

REMINDER: OVERTIME RULE GOES INTO EFFECT ON JANUARY 1

Final Rule Issued on Calculating 'Regular Rate' of Pay

PMAA would like to remind everyone that the new overtime rule goes into effect on January 1. Earlier this year, the Department of Labor (DOL) issued its long-awaited final rulemaking on employee overtime pay. The final rule updates earnings thresholds that must be reached to exempt executive, administrative or professional employees from the Fair Labor Standards Act's minimum wage and overtime pay requirements.

The new DOL rule raises the annual earnings threshold that triggers overtime pay (time and a half) for an employee working beyond 40 hours per week from \$23,660 to \$35,568. The annual earnings threshold increase will expand overtime pay eligibility to 1.3 million workers for the first time. The new, higher threshold accounts for growth in employee earnings since the currently enforced thresholds were set in 2004. Moreover, the final rule does not adjust the annual earnings threshold to inflation. Instead, any increase would require a new DOL rulemaking based on a determination of economic need.

The final rule replaces an Obama Administration rulemaking that raised the annual earnings threshold for overtime eligibility to \$47,476. The Obama rule would have expanded overtime eligibility to 4.2 million workers. However, a federal court enjoined the rule from going into effect. The new overtime rule was written in response to the federal court action.

The final rule would also:

- allow employers to count a portion of certain bonuses and commissions towards meeting the annual salary level;
- raise the "standard salary level" from \$455 to \$684 per week (equivalent to \$35,568 per year for a full-year worker);
- raise the total annual compensation level for "highly compensated employees" from \$100,000 to \$107,432 per year; and
- allow employers to use nondiscretionary bonuses and incentive payments (including commissions) to satisfy up to 10 percent of the standard salary level.

Meanwhile, the Small Business Legislative Council (SBLC) recently held a webinar regarding the new final overtime regulations. The webinar provided an overview of the DOL's newly released overtime rules and recommendations for businesses on what steps they need to take before the rules go into effect on January 1. PMAA is a board member of the SBLC.

Additionally, this week, DOL issued a final rule that it says will allow employers to more easily offer benefits and perks to their employees. The 'regular rate' rule is used to calculate overtime premiums under the Fair Labor Standards Act (FLSA). The SBLC will have more information on the final rule soon and PMAA will report on the specifics.

CONGRESS TO SHIFT FOCUS TO TAX EXTENDERS AS GOVERNMENT SPENDING/TWO MAJOR TRADE DEALS ARE REACHED

It was reported earlier this week that the White House and democratic negotiators reached a tentative agreement on a new trade deal with Mexico and Canada, setting up a possible vote in Congress to sign the deal into law before the end of the year. Furthermore, it was announced last night that the U.S. and China have reached a partial deal on the so-called phase-one trade deal.

Additionally, House and Senate republican and democrat leadership announced yesterday afternoon that they had reached "a deal in principle" on a bill that would fund the government through FY2020. Senate Appropriations Committee Chairman Richard Shelby (R-AL) told reporters that a deal was reached and that staff members were working out "a few details." Furthermore, when asked about a government shutdown, Treasury Secretary Steve Mnuchin told reporters that a government shutdown is unlikely, saying, "Let me say in no uncertain terms, nobody wants to have a government shutdown."

This is welcome news because Congress can now shift its focus on reaching an agreement on tax extenders including a retroactive extension of the biodiesel blenders tax credit that could be included in a year-end government funding bill.

GROUP SENDS LETTER TO SENATE LEADERSHIP OPPOSING EV TAX EXTENSION

The American Energy Alliance (AEA), backed by thirty-two additional signers, recently issued the following letter to Senate Majority Leader Mitch McConnell urging him and his colleagues to oppose any kind of end-of-year deal that includes an extension or increase of the electric vehicle (EV) tax credit.

In the letter, the groups state, "The electric vehicle tax credit is not necessary to support the vehicle market in the United States. It is a \$9.7 billion subsidy that, for all practical purposes, serves the wealthy."

Several democrats are pushing to include an expansion of the electric vehicle (EV) tax credit in a tax extenders package before the end of the year. Specifically, their efforts are likely to mirror legislation introduced earlier this year which would reduce the \$7,500 credit to \$7,000 and would lift the tax credit cap from 200,000 to 600,000. According to a recent study, the bill would cost taxpayers as much as \$15.7 billion.

Earlier this year, PMAA joined AFPM and API in sending a letter to Senate Majority Leader Mitch McConnell (R-KY) opposing any extension or expansion of the EV tax credit. PMAA is concerned that expanding the EV tax credit places the burden on the poor and middle-class ratepayers who are subsidizing the wealthy's luxury buying power to purchase expensive EVs.

TRUMP ADMINISTRATION TO FINALIZE CAFE STANDARDS RULE NEXT YEAR

This week, the Trump Administration announced that it will be finalizing its new Corporate Average Fuel Economy (CAFE) Standards rule sometime next year. The rule is expected to require a 1.5 percent annual increase in the fleet-wide efficiency of new automobiles starting in the 2021. Current regulations set by the Obama Administration require a mile-per-gallon average of roughly 50 miles per gallon by 2025. However, last year, the Trump Administration proposed capping that requirement at a 37-miles-per-gallon average after 2020.

In October 2018, PMAA submitted comments in support of the Trump Administration's proposed rule on CAFE standards. PMAA highlighted numerous reasons why current MPG standards could harm petroleum marketers and how important it is that the Trump Administration's proposed rule is adopted.

Furthermore, in October, the Trump Administration announced that the EPA will revoke California's waiver that allows the state to set its own, more stringent auto emissions standards. Additionally, the EPA, with the help of the U.S. Department of Transportation (U.S. DOT), revoked California's requirement that auto manufacturers offer for sale an increasing number of zero emission vehicles (ZEV) in the state each year. The U.S. DOT drafted a notice asserting that the California (ZEV) standards are preempted by federal fuel economy regulations. The Trump Administration argued that it was revoking California's federal waiver on emissions in order to produce far less expensive cars for motorists, while at the same time making the car substantially safer.

It is expected that California will challenge the final rule in court.

SENATE HOLDS HEARING ON UPCOMING IMO STANDARDS IMPLEMENTATION

Earlier this week, the Senate Energy and Natural Resources held a hearing to examine the upcoming implementation of the International Maritime Organization's (IMO) new global sulfur standard for marine fuels, which is set to take effect on January 1, 2020. Hearing witnesses included: The Honorable Linda Capuano (Administrator, Energy Information Agency); Mr. John Butler (President and CEO, World Shipping Council); Mr. Derrick Morgan (Senior Vice President of Federal and Regulatory Affairs, American Fuel and Petrochemical Manufacturers); Mr. Neelesh Nerurkar (Vice President, ClearView Energy Partners, LLC) and Mr. Jamie Webster (Senior Director, Boston Consulting Group - Center for Energy Impact).

Committee Ranking Member Joe Manchin (D-WV) said in his opening testimony that because the U.S. has had sulfur standards in place since 2015 and refineries have made investments in lower sulfur fuels, this puts American refineries and energy companies at a competitive advantage over other countries.

Importantly for marketers, many analysts and witnesses at the hearing said that they no longer have concerns that crude oil prices will dramatically increase in response to the new IMO standards. Speaking about the price concerns, Linda Capuano said, "We anticipate that the IMO 2020 regulations will put upward pressure of about \$2 per barrel on light, sweet crude oil prices in 2020, which will moderate in the following years." However, she said the "downward oil price pressure from slowing global economic growth will outweigh concerns of the IMO 2020 standards." Many of the witnesses at the hearing echoed the remarks of Capuano and said that it is unlikely that there will be a significant change in crude oil prices due to the new IMO standards.

Additionally, the effects of the standards on heating oil prices were discussed at the hearing. In his testimony, Derrick Morgan stated that "the EIA projects that U.S. average wholesale and retail prices of heating oil and ultra-low sulfur diesel in the fourth quarter of 2019 and into 2020 are expected to be below prices in the fourth quarter of 2018." Morgan said the reason for this "is partially due to the fact that EIA expects distillate production to increase in 2020 by 8.1% as compared with 2019, while consumption is expected to increase by 1.2%." Chairman Murkowski asked Morgan if rural and remote

towns and cities such as those in Alaska are ready for the implementation of the new standards to which Morgan replied that although there are already some challenges to getting fuel into remote areas like Alaska, he didn't believe the standards would add additional challenges.

There was a general consensus among many of the witnesses at the testimony that the U.S. is well prepared for the implementation of the new IMO standards and that there will not be significant changes to the pricing of crude oil.

U.S. DOT HAZARDOUS MATERIAL REQUIREMENTS FOR TRANSPORTING "EMPTY" SKID TANKS

PMAA has received a number of questions recently regarding the proper placarding requirements for empty skid tanks. First, any petroleum bulk storage tank containing gasoline, diesel fuel, heating oil or kerosene or other hazardous material with a capacity greater than 119 gallons, is subject to the U.S. DOT Hazardous Material Regulations (HMR). In other words, if the tank contains product, it must be placarded for shipment, accompanied by a shipping paper and transported by a CDL driver with a HAZMAT endorsement. HMR section 49 CFR 173.29 sets forth the requirements for transporting empty skid tanks previously containing a hazardous material. Most importantly, paragraph (a) of this section defines the term "empty" for purposes of applicability of the HMR. Under paragraph (a), a skid tank previously containing a hazardous material is not considered "empty" until it has been cleaned of residue and purged of vapors and is regulated as though it holds the hazardous material it last contained.

This means when empty skid tanks are transported without cleaning and purging, they must be placarded, accompanied by a HAZMAT shipping paper and transported by a CDL driver with a hazardous material endorsement. If a skid tank is cleaned of residue and purged of vapors, a placard is not required, and it may be transported without a shipping paper and by a driver without a hazardous material endorsement. However, the HMR prohibits the display of any hazardous material communication information (i.e. placard) if transported on an unenclosed truck such as a flat bed. Instead, hazard communication signage on skid tanks, including placards, must be "removed, obliterated or securely covered during transportation."

The following information describes the requirements for transporting "empty" skid tanks that are not cleaned or purged:

Placards – Skid tanks must be placarded unless they have been cleaned of all residue and purged of vapors (49 CFR 172.29). Skid tanks must be placarded on all four sides when being transported (49 CFR 172.504). There is an exception to this rule when the gross *aggregate* capacity of the tank(s) is less than 1000 gallons. In this case only *two sides* need be placarded (49 CFR 172.514(c)).

Shipping Papers – Skid tanks containing only residue must be accompanied by shipping papers that comply with U.S. DOT HAZMAT regulations. Use the same format on skid tank shipping papers as used with fuel being transported by cargo tank truck or transport. The quantity on the shipping paper – usually designated in gallons or by truckload should be noted as "residue." Residue is the substance left in a tank that is not suitable for powering any engine or equipment due to its impurities. Any amount remaining in the tank above a residue must be designated in gallons.

Driver Qualifications – Only a driver with a current CDL and HAZMAT endorsement may transport skid tanks containing fuel or residue. Many times, marketers will send out a flatbed truck to retrieve skid tanks with only a CDL licensee behind the wheel. A driver transporting skid tanks must have a hazardous material endorsement. They only time a driver with a hazardous material endorsement is not required is when the tanks are cleaned and purged.

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FUNERAL SERVICES ANNOUNCED FOR HANSEN FAMILY MEMBERS WHO DIED IN A PLANE CRASH

Funerals for Kirk, Stockton and Logan Hansen will be at 11 a.m. on Monday, Dec. 16 at the Eagle Rock Stake Center, 2020 Charlotte Drive in Idaho Falls. Visitation hours will be Sunday, Dec. 15 from 6-8 p.m. and on Monday for one hour prior to the funeral. Both visitations will be held at the Eagle Rock Stake Center. Kirk, Logan and Stockton Hansen will be buried at the Ammon Cemetery.

The funeral for Jim Hansen Sr. will be at 11 a.m. on Wednesday, Dec. 18 at the Ammon 8th Ward Building, 2055 S. Ammon Road. Visitation hours are scheduled for Tuesday, Dec. 17 from 6-8 p.m. at Wood Funeral Home East Side, 963 S. Ammon Road, and one hour before the funeral at the Ammon church. Jim Hansen Sr. will be buried at the Ammon Cemetery.

Funeral services for Kyle Naylor will be held on Wednesday, December 11, 2019, at 11:00 AM at The Church of Jesus Christ of Latter-day Saints building located adjacent to the Temple at 2085 S Temple Drive in Twin Falls, Idaho. The viewing will be starting at 9:30 AM prior to the service. Burial will be in the Ammon Cemetery in Ammon, Idaho.

Funeral services for Tyson Dennert will be held at 11 a.m. December 14, 2019, at Eagle Rock Stake Center, 2020 S. Charlotte Drive in Idaho Falls. Visitation: December 13th, 6:30 to 8 p.m. at the Village Park Ward building at 1345 Clarence Drive, and December 14th from 10 to 10:45 a.m. at the stake center. Burial in the Ammon Cemetery.

Services for Jim Hansen Jr., Jake and Houston Hansen are being finalized.

Condolences can be submitted to remembrance@kyani.com.

While flowers are a wonderful expression of love and support for the Hansen family members affected by this tragedy, the family asks that, in keeping with the Hansen's goal of helping people in need, and providing opportunities for others to grow temporally and spiritually on the path to become Christ-like disciples, that donations be tendered to the established Caring Hands Program developed by the Kyani Corporation (<https://caringhands.kyani.net/>) to help people in need both at home and abroad.

PLAN TO ATTEND THE 2020 WPMAEXPO

WPMAEXPO

Mark your calendars for February 18-20, 2020. Make plans now to attend the 2020 WPMAEXPO. It will be held once again at the Mirage in Las Vegas, Nevada.

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February 18-20, 2020 – WPMA Convention & Expo – Mirage Hotel– Las Vegas, NV

April 21, 2020 – IPM&CSA PAC Golf Tournament – Ridgecrest GC – Nampa, ID

April 21-23, 2020 – Federated Insurance Risk Management Academy

May 7-8, 2020 – Nevada NPM&CSA – Big Dogs - Las Vegas, NV

June 2-3, 2020 – Montana MPMCSA – Convention – Fairmont Hot Springs Resort – Fairmont, MT

June 22-25, 2020 – Washington (WOMA) – Convention – Suncadia Resort – Cle Elum, Washington

August 5-7, 2020 – Idaho (IPM&CSA) Convention – Coeur d' Alene Resort – Coeur d' Alene, Idaho

August 17-19, 2020 – New Mexico (NMPMA) Convention – Sandia Resort & Casino – Albuquerque, NM

September 9-10, 2020 – Utah (UPMRA) – Convention – Park City Marriott – Park City, Utah

September 15-17, 2020 - Federated Insurance Risk Management Academy

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Petro Pete: *"Mail your packages early so the post office can lose them in time for Christmas."*

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