

May 13, 2016

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WP-05-13-16

### ANNOUNCING THE 2016 WPMA SCHOLARSHIP RECIPIENTS!

WPMA is pleased to announce the WPMA Scholarship recipients for 2016. Following is a list of the students, with their state, hometown, and the WPMA member company through which they applied for the scholarship. Please read the summer issue of the WPMA News magazine for a full report on each of these students.

<u>State</u>	<u>Recipient's Name</u>	<u>Hometown</u>	<u>WPMA Company</u>
Hawaii	Theodore Uekawa	Hilo	Big Island Energy Co
Idaho	Douglass Elorrieta	Eden	Black Oil Company
Montana	Jack Corbin	Butte	Town Pump
Nevada	Nefi Perez	Ely	Reed Incorporated
New Mexico	Andrew Moss	Farmington	Red Mesa Trading Co
Utah	Amanda Larson	Cottonwood Heights	Wind River Petroleum/Top Stop
Washington	Ariana McKenzie	Kennewick	Sun Pacific Energy
Associate	Caitlyn Allgrunn	West Jordan, UT	Energi Insurance Services

### **Congratulations to all of these amazing 2016 WPMA scholarship recipients!**

Please remind your full-time employees of the WPMA Scholarship program, so their children can apply. Applicants must be high school seniors this fall in order to be eligible for the 2017 scholarships. The scholarship application is available for downloading on the WPMA website: [www.wpma.com/scholarship](http://www.wpma.com/scholarship). Applications for the 2017 scholarships must be postmarked by March 1, 2017. **Start thinking about it now!**

### PASSING OF DOUG ALEXANDER, BOZEMAN, MONTANA

**Douglas Alexander, October 21, 1942 - May 07, 2016**



WPMA and MPMCSA are saddened to report the passing of Doug Alexander of Story Distributing in Bozeman, Montana on Saturday, May 7<sup>th</sup>, after a brief fight with cancer. Doug was a long-time member and great supporter of the Montana Association and WPMA. He first joined the Intermountain Oil Marketers Associations in 1972. He served many years as a director and officer on the Montana Petroleum Marketers Board of Directors, and he served a term as president of the Montana association in 1986-87. In 1988, Doug was asked to serve on the WPMA Executive Committee, and he moved up the chairs until he served a term as President of WPMA in 1991-92. Doug also served a term as President of the WPMA Scholarship Foundation, and was a Board Member of WMI Mutual Insurance Company since 1988, with a term as the WMI Mutual Insurance Board Chairman from 2011-2015.

Doug was a great member, businessman, and friend to all who knew him, and he will be greatly missed. Memorial services for Doug will be held Sunday, May 22 at 2:00 p.m. at the Montana State University Strand Union Ballrooms, 751 W Grant St, Bozeman, MT 59715. If we receive further information, we will announce it in future *Updates*.

### BILL INTRODUCED TO CAP THE ETHANOL MANDATE AT 9.7 PERCENT

#### **PMAA Fully Supports the Legislation**

Reps. Bill Flores (R-TX), Peter Welch (D-VT), Bob Goodlatte (R-VA) and Jim Costa (D-CA) have introduced bipartisan legislation known as "The Food and Fuel Consumer Protection Act," (H.R. 5180), which directs the EPA to consider current market realities and cap the maximum volume of ethanol blended into the nation's fuel supply at 9.7 percent of projected gasoline demand as determined by the Energy Information Administration (EIA). It also requires EPA to meet its statutory deadlines in setting annual RFS volumes. If the EPA fails to meet a deadline, the previous RFS volumes under the blend wall would apply.

PMAA fully supports this common sense bill because existing UST equipment is only certified by Underwriters Laboratories

(UL) to use ethanol blends up to 10 percent. There is no path forward to recertify existing equipment for blends greater than 10 percent short of total replacement at a cost of more than \$200,000 per retail site. The inability to recertify existing equipment is a major impediment to dispensing and storage of E15 because federal, state, and local laws and regulations, national and international fire codes, as well as all commercial insurance policies, require the use of UL certified storage and dispensing equipment. Dispensing ethanol blends higher than 10 percent with non-certified equipment exposes retailers to legal liability for non-compliance with state fire codes and will subject them to significant civil penalties and possible closures. Moreover, E10 plus blends may lead to a significant increase in equipment failure. As a result, releases from UST systems may increase exponentially.

“Due to UST compatibility limitations with E10 plus blends, PMAA supports a reasonable RFS compromise that maintains ethanol in our nation’s fuel supply, but not to a level that would force dispensing and storage of E15 at the retail level,” said PMAA President Rob Underwood.

PMAA also plans to meet with the EPA and White House Office of Management and Budget next Thursday to press EPA not to exceed 9.7 percent ethanol in the gasoline supply for 2017 and to recognize the real world lack of demand for E85. PMAA and marketers will continue to educate policy makers/EPA to allow marketers to continue to sell E0.

### **HOUSE SUBCOMMITTEE PASSES LEGISLATION TO DELAY OZONE STANDARD**

Yesterday, the House Energy and Power Subcommittee approved on a party line vote, 15-13, the “Ozone Standards Implementation Act.”

The bill would extend state deadlines to submit implementation plans for the new ozone standard of 70 parts per billion until 2026 and also extends the statutory review cycle for all of the National Ambient Air Quality Standards from five years to ten years. It also would order EPA's Clean Air Scientific Advisory Committee to provide advice to EPA on new standards' "adverse public health, welfare, social, economic or energy effects," among other changes.

PMAA recently joined over 200 associations, companies and state groups in a letter of support for the bill and is pleased that it passed the subcommittee. The bill now moves to the full committee for consideration.

### **PLEASE SUBMIT YOUR COMMENTS ON THE SNAP PROPOSED RULE ASAP**

The Food and Nutrition Service (FNS) exceeded the intent of Congress and added unnecessary requirements in the proposed rule which will force out small business convenience store owners from accepting SNAP benefits. PMAA urges you to submit your own comments on the proposed rule which are due May 18th. PMAA encourages you to use this [template](http://www.pmaa.org/weeklyreview/attachments/SNAP_Template050616.docx) (http://www.pmaa.org/weeklyreview/attachments/SNAP\_Template050616.docx) (which is a WORD file that can be personally edited) and then go to this [link](https://www.regulations.gov/#!submitComment;D=FNS-2016-0018-0099) (https://www.regulations.gov/#!submitComment;D=FNS-2016-0018-0099) to comment.

### **LANGUAGE TO RETAIN HOS 34 HOUR RESTART TO MOVE NEXT WEEK**

Without a Fix Truckers Will be at Risk of Reverting Back to Pre-2003 Requirements

This week PMAA joined 94 other associations in communicating strong support for language in S. 2844, the FY 2017 Transportation-HUD Appropriations bill, which would prevent a reverse to the pre 2003 Hours of Service (HOS) rules. Without Congressional action, truckers will have to revert to pre-2003 rules that required drivers to do "rolling recaps" of their hours each week.

PMAA strongly supports the effort to correct the statutory error and is part of a coalition pushing for this in Congress. Senate floor action is expected next week on the Transportation Appropriations bill which includes the necessary technical fix to retain the 34-hour restart.

### **FDA ISSUES NEW REGULATIONS ON E-CIGARETTES AND OTHER TOBACCO PRODUCTS**

The FDA has released its long awaited final “deeming” rules for e-cigarettes, cigars, pipe tobacco and other tobacco products it had not previously regulated. Under the rules, the newly regulated tobacco products will be subject to the same general requirements to which cigarettes and smokeless tobacco are already subject, including those related to: adulterated and misbranded products; ingredients listing; health documents submission; reporting of harmful and potentially harmful constituents; and registration and product listing. The rules become effective 90 days from publication (approximately August 8, 2016).

As part of the final rules, the FDA maintained the February 15, 2007 predicate date. This date is important as it determines which pathways a product can take to stay in and/or enter the marketplace. Products that were not in the market on February 15, 2007, nor have a comparable product that was in the market on this date, must submit a Pre-Market Tobacco Application (PMTA). The PMTA requires a product to meet a regulatory hurdle that is very complex and costly. Some have estimated that a single PMTA could cost up to several million dollars. As such, the regulatory hurdle to enter the marketplace will be much higher for e-cigarettes than for traditional cigarettes. Because of the speed at which innovation has occurred with e-vapor products since 2007, essentially all products currently being sold to consumers fall into this

regulatory trap.

To solve the problem of a predicate date that is almost 10 years old, legislative efforts are underway to change the date. The House Agriculture Appropriations bill that recently passed out of committee includes bi-partisan language that would change the predicate date for newly deemed products to the effective date of the new rules. The language, introduced by Representatives Cole (R, 4th-OK) and Bishop (D, 2nd-GA), would also address other important topics such as requiring that the FDA issue final battery standards within 24 months and requiring that all e-vapor products be sold in non-self-service fashion (with the exception of in adult only facilities). Now that the Agriculture Appropriations bill has been passed out of committee, the debate will continue when the bill comes up for consideration in the full House of Representatives.

PMAA supports the Cole/Bishop predicate date legislation during upcoming floor consideration.

### **SENATE HOLDS HEARING ON DOL PROPOSED OVERTIME RULE**

Yesterday, the Senate Committee on Small Business and Entrepreneurship, held a hearing entitled, "An Examination of the Administration's Overtime Rule and the Rising Costs of Doing Business." At the hearing, Committee Members examined the Department of Labor's (DOL) proposed overtime pay rule and the subsequent impact on small businesses.

During the hearing, Senator Vitter (R-LA) questioned Tammy McCutchen, former Administrator of the U.S. Department of Labor's Wage and Hour Division, on the impacts of DOL's broad rule on states whose percent of salaried full-time workers earning below \$970 per week was over 40 percent. Ms. McCutchen made clear that lower cost-of-living states, such as Louisiana, would disproportionately carry a higher economic burden than others from the Administration's latest one-size-fits-all approach.

Meanwhile, Senator's Tim Scott (R-SC) and Lamar Alexander (R-TN) along with Congressmen Tim Walberg (R-MI) and John Kline (R-MN) recently proposed legislation to combat the proposed rule. The "Protecting Workplace Advancement and Opportunity Act" (S. 2707 and H.R. 4773) would require the DOL to consider the economic impact the rule would have on the business community.

PMAA fully supports this legislation.

### **ANNUAL HAZMAT REGISTRATION DUE JULY 1**

The U.S. DOT's Pipeline and Hazardous Material Safety Administration (PHMSA) requires hazardous material transporters to register and pay a fee each year in return for a certificate of operation. PHMSA began mailing the 2016-2017 registration information to HAZMAT transporters earlier this month. Only those with expiring DOT PHMSA HAZMAT registration certificates must re-register before July 1, 2016 or risk losing authority to operate and pay substantial civil penalty. The validity of HAZMAT registration certificates are checked at roadside inspections.

#### ***Who must register and pay the fee?***

**HAZMAT Transporters** - Any business (intrastate or interstate) shipping hazardous materials requiring a U.S. DOT placard must register each year and pay the fee. Petroleum Marketers, common carriers of petroleum products and propane suppliers who ship their products in trucks must register and pay the fee.

**IMPORTANT!** Petroleum marketers that only operate cargo tank vehicles with a capacity of 3500 gallons or less are exempt from the registration requirements.

#### ***What happens if I don't register?***

**Loss of Operating Authority** - If you fail to register by the deadline, then you lose your authority to operate your trucks in both intrastate and interstate commerce. Your authority to operate is the certificate you receive from PHMSA once you register and pay the fee. A current certificate must be kept in the cab of each HAZMAT vehicle at all times. If you are subject to a roadside inspection or DOT audit and do not have a current certificate, your authority to operate will be revoked and you could be fined up to \$37,500 per day of violation.

#### ***Why is the U.S. DOT collecting the fee?***

**Emergency Response Funding** - The money collected from the registration program is given back to state emergency response authorities in the form of training grants for fire and police and emergency preparedness organizations.

#### ***How do I know my registration is current or not?***

**Registration Look-up** - Registration status may be checked on line by clicking here: [Registration Look-Up](https://hazmatonline.phmsa.dot.gov/Services/companylookup.aspx) (https://hazmatonline.phmsa.dot.gov/Services/companylookup.aspx). Enter either your company name, U.S. DOT number or zip code in the data fields provided to check whether your HAZMAT registration certificate is current.

#### ***How do I register?***

**Registration Options** - There are several ways to register:

U.S. Mail - You must register by filling out the 2016-2017 registration application and sending it by U.S. Mail to PHMSA (along with the required fee). PHMSA generally mails new registration forms out to all registrants. If you have not yet received a form for the 2016-2017 registration year, one may be downloaded from the Internet by clicking here:

[Registration Form](#)

([http://www.phmsa.dot.gov/pv\\_obj\\_cache/pv\\_obj\\_id\\_0EEDC9CC8854AD562682C9E75BA6000D85730800/filename/2016\\_17\\_Fillable\\_Final.pdf](http://www.phmsa.dot.gov/pv_obj_cache/pv_obj_id_0EEDC9CC8854AD562682C9E75BA6000D85730800/filename/2016_17_Fillable_Final.pdf))

Online Registration - On-line registration is available by clicking here: [Online Registration](#)

([https://hazmatonline.phmsa.dot.gov/services/haz\\_reg\\_1.aspx](https://hazmatonline.phmsa.dot.gov/services/haz_reg_1.aspx)). On-line registration allows you to register, pay the fee and download your operating certificate.

***When is the HAZMAT registration deadline?***

**Deadline** - July 1, 2016 for those who have expiring certificates

IMPORTANT! Since registrations can be multiyear, not all certificates will expire on July 1. Check the expiration date on your HAZMAT certificate or information in the Registration Look-Up link above before registering by mail or online.

***What documentation should I put in my trucks after July 1, 2016?***

**Certificate Documentation** - Place a photocopy of the updated certificate in the cab of each HAZMAT motor vehicle by July 1, 2016.

***How much is the annual HAZMAT registration fee?***

**Two-Tiered Fee System** - The annual registration fee is based business size - Small Business Registration Fee - For registration year 2016-2017 the fee for small businesses is \$275 for one year; \$525 for two years (2016-2018) and \$775 for three years (2016-2019). Large Business Registration Fee - For registration year 2016-2017 the fee for large businesses is \$2,600 for one year.

***How do I determine the size of my business so I know which fee to pay?***

**Business Size Calculation for Determining the Fee Amount** - It is very likely that your business qualifies for the lower registration fee. Determining size is left up to the company applying for the registration certificate. PHMSA follows Small Business Administration (SBA) size categories to classify whether a business is large or small for the purposes of determining the amount of the annual registration fee. The SBA determines business size according to NAICS (North American Industrial Classification System) codes based on either the number of employees in the company or on annual gross receipts. The following NAICS codes and size criteria apply when calculating which fee to pay:

**NAICS CODE 424710 - Petroleum Bulk Stations or Terminals:** Petroleum marketers in this category are considered small businesses and must pay the \$275 fee if the company employs fewer than 100 employees.

**NAICS CODE 424720 - Petroleum and Petroleum Product Wholesalers (no bulk storage):** Petroleum marketers in this category are considered small businesses and must pay the \$275 fee if the company employs fewer than 100 employees.

**NAICS CODE 454311 - Heating Oil Dealers:** Heating oil dealers in this category are considered small businesses and must pay the \$275 fee if the company employs fewer than 50 employees.

**NAICS CODE 454312 - Liquefied Petroleum Gas Dealers:** Propane dealers in this category are considered small businesses and must pay the \$275 fee if the company employs fewer than 50 employees.

What if I registered as a large business but now I qualify for the small business fee?

If your business circumstances have changed and you now qualify for small business status under the HAZMAT registration fee, contact PMAA Regulatory Counsel, Mark S. Morgan at [mmorgan@pmaa.org](mailto:mmorgan@pmaa.org).

**2017 WPMAEXPO - LAS VEGAS, NEVADA**



Mark your calendars for February 21-23, 2017. Make plans now to attend the 2017 WPMAEXPO. It will be held once again at the Mirage in Las Vegas, Nevada.

**MARK YOUR CALENDARS FOR UPCOMING EVENTS**

**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 23, 2016** – Utah (UPMRA) Summer Golf Classic – Mountain Dell Golf Course, Salt Lake City, Utah

**June 29, 2016** – Idaho (IPM&CSA) Magic Valley PAC Golf Outing – Blue Lakes Country Club, Twin Falls, Idaho  
**August 3, 2016** – Idaho (IPM&CSA) Circling Raven GC PAC Golf Outing - Coeur d'Alene, 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  
**August 26, 2016** – Hawaii (HPMA) Golf Tournament – Honolulu Country Club – Honolulu, Hawaii  
**September 8, 2016** – Idaho (IPM&CSA) Teton Valley PAC Golf Outing – Huntsman Springs GC, Driggs, Idaho  
**September 14-16, 2016** - Utah (UPMRA) Convention - DoubleTree Hotel by Hilton - Park City, Utah  
**February 21 – 23, 2017** - WPMA Convention & Expo – Mirage Hotel, Las Vegas, Nevada  
**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

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Register Now: <https://associations.mynpp.com/myNPP/memberSavings.xhtml?guid=RB3WUOFG>

**WPMA MEMBER SERVICES**



**Petro Pete: “If I took the time to be embarrassed by my mistakes I’d never get anything done.”**

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**Classified Ads**

**FOR SALE**

1982 Trinity 10,500 gallon propane trailer; hydraulic Blackmer pump; new brakes and s-cams; 11:24.5 low pro tires; Very good condition; For more information or pictures, please call 406-654-2331 or 1-800-892-6874; \$52,000.00



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Have taken a PetroVend C/OPT Card lock and 4 mechanical dispensers down, all in good condition  
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ATTORNEYS AT LAW

1707 L STREET, N.W.  
SUITE 560  
WASHINGTON, D.C. 20036-4223

TELEPHONE (202) 466-6502  
TELEFAX (202) 331-7510  
EMAIL [bma@bmalaw.net](mailto:bma@bmalaw.net)

May 12, 2016

**MEMORANDUM**

**To:** PMAA State Association Executives

**From:** Alphonse M. Alfano

**Re:** *Visa/MasterCard Swipe Fee Litigation --- Solicitation of Marketers By Claims Aggregators*

It appears that a number of your members have inquired into whether they should sign up with law firms and others who offer to file claims for payment from the fund established to settle the Swipe Fee Litigation. As you may know, a large settlement fund has been established as part of the settlement from which class members (those who have not opted out of the class) can obtain partial reimbursement of the credit card fees they paid. Their entitlement to such payments is dependent on a decision of the Second Circuit Court of Appeals to uphold the settlement. Certain class members have challenged the settlement on a number of grounds, and a final decision of the Court of Appeals is still pending.

If the settlement is upheld on appeal, the U.S. District Court for the Southern District of New York will notify class members and provide forms on which to file a claim for reimbursement. The amount of credit card fees paid by each class member during the relevant period will be provided by Visa and MasterCard. The filing process should be relatively simple.

In my view, the class members will not need the assistance of claims aggregators to prepare the form or to calculate the amount of their respective shares of the settlement proceeds. If this changes as a result of the claim form being provided to class members, I will let you know. For the time being, however, I do not believe that your members should pay anyone to perform the relatively simple tasks associated with filling out and filing the form. The law firms and others who are soliciting them will not do anything they cannot do for themselves.

It should be noted, however, that there are probably a number of your branded marketer members who are not eligible to file a claim but who believe that they are. Eligibility for payments from the settlement fund is limited to those who paid the credit card fees *directly* to Visa or MasterCard. In the case of branded marketers, the fees were paid directly to Visa and MasterCard by their branded suppliers.

If you have any questions, feel free to contact me.

AMA:bdw

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