

**Amend Section 60603 of the Diesel Fuel Tax Law to allow the state to designate an inspection site for diesel fuel. (Housekeeping)**

**Source: Fuel Taxes Division**

**Existing Law:**

Under the existing Diesel Fuel Tax Law, officers or employees of the state are authorized to conduct inspections at any designated inspection site where evidence of activities of diesel fuel tax evasion may be discovered. A designated inspection site includes any state highway inspection station, weigh station, agricultural inspection station, mobile station, or other location designated by the Internal Revenue Service (IRS) to be used as a diesel fuel inspection site.

When the diesel fuel tax law was enacted in 1995, only the IRS was conducting diesel fuel inspections. Thus, the inspection site language was drafted to authorize the IRS to designate an inspection site at a location other than the specified fixed sites controlled by the state. However, both the Board and the IRS now contract with the California Air Resources Board (CARB) to do inspections to check for diesel fuel tax evasion. Since the IRS designates the inspection sites where the CARB is to conduct inspections, such inspection sites qualify as IRS-designated.

However, a question has arisen as to the state's authority to designate an inspection site other than at one of the listed sites when such an inspection does not involve the IRS. A narrow interpretation of the statute could conclude that inspections could not be conducted at a site other than those specified in statute if the Board contracts with a state agency independent of the IRS. Since the law currently authorizes officers or employees of the state to conduct inspections at listed sites, and since state agencies currently conduct inspections at other locations designated by the IRS, it follows that the law should include a provision for the state, as well as the IRS, to designate an "other location" inspection site.

**This Proposal:**

This proposal would clarify the state's authority to specify that either the IRS or the state may designate an inspection site at an "other location". In addition, this would update existing law to be consistent with the current practice of state, rather than IRS, conducted inspections.

*Section 60603 of the Revenue and Taxation Code is amended to read:*

60603. (a) Officers or employees of the state, upon presenting appropriate credentials and a written notice to the owner, operator, or agent in charge, are authorized to enter any place and to conduct inspections in accordance with paragraphs (1) to (6), inclusive.

(1) Inspections shall be performed in a reasonable manner and at times that are reasonable under the circumstances, taking into consideration the normal business hours of the place to be entered.

(2) Inspections may be at any place at which taxable diesel fuel is (or may be) produced or stored or at any inspection site where evidence of activities involving evasion may be discovered. These places may include, but are not limited to, any terminal, any diesel fuel storage facility that is not a terminal, any retail diesel fuel facility, or any designated inspection site.

(3) A designated inspection site is any state highway inspection station, weigh station, agricultural inspection station, mobile station, or other location designated by the state or the Internal Revenue Service to be used as a diesel fuel inspection site. A designated inspection site shall be identified as a diesel fuel inspection site.

(4) Officers or employees may physically inspect, examine, or otherwise search any tank, reservoir, or other container that can or may be used for the production, storage, or transportation of diesel fuel, diesel fuel dyes, or diesel fuel markers. Inspection may also be made of any equipment used for, or in connection with, production, storage, or transportation of diesel fuel, diesel fuel dyes, or diesel fuel markers. This includes any equipment used for the dyeing or marking of diesel fuel. This includes the books and records kept to determine tax liability.

(5) Officers or employees may detain any vehicle, train, or vessel for the purpose of inspecting its fuel tanks and storage tanks. Detainment will be either on the premises under inspection or at a designated inspection site. Detainment may continue for a reasonable period of time as is necessary to determine the amount and composition of the diesel fuel.

(6) Officers or employees may take and remove samples of diesel fuel in reasonable quantities as necessary to determine its composition.

(b) Any person that refuses to allow an inspection may be fined one thousand dollars (\$1,000) for each refusal. This penalty is in addition to any other penalty or tax that may be imposed upon that person or any other person liable for tax or penalty.