Gianino, Program Manager, Office of Plant Industry Services
8. Office of Pesticide Services – case decision – Thibault Enterprises, LLC (Case # 73148)
9. Virginia Winery Distribution Company board appointee – Joseph Guthrie, Commissioner of Agriculture and Consumer Services
10. New business
11. Future Board meetings
12. Public comment period
13. Adjourn

DRAFT MINUTES

Board of Agriculture and Consumer Services
Patrick Henry Building
East Reading Room
1111 E. Broad St
Richmond, Virginia

Thursday, December 7, 2023

The meeting of the Board of Agriculture and Consumer Services (Board) convened at approximately 9:00 a.m. on Thursday, December 7, 2023, at the Patrick Henry Building. Vice President Smith called the meeting to order.

ROLL CALL

The Board Secretary called the roll:

PRESENT

Keith Harris
Cecil Shell
Margaret Ann Smith
Kailee Tkacz Buller
Tyler Wegmeyer
Richard Sellers
Neil Houff
Charles Church
Dr. Robert Corley

Lonnie Johnson

CONGRESSIONAL DISTRICT

1st
5th
6th
8th
10th
11th
Pesticides – Commercial Agricultural
Pesticides – Commercial Structural
Representing Dr. Makola Abdullah, President,
Virginia State University
Representing Dr. Timothy D. Sands, President,
Virginia Tech

ABSENT

Donald Horsley 2nd
Raymond Keating 3rd
Vacant 4th
Jacquelin Easter 7th
James S Huffard, III 9th

STAFF PRESENT

Joseph Guthrie, Commissioner, Virginia Department of Agriculture and Consumer Services (VDACS)
Kevin Schmidt, Secretary, Board of Agriculture and Consumer Services
Nicolas Robichaud, Policy Assistant, VDACS

APPROVAL OF MINUTES

Mr. Sellers moved that the draft minutes of the meeting on August 4, 2023, be approved as distributed. Mr. Houff seconded the motion. The Board voted unanimously to approve the motion.

REPORTS FROM BOARD MEMBERS

Charles Church

Mr. Church remarked that the Virginia Pest Management Association (VPMA) celebrated its 75th anniversary this year, noting the evolving regulation of the pesticide industry and VPMA's dedication to building strong pesticide businesses throughout its history. VPMA's held its annual state technical conference in Virginia Beach December 6-7, where approximately 850 people were educated in the pest management industry.

Neil Houff

Mr. Houff noted that the Virginia Crop Production Association will hold its annual Crop Summit in Richmond January 16-18. He noted that the supply chain has been strong recently. The Shenandoah Valley has been very dry, and Mr. Houff looks forward to a rebound next year.

Keith Harris

Mr. Harris reported an abundance of rain in District 1 this year. The wheat crop was remarkably strong, though heavy rainfall led to deteriorating quality. Corn yields were high, leading to an overall strong year for the region. Mr. Harris is expecting continued price drops in the coming year.

Cecil Shell

Sporadic rain in District 5 led to a moderate crop yield this year. Mr. Shell noted that prices are generally holding steady, though fertilizer prices have fallen.

Kailee Tkacz Buller

Ms. Buller remarked on the Farm Bill extension and the efforts to keep government agencies open on January 19 and February 2. There is uncertainty on multiple funding items in the Farm Bill, which expires in September 2024, that will be areas of focus. With the upcoming election year, the Food and Drug Administration (FDA) and the U. S. Department of Agriculture (USDA) are picking up regulatory action, with FDA dealing with a lead in apple sauce crisis and several labelling and transparency issues and USDA focusing on child nutrition programs and food stamps. She noted that supply chains are generally normalizing post COVID, with prices still high but stabilizing. With leadership changes imminent, Ms. Buller reports that the Surface Transportation Board is a focus of the agriculture industry, especially among those who rely on rail transportation.

Tyler Wegmeyer

The 10th District has been historically dry, and untimely rain during weekends has negatively impacted agritourism and retail efforts. Christmas tree demand continues to outpace supply, which is a continuing issue in the region.

Richard Sellers

At Commissioner Guthrie's request, Mr. Sellers attended a brainstorming session for the Ruth and Hal Lauenders Charitable Trust at Virginia Tech. The meeting revolved around determining potential uses for a nine acre parcel. Keeping with the Trust's mission of addressing food insecurity, Mr. Sellers recommended a large greenhouse to encourage year-round gardening. Mr. Sellers offered his continued support for the Trust. Mr. Sellers also reported on a strong vegetable season in District 11.

Dr. Robert Corley

Dr. Corley reported that Virginia State University (VSU) will host a nationally televised Presidential debate in 2024. Enrollment and funding are up at the College of Agriculture, and Cooperative Extension efforts continue alongside Virginia Tech. VSU hosted 3 USDA-funded farmers markets to increase food security on college campuses, which were highly attended and profitable for local producers. Dr. Jewel Bronaugh hosted a Leadership Impact Series attended by Virginia Farm Bureau Federation. Dr. Corley informed the Board that Dr. Bronaugh would be leaving VSU in the spring after accepting the role of CEO for the 1890 Foundation. The National Urban Agriculture Initiative kickoff event took place in Richmond, and there will be another event in the spring. Dr. Corley reported on a successful Association of Public Land-Grant Universities meeting, in which the Farm Bill was heavily discussed. VSU will be hosting Dr. Manjit K. Misra, director of the USDA's National Institute of Food and Agriculture, in the near future.

Lonnie Johnson

Dr. Alan Grant, Dean of the College of Agriculture and Life Sciences, announced his upcoming retirement, leading to a nationwide search to fill his role. There has been significant leadership turnover at Virginia Tech in the past year. New Associate Dean of the College of Agriculture and Life Sciences Dr. Mike Gutter has visited nearly every district in Virginia and attended several meetings with industry groups. The College has filled several vacant positions but continues to work to fill remaining vacancies.

Margaret Ann Smith

Weather conditions in the 6th District have been unstable, with alternating patterns of extreme dry and extreme rain. Cow markets have been friendly until market prices became volatile in the past three weeks. Ms. Smith anticipates prices rebounding in early 2024 from their recent sudden sharp downturn and that, long term, cattle prices should remain decent. Ms. Smith reports that heifer retention has not begun. Grass quality is subpar, especially in the west. Record prices have affected producers.

COMMISSIONER'S REPORT

Commissioner Guthrie delivered his report to the Board. During the presentation of this report, he briefed the Board on personnel changes, recent events, and other matters relating to VDACS. A copy of the written report on which his presentation was based was included in the Board meeting agenda and materials.

BUDGET UPDATE

Vice President Smith called on Dr. W. Dewey Jennings, VDACS Director of Administrative and Financial Services, to provide a budget update to the Board. There were no questions for Dr. Jennings.

MEETING RECESS

At 9:45 a.m., Vice President Smith recessed the meeting to hold a public hearing on the proposed regulations for 2 VAC 5-317, Regulations for Enforcement of the Noxious Weeds Law.

PUBLIC HEARING – PROPOSED REGULATIONS FOR 2 VAC 5-317 (REGULATIONS FOR ENFORCEMENT OF THE NOXIOUS WEEDS LAW)

Board of Agriculture and Consumer Service

December 7, 2023

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At 10:02 a.m., Vice President Smith opened the public hearing on the proposed regulations for 2 VAC 5-317.

Vice President Smith called on Larry Nichols, Director, Division of Consumer Protection, to brief the Board on the proposed amendments to 2 VAC 5-317.

Mr. Nichols briefed the Board on the proposed amendments and advised the Board that the purpose of the hearing was to provide interested parties an opportunity to comment on the proposal.

There being no public comments or questions, Vice President Smith adjourned the public hearing at 10:07 a.m. and reconvened the Board meeting.

**OFFICE OF PESTICIDE SERVICES – CASE DECISION – THIBAUT ENTERPRISES, LLC
(CASE # 73148)**

Vice President Smith introduced Kate Kulbok, Assistant Attorney General, as the Board's legal counsel regarding the case decision for Office of Pesticide Services Case #73148. Since the Board's regular legal counsel, Justin Bell, already represented VDACS on this matter during the formal hearing, Ms. Kulbok advised that Mr. Bell is not able to represent the Board on this matter as well due to a potential conflict of interest.

Mr. Bell provided legal context regarding the situation and informed the Board that legal counsel for Thibault Enterprises was not in attendance to present their client's case. Mr. Bell asked that the Board continue the decision until the next meeting to ensure proper notice be given. Ms. Kulbok concurred, advising that the Board should defer its decision to a later date.

Mr. Sellers moved that the Board defer this action on OPS Case #73148 until the Board meeting on March 21, 2024. Ms. Buller seconded this motion.

Prior to the Board's vote on this motion, Mr. Church and Mr. Harris asked Ms. Kulbok several questions regarding proper practices in discussing and seeking clarification regarding details of the decision.

Mr. Bell asked if Vice President Smith had the power to appoint a designated panel to make case decisions on the Board's behalf. Vice President Smith consulted with Ms. Kulbok and Secretary Schmidt regarding her ability to make that designation, and Vice President Smith confirmed that she did have such authority.

Mr. Sellers withdrew his previous motion, and Ms. Buller withdrew her second. Mr. Sellers moved that the Board continue this decision until next meeting or until a panel is designated by the President to handle this case. Ms. Buller seconded this decision.

The Board unanimously voted to approve this motion.

Mr. Houff asked Mr. Bell how, according to VDACS procedure, this case has come to this point before the Board. Mr. Bell deferred to Ms. Kulbok's judgement as Board's counsel as to whether he could provide the Board with VDACS procedure, which she allowed, providing that Mr. Bell inform the Board of general VDACS processes and not provide his legal perspective. Ms.

Kulbok briefly provided background information regarding how this case has moved through VDACS before reaching the Board.

Ms. Buller, Mr. Houff, Vice President Smith, Mr. Church, Mr. Harris, and Mr. Sellers asked several background questions regarding these legal procedures, including general procedures, the frequency of these hearings, how hearing officers are chosen, whether industry-specific knowledge is provided to general counsel, and appellate processes beyond the Board's decision. Ms. Kulbok, Secretary Schmidt, and Mr. Bell answered these questions as they arose. Secretary Schmidt also reminded the Board that the OPS case decision administrative guidance document was provided in their meeting materials.

Before moving on to further agenda items, Commissioner Guthrie voiced to the Board his respect for VDACS staff and procedures and his belief that VDACS did indeed follow proper protocol in providing notice.

NOTICE OF INTENDED REGULATORY ACTION – 2 VAC 5-680 (REGULATIONS GOVERNING LICENSING OF PESTICIDE BUSINESSES OPERATING UNDER AUTHORITY OF THE VIRGINIA PESTICIDE CONTROL ACT) AND 2 VAC 5-685 (REGULATIONS GOVERNING PESTICIDE APPLICATOR CERTIFICATION UNDER AUTHORITY OF VIRGINIA PESTICIDE CONTROL ACT)

Vice President Smith called on Liza Fleeson Trossbach, Program Manager, Office of Pesticide Services. Ms. Trossbach requested that the Board authorize staff to initiate the first step of the three-stage regulatory process to amend the regulations for both pesticide applicator certification and the licensing of pesticide businesses.

Mr. Harris asked a clarifying question regarding how and when additional information could be accessed. Secretary Schmidt advised that, this being the first stage of the process, there is no language to approve or review and that a mockup of the proposed changes would be made available for the Board's review and for public comment during the second stage.

Vice President Smith asked whether consideration would be made for age restrictions for applicators given technological advances, specifically regarding the use of drones. Ms. Trossbach provided background knowledge of federal rules, including the federal minimum age of applicators being 18, with limited exceptions.

Dr. Corley asked for a general timeline for compliance. Ms. Trossbach answered that, including potential implementation timelines following regulatory procedures, these changes could take 5 to 10 years.

Mr. Sellers moved that the Board authorize staff to take any and all steps necessary to file for public comment a Notice of Intended Regulatory Action to amend 2 VAC 5-680, Regulations Governing Licensing of Pesticide Businesses Operating under Authority of the Virginia Pesticide Control Act, and 2 VAC 5-685, Regulations Governing Pesticide Applicator Certification under Authority of Virginia Pesticide Control Act, as presented by staff today. Mr. Shell seconded this motion. The Board voted unanimously in favor of the motion.

PROPOSED FAST TRACK ACTION TO AMEND 2 VAC 5-585 (RETAIL FOOD ESTABLISHMENT REGULATIONS)

Vice President Smith called on Pamela Miles, Program Manager, Office of Dairy and Food. Ms. Miles briefed the Board on the proposed fast-track action to amend 2 VAC 5-585.

Mr. Sellers asked a clarifying question, which Ms. Miles addressed. Secretary Schmidt also provided background procedural clarification regarding the difference between this process and that of the previously-discussed Notice of Intended Regulatory Action.

There being no further questions. Mr. Sellers moved that the Board adopt 2 VAC 5-585, Retail Food Establishment Regulations, as presented by staff today, and that the Board authorize staff to take any and all steps necessary to amend this regulation through a fast-track regulatory action. Mr. Houff second this motion. The Board voted unanimously in favor of the motion.

PETITION FOR RULEMAKING – ANIMAL PARTISAN’S PETITION FOR REGULATIONS FOR THE TRANSPORTATION OF POULTRY

Vice President Smith advised the audience to sign up on the public comment sheet should they wish to speak on the petition for rulemaking. She also asked that Secretary Schmidt explain the Board and agency’s requirements regarding petitions for rulemaking. Secretary Schmidt provided an overview and directed the Board to consult the provided public comments and those sent directly to the agency in their meeting materials.

Vice President Smith called on Dr. Carolyn Bissett, Program Manager, Office of Veterinary Services. Dr. Bissett presented the petition requesting that the Board initiate rulemaking to promulgate regulations setting minimum standards of care for the transportation, handling, and lairage of poultry prior to slaughter within the Commonwealth. Dr. Bissett recommended that the Board deny this petition.

Mr. Sellers asked Dr. Bissett if there have been any enforcement actions taken under current regulations, to which Dr. Bissett answered there have been.

Mr. Harris asked if additional information besides the provided images in the petition suggest a systemic issue requiring further regulation of poultry transportation. Dr. Bissett answered that there was not and, considering the magnitude of poultry transported across the Commonwealth, the agency considers the images to be isolated incidents.

Vice President Smith called on Mr. Will Lowery to provide his comments in support of Animal Partisan’s petition.

Following Mr. Lowery’s statement, Vice President Smith called on those individuals who signed the public comment sheet. Hobey Bauhan, representing the Virginia Poultry Federation; Brad Copenhaver, representing the Virginia Agribusiness Council; and Grayson Middleton, representing the Delmarva Chicken Association, spoke against the petition.

Mr. Sellers moved that the Board deny the motion for the reasons stated by the agency. Mr. Houff seconded this motion. The Board voted unanimously to deny the motion.

PESTICIDE CONTROL FUND REPORT TO THE BOARD

Vice President Smith called on Liza Fleeson Trossbach to provide an update on the Pesticide Control Fund.

Mr. Harris asked a clarifying question, which Ms. Trossbach addressed.

REGULATORY ADVISORY PANEL FOR 2 VAC 5-675 (REGULATIONS GOVERNING PESTICIDE FEES CHARGED BY THE DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES) REPORT TO THE BOARD

Vice President Smith called on Liza Fleeson Trossbach to provide this report to the Board. Mr. Sellers asked a question regarding the process leading to an increased cash reserve in the Pesticide Control Fund and strategies for decreased money in the reserve, with which Mr. Harris concurred. Vice President Smith asked whether funding can be used to provide support for Vocational/Technical school for community colleges and how Virginia's fee structure relates to neighboring states' systems. Ms. Trossbach and Mr. Houff provided clarification regarding the fund's current allocations and legal limitations on spending.

Commissioner Guthrie also spoke to the processes and strategies regarding this Fund, including conversations with the Virginia Farm Bureau Federation regarding potential program enhancement.

NEW BUSINESS

There was no new business brought before the Board.

FUTURE BOARD MEETINGS

Vice President Smith mentioned the 2024 Board meeting dates of March 21, May 23, and December 12, all in Richmond. A summer meeting and tour will be announced at a later date.

PUBLIC COMMENT PERIOD

Secretary Schmidt distributed a public comment submitted by Caryn Yost regarding Case #73148. Mr. Harris asked a clarifying question regarding the Board's action taken earlier in the meeting, which Commissioner Guthrie addressed.

Justin Bell provided public comment notifying the Board of the possibility of his absence from future meetings and voiced his appreciation for working with the agency.

Commissioner Guthrie provided notice that USDA census participation data had been released and briefly provided those statistics.

ADJOURNMENT

There being no further business, the Board adjourned at approximately 11:52 a.m.

Respectfully submitted,

Donald Horsley
Board President

Kevin Schmidt
Board Secretary

COMMISSIONER'S REPORT TO
BOARD OF AGRICULTURE AND CONSUMER SERVICES
March 21, 2024

PERSONNEL NEWS

Dakota Rust has been hired as the Operations Manager for the Virginia Beer Distribution Company (VBDC). The VBDC was formed by legislation in 2023 to provide craft beer makers a means of self-distribution in the three-tier system similar to that currently provided for wine makers through the Virginia Winery Distribution Company. The VBDC will be enacted July 1.

GOVERNOR'S PRIORITIES

On February 28, Commissioner Guthrie and several VDACS staff joined Secretary Lohr who, on behalf of Governor Youngkin, announced the formation of Central Virginia Poultry Cooperative, Inc. (CVPC). The cooperative was established by poultry growers affected by Tyson Foods' 2023 closure of the Glen Allen broiler processing operation. CVPC has executed a multi-year agreement with Dutch Country Organics of Indiana to produce cage-free, organic, premium table eggs. Dutch Country Organics sells a variety of specialty table eggs through national retailers such as Albertsons, Aldi, Costco, Kroger, Target, and Walmart. The project will receive nearly \$1.8 million in state support through a combination of funds from the Governor's Agriculture and Forestry Industries Development (AFID) Fund, the Rural Rehabilitation Trust Fund, and the Virginia Tobacco Region Revitalization Commission. The project is also expected to receive up to \$500,000 in support from Virginia Farm Bureau. The event was well attended by public and private industry partners as well as several prospective CVPC members.

On November 28, Office of Agriculture and Forestry Development (OAFD) staff attended the Governor's ribbon cutting celebrating the grand opening of the new Tyson Foods prepared foods plant, the company's first smart facility. The new 325,000 square-foot state-of-the-art complex will produce 4 million pounds of premium quality chicken products weekly. This project will invest \$300 million and create 376 new jobs in the region.

AGENCY OPERATIONS

Commissioner's Office

Since December 2023, Commissioner Guthrie has participated in meetings of the Horse Industry Board, the Soybean Board, the State Dairymen's Association, and the National Association of State Departments of Agriculture (NASDA). He was a featured speaker at meetings of the Virginia Association of Fairs, the Virginia Crop Production Association, The Virginia Association of Biological Farmers, the Eastern Shore Farmers Conference, and the Virginia Craft Brewers Guild. The Commissioner visited Blue Ridge Aquaculture in Martinsville, took part in Virginia State University's Day of Service, attended FFA Legislative Day at the Capitol, gave a guest lecture at Virginia Tech, met with the Virginia Horse Council Youth, and drove a John Deere 3020 in the Amelia County Tractor Parade.

VDACS was responsible for tracking 38 bills during the 2024 General Assembly Session for the administration and provided additional comment on 10 others. An agency bill that would have reduced fees for charities to register for charitable solicitations failed to pass the Senate. A bill that will move the VDACS Office of Farmland Preservation to the Virginia Department of Forestry to form a combined Office of Working Lands Preservation passed both chambers with no opposition, and the Governor signed the Senate version and is expected to sign the House version.

The Office of Policy, Planning, and Research is actively working with all departments in VDACS and the Governor's Office of Regulatory Management to identify unneeded regulations and guidance documents that can be eliminated as part of Governor Youngkin's initiative to reduce unnecessary regulation.

Division of Marketing and Development

In December, Office of International Marketing (OIM) joined a trade mission to India hosted by the Southern United States Trade Association (SUSTA). It included meetings with importers, restauranters, and hoteliers. It featured Virginia distilled spirits and ready-to-drink cocktails.

OIM assisted Virginia companies exhibiting at several international trade shows. Six Virginia wineries exhibited at VinExpo Paris, Europe's premier wine and spirits show, in the VDACS-sponsored Pavilion. OIM supported Virginia companies at India Wood, Central Asia's largest wood industry trade event, and at Gulford, a large specialty food and beverage trade events.

OIM submitted three proposals for the USDA's new Regional Agricultural Promotion Program (RAPP), including marketing forest products to Southeast Asia and Middle East, beer exports to Southeast Asia, and animal feed ingredients to Southeast Asia. RAPP funding is expected to be awarded in summer 2024. USDA has allocated up to \$300 million in funding in its first year to support projects to increase exports to emerging markets.

VDACS Office of Food Distribution administered nearly \$4 million of local food purchases as part of the USDA Local Food Purchase Assistance (LFPA) grant. VDACS received \$6.4 million in federal funding and awarded sub grants to seven agencies who have focused their food purchases on socially disadvantaged farmers/vendors. The program runs through July 2025.

Food Distribution worked with the Federation of Virginia Food Banks to administer the American Rescue Plan Act Shelf Stable Food Program. The federation has spent \$4.5 million to purchase shelf-stable inventory and purchase low-cost produce, dairy, meat and other proteins, and a variety of shelf stable foods for distribution to support underserved communities.

Food Distribution received a Resilient Food Systems Infrastructure Program grant from USDA of over \$6.5 million. VDACS will make subawards of Infrastructure Grants to middle-of-the-supply businesses to create diverse local and regional market options. Funds will support expanded capacity for the aggregation, processing, manufacturing, storing, transporting, wholesaling, and distribution of locally and regionally produced food products.

Office of Agriculture and Forestry Development (OAFD) staff participated in the Taskforce for Rural Virginia Economic Growth. This taskforce, consisting of economic developers, local government, state agencies, regional organizations, academic institutions, and private sector partners, is working to advance economic growth in rural Virginia areas.

Applications for 2024 USDA Specialty Crop Block Grant Program (SCBGP) funding were opened February 5 and closed March 11 for the \$555,907 that has been allocated to Virginia. These grants can be up to \$75,000 over a two-year period. Selections will be made by the SCBGP review panel in April prior to submitting the state plan to USDA May 2. Projects are expected to roll out October 1.

On February 28, OAFD and Office of Domestic Marketing and Promotions (ODMP) staff participated in the Virginia Agritourism Conference in Harrisonburg.

From November to February, ODMP staff participated in several agriculture promotional, marketing, and educational events, including the Virginia State Agritourism Conference, Martinsville Farmers Market Vendor Meeting, Virginia Strawberry Association's Strawberry Field Walk, Mid-Atlantic Strawberry School and Trade Show, Danville Farmers Market Vendor Meeting, Common Grain Alliance Grain to Glass, 2024 Hampton Roads Fruit and Vegetable Workshop, Cultivate Your Agribusiness Conference, Virginia Peanut Production Meeting, Virginia Peanut Growers Association Annual Meeting, 2024 Virginia Grain and Soy Annual Conference, Virginia No-Till Alliance Conference, Virginia Tech's Eastern Shore AREC and Hampton Roads AREC Advisory Committee Meetings, Virginia Farm Bureau Apple and Specialty Crops Advisory Board Committee Meeting, Virginia Cotton Growers Association Board Meeting, Virginia Strawberry Association's Board of Directors Meeting, 51st Tobacco Workers' Conference, Carroll County Vegetable Production Meeting, Tobacco Production Meeting, Southwest Coalition to End Childhood Hunger, Eastern Shore Ag Conference, Annual Meeting of Southern Cotton Growers, Virginia Carolina Peanut Advisory Committee Annual Meeting, and Virginia Grain and Soy Annual Conference.

In December, ODMP staff participated in a produce grower meeting at Virginia Produce Company (VPC) in Hillsville. The meeting consisted of presentations from VPC and Food Lion and discussions regarding the 2024 Food Lion Locally Grown Program.

In January, ODMP hosted the Virginia's Finest Reception at the Virginia Agribusiness Council's Annual Dinner. Staff coordinated 15 Virginia's Finest companies' participation in the reception.

Market News published the *Cattle & Crops* and *Virginia Ag Brief* newsletters weekly. 2024 marks the 45th year of the *Cattle & Crops* publication, which provides prices and summary information from Virginia livestock auctions and state-graded sales. Also included are grain prices in Virginia and national production and supply reports relevant to Virginia producers. *Virginia Ag Brief* contains a weekly summary of Virginia livestock and grain prices and is distributed to print and broadcast media throughout the state.

Division of Commodity Services

Since December, CS Staff:

- Conducted Terminal Market and Shipping Point Inspections on 4,158,718 pounds of fresh fruits and vegetables, processed Food Inspections on 944,325 pounds of processed apples and products, inspected 39,200 pounds of apples exported to Dominican Republic, and completed two Good Agricultural Practices Audits.
- Inspected and certified grain commodities including corn, wheat, soybeans, soybean meal, and soybean hull pellets valued at over \$621 million and destined for 32 countries.
- Conducted a corn damage class with industry participants.
- Provided livestock evaluation services on over 40,200 cattle and 420 lambs/goats; provided 79 Market News Reports on 31,341 head of livestock at livestock markets and 1,227 bales of hay.
- Inspected and certified over 203,000,000 pounds of Farmers' Stock peanuts and regrades, over 45,000,000 pounds of shelled and in-shell milled peanuts, and more than 2,800,000 pounds of imported peanuts from Argentina and Paraguay.
- Analyzed over 1,200 samples of peanuts for the presence and levels of aflatoxin to determine if the peanuts were safe for human consumption.
- Certified over 3,750,000 pounds of various poultry parts for the USDA Feeding Program for School Lunch Products.
- Graded, via contracted full-time grading services nearly 90,000,000 pounds of chicken and 34,000,000 pounds of turkey for the Virginia poultry and egg industry.
- Provided non-contract fee grading and certification services for over 4,200,000 pounds of poultry based on U.S. Consumer Grades to fulfill necessary specifications and contract requirements for the Virginia poultry and egg industry.
- Performed 3 USDA Food Defense Audits.

Division of Consumer Protection

On January 8, Office of Pesticide Services (OPS) staff met with staff from Virginia Tech Pesticide Program (VTPP) to discuss the review and revision of pesticide manuals and exams necessary to meet the 2017 federal Certification of Pesticide Applicator rule.

To increase participation in OPS's plastic pesticide container recycling program, OPS worked with VDACS Communications Office staff to interview industry influencers to publicize the

recycling program. Included were interviews with David Turner of Turner Farms, which has participated in pesticide container recycling programs for 20 years, and Mike Parrish of Virginia Cooperative Extension. More interviews will be part of ongoing efforts to promote participation.

On January 24, OPS received approval from the U.S. Environmental Protection Agency (EPA) for OPS's revised Combined Quality Management and Quality Assurance Project Plan. The Plan is required for states and tribes with cooperative agreements under the Federal Insecticide, Fungicide and Rodenticide Act. OPS environmental data includes residue sampling for inspections and investigations, and formulation samples to ensure product integrity and consumer protection.

In January, OPS submitted the required fiscal year (FY) 2024 midyear report as part of VDACS Pesticide Performance Partnership Grant with EPA. For FY 2024, OPS has met all expectations and anticipates meeting all grant commitments by the end of year.

In February, OPS distributed renewal applications to over 2,600 licensed pesticide businesses. All applications and other submissions will continue to be processed based on the date of receipt in OPS. All pesticide business licensees expire March 31.

In January, Office of Weights and Measures (OWM) participated in the National Conference on Weights and Measures Interim Meeting in New Orleans, LA. The meeting is an opportunity for stakeholders to consider proposed changes to the National Institute of Standards and Technology Handbooks at the annual meeting in July 2024. If passed at the annual meeting, these items will be adopted into the handbooks that have been adopted by the Code of Virginia for OWM to use as guidance in the performance of inspection activities.

On February 1, the OWM Metrology Laboratory received accreditation by the National Voluntary Laboratory Accreditation Program. This laboratory accreditation is in accordance with the recognized International Standard ISO/IEC 17025:2017 and demonstrates technical competence for a defined scope and the operation of a laboratory quality management system.

In December 2023, the Office of Plant Industry Services (OPIS) completed the 2023 cotton boll weevil (*Anthonomus grandis*) trapping survey. In 2023, OPIS staff placed and monitored 871 traps on or near over 79,000 acres of cotton fields. No cotton boll weevils were detected.

On February 9, DCP staff attended the Virginia Cotton Boll Weevil Foundation Board of Directors meeting. The Board recommended an annual assessment rate of \$1.05/acre for the 2024 growing season. The \$1.05/acre fee reflects an increase of \$0.10/acre over the 2023 assessment rate and includes \$0.80/acre for the Virginia cotton boll weevil survey program and \$0.25/acre for the national Boll Weevil Protection Fund. The cotton boll weevil has been eradicated in all areas of the United States except for the Lower Rio Grande area of Texas.

On January 18, OPIS staff participated on a national call hosted by NASDA on PFAS-monitoring and the PFAS-efforts already being performed by states. These chemicals have been implicated in environmental and health concerns and have a long half-life. The call was the first

of a multi-phase approach to develop minimum thresholds, sampling matrices, and regulatory structures to look further into and possibly regulate PFAS in certain agricultural sectors.

OPIS staff destroyed over 6,400 spotted lanternfly egg masses in high-risk areas between fall 2023 and March 2024. Transportation corridors where egg masses pose a significant risk of being moved by humans to un-infested areas are considered high-risk.

On February 6, OPIS staff received notification from the USDA Plant Pest and Disease Management and Disaster Prevention Program that six of eight Virginia proposals for funding through the Plant Protection Act were approved for federal FY 2024. Funding for the six approved proposals is approximately \$135,000.

In February, USDA Animal and Plant Health Inspection Service Plant Protection and Quarantine announced the release of a compliance agreement program to reduce the spread of box tree moth from quarantined locations to un-infested areas. The agreement allows for movement of boxwood plants once the production nursery has met criteria. Staff are setting traps and inspecting boxwoods for the presence of this pest. Based on these surveys, Virginia does not have any box tree moth infestations.

On February 23, VDACS hosted a stakeholder meeting to solicit input on the development of regulations for tradespersons installing invasive plants in Virginia. Chapter 153 of the 2023 Acts of Assembly required the Board of Agriculture and Consumer Services to develop and adopt regulations requiring tradespersons involved with proposing or installing plants to provide written notification to property owners for all plants proposed for installation that are included on the Virginia Department of Conservation and Recreation's Virginia Invasive Plant Species List.

In February, OPIS staff met with the U.S. Fish and Wildlife Service (FWS) regarding annual funding grants for endangered species surveys. VDACS is the primary agency for surveying at-risk plant and insect species, while the Virginia Department of Wildlife Resources (DWR) is the primary agency for at-risk animal species. FWS staff provided updates to the 2024 grants and an update on changes in 2025. Both VDACS and DWR have received funds to support FWS-determined projects, but the new model allows FWS to award funding to only one state agency. Depending on proposals, VDACS may not be the selected agency for a particular year and would not receive any federal funds. VDACS has received \$75,000 - \$100,000 of federal funds annually, which the agency passes to cooperating agencies conducting the surveys.

As of March 8, 375 individuals have received over 900 beehive units through the FY 2024 Beehive Distribution Program. The program provides up to three beehive units per household to randomly selected beekeepers. All beehive units have been distributed for FY 2024.

Division of Animal and Food Industry Services

The Office of Meat and Poultry Services (OMPS) issued a Conditional Grant of Inspection to Terra di Siena (TDS) in Mechanicsville in early January. TDS will be processing Italian-style products to distribute under its own label as well as for Negroni's in Harrisonburg.

In January, OMPS met with 5 Pillar Meats to discuss facility blueprints and provide additional guidance. Operations are aimed to begin late summer 2024. This facility will provide more capacity for animal slaughter and processing while accommodating custom exempt slaughter and processing options.

OMPS reached out to Powhatan County EDA about a newly passed ordinance for Minor Meat Processing, which allows small scale meat processors to operate in the county if interested.

The Office of Dairy and Foods (ODF) Food Safety Program (FSP) conducted over 3,600 inspections from October through February. FSP investigated 264 consumer complaints and collected 323 food samples. FSP also performed inspections to open 539 new food businesses. FSP currently has 13,047 firms under inspection.

ODF Dairy Services Program (DSP) conducted 419 inspections of dairy farms and 99 cheese and ice cream manufacturing plant inspections. Staff collected 1,250 milk samples, 110 water samples, and 369 cheese and frozen dessert samples and inspected 101 bulk milk haulers and transport tankers. Dairy inspectors performed 2,358 farm visits and had regular phone calls with producers to discuss the construction of facilities and installation of equipment. In December, DSP received a grant of \$21,817 from the Association of Food and Drug Officials for various dairy related trainings and \$9,822 for laboratory equipment.

Produce Safety Specialists conducted eight inspections of covered produce farms and made 111 visits to determine coverage under the FDA Produce Safety Rule for farm inventory development. There are currently two Produce Safety Specialists responsible for oversight of these farms, with one position vacant. The Produce Safety Program (PSP) currently has 201 covered produce farms that require inspection (60 large, 40 small, and 101 very small). PSP has also identified an additional 922 covered produce farms that are exempt under the FDA Produce Safety Rule. There are currently 1,123 verified produce farms in the PSP database. PSP staff has attended 15 events to explain FDA Produce Safety Rule and changes in harvest and post-harvest agricultural water requirements.

Steady progress has been made staffing the new Office of Hemp Enforcement. About 130 interviews have been conducted to fill 16 positions. The program is focused on training new employees and establishing proper procedures.

Preliminary reports show fewer tetrahydrocannabinol (THC)-related poisonings reported to state poison control centers and fewer shops advertising delta-8 THC and other illegal hemp products. From July 2023 to February 2024, 45 civil penalties have been issued, 3,765 total violations have been assessed, \$135,675 in civil penalties have been collected, and 22 Informal Fact Finding Conferences have been conducted.

The Office of Veterinary Services (OVS) animal care team worked with localities to pay remittances for dangerous dog registration fees. A portion of each registration fee is paid to VDACS to maintain the Dangerous Dog Registry.

The OVS animal care team worked with stakeholders to open and administer the electronic Animal Custody Records Summary reporting system. The system opened for collection of these reports on January 1 and closed January 31.

In December, the Harrisonburg Regional Animal Health Laboratory (RAHL) hosted USDA and a delegation from Colombia for an international audit. The delegates were given a presentation on avian influenza response, an investigation and review of two reports, and a tour of the laboratory. As of March, Colombian exports have been re-opened nationwide.

Architects and AFIS Management, along with James Madison University project managers, have met weekly to discuss the schematic design phase of the Capital Expansion Project affecting the Harrisonburg, Lynchburg, and Warrenton RAHLs. The project will add about 8,800 sq feet of laboratory and conference space, including a small BSL-3 necropsy space in Harrisonburg.

The Office of Laboratory Services has received a USDA NAHLN ARP grant for Level 1 NAHLN Labs to enhance capacity for sample testing with dedicated high-through-put equipment, a stockpile of reagents and supplies, and building epidemiology capabilities and address the One Health principles for zoonotic diseases.

Project 7815 - Fast-Track

Department of Agriculture And Consumer Services

Action to amend Pesticide Fees charged by the Department of Agriculture and Consumer Services

2VAC5-675-30. Commercial applicator certificate fee.

Any person applying for a certificate as a commercial applicator shall pay to the department an initial nonrefundable certificate fee of ~~\$100~~ \$25. All certificates shall expire on June 30 in the second year after issuance unless suspended or revoked for cause. A certificate not suspended or revoked for cause will be renewed upon receipt of an application for renewal submitted by June 30. If the certificate is not renewed within 60 days following the expiration of the certificate, then such certificate holder shall be required to take another examination. The fee for this reexamination or for any commercial applicator reexamination pursuant to subsection C of § 3.2-3930 of the Code of Virginia shall be ~~\$100~~ \$25 and shall be nonrefundable. Any person applying to add a category or subcategory to his certificate shall pay to the department a nonrefundable fee of ~~\$35~~ \$25. Federal, state, and local government employees certified to use, or supervise the use of, pesticides in government programs shall be exempt from any certification fees.

2VAC5-675-40. Registered technician certificate fee.

Any person applying for a certificate as a registered technician shall pay to the department an initial nonrefundable certificate fee of ~~\$50~~ \$25. All certificates shall expire on June 30 in the second year after issuance unless suspended or revoked for cause. A certificate not suspended or revoked for cause will be renewed upon receipt of an application for renewal submitted by June 30. If the certificate is not renewed within 60 days following the expiration of the certificate, then such certificate holder shall be required to take another examination. The fee for this reexamination pursuant to subsection C of § 3.2-3930 of the Code of Virginia shall be ~~\$50~~ \$25 and shall be nonrefundable. Federal, state, and local government employees certified to use pesticides in government programs shall be exempt from any certification fees.

2VAC5-675-50. Business license fee.

Any pesticide business that distributes, stores, sells, recommends for use, mixes, or applies pesticides shall pay a nonrefundable annual pesticide business licensing fee of ~~\$150~~ \$75 for each location or outlet that it operates. All business licenses will expire at midnight on March 31 of each year unless suspended or revoked for cause. If a business license is not suspended or revoked for cause, it will be renewed upon payment of the annual fee. If any person operating as a pesticide business fails to apply for renewal of a pesticide business license by COB March 31 the applicant, as a condition of renewal, shall pay a late license fee of 20% of the licensing fee in addition to that fee. Merchants of limited quantities of nonrestricted use pesticides including grocery stores, convenience stores, drug stores, veterinarians, and other businesses that sell pesticides primarily for limited household use shall be exempt from the business license requirement.

FORMS (2VAC5-675)

[Application for New Pesticide Product Registration/Additional Information and Instructions, VDACS-07208 \(rev. 7/2019\)](#)

~~Application for Virginia Pesticide Business License to sell, distribute, store, apply, or recommend pesticides for use, VDACS-07209 (rev. 7/2019)~~

Application for Virginia Pesticide Business License to sell, distribute, store, apply, or recommend pesticides for use, VDACS-07209 (rev. XX/XXXX)

~~Application for Reciprocal Pesticide Applicator Certificate/Commercial Pesticide Applicator Categories, VDACS-07210 (rev. 7/2019)~~

Application for Reciprocal Pesticide Applicator Certificate/Commercial Pesticide Applicator Categories, VDACS-07210 (rev. XX/XXXX)

~~Commercial Pesticide Applicator Certification Application/Eligibility Requirements for Commercial Applicator Certification, VDACS-07211 (rev. 7/2019)~~

Commercial Pesticide Applicator Certification Application/Eligibility Requirements for Commercial Applicator Certification, VDACS-07211 (rev. XX/XXXX)

~~Pesticide Registered Technician Application/General Training Requirements for Registered Technicians, VDACS-07212A (rev. 7/2019)~~

Pesticide Registered Technician Application/General Training Requirements for Registered Technicians, VDACS-07212A (rev. XX/XXXX)

~~Pesticide Registered Technician Request for Authorization to Take Pesticide Applicator Examination, VDACS-07212B (rev. 7/2019)~~

Pesticide Registered Technician Request for Authorization to Take Pesticide Applicator Examination, VDACS-07212B (rev. XX/XXXX)

~~Commercial Pesticide Applicator Request for Authorization to Take Pesticide Applicator Examination/Commercial Pesticide Applicator Categories, VDACS-07218 (rev. 7/2019)~~

Commercial Pesticide Applicator Request for Authorization to Take Pesticide Applicator Examination/Commercial Pesticide Applicator Categories, VDACS-07218 (rev. XX/XXXX)

Project 6889 - Final

Department of Agriculture And Consumer Services

Amend noxious weed list

2VAC5-317-20. Tier 1, Tier 2, and Tier 3 noxious weeds.

A. The following plants are hereby declared Tier 1 noxious weeds:

1. *Salvinia molesta*, Giant salvinia.
2. *Solanum viarum*, Tropical soda apple.
3. *Heracleum mantegazzianum*, Giant hogweed.

B. The following plants are hereby declared Tier 2 noxious weeds:

1. *Imperata cylindrica*, Cogon grass.
2. *Lythrum salicaria*, Purple loosestrife.
3. *Ipomoea aquatica*, Water spinach.
4. *Vitex rotundifolia*, Beach vitex.
5. *Oplismenus hirtellus* spp. *undulatifolius*, Wavyleaf basketgrass.
6. *Corydalis incisa*, Incised fumewort.
7. *Trapa bispinosa*, Two-horned trapa.

C. The following plants are hereby declared Tier 3 noxious weeds:

1. *Ailanthus altissima*, Tree of heaven.
2. *Ampelopsis brevipedunculata*, Porcelain berry.
3. *Celastrus orbiculatus*, Oriental bittersweet.
4. *Hydrilla verticillata*, Hydrilla.
5. *Persicaria perfoliata*, Mile-a-minute weed.
6. *Alliaria petiolata*, Garlic mustard.
7. *Dioscorea polystachya*, Chinese yam.
8. *Elaeagnus umbellata*, Autumn olive.
9. *Ficaria verna*, Lesser celandine.
10. *Lespedeza bicolor*, Bicolor lespedeza.
11. *Lonicera maackii*, Amur honeysuckle.
12. *Lonicera japonica*, Japanese honeysuckle.
13. *Phragmites australis*, Common reed.
14. *Pueraria montana*, Kudzu.
15. *Reynoutria japonica*, Japanese knotweed.
16. *Ulmus pumila*, Siberian elm.

Virginia Department of Agriculture and Consumer Services
Division of Consumer Protection
Office of Pesticide Services [Revised 5/14/15]

**Administrative Procedure for Processing Violations for Assessment of
Civil Penalties and Action on Certificates, Licenses, and Registrations (Eff. August 7, 2012)**

Decision-Maker	Activity
Enforcement or Field Supervisor	<p>Review reports, photographs, laboratory analysis reports, sample results, and other supporting documentation to ensure record of inspection, investigation, monitoring, or observation is complete, clearly written, and the findings are well-documented; contact investigator or inspector if additional information is needed; determine if a <u>possible</u> violation of assigned statutes or regulations occurred.</p> <p>For routine inspections, if no violation was found, close case and update appropriate Enforcement Case Review & Actions database.</p> <p>For a complaint investigation in which no violation was found, close case and update appropriate Enforcement Case Review & Actions database. Forward to Compliance Manager.</p> <p>If possible violation occurred, update appropriate Enforcement Case Review & Actions database and forward record to Compliance Manager.</p>

Decision-Maker	Activity
Compliance Manager	<p>Review record received from the Enforcement Supervisor to ensure it contains proper documentation to substantiate possible violation(s); contact the Enforcement Supervisor, or, if the Enforcement Supervisor is not available, the investigator or inspector if additional information is needed.</p> <p>If conditions do not warrant compliance action, close case and update appropriate Enforcement Case Review & Actions database.</p> <p>For a complaint investigation in which no violation was found, send results of investigation to complainant.</p> <p>If conditions substantiate a possible violation(s), issue a Notice of Alleged Violation notifying the respondent of the conditions found and providing the opportunity to show good faith efforts to remedy the situation and/or request an informal fact-finding or a formal hearing on the allegations levied by the Department within 15 calendar days of receipt of the Notice of Alleged Violation.</p> <p>Upon receipt of a request for an informal fact-finding, Compliance Manager will schedule the informal fact-finding.</p> <p>Upon receipt of a request for a formal hearing, Compliance Manager will notify Program Manager.</p> <p>Upon receipt of any duly provided Good Faith Opportunity Form and completion of any properly requested informal fact-finding conference or formal hearing, or in the absence thereof within 15 days of receipt of the Notice of Alleged Violation:</p> <p style="padding-left: 40px;">If conditions found show a violation:</p> <p style="padding-left: 80px;">If violative conditions do not warrant a civil penalty, send a Letter of Caution to respondent. If case resulted from complaint investigation, send results of investigation to complainant. Update appropriate Enforcement Case Review & Actions database.</p> <p style="padding-left: 80px;">If violative conditions warrant a civil penalty, issue a Notice of Violation calculating the amount of penalty in accordance with civil penalty decision matrix. If case resulted from complaint investigation, send results of investigation to complainant.</p> <p style="padding-left: 40px;">If conditions found do not show a violation:</p> <p style="padding-left: 80px;">For routine inspections, if no violation is found, close case and update appropriate Enforcement Case Review & Actions database.</p> <p style="padding-left: 80px;">For a complaint investigation in which no violation was found, close case and update appropriate Enforcement Case Review & Actions database. Send results of the investigation to the complainant.</p>

Decision-Maker	Activity
Compliance Manager (cont'd)	<p>If Civil Penalty is \$2,500 or less, mail Notice of Violation and civil penalty assessment to respondent along with payment statement and notification that the civil penalty can be appealed in a fact-finding conference authorized by § 2.2-4019 of the Code of Virginia (the Code); inform respondent that request for an informal fact-finding conference must be made in writing to the Program Manager within 15 calendar days of receipt of Notice of Violation; update appropriate Enforcement Case Review & Actions database.</p> <p>If Civil Penalty is greater than \$2,500, forward to Program Manager for review and approval.</p> <p>If denial, suspension, revocation, or modification of a license, certificate, or registration is involved alone or in conjunction with a civil penalty, forward to Program Manager for review and approval.</p> <p>At the discretion of the Compliance Manager, the civil penalty assessment may be prepared in the form of a Consent Agreement.</p>
Program Manager	<p>If Civil Penalty greater than \$2,500 is approved, return to Compliance Manager for mailing to respondent.</p> <p>If Civil Penalty greater than \$2,500 is NOT approved, return to Compliance Manager for reassessment of penalty.</p> <p>If denial, suspension, revocation, or modification of a license, certificate, or registration is involved alone or in conjunction with a civil penalty and is approved, return to Compliance Manager for mailing to respondent.</p> <p>If denial, suspension, revocation, or modification of a license, certificate, or registration is involved alone or in conjunction with a civil penalty and is NOT approved, return to Compliance Manager for reassessment.</p>
Compliance Manager	<p>Mail Notice of Violation and civil penalty assessment with payment statement to respondent; include notification that the civil penalty can be appealed in an informal fact-finding conference authorized by § 2.2-4019 of the Code; inform respondent that request for fact-finding conference must be made in writing to the Program Manager within 15 calendar days of receipt of Notice of Violation; update appropriate Enforcement Case Review & Actions database.</p> <p>If action is NOT approved, reassess and resubmit action for approval or close case; update appropriate Enforcement Case Review & Actions database.</p>
Program Manager	<p>Upon receipt of properly filed written request for an informal fact-finding conference, appoint a Conference Officer; instruct Compliance Manager to schedule the Fact-Finding Conference.</p>

Decision-Maker	Activity
Compliance Manager	Upon instruction from Program Manager, schedule an informal fact-finding conference with Conference Officer appointed by Program Manager; notify respondent and investigator or inspector of the location, date, and time of informal fact-finding conference; update appropriate Enforcement Case Review & Actions database.
Conference Officer	<p>Hold informal fact-finding conference to consider all relevant information on case; Conference Officer may affirm, raise, lower, or abate a penalty, or may negotiate a settlement based on new information; notify the respondent of decision in writing.</p> <p>Notify respondent of right to appeal the decision of informal fact-finding conference in a formal hearing authorized by §2.2-4020 of the Code; notify respondent that request for a formal hearing must be made in writing to the Program Manager within 15 calendar days after receipt of Conference Officer decision.</p>
Program Manager	Upon receipt of properly filed written request for a formal hearing , arrange for a Court-appointed attorney to act as Hearing Officer; arrange location of formal hearing ; arrange for a Court Reporter; notify investigator or inspector; update of the appropriate Enforcement Case Review & Actions database.
Hearing Officer	Hold formal hearing to hear relevant information about case; consider the facts of all violations identified in the case; evaluate the civil penalty and/or the denial, suspension, revocation, or modification of a license, certificate, or registration; Hearing Officer may recommend affirming, raising, lowering, or abating a penalty, or may recommend another outcome; transmit findings and recommendations to the Board and the respondent within 30 days of the formal hearing ; inform respondent of their right under § 2.2-4021(A) to address the Board.
Program Manager	Notify respondent in writing of the date and time of the meeting during which the Board will consider the recommendations of the Hearing Officer; notify respondent of their right under § 2.2-4021(A) to address the Board.
Board	Consider recommendations from formal hearing ; provide opportunity for final arguments from VDACS and respondent; render decision; inform respondent that decision can be appealed to Circuit Court for judicial review; instruct VDACS staff to notify respondent in writing of the Board's decision within 30 days of such decision, including notification of right to appeal to Circuit Court; instruct VDACS staff to send transcripts and all case materials to appropriate program for filing.
Compliance Manager	Update appropriate Enforcement Case Review & Actions database.



COMMONWEALTH of VIRGINIA

Joseph W. Guthrie
Commissioner

Department of Agriculture and Consumer Services
Division of Consumer Protection
Office of Pesticide Services

PO Box 1163, Richmond, Virginia 23218
Phone: 804/786-3798 • Fax: 804/786-9149 • Hearing Impaired: 800/828-1120
www.vdacs.virginia.gov

March 22, 2023
CERTIFIED MAIL

Thibault Enterprises, LLC
4108 Leonards Lane
Sutherland, VA 23885

NOTICE OF VIOLATION

Case Number: 73148

Dear Thibault Enterprises, LLC:

This letter serves as a Notice of Violation pursuant to the Virginia Pesticide Control Act. Actions taken herein have been delegated by the Board of Agriculture and Consumer Services to the Office of Pesticide Services and are in accordance with the Virginia Pesticide Control Act and other laws, regulations and guidelines. A copy of these laws, regulations and guidelines are available at <http://www.vdacs.virginia.gov/pesticides.shtml>. Hard copies are available upon request.

A. Factual Basis of Action

On May 17, 2022, Pesticide Investigator Vincent Abston initiated an investigation in response to a complaint. Specifically, the complainant alleged that pesticide drifted onto their property from a pesticide application made by your vineyard. Our Office subsequently received two additional complaints alleging pesticide drift from applications made by your vineyard for a total of three applications made on May 16, 2022, June 21, 2022, and June 26, 2022.

On May 20, 2022, Investigator Abston interviewed Alan Thibault via telephone regarding the initial pesticide application of May 16, 2022. Mr. Thibault stated that he was not a certified pesticide applicator, only made applications to his own property, and that he does not apply Restricted Use Pesticides. He further stated that he was only applying fungicides at that point in the season.

On June 3, 2022, Investigator Abston interviewed Alan Thibault and Kirk Thibault in person. It was at this interview that Investigator Abston was informed that the fungicides used in the applications were *Microthiol Disperss* (EPA Reg. no. 7506-187) and *Mancozeb Flowable with Zinc Concentrate* (EPA Reg. no. 62719-396-4), and that Surround Kaolin Clay was used in the mix along with Widespread Max as a surfactant, and Compadre as a drift control agent.

Investigator Abston visited the complainant's property on May 17, 2022, May 18, 2022, June 22, 2022, and on July 1, 2022. He observed conditions, took site photographs, and collected residue samples. The samples were sent to the Division of Consolidated Laboratory Services (DCLS) to be analyzed for the presence of pesticides. The DCLS report indicated the following results:

Sample #: 247500822 – 05/18/2022 Swab of lamp post at beginning of complainant's property.
Results: sulfur qualitatively detected.

Sample #: 247500922 – 05/18/2022 Swab of plastic container in grass in yard along complainant's driveway.
Results: sulfur qualitatively detected.

Sample #: 247501022 – 05/18/2022 Swab of satellite dish in complainant's front yard.
Results: no pesticide detected.

Sample #: 247501122 – 05/18/2022 Vegetation sample in complainant's front yard.
Results: no pesticide detected.

Sample #: 247501922 – 06/22/2022 Swab of automobile in complainant's front yard.
Results: no pesticide detected.

Sample #: 247502022 – 06/22/2022 Vegetation sample in complainant's front yard.
Results: no pesticide detected.

Sample #: 247502122 – 7/01/2022 Swab of automobile in front yard.
Results: no pesticide detected.

Sample #: 247502222 – 7/01/2022 Swab of plastic container in front yard.
Results: sulfur qualitatively detected.

On February 6, 2023, this office sent you a letter notifying you of the potential violation and providing you with an opportunity to document your good faith efforts to correct the adverse condition. On February 20, 2023, we received your completed Good Faith Effort Reporting Form.

B. Virginia Pesticide Control Act Sections Violated

Virginia Code § 3.2-3939(B) (1950) which prohibits “any person to use or cause to be used any pesticide in a manner inconsistent with its labeling...”

The “Directions For Use” section of the label for Microthiol Disperss (EPA Reg. no. 7506-187), states, “Do not apply this product in a way that will contact workers or other persons, either directly or through drift.” Additional language under the “Application Instructions” states, “Do not apply when wind speed favors drift beyond the target area intended for treatment.”

Your vineyard acknowledged the use of *Mancozeb Flowable with Zinc Concentrate* (EPA Reg. no. 62719-396-4) and *Microthiol Disperss* (EPA Reg. no. 7506-187), which contains the active ingredient sulfur. Sulfur was detected in sample numbers 247500822, 247500922 and 247502222. According to Weather Underground, recorded wind speeds from North Dinwiddie station on May 16, 2022, varied from 0 mph to 16 mph, with prevailing winds from the South and Southwest. Recorded wind speeds varied from 0 mph to 7 mph on June 26, 2022, with prevailing winds from the South and Southwest.

This Office appreciates the measures your vineyard utilizes to avoid drift as indicated in your good faith response. Provided the weather data indicating the wind direction towards the collected sample locations, and the samples with the closest proximity to the vineyard (the lamp post and plastic container) testing positive for sulfur, it is likely that drift occurred from the pesticide applications made by your vineyard. When we consider the half-life for Mancozeb being a reportedly one to seven days, it is not unlikely to have undetectable levels of residue given the time lapse from application, sample collection, and the need for DCLS to develop a method for testing. The complainant’s property and the lamp post, regardless of ownership, were all non-target areas.

C. Conclusion of Law

Based on the evidence, OPS concludes Thibault Enterprises, LLC violated § 3.2-3939(B) of the Virginia Code.

D. Penalty Assessment

Virginia Code § 3.2-3943(A) provides for the assessment of monetary civil penalties when violations of the Act and regulations occur.

For using a pesticide in a manner inconsistent with its labeling, Thibault Enterprises, LLC is assessed a penalty of \$120.00.

Enclosed is an itemized explanation of each penalty assessment along with a payment statement for the total amount assessed of \$120.00. **This penalty reflects good faith credit and a 20% reduction for no prior violation.**

E. Appeal Procedure

You have the right to appeal this case decision by requesting a Fact-Finding Conference or requesting to waive the Fact-Finding Conference and proceed directly to a formal hearing under Virginia Code § 2.2-4019. This will allow you to present additional information or arguments challenging the violation or the civil penalty. Either request must be submitted on the enclosed form to the Program Manager, Office of Pesticide Services, Virginia Department of Agriculture and Consumer Services. If you request a Fact-Finding Conference, a Conference Officer will be assigned to your case, and, if the civil penalty is upheld, you will have a further opportunity for appeal to a formal hearing.

Pursuant to Virginia Code §3.2-3943(D) of the Virginia Pesticide Control Act, “[t]he person to whom a civil penalty is issued shall have 15 days to request an informal fact-finding conference ...to challenge the fact or amount of the civil penalty.” Thus, the request for or waiver of a Fact-Finding Conference must be postmarked within 15 calendar days from receipt of this case decision.

F. Payment of Civil Penalty

If you do not request a fact-finding conference or a formal hearing within 15 calendar days following receipt of this notice, the civil penalty becomes final, due and payable within 15 calendar days from receipt of this notice. Payment of the penalty may be made by either check (certified or cashier's) or money order made payable to the Treasurer of Virginia. Please print the invoice number on the check or money order.

The Virginia Department of Agriculture and Consumer Services also offers the option of “**Online Bill Pay**”. To use the Online Bill Pay option, please visit <https://portal.vdacs.virginia.gov>.

- View all outstanding invoices on your account
- Securely pay in full invoices less than 60 days past due
- Pay by credit card (VISA, MC Discovery) – an additional \$3.00 convenience fee per bill will be added to check out.
- Pay by e-Check / ACH (no additional fees)
- Obtain online confirmation and receive email receipt.

For questions or assistance with the Online Payment Portal, contact VDACS by email at: VDACSPaymentPortal@vdacs.virginia.gov.

If you have any questions concerning this violation, the appeal procedure, or payment of the civil penalty, you may reach me by email (Nicole.Wilkins@vdacs.virginia.gov) or by phone (804-371-8485)

Thibault Enterprises, LLC
March 22, 2023
Page 5 of 5

Sincerely,



Nicole L. Wilkins
Senior Compliance Officer

Enclosures

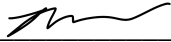
cc: Larry M. Nichols, Division Director
Liza Fleeson Trossbach, Program Manager
Robert D. Christian, Acting Supervisor, Enforcement & Field Operations
Davis Wilcox, Compliance Officer
Vincent Abston, Pesticide Investigator
Allison Jewell, Finance Office

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
Office of Pesticide Services
P. O. Box 1163, Richmond, Virginia 23218

PENALTY ASSESSMENT EXPLANATION

PERSON/FIRM NAME: Thibault Enterprises, LLC
APPLICATOR CERTIFICATION NUMBER: N/A
PESTICIDE BUSINESS LICENSE NUMBER: N/A
CASE NUMBER: 73148

<u>VIOLATION 1 OF 1</u>	<u>POINTS ASSESSED</u>
A. Type of Violation RANGE 1 → 10 PTS Using any pesticide inconsistent with label directions.	3
B. Damage Caused by Violation RANGE 0 → 10 PTS Slight actual or potential damage to property or the environment, or threat to human health and safety.	1
C. Culpability RANGE 0 → 6 PTS Negligence.	1
D. History of Previous Violations 1 PT / PREVIOUS VIOLATION	
E. Good Faith Credit for Prompt Compliance RANGE 0 → 4 PTS Monitoring and other methods to avoid drift.	<u>-2</u>
TOTAL POINTS:	3
BASE PENALTY AMOUNT:	\$150.00
F. Reduction of base penalty by 20%, if no previous violation	-30.00
G. Additional Penalty for Serious Damage/Injury/Death No additional penalty.	<u>+0.00</u>
TOTAL PENALTY AMOUNT:	\$120.00

Compliance Manager:  Date: 3 / 22 / 2023



Pay Online at:
<https://portal.vdacs.virginia.gov>

Invoice #: 360820

Total Amount Due: \$120.00

Invoice Date: Mar 22, 2023

Due Date: Apr 21, 2023

Amount Remitted: \$ _____

Make Check Payable to:
TREASURER OF VIRGINIA

Mail Payment to: VDACS
 PO Box 430
 Richmond VA 23218-0430

THIBAUT ENTERPRISES, LLC
 4108 LEONARDS LANE
 SUTHERLAND VA 23885-

Payment is due 30 days after billing date, unless a contract or the Code of Virginia requires different payment terms. The Code of Virginia authorizes the Department of Agriculture and Consumer Services to charge interest, late fees, collection costs and/or administrative costs and to deny services on past due accounts. A fee of \$50.00 will be assessed on each returned check.

Customer #46014195 RETURN THIS PORTION WITH PAYMENT FOR PROPER CREDIT
 VDACS, PO BOX 430, RICHMOND VA 23218-0430, (804) 371-6560 Customer #46014195

Page 1 of 1 **Invoice #: 360820**

Date of Service	Description of Service	Unit Price	Qty	Line Total
Mar 22, 2023	PESTICIDE CIVIL PENALTY ASSESSMENT FAILURE TO COMPLY WITH LABEL 770-08319-CP-PSTENF	\$120.00	1	\$120.00

Total Amount Due: \$120.00

VIRGINIA:

**VIRGINIA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
OFFICE OF PESTICIDE SERVICES**

**In the matter of
THIBAUT ENTERPRISES, LLC,**

Petitioner

v.

**VIRGINIA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES,
OFFICE OF PESTICIDE SERVICES,**

Respondent

*September 5, 2023
Virtual Hearing*

Hearing Officer: Rhonda J. S. Mitchell

Representatives:

**Nathaniel Scaggs, Counsel for Thibault Enterprises, LLC
Justin Bell, Counsel for the Virginia Department of Agriculture and Consumer Services**

Hearing Officer's Recommended Findings of Fact and Conclusions of Law

Introduction and Procedural Summary

A request for formal hearing (complaint) was filed on or about May 4, 2023 by Thibault Enterprises, LLC (petitioner) in appeal of a civil penalty assessed by the Virginia Department of Agriculture and Consumer Services (VDACS), Office of Pesticide Services, (agency or respondent). The complaint was filed pursuant to §2.2-4020 and §2.2-4021, Code of Virginia (1950), as amended. The hearing officer was formally notified of her appointment on May 5, 2023 by the Office of the Executive Secretary, Virginia Supreme Court, and by electronic message from the agency dated May 8, 2023.

Two prehearing telephone conference calls were convened on May 15 and June 6, 2023. The formal hearing was initially scheduled for June 14, 2023. On joint motion of the parties and in anticipation of settlement, the hearing officer granted a hearing delay until July 5, 2023 and again to August 24, 2023. On or about August 18, 2023, the parties jointly moved for yet another delay. The hearing officer granted the delay but set the hearing date for September 5, 2023 with the caveat that no further delays would be granted. The virtual hearing was conducted on September 5, 2023.

VDACS is requesting that the hearing officer recommend to the Board of Agriculture and Consumer Services that Thibault be ordered to pay a \$120.00 civil penalty (fine) it imposed for a pesticide violation. Thibault has appealed the violation and the \$120.00 fine.

The purpose of this formal administrative hearing process is for the hearing officer to review evidence and render recommended findings of fact and conclusions of law to the Board of

Agriculture and Consumer Services (Board). This formal proceeding is a culmination of unsuccessful discussions between the parties, investigations by VDACS, and a notice of violation dated March 22, 2023 sent to Thibault by VDACS. As a result of the violation set forth in the notice of violation, VDACS imposed a \$120.00 fine against Thibault. Thibault appealed.

At close of the hearing, counsel for the VDACS moved that the hearing officer delay issuing her recommend findings of fact and conclusions of law until November 7, 2023, or alternatively, to delay the effective date until November 7, 2023 to align with the next scheduled meeting of the Board of Agriculture and Consumer Services. Hearing no objection from Thibault, the hearing officer granted the motion, opting to delay issuance of her recommended findings of fact and conclusions of law until November 7, 2023.

Factual Synopsis

The VDACS, Office of Pesticide Services, is the Virginia state agency responsible for investigating pesticide complaints. Thibault Enterprises is a Virginia Limited Liability Company owned and operated by William Thibault. Thibault operates a winery called Riverside Vines located at 3415 Leonards Lane, Sutherland, Virginia where it grows grapes. The winery is approximately 170 acres.

On May 17, 2022, Vincent Abston, a pesticide investigator with the Office of Pesticide Services, VDACS, initiated an investigation of Riverside Vines (winery or vineyard). The investigation was prompted by a complaint made against Thibault Enterprises, LLC by David and Caryn Yost (complainants) who own land adjacent to Riverside Vines. The complaint specifically alleged that pesticide had drifted onto the complainant's property from pesticide applications conducted by Thibault on May 16, 2022, June 21, 2022 and June 26, 2022.

The investigator visited the complainant's property on May 17, 2022, May 18, 2022, June 22, 2022 and July 1, 2022. During the course of his investigation, Mr. Abston spoke with the complainants, David and Caryn Yost, Mr. Thibault, and his son, Kirk Thibault. The complainants are neighbors to the winery. They reside on approximately one acre located at 3601 Leonards Lane, Sutherland, Virginia.

When conducting his investigation, Mr. Abston observed conditions and took photographs. He also collected eight residue samples. The samples were dated as follows: four samples on May 17th; two samples on June 22nd; and two samples on July 1st. The samples were sent to the Division of Consolidated Laboratory Services (DCLS) to be analyzed for the presence of pesticides. DCLS determined that three of the samples, one from a lamp post, one from a plastic bin, and one from a plastic container (later determined to be trash), tested positive for sulfur. The remaining samples detected no pesticides.

During an interview with Mr. Thibault and his son, Kirk Thibault, conducted on June 3, 2022, Mr. Abston learned that the fungicides applied at the winery were Microthiol Disperss and Mancozeb Flowable with Zinc Concentrate. Surround Kaolin Clay was also used, along with Widespread Max as a surfactant, and Compadre as a drift control agent.

On February 6, 2023, VDACS notified Mr. Thibault of a potential Virginia Pesticide Control Act violation. On February 20, 2023, Mr. Thibault responded via a good faith effort reporting form. On March 22, 2023, VDACS fined Thibault Enterprises with a \$120.00 civil penalty, providing a penalty assessment explanation and bill for failure to comply with a pesticide label.

The Hearing

The virtual due process hearing was conducted on September 5, 2023. VDACS was responsible for operation and support of the virtual hearing. On motion of counsel for VDACS, exhibit books for both parties were submitted and admitted to the record at start of the hearing. Counsel for Thibault raised no objection. Previously submitted stipulations were also admitted to the record. An opening statement was given by counsel for VDACS followed by an opening statement from counsel for Thibault. At close of the hearing, the parties opted not to submit closing briefs. Four credible witnesses testified.

The following witnesses were sworn and called by the respondent, VDACS:

Vincent Abston, Pesticide Investigator, VDACS, Transcript pages (Tr. pgs.) 17 - 67

Nicole Wilkins, Senior Compliance Officer, VDACS, Tr. pgs. 68 – 83

The following witnesses were sworn and called by the petitioner, Thibault Enterprises, LLC:

Alan Thibault, Managing Member, Thibault Enterprises, LLC, Tr. pgs. 85 – 108

William Thibault, Owner and Operator, Thibault Enterprises, LLC, Tr. Pgs. 109 - 136

Witness Summaries

VDACS Witnesses:

Vincent Abston (Tr. pgs. 17 - 67): On direct examination, Mr. Abston testified that he currently serves as a pesticide investigator for VDACS. He officially identified this matter as case number 73148.

Mr. Abston reviewed and explained the narrative he wrote regarding the case. (VDACS Exhibit C) The case was a Richmond investigation referral based on several complaints made by the complainants. (VDACS Exhibits E and F) He testified as to the nature of the complaints, explaining that the complainants, Mr. and Mrs. Yost, were concerned that pesticide treatments from the vineyard had drifted onto their property. They were concerned about possible well water contamination thru runoff, and about the odor.

After explaining the investigative process to the complainants, Mr. Abston collected samples from the site and took photographs of where the samples were collected (VDACS Exhibit I). Mr.

Abston explained that he took four samples on May 17th; two samples on June 22nd, and two samples on July 1st. He explained how the samples were documented. (VDACS Exhibit K)

Upon speaking to the petitioners on May 20th and June 3rd, Mr. Abston testified that he was made aware that the vineyard was only using fungicides at the time of the complaints. The active ingredients in the fungicide were sulfur and Mancozeb. At that point he asked the lab to test for sulfur. Mr. Abston testified that he was later provided copies of the pesticide labels used at the vineyard by the petitioner. The labels showed that Mancozeb and Microthiol Disperss had been used, both of which contain sulfur. (VDACS Exs. P and Q) Mr. Abston then explained the process for sending the samples to the lab, thereby establishing a chain of custody.

Mr. Abston testified that three of the samples showed traces of sulfur: the first from a lamppost at the beginning of the complainants' yard; the second from a plastic containing (determined to be trash) laying in the grass along the complainants' driveway; and a third larger plastic containing laying in the front yard. (VDACS Ex. M)

Once the investigation was completed, Mr. Abston testified that his information details and a for-cause investigation report was sent to enforcement for review. (VDACS Ex. S) The report was then sent to compliance.

Mr. Abston testified that he had been an investigator with VDACS for three years. He further testified that he had not met either of the parties prior to this case.

On cross-examination, Mr. Abston testified that he estimated visiting the property 10 or 11 times between 2022 and 2023 in response to complaints from the Yosts. When questioned about an odor or irritation from the pesticide application, Mr. Abston testified that he did not smell an odor or become irritated during any of his visits, nor did he have to wear a mask or goggles. Mr. Abston testified that sulfur was a fairly common active ingredient in fungicides. He acknowledged that fungicides containing sulfur could be purchased at local hardware stores by the average consumer.

When questioned about chain of custody, Mr. Abston acknowledged that since the positive samples were found on the complainants' property, the property owners actually had initial control of the sampled items. When questioned about the positive sample on the plastic trash, Mr. Abston testified that he did not notice other trash on either of the parties' properties. He further testified that although the lamppost tested positive, it was really not on the complainants' property but on the property of another neighbor who had not filed a complaint. The third positive test was on a moveable plastic bin that was laying upside-down in the complainants' yard.

When asked about communications with the complainants, Mr. Abston testified that the Yosts' often communicated with him directly via email or his work cell phone. Mr. Abston acknowledged that he had not personally witnessed any of the pesticide sprays but relied on what he was told by the complainants. When asked whether it was possible that either the Yosts or other neighbor (Linda Barker) could have used fungicides on their property, Mr. Abston affirmed the possibility.

Upon questioning by the hearing officer, Mr. Abston explained that he was not sure whose property the lamppost was on, i.e. the Barker or Thibault property, but he was initially told by Mrs. Yost that the lamppost was on the Yost property. Mr. Abston explained that although the pesticide used with the sulfur could be used, it could not be used if there was a possibility of drift.

Nicole Wilkins (Tr. Pgs 68 – 83): Ms. Wilkins is a senior compliance officer with VDACS. She reviewed this case to determine a violation. She prepared the notice of violation that was sent to Thibault. (VDACS Ex. A)

On direct examination, Ms. Wilkins testified that she based her decision to violate on the following: information she received from the field; lab results from the samples; and weather reports provided by Mr. Abston (VDACS Ex. W) that showed wind towards the complainants' property.

She testified that the wind ranged from 0 to 16 miles per hour during sprays. She stated that Thibault violated 3.2-3939(B) by using a pesticide in a manner inconsistent with its label. She testified that the Microthiol Dispers label states "not to allow the product to come into contact with workers or other persons, either directly or through drift." It also states "Do not apply when wind speeds favor drift beyond the intended target area." She concluded that since three of the samples detected sulfur, that there was a drift from the application.

Ms. Wilkins then explained that once she made her decision, she sent a notice of alleged violation to Thibault, therein providing them with an opportunity to respond. (VDACS Exs. U and V) When Thibault provided its good faith response, she testified that she considered all the methods they outlined to prevent drift. Nonetheless, she issued a notice of violation. Ms. Wilkins then explained how the civil penalty of \$120.00 was calculated. (VDACS Ex. A)

On cross-examination, Ms. Wilkins was asked about any communications she may have had with the parties. Ms. Wilkins testified that she had not had any direct communications with the parties.

Thibault Witnesses:

Alan Thibault (Tr. pgs. 85 - 108): Mr. Thibault is vineyard manager at Riverside Vines. As such, he oversees upkeep of the grapevines, including administering pesticides. He is the son of William Thibault, the managing member of Thibault Enterprises, LLC.

On direct examination, Mr. Thibault testified that they spray the vineyard with the fungicide Mancozeb to control mildew. (VDACS Ex. P) He also testified that they spray Microthiol Dispers which contains sulfur. (VDACS Ex. Q) He discussed other treatments used at the vineyard used to curb sunburn of the grapes and to deter harmful insects.

Mr. Thibault stated that he knew his neighbors, both the complainants (Yosts) and Linda Barker. He claimed that his interactions with the Yosts were not good and that they nitpicked various things about the vineyard. Mr. Thibault described where the vines are located on the vineyard through use of a Google Earth photo of the vineyard (Pet. Ex. A) He testified that the

days between spraying the vineyard depended on the weather. He stated that spraying generally starts at 6:00 AM and ends around 10:30 or 11:00 AM.

Mr. Thibault explained that he has been spraying the current combination of pesticides for between 10 and 12 years at both Riverside Vines and at the petitioner's second vineyard located at Ashton Creek in Chester, Virginia. He uses this combination because it is effective on mildew and is relatively harmless. He stated that he never experienced a smell or irritant from the sprays. He stated that he did not notice any drift or wind blowing towards the Yosts' property when he was spraying. If he had seen them outside he would have stopped spraying until another time. He would have also stopped if he had noticed wind causing drift at any time during the spray.

Mr. Thibault testified that he has a degree from Virginia Tech in viticulture and attends viticulture training twice a year. He stated that he has knowledge about the proper use and application of fungicides.

On cross-examination, Mr. Thibault testified that he was not a registered pesticide applicator but that he had taken about two courses per year for 10 years. He further testified that he did not wear protective eyewear during the sprays as the pesticide instructions dictate because he is in a cabbed tractor. When asked, he stated that he never intended to spray the plastic container, trash container or lamppost that tested positive for sulfur.

On redirect examination, Mr. Thibault explained that he did not wear protective eyewear during the sprays because the tractor is driving the sprayer. He explained that as a precaution during sprays, he intentionally does not spray near the Yosts side of the property until he is at least four rows in.

William Thibault (Tr. pgs. 109 - 136): On direct examination, Mr. Thibault stated that he is the owner of Thibault Enterprises, LLC. He purchased the Riverside Vines property approximately three years ago but rented it for two years prior to purchase. He stated that the property is on the edge of Lake Chesdin. He testified that the previous owners at some point made money on a campground there, but that it had primarily been farmed for the last 100 years.

Mr. Thibault explained how the spraying process works. He stated that he and his son, Alan Thibault, split the duty of spraying. He testified that the machine has anti-drift nozzles to keep drift to a minimum. He explained that they do not spray the leaves until they are dripping or soaking wet because that is a waste of the pesticide, which is quite expensive.

He testified that the lamppost that tested positive for sulfur was on the property in his neighbor, Linda Barker. Mr. Thibault stated that the Yosts questioned the operation from the beginning but their relationship was decent. That changed when he realized that the complainants had been fighting them behind their backs and trying to shut them down. He found out that the Yosts had been sending adverse emails to the county and the Virginia Department of Transportation about the Riverside Vineyard. (Pet. Exs. D, G, H, I, J, K, L)

Mr. Thibault testified that as a result of complaints made by the Yosts, he has had to deal with the following agencies: Department of Environmental Quality; Appomattox Water Authority;

County Board of Zoning; and the Department of Health. The Yosts have filed numerous lawsuits against the county and the vineyard for an alleged easement violation. The Yosts also sued one of the vineyard subcontractors for hate crimes which was summarily dismissed. It was proven that the vineyard is grandfathered as an agricultural operation. None of the other agency complaints were determined to be founded.

Mr. Thibault mentioned that he and his son do not need to be licensed by VDACS as a pesticide applicator because what they use on the vineyard is non-regulated nor are they commercial applicators. He claimed that the dogs and sheep on the property have had no adverse affects from the pesticides they use. He testified that as a general rule, there is no trash around his property since they are more than a mile from the road. He also testified that the Yosts' property is very well manicured and has no trash.

In regard to the trash that tested positive for sulfur, he testified that if drift were the cause, the van that was near the trash should have also tested positive but it did not. He mentioned that they use Surround, which acts as a tracer, so if the pesticide had gone on the trash that was close to the van, white specks would have shown on the van and on the trash. He stated that the van next to the trash had been sitting in the same spot for a long time so it should have been there during the spraying.

He stated that when spraying the vineyard, they insure that they spray away from the Yosts' property. He testified that the spray has an anti-drift ingredient and no smell. Within ½ an hour the leaves are dry. He testified that he is an old man who can get out of the cab every 20-30 minutes and is not bothered by the spray.

Mr. Thibault testified that he has a great relationship with his other neighbor, Linda Barker. He claimed that both neighbors, Ms. Barker and the Yosts, often walk through the vineyard and that the Yosts are not complaining then – only when they are trying to shut down the vineyard.

He stated that an inspector came out with two police officers and he showed them how the sprayer worked. He insisted that they only spray early in the mornings when the wind is calm, including the sprays in May, June and July, 2022 that are the dates cited for this case.

On cross-examination, Mr. Thibault testified that he did not intend to spray the Yosts' property nor any of the items that tested positive for sulfur. Following prompting by counsel for VDACS, Mr. Thibault read the following pesticide direction: "It is a violation of federal law to use this product in a manner inconsistent with its labeling. Do not apply this product in a way that it will contact workers or other persons, either directly or through drift."

Issues

The issues in this case are as follows:

Did Thibault Enterprises, LLC violate Code of Virginia § 3.2-3939(B) by using a pesticide in a manner inconsistent with its label?

Did Thibault Enterprises, LLC apply pesticides in a manner to allow the product to come into contact with workers or other persons, either directly or through drift?

Did Thibault Enterprises, LLC apply pesticides when wind speeds favored drift beyond the intended target areas?

Argument Summaries

VDACS argues that the notice of violation should be upheld. They argue that although the violation does not rise to a level of negligence, the evidence shows that three samples taken by the investigator tested positive for sulfur as a result of drift from spraying by the petitioners. These three samples were found on property other than the vineyard.

VDACS further argues that the sulfur found on the three samples are a regulated substance and that when spraying, the Thibaults' failed to follow the instructions on the label. This is a violation of § 3.2-3939(B).

Thibault argues that the notice of violation should be overturned. They claim that this is yet another of a long string of complaints made by the Yosts against the vineyard to several agencies. They argue that the Thibaults are not required to be certified pesticide applicators because they are not commercial applicators. They spray only on the property they own.

Thibault further argues that the sulfur found on the samples could be purchased through products sold at a local hardware store. They question the chain of custody since the Yosts controlled the tested trash and plastic container on which the sulfur was found prior to the investigator's arrival. They point out that the lamppost was on the edge of the Barker property -- not the Yosts. They question why the moveable plastic tub laying beside a vehicle tested positive but the vehicle, which has a larger surface, did not test positive. Thibault summarily argues that there is no proof that the three positive sample results came from anything they did wrong. They argue that there was no wind causing drift during the sprays and that they take extra precautions to avoid drift.

Burden of Proof

The burden of proof rests with the Department of Agriculture and Consumer Services (VDACS). VDACS bears the burden of proving its case by a preponderance of the evidence.

Legal Analysis

Did Thibault Enterprises, LLC violate Code of Virginia § 3.2-3939(B) by using a pesticide in a manner inconsistent with its label?

Code of Virginia § 3.2-3939(B) states: It is unlawful for any person to use or cause to be used any pesticide in a manner inconsistent with its labeling or regulations of the Board, provided that

such deviation may include provisions set forth in Section 2 (ee) of the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. § 136 et seq.). VDACS has cited and fined Thibault \$120.00 for violating § 3.2-3939(B) alleging that they sprayed pesticides in wind conditions resulting in drift. Three of eight samples tested positive for sulfur.

The label in question states that it is a violation of federal law to use the product in a manner inconsistent with its labeling. The label also reads not to apply the product in a way that it will contact workers or other persons, either directly or through drift. (VDACS Ex. Q)

In this case, the petitioners own a vineyard. The evidence establishes that the petitioners frequently spray pesticides on their grapes to protect them from disease and insects. The evidence establishes that the neighbors (Yosts) have filed numerous complaints about the vineyard with various state agencies, including VDACS. Until now, the complaints have been determined unfounded.

Two of the three samples that tested positive for sulfur could have easily been sprayed independently and placed where they were found in light of the fact that products containing sulfur are easy to purchase. Although possible, it is suspicious that no trace of sulfur was located on the van that was sitting close to one of the plastic containers. The pictures show that the vehicle is clearly larger than the plastic container.

Both of the Thibaults, father and son, explained that they use a sprayer. They sit in a cabbed vehicle to which the sprayer is attached. They control the amount of spray and direction of spray from the cabbed vehicle. They testified that they are extremely cautious, especially when it comes to spraying near the Yosts' property due to on-going conflicts with the Yosts. The Thibaults testified that they do not overspray the pesticide because it is too expensive to waste. The decision to cite the vineyard was based on three samples that tested positive for sulfur. The investigator testified that products with sulfur can be purchased from any local hardware store.

I FIND that VDACS has failed to establish exactly how the Thibaults used the pesticide in a manner inconsistent with its label. The investigator was not present during any of the sprays. During his many visits to the vineyard after sprays, the investigator testified that he did not detect an odor nor any irritations in the air.

Did Thibault Enterprises, LLC apply pesticides in a manner to allow the product to come into contact with workers or other persons, either directly or through drift?

The label reads not to apply the product in a way that it will contact workers or other persons, either directly or through drift. The evidence is clear that the Thibaults did not intend to directly spray any properties other than their own. Nor did they intend for pesticides to drift onto any other properties. The Thibaults testified that they made a point of spraying in the mornings when the winds were low to intentionally avoid drift. They sprayed away from the Yosts property so no drift would get onto their land. They sprayed four rows in to avoid contact with the Yosts property despite the fact that some of the grapes might not be sprayed thereby causing them to be damaged. As an added precaution, they used an anti-drift agent when spraying.

The wind report cited by VDACS confirms that winds were low – between 0 and 16 miles per hour. (VDACS Ex. W) Although the Thibaults did not wear protective eye gear when spraying, they testified that they never encountered irritation from the spray. They controlled the direction and volume of the spray from a cabbed vehicle. Also, to avoid any confrontation with the Yosts, they would not spray if they saw the Yosts in their yard.

I FIND that the Thibaults acted reasonably when spraying. VDACS has failed to show that Thibault applied pesticides in a manner that allowed the product to come into contact with workers or other persons, either directly or through drift.

Did Thibault Enterprises, LLC apply pesticides when wind speeds favored drift beyond the intended target areas?

Ms. Wilkins testified that she partially based her decision to fine the vineyard on weather reports provided by the investigation. (VDACS Ex. W) The reports showed winds between 0 and 16 miles per hour. These are low winds that should not have caused a substantial drift while spraying. VDACS has failed to meet its burden.

The Thibaults testified that they use an anti-drift agent called Compadre during sprays. They intentionally spray early in the morning when winds are lowest. The sprayer has an anti-drift nozzle to minimize drift.

I FIND that VDACS has failed to meet its burden of proof. I FIND that Thibault Enterprises, LLC did not apply pesticides when wind speeds favored drift beyond the intended target areas.

Recommended Findings of Fact

Considering, and incorporating by reference, the content of this document, witness testimony, exhibits, other relevant documents, and counsel arguments, the hearing officer recommends the following findings of fact to the VDACS Board of Agriculture and Consumer Services:

- Thibault Enterprises, LLC acted reasonably when spraying pesticides.
- Thibault Enterprises, LLC did not violate Code of Virginia § 3.2-3939(B).
- Thibault Enterprises, LLC did not apply pesticides in a manner that allowed the product to come into contact with workers or other persons, either directly or through drift.
- Thibault Enterprises, LLC followed the labeling directions on the pesticide(s).
- Products containing sulfur can be purchased by anyone at a local hardware store and therefore, could have been sprayed on the three positive items independent of Thibault Enterprises, LLC.
- Thibault Enterprises, LLC did not apply pesticides when wind speeds favored drift beyond the intended target areas.

Recommended Conclusions of Law

After a thorough review of the evidence presented and a comprehensive application of applicable laws, regulations and compliance requirements, the hearing officer recommends the following conclusions of law to the VDACS Board of Agriculture and Consumer Services:

- That the \$120.00 civil penalty or fine assessed by VDACS against Thibault Enterprises, LLC be lifted or overturned.
- That VDACS failed to meet its burden of proof in this case.
- That Thibault Enterprises, LLC did not violate Code of Virginia § 3.2-3939(B) nor any labeling directions while applying pesticides or fungicides to its vineyard.

The hearing officer recommends that the VDACS Board of Agriculture and Consumer Services adopt the recommended findings of fact and conclusions of law set forth herein.

DATED: November 7, 2023

RHONDA J. S. MITCHELL
Hearing Officer

Certificate of Service

I, Rhonda J. S. Mitchell, hearing officer, do hereby certify that a true copy of the above was emailed to Justin Bell, counsel for the Department of Agriculture and Consumer Services, Liza Fleeson Trossbach, project manager for VDACS, and to Nathaniel Scaggs, counsel for Thibault Enterprises, LLC, on the 7th day of November, 2023. This document is to be forwarded to the VDACS Board of Agriculture and Consumer Services.

Rhonda J. S. Mitchell
Hearing Officer

VIRGINIA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

OFFICE OF PESTICIDE SERVICES

**GUIDELINES FOR ENFORCEMENT OF THE VIRGINIA PESTICIDE CONTROL ACT:
CIVIL PENALTY ASSESSMENT DECISION MATRIX**

Statutory Authority: § 3.2-3943 of the Code of Virginia (1950), as amended.

§ 1.1 Definitions

The following words and terms, when used in these guidelines, shall have the following meanings, unless the context clearly indicates otherwise:

“Act” means the Virginia Pesticide Control Act, Chapter 39 of Title 3.2 (§§ 3.2-3900 through 3.2-3947) of the Code of Virginia (1950), as amended.

“Board” means the Board of Agriculture and Consumer Services

“Pesticide Business” means any person engaged in the business of: distributing, applying, or recommending the use of a product; or storing, selling, or offering for sale pesticides directly to the user. The term “pesticide business” does NOT include (i) wood treaters not for hire; (ii) seed treaters not for hire; (iii) operations that produce agricultural products unless the owners or operators of such operations described in clauses (i), (ii), and (iii) are engaged in the business of selling or offering for sale pesticides, or distributing pesticides to persons outside of that agricultural producing operation in connection with commercial transactions; or (iv) businesses exempted by regulations adopted by the Board.

“Previous Violation” means any violation of the Virginia Pesticide Control Act, or regulations adopted pursuant thereto, that resulted in a Notice of Warning or civil penalty cited within the three-year period preceding the current violation.

“Reportable pesticide spill, accident, or incident” means any release of a pesticide into the environment in any manner not in accordance with instructions for use or disposal provided on the product label.

§ 1.2 Provision for Civil Penalties Generally

- A. The Board may assess a penalty of not more than \$1,000 for a violation that is less than serious, not more than \$5,000 for a serious violation, and not more than \$20,000 for a repeat or knowing violation.*
- B. The Board may assess an additional penalty of up to \$100,000 for any violation that causes serious damage to the environment, causes serious injury to property; serious injury to, or death of, any person.*
- C. Civil penalties may be imposed against a pesticide business or its employees for acts determined to be violations of the Pesticide Control Act or regulations of the Board. Each physical business location shall be treated as a separate entity.
- D. Civil penalties may be imposed against any person for acts determined to be violations of the Pesticide Control Act or regulations of the Board.

*Language taken from the Code of Virginia, § 3.2-3943, Part B

§ 1.3 Assessment of separate violations

- A. Each violation of the Act, or regulations adopted pursuant thereto, shall be assessed separately for the purpose of determining the total civil penalty assessment.
- B. In cases of continued violation, a civil penalty may be assessed separately for each day of the violation beginning with the date of notification of the violation and ending with the date of abatement.

§ 1.4 Penalty Point System

The point system described in this section shall be used to determine the amount of the civil penalty.

- A. Type of violation

A natural person or pesticide business in violation of the Act, or regulations adopted pursuant thereto, shall be assigned up to 10 points for the type of violation described in one of the following categories:

Points	Violation Category
1-2	Failing to comply with the regulations for certification or licensing, or the conditions of a certificate or license.
1-2	Failing to meet all requirements regarding labeling, registration, color, composition, and container for a pesticide or device.
1-2	Making any statement, declaration or representation through any medium implying that any natural person certified or registered under the provisions of Article 3 of the Act is recommended or endorsed by any agency of the Commonwealth.
2-3	Applying any pesticide in a negligent manner.
2-3	Failing to maintain proper records or permit access to records as required.
2-3	Failing to notify Department of a reportable pesticide spill, accident, or incident.
2-3	Dispensing, applying or using any pesticide through any equipment not in sound mechanical condition, or not properly equipped with effective cut-off valves, leak-proof pesticide tanks and distribution systems, or not equipped to dispense a pesticide at the proper rate.
2-4	Handling, transporting, storing, displaying, or distributing pesticides in a manner that may endanger humans, and the environment, or which may contaminate food, feed, or other products transported, displayed, stored, or distributed with pesticides.
2-4	Making pesticide recommendations, or causing a natural person to use any pesticide, in a manner inconsistent with label directions or in violation of the Act, or regulations promulgated pursuant thereto.

- 2-4 Making false or fraudulent records, invoices or reports.
- 3-6 Using any pesticide, or storing or disposing of any pesticide or container inconsistent with label directions or in violation of the Act, or regulations promulgated pursuant thereto.
- 3 Providing one's certification or registration to be used by another natural person.
- 4 Using to fill pesticide handling, storage, or application equipment, any hose, pump, or other equipment that has not been fitted with an effective device to prevent back flow or back siphon.
- 4 Providing or making available any restricted use pesticide to any natural person not certified to use such a pesticide.
- 7-8 Aiding, abetting or conspiring with any natural person to violate the provisions of Article 3 of the Act, or regulations adopted pursuant thereto.
- 8 Using fraud, or false claims involving pesticide sale or use, or involving licensing, certification, or registration requirements of the Act, or regulations adopted pursuant thereto.
- 8 Making false or fraudulent claims misrepresenting the effect of materials or methods to be utilized or sold or the effects of a pesticide application on the environment or on human health and safety.
- 10 Violating a stop sale, use, or removal order.
- 10 Failure to comply with any lawful order of the Commissioner or the Board.
- 10 Neglecting, or after notice, refusing to comply with the provisions of Article 5 of the Act, or regulations promulgated pursuant thereto.
- 10 Interfering with the Commissioner or his duly authorized agents in the performance of duties.
- 10 Impersonating any federal, state, county or city inspector or official.

B. Damage Caused or Potential for Causing Damage

A natural person or pesticide business in violation of the Act, or regulations adopted pursuant thereto, shall be assigned up to 10 points for the real or potential damage associated with the violation, taking into consideration any harm to the environment and any hazard to public health and safety, as described in one of the following categories:

Points	Damage Category
0	No actual or potential damage to the environment or threat to human health and safety.
1-2	Slight actual or potential damage to property or the environment, or such threat to human health and safety.
3-4	Moderate, but significant, actual damage to property or the environment; also, moderate, but significant, potential damage to property or the environment, or such threat to human health and safety.
5-6	Serious actual damage to property or the environment; also, serious potential damage to property or the environment, or such threat to human health and safety.
7-8	Very serious actual damage to property or the environment; also, very serious potential damage to property, the environment, or such threat to human health and safety.
9-10	Extremely serious actual damage to property or the environment that may be irreparable, or which can be corrected only after a considerable effort or period of time; also, extremely serious potential damage to property or the environment, or such threat to human health and safety.

C. Culpability

A natural person or pesticide business in violation of the Act, or regulations adopted pursuant thereto, shall be assigned up to six points, from one of the following categories, based on the degree of fault of the natural person to whom the violation was attributed:

Points	Culpability Category
0	No fault attributed; an inadvertent violation that was unavoidable by the exercise of reasonable care.
1-2	Negligent.
3-6	Knowing, aware of actions.

D. History of Previous Violations

In determining the amount of a civil penalty, the history of previous violations of the pesticide business or natural person shall be considered.

For current violations resulting from actions of a pesticide business, one point shall be assigned for each previous violation found that resulted from the actions of the pesticide business. Each physical business location shall be treated as a separate entity.

For current violations resulting from the actions of a natural person, one point shall be assigned for each previous violation found that is attributable to the same natural person cited in the current violation.

Previous violations overturned through the appeal process shall not be counted.

In instances where both the pesticide business and a natural person have been cited in the current case, and both have previous violations, points may be assigned for both.

E. Credit for good faith in attempting to achieve compliance.

The demonstrated good faith of the natural person or pesticide business in attempting to achieve rapid compliance after notification of the violation shall be taken into consideration in determining penalty points. No more than four points may be deducted from the total points assigned under Subsections A, B, C, and D, based on the following categories:

Points	Good Faith Credit Category
3-4	Immediate action taken to abate the violation, and correct any conditions resulting from the violation, in the shortest possible amount of time.
1-2	Prompt and diligent efforts made to abate the violation, and correct any conditions resulting from the violation, within a reasonable period of time.
0	No points deducted.

F. Determination of base civil penalty

The total penalty point amount shall be determined by adding the points assigned under Subsections A, B, C, and D, and subtracting from that subtotal the points assigned under Subsection E of this Section. The resulting total penalty point amount is converted to a dollar amount, according to Table A.

G. Reduction of Penalty

In the case of a less than serious violation where no previous violation exists, the base civil penalty may be reduced by 20 percent. In the case of a serious violation or a previous violation, the base civil penalty shall not be reduced.

H. Additional penalty for causing serious damage, illness, or death

An additional penalty of up to \$100,000 may be assessed for any violation that causes serious damage to the environment, serious injury to property, or serious injury to or death of any person. Each serious incident shall be examined on a case-by-case basis, taking into consideration the severity of the damage or injury, the potential long-term effects, and any economic loss involved. The basis for an additional assessment shall be fully explained and documented in the records of the case.

§ 1.5 Waiver of Use of Formula to Determine Civil Penalty

- A. The Board may waive the use of the formula contained in Section 1.4 to set the civil penalty, if the Board determines that, taking into account exceptional factors present in the particular case, the penalty is demonstrably unjust. The basis for every waiver shall be fully explained and documented in the records of the case.

- B. If the Board waives the use of the formula, it shall give a full written explanation of the basis for any penalty assessment to the natural person or pesticide business found in violation.

Virginia Department of Agriculture and Consumer Services
Office of Pesticide Services
September 1995 (published revision)
December 2003 (reformatted)
February 2009 (code citations updated)
July 2012 (reference to Board of Agriculture & Consumer Services updated)

TABLE A
For converting total penalty points into base civil penalty

Points	Dollars	Points	Dollars
1	\$ 50	21	\$ 7000
2	100	22	7500
3	150	23	8000
4	200	24	8500
5	350	25	9000
6	500	26	9500
7	650	27	10000
8	800	28	10500
9	1000	29	11000
10	1500	30	11500
11	2000	31	12000
12	2500	32	12500
13	3000	33	13000
14	3500	34	14000
15	4000	35	15000
16	4500	36	16000
17	5000	37	17000
18	5500	38	18000
19	6000	39	19000
20	6500	40	20000

February 23, 2024

Virginia Department of Agriculture and Consumer Services
Joseph Guthrie, Commissioner
102 Governor Street
Richmond, VA 23219

Dear Commissioner Guthrie,

On behalf of the Virginia Wine Wholesalers Association (VWWA) I am writing to endorse Mr. Ken Tambaschi of Republic National Distribution Company as Board member of the Virginia Winery Distribution Company (VWDC) to replace the seat being vacated by Doug Zerbst later this year.

Ken has a long history in the wine wholesale industry with two decades of experience and will bring a great perspective to the board.

If you have any questions at all regarding Ken, please feel free to call the VWWA offices.

Thank you for your time and consideration.

Sincerely,

Jay Colston
President, VWWA

**BOARD OF AGRICULTURE AND CONSUMER SERVICES
Future Meeting Dates**

MARK YOUR CALENDARS

Thursday, May 23, 2024
Patrick Henry Building
East Reading Room
1111 East Broad Street
Richmond, VA 23219

Summer, 2024
TBD

Thursday, December 12, 2024
TBD
Richmond, VA