



Greene County

Consumer Protection: Accuracy of Weights and Measures

S9-24-1 | September 2024

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Report Highlights

Greene County

Audit Objective

Determine whether the Greene County (County) Department of Weights and Measures (Department) completed required testing of all weighing and measuring devices used to price goods and whether complete records were maintained.

Key Findings

The Director of Weights and Measures (Director) did not complete all required testing of weighing and measuring devices or maintain complete records. Further, we could not determine whether all consumer complaints were investigated. Specifically:

- Twenty-one of 108 devices that we reviewed were not inspected as required.
- There was no system in place to maintain a complete and accurate master list of businesses or update the inventory of devices. As a result, the Department’s master list of 203 businesses did not contain all retail businesses located within the County, including an apothecary and a car wash.
- Eleven of 13 complaints did not include documentation to show the results of the Director’s investigation.

Key Recommendations

- Perform required testing to help ensure all weighing and measuring devices are tested in accordance with Agriculture and Markets regulations.
- Maintain complete records, including an inventory of businesses and consumer complaints.

County officials agreed with our findings and indicated they plan to initiate corrective action.

Audit Period

January 1, 2022 - September 30, 2023

Background

The County, located in the Capital region, is governed by an elected 14-member Board of Legislators (Legislature).

The appointed County Administrator (Administrator) is responsible for the overall administration of County government at the Legislature’s direction.

The Director is responsible for the day-to-day operations of the Department.

| Quick Facts | |
|---|-----------|
| County Population | 48,000 |
| Number of Devices ^a | 1,338 |
| Businesses on Department Master List ^b | 203 |
| Department Budget | |
| Revenues | \$15,200 |
| Expenditures | \$111,672 |

a) As reported in the Department’s 2022 Annual Report
b) As provided by the Department

Accuracy of Weights and Measures

New York State's weights and measures program is a cooperative effort of State and local offices enforcing article 16 of the New York State Agriculture and Markets Law (AML). The New York State Department of Agriculture and Markets' State Bureau of Weights and Measures (Bureau) has jurisdiction over the State for the enforcement and monitoring of compliance with the statutory requirements related to weights and measures as set forth in the AML.

In accordance with the AML, each county should have a weights and measures inspection function (department). County departments are responsible for inspecting and testing weighing and measuring devices used commercially to ensure the devices accurately weigh or dispense commodities in correct amounts, as well as testing packaged commodities to verify the accuracy of vendor pricing. The AML also gives the county department's director (director) the authority to inspect and test fuel octane ratings.

Although counties are permitted to pass their own local laws relating to weights and measures, the AML requires each director to submit an Annual Report of work completed each year to the Bureau. In addition, certain records are to be maintained by the director, including:

- A complete record of any establishments that utilize commercial weighing and measuring devices in their jurisdiction (by type of device),
- A file composed of devices inspected, and
- A complete record of all complaints received, and results of complaints investigated by the department.

Additionally, counties have the authority to establish and collect fees for weights and measures inspections, with maximum fee levels set by the New York State Department of Agriculture and Markets. If fees are charged, the county is required to maintain a complete record, by device classification, of all fees collected.

How Should Departments Help Ensure Consumers Are Protected?

Department directors should implement procedures to provide reasonable assurance that the county is adequately protecting consumers by conducting all required device inspections. These procedures should include:

- Annually reviewing a master list of businesses located within the county and updating the inventory of all scanning, weighing and measuring devices used at each business that are required to be annually inspected,
- The periodic testing of gasoline and diesel fuel octane ratings,

-
- Evaluations of businesses' progress remedying any noted deficiencies, and, if appropriate, any enforcement actions, and
 - To record all consumer complaints received, as well as record the results of the complaints that were investigated.

Departments may also elect to develop processes for retesting devices that failed inspection, and testing new or replacement devices installed by businesses.

Additionally, county directors are authorized by the AML to perform retail price accuracy testing at any retail business within the county to help ensure retail stores are accurately pricing goods. If price accuracy testing is conducted, the AML specifies that 98 percent of items in a selected sample should be accurately priced. Directors may impose civil penalties when testing does not meet the standard specified in the AML.

Testing Was Not Always Completed and Records Were Not Complete

The Director did not test all required devices, implement a system to maintain a complete and accurate master list of businesses or update the inventory of devices required for inspection. Additionally, the Director did not maintain complete records of all complaints or the results of any subsequent investigations.

Inspections – We reviewed inspection documentation and performed site visits at 20 establishments and identified 108 commercial weighing and measuring devices that were required to be tested during the audit period, including:

- Computing and platform scales,
- Vehicle scales,
- Linear measuring devices,¹
- Petroleum pumps, and
- Timing devices.²

The Director did not test or have documentation for 21 of the 108 devices we identified that required testing, including:

- Sixteen timing devices,
- Two linear measuring devices,
- Two weighing devices, and
- One vehicle scale.

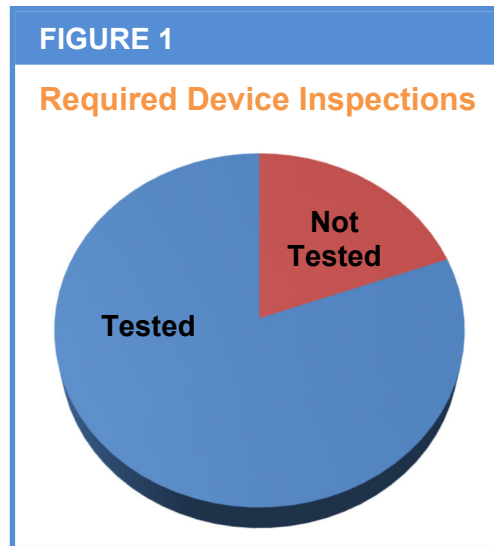
1 Linear measuring devices are those that involve a single dimension in a straight line (e.g., the length of rope or wire in a hardware or home improvement store).

2 A timing device involves a transaction in which the consumer purchases a predefined amount of time (e.g., a dryer in a laundromat).

Although the other 87 devices were tested, these 21 untested devices represent 19 percent of all required device inspections in our sample (Figure 1).

The Director told us:

- He generally does not test timing or linear devices unless there is a complaint because he prioritized testing other devices, such as gas pumps and scales.
- When he was available to inspect a scale at one business it was closed for the season. He also was unaware of a scale located at another business.
- He relied on the Bureau to test the vehicle scale because the County does not have the equipment required to perform the test. However, the Director did not retain any documentation to support that the Bureau's inspection of the vehicle scale had occurred.



According to regulations developed in conjunction with the AML, each of the untested devices should have been tested annually.³

During the audit period, the Director also collected 198 samples from retail fuel pumps to ensure fuel octane ratings were accurate. We reviewed 15 samples and determined the octane rating was at least equal to the amount reported on the pump for all 15 tests. The Department received approximately \$5,000 for fuel octane testing during the audit period because the County participates in a grant program administered by the Bureau that allows the Director to submit for reimbursement for the cost of the fuel tests.

Inventory List – The Director did not maintain a complete list of businesses subjected to weights and measures testing. Although the Director adds businesses he finds when he is driving to locations to conduct testing to a master list of businesses with weighing and measuring devices, there is no reliable process to help ensure the master list is up to date. We identified two of the five businesses we visited with a scale or timing devices that were not included on the Department's master list of 203 businesses. One business, an apothecary in operation since 2021, the Director thought did not utilize any measuring devices

³ New York Codes of Rules and Regulations (NYCRR) Section 220.5

and the second business, a car wash, had timing devices which he typically did not test. Finally, the list contained 20 duplicate business entries.

The Director told us he inherited the master list from a previous Director and does not have time to maintain the list because of more critical duties, such as device testing. The Administrator told us the towns within the County do not notify County officials or departments when a business opens or closes within their town.

Complaints – The Director reported 13 complaints received in 2022. However, we were unable to determine the results of the complaints investigated because the Director did not retain documentation or the results of his investigations for 11 complaints. We reviewed the documentation for the two complaints and determined the Director resolved them.

The Director told us he calls consumers who submit complaints and informs them of the results of his investigation. He also told us he does not document the results of the complaints and investigations because most are unfounded. At the conclusion of our fieldwork the County instituted a new mechanism to track and monitor complaints.

Price Accuracy Testing – Periodic price accuracy testing helps protect consumers by ensuring displayed prices are charged accurately. In May 2000, the Legislature adopted a Local Law to ensure accurate pricing for consumer goods and delegated responsibility of enforcement to the Director. However, the Local Law does not specify when or how often to conduct such tests.

In February 2023 the Bureau notified the Director that two businesses could be charging inaccurate prices for goods. The Director performed price accuracy testing and both businesses failed to meet the 98 percent accuracy requirement, with accuracy of the samples tested at 66 and 92 percent. The Director did not conduct any other price accuracy inspections during the audit period.

The Director told us that he retested one business and the sample complied with the accuracy requirements, however no documentation was retained to support the retest or accuracy compliance. He was unable to perform a retest at the other business because the store was destroyed in a fire on April 6, 2023. The Director also told us generally he does not perform price accuracy inspections because the tests are time-consuming, and he does not have time to complete them with his other responsibilities.

Consumers are at risk of paying more than necessary for purchases when all weighing and measuring devices are not inspected annually to help ensure these devices are in working order, complaints are not investigated and resolved or when complete records are not maintained. In addition, as shown in the results of the Bureau-directed price accuracy testing, inaccurate pricing of commodities has a direct impact on consumers.

What Do We Recommend?

County officials should:

1. Work with other local governments in the County to develop a system to notify the Department when a new business is opened.

The Director should:

2. Perform weights and measures testing to help ensure all weighing and measuring devices are tested in accordance with regulations set forth by the New York State Department of Agriculture and Markets.
3. Maintain complete records, including:
 - A master list of businesses and up-to-date inventory of devices used for pricing accuracy, weighing and measuring, and
 - A complete log of all consumer complaints with the results of any investigations.
4. In consultation with legal counsel, develop and implement procedures for price accuracy testing pursuant to the Local Law.

Appendix A: Response From County Officials



**Office of the
County Administrator**

411 Main Street
Suite 408
Catskill, New York 12414

Shaun S Groden
County Administrator



July 2, 2024

██████████
Office of State Comptroller
Division of State Government Accountability
110 State Street
Albany, New York 12236

**RE: Greene County – Consumer Protection: Accuracy of Weights and Measures
Report of Examination – S9-24-1 - Appendix A – Response From County Officials**

Dear ██████████

Greene County Weights and Measures has reviewed the Office of the New York State Comptroller's (OSC) findings titled, "Consumer Protection: Accuracy of Weights and Measures".

The Greene County Department of Weights and Measures' responses to OSC recommendations are as follows:

Recommendation 1: Perform weights and measures testing to help ensure all weighing and measuring devices are tested in accordance with regulations set forth by the New York State Department of Agriculture and Markets.

Response to Recommendation 1: As a result of this recommendation, we have undertaken an initiative in which we have begun cross-training with neighboring counties to confirm pricing accuracy and package testing.

Recommendation 2: Maintain complete records, including:

- a. A master list of businesses and up-to-date inventory of devices used for pricing accuracy, weighing, and measuring.

Response to Recommendation 2a: While we agree with the significance of maintaining a master list, it has proven to be a cumbersome exercise in which data accuracy cannot be confirmed. Greene County is open to working with other counties and appropriate State Agencies in developing a path forward to produce a master list that demonstrates utility and accuracy.

- b. A complete log of all consumer complaints with the results of any investigations.

Response to Recommendation 2b: Regarding complaints, we have developed an electronic complaint form which can be located on the Greene County website by [Clicking HERE](#).

Recommendation 3: In consultation with legal counsel, develop and implement procedures for price accuracy testing pursuant to the Local Law.

Response to Recommendation 3: As a result of this finding, we have begun to have conversations with the Greene County Attorney regarding the development and implementation of procedures that are consistent with Local Law.

We appreciate the opportunity to demonstrate the efforts Greene County Weights & Measures makes to ensure the accuracy of products that consumers in Greene County receive. Furthermore, we found this audit and its associated recommendations to be constructive in identifying ways to enhance the delivery of our services.

Sincerely,

Shaun S. Groden
County Administrator

cc: Lance Fischer, Weights & Measures

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www.greene.gov/administrator

Appendix B: Audit Methodology and Standards

We conducted this audit pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the New York State General Municipal Law. We obtained an understanding of internal controls that we deemed significant within the context of the audit objective and assessed those controls. Information related to the scope of our work on internal controls, as well as the work performed in our audit procedures to achieve the audit objective and obtain valid audit evidence, included the following:

- We selected the County from a list of all counties (excluding NYC counties) and not currently in the Office of the State Comptroller's audit process at the time of selection. We stratified counties into three bands based on sales tax revenue reported in the 2021 fiscal year and judgmentally selected counties from these bands. Our selection considered geographic region for an even representation of counties across the State for this multi-unit audit.
- We interviewed County staff and reviewed local laws and policies to gain an understanding of the County's Weights and Measures program.
- We reviewed the Department's master list of businesses and the County's 2022 annual report to the Bureau to determine whether the Department's reported information was reasonable.
- We selected five businesses located within County limits and attempted to trace these to the Department's master list and selected five businesses from the master list and visited these locations to determine whether the master list was accurate and complete.
- We selected 20 out of 203 businesses recorded on the Department master list to determine whether required devices were annually inspected. Using a representative sample based on the business categories listed in the County's 2022 annual report, we selected a judgmental sample from the different categories reported, omitting categories of a seasonal nature or for medical privacy concerns. We reviewed inspection records and physically observed devices at businesses.
- Using a non-biased judgmental sample, we selected 15 out of 198 fuel octane tests recorded on petroleum product sampling reports and compared to third party lab reports to determine whether tests conformed with standards. We also reviewed County reimbursement forms to determine whether the Department submitted octane testing costs to the Bureau.
- We reviewed the 2022 annual report and all documentation for the results of price accuracy testing conducted within the County for the audit period.
- We reviewed the 2022 annual report and all documentation for consumer complaints, if available to determine whether the Director resolved the complaints.

We conducted this performance audit in accordance with generally accepted government auditing standards (GAGAS). 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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Unless otherwise indicated in this report, samples for testing were selected based on professional judgment, as it was not the intent to project the results onto the entire population. Where applicable, information is presented concerning the value and/or size of the relevant population and the sample selected for examination.

The Legislature has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and provided to our office within 90 days, pursuant to Section 35 of General Municipal Law. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. We encourage the Legislature to make the CAP available for public review in the County Clerk's office.

Appendix C: Resources and Services

Regional Office Directory

www.osc.ny.gov/files/local-government/pdf/regional-directory.pdf

Cost-Saving Ideas – Resources, advice and assistance on cost-saving ideas

www.osc.ny.gov/local-government/publications

Fiscal Stress Monitoring – Resources for local government officials experiencing fiscal problems

www.osc.ny.gov/local-government/fiscal-monitoring

Local Government Management Guides – Series of publications that include technical information and suggested practices for local government management

www.osc.ny.gov/local-government/publications

Planning and Budgeting Guides – Resources for developing multiyear financial, capital, strategic and other plans

www.osc.ny.gov/local-government/resources/planning-resources

Protecting Sensitive Data and Other Local Government Assets – A non-technical cybersecurity guide for local government leaders

www.osc.ny.gov/files/local-government/publications/pdf/cyber-security-guide.pdf

Required Reporting – Information and resources for reports and forms that are filed with the Office of the State Comptroller

www.osc.ny.gov/local-government/required-reporting

Research Reports/Publications – Reports on major policy issues facing local governments and State policy-makers

www.osc.ny.gov/local-government/publications

Training – Resources for local government officials on in-person and online training opportunities on a wide range of topics

www.osc.ny.gov/local-government/academy

Contact

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<https://www.osc.ny.gov/local-government>

Local Government and School Accountability Help Line: (866) 321-8503

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[osc.ny.gov](https://www.osc.ny.gov)

