

December 14, 2012

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

WP-12-14-12

**2013 RFS BLENDING VOLUMES IN LIMBO**

The EPA has yet to finalize the 2013 Renewable Fuels Standard (RFS) blending volumes for corn-based ethanol, cellulosic ethanol and advanced biofuels. The delay has created uncertainty for obligated parties (refiners) to plan accordingly. The RFS requires 16.55 billion gallons of renewable fuels must be blended into motor fuels in 2013; however, Congress gave EPA authority to adjust blending volumes if needed. The EPA has already issued a final rule for biomass-based biodiesel for 2013 which requires 1.28 billion gallons, an increase of 280 million gallons over the 2012 mandate. The EPA estimates that total biomass-based biodiesel production rate in the U.S. is currently around 1.3 billion gallons per year.

Meanwhile, API and the American Fuel & Petrochemical Manufacturers (AFPM) are challenging EPA's decision to require refiners to blend cellulosic ethanol or pay the agency for waiver credits due to the inability to blend non-existent fuels under the RFS. EPA's 2011 RFS rule required refiners and importers of gasoline and diesel to blend 6.8 million gallons of cellulosic biofuels into the fuel supply, despite the fact EPA's own tracking system indicating that zero gallons of cellulosic fuel were commercially available in 2011. The lawsuit is still pending in the D.C. Circuit Court.

PMAA will alert petroleum marketers as soon as EPA issues a final rulemaking for 2013 RFS blending volumes.

**FIX FOR REDUNDANT ATM SIGNAGE ON ITS WAY TO THE PRESIDENT**

This week the Senate followed the House lead and unanimously passed a bill to amend the Electronic Funds Transfer Act, which will eliminate a costly and unnecessary Federal Reserve regulatory requirement.

Currently ATM operators are required to provide an on-screen notice of the transaction fee and provide consumers the ability to decline the transaction; and post a notice of a transaction fee on or near the ATM. The fix will maintain the on-screen fee notice requirement, but will no longer require operators to post the duplicative signs on or near ATMs.

Both H.R. 4367, introduced by Rep. Blaine Luetkemeyer (R-MO) and S. 3204, introduced by Senator Mike Johanns (R-NE) have passed their respective bodies and the legislation is slated for White House signature.

Removing the redundant requirement will not only be more efficient for operators, but it will reduce frivolous lawsuits. Right now, some consumers are bringing action against ATM operators for not complying with both requirements.

**FEDERAL APPEALS COURT BLOCKS NEW NLRB EMPLOYEE UNION RIGHTS POSTING RULE**

A federal appeals court has issued a temporary injunction blocking the National Labor Relations Board's (NLRB) new rule set to take effect April 30th requiring employers to display a poster in the workplace describing employees' right to unionize (see PMAA Regulatory Report 8/30/11). The DC Circuit Court of Appeals issued the injunction after two federal district courts reached different opinions on whether the NLRB has the authority to require employers to post the notice. Until the appeals court makes a final ruling on the case, private employers, including petroleum marketers, are not required to display the NLRB poster.

The NLRB rule would require most private employers to display an 11-by-17-inch poster in a prominent place, explaining employees' rights to join a union and take part in collective bargaining. The posters would also state that union officials can't coerce workers into joining a union, and that workers have a right to not join a union. The NLRB posters are similar to other government agency-issued posters (OSHA, DOL, etc) that describe anti-discrimination laws and workplace safety rules. In March, a DC District Court upheld the poster rule in a lawsuit brought by the manufacturing groups. However, a federal judge in South Carolina ruled last week that the NLRB exceeded its authority in approving the union poster requirement. The DC Circuit Court of Appeals final ruling on whether the NLRB may move forward with the poster rule is not expected until September.

**IMPORTANT:** Petroleum Marketers will likely continue to receive solicitations from vendors selling the NLRB posters despite the temporary injunction delaying the April 30 compliance date. Often these solicitations imply that marketers will be in violation of federal law if they do not purchase and display a poster by April 30, 2013. At this time, there is no requirement to post the NLRB poster. If the court lifts the injunction and the rule is once again in effect, then marketers can download the poster for free.

PMAA will report on further developments as they occur.

## PMAA TESTIMONY BEFORE CAPITAL MARKETS SUBCOMMITTEE

Today, Fuel Merchants Association of New Jersey's Executive Director, Eric DeGesero, testified on behalf of PMAA and NEFI before the House Financial Services Subcommittee on Capital Markets and Government Sponsored Enterprises. Other witnesses were CFTC Chairman Gary Gensler; SEC Division of Trading and Markets Robert Cook; Keith Bailey, Barclays; Michael Bopp, Coalition for Derivatives End-Users; Samara Cohen, Goldman Sachs; Thomas Deutsch, American Securitization Forum; Christopher Giancarlo, GFI Group; and John Parsons, Massachusetts Institute of Technology.

Eric focused his testimony on the importance of immediate implementation of Title VII of the Wall Street Reform Act since it is critical in bringing greater transparency, accountability and fairness to physical hedgers such as petroleum marketers. Title VII includes provisions important to PMAA such as aggregate position limits, mandatory clearing of over-the-counter (OTC) oil swaps, speculative reporting updates and margin requirements.

Regarding the position limits rule, Eric told the subcommittee that, "It is unfortunate that the U.S. District Court vacated the clear intent of the elected branches of government on the new position limits rule, albeit on narrow grounds, and sent it back for further consideration. DeGesero also mentioned that as recently as the 110th Congress, a strong bipartisan vote in the House approved legislation (H.R.6604) that would have established across-the-board position limits and even provided the CFTC with 100 new employees to carry out its mission.

## PAUL ANDERSON, THOMAS PETROLEUM, NV NEW VICE CHAIRMAN OF THE STATE BOARD OF AGRICULTURE



Chairman and NPM&CSA board member Lawrence Waugh congratulates Paul Anderson, Thomas Petroleum, Sparks, NV on his selection as the new Vice Chairman of the State Board of Agriculture. The AG board oversees fuels and lubricant specifications and weights and measures.

**WPMA 2013 NATIONAL CONVENTION & CONVENIENCE STORE EXPO SPONSORS**  
February 19-21, 2013 • Mirage • Las Vegas, Nevada



**ExxonMobil**



## 2013 WESTERN PETROLEUM MARKETERS CONVENTION & CONVENIENCE STORE EXPO LAS VEGAS, NEVADA

Start planning now to attend the 2013 WPMA Convention and Convenience Store Expo. It will be held at the Mirage in Las Vegas, Nevada. Mark your calendars for February 19-21, 2013.

## MARK YOUR CALENDARS FOR UPCOMING EVENTS IN 2013

**February 27, 2013** – Utah (UPMRA) Day on Capitol Hill - Utah Capitol Building - Salt Lake City, Utah

**May 9-10, 2013** – NPM&CSA Big Dogs' Shootout – Red Rock Hotel & Casino – Las Vegas, Nevada

**June 4-6, 2013** - Montana (MPMCSA) Convention - Holiday Inn Grand - Billings, Montana

**June 17-20, 2013** - Washington (WOMA) Convention - Suncadia Lodge - Cle Elum, Washington

**July 31-August 2, 2013** - Idaho (IPM&CSA) Convention - Sun Valley Resort - Sun Valley, Idaho

**August 27-28, 2013** – New Mexico (NMPMA) Convention – Albuquerque Marriott Pyramid North, Albuquerque, NM

**September 12-13, 2013** - Utah (UPMRA) Convention - Zermatt Resort - Midway, UT

Petro Pete: ***"Dear Santa, for 2012 I'd like a fat bank account and a slim body. And please don't mix up the two like you did last year."***

© 2012 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.

