

The Uniformer

MESSAGE FROM THE NATIONAL CHAIR EDIE MARTIN

Hello Everyone! Are you as ready for summer as I am? While Kansas had only 2 major snow storms this winter, I can't say I'll miss the white stuff, but we could still use the moisture in the Midwest!

As National Chair, I am looking forward to attending the Regional meetings this year. It will be interesting to meet new people, see the similarities and differences of each meeting, as well as to gain a better understanding of regional goals.

For some States, Legislative sessions are coming to a close. Methods to fund highways continue to be an issue, as well as deflated budgets, revenue decline and lack of grant funding. The use of natural gas is on the rise, which is also creating challenges. We hear more each day that truck fleets are converting to natural gas. Recently, I saw a news article indicating that testing of natural gas in locomotives was in process. These challenges remind me of the importance of partnering with stakeholders to accomplish needed goals. A collaborative effort is required. It's comforting to know that the FTA Motor Fuel Uniformity Committee will continue to tackle state and industry issues, follow trends, as well as opportunities for change and new ideas that could benefit all. However, your participation in Uniformity is still needed! If you cannot attend the

meetings in person, conference calling is available. Get involved!

The annual meeting in Fargo, North Dakota will be here before we know it! If you are interested in serving on the Time and Place, or Resolutions Committee, or you have discussion topics or projects for the group, please let me know. My contact information is as follows:
edie.martin@kdor.ks.us or
(785)296-5327.

MESSAGE FROM THE UNIFORMITY COMMITTEE STATE CO-CHAIR JEREMY NEECK

Greetings and Happy Spring! As we continue to move forward in 2013, I look forward to working with both states and industry on uniformity and issues that we face either with transportation funding, efficient methods of reporting and collecting taxes, and legislation that deals with the motor fuel industry. In Minnesota, we are in a legislative session that is looking at raising the motor fuel excise tax, increasing surcharges on fuel to pay for increased transportation spending and bonding, and trying to find more effective ways to identify and fairly tax those using alternative fuels as motor fuels. I am sure other states are also exploring this and many other issues that deal with the fact that consumption is decreasing and with more fuel efficient vehicles revenue to fund transportation project is also at a reduced rate.

This also leads to another issue that states and industries are faced with, what is the importance of FTA Motor Fuel Tax Section and should we continue to spend money to send representatives to our uniformity meetings and annual meetings? My response is whole-heartedly YES! I have found the value of attending these meetings to be beyond a measureable amount. The relationships that are created not only between states, but to have contacts with industry and the ability to pick up the phone or email someone directly to work out issues or solve problems is a value that is not always recognized. Every meeting or conference I attend I learn so much and feel energized when I go back to my state and work on projects or issues that I learn about while attending. FTA Motor Fuel Tax Section has had great success and because of this success and all the great leadership we have received from not only Cindy Anders-Robb but also all the past and present Chairpersons and committee members our model is going to be used to create similar uniformity groups for other tax types within FTA. So I want to say "Thank You!" to everyone for being so passionate and working so hard for the success of our section.

MESSAGE FROM THE UNIFORMITY COMMITTEE INDUSTRY CO-CHAIR BOB DONNELLAN

Over the past several years when suggestions are made to the

committee we get statements thrown out to us that "we cannot tell states what to do", or "that requires legislative changes." I thought as a group we are supposed to make recommendations as to what is best for uniformity. If we achieve that and a State adopts our recommendations then we have completed a goal of Uniformity. If a State chooses not to adopt a recommendation then that is fine as well. As a group I think we cannot lose sight of what we are trying to accomplish. That goal should be complete Uniformity across the board. When suggestions are made they should be explored and determined if they are within our Uniformity Scope. Everyone in the industry knows that certain changes will require legislation that should not stop us from making a recommendation.

**MESSAGE FROM
CANADIAN FUEL TAX
COUNCIL (FTC)
RICK CALLAWAY**

As an organization, the FTC is at a time of change. Change in participation and in the direction taken. Changes are, to a large degree, necessary so that we are better able to meet our objectives and the evolving needs of FTC's membership.

As has happened before, we leverage on the successes, work and operations of the FTA. Cindy offers insights into the FTA along with her knowledge and experience with the FTC as we make improvements.

The next FTC meetings will be held in Fredericton, New Brunswick on May 14 & 15. These will be the first of our annual meetings with a simplified structure and enhanced reporting.

Key agenda items for these meetings will include:

- Improving the exchange of information with Canadian border services,
- Providing an update on the implementation of the Systems Information Binder,
- Developing a uniform approach to reporting transactional details required for areas such as imports, dispositions and tax exemptions,
- Upgrading and maintaining FTC's website,
- Discussing the development of best practices for administering fuel taxes on CNG, LNG and LPG,
- Implementing new training methods including via the web,
- Updating FTC's priorities and plans,
- Introducing a new operating and performance management model, and

- Completing a review of the Generic Fuel Tax Return and Schedules.

If you have any questions or need more information, please feel free to contact me at rick.callaway@fueltaxcouncil.com or call (403) 471-7022.

UNIFORMITY COMMITTEE

Minutes

The FTA Motor Fuel Tax Section Uniformity Committee met at the Hilton Long Beach, California January 26, 2013. Jeremy Neeck (MN) Uniformity State Chair called the meeting to order. Thirty-seven (37) were in attendance.

Minutes

The minutes of the October 2012 Uniformity Committee in Providence, RI were correct to add that the committee watched the training video "Mr. Mob" by Peter Steffens.

Presentations:

Bob Behrens, Smiths Detection Company and Ted and Debbie, Pacific Laboratories demonstrated equipment that can detect liquids and other products. Ted presented, Pass-Acoustic Technology (Ricky Ray Gun) that can detect what is in a container. It cannot identify liquids in a double walled container at this time. Discussion about the Ricky Ray Gun included the fact that all fuel transport trucks are required to be doubled walled.

SUBCOMMITTEE REPORTS**The Compliance Subcommittee**

Cindy Mongold (KS) reported there were thirty (30) in attendance. The Committee discussed:

Training Schedule for 2012 –

No training schedule at this time for 2013. Schedule is currently being worked on.

Dyed Diesel Stats – A report was given on the dyed fuel stats spreadsheet for 2012 with the 4th quarter information updated. It appears that more states are getting involved with dyed fuel inspection programs. Everyone agrees that even if the % of violation is small, just the presents of continued inspections encourages compliance.

IRS Update – There was no representative from the IRS, however, there was a discussion regarding the Biodiesel credit of \$1.00 and the alternative fuels credit returning, which was retroactive.

Compliance Tools – Categories for the White Paper document regarding compliance tools was presented and input was requested. It was suggested to add ExSTARS.

- Audit
- Terminal Manifest Matching
- Diversion Review
- Import/Export information Exchange Between States
- Dyed Fuel Inspections
- Publicity of Prosecuted Fuel Tax Cases

New Projects for 2013 – the committee is looking for new projects to work on. If you have any project you would like to see, please contact Cindy Mongold at cindy.mongold@kdor.ks.gov

Open Discussion – Several articles were handed out regarding CNG & LNG and the present & future use of these fuels by commercial fleets.

<http://www.fleetsandfuels.com/>

Also provided the article “The New Way to Tax: Pay Per Mile Driven” regarding the state of Washington charging a tax of \$100 per year on electric cars and VMT (Vehicle Miles Traveled)

<http://www.cmbc.com/id/100359287/>

Scenario discussed:

A non-registered exporter (non-registered in State A) buys fuel destined for a rack tax state from a rack tax state. The supplier of record is a permissive supplier for State B (according to State B’s laws, a permissive supplier must collect tax on all loads with State B as the destination state). State A requires the supplier to collect State A tax from the non-registered exporter. State B holds the permissive supplier liable for the tax on the loads destined for State B. Does the permissive supplier have any recourse with regard to the taxes imposed by State A? Should the supplier collect both taxes from the non-registered exporter?

It was decided that this issue be combined with the Buy/Sell & Flash Title issue from the

Communication and Coordination sub-committee is researching.

The Forms Management Subcommittee

Lee Gonzalez (Florida) reported that this committee met with Electronic Commerce. There were thirty-seven (37) in attendance. The subcommittee discussed:

Crosswalk (FTA and STCC Codes) – team did not have significant progress to report since the October 2012 meeting.

Uniform Alternative Fuels Tax Report – the alternative fuel tax report team presented another draft of a Uniform Alternative Fuel Form, which included a summary schedule to address exempt sales by product types.

EC Survey Results – The survey results were discussed and a few new ideas for next years survey were:

- Piggy back IRS factors
- Piggy back IFTA recommendations on alternative fuel conversions and rates
- Recognize each state is different and legislation dictates conversion factors

A decision was made to refer alternative fuel conversions to the Communication/Coordination subcommittee to look at putting something in the Model Legislation concerning conversion factors.

EIA Code Presentation – a presentation on converting FTA to EIA codes. The presentation was based on meetings between

state, IRS, EIA and industry representatives. The presentation included problems with converting FTA to EIA codes and issues that must be resolved before FTA can move forward with this project. Examples of problems included in the presentation include:

Problems with FTA codes

- Focuses on below the rack transactions
- Definitions of product codes are too broad
- FTA product codes are incomplete
- FTA codes are ambiguous and obsolete

Problems with EIA codes

- Product code defines the use of the product and not the composition of the product
- Definitions of product codes are too specific (example 39 different grades of gasoline)
- EIA codes are incomplete
- New product codes are updated every three years

Examples of issues that must be addressed include:

- Common definitions for product codes (FTA/EIA)
- Plain language definitions
- Formal process to request new product codes

Once the presentation was completed, the representative from EIA expanded on EIA's role in this project. There were also additional pros and cons of creating a uniform list of codes.

The Committee discussed direction of the project. The group proposed three solutions:

1. Create uniform list
2. Create a cross walk between FTA, EIA and IRS codes
3. Table discussion and offer to participate in subsequent meetings between the EIA, IRS and FTA

The Committee decided the benefits of options 1 and 2 did not equal or exceed the cost of implementing the solution. Group decided to table the issue, however, FTA will reach out to the IRS and offer team members to participate in future meetings.

Industry Issues – the industry presented three problems they are having with taxing jurisdictions:

1. States requires supplier to calculate tax due based on the point of destination for all movements of fuel by barge. Destination is difficult to determine due to change in ownership.
2. Industry needs uniformity by state for buy/sell agreements where product is exported.
3. State requires supplier to calculate a tax rate based on the presence of biodiesel fuel in blend. Supplier prefers legislation that would eliminate exemption and tax 100% of blend.

States ExSTARS Update

ExSTARS update for information filed in Kansas and Mississippi. In summary, the majority of the returns are still being filed in an 826 designation.

The Electronic Commerce Subcommittee

Hal Lovell (California) reported there were twelve (12) in attendance. The subcommittee discussed the following:

EDI REF Segment – Group discussed the fact that the IRS might not need this segment anymore. The Committee reviewed a release on the IRS website related to this segment and believe the best solution is to update the segment with a note in the FTA guide that the IRS no longer requires this field to be used at this time. FTA will leave the segment in the guide with this notation.

IRS Project to transition to XML

– No action has been made by the IRS since the last meeting in October. The committee will follow-up with the IRS to see how this project is going.

Postal Code List Mexico import transactions in XML Schema – The committee will update the E-File guide later this year.

Alternative Fuel Tax Report

– The Committee will need to make sure that the XML and EDI format can support the return structure in the alternative fuel return. There was some concern about other units of measure not being supported in the maps for this return. The group will look at this in more detail at the next meeting.

E-File Implementation Guide

Update – The Committee will be setting up weekly meeting every Tuesday starting on February 25

at 4pm(est) to continue to rewrite the E-file guide. The group is also going to recommend that the 2005 IRS guide get updated on the FTA yearly release cycle.

The Communication and Coordination Subcommittee

Christy Dixon (OK) reported that twenty-three (23) were in attendance.

The subcommittee discussed the following and the January 2013 Uniformer was distributed.

2013 Taxation, Diversion and Alternative Fuels Booklet

– The committee discussed they wanted to add tax rates, conversion rates, etc for Compressed Natural Gas, Liquefied Natural Gas, Propane, etc and add the Canadians to the booklet. The Committee looked at copies of the questions that have been asked on the Motor Fuel Listserv and decided that all the questions should be incorporated into the booklet. A draft of additional items to be added to the booklet will be discussed at the next uniformity meeting in May before the booklet is sent to each state to be updated. The name of the booklet will also be changed.

Native American Booklet – The 2011 Native American Survey needs to be updated and printed for the 2013 FTA Motor Fuel Annual Meeting in September. Someone from each region will contact the states within their region and get any changes or updates to the survey. The survey will be sent out to the states for revisions/update in April.

Buy/Sell Agreements and Flash Title Agreements

– The committee had a very lengthy discussion concerning buy/sell agreements and flash title agreements. A working group will work to put together some type of language for Model Legislation and will also relook at the definition that was previously approved for buy/sell agreement. The group will check with API for their input also.

Alternative Fuels Section of Model Legislation

– the revisions to be made to the current Alternative Section of the Model Legislation is currently being worked on. This will be discussed at our next meeting in May.

White Paper Document on Inventory Gains and Losses

– This is currently being worked on and will be discussed at our next meeting in May.

Canadian Update

– Rick Calloway reported that they are continuing to change the project structure. The Council is looking at CNG, LPG and LNG and are doing studies such as:

- Background paper
- Risk analysis-equity of the products lost revenue
- Uniform model of best practices
- Registration, enforcement, point of taxation

The Canadian project currently has three training classes, however they are seeing a decline in attendance. They are going to take the three manuals and break them down to smaller manuals. By breaking them down into smaller manuals they

are going to implement an on line training with the manuals.

The Canadian project website is currently being updated.

New Business

EC Survey working group will look at what changes need to be made to the survey concerning the states points of taxation and will be discussed at the next meeting in May.

The Steering Committee is looking for topics for the Annual Motor Fuel meeting in September. If you have anything you wish to see on the agenda please contact Cindy Anders-Robb at cindy.anders-robb@taxadmin.org.

Next Meeting

The next Uniformity Committee meeting is scheduled for May 3-4, 2013 in Houston, TX.

FTA Motor Fuel Tax Training Courses

The FTA Classes are currently being scheduled. Check FTA's website for more information www.taxadmin.org

UPCOMING MEETINGS 2013

Northeastern Region

May 19-21, 2013
Burlington, Vermont

Southern Region

June 16-18, 2013
Little Rock, Arkansas

Uniformity Meeting

September 20-21, 2013

Fargo, North Dakota

Motor Fuel Annual Meeting

September 22-25, 2013

Fargo, North Dakota

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COMMITTEE MEMBERS**

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Chuck Ulm, Maryland

Pacific Region

Tracy Halubka, Montana

Southern Region

Rodney Richards, Arkansas

Editor

Cindy Anders-Robb, FTA

(307) 632-4144

cindy.anders-robb@taxadmin.org