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**EPA FINAL RULE ESTABLISHES CRITERIA FOR DESIGNATING OZONE NON-ATTAINMENT AREAS**

Recently, the EPA issued final requirements establishing criteria for state and local air agencies to implement the 2015 National Ambient Air Quality Standards (NAAQS) for ground-level ozone. These requirements apply to states with non-attainment areas. Ozone is formed from NOX and VOC in the presence of sunlight. Cars, trucks, buses, engines, industries, power plants and products, such as solvents and paints, are among the major man-made sources of ozone-forming emissions. Ozone standards and attainment criteria are important to petroleum marketers because they could lead to the introduction of RVP and RFG requirements in non-attainment areas depending on the severity of the ozone pollution they establish.

In October 2015, the EPA strengthened the ozone NAAQS from 75 parts per billion (ppb) to 70 ppb, a significant change that will make it more likely that RFG and RVP could be mandated in many of newly designated nonattainment areas. After the EPA establishes or revises an air quality standard as it did in 2015, the agency, with input from the states, establishes area designations (i.e., as nonattainment, attainment, or unclassifiable) to the EPA. The EPA then evaluates air quality data and other factors prior to making its proposed and final determinations regarding area designations. The EPA also classifies non-attainment areas by the severity of their air quality problem based on air quality monitoring data with five classification categories ranging from "Marginal" to "Extreme." In the recent final rule, EPA established the air quality thresholds that define each of the five classification categories and attainment deadline associated with each classification.

The final air quality thresholds and attainment dates for the 2015 ozone NAAQS for each classification are:

- Marginal – from 71 ppb up to 81 ppb with 3 years from nonattainment designation to comply.
- Moderate – from 81 ppb up to 93 ppb with 6 years from nonattainment designation to comply.
- Serious – from 93 ppb up to 105 ppb with 9 years from nonattainment designation to comply.
- Severe – from 105 ppb up to 163 ppb with 15 or 17 years from nonattainment designation to comply.
- Extreme – from 163 ppb and above with 20 years from nonattainment designation to comply.

In addition to setting these thresholds, the agency also set forth deadlines by which states that do not meet the 2015 ozone standard must come into compliance. The rule is effective May 8, 2018.

In addition, on Monday, Federal judge Haywood Gilliam, Jr. of the U.S. District Court for Northern California ruled that the EPA broke the law when it did not meet the October 1, 2017 deadline to announce which areas of the country are not in compliance with the ozone standards set in 2015. Consequently the Court ordered the EPA to comply by April 30 instead of the August 10, 2018 date that the agency had said it required.

PMAA will continue to monitor and report on ozone nonattainment area designation and compliance measures as they become available.

**OVERSIGHT COMMITTEE SHINES LIGHT ON REGULATORY PROCESS*****Committee Releases Recommendations***

On Wednesday the House Committee on Oversight and Government Reform held a hearing entitled: "Shining Light on the Federal Regulatory Process" in order to assess federal agencies' processes for and compliance with rulemaking and guidance procedure requirements.

Hearing witnesses were: Kris Nguyeun, Government Accountability Office; Paul Noe, American Forest and Paper Association; Karen Harned, NFIB; Professor Nicholas Pirrillo, Yale; and Amit Naarang, Public Citizen.

Agencies are issuing a significant quantity of regulatory directives through guidance documents that are difficult to track and have few procedural standards. To better understand the scope of guidance, Committee Republicans requested information on guidance documents issued from 46 agencies. The responses show agencies routinely fail to comply with the Congressional Review Act's (CRA) requirements and the Office of Management and Budget's 2007 "Good Guidance" Bulletin. Administrations tend to increase regulatory activity towards the end of presidential terms and a significant number of "midnight rules" and guidance documents are not compliant with the CRA. Republicans released a staff report detailing findings from the Committee's oversight of federal agencies' regulatory guidance documents. Particularly problematic for petroleum marketers is that agencies generally do not keep a complete inventory of guidance documents.

Report recommendations are: all agencies should submit their covered guidance documents to Congress and the Government Accountability Office (GAO); agencies should make their guidance documents available in an online library;

and Congress should consider legislation to codify existing requirements in executive directives to improve Congressional oversight of agency regulatory activity.

### **REPUBLICANS AND DEMOCRATS FAR APART ON SNAP REQUIREMENT TALKS**

Any day now, a draft Farm bill will likely be released. One supposed provision in the farm bill would raise the work requirement for SNAP recipients from age 60 to 65. During a podcast last week, House Agriculture Committee Ranking Member Collin Peterson (D-MN) confirmed that the provision to raise the age to 65 was included in the draft bill that he read. Rep. Peterson has spoken out against cuts to the SNAP budget and any attempt to change the work requirements for SNAP recipients.

Although many Democrats believe this change would be unreasonable, some Republicans feel that it does not go far enough. One Republican believing the proposed work requirement does not go far enough is Jason Turner who leads Secretaries Innovation Group, a group of conservative state officials who manage SNAP on the state level and support reduced welfare. Although Turner has not seen the language in the farm bill, he is concerned that the proposal floating around "might not go in the right direction on work." He added that the language in the bill is "diametrically opposite from what we would encourage." However, on Wednesday, while testifying at a Senate Commerce, Science, and Transportation Committee hearing, Agriculture Secretary Sonny Perdue said that he supported the proposed work requirement age change for SNAP recipients from 60 to 65. Perdue stated that "with the aging of America and the ability for us to live longer, I think certainly we want to be healthy and we want to be continuing to work."

A committee markup of the farm bill is scheduled for next week, but due to ongoing disputes over the proposed SNAP requirement, it will likely be rescheduled. Chairman Conaway and Ranking Member Peterson have stated that they would like to come to a bipartisan agreement and pass the farm bill.

### **HOUSE SUBCOMMITTEE HOLDS HEARING ON EXPIRED TAX PROVISIONS**

#### ***Biodiesel Blenders' Tax Credit Discussed***

On Wednesday, the House Committee on Ways and Means Subcommittee on Tax Policy held a hearing titled "Post Tax Reform Evaluation of Recently Expired Tax Provisions" during which lawmakers and witnesses discussed some of the recently expired tax provisions, known as "tax extenders," and whether some of them should be extended under the newly reformed tax code. The hearing included twenty-one witnesses representing various organizations that were organized into four different panels.

In his opening statement, Tax Policy Subcommittee Chairman Vern Buchanan (R-FL) stated that after last year's comprehensive tax reform, "we need to turn our focus to maintaining it and making further refinements and enhancements" and said, "it should not be business as usual with respect to the tax extenders." He added, "Now is the time to examine each of these provisions one-by-one to determine whether and how they fit into the new tax code."

Michael McAdams, president of the Advanced Biofuels Association, offered testimony on behalf of a coalition of groups including PMAA, ATA, ABFA, NATSO, NACS and SIGMA. In his remarks, McAdams expressed support for an extension of the \$1-per-gallon biodiesel blenders' tax credit and opposition to converting the biodiesel blenders' credit to a producers' credit. Recognizing that the Ways and Means Committee decided to phase out other tax incentives instead of immediately terminating them, McAdams stated, "While we believe the biodiesel and renewable diesel tax incentives should be made permanent, we understand that there may not be a consensus to do so." He added, "Handled responsibly, our coalition believes that a multi-year phase out of the tax incentive can achieve the same economic and environmental benefits that the \$1 credit has achieved for more than a decade. We are eager to work with the Committee on identifying a responsible path forward in this respect. Although our coalition would support phasing out the credit over a period of years, it is imperative that the credit be extended at \$1 per gallon for 2018. Given that Congress has frequently extended the credit retroactively, including most recently in February 2018 for all of 2017, market participants have come to reasonably rely on the credit being retroactively extended when undertaking business and investment decisions. This includes decisions made already in 2018. To protect these market participants from unanticipated changes in policy, the existing provisions should be extended in full for at least this year."

PMAA, along with other members of the coalition, submitted comments for the hearing record to the House Ways and Means Committee urging for an extension of the existing biodiesel and renewable diesel tax incentives and have expressed support for H.R. 3264, known as the "Biodiesel, Renewable Diesel, and Alternative Fuels Extension Act of 2017." The legislation, introduced by Reps. Diane Black (R-TN) and Ron Kind (D-WI), would extend the biodiesel blenders' tax credit and phase it out over five years.

### **HISTORIC INFRASTRUCTURE HEARING WITH FIVE CABINET SECRETARIES**

On Wednesday the Senate held a hearing on "Administration Perspectives of Rebuilding Infrastructure in America," and heard from: Secretary Elaine Chao, Department of Transportation; Secretary Wilbur Ross, Department of Commerce; Secretary Alexander Acosta, Department of Labor; Secretary Sonny Perdue, Department of Agriculture; and Secretary Rick Perry, Department of Energy.

The goal of the President's proposal is to stimulate at least \$1.5 trillion in infrastructure investment and includes a minimum

of \$200 billion in direct Federal funding. Commerce Committee Chairman John Thune (R-SD) expects some legislation to move this year, but Congress must identify how to pay for the plan. Furthermore, Thune agreed with a statement that Speaker Ryan (R-WI) made last week that several bills could emerge due to the multiple committees of jurisdiction. In any case, a slow process is likely ahead for an infrastructure bill to move forward.

### FEDERATED'S RISK MANAGEMENT ACADEMY FOR PETROLEUM MARKETERS

For two and a half days, **April 24 - 26** or **September 11-13**, experts at Federated's corporate headquarters in **Owatonna, Minnesota** will guide you through the best practices on how to keep your business safe. These seminars are designed for individuals in positions of risk leadership including owners, operations management, service management, risk management, or human resources. The key to a successful business is implementing and leading a strong risk management culture, so attendees should be in a position to take action! Topics target specific risk management exposures in the Petroleum Industry. Seminar sessions include:

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The seminar is free to attend. For questions, concerns and assistance contact Royetta Spurgeon (507-455-5604), Ryan Crawford (520-820-6478) or your local Federated Marketing Representative. Here is a link for more information <https://www.federatedinsurance.com/ws/fi/InsuranceProducts/RiskManagement/RiskManagementAcademy/index.htm>

### PLAN TO ATTEND THE 2019 WPMAEXPO

# WPMA EXPO

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.

#wpmaexpo19

### 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

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