

# update

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[www.vpcga.com](http://www.vpcga.com)

## **DMV Conducting Reviews on Motor Fuel Bonds and Sureties**

Under Virginia's fuels tax law ([found here](#)) licensed distributors (which includes most VPCGA members) must demonstrate financial responsibility to the DMV either through sureties or through a certificate of deposit. The amount of financial responsibility is 3x the average expected monthly motor fuels tax liability. For distributors that means not less than \$2,000 or more than \$300,000.

It has come to our attention that DMV's fuels tax department is now conducting reviews of licensed distributors across the state to determine if current bonds are sufficient based up monthly sales and to determine whether any increases or decreases are reflected. Potential penalties for failure to meet these state requirements include fines, suspension and ultimately license revocation. As inspections are presently ongoing, it is suggested that each member review this issue with the person(s) responsible for fuels tax compliance in your company.

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## **Final FDA Tobacco Deeming Rules and PMAA PAC Amounts**

*From PMAA*

The FDA has released its long awaited final "deeming" rules for e-cigarettes, cigars, pipe tobacco and other tobacco products it had not previously regulated. Under the rules, the newly regulated tobacco products will be subject to the same general requirements to which cigarettes and smokeless tobacco are already subject, including those related to: adulterated and misbranded products; ingredients listing; health documents submission; reporting of harmful and potentially harmful constituents; and registration and product listing. The rules become effective 90 days from publication (approximately August 8, 2016).

As part of the final rules, the FDA maintained the February 15, 2007 predicate date.

This date is important as it determines which pathways a product can take to stay in and/or enter the marketplace. Products that were not in the market on February 15, 2007, nor have a comparable product that was in the market on this date, must submit a Pre-Market Tobacco Application (PMTA). The PMTA requires a product to meet a regulatory hurdle that is very complex and costly. Some have estimated that a single PMTA could cost up to several million dollars. As such, the regulatory hurdle to enter the marketplace will be much higher for e-cigarettes than for traditional cigarettes. Because of the speed at which innovation has occurred with e-vapor products since 2007, essentially all products currently being sold to consumers fall into this regulatory trap.

To solve the problem of a predicate date that is almost 10 years old, legislative efforts are underway to change the date. The House Agriculture Appropriations bill that recently passed out of committee includes bi-partisan language that would change the predicate date for newly deemed products to the effective date of the new rules. The language, introduced by Representatives Cole (R, 4th-OK) and Bishop (D, 2nd-GA), would also address other important topics such as requiring that the FDA issue final battery standards within 24 months and requiring that all e-vapor products be sold in non-self-service fashion (with the exception of in adult only facilities). Now that the Agriculture Appropriations bill has been passed out of committee, the debate will continue when the bill comes up for consideration in the full House of Representatives.

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## **FDA Issues Final Menu-Labeling Rule**

*From NACS*

Late last week the Food and Drug Administration issued its final guidance on menu-labeling regulations, with a final date of May 2017 for compliance-17 months after compliance was initially slated to take place.

After reviewing the final document, NACS counsel determined that the May 2017 compliance date is about the only language the FDA updated from its draft guidance, which was issued on November 25, 2014 and made available to NACS members.

"The FDA has done a disservice to convenience stores by willingly ignoring our industry's interest in providing calorie information to consumers in a way that is actually helpful," said Lyle Beckwith, NACS senior vice president of government relations at NACS. "Rather than take into account the practicality of our industry's ability to comply with the law, the FDA has moved ahead with menu-labeling requirements designed for chain restaurants and not convenience store foodservice programs."

Given the FDA's inaction, changes to the current law only will be possible through

congressional action. Beckwith continued that legislation that already passed the U.S. House of Representatives in February, the Common Sense Menu Disclosure Act, and companion legislation in the Senate (S. 2217) would ensure consumer choice and make it possible for convenience stores to comply with the menu-labeling law.

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## **Reminder on Dispenser Labeling**

[here](#) Last month we sent you a reminder that Virginia regulations require every fuel dispenser selling an ethanol blend be properly labeled with decals that meet the Virginia Department of Weights and Measures requirements. The result? Not one decal order. Have you inspected your dispensers to assure that they are in compliance? Regulations allow for two labels - either "contains ten percent ethanol," or it can state "contains up to 10 percent ethanol." Members are strongly suggested to review all of their dispensers to assure that they are in compliance with the law. You can view a copy of the Weights and Measures directive. For those that need them, VPCGA has these labels in stock. [Click here](#) for ordering information.

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## **Save the Date**

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

Registration and more details to be available next month!