

October 19, 2018

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WP-10-19-18

NPM&CSA MEMBERS: 1ST ANNUAL ROBBERY PREVENTION SYMPOSIUM

Presented by the Las Vegas Metropolitan Police Department

Partnering with the Community to Fight Crime!

When: November 7, 2018*

Where: LVMPD HQ, 400 S. Martin L. Blvd, Bldg. B in the Action Room

Agenda

7:30-8:00 a.m.: Coffee, Pastries served

8:00-8:15 a.m.: Invocation and Welcome, Captain Harry Fagel: Video on prevention

8:15-9:00 a.m.: Hostage! Special Guest Steve Angelo

9:00-9:10 a.m.: Break

9:10-9:30 a.m.: Break out Groups (Banks/Armored Trucks; Dispensary's/Pawn Shops; Convenience Stores)

9:30-11:00 a.m.: Groups led by detectives from LVMPD Robbery Section

11:00-11:10 a.m.: Break

11:10-12:00 noon Group reformed for discussion and networking

*PLEASE RSVP BY NOVEMBER 2ND TO BRIAN O'CALLAGHAN B5623O@LVMPD.COM

OR

(702) 828-5586

SHARON PETERSON ELECTED 2019 PMAA CHAIR

Sharon Peterson, Apple Oil Company, West Haven, Connecticut was elected 2019 PMAA Chair of the Board during PMAA's recent Fall Meeting at the NACS Show in Las Vegas, Nevada. In accepting the position, Sharon thanked the Board of Directors for their confidence in her and outlined some of her goals and objectives for next year which include improving efforts to educate the public and lawmakers about the important role liquid fuels serve in the marketplace. Peterson also plans to explore ways to engage and retain more women and men in the petroleum marketing class of trade to address the current driver labor shortage.

Additionally, Aaron Littlefield, Littlefield Oil Company, Fort Smith, Arkansas was elected as PMAA Vice Chair and Jimm Cross, Cross Petroleum, Redding, California was elected PMAA Second Vice Chair. Four regional leaders were also elected to the PMAA Executive Committee. They are: Michael Fields, Southeast Region Association Executive; **Rick Reese, Western Region Chair**; Matt Cota, Northeast Region Association Executive; and Matt Hauser, North Central Region Association Executive.

Sharon Peterson is co-owner and Treasurer of Apple Oil Company of West Haven, Connecticut, a family-owned home heating and home building company that was founded 61 years ago in 1957. In addition to their retail fuel distribution business, their company has built more than 1,000 homes in southern Connecticut, bringing home construction energy efficiency knowledge to the fuel distribution arena.

Sharon received her undergraduate degree from Yale University, and a master's degree from Stanford University. She is deeply committed to the liquid fuels industry and has served as past Chairwoman of the New England Fuel Institute (NEFI 2014-2016), and a past Chairwoman of the Connecticut Energy Marketers Association (CEMA 2011-2013) and continues to sit on CEMA's Executive Committee and Board of Directors. In her community, Sharon serves on the Board of Directors and was First Vice Chair of the Advisory Board for the Devereux School in Rutland, Massachusetts, and serves as a Corporator for the Worcester Art Museum.

GOP SENATOR INTRODUCES BILL TO EXPAND TAX CREDITS FOR ELECTRIC VEHICLES

While electric vehicle (EV) prices are typically about \$10,000 higher than equivalent gas- or diesel-powered cars, sales have been stimulated by the Plug-In Electric Drive Vehicle Credit (IRC 30D) which allows a maximum \$7,500 federal tax credit based on battery capacity when an EV is purchased. Currently, this credit phases out on a per manufacturer basis once that company has sold 200,000 EVs total for use in the U.S. According to Tesla, it reached the 200,000 threshold this summer and GM is expected to meet the number by the end of the year. To preserve the EV tax credit, Sen. Dean Heller (R-NV) introduced legislation recently that would lift the 200,000 EV cap and extend the credit through 2022. The legislation comes as Senate democrats introduced their own bill last month (S. 3449), the Electric Cars Act of 2018, which would extend the electric vehicle tax credit for 10 years.

Meanwhile, Sen. John Barrasso (R-WY), chairman of the Senate Committee on Environment and Public Works (EPW), introduced the "Fairness for Every Driver Act," which will save billions in taxpayer funds by ending the federal electric vehicle tax credits and will strengthen the Highway Trust Fund (HTF) by ensuring that alternative fuel vehicle drivers pay into it. Specifically, the legislation would: terminate and repeal; impose a federal highway user fee on alternative fuel vehicles; require that all user fees be collected with the user's tax return; and ensure the transfer of federal highway user fees into the HTF. "The electric vehicle tax credit largely benefits the wealthiest Americans and costs taxpayers billions of dollars," said Barrasso. "My legislation levels the playing field for all drivers across America. Gas, electric, and alternative fuel vehicles use the same roads. All should contribute to maintain them. My bill supports the Highway Trust Fund by making sure all drivers pay into the account that improves America's roads." The Manhattan Institute estimates that ending the electric vehicle tax credit would save roughly twenty billion dollars in taxpayer funds over the next decade. The "Fairness for Every Driver Act" will require a federal highway user fee on alternative fuel vehicles that will generate billions for the HTF over the next 10 years.

As the number of EVs grows, petroleum marketers will likely have to battle for a share of the electric vehicle charging market with utility companies that see EV charging as right up their alley. When utility companies install charging stations, they include that cost as part of their capital investment. After these costs are approved by governmental regulatory agencies, they are passed on to all ratepayers as part of their monthly electric bills. This means electric utilities are being allowed to enter a new business, fueling EVs, without any financial risk.

PMAA member states are very concerned with utilities using their rate base to pay for EV infrastructure expansion. PMAA believes this allows utilities an unfair competitive advantage over marketers and others who must economically justify at risk investments in new equipment like EV charging stations. This puts a financial burden on poor and middle-class consumers who must subsidize these stations but cannot afford EVs.

SENATE LEAVES WASHINGTON TO PREPARE FOR ELECTIONS

Congress Has Work to Do After it Returns

Late last week, Senate leadership reached an agreement to expedite consideration of several judicial nominees, so lawmakers could travel back to their states early to campaign. Congress is expected to return following the elections on November 13th.

In the Senate, Republicans currently have a 51-49 majority over Democrats. Of the 35 Senate seats up for reelection this year, Democrats are defending 26 seats and Republicans are defending 9 seats in which the Senate GOP is likely to gain a seat or two. In the House, Democrats need to gain a net of 23 seats to regain control of the majority.

After the elections, Congress must quickly get back to work during the "lame duck" session. Republicans have a packed agenda planned for after the elections because there is a chance it will be their only opportunity to pass legislation under a full Republican majority in Congress if Democrats retain the majority after the elections. Their top priorities include spending legislation, the farm bill (which currently includes a permanent reauthorization of NORA in the Senate version), a package to extend expiring tax breaks that will likely include corrections to the Tax Cuts and Jobs Act that passed last year and criminal justice reform. However, some of these items may not see the light of day if there is a partisan fight over funding for President Trump's proposed border wall, which remains a strong possibility.

However, what Congress accomplishes over the lame duck session will depend almost entirely on if there is a "blue wave" as some are expecting, and Democrats are successful in regaining the majority in the House. If Democrats regain the majority in the House, Republicans hopes of successfully completing their agenda will likely be dashed.

HOUSE DEMOCRATS SEND LETTER ASKING EPA TO STOP ISSUING RFS WAIVERS

On Monday, nineteen House Democrats sent a letter to the EPA urging the Trump administration to stop granting waivers to small refineries that exempt them from biofuel blending requirements under the Renewable Fuel Standard (RFS). The letter, led by Reps. Ruben Gallego (D-AZ) and Danny Davis (D-IL), states that the waivers have "cut blending targets by 2.25 billion gallons, contributing to higher gas prices and elevated levels of harmful emissions."

The lawmakers also urge the EPA to redistribute waived quotas to other non-exempt refineries. However, the EPA issued a proposed rule earlier this year that would increase total renewable fuel volume by 590 million gallons from 2018 to 2019 but does not force large refiners to make up for the gallons of obligated blending volume lost in 2018 due to these small refinery waivers. PMAA believes carrying those gallons over to large refiner obligated blending volumes for 2019 would cause an unlevel playing field in the marketplace.

In other news, the EPA is expected to propose a rule early next year to reset volumetric targets under the RFS for cellulosic biofuel, advanced biofuel and total renewable fuel for 2020-2022.

Under the statutory provisions governing the RFS program, EPA is required to modify, or reset" the applicable annual volume targets specified in the statute for future years if waivers of those volumes in past years met certain specified thresholds. Those thresholds have been met or are expected to be met soon. As a result, EPA will propose a rulemaking that will likely modify the applicable volumes targets for cellulosic biofuel, advanced biofuel, and total renewable fuel for the years 2020 - 2022. This may serve as an opening to reduce RVO requirements for future years.

REMINDER: EPA UST COMPLIANCE DEADLINE FOR NON-SPA STATES IN EFFECT

PMAA member states are advised that October 13, 2018 deadline is in effect for complying with the remaining underground storage tank (UST) requirements in the 2015 revised UST regulation.

PMAA Regulatory Counsel has drafted a regulatory report on what that means for the states with program approval and the states without program approval. While the EPA won't extend the compliance deadline, they have agreed to delay its enforcement in the event there is a shortage of contractors or equipment. The EPA said enforcement discretion would be given to those tank owners showing a "good faith effort" to comply by the deadline but are unable due to equipment or contractor shortage. Evidence of a good faith effort would be having a contract for compliance work in place by the October 13, 2018 deadline. It is important to understand that the October 13, 2018 deadline only applies in some states. Several states also have adopted a compliance deadline after October 13, 2018. The EPA's UST regulations allow states to adopt the October 13, 2018 federal compliance deadline or establish their own deadline any time thereafter, but no later than October 13, 2021.

PMAA will continue to work with the EPA and industry standard groups to develop guidance that offers additional compliance flexibility to states that choose to adopt them. Keep in mind that the EPA's Office of Underground Storage Tanks (OUST) issued guidance for alternative low-level hydrostatic testing for UST containment sumps used as secondary containment for piping that PMAA pushed earlier this year. The guidance helps state UST program regulators implement the EPA's 2015 underground storage tank regulatory amendments requiring periodic testing and inspection. PMAA developed this test as an inexpensive alternative to the EPA's hydrostatic test method for containment sumps which requires costly high-level liquid testing. Publication of the EPA guidance is important because it clears the way for PMAA's alternative test method to be approved for use by state UST program regulators.

TRUMP ADMINISTRATION ANNOUNCES PLANS TO ADDRESS JOINT EMPLOYER AND OVERTIME ISSUES

Earlier this week, the Trump administration released its fall regulatory agenda which indicates which rules federal agencies expect to work on over the next few months.

One of the items on the agenda that is important to marketers is the joint employer issue, which the Department of Labor (DOL) says it will work on by December. Business groups have been pushing Congress to rewrite the National Labor Relations Board (NLRB) standard for joint employment.

In March, the NLRB voted to vacate a December 2017 decision, Hy-Brand Industrial Contractors, Ltd. and Brandt Construction Co., which overturned the 2015 ruling that made it easier to hold companies liable for labor violations committed by their franchisees or contractors. The determination found that to be classified a "joint employer," a business must have a direct and immediate control over the employees in question. Browning-Ferris, issued under President Obama, said a business could be classified a joint employer even if its relationship to the employees in question were indirect.

Now the Browning-Ferris standard is back in place, making it easier for employers to be found jointly liable over an employee. However, late last year, the House passed the "Save Local Business Act," which would reverse the NLRB 2015 Browning-Ferris decision by narrowing the circumstances under which businesses can be classified a joint employer. Under Browning-Ferris, companies that exert only "indirect" control over franchisees may still be joint employers. The bill would revert to a standard of "direct" control. Following last year's finding, the legislation was not considered necessary except to prevent a future Democratic NLRB from switching back the rulemaking in the future.

A second item on the agenda that is important to marketers is the overtime rule issued under the Obama administration. According to the list, a new overtime rule will be proposed next March.

In July, the DOL issued a request for information on the Obama administration's 2016 overtime rule, meaning it was seeking public comments for the next 60 days. In the request for information, DOL acknowledged complaints from business groups that the Obama Administration's salary threshold was too high. The request solicited opinion on whether DOL should adjust the 2004 salary threshold of \$23,660 to inflation; whether there should be "multiple standard salary levels" based on the size of the employer, census region or other factors; whether there should be "different standard salary levels for the executive, administrative and professional exemptions"; whether the 2016 rule supplanted the duties test; whether the salary threshold should update automatically; and whether employers should rely only on a duties test "without regard to the amount of salary paid by the employer."

In September, the Small Business Legislative Council, of which PMAA is a member, submitted comments to DOL in response to its request for information regarding the overtime exemptions to the federal Fair Labor Standards Act. In its comments, the SBLC discussed its thoughts on the DOL's 2016 final overtime rules and provided feedback to the DOL on what it should do with the overtime rules going forward.

TRUMP ADMINISTRATION DELAYS REPEAL OF WOTUS UNTIL NEXT YEAR

According to the Trump administration's fall regulatory agenda released earlier this week, the EPA now plans to repeal an Obama-era waters jurisdiction rule next March instead of next month as it was originally planned.

In 2015, the Obama administration finalized its "Waters of the United States" (WOTUS) rule that would place smaller streams and other areas where water flows into rivers or lakes under federal jurisdiction, meaning the government would regulate runoff into that water. However, the rule was delayed by legal challenges and postponed by the Trump administration last year as it seeks to repeal the rule.

The rule is important to petroleum marketers because it defines how far federal clean water regulations extend into local land use and permitting decisions including the construction of new gasoline stations and surface water runoff from parking and fueling areas.

PLAN TO ATTEND THE 2019 WPMAEXPO

WPMA EXPO

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 – Fairmont Hot Springs Resort – Fairmont, MT

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: "Keep the dream alive, hit the snooze button."

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