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CONGRESS BROKERS SURPRISE DEAL ON FAA FUNDING, AVGAS AND JET FUEL FET RATES RESTORED

In a move yesterday that virtually nobody expected, Senate and House leaders in Congress brokered a deal on short term funding for the Federal Aviation Administration (FAA). The reauthorization is important to petroleum marketers because it temporarily reinstates full federal excise tax rates on aviation gasoline and aviation fuel for noncommercial use that were reduced from 19.4 and 21.9 cpg respectively to 4.4 cpg when funding for the FAA expired on July 23, 2011. The Senate approved the FAA reauthorization bill by unanimous consent and the president will sign it later today. The legislation extends FAA funding until September 16, 2011.

The temporary extension announcement came shortly after PMAA published a Regulatory Report on reduced rates for aviation gasoline and aviation fuel for noncommercial use. Given the temporary FAA extension and reinstatement of the full federal excise tax rates for both fuels, the PMAA Regulatory Report is now largely moot. However, major differences between Republican and Democrats on a long term four -year FAA reauthorization remain and could lead to another funding gap when Congress tackles the issue again in September. If this happens, another reduction in the federal excise tax rates for aviation gasoline and aviation fuel for noncommercial use will occur and the Regulatory Report will once again become relevant.

There is no word yet from the IRS on whether a floor stocks tax will be in effect for existing supplies of aviation gasoline and aviation fuel held on the date the full FET rates are restored. PMAA will forward this information as soon as it becomes available.

CFTC NOMINEE APPROVED BY SENATE AG COMMITTEE

Before the Senate adjourned for August recess, the Senate Agriculture Committee approved by voice vote the nomination of former Senate Majority Leader Harry Reid (D-NV) staffer, Mark Wetjen, to become the next Democratic commissioner to the Commodity Futures Trading Commission (CFTC). The full Senate will likely take up Wetjen's nomination after Labor Day once they return from August recess.

Wetjen will play a pivotal role at the CFTC since he will be replacing retiring CFTC Commissioner Michael Dunn, a Democrat, who has been wavering on implementation on the most important proposed derivatives rules that the Dodd-Frank Wall Street Reform law mandates. PMAA supports aggregate position limits on investment banks, hedge funds and other speculators which invest in oil commodities as a hedge against inflation. PMAA argues that these funds should be limited in investing in oil commodities since they can create extreme volatility and move prices regardless of what supply and demand fundamentals dictate. Mark Wetjen will likely be the deciding factor on whether aggregate position limits are imposed on speculators. Additionally, PMAA continues to push the CFTC to require over-the-counter (OTC) swaps including commodity swaps to clear through a centralized clearinghouse. This will require margin and capital requirements on speculators, not commercial end-users. Higher margin and capital requirements will reduce prices and volatility in the short term and bring stability to the price of oil.

Wetjen is counsel and senior policy adviser to Senate Majority Leader Harry Reid. He helped craft the Wall Street Reform bill which was signed into law last year. The CFTC has yet to complete a number of rules and regulations affecting the derivatives market. CFTC Chairman Gary Gensler has indicated that the CFTC will likely take up most of the proposed regulations by the end of 2011 and into early 2012.

IS EXTENSION OF THE GAS TAX CERTAIN?

It is hard to believe but some lobbying groups are suggesting that extension of the 18.4 cpg federal gasoline tax is not a complete certainty as it has been in the past. The tax, which funds the federal Highway Trust Fund, is set to expire September 30.

Although many members of Congress and policy groups understand the critical role the tax plays in building and maintaining roads, there are those who argue that removing the tax would be good for consumers who are struggling to pay for gasoline. Some are suggesting that state governments should pay for roads and reduce the federal role.

The biggest concern is not that Congress will end the tax, but that procedural delays could cause a lapse in collecting the tax (like happened with the FAA shutdown). If the federal tax were to lapse, it might create significant chaos for petroleum marketing companies whose software is not programmed to adjust for "no tax". Although the Administration has urged Congress to maintain the nation's current level of funding, for the past month Congress has not focused on anything other than raising the debt ceiling.

NORA NOW!

The oilheat industry across the country is working to ensure a brighter future by raising public awareness and support for legislation that would renew and strengthen the National Oilheat Research Alliance program, or "NORA." The New England Fuel Institute (NEFI) has joined forces with other oilheat associations and industry advocates to develop a new advocacy website www.SupportNORA.org to support reauthorization of NORA. Please visit the site for more information and continue to urge your lawmakers to co-sponsor H.R. 1756 and S. 949 during the August recess. If you have sent letters to your Congressional delegations urging support and cosponsorship of NORA reauthorization, please share those letters with PMAA.

PMAA FILES COMMENTS ON EEOC REVIEW OF CRIMINAL BACKGROUND CHECKS BY EMPLOYERS

Earlier this week PMAA sent comments to the Equal Employment Opportunity Commission (EEOC) as it reexamines the use of criminal background checks for existing or prospective workers. PMAA reminded that Commission that criminal background checks are one of the most important ways to create a safe working environment and employers need the tools to make informed hiring decisions.

PMAA went on to say, that "so long as there is workplace violence and theft, PMAA members want to keep the flexibility to conduct criminal background checks that are fair and appropriate to keep the workplace safe and reduce fraud and theft."

DEBT LIMIT LEGISLATION DOES NOT INCLUDE CUTTING ETHANOL TAX CREDIT

Although a deal was reached recently by Sens. Thune (R-SD), Klobuchar (D-MN) and Feinstein (D-CA) on language to end the 45 cents-per-gallon ethanol tax credit on July 31, 2011, that ethanol deal was not included in the debt limit legislation that President Obama signed into law earlier this week. Savings from ending the ethanol blender's credit early would have gone towards expanding the Alternative Fuel Vehicle Refueling Property Credit (AFVRPC). The AFVRPC was to be applied not just for blender pumps, but also for UST systems if marketing E15 – E85 blends. It is now all but certain that the 45 cent-per-gallon credit will remain in place until Dec. 31, 2011. Ethanol trade groups may try to push for a deal in September that would include extending the credit but it's unlikely given the short time frame. Congress starts its annual August recess this Friday and won't be back in town until after Labor Day.

The debt limit legislation would increase the debt ceiling from \$2.1 trillion to \$2.4 trillion with an immediate \$900 billion increase to the debt limit. Of that, \$500 billion would be subject to a Congressional resolution of disapproval. In early 2012, President Obama can request a \$1.5 trillion increase, if Congress enacts an equal or greater amount of spending cuts or a constitutional amendment for balanced budget passes both chambers. Or the President can request a \$1.2 trillion increase, if Congress enacts less than \$1.5 trillion in savings.

More importantly, the debt limit legislation created a Joint Committee on Deficit Reduction which will be made up of six Democrats and six Republicans. The Joint Committee will be tasked with finding at least \$1.2 trillion in deficit reduction over 10 years which may include cuts to entitlement programs such as Social Security and Medicare and increased taxes and/or subsidy reforms such as ending the ethanol tax credit. If the Joint Committee fails to find at least \$1.2 trillion in deficit reduction, automatic cuts split 50/50 to defense and discretionary spending will take effect on Jan. 1, 2013.

Finally, the House and the Senate must hold a vote on a constitutional amendment by December 31, 2011 on a Balanced Budget amendment.

LEGISLATION INTRODUCED TO INCREASE TRUCK WEIGHT LIMITS

Last week, Senators Olympia Snow (R-ME) and Amy Klobuchar (D-MN) introduced the "Commercial Truck Safety Act" (S. 1450), a bill that would allow states to petition the U.S. DOT for a three-year waiver to allow six-axle trucks of up to 100,000 lbs to travel on interstate highways and create a committee to determine if waivers given to states should be made permanent. The bill would essentially eliminate an inequitable government regulation permitting six-axle trucks weighing up to 100,000 pounds to travel on some states' interstate highways and not others. In 27 states, trucks up to 100,000 pounds can travel on interstate highways, but in states like Maine, Vermont, and Minnesota, trucks weighing more than 80,000 pounds must either unload cargo or travel to through secondary roads across small towns. Some states have been able to avoid the 80,000 lbs weight limit through a pilot program authorized by the previous Congress that allowed up to 100,000 lbs to travel on federal highways which relieved congestion in small towns and on state and local roads.

U.S. DOT Secretary Ray LaHood agreed the approach could be addressed in a comprehensive transportation reauthorization bill this fall. Sen. Snowe will likely push for an amendment or include language in the highway bill reauthorization. The House will also need to include in the highway bill reauthorization an extension of the 18.3 cents-per-gallon motor fuels excise tax which is set to expire on September 30, 2011. PMAA is also working with lawmakers to include language in the upcoming highway bill to prohibit DOT from implementing its onerous and unnecessary wetlines proposed rule along with prohibiting the government from commercializing rest areas.

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. Our keynote speaker will be Ben Stein. Mark your calendars for February 21-23, 2012.

MARK YOUR CALENDARS FOR UPCOMING EVENTS IN 2011

August 30-31, 2011 – NMPMA Convention – Embassy Suites, Albuquerque, New Mexico

September 12, 2011 – IPM&CSA Golf Tournament – Teton Springs-Headwater Golf Course – Victor, Idaho

September 14-16, 2011 – UPMRA Convention – Rainbow Hotel and Casino – Wendover, NV

September 21, 2011 – NPM&CSA – Tanker Yanker – Reno, NV

Petro Pete: *“A computer once beat me at chess, but it was no match for me at kick boxing.”*

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