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PMAA AND THE RENEWABLE FUELS ASSOCIATION ADVISE MEMBERS ON E15

On Thursday PMAA and RFA joined forces to urge their members to limit E15 sales to Flex Fuel Vehicles (FFV's) until regulations governing the fuel are finalized and implemented.

The following is the PMAA/RFA joint memorandum:

To: PMAA and RFA Members:

The Environmental Protection Agency's recent approval of E15 for a portion of the U.S. light duty vehicle fleet is but the first step in a detailed process required to ensure E15 can be offered in the market place. As many of you know from previous communications, there are a cadre of regulations, standards, and labeling issues that must be addressed to allow retailers to legally offer E15 to those non-flexible fuel vehicles the EPA has approved.

Recently, press reports and releases have featured retailers that have installed an E15 button on their blender pumps. While this demonstrates that the infrastructure to dispense E15 is growing, it is still unlawful to sell E15 to anything other than a flexible fuel vehicle, even though EPA has approved E15 for 2007 and newer vehicles. Until health effects testing is completed, fuel producers have a 211(b) certification from EPA, certain state fuel regulations amended, and EPA's misfueling and labeling proposed regulation finalized, E15 sales must be confined to and labeled specifically for flexible fuel vehicles only.

We encourage all of you to remain vigilant so that you and others do not unintentionally offer E15 to customers driving non-flexible fuel vehicles. E15 will provide consumers and marketers another option to maximize their domestic renewable fuel use. But failing to adhere to the legal steps required to do so may give our fuel products and our industries an unnecessary and avoidable black eye.

If you have any questions about E15 and legal requirements to sell the fuel, please contact the RFA offices at 202.289.3835 or the PMAA offices at 703-351-8000.

EPA DELAYS IMPOSING STRINGENT NEW OZONE STANDARDS

The EPA announced this week a delay in the promulgation of a final rule that is expected to impose stringent new national ambient air quality standards (NAAQS) for ground-level ozone nationwide. Ground-level ozone forms when emissions from industrial facilities, power plants, landfills and motor vehicles react with sunlight. This is the second time in a year that the agency missed its self-imposed publication deadline for the controversial rule. Many see the delay as a political move to avoid publication of the controversial rule before the midterm Congressional elections.

The new ozone standard is important to petroleum marketers because it could lead to expanded use of reformulated gasoline (RFG) in the U.S. The ozone standards were not initially as stringent as currently proposed today. In 2008, the Bush era EPA proposed a primary and secondary standard set at 0.075 parts per million (ppm), a level that would have pushed only a handful of counties into non-attainment status for ozone limits. However, the less stringent standards were thrown out by the Obama administration before they went into effect. In their place, the EPA proposed a tougher standard of between 0.060 ppm and 0.070 ppm. In addition, the EPA is proposing a secondary seasonal standard to protect crops and forests with a range between 7 ppm-hours and 15 ppm-hours, which is the weighted, cumulative exposure to ozone during daylight hours over a three-month growing season.

According to the American Petroleum Institute, 650 of 675 counties nationwide that currently monitor ozone pollution would likely fall into non-attainment status triggering a wave of new pollution-cutting measures by state government officials that would include the introduction of RFG. Meanwhile, in Congress, seven senators signed a letter to the EPA opposing the proposed new ozone standards citing a lack of new research into the health effects of the pollutant. Revising the standards would require industrial facilities to install expensive pollution controls that could lead to increased energy costs and job losses, according to the letter signed by Sens. George Voinovich (R-OH), Evan Bayh (D-IN), Dick Lugar (R-IN), Mary Landrieu (D-LA), David Vitter (R-LA), Claire McCaskill (D-MO), and Kit Bond (R-MO).

The EPA expects to release the new standards early next year.

TRICK, NOT TREAT: BANK OF AMERICA DECEIVES CUSTOMERS WITH 'FREE' CHECKING

After months of blaming increased fees on new Wall Street reform regulations, Bank of America finally told its customers what many had known all along: so-called "free" checking accounts were never actually free. In fact, consumers had been paying for their "free" accounts in overdraft fees, inactivity fees, ATM fee, and other service fees.

"Customers never had free checking accounts," said Bank of America spokeswoman Anne Pace. "They always paid for it in other ways, sometimes with penalty fees. Now they have the option to avoid those fees."

Bank of America's admission contradicts the bank's recent claims that financial reform regulations have been the sole cause of new fees and customer dissatisfaction, noted the Merchants Payments Coalition in a press release. Last week, Bank of America attributed a third quarter loss to credit and debit card swipe fee reform.

"The story that reform is causing new fees is a complete fabrication," said Doug Kantor, counsel to the Merchants Payments Coalition. "Two very different things are happening. One is that banks are trying to make up for other losses from their bad business decisions, and two is that the reforms are making them more open and honest about what they are charging consumers. It's about time Bank of America admitted to the free checking myth and the fact that now we can finally see and make choices about some of these tricky bank fees."

"Despite the banks claims to the contrary, new interchange regulations are good for merchants and good for consumers," said Lyle Beckwith, NACS' senior vice president of government relations. "It's certainly hard to take their argument seriously when they just fessed up to this decade-long prank."

"Merchants and consumers have been paying for 'free' credit cards and reward programs for years. Luckily, swipe fee reform means that small businesses and their customers won't have to put up with the same tricks and excessive fees for long," Beckwith added.

MORE SMALL BUSINESSES MARKETING THROUGH SOCIAL MEDIA

According to the American Express OPEN Small Business Monitor survey, small business are increasingly relying on social media, with 4 in 10 business owners using social platforms including Twitter, [Facebook](#), and [LinkedIn](#) as part of their [marketing](#) efforts, AOL Small Business reports. The results reveal a significant increase from last year, when only 1 out of 10 business owners said they utilize social media.

The rapid increase reflects the appeal of social media — it is generally a free tool that allows businesses to engage customers in two-way exchanges — especially as the downturn has forced many companies to decrease traditional advertising and marketing spending. "Now [entrepreneurs](#) are driving more business with existing customers through regular follow-up and better customer service," said Susan Sobott, president of American Express OPEN, which can be done via "relevant and low-cost marketing tools like social media."

Social media sites are also making their way onto business cards as businesses seek to promote their social-media presence. Last year, only 2.5 percent of business cards featured a social media URL, according to Jason Keith, senior communications manager at Vistaprint, while this year, the number is up to nearly four percent. The most common social media URL making its way onto business cards? Facebook.

FOLLOW US ON FACEBOOK AND TWITTER

WPMA has now joined the Facebook and Twitter communities! Please visit us and become a fan, and stay on top of the latest updates, events and announcements from WPMA and the WPMA state associations.

To follow us on Twitter, go to twitter.com/WPMA_NOW.

The first 25 followers on Twitter will be entered into a prize drawing for a special gift from WPMA!

REGISTER ONLINE FOR THE 2011 WPMA CONVENTION & CONVENIENCE STORE EXPO

Start planning now to attend the 2011 WPMA Convention and Convenience Store Expo. It will be held at the Mirage in Las Vegas, Nevada, **February 22-24, 2011**.

You may now register online for the 2011 WPMA Convention & Convenience Store Expo.

Go to: <http://www.wpma.com/national-convention>

Petro Pete: "Many people don't have their own opinion – they just wear whatever is in style."

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The attached Regulatory Report from last month (see the third item) describes the U.S. DOT emergency telephone number requirements for product transfer documents. A contract number is not required if the name of the party who contracted for the emergency response telephone number is on the PTD. This is not a new requirement. Each shipper has always been required to arrange for their own emergency response telephone contact. However, the U.S. DOT issued a clarification of the emergency telephone number requirement in a general "housekeeping" rulemaking last year. The DOT essentially reiterated that subsequent shippers (ex: petroleum marketers who transport fuel) cannot rely on the emergency telephone number of the previous shipper (ex: the terminal) unless authorized to do so. Most marketers are not authorized to use the previous shipper's emergency contact number. But, evidently some inadvertently "piggy back" on the previous shippers emergency response phone number when they use the previous suppliers PTD as their own shipping paper.



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SUBJECT: Regulatory Compliance Deadlines
ISSUE: Compliance Deadlines for October 1, 2010
DATE: September 24, 2010
PMAA CONTACT: Mark S. Morgan, Regulatory Counsel - mmorgan@pmaa.org

EXECUTIVE SUMMARY: An array of important federal regulatory deadlines will become effective on October 1, 2010. Petroleum marketers should already be aware of these changes that were reported in previous PMAA publications.

New Product Transfer Document Language and Placards for Ethanol Blends Over 10%:

The U.S. DOT is requiring new product transfer document (PTD) language and placards for ethanol blends that exceed 10% (E-10) beginning October 1, 2010. The reason for this change is to alert first responders to use the appropriate emergency response techniques that are unique to ethanol blends that exceed 10%. The following PTD language must be used for all ethanol blends *that exceed 10%*:

“Ethanol and Gasoline Mixture, 3, UN3475, PG II”

The following placard must be used on cargo tank motor vehicle compartments containing ethanol blends *that exceed 10%*:



Petroleum transporters may still display a single placard for the fuel with the lowest flashpoint in a multiple compartment vehicle (gasoline and diesel fuel) if the gasoline blend being transported is 10 percent ethanol or less. In addition, marketers may still use the 1203 placard for the remaining compartments with blends of under 10 percent as long as the 3475 placard is used on the compartment with the ethanol blend that exceeds E-10.

New Diesel Fuel Sulfur Content PTD Language and Dispenser Labels for Off Road Fuel:

New PTD sulfur content language must be implemented for diesel fuel, kerosene and heating oil products by October 1, 2010. The new PTD language that must be implemented applies to both highway and non-road distillate fuels. In addition, new sulfur content dispenser labels for **non-road fuels** are required by October 1, 2010. New dispenser labels for **highway fuels** are not required until December 1, 2010. The new dispenser label requirements for non-road fuels apply to all storage tanks over 550 gallons.

U.S. DOT Emergency Response Telephone Numbers:

The U.S. DOT's hazardous material regulations 49 CFR Sec. 172.604 requires HAZMAT shippers to include a 24-hour emergency telephone number on all shipping papers for use by first responders in the event of an emergency involving the material. Typically, an offeror (shipper or transporter) of a HAZMAT shipment contracts with a 24-hour emergency response information (ERI) service to meet this requirement. Beginning October 1, 2010, the name of the **original or subsequent** offeror or its contract number with the ERI provider must be included on the shipping paper. If the original or subsequent offeror is not continuing as the registrant with the ERI provider, the person preparing subsequent shipping papers must insert and identify by name its own valid emergency response telephone number. In other words, the name of the company (or contract number) who registered with the ERI for emergency response information services must be on the shipping paper. The final rule implementing this change can be viewed at <http://edocket.access.gpo.gov/2009/E9-24799.htm>

U.S. DOT HAZMAT Security Plans:

The U.S. DOT released a final rule that narrows the type of hazardous materials subject to written transportation security plans and clarifies certain requirements to security planning, training and documentation. DOT transportation security plans were first required in 2003 and originally applied to any company that transports placarded loads of hazardous materials including gasoline, distillates, or propane. The final rule narrowed security planning requirements to "high consequence" hazardous materials if stolen or used for terrorist purposes. Beginning October 1, 2010 the transportation security plan and training requirements no longer apply to distillates that are shipped as a flammable or combustible under the "Packing Group III" designation in the U.S. DOT hazardous material table at 49 CFR 172.101 (available at <http://www.phmsa.dot.gov/hazmat/library>.) In other words, if your company transports distillates such as fuel oil, kerosene or diesel fuel but **NOT** gasoline or propane, then the U.S. DOT security plan and training requirements no longer apply. If your company transports gasoline or propane, the security plan and training requirements continue to apply.