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FUNDING FOR LEAKING UNDERGROUND STORAGE TANKS

ISSUE BACKGROUND

Leaks (releases) from underground storage tanks (UST) pose a serious threat to the environment and to public health. In the 1980s, Congress and the Environmental Protection Agency (EPA) began to address the problem of UST releases by creating the Leaking Underground Storage Tank (LUST) Trust Fund, financed by a .1¢/gallon tax on gasoline and diesel which will expire after September 30, 2011. In succeeding years, thousands of underground tank releases have been cleaned up. However, EPA estimates there is still a back-log of 102,000 tank leaks waiting to be completed.

To combat this threat, Congress included several new inspection, maintenance and operational requirements on tank owners/operators and individual state environmental quality departments in the Energy Policy Act of 2005 (EPAct). EPAct also authorized more money (\$200 million per year through 2009) to be made available to states from the LUST Trust Fund.

Many members of Congress supported these underground tank mandates on state governments because increased LUST fund expenditures were authorized. Petroleum marketers have supported the LUST fund and have paid 3.6 billion dollars in LUST taxes since its inception.

Despite new spending authorizations and the current trust fund balance of \$3.2 billion, Congress and the President have woefully under-funded the program in recent years, appropriating between \$72 and \$77 million each year. The fund collects approximately \$190 million for clean-ups and earns approximately \$127 million in interest each year. It is essential that these funds be used for the purposes for which they were collected.

FUND IT OR FLEX IT

PMAA urges Congress to appropriate all funds authorized by EPAct for the Leaking Underground Storage Tank Program. Unfortunately, the LUST program for 2009 will only receive \$115 million of which \$77 million will provide the traditional LUST funding to state agencies to help state environmental efforts with \$35.5 million for State and Tribal Assistance grants that can be useful for LUST purposes. The economic stimulus package, which passed earlier this year, includes an additional \$200 million in funding for LUST remediation, but cannot be used for new inspection and enforcement requirements.

The LUST Trust Fund has consistently been underfunded since Congress imposed new mandates on state UST inspection agencies in 2005. EPACT of 2005 authorized \$200 million a year through 2009. Even though marketers pay \$190 million into the fund annually and there is over \$3 billion held in the fund, petroleum marketers are now being forced to pay higher state UST fees to cover the federal appropriations shortfall.

Absent full funding, PMAA strongly supports providing flexibility to the states in complying with the new EPAct regulations.

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