

The Leaf Sheet

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Upcoming Meetings:

August Uniformity
August 19-20, 2022
Portland, ME

2022 FTA Annual
August 21 - 24, 2022
Portland, ME

Tobacco Basic Training
October 16 - 24, 2022
Clemmons, NC

Message from the National Chair

Greetings! I hope this message finds you well. Summer has been moving right along. It's already that time of year to consider taking end of season vacations and begin preparations to return kids to school routines. It's also that time of year for attending the annual FTA Tobacco Section conference.

Just as I was eager to attend the Tobacco Central Region conference this past spring, I am looking forward to packing my bags for Portland Maine. Sojourning to Portland involves the most significant travel arrangements I've made in the last three years! Though I may not enjoy a return to possibly delayed connecting flights and lost baggage, I'm excited to return to the

northeast part of the country. I haven't experienced Maine in quite a few years. But even more so, I relish the opportunity to visit with many of you that will be attending the national conference. I have not seen or spoken with some state and tobacco industry colleagues since the last in person national conference three years ago. I hope I get to catch up with many of you.

As this will be my last conference presiding as your national chair, I want to thank FTA and all who have supported me in this role for the past three years. It has been a rewarding experience to serve in this capacity. I have thoroughly enjoyed my time in leadership. I cannot adequately express my appreciation to

all the individuals that make FTA a great organization and who have been so good to me. I sincerely thank you.

For one last time as I've mentioned previously, I seek to encourage each of you to participate in the FTA Tobacco Section's uniformity efforts, available training sessions, regional meetings and the annual conference as events are scheduled. It's your experience and expertise that make FTA an invaluable resource to us all.

As I conclude my tenure as your national chair, I look forward to visiting with you in Portland Maine, August 21-24, 2022. Best wishes to you all!

Gerald Robinett



Message from Uniformity Committee Co-Chairs

Tim and I are looking forward to seeing everyone in Portland, ME for the Uniformity meeting that meets prior to the 2022 Tobacco Annual Meeting. At the May meeting in Boise, ID we had great discussions on updates to the XPath document, alternative nicotine products, flavor and menthol bans, and on how modified risk tobacco impacts the tax return.

We also heard an update from states that are in the process of moving to uniformity. We are looking forward to hearing more from the states moving to uniformity at the next meeting in Portland.

Jason & Tim

Compliance Subcommittee Update

This installment of the Compliance Subcommittee starts with a good-bye and an opportunity. After serving on the Compliance Subcommittee for several years, Kristin Harrell has left Associated Wholesale Grocers and accepted a position with a global tech company. I would like to personally thank Kristin for doing an outstanding job.

Now, the opportunity. We have a position open for industry on the Compliance Subcommittee. If you are interested, or know of anyone who is, please forward their name to us. Serving on the subcommittee doesn't require much time and working with all the other personnel in uniformity is rewarding.

Where to begin? There are a lot of moving parts being discussed in the Compliance Subcommittee. The Food and Drug Administration (FDA) seems to be in the news an awful lot. From exploring the ban of manufacture and sale of menthol cigarettes, to premarket tobacco applications (PMTA) and marketing denial orders (MDO), also synthetic nicotine products.

We will start with the new legislation enacted on March 15, which clarified that the FDA could regulate tobacco products containing nicotine from any source. The agency is processing applications for about 1 million non-tobacco nicotine products submitted by more than 200 manufacturers. If those applications do not meet the criteria for acceptance, the FDA will issue refuse-to-accept (RTA) letters to the manufacturer.

Also, the FDA issued 3 companies marketing granting orders covering 20 products in 2022. The FDA has issued 6 PMTA denials this year. The most notable was Juul on 6/23/22, but on 7/5/22 the FDA issued a stay for this MDO pending review.

Last, but not least, the FDA has closed its comment period for both the "Tobacco Product Standard for Menthol in Cigarettes" and "Tobacco Product Standard for Characterizing Flavors in Cigars" proposed rules. The public could submit comments on these proposed rules until 8/2/22.

We will discuss all the above during the Uniformity meeting. Additionally, we will talk about state and local flavor and menthol bans, alternative nicotine products and on Sunday, 8/21 the illicit trade group will meet

It's going to be nice to see everyone face-to-face in Portland. It seems like an eternity since we all got together. Looking forward to renewing friendships and meeting new people.

Joe

Forms Subcommittee Update

Hello everyone and welcome to Maine! Who is up for some lobster?

Thank you to everyone who attended the meeting in Boise in May. There was a lot of good information exchanged.

For the Forms Sub-Committee section, we discussed where to put the stamping information on Little Cigars and other tobacco products on the cigarette cover page. We will continue this discussion in Maine. We also started the conversation regarding adding UPC codes to the Tobacco forms and will continue to discuss this topic in

Maine. This will eventually affect the schema. The Uniform Stamp Schedule Instructions were updated, voted on, and passed in May.

As always, please let us know if you have any suggestions, comments or issues with any of the forms or new forms we may need. We would be happy to discuss them and get your thoughts out to the group.

Helen & Marci



Uniformity Testimonies

Sue Nelson—Wisconsin

In Wisconsin, we began our Uniformity Project early in calendar year 2018. By March of 2018 we were informing our customers about the move to uniformity, allowing them nine months to prepare for this change.

Wisconsin adopted the uniform schedules for cigarette and tobacco tax returns effective **January 1, 2019**. We mandated use of the new schedules for all filers, giving them the option of two filing methods – XML or via our online portal *My Tax Account*.

We've had the opportunity to speak with excise tax team members in other states as they contemplate the move to uniformity, and we are happy to serve as a resource to others. Here is a list of the key lessons that we have learned during this process. We believe this information may be very helpful to others.

Lessons Learned:

- Have a full project plan in place before you begin development
- Plan for a significant increase in data
- Set XML schema testing deadlines for customers early to ensure proper testing
- Develop a robust communication plan including training for customers
- Plan for a high level of customer support before and after roll-out (including system change requests)

Toni Fields & Kim Hensley—Kentucky

Kentucky rarely finds itself first in published state rankings. Unfortunately, we usually find ourselves at the end of lists like best place to live or work, and education. At last, Kentucky has made it to the top of a list in being one of the first states to implement Tobacco Uniformity. However, this ended up being the biggest obstacle in Kentucky's transition.

As with any change, there is hesitancy and strife that comes with it. As I write this, I am sitting on the back end of implementation. I can say that the end result is well worth the hurdles we jumped to get there. KY DOR and taxpayers have seen the following benefits:

- Improved audit planning. More information is available prior to audit and allows us to pinpoint issues to focus. Provides an avenue to exchange information with other states and more easily allows the comparison of such data.
- Allows taxpayers to be compliant with PACT Act.
- Makes it easier for taxpayers who are filing in multiple states.
- Easier compliance, reporting, and tracking for MSA purposes.

For other states who ponder the decision whether to adopt Tobacco Uniformity, be prepared to handle the following issues:

- Time dedicated to working with a vendor to implement a new electronic filing system.
- Time spent in taxpayer education both prior to implementation and making corrections on initial filings. Filing with the new Uniformity guidelines was a big change for taxpayers. They had to move from paper to an electronic system. The Uniformity guidelines also required more information than they were used to providing. KY is still working through taxpayer reporting issues, mainly due to staff turnover and not attributable to the implemented uniformity standards.
- Training DOR employees on new procedures, crossmatch and system reporting.

Keep in mind these are temporary issues that lead to long term benefits. And you're welcome, as Kentucky has traversed the rough terrain and paved the way for the next states to travel a smoother road to success!

How Can You Become More Involved In Uniformity?

- ◆ Regularly check for updates at FTA's updated Tobacco Uniformity website at taxadmin.org.
- ◆ If you don't currently require cigarette and/or tobacco returns, and/or PACT Act reports to be filed electronically, do you know when your state is expected to do so?
- ◆ Has your revenue staff coordinated with your AG's staff to ensure the uniform schedules will also fulfill all of their filing requirements? If you're from the AGO, reach out to your Revenue Department.
- ◆ Talk to other states and industry members.
- ◆ Attend meetings!



Tobacco news you can use...

State Legislative Bill Actions

California: Assembly Bill 1690, which, effective Jan. 1, 2024, bans the sale of single use e-cigarette devices except those for which an Food and Drug Administration (FDA) marketing order has been granted, failed to pass the Assembly by the May 27 deadline set in legislative rules.

New Jersey: Assembly Bill 1989, which prohibits the sale of menthol cigarettes and flavored electronic smoking devices and related products, was heard and released (passed) in the Assembly Health Committee on June 2.

Virginia: House Bill 1199 and Senate Bill 748, which included language to lower OTP tax rates, were adopted in the regular legislative session; however, the 2022—2024 budget bill signed by Gov. Glenn Youngkin on May 31 included language to supersede the lower other tobacco product (OTP) tax rates in HB1199 / SB748. Consequently, OTP tax rates remain unchanged from the current levels. .

California eliminates tax on cannabis growers to boost struggling industry

California is significantly overhauling its cannabis tax structure, including entirely eliminating a tax on growers, to boost a struggling legal industry begging for relief. The changes, which the Legislature adopted last week as part of a state budget agreement, will also create tax credits for some cannabis businesses, expand labor rights within the industry and switch collection of a state excise tax from distributors to retailers. That tax will pause at 15% for three years, after which regulators could raise the rate to recoup lost revenue from discontinuing the cultivation tax. Prominent cannabis industry groups praised the plan for its potential to lower costs and help make legal sales more competitive with an illicit market that remains robust six years after California voters legalized recreational marijuana. Though the measure won overwhelming legislative approval, it was met with vocal discontent from retailers who say they will not benefit and complaints from several lawmakers who said it will not do enough to address radical disparities in the industry.

FDA Continues to Implement Law, Regulate Non-Tobacco Nicotine Products

July 13, 2022 - Today, FDA issued its first two warning letters to manufacturers for unlawfully marketing non-tobacco nicotine e-liquid products without the required authorization. Collectively, these two companies, Electric Smoke and Vapor House, have listed a combined total of approximately 10,000 products with FDA. Neither company submitted a premarket application for its non-tobacco nicotine products by the May 14, 2022 deadline as required by the new law. After today, July 13, 2022, any new non-tobacco nicotine product that has not received premarket authorization from FDA cannot be legally marketed.

FDA is engaged in the necessary work to pursue enforcement action as swiftly as possible. When companies are found to be illegally marketing non-tobacco nicotine products, the agency will typically first issue warning letters to achieve voluntary compliance and will pursue enforcement actions, as needed, including civil money penalties, no-tobacco sale orders, seizure, or injunction. In addition, any unauthorized non-tobacco nicotine products detected for import into the United States can be detained or refused admission.



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Eby Brown Company LLC

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Julian Daniels
State of Texas

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Technology Subcommittee Update

Welcome to the August 2022 Tobacco Uniformity meeting! The goal of the Technology Subcommittee is to fulfill the Uniformity Committee's Mission Statement by providing approved Uniformity Guides and Schemas.

At the May 2022 meeting, the Subcommittee received updates on states' upcoming filing format changes. Indiana is delaying its uniformity effort. Minnesota, Kansas, and Maryland are moving forward with their transition to uniformity.

The Subcommittee talked about creating a roll your own (RYO) brand code table for publication on the FTA website. It was determined that the National Association of Attorneys General (NAAG) has the most complete list of RYO products. NAAG will be contacted to see if the information is available to the FTA. The RYO brand code table will be helpful to identify product and manufacturer.

It was brought to the attention of the Subcommittee that the tobacco brand code table on the FTA website has not been updated since 2019. The Subcommittee will contact Barry Alves with the California Office of Attorney General regarding table updates.

The technology Subcommittee provided an update on using the existing system the FTA uses for state income tax schema sharing for tobacco data provided by manufacturers and suppliers. We are still waiting for Ryan Minnick to present the proposal to the FTA board for approval. Data liability issues will be addressed if the board approves the proposed use.

The addition of serialized ID to the XML schema was discussed. This included the current serialization of imported nicotine pods and use by the pharmaceutical industry. Discussions will continue at future meetings.

The Attribute in the inventory portion of the schema was discussed. It was determined that the schema is correct. The paper version of the return will be changed. The Xpath document will be updated to clarify that the enumerated list associated with the Attribute is created by the state implementing the schema and approved by the FTA.

Our discussion at the August Subcommittee meeting will include an update on data exchange, RYO brand code table creation, and tobacco brand code table updates.

Mike and Mark

Communications and Legislation Subcommittee Update

White Paper Discussed Topics:

Cannabis/Hemp/CBD

Flavor Bans

Alternative Nicotine Products



If you would be interested in participating please contact the chair.

Communications and Legislation Subcommittee Update (cont. from pg. 4)

The Tobacco Tax Information by State (TTIbS) book has become a great resource for states, industry, and everyone in-between as determined by the May meeting. We will discuss the resource benefits it provides along with reviewing the responses received for the 2022 update. The new version is (or will be very soon!) available on the FTA website. To view the most recent version, please visit www.taxadmin.org/tobacco-tax-uniformity-project.

White papers are still a work-in-progress, and the goal is to have at least two completed by the January 2023 meeting. JD's team has reeled one in, and there have been a few other nibbles here and there. If anyone would like to assist on a white paper, please let Cheyanne know.

Some interesting topics include flavor bans, cannabis/CBD/hemp products, and alternative nicotine products.

Many legislation topics were covered at the May meeting, to include cannabis and cigar bills. This is a great portion of every meeting to see what is going on around the nation, and we will provide some new topics or continue discussing ongoing legislation updates during a round-table session at the August meeting.

We ask that States come prepared to talk about any pending or upcoming legislation changes that might occur.

Cheyenne and JD

FDA NEWS

The FDA Just Banned Juuls — What's Next?

The Food and Drug Administration made a landmark decision and ordered Juul to pull all of its e-cigarette devices and vapor cartridges from all U.S. markets, continuing the agency's history of removing addictive products from the hands of youth.

The FDA made this decision after Juul filed "insufficient and conflicting" data in an application to keep selling the vapes and said there was not "enough evidence to assess the potential toxicological risks of using the JUUL Products," per *USA Today*.

The ban is currently on hold.

Training & Development Opportunities

FTA Tobacco Basic Training October

State & industry attendees will be trained on tobacco terminology, distribution of products, taxation, legislation, the Master Settlement Agreement (MSA), compliance, auditing, etc. In the past, attendees have toured a cigarette manufacturing facility. The training will be held at Clemmons, NC October 16—20.



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Tobacco Tax Section Officers

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Al Milak, North Carolina

National Secretary

Justin Scott, Texas

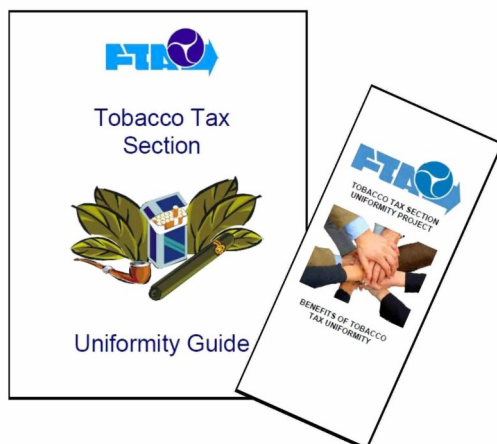


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by
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FTA Tobacco Tax Section Uniformity Committee Mission Statement

Provide an opportunity for government and industry to partner for the efficient and effective reporting and remittance of tobacco taxes, to minimize tobacco tax evasion, and to act as an information resource to stakeholders.

