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HOUSE COMMITTEE APPROVES NEW ENERGY BILL

This week, the House Natural Resources Committee approved a new energy bill that would roll back Obama-era offshore drilling rules, create an offshore oil and gas revenue program for East Coast drilling and give more oil and gas permitting power to the states. The bill, H.R. 4239, was introduced by Majority Whip Steve Scalise (R-LA), along with House Natural Resource Committee Chairman Rob Bishop (R-UT) and Texas Democratic Reps. Henry Cuellar and Vicente Gonzalez.

One of the provisions in the bill would create an offshore oil and gas revenue program for states along the Atlantic coast and Alaska, where the Interior Department is exploring opening more of the waters for offshore oil drilling. Additionally, the bill would require Congress to approve any future removals of offshore acres from lease sales or establishment of new marine sanctuaries, a response to the Obama administration's last-minute removal of some Alaska and Atlantic waters from development. The bill would also allow states to oversee drilling plans on federal land within their borders. Lastly, the bill calls on the Interior Department to hold a lease sale for wind power projects off the California coast within one year of the bill's passage.

Meanwhile, Senate Energy Committee Chairwoman Lisa Murkowski (R-AK) released budget reconciliation legislation that would open a small part of the Arctic National Wildlife Refuge to oil and gas development. The legislation could move as early as next week.

PMAA SENDS LETTER TO SENATE ENVIRONMENT COMMITTEE OVER RFS CONCERNS

Yesterday, PMAA sent a letter to Senate Environment and Public Works Committee Chairman John Barrasso regarding concerns over the ethanol mandate. The letter continues to highlight that the vast majority of the nation's retail outlets, 95 percent of which are owned by independent petroleum marketing businesses, cannot legally store and dispense blends of gasoline over 10 percent ethanol. Existing equipment is certified for a maximum E10 blend. Currently, there is no viable way for UST system operators to demonstrate that existing equipment is compatible with gasoline blends over E10.

Furthermore, the letter urges Congress to proceed with caution before giving E15 the green light to be sold during the summer months. PMAA firmly believes that before Congress proceeds any further on granting a RVP waiver to blends above E10, it must first hold a hearing on the effects of ethanol blends on existing underground storage tank (UST) system infrastructure. The introduction of ethanol blends higher than 10 percent (including E15) present significant economic and legal impediments to many gasoline retailers, as well as, consumer awareness issues that go beyond the price of the fuel. Extending the RVP waiver to E15 at this point further exacerbates these concerns and could force many retailers to invest considerable time and money on an accelerated schedule to switch to an alternative fuel storage and distribution system in order to remain competitive.

SENATE GOP RELEASES COMPREHENSIVE TAX REFORM PLAN***House Tax Writing Committee Approves its Tax Bill***

Yesterday, the Senate released its tax reform plan. The Senate plan would keep the seven brackets, but generally with lower or equivalent rates – 10 percent, 12 percent, 22.5 percent, 25 percent, 32.5 percent, 35 percent and 38.5 percent. The standard deduction would be \$12,000 for single filers and \$24,000 for married couples. The Senate plan would also eliminate taxpayers' ability to deduct both state and local income and property taxes. The corporate rate would be reduced from 35 to 20 percent but would be delayed for one year while pass-through businesses' tax rate would be set at a top rate for those businesses in the low 30s compared to the 25 percent rate. 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. PMAA has argued for a competitive tax rate for pass-throughs and is currently reviewing the pass through provision.

Meanwhile, the House Ways and Means Committee approved its tax reform bill yesterday which sets the stage for House floor action next week. The Committee did make changes to improve how the tax plan treats pass through entities by providing a new tax rate of 9 percent for businesses earning less than \$75,000 in income. The benefit is phased out as taxable income exceeds \$150,000 and fully phased out at \$225,000. The bill would still limit access to the new 25 percent tax rate. For business owners, just 30 percent of their income would qualify for that rate; the remaining 70 percent would be treated as wages. Or they could use a formula based on their level of capital investment to determine how much income would get the new rate.

Lawmakers are hoping to put a final comprehensive tax bill on President Trump's desk before Christmas. PMAA will be reviewing the Senate bill in detail over the next few days.

EPA ISSUES OZONE DESIGNATIONS

On Monday, the EPA certified that 2,646 counties, two tribal areas and five territories, or about 85 percent of the nation's counties, meet the new standard of 70 parts per billion of ozone in ambient air, down from the previous 75 parts per billion. However, the agency stopped short of saying which areas of the country do not meet the Obama administration's 2015 regulation on ozone.

After the EPA failed to delay the process by another year over the summer, the EPA was required under the Clean Air Act to make all the decisions by Oct. 1, but missed the deadline. In a statement, EPA said that "in the spirit of cooperative federalism, EPA will continue to work with states and the public to help areas with underlying technical issues, disputed designations, and/or insufficient information." The statement also said that "EPA modeling, state agency comments, and peer-reviewed science indicate international emissions and background ozone can contribute significantly to areas meeting attainment thresholds. The agency intends to address these areas in a separate future action."

If an area is designated as "nonattainment," its state will eventually have to submit a plan to the EPA to improve air quality. If the state does not do so, the EPA is obligated to write a plan itself.

HEARING ON LAWSUIT ABUSE OF SMALL BUSINESSES

On Wednesday, the Senate Judiciary Committee held a hearing "The Impact of Lawsuit Abuse on American Small Businesses and Job Creators." Committee Chair Chuck Grassley (R-IA) called for the hearing to consider the merits of his bill, the "Lawsuit Abuse Reduction Act," to put teeth back into the rules to deter harmful litigation.

The strain of litigation on the parties involved has created an opportunity for those who wish to make a quick buck. Particularly in the small business sphere. The mere threat of a lawsuit, even one unsupported by the facts, can force a small business owner to quickly settle a claim. Last year, *60 Minutes* highlighted the rise of "drive by" litigation under the Americans with Disabilities Act (ADA). In some cases, lawyers simply drive down the street, or use Google Maps, to look for any technical violation of the ADA by local businesses. This is quickly followed up by a demand letter to the business.

Business owners should have the confidence to challenge a bogus claim, knowing that they will be compensated for their time and resources spent fighting back. Unfortunately, current litigation rules don't provide much help. Under current law, even if a lawsuit is found to be frivolous, a judge can decide against sanctioning the offending party.

PMAA strongly supports the Lawsuit Abuse Reduction Act to put a stop to these outrageous lawsuits.

FDA ISSUES NEW MENU LABELING GUIDANCE

Congress Needs to Act Now to Fix the Burdensome Regulation

On Tuesday, the Food and Drug Administration (FDA) released draft supplemental guidance on menu labeling. The 36-page document fails to amend the weaknesses that PMAA, NACS and like-minded associations have raised in comments to the FDA regarding the rule. Comments on the current guidance will be due on January 8, 2018. The menu labeling requirements will be enforced by the FDA beginning May 7, 2018. The bottom line is that Congress must act to fix the menu labeling regulation.

The "Common Sense Nutrition Disclosure Act" (H.R. 772) has been reintroduced by Reps. McMorris Rodgers (R-WA) and Cardenas (D-CA) and by Senators Blunt (R-MO) and King (I-ME) in the Senate, (S. 261) which would give retailers the flexibility they need to comply with the menu labeling regulations. It would allow retailers to identify a single primary menu while not having to include nutrition labeling in other areas of the store. Furthermore, the bill clarifies that advertisements and posters do not need to be labeled and provides flexibility in disclosing the caloric content for variable menu items that come in different flavors or varieties, and for combination meals. Lastly, the bill ensures that retailers acting in good faith are not penalized for inadvertent errors in complying with the rule and stipulates that individual store locations are not required to have an employee "certify" that the establishment has taken reasonable steps to comply with the requirements.

In PMAA's past comments on the costly menu labeling rule, PMAA highlighted the harm the rule would have to single store operators and small businesses. That is because the rule covers any retail establishment with 20 or more locations that sells food that is intended for consumption soon after being purchased. So, whether the rule applies to a business depends upon whether that business is part of a chain with 20 or more locations doing business under the same name, regardless of the type of ownership, the number of establishments owned and operated by a company/individual is not relevant to this criterion. The key is whether there are multiple locations doing business under the same name. Therefore, many operators of single stores or of only a few stores will have to comply with all of the onerous menu labeling requirements. Click [here](http://www.pmaa.org/weeklyreview/attachments/Menu%20Labeling%20Comments%20Aug_2017.pdf) (http://www.pmaa.org/weeklyreview/attachments/Menu%20Labeling%20Comments%20Aug_2017.pdf) to read the rest of PMAA's comments to limit the menu labeling regulation's reach.

LEGISLATION TO REVERSE JOINT EMPLOYER RULING PASSES HOUSE

Fewer companies would be liable for labor violations committed by their franchisees or contractors under H.R. 3441 which was passed by the House on Tuesday. The bill would reverse the National Labor Relations Board's (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.

In June, Labor Secretary Alexander Acosta announced that the Department of Labor (DOL) was withdrawing the Obama Administration's informal guidance on joint employment. The DOL's Wage and Hour Division issued the "administrator's interpretation" less than six months after the NLRB issued the controversial ruling in the Browning-Ferris Industries case that broadened a business's potential liability for the labor practices of third-party business partners. The Wage and Hour Division's January 2016 interpretation attempted to expand the concept of joint employer liability under federal wage and hour laws as well.

PMAA applauds Congress for moving forward to change the actual ruling and we applaud Secretary Acosta for withdrawing the guidance. Now the harder part, moving the bill through the Senate, which is expected to be difficult, but not out of reach. PMAA will continue to monitor the latest.

CRITICAL INFRASTRUCTURE MONTH

November is Critical Infrastructure Security and Resilience (CISR) Month. As such, DHS is working to highlight the importance of critical infrastructure for our Nation's economy, security, and way of life. Please click [here](http://www.dhs.gov/cisr-month) (<http://www.dhs.gov/cisr-month>) to download the CISR Month toolkit. The toolkit provides tips, samples, and information to help public, private, and non-profit sector organizations take an active role in making their hometowns and the Nation more secure.

Critical Infrastructure Security and Resilience Month activities can focus on several key themes to enhance security and resilience, including:

- Highlighting interdependencies between cyber and physical infrastructure;
- Pointing small and medium-sized businesses to the free tools and resources available to them to increase their security and resilience through Hometown Security and the four steps of Connect, Plan, Train, and Report, click [here](http://www.dhs.gov/hometown-security) (<http://www.dhs.gov/hometown-security>);
- Promoting public-private partnerships; and
- Fostering innovation and investments in infrastructure resilience.

BOOK YOUR ROOM NOW FOR THE 2018 WPMAEXPO

Our hotel block for the 2018 WPMAEXPO is open and available at \$149/night until November 16, 2017.

You have two ways to book rooms:

- Through our website here: <http://www.wpma.com/national-convention/hotel>
- Or call The Mirage directly at 800-627-6667 using WPM18A for the early bird rate.

We do not have a company representing us for room booking. Please do not book hotel rooms with a third-party company. Booking with a third-party company is at your own risk. You should only book your room through the WPMA web site or by calling the Mirage directly using the WPMA code above.

PLAN TO ATTEND THE 2018 WPMAEXPO



Mark your calendars for February 20-22, 2018. Make plans now to attend the 2018 WPMAEXPO. It will be held once again at the Mirage in Las Vegas, Nevada.

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MARK YOUR CALENDARS FOR UPCOMING EVENTS

February 20-22, 2018 – WPMA Convention & Expo – Mirage Hotel– Las Vegas, Nevada
May 3-4, 2018 – NPM&CSA Big Dogs – Red Rock Casino – Las Vegas, Nevada
June 5-7, 2018 – MPMCSA Convention & Expo – Fairmont, MT
June 18-21, 2018 – Washington (WOMA) Convention – Suncadia Resort – Cle Elum, Washington
August 8-10, 2018 – Idaho (IPM&CSA) Convention – Coeur d'Alene Resort – Coeur d'Alene, Idaho
August 20-22, 2018 – New Mexico (NMPMA) Convention – Sandia Resort & Casino, Albuquerque, NM
September 12-14, 2018 – Utah (UPMRA) Convention – Doubletree by Hilton, Park City, UT

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Petro Pete: "Everything always ends well. If not – it's probably not the end."

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