

March 2, 2018

Visit us online at www.wpma.com

WP-03-02-18

A SUCCESSFUL 2018 WPMAEXPO!

It was a banner year at the 2018 WPMAEXPO in Las Vegas, February 20th – 22nd. Attendance was up, and the mood was positive and upbeat. Our Keynote, Chris Christie, spoke to a full house, and his remarks were timely and informative. The Tuesday educational sessions were exceptional, giving attendees new insights on Disaster Planning, Cyber Security, Life Coaching, Fossil Fuels in America and HR Solutions. Thursday's management session on the Outlook for Energy: A View to 2040 was very well-attended and enlightening, and business was lively on the trade show floor, as our outstanding exhibitors highlighted the latest updates in equipment and services for the petroleum industry.

The WPMAEXPO is a great place to network, renew friendships, and gain information that will help your business prosper. Thanks to our sponsors, attendees, exhibitors, and speakers for making the 2018 WPMAEXPO such a great success. We'll see you in 2019!

RFS AGAIN FRONT AND CENTER AT THE WHITE HOUSE

This week, President Trump, along with high ranking Administration officials, met with representatives from the refining and ethanol industries to try and hash out a RFS reform deal. Senators Ted Cruz (R-TX), Joni Ernst (R-IA), Chuck Grassley (R-IA) and Pat Toomey (R-PA) were also summoned to 1600 Pennsylvania Avenue. Some reports have indicated that the President could support a proposal to cap the value of RINs that refiners must acquire to comply with the RFS in exchange for allowing the sale of E15 year-round. However, details remain murky as the corn ethanol industry is likely to push back against any effort to cap RIN values and/or allow ethanol exports to qualify for RINs generation since any reduction in RINs will likely hurt E15 sales. In other words, the ethanol industry needs the 15-billion-gallon ethanol mandate to stay intact which maintains RIN values, and therefore, gives E15 a chance to become a viable "new fuel" in the marketplace. Unfortunately, small business petroleum marketers are placed in a precarious situation if E15 starts to take hold because of the potential economic impacts of adding E15 including the costs associated with existing UST system incompatibility with E10 plus blends.

PMAA firmly believes that before Congress and/or the Trump Administration proceeds any further on granting an RVP waiver to blends above E10, it must first hold a hearing on the economic impact to small business petroleum marketers of the introduction of E15 into the market and the effects of ethanol blends on existing underground storage tank (UST) system infrastructure. The introduction of ethanol blends higher than 10 percent (including E15) present significant economic and legal impediments for many gasoline retailers as well as consumer awareness issues that go beyond the price of the fuel. Extending the RVP waiver to E15 further exacerbates these concerns and could force many retailers to invest considerable time and money on an accelerated schedule to switch to an alternative fuel storage and distribution system to remain competitive. Additionally, PMAA still questions whether the Trump Administration can issue a waiver to allow retailers to sell E15 during the summer months given that legislation has been introduced in Congress to amend the Clean Air Act to do just that.

It's fair to say that more RFS meetings are likely in the cards as the stalemate continues.

CONGRESS MAY NOT ACT ON INFRASTRUCTURE BILL THIS YEAR***Senate Committee Holds Hearing on Infrastructure***

Over the past year, President Trump and many lawmakers on Capitol Hill have been floating ideas for an infrastructure package. However, there has been much disagreement on both sides of the aisle over how to pay for it. Democrats would like to see new dedicated revenue streams, while many Republicans are hesitant to generate any new funding from taxes or add to the deficit.

In addition to the disagreements over funding mechanisms, some in Congress believe there is simply not enough time to act on an infrastructure package this year. Speaking about the prospects of an infrastructure package passing Congress this year, Senate Majority Whip John Cornyn (R-TX) stated that it "will be challenging" because he thinks it's going to "be hard because we have so many other things to do and we don't have much time." Senate Commerce, Science, and Transportation Committee Chairman John Thune (R-SD) had similar thoughts regarding the issue, telling reporters that "it could be challenging to get an infrastructure bill done in light of everything else we have to do."

However, some lawmakers in the House are more optimistic. Speaking to a group of state transportation officials recently, House Transportation and Infrastructure Committee Chairman Bill Shuster (R-PA) stated that he hopes Congress can pass an infrastructure package, but he also thinks "there is an opportunity...it could be a lame duck strategy; that we do it after the election." House Transportation and Infrastructure Ranking Member Peter DeFazio (D-OR) responded to Chairman Shuster's comments by saying that Shuster wants to sit down and talk infrastructure but "I'm in the position of saying "show me the money."

Meanwhile, the American Trucking Associations (ATA) has been pressuring Congress to take up an infrastructure package. Last week, they debuted a new website explaining numerous problems created by America's aging infrastructure. The association has also begun running ads and have activated their grassroots network to urge lawmakers to pass an infrastructure bill. They are also planning rallies in targeted congressional districts over the next few months.

Yesterday, the Senate Committee on Environment and Public Works (EPW) held a hearing entitled, "The Administration's Framework for Rebuilding Infrastructure in America." Witnesses included Department of Transportation Secretary Elaine Chao and R.D. James, Assistant Secretary of the Army for Civil Works. In the hearing, Secretary Chao stated that one of the key pieces of the Trump Administration's infrastructure proposal is to streamline environmental permitting reviews. She added that the private sector often avoids investing in public infrastructure projects because of slow permitting. Chao said that "while there is a great deal of enthusiasm from the private sector to participate, one of the hurdles they face is the lack of ready projects." She continued, "if the permitting process can be sped up, it will allow more projects to be available for the private sector to invest."

In his opening statement, Senate EPW Ranking Member Tom Carper (D-DE) discussed a proposal to increase the gas tax to 25 cents per gallon, saying that several lawmakers "were in the meeting with the president last month when he repeatedly declared his strong support for a 25 cent per gallon increase in the federal gas tax on gasoline and diesel fuel" and added that it "could become one important additional source of funds to help us pay for the improvements we need." Senator Jerry Moran (R-KS) brought up the hours of service issue and asked for Secretary Chao and the Federal Motor Carrier Safety Administration to work with him on having the electronic logging device (ELD) mandate delayed for another five years. Secretary Chao responded by saying she has heard a lot about the issue recently and is willing to work with him. Sen. Moran also expressed his concern that the Trump Administration would consider allowing the commercialization of rest areas.

JOINT EMPLOYER RULING VACATED, REVERTS TO BROWNING-FERRIS STANDARD

This week, the National Labor Relations Board (NLRB) voted to vacate the December 2017 decision, Hy-Brand Industrial Contractors, Ltd. and Brandt Construction Co., which overturned the 2015 ruling that made it easier to hold companies liable for labor violations committed by their franchisees or contractors.

The December determination found that to be classified a "joint employer," a business must have a direct and immediate control over the employees in question. Browning-Ferris, issued under President Obama, said a business could be classified a joint employer even if its relationship to the employees in question were indirect.

Now the Browning-Ferris standard is back in place, making it easier for employers to be found jointly liable over a particular employee. The reason the ruling was vacated is because NLRB Board member William Emanuel's former law firm had represented a party to the original Browning-Ferris decision and William should have recused himself from the case.

Late last year, the House passed the "Save Local Business Act" which would reverse the NLRB 2015 Browning-Ferris decision by narrowing the circumstances under which businesses can be classified a joint employer. Under Browning-Ferris, companies that exert only "indirect" control over franchisees may still be joint employers. The bill would revert to a standard of "direct" control. Following last year's finding the legislation was not considered necessary except to prevent a future Democratic NLRB from switching the ruling back sometime in the future. Now enactment of such legislation is critical because NLRB Trump appointee William Emanuel did not recuse himself during the case last year.

ARGUMENTS HEARD IN AMEX ANTITRUST CASE

On Tuesday, the U.S. Supreme Court heard oral arguments in *Ohio, et al. v. American Express (AmEx)*, an important case for retailers and consumers examining whether AmEx violates antitrust law by barring retailers in merchant agreements from encouraging customers to use lower-fee payment methods.

In addition to Ohio, the other states active in the appeal are Connecticut, Idaho, Illinois, Iowa, Maryland, Michigan, Montana, Rhode Island, Utah and Vermont. The case is also supported by companies such as Southwest Airlines Co., Kroger Co. and Walgreens. Visa and MasterCard dropped similar "anti-steering" rules in 2010 but AmEx refused to settle.

Justice Neil Gorsuch did not see evidence that AmEx's rules have caused net price increases for consumers, while Justice Sonia Sotomayor said that prohibiting merchants from offering discounts or other incentives for cheaper payment methods does restrict price competition.

EPA ISSUES NEW OZONE IMPLEMENTATION THRESHOLD RULE

Yesterday, the EPA issued its ozone implementation threshold rule for states with areas that have not yet met the 2015 ozone standard, and, in order for the EPA to issue nonattainment designations for areas before the April deadline, it must determine that the area has first met the 2015 ozone standard.

The thresholds will be used to determine deadlines for each state that needs to clean up the air. The EPA will use three categories to describe the air of certain areas: marginal, moderate, and extreme. Nonattainment areas with ozone

concentrations of 71 parts per billion (ppb) to 81 ppb will be considered “marginal” and are given three years to meet the ozone standard requirements. Nonattainment areas between 81 ppb and 93 ppb will be considered “moderate” and are given six years to meet the requirements. Lastly, nonattainment areas with ozone concentrations above 163 ppb will be considered “extreme” and are given twenty years to meet the ozone standard requirements. These designations are important to petroleum marketers because those areas designated as being in nonattainment will likely be required to adopt more stringent Reid vapor pressure (RVP) or reformulated gasoline (RFG) requirements.

Finally, the EPA had originally planned to rewrite the ozone rule that the Obama Administration proposed in 2016, but due to mounting legal pressure, the EPA decided last week instead to finalize the Obama Administration’s rule.

URGE LAWMAKERS TO SUPPORT THE HOUSE-PASSED PREDICATE DATE LANGUAGE IN THE OMNIBUS

Last year, Reps. Tom Cole (R-OK) and Sanford Bishop (D-GA) introduced and the House passed bipartisan legislation to ensure sensible regulations for newly “deemed” tobacco products by the FDA. Section 753 (the Cole-Bishop provision) included in the base text of the FY18 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, including the regulation of characterizing flavors and battery standards.

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. As such, section 753 ensures FDA regulates e-vapor products in a manner that both (1) makes sense in light of the public health opportunities that those products offer, and (2) closes the regulatory gap with respect to consumer protection measures needed for this new product category. Click [here](http://www.pmaa.org/advocacy/advocacy/#/13) (http://www.pmaa.org/advocacy/advocacy/#/13) to urge your lawmakers to support the bipartisan, House-passed predicate date language in the upcoming omnibus spending bill.

Thank You *WPMA* EXPO 2018 TOP SPONSORS

-----Presidential-----



-----Premier-----



MARK YOUR CALENDARS FOR UPCOMING EVENTS

- February 19-21, 2019** – WPMA Convention & Expo – Mirage Hotel– Las Vegas, Nevada
- May 3-4, 2018** – NPM&CSA Big Dogs – Red Rock Casino – Las Vegas, Nevada
- June 5-7, 2018** – MPMCSA Convention & Expo – Fairmont, MT
- 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
- August 20-22, 2018** – New Mexico (NMPMA) Convention – Sandia Resort & Casino, Albuquerque, NM
- September 12-14, 2018** – Utah (UPMRA) Convention – Doubletree by Hilton, Park City, UT

WPMA MEMBER SERVICES



Be sure to subscribe to all of our social channels for great tips, industry trends, and insider information about association activities and upcoming events!



Petro Pete: *"Light travels faster than sound. This is why some people appear bright until you hear them speak."*

CLASSIFIED ADS

FOR SALE:

1996 Kenworth Delivery Truck

- 355 Caterpillar motor
- 345,000 miles
- 4200 gallon
- 7 Compartments
- 2 Roper Pumps
- 8 barrel bed on back with Tommy lift
- Oilmans tank
- LC Meters

Call Randy at Red Rock Oil, Clovis, NM
Cell 575-749-0847

© 2018 Western Petroleum Marketers Association - All rights reserved. No part of this work may be reproduced or copied in any form or by any means - graphic, electronic, or mechanical, including photocopying, recording, or otherwise. The information herein is also intended for the sole purpose of members of the Western Petroleum Marketers Association (WPMA). Any other use is strictly prohibited without the express written consent of the WPMA. 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.