



PPMCSA SPECIAL REPORT

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December 22, 2009

TO: PPMCSA ACTIVE AND ASSOCIATE MEMBERS

FROM: JOHN V. KULIK, Executive Vice President

SUBJECT: 2009 PPMCSA Year End Report
2009 PMAA Year End Report

The year 2009 will go down in history as one of the most contentious sessions in both the state and national capitols. In Pennsylvania the pervasive issue was the impact the economic crisis had on state revenues. In Washington, the economic crisis had center stage; but on top of that, the Obama agenda on health care, climate change, and financial reform shared the spotlight.

In a year that was largely defensive, PPMCSA had to keep an eye on both fronts -with the main focus on Harrisburg.

The \$3.5 billion deficit in the state budget resulted in a 101-day impasse between the Governor, the liberal House leadership, and the conservative Republicans.

PPMCSA was vigilant in the day-to-day discussions within the legislature.

The result:

NO TAXES ON PPMCSA MEMBERS OR THEIR PRODUCTS AND SERVICES WERE RAISED OR NEWLY IMPOSED.

EARLY DISCUSSIONS WITH LEGISLATIVE LEADERS PREVENTED ANOTHER RAID ON THE UNDERGROUND STORAGE TANK INDEMNIFICATION FUND.

TIGHT MANAGEMENT RESULTED IN NO INCREASE IN USTIF FEES FOR 2010.

One issue that took a surprising amount of time and effort revolved around the biodiesel mandate set to take effect next year.

PPMCSA:

PROVIDED INPUT AT PUBLIC HEARINGS REGARDING ENFORCEMENT AND INFRASTRUCTURE ISSUES;

NEGOTIATED A FAIR AND REASONABLE ENFORCEMENT PROTOCOL THAT PROTECTS INNOCENT SELLERS OF BIOFUELS;

**STOOD UP FOR THE ABILITY OF MARKETERS TO RESPONSIBLY BLEND BIOFUELS; and
LAID THE GROUNDWORK FOR A PENDING HISTORIC ANNOUNCEMENT OF A BIOHEAT/ULTRA
LOW SULFUR INITIATIVE.**

A PMAA summary of national issues is attached.

**PPMCSA WORKED HAND-IN-HAND WITH THE PMAA TO IMPACT THE LONG LIST OF FEDERAL
ISSUES INCLUDING:**

FINANCIAL MARKET REFORM (PPMCSA SERVES ON THE FUTURES MARKET TASK FORCE);

CLIMATE CHANGE (PPMCSA SERVES ON THE CLIMATE CHANGE TASK FORCE);

WETLINES REGULATION;

HEATING EQUIPMENT REBATES;

STAGE II;

NORA REAUTHORIZATION; and

LIHEAP FUNDING.

The holiday season provides only a brief respite from the legislative grind. Priorities for 2010 are already being formulated:

BIOHEAT/ULTRA LOW SULFUR HEATING OIL;

ELIMINATION OF STAGE II VAPOR RECOVERY;

MODIFICATION OF THE LIHEAP OIL DISCOUNT PROGRAM;

NORA REAUTHORIZATION; and

FINANCIAL MARKET REFORM.

**PPMCSA IS DEEPLY APPRECIATIVE OF THE OPPORTUNITY TO SERVE IT'S MEMBERS
AND LOOKS FORWARD TO WORKING TOGETHER TO DEAL WITH THE CHALLENGES
AHEAD.**

To: PMAA Members
From: Dan Gilligan, President
Date: December 10, 2009
Subject: 2009 PMAA Year End Report

While Congress remains in session, we decided it would be prudent to go ahead and publish our year-end report. While you can find more detailed information in our special reports distributed through the PMAA Region leaders, we wanted to offer this condensed version that addresses some of our priority issues for 2009. In January, the PMAA Region Chairs will be surveying you to help us define priority issues for 2010.

Futures Market Reform

As with all of 2008, 2009 has been filled with enormous activity and movement forward in the effort to reform the energy commodities futures market. CFTC Chairman Gary Gensler continues to aggressively pursue every authority that he has to strengthen transparency. PMAA continues to have good communication with Chairman Gensler and we continue to work closely in all efforts for reform on the Hill. The House of Representatives passed its reform legislation today and Senate Agriculture Committee Chairwoman Blanche Lincoln (D-AK) told us that she believes the Senate will complete a Financial Services Reform bill in January 2010.

National Oilheat Research Alliance

National Oilheat Research Alliance (NORA) reauthorization or extension must occur before February 10, 2010 in order for funding to continue uninterrupted. PMAA continues to work closely with all of the heating oil related associations to make sure NORA is reauthorized or extended before the February deadline. Because Senator Jeff Bingaman (D-NM), Chair of the Senate Energy and Natural Resources Committee, requested a GAO review of NORA, a one year extension of NORA (S. 1672 and H.R. 3589) is being sought so that the GAO work can be completed. Because of the health care reform debate in the Senate, the extension may be delayed until January.

Credit Card Interchange Fees

The Credit Cardholders Bill of Rights Act that the president signed in May required the Government Accountability Office (GAO) to study the effects of interchange fees on merchants, consumers and other parties. The GAO released its study in November. The GAO found that cracking down on interchange fees

could help merchants. The report supports the argument that PMAA and the Merchants Payments Coalition (MPC) agree on -- interchange fees drive up the cost to consumers. Legislation has been introduced and hearings held but no further action has occurred. PMAA and the MPC continue to urge Congress to pass language that will give retailer groups the opportunity to negotiate interchange fees in a transparent environment.

Ethanol Blend Wall

No Congressional action has been taken this year with regards to approving mid-level ethanol blends although some corn-belt Senators have discussed using legislation to advance E-15. PMAA along with NACS and SIGMA continue to pursue petroleum retailer liability protection legislation that would address some concerns with E-15. PMAA is also pursuing an underground storage tank amendment which would address marketers concerns if a tank leaks due to higher ethanol content which is more corrosive. In December 2009, Growth Energy's waiver application to allow E-15 blends was delayed by EPA. In a letter to Growth Energy, EPA said the decision must be delayed until additional testing is completed on the effects of E-15 on vehicle engines and emission systems. The EPA said a waiver decision could occur by August 2010. This remains a priority issue for PMAA and will be getting much attention in 2010.

Wetlines

The House Transportation and Infrastructure Committee approved HR 4016, the Hazardous Materials Safe Transportation Act, to prohibit the transportation of gasoline in wetlines of transport trucks. New trucks would be prohibited from transporting gasoline in the wetlines two years after enactment. The existing fleet must meet the mandate by 2025. The House is expected to vote on HR 4016 later this month. PMAA will continue to fight the bill as it goes to the House Floor but is preparing to oppose the wetlines mandate in the Senate. We encourage you to urge your Congressman to oppose the empty wetlines mandate in HR 4016.

Climate Change

The House approved the Waxman-Markey climate bill in June 2009. It creates a cap and trade program with the goal to reduce carbon emissions 17 percent by 2020. The Senate Environment and Public Works (EPW) Committee has approved climate legislation (S.1733) which also establishes a cap and trade program to curb carbon emissions 20 percent by 2020. The climate legislation in the House and in the Senate would be catastrophic for the petroleum industry. PMAA estimates climate legislation will push gasoline, diesel and heating oil over four dollars per gallon; unfairly burden rural America; and push domestic refining capacity overseas. PMAA is coordinating grassroots opposition to the Senate climate bill. We encourage you to urge your Senators to oppose S. 1733 (Kerry-Boxer) cap and trade legislation.

Automatic Temperature Compensation

In a big victory for petroleum retailers, the National Conference on Weights and Measures (NCWM) withdrew two proposals which would have required the mandatory or permissive use of automatic temperature compensation (ATC) devices for retail fuel dispensers. In July 2009, after several hours of testimony regarding the two proposals, the NCWM Laws and Regulations (L&R) Committee decided to withdraw both voting items due to the overwhelming opposition from Weights and Measures officials and industry. The L&R Committee report cited several reasons for withdrawing both ATC proposals including: “conference consensus against ATC, economic cost factors, lack of benefit to consumers, absence of uniformity in the marketplace and the additional cost to Weights and Measures officials and service companies.” The lopsided vote of the entire NCWM confirms that most Weights and Measures officials continue to have significant concerns about retail ATC. A week after the NCWM voted against both proposals, Sen. Claire McCaskill (D-MO) reintroduced the “Future Accountability in Retail (FAIR) Fuel Act,” which PMAA is opposing.

Heating Oil Efficiency Tax Credits

The American Recovery and Reinvestment Act that was signed by President Obama in February 2009 included a \$1,500 tax credit (no more than 30 percent of the cost) for home efficiency upgrades. The efficiency level for boilers was placed too high for essentially any (less than one percent) boilers that are available on the marketplace so PMAA is asking Congress to amend the language to lower the AFUE rating from 90 to 86 until 2012 when the AFUE rate of 90 will take place.

Refined Petroleum Product Reserve

The Senate Energy Committee approved the “American Clean Energy Leadership Act of 2009” by a vote of 15 – 8. The development of a 30 million barrel refined-petroleum product (motor fuels) reserve is included in the bill. The language would leave most of the reserve planning and details to the Energy Department including locations for storage, the types of refined products to be stored and when supplies would need to be released in an event of a hurricane. Last fall, Hurricanes Gustav and Ike disrupted much of the nation’s refining capacity leaving the Southeast with limited gasoline and diesel supplies.

PMAA has many reservations concerning the refined petroleum product reserve proposal and has worked closely with Bingaman’s staff regarding our concerns. PMAA also submitted comments to Energy Committee staff earlier this year on behalf of PMAA, NACS, SIGMA and NATSO. Those concerns are: long term product storage issues, winter and summer gasoline inventory concerns, boutique fuel issues, supply and storage issues with ethanol and biomass-based diesel, futures market hedging costs, distribution pipeline inefficiencies, and other issues. PMAA will work to amend the language when the bill moves to the Senate floor in 2010.

Diesel Exhaust Fluid

New diesel engines will soon be entering the marketplace that use SCR technology to reduce nitrous oxide emissions. SCR requires that trucks utilize an onboard tank to store and inject diesel exhaust fluid (urea) into

the exhaust while the engine runs. Obviously, as this fluid is consumed, it will need to be replaced. Truck stops and cardlocks will be the first entities needing to store and dispense DEF. PMAA will continue its efforts with EPA and the diesel industry to help marketers prepare for SCR. PMAA is also participating in a national DEF Dispenser Issues Coalition.

LIHEAP AND LIHEAP Reform

In spite of the President's FY 2010 Budget that would cut LIHEAP funding to \$2.41 billion, the House and the Senate have approved \$5.1 billion as part of the FY 2010 Labor-Health and Human Services-Education spending bill. PMAA continues to also lobby our concerns about margin over rack programs and leveraging policies.

Changes to LIFO Accounting Method

President Obama wants to end "Last In First Out" (LIFO) inventory accounting. Many independent petroleum marketing companies use LIFO and will pay significantly higher taxes if LIFO is repealed. The Obama proposal will phase out LIFO over eight years beginning in 2012 and is expected to raise \$61 billion in tax revenues over those eight years. PMAA is opposed to LIFO repeal.

PMAA asked its member companies how the repeal of LIFO would affect their business. From the survey responses, companies with 100 or fewer employees would pay taxes on approximately \$800,000. PMAA has shared this information with the Senate Finance Committee.

Card Check and Union Intimidation

The "Employee Free Choice Act"--better known as the Card Check bill--is a proposed law that would change how unions are allowed to organize workers in the United States. Labor unions like the AFL-CIO, SEIU, and the Change to Win Coalition spent heavily during the 2009 election and are pushing Congress to approve this law. Union membership has been declining--currently about 7.5 percent in the private sector--and they hope this law will change the rules and reverse that trend. Card Check would effectively eliminate private voting. By forcing workers to sign a card in public--instead of vote in private--Card Check opens the door to intimidation and coercion. PMAA is vigorously opposed to card check. This legislation did not receive Senate consideration in 2009 and is unlikely to receive floor time in 2010.