

November 9, 2018

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WP-11-09-18

**EPA PLANS TO SPEED UP FIVE-YEAR OZONE EMISSION REVIEW PROCESS**

The Environmental Protection Agency (EPA) plans to implement an "accelerated" process for deciding whether to further restrict allowable ground-level ozone pollution limits. Ground ozone limits are important to petroleum marketers because they ultimately determine whether RFG or conventional gasoline is used in countywide pollution control zones across the country. Under the Clean Air Act's National Ambient Air Quality Standards program, the EPA is obligated to decide every five years whether to write a new standard for pollutants like ozone, particulate matter and sulfur dioxide, based on the latest scientific literature, among other factors.

In the past, the EPA has missed the review deadline by several years. To avoid delays in the future, the EPA said it intends to incorporate several efficiencies to speed up the review process. The changes from previous review processes include skipping a kick-off workshop, not giving the external air pollution advisory committee a separate period to review the standard apart from the public comment period and not writing a risk and exposure assessment. The accelerated review combined with changes last year that allows implementation costs to be weighed along with naturally occurring ozone and ozone blown in from other countries are likely to make the standards less restrictive, and in turn, restrict the growth of RFG areas nationwide.

**SUMMARY OF THE MID-TERM ELECTIONS***House*

As many expected, Democrats regained the majority in the House, gaining at least 28 seats. Current Minority Leader Nancy Pelosi (D-CA) is expected to become Speaker of the House. However, her path to the Speaker's balcony might not be as smooth sailing as previous Congresses as some House democrats are likely to challenge her. Rep. Kevin McCarthy (R-CA) announced he would run for House minority leader. He is currently majority leader and is next in line due to Speaker Ryan's retirement. It is expected that Rep. Jim Jordan (R-OH) will launch a longshot bid for that position. As for House committee leadership of particular importance to petroleum marketers, the House Energy and Commerce Committee will likely be chaired by Rep. Frank Pallone (D-NJ), the House Transportation and Infrastructure Committee will likely be chaired by Rep. Peter DeFazio (D-OR), the House Financial Services Committee will likely be led by Rep. Maxine Waters (D-CA) and the House Ways and Means Committee will likely be chaired by Rep. Richard Neal (D-MA). PMAA and the state associations have good relations with most of these members.

*Senate*

In the Senate, Republicans retained the majority (51 to 46 with seats in Florida, Mississippi and Arizona too close to call). Some of the key wins for Republicans included Rep. Kevin Cramer (R-ND) defeating sitting Democratic Sen. Heidi Heitkamp, Indiana businessman Mike Braun defeating sitting Democratic Sen. Joe Donnelly and current Missouri Republican Attorney General Josh Hawley defeating sitting Democratic Sen. Claire McCaskill.

*What to Expect the Next Two Years*

The change of the gavel in the House is likely to lead to two years of partisan gridlock in Washington. However, it is possible that Trump will develop a triangulation strategy to allow him to succeed by working with the Democrats in the House similar to what Clinton did in the 90s and was reelected with that strategy. Now that Democrats have control of the House, they are determined to investigate the Trump administration, his 2016 Presidential campaign, and his family's business empire including his tax returns. There is even talk of possible impeachment proceedings. However, most Democrats realize impeachment would be meaningless as it would require over twenty Republican Senators to vote against the President. The bottom line is to expect investigation after investigation, particularly once Special Counsel Mueller releases his final report examining any potential connections between the 2016 Trump presidential campaign and Kremlin-sponsored hackers. While these investigations will not lead to anything final, they will occupy news cycles and distract the Administration.

There are some areas Republicans and Democrats may be able to find common ground as the two parties may work on trade and an infrastructure package. PMAA has been advocating against the commercialization of rest areas and will continue to do so as talks over an infrastructure package accelerate. Tax 2.0 may also still be on the table, and with incoming Chairman Neal (D-MA), movement is possible. Neal has a long history of working across the aisle, however, politics are likely to play out on both sides as the incoming Ways and Means Committee Chairman will likely focus the Committee's attention on obtaining Trump's tax returns and how the last tax bill affected the President.

*Lame Duck Session 2018*

Congress will return next week to begin a planned three-week lame duck session. While the fight over funding the border wall in a government spending package is likely imminent, PMAA is focused on getting Congress to approve the Senate-passed farm bill which includes a permanent extension of the National Oilheat Research Alliance (NORA). Congress may

also address a tax extenders package before adjournment that could include a retroactive extension of the \$1 per gallon biodiesel blender's tax credit for 2018 and possibly an extension through next year along with an extension of the Oil Spill Liability Tax (OSLT) that expires on December 31, 2018. Refiners are the only party liable for the OSLT because its imposed on crude oil at the refinery gate. Last year, the OSLT expired but some suppliers continued to charge the 9 cents per barrel OSLT on jobber bill of ladings during the first few months of 2018 believing that Congress would apply the tax retroactively when they passed an extenders package. Congress may also fix the drafting error in Section 168 of the "Tax Cuts and Jobs Act" so businesses can receive the 100 percent bonus depreciation benefit that Congress intended to provide in the bill. Finally, given that Senator Dean Heller (R-NV) lost his reelection bid in Nevada, his bill to extend the \$7,500 electric vehicle tax credit through 2022 in the tax extenders package is up in the air. Lame duck sessions are particularly unpredictable, but PMAA is hopeful on NORA and the extension of the biodiesel tax credit.

### **FDA CRACKING DOWN ON UNDERAGE SALE OF E-CIGARETTES BY RETAILERS**

The Food and Drug Administration (FDA) is expected to announce a sweeping ban on the sales of certain e-cigarette products at retail sites. FDA Commissioner Dr. Scott Gottlieb declared teen use of electronic cigarettes an "epidemic" and said the agency would be addressing the issue with "the largest coordinated tobacco compliance effort in FDA's history." The FDA is considering taking certain actions including forcing an immediate removal of certain flavored e-cigarettes from the market as well as possibly changing its compliance policy that extended the dates for manufacturers of some flavored e-cigarettes to submit applications for premarket authorization. On September 12th, the FDA sent letters to manufacturers of five e-cigarette brands, including Juul, Vuse, MarkTen XL, Blu and Logic, requesting that they implement plans to limit youth access to their products within 60 days. Failure to do so or not showing a good-faith effort "could mean requiring these brands to remove some or all of their flavored products that may be contributing to the rise in youth use from the market until they receive premarket authorization and otherwise meet all of their obligations under the law," according to the FDA statement. The deadline to respond is Monday.

PMAA urges the FDA to work with retailers and the We Card Program to prevent youth access to e-cigarettes. A few bad actors should not impact the entire retail industry who are taking the proper steps necessary to prevent youth access. PMAA plans to respond to the FDA immediately.

### **TRUMP EXPRESSES WILLINGNESS TO ADJUST CORPORATE TAX CUT**

During President Trump's lengthy press conference on Wednesday, he remarked that in order to bring in Democrats on his proposal for further tax cuts for the middle class, he would be willing to make "an adjustment" to the corporate and upper-income tax cuts that are in the recent Tax Cuts and Jobs Act. This statement was in response to the question if he'd be willing to raise rates on corporations and wealthy individuals in order to get another middle-class tax cut. Although his response was not a prepared response and may have been off-the-cuff, Trump also stated that he is a big believer in tax cuts and if Democrats come up with a tax cuts proposal, he would pursue it even if an adjustment is necessary. His support for middle class cuts is consistent with his statement on Halloween in support of a 10 percent cut, which surprised his own administration.

However, Grover Norquist of Americans for Tax Reform released this statement following the President's response, "The corporate rate will not be increased while Trump is President.... Trump has repeatedly said he wants the rate to be 15% -- not 21%. Fifteen is lower than 21. The corporate rate reduction has created millions of jobs. Trump likes that." Norquist said that Trump was hypothesizing in his normal style and his response, "... was a hypothetical that shouldn't have been answered." "Democrats are getting their hopes up, and I hate to hurt their feelings, but no," Norquist said. "The White House answer on this stuff has been 'no,' consistently."

Whether there will be any further tax reform is also in doubt as the President also said that he won't do deals with House Democrats if they investigate his administration, which is almost certain to happen. President Trump's statement is similar to the triangulation strategy that former President Clinton used in the 1990s and was reelected with that strategy.

PMAA continues to encourage Congress to fix the drafting error in Section 168 of the "Tax Cuts and Jobs Act" so businesses can receive the 100 percent bonus depreciation benefit that Congress intended to provide in the bill.

### **MINIMUM WAGE INCREASE AND REVIEW OF PENDING JOINT EMPLOYER RULES ON LIST OF DEMOCRATIC PRIORITIES**

House Minority Leader Nancy Pelosi (D-CA) and incoming Democratic Education and the Workforce Committee Chairman Bobby Scott (D-VA) list raising the minimum wage as a top House priority for Democrats in the new congress. Scott expects to introduce legislation similar to the Raise the Wage Act, which would increase the minimum wage to \$15 by 2024. The current minimum wage of \$7.25 was set by Congress a decade ago.

President Trump endorsed a \$10 hourly wage minimum near the end of his presidential campaign, but he has not shown interest since then, and it's doubtful that an increase would be approved by the Republican Senate.

Scott will likely hold oversight hearings over the Labor Department and National Labor Relations Board, including a potential review of the pending joint employer rules, which would make it harder for businesses to be held liable for labor violations committed by their franchisees and contractors.

## **FEDERAL JUDGE BLOCKS KEYSTONE XL PIPELINE**

Yesterday, a federal district court judge blocked the controversial Keystone XL oil pipeline arguing that the U.S. State Department did not properly account for factors such as low oil prices, CO2 emissions and the risk of oil spills. President Trump immediately slammed the ruling calling it a "disgrace" and a "political decision" and hinted that the conservative-controlled Supreme Court may have the final say on the controversial international oil pipeline.

Over the summer, the U.S. State Department found in its draft environmental assessment that the Keystone pipeline's alternate route would have no significant environmental impacts. The pipeline would carry 830,000 barrels of crude a day from Alberta's oil sands to U.S. Gulf Coast refiners.

Specifically, the alternate route that Nebraska regulators approved for the line was found to have minor to moderate effects regarding noise and vibration, water resources and biological resources. It would have minor effects on soils, air quality and cultural resources, and negligible impacts on land use, recreation and visual resources.

PMAA strongly supports development of the Keystone XL Pipeline which has already had more than ten years of debate and multiple environmental impact studies that have shown the pipeline would have no effect on climate change.

## **INFRASTRUCTURE DEAL COULD HAPPEN NEXT YEAR**

Although Democrats regained the majority in the House and Republicans maintained the majority in the Senate which will likely lead to partisan gridlock on Capitol Hill, there are a few legislative priorities that Republicans and Democrats can agree on, one of which being an infrastructure package.

Future Speaker of the House Nancy Pelosi (D-CA) even mentioned infrastructure in her victory speech, while Senate Majority Leader Mitch McConnell (R-KY) has said that he has already spoken to Pelosi about a future infrastructure package. McConnell told reporters the day after the election that "the one issue that leader Pelosi and I discussed this morning, where there could be a possible bipartisan agreement, is something on infrastructure." Furthermore, President Trump recently said that Democrats "will come to us with a plan for infrastructure ... and we'll negotiate." In fact, President Trump preferred the Democrat's past infrastructure plan over the Republican's plan.

On Wednesday, one day after the election, incoming House Transportation and Infrastructure Committee Chairman Peter DeFazio (D-OR) spoke about an infrastructure package, saying that "this is the day we begin planning to deliver a major infrastructure package." DeFazio has already met with the White House legislative affairs director and plans to meet with her again soon, and he is optimistic that he can work with President Trump on a bipartisan infrastructure package. There has even been a push from some Democrats, led by Rep. Earl Blumenauer (D-OR), to create an infrastructure subcommittee under the House Ways and Means Committee, which would be a forum for Democrats to focus on the main issue that has prevented past infrastructure packages from passing: revenue.

## **TERRIBLE HERBST'S GRAND OPENING - 50,000 SQUARE FOOT STORE**

At 50,000 square feet in size with 96 fueling positions and 60 restroom stalls, Terrible Herbst's newest site is much more than a convenience store. Dubbed Terrible's Road House, the store, located across from the Gold Strike Hotel & Gambling Hall in Jean, Nev., is intended to be a first—or last—stop in Nevada for motorists traveling from Las Vegas to Southern California, or vice versa.

"At Terrible's Road House, we can take care of all your needs, whether you are just beginning or ending your Las Vegas vacation," says Mark Walters, vice president of marketing for [Terrible Herbst](#), a Las Vegas-based chain of 115 c-stores in southern Nevada, Utah, Arizona and California. To read more go to [www.cspdailynews.com/company-news](http://www.cspdailynews.com/company-news) .

## **PLAN TO ATTEND THE 2019 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 – 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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