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# Management Audit of the Department of Agriculture's Measurement Standards Branch

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A Report to the  
Governor  
and the  
Legislature of  
the State of  
Hawai'i

Report No. 13-01  
March 2013



**THE AUDITOR**  
STATE OF HAWAII

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## Office of the Auditor

The missions of the Office of the Auditor are assigned by the Hawai'i State Constitution (Article VII, Section 10). The primary mission is to conduct post audits of the transactions, accounts, programs, and performance of public agencies. A supplemental mission is to conduct such other investigations and prepare such additional reports as may be directed by the Legislature.

Under its assigned missions, the office conducts the following types of examinations:

1. Financial audits attest to the fairness of the financial statements of agencies. They examine the adequacy of the financial records and accounting and internal controls, and they determine the legality and propriety of expenditures.
2. Management audits, which are also referred to as performance audits, examine the effectiveness of programs or the efficiency of agencies or both. These audits are also called program audits, when they focus on whether programs are attaining the objectives and results expected of them, and operations audits, when they examine how well agencies are organized and managed and how efficiently they acquire and utilize resources.
3. Sunset evaluations evaluate new professional and occupational licensing programs to determine whether the programs should be terminated, continued, or modified. These evaluations are conducted in accordance with criteria established by statute.
4. Sunrise analyses are similar to sunset evaluations, but they apply to proposed rather than existing regulatory programs. Before a new professional and occupational licensing program can be enacted, the statutes require that the measure be analyzed by the Office of the Auditor as to its probable effects.
5. Health insurance analyses examine bills that propose to mandate certain health insurance benefits. Such bills cannot be enacted unless they are referred to the Office of the Auditor for an assessment of the social and financial impact of the proposed measure.
6. Analyses of proposed special funds and existing trust and revolving funds determine if proposals to establish these funds are existing funds meet legislative criteria.
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8. Fiscal accountability reports analyze expenditures by the state Department of Education in various areas.
9. Special studies respond to requests from both houses of the Legislature. The studies usually address specific problems for which the Legislature is seeking solutions.

Hawai'i's laws provide the Auditor with broad powers to examine all books, records, files, papers, and documents and all financial affairs of every agency. The Auditor also has the authority to summon persons to produce records and to question persons under oath. However, the Office of the Auditor exercises no control function, and its authority is limited to reviewing, evaluating, and reporting on its findings and recommendations to the Legislature and the Governor.



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State of Hawai'i

**“If we hire the inspectors now, they will be sitting around with nothing to do. There will be nobody to train them.”**

*Acting administrator's explanation for why a program manager needs to be hired before inspectors.*

Recommendations

Responses

Previous Audits

# Management Audit of the Department of Agriculture's Measurement Standards Branch

## Report No. 13-01, March 2013

### *Hiring delays and lack of planning impede Measurement Standards Branch*

#### **Vacant positions, reduced staff limits branch's function**

The Measurement Standards Branch is tasked with enforcing the U.S. standards for weights and measures. Because of budget shortfalls since FY2010, the branch experienced a significant decline in the number of inspector positions. Currently, six of the branch's 11 positions remain vacant, and we found that the branch's two remaining inspectors can only perform eight of the branch's 15 key regulatory functions. In addition, inspections of measuring devices have fallen significantly. From FY2007 to FY2009, the branch inspected an average of 21 percent of small scales, 10 percent of medium scales, and 31 percent of gas pumps registered in the state. However, from FY2010 to FY2012, the branch inspected an average of only 2.6 percent of the small scales, less than 1 percent of medium scales, and 6.7 percent of the gas pumps registered in the state. Moreover, enforcement functions on the neighbor islands and packaging and labeling inspections throughout the state have ceased as of 2009.

Recognizing these deficiencies, the 2012 Legislature appropriated \$420,000 to restore a program manager and three new inspector positions. However, since the beginning of FY2013, the branch has been unable to fill these positions because the acting administrator has not addressed questions raised by the department's personnel office regarding the program manager position. According to the acting administrator, the inspector positions cannot be filled until a program manager is hired to develop a training program. As a result, the branch is unable to resume its inspection duties or fulfill its statutory responsibilities.

#### **Better planning is needed**

When the branch is able to hire new inspectors and fully resume enforcement activities, it will need the assistance of private service agencies to carry out its inspection duties. Consequently, the branch will need to monitor these service agencies and their activities. However, we found that the branch has no plans, policies, or procedures for such oversight. In addition, the branch lacks direction in the form of a written strategic plan for its measurement standards program. Without such a plan, management does not have a well-supported basis to determine priorities, guide decisions, or demonstrate the effectiveness and efficiency of its program. These planning deficiencies are exacerbated by the acting administrator's lack of time to devote to necessary administrative duties.

#### **Agency response**

The chairperson of the Board of Agriculture has addressed several of our report's recommendations. For instance, he has appointed a permanent Quality Assurance Division administrator, who is in the process of hiring a program manager and two inspectors. The chairperson also acknowledged that he is ultimately responsible for ensuring that the branch meets its regulatory responsibilities and therefore plans to work with the administrator to develop a strategic plan consistent with our recommendations.

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# Management Audit of the Department of Agriculture's Measurement Standards Branch

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Governor  
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Hawai'i

Submitted by

**THE AUDITOR**  
STATE OF HAWAI'I

Report No. 13-01  
March 2013

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## Foreword

This is a report on our management audit of the Department of Agriculture's Measurement Standards Branch in response to Senate Concurrent Resolution No. 89, Senate Draft 1, of the 2012 Regular Session. We conducted the audit pursuant to Section 23-4, Hawai'i Revised Statutes, which requires the Auditor to conduct postaudits of the transactions, accounts, programs, and performance of all departments, offices, and agencies of the State and its political subdivisions.

We wish to express our appreciation for the cooperation and assistance extended to us by staff of the Department of Agriculture, and other individuals whom we contacted during the course of the audit.

Jan K. Yamane  
Acting State Auditor

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# Chapter 1

## Introduction

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In Senate Concurrent Resolution No. 89, Senate Draft 1 (SCR No. 89, SD 1), the 2012 Legislature asked the Auditor to conduct a management audit of the Department of Agriculture's Measurement Standards Branch. The Legislature stated that the reduction of the State's workforce of recent years had reduced the branch's capability to fully and properly carry out its duties outlined in Chapter 486, Hawai'i Revised Statutes (HRS). The branch is responsible for programs that ensure transactions or processes involving measuring instruments, product standards, and packages of consumer commodities, are accurate and fair to all parties involved, including the inspection and testing of scales, petroleum pumps, and taxi meters. Specifically, the Auditor is asked to focus on the current state of the branch and to make recommendations on the resources needed by the branch to fulfill its responsibilities and report to the Legislature prior to the convening of the 2013 regular session.

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## Background

### ***Regulation of weights and measures***

According to the National Coalition for Consumer Education publication, *Getting What You Pay For...Weights and Measures Tips For Consumers*, weights and measures officials have been working behind the scenes to protect consumers, businesses, and manufacturers from unfair practices for more than 100 years. For example, using highly accurate equipment, these officials inspect scales, meters, scanning equipment and packaged products at supermarkets. To help maintain fairness and keep the marketplace in balance, they also inspect weighing and measuring equipment and packages at warehouses, packing plants, shipping companies, lumber yards, and gasoline stations. In addition, each state has a metrology laboratory equipped with a set of standard weights and measures to check the accuracy of equipment used by weights and measures officials. Metrology is the science of weights and measures.

States' rights to regulate commerce and the weights and measures system within their borders are reserved in the U.S. Constitution. In 1905, the National Bureau of Standards called for a meeting of states to discuss the lack of uniform standards and regulatory oversight. Thus was born the National Conference on Weights and Measures (NCWM), dedicated to developing the U.S. standards for weights and measures. The first model standards were published in 1915 to serve as tolerances and specifications for weighing and measuring devices. The National Institute of Standards and Technology (NIST) of the U.S. Department of Commerce published the standards as adopted by the NCWM.

Measurement standards are any standard, definition, model, reference, or measurement relating to metrology. In Hawai'i, the basis for measurement standards are the specifications, tolerances, and other technical requirements for measuring devices, and the uniform laws and regulations as adopted by the NCWM and recommended and published by the NIST.

### **Chapter 486, Hawai'i Revised Statutes**

By Act 153, Session Laws of Hawai'i (SLH) 1991, parts of the measurement standards and uniform packaging and labeling laws were amended, repealed, and codified in Chapter 486, HRS, entitled *Measurement Standards*. The act brought the statutory provisions in Chapter 486, HRS, into alignment with national consensus standards for uniformity in weights and measures. These regulations for weights and measures cover six key areas:

- Petroleum accounting and inspections;
- Investigating odometer tampering;
- Maintaining and assuring the state measurement standards;
- Assuring uniform packaging and labeling of consumer commodities;
- Voluntary registration of service persons and agencies to test measurement standards and measuring devices; and
- Licensing public measuremasters engaged in weighing, assuring, or counting vehicles, property, produce, commodities, or articles other than those that the weigher or the weigher's employer, is buying or selling.

### **Organization**

#### **Department of Agriculture**

The Department of Agriculture is responsible for promoting the conservation, development, and utilization of agricultural resources in the state; assisting the farmers of the state and any others engaged in agriculture through research projects, dissemination of information, crop, and livestock reporting service, market news service, and any other means of improving the well-being of those engaged in agriculture. The department is also responsible for increasing the productivity of the lands; administering the programs of the State relating to animal husbandry, entomology, farm credit, development and promotion of agricultural products and markets, and the establishment and enforcement of the rules on the grading and labeling of agricultural products; and administering the aquaculture program.

An executive board known as the Board of Agriculture heads the department. The board consists of ten members: one from each of the counties of Hawai‘i, Maui, and Kaua‘i; four at-large; and three ex officio voting members—the dean of the University of Hawai‘i College of Tropical Agriculture and Human Resources; the director of business, economic development and tourism; and the chairperson of the Board of Land and Natural Resources. The board chairperson and members are appointed by the governor with the advice and consent of the Senate. As provided by law, the majority of the board members must be from the agricultural community or the agricultural-support sector. The board chairperson serves in a full-time capacity with authority and powers delegated by the board.

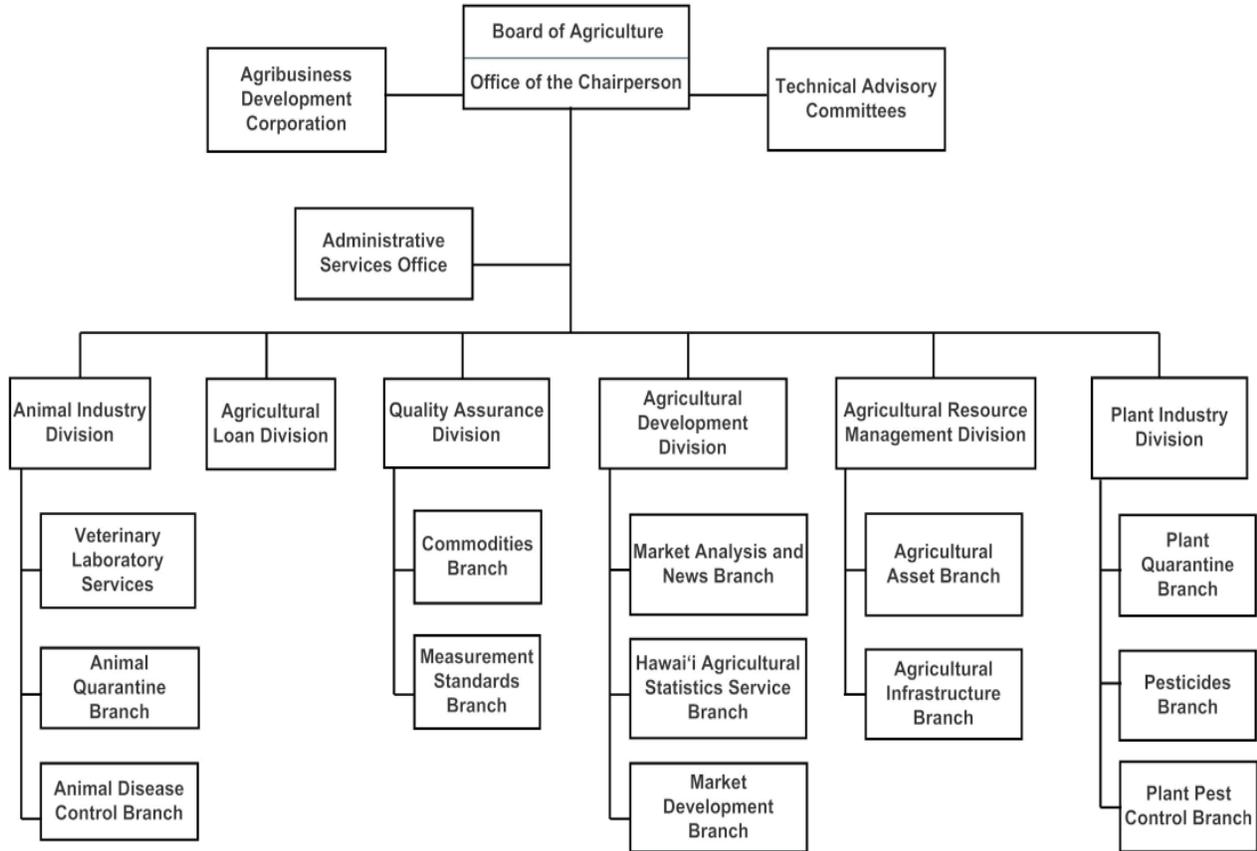
Under Section 486-6, HRS, the Board of Agriculture is responsible for the state measurement standards, and must keep accurate records of the standards and equipment, and maintain such standards in a protective environment. The board must maintain general supervision over the measurement standards proposed, established, or in use, and measures and measurement standards offered for sale, sold, or in use in the state. The board is also responsible for adopting rules to enforce the chapter, and govern the use of measurement standards, measures, and measuring transactions in the state under Section 486-7, HRS. The Quality Assurance Division administrator and the Measurement Standards Branch are delegated the responsibility for enforcing the laws relating to measurement standards in Hawai‘i. Exhibit 1.1 displays the department’s organizational structure.

### **Quality Assurance Division**

Established in 1997 following a reorganization in September 1996, the Measurement Standards Program became a branch of the Quality Assurance Division. The division consists of two branches—measurement standards and commodities. The Measurement Standards Branch works to protect consumers, businesses, and manufacturers from unfair practices, based on a measurement process or subject to a standard of quality. The goal is to minimize losses and inaccuracies due to incorrect or fraudulent commercial measuring equipment, processes, or substandard products. The Commodities Branch provides assurance that standardized, high-quality, safe, and authentic Hawai‘i agricultural products can be showcased in Hawai‘i as well as throughout the world through a fair and just agricultural business climate.

Through the Quality Assurance Division administrator and Measurement Standards Branch inspectors, the Board of Agriculture enforces Chapter 486, HRS. Under Section 486-4, HRS, the administrator is authorized to enforce the board’s rules and administer the branch and its technical and clerical personnel to carry out the chapter, in accordance with the powers,

**Exhibit 1.1  
Department of Agriculture Organization Chart**



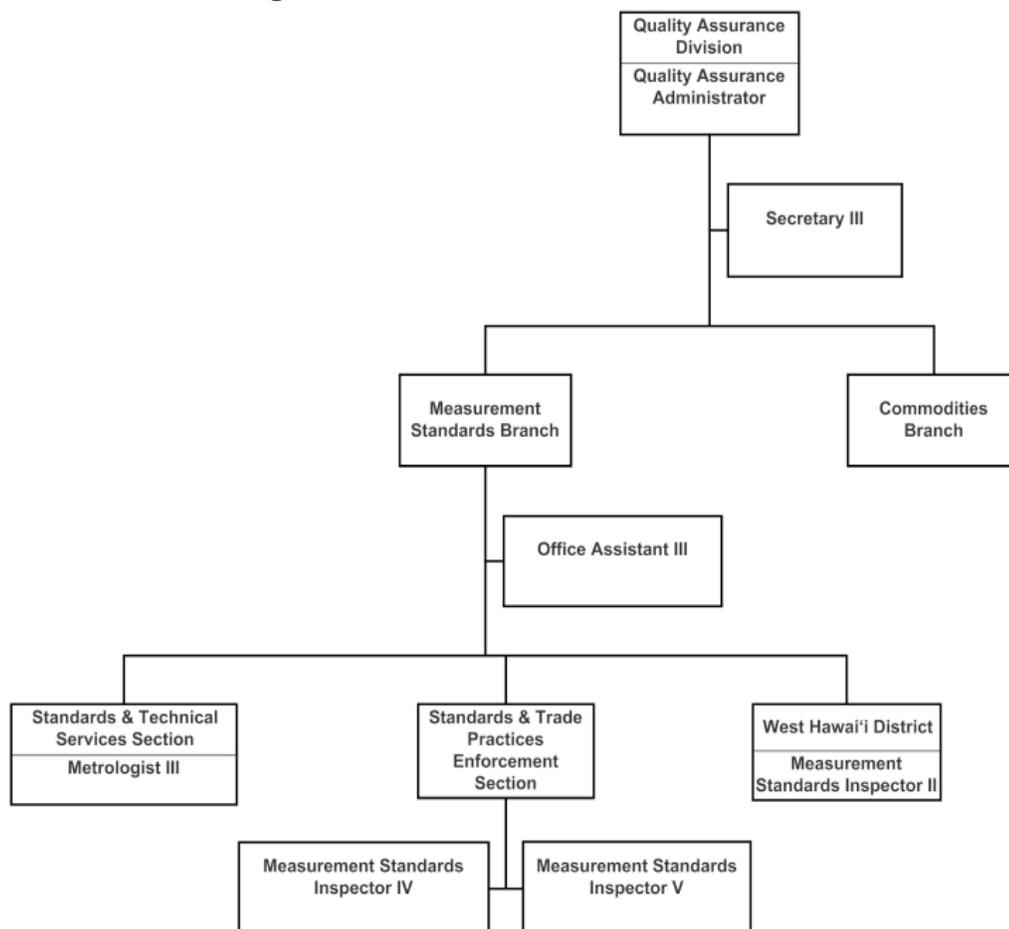
Source: Department of Agriculture

authority, and duties delegated by the board. The administrator’s responsibilities also include:

- Investigating complaints;
- Issuing citations to stop-use, stop-sale, hold and issue removal orders with respect to measures; and measurement standards being, or susceptible of being, unlawfully used;
- Issuing citations for packages and consumer commodities that do not comply with the chapter;
- Issuing warnings related to petroleum products inspections;
- Issuing citations and impounding cars for odometer violations; and
- Periodically checking the effectiveness of the registered service persons by follow-up investigations and tests.

According to the administrator's position description, 50 percent of the administrator's duties are related to supervision and 50 percent are related to program planning and development. Specific to the position's supervisory duties, the administrator is expected to develop and implement standards of performance for program activities and branch and division objectives. Other supervisory activities include providing recommendations for changing program direction and activities and directing operational activities to ensure the efficient utilization of staff and allotted funds. In addition, the administrator is supposed to determine budgeting and staffing needs to present justification to the Legislature for program expansion and work increase needs. The position's planning and development duties include providing administrative direction in implementing divisional policies and procedures and providing advice and assistance to the chairperson on matters of policy and programming related to regulatory activities. Exhibit 1.2 displays the division's organizational structure.

**Exhibit 1.2**  
**Quality Assurance Division Organization Chart**



Source: Department of Agriculture

## **Measurement Standards Branch**

The Measurement Standards Branch carries out the work of the Measurement Standards Program. The branch consists of two sections. The **Standards and Technical Services Section** assures that state measurement standards conform to national standards. It performs metrological calibration of the enforcement standards used by the branch and the field standards used by registered service agencies in testing, repairing, and calibrating commercial devices. Responsibilities of this section are carried out by the state metrologist.

The **Standards and Trade Practices Enforcement Section** has the responsibility of assuring consumers that transactions involving measuring instruments, labeling, content of packaged commodities, and pricing are accurate and fair to all parties. Responsibilities of this section are carried out by inspectors and office assistants. The inspectors are responsible for enforcing the laws regarding commercial measuring devices such as scales, taxi meters, odometers, and gas pumps. The office assistants are responsible for issuing voluntary registration for service agency and persons and licenses for public measuremasters.

### **Measurement Standards Program objective**

According to the *Multi-year Program and Financial Plan and Executive Budget for the Period 2011–2017 (Budget Period 2011–2013)*, the Measurement Standards Program objective is:

To minimize inaccuracy or fraudulent practices in commercial measurement, labeling, and pricing to reduce losses for sellers and consumers through a program of licensing, inspecting, testing, calibrating, and investigating complaints.

### **Measurement Standards Program funding and position count**

In FY2011, total funding of \$327,288 for the branch was less than half of the FY2008 operating budget of \$719,145. The state budget shortfalls, along with mandatory reductions, decreased the total position count in the Measurement Standards Branch from 15 in FY2009 to 11 in FY2010. In FY2011, the branch lost another four positions due to a reduction-in-force—the branch manager, two inspectors IV, and one inspector V—leaving the branch with only seven positions.

Prior to 2012, the program's operation was financed entirely by general funds. To address budget shortfalls, the department began transferring positions from general funds to non-general funds. The 2012 Legislature approved an appropriation of \$420,000 from the Agricultural Development and Food Security Special Fund to fund four new positions. As a result of this increased funding, the branch's operating budget climbed to \$796,025 in FY2013, surpassing the previous high of \$719,145 in FY2008. Exhibit 1.3 details the Measurement Standards Branch budget information for fiscal years 2007 through 2013.

**Exhibit 1.3**  
**Measurement Standards Branch Appropriations, FY2007–FY2013**

| Program ID                                 | FY2007           | FY2008           | FY2009           | FY2010           | FY2011           | FY2012           | FY2013           |
|--|------------------|------------------|------------------|------------------|------------------|------------------|------------------|
| <b>AGR 812 –<br/>Measurement Standards</b> |                  |                  |                  |                  |                  |                  |                  |
| Positions                                  | 15               | 15               | 15               | 11               | 7                | 7                | 7                |
| General Funds                              | \$674,481        | \$719,145        | \$685,389        | \$558,911        | \$327,288        | \$384,525        | \$376,025        |
|  |                  |                  |                  |                  |                  |                  |                  |
| Positions                                  | -                | -                | -                | -                | -                | -                | 4                |
| Special Fund                               | -                | -                | -                | -                | -                | -                | \$420,000        |
| <b>Total Positions</b>                     | <b>15</b>        | <b>15</b>        | <b>15</b>        | <b>11</b>        | <b>7</b>         | <b>7</b>         | <b>11</b>        |
| <b>Total Appropriations</b>                | <b>\$674,481</b> | <b>\$719,145</b> | <b>\$685,389</b> | <b>\$558,911</b> | <b>\$327,288</b> | <b>\$384,525</b> | <b>\$796,025</b> |

Source: General and supplemental appropriations acts, SLH 2006 through 2012.

## Prior audits

This is our first audit of the Department of Agriculture’s Measurement Standards Branch. We have conducted two audits specific to the department and five fund reviews covering the department’s revolving funds, trust funds, and trust accounts. Of these reports, none are relevant to the Measurement Standards Branch.

## Objectives of the Audit

1. Evaluate the current status of the Measurement Standards Branch to carry out its regulatory functions with available resources.
2. Assess the adequacy of management’s planning efforts for the Measurement Standards Branch to improve the effectiveness and efficiency of its regulatory program.
3. Make recommendations as appropriate.

## Scope and Methodology

The 2012 Legislature asked our office to focus on the current state of the Measurement Standards Branch and make recommendations on the resources needed to fully implement its purpose and responsibilities. However, during the planning of our audit, we found that the branch has not fully deployed all of the resources appropriated by the 2012 Legislature. Therefore, we determined that a management audit of the program as requested in SCR No. 89, SD 1 was premature and could not be conducted. Thus, our objectives were limited to evaluating the current status of the branch to carry out its regulatory functions given the resources available and assessing management’s planning efforts

to improve the program. We examined relevant activities from fiscal years 2007 through 2013. We conducted interviews with the board chairperson, deputy to the chairperson, department managers and staff, and legislators. We reviewed planning, budget, personnel, and other documents relevant to the Measurement Standards Branch.

Our audit was performed from October 2012 to January 2013, according to the Office of the Auditor's *Manual of Guides* and generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence we obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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# Chapter 2

## Hiring Delays and Lack of Planning Impede Measurement Standards Branch

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The Department of Agriculture’s Measurement Standards Branch is tasked with enforcing the United States standards for weights and measures published by the National Institute of Standards and Technology. However, delays in hiring and lack of planning prevent the branch from fulfilling its regulatory functions. Specifically, the Quality Assurance Division acting administrator’s delays in hiring for six positions have left the branch operating with only two inspectors. Further, the acting administrator has not developed a strategic plan to determine priorities, guide decisions, or demonstrate the effectiveness and efficiency of the branch’s Measurement Standards Program. Understaffed and without long-term plans, the branch cannot ensure measurement accuracy and fairness in the marketplace for businesses and consumers.

Given the branch’s staffing challenges and lack of strategic direction, we are unable to analyze and make recommendations on the resources needed to fully implement branch responsibilities as requested by the 2012 Legislature in Senate Concurrent Resolution No. 89, Senate Draft 1. Until the branch fully deploys its appropriated resources, it is premature for us to assess its needs.

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### Summary of Findings

1. Short staffed due to hiring delays, the Measurement Standards Branch cannot fulfill its regulatory functions.
2. The Measurement Standards Branch has no plans to implement program changes for utilizing its current resources.

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### Short Staffed Due to Hiring Delays, the Measurement Standards Branch Cannot Fulfill Its Regulatory Functions

The Measurement Standards Branch is not able to fully carry out its regulatory responsibilities until key positions are filled. Over the last five fiscal years, the branch experienced a decline in the number of positions due to budget shortfalls, but its funding has been recently restored. Yet, more than half of the branch positions remain vacant due to hiring delays caused by the Quality Assurance Division acting administrator. The acting administrator will not move forward with hiring inspectors until after recruiting a program manager. However, the recruitment process for the program manager is stalled at steps 4 and 5 of the department’s 20-step recruitment process. With only two inspectors performing limited key regulatory activities, the number of inspections conducted

annually fell significantly from FY2007 through FY2012. Additionally, the branch has ceased performing other key regulatory activities.

***The acting administrator has delayed hiring inspectors until after recruitment of a program manager***

The number of branch positions declined from FY2010 to FY2012 due to budget cuts. However, for FY2013, the Legislature funded four positions. Yet, more than half of the branch's 11 positions remain vacant, including a program manager and five measurement standards inspectors. The acting administrator has delayed recruitment of inspectors until after the recruitment of a program manager, who can develop a training program. Additionally, recruitment of the program manager is stalled because the acting administrator has not addressed questions from the department's personnel office regarding the manager's position description. Unable to complete recruitment, the branch remains understaffed and incapable of performing its duties to ensure measurement accuracy and fairness in the marketplace for businesses and consumers.

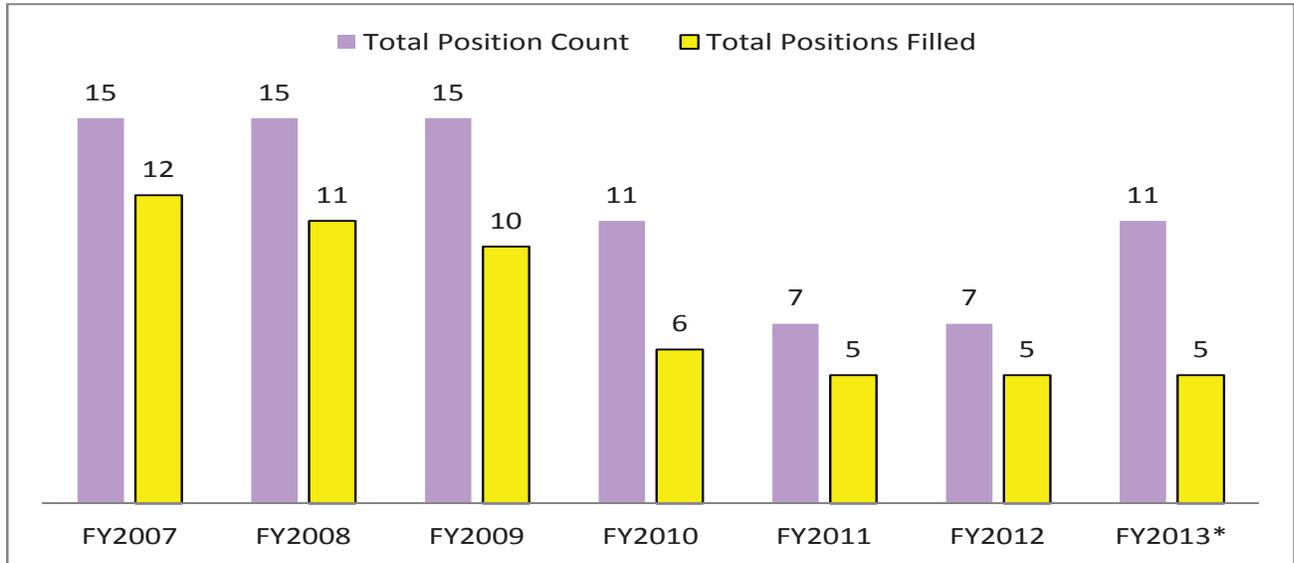
**The branch's FY2013 position count has rebounded to near FY2007 staffing levels, but the number of positions filled remains unworkably low**

The Measurement Standards Branch's total position count for fiscal years 2007 through 2009 was 15. During this time, the branch had between ten and 12 employees. In FY2010, budget reductions reduced the position count to 11, and the branch had only six employees. In fiscal years 2011 and 2012, the position count was reduced further to seven, and the branch had even fewer employees—only five.

Recognizing that the branch could not carry out its regulatory functions with so few staff, the department requested the 2012 Legislature—and the Legislature agreed—to fund four branch positions. As a result, the branch's position count in FY2013 rebounded from seven to 11, equal to its position count in FY2010 and almost as high as its staffing level in FY2007. Yet, the number of branch employees remained at only five, fewer than half of the total position count of 11. More importantly, only two inspectors are carrying out the branch's regulatory functions, leaving enforcement activities severely understaffed. Exhibit 2.1 shows the total position count and total positions filled for the Measurement Standards Branch from FY2007 to FY2013 (through November 20, 2012).

**Exhibit 2.1**

**Total Position Count and Total Positions Filled, FY2007–FY2013**



\*July 1, 2012–November 20, 2012

Source: Department of Agriculture, personnel office

**More than half of the branch’s 11 positions remain vacant due to hiring delays**

Recruitment to fill vacant positions is at a standstill due to delays by the acting administrator. Currently, six of the branch’s 11 positions remain vacant: one program manager and five measurement standards inspectors.

We reviewed the department’s process to establish the program manager position and determined that recruitment is at a standstill. As of January 9, 2013, the acting administrator had not responded to the department personnel officer’s questions about clarifying the position description. Recruitment for a program manager began in June 2012, after the position was funded by the 2012 Legislature. On July 3, 2012, the Board of Agriculture chairperson gave approval to create and fill the position. On September 13, 2012, the personnel officer sent questions to the deputy to the chairperson for clarification of the position. As of December 26, 2012 however, the personnel office had not received a response. Exhibit 2.2 is the timetable of events for recruitment of the program manager.

**Exhibit 2.2  
Timetable of Events for Program Manager Recruitment**

| Date     | Description  |
|----------|--|
| 06/28/12 | Acting administrator submits position description to personnel office  |
| 07/03/12 | Board chairperson approves request to fill the position  |
| 09/13/12 | Personnel officer e-mails questions regarding position description to the deputy   |
| 10/25/12 | Personnel office receives e-mail from acting administrator's secretary stating that the acting administrator is working on the branch manager's position description |
| 12/06/12 | Personnel officer e-mails questions to acting administrator's secretary  |
| 12/26/12 | No response received by personnel office   |
| 01/09/13 | Acting administrator plans to meet with deputy to address personnel officer's questions  |

Source: Office of the Auditor

Moreover, we determined that the recruitment for a program manager is at steps 4 and 5 of a 20-step process, as shown in Exhibit 2.3. The department utilizes a recruitment checklist consisting of a 20-step process. Given the numerous steps yet to be accomplished, the acting administrator is far from being able to hire a program manager.

**Exhibit 2.3  
Status of Recruitment in the Department's 20-Step Recruitment Process**

| Step | Recruitment Checklist Description   | Positions Funded by the 2012 Legislature |                                     | Other Vacant Positions              |                                     |
|------|---|--|-------------------------------------|-------------------------------------|-------------------------------------|
|      |   | Program Manager (1)                      | Measurement Standards Inspector (3) | Measurement Standards Inspector (1) | Measurement Standards Inspector (1) |
| 1    | Branch chief prepares B-1 ( <i>Request for Position Action</i> )                                  | √  | Not started                         | √                                   | Not started                         |
| 2    | Division administrator submits B-1 through personnel  | √  |                                     | √                                   |                                     |
| 3    | Chairperson approves/disapproves B-1  | √  |                                     | √                                   |                                     |
| 4    | Draft position description submitted to personnel   | √  |                                     | √                                   |                                     |
| 5    | Program submits final position description and HRD-1 ( <i>Position Action Form</i> ) to personnel | √  |                                     | √                                   |                                     |
| 6    | Program to contact personnel on type of recruitment   |  |                                     | √                                   |                                     |
| 7    | Draft interview questions submitted to personnel for review, revision, and approval               |  |                                     |                                     |                                     |
| 8    | Interview questions finalized and panel members cleared by personnel                              |  |                                     |                                     |                                     |
| 9    | List of applicants and instructions forwarded to program  |  |                                     |                                     |                                     |

| Step | Recruitment Checklist Description   | Positions Funded by the 2012 Legislature |                                     | Other Vacant Positions              |                                     |
|------|---|--|-------------------------------------|-------------------------------------|-------------------------------------|
|      |   | Program Manager (1)                      | Measurement Standards Inspector (3) | Measurement Standards Inspector (1) | Measurement Standards Inspector (1) |
| 10   | Applicants contacted for interview  |  |                                     |                                     |                                     |
| 11   | Authorization of Release of Information form given to applicants at interview to complete |  |                                     |                                     |                                     |
| 12   | Interview panel chair reviews and summarizes scoring of panel members                     |  |                                     |                                     |                                     |
| 13   | Reference checks completed on candidate(s)  |  |                                     |                                     |                                     |
| 14   | Letter of recommendation prepared   |  |                                     |                                     |                                     |
| 15   | Interview packet submitted to personnel for review and approval                           |  |                                     |                                     |                                     |
| 16   | Letter of recommendation to ASO and chairperson for approval                              |  |                                     |                                     |                                     |
| 17   | Personnel notifies panel chair OK to make conditional job offer                           |  |                                     |                                     |                                     |
| 18   | If selectee accepts, personnel conducts criminal background check                         |  |                                     |                                     |                                     |
| 19   | If no suitability issues, personnel mails pre-employment physical form to selectee        |  |                                     |                                     |                                     |
| 20   | Personnel clears physical; program notifies applicants not selected for the position      |  |                                     |                                     |                                     |

Source: Office of the Auditor analysis of Department of Agriculture personnel office data

In addition, according to the department’s personnel officer, the acting administrator has yet to take action to fill the three new inspector positions funded by the 2012 Legislature.

The Measurement Standards Branch also has two vacant measurement standards inspector positions. The acting administrator started the process to fill one inspector position in January 2012, but recruitment is currently at a standstill. In August 2012, the personnel office received a list of eligible applicants from the Department of Human Resources Development. The list had an expiration date of 60 days. The acting administrator did not submit interview questions and names of prospective panel members for the interview, both of which are required prior to conducting applicant interviews. As a result, the list expired before interviews could begin. The recruitment for this inspector position is at step 6 of the 20-step process, as shown in Exhibit 2.3. The acting administrator has also not given the department’s personnel office any indication of her intent to fill the other vacant measurement standards inspector position.

### **The acting administrator’s plan to fill vacant positions hinges on hiring a program manager to develop a training program**

The acting administrator’s plan is to first hire a program manager and then hire the inspectors. The acting administrator informed us that the program manager needs to be hired first in order to develop a training program for the new inspectors. According to the acting administrator, “If we hire the inspectors now, they will be sitting around with nothing to do. There will be nobody to train them.” Also, she said that hiring new inspectors before the program manager would be like “putting the cart before the horse.”

Currently, the branch has no training program for new inspectors. According to the National Institute of Standards and Technology (NIST), a weights and measures program should have a defined training program that describes how new inspectors are trained in each discipline. The NIST also outlines components on what a training program for inspectors is encouraged to have. For example, it should include an adequate, uniform, and defined training process that is completed within a specified time period and minimum competencies that are defined. Some training materials are also available on the NIST Weights and Measures Division website. The NIST’s handbook, entitled *Weights and Measures Program Requirements: A Handbook for the Weights and Measures Administrator 2011*, can be used as a reference tool by the acting administrator.

Although the acting administrator is relying on the program manager to develop a training program, she told us that the training program would include:

- updated training materials;
- on-the-job training given by an experienced inspector;
- evaluation of the inspectors’ progress; and
- supervision.

The acting administrator acknowledged that the hiring of inspectors could come first if the training materials were updated and on-the-job training were provided by the existing inspectors. However, she admits that she is not qualified to provide the training and would not be able to evaluate the inspectors on the technical aspects of their jobs because she does not have the expertise. As an alternative, the acting administrator could send inspectors to the mainland for training or hire a training consultant.

However, according to the acting administrator, she has neither started to update training manuals nor worked on her alternate plan because she is too busy with her responsibilities in the Commodities Branch. During our audit, in addition to her duties of overseeing the Commodities Branch and the Measurement Standards Branch, the acting administrator was performing papaya inspections on Hawai‘i Island two days a week—the work of a Commodities Branch inspector. The board chairperson is aware of the acting administrator’s workload and commented that staffing shortages require that she conduct inspections. However, the board chairperson said the acting administrator’s primary responsibility is to oversee the division.

To relieve herself from the duties of managing the Commodities Branch, the acting administrator has the option of temporarily assigning someone into the Commodities Branch manager position, according to the department’s personnel officer. However, since becoming the acting administrator in August 2011, she has not considered doing so. As a result, the acting administrator continues to be burdened with multiple management responsibilities and is unable to advance the recruitment process in the Measurement Standards Branch.

***Number of inspections fell significantly from FY2007 to FY2012 due to staffing shortages***

The branch cannot fully carry out its regulatory functions given current staffing levels. With only two inspector positions currently filled, the number of the branch’s inspection activities fell significantly, with the branch limited to inspecting scales, gas pumps, taxi meters, and investigating complaints on O‘ahu. Additionally, other enforcement functions, such as testing gasoline for octane levels, have ceased. Moreover, the branch does not perform any inspections on the neighbor islands. The branch’s limited presence and visibility in carrying out its regulatory enforcement function may lead to fraud and misrepresentation in the marketplace because, according to the NIST, there are “always some who will avail themselves of an opportunity for an unfair or dishonest advantage.”

**Seven of 15 regulatory functions are not being performed**

The branch’s two inspectors can only perform eight of the 15 major regulatory enforcement functions due to a lack of staffing and equipment resources. State law requires that the department, through its Measurement Standards Branch, “inspect and test, to ascertain if they are correct, all measurement standards and measuring devices kept, offered, or exposed for sale, sold or in use in the state.” Further, the department may, as often as it deems necessary, “inspect and test, to ascertain if they are correct, all measurement standards and measuring devices.” We reviewed Chapter 486, HRS and Chapters 4-87.1, 4-89, 4-91, 4-93, 4-94, and 4-101, Hawai‘i Administrative Rules (HAR), and

selected the key activities tasked to the Measurement Standards Branch. We also interviewed a measurement standards inspector and the acting administrator to ascertain which statutory functions are currently being enforced by the branch. Exhibit 2.4 highlights the major regulatory activities of the Measurement Standards Branch, showing that only eight of 15 are being performed.

**Exhibit 2.4**  
**Measurement Standards Branch Performance of Regulatory Activities**

|   | Activity                                | Description  | Activity Being Performed |    |
|---|---|--|--------------------------|----|
| 1.  | Investigate complaints                  | Complaints deemed appropriate and advisable on possible violations of Ch. 486, HRS   | Yes                      |    |
| 2.  | Issue citations                         | Issue citations to stop-use, stop-sale, hold and issue removal orders with respect to measures and measurement standards being, or susceptible of being, unlawfully used |                          | No |
| 3.  | Petroleum product testing               | Collect samples of petroleum products for testing and analysis   |                          | No |
| 4.  | Odometer inspections                    | Odometer system inspections for passenger cars   |                          | No |
| 5.  | State measurement standard              | Conformity of state measurement standards with the NIST  | Yes                      |    |
| General Testing (inspect and test all measurement standards and measuring devices kept, offered, or exposed for sale, sold, or in use in the state) |   |  |                          |    |
| 6.  | Scales < 500 lbs.                       | Used to weigh commodities at grocery stores, feed stores, candy stores, etc.   | Yes                      |    |
| 7.  | Scales > 2,500 lbs.                     | Truck scales, platform scales, etc.  |                          | No |
| 8.  | Taxi meters                             | Devices installed in taxicabs to calculate fares based on a combination of distance traveled and time lapsed   | Yes                      |    |
| 9.  | Gas pumps                               | Pumps dispensing various grades of gasoline and diesel fuel at gas stations  | Yes                      |    |
| 10.   | Bulk fuel meters volume > 1,000 gallons | Meters on trucks that deliver diesel fuel or gasoline to businesses  |                          | No |
| 11.   | Testing at state-supported institutions | Measures used in checking the receipt or disbursement of supplies in every state institution   | Yes                      |    |

|     | Activity                                    | Description  | Activity Being Performed |          |
|-----|---|--|--------------------------|----------|
| 12. | Inspection of packages and labeling         | Measure and inspect packages and commodities to determine whether they contain the amounts represented and whether they are exposed for sale in accordance with the laws                                   |                          | No       |
| 13. | Service persons and service agencies        | Voluntary registration of service persons and service agencies for commercial weighing and measuring devices   | Yes                      |          |
| 14. | Follow-up investigations of service persons | As often as deemed necessary, periodically check the effectiveness of the registered service person by follow-up investigations and tests  |                          | No       |
| 15. | Measuremasters                              | Licensing of public measuremasters, persons who weigh, measure, or count any property, produce, commodity, or article other than those which the weigher or weigher's employer is either buying or selling | Yes                      |          |
|     | <b>Totals</b>                               |  | <b>8</b>                 | <b>7</b> |

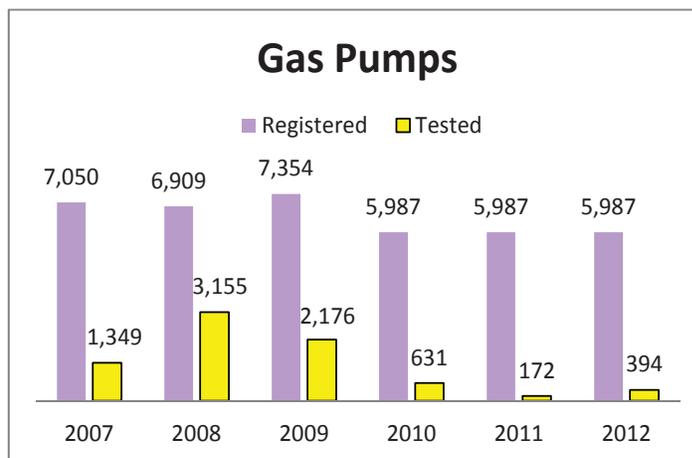
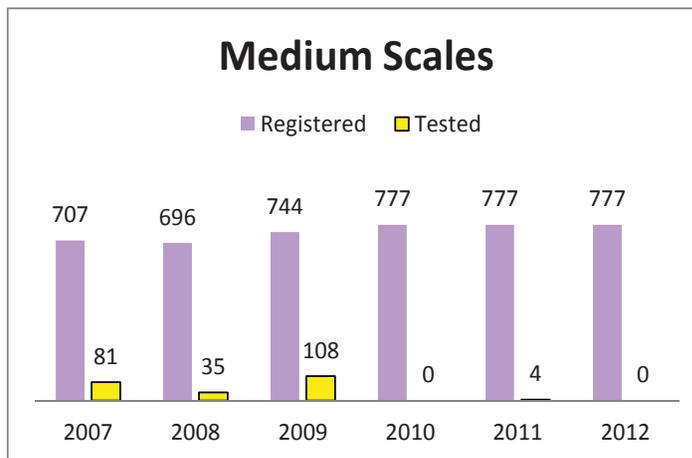
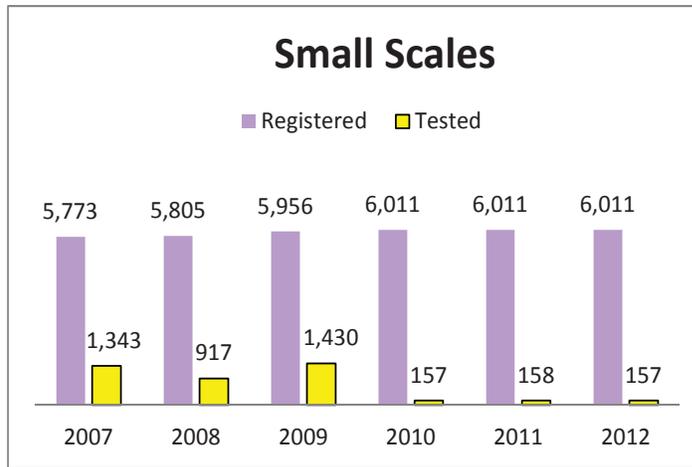
Source: Office of the Auditor

### Two inspectors carry out limited branch inspection functions

With only two inspectors, the branch is able to perform a limited number of inspections of small and medium scales, gas pumps, and taxi meters. The two inspectors also investigate complaints on O‘ahu, but not the neighbor islands. State law does not require the branch to conduct inspections and testing of *all* devices annually, but only *as often as it deems necessary*. The NIST also does not require annual testing, recognizing that over the years many jurisdictions have not been able to conduct annual testing of all commercial measuring instruments because of insufficient resources. However, the NIST cautions that reduced compliance due to decreased inspections are to be expected.

Based on our review of the branch’s statistics for annual device inspections, we found that from FY2007 to FY2009, the branch inspected an average of 21 percent of the small scales, 10 percent of medium scales, and 31 percent of the gas pumps registered in the state. Following staffing reductions from FY2010 to FY2012, the branch inspected an average of only 2.6 percent of the small scales, less than 1 percent of medium scales in FY2011, and 6.7 percent of the gas pumps registered in the state. Exhibit 2.5 highlights the decline in inspection activities from FY2007 through FY2012.

**Exhibit 2.5**  
**Inspection Activities, FY2007–FY2012**



Source: Department of Agriculture, Measurement Standards Branch

Although inspection activity has dropped significantly, there has not yet been a marked decrease in compliance. For example, compliance rates for small scales averaged 88.5 percent prior to the staffing reductions, dropping slightly to 86.7 percent after the reductions. For gas pumps, compliance rates actually improved from an average of 81.8 percent prior to the staffing reductions compared to 87.7 percent after the reductions.

However, according to the NIST, a decrease in compliance often lags behind a cutback on inspections, so the consequences of reduced compliance due to decreased inspections may be forthcoming.

### **Branch lacks the means to carry out key enforcement activities with current resources**

Given its current resources, the Measurement Standards Branch is unable to provide reasonable assurance of the accuracy in measuring devices and fairness in the marketplace to businesses and consumers. Neighbor island coverage and other key enforcement activities have ceased as a result of staffing reductions. In addition, several other branch functions were eliminated long before the staffing reductions in FY2010 and FY2011. According to the NIST, when jurisdictions have had to completely discontinue an inspection activity due to budget cuts, but were able to restore the program after a few years when funding became available, the effect of a decrease in compliance is more evident. Experience has shown that the decrease in compliance is significant compared to compliance levels that existed prior to discontinuation of the program.

We found that since 2009, the branch has been unable to assign any inspectors to the neighbor islands. The board chairperson has acknowledged this shortcoming, stating that an important goal of the department is to get inspectors back on the neighbor islands to serve residents there. As previously noted, the branch's limited presence and visibility in carrying out its regulatory enforcement function may lead to fraud and misrepresentation in the marketplace.

Second, the branch's packaging and labeling specialist retired in 2009 and has not been replaced. As a consequence, all packaging and labeling inspections and price verification testing have been suspended. These activities also include specific packaging and labeling enforcement functions required by law, such as those for island fresh milk, macadamia nuts, and Hawai'i-grown coffee. Exhibit 2.6, which illustrates packaging and labeling inspections from FY2007 to FY2012, shows that these inspections were not conducted beyond FY2010.

**Exhibit 2.6  
Packaging and Labeling Inspections, FY2007–FY2012**

| FY   | Packages Inspected For Content |                   | Package Labels Inspected |                   | Labels Submitted For Review |                   | Price Verification      |                     |  |
|------|--------------------------------|-------------------|--------------------------|-------------------|-----------------------------|-------------------|-------------------------|---------------------|--|
|      | No. (000's)                    | Compliance Rate % | No.                      | Compliance Rate % | No.                         | Compliance Rate % | No. of Stores Inspected | Total Items Audited | % of Stores meeting min. compliance rate |
| 2007 | 48                             | 99                | 1,019                    | 100               | 126                         | 24                | 19                      | 1,700               | 100                                      |
| 2008 | 86                             | 98.9              | 2,324                    | 96.8              | 130                         | 37.7              | 136                     | 7,375               | 99                                       |
| 2009 | 136                            | 99.7              | 496                      | 100               | 217                         | 15.6              | 26                      | 1,525               | 85.7                                     |
| 2010 | 0                              | n/a               | 0                        | n/a               | 0                           | n/a               | 0                       | 0                   | n/a                                      |
| 2011 | 0                              | n/a               | 0                        | n/a               | 0                           | n/a               | 0                       | 0                   | n/a                                      |
| 2012 | 0                              | n/a               | 0                        | n/a               | 0                           | n/a               | 0                       | 0                   | n/a                                      |

Source: Department of Agriculture, Measurement Standards Branch

According to the NIST, a weights and measures program should be broad-based and comprehensive, addressing all segments of the commercial measurement system. Programs that focus only on the inspection and testing of measuring instruments will ignore the huge segment of packaged goods that represent a major economic part of the commercial measurement system. Method of sale, unit pricing, and packaging and labeling requirements must be enforced so that consumers are provided with the information needed to make value comparisons. Price verification inspections should also be conducted. Consumers rely on the packager and the oversight of the weights and measures regulatory official to ensure that packaged goods meet the average and maximum allowable variation requirements. Most stores use scanning systems at checkout registers to identify and price purchases. It is important that the prices posted on shelves or marked on individual items are the same as those stored in the computer database, since posted and advertised prices must agree with what a customer is ultimately charged.

Third, following its reductions in staffing, the branch has not performed mass testing of scales with a capacity of 2,500 pounds or more because it does not have a large truck, crane, and CDL (commercial driver's license) driver. Therefore, inspectors are unable to transport and hoist 2,500-pound weights. The branch also does not have a truck, pump, or a 1,000-gallon prover to conduct volumetric testing for bulk fuel capacities.

Fourth, we found that the branch ceased issuing citations because of a defect in the department's citation form. This issue has been stalled in the Department of the Attorney General's Criminal Justice Division and the Honolulu Department of the Prosecuting Attorney for a while,

according to a deputy attorney general. According to the NIST, weights and measures programs typically strive to achieve business compliance with weights and measures requirements using the lowest level of regulatory action possible. However, sometimes businesses do not perform at acceptable levels despite repeated warnings and low levels of enforcement actions. Therefore, weights and measures programs must have the authority to impose or pursue higher levels of enforcement action through the use of fines and penalties.

Lastly, we found that the branch has not had a chemist on staff since prior to 2001. Without a chemist, the branch is unable to test fuel quality and octane levels in accordance with the NIST uniform standards. In addition, according to the NIST, a petroleum quality law and inspection program is even more important today than in the past because of the many alternative fuels and product blends offered on the market. In a 1996 *Performance Audit Report of the Weights and Measures Program*, the Kansas State Legislative Division of Post Audit noted the financial impact of inaccurate octane levels can be more significant than the impact of an inaccurate pump. We performed a similar analysis based on Hawai'i gas prices as follows:

Assume that someone buys 15 gallons of premium gasoline at \$4.16 per gallon, and that the price of regular gasoline is \$3.99 per gallon. If 1 percent less (the tolerance is 0.5 percent according to national standards) gasoline is actually pumped than is shown on the gas pump, the customer would overpay by \$0.62. However, if the pump dispenses regular gas instead of premium gas as posted on the pump, the station owner would collect an additional \$2.55. This example is illustrated in Exhibit 2.7.

**Exhibit 2.7  
Gasoline Testing Illustration**

|                                      | <b>Inaccurate Pump</b> | <b>Inaccurate Octane</b> |
|--------------------------------------|------------------------|--------------------------|
| Gallons according to pump            | 15 gallons             | 15 gallons               |
| Price per gallon on pump             | \$4.16                 | \$4.16                   |
| <b>Total amount paid</b>             | <b>\$62.40</b>         | <b>\$62.40</b>           |
| Actual gallons pumped                | 14.85 gallons          | 15 gallons               |
| Price per gallon that should be paid | \$4.16                 | \$3.99                   |
| Total amount that should be paid     | \$61.78                | \$59.85                  |
| <b>Amount overpaid by customer</b>   | <b>\$.62</b>           | <b>\$2.55</b>            |

Source: Office of the Auditor

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## **Measurement Standards Branch Has No Plans To Implement Program Changes for Utilizing Its Current Resources**

The Measurement Standard Branch lacks adequate planning to effectively and efficiently guide its regulatory functions. From 2008 to 2010, the department proposed to change the branch's enforcement function by outsourcing inspections to private service agencies due to staffing reductions. The current administration is changing course and intends to continue inspections with the newly funded positions. Nonetheless, the acting administrator still has the responsibility of monitoring private service agencies, a regulatory function of the branch. However, the branch has no plans, policies, or procedures for overseeing them, including no written strategic plan for its Measurement Standards Program. Without a written strategic plan, the acting administrator lacks a well-supported basis to determine priorities, guide decisions, and demonstrate the effectiveness and efficiency of her program. These planning deficiencies are exacerbated by the acting administrator's lack of time to devote to developing plans as a result of staffing issues.

### ***Past and current administration failed to develop plans to implement proposed changes in branch's regulatory function***

The Department of Agriculture, under the previous administration, proposed to eliminate Measurement Standards Branch inspection and enforcement functions, and adopt rules to allow private service agencies to conduct routine inspections with branch inspectors providing oversight. The branch, now under a new administration, has changed direction and intends to carry out inspection responsibilities with increased staffing. However, we found the branch has no plans, policies, or procedures for implementing the proposed past or present changes. Additionally, we found that the department-level strategic plans provide no guidance for the branch.

### **Past administration proposed to replace inspection function with private service agencies but lacked implementation plans**

The former division administrator did not develop plans, policies, or procedures to support proposals to eliminate branch inspections in favor of ones performed by private service agencies. Private service agencies sell, install, and maintain commercial measuring instruments that comply with weights and measures requirements. Moreover, after weights and measures officials reject a device for inaccuracy or for failing to meet other requirements, private service agencies are often responsible for placing these measuring instruments back into service. As with Hawai'i, many states require that these service agencies and their service technicians register with the regulatory authority. For fiscal year 2012, the branch registered 82 service agencies in the state.

Beginning in 2008, the Department of Agriculture proposed to replace inspection activities with an audit system by evaluating the appropriateness of adopting rules authorizing registered private service

agencies to conduct annual inspections of devices. In January 2010, before the Senate Committee on Ways and Means, the then-board chairperson addressed the impact of the proposed FY2011 reductions by noting that the reduction-in-force would result in the replacement of inspection activities with an “audit system.” The proposed audit system was to transfer taxi and fuel pump inspection functions to private service agencies on all islands, train all measurement standards inspection personnel in audit techniques as a means of providing oversight for private service agencies, and identify necessary statutory and administrative rule changes needed to fully implement new functions by June 2010.

The department’s Act 100 annual report submitted to the Legislature in May 2010 further outlined an objective to “begin to change division functions to eliminate enforcement, reduce inspection and increase the focus on collecting audit data in order to determine service agent and industry compliance with standards.” Act 100, Session Laws of Hawai‘i 1999, requires that departments annually report on their strategic planning efforts by including a statement of short- and long-term goals and objectives and policies, setting forth how each goal can and will be accomplished.

According to the NIST, many weights and measures programs have experienced decreases in their budgets, which has subsequently weakened the infrastructure of the commercial measurement system. In response to budget cuts, some states’ legislatures have moved to privatize weights and measures inspection and enforcement responsibilities by turning over government inspection and enforcement to the private sector.

Before such a change can be implemented, however, the administrator needs to provide recommendations for changing the program’s direction and activities. However, the former administrator failed to lay the groundwork for the branch’s new direction before retiring in July 2011. The acting administrator believes that the former administrator’s plan was only a concept, and although that concept was described in department-level planning documents, the former administrator did not share his plans or vision with anyone. As part of our review, we searched through the former administrator’s documents but did not find any plans relating to the implementation of an audit system. In addition, according to the acting administrator, her predecessor did not draft administrative rules authorizing private service agencies to perform routine inspections.

**Current administration believes branch inspections should continue but has no plan beyond recruitment for vacant positions**

Following the former administrator's departure in July 2011, the acting administrator was appointed in August 2011. The acting administrator is not pursuing her predecessor's proposal to delegate routine inspections of weights and measure devices to private service agencies because she believes this regulatory function is a government responsibility. The board chairperson agrees that the branch has the responsibility to fulfill the enforcement activities, even more so now with the increased staffing funded by the 2012 Legislature. However, beyond recruitment for vacant positions, the acting administrator has not developed any plans, policies, or procedures for the program, including the monitoring of private service agencies.

The acting administrator does not plan to outsource inspections to private service agencies; however, the branch is still responsible for monitoring the installation and repair work of such agencies in order to provide assurance to consumers. Moreover, the administrative rules regarding voluntary registration of service persons require follow-up investigations and tests. Section 4-87.1-11, HAR, provides that the administrator must periodically check, as often as deemed necessary, the effectiveness of registered service persons. Prior to 2001, branch inspectors would follow-up on placed-in-service reports submitted by service companies. Occasionally inspectors were also assigned to shadow or monitor service persons when installing or repairing devices. However, according to the acting administrator, she has not assigned any inspectors to monitor service persons since August 2011. According to one of the inspectors, monitoring of service persons has not been performed since 2009 due to staffing reductions. Moreover, he added that the branch has no written policies or procedures for monitoring private service agencies.

According to the acting administrator, she has not had time to develop policies and procedures for monitoring service persons. She intends to rely on the program manager to develop policies and procedures to focus on service companies who consistently do poor work. Without a monitoring program, the State cannot revoke the registration of private service agencies that perform substandard work. According to the NIST, states must have an adequate oversight program of service companies, including taking action against service companies that provide poor service. Without adequate plans, policies, and procedures for monitoring private service agencies, the branch can neither demonstrate that it is carrying out its regulatory functions nor provide assurance to consumers that they are getting what they paid for.

### **The branch needs strategic planning to guide its program**

One of the major administrative responsibilities for state directors of weights and measures programs is to have a written strategic plan that describes the program objectives; outlines strategies to achieve specific outcomes; and sets intermediate milestones for the program to achieve its objectives with measures, demonstrating progress toward each objective. According to the NIST, a concise statement of objectives, strategies, desired outcomes, and milestones can be an effective way to educate policymakers and legislatures about weights and measures programs and the challenges to achieving their objectives.

We found the branch does not have a strategic plan specific to its weights and measures program. The only planning documents that exist are department-level plans such as the ones found in the Act 100 reports. In the department's 2012 Act 100 report, we found some objectives related to the branch, such as restoring positions lost due to the reduction-in-force. However, there were no statements on how the objective can and will be accomplished as required by the act. Thus, while the Act 100 departmental planning documents partially satisfy department planning requirements, they provide no specific guidance to the branch.

We found the acting administrator has yet to take steps towards drafting a strategic plan for the branch because she is “putting out fires [and] wear[ing] too many hats.” According to the NIST, a good strategic plan is a valuable tool for managers when preparing budget proposals and allocating resources. Although the NIST provides guidance on strategic planning, during our review, we found that the acting administrator had not referred to it. According to the acting administrator, the program manager, once hired, would be the one responsible for having knowledge of the NIST and implementing its content within the branch. We disagree. As provided in the administrator's position description, the acting administrator is responsible for the planning and development of a weights and measures program, as well as determining budgeting and staffing needs to present justification to the Legislature for program expansion and work increases.

Moreover, the administrator is responsible for providing advice and assistance to the chairperson on matters of policy and programming related to regulatory activities. Without a written strategic plan for the Measurement Standards Program, management lacks a well-supported basis for preparing budget proposals, allocating resources, determining priorities, guiding decisions, and demonstrating the effectiveness and efficiency of the program.

---

## Conclusion

The Measurement Standards Branch has not fully deployed its resources funded by the 2012 Legislature, including a program manager and three new inspector positions, nor filled two vacant inspector positions. We found that the recruitment process is at a standstill for hiring the program manager because the acting administrator has not addressed questions raised by the department's personnel office about the position description. Moreover, the acting administrator will not hire inspectors until after a program manager has been hired. With only two inspector positions currently filled, the branch continues to be woefully understaffed. As a result, inspection activities are limited to inspecting scales, gas pumps, taxi meters, and investigating complaints on O'ahu, while enforcement functions on the neighbor islands, and packaging and labeling inspections throughout the state, have ceased as of 2009. In addition, the acting administrator has not developed plans to implement program changes to fully utilize newly funded staff.

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## Recommendations

To improve the effectiveness and efficiency of the Measurement Standards Branch:

1. The chairperson of the Board of Agriculture should temporarily appoint a Commodities Branch manager to free the Quality Assurance Division acting administrator of those responsibilities.
2. The Quality Assurance Division acting administrator should:
  - a. Recruit to fill the two vacant inspector positions;
  - b. Establish and recruit to fill the program manager position;
  - c. Establish and recruit to fill the three new inspector positions;
  - d. Use the NIST *Weights and Measures Program Requirements: A Handbook for the Weights and Measures Administrator 2011* to:
    - i. Develop a strategic plan for the Measurement Standards Branch, which includes a description of what is needed to maintain and improve a weights and measures program, the problems and obstacles that exist to achieve success, the strategies and resources needed to make progress, and the intermediate milestones that can be used to measure progress toward the objectives;

- ii. Develop a training program. The handbook outlines components on what a training program for inspectors is encouraged to have. Training material is also available on the NIST Weights and Measures Division website; and
- iii. Develop plans, policies, and procedures for oversight of registered service agencies and persons with follow-up inspections, including a review of placed-in-service reports to ensure service companies are using correct test procedures and standards, and achieving the quality of work that they report. As part of the planning process, the acting administrator should explore and identify alternative approaches to effectively monitor the commercial measurement system with fewer resources. The NIST suggests a program that incorporates work done by service companies with government follow-up inspections and extensive testing in the marketplace. The branch may find that managing an oversight program may be more effective and cost considerably less than having branch inspectors conduct random inspections.

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## Response of the Affected Agency

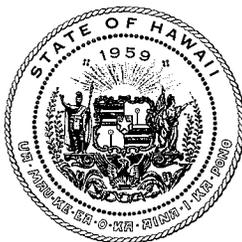
### Comments on Agency Response

We transmitted a draft of this report to the Department of Agriculture and the chairperson of the Board of Agriculture on March 12, 2013. A copy of the transmittal letter to the department is included as Attachment 1. The chairperson's response, received on March 19, 2013, is included as Attachment 2.

Overall, the chairperson is already addressing our recommendations. He has appointed a permanent Quality Assurance Division administrator, who is proceeding to fill the program manager position and two vacant inspector positions. The chairperson also acknowledges that he is ultimately responsible for ensuring that the branch fulfills its regulatory responsibilities and plans to work with the administrator to develop a strategic plan consistent with our recommendations.

Although we considered additional information offered by the chairperson for Exhibit 2.4, Measurement Standards Branch Performance of Regulatory Activities, we determined that no changes are warranted. During the time of our audit work, we were told the branch does not have a mass spectrometer to conduct petroleum testing under Activity 3. As to Activity 4, odometer inspections, we agree that the branch responds to odometer *complaints* but noted in our exhibit that no *inspections* have been conducted. Finally, according to the inspector we interviewed, no follow-up investigations are being conducted for service agencies under Activity 14.

STATE OF HAWAI'I  
**OFFICE OF THE AUDITOR**  
465 S. King Street, Room 500  
Honolulu, Hawai'i 96813-2917



**JAN K. YAMANE**  
Acting State Auditor

(808) 587-0800  
FAX: (808) 587-0830

March 12, 2013

**COPY**

The Honorable Russell S. Kokubun, Chair  
Hawai'i Board of Agriculture  
1428 South King Street  
Honolulu, Hawai'i 96814

Dear Mr. Kokubun:

Enclosed for your information are three copies, numbered 6 to 8, of our confidential draft report, *Management Audit of the Department of Agriculture's Measurement Standards Branch*. We ask that you telephone us by Thursday, March 14, 2013, on whether or not you intend to comment on our recommendations. If you wish your comments to be included in the report, please submit them no later than Tuesday, March 19, 2013.

The Governor and presiding officers of the two houses of the Legislature have also been provided copies of this confidential draft report.

Since this report is not in final form and changes may be made to it, access to the report should be restricted to those assisting you in preparing your response. Public release of the report will be made solely by our office and only after the report is published in its final form.

Sincerely,

A handwritten signature in cursive script that reads "Jan K. Yamane".

Jan K. Yamane  
Acting State Auditor

Enclosures



State of Hawaii  
DEPARTMENT OF AGRICULTURE  
1428 South King Street  
Honolulu, Hawaii 96814-2512  
Phone: (808) 973-9600 FAX: (808) 973-9613

March 19, 2013

RECEIVED

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OFF. OF THE AUDITOR  
STATE OF HAWAII

Ms. Jan K. Yamane  
Acting State Auditor  
Office of the Auditor  
465 S. King Street, Room 500  
Honolulu, HI 96813-2917

Dear Ms. Yamane:

Re: Management Audit of the Department of  
Agriculture's Measurement Standards Branch

The Department would first like to express its appreciation to the Office of the Auditor for the opportunity to work with your professional staff and to provide comments on the subject report.

Chapter 2 of the Management Audit focuses on the acting administrator of the Quality Assurance Division who is held accountable for hiring delays and lack of planning in re-constituting the Measurement Standards Branch (MSB). As Chairperson of the Department, I am ultimately responsible for any failure to meet staffing challenges or in providing strategic direction in the Measurement Standard Branch. The acting administrator, given the fact that she was not permanently seated in the position of administrator, should not be held responsible for any failures in moving the branch forward towards meeting its regulatory responsibilities.

Regarding Exhibit 2.4 found on pages 16 and 17 entitled, "Measurement Standards Branch Performance of Regulatory Activities", please consider the following additional information:

Activity 3: Petroleum product testing - this activity is still being conducted but at a limited scale.

Activity 4: Odometer inspections - this activity has always been and is being conducted on a complaint driven basis.



Ms. Jan K. Yamane  
Acting State Auditor  
March 19, 2013  
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Activity 14: Follow-up investigations of service persons - this activity is being conducted in a limited capacity.

Addressing the recommendations to improve the effectiveness and efficiency of the Measurement Standards Branch, the Office of the Chairperson would like to call attention to the changes that are moving forward presently in the Quality Assurance Division. A Quality Assurance Division administrator has been appointed on a permanent basis and is actively moving forward in filling the Measurement Standards Branch (MSB) program manager in the near term with funding provided by the agricultural development and food security special fund.

In turn, the MSB Manager will develop the training program for new inspectors hired. The active recruitment has begun for two vacant inspector positions. The three new inspector positions are already established and the MSB Manager will begin the recruitment process to fill. The Office of the Chairperson will work with the Quality Assurance Division Administrator to develop a strategic plan to identify key positions to be filled, particularly on the neighbor islands, to oversee the private service agencies contracted and to identify funding necessary to meet the objectives of the strategic plan.

Thank you for your analysis and constructive critique.

Sincerely,

A handwritten signature in black ink, appearing to read "Russell S. Kokubun", with a long horizontal flourish extending to the right.

Russell S. Kokubun, Chairperson  
Board of Agriculture