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Exemptions Used Oil Off-Road

For purposes of the exemption from the generator fee for used oil removed from a motor vehicle, the term "motor vehicle" includes off-road equipment which is self-propelled, whether or not the equipment moves or is permitted to move on public highways. 2/3/94.

Memorandum

To: Lou Feletto
Environmental Fees Division (MIC: 57)

Date: February 3, 1994

From: Janet Vining

Subject: **Definition of a "Motor Vehicle"**

Health and Safety Code Section 25250.24 provides an exemption from the hazardous waste generator fee for used oil removed from a motor vehicle which is subsequently recycled. You recently asked whether certain types of equipment qualified as motor vehicles for purposes of this exemption.

Section 670 of the Vehicle Code defines a "vehicle" as "a device by which any person or property may be propelled, moved, or drawn upon a highway, excepting a device moved exclusively by human power or used exclusively upon stationary rails or tracks." Section 415 defines a "motor vehicle" as "a vehicle which is self-propelled". Thus, a motor vehicle is a device which meets the definition of a vehicle and is self-propelled.

In order to determine how to interpret the term "motor vehicle" in Health and Safety Code Section 25250.24, we can turn to cases in which the courts have applied the Vehicle Code definitions. While some of the cases interpreted an earlier version of Vehicle Code Section 670, that version does not differ significantly from the current language.

The term "motor vehicle" has been found to include bulldozers (Behling v. L.A. County (1956) 139 Cal.App.2d 684) and mobile cranes capable of moving under their own power (Colby v. Liberty Mut. Ins. Co. (1963) 220 Cal.App.2d 38; Donahue Const. Co. v. Transport Indem. Co. (1970) 7 Cal.App.3d 291). Equipment can come within the definition of a motor vehicle even if it is used on private property, it cannot legally be self-propelled on a public highway, or it cannot be moved over a public highway without a special permit (Lambert v. S. Counties Gas Co. (1959) 52 C.2d 347; Donahue Const. Co. v. Transport Indem. Co.).

Based on these cases, we can conclude that off-road equipment which is self-propelled is a motor vehicle, whether or not the equipment moves or is permitted to move on the public highways.

Please let me know if you would like to discuss this issue further.

Janet Vining

JV:wk

Offroad II

Cc: Stephen R. Rudd (MIC: 57)
Larry Augusta