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## OREGON FUELS ASSOCIATION JOINS WPMA

WPMA President Dennis Campo is excited to announce that the Oregon Fuels Association (OFA) has joined the Western Petroleum Marketers Association, effective January 1<sup>st</sup>. President Campo stated: "I am positive that Oregon will bring a lot of info to the association to support the future Growth and Strength of WPMA. I would like to welcome Oregon to the WPMA." OFA President Max Truax stated: "Effective January of 2020, the Oregon Fuels Association (OFA) has joined the Western Petroleum Marketers Association (WPMA). We look forward to the opportunities of working with our neighboring state associations. The sharing of information both regionally and nationally will bring tremendous benefits to our own marketers and associate members. OFA members have business and policy experiences that we believe will be useful for our new colleagues with the WPMA. The timely nature that the WPMA board of directors and state associations granted the OFA inclusion to the WPMA is appreciated."

OFA becomes the eighth state association affiliated with WPMA, now composed of the following:

- Hawaii Petroleum Marketers Association
- Idaho Petroleum Marketers and Convenience Store Association
- Montana Petroleum Marketers and Convenience Store Association
- Nevada Petroleum Marketers and Convenience Store Association
- New Mexico Petroleum Marketers Association
- Oregon Fuels Association
- Utah Petroleum Marketers and Retailers Association
- Washington Oil Marketers Association

"WPMA welcomes all OFA members to the Association. We look forward to working with them. Our combined efforts will strengthen our associations and increase our effectiveness in the regional and national legislative and regulatory arenas," said WPMA CEO Gene Inglesby. OFA President Matt Truax of Truax Corporation in Corvallis and Vice President Gabe Zirkle of WSCO Petroleum Corp in Portland will serve on the WPMA Board of Directors, and join with the other WPMA state association representatives on the Board to forward the mission of the Association and plan for a prosperous future.

## T21 EFFECTIVE IMMEDIATELY

The Tobacco21 (T21) provision in the government spending/tax extenders bill that the President signed into law recently required that within 180 days of the bill's enactment, the Department of Health and Human Services must issue a final rule that changes all references to the minimum age to purchase tobacco products in the Federal Code from 18 to 21. It also stated that the final rule must go into effect within 90 days from when it is published.

However, the U.S. Food and Drug Administration (FDA) announced last week that the T21 law is effective immediately, meaning it is now illegal for stores to sell tobacco products, including cigarettes and e-cigarettes, to anyone under the age of 21. We understand this has created a lot of confusion among retailers who have been given no formal notice or direction from the FDA or a reasonable time frame to transition stores and employees. As a result, PMAA has joined NACS and SIGMA, as well as other trade groups, in sending a letter to the FDA and HHS last Friday asking them to announce that they will not enforce T21 until the implementing regulations are written and finalized.

Specifically, the letter states that our trade groups are "asking that FDA make clear to the regulated community that it understands this transition will take some time. FDA should announce that the new age 21 restriction on tobacco product sales will not be enforced until FDA has had a chance to write new implementing regulations and for those regulations to go into effect. That way everyone can work to ensure that this transition is handled the right way and that FDA regulations are followed." **Click [here](https://www.convenience.org/Media/Daily/2019/Dec/30/Joint-Retail-Industry-Letter-to-FDA-on-T21.pdf) to view the letter.** (<https://www.convenience.org/Media/Daily/2019/Dec/30/Joint-Retail-Industry-Letter-to-FDA-on-T21.pdf>)

PMAA will stay on top of this issue and keep you updated as we learn more. In the meantime, it is important that all retailers comply with the law and not sell any tobacco products to anyone under the age of 21.

## MANDATORY USE OF FMCSA ONLINE DATABASE FOR MANAGING CDL DRIVER DRUG AND ALCOHOL TEST RECORDS STARTS JANUARY 6, 2020

**Reminder!** The U.S. Department of Transportation's Federal Motor Carrier Safety Administration (FMCSA) new online CDL driver drug and alcohol Clearinghouse database requirements take effect January 6, 2020. Petroleum marketers who are subject to the FMCSA drug and alcohol testing requirements must register with the Clearinghouse and use it to manage employee drug and alcohol testing records. Drivers must register with the Clearinghouse to provide electronic

consent for those who must have access to his/her drug and alcohol testing records. Registration for both employers and drivers **must occur before** generating any new drug and alcohol testing records after January 6, 2020

The Clearinghouse is a secure online, searchable electronic database where all CDL driver drug and alcohol violations will now be posted. The Clearinghouse will provide employers, CDL drivers, medical review officers (MRO), substance abuse professionals (SAP), state driver licensing agencies (SDLA) and enforcement authorities real-time information about CDL drivers drug and alcohol program violations. The Clearinghouse will contain records of violations of drug and alcohol prohibitions, including positive drug or alcohol test results, test refusals, completion of return-to-duty (RTD) process and follow-up testing plan. CDL drivers, employers, MROs, SAPs and SDLAs must all register to use the database.

The Clearinghouse mandate **does not** change any current U.S. DOT drug and alcohol testing regulations or procedures other than to require use of the online database to comply with existing drug and alcohol record keeping requirements. Employer use of the Clearinghouse database **is required** for pre-employment CDL driver record investigation; annual drug and alcohol investigations for all current CDL employees; to upload driver drug and alcohol violations; and return to duty status records. Congress required the FMCSA to create and implement the Clearinghouse under the *Moving Ahead for Progress in the 21st Century Act* (Pub. L. 112-141, 126 Stat. 405).

### **2020 FEDERAL MOTOR FUEL EXCISE TAX RATES**

The federal Oil Spill Liability Tax (OSLT) that expired on December 31, 2018 has been reauthorized prospectively (not retroactively) beginning January 1, 2020. Refiners are the only parties in the petroleum distribution chain liable for the OSLT. The OSLT rate is \$0.09 cents per barrel of crude oil. Refiners pass the OSLT downstream as a cost rolled into the per gallon price of finished product and adjusted downward based on the volume of any non-crude blend stock added at the terminal such as ethanol and biodiesel. Additionally, please click on the link below that list the latest federal motor fuels excises tax rates.

**[Click here to read the full PMAA Compliance Bulletin.](https://www.pmaa.org/compliancebulletin/attachments/PMAA_CB_123019_FET.pdf)**

([https://www.pmaa.org/compliancebulletin/attachments/PMAA\\_CB\\_123019\\_FET.pdf](https://www.pmaa.org/compliancebulletin/attachments/PMAA_CB_123019_FET.pdf))

### **FDA RELEASES FINAL GUIDANCE ON FLAVORED E-CIGARETTES, FLAVORED CIGARS AND HOOKAH TOBACCO**

The FDA issued a Final Guidance yesterday titled “Electronic Nicotine Delivery Systems (ENDS) and Other Deemed Products on the Market Without Premarket Authorization.” The Final Guidance document describes the enforcement policy that the FDA will take relative to certain flavored e-cigarettes, flavored cigars and flavored hookah tobacco.

The final guidance document does not appear to single out convenience stores, but rather focuses on specific kinds of electronic nicotine products (i.e., certain flavored cartridge-based electronic nicotine products). In a statement from FDA, it said that “this Final Guidance prioritizes enforcement with respect to any flavored, cartridge-based ENDS products (other than a tobacco and menthol-flavored ENDS product) without regard to the location or method of sale.” After the FDA’s Draft Guidance was released in March, PMAA and other like-minded associations opposed the FDA provision allowing sales of flavored e-cigarettes in stores that are considered adult-only, such as vape shops, while prohibiting them from being sold in convenience stores.

Below is a summary of the additional provisions in the Final Guidance document courtesy of the National Association of Tobacco Outlets:

- The Final Guidance would take effect thirty days after the Final Guidance document is published in the Federal Register. The Final Guidance document should be published in the Federal Register in the next day or two.
- The FDA will prioritize enforcement against those companies that manufacture, distribute or sell flavored cartridge-based electronic nicotine delivery products (except tobacco-flavored, menthol-flavored and non-flavored cartridge-based electronic nicotine delivery products) that have not received a premarket authorization order from the FDA.
- Flavored cartridge-based electronic nicotine delivery products (except tobacco-flavored, menthol flavored, and non-flavored cartridge-based products) would need to be removed from the market, including from retail stores, within 30 days after the Final Guidance document is published in the Federal Register. The FDA states in the Final Guidance document that these products are not being completely banned from the market but could come back on the market if manufacturers file premarket authorization applications by May 12, 2020 and the FDA subsequently approves the application.
- The FDA also intends to prioritize enforcement against those cartridge-based products for tobacco-flavored, menthol-flavored, or non-flavored electronic nicotine products and any non-cartridge flavored electronic nicotine products if they lack a premarket authorization order from the FDA and the manufacturer has not taken or is not taking adequate measures to prevent minors’ access to these products.

- The FDA also intends to prioritize enforcement against any electronic nicotine products targeted to, or whose marketing is likely to promote use by, underage persons. Examples include electronic nicotine products with labeling or advertising that resembles kid-friendly foods and drinks (e.g., juice boxes, candy or kid-friendly cereal), or with youth-appealing cartoon or animated character advertising or marketed on popular children’s YouTube channels and television shows.
- The FDA also intends to prioritize enforcement of any electronic nicotine product (either cartridge-based or non-cartridge based product) that is offered for sale after May 12, 2020, and for which the manufacturer has not submitted a premarket authorization application (or after a negative action by FDA on a timely submitted application).
- The FDA will not at this time take enforcement action against “open system” electronic nicotine products nor small manufacturers such as vape shops that mix e-liquids on-site and primarily sell non-cartridge-based electronic nicotine products, unless they market to youth, fail to take adequate measures to prevent youth access, or do not file a premarket authorization.
- The FDA has decided not to prioritize enforcement against flavored cigars and flavored hookah tobacco products before May 12, 2020 because underage use of these tobacco products is significantly lower than cartridge-based electronic nicotine products. However, the FDA reiterates in the Final Guidance document that flavored cigars and flavored hookah tobacco are required to submit premarket authorization applications to the agency for those products by May 12, 2020. The FDA acknowledges that there are a number of “grandfathered” flavored cigars that are lawfully marketed and would remain available to consumers regardless of FDA’s enforcement of premarket authorization requirements.

Click [here](https://www.fda.gov/media/133880/download) to view the full FDA Final Guidance document. (https://www.fda.gov/media/133880/download)

## PLAN TO ATTEND THE 2020 WPMAEXPO

# WPMAEXPO

Mark your calendars for February 18-20, 2020. Make plans now to attend the 2020 WPMAEXPO. It will be held once again at the Mirage in Las Vegas, Nevada.

## THANK YOU **WPMAEXPO 2020** TOP SPONSORS

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### MARK YOUR CALENDARS FOR UPCOMING EVENTS

**February 18-20, 2020** – WPMA Convention & Expo – Mirage Hotel– Las Vegas, NV

**April 21, 2020** – IPM&CSA PAC Golf Tournament – Ridgecrest GC – Nampa, ID

**April 21-23, 2020** - Federated Insurance Risk Management Academy

**May 7-8, 2020** – Nevada NPM&CSA – Big Dogs - Las Vegas, NV

**June 2-3, 2020** – Montana MPMCSA – Convention – Fairmont Hot Springs Resort – Fairmont, MT

**June 22-25, 2020** – Washington (WOMA) – Convention – Suncadia Resort – Cle Elum, Washington

**August 5-7, 2020** – Idaho (IPM&CSA) Convention – Coeur d’ Alene Resort – Coeur d’ Alene, Idaho

**August 17-19, 2020** – New Mexico (NMPMA) Convention – Sandia Resort & Casino – Albuquerque, NM  
**September 9-10, 2020** – Utah (UPMRA) – Convention – Park City Marriott – Park City, Utah  
**September 15-17, 2020** - Federated Insurance Risk Management Academy

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**Petro Pete: *“All my passwords are protected...by Amnesia.”***

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