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WPMA OFFICES WILL BE CLOSED

The WPMA offices will be closed the week of February 15 thru February 19 for our 2016 WPMAEXPO. There will be no WPMA Weekly Update sent out on Friday, February 19. We hope to see you at the convention.

SCHOLARSHIP TIME APPROACHES!

The time is fast approaching when the WPMA scholarship recipients for 2016 will be selected. March 1, 2016 is the cut-off date for applications to be postmarked and mailed to the WPMA office. Usually, there are less than 20 applicants for each WPMA state scholarship and the associate member scholarship, which makes the chances of receiving a scholarship very good. Applicants must be graduating high school seniors, and the son or daughter of a full-time employee of a WPMA member or associate member company. Applicant qualification information and the scholarship applications and are available to download at <http://www.wpma.com/pdf/scholarship/SF15-Application-032414efrm.pdf> Scholarship applications are also available from the WPMA office by e-mailing kathym@wpma.com and requesting an application. As a reminder, the WPMA scholarships pay \$500 per semester for up to eight semesters to the recipients, for a total of \$4,000. Employers, please remind your employees to request or download an application right away, and give their students a chance for some extra financial help in college!

ADDITIONAL LAWSUITS FILED REGARDING EPA'S 2014-2016 RFS RULING

On Wednesday, the American Fuel & Petrochemical Manufacturers (AFPM) filed a suit over EPA's rule that set the volumes of biofuels that must be blended into the transportation fuel supply for 2014 through 2016. EPA finalized the RFS 2014-2016 rule on December 14, 2015. AFPM's petition seeks review of the rule in the U.S. Court of Appeals for the District of Columbia Circuit.

Meanwhile, Monroe Energy LLC (a refinery which is a subsidiary of Delta Airlines) also filed a challenge over the recent RFS rule this week. The Monroe motion was filed in order to intervene on behalf of the EPA in the ethanol industry's January 8 lawsuit challenging the rule, saying that Monroe Energy had a strong interest in the EPA's ability to reduce the volumes of renewable fuel that it and other refiners must use in transportation fuels.

In addition and of interest for petroleum marketers, Monroe also filed a separate petition this week for review of a 2010 rule that makes refiners and importers responsible for compliance, rather than blenders, stating that it could no longer be defended in light of the final rule published in December.

HOUSE PASSES MENU LABELING LEGISLATION

Today, the House passed via a 266-144 bipartisan vote, the "Common Sense Nutrition Disclosure Act." The bipartisan legislation, introduced by Reps. Cathy McMorris Rogers (R-WA) and Loretta Sanchez (D-CA), passed the House Energy

and Commerce Committee in November by a vote of 36-12.

This legislation modifies the Menu-Labeling language in Obamacare to permit retailers to identify a single primary menu while not having to include nutrition labeling in other areas of the store. Furthermore, the bill clarifies that advertisements and posters do not need to be labeled and provides flexibility in disclosing the caloric content for variable menu items that come in different flavors or varieties, and for combination meals. Lastly, the bill ensures that retailers acting in good faith are not penalized for inadvertent errors in complying with the rule and stipulates that individual store locations are not required to have an employee “certify” that the establishment has taken reasonable steps to comply with the requirements.

This legislation is important because it gives retailers the flexibility they need to comply with the Menu-Labeling regulations. Companion legislation (S. 2217) introduced in the Senate by Senators Roy Blunt (R-MO) and Angus King (I-ME) will be voted on in the near future.

A strong thanks to all PMAA members who notified your representatives and urged their support for the “Common Sense Nutrition Disclosure Act.”

CONGRESS QUESTIONS TRANSPARENCY OF OZONE ADVISORY PANEL

Last week, Senator James Inhofe (R-OK), chairman of the Senate Environment and Public Works Committee (EPW), sent a letter to EPA Administrator Gina McCarthy about EPA’s unwillingness to share public information regarding the process for selecting Clean Air Scientific Advisory Committee (CASAC) members, noting that EPA tried to hide its most recent panel selection from the general public. Further, that EPA’s handling of appointments is contrary to transparency requirements under the Clean Air Act.

The House Science Committee chaired by Rep. Lamar Smith (R-TX) has charged that CASAC appointees are essentially reviewing their own work and The EPA’s Inspector General recently released a report after conducting an investigation.

CASAC exists to provide EPA with independent expert advice on where to set the national ambient air quality standards (NAAQS) for ozone and other pollutants, and has repeatedly advised EPA to lower the ozone standard down to 60 parts-per-billion (ppb), an impossible standard that was fought vehemently by PMAA and almost all industry groups.

To read the full text of the letter, click [here](http://www.epw.senate.gov/public/cache/files/322b6f3c-886c-4a2b-a159-2bde44b4aad7/jmi-to-mccarthy-re-casac-panel.pdf) (<http://www.epw.senate.gov/public/cache/files/322b6f3c-886c-4a2b-a159-2bde44b4aad7/jmi-to-mccarthy-re-casac-panel.pdf>).

HOS RELIEF PROVISION REMAINS IN FAA BILL

PMAA is supporting language in the FAA reauthorization bill (H.R. 4441) which would preempt HOS requirements in 22 states for meal and rest breaks for commercial truck drivers. The provision, championed by Rep. Jeff Denham (R-CA), stems from a 2014 federal appeals court decision that overturned a California court’s opinion that a 1994 FAA law preempted states’ rights to enforce their own meal and rest break laws. Then, last May a Supreme Court ruling upheld a California statute requiring a paid 10-minute rest break every four hours and a paid 30-minute meal period every five hours for truck drivers.

Section 611 of H.R. 4441 seeks to clarify the preemption provision of the FAA Authorization Act of 1994 to restore the goals Congress intended when it sought national uniformity for motor carriers in the transportation of property. Unfortunately, House liberals are strongly opposing the provision and may hold up the FAA Authorization unless the language is removed.

SENATE ENERGY LEGISLATION REMAINS STALLED

The Senate’s hopes for getting an energy bill done in the near future are fading, as Senate Republicans and Democrats have been unable to negotiate a deal on the Flint, Michigan water crisis. However, talks will continue over next week’s recess to find a solution.

The biggest provision in S. 2012 would require the Department of Energy to approve or deny the use and operation of an LNG export facility no later than 45 days after an environmental review conducted by the Federal Energy Regulatory Commission (FERC). It would also require the Department of Energy to gather and distribute data on the destinations of LNG exports.

One amendment that failed would have expedited certain natural gas gathering lines on Federal land and Indian land. Another amendment that has been filed, but unlikely to see the light of day, is an amendment by Senator Barrasso (R-WY) which would authorize the construction and use of natural gas pipelines in national parks. PMAA continues to support fuel neutral pipeline legislation and because the amendment does not include oil pipelines, PMAA cannot support the amendment.

President Obama has stated that while he supports many of the provisions in the bill, he has serious concerns with others.

He has yet to issue a veto threat. PMAA will continue to closely monitor the legislation. The House approved its own energy bill, H.R. 8, in early December by a vote of 249-174.

OBAMA ADMINISTRATION RELEASES FINAL BUDGET PROPOSAL

This week, the Obama Administration released its FY 2017 budget proposal totaling \$4.1 trillion and includes \$2.6 trillion in tax increases over 10 years. Business tax changes would be used to raise \$850 billion. A proposed financial transaction "Wall Street" fee is projected to generate \$111 billion by imposing a seven basis point fee on liabilities of firms with assets of more than \$50 billion. Most of Obama's budget request is already "dead on arrival" on Capitol Hill, particularly his call for a barrel fee/gasoline tax which is expected to raise gasoline prices by more than 25 cents a gallon.

Now that he is near the end of his term and with a plan that has zero chance of passing Congress, President Obama included a \$10.25 tax on every barrel of oil in his budget request which would pay for billions in investment on his green transportation projects. The tax would include a 15-percent set-aside for aid to low-income families whose heating bills would increase because of the resulting increase in fuel prices. Heating oil also would see a temporary exemption from the tax in an effort to minimize in the short term its impact on lower-income households. In addition, the set-aside could be used for switching from home heating oil to natural gas. Unfortunately, President Obama's proposal is short sided especially because the Administration fails to acknowledge the recent advancements made by the heating oil industry which is now cleaner and cheaper than natural gas.

Other areas of interest to petroleum marketers include \$94.3 million for the Leaking Underground Storage Tank (LUST) program, \$7.6 million for the Northeast Home Heating Oil Reserve (NEHHOR) and \$3.19 billion for the Low Income Home Energy Assistance Program (LIHEAP). The Northeast Home Heating Oil Reserve provides an emergency supply of home heating oil for the Northeast States during times of inventory shortages and significant threats to immediate supply. Included in the funding request is more than \$280 million for a DOE program that aims to increase the adoption of plug-in electric vehicles. The Commodity Futures Trading Commission (CFTC) would receive an \$80 million boost to \$330 million which is \$10 million more than last year's budget request. Finally, Obama proposes spending \$3 billion a year on the new National Surface Transportation and Innovative Finance Bureau, an office created under last year's transportation law. Obama is requesting \$43.3 billion for highways, a two percent bump over FY16 spending which aligns with the limit set in December's highway bill.

The President's FY 2017 funding request has already been dismissed by the Republican-led Congress as leaders of the House and Senate budget panels have said they will not give the budget proposal a hearing. They may however allow for a vote on the budget to be followed by a vote on a Republican counter proposal.

PMAA has serious concerns with the Obama budget proposal and will continue to monitor the latest developments on Capitol Hill.

ANNUAL EPCRA TIER II REPORTS DUE BY MARCH 1, 2016

EPA EPCRA Tier II reports must be filed for bulk plants, marinas and fleet fueling facilities that stored more than **10,000 pounds (approximately 1,626 gallons)** of hazardous chemicals (petroleum fuels) at any single time during the 2015 calendar year. EPCRA reports must be filed with local or state emergency response authorities no later than **March 1, 2016**. In addition, retail facilities with a storage capacity greater than 75,000 gallons of gasoline and/or 100,000 gallons or more of diesel fuel must also file EPCRA reports. Federal regulations exempt retail fueling facilities at or below these capacity thresholds from the annual Tier II inventory reporting. Some states have set lower reporting thresholds, use unique Tier II reporting forms or require electronic reporting. Petroleum marketers should contact their state EPCRA office to verify any local variances in Tier II reporting requirements.

EPCRA PAPER FORMS AND ELECTRONIC SUBMISSION SOFTWARE:

- EPCRA Tier II forms may be downloaded here: <http://www.epa.gov/emergencies/content/epcra/tier2.htm>. **Important!** Many states now require electronic filing of Tier II reports.
- **IMPORTANT!** Many states have adopted the EPA Tier2 Submit portal for electronic filing. Tier2 Submit electronic filing may be downloaded at: <http://www2.epa.gov/epcra-tier-i-and-tier-ii-reporting>.
- A complete list of state EPCRA Tier II requirements and procedures can be downloaded here: <http://www2.epa.gov/epcra-tier-i-and-tier-ii-reporting/state-tier-ii-reporting-requirements-and-procedures>

EPCRA CAS NUMBERS:

- The following CAS designations (from material safety data sheets) must also be included on EPCRA Tier II reports;

- **Gasoline** (CAS 8006-61-9);
- **Diesel Fuel** (CAS 68476-34-6);
- **Kerosene** (CAS 8008-20-6);
- **Fuel Oil** (CAS 68476-30-2);
- **Aviation Gasoline** (CAS Mixture);
- **Jet A** (CAS Mixture);
- **JP 8** (CAS Mixture).

EPCRA NAICS CODE:

- Standard Industrial Classification (SIC) codes can no longer be used to describe facilities on EPCRA Tier II reports. Instead, North American Industrial Classification System (NAICS) codes must be used. Applicable NAICS codes for the petroleum marketing industry include:
 - **Petroleum Bulk plants** - NAICS 424710;
 - **Heating Oil Dealers** - NAICS 454311;
 - **Retail Gasoline Stations with Convenience Stores** - NAICS 447110;
 - **Retail Gasoline Stations without Convenience Stores** - NAICS 447190;
 - **Cardlock Sites** – NAICS 447190

PENALTY FOR FAILURE TO FILE EPCRA TIER II:

- The EPA fine for violating EPCRA Tier II reporting is \$37,500 per day, per violation. EPA checks for filing of EPCA Tier II reports during routine compliance audits or after a release has occurred.

RECENT ADDITIONS TO TIER II FORM:

- EPCRA Tier II forms now ask whether the facility is subject to emergency planning under Section 302 of EPCRA (Toxic Release Inventory or TRI) or the chemical accident prevention requirements under 112r of the Clean Air Act (Risk Management Program or RMP). For small bulk plant operators, the answer to these questions is almost always “NO”. Typically, small petroleum bulk plants operated by petroleum marketers located downstream of the terminal rack are NOT subject to TRI or RMP. While these small bulk plants must comply with Spill prevention Control and Countermeasure (SPCC), this is not the same as TRI or RMP.

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MARK YOUR CALENDARS FOR UPCOMING EVENTS

February 16 – 18, 2016 - WPMA Convention & Expo – Mirage Hotel, Las Vegas, Nevada
May 19-20, 2016 – Nevada (NPM&CSA) Big Dogs Shootout – Red Rock Resort & Casino – Las Vegas, Nevada
June 7-9, 2016 – Montana (MPMCSA) Convention – Fairmont Hot Springs Resort – Butte, Montana
June 20-23, 2016 - Washington (WOMA) Convention - Suncadia Resort - Cle Elum, Washington
June 29, 2016 – Idaho (IPM&CSA) Magic Valley PAC Golf Outing – Blue Lakes Country Club, Twin Falls, Idaho
August 3 – 5, 2016 - Idaho (IPM&CSA) Convention - Coeur d’Alene Resort - Coeur d’Alene, Idaho
August 22-24, 2016 – New Mexico (NMPMA) Convention – Sandia Resort & Casino – Albuquerque, New Mexico
September 14-16, 2016 - Utah (UPMRA) Convention - DoubleTree Hotel by Hilton - Park City, Utah
June 18-22, 2017 – Washington (WOMA) Convention – Suncadia Resort – Cle Elum, Washington
August 2-4, 2017 - Idaho (IPM&CSA) Convention – Sun Valley Resort, Sun Valley, Idaho
June 17-21, 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

NPP WPMA MEMBER SERVICE

WPMA has partnered with NPP to provide members discounts on many products and services. NPP negotiates the rates, and makes them available to WPMA members. Membership with NPP is free, and there is no obligation to purchase. Discounts through Verizon, Expedia, Fastenal, Cradlepoint, and more.

Register Now: <https://associations.mynpp.com/myNPP/memberSavings.xhtml?guid=RB3WUOFG>

WPMA MEMBER SERVICES



Petro Pete: "If I say, "Don't worry, I'm on it," there's a 98% chance I'm referring to my couch."

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