



*CIOMA Government Relations Committee Priorities
& Regulatory Projects – 2008
Update, 4/03/08*

This document contains issues, programs and regulatory proceedings of importance to CIOMA. It is reviewed quarterly at the CIOMA Government Relations Committee meetings and revised as priorities change and new issues come into play. The first section, Priority Items provides the highest priority issues that CIOMA is addressing. The second section, Ongoing Regulatory Involvement, addresses a wide variety of programs and issues where CIOMA is actively involved, but allocates time and resources after commitment to the Priority Items.

CIOMA legislative priorities, in response to introduced legislation, are established and reported in the CIOMA Legislative Priorities Report.

In the following sections, updated material is provided in *bold italics*.

PRIORITY ITEMS

- CARB EVR and ISD requirements – This is an ongoing issue. As part of the CARB Enhanced Vapor Recovery requirements, there will eventually be a requirement that service stations have continuous monitoring of vapor recovery systems, know as In Station Diagnostics (ISD). CIOMA is concerned that this requirement will result in enforcement agencies asking for a printout from these devices, reading the printouts and issuing a ticket for any abnormalities. CIOMA maintains that these devices are management tools, not enforcement tools.
Update –
ISD Letter - CIOMA has reviewed the ISD enforcement policy letter from CAPCOA. It is largely a positive step forward. The letter provides the following:
 - It clearly states that enforcement agencies *will not* use ISD printouts for enforcement purposes for 18 months, starting July 1. (This coincides with the CARB/CAPCOA technical evaluation of ISD units).
 - In “rural” areas – small population counties – owner/operators will be able to reset the ISD system after a second alarm for a period of up to seven days, due to unknown availability of technicians and repair parts. The systems can also be reset if the problem pump can be isolated, or if repairs can be accomplished by the owner/operator.
Problems must be logged “upon detection” and a contact (voicemail, email, fax) must be made with a repair service (f needed) within two hours after detection.
 - In urban areas problems must be logged “upon detection” and a contact (voicemail, email, fax) must be made with a repair service (f needed) within two hours after detection. No alarm reset is allowed until: repairs have been made;

if the problem pump can be isolated; or, if repairs can be accomplished by the owner/operator.

The APCO may also designate areas of a county as "rural" if they are isolated locations.

- o Districts may come out and test vapor recovery equipment, and if they find the systems are out of compliance, take enforcement action. This is an item that is being argued separately, to avoid further delay in issuance of the letter.

This letter accomplishes 90% of what we hoped to achieve in our legislation, and hopefully it will act as a blueprint for a longer-term enforcement policy after the ISD technical evaluation has been performed. The letter has no legal binding on the Districts, but the fact that it has gone through extensive review by all CAPOCA participants makes its uniform use very likely. *However we have seen some recent activities in some air districts where they are establishing permit conditions that come very close to use of ISD for enforcement purposes. This has heightened the need to get a permanent extension of the ISD advisory letter completed.*

A letter to CAPCOA Chairman has been sent asking for immediate discussions to extend the duration of the letter's contents. No response has been received as of yet.

Enhanced Vapor Recovery – *Ongoing discussions with CARB have not resulted in any significant movement on their part to realize that insufficient time is available to meet the April 2009 deadline. A "trainwreck letter" was written to CARB asking for delay of the deadline. A "nothing burger" response has been provided indicating that no immediate change in the deadline is imminent. However CARB will prepare a memo to the Board in April 2008 regarding how many systems have been installed and how many have yet to be installed.*

Recently CARB Chair Mary Nichols denied a CIOMA request to discuss the update memo in a public meeting before the Board.

Two vac-assist EVR systems have now been approved, and the VST balance system with ISD is expected to be certified at any moment. Other technological solutions are being explored, but there is little hope that they be certified-ready in a timely manner.

Update – *We continue to explore options to deadline extension and enforcement flexibility. We are seeking legislative assistance in urging the Board to review the update memo at a regularly scheduled meeting.*

- UST Fund Extension – The Underground Storage Tank Remediation Fund fee collection is scheduled to sunset in 2011. Discussions on whether to initiate extension of the fund have started among numerous interests groups. CIOMA will engage in these discussions and provide leadership where appropriate.

Update – *CIOMA participated in stakeholders meetings convened by the Water Board. A consensus report was generated which recommends a 10-year extension of the fund, at the current level, with several minor tweaks to the program. Legislation has been introduced, SB 1161 (Lowenthal) to accomplish the recommendations in the consensus*

report. Unfortunately, two other bills have emerged, with varying degrees of support from the Administration, that could jeopardize clean movement of SB 1161 through the legislative process. Ongoing discussions are occurring to achieve a mutual agreement on those other legislative proposals.

Passages of SB 1161 is a high CIOMA priority. It has passed its first committee hurdle, unanimously.

- *Aboveground Storage Tank/Enhanced Vapor Recovery Regulations* - CARB has forged ahead with AST/EVR regulations. In a November workshop it became apparent that CARB was going to go ahead with a recommendation to the Board that new, untested technology including tank insulation and carbon canisters to collect emissions, be required on new tanks, and that these technologies be used in tank retrofits. An approximate 2/3rds emission reduction can be gained by simply employing white paint and a commonly available pressure vent valve, rather than experimental equipment. In addition, CARB is now indicating that Phase 1 equipment must be employed on all tanks - the technical feasibility, design and cost for such equipment is unknown.

Update - CARB Board adopted the final regulation June 21, 2007, a major victory. CIOMA and a group of ag interests has been working with CARB staff to finalize the performance standard for the application of white paint and an approved pressure-vent valve as the tank retrofit requirement. Tanks have been tested and passed the emissions control requirements at Tim Ward's yard in Firebaugh. Finalization of the certification application is being hit a snag. CARB wants financial responsibility applied to a performance standard. A meeting with ag industry, CIOMA and CARB is scheduled in the near future to see if this new impediment can be overcome.

It is possible that the same group will explore certification of a performance standard for foam application to new tanks. New free-standing aboveground storage tanks will have to be foam insulated.

- *CARB Private Fleet Diesel Retrofit regulation* - CARB is work-shopping a regulation that will require purchase of 2 new, expensive diesel tractors that are optimized to utilize ultra-low sulfur diesel and reduce NOx emissions by 2021. CIOMA fought off development of retrofit requirements specifically aimed at fuel transport trucks, but is now included in this larger regulatory effort. CIOMA continues extensive involvement with CARB workshops in this regulatory development.

Update - CIOMA has become a founding member and part of the steering committee for a new coalition, Driving Towards a Cleaner California (DTCC), which is advocating development of an economically rational alternative. A PR firm has been retained, a website has been launched and membership recruitment is underway. An air quality modeling specialist will be retained to model coalition alternatives against CARB SIP commitments. The ag community has proposed a "buy one truck" proposal - CIOMA is part of that effort.

- *Temperature Correction at Retail* - CIOMA is a founding member of the national PUMP coalition. And CIOMA was instrumental in getting a study bill (rather than technology

mandate) passed in California in 2007 (AB 868, - CIOMA sponsored). This study has now taken on national importance since attempts at getting a federal study launched have failed.

The California Energy Commission (CEC) is beginning the cost-benefit analysis preparation. The first advisory committee meeting will be held in late January. The study is due by the end of 2008. CIOMA is a member of the advisory committee. The state Division of Measurement Standards will complete their fuel temperature data collection in March, 2008.

There is controversy at the National Conference of Weights & Measures. The several NCWM regions have all taken different, conflicting positions on installation of temperature compensation at retail. An interim meeting of NCWM is being held in late January, 2008 in Albuquerque, NM where T-C at retail will be discussed. CIOMA and many other state marketing organizations will be attending the meeting. The attempt is to get NCWM to forego any action until cost-benefit studies have been completed.

ONGOING REGULATORY INVOLVEMENT

In addition to maintaining focus on the regularly updated priority issues, CIOMA remains involved in a number of ongoing regulatory issues and programs. Following is a review of what those programs are, and where we are in advocacy, technical assistance and support.

AIR RESOURCES BOARD

Cargo Tank Regulation & Enforcement Issues - This regulatory program “bundles” 2 important issues to CIOMA members. First, it is an ongoing intervention with CARB staff regarding their exploration of new requirements for gasoline-containing transportation cargo tanks. This discussion was initiated in 2003 and it continues today. CIOMA has been instrumental in helping CARB understand the issues and complexities with regulation development in this area. We have assisted in their survey of the industry regarding number/type of cargo tanks used in gasoline delivery. We have also reviewed their estimating criteria for emissions.

CARB has determined that the amount of emissions from greater control of vapor escape from cargo tanks is too small to make a priority emission target at this time. Although that is good news on the new regulation front, it also means that issues related to the improvement of the cargo testing methods, and a delay in getting CARB to put its weight behind improvement of vent control technology commonly used in the industry.

A letter was written to CARB Enforcement Division Chief Jim Ryden in June 2007 asking that an independent review of the enforcement personnel's testing practices. The CARB Monitoring & Lab Division agreed to perform a review of the testing methods and practices (MLD staff wrote the test protocols). That review has been performed and a report has just been sent to CIOMA. It will be distributed to the Trucking Issues group for review and comment.

Update - CARB has announced yet another regulatory effort, the development of a Diesel Enforcement Plan. A workshop is scheduled in late April and CIOMA will participate.

Ultra low sulfur diesel roll-out - 2006 marked the rollout of ultra low sulfur diesel. Although there have been some snags, the transition to 100% ULSD has been fairly smooth. CIOMA was able to convince federal EPA that labeling of kerosene and diesel pumps in the state. To our knowledge no member has received and enforcement action regarding the sale of off-spec diesel.

Update - IRS has continued to question CIOMA members regarding the labeling of California pumps. CIOMA has forwarded IRS the emails from Federal EPA documenting that California pumps do not need to be labeled.

AB 32 - Global Warming Program Implementation - The Governor has decided to make California the “poster child” state for greenhouse gas emissions. CIOMA is monitoring the

evolution of discussions for potential requirements, but little has emerged regarding the petroleum industry – much of the attention thus far has centered on the utility sector.

Update – We continue to monitor “Early Action Items” for their potential impact to CIOMA members. The low carbon fuel standard is an early action item. Some progress is occurring – it appears that each type of biofuel will have its own “carbon footprint”. This will mean comprehensive and detailed tracking of fuels & fuel blends. The Federal RIN’s process may well be the vehicle for this tracking. CIOMA continues to monitor developments in the low carbon fuel standard.

Funding for infrastructure is encompassed in AB 118 which was signed by the Governor. CIOMA has been invited to be part of the steering committee with the Energy Commission and CARB in developing implementing regulations.

Requirements for the Air Board and Water Board to cross-certify equipment and testing standards – This was an issue that arose in 2004 when several service station owner/operators encountered problems when trying to get Phase I vapor recovery equipment, required by CARB, to pass the new Enhanced Leak Detection test required on service station installations by the Water Board. It is very unjust and expensive for the private sector to become the “referee” when two or more agencies cannot resolve conflicting requirements, and GR Committee members believe that the agencies should bear the brunt of this conflict resolution. A provision was included in CIOMA’s successful sponsored legislation, AB 2955 (McCarthy) to require the Water Board, CARB and Cal/EPA to develop a joint certification process. This requirement has been implemented successfully.

Update – We are beginning discussions with CARB and the Water Board regarding the need for air enforcement inspectors to take the Water Board inspector test due to the overlap in vapor recovery and underground storage tank equipment and systems. We are also monitoring the development of EVR system inspection and maintenance tests by CAPCOA.

BOARD OF EQUALIZATION

Sponsored legislation; clear diesel state excise tax refunds – The recent changes in federal treatment of tax refunds (10/05) by farmers for clear diesel have created a dual reporting and refund system. Legislation was attempted in 2006, but was defeated when agricultural interests became opposed and mounted an all-out effort to kill our sponsored legislation. This is a matter of continuing concern to CIOMA members.

Update The measure was held in Assembly Appropriations Committee. Determined to not be a legislative priority in 2008 –review in late 2008 to determine member interest in sponsoring for the 2009 session. Update clear diesel used for non-taxable purposes table with latest BOE data.

CIOMA will continue to work with the Board on a variety of tax-related issues. Substantial changes have been made in federal tax requirements which will require close coordination with state taxing entities to determine appropriate compliance interpretation.

CAL/EPA - CUPA'S

Service Station inspection requirements - A variety of inspection and monitoring requirements are emerging on service stations. First, the controversial "Designated Operator" requirement under Water Board jurisdiction is now in place. A remaining issue of concern is the test that merely tests a person's ability to research and respond to regulatory language - there is no test component regarding first-hand experience in operation of a service station.

In addition, CAPCOA has indicated it will be pursuing a separate test regarding operation and maintenance of vapor recovery systems. Further local CUPA's may have other inspection and recordkeeping requirements. And, local weights and measures agencies are required to perform accuracy tests on fuel dispensing equipment. All of these requirements have separate compliance schedules, inspections and recordkeeping mandates. These differing requirements create a significant economic burden on station owners and operators as well as logistical complications, redundant agency oversight and a myriad of enforcement liabilities. CIOMA should investigate the possibility of achieving a more efficient and straightforward service station inspection protocol. Further CIOMA needs to engage with the various regulatory entities to assure testing and certification is practical, cost-effective and provides real examination of service station operations.

Update - Cal/EPA is developing a model enforcement program that would provide additional funding to select CUPA's for innovations in enforcement and inspection design. We have indicated that service stations are a prime candidate for innovative enforcement and inspection opportunities. We will continue to work with Cal/EPA in development of the program.

In addition, CIOMA member Ed Ward (JB Dewar) was included on the Water Board Designated Operator test review panel, so familiarity with this test and other tests will provide good institutional knowledge going forward. And the marketer input on the test and its composition will now be included in the design.

SPCC Oversight - AB 1130 was enacted in 2007 transferring oversight of SPCC Plans from the regional water boards to CUPA's. CIOMA has provided a Compliance Bulletin to members regarding this transfer.

Update: CIOMA attended the CUPA Forum meetings in February where this item was a big attraction. At the meeting there appeared to be an implication that CUPA's might be exercising more authority than granted in the law to second-guess civil engineer recommendations. We will continue to monitor that development. CIOMA was also invited to participate in design of required training for CUPA representatives performing the inspections.

ENERGY COMMISSION

Energy Commission Reporting Requirements – CIOMA was able to avoid costly and intrusive monthly reporting requirements proposed by the Energy Commission – they will now only apply to those marketers that are already filling up similar forms for the Energy Information Administration. An annual service station report will need to be filled out by all service station owners under the new regulations – CEC has released the reporting requirements – initial reports are due in February, 2007. CIOMA provided a member notice reminding them of this obligation.

Update – Legislation has been introduced (AB 1552 (Feuer)) which has elements of petroleum reporting that are of concern. Conversation with the Energy Commission (Gordon Schrepf and others) indicates that even if the legislation is passed the Commission will hold to their practice of only requiring “major marketers” – about half of the CIOMA membership – to report if they are already reporting to the federal IEA as part of IEA’s California reporting sample. That legislation stalled out in the 2007 legislative session – it will be monitored for the 2008 session.

Petroleum Infrastructure Report – CIOMA is also monitoring the development of an analysis by the Energy Commission regarding the state of the petroleum refining and distribution infrastructure in the state, especially for recommendations.

Update – The Report has been adopted by the Energy Commission; CIOMA recommended a couple of editorial changes which have been included. Recommendations include the need for funding assistance in biofuels deployment.

WATER BOARD

We continue to monitor Water Board developments and regulations. An issue we work with a large industry group is opposing numerical limits on stormwater discharges. We also had a discussion with the Water Board on the Designated Operator test. As a result of that conversation, the Water Board has accepted Ed Ward, JB Dewar, as a test evaluation panel member for the upcoming evaluation of the DO test.

CALIFORNIA HIGHWAY PATROL/DMV

AB 1612 was passed last year which changed the way licensing for hazardous materials transporters is handled, and how BIT inspections are performed. Starting in 2008, hazardous materials transport trucks will only be allowed to renew their hazardous materials license if the terminal they are associated with has received a “satisfactory” BIT inspection. In addition, hazardous material transport terminals may no longer obtain “administrative” reviews – they must receive a full BIT inspection.

Update - CIOMA has provided a Compliance Bulletin to the membership on the new requirements to members. Legislation will be monitored to see if any further proposals emerge.

GOVERNOR'S OFFICE

Fuel sales at Native American retail outlets - The Committee asked to move forward with preparatory steps in developing legislation that would prohibit transport of non-California specification fuel in the state when that fuel is to be sold to the general public. This would include development of legislative language and beginning discussions with possible authors and potential allies. - This action item is related to the sale of non-California specification fuel at certain Native American service stations.

Update: The issue is bouncing around CARB offices, from enforcement, to legal to fuels. AB 32 pressures making this a low priority at CARB.

GENERAL TOPICS

Environmental Enforcement and Penalties - It has been brought to the attention of CIOMA that enforcement agencies have unusual, and possibly unfair, advantage in the application of enforcement actions and levying of penalties. Some of the issues include:

- Due process and access to basis for enforcement actions
- Unreasonable minimum penalty provisions
- Levying of "add-on's" such as investigation fees and attorney costs
- Broad application of strict liability

CIOMA will assist in convening meetings with state thought leaders on these issues to explore whether there is a way to provide more balance and transparency in enforcement actions and penalty development.

CIOMA Government Relations Committee as of 3/28/08

2008 GR Leadership:

CIOMA Executive Committee Liaison - Bob Bollar, SC Fuels

Legislative Issues - Steve Lopes, Western States Oil, Matt Cullen, Amber Resources

Regulatory Issues - Ed Ward, JB Dewar, Jim Smith, G&M Oil

PMAA Director - Andy Thweatt, SKS

Members

Angus McDonald, The SoCo Group

Bill Rogers, SKS

Brent Andrews, Interstate Oil

Brian Decker, DeWitt Petroleum

Caroline Epperson, Downs Energy

Chad Tuttle, Kern Oil

Courtney Roche, Roche Oil

Dale Boyett, Boyett Petroleum

Dave Mordick, Rotten Robbie's

Dave Souza, Tesei Petroleum

Drew Van Allen, Apex Envirotech, Inc.

Graham Mackey, Dassel's Petroleum

Greg Andrews, Interstate Oil
Gwen Burt, Valley Convenience Stores
Jeff Irvin, ITL
Jennifer Alden, Empire Oil
Jimm Cross, Cross Petroleum
Jim Seiler, TBS Petroleum
Joel Davies, Fleet Card Fuels
John Moore, Banks-Co
Katie Czarney, Boyett Petroleum
Mark Mitchell, Coast Oil
Markus Niebanck, Consultant/Nella
Mary Wilson, DeWitt Petroleum
Matthew E. Donohue, Trans Tech Consultants
Mike Bonkowski, Bonkowski & Associates Inc.
Norm Ueunten, New West Petroleum
Pat Marchbanks, Bear Mountain Truck Stops
Richard Shuster, Shuster Oil
Rocky Bertetta, Bertetta Transport
Ron Lamberty, American Coalition for Ethanol
Ron Van De Pol, Van De Pol Enterprises
Ronald Chinn, Closure Solutions
Scott B. Moore, Pacific Coast Petroleum Equipment
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