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PMAA COMPLIANCE BULLETIN: DEADLINE TO FILE CLAIMS FOR RETROACTIVE BIODIESEL BLENDER CREDIT AND ALTERNATIVE FUEL CREDITS IS AUGUST 11, 2020

Earlier this year the IRS issued a special one-time claim procedure ([IRS Notice 2020-8](#)) for the \$1.00 per gallon biodiesel blender credit and the 50 cents per gallon alternative fuel and alternative fuel mixture credits. The credits were reinstated retroactively for calendar years 2018 and 2019 under the Taxpayer Certainty and Disaster Tax Relief Act of 2019 (the Act). The special procedures allow a one-time single filing for credits and payments covering the entire 2018 and 2019 claim period. Congress reauthorized the biodiesel blenders credit through December 31, 2022 and alternative fuel and the alternative fuel mixture credits through December 31, 2020. Only credits generated from blends created during calendar years 2018 and 2019 are subject to the retroactive filing procedures.

Click [here](#) to read the full PMAA Compliance Bulletin.

IRS EXPERIENCING DELAYS PROCESSING MOTOR FUEL EXCISE TAX AND BIODIESEL/ALTERNATIVE FUEL MIXTURE CLAIMS

PMAA this week expressed concern to the IRS over the lengthy delays many fuel marketers and heating fuel dealers are experiencing with the processing of their motor fuel excise tax and blender mixture credit claims. According to the IRS, the claims process has been slowed significantly by the COVID-19 emergency. A larger than normal number of IRS claim processing employees are either ill, in quarantine or caring for ill family members. The claims affected by the processing delay include:

- IRS Form 8849, *Claim of Refund of Excise Taxes*
- IRS Form 720 Schedule C, *Biodiesel & Alternative Fuel Credits (taken against existing FET liability)*
- IRS Form 8864, *Biodiesel and Renewable Diesel Mixture Credit (credit for tax year in which the sale or use occurred)*
- IRS Form 6426, *Alternative Fuel Mixture Credit (credit for tax year in which the sale or use occurred)*
- IRS Form 4136, *Credit for Excise Tax Paid on Fuel (credit for current income tax year)*

The IRS explained there is no way for taxpayers to track the progress of their claims at this time. Claims are processed in the order in which they were received on a first-in/first-out basis. Processing is currently running 2 to 3 weeks behind schedule, sometimes longer according to the IRS. The IRS is urging patience and expects the backlog to be cleared up shortly. In the meantime, PMAA reminds marketers that the IRS must pay interest on claims sent by mail that are not paid 45 days after receipt or 20 days in the case of claims sent electronically. By law, the interest rate the IRS must pay on both overpayment and underpayment of tax is adjusted quarterly. For the second quarter, which ends on June 30, 2020, the interest rate is 5% per year, compounded daily. For the third quarter, which ends on September 30, 2020, the interest rate is 3% per year, compounded daily.

URGE HOUSE LAWMAKERS TO COSPONSOR THE “GET AMERICA BACK TO WORK ACT”

Last week, Reps. Henry Cuellar (D-TX) and Garrett Graves (R-LA) introduced important bipartisan legislation known as the “Get America Back to Work Act” (H.R. 7528) which provides reasonable liability protection to businesses from COVID-19 claims provided they made good faith efforts to comply with federal, state and local guidance or appropriate industry standards. The bill does not provide liability protection in cases where there is willful or criminal misconduct or gross negligence to the safety of an individual. The covered period under the bill runs from January 1, 2020 to 18 months after the end of the emergency period and would apply to claims made before enactment.

PMAA fully supports this bill. PMAA urges you to reach out to House lawmakers by clicking [here](#).

EPA ADMINISTRATOR SAYS OZONE STANDARD WILL NOT BE RAISED

This week, EPA Administrator Andrew Wheeler announced that the agency will not raise the current National Ambient Air Quality Standards (NAAQS) for ozone. Wheeler said the agency will keep the 70 parts per billion (ppb) that was set in 2015 by the Obama Administration after data showed that ozone concentrations fell 4 percent between 2017 to 2019. In 2015, the Obama Administration reduced the ozone standard from 75ppb which was set in 2008. Under the Clean Air Act, the EPA is required to set NAAQS every 5 years.

In a statement, Administrator Wheeler said, “Under President Trump, the U.S. has made significant progress in reducing ozone concentrations across the nation. Based on a review of the scientific literature and recommendation from our

independent science advisors, we are proposing to retain existing ozone standards which will ensure the continued protection of both public health and the environment.”

15 STATES SIGN MOU TO ELECTRIFY THE TRANSPORTATION SECTOR

Biden Releases New, More Aggressive Plan

This week, 15 states and D.C. signed a memorandum of understanding (MOU) to encourage a 100 percent zero emissions market for medium- and heavy-duty vehicles by 2050, with a 30 percent zero-emission vehicle sales target by 2030.

In addition to D.C., states that signed the MOU are California, Colorado, Connecticut, Hawaii, Maine, Maryland, Massachusetts, New Jersey, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, Washington and Vermont. The group plans to coordinate through the Zero Emissions Vehicle (EMV) task force that is run by the Northeast States for Coordinated Air Use Management.

Although the MOU is not legally binding, it does call on the task force to develop an action plan within six months, and the states will be required to report medium- and heavy-duty vehicle registration data in order to track progress. In 2025, the states will assess their progress and determine whether to adjust the 2030 interim target.

The MOU also relays the states’ concerns that emissions from buses and trucks are an unaddressed environmental justice problem that disproportionately impacts communities located near ports and distribution centers.

Unfortunately, the MOU fails to report that there is no such thing as a “zero emission” vehicle. While EVs do not have tailpipe emissions, they are charged using electricity generated at local power plants, which do produce emissions. Furthermore, manufacturing the battery for an EV requires tremendous amounts of energy, and EV battery recycling is tedious and difficult. Without the ability to be recycled, EV batteries risk offsetting any environmental benefits by contributing more waste. The bottom line is that a vehicle’s total emissions should account for its entire life cycle: production and resourcing, lifetime usage, and end-of-life disposal after use.

Meanwhile, on Tuesday, Joe Biden announced a further left leaning and more aggressive shift toward cutting the use of fossil fuels. Biden’s new plan calls for investing \$2 trillion over four years on clean energy and setting a 100 percent clean electricity standard by 2024. Just last year Biden’s plan called for \$1.7 trillion over 10 years.

FDA ORDERS RETAILERS TO STOP SELLING 13 TOBACCO PRODUCTS

This week, the FDA said that certain tobacco products from R.J. Reynolds Tobacco Co., U.S. Smokeless Tobacco Co. and Heritage Tobacco LLC can no longer be distributed, imported, sold, marketed or promoted in the United States. Click [here](#) for the story.

PMAA SUPPORTS TAX CREDIT FOR BUSINESS EXPENSES RELATED TO COVID-19

This week PMAA joined other business groups in sending House and Senate Leadership a [letter](#) in support of bipartisan efforts to include a business tax credit for coronavirus protective measure language in the next stimulus bill.

There are multiple bipartisan bills (S 4178, HR 7079, HR 7222, HR 7216, and others not yet with a bill number) in both Chambers that include such a credit, including the Healthy Workplace Tax Credit introduced by Rep. Tom Price (R-SC) on Wednesday.

A tax credit would ensure that businesses and nonprofits already struggling financially can cover a portion of these critical, yet unexpected expenses related to COVID-19. As part of the business coalition, PMAA requested that the credit should cover cleaning and workplace safety-related costs, including staff training; applicable building certifications; purchasing necessary cleaning, sanitation, and disinfection-related products and equipment; as well as the hiring of a professional company to clean, sanitize, and disinfect, personal protection equipment, and other expenditures associated with maintaining a healthy physical workplace, including those necessary to comply with federal, state, and local guidelines, as well as industry best practices. Further the structure of the tax credit should be neutral in terms of business type, based on estimated average increased costs—at least \$25,000 per location, can be applied against qualified expenses incurred over at least the next nine months, and eligible for carryover (if general business credit) to the next year, where the taxpayer has a tax liability or refundability (if a payroll tax credit).

STATE COVID-19 WORKPLACE SAFETY MANDATES

On Wednesday, Virginia became the first state to enact mandated COVID-19 workplace safety measures. Virginia’s “Emergency Temporary Standard” (16 VAC 25-220) will apply to all Virginia businesses regardless of size and is anticipated to go into effect the week of July 27 (under state procedure it will go into effect when it is published in a Richmond newspaper). Unless further modified, the requirements will remain in effect until six months after the end of the Governor’s declared state of emergency.

Many parts of the Temporary Standard reflect and incorporate the advice and best practices being promoted by the Centers for Disease Control (CDC) and other public health agencies and experts – however, in Virginia employers will now face potential penalties for non-compliance. These provisions include requiring employers to have a system in place to identify and exclude symptomatic employees and to provide for their safe return after a COVID infection, requiring employers to notify certain groups of people after an employee has tested positive for COVID, and requiring employers to enforce specific physical distancing, PPE use and cleaning procedures. Virginia employers that are operating what are classified as a medium or high-risk work environments will also need to develop an infectious disease preparedness and response plan within 60 days of the Standard going into effect. Finally, the Standard prohibits employers from discriminating or taking action against an employee who raises a “reasonable concern” regarding the spread of COVID-19 – whether the concern is raised to the employer or a third party (such as a state or federal agency or the media).

While Virginia is the first state to make this move, it is not anticipated to be the last. Oregon has announced that it has a similar plan in the works which will be reviewed later this month and other states are likely to follow suit. These efforts are largely seen as a response to the fact that, while OSHA has issued discretionary guidance, it has not answered calls by employee groups to issue any COVID-19 specific mandatory rules.

In the face of state workplace safety mandates, many employers may be concerned about penalties and multi-state compliance issues. However, beyond a general interest in protecting public health and preventing further shutdowns, detailed safety requirements like Virginia’s may have a bright side for businesses when it comes to protecting against liability. An enormous concern for businesses as they reopen has been the potential for COVID-19-related claims by employees and third parties. It is difficult to predict exactly what form these claims may take. However, for a claim like negligence, it is easy to imagine how difficult it would be for a claimant to argue that a business failed to take necessary and appropriate measures to reduce the risks of COVID-19 where the business was in full compliance with detailed government requirements intended to do just that.

Further, on the issue of business liability, Senate Majority Leader McConnell said this week that the Senate’s next COVID-19 related legislation will include some form of liability shield for COVID-19 claims. This is a priority that PMAA has supported and advocated for. Click [here](#) to read the story.

WPMA COVID-19 - CRITICAL REFERENCES FOR MEMBERS

Please visit our web site for up-to-date information related to your business and the COVID-19 pandemic. You will find the link on our home page at www.wpma.com.

MEMBERS AND ASSOCIATES - YOU CAN CONTRIBUTE!

WPMA welcomes industry-related articles for publication in the WPMA News magazine. All members and associate members of WPMA are eligible to submit items for publication. Articles will be included as space allows, and no self-promoting articles or editorials will be accepted. WPMA reserves the right to edit and make adaptation of such contributions to accommodate the magazine’s space and style. Please submit articles or content to Jan Roothoff, WPMA Administration/IT Director at janr@wpma.com, or mail to Jan Roothoff, Western Petroleum Marketers Association, PO Box 571500, Murray, UT 84157-1500. Submissions for the Summer edition of WPMA News magazine are due before April 30th. Later submissions will be considered for the Fall issue.

WPMA EXPO

February 16-18, 2021. The Mirage Las Vegas, Nevada.

MARK YOUR CALENDARS FOR UPCOMING EVENTS

CANCELED July 19-21, 2020 - Oregon (OFA) Conference - Sunriver Resort - Sunriver, OR

POSTPONED TBD – Utah (UPMRA) Summer Golf Classic – Bountiful Ridge GC – Bountiful, UT

CANCELED August 5-7, 2020 – Idaho (IPM&CSA) Convention – Coeur d’ Alene Resort – Coeur d’ Alene, ID

CANCELED August 17-19, 2020 – New Mexico (NMPMA) Convention – Sandia Resort & Casino – Albuquerque, NM

NEW DATE August 24-26, 2020 – Washington (WOMA) Convention – Suncadia Resort – Cle Elum, WA

NEW DATE September 2-3, 2020 – Montana (MPMCSA) – Convention – Fairmont Hot Springs Resort – Fairmont, MT

CANCELED September 9-10, 2020 – Utah (UPMRA) – Convention – Sheraton Park City Hotel – Park City, UT

NEW DATE October 1-2, 2020 – Nevada NPM&CSA – Big Dogs- Red Rock Hotel & Casino - Las Vegas, NV

November 2, 2020 – Hawaii (HPMA) Golf Tournament – Oahu Country Club – Honolulu, HI

February 16-18, 2021 – WPMA Convention & Expo – Mirage Hotel– Las Vegas, NV

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Petro Pete: “I can tell when people are being judgmental just by looking at them.”

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