

STATE OF WEST VIRGINIA

SPECIAL REPORT

OF

WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION GAS MILEAGE INTERNAL CONTROL STUDY FOR THE PHH BILLING PERIOD

FOR THE PERIOD

FEBRUARY 7, 2003 - JUNE 30, 2003



OFFICE OF THE LEGISLATIVE AUDITOR

CAPITOL BUILDING

CHARLESTON, WEST VIRGINIA 25305-0610

SPECIAL REPORT

WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION

GAS MILEAGE INTERNAL CONTROL STUDY

FOR THE PHH BILLING PERIOD

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WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION

GAS MILEAGE INTERNAL CONTROL STUDY

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WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION

GAS MILEAGE INTERNAL CONTROL STUDY

EXIT CONFERENCE

We held an exit conference on March 24, 2004 with the West Virginia Department of Environmental Protection, Office of Administration's Assistant Chief and discussed the questions addressed in the Special Report. The West Virginia Department of Environmental Protection's responses are included in the Special Report.

WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION

GAS MILEAGE INTERNAL CONTROL STUDY

ADMINISTRATIVE OFFICERS AND STAFF

AS OF JUNE 30, 2003

June Casto. Office of Administration, Assistant Chief
Brent Kessinger Fleet/Telecommunications Manager
Mary Ann Nicely Accounting Technician IV
Jim McFarland Accounting Technician III

WEST VIRGINIA LEGISLATURE
Joint Committee on Government and Finance

Theodford L. Shanklin, CPA, Director
Legislative Post Audit Division
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CHARLESTON, WEST VIRGINIA 25305-0610

The Joint Committee on Government and Finance:

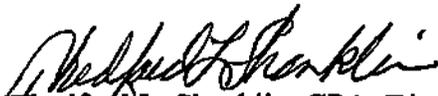
The objective of the Special Report was to gain an understanding of the internal controls the West Virginia Department of Environmental Protection (DEP) has in place to ensure the Petersen, Howell, and Heather (PHH) and the Division of Highways gasoline cards are being used for State business purposes only. To achieve the objective, we performed the following:

1. Interviewed key DEP personnel to obtain an understanding of their internal controls over personal usage of gasoline cards.
2. We determined examples of questionable items which are noted and investigated by DEP personnel when reviewing the PHH invoices. The following are examples of questionable items: gasoline purchased twice in one day for the same vehicle; irregular milage appearing on the PHH invoice (no mileage reported at all, 9999 reported as current mileage or another unusual number reported as current mileage at the time of purchase); "premium" grade gasoline purchases; miscellaneous purchases; anything marked or circled on the invoice by Fleet Management; and charges for a vehicle which is not owned/leased by DEP.
3. Obtained a list of DEP active vehicles which included: License Number, Model Year, Make of Vehicle, Vehicle Identification Number, Employee assigned to Vehicle, Work Title, Location, & Division Office.
4. Obtained and reviewed the PHH invoices dated April 1, 2003; May 1, 2003; and June 1, 2003 for the Department of Environmental Protection's Administrative Office, Abandon Mine Lands and Reclamation Office, and the Division of Mining and Reclamation for questionable items as noted in number two above.
5. Scheduled all gasoline purchases from the PHH invoices for each vehicle which had an exception noted.

6. Calculated the total mileage between each gasoline purchase.
7. Calculated the average miles per gallon for each vehicle in our schedule of exceptions.
8. Obtained the manufacturer's average miles per gallon from the appropriate web site for the vehicle being examined.
9. Compared the calculated average miles per gallon with the vehicle manufacturer's average miles per gallon to determine reasonableness.
10. Obtained and reviewed Division of Highways invoices dated 03/11/03, 04/04/03, 05/12/03, 06/10/03, and 06/30/03 for those vehicles included in our schedule of exceptions which did not have a reasonable average miles per gallon during the period according to our calculations.
11. Scheduled Division of Highways gasoline purchases from invoices dated 03/11/03, 04/4/03, 05/12/03, 06/10/03, and 06/30/03 for those vehicles with an unreasonable average miles per gallon calculation.
12. Obtained and reviewed a report from PHH of all DEP vehicles' average miles per gallon calculation for the gasoline purchases appearing on the PHH invoices dated for calendar year 2003.

The results of our work are contained on the pages which follow.

Respectfully submitted,


Theodora L. Shanklin, CPA, Director
Legislative Post Audit Division

January 27, 2004

Auditors: Ethelbert Scott, Jr., CPA, Supervisor
Rhonda L. Combs, CPA, Auditor-in-Charge
Bonita P. Compton
William Spencer, CPA

WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION

GAS MILEAGE INTERNAL CONTROL STUDY

GENERAL REMARKS

INTRODUCTION

We have completed a Special Report of the internal controls the West Virginia Department of Environmental Protection (DEP) has in place to ensure the Petersen, Howell, and Heather (PHH) gasoline cards are being used for State business purposes only. The Special Report covered the PHH billing period February 7, 2003 through June 30, 2003.

COMPLIANCE MATTERS

We obtained and reviewed the PHH invoices dated April 1, 2003, May 1, 2003, and June 1, 2003 for the Department of Environmental Protection's Administrative Office, Abandon Mine Lands and Reclamation Office, and the Division of Mining and Reclamation for questionable items. We scheduled all gasoline purchases from the PHH invoices for each vehicle which had an exception noted. We calculated the total mileage between each gasoline purchase and the average miles per gallon for each vehicle in our schedule of exceptions. We obtained the manufacturer's average miles per gallon from the appropriate web site for the vehicle being examined and compared the calculated average miles per gallon with the vehicle manufacturer's average miles per gallon to determine reasonableness.

Weak Internal Controls Over Gasoline Card Usage

The DEP does not have an effective system of internal controls over gasoline purchases made with the PHH gasoline cards. The DEP does not know if all gasoline purchases are made for State business only. Chapter 5A, Article 8, Section 9 of the West Virginia Code, as amended, states in part:

“The head of each agency shall:

. . . (b) Make and maintain records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures and essential transactions of the agency designed to furnish information to protect the legal and financial rights of the State and of persons directly affected by the agency’s activities. . . .”

This law requires the agency head to have in place an effective system of internal controls in the form of policies and procedures set up to ensure the agency operates in compliance with the laws, rules and regulations which govern it.

Within the various offices of the DEP there are 13 billing entities used by PHH, which has an Invoice Coder assigned to review/audit the PHH invoices and bring questionable items to their supervisor’s attention. The following is an example of questionable items: irregular mileage appearing on the PHH invoice (no mileage reported at all, 9999 reported as current mileage or another unusual number reported as current mileage at the time of purchase); “premium” grade gasoline purchases; gasoline purchased twice in one day for the same vehicle; miscellaneous purchases; anything marked or circled on the invoice by Fleet Management; and, charges for a vehicle which was not owned/leased by DEP. During our review of the PHH invoices dated April 1, May 1, and June 1, 2003, we noted several instances of these questionable items as detailed below.

The DEP has a total of 338 vehicles in their fleet. We noted 21 of the 338 vehicles had 52 instances where the mileage reported on the PHH invoice was irregular between gasoline purchases. According to the DEP personnel, irregular mileage could be attributed to one of the following: (1) The driver does not always have access to a key pad at the pump to enter the mileage; therefore, the cashier may have entered the wrong mileage on the key pad at the counter; (2) The driver may have entered the wrong mileage or may not have pressed the numbers hard enough when entering the mileage on the key pad; or (3) At some service stations, the cashier processes the payment at the cash register and may input the wrong mileage. Without consecutive mileage recorded on the PHH invoice, the DEP does not have an accurate record of mileage for each vehicle nor can it be determined whether the DEP vehicles' mileage per gallon between gasoline purchases is reasonable.

We noted 47 instances in which no mileage was recorded on the PHH invoice for 26 of the 338 vehicles. DEP personnel stated that drivers were told in 2001 to be sure and enter accurate mileage at the time of each purchase because the PHH invoices were the DEP's only source for mileage information. Some reasons given by the DEP personnel for zero mileage appearing on the PHH invoice were: (1) At some service stations, the cashier processes the payment at the cash register and may not ask the driver for the mileage information or (2) Sometimes a manual credit card receipt is made using the old style carbon copy machine when the electronic key pad does not work or the telephone line is down. We were provided documentation for one of the 26 vehicles, license number 44-171, that had three instances where no mileage was reported on the PHH invoices reviewed by us. The driver of the vehicle was able to provide credit card receipts for these three gasoline purchases. On two of the three occasions the credit card receipt indicated the mileage had

been entered by the driver at the time of purchase, but the PHH invoice showed zero miles. The third instance occurred because the gasoline station used an old style carbon copy credit card machine. Without mileage being recorded at the time of the purchase, we were unable to verify if the DEP received the benefit of the vendor's service.

Seven of the 338 vehicles made 16 purchases of premium gasoline reported on the PHH invoices reviewed by us. According to the DEP personnel, at some service stations premium gasoline is the only type of fuel available at the time of purchase or the vehicle is not running efficiently so the driver buys premium grade fuel to see if that will alleviate the problem. In other instances, the drivers indicated they had not purchased premium grade gasoline. The DEP Invoice Coder reviews the unit cost for all grades of gasoline purchased on the invoice and has found that the unit cost for the premium grade gasoline purchases are comparable with regular unleaded grade gasoline unit cost in some of these instances. The DEP stated some of their vehicles require a higher octane fuel (mid-grade or premium gasoline) to be used. The Fleet Manager stated there was a misunderstanding at the Logan office that Dodge suggests a higher octane fuel should be used in the Durango model; one of the seven vehicles noted was a Dodge Durango. The DEP has lost the use of the monies paid to the vendor for premium gasoline purchases made for vehicles which the manufacturer does not require premium gasoline to be purchased.

The DEP Fleet Manager sent an email to all DEP employees on January 22, 2004 to inform them of our study, the items we noted during the study and to remind the employees of their responsibility "to ensure the information entered at gas stations is 100% accurate when possible" and "always purchase regular unleaded (87 octane) gasoline" any time fuel is purchased for State vehicles.

We recommend the DEP comply with Chapter 5A, Article 8, Section 9(b) of the West Virginia Code, as amended, and establish a system of internal controls.

Agency's Response

Finding: "The DEP does not know if all gasoline purchases are made for State business only."

The DEP Vehicle Policy states, "State vehicles are to be used only for official business purposes. . ." in Section 1.01. All DEP employees are required to abide by DEP policy, and disciplinary action may be taken if policies are violated. The position of the DEP is clear: personal use of state vehicles is strictly prohibited. Our employees receive defensive driving training which covers all policies/procedures regarding the use of state vehicles. Each new employee is required to attend an orientation class that covers all DEP policies also. The aforementioned audits, consistent enforcement of Department policy, and training are three effective systems of internal control which ensure that the DEP operates in compliance with the laws, rules, and regulations which govern it. Additionally, every complaint made about a DEP driver in a state vehicle is investigated and referred to the affected driver's immediate supervisor. A written explanation of the alleged incident is required. This is a third internal control which is used to ensure the proper and legal use of state vehicles.

Finding: "We noted 21 of the 338 vehicles had 52 instances where the mileage reported on the PHH invoice was irregular between gasoline purchases."

In the preliminary draft of the study you provided, you cited the reasons we gave for these irregularities. These reasons are : 1) The driver does not always have access to a key pad at the pump to enter the mileage; therefore, the cashier may have entered the wrong mileage

on the key pad at the counter; 2) The driver may have entered the wrong mileage or may not have pressed the numbers hard enough when entering the mileage on the key pad; and 3) At some service stations the cashier processes the payment at the cash register and may input the wrong mileage. Given in infrequency of these occurrences, it is a logical assumption that one of these reasons can explain each of the 21 instances where irregular mileage is reported. Neither the DEP nor its employees can control the actions of cashiers or service stations which do not have pay-at-the-pump facilities. Since our employees cover the entire state of West Virginia, many, if not most, are required to travel in extremely isolated, rural areas. This technology is not necessarily available in these areas, and it is unreasonable to expect drivers to drive out of their way to find a facility with the pay-at-the-pump option. This also applies to stations which process credit card purchases manually. Additionally, with 338 vehicles and over 300 drivers assigned state vehicles for environmental protection work, it is inevitable that mistakes will happen. Again, I would refer you to the low number of instances where irregular mileage was reported between gasoline purchases. The DEP cannot ensure complete accuracy where the possibilities of human and technology error are involved.

Finding: "We noted 47 instances in which no mileage was recorded on the PHH invoice for 26 of the 338 vehicles."

Again, as you stated in the preliminary draft of your study, the reasons why this occurs are: 1) At some service stations, the cashier processes the payment at the cash register and may not ask the driver for the mileage information; or 2) Sometimes a manual credit card receipt is made using the old style carbon copy machine when the electronic keypad does not work or the telephone line is down. These situation are beyond the control of the DEP and its employees. A

third possible reason why there is no mileage recorded for a gasoline purchase is a malfunction on the part of PHH in processing the purchase and translating that information to the PHH Interactive website and their invoices. Again, this situation is beyond DEP's control.

Finding: "Seven of the 338 vehicles made 16 purchases of premium gasoline reported on the PHH invoice reviewed by us."

Every DEP driver has been made aware through e-mail correspondence from the Department Fleet Manager and by internal communications in their respective Divisions that the purchase of premium grade gasoline is prohibited unless otherwise required by the owner's manual accompanying each vehicle. Additionally, vendors incorrectly code gasoline purchases periodically, and entries on the invoice will reflect that premium grade gasoline was purchased when, in fact, it was not. It is my understanding that the DOA audits and notes every entry which states that premium grade gasoline was purchased; specifically, they circle the entry on the invoice. This brings the issue to the attention of the coders/auditors in our Divisions as well as those on our Accounts Payable staff. When these issues arise, we expect each Division to notify the driver and emphasize that such purchases are prohibited. However, in cases where the incorrect commodity code is entered by the vendor, and the driver states and/or has documentation showing that regular grade gasoline was purchased, these situations are dropped because there is no way our Department can control or prevent such occurrences.

Federal Excise Taxes Not Recovered

Federal excise tax was charged for gasoline purchases on the PHH invoices. The DEP has not sought reimbursement from the Federal government for the excise taxes paid. There were 918 instances out of 2,930 transactions or 31% of the total transactions in which Federal excise

tax was charged for gasoline purchases on the PHH invoices dated April 1, 2003, May 1, 2003, and June 1, 2003. These 918 instances included charges for 141 different vehicles. We determined the total amount of Federal excise taxes paid was \$2,397.09 by multiplying the total gallons purchased, as noted on the PHH invoices, by \$.184 (Federal Excise Tax per gallon). We estimate the above would cost about \$9,600 per year.

The Internal Revenue Service, Publication 378, Fuel Tax Credits and Refunds states in part:

“ . . . If you are an ultimate purchaser, you can claim a refund for the excise tax on fuels you purchase and use for a nontaxable use. You can file a claim for refund for any quarter of your tax year for which you can claim \$750 or more. This amount is the excise tax on all fuels used for a nontaxable use during that quarter or any prior quarter (for which no other claim has been filed) during the tax year.

If you cannot claim at least \$750 at the end of a quarter, you carry the amount over to the next quarter of your tax year to determine if you can claim at least \$750. . . .”

DEP personnel stated they were told by the West Virginia Department of Administration, Purchasing Division's Fleet Manager that the charges appearing on the PHH invoices exclude Federal excise taxes. The DEP has lost the use of the monies paid to the Federal government for Federal excise taxes charged for gasoline purchases because they have not sought reimbursement.

We recommend the Department of Environmental Protection review invoices and ask for refunds from the Federal government for Federal Excise Taxes paid on gasoline in compliance with the Internal Revenue Service, Publication 378, Fuel Tax Credits and Refunds.

Agency's Response

It has long been the understanding of this Department that both state and federal taxes were deducted from our invoices by PHH. It has also been our understanding that the DOA reviewed these invoices to ensure that these taxes were being deducted. Upon reviewing the findings of this audit, we inquired as to what the existing procedures are with regards to the federal excise tax. According to the State Fleet Management section in the Purchasing Division and PHH, the terms of the contract between the State of West Virginia and PHH requires PHH to deduct both federal and state fuel taxes from the invoices before they are sent to the DOA. The DOA is also responsible for ensuring that PHH has a current tax-exempt certificate for the state.

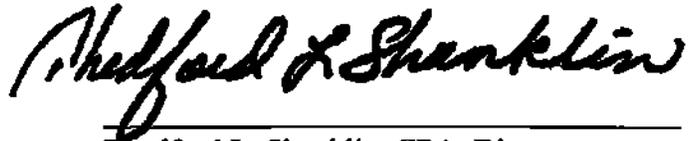
The DEP will spot audit over the past five years to determine if federal excise tax was paid and will seek reimbursement from the Department of Administration if it is determined federal excise tax was paid.

STATE OF WEST VIRGINIA

OFFICE OF LEGISLATIVE AUDITOR, TO WIT:

I, Thedford L. Shanklin, CPA, Director of the Legislative Post Audit Division, do hereby certify that the Special Report appended hereto was made under my direction and supervision, under the provisions of the West Virginia Code, Chapter 4, Article 2, as amended, and that the same is a true copy of said Special Report.

Given under my hand this 4th day of April, 2004.



Thedford L. Shanklin, CPA, Director
Legislative Post Audit Division

Copy forwarded to the Secretary of the Department of Administration to be filed as a public record. Copies forwarded to the Governor; Attorney General; State Auditor; and, Director of Finance Division, Department of Administration.