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SENATORS REACH DEAL ON ETHANOL TAX CREDIT

On Thursday, Senators John Thune (R-SD), Amy Klobuchar (D-MN) and Diane Feinstein (D-CA) struck a deal on reforming the 45 cents-per-gallon ethanol blender's tax credit as well as the 54 cents-per-gallon ethanol tariff. The deal would eliminate the ethanol blender's credit on July 31, 2011 which would produce two billion dollars in savings. Additionally, the tariff on foreign imported ethanol would be repealed on July 31 as well. Of the savings, 1.3 billion would be dedicated to deficit reduction and \$668 million would be used for incentives extended under the package including an extension of the Alternative Fuel Vehicle Refueling Property credit (AFVRPC). The AFVRPC, which is scheduled to expire on December 31, 2011, would be extended to December 31, 2014 and it allows retailers to take a 30 percent credit for the installation of alternative fuel infrastructure, up to \$30,000, including E85 infrastructure. The AFVRPC is modified and actually improved under the deal which would allow the entire cost of dual-use blender pump to qualify for the credit rather than the incremental cost, and allowing a broader range of ethanol blends between E15 and 85, to qualify.

PMAA has been urging Senators to allow the credit for blender pumps, and we are reviewing this deal to see if retailers could apply the credit to upgrade existing USTs systems if they wish to market E15 - E85 blends. Currently, retailers are allowed to apply the credit to upgrade existing underground storage tank systems (USTs) if they intend to market E85. The bill, however, reduces the credit to 20 percent of the cost of equipment and installation, up to \$30,000. The small ethanol producer credit which is scheduled to expire December 31, 2011 is modified by reducing the credit to seven cents-per-gallon instead of the current ten cents-per-gallon. The small producer credit is extended to December 31, 2012. Finally, the \$1.01 per-gallon credit for production of cellulosic biofuel is extended through 2015.

RETROACTIVE BIODIESEL TAX CREDIT CLAIM PERIOD FOR 2010 BLENDS ENDS AUGUST 1, 2011

August 1, 2011 is the final deadline for filing retroactive federal biodiesel tax credits. Any marketer who blended biodiesel into heating oil or diesel fuel during calendar year 2010 - the period when the federal biodiesel blending tax credit was expired - may file retroactive claims for 2010 blends and receive the one dollar per gallon credit. The IRS will not accept 2010 retroactive biodiesel claims after August 1, 2011.

Congress allowed the biodiesel tax credit to expire on December 31, 2009. In December, Congress reinstated the biodiesel blender's credit as part of the Jobs Creation Act of 2010 (Pub. L. 111-312). The legislation reinstated the one dollar per gallon blender's credit through December 31, 2011 and made it retroactive from January 1, 2010. As a result, blenders may now file refund claims for the one dollar per gallon credit on any qualifying biodiesel blends - including heating oil - created during calendar year 2010, the period for which the credit was expired. The legislation does not require blenders to rebate the credit to downstream parties who purchased biodiesel blends in 2010. Last January, the IRS issued special refund claim procedures for biodiesel blends created during the 2010 calendar year. The special procedures require blenders to file a single, onetime refund claim for all blends created during 2010.

The special procedures allow blenders to file refund claims only for biodiesel blends created in 2010. Therefore, blenders may not use 2010 biodiesel credits to reduce existing 4081 excise tax liability as is normally required for biodiesel claims. In other words, do not use IRS Form 720 for 2010 biodiesel claims.

The special procedures do not apply to claims for biodiesel blends created during calendar year 2011. Instead, blenders must follow IRS claim procedures in place before the biodiesel blender credit expired on January 1, 2010. These claim procedures require that the amount of biodiesel blender's credit be taken as a credit against existing federal excise tax liability on IRS Form 720. A refund is then allowed for any excess amount that may remain on IRS Forms 8849 and 8849 Schedule 3.

LUST FY 2012 FUNDING

The House Appropriations Subcommittee has approved \$105.6 million for the Leaking Underground Storage Tank (LUST) program for FY 2012. This is \$6.9 million less than the President's request of \$112.5 million. Petroleum marketers have paid \$3.6 billion into the LUST fund and continue to pay \$190 million for clean-ups per year. The fund also earns \$127 million in interest each year.

To a great extent, the LUST tax has just become another federal tax used to support the overall EPA budget. It is essential that these funds be used for the purposes for which they were collected. EPCRA of 2005 authorized \$200 million a year through 2009, yet the LUST Trust Fund has consistently been underfunded since Congress imposed new mandates on state UST inspection agencies in 2005. Even though marketers pay \$190 million into the fund annually and there is \$3.6 billion held in the fund, petroleum marketers are being forced to pay higher state UST fees to cover the federal appropriations shortfall.

Because the federal 1/10 cents per gallon LUST tax on motor fuels expires on September 30, 2011, PMAA is urging Congress to reauthorize the tax to ensure the program's future. PMAA also continues to urge Congress to appropriate all funds authorized by EPA for the Leaking Underground Storage Tank Program.

HOUSE COMMITTEE EXAMINES E15

On Thursday, the House Science, Space and Technology - Subcommittee on Energy and Environment held a hearing on E15 and its effect on retail infrastructure, vehicle emissions systems, and its impact on the environment. PMAA met with staff before the hearing to brief them on our concerns with E15 affecting underground storage tank systems and motorist' misfueling. Testifying before the Subcommittee were: Margo Oge, Director, Office of Transportation and Air Quality, EPA, Bob Greco, Group Director, Downstream and Industry Operations, American Petroleum Institute; Heather White, Chief of Staff and General Counsel, Environmental Working Group (EWG); Jeff Wasil, Emissions Certification Engineer, Evinrude Outboard Motors; Mike Brown, President, National Chicken Council; Steven Burke, President and CEO, Biofuels Center of North Carolina and Dr. Ron Sahu, Technical Consultant, Outdoor Power Equipment Institute.

The witnesses were highly critical of E15 and highlighted many hurdles that must be overcome before E15 can make it into the fuels marketplace. Bob Greco highlighted retailer concerns with E15 and said that EPA's decision to allow E15 for 2001 and newer vehicles was premature and that more studies are needed to ensure the safety and soundness of the new fuel. Specifically, Greco highlighted DOE's National Renewable Energy Laboratory (NREL) and Oak Ridge National Laboratory (ORNL) studies on legacy and new dispensers, pumps submerged to underground storage tanks (USTs), elastomers, metals and sealant materials. The results of NREL's research indicated that 70 percent of the used equipment tested and 40 percent of the new equipment tested yielded non-compliant or inconclusive test results.

Other witnesses highlighted the shortcomings of EPA's E15 waiver decision in which EPA did not do a thorough analysis of engine durability, vehicle fuel system's compatibility and durability and on-board diagnostics. Margo Oge explained that under the Clean Air Act, EPA is authorized to grant a waiver of the prohibition against introduction into commerce if a demonstration is made that the fuel will not cause or contribute to vehicles or engines failing to meet applicable standards over their full useful life. Witnesses argued that EPA didn't take all of the facts into account specifically highlighting the Coordinated Research Council's (CRC) ongoing analysis of E15's effect on engine durability, evaporative emissions and durability on fuel handling and storage is to be completed by the end of the year or early into 2012. Heather White mentioned that EWG normally supports EPA's decisions, but on the E15 waiver decision, EWG found many flaws with respect to its effect on NOx emissions. While E15 may emit lower CO2 emissions compared to traditional gasoline, higher levels of ethanol actually increase NOx emissions. Several witnesses called for a National Academy of Science study on E15 given that so many groups have concerns. EWG, as well as Steven Burke with the Biofuels Center of North Carolina, urged EPA and DOE to put more emphasis on drop-in fuels made from switch grass, wood and crop residues and algae -- that can be used safely by existing vehicles and retail infrastructure.

It is important to remember that before E15 can be sold in the marketplace, it still needs to be registered as a fuel under the Clean Air Act and certified as a fuel under ASTM standards. Margo Oge indicated that EPA has yet to receive a full application from ethanol trade groups to register E15.

APPROPRIATORS TAKE KNIFE TO EPA BUDGET AND PLANS TO CURB CARBON EMISSIONS

Republicans in Congress remain committed to reining in the Environmental Protection Agency's (EPA) rules regulating greenhouse emissions. This week, House appropriators cut nearly 20 percent from the budget for the EPA and approved a one-year ban on the agency's plan to curb carbon emissions from large stationary sources. The appropriations bill would fund the EPA at \$7.15 billion for FY2012, about \$1.53 billion or 18 percent less than last year.

Earlier this year, the House passed H.R. 910, legislation that would permanently strip EPA of its authority to regulate carbon emissions. H.R. 910 has stalled in the Senate and it is expected the Senate will not approve the cuts to the EPA budget.

HOUSE TRANSPORTATION CHAIR RELEASES SIX YEAR HIGHWAY BILL

Yesterday, House Transportation and Infrastructure Chairman John Mica (R-FL) released his highway bill that would spend approximately \$230 billion over six years. Chairman Mica said a long-term bill is necessary to improving the country's roads and bridges. Senate Environment and Public Works Chairwoman Barbara Boxer proposed a \$109 billion, two-year reauthorization of the highway bill. She believes her bill is more budget-friendly and easier to pass, though the House and the Senate have expressed interest in approving a long-term deal rather than another short-term extension. Congress has until the end of September to approve a new highway bill. The debate over the debt ceiling and crowded floor schedule could delay adoption of a long-term bill. PMAA is working closely with the Partnership to Save Highway Communities to communicate to Congress the importance of maintaining the current prohibition of rest area commercialization, and rejecting any attempt to weaken existing law should the issue come under discussion in the highway bill reauthorization or any other legislation.

Congress has already passed eight short-term reauthorizations and could be forced to adopt another if it cannot approve a long-term plan before September 30.

2012 WESTERN PETROLEUM MARKETERS CONVENTION & CONVENIENCE STORE EXPO LAS VEGAS, NEVADA

Start planning now to attend the 2012 WPMA Convention and Convenience Store Expo. It will be held at the Mirage in Las Vegas, Nevada. Mark your calendars for February 21-23, 2012.

MARK YOUR CALENDARS FOR UPCOMING EVENTS IN 2011

August 3-5, 2011 – IPM&CSA Convention – Sun Valley Resort – Sun Valley, Idaho

August 30-31, 2011 – NMPMA Convention – Embassy Suites, Albuquerque, New Mexico

September 12, 2011 – IPM&CSA Golf Tournament – Teton Springs-Headwater Golf Course – Victor, Idaho

September 14-16, 2011 – UPMRA Convention – Rainbow Hotel and Casino – Wendover, NV

September 21, 2011 – NPM&CSA – Tanker Yanker – Reno, NV

Petro Pete: *“The last thing I want to do is hurt you. But it's still on the list.”*

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