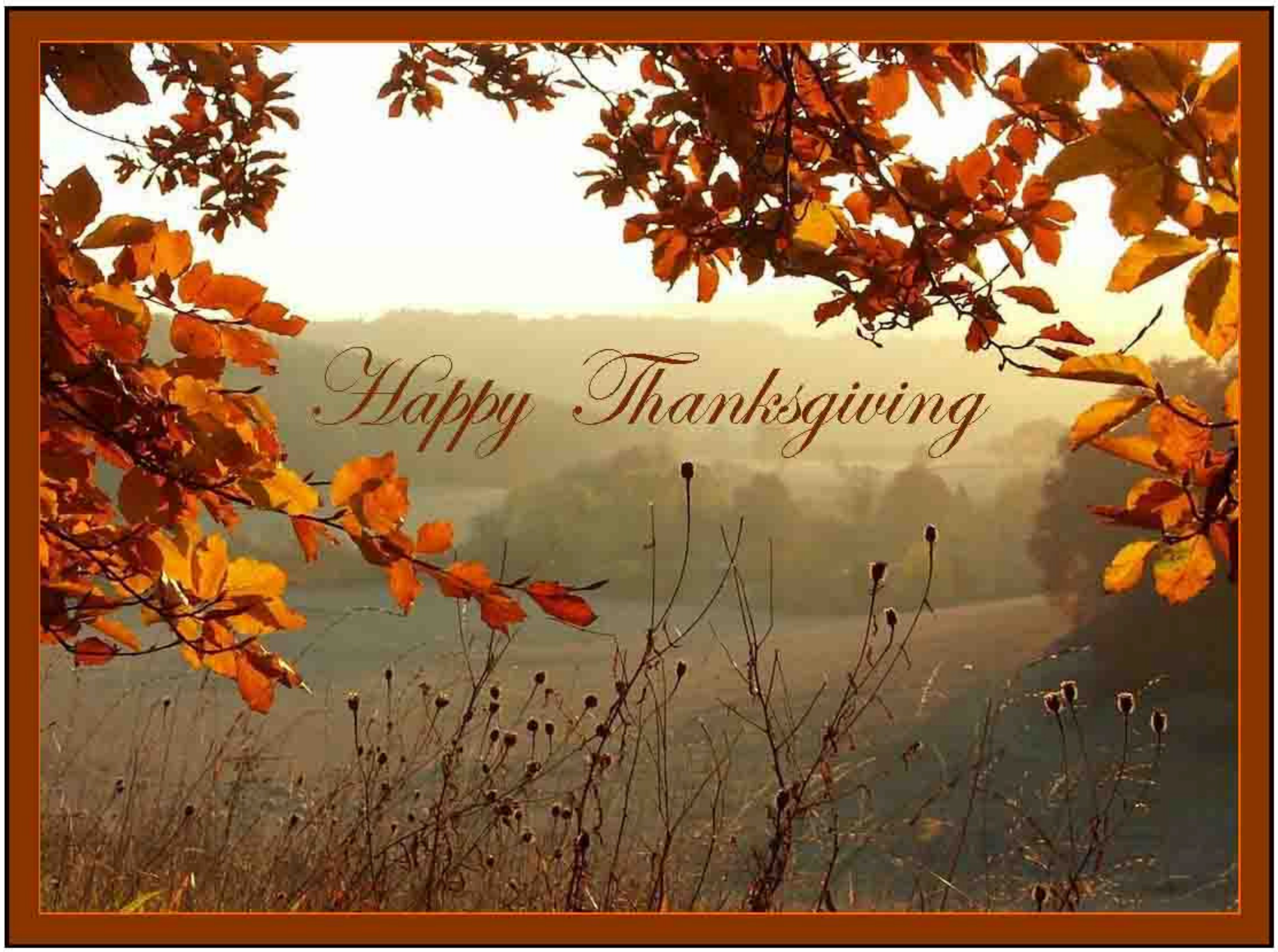
AT THE PUMP & DOWN THE AISLE

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

OMEGA west virginia oil marketers & grocers assoc.

November 2014 **Number 643**



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

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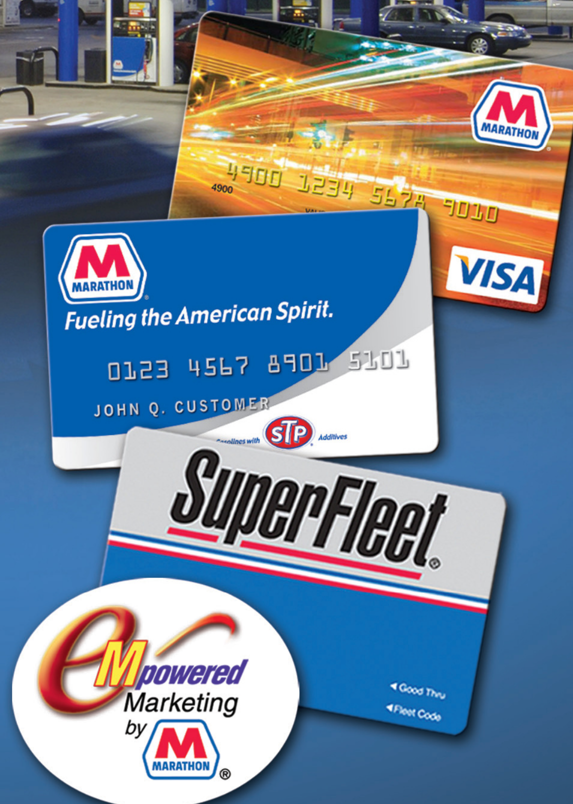
one way we stand out!



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- Marathon Brand employs 33 Territory Managers and 5 Program Territory Managers to deliver value to our customers.
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- Marathon Petroleum has approximately 9,400 miles of pipeline, which ensures stable and flexible supply.
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From the President ...

I almost hate to admit it, but the election is the first thing I think about when I get up and the last thing that I think of when I go to bed at night. I feel like I need to wake up from this dream! West Virginia has been working and waiting a long time to turn the tide. I am proud that we have been involved in the political process and will continue to be in the future. It does pay off! I know that you have heard me say time and time again that you must build relationships with your representatives, but they really do have a great deal of control over your business.

We first supported Senator Capito when she ran for the WV House of Delegates in 1995. She has been our rock in Washington. She understands our issues and has an open door for our members. The great news is she is not the only one! I was in Leadership WV in 1993 with Congressman Jenkins and still remain very close to him. I have hosted fundraisers for and visited McKinley in his DC office. Alex Mooney gave me an afternoon during his campaign to discuss his vision and learn about our industries. We should be very proud of our team in DC!

For the twenty-one years that I have been with OMEGA, I have worked hard at building relationships, both in DC and here in West Virginia. Protecting your businesses and interests has always been my main goal. Our PAC success rate of 88% speaks volumes about the relationships we have built with those that serve our State.

We have 10 new Senators and 32 new House of Delegates members. (A recap of the election is included in this newsletter on pages 4 and 5.) I am happy that I met many of these while they were campaigning. Most of our work is done at the grass roots level. I know that many, if not most of you, have relationships with our leaders in Washington and here in West Virginia. Soon we will be sending you a list of our representatives and ask you with whom you have a relationship and how you can help.

Leaders here in West Virginia have already asked for our help in setting the agenda for 2015. They have asked what changes can be made in State laws to make our business run smoother. We are developing a "wish list" for 2015 and the years to come. If you have suggestions, please feel free to share them with the OMEGA leadership team or myself.

It's hard to believe that Thanksgiving is just a couple of weeks away. In this season of gratitude, Traci , Sarah and I want to take this opportunity to thank you for your membership in the Association. We appreciate the support that you give us and the trust you place in us throughout the year.

Happy Thanksgiving to you, your family and your employees.

Jan

West Virginia News

Capito Becomes West Virginia's First Female U.S. Senator

There were no surprises in this race, except maybe the margin of victory. Congresswoman Shelley Moore Capito easily defeated Secretary of State Natalie Tennant by over 124,000 votes or 28 percent. Not only is Capito the state's first female U.S. Senator, but she is the first republican to represent the Mountain State since 1958 when John D. Hoblitzell was appointed to fill a vacancy. The last republican in West Virginia elected to the U.S. Senate was Chapman Revercomb in 1942.

West Virginia Sends Three Republicans to the U.S. House of Representatives

The last time West Virginia's U.S. House of Representatives delegation was all-republican was 1922. Incumbent David McKinley coasted to an easy victory over State Auditor Glen Gainer. Newcomer Alex Mooney pulled out a close 3 percent victory over Democrat Nick Casey. And, in one of the biggest upsets in the country, State Senator Evan Jenkins upended 38-year House veteran Nick Rahall with a 10 point victory. Jenkins, a 20-year member of the West Virginia Legislature, won by nearly 15,000 votes and his campaign made the list of the "The Best Congressional Campaigns of 2014" by Roll Call.

West Virginia State Senate

Party	As of November 3, 2014	After November 4, 2014
Democratic Party	**24**	16
Republican Party	10	**18**
Total	**34**	**34**

State Senate Now Has Republican Majority

The State Senate changing from a democratic majority to a republican majority is probably the biggest pleasant shock of the election. The actual election left a tie at 17-17, but Senator Daniel Hall switched parties early in the day on November 5th giving republicans as the majority.

In the State Senate there were two incumbents that did not run this year which was one from each party. There were six incumbent Democrats defeated on the 4th of November. Seventeen Senators were not up for reelection this year and will be returning. They are divided as 10 democrats and seven republicans (Daniel Hall was not up for reelection this year). New to the Senate will be eight republicans and two democrats.

Although the election for Senate President will be held in December the vast majority of senators have already publicly stated that Senator Bill Cole from Mercer County will be the next President. The current majority chair, Mike Hall, will head up the Finance Committee.

We feel very confident that this new Senate will be great to work with and will advance an agenda that will move business forward in WV. Senator Cole is a true leader who runs a successful business and has met a payroll - two of the qualities we need in leadership of our State.

West Virginia House of Delegates		
Party	As of November 3,	After November 4,
Democratic	**53**	36
Republican	47	**64**
Total	**100**	**100**

Republicans Take Control of House of Delegates

Heading into the November 4 election, the Democratic Party held the majority in the West Virginia House of Delegates.

The Democratic Party has held control of the West Virginia House of Delegates since the 1930s. That all changed in the 2014 elections. In 2012, republicans took 11 democratic seats and later Democrat Ryan Ferns defected to the Republican Party, narrowing the party gap to six. The republicans had a candidate running for every single seat in this election. The democrats fielded candidates in 85 of the House's 100 races.

A total of eight incumbent delegates did not run in the House in this election – four from each party. Incumbents returning in 2015 will include 40 republicans and 28 democrats. New members total 24 for the republicans and eight for the democrats. Incumbents defeated include 14 democrats and one republican in the General. In the Primary, there were four democrats and one republican defeated. Only one incumbent did not get past the Primary.

Most likely, the current majority leader, Tim Armstead, will become the Speaker of the House in December. Tim will have a wealth of talent to choose from when designating the roles and committee chairs.

PAC Donations
We are very happy to report that our OMEGA PAC donations success rate was 88%. We are thrilled that we supported candidates that will be serving in 2015.

"Eighty-seven percent of BIC-endorsed candidates won election on Tuesday night," said Chris Hamilton, chairman of BIC. "This result is a testament to the efforts of many different individuals and organizations, to include our members who worked extremely hard to elect candidates that will move West Virginia forward."

Hamilton continued, "We have very high hopes and great optimism that the new legislature will work thoughtfully, yet expediently, to implement policies to grow our state economy and enhance opportunities for all West Virginians."

The WV Chamber PAC also was very involved in this race that benefited the business community.

Moving forward…
The focus in the coming two years will be:

Job Development – Address tax fairness, regulatory consistency, the economic impact and effectiveness of all legislation.
Education - accessible education opportunities to produce graduates who are ready for the 21st Century Workforce.
Legal Fairness – Modernize West Virginia's legal system to make us as competitive, or more so, than surrounding states.
Infrastructure Improvement – Ensure safety, security and stability of our roads, bridges and other components by investing in short-and long-term infrastructure improvements.
Fiscal Responsibility – continue a positive trajectory evidenced by WV's emergence from the recession with a budget surplus and our upgraded state bond rating.

In meeting with Governor Tomblin soon after the election, he assured the OMEGA leadership he is eager to work with the republican majorities in both the Senate and the House to continue to move West Virginia Forward. We pledged our support as well.

Governor Earl Ray Tomblin Announces New Appointments

Gov. Earl Ray Tomblin has announced **Joseph D. Garcia will serve as Director of Legislative Affairs** for the Governor's Office, effective Nov. 1. Prior to this appointment, Garcia served as Deputy General Counsel to Gov. Tomblin. The Fairmont native has also advised Gov. Tomblin on policy issues relating to criminal justice reform, represented Gov. Tomblin as his designee on the Consolidated Public Retirement Board and, most recently, was appointed by Gov. Tomblin to serve as Chair of the West Virginia Intergovernmental Task Force on Juvenile Justice. Before serving in state government, Garcia practiced law at Spilman, Thomas and Battle, PLLC in Charleston.

Governor Tomblin also announced the appointment of **Brooks McCabe to the West Virginia Public Service Commission (PSC),** effective November 15, 2014. McCabe will fill the vacancy created by the September resignation of Commissioner Ryan Palmer. A graduate of the University of Vermont and West Virginia University, McCabe began his career in the commercial and investment real estate industry. He has remained an active member of this community for more than thirty years and currently serves as Managing Member and Broker of West Virginia Commercial LLC and General Partner of McCabe Land Company LP. During his time as a member of the West Virginia State Senate, McCabe focused on economic growth and development opportunities. He has served on the Senate Committees on Finance, Economic Development, Pensions, Banking and Insurance and Government Organization. McCabe, who did not run for re-election this year, will resign his Senate seat prior to joining the PSC.

He has also announced **Lawrence J. Malone to serve as Director of Policy for the Governor's Office,** effective Oct. 27. Malone joins the administration after having operated his own communications and marking consulting firm, Malone Consulting Services. He also has served as communications director for the West Virginia Chamber of Commerce, executive director of the West Virginia Oil & Natural Gas Association, and has done extensive policy development work in a number of key areas, including health care and technology innovation, energy, transportation and economic development.

WV Retains State Business Tax Climate TOP 25 Ranking

According to the Tax Foundation's 2015 State Business Tax Climate Index, West Virginia is once again ranked 21st of the 50 states. The Index measures over 100 tax variations in the categories of corporate, individual income, sales, property and unemployment taxes. West Virginia's recent Corporate Net Income Tax reductions and phase out the Business Franchise Tax certainly has helped has been credited with improving WV's business tax structure. In comparison, our neighboring states ranked as follows: Ohio - 44, Maryland - 40, Pennsylvania - 34,Virginia - 27 and Kentucky - 26.

October WV Revenue Collections Exceed Projections

For the first time this fiscal year, state revenue collections exceeded estimates ... by about $5 million. However, according to Deputy Revenue Secretary Mark Muchow, "The state's economy is growing, but probably not quite as much as we projected. " Once again, the biggest concern is severance tax collections which actually beat estimates in October by $10.6 million ... but less than state officials hoped to see. Muchow blamed weak severance tax collections on lower energy prices. Overall, four months into the fiscal year, revenue collections are running about $37.5 million short of projections.

AST Tank Reminder

We have sent several bulletins on this subject but want to remind you of the following looming deadlines:

- Past due – all required tanks must be registered – visit www.dep.wv.gov/tanks to register tanks.
- December 3, 2014 – spill plan or spill plan certification must be submitted to DEP. You can do so through by going to WVDEP Electronic Submission System (ESS) website, and uploading the file(s) or completing the certification form. You will use the same login information you used to complete your AST registration
- January 1, 2015 – Inspections required

We continue to work with DEP almost on a daily basis getting questions answered and trying to help facilitate the ease of complying for our members. We are certain that the AST regulations will change in January. We urge to try your best to comply but to be aware that changes will be made.

State Economy Outlook Positive

West Virginia should experience economic growth well into the first quarter of 2015, according to the latest statewide economic indicator from West Virginia University's Bureau of Business and Economic Research .

The October Mountain State Business Index, designed to be an up-to-date measure of the state's business performance, increased 0.2 percent from September. The index is up 2.1 percent since last October, but has shown strong growth in the last six months, logging a 4.5 percent annualized growth rate since April.

The index is designed to forecast future growth or contractions in the state economy. Researchers said the increase in the index since April suggests the state could see it's overall rate of economic growth improve over the next six months.

"The outlook for the West Virginia economy continues to be positive, as evidenced by healthy growth in the Mountain State Business Index," said John Deskins, director of the Bureau of Business and Economic Research . "We are becoming increasingly confident that the economy will continue to grow at a healthy pace through early 2015."

He said chances of a recession in the coming months appear to be remote.

The index uses data compiled from seven categories -- building permits, unemployment insurance claims, coal and natural gas production, the stock prices of top West Virginia employers, interest rates and the value of the U.S. dollar -- to get a measurement of the state's business performance.

Four of the seven components -- building permits, unemployment claims, natural gas production and interest rates -- made positive contributions during the last month. Stock prices, coal production and the value of the dollar weighed on the index results during the month.

While the state's unemployment rate fell heading into the year, it has increased to 6.6 percent in recent months. However, at the same time, the rate of people filing unemployment claims with Workforce West Virginia has declined to multi-year lows, which is generally a positive sign for the state's labor market.

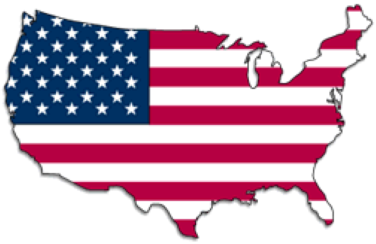
"Initial unemployment insurance claims continue to fall and the most recent seasonally-adjusted reading marked the lowest level for this indicator since mid-2006," said research assistant professor Brian Lego . "This suggests further improvements in the state's labor market are likely."

Natural gas has helped provide a boost to the index all year.

"Natural gas output has climbed at rates well into the double digits in the past year, thanks to highly productive Marcellus Shale wells in the Northern Panhandle and North Central regions of West Virginia ," Lego said. While coal production improved early this year, Lego said production has leveled off in recent months.

"Preliminary data show coal production has improved by nearly 15 percent since the early spring, but growth has slowed markedly in recent months and even slightly declined on a month-to-month basis in September," he said.

"The uptick in production related to power plants replenishing lean stockpiles of coal has generally waned and we anticipate coal production will weigh on the overall index just as it typically has for most of the past few years," Lego said. "Coal demand is expected to weaken over the next several years due to a combination of shifting fuel uses for electricity generation and environmental regulatory changes."



Federal Issues

Congress is Back in Town

Congress is back in town. After nearly two months away to campaign before the decisive midterm elections, members have arrived in Washington to complete the unfinished business of the 113th Congress.

Welcome to the lame-duck session, where at least 60 lawmakers - out of 535 - in the House and Senate who won't be returning next year will be voting on legislation over the next several weeks.

Democrats, who will no longer have control of the Senate come January, are more likely to have bold plans for the lame duck, as it's a last-best chance to pass their agenda for the next two years. Republicans, meanwhile, are pushing for modest action, minimizing the work load and holding off on anything that can be shelved until they have control of both chambers in January.

Before the House and the Senate left town in September, they passed a short term funding bill to keep the government open. That funding bill expires December 11th, meaning that Congress must pass another bill to fund everything from military pay, to the IRS, to national parks maintenance to Social Security payments. Several tax cuts are set to expire and will need to be addressed.

OMEGA WV Signs Letter to Congress Regarding Data Breach

OMEGA WV signed onto a letter, which was sent to Congressional leaders on November 6th, in regards to recent data breaches. This letter stated, "Data security intrusions are a threat faced by every sector of our nation. Consumers deserve to know when they are placed at risk, regardless of where the risk arises. The public expects no less. Congress should act to standardize reasonable, timely notification of sensitive data breaches whenever and wherever they occur. However, legislation that would demand notice of some sectors, while leaving others largely exempt, will unfairly burden the former and unnecessarily betray the public's trust. We look forward to working with you to address criminal data thefts in a way that covers everyone who is at risk and that promotes solutions that will protect American consumers now."

This letter was signed by many state retailer and grocer associations, as well as the National Grocers Association (N.G.A.), Petroleum Marketers Association of America (PMAA) and the National Association of Convenience Stores (NACS).

save THE date

OMEGA west virginia oil marketers & grocers assoc.

05.05.15

05.07.15

2015 Trade Expo & Golf Outing

The Resort at Glade Springs - Daniels, WV

Convenience Store News

From NACS … What the Election Means for Our Industry

Obviously, the major shift here will be in the Senate, where Harry Reid (D-NV) will lose his position as Majority Leader and with it, the ability to set the Senate agenda. Democrats will also lose their hold on the chairmanships of major committees. In January, Mitch McConnell will be installed as Majority Leader and various republican senators will seize the gavels of all Senate committees. In many committees, exactly which republican will be named chair remains an open question. In the House, you can often assume that when a party swings the majority, most of the current ranking members of committees will take over in the new Congress. That isn't quite as true in the Senate, where further machinations often take place to determine who will be named chair of key committees. As those assignments come into focus over the coming weeks, we'll be sure to keep you informed.

Ultimately, we don't expect to see a seismic shift in the accomplishments of the United States Congress in the 114th Congress. The fact remains that the Senate still requires 60 votes to pass any legislation and President Obama continues to wield his veto power, which requires a two-thirds majority vote in both Chambers to override.

The bright spot is the possibility that the increased size of the House majority may give Speaker John Boehner (R-OH) a "working" majority that would not be as tightly controlled by the far right of the party that has held such sway over the House for the past four years. By expanding the majority, he has opened up his "margin for error" and will hopefully be able to pass meaningful legislation.

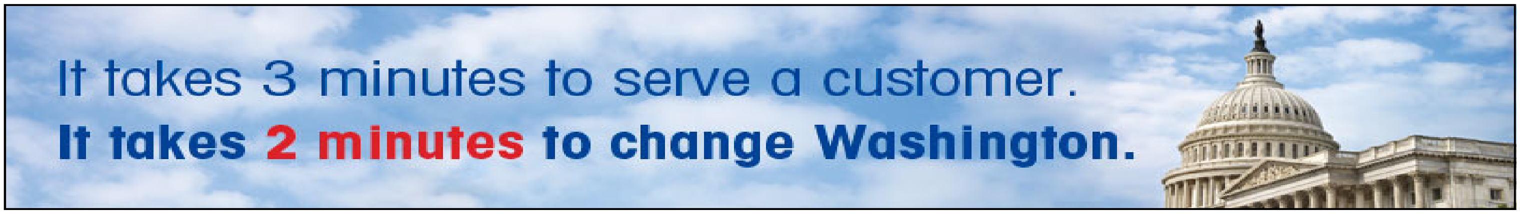
In the end, the 114th Congress could portend good things for some of the issues we care about the most. Reforming the pending Menu Labeling rule, if necessary, is an issue that has seen some bipartisan support and while legislation may not move during the upcoming lame duck session, dual republican majorities may be more likely to pass it during the next Congress. Energy issues will likely receive new scrutiny and we may be able to gain some traction on Renewable Fuel Standard reform. With "Restore America's Wire Act" lead Senate co-sponsor Lindsey Graham (R-SC) moving to the majority, and lead House Co-Sponsor Jason Chaffetz (R-UT) eyeing the government reform gavel in that chamber, we may see some movement on Internet Lottery legislation as well.

Consumer Optimism Continues, NACS Survey Shows

Consumer optimism about the economy continues to hold steady, and about a quarter of consumers think gas prices will be lower in 30 days than they are today, according to newly released stats from a survey sponsored by the National Association of Convenience Stores.

The findings show that November, during which 46% of consumers indicated optimism about the economy, is the fourth out of five months that consumer optimism was 46% or higher. The findings indicated:

- 26% of consumers think gas prices will be lower in 30 days. "This is the most positive gas price forecast made by consumers since NACS initiated its monthly consumer surveys in January 2013," the association stated.
- 21% of gas consumers say their spending will increase in November, compared with 15% in October.
- 14% say they intend to spend more this holiday season because of lower gas prices.



Tell Congress Not to Allow Online Lottery Sales

For over 50 years, Federal legislation prohibited gambling over phone lines and later the internet. In 2011, the Department of Justice announced it was completely re-interpreting the law to only prohibit sports betting. This opened the flood gates for all forms of internet gambling...including the sale of lottery tickets online. NACS is supporting legislation that would restore the original interpretation of the Wire Act of 1961. The following members of Congress are targeted to receive your message. Contact Kelly Fink, Director of Grassroots if you need assistance identifying applicable store locations.

- Sen. Chuck Grassley (IA)
- Sen. Mitch McConnell (KY)
- Sen. Harry Reid (NV)
- Sen. Chuck Schumer (NY)
- Speaker of the House John Boehner (OH-8)
- Rep. John Conyers, Jr. (MI-13)
- Rep. Bob Goodlatte (VA-6)
- Rep. Kevin McCarthy (CA-23)
- Rep. Steve Scalise (LA-1)

Take action at: https://www.votervoice.net/NACS/Campaigns/37518/Respond.

Support Reasonable Menu Labeling Regulations: Senate

The Issue: NACS needs retailers to support legislation (S. 1756/H.R. 1249) that will reduce the burdens of pending menu labeling regulations on retailers.

Background: The health-care law signed by President Obama in March 2010 includes a provision that calls for a national, uniform nutrition-disclosure standard for foodservice establishments. Unfortunately, the menu labeling regulations proposed by the Food and Drug Administration (FDA) in 2011 impose unnecessary burdens on many retailers, particularly convenience stores. Earlier this year, the FDA again announced a delay in issuing a final rule - now expected for the end of 2014. NACS is pushing for an alternative regulatory structure that lessens the burden on businesses like convenience stores, but we need Congress to send the FDA a clear message to make necessary changes to the proposed rule.

Legislative Solution: NACS supports bipartisan legislation - S. 1756 in the Senate and H.R. 1249 in the House, entitled the Common Sense Nutrition Disclosure Act - to ensure these regulations are applied sensibly. The legislation outlines a less burdensome approach to menu labeling and includes language addressing the types of retail locations covered by federal menu-labeling requirements.

The FDA proposal would require that stores in which 50% or more of their floor space is dedicated to the sale of food would potentially be subject to the regulations. This calculation would include all pre-packaged, pre-labeled food products and is unclear on the definition of what floor space would be included. The legislation NACS supports would change this proposed definition to apply only to stores in which 50% or more of their gross revenues were derived from the sale of food intended for immediate consumption or prepared and processed onsite. Pre-packaged food would not be considered in this equation and potential confusion about floor space would be avoided.

For those convenience stores that would be covered by federal menu-labeling requirements, the Common Sense Nutrition Disclosure Act provides more flexibility with compliance. Retailers could select from several approaches in providing calorie information. For instance, pizza sellers could provide calories per slice or for the whole pizza. The legislation would allow retailers more flexibility in providing calorie ranges as opposed to specific number, which is often more difficult to define with made-to-order food.

Take action at: https://www.votervoice.net/NACS/Campaigns/34427/Respond.

Oil Marketers Update

Update on PMAA Priority Issues

Congress returned from August recess for a two week session in September and adjourned again to allow lawmakers time to campaign for the November elections. Before Congress left town, it passed a Continuing Resolution (CR) to fund the government through December 11, 2014 and also passed several political messaging bills that have no chance of becoming law. Political analysts believe that even though republicans took control of the Senate, it is unlikely they will want to cooperate in December with Senate Majority Leader Harry Reid (D-NV). PMAA is focusing much of its resources on the regulatory front as the Office of Management and Budget (OMB) is now reviewing EPA's UST proposed rule for final review. Meanwhile, EPA is expected to release the 2014 required ethanol and biodiesel blending volumes sometime soon as well as issue a notice of proposed rulemaking (NPRM) on updating ozone regulations.

The following is an update concerning PMAA priorities:

Motor Fuels Committee

*** RFS Reform/Ethanol Blend Wall**

The EPA has yet to release the final 2014 RFS blending volumes, however, EPA Administrator Gina McCarthy indicated recently that the final rule regarding ethanol volume will be higher than what was proposed in late 2013 to reflect the increase in gasoline sales volume. Most analysts believe it will be a slight increase in the final number, but it will maintain ethanol volumes at a level to avoid hitting the ethanol blendwall. The Energy Information Administration's (EIA) latest Short-Term Energy Outlook (STEO) expects 2014 gasoline consumption to be 135.2 billion gallons. This includes the volumes of ethanol contained in all gasoline-ethanol blends including both E10 and higher blends. STEO forecasts future gasoline consumption by analyzing a number of factors including gasoline prices, economic and employment trends, weather, demographics, changes in consumer behavior patterns and new data on actual consumption. EPA uses STEO data to determine RFS blending volumes each year.

The 2014 RFS proposed rule (which called for 13.01 billion gallons) has been sent to the Office of Management and Budget (OMB) for final review. PMAA met recently with OMB to highlight its concerns over the corn-based ethanol mandate including lack of demand for higher ethanol blends, misfueling and existing UST system compatibility concerns. If EPA does not lower the congressionally mandated volumes, the ethanol blendwall will be breached which is expected to result in skyrocketing RIN prices and a badly distorted gasoline marketplace. The EPA's preliminary decision to lower the statutory ethanol mandate represents significant progress for PMAA and like-minded associations who understand the potential marketplace damage of exorbitant RIN prices.

It is unclear when EPA will issue the final 2014 RFS blending rule.

*** Underground Storage Tanks**

EPA has sent a draft final rule over to OMB for review and final approval that would impose onerous new UST requirements on petroleum marketers. The new rule would mandate comprehensive UST system walkthrough inspections, new interstitial monitoring of tanks, pipes and sumps equipped with secondary containment, installation of under dispenser containment, and spill and periodic overfill and spill equipment testing among other requirements. PMAA has vigorously opposed the rule since it was proposed in 2012 because of the onerous and unnecessary compliance costs it would impose on all UST operators in the form of new inspection and monitoring requirements. The EPA estimates the costs imposed by the new rule would amount to $900 annually while a PMAA study placed the costs to $6,960 per year.

In response to the proposed rule PMAA formed a UST Task Force made up of petroleum marketers and professional engineers to assess the costs of the new inspection and monitoring requirements and draft a less costly alternative proposal. The PMAA Task force has met on multiple occasions with the EPA to discuss its opposition to the rule, won the support of the U.S. Small Business Administration (SBA) in the fight against the EPA's inaccurate small business impact analysis, launched a successful grass roots campaign in Congress to pressure the EPA to delay the rule to reconsider the cost burdens it would impose, and offered an alternative proposal that would achieve the same environmental protection at a fraction of the cost. These efforts by PMAA together forced the EPA to reconsider and redraft the rule. While the content of the final draft rule is not known, it is expected to reflect a number of changes recommended by the PMAA UST Task Force. The PMAA Task Force will also meet with the OMB to express its concerns with the EPA's failure to properly solicit the input of small business petroleum marketers during the initial rulemaking process as required by law as well as the costly inspection and maintenance requirements the EPA seeks to impose.

If the agency fails to reduce the compliance requirements in a final rule, PMAA will explore additional means to fight the rule including legal action.

*** Potential New Ozone Standards**
PMAA's new top legislative and regulatory priority is tackling a potentially devastating EPA proposed rule on ozone standards, which is estimated to cost upwards of one trillion dollars per year from 2020-2030 according to the National Association of Manufacturers. EPA is under court order to issue a proposed rule to either revise or retain the current standard by December 1, 2014 and it's likely a standard between 60 ppb to 70 ppb would be proposed compared to the current 75 ppb standard. If the standard is eventually lowered, it would force more counties into non-attainment, and therefore, require RFG and lower RVP gasoline which would increase the cost of motor fuels.

To combat a potential ozone proposed rule, Senator John Thune (R-SD), along with several other GOP Senators, introduced legislation known as "The Clean Air, Strong Economies Act" (CASE Act) to block the EPA from revising its ozone standard downward until 85 percent of the current nonattainment counties comply with the current standard. Reps. Pete Olson (R-TX) and Bob Latta (R-OH) introduced companion legislation in the House.

PMAA believes the economic consequences from a new ozone standard would be severe while the value of moving towards a lower ozone standard is not backed by scientific evidence. An overly stringent ozone standard would create bottlenecks and chaos in the gasoline marketplace. PMAA supports the CASE Act.

*** Biodiesel Tax Credit**
The $1 per-gallon biodiesel blender's tax credit expired December 31, 2013. PMAA continues to urge congress to extend the credit and to make it retroactive to January 1, 2014. PMAA also strongly opposes moving the credit from the blender's level to the production level as is proposed by some industry groups and a handful of members of congress.

The Senate Finance Committee's tax extenders package includes the $1 per-gallon biodiesel blender's tax credit and applies retroactively to January 1, 2014, however the Senate has not been successful in moving their extenders bill beyond the committee. The House has not yet acted and the Republican leadership of the Ways & Means Committee is largely seen as unfavorable to the renewable energy tax credits, including biodiesel. Still a deal is possible that sees the inclusion of the biodiesel tax credit. During the lame duck session, Congress will attempt to extend some or all of the more than 50 individual and business tax benefits that expired at the end of 2013.
Heating Fuels Committee

*** Futures Market Reform**
The Commodity Markets Oversight Coalition (CMOC), chaired by PMAA and NEFI, continue to urge the CFTC to finalize its proposed position limits rule that would cap the number of futures contracts a speculator can hold in the NYMEX Light Sweet Crude Oil (CL), NYMEX RBOB Gasoline (RB) and the NYMEX NY Harbor ULSD (HO) contracts. The new proposed rule was released in light of the CFTC dropping its appeal on its initial position limits rule which was vacated by the U.S. District Court of DC. Congress gave the CFTC the authority to set position limits to prevent investment banks, hedge funds and other financial entities from having too much concentration in the oil markets.

Although CMOC was generally supportive of the position limits proposed rule, we argued that a finalized position limits rule should prohibit the creation of a conditional spot month limit exemption. Cash-settled and physically-settled contracts are economically equivalent and have the same impact on price discovery, therefore, the cash-settled contract should be treated the same as the physically settled contract. We also argued that the spot month limit of 25 percent of estimated deliverable supply is set too high and would not effectively diminish excessive speculation. Finally, we urged the Commission to reject a hedge exemption proposal for commodity index funds. These funds should be limited in scope since they have little regard for real world economic indicators and only serve as an investment tool rather than actually providing real liquidity to the futures market.

Meanwhile, Congress will need to reauthorize the CFTC in which it normally is reauthorized every five years, although it has in the past gone for several years without that stamp of approval. This summer, the House approved a CFTC reauthorization bill known as the "Customer Protection and End User Relief Act" (H.R. 4413) by a vote of 265-144. PMAA opposed the bill because we had some concerns over provisions which would make it easier for hedge funds and big banks to further delay urgently needed futures market reforms. It's unlikely a CFTC reauthorization bill makes it through the Senate this year, therefore, a CFTC reauthorization bill will likely move forward in 2015.

Meanwhile, PMAA and CMOC coalition members met with newly installed CFTC Chairman Tim Massad to summarize the involvement that the CMOC members have had with CFTC reform. Following the meeting, Massad announced that he will reestablish the Energy & Environmental Markets Advisory Committee (EEMAC) and that it would be chaired by CFTC Republican Commissioner Christopher Giancarlo. The committee was formed in 2008 at the recommendation of CMOC and was meant to serve as a forum for end-users to voice their concerns to regulators. Unfortunately it has not met since 2010. PMAA supports EEMAC which will give our industry another avenue to voice our support for aggregate position limits.

*** Jones Act Reform**

With the southern leg of the Keystone XL pipeline operational and the U.S. shale oil boom at its height, crude oil supplies are now reaching the Gulf Coast at record levels which has led to a renewed interest in repealing and/or reforming the Jones Act. Signed into law by President Woodrow Wilson in 1920, the Jones Act regulates maritime commerce in U.S. waters and between U.S. ports which requires that all goods transported between U.S. ports be carried in U.S. owned ships, built and registered in the U.S., and manned by U.S. citizens. The law was intended to protect the U.S. maritime industry in 1920, but in our modern global economy, it has mostly outlived its usefulness.

The Congressional Research Service (CRS) reported recently that the majority of U.S. refineries are located near navigable waters to take advantage of both oil imports and exports. However, for refineries switching from imported to domestic crude oil, the advantage diminishes considerably due to the Jones Act. The CRS Report also said that Texas oil is moving to refineries in Eastern Canada and bypassing U.S. Mid-Atlantic refineries due to the higher cost of Jones Act compliant ships.

PMAA supports efforts to reform the Jones Act to alleviate the Gulf Coast supply glut which will bring cheaper motor fuels and heating oil prices to consumers.

C-Store Committee

*** SNAP (Food Stamp) Legislation**

The finalized Farm Bill conference report which was signed into law in February will require retailers to offer for sale on a continuous basis a variety of at least seven foods in each of the four categories: (1. dairy products; 2. meat, poultry, or fish; 3. fruits or vegetables; 4. bread or cereals (Current law requires only three items in each category.) It also requires SNAP retailers to stock at least one "perishable" food item in at least three of the four staple food categories. (Current law requires perishable items in only two of the staple food categories.) Finally, the conference report requires the use of point of sale equipment (scanning or item look up systems) that enforces item restrictions.

The final law represents a significant change from the Senate Farm Bill language which would have essentially limited retailers from accepting SNAP benefits. A targeted grassroots campaign by PMAA and like-minded associations effectively opposed the Senate SNAP provision. Under the new law, starting September 21, 2014, retailers who redeem SNAP benefits will no longer be offered free Electronic Benefit Transfer (EBT) equipment, supplies and related services.

Retailers who became SNAP-authorized after March 21, 2014 are required to pay for their own EBT equipment and services. Retailers who became authorized on or before March 21, 2014, and who have already been given no-cost EBT equipment and services by the State may, at the State's option, continue to use the EBT equipment and services at no-cost until September 21, 2014. Such SNAP-authorized retailers should arrange for the lease or purchase of EBT equipment and services as soon as possible in order to ensure continued participation in SNAP. Some states may provide retailers who use no-cost EBT equipment and services with further instructions and deadlines.

*** FDA Jurisdiction over Electronic Cigarettes**

In April 2014, the FDA announced that it plans to regulate the three billion dollar market for e-cigarettes as well as cigars to limit sales to minors, ban free samples, and require nicotine addiction warnings as well as ingredient lists. If the current proposal is finalized, it is expected to be heavily litigated. PMAA staff reviewed the proposal and submitted comments.

Recently, FDA announced a public workshop series whose goal is to gather scientific information and stimulate discussion about electronic cigarettes and the public health. The workshops will include presentations and panel discussions, with the first workshop on Dec. 10 – 11, focusing on product science, packaging, labeling and environmental impacts. For more information, including how to get involved, important deadlines, and topic areas for this workshop, read the full FDA notice online.

Other Priorities

*** Interchange Fees Credit Cards**

A proposed settlement of longstanding antitrust litigation between retailers and the credit card industry was reached to address Visa and MasterCard's anticompetitive interchange fee practices. As expected, Federal Judge John Gleeson approved the proposed settlement in the interchange fee class action litigation against Visa and MasterCard. A dozen plaintiffs have appealed the decision which could delay the settlement for another year or so because it offers money damages of only about two months' worth of interchange fees paid by retailers, limited modifications to surcharging rules, and most notably, prevents retailers from challenging anti-competitive interchange fees in the future. The decision by Judge Gleeson is important but it is only one more step in a long process. Petroleum marketers need not take any action as a result of this decision. Everyone involved must wait for the appeals process to conclude.

Meanwhile, American Express Co. agreed to pay as much as $75 million and alter some of its merchant rules to settle two class-action suits similar to the Visa MasterCard litigation. The Merchants Payments Coalition (MPC) opposes the settlement because it does nothing to bring competition and transparency to American Express Co.'s interchange pricing policies. The settlement terms still have to be approved by the Court.

*** Debit Cards**

During the Summer 2013, U.S. District Court Judge Richard Leon tossed the Federal Reserve's 2011 final rule on debit card interchange fees and sided with retailers' arguments that the Fed's cap on the fees are unfair and don't reflect the Durbin amendment's intent to ensure that swipe fees are "reasonable and proportional" to the cost of processing a debit transaction. Unfortunately, the DC appeals court overturned the favorable decision from Judge Leon's court on March 21st. The decision to overturn Judge Leon's ruling is a huge disappointment for the retailer community. The Merchants Payments Coalition (MPC) plans to take the issue to the Supreme Court.

Additionally, the Federal Reserve (Fed) issued its biennial report on debit card interchange fee transactions which is required by law. Overall, there is little change from its last report. Banks with fewer than $10 billion in assets were exempt from the Durbin amendment, and this latest report supports that the exemption is working. Those banks not covered by the law continue to charge interchange fees at around the same rate as they did pre-Durbin – approximately 50 cents per transaction.

The report also examined the cost to issuers of authorizing, clearing, and settling a transaction. Under the final rule to implement the Durbin amendment, the Fed capped debit interchange fees at 21 cents per transaction and 0.05 percent of the transaction plus an extra penny for card issuers for fraud prevention. The latest biennial report shows that the card issuing banks' cost for debit card transactions in 2013 was as little as 4.4 cents per transaction, from an average of .05 cents per transaction in 2011. Yet banks continue to charge on average 24 cents per transaction, yielding a profit margin as high as 445 percent.

*** Keystone XL Pipeline**

The Keystone XL pipeline debate continues as the House recently approved "The Northern Route Approval Act" (H.R. 3) which would approve construction of the Keystone XL pipeline without the President's consent and would also limit litigation aimed to delay the construction process. The bill has little chance of becoming law this congress given Senate Majority Leader Harry Reid (D-NV) will not likely allow the bill to be considered in the Senate. Meanwhile, Senators John Hoeven (R-ND), Joe Donnelly (D-IN), Lisa Murkowski (R-AK), and Joe Manchin (D-WV) introduced companion legislation to the House-passed "North American Energy Infrastructure Act" (H.R. 3301). Specifically, the bill would eliminate the Presidential Permit requirement for construction or modification of oil and natural gas pipelines and electric transmission facilities that crosses the U.S. border and instead places the process in the proper agencies. It would require the State Department to issue a "certificate of crossing" on a cross-border pipeline permit within 120 days upon completion of National Environmental Policy Act (NEPA) unless the cross-border segment is not in the "public interest" of the U.S. determined by the agency.

Earlier this year, the President delayed a decision on the pipeline indefinitely pending State Department approval which means a decision isn't likely until after the November elections. The Keystone XL pipeline enjoys overwhelming support from Americans, with 65 percent saying it should be approved and 22 percent opposed, according to a Washington Post-ABC News poll.

*** Restrictions on Menthol Cigarettes**

In Europe, several governments are attempting to ban menthol cigarettes believing they attract youth and now the FDA is considering increased regulations as well. In July 2013, the FDA issued an advanced notice of proposed rulemaking (ANPRM) in which PMAA filed comments in opposition to FDA limits (or ban) of menthol cigarettes. It is PMAA's position that additional restrictions on menthol cigarettes are not justified and will have harmful unintended consequences. Menthol cigarettes comprise a significant portion of the cigarette marketplace and that demand will be exploited by criminals. Additionally, menthol restrictions will increase government operating costs while dramatically reducing state and federal government revenues. The FDA will consider all comments, data, research, and other information submitted on the ANPR to determine whether to issue a formal Notice of Proposed Rulemaking (NPRM), which would give stakeholders another opportunity to weigh in on the specifics of the proposed rule. It's unclear when and if the FDA will issue a NPRM.

Meanwhile, a federal judge ruled in favor of two tobacco companies that challenged a 2011 U.S. Food and Drug Administration committee report on menthol cigarettes, finding that three of the panel's members had conflicts of interests. The judge ordered the FDA to assemble a new Tobacco Products Scientific Advisory Committee (TPSAC) and barred the agency from using the panel's findings, which said removing menthol cigarettes from the market would benefit public health, describing the report as "tainted."

*** Last-In, First-Out (LIFO)**

LIFO is an inventory accounting method used by PMAA member companies to determine tax liability. Primarily, LIFO is used to manage the costs of inflation. If inventory costs are rising, LIFO is a more accurate way of measuring financial performance and calculating tax. LIFO takes into account greater costs of replacing inventory, thereby giving a more conservative measure of the financial condition of the business and the economic income to which tax should apply. LIFO has been used and accepted as a legitimate accounting method since the 1930's.

Earlier this year, House Ways and Means Committee Chairman Dave Camp (R-MI) introduced a major tax reform bill that would make sweeping changes to the U.S. tax code. Included in the legislation is a provision which would repeal the LIFO inventory accounting method. The Obama Administration has also proposed repealing LIFO. Repealing LIFO would force PMAA member companies currently using this method to report their LIFO reserves as income, resulting in a massive tax increase for small business petroleum marketers across the country. Additionally, repealing LIFO would mean potentially higher future tax bills and would make it harder for PMAA member companies to manage inflation.

It's unlikely Congress will take any action on tax reform in 2014, however, the issue could be revisited in 2015.

*** Health Care Reform Employer Mandates**

As problems with the ACA enrollment continues, the Obama Administration decided to delay employer mandate fines for another year if they fail to offer workers health insurance. The Treasury Department said employers with 50 to 99 full-time workers won't have to comply with the law's requirement to provide insurance or pay a fee until 2016. Companies with more workers could avoid some penalties in 2015 if they show they were offering coverage to at least 70% of full-time workers. The move came after PMAA and other associations pressured the Obama administration to peel back the law's insurance requirements. Some companies had trimmed workers' hours to below 30 hours a week to avoid paying a penalty if they didn't offer insurance. PMAA strongly supports the delay but remains concerned about long term consequences for PMAA members.

Some lawmakers up for re-election are feeling the heat over problems with the law and several bills have been introduced to delay and/or modify the employer mandate. Rep. Young's (R-IN) "Save American Workers (SAW) Act" (H.R. 2575) similar to Senator Collins (R-ME) "The Forty Hours is Full Time Act of 2013" (S. 701) was passed by the House in April. The legislation would define full time workers as those who work 40 hours a week instead of the Obamacare 30 hour a week standard. In 2015, companies with more than 50 employees will pay penalties if health insurance is not provided to all full time (30 hours per week) employees. S. 701 would apply only to workers clocking 40 hours a week or more. Even though the Obama Administration delayed the employer mandate for one more year (effective date now January 1, 2016) still many employers are expanding their part-time workforce to minimize the penalties.

*** Tier 3 Gasoline**

In March 2014, EPA announced plans to finalize its Tier 3 gasoline regulations. The most costly aspect of the rule is the planned reduction in the sulfur content of gasoline starting in 2017. Gasoline refiners have aggressively opposed the proposed rule claiming the regulations will increase the cost of gasoline with virtually no environmental benefit. EPA does not dispute the fact that the rule will increase the cost of gasoline; however, EPA claims the refiner cost estimates are too high. The EPA estimates lowering the sulfur content of gasoline to 15ppm would cost only one cent per gallon while the major refiners put the cost to consumers at between six and nine cents per gallon. The regulation will not require infrastructure changes at the distributor or retail level and the lower sulfur content is compatible with all gasoline powered cars and trucks. However, the supply bottlenecks and increased gasoline price burden on consumers are a concern to PMAA.

Additionally, in response to a request from the Missouri Petroleum Storage Tank Insurance Fund regarding whether Tier 3 low sulfur gasoline might be corrosive to UST systems, the EPA said there is no evidence that 15ppm sulfur gasoline is not fully compatible with existing underground storage tank equipment. EPA said that although the corrosion issue was not raised during the Tier 3 comment period, EPA agrees that a dialogue among stakeholders would be useful.

The Board of the Missouri Fund had pointed out that because sulfur is a deterrent to microbes, reducing sulfur to 10 ppm in diesel might result in increased corrosion in some UST's storing ULSD. However EPA has reviewed the European Union's use of 10 ppm since 2009 and California's use since 2010, and have not detected increased corrosion levels. Yet, EPA has been hearing increasingly from concerned stakeholders about observed corrosion episodes in UST systems storing ULSD of 15 ppm, and EPA continues to study the cause of the corrosion and plans to provide guidance to owners and operators.

*** Biodiesel Content Labeling**

New final EPA rules were released on July 2, 2014 which provide protection for downstream RIN owners with a significant focus on protecting Obligated Parties. The new rules provide protection against intentional and unintentional fraudulent and invalid RINs. The final Quality Assurance Program (Plan) is a voluntary compliance tool that renewable fuel producers may adopt to show downstream parties (clients) that RINs have been verified by a third party engineering firm currently registered with the EPA under the RFS rules. Final rules state that if a RIN is generated under a QAP and is later found to be invalid, downstream parties cannot be issued a violation for owning the invalid RIN. Violations under 40CFR Part 80 are as high as $37,500 per occurrence plus any economic gain from the sale of the RIN.

Draft rules suggested that all blended renewable fuel should be designated and tracked via product transfer documents. Included was 5 percent and less biodiesel blends which are currently viewed as regular diesel meeting ASTM D975. This particular rule becomes important to downstream blenders that may be blending biodiesel (B100) gallons on top of product that may or may not already have biodiesel in the mix. The fact that product is sold and sold again, would suggest that multiple parties could be adding 5 percent to the volume each time and the cumulative blend may become much higher than 5 percent without industry knowing. This rule was originally proposed to help distinguish renewable fuel content being exported out of the U.S. During the final QAP rule, EPA decided to "not yet finalize" this long supported provision.

*** Disaster Planning and Response Task Force**

Petroleum marketers and heating oil dealers are at ground zero in supplying fuel and home heating oil before, during and after a disaster occurs. Because the sequence of events following a natural disaster are often similar in terms of access to fuel supplies, PMAA organized a task force that is examining the bottle necks and making recommendations to federal and state governments to streamline the process.

Following SuperStorm Sandy, a great deal of planning and coordination has been taking place between the government and industry in order to better establish policies and communications for disaster planning and response. The role and timing of waivers is a key consideration in the review of processes. PMAA's Task Force successfully worked with other members of the Oil and Natural Gas (ONG) Sector Coordinating Council (SCC) to create a document for use in planning for and responding to a disaster. ONG SCC was established under the National Infrastructure Protection Plan (NIPP) as a partnership that allows federal, state, and local governments (GCC) to work together and with their private sector partners to implement protection and resiliency activities across the nation.

During an emergency, federal, state and local government entities generally want both priority for fuel as if by branded contract and lowest price as if by spot unbranded. If the government entity has the ability to receive fuel in bulk they will generally get to receive fuel first. The supply that may be available unbranded is going to be used by all that can access it, and marketers also prioritize government for first access to their unbranded supply. In some cases, marketers use their "branded contract" volume to supply some of the critical infrastructure customers. During an emergency there tends to be a "rolling" affect the regional market will experience, not just in the immediate impact zone but potentially hundreds of miles away.

Recently, there was seminar on this subject where PMAA heard from two government leaders on the latest government initiatives in the area of disaster planning and response. One of the speakers was William Bryan who served as Deputy Assistant Secretary for Infrastructure Security and Energy Restoration in the U.S. DOE. His office works with the National Security Staff, other government agencies, and international partners to enhance the security and resiliency of critical energy infrastructure and facilitate the reconstruction and recovery of damaged or disrupted energy systems. Until recently he led DOE's efforts in the coordination of energy sector-related reliability and resiliency activities between the energy industry and the federal government.

* LIHEAP and LIHEAP Reform

In September, Congress approved a Continuing Resolution (CR) spending bill shortly before leaving town. The bill provides LIHEAP funding through December 11, 2014 and authorizes the Department of Health and Human Services (HHS) to allocate LIHEAP funds to states that is equal to 90 percent of last year's funding. The remaining 10 percent of funds will likely be provided in a final spending bill during the lame duck session later this year. It is unlikely that Congress will provide additional funds above last year's amount ($3.4 billion). Additionally, PMAA is working with NEFI to improve LIHEAP's data collection requirements, account and reimbursement paperwork burdens and the lack of consistency and administrative inefficiencies both at the state and local level which are slowing delivery of LIHEAP services to the needy and imposing unsustainable costs and regulatory burdens on heating oil dealers.

* ULSD Corrosion

In 2011 PMAA joined a group of industry stakeholders funding an independent study to determine the cause of accelerated corrosion in underground storage tanks containing ULSD. An interim report by the independent third party laboratory conducting the study concluded that accelerated corrosion was caused by introduction of ethanol into ULSD tanks due to switch loading gasoline and diesel fuel in transports cargo tanks. The PMAA Executive Committee decided that the study was inconclusive due to the small sampling involved. The Executive Committee decided to withdraw funding for additional research due to development of new fuel additives designed to prevent accelerated corrosion. Furthermore, the EPA recently announced that it plans to study the issue and issue a report.

* Wetlines

The DOT issued a proposed rule in 2011 that would require the retro-fit of transport trailers with purge devices to empty wetlines after loading and unloading flammable product. PMAA submitted written comments opposing the proposed rule. PMAA argued that the retro-fit was too costly and criticized the DOT for failing to provide sufficient crash data to support the claim that wetlines constitute a safety risk. PMAA also successfully lobbied Congress for a provision in the 2012 highway bill blocking the DOT from issuing a final rule until the General Accountability Office (GAO) completed a report on the reliability of DOT's crash data, options for addressing wetlines safety risks and review of the cost benefits analysis supporting the proposed rule. PMAA met with the GAO to convey industry concerns. The final GAO report recommended that the DOT conduct a more thorough cost/benefit analysis to justify the rule and collect definitive crash data linking wetlines to known safety risks. The GAO report will likely alter the rule significantly or derail it altogether. PMAA will continue to lobby against the wetlines rule at both the DOT and in Congress.

* Menu Labeling

Representative Rosa DeLauro (D-CT) and outgoing Senator Tom Harkin (D-IA) sent a letter to the OMB clarifying their view that Section 4205 (Menu Labeling) of the 2010 healthcare law not only applies to restaurants and "similar retail food establishments" with 20 or more locations to list calorie content information for standard menu items, but it also applies to concession stands at movie theaters, bowling alleys, and amusement parks, among other venues. Currently, the proposed FDA rule would define a "covered entity" as any retailer where more than 50 percent of the store's floor area is devoted to selling food. The caveat is that FDA proposed to include pre-packaged food that is already required to include nutritional information on its packaging which would capture most c-stores. In April 2014, the FDA sent the menu-labeling proposed rule to OMB for final review. A final rule could be released soon because the 90-day OMB review process has passed.

PMAA supports efforts to minimize the menu-labeling proposed rule's reach. The House Appropriations Committee's FY 2015 Agriculture Appropriations report language clarifies the intent of Congress by urging the FDA to only apply the proposed rule to retail establishments where the majority of the business is for the selling of food for immediate consumption and/or prepared and processed on-site. It also urges FDA to do a cost benefit analysis on the proposed rule's impact on non-restaurant entities such as convenience stores. PMAA also continues to support the "Commonsense Nutrition Disclosure Act" (H.R. 1249 and S. 1756), which would ease some of the regulatory burdens attributable to Section 4205 by limiting the provisions in the health care law to establishments that derive 50 percent or more of their revenue from food for immediate consumption and/or prepared and processed on-site. Prepackaged food would not be considered in this equation.

PMAA believes H.R. 1249, S. 1756 and the FY 2015 Agriculture Appropriations report language would bring a commonsense solution to a potential regulation which would unfairly burden convenience store owners.

* Heating Oil Tax Credits

PMAA is working with the Senate Finance and House Ways and Means Committee staff to include heating oil language technical changes so that more boilers and furnaces qualify for the $150 credit which expired last year. Any movement on this issue is unlikely until after the November elections as renewing the 25(c) credits for heating oil could be attached to a tax extenders package along with the biodiesel blender's tax credit.

Monitor these Issues:

* Climate Change

EPA has promulgated rules to restrict carbon emissions from large emitters. Those rules were upheld by the U.S. Court of Appeals for the District of Columbia Circuit which dismissed industry groups and some states. The court also denied challenges to EPA's endangerment finding for greenhouse gases and subsequent emissions standards for cars and light-duty trucks. House and Senate legislators continue to introduce bills to limit EPA's authority to regulate carbon, but without any overwhelming bipartisan support, those measures won't be enacted. President Obama announced a plan that would impose limits on CO2 emissions from all power plants generating electricity using fossil fuels. In fact, Obama would like for the U.S. to lead international efforts to address global climate change, including committing to expand major new and existing international initiatives. In 2012, EPA adopted a rule that will essentially end any new coal fired electric generation plants. The basis for this rule is limiting CO2.

Meanwhile, the Daily Caller is reporting "the numbers are in and the verdict is that there has been no global warming for 17 years and 11 months, according to satellite data. Satellite data prepared by Lord Christopher Monckton shows there has been no warming trend from October 1996 through August 2014 (215 months). To put this in perspective, kids graduating from high school this year have not lived through any global warming in their lifetimes. According to Monckton — the third Viscount Monckton of Brenchley and a former policy adviser to U.K. Prime Minister Margaret Thatcher — the rate of warming has been half of what climate scientists initially predicted in the early 1990s. The United Nations Intergovernmental Panel on Climate Change (IPCC) first predicted in 1990 that global temperatures would rise at a rate of 2.8 degrees Celsius per century. But the temperature rise since the IPCC's prediction has only been at a rate of 1.4 degrees Celsius per century."

* Highway Bill/Gas Tax Increase/LUST Fund Raid

The President signed the $10.8 billion highway funding bill which will keep the Highway Trust Fund (HTF) solvent through May 2015. The final bill stopped federal officials from beginning to delay payments on August 1, 2014 to states for road and bridge construction projects. Since 2008, Congress has transferred $54 billion into the Highway Trust Fund, mostly from the General Fund, to maintain solvency. Congress has looked at other alternatives to improve the HFT including a user fee based on the number of miles driven (VMT), however, this proposal has been unable to gain momentum. The motor fuels tax hasn't been raised since 1993.

Earlier this year, Senators Chris Murphy (D-CT) and Bob Corker (R-TN) proposed a 12 cent-per-gallon (cpg) tax increase for both gasoline and diesel fuel over the next two years and indexing to inflation in order to replenish the Highway Trust Fund (HFT). It is expected to raise $164 billion over 10 years. Although lead transportation chairs Senator Barbara Boxer (D-CA) and Representative Bill Shuster (R-PA) have said there are not enough votes to pass a gas tax increase this year, the Murphy-Corker proposal might serve as a bipartisan starting point for highway funding negotiations next year.

* Northeast Heating Oil (15ppm sulfur limit)

A Northeast/Mid-Atlantic (NEMA) regional standard to bring home heating oil in conformity with on-road ULSD was supported by the PMAA Heating Fuels Committee, and in October 2012, PMAA's Board of Directors voted to support the Committee's recommendation that PMAA lobby Congress in support of a NEMA regional ULSD heating oil mandate rather than a national mandate. PMAA and NEFI have met with supplier companies to advocate for this transition. States in the NEMA region have already passed state-wide ULSD mandates for home heating oil, however, implementation dates vary.

* EPA Particulate Matter Regulations

Environmental advocates continue to push the U.S. EPA to adopt stringent particulate matter (PM) regulations that could force many areas into nonattainment status and lead to strict new air pollution policies affecting motor vehicles as well as stationary sources of pollution. In 2012, EPA issued a final rule to implement the 1997 PM standards that called for a national ambient air quality standard for fine particles at 2.5 microns in diameter and smaller (PM 2.5). However, a federal appeals court overturned the rule in January 2013 because it didn't go far enough under the Clean Air Act and ordered the EPA to issue a new PM standard rule.

As a result, on November 15, 2013, the EPA proposed a rule to clarify implementation of the PM 2.5 standard for states. Under the proposed rule, states must file new state implementation (SIP) plans by December 31, 2014 indicating whether or not they are in attainment with the new PM 2.5 standard. Those states with areas in nonattainment will be required to adopt stringent new pollution control requirements as part of their SIP. To reduce PM 2.5 pollution, the rule could lead to a widespread conversion of public and private diesel fleets from diesel fuel to natural gas.

Meanwhile, U.S. Court of Appeals for the D.C. Circuit heard oral arguments over EPA's PM 2.5 standards in a case brought by the National Association of Manufacturers and other groups. The groups allege that EPA prejudged whether a PM 2.5 standard needed to be tightened and ignored scientific evidence contrary to its conclusion. The group also argued that a requirement to measure air quality near roadways records the maximum level of pollution instead of more broad levels elsewhere.

* RINs Integrity

New final EPA rules were released on July 2, 2014 which provide protection for downstream RIN owners with a significant focus on protecting Obligated Parties. Obligated Parties consist of refiners, importers and fuel reformulators that are required to meet the RFS mandates on renewable fuel usage each year. Obligated Parties may achieve mandate levels via wet gallon purchases and/or through the purchasing of Renewable Fuel Identification Numbers (RINs).

The RINAlliance represents almost 200 blenders nationwide that track RIN activity and RIN marketing events through the RINAlliance system of record and sell RINs to Obligated Parties. RINAlliance provides its clients with EPA required quarterly reporting, attestations and RIN aggregating/marketing RINs via annual contracts with Obligated Parties. The RINAlliance program manages 1.5 billion RINs annually with a focus on RFS compliance and maximizing profits for its Blenders.

The new rules also include requirements for fuel exporters, shifting some compliance burdens to blenders, and staying relatively silent on new RIN separation requirements. EPA also stated that they are NOT currently finalizing rules which would require suppliers to disclose biodiesel content of 5 percent or less. These final rules directly impact petroleum marketers/blenders that are currently accepting RINs on neat gallons of renewable fuels.

VA Fuel Tax Increase

With Congress looking unlikely to pass a measure to let states tax internet sales, Virginia lawmakers November 10 approved an increase in the state sales tax on gasoline from **3.5 to 5.1 percent** to fund transportation investment. Lawmakers also transferred $50 million in sales tax revenue from the General Fund back to the state's transportation fund.

CORD Financial Services is Endorsed by PMAA

CORD Financial Services, a leading provider of innovative ATM solutions and products, has been endorsed as the preferred ATM provider for The Petroleum Marketers Association of America (PMAA).

CORD is the only nationwide ATM provider endorsed by PMAA. "With this honor, CORD looks forward to working closely with PMAA's state and regional associations. Developing long-lasting relationships with its members is CORD's goal for mutual success. This can only be done by providing a superior customer experience with integrity and trust," stated Thomas Hailey, Director of Business Development for CORD Financial Services. "We understand people want more than simply the best price. Further information about CORD can be obtained by contacting 800-410-5217 (Option 4), emailing sales@cordfinancial.com or visiting www.cordfinancial.com.

Grocery Highlights

NGA Files Comments with USDA in Response to Meat Grinding Log Proposed Rule

The National Grocers Association (NGA) has submitted comments to the Food Safety and Inspection Service (FSIS) of the U.S. Department of Agriculture (USDA) regarding its proposed rule, released in July of this year, that requires all makers of ground beef, including grocery stores, to keep better sourcing records in order to help the agency and retailers conduct recalls.

Citing the high compliance costs and burdens these regulations would impose on independent supermarkets, NGA expressed concern that many of its members would no longer be able to provide consumers with beef ground freshly in store. Through feedback from its membership, NGA estimated that the proposed rule would cost independent supermarkets more than $387 million dollars in compliance costs annually.

"Independent retail supermarkets are known for providing high quality service in their meat departments, which often have on-premise butchers who provide value, variety, and service. The proposed rule as currently written places unnecessary new regulatory burdens and costs onto supermarkets and will particularly impact NGA's members who often differentiate themselves in the marketplace through their meat departments," said Peter J. Larkin, president and CEO of NGA. "We urge FSIS to adopt NGA's recommendations and we look forward to continuing to work with the Agency on this matter."

NGA's members are committed to providing their consumers with high quality meats and ensuring the safety of the food supply. NGA believes that FSIS can make modifications to the proposed rule that will significantly reduce independent retailer compliance costs, while preserving the goal of establishing more effective food safety protocols.

In its comments, NGA outlined several suggestions, such as reducing the amount of data required and reducing the frequency of required record keeping, as well as eliminating the requirement to log customer requested grinds of muscle cuts. NGA also strongly urged the Agency to consider the impact the proposed rule will have on small businesses and to take steps to reduce those burdens.

NGA Responds to White House Executive Order Requiring Enhanced Payment Security Measures

The National Grocers Association (NGA) issued the following statement in response to an executive order issued by the White House today requiring federal agencies to adopt PIN and chip technology for government-issued credit and debit cards:

"NGA members are committed to protecting their customers' financial and personal data, and maintaining their customers' confidence and trust," said Peter J. Larkin, president and CEO of the NGA. "We applaud the White House for addressing this multi-faceted challenge and for calling on all stakeholders to join in the shared responsibility of securing American consumers' data. We appreciate that the President shares this important goal, and is moving the ball forward to broader adoption of secure card technology and payment platforms. We look forward to working with the Administration and all stakeholders to develop innovative payment systems, such as tokenization and mobile technology, that will strengthen customer data protection."

Earlier this year, NGA, along with other leading trade associations representing merchant and financial services industries announced a cyber security partnership focused on information sharing and collaboration across the payment processing chain.

Hey, What's the Hurry?
Avoiding the Ills of Road Rage

Are your drivers potential targets of road rage? Road rage is becoming a commonplace incident on our streets and highways. Business drivers, whether sales people, service technicians, or delivery drivers have an increasing likelihood of witnessing, or being a part of, a road rage incident.

What is "road rage"?
It is simply an irrational display of emotions while operating a vehicle. Road rage can take a number of forms, from verbal rage (yelling, swearing, gesturing, honking, or insulting) to quiet rage (complaining, rushing, competing, or resisting) to extremely aggressive driving (cutting off, blocking, chasing, fighting, or shooting). Whatever form it takes, it is dangerous for anyone in the path of the enraged driver.

The most serious road rage is when drivers "acts out" violently and endangers others. If they fail to control their emotions, enraged drivers may act out of intentional malice versus negligence. This is generally considered a criminal offense and is different from aggressive driving (such as improper lane changes or speeding), which is a less serious moving violation offense.

The frustration of congested driving conditions often plays a major role in the driver's emotions. Drivers should manage their own anger and responses to other drivers. The best way to avoid being the target of an aggressive driver is to practice basic traffic courtesy. Each of us must pay more attention to our own level of emotion. Above all, we should not allow ourselves to be swept up in the emotions of the moment if another driver acts aggressively toward us. It is best to move aside and let the enraged driver ease out of the picture.

U.S. National Highway Traffic Safety Administration offers these tips to help you on your journey if confronted with aggressive drivers:

- Get Out of the Way. First and foremost, make every attempt to get out of their way.
- Put Your Pride Aside. Do not challenge them by speeding up or attempting to hold-your-own in your travel lane.
- Avoid Eye Contact. Eye contact can sometimes enrage an aggressive driver.
- Gestures. Ignore gestures and refuse to return them.
- Report Serious Aggressive Driving. You or a passenger may call the police. But, if you use a cell phone, pull over to a safe location.

Educating your drivers about road rage helps keep them safe behind the wheel.

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Miscellaneous

New Member

Welcome the following new member:

The H. T. Hackney Company
149 South Commerce Drive
Grayson, KY 41143
Phone: 606.928.0101
Fax: 606.929.1706
Email: jim.glockner@hthackney.com
Contact: Jim Glockner

Annual Trade Expo & Golf Outing

The OMEGA Trade Expo Advisory Committee met on November 11th in the Association Office to make plans for our 2015 Trade Expo & Golf Outing, which will be held at Glade Springs Resort on May 5 - 7, 2015.

We would like to thank **Trade Show Committee Chairman Brian Waugh, Trade Show Theme Genius Cory Beasley** and the rest of our committee, including **Michael Graney, Jim Oppe, Joe Crook, Sandra Morgenstern, Dave Brickley, Mark Ourant, Arden Casto, Bill Filler, Kenney Denney, Greg Walls, John Monto, Randy Emanuelson, Greg Rogers, Rod Moore, Scott Parkes, Jim Linsenmeyer** and **Allan Williams.**

We are preparing the information to send to the printer now. Information to register will be distributed in early January.

We hope you will make plans to attend!

Membership Dues

On December 15th we will be billing 2015 dues. Payments are due in the Association Office by January 31st. Please be on the look out for these invoices.

The We Card Program Partners with OMEGA to Offer FREE Training for Two Employees

The We Card Program is partnering with the West Virginia Oil Marketers & Grocers Association (OMEGA) to offer FREE training courses for two employees when you purchase your We Card 2015 materials. *It's limited to the first 2,000 customers between now and December 31st. Just order materials online at wecard.org and you'll receive access to the offer. And if you've already ordered, you can still get the free training by emailing comments@wecard.org.

Calendar of Events

2015 Trade Expo & Golf Outing
May 5 - 7, 2015
The Resort at Glade Springs
Daniels, WV

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