

update

Michael J. O'Connor, President

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Vapor Pressure Regulation

On March 24, the Virginia Board of Agriculture and Consumer Services adopted an emergency regulation providing for a one pound vapor pressure waiver for ethanol blended motor fuels. This action was taken in light of the upcoming summer reformulated gasoline season and in response to concerns among some suppliers that, without it, Virginia could have experienced product shortages because we were the only state in the Mid-Atlantic not to have granted a one pound waiver. This emergency regulation is on a fast track through the process and should be effective in the coming weeks. For a copy of the Board's action, [click here](#).

Special Claim Procedures for 2015 Retroactive Biodiesel Blender Credit and Alternative Fuel Credit

From PMAA

The IRS has issued special one-time claim procedures (IRS Notice 2016-05) for obtaining the \$1.00 per gallon biodiesel blender credit reinstated by Congress retroactively for calendar year 2015 - "Protecting Americans from Tax Hikes Act of 2015 (PATH Act)." PMAA worked closely with Congress over the past year to ensure that the biodiesel blender credit was reinstated, made retroactive to 2015 and not changed to a producer credit. In a major victory for marketers, the blender credit was extended through December 31, 2016 and made retroactive for biodiesel blends produced in calendar year 2015.

The biodiesel credit applies to qualified diesel fuel and heating oil blends that comply with ASTM D6751 standard for biodiesel. The IRS special procedures allow for one-time payments covering the entire 2015 claim period. Reinstatement of the biodiesel blender credit is limited to qualified blends created during calendar year 2015. The IRS

is providing a straight refund of \$1.00 per gallon taken on IRS Form 8849 or taken as a credit on annual income tax return. Notice 2016-05 also sets forth claim procedures for the \$0.50-per gallon alternative fuel credit and the alternative fuel mixture credit.

The following special procedures must be used when filing a claim for the 2015 retroactive biodiesel blenders credit described above:

I. ONE-TIME CLAIM PROCEDURE FOR 2015 BIODIESEL BLENDER CREDIT:

- The IRS is allowing a one-time single claim for all biodiesel blender credits (IRC Section 6426(c) earned during calendar year 2015.
- The claim amount is \$1.00 for each gallon of qualified biodiesel blended into diesel fuel or heating oil during calendar year 2015.
- Claimant must have a valid IRS 637M certificate in order to make a claim for biodiesel blends created during calendar year 2015. Claimants who do not currently have a valid 637M certificate must first obtain one from the IRS before filing a claim for 2015 retroactive credits.
- Claim must be made on IRS Form 8849 Claim for Refund of Excise Taxes and IRS Form 8849 (Schedule 3) Certain Fuel Mixtures and the Alternative Fuel Credit.
- Use a single Form 8849 and Form 8849 (Schedule 3) to claim all biodiesel blend volumes created during calendar year 2015. Enter 2015 volumes on Form 8849 (Schedule 3) line 2. The IRS will not accept multiple claims or quarterly filings for biodiesel blends created during calendar year 2015.
- 2015 retroactive biodiesel blender claims may be filed as early as February 8, 2016, but

no claim may be filed later than August 8, 2016. The IRS will not accept claims for 2015 retroactive biodiesel blender credits filed after August 8, 2016.
- Any 2015 retroactive biodiesel blender credit claim filed with the IRS before January 16, 2016 must be re-filed. The IRS will not honor or process 2015 biodiesel claims filed before January 16, 2016.
- Claims may be filed electronically, or mailed to the following address:

Internal Revenue Service
P.O. Box 312
Covington, KY 41012-0312

Write "Fuel Mixture Claim" on the claim envelope.

II. ONE-TIME CLAIM PROCEDURE FOR 2015 ALTERNATIVE FUEL CREDIT:

The IRS is also accepting retroactive claims for alternative fuel sold or used during calendar year 2015. The IRS allows a person that sells or uses alternative fuel as a fuel in a motor vehicle or motorboat and in aviation to claim a \$0.50-per-gallon credit against the claimant's motor fuel excise tax liability (relating to the tax imposed on diesel fuel and alternative fuel).

Alternative Fuels Include: liquefied petroleum gas; P Series; compressed or liquefied natural gas; liquefied hydrogen, qualified liquids derived from coal (including peat); compressed or liquefied gas derived from biomass; and liquid fuel derived from biomass.

Alternative fuels subject to the \$0.50-per gallon credit do not include ethanol, methanol, biodiesel, or any fuel (including lignin, wood residues, or spent pulping liquors) derived from the production of paper or pulp.

Procedures for filing the alternative fuel claim are the same as for biodiesel credit above except the \$0.50-per gallon credit is taken on line 3 of IRS Form 8894 Schedule 3.

III. ONE TIME CLAIM PROCEDURE FOR 2015 ALTERNATIVE FUEL MIXTURE CREDIT:

Refer to IRS Notice 2016-05 to claim the \$0.50-per gallon credit on the alternative fuel mixture credit. This credit is for the mixture of alternative fuels into conventional fuel.

Alternative fuels subject to the \$0.50-per gallon alternative fuel mixture credit do not include ethanol, methanol, biodiesel, or any fuel (including lignin, wood residues, or spent pulping liquors) derived from the production of paper or pulp.

IV. OBTAINING IRS FORMS:

IRS Forms 637, 8849, and 8849 (Schedule 3) are available at www.irs.gov click on "Forms and Pubs", then click on "Find All Current Forms and Pubs" and scroll down to the appropriate IRS form. Forms are listed in numerical order. IMPORTANT! The IRS is in the process of revising Form 8849 Schedule 3. The revised form will be posted on the IRS website shortly.

IRS Notice 2016-05 outlining the special claim procedures for 2015 retroactive biodiesel blender credits, alternative fuel credits and alternative fuel mixture credits is available by [clicking here](#).

2016 SE Petro Food Expo Was Largest Ever

Thanks to our many vendors and exhibitors, the 2016 expo was a huge success and the largest ever with 664 booths and 475 firms represented. We are happy to report that the 2017 main show floor has already sold out. However, if you are interested in exhibiting, there are still many exhibit spaces left at the Myrtle Beach Convention Center. Don't delay in reserving your space for March 8-9, 2017. You can do so on the expo's website www.sepetro.org.



Reminder: Strauss Scholarship Applications Due April 15

Applications are due April 15 for the 2016 S. Frank Strauss Scholarship Program. This program was established in the 1970's in recognition of Mr. Frank Strauss, who was the long time executive director of the Virginia Food Dealers Association. This program is open to VPCGA members, their employees and the children of VPCGA employees. Awards are made after review by the Association's scholarship committee, which considers need as well as academic achievement in their evaluation. Recipients must be high school graduates by June of this year and attend a post secondary institution of higher education in the fall of 2016. You can view the [application here](#). Again, complete applications must be received by April 15. You may also post [this flyer](#) for your employees.

FDA Delays Menu Labeling Rule Until 2017

From PMAA

The Food and Drug Administration (FDA) recently announced that it would delay enforcement of the menu labeling rule, which was passed as part of Obamacare in 2010. The controversial final menu labeling rule was announced in 2014 with a start date at the end of 2015 but then was delayed until December 1, 2016. Now, the compliance date will be one year after the agency issues final guidance on how to comply with the rule, which will come as soon as possible, according to a statement on the FDA website.

While PMAA welcomes the delay, legislation that has passed the House and has yet to be considered on the floor in the Senate would give retailers the flexibility they need to comply with the menu labeling regulations.

On February 12, the House passed, via a 266-144 bipartisan vote, the "Common Sense Nutrition Disclosure Act", which would modify the menu-labeling language in Obamacare to permit retailers to identify a single primary menu while not having to include nutrition labeling in other areas of the store. Furthermore, the bill clarifies that advertisements and posters do not need to be labeled and provides flexibility in disclosing the caloric content for variable menu items that come in different flavors or varieties, and for combination meals. Lastly, the bill would ensure that retailers acting in good faith are not penalized for inadvertent errors in complying with the rule, and stipulates that individual store locations are not required to have an employee "certify" that the establishment has taken reasonable steps to comply with the requirements.

Companion legislation (S. 2217) introduced by Senators Roy Blunt (R-MO) and Angus King (I-ME) has yet to hit the Senate floor for consideration.

Save the Date

68th Annual Meeting
September 25-27, 2016
The Williamsburg Lodge
Colonial Williamsburg, VA