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NEWLY DESIGNATED OZONE NONATTAINMENT AREAS MAY REQUIRE RFG OR LOWER RVP

On April 30, 2018, the U.S. Environmental Protection Agency (EPA) designated 51 additional counties in 22 states as ozone nonattainment areas. The Clean Air Act requires state air agencies to take steps to control ozone pollution in nonattainment areas based on the severity of the air quality problem at the time of designation. Severity classifications range from “marginal” to “extreme” as measured by air quality monitoring data. Two methods states may use to meet federal ozone emission standards are to mandate reformulated gasoline or impose lower RVP requirements for conventional gasoline during the summertime ozone season beginning June 1 through September 15 each year.

The EPA strengthened the federal ozone standard in 2015 by lowering the attainment level for ground level ozone from 75 parts per billion to 70 parts per billion measured over an 8- hour period. Last November, EPA indicated that 85 percent or 2,646 counties nationwide would be in attainment with the new 70 parts per billion standard. The remaining 51 counties in designated as in nonattainment were not published until last week. Eight remaining counties in San Antonio, Texas area will be classified in July 2018, according to the EPA. Nonattainment areas are required to meet the 70 parts per billion ozone standard as quickly as possible, but no later than the maximum attainment date associated with each classification. The maximum attainment date for each classification are:

- 3 years for marginal areas;
- 6 years for moderate areas;
- 9 years for serious areas;
- 15 years (or 17 years) for severe areas; and
- 20 years for extreme areas.

States must detail how they will comply with the 70 parts per billion standard in revised state air quality implementation plans (SIP) submitted to the EPA for approval. Areas classified as marginal are not required to submit plans demonstrating how they will meet the ozone standards but must meet the three-year maximum attainment date.

- To see a detailed list of the newly designated non-attainment areas go to URL:
 - https://www.epa.gov/sites/production/files/2018-04/documents/placeholder_1.pdf
- To see a map of the newly designated non-attainment areas go to URL:
 - https://www.epa.gov/sites/production/files/2018-04/documents/placeholder_3.pdf

Contact Mark S. Morgan PMAA Regulatory Counsel, mmorgan@pmaa.org, for additional information or questions.

CALIFORNIA AND OTHER STATES SUE EPA OVER CAFE STANDARDS

This week, California and seventeen other states filed a lawsuit against the Environmental Protection Agency (EPA) in the U.S. Court of Appeals for the District of Columbia Circuit over the EPA’s push to ease fuel efficiency standards. In the lawsuit, the states stated that the EPA acted “arbitrarily and capriciously” in its consideration of lowering fuel efficiency standards. Joining California in the lawsuit were Connecticut, Delaware, Illinois, Iowa, Maine, Maryland, Minnesota, New Jersey, New York, Oregon, Rhode Island, Vermont, Washington, Massachusetts, Pennsylvania and Virginia, as well as the District of Columbia.

Last month, the EPA announced that it will not be renewing Obama-era Corporate Average Fuel Economy (CAFE) standards for cars and light trucks when the program is scheduled to end in 2025. The Obama Administration initially set 50 miles per gallon (mpg) as an across the board fleet-wide target by 2025. However,

it is unlikely that the target will be met because the EPA announced that there will be a reduction in CAFE standards already in place for 2022 through 2025. According to a recent EPA and National Highway Traffic Safety Administration (NHTSA) draft proposal, the two agencies are looking to freeze efficiency standards from model year 2020 through 2026 at 37 mpg.

The EPA has said it will try to reach an agreement with California on a single national standard, but California is intent on keeping the existing standards in place. EPA Administrator Scott Pruitt told lawmakers last week that he would not be going after California's ability to enforce its own fuel efficiency standards and looks forward to working with the state.

Meanwhile, a group of top automakers will be meeting with President Trump at the White House soon, although a date has not been set. One of the main topics of discussion will be the Trump Administration's ongoing battle with California over fuel efficiency standards for automobiles.

PMAA PARTICIPATES IN NATIONAL HURRICANE RESPONSE EXERCISE

Yesterday, PMAA and Joe Bishop, who is the Director of Facilities and Maintenance with the Petroleum Marketing Group participated in a day long Department of Energy (DOE) "Clear Path" exercise to facilitate preparedness and emergency response operations.

Clear Path is a national exercise designed to address challenges by using a common scenario and incorporating recent hurricane response lessons and identifying obstacles that still need to be addressed. In this exercise a major hurricane is impacting the Mid-Atlantic region and power outages have shut down most retail gasoline stations. A 70-page situation manual was circulated on Wednesday for participants to study and prepare for the exercise.

Mr. Bishop and PMAA explained the complexity of marketing and of retail ownership in response to recommendations from other participants to "have a database showing which retail stations are open and how much fuel they have available." Joe Bishop was able to talk about the real world obstacles to obtaining information, particularly when 60 percent of retail stations are owned by single-store operators.

As PMAA has done with the Department of Transportation (DOT) FMCSA Administrator Ray Martinez and in meetings with other government departments, PMAA discussed the weigh station delay problems that sometimes occurs and causes huge delays in fuel delivery. And worse still, drivers are sometimes wrongfully ticketed. This occurs when driving in pass through states to deliver fuel to a disaster area that has Hours of Service (HOS) waivers in place. Sometimes communication breaks down in the pass through states weigh stations wherein the drivers are legally exempt from HOS restrictions while on route to the emergency area but are wrongfully delayed and ticketed because weigh station employees do not understand that they are required to honor the HOS waiver that is in place for those drivers. Better communication with weigh stations is needed to address this and Administrator Martinez plans to discuss this during an upcoming meeting with his state FMCSA directors.

PMAA addressed the need for further efficiencies in the waivers processes. Furthermore, PMAA explained that there is a national truck driver shortage which becomes particularly severe during disasters and is detrimental to the timely delivery of fuel in disaster areas. PMAA also explained that price gouging is almost always just a perception that is reflective of the volatility of the market during national disasters.

PMAA will continue to cover the needs of petroleum marketers in the ongoing national dialogue on emergency response and in the continued growth of the emergency response industry.

ADA LAWSUIT DISMISSED

When the Americans with Disabilities Act (ADA) became law in 1991 it looked like a public-spirited statute to assist the disabled with public accommodations. Over the years, however, it became a tool for trial lawyers to harass and sue business owners with "drive by actions." Recent legislative and judicial developments may diminish this trend.

Last week, the 11th Circuit Court of appeals ruled that a plaintiff who had sued a store for violation of the ADA, lacked standing to sue because she lived 175 miles from the store and was unlikely to return. Similar rulings in MD and other venues buttress this trend.

Meanwhile, the House passed H.R. 620, the "ADA Education and Reform Act" to address this and other trumped up litigation matters. H.R. 620 requires Plaintiffs' counsel to provide defendants with: the property address, the specific ADA section(s) allegedly violated, whether a request to remove the architectural barrier was made and whether the barrier was temporary or permanent. H.R. 620 also prohibits filing suit to remove the barrier unless the putative plaintiff with specifics concerning the barrier and the store owner has failed to respond with the actions it has taken to address the situation. Unfortunately, the bill faces an uncertain future in the Senate given that 60 votes are needed to pass the bill. With the GOP holding a slim 51-49 majority, nine Senate democrats would need to join Republicans.

REMINDER THAT THE NEW MENU LABELING REQUIREMENTS ARE EFFECTIVE MAY 7TH

The menu labeling requirements will be enforced by the FDA beginning May 7, 2018. PMAA General Counsel Al Alfano released a detailed explanation of which establishments are required to comply with the menu labeling rule which will go into effect on May 7, 2018.

While retailers must comply with the new requirements, Congress must also act to fix the menu labeling regulation. The "Common Sense Nutrition Disclosure Act" (S. 261) by Senators Blunt (R-MO) and King (I-ME) would give retailers the flexibility they need to comply with the menu labeling regulations. In February, the House passed its version, H.R. 772. However, the Senate has yet to vote on its version, S. 261.

PMAA Washington Conference and Day on the Hill is Almost Here!

PMAA's annual Washington Conference and Day on the Hill will be held in Washington, DC from May 16-18. Our industry continues to have dozens of important legislative and regulatory issues to discuss and the Day on the Hill continues to be the primary focus of this conference.

The meeting will begin with an Opening Session / Issues Briefing and Region meetings in the afternoon of May 16. David Whikehart, Vice President, Environment, Safety and Corporate Affairs for Marathon Petroleum Company LP will be addressing the group during the Opening Session. The welcome reception, including the fun and popular PAC silent auction fundraiser, concludes the day! On the morning of May 17, marketers will hear from the Senate Environment and Public Works Committee Chairman John Barrasso (R-WY), and will then head to Capitol Hill for visits with their Congressional delegations after a buffet breakfast and issues briefing for those who were not able to attend the opening session. Please be sure to make these appointments immediately, if you have not already done so! There will be a hospitality suite and luncheon on the Hill. On the evening of May 17, we will honor our 2018 PMAA Chair Mark McBride. Our conference will conclude after the PMAA Board of Directors meet on May 18 following a buffet breakfast and committee meetings.

Please go to URL: <http://www.cvent.com/events/pmaa-washington-conference-and-day-on-the-hill/event-summary-638bb28c361846ff99f1eec5cf58e0b2.aspx> for the event website for all details and registration with secure event payment processing through Cvent. PMAA is expecting terrific attendance with over 200 members who have made hotel reservations at the Headquarter Hotel and over 230 members are currently registered! If you plan on attending PMAA's annual Washington Conference and Day on the Hill, now is the time to make your room reservation through *A Room with a View at 800.780.4343*, the free overflow hotel service, who will continue to take room reservations. May is a very busy month in our nation's capital of Washington, DC where hotels book quickly and there are many citywide events also going on during the conference. They are expecting a record turnout and would appreciate you and your members to plan ahead: Online registration will close soon!

It is your chance to make a positive difference for our industry. Please make your plans now to attend this important and productive conference to meet with your members of Congress. Please make your final plans to attend this important and productive forum to meet with your members of Congress and network with other marketers from across the country. We look forward to welcoming you to DC soon!

NEW CONTRIBUTIONS FOR THE MAY 2018 PAC SILENT AUCTION

PMAA Small Business Committee (SBC) PAC Co-Chairs Brad Bell and Tim Keigher thank the New England Fuel Institute (NEFI) for their Grand contribution for the PMAA SBC PAC Silent Auction. NEFI donated a Weekend Getaway for 2 nights at the W Hotel and 2 tickets to the Hamilton Broadway Show. Enjoy a weekend getaway at the W New York - Times Square September 14-16 and two tickets to the Hamilton Broadway Show on September 15, 2018 at 8pm.

Soaring above a glittering stretch of Broadway in the heart of Midtown Manhattan, W New York - Times Square is a 4.5-star hotel that is a sultry escape in the center of it all. The hotel instantly connects travelers to all parts of Manhattan – from the gritty and glamorous Lower East Side to the cheeky and charming West Village.

Hamilton is the story of the unlikely Founding Father determined to make his mark on the new nation as hungry and ambitious as he is. From bastard orphan to Washington's right-hand man, rebel to war hero, a loving husband caught in the country's first sex scandal, to the Treasury head who made an untrusting world believe in the American economy. George Washington, Eliza Hamilton, Thomas Jefferson and Hamilton's lifelong friend/foil Aaron Burr all make their mark in this astonishing new musical exploration of a political mastermind.

The Auction will take place in conjunction with PMAA's Washington Conference on May 16 during the welcome reception. Last year there was tremendous support in contributions for the auction and PMAA SBC PAC Co-Chairs Brad Bell and Tim Keigher urge your participation this year as well! Brad and Tim would like to remind you that donations can include use of personal vacation properties.

If you have items that you would like to contribute for the Silent Auction, please contact Sabrina Pitcher at 703-351-8000. Please note that auction items must be paid for with personal funds by MasterCard, VISA, American Express, cash or check (checks can also be made out to the PMAA Small Business Committee).

APRIL 2018 PMAA SMALL BUSINESS COMMITTEE (SBC) PAC CONTRIBUTIONS

PAC Co-Chairs Brad Bell and Tim Keigher are grateful for the PMAA Small Business Committee (SBC) PAC contributions from the following individuals during the April 1-30, 2018 time frame:

Kentucky: Barry Eveland

Maine: Michael Estes

Michigan: David Coyne, Craig Hoppen, Scott Miller, Daniel Pohl

Mississippi: David Burns, Philip Chamblee, John Fair III, Perry Rackley

Nebraska: Thomas Lippincott

South Carolina: Barrett Albenesius, Jeremy Balliew, Mac Beaty, Ava Bell, Sam Bell, Jason Brooks, Michael Fields, David Jordan, William Keenan, Richard LaValla, Jason Terry, Troy Testerman

Texas: Daniel Kendrick

Utah: Doug Hyer, Jim Larson, Dustin Lunt, John Richardson

Wisconsin: Brian Beggs, John Baltus, Tony Cole, Jonathan Crawford, Martin Docter, Ryan Harrigan, Greg Hill, Greg Klimek, Erik Long, Bill Martin, Scott Rettler, Brian Saunders, Christopher Schelm, Bill Scheurer, Jeremy Smith, Timothy Stephan, Lyman Wocking, John Wagner

April 2018 Contributors to PMAA MDF

PMAA's Marketer Defense Fund wants to thank the following individuals for their Marketer Defense Fund (MDF) contributions during the April 1- 30, 2018 timeframe:

Arizona: Arizona Petroleum Marketers Association

Colorado: Colorado Petroleum Marketers and Convenience Store Association

Connecticut: Donald Mitchell

Maryland: Brad Fulton

Michigan: Robert Hohm, Paul Schmuckal
Minnesota: John Derichs, Richard Gappa, Brian Johnson, Vern Kelley

Mississippi: Rex Gillis, Howard Waring

Missouri: Missouri Petroleum Marketers and Convenience Store Association

Nebraska: Douglas Hall

New Mexico: New Mexico Petroleum Marketers Association

North Dakota: Matt Bjornson, North Dakota Petroleum Marketers Association

Ohio: Jeff Lykins

Oklahoma: Oklahoma Petroleum Marketers and Convenience Store Association

South Carolina: Richard Mixson, Jr.

Washington: Washington Oil Marketers Association

Wisconsin: John Baltus

Corporate donations are acceptable. MDF funds have been used for various studies, litigation and disaster relief dedicated to strengthening our lobbying efforts on Capitol Hill.

*Correction – New Mexico Convention room rate at the Sandia Resort and Casino is \$179 per night. This was originally published at \$174 per night.

PLAN TO ATTEND THE 2019 WPMAEXPO

WPMAEXPO

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.

MARK YOUR CALENDARS FOR UPCOMING EVENTS

February 19-21, 2019 – WPMA Convention & Expo – Mirage Hotel– 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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Petro Pete: “One of my favorite things about money is that if you hand it to the right person they’ll give you donuts.”

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