WPMA
Western Petroleum Marketers Association
News and Information for the Petroleum Marketers Industry
weekly update

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2010 WESTERN PETROLEUM MARKETERS CONVENTION & CONVENIENCE STORE EXPO

The 2010 WPMA Convention and Convenience Store Expo is only a month away! We are excited to have as our Keynote Speaker, **Condoleezza Rice**, U.S. Secretary of State (2005-2009). We are also pleased to announce our other speakers, including Michael Davis from NACS, who will be presenting the C-Store Workshop on Tuesday. On Wednesday Jean Jones Wilkinson will present the PEI Workshop, "Dealing with Difficult People", and the ladies attending the convention are invited to attend the Ladies' Luncheon , featuring Alicia Richmond, owner of Chic on a Shoestring, who will host a fashion show and discuss wardrobe essentials. Our Thursday morning workshops include presentations by Dan Gilligan, PMAA President, Pat Cooper from Federated Insurance and Rob Gardner from ExxonMobil.

Register 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. You can register online at http://www.wpma.com.

ATV TO BE RAFFLED AT WPMA 2010 CONVENTION

The WPMA Scholarship Foundation is sponsoring a raffle of a Polaris Sportsman 550 Touring EPS ATV. Only 250 tickets will be sold, so the odds of winning are very good. Tickets are being sold through the WPMA office, for a donation of $100 per ticket. The drawing will be held Thursday, February 18th at the WPMA Convention Buffet Brunch in the trade show area in Las Vegas, Nevada. The winner does not need to be present to win.

All proceeds from the raffle will help fund eight $4,000 scholarships awarded by the Foundation each year. For more information or to purchase tickets, contact the WPMA office at 801-263-9762.

PMAA WINS REGULATORY RELIEF PROVISION IN FINAL RFS II RULE

The U.S. EPA released the final RFS2 rulemaking this week. The rule is important to petroleum marketers because it implements an ambitious national renewable fuel standard that will affect motor fuel supplies for the next 12 years. The final rule includes a provision requested by PMAA that allows small biodiesel blenders to take RINs free product for blending at their option. PMAA Regulatory Counsel, Mark S. Morgan is analyzing the 548 page rule and is preparing a comprehensive Regulatory Alert on this subject next week. Until then, here are some of the key provisions of the RFS II rule:

- RFS Volume: The 2010 RFS volume standard is set at 12.95 billion gallons (bg). The EPA is setting 2010 volume standards for new categories of renewable fuels including cellulosic renewable fuel 6.5 million gallons (mg) and biomass based diesel 1.15 bg. The EPA estimates that by 2022 the 36 billion gallon renewable fuel volume will displace about 13.6 billion gallons of petroleum-based gasoline and diesel fuel and decrease gasoline costs by 2.4 cents per gallon and reduce diesel
- Lifecycle Greenhouse Gas Emission Reductions: A key provision of the RFS2 is the requirement that the lifecycle greenhouse gas emissions (GHG) of a qualifying renewable fuel must be less than the lifecycle GHG emissions of the 2005 baseline average gasoline or diesel fuel that it replaces. Ethanol must meet a GHG reduction threshold of 20 percent for renewable fuel (corn) and 50 percent for advanced biofuel (sugar cane). Bio-mass based bio diesel (soy, waste oil, fat, greases) must meet a GHG reduction threshold of 50 percent while cellulosic biofuels (ethanol and biodiesel) must meet a 60 percent GHG reduction threshold. The expanded use of renewable fuels is expected to reduce greenhouse gas emissions by 138 million metric tons when the program is fully implemented in 2022 or the equivalent to taking about 27 million vehicles off the road.
- Biofuel Feedstock Restrictions: New definitions under the RFS2 rule require compliant renewable fuel to be derived from renewable biomass feedstocks. The rule limits the types of crops and land from which biomass may be harvested. Restrictions are applied to two feedstock sectors: the agricultural sector (planted crops and crop residues) and the non-agricultural sector (planted trees and tree residues, animal waste material and byproducts, slash and pre-commercial thinnings).
- Diesel Fuel: As required by law the renewable fuel standard is expanded to include motor vehicle, non-road, locomotive and marine. Heating oil blends are assigned RINs but are not subject to renewable volume requirements.
- Dispenser Labels: The RFS II rule drops proposed requirements for mid level ethanol blend dispenser label warnings. This proposal was meant to address concerns about the potential misfueling of non-flex-fuel vehicles with E85. All ethanol blends above ten percent per volume were included due to the increasing industry focus on ethanol blender pumps that are designed to dispense a variety of ethanol blends (e.g., E30, and E40) for use in flex-fuel vehicles. The EPA will wait until the agency makes a decision on a possible waiver to allow an E-15 blend before finalizing any dispenser labels.

- Obligated Parties: The RFS2 rule did not adopt an alternative proposal that would move obligated party status from refiners to downstream gasoline and diesel fuel blenders who supply finished transportation fuels to retail outlets or to wholesale purchaser-consumer facilities. PMAA opposed this alternative because it would shift onerous regulatory burdens from refiners to downstream blenders.
- Upward Delegation of RINS: The final rule adopted PMAA's provision for blenders who only blend a small amount of renewable fuel to allow the party directly upstream to separate RINs on their behalf. This provision will eliminate undue burden on small blenders who would otherwise not be regulated by under the RINS program. The provision applies to blenders who blend and trade less than 125,000 total gallons of renewable fuel per year (i.e., a company that blends 100,000 gallons and trades another 100,000 gallons would not be able to use this provision) and is available to any blender who must separate RINs from a volume of renewable fuel.

PRESIDENT RELEASES $3.8 TRILLION FEDERAL BUDGET

This week President Barack Obama submitted the administration's FY 2011 budget to Congress totaling $3.8 trillion. Last week, the President announced a three year spending freeze on discretionary spending while also highlighting that the budget would focus on putting Americans back to work by providing $100 billion to the middle class and small businesses to access credit.

There will be a $1.6 trillion gap between revenues and expenditures in this year's federal budget. The Administration included revenue which would be collected if Congress passes the controversial "cap-and-trade" global climate change bill. However, the bill is unlikely to pass this year due to dwindling support from moderate Democrats and nearly all Republicans.

EPA's FY 2011 budget requests ten billion dollars in discretionary budget authority. Areas of interest to petroleum marketers include $113.2 billion for the Leaking Underground Storage Tanks which is approximately one million dollars less than last year's FY budget proposal. EPA will also invest $60 million in the National Clean Diesel program which helps to reduce particulate matter such as nitrogen oxides and hydrocarbons from existing diesel engines. The budget also provides $60 million to assist state efforts to implement stricter EPA proposed National Ambient Air Quality Standards (NAAQS) for smog and nitrogen dioxide (NO2). EPA also requested $43 million to implement the greenhouse gas reporting rule and to regulate large stationary sources of CO2 emissions under the Clean Air Act.

The Small Business Administration (SBA) requested $994 million, a $170 million or 21 percent, increase over the 2010 enacted level. Specifically, the FY 2011 Budget provides $165 million in subsidy costs to support $17.5 billion in 7(a) loan guarantees and also proposes to increase the maximum 7(a) loan size from two million dollars to five million dollars.

The budget provides $3.3 billion for the Low Income Home Energy Assistance Program (LIHEAP) while creating a new trigger mechanism to provide automatic increases in energy assistance whenever there is a spike in energy costs. The administration expects the trigger to provide roughly two billion dollars in additional assistance in 2011 and $6.5 billion over ten years. The budget also provides the Northeast Home Heating Oil Reserve with 11.3 million.

The Commodity Futures Trading Commission (CFTC) could get a much-needed funding boost, something PMAA and its Commodity Markets Oversight Coalition partners have called for, as part of a larger effort to increase transparency in the derivatives markets. The comprehensive financial reform package includes $261 million for the CFTC. That includes $45 million to expand regulation of the over-the-counter (OTC) market and data collection as prescribed in the legislation. The budget would also fund an additional 214 full-time employees and pay for new technology to improve oversight and transparency of trading activities.

To help pay for his FY 2011 budget, President Obama is including new taxes on the petroleum industry and the repeal of the last in, first out (LIFO) accounting method. PMAA sent a letter last year to Senate Finance Chairman Max Baucus outlining its concerns with the proposed repeal of LIFO.

COTA JOINS SENATOR AND COALITIONS TO URGE CONGRESSIONAL ACTION ON FUTURES MARKET REFORM

On Wednesday, PMAA Vice-Chairman Sean Cota stood with Senator Maria Cantwell (D-WA) and representatives of the Americans for Financial Reform and the Commodities Markets Oversight Committee to call on Congress to bring greater transparency to the energy markets.

Under current law, certain kinds of complex financial transactions and trading in commodity markets occur with no oversight or transparency. The lack of oversight and transparency has led to excessive speculation and, in turn, dramatically higher gasoline, diesel, and heating oil costs. In his remarks Cota said, "one of the main factors that caused oil prices to rise so dramatically is excessively leveraged speculators in the energy derivatives marketplace who have distorted market fundamentals and led to the oil price bubble in 2008 and the price surge seen in the last few months." He went on to say, "for every one cent per gallon change in gasoline price, it is worth one billion dollars to the American consumer."

Cota called on Congress to restore position limits to prevent extreme price movements and implement centralized clearing for all market players and aggregate position limits on all speculators. He said, "These measures will eliminate the rigged gambling casino that energy markets currently are. It's as simple as that."

HOUSE BILL TO PREVENT EPA FROM REGULATING GHG

Three House Leaders introduced legislation on Tuesday that would amend the Clean Air Act to prohibit EPA from regulating greenhouse gases (GHG) based on their effects on global climate change.

Agriculture Chairman Collin Peterson (D-MN) and Missouri Representatives Ike Skelton (D) and Jo Ann Emerson (R) introduced the bill which would also block EPA from considering GHG emissions from international "indirect" land-use changes when implementing the renewable fuel standard or RFS.
This follows efforts that are still in play by Senator Lisa Murkowski (R-AK) who is working to seek a vote next month on a disapproval resolution that would veto EPA's determination that greenhouse gases threaten human health and welfare, as well as a house bill by Representative Earl Pomeroy (D-ND) whose legislation would strip EPA of its authority to regulate GHG emissions unless it receives Congressional authority to do so.

The Supreme Court ruled in 2007 that EPA has the authority to regulate GHG under the Clean Air Act and EPA is preparing to begin regulating GHG next month with its final tailpipe standard. That rule will trigger stationary source regulations, and the agency is expected to continue crafting GHG standards for other sectors.
In a statement issued Tuesday, President Obama acknowledged that the Senate may pass an energy bill this year without a cap-and-trade bill.

WPMA TO HOST PMAA WESTERN REGIONAL MEETING

WPMA will be hosting the Western Regional PMAA Meeting presented by Jason Powell, Western Regional Chairman, Gerry Ramm, PMAA Chair and Dan Gilligan, PMAA President on Wednesday, February 17 at 2:00 pm at the Mirage Convention Center in the St. Kitts meeting room.

Dan Gilligan will be giving his Federal Legislative Update on Thursday, February 18 at 7:00 am in room Montego A. Please invite your members to attend these informational events.

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 – Embassy Suites, Albuquerque, New Mexico
September 8-10, 2010 – UPMRA Convention – Park City Marriott – Park City, Utah

Petro Pete: "If you lend someone $20, and never see that person again; it was probably worth it."

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. Thanks.

Classified Ads

For Sale: Tank Equipment

- 4500 Gallon 3 Comp MC 306
- Petro Tank 1500 – 500 – 2500
- 3 in. Blackmere Pump 3" Pump off
- Meter Hosereel with 100' 1 ½ Hose
- B/L V/R Scully
- $8500 – Nice Shape

Contact Marty – 360-520-3275 360-736-2821

PMAA REGULATORY REPORT - DOT - FEBRUARY 1, 2010

Subject: **OSHA Compliance**

Issue: **OSHA Injury and Illness Posting Requirement Period Begins February 1, 2010**

Date: **February 1, 2010**

PMAA Contact: **Mark S. Morgan, Regulatory Counsel - mmorgan@pmaa.org**

EXECUTIVE SUMMARY – OSHA requires certain business establishments with ten or more employees to post work related injury and illness that occurred during the previous calendar year. The rule applies to workplaces with more than ten employees. A summary of workplace injury and illnesses during the previous calendar year must be posted in a conspicuous area in the workplace (employee bulletin board) for employee inspection from February 1 to April 1 each year.

ANNUAL OSHA WORKPLACE INJURY AND ILLNESS POSTING PERIOD BEGINS FEBRUARY 1, 2010

The U.S. Department of Labor's Occupational Health and Safety Administration (OSHA) require employers to post a summary of all work related injuries and illnesses that occurred over the previous calendar year. The posting period begins on February 1 and ends on April 1. OSHA Form 300A is used to meet the posting requirements.

Business establishments identified by NAICS Codes with more than ten employees must maintain injury and illness reports and records. An "establishment" is an economic unit, generally at a single physical location, where business is conducted or services rendered. **Any single establishment with ten or fewer employees is exempt from the OSHA injury and illness reporting requirements.**

- **Gasoline Service Stations (without c-stores) (NAICS Code 447190) are exempt** from the OSHA injury and illness reporting requirements regardless of the number of employees.
- **Convenience Food Stores with Gasoline Stations (NAICS Code 447110).** Where a convenience store and gasoline station is combined, exemption from the OSHA injury and illness reporting rule will depend on the "primary activity" at the establishment. The primary activity of an establishment is determined by value of receipts for each business activity. If the value of receipts for fuel sales is greater than c-store sales, then the establishment classified as a Gasoline Service Station is exempt from injury and illness reporting rule. If the c-store gross receipts are greater, then you must comply.
- **Petroleum Bulk Plants (NAICS Code 424710)** are **not exempt** from the OSHA injury and illness recording rule unless there are ten or fewer employees working at the bulk plant or company headquarters. This category includes motor fuel, heating oil and propane bulk facilities.
- **Petroleum and Petroleum Products Merchant Wholesalers - No Bulk Facilities (NAICS 424720)** are **not exempt** from the OSHA injury and illness recording rule unless there are ten or fewer employees working at the company headquarters. This category includes motor fuel, heating oil and propane wholesalers.
- **Heating Oil Dealers (NAICS Code 454311)** are **not exempt** from the OSHA injury and illness recording rule unless there are ten or fewer employees working at the company headquarters.

FORMS: OSHA FORM 301: Used to record a work related injury or illness. Fill out this form no later than seven days after the injury or illness was first reported.

OSHA Form 300: This is the "log" in which all work related injuries and illnesses must be recorded during a reporting cycle.

OSHA FORM 300A: This is the form that contains a summary of all work related injuries and illness from the previous calendar year as recorded in the 300 log and must be posted in a conspicuous place such as an employee bulletin board from February 1 to April I.

OBTAINING FORMS AND INSTRUCTIONS: Forms, instructions and a Q&A on the OSHA injury and illness reporting rule can be downloaded at http://www.osha.gov. For forms, go to the OSHA website, click on "F" in the "A to Z" alphabet index at the top of the OSHA page, scroll down to "F" and then click on "Forms". In the search field, enter "OHSA 300," click search and download all three forms and instructions.

CAUTION! AK, AZ, CA, HA, IN, IA, KY, MD, MI, MN, NV, NM, NC, OR, SC, TN UT, VT, VA, WA and WY have their own state OSHA programs for private employees. These states follow federal rules but may vary slightly. Go to the OSHA Website to find contact information for state programs.