

January 22, 2016

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**2016 CONGRESSIONAL TAX AND BUDGET FORECAST**

This year is unlikely to be one for groundbreaking legislation as the course of the year will be driven primarily by the upcoming elections and Congress will have a minimal (120) number of days in session.

For example, last week Senate Minority Leader Harry Reid (D-NV) stated interest in pursuing efforts to force Senate Republicans, particularly those who face a viable chance of becoming the GOP's presidential nominee, to vote on some of Donald Trump's more controversial proposals, namely the proposal to ban Muslim immigrants from entering the U.S. In response, Senate Majority Leader Mitch McConnell (R-KY) made it clear that Republicans could just as easily pursue legislation targeting areas of weakness for Hillary Clinton, such as email classification and embassy security.

The odds of comprehensive tax reform passing in this election year are zero to none. However, tax reform is expected to continue to be a central issue and PMAA will continue to communicate the needs of petroleum marketers to lawmakers.

While there is a chance a member could introduce a comprehensive tax reform bill that could serve as a source of ideas in years to come, it is more likely that we will see bills targeting specific areas rather than comprehensive reform. Under comprehensive tax reform there will be winners and others will be losers if major tax deductions or credits, such as the following, are limited or eliminated – employer deductions for health care coverage for employees, employer deductions for retirement plan contributions, the mortgage interest deduction, the charitable contribution deduction, the deduction for state taxes, the step up in basis for assets going through an estate, and limiting tax deductions for high income earners, etc.

The tax area most likely to see substantive movement this year is international tax reform. In addition, last week, Congressman Devin Nunes (R-CA), who is a member of the Ways and Means Committee, introduced the American Business Competitiveness Act (H.R. 4377). This bill would set a flat tax rate of 25% for all businesses no matter how they are organized. The bill would eliminate business deductions and depreciation except for depreciation for property and would phase out the business interest deduction over 10 years. Additionally, the bill would set business expensing at 10 percent and require all businesses to use the cash basis method of accounting. Ways and Means Committee Chairman Brady has promised Nunes that he will hold a hearing on the bill this year. PMAA will be closely monitoring this bill and the upcoming hearings, which have not yet been scheduled. We will bring you more details as we are able to get our arms around the logical consequences of such significant changes.

Meanwhile, the President is expected to release his budget proposal on or around February 9. Passage of a budget by the House or Senate is not technically necessary. However, setting forth a budget in an election year could prove another way for the Republicans to demonstrate to the electorate the policies that they would promote if they were to retain control of Congress and gain control of the White House.

**EIA ADMINISTRATOR GIVES OUTLOOK ON OIL PRICES**

On Tuesday, the Energy Information Administration's (EIA) Administrator Adam Sieminski spoke before the Senate Committee on Energy and Natural Resources to address the global oil market outlook. Joining Sieminski was Antoine Halff, Senior Fellow and Director of the Global Oil Markets Research Program. Their testimony comes as prices of U.S. West Texas Intermediate and Brent oil have slipped below \$30 per barrel, a 12-year low.

Sieminski provided testimony on several EIA forecasts for the future of crude oil production. First, EIA predicts that crude oil and refined product prices in 2016 will be significantly lower than in 2015, with Brent crude oil prices projected to be \$40/barrel in 2016 and \$50/barrel in 2017, and West Texas Intermediate (WTI) crude averaging \$38/barrel in 2016 and \$47/barrel in 2017. Secondly, EIA predicts U.S. retail gasoline to average \$2.03/gallon in 2016 and \$2.21/gallon in 2017, compared with \$2.43/gallon in 2015. Additionally, U.S. crude oil production is expected to decline through 2016 and the majority of 2017. Crude oil production averaged nearly 9.4 million barrels/day in 2015 and is forecasted to average 8.7 million barrels/day in 2016 and 8.5 million barrels/day in 2017. Lastly, Sieminski stated that the excess of supply over demand has contributed to oil prices reaching the lowest monthly average since 2004, adding that inventories will continue to rise in 2016 before balancing out in 2017.

During Halff's testimony, he explained that while supply growth is already slowing in the face of shale oil setbacks, oversupply continues amid weak demand growth. He added that downward pressures on oil prices will persist until the market reaches an inflection point and inventories decline. Halff stated the current factors "incentivizing producers to boost output at the expense of longer-term investment will inevitably undermine future production."

## **OBAMA VETOES BILL TO KILL U.S. WATERS RULE**

On Wednesday night, as expected, President Obama vetoed the Congressional Review Act Resolution of disapproval of the Waters of the U.S. Rule.

Last week, the House voted 253-166 to kill the Administration's controversial Waters of the U.S. (WOTUS) Rule which followed a 53-44 vote on a resolution of disapproval under the Congressional Review Act by the Senate in November. Unfortunately, there are not enough votes to override the President's veto.

The EPA issued a final rule in May that attempts to expand federal jurisdiction over navigable waters under the Clean Water Act. The rule is important to petroleum marketers because it defines how far federal clean water regulations extend into local land use and permitting decisions including the construction of new gasoline stations and surface water runoff from parking and fueling areas. Many petroleum marketers with bulk storage could also be adversely affected by the revised definition. Last year, PMAA joined with a coalition representing a broad range of businesses, industries, and commercial interests to voice strong opposition to the revised definition of the WOTUS proposed by EPA and the U.S. Army Corps of Engineers (COE).

At the most fundamental level, the proposal as written represents an unjustified expansion of Clean Water Act jurisdiction far beyond the limits of federal regulation explicitly established by Congress and affirmed by the courts. The proposal would, for the first time, give federal agencies direct authority over land use decisions that Congress has intentionally preserved to the States. It would intrude so far into traditional State and local land use authority that it is difficult to imagine that Congress intended this outcome. GOP leaders in Congress have vowed to pass legislation that more narrowly defines waters subject to the Clean Water Act.

Following the announcement of the final rule, Congress attempted to scrap it through legislation and to block its implementation through the end-of-year spending bill but neither had a veto proof vote so the main battle over the water rule moved to the courts. In the meantime, the rule was slated to go into effect on August 28, 2015, but the court issued a stay while it further reviews this jurisdictional question. The 6th Circuit Court of Appeals is expected to rule soon on whether it will hear cases challenging the rule or send them through the district courts first.

## **HIGHEST DOLLAR AND PERCENTAGE WINNER ANNOUNCED**

Brad Bell and Tim Keigher, co-chairs of the 2016 PMAA SBC PAC, proudly announce the PAC "Highest Dollar Contributed" award to Eric DeGesero and Larry Ray and the Fuel Merchants Association of New Jersey (FMANJ) and the "Highest Percentage Raised" award to **Brad Bell and Lea Wilson and the Washington Oil Marketers Association (WOMA)!**

In 2015, Eric DeGesero was determined to double or possibly triple their PAC goal so he would not receive another phone call or email from SBC PAC 2015 co-chair Michael Fields. Eric DeGesero and the Fuel Merchants Association of New Jersey created a new record by raising \$25,590 to support the PMAA PAC!

**In recent years WOMA has consistently won the award for the "Highest Percentage Raised" contributor. In 2015 WOMA raised \$10,180 or 429 percent of their state goal to continue their winning streak!**

PMAA Small Business Committee 2016 PAC co-chairs Brad Bell and Tim Keigher would also like to thank the following states for meeting or exceeding their 2015 PAC fundraising goal: Alabama, Arizona, Arkansas, California, Colorado, **Hawaii, Idaho**, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, **Montana**, Nebraska, **Nevada**, IOMA, **New Mexico**, North Carolina, North Dakota, Oregon, South Carolina, Tennessee, **Utah**, Virginia, Wisconsin, and Wyoming.

## **RESERVE YOUR ROOMS NOW FOR PMAA'S WASHINGTON CONFERENCE AND DAY ON THE HILL**

PMAA's annual Washington Conference and Day on the Hill will be held in our Nation's Capital of Washington, DC from May 18-20. This forum unites marketers, state association executives and suppliers from across the country to openly discuss all the issues facing the petroleum marketing industry with their members of Congress and find solutions together.

The meeting will begin with an Opening Session / Issues Briefing and Region meetings in the afternoon of May 18 followed by a welcome reception including our PAC silent auction fundraiser. On the morning of May 19, there will be another issues briefing for those who were not able to attend the opening session. Marketers and association executives will then head to Capitol Hill for visits with their Congressional delegations. **Please be sure to make these appointments at your earliest convenience.** There will be a hospitality suite and luncheon on the Hill. On the evening of May 19, we will honor our new PMAA Chairman Mike Bailey from Wyoming. Our conference will conclude after the PMAA Board of Directors meet on May 20 following a buffet breakfast and committee meetings.

Click [here](http://www.pmaa.org/meetings/upcomingmeetings/) (http://www.pmaa.org/meetings/upcomingmeetings/) for more details for Washington Conference and Day on the Hill. Registration will open in February and will be posted on this page. If you plan on attending PMAA's Annual Washington Conference and Day on the Hill, **now is the time to make your room reservation as our room block is**

**filling up quickly.** Please note that our overflow hotel information is also posted now.

Please make your plans now to attend this important and productive forum to meet with your members of Congress! See you in DC in the spring!

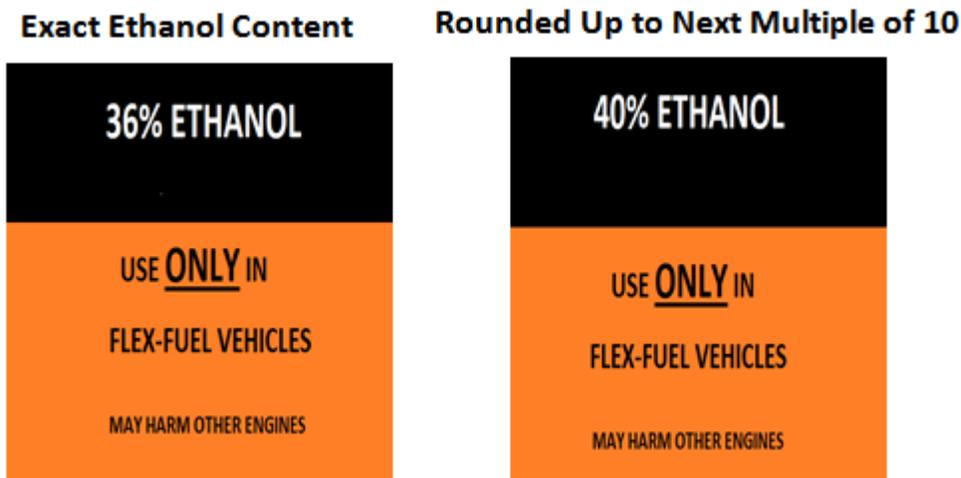
### **PMAA REGULATORY REPORTS SENT THIS WEEK** **NEW FTC DISPENSER LABELS FOR ETHANOL BLENDS**

The Federal Trade Commission (FTC) published on January 16, 2016 final amendments to the agency's Fuel Rating Rule for midlevel ethanol blends. The final rule determines how ethanol content disclosure in gasoline blends appear on fuel dispenser labels. According to the FTC the reason for the new labels is to help consumers select the right fuel for their vehicles. Ethanol content disclosure and use warning are designed to prevent misfueling.

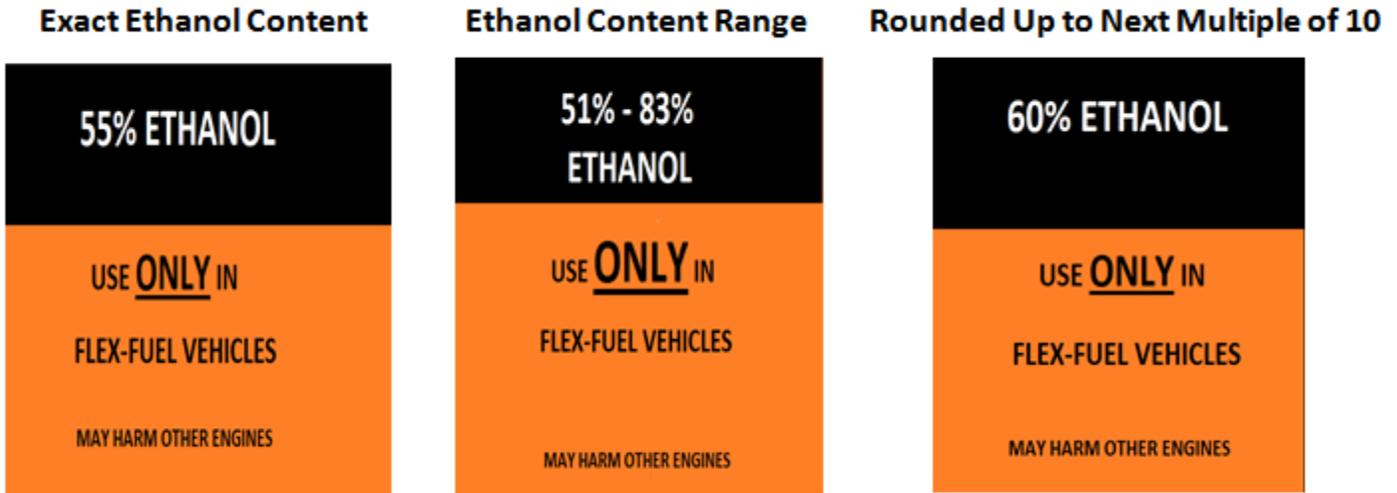
The final rule requires suppliers to rate and certify all ethanol blends with ethanol content ranging from above 10% to 83%. The FTC also require retailers to post new black and orange dispenser labels with exact ethanol percentage disclosures or percentages rounded to the nearest multiple of 10 for blends between E15 and up to E50. The FTC included an exception from the requirements of the rule for EPA's E15 labels which will remain unchanged. The final rule allows labels to disclose a range of ethanol content percentage for blends over 50% and up to 83% or in the alternative disclosure of the exact ethanol percentage or rounding up to the nearest multiple of 10. Since ASTM Standard 5798 limits E85 blends to a maximum 83% ethanol content, the final rule provides no disclosure method that would allow the continued use of the E85 designation. As a result, the E85 designation for blends with 51% to 83% ethanol content may no longer be designated as E85 after July 14, 2016.

**COMPLIANCE:** Petroleum marketers must take the following steps to come into compliance with the new FTC rule:

- **15% ETHANOL BLENDS** - Continue to use the EPA E15 approved dispenser label for gasoline blends over 10% and up to 15% ethanol content.
- **ETHANOL BLENDS OVER 15% AND UP TO 50%** - Dispenser labels for these blends must either disclose the exact ethanol percentage in the blend; **or** the percentage rounded up to the nearest multiple of ten. For example: Gasoline with a 36% ethanol content may be labeled as "36% ETHANOL" or "40% ETHANOL".



- **ETHANOL BLENDS OVER 50% AND UP TO 83%** - Dispenser labels for these blends must disclose the exact ethanol content; **or** the ethanol content rounded up to the next multiple of ten; **or** the ethanol content expressed as a range of 51% -83% ethanol. For example: Gasoline with a 55% ethanol content may be labeled as “55% ETHANOL” or “60% ETHANOL” or “51%-83% ETHANOL”



- **LABEL SIZE:** Labels must be 3 inches wide by 2.5 inches long using Helvetica or another similar type.
- **LABEL PLACEMENT:** Labels must be placed on each face of the pump where the specific ethanol blend is offered for sale to the consumer.
- **COMPLIANCE DEADLINE:** The new FTC ethanol content disclosure labels must be affixed to dispensers no later than July 14, 2016.
- **PURCHASE LABELS:** the new FTC ethanol content disclosure labels will be made available for purchase by most major label vendors.
- **ADDITIONAL INFORMATION:** Contact Mark S. Morgan, PMAA Regulatory Counsel at [mmorgan@pmaa.org](mailto:mmorgan@pmaa.org).

#### SPECIAL CLAIM PROCEDURES FOR 2015 RETROACTIVE BIODIESEL BLENDER CREDIT AND ALTERNATIVE FUEL CREDIT

The IRS has issued special one-time claim procedures (IRS Notice 2016-05) for obtaining the \$1.00 per gallon biodiesel blender credit reinstated by Congress retroactively for calendar year 2015 Protecting Americans from Tax Hikes Act of 2015 (PATH Act). PMAA worked closely with Congress over the past year to ensure that the biodiesel blender credit was reinstated, made retroactive to 2015 and not changed to a producer credit. In a major victory for marketers, the blender credit was extended through December 31, 2016 and made retroactive for biodiesel blends produced in calendar year 2015.

The biodiesel credit applies to qualified diesel fuel and heating oil blends that comply with ASTM D6751 standard for biodiesel. The IRS special procedures allow for one-time payments covering the entire 2015 claim period. Reinstatement of the biodiesel blender credit is limited to qualified blends created during calendar year 2015. The IRS is providing a straight refund of \$1.00 per gallon taken on IRS Form 8849 or taken as a credit on annual income tax return. Notice 2016-05 also sets forth claim procedures for the \$0.50-per gallon alternative fuel credit and the alternative fuel mixture credit.

The following special procedures must be used when filing a claim for the 2015 retroactive biodiesel blenders credit described above:

#### I. ONE-TIME CLAIM PROCEDURE FOR 2015 BIODIESEL BLENDER CREDIT:

- The IRS is allowing a one-time single claim for all biodiesel blender credits (*IRC Section 6426(c)* earned during calendar year 2015).

- The claim amount is \$1.00 for each gallon of qualified biodiesel blended into diesel fuel or heating oil during calendar year 2015.
- Claimant must have a valid IRS 637M certificate in order to make a claim for biodiesel blends created during calendar year 2015. Claimants who do not currently have a valid 637M certificate must first obtain one from the IRS before filing a claim for 2015 retroactive credits.
- Claim must be made on IRS Form 8849 *Claim for Refund of Excise Taxes* and IRS Form 8849 (Schedule 3) *Certain Fuel Mixtures and the Alternative Fuel Credit*.
- Use a single Form 8849 and Form 8849 (Schedule 3) to claim all biodiesel blend volumes created during calendar year 2015. Enter 2015 volumes on Form 8849 (Schedule 3) line 2. **The IRS will not accept multiple claims or quarterly filings for biodiesel blends created during calendar year 2015.**
- 2015 retroactive biodiesel blender claims may be filed as early as February 8, 2016, but no claim may be filed later than August 8, 2016. The IRS will not accept claims for 2015 retroactive biodiesel blender credits filed after August 8, 2016.
- Any 2015 retroactive biodiesel blender credit claim filed with the IRS before January 16, 2016 must be re-filed. The IRS will not honor or process 2015 biodiesel claims filed before January 16, 2016.

Claims may be filed electronically, or mailed to the following address:

**Internal Revenue Service  
P.O. Box 312  
Covington, KY 41012-0312**

Write "Fuel Mixture Claim" on the claim envelope.

## II. ONE-TIME CLAIM PROCEDURE FOR 2015 ALTERNATIVE FUEL CREDIT:

The IRS is also accepting retroactive claims for alternative fuel sold or used during calendar year 2015. The IRS allows a person that sells or uses alternative fuel as a fuel in a motor vehicle or motorboat and in aviation to claim a \$0.50-per-gallon credit against the claimant's motor fuel excise tax liability (relating to the tax imposed on diesel fuel and alternative fuel).

- **Alternative Fuels Include:** liquefied petroleum gas; P Series; compressed or liquefied natural gas; liquefied hydrogen, qualified liquids derived from coal (including peat); compressed or liquefied gas derived from biomass; and liquid fuel derived from biomass.
- Alternative fuels subject to the \$0.50-per gallon credit **do not** include ethanol, methanol, biodiesel, or any fuel (including lignin, wood residues, or spent pulping liquors) derived from the production of paper or pulp.
- Procedures for filing the alternative fuel claim are the same as for biodiesel credit above except the \$0.50-per gallon credit is taken on line 3 of IRS Form 8894 Schedule 3.

## III. ONE TIME CLAIM PROCEDURE FOR 2015 ALTERNATIVE FUEL MIXTURE CREDIT:

Refer to IRS Notice 2016-05 to claim the \$0.50-per gallon credit on the alternative fuel mixture credit. This credit is for the mixture of alternative fuels into conventional fuel.

- Alternative fuels subject to the \$0.50-per gallon alternative fuel mixture credit **do not** include ethanol, methanol, biodiesel, or any fuel (including lignin, wood residues, or spent pulping liquors) derived from the production of paper or pulp.

## IV. OBTAINING IRS FORMS:

IRS Forms 637, 8849, and 8849 (Schedule 3) are available at [www.irs.gov](http://www.irs.gov) click on "Forms and Pubs", then click on "Find All Current Forms and Pubs" and scroll down to the appropriate IRS form. Forms are listed in numerical order.

**IMPORTANT! The IRS is in the process of revising Form 8849 Schedule 3. The revised form will be posted on the IRS website shortly.**

IRS Notice 2016-05 outlining the special claim procedures for 2015 retroactive biodiesel blender credits, alternative fuel credits and alternative fuel mixture credits is available by clicking [here](http://www.pmaa.org/weeklyreview/attachments/IRS%202016.05.doc.pdf) (<http://www.pmaa.org/weeklyreview/attachments/IRS%202016.05.doc.pdf>).

Got Questions? Contact PMAA Regulatory Counsel Mark S. Morgan at [mmorgan@pmaa.org](mailto:mmorgan@pmaa.org).

## **ANNUAL OSHA WORKPLACE ILLNESS AND INJURY REPORTING**

The 2015 posting cycle for OSHA's workplace injury and illness reporting rule begins on February 1, 2016 and runs through April 30. The OSHA injury and illness recording and posting requirements apply to most establishments (workplaces) with more than 10 employees (full or part time). OSHA requires employers to record and post all work related injuries occurring during the previous calendar year. The following list identifies establishments within the petroleum marketing industry and indicates whether the establishment must comply with the OSHA Injury and Illness recording and posting requirements:

### **I. MUST MY WORKPLACE COMPLY?**

#### **Exempt Workplaces:**

- **Gasoline Service Stations (without c-stores) (NAICS Code 447190)** are exempt from the OSHA injury and illness requirements regardless of the number of employees.

#### **Possibly Exempt Workplaces:**

**Convenience Food Stores with Gasoline Stations (NAICS Code 447110).** Where a convenience store and gasoline station is combined, exemption from the OSHA injury and illness reporting rule will depend on the "primary activity" at the establishment. The primary activity of an establishment is determined by the value of receipts for each business activity. If the value of receipts for fuel sales is greater than c-store sales, then the establishment is classified as a Gasoline Service Station and is exempt from the injury and illness reporting rule. If the c-store gross receipts are greater than fuel sales, then the OSHA Injury and Illness requirements apply.

#### **Workplaces that Must Comply:**

- **Petroleum Bulk Plants (NAICS Code 424710)** with more than 10 employees working at the bulk plant or company headquarters must comply with the OSHA injury and illness requirements. This category includes motor fuel, heating oil and propane bulk facilities.
- **Petroleum and Petroleum Products Merchant Wholesalers - No Bulk Facilities (NAICS 424720)** with more than 10 employees must comply with the OSHA injury and illness requirements. This category includes motor fuel, heating oil and propane non-bulk facilities.
- **Heating Oil Dealers (NAICS Code 454311)** with more than 10 employees must comply with the OSHA injury and illness requirements.

### **II. HOW DO I COMPLY?**

#### **Forms and Posting:**

- **Form 300** - Employers are required to keep Form 300, Injury and Illness Log listing all injuries and illnesses that occur in the workplace throughout the reporting year.
- **Form 301** - Employers are required to use OSHA Form 301 to record each workplace injury and illness within seven days of occurrence.
- **Form 300A** - Employers are required to post Form 300A, the Summary of Work-Related Injuries and Illnesses, in a workplace every year from February 1 to April 30.
- OSHA Forms 300, 300A and 301 and Instructions are available at:  
<https://www.osha.gov/recordkeeping/RKforms.html>

#### **Employee Access:**

- Current and former employees, or their representatives, have the right to access injury and illness records. Employers must provide a copy of the relevant record(s) by the end of the next business day.

#### **Recordable Injuries and Illnesses:**

OSHA's definition of work-related injuries, illnesses and fatalities are those in which an event or exposure in the work environment either cause or contributes to the condition. In addition, an event or exposure in the work environment significantly aggravates a pre-existing injury or illness is also considered work-related. Injuries include, but not limited to, a cut, fracture, sprain, or amputation. Illnesses include both acute and chronic illnesses, such as, but not limited to, a skin disease (i.e. contact dermatitis), respiratory disorder (i.e. occupational asthma, pneumoconiosis), or poisoning (i.e. lead poisoning, solvent intoxication). The following injury and illnesses must be recorded:

- All work-related fatalities must be recorded and reported to OSHA within 8 hours of occurrence.
- All in-patient hospitalizations must be recorded and reported to OSHA within 24 hours.
- All work-related injuries and illnesses that result in days away from work, restricted work or transfer to another job, loss of consciousness or medical treatment beyond first aid.
- All significant work-related injuries or illnesses diagnoses by a physician or other licensed health care professional, even if it does not result in death, days away from work, restricted work or job transfer, medical treatment beyond first aid, or loss of consciousness.
- Illnesses include both acute and chronic illnesses, such as, but not limited to, a skin disease (i.e. contact dermatitis), respiratory disorder (i.e. occupational asthma, pneumoconiosis), or poisoning (i.e. lead poisoning, solvent intoxication).

A guide to identifying recordable injury and illnesses can be found in the FORM 300, 300A and 301 instructions at: <https://www.osha.gov/recordkeeping/RKforms.html>

**CAUTION!** AK, AZ, CA, HA, IN, IA, KY, MD, MI, MN, NV, NM, NC, OR, SC, TN UT, VT, VA, WA and WY have their own state OSHA programs for private employees. These states follow federal rules but may vary slightly or be more stringent. Go to <http://www.osha.gov/dcsp/osp/index.html> to find contact information for state programs.

### III. WHERE CAN I GET MORE INFORMATION?

For more information go to: <https://www.osha.gov/recordkeeping/>

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**2016 WPMAEXPO - LAS VEGAS, NEVADA**

**WPMAEXPO**

Mark your calendars for February 16-18, 2016. Make plans now to attend the 2016 WPMAEXPO. It will be held once again at the Mirage in Las Vegas, Nevada.

## **MARK YOUR CALENDARS FOR UPCOMING EVENTS**

**February 16 – 18, 2016** - WPMA Convention & Expo – Mirage Hotel, Las Vegas, Nevada

**May 19-20, 2016** – Nevada (NPM&CSA) Big Dogs Shootout – Red Rock Resort & Casino – Las Vegas, Nevada

**June 7-9, 2016** – Montana (MPMCSA) Convention – Fairmont Hot Springs Resort – Butte, Montana

**June 20-23, 2016** - Washington (WOMA) Convention - Suncadia Resort - Cle Elum, Washington

**June 29, 2016** – Idaho (IPM&CSA) Magic Valley PAC Golf Outing – Blue Lakes Country Club, Twin Falls, Idaho

**August 3 – 5, 2016** - Idaho (IPM&CSA) Convention - Coeur d'Alene Resort - Coeur d'Alene, Idaho

**August 22-24, 2016** – New Mexico (NMPMA) Convention – Sandia Resort & Casino – Albuquerque, New Mexico

**September 14-16, 2016** - Utah (UPMRA) Convention - DoubleTree Hotel by Hilton - Park City, Utah

**June 18-22, 2017** – Washington (WOMA) Convention – Suncadia Resort – Cle Elum, Washington

**August 2-4, 2017** - Idaho (IPM&CSA) Convention – Sun Valley Resort, Sun Valley, Idaho

**June 17-21, 2018** – Washington (WOMA) Convention – Suncadia Resort – Cle Elum, Washington

**August 8-10, 2018** - Idaho (IPM&CSA) Convention - Coeur d'Alene Resort - Coeur d'Alene, Idaho

## **NPP WPMA MEMBER SERVICE**

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## **WPMA MEMBER SERVICES**



**Petro Pete: "According to the most current magazine in my doctor's office, every home in America will have a television by 1962."**

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## **Classified Ads**

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