

# SIGMA WEEKLY REPORT

May 5, 2008

## RETAILERS MUST SUBMIT INFO TO EPA BY MAY 9, 2008

In January, the EPA finalized a rule requiring specific vapor controls during the refilling of gasoline storage tanks. All locations selling more than 10,000 gallons per month are required to submit basic facility information to EPA by May 9, 2008. New or reconstructed facilities must comply with regulations by January 10, 2008 or upon start up of the facility. Existing facilities must retrofit equipment by January 10, 2011. Existing facilities that become subject to requirements because of an increase in gasoline throughput must achieve compliance within 3 years of attaining the volume threshold.

The final rule requires the following criteria to be met for all gasoline dispensing facilities:

- At all facilities, checking for leaks and using good housekeeping procedures to prevent evaporation of gasoline
- At all facilities with monthly gasoline throughputs of 10,000 gallons or more, submerged fill pipes must be used when loading storage tanks. Tanks of 250 gallons or less are exempt. If a notice of compliance is not sent to the EPA Regional Office, operators must file with the EPA and the appropriate delegated State authority an Initial Notification by May 9, 2008, or at the time a facility becomes subject to the control requirements (exceeds 10,000 gallons per month). This notification shall include:
  - Name and address of owner and operator
  - Address (physical location) of the GDF
  - Statement that notification is being submitted in response to this regulation
- At all facilities with monthly gasoline throughputs of 100,000 gallons or more, vapor balancing should be used between the storage tank and the tank truck. Storage tanks with a capacity less than 250 gallons constructed after January 10, 2008, storage tanks with a capacity less than 2,000 gallons constructed before January 10, 2008, and storage tanks equipped with floating roofs or the equivalent are exempt. Operators must file a compliance report every three years. This report can be submitted in lieu of the initial notification.

## NEW SOURCE REVIEW STANDARD LESS STRICT

The Environmental Protection Agency (EPA) issued updated emissions limits for new petroleum refineries in a final rule released April 30, but some limits are not as strict as initially proposed. EPA estimates the updated new source performance standards for petroleum refineries will reduce particulate matter, carbon monoxide, sulfur oxide, and nitrogen oxide emissions from 30 refineries by nearly 31,000 tons annually. When the agency proposed the rule May 2, 2007, it had predicted the changes would reduce combined emissions by 56,000 tons per year. EPA had until April 30 to finalize the refinery standards as part of a consent decree settling a lawsuit by an environmental group. Although EPA set limits for a number of pollutants in the final rule, it rejected a request by environmental groups to establish standards for carbon dioxide. New source performance standards are technology-based emissions limits issued for different industrial sectors and applied when a new plant is built or an existing plant is reconstructed.

## FTC INVITES PUBLIC COMMENT ON MARKET MANIPULATION

On May 1, the Federal Trade Commission (FTC) took an initial step in writing rules implementing its new authority over gasoline prices, inviting public comment on the best way for the agency to interpret and enforce the new powers it received under the 2007 energy law. The commission issued an advanced notice of proposed rulemaking, which is the first step in a formal rulemaking process to assist with the development of a rule defining and prohibiting market manipulation in the petroleum industry. Public comments are due June 6, 2008. Congress gave the FTC expanded authority in the Energy Independence and Security Act of 2007 to investigate possible market manipulation of gasoline prices. FTC authority was expanded over wholesale markets for crude oil and gasoline to prevent manipulation or false reporting. Civil penalties up to \$1 million can be assessed for violations. On Apr. 25, House Democratic leaders sent a letter to FTC Chairman William E. Kovacic urging him to investigate skyrocketing gasoline prices, noting that the commission had not yet exercised its new authority.

## SENATE REPUBLICANS UNVEIL PLAN TO REDUCE FUEL COSTS

On May 1, Senate Republicans unveiled an energy package they say will help bring down high energy prices. The bill, focusing solely on energy supply measures, was introduced by Sen. Pete Domenici (R-NM), ranking member of the Senate Energy and Natural Resources Committee, with 17 Republican cosponsors. Among the key provisions in the Senate Republican bill are: 1) drilling in the Arctic National Wildlife Refuge; 2) letting states petition to lift federal moratoriums on offshore drilling off their shores; 3) suspending oil deliveries to the Strategic Petroleum Reserve until oil and gas prices fall; 4) mandating 6 billion gallons of transportation fuel be produced from coal-to-liquids technology by 2022; and 5) repealing a one-year moratorium on funding lease sales for oil shale exploration in the West. The bill also would grant the Environmental Protection Agency (EPA) the authority to accept consolidated applications for permits to construct and operate new refineries, with 360 days for EPA to approve or disapprove applications for new refineries and 120 days for review of applications to expand existing refineries. Domenici's bill focuses on increasing domestic supplies of oil, natural gas, and coal. It does not address nuclear energy and has little to say about alternative energy.

## TOBACCO HEARING

On May 1, the House Judiciary Subcommittee on Crime, Terrorism and Homeland Security held a hearing regarding two pieces of legislation that seek to eliminate black market sales of tobacco products. H.R. 4081, the "Prevent All Cigarette Trafficking Act of 2007" (PACT Act) was introduced by Congressman Anthony Weiner (D-NY). This act would strengthen existing law by making violations a felony instead of a misdemeanor, not allowing cigarettes and smokeless tobacco products to be mailed through the United States Post Office, and empowering the states to enforce federal law against out-of-state sellers who are shipping cigarettes into the state. It would also require internet and remote sellers to verify the age of the purchaser through a database and would require the person accepting delivery to provide proof of their age. The second piece of legislation, H.R. 5689, the "Smuggled Tobacco Prevention Act of 2008" (STOP Act) was introduced by Congressman Lloyd Doggett (D-TX) and co-sponsored by more than 100 House members from both parties, would amend federal laws to make it more difficult for illegal vendors to sell counterfeit tobacco products. It would do so by making it easier to distinguish legal from illegal packages, and give more power to federal enforcement officials to prosecute those trafficking illegal cigarettes.

## FOOD VS. FUEL DEBATES ABOUND

Several lawmakers are urging Congress to "revisit" the renewable fuels standard it enacted in 2007 as part of the Energy Independence and Security Act, as concerns rise about the effect food-to-fuel mandates are having on food prices. Sen. James Inhofe (R-OK) also called on the Environmental Protection Agency (EPA) to use its authority under the 2007 energy bill to waive the renewable fuel requirements. Inhofe said he is working with Sen. Kay Bailey Hutchison (R-Texas) to urge the EPA to take action. Hutchison has introduced legislation to freeze the renewable fuels requirement at the current level of 9 billion gallons a year because -- according to the senator -- increasing use of food crops for biofuels such as ethanol or biodiesel is driving up the cost of food. In addition, Texas Gov. Rick Perry (R) asked EPA to waive the renewable fuels standard for 2008. Such a waiver would cut the standard from 9 billion gallons to the 4.5 billion gallons mandated in 2007. (The 2007 energy law requires large increases in renewable fuels use beginning in 2008 and culminating in a 36-billion-gallon requirement in 2022. The law increased the requirement from the 4.5 billion gallons required in 2007 to 9 billion gallons.) EPA Administrator Stephen Johnson maintains that the Texas waiver request will be taken very seriously. However, EPA does not believe that biofuels are responsible for global food shortages and is confident in breakthroughs in technologies like cellulosic ethanol, according to Johnson. The International Food Policy Research Institute, based in Washington, D.C., issued a paper in April saying that developed countries should end biofuel subsidies. Refineries that blend ethanol in fuel get a 51-cent-per-gallon tax break. Meanwhile, supporters of increasing ethanol use as a motor fuel are rallying to defend production of the fuel against critics who say that it is leading to rising food prices worldwide.

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