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TRUMP ADMINISTRATION COULD SOON ANNOUNCE POLICY ALLOWING YEAR-ROUND SALES OF E15***Grassley Supports RIN Credit Transparency***

President Trump is considering announcing a new policy while in Iowa next Tuesday that would allow year-round sales of E15. Top Trump administration officials are expected to meet at some point today to discuss the potential policy change. Currently, each year, the EPA regulates Reid vapor pressure (RVP) for gasoline and gasoline-ethanol blended from June 1 until September 15. During these months, the EPA restricts the retail sale of fuels with ethanol above 10 percent.

Midwestern Senators have been pushing for the policy change for months. However, on Thursday, a bipartisan group of twenty Senators wrote a letter to President Trump urging him not to announce the policy change allowing year-round sales of E15 because doing so "would do nothing to address the policies impacting refinery jobs, could hurt millions of consumers whose vehicles and equipment are not compatible with higher ethanol blended gasoline and risk worsening air quality." Furthermore, the Senators stated that the EPA doesn't have the legal authority to exempt E15 from Clean Air Act requirements and doing so would go against the long-standing EPA interpretation on E15.

It is expected that in addition to announcing the policy change on E15, President Trump will likely also announce reforms to the Renewable Identification Number (RIN) compliance credit market that would increase transparency by limiting the number of RINs traders can hold and also by limiting who can trade RINs. Sen. Chuck Grassley (R-IA) has been one of the strongest supporters of allowing year-round sales of E15. In a call with reporters yesterday, Sen. Grassley expressed his support for the potential policy change and said that "if the EPA is going to do something on transparency, that's very much welcome. And if position limits help fix some of the problems I am going to be OK with that, as well."

Small business petroleum marketers are placed in a precarious situation if E15 starts to take hold because of the potential economic impacts of adding E15 including the costs associated with existing UST system incompatibility with E10 plus blends. PMAA firmly believes that before the Trump administration or Congress proceeds any further on granting an RVP waiver to blends above E10, it must first hold a hearing on the effects of ethanol blends on existing underground storage tank system infrastructure. PMAA is preparing a letter to go to President Trump later today. It will outline our concerns, once again, with this proposal.

CALIFORNIA AFFIRMS CAR MILEAGE RULE

Last Friday, the California Air Resources Board (CARB) approved a rule to require that automakers must still comply with Obama-era federal vehicle emissions standards for cars sold in the state regardless of the Trump administration's effort to weaken the standards. The rule, known as the "deemed to comply" rule, is the state's way of pushing back against the Trump administration for considering revoking California's authority to set its own stricter standards. In a statement, CARB Chair Mary Nichols said California would "continue to work to keep a single national program," but that the vote "ensures that California and 12 other states will not fall victim to the Trump administration's rollback of vehicle standards should its proposal be finalized." Additionally, CARB sent letters to automakers asking them to provide CARB with their product plans, planned car and truck fleet greenhouse gas performance levels, projected credit bank balances, fleet and zero emission vehicle sales expectations for vehicles through model year 2025.

The decision comes just days after the Department of Transportation's National Highway Traffic Safety Administration (NHTSA) and the EPA's proposed Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021-2026 Passenger Cars and Light Trucks was published in the Federal Register that would freeze CAFE standards and corresponding greenhouse gas standards at 2020 levels and revoke the rights of individual states to adopt more stringent emissions standards.

NEW EPA GUIDANCE ON UST PIPE DOPE COMPATIBILITY REQUIREMENTS

The PMAA UST Task Force continues to express concerns with the EPA Office of Underground Storage Tanks (OUST) regarding E15 compatibility with pipe dope in UST systems. The 2015 EPA UST regulations require tank owners who intend to sell E15 to first demonstrate compatibility with specific UST system components. However, neither the rule nor EPA guidance says anything about whether pipe dope is included in the components requiring proof of compatibility. The issue is important since pipe dope brand names and specifications were not included on UST installation and repair paperwork until very recently. As a result, most tank owners do not know whether the pipe dope used in their UST systems is compatible with E15. Moreover, there is no way practical way for them to find out. The Task Force is concerned the lack of clarity in the regulations and agency guidance regarding pipe dope compatibility increases the risk of release from systems dispensing E15, and puts state Tank Funds in financial jeopardy.

Recently, the Task Force met with EPA OUST to express these concerns and request definitive written guidance that

would provide both tank owners and financial responsibility providers with clarity on the requirements for demonstrating pipe dope compatibility with E15. The EPA agreed with the need for such guidance and asked the Task Force for input.

Due to these efforts, EPA OUST recently issued written guidance on pipe dope compatibility that answers many of the Task Force concerns. It is important to note that the new guidance only applies to the 12 states without UST state program approval. The guidance does not apply to the remaining 38 states with state program approval. However, these states may, and often do, adopt EPA guidance into state regulations if they wish.

According to the new guidance, no affirmative compatibility demonstration is required for pipe dope. The reason for this is that pipe dope was not included on the specific list of components in the 2015 UST regulations requiring E15 compatibility demonstration. However, the original 1988 UST regulations require all UST components to be compatible with the product stored, including pipe dope. Consequently, while a tank owner is not required to affirmatively demonstrate pipe dope compatibility, the pipe dope must nevertheless be compatible before E15 is introduced into the system. If the tank owner has no proof of compatibility, then the pipe dope must be replaced with a compatible product before E15 is introduced into the system. The same pipe dope compatibility requirements apply to biodiesel blends greater than B20. Some states have adopted component compatibility check lists which must be completed before E15 is introduced into the system. It is not clear whether these checklists include pipe dope compatibility. However, most states have not addressed the pipe dope compatibility issue. The new EPA pipe dope compatibility guidance provides a definitive template for those states to follow.

The Task Force believes the guidance clarifies the pipe dope compatibility issue, will prevent the introduction of E15 into noncompliant UST systems, and provide state Tank Programs the tools needed to determine both risk and financial responsibility for UST systems dispensing E15 blends. The guidance puts the responsibility on the tank owner to make sure pipe dope is E15 compatible and have proof of compatibility should a release occur. Without such proof, the tank owner will be held liable for the release.

SBLC SENDS COMMENTS ON QUALIFIED BUSINESS INCOME DEDUCTION PROPOSED REGULATIONS TO IRS ***Technical Corrections to New Tax Law Could be Made During Lame-Duck Session***

In September, the IRS and the Department of Treasury released their eagerly awaited proposed regulations implementing the 20 percent deduction on "qualified business income" that pass-through businesses, including sole proprietorships, partnerships, trusts, and S corporations, can take under the 2017 tax reform law, known as the "Tax Cuts and Jobs Act." The majority of small businesses are organized as pass-throughs meaning that profits are passed on to the owner and reported on his/her individual tax return. The Section 199A deduction, commonly referred to as the pass-through deduction, will be available for tax years beginning after December 31, 2017.

The proposed regulations are intended to ensure that business owners receive the full pass-through deduction on business income up to a \$315,000 threshold for married couples and \$157,500 for single filers. However, the deduction is more limited for higher income businesses. Importantly for marketers, under the proposed regulations, companies will now be allowed to aggregate pass-through income from multiple sources as single business income.

Earlier this week, in response to the proposed regulations that were released last month, the Small Business Legislative Council (SBLC) submitted comments to the IRS outlining a few concerns with the proposed regulations. First, the SBLC said that it is worried about the overall complexity of the proposed regulations, saying that "while clarity is certainly necessary for businesses to navigate the new 199A regulations, the last thing that small businesses need are more highly complicated rules that they can only navigate with the guidance of outside counsel." Secondly, the SBLC stated that it had concerns with provisions of the proposed regulations related to the definition of a Specified Service Trade or Business, saying it "will further expand the disparity between C-corporations and pass through entities, and run counter to the intent of 199A." PMAA sits on the SBLC's Board of Directors and provides input on tax related issues facing petroleum marketers.

Finally, House Ways and Means Tax Policy Subcommittee Chairman Vern Buchanan (R-FL) announced this week that conversations about technical corrections to the "Tax Cuts and Jobs Act" have continued and he expects that many corrections will be passed into law during the upcoming lame-duck session. Although Rep. Buchanan didn't specifically mention that the bonus depreciation fix will be included in the package of corrections that Congress will soon vote on, it is expected to be included.

The "Tax Cuts and Jobs Act" that was signed into law last December contains a provision in Section 168 that provides retailers with the benefit of 100 percent bonus depreciation for qualified improvement property (QIP) acquired and placed into service after September 27, 2017. However, an error occurred when the final text was drafted that makes retailers ineligible for this benefit. In response, the Qualified Improvement Property Coalition, of which PMAA is a member, has been urging Congress to fix the drafting error.

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

October 25, 2018 – Hawaii (HPMA) Golf Tournament – Hapuna Beach GC, Kamuela, HI

February 19-21, 2019 – WPMA Convention & Expo – Mirage Hotel– Las Vegas, NV

May 2-3, 2019 – Nevada (NPM&CSA) – Big Dogs – Las Vegas, NV

June 4-6, 2019 – Montana (MPMCSA) Convention – Location – TBA

June 20, 2019 – Utah (UPMRA) Summer Golf Classic - South Mountain Golf Course, Draper, UT

June 17-20, 2019 – Washington (WOMA) Convention – Suncadia Resort, Cle Elum, WA

August 5-7, 2019 – Idaho (IPM&CSA) Convention – Sun Valley Resort, Sun Valley, ID

August 19-21, 2019 – New Mexico (NMPMA) Convention – Sandia Resort & Casino, Albuquerque, NM

September 11-13, 2019 – Utah (UPMRA) – Convention – Zermatt Resort, Midway, UT

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Petro Pete: “Failure is not falling down, it is not getting up again.”

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