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# The Uniformer

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**MESSAGE FROM THE  
FTA MOTOR FUEL TAX  
SECTION CHAIR -  
JOE O'GORMAN**

As another year comes to a close and we begin to plan for the future, let me take a few minutes to reflect on this past year.

First, let me say it has been an honor to serve as National Chair, but it has been a greater privilege to have developed new friendships and strengthened a lot of old ones.

There are many things on the horizon that the Motor Fuels Section needs to be ready to face.

We have new evasion schemes popping up throughout the country and at the annual meeting in Charlotte we will become even more aware of them.

We have alternative fuels that are continuing to be an issue. Products like bio-diesel, ethanol and the change in the way the states are handling MTBE are issues that must be faced. For many years we've been hearing about imports being a potential problem and now we have task forces working to study waterborne operations. There will be new federal energy legislation coming that will no doubt affect us.

Then there will always be the old tried and true methods of evasion that never seem to disappear.

So in the area of evasion the game of act and react is quickly moving back to our ballpark.

One of the tools that we've used successfully in the past to combat evasion has been the Uniformity Committee. We must continue to strive for universal electronic filings, proper reporting on paper forms, standard definitions and a continued drive for compliance.

But, as we move forward we need to remember the key to it all is communication.

It is not only what guides us in Uniformity and our partnership with industry, it also needs to be what guides us through the entire section and the work we do.

We need to discuss openly our problems, our visions, our goals and our desire to continue to achieve solutions.

As I have said during this year, this belongs to us. What the Motor Fuels Section is today is because of the hard work of a lot of good people, too many to mention. But, they faced the challenges and addressed them boldly and openly.

We must now do the same. We must communicate with members of the Executive Board, with Cindy Anders-Robb our coordinator, with our co-chairs in Uniformity and most importantly with each other.

The Section will only be as strong as we the participants make it.

As I close out this year as National Chair, it's going to be the friendship that I will cherish and remember most.

Too many times those friendships can suffer from that lack of communication.

So as the gavel is passed to Robynn Wilson let me say thank you for making this a memorable year.

The Section will thrive in the steady hands of Robynn and I know she will lead us through the challenges ahead.

I need to give a special thanks to Cindy for all she has done to make my job easier. My wife, Donna has been there with all her support. I would like to thank Julian Fitzgerald, Donna Alderman and all those in North Carolina for their hospitality.

Lastly, I want to thank each and everyone that works to make this Section the envy of them all.

**MESSAGE FROM THE  
UNIFORMITY COMMITTEE  
INDUSTRY CO-CHAIR  
BILL GRAY**

I've been straining the old grey-matter to come up with a "Uniformer" Article. Those who know me, know I'm not usually at a loss for words, but this time I truly am; perhaps because to tell you how much I appreciate working with all of you again would be redundant, as would suggesting again that industry needs to be given a break from

the accelerating compliance demands. Therefore, if the "Uniformer" editors will indulge me, I'll provide some middle-age wisdom.

***Things I should have learned  
by Middle Age***

If you're too open minded,  
your brains will fall out.  
Artificial intelligence is no  
match for natural stupidity  
Not one shred of evidence  
supports the notion that life is  
serious.  
For every action, there is an  
equal and opposite  
government program.  
If you look like your passport  
picture, you probably need  
the trip.  
Bills travel through the mail at  
twice the speed of checks.  
A conscience is what hurts  
when all of your other parts  
feel so good.  
Eat well, stay fit, and die  
anyway.  
Men are from earth. Women  
are from earth. Deal with it.  
No man has ever been shot  
while doing the dishes.  
Middle age is when  
broadness of the mind and  
narrowness of the waist  
change places.  
There is always one more  
imbecile than you counted on.  
Experience is a wonderful  
thing. It enables you to  
recognize a mistake when  
you make it again.  
By the time you make ends  
meet, they move the ends.  
Someone who thinks logically  
provides a nice contrast to the  
real world.  
If you must choose between  
two evils, pick the one you've  
never tried before.

There now – you liked that better  
than my previous articles; didn't  
you?

***NOTE FROM THE UNIFORMITY  
COMMITTEE STATE CO-CHAIR  
CHRISTY DIXON***

First, I would like to take this  
opportunity to thank all of the  
Uniformity subcommittee co-  
chairs and each State, Federal  
and industry representative for all  
of your hard work and dedication  
this year.

The subcommittees have faced  
many challenges this year in  
completing some of their projects.  
Without everyone working  
together, we would not have been  
able to accomplish the goals that  
were set by each subcommittee  
this year. Again, I would like to  
stress the importance of the  
partnership between industry and  
government. It is because of this  
partnership, the Uniformity  
Committee continues to move  
forward in achieving uniformity  
and improving fuel tax  
administration.

I would especially like to thank  
the Executive Committee for their  
support and leadership this year  
and to Cindy Anders-Robb for her  
dedication and for keeping  
everything so well organized.

Once again, I would like to take  
this opportunity to thank my  
colleagues for allowing me the  
privilege of serving as the  
Uniformity State Co-Chair for  
2003.

**"ASK DAVE"**

I have some questions regarding  
the EXTOL system. We are  
very interested in getting our  
state's information posted and I  
have been chosen to try and  
make it happen!! I just have a  
few questions since I haven't  
made it completely through the  
ExTOLE user manual yet.

1. Who do we contact to get  
personnel set up with user-ids  
and passwords?

Answer – The administrator level  
user names and passwords are  
set up by the IRS in Cleveland.  
These persons are named and  
established when you execute  
your Memorandum of  
Understanding (MOU) with the  
IRS. After the administrators are  
set up, they can then assign  
additional users and passwords  
for "read-only" access to the  
ExTOLE system. Call Dale  
Goodwin at 859-669-5352 for  
assistance.

2. What personnel are best  
suited for the technical and  
managerial administrator levels?

Answer – The managerial  
administrator should be someone  
who will be responsible for  
updating the disclosure settings,  
since that is the only position  
authorized to do so. Normally it  
will be the fuel tax administrator  
or designee – someone in fuel tax  
licensing, auditing, or other  
operations unit. This person will  
have full authority to create, read,  
update and delete entries in all  
tables in ExTOLE (for your state)  
including the uploading of files to  
update the ExTOLE data for your  
state. This person will also have  
authority to add other "read-only"  
users.

The technical administrator can be anyone else designated as a backup to the managerial administrator, or can be someone in the information technology division of your department. This person can assign usernames and passwords for "read-only" users, and can perform routine monthly updates of the ExTOLE data.

3. What data is needed - do you have any recommendations as to what tables to target?

Answer – The most important and useful information you can post in the ExTOLE system is your state's licensing information. The system is designed to accept a wide range of details, including officers' names, phone numbers, driver license, and so forth. All these data fields are fully searchable and can be queried by a user in another state if you have enabled disclosure to that state. If you do not have all that detail in your system, it will still be helpful to load the basic license information, such as the name of the company, the type of license and the FEIN of the company. If you do not have this information in your system, you can still data enter the basic information. If you have the information in your system, it should be a fairly simple matter to create text files of the data and upload to the system. This should be done on a monthly basis if possible, to keep the information current.

#### **CANADIAN FUEL TAX COUNCIL (CFTC) UPDATE**

The major ongoing activity of the CFTC is the Comprehensive Fuel

Reporting (CFR) project. This project is to define the appropriate level of fuel reporting - accountability and taxation for all fuels in Canada at an appropriate level of detail. The project includes the ability to create common standards for electronic filing of all accountable products and the appropriate use of technology for this to occur.

We are attempting to utilize standards that have been established by the US - FTA Electronic Commerce Uniformity Project to facilitate information exchange of products that are traded internationally. We will attempt to follow FTA standards - data definitions and data record formats for such things as product codes, numbering systems for entities, physical facilities (terminals / refineries), product distribution codes - etc.

We have created the concept and the framework for the CFR, the reports, a draft of the data dictionary and the business rules for the reconciling or clearing function (tracking of the fuel). Our goal is to track all fuel until the final taxation disposition of the fuel is known.

We are planning on a limited pilot project to test some of the concepts - refinery and terminal reporting, terminal reconciliation of all fuel into and out of terminals and the acquisition and disposition of all fuels by our "collectors". Planning for this pilot includes representatives of Alberta, Quebec, Saskatchewan, Shell Canada, Husky / Mohawk Oil and Sunoco. The pilot is intended to simulate the functionality of the concepts that

we are attempting to verify and to confirm the business rules and requirements for reporting. We hope to start the pilot in the January to March timeframe of 2004.

We are still attempting to look at improvements to the fuel dye that is used and if we can, to consider a fuel dye standard that could be part of a North American standard for fuel dyes.

"Uniformity" in all aspects of fuel tax administration has been well accepted, the "project" has now become a permanent entity "the Canadian Fuel Tax Council" with funding coming from all jurisdictions. The ability to communicate and have a central area for standards setting and the networking and contacts in the Canadian setting and to work with to gain the experience of our US colleagues has been very beneficial.

#### **UNIFORMITY COMMITTEE**

##### **Minutes**

The FTA Motor Fuel Tax Section Uniformity Committee met at the San Diego Courtyard, in San Diego, California on May 3, 2003. Uniformity Chair Christy Dixon (OK) called the meeting to order. Fifty were in attendance.

##### **Minutes**

The minutes from the January Uniformity Committee meeting in San Antonio, Texas were approved as corrected.

#### **SUBCOMMITTEE REPORTS**

##### **The Compliance Subcommittee**

Carol Player (South Carolina) reported twenty-nine (29) attended the meeting. The committee discussed the results of contacting each state on the responses to the "Best Practice Survey". The also had presentations from Wayne Rhoads (MS) on the Gulf State Task Force, Al Howard on the proposed changes to the Federal Statute on Fuels and Linda Dollens (IN) on the removal of dyed before the injectors.

**The Electronic Commerce Subcommittee**

Doreen Warren (ID) reported eighteen (18) attended the meeting. The subcommittee discussed the following:

**Technical**

Proposed Changes to the Electronic Data Interchange Implementation Guide  
ExSTARS  
151 Error Correction Notices  
FTA Uniformity Guide Update  
Security Issues in Internet Based Motor Fuel Electronic Tax Filing "White Paper"  
Review of States  
Implementation Guides

**Not Too Technical**

ExSTARS Data Perfection Team  
Single Point of Filing  
E commerce Training Opportunities  
Web Page Update

**Full Committee Approved**

Changes to the EDI guide were approved as reported. Publishing a list of States that have EDI guides in both the EDI Guide and the Uniformity Booklet

Security Guide White Paper

**Forms Management**

**Subcommittee**

Patricia Platt (KS) reported that twenty-one (21) attended the meeting. The subcommittee discussed the following:

Development of a Blenders Report, Surety Bond Form, Alternative Fuels Report  
Terminal Operator and Carrier Report Schedules  
Reviewing Common/Contract Carriers report and schedules  
Reviewing the Uniformity Booklet

**Full Committee Approved**

**Schedule 14** Common and Contract Carrier Report

Subschedules will be called:

14 A – total of all deliveries of fuels from in State locations outside the State (Exports)

14 B –total of all deliveries of fuels from out of State locations to inside the states (Imports)

14 C – total of all deliveries of fuel between points in the state

**Schedule 15** Terminal Operator Reports Subschedules will be called:

15 A – terminal operator schedule of receipts

15 B – terminal operator schedule of disbursements

15 C – terminal operator schedule of inventories

Form to request subschedules was approved.

Form to request product codes was approved.

**Communication and Coordination Subcommittee**

Dave Skinner (FL) reported that twenty-one (21) attended the meeting. The subcommittee discussed the following and the May 2003 Uniformer was passed out.

Cross Border Project  
Monitoring the Federal Energy Bill  
Articles for the September Uniformer are due by September 1  
Comparison of the FTA to the Canadian Definitions  
Bio Diesel white paper  
Review the 11-point plan  
Update of the brochures  
Analysis of revenue derived from various taxation methods and compliance tools  
Report of accomplishments of the FTA Uniformity Committee survey

**Full Committee Approved**

Bio Diesel Definition:

A fuel comprised of mono-alkyl esters of long chain fatty acids generally derived from vegetable oils or animal fats, designated B100, and meeting the requirements of ASTM D 6751.

Biodiesel Blend Definition:

A blend of Biodiesel fuel meeting ASTM D 6751 with petroleum based diesel fuel, designated Bxx where xx represents the volume percentage of Biodiesel fuel in the blend. (Example: B20 is

20% Biodiesel and 80% petroleum diesel)

Section to be added to the Model Legislation in the Uniformity Booklet on Cross Border movement of fuel:

## **UPDATES**

### **FHWA Update**

Linda Morris reported that they are still working on the Transportation Legislation but it should be out after May 15. She told us that Fuel Tax Evasion is getting a lot of attention right now and that her area has received money to look at tax evasion at the Federal Level and Montana has received a grant to look at tax evasion at the State level.

**Canadian Update** - Ken Duggan reported that the Comprehensive Fuel Reporting Phase I was completed and that they are starting a pilot project with one Oil Company and two Provinces. He wanted to thank Bill Gray, Mike Albin, Eddie McCormack and Vicki Hayden for all the information they provided to the committee on the Comprehensive Fuel Reporting.

**IRS Update** - Rich Little with the IRS gave a presentation at the Electronic Subcommittee meeting Friday afternoon for Technical and Saturday morning at the Non Technical concerning ExSTARS.

**ExTOLE Update** - Pat Platt with Kansas reported that 11 states are currently putting license information into the system. The only problem she is seeing with

the system is that the States are not updating the information on a timely basis.

### **Old/New Business**

A Uniform Bill of Lading and Homeland security was discussed and tabled until next meeting. Cindy mentioned that all information and minutes would be put out on FTA's web site. She also requested that all subcommittees have their minutes and agendas from this meeting to her by June 13. Also, she would like the annual report and resolutions for the subcommittees by August 1.

### **Next Meeting**

The next Uniformity Committee meetings are scheduled: September 19-20, 2003, Charlotte, North Carolina January 23-24, 2004, Nashville, Tennessee.

## **THE TAX ENFORCER**

The following are fuel tax articles from the Tax Enforcer of the winter 2002/2003, Vol. 10, No. 3 issue.

### **California Board of Equalization**

Businessman Pleads Guilty to Felony Tax Evasion. John Chiang, Chair, State Board of Equalization (BOE), announced that Nour Ezzegraoui, age 39, of Los Angeles County, pled no contest to three counts of felony fuel tax evasion. An investigation was conducted by the BOE and prosecuted by the Los Angeles County District Attorney's Office. The investigation found that Ezzegraoui, through his business,

Nour Oil in Long Beach, failed to pay the state of California over \$316,000 in use fuel taxes collected on diesel fuel delivered to retail gasoline stations during the period November 1992 through May 1993. The complaint charged that Ezzegraoui falsified his wholesaler use fuel tax returns to avoid payment of the tax. He was sentenced to 2 years in state prison and ordered to pay restitution of the tax owed.

### **NEW JERSEY**

On April 5, 2002 in Superior Court – Union County, Elizabeth, New Jersey, Naum Raichel, of Brooklyn, New York, was sentenced to 2 years' probation and ordered to make restitution of \$85,085.49, pursuant to his previous guilty plea to a charge of failing to turn over motor fuel tax which he had collected between January 1997 and September 1998 in the operation of Gas R Us, Inc., a retail truckstop he owned in Elizabeth. This case was the result of a joint investigation by OCI and the New Jersey State Police Organized Crime Unit and was prosecuted by the State Attorney General's Office.

On April 15, 2002, an officer of a wholesale motor fuel distributor entered a plea of guilty to failing to turn over Petroleum Products Gross Receipts Tax (PGRT) collected in the amount of \$168,402.44. This is another case that was part of a joint investigation between OCI and the New Jersey State Police Organized Crime Unit. Additionally, OCI received substantial assistance from the

civil Motor Fuel section of the Audit Activity Branch. This case was prosecuted by the State Attorney General's Office.

On August 9, 2002, in Newark Municipal Court, Antonio M. Gomes entered a plea of guilty on behalf of his corporation, A&A Gomes Construction Corp., to a disorderly person charge of failing to obtain the required Motor Fuel Tax Seller-User of Special Fuel license in connection with the corporation's operation of a diesel fuel bulk storage tank in Newark, and was fined. The subject exhibited proof to the court that he came into compliance by presenting the required license at the time of the hearing. This complaint was based on a referral from the civil Motor Fuel section of the Audit Activity Branch.

On August 16, 2002, a state grand jury indicted Carl F. Monto, of Toms River, New Jersey, on charges that, as responsible person of Courtesy Truck Stop, Inc., a now defunct truckstop in Jersey City, he collected and failed to remit \$100,454 in motor fuel tax on the retail sale of diesel fuel from January to September 1997. This was a joint investigation by the Office of Criminal Investigation and the New Jersey State Police Organized Crime Unit. This matter was presented to the grand jury by the State Attorney General's Office, who also assisted in obtaining search warrants during the course of the investigation.

On August 28, 2002, a state grand jury indicted Drymco, Inc.,

and responsible corporate officer John Drzymkowski, of 14 The Tax Enforcer Berkeley Heights, New Jersey, on charges that the corporation and individual collected and failed to remit in excess of \$300,000 in Petroleum Products Gross Receipts Tax on the sale, at wholesale, of diesel fuel from September 1999 to December 2000. This matter was presented to the grand jury by the State Attorney General's Office.

#### **UPCOMING MEETINGS AND TRAINING**

December 14-18, 2003  
Advanced Class  
Albany, NY  
(NY is hosting the Advanced class in December)

The January 2004 Motor Fuel Tax Section Uniformity Committee meeting is scheduled for Subcommittees meeting on January 23, 2004 and the morning of January 24, 2004. The Main Uniformity meeting is scheduled for the afternoon of January 24, 2004 in Nashville, Tennessee. The meeting will be at the Nashville Downtown Courtyard. The special rate at the Courtyard is \$82 single/ \$92 double plus 14.25% (current) tax rate. Make your reservations directly with the hotel by calling (888) 687-9377 or (615) 256-0900. Make certain to inform the hotel that you are attending the Federation of Tax Administrators meeting to receive the special rate. The address of the hotel is 170 4<sup>th</sup> Avenue North, Nashville, TN 372129. Please note that the cut-off date for the hotel reservation is January 1, 2004.

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