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## Division Overview

Pending matters of significance

- **Legislative Audit Report LA20-08**

On February 18, 2020, the Legislative Auditor presented a report to the Legislative Commission's Audit Subcommittee containing the findings, conclusions and recommendations from the Legislative Counsel Bureau Audit Division's 2019 performance audit of the Division of Consumer Equitability. The purpose of the audit was to evaluate policies, procedures, and controls for the inspections, complaints and billings related to the division's weights and measures program. The scope of the audit focused on the division's regulatory and financial processes over weighing and measuring devices for state fiscal year 2019.

The audit report contains the following seven recommendations to enhance the regulatory processes in the Division of Consumer Equitability:

- 1) Establish controls to ensure all weighing and measuring devices receive timely inspections.
- 2) Create and adhere to a plan to identify and eliminate the backlog of past due inspections.
- 3) Establish a graduated and equitable system of sanctions.
- 4) Develop controls to ensure invoices are generated for follow-up inspections.
- 5) Develop controls to ensure late fees are applied timely in accordance with regulations.
- 6) Develop policies and procedures for Division operations. Enhance supervisory oversight to ensure policies and procedures are followed by staff.
- 7) Perform a cost-benefit analysis on enhancing the weights and measures system to gain efficiencies.

The Division of Consumer Equitability has accepted the audit recommendations and will create a written 60-day plan for corrective action to address the audit findings, some of which has already been initiated. The corrective action plan is due to be submitted to the Legislative Counsel Bureau Audit Division and the Governor's Finance Office Division of Internal Audits on May 12, 2020. A 6-month report on the status of audit recommendations will be due on November 12, 2020.

[The full audit report may be viewed online.](#)

## Program Updates – as of February 10, 2020

- Metrology
  - FY20 total items calibrated: 717
  - On December 31, 2019, the Nevada metrology laboratory received notification from the United States Department of Commerce National Institute of Standards

and Technology Office of Weights and Measures (NIST OWM) that the laboratory has been issued a two-year Certificate of Metrological Traceability that notes compliance with the ISO/IEC 17025:2017 standard. The effective dates of the certificate are February 01, 2020 to February 01, 2022.

- In early January 2020, an on-site assessment of the laboratory was conducted by personnel from the National Voluntary Laboratory Accreditation Program (NLAP) to confirm compliance with the new ISO/IEC 17025:2017 documentary standard. The results of that assessment are currently pending; however, based upon the assessor's exit interview conducted with program staff, we are very optimistic that the laboratory's NVLAP accreditation will be extended for another two-year cycle.
- Petroleum Technology
  - FY20 total samples tested: 1,663
  - FY20 sample failures: 27
  - FY20 fuel quality consumer complaints: 6
- Weights and Measures
  - FY20 devices inspected: 21,212
  - FY20 package and price verification inspection hours: 92.25
  - FY20 repair orders issued: 405
  - FY20 stop-use orders issued: 131
  - FY20 consumer complaints received: 59

### **Industry Impact**

- **Nevada Metrology Laboratory**

Both the Sparks and Las Vegas laboratory locations are currently fully staffed and operational, but the Las Vegas Metrologist II has provided notice that he intends to retire from state service in November 2020. In keeping with NDA's strategic plan goal of increasing financial stability, a fiscal analysis was recently completed for the Metrology program. The analysis (attachment 1) compared existing program costs with current program revenues, revealing that the program is currently operating at an annual deficit of approximately \$349,000. To eliminate this deficit, the hourly fee for the program's services would need to increase by more than 300%, resulting in Nevada's rate being significantly higher than any state metrology lab in the west. Based upon this information, it does not appear that Nevada's market for metrology services would bear such an increase, and if the division were to increase the fee by such an amount, both existing and potential future customers would likely take their business out of state. Additionally, the program would need to bill 1,625 hours of services at the higher rate, nearly double the highest number of annual hours invoiced in program history.

Given these findings, additional analysis (attachment 2) was undertaken to determine estimated program costs and revenues, should the program be returned to operating from a single laboratory location in Sparks, including reducing the number of metrologists from three to two. The results of this additional review indicate the program's annual operating deficit would be reduced to approximately \$234,000, a net savings of approximately \$115,000 per fiscal year. This deficit could be further reduced if the program's hourly service fee were increased to more closely align with fee amounts

charged by metrology laboratories in neighboring states. It should be noted that while reducing the number of program metrologists would result in a net decrease in the total number of staff hours available to perform billable services, the number of remaining available billable hours would exceed the highest amount of annual hours the division has billed previously.

Based upon this information, the division has determined that the best course of action is to reduce overall program expenses and to cease operation of the Las Vegas metrology laboratory in December 2020.

The most significant negative impact from closure of the Las Vegas metrology lab will be experienced by the program's customers based in southern Nevada. Operation of a metrology lab in Las Vegas has allowed Registered Service Agents and private industry in southern Nevada to avoid the time and expense of transporting their standards to Sparks for certification. However, were the division to continue operation of the Las Vegas lab, the increase in fees to reduce the current operating deficit would likely have been higher than the additional expense of transporting standards to Sparks. Metrology program personnel will engage with industry to provide advance notice of the pending closure and to complete certification of standards in advance of the normal service cycle to maximize use of the Las Vegas lab while it remains operational.