ATTORNEY'S CORNER

By Larry Culley

There are two items which bear discussion in this month's "Attorney's Corner". The first is a subject I have raised before. Let me repeat it for those who have forgotten it:

*** NOTIFY YOUR ASSOCIATION IMMEDIATELY WHEN YOU RECEIVE A DMV HEARING NOTICE SO THAT YOUR ASSOCIATION ATTORNEY HAS ENOUGH TIME TO ORDER THE A.F.I.'s REPORT FROM ALBANY FOR THE HEARING! WE NEED THE A.F.I. REPORT TO MOUNT A PROPER DEFENSE.**

The other day a D.M.V. Administrative Law Judge refused to adjourn a July DMV hearing I had for a used car dealership while I filed a F.O.I.L. request for the A.F.I. Report. She noted that the Dealer had received the Notice of Hearing more than two months ago, which was when I would ordinarily have filed a F.O.I.L. request had I but received the report shortly after the Dealer got it. But he never sent the Report to me until about ten days ago. Fortunately, this time I was able to travel to the Judge's office where she was able to give me a copy of *some* of the Report. But during this wretched covid pandemic your Association attorneys generally can no longer travel to the Judge’s office due to the fact that most of the hearings are now done remotely, with some Judges calling in from Buffalo and Rochester. This raises the prospect of the suspension or revocation of your license, and a hefty fine, due to your Association attorneys being unable to mount an effective defense for lack of the A.F.I.'s Report. **So please: send your Association a copy of any DMV, or other governmental Notice of Violation or Hearing as soon as you receive it.** If you delay you're only hurting yourselves.

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Second, each business or entity, including those designated as essential, must develop a written **Safety Plan** outlining how its workplace will prevent the spread of Covid-19. This plan does not need to be submitted to a state agency for approval but must be retained on the premises of the business, and must be made available to the N.Y.S. Dept. of Health (“DOH”) or local health or safety authorities in the event of an inspection. The protocol includes, but is not limited to, logs of **“Daily Employer Temperature Recordings”** and **“Covid-19 Cleaning and Disinfection Logs”**. More to come in future columns.

The contents of this column are not intended as legal advice. I give no legal advice without an appointment and interview with a client.

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Editorial
Election Implications
By Roy Littlefield

While the latest election results have been extensively covered and analyzed, we did want to share a few thoughts on what we anticipate for the lame duck session and 2021.

As of now, it appears that Joe Biden and Kamala Harris will be our next President and Vice-President. Of course this will have significant implications regardless of whether or not the Republicans maintain control of the Senate (more on that below). We expect to see the new Biden Administration take swift action to reassess and repeal many of the Trump Administration's regulations and Executive Orders. From the ever important tax area, despite President-Elect Biden having said during the campaign that he would roll back the Trump tax reform act right away, most observers believe that he will first tackle the COVID pandemic and the economic crisis before turning to tax changes. Thus, many believe we will not see any tax bill until 2022. We will be monitoring this situation closely and if it appears tax changes are coming we will alert you right away.

There was extensive prognosticating leading up to the election about whether the Republicans would be able to hold on to their majority in the Senate. While the Democrats did net one seat, it seems likely that the Republican majority will hold. However, this will depend on the outcome of the races for the two Georgia Senate seats, which both still appear to be headed to a runoff on January 5, 2021. If the Democrats were to prevail in both races (which is unlikely), this would make for an even split with the Vice President serving as the tie breaker which would mean a Democrat controlled Senate. The reason why it is unlikely that both Georgia seats will go to the Democrats is that the race with Republican Senator Kelly Loeffler was basically a three way race with two Republicans and one Democrat. The feeling is that in the two candidate run-off between Senator Loeffler (who netted approximately 26% of the vote) and Democrat Raphael Warnock (who won approximately 33% of the vote), Senator Loeffler will win since the Republican/conservative vote isn't being divided. In the race between Republican Senator David Perdue and Democratic challenger Jon Ossoff, Perdue won but did not garner 50% of the vote so under Georgia law the race will also go to a run-off on January 5th.

Thus, with the Democrats retaining control of the House, though with a few less seat than previously, we expect that we will still be working with a split Congress. With the highly charged election behind us and both parties hopefully having learned some lessons from the process, we are optimistic that this will provide an opening for movement on some bi-partisan measures that the SSDA-AT has been supporting.

Of course the first big question that most Washington observers will be raising is when will Congress attempt to negotiate another COVID stimulus package. After the pre-election negotiations that were being conducted largely between Speaker of the House Nancy Pelosi and Treasury Secretary Steve Mnuchin fell apart, there was broad speculation about the impact that the presidential election would have on the possibility for progress in the lame duck session – which has only amplified since. Given the ever increasing pressure being generated by the spike in coronavirus cases across the country, we remain hopeful and will continue to advocate for prompt relief for the many small businesses that continue to face serious challenges. The general wisdom has been that it might be hard for the parties to reach a deal during the lame duck session – particularly with the Democrats looking ahead to a Democrat president and an open question about the control of the Senate. However, there are some indications that President-Elect Biden, who has already stated that he plans to push Congress to pass a comprehensive relief bill for him to sign during his first weeks in office, may have a hand working with his former Senate colleague Mitch McConnell to broker a deal (or at least make headway towards that end) during the lame duck.

Massachusetts Right to Repair

The drive to pass Question 1 was a grassroots effort with many industry associations, including the New England Tire & Automotive Association, the Tire Industry Association (TIA), SSDA-AT, and independent tire dealerships and wholesalers, joining in the effort. This is a victory for the entire automotive aftermarket and will allow independent repair shops to remain competitive with franchise car dealerships' service operations as technology in vehicles increases.

Question 1, according to the Massachusetts Right to Repair Coalition, "stated that vehicle manufacturers must make available all mechanical information needed to diagnose and repair cars as well as perform routine maintenance starting with 2022 models, over a secure open access platform that independent repair shops can access, when authorized by the car's owner."

"By voting yes on 1, Massachusetts has now updated Right to Repair for the modern age of connected vehicles," said Tommy Hickey, Coalition director.

The victory extends the Right to Repair Act first passed in 2012 in Massachusetts, which was later expanded nationwide. That law mandated that auto makers make available the same diagnostic and repair data available to independents that car companies provide their own car dealerships and certified repair facilities.

But the law exempted data shared wirelessly through telematics. With more than 90% of new cars transmitting real-time repair information wirelessly, independent repair shops would soon have limited or no access, according to a Massachusetts Right to Repair Committee fact sheet.

Opponents to Question 1 raised concerns over consumer privacy, data ownership and usage rights.

The vote sent a clear mandate, Hickey said. "The people have spoken – by a huge margin – in favor of immediately updating right to repair so it applies to today's high-tech cars and trucks.

US Fuel Distributor Faces Allegations of Price Gouging During COVID-19

The District of Columbia has sued Capitol Petroleum Group LLC and its affiliates Anacostia Realty LLC and DAG Petroleum Suppliers LLC, alleging price gouging during the emergency related to the COVID-19 pandemic, according to a complaint filed last week in the Superior Court of the District of Columba.

The complaint alleges that "as the first wave of coronavirus hit Washington, D.C." the defendants "saw a business opportunity" and "vastly increased their margins on their direct and indirect gasoline sales to D.C. consumers, doubling the normal markup they obtained from gasoline sales immediately prior to the pandemic."

Capitol Petroleum and its affiliates could not be reached for comment by phone r email.

District Attorney General Karl Racine said the companies violated the District of Columbia Natural Disaster Consumer Protection Act, as well as the District of Columbia Protection Procedures Act. During public health emergencies, it is illegal to "charge more than the normal average retail price for any merchandise or service. The law defines the normal average retail price as "the price equal to the wholesale cost plus a retail markup that is the same percentage over wholesale cost as the retail markup for similar merchandise sold in the Washington Metropolitan area during the 90-day period that immediately preceded the emergency."

District of Columbia Mayor Muriel Bowser declared a public emergency March 11 in response to the pandemic and extended the declaration through Dec. 31, according to legal records.

Capitol Petroleum directly controls fuel sales at 54 commission-operator stations in the District, and CPG, Anacostia and DAG sell gasoline as distributors to at least 15 other gas stations in the jurisdiction, the legal record said.

The complaint said that in the three months before the March 11 declaration, Capitol charged an average markup of about 44cts/gal on regular gasoline at its commission-operator stations. The margin was 88cts/gal in the weeks after the declaration. On premium gasoline, CPG had charged an average markup of 80cts/gal prior to March 11 but after the declaration that jumped to $1.23/gal.

The District also alleges that the defendants hiked their margins on gasoline at stations where they wholesaled fuel. The average markup for the distributors on regular gasoline from Dec. 19, 2019, through March 9, 2020, was 41.6%. But three weeks into the declared emergency, that markup increased to 149.8%. For premium gasoline, the average markup jumped from 41.6% three months before the declaration to 177.7% after the declaration.

The complaint asks the court to preliminarily and permanently stop the defendants from violating the laws and to require them to pay restitution and damages, as well as civil penalties, legal costs and attorneys' fees. The district requests a jury trial.

"The overwhelming majority of the district's businesses continue to follow the law," Racine said in a recent announcement of the lawsuit. "In this case, however, the Office of the Attorney General's investigation revealed that despite lower gasoline prices during the pandemic -- Capital Petroleum Group took advantage of the district's consumers by illegally increasing the price of its products, instead of passing the cost savings along to District consumers as required by law."

--Reporting by Donna Harris, dharris@opisnet.com;
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Overlap Between 7-Eleven and Speedway Puts Hundreds of Stores on the Market

Japanese holding company Seven & I has retained investment bank Nomura to solicit buyers for nearly 300 gasoline stations, many of which represent conflicts once the parent of 7-Eleven closes on its deal to acquire Marathon's Speedway network. An early 2021 closing is targeted. In

August, Seven & I indicated that it expects proceeds of about $1 billion for the properties.

There will be plenty of buyers thanks to a lot of public and private equity money focused on rolling up U.S. downstream real estate in what has been an exceptionally profitable year for many convenience stores, particularly those that maximize fuel sales Companies such as EG, Couche Tarde, ARKO Holdings (GPM), Yesway and even Murphy USA may be interested, and multiples to EBITDA are flirting with all-time highs.

One intriguing potential buyer might be Recharge Acquisition Corp, a "Special Acquisition Company" or "SPAC" that raised $200 million in capital via a Wall Street IPO in late September. The SPAC is headed by former Speedway president Tony Kenney who has intimate knowledge of Speedway and Marathon sites.

What's not known about the upcoming sale, however, is whether the divestments will involve mostly 7-Eleven sites or whether the divestments will involve Speedway, ARCO, or USA Petroleum sites. The portfolio of stations Marathon owns has multiple brands, particularly on the West Coast.

For example, an outright purchase of all of Marathon's retail in the Los Angeles metropolitan statistical area would see 7-Eleven with 32 sites, 277 ARCO stations, 14 Speedways and 42 USA-flagged properties. Similar overlap with three or four brands is witnessed in Bakersfield, Fresno, Los Angeles, Oakland, Orange County, Reno, Riverside, Sacramento, San Bernadino, San Diego, San Francisco, and San Jose, California. Seattle, Washington, is an additional West Coast market with plenty of overlap.

A California sale might be further complicated by a pending deal that Seven & I will close in early 2021. Reliable sources say that the holding company has outbid other aggregators to buy a large retail chain in the Golden State.

There is plenty of additional geography where overlap will put stations on the market. Regulators can get quite granular in their divestment instructions, ordering sales where a few corners have conflicts. But it appears as though Florida might be the state that sees the highest number of properties on the market.

The Cape Coral/Ft. Myers MSA for example, has 50 7-Elevens and 19 Speedway sites. Fort Lauderdale has 36 7-Elevens and 23 Speedway branded units. Miami has 25 and 12, respectively of the two brands, Jacksonville 8 and 31; and Sarasota 24 and 7. Orlando boasts 161 7-Eleven stores and 28 Speedways.

Buyers doing due diligence on the properties can tap OPIS' historical data on wholesale and retail prices, rendering margin analysis as narrowly as per zip code. Granular information on market share is also available.

For information on specific performances for the fuel category at specific stations, contact Brian Norris at Brian.Norris@ihsmarkit.com.

--Reporting by Tom Kloza, tkloza@opisnet.com

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Gas Demand Positioned to Weaken

The national average gas price fell by 1 cent on the week to $2.11 per gallon as of Nov. 11, following an increase in gasoline stocks and drop in demand, reported AAA.

This is 7 cents cheaper than one month ago and 51 cents cheaper than one year ago.

According to the most recent Energy Information Administration report, gasoline stocks increased by 1.5 million barrels to a total of 227.6 million barrels, while demand fell to 8.3 million barrels per day.

"As some states increase travel restrictions and others roll back reopening processes, demand is positioned to weaken, though not likely drop as low as we saw in March and April," said Jeanette Casselano McGee, AAA spokesperson. "That translates to a continuation of cheaper gas prices at the pump."

The continuing low prices for crude oil, combined with low demand, serve as a major contributor to low gas prices across the United States.

Only four markets saw gas prices increase from the week prior, including Indiana (6 cents), Ohio (6 cents) and Illinois (2 cents) and Washington, D.C. (1 cent.)

Gas price averages in most states continue to trend cheaper, with nearly 20 states reporting an average at least three cents cheaper than the previous week, according to AAA.

The largest weekly price drops occurred in Delaware (7 cents), Michigan (4 cents), Florida (4 cents), Texas (4 cents), Maryland (4 cents), Kentucky (4 cents), Georgia (4 cents) and Missouri (3 cents).

The current top 10 least expensive markets are Missouri ($1.76), Texas ($1.77), Mississippi ($1.78), Oklahoma ($1.78), South Carolina ($1.81), Arkansas ($1.81), Louisiana ($1.83), Alabama ($1.84), Tennessee ($1.85) and Kansas ($1.88).

SBA Releases Questionnaire to Lenders, Requiring For-Profit and Nonprofit PPP Borrowers of $2 Million or More to Provide Significant Detail on Certification of Need

On October 26, 2020, the Small Business Administration (SBA) issued a notice in the Federal Register that it would be utilizing Loan Necessity Questionnaires in connection with its Paycheck Protection Program (PPP) loan review process. Borrowers who – together with their affiliates, as that term has been defined through the Interim Final Rules and other guidance – received loans with an original principal amount of $2 million or greater must complete the questionnaires.

The SBA crafted two separate questionnaire forms, which it has begun releasing to lenders. SBA Form 3509 will be used by for-profit borrowers, and SBA Form 3510 will be used by nonprofit borrowers. Lenders are expected to distribute the forms to applicable borrowers, and borrowers must complete the forms and provide supporting documentation to lenders within ten business days. Lenders

then have five days to upload borrower responses and documents to the SBA's loan forgiveness platform.

DOJ Seeks to Derail Visa's $5.3 Billion Plaid Deal

The U.S. Department of Justice (DOJ) last week filed a civil antitrust lawsuit against Visa Inc., seeking to block its $5.3 billion acquisition of Plaid Inc., a San Francisco-based fintech startup developing an online debit payments network that would compete with the credit card giant, the department announced.

"If allowed to proceed, the acquisition would deprive American merchants and consumers of this innovative alternative to Visa and increase entry barriers for future innovators," said Assistant Attorney General Makan Delrahim of the DOJ's Antitrust Division. "American consumers and business owners increasingly buy and sell goods and services online, and Visa—a monopolist in online debit service—has extracted billions of dollars from those transactions," Delrahim said.

Visa announced the deal in January. Plaid's technology allows developers to plug into consumers' financial accounts, with consumer permission, to aggregate spending data, look up balances and verify other personal financial data, the DOJ said. About 200 million consumer bank accounts and 11,000 U.S. banks connect to Plaid, making it a leading U.S. financial data aggregation company.

"Plaid's money movement platform would allow consumers to pay merchants directly from their bank accounts using bank credentials rather than a debit card. Plaid's established connections and technology uniquely positions it to enter the payments market and disrupt Visa's monopoly," the department said.

In the complaint filed in the U.S. District Court for the Northern District of California, the DOJ "alleges that Visa's CEO viewed the acquisition as an 'insurance policy' to protect against a 'threat to our important US debit business.'"

The DOJ noted that "millions of American consumers and merchants depend on debit services to transact business online. The complaint alleges that Visa has dominated online debit for years and has protected its monopoly with exclusionary tactics that have prevented rivals, including Mastercard, from expanding or entering. The lawsuit alleges that Visa's proposed acquisition of Plaid is a violation of both Section 2 of the Sherman Act and Section 7 of the Clayton Act."

Visa called the DOJ complaint "legally flawed and contradicted by the facts."

NACS had urged DOJ to prevent Visa's acquisition of Plaid.

In July, Sen. Richard Durbin (D-Illinois) and Rep. Peter Welch (D-Vermont), asked the Federal Reserve to investigate whether Visa and Mastercard and debit-card issuers are limiting competition in online payments, forcing merchants to pay excessive debit-card fees.

Gas Stations Eye an EV Future

Electric vehicle fast charging: "Why now? Why not now?" That point was made by Brad Petersen, director of retail fuels at Kum & Go, a retail chain with more than 500 stores in 11 Midwestern states. "Yes, the new EV sales are not drastic in numbers—less that 2% of the vehicle fleet—but we know it's coming, and we want to be prepared for it and offer fuel to all of our customers, whether that be gas or charging."

Petersen was speaking at the NACS Crack the Code Experience session: How to Succeed in the EV Market, presented Tuesday and available in an encore session today at 11:30 a.m. EST, and on demand starting tomorrow.

The well-rounded panel featured representatives from Future Fuel Strategies, National Car Charging LLC, Smart Electric Power Alliance and EVgo, in addition to Kum & Go.

As covered in the session, there are three basic EV charging options. The first involves an electric vehicle manufacturer such as Tesla establishing a charging network to support vehicle sales. The second involves an independent third party, such as EVgo, that will essentially partner with a retailer through a rental agreement (or with a municipality or commercial fleet) to support its charging network. The third model involves retailers working with a company like National Car Charging to set up and operate their own charging infrastructure.

Supporting a third-party network is painless to the retailer, but the retailer ends up giving away control in such areas as pricing, which can conflict with retailer goals. At the same time, the third party assumes the bulk of the risk, as well as most of the headaches with adding EV charging, in exchange for that loss of control.

The charging technology of choice, at least in retail applications, is DC fast charging. These chargers dramatically reduce the amount of time required to give a vehicle a decent charge to get back on the road. The panelists noted that the ideal site focuses on having a charging experience as close to liquid fuels as possible, while also providing opportunities for the customer to take advantage of store profit centers.

The inside sales opportunities ramp up with charging times that, while getting shorter all the time, are still longer than those for the average fuel customer.

Working with a utility is also a partnership with EV charging. The panel offered a range of "dos and don'ts" and made it clear that each utility will likely have a slightly different relationship than the next.

It was noted during the discussion that it can cost eight times as much to do an EV retrofit as it does with new construction. With that in mind, even retailers that are not ready to pull the trigger immediately should be making these considerations with new site construction so that adding EV charging will be relatively painless when the decision to proceed is made.

Agreement Will Bring Wood-Based Biofuels to Market in US Northeast

A Maine company has entered into an agreement with Northeastern wholesaler
Sprague Resources LP to bring its wood-based biofuel to market. The agreement between Biofine Developments Northeast Inc. and Sprague Resources LP calls for Sprague to purchase and market "a significant portion" of the ethyl levulinate fuel produced by Biofine.

Biofine says it has developed a process to produce the biofuel from feedstock such as wood, agricultural residues and municipal waste fiber. In 2019, the company received a $750,000 grant from the Maine Technology Institute to develop technologies to take advantage of Maine's forest resources.

"After extensive research and testing, and a successful completion of a large-scale field test, we are excited to move on to the commercialization of EL," said Biofine President Stephen Fitzpatrick.

Sprague operates terminals in Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut and New York as well as in Quebec, Canada. The company bills itself as one of the largest independent wholesale suppliers of energy and materials handling services in the Northeast.

The agreement comes as the heating oil industry works to reduce carbon emissions and embrace renewable fuels.

Last year, about 300 heating oil industry professionals committed to achieve 15% carbon reductions by 2023; 40% reductions by 2030 and achieve the net zero level by 2050.

In September, the National Energy & Fuels Institute (NEFI), announced its own
plans to eliminate fossil energy use by 2050.

At the time, the group said that biofuel blending is the most cost-effective way to reduce fossil energy use and carbon emissions, particularly in the Northeast, where many homes still rely on oil for heating. In 2018, 82% of the5.5 million U.S. households using heating oil were located in the Northeast,according to the U.S. Energy Information Administration (EIA). About 20% of homes in the region used heating oil, EIA said. Nearly two-thirds of households in Maine use heating oil as their primary source of heat -- the largest percentage of any state, according to EIA.

Maine also already leads the country in the percentage of electricity generated using biomass. Biomass supplies one-fourth of Maine's net generation, EIA said.Most of the biomass Maine uses for electricity generation is wood and wood waste-derived fuels, according to the agency.

NEFI's goals are for heating oil to contain a blend of 20% biofuel by 2023; 50% by 2030; and 100% renewable fuel by 2050.

"As customers increasingly seek to use more renewable liquid fuels, we are excited to expand our portfolio of offerings using our existing infrastructure," said David Glendon, president and CEO of Sprague.

--Reporting by Steve Cronin, scronin@opisnet.com;
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GM Announces $2 Billion Plan to Bring EV Production to Tennessee Plant

General Motors on Tuesday announced a $2 billion plan to retool its plant in Spring Hill, Tennessee, to build fully electric vehicles including the Cadillac LYRIQ.

The announcement is the latest in a series of recent moves by major automakers to invest in and expand EV manufacturing facilities. On Monday, the Canadian union Unifor announced that, as part of a tentative contract agreement, Fiat Chrysler said it would spend up to C$1.58 billion in its plant in Windsor, Ontario, to produce electric cars and plug-in hybrids starting in 2025.

In Tuesday's announcement, GM said its plans for Spring Hill were in addition to $4.5 billion it has already committed to prepare three U.S. manufacturing sites for EV-related vehicle production.

In January, the company said it would invest $2.2 billion at its Detroit-Hamtramck assembly plant to prepared it for production of electric vehicles. Production of the first all-electric GMC HUMMER EV pickup is expected to begin in late 2021. The plant, which has been renamed Factory ZERO, will also produce the Cruise Origin, an electric, self-driving vehicle.

GM is also investing an additional $800 million in supplier tooling and other projects related to the launch of the new electric trucks and in March said it would spend $300 million to bring electric vehicle production to its in Orion Assembly plant.

The company has also entered into a $2.3 billion joint venture to build a battery cell manufacturing plant in Lordstown, Ohio.

In addition to the news about the Spring Hill plant, GM's announcement also included details of more than $150 million in planned improvements at other ICE vehicle manufacturing facilities.

It's likely GM will also soon be announcing plans to prepare its Canadian assembly plants for EVs. Unifor has been focusing on bringing EV assembly to plants in Canada as part of its negotiations this year with automakers. Last month, Ford committed to spend C$1.8 billion to retool its Oakville Assembly Complex in Ontario to build battery-electric vehicles (BEVs).

Contract talks between Unifor and General Motors Canada begin later this week, the union said.

The union sees commitments to produce EVs in Canada as a way to improve job security for its members.

"Workers who have feared plant closures and job losses in recent years can now look forward to a bright future with good jobs for years to come," Unifor National President Jerry Dias said after announcing Fiat Chrysler's planned plant upgrades.

--Reporting by Steve Cronin, scronin@opisnet.com
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Rising Global Refining Capacity in Next 3 Yrs. to Slow Margin Recovery: BofA

An increase in global refinery capacity in the next several years is set to lengthen the long recovery of refining margins because of demand collapse related to the COVID-19 pandemic, Bank of America energy analysts said Monday.

Possible remarkably strong driving demand in 2021 should lift gasoline cracks above their current forward curve, while diesel margins are expected to remain near current depressed levels as refiners continue to blend excess jet fuel into the diesel pool, the U.S. bank said.

The bank said refiners have cut runs by roughly 12 million b/d year on year during Q2 2020. Still, refining margins remained near zero across most regions even as refinery utilization stayed at 10% below year-ago levels. Also, abundant product inventories have stalled the recovery in petroleum prices.

Bank of America said the starting up of new greenfield refineries, particularly from the Middle East and Asia, is expected to increase global refining capacity by more than 6 million b/d unless new refinery closures are announced.

In addition, collapsing light-heavy spreads and strong fuel oil and naphtha cracks have leveled the playing field for simple and complex refiners, and opened up the possibility of closing capacity that was previously advantaged.

"The current situation, where all refineries are hurting, may draw out the capacity rationalization process," the bank said. BofA said it expects 2020 oil demand to fall on average by 10 million b/d year on year, led by weakness in transportation fuels. For gasoline, the bank forecast demand to fall 3 million b/d y-on-y in 2020 and rebound nearly 5 million b/d in 2021, as people opt to drive over flying or taking public transit.

The bank said diesel demand has held up relatively well in 2020, but jet fuel will delay the full recovery for middle distillates until 2023.

"In aggregate, oil demand could take 2-3 years to reach pre-COVID levels, but this will be heavily dependent on when a vaccine is readily available," the bank said.

For low-sulfur fuel oil (LSFO) cracks, BofA said it expects them to weaken throughout 2021 as refinery runs continue to recover, but increasingly complex refinery capacity should limit the growth in fuel oil supply and help LSFO cracks recover versus their forward curve.

--Reporting by Frank Tang, ftang@opisnet.com

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New Jersey Bans Plastic Bags Effective May 2022

This week, Gov. Phil Murphy signed into law a ban on businesses giving customers single-use plastic bags, paper bags, polystyrene food containers and plastic straws, NJ.com reports. The law, approved by state legislators in September, is the strictest in the United States and will become effective in May 2022.

“Plastic bags are one of the most problematic forms of garbage, leading to millions of discarded bags that stream annually into our landfills, rivers and oceans,” Murphy said in statement. “With today’s historic bill signing, we are addressing the problem of plastic pollution head-on with solutions that will help mitigate climate change and strengthen our environment for future generations.”

The new mandate forbids foodservice stores from handing out polystyrene food containers and single-use plastic bags. Businesses included in the ban are convenience stores, restaurants, food trucks, movie theaters and supermarkets 2,500 square feet and larger. Grocery stores also cannot give customers paper bags under the new regulations.

Exemptions to the law include bags used for loose items like produce, bags holding fish or insects from pet stores, dry cleaning bags, newspaper bags, polystyrene butcher trays, bags wrapping raw meat and bags for prescription drugs.

Starting November 2021, foodservice establishments will also be prohibited from giving customers plastic straws unless the customer specifically requests one. The New Jersey Department of Environmental Protection will enforce the ban. During the transition period, New Jersey will conduct a public awareness campaign and hand out free, reusable bags.

Ransomware on Rise in Energy Sector: Conexxus

Ransomware is on the rise globally, and firms within the energy sector are a prime target, according to Ajith Edakandi, director of product management and marketing of Hughes Network Systems, speaking at a recent webinar for Conexxus, the nonprofit technology affiliate of the National Association of Convenience Stores.

"Downloads that hold your system hostage until a ransom is paid have been successful on a level we have not seen before," said Edakandi. "Cybercriminals have upped their attacks in frequency and scope."

The ransomware challenge is compounded by several recent developments, including the COVID-19 pandemic, criminals' growing sophistication, large numbers of connected devices, and the potential penalties for firms that pay ransoms, he said. As a result of these trends, "security has fallen behind," Edakandi said.

Due to the pandemic, more people are online working from home and shopping from home, making them more vulnerable to cyberattacks, he said. The prime method for attack is "social engineering" through phishing emails, in which the victim downloads malicious software from an attachment or link. Coronavirus email scams abound, with convincing pitches providing safety tips and frequently asked questions about the disease, some allegedly coming from a fictitious doctor at the World Health Organization, Edakandi said.

He said other common traps are drive-by downloads, in which attackers prime websites with malware so that visitors automatically download the malicious software; "malvertising," in which crooks place ads on trusted websites that when clicked on automatically download ransomware; and exploit kits, in which prewritten, malicious code takes advantage of vulnerabilities in applications, networks or devices.

"How do you protect against that?" he asked.

Flirting With Federal Penalties

Making matters worse, Edakandi noted that earlier in October the U.S. Treasury Department's Office of Foreign Assets Control (OFAC) released an advisory warning that companies following through with ransomware payments could be subject to penalties.

"Demand for ransomware payments has increased during the COVID-19 pandemic as
cyber actors target online systems that U.S. persons rely on to continue conducting business. Companies that facilitate ransomware payments to cyber actors on behalf of victims, including financial institutions, cyber insurance firms, and companies involved in digital forensics and incident response, not only encourage future ransomware payment demands but also may risk violating OFAC regulations," according to a copy of the advisory obtained by OPIS.

The problem is, ransomware victims have difficulty knowing if they are paying off individuals or countries prohibited by OFAC because the ransoms are often paid in cryptocurrency, which gives them anonymity, said Edakandi.

"Once you have been hit by ransomware you are between a rock and a hard place: Should you pay and get back to normal but get possible sanctions, or not pay and accept total loss of data?" he said.

OFAC noted in its advisory that in recent years ransomware attacks have become "more focused, sophisticated, costly and numerous." The FBI's 2018 and 2019 Internet Crime Reports recorded a 37% annual increase in reported ransomware cases and a 147% annual increase in associated losses during those two years.

"While ransomware attacks are carried out against large corporations, many ransomware attacks also target small- and medium-sized businesses," the advisory said.

Paying ransoms advances illicit schemes and may "embolden cyber actors to engage in future attacks," OFAC said. "In addition, paying a ransom to cyber ctors does not guarantee that the victim will regain access to its stolen
data."

Traditional Methods May Not Work

While many convenience-fuel marketers have security measures such as timely patching, firewalls, and web filtering in place, methods that have worked in the past may not be enough to combat today's more sophisticated attacks, Edakandi said. The most damaging attacks are targeted and difficult to detect, He explained.

He recommended employing a managed security service provider to protect endpoints - laptops, desktops, phones, tablets, servers, and cloud service. Edakandi said endpoint detection and response (EDR) solutions should be able to detect security incidents at the endpoint with artificial intelligence and machine learning, use automation to investigate security incidents, contain the incident, and remediate endpoints to a pre-infection state.

--Reported by Donna Harris

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When Is The Best Time To Have Your Clerks Certified To Sell Tobacco?

NOW. Let me repeat myself. NOW. Now, before your clerk fails a sting. If your certified clerk fails a sting you receive one point against your license. If another certified clerk (because you fired the first one) fails a sting, you will have a second point against your license. It is not until the third certified clerk fails a sting that your lottery and tobacco license will be pulled. Even in this case there is a benefit, after serving your suspension, the three points will be removed.

If an uncertified clerk fails a sting, you will receive two points against your license. Let’s say you train your clerks then. The next failed sting will add another point, making three points. Your license will be pulled for a year, and there is nothing you can do about it. It still makes sense to have your clerks certified after the first failed sting for two reasons. A certified clerk is less likely to fail that second sting. If they do, the three points will be removed from your license after you serve your suspension. If you don’t have your clerk certified, only three of your four points will be removed and you will be well on your way to another suspension or revocation.

Need another reason? How about money. Who do you think is going to get a fine on the lower end of the scales listed in the article above? Who is going to get the higher fine? One who has certified the clerk or one who has not?

Need another reason? How about money. How many customers are you going to lose when they can’t buy their cigarettes at your store?

Consider this, a certified clerk is much less likely to sell to underage customers, meaning you are less likely to have to deal with the hassle of a failed sting. It just makes good business sense to certify your clerks. Remember training them is not the same as certifying them.

ONE MORE THING TO DO TODAY. CHECK YOUR CLERKS CERTIFICATION. IT EXPIRES AFTER THREE YEARS. IF YOUR EMPLOYEE’S CERTIFICATION IS EXPIRED, IT IS THE SAME AS IF IT NEVER EXISTED.

For more information on certifying your clerks call the association at 518-452-4367.

Minimum Age For Cashiers To Sell Restricted Products

the regulations for clerks who sell alcoholic beverages taken from page 7 of the State Liquor Authority Handbook are as follows:

1. Clerks and cashiers who handle and receive payment for alcoholic beverages in drug stores, grocery stores and convenience stores must be at least 16 years old and must be supervised by someone who is at least 18 years old.
2. Clerks and cashiers in liquor and/or wine stores must be at least 18 years old.

The Department of Health lists no such restrictions on the age oof a clerk for selling tobacco products. One clear and obvious caveat is that younger clerks are much more susceptible to peer pressure this will put your license in jeopardy.

Work Hours For Minors

The number of hours a minor may work per day and per week depends upon the youth's age, the type of work being performed, and whether school is in session. New York State has one of the most stringent chiId labor laws in the country, which limits the number of hours that minors under 18 years of age may work when school is in session. It requires that l6 and l7 year olds may not work past l0 PM on the night before a school day without permission from a parent and a certificate of satisfactory academic standing from their school. Minors may not work during the hours when they are required to attend school. When school is in session, generally from September-June, minors 14 and 15 years old may not work for:

- More than three hours on any school day
- More than eight hours on a non-school day (Saturday, Sunday and holidays)
- More than 18 hours in any week
- More than six days in any week.

However, 14 or 15 year old minors who are employed as part of a supervised work study or work experience program that is approved by the Commissioner of Education may work three hours on a school day and 23 hours a week, instead of three hours a day and 18 hours a week. When school is in session, minors 16 and 17 years old enrolled in a day school, other than a part-time or continuation school, may not work for:

- More than four hours on any day preceding a school day (Monday - Thursday)
- More than eight hours on Friday, Saturday, Sunday or holiday
- More than 28 hours in any week
- More than six days in any week.

However, students enrolled in a cooperative work experience program approved by the Department of Education may be employed up to a maximum of six hours on a day preceding a school day other than a Sunday or a holiday if these hours are in conjunction with the program. Any hours worked in such program shall be included when calculating the number of hours worked for the four-hour maximum.

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