

WALMART STORES, INC.

Audit Report

MOTOR OIL FEE PROGRAM

July 1, 2013, through June 30, 2016



BETTY T. YEE
California State Controller

April 2019



BETTY T. YEE
California State Controller

April 2, 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 Walmart Stores, Inc.'s 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 Walmart Stores, Inc. did not properly assess and remit MOFs in accordance with 4 CCR 4305. Walmart Stores, Inc. over-reported 975,455 gallons, or \$39,018 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
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Kevin Schnepf, Environmental Program Manager I

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Audit Report

Summary

The State Controller's Office (SCO) conducted a performance audit of Walmart Stores, Inc.'s 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 Walmart Stores, Inc. did not properly assess and remit MOFs in accordance with 4 CCR 4305. Walmart Stores, Inc. over-reported 975,455 gallons, or \$39,018 in MOFs, during the audit period.

Background

The MOF program is administered by the California Department of Food and Agriculture (CDFA) Division of Measurement Standards, pursuant to 4 CCR, Division 9, Chapter 8, sections 4300 through 4308. 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 Walmart Stores, Inc., selected by the CDFA for the MOF program assessment. The objective of our 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 all 12 quarterly MOF reports (totaling 26,897,413 gallons and \$320,800 in fees), 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;
- Gained an understanding of the dealer's organization, business model, and business components by inquiring with and observing the dealer's responsible function groups for MOF assessment to understand and evaluate effectiveness of applicable internal control, including but not limited to the accounting system, purchase and sales records, and the claim preparation process; and
- Examined accounting records and purchase and sales records on a stratified random sample basis for all fees paid by supplier transactions over \$100 to determine whether MOFs were assessed and remitted properly.
 - Gallons with Fee Paid to Supplier:
Sample: 60 transactions, totaling \$47,989, or \$1,199,728 gallons.
Population: 6,912 transactions, totaling \$5,230,530, or 130,763,250 gallons.

We selected the sample based on the preliminary risk assessment and calculation methodology of converting the California Department of Resources Recycling and Recovery (CalRecycle) combined fees to MOFs. The conversion errors identified were limited to the few transactions that included small amounts of MOF-exempt products. Errors found were not projected to the intended total population, and we concluded that increasing the sample size would not materially affect the effect of additional errors identified (see Finding 3).

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.

Conclusion

Our audit found that Walmart Stores, Inc. did not properly assess and remit MOFs in accordance with 4 CCR 4305. Walmart Stores, Inc. over-reported 975,455 gallons, or \$39,018 in MOFs, during the audit period, as summarized in the accompanying Schedule (Summary of Reported and Audited Motor Oil Fees) and described in the Findings and Recommendations section of this report.

Follow-up on Prior Audit Findings

Walmart Stores, Inc. did not have any prior audits related to the objective of this report.

**Views of
Responsible
Officials**

We issued a draft report on December 28, 2018. Scott Hale, Tax Manager, responded by email on February 1, 2019, stating, “Walmart will not include an official response in the report.”

Restricted Use

This report is solely for the information and use of Walmart Stores, Inc., the CFDA, and the 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

April 2, 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
Total Gallons Sold, Imported, Purchased, or Manufactured (Less: Gallons with Fee Paid to Supplier)	26,897,413 <u>(18,877,408)</u>	26,897,413 <u>(19,852,863)</u>	- <u>(975,455)</u>
Total Gallons Assessed MOF	<u>8,020,005</u>	<u>7,044,550</u>	<u>(975,455)</u>
Total MOF at \$0.04/gallon	<u>\$ 320,800</u>	<u>\$ 281,782</u>	<u>\$ (39,018) ¹</u>

¹ The breakdown of the total audit adjustment is as follows:

Amount	Reference
\$ (25,494)	Finding 1
(13,592)	Finding 2
68	Finding 3
<u>\$ (39,018)</u>	

Findings and Recommendations

**FINDING 1—
Products
incorrectly
categorized as
subject to the MOF**

Walmart Stores, Inc. incorrectly categorized transmission fluid as subject to the California MOF instead of exempt, resulting in an overstatement of gallons sold, fee-assessable gallons, and MOFs due reported in Walmart Stores, Inc.'s. January 1, 2013, through June 30, 2016 quarterly MOF returns, as follows:

Fiscal Year	Gallons Overstated	Audit Adjustment
2013-14	(124,831)	\$ (4,993)
2014-15	(251,879)	(10,075)
2015-16	(260,647)	(10,426)
Total	<u>(637,357)</u>	<u>\$ (25,494)</u>

4 CCR 4304 – Fees and Returns states, in part:

(1) A return for each quarter shall include:

- A. The amount, in gallons of motor oil purchased, sold, manufactured in California, or imported into California.
- B. The total amount of gallons of motor oil with fees paid to suppliers.
- C. The net amount of motor oil gallons to which the fee is applied. This is calculated by the gallon.

Walmart Stores, Inc.'s, personnel did not follow the company's own internal processes and procedures to ensure that products are correctly categorized as either motor oil, which is subject to the MOF, or other non-motor oil lubricants such as transmission fluids, which are exempt from the MOF. We noted that Walmart Stores, Inc.'s process for identifying products as either subject to, or exempt from, the MOF is as follows:

Walmart Stores, Inc.'s accountant attempts to identify obvious items, including motor oil products. If he or she cannot identify items, the accountant:

- Inquires using the UPC code at Walmart.com;
- Performs a Google search using the UPC code; or
- Contacts the product supplier.

The program is very small when compared to Walmart Stores, Inc.'s overall operations. Miscategorization of products was due to the accountant's oversight of the products.

Recommendation

We recommend that Walmart Stores, Inc., enforce established processes to ensure that employees follow its procedures for correctly categorizing products as being subject to, or exempt from, the MOF.

**FINDING 2—
Under reporting of
gallons with fee
paid to supplier on
quarterly return**

During our review of the quarterly returns, we found that Walmart Stores, Inc.'s personnel made clerical errors in converting total invoiced prepaid fee dollar amounts reported in its database into gallons reported on Walmart Stores, Inc.'s fiscal year (FY) 2013-14, first-quarter fee return. The understatement by 339,798 of the number of gallons with fees paid to supplier gallons resulted in an overpayment of fees due for FY 2013-14, first quarter, of \$13,592.

4 CCR 4304 – Fees and Returns states, in part:

- (1) A return for each quarter shall include:
- A. The amount, in gallons of motor oil purchased, sold, manufactured in California, or imported into California.
 - B. The total amount of gallons of motor oil with fees paid to suppliers.
 - C. The net amount of motor oil gallons to which the fee is applied. This is calculated by the gallon.

Recommendation

We recommend that Walmart Stores, Inc.:

- Ensure that all reports are accurately prepared and reviewed before filing them with the CDFA; and
- Work with CDFA to recover any overpaid MOFs.

**FINDING 3—
Gallons with fee
paid to supplier
inaccurately
converted from
prepaid fee
transactions**

Eight of 60 invoices we reviewed included MOF-exempt lubricants (such as transmission fluids) in addition to motor oils, resulting in a 1,700 gallon understatement of gallons with fees paid to supplier and \$68 in MOFs. Walmart Stores, Inc.'s methodology for converting the amount of invoiced prepaid fees to gallons resulted in inaccurate amounts reported on California MOF quarterly returns. Suppliers often pre-pay MOFs and include those amounts as charges to Walmart Stores, Inc. Walmart Stores, Inc. must back out those fees on their return, and report the credit as gallons.

4 CCR 4304 – Fees and Returns states, in part:

- (1) A return for each quarter shall include:
- A. The amount, in gallons of motor oil purchased, sold, manufactured in California, or imported into California.
 - B. The total amount of gallons of motor oil with fees paid to suppliers.
 - C. The net amount of motor oil gallons to which the fee is applied. This is calculated by the gallon.

Walmart Stores, Inc. converts the combined MOF and CalRecycle lubricant fees reported on vendor invoices into gallons by dividing the total invoiced fee dollar amount by the combined MOF and CalRecycle per gallon fee amount. This methodology assumes that all products subject to the CalRecycle lubricant fee are also subject to the MOF. This conversion method results in overstatement of MOF gallons with fees paid to supplier

when a vendor invoice for motor oil purchases also includes purchases for MOF-exempt lubricants that are subject to the CalRecycle fee.

Recommendation

We recommend that Walmart Stores, Inc.:

- Ensure that the number amounts of gallons with fees paid to suppliers is accurately converted from dollar amounts when filing MOF quarterly returns; and
- Work with CDFA to recover any overpaid MOFs.

**State Controller's Office
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