

May 22, 2009

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WP-05-22-09

CONDOLEEZZA RICE TO KEYNOTE 2010 WPMA CONVENTION!

2010-2011 WPMA President Burton Black has chosen Condoleezza Rice, former U.S. Secretary of State and National Security Advisor under President George W. Bush, to give the Keynote address at the 2010 WPMA Convention in Las Vegas, Nevada. In 2004 and 2005, Ms. Rice was ranked as the most powerful woman in the world by Forbes magazine. Since her retirement from Bush's Administration, Ms. Rice has returned to Stanford University as a political science professor and serves as the Thomas and Barbara Stephenson Senior Fellow on Public Policy at the Hoover Institution. She also serves on the Board of Trustees of the John F. Kennedy Center for the Performing Arts, and is a fellow of the American Academy of Arts and Sciences. We look forward to hearing her informed view of world affairs and the current political atmosphere. Come and join us in Las Vegas to hear this amazing Keynote address!

HOUSE ENERGY COMMITTEE APPROVES CLIMATE BILL

Yesterday evening the House Energy and Commerce Committee approved H.R. 2454, the American Clean Energy and Security Act (ACES) Act 33-25, largely on party lines with one Republican voting with the Democrats.

Committee Chairman Henry Waxman (D-CA) and Ed Markey (D-MA) originally released the bill as draft legislation at the end of March. Waxman revised the bill after he could not get enough support from moderate Democrats. On May 15, Waxman released a revised bill, H.R. 2454. Among its four titles are provisions that call for a 17 percent reduction of emissions at 2005 levels by 2020. The bill also allocates 35 percent of the emission allowances to the electric utility industry, nine percent to the natural gas industry, and two percent to the domestic petroleum refining industry. States will receive 1.5 percent of the allowances for programs that benefit consumers of home heating oil and propane.

Several other House committees will likely weigh in on the climate legislation; the legislation was referred to eight committees. House Ways and Means held hearings several months ago on the mechanics of a cap-and-trade program. Yesterday afternoon, House Agriculture Committee Chairman Collin Peterson (D-MN) announced his vociferous opposition to the climate bill and predicted that several members of his committee would follow suit. All this makes it increasingly unlikely that the Waxman-Markey bill will come to the House Floor for a vote in June as was predicted by House Speaker Nancy Pelosi (D-CA). PMAA has many concerns about H.R. 2454 and will be lobbying for amendments to address those concerns.

P.U.M.P. OPENS WEBSITE OFFERING TEMPERATURE COMPENSATION FACTS

NATSO, along with the "Partnership for Uniform Marketing Practices" (P.U.M.P.) coalition, have recently opened a website, www.hotfuelishotair.com, to rebut claims by trial lawyers and others who exaggerate retail fuel temperature facts. Some ridiculous ATC claims are often made by lawyers who want to stir consumer suspicion about motor fuels retailing practices. The P.U.M.P. Coalition was formed in 2007 to ensure fair competition, cost effective distribution and equitable treatment of consumers in addressing the issue of temperature variation in the sale of gasoline and diesel fuels. PMAA encourages you to visit the website to find the latest news and information on automatic temperature compensation. PMAA would also like to thank NATSO Vice President, Holly Alfano, for developing the website.

On a similar note, the Northeastern Weights and Measures Association (NEWMA) voted to oppose both mandatory and permissive automatic temperature compensation (ATC) for retail fuel dispensers. The decision comes a week after the Central Weights and Measures Association voted to outright oppose both the mandatory and permissive use of ATC. NEWMA also circulated a proposal to ban ATC for retail fuel dispensers and intends to submit its proposal to the National Conference on Weights and Measures (NCWM).

The NCWM will meet July 12-16 in San Antonio, Texas to decide the fate of ATC for retail fuel dispensers. Two votes will occur: one on permissive ATC use and the second on mandatory ATC use. It will be important that petroleum marketers nationwide attend the meeting to ensure that weights and measures officials understand why retail ATC will have a negative consequence for consumers.

GENSLER CONFIRMED AS CFTC CHAIR

On Tuesday, the Senate confirmed Gary Gensler to become the next Chairman of the Commodity Futures Trading Commission (CFTC) by a vote of 88 to six. Senators who voted in opposition were: Maria Cantwell (D-WA), Byron Dorgan (D-ND), Jeff Merkley (D-OR), Patty Murray (D-WA), Bernie Sanders (I-VT) and Jeanne Shaheen (D-NH).

PMAA met with Gensler in February after Gensler expressed interest in meeting with stakeholders. During the meeting, PMAA and NEFI staff brought up questions over Gensler's deregulatory past, including his stance on deregulating swaps and other derivatives which have wreaked havoc on U.S. commodity markets over the last several years. Gensler understood the problems associated with the deregulation of swaps and other financial instruments that are linked to energy commodities and he stressed his belief that over-the-counter financial instruments linked to commodities should be traded and cleared through a regulated exchange and position limits for non-commercial contracts must be required.

More importantly, Gensler agreed that excessive speculation and manipulation in commodity markets was one of the causes of the 2008 energy price spike. He said that commodity futures markets are broken and that although some instruments that are highly customized would actually work better traded off-exchange, he would work with CFTC Commissioners to bring greater transparency and accountability to commodity futures markets. Specifically, for non-commercial traders to be granted a hedge exemption, Gensler plans to ensure that those who have hedge exemptions actually need them rather than those who have used the commodities futures market as an investment class and have traded with little oversight and limitations.

The two Senate holds on Gensler, Senators Maria Cantwell (D-WA) and Bernie Sanders (I-VT) were lifted last week after the Administration's announcement that most derivatives must trade through a regulated clearinghouse, and after heavy pressure from PMAA's "Day on the Hill." PMAA fully supports Gensler as the CFTC Chairman and looks forward to continuing an open dialogue with him in order to fix the severely damaged U.S. commodity futures markets.

CONSUMER CREDIT CARD BILL TO BE SIGNED INTO LAW

Earlier this week, the House and Senate passed the "Credit Cardholders' Bill of Rights Act of 2009" (H.R. 627) by an overwhelming majority. It is expected that President Obama will sign the legislation as soon as today.

PMAA, along with the Merchants Payments Coalition (MPC), actively lobbied to include an amendment sponsored by Senators Richard Durbin (D-IL) and Kit Bond (R-MO) which would allow retailers to offer cash discounts to consumers if they use cheaper forms of payment, i.e., debit cards and lower fee credit cards, and would increase transparency and awareness of fees charged on credit and debit card transactions.

Despite PMAA and MPC's efforts, the Durbin-Bond amendment was not included in the compromise substitute amendment brokered by Senate Banking Committee Chairman Chris Dodd (D-CT) and Ranking Member Richard Shelby (R-AL). Although Senator Durbin believed he had the votes to be successful, Senator Shelby did not agree to attach the amendment to the final bill.

However, the bill does require a GAO study on the effects of interchange fees on retailers, consumers, and other parties. GAO is required to submit a report within 180 days to the Senate Banking, Housing, and Urban Affairs Committee and the House Financial Services Committee containing a detailed summary of the findings and conclusions of the study. PMAA will continue to push forward with the Durbin/Bond amendment. Senators Durbin and Bond are very engaged on the issue and intend to find another vehicle to attach the consumer discount and fee transparency amendment.

PMAA will also continue to work closely with the MPC to pass broader interchange fee reform legislation.

COTA REPRESENTS PMAA/NEFI BEFORE CFTC

Last Wednesday, PMAA Treasurer Sean Cota participated in the Commodity Futures Trading Commission (CFTC)'s Energy and Environmental Markets Advisory Committee (EEMAC) meeting. The advisory committee was established in early 2008 at the request of PMAA and NEFI as a forum for energy market stakeholders and consumer groups to discuss issues surrounding the unregulated energy futures markets which have wreaked havoc on energy prices. New EEMAC Chairman, Commissioner Bart Chilton, presided over the meeting for the first time. Among the members of the advisory panel were staff representatives from the CFTC, the Federal Reserve, the Department of the Treasury, the Securities and Exchange Commission, the Department of Energy, banks, investment firms, consumer groups, and industry representatives.

The first part of the meeting focused on carbon trading regulation. Due to House Energy and Commerce Committee Chairman Henry Waxman's global climate change bill, which includes carbon trading provisions, the CFTC is concerned that its jurisdiction over carbon trading markets might be given to or shared with another regulatory agency. CFTC has asked Congress to give the CFTC the sole jurisdiction for regulating carbon markets.

The second part of the meeting focused on the debate surrounding excessive speculation and manipulation on unregulated energy futures markets and its effect on energy prices. Cota emphasized the need for greater transparency and

accountability for all commodity futures trading markets. He also argued that futures markets are broken and that the most effective way to bring stability to volatile energy markets is to place aggregate position limits on non-commercial speculators.

Furthermore, Cota said that hedge funds, institutional investors, and exchange traded funds (U.S. Oil Fund) do not base their trading on supply and demand fundamentals, which means that prices should be lower. They are using the equities rebound as a means to park money in energy commodities.

Specifically, Cota questioned the role that exchange traded funds such as the United States Oil Fund (USO), has had on the market place and asked the CFTC to investigate into whether the U.S. Oil Fund is causing volatile energy prices.

COMMODITIES REFORM IN HOUSE CLIMATE CHANGE BILL

Last week, PMAA members lobbied Congress on a number of issues, including the urgent need for futures market reform. Energy and Commerce Committee Chairman Henry Waxman (D-CA) began marking up the new draft of his climate change legislation, the "American Clean Energy and Security Act of 2009" or ACES Act this week, and critically important commodity reform language is included in the bill.

Congressman Bart Stupak's (D-MI) bill, H.R. 2448, the "Prevent Unfair Manipulation of Prices Act of 2009" will eliminate over-the-counter (OTC) exemptions, nullify no-action letter exemptions, require CFTC to establish uniform speculative position limits, re-insert the Position Limit Energy Advisory Group language that PMAA lobbied for, eliminate the SWAPS loophole, give CFTC authority to limit index fund trading, and require trades to settle and clear through registered clearing organizations.

PMAA strongly supports the commodity reform language that is in the Climate Change legislation, although we have many strong concerns about the climate change legislation in general. PMAA also supports Agriculture Chairman Collin Peterson's (D-MN) H.R. 977, the Derivatives Markets Transparency and Accountability Act which would require: large trader reporting, classification of index traders and swap dealers, reporting for most OTC transactions, and clearing of most OTC trades through a regulated clearing organization. It would also close the London loophole and define carbon offsets as a commodity.

SENATE COMMITTEE PASSES TOBACCO REGULATION LEGISLATION

On Wednesday night, the Senate Health, Education, Labor and Pensions (HELP) Committee approved legislation by a vote of 15 - 8 that would give the FDA the authority to regulate tobacco products and retailers (S. 982). The Senate version is similar to legislation passed by the House in April. S. 982 has 52 cosponsors, eight short of a filibuster proof majority.

As reported by PMAA earlier this week, the Senate bill includes provisions that would allow the FDA to regulate sales of tobacco on Native American lands and regulate Internet tobacco sales but it still has problems for retailers. The bill would punish retailers if the packaging, labeling or advertising for tobacco products are found to be out of compliance with regulations that are to be determined by the FDA. Retailers are rarely involved with those decisions and should not be punished for manufacturers' mistakes. Also, the bill does not prohibit states or localities from enacting additional measures on the sale, distribution, possession, exposure and access to tobacco products.

S. 982 includes certain protections for retailers. A provision would protect retailers from accidental sales of tobacco to minors by a "good faith" clause. A retailer would be protected if the retailer adopted and enforced a written policy about sales to minors, informed employees of relevant laws, established punishments for employees who violate that law and required employees to verify a purchaser's age using a government-issued photo-ID or an electronic scanning device. Additionally, the legislation would clarify that a retailer cannot be held liable for a violation if a minor presents a false government ID. FDA would be allowed to regulate or reduce nicotine levels but not eliminate nicotine entirely.

Several amendments were offered to S. 982 during Committee markup. An amendment opposed by PMAA was adopted by voice vote which would place new labeling provisions that would require graphic health photos in color to cover half of every pack. Another amendment offered by Senators Richard Burr (R-NC) and Kay Hagan (D-NC) was rejected which would have established a "Federal Tobacco Regulatory Agency" to regulate tobacco products instead of the FDA. Finally, another amendment was offered, but withdrawn by Senator Michael Enzi (R-WY) which would have inserted a seven year sunset provision on the bill for Congress to provide oversight of the program.

Majority Leader Harry Reid (D-NV) has said that the bill is a priority and Senator Chris Dodd (D-CT), who chaired the HELP Committee markup, said the bill could be on the floor after Memorial Day recess. Procedural hurdles could hold up the bill because Senator Richard Burr (R-NC) is likely to filibuster S. 982 which would then require 60 votes for passage. Senator Dodd is confident that the Senate had the votes to overcome a filibuster. If passed by the Senate, President Obama is expected to sign the legislation into law.

The fight is not over. Last week, many petroleum marketers and retailers highlighted their concerns with S. 982 during

PMAA's "Day on the Hill" and PMAA members have outlined their concerns again and again with provisions in FDA regulation of tobacco legislation. If you have not voiced your concerns over the bill, please do so by calling members of the Senate by using the Capitol switchboard at (202) 224-3121. Tell your Senator that the bill would hinder your businesses ability to compete and that it would punish retailers if the packaging, labeling or advertising for tobacco products are found to be out of compliance with regulations that are to be determined by the FDA. Furthermore, continue to urge your Senator to strike the provision that would require graphic health photos on every pack of cigarettes.

TOBACCO TRAFFICKING BILL PASSES HOUSE

Yesterday the House passed the "Prevent All Cigarette Trafficking (PACT) Act of 2009" (H.R. 1676) by an overwhelming majority vote of (397 - 11). In the 110th Congress, the House passed a similar measure by a vote of 379 to 12. However, the Senate did not act on the legislation last year and the bill died.

H.R. 1676 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" will 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 federal excise taxes on tobacco products.

PMAA fully supports passage of the "PACT Act" and will work with members of the Senate to ensure the bill's passage.

MOTOR FUELS PRODUCT RESERVE CONSIDERED BY COMMITTEE

Yesterday the Senate Energy and Natural Resources Committee held a markup session on legislation that would create a 30 million barrel refined-petroleum product (motor fuels) reserve. Senate Energy Committee Chairman Jeff Bingaman (D-NM) intends to have a comprehensive energy package completed sometime after the Memorial Day recess.

The "Strategic Petroleum Reserve Modernization Act of 2009" (S. 967) would leave most of the reserve planning and details to the Energy Department including locations for storage, the types of refined products to be stored and when supplies would need to be released in an event of a Hurricane. Last fall, Hurricanes Gustav and Ike disrupted much of the nation's refining capacity leaving the Southeast with limited gasoline and diesel supplies.

PMAA has many reservations concerning the refined petroleum product reserve proposal and has worked closely with Bingaman's staff regarding our concerns. PMAA also submitted comments to Senate Energy Committee staff earlier this year on behalf of PMAA, NACS, SIGMA and NATSO. Those concerns include: long term product storage issues, winter and summer gasoline inventory concerns, boutique fuel issues, supply and storage issues with ethanol and biomass-based diesel, futures market hedging costs, distribution pipeline inefficiencies, and other issues.

The refined product reserve has been considered before Congress numerous times, but the proposal was later dropped due to adequate inventory and refining capacity. The California Energy Commission (CEC) and the National Petroleum Council have studied the refined-petroleum product reserve proposal several times and each time rejected it.

S. 967 has not yet been reported to the full Committee for approval. The plan is to work through amendments on each proposed energy title and then vote on all of them at once. This will allow the Committee to create a comprehensive energy bill that goes to the full Senate. Therefore, S. 967 is not necessarily in final form, and a final vote will not occur until sometime in June.

In other Senate Energy Committee developments, the Committee did not consider legislation titled, "Energy Markets Transparency Act of 2009," which aims to enhance transparency to energy futures markets. Committee staff said that the legislation will be considered after the Memorial Day recess. In March, PMAA Vice Chairman Gerry Ramm of Inland Oil Company in Ephrata, WA, testified before the Committee on the legislation. Ramm said that PMAA supported the intent of the Subcommittee's legislation, to bring transparency to help eliminate excess speculation in the energy futures markets. However, he argued if reporting is required on the amount of commercially held oil that is held, there should be a minimum threshold for reporting, and that heating oil contracts should not be included in the reporting requirements.

PAID SICK LEAVE PROPOSAL GAINING MOMENTUM

Congresswoman Rosa DeLauro (D-CT) introduced the "Healthy Families Act," which would mandate that businesses with more than 15 employees provide up to seven paid sick days for each employee. Health, Education, Labor and Pensions (HELP) Committee Chairman Edward Kennedy (D-MA) will introduce companion legislation in the Senate later this week.

The Healthy Families Act allows workers to earn up to 56 hours (seven days) of paid sick time. Workers earn one hour of paid sick time for every 30 hours worked. Workers can also use this time to care for a sick family member, to obtain preventative or diagnostic treatment or to seek help if they are victims of domestic violence. Small employers with fewer than 15 employees are exempt from the Act and employers can require workers to provide documentation supporting any request for leave longer than three consecutive days.

Proponents of the bill suggest that they may add the language to broader health care reform legislation. The U.S. Chamber of Commerce has spoken in opposition to this mandate on business.

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.

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June 18, 2009 – UPMRA Golf Classic – Wasatch Mountain State Park, Midway, UT

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July 29-30, 2009 – IPM&CSA Convention and Golf Tournament – Sun Valley Resort, Sun Valley, ID

August 30-31, 2009 – NMPMA Convention and Golf Tournament – Embassy Suites, Albuquerque, NM

September 20-22, 2009 – UPMRA Convention and Golf Tournament – Courtyard Marriott, St. George, UT

Petro Pete: "After all is said and done, more is said than done."

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