

PMAA Issues Expand in 2007

By Dan Gilligan

PMAA President

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Washington, D.C. is often described as “26 square miles surrounded by reality.” This certainly fits the scene here in Congress and at the White House in 2007. Many of our nation's leaders are refusing to see the energy marketplace as it really is. Nearly everyone wants to believe there are easy ways to significantly reduce our nation's dependence on oil, especially foreign crude oil. It is a proposition fraught with endless complications and wishful thinking. As energy prices continue to rise, many political pundits now rank energy as one of the top three national issues in play in the 2008 elections. Unfortunately, there are many politically popular notions that sound good in summary but are woefully inadequate in the real world of fierce global competition for energy.

When the Democrats took over Congress in January, there was significant pent up frustration about the alleged lack of Congressional oversight on issues such as global warming, clean water, clean air, endangered species and a plethora of other environmental issues. Congressional leaders set out in 2007 to focus new attention on environment and energy issues. As a result, the PMAA staff has been stretched to extremes covering hearings, reviewing legislation and lobbying the issues. Here is a quick summary of some of the topics important to petroleum marketers:

Price Controls During Emergencies (Gouging)

Both the House and the Senate approved provisions imposing price controls on gasoline, diesel and heating oil during times of national emergency. These bills reveal the significant misunderstanding of the petroleum marketplace by congressional leaders. The U.S. is competing for energy in a global marketplace. During the times of an emergency we need incentives for imports of crude oil and refined products to come to our shores. Price controls will be a disincentive and will likely create massive product shortages and ultimately higher prices. Fortunately, PMAA opposition to these controls helped keep them out of the recently revised Energy Bill. This is good news for now but high prices in 2008 might spur ongoing congressional efforts to advance price controls in other measures.

Renewable Fuels

PMAA very much supports expanded development of renewable and alternative fuels. Marketers are in the business of distributing and retailing fuels and anything that increases fuel supplies will normally gain our support quickly. Unfortunately the renewable fuels mandates soon to be signed into law are too much too soon. Everyone wants to be optimistic that ethanol and biodiesel will dramatically alter our nations dependence on foreign crude oil, but without unforeseen breakthroughs in science, they won't. The political drive to mandate more biofuels consumption is enormous, therefore, the petroleum industry has no choice but to meet the costly blending mandates. Without question higher retail prices will result when shortages created by the mandates are imposed. PMAA will continue to educate policy makers and legislators on the consequences for marketers and consumers. As an alternative fuel, PMAA is supporting coal -to -liquid legislation which utilizes America's most abundant energy source, coal, to create new diesel fuels and heating oil.

Futures Market Oversight

In 2004 petroleum marketers began to express concern that high fuel prices had become disconnected from market fundamentals. We began to examine the futures market and how that market had become the driving force in daily wholesale price changes. We then learned that a significant number of futures market trading was sealed off from Commodities Futures Trading Commission (CFTC) oversight. Since that time PMAA has worked consistently to advocate expanded CFTC authority. A national coalition organized by the New England Fuel Institute (NEFI) has helped bring together a diverse collection of advocacy groups to work the issues. We are now beginning to see the fruits of our labor because legislation has gained significant support in both Congress and the White House. A new CFTC oversight provision has been included in the Senate passed Farm Bill, which will likely go to a conference committee in 2008. PMAA will be asking House conferees to insist on stronger CFTC energy market oversight provisions.

Credit Card Fees

Every member of PMAA suffers the effects of high credit card interchange fees. Therefore PMAA has actively supported the Merchants Payment Coalition (MPC). This important national coalition of retail trade associations is advancing legislative and legal challenges to exorbitant interchange fees and great progress is being made. Several congressional hearings were held in 2007 and favorable progress was made in the antitrust court challenge as well. Look for some significant developments in this area early in 2008.

Tobacco Taxes and Regulation

There remain two important initiatives effecting tobacco retailing and excise taxes. There is significant congressional support for increasing excise taxes on tobacco to fund an expanded health insurance program for children. President Bush has vetoed the legislation twice but it is likely supporters will continue changing the legislation seeking to secure a veto-proof majority. Right now the proposed tobacco tax increase is 61 cents per pack and new proposals could reduce that amount to find some votes. We will continue to oppose this tax increase. In the Senate, Sen. Ted Kennedy (D-MA) has made some progress in his efforts to secure FDA regulation of the tobacco industries. This legislation unfortunately is designed to federally regulate 300,000 tobacco retailers, a very bad idea in our view. We have many good arguments to oppose FDA regulation of retailers and we will continue to advance those in 2008.

Temperature Compensation

A few months ago Sen. Claire McCaskill (D-MO) filed a bill which would mandate all gasoline and diesel retailers to begin selling temperature corrected fuel at the pump within six years. In introducing the legislation, Sen. McCaskill was fulfilling a promise she made when running for the Senate in 2006. At that time a reporter in Kansas City, MO had launched a series of hyped-up stories alleging that refiners were fraudulently cheating motorists and profiting three billion dollars a year. The reporter then went on to allege that petroleum marketers were gaming the system and cheating states out of excise tax by selling fuel warmer than 60 degrees. Of course, both allegations were incorrect but unfortunately the AP wire picked up the story and the damage was done. Consumers want to believe that somehow they are being overcharged at the pump and the hyped up story by the Kansas City reporter found a gullible audience. Of course, anything to do with gas prices is "red meat" in the political arena and thus Sen. McCaskill was drawn in early before she knew the facts. PMAA and a coalition of other marketing groups have effectively challenged the false allegations and we are working hard to get the facts out. Weights and Measures officials are beginning to understand that the intensely competitive retail motor fuels marketplace offers motorists the best possible price and that temperature has no meaningful effect on retail prices.

Ground Level Ozone

Earlier this year EPA proposed to enact more stringent ground level ozone requirements which will nationally impose non-attainment status on 400 new counties across the country. The non attainment status could impose substantial new costs on petroleum marketers and their customers. In many cases the new regulations could create hundreds of new reformulated gasoline mandates. PMAA is working with petroleum refiners and other local government officials to oppose these unjustified and costly revisions.

Renewable Fuels Credits Trading

Earlier this year EPA finalized a renewable fuels credit trading program which inappropriately imposed new regulatory burdens on any marketer blending even the smallest amounts of biodiesel or ethanol. PMAA believes EPA should have performed a small business flexibility analysis as required by federal law but we have decided to not litigate the matter yet. One of the more onerous requirements placed on marketers is that all blenders must annually hire a CPA and do an attest audit. These audits are not inexpensive and could run between \$5,000 and \$10,000 per audit. For a small blender, it simply cannot be justified for EPA to impose that kind of cost. PMAA is in the process of filing a petition with EPA requesting that they establish a threshold for small business where a certification can be offered by the marketer without costly independent auditing. We will keep members apprised as that initiative moves forward.

Global Warming

Congress has held over 50 hearings on climate change and global warming this year. A day does not go by where a national news story does not make some reference to global warming and the potential effects of climate change. The American people have now been significantly bludgeoned into a state of alarm about climate and carbon. What the American people have not been told is the likely price tag for actually attempting to change the earth's temperature over the next century. Here's a hint: It is going to take a lot more than changing light bulbs and drying clothes on a clothes line. The costs are so unthinkable, Congress will likely settle in 2009 for giving the appearance of controlling the earth's climate while simultaneously choking the U.S. economy for lack of energy. The next President will have greatest influence in the ultimate action on carbon taxes.

Conclusion

There are at least an additional ten other national issues that we could have covered and more information on those will be provided in 2008. Clearly it is a time for our industry to be strong and secure sound public policies for independent petroleum marketers. PMAA leaders very much appreciate the support given by our 46 member associations and our 8,000 independent petroleum marketing companies.