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Shutdown's Impact on Marketers

This week, the House passed three appropriations bills that would fund the Department of Transportation (DOT), Department of Homeland Security (DHS), Department of Housing and Urban Development (HUD), Department of Agriculture (DOA), Food and Drug Administration (FDA), Department of Treasury (DOT) and the Internal Revenue Service (IRS) as part of an effort to end the ongoing government shutdown. Additionally, the House is set to vote on their fourth and final appropriations bill today that would fund the Environmental Protection Agency (EPA) and Department of Interior (DOI). However, the votes are largely symbolic because Senate Majority Leader Mitch McConnell (R-KY) has said the Senate will not bring to the floor any bills that President Trump wouldn't sign, and President Trump has said he would veto all four bills.

Due to disagreements on the appropriations bills and their lack of funding for the border wall, day 22 of the partial government shutdown left EPA without funding. The E-Verify electronic verification employment system's website had been shut down, and USDA is working with states to issue February SNAP benefits earlier than usual. The EPA has also announced it will begin "orderly shutdown procedures" of non-essential functions. There is no immediate resolution in sight and no other votes are expected today. House leadership have committed to giving 24 hours' notice before calling for a vote.

The Department of Homeland Security (DHS) E-Verify electronic verification employment system's website that verifies the information on a worker's Form I-9 with Social Security Administration records, was shut down. For employers who use E-Verify, until the website is operational, simply go back to the rules for hiring documents that the majority of employers' use, which includes employee Form I-9/Employment Eligibility Verification. According to DHS, the three-day rule for creating E-Verify cases has been suspended during the shutdown. There continues to be strong Administration support for the program. President Trump would like to mandate DHS's E-Verify program nationwide, and his fiscal 2019 budget plan requested \$23 million to expand the online program for all 50 states.

Meanwhile, on Tuesday, Agriculture Secretary Sonny Perdue announced that in order to ensure that participants in the Supplemental Nutrition Assistance Program (SNAP) receive their benefits in February if the shutdown persists, USDA will work with states to issue February benefits earlier than usual.

Based on language in the recently-expired Continuing Resolution (CR), programs like SNAP can incur obligations for program operations within 30 days of the CR's expiration. USDA will

instruct states to request early issuance of SNAP benefits, and states will have until January 20th to request and implement the early issuance. SNAP retailers are urged to prepare for early transactions and to staff and stock stores appropriately.

If Democrats continue to refuse funding for a border wall, President Trump has said that he will likely use his presidential power to declare a national emergency. If this were to happen, the money for the wall would likely come from unused money in the Army Corps of Engineers budget, specifically from a disaster spending bill that Congress passed last year. If an emergency declaration is issued, House Democratic leadership have been discussing the possibility of suing the Trump Administration, although they may not have standing to sue. With no end in sight, it remains to be seen when the government will fully reopen.

FMCSA Lowers 2019 Unified Carrier Registration Fees Due to Past Year Overcollection

Unified Carrier Registration fees for trucking companies, brokers and freight forwarders are going down for 2019. The UCR applies to petroleum marketers operating cargo tank vehicles across state lines to deliver fuel. The fees are being reduced in order to not exceed the total amount collected nationwide as set by Congress. Under the UCR Plan and Agreement, the maximum amount of revenues that can be collected from carriers is established at \$107.78 million. Fees collected in 2017 exceeded this maximum by \$7.3 million. The fee reductions for 2019 and 2020 are to ensure registration fees don't exceed the maximum in the next two years. UCR fees will increase in 2020 from 2019, but still stay below levels from 2010-2018.

UCR requires individuals or companies that operate commercial motor vehicles (CMVs) in interstate or international commerce, or individuals or companies that make arrangements for the transportation of cargo and goods, to register their businesses and pay an annual fee based on the size of their fleet. The UCR applies to CMVs with a gross vehicle weight (GVW) or gross vehicle weight rating (GVWR) of 10,001 pounds or more or is used to transport hazardous materials in a quantity that requires placarding. Motor carriers, motor private carriers, freight forwarders, leasing companies, and brokers based in the United States, Canada, Mexico, or any other country that operate in interstate or international commerce in the United States must register under the UCR program. For for-hire carriers, UCR replaced the Single State Registration System (SSRS) program. SSRS was not renewed for 2007. The UCR program is similar to SSRS in that UCR is a Base-State system, under which a carrier pays UCR fees to one state on behalf of all participating states.

Please see the following UCR fees for the next two years, compared to previous fees:

| No. of trucks | 2010-2017 fee | 2018 fee | 2019 fee | 2020 fee |
|---------------|---------------|----------|----------|----------|
| 0-2 | \$76 | \$69 | \$62 | \$68 |
| 3-5 | \$227 | \$206 | \$185 | \$204 |
| 6-20 | \$452 | \$410 | \$368 | \$407 |
| 21-100 | \$1,576 | \$1,431 | \$1,283 | \$1,420 |
| 101-1,000 | \$7,511 | \$6,820 | \$6,112 | \$6,766 |
| 1,001+ | \$73,346 | \$66,597 | \$59,689 | \$66,072 |

More information is available at: <https://www.ucr.gov/>

Government Shutdown to Impact Year-Round Sale of E15 Rule Release

The current government shutdown may impact the Trump Administration’s pledge to allow E15 sales year-round before this year’s summer driving season. Although the Trump administration planned to have the rule published by February and approved by June, EPA recently reached out to several lawmakers indicating that the timeline for the rule could be delayed due to the partial government shutdown. Each year, the EPA regulates Reid vapor pressure (RVP) for gasoline and gasoline-ethanol blended from June 1 until September 15. During these months, the EPA restricts the retail sale of fuels with ethanol above 10 percent. However, in October, President Trump ordered the EPA to start the rulemaking process to allow year-round sales of E15 and to consider reforms to increase transparency and prevent price manipulation in the Renewable Identification Number (RIN) market.

Last year, PMAA expressed significant procedural and policy concerns by the decision to sell E15 year-round in a [letter](#) to President Trump. On the procedural front, PMAA said that section 211 (h)(4) of the Clean Air Act specifically limits the one-pound summertime RVP waiver to gasoline blends containing between 9-10 percent volume ethanol. Therefore, any change to expand the RVP waiver to E15 blends can only be made by Congress and not the EPA who lacks the statutory authority to do so.

PMAA added that from a policy perspective the year-round sale of E15 raises serious concerns regarding E15 compatibility with motor vehicles, motorcycles, marine engines and small gasoline powered equipment. PMAA also has concerns with existing UST system components especially pipe dope non-compatibility with E15. Click [here](#) for a regulatory report from PMAA counsel.

Acting Administrator Andrew Wheeler Nominated as EPA Administrator

As expected, the President has formally nominated Acting Administrator Andrew Wheeler to be the EPA Administrator. Although most Democrats will oppose Wheeler for his work towards undoing some Obama regulations like emission standards for cars and trucks, Wheeler will have the votes to pass. All Senate Republicans and Sen. Joe Manchin (D-WV) voted to confirm him as deputy administrator. The Senate Environment and Public Works Committee will hold a nomination hearing on Wheeler later this month.

Reminder: Oil Spill Liability Tax Has Expired

The 9 cents per barrel Oil Spill Liability Tax (OSLT) expired at midnight December 31, 2018. The OSLT is imposed on crude oil at the refinery gate. The OSLT has no tax related impact on downstream marketers, it is simply a cost passed through on finished product. The OSLT is paid by the refiner upstream. Unfortunately, some terminals break out the OSLT as a separate line item on bills of lading and invoices. They do this not because wholesale petroleum marketers need to know, but for their own accounting purposes and no other reason. This practice causes confusion downstream because the tax is paid by refiners on crude oil. The OSLT is not imposed, remitted or refunded downstream. There are no OSLT floor stock taxes or OSLT tax exempt parties downstream. However, breaking out the OSLT as a separate line item gives it a perception of importance downstream.

Some downstream wholesale petroleum marketers who break out the OSLT on invoices to their end user customers may need to adjust their accounting practices and software to reflect the recent expiration. However, there is no regulatory requirement to breakout the OSLT downstream of the terminal rack on invoices in the first place. To prevent this confusion now, PMAA urges jobbers to contact their suppliers to ensure that the OSLT is not listed on invoices. PMAA will work with Congressional tax writing committees to ensure that the tax isn't applied retroactively.

Speaker Pelosi Says Democrats Will Revisit Climate Plan Based on 2009 Bill

On Friday, while speaking at Trinity Washington University, newly-elected Speaker of the House Nancy Pelosi (D-CA) said the House will begin working on a climate bill reminiscent of a 2009 cap-and-trade bill that passed the Democrat-controlled House but failed in the Senate. Pelosi told the audience that "we couldn't pass in the Senate our climate bill, and we'll be returning to that." The failed climate bill would have imposed the nation's first limits on greenhouse-gas emissions and would have required pollution permits to be traded on a market with the intention of reducing greenhouse-gas emissions by 17 percent from 2005 levels by 2020.

Since regaining control of the House, Democrats have indicated that climate legislation will be a top priority for their party this year. Last month, Pelosi appointed Rep. Kathy Castor (D-FL) to head a committee that will focus on climate change. The new climate panel, called the House Select Committee on the Climate Crisis, brings back a committee Pelosi created in 2006. Although many Democrats have praised the recreation of the climate panel, many progressive Democrats have pushed back on House leadership's plans for the panel because it is not tasked with creating a Green New Deal, which is something progressives are demanding.

FMCSA Random Drug and Alcohol Testing Rates for 2019

The FMCSA this week announced minimum employee random drug and alcohol testing rates for 2019. The test rates are the minimum percentage of employees who are subject to U.S. DOT

drug and alcohol requirements who must undergo a random test during the upcoming calendar year. The number of random tests conducted by employers for 2019 must equal at least 25 percent for drugs and 10 percent for alcohol. These are the same rates required in 2018. Please view Compliance Bulletin [here](#).

Federated Insurance Risk Management Academy Webinar
A Top Ten List You Can't Ignore (OSHA Top Ten)
Tuesday, January 15, 2019, 1:00 p.m. CT

Each year, OSHA releases a summary of their list of Top Ten workplace safety violations. This 30-minute webinar will take a look at OSHA's Top Ten violations in 2018. More importantly, however, we will focus on risk management policies, procedures, and training resources to implement and help reduce employee accidents and injuries!

What you will learn:

- Quick overview of the OSHA Top Ten violations for 2018
- Training resources, programs and policies to implement in your business
- How to positively impact workplace productivity and culture through accident prevention

[Advance registration](#) is required.

For additional information or to discuss this in further detail, please contact your [Federated](#) regional representative or PMAA's National Account Executive [Jerry Leemkuil](#) at 800.533.0472.
Federated is a PMAA Corporate Platinum Partner.

Federated Insurance Employment Practices Network HR Question of the Month

Federated Insurance's HR Question of the Month focuses on employment-related practices liability issues. Last month's question was: **Can an Employer Require Stated Reason for Inability to Perform a Task?** We have an employee that has stated that she is unable to perform a particular task. We have requested that she put this in writing. She is not willing to state the reason she is unable to perform the task. We are willing to transfer this task to another employee but want to know if we have the right to insist on having the employee state the reason? Please click [here](#) to read the response.

For additional information or to discuss this in further detail, please contact your [Federated](#) regional representative or PMAA's National Account Executive [Jerry Leemkuil](#) at 800.533.0472.
Federated is a PMAA Corporate Platinum Partner.

PMAA Corporate Platinum Partner Spotlight Featuring: Renewable Energy Group, Inc.
RFS Volumes for 2018

On November 30, the [EPA](#) released its “Final Renewable Fuel Standards for 2019 and the Biomass-Based Diesel Volume for 2020.” The numbers are as follows:

Final Volume Requirements^a

| | 2017 | 2018 | 2019 | 2020 |
|--|-------|-------|------------------|------|
| Cellulosic biofuel (million gallons) | 311 | 288 | 418 | n/a |
| Biomass-based diesel (billion gallons) | 2.0 | 2.1 | 2.1 ^b | 2.43 |
| Advanced biofuel (billion gallons) | 4.28 | 4.29 | 4.92 | n/a |
| Renewable fuel (billion gallons) | 19.28 | 19.29 | 19.92 | n/a |

Notes:

^a All values are ethanol-equivalent on an energy content basis, except for BBD which is biodiesel-equivalent.

^b The 2019 BBD volume requirement was established in the 2018 final rule (82 FR 58486, December 12, 2017).

In response, REG President & CEO Randy Howard issued the following [statement](#): “We are very pleased to see growth for the Advanced Biofuel and Biomass-Based Diesel categories. It is clear that the industry can deliver higher volumes of cleaner burning fuels that consumers want to the market. We appreciate that Acting Administrator Wheeler has listened to our position and that this final RVO rule reflects that.

“We look forward to continuing to work with the President and his Administration to show how continued growth of renewable fuels benefits rural America, American agriculture and energy security, and the environment.”

For additional information about Renewable Energy Group, Inc., please [visit](#) or contact [Troy Shoen](#). [Renewable Energy Group is a PMAA Corporate Platinum Partner.](#)

PMAA Member Services Spotlight Featuring: Laborchex I-9 and E-Verify Solution

In the United States, as part of on-boarding a new employee, employers must ensure that all the required paperwork is properly completed and submitted, on time, with no exceptions. Employers must complete and sign Section 2 of Form I-9, Employment Eligibility Verification, within three business days of the date of hire of their employee (the hire date means the first day of work for pay).

Laborchex Inc. offers a standardized and automated electronic Form I-9 and E-Verify solution that satisfies U.S. Citizenship and Immigration Services (USCIS) requirements related to electronic creation, signatures, retention and security of the Form I-9.

Please read more about The Laborchex Solution [here](#). ***Please note that the general information provided is not a substitute for legal advice. Please consult with your legal counsel regarding these topics and other general employment questions.***

Laborchex, a PMAA Vendor and a PMAA Corporate Bronze Partner who has been serving clients nationwide since 1991, provides a program of background checks for PMAA members. For more information and to discuss your needs, please email PMAA's Account Consultant [Ricky Rayborn](#) or call him directly at 601.832.2174 or [visit](#).