

September 16, 2011

Visit us online at [www.wpma.com](http://www.wpma.com)

WP-09-16-11

### **PEI AND STEEL TANK INSTITUTE WEBSITES TO ASSIST RETAILERS WITH UST COMPATIBILITY**

The Petroleum Equipment Institute (PEI) has created a [website](#) to assist UST tank owners, equipment distributors, fire marshals, and UST system installers in ensuring that UST equipment is compatible with mid-level ethanol and biodiesel blends. PEI is asking manufacturers of UST equipment to provide PEI with information so retailers and other stakeholders will have the much needed information if they intend to market higher level ethanol blends.

In July, EPA's Office of Underground Storage Tanks (OUST) issued guidance on how owners and operators of UST systems can demonstrate UST equipment compatibility with ethanol blends over E-10 and biodiesel blends over B-20. Under 40 CFR 280.32 of the federal UST regulations, all equipment in the UST system must be compatible with the liquid product stored. According to OUST, the guidance is necessary because national standard setting organizations, such as Underwriters Laboratories (UL), will not recertify existing E-10 compatible UST equipment for E-15 use. The guidance provides a list of UST system components that must meet federal compatibility requirements for blends over E-10 along with acceptable methods to demonstrate compatibility. While the guidance is not legally binding, it is the only current guidance accepted by the EPA to demonstrate equipment compatibility – a mandatory requirement under federal law. Moreover, the EPA guidance will likely be adopted in whole or in part by state UST program authorities and used as an industry standard by insurance carriers.

PEI's website will be helpful for retailers to make certain that they are marketing E-15+ blends in compatible UST equipment. PEI indicated that it will post the following types of letters from manufacturers on the PEI website:

*Letters indicating a component is compatible with ethanol or biodiesel blended fuels and meets the criteria for manufacturer approval listed above; and*

*Letters indicating a component is listed or certified for use with ethanol or biodiesel blended fuels by a nationally recognized independent testing laboratory.*

Additionally, the Steel Tank Institute (STI) has created some websites to assist with equipment compatibility with higher level ethanol blends:

[E85, Biodiesel and alternative fuels](#)

[Steel Tank Fabricators' Certification Statement Link](#)

[STI's Statement](#)

### **PMAA FILES COMMENTS URGING END TO STAGE II GASOLINE VAPOR RECOVERY MANDATE**

This week PMAA submitted both individual and joint comments with other industry stakeholders in support of a proposed EPA rulemaking that would eliminate Stage II vapor control equipment requirements for gasoline dispenser hoses and nozzles. Currently, Stage II is required in "serious", "severe" and "extreme" air pollution non-attainment areas nationwide and within the Ozone Transport Region (OTR). PMAA has long sought the end to the costly and burdensome Stage II requirements since vehicles equipped with mandated on-board refueling vapor recover (ORVR) devices became more prevalent. Elimination of Stage II was significantly delayed as the EPA attempted to first determine the date when vehicles equipped with ORVR were in "widespread use" – a precondition required by the Clean Air Act. ORVR equipped cars have been required since model year 2000 and on light trucks and SUVs since 2006. Despite the apparent widespread use of ORVR vehicles, the EPA failed to set a date for elimination of Stage II until the proposed rule was published in July. Under the proposed rule, EPA is setting June 30, 2013 as the date when ORVR will be in widespread use nationwide. After this date, states may request the removal of the Stage II mandate only by filing an amended SIP plan with the EPA. States may request elimination of Stage II at an earlier date if they can prove to the EPA, in an amended SIP, that widespread use has already occurred within the state.

The proposed rule makes it nearly impossible for removal of Stage II within the OTR based on a 1995 legal interpretation by EPA lawyers that throws up regulatory roadblocks. PMAA filed comments explaining that Stage II is too costly and burdensome for small business petroleum marketers to install and maintain particularly now that it is unnecessary due to the widespread use of ORVR equipped vehicles. In an effort to speed up elimination of Stage II, PMAA urged the EPA to permit the removal of Stage II automatically on or after June 30, 2013 without requiring states to first undergo a lengthy and costly SIP plan amendment process. In addition, PMAA argued for a provision in the final rule that would eliminate Stage II

requirements for gasoline stations built or altered between the date a final rule is published and June 30, 2013.

PMAA strongly urged the EPA to change its current legal interpretation of the Clean Air Act to permit elimination of Stage II to occur in the OTR on the same schedule as other areas of the country.

### **CFTC GETS FUNDING BOOST IN SENATE SUBCOMMITTEE, MORE NEEDED**

This week, the Senate Appropriations Subcommittee on Financial Services and General Government approved a Commodity Futures Trading Commission's (CFTC) funding measure that would provide the Commission with a \$240 million budget for FY 2012, a \$37.7 million (or 19 percent) increase. Earlier this summer, the House slashed FY 2012 funding for the CFTC to \$172 million from its current level of \$202 million in an attempt to delay implementation of the Wall Street Reform Act which includes necessary reforms to the over-the-counter (OTC) oil futures market. The \$172 million appropriated for the CFTC is 15 percent less than 2011 levels, and 44 percent less than the Administrations' budget request of \$308 million. Now, the House and Senate will have to reconcile their differences over the CFTC's FY 2012 budget which starts on October 1.

PMAA, NEFI and members of the Commodity Markets Oversight Coalition (CMOC) continue to press Congress for the full 2012 funding level of \$308 million.

### **JOBS BILL DETAILS RELEASED**

While a deeply divided Congress is unlikely to pass much of President Obama's jobs legislation, more of the details were released when the measure was introduced on Monday. The following are some of the provisions that are of particular interest to petroleum marketers:

#### **Payroll Tax Relief**

- Employers would get a reduction in their payroll taxes on the first five million dollars of wages paid. While everybody is using the term payroll tax, we know that there are actually two separate taxes and the President is proposing a cut in one – the “social security” tax. The Federal Insurance Contributions Act (FICA) is comprised of the Social Security (6.2 percent) tax and the Medicare (1.45 percent) tax. Employers are required to withhold 7.65 percent for FICA from gross compensation of employees and pay a comparable percentage for each employee but that would change to the employer paying only 3.1 percent of the employer's share of the social security tax for 2012.
- Employees would also get an extension and expansion of the current temporary payroll tax break. The current two-percent reduction in the social security tax would increase to a 3.1 percent reduction for 2012.

#### **New Hires and Increased Wages**

- The proposal would also provide a complete refund of the social security taxes paid by an employer on the wages of added workers or wage increases for current workers above the level of this year's payroll - capped at applying to \$50 million in new wages. There would be additional targeted tax cuts for hiring the long-term unemployed as well as veterans who have been out of work six months or more.

#### **Full Expensing**

- An extension of the current temporary 100 percent first year full expensing through 2012. This is not Section 179 expensing but the full expensing based on the depreciation "bonus" concept.

#### **Prompt Pay**

- An acceleration of government payments to small contractors “to help put money in their hands faster.” The good news about that pronouncement is that it should facilitate the passage of the repeal of the three percent withholding on government contractors that House Majority Leader Eric Cantor (R-VA) had previously indicated was in the House's queue. Otherwise, it would seem counterproductive to speed up payment and then take three percent off the top.

#### **Infrastructure**

- Fifty billion dollars in immediate investments for highways, transit, rail and aviation.
- A temporary increase in the limit on SBA-guaranteed surety bonds from two million dollars to five million dollars to increase the small business opportunities to bid on infrastructure work.
- The President is calling for Congress to pass a National Infrastructure Bank (NIB) capitalized with \$10 billion. While the NIB would be a government-owned entity, it would not be controlled by any federal agency and instead would operate independently. No more than four voting members of its seven member board could be from the same

political party. Board members would have to possess significant expertise either in the management of a relevant financial institution or in the financing, development, or operation of infrastructure projects.

- The NIB would issue loans and loan guarantees to eligible projects. Loans issued by NIB would use approximately the same interest rate as similar-length U. S. Treasury securities and could be extended up to 35 years, giving the NIB the ability to be a “patient” partner side-by-side with State, local, and private co-investors. To maximize leverage from Federal investments, the NIB would finance no more than 50 percent of the total costs of any project.

### **CONGRESS PASSES SIX MONTH EXTENSION OF GASOLINE AND LUST TAXES**

This week, the House passed, by voice vote, legislation (H.R. 2887) to reauthorize expiring surface transportation programs for six months through March 31, 2011 which includes an extension of motor fuels excise taxes as well as an extension of the leaking underground storage tank program (LUST) financing rate of .001 cents-per-gallon. Following the House vote, the Senate approved the legislation by a vote of 92 - 6. The President is expected to sign the legislation into law. The most recent surface transportation authorization is set to expire on September 30, 2011 along with excise taxes on gasoline and diesel which are dedicated to the Highway Trust Fund.

Meanwhile the House and Senate differ on plans for a long-term reauthorization of the Highway bill. The Senate has proposed a two-year, \$109 billion reauthorization that would maintain current spending indexed for inflation. However, it would also need an additional \$12 billion to make the bill deficit neutral. Mark-up of the Committee’s two-year reauthorization may also begin sometime this month. The House Transportation Committee has proposed a six-year, \$230 billion bill that would cut highway programs by more than 30 percent. A draft House Transportation bill has yet to be introduced. At this time, there is no meaningful support in Congress for increasing gasoline and diesel taxes.

### **FMCSA WARNS ABOUT AGGRESSIVE MARKETING FOR DRUG AND ALCOHOL TRAINING**

The U.S. Federal Motor Carrier Safety Administration (FMCSA) issued a notice this week warning about aggressive vendor marketing tactics relating to drug and alcohol compliance. Specifically, the marketing involves the sale of **supervisor** training to employers who may be subject to the Federal Motor Carrier Safety Administration’s drug and alcohol testing requirements. There are reports that the sales pitch includes statements about the compliance that are not entirely accurate.

Under [49 CFR §382.603](#) supervisors of CDL drivers are required to take 60 minutes of training on the symptoms of alcohol abuse and another 60 minutes of training on the symptoms of controlled substance use. The purpose is to qualify supervisors for determining when reasonable suspicion testing is needed for a driver or other covered HAZMAT employee. This training is neither new nor changed. Moreover, the training is typically part of driver drug and alcohol testing programs already provided by vendors. The FMCSA does not certify trainers or training companies, nor does it pre-approve the curriculum presented. Employers are responsible for meeting the training requirement of 49 CFR §382.603 including ensuring that any training company/entity that they purchase training from provides training in the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances. It is up to the employer to select which training to attend, keeping in mind the aforementioned guidelines.

If you are looking for training products, the American Trucking Associations suggests a few off-the-shelf products that might be more reasonable and affordable.

[HTTP://FOLEYSERVICES.COM/STORE/P-17-SUPERVISOR-REASONABLE-SUSPICION-TRAINING.ASPX](http://foleyservices.com/store/p-17-supervisor-reasonable-suspicion-training.aspx)

[HTTP://WWW.JJKELLER.COM/WEBAPP/WCS/STORES/SERVLET/PRODUCT\\_A-SUPERVISOR%E2%80%99S-GUIDE-TO-REASONABLE-SUSPICION-TESTING--DVD-TRAINING\\_10151\\_-1\\_10551\\_61562](http://www.jjkeller.com/webapp/wcs/stores/servlet/Product_A-SUPERVISOR%E2%80%99S-GUIDE-TO-REASONABLE-SUSPICION-TESTING--DVD-TRAINING_10151_-1_10551_61562)

### **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.

Use the QR code to the left to go to the WPMA National Convention page.

### **MARK YOUR CALENDARS FOR UPCOMING EVENTS IN 2011**

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

**Petro Pete: “Golf is a game in which you yell fore, shoot six, and write down five.”**

© 2011 Western Petroleum Marketers Association - All rights reserved. No part of this work may be reproduced or copied in any form or by any means - graphic, electronic, or mechanical, including photocopying, recording, or otherwise. The information herein is also intended for the sole purpose of members of the Western Petroleum Marketers Association (WPMA). Any other use is strictly prohibited without the express written consent of the WPMA.

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](mailto:janr@wpma.com). Thanks.

# Classified Ads

## WANTED

We are looking to buy a used 1500-2000 gallon bob tail truck (gasoline or diesel) to haul hydraulic oil. Needs to be in good to excellent condition. Please call 575-885-6001 for further details or if you have one to sell.

Barrie Hood, Inc.  
Carlsbad, NM 88220

## WANTED

### FUEL AND LUBRICANT SALESMAN

In the Boise Idaho area. Salary/benefits based upon experience. Please send your resume to [Dennis@Baird-Oil.com](mailto:Dennis@Baird-Oil.com). Or contact Dennis Baird at (208) 375-7767.

## WANTED

### We are looking for 8 ISO TANKS

24,000 Liter (6200 gallons) Steel Bulkainers  
If you have any information on these please contact  
Terry McBarnet – 808-871-6220