

The Uniformer

**MESSAGE FROM THE
FTA MOTOR FUEL TAX
SECTION CHAIR
HERMAN WISNESKI**

When we meet in Dana Point, California I will have attended my first regional meeting (Pacific Region at Golden, Colorado). I expect that meeting will be somewhat smaller in attendance than was last year due to the budget constraints of the member states. I know that Midwest (MSATA) meeting at the time of this writing is looking at having a virtual conference. The planning meeting for that conference was held at Fargo, North Dakota and at that time the states involved could only send about 30 people total. The conference was planning on having 70 to 80 state employees.

The purpose of all this information is to start a discussion on what future meetings (Uniformity and Regional) should look like. We all have issues in our states with budgets and travel restrictions and those issues may not be resolved in the near future. We are also aware of the public perception that out of state meetings are "junkets" and are according to the public "a waste of time". We all know the information we get at these meetings is not "a waste of time" and is very valuable to our work and state. I keep referring to state when I should include industry and other stakeholders. The time spent at these face-to-face meetings is worth the effort. However with shrinking budgets, even with the Federal Highway

grants, states and industry are looking at ways to save money.

The idea of the virtual conference must be looked at as way to cut costs and possibly increase attendance at a Uniformity or Regional meeting. If we have a virtual conference the logistics would be daunting, but not insurmountable. We could use internet meeting space and have reports sent out to the members prior to the meeting to be discussed at the meeting. You may also be able set up different times for various sub-committees to have the virtual meeting. This may lead to a state having more people who would be at their end of the meeting then they would be able to send to an off-site location. Imagine if you will the Compliance sub-committee meeting where at state may have all its auditors sitting in on a discussion about bio-fuel or alternative fuels. Or maybe the dyed fuel enforcement staff may sit on the meeting when the issue of dyed fuel compliance across the nation is discussed. We may have more participation at the virtual meeting then we could ever get at the regular format.

However, this may all be wishful thinking and putting the cart before the horse. We need to research, review, cost out and look at the pluses and minuses of a virtual meeting over a face-to-face. This process is just starting any maybe by the time we get to the annual meeting we may have more information about the future of our meetings.

I hope to bring this issue up at this Uniformity meeting and

maybe the other regional meetings. I will keep the members apprised of what is going on in regards to this issue.

**MESSAGE FROM THE
UNIFORMITY COMMITTEE
STATE CO-CHAIR
MARCIA LEICHNER**

As I anticipated, our January meeting in Seattle, Washington, was very busy and very productive. Some subcommittees have numerous projects, while others appear to be wrapping up many of the previously assigned projects. A major item on the upcoming agenda for our Saturday, May 30th, meeting in Dana Point, California, is to reevaluate the structure of our group and determine where we go from here.

We are facing many challenges during the current economic times with decreased travel budgets. With much work to be done, it is important we continue to have active participation and continue to strengthen the partnership between industry and government. In times like these, our partnership becomes even more important to help curb fuel tax evasion.

Thank you for your continued commitment to the uniformity committee. Together we can work toward achieving uniformity and improving state fuel tax administration.

**MESSAGE FROM THE
UNIFORMITY COMMITTEE
INDUSTRY CO-CHAIR
BOB DONNELLAN**

Given the economic struggles we are facing today any incentive to raise income and keep businesses running is going to be a common theme. With that being said I think all states need to look at states that surround them that have a lower state excise. For example, if you own a gas station in Rhode Island and your state tax rate is 30cpg if you purchase your product in NH the cost is 18cpg that leaves a 12cpg margin for tax evasion. Now let's say it costs an additional 3pg to pick up in NH and deliver into RI you now have an 8cpg increase in revenue. I think it is important for states to look at the retailers and more specifically if there is an economic incentive to travel a certain distance to bring in the fuel. It is extremely important for all concerned in the motor fuel industry to keep a vigilant look out and report anything suspicious.

**MESSAGE FROM
MAL BRUCE
Fuel Tax Council (FTC)
March 2009**

The current recession impacts all of us and makes our project challenges even more difficult. Funding cuts, restricted training and travel budgets may hamper our ability to work as we did in non-recession times; however, with the dedicated individuals who support and contribute to the FTC, I have no doubt we will continue to succeed in meeting our goals and objectives.

Project and Activity Update

The following provides information on FTC projects and activities since our last semi-annual meetings which were held in Victoria, B.C. on October 21 and 22, 2008.

Training

The FTC Training Sub-Committee recently completed the training materials for the new Fuel Tax EDP Audit Course. This course is a four day course designed to provide students with a basic understanding of SAP for Oil and Gas as well as in-depth training on Computer Aided Audit Tools (CAAT). The two CAAT products covered in the course are IDEA (www.caseware.com) and ACL (www.acl.com). At least one of these electronic audit tools (some jurisdictions use both) is used by most jurisdictions in Canada. On day two to four of the course, students will break into either ACL or IDEA training classes. The first course offering is expected to be in late May, 2009.

E-filing

The Uniform Reporting Sub-Committee is currently addressing jurisdictional Generic Fuel Tax Return reporting variances to resolve the handling of the variances in the development of e-filing standards. The primary objective is to ultimately recommend e-filing standards to the Steering Committee for adoption. There is still much work to be done; however, progress is being made.

The province of Alberta's e-filing system is in the development

stage and Ontario is moving forward with their proposal. Both Alberta and Ontario are communicating with the Uniform Reporting Sub-Committee to discuss compliance with developing standards.

Council Expansion

The Communications Sub-Committee has confirmed the approach for expanding participation in Fuel Tax Council. Letters will be sent out in the near future to organizations to solicit their interest in participation. The goal is to have more industry sectors participating in our meetings. This Sub-Committee will also consider a report at their next meeting in Charlottetown, Prince Edward Island concerning the development of a website for the FTC.

Audit and Enforcement

The Audit and Enforcement Sub-Committee continues to evaluate and revise a strategy for conducting joint fuel tax audits. Audit programs from each jurisdiction have been gathered and are being reviewed to determine the jurisdictional differences. This sub-committee is also working on updating the FTC's Enforcement Binder.

Retirement

André Brisebois the current FTC Steering Committee Chair retired from the Province of Quebec in late January, 2009. André will stay on as Steering Committee Chair until Andrew Foster takes over after the Charlottetown meeting on May 12, 2009. I hope you will all join me in congratulating André on his retirement. He served not only

with the Province of Quebec, but also in various roles and capacities with organizations such as the Fuel Tax Council, the International Fuel Tax Association, the Federation of Tax Administrators and others. André was a great supporter of the FTC. Through his years of involvement and leadership he has left a vast legacy of contributions. His leadership and dedication will be missed. He is very deserving of the time he now has to enjoy the pleasures of retirement.

UNIFORMITY COMMITTEE

The FTA Motor Fuel Tax Section Uniformity Committee met at the Renaissance in Seattle, Washington on January 10, 2009. Marsha Leichner (NE), Uniformity State Co-Chair called the meeting to order. Thirty-five (35) were in attendance.

Minutes

The minutes of the September 2008 Uniformity Committee meeting in Hartford, Connecticut were approved.

Presentation

Cindy Anders-Robb (FTA) gave a presentation on IRS Disclosure and Security Guidelines (Safeguards for protecting the ExSTARS Information).

SUBCOMMITTEE REPORTS

Compliance Subcommittee

Wilda Ice (WV) reported there were nineteen (19) in attendance. The committee discussed the following:

- Alternative fuels
Oregon Study

Experiment in six states (MD, NC, CA, ID, IA, TX)

- Audit Techniques
 - Eliminate exemptions
 - Diversion Reports
 - Match exports
 - Tips
- Dyed diesel inspections stats
- Working with US Coast Guard for water transfers
- New issues

Electronic Commerce

Subcommittee

Traci Bullock (SC) reported there were nineteen (19) in attendance. The subcommittee discussed the following:

- EC Survey
- XML Schema update
- ExSTARS Users Group
- EDI Implementation Guidelines
- EDI Guides
 - New Hampshire
 - Florida
- Import/Export file layout

Approved by the Full Committee.

1. Standard EDI Map (ANSI X.12 4030 format):

By using the Motor Fuel Uniformity Committee approved EDI map, States and taxpayers can leverage existing work instead of creating custom files to transmit tax data. Standard maps predefine fields and data elements so they are well understood. In addition, States and companies can utilize vendor software to produce standard EDI files.

FYI – Once the uniform file is received, the state can choose to ignore certain data fields.

2. Testing Timeline:

From notifying the taxpayer to go-live, allow 6 months to test and convert current process to EDI. This gives appropriate lead time to align resources, budgets, preparation and testing.

Sample Data Test: Require 1 or 2 months of testing sample data. Be flexible as to what month and year the companies provide for testing. Due to development system limitations, only a limited amount of data may be available at any given time and it is very cumbersome to load data from prior month's actual transactions. The point of this portion of the test is to test the systems ability to process the file.

Production Data Test: To ensure that EDI is accurate, the state could require both paper and EDI for 2 to 3 months in production.

After Go Live the paper and/or separate electronic submission via fax, email or web site of summary reports contained in the EDI submission should no longer be required.

3. Forms and Schedules:

It is recommended not to change forms or schedule codes at the same time you are moving to EDI. Moving from paper to EDI is more straight-forward when the forms/schedules remain the same. We recommend changing forms/codes in advance of EDI.

4. State Web Site:

If possible, the state's web site could provide the following:

Allow companies to upload and process test and production files.

Provide clear error messages and confirmation that a return was filed. Error messages should allow the filer to identify which records resulted in the error. Recommendations for confirmation information include the name of the file and the date submitted.

Validation/Pre-Check process: validate a file before submission to catch any data issues (i.e. invalid FEIN).

Allow for multiple user logins by filer.

Whether through FTP or web site login, EDI filing methods should attempt to use standard technology and settings to minimize the need for supplemental technology support.

Contain contact information for problems using web site or filing return. EDI documentation contacts can get out of date.

FYI - Colorado has good pre-EDI validation process. See "EDI check" at: <https://www.cofts.com/goGuest.cfm>

5. Retroactive Filing:

Requiring companies to re-file paper returns as EDI is not a best or preferred practice. Once a return is filed with the state (paper or EDI), that return should serve as the source. If a state expects they will be requiring the taxpayer to back file they need to disclose that fact up front, so that the taxpayer can prepare for it while testing. It shouldn't come as a surprise at the end of the certifications process.

States could also be asked to suspend the paper schedules in exchange for a company's agreement to back file the returns due during the test period.

6. EDI Implementation guides:

It is recommended that state's begin with the FTA Electronic Commerce Guide in designing the state's guide; then submit that guide to the committee for review and approval. Once approved the state publishes their guide and advises industry allowing 6 months for testing and implementation. Include comprehensive instructions that address both technical specifications and plain text descriptions. Include testing procedures/requirements, State contacts and any specific file naming conventions. Also include schedule description details for determining appropriate schedule assignments as many times the taxpayer and state testers involved in implementing EDI are not

experts with the particular tax returns.

Import/Export file layout was approved

Florida EDI Guide was approved.

XML Data Structures

XML will follow the Uniformity Guidelines in letting the States decide whether it's optional or mandatory in the data structures.

Forms Management Subcommittee

Lee Gonzales (FL) reported that this committee met with Electronic Commerce. There were nineteen (19) in attendance. The subcommittee discussed the following:

- Forms approved request
New York
New Hampshire
- Producers and Manufacturers report
- Uniform Blenders Report

Approved by the Full Committee**Schedules**

13K be renamed to "Credit or Deduction for Reduced Tax Rate" from "Credit or Deduction for Alternative Fuel?"

Communication and Coordination Subcommittee

Christy Dixon (OK) reported that sixteen (16) were in attendance. The subcommittee discussed the following and the September 2008 *Uniformer* was passed out.

- Invitation Letter
- Definition:

Two Party Exchange Exchange Agreement

- Diversion/how states handle
- Alternative Fuels Incentive and Laws Booklet
- White papers
 - Price/Tax Indexing and Sales Tax on Motor Fuel

How to handle the
different Alternative Fuel
Vehicles

- Federal Farm Bill that passed

Approved by the Full Uniformity
Committee

Definitions

Two Party Exchange

A transaction in which petroleum product is transferred from one supplier to another supplier pursuant to an exchange agreement.

Exchange Agreement

An agreement between two terminal suppliers whereby a terminal supplier agrees to deliver fuel to the other party or the other party's customer at the loading rack.

Invitation Letter

Date
Recipient
Name of Company/Organization
Address
State, City Zip Code
Dear Recipient:
RE: Federation of Tax
Administrators Motor Fuels Tax
Section
Uniformity Committee

The FTA Motor Fuels Tax Section
is pleased to invite your
(company/organization) to

participate at our next meeting on
(Date) at (Location). There is no
registration fee to attend.

The FTA Motor Fuels Tax Section is comprised of States, Industry, Federal and Foreign Governments and the Canadian Fuel Tax Council. The FTA Motor Fuels Tax Section Uniformity Committee meets three (3) times a year with one (1) meeting in conjunction with the FTA Motor Fuels Tax Section Annual Meeting.. Its purpose is to provide an opportunity for government and industry to partner for the efficient and effective reporting and remittance of fuel taxes, to minimize fuel tax evasion and to act as an information resource to stakeholders.

The FTA Motor Fuels Tax Section would like to include other sectors involved with the manufacturing, distribution, administration and taxation of motor fuels, such as independent refiners, distributors and alternative fuel products.

Benefit of Participation

Your company/organization will have a voice in the development of common jurisdictional processes for a more flexible, simplified, efficient and effective fuel tax administration.

The Uniformity Committee which is comprised of four (4) subcommittees developed the Fuel Tax Evasion 11 Point Plan. (see enclosure) The major points of the Plan include uniform definitions for imports and exports; use of Federal numbers as a reference for reporting and information exchange; licensing of all resellers; total accountability

of fuel and third party reporting on fuel movement; uniform electronic reporting; and training for auditors and investigators.

Thank you for taking the time to consider being a part of the FTA Motor Fuels Tax Section Uniformity Committee. Please see the attached document which provides you with the Roles and Missions of each of the four (4) subcommittees of the Motor Fuels Tax Section Uniformity Committee.

Should you wish to attend the next meeting, future meetings or require more information, please contact (name) at (website) or (telephone number).

Sincerely,
Your Name
Title
FTA Motor Fuels Tax Section
Uniformity Committee

FTA Motor Fuels Tax Section Uniformity Subcommittees

Communication and Coordination Subcommittee promotes points 1, 8 and 10 of the 11 Point Plan.

- Model legislation
- Definitions and terms
- Surveys
- STP Funding
- Publications
- Uniformity Project Booklet
- Uniformer
- Advisory groups
- Promote single point of filing
- 11 Point Plan maintenance

Compliance Subcommittee promotes point 11 of the 11 Point Plan.

- Educate and advise stakeholders by:
- Publicizing case studies and best practices
- A liaison to Law Enforcement
- Involving stakeholders at all levels
- A clearinghouse for effective tools to combat fuel tax evasion
- Encourage industry to educate government on accounting and distribution processes
- Provide guidance to stakeholders on how to integrate ExStars/ExTole in a tracking system

Electronic Commerce Subcommittee promotes point 6 of the 11 Point Plan.

- Develop and maintain a standard electronic filing and remittance process
- Facilitate and encourage the implementation of the standard electronic filing and remittance process
- Educate non-technical staff how to use the standard electronic filing and remittance process
- Monitor ExSTARS/ExTOLE for compatibility

Forms Management Subcommittee promotes points 2, 3, 4, 5 and 9 of the 11 Point Plan.

- Maintains forms and subschedules
- Creates new forms and schedules
- Provides reporting guidance for forms and schedules
- Product code control

- Sub-schedule control

Add to the Model Legislation for Two Party Exchange Introduction:

Two-party exchange is a transaction in which petroleum product is transferred from one supplier to another supplier pursuant to an exchange agreement.

Exchange Agreement is an agreement between two terminal suppliers whereby a terminal supplier agrees to deliver fuel to the other party or the other party's customer at the loading rack.

Simple example of two-party exchange transaction:

Supplier A is a position holder in Terminal X. Supplier B has a customer taking delivery of product in Terminal X, but Supplier B is not a position holder in Terminal X. Supplier A agrees to exchange product with Supplier B so Supplier B can sell product to the customer. Likewise, Supplier B will exchange product in another terminal where Supplier A is not a position holder.

Items to consider:

- A. Your state's taxation point.
1. Tax at the terminal rack (including position holder, modified position holder, or first receiver)

Position holder = the one who owns inventory according to the records of the terminal operator.

Modified position holder = the position holder delivers on

exchange and the exchange receiver remits the tax; or if no exchange is involved the position holder remits the tax.

First receiver = the person physically receiving accountable product/motor fuel at the rack remits tax to the taxing jurisdiction, if licensed. If not licensed, then variations of position holder and modified position holder should be considered.

2. Tax below the rack (including distributor/wholesale level, retail level, or upon importation).

- a. If taxing below the rack, you should consider the number of pass-throughs allowed and whether two-party exchanges will affect the number of pass-throughs on all products, including ethanol blended with gasoline. (An example of a "pass through" is when the distributor could collect and report the tax to the state, but chooses to sell tax-free product to the wholesaler, who then becomes responsible for reporting and paying the tax to the state.)

Keep in mind that if you decide to limit the number of pass-throughs, the person in the middle may not know that their the taxable party.

- B. How to handle "stacking" exchange agreements. You might encounter a series of two party exchanges prior to the product

leaving the terminal. States should consider how they want to handle these “stacking” exchange agreements on a single movement of fuel.

C. Tracking and cross matching issues.

1. Will you be able to track and cross match transactions involving two-party exchanges?

2. Does fuel lose identity through a series of two-party exchanges? (This means not being able to identify the fuel type, losing track of the original bill of lading number, or not being able to track the product from the original position holder through the exchange partner to the final recipient.)

3. Does terminal disbursement information properly match recipient's receipt information? Does the terminal-issued bill of lading reflect the exchange receiver as the supplier of record as opposed to the position holder? The position holder should not be reported on the bill of lading as the supplier of record.

4. Does the terminal operator report reflect the exchange receiver as the supplier of record as opposed to the position holder?

D. Enforcement and auditing issues.

1. Is product transferred via a two-party exchange or is the transaction actually a sale?

When does title actually transfer?

2. Does possession transfer directly from the exchange supplier to the exchange receiver's customer; title passes instantaneously from the exchange supplier to the exchange receiver to the exchange receiver's customer.

3. Are both parties properly reporting the transaction?

4. Do participants have proper supporting documentation?

5. If the fuel is exported to an at-the-rack state, will the proper tax be collected and remitted?

Old/New Business

Since 1993, at the Main Uniformity held prior to the annual meeting in September, we would not vote on any issues presented by subcommittees because people attending that meeting had not been involved in the prior meeting discussions. It was voted that we will start voting at the Main Uniformity in September if necessary.

Suggestions for Main Uniformity meeting:

- Prior period transactions.
- Late Loads.
- How to get your reimbursement for Grant and the reporting requirement to the FHWA
- Re-evaluate the Uniformity Committee.

Next Meeting

The next Uniformity Committee meetings are scheduled as follows:

May 29-30, 2009
Dana Point, California

September 18-19, 2009
Oklahoma City, Oklahoma

January 13-14, 2010
Austin, Texas

The meeting was adjourned.

Retirement

Sherri Alston, Director of the Office of Transportation Policy Studies of the Federal Highway Administration (FHWA) in Washington, DC retired on April 3, 2009. In addition to managing the program to curb motor fuel tax evasion, Sherri's group works on a variety of economic and analytic studies on current and emerging issues. Prior to her career with FHWA, Sherri worked for the DIGICON Corporation and held senior management positions in transportation policy and planning with the District of Columbia Department of Public Works and the Minnesota and Iowa Department of Transportation.

Wayne McDonald, ExxonMobil retired in December 2008 with many years in fuel taxation. Though the years of his involvement and leadership Wayne was a great supporter of FTA, especially the Uniformity project. Wayne will truly be missed at all the FTA Conferences.

UPCOMING MEETINGS 2009**Uniformity Meetings**

September 18-19, 2009
Oklahoma City, Oklahoma

Annual Motor Fuel Meeting

September 20-23, 2009
Oklahoma City, Oklahoma

Regional Meetings

Southern Region
June 28-30, 2009
Savannah, Georgia

Midwestern Region
To be announced

**FTA Motor Fuel Tax
Training Courses**

Basic Training Course
August 23-27, 2009
Portsmouth, Virginia

UPCOMING MEETINGS 2010**Uniformity Meetings**

January 13-14, 2010
Austin, Texas

May, 2010
To be determined

September 10-11, 2010
Helena, Montana

Annual Motor Fuel Meeting

September 12-15, 2010
Helena, Montana

Regional Meetings

Pacific Region
May 11-12, 2010
Anchorage, Alaska
**FTA Motor Fuel Tax
Training Courses**

Advanced Audit and
Investigation Class
January 24-28, 2010
Austin, Texas

Basic Training Course
August 1-5, 2010
Portsmouth, Virginia

Editors

Ed King
(916) 324-2379
Edward.King@boe.ca.

Ron Travis
(713) 431-2897
Ronald.e.travis@exxonmobil.com