

CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE

Review Report

MOTOR OIL FEE PROGRAM

July 1, 2013, through June 30, 2016



BETTY T. YEE
California State Controller

December 2018



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California State Controller

December 28, 2018

Kristin Macey, Director
Division of Measurement Standards
California Department of Food and Agriculture
6790 Florin Perkins Road, Suite 100
Sacramento, CA 95828

Dear Ms. Macey:

The State Controller's Office assessed the effectiveness of California Department of Food and Agriculture's (CDFA) administrative oversight of the Motor Oil Fee (MOF) program administered by the CDFA Division of Measurement Standards for the period of July 1, 2013, through June 30, 2016.

Our review found that the CDFA has adequate process and procedures to administer the MOF program; however, we identified deficiencies that do not significantly impact CDFA's ability to properly administer and oversee the program. We found that:

- Documentation was not retained for four years pursuant to CDFA's internal policy;
- MOFs refunded to dealers did not meet the criteria of MOF regulations;
- Duties were not segregated to ensure that processed quarterly returns data was adequately reviewed, reconciled, and approved;
- Dealers with delinquent fees were not notified in a timely manner; and
- Quarterly returns with identified errors were not properly processed, or corrected in a timely manner.

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

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

JVB/as

Attachment

cc: Karen Ross, Secretary

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
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
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Review Report

Summary

The State Controller's Office (SCO) assessed the effectiveness of California Department of Food and Agriculture's (CDFA) administrative oversight of the Motor Oil Fee (MOF) program administered by the CDFA Division of Measurement Standards (DMS) for the period of July 1, 2013, through June 30, 2016.

Our review found that CDFA has adequate process and procedures to administer the MOF program; however, we identified deficiencies that do not significantly impact CDFA's ability to properly administer and oversee the program. We found that:

- Documentation was not retained for four years pursuant to CDFA's internal policy;
- MOFs refunded to dealers did not meet the criteria of MOF regulations;
- Duties were not segregated to ensure that processed quarterly returns data was adequately reviewed, reconciled, and approved;
- Dealers with delinquent fees were not notified in a timely manner; and
- Quarterly returns with identified errors were not properly processed, or corrected in a timely manner.

Background

The MOF program is administered by the CDFA's DMS. The DMS 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 Title 4, *California Code of Regulations* (4 CCR), Division 9, Chapter 8, sections 4300 through 4309, the MOF was established at four cents per gallon for the review period. All participants are responsible for the payment of 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**

Our objective was to assess the effectiveness of CDFA's administrative oversight of the MOF program. The review period was July 1, 2013, through June 30, 2016. Specifically, our objective was to determine whether CDFA:

- Maintains adequate internal accounting and administrative controls over the MOF program;
- Follows effective financial and program management practices in the administration of the MOF program; and
- Abides by the applicable state laws, rules, regulations, policies, and procedures in the maintenance and oversight of the MOF program.

To achieve our objective, we:

- Analyzed statutes and policies for the MOF;
- Assessed CDFA's accounting and administrative controls over the MOF program and performed walkthroughs of program-related accounting systems;
- Inquired with and observed responsible CDFA and dealers' business units to assess the effectiveness of program-related internal control standards, policies, procedures, and processes for assessing the MOFs;
- Assessed CDFA's interaction, correspondence, and outreach with the dealers;
- Analyzed CDFA's accounting records to identify reporting anomalies for individual dealers, with emphasis on volumes produced, volumes subject to assessment, and fees remitted;
- Assessed reporting, timeliness, and efforts and enforcement actions to conform to MOF assessment and reporting requirements;
- Determined compliance with:
 - 4 CCR Division 9, Chapter 8, sections 4300 to 4309;
 - State Administrative Manual; and
 - Government Code (GC) sections 13401 through 13403.

Based on our walkthroughs, we tested the MOF program's administrative processes and procedures as follows:

- Assessed the internal controls over quarterly reporting by judgmentally selecting 24 returns from each quarter in fiscal year (FY) 2013-14 through FY 2015-16 to determine the effectiveness and adequacy of processes and procedures as follows:
 - Sampled 192 of 1,396 returns totaling 103,375,853 of 305,174,743 gallons. The sampled returns totaled \$4,177,132 of \$12,275,535 in MOF.

- Assessed the internal controls over late fees by testing all 37 delinquent accounts (two in FY 2013-14, eight in FY 2014-15, and 27 in FY 2015-16) to determine the effectiveness and adequacy of processes and procedures.
- Tested the internal controls over refunds by judgmentally selecting non-statistical samples from each fiscal year that accounted for at least 15% of the refunds of total fees paid for each fiscal year to determine the effectiveness and adequacy of processes and procedures as follows:
 - FY 2013-14: six samples, totaling \$29,286 of \$84,270 population (34.8%);
 - FY 2014-15: four samples, totaling \$12,651 of \$48,375 population (26.2%); and
 - FY 2015-16: four samples, totaling \$9,868 of \$46,095 population (21.4%).

Errors found in the samples were not projected to the entire population.

We obtained sufficient, appropriate evidence to provide a reasonable basis for our observations, findings, and conclusions based on our review objective. We believe that the evidence obtained provides a reasonable basis for our observations, findings, and conclusions.

Conclusion

Our review found that CDFA has adequate administrative oversight of the MOF program. The CDFA maintains adequate internal accounting and administrative controls over the MOF program; follows effective financial and program management practices; and abides by the applicable laws, rules, regulations, policies, and procedures as detailed in 4 CCR Division 9, Chapter 8, sections 4300 to 4309; the State Administrative Manual; and GC sections 13401 through 13403.

However, our review identified deficiencies, as noted in the Findings and Recommendations section of this report. These deficiencies do not significantly impact CDFA's ability to properly administer and oversee the program. Correction of these deficiencies could improve CDFA's administrative oversight of the MOF program.

Views of Responsible Officials

On July 5, 2018, we issued a draft report. We received a management response on July 13, 2018. CDFA agreed with Findings 2 through 5 and did not agree or disagree with Finding 1. CDFA's official response is included as an attachment to this report.

Restricted Use

This report is solely for the information and use of CDFA 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.

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

December 28, 2018

Findings and Recommendations

FINDING 1— Documentation was not retained for four years pursuant to CDFA’s internal policy

DMS did not comply with CDFA’s internal policy to retain documents for four years. DMS lacks a consistent storage location and filing system for documentation related to refunds of MOFs paid. Documentation for the three fiscal years under review were kept in two different storage locations, one of which was offsite.

As part of our testing for refund of MOFs paid, we requested from DMS supporting documentation for a sample of 14 refunds paid for FY 2013-14, FY 2014-15, and FY 2015-16. DMS could not provide the supporting documentation for one refund of MOFs paid from FY 2014-15.

The DMS manual for the MOF program states that all files must be archived every two years and purged after four years. DMS did not follow CDFA’s internal policies of retention; therefore, DMS was unable to provide supporting documentation for one refund in the amount of \$458.

If refunds were questioned, the supporting documentation may not be available.

Recommendation

We recommend that DMS follow CDFA’s internal policy for document retention for the MOF program.

CDFA Management Response

CDFA DMS has a retention schedule that it follows. This schedule that was last revised in 2014. DMS Administrative Services Unit will continue to follow state policy to ensure all documents are retained and stored in a more systematic method.

FINDING 2— MOFs refunded to dealers did not meet criteria of MOF regulations

DMS issued two refunds of MOFs paid, totaling \$374, without confirmation that those fees had been paid by the dealer at the time of purchase. The payments were improperly refunded due to lack of adequate review (internal control) by DMS to ensure that all claims for refund of MOFs paid were supported by documentation.

During the review period, we identified 123 refunds (for a total of \$179,113) that were refunded to motor oil dealers. Of the 123 refunds, we selected 14 refunds (for a total of \$51,805) from all three fiscal years under review. Of the 14 refunds reviewed, we determined that the documentation for one refund (Finding 1) did not demonstrate that the MOF had been paid by the motor oil dealer. Copies of invoices documenting that the MOF was paid are required by 4 CCR 4307. If this deficiency is not corrected, CDFA is at risk for potential loss of paid fees.

4 CCR 4307 states:

All requests for refund of payments made pursuant to Section 4304 shall be submitted to the Department within three years from the date of the payment of the fee. Requests for refund shall contain the following

information:

- (a) A letter requesting the refund, signed by the owner or an authorized person within the company;
- (b) A ledger sheet tabulating purchases and exports for which the refund is being requested;
- (c) Copies of invoices, vouchers, delivery receipts, etc., documenting that the Motor Oil Fee was paid; and,
- (d) Copies of invoices, vouchers, bills of lading, shipping documents, etc., documenting that the motor oil was exported from California.

Recommendation

We recommend that the DMS program manager ensure the accuracy of financial information used for refund requests by reviewing supporting documentation.

CDFA Management Response

DMS agrees with this recommendation. DMS has developed and implemented procedures to include management review of supporting documentation prior to processing refunds.

**FINDING 3—
Lack of segregation
of duties to ensure
that quarterly
returns data is
adequately reviewed,
reconciled, and
approved**

During our program-related accounting systems walkthrough with applicable CDFA management staff for Quarterly MOF Return procedures and payment processing, we identified a weakness in internal control. The same employee who had entered data into the system also reconciled that information for errors. As no other controls are in place, this employee is performing conflicting duties because data errors and irregularities could be overridden by the employee without the knowledge of any other CDFA staff member. If this deficiency is not corrected, CDFA is at risk for potential loss of paid fees.

GC sections 13401, 13402, and 13403 mandate state agencies to establish and maintain internal accounting and administrative control.

Recommendation

We recommend that the data entry and review processes be performed by different CDFA staff members to ensure segregation of duties and improve internal control.

CDFA Management Response

DMS agrees with this recommendation. Effective August 1, 2018, DMS Administrative Services Unit will revise and implement procedures that designate one staff member to input data into the motor oil database and another to reconcile and audit the database monthly.

**FINDING 4—
Dealers with
delinquent fees were
not notified in a
timely manner**

During our review of delinquent MOF account records, we identified 37 instances in which an active motor oil dealer failed to file a quarterly return. We reviewed all 37 of the delinquencies from all three fiscal years under review. We determined that all 37 had exceptions due to the following:

- Twenty-one of the 37 dealers were never notified that they were delinquent;
- Nine of the 37 dealers were erroneously identified as delinquent because CDFA staff failed to enter submitted MOF forms that had been received from dealers, which resulted in an unrecorded payment of \$24,148; and
- Seven of the 37 dealers were not notified of overdue payments until after CDFA's 45-day grace period had expired.

4 CCR 4304 states that each person responsible for the payment of the MOF must file a return with CDFA no later than 30 days after each quarter. Additionally, a return postmarked no later than the fifth day of the month in which the return is due shall be deemed received by the date on which it was due.

If CDFA does not notify dealers of delinquent fees in a timely manner, CDFA risks being unable to collect these fees.

GC sections 13401, 13402 and 13403 mandate state agencies to establish and maintain internal accounting and administrative controls, and effective systems of internal review.

Recommendation

We recommend that CDFA:

- Maintain a support structure with appropriate segregation of duties and back-up personnel to administer the MOF program functions;
- Review procedures to ensure that delinquent quarterly returns are accurately reported in the delinquency report; and
- Ensure monitoring and reconciliation of accounting data by management to validate the accuracy and reliability of data entered into the information system.

CDFA Management Response

DMS agrees with this recommendation. Due to limited PYs in the Administrative Services Unit, additional staffing to segregate financial duties isn't feasible; however, the Unit's staff is cross-training to provide backup to other Unit program desks to improve segregation of the financial duties.

DMS administrative management will review desk procedures with processing staff for accuracy measures. Additionally, the program manager will provide oversight of the program data management to improve accuracy.

**FINDING 5—
Errors identified in
the quarterly returns
were not properly
processed or
corrected in a timely
manner**

We determined that CDFA did not properly process MOF returns and did not correct errors in its internal records in a timely manner. We reviewed 198 data entries, or \$4,177,132 in MOFs, for testing. Of the 198 data entries that were reviewed, we noted 46 exceptions, totaling \$295,772, as follows:

Identified Issue Type	Exceptions	Exceptions Amounts
Data entry errors	1	\$ 8,058
Improperly processed return	5	1,794
Invalid late fee charged	12	23,449
Invalid late fee charged and inadequate collection of accounts receivable	1	5,813
Lack of retention	5	39,268
Outstanding balances for previously waived fees	3	5,611
Overpayment not adjusted in system after refunded to dealer	6	198,184
Overpayment of MOF not processed	3	987
Underpayment not adjusted in system after dealer paid balance due	10	12,609
Grand Total	46	\$ 295,772

GC sections 13401, 13402, and 13403 mandate state agencies to establish and maintain internal accounting and administrative controls.

4 CCR 4304 states that each person responsible for the payment of the MOF must file a return with CDFA no later than each quarter ending September 30, December 31, March 31, and June 30. The return for each quarter is the net of motor oil gallons to which the fee is applied.

4 CCR 4306 states that for any delinquency in making a return, or any deficiency in payment, CDFA shall add to such delinquent payment a penalty of 10% of the amount which is due.

State Administrative Manual section 8776.6 states that three documented letters should be sent to collect on non-employee delinquent accounts.

The DMS manual for the MOF program states that all files must be archived every two years and purged after four years.

Recommendation

We recommend that CDFA establish a system of review procedures when processing quarterly returns. Adequate review procedures should ensure that CDFA complies with MOF regulations and CDFA reporting instructions. For account balances that are outstanding, CDFA should collect in accordance with CDFA collections procedures and the State Administrative Manual.

CDFA Management Response

DMS agrees with this recommendation. DMS administrative management will review desk procedures with processing staff and establish, and implement, review procedures to improve accuracy in our processes and financial and database systems in place. DMS does not process collection letters to collect Motor Oil Fees.

**Attachment—
California Department of Food and Agriculture's
Response to Draft Review Report**



CALIFORNIA DEPARTMENT OF
FOOD & AGRICULTURE

Karen Ross, Secretary

July 13, 2018

Sent via E-mail and Interagency Mail

Mr. Andy Finlayson, Chief
State Agency Audits Bureau
State Controller's Office, Division of Audits
P.O. Box 942850
Sacramento, CA 94250-5874

Dear Mr. Finlayson:

The California Department of Food and Agriculture's (CDFA) Division of Measurement Standards (DMS) is in receipt of the State Controller's Office (SCO) Draft Review Report dated July 5, 2018. We appreciate the thorough review performed by SCO of the CDFA Motor Oil Fee (MOF) program administered by CDFA DMS for the period of July 1, 2013 through June 30, 2016.

We are pleased that overall, SCO found that CDFA DMS has adequate process and procedures to administer the MOF program and that the five (5) deficiencies SCO identified do not significantly impact our ability to properly administer and oversee the program. On all counts, CDFA DMS agrees with the findings and recommendations. Below are our responses to each:

1. **Finding:** Documentation was not retained for four years pursuant to CDFA's internal policy.

Recommendation: CDFA DMS should follow its internal policy for document retention for the MOF program.

Response: CDFA DMS has a retention schedule that it follows. This schedule that was last revised in 2014. DMS Administrative Services Unit will continue to follow state policy to ensure all documents are retained and stored in a more systematic method.

2. **Finding:** MOFs refunded to dealers did not meet criteria of MOF regulations.

Recommendation: CDFA DMS management should ensure the accuracy of financial information used for refund requests by reviewing supporting documentation.

Response: DMS agrees with this recommendation. DMS has developed and implemented procedures to include management review of supporting documentation prior to processing refunds.



3. **Finding:** There is a lack of segregation of duties to ensure that quarterly returns data is adequately reviewed, reconciled, and approved.

Recommendation: Data entry and review processes should be performed by different CDFA DMS staff members to ensure segregation of duties and improve internal controls.

Response: DMS agrees with this recommendation. Effective August 1, 2018, DMS Administrative Services Unit will revise and implement procedures that designate one staff member to input data into the motor oil database and another to reconcile and audit the database monthly.

4. **Finding:** Dealers with delinquent fees were not notified in a timely manner.

Recommendation: CDFA DMS should:

- Maintain a support structure with appropriate segregation of duties and backup personnel competent to administer the MOF program functions;
- Review procedures to ensure that delinquent quarterly returns are accurately reported in the delinquency report; and
- Ensure monitoring and reconciliation of accounting data by management to validate the accuracy and reliability of data entered into the information system.

Response: DMS agrees with this recommendation. Due to limited PYs in the Administrative Services Unit, additional staffing to segregate financial duties isn't feasible; however, the Unit's staff is cross-training to provide backup to other Unit program desks to improve segregation of the financial duties.

DMS administrative management will review desk procedures with processing staff for accuracy measures. Additionally, the program manager will provide oversight of the program data management to improve accuracy.

5. **Finding:** Errors identified in the quarterly returns were not properly processed or corrected in a timely manner.

Recommendation: CDFA DMS should establish a system of review procedures when processing quarterly returns to ensure compliance with MOF regulations and CDFA reporting instructions. For outstanding account balances, CDFA DMS should collect in accordance with CDFA collections procedures and the State Administrative Manual.

Mr. Andy Finlayson, Chief
July 13, 2018
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Response: DMS agrees with this recommendation. DMS administrative management will review desk procedures with processing staff and establish, and implement, review procedures to improve accuracy in our processes and financial and database systems in place. DMS does not process collection letters to collect Motor Oil Fees.

We appreciate the work done by Mr. Finlayson and his staff at the Division of Audits and have no corrections or further recommendations that would improve the accuracy of the draft Review Report of the Motor Oil Fee Program.

Thank you for including our comments in the final report.

Sincerely,

A handwritten signature in blue ink that reads "Kristin Macey FOR". The signature is stylized and cursive.

Kristin Macey
Director

**State Controller's Office
Division of Audits
Post Office Box 942850
Sacramento, CA 94250**

<http://www.sco.ca.gov>