WPMA
News and Information for the Petroleum Marketers Industry
weekly update

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SENATE RETURNS TO WORK EARLY; HOUSE CONTINUES RECESS UNTIL SEPTEMBER 4

This week, the Senate returned from a very short August recess in order to complete 2019 appropriations bills before the end of September. The House will not return from August recess until after Labor Day, which is the length of the standard recess for both chambers.

In addition to finalizing appropriations bills, the Senate has been setting its sights on fixing the meal and rest break issue through the FAA reauthorization bill. Although both the House and Senate versions include language to fix the issue, Senate Democrats are increasingly facing pressure from their constituencies to modify and weaken the meal and rest break provision. PMAA believes the inclusion of the current preemption provision in both FAA reauthorization bills are necessary because it will bring nationwide uniformity to the issue.
Finally, the Senate will focus on confirming U.S. Supreme Court nominee Brett Kavanaugh, whose confirmation hearings will start on September 4.

SENATE FINANCE COMMITTEE REPUBLICANS SEND LETTER CLARIFYING INTENT ON TAX REFORM

Last December, Congress passed a comprehensive tax reform bill known as the “Tax Cuts and Jobs Act.” The bill contains a provision in Section 168 that provides retailers with the benefit of 100 percent bonus depreciation for qualified improvement property (QIP) acquired and placed into service after September 27, 2017. However, an error occurred when the final text was drafted that makes retailers ineligible for this benefit.

In response, the Qualified Improvement Property Coalition, of which PMAA is a member, has been urging Congress to fix the drafting error. The Coalition recently sent a letter to House Ways and Means Committee Chairman Kevin Brady (R-TX) and Ranking Member Richard Neal (D-MA), as well as Senate Finance Committee Chairman Orrin Hatch (R-UT) and Ranking Member Ron Wyden (D-OR) urging them to fix the drafting error.

Fortunately, on Thursday, thirteen Senate Finance Committee Republicans, led by Chairman Orrin Hatch (R-UT), sent a letter to Treasury Secretary Steven Mnuchin and Acting IRS Commissioner David Kautter encouraging them to issue guidance consistent with the congressional intent of the new tax law on three specific provisions where errors may have occurred, one of which is qualified improvement property expensing. While these lawmakers are hoping that this letter will be used by the Treasury Department to write rules clarifying mistakes in the new tax law, many conservatives are hoping to pass legislation making technical corrections to the tax law before the end of the year. To pass legislation, Senate Majority Leader Mitch McConnell will need nine Senate Democrats to support them in getting legislation through the Senate.

AMERICAN LEGISLATIVE EXCHANGE COUNCIL (ALEC) APPROVES OPPOSING AUTO EFFICIENCY ROLL BACK

Last week, conservative state lawmakers with the American Legislative Exchange Council (ALEC) approved a model resolution supporting the Trump administration's rollback of auto fuel efficiency standards. ALEC is a nonprofit organization of conservative state legislators and private sector representatives who draft and share model state-level legislation for distribution among state governments in the United States. ALEC’s Energy, Environment and Agriculture Task Force backs revoking California’s authority to set its own auto efficiency rules citing that it will likely increase car manufacturing costs which would hurt the economically disadvantaged.

Unfortunately, ALEC’s Commerce, Insurance and Economic Development Task Force narrowly defeated a resolution in opposition to states requiring customers and/or taxpayers to pay for electric vehicle (EV) charging infrastructure expansion that utilities have been advocating for in recent years.

As the number of EVs grows, petroleum marketers will likely have to battle for a share of the electric vehicle charging market with utility companies that see EV charging as right up their alley. When utility companies install charging stations, they include that cost as part of their capital investment. After these costs are approved by governmental regulatory agencies, they are passed on to all ratepayers as part of their monthly electric bills. This means electric utilities are being allowed to enter a new business, fueling EVs, without any financial risk.

PMAA member states are very concerned with utilities using their rate base to pay for EV infrastructure expansion. PMAA believes this allows utilities an unfair competitive advantage over marketers and others who must economically justify at risk investments in new equipment like EV charging stations. This puts a financial burden on poor and middle-class consumers who must subsidize these stations but cannot afford EVs.

JUDGE BLOCKS PRESIDENT'S SUSPENSION OF WOTUS RULE

On Wednesday, Judge David Norton of the U.S. District Court for South Carolina ruled that the EPA and the Army Corps of Engineers refusal to consider comments addressing issues related to the "Waters of the United States" (WOTUS) rule or the earlier 1982 version, when it delayed the rule for two years is a violation of administrative legal requirements. As a consequence, the Judge determined that until the administration delivers a re-write of WOTUS, the current WOTUS rule applies in 26 states, and the pre-WOTUS rule applies everywhere else.

However, it's only a matter of time before WOTUS makes its way back to the Supreme Court as there will be an appeal to this week's ruling and the parallel WOTUS litigation is still in play.

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.

EPA REQUESTS FURTHER DELAY OF RFS AIR QUALITY STUDY

On Monday, EPA asked the U.S. District Court for the District of Columbia for an additional 14 months to finish an air quality study of the Renewable Fuel Standard (RFS) that was supposed to be completed in 2010. In 2016 EPA's Inspector General found that the agency had not started the mandated study which is required to ensure the RFS isn't worsening air quality.

Findings of the "anti-backsliding" study could ultimately lead to new regulations if the agency finds ethanol and other biofuels are causing air quality to worsen.

The agency also asked the court to delay setting a deadline for any follow-up action that EPA may deem necessary as it would take 33 to 70 months to develop a proposal and to finalize new rules.

COMMENT PERIOD CLOSES TODAY ON 2019 RFS PROPOSED VOLUME MANDATES

Today marks the final day to make comments on the RFS proposed rule setting the 2019 renewable volume obligation (RVO) requirements which calls for a three percent increase in the overall blending volumes. The proposed rule has sparked criticism from both the oil and ethanol industries. Overall, the proposed 2019 renewable fuel volumes are a mixed bag for petroleum marketers. The good news is that the rule did not propose to force large refiners to make up for the lost 1.5 billion gallons of obligated blending volume lost in 2018 due to blending waivers issued by the EPA to small refineries based on financial hardship. Carrying those gallons over to large refiner obligated blending volumes for 2019 would have caused an unlevel playing field in the marketplace.

Furthermore, PMAA is concerned that the ethanol mandate may force E15 into the marketplace that would place small business petroleum marketers in a precarious situation due to the potential economic impacts of adding E15. The vast majority of the nation's retail outlets, 95 percent of which are owned by independent petroleum marketing businesses, cannot legally store and dispense blends of gasoline over 10 percent ethanol.

PMAA will be submitting comments on the proposed 2019 RFS RVOs today and will share them in next week's PMAA *Weekly Review*.

CALIFORNIA MARKETERS GROUP RENAMES TO HIGHLIGHT RETAIL FUEL FOCUS

The California Fuels & Convenience Alliance (CFCA), formerly the California Independent Oil Marketers Association, said it changed its name Wednesday to show its focus on the interest of the retail fuels and convenience industry.

"This new brand will better help the public and governmental regulators understand the different sectors within the complex fuel supply chain and distinguish our members from the refiners," or the major oil companies, Ryan Hanretty, executive director of CFCA, said in a statement.

The Sacramento-based trade group represents the needs of California's independent wholesale and retail marketers of gasoline, diesel, lubricating oils and other petroleum products, transporters of those products, and retail convenience-store operators.

The vast majority of CFCA's members are small-business owners, with many of them family-owned businesses passed down from one generation to the next.

CFCA is also the organizer of the annual Pacific Oil Conference, which will take place in Los Angeles in early September.

PLAN TO ATTEND THE 2019 WPMAEXPO

Mark your calendars for February 19-21, 2019. Make plans now to attend the 2019 WPMAEXPO.
It will be held once again at the Mirage in Las Vegas, Nevada.

MARK YOUR CALENDARS FOR UPCOMING EVENTS

August 20-22, 2018 – New Mexico (NMPMA) Convention – Sandia Resort & Casino, Albuquerque, NM
September 12-14, 2018 – Utah (UPMRA) Convention – Doubletree by Hilton, Park City, UT

February 19-21, 2019 – WPMA Convention & Expo – Mirage Hotel– Las Vegas, Nevada
May 2-3, 2019 – Nevada (NPM&CSA) – Big Dogs – Las Vegas, Nevada
August 5-7, 2019 – Idaho (IPM&CSA) – Convention – Sun Valley Resort – Sun Valley, Idaho

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