

## WPMAEXPO 2017 SPEAKERS

### Keynote Speaker - Wednesday, February 22, 8:30 am - 10:00 am



Rudy Giuliani – Former Mayor of New York City

### Tuesday Educational Sessions, February 21 - 9am - 2pm



Michael Davis - VP, Member Services at NACS

***“Courting Generation Z: How the Convenience and Fuel Retailing Industry Can Win with the Next Generation”***



Adam Noble - Regional Marketing Manager for Federated Insurance

***“Drive S.A.F.E. - Speed, Attention, Fatigue, and Emotion—and the impact each of these factors can have on driving”***



Elaine Levin, President & David Thompson, Executive Vice President – Powerhouse  
***“Does OPEC still have the power to move the markets? Can gasoline demand remain strong if prices rise? Will ULSD exports continue to increase?”***



Lee Weech - PRG Technology Solutions - Regional Sales Manager  
***“Cybersecurity Threats & Solutions”***

## Wednesday Ladies' Luncheon Speaker - February 22 - 12 - 2pm



Noelle Pikus Pace - Skeleton World Champion

## Wednesday Legislative Update - February 22, 2pm



Rob Underwood - PMAA - Director of Government Relations  
*"The Trump Presidency and What it Means for Petroleum Marketers"*

### UPDATE ON MANAGER OVERTIME FINAL RULE

PMAA urges you to be ready to comply by December 1, 2016

On Wednesday, a U.S. District Court judge said he will decide next week whether to place a hold on new overtime rules from going in effect on December 1. The ruling will be on a preliminary injunction related to a lawsuit filed in September by 21 states challenging the Department of Labor's (DOL) new overtime rules.

The challenge addresses the rule that is scheduled to be implemented on December 1, 2016 which doubles the minimum salary threshold required to qualify for the Fair Labor Standards Act's ("FLSA") "white collar exemption" to \$47,476 per year (\$913 per week). The current annual requirement is \$23,660 (\$455 per week).

Judge Amos Mazzant of the U.S. District Court for the Eastern District of Texas plans to rule on November 22 whether to block implementation of the overtime regulations until after the lawsuit is decided. Even if the motion is denied, a hearing in the State of Nevada et al. v. U.S. Department of Labor lawsuit is scheduled for November 28, which could also impact the new overtime rules.

Meanwhile, the likelihood of legislation passing this year is slim. There is a slight chance that a bill known as the "Overtime Reform and Enhancement Act," (H.R. 5813) introduced by Reps. Schrader (D-OR), Cooper (D-TN), Cuellar (D-TX) and Peterson (D-MN) to delay implementation could pass. However, any bill to repeal the rules would be vetoed by President Obama and there are not enough votes to override such a veto.

President-elect Donald Trump has indicated strong support for businesses and a vast reduction in regulations; however, he has not specifically addressed the overtime rule shift. PMAA is working with like-minded groups to get this on his radar screen. If Trump issues a proposed rule to change or repeal the rules on his first day in office, it would be at least another 90 days before the rule could be finalized. Therefore, absent court action, by the time the overtime rules could be changed through regulation or possibly through the Congressional Review Act (requires only 51 Senate votes), they would have been in effect for a minimum of two months to almost half a year. Should Trump not seek a full repeal of the overtime rules (which would put him at odds with many members of his party who have called for full repeal), the changes which are most likely are (1) an exemption for small business, (2) the elimination of the provision to automatically update the salary thresholds every three years, and (3) either a phase in or a reduction of the new salary threshold.

Bottom line: If no injunction is issued next week, businesses should immediately prepare to comply with the new rules by December 1 by reviewing and confirming their employee classifications, and should not expect the rules to revert back as soon as Trump becomes president.

### PMAA URGES CONGRESS TO OPPOSE SPEED LIMITERS MANDATE

This week PMAA joined a diverse coalition of associations in a letter to House appropriators regarding the current rulemaking on speed limiters for heavy vehicles.

In the letter, we ask that House members oppose language that was included in the Senate Veterans Affairs Appropriation bill which would mandate speed limiters on heavy-duty trucks. Given the active rulemaking on this issue such legislation is inappropriate.

During PMAA's recent Fall Conference, both the PMAA Motor Fuels Committee and the PMAA Heating Fuels Committee

confirmed ongoing disapproval of the proposed speed limiters rule. Speed limiters, also called speed governors, are electronic controlled modules (ECM) that are capable of limiting the maximum speed in heavy duty trucks.

The Department of Transportation (DOT) September 7, 2016 proposal would establish safety standards requiring all newly manufactured U.S. trucks, buses, and multipurpose passenger vehicles with a gross vehicle weight rating more than 26,000 pounds to come equipped with speed limiting devices. The 118 page proposal discusses the benefits of setting the maximum speed at 60, 65, and 68 miles per hour, but the Agencies will consider other speeds based on public input.

The proposed rule would also require each new heavy duty truck vehicle to be equipped with means to read and record the vehicle's current speed setting and the two previous speed settings (including the time and date the settings were changed) through its On-Board Diagnostic connection. Motor carriers operating such vehicles in interstate commerce would be required to maintain the speed limiting devices for the service life of the vehicle.

The rule is important for PMAA members because it would apply to cargo tanks and transport trucks and the proposal also explores the possibility of requiring a retrofit and that would be trucks as far back as the mid-90's that have the capability.

PMAA will submit comments opposing the rulemaking prior to the December 7, 2016 deadline. There is no clear evidence that the use of speed limiters will improve safety. Data suggests that high speed related truck crashes are rare events and the reduction of speed may have negative effects on safety.

The final rule is not likely to take effect until well in to 2018.

### **HOUSE PASSES MIDNIGHT RULE LEGISLATION TARGETING REGULATIONS**

Yesterday, the House passed legislation that would allow Congress to overturn in a single vote any regulations finalized by the Obama administration as far back as May. The bill would amend the Congressional Review Act to allow Congress to overturn many rules all at once by way of a resolution. The bill, H.R. 5982, known as the "Midnight Rules Relief Act of 2016," passed 240-179 largely along party lines.

House Republicans are doing everything they can to keep the Obama Administration from enacting any new rules in its final days. Earlier this week, House Majority Leader Kevin McCarthy (R-CA) warned federal agencies in a letter not to finalize any pending rules or regulations from now to the inauguration because he assured them they would be overturned if appropriate. On the other side of the aisle, Democrats offered several amendments that were ultimately rejected, including exceptions for rules that are issued in response to national security issues, that address climate change or those that have benefits that exceed their costs.

The bill now moves to the Senate for a vote. President Obama has already stated that he will veto the legislation if it passes the Senate.

### **CONTINUE TO URGE HOUSE LAWMAKERS TO OPPOSE THE FINANCIAL CHOICE ACT**

Repealing the Durbin amendment would be extremely harmful to retailers because it ultimately lowered debit card interchange fees which are the second highest expense to a retailer only behind labor. PMAA and the MPC supported the Durbin amendment's passage in 2010 and will continue to fight to ensure it is not repealed in the "Financial Choice Act."

If you have not already done so, please urge your House members to oppose the "Financial Choice Act" so that it does not make it to the House floor for a full vote.

### **URGE YOUR MEMBERS TO SUPPORT THE COLE-BISHOP AMENDMENT**

Earlier this year, the FDA 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 Cole-Bishop Amendment to the House Agriculture, Rural Development, FDA & Related Agencies Appropriations bill passed with bipartisan support because it goes further than FDA's final rule for newly-regulated vapor products to fill gaps around consumer safety and marketing, addressing concerns expressed during last year's debate on the issue. The House-passed language also updates the predicate date for newly deemed tobacco products, a step needed to preserve potentially harm-reducing innovation and to keep small businesses open. The amendment ensures FDA regulates e-vapor products in a manner that makes sense in light of the public health opportunities that those products offer, and closes the regulatory gap with respect to consumer protection measures needed for this new product category.

## PMAA MEETS WITH OBAMA ADMINISTRATION OVER PROPOSED 2017 ETHANOL MANDATE

On Tuesday, PMAA met with the White House Office of Management and Budget (OMB) to reiterate marketers' concerns over the EPA's pending RFS final rule. The OMB reviews all proposed federal regulations for approval and mandates changes where necessary. The EPA has proposed 18.8 billion (14.8 billion gallons of corn ethanol) of renewable fuels for 2017. PMAA reminded the OMB that marketers have no practical way to demonstrate existing underground storage tank (UST) systems are compatible with ethanol blends greater than E10 - a key legal hurdle - should the EPA mandate higher ethanol blends in the upcoming RFS rule which is due by November 30, 2016.

PMAA Executive Committee member Vern Kelley (Kelley Fuels, Shakopee, Minnesota), who is a petroleum marketer and a corn farmer, highlighted to policymakers that very few existing UST system components have been certified to handle E10 plus blends. Vern said, "In Minnesota, approximately 98 percent of the existing gasoline stations dispensing E10 would not be compatible dispensing E15 today." Also attending the meeting was North Dakota Petroleum Marketers Association (NDPMA) Executive Mike Rud and NDPMA member Tom Haahr (Farmers Union Oil, Devils Lake, ND) who invested in a fully compatible site to the tune of \$170,000 plus and the return on investment has been dismal. At one of Haahr's locations, which offers E0 and up to E85, he said that premium gasoline without ethanol (E0) is selling four times more than all of the higher ethanol blends combined.

PMAA urged EPA not to exceed 9.7 percent ethanol in the gasoline supply for 2017 in order to recognize the real world lack of demand for E85 and to allow marketers to continue to sell E0. Capping the ethanol mandate at 9.7 percent will also resolve UST compatibility concerns with E10 plus blends, reduce RIN prices which will result in lower RFS compliance costs for refiners and preserve the ability for position holders at the rack to blend. A final rule is expected before the Thanksgiving holiday.

## CONGRESS EXPECTED TO PUSH ENERGY BILL TO NEXT YEAR

With the transition to a Donald Trump White House in full swing and Republicans holding majorities in Congress, the energy bill, known as the Energy Policy and Modernization Act of 2016 may not be a priority until next year. House Energy and Natural Resources Committee Chairman Fred Upton (R-MI) said "with what happened last week, I think we regroup and come back next year. We were committed to work on a bill that President Obama could sign. Now that he's not going to be there in a couple of weeks, there's a new chapter." The President-elect has not yet commented on the energy bill.

House Republicans have even less reason to accept the bipartisan Senate compromise now that they will soon be working with a Republican administration. However, Sen. Lisa Murkowski (R-AK) and Sen. Maria Cantwell (D-WA), the sponsors of the Senate's version of the bill, may make an argument on behalf of the provisions that have widespread agreement.

Although there are disagreements on many provisions, the Senate and House bills include language relating to liquefied natural gas (LNG) exports. One provision would require the Department of Energy (DOE) to approve or deny the use and operation of a liquefied natural gas (LNG) exports facility no later than 45 days after an environmental review conducted by the Federal Energy Regulatory Commission (FERC). A second provision would require the DOE to gather and distribute data on the destinations of LNG exports. These two provisions are relatively bipartisan and could be passed in a spending bill next year.

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## 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

**December 8, 2016** – Washington (WOMA) Christmas Party – SAFECO Field – Seattle, Washington

**February 21-23, 2017** – WPMA Convention & Expo – Mirage Hotel– Las Vegas, Nevada

**March 1, 2017** – Utah (UPMRA) Day on Capitol Hill – Salt Lake City, Utah

**May 4-5, 2017**– Nevada (NPM&CSA) Big Dogs Shootout – TBD, Nevada

**June 6-8, 2017** – Montana (MPMCSA) Convention – Northern Hotel – Billings, Montana

**June 19-22, 2017** – Washington (WOMA) Convention – Suncadia Resort – Cle Elum, Washington

**June 22, 2017** – Utah (UPMRA) Summer Classic PAC Golf Outing – TBD, Utah

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

**August 21-23, 2017** – New Mexico (NMPMA) Convention – Sandia Resort – Albuquerque, New Mexico

**September 13-15, 2017** – Utah (UPMRA) Convention – Zermatt Resort – Midway, Utah

**June 18-21, 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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**Petro Pete: "Whatever you do always give 100 %. Unless you are donating blood."**

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