PTSA
Petroleum Transportation & Storage Association

Weekly Update

Regulatory News and Compliance Information for the Petroleum Transportation and Storage Industry

Washington, D.C. Friday, May 6, 2005.

1. US DOT REDUCES TIME PERIOD FOR STATES TO NOTIFY DRIVERS OF BACKGROUND CHECKS:

The U.S. DOT's Federal Motor Carrier Safety Administration (FMCSA) issued an interim final rule this week that reduces the amount of written notice states must provide CDL drivers prior to renewal of expiring hazardous material endorsements. This rule is bad for petroleum marketers because it shortens the CDL/HAZMAT renewal period at a time when new fingerprinting and background check requirements are creating backlogs in the licensing process. The interim final rule reduces the prior written notice period from 180 to 60 days and shortens the deadline by which drivers must begin the renewal process from 90 days before expiration to just 30 days. FMCSA said it was issuing the interim final rule without prior notice or opportunity to comment since it simply cross-referenced dates already set out in the Transportation Security Administration's (TSA) interim final rules issued in November 2004. Those rules require existing drivers to undergo a comprehensive security assessment by the FBI and TSA prior to issuance, renewal or transfer of a hazardous material endorsement. The security assessment process, which includes fingerprinting and background checks, began for new HAZMAT applicants on 01/31/05. So far, states are reporting serious backlogs in the processing of new applicants. Existing drivers must undergo the security assessment by the date of their first HAZMAT renewal ***after*** 05/31/05. Similar processing backlogs are expected, threatening the continuity of qualified HAZMAT drivers. Employers should act to reduce probable delays by ***requiring*** drivers to begin the application process on the 60th day prior to expiration of their hazardous material endorsement. TSA rules provide states an opportunity to extend a hazardous material endorsement for 90 days beyond its original expiration date in the event of extended processing delays.

2. HIGHWAY BILL WOULD MORE THAN TRIPLE MAXIMUM PENALTY FOR HAZMAT VIOLATIONS:

The U.S. DOT's Pipeline and Hazardous Materials Safety Administration (PHMSA) is supporting a provision in proposed highway legislation that would more than triple the maximum allowable fine for violation of the federal hazardous material transportation regulations. The Hazardous Material Transportation Act would increase the maximum fine for HAZMAT rule violations from $27,500 to $100,000. While maximum penalties are rarely imposed, the provision is bad for petroleum marketers because it would mean that settlement negotiations with the DOT over HAZMAT violations would result in higher fines. Currently, a $27,500 fine can be reduced to less than $5000 for many violations. With a higher penalty threshold however, minimum negotiated settlements could reach $25,000 or more. The HAZMAT Reauthorization bill has been amended to a larger federal highway spending bill is now under consideration in the House. At a recent Senate hearing on the highway bill, PHMSA said it would like to see provisions added that would increase the annual hazardous material transportation registration fee that petroleum transporters must pay each year. The fee is currently $300 per year for small companies but, has been reduced until the 2006-2007 registration year to $150 as a way to reimburse registrants for years of over-collection by the agency's predecessor, RSPA. PHMSA says an increase in the registration fee is needed to increase federal grants awarded to states each year for emergency response and preparedness. The requested fee increases have not as yet been added to the highway bill.

3. TREASURY DEPARTMENT ISSUES CLARIFICATION REGARDING ANNUAL SOT TAX:

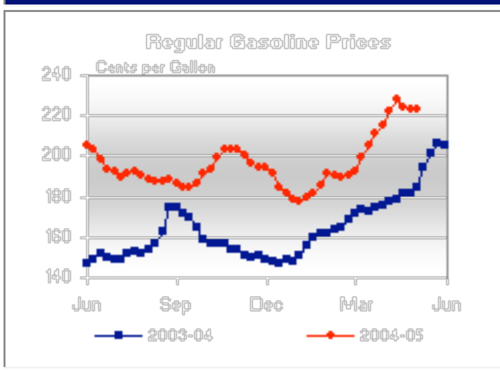
The U.S. Department of Treasury's Alcohol and Tobacco Tax Trade Bureau (TTB) issued a important clarification last week regarding the Special Occupational Tax (SOT) on the retail sale of alcoholic beverages. The TTB clarified that although payment of the $250 per store annual SOT tax for retailers selling alcohol beverages has been temporarily suspended, retailers must still file TTB Form 5630.5 during the suspension years in order to receive a tax stamp. Congress suspended the SOT tax for the 2005, 2006 and 2007 tax years. The SOT tax will be re-imposed on 07/01/08. In the meantime, c-store owners must continue to file the annual SOT form, ***but should not pay the tax.*** The TTB is currently mailing Form 5630.5 to all previous registrants. Please see attached Compliance Bulletin for more information.

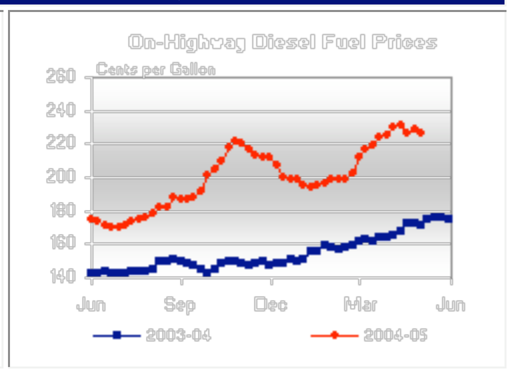
NEWS BRIEFS:

Below Cost Sales – Petroleum marketers in Maryland won an important victory this week after state officials ordered several large retailers to stop selling gasoline below cost. The order came after a local petroleum marketer complained to state officials that Sheets, WaWa and B.J.'s Wholesale Club outlets were engaged in a regional gasoline price war that resulted in the mega chains selling gasoline at below cost in violation of Maryland law. The price war drove the per gallon cost of regular unleaded gasoline down from $2.20 per gallon to $199.99 per gallon. State officials ordered the outlets to increase their price by 5 cents per gallon to reflect wholesale cost. Public reaction was predictable; angry motorists unhappy that a little known law forced gasoline prices back up. Maryland is one of 13 states that have a below cost sales law. The AAA and the Federal Trade Commission actively oppose such laws.

Employee Withholding W-4 – The IRS announced last week that employers should no longer be sending Forms W-4 to the Internal Revenue Service unless specifically asked to do so by the agency. Previously, employers were required to submit all "questionable" W-4 forms to the IRS for further investigation. However, the agency is eliminating the requirement because only 30% of all employers were complying with it and the IRS investigated only 10% of all W-4s that were submitted as questionable. Instead, IRS will now rely on matching individual Form W-2 information of those who already have a tax compliance problem as well as a withholding problem. Employers are still not to accept invalid Forms W-4--forms that have been tampered with or non-approved substitutes. Payroll professionals should continue to withhold at the rate for a single person, zero allowances in these cases.

U.S. Gasoline and Diesel Fuel Prices, 05/02/05





Gasoline				Diesel Fuel			
Cents per Gallon		Change from		Cents per Gallon		Change from	
	Price	Week Ago	Year Ago		Price	Week Ago	Year Ago
U.S.	223.5	-0.1	39.1	**U.S.**	226.2	-2.7	54.5
East Coast	221.1	0.8	41.4	**East Coast**	226.4	-2.3	61.1
New England	222.6	1.4	42.4	**New England**	241.0	-0.3	65.6
Central Atlantic	222.3	1.4	40.0	**Central Atlantic**	236.6	-1.6	62.4
Lower Atlantic	219.8	0.1	42.3	**Lower Atlantic**	220.7	-2.7	60.2
Midwest	215.6	-0.9	33.6	**Midwest**	219.4	-3.6	53.7
Gulf Coast	213.3	-0.8	40.5	**Gulf Coast**	220.9	-2.2	58.2
Rocky Mountain	226.5	1.3	37.4	**Rocky Mountain**	235.5	-1.6	46.3
West Coast	251.3	-0.5	43.0	**West Coast**	253.0	-1.9	38.4
California	256.0	-0.5	44.5	**California**	256.1	-0.9	28.7

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COMPLIANCE BULLETIN

May 6, 2005

SPECIAL OCCUPATIONAL TAX FORM 5630.5 FILING REQUIRED

BACKGROUND:

The Department of Treasury's Alcohol and Tobacco Tax Trade Bureau (TTB) requires retail sellers of alcoholic beverages to file an annual registration form and pay a special occupational tax (SOT) each year by July 1st. However, the U.S. Congress ***temporarily suspended*** the annual $250 per store tax on the retail sale of alcoholic beverages as part of the American Jobs Creation Act of 2004. ***No SOT tax is paid for registration years 2005, 2006 and 2007.*** The SOT tax will be re-imposed July 1, 2008.

FILING STILL REQUIRED:

Although the SOT is temporarily suspended and no tax payment is required, ***all retailers of alcoholic beverages must continue to file TTB Form 5630.5*** by July 1 of each year in order to receive a federal tax stamp authorizing alcohol sales. A single return may be filed for multiple sites so long as each location is identified by an address. The annual SOT registration is valid from July 1 through June 30th of each year. After the return is processed, the TTB will mail registrants a Special Tax Stamp for each location listed on the return.

WHERE TO FIND FORM 5630.5:

The TTB mails an updated Form 5630.5 to all previous year's registrants by May 1. If you are a new retailer or do not receive a Form 5630.5 from the TTB, updated forms for the 2005-2006 registration year may be downloaded from the TTB website at http://ttb.gov. (Click on "Forms").

FILING ADDRESS:

Returns ***(BUT NO FEE)*** must be sent by July 1, 2005 to the following address:

Alcohol and Tobacco Tax Trade Bureau
P.O. Box 371962
Pittsburgh, Pennsylvania 15250-7962

RECORDS:

A copy of the Special Tax Stamp must be kept at each retail location selling alcohol products.

BOTTOM LINE:

File the form, but don't pay the $250 tax.

Got Questions? Contact Mark Morgan at (202) 364-6767 or mmorganptsa@cox.net