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NEW EPA FUEL STREAMLINING RULE INCREASES FUNGIBILITY OF DISTILLATE FUELS FOR HEATING FUEL DEALERS AND DOWNSTREAM DISTILLATE DISTRIBUTORS

Heating fuel dealers are about to get much needed regulatory relief from the EPA designed to increase downstream fuel distribution efficiency and reduce costs by making distillate fuels more fungible. The agency's final [Fuels Regulatory Streamlining](#) rule includes several regulatory relief provisions that affect the heating fuel industry as well as downstream distributors of diesel fuel, jet fuel, kerosene and locomotive and marine fuel. Energy Marketers of America - EMA (formerly PMAA) successfully advocated for all the heating fuel and distillate regulatory relief provisions in written comments and testimony submitted to the EPA during the rulemaking process earlier this year. Click [here](#) to read the Energy Marketers Association's comments.

The first and most noteworthy change removes regulatory impediments that prevented downstream redesignation of 15ppm distillates such as 15 ppm heating oil to 15 ppm diesel fuel. Before the new rulemaking, heating fuel dealers could not redesignate 15 ppm heating oil to 15 ppm diesel fuel without triggering onerous testing and reporting requirements meant for terminal operators and refiners. Downstream redesignation was largely limited to designating 15 ppm diesel fuel as 15 ppm heating fuel. Under the new rule, any batch of distillate fuel that is certified and designated as ULSD by upstream manufacturers may be redesignated by downstream distributors as heating oil, kerosene, ECA marine fuel, jet fuel, or distillate global marine fuel if it is also suitable for such use. However, in order to redesignate distillates downstream, product transfer documents generated by the refiner or terminal operator must indicate the distillates were manufactured to ULSD standards, including cetane and aromatic specifications. Moreover, the bar against redesignating distillates intended for a designated use by upstream suppliers as indicated on PTD documents, is also removed. Before the new rule, even distillates that met the ULSD standard and cetane/aromatic specifications could not be redesignated downstream if the PTD indicated it was for a specific use such as "diesel fuel" or "heating oil."

Specifically, the new rule allows downstream distributors to redesignate distillate fuel without manufacturer recertification as follows:

(i) Any batch of diesel fuel or distillate fuel that is certified and designated as ULSD may also be designated as heating oil, kerosene, ECA marine fuel, jet fuel, or distillate global marine fuel if it is also suitable for such use.

(ii) ULSD that is also suitable for use as kerosene or jet fuel (commonly referred to as dual use kerosene) may be designated as ULSD, kerosene, or jet fuel (as applicable).

(iii) ULSD may be redesignated as 500 ppm locomotive/marine (LM) diesel fuel, heating oil, kerosene, emission control area (ECA) marine fuel, jet fuel, or distillate global marine fuel without manufacturer recertification.

(iv) Heating oil, kerosene, ECA marine fuel, or jet fuel may be redesignated as ULSD diesel if the fuel meets required ULSD standard specifications (15 ppm or less sulfur content, minimum cetane index of 40, maximum aromatic content of 35 volume percent) and was designated as ULSD by the manufacturer on the PTD.

(v) 500 ppm LM diesel fuel may be redesignated as ECA marine fuel, distillate global marine fuel, or heating oil. Any person that redesignates 500 ppm LM diesel fuel to ECA marine fuel or distillate global marine fuel must maintain records from the producer of the 500 ppm LM diesel fuel (i.e., PTDs accompanying the fuel) to demonstrate compliance with the 500 ppm sulfur standard.

The new rule also removes the red dye provision for high sulfur distillates designed to prevent use in on-road diesel engines. The red dye requirement has become obsolete now that all distillates other than locomotive and marine meet the 15ppm sulfur content standard. However, the IRS red dye requirement for nontaxable fuel remains in place, limiting the redesignation of heating oil to off road and nontaxable uses. Dyed ULSD heating oil, however, is suitable for on-road use by state and local government entities only.

Finally, the EPA is eliminating the current 500 ppm heating fuel dispenser label for use by retail and/or wholesale purchaser consumers and replacing it with the following:

"HEATING OIL**WARNING**

Federal law prohibits use in highway vehicles or engines, or in nonroad, locomotive, or marine diesel engines. Its use may damage these diesel engines.”

The label content must be in block letters of no less than 24-point bold type, printed in a color contrasting with the background. The new labels are not required until existing dispenser labels require replacement due to fading, cracking, etc.

MANDATED ZERO-EMISSIONS VEHICLE STANDARD LEGISLATION INTRODUCED

On Tuesday, Senator Jeff Merkley (D-OR) and Rep. Mike Levin (D-CA) introduced legislation to terminate the sale of new U.S. gasoline-powered vehicles in 15 years.

The *Zero-Emission Vehicles Act of 2020* would require that 50 percent of new passenger vehicles sales are zero-emissions vehicles (ZEV) by 2025. That federal standard would increase 5 percent each year to reach 100 percent by 2035. The legislation has zero chance of becoming law this year but serves as a messaging piece for democrats to take to the November elections. Even if Democrats take back the White House and Senate, the legislation is still likely to face an uphill battle to become law.

The EPA raised concerns early this month over California's plan to ban the sales of new gasoline and diesel-powered passenger cars by 2035, arguing that the mandate is unworkable and likely illegal. The California ban is an ambitious step to bolster electric vehicles and slash greenhouse-gas emissions. The ban is aimed at new-car sales and will not prohibit Californians from owning or selling existing gas-powered cars.

In a letter to California Governor Gavin Newsome, EPA Administrator Andrew Wheeler expressed concern that the electric vehicle mandate would strain California's already overloaded electric grid. Wheeler questioned how California plans to handle the unprecedented increase in electricity demand that will result from the ban when the state is already experiencing rolling blackouts and seeking additional power from neighboring states. Wheeler also said the ban is likely illegal in the wake of the Trump Administration's recent revocation of California's Clean Air Act waiver that allowed the state to set its own air pollution standards.

California is currently suing the Administration over the revocation. If successful, California would be the first U.S. state to ban gas- and diesel-powered vehicles. However, some states could soon follow California's lead. Twelve states already adopt California clean air standards (NJ, CT, WA, VT, NY, ME, RI, MA, OR, PA, MD, and DC).

The federal *Zero-Emission Vehicles Act of 2020* which would boost the market for battery electric vehicles and hydrogen fuel cell vehicles is cosponsored by Senators Sheldon Whitehouse (D-RI), Elizabeth Warren (D-MA), Bernie Sanders (I-VT), and Cory Booker (D-NJ) in the Senate, and Representatives Joe Neguse (D-CO), Earl Blumenauer (D-OR), Lisa Blunt Rochester (D-DE), Suzanne Bonamici (D-OR), Julia Brownley (D-CA), Judy Chu (D-CA), Emanuel Cleaver, II (D-MO), Mark DeSaulnier (D-CA), Anna G. Eshoo (D-CA), Jared Huffman (D-CA), Pramila Jayapal (D-WA), Barbara Lee (D-CA), Alan Lowenthal (D-CA), Jerry Nadler (D-NY), and Chellie Pingree (D-ME).

COVID-19 STIMULUS DEAL NOT LIKELY BEFORE ELECTION

Although Treasury Secretary Steven Mnuchin and Speaker of the House Nancy Pelosi (D-CA) continue to negotiate a potential COVID-19 relief bill, it is becoming more evident to both sides that a deal will not be reached before the November 3 election. While Speaker Pelosi maintains that the two sides are close to a deal, there are still significant obstacles to an agreement. The two sides continue to disagree over two major policies; funding for state and local governments (demanded by Democrats) and liability protection for businesses (demanded by Republicans).

Furthermore, Senate Majority Leader Mitch McConnell (R-KY) and the Republican-led Senate do not agree with some of the concessions that the White House has given Speaker Pelosi and the Democrats, claiming that another multi-trillion dollar stimulus package isn't needed at this time. McConnell has said, however, that he will bring a relief bill to the Senate floor for a vote if the White House is able to strike a deal. Click [here](#) to view the story.

URGE CONGRESS TO INCLUDE REASONABLE LIABILITY PROTECTIONS IN NEXT COVID-19 RELIEF PACKAGE

The Energy Marketers of America (EMA) urges you to reach out to Congress in support of important legislation to expand liability protections for businesses amid the COVID-19 pandemic known as the "Safe to Work Act" (S. 4317). The bill is retroactive to December 2019 and provides reasonable liability protection against COVID-19 lawsuits through October 2024 for businesses who have made good faith efforts to comply with government guidance. The legislation does not protect bad actors in cases where there is willful misconduct or gross negligence to the safety of an individual. The legislation provides preemption from state laws unless state laws provide greater liability protection.

It is important for everyone to reach out to their lawmakers urging them to include S. 4317 in the next COVID-19 relief package. Click [here](#) to do so.

SENATOR DURBIN URGES FDA TO PUBLISH LIST OF ENDS PRODUCTS THAT HAVE SUBMITTED PMTA'S

This week, Senator Durbin (D-IL) urged the Food and Drug Administration (FDA) to publish a public list of currently marketed e-cigarette products for which the Agency has received a premarket tobacco product application (PMTA) by the September 9, 2020 deadline. "It has been more than one month since PMTA applications were submitted to FDA. In order to protect public health and uphold the duty to enforce against products on the market that are out of compliance, I urge FDA to immediately publish a comprehensive product listing of all relevant e-cigarette applications received by FDA," said Senator Durbin.

In a statement last month, Mitch Zeller, Director of the FDA's Center for Tobacco Products (CTP) stated, "We request your patience as we work through the appropriate processes to ensure the posted information is accurate and compliant with federal laws. In the interim, we encourage retailers and other interested parties to refer to the public statements made by the companies or contact the companies directly to get information about applications they may have submitted."

Under a court order from the District Court of Maryland, e-cigarette products that were on the market prior to August 8, 2016, are required to submit PMTA's for the FDA to review and approve by the September 9, 2020 deadline. PMTA's require a product to meet a regulatory hurdle that can be complex and costly. E-cigarette products will be permitted to stay on the market for one year while the agency reviews the applications, or until the agency rejects them. If e-cigarette manufacturers did not submit PMTAs by the September 9th deadline, their products must be removed from shelves. By the FDA providing a public list of e-cigarette products that meet the proper requirements, retailers of these products will be informed as to which they can sell legally in their stores.

The Energy Marketers of America formerly known as PMAA recently joined the National Association of Convenience Stores (NACS), the National Association of Truckstop Operators (NATSO), the Society of Independent Gasoline Marketers of America (SIGMA) and the Food Industry Association (FMI) in signing a letter to the FDA urging it to release a list of approved e-cigarette products. Click [here](#) to view the letter.

NHTSA INVESTIGATING CHEVROLET BOLT FIRES THAT MAY BE CAUSED BY EV BATTERIES

EV Fires Becoming More Prevalent

Last week, the National Highway Traffic Safety Administration (NHTSA) announced that it was opening an investigation after receiving reports of three different Chevrolet Bolt EVs catching fire under the rear seat while parked and unattended. Notably, the NHTSA said in a statement that "in the three cases identified, fire damage appeared to be concentrated in the EV battery compartment area with penetration into the passenger compartment from under the rear seat." It was reported that a fire caused physical harm to one of the EV owners. Click [here](#) to read the story.

Similar incidents have also occurred recently with different model EVs. Prior to the Chevrolet Bolt fires, Hyundai Motor Co. made headlines when some of its EVs caught fire. Furthermore, after the Chevrolet Bolt fires, Ford Motor Co. and BMW AG announced fires in some of their EVs as well. As a result, Hyundai and BMW have decided to recall tens of thousands of its EVs from the global market. While EVs have already struggled to gain popularity with consumers, the fire incidents certainly will not increase demand for them.

DOL PROPOSES NEW RULE TO CLARIFY WORKER STATUS UNDER THE FLSA

On September 25, the Department of Labor (DOL) issued a proposed rule that would clarify whether workers are employees or are independent contractors under the Fair Labor Standards Act (FLSA). Independent contractors are not entitled to the federal minimum wage and overtime pay that covered employees receive under the FLSA.

According to the Small Business Administration (SBA) Office of Advocacy, the rule adopts an "economic reality test" to determine a worker's status: the test considers whether a worker is in business for himself or herself (independent contractor) or is economically dependent on a putative employer for work (employee). The rule identifies and explains two "core factors" that determine whether someone is in business for himself or herself: specifically the nature and degree of the worker's control over the work, and the worker's opportunity for profit or loss based on initiative and/or investment. The rule identifies three other factors that may serve as guideposts in the analysis: the amount of skill required for the work, the degree of permanence of the working relationship between the worker and the potential employer, and whether the work is part of an integrated unit of production.

The Small Business Legislative Council (SBLC), of which the Energy Marketers of America (EMA) is a contributing board member, plans to submit written comments to the DOL on the proposed rule by the October 26 deadline.

OREGON AND CALIFORNIA EMERGENCY DECLARATIONS EXTENDED TO NOVEMBER 19

The Federal Motor Carrier Safety Administration's (FMCSA) Western Service Center extended the state hours of service emergency declarations for Oregon and California to November 19, 2020. The Governors of the States of California and Oregon issued state declarations of emergency in August due to the fires in the states and those declarations have been extended twice.

The Extension of the Emergency Declarations provides regulatory relief for commercial motor vehicle operations while providing direct assistance supporting emergency relief efforts transporting supplies, goods, equipment and fuel into the Affected States, and transporting persons into and from the Affected States, or providing other assistance in the form of emergency services during the emergency in the Affected States from the wildfires. To review the extension, click [here](#).

FEDERATED INSURANCE TAKES ACTION IN RESPONSE TO AN EMERGING CATASTROPHIC TREND

Devastating vehicle crashes have not slowed during the global pandemic; in fact, data suggests roads are more dangerous than ever. Unfortunately, Federated's association member clients are not immune to this as they have been involved in an alarming number of vehicle crashes in recent months. In response to this emerging catastrophic trend, Federated Insurance is taking additional action.

For the first time ever, Federated Chairman and CEO Jeff Feters is personally addressing member clients about the incredible human toll of auto crashes and the unsettling rise in related claims we've seen in 2020 via a special [video](#) message and letter. He urges business leaders to spend a few minutes discussing driving safety with their valued employees. Finally, he passionately emphasizes that the responsibility to preventing vehicle crashes is a shared one, in which both Federated and association members need to play a proactive role.

Federated marketing representatives have been providing this message, along with supplemental talking points document to help owners and managers having a necessarily conversation about safe driving with their employees, to businesses since late September.

Federated cares deeply about protecting businesses, employee drivers, and all those whose lives are forever changed due to senseless, preventable vehicle crashes.

For additional information or to discuss further, please contact your [Federated](#) regional representative or Energy Marketers of America's National Account Executive [Jon Medo](#) at 800.533.0472.

REGISTER NOW FOR WOMA'S VIRTUAL SPOTLIGHT SERIES

Necessity is the mother of all invention! And without any face-to-face meetings, WOMA is rising up and offering connection with our membership! WOMA has developed a weekly series that will allow exhibitors, marketers, and major oil companies to come together and share products, services, and education about what we will face in the coming months. Join us every Wednesday from 10:00-11:00 a.m. (Pacific Time) for the 8 weeks (September 23-November 11) where we will be highlighting industry-related topics with a variety of reliable speakers! A second 8-week series will happen January - March with details to follow. If you are interested in owning your own Spotlight Week, please email Lea McCullough at lea@waoil.org for weeks available! More information and registration click [here](https://www.wpma.com/washington/calendar-of-events/woma-spotlight-series-2020/registration).
(<https://www.wpma.com/washington/calendar-of-events/woma-spotlight-series-2020/registration>)

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 adaption 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 Winter edition of WPMA News magazine are due before November 1st. Later submissions will be considered for the Spring issue.

WPMA EXPO

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

MARK YOUR CALENDARS FOR UPCOMING EVENTS

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

March 15, 2021 – Hawaii (HPMA) Golf Tournament – Oahu Country Club – Honolulu, HI

May 13-14, 2021 - Nevada (NPM&CSA) Big Dogs - Red Rock Hotel & Casino - Las Vegas, NV

June 1-2, 2021 - Montana (MPMCSA) Convention -Fairmont Hot Springs Resort - Fairmont, MT

June 21-24, 2021 - Washington (WOMA) Convention - Suncadia Resort - Cle Elum, WA

July 17-19, 2021 - Oregon (OFA) Annual Conference - Sunriver Resort - Sunriver, OR

August 4-6, 2021 - Idaho (IPM&CSA) Convention - Sun Valley Resort - Sun Valley, ID

August 23-25, 2021 - New Mexico (NMPMA) Convention - Sandia Resort & Casino - Albuquerque, NM

September 15-17, 2021 - Utah (UPMRA) Convention - Sheraton Park City Hotel - Park City, UT

WPMA MEMBER SERVICES



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Petro Pete: “I often wonder who Pete is and why we do things for his sake.”

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