

2176.080

June 30, 1972

OFF FUEL TAX FILE

Attention:

Gentlemen:

Your letter of May 11 to Mr. Charles Otterman has been referred to me for reply.

You are aware that the use fuel tax provides for an exemption when the fuel is used in the operation of a motor vehicle "off the highway." You ask three questions concerning whether the operation of a motor vehicle in a construction area would be considered "off the highway" for the purposes of this exemption. The questions are:

(1) When the road is completely closed?

Under these circumstances for the period of time that the road is completely closed the use of fuel in construction equipment in the construction zone would be considered operated "off the highway."

(2) When half the road is closed and it is necessary to detour the traffic to the other side of the road?

When half of the highway is closed to public travel, then the use of fuel in the construction equipment on the portion of the highway that is closed to public travel would be considered to be used "off the highway."

(3) When a detour is constructed around the area under construction so that no traffic can pass through the construction zone?

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The construction zone that is completely closed off to public vehicular travel would not be "a highway" for the period of time that it was completely closed. Accordingly, the use of fuel in construction equipment in that area would be considered use "off the highway" for purposes of the Use Fuel Tax Law.

Very truly yours,

John H. Murray
Tax Counsel

JHM/ab

bc: Marysville - District Administrator
bc: Mr. Eldred Kelley

DEPARTMENT OF PUBLIC WORKS RECEIVED
COUNTY OF

MAY 15 1972

LEGAL
State Board of Equalization

RICHARD W. CURRY
DIRECTOR

County Office Building

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State Board of Equalization
SACRAMENTO

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MAY 15 1972

Legal

Charles Otterman, Chief Counsel
Board of Equalization
2135 Akard
Redding, California 96001

→ Attn: John Murray

Dear Mr. Otterman:

I am writing you as the result of my conversation with John Murray, of your staff, on May 4 regarding what constitutes construction projects on County roads.

In order for us to properly code projects and determine whether they qualify for the exemption under diesel fuel tax, it is necessary for us to have some guidelines. It is my understanding from our previous conversation that construction exists (1) when a road is completely closed; (2) when half of the road is closed and it is necessary to detour the traffic on the other side of the road; and (3) when a detour is constructed around the area under construction so that no traffic can pass through the construction zone.

I would appreciate confirmation that these are appropriate guidelines to use in classifying our work for the purpose of paying diesel fuel tax.

Very truly yours,

Director