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

March 18, 2011 Visit us online at **www.wpma.com** WP-03-18-11

LEGISLATION TO DELAY FED SWIPE FEE RULE INTRODUCED AS CONGRESS RECESSES

Even though Congress is out of town next week, the banks and credit card companies continue to lobby for legislation to delay the implementation of the Federal Reserve's proposed rule to reform debit swipe fees. They argue that banks exempt from the rule would be forced to lower their swipe fee to compete with the non-exempt banks despite statements from Visa and other networks that those banks can still charge the same to process debit transactions. As PMAA reported earlier this week, Senators Jon Tester (D-MT) and Bob Corker (R-TN) introduced legislation to delay the Fed's rule for one year. Similar legislation was introduced in the House this week too. Congresswomen Shelley Moore Capito's (R-WV) bill calls for an eight month delay.

Support for both bills are growing as more Senators and Congressmen sign on as cosponsors. PMAA and MPC are vigorously reminding Congressional offices that the Federal Reserve surveyed the banks before issuing its proposed rule. This survey was the second government study on swipe fees. Following passage of the CARD Act, the General Accountability Office (GAO) determined that consumers would benefit from swipe fee reforms in the form of lower prices because merchants would pay less in swipe fees. PMAA and MPC believe that a third study is not necessary. Consumers and retailers pay $1.3 billion in debit swipe fees every month the rule is delayed.

The Congressional recess is a great opportunity to talk to your Congressmen and Senators back home. Talking points about swipe few reform delay bills are http://pmaa.org/weeklyreview/attachments/3182011/MPCtalkingpointsTeste-CapitoBills.pdf if you are able to meet with them face to face. You may also send a letter through PMAA's Capwiz site if you prefer (http://www.capwiz.com/pmaa/issues/alert/?alertid=35884516).

FTC ISSUES FINAL RULE ON ETHANOL AND BIODIESEL FUEL RATING REQUIREMENTS

The Federal Trade Commission (FTC) this week issued a final rulemaking on proposed amendments to ethanol and biodiesel fuel rating regulations. The amendments determine the ethanol and biodiesel content information that appears on fuel pump labels in order to assist drivers to make informed fueling decisions. The FTC denied PMAA's request, made in written comments, to require supplies above the terminal rack to rate biodiesel blends below B-5 in order to provide below the rack blenders with precise biodiesel content of the blend they receive.

Currently, FTC regulations do not require rating or labeling of blends at or below five percent concentration. In denying PMAA's request, the FTC noted that although the rule may burden a small percentage of below the rack blenders, the proposed change would place a disproportionate burden on all above the rack suppliers who would be required to rate the blends regardless of whether blenders would eventually use them to create a fuel subject to the rule. However, the Commission did agree with PMAA on delaying its proposed E-15 dispenser label. PMAA requested and the FTC agreed to instead coordinate E-15 dispenser label requirements with the EPA to avoid duplication.

In other action, the FTC denied refiner requests to: adopt a less expensive and more accurate method of octane rating for E-15 until all interested parties have a chance to comment; eliminate biodiesel rating requirements for blends above B-20 and replace it with a range rating; and eliminate bio-massed biodiesel blends (renewable biodiesel) from the fuel rating requirements.

PHMSA EXTENDS COMMENT PERIOD 30 DAYS FOR WETLINES RULE

This week the Pipeline and Hazardous Materials Safety Administration (PHMSA) extended the comment period for its proposed wetlines rule for thirty days. Last week PMAA filed a request for a 120-day extension. PMAA believes that PHMSA reversed their 2005 decision to not regulate wetlines for political reasons rather than new information changing the practical realities. To justify this new rule, it appears that PHMSA changed the statistical modeling to suit their agenda. PMAA believes scrutiny of the new economic analysis is needed before filing comments.

The proposed rule would require DOT specification of transport trailers in flammable service to be equipped with bottom protection devices (steel guards) that would prevent rupture of wetlines in the event of a motor vehicle collision. Bottom protection devices would not be required where product is reduced to no more than 33 ounces in each line. The only practical way to meet this standard is with in-line purging devices. Transport trailers containing "combustible products" or flammable products reclassified as combustible are exempt from the proposed rule. In other words, diesel fuel, kerosene and heating oil placarded as 1993 would not be subject to the wetline requirements. Moreover, the proposed amendments do not apply to cargo tank vehicles where the engine, body, and cargo tank are permanently mounted to the same chassis (straight trucks, bobtails, etc).

The bottom line for marketers is that the proposed rule largely applies to gasoline transport trailers only. PHMSA is providing the exemption for combustible liquids because none of the recorded fatalities associated with wetline rupture over the past 20 years involved combustible products. The proposed rule would require existing transport trailers in flammable service to be retrofitted with bottom protection equipment or meet the maximum 33 ounce residue standard within ten years. Newly manufactured trailers would be required to comply within two years.

The comment period was extended to April 27, 2011. PMAA will file comments before the extended deadline.

PMAA SENDS LETTER ABOUT GASOLINE PRICES TO NEW MEMBERS OF CONGRESS

Yesterday, PMAA sent a letter (http://pmaa.org/weeklyreview/attachments/3182011/Oil%20Price%20Info%20for%20New%20Members.pdf) to all new members of Congress addressing factors influencing the recent jump in gasoline, diesel and heating oil prices. PMAA's letter covered the cost of crude oil, limited domestic refining capacity, oil futures market speculation, boutique fuel requirements, excessive interchange fees, and excise taxes, all of which are beyond the control of retailers.

PMAA supports a broad approach to solving our nation's energy crisis including: expanded oil production and refining capacity, aggregate position limits to reduce excessive speculation in futures markets, reduction in boutique fuel requirements and restricting the near monopoly power Visa and MasterCard use to impose excessive fees on retailers. If Congress (oil production and refining expansion, boutique fuels), the Commodity Futures Trading Commission (CFTC) (position limits on speculators), and the Federal Reserve (interchange fees) can address each of these issues, gasoline prices would be less volatile and likely decline for all consumers.

Finally, the letter highlighted that motor fuels price gouging is virtually non-existent and that as higher crude prices cause price spikes, retailers often sustain losses.

CFTC PLEADS FOR MORE FUNDING

On Thursday, Commodity Futures Trading Commission (CFTC) Chairman Gary Gensler testified before the House Committee on Appropriations Subcommittee on Agriculture and Related Agencies on FY 2011 and FY 2012 CFTC budget requests. The CFTC is currently operating under a Continuing Resolution (CR) at FY 2010 levels which ends today. Congress is expected to pass another two week CR to fund the government through April 8 which leaves House and Senate leadership another two weeks to find common ground on a budget proposal for the remaining part of FY 2011. PMAA provided background information for the hearing and urged Congressional leadership to fully fund the CFTC for FY 2011 and FY 2012 which is critical in preventing another oil price bubble that occurred in the summer of 2008 and what the country is experiencing now.

The House Republican proposal to fund the CFTC through FY 2011 includes a $56.8 million cut to current CFTC funding levels which are already lower than what is needed to fully implement the Dodd-Frank derivatives title, bringing the CFTC to a total of $112 million, less than what is needed to effectively implement critical reforms to our nation's commodity futures markets approved under the Title VII of the Wall Street Reform law.

For FY 2012, the CFTC requested $308 million, up from $168 million in 2010 in which $117 million would come from user fees. Rep. Jack Kingston (R-GA), chair of the Subcommittee, and ranking member Sam Farr (D-CA) questioned Gensler on the much needed funding for the CFTC to oversee the $300 trillion U.S. derivatives market. Chairman Gensler explained that current CFTC staff mirrors 1999 levels. Considering the exponential growth of the Over-the-Counter (OTC) market in recent years, the CFTC will need the additional funding to effectively oversee the marketplace. Under the House passed budget plan for the remaining part of FY 2011, the CFTC would have to lay off hundreds of workers if enacted – at a time when the staffing needs to increase substantially.

Both Democrats and some Republicans have pinned the recent spike at the pump on excessive oil speculation. Reps. Ed Whitfield (R-KY), chair of the House Energy and Power Subcommittee and Mike Simpson (R-WY) have said that the 2008 oil bubble was partly a result of excessive oil speculation. Given the recent rise in oil prices, the CFTC is under pressure from the public to implement aggregate position limits. The CFTC will need the additional funding to implement the position limits rulemaking to reduce oil prices and volatility.

PMAA CHALLENGES OBAMA COMMENTS ON GOUGING

On Monday, PMAA President Dan Gilligan sent a letter (http://pmaa.org/weeklyreview/attachments/3182011/PMAA PriceGougingLtrObama.pdf) to President Obama expressing disappointment with the President's comments last week about gas gouging. The President said the government will be monitoring any possible manipulation in the oil markets and he plans to ask the U.S. Attorney General and state agencies to monitor for potential price gouging. "It is interesting to note that while most retailers did everything possible to hold down prices, oil traders in the futures markets have publicly bragged about the enormous profits they captured following Hurricane Katrina," the letter said.

Last month, PMAA sent a letter (http://pmaa.org/weeklyreview/attachments/3182011/PMAALtrObamaSPR.pdf) to President Obama urging him to immediately release 30 million barrels of oil from the Strategic Petroleum Reserve (SPR), while encouraging Congress to authorize a release of an additional 100 million barrels to bring stability to the oil futures markets.

CMOC LETTER IN SUPPORT OF BUSINESS AND MAIN STREET CFTC COMMISSIONER

This week, the Commodity Markets Oversight Coalition (www.commoditymarketsoversight.org), which is co-chaired by PMAA and NEFI staff, urged President Obama to choose a "Main Street" and business friendly candidate that is supportive of the derivative reforms that were included in last year's Dodd-Frank Act (P.L. 111-203) for an upcoming vacancy at the Commodity Futures Trading Commission (CFTC).

The Coalition first thanked CFTC Commissioner Michael Dunn for his service which expires June 19th, and then we urged the President to consider candidates who believe "That the commodity derivatives markets were established to serve the needs of bona fide commercial hedgers and to discover prices for commodities that are reflective of real-world supply and demand fundamentals; that the CFTC should use all tools and authorities at its disposal to carry out its mission of protecting market participants and the American public from fraud, manipulation and the burdens of excessive speculation; and that the reforms of the derivatives marketplace included in Title VII of the Dodd-Frank Wall Street Reform Act of 2010 should be fully enacted and vigorously enforced in order to meet fully the CFTC's mission and return stability, transparency and confidence to these markets."

There are concerns that the President will choose a pro-Wall Street candidate in order to retain the support of some of his largest campaign contributors, such as Goldman Sachs. You can read the letter here, (http://pmaa.org/weeklyreview/attachments/3182011/CMOC_CFTCNomineeLtr_Final.pdf).

2011 PETROLEUM MARKETERS LEADERSHIP INSTITUTE (PMLI)

The 2011 Petroleum Marketers Leadership Institute will be held at the Madison Hotel located downtown in Memphis, TN April 10 -12, 2011. In preparation for the 2011 Petroleum Marketers Leadership Institute, we need you to begin thinking of petroleum marketers who are active in your association who have "the right stuff". These are marketers who you can count on to support the industry and your state association. They are the ones who give of themselves and are often natural leaders. **PMAA relies heavily on state association executives to identify nominees/candidates for PMLI.** The value in PMLI is the cadre of leaders it is creating for our future. You can never have too many knowledgeable and dedicated leaders. State associations that have sent emerging leaders to the Institute the past seven years have already begun to reap its rewards.

As state associations, you are not obligated to pay anything for candidates to attend. Some states assist with travel related and tuition costs for their candidates but that varies from state to state. The most important thing is to make sure you give us a few names of marketers to invite. The tuition this year will be the same as last year $425.00 per person and that includes meals and curriculum. When you compare this with other leadership programs of similar length, you'll find that the $425.00 is a fraction of what other programs cost. From 2001 to 2010 we have had over 150 marketers go through PMLI and all of them have expressed very favorable comments about the program.

For more information please contact your state executive or the WPMA offices.

MIKE BARLOW – PRESIDENT OF PETTIT OIL – PASSES AWAY

Mike Barlow, President of Pettit Oil, passed away earlier this week. WPMA expresses our condolences to the Barlow family at this difficult time. A memorial service will be held at the First Presbyterian Church on Saturday the 19th of March at 10:30 AM. The First Presbyterian Church is located at 412 West Pioneer in Puyallup, Washington.

FOLLOW US ON FACEBOOK AND TWITTER

WPMA has now joined the Facebook and Twitter communities! Please visit us and become a fan, and stay on top of the latest updates, events and announcements from WPMA and the WPMA state associations.
To follow us on Twitter, go to **twitter.com/WPMA_NOW**.

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. Mark your calendars for February 21-23, 2012.

MARK YOUR CALENDARS FOR UPCOMING EVENTS IN 2011

June 7-9, 2011 – MPMCSA Convention – Hilton Garden Inn – Missoula, Montana
June 20-23, 2011 – WOMA Convention – Suncadia Lodge – Cle Elum, Washington
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 14-15, 2011 – UPMRA Convention – Peppermill Hotel Casino – Wendover, NV

Petro Pete: "Learn from the mistakes of others, because you can't live long enough to make them all yourself."

Classified Ads