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### NEVADA PETROLEUM MARKETER PAUL ANDERSON APPOINTED SPARKS CITY COUNCIL



Nevada Petroleum Marketer Paul Anderson, Pilot Thomas Logistics, was appointed today to the Sparks City Council. Paul was selected by newly elected Mayor Ron Smith to fill Mayor Smith's unexpired term as Ward 3 councilman. As manager of the Pilot Thomas Logistics government and overseas national contracts, Paul is based in Sparks, Nevada. Paul is also the chairman of the Nevada State Board of Agriculture, the agency responsible for fuel standards and accuracy of dispensers. Additionally, Paul is a volunteer for the Nevada Veterans Memorial to preserve and honor the legacy of service men and women who have fallen since 1864. Fund raising has begun for a New Memorial Plaza for the entire state located at the Sparks Marina.

We congratulate Paul for his boundless community service to Nevada and the petroleum industry.

### CONGRESS PASSES FARM BILL WITH 10 YEAR NORA REAUTHORIZATION

#### ***SNAP also Reauthorized for Five Years***

This week, Congress passed the Farm Bill and with it included a reauthorization of the National Oilheat Research Alliance (NORA)! Passage of the bill is a huge victory for heating fuels dealers. Specifically, the bill reauthorizes NORA for ten years in which 25 percent of the funding will be escrowed each year that can be accessed on year 11. PMAA would like to thank all of our state/regional associations that reached out to their lawmakers to get us to this point, but most especially, New England Fuel Institute (NEFI), all of the Northeast state associations, Wisconsin, Kansas, Ohio, Michigan, North Carolina, South Carolina, Kentucky, Illinois, Washington state and Oregon.

Senators who played a key role in the process included: Senator Jeanne Shaheen (D-NH), Senator Patrick Leahy (D-NH), Senator Susan Collins (R-ME), Senate Majority Leader Mitch McConnell (R-KY), Senator Richard Burr (R-NC), Senator Rob Portman (R-OH) and Senator Jack Reed (D-RI). In the House, key lawmakers included: Paul Tonko (D-NY), Jeff Duncan (R-SC), Frank Pallone (D-NJ), Peter Welch (D-VT), John Faso (R-NY), Ann Kuster (D-NH), Cathy McMorris Rodgers (R-WA), and David Rouzer (R-NC).

NORA was first authorized in 2000 to provide funding that would allow the oilheat industry to provide more efficient and reliable heat and hot water to American consumers. As a "check-off" program, NORA receives \$0.002 at the wholesale level on every gallon of heating oil sold. NORA provides critical training opportunities and supports the necessary research and development for the industry. Oilheat is currently used in 6.3 million homes, serving more than 16 million Americans across the country. The current NORA program is authorized through February 2019.

The Farm Bill also reauthorizes the Supplemental Nutrition Assistance Program (SNAP) through 2023. The measure would largely maintain existing SNAP work requirements. The agreement requires the creation of a clearinghouse to prevent individuals from receiving SNAP benefits in more than one state simultaneously, and the USDA must review group facilities to ensure they aren't receiving nutrition benefits from multiple programs.

Most significantly for retailers, the bill prohibits electronic benefit transfer processing fees through fiscal 2023. Specifically, it prohibits fees assessed by State benefit issuers related to the switching or routing of electronic benefit transfer transactions; requires a GAO study to examine EBT fees, outages and intermediaries providing services in-between redemption at retail food store and state-contracted EBT processors; requires USDA to review state EBT contract service agreements and compatibility of such systems with USDA fraud monitoring systems and the use of third-party applications that access EBT systems; directs the Secretary to issue guidance and regulations as appropriate based on the findings of the GAO study and USDA review; requires the Secretary to issue guidance to retail food stores on selecting EBT equipment and service providers that are able to provide sufficient transaction information to minimize the risk of fraudulent transactions; it also allows the Secretary to require applicant retailers to provide certain EBT-related information to the Secretary during the retail authorization process.

The final Farm Bill also legalizes hemp by removing it from the list of controlled substances. Hemp is classified as a schedule I drug -- those deemed to have a high abuse potential and no medical use -- along with marijuana and tetrahydrocannabinol (THC), making it largely illegal at the federal level. The measure excludes hemp, which comes from the same plant species as marijuana but has low THC, from those definitions. The bill allows states and American Indian tribes to have primary regulatory authority over hemp production. USDA would have to approve their plans to regulate it in advance.

## **ADMINISTRATION RELEASES NEW PROPOSED WOTUS**

On Tuesday, the EPA and the Department of the Army announced how the Trump administration wants to replace President Obama's 2015 Waters of the U.S. (WOTUS) Rule.

Under the Trump administration, wetlands that aren't directly connected to a larger river or stream would no longer be subject to federal protections, ephemeral streams that flow only after a big rainstorm would not be subject to WOTUS, and irrigation ditches would also not be covered. During the roll out of the proposed rule, EPA's acting administrator, Andrew Wheeler, said the administration's proposal is based on the principle that landowners should "be able to tell for themselves whether they have a federal waterway or not without hiring outside consultants."

The Trump administration attempted to delay the former administration's compliance deadlines by several years while it worked on this new version. The delay effort was partially struck down in court, leading to confusion about which bodies of water are subject to federal regulation.

The agencies' proposal is the second step in a two-step process to review and revise the definition of "waters of the United States" consistent with President Trump's February 2017 Executive Order entitled "Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the 'Waters of the United States' Rule." The Executive Order states that it is in the national interest to ensure that the nation's navigable waters are kept free from pollution, while at the same time promoting economic growth, minimizing regulatory uncertainty, and showing due regard for the roles of Congress and the states under the Constitution.

"EPA and the Army together propose this new definition that provides a clear and predictable approach to regulating 'waters of the United States.' We focused on developing an implementable definition that balances local and national interests under the Clean Water Act," said R.D. James, Assistant Secretary of the Army for Civil Works. "I have heard from a wide range of stakeholders on Clean Water Act implementation challenges. This proposed definition provides a common-sense approach to managing our nation's waters."

The agencies' proposed rule would provide clarity, predictability and consistency so that the regulated community can easily understand where the Clean Water Act applies—and where it does not. Under the agencies' proposal, traditional navigable waters, tributaries to those waters, certain ditches, certain lakes and ponds, impoundments of jurisdictional waters, and wetlands adjacent to jurisdictional waters would be federally regulated. It also details what are not "waters of the United States," such as features that only contain water during or in response to rainfall (e.g., ephemeral features); groundwater; many ditches, including most roadside or farm ditches; prior converted cropland; stormwater control features; and waste treatment systems.

The agencies will take comment on the proposal for 60 days after publication in the Federal Register. EPA and the Army will also hold an informational webcast on January 10, 2019 and will host a listening session on the proposed rule in Kansas City, KS on January 23, 2019. A pre-publication version of the Federal Register notice, the supporting analyses and fact sheets are available [here](https://www.epa.gov/wotus-rule) (<https://www.epa.gov/wotus-rule>).

## **HOUSE SUBCOMMITTEE HOLDS HEARING ON RFS REFORM DRAFT**

On Tuesday, the House Energy and Commerce Subcommittee on Environment held a hearing examining the "21st Century Transportation Fuels Act," a discussion draft introduced by Subcommittee Chairman John Shimkus (R-IL) and Rep. Bill Flores (R-TX) to revamp the Renewable Fuel Standard (RFS) by moving towards a fuel performance standard to reduce emissions and preserve the liquid fuels industry. The discussion draft would nix the 15-billion-gallon corn ethanol mandate in 2022 and transition to a national octane standard. In other words, the legislation would swap out a government mandate for a performance standard that autos, refiners and petroleum marketers would need to meet.

The draft legislation aims to encourage the production of high compression engines (HCEs) warrantied up to E20 and refiners to produce higher octane fuels known as 95 research octane number (RON) that would be compatible with HCEs. 95 RON is similar to today's premium fuel that would lower emissions and preserve the liquid fuels distribution network. Although PMAA is concerned that implementing a higher-octane fuel may be used as an excuse to mandate E15 or higher ethanol blends, moving towards a performance standard versus a government-imposed mandate may have its benefits. 95 RON can be produced with an E0 blend, but given ethanol's octane boost, E10 would likely be used to meet the 95 RON standard.

Referring to the discussion draft during the hearing, Rep. Flores stated, "We have to put consumers and the environment first, not our own self interests. Either we can go with the status quo that everyone says is broken or have a compromise solution. There's not going to be a solution that makes everyone 100 percent happy."

Testifying before the Committee included Chet Thompson, President of the American Fuel and Petrochemical Manufacturers (AFPM), who said that "if implemented correctly, a transition from the RFS to a fuel-neutral, 95-RON performance standard has the potential to better address the needs of all stakeholders: the auto industry, marketers, biofuel producers, farmers, refiners, and most importantly consumers." However, he stated that AFPM cannot support the draft as it is currently written because some provisions "fail to promote free market competition for fuels" and doesn't do

enough to fix the RFS.

Tim Columbus, general counsel for NACS and SIGMA, outlined several issues with the draft. He stated that the text of the draft must state that misfuelling technology must be cost-effective for retailers, not just auto manufacturers and said that the associations have cost concerns related to the size of the nozzles used to dispense fuels. He also said that the associations were pleased to see the draft include misfuelling liability protections but said that retailers who comply with the misfuelling prevention requirements must be protected from “all liability under state, federal, and common law with regard to any damages resulting from the misfuelling activity of a consumer.” Also, in his testimony, Columbus stated, “Currently, NACS and SIGMA have no position on the draft legislation.”

Geoff Cooper, President and CEO of the Renewable Fuels Association (RFA), stated that RFA cannot support the draft because eliminating the RFS “would undermine the considerable progress our nation has made toward greater energy security, economic vitality and environmental health.” Cooper also stated that RFA does not support a 95 RON standard because it “is not a suitable replacement for the RFS beyond 2022.”

David Fialkov, Vice President of Government Relations for NATSO, stated that the **small refinery** waivers have “resulted in more volatility in RIN markets and lower demand for advanced biofuels.” Kurt Kovarik, Vice President of Federal Affairs with the National Biodiesel Board (NBB), echoed those comments and said that the draft doesn’t do enough to address the fact that EPA has negatively affected the demand for biodiesel by issuing small refinery waivers that allow small refineries to be exempted from obligations under the RFS.

Ethanol groups argue that their members are being hurt by the RFS small refinery exemptions because it indirectly reduces the corn ethanol mandate which drives down the value of RINs and negatively impacts their ability to make E15 a viable fuel in the marketplace.

PMAA applauds Reps. Shimkus and Flores’ work on trying to find common ground between the corn, refining and marketing interests. While this legislation may be a mixed bag for petroleum marketers, keep in mind that current law puts the responsibility of the RFS in the hands of the EPA to set yearly RVOs following 2022. Therefore, this bill is the first step that serves as a blueprint for future legislation where all parties must give something up to preserve the liquid fuels industry. PMAA will continue to monitor the progress of the draft.

### **EPA RULES UPWIND STATES HAVE MET THEIR OZONE GOOD NEIGHBOR OBLIGATIONS**

Last week, EPA determined that upwind states that emit smog-forming pollutants have already done enough to improve their downwind neighbors’ air quality. Specifically, EPA ruled that downwind states are expected to meet the 2008 standard by 2023 under their existing air plans, and upwind states do not need to take any further action.

Known in EPA lingo as the “CSAPR Close-Out,” the finding says the upwind states have satisfied the “good neighbor” requirements under the Clean Air Act because of actions taken following the 2016 ozone-related update to the Cross-State Air Pollution Rule, under which EPA required 22 states to curb some pollution. “Good neighbor” obligations under the Clean Air Act (CAA) require upwind states to control their emissions so as not to cause air quality problems in downwind states. Environmentalists criticized the finding, and New York, Maryland, and other downwind states are likely to challenge EPA’s finding in court.

“Under President Trump, EPA has reformed the way we set and implement national standards for ground-level ozone. These reforms are helping states meet these standards and avoid additional costly requirements,” said EPA Acting Administrator Andrew Wheeler. “For power plants covered by this program for cross-border ozone, nitrogen oxide emissions dropped by over 20 percent - roughly 80,000 tons - just since the 2016 ozone season.”

EPA’s latest air quality data and modeling predict that, by 2023, there will be no remaining nonattainment or maintenance areas for the 2008 Ozone NAAQS in the CSAPR Update region (which encompasses most of the eastern United States). Once the 2016 CSAPR Update is fully implemented, upwind states in this region are not expected to contribute significantly to nonattainment or interfere with the maintenance of the 2008 ozone standards in any downwind states.

The ruling is important to petroleum marketers because ozone standards and attainment criteria could lead to the introduction of RVP and RFG requirements in non-attainment areas depending on the severity of the ozone pollution they establish.

## PLAN TO ATTEND THE 2019 WPMAEXPO

# 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.

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**February 19-21, 2019** – WPMA Convention & Expo – Mirage Hotel– Las Vegas, NV

**April 23, 2019** – Idaho (IPM&CSA) Treasure Valley PAC Fund Golf Tournament, Nampa, ID

**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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