

**DEPARTMENT OF FOOD AND AGRICULTURE  
DIVISION OF MEASUREMENT STANDARDS**

The Department has illustrated changes to the original text in the following manner:

Proposed additions are underlined  
Proposed deletions are ~~strikethrough~~  
Amendments to the original text are double underlined  
Deletions to the original text are ~~double strikethrough~~

**Title 4, Division 9, Chapter 8  
(Motor Oil Fee)**

**4300. Definition of “Motor Oil” and Other Terms for Purposes of Fee Responsibility.**

For purposes of fee responsibility under Sections 13430 and 13431 of the Business and Professions Code the following definitions apply:

(a) “Motor oil” includes natural, synthetic and re-refined motor oils, whether or not in retail containers, and in addition, any product used as an additive to a motor oil used in the lubrication of internal combustion engines. Refinery base stocks, manufacturing additives used by motor oil dealers in the commercial compounding and production of motor oils, and other motor oil components are not motor oils for the purposes of fee responsibility unless they are used separately in the lubrication of internal combustion engines, in which case they are “motor oils” for the purpose of the fee responsibility.

(b) For purposes of this subchapter, the term “additive” when used alone, means any product to be added to the motor oil in the crankcase of an internal combustion engine for the purpose of reducing friction, heat or wear of the internal moving parts.

(c) “Internal combustion engine” means all engines producing power by internal combustion and includes 2-cycle and 4-cycle internal combustion engines and turbine engines. Internal combustion engines include engines powered by gasoline, ethanol, methanol, alcohol blended fuels, diesel, biodiesel, biodiesel blends, kerosene, hydrogen, compressed natural gas, liquefied petroleum gas, propane, or butane.

(d) “Motor Oil Dealer” means any person, firm or corporation engaged in the business of producing, importing, packaging or otherwise preparing motor oil for market or selling or distributing motor oil.

(e) “Motor Oil Dealer Permit Number” means the registration number provided by

the Department to each motor oil dealer.

(f) "Date of sale" is the date of transfer of the motor oil to the purchaser, as evidenced by an invoice, voucher or bill of lading.

(g) "Quarter" means a three-month period during a fiscal year. For each fiscal year, the first quarter commences July 1 and ends September 30, the second quarter commences October 1 and ends December 31, the third quarter commences January 1 and ends March 31 and the fourth quarter commences April 1 and ends June 30, all inclusive.

(h) "Export" or "Exported" means the delivery or shipment of motor oil by the motor oil dealer from a point in California to a point outside of California when, pursuant to the contract of sale, the motor oil is delivered by the motor oil dealer to:

(1) The out of state point by facilities operated by the dealer; or

(2) A carrier, customs broker or forwarding agent for shipment to a location outside of California.

(3) A forwarding agent, export packer, customs broker or other person engaged in the business of preparing property for export, or arranging for its export to a location outside California, or

(4) A vessel clearing from a port in California for a port outside of California. However, motor oil consumed during a voyage clearing a California port is not exempt.

The motor oil is not exported if it is diverted in transit, for any reason, and is not actually delivered outside of California; regardless of documentary evidence held by the dealer for delivery of that motor oil for out-of-state shipment.

NOTE: Authority cited: Section 12027, Business and Professions Code.  
Reference: Section 13430, Business and Professions Code.

#### **4302. Fee Responsibility and Exemption.**

~~(a) The first motor oil dealer that produces, sells or distributes motor oil in California, whether or not packaged in retail containers, shall pay the fee for all such motor oil sold in California.~~

~~(b) Motor oil produced outside of California and transported into California for export shall be exempt from the motor oil fee, provided adequate accounting records substantiating exports from California are maintained and available for audit by the Director. In addition, motor oil exported for sale outside this State by a motor oil dealer, including such motor oil delivered by a motor oil dealer to any vessel clearing from a port of this State for a port outside this State and actually exported from this State in the vessel, is exempt from the fee provided for in~~

~~Section 13431 of the Business and Professions Code and Section 4304 of Title 4, California Code of Regulations.~~

(a) The first motor oil dealer that produces, sells or distributes motor oil in California, whether or not packaged in retail containers, shall pay the fee for all such motor oil sold in California.

(b) Motor oil exported for sale outside California is exempt from the motor oil fee.

(c) A person assigned a Motor Oil Dealer Permit Number and not actively engaged in the business of producing,; distributing or selling motor oil is required to notify the Department in writing within the next reporting period upon ceasing operations dealing with motor oil.

NOTE: Authority cited: Section 12027, Business and Professions Code.  
Reference: Sections 13430 and 13431, Business and Professions Code.

#### **4304. Fees and Returns.**

~~(a) The fee provided for in Section 13431 of the Business and Professions Code is established at two cents (\$0.02) per gallon effective July 1, 1996.~~

~~(b) Each person responsible for the payment of the fee shall file a return with the Department no later than 30 days after the quarter ending September 30, December 31, March 31, and June 30. The return shall be on a form provided by the Department, complete and accompanied by payment of the fee due for such transactions.~~

~~(c) Any return not received by the Cashier, California Department of Food and Agriculture in Sacramento by the dates stated in subsection (b), not complete or not accompanied by the full fee due, is delinquent. A return that is postmarked not later than the fifth day of the month in which the return is due shall be deemed received by the date on which it was due.~~

(a) The motor oil fee provided for in Section 13431 of the Business and Professions Code is established at ~~four cents (\$0.04)~~ three and one half cents (\$0.035) per gallon effective August 1, 2012.

(b) Each person responsible for the payment of the motor oil fee shall file a return with the Department no later than the last day of the month following each quarter ending September 30, December 31, March 31, and June 30. The return shall be on a completed "Motor Oil Fee Return Form" (Version 6/30/12) hereafter incorporated by reference, specified by the Department, and accompanied by payment of the motor oil fee due for such transactions. All Motor Oil Dealers must prepare and submit to the Department a return in accordance with the general requirements for reporting contained in this section.

(1) A return for each quarter must include:

(A) The amount, in gallons, of motor oil imported into California,

Purchased, sold or manufactured.

(B) The total amount of gallons of motor oil with fees paid to suppliers.

(C) The net amount of motor oil gallons to which the fee applied. This is calculated by the gallons reported in A above minus the gallons reported in B above.

(D) The signature and title of the representative of the entity authorized to prepare the return.

(E) The date the return was signed.

(2) Returns and applicable supporting data must be accurate and complete, and computer generated, typed or legibly handwritten in English.

(c) A Motor Oil Dealer may not take a credit on their quarterly motor oil fee return for motor oil that is used for an exempt purpose, pursuant to Business and Professions Code Section 13431, during any quarter. The total gallons sold or purchased must be reported on the motor oil fee return and the return accompanied with the appropriate fees must be submitted to the Department. Motor oil fees paid on motor oil later used for an exempt purpose may be refunded under the provisions of this Chapter upon request of the Motor Oil Dealer.

(d) Any return not received by the Cashier, California Department of Food and Agriculture in Sacramento by the dates stated in subsection (b), not complete or not accompanied by the full fee due, is delinquent. The Department will reject any return that fails to comply with the reporting requirements of this Chapter. All payments to the Department must be made by check, draft, money order or cashier's check payable to the Cashier, Department of Food and Agriculture.

(e) Any Motor Oil Dealer with an annual volume of sales or purchases of motor oil less than 5000 gallons may apply in writing to the Department for authorization to file an annual return in lieu of a quarterly return. The reporting period shall be established beginning the month in which the written request is accepted. The due date for annual returns is on the last day of the month following the end of the reporting period.

NOTE: Authority cited: Sections 12027 and 13433, Business and Professions Code. Reference: Sections 13431-13433, Business and Professions Code.

#### **4305. Authority to Determine Compliance**

Nothing in this Chapter limits the authority of the Department to audit, examine, review, inspect, or otherwise determine the compliance or noncompliance of any Motor Oil Dealer.

NOTE: Authority cited: Sections 12027 and 13433, Business and Professions Code. Reference: Sections 13431-13433, Business and Professions Code.

**4306. Penalties.**

For any delinquency in making a return, or any deficiency in payment, the Director shall add to such delinquent payment a penalty of ten percent of the amount which is due. ~~For delinquencies beyond one year, an additional one percent per month shall be added.~~

NOTE: Authority cited: Sections 12027 and 13433, Business and Professions Code. Reference: Sections 13431 and 13433, Business and Professions Code.

**4307. Refund of Fees Paid.**

~~All requests for refund of payments made pursuant to Section 4304 shall be submitted to the Department within three years from the date of the payment of the fee. Requests for refund shall contain the following information:~~

- ~~(a) A letter requesting the refund, signed by an employee of the company with knowledge of the transactions;~~
- ~~(b) A ledger sheet tabulating purchases and exports for which the refund is being requested;~~
- ~~(c) Copies of invoices, vouchers, etc., documenting that the Motor Oil Fee was paid; and,~~
- ~~(d) Copies of invoices, vouchers, bills of lading, etc., documenting that the motor oil was exported from California.~~

~~Requests for refunds submitted later than three years from the time of payment of the motor oil fee or not supported by the required documentation will be returned, unprocessed, to the sender by the Department.~~

Any person, who has reported and paid the motor oil fee on motor oil, which is later transported out of California, may request a refund.

All requests for refund of payments made pursuant to Section 4304 shall be submitted to the Department within three years from the date of the payment of the motor oil fee. Requests for refund shall contain the following information:

- (a) A letter requesting the refund, signed by the owner or an authorized person within the company.
- (b) A ledger sheet tabulating purchases and exports for which the refund is being requested;
- (c) Copies of invoices, vouchers, delivery receipts, etc., documenting that the motor oil fee was paid; and,

(d) Copies of invoices, vouchers, bills of lading, shipping documents, etc., documenting that the motor oil was exported from California.

Requests for refunds submitted later than three years from the time of payment of the motor oil fee or not supported by the required documentation will be returned, unprocessed, to the sender by the Department.

NOTE: Authority cited: Sections 12027 and 13433, Business and Professions Code. Reference: Sections 13431-13433, Business and Professions Code.

#### **4308. Records.**

~~Each person required to file a return pursuant to Section 13431, Business and Professions Code, shall maintain in California or, with the Director's permission at another location, an accurate record of all transactions subject to fee assessment. Such records shall be subject to audit by the Director. The Director may require records kept outside of California to be copied and sent to California for audit. Alternatively, if the taxpayer elects to have all audits conducted out-of-state, the costs for the out-of-state audits will be reimbursed to the State by the taxpayer.~~

Each person required to file a return pursuant to Section 13431, Business and Professions Code, shall maintain in California or, with the Department's permission at another location, an accurate record of all transactions subject to the motor oil fee assessment. Such records shall be subject to audit by the Department. The Department may require records kept outside of California to be copied and sent to California for auditing. Alternatively, if the Motor Oil Dealer elects to have all audits conducted out of state, the costs for the out-of-state audits will be reimbursed to the Department by the Motor Oil Dealer under audit.

Any records which are required to be maintained pursuant to this Chapter or the Business and Professions Code must be kept in accordance with the following provisions:

(a) Motor Oil Dealers must maintain records for a minimum of four years.

(b) All records maintained pursuant to this Chapter must include the books of account that are ordinarily maintained by the average prudent businessperson.

(c) Records shall include sales invoices, purchase invoices, paid receipts, bills of lading, vouchers, shipping documents or other documents of original entry. An Automatic Data Processing (ADP) system must have built into its program a method of producing visible and legible records which will provide the necessary information to determine compliance with the requirements of this Chapter.

NOTE: Authority cited: Sections 12027 and 13433, Business and Professions Code. Reference: Sections 13431 and 13433, Business and Professions Code.

#### **4309. Motor Oil Fee Reimbursement**

Nothing in this Chapter prohibits the Motor Oil Dealer who has reported and paid the motor oil fee to the Department from obtaining reimbursement from their customers. When seeking reimbursement, the Motor Oil Dealer must demonstrate on the invoice that the motor oil fee is collected by one of the following methods:

- (1) The motor oil fee may be stated separately on the invoice; or
- (2) The motor oil fee may be included in the selling price provided the invoice clearly states that the fee is included in the invoiced amount.

NOTE: Authority cited: Sections 12027 and 13433, Business and Professions Code. Reference: Sections 13431 and 13433, Business and Professions Code.