

Montana Department of Transportation
Report on and Dyed Diesel Fuel Enforcement and Biodiesel Refund
Submitted to the Revenue and Transportation Interim Committee
2020

Background

Motor fuel tax, including the tax on special fuel (diesel), is the primary funding source for the construction, maintenance, and administration of the highway system in Montana, including the state match for over \$300 million in federal revenue received each year. Effective July 1, 2019, the tax on diesel fuel increased from \$0.2925 to \$0.2945 per gallon.

Untaxed diesel fuel is available in Montana for off-road use and other non-taxable activities such as government use. To distinguish untaxed diesel fuel from taxed diesel fuel, a red dye is mechanically injected into the diesel at the time the fuel is withdrawn from the terminal. Dyed diesel fuel is exempt from both Montana and federal taxes and can be purchased through petroleum suppliers or at many retail stations.

Impact on State Special Revenue Fund

Special Fuel Tax accounts for more than \$70 million in revenue to the Highways State Special Revenue Fund. In FY19, licensed distributors reported slightly less than 100 million gallons* of dyed diesel fuel distributed in Montana. Without adequate enforcement, the state would be at substantial risk of fuel tax evasion, resulting in lower revenue collections at MDT, lower investment in Montana's highway infrastructure, and reduced ability to match federal-aid funds.

*Excludes 65.6 million gallons of dyed diesel fuel reported for use in locomotives.

Motor Carriers Services (MCS) Enforcement Activity:

Montana law allows for the inspection of motor vehicle supply tanks to ensure that dyed diesel fuel is not being consumed on Montana roadways. MDT's Motor Carriers Services (MCS) Officers routinely check for dyed diesel fuel during motor carrier safety inspections. Additionally, they may pull vehicles over specifically to check for dyed diesel fuel if probable cause exists to suspect abuse.

Civil penalties not to exceed \$1,000 for first offenses and \$5,000 for second and subsequent offenses are imposed on the driver if a concentration of dye of 2 parts per million or greater is identified through lab testing. The table below demonstrates the number of vehicles checked for dyed diesel fuel and the number of violations found.

Fiscal Year	Vehicles Inspected	First Offense (\$1,000)	Second Offense (\$5,000)
2017	17,596	33	0
2018	13,223	25	2
2019	16,658	29	1

Biodiesel Refund

MCA 15-70-433 provides a refund of 2 cents per gallon to licensed distributors and 1 cent per gallon to retailers who sell biodiesel that is produced entirely from biodiesel ingredients produced in Montana. The refund must be applied for within 30 days after the quarter ends.

No distributor or retailer has ever applied for this refund.

6,780 gallons of biodiesel were reported by licensed distributors as produced in Montana in FY19; however, this biodiesel does not qualify for the refund because some of the ingredients needed to produce the biodiesel were imported.

Contacts

If you have questions or comments regarding MDT's dyed diesel fuel enforcement activities or biodiesel information, please contact one of the following:

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