

October 30, 2009

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WP-10-30-09

COMMITTEE FINISHES HEARINGS ON CLIMATE BILL

Today wraps up three days of hearings on climate change legislation in the Senate Environment and Public Works Committee. Senator Barbara Boxer, chairwoman of the EPW Committee and cosponsor of S. 1733, the Boxer-Kerry climate bill, heard from stakeholders from both sides. Likewise, senators spoke in favor and in opposition to efforts to curb carbon emissions with a cap and trade regime. Senator Max Baucus (D-MT), chairman of the Senate Finance Committee and a senior member of the EPW Committee has said he is still negotiating for less aggressive 2020 emission targets and language that would stop the Environmental Protection Agency (EPA) from using the Clean Air Act to curb carbon emissions. The next step is the markup in the EPW Committee, which is expected to begin next week. The Committee will review the testimony and vote on changes to the bill. PMAA fully expects the bill will remain very punitive to the petroleum industry in particular and will dramatically increase gasoline, diesel and heating oil prices.

The Finance Committee is one of many committees that will consider the climate bill; Senator Baucus has said his committee would examine the distribution of emission allowances or credits allocated to various industries in the bill. Other committees expected to hold hearings include Agriculture and Commerce. Senator John Kerry (D-MA), chairman of the Senate Foreign Relations Committee and cosponsor of S. 1733, said his committee will not hold hearings in an effort to bring the bill to the Senate Floor as quickly as possible. Senate Majority Leader Harry Reid (D-NV) has not indicated a deadline for the Senate committees to complete their work; however, it is expected legislation curbing carbon emissions would not come to the Senate Floor for consideration before sometime in 2010. At this time, the measure is not expected to gain the 60 votes needed to end debate in 2010.

PMAA URGES SENATE TO CURB ILLEGAL SALES FROM TRIBES

Today, PMAA joined NACS, SIGMA and NATSO in a letter urging Senate leaders to fix loopholes in legislation that would extend federal recognition to two Indian tribes. Under current law, Native American tribes are exempt from charging state excise taxes on the sale of fuel and tobacco products to members of the tribe. However, tribal retailers have been found to exploit this exemption by not remitting appropriate taxes from sales to non-tribe consumers.

PMAA and the other associations are asking Senate leadership to delay a vote on S. 1178, the Indian Tribes of Virginia Federal Recognition Act and S. 1735, the Lumbee Recognition Act until there are measures in place that restore fairness and prevent tribal retailers from failing to collect and remit the appropriate state taxes.

HOUSE DERIVATIVES BILL COULD MOVE NEXT WEEK

PMAA, NEFI and the Commodity Markets Oversight Coalition (CMOC) are urging the House Agriculture Committee Chairman Collin Peterson (D-MN) and House Financial Services Committee Chairman Barney Frank (D-MA) to move derivatives regulation reform to the House Floor. Both Chairmen approved bills from their committees earlier this month, now they are working with Leadership to combine the bills to move forward. Futures markets reform legislation is included in the larger derivatives reform bill and may move to the House Floor in the next few weeks.

Last week, Chairman Peterson introduced a bill as an amendment in the nature of a substitute to H.R. 3795, the derivatives regulatory bill approved by the House Financial Services Committee. Chairman Peterson's version contains stronger regulatory language compared to the Financial Services bill.

Peterson largely expanded the scope of the legislation passed by the Agriculture Committee earlier in the year known as the "Derivatives Markets Transparency and Accountability Act of 2009" (H.R. 977) to include regulatory provisions that would cover major swaps dealers while allowing commercial end-users to use derivatives, but would be exempt from clearing and exchange traded requirements.

We are urging Chairmen Peterson and Frank, and House Leadership, to include strong derivatives regulatory language in the final financial reform package including: that all swaps that can clear through an exchange, must clear through an exchange; all swaps that can trade on an exchange, must trade on an exchange; any swap that the CFTC or SEC deems "tradable" or "cleared" must trade or clear on an exchange or regulated clearinghouse; and finally, if exceptions are given to end-users, then exceptions must be only for commercial corporations engaged in bona fide hedging. Additionally, the final package must mandate that CFTC set aggregate position limits for designated contract markets (DCMs), foreign boards of trade (FBOTs) and over-the-counter (OTC) markets. We are concerned that without including these important provisions in

the final financial reform package, non-commercial swap participants will continue have the ability to take on excessive leverage in the \$590 trillion derivatives market. It is assumed that commodity swaps make up a large portion of the derivatives market, however, it is hard to quantify because the public is unable to oversee the market due to the Commodity Futures Modernization Act of 2000, which exempted most derivatives contracts.

PMAA, NEFI and CMOC have made great progress in the fight to effectively regulate derivatives which have wreaked havoc on the price of oil, motor fuels and heating oil. However, the financial industry has us greatly outmanned and out financed and they have energized their efforts tremendously in the past few weeks. Please stay tuned for a PMAA grassroots call to action once a final bill is released and a House Floor date is scheduled. Your communications to Congress continue to be vital in this effort.

CONGRESS BOOSTS CLIMATE REGULATION FUNDING 65 PERCENT

Yesterday House and Senate conferees approved \$10.3 billion to fund EPA for FY 2010, a 36 percent boost over last year's levels. The package is a compromise between the \$10.2 billion allotted in the Senate-passed bill and the \$10.6 billion in the House. President Obama recommended \$10.5 billion for EPA in his FY 2010 budget request. Climate change programs at EPA, Interior and the Forest Service would receive \$385 million under the conference report, a \$155 million increase over 2009 levels. The conference report also contains \$113 million for LUST funding, much of which will be available to state agencies. This amount is consistent with the President's request and the amount appropriated in the House bill, but one million dollars less than what was approved in the Senate.

Petroleum marketers have now paid over three billion dollars into the LUST fund and continue to pay \$140 million each year. To a great extent, the LUST tax has just become another federal tax used to support the overall EPA budget. Also appropriated for EPA is \$21 million to help meet the 36 billion gallon renewable fuels mandate and \$17 million would go toward the agency's greenhouse gas registry. The Energy Star program would receive \$51 million, and \$10 million would be slated toward agency grants that encourage local communities to find ways to slash their greenhouse gas emissions.

SMALL BUSINESS SUPPORT POPULAR IN CONGRESS AND ADMINISTRATION

Congress and the Obama Administration are eyeing efforts to improve access to credit for small businesses by strengthening the existing tools of the Small Business Administration (SBA) and giving the agency additional resources to make more loans. The Obama administration has already tapped funds from the American Recovery and Reinvestment Act to support \$13 billion in loans since February and is considering using additional funds to increase access to credit for small businesses. Other initiatives the president supports include raising the limit for the popular 7(a) loan program from two million dollars to five million dollars and raising loans under the 504 program to \$5.5 million. President Obama is also calling on the Treasury Department to work closer with the banking community and regulators to discuss additional efforts to promote lending to small businesses.

Congress has introduced a number of proposals to increase lending to small businesses. Representative Nydia Velazquez (D-NY), chairwoman of the House Small Business Committee, cosponsored H.R. 3854, legislation that would extend some stimulus provisions and reauthorize and expand various SBA loan programs. PMAA sent a letter Tuesday expressing support for her bill. The legislation is expected to come to the House Floor for a vote this week.

PMAA URGES SENATE TO PASS PACT ACT

This week, PMAA sent letters to Senator Herb Kohl (D-WI) and Senate Judiciary Committee Chairman Patrick Leahy (D-VT) thanking them for their support for the "Prevent All Cigarette Trafficking (PACT) Act of 2009" and urging the Senators to move the legislation forward. S. 1147 is the companion to the House bill which passed overwhelmingly this summer. Recently, PMAA also joined the new "Coalition to Stop Contraband Tobacco" to seek passage of the PACT Act. PMAA urges you to send a letter to your Senators supporting legislation that would restore fairness in the sale of tobacco products. Please thank your Senators if they are a cosponsor.

S. 1147 would curb the illegal sales of tobacco products via Internet, mail delivery and over the phone. The bill would require tobacco sellers to verify the age of buyers who purchase products over the Internet and the phone, and require Internet tobacco sellers and other entities to keep delivery sales records. The bill would also treat tobacco products as non-mailable and prohibit them from being deposited in or carried through the United States Postal Service and would ensure that Internet, mail delivery and phone tobacco sellers pay federal excise taxes. Most importantly, the "PACT Act" would level the playing field between small business retailers who legally sell tobacco products to adults, and those who use other sales methods to avoid paying taxes.

Sellers of tobacco via the Internet, postal service and phone can easily avoid paying excise taxes on tobacco which put retailers at a competitive disadvantage. Additionally, state governments lose revenue each year and minors are able to illegally purchase tobacco products from the marketing of tobacco via the Internet. Given the recent 62 cent cigarette tax increase, PMAA is concerned that sellers of tobacco via Internet, mail delivery and phone will increase as consumers look for ways to avoid paying state excise taxes on tobacco products.

PMAA is pleased that the Senate Judiciary Committee has scheduled a hearing on S.1147 for November 5. PMAA will report on further developments.

REMINDER! COMPLIANCE WITH FTC "RED FLAG" IDNETITY THEFT BEGINS NOVEMBER 1, 2009

The Federal Trade Commission (FTC) compliance deadline for developing a written "Red Flag" program that would prevent identity theft involving customer account information is November 1, 2009. The "Red Flag" rule applies only to petroleum marketers who do not collect payment on delivery for customer transactions. Congress mandated the Red Flag requirements in the Fair and Accurate Credit Transactions Act of 2003. Under the FTC Red Flag rule, any company that meets the broad definition of "creditor" established by Congress must put into place a prevention plan that identifies patterns, practices and activities that are "red flags" for possible identity theft. A "creditor" is defined as essentially any company that bills customers for products or services.

The Red Flag rule goes beyond the routine securing of customer account information that most companies already follow. The rule requires companies to seek out and respond to suspicious data in customer accounts that indicate an identity theft has taken place. In other words, companies must now police customer accounts for identity theft. PMAA has available a red flag template that will aid with compliance. It is important to remember that not all petroleum marketers are required to comply with Red Flag requirements. To determine if Red Flag applies to your company go to <http://ftc.gov/redflagrule> and download "Fighting Fraud with the Red Flags Rule: A How-To Guide for Business."

FALL BACK ON OCTOBER 31: DAYLIGHT SAVINGS TIME ENDS

Please remember to set your clocks back one hour Saturday night before going to sleep. Daylight savings time, the practice of extending daylight into the evening hours to save electricity, starts on the second Sunday in March and ends the first Sunday in November. Congress extended daylight savings in 2005 by a month. Hawaii and much of Arizona still do not observe daylight savings.

2010 WESTERN PETROLEUM MARKETERS CONVENTION & CONVENIENCE STORE EXPO LAS VEGAS, NEVADA

Start planning 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.

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 – TBA
September 22-24, 2010 – UPMRA Convention – Park City Marriott – Park City, Utah

Petro Pete: "The economy is so bad... if the bank returns your check marked "Insufficient Funds," you call them and ask if they meant you or them."

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