



January 28, 2011

The Honorable Darrell Issa
United States House of Representatives
Washington, DC 20510

Dear Chairman Issa:

Congratulations on becoming Chairman of the Oversight and Government Reform Committee.

PMAA is a leading national trade association in the petroleum industry representing 8,000 independent petroleum marketing companies. Organized as a national federation of 47 state and regional trade associations that represent wholesalers and retailers of gasoline, diesel, heating oil, lubricants and renewable fuels, PMAA companies own 60,000 retail fuel outlets such as gas stations, convenience stores and truck stops. Additionally, these companies supply motor fuels to 40,000 independently owned retail outlets and heating oil to over eight million homes and businesses.

As you go forward this Congress, the Petroleum Marketers Association of America (PMAA) urges you to consider the following proposed and existing regulations that can or already harm job growth.

Ethanol Fuel Mandate (E-15). The EPA recently issued a waiver of the Clean Air Act that will permit the use of a 15 percent ethanol blends in model year 2001 and newer gasoline powered vehicles. However, existing petroleum storage tanks and dispensing systems installed at gasoline service stations are only certified to handle a maximum 10 percent ethanol blend. As a result, manufacturers' warranties for such equipment will be voided and insurance coverage for leaks denied and consumer lawsuits over misfueling will rise sharply.

The cost to replace existing equipment with E15 certified tanks and dispensing equipment along with the expense associated with increased liability for potential releases and consumer lawsuits are far beyond the means of small business gasoline retailers. PMAA continues to lobby in support of the Renewable Fuels Marketing Act which will provide legal and regulatory certainty for marketers to sell E-15.

The EPA must stop ignoring the downstream implications of the E15 waiver and be required to delay the introduction of E15 product until comprehensive equipment compatibility studies currently underway by both private and government testing laboratories are completed. The EPA must also be required to coordinate with the Federal Trade Commission on pending rules by both agencies that would impose duplicative dispenser labeling requirements for E15 product.

Pending Ozone Standards. We encourage a permanent halt to the EPA's efforts to promulgate new national ambient air quality standards (NAAQS) for ground-level ozone nationwide. The standards were made more stringent in 2008 and further tightening will very much hurt the economy. Ground-level ozone forms when emissions from industrial facilities, power plants, landfills and motor vehicles react with sunlight. The new ozone standard is important to petroleum marketers because it could lead to expanded use of costly reformulated gasoline (RFG) in the U.S.

Stage II Vapor Control Mandate for Retail Gasoline Dispensers. The EPA has unnecessarily delayed issuing long overdue findings that would provide significant regulatory relief to small business gasoline station owners.

In 1994, EPA adopted regulations requiring certain gasoline retailers to install costly vapor recovery equipment. This is often referred to as Stage II controls. EPA adopted these regulations as a bridge to a future time when vehicles would be equipped with onboard vapor control canisters (ORVR).

Section 182(b)(3) of the Clean Air Act (CAA), 42 U.S.C. 7511a(b)(3) requires the Stage II vapor recovery program for “moderate” or worse ozone national ambient air quality standards (NAAQS) nonattainment areas. The law specifically allows EPA to revise or waive the Stage II control requirements for “serious” or worse ozone nonattainment areas after EPA determines that ORVR control systems are in “widespread use” throughout the motor vehicle fleet.

As new gas stations are being built today in “serious” non attainment areas, retailers are being required to invest significant sums to install Stage II equipment which will likely be useless in the very near future as ORVR nears widespread use. This appears to be a wasteful misuse of retailer funds which could be used for a myriad of other construction improvements and reducing consumer prices.

As we have seen with the repeal of Stage II in Florida, Maine and Vermont and with the recent Resolutions adopted by the legislatures in Massachusetts and New Hampshire (and on the verge of being adopted in Rhode Island), a number of state environmental officials believe Stage II costs can no longer be justified. However, they cannot move forward until EPA defines ORVR “widespread use.” The air quality directors from the eight states that make-up NESCAUM (The Northeast States for Coordinated Air Use Management) have requested repeatedly since 2001 for EPA to supply this definition. The lack of action at EPA on this matter perpetuates wasteful spending on an obsolete technology.

We urge you to require EPA to make the long awaited and overdue determination that on-board canisters are in “widespread use” nationwide; thereby, repealing the interim control measure of Stage II Vapor Recovery immediately.

Commercial Motor Vehicle Driver Hours of Service Mandate. DOT is proposing to reduce the number of hours a driver of a commercial motor vehicle may be “on duty” each day as well as the number of daily hours spent behind the wheel driving. The reduction would seriously hinder the ability of petroleum transporters to obtain and deliver adequate supply of gasoline, diesel fuel, heating oil and other petroleum products that are essential to our economy.

Specifically, the DOT is proposing to reduce maximum daily drive time from 11 to 10 hours per day and the maximum on duty time limit from 14 to 13 hours per day. Drivers need these additional hours so they are able to wait in long lines for supply at petroleum terminals and have sufficient time during their shift to make deliveries.

The FMCSA should be required to maintain the maximum driving hours and on duty status hours currently provided under the DOT regulations. Without these extra hours, small business petroleum marketers would be forced to purchase additional equipment and hire new drivers which impose compliance costs that are impossible to meet. The petroleum distribution and supply chain could also be slowed and even disrupted if drivers do not have sufficient time to deliver fuel during adverse weather conditions or national emergencies.

Override EPA authority "found" by the Supreme Court in the Massachusetts vs. EPA Supreme Court case regulating six gasses [CO₂] under the 1990 federal Clean Air Act Amendments. Regulating CO₂ has enormous consequences for the U.S economy and Congress should be making the decisions. On May 13, 2010, the EPA issued its final Greenhouse Gas Tailoring Rule. The rule raised the thresholds for GHG emissions that define when permits under certain EPA programs are required for new and existing facilities. Effective January 2, 2011,

the EPA required existing facilities and new facilities that may emit 75,000 tons per year of CO₂ to obtain a Clean Air Act permit. Not before 2016 will sources that emit less than 50,000 tons of greenhouse gas emissions annually need a permit. Regulating CO₂ is major expansion of EPA authority and should not be done without specific congressional direction.

New Emission Mandates “Boiler MACT” Imposed on Small Commercial Boilers. In April 29, 2010, EPA proposed a set of regulatory proposals under the Clean Air Act that address emissions from industrial and commercial boilers, process heaters, and certain solid waste incinerators. The standards are designed to reduce various particulate and carbon dioxide emissions from large industrial sources. Small commercial boilers are used to provide heat for apartment buildings, hospitals, etc. However, the PPM and CO₂ standards established by the EPA for commercial boilers are far below the level which existing equipment can meet. The standards were established for large industrial boilers capable of producing over five million British Thermal Units (BTU) per hour not the typical commercial boiler with a 400,000 BTU per hour output. This is a classic example of a “one-size-fits-all” mandate that imposes impossible compliance burdens on small entities that were not the intended target of the regulation in the first place. Left intact, the new EPA standards would require the replacement of all small commercial boilers nationwide. The EPA should be required to provide an exemption from the particulate and carbon dioxide standards for small commercial boilers and impose “best management” practices designed to reduce and limit regulated emissions instead.

Protect Derivatives Title and the Debit Card Interchange language that is included in the Dodd-Frank Act. We urge you to protect these provisions that are extremely important for consumers and to the strength of petroleum marketer small businesses.

Petroleum Cargo Tank Truck Supply Line Retrofit Mandate (Wetlines Mandate). The Department of Transportation (DOT) recently issued a costly and unnecessary new mandate requiring most cargo tank transport trailers hauling gasoline to undergo expensive, unnecessary and technically impractical retrofit requirements designed to protect external fuel lines (wetlines) from rupture in the event of a traffic accident. Specifically the DOT is requiring these transport trailers to be retrofitted with either in-line purge devices or equipped with steel guard rails shielding lines from impact. Neither option is readily achievable with respect to existing petroleum transport trailers. In fact, DOT acknowledges that the mandate will likely require that existing transport trailers be replaced.

PMAA is concerned about the excessive and unnecessary costs the retrofit mandate would impose on small business petroleum marketers. A similar rule was proposed then withdrawn several years ago after the DOT determined that the high cost of the wetline mandate outweighed any safety benefits gained.

PMAA believes the proposed wetline mandate:

- Will weaken our existing, very efficient, fuel transportation system. Currently, wetlines purging devices are not widely used in the industry. In fact, they are practically non-existent. There are more than 15,000 gasoline cargo tank trailers in the U.S. and less than 100 are equipped with purging equipment. Retrofitting existing transport trailers with bottom mounted steel guard rails to protect against impact is virtually impossible due to trailer design limitations.
- Will unfairly burden thousands of small businesses who cannot afford to retrofit trucks. The cost to retrofit a truck is as much as \$8,000. The annual cost to maintain the purging equipment is \$400 per unit. The cost to replace a transport trailer can run as high as \$100,000.
- Cannot be justified as sound public policy. Those who support the wetline retrofit mandate are understating costs and overstating benefits. The shortage of purging equipment will drastically increase costs.

In the alternative, the replacement of cargo tanks trailers altogether would be an impossible compliance cost for small business petroleum transporters to meet.

- By DOT's own prior admission, more deaths would result during the retro-fit installation of purging devices in existing equipment than would be saved from wetline rupture due to traffic accidents. The DOT also admits in the current rulemaking that retrofitting existing trailers with wetline protection rails is all but impossible.

The DOT should be prevented from moving forward with the wetline mandate given that the agency so recently rejected a similar proposal based on a comprehensive cost benefit analysis which remains valid today. Otherwise, costly and unnecessary regulatory burdens will be placed on small business petroleum marketers.

New ADA Rules Could be Costly. On September 15, 2010, the Department of Justice (DOJ) published final regulations, which would implement major changes to current Americans with Disabilities Act (ADA) accessibility guidelines. This final action sets in motion nearly 1,000 new standards – 500 of which will affect convenience and petroleum retailers. The rules become effective six months after publication in the Federal Register and 18 months after publication. Compliance with the standards imposed by the new rules will be required for new construction and alterations.

Some requirements will require compliance when significant modifications (as prescribed in the rule) are made. Other requirements are complex and it is difficult to determine how the DOJ will interpret them. One example of an unclear regulation would require convenience store operators to make "reasonable modifications" to their stores to permit the use of trained miniature horses to do work or perform tasks for someone with a disability. We urge Congress to encourage DOJ to balance the needs of accessibility with costs that will not be small business owners out of business. We ask Congress, "Is it good public policy to require 146,000 convenience stores to revamp their aisles, ramps, doors, etc. to accommodate small horses in the stores?"

Repeal the Expanded 1099 Requirement. The 1099 vendor reporting requirements that were included in the 2010 health care bill requires all businesses to issue 1099's to any vendor paid more than \$600 in a calendar year.

Reverse the DOI Decision to Delay Further Development of Offshore Oil and Gas Drilling Until 2017.

Thank you for considering our industry requests. If you would like to discuss any of these issues, please contact PMAA's Sherri Stone Cabrera at 703-351-8000 or scabrera@pmaa.org.

Sincerely,



Dan Gilligan
PMAA President