PERFORMANCE AUDIT

DEPARTMENT OF WEIGHTS AND MEASURES

Report to the Arizona Legislature
By the Auditor General
October 1992
92-5

STATE OF ARIZONA
OFFICE OF THE
AUDITOR GENERAL

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AUDITOR GENERAL

October 20, 1992

Members of the Arizona Legislature

The Honorable Fife Symington, Governor

Mr. John Hays, Director
Department of Weights and Measures

Transmitted herewith is a report of the Auditor General, A Performance Audit of the Department of Weights and Measures. This report is in response to a December 13, 1991, resolution of the Joint Legislative Oversight Committee.

The report presents a new approach to regulating commercial transactions involving weights and measures in Arizona. Rather than inspecting all devices or establishments once each year, the Department can promote greater compliance and reduce inspection costs by using sampling strategies to identify and target violators. Combined with the Department's new authority to impose civil sanctions, this approach enables the Department to effectively regulate with fewer staff than at present.

We also found that the Department has experienced much turmoil and staff dissension, largely due to the actions of the former management. In addition, the audit presents information showing that the Department's used oil program activities are not self-supported from program revenues.

My staff and I will be pleased to discuss or clarify items in the report.

This report will be released to the public on October 21, 1992.

Sincerely,

Douglas R. Norton

Douglas R. Norton
Auditor General

DRN:lmn

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SUMMARY

The Office of the Auditor General has conducted a performance audit and Sunset Review of the Department of Weights and Measures, pursuant to a December 13, 1991, resolution of the Joint Legislative Oversight Committee. The audit was conducted as part of the Sunset Review set forth in Arizona Revised Statutes §§41-2951 through 41-2957.

The Department is a small agency that has grown rapidly in recent years. The number of staff grew from 26 in fiscal year 1986-87, to 66 in fiscal year 1992-93 and appropriations increased from $1 million to $2.4 million during that same period. The audit addresses concerns raised by Joint Legistive Budget Committee staff about the need for some Department activities, staff turnover, and revenues generated by the used oil program.

The Department Of Weights And Measures Could Improve Its Effectiveness And Reduce Staffing (see pages 5 through 10)

The Department's practice of relying on frequent inspections to discourage noncompliance with weights and measures statutes and regulations is not a cost-effective use of State resources. A statistical analysis of approximately 27,000 Department inspections conducted during 1989-1991 revealed that the majority of vendors comply with regulations. Our analysis also shows that most vendors will comply regardless of the inspection frequency. However, the relatively few vendors that do tend to violate are not deterred by the threat of annual inspections or the relatively limited enforcement options previously available to the Department. Moreover, the Department does not appear to target violators for inspection any more frequently than it does vendors that are in compliance.

The Department can improve its effectiveness and reduce operating costs by using an inspection strategy based on statistical sampling coupled with its new civil penalty authority. This strategy is based on the premise that those vendors that currently violate the law will comply _if_ they believe there is a reasonable chance that noncompliance will be detected and that the penalties for noncompliance outweigh the potential benefits. The strategy has three components: 1) inspecting a large random sample of vendors each year, 2) imposing civil penalties for violations, and 3) following up each violation in the year detected as well as conducting additional follow-up inspections over a five-year period following the violation.

This sampling and follow-up inspection strategy could reduce the number of Weights and Measures inspections from approximately 9,000 to 3,000 per year, which we estimate would enable the Department to eliminate 19 positions, including three supervisors, and save an estimated $480,000 annually. However, at least some of this saving would be needed to hire a data analyst with experience in sampling, to design, manage, and analyze the data base needed to implement the sampling strategy.

Former Management At Weights And Measures Created Turmoil Among Agency Staff (see pages 11 through 16)

In recent years the Department has been plagued by dissension and low morale. Our interviews with former and current staff identified this low morale as a major cause for staff turnover. A survey of current employees and follow-up interviews revealed an angry and frustrated work force, deeply divided over the quality and integrity of the Department's former management team. Some staff were extremely critical of the former management for being biased and showing favoritism or behaving in what they considered to be an insensitive manner. Other staff were highly supportive of the former management and regarded those that raised concerns as disloyal.

The administrators that were the focus of much of the staff discord left the agency during our audit. Since that time, the new Director has taken steps to refocus staff attention on the agency's functions and away from the issues involving former management. Although these steps appear appropriate, the Department needs to continue monitoring the issue.

Other Pertinent Information – The Used Oil Program Does Not Support Itself Through Fees And Penalties

(see pages 17 through 23)

The Department of Weights and Measures used oil program does not generate sufficient revenue to support program activities. Although the Legislature intended the program to be self-sufficient, our analysis of revenues and expenditures indicates that the $65 fee for used oil tests is far less than the amount needed to fund the program. If the fees for all tests were paid on time, the Department would still need to collect $106 for each test to cover its costs. However, many fees are not paid on time and if the agency's costs were assessed only against the fees collected for used oil tests, the test fee would have to be increased to $157.

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INTRODUCTION AND BACKGROUND

The Office of the Auditor General has conducted a performance audit and Sunset Review of the Department of Weights and Measures, pursuant to a December 13, 1991, resolution of the Joint Legislative Oversight Committee. The audit was conducted as part of the Sunset Review set forth in Arizona Revised Statutes §§41-2951 through 41-2957.

Based on concerns raised by the Joint Legislative Budget Committee staff, the Joint Legislative Oversight Committee instructed our Office to review operations at the Department of Weights and Measures. What we found was an agency in turmoil as a result of its poor handling of personnel matters and an agency unable to effectively handle its regulatory responsibilities despite significant increases in budget and staff in recent years.

The Department Has Broad Responsibilities And A Growing Budget

The Department is a small agency that has grown rapidly over the last several years in an effort to meet its broad regulatory mandate. Weights and measures regulatory functions began in 1912 and were transferred to the Department of Administration in 1974. In 1987, the Department of Weights and Measures was established as an independent State agency, and is currently organized into four sections: an Enforcement division, a Petroleum Quality Control division, an Administration division, and the State's metrology lab.

Statutes governing the Department have historically made the agency responsible for the following:

- insuring the accuracy of all commercial weighing and measuring devices operating in the State, including 1) small and large scales (with weigh capacities ranging from less than a pound to more than 60,000 pounds), 2) petroleum dispensers, 3) propane meters, and 4) taxi meters.

- regulating commodity prices based on weight
- operating the State's metrology lab, which maintains custody of the State's standards of weight and measure from which all other standards of weight and measure used in the State are derived
- licensing and regulating performance of public weighmasters and registered service agencies (RSA's)[1]

Weights and Measures has also been given additional responsibilities since being restructured as a stand-alone agency. Beginning in 1987, the Department became responsible for insuring that petroleum octane and oxygenate levels meet standards and used oil stored and sold statewide is properly labeled and not hazardous waste.

Weights and Measures' broad mandate has led to the substantial growth of the agency since fiscal 1986-87 in an effort to meet its responsibilities. In 1986-87, the Department was authorized 26 FTEs compared to the 66 FTEs authorized for fiscal year 1991-92. The agency's appropriations have also increased from $1 million in fiscal year 1986-87, to $2.4 million in fiscal year 1991-92.

The increase in the number of employees can be attributed to both program area expansion and the addition of new program areas. The agency has added 19 FTEs to operate its new petroleum quality control and used oil programs. In addition, since 1987, the Department's Enforcement division, which oversees all of its older inspection programs, has increased staffing from 20 to 33 FTEs.

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(1) Weighmasters are licensed to weigh any object and certify that the weight of the object is correct; RSAs are licensed to install and repair commercial weighing and measuring devices and certify that devices are accurately calibrated.

Audit Scope

Our audit objectives were developed in response to the concerns raised by JLBC staff relating to the efficiency and effectiveness of agency inspections, inspector turnover, and the revenue generated by the Department's used oil program. These concerns are covered in the report's three sections that address the following:

- Methods for reducing staff and improving performance in the Department's Enforcement division
- Staff turmoil created by former agency administrators
- The Department's inability to support its used oil program through fees and penalties

The audit was conducted in accordance with government auditing standards.

The Auditor General and staff express appreciation to the Director, Deputy Director, and staff of the Department for their cooperation and assistance throughout the audit.

FINDING I

THE DEPARTMENT OF WEIGHTS AND MEASURES COULD IMPROVE ITS EFFECTIVENESS AND REDUCE STAFFING

A new strategy for inspection and enforcement could reduce staffing costs by $480,000 a year and improve the Department's performance. Weights and Measures' current enforcement strategy, which relies primarily on frequent inspection activity, does not deter violators, and results in an inefficient use of resources. Staff reductions and more effective regulation could be achieved by selecting inspections using statistical sampling, and by using the agency's new civil penalty authority in instances of noncompliance.

Current Enforcement Efforts Are Not Cost Effective

The Department's practice of relying on frequent inspections to discourage noncompliance is not a cost-effective use of State resources. Although the agency's strategy may seem practical at first glance, our review shows that inspections alone do not deter vendors from violating weights and measures regulations. Moreover, the agency's overreliance on inspections has resulted in an inefficient use of manpower.

Current enforcement strategy relies on frequent inspections - Weights and Measures has tried to enforce vendor compliance with State regulations through intense inspection activities. The agency's approach is simple and appears practical: inspect as many vendors as possible, as often as possible, and vendors will tend to stay in compliance with State regulations.

The agency's strategy is reflected in the number of inspections it performs. For example, the Department's Enforcement division conducted approximately 27,000 inspections during a three-year period at more than 10,000 business locations. These figures include inspections of over 84,000 weighing and measuring devices and over 35,000 commodities.[1]

When inspectors find violations, enforcement actions are generally limited to placing defective devices out of service until they are repaired or, in cases where commodities are short-weight, having vendors reweigh the merchandise at the time of the inspection. The agency does not generally pursue criminal prosecution as prosecutors often do not consider weights and measures violations serious enough to warrant pursuing. However, the Department now has more enforcement options. In 1992, the Legislature provided the Department with civil penalty authority that allows it to assess penalties of up to $500 per infraction.

<u>Frequent inspections do not deter violations</u> - We found that frequent inspections and limited enforcement actions alone do not deter vendors from violating State regulations. Our Office analyzed all inspections performed by the agency's Enforcement division from 1989 through 1991 and found that the majority of vendors tend to comply with State regulations. For example, we found that 92 percent of the businesses inspected complied with State laws and regulations. However, the relatively few vendors that do tend to violate do so regardless of the frequency of inspections. For example:

- A supermarket was inspected 13 times in less than three years. During that time, inspectors found violations on nine different occasions and almost 4,100 overpriced packages.
- Another supermarket was inspected 17 times in almost three years and inspectors found violations twelve times including more than 400 overpriced packages.

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(1) The Enforcement division is the Department's largest section, with 34 full-time employees, and oversees most of the agency's program areas, including inspections of small and large scales, petroleum dispensers, propane and taxi meters, and packaged commodities such as meat, poultry, milk, and eggs.

- A gas station was inspected eight times between January 1989 and October 1991, and inspectors found instances of consumer overcharges on five occasions.

- Inspectors found violations at an oil company during seven of ten inspections conducted over a two and one-half year period. During the last inspection, 15 devices were found to be in violation of State regulations.

Further, the Department does not appear to target its inspection efforts against serious offenders. By using the data base we developed from over 30,000 inspection reports, we were able to identify approximately 900 vendors that could be considered potentially serious offenders.[1] While not all vendors in this group are serious offenders, the past performance of these vendors indicates a need for greater agency scrutiny.

Our analysis revealed that the agency does not focus any greater attention on this group, however. We found that potentially serious violators are inspected no more frequently than vendors that are generally in compliance.

Overreliance on inspections is inefficient - The Department's extensive inspection program is not efficient. By substituting frequent inspections for meaningful enforcement, Weights and Measures has committed itself to a strategy that results in an inefficient use of manpower.

As noted earlier, most vendors regulated by the Department tend to remain in compliance with State regulations. For example, Weights and

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(1) We identified potentially serious violators as those vendors with devices that were tagged as faulty more than 50 percent of the time and were not reported as repaired 50 percent of the time.

Measures inspected more than 8,000 vendors over 19,000 times without finding one incident of consumer overcharge. Our statistical analysis showed that current inspection practices do not encourage this high level of vendor compliance and most vendors comply with State regulations regardless of the inspection frequency.

Staff Reductions And More Effective Regulation Could Be Achieved By The Department

We believe the Department could improve its effectiveness and reduce operating costs by over $480,000 in its Enforcement division by using an inspection strategy based on statistical sampling and by using its new civil penalty authority.

A strategy of using statistical sampling to select inspections is based on the premise that an acceptable compliance rate can be maintained *if* persons believe there is a reasonable chance of noncompliance being detected **and** the penalties for noncompliance outweigh the potential benefits. Therefore, our proposed statistical sampling strategy for inspections is based on the following three components.

> **Random Sampling** - Instead of inspecting all vendors each year, random sampling would be used to select vendors for an initial inspection. Although most vendors are in compliance, each vendor would still face the *potential* of being inspected. However, the number of actual inspections would be reduced from approximately 9,000 to approximately 3,000 annually.
>
> **Civil Penalties** - If an initial inspection finds a consumer overcharge, the vendor could receive a civil penalty of an amount varying according to the nature of the infraction. (Statutes provide for penalties of up to $500 per infraction.) This would establish a stronger compliance incentive for vendors tempted to overcharge than simply placing devices out of service and/or reweighing goods.

Follow up - Vendors found to be overcharging would also receive a follow-up inspection to insure compliance, and they would be subject to further follow-up inspections for five years after their initial infraction.[1]

Fewer inspections would result in the agency being able to operate its Enforcement division with fewer staff. Using current inspector productivity levels, we estimate the division could eliminate 19 staff, from 34 to 15 employees, including three unit supervisors. Eliminating 19 positions would result in a saving of $480,000 based on average staff salaries and employee-related expenses. For a detailed presentation of the proposed inspection strategy and savings estimates, please see the Technical Appendix.

Our analysis and recommendations are very conservative. We purposefully proposed a very large sample size for inspections. We also based our calculations on the Department's current productivity levels. However, as the Department compiles its own data and gains experience in using the proposed inspection strategy, it should be able to reduce staff even further without affecting its ability to monitor Arizona vendors.

At least some of the savings realized by reducing staff in the Enforcement division should be reinvested in the agency. Weights and Measures lacks staff with the expertise to develop, implement, monitor, and update an inspection strategy such as the one we suggest. The agency will have to hire a data analyst with experience in sampling to design and manage the statistical data base necessary to identify and track serious violators.

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(1) Our review suggests Weights and Measures has not identified potentially problem vendors. The Department does not maintain case files on vendor performance, and has not taken the steps necessary to identify serious violators. We found that follow-up inspections are an excellent way for identifying problem vendors.

RECOMMENDATIONS

1. The Department of Weights and Measures should develop a new inspection strategy with the following components:

   a) statistical sampling procedures and a reduction of total inspections by approximately 66 percent

   b) provisions for conducting follow-up inspections to identify and target serious offenders

   c) provisions for assessing civil penalties to deter continued noncompliance

2. The Legislature should consider reducing staff in the agency's Enforcement division by 19 employees, including 16 inspectors and 3 supervisors.

3. The Legislature should consider allowing Weights and Measures to expend a portion of the saving accrued through staff reductions to hire an experienced data analyst.

FINDING II

FORMER MANAGEMENT AT WEIGHTS AND MEASURES CREATED TURMOIL AMONG AGENCY STAFF

Former agency management created turmoil among staff at the Department of Weights and Measures. A variety of alleged incidents of agency mismanagement angered, frustrated, and polarized Department staff. The officials primarily responsible for the discord left the agency during our audit, and the Department's new Deputy Director has taken positive steps to rebuild staff solidarity and morale.

Alleged Mismanagement By Former Administrators Angered, Frustrated, And Divided Staff

Incidents of alleged mismanagement by former administrators at Weights and Measures disrupted the agency's work environment. In reviewing agency turnover, we identified poor agency morale as one reason for recent staff turnover. Our follow up with current agency staff revealed an embittered and frustrated work force, deeply divided over the quality and integrity of the agency's former management team.

Turnover linked to poor morale - At the request of the JLBC staff, our Office reviewed agency turnover. Although we determined that turnover was only somewhat higher than most other regulatory agencies of comparable size(1), we surveyed former employees as part of our investigation and identified poor morale at Weights and Measures as a serious problem.(2) Although former employees left the agency for a

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(1) Between fiscal years 1989 and 1991, turnover at Weights and Measures was 20 percent. In comparison, the turnover rate during the same time period was 22 percent at the Department of Insurance; 17 percent at the Department of Racing; 15 percent at the Board of Medical Examiners; 6 percent at the Department of Building and Fire Safety; 14 percent at the Department of Real Estate; and 23 percent at the Department of Liquor Licenses and Control.

(2) We were able to contact 22 of the 37 employees that left the Department since the beginning of fiscal year 1989.

variety of reasons (retirement, higher paying jobs, poor health, etc.), more than one-third of those we contacted indicated that the agency's poor organizational climate influenced them to leave.

Our survey also found that <u>most</u> former employees contacted believed the agency suffered from poor morale. These former employees attributed the poor morale to a variety of management practices, including employee harassment and favoritism. In light of the survey results, we decided to follow up with current agency staff.

<u>Incidents and allegations</u> - Our investigation, which included a confidential employee survey, follow up with former employees and a review of available documentation, revealed that the agency's work environment <u>had</u> been disrupted by a variety of incidents and allegations involving agency management, including employee harassment, malfeasance, and discrimination. For example:

- Five inspectors and a supervisor were caught playing golf while reporting to be at work during May, June, and July of 1991.

  Although the five inspectors were suspended for a week (the unit supervisor involved was reprimanded), agency officials gave some staff the impression they approved of the misconduct when, several months after the incident, these temporarily suspended employees posed with golf clubs and six cases of beer for a photograph in front of a golf course. The photograph shows the employees in uniform in front of a State vehicle. Copies of this photograph were displayed for months in the offices of the Director, Chief Enforcement Officer, and three of the employees involved. Referring to the photograph one employee noted, "That is what they think of the seriousness of the matter."

  Some staff believe the incident was not fully investigated by the Department. One inspector, for example, stated that management "could have caught them at least a hundred times." A former employee, that claims to have been part of the "golf team," cited four other occasions in which he played golf with various members of the group during work hours.

  Some staff also believe the employees continued to play golf on State time, even after being caught and disciplined. One allegation that circulated among staff after the incident was that the Director stated the "golf team" should register under the names of the two investigating supervisors or the name of the Deputy Director in the future.

- The two investigating supervisors in the case described above claim they were harassed after the incident. According to one staff member, the Director and Chief Enforcement Officer made it look like the supervisors that investigated the incident were the "bad guys." Another staff member claims that several inspectors were asked to spy on one of the supervisors in order to "get something on him ... so they could fire him."

  The Former Director did help employees compile a complaint against one supervisor shortly before the supervisor quit. After declining to sign the complaint, one employee claims she was rudely accosted by the Director. A second employee claims he was encouraged to sign the complaint even after explaining he had no knowledge of any wrongdoing on the part of the supervisor. A third employee reportedly confided to other staff that she signed the complaint out of fear.

  After the supervisor left the agency, the Former Director placed a memo in his personnel file stating that this supervisor "is not eligible for rehire by this agency."

  Following this incident one employee stated that the Former Director said "Now I've got to get rid of that other one."

- In April 1992, one of the inspectors suspended for playing golf on State time was observed siphoning propane from a State-owned propane tester into the fuel tank of his personal vehicle.

  In a memo to the Director, the inspector explained that the high temperature outside had caused the propane to expand dangerously, and his action was a safety measure intended to relieve the pressure in the test apparatus. The Director accepted the inspector's explanation and dismissed the allegation.

  Further investigation by Weights and Measures would have shown this was not the only instance in which the same inspector was observed siphoning propane from the test device. He was also observed filling the tank of his personal vehicle with propane two weeks before the incident described above, and again in February 1992, with the help of a second inspector.

  Current and former agency staff claim it is not uncommon for agency personnel to use the propane tester to fill their personal propane tanks. In fact, two former employees admitted to doing so.

- In August 1991, the Chief Enforcement Officer recommended transferring a female and male inspector to the agency's Large Scale unit. The male inspector was transferred; the female inspector was not.

Following this incident, an eyewitness reports that the Former Director said he would not transfer the female inspector because no work would get done: people would be standing in line trying to have sex with her. According to this same eyewitness, the Former Director also said he was never going to have a female drive one of the agency's big trucks.

- Due to religious beliefs, a lab technician hired by the agency was apparently reluctant to sign the State loyalty oath required of all new employees. According to some staff, this so angered the Former Director that he purchased a number of small American flags and had office personnel display them on their desks.

  Some staff believe this was to embarrass or intimidate the new lab technician, who was eventually fired prior to completing his probationary period.

- Numerous other accounts of insensitive behavior on the part of agency administrators and supervisors offended agency staff. For example:

  - Various staff cited occasions on which the Former Director accused female workers of having affairs with male employees.

  - After one female inspector quit the Department, the Former Director told this inspector's supervisor -- over the agency's public address system--that he would no longer have to install a tampon dispenser in his office.

  - While viewing a video training tape, a female inspector claims that the Chief Enforcement Officer twice asked her if she wanted to see a "dirty movie."

  - An Hispanic inspector claims that one supervisor continually makes racist comments about him and an Afro-American inspector.

Allegations such as those described above have effectively fractured staff solidarity. The agency's work force appears to be divided into at least two groups, those that were extremely <u>critical</u> of former agency management and those that strongly <u>supported</u> the agency's former administration. This division of staff has been extremely disruptive. As one employee pointed out, "When there are inspectors against inspectors and supervisors against supervisors ..., it does take its toll on the effectiveness of this agency."

Unless staff tension is effectively addressed, it is likely the agency's poor organizational climate will continue to influence turnover. One employee warned that "Job dissatisfaction (is) very high. ... Present economic times are the main reason many are still with Weights and Measures. These people, including myself, will leave at the first opportunity if conditions don't improve." According to our staff survey, 43 percent of the agency's nonsupervisory full-time personnel (20 of 46 employees) were currently seeking other employment. Most listed the agency's poor work environment as a motivating factor in wanting to leave.

New Agency Management Is Attempting To Rebuild Staff Solidarity And Morale

During our audit three of the agency's top administrators left. Two of these officials, the Former Director and Chief Enforcement Officer, were focal points for much of the staff discord.

Since that time, the agency's new management has taken several steps to help staff refocus their attention on agency objectives and their responsibilities, and away from preoccupation with former administrators and each other. For example, the new Deputy Director has taken the following steps to rebuild staff morale:

- Introduced a more participative decision-making process, in which staff are involved in the planning and implementation of agency activities
- Emphasized the need for supervisors to administer agency rules, such as the disbursement of overtime compensation, in a consistent and equitable manner to avoid the appearance of favoritism
- Started to revise the time reporting system to ensure more accurate oversight of staff activities

In addition to these positive steps, the agency needs to continue monitoring staff behavior and attitudes. The anger and hostility that developed among staff may not easily dissipate and may yet find ways to manifest itself to the detriment of the agency.

If staff discord persists, the agency will have to consider its options and develop a more formal team-building strategy to address its personnel problems. The agency may even wish to solicit outside assistance. The Department of Administration's Personnel Division, for example, has offered its services to help the agency develop an effective strategy.

RECOMMENDATION

The Department of Weights and Measures should monitor staff behavior and attitudes to ensure that the steps taken to relieve staff discord result in a more effective work environment. If staff dissension persists, the agency should consider its options and develop a more formal team-building strategy to address its personnel problems.

OTHER PERTINENT INFORMATION

During our audit we developed information on the Department of Weights and Measures used oil program revenues in response to concerns about shortfalls in the amount of revenues collected to support program costs.

The Legislature created the used oil program in 1990 to promote used oil as an energy resource and to protect the environment. Used oil is generated in a variety of ways. Large industrial and commercial enterprises may use oil in their processing activities. People generate used oil when they change the motor oil in their vehicles. Disposing of used oil properly is an environmental concern and the 1990 legislation is an attempt to address this concern.

The Department of Weights and Measures and the Department of Environmental Quality (DEQ) share responsibility for Arizona's used oil program. Weights and Measures samples and tests used oil for a variety of contaminants and notifies DEQ if the oil does not comply with statutory requirements. DEQ approves the method of disposal for used oil, and Weights and Measures supervises removal to ensure it is disposed of as required by DEQ.

Legislature Intended Program To Be Self-Supporting

Weight and Measures' used oil activities are supposed to be supported by fees for testing. A.R.S. §41-2065(A)(26) directs the Department to

> Establish by rule fees, including late charges, if any, to be paid by a transporter, generator, marketer, or burner of used oil fuel to cover the full cost of each test....

The Department has established a fee of $65 for each used oil test conducted. In addition, DEQ remits one-half of the used oil fees it collects to Weights and Measures, which may use funds for used oil compliance monitoring, testing, investigation, and enforcement activities.[1]

Although the statutory language specifies only that Weight and Measures will recover test costs, the Former Deputy Director and legislative staff report that legislators intended the program to be fully self-supporting. Thus, all Weights and Measures' used oil program activities should be funded through the program's fees and penalties.

Program Costs Exceeded Program Revenues In Fiscal Year 1992

The used oil program did not generate sufficient revenues to meet its costs during the first ten months of fiscal year 1991-92. Our analysis of program costs and receipts indicates that the $65 test fee is too low to support current program activities, even if Weights and Measures were able to collect fees for all tests performed. This revenue shortfall appears to be the result of overly optimistic assumptions about program activity levels.

At the request of the Joint Legislative Budget Committee staff, we reviewed the used oil program to determine why revenue collections were not meeting expectations. Our review covered the period July 1, 1991 to April 30, 1992. According to Department staff, this ten month period represents typical activity; Department staff do not expect any aberrations in the remaining two months.

Program costs and revenues - The cost of the Department's used oil program activities exceeded the $65 per sample fee by $41 to $92 during our review period. We calculated the per sample cost (as shown on Table 1, page 19) by compiling costs for all activities related to the used oil program for July 1, 1991 to April 30, 1992. We then subtracted DEQ payments to the Weights and Measures during that period to obtain the net

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(1) Persons or operators of facilities burning used oil must pay 6 or 20 cents, depending on the composition of the oil, for each gallon burned. A.R.S. §49-814(D)(2) directs DEQ to remit one-half of the fees collected to the Weights and Measures' used oil fund established pursuant to A.R.S. §41-2069.

program cost. We divided the net cost by the 1,980 samples tested during the period to obtain a cost of $106 per sample, or $41 above the $65 fee. However, because the Department had difficulty collecting the fees billed, we also divided the net cost by the 1,340 samples for which fees were paid, to obtain a cost of $157 per sample.

TABLE 1

USED OIL PROGRAM COST ANALYSIS
JULY 1, 1991 THROUGH APRIL 30, 1992
(Unaudited)

	Total Costs
Personnel	$185,373
Operating Costs	81,855
Indirect Operating Costs	18,234
Total	285,462
Less: DEQ Payments (est.)	75,000
Net Costs	$210,462
If Everyone Paid:	
No. Samples Billed	1,980
Cost per Sample Billed	$106
Less: revenue per sample	65
Revenue Shortfall	$41
If Cost Fell Only To Those Who Paid:	
No. Samples Paid	1,340
Cost per Sample Paid	$157
Less: revenue per sample	65
Revenue Shortfall	$92

Source: Auditor General staff analysis of Department of Weights and Measures Used Oil Program data, July 1, 1991 through April 30, 1992.

Original assumptions - The Department's experience with the used oil program during the first ten months of fiscal year 1991-92 differs markedly from the agency's initial assumptions. According to the Former Deputy Director, the $65 fee was established by dividing the program's first year appropriation by an anticipated 5,400 samples during the year. Our review of ten months' data clearly shows that the 5,400 sample estimate was very optimistic. Weights and Measures averaged just under 200 samples per month during our review period, less than one-half the amount expected. According to Department officials, sample collection is a more time-consuming process than initially expected. In addition, Weights and Measures inspectors supervise the removal of oil containing hazardous wastes, an activity that generates no revenues.

<u>DEQ payments</u> - A major variable in projecting future costs is the uncertainty about the level of used oil fees that DEQ will pay to the Department of Weights and Measures. The used oil fund supports a portion of the Department's program cost.

During our review period, payments to Weights and Measures were approximately $75,000, or 26 percent of the total program cost. However, neither DEQ nor Weights and Measures staff were able to estimate future penalty amounts. Moreover, staff at the two agencies predicted very different future scenarios for program revenues. DEQ staff suggested that revenues will decline as burners switch to other fuels not subject to regulation, and Weights and Measures staff indicated that the lower cost of used oil compared to other fuels will encourage greater use and thus steady revenue generation.

Barriers To A Self-Supporting Program

The comparison of costs and revenues identifies two barriers to meeting the objective of a self-supporting program. First, the low collection rate prevents the Department from receiving revenue it is entitled to receive under the current regulations. Second, the $65 fee is not sufficient to meet present costs. Thus, a self-supporting program may require a combination of increased collections and higher testing fees. However, future costs may increase if more extensive used oil monitoring is needed.

<u>Collection rate</u> - Although the Department has difficulty collecting used-oil test fees, it makes several attempts to collect these fees. The Department mails notices to individuals and enterprises that fail to pay

within 30 days and doubles the amount of the fee due. If payment is not received after the notice is sent, the Department turns the account over to the Attorney General's Office for collection.

Despite these attempts, during fiscal year 1991-92 the Department collected only 70 percent of the test fees billed to users (see Table 2). Approximately 59 percent of the fees collected were paid on time; another 8 percent were paid after Weights and Measures sent 30-day notices. Finally, 3 percent of the fees were collected by the Attorney General's Office. Although the Department collected almost $104,000, the 30 percent default rate represents a loss of $42,900. In addition, the Department did not collect approximately $10,700 in penalties due from delinquent parties paying more than 30 days late. According to the Department's fiscal technician, the reduced payments resulted from negotiations with the delinquent parties.

TABLE 2

USED OIL FEE COLLECTIONS
FISCAL YEAR 1991-92
(unaudited)

Payment Status	Number in Payment Status	Number in Payment Status As Percent of Total Billed	Revenue Collected
Paid On Time	1,309	59%	$85,540
30-Day Notice	181	8%	12,835
Attorney General Collection	74	3%	5,541(a)
Subtotal	1,564	70%	$103,916
Not Paid	660	30%	0
Total	2,224(b)	100%	$103,916

(a) Net amount after deducting 35 percent collection fee charged by the Attorney General.
(b) Although a total of 2,380 tests were performed during fiscal year 1991-92, 156 were not billed. The remaining 156 tests will be billed during fiscal year 1992-93. All subsequent estimates of revenue for fiscal year 1991-92 assume that collection results for the unbilled tests will be similar to the results of the tests that were billed.

Source: Department of Weights and Measures

The Department's overall collection rate may improve in the future. According to the director of the Attorney General's collection unit, numerous accounts for payment of delinquent used oil fees have been settled recently, and he indicated that these settlements will not only add revenue to the program but will also provide an incentive for prompt payment. Even a modest increase in collection rates will increase program revenue. For example, increasing the total collection rate from 70 percent to 86 percent(1) increases fiscal year 1991-92 revenues by approximately $25,000. Collecting all late fees without Weights and Measures negotiating lower settlements increases receipts by another $15,000.

Legislation enacted in 1992 will also strengthen the Department's ability to ensure collections. Laws 1992, Chapter 176 clearly authorizes the Department to impose late fees and charges and to issue stop-use and stop-sale orders for failure to pay fees and late charges.

<u>Increased test fee</u> - Even if the Department collects fees as suggested above, program revenues would not support program activities as currently structured. With the additional revenues generated by an 86 percent collection rate, there would still be an estimated shortfall of $101,240, or $42.54 per test, for fiscal year 1991-92. However, increasing the test fee by $42 to $107, attaining an 86 percent collection rate and collecting all delinquent fees would make the program largely self-supporting during fiscal year 1991-92.(2)

The estimated fee of $107 compares favorably to fees charged by private laboratories for similar analyses. Prices quoted to the Department in

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(1) An 86 percent collection rate assumes an on-time payment rate of 70 percent, a 30-day notice collection rate of 10 percent, and a 6 percent collection rate by the Attorney General's Office. These rates were selected to illustrate the impact of a small, realistically achievable increase in collecting.

(2) If the Department continues to negotiate delinquent fees at the same rate as in fiscal year 1991-92, the estimated test fee needed to make the program self-supporting increases to approximately $120.

1990 for used oil analyses ranged from $191 to $440. We contacted the two Phoenix area laboratories and obtained current quotes of $202 and $310 for the analyses. Moreover, the private laboratory prices are for sample analysis only, and do not include costs for sample collection and monitoring of hazardous wastes as do the costs for Weights and Measures' tests.

Increasing the used oil test fee could affect the industry. According to one industry representative, used oil is characterized by fluctuating prices and market conditions; higher test fees could create additional financial difficulties for the industry. A DEQ official also noted that higher fees would be significant for large facilities with multiple tanks, each of which would be sampled during an inspection.

Future program needs - Program costs could increase in the future because of the need for more extensive monitoring of used oil. Currently, the Department plans to monitor identified used oil generators, transporters, and burners annually and follow up on violations as needed. However, such limited oversight may be inadequate to monitor the movement and use of such potentially hazardous wastes throughout the year.

SUNSET FACTORS

In accordance with A.R.S. §41-2954, the Legislature should consider the following 12 factors in determining whether the Department of Weights and Measures should be continued or terminated.

1. **Objective and purpose in establishing the Department.**

   The purpose of the Department of Weights and Measures is to promote equity and fairness in transactions involving weighing or measuring. The Department carries out its purpose by maintaining State standards of weight and measure based on national standards maintained by the Federal government, by licensing weighing and measuring devices used within Arizona, and by inspecting those devices, and enforcing the statutes, rules, and regulations governing their use. In addition, the Department has also been assigned responsibility for ensuring that 1) motor fuels meet national standards of quality, 2) oxygenated fuels are properly blended to meet Environmental Protection Agency requirements, and 3) used oil and used oil fuels meet State health and environmental standards.

2. **The effectiveness with which the Department has met its objectives and purpose and the efficiency with which the agency has operated.**

   The Department has not been efficient in using resources to meet its objective and purpose. The Department attempts to inspect licensed devices and vendors of packaged commodities at least once each year, and approximately 92 percent of all such devices and packaged commodities inspected are found to be in compliance with State laws and regulations. However, the frequency of inspection appears to have little to do with compliance. We found that frequent inspections and limited enforcement actions alone do not deter vendors from violating State regulations. Our analysis suggests that the Department can achieve current compliance levels by routinely inspecting a sample of licensees and focusing its attention on the relatively few licensees that do not comply with applicable statutes and regulations. Changing to a sampling/targeting approach would enable the Department to reduce its inspection staff by 19 positions, saving over $480,000 annually. (See Finding I, page 4)

3. <u>The extent to which the Department has operated within the public interest</u>

The Department's regulatory activities serve the public interest by ensuring that devices used for commercial weighing and measuring in Arizona are accurate and packaged goods are accurately labeled as to weight, volume, and count. The Department also serves the public interest by ensuring that motor fuels are properly oxygenated and the octane level is correctly labelled.

4. <u>The extent that rules and regulations promulgated by the Department are consistent with the legislative mandate.</u>

The rules and regulations promulgated by the Department of Weights and Measures appear to be consistent with its legislative mandate. Arizona law authorizes the Department to regulate a wide variety of commercial transactions that involve weighing, measuring, and counting, In addition, the Department is authorized to regulate public weighmasters and registered service agents, to test used oil and oxygenated fuels, and to make rules and regulations to carry out its statutory responsibilities. A review of the Department's current rules and regulations shows that all address various aspects of the Department's statutory authority and none appear to be inconsistent with that authority.

5. <u>The extent to which the Department has encouraged input from the public before promulgating its rules and regulations and the extent to which it has informed the public as to its actions and their expected impact on the public.</u>

The Department informed the public of its actions by complying with the requirements of the Administrative Procedures Act for rules in development during fiscal year 1991-92. The Department was in the process of promulgating rules in three areas: 1) metrology laboratory testing and certification fees, 2) unit pricing and universal price scanners, and 3) motor fuels and petroleum products. Documentation provided by the Department indicates that appropriate notices were filed with the Secretary of State, notices were published in the Arizona Administrative Register, and public meetings were held for the rules in each of the three areas.

6. <u>The extent to which the Department has been able to investigate and resolve complaints that are within its jurisdiction.</u>

The Department receives numerous complaints. During 1991, 446 complaints were reported to the Department. Most (304) of the complaints alleged problems with scales, gasoline pumps, and other devices for weighing and measuring. Another 142 complaints concerned the quality of petroleum products sold or used oil. Most complaints were dismissed as invalid; only 53 of the 367 disposed complaints were found to be valid.

The average time to investigate and resolve complaints (based on a judgmental sample of 24 complaints) was approximately three days in 1991. However, no disposition was indicated for about 18 percent, or 79 complaints during 1991. Although these complaints may have been investigated and no disposition recorded, our analysis indicates that at least 35 cases assigned to the Enforcement division were not investigated. Thirty-four of these 35 cases were assigned to one supervisor who was unable to provide any information about the lack of inspection records or disposition.

7. <u>The extent to which the Attorney General or any other applicable agency of State government has the authority to prosecute actions under enabling legislation.</u>

A.R.S §41-2113(D) authorizes the Attorney General and county attorneys to prosecute violations of the Department's enabling statutes. However, few cases are prosecuted. Our review of investigations conducted by the Department's Special Investigations

Unit during the period 1989-1991 found that the unit targeted only nine cases for prosecution. Five of these cases were prosecuted and four resulted in convictions or plea agreements.

Recent legislation could strengthen the Department's ability to enforce the weights and measures' statutes. Laws 1992, Chapter 176 authorizes the Department to impose civil penalties of $500 per infraction (up to $5,000 per month) for violations of agency laws or rules. According to Department officials, the lack of civil penalty authority has limited its ability to take action against violators and has forced the Department to rely on the Attorney General and county attorneys for prosecution. Agency records indicate that these officials often do not consider weights and measures' cases to be serious enough to pursue.

8. <u>The extent to which the Department has addressed deficiencies in the enabling statutes which prevent it from fulfilling its statutory mandate.</u>

During the 1992 Legislative Session, the Department requested legislation to make administrative changes to the weights and measures statutes. House Bill 2359, which was enacted by the Legislature and signed by the Governor, changes the Department's statutes in three ways. First, it authorizes the Department to impose civil penalties up to $500 for violations of the weights and measures' statutes. Second, the law authorizes the Director to impose late charges and penalties on used oil or used oil fuel transporters, burners, or marketers. Third, the Department may issue stop-use and stop-sale orders for violations of the used oil laws, including failure to pay fees and late charges.

9. <u>The extent to which changes are necessary in the laws of the Department to comply with the factors listed in the subsection.</u>

We did not identify any changes needed in the Department's enabling legislation.

10. <u>The extent to which the termination of the agency would significantly harm the public health, safety or welfare.</u>

Terminating the Department of Weights and Measures would harm public health, safety, and welfare. The Department's role in ensuring the accuracy of weighing and measuring devices contributes to the public welfare by ensuring equity in commercial transactions involving weight, measure and count. According to the chief Federal weights and measures official, the loss of State regulation would mean that such transactions in Arizona would not be based on national standards of weight and measure. Without such standards and State regulation, businesses could take advantage of consumers because consumers would have no assurances of the accuracy of devices used in transactions. Even honest businesses might be forced to engage in illegal practices to remain competitive under such circumstances. The importance of weights and measures regulation is recognized in all of the other 49 states, each of which also regulates weights and measures activities.

In addition to protecting consumers in transactions involving weight and measure, the Department contributes to the public welfare through its petroleum quality program. Under this program, the agency tests and certifies the quality of gasoline and petroleum products. Without the program, consumers are likely to unknowingly purchase lower quality fuels, resulting in losses through repairs and reduced fuel economy.

Weights and Measures also plays a role in protecting public health and safety through its oxygenated fuels and used oil programs. The Department tests the oxygenate content of fuels sold in Maricopa and Pima Counties during winter months. Oxygenated fuels are a major strategy for complying with the Federal Clean Air Act in Arizona's urban areas. The agency used oil program assists the Department of Environmental Quality to monitor the movement and disposal of potentially hazardous wastes.

11. **The extent to which the level of regulation exercised by the Department is appropriate and whether less or more stringent levels of regulation would be appropriate.**

Our review indicates that the level of regulation exercised by the Department is generally appropriate. The Department's primary regulatory activities are licensing and testing devices used for commercial weighing and measuring, verifying the accuracy of packaged commodities, licensing public weighmasters and registered service agents, and testing fuels to ensure their quality. These activities are based on authority granted by law and appear to be reasonable means for accomplishing the Department's purposes.

12. **The extent to which the Agency has used private contractors in the performance of its duties and how effective use of private contractors could be accomplished.**

The Department does not use private contractors to perform its regulatory duties. The legislation establishing the Department in 1987 directed the Department to contract with private individuals and firms to test and inspect weighing and measuring devices. This legislation also mandated that the Department develop a pilot program for this purpose and submit the program to the Joint Legislative Budget Committee for approval. However, the Attorney General ruled that the requirement for JLBC approval violated the separation of powers provision of the Arizona Constitution.

However, the Department may be able to use registered service agents (RSA's) to provide some services to licensees that it currently provides. Our analysis of inspection reports found nearly 2,000 inspections conducted at the request of the licensee during the last three years (1989-1991). Since the Attorney General's opinion addressed only the separation of powers issue, there seems to be no legal reasons why firms and individuals licensed by the Department cannot meet vendor requests for services. Relying on RSA's will free Department personnel for enforcement-related inspections and activities.

TECHNICAL APPENDIX

METHODOLOGY FOR DETERMINING ESTIMATED STAFF REDUCTIONS

The Auditor General recommendation that the Department of Weights and Measures reduce the number of its inspections is based on the statistical result that the majority of licensees and vendors normally comply with applicable statutes and regulations. Thus, an inspection system based on random sampling for routine inspections, follow-up inspections of violators, and civil penalties when warranted is a reasonable, economical alternative to the current system.

We calculated projected staffing levels in two steps. First, we determined the workload requirements of the system described above. Second, we estimated the number of staff needed to address this workload. This technical appendix describes the two steps.

Workload Requirements

We estimated workload requirements for three types of inspections that the Department would need to perform each year: routine inspections, follow-up inspections, and government agency inspections.

Routine inspections - Weights and Measures performed 26,965 inspections during calendar years 1989, 1990, and 1991, or an average of approximately 9,000 inspections per year. Our analysis of inspection results during that three-year period showed a noncompliance rate of 8 percent. A random sample for a population of 9,000 and 8 percent rate of occurrence would be 358 (with precision of plus or minus 4 percent at a 99 percent confidence interval).

However, because we observed numerous problems in Weights and Measures' data that reduce our confidence in such a small sample, the sample should be stratified. Therefore, we expanded the sample and stratified it by program area and population density. The results are valid for large urban, small urban, and rural areas for all types of inspections. The expanded sample calls for 2,049 routine inspections annually. Sampling at this level produces results with a precision level of plus or minus 1.5 percent at a 99 percent confidence level. A sample of this size is extremely large and can provide reasonable assurance to Weights and Measures that vendors comply with all legal requirements: each vendor will have an almost 25 percent chance of being selected for inspection. In contrast, the Department of Revenue selects only about 4 percent of its sales tax accounts for review.

Follow-up inspections - A key element of the recommended inspection strategy is following up on vendors not in compliance at the time of their routine inspection. Our estimated workload assumes that Weights and Measures will follow up all violations. Since the Department does not currently follow up all violations, this assumption is an improvement over present practice. We assume a noncompliance rate of 10 percent (the actual 8 percent noncompliance rate observed in our analysis plus a 2 percent margin of error), or 205 follow-up inspections.

In addition to following up all violations found during routine inspections, vendors that are not in compliance will be subject to further follow-up inspections for up to five years. By using a "stop and go" sampling strategy for subsequent follow-up inspections, only a small sample size is necessary to determine the rate of noncompliance in the general population. When the sampler is satisfied that the rate of noncompliance is statistically low enough, sampling can "stop," and no additional inspections need to be conducted. If too many vendors are found to accept that their noncompliance may have been discovered by chance, sampling can "go," (continue) to ensure an adequate confidence level. We estimate that from 30 to 90 follow-up inspections will be needed annually for five years after an initial violation is discovered.

Government agencies - Weights and Measures also inspects weighing and measuring devices for city, county, and State agencies (concrete scales on highway construction projects, for example). Our workload assumes that the Department will continue such inspections at the same rate (an average of 355 inspections per year) observed during our three-year review.

The following table illustrates the estimated workload for the initial five-year inspection cycle.

TABLE 3

ESTIMATED FIVE-YEAR WORKLOAD USING SAMPLING STRATEGY

Inspection Type	Year 1	Year 2	Year 3	Year 4	Year 5
Routine	2,049	2,049	2,049	2,049	2,049
Government	355	355	355	355	355
Year 1 Follow Up	205	0	0	0	0
Year 1 Sample	30-90	30-90	30-90	30-90	30-90
Year 2 Follow Up	0	205	0	0	0
Year 2 Sample	0	30-90	30-90	30-90	30-90
Year 3 Follow Up	0	0	205	0	0
Year 3 Sample	0	0	30-90	30-90	30-90
Year 4 Follow Up	0	0	0	205	0
Year 4 Sample	0	0	0	30-90	30-90
Year 5 Follow up	0	0	0	0	205
Year 5 Sample	0	0	0	0	30-90
Total	2,639-2,699	2,669-2,789	2,699-2,879	2,729-2,969	2,759-3,052

Using this strategy, Weights and Measures' inspection workload would increase to a maximum of 3,052 inspections in the fifth year. After the fifth year, the sample from the first year is replaced by the follow-up inspection and sample from the sixth year. However, sample size may decrease as the level of precision and the confidence interval become more reliable. Thus, the estimated staffing requirements we present are based on the expected number of inspections in the fifth year; the staffing requirements could decrease as the sample size diminishes and if the Department does not add new regulatory programs.

Staffing Requirements

We estimated the staff requirements based on the fifth year estimate of 3,000 inspections. We assumed that these inspections would be distributed among Weights and Measures' inspection areas in the same proportion that we observed in our 1989-91 data analysis.[1] This distribution is shown below.

Inspection Type	1989-1991 Proportion	Distribution In Sample
Package Control	.497	1,518
Petroleum	.284	868
Large Scales	.121	370
Technical Services	.097	296
Total	.999	3,052

Because we also assumed that inspector productivity would remain the same as observed in 1991, we divided the estimated number of inspections in each area by the 1991 productivity as shown below.

Inspection Type	Inspector Productivity(a)	Estimated Staff
Package Control	376	4.0
Petroleum	390	2.2
Large Scales	115	3.2
Technical Services	197	1.5
Total Staff Needed		10.9 or 11.0

(a) Inspector productivity is defined as the number of yearly inspections per inspector for an inspection program.

(1) We excluded inspections conducted by the Special Investigations Unit (SIU), which accounts for approximately two percent of all inspector activity, because these inspections are primarily follow-up inspections. Thus, SIU inspections overlap with other unit inspections.

We recommend reducing the Enforcement Division staff level from the current 27 inspector positions to 11. The number of supervisory positions can also be reduced. The Division has 6 first-line supervisors plus the Chief Enforcement Officer. Three supervisors would enable the Department to maintain offices in Phoenix, Tucson, and Flagstaff. Thus, the Enforcement Division would consist of 15 staff, including the Chief Enforcement Officer.

The number of staff recommended by this analysis is a generous one for several reasons. First, at every point where we had a choice between higher and lower numbers we chose the higher. For example, the random sample for routine inspections is more than five times the size required by sampling theory. In addition, when the sampling strategy for follow up estimated a range between 30 and 90 inspections, we used 90 inspections to calculate workload. Second, the proposed staffing level is based on 3,052 inspections, a level that the Department will not reach until the fifth year of this approach. Third, we used productivity levels that may leave room for improvement. During the audit, we observed practices (e.g., lack of an adequate inventory of vendors, equipment breakdowns) that were sufficiently common as to have a likely impact on the number of inspections that each employee can perform. We also observed wide productivity levels among inspectors. Fourth, the sampling strategy should become more reliable as data are collected over a five year period. As a result, the number of inspections should decrease accordingly.

For these reasons, the recommended staff level is presented as an indicator of how our proposed sampling strategy can reduce staff. The Department of Weights and Measures should review its operations to further refine this strategy as it gains experience with it and develops the data base necessary to manage it more effectively and efficiently.

STATE OF ARIZONA
DEPARTMENT OF WEIGHTS AND MEASURES

FIFE SYMINGTON
GOVERNOR

XXXXXXXXXXXX
XXXXXXXXXXXX
JOHN HAYS
DIRECTOR

October 15, 1992

Mr. Douglas R. Norton
Arizona Auditor General
2700 North Central Avenue, Suite 700
Phoenix, Arizona 85004

Dear Mr. Norton:

Thank you for the performance audit of the Department of Weights and Measures. We appreciate the opportunity to provide a response.

The audit report indicates a number of management areas that require attention. For many of the issues, the department acknowledges the observations and conclusions identified as a basis for improved management of operations and personnel in the future. As indicated in the report, the deficiencies discussed occurred during the prior administration of the department. Since June 1992, a concerted effort has been made to rectify the problems that existed in the past, and significant efforts are being made to begin a new era and create a new environment for the department.

Please note the following activities that respond to the major issue areas identified in the audit.

<u>IMPROVE EFFECTIVENESS AND REDUCE STAFFING.</u>

Current management has evaluated the workload, performance, production, schedule and other areas of activity and conduct by the inspection personnel. During FY 93, the following initiatives have been completed.

- Designed a standard Weekly Inspection Schedule to indicate information about sites, categories and areas that are planned for visitation.
- Begin development of a new employee orientation program to introduce new inspectors to both general and specific responsibilities.
- Revised the inspection geographical areas for the State to determine a more productive way to assign personnel and reduce travel costs.
- Developed a means to monitor inspections that are conducted to evaluate the work performed and the compliance with statutory requirements.

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- Reassigned the agency's public institution and education facility inspection duties and responsibilities for a more effective way to carry out statutory requirements withi respective geographical areas.
- Received authority by HB 2359 to impose civil penalties, assess late charges, and issue stop-use and stop-sale orders.
- Evaluated the travel time required for all inspectors to determine a more efficient, less costly way to complete scheduled inspections.
- Prepared an inventory of all equipment used for field inspections.
- Reviewed the equipment downtime situation to improve repair and maintenance standards and reduce costs.
- Developed a key inventory for all buildings and equipment for Phoenix and field offices.
- Changed policy for more supervisory control of uniform acquisition, usage, and replacement for the inspectors.
- Monitored the usage of mobile telephones.
- Reviewed the absentee records for all inspectors and developed a format for easy monitoring.
- Prepared long-term reorganization ideas for the Division.
- Reviewed all forms used by Inspection Division to update, revise, etc. in anticipation of office automation.
- Reorganized Inspection Division for greater flexibility of resources, increased efficiency, and improved productivity.
- Hired new Chief Enforcement Officer to supervise, organize, and manage Inspection Division.
- Reviewed Inspector Weekly Reports to identify inspector time usage requiring supervisory attention and correction and to determine inspector quality, effectiveness, and image.
- Created the Package Pricing Committee to develop a recommendation regarding enforcement options for industry efficiency and consumer protection.
- Begin developing an inspection system to target and publicize sites and devices that require greater attention because of the potential of violations.

- Developed new overtime/compensatory policy to reduce or eliminate the need.

- Introduced new purple inspection seals with Governor's name to distinguish from prior seal and created a staff committee to develop a new seal that fits with the Department's goals and philosophies..

- Evaluate the assignment of take-home equipment to reduce travel costs and increase inspector efficiency.

The following initiatives will be completed in FY 93.

- Review the personnel resources expended to collect license fees to identify a more productive way to achieve the objective and a more effective use of manpower.

- Develop a formal inquiry/complaint procedure to identify the number, type, and disposition of all contacts.

- Review the monthly Department of Revenue printout of new businesses to identify additional inspections that need to be scheduled.

- Prepare an annual training plan for the Inspection Division.

- Prepare both short-term and long-term goals and objectives for the Inspection Division.

- Review the role of Registered Service Agencies and Representatives to determine an improved way to test, monitor, evaluate performance, and increase field responsibility.

Although we agree with the concept that inspection resources can be modified to achieve different enforcement goals, the specific recommendations regarding staff reductions require further evaluation before staff target levels can be determined. The audit suggests the elimination of 19 inspector positions. Because the department is introducing different approaches to inspector activities (redefined geographical areas, reassigned public institution activities, assigned take-home equipment, etc.), it is premature to commit to a specific number at this time. The department will also need to study other factors, such as the introduction of additional inspector responsibilities for the Vapor Recovery Program and the impact on revenue.

In compliance with the proposal, however, the department is doing everything possible to achieve the ultimate goal. Selected vacancies in the Inspection Division will not be filled until the need arises, if at all. The result of normal employee attrition (retirement, transfer, etc.) will enable the department to achieve this goal within the next eighteen months.

TURMOIL AMONG AGENCY STAFF.

The audit clearly stated that the work environment that impacted staff morale and performance is a thing of the past. New management initiated philosophies and practices that are having a demonstrable impact on employee attitudes, conduct of business and working conditions. Specifically, the following actions have been taken.

Participatory Management. Major projects in which the department is involved are assigned to teams of employees to research, discuss, and propose options for management to consider. Examples of team projects include budget preparation, facility relocation, vapor recovery, and annual report. In the future new employee teams will be created to assist management in other areas of department operation.

Information Systems. Information that is developed for internal and external review, approval, and dissemination is now channeled thru the Deputy Director for consistency, clarity, and accuracy. The introduction of a more efficient and effective data management system will provide a support base for this information. Examples of these areas include inspection assignments, device licensing, and Registered Service Agency registration.

Policies and Procedures. Both state and department policies and procedures relating to employee conduct and performance are now applied consistently among all personnel. Examples of such policies include overtime/compensation time, work assignments, etc.

Other actions of improved management that have favorably impacted staff morale include:

- Initiated bi-weekly staff meetings for all supervisors and management personnel.
- Initiated review of agency computer needs to introduce a more efficient and effective system.
- Required all employees to attend sexual harassment and ethics training sessions.
- Encouraged all employees to take advantage of the State's continuing education program to improve job skills and career opportunities.
- Arrange team building sessions to facilitate communications and relations among all employees.
- Developed new color-coded, multi-page leave slip for improved accuracy and accountability of information and supervision of record system.
- Prepared record of all mobil telephone/page assignments for personnel.

- Eliminated all unnecessary building keys and security access codes and assigned new codes to a limited number of employees.
- Redesigned two employee bulletin boards for improved communication of internal and external information and announcements.
- Resolved past-due evaluation grievances to the satisfaction of employees involved.
- Requested study of positions within the department to determine appropriate grades for work performed.

USED OIL PROGRAM

It is the department's ultimate goal to attain a self-sustaining status for the Used Oil Program. A realistic approach would allow for a three-year transition from the current level to one that is more competitive in the marketplace and produces sufficient revenue for the operation of the program. This year, an industry advisory committee will be appointed to research and evaluate all fees charged to determine a fair, reasonable, and competitive level.

FISCAL ISSUES

As you know, the Department has been experiencing a management transition. The budget request for next fiscal year focuses on areas that allow the department to comply with legislative mandates and keep pace with service growth. The following budget requests are necessary for the agency to continue operations in a responsible, productive, safe manner.

1. Vapor Recovery Program support to avoid the loss of $30 million in federal surface transportation funds.
2. Quality Assurance Program funding to protect the state's integrity in sampling gasoline, diesel, and used oil.
3. Metrology Program equipment to assure complete and accurate testing to maintain national certification for operations.

As new management continues to improve the operation of the agency, additional needs have been identified. Funds are currently lacking to adequately accommodate the day-to-day activities of the department in the new location. Support equipment is nonexistent, outdated, or inefficient and requires acquisition, upgrade, or modification. In addition, funds for inspector training are not available. Funding is required to develop a training program for the safety, integrity, and knowledge of the employees who regulate a consumer oriented industry.

The performance audit provides excellent guidance for the department's future planning. The document will be used as part of a strategic plan for improving the efficiency and effectiveness of the department. It would be advantageous for the Auditor General to continue this work in other divisions specifically the Administrative Division, Metrology Laboratory, and Petroleum Laboratory, and we invite you to arrange this work in the near future to coincide with other efforts being made by management.

Thank you again for all of your assistance and guidance.

Sincerely,

John Hays

John Hays
Director