

The Uniformer

**MESSAGE FROM THE
FTA MOTOR FUEL TAX
SECTION CHAIR
MICHAEL HARRELL**

It seems like it was just a short while ago that I was selected to be Vice Chair of the Motor Fuel Tax Section, and now my time as Chair is coming to a close. It seems that we have made it through this past year relatively unscathed in terms of severe weather events (although I know that some areas like Texas may have a different opinion). As a result, we did not endure significant supply chain disruptions, wild price increases, or any other calamities. This of course means that we have been relegated to "back burner" status once again, as the national focus shifts to the presidential campaign, sub-prime mortgage issues, and which actor or actress will run afoul of the law next. Our focus, however, has been no less intense. We must remain vigilant, continue to strengthen our International/Federal/State/Industry cooperative activities, and continue to proactively plan how to deal with the issues facing us now, and the ones on the not-so-distant horizon. I am very proud to have been a part of the great tradition of National Chairs who have come before me, and I know that Vice Chair Jimmy Archer is ready to take the baton and keep running. I look forward to my continued participation in the Motor Fuel Tax Section, and I encourage you all to do the same. To those newly initiated to the Motor Fuel Tax Family: welcome, make yourself at home, and please get involved right

away. It is the best thing you can do for your own agency, company or organization. To those who are looking to begin a new chapter in their lives outside the Motor Fuel Tax arena, either due to a career change or retirement, I personally thank you for your involvement and contributions (particularly to Bob Crawford, who has been a great source of information and inspiration). Once again, thank you all...now let's go get some tax evaders!

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

As my 3rd year comes to a close as your industry co-chair I want to Thank my out going Chair Donna Alderman. The hard work and dedication to Uniformity is very important to all of us in the industry. I would also like to thank the Massachusetts Department of Revenue for giving me the opportunity to present the benefits of Uniformity and the use of Uniform Forms. After three years of meetings with individuals I finally had a meeting with the assistant commissioner and I applaud the Massachusetts Department of Revenue for recognizing the Benefits of Uniform Forms and that in January of 2008 I am told we will begin the use of the New Uniform Form for the gasoline distributors return. I have also made myself available to the Mass. Dept. of Revenue to help in the training process and we will begin this process within the last quarter of 2007. At this time I have agreed to continue my efforts as the

industry co- chair and am willing to speak with any state that wants to migrate to the Uniform Form of its benefits and will assist in any way possible to make it happen.

I would also like to thank everyone for giving me the opportunity to serve you.

**U.S. ATTORNEY'S OFFICE
PRESS RELEASE DATED
JULY 11, 2007
THREE CHARGED IN MILLION
DOLLAR FUEL EXCISE
TAX FRAUD SCHEME**

(HOUSTON) - Three Houston area residents have been indicted for their involvement in a scheme to defraud the Internal Revenue Service of millions of dollars in excise taxes arising from the purchase of kerosene later sold as diesel fuel in Houston area stations, United States Attorney Don DeGabrielle announced today.

A nine-count indictment returned under seal by a federal grand jury in Houston on Monday, July 9, 2007 has been unsealed following the arrests of Sidney Berle Baldon, II, of Crosby, TX, the owner operator of Mid-Coast International ("Mid-Coast"), a distributor of kerosene and other products, Tracey Dale Diamond, an officer of Mid-Coast, and Yousef Ishaq Abuteir. All three defendants were taken into federal custody on Tuesday, July 10, 2007, where they have remained pending their initial appearance [with] U. S. Magistrate Judge Stephen Wm. Smith at 2:00 this afternoon.

The indictment charges all three men with participating in a conspiracy to defraud the United States of federal fuel excise taxes due and owing on millions of dollars of kerosene purchased by Mid-Coast from Calcasieu Refining Company in Lake Charles, LA between October 2001 through November 2003. Baldon, II, alone, is charged with eight counts of evading the payment of excise taxes - one count for each quarter of 2002 and 2003. The United States imposes a federal excise tax on taxable fuel - including diesel and kerosene - sold for any taxable use. The tax is generally included in the cost of the fuel sold and ultimately is passed on to the consumer in the price paid at the pump.

According to allegations contained in the indictment, between July 2002 and November 2003 Mid-Coast allegedly purchased more than \$10 million in kerosene fuel from Calcasieu Refining Company falsely representing in letters to the company that the fuel was purchased for export to Mexico only, thus no excise taxes were assessed or paid by Mid-Coast. The untaxed fuel was then transported from Louisiana to Mid-Coast locations in Channelview and Houston, TX, where the fuel was mixed with other materials including middle distillate oil (MDO), a bi-product of asphalt production. The MDO was allegedly obtained through agreements facilitated by Abuteir between S.A.S. Transport, Inc., and Southwest Solvents and Mid-Coast. Diamond is alleged to have issued checks and/or

counter debits to pay for the purchase of the MDO. Abuteir personally delivered cash to Baldon and Diamond for the purchase of the fuel obtained from Calcasieu Refinery, according to the indictment. The untaxed blended fuel was then allegedly transported by drivers acting on instructions from Abuteir to retail filling stations in the Houston area where it was sold as taxable motor fuel. Backdated invoices falsely reflecting the sale of kerosene purchased by Mid-Coast International directly to customers in Mexico were allegedly prepared by employees of Mid-Coast on Diamond's instructions.

Each of the nine counts of the indictment carry a maximum penalty of five years imprisonment and a \$250,000 fine upon conviction.

In addition to the federal charges, all three defendants also face state charges of engaging in a motor fuel tax scheme arising from the importation of motor fuel without a permit as a result of indictments returned by the State of Texas through the office of Travis County District Attorney Ronnie Earle.

The joint investigation leading to the federal and state charges was initiated in late 2003 and was conducted by the Environmental Protection Agency (EPA), Immigration and Customs Enforcement (ICE), Department of Transportation (DOT), the Internal Revenue Service-Criminal Investigations, the State Comptroller of Public Accounts - Criminal Investigation Division,

the Harris County Precinct One Constable's Office and the Travis County District Attorney's Office. Assistant U.S. Attorney Joe Magliolo will prosecute the federal case. Assistant District Attorneys Ruth Ellen Gura and Christopher Duggan will prosecute the State's case against these defendants in state court.

**JOINT FEDERAL/STATE
MOTOR FUEL TAX
COMPLIANCE PROJECT
STEERING COMMITTEE**

**New Jersey and
New England Task Force**

The New Jersey and New England Task Force's held a joint meeting after the FTA Northeast Region meeting in Cherry Hill, NJ on May 23, 2007.

The items discussed were the status of bio-diesel in the Northeast, the emerging use of ethanol and its status as a taxable fuel and reports from all the states, the Internal Revenue Service and the Canadian Provinces were given.

The next meeting is scheduled for November 14-15, 2007 in Philadelphia and will be graciously hosted by Jack Crago.

**California Task Force and
Northwestern Region Task
Force**

The member states of the California and Northwest task Force groups, which together make up the member states of FTA's Pacific Region have, have agreed to combine and are

continuing to meet as the Pacific Region Task Force.

As a group, the task force applied for and received a 2-year Federal Highway grant covering the 2006-07 and 2007-08 fiscal years for the coordination of joint audits and information exchange between the member states. The funding allows the member states to actively participate in semi-annual planning and oversight meetings, and other joint auditing activities.

During the past year the task force held one-day meetings on October 8, 2006 in Albuquerque, New Mexico in conjunction with the FTA National Meeting, and on April 29, 2007 in Tucson, Arizona in conjunction with the FTA Pacific Region meeting. Attendance at task force meetings is limited to authorized representatives of the member states and the IRS since confidential information is discussed during the sessions.

Regularly discussed topics include discussions of recently completed, ongoing and upcoming audits, licensing issues, enforcement activities, and emerging issues for fuel tax administration in the western states. We also discuss joint audit efforts, identify upcoming joint auditing opportunities, and discuss "lessons learned" from our joint auditing experiences.

The Pacific Region Task Force will next meet on September 30, 2007 in Baton Rouge, Louisiana in conjunction with the FTA National meeting.

North Carolina Task Force and Florida Task Force

There's an old adage that indicates two heads are better than one. The North Carolina and Florida Task Forces are heeding that advice by coming together for joint Task Force meetings. The two Task Forces face similar problems and concerns. Therefore, they decided to build a collaborative relationship that would enable them to share information, training, and best practices in order to develop improved solutions to common challenges. The Southeastern Association of State Highway and Transportation Officials (SASHTO), which has similar goals, has united with the Task Forces in an effort to bring additional resources and ideas to the members.

An upcoming meeting is scheduled for October 24-October 26, 2007 in Destin, FL. A terminal facility tour will be conducted on the first day of the conference. Topics for the following two days will include presentations and discussions on various areas of motor fuels tax administration and compliance, including discussions of enforcement efforts utilized to identify motor fuels tax evasion.

NETASK and PUBLICUS Task Forces

NETASK and PUBLICUS held a joint meeting on June 27, 2007, in Indianapolis, Indian, with Linda Dollins presiding.

A presentation by given by the Heritage Research Group regarding the types of field testing kits that had been developed by that company. Test kits were available that screened for the presence of biodiesel, ethanol and red dye.

This was followed by a discussion of truck stop exempt fuel and an electronic system being developed in Indiana.

Additional topics discussed also included the movement of fuel by barge and IRS enforcement issues.

A closed session for members only followed.

UNIFORMITY COMMITTEE

The FTA Motor Fuel Tax Section Uniformity Committee met at the Marriott City Center in Pittsburg, Pennsylvania on June 2, 2007. Donna Alderman (NC), Uniformity State Co-Chair called the meeting to order. Fifty-one (51) were in attendance.

Minutes

The minutes of the January 2007 Uniformity Committee meeting in Portsmouth, Virginia were approved.

Presentation

Jack Crago (PA) gave a presentation on the problems with the bill of lading not being uniform.

SUBCOMMITTEE REPORTS**Compliance Subcommittee**

Rick Shirk (OH) reported there were twenty-nine (29) in attendance. Bruce Johnson (WV) gave a presentation about the movement of fuel by barge on the inland rivers. He supplied the committee with ways to track the movement of fuel through the navigation information center. The committee discussed the following:

- Dyed Fuel Issues
- Fuel Evasion Issues
- Railroad Issues
- Training
- Bio Diesel Issues

Electronic Commerce Subcommittee

Darrell Wissink (NE) reported the subcommittee discussed the following:

Morning Session combined with Forms Management meeting (27 in attendance).

- ExSTARS Update
- ExSTARS User's Group
- States EDI guides
- Industry Issues
- EDI Implementation Guide Updates
- XML Schema

Forms Management Subcommittee

Herman Wisneski (MN) reported that this committee met with Electronic Commerce. There were twenty-seven (27) in attendance. The subcommittee discussed the following:

- Kentucky requested four schedule codes

- Forms approved request

Maryland (approved)
Massachusetts (approved)
Louisiana request is on hold
New York was sent back for Changes
Arizona was sent back for changes

- Canadian/FTA product code comparison
- Railroad STCC and FTA product codes

The Forms subcommittee reminded all states that are planning on changing forms or schedules; they should review the FTA Uniformity book to make certain that the changes meet the guidelines.

Communication and Coordination Subcommittee

Bob Crawford (MD) reported that seventeen (23) were in attendance. The subcommittee discussed the following and the June 2007 *Uniformer* was passed out.

- White paper/issue paper on bio diesel and other alternative fuels
- Definition for Diversion
- Define Racing Fuel
- Bill of lading project
- Document for the Model Legislation for when fuel has 2 different tax rates

Full Committee Approved

Add to the Uniformity Booklet under Alternative Fuels Section.

Reduce Tax Rates

When considering reduced tax rate provisions for specific alternative fuel blends or fuel uses, the following are some items to be addressed:

- There is an increased potential for evasion if: (a) fuel may be purchased at a specific blend to receive a reduced tax rate. The reduced tax rate is remitted, then the fuel may be further blended and sold as the higher rate, or

(b) fuel may be purchased at a reduced tax rate based on a specified use, then later used for a different purpose, which should be taxed at a higher rate.

- Consider a credit or refund to allow for ease in fuel taxation. This will further ensure accuracy of reduced tax rates/credits situations for specific fuel blends and uses.

Canadian Update

Charles Greenough with the Canadian Fuel Tax Council reported that they are working on E-filing with Alberta leading the group. The Council has had five basic training classes so far this year and working on an Advanced and EDPI courses.

Old/New Business

The full committee **THANKED** Bob Crawford (MD) for all his years of service. Bob will be retiring on June 30, 2007.

Cindy Anders-Robb requested that all minutes, agenda, year end report and project tracking

forms be submitted to her no later than June 29, 2007.

Next Meeting

The next Uniformity Committee meetings are scheduled as follows:

September 28-29, 2007
Baton Rouge, Louisiana

January 18-19, 2008
Glendale, Arizona

May 30-31, 2008
Jackson, Wyoming

September 19-20, 2008
Hartford, Connecticut

The meeting was adjourned.

UPCOMING MEETINGS 2008**Uniformity Meeting**

January 18-19, 2008
Glendale, Arizona

May 30-13, 2008
Jackson Hole, Wyoming

September 19-20, 2008
Hartford, Connecticut

Regional Meetings

Pacific Region
April 27-29, 2008
Sacramento, CA

Northeast Region
May 13-15, 2008
Fredericton, New Brunswick,
Canada
*(You will need a passport to attend
this meeting)*
Southern Region

June 22-24, 2008
Shepherdstown, WV

Midwestern Region
To be determined

Annual Meeting

September 21-24, 2008
Hilton Hartford
Hartford, Connecticut

Training

Advanced Investigation Training
January 27-31, 2008
Austin, Texas

Advanced Audit Course
August 24-28, 2008
Glendale, AZ

Basic Audit Course
To Be Determined

Basic Investigation Course
To Be Determined

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