

JANET NAPOLITANO  
GOVERNOR



J. ART MACIAS, JR.  
DIRECTOR

## ARIZONA DEPARTMENT OF WEIGHTS AND MEASURES

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August 1, 2004

The Honorable Janet Napolitano  
Governor of the State of Arizona  
1700 West Washington, 9<sup>th</sup> Floor  
Phoenix, AZ 85007

Dear Governor Napolitano:

Pursuant to A.R.S. §41-2065A.22, please accept the attached as our required report of accomplishments for the Department of Weights and Measures covering the period of July 1, 2003 through June 30, 2004.

I am proud to communicate our accomplishments and major goals for the coming year. The citizens of Arizona can take pride in our dedicated team of public servants who place great emphasis on service. I share my staff's commitment to raise the level of service and efficiency by finding innovative ways to better meet the needs of our customers.

Please call me should you have any questions at (623) 463-9931.

Sincerely,

A handwritten signature in black ink that reads "J. Art Macias, Jr." in a cursive style.

J. Art Macias, Jr.  
Director



## ARIZONA DEPARTMENT OF WEIGHTS AND MEASURES

### ANNUAL REPORT July 1, 2003 through June 30, 2004

Prepared: July 2004

J. Art Macias, Jr., Director

Pursuant to A.R.S. §41-2065(A)(23), the Department is proud to publish its FY2004 major accomplishments as well as major goals for FY2005. Our accomplishments have been enhanced due to a continued flow of employee suggestions to improve efficiency and customer service and a greater emphasis on stakeholder involvement. During this fiscal year, our agency maintained a 20% vacancy rate in field inspection positions. However, despite these vacancies and teamed with our responsibility to cover a wide variety of statewide inspection programs with 17.5 FTE, we feel the following represents tremendous success in the public's interest:

#### Major accomplishments during FY2004 include:

1. Device compliance dropped for propane meters and taxicabs. Compliance rose for fuel dispensers, large and small capacity scales and timing devices. The increase in compliance was primarily due to enhanced enforcement in those programs that have not seen as many inspections in the past few years and the result was businesses returning to device maintenance agreements. For example, the three companies that were established last year to address fuel dispenser calibration report a booming customer base. The Department initiated assessment of civil penalties for device violations in favor of the retailer. The combination of increased civil penalties and Department presence has resulted in a general upward trend in compliance in the last quarter. It should be noted that timing device non-compliance is primarily due to prices not being posted.

2. Compliance rates for FY04 are:

Program	FY04 Compliance	% Change from FY03
Fuel Dispensers	91 %	+3 %
Large Scales	78 %	+3 %
Liquid Measuring – Propane	84 %	-6 %
Small Scales	93 %	+4 %
Taxis	80 %	-6 %
Timing Devices	50 %	+32 %

The increase in fuel dispenser and small-scale compliance rates may be attributed to the new maintenance-oriented businesses, which were formed last year in response to weighing and measuring device non-compliance. They have secured contracts with major oil companies and grocery chains to check commercial device calibration throughout the year.

3. The retail program, consisting of packaging, price verification and price posting, showed little or no improvement.

Program	FY04 Compliance	% changes from FY03
Packaging	95 %	+4 %
Price Verification	53 %	-3 %
Price Posting	69 %	-2 %

The package inspection program included 9,810 products audited, which was a 15% increase from last year's increased figures. The total number of pricing inspections dropped due to the cross

training of part time employees and a shift of those resources to reinforce our presence in the marketplace with regard to commercial devices.

Two major suppliers of poultry products have been invited by the Department to take part in a quality control training class on testing the net contents of packaged goods to further our commitment to partnering with industry. Animal feed and nursery seed remain to be two major areas of non-compliance. We have contacted our sister agencies in the jurisdictions where the packages are put up and requested point of pack inspections. In addition, businesses such as, Safeway, Bashas and Home Depot have voluntarily pulled short weight products, which were packed off-site, from their stock throughout the chain when notified by the Department of the violations. The rapport we have established through the voluntary education program and through partnering with industry has facilitated these corrections.

4. The Department conducted 1,625 Stage II vapor recovery inspections. Compliance dropped 2% for new site inspections but increased 6% for annual inspections. The compliance rate for the program overall increased by 2%. The compliance rate for compliance inspections or unannounced inspections of hanging hardware, underground storage tank components and required record keeping rose by 18%.
5. The fuel quality program reflected a reduction in the number of samples from rural areas primarily due to the focus on the CBG covered area and the fuel interruption. Sampling of AzCBG dropped also due to more inspections at the terminal in lieu of retail. The compliance rate dropped from 100% in FY03 to 95% in FY04. CBG audits were conducted at 12 refineries and third party terminals. Administratively, the Air and Fuel Quality Program Manager employs audit protocols exclusively for registered supplier and laboratory audits, which resulted in significant findings discovered during the audits. The development of an on-line registered supplier reporting system was also initiated, which included reconciliation of the database and resulted in less data entry for Department personnel.
6. The Department collected 1,093 fuel quality samples from throughout the State, including Area A, the CBG covered area. Fifty-eight (58) samples failed one or more fuel quality parameters. The Department saw an increase in the non-compliance rate last year. It appears to be the result of a Transporter issue. The Department has met with the Arizona Trucking Association to start the stakeholder process to come to consensus on a course of action to regulate the transporters to assign accountability for such errors as errant fuel drops and contamination of cargo tanks.
7. The Department verified the training of 6 Internal Revenue Service (IRS) Field Compliance Officers in the safe handling of gasoline samples taken from retail locations. The IRS considered the Department experts in this field due to our long and successful fuel quality program.
8. Two major oil companies installed software "bump technology" to their fuel dispensers to combat a dispenser indicating a cash sale prior to fuel being dispensed (meter jump).
9. The Department continued its corporate education program with industry representatives to enhance compliance through educational programs. Customized PowerPoint training seminars for corporate leaders and store managers focused on UPC scanning accuracy and price posting. Five corporations participated in the training this year, including K Mart, Eckerd Drugs, Albertson's Food and Drug, Bashas and Comp USA, with approximately 200 retail managers in attendance. To encourage long-term compliance solutions the Department continued to distribute the custom training CD that included the company's personalized seminar and the Top Ten Pricing Tips for UPC and Price Posting book. Retailers provided the Department with a blank CD and, in turn the Department provided a long-term training tool for the retailer's new hires at no cost to the Department. The Department continued its consumer education program and presented Consumer Awareness seminars to members of the Kiwanis and Rotary Clubs.
10. The Department began a student outreach program which included:

- Three Weights & Measures Day Events for 150 fourth grade students from elementary schools in both Phoenix and Tucson.
  - Two in class “Getting To Know Weights & Measures,” presentations for 25 high school seniors and 50 fourth grade students.
  - Weights and Measures 1/2 page article in a Junior High Civics Textbook.
  - Demonstrations were conducted for two fourth grade classes at PT Coe Elementary School, which included two package and scale inspection demonstrations in their school’s cafeteria. Students also learned the importance of the metric system and price posting issues.
11. A Registered Service Agency Technical Quarterly Bulletin was created and distributed via e-mail to inform the Registered Service Agency community of ways to improve device compliance. We designed a PowerPoint presentation for Registered Service Representative (RSR) training to ensure the information was complete and consistent, regardless of the trainer.
12. The average number of days to handle customer complaints dropped from 13 days to 10 days, while the number of complaints rose 44% to 2666. Consumer complaints were proven to be valid 23% of the time lending credibility to our public education program. Customer complaints also led to new areas of inspection: airport scales and moving van companies.
13. Public education is paramount in making the public aware of their consumer rights in the marketplace. Their feedback to both retailers and the Department contributes to compliance. During the fiscal year, two hundred and five (205) consumer awareness and investigative media story hits were recorded that targeted both Spanish and English consumers. These stories were featured in newspaper articles and aired on television and radio newscasts throughout Arizona. Note; the 205 hits do not include media coverage during the gasoline interruption. Total estimated positive publicity dollar value amounted to over \$3 million at no cost to the Department.
- For the first time, the Department partnered with Univision to air monthly “ADWM Consumer Tip of the Month” segments during their 5:00 pm and 10:00 pm newscasts. In its fourth year, Fox 10 provided the Department with a monthly 3-minute consumer awareness segment on their morning show. In addition, a total of 24 consumer tip stories aired this year. All stories are designed to educate consumers about their rights and the services the Department provides to the Arizona marketplace.
  - The Department also received free positive publicity from industry, TV networks and Associations with an estimated value of over \$25,000 at no cost, which included:
  - Safeway ran radio announcements regarding their support of the services that the Department provides, in 150 stores throughout Arizona from March 1- 7, 2004.
  - Bashas' advertised Weights & Measures week with the following support: Bag stuffers in 76 stores throughout the state from March 1-7. Bashas also ran in-store radio spot in all their stores from February 25<sup>th</sup> through March 9, 2004
  - Albertson’s hosted a Weights & Measures Day event at their 19<sup>th</sup> Ave and Northern location in Phoenix and provided promotional items for the students and a \$200 gift certificate to the participating school. Albertson’s also included a promotional advertisement of their support of Weights & Measures in the February 27<sup>th</sup> and March 5<sup>th</sup> Arizona Republic Newspaper.
  - Win Oil Company posted flyers at gas stations they operate in Flagstaff, Sedona, Parker, Lake Havasu, Camp Verde, Williams, Kingman, Payson, Yuma, and Phoenix
  - Fry’s Food & Drug Store advertised Weights & Measures week with bag fliers given to all customers who visited their stores and a two-week in-store radio advertisement that ran February 25<sup>th</sup> through March 9<sup>th</sup>. Fry’s also created and displayed posters for their Phoenix and Tucson stores.
  - A total of 17 retail trade magazine articles were recorded this year. Both the Arizona Food Marketers Alliance and the Arizona Retailers Association dedicated entire issues of their magazine and newsletter, respectively, to the Department.

- The website was completely redesigned, using internal resources, to provide easier navigation and more information to both the consumer and business communities. PowerPoint training presentations were also added, as well as a complaint form.
  - The Department also hosted two Arizona Small Business Association workshops at no cost to the Department and participated in the first Hispanic Small Business Forum sponsored by the Department of Commerce, with over 2,000 participants.
14. The Department continued its taxi sticker program to quickly locate taxicabs that were not licensed with the Department. The taxi sticker (license) was designed to be posted in the rear window of each licensed cab. The number of licensed taxicabs continues to grow. Since this program was so successful, the Department approached ADOT to co-sponsor legislation to allow the Department to deny a taxi device license if proper MVD plates and commercial insurance requirements were not proven. (HB2458) The taxi industry, enforcement agencies and city governments endorsed the legislation. The statutory changes will take effect January 1, 2005 and will also include elimination of fares based on odometers and require price posting on the exterior of the vehicles. The legislative hearings created continued heightened interest from the media and industry.
15. The Department was also instrumental in responding to the fuel supply interruption incident resulting from the Kinder Morgan pipeline between Phoenix and Tucson. The Department relied upon its favorable rapport with industry to compile data regarding fuel supply, pipeline shipments and station outages.
16. The Metrology Laboratory was accredited by NIST/NVLAP to ISO 17025 and received a NIST traceability certificate for 2004. The lab certified 4,996 Registered Service Agency standards and 897 Department standards. In addition, the lab certified 1,171 standards for industry and participated in the review of 6 NIST/SWAP Round Robin Interlaboratory Comparisons. Administratively, the Metrologist developed and issued new procedure manuals and held a quality assurance training class for those interacting with her laboratory. Additionally, the NIST Weights and Measures Division (WMD) provided funding of \$7500 to develop a Gravimetric Lab. This offered a unique opportunity to help establish and set up a de-ionized water system to provide a large, adequate source of water with sufficient purity for gravimetric calibrations. This water source will be used to calibrate SVP/Large volume provers and provide special calibrations for NIST/WMD. Arizona is only one of three laboratories in the country to participate in this program.
17. Productivity and budget improvements were reported by staff in many areas.

**Information Technology**

- Inventoried workstations
- Investigated and resolved basic IT problems
- Completed annual IT Plan Performance report
- Completed annual IT Plan (PARIS)
- Completed annual IT Inventory (ISIS)
- Supervised installation of new SMTP Gateway Mail server to better deal with spam/virus issues and increase security
- Launched new CTU database and continue to work with programmer to refine program
- Prepare weekly and monthly off-site data storage
- Kept network and workstations updated and protected from viruses and worms
- Attended seminar on Network Security and Wireless Connectivity
- Met with Gene Martel (GITA) and Matt Taylor (IBM) to discuss e-Government and online payments
- Met with Shanna Chalker (GITA) to discuss website design and install [AZ@yourservice](mailto:AZ@yourservice) on our website
- Edited, corrected and reorganized new website in preparation for launch

- Finalized design of and took staff photos at departmental meeting for new ID badges.
- Launched new website January 9, 2004
- Installed and deployed ASAP e-Smart asset inventory program to ensure proper software licensing and allow hardware/software tracking and inventory
- Redesigned setup and upgraded media presentation equipment.
- Working with the National Conference on Weights and Measures to assist them with their survey and website redesign
- Assisted with new web-based e-newsletter
- Attended Advanced Arizona Website Standards training
- Collected delinquent invoices totaling \$29,457 over a 5-month period.
- Assisted with assessing civil penalties on failure codes 403, 406, 407 and 408
- Updated Public Records Request Form and Procedures

#### **Facility**

- Completed weekly and monthly security reports
- Updated agency telephone system, automated attendant and CCR tree
- Installed automatic light switches in restrooms and labs

#### **Loss Prevention**

- Routinely hold Loss Prevention Committee meetings
- Staff member Attends quarterly Risk Management meetings
- Updated Loss Prevention Policy
- Attended MVD training for review of staff driving records
- Reviewed staff driving records with Loss Prevention Committee
- Had all fire extinguishers inspected and repaired/recharged where needed
- Attended Risk Management "Office Safety Academy"
- Ordered ergonomic equipment for computer users

#### **Compliance**

- Creation and implementation of an "Enhanced Industry Partnership Program in which officers walk a store to point out potential violations at no risk to the retailer.
- Transitioned the main enforcement and licensing database to a web-based application, which is running, and being evaluated. The new application will streamline data entry, reduce research time and allow for inspection data to be transitioned to the website for public view.
- 5 additional FTE being trained in Vapor Recovery allowing better coverage and additional compliance testing.
- Shifted accounting resources to assist in increased licensing activity, but continued to process travel, vendor and payroll in a 1.6-day average turnaround.
- Enhanced delinquency collections by utilizing the database to create aging reports
- Enhanced refinery compliance through internal audit protocols, established and conducted by our Air and Fuel Quality Manager, who has a background in auditing.
- Moved an inspector from Pima County to Glendale to begin training as a Metrologist to prepare for the retirement of current state metrologist.
- Continuing the supervision of field inspectors with one supervisor
- Inspectors continue to share motel rooms when in travel status for less than 3 days.
- Inspector Judy Hedding, prepared a grade 5 through 9 educational presentations to heighten the awareness of Weights and Measures at the grammar/middle school level.

#### **Fuel Quality**

- We conducted fuel quality compliance sampling on the fringes of both areas A and B. Data indicated that there was some non-compliance in area B.

- We conducted fuel quality sampling outside of areas A and B to develop fuel quality baseline for the remainder of the state. The data indicates that fuel quality compliance in the outlying areas is a problem.
- As a result of problems identified outside of area A and B, we evaluated the three transmix facilities located in Arizona. We found that two of the facilities were a major contributor to the non-compliant fuel found outside of areas A and B.
- Extensive efforts were made this year to develop a stronger working relationship with a number of federal, state, and local agencies. Efforts have paid off with intergovernmental agreements currently in development with a number of agencies.
- We completed a review of the RFGSA data, refinery reported data and the Department's sampling data, for the summer period to evaluate the data for consistency. The results of the data review indicate that the fuel found in Maricopa County is not representative of eth fuel being reported by the refineries nor is it representative of the fuel samples being collected by the RFGSA.
- This year we initiated a stakeholder process to review both rules and statutes governing the CBG program. The stakeholder process will make recommendations to the Director as to changes to the rules and statutes to help clarify and better implement the CBG program. The stakeholder process will also help in the development of a compliance assistance program through the development of Q&A, guidance and procedures.
- We conducted 12 CBG audits including 4 independent laboratory quality system audits. We also developed a quality checklist for conducting these quality audits of the independent labs.
- We collected 512 samples in the CBG area to determine fuel quality compliance. Additionally, we collected 581 samples outside area A.

#### **Air Quality**

- Staff completed the critical review of the vapor recovery program and identified potential program improvements.
  - This year the Air and Fuel Quality Manager completed basic vapor recovery training conducted by CARB. This allowed him to set a basis for evaluating the vapor recovery program.
18. Device licensees continue to receive their licenses within an average of 5 days compared to the 30 day required timeframe.
19. Employees continue to excel on a personal level, which increases professionalism and a credit to the state.
- Dennis Ehrhart served as Chairman of the Board of Directors for the National Conference on Weights and Measures (NCWM). He also signed an historic Mutual Acceptance Arrangement with Measurement Canada on behalf of the NCWM. The arrangement deals with the acceptance of test data for the evaluation of commercial devices by nationally recognized laboratories.
  - DeeAnn Deaton, PIO, created a document "Strategic Planning for a NCWM National Media Campaign" and was adopted as part of the NCWM Board of Director's Report at the 89<sup>th</sup> Annual NCWM meeting.
  - DeeAnn Deaton was a featured guest speaker at the Tucson Chamber of Commerce Good Morning Tucson event with approximately 110 members in attendance.
  - During the fuel interruption DeeAnn and Systems Administrator, April Jones, maintained a report on the percentage of gasoline stations open and dispensing fuel. Major and independent gasoline distributors were contacted daily to obtain this information for the Governors daily address to the media.
  - Duane Yantorno, Air and Fuel Quality Manager, is Chairman for the three working groups, which will recommend legislative and regulatory changes to eh Stakeholder Advisory Committee created by Director Macias.

- Shawn Marquez, Field Compliance Supervisor, was featured on UPN 45 Sunday Morning hosted by Kari Lake.
- Al Poe worked with the Apache County sheriff's Posse to aid in evacuation of the northern cities affected by wild fires.

**Major Goals for FY2005 include:**

1. Enhancement of voluntary compliance through implementation of the following:
  - Focus on the registered service representatives (RSR's) to ensure that they are installing and repairing measuring devices accurately. This will include expanding the quarterly bulletin for RSR's as ongoing education and enhancing RSR applications and tests, which is no available on line.
  - Focus on devices that have not been inspected for more than 4 years and increase licensing of timing devices, petroleum loading rack meters, and vehicle mounted metering systems.
  - Expand and improve education and inspection programs in rural communities.
  - Enhance stakeholder activity to determine which department processes and rules are appropriate.
  - Increase gas quality testing at the terminals and from transporters.
  - Continue targeting package types and Arizona packers not previously inspected.
  - Continue inspection of retail locations for price posting violations, including expansion of the locations not previously inspected. This will include initiating a mass mailing campaign to the members of the new segment of the retail community, which we will visit for the first time (including new Arizona retailers) as well as alerting mall management prior to inspecting retailers within their property.
  - Continue to emphasize identification of new businesses.
  - Focus on re-inspection of violators using an escalated time frame.
  - Train inspectors on conducting corporate education seminars.

Fuel Quality

  - Continue to evaluate fuel quality data for the different areas in the State, including the summer survey data from the RFGSA.
  - Work with other Federal, State and local agencies to address fuel quality issues outside the CBG and area B fuel quality areas.
  - Conduct 15 CBG audits of registered suppliers.

Air Quality

  - Implement the Vapor Recovery rule changes and both RSA and RSR requirements.
  - Implement Vapor Recovery program changes identified in the critical review process.
  - Evaluate CARB EVR phase and their applicability to Arizona's program.

Administration

  - Track program costs and identify cost improvements.

Issue Management

  - Work on the Governor's Fuel Working Group to implement the recommendations of the Essential Services Taskforce.
2. Implementing new taxi legislation and the licensing of vapor recovery contractors due to administrative rule changes.
3. Eliminate delinquencies more than 60 days old by combining field collections with inspection duties.

4. Implement registered service agency and public weighmaster record keeping audits.
5. Continued exploration of on-line licensing and payments and other interactive programs.
  - Complete CTU database program making data entry and reporting easier for users
  - Continue to work with other agencies to increase efficiency and interagency cooperation
  - Maintain high level of network and facility security
  - Increase use of technology to create a more efficient workplace (including field staff)
6. Targeting consumer education through;
  - Continuing the “Tip of the Month” morning show segments with Fox 10 and Univision.
  - Producing, promoting and distributing three Spanish and English television PSAs (Note: Univision has agreed to cover all production costs).
  - Coordinate and host the 48<sup>th</sup> Annual Western Weights and Measures Association Technical Conference.
  - Designing an insert for the Sales Tax licensing packet provided to new businesses by the Department of Revenue.
  - Increasing association member awareness by developing stories for the Better Business Bureau, Arizona Food Marketing Alliance, Southwest Automotive Trade Alliance, Arizona Retailers Association and all Chambers of Commerce in Arizona.
  - Expanding consumer education targeting seniors, rural communities and joint projects with other state agencies.
  - Identify more educational opportunities in the Spanish-speaking communities and develop a better translation network in-house.
  - Participating in Univision’s “Back to School” campaign by providing 2000 students with ADWM “Smart Shoppers Write Down Prices” pencils.