PTSA

Petroleum Transportation & Storage Association

Weekly Update

Regulatory News and Compliance Information for the Petroleum Transportation and Storage Industry
Washington, D.C. Friday, June 3, 2005.

1. EPA TO DELAY INTRODUCTION OF ULTRA LOW SULFUR DIESEL FUEL:

The U.S. EPA this week announced that the agency would extend the deadline for the introduction of ultra low sulfur diesel fuel (ULSD) at the retail level. The EPA said it is authorizing a 45-day extension in order to ensure that the transition to ULSD goes smoothly. Under the final rule establishing the ULSD program, the deadline for introduction at retail pumps was set for September 1, 2006. Under the extension, retailers will not be required to offer ULSD fuel until October 15, 2006. The 2001 ULSD rule requires refiners to reduce sulfur in highway diesel fuel by 97 percent (from 500 parts per million to 15 parts per million) by June 1, 2006. Refiners, suppliers, jobbers and retail petroleum marketers have expressed concern that the 15 ppm standard would be impossible to maintain as the ULSD is transported down the distribution chain where it is expected to pick up and additional 10 ppm in sulfur from residue left in pipelines, tanks and transport vehicles. Refiners have lobbied heavily for the delay because they need the extra time to rid pipelines of sulfur residue that could push ULSD out of specification by the time it reaches the terminal rack. Even with the extra time, serious concerns remain that supplies of ULSD will be in short supply during the initial introduction period. Downstream contamination concerns are so serious that many pipeline operators have said they will not accept any ULSD with a sulfur content higher than 8 ppm, leaving a full 7 ppm leeway for extra sulfur pick-up as it travels downstream.

2. NATIONWIDE U.S. DOT ENFORCEMENT EVENT SCHEDULED FOR EARLY JUNE:

Drivers beware! The Commercial Vehicle Safety Alliance (CVSA), a consortium of state and federal transportation enforcement authorities will launch a nationwide commercial motor vehicle (CMV) enforcement effort from June 7-9. The three day event will involve more than 9000 law enforcement officers conducting roadside inspections at approximately 1000 locations across the U.S. The CVSA estimates that about 60,000 trucks will undergo roadside inspections during the enforcement blitz. Enforcement authorities will be focusing on faulty equipment, overweight vehicles and CDL license violations. Drivers not wearing safety belts will be targeted for inspection. In addition, the Federal Motor Carrier Safety Administration (FMCSA) plans to join the effort by conducting its annual National Tank Check Project during the same three day enforcement drive. The FMCSA will stop and inspect petroleum bulk cargo tank and transport vehicles and conduct rigorous roadside safety inspections. Petroleum marketers operating CMVs should take extra care to stay in compliance during the three-day enforcement period. Tell drivers to “buckle-up”.

3. EPA REJECTS OXYGENATE WAIVER APPLICATIONS FOR THREE STATES:

Efforts to weaken the federal two-percent oxygenate mandate for reformulated gasoline failed this week as the EPA rejected three state applications to waive the requirement. All three states, California, New York and Connecticut filed the waivers after banning the use of MTBE as an oxygenate due to widespread contamination of drinking water supplies from leaking USTs. The rejection of the waiver requests is an important victory for the ethanol industry, which hopes to attain a mandate of its own and replace MTBE as the oxygenate of choice. Congress is currently considering energy legislation that eliminates the oxygenate mandate altogether and replaces it with a nationwide ethanol mandate for both reformulated and conventional gasoline blends. The three states claim they can attain federal air quality standards without the oxygenate mandate and argue that ethanol, the only available substitute oxygenate actually increases ground forming ozone commonly known as smog. The state air pollution officials are also concerned that there is not enough ethanol available to satisfy demand in the three populous states. The U.S. House passed legislation mandating the use of five billion gallons of ethanol annually by the year 2012 while the Senate passed an eight billion gallons mandate. The differences in the two bills will be worked out in a joint conference committee.

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4. BACKGROUND CHECKS & FINGERPRINTING OF CURRENT CDL HAZMAT DRIVERS BEGINS:

Under new U.S. DOT regulations in effect beginning 05/31/05, all current CDL drivers with HAZMAT endorsements must undergo security background checks and fingerprinting at their next regularly scheduled renewal date. The new security requirements are designed to prevent terrorists from obtaining a CDL hazardous material endorsement and gaining access to chemicals (including petroleum) needed to make weapons of mass destruction. Implementation of the security program, which went into effect for new drivers on 01/31/05, has not gone well. Long processing delays and too few fingerprinting locations have slowed the licensure process down considerably. In order to ensure that driver renewals are processed ***before they expire*** petroleum marketers should take the following steps:

- **Begin the renewal process as early as possible –** Begin the renewal process 60 days prior to the expiration date of CDL license. State licensing authorities are required to provide drivers with a 60-day written notice to report, along with instructions on where to go and what to do. Don't rely on the driver to get the process moving. Drivers may not begin the renewal process earlier than 60 days before expiration but, ***must*** begin renewal no later than 30 days before expiration. Check driver qualification files ***now*** for expiration dates and provide each driver with a step-by-step schedule for renewal. Require drivers to initiate the process at the earliest possible date.

- **Excessive Delays –** Delays in processing vary from state to state. The U.S. DOT claims the processing will take only 30 days. However, 45, 60 and 90-day delays have been reported. The security regulations allow states to ***extend*** an expiring hazardous material endorsement for 90 days due to processing delays. If processing is not complete within 10 days prior to the expiration date, have the driver request a 90-day extension from state licensing authorities.

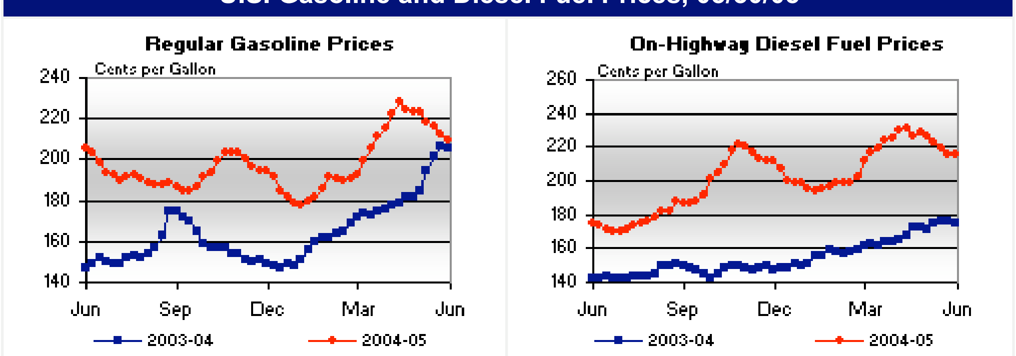
- **Be Familiar with the New Procedures –** Contact state licensing authorities to learn about the new renewal procedures. Obtain blank renewal forms that can be filled out in advance. Locate fingerprinting centers in advance. Few fingerprinting locations are available. Drivers may be required to take a full day off to get to far off fingerprinting locations, plan schedules accordingly.

In order to avoid gaps in driver licensure, petroleum marketers must be take a more proactive role in the CDL hazardous material renewal process than ever before. Develop institutional procedures that will get the renewal process moving on the 60th day prior to expiration.

NEWS BRIEFS:

Non-attainment Designations- The EPA announced this week that it would defer until December 31, 2006, the designation of 14 new non-attainment areas that fail to meet federal air pollution standards. The announcement is significant because it means the 14 counties may avoid the introduction of RFG as a method to improve air quality. The deadline extensions where the first under EPA's new "Early Action Compacts" designed to help local communities meet federal air quality standards. The EPA is preparing to designate more than 350 new non-attainment areas nationwide and the compacts may be an important tool for states to avoid stringent air pollution reduction methods. The 14 counties subject to the deferral are: Frederick County/Winchester, VA, Roanoke, VA, Washington County/Hagerstown, MD, Berkeley and Jefferson counties, WV, Hickory, Greensboro, Fayetteville areas, NC, Greenville, Spartanburg Anderson, SC, Columbia area, SC, Chattanooga, Johnson City-Kingsport-Bristol areas, TN, San Antonio area, Texas, and Denver-Boulder-Greeley-Ft. Collins-Love area, CO. If an early action compact area is not in attainment by the end of 2007, it will revert to non-attainment status, according to EPA.

U.S. Gasoline and Diesel Fuel Prices, 05/30/05



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COMPLIANCE BULLETIN

2005-2006 ANNUAL U.S. DOT HAZMAT REGISTRATION

The deadline for 2005-2006 U.S. DOT HAZMAT registration for petroleum marketers with cargo tank vehicles is 7/01/05. Petroleum marketers (intrastate and interstate) must obtain a new HAZMAT registration certificate each year and pay an annual fee to the U.S. Pipeline and Hazardous Material Safety Administration (PHMSA, formerly RSPA). Processing by mail takes up to a month. ***You cannot operate a cargo tank vehicle after 07/01/05 without an updated HAZMAT registration certificate.***

IMPORTANT CHANGES: Registration fees have been temporarily reduced due to past overcharges. The fee for the 2005-2006 registration period is $300 for large companies and $150 for small companies. Most petroleum marketers qualify for the $150 fee. U.S. DOT PHMSA has discontinued the use of SIC codes and has adopted the North American Industry Classification System (NAICS) in its place.

BUSINESS SIZE DETERMINATION: U.S. DOT PHMSA follows Small Business Administration (SBA) size categories to classify whether a business is large or small for the purposes of determining the amount of the annual registration fee. The SBA determines business size according to NAICS codes based on either the number of employees in the company or on annual gross receipts. Determining size is left up to the company applying for the registration certificate. The following NAICS codes and size criteria apply when calculating whether the $150 fee or the $300 fee applies.

> ***NAICS CODE 424710- Petroleum Bulk Stations or Terminals:*** Petroleum marketers in this category are considered small businesses and must pay the $150 fee if the company employs fewer than 100 employees.
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> ***NAICS CODE 424720- Petroleum and Petroleum Product Wholesalers (no bulk storage):-*** Petroleum marketers in this category are considered small businesses and must pay the $150 fee if the company employs fewer than 100 employees.
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> ***NAICS CODE 454311- Heating Oil Dealers:*** Heating oil dealers are small businesses and subject to the $150 registration fee if annual gross receipts total $10.5 million or less.
>
> ***NAICS CODE 454312 – Liquefied Petroleum Gas Dealers:*** LPG dealers are small businesses and subject to the $150 registration if annual gross receipts total $6 million or less.

SPECIAL RULES FOR DETERMINING SIZE: **1.** If a company is engaged in both petroleum wholesale and c-store operations under the same corporate entity, then the size of the “primary establishment” determines whether the $150 or $300 fee applies. The primary establishment is determined by which operation, the c-store or petroleum wholesale business earns greater “annual gross receipts”. The NAICS code of the operation with the higher annual gross receipts is used to determine business size and thus the amount of the fee. **2.** If a petroleum wholesale operation is separately incorporated or is a separate legal entity under a larger corporate umbrella, use only that separate legal entity when determining which of the two annual fees apply. Count only the number of employees in the separate legal entity not the number company wide. U.S. DOT PHMSA does not make business size determinations. Instead, *it is left up to individual businesses owner* to determine size categories and ultimately whether the $150 or $300 fee applies. Most petroleum marketers should qualify for the $150 small business fee.

REGISTRATION FORMS AND ONLINE REGISTRATION: Registration forms are generally sent to previous years registrants by mail. The forms may be downloaded at http://hazmat.dot.gov/regs/register/register.htm. Online registration is also available at this website.

GOT QUESTIONS? CONTACT MARK S. MORGAN mmorganptsa@cox.net

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June 3, 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