

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

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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.	

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