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U.S. EPA DROPS PROPOSAL FOR STRICT NEW OZONE AIR POLLUTION STANDARD

In a major policy reversal, the Environmental Protection Agency said this week that it will drop its proposed 0.060-0.070 ozone standard and move forward with implementation of the less stringent Bush-era ozone air quality standard of 0.075 part per million that it previously rebuffed as “legally indefensible”. The EPA backedpedaled on the more stringent ozone standard after opponents labeled it a “job killer”. The news is important to petroleum marketers because none of the EPAs designated areas under the 0.075 ppm ozone standard would meet the “serious”, “severe” or “extreme” nonattainment level that would mandate the use reformulated gasoline. Under the Clean Air Act, EPA is required to review and set national ambient air quality standards every five years for six criteria pollutants, including ozone. The standards require states to control sources of the pollutants, such as industrial facilities and vehicles.

Areas that do not meet EPA’s air pollution standards must impose emissions controls, such as the use of RFG, to attain the standards. According to industry estimates, 108 monitored counties would have met the stringent 0.060 ppm ozone standard while 628 counties would be in nonattainment. The EPA estimates that only 52 counties will be designated as nonattainment under the 0.075 ozone standard. Compliance costs for implementing a 0.060 standard would have been over \$90 billion per year. Implementing a 0.070 ppm standard would cost industry up to \$25 billion annually. The annual implementation costs for a 0.075 ppm standard would be \$8.8 billion. EPA said it plans to propose the new nonattainment designations this fall. The agency will also propose thresholds for determining various nonattainment classifications (marginal, moderate, serious, severe and extreme) though no designations above moderate are expected.

NFIB CHALLENGES

On Wednesday, the National Federation of Independent Business (NFIB) filed a lawsuit challenging the “Notice Posting Rule” from the National Labor Relations Board (NLRB). The rule requires employers to post a notice informing employees of their right to unionize. Employers that fail to comply with the rule may face increased scrutiny and an investigation from the NLRB.

PMAA recently published a [Regulatory Report](http://pmaa.org/weeklyreview/attachments/2011/PMAARR8-30-11NLRB.pdf) (<http://pmaa.org/weeklyreview/attachments/2011/PMAARR8-30-11NLRB.pdf>) explaining how the rule applies to petroleum marketers. The rule takes effect November 14, 2011.

FEDERAL APPEALS COURT UPHOLDS BAN ON MAILING CIGARETTES

This week the Second Circuit Court of Appeals upheld a 2010 ban on mailing cigarettes and upheld an order exempting the Seneca Indian tribe from collecting New York state tobacco taxes. In July 2010, US District Court Judge Richard Arcara ruled that certain provisions of the Prevent All Cigarettes Trafficking Act (PACT Act) could be enforced.

The Department of Justice (DOJ) can choose to appeal the case to full Second Circuit Court, ask the US Supreme Court to decide, or do nothing. PMAA supports full implementation of the PACT, however, it is likely it will be some time before all legal options are exhausted and the issue is resolved.

LEGISLATION TO CAP SPECULATION IN OIL MARKETS INTRODUCED

Legislation introduced this week by Senator Bill Nelson (D-FL), along with Senators Jay Rockefeller (D-WV), and Bernie Sanders (D-VT), would dramatically scale back the role of financial speculation in the oil futures markets. A companion House bill was also introduced by Reps. Peter Welch (D-VT) and Rosa DeLauro (D-CT). Both PMAA and NEFI are supporting the bills.

The “Anti-Excessive Speculation Act of 2011” (S. 1598 and H.R. 3006) would make a number of changes to ensure that prices at the pump reflect the fundamental supply and demand for oil in both regulated and the non-regulated over-the-counter (OTC) energy derivatives market. It would do so by limiting the control of any speculator to five percent of the oil market (much more aggressive than the CFTC draft rule) and cap overall speculation to its historic 25 year average. The CFTC is tasked with regulating the commodity derivatives markets and currently has broad authority to impose speculation limits under last year’s new Wall Street Reform Law. However, new rules are now eight months delayed. The CFTC is expected to vote on a final rule on Tuesday, October 4th.

The largest investment banks can place highly leveraged bets in the oil futures markets which can dramatically swing prices both in the short and long term. In April 2011, at least one investment bank warned clients to lock-in trading profits before oil and other markets reversed; suggesting speculators were boosting crude prices as much as \$27 a barrel. “Excessively volatile oil prices have delayed America’s economic recovery and this legislation could help insure that physical supply and demand fundamentals are in control.” said PMAA President Dan Gilligan.

HOUSE REPUBLICANS CALL FOR THE REVIEW OF EPA RULES

House Republicans continue to take aim at President Obama's environmental regulatory agenda. The full House could vote on H.R. 2401, the Transparency in Regulatory Analysis of Impacts on the Nation Act (TRAIN Act) next week. The legislation would require an analysis of the cumulative impacts of EPA regulations on jobs, energy prices and reliability, and America's global competitiveness. The legislation calls for the creation of an interagency committee to review the impact of proposed rules from the Environmental Protection Agency (EPA) on small businesses and job creation including EPA's ground level ozone rule.

On Thursday, the House Energy and Commerce Subcommittee on Oversight will hold the seventh hearing in its regulatory reform series on "The EPA's Regulatory Planning, Analysis, and Major Actions." EPA Administrator Lisa Jackson will testify about EPA's rulemaking process. This comes as House Republicans argue that the administration has not done enough to study the impact these rules will have on the economy.

PMAA joined other associations in a [letter](http://pmaa.org/weeklyreview/attachments/2011/TRAIN_Act_Support_Letter.pdf) (http://pmaa.org/weeklyreview/attachments/2011/TRAIN_Act_Support_Letter.pdf) to House members urging passage of the TRAIN Act.

NEW DEBIT AND CREDIT SWIPES TAKE EFFECT OCTOBER 1

Earlier this summer, the Federal Reserve (the Fed) released its final rule regulating swipe fees on debit transactions. The rule caps debit swipe fees at \$.21 per transaction and includes an ad valorem fee of five basis points. Visa and Mastercard recently announced new swipe fee rates to comply with the rule. These rates are effective October 1, 2011 when the rule takes effect.

A link to the new rates from Visa, Mastercard, and other networks is available at: http://pmaa.org/pmaa_today/attachments/2011_63_Durbin_Rate_Modifications_FINAL_9-19-11.pdf courtesy of World Pay, a PMAA National Partner.

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.

Use the QR code to the left to go to the WPMA National Convention page.

MARK YOUR CALENDARS FOR UPCOMING EVENTS IN 2012

June 5-7, 2012 - MPMCSA Convention – Billings Hotel and Convention Center – Billings, Montana

June 18-21, 2012 – WOMA Convention – Suncadia Lodge – Cle Elum, Washington

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

Petro Pete: "When tempted to fight fire with fire, remember that the Fire Department usually uses water."

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