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GAO REPORT CRITICIZES EPA SPCC ENFORCEMENT AND DATA COLLECTION EFFORTS

The U.S. General Accountability Office (GAO) released a new report that is highly critical of the U.S. EPA and its regional offices for incomplete and inconsistent enforcement of the federal Spill Prevention Control and Countermeasure (SPCC) regulations. The GAO released the report just one year before the newly revised SPCC regulations go into effect on July 1, 2009. The report was based on a multi-year investigation of enforcement data and information collection activities from each of the ten U.S. EPA regional offices. The GAO investigation concluded that no two EPA Regions approach implementation of SPCC regulations in the same way.

The variation is largely due to region specific factors such as differing organizational structures, staffing levels, training, available data, enforcement priorities and even geographic limitations. In recognition of these variations, the U.S. EPA gives regional authorities wide latitude and very little guidance on implementing the SPCC regulations. As a result, there is little continuity of SPCC implementation between the regions. For example, the GAO discovered that between 2004 and 2006 the ten EPA regions conducted 3,359 inspections, or less than one percent of the estimated total of SPCC regulated facilities thought to exist by the EPA. The number of SPCC inspections completed in each region varied widely during the three year period ranging from 187 in Region 10 to 745 in Region 6. The GAO also reported a significant variation in the number of inspected facilities that were subject to enforcement actions by the EPA regions.

The GAO concluded that much of the variation in SPCC implementation is due to the lack of sufficient information collected by the EPA and regions on the number and type of SPCC covered facilities. The GAO recommends that the EPA develop specific guidance on SPCC implementation in an effort to promote greater coordination and continuity between the agency and the regions. The GAO also recommends that the EPA study the cost and benefits of available options to collect comprehensive data on the entire universe of SPCC regulated facilities. The data should include the number of SPCC facilities as well as their size, age, location, quality of construction and methods of operations.

PMAA is concerned that the data collection effort could lead to new aboveground tank registration regulations. In a letter to the U.S. EPA, PMAA expressed its strong opposition to federal regulations or guidelines that call for aboveground tank registration. PMAA will continue to monitor this issue very closely.

JOBBER MUST FOCUS ON UREA INFRASTRUCTURE FOR SCR ENGINE ROLL-OUT

Jobbers should begin to consider options for supplying a new diesel engine liquid additive called "urea" that is required for all heavy duty diesel engines manufactured in 2010 and beyond. Urea is required for all selective catalytic reduction (SCR) heavy duty truck engines, the preferred technology by all but one engine manufacturer, to meet new federal emissions standards. Urea is used to scrub diesel emissions and must be dispensed into a separate 35 gallon storage tank installed on all SCR equipped trucks at regular intervals, usually during refueling. Engine manufacturers estimate that most SCR vehicles will burn between two percent and four percent urea for every gallon of diesel fuel burned. At this burn rate, SCR engines will require urea refueling approximately every 7,000 miles. As a result, truck refueling locations will be required to dispense large volumes of urea.

A group of SCR stakeholder industries including PMAA is currently addressing a wide array of urea infrastructure and supply issues. It is generally agreed that truck stops will be required to store and dispense urea in bulk. That means jobbers who supply truck stops will likely require bulk urea storage as well. Currently, producers are gearing up to offer urea in bulk quantities, 275 gallon intermediate bulk containers, 55 gallon drums and 2.5 gallon retail consumer packaging. Urea is generally thought to be compatible with petroleum storage containers including USTs, ASTs and cargo tanks though cross-contamination factors are not yet fully known. Engine manufacturers, Mack, Daimler, Cummins, Volvo and Paccar will all use SCR technology beginning in 2010. Navistar is the only engine manufacturer that will not build SCR engines.

Jobbers should determine whether demand for urea exists among their customers and select storage, packaging and delivery options as well as finding a reliable urea supplier as soon as possible. PMAA will continue to work with the SCR stakeholder group to iron out remaining urea infrastructure and supply issues.

FMCSA SET TO ISSUE RULES ON DRIVER HOS, MEDICAL REVIEW AND SAFETY AUDITS

The Federal Motor Carrier Safety Administration (FMCSA) is close to issuing several new rules important to petroleum marketers with transportation operations. The FMCSA is waiting on final approval of a pair of rules that would impose stringent new requirements on medical examiners that conduct mandatory driver medical reviews. One rule would create a national registry for FMCSA approved medical examiners while the second rule would link driver medical certificates to commercial driver licensure.

The new rules are designed to reduce improper issuance of driver medical certificates by fraudulent or improperly trained medical professionals and to prevent unfit drivers from holding a CDL. The new rules are likely to add both time and expense for drivers who must comply with FMCSA driver medical fitness regulations. The new driver hours of service (HOS) rule is expected to simply reaffirm existing driving time limitations. The FMCSA is required to publish the HOS rule under a federal court order due to inadequacies in the original rulemaking that revised driver hours of service regulations back in 2002. The electronic on board recorder (EOBR) rule would require recording devices that measure driver hours of service in place of written log books. The EOBR rule is expected to affect long haul drivers only.

Another pending rule would revise FMCSA motor carrier safety rating audits. The rule would impose tough new standards and ratings designed to weed out unsafe trucking operators. Finally a new rule will be issued that changes procedures for trucks traversing railroad crossings. The new rules will be issued by the end of the year with the exception of the railroad crossing rule which will be finalized by April 2009. PMAA will provide further compliance information on these rules as they are published.

U.S. DRIVING FALLS FOR EIGHTH STRAIGHT MONTH

The latest Federal Highway Administration (FHWA) report on vehicles miles traveled by drivers each month reveals a record drop in driving during June. According the FHWA, vehicle miles traveled (VMT) fell to a record 4.7 percent (or 12.7 billion miles) in June 2008 from the same period in June 2007. The June 2008 drop in VMT was the largest decline recorded since the FHWA began collecting such data in 1942. Year cumulative totals also continued to fall with 42.1 billion fewer VMT in 2008 than at the same point in 2007, a 2.8 percent drop. More importantly, drivers purchased 400 million fewer gallons of gasoline in the first quarter of 2008, a drop of 1.3 percent from 2007 levels. Diesel fuel consumption fell by 318 million gallons or seven percent over the same period.

E-20 DISPENSING CAPABILITIES

A recent survey by the Petroleum Equipment Institute (PEI) found that less than ten percent of fueling facilities in the U.S. are presently capable of storing, metering and dispensing E-20 without eventual equipment failure. Survey respondents cited the following equipment that needed to be replaced due to E-20 incompatibility: dispensers, submersible pumps, hanging hardware, release detection equipment, tanks piping and spill containment. PEI shared the survey results with the EPA. Currently, federal law restricts blends of E-10 or below to gasoline-only engines. Only flex-fuel vehicles are permitted to burn gasoline with an ethanol content above E-10. Marketers should not be concerned about the compatibility of E-10 blends with existing dispensing and storage equipment.

AMERICANS FAVOR OFF-SHORE DRILLING

A poll conducted by Quinnipiac University Polling Institute recently found that voters support off-shore drilling by a two to one margin. Sixty-two percent of voters said they favor resumption of off-shore drilling while 32 percent remain opposed. In addition, voters supported drilling in the Arctic National Wildlife Refuge 51 percent to 42 percent, additional spending on renewable energy 87 percent to ten percent and higher mileage standards for cars, 78 percent to 18 percent. Respondents were more evenly divided when asked about a drawdown of the Strategic Petroleum Reserve (SPR). An SPR drawdown was opposed by 47 percent of respondents and supported by 45 percent.

From The Energy Information Administration

Short Term Outlook for Gasoline Prices - Gasoline prices are projected to soften, but only gradually. As a result, retail regular grade prices for 2009 are still expected to average \$3.82 per gallon up from the projected 2008 average of \$3.65 per gallon. According to preliminary U.S. Department of Transportation data, vehicle miles traveled for the first six months of 2008 were down 2.8 percent from the same period in 2007. For 2008 as a whole, EIA expects that the slowdown in economic growth, together with high prices, will result in a 2.1 percent decline in vehicle miles traveled of 2.1 percent for 2008. Highway activity is projected to decline by 0.5 percent in 2009.

Average Retail Gasoline Prices - The average retail price for regular gasoline fell once again in all regions of the country. The U.S. average price dropped 5.5 cents to 368.5 cents per gallon, a cumulative seven-week tumble of 42.9 cents from the all-time high of 411.4 cents per gallon reached July 7. The price on the East Coast sank 6.7 cents to 363.4 cents per gallon. Once again, the smallest drop of any region occurred in the Midwest where the price dipped just 2.1 cents to 368.7 cents per gallon. The price in Gulf Coast remained the lowest of any region plunging 8 cents to 351.9 cents per gallon. Even so, that price was still 86.7 cents higher than it was a year ago. The price in the Rocky Mountain region slid 5.4 cents to 383.4 cents per gallon. The West Coast price fell for the ninth week in a row dropping another 7.4 cents to 390.6 cents per gallon. That price has plunged more than 55 cents since its all-time high set on June 23, but is still the highest average regional price in the nation. The average price in California fell another 8.2 cents to 395.5 cents per gallon, dipping below four dollars for the first time since May 19.

Average Retail Diesel Fuel Prices - The average U.S. retail diesel price dropped another 6.2 cents to 414.5 cents per gallon. In each of the past six weeks, prices have fallen in every region with the U.S. average plunging nearly 62 cents from its all-time high set on July 14. Even with this drop, the U.S. average price remained 128.2 cents per gallon higher than it was a year ago. The average price on the East Coast slid another 6.4 cents to 419.9 cents per gallon. The price in the Midwest remained the lowest at 407.3 cents per gallon reflecting a drop of 5.7 cents. The average

price in the Gulf Coast fell 5.8 cents to 409.8 cents per gallon. The price in the Rocky Mountains fell more than in any other region tumbling 9.2 cents to 422.7 cents per gallon. Nonetheless, the Rockies' cumulative six-week drop of 49.1 cents was the smallest of any region. The West Coast price retreated another seven cents to 428.6 cents per gallon. In California, the average price fell to 435.9 cents per gallon, a drop of 6.3 cents.