



# MICHIGAN

OFFICE OF THE AUDITOR GENERAL



THOMAS H. MCTAVISH, C.P.A.  
AUDITOR GENERAL

The auditor general shall conduct post audits of financial transactions and accounts of the state and of all branches, departments, offices, boards, commissions, agencies, authorities and institutions of the state established by this constitution or by law, and performance post audits thereof.

– Article IV, Section 53 of the Michigan Constitution

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August 23, 2012

Mr. Velmar Green, Chair  
Michigan Commission of Agriculture and Rural Development  
and  
Ms. Jamie Clover Adams, Director  
Michigan Department of Agriculture and Rural Development  
Constitution Hall  
Lansing, Michigan

Dear Mr. Green and Ms. Clover Adams:

This is our report on our follow-up of the material condition (Finding 1) and corresponding recommendation reported in the performance audit of the Motor Fuel Quality and Quantity Inspections and Enforcement Efforts, Laboratory Division, Department of Agriculture. That audit report was issued and distributed in December 2007. Additional copies are available on request or at <http://www.audgen.michigan.gov>. In March 2011, subsequent to our performance audit, Executive Order No. 2011-2 renamed the Michigan Department of Agriculture as the Michigan Department of Agriculture and Rural Development (MDARD).

Our follow-up disclosed that MDARD had complied with the recommendation.

If you have any questions, please call me or Scott M. Strong, C.P.A., C.I.A., Deputy Auditor General.

Sincerely,

  
Thomas H. McTavish, C.P.A.  
Auditor General



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**MOTOR FUEL QUALITY AND QUANTITY  
INSPECTIONS AND ENFORCEMENT EFFORTS  
LABORATORY DIVISION  
MICHIGAN DEPARTMENT OF AGRICULTURE  
AND RURAL DEVELOPMENT  
FOLLOW-UP REPORT**

**INTRODUCTION**

This report contains the results of our follow-up of the material condition\* and corresponding recommendation and the agency's preliminary response as reported in our performance audit\* of the Motor Fuel Quality and Quantity Inspections and Enforcement Efforts, Laboratory Division, Department of Agriculture (791-0111-06), which was issued and distributed in December 2007. That audit report included 1 material condition (Finding 1) and 3 other reportable conditions\*.

**PURPOSE OF FOLLOW-UP**

The purpose of this follow-up was to determine whether the Michigan Department of Agriculture and Rural Development (MDARD) had taken appropriate corrective measures in response to the one material condition and corresponding recommendation.

**BACKGROUND**

In March 2011, Executive Order No. 2011-2 renamed the Michigan Department of Agriculture as the Michigan Department of Agriculture and Rural Development. MDARD's Laboratory Division provides scientific and analytical services for MDARD and other agency programs to ensure the health, safety, and economic well-being of the residents and environment of Michigan. The Division's Consumer Protection Section

\* See glossary at end of report for definition.

oversees the Motor Fuels Quality Program and the Weights and Measures Program. The Motor Fuels Quality Program establishes and regulates the sale and quality of motor fuels through licensing, investigation, inspection, and sampling to ensure that fuels purchased by consumers meet the minimum quality standards stipulated in the Motor Fuels Quality Act (Act 44, P.A. 1984). The Weights and Measures Program, through the enforcement of the Weights and Measures Act (Act 283, P.A. 1964), prevents economic fraud and deception by testing all weighing and measuring devices to ensure that, when a product is weighed or measured, it is done accurately.

The Consumer Protection Section expended \$4.1 million during the fiscal year ended September 30, 2011. As of May 31, 2012, the Consumer Protection Section had 39 employees.

## **SCOPE**

Our fieldwork was performed primarily in June and July 2012. We interviewed Laboratory Division personnel and reviewed laws and regulations, policies and procedures, and reports related to the Division's assessment of fines for violation of motor fuel quality and quantity laws. In addition, we tested Division records by comparing a selection of fines assessed during the period June 1, 2011 through May 31, 2012 to the corresponding inspection documentation maintained by the Division.

## **FOLLOW-UP RESULTS**

### **EFFECTIVENESS\* OF EFFORTS TO PROMOTE COMPLIANCE WITH MOTOR FUEL QUALITY AND QUANTITY LAWS**

#### **RECOMMENDATION AND RESPONSE AS REPORTED IN DECEMBER 2007:**

##### **1. Documentation Supporting Assessment of Fines**

#### **RECOMMENDATION**

We recommend that the Division maintain documentation supporting the calculation of assessed fines and the decisions for waiving or reducing fines.

#### **AGENCY PRELIMINARY RESPONSE**

The Department agrees with the recommendation. However, the Department informed us that it does not agree that this finding is a material weakness. The Department informed us that it documented its inspection and enforcement related decisions, including calculation of economic benefit, but did not maintain the documentation after respective appeal periods had lapsed. The Department indicated that it has changed its policy to retain related documentation as required by statute and Department policy.

#### **FOLLOW-UP CONCLUSION**

We concluded that the Division had complied with the recommendation.

During the period June 1, 2011 through May 31, 2012, the Division assessed 86 fines, of which 43 (50%) were issued to gas stations for operating without licenses and the remaining 43 (50%) were issued for gas quality and quantity violations of the Motor Fuels Quality Act and the Weights and Measures Act, respectively.

Our review of inspection files related to 15 of the 43 fines issued for gas quality and quantity violations during the period June 1, 2011 through May 31, 2012 disclosed that the Division properly maintained supporting documentation for the calculation of economic benefit (i.e., profit gained while in violation) when it included an

\* See glossary at end of report for definition.

economic benefit as part of the assessed fine. Also, the Division informed us that it only waived or reduced fines when the original amount was assessed in error. Of the 15 inspection files reviewed, we noted one instance in which the Division waived the original fine amount. The Division properly maintained documentation to support the waiver decision.

## Glossary of Acronyms and Terms

effectiveness	Program success in achieving mission and goals.
material condition	A reportable condition that could impair the ability of management to operate a program in an effective and efficient manner and/or could adversely affect the judgment of an interested person concerning the effectiveness and efficiency of the program.
MDARD	Michigan Department of Agriculture and Rural Development.
performance audit	An economy and efficiency audit or a program audit that is designed to provide an independent assessment of the performance of a governmental entity, program, activity, or function to improve program operations, to facilitate decision making by parties responsible for overseeing or initiating corrective action, and to improve public accountability.
reportable condition	A matter that, in the auditor's judgment, represents either an opportunity for improvement or a significant deficiency in management's ability to operate a program in an effective and efficient manner.



