

June 22, 2018

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WP-06-22-18

ATTENTION NEVADA FUEL SELLERS

Effective July 1st Clark and Washoe County Fuel Indexing Rate Will Increase

- Clark County Gasoline 0.125 – Diesel 0.125
- Washoe County Gasoline 0.168 – Diesel 0.120

PMAA, NATSO, NACS AND FMI REQUEST UST COMPLIANCE TESTING DELAY

This week, PMAA, along with the Food Marketing Institute (FMI), the National Association of Convenience Stores (NACS) and the National Association of Truck Stop Operators (NATSO), requested a short delay in the 2015 UST final rule compliance deadline for the testing of sumps, spill buckets and overfill prevention devices until October 13, 2024. The associations argued, "In light of the 10-year compliance period provided by OUST for the initial 1988 UST upgrade requirements, we believe a six-year deadline extension for the specific UST equipment mentioned above is both reasonable and necessary for small business UST operators to adequately comply in an orderly manner."

"This letter represents a unified front among our associations which demonstrates that delaying the compliance deadline for these specific UST system components is necessary to help small business petroleum marketers," said PMAA President Rob Underwood. Late last year, PMAA sent a letter to the EPA asking for the delay.

Earlier this month, members of the U.S. Senate sent a bipartisan letter to EPA Administrator Scott Pruitt requesting that the compliance deadline in the 2015 underground storage tank amendments for containment sumps, spill buckets and overfill prevention equipment operability testing be delayed until October 13, 2024. The letter was led by Senator Jerry Moran (R-KS). Meanwhile, members of the House Energy and Commerce Committee spearheaded by Rep. Tim Walberg (R-MI) also sent their own letter. PMAA supported both letters which would allow tank owners and operators adequate time to acquire the capital needed to pay for the compliance costs associated with the initial testing requirements.

EPA ISSUES LOW LEVEL LIQUID TEST GUIDANCE FOR UST CONTAINMENT SUMPS

The U.S. EPA's Office of Underground Storage Tanks (OUST) has issued guidance for alternative low-level hydrostatic testing for UST containment sumps used as secondary containment for piping. The guidance helps state UST program regulators implement the EPA's 2015 underground storage tank regulatory amendments requiring periodic testing and inspection. PMAA developed this test as an inexpensive alternative to the EPA's hydrostatic test method for containment sumps which requires costly high-level liquid testing. Publication of the EPA guidance is important because it clears the way for PMAA's alternative test method to be approved for use by state UST program regulators.

Lowered Compliance Costs

The PMAA alternative test method eliminates the need to fill containment sumps with water to within four inches **above** the highest penetration point in the sump wall to test for integrity, as required under the EPA approved test method. Instead, PMAA's alternative test method only requires filling the sump to a level sufficient to activate an alarm/shutdown sensor mounted **below** penetration points in the sump wall. Integrity testing containment sumps in this way saves tank owners thousands of dollars in test preparation and compliance costs necessary to make penetration points liquid tight under the EPA test procedure. The PMAA alternative test method also significantly lowers hazardous waste water disposal costs by reducing the volume of water required for testing by more than two-thirds.

State Approval of PMAA Alternative Test Method

The PMAA alternative test procedure automatically applies to the 11 states without state UST program approval where federal EPA regulations apply instead: New York, New Jersey, Florida, Kentucky, Michigan, Illinois, Wisconsin, Wyoming, Arizona and Alaska. In addition, the PMAA alternative containment sump test will likely qualify as an "alternative test procedure" under provisions in state regulations. These states typically follow EPA UST program guidance which now includes PMAA's alternative test procedure. Some states of these states have already adopted the alternative test, others are expected to do so soon. Marketers in the 38 states with UST program approval should contact their state UST regulators to determine whether the alternative test method is available yet for use.

HOUSE PASSES FARM BILL

Yesterday, the House narrowly passed the Agriculture and Nutrition Act of 2018 (H.R. 2), by a vote of 213 – 211. The bill was opposed by Democrats because of employment and work eligibility training requirements for SNAP beneficiaries. Last week, the Senate Committee on Agriculture, Nutrition and Forestry passed the bipartisan Agriculture Improvement Act of 2018, also known as the Farm Bill, by a vote of 20-1. The bill would reauthorize farm and nutrition programs, such as the

Supplemental Nutrition Assistance Program (SNAP), for the next five years through FY 2023.

Unlike the House bill, the Senate bill had broad bipartisan support and did not include additional work requirements for SNAP recipients. SNAP and other food assistance programs in the bill are mostly unchanged. Existing SNAP work requirements are somewhat revised and some additional funding for education and training was added. The controversial changes proposed by the House Agriculture Committee to work and eligibility requirements are not included in the Senate draft. Additionally, there are not any controversial revisions that would reduce benefits to participating households or reduce participation.

Although the Senate bill does not seek new work requirements or significant changes to eligibility standards, it is focused instead on making administrative changes aimed toward combating fraud. Additionally, the legislation would prohibit processing fees, interchange fees and routing fees from all EBT transactions which would expire in 2022. Finally, the legislation would task the USDA to establish a retailer incentives program for retailers seeking to offer incentives for SNAP purchases of foods that are within the dietary guidelines. Please note that PMAA is currently working with Senate leadership and the Agriculture Committee to include a reauthorization of the National Oilheat Research Alliance (NORA) in the farm bill. We will have more details later this summer.

Senate Majority Leader Mitch McConnell (R-KY) has indicated that the Senate may bring the farm bill to the floor for a vote before the July 4 recess. A House-Senate Conference Committee will likely follow.

EPA SENDS WOTUS REWRITE TO OMB

In 2015, the Obama administration finalized its “Waters of the United States” (WOTUS) rule that would place smaller streams and other areas where water flows into rivers or lakes under federal jurisdiction, meaning the government would regulate runoff into that water. However, the rule was delayed by legal challenges and postponed by the Trump administration last year.

Then, last week, the EPA and the Army Corps of Engineers sent a proposal to redefine the WOTUS rule under the Clean Water Act (CWA) to the White House Office of Management and Budget (OMB) for interagency review. The rewrite is expected to be more industry-friendly and aligned with President Trump’s executive order asking the EPA to rewrite the rule based on former Supreme Court Justice Antonin Scalia’s much narrower interpretation of which streams and wetlands warrant federal protection. Once the proposal is reviewed it will be released for public comment.

In a statement, EPA Administrator Scott Pruitt said that by sending the WOTUS rewrite to OMB, the EPA is “taking an important step toward issuing a new WOTUS definition and answering President Trump’s call to ensure that our waters are kept free from pollution, while promoting economic growth, minimizing regulatory uncertainty, and showing due regard for the roles of the federal government and the states under the statutory framework of the Clean Water Act.”

The rule is important to petroleum marketers because it defines how far federal clean water regulations extend into local land use and permitting decisions including the construction of new gasoline stations and surface water runoff from parking and fueling areas. In addition to submitting a rewrite of the Obama administration’s WOTUS rule to OMB, the EPA is continuing its efforts to repeal the rule that could adversely affect many petroleum marketers with bulk storage and retail stations.

HOUSE SUBCOMMITTEE ON ENVIRONMENT HOLDS HEARING ON ADVANCED BIOFUELS

This morning, the House Subcommittee on Environment, Chaired by Congressman John Shimkus (R-IL), is holding a hearing entitled, “Advanced Biofuels Under the RFS: Current Status and Future Prospects.” Witnesses before the Subcommittee include Mike McAdams, President, Advanced Biofuels Association; Derrick Morgan, Senior Vice President, American Fuel & Petrochemical Manufacturers; Robin Puthusseril, Vice President, Greater Chicago Truck Plaza on behalf of the National Association of Truck Stop Operators; Randy Howard, CEO, Renewable Energy Group on behalf of the National Biodiesel Board; Brooke Coleman, Executive Director, Advanced Biofuels Business Council; Collin O’Mara, President, National Wildlife Federation; and Luke Morrow, Managing Director, Morrow Energy on behalf of the Coalition for Renewable Natural Gas.

The RFS volume mandates are broken down into four interrelated categories: biomass-based diesel, Cellulosic biofuel, Advanced biofuel and total renewable fuel. The RFS requires 36 billion gallons of renewable fuels in our nation’s fuel supply by 2022 of which \$15 billion derives from corn ethanol and the rest from advanced biofuels. For an advanced biofuel to be counted under the RFS, it must achieve at least a 50 percent reduction in CO2 emissions relative to petroleum-based fuels. While biodiesel production has met its volume targets, cellulosic volumes have dwarfed in comparison with 288 million gallons produced in 2017, far short of the statutory target of 7 billion gallons. In a statement to the Subcommittee, Mr. Howard with REG said that the U.S. market has consistently supported demand for more than 2.5 billion gallons of biodiesel since 2013 with 238 million gallons of production capacity added since the start of 2017

In prepared written testimony, Brooke Coleman with the Advanced Biofuels Business Council urged Congress not to touch the RFS and to expand the 1 psi waiver for E15 in order for it to be sold during the summer months. PMAA continues to be concerned that small business petroleum marketers will be placed in a precarious situation if E15 starts to take hold

because of the potential economic impacts of adding E15 including the costs associated with existing UST system incompatibility. Mr. Coleman also said that recent EPA actions have destroyed demand for biofuels. Recently, the EPA has granted 25 small refinery RFS waivers which have indirectly reduced the biofuel mandate which has led to lower RIN values. The EPA has the authority to grant exemptions from the program to refineries with a capacity under 75,000 barrels per day if the company can demonstrate financial hardship. EPA has also considered allowing exported biofuel to generate RIN values. Biofuel groups are opposed to such action because attaching RINs to exported ethanol would likely provide relief to refiners by reining in the cost of RINs.

Derrick Morgan, with the American Fuels & Petrochemical Manufacturers (AFPM), in prepared testimony, argued that the RFS has largely failed to commercialize cellulosic biofuels and advanced biofuels other than biodiesel. "Until the RFS sunsets, EPA should set reasonable advanced biofuels mandates tied to demonstrated domestic production," Morgan told the Subcommittee. Finally, Robin Puthusseril representing NATSO, said that the refinery hardship exemptions have undercut demand for advanced biofuels which have dramatically lowered RIN prices. Ms. Puthusseril also said that "federal and state biofuel incentives must continue for a period of years if there is any hope for them to remain competitive

CONGRESS HEARS FROM STATE'S ON REGULATING BACKGROUND OZONE

Yesterday, the House Committee on Science, Space, and Technology's Subcommittee on Environment held a hearing titled "State Perspectives on Regulating Background Ozone" to discuss different state's views on air quality standards, also known as the National Ambient Air Quality Standards (NAAQS), and the regulations in place. Witnesses included: Diane Rath, Executive Director, Alamo Area Council of Governments; Timothy Franquist, Air Quality Division Director, Arizona Department of Environmental Quality; Dr. Elena Craft, Senior Health Scientist, Environmental Defense Fund; and Gregory Stella, Senior Scientist, Alpine Geophysics.

In his opening statement, Environment Subcommittee Chairman Andy Biggs (R-AZ) expressed his concern with President Obama's 2015 lowering of the NAAQS from 75 parts per billion (ppb) to 70 ppb, believing the new standard placed a significant economic burden on states around the country. Chairman Biggs added that in his "own state of Arizona, naturally-occurring background ozone—over which we have virtually no control—has created a compliance nightmare. The solution to this problem is simple: the EPA should take local geographic factors into account when determining ozone standards. Simply slapping a 'nonattainment' designation on areas where ozone emissions are not even originating is both unfair and devastating to business in the state." He continued, "Background ozone can come from both domestic and international sources." For instance, a large amount of Arizona emissions originates in Mexico. However, the way the NAAQS are set, these emissions from outside the country are used against U.S. states.

Full Committee Chairman Lamar Smith (R-TX) spoke about the ineffectiveness of current regulations. The Chairman said, "Instead of using an unachievable, one-size-fits-all approach, EPA should collaborate with the states and come up with plans that actually work. Background ozone includes both natural and international ozone. Natural ozone comes from many sources including wildfires, lightning and vegetation. International ozone refers to emissions coming from other countries like China and Mexico."

Diane Rath, Executive Director of the Alamo Area Council of Governments, spoke about the progress the San Antonio metropolitan area has made in reducing ozone concentrations. Ms. Rath stated that the "region's success in improving ozone levels is due in large part to local voluntary public and private partnerships to reduce ozone precursor emissions."

EPA COULD ANNOUNCE REALLOCATION OF WAIVED BIOFUEL BLENDING VOLUMES

Last week, the EPA announced that it could not force large oil refineries to make up for the amount of biofuel blending lost due to the small refinery hardship waiver program unless it receives authorization from Congress. Many biofuel groups say the waivers have reduced the ethanol mandate which has driven down RIN prices which will hurt E15 sales. Midwest lawmakers, including Sen. Chuck Grassley (R-IA), have been demanding that larger refiners take on more volume obligations to compensate for the biofuel volumes exempted under the program.

But in a turn of events this week, the EPA reversed course and reported that the agency could propose reallocating biofuel blending obligations to large refiners without Congressional authorization. The EPA was expected to announce its proposed annual biofuel blending mandates under the RFS today with the added volumes for large refiners, however, it was delayed due to the backlash from refiners who were upset after the EPA reversed course. Upon hearing the news, Frank Macchiarola with the American Petroleum Institute (API), stated that "reallocating volumes would obviously conflict with public and private statements on the issue."

SUBCOMMITTEE PROVIDES \$3.64 BILLION FOR LIHEAP

Last week, the House Labor-HHS-Education Appropriations Subcommittee passed their FY19 bill which includes \$3.64 billion for the Low-Income Home Energy Assistance Program (LIHEAP), consistent with current funding. The full Appropriations Committee will meet on Tuesday to vote on the bill.

In February, President Trump released his FY 2019 budget proposal that would eliminate LIHEAP as well as the Weatherization Assistance Program (WAP). In recent years, the LIHEAP program has provided more than \$3 billion annually to states in support of their fuel assistance programs. Both programs are vital in serving low income consumers of

home heating fuel, with LIHEAP helping consumers with fuel funds and the WAP helping with acquiring more efficient equipment.

PLAN TO ATTEND THE 2019 WPMAEXPO

WPMAEXPO

Mark your calendars for February 19-21, 2019. Make plans now to attend the 2019 WPMAEXPO. It will be held once again at the Mirage in Las Vegas, Nevada.

MARK YOUR CALENDARS FOR UPCOMING EVENTS

August 8-10, 2018 – Idaho (IPM&CSA) Convention – Coeur d’Alene Resort – Coeur d’Alene, Idaho

August 20-22, 2018 – New Mexico (NMPMA) Convention – Sandia Resort & Casino, Albuquerque, NM

September 12-14, 2018 – Utah (UPMRA) Convention – Doubletree by Hilton, Park City, UT

February 19-21, 2019 – WPMA Convention & Expo – Mirage Hotel– Las Vegas, Nevada

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Petro Pete: “Despite my specific instructions, no one that has listened to my voicemail has left me a message after the beep.”

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