



Petroleum Transportation & Storage Association

## **REGULATORY ALERT**

*September 2, 2005*

### **IRS ALLOWS SALE OF DYED DIESEL FOR USE ON-ROAD USE**

**ISSUE:** The IRS has temporarily waived the prohibition against selling dyed diesel fuel for on-road use due to a shortage of clear diesel caused by Hurricane Katrina.

**COMPLIANCE:** Generally a penalty of \$10 per gallon is imposed on the sale of dyed diesel fuel to a non tax exempt purchaser for on-road use. The IRS is waiving this penalty, which allows such sales for a limited period of time. The following conditions apply:

- The penalty waiver applies to any person that sells or uses dyed fuel for highway use.
- In the case of the operator of the vehicle in which the dyed fuel is used, the waiver is available only if the operator or the person selling the fuel pays the tax of 24.4 cents per gallon.
- The IRS will not impose penalties for failure to make semimonthly deposits of this tax.

**DURATION OF WAIVER:** The penalty waiver is available beginning August 25, 2005, in Florida, August 30, 2005, in Alabama, Louisiana, and Mississippi, and August 31, 2005, in the rest of the United States, and will remain in effect through September 15, 2005.

**REPORTING THE TAX:** The 24.4 cpg tax must be paid by the ultimate vendor in order for the waiver to apply. Payments should be made on IRS Form 720 *Quarterly Excise Tax Return*.

**HIGH SULFUR OFF-ROAD DIESEL:** The Internal Revenue Service will not impose the recently enacted tax penalty on a failure to meet the requirements of EPA highway diesel fuel sulfur content regulations while the EPA waiver permitting on-road use of such fuel is in effect.

**EXTENSION OF WAIVER:** Extension of the waiver is possible if shortages persist. To avoid confusion, the IRS, EPA and Treasury Department will make a joint waiver announcement if an extension is warranted.

**Got Questions? Contact Mark S. Morgan, Esq. [mmorganptsa@cox.net](mailto:mmorganptsa@cox.net) or (202) 364-6767**