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PROVIDING LIFE'S ESSENTIALS TO WEST VIRGINIA-
FUEL, FOOD & CONVENIENCE

OMEGA
west virginia oil marketers & grocers assoc.

September 2011

Number 605

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Election Day October 4, 2011

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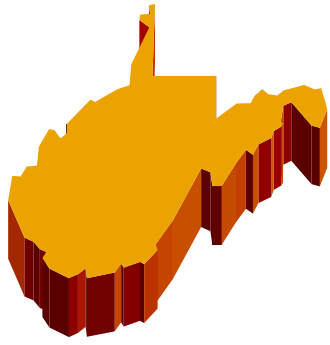
I can't tell you how proud I am of our industry and our willingness to give back to our communities! Since 2003, OMEGA members have raised:

2003 Children's Miracle Network	\$ 43,000
2004 Children's Miracle Network	\$ 71,335
2005 Children's Miracle Network	\$156,182
2006 Children's Miracle Network	\$175,249
2007 YMCA After School Program	\$ 77,413
2008 Make-A-Wish	\$156,131
2009 Make-A-Wish	\$191,650
2010 Make-A-Wish	\$201,849
2011 Children's Home Society	\$ 61,385

Our Make-A-Wish Fundraiser is coming to a close and from all indications, we have had another successful effort! We would like to thank our sponsors for their generosity in supporting this fundraiser (turn to page 23 for a full listing). If you have not signed up to be a sponsor of the Make-A-Wish Charity Golf Outing, which will be held September 22nd at the Resort at Glade Springs, please contact the Association Office and sign up today! A full re-cap of this event and fundraiser will be in the October edition of *At the Pump and Down the Aisle*.

Tuesday, October 4th, is **Election Day** in West Virginia. Every vote counts! Please make sure you get to the polls and encourage your employees to do so as well. Also, if you will not be able to vote on Election Day, you may vote early at your county clerk's office from September 21st - October 1st.

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West Virginia News

State Tax Collections Exceeding Estimates by \$9 Million

The state's tax collections are exceeding estimates by \$9 million through the first two months of the fiscal year and there's one big reason why.

State Deputy Revenue Secretary Mark Muchow says both metallurgical coal and steam coal, mined in West Virginia, are hot commodities overseas.

Severance tax collections were approximately \$15 million above estimates in August, which is up 40 percent from last year.

Those countries are buying West Virginia coal to produce steel and electricity.

Muchow says the state has also benefited from the tragic circumstances surrounding the tsunami from earlier this year in Japan. He says coal also benefited from weather related situations in Australia that reduced coal output there.

The news isn't as rosy on the domestic market. Purchasing of coal in the U.S. has flattened. Muchow says the electric power industry is turning toward natural gas because of price differences.

Muchow says state collections would be below estimates during the first two months of the fiscal year if it weren't for the severance tax collections.

2011 WV Transportation conference Set for November 14th in Charleston - Congressman Rahall To Be Featured Speaker

How to address the funding needs of West Virginia's transportation system will be one of the key topics discussed at the 2011 West Virginia Transportation Conference. That conference will be held Monday, November 14 at the Embassy Suite Hotel in Charleston, W.Va.

WVBT's day-long conference will provide updates on the state's transportation plans as well as information regarding the outlook for state and federal funding. This year's featured speaker will be Congressman Nick Rahall, who is the ranking member of the U.S. House Transportation and Infrastructure Committee. Other speakers will include the chairs of the Finance Committees in the W.Va. Legislature and W.Va. DOT Secretary Paul Mattox. Other transportation officials and speakers are being lined up for the conference. More information about the agenda and registration details will be provided soon.

The conference also provides sponsorship opportunities for companies and firms. Please visit www.keepwvmoving.org to register for this event.

Mark your calendars to attend this statewide transportation conference!

Exports on the Rise

Exports from West Virginia rose by 43 percent in the first half of 2011, according to numbers from the U.S. Department of Commerce. That state is now on pace to break last year's record level of \$6.4 billion worth of exports. During the first six months this year, exports totaled \$4.4 billion compared to \$3.1 billion during the same time period last year. Overall, West Virginia's export growth rate outpaced the U.S. rate, which was only 18 percent. The federal report estimates that more than 17 percent of all manufacturing jobs in West Virginia depend on exports. Trade supports 38 million jobs in the United States, according to the Commerce Department. The top trading partners with West Virginia during the first half of the year were Canada, Brazil, India, Netherlands, Italy, Japan, China, Ukraine, United Kingdom and South Korea.

West Virginia Beer Wholesalers Fundraise to Help Volunteer Fire Departments

With the tenth anniversary of the September 11 attack on the United States only days away, the West Virginia Beer Wholesalers Association has announced a **statewide fundraising campaign to help West Virginia volunteer fire departments** pay for training and equipment needs. Tomblin said more than 85 percent of West Virginians depend on local volunteer fire departments for protection. Volunteer fire departments save taxpayers millions of dollars in increased insurance premiums as well as the cost it would take to fully fund paid fire departments.

Website Shines Light on State Government Finances

Acting Governor Earl Ray Tomblin and state Auditor Glen Gainer unveiled a new state website Wednesday at the state capitol. It's called TransparencyWV.org. Tomblin says the new program is in response to criticism earlier this year by a national organization who felt the state wasn't offering easy access to spending records. He says they decided to do something about it.

You can log on to www.transparencywv.org and find where the state's money is coming from and where it's going. Each section has a graphic at the top of the page breaking down the numbers in an easy to understand pie chart or bar graph. You can go back as far as a decade or get the latest figures.



Weights & Measures Corner

*By Rich McComas, Director
Weights & Measures*

Below is the new WV W&M policy on the labeling of ethanol-extended retail gasoline. There has been a great deal of confusion on this topic and we hope to make compliance easier for the retailer with the new policy. Obviously, some variation in the wording will be acceptable, for instance, "now contains....." or "all grades contain". If you have any questions or problems, please contact- Vic Zamora or myself, Rich McComas, at the offices of Weights and Measures at 304.722.0602.

Date of Issue: September 1, 2011
Effective Date: September 15, 2011
Subject: Retail Dispenser Labeling

Due to the variety of different labeling found on Retail Gasoline Dispensers offering Ethanol Blended gasoline with an Ethanol Percentage from 1.5 to 10 percent by volume, it has been decided to issue a Policy in order to make the labeling requirements more uniform for the State of West Virginia.

Labeling Requirements:

All Retail Gasoline Dispensers offering for sale "ETHANOL BLENDED" product with an ethanol percentage by volume of 1.5 to 10 shall be labeled as follows:

"CONTAINS UP TO 10% ETHANOL"

This information shall be posted on the upper 50 % of the dispenser front panel in a position clear and conspicuous from the driver's position in a type at least 12.7 mm (1/2 in) in height, 1.5 mm (1/16 in) stroke (width of type).

Reference:

NIST HANDBOOK 130, Engine Fuels and Automotive Lubricants Regulation, Section 3. paragraph 3.2.6.

This Policy establishes and clarifies a uniform labeling requirement for Retail Gasoline Stations by the Weights & Measures Section.

Summary:

Whenever you encounter labeling which is not in accordance with the terms of this Policy, notify the establishment of the problem, issue an Informational WM501 and inform the business they have 30 business days to make corrections. The W&M office will assist you in gaining compliance.



Federal Issues

Congress was in recess through Labor Day and has just returned to Washington, DC, this week.

New Employee Workplace Labor Rights Notification Requirement

The National Labor Relations Board issued a final rule on August 30, 2011 requiring private-sector employers to post a notice in the workplace informing employees of their rights under federal law to join or organize a labor union. The rule exempts from the notification requirement very small retail employers with a "gross annual volume of business" of less than \$500,000.

The National Labor Relations Act of 1935 (29 U.S.C. 157) guarantees that "Employees shall have the right to self organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or mutual aid or protection, and shall also have the right to refrain from any or all such activities."

Under the final rule, the NLRB decided employees were not fully aware of their rights under the National Labor Relations Act and that a workplace poster was needed for proper notification. While the right of employees to organize into labor unions was first established under federal law in 1935, employers were not required to provide employees with notice of such rights until now.

Private-sector employers are required to post the 11 by 17 inch employee rights notice on employee workplace bulletin boards where other state and federal workplace notice posters are typically displayed. The notice must be conspicuous to all employees and maintained and updated by the employer as necessary. The poster is approved for black and white or color format. Translation must be posted at workplaces where at least 20 percent of employees are not proficient in English. Employers must also post the notice on an internet site if personnel rules and policies are customarily posted there.

The poster – in various languages - will be made available free of charge at NLRB regional offices or downloaded at the NLRB website beginning November 1, 2011. In addition, posters are available for purchase from those private vendors who typically sell workplace compliance materials. Poster contents can be viewed in the final rule in Appendix A at: <http://www.nlrb.gov/news/board-issues-final-rule-require-posting-nlra-rights> and click on "issued final rule" in the text.

House Plans Vote to Repeal Withholding on Government Contractors

House Majority Leader Eric Cantor (R-VA) recently stated that the House will vote this Fall to repeal a three percent withholding requirement for government contractors that is due to go into effect next year. The requirement was created under the Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA) to prevent local, state and federal government contractors from avoiding paying taxes but lawmakers have twice pushed back the implementation date.

Buried deep within TIPRA is Section 511 which requires three percent of the total contract value on most public projects be withheld from the contractor to insure he/she pays federal taxes. The withholding is a flat percentage of revenues from government payments, bears no relationship to companies' taxable incomes, and will restrict cash flow needed for day-to-day operations and investments. Furthermore, the administrative and capital investment costs of compliance, with three percent withholding imposed on businesses and governments, will be substantial, and the mandate will be exceedingly complicated to implement. Three percent withholding will be especially burdensome for small businesses.

Repealing the withholding tax continues to be an important priority for many businesses. Many strongly support H.R. 674, introduced by Representative Wally Herger (R-CA) which would repeal the withholding tax.

Budget Cuts Ordered for All Agencies

Because of the Congressional deal to find two trillion dollars in deficit reduction over the next decade, and for the new 12 member super committee to find \$1.5 trillion of that savings by the end of the year, the Office of Management and Budget (OMB) has ordered federal agencies to submit 2013 budget requests that are five percent below 2011 enacted discretionary levels. Furthermore, agencies are to provide a list of additional funding reductions that would bring their upcoming request to 10 percent below 2011 levels. Perhaps most significant, OMB has required agencies to make the cuts, but not through across-the-board reductions.

OMB wants agencies to carefully review programs and bolster projects that might provide economic growth in the future, while consolidating or cutting ineffective programs. In particular, agencies are encouraged to consider the Government Accountability Office's list of duplicative programs in order to make cuts. Environmental programs were already under constrained budgets, because of lack of Congressional support and this new requirement makes further demands.

States Challenge Healthcare Law

Many States have challenged the constitutionality of the healthcare law. Florida and 23 states filed a lawsuit challenging the healthcare law separate from the suit filed by Virginia and Oklahoma. Together, these 26 states and the 11th Circuit claim that the healthcare reform law is unconstitutional. The states that joined with Florida include: Washington, Alaska, Idaho, Nevada, Utah, Arizona, Wyoming, Colorado, North Dakota, South Dakota, Nebraska, Kansas, Texas, Wisconsin, Iowa, Louisiana, Mississippi, Michigan, Indiana, Alabama, Ohio, Georgia, South Carolina, and Maine.

States not challenging the law include: Montana, California, New Mexico, Hawaii, Minnesota, Missouri, Arkansas, Illinois, Kentucky, Vermont, New Hampshire, Massachusetts, New York, Connecticut, Rhode Island, New Jersey, Maryland, Delaware, Washington DC, North Carolina, Pennsylvania, West Virginia, Oregon, and Tennessee.

States filing against Health Care Law



X Florida and MultiState Lawsuit
+ Virginia and Oklahoma independent Lawsuit

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Convenience Store News

Tobacco Companies Challenge FDA Cigarette Label Rule

RJ Reynolds, Lorillard, Commonwealth Brands, and Liggett Group challenged the US Food and Drug Administration's (FDA) requirements for warning labels on cigarettes. The cigarette makers claim the warning labels violate the First Amendment.

In June, the FDA released the nine graphic warning labels. The rule requires the labels occupy the top 50 percent of the front and rear panels of the cigarette packs and the top 20 percent of cigarette advertisements. By September 22, 2012, all cigarette advertising must display the new warning labels.

NACS Mobile App 2.0 Released

NACS has introduced version 2.0 of its mobile app, which is designed to enhance the attendee experience at the NACS Show, October 1 to 4 in Chicago.

The free NACS mobile app is available in native and web-based forms, and includes detailed event information, speaker bios for general sessions and workshops, comprehensive listings of the 1,300-plus exhibitors, an interactive expo map with routing to booths, integration of social media and trending of the #nacsshow twitter feed.

"We listened to user feedback from 2010 and incorporated these suggestions into an improved user interface this year," said NACS Vice President of Marketing Derek Gaskins. "There now is more networking capability for users to exchange contact information directly through the app by employing Bluetooth technology. The app also will highlight daily NACS Show deals custom content."

"The world-class connections that the NACS Show provides are greatly enhanced with the NACS mobile app," said Gaskins. "It provides an efficient platform to leverage technology and create a more robust NACS Show experience, as well as more opportunities for year-round engagement. The strength of the native mobile app version is that most functionality will be accessible, even when there is no Wi-Fi, 3G, 4G or web connection."

The NACS mobile app is compatible with the iPhone, Android, Blackberry, iPad, iPod Touch and other smartphones. It can be downloaded — free of charge — by accessing the iTunes library and Android market. The app also can be downloaded for compatible smartphones at nacsonline.com/mobileapp.

The mobile app also offers NACS Show exhibitors marketing opportunities, including video, banner ads and opportunities to provide coupons to increase booth traffic.

Legendary newsman Tom Brokaw will serve as a NACS Show Closing General Session speaker on October 4 and Bert Jacobs, co-founder and CEO (chief executive optimist) of The Life is good Co., will serve as an Opening General Session speaker on October 2.

Registration for the NACS Show is available at nacsshow.com.

Brief

Expect the **Big Box retailers** such as Walmart and Kroger to claim a bigger share of U.S. gasoline demand in the next three years. That's the conclusion of an annual study of hypermarket fuel activity conducted by Energy Analysts International (EAI) due out next month.

New ADA Requirements for ATMs

A final rule issued by the U.S. Department of Justice pursuant to the Americans with Disabilities Act (ADA) adds specific technical requirements to ATMs for speech output, privacy, tactilely-discernible input controls, display screens, and Braille instructions to the general accessibility requirements set out in the 1991 Standards. The 1991 Standards require ATMs to be accessible to and independently usable by persons with visual impairments, but do not contain any technical specifications. The new 2010 Standard spells out the new technical specifications for ATMs that must be followed.

The deadline for compliance with the new ADA requirements for ATMs is March 15, 2012. However, the new ATM requirements will not apply to any business owner who can demonstrate that compliance would cause an undue burden which imposes a significant difficulty or expense.

Adopted Guidelines

The 2010 Standards adopted the following elements for ATMs:

- Clear Floor or Ground Space. Clear floor space or ground space complying with section 305 of the ADA and ABA Accessibility Guidelines for Buildings and Facilities must be provided. This is not required at drive-up only ATMs.
- Operable Parts. Operable parts must comply with section 309 of the ADA and ABA Accessibility Guidelines for Buildings and Facilities, and each operable part must be able to be differentiated by sound or touch without activation. This is not required at drive-up only ATMs.
- Privacy. ATMs must provide the same degree of privacy input and output to all individuals.
- Speech Output. ATMs must be speech enabled. All displayed information and additional ATM functions (e.g., dispensing coupons or providing monthly statement copies) must be accessible to and independently usable by individuals with vision impairments. Speech can be recorded or synthesized.
- Audible tones may be permitted instead of speech for security purposes, such as asterisks representing personal identification numbers (PINS);
- Advertisements and other similar information shall not be required to be audible unless they convey information that can be used in the transaction being conducted;
- Where speech synthesis cannot be supported, dynamic alphabetic output shall not be required to be audible;
- Speech shall be capable of being repeated or interrupted; and
- Where receipts are provided, speech output devices shall provide audible balance inquiry information, error messages, and all other information on the printed receipt necessary to complete or verify the transaction

The following information is not required to be presented as audible receipts:

- The location of the ATM, date and time of the transaction, customer account number and ATM identifier;
- Information on printed receipts that duplicates information available on-screen; and
- Printed copies of bank statements and checks.
- Input Controls. At least one tactilely-discernible input control shall be provided for each function. Key surfaces not on active areas of display screens must be raised above surrounding surfaces. Where membrane keys are the only method of input, each shall be tactilely-discernible from surrounding surfaces and adjacent keys.
- Numeric Keys. Numeric keys shall be arranged in a 12-key ascending or descending telephone keypad layout. The number 5 key shall be tactilely distinct from the other keys.
- Contrast. Function keys shall contrast visually from background surfaces. Characters and symbols on key surfaces shall contrast visually from key surfaces. Visual contrast shall be either light-on-dark or dark-on-light.
- Tactile Symbols. Function key surfaces shall have tactile symbols as follows: Enter or Proceed key: raised circle; Clear or Correct key: raised left arrow; Cancel key: raised letter (ex; Add Value key: raised plus sign; Decrease Value key: raised minus sign).
- Visibility. The display screen shall be visible from a point located 40 inches (1015 mm) above the center of the clear floor space in front of the machine. This does not apply to drive-up only ATMs.

- Characters. Characters displayed on the screen shall be in a sans serif font. Characters shall be 3/16 inch (4.8 mm) high minimum based on the uppercase letter "I". Characters shall contrast with their background with either light characters on a dark background or dark characters on a light background.
- Braille. Braille instructions for initiating the speech mode shall be provided. (Braille must comply with 703.3 of the ADA and ABA Accessibility Guidelines for Buildings and Facilities.)

Undue Burden

According to the U.S. Department of Justice, ATMs are not considered part of the structural element of a building which qualifies for the "safe harbor" provision under the ADA. The safe harbor provision allows businesses to comply with structural changes required under the ADA only when a building is replaced or undergoes major renovation. Thus, the safe harbor provision allows businesses to spread out the cost of ADA compliance over time.

Instead of being part of the building structure and subject to the safe harbor rule, the Department of Justice considers ATMs an "auxiliary aid and service". Under the ADA, a business may forgo compliance with an auxiliary aid and service - such as the new ATM requirements - if compliance would "result in an undue burden."

Under the ADA an "undue burden" is defined as a "significant difficulty or expense." In determining whether compliance with new ATM requirements would result in an undue burden, the following factors must be considered:

The nature and cost of the action needed;

- The overall financial resources of the site or sites involved in the action; the number of persons employed at the site; the effect on expenses and resources; legitimate safety requirements that are necessary for safe operation, including crime prevention measures; or the impact otherwise of the action upon the operation of the site;
- The geographic separateness, and the administrative or fiscal relationship of the site or sites in question to any parent corporation or entity;
- If applicable, the overall financial resources of any parent corporation or entity; the overall size of the parent corporation or entity with respect to the number of its employees; the number, type, and location of its facilities; and
- If applicable, the type of operation or operations of any parent corporation or entity, including the composition, structure, and functions of the workforce of the parent corporation or entity.

A business makes its own determination on whether or not an undue burden exists regarding compliance with new ATM requirements. The Department of Justice says that this determination is made on a case by case basis by the business. The Department of Justice will review the validity of an undue burden decision in the course of litigation brought against the business by a complaining party.

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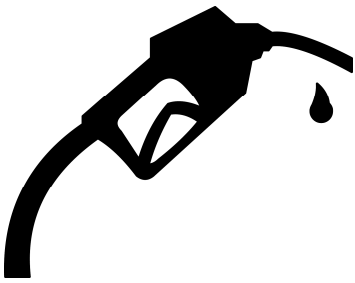


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Oil Marketers Update

EPA Guidance on Demonstrating UST Equipment Compatibility for Ethanol Blends Greater than E-10 and Biodiesel Blends Greater than B-20

The EPA Office of Transportation and Air Quality is expected to complete the regulatory approval process that will allow the introduction and sale of E-15 gasoline for use in all 2001 and newer vehicles by the end of 2011. In preparation for this approval, the EPA's Office of Underground Storage Tanks recently issued a new guidance document that may be useful to marketers who intend to dispense gasoline blends greater than E10 and biodiesel blends greater than B-20 from existing UST system equipment currently certified to a maximum E-10 blend. The guidance identifies UST system equipment that must be recertified as compatible with ethanol blends over E-10 and biodiesel blends over B-20 and discusses the methods by which owners and operators of UST systems may demonstrate such compatibility. The guidance applies only to UST system components up to and including dispenser shear valves.

While the EPA guidance is not legally binding on state UST program authorities or UST owners or operators UST equipment compatibility is an affirmative requirement under the federal UST regulations. However, PMAA expects that most state UST program authorities will eventually adopt all or part of the guidance as affirmative regulatory requirements. Therefore, the EPA guidance is instructive on how state UST program authorities will deal with the compatibility issue for fuel blends over E-10 and B-20. Insurance carriers may also adopt the guidance as a benchmark standard of care when determining claim eligibility involving the release of blends over E-10 and B-20.

The following is a list of equipment that must be compatible with E-15 and B-20 as well as EPA accepted methods of methods to demonstrating compatibility:

UST System Components That May Be Affected by Biofuel Blends

To be in compliance with 40 CFR 280.32, owners and operators of UST systems storing ethanol-blended fuels greater than 10 percent ethanol or biodiesel-blended fuels greater than 20 percent biodiesel must use compatible equipment. EPA considers the following parts of the UST system to be critical for demonstrating compatibility:

- Tank or internal tank lining
- Piping
- Line leak detector
- Flexible connectors
- Drop tube
- Spill and overfill prevention equipment
- Submersible turbine pump and components
- Sealants (pipe dope and thread sealant), fittings, gaskets, o-rings, bushings, couplings, boots
- Containment sumps (including submersible turbine sumps and under dispenser containment)
- Release detection floats, sensors, and probes
- Fill and riser caps
- Product shear valve

For newly installed equipment comprised of multiple individual components such as submersible turbine pump assemblies, UST system owners and operators may obtain a certification from the equipment manufacturer documenting compatibility for the entire assembly. If equipment requires maintenance and components of that equipment (for example, sealants and gaskets) are subsequently added or replaced, manufacturer approval of the overall component is not sufficient to demonstrate compatibility.

(Continued from Page 13)

Acceptable Methods for Meeting the Compatibility Requirement

Acceptable methods for owners and operators of UST systems storing ethanol-blended fuels greater than 10 percent ethanol or biodiesel-blended fuels greater than 20 percent biodiesel to demonstrate compatibility under 40 CFR 280.32 are:

- Use components that are certified or listed by a nationally recognized, independent testing laboratory (for example, Underwriters Laboratories) for use with the fuel stored;
- Use components approved by the manufacturer to be compatible with the fuel stored. Acceptable forms of manufacturer approvals must; be in writing; indicate an affirmative statement of compatibility; specify the range of biofuel blends for which the component is compatible; originate from the equipment manufacturer (not vendors, installers or distributors); or
- Use another method determined by the implementing agency to sufficiently protect human health and the environment. EPA will work with states as they evaluate other acceptable methods.
- Currently, the EPA allows owners and operators to use the American Petroleum Institute's (API) Recommended Practice 1626 (2nd Edition 2010) to meet the compatibility requirement for ethanol-blended fuels.

If the UST owner and operator is not able to demonstrate that the UST system is made of materials that are compatible with the ethanol blend or biodiesel blend stored, according to 40 CFR 280.32, the UST owner and operator may not use the system to store those fuels.

State UST program regulations may be more stringent than the Federal UST regulations. In addition to state and Federal UST requirements, UST system owners and operators may be subject to other Federal, state, or local regulatory requirements (for example, U.S. Occupational Safety and Health Administration, National Fire Prevention Association, and International Fire Code). UST system owners and operators should check with their state and local agencies to determine other requirements.

The Petroleum Equipment Institute (PEI) has created a website to assist UST tank owners, equipment distributors, fire marshals, and UST system installers in ensuring that UST equipment is compatible with mid-level ethanol and biodiesel blends. PEI is asking manufacturers of UST equipment to provide PEI with information so retailers and other stakeholders will have the much needed information if they intend to market higher level ethanol blends.

PEI's website will be helpful for retailers to make certain that they are marketing E15+ blends in compatible UST equipment. PEI indicated that it will post the following types of letters from manufacturers on the PEI website:

- Letters indicating a component is compatible with ethanol or biodiesel blended fuels and meets the criteria for manufacturer approval listed above; and
- Letters indicating a component is listed or certified for use with ethanol or biodiesel blended fuels by a nationally recognized independent testing laboratory.

Ozone Standard to Remain Unchanged for Now

On September 2nd, President Obama directed the Environmental Protection Agency (EPA) to withdraw its proposed rule that would set tighter restrictions on ground-level ozone. In January 2010, the EPA proposed a new ozone standard between 60 and 70 parts per billion (ppb) down from the 75 ppb set during the Bush administration in 2008. President Obama said the 2008 ozone standard will be reconsidered in 2013.

PMAA strongly opposed the proposed ozone rule because it would have classified hundreds of new counties in non-attainment resulting costly and unjustified changes to gasoline specifications. Motorists living in existing non-attainment counties pay dearly at the gas pump. The new ozone standard would have expanded the misery exponentially.

PMAA Submits CFTF Comments on Behalf of CMOC Members

Recently, PMAA and NEFI led the Commodity Markets Oversight Coalition (CMOC) members in filing supplemental comments with the Commodity Futures Trading Commission (CFTC) on its proposed position limits rule for energy futures contracts. The supplemental comments raised concerns over the creation of separate "conditional spot month position limits" that would allow certain entities to take positions in the cash-settled economically equivalent "look-alike" contracts that are five-times higher than the spot month limit or 125 percent of the deliverable supply. PMAA believes that the current proposed rule (as written) may allow the banks to dominate the market and bring even more volatility and higher prices to the physical side of the futures market.

Meanwhile, the CFTC has scheduled a vote on position limits for September 22. PMAA plans to attend the business meeting and will continue to press the Commission to impose aggregate and aggressive commodity position limits on investment banks, hedge funds and other non-commercial entities.

Rest Area Commercialization Debate Makes Headlines

The debate over whether states should commercialize rest areas is making headlines, with the Boston Globe and the (Iowa) North Scott Press marking the latest news outlets to argue opposing sides of the issue.

A recent editorial in the Boston Globe ("For Cash-Strapped DOT, There's Gold in Rest Stops" Aug. 23) called for Congress to overturn the federal prohibition against commercial development along the interstate right-of-way to give states the ability to independently fund their highway needs.

North Scott Press Columnist Phil Roberts, meanwhile, championed the existing ban in coverage of presidential candidate Rick Perry's recent meet and greet at Iowa 80 Truckstop in Walcott, Iowa ("Privatizing State Rest Areas Would Hurt Consumers, States Alike" Aug. 24).


The Globe said "expanding options along the highway would serve both bottom lines and motorists, who currently lack convenient food and gas choices along vast stretches of the interstate." The Globe suggested that Congress replace the existing ban with a more flexible policy that included allowing commercial activities in isolated areas, placing limits on signage, capping an overall number of commercial rest areas and banning commercial rest areas on scenic stretches of interstates.

The Independent Oil Marketers Association (IOMA), a member of the Partnership to Save Highway Communities, quickly criticized the Massachusetts Department of Transportation (MassDot) and the Boston Globe for recommending that the state add commercial services to interstate rest areas.

IOMA President and Chief Operating Officer Peter Romano said allowing the state to set up shop along the interstates jeopardizes 1,350 businesses that operate along the Massachusetts highway exits and more than 25,000 jobs. North Scott Press Columnist Phil Roberts opposed commercial rest areas, writing, "Perhaps if the present system isn't broken, we shouldn't fix it."

Roberts interviewed Iowa 80 At-Large Director Delia Moon Meier, who said privatization of rest areas would be catastrophic to businesses like hers.

"The ban was and is still right," she said, "and it created opportunity and jobs and still does. Washington's whims should not be determining winners and losers. We believe customers should. And hard work and reinvestment should. And employees should."



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Grocery Highlights

N.G.A., Accelitec Bring Innovation and Opportunity to Independent Grocers

The National Grocers Association (N.G.A.) is pleased to announce that Accelitec, Inc. is now an N.G.A. partner.

Accelitec has developed an innovative digital marketing service for use by independent grocers nationwide. Accelitec's "digital wallet" is a proprietary tool that helps independent grocers create powerful campaigns to drive increases in store revenues.

"I am delighted to include Accelitec as an N.G.A. partner," said Peter J. Larkin, President and CEO of N.G.A. "Their commitment to advancing the business of independent grocers is right in line with our mission and we look forward to working with them to help the competitive profiles of our membership. We are seeing significant changes in traditional media channels - decreases in newspaper circulation, fragmented TV viewership - and Accelitec can help our members stay connected and relevant to their customers."

"The use of digital communications and social media will continue to have an important bearing on retailer-consumer behavior and our platform facilitates keeping pace with these changes, said Tom Bartz, CEO of Accelitec. "Helping independent grocers connect with their customers on a digital platform in ways that are relevant to their shopping expectations is the focus of our business."

Accelitec was most recently a sponsor of the 2011 Department of Research and Education Share Group meeting in Park City, Utah, where it addressed members about advances in digital marketing techniques. Accelitec will be an active participant in other N.G.A. activities throughout the year as well.

FMI Government Relations Team Prioritizes Fourth Quarter Issues

1. **Menu labeling:** Ensuring a workable menu labeling system is developed, rather than the burdensome existing proposal;
2. **Swipe fees:** Maximizing the benefits of the Durbin amendment debit interchange reforms;
3. **Accounting:** Working against repeal of last-in-and-first-out (LIFO) accounting techniques and ensuring that any changes to the LIFO system are thoughtful and not disruptive;
4. **Union labor:** Working to stop the National Labor Relations Board overreach;
5. **Healthcare:** Working for a fairer and more efficient implementation of Patient Protection and Affordable Care Act (PPACA) with a focus on supermarket-specific provisions;
6. **SNAP:** Explaining FMI's role in Supplemental Nutrition Assistance Program (SNAP) and the importance of short-term solutions in times of crisis as part of the budget discussions;
7. **Food safety:** Ensuring fair and efficient implementation of the Food Safety Modernization Act;
8. **Fair wages:** Monitoring and discussing with the U.S. Department of Labor on fair and reasonable enforcement of Wage and Hour regulations; and
9. **Food prices:** Publicly explaining food price inflation and food retailers' roles in trying to keep prices as low as possible for consumers.

No SNAP Waiver Issued For New York City

New York City was not granted the waiver to prohibit what foods Supplemental Nutrition Access Program (SNAP) recipients can purchase with their benefits. Earlier this year, New York City requested a waiver from USDA regarding SNAP. Had this prescriptive waiver been granted it would have been a slippery slope, allowing the federal government, state governments and municipal governments to limit what foods could be purchased with SNAP benefits. N.G.A. supports the rights of SNAP recipients to purchase the foods they want.

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Trends: Food Safety Confidence Rises among Consumers

The industry's efforts to safeguard food are paying off in all-time high levels of confidence in food safety – both in food purchased at the grocery store and in restaurant meals. The 2011 U.S. Grocery Shopper Trends report identified very few changes in buying behavior as a result of food safety concerns or recalls, down to 12 percent from its high of 38 percent in 2007.

The report noted that trust levels are higher for some categories than others, such as fresh produce and over-the-counter medicines, with prepared foods and pet food being two areas where the industry has room for improvement. Shoppers readily agreed that food safety is a joint effort involving every step of the food process from farm to plate. They placed increased responsibility, however, with food manufacturers.

FMI U.S. Grocery Shopper Trends 2011 Available

This is one report you cannot afford to miss! Money-saving measures are influencing shoppers' decisions on dining out versus in, scratch cooking versus meal solutions, healthful as opposed to inexpensive choices, store selection, brand preference -- the list goes on. Gain in-depth understanding of changes in the marketplace with FMI's best-selling report, U.S. Grocery Shopper Trends 2011, the industry's number-one source for data and knowledge of the grocery shopper. Available in print or PDF download at the FMI Store at www.fmi.org.

USDA Predicts Smaller Herds and Higher Beef Prices

The USDA predicted reduced beef productivity for this half of the year, continuing a trend since 1995 of declining cow inventory. The price of beef likely will continue to increase, as "drought impacts, high feed and energy prices, macroeconomic uncertainty and increased equity requirements for cattle loans have dampened enthusiasm for cow herd expansion," the department said.



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Make-A-Wish Charity Golf Outing

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Our Make-A-Wish Event will be held September 21 & 22 at The Resort at Glade Springs. **If you have not signed up to be a sponsor of this event, please call the Association Office at 304.343.5500.** We are in the process of collecting star sales totals from our retail members, so we aren't sure of the outcome of this fundraiser at this time. We will do a full re-cap in the October edition of this publication.



Miscellaneous

Federated Named to 2011 Ward 50® Top Performers

Federated Mutual Insurance Company and Federated Life Insurance Company have again been named to the 2011 Ward's 50 lists of top performing insurance companies. Federated is one of only two organizations that has had affiliated companies named to both the property-casualty and life-health Ward's 50 group of companies every year since 2001.

Ward Group® is a Cincinnati-based consulting firm specializing in the insurance industry. It reviews approximately 3,000 property and casualty companies and 800 life insurance companies each year. Ward then recognizes 50 companies that have achieved outstanding financial results in the areas of safety, consistency, and performance over a five-year period (currently 2006-2010).

Reminders

We are gathering information for our new **2011-2012 OMEGA Membership Directory**. If you have not forwarded changes to your company's information, please do so as soon as possible. If we do not receive corrections from you, we will use the information from our last directory.

We are still accepting **ads for the directory** and for the first time, we are allowing you to have your company logo with your entry in the directory for a cost of \$100. Ad rates are as follows:

- Back Cover \$2000
- Full Page Inside \$1000
- Half Page Inside \$500

If you would like to place an ad in this publication or having your logo in the directory, please contact Traci Nelson at traci@omegawv.com or call the Association Office at 304.343.5500.

OMEGA and WV Trucking Association are partnering with **The State Journal in the Direct Message Program**. The State Journal is allowing us to do a "flip" publication so that each association will have a cover for the publication. Both Associations believe strongly that increased public awareness of key issues impacting our industries is needed and our partnership with *The State Journal* is an excellent opportunity for us to get out our message. To help cover the cost of publication *The State Journal* is selling advertising and your support is needed to make this project possible. OMEGA and WVTA must make a financial commitment in advertising sales to participate in the Direct Message Program. If you would be willing to advertise in this publication, please contact the Association Office.

Calendar of Events



**Make-A-Wish Awards Banquet & Golf Outing
September 21 & 22
The Resort at Glade Springs
Daniels, WV**

September 30 - October 1
PMAA Annual Meeting
Hilton Chicago
Chicago, IL

October 1-4
NACS Show
McCormick Place
Chicago, IL

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