# Table of Contents


**CHAPTER III – NATURAL RESOURCES AND TRANSPORTATION** .................................................. **1**

Disclosure Issues .................................................................................................... 1

Department of Agriculture #11-21 ........................................................................... 2

Department of Environmental Quality #12-16 .......................................................... 3

The Alternative Energy Revolving Loan Program #12P-08 ...................................... 4

State Revolving Fund #11-25A ................................................................................ 6

Montana Water Pollution Control and Drinking Water State Revolving Fund Programs #10-29B ................................................................................ 7

Department of Fish, Wildlife and Parks #11-18 ........................................................ 8

Department of Livestock #11-22 .............................................................................. 9

Department of Natural Resources and Conservation #12-17 .................................. 10

Board of Oil and Gas Conservation Regulatory Program #11P-04 ......................... 11

Department of Transportation #11-17 .................................................................... 13

The Highway Safety Improvement Program #12P-07 ............................................ 14

Controls Over Dyed Diesel Use in Montana #11P-01 ............................................ 15

# Chapter III – Natural Resources and Transportation

## Disclosure Issues

In addition to the recommendations included in audit reports for state agencies, audit reports may also include disclosure issues. Disclosure issues are items of which the Legislative Auditor believes the legislature should, but may not be, aware. They include situations where the law may not directly address the issue, where spending by state agencies might be inconsistent with what appears to be the intent of the legislature or where amounts on the state's accounting records might not be accurate. The disclosure issues listed below are included in reports for the agencies addressed in this section.

There were no disclosure issues for agencies included in this section.

Montana Legislative Audit Division

# Financial-Compliance Audit
# Department of Agriculture
## For the Two Fiscal Years Ended June 30, 2011

October 2011 11-21 Report Summary

The department of Agriculture's State Grain Lab deposits revenue weekly, even though its level of collections requires more frequent deposits.

## Context

The Department has 124.5 employees and is organized under three divisions; Agricultural Sciences Division, Agricultural Development Division, and Central Services Division. Expenditures totaled approximately $25.9 and $24.6 million in fiscal years 2011 and 2010 respectively. Approximately 10 percent of the Department's funding is derived from the General Fund, while over 50 percent of the funding is generated primarily from Licenses and Permits and Taxes on Agricultural Products. Another 30 percent is derived from Charges for Services for the Hail Insurance Program.

## Results

There is one recommendation resulting from our audit.

The State Grain Lab (SGL) had not deposited collections in compliance with state law. The SGL bills and collects payment for the testing services provided to grain producers and elevators. We found the SGL is depositing their collections weekly while state law requires deposits to be made on a timelier schedule.

| Recommendation Concurrence | |
|---|---|
| Concur | 1 |
| Partially Concur | 0 |
| Do Not Concur | 0 |
| **Source: Agency audit response included in final report.** | |

For a complete copy of the report (11-21) or for further information, contact the Legislative Audit Division at 406-444-3122; e-mail to lad@mt.gov; or check the web site at http://leg.mt.gov/audit
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Montana Legislative Audit Division

# Financial-Compliance Audit
# Department of Environmental Quality
## For the Two Fiscal Years Ended June 30, 2012

December 2012 12-16 Report Summary

The Department of Environmental Quality (DEQ) administers environmental protection and enhancement efforts of the state of Montana. As an agency created and empowered by the legislature to encourage the maintenance of a clean and healthful environment mandated by the Constitution, DEQ monitors environmental conditions, issues permits and evaluates permit compliance for activities with defined impacts on the environment. DEQ also works to ensure remediation of environmental damage in Montana and enforces the state's environmental laws. The four recommendations in the report focus on improving compliance with state laws and policy regarding accounting for certain department operations.

## Context

DEQ promotes environmental quality through programs to promote air quality; improve water supply, wastewater, and solid waste disposal infrastructure; regulate the discharge of pollutants by issuing permits and assessing compliance with the conditions of the permits; enforce the environmental laws of the state; and encourage remediation and reclamation at the sites of past natural resource damages.

## Results

The report recommends DEQ limit the encumbrance of current budget authority for expenditure in future years to valid obligations as defined in state accounting policy. Another section recommends excess money in the hard-rock mining debt services fund be transferred to a related special revenue fund where the resources can be invested and used as directed by state law. Other issues address compliance with regulations regarding the pricing of storm water permits and the accounting fund placement of the abandoned mine land reclamation account required by state law.

| Recommendation Concurrence | |
|---|---|
| Concur | 4 |
| Partially Concur | 0 |
| Do Not Concur | 0 |

**Source: Agency audit response included in final report.**

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Montana Legislative Audit Division

# Performance Audit
# The Alternative Energy Revolving Loan Program
## Department of Environmental Quality

November 2012 12P-08 Report Summary

**The Department of Environmental Quality (department) should comply with existing administrative rules and program policy to ensure that the over $5 million of state and federal funds loaned out by the program results in the continued development of alternative energy in Montana.**

## Context

The Alternative Energy Revolving Loan Program (AERLP) was established by the Montana Legislature in 2001 to provide a financing option to Montana homeowners, small businesses, nonprofits and government entities to install alternative energy systems. Alternative energy systems can take many different forms, including energy derived from other sources such as solar, wind, geothermal, and biomass. The program has historically been funded by air quality violation penalties collected by the department for environmental enforcement activities. However, the department also directed approximately $1.2 million in federal funds to supplement the program from the department's stimulus funding under the 2009 American Recovery and Reinvestment Act. These state and federal funds jointly comprise a revolving loan fund for the program. Since inception of the program, in 2001, the department has loaned out over $5 million, approving 259 loans through the program.

During our review, we determined that the department should improve program compliance for the program. Audit work identified the need for the department to complete environmental reviews prior to executing a service agreement and releasing program funds. In addition, we noted that the department does not follow administrative rules or program policy regarding project verification to ensure projects are built and funds used for their intended purposes. We also determined the department does not collect information on system performance as required by administrative rules and program policy. During our review, we determined that department staff recognized these instances of noncompliance and were taking steps to actively address our findings.

## Results

Audit recommendations address the need for the department to strengthen compliance for the program. Recommendations include:

- Completing an environmental review prior to executing a service agreement;
- Verifying project completion, including a final accounting of loan expenditures, photo verification, and site visits; and
- Collecting information from loan recipients on an annual basis regarding system performance and reliability.

*(continued on back)*

| Recommendation Concurrence | |
|---|---|
| Concur | 3 |
| Partially Concur | 0 |
| Do Not Concur | 0 |

**Source: Agency audit response included in final report.**

For a complete copy of the report (12P-08) or for further information, contact the
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Montana Legislative Audit Division

# Financial Audit
# Montana Water Pollution Control and Drinking Water State Revolving Fund Programs
## For the Fiscal Year Ended June 30, 2011

January 2012 | 11-25A | Report Summary

At June 30, 2011, the total outstanding loan principle for the Montana Water Pollution Control and Drinking Water State Revolving Fund programs exceeded $322 million. Water pollution control loans are funded 83.33 percent by federal Environmental Protection Agency (EPA) capitalization grants, and 16.67 percent by state match. Drinking Water Programs are funded approximately 80 percent by federal EPA capitalization grants, and 20 percent by state match.

## Context

The State Revolving Fund (SRF) programs provide reduced interest rate loans for the construction of waste water pollution treatment facilities and drinking water treatment facilities. The programs are jointly administered by the Department of Natural Resources and Conservation and the Department of Environmental Quality. The Department of Natural Resources and Conservation has requested an annual financial audit as required by the federal Environmental Protection Agency.

The SRF programs have loaned funds to many public entities across the state. The five largest borrowers are Billings, Bozeman, Big Sky, Kallispell, and Great Falls. The total outstanding loan principal for these borrowers for the two programs equaled $98.3 million at June 30, 2011.

## Results

This report contains no recommendations and contains an unqualified opinion. Financial statement users can rely on the information in the financial statements and notes.

| Recommendation Concurrence | |
|---|---|
| Concur | 0 |
| Partially Concur | 0 |
| Do Not Concur | 0 |
| **Source: Agency audit response included in final report.** | |

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MONTANA LEGISLATIVE AUDIT DIVISION

FINANCIAL AUDIT

# Montana Water Pollution Control and Drinking Water State Revolving Fund Programs

For the Fiscal Year Ended June 30, 2010

FEBRUARY 2011 10-29B REPORT SUMMARY

In early 2009, the U.S. Congress passed the American Recovery and Reinvestment Act (ARRA). The State of Montana Water Pollution Control and Drinking Water State Revolving Fund (SRF) programs received approximately $38,000,000 of ARRA funds for the fiscal years 2008-09 and 2009-10. There were 64 projects funded from the Federal ARRA funds received.

## Context

The SRF programs provide reduced interest rate loans for the construction of waste water pollution treatment facilities and drinking water treatment facilities. The programs are jointly administered by the Department of Natural Resources and Conservation and the Department of Environmental Quality. The Department of Natural Resources and Conservation has requested an annual financial audit as required by the federal Environmental Protection Agency.

The SRF programs have loaned funds to many public entities across the state. The largest loans are to Big Sky, Kalispell, Great Falls, Bozeman, Helena, and Billings. At June 30, 2010, the total outstanding loan principal for the two programs exceeded $287 million.

## Results

This report contains no recommnedations and contains an unqualified opinion. Financial statement users can rely on the information in the financial statements and notes.

| Recommendation Concurrence | |
|---|---|
| Concur | 0 |
| Partially Concur | 0 |
| Do Not Concur | 0 |
| Source: Agency audit response included in final report. | |

# Montana Legislative Audit Division

## Financial-Compliance
# Department of Fish, Wildlife and Parks
## For the Two Fiscal Years Ended June 30, 2011

October 2011 11-18 Report Summary

The department spent over $116 million and $112 million in fiscal years 2011 and 2010 respectively. The main sources of funding are licenses, permits, and federal awards. The department does not receive General Fund appropriations. Our audit report contains recommendations to the department regarding internal controls and compliance with state and federal laws. Recommendations relate to land acquisitions, reporting theft, monitoring changes in state law that affect the department, Big Horn Sheep auction proceeds, and untimely deposits.

## Context

The department controls 320 fishing access sites and 54 state parks, issues hunting and fishing licenses, and oversees fish and wildlife preservation programs, enforcement activities, land acquisitions, and community education programs. The five-member Fish, Wildlife and Parks Commission sets fish and wildlife regulations, approves property acquisitions, and approves certain rules and activities of the department as provided by statute. Commission members are appointed by the governor and confirmed by the senate. There are seven regional offices throughout the state. The department's headquarters is in Helena.

## Results

Recommendations in the report relate to land acquisitions, reporting theft, monitoring changes in state law that affect the department, Big Horn Sheep auction proceeds, and untimely deposits. The department implemented the four recommendations contained in our prior audit report.

| Recommendation Concurrence | |
|---|---|
| Concur | 5 |
| Partially Concur | 0 |
| Do Not Concur | 0 |

**Source: Agency audit response included in final report.**

For a complete copy of the report (11-18) or for further information, contact the Legislative Audit Division at 406-444-3122; e-mail to lad@mt.gov; or check the web site at http://leg.mt.gov/audit
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# Montana Legislative Audit Division

## Financial-Compliance Audit
# Department of Livestock
## For the Two Fiscal Years Ended June 30, 2011

December 2011 | 11-22 | Report Summary

The Department of Livestock (department) is established by state law and governed by the Board of Livestock. As of June 30, 2011, the department collected approximately $2,768,000 in brand re-record fees for the 2011 brand re-record year.

## Context

State law tasks the department with controlling and eradicating animal disease, preventing the transmission of such diseases to humans, protecting livestock from predatory animals, performing meat, milk, and egg inspections, and regulating producer pricing of the milk industry. The department carries out these tasks through the Animal Health Division, the Brands Enforcement Division, the Diagnostic Laboratory, and the Meat, Milk, and Egg Inspection Division. Department-wide functions, such as budgeting, accounting, and payroll, are performed by the Centralized Services Division.

The department's operations are funded through brand license fees, per capita livestock taxes, and various charges for services. Every ten years, the department requires that brand holders re-record their brands. Brand holders are charged a fee of $100 per brand re-recorded in exchange for the exclusive use of the brand for ten years. Calendar year 2011 is a re-record year. From January to June 2011, the department collected approximately $2,768,000 in brand re-record fees. The department anticipates collecting a total of $4,800,000 in re-record fees for the 2011 re-record.

## Results

This report contains three recommendations to the department. The recommendations address areas where the department can improve accounting controls related to recording brand transactions, coding revenue transactions, and eliminating balances of federal moneys; enhance compliance with laws and regulations related to the Board of Horse Racing; and improve the timeliness of deposits to comply with state law and state accounting policy.

| Recommendation Concurrence | |
|---|---|
| Concur | 3 |
| Partially Concur | 0 |
| Do Not Concur | 0 |
| **Source: Agency audit response included in final report.** | |

For a complete copy of the report (11-22) or for further information, contact the Legislative Audit Division at 406-444-3122; e-mail to lad@mt.gov; or check the web site at http://leg.mt.gov/audit
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# Montana Legislative Audit Division

## Financial-Compliance Audit
# Department of Natural Resources and Conservation
## For the Two Fiscal Years Ended June 30, 2012

October 2012 | 12-17 | Report Summary

The Department of Natural Resources and Conservation (department) administers and manages trust lands, establishes statewide forestry programs, provides wildfire suppression, manages loan and grant programs for local communities, local governments, state agencies, and private citizens, issues licenses and permits, inspects wells for the oil and gas programs, and manages and maintains state owned dams, reservoirs and canals. Our audit identified several areas for improvement, including inadequate procedures for trust land acquisitions, state parks on trust lands, inadequate controls over transactions governed by statute or policy, and the accumulation, use, and payment of excess leave payouts.

## Context

In fiscal years 2011-12 and 2010-11, the department has generated distributable revenues of approximately $69.2 million and $68.7 million, respectively, through the management of state lands for its 12 separate land trusts. Of this, $58.4 million and $55.9 million were for Montana school children as part of the Common Schools Trust.

## Results

The current audit report contains six recommendations and unqualified opinions on each of the financial schedules for fiscal years 2011-12 and 2010-11. The prior audit report for the two fiscal years ended June 30, 2010, contained 11 recommendations to the department. The department implemented six, did not implement four, and partially implemented one. The recommendations not implemented related to various trust land issues and firefighter meal allowances. The trust lands administrative costs and firefighter meal allowances prior audit recommendations have been reported in several prior audit reports. The department does not agree with our finding, reported in our past two audit reports, related to unreimbursed overcharges of administrative costs for trust lands and has no intention of implementing our recommendation. As a result, we included the information in the prior audit recommendation section of the report. The department is making progress on its implementation of our prior audit recommendation related to firefighter meal allowances and a recommendation is included in this report.

| Recommendation Concurrence | |
|---|---|
| Concur | 4 |
| Partially Concur | 2 |
| Do Not Concur | 0 |
| Source: Agency audit response included in final report. | |

For a complete copy of the report (12-17) or for further information, contact the Legislative Audit Division at 406-444-3122; e-mail to lad@mt.gov; or check the web site at http://leg.mt.gov/audit
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Montana Legislative Audit Division

Performance Audit

# Board of Oil and Gas Conservation Regulatory Program

Board of Oil and Gas Conservation

September 2011 11P-04 Report Summary

**The Board of Oil and Gas Conservation must improve its inspections and enforcement processes to more effectively regulate the state's 17,600 active oil and gas wells.**

## Context

The Board of Oil and Gas Conservation and its staff in the Oil and Gas Conservation Division regulate oil and natural gas development in Montana. Their work helps protect the petroleum resource, property owners, the environment, taxpayers, and oil and gas operators. The governor appoints the seven members of the board. The board and division is administratively attached to the Department of Natural Resources and Conservation.

The board is the policy setting and rulemaking entity. Administrative functions are the responsibility of the division. Division staff issue permits; classify wells; issue and carry out board orders; conduct field inspections; require performance bonds for site restoration; and maintain a repository of administrative, technical and geologic information about these wells.

Audit work reviewed the regulatory activities of the board and division. In addition, we examined the controls used to ensure integrity and accuracy of the Oil and Gas Information System, a database of well information.

## Results

Under the supervision of the Board of Oil and Gas Conservation, division management should generally provide more formalized direction to division staff for inspection and enforcement activities.

For the regulatory processes, the division's permitting and abandonment processes appear sound, while improvements are necessary for the inspections and enforcement processes.

Although faced with a large number of wells to inspect, audit work found the division lacks a formalized approach to their work. The division should create formal inspection priorities, develop documented inspection procedures, improve inspection documentation, and consistently document field deficiencies and violations.

When inspectors identify a violation, the board and division collaborate with the operator to gain compliance. The division could improve its compliance rate, and lessen the number of unresolved violations, by applying existing compliance timelines and creating additional ones.

The division could improve management of the Oil and Gas Information System in the areas of segregation of duties, security planning, password policies, and disaster recovery planning.

*(continued on back)*

| Recommendation Concurrence | |
|---|---|
| Concur | 7 |
| Partially Concur | 0 |
| Do Not Concur | 0 |

**Source: Agency audit response included in final report.**

Montana Legislative Audit Division

# Financial-Compliance Audit
# Montana Department of Transportation
## For the Two Fiscal Years Ended June 30, 2011

October 2011 | 11-17 | Report Summary

The Montana Department of Transportation (department) spent approximately $206.6 million in American Recovery & Reinvestment Act funds in fiscal years 2010-11 and 2009-10 for planning, designing, building, and maintaining approximately 25,000 miles of highways, without hiring additional staff. The department is one of the largest employing agencies in state government with 2,242 authorized positions in fiscal years 2010-11 and 2009-10. Our audit identified several areas for improvement, including the recruitment and selection of employees and controls over conflicts of interest.

## Context

The department's primary funding sources are federal highway planning and construction and state motor fuel tax revenues. In fiscal year 2009-10 the department received approximately $828 million in total revenues. Federal special revenues were approximately $486 million and state special revenues were approximately $292 million.

The Highways and Engineering Program, and Maintenance Program account for approximately $668 million of the $793 million total expenditures in fiscal year 2009-10. The single largest expenditure is approximately $518 million, which represents the network of highways completed during fiscal year 2009-10.

## Results

The current audit report contains ten recommendations. Recommendations included in the report relate to improper recruitment and selection of employees, controls over conflicts of interest, deficient internal controls over federal program requirements, and infrastructure transactions. The report includes unqualified opinions on each of the financial schedules for fiscal years 2010-11 and 2009-10.

The prior audit report for the two fiscal years ended June 30, 2009, contained four recommendations to the department. Two of the prior audit recommendations were fully implemented, one was partially implemented, and the fourth relates to the fuel purchasing cards and will be followed up on as part of our performance audit (10P-02).

| Recommendation Concurrence | |
|---|---|
| Concur | 9 |
| Partially Concur | 1 |
| Do Not Concur | 0 |

**Source: Agency audit response included in final report.**

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# Montana Legislative Audit Division

## Performance Audit
# The Highway Safety Improvement Program
## Montana Department of Transportation

October 2012 | 12P-07 | Report Summary

**The Montana Department of Transportation (department) should evaluate the Highway Safety Improvement Program to ensure the $80 million in state and federal funds obligated to safety projects results in a reduction in traffic fatalities and serious injuries on public roads in Montana.**

## Context

The Highway Safety Improvement Program (HSIP) is a federal-aid program of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, which is a 2005 federal funding and authorization bill that governs U.S. federal surface transportation spending. On an annual basis, the department identifies locations on Montana's public roads where public safety could be increased through the installation of a safety improvement, such as lighting, chevrons, guardrails, and rumble strips. While the scale of projects is generally small, larger projects such as the installation of a roundabout may also be considered for an HSIP project. Since inception of the program, the department has approved 304 HSIP projects. Since 2005, over $80 million in state and federal funding has been obligated by the program.

Audit work examined how the department implements the HSIP and assesses if the program results in reductions in fatalities and serious injuries on public roads. Audit work identified the need for the department to evaluate the HSIP in order to ensure that the program is achieving intended results and project investments are reducing fatalities and serious injuries.

As part of audit work, we also determined that internal controls for the program could be improved. Information on the status or completion of HSIP projects is not readily available. At present, the department does not track the status of HSIP projects in order to demonstrate that projects are completed as planned. For example, of the 66 projects the department prioritized for completion in 2005, information on the status or a date of completion for 79 percent of those projects was not documented.

## Results

Audit recommendations address the need for the department to evaluate the HSIP and strengthen internal controls for the program. Recommendations include:

- Comply with federal regulations by analyzing and assessing how the program reduces the number of crashes, fatalities and serious injuries, or potential crashes on public roads in Montana; and
- Strengthen internal controls for the program to track and document the status and completion of HSIP projects.

| Recommendation Concurrence | |
|---|---|
| Concur | 2 |
| Partially Concur | 0 |
| Do Not Concur | 0 |
| **Source: Agency audit response included in final report.** | |

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Montana Legislative Audit Division

Performance Audit

# Controls Over Dyed Diesel Use in Montana

Montana Department of Transportation

September 2011 11P-01 Report Summary

Operating vehicles on public roads with dyed diesel fuel contributes to a loss of fuel tax revenue to the state. The Montana Department of Transportation could strengthen its process to identify vehicles and equipment operating on public roads using dyed diesel.

## Context

Montana defines "special fuel" as any diesel fuel used in motor vehicles or equipment operating upon the public roads and highways of the state. Consumers in Montana can purchase two different types of diesel fuel, depending where the vehicle is operating. Clear diesel fuel includes a state and federal fuel tax for each gallon purchased of $0.2440 and $0.2775, respectively. Any vehicles operating on public roads or working on public road construction projects (roads, bridges, etc) must use clear diesel fuel.

The second type of diesel fuel consumers can purchase is sold tax free. Tax free diesel fuel is intended to be used only for off road purposes, such as for agricultural operations. It cannot be used in vehicles or equipment operating on Montana's public roadways. Because certain diesel fuel is sold tax free, there can be motivation for individuals to use it inappropriately. Untaxed diesel fuel is dyed red to provide a simple way to identify when it is being used.

Montana enacted state law (Title 15, Section 70, Part 3) prohibiting the use of dyed diesel fuel for purposes other than off road use. These laws prohibit vehicles operating on public roads from using dyed diesel and also require all contractors and subcontractors performing any work on public roads (construction, maintenance, etc.) to obtain a special fuel users (SU) permit. This permit requires SU permit holders to use clear diesel fuel at all times and prohibits them from storing or using dyed diesel.

The Montana Department of Transportation (MDT) is responsible for enforcing statutes related to dyed diesel. Our performance audit examined the department's controls over dyed diesel use in Montana. Our audit included a review of 148 department road project contracts for 2010, 49 public road projects administered by local governments in 2009 and 2010, an analysis of MDT dyed diesel violations issued in 2009 and 2010, interviews with MDT and local government officials, and observation of dyed diesel enforcement field activities.

## Results

Studies indicate that entities responsible for laws related to dyed diesel fuel have an organizational structure that provides for both enforcement and auditing activities. MDT's organizational structure provides the mechanism for both these activities to occur. However, audit work found specific controls related to dyed diesel enforcement can be improved. Recommendations made to strengthen the process include:

- Establishing a review process to ensure subcontractors working on MDT road projects have SU permits.
- Providing training to local and

(continued on back)

federal government contracting personnel regarding SU permitting requirements.

- Defining the process and expectations for public road project inspections to ensure contractors comply with dyed diesel laws.
- Establishing a risk based vehicle inspection program for dyed diesel enforcement.
- Improving the process to recommend high risk areas related to dyed diesel that should be further examined by the Internal Audit Unit.
- Strengthening dyed diesel enforcement through better use of available information to prioritize enforcement activities.

| Recommendation Concurrence | |
|---|---|
| Concur | 6 |
| Partially Concur | 0 |
| Do Not Concur | 0 |

Source: Agency audit response included in final report.