NAFA 2019 LEGISLATIVE REVIEW

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As the first session of the 116th Congress adjourns, this is an excellent time to recap NAFA’s advocacy efforts in Washington, D.C., and to look towards 2020. While many eyes will be fixed on electoral politics this coming year, Congress and the Administration will continue to advance considerable legislative and regulatory policies.

NAFA’s members were an integral component in NAFA’s work to elevate the profile of fleet managers and their interests in Washington, D.C. New and ongoing initiatives like the Monthly Legislative and Regulatory Tracker helped bolster traditional member advocacy efforts undertaken by the NAFA’s Government Affairs Committee. NAFA advocacy leaders came to D.C. in September for the 2019 Legislative Fly-In and were able to engage with Members of Congress, their staff, and allied organizations on many of the issues detailed below. While the dynamics of policymaking often necessitate a continuous and long-term approach to a particular issue, NAFA has undoubtedly found success in several issue areas of relevance throughout 2019.

Roadmap to 2020

Increased partisan rhetoric is a near certainty in any election year, even more so when it corresponds to a presidential election and an Administration the U.S. electorate continues to feel divided over. While this may result in a death knell for policy solutions on that appeal to one ideology over the other, mandatory deadlines, a desire by incumbents to build a record of legislative wins for constituents, and public demand are expected to move the needle in 2020 on several bipartisan issues that stand to impact fleets. Additionally, many members of Congress and candidates will use the upcoming elections as platforms to release proposals for the future. While many of these plans may never come to fruition, they are essential to monitor and prepare for, as political tides may shift quickly.

In the near-term, NAFA expects to become heavily involved in the 2020 discussions in Congress revolving around data privacy, vehicle-generated data access, surface transportation/infrastructure funding, impaired driving, and advanced vehicle technologies.

In late 2019, Congressional leaders from both parties released discussion drafts of privacy legislation and set the stage for a robust policy debate on the issue in 2020. While the draft bills primarily address consumer privacy, both bills also apply to the privacy rights of employees. NAFA is submitting comments on both discussion drafts and will continue to advocate the importance of a fleet having access to vehicle and driver data. 2020 will also see a vigorous debate on legislation that NAFA is drafting to ensure the rights of vehicle owners to control and access the data generated by their vehicles. The data access legislation will be controversial as other stakeholders will also claim access rights to vehicle data.

The September 30, 2020, deadline for reauthorization of surface transportation funding will force lawmakers to come together with a bipartisan package that balances the various infrastructure priorities, revenue generation, and support for emerging transportation technologies that bring sustainability and safety benefits. This process started in 2019 with the Senate Environment and Public Works Committee’s proposal but will continue in 2020 as other House and Senate Committees release their portions of an infrastructure funding package. NAFA will be very focused on any revenue generation provisions, as policymakers continue to contemplate innovations and increases in user-fees as a method to fund surface transportation. Aside from the fundamental funding and revenue portions of a bill, members of Congress have shown an appetite for including other transportation-related policies alongside infrastructure funding. We expect that any bipartisan proposals dealing with autonomous vehicles or vehicle technology safety mandates, such as the NAFA-supported RIDE Act, have a strong chance of inclusion and passage within a broader transportation-related funding package.

Ultimately, the actual legislative and regulatory agenda for 2020 is far from predictable, and it is to be expected it will become more difficult for Congress to make policy change happen as election day nears in November. However, despite a heightened media focus on the campaign trail, the business of policymaking in Washington D.C. will continue and there will be many opportunities for NAFA to weigh in with policymakers and guide their efforts in a way that reflects the interests of fleet managers and their organizations’ fleets. Importantly, NAFA has positioned itself in 2019 to be a key stakeholder in some of the most significant policy areas that will see action in this upcoming year.
Expired Tax Credits

One of NAFA's top advocacy efforts in 2019 was the reinstatement and extension of the federal tax credits for alternative fuels and biodiesel. This effort was successful, as provisions to address the previously expired credits were included in legislation to fund the government through 2020. These credits have helped to make the business case for biodiesel and alternative fuel vehicles. Without these credits, it is often difficult for a fleet to justify the purchase of these fuels and vehicles.

The federal tax credits for biodiesel, natural gas, and propane had expired as of the end of 2017. These credits include the $0.50 per gallon alternative fuel tax credit (AFTC) for compressed natural gas, liquefied natural gas, propane autogas, and other alternative transportation fuels; the $1.00 per gallon tax credit for biodiesel; and the 30 percent alternative fuel infrastructure tax credit. The biodiesel excise tax credit has been extended through 2022, while the alternative fuels excise and infrastructure credits have been extended through 2020. The IRS will be issuing guidance on how to submit retroactive claims for the period during which the credits were expired.

In early February, NAFA sent an alert to facilitate a member-driven advocacy campaign to raise awareness on expired tax extenders issue in Congress. NAFA bolstered this effort by writing to the leadership of the House and Senate tax committees urging Congress to extend the incentives. Legislation (S.617) was introduced in the Senate to address the expired tax credits issue at the end of February. NAFA reiterated its support for the credits in a statement for the record at a House tax committee held a hearing on tax extenders in March.

House legislation (H.R. 3301) was introduced and moved through committee in June while NAFA was reaching out to members to learn how their fleets were utilizing the tax credits. These accounts were used to build NAFA's comments to a Senate task force drafting the August report on expired tax credits. When NAFA members came to Washington D.C. for meetings on Capitol Hill with their members of Congress during the September Legislative Fly-In, they again emphasized the importance of these expired tax credits.

NAFA and its allies made a push in November by calling on House and Senate leaders for the inclusion of tax extenders provisions in any must-pass end of year legislation, such as a government funding package. A draft clean energy tax bill released in November, the GREEN Act, included language that would retroactively extend and establish a scheduled phase-out of several of the tax credits. NAFA continues to work with NGV America, the National Biodiesel Board, NPGA, and other allies on long-term extenders policy.

Vehicle Tariffs & Trade

NAFA members are continuing to see increased vehicle and repair costs stemming from the steel and aluminum tariffs imposed in 2018 under Section 232 of the Trade Expansion Act. The tariffs on steel and aluminum imported from Canada and Mexico were lifted in May. This action was in part due to the difficulties they imposed on the ongoing negotiations for the new North American trade deal, the United States Mexico Canada Agreement (USMCA). In late 2019, the three countries were able to resolve some lingering objections held by Democratic members of Congress over labor enforcement provisions in the original agreement. The House voted to approve the trade agreement in December, and the Senate is expected to ratify USCMA in early 2020.

In May, Section 301 tariffs increased to 25% on over 100 car parts, including tires, brake rotors, batteries, filters, and wiper blades, among others, imported from China. While some products have been granted tariff exclusions, the majority remain subject to these tariffs. The U.S. and China have been engaged in trade talks to create an agreement that would result in the tariffs on China being lifted. The first phase of the deal would likely address intellectual property protections and U.S. agricultural exports to China, both being top priorities for the current Administration.

Concerns linger regarding potential tariffs on imported automobiles and auto parts, stemming from the Administration's Section 232 national security investigation. The conclusions of the investigation, which reportedly justified national security concerns, were given to White House in February but have not been released publicly. The Administration announced that it was setting a self-imposed deadline of November 13th to decide on Section 232 automobile-related
NAFA sent letters of support in March to the sponsors of S.287/H.R.940 and S.365/H.R.1008, bipartisan pieces of legislation that would give Congress the power to oversee the Administration's actions on tariffs. NAFA Members potentially face staggering increases in acquisition and repair/service costs over the next few years if the trend of increasing tariffs continues. NAFA members urged members of Congress to support these bills and apply pressure on the White House during the September Legislative Fly-In. NAFA is working closely with the Alliance of Automobile Manufacturers and the Motor and Equipment Manufacturers Association on these issues.

**Connected Vehicle Technology**

NAFA works with the Safety Spectrum Coalition in support of Advanced Driver Assistance Systems (ADAS) technologies and for preserving the 5.9 GHz spectrum band, known as the “safety spectrum,” for connected vehicle technology, such as dedicated short-range communication (DSRC) and cellular vehicle-to-everything (C-V2X) communications. The Federal Communications Commission (FCC) is currently evaluating the potential for future unlicensed operations in the spectrum allocated for DSRC. The coalition includes the Global Automakers, ATA, and the National Safety Council.

In February, NAFA joined with members of the Safety Spectrum Coalition to respond to the DOT’s request for comment (RFC) seeking input on the ways recent technological developments could impact V2X communications. The Coalition also provided feedback that stressed safety and interoperability considerations on an FCC waiver petition to open the 5.9GHz spectrum for C-V2X use in February.

NAFA participated in a May Congressional briefing for Members of Congress and their staff on the House Transportation Committee on the importance of preserving the full 5.9 GHz band for transportation safety use. The Coalition sent letters in May urging the House Transportation and the Senate Environment and Public Works Committees to consider V2X priorities in infrastructure legislation. Given the DOT’s sustained support for protecting the integrity of the safety spectrum, the Coalition sent a thank you letter to Transportation Secretary Elaine Chao in May as well.

NAFA engaged with NHTSA at a public meeting in June on the 5.9 GHz band issue, and also met with FCC officials in July to urge them to reject calls for a reallocation of the band for unlicensed use. The FCC released a draft proposal in November to open the lower 45 megahertz of the 5.9 GHz spectrum for unlicensed use while retaining the upper 30 megahertz for connected vehicle communications technology. NAFA released a statement opposing the FCC’s draft proposal alongside other members of the Safety Spectrum Coalition and wrote a letter to the House Energy and Commerce Committee ahead of a December 5 hearing on oversight of FCC activities. Additionally, members of the House Transportation Committee shared NAFA and allies’ statements on the issue and urged the FCC to reject the proposal.

At a December 12 FCC meeting, the Commissioners voted unanimously to move forward with the proposed rule. NAFA will be submitting comments in opposition to the proposed rulemaking.

**Autonomous Vehicles**

NAFA is closely monitoring federal activity regarding autonomous vehicles (AV). Members of the House and Senate have been in talks since the beginning of 2019 to reintroduce legislation to facilitate the development of self-driving cars. NAFA supported related legislative efforts in the prior session of congress, such as the American Vision for Safer Transportation through Advancement of Revolutionary Technologies Act (AV START Act).

In July, transportation stakeholders were asked by Congress to weigh in with feedback on different categories impacting a potential self-driving car bill. NAFA provided input in response to the request, with a focus on the importance of vehicle-generated data access.

Six draft sections of the AV legislation have been released so far, touching on the topics of Relationship to Other Laws, Motor Vehicle Safety Standards, Advisory Committees, Autonomous Vehicle Testing, Safety Standard Exemptions, and Definitions.
Lawmakers have not released a concrete timeline for the introduction of an AV bill but did focus on AV testing and deployment during a Senate Transportation Committee hearing in November. Key concerns over provisions related to preemption of state and local regulations and forced arbitration between AV manufacturers and consumers, which scuttled self-driving legislation in the last session of Congress, remain unresolved.

**Vehicle Generated Data**

The development of connected vehicle and self-driving technologies has raised the issue of who owns and has access to vehicle-generated data. NAFA has urged Congressional leaders to recognize the principle that the owner or lessee of the vehicle should have direct, real-time access to data collected, generated, recorded, or stored by the vehicle including data for emissions control, diagnosis, repair, and maintenance.

NAFA has stressed that vehicle-generated data is a critical part of fleet management. Whether vehicles are owned or leased, the fleet manager relies on direct access to the data to monitor the engine, the vehicle, and the driver.

NAFA participates in the U.S. Data Access Coalition, which includes NAFA, AALA, ACRA, AAA, the Auto Care Association, Consumer Federation of America, Safelite Auto Glass, and the National League of Cities. The Coalition is advocating for legislative language that ensures vehicle-generated data access. NAFA and its allies were successful in having provisions included in the drafting of past self-driving car legislation and submitted comments in August to requesting language be included in forthcoming AV legislation.

NAFA participated alongside allied organizations in a Congressional staff briefing in February on vehicle-generated data access. NAFA worked with the U.S. Data Access Coalition at the beginning of the year to develop a stand-alone vehicle data access legislation that incorporates the interests of fleets. In April, NAFA had an in-district meeting with the potential House Republican sponsor of the vehicle data access legislation and was able to secure a possible Democratic sponsor in July.

After meeting with relevant committee staff and possible Senate sponsors in the summer and fall, the Coalition decided to revise the draft legislation to alleviate concerns that the bill would cross into broader data privacy debate. NAFA representatives met with the likely Democratic sponsor to provide an update on the effort in conjunction with the September Legislative Fly-In. The Coalition hopes to have the legislation introduced in early 2020.

NAFA also participates in the Global Alliance for Vehicle Data Access (GAVDA) to track privacy issues in Europe and North America.

**Privacy**

Legislation establishing U.S. federal standards for individual privacy rights is a key issue for lawmakers on both sides of the aisle and one that has seen significant progress in 2019. The combination of cybersecurity threats, smartphones, and connected vehicles has already resulted in privacy laws being enacted in the European Union and California that impact organizational fleet management practices. Members of Congress are using these existing privacy laws as frameworks for their U.S.-wide proposals for privacy standards. NAFA has been working to ensure that federal privacy legislation guarantees fleets continue to have a legal basis for collecting driver behavior information through telematics.

In July, NAFA sat down with House and Senate Commerce Committee staff to explain how fleets collect and utilize telemetric data. NAFA assisted staff by informing them on some of the issues at the intersection of fleet operations and driver privacy rights. In August, NAFA convened an ad-hoc member data privacy task force to address fleet data collection questions from Congressional staff. Congressional staff assured NAFA representatives that they were seeking to create legislation that did not impinge on the employer-employee relationship. During the Legislative Fly-In, NAFA representatives met with Senate Commerce Committee staff again to review fleet data privacy practices.
Leaders of the Senate Commerce Committee released separate draft privacy legislation at the end of November. Those proposals are Chairman Roger Wicker’s (R-MS) United States Consumer Data Privacy Act (USCDPA) and Ranking Member Maria Cantwell’s (D-WA) Consumer Online Privacy Rights Act (COPRA). The Senate Commerce Committee held a hearing in early December shortly after the introduction of the drafts to address pending areas of contention and advance the discussion of a bipartisan compromise on data privacy legislation. Both proposals included language on “covered data” and “covered entities” that were defined broadly. NAFA and allies responded to the Committee by urging them to clarify provisions as they may relate to vehicle data. NAFA’s data privacy task force is working on a set of principles for NAFA to advocate for in any final federal data privacy legislation.

Negotiations on federal privacy legislation will continue in 2020. There is mounting pressure for Congress to act, as California’s privacy legislation, the California Consumer Privacy Act, went into effect on January 1, 2020. Federal lawmakers are concerned that California’s standard will become an effective national standard if they are unable to pass federal legislation promptly.

Federal Excise Tax on Heavy Duty Trucks

NAFA continues to support repeal of the 12 percent federal excise tax (FET) on the retail sale of most new heavy-duty trucks. The FET depresses new heavy-duty truck purchases and delays the deployment of cleaner, safer, and more fuel-efficient trucks. The FET on heavy-duty trucks was initially imposed in 1917 to help defray the cost of World War I. This tax on most new heavy-duty trucks, tractors, and trailers has grown from three percent when it was incorporated into the Highway Trust Fund (HTF) in 1955 to 12 percent today. The FET is the highest excise tax on a percentage basis that Congress levies on a product.

A bill in the House to repeal the tax (H.R.2381) was introduced in April, and Senate companion legislation (S.1839) was introduced in mid-June. NAFA attended a June Modernize the Truck Fleet Coalition event to rally support for the bill. In July, NAFA joined a coalition of interests, including ATA, MEMA, and NTEA, in a letter to Congressional leadership calling for a repeal of the FET to be included in any infrastructure or the surface transportation reauthorization legislation.

Mileage-Based User Fees

In 2019, members of Congress showed a strong interest in testing alternative user-based revenue mechanisms to help the long-term solvency of the Highway Trust Fund (HTF). The alternative that has received the most attention is the mileage-based user fee concept, which is also known as a vehicle-miles-traveled (VMT) fee. A VMT fee is a user charge based on miles driven in a specific vehicle as opposed to the current federal excise tax on fuel consumed. NAFA has not taken a position on a VMT fee. However, NAFA has actively provided input to Congressional leaders on provisions that need to be included in a national pilot program to test the concept.

NAFA outlined a set of priority considerations from the fleet perspective on a national VMT pilot in a February letter to leaders of the House and Senate Committees considering this issue. NAFA met with Congressional Committee staff in February and March to ensure that they understood the critical role fleets would have in national VMT pilot. NAFA reinforced VMT pilot priorities in a statement at a House Tax Committee hearing on infrastructure in March, as the Committee discussed possible revenue mechanisms for funding infrastructure. NAFA surveyed members in March to gauge awareness of the VMT issue, as well as to find out what questions NAFA members would like addressed in a national VMT pilot program.

At the end of July, the Senate Environment and Public Works (EPW) Committee introduced and passed a five-year $287 billion surface transportation reauthorization bill S.2302, America’s Transportation Infrastructure Act (ATIA). The current surface transportation authorization, the FAST Act, expires in September 2020.

The bill included $10 million in funding for a national research program to develop and test the feasibility of a nationwide alternative roadway funding mechanism, such as a VMT fee. Additionally, an advisory board that includes fleets would be created to guide the research program. The advisory board would also be involved in the final recommendation to go forward with a federal VMT fee or not. NAFA sent a letter to the EPW Committee leaders thanking them for including these provisions in ATIA.
Several other House and Senate Committees will need to provide legislative language related to surface transportation reauthorization before these provisions are enacted. In 2020, NAFA will be working with the other committees, in particular, the House Transportation Committee, to ensure the VMT pilot program sections are preserved in the final reauthorization legislation.

Clean Diesel Program Grants

The Diesel Emissions Reduction Act (DERA) provides competitive funding for projects that achieve reductions in diesel emissions from mobile sources. DERA grants have helped improve air quality for communities across the country and are one of the most effective strategies to replace older heavy-duty vehicles and equipment with newer, cleaner options. DERA grants are awarded on a case-by-case basis and have historically been a valuable source of funding for fleets.

NAFA participates in the DERA Coalition, which advocates for sustained funding from the program. Other members include ATA, the American Association of Port Authorities, and the National School Transportation Association.

In March, House and Senate legislation (H.R.1768/S.747) was introduced to reauthorize funding for DERA through 2024. NAFA was responsible for securing the lead sponsor of the House legislation, as a result of member advocacy. NAFA joined the DERA Coalition in a letter of support for the reauthorization legislation. The Senate Environment and Public Works (EPW) Committee passed the legislation in April. The Senate EPW Committee also included the DERA reauthorization language in its summer surface transportation reauthorization bill S.2302, America's Transportation Infrastructure Act (ATIA). In September, the House's DERA reauthorization legislation was passed in a vote by the full House with bipartisan support.

In November, the Coalition met with members of the House Appropriations Committee to urge them to revise their funding package to align with the Senate's DERA funding amount. After drawn-out negotiations between the House and Senate over 2020 government funding levels, lawmakers agreed to provide $87 million in funding DERA in the coming year. This outcome is a significant win for NAFA, fleets, and other DERA Coalition stakeholders who stand to benefit from a robust and well-funded DERA program.

Electric Vehicles

The increased deployment and adoption of electric vehicles (EV) have become major Congressional initiatives in 2019. The 30D tax credit, which provides up to $7,500 for the purchase of a new plug-in electric vehicle, is limited to 200,000 vehicles per manufacturer. However, several leading automakers have hit or plan to reach this limit soon. The 30D credit has been useful in making the business case for electric vehicles for many fleets as the credit can offset higher acquisition costs. Lack of a nationwide charging infrastructure network is another hurdle for wider EV adoption in the U.S.

NAFA is a member of the EV Drive Coalition, which includes stakeholders such as GM, TESLA, Nissan, the Electric Auto Association, and Plug In America, to advocate for policies that foster a robust U.S. EV market and promote U.S. leadership in the EV space.

In February, the Coalition sent a letter to the Chairman and members of the House Tax Committee, asking for reformed 30D EV tax credit to be included in a pending tax package on expired tax credits. NAFA's Board of Trustees voted in March to oppose legislation (S.343) that would eliminate the 30D EV Tax credit and to support positive reform proposals.

In April, NAFA sent a letter of support to the members of Congress working on a 30D EV tax credit proposal that would raise the per-manufacturer vehicle limit. Legislation (S.1094/H.R.2256) to make an additional
400,000 vehicles eligible per manufacturer for the credit was introduced in April. NAFA joined a broad group of transportation industry stakeholders to show support for the legislation in a June letter.

Legislative language for expanded charging and alternative fuel infrastructure was included in the Senate Environment and Public Works (EPW) Committee's August surface transportation reauthorization bill S.2302, America's Transportation Infrastructure Act (ATIA). NAFA supported these provisions in a letter to the Senate EPW Committee. NAFA members met with a senior member Senate EPW Committee staff during the September Legislative Fly-In to discuss the alternative charging refueling provisions. NAFA was asked to support standalone legislation on the issue, the Clean Corridors Act (S.674), and sent a letter to the legislation's sponsors in October.

The Coalition met with numerous members of Congress to stress that 30D EV tax credit reform is a priority over the summer and fall period. The Coalition also launched a social media and press campaign to raise awareness of the issue. The EV tax credit issue was another priority for NAFA members during the September Legislative Fly-In. In October, Senate Minority Leader Chuck Schumer (D-NY) announced a Clean Cars for America Climate Proposal, that would create a “cash-for-clunkers” style program for EVs. In November, Democratic members of the House Tax Committee released a discussion draft of the Growing Renewable Energy and Efficiency Now (GREEN) Act and included substantial 30D EV tax credit reform as a provision. While the GREEN Act is unlikely to pass as individual legislation, it highlighted the key Democratic priorities in ongoing tax package negotiations in an end-of-year spending measure.

**Impaired Driving**

Driver impairment remains a significant legislative challenge for Congress and one that is becoming increasingly complicated due to changes in the legal status of cannabis use across the United States. NAFA is closely monitoring legislative proposals at the federal level, such as the Marijuana Opportunity, Reinvestment, and Expungement Act (MORE - H.R.3884/S.2227) and Strengthening the Tenth Amendment Through Entrusting States (STATES - H.R.2093/S.1028) Acts, that would change the status quo in this area. While 33 states and the District of Columbia have legalized at least some uses of marijuana, the issue remains highly contentious in Congress.

In an effort to combat alcohol-impaired driving, NAFA's Board of Trustees voted in December to endorse and advocate for S.2604, the Reduce Impaired Driving for Everyone (RIDE) Act. The legislation provides funding for R&D into vehicle driver alcohol detection software that prevents that driver from starting the car when they are above the legal limit. It also creates pilot programs for fleets to deploy and test these technologies and would eventually require that the systems be installed on new vehicles. The effort to have the RIDE Act enacted into law will be a major advocacy goal for NAFA in 2020.
NAFA's Canadian Legislative Counsel Year-End Report

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From changing environmental and transportation policies to trade issues, 2019 was a tumultuous year for the transportation industry and fleets.

The Canadian political landscape has also changed significantly over the course of 2019. Canadians went to the polls this year and sent a clear message that no party earned enough public trust to get a full mandate for the future of Canada. Prime Minister Justin Trudeau and the Liberal Party have maintained power. However, they will now govern under a minority mandate. The story of the campaign may be the intense divisions, both between regions and political viewpoints that have emerged. It remains to be seen how the government will navigate through the uncertain realm of governing in a minority scenario.

For fleets in Canada, the new power dynamic in Ottawa provides a unique opportunity for meaningful engagement with all political parties on issues of concern to our industry. In this minority government scenario, members of Parliament from the opposition parties have a stronger voice than in the case of a majority government, therefore non-partisan engagement becomes even more critical to NAFA's advocacy goals.

NAFA has been heavily involved in the legislative and regulatory process throughout the year, having participated in many consultations including the pre-budget consultations last summer and the consultations on automated and connected vehicles.

The Association worked in close partnership with Transport Canada to ensure fleets were considered in the design and implementation of the Zero-Emission Vehicles (ZEVs) Federal Rebate program. Also, NAFA's Canadian legislative counsel has voiced the concerns of fleet managers to Health Canada to ensure safety on the roads and in the workplace were key considerations in the design of the cannabis policy.

Changes in many of these areas are expected in the coming months and it will be important for NAFA members to remain informed. NAFA's Canadian Counsel will continue to monitor any development and engage with key decision-makers on issues of relevance to fleets in Canada.

Canada-United States-Mexico Agreement (USMCA)

Background - After 14 months of intense negotiations, Canada and Mexico reached a deal on the new and revised North American Free Trade Agreement named the US-Mexico-Canada Agreement (USMCA). The new deal was signed on November 30, 2018, by the leaders of all three countries.

For the automobile sector, the USMCA includes revised automotive rules of origin requiring higher levels of North American content to incentivize production and sourcing within the Americas. More robust rules of origin for the auto sector will help keep the benefits of the agreement in North America. Also, this new deal removed the threat of auto tariffs by the President of the United States, Donald Trump. Ottawa has negotiated an exemption under Section 232 tariffs that would allow tariff-free auto exports to the U.S. above the current levels.

Status - The ratification process has started in Canada with the introduction of the Ratification Bill in the House of Commons. However, the government did not complete the process before the federal election was called. It will be top of the agenda for the new government in Ottawa. The deal has broad support among all political parties in Canada.

In the United States, the path to ratification remains unclear. The Democrat-controlled U.S. House of Representatives has issues with the enforcement of the labor and environmental provisions in the deal. However, there have been developments on both sides of the border toward prompt ratification.

Chrystia Freeland, the Deputy Prime Minister was recently in Washington to meet with officials in Congress and the U.S. Senate to press the U.S. government for ratification and implementation.
Further, recent news reports indicate that a deal has potentially been reached between the Democrats and the Trump administration on changes to the labor enforcement rules in the deal, paving the way for ratification in Congress before the end of the year. It is also being reported that Canada and Mexico have both agreed to the proposed changes.


Recreational Cannabis

Background - On October 17, 2018, recreational cannabis became legal in Canada. Subject to provincial or territorial restrictions, adults who are 18 years of age or older are legally able to possess up to 30 grams of legal cannabis, buy cannabis products from a provincially-licensed retailer, and grow up to four cannabis plants per residence for personal use. The first few days of legalization were marked by long lines at stores, a high volume of online sales, and shortage signs. Experts in the cannabis industry are predicting continued shortages as the supply chain is not geared yet to support the huge hike in demand for legal marijuana.

Consistent across all provinces and territories, cannabis is available through private or government-run online stores. However, there are distinctions across the country concerning age limits and retail models. Quebec and Manitoba, for example, have prohibited cannabis cultivation in private residences contrary to federal law. Quebec government has raised the legal age of consumption from 18 to 21.

Status - In preparation for legalization, the federal government has approved a saliva road-side testing tool to be used by police forces to test for Tetrahydrocannabinol (THC), the principal psychoactive constituent of cannabis. It has also pledged $161 million over the next five years for law enforcement training and drug-testing equipment.

Many police departments have rejected the use of the device citing costs and issues around the accuracy and invasiveness of the tests. They will still use field sobriety tests and will train more drug-recognition experts. The federal government released a draft regulation for consultations detailing the new criminal driving offenses as it relates to cannabis. The regulations will provide guidance on how to prosecute drug-impaired drivers. There remains a debate on what levels of THC in the bloodstream should constitute an offense.

Canadian employers have reviewed and updated their corporate policies to comply with legalization. Some are stricter than the others. Employees in safety-sensitive and high-risk jobs have seen an outright ban on recreational cannabis use. Air Canada, for example, has banned consumption for pilots and aircraft maintenance on- and off-duty.

In June, the Government of Canada announced amendments to the Cannabis Regulations, setting rules governing the legal production and sale of edible cannabis, cannabis extracts, and cannabis topicals. The amended regulations seek to reduce the health risks of cannabis. As required by the Cannabis Act, the amended regulations came into force on October 17, 2019. However, it will take time, after that date, before these newly-regulated cannabis products become available for purchase.

It is expected that a limited selection of products will appear gradually in physical or online stores and no earlier than mid-December 2019. Federal license holders will need to provide 60-days’ notice to Health Canada of their intent to sell new products, as currently required. Additionally - as with any new regulatory framework - federally licensed processors will need time to become familiar with, and prepare to comply with, the new rules and to produce new products. Provincially or territorially authorized distributors and retailers will also need time to purchase and obtain the new products and make them available for sale.

The federal government will continue to set the general framework, but provinces are allowed to regulate further. The rules around legal cannabis edibles and topicals would be different in each province.

Public education and awareness efforts are critical to informing adult consumers about the unique health and safety risks posed by these cannabis products. Health Canada has made available new evidence-
based resources and updated content on its website to support consumers in making informed decisions about cannabis.

**For fleet managers, it is important to inform employees on the new cannabis regulations regarding edibles and come up with policies that ensure the health and safety of all employees at work.**

Although the criminal aspect of cannabis is federally mandated, the retail, administrative, and enforcement regulation aspects are maintained at provincial levels. Therefore, rules concerning legal cannabis may vary per province. Additionally, having fleet managers and their employees aware of the United States' contrasting regulations regarding cannabis is crucial.

https://www.justice.gc.ca/eng/cj-jp/cannabis/

https://www.canada.ca/en/services/health/campaigns/cannabis/canadians.html#a4

**Zero-Emission Vehicle (ZEV) Federal Rebate Program**

**Background** - In March, Canada's Finance Minister Bill Morneau tabled the 2019 federal budget in the House of Commons, highlighting developments in conjunction with its zero-emission vehicle (ZEV) plan. The budget included measures to increase demand and affordability for ZEVs. However, the budget was lacking the necessary details in terms of the overall design of the program. NAFA pressed the government to roll out its zero-emission vehicle rebate program as quickly as possible and to clearly outline its course of action.

The Government of Canada announced incentives would be nationwide in scope, be stackable with other provincial rebates, that there would be tax write-offs for business up to a limit of $55,000 in the first year of investment, and that the program would officially take effect on May 1, 2019. NAFA successfully advocated for extending eligibility to fleets across Canada (for either the retail rebate or the investment tax deduction).

**Status** - The Throne Speech* directly pledged to “make it easier for people to choose zero-emission vehicles,” signaling that the government will be bringing forward new measures to increase adoption of ZEVs and provide additional funding to the existing federal rebate program.

(*A throne speech is an event in which the reigning sovereign, or a representative thereof, reads a prepared speech to members of the nation's legislature when a session is opened, outlining the government's agenda and focus for the forthcoming session; or—in some cases—closed.)

Before the election, Natural Resources Canada (NRCan) began accepting Request for Proposals (RFP) for the Zero-Emission Vehicle Infrastructure Program (ZEVIP). The program targets multiple infrastructure streams including public places, on-street, workplaces, fleets, multi-unit residential buildings, and mass transit. The funding will be delivered through a cost-sharing agreement (50%) for eligible projects of total costs up to a maximum of $5,000,000 per project. The first phase of RFPs focus on public places and the on-street ZEV charging infrastructure.

The next phase will target workplaces and fleets. A subsequent call for proposals is scheduled for winter 2020.

For fleet managers, this pledge provides a degree of certainty as they plan investments to green and electrify their fleets. The industry should expect increased funding towards the ZEV rebate program in future federal budgets. Regardless, we will continue to hold the government to account for the efficient and seamless administration of the program.


**Carbon Tax**

**Background** - The Federal government carbon tax began April 1 in provinces including Alberta, Ontario, Saskatchewan, Manitoba, and New Brunswick. The federal government imposed a carbon tax in provinces
and territories that did not have its system in place. The new carbon pricing will increase the price of gasoline in these provinces by 4.4 cents a liter this year and reaching 11 cents a liter by 2022. Gas prices went up as the new federal levy kicked in.

The proceeds from the new tax will go directly to the residents of these provinces in the form of rebates. Funds will also go to the provinces’ cities, schools, hospitals, businesses, and Indigenous communities. For example, in Ontario, a family of four will get $307 exceeding the anticipated $240 increase in fuel cost after the carbon pricing is implemented. The rebate will grow to $718 when the carbon tax reaches its peak at 50$ per ton in 2022.

**Status** - The affected provinces strongly oppose the federal government's encroachment upon their jurisdiction. Saskatchewan has challenged the decision in court. However, the province's Court of Appeal ruled in favor of the federal government in September 2019.

The Premier of Saskatchewan Scott Moe vowed to continue the fight against the federal government over the carbon tax and indicated the province will be appealing this decision to the Supreme Court of Canada. Ontario is also challenging the federal government's decision in court and launched an anti-carbon tax campaign with television ads. Alberta's newly-elected conservative government repealed their provincial carbon tax, likewise challenging any decision by the federal government to impose a carbon tax in the region as a result.

Despite the increased gasoline prices, the federal government indicates it will keep the carbon tax. It has included the effort as one of its main priorities in the Speech from the Throne. This will certainly remain a sticking point between provinces and the federal government in the months to come.

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**Fuel Emission Standards**

**Background** - The U.S. administration rolled back emission standards set by former President Barack Obama which had been harmonized with Canadian regulations since 2011. The move sets up a legal battle between California and the U.S. federal government as it revoked a longstanding waiver that allows California to set higher fuel emission standards.

Previous American standards would have required vehicles to become more fuel-efficient every year between 2017 and 2025. After President Donald Trump’s election, the administration started a review of the emission standards and issued a proposal to freeze the standards at 2020 levels. When Trump said last year he intended to roll back the targets, the government of Canada launched its review of the emissions plan.

**Status** - Over the summer, Canada and California signed a Memorandum of Understanding (MOU) to reduce fuel emissions. The agreement is aimed at harmonizing efforts and carrying out cooperative activities to reduce greenhouse gas emissions from light vehicles. The MOU also includes emissions standards and cooperation to accelerate the adoption of ZEVs.

The Canadian Minister of Environment, Catherine McKenna, indicated that Canada will not move forward with its own vehicle emissions standards until after the U.S makes the final decision on the current standards.

The ideal result would be to continue one national standard. Two different standards in Canada and the United States will distort the automobile market in North America, limit availability, and increase vehicle prices in Canada.

A single national emission standard aligned with the U.S. would offer the most economic and environmental benefits for Canada.

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Legislative Counsels in Washington, D.C., and Ottawa, Ontario, give voice to issues concerning the entire fleet management community. Counsels coordinate messaging and keep members informed of critical updates so they may respond quickly and take a proactive role.

NAFA’s legislative representatives coordinate vital information on laws, regulations, and other government activity relating to fleets. Fleet managers and industry leaders rate this service one of the Association’s most valuable benefits of membership. In emergent situations, NAFA distributes critical news to membership via email.

NAFA encourages fleet managers to communicate regularly with lawmakers and regulators to assure that fleet concerns are known when laws and regulations are developed.

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As a NAFA Member, you can call NAFA’s U.S. Legislative Counsel Pat O’Connor at (703) 351-6222.

Contact him with any questions or concerns on the status of the latest legislation or regulations and receive a guaranteed 24-hour response (excluding weekends and public holidays).

Huw Williams,
NAFA’s Canadian Legislative Counsel
President, Impact Public Affairs Corp. (Canada)

As a NAFA Member, you can call NAFA’s Canadian Legislative Counsel on the dedicated phone number (866) 935-9969.

Call with any questions or concerns on the status of the latest legislation and receive a guaranteed 24-hour response (excluding weekends and public holidays).