

January 29, 2010

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2010 WESTERN PETROLEUM MARKETERS CONVENTION & CONVENIENCE STORE EXPO

The 2010 WPMA Convention and Convenience Store Expo is only a month away! We are excited to have as our Keynote Speaker, **Condoleezza Rice**, U.S. Secretary of State (2005-2009). We are also pleased to announce our other speakers, including Michael Davis from NACS, who will be presenting the C-Store Workshop on Tuesday. On Wednesday Jean Jones Wilkinson will present the PEI Workshop, "Dealing with Difficult People", and the ladies attending the convention are invited to attend the Ladies' Luncheon, featuring Alicia Richmond, owner of Chic on a Shoestring, who will host a fashion show and discuss wardrobe essentials. Our Thursday morning workshops include presentations by Dan Gilligan, PMAA President, Pat Cooper from Federated Insurance and Rob Gardner from ExxonMobil.

Register now to attend the 2010 WPMA Convention and Convenience Store Expo. It will be held at the Mirage in Las Vegas, Nevada. Mark your calendars for February 16-18, 2010. You can register online at <http://www.wpma.com>.

ATV TO BE RAFFLED AT WPMA 2010 CONVENTION

The WPMA Scholarship Foundation is sponsoring a raffle of a Polaris Sportsman 550 Touring EPS ATV. Only 250 tickets will be sold, so the odds of winning are very good. Tickets are being sold through the WPMA office, for a donation of \$100 per ticket. The drawing will be held Thursday, February 18th at the WPMA Convention Buffet Brunch in the trade show area in Las Vegas, Nevada. The winner does not need to be present to win.

All proceeds from the raffle will help fund eight \$4,000 scholarships awarded by the Foundation each year. For more information or to purchase tickets, contact the WPMA office at 801-263-9762.

RETAIL ATC REJECTED BY THE NATIONAL WEIGHTS AND MEASURES ASSOCIATION AT THE 2010 INTERIM MEETINGS

THURSDAY, January 28, 2010 – Gene Inglesby, WPMA Executive Director, attended the 2010 National Weights and Measures Interim Meeting in Nashville, Tennessee this week, and testified on behalf of the Western Petroleum Marketers Association membership to urge Weights and Measures officials to withdraw their automatic temperature compensation proposal. The National Conference on Weights and Measures (NCWM) Specifications and Tolerances (S&T) Committee voted to withdraw the final proposal on automatic temperature compensation (ATC). The S&T Committee proposal would have established requirements that would have been uniformly applied to the method of sale of motor fuels equipped with ATC at retail. Furthermore, the Board of Directors also voted to disband a special task force that was formed to evaluate ATC issues and develop recommendations for regulatory changes.

As WPMA reported last summer, the NCWM Laws and Regulations (L&R) Committee was considering two proposals, which would have required the mandatory or permissive use of automatic temperature compensation (ATC) devices for retail fuel dispensers. After several hours of testimony regarding the two proposals, the L&R Committee decided to withdraw both voting items due to the overwhelming opposition from Weights and Measures officials and industry.

The L&R Committee report cited several reasons for withdrawing both ATC proposals including: "conference consensus against ATC, economic cost factors, lack of benefit to consumers, absence of uniformity in the marketplace and the additional cost to Weights and Measures officials and service companies." Given the conference's overwhelming opposition to ATC, WPMA along with the PUMP coalition urged the S&T Committee to withdraw its ATC proposal, which would finally put the issue to rest.

WPMA would like to thank all of the state executives and members of the PUMP coalition who attended the annual meeting, as well as PMAA Executive Committee member and marketer, Sam Bell and South Carolina Petroleum Marketers Association President, Frank Shumpert, who both spoke during the open hearings on Monday to oppose ATC at retail.

STATE OF THE UNION FOCUSES ON JOBS, FINANCIAL REFORM AND CLEAN ENERGY RETROFITS

On Wednesday, President Obama gave his first State of the Union address which highlighted his administration's priorities for the year. At the top of his agenda was reviving the sluggish economy through a multi-billion dollar jobs bill and tackling a Wall Street reform bill which Congressional leadership intends to pass this year. Obama intends to take the \$30 billion that financial institutions have repaid to the Troubled Asset Relief Program (TARP) and use it to extend credit to small businesses. Additionally, Obama proposed a new \$5,000 small business tax credit for small businesses that hire new workers or raise wages and would eliminate all capital gains taxes on small business investments.

On financial reform legislation, the President vowed to sign a tough reform bill that would hold Wall Street accountable for its

risky trading behavior. The House has already passed its financial reform bill which is a strong step forward and that PMAA is working to further strengthen in the Senate to bring greater oversight to the over-the-counter (OTC) derivatives markets. Additionally, the President expressed his concerns regarding the recent Supreme Court decision that reversed a century-old law that banned corporations from spending unlimited amounts on Congressional and Presidential campaigns. The controversial decision has major implications on national elections and the President urged both Democrats and Republicans to pass a bill that would further limit corporate money in elections.

Finally, the President touted his clean energy initiatives as the first step for the U.S. to become energy independent. While he avoided reference to the controversial "cap-and-trade" bill, Obama urged Congress to pass a "comprehensive energy and climate bill" that would include new nuclear power plants, coal technology and off-shore drilling. PMAA is very opposed to the cap and trade legislation and we believe the bill is unlikely to gain the necessary 60 votes to clear a Senate filibuster. The jobs bill that is expected to be introduced in the coming weeks will include \$10 to \$12 billion dedicated to clean energy, specifically for home energy efficiency retrofits. PMAA has contacted Congressional staff to begin work on provisions relating to oilheat household efficiency.

PMAA MEETS WITH EPA ABOUT CORROSION IN UNDERGROUND STORAGE TANKS

PMAA and other industry stakeholders met with the EPA's Office of Underground Storage Tanks (OUST) this week to discuss reports of unusual corrosion in underground storage and dispensing systems containing ultra low sulfur diesel fuel. The problem was first identified in a December 2009 presentation to the American Society for Testing Materials (ASTM) D-02 Committee on Fuel Stability and Cleanliness, and described in detail in a follow-up article to be published today by the Petroleum Equipment Institute.

The EPA meeting brought together refiners, chemical engineers, regulators, petroleum marketers, equipment manufacturers and end users who are exploring the scope and causes of the unusual, but still relatively rare corrosion events occurring in the metal components of flow meters, riser tubes, sump pumps, ATG probes and vapor recovery equipment. Tank owners reporting these corrosion events were first alerted to the problem with seized flow meters or by filter screens clogged with particles resembling coffee grounds but which are actually a combination of rust, tank bottom sediments and aerobic bacteria. Theories of what is causing the accelerated corrosion in vapor spaces and below product lines vary. One major causal factor seems to be water intrusion in the tank system through spill containment buckets and dispenser housings. The presence of water promotes microbial activity, especially with ULSD, which is capable of holding less water than higher sulfur blends.

The microbes interact with corrosion inhibitor additives in ULSD creating a diesel soap which eventually consumes the inhibitors leading to accelerated corrosion in metal surfaces. Accelerated corrosion events seem to occur more often in low throughput systems as terminal/pipeline operators and high volume retail sites are not reporting problems. The marketer groups at the meeting all agreed that very few incidents of accelerated corrosion in ULSD systems have been reported and that only anecdotal evidence is currently available. Only one such event has been reported to PMAA though interest in the issue is generating more calls.

The group agreed to take a two step approach to investigating whether this is a more pervasive problem in ULSD systems or a few isolated events. First, a task group was formed to develop survey questions for tank owners to determine the scope of the problem. If the problem is more widespread than currently indicated, the second step will be to launch a systematic integrated study by chemical engineers to determine what factors are causing the problem and determining a solution.

PMAA will participate in the survey which should commence in mid February and continue to monitor this issue closely as developments occur.

PMAA EXPRESSES MARKETER CONCERNS TO E15 EQUIPMENT GROUP

PMAA attended the second E10-plus Equipment Research and Planning Meeting at the American Petroleum Institute (API) this week. The meeting is a gathering of stakeholders concerned about the effects E-10 plus blends (E-12, E-15, and E-20) may have on legacy storage and dispensing equipment. The stakeholders included EPA regulators, petroleum marketing groups, refiners, petroleum equipment groups, research laboratories, insurance companies, UL, NFPA, and others who are concerned about the effects of a possible waiver by the EPA that would permit the use of ethanol blends above the current maximum of E-10.

This issue is important to petroleum marketers because current storage and dispensing equipment ("legacy" equipment) is only certified for use with a maximum E-10 blend. Permitting blends above E-10 may cause storage and dispensing equipment failure, void equipment warranties, void UST insurance and increase retailers risk of liability from consumer lawsuits. The purpose of the meeting was to review ongoing testing of the effects of E-10 plus blends on equipment components including tanks, piping, and dispenser systems.

Test results so far are promising with respect to existing equipment compatibility and functionality with blends as high as E-25 though significantly more study is needed. The EPA reported that it is now testing for the effects of E-10 plus blends on leak detection equipment. The EPA is starting with ATG testing and will cover other methods of leak detection as the study progresses. However, the agency reports that their study, currently in the preliminary stages will not be completed before a

decision is made on whether or not to allow the use of E-10 plus blends.

Representatives from the Department of Energy (DOE) reported that it has found no significant increase in the rate of corrosion in metal components with blends as high as E-25. However, testing on Stage I and Stage II vapor recovery equipment shows some weakness in rubber seals and certain pipe thread sealants. In addition to corrosion of metal, the DOE study includes swell tests and loss of hardness testing on elastomer and rubber components. These studies are all in the preliminary stages and general conclusions cannot be made as yet. API said it will complete its own study on vapor recovery equipment by July.

PMAA noted to the group that even if legacy equipment is ultimately found to be compatible with E-10 plus blends, significant hurdles must be overcome with respect to legal liability, equipment warranty and insurance coverage for petroleum marketers before mid level ethanol blends will be viable.

EIA TO SEEK COMMENTS ON FINANCIAL ENERGY MARKETS

As first reported by PMAA in September 2009, the Energy Information Administration's (EIA) new director, Richard Newell, announced that the agency would start collecting energy financial markets data. EIA announced on Wednesday that it would seek public comments on energy financial markets through a 60 day comment period. EIA's traditional information included energy production, consumption, inventories, spare production capacity and geopolitical risks. Beginning this week, the EIA will start collecting additional data for commercial oil and products and analyze energy investment data from the Commodity Futures Trading Commission (CFTC) to better understand the relationship between physical inventories and futures markets fluctuations.

PMAA plans to submit comments to EIA on the behavior in over-the-counter (OTC) markets for financially-settled energy swaps and options.

TRIBES OPPOSE PACT ACT, URGE SENATORS TO SUPPORT PASSAGE

Senator Herb Kohl (D-WI), a cosponsor of S. 1147, the Prevent All Cigarette Trafficking Act of 2009 (the "PACT Act"), is working hard to schedule a vote on the bill. As you know, the legislation would significantly strengthen existing federal and impose new restrictions on Internet cigarette and smokeless tobacco sales. Right now Indian tribes in New York are aggressively pursuing media and lobbying initiatives to pressure Senators to oppose the PACT Act.

The House of Representatives overwhelmingly approved H.R. 1676, companion legislation to the Senate bill, last year. Please urge your Senators to promptly pass the PACT Act. You can contact them at 202-224-3121 or go to www.pactactnow.com.

MARK YOUR CALENDARS FOR UPCOMING EVENTS IN 2010

June 8-10, 2010 – MPMCSA Convention – Billings Hotel and Convention Center – Billings, Montana

June 22-24, 2010 – WOMA Convention – Suncadia Lodge – Cle Elum, Washington

August 4-6, 2010 – IPM&CSA Convention – Schweitzer Mountain Resort – Sandpoint, Idaho

August 31-September 1, 2010 – NMPMA Convention – Embassy Suites, Albuquerque, New Mexico

September 8-10, 2010 – UPMRA Convention – Park City Marriott – Park City, Utah

Petro Pete: "Generally speaking, you aren't learning much when your mouth is moving."

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If you do not wish to receive information via fax or e-mail, please contact WPMA at: (801) 263-9762, Fax: (801) 262-9413, or e-mail: janr@wpma.com. Thanks.

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For Sale: Tank Equipment

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- \$8500 – Nice Shape

Contact Marty – 360-520-3275 360-736-2821

PMAA REGULATORY REPORT - DOT - JANUARY 26, 2010

Subject: U.S DOT – Distracted Driving
Issue: U.S. DOT Bans CMV Drivers from Texting While Driving
Date: January 26, 2010
PMAA Contact: Mark S. Morgan, Regulatory Counsel - mmorgan@pmaa.org

EXECUTIVE SUMMARY – The U.S. Department of Transportation announced today that it is prohibiting CDL drivers from texting messages on hand-held devices while operating commercial vehicles (CMV). The ban, which is effective immediately, is not the result of a rulemaking but an interpretation of existing Federal Motor Carrier Safety Regulations that prohibits unsafe activity while driving a CMV. The ban applies to drivers of interstate CMVs over 10,000 pounds, including petroleum cargo tank vehicles and transports. Drivers violating the new texting ban are subject to a maximum civil penalty of \$2,750 and additional criminal penalties.

U.S. BANS TEXT MESSAGING BY INTERSTATE CDL DRIVERS EFFECTIVE IMMEDIATELY

The U.S. DOT announced today a ban on texting while driving a commercial motor vehicle (CMV). The ban is important to petroleum marketers because it affects drivers of cargo tank vehicles and transports that operate in interstate commerce. The ban, effective immediately, was not subject to the federal rulemaking process which requires notice and a public comment period. Instead, the ban is the result of a regulatory interpretation made by the Federal Motor Carrier Safety Administration (FMCSA) of existing federal rules prohibiting unsafe conduct while driving a CMV. The civil penalty fine for violating the texting ban is \$2,750. Drivers who violate the texting ban may also be subject to criminal penalties under certain circumstances.

The DOT announcement did not specify whether texting on handheld phones and other devices would be the only activity subject to the new ban. The DOT previously indicated that other types of driving distractions such as the use of global positioning systems or other electronic devices may be subject to such bans. However, the ban does not apply to onboard devices that allow dispatchers to send text messages to truck drivers. These devices generally have mechanisms that prevent their use while a truck is in motion. Research by the Federal Motor Carrier Safety Administration shows those drivers who send and receive text messages take their eyes off the road for an average of 4.6 seconds out of every six seconds while texting, the department said. At 55 miles per hour, this means that the driver is traveling the length of a football field, including the end zones, without looking at the road, the department said.

The full regulatory guidance on the ban will not be available for several days. PMAA will report further on this issue once more information is available.

Although the federal texting ban does not apply to intrastate CMV drivers, texting while driving is currently banned in 21 states while eight states ban the use of hand held devices while driving.

States that Currently Ban the Use of Handheld Devices While Driving:

- California, Connecticut, District of Columbia, New Jersey, New York, Oregon, Washington, Virgin Islands.

States that Currently Ban Texting While Driving:

- Alaska, Arkansas, California, Colorado, Connecticut, District of Columbia, Illinois, Louisiana Maryland, Minnesota, New Hampshire, New Jersey, New York, North Carolina, Oregon Rhode Island, Tennessee, Utah, Virginia, Washington, Guam.