

AT THE PUMP & DOWN THE AISLE

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



October 2012

Number 618

OMEGA Members Raise



\$168,271 for Make-A-Wish

Providing Life's Essentials to West Virginia - Fuel, Food and Convenience.

Value...

one way we stand out!



Building Brand Value:

- Marathon Brand employs 33 Territory Managers and 5 Program Territory Managers to deliver value to our customers.
- Marathon Petroleum has excellent supply with truck loading racks at our 83 terminals, all operated with the driver in mind.
- Marathon Petroleum has approximately 9,400 miles of pipeline, which ensures stable and flexible supply.
- Marathon Petroleum is the 5th largest refiner in the United States, owning and operating six refineries with a combined capacity of 1,193,000 barrels per day.



For Brand and Wholesale opportunities visit
www.marathonpetroleum.com



Fueling the American Spirit.

From the President ...



I am proud of our accomplishments. Who would have thought in 2003 when we decided for our industry to make a difference statewide that in nine years we would have donated over \$1.5 million dollars to children in WV. I am thrilled we were able to raise over **\$168,000 for Make-A-Wish** during our August campaign, but even more proud that we have raised \$259,000 this year for children in West Virginia. We are thrilled to work with great charities like Make-A-Wish and the Children's Home Society of West Virginia.

We will be on hand for a **Children's Home Society Awards Banquet** in November where we will receive a Champion for Children Award. We could not be more thrilled!

Because our West Virginia children are so important, we are once again working with the West Virginia Department of Education, the West Virginia State Police, the Governor's Highway Safety Program and the West Virginia Department of Transportation, the West Virginia Prosecuting Attorneys Institute on a bus safety sweep. I will be on hand tomorrow for the kick off of this program. Law enforcement officers will board school buses across West Virginia on the afternoon bus routes during **National School Bus Safety Week**, Monday, Oct. 22 through Friday, Oct. 26. The goal is to combat the problem of motorists illegally passing buses. We would like to thank the retailers, who participated in this program last spring: **Go-Mart, Little General Stores, Inc., One Stop, Prima 7-Eleven, R. T. Rogers Oil Company, Stop In Food Stores** and **DeFazio Oil Company**. We ask that you bring your posters and/or pop toppers out for this campaign starting next week. If you did not receive your posters or haven't signed up to participate yet, please contact the Association Office and we will get the materials for you.

As always, this is our Association, please let us know if there is anything we can do to assist you!

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REPORT

INJURIES

in

24

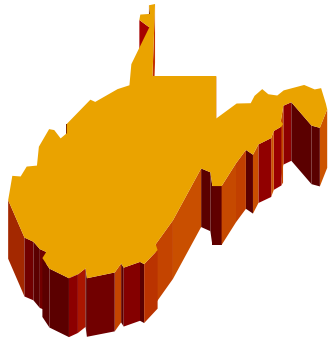
HRS.

1.866.45BRICK

Benefits of early reporting:

- * Establishes the claim
- * Allows claims adjuster to begin management of the claim sooner
- * Speeds delivery of necessary benefits
- * Increases early return-to-work opportunities
- * Helps avoid costly litigation
- * Results in lower costs to the policyholder





West Virginia News

Get Out the Vote! November 6th

Early Voting begins on October 24th and Ends on November 3rd. You may visit your County Clerk's Office to cast your vote early during that time. Note: This includes the two Saturdays prior to the election.

OMEGA PAC Makes Contributions to Candidates

The OMEGA Board of Directors met in September, in conjunction with our Make-A-Wish event, and voted to make the following donations from the PAC for statewide races:

- ◆ **Governor – Earl Ray Tomblin**
- ◆ **Attorney General – Patrick Morrisey**
- ◆ **Treasurer – Mike Hall**

It was discussed that the **Supreme Court** election is very important to our industry and individual support to **Allen Loughry** was recommended.

In addition, Jan was given the authority to donate to those running for Senate and House of Delegates. If you would like to review the list of candidates that the PAC is supporting or if you would like to talk about the candidates statewide or in your district, please feel free to contact Jan in the Association office.

Potential Compensation for Gasoline Storage Tanks That Fail

A settlement has been reached in the class action litigation on behalf of owners of gasoline underground storage tanks in West Virginia with the Marathon Petroleum Company LLC regarding the alleged damage caused by gasoline originating at the MPC Catlettsburg Refinery between February 1, 2000 and July 31, 2003. The notice and requirements are posted on the OMEGA Web site at www.omegawv.com.

So far, there have been no formal claims on the Settlement Fund. There were two inquiries about the tank failure fund early on, but neither of these inquiries resulted in an actual claim.

U.S. Supreme Court Rules WV Redistricting Plan Passes Test

The nation's highest court on recently, in an unsigned opinion, overruled a federal district court, and upheld West Virginia's congressional redistricting plan. The plan had been challenged by the Jefferson County Commission, who questioned the redrawing that moved one county from one congressional district to another. In its ruling, the Court said population variables are too small to be of concern.

Weirton City Council Approves B&O Tax

The City of Weirton will soon be implementing a business and occupation tax on the natural gas industry. The Weirton City Council passed the final reading of the ordinance by 4-1 Tuesday that establishes a 6 percent tax on drilling companies. Ward 5 Councilman George Gaughenbaugh said this tax is a great way to protect both the city's infrastructure and it's residents. Gaughenbaugh was told that one natural gas well in the city would mean around a thousand trucks traveling on the city streets and which could possibly cause damage. Gaughenbaugh said this is a way to pay for that damage. The proposed tax was originally brought up by Mayor George Kondik for the sole purpose of setting up a funding mechanism to pay for any damage that might come from the drilling process. The companies involved in drilling the well in the city have reportedly invested already over a million dollars into the project, and this is before the well has even been built. Gaughenbaugh also points out that Weirton is one of the few cities in the state that doesn't have a B&O tax in place for this reason. Gaughenbaugh said these companies are not in Weirton to stay, but to get the natural gas and leave, so this is a way to protect city residents after they leave.

WV Board of Education OKs Propane for Buses

Currently all school buses in West Virginia are powered by diesel fuel because that is the only fuel allowed by state policy.

At its October monthly meeting, the West Virginia Board of Education adopted a policy change to allow the use of propane (also known as liquefied petroleum gas or LPG) as an alternate fuel source.

Liza Cordeiro, spokesperson for the state Department of Education, said some counties once had buses that used natural gas. When they reached their life expectancy and were replaced, they were not replaced with new natural gas buses because the fueling infrastructure had been removed and there was no way to refuel them without substantial cost.

According to a PowerPoint-type presentation attached to the board's agenda, a diesel-power school bus costs about \$85,000, while a propane-powered bus costs about \$95,000. The presentation assumes a bus is in service for 180,000 miles and that propane costs \$1.70 a gallon versus \$3.70 for diesel fuel. After 3.19 years, savings in fuel and operating costs makes the propane bus a better value. Over the lifetime of the bus, a county school board would save \$27,621.51 with propane, according to the presentation.

In the gas-rich area of Marshall County, there has been some talk of using propane-powered buses, but that's all it has been so far, said David Smith, transportation director for Marshall County schools.

The school bus proposal is part of a larger effort to convert government vehicle fleets in West Virginia to natural gas.

In August, Gov. Earl Ray Tomblin included compressed natural gas vehicles in the 2013 model year statewide motor vehicle contract. The move was at the request of the Natural Gas Vehicle Task Force. Of 36 different types and size of vehicles available to state agencies and local government in West Virginia, ten types will be fueled by compressed natural gas.

More than two dozen other states have adopted propane as an alternative fuel source.

Bus Safety Campaign

The West Virginia Department of Education is teaming up with the West Virginia State Police, the Governor's Highway Safety Program, the West Virginia Department of Transportation, the West Virginia Prosecuting Attorneys Institute and the West Virginia Oil Marketers and Grocers Association for bus safety sweep.

It will kick off on Friday, Oct. 19 at 1 p.m. Law enforcement officers will board school buses across West Virginia on the afternoon bus routes during National School Bus Safety Week, Monday, Oct. 22 through Friday, Oct. 26. The goal is to combat the problem of motorists illegally passing buses.

Retailers signed up at this time include: **Go-Mart, Little General Stores, Inc., One Stop, Prima 7-Eleven, R. T. Rogers Oil Company, Stop In Food Stores and DeFazio Oil Company.**

If you would like to have posters or pump toppers to participate in this campaign, please contact the Association Office.

Motorists illegally pass buses
600
times a day in West Virginia.
Don't be one of them.

When you see **red** lights flash
BE SMART, BE PATIENT AND STOP

WEST VIRGINIA DEPARTMENT OF EDUCATION
OMEGA
West Virginia Media
WEST VIRGINIA ASSOCIATION OF PUPIL TRANSPORTATION
WV Prosecuting Attorneys Institute
WEST VIRGINIA STATE POLICE

The poster features a photograph of three children (two girls and one boy) wearing backpacks on the left. On the right is a yellow school bus with 'SCHOOL B' and 'EMERGENCY EX' visible. A red octagonal stop sign with the word 'STOP' is positioned in the center. The background is yellow with a pattern of white hexagons.

THE NLRB’S FIRST DECISION ON SOCIAL MEDIA

By Joseph U. Leonoro

The National Labor Relations Board (NLRB) has been paying a good deal of attention to social media recently. One of the particular issues which the Board has focused on in this area surrounds the legality of employer discipline for social media postings under the National Labor Relations Act (NLRA). Their attention here, for all intents and purposes, commenced about 18 months ago with an Administrative Law Judge’s decision which found that employees had engaged in protected, concerted activity when posting critical comments on Facebook about a co-worker.

Another application of the Board’s keen eye in this area over the last year or so has been its examination of the legality of employer social media policies under the Act. Mainly, this has come through guidance issued by the NLRB’s General Counsel. Notably, however, despite all of the attention which the Board gave social media policies in that guidance, it had yet to publish a full Board decision on the legality of an employer’s rules relating to social media.

Until now.

On September 7, 2012, the NLRB issued a decision in Costco Wholesale Corporation and United Food and Commercial Workers Union, Local 371. In the case, the Board concluded that a number of fairly typical employment policies and procedures – including those related to social media – were impermissible under the Act.

For example, Costco’s policies required that all employees comply with the Costco Employment Agreement when engaging in electronic communications. Specifically, that policy provided that “statements posted electronically (such as [to] online message boards or discussion groups) that damage the Company, defame any individual or damage any person’s reputation, or violate the policies outlined in the Costco Employee agreement, may be subject to discipline, up to and including termination of employment.”

The NLRB found that this policy was impermissible because it “clearly encompasses” concerted communications protesting Costco’s treatment of its employees. In other words, the Board felt it prohibited employees from complaining about working conditions.

In addition to invalidating that language, the NLRB also found violative of the Act Costco’s policy which prohibited employees from discussing “private matters of members and other employees,” including “sick calls, leaves of absence, FMLA callouts, ADA accommodations, workers’ compensation injuries, personal

health information, etc.” The NLRB found that this rule also unlawfully prevented employees from discussing the terms and conditions of employment.

Significantly, the NLRB noted that the Costco policy failed to include any language that suggested that communications protected by the NLRA were not subject to the policy. However, the decision did not go so far as to say that a disclaimer would save such a policy. Remember, the Board’s General Counsel has stated in the past that such a disclaimer would not save a policy from violating the Act.

While the Board didn’t invalidate all of Costco’s work rules, the upshot of the opinion is that the Board has now come out and demonstrated that it is going to fall mostly lockstep behind the previous guidance its General Counsel provided on the legality of these policies. Vague, ambiguous social media policies which could reasonably be construed by employees as prohibiting them from discussing their wages, hours and other terms and conditions of employment likely will be found to violate the Act.

Worse, the Board isn’t just taking an activist role in applying that standard to social media policies. They are beginning to apply it to all employer policies, many of which have been historically written in a broad manner to protect employer rights. This even includes at-will disclaimers. As a result of the Costco decision, employers should take a careful look at their employment policies – including but not limited to those regulating social media – to evaluate whether or not they could be construed to reasonably interfere with rights employees have to discuss their terms and conditions of employment with each other.

Remember, those rights apply not just in the workplace, but on-line, too. Moreover, they apply in your work environment whether or not you have a union. Many employers still don’t know that obligations under the National Labor Relations Act apply to them even if a union isn’t in place.

With this decision, employers now – and finally – have a more definitive legal authority they can rely on for guidance in this area, even if the result isn’t ideal for them. While it’s good to know the Board is at least acting consistently, the attention employers need to give to their work rules and policies is now greater than ever before. Certainly, consulting competent counsel for assistance when that’s necessary is never a bad idea.





Federal Issues

Congress remains out of session until the week after the November 6 elections.

White House Releases Report Outlining “Sequestration” Impact

The White House released its report on the impact of the scheduled “sequester” (mandatory across-the-board cuts) that is currently scheduled to be imposed January 2, 2013 as part of the Budget Control Act (Pub. L. No. 112-25). The report broadly outlines a 9.4 percent cut in appropriated defense spending, a 8.2 percent cut for non-defense discretionary (appropriated) spending, and 2 percent cuts to Medicare. The cuts take effect if Congress and the White House fail to agree to make other budgetary arrangements to comply with the budget law or to change the underlying Budget law. Under the Budget Control Act, SNAP spending is effectively exempt from the sequestration. The full report may be accessed here: http://www.whitehouse.gov/sites/default/files/omb/assets/legislative_reports/stareport.pdf.

Health Care Planning Tool

It is highly unlikely (99%), whomever gets elected for President, that PPACA will get repealed. We hope that some changes will be made but advise our member companies to make the proper steps to move forward with implementation.

PMAA has supplied us with the following, which is excellent:

As the Patient Protection Affordable Care Act (PPACA) changes the health care landscape it is going to present decisions for businesses of all sizes regardless of whether the business is required to accept certain responsibilities by law or not. While many pieces to the puzzle of what your business should do are still missing, it is not too soon to at least start thinking about the next steps for your business.

We are pleased to be able to provide you with a health care reform planning tool application:

www.sblc.org/healthcare.htm

This planning tool is designed to help you sort through the decision making process. It identifies some of the questions, concerns and effects that you need to consider as you move forward.

This planning tool application is provided by PMAA’s membership in the Small Business Legislative Council (SBLC), a long-time coalition of trade associations that share a common commitment to the small business sector of the economy. No password is required, but this material is protected under copyright law and contains confidential information. It is for the sole personal, informational use of West Virginia Oil Marketers and Grocers Association members. It cannot be distributed, reprinted, quoted, retransmitted, or otherwise made public.

Temporary Guidance Issued on Provisions in Health-Care Law

The explanation gives a formula for calculating which employees are considered full time:

The Departments of Labor (DOL), Health and Human Services (HHS) and Treasury released on August 31 two guidance documents addressing the definition of "full-time employee" and the 90-day waiting period limitation contained in the Patient Protection and Affordable Care Act (PPACA).

Under the health-care law, employers that have 50 or more "full-time employees" and fail to offer affordable health coverage to them may be required to pay a penalty. The law's employer mandate takes effect starting in 2014.

The recent temporary guidance explains how to calculate whether new and existing employees are considered "full time" under the law, noting that employers have the option to use a look-back measurement period of three to 12 months to determine whether newly hired variable hour or seasonal employees are full-time employees. Employers will not be subject to tax penalties for these workers during the measurement period, the guidance says, but will be required to offer a corresponding "stability period" of up to 12 months during which coverage will be available to employees that are determined to be full time at the conclusion of the look-back period.

The other guidance document address's how the law's 90-day waiting period limitation applies to variable hour employees where eligibility for an employer plan is determined using an hours of service requirement. The guidance states that an employer who offers coverage will be considered in compliance with the limitation provided coverage for an eligible employee is effective within 13 months of the employee's start date (plus the fraction of a month to the first day of the next calendar month).

As a steering committee member of the Employers for Flexibility in Health Care Coalition, NACS has filed several comments over the last year on these issues and it appears the regulators have heard and understood much of the industry's input.

Both forms of guidance will remain in effect until at least the end of 2014. The guidance on full-time employees can be found [here](#) and on the 90-day waiting period [here](#). NACS is analyzing the guidance and will submit feedback on its own and through the EFHC Coalition.

One Year Later: Debit Swipe Fee Reform a Good First Step

One year after implementation, consumers are reaping the benefits of debit card swipe fee reform as merchants use the savings from reform to hold down prices. On October 1, 2011, Federal Reserve rules went into effect that limit credit card companies' ability to fix the prices of swipe fees that business owners pay banks for debit transactions and introduced transparency into the system.

While the rules did not go as far as Congress intended, with some merchants seeing higher rates on small transactions, the reforms are a good first step. Lower debit swipe fees help reduce merchants' operating costs, which in turn helps keep prices lower than they otherwise would be. This is good news for consumers, merchants and the U.S. economy, and an argument for much-needed reform to credit card swipe fees, said the coalition of merchants working to bring transparency and competition to the credit card marketplace.

"Debit swipe fee reform has been a win for consumers and Main Street businesses, especially small businesses. While the Federal Reserve should have done more, experience has proven that Congress got this one right. Limiting price-fixing is always better than letting it continue and where fees are lower, prices are lower," said Mallory Duncan, chairman of the Merchants Payments Coalition and senior vice president and general counsel of the National Retail Federation.

For large purchases, debit swipe fees on big-bank cards now eat up less of every purchase, helping merchants hold down prices, Duncan said. Overall, retail profit margins have declined since swipe reform, showing that savings are being passed on to consumers.

A report by Moody's Investors Service concluded merchants in the U.S. need to keep prices as low as possible because they operate in highly competitive markets where consumers make choices every day based on price. The savings from debit reform helps merchants offset rising costs of things like gas and food commodities.

While Moody's conservatively projected that debit savings would counterbalance a normal rise in consumer prices, in fact, debit swipe reform's emphasis on the ability to provide discounts and other benefits for cash, has resulted in lower prices and savings for consumers in a number of circumstances.

Home Depot, for example, cut prices on 3,000 items since debit swipe reform took effect, citing lower operating costs resulting from the new cap of debit fees. Other merchants are experimenting with a variety of customer incentives to get consumers to use debit cards. Some gas stations are offering special discounts to customers opting for debit transactions. Low-cost carrier Allegiant Air now offers its customers a discount of \$4 per segment if they pay with a debit card.

Despite claims of doom by the banking industry, debit swipe fee reform has not caused big banks to implement exorbitant new fees or brought about the demise of small banks and credit unions. For starters, all but the biggest of banks — those with assets of \$10 billion or more — are exempt from the swipe-fee reforms. Reports from Federal Reserve and Government Accountability Office have found that smaller banks have increased their market share and seen increased debit swipe fee revenue since the new rules went into effect.

And, big banks continue to make a significant profit on debit transactions. According to the Federal Reserve's own survey data, it costs banks an average of 4 four cents to process a debit transaction. After debit swipe reform, big banks are allowed to charge merchants 21 cents per debit transaction.

New data from Moneyrates.com shows that swipe reform has not affected what banks charge for their services. Fluctuations in checking fees and other charges since swipe reform are fundamentally the same as what was happening in the consumer banking market prior to the legislation, said Tom Wenning, executive vice president and general counsel of the National Grocers Association.

"Debit reform was important but it fixed only part of the problem," said Wenning. "We now need to reform credit card swipe fees and bring the same transparency and competition to ensure that the market works like it should. If we don't, merchants will continue to see money float out the door to pad bank profits and consumers will pay more than they should for goods — hundred of dollars every year."

Credit card swipe fees remain a huge cost to merchants from Main Street mom-and-pops to large retail chains — 2% to 3% of each credit card transaction, on average. The average profit margin for U.S. merchants is 1% to 3%. That means swipe fees going to the banks equals or exceeds the business owner's profit on each transaction.

These hidden fees have more than tripled since 2004 despite improvements in technology that should be driving costs down. In fact, American merchants pay the highest credit card swipe fees per transaction in the world, about eight times higher than in the European Union.

Because the big credit card companies — Visa and MasterCard — control 80% of the market and dictate the amount of swipe fees that their member banks charge, there are no competitive market forces to keep those fees down. This kind of price-fixing is illegal in other parts of our economy, and should be here too, noted Scott DeFife, executive vice president for policy and government affairs at the National Restaurant Association.

When Visa and MasterCard each separately fix swipe fees for all of their banks, consumers, businesses and the economy lose.

"Main Street business owners are doing everything they can to stay in business in a tough economy. Everything, that is, except negotiate lower credit cards fees, because they can't. These excessive fees are a drain on our economy, hurting businesses and consumers across the country," said DeFife.

GAO Confirms Debit Fee Reform Helped Small Banks

The Government Accountability Office recently confirmed that the debit fee reform implemented Oct. 1, 2011, has helped community banks and credit unions. In a newly released report titled "Community Banks and Credit Unions," GAO said banks with less than \$10 billion in assets (approximately 99 percent of all banks in the U.S.) saw an increase in their swipe fee income since reform occurred. "This report should lay to rest once and for all the myth that debit swipe reform is harming the majority of American banks," noted Doug Kantor, counsel to the Merchants Payments Coalition, of which NATSO is a member.

Banks Fees Rising

A survey from Bankrate.com reveals ATM fees and checking fees have risen to record highs this year.

Highlights from data released by Bankrate.com:

- ◆ Banks raised the average minimum balance for free checking accounts this year to \$723, while checking fees as a whole reached record highs.
- ◆ The average monthly fee for a checking account that does not pay interest reached a record high \$5.48, up 25% from a year ago. Meanwhile, the average monthly fee for an interest-bearing checking account reached \$14.75, a 4% increase from 2011 and another record high.
- ◆ Thirty-nine percent of non-interest bearing checking accounts were free from fees or minimum balance requirements, down from 45% last year and the peak of 76% in 2009.
- ◆ The average fee charged by a bank to a non-customer reaching \$2.50, up 4% this year. It was the eighth consecutive year that average ATM surcharges increased.
- ◆ At least one bank tried last year to add new monthly fees for debit cards, but stiff consumer resistance prompted it to change course. According to Bankrate's survey, less than 1% of banks charged a debit card fee this past year.

House, Senate Menu Labeling Bills Continue Building Momentum

Both H.R. 6174 and S. 3574, the Common Sense Nutrition Disclosure Act, continue to gain support. Co-sponsors continue to be added informally until Congress returns after the November elections. Earlier this week, FMI sent a joint industry letter including 180+ organizations in support of S. 3574 to all Senate offices. In addition, the American Action Forum and CATO published an article regarding regulatory review of burdens on small businesses and ranked the menu labeling regulation as the 2nd most costly to small businesses. Once again, the National Restaurant Association, McDonald's, Darden, Dunkin Brands, Burger King, Brinker and Aunt Annie's sent a letter opposing S. 3574, saying that grocery stores, "compete directly with their local restaurant community." [Click here to contact your Member of Congress about co-sponsoring H.R. 6174 or S. 3574, which would exclude grocery stores from the restaurant menu labeling law unless the majority of their operations are devoted to "restaurant-type" food.](#)

West Virginia Merchants Urged to Join in Opposition to Flawed Visa / MasterCard Proposed Settlement

The National Grocers Association, along with numerous named plaintiffs including the National Association of Convenience Stores, the National Restaurant Association, National Community Pharmacists Association, National Cooperative Grocers association, National Association of Truck Stop Owners, and the National Cooperative Grocers Association, and non-plaintiffs such as the Retail Leaders Industry Association and National Retail Federation are opposing and objecting to the proposed settlement agreement in the case of In Re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation. On July 25, 2012, NGA's Board of Directors voted unanimously to reject and oppose the proposed settlement agreement.

Groups oppose the proposed settlement agreement for a number of reasons:

- 1) It does not achieve fundamental restructuring and reform of the anti-competitive credit card interchange fees and payment rules;
- 2) After merchants have paid \$350 billion in anti-competitive fees of since 2004, the cash settlement of \$6.05 billion and \$1.2 billion in reduced fees for 8 months represent only a small fraction of what merchants have been overcharged, barely 2 months of fees;
- 3) The proposed modifications to the cost of acceptance (no-surcharging) rules are meaningless to merchants because of the consumer backlash and the proposal contains 10 pages of burdensome restrictions and surcharging is even forbidden in 10 states;
- 4) The overbroad release that is given to Visa and MasterCard will prevent challenges to all the anticompetitive rules that are in place or could be instituted in the future.

Retailers and wholesalers who in their independent judgment agree with the opposition adopted by the NGA Board of Directors to join in the opposition by submitting a Declaration of Opposition to NGA. Declarations are available on our Web site at www.omegawv.com.

Completed declarations should be submitted to Tom Wenning at NGA via email or by fax to 703-516-0115 (Attention: Tom Wenning) AND mail the original to NGA at: Attention Tom Wenning 1005 North Glebe Road Suite 250 Arlington, VA 22201.

Please submit declarations NO LATER THAN WEDNESDAY OCTOBER 31, 2012 AT 5 P.M. EST.

Congressional Black Caucus Expresses Concern Over SNAP Changes

More than 30 members of the Congressional Black Caucus (CBC) are concerned that a proposed SNAP fraud prevention solution will have "unintended consequences."

In a letter to House and Senate leadership, along with the chairmen and ranking members of both the Senate and House Agriculture committees, the CBC took issue with a Farm Bill provision that "would prohibit any food retailer from participating in the SNAP program if 45% or more of the retailer's revenue is derived from combined sales of hot food, tobacco, and alcohol ("the 45% rule"). The provision's advocates claim the language is intended to prevent fraud, but in practice the 45% rule would preclude virtually every convenience store in the United States from participating in the program."

The CBC promotes the fact that "bodegas, convenience stores, and locally-owned corner stores are often the only food providers in the region, and thus a place for our constituents to redeem their SNAP benefits to purchase eligible food items. If it were not for these businesses, our economically challenged constituents would be forced to travel long distances to purchase SNAP eligible products."

Instead, the caucus suggests tackling the fraud issue from other angles, namely the trafficking of SNAP benefits for cash and the requirement that all retailer-participants have an EBT system for accepting food stamps. What's not helpful is the 45% rule that "would impose a blanket prohibition on a large portion of bodegas, convenience stores, and corner markets from participating in the SNAP program, even though most of these outlets have never violated the program's requirements."

The letter strongly recommends applying the 45% rule to only retailers who do not have fraud-reducing equipment. "If the 45% rule is enacted, small establishments would not respond by selling less alcohol or tobacco — instead, they would respond by turning away needy Americans hoping to purchase food with their SNAP benefits. The reason for this is that retailers do not control what customers want to buy, they respond to what customers want to buy. To think the 45% rule will improve consumers' nutritional tendencies ignores this basic fact."



Some see a gas pump. We see BP quality that keeps drivers coming back.

There are millions of fill-ups every day. But the fill-ups at the stations operated by our Branded Marketers are different because of BP gasoline with Invigorate®.

Why? Mile after mile, our high quality gasoline with our unique additive package is helping clean critical engine parts to maintain optimal performance. Over the long haul, drivers can go a little farther per tank.* It's the kind of thing that will keep them coming back.

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For more information, contact your
local Jobber Sales Manager:
Bob Zampini | (330) 757-0089 | robert.zampini@bp.com**



*All grades of BP gasoline with Invigorate® help drivers get a few more miles per tank when compared to low-detergent gasoline. When used continuously, it helps clean and protect critical engine parts from harmful deposits, so drivers can go a little farther between fill-ups. ©2012 BP Products North America Inc.



Convenience Store News

FDA Issues New Retailer Fact Sheet on Violation Warning Letters

The FDA has issued a one-page fact sheet titled "Overview: Tobacco Retailer Warning Letters" to explain why warning letters are issued to tobacco retailers, what a retailer needs to do if a warning letter is received, and what FDA tobacco regulations apply to retailers.

Those staff members whose responsibilities include FDA tobacco regulation compliance should be provided with a copy of the fact sheet.

According to the FDA's website, as of this past August 31, the FDA had conducted 103,078 retail store inspections in the states under contract to carry out these compliance checks. A map showing the states that are currently conducting FDA retail compliance inspections accompanies this bulletin. Of the sites inspected, 95.2% successfully passed the inspections without any violations. There have also been 4,602 warning letters issued to retailers for possible violations of FDA tobacco regulations and also 386 civil money penalty complaints seeking a fine for a second or subsequent violation of the tobacco regulations at the same store.

For reference, below is a schedule of the fines that the FDA is allowed to impose for violations of the tobacco regulations by a retailer:

- ◆ First violation, no fine, but the issuance of a warning letter.
- ◆ Second violation within a 12-month period, a fine not to exceed \$250.
- ◆ Third violation within a 24-month period, a fine not to exceed \$500.
- ◆ Fourth violation within a 24-month period, a fine not to exceed \$2,000.
- ◆ Fifth violation within a 36-month period, a fine not to exceed \$5,000.
- ◆ Sixth or subsequent violation within a 48-month period, a fine not to exceed \$10,000.

As indicated in the FDA's new fact sheet, a warning letter will include the date and, if a tobacco product is sold to a minor, the time a store was inspected, an explanation of the violation, a request for the retailer to correct the violation and how to respond to the FDA in writing to correct the violation and prevent future violations

Mobile Use Rising in Retail

Fifty percent of U.S. shoppers surveyed said they used their mobile device to compare prices and read product reviews while shopping, up from 19% in 2011.

A new EConsultancy survey reveals the number of U.K. consumers who made a retail store purchase with a mobile device roughly doubled since 2011, from 13% to 25% of consumers. In the U.S., the figured jumped from 12% to 28% in the same period.

Other mobile-related figures include:

- ◆ Nearly one-third (32%) of U.K. consumers and 41% of U.S. shoppers used a mobile device to locate a store or a store's opening times,
- ◆ Forty-three percent of U.K. respondents and 50% of U.S. shoppers said they used their mobile device to compare prices and read product reviews while shopping, up from 19% (U.K.) and 20% (U.S.) in 2011.

Salmonella Scare Hits C-Stores

At least four frozen and dairy foods companies that supply convenience stores have recalled certain products that could contain peanut butter tainted with salmonella.

The c-store vendors are: AdvancePierre Foods, recalling products distributed nationwide; Belfonte Ice Cream and Dairy Foods Co., recalling product from Missouri, Kansas, Oklahoma and Arkansas; Smith Dairy Products Co., recalling product from Ohio, Indiana, West Virginia and Michigan; and Velvet Ice Cream, recalling products from Ohio, Indiana, Kentucky, Tennessee, Virginia and West Virginia.

In most cases, the affected products are peanut butter-flavored ice cream or candy pieces, though some frozen sandwiches are included in the recalls. The combined recalls affect c-stores across the country.

The origin of the contamination is peanut supplier Sunland Inc., of Portales, N.M., which on Oct. 12 announced an extension of its September recall on peanut butter.

Salmonella is an organism that can cause serious and sometimes fatal infections in young children, frail or elderly people and others with weakened immune systems.

So far, there have been no illnesses reported from the products involved in the extended recall, though dozens of people were ill from product in Sunland's earlier recall.

Its original recall in September involved peanut butter and other nut butter products produced in its New Mexico processing plant. At that time, 29 people reported salmonella-related illness in 18 states.

Since the recall was announced, more illnesses were reported. As of Oct. 5, 2012, the total number of confirmed illnesses reached 35 people, mostly children, in 19 states, the Centers for Disease Control said.

For more information on the recalls, see the Food and Drug Administration website, www.fda.gov, or Sunland Inc.'s website, www.sunlandinc.com.

FDA Seeks to Have Cigarette Label Case Reheard

The federal government has formally asked for a full court review of the U.S. Court of Appeals decision that struck down the Food and Drug Administration's (FDA) graphic labeling requirements for cigarette packages. A three-judge U.S. Court of Appeals panel in August struck down the law requiring the images, ruling that the FDA violated corporate speech rights. The D.C. Circuit now will decide whether or not to hear the case before the full court.

NACS "Ideas 2 Go" DVD Now Available

The newly released NACS "Ideas 2 Go" DVD is now available for purchase. The DVD features the 55-minute "Ideas 2 Go" presentation that was shown in the General Session at the NACS Show. It can be purchased at nacsonline.com/ideas2go.

The fast-paced "Ideas 2 Go" program showcases emerging concepts that redefine convenience — as well as quick takeaways that retailers could easily implement at their own stores. Since 1994, "Ideas 2 Go" has provided a fast-paced video tour of some of the most interesting, creative and potentially profitable ideas in the convenience and fuel retailing industry.

'Retailers' Voices Make a Difference,' Says NACS CEO Armour

"I have never been more convinced that when we speak as one, our industry is incredibly powerful and effective," said NACS President and CEO Hank Armour to a packed house during the NACS Show general session, laying out a path for future success through advocacy.

And what an industry it is — U.S. sales alone of \$681 billion would rank the convenience store industry the 19th largest economy in the world, between Switzerland and Turkey.

The key to the industry's sales, said Armour, is one number: 160 million. That is the number of transactions that the industry conducts every single day.

"That's half the population of the United States. Another way of saying that is that if you haven't been in a convenience store today, you're going tomorrow."

Convenience stores so much a part of the fabric of everyday life for one simple reason, said Armour, "We deliver what our customers want, when they want it and how they want it."

The same holds true at NACS, he said: The association delivers what members want in advocacy, such as with roll-your-own tobacco.

"You told us that this was a dangerous threat affecting your business. Stores with large-scale manufacturing operations were masquerading as tobacco shops and were stealing 10 percent of your business...Through our grassroots efforts, we leveled that playing field when Congress voted 82 to 16 to pass our legislation," he said.

Above all, though, there is one issue that members have told Armour — and NACS — to fight: credit and debit card swipe fees.

The decade-long battle to reform the broken system has paid significant benefits. With the implementation of debit fee reform that took effect last Oct. 1, retailers and their customers have seen costs reduced by about \$500 million as average debit fees dropped from 44 cents to 22 cents per transaction.

"Normally, we'd all be pretty happy about that," said Armour. "The problem is that it should be much lower than that," he said, and NACS sued the Federal Reserve, challenging its final rules. "We presented oral arguments in the case last week. We have a strong case and expect a ruling by the end of the year."

But there also is potentially some big, ugly news related to credit card fees — unless retailers make their voices heard.

This past July, a proposed \$7.2 billion antitrust settlement was announced between Visa and MasterCard and 19 plaintiffs, including NACS. The NACS Board of Directors instantly rejected the proposed settlement, as did a number of other plaintiffs, because it didn't address the longstanding problems with a broken system.

"The proposed settlement provides a one-time monetary payout — in the ridiculously low amount of about two months' worth of swipe fees. Essentially that's all the settlement does. It would actually cement Visa's and MasterCard's role as price-fixers," said Armour.

"And the legal release is ludicrous. It would prevent you — and the associations that represent you — from suing for change in the swipe fee system for years to come. And in the meantime, they can do whatever they want to fees, to merchant agreements, and to your business. Who, in their right mind would agree to this? We didn't...and you shouldn't either!"

This week, the judge in the case will receive the proposed settlement for preliminary approval. Over the next 30 days, he will take into account the voice of all industry stakeholders, including convenience store retailers.

"You have an opportunity to make your voice heard, and to stop this move to perpetuate the ever-escalating fees you are forced to pay. We need every company that has ever accepted Visa and MasterCard credit cards to sign a short declaration that lays out why you feel the proposed settlement is bad for your business. This is the best way to show the court that this deal should not be approved."

Declarations are available to any retailers requesting them, whether onsite at the NACS Show or via e-mail by sending a note to NoDeal@nacsonline.com.

"It's that simple. You told us that this is hugely important to your business," said Armour. "So do it...and let your voice be heard loud and clear."

NACS Names Five New Retailer Members to Board of Directors

NACS announced the election of five retail members to serve on its Board of Directors. The new Board members assumed their positions during the NACS Board of Directors meeting at the NACS Show in Las Vegas. The NACS Show is ranked one of the 50 largest annual tradeshows in the United States.

The NACS retail members elected to serve on the Board of Directors are:

- ◆ **Leocadio de Alemeida Filho Antunes**, CEO, Ipiranga Produtos de Petróleo S/A (Rio De Janeiro, Brazil);
- ◆ **Ari Haseotes**, president and COO, Cumberland Farms Inc. (Framingham, Massachusetts);
- ◆ **Richard Parry**, president & CEO, Aloha Petroleum Ltd. (Honolulu, Hawai'i);
- ◆ **Dan Pastor**, CEO, Mid-Atlantic Convenience Stores (Richmond, Virginia); and
- ◆ **Darren Rebelez**, executive vice president and chief operating officer, 7-Eleven, Inc. (Dallas, Texas).

NACS is led by a 30-member Board of Directors. Twenty-eight industry retailers are elected to the Board, including two retailers from non-North American countries. In addition, the chairman and chairman-elect of the NACS Supplier Board also serve on the Board of Directors.

Following are brief biographies of the new Board members:

Leocadio de Alemeida Filho Antunes is CEO of Ipiranga Produtos de Petróleo S/A, which operates more than 1,000 ampm stores and is one of Brazil's largest oil companies.

Ari Haseotes is president and COO of Cumberland Farms Inc. With more than 600 company-operated stores, it is the largest privately held convenience store chain and fuel retailer in the Northeast. Haseotes has been president and COO of Cumberland Farms since 2008. He also served as vice president of strategic planning and business development and vice president of marketing. Haseotes earned a B.S. in business management from Boston College and an M.B.A. from Harvard Business School. He and his wife Ashley are the founders of One Mission, a childhood cancer foundation. Haseotes is a member of the NACS Legislative Committee.

Richard Parry is president & CEO of Aloha Petroleum Ltd., which operates 42 retail stations, most with a convenience store carrying the Aloha Island Mart name. It also operates six fuel terminals and a fleet of fuel delivery vehicles. Prior to joining the company as president and CEO in 2008, Parry was president of Mid Pac Petroleum. Parry also served as senior vice president at Tesoro Petroleum. Originally from Australia, he earned an Arts degree in economics and an Education degree in geography from Monash University in Victoria. Parry is a member of the NACS Legislative Committee.

Dan Pastor is CEO of Mid-Atlantic Convenience Stores (MACS), which operates a network of approximately 300 company-owned and dealer locations in Virginia and Maryland. In addition to its wholesale fuel distribution network, MACS is one of the largest ExxonMobil fuel marketers in the U.S. Prior to joining MACS as its CEO in 2011, he held senior positions with Giant Eagle, Crossroads Convenience LLC and the Guttman Oil Company. Pastor earned a B.S. in business management/marketing from Pennsylvania State University. He is a member of the NACS Member Services Committee.

Darren Rebelez is executive vice president and chief operating officer for 7-Eleven Inc., the world's largest operator, franchisor and licensor of convenience stores, with 47,300 units worldwide of which close to 9,400 are in North America. He joined 7-Eleven in 2007 as a senior vice president in charge of operations for its U.S. and Canadian stores and was promoted to executive vice president and COO in 2009. Previously, Rebelez was with ExxonMobil, where he supervised franchising for ExxonMobil's On the Run convenience operation. He also served at Thornton Oil Corp. as vice president of category management and also was president of the company's bakery subsidiary. Rebelez earned a B.S. in engineering from the U.S. Military Academy at West Point and an M.B.A. from the University of Houston. He is a member of the NACS Audit Committee.



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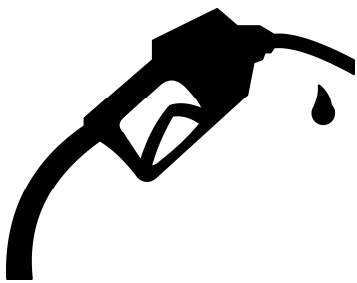


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Oil Marketers Update

Fuel Retailers Win "Hot Fuels" Case

Marking a major victory for fuel retailers, a federal jury in Kansas deciding the so-called "hot fuels" case said 7-Eleven Inc., QuikTrip and Kum & Go were not deceptive when they failed to disclose the temperature of fuel sold to retail customers.

Many large gasoline retailers and major oil companies have been sued in a class action lawsuit claiming that gas stations overcharge for fuel because pumps lack automatic temperature compensation (ATC) devices. In the Kansas case, all but three large convenience-store chains elected to settle. If the jury had favored the plaintiffs, in addition to possible monetary damages, some gas stations could have been forced to install ATC devices, which could cost an estimated \$2,000 per dispenser.

Brief...

Pennsylvania's House of Representatives approved legislation (Senate Bill 341), sponsored by Senator Stewart Greenleaf (R-Bucks/Montgomery), authorizing the **Department of Agriculture to conduct random and unannounced testing of octane levels in gasoline**. Senate Bill 341 now returns to the state Senate for a concurrence vote before it can be sent to the governor for his consideration.

Pennsylvania is only 1 of 3 states without an octane testing program (Alaska and Nebraska being the others),

Federal Judge Issues Set Back on Position Limits

Late in September, the Federal District Court for the District of Columbia issued its decision in the case of the International Swaps and Derivatives Association (ISDA) v. the Commodity Futures Trading Commission (CFTC) regarding the CFTC's position limits rule. Unfortunately, the court tossed the position limits rule, sending the rule back to the CFTC for further development.

The case brought by associations representing Wall Street asserts that the position limits rule was not sufficiently justified under the statute as "necessary and appropriate." PMAA, NEFI and the Commodity Markets Oversight Coalition (CMOC) believe this regulation is not only necessary and appropriate, we believe this regulation is long overdue.

In October 2011, PMAA achieved a significant step forward in the futures market reform front when the Commodity Futures Trading Commission (CFTC) voted to impose speculative position limits on oil traders as well as rules governing commodity exchanges such as the Chicago Mercantile Exchange (CME) and the Intercontinental Exchange (ICE). The four covered energy contracts include: NYMEX Sweet Light Crude, NYMEX Gasoline Blend stock, NYMEX Heating Oil, and NYMEX Hub Natural Gas.

Position limits were divided into two types: spot-month and all-months combined. The spot-month position limits would have been set at 25 percent of deliverable supply and set to go into effect on October 12, 2012. The all-months combined position limit regime would not be implemented until the CFTC had collected a year's worth of swaps data. This process is likely to be completed later this year.

The court's decision is a major setback to bringing greater transparency and fairness to the overly-leveraged commodity futures and swaps markets. The CFTC now must quickly determine whether to undertake the further work of justifying the "necessary and appropriate" basis of the position limits rule and then re-issue the rule, or appeal the District Court's decision to the U.S. Court of Appeals. PMAA and NEFI will continue working with CMOC on next steps to fight for this critical rule.

PMAA Committee Reports

During PMAA's Annual Meeting in Las Vegas, new officers were elected:

Chairman
Benny Hodges
Hodges Oil Co., Inc.
Belen, NM

1st Vice Chairman
Sam Bell
Echols Oil Co. Inc.
Greenville, SC

2nd Vice Chairman
Grady Gaubert
Gaubert Oil Co., Inc.
Thibodaux, LA

Representing the Southeast Region is **Mark McBride** of Cox Oil in Union City, TN.

Also during this meeting, committees met. Following is a report:

Motor Fuels Committee

- ◆ PMAA's Motor Fuels Committee will be reviewing when proposals/legislation is introduced next year that likely will address the Renewable Fuels Standard (RFS). Three scenarios that were discussed: 1. Support full repeal 2. Support a reduction in ethanol blending volumes for 2013 3. Do nothing The consensus from the MFC was to not tamper with the RFS for 2012, but likely support efforts to lower the RFS corn-based ethanol mandate to prevent higher levels of ethanol content from hitting the marketplace in 2013.
- ◆ There was discussion on legislation which would exempt farms with storage tanks from SPCC compliance (10k gallons or less). Some marketers had concerns that this bill would hurt bulk plant owners because it would likely incentivize farmers to buy large tanks (between 7,000 to 8,000 gallons) which would require transports for delivery rather than bobtail trucks. Therefore, there wouldn't be a need for bob-tail trucks to deliver fuel to farmers. One proposal to fix this bill would be to lower the 10,000 gallon threshold to 5,000 gallons (the previously recognized level of acceptable environmental risk, whereas, the 10,000 is arbitrary), which would accommodate multiple smaller tanks (dyed diesel/clear diesel/gasoline). Those who have those smaller tanks will continue to be retail customers of bulk plants and those who have bigger tanks will buy tanks of the correct size to accommodate efficient delivery by PMAA members with transports.
- ◆ The House has already passed H.R. 3158 and it has been referred to the Senate Environment and Public Works Committee. The bill's future is unclear. PMAA can't imagine Senator Boxer (D-CA), chairwoman of the Senate Environment and Public Works Committee, will allow this legislation to move forward in her committee. A Senate companion bill was recently introduced by Sen. Pryor (D-AR).
- ◆ The Committee took no action on this legislation but supported PMAA's efforts to engage groups who support the legislation to ask for a 5k gallon exemption threshold, if possible.

PMAA Heating Fuels Committee

- ◆ The Committee passed and the PMAA Board approved a motion for PMAA to use legislative means to fight for a ULSD heating oil mandate for the Northeast and Mid-Atlantic regions.

PMAA C-Store Committee

- ◆ Congress wants to severely restrict convenience store acceptance of food stamps if 45 percent or more of sales come from tobacco, alcohol and hot food products. PMAA's c-store committee evaluated a compromise being floated that would approve stores that invest in EBT systems (i) capable of setting and enforcing sale restrictions based on benefits transfer payment eligibility by using scanning or product lookup entry; (ii) auditable via inspection of an item file detailing which items in the item file were eligible for benefits and which were not; and (iii) capable of excluding benefits tenders for manually entered sales of ineligible items. NACS estimates that at least 80% of convenience stores in the country have this ability operating today. PMAA's C-Store Committee agreed to support this approach.
- ◆ Regarding menu-labeling, the healthcare law describes a "covered entity" as any retailer where more than 50 percent of the store's floor area is devoted to selling food. However, pre-package food was included. PMAA's C-Store Committee supported NACS and SIGMA's approach to lessen the burden on c-stores from the healthcare law by supporting legislation (H.R. 6174) that derive 50 percent or more of their revenue from food that is intended for immediate consumption, or prepared and process on-site. Pre-packaged food would not be considered in this equation. In this scenario, most, if not all, c-stores would be exempted.

GE Launches New CNG Fueling System

GE and Peake Fuel Solutions, an affiliate of Chesapeake Energy Corp, recently announced that they have launched an onsite fueling solution known as CNG In a Box that allows easier adoption of compressed natural gas (CNG) refueling options for large and small retailers. The system provides a lower-cost fueling experience for consumers and a higher-margin solution for facility operators, the companies said. The system compresses natural gas from a pipeline into CNG on site at a traditional automotive fueling station or industrial location. CNG-powered vehicles can then refill their tanks using a dispenser with the same look and feel as a traditional diesel or gasoline dispenser.

Direct Rules for Heating Oil RINS and ULSD Issued

EPA posted a pre-publication direct final rule on its website that accomplishes three things of interest to petroleum marketers:

- ◆ Amends the definition of "heating oil" under the federal Renewable Fuel Standard (RFS) to expand the types of non-petroleum renewable heating oil that qualifies for RIN credits. Specifically, the EPA will no longer require non-petroleum renewable heating oil to contain a minimum 80% mono-alkyl esters of long chain fatty acids derived from animal or vegetable fats in order to qualify for RINs. Under the amended rule, all non-petroleum fuels derived from qualified renewable biomass and used to heat homes and businesses will be considered "heating oil" and qualify for RINS without having to meet the 80% animal or vegetable fat requirement.
- ◆ Reinstates a provision under the ULSD regulations that allows locomotive and marine vessels to use 500ppm sulfur trans-mix distillate product. The reinstatement was necessary because the transition to ULSD heavy duty marine engines and locomotives will take considerably longer than the EPA originally predicted.
- ◆ Clarifies that the yellow marker requirement for heating oil sold in the non-NEMA area will no longer be required after June 1, 2014.

The final rule may be viewed at <http://www.epa.gov/oms/fuels/renewablefuels/regulations.htm>. Direct questions on the RFS amendments to Mark S. Morgan, PMAA Regulatory Counsel at mmorgan@pmaa.org.

From *CSP Daily News* ...BP to Sell Texas Refinery, Jobber Contracts for 1,200 Retail Sites to Marathon Petroleum

BP has announced that it has reached an agreement to sell its Texas City, Texas, refinery and a portion of its retail and logistics network in the Southeast United States to Marathon Petroleum Corp. for \$2.5 billion.

Subject to regulatory and other approvals, Marathon Petroleum will purchase the 475,000-barrel-per-day refinery, associated natural gas liquids pipelines and four marketing terminals. BP will also assign certain branded jobber contracts supplying approximately 1,200 retail sites in Tennessee, Mississippi, Alabama and Florida that could be supplied by the refinery. BP said that it will remain a significant retailer of fuels in the United States, with approximately 8,000 BP and ARCO-branded sites in the Midwest, Pacific Northwest and along the East Coast. The company said that it anticipates the transaction will close by early 2013.

EPA to Decide on Renewable Fuel Waivers

The Environmental Protection Agency (EPA) plans to decide by mid-November if certain states will receive waivers from renewable fuel requirements for ethanol in gasoline. Five states have asked EPA for waivers for ethanol in gasoline, and one state has sought a waiver for biodiesel.

While not saying which states are under consideration, the governors of Arkansas, Delaware, Georgia, Maryland, and North Carolina asked EPA in August to waive the ethanol mandate due to effects from extreme drought. Current law requires that the 2013 fuel supply contain 16.55 billion gallons of renewable fuels. EPA also will require 1.28 billion gallons of biomass-based diesel fuel to be introduced into the national fuel supply in 2013. EPA has the authority to waive renewable fuel requirements if the mandate "would severely harm the economy or environment of a state, a region, or the United States." The agency indicated that no matter which decision is made on the waiver, the issue will most likely be litigated by one-side or the other.



Grocery Highlights

Supermarket Facts & Figures

Shoppers adopted new "value seeking" habits during the recession, many of which they plan to maintain permanently moving forward:

- ◆ 78% shoppers will seek out discounts
- ◆ 78% are comfortable buying store (private) brands
- ◆ 55% accept living with less

California Prop 37 Update - Two Recently Published Papers

Two papers were recently published on the effects California Proposition 37 (the ballot initiative that requires mandatory genetically engineered labeling) would have on grocery bills, retailers and farmers. Both papers were co-authored by different professors from the Department of Agricultural and Resource Economics of the University of California at Davis.

The first, entitled "California's Proposition 37: Effects of Mandatory Labeling of GM Food," maintains that food category choice will decrease and the added labeling information will be imprecise. Prop 37 will introduce a double standard for accidental GM purity in organic versus non-organic foods, favoring organic. See: <http://giannini.ucop.edu/are-update/15/6/californias-proposition-3/>

The second paper is "Proposition 37 – California Food Labeling Initiative: Economic Implications for Farmers and the Food Industry if the Proposed Initiative were Adopted." See: <http://www.noprop37.com/files/Alston-Sumner-Prop-37-review.pdf>

Among the findings of this paper is that "bounty-hunter" attorneys could initiate lawsuits against food retailers, manufacturers or farmers claiming that they sold mislabeled products and requiring them to prove otherwise or be subject to penalties. These penalties would include costs for the plaintiffs, such that the least-costly option in many instances would be to settle out of court. The professors assert that California's experience with Proposition 65 provides some indication of what could be expected, and the ultimate costs would be borne by the food industry, including those who are fully compliant with the policy.

For the official text of Prop 37: <http://www.noprop37.com/uploads/1343936210-NoonProp37ReadProp.37.pdf>. Also, visit the "No on Prop 37" campaign: <http://www.noprop37.com/>.

Editorial note: What happens in California always worries me because it does seem to find it's way to WV. I listened to a group discuss this at NACS and I couldn't believe it. It appears to be a train that can't be stopped!

Briefs

Quick-trip shoppers show willingness to pay more at front end

Customers who dash into the supermarket are more willing to pay full price if they can find items at the front end of the store. Research from Wrigley found that top front-end items are confectionery, beverages and magazines, and 80% of consumers said they would pay top dollar for the convenience of a quick trip.

25% of consumers steal when grocery shopping, study finds

A quarter of grocery shoppers admit to using the five-finger discount. A study from SodaHead.com found that items most likely to walk include food, candy and gum. The study also found that 36% of shoppers tend to "sample" products before they buy.



OMEGA Raises Over \$168,000 for Make-A-Wish Foundation of WV During August Fundraiser

The West Virginia Oil Marketers & Grocers Association (OMEGA), an organization representing convenience stores, independent grocers and petroleum marketers across West Virginia, in conjunction with the Make-A-Wish Foundation®, raised \$168,271 to help grant the wishes of children diagnosed with life-threatening conditions during the month of August, association representatives announced today.

Additionally, the organization has raised over \$259,000 in 2012 for organizations that help West Virginia children, and over \$1.5 million since 2003 for charities that improve the health, safety and wellbeing of West Virginia children.

Jan Vineyard, President of OMEGA, said, “Our members, as well as the West Virginia public, truly get behind these efforts to help our children. The results of our August Make-A-Wish Foundation® campaign and our April Children’s Home Society effort prove this out. This is all about making a difference in a child’s life and we are very appreciative of the public who graciously supported this effort.”

Vineyard said that all the funds raised through the Make-A-Wish Foundation® campaign will go to the southern and northern West Virginia Chapters of the Make-A-Wish Foundation® and will be used solely to grant children’s wishes.

Wish stars were sold for one dollar at nearly 600 OMEGA-member convenience and grocery stores across the state from Aug. 1 – Aug. 30. **Little General Convenience Stores** sold the highest number of wish stars and single-handedly raised over \$23,000.

In addition, a golf outing was held at Stonewall Resort on Wednesday, September 26 where many corporate sponsors, such as **Little General Stores, Inc., ExxonMobil Fuels Marketing, Marathon Petroleum Company, Maxum Petroleum Company/One Stop, Sledd Company, Prima/7-Eleven, Par Mar Stores** and others, donated tens of thousands of dollars to the cause.

Marisa Pedro, Regional Manager for Make-A-Wish Southern West Virginia, said, “Make-A-Wish opens up a world of possibilities for children with life-threatening medical conditions and asks them to dream the unimaginable. We then work to make the impossible come true – not just a nice experience for a day, two days or a week, but a life-changing experience that improves the quality of life for the child and his or her family. With OMEGA’s help, many more children in our region will have this opportunity. We are very thankful for their participation.”



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Platinum Sponsor Sledd Co: Jay Jones, Jay DeSantis, John Monto, Randy Emanuelson and Derek Ward



Silver Sponsor Red Bull: Tom Panigall presenting check to Marisa Pedro and Bobbie Spear of Make-A-Wish. Tom is presenting a check to Make-A-Wish from a campaign Red Bull ran in July where over \$13,000 was raised.



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