WPMA
News and Information for the Petroleum Marketers Industry
weekly update

June 23, 2017 Visit us online at **www.wpma.com** WP-06-23-17

## PMAA SENDS LETTER TO APPROPRIATORS URGING PROTECTION OF LUST FUND

Earlier this week, PMAA sent a joint letter to House Committee on Appropriations Chairman Rodney Frelinghuysen (R-NJ) and Ranking Member Nita Lowey (D-NY) urging them to reject President Trump's FY 2018 budget request of $47 million for the Leaking Underground Storage Tank (LUST) Trust Fund Program because the funding amount is inadequate. In previous years, Congress has appropriated between $90 - $100 million each year, an amount PMAA would like Congress to continue to appropriate.

In the 1980s, Congress and the EPA began to address the problem of UST releases by creating the LUST Trust Fund financed by a federal one-tenth cent ($0.001) per gallon tax on motor fuels. Petroleum marketers have supported the LUST fund and have paid $3.8 billion in LUST taxes since its inception. The fund is vital to the cleanup of UST leaks, which pose a serious threat to the environment and public health.

EPA provides almost 90 percent of its LUST money directly to states, territories, and tribes to implement UST cleanup and prevention programs. Unfortunately, the President's proposed FY 2018 budget calls for cutting the EPA's LUST fund program in half and returning the responsibility for funding state UST programs back to state and local governments. This would negatively impact state UST program authorities because states would not receive pollution prevention funding, funding for UST cleanup would be significantly reduced and technical support for states would be eliminated.

PMAA, along with NACS, NATSO and SIGMA, urged lawmakers to reject any efforts to significantly reduce the LUST Fund Program and continue to fund the program at previous fiscal year levels.

## SENATE REPUBLICANS RELEASE OBAMACARE REPEAL AND REPLACE BILL

On Thursday, Senate Republicans released their Obamacare repeal and replace "discussion draft" which is intended to be a compromise between Obama's Affordable Care Act (ACA) and the health-care bill that House Republicans passed in May.

Like the House bill, the Senate bill would no longer penalize individuals for failing to have health insurance and it would also eliminate the employer mandate. The Better Care Reconciliation Act of 2017 would subsidize millions of Americans who buy insurance through the ACA marketplaces for two more years and would phase out Obamacare's expansion of Medicaid over three years, starting in 2021. The bill would also delay the "Cadillac tax" on high-cost plans from 2020 to 2026, like the House-passed Obamacare replacement bill, and would also tighten eligibility for health insurance premium subsidies on the basis of immigration status.

Although Senate Majority Leader McConnell (KY) wants the bill to be fast-tracked and for the Senate to vote next week, the 142 page Senate bill will have to undergo significant changes before a vote is scheduled. Even though Senate leadership is using reconciliation to evade filibusters from Democrats, they can only lose two votes to pass the bill and Republican Senators Paul (KY), Lee (UT), Johnson (WI) and Cruz (TX) have already announced their opposition to the bill. Furthermore, Senator Collins (R-ME) has voiced a number of concerns with the bill. Also, the Congressional Budget Office (CBO) has not yet scored the Better Care Reconciliation Act and will not do so until next week. The CBO estimate will include projected losses of insurance coverage and the deficit savings that could occur due to the bill's policy changes.

If it passes, the Senate legislation would need to be reconciled with the House bill before going to President Trump's desk.

## IRS FIELD INSPECTORS CHECK DISPENSERS FOR PROPER LABELING

IRS field agents are always on the lookout for dispenser labeling violations. The IRS requires labels for dyed diesel, dyed kerosene and untaxed clear kerosene dispensers. IRS fines for faded, incorrect or missing dispenser labels are significant. The labeling requirement has been in place for diesel dyed diesel dispensers since 1993 and for dyed and clear kerosene dispensers since 1998.

The following IRS labels must be posted on any retail dispenser or other delivery facility (skid tank, consumer dispensers at bulk plants or card locks) where dyed diesel fuel and/or dyed kerosene are dispensed for use by a purchaser/consumer:

***"DYED DIESEL FUEL, NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE"*** or

***"DYED KEROSENE, NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE".***

In addition, the following label must be posted on all blocked pumps that sell clear, untaxed kerosene:

***"UNDYED UNTAXED KEROSENE, NONTAXABLE USE ONLY".***

The labels must be affixed to the dispenser in a conspicuous place within easy sight of the person dispensing the fuel either on the face of the dispenser (on both sides) or on the side of the dispenser just above the nozzle housing. Many petroleum equipment vendors sell IRS compliant labels online.

***Heating Oil Dispensers:*** Some heating oil dealers provide heating oil dispensers at their bulk plant for residential customers who wish to buy smaller quantities of fuel for heating. The IRS regulations do not address heating oil dispensers specifically. However, since heating oil is a dyed fuel and capable of being dispensed in the fuel tank of an off-road vehicle, it is recommended that these dispensers be labeled with an IRS diesel label as well.

## REMINDER! ANNUAL HAZMAT REGISTRATION FOR EXPIRING CERTIFICATES DUE JULY 1

**BACKGROUND:** The U.S. DOT's Pipeline and Hazardous Material Safety Administration (PHMSA) requires hazardous material transporters to register and pay a fee for annual registration in return for a certificate of operation. PHMSA began mailing the 2017-2018 registration information to HAZMAT transporters in April. Only those with expiring DOT PHMSA HAZMAT registration certificates must re-register before July 1, 2017 or risk losing authority to operate and pay a substantial civil penalty. The validity of HAZMAT registration certificates is checked at roadside inspections.

**Q. Who must register and pay the fee?**

***A. HAZMAT Transporters*** *- Any business (intrastate or interstate) shipping hazardous materials requiring a U.S. DOT placard must register and pay a registration fee. Petroleum marketers, heating oil dealers, common carriers of petroleum products and propane suppliers who ship their products in trucks must register and pay the fee. Registration is only required for expiring certificates.*

**Q. What happens if I don't register?**

***A. Loss of Operating Authority*** *- If you fail to register by the deadline then you lose your authority to operate your trucks in both* ***intra****state and* ***inter****state commerce. Your authority to operate is the certificate you receive from PHMSA once you register and pay the fee. A current certificate must be kept in the cab of each HAZMAT vehicle at all times. If you are subject to a roadside inspection or DOT audit and do not have a current certificate your authority to operate will be revoked and you could be fined up to $77,000 per day, per violation.*

**Q. Why is the U.S. DOT collecting the fee?**

***A. Emergency Response Funding*** *-The money collected from the registration program is given back to state emergency response authorities in the form of training grants for fire and police and emergency preparedness organizations.*

**Q. How Do I know my registration is current or not?**

***A. Registration Look-up*** *- Registration status may be checked on line by clicking here: Registration Look-Up. Enter either your company name, U.S. DOT number or zip code in the data fields provided to check whether your HAZMAT registration certificate is current.*

**Q. How do I register?**

***A. Registration Options*** *- There are several ways to register:*

- ***U.S. Mail*** *- You must register by filling out the 2017-2018 registration application and sending it by U.S. Mail to PHMSA (along with the required fee). PHMSA generally mails new registration forms out to all registrants. If you have not yet received a form for the 2017-2018 registration year, one may be found by clicking here: 2017 Registration Form.*
- ***Online Registration*** *- On-line registration is available by clicking here: Online Registration. On-line registration allows you to register, pay the fee and download your operating certificate.*

**Q. When is the HAZMAT registration deadline?**

***A. Deadline*** *- July 1, 2017 for those who have expiring certificates. Since registrations can be multiyear, not all certificates will expire on July 1. Check the expiration date on your HAZMAT certificate or information in the Registration Look-Up link above before registering by mail or online.*

**Q. What documentation should I put in my trucks after July 1, 2017?**

***A. Certificate Documentation*** *- Place a photocopy of the updated certificate in the cab of each HAZMAT motor vehicle by July 1, 2017.*

**Q. How much is the annual HAZMAT registration fee?**

***A. Two-Tiered Fee System*** *-The annual registration fee is based on business size:*

- ***Small Business Registration Fee*** *- For registration year 2017-2018 the fee for small businesses is $275 for one year; $525 for two years (2017-2019) and $775 for three years (2017-2020).*
- ***Large Business Registration Fee*** *- For registration year 2017-2018 the fee for large businesses is $2,600 for one year.*

**Q. How do I determine the size of my business so I know which fee to pay?**

***A. Business Size Calculation for Determining the Fee Amount -*** *It is very likely that your business qualifies for the* ***lower*** *registration fee. Determining size is left up to the company applying for the registration certificate. PHMSA follows Small Business Administration (SBA) size categories to classify whether a business is large or small for the purposes of determining the amount of the annual registration fee. The SBA determines business size according to NAICS (North American Industrial Classification System) codes based on either the number of employees in the company or on annual gross receipts. The following NAICS codes and size criteria apply when calculating which fee to pay:*

- ***2017 REVISED NAICS 493190 – Bulk Petroleum Storage (Bulk Plants)*** *- Petroleum marketers in this category sell at retail and are considered small businesses and must pay the $275 fee if the company employs fewer than 200 employees.*
- ***2017 REVISED NAICS CODE 454310 - Heating Oil Dealers Selling Directly to Retail Customers:*** *Heating oil dealers in this category are considered small businesses and must pay the $275 fee if the company employs fewer than 100 employees.*
- ***2017 REVISED NAICS CODE 454310 - Liquefied Petroleum Gas Dealers Selling Directly to Retail Customers:*** *Propane dealers in this category are considered small businesses and must pay the $275 fee if the company employs fewer than 100 employees.*
- ***2017 REVISED NAICS CODE 424710 - Petroleum Bulk Terminal: Wholesale Operations -*** *Petroleum marketers in this category sell to other merchants at wholesale. These facilities are considered small businesses and must pay the $275 fee if the company employs fewer than 200 employees.*
- ***2017 REVISED NAICS CODE 424720 - Petroleum and Petroleum Product Wholesalers (no bulk storage):*** *Petroleum marketers in this category are considered small businesses and must pay the $275 fee if the company employs fewer than 200 employees.*

  Click here for 2017 revised NAICS Code: 2017 NAICS Codes

**Q. Where can I call if I have questions regarding registration filing?**

**A. Questions -** For filing questions, call the **U.S. DOT Hazmat Hotline (202)-366-4109.** For regulatory questions contact **Mark S. Morgan PMAA Regulatory Counsel at mmorgan@pmaa.org.**

## JUDGE SETS HEARING DATE ON TRUMP'S 2-FOR-1 REGULATORY ORDER

In February, Public Citizen, the Natural Resources Defense Council and the Communication Workers of America filed a lawsuit challenging President Trump's executive order requiring agencies to identify two regulations to revise or repeal for every new regulation written. Late last month, Judge Randolph Moss of the U.S. District Court for D.C. rejected the Trump administration's request that he decide whether to dismiss the lawsuit on procedural grounds before considering arguments against the order itself, therefore meaning the case would proceed.

This week, Judge Moss announced that the date of the hearing would be August 10. Since the judge decided not to hear the Justice Department's argument last month that the lawsuit should be dismissed as premature before moving on to the groups' main arguments, Judge Moss will now hear both the arguments about whether to dismiss the case, and the main argument about whether the order is unlawful.

NATURAL GAS PIPELINE BILLS APPROVED BY HOUSE ENERGY SUBCOMMITTEE

On Thursday, the House Energy and Commerce Energy Subcommittee approved H.R. 2910, Promoting Interagency Coordination for Review of Natural Gas Pipelines Act, which would boost interagency cooperation when siting interstate natural gas pipelines. Another natural gas pipeline bill, H.R. 2883, Promoting Cross-Border Energy Infrastructure Act, would replace the presidential permitting process for pipelines that cross international boundaries. Specifically, the Federal Energy Regulatory Commission (FERC) would be required to approve or deny an application for certificate of crossing for

the border-crossing facility consisting of oil or natural gas pipelines within 120 days of an environmental review.

PMAA is concerned with the expansion of natural gas pipelines. Rather than deregulate the natural gas pipeline permitting process, Congress should require that regulators and gas companies increase system efficiency by requiring that the thousands of miles of existing natural gas pipelines that are aging or obsolete be repaired or replaced. The capacity demands of the region's power generators can be more than met through proper utilization, maintenance and upgrading of existing natural gas pipelines and proper planning that includes the use of affordable and abundant fuel oil during periods of peak or unanticipated demand.

## FEDERAL COURT ENVIRONMENTAL REVIEW ORDER THREATENS DAKOTA ACCESS PIPELINE

A federal judge in Washington, D.C. ordered the Trump Administration to conduct further environmental reviews of the Dakota Access pipeline but stopped short of halting oil-pumping operations pending further hearings beginning June 21. The decision is a limited victory to Native American tribes in North Dakota that challenged the administration's effort to speed the project. The court found that while the Army Corps of Engineers "substantially complied" with federal environmental laws, "it did not adequately consider the impacts of an oil spill on fishing rights, hunting rights, or environmental justice, or the degree to which the pipeline's effects are likely to be highly controversial."

The ruling comes just weeks after Dallas-based Energy Transfer Partners began pumping crude oil through the 1,170-mile line carrying North Dakota oil through South Dakota and Iowa to a distribution point in Illinois. Four Sioux tribes in the Dakotas have asked the court to shut down oil-pumping operations. In February, the court rejected a request from the Sioux tribes to halt the pipeline due to potential archaeological damage and desecration of religious sites including the Missouri River and Lake Oahe. The latest court challenge was triggered by one of President Trump's executive orders, directing the corps to expedite approval and drop an Obama era environmental impact study. The tribes and environmental groups said the administration's actions violate administrative procedure and treaty obligations. Tribal leaders say their environmental concerns have grown more urgent now that the pipeline is operational. The legal challenge facing the pipeline is just one of many lawsuits filed against the Trump Administration's effort to rollback federal regulations.

## U.S. DOT PHMSA ADJUSTS MAXIMUM CIVIL PENALTIES FOR INFLATION

The Pipeline and Hazardous Materials Safety Administration (PHMSA) issued a Final Rule to revise its regulations and increase the maximum civil penalty amount for violations of the Federal hazardous materials safety law. Under the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, which further amended the Federal Civil Penalties, Inflation Adjustment Act of 1990, federal agencies are required to adjust their civil monetary penalties each year to account for changes in inflation. The maximum civil penalty for a knowing violation is now $78,376, except that the maximum civil penalty is $182,877 for a violation that results in death, serious illness, or severe injury to any person or substantial destruction of property. In addition, the minimum civil penalty amount of $471 applies to a violation relating to training. Federal agencies are required to adjust their civil monetary penalties effective August 1, 2016, and then annually thereafter, to account for changes in inflation. The new civil penalty rate is retroactive to April 19, 2017.

## ROBERT COLEMAN SR. PASSES

WPMA is saddened to report the passing of Robert Coleman Sr., 89, retired owner of Coleman Oil in Lewiston, Idaho.

Robert, or Bob, as he was known to most people, died Monday, June 12, 2017, at St. Joseph Regional Medical Center in Lewiston. Bob grew up in Walla Walla Washington, attending Walla Walla High School and Whitman College. He married his wife Shirley on July 30, 1950 in Spokane, Washington.

Bob started in the petroleum business in 1953, when he and Shirley moved to Craigmont, Idaho to work as a distributor for Standard Oil Company of California. In 1959, Bob was offered the distributorship in Lewiston, Idaho, and he moved his wife and two children, Lynne and Bob Jr., there shortly after. The entire family worked in the new business. From those early start-up days, with six employees, Coleman Oil grew to become a major presence in the Valley. When Bob retired in 1992 and turned the reins over to Bob, Jr., Coleman Oil had grown to some 60 employees.

Bob was active in community organizations and his church, he served on the Board of First Bank, and he was known for his philanthropic support. He also cared about the natural world, and nurtured their forest property near Anatone. Family was important to Bob – his wife, children and grandchildren, Coleman Oil, and the community were all considered family to Bob.

A memorial service remembering the life of Robert S. Coleman, Sr., will be held at 12 noon on Saturday, July 1, 2017, at Malcom's Brower-Wann Funeral Home,1711 Eighteenth Street, Lewiston, Idaho, 83501. In lieu of flowers, family and friends are encouraged to make a donation to the LCSC Foundation, Fred and Katie Tautfest Scholarship Endowment. Checks can be mailed to the LCSC Foundation, 500 8th Ave., Lewiston, Idaho, 83501.

The Board and Staff of WPMA extend our heartfelt condolences to the Coleman family at this difficult time.

# PLAN TO ATTEND THE 2018 WPMAEXPO

Mark your calendars for February 20-22, 2018. Make plans now to attend the 2018 WPMAEXPO.
It will be held once again at the Mirage in Las Vegas, Nevada.

## MARK YOUR CALENDARS FOR UPCOMING EVENTS

**August 2-4, 2017** – Idaho (IPM&CSA) Convention – Sun Valley Resort – Sun Valley, Idaho
**August 21-23, 2017** – New Mexico (NMPMA) Convention – Sandia Resort – Albuquerque, New Mexico
**August 30, 2017** – Idaho(IPM&CSA) PAC Golf Tournament, Huntsman Springs GC, Driggs, Idaho
**September 13-15, 2017** – Utah (UPMRA) Convention – Zermatt Resort – Midway, Utah
**October 5, 2017 –** Hawaii (HPMA) Golf Tournament – The King Kamehameha GC, Wailuku, Hawaii

**February 20-22, 2018** – WPMA Convention & Expo – Mirage Hotel– Las Vegas, Nevada
**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

## 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: "*I'm great at multitasking. I can waste time, be unproductive, and procrastinate all at once.*"**