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DEBATE EMERGES ON EMERGENCY GENERATORS

Earlier this summer, EPA released a proposed rule to allow backup generators to operate for up to 100 hours during emergency and peak-use periods without being subject to emission limits. The proposed rule has raised concerns from the National Association of Clean Air Agencies (NACAA) who have said that the proposed rule didn't adequately consider the potential environmental and public health impacts. The previous emission exemption for generators was 15 hours. The NACAA argues that the proposed rule will increase emissions from air toxins and particulate matter and have asked EPA to return to the drawing board before issuing a final rule.

Last month, Washington, DC experienced its worst storm in decades, and generators were put to the test since much of the region was without power for several days. Air quality standards were evaluated before, during and after the storm to see whether generators caused ozone concentrations to exceed levels after the storm impacted the region. According to the American Public Power Association (APPA), their air quality report showed that ozone concentrations did not exceed ozone levels that were recorded before and after the storm. Clean air advocates disagreed despite the fact that they haven't cited any factual information to challenge the report.

EPA is also proposing to give backup generators 50 of the 100 allotted annual hours until April 2017 for non-emergency use to meet peak power demand. The temporary allowance for peak use would give electric grid sources time to address reliability issues while coal-fired power plants come into compliance with the new air toxics rule which was finalized on Feb. 16, 2012. If generators exceed 100 hours, then they must comply with emission limits for non-emergency periods. Please note: The proposed rule impacts reciprocating internal combustion engines (RICE) which includes electric power generation, transmission or distribution; hospitals; natural gas transmission; crude petroleum and natural gas production; natural gas liquids producers and national security.

Given that petroleum marketing companies supply most, if not all, of the diesel fuel for backup generators, it is important EPA issues a final rule that upholds the 100-hour emergency exemption. If EPA lowers the 100-hour emergency backup generator emissions exemption, jobber companies will likely be impacted.

NEW EPA RULES FOR PUMPS DISPENSING E-10 AND E-15 THROUGH THE SAME HOSE

The U.S EPA has issued new requirements for pumps that dispense both E-10 and E-15 through a single hose. The new requirements are necessary to prevent the misfueling of E-15 blends into non-road vehicles and engines that are authorized to use E-10 or lower blends only. The EPA is concerned that the small fuel tanks used on non-road vehicles such as ATVs and motorcycles are not large enough to hold the minimum volume of E-10 necessary to blend down residual E-15 (approximately 0.03 gallons) left in a blender pump hose from a previous purchase. As a result, these vehicles may end up with a blend between E-10 and E-15 causing a misfueling incident. The EPA did not include non-road vehicles in engines in the E-15 fuel waiver issued in 2010. Placing blends greater than E-10 into the fuel tank of a non-road vehicle or engine could lead to engine and emission system damage as well as potential legal and regulatory liability for retailers.

To prevent the misfueling of non-road vehicles and engines, the EPA is requiring retailers to either use a dedicated hose for dispensing E-10 or lower blends on blender pumps or impose a minimum four gallon purchase for each sale of E-10. The four gallon minimum purchase is a sufficient volume to ensure that any residual E-15 is left in the hose and nozzle is blended down to an E-10 maximum. In addition to the four gallon minimum, retailers using a single hose on blender pumps must also post the following dispenser label informing consumers of the minimum purchase requirement:

**“Minimum Fueling Volume Four Gallons;
Dispensing Less May Violate Federal Law”**

The EPA is informing retailers of the requirements for single hose blender pumps in approval letters for misfueling mitigation plans which retailers must submit to the agency before E15 may be sold. However, PMAA believes the dual hose or four gallon minimum purchase misfueling mitigation requirements for blender pumps are important factors for retailers to weigh before making a decision to sell E15 gasoline blends.

For detailed information on dispensing requirements through a blender pump, go to [http://pmaa.org/pdfs/RFAE15RetailersHandbook\(Updated\).pdf](http://pmaa.org/pdfs/RFAE15RetailersHandbook(Updated).pdf) for the Renewable Fuels Association E15 Retailer Handbook (See Addendum). The EPA letter acknowledging blender pump requirements may be viewed by going to <http://pmaa.org/pdfs/EPAMisfueling-BlenderPumps.pdf>. The EPA sample misfueling mitigation plan approval letter including

blender pump configuration requirements may be viewed by going to <http://pmaa.org/pdfs/e15-mmp-approval-letter-sample.pdf>.

GAS CAN MANUFACTURERS SEEK LIABILITY LIMITS

Gas cans are something marketers and consumers take for granted but frivolous lawsuits are driving U.S. manufacturers out of business. Earlier this week PMAA staff met with the Portable Fuel Container Manufacturers Association to discuss legislative efforts to minimize costly product liability lawsuits which have plagued their industry in recent years. Blitz USA, which has been manufacturing portable fuel containers since World War II, recently announced the company will be unable to emerge from bankruptcy after several liability lawsuits impacted its bottom line. Given that Blitz USA manufactures nearly 75 percent of the portable fuel containers in the United States, the "red plastic can" will likely be non-existent in hardware stores in the future. It's an unfortunate story for this once successful American company and its employees who have fallen victim to tort litigation.

Trial lawyers found a quick pay-day by filing lawsuits against Blitz when consumers misused containers. Suits were filed for consumers who poured gasoline on fires to rekindle the flame, and in some cases causing the gasoline to ignite causing severe burns and even death. Blitz was blamed for manufacturing a defective product. Other portable fuel container companies are likely to resist expanding to fill the market because of concern over being the next victims of the trial lawyers. It's imperative that these products stay afloat given that the peak month of Hurricane season is around the corner. If a shortage ensues and consumers start using other methods to store gasoline in portable containers, such as coolers and milk/detergent containers, PMAA is concerned that trial lawyers may attempt to go after c-stores because consumers will be using the gasoline dispenser to fill a portable container not suitable to hold gasoline.

Portable fuel containers are regulated by the Environmental Protection Agency (EPA) and the Consumer Product Safety Commission (CPSC) in accordance with the "Children's Gasoline Burn Prevention Act" (CGBPA) (Public Law 110-278). The Portable Fuel Container Manufacturers Association supports legislation introduced by Rep. Tom Cole (R-OK) which would amend the CGBPA to make all voluntary product ASTM standards mandatory six months after date of enactment. The amendment would enable portable container parties to defend themselves against costly trial lawyer lawsuits.

PMAA supports legislative efforts to reduce liability for portable containers and will work with Congress to highlight these concerns.

NEVADA ANOTHER BAKKEN OIL DISCOVERY?

Earlier this week in Reno a representative of Noble Energy discussed their efforts to extract crude oil and maybe some natural gas in Elko County, Nevada. The spokesperson said the Nobel is seeking to lease more than 250K acres. Currently, the company is seeking federal and state permits to begin seismic testing this fall. If the seismic tests come back positive, test drilling would begin in 2013. Based on preliminary data the find or play could range from a low of 500 mbbls to over a billion barrels with a life expectancy of 40 to 50 years. A smaller exploration company is also involved, Lone Wolf Energy.

GREGG BENSON NOMINATED TO BECOME PMAA WESTERN REGION CHAIRMAN

Gregg Benson, Rebel Oil Company, Las Vegas, has been nominated by his peers and the PMAA Western Regional Directors to become the PMAA Western Region Chairman. If confirmed by the PMAA board of directors at their Fall meeting in Las Vegas, Gregg will begin his duties in January, 2013. Congratulations Gregg, thank you for your service to NPM&CSA and PMAA.

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

Petro Pete: **“Of course I talk to myself...sometimes I need expert advice.”**

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