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REMINDER: OSHA WORKPLACE INJURY AND ILLNESS POSTING DUE TODAY

The 2018 posting cycle for OSHA's workplace injury and illness reporting rule begins today and runs through April 30. The OSHA injury and illness recording and posting requirements apply to most establishments (workplaces) with more than 10 employees. OSHA requires employers to record and post all work-related injuries occurring during the *previous* calendar year.

FMCSA EXTENDS REGIONAL DRIVE HOS WAIVER THROUGH FEBRUARY 17, 2019

The Federal Motor Carrier Safety Administration (FMCSA) has issued a two-week extension of the emergency driver hours of service (HOS) waiver for interstate drivers currently effective in 23 states in the Northeast, Mid-Atlantic and Midwest regions. PMAA requested the extension due to continuing severe winter weather including historic record low temperatures in much of the affected area.

CONGRESS COULD ADDRESS TAX EXTENDERS IN UPCOMING SPENDING LEGISLATION

There has been some discussion on Capitol Hill this week to potentially attach a tax extenders package to upcoming legislation needed to avert a government shutdown. In an interview on Thursday, Sens. John Thune (R-SD) and Chuck Grassley (R-IA) indicated that a tax extenders package might get attached to the upcoming spending package if negotiators also decide to take on matters such as extending the federal debt limit or raising the budget caps for two more years. On the other side of the aisle, House Ways and Means Chairman Richard Neal (D-MA) said Democrats are also looking into the possibility of addressing tax extenders.

The tax extenders package would likely include provisions important to petroleum marketers. One provision that could be included is the \$1 per gallon biodiesel blender's tax credit in which Congress would pass a retroactive renewal and gradual phase down of the credit. Additionally, the oil spill liability tax (OSLT) could also be renewed in the tax extenders package. PMAA, NACS, AFPM, SIGMA and API sent a letter to Congressional leadership urging them to oppose a retroactive renewal of the OSLT.

Other credits that could be included in the tax extenders package are the credits for the installation of qualified alternative fuel vehicle refueling property in a home or business; the Alternative Fuels Excise Tax Credit for the use of propane as a transportation fuel, known as the "propane autogas tax credit;" and the Section 25C tax credit for the installation of qualified high-efficiency residential HVAC systems and certain energy-saving home retrofits.

DISTRICT COURT GRANTS PRELIMINARY SETTLEMENT APPROVAL OF VISA/MASTERCARD CASE

Last week, the US District Court for the Eastern District of New York issued an 80 page Opinion and Order granting preliminary approval to the pending \$6.25 billion settlement in the consolidated payment card interchange fee class action case (In Re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation, MDL-1720). The settlement class is comprised of all merchants that accepted Visa and Mastercard payment cards from 2004 to the present. The settlement fund is designed to compensate class members for the interchange fees they paid, which were allegedly inflated as a result of certain violations of the antitrust laws by Visa and Mastercard and their participating banks.

Last December, PMAA filed objections to the settlement over concerns that branded marketers would not receive notice or payment because their major oil company suppliers are the only entity known to credit card processors. PMAA argued that it was the marketers who paid the interchange fees. Judge Brodie of the US District Court for the Eastern District of New York addressed this issue by saying, "Class Counsel assured the court that Branded operators would in fact receive notice." Notice of the settlement should go out shortly and opt-outs may be filed until July. PMAA will have more information for marketers soon on how best to proceed.

RFA REQUESTS AN ETHANOL MANDATE INCREASE

In a letter sent to EPA Acting Administrator Andrew Wheeler this week, the Renewable Fuels Association (RFA) urged the EPA to account for the biofuel gallons lost due to small refinery waivers by increasing the ethanol mandate as part of an expected upcoming reset of the RFS. The EPA is expected to release a proposed rule this spring to reset RFS blending obligations for 2020-2022, as well as biomass-based diesel blending obligations for 2021-2022. Biofuel groups have argued that the refinery waivers have indirectly reduced the ethanol mandate which have driven down RIN values and, therefore, weakened the market for E15.

The letter states that "EPA issued an unprecedented 48 small refinery exemptions from 2016 and 2017 RFS applicable volume requirements, effectively cutting total renewable fuel blending obligations by 2.25 billion gallons. The practical result of these exemptions has been a flood of RIN credits onto the market, a dramatic collapse in RIN prices, reduced ethanol blending activity in 2018, and historically low ethanol prices."

The EPA finalized a rule last year that would increase total renewable fuel volume by 630 million gallons from 2018 to 2019 but does not force large refiners to make up for the gallons of obligated blending volume lost in 2018 due to these small refinery waivers. PMAA believes carrying those gallons over to large refiner obligated blending volumes for 2019 would cause an unlevel playing field in the marketplace.

Last year, Acting Administrator Wheeler addressed some lawmakers' concerns with the granting of small refinery RFS waivers to large oil companies by the Trump Administration. Wheeler defended the exemptions saying, "Often times these refineries are located in the Rocky Mountains and other regions where they are the only supplier in their region. We have to issue these regulations on the refiner itself." Although many ethanol producers believe that larger refineries should blend more ethanol to make up for the gallons lost due to the exemptions, Wheeler said that doing so could have "a rolling impact on other refiners" and could lead to more RFS waivers.

HIGHWAY TRUST FUND COULD RUN OUT OF MONEY IN 2022

All Funding Options on the Table

According to a new report by the Congressional Budget Office (CBO), the Highway Trust Fund (HTF) could run out of money by 2022 if proper funding policies are not put into place. The HTF's highway account that is responsible for providing funding for the construction of highways and highway safety programs could run out of funding by 2022, according to the report. Furthermore, the report says the HTF's transit account, which provides funding for mass transit programs, could run out of money even sooner, by 2021.

To avoid delaying payments to state and local governments to pay for infrastructure projects, lawmakers have authorized numerous transfers to the HTF, so far totaling an estimated \$144 billion, according to the CBO. The CBO report states the trust fund balance was \$41 billion in 2018, but is expected to drop to \$32 billion this year, \$19 billion in 2020 and, if legislative action is not taken, \$4 billion in 2021 before running out in 2022.

Congress is expected to consider an infrastructure package this year, however, it remains to be seen if Congress has the appetite to pass it. The House Transportation and Infrastructure Committee plans to debate infrastructure programs and come up with ways to pay for them at a hearing next Thursday. Some lawmakers have floated raising the gas tax, but the idea doesn't sit well with many on Capitol Hill. New House Transportation and Infrastructure Committee Chairman Peter DeFazio (D-OR) has instead discussed the possibility of proposing a vehicle miles traveled (VMT) pilot program to help pay for infrastructure needs. A VMT is a user fee based on miles traveled that can possibly be tracked by phone apps, in-car diagnostic systems or by other means.

At a Senate Environment and Public Works (EPW) Committee hearing this week, President Trump's nominee to lead the Federal Highway Administration (FHWA), Nicole Nason, told the panel that all infrastructure funding options are on the table for the Trump Administration, adding that "there are a variety of options" to explore. When asked by EPW Ranking Member Tom Carper (D-DE) what she believed would be a good idea to fund infrastructure projects, Nason said, "Some states are participating in the VMT pilot program and that might turn out to be very effective and provide very good data." When asked to explain why Congress has been struggling to agree on a funding solution, Nason stated, "I think part of the challenge is because the needs are so diverse," explaining that "the drive from DC to Connecticut to Vermont changes dramatically."

PLAN TO ATTEND THE 2019 WPMAEXPO

The logo for WPMA EXPO features the letters 'WPMA' in a bold, italicized, dark green font, followed by 'EXPO' in a white, outlined, sans-serif font.

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.

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MARK YOUR CALENDARS FOR UPCOMING EVENTS

February 19-21, 2019 – WPMA Convention & Expo – Mirage Hotel– Las Vegas, NV

April 23, 2019 – Idaho (IPM&CSA) Treasure Valley PAC Fund Golf Tournament, Nampa, ID

May 2-3, 2019 – Nevada (NPM&CSA) – Big Dogs – Las Vegas, NV

June 4-6, 2019 – Montana (MPMCSA) Convention – Fairmont Hot Springs Resort – Fairmont, MT

June 20, 2019 – Utah (UPMRA) Summer Golf Classic - South Mountain Golf Course, Draper, UT

June 17-20, 2019 – Washington (WOMA) Convention – Suncadia Resort, Cle Elum, WA

August 5-7, 2019 – Idaho (IPM&CSA) Convention – Sun Valley Resort, Sun Valley, ID

August 19-21, 2019 – New Mexico (NMPMA) Convention – Sandia Resort & Casino, Albuquerque, NM

September 11-13, 2019 – Utah (UPMRA) – Convention – Zermatt Resort, Midway, UT

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Petro Pete: "What's the difference between ignorance and apathy? I don't know and I don't care."

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