

**Memorandum**

To: Robert Frank, Supervisor  
Fuel Taxes Section - MIC:30

Date: October 12, 1995

From: Stella Levy  
Staff Counsel

*Stella Levy*

Subject: UST Fee:

This is in response to your request that we review your proposed letter to the n regarding the application of the UST Fee to its underground tanks. The following is the version of the legal analysis which we would find acceptable. You will note that I have retained your list of products and determinations. I do have a question as to one product--mineral spirits. Have you satisfied yourself that this is derived from crude oil? If so, we will accept your conclusion that the fee is applicable.

**LEGAL ANALYSIS**

Please insert this after your first introductory paragraph.

The Underground Storage Tank Maintenance Fee Law provides at Revenue and Taxation Code section 50102 that the fee shall be collected in accordance with the definitions contained in Chapter 6.75 of the Health and Safety Code. The latter provides a definition for petroleum at Section 25299.22 as follows:

“Petroleum” means crude oil, or any fraction thereof, which is liquid at standard conditions of temperature and pressure, which means at 60 degrees Fahrenheit and 14.7 pounds per square inch absolute.

It is our opinion that, in order to qualify as petroleum, a product must be a blend of hydrocarbons derived from crude oil through processes such as separation, conversion, upgrading, and finishing.

The products on the list which you submitted to us fall into three categories: 1) petroleum product/fee is applicable; 2) not a petroleum product/fee is not applicable; and 3) more information needed to make a determination. Attached to this letter is a list with our determinations of the appropriate category for each product. For those products falling within category #3, please submit

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more information regarding their chemical composition and whether they are derived from crude oil.

#### ANNOTATION

I agree with your suggestion that this opinion be annotated. An appropriate annotation would consist of the above legal analysis along with the list of products and determinations which is attached to this memo and incorporated by reference.

Please feel free to call me if you have any questions.

SCL:wk

Attachment

cc: (w/att.)  
Larry Augusta  
Janet Vining  
Ed King  
Barbara Beck  
Julie Faber

PRODUCT	DETERMINATION
Glycol Ether EB	Fee is not applicable
Toluene	Fee is not applicable
Soco Wash Solvent	Need more information
Thinner TS-6	Need more information
Methanol	Fee is not applicable
Isopropyl Alcohol	Fee is not applicable
Methyl Ethyl Ketone	Fee is not applicable
Well Water	Fee is not applicable
Ethylene Glycol	Fee is not applicable
111 Trichloroethane	Fee is not applicable
Surfonic 9 mol	Need more information
Caustic Soda 50% (Sodium Hydroxide)	Fee is not applicable
Aqua Ammonia 26%	Fee is not applicable
Caustic Potash 50% (Potassium Hydroxide)	Fee is not applicable
Jeffamine D-230	Need more information
Methylene Chloride	Fee is not applicable
Surfonic NB 307	Need more information
Methyldiethanolamine	Need more information
PD-23	Need more information
Ucar Filmer IBT	Need more information
Mineral Spirits	Fee is applicable
Deodorized Kerosene	Need more information
Cyclo Sol 53	Need more information
Xylene	Fee is not applicable
Propylene Glycol Ind	Fee is not applicable
Muriatic Acid 20 (Hydrochloric Acid)	Fee is not applicable
Hydrofluoric Acid	Fee is not applicable
Nitric Acid 42	Fee is not applicable
Glacial Acetic Acid	Fee is not applicable
Sulfuric Acid 66	Fee is not applicable
Deionized Water	Fee is not applicable
Hydrogen Peroxide 50%	Fee is not applicable
Phosphoric Acid 75%	Fee is not applicable
Hydrogen Peroxide 35%	Fee is not applicable
Scrubber	Need more information
Isopropyl Alcohol Anhy	Fee is not applicable
Acetone	Fee is not applicable
Cyclo Sol 63	Need more information
Propylene Glycol Tech	Fee is not applicable