PMAA WEEKLY REVIEW

**November 1, 2019** **WR-19-42**

**FMCSA Set to Propose Important Hours of Service Reform Regulations**

PMAA submitted written comments last week on the Federal Motor Carrier Safety Administration's proposed changes to CDL driver hours of service requirements. The FMCSA changes are designed to provide regulatory relief to motor carriers and CDL drivers. PMAA worked closely with the FMCSA on the rulemaking from its initial conception back in 2017 and was successful in having several key changes added to the proposed rule. The four important changes in the proposed rule that are important to petroleum marketers include:

- Expand the current 100 air-mile radius limitation in the short-haul driver exception to recording daily to 150 air-mile radius.
- Extend the 12-hour daily maximum on-duty period for CDL drivers operating under the short haul exception to a maximum 14 hours on-duty.
- Add two hours onto the 14- hour daily maximum on-duty status for CDL drivers operating under the adverse weather exception. The adverse weather exception currently extends the 11-hour maximum daily driving limit by 2-hours due to bad weather but does add 2 hours onto the 14-hour maximum daily on-duty time to accommodate for the longer driving time.
- Allow CDL drivers to interrupt the clock on their 14-hour maximum daily on-duty time for up to 3 hours, for loading and unloading activities, provided the driver goes off-duty for the length of the interruption and takes 10 consecutive hours off at the end of the work shift.

PMAA told the FMCSA that it supports the proposed changes and requested that the break in on-duty time for up to three hours apply to CDL drivers who are required to *remain on-duty* during waiting periods at petroleum terminals. The changes are expected to add flexibility to driver scheduling and provide some relief to the chronic shortage of qualified CDL drivers. The final rule is expected to be published early next year.

Click here to view PMAA's comments.

**PMAA's Washington Conference 2020 Hotel Reservations Will Open November 4 at 11:00am Eastern!**

PMAA's annual Washington Conference and Day on the Hill will be held in our Nation's Capital of Washington, D.C. from May 13-15. Our industry continues to have dozens of important

legislative and regulatory issues to discuss and the Day on the Hill continues to be the primary focus of this conference.

The meeting will begin with an Opening Session / Issues Briefing and Region meetings in the afternoon of May 13. Our welcome reception, including our fun and popular PAC silent auction fundraiser, concludes the day! On the morning of May 14, marketers will head to Capitol Hill for visits with their Congressional delegations after a buffet breakfast and issues briefing for those who were not able to attend the opening session. There will be a hospitality suite and luncheon on the Hill. On the evening of May 15, we will feature our 2020 PMAA Chair Aaron Littlefield along with honoring our other Past Chairs in attendance. Our conference will conclude after the PMAA Board of Directors meet on May 15 following a buffet breakfast and committee meetings.

You can find all available details for Washington Conference and Day on the Hill here. Registration will open in February 2020 and will be posted on this page and announced in this Weekly Review.

Please make your room reservations **now** to attend this important and productive forum to meet with your members of Congress and network with other marketers from across the country! See you in DC in the spring!

**CAFE Rule Likely to be Released by End of 2019**

The Wall Street Journal reported today that the fuel economy standards rule is likely to be released by the end of the year. The final rule is also likely to be tweaked a bit from the proposed rule in response to opposition from automakers in order to have one national fuel economy standard by requiring 1.5 percent annual increases in fleetwide efficiency of new cars. Environmental groups were quick to condemn the improved annual increases arguing it does not go far enough to meet air quality and climate change goals.

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. Click here to read the comments.

Last month, the Trump Administration announced that the EPA would revoke California's waiver that allows the state to set its own, more stringent auto emissions standards. Thirteen other states and the District of Columbia follow California's standards as well. 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.

**SBLC Holds Webinar on New Overtime Rules**

This week, the Small Business Legislative Council (SBLC) 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, 2020. PMAA is a board member of the SBLC.

If you would like to share this webinar with any of your members who weren't able to make the Overtime webinar, but would still like to view it, the webinar is now available on SBLC's website by clicking here.

For your members (link is labeled "For Members' Guests") – the username and password will be as follows:

Username: 2019
Password: FinalRegulations

**House Subcommittee Holds Hearing on the RFS and Small Refinery Exemptions**

On Tuesday, the House Committee on Energy and Commerce Subcommittee on Environment and Climate Change held a hearing entitled "Protecting the RFS: The Trump Administration's Abuse of Secret Waivers." Much of the hearing focused on H.R. 3006, known as the "Renewable Fuel Standard Integrity Act of 2019," legislation which would impose an annual deadline of June 1 for small refineries to submit petitions for Small Refiner Exemptions (SREs) from the renewable fuel requirements based on disproportionate economic hardship.

Witnesses at the hearing included: Geoff Cooper (President and CEO, Renewable Fuels Association); Gene Gebolys (President and CEO, World Energy); Kelly Nieuwenhuis (President, Siouxland Energy Cooperative) and Chet Thompson (President and CEO, American Fuel & Petrochemical Manufacturers).

In his testimony, Subcommittee Chairman Paul Tonko (D-NY) stated that H.R. 3006 needs to be approved because it will "bring needed transparency into the process. The bill would set an annual deadline of June 1 for small refineries to petition for exemptions for the following year. Setting this deadline will mean granting waivers before the RVO is set, which would end the current retroactive process that has generated uncertainty in the RIN market."

However, Subcommittee Ranking Member John Shimkus (R-IL) disagreed with Chairman Tonko, saying that the U.S. should eliminate the RFS and instead transition to a national octane standard, which he argued would bring more value to consumers. Shimkus advocated for a bill he introduced along with Rep. Bill Flores (R-TX), known as the "21st Century Transportation Fuels Act" (H.R. 4690), which would revamp the RFS by moving towards a fuel performance

standard to reduce emissions and preserve the liquid fuels industry by transitioning to a national octane standard.

Many witnesses at the hearing complained that the EPA has been granting too many SREs which has hurt the demand for renewable fuels and most offered support for the passage of H.R. 3006. RFA President and CEO, Geoff Cooper, criticized the EPA under the Trump administration for its "vast expansion of retroactive SREs [that have] rendered EPA's annual RVO rule meaningless, introduced tremendous uncertainty into the marketplace and significantly undermined demand for renewable fuels." Gene Gebolys, President and CEO of World Energy, echoed those comments saying that the "EPA's massive expansion of waivers is destroying demand for billions of gallons of biomass-based diesel."

Conversely, AFPM President and CEO Chet Thompson disagreed with the views of the other panelists regarding SREs and the RFS program. Thompson said, "Contrary to the premise of today's hearing and much of the narrative around this issue, however, small-refinery waivers have not had any demonstrable impact on domestic biofuels demand, which is at or near record highs. In fact, until recently, the administration's RFS policy reduced compliance costs while enabling record biofuel use. EPA recently departed from this balance with a proposed reallocation that amounts to nothing more than an unjustified increase in the regulatory burden for non-exempt parties."

**Fuels Institute Releases Report on the Environmental Impact of Electric Vehicles**

The Fuels Institute (FI) recently released a literature review of the environmental impact of electric vehicles as compared to an internal combustion engine. The review looks at the life cycle of electric vehicles (EVs) including manufacture, distribution, use (including location), longevity, and disposal. The review notes that there is much uncertainty in assessing the environmental benefits and impact of EVs.

The FI literature review concludes that there are numerous variables that impact environmental impacts and that "there was no consensus break-even set of conditions that need to occur in order to realize the environmental benefits that the public attributes to the adoption of EVs." The review can be downloaded from the Fuels Institute website by clicking here.

**House Passes Bill That Would Crack Down on Online Sales of E-Cigarettes**

This week, this House passed H.R. 3942, known as the "Preventing Online Sales of E-Cigarettes to Children Act." The bipartisan bill was sponsored by Reps. Rosa DeLauro (D-CT) and Kelly Armstrong (R-ND), and 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 now goes to the Senate where its companion legislation, S. 1253, will be voted on. The Senate companion bill was introduced earlier this year by Sens. Dianne Feinstein (D-CA), John Cornyn (R-TX), and Chris Van Hollen (D-MD).

The bill amends the "Prevent All Cigarette Trafficking Act (PACT Act)" to also include e-cigarettes in the definition that already includes 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 fully supports this bill. Click here to urge your Senators to vote for S. 1253.

**Please Continue to Urge Congress to Extend the Biodiesel Blender's Tax Credit**

Please continue to remind your members of Congress to extend the $1 per gallon biodiesel blender's tax credit.

Since 2005, there has been a $1 per gallon biodiesel and renewable diesel blenders' tax credit which was created to stimulate production and consumption of biodiesel and renewable diesel. The biodiesel blender's credit has worked successfully to build a strong incentive for downstream fuel marketers to blend renewable fuel into the fuel supply which has lowered prices for motorists and heating fuels for consumers. As a result, the U.S. biodiesel and renewable diesel market has grown from roughly 100 million gallons in 2005 to nearly 2.6 billion gallons in 2017.

Unfortunately, the tax credit expired on December 31, 2017 and has been in limbo since. Congress must act before the end of this year to retroactively extend the credit for calendar year 2018 and through at least 2019. There is a chance that Congress will tack on a biodiesel tax credit extension to an end of the year funding bill so please reach out to your lawmakers.

Click here to urge your members of Congress to renew the $1 per gallon biodiesel blender's tax credit.

**PMAA Member Services Spotlight Featuring: Laborchex**
***Drug Testing Return-on-investment (ROI)***

Let's get to the bottom line! Measuring return on investment (ROI) can be done in many ways, depending on a PMAA Member's drug-testing objectives.

In LaborChex's opinion, the easy way to do it regarding pre-employment drug testing is by tracking the cost of drug testing against the cost of drug abuse.

Based on the following assumptions, we can build a simple ROI model:

1) The cost of each substance-abusing employee is approximately $7,000 per year.

2) About 15 percent of the workforce has a substance abuse problem.
3) About 4 percent of all pre-employment drug tests are positive.

Please read how you can have a dynamic screening platform through Laborchex work for your company by clicking 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 Consultant Kym Lewis or call her directly at 800.880.0366 or visit.