

Kubota Credit revises credit agreement; extends finance deadline



This "Action Alert" icon will be displayed whenever action steps exist to help your voice be heard on topical issues. Dealers can expect to see alerts in all forms of NAEDA communications.

Manufacturer Relations		
ISSUE	ACTION SUMMARY	NAEDA'S POSITION
Kubota Credit	NAEDA, affiliate association executives and association legal counsel have negotiated a more pro-dealership agreement with Kubota Credit Corporation (KCC). Kubota Credit has agreed to modify three essential provisions benefiting dealers: 1) a breach must be "material" to trigger a repurchase obligation for nonrecourse loans; 2) a dealer has a 10 business day cure period to correct a problem before the repurchase obligation for nonrecourse loans applies, and 3) the nonrecourse repurchase obligation only applies to the affected retail loan and not the entire loan portfolio. KCC has given dealers an additional 30-day extension, until Nov. 30, 2009, to review and sign the agreement.	KCC negotiated in good faith and listened and responded to dealer concerns. Negotiations were vigorous and extensive, resulting in a more balanced agreement. NAEDA counsel believes important improvements have been made and it is not reasonable to expect KCC to make any further changes.
Toro/Red Iron Acceptance LLC	Dealer association executives and legal counsel contacted Toro to discuss concerns dealers had with Toro's new wholesale finance agreement with Red Iron. The main issue concerned the broad security interest on a dealer's entire inventory, present and future, and property the agreement granted. NAEDA also felt the power of attorney granted Red Iron by the agreement was too broad.	We commend Toro and Red Iron for their prompt attention and willingness to hear and understand concerns by dealers. Their willingness to make appropriate changes to the agreement is encouraging. They have agreed to incorporate the association's power of attorney language into the agreement and to file a UCC on the dealer limiting the security interest to Toro and affiliated companies' products. This should allow a dealer reasonable access to other credit. Dealers who have already signed will also have the limiting UCC filed on them.
AEM/NAEDA Annual Joint Legislative and Industry Relations Meeting	NAEDA President/CEO Paul Kindinger attended the joint AEM/NAEDA meeting in Phoenix, Ariz., Oct. 26-27. The meeting included discussions about furthering efforts regarding proposed federal lighting and marking standards for equipment, LIFO, Young Farmer and Rancher Equipment Loan Guarantee program, California's ag equipment rule, the continuing credit crunch, warranty payment concerns, and other matters.	NAEDA and AEM have been working together for several years in areas of mutual interest. These discussions are beneficial to the industry.

Government Relations		
ISSUE	ACTION SUMMARY	NAEDA'S POSITION
Korean Trade Agreement	As a member of a trade coalition, NAEDA has been working with the group to obtain signatures on a "dear colleague" letter written by Reps. Adam Smith (D-WA) and Dave Reichert (R-WA). The letter is seeking support from the president to prepare a U.S.-South Korea Free Trade Agreement for congressional consideration.	NAEDA policy supports passage of free trade agreements that are fair and integral to the economy. Korea is the world's 14th largest economy and the U.S.'s seventh largest trading partner.
Americans with Disabilities Act Rulemaking	The Equal Employment Opportunity Commission has issued a Notice of Proposed Rulemaking that would greatly expand the definition of "disability." This would have ramifications for dealers who have at least 15 employees. Because this rulemaking could change the definition of disability, the Department of Justice is expected to undertake its own rulemaking under Title III of the Americans with Disabilities Act.	NAEDA is working with its attorney on this rulemaking and its potential effect on dealers.
Equipment Lighting and Marking Standards	NAEDA has been working with AEM on the sponsorship of H.R. 3720, which would standardize equipment lighting and marking standards in all states. The standards would be set by the American Society of Agricultural and Biological Engineers for new equipment manufactured after enactment of the legislation.	NAEDA supports national standards for all new equipment.

A companion reference is regularly updated in the Dealer Advocacy Center at www.naeda.com.

NAEDA notes

The U.S. Senate has two major pieces of legislation before it that could affect U.S. dealerships.

1) Tax extender bill: More than 500 companies and associations sent letters to members of Congress in October strongly urging enactment of legislation to extend business tax provisions that expire at the end of 2009. Without these extensions, thousands of U.S. businesses and individual taxpayers could face major tax increases.

The letter pointed out the extensions would bring more certainty in U.S. tax law, foster more effective business decisions and encourage investment. Also included in the letter was support for: research and development provisions; the election to deduct state and local general sales tax; the 15-year straight-line cost recovery for qualified leasehold improvements and certain improvements to retail space; the election to expense "brownfield" environmental remediation costs, biodiesel, renewable diesel, and alternative fuels provisions.

NAEDA continues to push for extension of the five-year depreciation schedule for ag equipment, bonus depreciation and Section 179 deductions and AMT tax provisions. We expect a one-year extension for some provisions ... noting that Congress will consider a comprehensive tax code rewrite in 2010 for all these provisions.

2) Energy and climate bill: This bill is only a skeleton now. Key testimony will be or has been collected by the Senate Committee on Environment and Public Works, chaired by Barbara Boxer (D-CA), with testimony from Energy Secretary Steven Chu, EPA Administrator Lisa Jackson and Interior Secretary Ken Salazar. The committee will hear from utility executives, the military, environmentalists, think tanks, and others trying to shape an energy and climate bill in the Senate.

The House has already passed a bill (H.R. 2454) that overhauls the way America makes and uses energy. The Senate debate will concentrate on two critical issues: How much is this going to cost? and Who is going to pay for it? Depending on which "camp" the senators are in will determine the bill's direction.

Some believe climate legislation will strengthen the economy (green jobs), some believe it will add significant but manageable costs (address global warming) and some believe it will deepen the recession and hurt the economy (increased energy costs and business job losses).

NAEDA policy supports a national energy policy that defines the energy needs of the nation, what measures should be undertaken for new energy sources and exploration and how the nation's energy needs can be met consistent with the use of natural resources, protection of the environment, sound land use and the welfare of the people. To reduce the nation's dependence on foreign energy sources, a comprehensive energy policy should:

- promote conservation of all fuels,
- encourage universities and organizations to conduct research on and provide education programs about energy, and
- encourage the development of alternative fuels, renewable fuels and next-generation technologies for wind, biomass, coal, and nuclear fuels.

These are two big issues in the Senate. The real question: Can the Senate get 60 votes for passage of each bill?