WPMA
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weekly update

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HOUSE COMMITTEE CALLS FOR INTERAGENCY REVIEW OF EPA RULES

This week the House Energy and Commerce Committee approved H.R. 2401, the “Transparency in Regulatory Analysis of Impacts on the Nation Act,” or TRAIN Act, with bipartisan support by a vote of 33 to 13. The TRAIN Act would require an interagency committee to analyze the cumulative impacts of major new EPA rules on our economy, jobs, and energy prices.

The legislation was approved after the committee adopted an amendment to delay implementation of EPA's controversial Utility MACT (maximum achievable control technology) rule and new transport rule to ensure that the economic impacts of these two major rules in conjunction with other EPA rules are well understood. A number of analyses have projected that the costs of EPA’s rules to curb carbon emissions will be substantially higher than EPA’s estimates and that the rules will result in increased energy prices and job losses.

DOMESTIC ENERGY PRODUCTION BILL PASSES COMMITTEE

A bill supported by PMAA was passed by the House Natural Resources Committee on Wednesday. “The National Petroleum Reserve Alaska Access Act,” which would expedite the production and transport of oil and gas from the National Petroleum Reserve in Alaska, passed 28-14. H.R. 2150 would also direct the Interior Department to conduct at least one lease sale a year (from 2011 through 2021) in areas of the reserve most likely to produce commercial quantities of oil. This follows President Obama’s announcement in May that he would open the area to new drilling and take steps to streamline the permitting process. The administration has since announced the establishment of an interagency working group to coordinate energy production in Alaska.

PMAA AND NEFI COMMENT ON COMMODITY FUTURES TRADING RULES

This week, PMAA and the New England Fuel Institute (NEFI) commented on two important CFTC proposed rules concerning the imposition of new margin and capital requirements for the over-the-counter (OTC) swaps markets. Both of these new rules were required under the new Wall Street Reform law.

PMAA and NEFI expressed complete support for the margin rule, citing its exemption of swaps involving "bona-fide hedgers," such as petroleum marketers. They also said that the CFTC "should require the imposition of adequate margin requirements on financial entities (in addition to other means such as the imposition of meaningful speculative position limits) for the purposes of limiting extreme volatility and excessive speculation in commodity futures markets."

For the capital requirements rule, the letter expresses concern that unlike the margin rule, it does not exempt swaps dealers and other covered entities doing business with bona-fide hedgers. PMAA and NEFI expressed that without changes, the rule could result in new costs as a result of increased cash flow requirements if the covered entities pass it on to hedgers. PMAA and NEFI urged "modifications as necessary to prevent or prohibit covered entities from passing on to bona fide hedgers the burdens of capital requirements while also preventing systemically significant or purely financial entities from evading this important rule."

While PMAA and NEFI have concerns that costs could get passed onto end-users who use swaps for risk management needs, greater transparency will allow open competition to prevail in the OTC swaps market which will help keep costs down. Transparency will allow end-users to see the price that they are being charged to hedge and compare to other swaps dealers (aka -- investment banks) to see if they are getting a good deal. A swaps dealer who passes on those collateral costs to their clients only creates an opening for a lower cost swaps dealer to compete for that business. Currently, there is no transparency in the over-the-counter (OTC) swaps markets.

LIFO ACCOUNTING CONTINUED SCRUTINY BY THE PRESIDENT, CONGRESS AND THE SEC

PMAA continues to encourage the Congressional tax committees not to abolish use of the Last In-First Out (LIFO) inventory accounting method. Proposals in Congress and in the Administration have circulated for years that would require use of First In-First Out (FIFO) accounting instead. Although LIFO is prohibited in most countries, in the U.S., about one-third of all businesses use the LIFO method, and energy companies make up eight of the top 10 companies with the largest LIFO reserve.

Typically, a business carries a LIFO reserve on its books that reflects the amount of taxable income that has been "deferred.” This amount reflects the difference between what the dollar value of the inventory would have been under FIFO inventory value and the LIFO value. If use of the LIFO method is repealed, the LIFO reserve is eliminated and the taxable income is increased immediately, but the taxes due usually can be paid over a four- year period under change of accounting rules. As previously reported, in Obama’s budget request for FY 2012, he again called for the repeal of LIFO inventories, and now the Securities and Exchange Commission is considering forbidding the use of LIFO accounting.

EPA DEEMS JUNE 30, 2013 AS D-DAY FOR STAGE II

On Monday, the Environmental Protection Agency (EPA) released its long awaited proposed rule governing Stage ll vapor controls at gas stations and other gasoline refueling sites. EPA is proposing to designate June 30, 2013, as the official date when ORVR achieves "widespread use" nationally. PMAA and other industry associations have been urging EPA to define widespread use for over ten years. "Gasoline retailers have endured significant costs installing and maintaining Stage ll systems," said Dan Gilligan, PMAA President. "Establishing a date certain gives PMAA's state associations the opportunity to begin concrete discussions with state government agencies about dismantling Stage ll" he said.

Here are some highlights:

- Widespread use will be achieved nationwide including in those areas of serious, severe and extreme non-attainment by June 30, 2013
- The EPA will waive CAA Stage II requirements for all areas nationwide on this date and preclude any Stage II requirements for new nonattainment areas designated after January 1, 2011.
- EPA will allow removal of Stage II requirements before June 30, 2013 if states demonstrate that widespread use has occurred within the state.
- EPA sets out analytical approaches states must meet to demonstrate widespread use for early removal requests.
- EPA won't allow States to drop Stage II before June 30, 2013 if it would affect attainment status or increase in VOC emissions that violate existing ozone limits.
- States have the option to continue with Stage II requirements after the June 30, 2013 waiver date.
- States must file a revised SIP plan in order to remove Stage II requirements.
- EPA estimates the amount of control that ORVR would need to achieve to be equivalent to Stage II alone is 74.4%. EPA believes that the 74.4% ORVR control meets the definition of "widespread use"
- EPA estimates that by the end of 2012, 75% of all gasoline will be dispensed into vehicles with ORVR.
- The EPA is not proposing to eliminate Stage II in the Northeast Ozone Transport Region (OTR). Stage II was imposed in the OTR under a different section of the Clean Air Act than the rest of the country. Stage II cannot be removed by States in the OTR even where widespread use has been achieved, until the states adopt measures to reduce emissions that are at least equivalent to Stage II controls.

Since 1994, gas stations in certain areas have been required to use gasoline vapor recovery systems. The systems capture fumes that escape from gasoline tanks during refueling. However, as required by the Clean Air Act, automobile manufacturers began installing onboard refueling vapor recovery (ORVR) technologies in 1998, making gas stations' systems redundant. Since 2006, all new automobiles and light trucks (pickups, vans, and SUVs) are equipped with ORVR.

PMAA will be commenting on the rule and EPA will accept comments for 60 days after publication in the Federal Register.

GAO ISSUES REPORT ON MID-LEVEL ETHANOL BLEND CHALLENGES

Last Friday, the Government Accountability Office (GAO) issued a report entitled, Challenges to the Transportation, Sale, and Use of Intermediate Ethanol Blends, which highlighted three key hurdles in the retail sale of mid-level ethanol blends including: 1. Compatibility issues with underground storage tank (UST) systems, 2. costs to upgrade existing retail sites to market E10+ blends and 3. retail misfueling liability. The GAO report reiterated what PMAA and other groups continue to emphasize to lawmakers and federal regulators that existing retail infrastructure may not be able to safely and legally market mid-level ethanol blends. Specifically, the report said that ethanol can degrade critical components of existing UST systems including gaskets, seals, and piping which can cause costly underground leaks. Also, the report confirmed that the regulatory process to allow greater ethanol blends into commerce could take 1 year or more given that the fuel would still need to be registered and certified under the Clean Air Act and ASTM standards.

Many unknowns remain with mid-level ethanol blend and its effect on existing retail infrastructure. EPA is sponsoring research along with several industry stakeholders that is expected to be available by year's end to determine whether existing retail infrastructure can properly market mid-level ethanol blends.

TPCA AND TGCA MERGE TO BECOME TFFA

Earlier this week, the Texas Petroleum Marketers and Convenience Store Association (TPCA) announced its merger with the Texas Grocery and Convenience Store Association (TGCA). Beginning January 1, 2012, the combined organizations will be renamed the Texas Food and Fuel Association (TFFA). The new association will be led by Chris Newton, current TPCA president. TGCA president Rick Johnson will join the staff to help with the transition

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. Our keynote speaker will be Ben Stein. 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: ***"You do not need a parachute to skydive. You only need a parachute to skydive twice."***

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