

Audit Highlights



Highlights of performance audit report on the State Department of Agriculture, Division of Consumer Equitability issued on February 18, 2020.

Legislative Auditor report # LA20-08.

Background

The State Department of Agriculture (Department) was established in 1915 to promote a business climate that is fair, economically viable, and encourages environmental stewardship that serves to protect food, fiber, and human health and safety through effective service and education. Governance and policy setting is overseen by the Board of Agriculture, which is comprised of 11 members representing various aspects of agricultural and related industries. The Department has five divisions, which include Administration, Consumer Equitability, Plant Industry, Animal Industry, and Food and Nutrition. As of August 2019, the Department had 180 approved, full-time positions.

The purpose of the Division of Consumer Equitability (Division) is to license, test, and deem correct all commercially used weighing and measuring devices in the State.

Additionally, the Division is responsible for sampling motor fuels for chemical analysis; maintaining a metrology lab which houses the state standards for mass, length, and volume; inspecting the advertising and labeling of motor fuel dispensers; and inspecting packaged goods to determine whether the stated amounts, sizes, and prices are correct.

Purpose of Audit

The purpose of the audit was to evaluate policies, procedures, and controls for inspections, complaints, and billings related to the weights and measures program. The scope of the audit focused on the Division's regulatory and financial processes over weighing and measuring devices for fiscal year 2019.

Audit Recommendations

This audit report contains seven recommendations to enhance the Department's regulatory processes in the Consumer Equitability Division.

The Department accepted the seven recommendations.

Recommendation Status

The Division's 60-day plan for corrective action is due on May 12, 2020. In addition, the 6-month report on the status of audit recommendations is due on November 12, 2020.

Division of Consumer Equitability

State Department of Agriculture

Summary

The Division of Consumer Equitability within the State Department of Agriculture does not have effective policies, procedures, or controls related to oversight of weighing and measuring devices. Specifically, the Division did not always perform inspections in a timely manner or take enforcement action for devices found to be out of tolerance. Additionally, invoicing was not consistent or compliant with regulation, and sanctions were not applied to locations that failed to pay. Finally, policies and procedures need to be developed for Division processes. The lack of effective policies, procedures, and controls leaves consumers vulnerable to deficient weighing and measuring devices.

Key Findings

Overall, about 9% of all locations with weighing and measuring devices were operating without assurance that these devices were within acceptable tolerance levels. Inspections protect the public from overpaying for product not received, most notably for motor vehicle fuel. As part of our audit, we tested 85 locations and found:

- Seven inspections (8%) were not performed timely. Specifically, two locations had not been inspected in the past 24 months and five locations received inspections late.
- Of 12 locations that required a follow-up inspection due to irregularities identified during a routine inspection, 3 locations (25%) never received a follow-up inspection and 2 follow-up inspections (22%) were performed late. (page 5)

The Division did not place a device out-of-service when found to be out of tolerance, and there is no enforcement action taken when these devices are prematurely placed back into service. Regulations require authorization from the Division, or a registered service agent, before previously malfunctioning devices may be used by consumers. (page 6)

Invoices were not always generated when required. Five of eight complaints (63%) were not invoiced the fee for a follow-up inspection. Per NAC 581.210, the Division is to charge for the retest of a malfunctioning device. Invoicing issues result from manual processes and lack of supervisory oversight and review. (page 7)

The Division did not always apply late fees timely to invoices in accordance with regulation. In one instance, we found late fees were not applied until nearly a year after fees were due. (page 7)

The Division has the authority to assess civil penalties and remove devices from service for any violation of NRS 581; however, the Division has not developed enforcement methods to entice payment of annual fees that remain unpaid. By allowing devices to remain in service when fees remain habitually unpaid, the Division promotes inequity among regulated entities.

Furthermore, the perceived authority of the Division is eroded when entities do not comply with regulations and increasing enforcement actions are not imposed. (page 8)

Significant improvements to operations can be realized by developing and implementing policies and procedures for key processes. The Division had limited, if any, documented policies and procedures for program functions. Limitations include the inspection, complaint, and invoicing processes. Policies and procedures help retain institutional knowledge, ensure consistency, and provide clear expectations for staff and management. (page 9)

An updated system, or implementation of electronic inspection software, can help the Division perform regulatory duties more efficiently and effectively. The current system houses location and device information, but has limited functionality and is not readily accessible by inspectors. Inspectors currently operate using a paper-based record keeping system. This outdated system has resulted in inspections being overlooked, and untimely and inaccurate information being input into the system. (page 9)