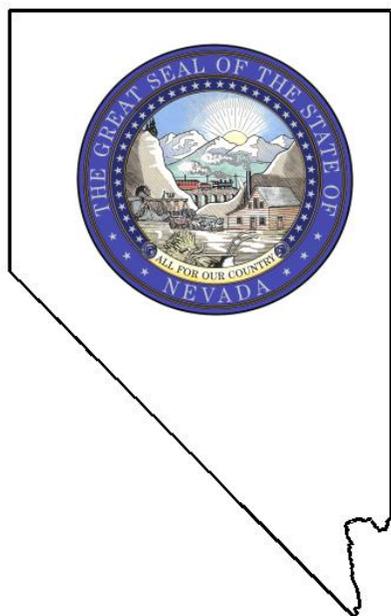


STATE OF NEVADA

Performance Audit

Department of Public Safety
State Fire Marshal Division

2013



Legislative Auditor
Carson City, Nevada

Audit Highlights



Highlights of performance audit report on the State Fire Marshal Division issued on January 7, 2014. Legislative Auditor Report # LA14-09.

Background

The State Fire Marshal Division was created within the Insurance Division of the Department of Commerce in 1965 and moved to the Department of Motor Vehicles and Public Safety in 1993. The Division's mission is to protect life, property, and the environment from fires and hazardous materials in the State of Nevada. This is accomplished through the development and application of fire codes and standards, fire prevention education, fire service training, fire protection engineering, licensing, and permitting. In addition, the Division performs investigative and enforcement services delivered directly or in coordination with the public safety community.

In fiscal year 2013, the Division had 21 employees located in its Carson City, Elko, and Las Vegas offices. The Division's operating account had over \$3 million in revenues, including \$676,000 in appropriations and over \$1.5 million in fees. Fiscal year 2013 expenditures totaled \$2.6 million.

The Division is responsible for permitting and regulating hazardous materials within the State. Hazardous material facilities permitted by the Division include businesses that store substances which could threaten the health and safety of the public. As of June 2013, the Division had 5,170 facilities with hazardous material permits.

Purpose of Audit

The purpose of this audit was to evaluate the Division's permitting and licensing processes, and controls over revenue collections. Our audit focused on the Division's activities for the 12-month period ending March 31, 2013, and included permitting activities up to June 2013.

Audit Recommendations

This audit report contains three recommendations to improve the hazardous materials program and internal controls over revenues.

The Division accepted the three recommendations.

Recommendation Status

The Division's 60-day plan for corrective action is due on April 3, 2014. In addition, the six-month report on the status of audit recommendations is due on October 3, 2014.

State Fire Marshal Division

Department of Public Safety

Summary

Many businesses that store hazardous materials have not been identified and permitted in accordance with program requirements. As a result, the Division has not been able to achieve equitable regulation of the hazardous materials program. With increased efforts by the Division to identify hazardous material facilities and enforcement assistance from local governments, we estimate the Division could collect an additional \$250,000 in annual permit fees. Identifying and permitting facilities that store hazardous materials is required by federal and state laws to help ensure public safety. Similar problems were identified during our audit in 2007; however, implementation of prior audit recommendations was not sustained. Therefore, the Division needs to develop efficient and effective procedures to identify and permit businesses storing hazardous materials, and improve guidance to help businesses understand reporting requirements.

The Division collected and deposited fees in accordance with state requirements. We tested about 40% of the Division's fee receipts and found payments were deposited timely, permit payments were properly recorded, and fee adjustments were proper. Although staff properly deposited and recorded the money collected, improvements can be made to the Division's internal controls regarding separation of duties.

Key Findings

The Division has not identified and permitted many businesses that are highly likely to store hazardous materials, resulting in inequitable regulation of the hazardous materials program. From our review of 16 types of businesses, 1,686 of 3,895 facilities (43%) did not have a required permit. With increased efforts by the Division to identify hazardous material facilities and enforcement assistance from local governments, we estimate the Division could collect an additional \$250,000 in annual permit fees. Collection of permit fees is used to fund programs to train firefighters and help protect the public. Similar weaknesses were identified during our audit in 2007; however, procedures developed in response to our audit were not currently in use. (page 7)

The Division needs to develop efficient and effective methods to help identify facilities storing hazardous materials. Our audit focused on reviewing types of facilities that were highly likely to need a hazardous materials permit. We researched the internet and obtained information available from state and local agencies to identify specific facilities. We also queried the Division's database to determine whether each facility had a permit. During our audit, the State Fire Marshal was very helpful and open to suggestions for improving the program. The Division is currently working on improving the permitting process using the state's business portal. (page 11)

Many businesses with a hazardous materials permit do not understand what types and quantities of hazardous materials should be reported. Some businesses report chemicals when not required, and other businesses underreport hazardous materials. As a result, hazardous materials information is not always correct and some facilities may waste resources reporting unnecessary information. Confusion regarding reporting requirements stems from three main issues: (1) International Fire Code requirements are difficult to understand, (2) guidance by the Division is not sufficient, and (3) some of the Division's information is inaccurate or outdated. (page 13)

The Division has licensed fire protection businesses as required by state law. This includes businesses which service, install, or sell fire extinguishers, fire alarm systems, or fire sprinkler systems. We tested 40 fire protection businesses identified from internet searches and found all 40 were licensed by the Division. Furthermore, we called five businesses with expired licenses and confirmed a license was no longer needed. During fiscal year 2013, the Division collected over \$550,000 in licensing fees. (page 17)

The Division has not adequately separated the duties of staff processing hazardous materials permit payments. The same employee records payments in the hazardous materials database and makes the bank deposit. In addition, reconciliations are not performed between permit payments received and amounts deposited by someone independent of the receipt and deposit process. Without adequate separation of duties, including periodic reconciliations of permit payments to deposits, the Division is at risk funds could be misappropriated. Internal controls are important in this area since the Division processed over \$1.4 million in hazardous material payments in fiscal year 2013. This amount includes approximately \$900,000 in hazardous material fees collected for the State Emergency Response Commission. (page 18)

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This report contains the findings, conclusions, and recommendations from our performance audit of the Department of Public Safety, State Fire Marshal Division. This audit was conducted pursuant to the ongoing program of the Legislative Auditor as authorized by the Legislative Commission. The purpose of legislative audits is to improve state government by providing the Legislature, state officials, and Nevada citizens with independent and reliable information about the operations of state agencies, programs, activities, and functions.

This report includes three recommendations to improve the hazardous materials program and internal controls over revenues. We are available to discuss these recommendations or any other items in the report with any legislative committees, individual legislators, or other state officials.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paul V. Townsend".

Paul V. Townsend, CPA
Legislative Auditor

October 11, 2013
Carson City, Nevada

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Introduction

Background

The State Fire Marshal Division was created within the Insurance Division of the Department of Commerce in 1965 and moved to the Department of Motor Vehicles and Public Safety in 1993. The Division's mission is to protect life, property, and the environment from fires and hazardous materials in the State of Nevada. This is accomplished through the development and application of fire codes and standards, fire prevention education, fire service training, fire protection engineering, licensing, and permitting. In addition, the Division performs investigative and enforcement services delivered directly or in coordination with the public safety community.

Bureaus and Responsibilities

The Division's four bureaus and responsibilities include:

Investigations and Enforcement – Performs fire origin and cause investigations as well as arson investigations; enforces fire laws, codes, and regulations; and performs annual fire safety inspections.

Fire Protection Engineering and Inspections – Performs non-structural fire and life safety building plan reviews, building construction inspections, annual fire and life safety inspections, and code interpretations.

Fire Protection Licensing, Permitting, and Data – Responsible for issuing licensing and certificate of registrations to fire protection industry companies and individuals who perform State Fire Marshal regulated activities and work, issues permits for the storage of hazardous materials and manages the Nevada Combined Hazardous Materials database, and collects fire department incident data for the National Fire Incident Reporting System.

Fire Service Training and Certification – Provides firefighting, rescue, incident management, and hazardous materials training and certification.

The Division also has an administration section which provides overall administrative guidance and management to the organization; and develops, approves, and adopts minimum fire codes and standards.

Staffing and Budget

In fiscal year 2013, the Division had 21 employees located in its Carson City, Elko, and Las Vegas offices. The Division's operating account had over \$3 million in revenues, including \$676,000 in appropriations. The Division collected over \$1.5 million in fees from licenses, certificates, building plan reviews, specialized license plates, hazardous material permits, and other program fees. Fiscal year 2013 expenditures totaled \$2.6 million. At the end of the year, excess revenues of \$348,000 were reverted to the General Fund. Exhibit 1 summarizes the Division's revenues and expenditures in its operating account for fiscal year 2013.

Revenues and Expenditures Fiscal Year 2013

Exhibit 1

Revenues	Amount
Fees	\$1,548,864
Transfers From Other Agencies ⁽¹⁾	745,886
State Appropriations	675,897
Federal Funds	22,184
Balance Forward From Prior Year	9,082
Total Revenues	\$3,001,913
Expenditures	
Personnel	\$1,682,955
Operating	402,231
Training (includes statewide firefighter programs)	346,265
State Cost Allocations	139,158
Information Services	53,069
Travel	8,293
Total Expenditures	\$2,631,971

Source: State accounting system.

Note: Exhibit includes only the State Fire Marshal Division's Operating Account, Budget Account 3816.

⁽¹⁾ Includes transfers from the State Emergency Response Commission and the Division of Environmental Protection to be used for hazardous materials training.

Hazardous Materials Program

The Division is responsible for permitting and regulating hazardous materials within the State. Because of the inherent ability to cause death, injury, and damage to property, hazardous materials require reasonable controls for handling and use.

Hazardous material facilities permitted by the Division include businesses that store substances which could threaten the health and safety of the public. Examples include designated quantities of fuels, paints, gases, and toxic chemicals. As of June 2013, the Division had 5,170 facilities with hazardous material permits. Exhibit 2 shows the number of hazardous material facilities per county.

**Number of Hazardous Material Facilities
As of June 2013**

Exhibit 2

County	Number of Facilities
Carson City	247
Churchill	132
Clark	2,308
Douglas	153
Elko	294
Esmeralda	12
Eureka	39
Humboldt	131
Lander	78
Lincoln	45
Lyon	203
Mineral	39
Nye	145
Pershing	55
Storey	46
Washoe	1,168
White Pine	75
Total	5,170

Source: State Fire Marshal Division records.

NRS 477.045 requires businesses that store hazardous materials to obtain a permit from the State Fire Marshal. NAC 477.281 adopts the 2006 International Fire Code setting forth the thresholds for reporting hazardous materials. In addition, under the Federal Superfund Amendments and Reauthorization Act (SARA Title III), the State is responsible for collecting information from facilities about the use and storage of extremely hazardous materials.

State regulations require that hazardous material reports be submitted annually. An online hazardous materials reporting system allows businesses to complete and submit their information online or through regular mail. Each permitted facility is charged a \$150 annual fee. Of this amount, \$60 is deposited to a State Emergency Response Commission (SERC) budget account, the Contingency Account for Hazardous Materials. The remaining \$90 is deposited to a State Fire Marshal budget

account. Additional fees are assessed if designated quantities of extremely hazardous materials, listed under SARA Title III, are stored.

To enforce these laws, the Division partnered with SERC to create a database to record quantities, types, and locations of chemicals stored by permitted facilities. The data is then used by local fire departments and Local Emergency Planning Committees (LEPCs) to assist with emergency planning activities. Pursuant to the Emergency Planning and Community Right-to-Know Act, SERC is to designate planning districts within the State and appoint LEPCs to coordinate the activities of each county.

Permitting facilities that store hazardous materials helps to ensure public safety and fund Division operations. For example, permit fees help fund hazardous material training programs for emergency responders. In addition, information collected during the permit renewal process helps ensure emergency responders have accurate information when responding to an incident.

Scope and Objectives

This audit is part of the ongoing program of the Legislative Auditor as authorized by the Legislative Commission, and was made pursuant to the provisions of NRS 218G.010 to 218G.350. The Legislative Auditor conducts audits as part of the Legislature's oversight responsibility for public programs. The purpose of legislative audits is to improve state government by providing the Legislature, state officials, and Nevada citizens with independent and reliable information about the operations of state agencies, programs, activities, and functions.

In 2011, the Legislature approved the operational integration of the State Fire Marshal Division, Division of Emergency Management (DEM), Homeland Security, and the State Emergency Response Commission (SERC). This working relationship was approved during the budget process and was intended to create efficiencies in service delivery. As structured, the State Fire Marshal would also serve as the Deputy Chief to the Divisions. Staff of the Fire Marshal Division would continue to report to the State Fire Marshal, and DEM and Homeland Security staff would report to the Administrative Chief of DEM. SERC staff

were organizationally included within the State Fire Marshal Division. However, the budget accounts for the Divisions and SERC remain separate. For the purposes of this audit, we have included only those programs under the day-to-day oversight of the State Fire Marshal. Therefore, the operations of DEM, Homeland Security, and SERC are not included as part of this audit.

This audit focused on the Division's activities for the 12-month period ending March 31, 2013, and included permitting activities up to June 2013. Our audit objectives were to evaluate the Division's permitting and licensing processes, and controls over revenue collections.

Weaknesses Continue to Exist in the Hazardous Materials Program

Many businesses that store hazardous materials have not been identified and permitted in accordance with program requirements. As a result, the Division has not been able to achieve equitable regulation of the hazardous materials program. With increased efforts by the Division to identify hazardous material facilities and enforcement assistance from local governments, we estimate the Division could collect an additional \$250,000 in annual permit fees. Identifying and permitting facilities that store hazardous materials is required by federal and state laws to help ensure public safety. Similar problems were identified during our audit in 2007; however, implementation of prior audit recommendations was not sustained. Therefore, the Division needs to develop efficient and effective procedures to identify and permit businesses storing hazardous materials, and improve guidance to help businesses understand reporting requirements.

Many Businesses With Hazardous Materials Have Not Been Identified

The Division has not identified and permitted many businesses that are highly likely to store hazardous materials, resulting in inequitable regulation of the hazardous materials program. From our review of 16 types of businesses, 1,686 of 3,895 facilities (43%) did not have a required permit. With increased efforts by the Division to identify hazardous material facilities and enforcement assistance from local governments, we estimate the Division could collect an additional \$250,000 in annual permit fees. Collection of permit fees is used to fund programs to train firefighters and help protect the public. Similar weaknesses were identified during our audit in 2007; however, procedures developed in response to our audit were not currently in use.

State regulations require any person who stores, transports on-site, dispenses, uses, or handles hazardous materials in excess of the amount listed in the 2006 International Fire Code (Fire Code) to report chemicals and obtain a hazardous materials permit. The Fire Code identifies permit quantities for many types of hazardous materials including combustible liquids, explosives, flammables, and toxic materials. Hence, any business with a quantity of hazardous materials over the stated amounts must obtain a permit. For instance, certain types of automotive antifreeze are toxic with a reportable quantity of 10 gallons. Therefore, any automotive repair facility having over 10 gallons of new or used toxic antifreeze must obtain a permit.

Facilities submitting hazardous materials reports are subject to annual fees which are used to help protect the public. Permit fees are used to train emergency responders to handle hazardous material incidents and to provide information on hazardous materials to the local fire authorities. Extremely hazardous material fees are used to support planning, training, and equipment purchase activities for Local Emergency Planning Committees within each county. These activities are coordinated by the State Emergency Response Commission. Fees are also used for maintaining a database which stores hazardous material report data. This data is used to support local emergency personnel in planning for and responding to emergencies at or near the reporting facilities.

We tested 16 types of facilities that typically possess quantities of hazardous materials requiring a permit. Appendix A, on page 19, shows examples of hazardous materials commonly found at the facilities we tested. Our testing identified 1,686 of 3,895 facilities (43%) did not have a permit. Based on the annual permit fee of \$150, we estimate about \$250,000 in annual revenue was not collected. Exhibit 3 summarizes the results of our testing.

Facilities Without a Permit As of June 2013

Exhibit 3

Facility Type	Number of Facilities Identified	Number of Facilities Without a Permit	Percent of Facilities Without a Permit	Estimated Uncollected Permit Fees
Aircraft Engine Maintenance and Repair	26	18 ⁽¹⁾	69%	\$ 2,700
Auto Maintenance and Repair	1,128	617 ⁽¹⁾	55%	92,550
Boat Engine Maintenance and Repair	34	27 ⁽¹⁾	79%	4,050
Dry Cleaners (cleaning done on premises)	129	116	90%	17,400
Explosive Manufacturers	4	0	0%	0
Gas Stations and Retail Fueling Sites	1,178	346	29%	51,900
Golf Courses	89	62	70%	9,300
Heating Oil Suppliers	16	6	38%	900
Hospitals and Outpatient Facilities	67	38	57%	5,700
Hotel Casinos (100+ rooms and pool/spa)	120	55	46%	8,250
Paint Stores and Retail Stores With Paint	121	17	14%	2,550
Propane Companies, Dispensing, and Sales	589	144	24%	21,600
Skilled Nursing Facilities	45	37	82%	5,550
Tire Stores With Auto Maintenance and Repair	219	108 ⁽¹⁾	49%	16,200
Welding Shops and Supplies	130	95	73%	14,250
Totals	3,895	1,686	43%	\$252,900

Source: Auditor analysis of internet Yellow Pages and US Directory searches, and facility listings from other state agencies.

⁽¹⁾ The number of facilities shown is 90% of the facilities identified without a permit. This reduction was based on discussions with fire officials and estimates that about 90% of all engine repair facilities would need a hazardous materials permit.

Schools that store hazardous materials are also required to have a permit. As of June 2013, the Division had permitted 141 schools. Although we identified 583 schools (K-12, colleges, and universities), this population is difficult to analyze without conducting numerous on-site inspections. Therefore, we excluded this facility type from our estimates. Based on discussions with the Division, schools may store hazardous materials at shared storage sites rather than at their facility. Management indicated that high schools are likely to need a permit; however, elementary schools may not need a permit.

The Fire Code requires all fuel dispensing stations to be permitted because of the flammable and combustible liquids stored. As shown in Exhibit 3, we identified 346 of 1,178 (29%) gas stations and retail fueling sites without a permit. We analyzed this information by county and found that noncompliance was

widespread throughout the State. Exhibit 4 shows the number of gas stations by county we identified without a permit.

**Gas Stations Without a Permit
As of June 2013** **Exhibit 4**

County	Number of Facilities Identified	Number of Facilities Without a Permit	Percent of Facilities Without a Permit	Estimated Uncollected Permit Fees
Carson City	31	3	10%	\$ 450
Churchill	17	5	29%	750
Clark	711	227	32%	34,050
Douglas	22	7	32%	1,050
Elko	49	13	27%	1,950
Esmeralda	2	1	50%	150
Eureka	4	2	50%	300
Humboldt	24	7	29%	1,050
Lander	9	1	11%	150
Lincoln	9	3	33%	450
Lyon	31	9	29%	1,350
Mineral	8	5	63%	750
Nye	36	13	36%	1,950
Pershing	10	3	30%	450
Storey	1	0	0%	0
Washoe	195	41	21%	6,150
White Pine	19	6	32%	900
Totals	1,178	346	29%	\$51,900

Source: Auditor analysis of Department of Agriculture facility listing, internet Yellow Pages and US Directory searches.

Note: Gas stations primarily include retail fueling sites, many of which are located at convenience stores and other businesses.

As shown in Exhibits 3 and 4, the Division has been unable to achieve equitable regulation of the hazardous materials program. Some facilities consistently comply with annual permit requirements and others do not. Although it is not reasonable to expect 100% compliance, the Division should work toward ensuring most businesses with hazardous materials comply with program requirements.

To assist the Division, we provided staff with electronic spreadsheets listing the name, address, and phone number of all

facilities we identified that did not have a permit. This information should save the Division significant resources in its efforts to identify businesses storing hazardous materials.

The Division will also need assistance from local governments to enforce the permit requirements. Pursuant to NRS 477.030, hazardous material regulations apply throughout the State; however, the State Fire Marshal's authority to enforce them does not extend to a county whose population is 100,000 or more, or to a consolidated municipality. This would include the counties of Carson City, Clark, and Washoe, and all municipalities within those counties. Therefore, the Division only has direct responsibility for about 16% of the facilities we identified without a permit, or \$40,350 in uncollected fees. Management explained that they will work with city and county representatives to educate staff and support the local enforcement of the state's hazardous materials permit requirements.

Implementation of Prior Audit Recommendations Not Sustained

The Division did not sustain its efforts to identify and permit businesses storing hazardous materials since our last audit. In 2007, we recommended developing policies and procedures to ensure the process for identifying facilities requiring a hazardous materials permit is efficient and effective. In response to our recommendation, the Division developed policies and procedures in February 2008; however, these were not currently in use.

Efficient and Effective Methods Needed to Identify Businesses Storing Hazardous Materials

The Division needs to develop efficient and effective methods to help identify facilities storing hazardous materials. Our audit focused on reviewing types of facilities that were highly likely to need a hazardous materials permit. We researched the internet and obtained information available from state and local agencies to identify specific facilities. We also queried the Division's database to determine whether each facility had a permit. During our audit, the State Fire Marshal was very helpful and open to suggestions for improving the program. The Division is currently working on improving the permitting process using the state's business portal.

Internet Searches – We found internet searches to be a valuable source for identifying facilities likely to store hazardous materials. During our testing, we used the Yellow Pages and US Directory websites for identifying facilities. Although internet searches provided a good start for identifying facilities, we found the information was not always up to date. Therefore, we called many facilities to ensure they were still in business.

State Agency Business Listings – We used business listings from the following state agencies to help identify certain types of facilities.

- **Department of Agriculture** – Gas Stations and Retail Fueling Sites
- **Department of Health and Human Services** – Hospitals, Outpatient, and Skilled Nursing Facilities
- **Department of Education** – Schools
- **Board for the Regulation of Liquefied Petroleum Gas** – Propane Companies, Dispensing, and Sales

After discussing these sources of information with the Division, management indicated they will research the information available from other state agencies to help them identify facilities needing a state hazardous materials permit. During our audit, the State Fire Marshal was helpful in identifying the list of propane facilities available through the Nevada Board for the Regulation of Liquefied Petroleum Gas.

Information From Local Governments – Cities such as Las Vegas and Henderson have similar hazardous materials permit programs, and this information could be used by the Division. For example, we tested the City of Henderson's listing of facilities with a hazardous materials permit and found 16 of 25 facilities (64%) did not have a hazardous materials permit from the State Fire Marshal. The City of Henderson provides the Division periodic listings of facilities with a city hazardous materials permit. However, the Division did not use these listings to identify businesses needing a state hazardous materials permit.

Division Plans to Use State's Business Portal – The Division indicated they are working on improving the permitting process by using the state's business portal. The Secretary of State developed the Nevada Business Portal to facilitate a one-stop shop where entities incorporated in the State could seamlessly transact all their state business without having to visit several different agencies. The Division is working with the Secretary of State's Office to be included in this online tool. For example, when a company indicates on its business license application that they have hazardous materials, the portal will inform the applicant of additional permit requirements through the State Fire Marshal Division. Although this process is in its early stages, it would be another valuable source for identifying facilities storing hazardous materials.

Efficient Use of Hazardous Materials Database – The Division's analysis of facilities can also be improved with the efficient use of its hazardous materials database. During our testing, we queried the database to determine the types of businesses permitted and whether certain facilities were permitted. Division staff were not utilizing the database's ability to provide downloadable spreadsheets. These spreadsheets can be used to quickly sort and search data to analyze permitted facilities. By training staff on the capabilities of the system, efficiencies could be realized in analyzing data and improving management information.

Many Permitted Facilities Do Not Know What Hazardous Materials to Report

Many businesses with a hazardous materials permit do not understand what types and quantities of hazardous materials should be reported. Some businesses report chemicals when not required, and other businesses underreport hazardous materials. As a result, hazardous materials information is not always correct and some facilities may waste resources reporting unnecessary information. Confusion regarding reporting requirements stems from three main issues: (1) International Fire Code requirements are difficult to understand, (2) guidance by the Division is not sufficient, and (3) some of the Division's information is inaccurate or outdated.

Some facilities underreport hazardous materials, whereas other facilities overreport. For example, one automotive repair business

reported less than one gallon of flammable paint. When we visited this facility, Division staff identified a large quantity of unreported flammable paint and supplies, and several other types of hazardous materials. In contrast, one elementary school reported 51 different hazardous materials. From our review of 10 chemicals reported, 7 did not meet the requirements for reporting. Additionally, we found high schools reported a wide range in the number of chemicals stored, as shown in Exhibit 5.

**Hazardous Materials Reported by High Schools Exhibit 5
As of June 2013**

Number of High Schools Reporting	Total Chemicals Reported
6	1
4	2 to 5
11	6 to 10
7	11 to 15
7	16 to 20
4	21 to 25
3	26 to 30
4	31 to 71

Source: State Fire Marshal Division records.

Note: Combined schools with grades K-12 were excluded from the exhibit.

Because each chemical requires a separate page to report information such as the chemical name, hazard classification, material type, daily and average inventories, and storage location; resources are wasted when gathering and reporting unnecessary information.

Reporting Requirements Are Difficult to Understand – Businesses are required to report hazardous materials in excess of the amount stated in the 2006 Fire Code; however, the code contains technical language that can be difficult to understand. Although the Division has instructions on how to use its online reporting system, and its website has links to other websites, reporting is difficult for individuals that do not have some hazardous materials experience. For example, one school separately reported each type of air freshener as an explosive. The Fire Code indicates

that explosives are materials with the primary or common purpose of which is to function by explosion, such as dynamite.

To accurately report hazardous materials, individuals need a basic understanding of how to interpret the Material Safety Data Sheet (MSDS) which is received with the materials. In addition, individuals must be able to classify the material types and convert the material into pounds, if necessary. Further, each material classification has a quantity threshold for reporting purposes.

Guidance for Reporting Is Not Sufficient – The Division can improve its guidance to help facilities better understand the types and quantities of materials that should be reported. This could include examples of how to interpret the MSDS data, understand hazard ratings, properly classify materials, and determine reportable quantities. In addition, the Division should consider preparing customized information for certain facility types, listing common chemicals and reportable quantities.

Division's Information Is Inaccurate or Outdated – The Division's website provides guidance to businesses regarding the quantity of hazardous materials requiring a permit. We reviewed these quantities and found inconsistencies when compared to the 2006 Fire Code. For instance, the website indicated oxygen was a flammable gas with any quantity requiring a permit. However, the Fire Code classifies oxygen as an oxidizing gas with a permit required for quantities exceeding 504 cubic feet. After discussing several errors with the Division, management updated the website guidance for reporting quantities. Although corrections have been made, the Division should review other lists, such as its chemical conversion table, to ensure the lists are in accordance with current requirements.

Recommendations

1. Develop policies and procedures for efficiently and effectively identifying and permitting facilities requiring a hazardous materials permit.

-
2. Update the Division's website to provide more comprehensive information and user-friendly guidance on the hazardous materials permit requirements.

Fire Protection Businesses Properly Licensed

The Division has licensed fire protection businesses as required by state law. This includes businesses which service, install, or sell fire extinguishers, fire alarm systems, or fire sprinkler systems. We tested 40 fire protection businesses identified from internet searches and found all 40 were licensed by the Division. Furthermore, we called five businesses with expired licenses and confirmed a license was no longer needed.

NRS 477.033 requires the Division to license fire protection businesses. The Division may perform inspections, conduct examinations, or hold hearings before issuing a license. State law allows the Division to charge a reasonable fee for issuing the license. Fire protection businesses are charged annual license fees up to \$440 for each license classification. During fiscal year 2013, the Division collected over \$550,000 in licensing fees.

The Division's process for identifying businesses requiring a license has improved since our last audit. In 2007, we recommended the Division develop policies and procedures to identify and license fire protection businesses. In response to our recommendation, the Division currently utilizes new licensee reports from the State Contractors Board to identify new businesses which may perform fire protection services.

Fees Deposited Properly

The Division collected and deposited fees in accordance with state requirements. We tested about 40% of the Division's fee receipts and found payments were deposited timely, permit payments were properly recorded, and fee adjustments were proper. Although staff properly deposited and recorded the money collected, improvements can be made to the Division's internal controls regarding separation of duties.

Separation of Duties Can Be Improved

The Division has not adequately separated the duties of staff processing hazardous materials permit payments. The same employee records payments in the hazardous materials database and makes the bank deposit. In addition, reconciliations are not performed between permit payments received and amounts deposited by someone independent of the receipt and deposit process.

Without adequate separation of duties, including periodic reconciliations of permit payments to deposits, the Division is at risk funds could be misappropriated. Since only one employee is involved in recording permit fees and making the deposit, the Division lacks controls to provide assurance that all permit payments received have been deposited. Internal controls are important in this area since the Division processed over \$1.4 million in hazardous material payments in fiscal year 2013. This amount includes approximately \$900,000 in hazardous material fees collected for the State Emergency Response Commission.

The Division's written policies and procedures do not adequately separate the duties of staff and do not mention the reconciliation process. NRS 353A.020 requires agencies to segregate duties to safeguard the assets of the agency. In addition, state agencies are required to develop revenue procedures which include segregating receipt, deposit, and reconciling duties; and reconciling receipts to amounts deposited.

Recommendation

3. Enhance policies and procedures to ensure duties over processing hazardous material permit payments are segregated, including reconciling payments received to amounts deposited.

Appendix A

Hazardous Materials Commonly Found at Facilities Tested

Auto, Aircraft, and Boat Engine Maintenance and Repair

- Antifreeze
- Flammable and Combustible Paints, Paint Thinners, and Body Fillers
- Flammable Windshield Washer Fluids
- Gasoline
- Various Flammable and Combustible Liquids and Solvents
- Various Waste Oils and Fluids
- Welding Gases and Supplies

Dry Cleaners

- Various Flammable and Combustible Cleaning Solvents

Explosive Manufacturers

- Explosives and Explosive Materials

Gas Stations and Retail Fueling Sites

- Antifreeze
- Flammable Fuels
- Flammable Windshield Washer Fluids

Golf Courses

- Battery Acid and Electrolytes
- Certain Types of Fertilizers
- Gasoline, Diesel, and Propane

Heating Oil Suppliers

- Heating Fuels

Hospitals, Outpatient Facilities, and Skilled Nursing Facilities

- Generator Fuels
- Liquid Bleach and Toxic Cleaning Products
- Medical Gases
- Various Flammable and Combustible Liquids Used for Medical Care

Appendix A

Hazardous Materials Commonly Found at Facilities Tested (continued)

Hotel Casinos

- Flammable and Combustible Solvents and Cleaners
- Gasoline, Propane, and Generator Fuels
- Liquid Bleach
- Pool Chemicals and Corrosives

Paint Stores and Retail Stores With Paint

- Aerosols
- Flammable and Combustible Lacquer, Thinners, and Solvents
- Flammable Paints

Propane Companies, Dispensing, and Sales

- Propane

Schools

- Flammable and Combustible Solvents and Cleaners
- Flammable and Combustible Floor Finish, Lacquer, and Thinners
- Gasoline and Propane
- Liquid Bleach and Corrosive Agents
- Toxic Lab Chemicals and Cleaning Products

Welding Shops and Supplies

- Various Flammable and Combustible Solvents, Thinners, and Paints
- Welding Gases

Source: Auditor compiled based on hazardous material reports, site visits, and discussions with Division staff.

Appendix B

Audit Methodology

To gain an understanding of the State Fire Marshal Division, we interviewed staff and reviewed statutes, regulations, and policies and procedures. We also reviewed financial information, the prior audit report, legislative committee minutes, and other information describing the activities of the Division. Furthermore, we documented and assessed the Division's internal controls over permitting and licensing programs, and revenue collections.

To evaluate the Division's permitting and licensing processes, we reviewed state laws and regulations pertaining to each program. For the hazardous materials program, we also reviewed the 2006 International Fire Code. We discussed the interpretation of the code for various chemicals with management, staff, and a local government fire inspector. We then obtained a listing of hazardous material facilities permitted with the State Fire Marshal. We reviewed and analyzed this listing to identify 16 types of businesses highly likely to store hazardous materials. This analysis included using the North American Industry Classification System (NAICS) code reported by each business.

Using internet searches and business listings maintained by other state agencies, we then identified the approximate population of each of the 16 types of businesses and entered each facility's contact information in a database. We downloaded this information into spreadsheets for testing and traced each facility to the listing of hazardous material facilities permitted with the State Fire Marshal. For selected facilities that did not have a permit, we verified whether the facility was still in business. The amount of uncollected revenue was calculated by multiplying the number of facilities that were not permitted by the \$150 annual permit fee.

Next, we obtained a listing of facilities with inactive permits, randomly selected 50, and called each facility to verify a permit

was no longer needed. We also obtained a listing of businesses with a City of Henderson hazardous materials permit, randomly selected 25, and verified whether the business was also permitted with the State Fire Marshal.

For the fire protection licensing program, we identified four high risk types of fire protection companies to test based on discussions with staff. We identified the approximate population of each type of company located in Clark and Washoe Counties. From these populations, we randomly selected 40 businesses and verified the business was licensed with the State Fire Marshal. We then obtained a listing of businesses with expired licenses from the four high risk types of fire protection companies previously determined and called five to verify a license was no longer needed.

To evaluate controls over the Division's revenue collections, we determined the periods throughout the year in which the Division received a majority of its fees. Using these time periods, we judgmentally selected a sample of 25 daily receipt logs based on the daily volume of receipts. We reconciled each receipt log to deposit documentation to ensure all payments were deposited timely in accordance with state law. For receipt logs containing hazardous material permit payments, we also reconciled each payment to the Division's hazardous materials database and reviewed the propriety of fee adjustments made in the database on the corresponding day.

Our audit work was conducted from January to August 2013. We conducted this performance audit in accordance with 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 obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

In accordance with NRS 218G.230, we furnished a copy of our preliminary report to the State Fire Marshal and Director of the Department of Public Safety. On October 1, 2013, we met with

agency officials to discuss the results of the audit and requested a written response to the preliminary report. That response is contained in Appendix C which begins on page 25.

Contributors to this report included:

Tammy A. Goetze, CPA
Deputy Legislative Auditor

Rocky J. Cooper, CPA, MBA
Audit Supervisor

Janz Nino M. Pena, MS
Deputy Legislative Auditor

Appendix C

Response From the State Fire Marshal Division

Brian Sandoval
Governor



James M. Wright
Interim Director

Peter J. Mulvihill, P.E.
State Fire Marshal

State Fire Marshal Division

Stewart Facility
107 Jacobsen Way
Carson City, NV 89711
(775) 684-7501 • Fax (775) 684-7518

October 8, 2013

Mr. Paul V. Townsend, Legislative Auditor
State of Nevada
Legislative Counsel Bureau
401 South Carson Street
Carson City, NV 89701-4747

Dear Mr. Townsend:

It was a pleasure meeting you and your staff on October 1, 2013 in our offices where we discussed the draft copy of the Performance Audit Report on the Department of Public Safety, State Fire Marshal Division.

I appreciated the opportunity to provide input during our October 1st meeting and thank you and your staff for considering that input in the revised draft report.

We also have received the revised draft report conveyed on October 2, 2013.

I believe the recommendations contained in the draft report provide valid suggestions for this Division's operation and can be accomplished in a reasonable time frame.

In closing, I would like to recognize your staff working on this audit. They were very professional and pleasant to work with at all times.

Sincerely,

Peter J. Mulvihill, P.E.
Chief, State Fire Marshal Division
Nevada Department of Public Safety

Attachment (1)

Copy: James M. Wright, Director, Department of Public Safety
Jackie Muth, Deputy Director, Department of Public Safety
Patrick Bowers, Administrative Services Officer, State Fire Marshal Division
Mark Teska, Administrative Services Officer, Department of Public Safety

Administrative Services • Capitol Police • Criminal Justice Assistance • Emergency Management • Homeland Security
Emergency Response Commission • State Fire Marshal • Investigations • Highway Patrol • Office of Traffic Safety • Parole and Probation
General Services • Board of Parole Commissioners • Training • Office of Professional Responsibility

State Fire Marshal Division's Response to Audit Recommendations

<u>Recommendations</u>	<u>Accepted</u>	<u>Rejected</u>
1. Develop policies and procedures for efficiently and effectively identifying and permitting facilities requiring a hazardous materials permit	<u>X</u>	<u> </u>
2. Update the Division's website to provide more comprehensive information and user-friendly guidance on the hazardous materials permit requirements.....	<u>X</u>	<u> </u>
3. Enhance policies and procedures to ensure duties over processing hazardous materials permit payments are segregated, including reconciling payments received to amounts deposited.....	<u>X</u>	<u> </u>
TOTALS	<u><u>3</u></u>	<u><u> </u></u>