2019 Top Issues with Committees of Jurisdiction

**Motor Fuels Committee**

- **RFS Reform** Committees: House Energy and Commerce; Senate Environment and Public Works; All lawmakers
  In November 2018, the EPA finalized its 2019 biofuel volumes for the RFS which maintained the current 15-billion-gallon ethanol mandate. Because the existing RFS ethanol blending mandates have already pushed E10, a blend of 10 percent ethanol and 90 percent gasoline, into virtually every gasoline market in the country. Any significant increase in the ethanol blending standard will force refiners to move to E15 blends unless gasoline demand rises to offset new blending mandates. PMAA supports legislation introduced by Rep. Bill Flores (R-TX) and Peter Welch (D-VT) known as “The Food and Fuel Consumer Protection Act,” which would set the maximum volume of ethanol blends into the nation’s fuel supply at 9.7 percent of projected gasoline demand as determined by the Energy Information Administration (EIA). When the RVO mandates were established by Congress in the 2007 and 2009 energy bills, gasoline demand was expected to increase far more than it has which led the country to the current blend wall dilemma. Were it not for the outdated assumptions, the problem would not exist. The problems that the RFS has created can be mitigated by adopting legislation to reduce the corn ethanol mandate.

  **Request for Action:**

  - Continue to remind lawmakers that UST system compatibility issues with E10 plus blends exist and urge them to support “The Food and Fuel Consumer Protection Act” that will protect motorists and allow all petroleum marketers to compete on a level playing field.

- **Unfair EV Infrastructure Expansion/ EV Tax Credit** Committees: Senate Commerce, Science and Transportation; House Transportation and Infrastructure; All lawmakers
  Currently, the issue of alternative transportation technologies and electric vehicles is being included in the debate on infrastructure and climate change in the House. The Senate is also considering tax incentives and grant programs for electric vehicles and charging infrastructure. PMAA opposes the extension of the lucrative $7,500 electric vehicle (EV) tax credit and supports the “Fairness for Every Driver Act” (H.R. 1027) and (S. 343) that would: terminate and repeal the federal electric vehicle tax credit up to $7,500 per new electric vehicle purchased for use in the U.S.; impose a federal highway user fee on alternative fuel vehicles; require that all user fees be collected with the user’s tax return; and ensure the transfer of federal highway user fees into the Highway Trust Fund (HTF). Meanwhile, Senators Debbie Stabenow (D-MI), Lamar Alexander (R-TN), Gary Peters (D-MI), and Susan Collins (R-ME) along with Congresswoman Dan Kildee (D-MI) introduced the “Driving America Forward Act” (S.1094), which would expand the EV and hydrogen fuel cell tax credits. Specifically, the legislation would reduce the $7,500 credit to $7,000 and would lift the tax credit cap from 200,000 to 600,000. PMAA is concerned that expanding the EV tax credit places the burden on the poor and middle-class ratepayers who are subsidizing the wealthy’s luxury buying power to purchase expensive EVs.

  **Request for Action:**

  - Urge your lawmakers to cosponsor the “Fairness for Every Driver Act” (H.R. 1027) (S. 343), introduced by Rep. Jason Smith (R-MO) and Sen. John Barrasso (R-WY), which provides a level playing field for all vehicles by eliminating the electric vehicle tax credit and ensuring alternative fuel vehicle drivers pay into the Highway Trust Fund.
  - Also, urge your lawmakers to oppose the “Driving America Forward Act,” (S. 1094) which would expand the EV and hydrogen fuel cell tax credits.
Convenience Store Committee

**Tobacco Issues Committee: All lawmakers**

In March, the Food and Drug Administration (FDA) issued draft guidance to effectively ban gas stations and convenience stores from selling most flavored electronic cigarettes and flavored cigars. Retailers will be unable to sell flavored e-cigs other than tobacco, menthol or mint unless minors are restricted from entering the store or if those items are sold in a separate location in the store that minors are prohibited from entering. PMAA believes the FDA should not be picking winners and losers in the marketplace. This ban on the sale of certain e-cigarette products in convenience stores but not online or in vape shops is an assault on the entire convenience store industry and should be stopped. Due to the rapidly growing market for e-cigarettes, PMAA fully supports efforts by Senator Cornyn (R-TX) and Diane Feinstein (D-CA) to amend the “Prevent all Cigarette Trafficking Act (PACT Act)” through the “Preventing Online Sales of E-Cigarettes to Children Act” to also include e-cigarettes in the definition that already includes cigarettes. The PACT Act was enacted in 2010 to reduce underage purchases of cigarettes online and ensuring that online retailers pay state and local taxes on their sales of cigarettes. Specifically, the PACT Act requires internet sellers of cigarettes to ensure that delivery agents check identification in person on the delivery of cigarettes. Recently, Rep. Robert Aderholt (R-AL) introduced legislation called the “Stopping Consumption of Tobacco by Teens (SCOTT Act)” (H.R. 2084) that would raise the legal age to purchase tobacco and e-cigarette products from 18 to 21 across all states and territories. The PMAA Board of Directors voted recently to not take a position on raising the federal tobacco buying age to 21 and will defer to each state association to develop its own position.

**Request for Action:**

- Ask your lawmakers to contact the Trump Administration and urge the administration to reject the FDA’s plan to ban convenience stores from legally selling flavored e-cigarette products.
- Also, urge your lawmakers to support the “Preventing Online Sales of E-Cigarettes to Children Act” to reduce underage purchases of e-cigarettes online and ensure that online retailers pay state and local taxes on their sales of e-cigarettes.

Heating Fuels Committee

**Biodiesel Blender’s Tax Credit Committees: House Ways and Means; Senate Finance**

PMAA member companies blend biodiesel into on-road diesel and home heating oil to help facilitate the renewable fuel blending requirements established under the Renewable Fuel Standard (RFS). Since 2005, there has been a $1.00 per gallon biodiesel and renewable diesel blenders’ tax credit which was created to stimulate production and consumption of biodiesel and renewable diesel. The biodiesel blender’s credit has worked successfully to build a strong incentive for downstream fuel marketers to blend renewable fuel into the fuel supply which has lowered prices for motor and heating fuels for consumers. Unfortunately, the tax credit expired on December 31, 2017 and has been in limbo since. Congress must act now to retroactively extend the credit for calendar year 2018 and through at least 2019. Recently, Senate Finance Committee Chairman Chuck Grassley (R-IA) and Ranking Member Ron Wyden (D-OR) introduced legislation (S. 617) to retroactively extend the $1 per gallon biodiesel tax credit through 2019. Additionally, Rep. Abby Finkenauer (D-IA) introduced bipartisan legislation (H.R. 2089) known as the “Biodiesel Tax Credit Extension Act,” which would extend the biodiesel blender’s tax credit for 2018 and 2019. PMAA supports these bills.

**Request for Action:**

- Urge Congress to pass a multi-year extension of the biodiesel blender’s tax credit.

**LIHEAP Funding Committees: House and Senate Appropriations Committees; All lawmakers**

LIHEAP helps low-income households and seniors with their energy bills, providing vital assistance during the cold winter months. LIHEAP households are among the most vulnerable in the country. PMAA member companies market over 95 percent of the heating oil sold in the United States. Heating oil marketers have a unique relationship with their customers and communities that electric and natural gas utilities cannot provide. Heating oil dealers are mostly small, second and third generation family-owned businesses who provide both fuel supply and service for heating oil
equipment for millions of customers nationwide. Thus, they are on the front lines every day in the winter to make sure their customers stay warm, whether that means having available fuel or equipment, that works. Unfortunately, the President’s FY 2020 budget proposal eliminates LIHEAP as well as the Weatherization Assistance Program (WAP). In recent years, the LIHEAP program has provided more than $3 billion annually to states in support of their fuel assistance programs, with a current budget of $3.6 billion. Both programs are vital in serving low income consumers of home heating fuel, with LIHEAP helping consumers with fuel funds and the WAP helping with acquiring more efficient equipment. Although passage of the President’s budget is not likely, it is important to remind Congress how important LIHEAP is to low-income Americans as well as small businesses.

Request for Action:

- Urge all members (especially members of the Appropriations Committees) to support full funding for LIHEAP and for WAP.

General Issues

- **Retrofit of Cargo Tanks with Side Underride Protection** Committees: Senate Commerce, Science and Transportation; House Transportation and Infrastructure

Recently, the “Stop Underrides Act,” (S. 665) (H.R. 1511) was introduced by Sen. Gillibrand (D-NY) and Rep. Steve Cohen (D-TN) that would require new side underride protection for trailers and straight trucks with a gross vehicle weight over 10,000 pounds. The proposed legislation is important to petroleum marketers because it would require a costly retrofit of transport cargo tank trailers and single unit cargo tank trucks. Specifically, the bill would require the Department of Transportation (DOT) to adopt regulations that would require: the installation of side underride rails on new and existing commercial motor vehicles (CMV) cargo tank trucks and trailers; and new performance standards, inspection and maintenance requirements for front, rear and side underride protection equipment. S. 665 and H.R. 1511 would impose huge compliance costs on all petroleum marketers operating cargo tank vehicles and trailers. PMAA opposes efforts to mandate costly underride equipment retrofits unless the retrofits can be done in a safe and cost-effective manner.

Request for Action:

- Urge lawmakers to oppose (not cosponsor) S. 665 and H.R. 1511, the “Stop Underrides Act”.

- **CDL Driver Shortage** Committees: House Transportation and Infrastructure; Senate Committee on Commerce, Science and Transportation

The Federal Motor Carrier Safety Administration (FMCSA) issued an advanced notice of proposed rulemaking) which included several proposals to reduce compliance cost burdens on the regulated community and could alleviate the driver shortage.

Request for Action:

- Urge lawmakers to sign onto Rep. Crawford’s (R-AR) letter to DOT/FMCSA which would lower compliance costs for petroleum marketers and help alleviate the driver shortage.
- Also, urge lawmakers to cosponsor the DRIVE-safe Act.
RFS REFORM

In November 2018, the EPA finalized its 2019 biofuel volumes for the RFS which maintained the current 15-billion-gallon ethanol mandate. Because the existing RFS ethanol blending mandates have already pushed E10, a blend of 10 percent ethanol and 90 percent gasoline, into virtually every gasoline market in the country. Any significant increase in the ethanol blending standard will force refiners to move to E15 blends unless gasoline demand rises to offset new blending mandates.

UST COMPATIBILITY CONCERNS WITH E15

The demonstration that a UST system is compatible with greater than E10 plus blends is difficult, if not impossible, for most retailers and is a major impediment to dispensing and to the storage of E15. A UST system is made up of approximately 60 components, all of which need to be either UL listed, or manufacturer certified as compatible with the product to be stored and delivered. Federal, state, and local laws and regulations, national and international fire codes, as well as all commercial insurance policies, require the use of UL certified storage and dispensing equipment or a specific demonstration that the UST and dispenser system is compatible, such as a manufacturer acknowledgement. Dispensing ethanol blends higher than 10 percent with non-certified equipment exposes retailers to legal liability for non-compliance with federal and state UST regulations and state fire codes and will subject them to significant civil penalties and possible closures.

Compatibility of the UST components such as pipe dope and sealants with E10 plus blends of ethanol is a significant problem. Typically, components other than the tank itself (piping, joints, connectors, gaskets, dispensers) are the source of most UST leaks. While the owner/operator is not required to demonstrate compatibility for pipe dope, it is still required to be compatible.

The following Q&A is on the EPA website (https://www.epa.gov/ust/underground-storage-tank-ust-technical-compendium-about-2015-ust-regulations#compatibility):

Question: Is pipe dope typically compatible with ethanol blends greater than E10? (Added: September 2018)

Answer: As of 2018, pipe dope that is compatible with ethanol blends higher than E10 is available, but much of the pipe dope on the market is not. Higher-ethanol compatible pipe dope was available beginning around 2007. Despite that, UST systems installed then and since to store lower levels of ethanol, such as E0 or E10, probably have pipe dope compatible only with lower levels of ethanol. Storing greater than 10 percent ethanol in those UST systems means the pipe dope is incompatible. Because higher-ethanol compatible pipe dope is more expensive, pipe dope compatible only with lower levels of ethanol to be stored in those UST systems may have been used, rather than higher-ethanol compatible pipe dope.

Retrofit Costs for E15 Compatible Equipment

The cost to petroleum marketers for UST system retrofit would be enormous. PMAA estimates that the average cost to replace the UST system at a retail gasoline station to sell E10 plus blends is likely over $100,000 per site. Such compliance costs would be staggering for small business retailers and would undoubtedly force many, particularly those in rural areas, to close. It is important to note that even if the equipment is compatible, modifications to existing UST systems and dispensers will be needed at many locations to accommodate the sale of E15.

May 2019
Misfueling Concerns
Although the EPA has approved E15 for use in 2001 and newer vehicles, only a few auto manufacturers have just recently certified E15 for use in newer cars.

E15: Not a Blendwall Solution

<table>
<thead>
<tr>
<th>Manufacturer</th>
<th>Model Year</th>
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<tr>
<td>BMW</td>
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<td>VW/Audi/Porsche</td>
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* Not Certified by EPA
* Most of the model years are... untested.
* Some certification not complete.

RFS REFORM EFFORTS
Small Refinery Exemptions

Recently, the Trump Administration used its waiver authority under the RFS to exempt several small refineries from their renewable volume obligations (RVOs) which has dampened ethanol renewable identification numbers (RINs) values. The EPA has the authority to grant exemptions from the program to refineries with a capacity under 75,000 barrels per day if the company can demonstrate financial hardship. Over thirty exemptions have already been granted. According to the ethanol industry, this has effectively reduced the corn ethanol mandate from 15 billion to 13.8 billion gallons. In other words, for E15 to become a viable “new fuel” in the marketplace, the ethanol industry needs the 15-billion-gallon ethanol mandate to stay intact which maintains RIN values.

E15 Waiver

PMAA opposes the Administration’s proposed rule to allow the sale of E15 year-round. Currently, E15 may only be sold during the winter driving season because it can’t meet federal summertime Reid Vapor Pressure (RVP) requirements for evaporative emissions. PMAA has expressed significant procedural and policy concerns with respect to changing the RFS in a way that benefits only one of the many stakeholders affected by the decision to sell E15 year-round. On the procedural front, PMAA said that section 211 (h)(4) of the Clean Air Act specifically limits the one-pound summertime RVP waiver to gasoline blends containing 10 percent volume ethanol. Therefore, any change to expand the RVP waiver to E15 blends can only be made by Congress and not the EPA who lacks the statutory authority to do so.

The Food and Fuel Consumer Protection Act – PMAA Supports

PMAA supports legislation introduced by Rep. Bill Flores (R-TX) and Peter Welch (D-VT) known as “The Food and Fuel Consumer Protection Act,” which would set the maximum volume of ethanol blends into the nation’s fuel supply at 9.7 percent of projected gasoline demand as determined by the Energy Information Administration (EIA). When the RVO mandates were established by Congress in the 2007 and 2009 energy bills, gasoline demand was expected to increase far more than it has which led the country to the current blend wall dilemma. Were it not for the outdated assumptions,
the problem would not exist (see graph below). The problems that the RFS has created can be mitigated by adopting legislation to reduce the corn ethanol mandate.

**Market Reality Vs. RFS Mandates**

**(billions of gallons)**

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**E15 BRANDING/LABELING**

Current E15 branding and labeling on price signs and dispensers using brands such as “unleaded plus,” “unleaded 88,” and “eblend,” can be confusing to consumers purchasing fuel. Further, the ethanol industry has recently begun an effort to use “unleaded 88” as a unified brand for E15. PMAA’s concern is that while EPA requires an E15 warning label on the dispenser, these labels are only available once the consumer is at the dispenser and not always obvious to the consumer. Brand names such as “unleaded 88” do not provide any indication as to the ethanol content or the presence of ethanol in the fuel. PMAA’s proposal simply asks the ethanol industry to be transparent about the fuel being advertised and sold and not let price alone drive a consumer’s decision by adding the term E15 to any brand name such as “unleaded 88 E15.”

**“THE ASK” (Committees: House Energy and Commerce; Senate Environment and Public Works; All lawmakers)**

- Continue to remind lawmakers that UST system compatibility issues with E10 plus blends exist and urge them to support “The Food and Fuel Consumer Protection Act” that will protect motorists and allow all petroleum marketers to compete on a level playing field.

**PMAA STAFF CONTACT:** Rob Underwood, runderwood@pmaa.org

May 2019
UNFAIR EV INFRASTRUCTURE EXPANSION/EV TAX CREDIT

BACKGROUND

Currently, the issue of alternative transportation technologies and electric vehicles is being included in the debate on infrastructure and climate change in the House. The Senate is also considering tax incentives and grant programs for electric vehicles and charging infrastructure.

PMAA believes a balanced approach is needed that considers all forms of energy and provides for a reasonable transition to future energy sources. Liquid fuels play an important role in lowering vehicle emissions. Liquid fuels store well and transport easily in trucks, ships and by pipeline which allows the most competitive price for motorists. According to the EPA, between 1970 and 2016, investments in cleaner fuels helped reduce U.S. air pollution by 73 percent, even as total miles driven nearly tripled. Maintaining liquid fuels are integral to the transition to future energy sources and the viability of small business petroleum marketers.

Meanwhile, PMAA members are concerned with utilities using their rate base to pay for electric vehicle (EV) infrastructure expansion which allows utilities an unfair competitive advantage over petroleum marketers who must economically justify at risk investments in new equipment such as EV charging stations. PMAA opposes granting a de facto monopoly to utilities unfairly competing in the marketplace which could ultimately put small business petroleum marketers out of business.

FEDERAL AND STATE TRANSPORTATION POLICIES SHOULD:

- Forbid public and private sector actors from using their monopoly over power generation or supply to impose specific technologies and unfair costs on consumers.
- Eliminate subsidies that predominantly benefit the wealthiest individuals and households at the expense of lower income consumers.
- Ensure that transportation energy can be sold in a vibrant, free market.
- Create a level playing field, in which no single fuel or technology is favored over another.
- Require that all vehicle owners and operators, no matter what fuel type they choose, pay their fair share for road maintenance and repair.
- Ensure that consumers and policymakers can make objective decisions about the lifecycle impacts of electric vehicles, and that sound science and data are used to determine and accurately define key legal and regulatory concepts, such as “clean” and “zero emissions.”
- Require energy and national security considerations in decision-making, recognizing that both may be harmed if we increase our dependence on foreign countries for raw materials and equipment.
- Maintain public health, safety and environment by ensuring that citizens and governments can effectively respond to accidents, natural disasters and terrorist attacks via a robust energy and transportation infrastructure.

May 2019
**EV TAX CREDIT**

PMAA opposes the extension of the lucrative $7,500 electric vehicle (EV) tax credit and supports the “Fairness for Every Driver Act,” (H.R. 1027) and (S. 343):

Specifically, the bills would:

- Terminate and repeal the federal electric vehicle tax credit up to $7,500 per new electric vehicle purchased for use in the U.S.;
- Impose a federal highway user fee on alternative fuel vehicles;
- Require that all user fees be collected with the user’s tax return; and
- Ensure the transfer of federal highway user fees into the Highway Trust Fund (HTF).

Meanwhile, Senators Debbie Stabenow (D-MI), Lamar Alexander (R-TN), Gary Peters (D-MI), and Susan Collins (R-ME) along with Congressman Dan Kildee (D-MI) introduced the “Driving America Forward Act,” which would expand the EV and hydrogen fuel cell tax credits. Specifically, the legislation would reduce the $7,500 credit to $7,000 and would lift the tax credit cap from 200,000 to 600,000. Under current law, the tax credit phases out on a per manufacturer basis once that company has sold 200,000 EVs total for use in the United States. Recently, Tesla and GM reached the 200,000 cap and are now in the phase out period of the credit.

PMAA is concerned that expanding the EV tax credit places the burden on the poor and middle-class ratepayers who are subsidizing the wealthy’s luxury buying power to purchase expensive EVs.

**“THE ASK”**

- Urge your lawmakers to cosponsor the “Fairness for Every Driver Act” (H.R. 1027) (S. 343), introduced by Rep. Jason Smith (R-MO) and Sen. John Barrasso (R-WY), which provides a level playing field for all vehicles by eliminating the electric vehicle tax credit and ensuring alternative fuel vehicle drivers pay into the Highway Trust Fund.

- Urge your lawmakers to oppose the “Driving America Forward Act,” (S. 1094) which would expand the EV and hydrogen fuel cell tax credits.

**PMAA STAFF CONTACT:** Rob Underwood, runderwood@pmaa.org  
Sherri Stone, sstone@pmaa.org

May 2019
TOBACCO ISSUES

BACKGROUND

In March, the Food and Drug Administration (FDA) issued draft guidance to effectively ban gas stations and convenience stores from selling most flavored electronic cigarettes and flavored cigars. Retailers will be unable to sell flavored e-cigs other than tobacco, menthol or mint unless minors are restricted from entering the store or if those items are sold in a separate location in the store that minors are prohibited from entering. However, the FDA will allow flavored e-cigarette products to be sold online and in vape shops. The FDA also will forbid the sale of all flavored cigars new on the market since February 2007.

PMAA OPPOSITION TO FDA DRAFT GUIDANCE ON E-CIGARETTES

The correct data on youth usage does not support the FDA's action. In fact, the FDA's 2016 Population Assessment of Tobacco and Health (PATH) study found that 86% of youths who had used e-cigarettes in the past 30 days did not get them from a store - and of those who did get them from a store, 76% said they got them from a vape shop (stores that are supposedly adult-only). The CDC's 2017 Youth Risk Behavior Surveillance System found that 86.4% of students who used e-cigarettes did not get them from stores.

PMAA believes the FDA should not be picking winners and losers in the marketplace. This ban on the sale of certain e-cigarette products in convenience stores but not online or in vape shops is an assault on the entire convenience store industry and should be stopped.

PACT ACT

Due to the rapidly growing market for e-cigarettes, PMAA fully supports efforts by Senator Cornyn (R-TX) and Diane Feinstein (D-CA) to amend the “Prevent all Cigarette Trafficking Act (PACT Act)” through the “Preventing Online Sales of E-Cigarettes to Children Act” (Bill number not available) to also include e-cigarettes in the definition that already includes cigarettes. The PACT Act was enacted in 2010 to reduce underage purchases of cigarettes online and ensuring that online retailers pay state and local taxes on their sales of cigarettes. Specifically, the PACT Act requires internet sellers of cigarettes to ensure that delivery agents check identification in person on the delivery of cigarettes.

TOBACCO 21

Recently, Rep. Robert Aderholt (R-AL) introduced legislation called the “Stopping Consumption of Tobacco by Teens (SCOTT Act)” (H.R. 2084) that would raise the legal age to purchase tobacco and e-cigarette products from 18 to 21 across all states and territories. Currently, 14 states and at least 450
localities have raised the legal age to purchase tobacco and e-cigarette products to 21. The PMAA Board of Directors voted recently to not take a position on raising the federal tobacco buying age to 21 and will defer to each state association to develop its own position.

“THE ASK” All lawmakers

- Ask your lawmakers to contact the Trump Administration and urge the administration to reject the FDA’s plan to ban convenience stores from legally selling flavored e-cigarette products.
- Urge your lawmakers to support the “Preventing Online Sales of E-Cigarettes to Children Act” to reduce underage purchases of e-cigarettes online and ensure that online retailers pay state and local taxes on their sales of e-cigarettes.

PMAA STAFF CONTACT: Bradley Norman, bnorman@pmaa.org
BIODIESEL BLENDER’S TAX CREDIT

The Petroleum Marketers Association of America’s (PMAA) member companies blend biodiesel into on-road diesel and home heating oil to help facilitate the renewable fuel blending requirements established under the Renewable Fuel Standard (RFS). Since 2005, there has been a $1.00 per gallon biodiesel and renewable diesel blenders’ tax credit which was created to stimulate production and consumption of biodiesel and renewable diesel. The biodiesel blender’s credit has worked successfully to build a strong incentive for downstream fuel marketers to blend renewable fuel into the fuel supply which has lowered prices for motor and heating fuels for consumers.

As a result, the U.S. biodiesel and renewable diesel market has grown from roughly 100 million gallons in 2005 to nearly 2.6 billion gallons in 2017. The tax credit is an important demand stimulus, which improves plant efficiencies, encourages investment in U.S. distribution infrastructure, and supports high-paying jobs throughout the country, all while incentivizing consumption of fuels that significantly reduce greenhouse gas emissions.

Unfortunately, the tax credit expired on December 31, 2017 and has been in limbo since. Congress must act now to retroactively extend the credit for calendar year 2018 and through at least 2019.

BIODIESEL TAX CREDIT LEGISLATION

Recently, Senate Finance Committee Chairman Chuck Grassley (R-IA) and Ranking Member Ron Wyden (D-OR) introduced legislation (S. 617) to retroactively extend the $1 per gallon biodiesel tax credit through 2019. Additionally, Rep. Abby Finkenauer (D-IA) introduced bipartisan legislation (H.R. 2089) known as the “Biodiesel Tax Credit Extension Act,” which would extend the biodiesel blender’s tax credit for 2018 and 2019. PMAA supports these bills.

“The Ask” Committees: House Ways and Means; Senate Finance Committee

Urge Congress to pass a multi-year extension of the biodiesel blender’s tax credit.

PMAA STAFF CONTACTS: Sherri Stone, sstone@pmaa.org
Bradley Norman, bnorman@pmaa.org

May 2019
LOW INCOME HOME ENERGY ASSISTANCE PROGRAM (LIHEAP)

LIHEAP Funding

LIHEAP helps low-income households and seniors with their energy bills, providing vital assistance during the cold winter months. LIHEAP households are among the most vulnerable in the country. According to the National Energy Assistance Director’s Association (NEADA), nearly 90 percent of LIHEAP recipients have at least one household member who is a child, elderly or disabled. For these households, LIHEAP funding has been a lifeline during challenging economic times. PMAA member companies market over 95 percent of the heating oil sold in the United States. Heating oil marketers have a unique relationship with their customers and communities that electric and natural gas utilities cannot provide. Heating oil dealers are mostly small, second and third generation family-owned businesses who provide both fuel supply and service for heating oil equipment for millions of customers nationwide. Thus, they are on the front lines every day in the winter to make sure their customers stay warm, whether that means having available fuel or equipment, that works.

Congress limits LIHEAP eligibility to households earning no more than 150 percent of the federal poverty level or 60 percent of the state median income. For reference, the FY18 federal poverty guideline for a family of three was $20,780. Most LIHEAP recipients fall well below either threshold and many applicants are turned away each year due to insufficient program funds.

In 2017, the national poverty rate was 12.7 percent and 40.6 million Americans lived in poverty, according to U.S. Census data. There’s no question that the need for LIHEAP persists. The Federal Reserve reports that nearly half of American families would struggle to pay emergency expenses of just $400.

PRESIDENT’S FY 2020 BUDGET ELIMINATES LIHEAP FUNDING

Unfortunately, the President’s FY 2020 budget proposal eliminates LIHEAP as well as the Weatherization Assistance Program (WAP). In recent years, the LIHEAP program has provided more than $3 billion annually to states in support of their fuel assistance programs, with a current budget of $3.6 billion. Both programs are vital in serving low income consumers of home heating fuel, with LIHEAP helping consumers with fuel funds and the WAP helping with acquiring more efficient equipment. Although passage of the President’s budget is not likely, it is important to remind Congress how important LIHEAP is to low-income Americans as well as small businesses. PMAA is a member of the National Energy and Utility Affordability Coalition (NEUAC) and has been aggressively fighting to save LIHEAP.

THE ASK Committees: House and Senate Appropriations Committees; All lawmakers

- Urge all members (especially members of the Appropriations Committees) to support full funding for LIHEAP and for WAP.

PMAA STAFF CONTACT: Sherri Stone, sstone@pmaa.org

May 2019
RETROFIT OF CARGO TANKS WITH SIDE UNDERRIDE PROTECTION

BACKGROUND

Recently, the “Stop Underrides Act,” (S. 665) (H.R. 1511) was introduced by Sen. Gillibrand (D-NY) and Rep. Steve Cohen (D-TN) that would require new side underride protection for trailers and straight trucks with a gross vehicle weight over 10,000 pounds. The proposed legislation is important to petroleum marketers because it would require a costly retrofit of transport cargo tank trailers and single unit cargo tank trucks.

Specifically, the bill would require the Department of Transportation (DOT) to adopt regulations that would require:

• The installation of side underride rails on new and existing commercial motor vehicles (CMV) cargo tank trucks and trailers
• New performance standards, inspection and maintenance requirements for front, rear and side underride protection equipment.

The bill is problematic for marketers because it would require virtually all commercial motor vehicles (CMVs) and CMV trailers to be removed from service, brought to a certified cargo tank inspection and maintenance facility, cleaned and purged of residue and vapors, with installation of new side underride rails and possible replacement of existing rear underride rails that do not meet new equipment performance standards. The bill is particularly troubling because there is no practical or safe way to install side rail underride protection on bottom loading cargo tank vehicles and transport trailers.

COST IMPACT ON SMALL BUSINESSES

S. 665 and H.R. 1511 would impose huge compliance costs on all petroleum marketers operating cargo tank vehicles and trailers. In its 1991 Preliminary Regulatory Evaluation of proposed guards for rear underride, NHTSA stated that truck side underride counter-measures would not be cost-effective [Docket 1-11; Notice 9; Comment 002, page 15]. This 1991 pronouncement is the last official NHTSA statement on whether side guards for passenger vehicle impacts are warranted. In 1996, NHTSA announced final rules establishing safety standards to govern rear impact guards and did not mention any proposal to require side guards on trailers. PMAA opposes efforts to mandate costly underride equipment retrofits unless the retrofits can be done in a safe and cost-effective manner.

“THE ASK” Committees: Senate Commerce, Science and Transportation; House Transportation and Infrastructure

Urge lawmakers to oppose (not cosponsor) S. 665 and H.R. 1511, the “Stop Underrides Act”.

PMAA STAFF CONTACT: Mark Morgan, mmorgan@pmaa.org
Sherri Stone, sstone@pmaa.org
CDL DRIVER SHORTAGE
FOCUS ON EXPANDING THE HOS SHORT HAUL EXEMPTION

ISSUE BACKGROUND

The driver shortage has become a serious problem in recent years. Some of the factors contributing to the shortage are the aging workforce, more job alternatives, regulations, young drivers exiting the market because of life style changes and industry growth which requires more drivers. According to surveys by ATA, the average driver age in the for-hire over-the-road truckload industry is 49. Over the next decade, the trucking industry will need to hire roughly 898,000 new drivers, or an average of nearly 90,000 per year.

However, the often-overlooked factor that contributes to the drive shortage is finding qualified applicants. In some cases, carriers must reject 90 percent of applicants because they fail to meet at least one of the prerequisites to be qualified to drive. There are many barriers to entry for new drivers: age requirements, CDL testing standards, strict drug and alcohol testing regimes and, perhaps most importantly for many fleets, safe and clean driving records.

FMCSA PROPOSAL TO EXPAND AIR MILE RADIUS EXEMPTION

The Federal Motor Carrier Safety Administration (FMCSA) issued an advanced notice of proposed rulemaking (Docket No. FMCSA-2018-0248) which included several proposals to reduce compliance cost burdens on the regulated community and could alleviate the driver shortage.

Specifically, PMAA strongly supports FMCSA’s considerations to:

- Increase the number of daily on-duty hours from 12 to 14 for drivers operating under the exemption;
- Extend the current 14 hour on-duty limitation to allow for a three consecutive hour break (to allow for loading and unloading);
- Extend the current 14 hour on-duty limitation by up to two hours when a truck driver encounters adverse driving conditions;
- Eliminate the 30-minute rest break for drivers not qualified for the 100 air-mile short-haul exception but who return to the worksite at the end of each daily shift.

PMAA Also Requests the following changes to the Hours of Service Regulations that designed to increase driver availability and scheduling efficiency:

- Allow drivers to count the time waiting at terminals to load product as off-duty time;
- Extend the 100-mile air radius short-haul driver exception to 150 miles for CDL drivers to reflect the maximum distance most CDL drivers in the petroleum industry travel to load supply.
LEGISLATION

DRIVE-safe Act

The DRIVE-safe Act (S. 569) (H.R. 1374) reintroduced by Rep. Trey Hollingsworth (R-IN), as well as Sens. John Tester (D-MT) and Todd Young (R-IN), would allow drivers 18 and older to operate across state lines if they meet rigorous training requirements — at least 400 hours of on-duty time with 240 hours of driving time, with an experienced driver training them. Training would also be restricted to trucks equipped with active braking systems, video monitoring systems and speed limiters set to 65 mph or slower.

Although drivers of petroleum would not be covered under the Drive-safe Act since drivers must be 21 to qualify for a hazardous materials certification, PMAA supports the bill because it would expand the overall driver pool.

“THE ASK” Committees: House Transportation and Infrastructure; Senate Committee on Commerce, Science and Transportation

- Urge lawmakers to sign onto Rep. Crawford’s (R-AR) letter to the FMCSA which would lower compliance costs for petroleum marketers and help alleviate the driver shortage.
- Urge lawmakers to cosponsor the DRIVE-safe Act (S.569) (H.R. 1374)

PMAA STAFF CONTACT: Rob Underwood, runderwood@pmaa.org
INFRASTRUCTURE AND FUNDING ISSUES

Interstate Rest Area Commercialization

When Congress created the Interstate Highway System in 1956, community leaders feared that local businesses, jobs, and tax bases would shrink as truckers and other motorists bypassed their cities and towns. As a result, Congress prohibited development on interstate rights of way. Section 111 of Title 23 United States Code prohibits interstate rest areas built after January 1, 1960 from offering commercial services such as food and fuel.

Unfortunately, in an attempt to raise state revenue, many state governments have supported the idea of commercializing rest areas and contracting fueling and other services to private vendors. While advocates for commercialization claim that such services will benefit the public, the reality is that rest area commercialization would close as many as half of the nearby interchange-based businesses (according to a 2003 study by the University of Maryland).

The ban on the commercialization of rest areas has resulted in a strong, competitive economic environment with over 60,000 businesses developing along U.S. interstate highways. Prohibiting publicly-run rest areas from competing with private sector businesses has been an undeniable success, resulting in industries that provide valuable services such as gas stations, travel plazas, truck stops, restaurants, and hotels. More than 97,000 businesses are located within a quarter-mile of the interstate, and they employ 2.2 million people.

Interstate-based gasoline retailers will be unable to compete with commercialized rest areas, which are conveniently located on the highway right-of-way, and would create a de facto monopoly in favor of businesses operated out of rest areas. Interstate rest area commercialization would destroy the property tax base of local governments (for a short-term gain in state revenue) and put many retailers out of business. Rest area commercialization would result in an unfair competitive environment for privately-operated retailers and would destroy a successful economic business model that has proven beneficial for consumers and retailers.

PMAA is a member of the Rest Area Commercialization Coalition that has been meeting with lawmakers to oppose the commercialization of rest areas.

THE HIGHWAY TRUST FUND & MOTOR FUELS EXCISE TAXES

Federal motor fuel excise taxes have been the dedicated source of funding for the Federal Highway Trust Fund (HTF) since 1956. The current federal excise tax for gasoline is 18.4 cents-per-gallon and 24.4 cents-per-gallon on diesel fuel.

Revenue has been down in recent years because vehicle fleets have become more fuel efficient – hence – less taxable gallons. Motor fuel excise taxes have not been increased since 1993. However, some lawmakers have floated the idea of increasing the motor fuel excise tax to help pay for the upcoming infrastructure plan. Other infrastructure funding options include tolling, vehicle miles travel (VMT) – a user fee based on miles traveled – and public-private partnerships.

PMAA has been unable to reach a consensus on whether it supports or opposes a federal motor fuels excise tax increase. Each PMAA state association can decide the best course of action regarding a federal motor fuels excise tax increase. However, all vehicle owners and operators, no matter what fuel type they choose, including electric vehicles, should pay their fair share for road maintenance and repair.
“THE ASK” Committees: Senate Commerce, Science and Transportation; House Transportation and Infrastructure

- Urge Congress to oppose any attempt to commercialize rest areas.
- Urge Congress to ensure that all vehicle owners and operators, no matter what fuel type they choose, should pay their fair share for road maintenance and repair.

**PMAA STAFF CONTACTS:** Sherri Stone, sstone@pmaa.org
Bradley Norman, bnorman@pmaa.org