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GASOLINE TAX

NOTICE

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August 2020

USE OF MARKED FUEL IN FARM TRUCKS Effective September 1, 2020

Gasoline Tax Act and the *Climate Leadership Act* amendments (Bills 49 and 50) were passed in the PEI Legislative Assembly and were given Royal Assent on July 14, 2020. Associated regulations were also passed with an effective date of September 1, 2020. Starting on September 1, 2020 farmers with a Marked Fuel / Levy Exemption Permit will be able to use marked fuel in a “farm truck” when the farm truck is used for “agricultural operations”.

It is important that farmers understand both the limitations with respect to the use of marked fuel in farm trucks, and the record keeping responsibilities and requirements.

Please note the following general information:

Definitions

“**Agricultural operations**” means the operations of cultivating soil, harvesting crops, including crops grown in greenhouses and market gardens, and raising livestock for commercial purposes, including all the stages of production and uses for farm machinery and farm trucks that are incidental to those purposes, except as specified in the regulations.

Examples of Eligible Agricultural Operations:

- **A farmer with a Marked Fuel /Levy Exemption Permit may use marked fuel in a farm truck used in the field for planting of potatoes.**
 - **A farmer with a Marked Fuel /Levy Exemption Permit may use marked fuel in a farm truck used to transport farm product to a storage facility.**
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Under the amended regulations, “agricultural operations” **does not** include:

- (a) the business of adding value to farm products by manufacturing, packaging, mixing, grinding or otherwise processing them, when carried out by any person other than the farmer that produced them;

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- (b) the renting out by a lessor of farm land, buildings, livestock, motor vehicles, machinery or other assets, and any activities related to the maintenance or improvement of the rented items;
- (c) the breeding, raising, or both, of animals commonly kept as pets;
- (d) the use of farm machinery, farm trucks or both for a purpose other than agricultural operations in the province;
- (e) the use of any vehicle or machinery other than farm machinery, a farm truck or both;
- (f) the use of any vehicle or farm truck for hire, personal use or the transportation of agricultural products, inputs or machines for the purpose of sales or marketing;
- (g) any activity carried out by a person who is neither a farmer nor a custom agricultural contractor;
- (h) the business of constructing farm buildings or farm fences by any person other than the farmer using those structures;
- (i) the heating or cooling of farm buildings;
- (j) the business of providing various services or sales, or both, to a farmer, including but not limited to
 - (i) banking, accounting, consulting or veterinary and other animal health services, and
 - (ii) sales and services of various production inputs and farm machinery.

Examples of Non-Eligible Activities:

- **A farmer with a Marked Fuel /Levy Exemption Permit must report and pay the tax on marked fuel in a farm truck used to transport potatoes to a processing facility.**
 - **A farmer with a Marked Fuel /Levy Exemption Permit must report and pay the tax on marked fuel in a farm truck used by a neighbor to build a barn.**
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“**Farm Truck**” means a farm truck as defined in the Farm Truck Registration Regulations (EC356/75) made under the *Highway Traffic Act* R.S.P.E.I. 1988. Cap. H-5.

Eligible List of Equipment

Farm trucks must be added to the list of eligible equipment associated with a Marked Fuel/Levy Exemption Permit. As these amendments received Royal Assent during a busy time of the year for Island farmers, the requirement to update the list of eligible equipment associated with a Marked Fuel/Levy Exemption Permit is being delayed until December 31, 2020 for the first year of implementation.

If a request to add additional farm trucks (or other eligible equipment) is not received by December 31, 2020, it will be assumed that there are no farm trucks (or additional eligible equipment to be added to the Marked Fuel/Levy Exemption Permit.

The form, Request for Additional Eligible Equipment Associated with a Marked Fuel/Levy Exemption Permit can be used to add additional farm trucks or other eligible equipment for a Marked Fuel/Levy Exemption Permit. When adding additional eligible equipment, a revised annual estimated of marked fuel use must also be provided.

When additional equipment is added to a Permit, a revised letter will be sent to the applicant showing the revised list of approved eligible equipment and farm trucks under the Marked Fuel/Levy Exemption Permit.

Record Keeping Responsibilities and Requirements

A holder of a Marked Fuel/Levy Exemption Permit is required to keep records including:

- the total amount of marked fuel purchased
- the equipment fueled by marked fuel
- the use of the equipment fueled by marked fuel
- information that substantiates the use of marked fuel in the equipment
- the amount of clear fuel purchased

These record keeping requirements will be extended to marked fuel used in farm trucks.

It is strongly recommend that a marked fuel usage log be maintained for each farm truck as the permit holder is responsible for the annual reporting and payment of tax on marked fuel when a farm truck is used for a purpose other than exempt agricultural operations. Alternatively, if clear fuel is used in a farm truck, the permit holder can request a refund of tax when the farm truck is used for exempt agricultural operations.

A sample marked fuel usage log (add hyperlink to this sample log) is available on the government website.

Travel outside Prince Edward Island

The use of marked fuel in farm trucks is illegal in some jurisdictions such as Ontario, Quebec, New Brunswick, Nova Scotia and Newfoundland. A farm truck traveling in any of these jurisdictions, with even a trace of marked fuel in the fuel system, would be subject to enforcement action by these jurisdictions.

Further information can be obtained by contacting:

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