

September 3, 2010

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TREASURY PROPOSES NEW RULES ON PREPAID CARDS

In an effort to combat the misuse of pre-paid cards by criminals and terrorists, the Treasury Department has proposed rules that require nonbank issuers and sellers to collect more customer information when a card is reloaded somewhere other than a bank and record the transaction history.

The new rules would require nonbank prepaid card providers to file suspicious activity reports, commonly known as SARs, with the federal government if suspicious activity involving more than \$2,000 is suspected. Banks and similar financial institutions have complied with a similar rule since 1996.

FDA RELEASES DRAFT GUIDANCE ON VIOLATIONS OF TOBACCO RULE

Earlier this week the US Food and Drug Administration (FDA) released draft guidance for retailers outlining possible penalties for violations of the Family Smoking Prevention and Tobacco Control Act. The draft addresses the following five questions: how does the FDA intend to identify violations; does the presentation of a false government issued ID constitute a violation if the retailer relied on good faith; In what cases will the FDA seek monetary penalties and no-sale orders; what amounts of monetary penalties can be assessed; and what will be the procedure FDA follows if seeking penalties.

The draft guidance does not have the force of law. The PMAA's Tobacco Task Force will be looking closer at the draft guidance and will be preparing a report for members.

PROPOSAL WOULD REQUIRE NEW CAR STICKERS TO RATE MPG BY LETTER GRADE

The EPA and U.S. DOT have issued a joint proposed rulemaking that would fundamentally change the current fuel economy label that is posted on the window sticker of all new cars and light-duty trucks sold in the U.S. The redesigned label will provide new information to American consumers about the fuel economy and consumption, fuel costs, and environmental impacts associated with purchasing new vehicles beginning with model year 2012 cars and trucks.

Most significantly, the new labels will include a letter grade (A through D) for fuel economy and greenhouse gas emissions with numerical ratings listed below the letter. The new label would show how much money the vehicle saves or costs compared with vehicles that achieve average fuel economy. Under the grading system, electric vehicles would receive an A+ grade, which translates into 117 miles per gallon or higher. Plug-ins would get an A, and some smaller hybrids would get A- grades. Fuel economy labels also would rate emissions of other pollutants from vehicles on a 1-to-10 scale. These pollutants include nitrogen oxides, hydrocarbons, carbon monoxide, particulate matter, and formaldehyde.

NEW JERSEY ADOPTS 15-PPM SULFUR HEATING OIL STANDARD

The New Jersey Department of Environmental Protection (NJDEP) has adopted regulations to reduce the sulfur content of heating to 15-ppm. The transition to ultra low sulfur heating oil will be phased in over six years with an interim 500-ppm standard for 2014 followed by 15-ppm in 2016. The 15-ppm standard will apply to heating oil sold in the state and to heating oil produced in New Jersey but shipped out of state. The new 15-ppm standard will make heating oil as clean as natural gas, resulting in less frequent cleaning and maintenance of furnaces.

The ULS product will also pave the way for new high efficiency furnaces that can reduce consumption of heating oil by 10 percent. The new regulation also reduces the sulfur content in heavier grade fuels effective in 2014. Sulfur content of No. 4 fuel will drop from 7,000 ppm to 2,500 ppm with still heavier grades of distillates dropping from 20,000 ppm to 5,000 ppm. Other states that have reduced sulfur content in heating oil include New York, Connecticut and Maine.

NJDEP believes this new standard will make heating oil as clean as natural gas and will enable the use of higher efficiency condensing furnaces.

CALIFORNIA MARKETER HERB RICHARDS PASSES

WPMA is sad to report that on August 29, Herb Richards, a leader in the petroleum industry both nationally and in California, passed away at age 98. Herb was a founding member of the California Oil Marketers Association (CIOMA) and the Pacific Oil Conference (POC).

During the Great Depression, Herb and his father started Coast Oil. It survived the ups and downs of the industry including

the challenges of the 1970's. Herb has been recognized for his service to the petroleum industry with the PMAA Distinguished Service Award in 1989 and SIGMA's Distinguished Marketer Award. He had served terms as president of CIOMA, general chair of POC and was named Director Emeritus of POC. In 1998 he was recognized as the Petroleum Man of the Century.

We send our sympathies and condolences to the Richards' family.

PMAA FILES BRIEF IN SUPPORT OF GRIFFITH OIL

It is quite common for a petroleum marketer to have fuel delivered to a customer without actually taking physical possession of the fuel. That is why PMAA filed a Friend of Court brief in support of Griffith Oil Company in its suit against National Union Fire Insurance last week. The suit challenges a decision by the insurance carrier to deny coverage in the event of a petroleum product release because Griffith never took actual possession of the product. The carrier cited a provision of the policy which, it claimed, created an exception for spills of product that was never in the possession of the insured. The lower court agreed with the insurance carrier but the decision was overturned on appeal. The insurance carrier has now appealed to New York's highest court seeking the decision rendered at the first appellate level.

PMAA, joined by the United Policyholders, a consumer rights organization, argued in its Friend of the Court brief that it is common in the petroleum industry for fuel marketed by distributors to be sold to retailers and end-users in a process that does not include the distributor taking actual possession of the product. Marketers often employ common carriers to haul product from a terminal to a site owned or controlled by a third-party without ever taking possession. And, in the course of business, petroleum marketers will buy insurance to cover products whether the marketer has physical possession of the product or not with the expectation that the insurance coverage will protect them against certain liabilities. Furthermore, New York courts have ruled that "any ambiguity in an insurance policy should be resolved in favor of the insured."

The amicus brief was filed with the New York Court of Appeals, the highest court in the state. The trial court found in favor of the insurance company, however, Griffith Oil Company won on the appeal. PMAA and the United Policyholders are urging the New York Court of Appeals to affirm the Appellate Division's decision.

PMAA SUPPORTS LETTER URGING CONGRESS TO REPEAL 1099 REPORTING PROVISION

PMAA is continuing to support legislative efforts to repeal the much publicized new 1099 reporting requirements which will be enormously burdensome to all businesses. PMAA is joining forces with other small business groups to send a new letter to all Senators urging them to support Senator Mike Johanns' (R-NE) amendment to fully repeal Section 9006 of the "Patient Protection and Affordable Care Act." This section was added to the healthcare reform law and mandates all companies to issue 1099 tax forms to any individual or corporation from which they buy more than \$600 in goods or services in a tax year. The amendment is still pending to the Small Business Lending Act of 2010 (H.R. 5297) which Senate Majority Leader Harry Reid (D-NV) and Minority Leader Mitch McConnell (R-KY) were unable to reach agreement on before Congress adjourned for August recess.

When the law goes into effect in 2012, the 1099 reporting requirement will impose substantial paperwork and reporting burdens on all small businesses which will dramatically increase accounting costs, impose unjustified audits by the IRS, and subject more small businesses to the challenges of electronic filing. As an attempt to compromise, Senator Bill Nelson (D-FL) introduced a second 1099 reporting requirement amendment which increases the payment threshold to \$5,000 (up from \$600) for the year for payments made to vendors, and his language would exempt businesses with 25 or fewer employees from having to issue a Form 1099 for payment to vendors. The amendment creates exceptions from the "property" information return requirements, but does not apply to "services" transactions. Essentially, the Nelson amendment would force small businesses to track expenses with both "property" and "services," thereby further complicating the reporting process and leaving administrative costs high.

PMAA supports Sen. Johanns' amendment to fully repeal the 1099 reporting requirement. Also, leading the repeal effort in the House is Congressman Dan Lundgren (R-CA), who has introduced H.R. 5141, the "Small Business Paperwork Mandate Elimination Act." [Click here to send a letter in support of the Johanns' amendment](#) and [here to send a letter in support of H.R. 5141](#).

2011 WESTERN PETROLEUM MARKETERS CONVENTION & CONVENIENCE STORE EXPO LAS VEGAS, NEVADA

Start planning now to attend the 2011 WPMA Convention and Convenience Store Expo. It will be held at the Mirage in Las Vegas, Nevada. Mark your calendars for February 22-24, 2011.

MARK YOUR CALENDARS FOR UPCOMING EVENTS IN 2010

September 8-9, 2010 – UPMRA Convention – Park City Marriott – Park City, Utah

September 13, 2010 – IPM&CSA Teton Valley PAC Fund Golf Tournament, Teton Valley, Idaho

September 20, 2010 – NPM&CSA Petro Cup Challenge – Ultimate Rush Park, Reno, Nevada

Petro Pete: “A friend is someone who has the same enemies you have. (Abraham Lincoln).”

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If you do not wish to receive information via fax or e-mail, please contact WPMA at: (801) 263-9762, Fax: (801) 262-9413, or e-mail: janr@wpma.com. Thanks.

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- Distracted Driving – *At What Cost?*
- Drug and Alcohol Free Workplace
- Risk Management for Petroleum Marketers
- Business Planning – The Ultimate Risk Management
- Emergency Preparedness



Designated Risk Manager Seminar **REGISTRATION INFORMATION & PROGRAM DETAILS**

Location

Holiday Inn Express
19621 International Blvd
Sea Tac, WA 98188
206-824-3200
**discounted room rate of \$79 (details below)*



Contact

Federated -
David Cruz 602-621-1149
Jina Duchnowski
800-533-0472 x. 455-5604

- Seminar will be held 8:00 a.m.- 4:00 p.m., with breakfast and lunch provided.
- ****Seminar cost is \$75 and payable to your association; OPA, Attn: Julie Flint 707 SW Washington Street, Suite 927 Portland, OR 97205. WPMA, Attn: Jamie Wood PO Box 571500 Salt Lake City, UT 84157.**
- Your company will be responsible for any travel and lodging expenses; discounted room rate with mention of "Federated Insurance Risk Management Seminar"
- Reservations are on a first come, first served basis and space is limited! *Please do not make any travel arrangements until you receive enrollment confirmation from Federated Insurance.*
- Provide a copy of **your firm's authentic loss history** (3-5 years). Your class materials will include a computerized loss analysis for your use.
- Fill in the registration information and **MAIL no later than September 17th, 2010 to:**
Jina Duchnowski C104 • Federated Insurance • PO Box 328 • Owatonna, MN 55060
FAX: 507-455-7840 • jmduchnowski@fedins.com

REPLY FORM

Federated Insurance Designated Risk Manager Seminar
Oregon Petroleum Association & Western Petroleum Marketers Association ~ October 19, 2010

____ **YES!** We are interested in participating in the October 19th Federated Insurance Designated Risk Manager Seminar. The following person, responsible for risk management/safety in our company, will be attending.

PLEASE PRINT:

Name _____

Title _____

Company _____

Address _____

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Phone (_____) _____ FAX: (_____) _____

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Association Affiliation (OPA or WPMA): _____

Participating company is responsible for all travel and lodging expenses.

Authorized Signature: _____