

July 05, 2013

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WP-07-05-13

### **ACA DELAY WELCOMED BY INDUSTRY**

On Tuesday this week, the Obama Administration made a major announcement regarding the imposition of penalties on "large employers" that do not provide health insurance or adequate coverage to their employees in 2014. Imposition of the penalties will be delayed one year and will not be enforced until 2015. The Affordable Care Act (ACA) defines large employers as having more than 50 full time employees.

This is very good news for those petroleum marketing companies who were being forced to convert many full-time employees to part-time status. Some large companies already provide required coverage voluntarily, but some industries, particularly restaurant, convenience store and service companies with significant numbers of lower-wage workers faced unsustainable new costs. New IRS regulations related to the delay will be published.

### **REPORT SHOWS DRAMATIC INCREASE OF EPA POWER**

A report by the American Legislative Exchange Council (ALEC) released last week found that during the Obama Administration the EPA has dramatically increased its power.

ALEC reports that the power increase and EPA infringement on states has occurred via sue and settle lawsuits, state adoption of federal implementation plans, and thru regulatory disapprovals. Sue and settle suits involve a practice of "...friendly lawsuits that go straight to settlement discussions, during which the EPA and the environmentalist litigants negotiate policy." The number of sue and settle suits during Obama's first term are 380 percent higher than the rate of similar agreements over the past three four -year administrations and have resulted in \$13 billion in annual regulatory costs since 2009.

The direction of the report is, "EPA is replacing cooperative federalism with command and control... Since 2009, EPA regulatory disapprovals are up 190 percent relative to the average during the previous three presidential terms. EPA takeovers of state programs are up 2,750 percent." There is review in the report of EPA's expected decision to revise the National Ambient Air Quality Standard (NAAQS) for ozone which "would plunge up to 96 percent of the country into a classification known as NAAQS-nonattainment, one of the harshest possible regulatory programs." EPA involvement in oversight of state fracking is also laid out in the report.

There is an effort by House and Senate conservatives to build momentum for the "Sunshine for Regulatory Decrees and Settlements Act" (H.R. 1493, S. 714), which would limit rulemakings conducted in response to sue and settle lawsuits.

Click [here](http://alec.org/docs/EPA_Assault_State_Sovereignty) ([http://alec.org/docs/EPA\\_Assault\\_State\\_Sovereignty](http://alec.org/docs/EPA_Assault_State_Sovereignty)) to read the ALEC report and its model state policy, The U.S. Environmental Protection Agency's Assault on *State Sovereignty*.

### **NCWM TO MEET THIS MONTH**

The National Conference on Weights and Measures (NCWM) will hold its 2013 Annual meeting in Louisville, Kentucky on July 14 – 18th. Items on the agenda important to petroleum marketers are product labeling description requirements, a potential 10 micron diesel dispenser filter mandate, diesel gallon – natural gas equivalent comparison and an auto trade group effort to prohibit the sale of 85 octane gasoline.

At the NCWM Interim Meeting in January 2013, NCWM Laws and Regulations (L&R) Committee agreed to PMAA's recommendation to withdraw an item which would mandate gasoline and diesel product labels on each dispenser nozzle cover. After hearing from industry groups, NCWM officials withdrew the item given that there was no evidence that the proposal would help mitigate vehicle misfueling. Although the L&R Committee withdrew the item, the full NCWM Board needs to vote to officially withdraw the item from consideration at the annual meeting.

The NCWM L&R Committee also left a vehicle manufacturers' backed item on the agenda which would mandate a 10 micron or smaller sized filter on all diesel dispensers. The item was left as "informational" meaning that the item can't be voted on at the annual meeting, but will still be left on the agenda for future consideration. PMAA urged the L&R Committee to withdraw the item and questioned whether NCWM was attempting to go beyond their scope of mission, which is the "development and implementation of uniform and equitable weights and measures standards." For now, the issue is delayed for another six months which will allow time for industry stakeholders to come up with a consensus solution.

The NCWM Specifications and Tolerances (S&T) Committee will also be examining the gasoline gallon equivalent (GGE) unit of light-duty natural gas vehicles with equivalent gasoline powered vehicles to allow motorists to readily compare costs

and fuel economy. The item is currently “informational” which means it can’t be approved this summer. The NCWM has created a working group to analyze the issue. PMAA will continue to monitor the latest developments.

Finally, auto manufacturers have put forth a proposal to prohibit the sale of 85 octane gasoline. Several PMAA associations with mountain or high elevation regions where 85 octane is sold are opposed to this change. Marketers are concerned that this change would impact consumer choice at the pump and there’s no evidence that 85 octane causes vehicle performance and maintenance issues. The item was heavily contested at the NCWM Interim meeting in January 2013. The L&R Committee reported this item as ‘informational’ meaning that it can’t be voted on by the full NCWM Board this month, but it will be left on the agenda for future consideration. Currently, the Coordinated Research Council (CRC) and ASTM are reviewing the proposal and many groups argued that NCWM should wait until the CRC study is completed before moving forward. A request was made at the Interim meeting that in the event the item moves to voting status that a provision be included which would allow a multi-year phase-in period to allow affected refiners time to adjust.

### **PLEASE MAKE YOUR HOTEL RESERVATIONS NOW FOR THE PMAA FALL MEETING OCTOBER 11-12**

PMAA will hold its Fall Meeting in conjunction with the NACS Show on October 11-12 at Hyatt Regency Atlanta. Please view the [Conference Schedule](http://www.pmaa.org/weeklyreview/attachments/ConferenceSchedule2013.pdf) (<http://www.pmaa.org/weeklyreview/attachments/ConferenceSchedule2013.pdf>) for PMAA’s Fall Meeting. Housing registration closes September 10, 2013 or when hotels are at capacity, whichever comes first.

PMAA’s Fall Meeting Registration can be found [here](http://www.pmaa.org/pmaameetings/upcomingmeetings.asp) (<http://www.pmaa.org/pmaameetings/upcomingmeetings.asp>) along with NACS Housing Reservations and the NACS Show information. The NACS Show registration is separate from the PMAA Meeting Registration and the NACS Show early bird registration closes July 31st!

### **REMINDER! COMPLIANCE DEADLINE FOR NEW DOT HOURS OF SERVICE REQUIREMENTS EFFECTIVE JULY 1, 2013**

The U.S. DOT’s Federal Motor Carrier Safety Administration (FMCSA) issued a final rule in December 2011 that amends CDL/HAZMAT driver hours of service (HOS) regulations. The compliance deadline for the new HOS provisions is July 1, 2013. The 11-hour daily maximum driving limit and the 14-hour maximum daily driving “window” remain unchanged under the new rules. However, there are several significant changes affecting petroleum marketers that go into effect July 1, 2013.

**Mandatory 30- Minute Rest Period:** Under the new HOS rule beginning July 1, 2013, a driver must take a 30-minute break if more than 8 consecutive hours have passed since the last off-duty period. Drivers may not drive after the 8th hour without taking the 30-minute break. The new 30-minute break provision reduces the 14-hour driving window to just 13.5 hours per day (if the driver is driving after the 8th hour on duty). Meal breaks or any other off-duty time of at least 30 minutes qualifies as a break.

**Mandatory 34-Hour Rest Period to Restart Driver’s Work Week:** The new rule limits when and how often a driver can “restart” the work week using the 34-hour restart provision. Under the new regulations, the 34-hour restart period to include two periods between 1:00 a.m. to 5:00 a.m. to allow drivers the opportunity to sleep according to their natural circadian rhythms. The two 1:00 a.m. to 5:00 a.m. periods need not be consecutive. This change will likely force drivers who work overnight to be off duty for longer than 34-hours in order to get a valid restart. The new rule also limits the use of the restart period to once during any 168-hour period. Finally, if the driver has multiple 34-hour periods off within a 7-day period, the driver must indicate in log book or on time records which one of the 34-hour periods is being counted as the official restart. The new restart limitations effectively reduce the maximum number of hours a truck driver can drive during a work week from 82 hours to 70 hours.

**New Definition of “Egregious” Violations:** Companies and drivers that commit egregious violations of the rule could face the maximum penalties for each offense. Trucking companies that allow drivers to exceed the 11-hour driving limit by 3 or more hours could be fined \$11,000 per offense, and the drivers themselves could face civil penalties of up to \$2,750 for each offense. This rule allows, but does not require, the agency to treat these violations as egregious. An “egregious” offense negatively impacts carrier safety rating scores.

[Click here](http://www.fmcsa.dot.gov/rules-regulations/topics/hos-final/hos-final-rule.aspx) (<http://www.fmcsa.dot.gov/rules-regulations/topics/hos-final/hos-final-rule.aspx>) for additional information.

### **REMINDER! DEADLINE FOR ANNUAL DOT HAZMAT REGISTRATION IS JULY 1, 2013 FOR EXPIRING CERTIFICATES**

The deadline for the U.S. DOT’s 2013-2014 annual HAZMAT registration period is July 1. Petroleum marketers who transport petroleum products must register and pay a fee in return for operating authority in the upcoming year. Only marketers with expiring HAZMAT certificates must register and pay the required fee in return for the 2013-2014 registration period. For last minute HAZMAT registration [click here](#).

Registration fees can be paid on line via credit card. The DOT is reducing the 2013-2014 HAZMAT registration fee for small business registrants to \$125 (plus a \$25 processing fee). For all other businesses the 2013-2014 registration fee is reduced to \$1300 (plus a \$25 processing fee). The fee reduction is effective for the 2013-2014

registration year only. After the 2013-2014 registration year the annual HAZMAT fees will return to \$275 (plus a \$25 processing fee) for small businesses and \$2,575 (plus a \$25 processing fee) for all other businesses. Most petroleum marketers qualify as a small business for purposes of HAZMAT registration. PHMSA will issue a refund to those marketers who have already prepaid their 2013-2014 registration through the multiyear registration option available to all registrants. The DOT will only issue refunds through ACH (electronic check) deposit into a registrant's bank account. Application for a refund can be made online ([Registration Refund Application](https://hazmatonline.phmsa.dot.gov/RegistrationRefund/Default.aspx?ReturnUrl=/RegistrationRefund/CompanyDetails.aspx)) (<https://hazmatonline.phmsa.dot.gov/RegistrationRefund/Default.aspx?ReturnUrl=/RegistrationRefund/CompanyDetails.aspx>)).

### **2014 WESTERN PETROLEUM MARKETERS CONVENTION & CONVENIENCE STORE EXPO LAS VEGAS, NEVADA**

Start planning now to attend the 2014 WPMA Convention and Convenience Store Expo. It will be held at the Mirage in Las Vegas, Nevada. Mark your calendars for **February 18-20, 2014**.

### **MARK YOUR CALENDARS FOR UPCOMING EVENTS IN 2013**

**July 31-August 2, 2013** - Idaho (IPM&CSA) Convention - Sun Valley Resort - Sun Valley, Idaho

**August 27-29, 2013** – New Mexico (NMPMA) Convention – Albuquerque Marriott Pyramid North, Albuquerque, NM

**September 12-13, 2013** - Utah (UPMRA) Convention - Zermatt Resort - Midway, UT

Petro Pete: *"I've been around the block a few times. I forgot where I live."*

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