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### **HOUSE EXTENDS WORK SESSION**

#### **Tax and Spending Deal in Limbo**

Earlier this week, House leadership announced that the chamber will be in session the week of December 17 which may allow it time to cut a deal to avert the "fiscal cliff." Both sides of the aisle have said they want to avert the economic harm that will result from no deal. It remains to be seen if House Speaker John Boehner (R-OH), Senate Majority Leader Harry Reid (D-NV) and the White House will be able to find a compromise. PMAA continues to lobby for the inclusion of the one-dollar-per-gallon biodiesel blender's tax credit in a possible fiscal cliff deal. Reauthorization of the National Oilheat Research Alliance (NORA) also remains a top priority for inclusion in an extenders package or omnibus bill before years end.

### **DEGESERO TO TESTIFY BEFORE HOUSE SUBCOMMITTEE**

On Wednesday, Fuel Merchants Association of New Jersey's Executive Director, Eric DeGesero, will testify on behalf of PMAA before the House Financial Services Subcommittee on Capital Markets and Government Sponsored Enterprises. Other witnesses include CFTC Chairman Gary Gensler; SEC Division of Trading and Markets Robert Cook; Patrick Bailey, Barclays; Samara Cohen, Goldman Sachs; Thomas Deutsch, American Securitization Forum; Christopher Giancarlo, GFI Group; and John Parsons, Massachusetts Institute of Technology.

Eric plans to focus his testimony on why immediate implementation of Title VII of the Wall Street Reform Act is critical in bringing greater transparency, accountability and fairness to physical hedgers. Title VII includes provisions important to PMAA such as aggregate position limits, mandatory clearing of over-the-counter (OTC) oil swaps, speculative reporting updates and margin requirements.

### **U.S. DOT SETS 2013 RANDOM DRUG AND ALCOHOL TESTING RATE FOR CDL/HAZMAT DRIVERS**

The U.S. DOT this week announced its annual minimum testing rates for random drug and alcohol. The rates are the minimum percentage of employees subject to U.S. DOT drug and alcohol testing requirements (CDL drivers) that must undergo a random test during calendar year 2013.

For 2013, the number of random tests conducted by the employer must equal at least 50 percent for drugs and 10 percent for alcohol. The random test percentage is based on the average number of driver positions subject to the regulations. Employers are responsible for implementing and conducting driver drug and alcohol testing programs. They may do this using their own employees or contract services or by joining together in a consortium that provides services to all member companies. Any individual conducting the test must be trained to operate the evidential breath testing (EBT) equipment and be proficient in the breath testing procedures.

Random alcohol testing must be conducted just before, during or just after a driver's performance of safety-sensitive duties. The driver is randomly selected for testing from a "pool" of subject drivers. The testing dates and times are unannounced and are reasonably spread throughout the year. The following drugs are subject to random testing requirements: Marijuana (THC metabolite), cocaine, amphetamines, opiates (including heroin), phencyclidine (PCP) and, MDMA (ecstasy).

### **UNIVERSITY OF MICHIGAN RELEASES STUDY ON FUEL ECONOMY AND CONSUMPTION**

According to a University of Michigan study, as Americans bought more fuel efficient cars and light trucks between Fall 2007 and Fall 2012, fuel demand was reduced by 17 percent. The study was released earlier this week which also indicated that CO2 emissions were down by 20 percent since 2007. New vehicles bought in the fall of 2012 are using about 15 percent less fuel per mile than cars purchased in 2007. Whether the study took into account the recession and other factors that reduce travel such as telecommunicating and online shopping wasn't indicated.

### **U.S. DOT SAYS LEGALIZED POT IS NOT ALLOWED UNDER FEDERAL DRUG TESTING PROGRAM**

The U. S. Department of Transportation (DOT) issued a drug and alcohol policy notice this week concerning legalized recreational use of marijuana. Recently, a number of states and local jurisdictions have passed initiatives to permit the use of marijuana for "recreational use". The DOT has received numerous inquiries about whether these state and local initiatives will have an impact on federal regulations prohibiting the use of marijuana by hazardous materials transportation employees including CDL/HAZMAT drivers.

The issue is of concern because marijuana can be detected in the bloodstream many days after initial use. Off duty CDL/HAZMAT drivers using marijuana under these state and local initiatives could test positive under employer based drug testing requirements. The federal drug and alcohol testing regulations (40 CFR Part 40) do not authorize the use of Schedule I drugs, including marijuana, for any reason. Therefore, a medical review officer (MRO) will not verify a drug test as negative based upon learning that the employee used marijuana in state and local jurisdictions which allow such use. In addition, an MRO will not verify a drug test as negative based upon information that a physician recommended that the employee use "medical marijuana" where states have passed "medical marijuana" initiatives.

It is important to note that marijuana remains a drug listed in Schedule I of the Controlled Substances Act. It remains unacceptable for any hazardous material employee, subject to drug testing under the Department of Transportation's drug testing regulations, to use marijuana.

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**MARK YOUR CALENDARS FOR UPCOMING EVENTS IN 2013**

**February 27, 2013** – Utah (UPMRA) Day on Capitol Hill - Utah Capitol Building - Salt Lake City, Utah

**May 9-10, 2013** – NPM&CSA Big Dogs' Shootout – Red Rock Hotel & Casino – Las Vegas, Nevada

**June 4-6, 2013** - Montana (MPMCSA) Convention - Holiday Inn Grand - Billings, Montana

**June 17-20, 2013** - Washington (WOMA) Convention - Suncadia Lodge - Cle Elum, Washington

**July 31-August 2, 2013** - Idaho (IPM&CSA) Convention - Sun Valley Resort - Sun Valley, Idaho

**August 27-28, 2013** – New Mexico (NMPMA) Convention – Albuquerque Marriott Pyramid North, Albuquerque, NM

**September 12-13, 2013** - Utah (UPMRA) Convention - Zermatt Resort - Midway, UT

Petro Pete: ***"My life is a bunch of "it seemed like a good idea at the time" strung together."***

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