

PETRO-CANADA AMERICA LUBRICANTS, INC.

Audit Report

MOTOR OIL FEE PROGRAM

July 1, 2013, through June 30, 2016



BETTY T. YEE
California State Controller

March 2019



BETTY T. YEE
California State Controller

March 29, 2019

Karen Ross, Secretary
California Department of Food and Agriculture
1220 N Street
Sacramento, CA 95814

Dear Ms. Ross:

The State Controller's Office conducted a performance audit of Petro-Canada America Lubricants, Inc.'s (PCA) California Motor Oil Fee (MOF) program. The purpose of our audit was to determine the propriety of assessed and remitted MOFs for the period of July 1, 2013, through June 30, 2016, pursuant to Title 4, *California Code of Regulations* (4 CCR), Division 9, Chapter 8, section 4305.

Our audit found that PCA did not properly assess and remit MOFs in accordance with 4 CCR 4305. PCA under-reported 24,287 gallons, or \$971 in MOFs, during the audit period.

If you have any questions, please contact Andrew Finlayson, Chief, State Agency Audits Bureau, by telephone at (916) 324-6310.

Sincerely,

Original signed by

JIM L. SPANO, CPA
Chief, Division of Audits

JLS/as

cc: Kristin Macey, Director

Fuels, Lubricants and Automotive Products Program

Division of Measurement Standards

California Department of Food and Agriculture

Clark Cooney, Chief, Enforcement Branch

Fuels, Lubricants and Automotive Products Program

Division of Measurement Standards

California Department of Food and Agriculture

Kevin Schnepf, Environmental Program Manager I

Fuels, Lubricants and Automotive Products Program

Division of Measurement Standards

California Department of Food and Agriculture

Rebecca Bland, Staff Services Manager I

Administrative Services Unit

Division of Measurement Standards

California Department of Food and Agriculture

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Audit Report

Summary

The State Controller's Office (SCO) conducted a performance audit of Petro-Canada America Lubricants, Inc.'s (PCA) California Motor Oil Fee (MOF) program. The purpose of our audit was to determine the propriety of assessed and remitted MOFs for the period of July 1, 2013, through June 30, 2016, pursuant to Title 4, *California Code of Regulations* (4 CCR), Division 9, Chapter 8, section 4305.

Our audit found that PCA did not properly assess and remit MOFs in accordance with 4 CCR 4305. PCA under-reported 24,287 gallons, or \$971 in MOFs, due to incorrect granting of an MOF exemption during the audit period.

Background

The MOF program is administered by the California Department of Food and Agriculture (CDFA) Division of Measurement Standards. The Division of Measurement Standards is responsible for providing administrative oversight to motor oil dealers by establishing reporting and accounting guidelines for assessments and receipts. The dealers/producers are required to provide assessment reports and remit the MOFs.

The MOF is a fee paid by motor oil dealers who produce and sell motor oil products in California, regardless of whether they are packaged in retail containers. Pursuant to 4 CCR 4304, the MOF was established at four cents per gallon for the audit period. All participants are responsible for paying MOFs and are required to file returns with the CDFA on a quarterly basis (for each quarter ending September 30, December 31, March 31, and June 30). Each quarterly return includes, in part:

- Volume, in gallons, of motor oil produced, sold, or manufactured in, or imported to, California;
- Volume of MOFs paid to suppliers; and
- Net volume of MOFs subject to assessment.

The CDFA receives approximately \$4 million in MOFs from motor oil dealers annually. Approximately 200 dealers produce, sell, or distribute motor oil in California.

Objective, Scope, and Methodology

We conducted a performance audit of motor oil dealer PCA, selected by the CDFA for the MOF program assessment. The objective of this audit was to determine the propriety of assessed and remitted MOFs.

The audit period was July 1, 2013, through June 30, 2016. To achieve our audit objective, we:

- Assessed reporting timeliness, delinquency, penalties, and the CDFA's efforts and enforcement actions to conform to the MOF assessment and reporting requirements;

- Reviewed quarterly MOF reports, remittance advice, and other correspondence to gain an understanding of reported assessments and fees, and to identify reported anomalies with emphasis on volumes produced, volumes subject to assessment, and fees remitted;
- Assessed prior program-related issues, concerns, and corrective actions;
- Gained an understanding of the dealer's organization, business model, and business components;
- Inquired with and observed the dealer's responsible function groups for MOF assessment to understand and evaluate effectiveness of applicable internal control standards, including but not limited to the accounting system, accounting records, record keeping, and records; and
- Examined all accounting records and source documents to determine whether MOFs were assessed and remitted properly:
 - Gallons Reported – Sold, Imported, Purchased, or Manufactured:
Population: 12 quarterly returns, totaling \$27,012, or 675,308 gallons.
 - Gallons with Fee Paid to Supplier:
Population: Zero transactions.
 - Remitted MOFs:
Population: 12 quarterly returns, totaling \$27,012, or 675,308 gallons.

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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

We limited our review of PCA's internal controls to gaining an understanding of the transaction flow and claim preparation process as necessary to develop appropriate auditing procedures.

Conclusion

Our audit found that PCA did not properly assess and remit MOFs in accordance with 4 CCR 4305. PCA under-reported 24,287 gallons, or \$971 in MOFs, due to incorrect granting of an MOF exemption during the audit period, as summarized in the accompanying Schedule (Summary of Reported and Audited Motor Oil Fees) and described in the Finding and Recommendation section of this report.

Follow-up on Prior Audit Findings

PCA, did not have any prior audits related to the MOF program; therefore, we performed no follow-up activity.

**Views of
Responsible
Officials**

We issued a draft report on October 30, 2018. Maya Crawford, Manager, Commodity and Property Tax, responded by letter dated December 11, 2018, disagreeing with the audit results. Ms. Crawford's responses have been incorporated into the final report and the entire response is included as an attachment to this report.

Restricted Use

This report is solely for the information and use of PCA, the CDFA, and SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of the final report, which is a matter of public record and is available on the SCO website at www.sco.ca.gov.

Original signed by

JIM L. SPANO, CPA
Chief, Division of Audits

March 29, 2019

Schedule—
Summary of Reported and Audited Motor Oil Fees
July 1, 2013, through June 30, 2016

Cost Element	Reported Amount	Audited Amount	Audit Adjustment ¹
Total Gallons Sold, Imported, Purchased, or Manufactured (Less: Gallons with Fee Paid to Supplier)	675,308 -	699,595 -	24,287 -
Total Gallons Assessed MOF	<u>675,308</u>	<u>699,595</u>	<u>24,287</u>
Total MOF @ \$0.04/gallon	<u>\$ 27,012</u>	<u>\$ 27,984</u>	<u>\$ 972</u>

¹ The provider was reimbursed 100% of claimed costs.

Finding and Recommendation

**FINDING—
Transaction
exempted in error
from California
Motor Oil Fee**

PCA understated the amount of gallons sold by 24,287 and fees submitted by \$972 on its California MOF fiscal year 2014-15 first quarter return. PCA improperly granted an MOF exemption for a sales transaction based on the customer's filing of a California Department of Resources Recycling and Recovery (CalRecycle) export exemption certificate. No MOF exemption or certificate exists for this transaction type.

4 CCR 4302 – Fee Responsibility and Exemption states, in part:

- (a) The first motor oil dealer that produces, sells or distributes motor oil in California, whether or not packaged in retail containers, shall pay the fee for all such motor oil sold in California.
- (b) Motor oil exported for sale outside California is exempt from the motor oil fee.
- (c) A person assigned a Motor oil dealer Permit Number and not actively engaged in the business of producing, distributing, or selling motor oil is required to notify the Department in writing within the next reporting period upon ceasing operations dealing with motor oil.

PCA sold and shipped motor oil from its California location to a customer's California location. Under the statute, PCA is considered to be the first seller of the oil in California and is responsible for paying the fee. The exemption in the statute for motor oil exported from California applies to the first motor oil dealer, which, in this case, is PCA.

Recommendation

We recommend that PCA:

- Follow the California MOF statute and discontinue the practice of honoring CalRecycle export exemption certificates for motor oil product transactions shipped to California addresses; and
- Report these transactions in its MOF quarterly returns.

PCA Response

PCA does not agree with the audit findings because they received an exemption letter from oil supplier Lubricating Specialties Company (LSC) based on guidance from the California Department of Revenue's Motor Oil Division. PCA included the signed exemption letter from LSC as an attachment.

SCO Comment

Our finding remains unchanged. The letter provided by PCA as a response to the draft report was the same letter presented during our exit conference on March 23, 2018. We have determined that the provided letter does not change the finding because CDFA does not issue or accept exemption letters. CDFA states that the MOF applies to all motor oil products imported to California. Per CDFA, if LSC then ships the product out of the state, they can apply for a refund of the MOF.

**Attachment—
Petro-Canada America Lubricants, Inc.'s
Response to Draft Audit Report**

Petro-Canada America Lubricants, Inc.
717 17th Street, Suite 2900
Denver, CO 80202

December 11, 2018

VIA CERTIFIED MAIL – #7016-2710-0000-6644-3715

Andrew Finlayson, Chief, State Agency Audits Bureau
State Controller's Office, Division of Audits
PO Box 942850
Sacramento, CA 94250

RE: Petro-Canada America Lubricants, Inc.
California Motor Oil Fee Audit
July 1, 2013-June 30, 2016
S18-MOF-0009

Dear Mr. Finlayson,

Petro-Canada America Lubricants, Inc. (PCA) does not agree with the audit findings in the Motor Oil Fee audit draft report. The report states that the auditor found that PCA under-reported 24,287 gallons or \$971 in additional liability. The auditor's findings were based on an invoice for Lubricating Specialties Company. PCA exempted the transaction for Lubricating Specialties Company after receipt of an exemption export letter based on guidance received from the State of California -Department of Revenue-Motor Oil Division. In addition, the exemption received complies with California regulation 4 CCR 4302(b) which states that "Motor Oil exported for sale outside California is exempt from the motor oil fee." Petro Canada America Lubricants, Inc. accepted the exemption export letter, in good faith, from Lubricating Specialties Company and exempted the customer based on the law and instructions from the state.

Please remove this transaction from the audit report and reissue the audit results.

Thank you for your attention to this matter.

Sincerely,



Maya Crawford
Manager, Commodity and Property Tax
303-793-8021

Attachment



Ms. Jennifer Maloney
Petro-Canada America Lubricants Inc.
115 N. Oak Park Ave #1C
Oak Park, IL 60301

Re: Petro-Canada invoice 910017014

Dear Ms. Maloney,

This is to confirm that the products on your subject invoice were purchased for export from California.

Enclosed please find a completed and signed CA Oil Recycling Fee exemption certificate. As stated on the certificate, if any of the purchased oil is subsequently sold within California, LSC agrees to report the quantity and make the appropriate payment to the California Dept. of Resources Recycling.

Similarly, LSC agrees to pay any incurred CA Motor Oil fees to the CA Dept. of Food & Agriculture. There is no corresponding certificate covering the CMO fees, but we believe this letter should suffice.

LSC's day to day operations require constant tracking of all oil products we ship within California and we report to both the above departments regularly, as required by law.

Please feel free to contact me if you require any further documentation.

Sincerely,

Paul Oldham, Credit Manager
Lubricating Specialties Company
(562) 776-4172
(562) 776-4003 (Fax)

Lubricating Specialties Company

8015 Paramount Blvd. Pico Rivera, CA 90660 • Telephone: 562.776.4000 • Fax: 562.776.4171

**State Controller's Office
Division of Audits
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<http://www.sco.ca.gov>