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RESULTS FROM NCWM ANNUAL MEETING

On Wednesday the National Conference on Weights and Measures (NCWM) held its 2012 Annual meeting in Portland, Maine. Items on the agenda important to petroleum marketers and retailers were standardizing nozzle color and size, a potential 10 micron diesel dispenser filter mandate, biodiesel disclosure and retail price posting requirements.

PMAA continued to work on the proposal to require full disclosure of the percentage of biodiesel under five percent in diesel fuel. PMAA believes that all parties along the distribution chain have a responsibility to disclose accurate biodiesel content information for the fuel they supply. PMAA's Second Vice Chairman Sam Bell attended the meeting to push for modifications to the biodiesel disclosure item to improve transparency and fairness for marketers. Bell is co-chairman of the NCWM Biodiesel Disclosure Working Group along with Steve Howell with the National Biodiesel Board. After intense discussions, the task group, which is made up of the National Biodiesel Board (NBB), the American Petroleum Institute's (API) member companies and PMAA, were unable to find consensus on the issue. It was later agreed that a state-by-state approach was the best available option for marketers to receive exact biodiesel content disclosure. PMAA has drafted model state legislation that it has shared with state association executives.

Additionally, NCWM Laws and Regulations (L&R) Committee agreed to PMAA's recommendation to withdraw the Standardized Colors for Nozzles which would mandate a green diesel nozzle and a yellow nozzle to E85. Because not all states adopt these requirements, the proposal could actually cause more confusion in the marketplace by creating a patchwork of requirements across the country. Also, there is no evidence that the proposal would help mitigate vehicle misfueling. After hearing from industry groups, weights and measure officials withdrew the proposal to standardize dispenser nozzle colors. However, NCWM did approve a non-controversial proposal to require retail diesel dispensers to have a nozzle spout diameter that conforms to the latest version of SAE J285, "Dispenser Nozzle Spouts for Liquid Fuels Intended for Use with Spark Ignition and Compression Ignition Engines."

PMAA also urged the NCWM L&R Committee to withdraw an item on the agenda which would mandate a 10 micron or smaller sized filter on all diesel dispensers. Auto trade groups are pushing NCWM officials to require retailers to install smaller pore sized micron filters for diesel nozzles. PMAA argued that it would cause clogging and diminish dispenser flow rates by 50 percent or more, hurting commercial truck drivers. Additionally, this could potentially lead to a patchwork of some nozzles having the smaller pore size while other retailers might not have them since some states do not automatically adopt the NCWM handbook. After further discussion, NCWM officials left the item as "informational" which will allow time for industry stakeholders to come up with a consensus solution.

Finally, NCWM officials approved new language which would allow greater flexibility for retailers to give discounts at the pump. Current regulations do not address the recent advancements in fuel purchase discounts at retail stations, such as discounts for purchasing with cash, pre-pay sales, purchasing store products, carwashes, rebates, and other discount scenarios, that could lead to retailers to be found non-compliant with NCWM standards. While PMAA didn't object to the new language to address price posting, PMAA asked for a two year delay implementation period to allow small mom and pop retailers time to upgrade their point-of-sale (POS) systems to be in compliance with the new language. However, NCWM officials rejected the delay noting that the current NCWM Handbook 44 requirements do not permit systems to offer post-delivery discounts and that retailers are already out of compliance with current Handbook 130 regulations. **Please note: The language isn't a mandate, however, if retailers wish to offer discount programs starting January 1, 2013, they must have capable POS technology to conform with the new language described below.**

For post-delivery discounts: The unit price at which the dispenser is set to compute shall be the highest unit price for any transaction. All purchases must be accompanied by a printed receipt recorded by the system (no hand written receipts or hand calculated discounts are permitted — such transactions are already prohibited in NCWM Handbook 130) that includes the total volume delivered, the dispensed price per unit, total computed price on the dispenser, an itemization of post-delivery discounts to the unit price, and the final total price of the sale after all post-delivery discounts are applied. Additionally, dispensers capable of pre-delivery discounts will be able to do so provided that the dispenser will display or be capable of displaying the final unit price prior to any post-delivery discounts following a deliberate action by the purchaser. For instance, when the customer swipes a debit card or loyalty card, this is a deliberate action by the customer in which the dispenser will roll back the price. Many retailers do not have the option for pre-delivery discounts, so they will have the option to apply all discounts as "post-delivery discounts" and subject to an itemized detail receipt as explained above. Please note that truck stop dispensers used exclusively for refueling trucks, fleet sales and other price contract sales are exempt from these requirements.

EPA REVISES ANNUAL EPCRA TIER II INVENTORY REPORTING FORMS

This week the U.S. EPA announced that it will require additional information on annual EPCRA Tier II filings. The new requirements are important to petroleum marketers because all bulk plant owners must submit an annual EPCRA Tier II inventory report to state emergency planning commissions – generally the state Fire Marshal – each year by March 1.

EPA's requirements add new data elements that bulk plant operators must report on Tier II Emergency and Hazardous Chemical Inventory Forms under Section 312 of the Emergency Planning and Community Right-to-Know Act. The Tier II inventory form requires more detailed information on the amounts and locations of hazardous chemicals present, including the longitude and latitude of the facility, whether employees are stationed on site, and the maximum number of employees who may be present at one time. Additionally, bulk plant operators will be required to provide contact information for the facility emergency coordinator, the email addresses of the owner/operator and emergency contact as well as applicable identification numbers assigned under the Toxic Release Inventory and risk management programs. The Tier II form will also include separate data fields to report pure chemicals and mixtures.

The changes will not take effect until January 1, 2014 and will appear on the 2013 annual inventory report (both on paper forms and on electronic data fields) due on March 1, 2014. EPA said the rule will impose only “minimal” reporting burdens on subject facilities because “the data elements are readily available to the facility.”

IN SPITE OF DROUGHT ETHANOL MANDATES WILL NOT BE REDUCED

In spite of 55 percent of the country facing moderate to extreme drought in June, EPA is not considering relaxing the mandate for corn based ethanol this year. The EPA decision is based off USDA data showing that more corn is being produced this year than last year and it is the third highest year for corn production in the country's history.

Margo Oge, EPA's Air and Transportation Director has stated that states can request a waiver, but none have yet.

RYO CIGARETTE MACHINES MUST COMPLY WITH TTB NOTICE

When President Obama signed the House/Senate highway bill conference agreement into law last Friday, individuals and businesses that make roll-your-own (RYO) cigarette machines available to consumers are classified as manufacturers of tobacco products. Manufacturers are required, among other things, to:

1. Obtain a [manufacturing permit](#) through the Alcohol and Tobacco Tax and Trade Bureau's (TTB) website.
2. Put cigarettes in packaging that displays the required Notice (e.g., 20 Class-A Cigarettes) and Mark (name of manufacturer and address of facility where the product is made and received by the consumer or the permit number of the facility); and
3. Pay federal excise taxes in the amount of \$1.01 per twenty cigarettes.

Since 2009, there has been a wide disparity between the taxes imposed on packaged cigarettes and “roll-your-own” cigarette tobacco (\$24.78/lbs) and the taxes imposed on “roll-your-own” pipe tobacco, also called “loose tobacco” (\$2.83/lbs). Businesses across the country have been renting RYO machines to customers who then roll their own tobacco to take advantage of the tax difference (sometimes more than three-dollars per pack). This has undermined c-store owners who are reluctant to invest in RYO machines because the federal Tobacco Tax and Trade Bureau (TTB) has secured an injunction claiming that a RYO retailer is a manufacturer and TTB will seek back taxes which could potentially create enormous tax liabilities for retailers in the future. The tax language that was signed into law on July 6, 2012 would classify retailers who own RYO machines as “manufacturers.” The law doesn't increase taxes on pipe tobacco made with a commercial RYO machine, but it ensures that all state and federal tobacco taxes are legally collected.

WPMA MEMBER SERVICES



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 2012

August 1-3, 2012 – Idaho - IPM&CSA Convention – Coeur d'Alene Resort, Coeur d'Alene, Idaho

August 15-16, 2012 – Utah - UPMRA Convention – Zermatt Resort, Midway, UT

August 27-29, 2012 – New Mexico - NMPMA Convention and Trade Show – Embassy Suites – Albuquerque, New Mexico

Petro Pete: *“I always mean what I say. It's just that I don't always mean to say it out loud”*

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