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NEWS RELEASE

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FOR RELEASE _____ March 23, 2011 _____

Auditor of State David A. Vaudt today released a report on a review of the Fuel Inspection Program (Program) administered by the Iowa Department of Agriculture and Land Stewardship (Department) for the period July 1, 2005 through June 30, 2009. The review was conducted in conjunction with the audit of the financial statements of the State of Iowa and in accordance with Chapter 11 to determine if the program was in compliance with Federal regulations, the *Code of Iowa* and Department policies and procedures governing the program. In addition, the review included an analysis of the fees collected for the program compared to the costs of operating the program.

The Program is the responsibility of the Weights and Measures Bureau (Bureau) of the Department. The Bureau's mission is "to improve the accuracy of measurements, enhance consumer protection, promote fair competition and facilitate economic growth and trade." The Bureau is responsible for licensing and inspecting fuel pumps in Iowa to ensure the fuel pumps measure fuel accurately, are safe and the fuel extracted from the fuel pump is correctly labeled. The Bureau is also responsible for investigating complaints from individuals regarding fuel quality, the accuracy and safety of fuel metering pumps and the accuracy of the displayed price and labeling of the fuel product.

Vaudt reported the Department failed to inspect all fuel pumps on an annual basis as required by the *Code of Iowa*. The Department inspected 60% to 75% of the fuel stations annually for fiscal years 2006 through 2009. In addition, 42% of the inspection reports reviewed for fiscal year 2009 did not include documentation showing the ethanol content was tested as required and 48% did not include documentation showing the octane rating was tested as required. The Department also did not comply with the *Code of Iowa* for monitoring repairs and recalibrations of fuel pumps, rechecking failed fuel pumps, performing inspections of liquid propane (LP) gas meters, bulk meters and administering a qualifying exam for the licensing of persons servicing commercial fuel pumps. According to Bureau staff, the Department does not have sufficient staff to perform the Program's required inspections and monitoring procedures. During fiscal year 2009, the Bureau employed 7 inspectors to inspect over 35,000 fuel pumps located throughout the state and completed inspections of only 70% of fuel pumps and no inspections of LP and bulk fuel meters. As of June 30, 2010, the Bureau had only 5 inspectors available to inspect over 36,000 fuel pumps.

Vaudt also reported the fees charged for the Program are not sufficient to pay the cost of operating the Program. The annual fee for each fuel pump licensed in the state is \$9.00. However, section 214.3(1) of the *Code of Iowa* allows a 50% discount if the annual fee is paid by July 31. The Bureau collected \$224,786.00 of fees in fiscal year 2009 while Program costs for the same period were \$634,554.00, including \$397,648.00 for payroll, \$18,739.00 for travel, \$62,352.00 for equipment and \$156,816.00 for overhead costs. The fees collected in fiscal year 2009 only covered 35% of the costs.

The fees collected are deposited directly to the State's General Fund. Because the Department does not retain the fees collected, the Program receives a \$300,000.00 appropriation and an allocation from the Department's General Fund appropriation. The amount allocated by the Department covers any shortfall at the end of the fiscal year. According to the Department, the majority of the \$300,000.00 direct appropriation is used for ethanol plants and bulk fuel testing. According to Bureau staff, only 20% of the appropriation was used to pay inspectors' salaries for the Program in fiscal year 2009.

Vaudt recommended the Department implement procedures to ensure compliance with requirements established by the *Code of Iowa* and improve internal controls over the following:

- Collection of fees – the Department should implement procedures to ensure all active retailers are submitting fees in accordance with the Department's policies and follow up with retailers who fail to pay the required fees.
- Comply with section 12.10 of the *Code of Iowa* requiring collections to be deposited within 10 business days after being received.
- Establish procedures to track financial information by program within the Bureau to ensure the fees collected are sufficient for Program costs.
- Ensure re-inspection fees are collected. The Department does not consistently collect the fee for re-inspecting fuel pumps which failed initial inspection.
- Comply with sections 214.2 and 215.1 of the *Code of Iowa* requiring annual inspections of all fuel pumps. The Department does not annually inspect all fuel pumps located in the State. In calendar year 2009, the Department completed inspections of only 70% of the fuel pumps and no inspections of LP and bulk fuel meters.

A copy of the report is available for review in the Office of Auditor of State and on the Auditor of State's web site at: <http://auditor.iowa.gov/specials/1060-0090-B0P2.pdf>.

**A REVIEW OF THE FUEL INSPECTION PROGRAM
ADMINISTERED BY THE
IOWA DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP
WEIGHTS AND MEASURES BUREAU**

**FOR THE PERIOD
JULY 1, 2005 THROUGH JUNE 30, 2009**

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Auditor's Transmittal Letter

To the Governor, Members of the General
Assembly and the Secretary of the Iowa
Department of Agriculture and Land Stewardship:

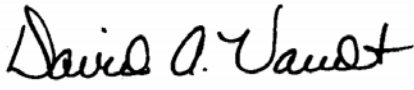
In conjunction with our audit of the financial statements of the State of Iowa for the year ended June 30, 2009 and in accordance with Chapter 11 of the *Code of Iowa*, we have conducted a review of the Fuel Inspection Program (Program) administered by the Weights and Measures Bureau (Bureau) of the Iowa Department of Agriculture and Land Stewardship (Department). We reviewed Program activity and compliance with laws and regulations governing the Program for the period July 1, 2005 through June 30, 2009. The review was conducted to determine if the Bureau complied with Federal Regulations, the *Code of Iowa* and applicable administrative rules. We also determined if the fees charged to service stations for licenses and service inspectors who calibrate and repair fuel pumps were sufficient to pay the costs of the Program. In conducting our review of the Program, we performed the following procedures:

- (1) Interviewed Department personnel and reviewed related information to obtain an understanding of the administration of the Program, including, but not limited to, inspection procedures, licensing requirements, fee structure, funding sources, reporting and internal controls over license receipt collection.
- (2) Reviewed applicable sections of the Code of Federal Regulations, the *Code of Iowa* and the Iowa Administrative Code. We determined compliance with Federal and State requirements regarding the administration and operation of the Program.
- (3) Accompanied Bureau field inspectors on certain inspections at various service stations to determine compliance with policies and procedures related to inspections of retail fuel metering pumps (fuel pumps), including fuel quality (octane/ethanol/water content) and the accuracy of the amount dispensed (quantity).
- (4) Obtained and reviewed the Bureau's database to determine if the database was complete and properly maintained.
- (5) Reviewed and tested selected licenses issued for all types of fuel pumps to determine if the correct amount was collected and properly deposited.
- (6) Reviewed "Placed in Service" reports to determine if the reports were completed by a licensed service inspector.
- (7) Determined if the required inspection reports for selected stations were properly completed in accordance with Department guidelines, the *Code of Iowa* and the National Institute of Standards and Technology's regulations.
- (8) Reviewed complaints filed with the Department related to service stations and examined documentation of certain resulting investigations to determine if Bureau staff properly investigated the complaints and documented the results and any actions taken.

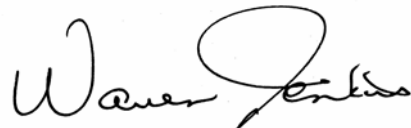
- (9) Reviewed and tested inspection reports and files for stations with failed fuel pumps to determine if fuel pumps were properly repaired by a licensed inspector and reinspected by the Department in accordance with the *Code of Iowa* and the Iowa Administrative Code.
- (10) Compared fees collected for the Program to the Program's operating costs to determine if the fees collected covered the costs of the Program.

Based on these procedures, we have developed certain recommendations and other relevant information we believe should be considered by the Iowa Department of Agriculture and Land Stewardship, the Governor and the General Assembly.

We extend our appreciation to the personnel of the Iowa Department of Agriculture and Land Stewardship for the courtesy, cooperation and assistance provided to us during this review.



DAVID A. VAUDT, CPA
Auditor of State



WARREN G. JENKINS, CPA
Chief Deputy Auditor of State

August 26, 2010

Program Summary

The Iowa Department of Agriculture and Land Stewardship's (Department) mission is to provide leadership for all aspects of agriculture in Iowa, ensure consumer protection and promote the responsible use of our natural resources. The Department is responsible for overseeing a wide range of programs affecting the quality of life of every Iowan, including a wide variety of consumer protection, land stewardship and agriculture promotion programs. These programs include providing funds and expertise to prevent erosion and protect the State's waterways, regulating meat processing, commercial feed and fertilizer, pesticide application, weights and measures and dairy production and processing. In addition, the Department is responsible for promoting farmers' markets and administering the Farmers' Market Nutrition Program for seniors and WIC program participants.

The Department's Bureau of Weights and Measures (Bureau) is to ensure equitable treatment of consumers and retailers at the fuel pump, grocery store and grain elevator. The Bureau is responsible for testing all large scales, counter scales and fuel pumps in Iowa to ensure they are weighing and measuring accurately. In addition, the Bureau is responsible for making sure fuel pumps are correctly labeled, the price charged is calculated correctly based on the posted price and fuel pumps and hoses are safe and in good working order.

The Bureau is also responsible for the regulation and enforcement of Federal regulations, applicable requirements found in the *Code of Iowa* and the Administrative Rules developed by the Department pertaining to various motor fuels produced and offered for sale in the State. The following resources provide guidance for the Bureau.

- Code of Federal Regulations, Title 16 Commerce Part 306, "Automotive Fuel Ratings Certification and Posting."
- EPA Regulations on MTBE (Methyl Tertiary Butyl Ether) and lead content.
- State Operations Manual (SOM).
- *Code of Iowa*, Chapter 214, "Commercial Weighing and Measuring Devices == Motor Fuel Pumps."
- *Code of Iowa*, Chapter 214A, "Motor Fuel."
- *Code of Iowa*, Chapter 215, "Inspections of Weights and Measures."
- Iowa Administrative Code Section 21, Chapter 85: Weights and Measures.
- State Fire Marshal rules regarding safety.

These rules and regulations require the Bureau to:

- License all commercial and retail fuel pumps in the State.
- License all private inspectors who service and calibrate fuel pumps.
- Test for additives banned from use in motor fuel and the fuel's ethanol content and octane rating.
- Ensure advertising and labeling of the various types of fuel is accurate and not misleading.
- Investigate complaints related to fuel pumps, price advertising and fuel quality.
- Test the meter inside each fuel pump at least annually to ensure an accurate measurement.

A Review of the Fuel Inspection Program

As stated previously, the Bureau is to ensure equitable treatment of consumers and retailers at the fuel pump, grocery store and grain elevator. The Bureau is also responsible for testing all large scales, counter scales and fuel pumps in Iowa to ensure they are weighing and measuring accurately. In addition, the Bureau is responsible for making sure fuel pumps are correctly labeled, the price charged is calculated correctly based on the posted price and fuel pumps and hoses are safe and in good working order. For purposes of this report, we limited our review to the following functions:

- inspection process for service stations,
- fuel sold in bulk to consumers,
- licensing of fuel pumps and
- licensing of private inspectors who service and calibrate fuel pumps.

The above functions are referred to by Bureau staff as the Fuel Inspection Program (Program) and relate to the commercial sale of fuel and not the production of the fuel.

We did not include the following functions in our review: inspections of scales, moisture meters, high flow fuel pumps, blender pumps, ethanol plants, bio fuel plants, pipelines or fuel distributors. Although these functions deal with fuel, they are not considered a part of the Program we reviewed. The following sections discuss in more detail the areas included as part of this review.

Funding

According to Department staff we spoke with, the Department covers the costs of the Program by allocating a portion of the Bureau's General Fund allocation to the Bureau. **Table 1** shows the amount allocated to the Bureau by the Department for fiscal years 2006 to 2009.

Fiscal Year	Amount Allocated to Bureau*
2006	\$ 839,000.00
2007	780,000.00
2008	803,000.00
2009	870,000.00
Total	\$ 3,292,000.00

* - Rounded

The amount shown in the **Table** covers all the functions performed by the Bureau. According to Department accounting staff and Bureau personnel we spoke with, they are unable to provide the amounts allocated each year to the various functions within the Bureau.

The Department has also received an annual \$300,000.00 appropriation to establish and administer programs for testing motor fuel, including bio fuel processing and production plants, for screening and testing motor fuel, including renewable fuel, and for the inspection of motor fuel sold by dealers, including retail dealers who sell and dispense motor fuel from fuel pumps. According to Bureau staff we spoke with, the Bureau paid 20% of the Retail Fuel Inspectors salary from this appropriation for the 4th quarter of fiscal year 2008 and all of fiscal year 2009. The Bureau also purchased fuel analysis equipment in fiscal year 2009. The

A Review of the Fuel Inspection Program

remainder of the appropriation was used for salary and equipment for inspections of ethanol and bio diesel plants, pipelines and high flow fuel meters. Bureau staff was unable to provide a breakout of how much of the allocation was used for these purposes.

In addition to the direct appropriation and an allocation from the Department’s General Fund appropriation, the Bureau charges several fees related to the Program. In accordance with the *Code of Iowa*, the Bureau charges the following fees:

- Fuel pump licensing fee - \$9.00 annual fee paid for each retail fuel pump, bulk meter, mass flow meter, slow flow meter, stationary liquid propane gas meters and refined fuel meters. If payment is received by July 31 of each fiscal year, there is a 50% discount (\$4.50).
- Liquid propane (LP) gas truck meter fee – \$52.50 annual fee is charged for each meter. There is no discount for paying early.
- Servicer licensing fee - \$5.00 annual “servicer license” fee for each private inspector who calibrates and repairs the meter in the fuel pump.
- Re-inspection fee – \$9.00 per meter for re-inspections performed after a fuel pump fails 2 consecutive inspections.

According to Bureau staff we spoke with, the number of fuel pumps in service during fiscal years 2006 through 2009 were as follows:

- 2006 and 2007 – data was unavailable,
- 2008 – approximately 35,000,
- 2009 – approximately 36,000.

The fees collected under the Program are deposited to the State’s General Fund and are not used to offset the cost of the Program. The fees collected for fiscal years 2006 through 2009 are summarized in **Table 2**.

Table 2

Description	2006	2007	2008	2009
Commercial Fuel Pump License*	\$ 208,465.00	237,679.00	227,158.00	218,929.00
Servicer License	5,990.00	5,925.00	5,525.00	5,690.00
Re-inspection Fee	126.00	712.00	-	167.00
Total	\$ 214,581.00	244,316.00	232,683.00	224,786.00

* - Includes the fuel pump licensing fee and liquid propane gas meter fees collected for the fuel inspection program.

As shown by the **Table**, the majority of the fees collected are for fuel pump licenses which include the meter licensing fee and the liquid propane fee. The Bureau was unable to breakout the total fees collected for the meter license fees and liquid propane fees.

As shown by the **Table**, the commercial fuel pump license fees collected increased from 2006 to 2007 and has declined each year since 2007. The Bureau could not provide any specific reason for the decline in the revenue. Because the number of fuel pumps has increased each year, we would expect the revenue to increase. According to Bureau staff we spoke with, one explanation was more companies were paying the discounted fee. The Bureau could not provide support for this based on the information available in the database.

A Review of the Fuel Inspection Program

We reviewed the Bureau's procedures for collecting fees and identified the following:

- One employee has control over the incoming mail, posting receipts to a database, preparing the deposit and issuing licenses.
- There are no formal written policies and procedures for the collection, posting and depositing of receipts.
- The Bureau does not reconcile the amount deposited by the Department to the listing prepared by the Bureau to ensure all funds were properly deposited.
- The individual who collects the fees is also responsible for sending renewal notices, updating the outstanding licenses receivable listing and mailing past due notices.

Because collection, posting and depositing duties are not properly segregated, fees received may be misapplied to the wrong licensee, individuals may be given credit for paying the fee when the fee was not received or licenses may be renewed without a fee being paid. See **Finding A**.

Databases

The Bureau utilizes Access® databases to track all fuel pump license applications, all servicer license applications and all fuel pump inspections. Bureau personnel enter information into the databases directly from the license applications and inspection reports.

A Bureau employee opens the appropriate database and inputs information from the forms prepared by the service stations and the inspectors. Any user who has access to a database may add, edit and delete records.

We identified the following concerns with the Bureau's databases:

- The databases for servicer license applications and fuel pump licenses do not allow access to historical information.
- The number of pumps shown for a service station did not agree to the number actually at the station according to the inspection report.
- Bureau personnel reuse servicer license numbers and fuel pump license numbers and the same license number is not consistently used from year to year for the same licensee, which makes historical information inaccurate.
- Controls are not in place to ensure correct information is entered in the databases.

As a result, the databases can not be relied on to determine:

- If all service stations have paid the required licensing fee,
- If all fuel pumps in operation have been licensed,
- If all fuel pumps are included in the database,
- If all fuel pump inspections have been completed,
- If a private servicer has paid the required license fee or
- If the service station has paid the required fees each year.

A Review of the Fuel Inspection Program

Because the databases are not controlled, reports generated from the databases can not be relied upon. The databases should be able to provide information such as:

- Number of fuel pumps in service.
- Number of service stations paying the full fee, reduced fee or not paying the required fee.
- Number of inspections completed.

The databases should allow the Bureau to generate reports at any point in time. The databases should be able to provide a historic record which would allow the Bureau to analyze trends, prepare reports on fees collected and not collected, prepare statistical reports on the number of fuel pumps in operation each year and the number inspected. In addition, the databases should be able to be reconciled to the amounts collected for the various licenses.

Finding B addresses the Bureau's databases and recommends the Bureau maintain accurate and current databases.

Fuel Pump Licensing

Section 215.1 of the *Code of Iowa* requires "the department shall regularly inspect all commercial weighing and measuring devices" and section 214.2 requires "a person who uses or displays for use any commercial weighing and measuring device shall secure a license from the department". Commercial and retail fuel pumps are required to be licensed by the Department on a fiscal year basis (July 1 through June 30) and are to be renewed annually upon application by the owner or operator. In accordance with the *Code of Iowa*, the Department charges a \$9.00 license fee for each gasoline or diesel fuel pump. Section 214.3 of the *Code of Iowa* states this fee shall be reduced to \$4.50 if paid within one month of the June 30 due date. Bureau staff we spoke with stated they did not know why the license fee was discounted for timely payment. Staff also stated the fees have not changed since the early 1990's.

As previously stated, the \$9.00 fee is also applicable to other meters, including bulk meters, mass flow meters, slow flow meters, stationary liquid propane (LP) meters and refined fuel meters. LP gas truck meters are charged an annual fee of \$52.50. The *Code of Iowa* does not allow a discount for timely payment of the license fee for any of these types of meters. According to Bureau staff we spoke with, the Bureau is collecting the fees for the LP and bulk fuel meters.

Each May, the Bureau mails a notice to all service station owners or operators with a current license. The owner/operator completes the application and returns it with the appropriate fee to the Bureau. When fees are received for any type of fuel pump, they are recorded in the Bureau's databases and forwarded to the accounting bureau for deposit to the State's General Fund.

Section 214.4 of the *Code of Iowa* states, in part, "If the department does not receive payment within one month of the due date, the department shall send a notice by certified mail to the owner/operator of the fuel meters and pumps informing them payment is due within 15 days of receipt or the Department will take the meter out of service."

Applications are stamped by the Department when they are received. The application includes a line for the check number, date of the check and the applicant's signature. Based on our testing of 273 applications covering 2,854 fuel pumps over the period of our review, we identified the following related to the collection of fuel pump licensing fees:

A Review of the Fuel Inspection Program

- 13 applications (5%) were stamped by the Department as received after July 31 but did not include the date of the check or date signed by the applicant. For these 13 applications, covering 98 pumps, the owner/operator paid \$4.50 per fuel pump instead of \$9.00 per fuel pump. According to Bureau staff, the applications were postmarked on or before July 31 and, therefore, the \$4.50 was accepted. The Department's policy and the license application state the fees must be postmarked on or before July 31 to receive the discount. However, the Bureau did not maintain documentation to show the envelope was postmarked by July 31. If the Department had collected the full \$9.00 fee for each fuel pump, the Department would have collected an additional \$441.00.
- 5 applications (2%) were stamped by the Department after July 31 and included a check date after July 31. For the 5 applications, the owner/operator paid only the \$4.50 fee instead of the \$9.00 fee. The 5 stations had a total of 88 fuel pumps. As a result, \$396.00 of fees were not collected because the stations paid only the \$4.50 fee instead of the \$9.00 required fee. According to Bureau staff we spoke with, they believed the envelopes were postmarked prior to July 31; however, no support could be located to support this position.
- The fees collected for 58 (21%) of the applications tested were not deposited within 10 working days as required by the *Code of Iowa*.

Due to the nature of the records available, we were unable to determine when all applications tested were received. If the Bureau had maintained support showing when the envelope was postmarked and when the application was received, additional stations which paid the incorrect fee may have been identified.

We reviewed the Bureau's process for collecting past due fees. According to section 214.4 of the *Code of Iowa*, the Bureau is required to send a notice by certified mail on August 1 to any owner/operator with an outstanding license fee. The notice shall state the fee must be paid within 15 days of receipt of the notice or the Department may summarily tag the fuel pumps and remove them from service.

We examined the procedures performed by the Bureau in August 2009 to collect outstanding fuel pump license fees. We determined the Bureau sent the notices by regular mail on or around August 31, 2009. Additionally, the notice did not state "the owner or operator has fifteen days after receipt of the notice to pay the required fee pursuant to section 214.3." As of September 17, 2009, 115 license fees were still outstanding and the Bureau had taken no further action to collect the fees or remove the fuel pumps from service.

Because the Bureau did not perform required inspections and did not collect the proper fees, funds which could have helped fund the Program and reduce the amount needed to be allocated from the Department's General Fund appropriation and direct appropriation were not collected. **Finding C** addresses the licensing fees.

Servicer Licensing

According to section 215.23 of the *Code of Iowa*, a servicer of a commercial weighing or measuring device shall pass a qualifying examination to be conducted by the Department. The *Code* requires the Department to collect the required annual license fee of not more than \$5.00 for each license.

The Bureau is responsible for testing and licensing servicers who repair and recalibrate fuel meters within each fuel pump. The license fee is \$5.00 per service technician and is required to be renewed annually on a calendar year basis. The Bureau sends out renewal notices to

A Review of the Fuel Inspection Program

each registered service company approximately 60 days before the fee is due. It is the responsibility of the service company to provide the names of the individuals being licensed and to pay the \$5.00 fee for each individual who will be licensed. Payment of the license fee can be made online or by completing the application and returning the application and fee by mail. The Bureau maintains a database of all active service technicians and service companies.

According to Bureau staff we spoke with, the \$5.00 fee the Department is allowed to charge for the exam is not sufficient to cover the cost of developing or administering the exam. Instead, the Bureau requires a servicer to submit the \$5.00 fee and complete, sign and date an application stating they have up-to-date equipment, a copy of the National Institute of Standards and Technology (NITS) handbook 44 and have access to and are aware of current Iowa laws and regulations. This procedure is being used in place of administering the exam. Bureau staff we spoke with also stated the Bureau does not verify the information in the application or whether the servicer has the required equipment and manuals. Bureau staff also stated they do not have enough staff to develop and conduct a qualifying exam as required by section 215.23 of the *Code of Iowa*.

The Bureau has no way of knowing if individuals who are servicing pumps are registered with the Bureau. The Bureau does compare the name on the "Placed in Service" report to the database. The only possibility of identifying if an individual is not registered is if a "Placed in Service" report is returned and the individual listed as servicing the pump is not included in the Bureau's database. As a result, we are unable to determine the amount of revenue from servicer licensing fees which is not being collected. **Finding D** addresses servicer examinations.

Annual Inspections

Section 214.11 of the *Code of Iowa* requires the Department to provide annual inspections of all fuel pumps. According to Bureau staff we spoke with, they try to inspect as many fuel pumps as staffing allows on an annual basis. Bureau staff also stated they do not inspect any LP meters or bulk fuel meters due to the limited number of staff. As previously stated, the Department does collect the \$9.00 fee for the LP and bulk fuel meters, which is to help pay for inspections of the LP and bulk fuel meters

The Bureau is responsible for monitoring the fuel quality, labeling of the fuel and testing the accuracy of the amount of fuel pumped for 36,000 fuel pumps located throughout the State. During fiscal year 2009, the Bureau had 13 employees, of which 8 were inspectors. Of the 8 inspectors, 7 conducted field inspections for fuel quality and quantity, as well as inspect counter scales which were not part of this review. The remaining inspector primarily checked large volume meters, meters at ethanol plants, diesel fuel testing and coordinated other fuel quality issues.

An inspector retired effective June 26, 2009, leaving 6 inspectors to conduct field inspections. During March 2010, another inspector retired, leaving the Bureau with only 5 inspectors to conduct field inspections as of June 30, 2010. According to Bureau staff, the Bureau may be unable to fill the vacant positions due to budget limitations. The main duties of the inspectors are to:

- Verify fuel pumps record accurate measurements (quantity),
- Ensure pump meters are sealed, or verify documentation exists to explain why the seal is broken,

A Review of the Fuel Inspection Program

- Ensure the pump is in proper working condition and has appropriate hoses and nozzles for combustible fuel,
- Ensure pumps are properly labeled, including appropriate and accurate signage at the retailer,
- Ensure the octane and ethanol content of the dispensed fuel are as posted on the pumps (quality),
- Test the fuel to make sure it is methyl tertiary butyl ether (MTBE) and lead free and
- Ensure the fuel meters in each fuel pump have not been tampered with since the last inspection by observing the lead seal which is crimped with the Department of Agriculture and Land Stewardship seal.

In addition, the inspectors check storage tanks for water content and make sure all above ground storage is appropriate and not leaking. The fuel inspectors test all types of fuel pumps and fuel, including unleaded, ethanol, diesel fuel, biodiesel fuel, E-85, racing fuel and kerosene. According to staff we spoke with, field inspectors do not have the equipment necessary to test E-85, racing fuel, kerosene or bio-diesel at the point of sale due to the decrease in the state appropriation allocated to the Bureau. During fiscal year 2009, only 1 inspector had the proper equipment to analyze diesel fuel in the field. During fiscal year 2010 and 2011, the Bureau purchased equipment which allows each inspector to test diesel and bio-diesel fuel.

The field inspectors are each assigned a region. The regions are determined by the number of fuel pumps, with each inspector assigned approximately 5,000 fuel pumps per year. Each inspector is assigned an inspection truck equipped with volumetric provers which allow them to take multiple samples at one time for quantity. The Department attempts to check every service station randomly so the vendor can not guess when the inspector will visit. The inspector tries to check every service station in their region at least once every 12 months.

The inspectors test each fuel pump at a location at least twice to determine accuracy. If a reading is outside the acceptable range, a third reading is taken. If the fuel pump passes inspection, a sticker is placed on the pump showing it has been inspected and passed.

If a fuel pump fails, the fuel pump is red tagged, which prevents the fuel pump from being used until it is recalibrated. The station owner/operator is informed and given a "Placed in Service" report. The owner/operator is responsible for having a licensed servicer repair the fuel pump. Once the fuel pump is repaired, the licensed servicer can remove the red tag and complete the "Placed in Service" report and return the form to the Bureau.

The field inspector is supposed to recheck the fuel pump after the repair has been completed. According to Bureau staff we spoke with, the inspectors attempt to recheck the fuel pump within 10-15 days. However, depending on the schedule of the inspector, it may take up to 30 days.

Inspectors also test fuel pumps for quality of fuel while they are in the field. They take a sample of each type of fuel directly from the pump nozzle while they are in the field. For the period covered by this review, 4 field inspectors had a field analyzer (petro spec) which determines if MTBE's are present, the amount of ethanol in the fuel and the octane rating. The other 2 inspectors smelled the fuel and performed a quick saturation test. These methods were allowed prior to the development of the various analyzers available. Inspectors may still use

A Review of the Fuel Inspection Program

these methods to screen the fuel to determine if there might be a problem. If an inspector without a petro spec suspects a problem, a new sample is pulled and placed in an approved container, labeled and sent to the lab in Ankeny for further testing.

Bureau staff we spoke with indicated the Bureau did not have the funding to purchase petro spec field analyzers for all inspectors. However, during fiscal year 2010 and 2011, the Bureau purchased the necessary equipment which allows each inspector to test gasoline, diesel and bio-diesel. Inspector may also take samples and send it to Ankeny for further tests.

Section 214.11 of the *Code of Iowa* also requires a servicer of a pump to notify the Department of any recalibrations done within 48 hours on a form provided the Department. Additionally, Chapter 85 of the Iowa Administrative Code says the Department must be notified by the user when a new or used LP meter is placed in service. According to Bureau staff, the Bureau does not have a form for a servicer to complete when a recalibration is performed for any reason other than a failed inspection. After the inspection has been completed, the inspection reports are sent to the office where the inspection results are input into the fuel meter inspections database.

As part of our review, we observed 3 inspectors perform routine field inspections. We also interviewed the Technical Coordinator to discuss quality control procedures. As a result of our field visits, we identified inconsistencies in the inspections observed, including:

- Lead seals were not crimped with the Department of Agriculture and Land Stewardship seal showing they were inspected.
- Inspection reports did not include all findings identified during the inspection.
- One inspector failed to verify the receipts to determine the price of the fuel pumped matched the price displayed on the pump.

Based on our observations, it would be possible for someone to recalibrate a pump after an inspection was completed. We confirmed this observation with Bureau staff. According to Bureau staff we spoke with, if a pump is recalibrated by someone other than a Bureau inspector, the service station is to notify the Bureau within 48 hours as to the reason it was recalibrated. If the inspectors find out a pump has been recalibrated and the Bureau was not notified, an informal meeting is held where the servicer or service station must support the legitimacy of the change. If the Bureau feels it was a legitimate change, they will issue a warning for failure to notify the Bureau timely. The Bureau also has the option of requesting a formal hearing before the Administrative Board. The Board may find the service station in violation and, as a result, guilty of a serious misdemeanor as set forth in section 214.11 of the *Code of Iowa*. The Board may also revoke the servicer or the service stations license and refer the matter to the Attorney General's Office. The Bureau previously issued warnings for most of the violations. They are now more aggressively pursuing those servicers and service stations which recalibrate fuel pumps without a legitimate reason.

Based upon our review of the annual service station inspections for fiscal years 2006 through 2009, we determined an average of 32% of the service stations were not inspected. As stated previously, the Bureau is required to inspect all fuel pumps in the state annually. Bureau staff we spoke with stated they do not have enough inspectors to ensure all fuel pumps are inspected annually.

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We tested 20 service stations licenses for calendar years 2005 through 2009 and identified the following:

- In 2005, 40% of the service stations were not inspected.
- In 2006, 25% of the service stations were not inspected.
- In 2007, 40% of the service stations were not inspected.
- In 2008, 25% of the service stations were not inspected.
- In 2009, 30% of the service stations had not been inspected as of August 18, 2009, the date of our testing.
- For 9 of the 20 stations tested, the number of fuel pumps on the inspection report did not agree with the number of fuel pumps included in the database. In all cases, the number of fuel pumps in the database was less than the number on the inspection reports. As previously stated, the database is not adequately maintained and information in the database can not be relied on. As a result, we can not determine the amount of fess, if any, not remitted to the Department.

We reviewed 50 of the 99 county files, which include “Placed in Service” reports prepared for fuel pumps which failed to pass initial inspection in each county. The reports are to be filed by the servicer and attached to the “Gas Pump Inspection” report completed by Bureau inspectors after re-inspecting the serviced fuel pump. Because records prior to fiscal year 2008 were stored off-site, we limited our review to fiscal years 2008 and 2009. A total of 39 “Placed in Service” reports were found for the 50 county files selected. From our review of the 39 reports, we determined:

- “Placed in Service” Reports were found for only 13 of the 50 counties selected. We were unable to determine if additional reports should have been filed for the remaining counties.
- The “Gas Pump Inspection” reports attached to the “Placed in Service” reports were completed by only 2 of the Bureau’s inspectors. It is reasonable to expect the remaining Bureau inspectors should also have filed reports for the counties they are assigned to inspect.
- Of the 39 “Placed in Service” reports, 2 were not fully completed and signed by the servicer. As a result, we are unable to determine if the fuel pump was serviced by a licensed servicer.
- On 1 of the 39 reports, the servicer’s name was illegible and the registration number did not match any numbers on file in the database. We were unable to determine if the fuel pump was repaired by a licensed servicer.
- The remaining 36 “Placed in Service” reports were completed by a licensed servicer registered with the Bureau.

After a fuel pump has been repaired, the Bureau performs a recheck to determine if the fuel pump passes an inspection. In order to test if the rechecks were performed, we tested 10 annual inspection reports from the Department’s database and 5 reports from the Bureau’s paper files for fiscal years 2006 through 2009 which had fuel pumps which were rejected by the inspector. We reviewed the files to determine if the failed fuel pumps had been rechecked. **Table 3** summarizes the percentage of fuel pumps which failed and were rechecked.

A Review of the Fuel Inspection Program

Table 3

Fiscal Year	Percentage of Failed Fuel Pumps Rechecked
2006	67%
2007	60%
2008	53%
2009	80%

As illustrated by the **Table**, a significant number of the failed fuel pumps were not rechecked.

Section 214A.7 of the *Code of Iowa* requires the Department to test motor fuels to ensure the fuel is in compliance with the provisions of Chapter 214A. Chapter 21, section 85.10 of the Iowa Administrative Code includes additional provisions stating all fuel with more than 1% of renewable fuel shall be identified with a decal and the octane rating shall be clearly posted on the fuel pump.

We examined 120 “Gas Pump Inspection” reports from July 1, 2006 through June 30, 2009 to determine if the fuel tests are in compliance with the *Code of Iowa* and the Iowa Administrative Code. The Bureau did not keep records of any fuel quality information before July 1, 2006. Based on our review, we determined:

- The Bureau was unable to locate 2 “Gas Pump Inspection” reports.
- The octane rating was not documented for 1 or all products on 62 (53%) of the inspection reports tested.
- The ethanol percentage was not documented on 56 (48%) of the “Gas Pump Inspection” reports tested.
- E-85, kerosene, racing fuel and white gas were not tested by the Bureau.
- Diesel fuel is not consistently tested. When testing is performed, a separate report is filed.
- Findings related to reports from fiscal year 2009 only (98 reports) included the ethanol percentage was not documented on 39 (40%) of the fuel pumps tested and 45 (46%) of the fuel pumps tested did not have the octane rating documented.

According to Bureau staff, the Bureau does not have the equipment to test E-85, kerosene, racing fuel or white gas. For most of fiscal year 2009, the Bureau had 1 “Zeltec” diesel analyzer which is used by the inspector for large volume meters and ethanol plants. As a result, most field inspectors could not test diesel fuel. The Bureau has now received 6 of the 7 additional “Zeltec” analyzers ordered toward the end of fiscal year 2009.

According to Bureau staff, there are also 705 LP gas truck meters, 300 LP stand-alone meters and 1,300 refined fuel truck meters which they do not inspect. Bureau staff again cited the lack of staff as the reason the inspections are not performed.

Findings E through **I** discuss our observations of the inspections performed by the 7 inspectors. As a result of the decline in the number of inspectors, we expect a continued decline in the number of fuel pumps inspected annually.

Complaint Process

Section 215.1 of the *Code of Iowa* requires the Department to inspect any commercial weighing or measuring device when a complaint is received about a false or incorrect measurement. The *Code of Iowa* does not contain a similar statute for fuel quality. However, section 214A.11 of the *Code* states a person who knowingly violates a provision of Chapter 214A is guilty of a serious misdemeanor and each day the violation occurs is considered a separate offense.

The Bureau is responsible for investigating complaints received regarding fuel quality, inaccurate pricing or advertising and the accuracy of fuel meters in fuel pumps made directly to the Bureau or the Attorney General's Office. Complaints may be received electronically, by phone or by mail.

According to Bureau staff we spoke with, the severity, number of complaints for a location and the location of the field inspector determine how quickly a complaint is investigated. The Bureau maintains a database of complaints received, which includes the date, place, reason for the complaint, complaint contact information and the date and condition found upon investigation.

We reviewed the complaint database and followed up on complaints to ensure the Bureau was documenting the resolution of the complaint. In reviewing the individual files, we determined many complaints were filed with the annual inspection reports in the county file but were not entered into the Bureau's complaint database. We also determined the database did not consistently include the resolution of the complaint. **Finding J** addresses the complaint process.

Financial Information

As stated previously, the Bureau received a \$300,000 appropriation for fiscal years 2007, 2008 and 2009 to establish and administer programs for the testing of motor fuel, bio fuel processing and production and for screening and testing motor fuels, including salaries, support, maintenance and miscellaneous purposes. In addition, the Bureau is allocated a portion of the Department's General Fund appropriation each year, as shown in **Table 1**. We were unable to determine the amount of the General Fund appropriation the Bureau allocated to retail fuel pump inspections due to inadequate records.

We requested the Bureau provide us financial information regarding the costs of administering the Program. According to Bureau staff we spoke with, the Bureau does not track costs for the various functions within the Bureau. The Bureau's budget is based on the activities of the entire Bureau, which includes counter scales, large capacity scales, moisture meters, inspections of ethanol and biodiesel plants and fuel pump inspections.

Based on information the Bureau's management was able to accumulate after our initial request, we calculated the cost of the fuel inspections for fiscal years 2008 and 2009. To calculate the payroll and travel costs, we used the percentage of the staff's time spent on fuel pump inspections and allocated a portion of the individual's payroll and travel costs to the fuel pump inspection program. We then determined the percentage of the Bureau's total payroll for the Program. We used this percentage to allocate all of the Bureau's expenses, less equipment, payroll and travel, as overhead for the program. We also included equipment costs assuming the Bureau would replace a fully equipped vehicle per year. We reviewed our calculation with Bureau staff for reasonableness. Bureau staff we spoke with felt the calculations were reasonable.

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We compared the calculated expenses to the fees collected by the Program to determine if the fees were sufficient to cover the costs of the Program. We did not include the amount allocated from the Department's General Fund appropriation and the direct appropriation in the comparison. **Table 4** summarizes the fees collected and the calculated expenses for fiscal years 2008 and 2009.

Table 4

	Fiscal Year 2008	Fiscal Year 2009
Total fees collected	\$ 227,158.00	218,929.00
Expenses:		
Payroll	373,833.00	397,648.00
Travel	29,733.00	18,739.00
Overhead ^	131,211.00	156,816.00
Total without equipment	534,777.00	573,203.00
Loss before equipment	(307,619.00)	(354,274.00)
Equipment cost*	61,352.00	61,352.00
Net loss with equipment	\$(368,971.00)	(415,626.00)

^ - overhead was determined based on the ratio of inspectors' payroll costs to the total Bureau's payroll costs.

* - equipment cost was estimated based on replacing one vehicle per year, plus inspection equipment, which could vary annually.

As illustrated by the **Table**, the fees collected covered less than 35% of the cost of the Program in fiscal year 2009. The remaining balance (net loss) would be covered by the amount allocated by the Department from its General Fund appropriation and the direct appropriation. Because information was not readily available, we did not compare the revenue and expenses for fiscal years 2006 and 2007.

Table 5 shows the estimated fee per pump required to cover the costs of the Program. The calculation is based on the expenses in **Table 4**.

Table 5

Description	Fiscal Year 2008	Fiscal Year 2009
Number of fuel pumps	35,000	36,000
Cost per fuel pump without equipment	\$ 15.28	15.92
Cost per fuel pump with equipment	\$ 17.03	17.63

As shown by **Table 5**, the cost of performing inspections (including equipment) is approximately \$18.00 per pump, which is double the \$9.00 fee currently charged and four times the \$4.50 discounted fee. The cost of the Program will continue to increase as salaries, travel, overhead and equipment costs increase. As previously stated, the fee per fuel pump has not increased since the early 1990's.

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Neither the *Code of Iowa* nor the Iowa Administrative Code require the Bureau to track the costs of the various activities it performs. By tracking the costs associated with the Program, the Bureau will be able to determine the cost of the Program and determine the fees necessary to cover the cost of the Program. Currently, the fee is set in the *Code of Iowa* and has not changed since the 1990's. Department officials should work with the General Assembly to increase Program fees to an amount which would make the Program self sufficient or reduce the amount of support subsidized by the State's General Fund. **Finding K** provides additional information about the program not being self sufficient.

Comparison to Surrounding States

We contacted state officials and employees in the states of Missouri, Minnesota, Nebraska and South Dakota to compare Iowa's program to similar states. **Table 6** shows the information obtained from the states we contacted.

Table 6

	Iowa	Minnesota	Missouri	Nebraska	South Dakota
Frequency of Quantity Inspections	Annual	15 to 18 months	Semi Annual	Annual	Biennial
Frequency of Octane/Ethanol testing	Annual	Inspector judgment or complaint	50% annually	No octane testing, ethanol % annually	Complaint
Fees	\$9.00 per meter with a 50% discount if paid early	Fuel tax of \$1.00 per every 1,000 gallons received	Fuel tax of \$.025 per 50 gallon barrel	\$10.36 per nozzle inspection fee	\$11.00 per pump as of 7-1-08
Funding	35% is funded by fees and 65% by General Fund appropriation	Fees/taxes cover the cost of the program	Fees/taxes cover the cost of the program	45% is funded by fees and 55% by General Fund appropriation	50% is funded by fees and 50% by General Fund appropriation

As shown by the **Table**, Iowa, Nebraska and South Dakota use General Fund appropriations to help cover the cost of their programs. While Minnesota and Missouri use a combination of fees and taxes charged to the retailer to cover the cost of their programs, the programs in Minnesota and Missouri are self supporting. Of the states shown in the **Table**, Iowa is the only state which tests both the quantity and quality of the fuel on an annual basis.

Fines

The violations for knowingly selling mislabeled fuel and tampering with the fuel pump meters are misdemeanor offenses. The Department does not have the authority to prosecute offenses of this nature. There are no fines established by the *Code of Iowa* for unintentional incorrect labeling or malfunctioning fuel pump meters. The determination whether a violation is intentional or unintentional is left up to the judgment of Bureau staff. The primary enforcement technique used by the Department is to remove pumps from service by sealing the nozzle in place. Fuel pumps can be removed from service for failing to pay the licensing fee or

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for not meeting the testing requirements of the fuel quality and quantity tests. If the Bureau becomes aware of an unlicensed pump, it may also remove the unlicensed fuel pumps from service.

The only monetary penalty the Bureau is allowed to collect by *Code of Iowa* is a re-inspection fee. If a fuel pump is rejected on 2 consecutive visits, the Bureau is allowed to charge a re-inspection fee of \$9.00 for each failed fuel pump on the second visit and any succeeding visit until the fuel pump passes inspection. According to Bureau staff, they do not assess the fee for multiple rechecks on a regular basis because of the limited number of times the fee would apply and the time and effort involved in billing the fees would exceed collections. The Bureau does not maintain adequate records to track the number of instances this occurs, as discussed in **Finding L**.

If there are continued violations, the Department may refer the case to the Attorney General's Office for further investigation and prosecution. According to Bureau staff, they have referred some of the more serious violations to the Attorney General's Office. According to staff at the Attorney General's office, there have been few cases regarding fuel quality and quantity. For those cases prosecuted in the civil courts, any funds will be deposited in accordance with the terms of the judgment.

Reporting

The Department is required by section 159A.3(2)(h) of the *Code of Iowa* to complete and submit a report on the Fuel Quality Program to the Secretary of Agriculture. The annual report must include information regarding:

- Renewable fuels and co-products activities,
- A review of research and research results,
- Areas of study with promising potential,
- A summary of initiatives in other states and
- An analysis of state and federal regulations and programs

The annual report completed by the Bureau includes the information required by the *Code of Iowa*.

The *Code of Iowa* does not require a report for the fuel pump inspection program. **Finding M** includes a recommendation the Bureau prepare a report which includes the percentage of fuel pumps inspected, the percentage of fuel pumps which passed the first inspection, the percentage of service stations which passed fuel quality inspections, the percentage of reinspections performed and the results.

Findings and Recommendations

We reviewed the Fuel Inspection Program to determine if the Program is in compliance with Federal regulations, the *Code of Iowa* and Department policies and procedures governing the Program. As a result, we identified certain findings and recommendations regarding the Program which should be considered by the Governor, Members of the General Assembly and the Department. Our findings and recommendations are summarized below.

Finding A – Segregation of Duties

To safeguard assets, duties should be segregated to prevent an individual employee from handling duties which are incompatible. This segregation of duties helps to prevent losses from employee error or dishonesty. Also, an initial listing of receipts should be prepared by the mail opener and compared to the deposit by an independent person. In addition, a reconciliation of receipts to Bureau records should be performed to determine the appropriate fees were received and deposited.

We reviewed the Bureau's internal controls and identified the following:

- One person is responsible for opening mail, recording receipts in the Bureau's database, preparing the deposit and taking the deposit to the Accounting Bureau. In addition, the Bureau did not prepare an initial listing of receipts or perform a reconciliation to determine if the appropriate fees were remitted and deposited.
- The Department returns the original applications to the Bureau which does not perform a reconciliation to determine if all fees were properly deposited. Additionally, the Bureau does not reconcile licenses issued to license fees collected for servicer license applications or fuel pump license applications.
- The individual who collects fees is responsible for mailing renewal notices for licenses, updating the outstanding license listing and mailing past due notices. The Bureau does not perform a reconciliation of licenses receivable to collections and licenses issued.
- The Bureau does not have formal written procedures for the collection, posting and depositing of receipts.

Recommendation – The Department should develop written policies and procedures which ensure duties within the Bureau are segregated to the extent possible, including collections, mailing of renewal notices and reconciling licenses receivable. The Bureau should also prepare an initial listing of receipts and reconcile the listing to deposits.

Response – The Department will review segregation of duties within the various bureaus as it pertains to fee collection and handling. The Department will review the processing of fees in several bureaus to determine if there may be more effective or efficient methods to process these fees. The Department may consider cross-training among Bureaus to allow for a second person to be involved in the fee collection, handling, and deposit process. Policy changes will ensure reconciliations are completed with accounting. Inspection staff who collect fees will carry receipt books.

Conclusion – Response accepted.

Finding B – Databases

The Bureau utilizes an Access® database to track all fuel pump license applications, servicer license applications and fuel meter inspections. Bureau personnel enter

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information into the databases directly from the license applications and inspection reports.

During our fee collection and fuel quantity and quality inspections testing, we identified the following concerns regarding the Bureau's databases:

- All users can change or delete a record at any time.
- The databases for servicer license applications and fuel pump licenses do not allow access to historical information.
- Bureau personnel reuse servicer license numbers and meter license numbers and they do not consistently use the same number from year to year, which makes historical information inaccurate.
- Controls are not in place to ensure correct information is entered in the databases.
- The number of pumps shown for service stations did not agree to the number of pumps inspected.

Recommendation - The databases should not allow users to delete records entirely or change a prior record. The Bureau needs to restrict access to the databases and limit the ability of staff to update and delete records. In addition, the Bureau needs to establish procedures and database edits to reduce the chance incorrect information is input into the databases. The Bureau should enhance the databases to allow access to historical information, provide reports on the collection of fess, outstanding fees, number of pumps inspected and total number of pumps located in the State. Procedures should also be established to ensure license numbers are not reused by different parties in order to better track a service station.

Response - The Department has several outdated licensing databases and has been exploring new licensing software with Iowa Interactive. In addition, the Department is purchasing a new inspection software called WinWam, which was specifically designed for Weights & Measures and is used nationwide in more than half of all states. The inspection software will be installed during the spring and summer of 2011.

The new WinWam software has safeguards built in that will track all entry into the system and track changes made to records. The new software includes an event logger/audit trail capabilities. Other items, such as duplicate license numbers and other controls for data entry will be addressed in the new licensing system when it is built.

The discrepancy in the number of pumps inspected versus the number of pumps licensed may always exist. This is due to various reasons, such as licensing paperwork being submitted by the home office for different locations, the licensee not understanding the difference between pumps and meters, and upgrades or downgrades to locations throughout the year after the license has already been issued. When Weights & Measures staff inspects a location, all meters at that location are inspected.

Conclusion - Response accepted.

Finding C - Commercial Motor Fuel License Fees

In accordance with section 214.3 of the *Code of Iowa*, the owner/operator of a fuel pump is required to pay an annual fee of \$9.00 per pump/meter and \$52.50 for an LP gas truck meter by June 30 of each year for a license to operate the fuel pump/meter the following 12 months. If the owner operator of a fuel pump pays the fee by July 31 of each year, the fee is reduced to \$4.50 per fuel pump.

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We selected 273 applications to determine if the correct fee was paid for the fuel pump and if the fee was deposited within 10 working days. As a result of our testing, we identified the following:

- 13 applications (5%) were stamped by the Department as received after July 31. For these 13 applications, covering 98 pumps, the owner/operator paid \$4.50 per fuel pump instead of \$9.00 per fuel pump. When asked why the applicant paid the \$4.50 when the application was stamped as received after July 31, Bureau staff stated the applications were postmarked on or before July 31 and, therefore, the \$4.50 was accepted. However, the Bureau did not maintain documentation to show the envelope was postmarked by July 31. If the Bureau had collected the full \$9.00 fee for each fuel pump, the Bureau would have collected an additional \$441.00.
- 5 applications (2%) were stamped by the Department after July 31 and included a check date after July 31. For the 5 applications, the owner/operator paid only the \$4.50 fee instead of the \$9.00 fee. The 5 stations had a total of 88 fuel pumps. As a result, \$396.00 in fees were not collected because the stations paid only the \$4.50 fee instead of the \$9.00 required fee. According to Bureau staff we spoke with, they believed the envelopes were postmarked prior to July 31; however, no support could be located to support this position.
- The fees collected for 58 (21%) of the applications tested were not deposited within 10 working days as required by the *Code of Iowa*.
- The Bureau sent past due notices by regular mail on or around August 31, 2009. The notice did not state “the owner or operator has fifteen days after receipt of the notice to pay the required fee pursuant to section 214.3” as required by the *Code of Iowa*. As of September 17, 2009, 115 license fees were still outstanding and the Bureau had taken no further action to collect the fees or remove the fuel pumps from service.

Recommendation - The Bureau should take steps to ensure all license applicants pay the correct fee. If the Bureau continues to allow license applications postmarked by July 31 to receive the discount, it should adopt an appropriate written policy and maintain documentation showing the license fee was postmarked on or before July 31. Additionally, the Bureau should take steps to ensure all collections are deposited within 10 days of receipt.

The Bureau should implement policies and procedures for non-payment of fees, including sending notices with appropriate language and implementing procedures to tag and remove from service any unlicensed fuel pumps.

Response – The Bureau will create a formal written policy maintaining hold-open procedures whereby all fees received between August 1 and 15 will be date stamped with the postage date. Any fees received that are postmarked after July 31st will be returned for full payment. The Department does send a 2nd notice for fees not received. That letter will be updated with the appropriate language. The Department has hired temporary staffing to assist during annual licensing timeframe to better ensure fees are deposited in a timely manner.

The Iowa Code may need to be re-evaluated to determine whether the \$4.50 discounted fee for meter licenses is sufficient.

Conclusion – Response accepted.

Finding D – Servicer Examinations

Section 215.23 of the *Code of Iowa* requires a servicer of a commercial weighing or measuring device to pass a qualifying examination conducted by the Department and established by the Secretary of Agriculture.

The Bureau is not administering the exam as required by the *Code of Iowa*.

According to Bureau personnel, the Bureau does not have enough staff to carry out a qualifying exam. The Department does require servicers to complete an application and submit the required \$5.00 fee. The application includes a certification the servicers have up-to-date equipment, a copy of a NIST handbook 44 and have access to and are aware of current Iowa laws and regulations. The Bureau does not confirm information stated in the application is correct.

Recommendation - The Department should comply with the *Code of Iowa* and establish a qualifying examination which all servicers are required to pass before they can install, service or repair a commercial weighing or measuring device. In addition, the Department should work with members of the General Assembly to develop legislation which allows establishing a fee which will cover the related costs for the examination.

Response – The annual fee is currently only \$5 for the commercial weighing and measuring servicer license and therefore does not cover the cost to conduct an exam. The Department is currently working with the National Institute of Standards and Technology (NIST) to create a national exam. The Department will implement that exam when it is complete.

Conclusion – Response accepted.

Finding E – LP Gas/Bulk Fuel Meters

Sections 214.11 of the *Code of Iowa* requires the Department to provide for annual inspections of all fuel pumps. According to Bureau personnel we spoke with, they do not inspect any LP meters or bulk fuel meters due to the limited number of staff. As a result, the Bureau is not in compliance with the requirements established by the *Code of Iowa*. In addition, retailers and consumers of bulk fuel and LP may receive more or less fuel than they paid for due to faulty equipment. It is also possible the consumer is receiving substandard product.

Recommendation – The Department should establish procedures to ensure all bulk fuel and LP meters are inspected on an annual basis in accordance with the *Code of Iowa*.

Response – The Weights & Measures Bureau provides random inspections of liquid propane (LP), typically on a complaint basis. The Bureau anticipates re-implementing random inspections of bulk fuel meters in the near future. The Bureau has decreased by nearly 25% staffing over the last 3 years, and more than 65% since the early 90's. If additional personnel becomes available, the Weights & Measures Bureau will be able to inspect all bulk and LP on a regular basis.

Conclusion – Response accepted.

Finding F - Fuel Inspections

Sections 214.2 and 215.1 of the *Code of Iowa* require all commercial fuel measuring devices in the State be licensed and inspected regularly. In addition, section 214.11 of the *Code of Iowa* requires the Department to provide for annual inspections of all fuel pumps.

A Review of the Fuel Inspection Program

1. The Bureau is not performing annual inspections as required by the *Code of Iowa*. The Bureau failed to inspect an average of 32% of the service stations for the fiscal years tested. The percentage of service stations not inspected for each calendar year reviewed is as follows:
 - 2005 – 40% were not inspected.
 - 2006 – 25% were not inspected.
 - 2007 – 40% were not inspected.
 - 2008 – 25% were not inspected.
 - 2009 – 30% were not inspected.
2. For 9 of the 20 stations tested, the number of fuel pumps on the inspection report did not agree with the number of fuel pumps include in the database. In all cases, the number of fuel pumps in the database was less than the number on the inspection report. The database can not be relied on because there are no controls over the database, changes can be made by any staff with access and historical data is not maintained. As a result, we can not determine the amount of fees, if any, not remitted to the Department.
3. We could only locate “Placed in Service” reports for 13 of the 50 county files tested. Of the reports located, 2 were not completed and signed by the servicer preparing the report.
4. After the servicer notifies the Bureau fuel pumps have been repaired, Bureau staff are required to re-inspect the fuel pumps which failed the initial inspection. We determined the Bureau failed to re-inspect between 53% and 80% of the fuel pumps which failed the initial inspections for fiscal years 2006 through 2009.
5. Of the 120 “Gas Pump Inspection” reports tested from July 1, 2006 through June 30, 2009 to determine if the fuel tests were in compliance with the *Code of Iowa* and the Iowa Administrative Code, we determined the following:
 - The Bureau was unable to locate 2 inspection reports.
 - Octane rating was not documented for 1 or all products on 62 (53%) of the inspection reports tested.
 - The ethanol percentage was not documented on 56 (48%) of the inspection reports tested.
 - Diesel products, E-85, kerosene, racing fuel and white gas were not tested.
 - When we examined the 98 inspection reports for fiscal year 2009, we determined the ethanol percentage was not documented on 39 (40%) of the fuel pumps tested and 45 (46%) of the fuel pumps tested did not have the octane rating documented.

Recommendation – The Bureau should review the duties of the fuel inspectors to determine if they can adjust the job duties of inspectors to meet the requirements of the *Code of Iowa*. Alternatively, the Bureau should consider hiring additional inspectors. The Bureau should also evaluate the fees charged for the Program and determine if the fees could be increased to offset the cost of adding inspectors.

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Additionally, the Bureau should review its databases and other inspection monitoring procedures to assist it in determining when and where fuel pump inspections need to be completed. The Bureau should establish procedures for completing and returning “Placed in Service” reports and the Bureau should retain the reports. The Bureau should implement procedures to ensure rechecks are performed. The Bureau should also ensure inspectors have the equipment necessary to test fuel quality.

Response – The WinWam software scheduled to be installed during spring/summer 2011 will resolve concerns regarding inspection reports, fuel quality reports, placed in service reports and rechecks. The percentage of service stations not inspected reported under Finding F-1 during the calendar year 2008 does not reflect that one inspector was reassigned. In 2009 it does not reflect the fact that the Bureau had one inspector retire, resulting in 25% reduction in staff. The Department will also explore whether Iowa Code language should be updated to more effectively address how inspections are actually conducted (i.e. get rid of the word all or annually, or set a longer inspection time such as 15 or 18 months). Additionally, the Bureau has received proper equipment to help them efficiently perform their inspections.

Conclusion – Response accepted.

Finding G – Quality Control Procedures

An important aspect of any program’s internal control is quality control monitoring activities. Interviews with Bureau personnel indicated the Technical Coordinator travels throughout the year and observes each fuel inspector perform fuel inspections. The Technical Coordinator ensures the inspectors are performing the inspections according to the procedures set forth in the Iowa Examination Procedure Outline for Retail Motor Fuel Devices guide developed by the Bureau. The Technical Coordinator makes observations and suggestions, but a formal evaluation of the field inspector is not completed and the observations are not documented.

Recommendation – The Bureau should develop quality control procedures which require unannounced spot checks be performed to verify inspectors’ results are accurate. The results of the unannounced spot checks should be documented. In addition, the Technical Coordinator should document the reviews of each inspector. The reviews should be documented by the Technical Coordinator, signed by the inspector and the Technical Coordinator and be retained.

Response – The Technical Coordinator will do unannounced spot checks as well as scheduled observation to insure the quality control of the inspections. The Bureau will develop a check list for the technical coordinator to utilize when traveling and observing the inspections performed by the inspectors. The check list will be signed by the inspector and the technical coordinator.

Conclusion – Response accepted.

Finding H – Service Station Inspections

The Bureau’s policies and procedures require inspections of the fuel pumps are to follow the procedures in the Iowa Examination Procedure Outline for Retail Motor Fuel Devices. In addition, a “Gas Station Inspection” report is to be completed. We accompanied the field inspectors to 9 service stations and observed the inspection of 125 fuel pumps. During the inspections, we observed the following:

- None of the 125 lead seals contained the Department of Agriculture and Land Stewardship Weights and Measures seal.

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- The inspectors resealed 2 meters with loose seals and used a crimper to affix the state seal. The inspectors resealed 57 of the remaining 123 fuel pumps with a crimper which affixed the state seal. We determined the inspectors did not follow the procedures found in the Iowa Administrative Code 48% of the time.
- On 1 occasion, the inspector did not verify any of the receipts for gas pumped to determine the accuracy of the stated price on the pump as required by the Code of Iowa.
- Of the 9 “Gas Station Inspection” reports tested, 3 did not have all of the inspection findings documented.
- The auditors pointed out to the inspectors the following items at different service stations:
 - There were 2 more fuel pumps in use than there were licenses issued at 1 service station.
 - A service station visited did not have octane stickers on 1 pump.
 - A fuel pump was labeled as ethanol when it did not pump ethanol.

When the inspector or the Technical Coordinator was made aware of the errors, they corrected the situation immediately.

Recommendation – The Bureau should remind inspectors to follow the Iowa Examination Procedure Outline for Retail Motor Fuel Devices and stress the importance of complete and accurate paperwork. The Bureau should consider performing spot checks of completed inspection reports to ensure they are complete and accurate. Additionally, the Bureau’s management should emphasize the importance of the lead seals and why they should be properly stamped.

Response – The inspection staff assures that an appropriate seal is in place on the measuring mechanism. In some cases, it is impractical to break the seal and replace it with a new one just to crimp it with a new seal. The technical coordinator will insure that the inspectors follow the Iowa Examination Procedure Online (IEPO) as well as maintaining the observation check list outlined in Finding G. The check list will include observation that the lead seals are properly stamped.

Conclusion – Response accepted.

Finding I – Recalibration of Fuel Pumps

Section 214.11 of the *Code of Iowa* requires a servicer of a pump to notify the Department of any recalibrations done within 48 hours on a form provided the Department. Additionally, Chapter 85 of the Iowa Administrative Code states the Department must be notified by the user when a new or used LP meter is placed in service. According to Bureau staff, the Bureau does not have a form for a servicer to complete when a recalibration is performed for any reason other than a failed inspection. In addition, there are currently no established procedures for users to notify the Department when a new or used LP meter is placed in service.

Recommendation – The Department should design a form and make the form available for servicers to complete and submit to the Department within 48 hours of performing a meter recalibration. The Department should also establish procedures requiring users to report when a new or used LP meter is placed in service.

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Response – The Weights & Measures Bureau currently uses a Place in Service Report. This report has been recently reviewed, updated, and placed on the Bureau’s website.

Conclusion – Response accepted. The revised Place in Service Report was put in place subsequent to our review.

Finding J – Complaint Process

There are no written policies and procedures for the investigation of complaints about fuel quality or fuel meter accuracy received by the Bureau or the Department. Although there are no formal procedures, complaints are recorded and investigated when received. The results are documented and the complainant is notified of the results of the investigation. We reviewed 65 complaints on file with the Bureau and determined:

- 24 (37%) of the complaints reviewed were properly investigated.
- 29 (45%) of the complaints did not have adequate information so no inspection report was located indicating if the complaint had been followed up on or resolved.
- 12 (18%) complaints did not list a specific license number so we were unable to follow up on the complaint and determine if it was resolved by the Bureau.

After we discussed our findings with Bureau staff, written protocols were established in July 2009. As a result, no recommendation is made and no Department response is required.

Finding K - Funding/Cost Recovery

The Bureau is funded by a portion of the Department’s General Fund appropriation and an additional \$300,000.00 appropriation designated for a fuel quality inspection program. The Bureau is responsible for inspecting all large commercial scales, counter scales, moisture meters, fuel at meters at ethanol plants and pipelines. In addition, the Bureau is responsible for inspecting all types of fuel pumps and meters in the State.

Neither the *Code of Iowa* nor the Iowa Administrative Code requires the Bureau to track the costs of the various activities it performs. Since the Bureau does not track costs by function, we calculated the Program’s cost by using the salary of the personnel assigned to the Program, their related travel costs, equipment purchased and overhead cost identified by Bureau staff.

Our calculation in **Table 4** shows the license fees for fuel pumps covered less than 35% of the calculated costs of the Program in fiscal year 2009. The fees have not changed since the early 1990’s. Based on our calculation, the fees for the Program are not covering its cost. The shortfall was \$368,971.00 in fiscal year 2008 and \$415,626.00 in fiscal year 2009.

Approximately 65% of the cost of fuel pump inspections is funded with taxpayer dollars. The current fee of \$9.00 per fuel pump is set by the Code of Iowa and has not changed since the 1990’s. Based on our calculation, the fee required to cover the cost of the Program for fiscal year 2009 would have been \$17.63 per fuel pump.

Recommendation - The Bureau should establish policies and procedures to track the costs of the various functions within the Bureau and review the fees charged to determine if they cover the cost of the Program. The Bureau should also consider if allowing a discount for paying early is in the best interest of the Program. The Bureau should work with the

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General Assembly to review the discount allowed and increase Program fees to an amount which would make the Program self-sufficient or reduce the amount subsidized by the General Fund.

Response – The Bureau will continue to track the cost of various functions and review the fees to determine if they cover the cost of the program. The Bureau will make recommendations in its annual report regarding these findings.

Conclusion – Response accepted.

Finding L – Violations, Fines and Re-inspection Fees

Section 215.4 of the *Code of Iowa* allows the Bureau to tag a fuel pump determined to be inaccurate as “condemned until repaired” and remove the inspection sticker. Once the fuel pump has been repaired, the Bureau is to re-inspect the fuel pump. If the problem has been repaired, the fuel pump is to be placed back in service. If the fuel pump has not been repaired, a second inspection fee of \$9.00 can be collected by the Bureau. According to Bureau staff, the Department reports serious violations to the Attorney General’s Office. According to staff we spoke with at the Attorney General’s Office, any money received as part of a judgment in a civil case related to fuel would be deposited and used in accordance with the terms of the judgment. According to Bureau staff, the Bureau usually does not assess the fee for multiple rechecks since it is a rare occurrence and the amount collected would be minimal.

Recommendation – The Bureau should develop and implement procedures to ensure field inspectors are collecting the fees for multiple rechecks. Additionally, the Bureau should determine the actual cost to perform re-inspections and consider amending the amount charged to perform rechecks. The Department should develop uniform standards for when cases are referred to the Attorney General.

Response – It is not reasonable to have the inspector collect the recheck fees. The new WinWam software may enable inspectors to generate invoices on site for rechecks and leave it for payment to be mailed in. In many cases, the service station staff are not authorized to pay inspection fees on the spot because accounting is done at another location or only by the manager of the premise. Based upon the data which will be available through the new software the department will be able to develop uniform standards regarding cases to be referred to the Attorney General.

Conclusion – Response acknowledged. The Department should ensure the system is in place to invoice and collect recheck fees.

Finding M – Reporting Requirements

The Department is required by section 159A.3(2)(h) of the *Code of Iowa* to complete and submit a report on the Fuel Quality Program to the Secretary of Agriculture. We examined the Annual report and determined the Bureau’s Annual Report prepared for the Secretary of Agriculture contains the information required.

In reviewing the report, we identified information which should be included to make the report more useful to the General Assembly or other users of the report, as follows:

- The report should disclose the percentage of service stations inspected for fuel quality during each fiscal year and the percentage of service stations which failed inspections for fuel quality tests.

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- The report should include financial information, including the revenue collected, cost of administering the Program and the amount allocated from the General Fund in order to cover program costs.
- The report should include statistical information about consumer complaints.

An important aspect of any program is evaluating the program's effectiveness and measuring successes and failures. It is important to have such information available to upper management so they can make effective decisions to help ensure the program is achieving its goals. Also, it is difficult for upper management to effectively allocate resources when program results are not known.

Recommendation – The Bureau's report should include statistics, such as quantity and percentage of fuel pumps inspected during each fiscal year, quantity and percentage of fuel pumps which failed inspections and fuel quality testing results, in addition to other useful statistics and program costs. The Bureau should submit the report at least annually.

Response – The annual report presented to the Secretary of Agriculture will continue to evolve to include more data such as: statistics, quantity and percentage of fuel pumps inspected during each fiscal year, quantity and percentage of pumps which failed inspections, and fuel quality testing results, in addition to other useful statistics and program costs. The WinWam software will facilitate data collection.

Conclusion – Response accepted.

Staff

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