PMAA WEEKLY REVIEW

July 12, 2019 **WR-19-26**

FMCSA Issues HOS Waiver for Multiple States Ahead of Tropical Storm Barry
Click here to review the waiver from FMCSA.

Speed Limiter Legislation ReIntroduced

Senators Johnny Isakson, (R-GA) and Chris Coons (D-DE) recently reintroduced legislation to codify a pending "speed limiter" rule.

The "Cullum Owings Large Truck Safe Operating Speed Act of 2019," S.2033, would require all new commercial trucks with a gross weight of 26,001 pounds or more to be equipped with speed-limiting devices, which must be set to a maximum speed of 65 miles per hour and be used at all times while in operation. The maximum speed requirement would also be extended to existing trucks that already have the technology installed. Trucks without speed limiters will not be forced to retroactively install the technology.

The legislation would also establish that all large trucks manufactured after the effective date be equipped with speed-limiting technology. Further, within six months of enactment, the secretary of the U.S. Department of Transportation must establish standards and rules to ensure that the speed-limiting technology on large trucks is accurate and that the trucks adhere to a maximum speed no faster than 65 mph.

According to the Department of Transportation, the "speed-limiter rule" would have minimal cost, as most heavy trucks already have these devices installed, although some vehicles do not have the 65-mph limit set.

The American Trucking Associations has said that it "supports speed limiters and a uniform national speed limit for all vehicles, not just commercial trucks, of 65 mph. However, federal speed limiter efforts must, at a minimum, account for speed differentials and any potential safety risks that they can create."

OOIDA has indicated in the past that "there is no clear evidence that supports the use of speed limiters will improve safety. In fact, there is data that states that high-speed related truck crashes are rare events and the reduction of speed and power can have negative effects on safety."

PMAA is currently reviewing the legislation and will ask PMAA's operational committees for input.

The Ping Pong Match Over Fuel Economy Proposed Standard Continues

On Tuesday, a group of governors from 23 states and Puerto Rico urged the Trump Administration in a letter to back off its plans to roll back Corporate Average Fuel Economy (CAFE) standards. Three Republican governors signed the letter, including Gov. Larry Hogan (MD), Gov. Charlie Baker (MA) and Gov. Phil Scott (VT).

The governors, who are all members of the U.S. Climate Alliance, stated in the letter, "We must unite to ensure a strong, science-based national standard, in California and across the country, that increases year-over-year, provides certainty for automakers and consumers, reduces greenhouse gases, and protects public health." The governors support an effort, known as the "Nation's Clean Car Promise," that pushes for annual reductions in emissions while supporting auto industry jobs and ensuring that new cars are affordable.

On the same day, a group of thirty-three conservative free-market think tanks and advocacy groups sent a letter to President Trump urging him to follow through with his proposed rule that would freeze CAFE standards and to ignore requests from California to strike a deal that would raise auto emissions standards. The groups, which include the American Energy Alliance, FreedomWorks and Americans for Tax Reform, stated in the letter that "California's unlawful power to regulate fuel economy is the very source of the market instability they seek to avoid." Click here to view the letter.

According to a recent statement from the Alliance of Automobile Manufacturers, the group supports one national program but opposes auto emissions "standards that rise so high that only a handful of electric vehicles can achieve them," referring to the Obama-era auto emissions standards. The group has urged the Trump Administration and states like California to come to a compromise on the issue. The EPA and National Highway Traffic Safety Administration (NHTSA) have argued that freezing the standard is critical to keeping new cars affordable.

The Trump Administration's rule would freeze CAFE and corresponding greenhouse gas standards at 2020 levels and revoke the rights of individual states to adopt more stringent emissions standards. However, the rule will undoubtedly lead to a meeting in court between the Trump Administration and California. California and other states sued EPA over its decision last year to roll back the standards and that lawsuit is still pending. Administrator Wheeler hopes the litigation will proceed quickly which will give auto manufacturers certainty to sell 2020 model year vehicles at the Trump Administration standards.

Last October, PMAA submitted comments in support of the Trump Administration's proposed rule. PMAA highlighted numerous reasons why current CAFE standards could impact petroleum marketers and how important the Trump Administration's proposed rule is needed. Click here to read the comments.

13 States Have Higher Gas Taxes This Month

In addition to the federal excise tax on gasoline of 18.4 cents-per-gallon, 13 states have increased state gas taxes effective July 1st. The increases will put more pressure on Congress to find ways to pay for infrastructure improvements. Especially since electric vehicles can cause as much road damage but do not pay as much in gas taxes.

California's gas tax increased 5.6 cents to 47.3 cents per gallon, as part of a ten-year tax and fee increase aiming to raise $52 billion. In 2016, Californians paid about 28 cents in state taxes for a gallon of gas.

Ohio's gas tax increased 10.5 cents, to 38.5 cents per gallon, and the diesel tax increased 19 cents, to 47 cents a gallon. The state tax increases are part of the two-year transportation budget that Gov. Mike DeWine signed in April.

Illinois increased the state's motor fuel tax from 19 cents a gallon to 38 cents a gallon, the diesel fuel tax increased by 5 cents to be 45.5 cents total. Gov. J.B. Pritzker signed the changes into law recently, including a $45 billion capital plan, an expansion of gaming across the state and a revenue package that includes additional tax increases to fund the major infrastructure improvements in the capital plan.

South Carolina's tax increased two cents due to a 2017 law that mandated a 2 cents per-gallon increase each July 1 from 2017 through 2022. As of July 1, the gas tax in South Carolina is 22 cents per gallon.

The nine other states that raised gas taxes include Connecticut, Indiana, Maryland, Michigan, Montana, Nebraska, Rhode Island, Tennessee and Vermont.

EPA Releases Proposed RFS Obligated Blending Volumes for 2020
Grassley Says President Trump Will Continue RFS Program

Last Friday, the EPA proposed increasing the volume of renewable fuels to 20.04 billion gallons in 2020, up from 19.92 billion gallons in 2019. The corn ethanol mandate was not reduced but will remain at the 15 billion-gallon statutory maximum set by Congress under the RFS. On the biodiesel front, the rulemaking also proposes to set the 2021 renewable fuel volume for biomass-based diesel at 2.43 billion gallons, level with the 2020 blending requirement.

Overall, the proposed 2020 renewable fuel volumes are a mixed bag for petroleum marketers. The good news is that the rule did not propose to force large refiners to make up for the lost gallons of obligated blending volume lost in 2019 due to blending waivers issued by the EPA to small refineries based on financial hardship. Carrying those gallons over to large refiner

obligated blending volumes for 2020 likely could have caused the value of corn RIN blending credits to increase.

The corn ethanol industry and many midwestern lawmakers are not pleased with EPA's move which indirectly reduces the corn ethanol mandate and the potential market for E15 blends. They argue that it has reduced the ethanol mandate by two billion gallons below statutory volume requirements.

Under the RFS, refiners must blend certain volumes of biofuels into their fuel each year or purchase credits from those that do. Small refineries with a capacity of less than 75,000 barrels per day can receive waivers if they prove that compliance with RFS would cause them significant economic harm. The EPA has granted over 40 SREs for 2016 and 2017 compliance years and has indicated that it has received 40 petitions for SREs for 2018.

For petroleum marketers, the corn ethanol mandate continues to put marketers in a precarious situation given UST system incompatibility with E10 plus blends with regard to the seals, glues, gaskets and other components that would force them to break concrete to sell higher ethanol blends.

PMAA will be filing comments to the EPA on the proposed blending volumes prior to the deadline.

Below are detailed graphs of EPA's proposal.

Table I-1
Proposed Volume Requirements[a]

	2019[b]	2020 Statutory Volumes	2020 Proposed Volumes	2021 Proposed Volumes
Cellulosic biofuel (billion gallons)	0.42	10.50	0.54	n/a
Biomass-based diesel (billion gallons)	2.1	≥1.0	N/A[c]	2.43
Advanced biofuel (billion gallons)	4.92	15.00	5.04	n/a
Renewable fuel (billion gallons)	19.92	30.00	20.04	n/a

Table I.B.6-1
Proposed 2020 Percentage Standards

	Proposed Percentage Standards
Cellulosic biofuel	0.29%
Biomass-based diesel	1.99%
Advanced biofuel	2.75%
Renewable fuel	10.92%

Furthermore, last week, Sen. Chuck Grassley (R-IA) announced that President Trump will be keeping his promise to continue the RFS. Grassley has insisted that President Trump stop granting federal waivers that exempt small refineries from blending requirements under the RFS. Grassley's comments come a day after Sen. John Barrasso (R-WY) and twelve other Republican senators sent a letter to President Trump asking him to prevent Agriculture Secretary Sonny Perdue from intervening in EPA decisions on the small refinery waivers. Click here to view the letter. One of the lawmakers who signed the letter, Sen. John Kennedy (R-LA), has threatened to hold up the nominations of three USDA nominees over the issue.

EPA recently fulfilled Trump's promise to allow year-round sales of E15, but farmers have complained to Trump that they are still suffering because of the dozens of economic hardship waivers that the EPA has granted that exempt refiners from having to blend biofuels under the RFS mandate. As a result, President Trump has pressed Secretary Perdue and EPA Administrator Andrew Wheeler to devise a plan that would address those hardship waivers, a move that refinery supporters say violates Perdue's role under the Clean Air Act.

Commerce Expected to Propose Ending Most Argentine Biodiesel CVDs

The U.S. Commerce Department is expected to propose soon to eliminate most countervailing duties (CVD) on biodiesel from Argentina, while recommending no changes to antidumping duties.

In April, the International Trade Commission (ITC) determined via a 4-0 vote, that the dumping of biodiesel imports from Argentina and Indonesia harms American producers, thereby, finalizing and locking into place steep anti-dumping (AD) duties set by the Commerce Department for five years. In 2016, imports of biodiesel from Argentina and Indonesia were valued at $1.2 billion and $268 million, respectively.

The duties established by the Commerce Department set final anti-dumping duties ranging from 60.44 percent to 86.41 percent for Argentine producers and 92.52 percent to 276.65 percent for Indonesian producers. It also set countervailing duties of 71.45 percent to 72.28 percent for Argentina and 34.45 percent to 64.73 percent for Indonesia, to offset government subsidies.

The AD law provides an internationally accepted mechanism to seek relief from the harmful effects of unfair pricing of imports. Anti-dumping duties are imposed on companies, while countervailing duties are imposed on countries.

FDA Proposal Banning Sales of Flavored E-Cigarettes in Convenience Stores is Flawed
Urge Your Senators to Support Bill to Crack Down on Online Sales of E-Cigarettes to Minors

In March, the Food and Drug Administration (FDA) issued draft guidance that would effectively ban flavored e-cigarette sales in convenience stores. Under the draft guidance, stores would continue to be able to sell tobacco, mint and menthol flavored e-cigarette products but would not be able sell other flavored products unless minors are prohibited from entering the stores or those products are sold in a separate section of the store that minors are prohibited from accessing. At the same time, however, vape shops and online retailers would continue to be allowed to sell these products.

Although the FDA's actions are aimed at reducing teen vaping, its policies, if implemented, could actually lead to an increase in teen vaping and are counterproductive. Henry Armour, CEO of the National Association of Convenience Stores (NACS), recently argued in an op-ed for CNBC that the studies the FDA cites in its own policy proposal do not back up the agency's claims that their actions would reduce teen vaping. Click here to view the article.

Armour examines statistics from studies cited in the FDA's own policy proposal related to the sale of e-cigarettes to minors. For instance, an August 2018 study cited by the FDA found that more than half of minors that obtain e-cigarettes receive them from people over the legal age to purchase the products, also known as "social sources." The study showed that only 31 percent of minors who obtained e-cigarettes bought them in a retail sale. Interestingly, nearly 70 percent of e-cigarettes purchased by minors in a retail sale were purchased from either a vape shop, tobacco store or online. Oddly, under the FDA's proposed policies, these are the only outlets that will be permitted by the FDA to sell flavored e-cigarette products. In fact, the same study found that only 5.6 percent of e-cigarette purchases by minors were made at convenience stores. As Armour states in his article, "vape and tobacco stores sell about 20 times as many e-cigarettes to minors as convenience stores — even though convenience stores outnumber them by 15 to 1."

PMAA is also concerned with FDA's proposal because it will undoubtedly be counterproductive based on the facts from previous studies. PMAA has been working closely with NACS and other groups on this issue and has been urging the FDA to withdraw its current proposal. PMAA supports FDA's efforts to curb teen vaping but the current policy proposal will not work and will likely lead to an increase in e-cigarette use by minors. In May, PMAA submitted comments on FDA's draft guidance. Click here to read the comments.

PMAA is also advocating for a bill that was recently introduced by Sens. John Cornyn (R-TX), Diane Feinstein (D-CA) and Chris Van Hollen (D-MD) known as the "Preventing Online Sales of E-

Cigarettes to Children Act" (S. 1253). The bill would prohibit online sales of e-cigarettes to minors by applying the same safeguards already in place for regular cigarettes and smokeless tobacco products. The bill amends the "Prevent All Cigarette Trafficking Act (PACT Act)" to also include e-cigarettes in the definition that already includes traditional cigarettes.

Specifically, the bill would require online retailers of e-cigarettes to:

- Verify the age of customers for all purchases.
- Require an adult with ID to be present for delivery.
- Label shipping packages to show they contain tobacco products.
- Comply with all state and local tobacco tax requirements.

PMAA asks that you remind your Senators to cosponsor this important legislation. Click here to do so.

Federated Insurance Risk Management Academy Webinar
Cyber Security and Risk Management: Tuesday, July 16, 2019, 1:00 p.m. CT

Hardly a day goes by that we don't hear about a security breach or incident involving the loss of sensitive data to outside influence or "hackers." We will discuss several layers of risk management that could or should be implemented to reduce a business's exposure, as well as coverage options available to transfer this risk to an insurance carrier. Cyber-crime is the fastest growing and most dynamic exposure in business today and we'll address strategies to minimize the risk.

What you will learn:
- Data breach and cybercrime trends, statistics and costs
- Business responsibility pertaining to data breaches and cyber intrusions
- The Top 7 Primary Cyber Loss Areas
-Risk Management and Insurance solutions

Advance registration is required for this 45-minute webinar.

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.
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June 2019 PMAA Small Business Committee (SBC) PAC Contributions

PAC Co-Chairs Brad Bell and Tim Keigher are grateful for the PMAA Small Business Committee (SBC) PAC contributions from the following individuals during the June 1-30, 2019 time frame:

Arkansas: Paul Cash, Vanessa Crossfield, Steven Ferren, David Hendrix, Doug Hendrix, Mallory Nimocks

Kentucky: Jeff Lykins, John Newcomb Jr., William Newcomb

Michigan: Robin McTaggart, Terry McTaggart, Jeff Naser

Minnesota: Sara Johnson

New York: Jeffrey Farbaniec, Jason Mirabito

North Carolina: Julius Cherry III

South Carolina: Richard Clark, Dennis Curtis Sr., Ronnie Colson, Walter M. Frick, William Keenan IV, Larry Sharpe II, Harper Shull, Barrett Simmons, Abner Stockman, David Tucker

Utah: James Linton, John Richardson

Vermont: Matt Cota

PMAA Spring Journal is Online Now

Our Spring Issue is available now! In addition to its printed version, PMAA Journal has been available in a new and improved digital format! Now the magazine can be easily viewed on any device, whether smartphone, tablet or computer screen! Scroll vertically through all the content in the magazine and easily select individual articles to read or share via the buttons at the top.

Want to see past issues? They can be found on the left side of your browser screen (or the top of your mobile device's window) - just one click and they're at your fingertips! Additionally, the flipping-page digital version is still available and easily accessible through the menu bar in the upper left corner.

For information on advertising in this valuable format, please call 844.423.7272 or email Innovative Publishing.

June 2019 Contributors to PMAA MDF

PMAA's Marketer Defense Fund wants to thank the following individuals for their contributions during the June 1-30 timeframe:

North Carolina: Larry Jordan
Washington: Bradley Bell

Corporate donations are acceptable. MDF funds have been used for various studies, litigation and disaster relief dedicated to strengthening our lobbying efforts on Capitol Hill. Click here to donate to the PMAA MDF.

PMAA Corporate Platinum Partner Spotlight Featuring: Federated Insurance
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. This month's question is: **Use and Reverify I-9 for Rehire?** The original date of a signed I-9 Form was in September 2014. Our employee then left employment in October 2018 but was rehired a month later in November. I understand a new I-9 Form needs to be completed for Section 3. Am I required to keep the original I-9 Form and attach a new Section 3 to the front? The documentation verification has not expired from the original I-9 Form so I do not think I need to re-verify documentation. 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.
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