WPMA Western Petroleum Marketers Association
News and Information for the Petroleum Marketers Industry
weekly update

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WPM NEWS HOLIDAY GREETINGS

Here's a unique way to say "Happy Holidays" to your customers, associates and friends! The winter issue of Western Petroleum Marketers News magazine includes festive business card greetings from WPMA members, associate members, board members and staff. You can include your business card in the magazine greetings for the low price of $155. Cards are due in the WPMA office by November 1st. For more information on this and other advertising opportunities, visit the WPMA website: www.wpma.com, and click on Advertising at the bottom of the home page.

YOU CAN CONTRIBUTE!

WPMA welcomes industry-related articles, editorials and comments for publication in *Western Petroleum Marketers News* magazine. All members and associate members of WPMA are eligible to submit items for publication. Articles will be included as space allows, and no self-promoting articles or editorials will be accepted. WPMA reserves the right to edit and make adaption of such contributions to accommodate the magazine's space and style. Please submit articles or content to Jan Roothoff, WPMA Administration/IT Director at janr@wpma.com, or mail to Jan Roothoff, Western *Petroleum* Marketers Association, PO Box 571500, Murray, UT 84157-1500.

WPMA CONVENTION LANYARD SPONSORSHIP AVAILABLE

Would you like to boost your visibility at the 2012 Western Petroleum Marketers & Convenience Store Expo? Our EXCLUSIVE sponsorship for the 2012 WPMA Convention lanyards would give you just that, for a cost of $5,000. Your company will receive the benefits of the convention Sapphire Sponsorship, which includes two banners hung in the trade show area (provided by you) and listing on convention signage and in the Expo Program as a Sapphire Sponsor (a $2500 benefit). This is a year-round sponsorship, since we will use the lanyards at all of our 2012 state conventions in Idaho, Montana, New Mexico, Utah and Washington, to increase your visibility.

We know this opportunity will bring a lot of exposure to your company, as everyone at the shows will be wearing YOUR lanyard. If you're interested please call Jamie Wood at (801) 263-9762 or email jamiew@wpma.com.

WPMA CONVENTION SMART PHONE APP ADVERTISING OPPORTUNITIES

WPMA is offering a unique way to give your company more visibility at the WPMA 2012 Convention and Convenience Store Expo, with an exclusive Smart Phone App sponsorship. For a $3500 sponsorship fee, the smart phone app sponsor will receive a full-screen ad displayed for ten seconds every time the app is accessed. Included with this sponsorship is a scrolling banner ad, one of only ten ads that will scroll at the top of the screen when the WPMA convention app is in use.

The scrolling banner ad is a second advertising opportunity. Each banner ad will display on the smart phone for five seconds in random order while the WPMA convention app is in use. Only ten banners will be sold, so your name will be very visible to all who use the app. The WPMA Convention app received great reviews at the 2011 show, and we look forward to even more users this year.

For more information, to sponsor or to purchase a scrolling banner ad, please contact Jamie Wood at 801-263-9762, or e-mail jamiew@wpma.com.

WPMA MEMBERS CAN NOW SAVE ON SHIPPING WITH UPS!

WPMA members can now save up to 32% on an expanded portfolio of UPS air and international Express shipping. That's a significant savings over FedEx published rates!* Simple shipping! Special savings! It's that easy! For complete details or to sign up go to http://www.wpma.com/partners/ups.

THREE PERCENT WITHHOLDING AMENDMENT COMES UP THREE VOTES SHORT IN SENATE (BECAUSE OF OFFSETS)

Republicans offered their own bill (S. 1726) that would have repealed the withholding tax on contractors doing business with federal, state, and local governments, but it fell three votes shy of the 60 needed resulting in a 57-43 vote.

But Senate Majority Leader Harry Reid (D-NV) suggested that future efforts to repeal the withholding tax could get his support with a new set of offsets. Republicans would have offset the withholding repeal by rescinding $30 billion in appropriated federal funds. The White House Office of Management and Budget would have had the responsibility for choosing which programs would lose their funding.

In a Statement of Administration Policy, the White House said it supports the intent of the bill and agreed with Republicans that it would “reduce a burden on government contractors, who otherwise comply with their tax obligations, particularly small businesses.”

“The effect of the repeal of the withholding requirement would be to avoid a decrease in cash flow to these contractors, which would allow them to retain these funds and use them to create jobs and pay suppliers. This would complement the Administration's other efforts to help small businesses,” the White House said.

Reid also said he supports the goals of repealing the withholding provision and proposed his own set of offsets: a delay in the implementation date of worldwide interest allocation rules, a provision to extend the depreciation period for corporate jets from five years to seven years, and a provision to modify foreign tax credit rules for dual capacity taxpayers.

Reid asked for unanimous consent to offer a substitute including those offsets when the House passes its withholding bill (H.R. 674) and sends it to the Senate, but Senate Minority Leader Mitch McConnell (R-KY) objected.

SLEW OF AMENDMENTS PENDING BEFORE MINI-APPROPS PACKAGE

Most of this week the Senate has been working on a three-bill appropriations package, “minibus,” which includes funding for Agriculture; Commerce-Justice-Science; and Transportation - Housing and Urban Development departments. Over 100 amendments have been filed by Senators including some important to PMAA member companies.

One amendment introduced by Sen. John McCain (R-AZ) would have stripped funding for USDA’s Rural Energy Assistance Program (REAP) that included federal funding for ethanol blender pumps; however, the amendment was withdrawn.

Another amendment in which PMAA opposed was introduced by Sens. Crapo (R-ID), Vitter (R-LA), Johanns (R-NE), Shelby (R-AL), Toomey (R-PA) and Moran (R-KS) that would have eliminated funding for the Commodity Futures Trading Commission (CFTC) until the agency completed an analysis on how the rules would affect US economic growth and job creation, international competitiveness, and market liquidity. The Senate is still working through the amendments and this amendment is expected to be taken up with others on November 1 when the Senate continues its work on the mini-appropriations bill.

House Speaker John Boehner (R-OH) has expressed support for moving forward with “minibus” to move the appropriations process forward. Currently, the federal government is operating under a CR that expires on November 18.

CFTC APPROVES SPECULATIVE POSITION LIMITS RULE

Earlier this week, the Commodity Futures Trading Commission (CFTC) approved a long-delayed final rule that would mandate speculative position limits on 28 listed commodities, including crude oil, heating oil, gasoline and natural gas. The vote was 3-2 among CFTC Commissioners. The position limits rule has been among the most contentious provisions of the financial overhaul which gave the CFTC the authority to limit trading in the $600 trillion over-the-counter (OTC) commodity swaps as well as exchange-traded futures. In a press release earlier this week, PMAA and NEFI called the new rule a major step forward and said they have “guarded optimism” that it will help bring fairness and transparency to oil futures markets, but also expressed reservations about the inadequate limit levels and the delay in the implementation date for spot-month limits.

While we would like to see lower limits imposed on the market, we know that the CFTC walked a fine line in negotiating the agreement and that greater position limits can be imposed further down the road. Furthermore, the CFTC staff has been diligent in following all procedures which should help minimize lengthy litigation which would greatly delay reform. Once the CFTC captures the data on the $600 trillion dollar swaps market (probably late in 2012) it will apply position limits to those currently unregulated instruments. These combined steps are critical for a fully functioning futures market.

PMAA has always supported fair and transparent speculation, but no one trader can control up to 40 percent of the deliverable supply. This is excessive, and can unduly influence prices at the terminal rack. Unlike futures contracts, which trade on regulated exchanges and fall under CFTC jurisdiction, swaps trade on the OTC market where the Commission had no authority, allowing traders to take large unregulated positions. Now the CFTC has authority over the OTC market under the final rule. The proposal will limit the number of contracts a single firm can hold in both the regulated and unregulated swaps market. The rule limits traders to 25 percent of deliverable supply in the month nearest to delivery. Deliverable supply will be determined by the CFTC in conjunction with the exchanges, Chicago Mercantile Exchange (CME Group). The outer months position limits traders to 10 percent of the first 25,000 contracts of open interest and 2.5 percent thereafter. The CFTC estimates that the limits will affect 85 energy traders which PMAA believes may not be adequate to address excessive speculation, but will prevent large traders from cornering the market. The caps will go into effect 60 days after the agency defines the term “swap” which will probably occur in early 2012. Limits outside the spot month are likely to go into effect in late 2012. PMAA believes this will likely have the most impact on petroleum marketers.

Ultimately, affordable consumer energy will not result from what the CFTC finalized this week. A number of other factors play into affordable energy including an all of the above approach on energy policy which includes oil exploration, increased use of alternatives such as ethanol and biodiesel, and a sound monetary policy coupled with a well-regulated, transparent, and stable energy futures and swaps market.

The Senate confirmed Mark Wetjen as CFTC Commissioner in a voice vote late last night. He will replace Michael Dunn and serve through June 19, 2016. Wetjen is a former staffer for Senate Majority Harry Reid (D-NV). He supports reforms to the commodities markets but has kept his comments guarded throughout the nominations process.

NEFI AND PMAA HAVE 'GUARDED OPTIMISM" AND "CONCERN" ON CFTC SPECULATION LIMITS, CLEARING RULE

This week the New England Fuel Institute (NEFI) and the Petroleum Marketers Association of America (PMAA) expressed "guarded optimism" over two important new commodity trading rules approved today by the U.S. Commodity Futures Trading Commission (CFTC). The groups also expressed "concerns" on the specifics of the rules and certain implementation deadlines that will be tied to other, long-overdue Commission actions.

NEFI President and CEO Michael C. Trunzo said the 1,200 NEFI and 8,000 PMAA members, which include gasoline marketers and home heating oil dealers, are hopeful the regulatory measures, which would establish speculative position limits on futures and swaps and clarify rules for derivative clearing organizations (DCOs), will result in more transparent, stable and competitive energy trading markets.

"We believe the position limits rule is the most significant rule yet to be taken up by the Commission under last year's Wall Street Reform bill," Trunzo said.

"However, the delay in the rule implementation for the spot month contracts concerns us greatly, as there is no timeframe in place." The Commission announced today that spot-month limits would not be imposed until 60 days after the term "swap" is defined, which as of right now has no date certain.

"Further, we are fearful the limit levels themselves may be insufficient to adequately address excessive volatility and speculation… only time will tell," Trunzo said.

NEFI and PMAA were pleased that the rule mandates regular review of limits especially as other rules are implemented and new data becomes available. They were also pleased with the rule's narrowing of exemptions from these limits afforded bona fide hedgers, which they have long argued necessary to keep financial speculators from exploiting them.

PMAA, NEFI and their allies have called for responsive energy derivatives markets that are designed to serve hedgers, ensure stability and minimize price swings and that effectively communicate a price for energy based on real world supply and demand.

While they have praised the CFTC for moving forward with a final rule to establish a new position limits regime, the groups have criticized the speculative limits as being too high and continue to urge aggregate limits on all speculation, which was not included in the final rule.

"We will be watching when and how this rule is implemented and continue to urge action where necessary" Trunzo said. "Our members want to have confidence that the price per gallon of gasoline or heating oil as set by these markets is reflective of market fundamentals, not the cash flows of financial investors."

PMAA President Dan Gilligan noted that "while petroleum marketers would like to see lower limits imposed on the market, today's vote is historic and we applaud Chairman Gensler for negotiating the agreement on position limits. Although more work remains, this is a tremendous step forward. Once CFTC captures the data on the multi trillion dollar swaps market (probably late in 2012), it will apply position limits to those currently unregulated instruments. These combined steps are critical for fully functioning and liquid energy markets. This is a hugely meaningful step in a long process… a process which could be longer than it has to be if meaningful litigation is filed. The CFTC staff has been diligent in following all procedures which should help minimize lengthy litigation, but some delays are certain. PMAA and NEFI and our allies will continue to monitor and address, where possible, all attempts to delay implementation."

PMAA and NEFI were also extremely pleased to hear at today's meeting that the CFTC staff is conducting an investigation and research into the role of index fund speculation in the commodities markets. The organizations have had a growing concern that such activity has adversely affected markets.

EPA GRANTS SPCC EXTENSION FOR FARMERS

The U.S. EPA announced on Tuesday a proposed regulatory amendment that would extend, for farmers only, the November 10, 2011 SPCC compliance deadline. The proposed extended SPCC compliance date for farmers is May 13, 2013. The EPA says the deadline extension for farmers is necessary due to the numerous floods and fires which stretched across the US earlier this year. According to the agency, "because of their unique nature, farms were disproportionately affected by these events and need additional time to prepare and implement a Spill Prevention, Control, and Countermeasure Plan." The amendment does not extend the November 10, 2011 SPCC compliance deadline for petroleum bulk plants.

Owners or operators of farms in operation before August 16, 2002 must maintain and continue implementing an SPCC Plan in accordance with the SPCC regulations then in effect. Such farms continue to be required to maintain plans during the interim until the applicable compliance date for amending and implementing the amended Plans. Finally, the amendment does not relieve farms from the liability of any oil spills that occur.

URGE SENATORS TO PRESERVE CURRENT HOS RULES

As the Senate considers H.R. 2112, the Fiscal Year (FY) 2012 Transportation Appropriations bill, Senator Kelly Ayotte (R-NH) intends to offer Senate Amendment (SA) 754 that would prevent the Federal Motor Carrier Safety Administration (FMCSA) from finalizing, enforcing or implementing its Hours of Service (HOS) Rule keeping in place existing HOS regulations.

Support for this amendment is important. Petroleum marketers have adjusted to new HOS regulations adopted in 2008. Now the Department of Transportation (DOT) wants to change them again in ways that will hinder our industry. Sen. Ayotte's amendment, if enacted, will preserve current HOS regulations and stop DOT efforts.

The amendment may be offered as early as next week. Please urge your senators to support Senate Amendment 754 to the FY 2012 Transportation Appropriations bill. You may call them through the Capitol switchboard at 202-224-3121.

PMAA URGES DOT SECRETARY TO WITHDRAW PROPOSED WETLINES RULE

PMAA sent a letter to Department of Transportation Secretary Ray LaHood urging him to withdraw the proposed rule to ban the transportation of gasoline in piping beneath transport trucks known as wetlines. In January 2011, the Pipeline, Hazardous Materials Safety Administration (PHMSA) proposed the ban after it had been rejected several times for very sound public policy reasons.

In the letter PMAA said, the rule "…falls into President Obama's category of rules that place 'an unnecessary burden on businesses at a time when they can least afford it.'" PMAA also pointed out PHMSA used incorrect data to draft the rule and significantly underestimated the compliance costs.

Earlier this year, PMAA filed comments opposing the proposed wetlines rule.

PMAA JOINS THE COALITION FOR E85

PMAA has joined the Coalition for E85 to protect members that have installed 85-percent ethanol pumps, stop a multi-million dollar tax hike on consumers, and enhance U.S. energy independence.

"If we don't enable E85 to compete with gasoline, we could see the entire Flex Fuel industry disappear," said Dan Gilligan, President of the Petroleum Marketers Association of America or PMAA. "Our members, automakers, and nine million American drivers have invested in E85 infrastructure and Flex Fuel vehicles. With E85 so close to self-sustainability, these investments must be protected."

Other alternative fuels such as compressed natural gas, propane, and hydrogen receive a 50-cent per gallon tax credit as part of the Alternative Fuel Credit. E85 (85 percent ethanol, 15 percent gasoline) should be included in this group, even if Federal subsidies for more diluted ethanol blends expire.
The Coalition for E85 is an alliance of retailers, producers, equipment manufacturers, automobile manufacturers, and others supporting E85.

PMAA members represent wholesaler and retailers of gasoline, diesel, heating oil, lubricants, and renewable fuels. PMAA marketers own 60,000 retail fuel outlets and supply fuels to 40,000 independent outlets.

If the current tax credit for all ethanol fuels expires, millions of Flex Fuel vehicle drivers will pay as much as 38 cents more per gallon for E85. Small businesses that have invested more than $100 million in E85 infrastructure will close their pumps.

E85 provides a platform for advanced biofuels, including next generation ethanol non-food sources such as farming byproducts, algae biomass, and household waste. Without the E85 system, the federal government's investment in the development and commercialization of next-generation biofuels may be wasted.

In addition to PMAA, the Coalition for E85 includes Propel Fuels, Protec, Clean Fuels Development Coalition, Pearson Fuels, AMERigreen, Petro Serve USA, multiple ethanol industry associations, pump and tank companies, and individual E85 retailers.

DURBIN RESPONDS TO WELLS FARGO NEW DEBIT FEE

This week Senator Durbin sent a letter to Wells Fargo president John Stumpf following the announcement that Wells Fargo would charge its customers three dollars every month to access their money with a Wells Fargo debit card in Georgia, Nevada, New Mexico, Oregon, and Washington. In the letter Durbin chastised Wells Fargo for using decreased revenue from the swipe fee reforms as a reason for the fee and suggested the new fee was a cover to pad the bottom line amid record profits. Senator Durbin said, “Wells Fargo will make at least an estimated $1.22 billion in annual debit interchange revenue after swipe fee reform. This amount far exceeds any reasonable measure of the cost to Wells Fargo of conducting debit transactions. Instead of making up costs, your new consumer fee appears to be a plain attempt to increase your profits – even though your bank just reported third quarter profits that hit a record high.”

This comes as Bank of America (BOA) recently announced a five dollar monthly for its clients to use their debit card to make purchases. BOA’s fee applies to customers in all 50 states. Senator Durbin also responded to BOA with a letter to its president after it announced the monthly fee.

Both BOA and Wells Fargo blame the fee on debit swipe fee reforms that took effect earlier this month. The Federal Reserve found that the average interchange rate for a debit transaction was 44 cents. Under the existing swipe fee reform rule, the interchange rate is approximately 24 cents.

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: ***“Light travels faster than sound. This is why some people appear bright until you hear them speak.”***

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