

NEW YORK STATE ASSOCIATION OF SERVICE STATIONS & REPAIR SHOPS, INC.

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6 WALKER WAY
ALBANY, NY 12205
(518) 452-1979
(716) 656-1035



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New EPA Requirements for Automotive Refinishing – Second Notice

Attached to the end of this newsletter you will find a notice and forms which automotive refinishing shops must complete and mail to three different locations, as provided for in the instructions

The deadline for filing the form, January 11, 2010 for existing shops, has passed. The Association strongly urges shops to bring themselves into compliance immediately with the notification under the *National Emission Standard for Hazardous Pollutants*.

Industry To Set Up Special Task Force To Examine ULSD Corrosion Problems Reprinted from 1/28/10 Oil Express Breaking News Bulletin

A special task force is being set up to try to find the cause of corrosion in underground tank systems storing ULSD after reports of dispenser meters freezing, filters clogging, and sump pumps so eaten away by rust that metal can be scratched off the pipe.

The first step will be for the task force to circulate questions to marketers and equipment firms try to get an idea of how widespread the problem is -- there have been reports of corrosion damage at stations as far afield as Texas, California, Wisconsin, Alabama, Ohio and Connecticut, as exclusively reported (OE 01/18/10). Depending on the results, the next move is expected to be the hiring of a testing firm to do a more exhaustive study.

The decision to create the industry task force follows a meeting at EPA HQ this morning, attended by marketer groups, equipment firms and representatives from refiners and chemical experts.

In the meantime, marketers will be urged to monitor their ULSD operations. Among items to watch for: A dark- or rust-colored sediment that looks like coffee grounds on equipment, such as strainers and submerged pumps, and the smell of rotten eggs, according to state officials and equipment firms. Another giveaway: The need to change dispenser filters more frequently.

According to Virginia Dept. of Transportation officials at the meeting, state inspectors discovered problems at 11 out of 30-40 sites checked and believed much of the trouble can be traced to microbes. Corrosion was found both above and below tank fuel levels, mainly at sites where there had been water penetration.

According to Lorri Grainawi with the Steel Tank Institute (STI), her group has had reports of the same type of corrosion “all around the country.” The corrosion is uniform in appearance, which is not what STI usually sees with corrosion issues.

Equipment distributors are also worried. “Our members have warranty issues. Things aren’t supposed to rust inside a tank. A lot of our stuff in the tanks are leak detection components, if those metal components rust and fail to function, we have a problem with EPA,” Robert Renkes, representing the Petroleum Equipment Institute (PEI), said at the meeting.

BP officials at the meeting produced photographs of corroded equipment. Along with other refiners, BP puts additives in ULSD to improve its lubricity and decrease conductivity. The BP representatives said the major had not seen a big increase in rust complaints since it started quality testing of ULSD in 2007, but it is currently investigating a rust issue in the Southeast.

With ULSD, there seem to be more problems with bacteria, which in turn

greatly accelerate corrosion. The number of incidents is small, compared to the large volume of sales, they said.

BP uses a corrosion test developed by the National Assn. of Corrosion Engineers. Most pipelines and suppliers require fuel to receive a minimum B+ rating. An A+ rating means there is no rust present at all. Tests at terminals in Ohio and New York in 2009 and this year showed the facilities “mostly passed” with a B+. There were no problems found at Arco terminals, they said.

BP said it was also working with heavy duty engine equipment manufacturers who had found small deposits in fuel injectors. One manufacturer attributed the deposits to USLD, another to the additives being used, the BP execs said.

BP’s talk of its testing procedures did not reassure everyone at the meeting -- a representative from an equipment group said the NACE test is not applicable for marketer situations. Marketers need a test that mimics conditions that are similar to those in underground tanks, where long-term storage is involved.

The meeting with EPA was requested by the National Assn. of Truck Stop Operators, and equipment groups PEI and STI. Other marketer groups, including PMAA, SIGMA and NACS, asked to attend the meeting after reading about the corrosion issue in Oil Express (01/18/10).

Modernizing Beer License Regs

One of our main issues for this year it to get the definition of groceries in convenience stores updated. The problem is that State Liquor Authority inspectors are issuing summonses for improper ratio of groceries to snacks at convenience stores with a

license to sell alcohol. The first offence is \$2,500 and the second in five years is \$5,000. In addition, if you have a pending license, it will not be issued so long as there is a violation pending. We have been working with the State Law Revision Commission to get a change in the law. They are recommending a revision that will address our concerns. However, the violations keep being issued.

Last week, Dennis Rosen, the new SLA Chairman, spoke at a Legislative Conference. Among other topics, he acknowledged that the grocery store beer license definition in SLA regulations needs to be modernized. He acknowledged that he likes the Law Revision Commission’s recommendation. This year’s legislative package, to be submitted to the legislature, will include the changes recommended by the Law Revision Commission, according to Rosen. However, despite the recognition by the SLA that changes need to be made, SLA investigators are still writing violations on a rule Mr. Rosen acknowledges to be outdated.

Efforts are underway to get a meeting with the SLA at the highest level

U.S. Indicts 10 For Emissions Testing Fraud

A federal grand jury in Las Vegas has indicted 10 certified emissions testers for falsifying vehicle emission test reports as part of a scam called “clean scanning.” The scheme involves entering the Vehicle identification Number (VIN) for a vehicle that would not pass the test into the computerized system, and then connecting a different vehicle that the testers knew would pass the test. The men allegedly charged from \$10 to \$100 over and above the usual emissions fee for each false test.

The number of tests allegedly falsified varied by individual. Some of the men charged phoned up to 250 records, while others did more than double that number. One defendant is alleged to have falsified more than 700 reports, says the Dept. of Justice. Each of the men faces one felony count of violating the Clean Air act by falsifying records between November 2007 and May 2009. The maximum penalty for the violations includes up to two years in prison and a fine of up to \$250,000.

Las Vegas is required to perform emissions testing because it exceeds national smog standards. “The residents of Nevada deserve to know that the vast majority of licensed vehicle emission inspectors are not corrupt and are not circumventing emission testing procedures.” Said U.S. Attorney Daniel Bogden.

40 Facilities Cited for Falsifying 20,000+ Vehicle Emission Inspections

DEC and DMV Investigation Finds Simulators Used to Skirt State Law

New York State Department of Environmental Conservation (DEC) Commissioner Pete Grannis and Department of Motor Vehicles (DMV) Commissioner David J. Swarts announced that 40 inspection facilities in the downstate region have been cited for issuing more than 20,000 vehicle-inspection certificates for automobiles that were never actually tested for emissions.

To pass a state emissions inspection, a car or truck must be connected to state-approved inspection equipment that reads emissions levels and sends the information directly to a state DMV database. DMV inspectors identified the potential fraud and forwarded the information to DEC investigators. DEC found that inspectors at the 40 cited facilities

skirted state law by attaching the inspection equipment to electronic devices that simulate inspections, thereby providing fake data to DMV computers. In 20,773 instances, investigators found that the vehicle of record likely was never tested.

“The intentional flouting of air pollution laws is unacceptable,” Commissioner Grannis said. “Motor vehicles are a major source of harmful air pollution and New York maintains strong vehicle-emission limits in order to protect state residents - especially those living in the densely populated downstate area - from exposure to excessive vehicle emissions. Falsifying inspections is not only illegal but also keeps potentially polluting cars and trucks on the road, undermining the health of New Yorkers.”

“We were pleased to work with our partners at DEC in uncovering this fraud,” Commissioner Swarts said. “Protecting air quality and ensuring that emissions inspections are carried out appropriately are among DMV’s important responsibilities. Violators of inspection procedures should realize that they will be discovered and prosecuted any time that their actions affect the health or safety of the citizens of New York.”

The fake emissions inspections were carried out by facilities located in six counties: 27 in the Bronx, 4 in New York (Manhattan), 4 in Suffolk, 3 in Nassau and 1 apiece in Westchester and Kings (Brooklyn). DEC sent each of the facilities a “Notice of Violation;” potential fines for violating emissions-testing requirements range from \$375 to \$1,500 for the first offense and up to \$22,500 for each ensuing offense. The notice requires station owners and inspectors to contact DEC by March 10.

EPA Developing Energy Consumption Labels For Electric And Hybrid Vehicles

Lisa Jackson, administrator, U.S. Environmental Protection Agency (EPA), announced at last weeks' Washington Auto Show that the agency is working with consumer and industry groups to develop a program for informing consumers as to the energy consumption for electric and plug-in hybrid vehicles. These vehicles are currently exempt from fuel economy ratings. Since they rely on home electricity for most if not all of their energy needs. However, the administrator contends that fuel economy labeling "has to catch up" with vehicle innovations. It was not disclosed when these new requirements would be unveiled by EPA.

House Bill Introduced To Stop EPA Greenhouse Gas Regulation

The House has joined the Senate, introducing legislation that would repeal authority of the Environmental Protection Agency to regulate greenhouse gas emissions under the Clean Air Act. The bill (H.R.4572) was introduced by Rep Ike Skelton, D-Mo., who stated that, "We cannot tolerate turning over the regulation of greenhouse gas emissions to unelected bureaucrats at EPA. America's energy and environmental policies should be set by Congress."

At this point, it is unclear whether the bills in both the House and Senate have sufficient support to be passed. However, the issue continues to be gaining momentum as many legislators are concerned about the cost on businesses and consumers of EPA regulation of greenhouse gas emissions.

EPA Issues Significant New Use Rules For New Automotive Refrigerant

The U.S. Environmental Protection Agency (EPA) has issued a significant new use rule (SNUR) for HFO-1234yf. This is being strongly considered as a substitute refrigerant for motor vehicle air conditioners due to its low impact on global warming. While SNUR identified health concerns if workers or consumers are exposed to significant amounts of the substance, EPA concluded that use of the refrigerant would not pose any serious adverse health or environmental concerns. This is based on a determination that the charging of the refrigerant systems would only be done by vehicle manufacturers and that maintenance would only be performed by technicians certified under Section 609 of the Clean Air Act with EPA-approved equipment.

The issuing of SNUR follows on the heels of another proposal from EPA to approve use 1234yf under the Significant New Alternatives Policy rule (SNAP). Authorized by the Clean Air act, this program approves substitutes for ozone depleting substances for various uses including motor vehicle air conditioning. The SNAP proposal would permit the use of 1234yf only in new vehicles, but did not approve retrofitting older vehicles based on flammability concerns. The SNAP proposal also included toxicity concerns for use by consumers of the product.

AAIA and the Automotive Refrigerant Products Institute (ARPI) have submitted comments to the agency taking serious issues with the methodology used by EPA to determine whether 1234yf is safe for consumers to use. Pointing to studies used by the agency that severely overstated flammability risks, as well as exposure levels for consumers, AAIA and ARPI strongly opposed any restrictions on the use of 1234yf by consumers.

Per request of AAIA and ARPI, EPA has extended the comment period on the SNAP rulemaking, which was originally expected to conclude December 18, to February. 24. Also, SNUR was issued as a direct final rule, which would become effective April 2, 2010 unless the agency receives a written adverse or critical comments or notice of intent to submit adverse or critical comments before March 3, 2010. Both AAIA and ARPI expect to oppose SNUR for the same reasons stated in comments submitted under the SNAP rulemaking.

OSHA Proposes Requiring Recordkeeping Of Workplace Ergonomic Injuries

The Occupational Safety and Health Administration (OSHA) proposed revisions to the Occupational Injury and Illness Recording and Reporting regulation to restore a column to the OSHA 300 Log that employers would use to record work-related musculoskeletal disorders (MSD). If finalized, the proposal would require employers to place a check mark in the MSD column if the injury met the regulatory definition. MSD is defined as “disorders of the muscles, nerves, tendons, ligaments, joints, cartilage and spinal discs, except those caused by slips, trips, falls, motor vehicle accidents or other similar accidents.”

OSHA had originally proposed to include a MSD column as part of its 2001 recordkeeping rule, but delayed implementation due to the agency’s intent to develop a comprehensive plan to address ergonomic hazards. This rule proved to be very controversial and was opposed by most industry groups including AAIA. In 2002, OSHA further decided not to implement an all-industry standard, but instead chose to develop industry-targeted guidelines, enforcement measures and workplace

outreach. In 2003, OSHA concluded that the MSD column was not necessary or supported by the record.

OSHA has now decided to require recordkeeping based on recommendations from the Advisory Committee on Construction Safety and Health (ACCSH), which voted unanimously on Dec. 11, 2009 for OSHA to add an MSD column to the OSHA 200 and 300A recordkeeping forms.

In its January 29 proposal, OSHA stated that restoring the MSD column to the regulations “would provide valuable information for maintaining complete and accurate national occupational injury and illness statistics; assist OSHA in targeting its inspection, outreach, guidance and enforcement efforts to address MSDs; and provide easily identifiable information at the establishment level that will be useful for both employers and employees.” OSHA also contends that the data would improve national statistics on MSDs and should permit the Bureau of Labor Statistics to better analyze the magnitude of the MSD problem and trends over time in the country and in specific industries. It is also likely that the information being obtained from the logs will help OSHA build a case for re-proposing ergonomic industry standards similar to the one that was strongly opposed by the industry in 2001.

Comments on the proposal must be submitted to OSHA by March 15, 2010. OSHA held a public meeting on the proposed rule from 9 a.m. to 5 p.m. on March 9, 2010.

Stop Tax Increase on Cigarettes

The New York State Budget includes a provision that will increase the taxes on a pack of cigarettes by \$1.00. Retailers,

wholesalers and manufacturers are joining together to demand that the legislature refuse to increase the taxes on cigarettes until the taxes from Native American cigarettes sales are collected.

The administration has announced that it will start collecting Native American taxes in the near future, but it neglected to include the money they expect to collect on a line item in the budget.

They also say that the rule making process to collect the taxes would begin last week, or was that this week, or maybe next week. The rule is/will/may be published in the State Register and that is the beginning of the rule making process that also includes hearings. This is at least a six-month process. Does anyone think they may be stalling?

Keep up the pressure. Call your legislator and demand that there be NO new taxes on anything, until the taxes on sales of cigarettes by Native American retailers are collected.

Bill Would Require Marketers To Put Country-Of-Origin Labels On Pumps

Legislation has been introduced in Congress that would require marketers to slap country-of-origin labels on their dispensers, with fines of up to \$10,000 for those who violate the law. “When we fill up our vehicles, there’s no existing method for us to know where the fuel we’re purchasing comes from and which nations are deriving the economic benefit from that purchase,” said Rep. Bruce Braley (D-Iowa) in a speech before he introduced his bill this week. “When we put food in our bodies or clothes on our backs, we know exactly where those products come from. Americans should have the same opportunity to vote with their

wallets at the gas pump.” he said.

The measure would require DOE and EPA to conduct a study to determine appropriate methods and standards for requiring that fuel supplies disclose country-of-origin information to the next person in the supply chain, and for retailers to disclose the same info to drivers. According to the bill, the study should address the extent to which people in the supply chain have access to the relevant information. If it is decided that there isn’t enough data to allow retailers to name the country of origin, then the study should look at steps that can be taken to collect the information.

According to the bill, the listing of more than one country of origin would not be required for a fuel blend containing fuel at least 70% or more of which originated in a single country. For those violating the law, the secretary could impose of a civil penalty of not more than \$10,000.

The bill is an outgrowth of an effort launched by ethanol lobbyists Growth Energy in September 2009. Earlier this week, the ethanol advocacy group released findings from a poll claiming that 68% of American voters support such labeling. However, the effort continues to receive pushback from refiners. “It is almost impossible to determine with absolute certainty the origin of the gasoline consumers put into their tanks since refiners purchase crude oil from a variety of countries, and the fuels produced reflect this diversity of crude sources. “American Petroleum Institute spokeswoman Karen Matusic said. “In addition, retail suppliers often buy their gasoline from several companies and supply swaps are common.

The world energy markets are inherently global, and no single country can exempt itself from the interdependencies of that market,” she added.

EPA Seeks To Toughen Ozone Standards

The Environmental Protection Agency (EPA) has taken a major step in reversing a Bush Administration decision concerning ground-level ozone standards. If successful, the standards would become more stringent.

Ozone (O³) is a gas composed of three oxygen atoms. Ozone has the same chemical structure whether it occurs miles above the earth or at ground-level and is referred to as “good” or “bad”, depending on its location in the atmosphere. In the earth’s lower atmosphere, groundlevel ozone is considered “bad”. It is not usually emitted directly into the air, but at ground-level is created by a chemical reaction between oxides of nitrogen (NO_x) and volatile organic compounds (VOCs) in the presence of sunlight.

Ground-level ozone is the primary constituent of smog. Sunlight and hot weather cause ground-level ozone to form in harmful concentrations in the air. When we talk about “bad ozone”, we are talking about the creation of it by that chemical reaction.

“Good” ozone occurs naturally in the stratosphere approximately 10 to 30 miles above the earth’s surface and forms a layer that protects life on earth from the sun’s harmful rays.

On January 6, 2010, the EPA proposed to strengthen the national ambient air quality standards (NAAQS) for ground-level ozone. The EPA is proposing to strengthen the 8-hour “primary” ozone standard, designed to protect public health, to a level within the range of 0.060-0.070 parts per million (ppm). The EPA is also proposing to establish a distinct cumulative, seasonal “secondary” standard, designed to protect sensitive vegetation and ecosystems, including forests, parks, wildlife refuges and wilderness areas. The EPA is proposing to

set the level of the secondary standard within the range of 7-15 ppm-hours. The EPA will now take public comment. The agency also will hold public hearings on the proposal. The EPA has said it will issue final standards by August 31, 2010.

The Clean Air Act of 1970 authorized the development of comprehensive federal and state regulations to limit emissions from both stationary (industrial) sources and mobile sources. Under the Clean Air Act, the EPA sets limits on certain air pollutants, including setting limits on how much can be in the air anywhere in the United States. The Clean Air Act also gives the EPA the authority to limit emissions of air pollution coming from sources like chemical plants, utilities, and steel mills. The EPA must approve state, tribal, and local agency plans for reducing air pollution. If a plan does not meet the necessary requirements (non-attainment), the EPA can issue sanctions against the state and, if necessary, take over enforcing the Clean Air Act in that area. States have to develop State Implementation Plans (SIPs) that outline how each state will control air pollution under the Clean Air Act.

Major changes were made to the Clean Air Act in 1990. While it gave the states more time to meet the air quality standard – it also requires states to make constant progress in reducing emissions. For ozone, the 1990 changes established nonattainment area classifications ranked according to the severity of the area’s air pollution problem. These classifications are marginal, moderate, serious, severe and extreme. EPA assigns each nonattainment area one of these categories, thus triggering varying requirements the area must comply with in order to meet the ozone standard.

Nonattainment areas have to implement different control measures, depending upon their classification. Marginal areas, for

example, are the closest to meeting the standard. They are required to conduct an inventory of their ozone – causing emissions and institute a permit program. Nonattainment areas with more serious air quality problems must implement various control measures. The worse the air quality, the more controls areas have to be implemented.

The Clean Air Act of 1990 established tighter pollution standards for emissions from automobiles and trucks. These standards have been reducing tailpipe emissions of hydrocarbons, carbon monoxide, and nitrogen oxides on a phased-in basis beginning in model year 1994. Scheduling reductions in gasoline volatility and sulfur content of diesel fuel were also required by the 1990 amendments.

In 1971, the EPA established a 1-hour NAAQS ozone standard of 0.08 ppm. In 1979, the EPA revised the 1-hour standard to 0.12 ppm. The EPA revised the air quality standards for ozone replacing the 1979 standard with an 8-hour standard set at 0.08 ppm. The EPA issued revised ozone standards on March 12, 2008, and set both standards at a level of 0.075 parts per million (PPM). In May 2008, states, environmental groups and industry groups filed petitions with the D.C. Circuit Court of Appeals for review of the 2008 ozone standards. In March 2009, the court granted the EPA's request to stay the litigation so the new administration could review the standards and determine whether they should be reconsidered.

The EPA has decided to revise the 2008 standards, because “the ozone standards set in 2008 were not as protective as recommended by the EPA's panel of science advisors, the Clean Air Scientific Advisory Committee (CASAC). The new proposed standards are consistent with CASAC's recommendations”. Ground-level ozone is

the result of a chemical reaction between oxides of nitrogen (NO_x) and volatile organic compounds (VOC) in the presence of sunlight. These are called precursors. So if you want to follow the bouncing ball, the next question is where do the two precursors come from? Nitrogen Dioxide (NO₂) is the largest category of nitrogen oxides. NO₂ forms from emissions from cars, trucks and buses, power plants, and off-road equipment.

The other precursor is volatile organic compounds that have a high vapor pressure and low water solubility. Many VOCs are human-made chemicals that are used and produced in the manufacture of paints, pharmaceuticals, and refrigerants. VOCs are also industrial solvents, such as methyl tert-butyl ether (MTBE); or by-products produced by chloroform. VOCs are often components of petroleum fuels, hydraulic fluids, paint thinners, and dry cleaning agents.

The EPA estimates the value of health benefits of reducing ozone to 0.070 ppm would range from about \$13 billion to \$37 billion per year in 2020. For a standard of 0.060 ppm, the value of benefits would range from about \$35 billion to \$100 billion per year in 2020. The costs of reducing ozone to 0.070 ppm would range from an estimated \$19 billion to \$25 billion per year in 2020. For a standard of 0.060 ppm, the costs would range from \$52 billion to \$90 billion. And of course, much of the cost will be imposed on the oil/gasoline industry.

Now, the EPA has announced it will release a supplement to that RIA. Said the EPA, “The supplement to the RIA assumes that the proposed standards can be achieved throughout the U.S. using a mixture of known air pollution control technologies and unknown, future technologies. The annual control technology costs of implementing known controls as part of a strategy to attain

a standard in the proposed range of 0.060 ppm or 0.070 ppm in 2020 would be approximately \$3.3 billion to \$4.5 billion. EPA used several statistical methods to provide a range of likely compliance costs for other, currently unknown technologies that would be needed to attain the proposed primary standards”.

The Small Business Legislative Council believes that there is almost no doubt the standards will become final. If the rule moves forward as planned, by December 2013 State Implementation Plans, outlining how states will reduce pollution to meet the standards, are due to EPA. From 2014 to 2031, States are required to meet the primary standard, with deadlines depending on the severity of the problem. In short, as an industry we will be involved in this industry effort for many years to come.

An Important Issue Undecided

By Peter H. Gunst

General Counsel, SSDA

Rosedale Plaza Group, LLC v. BP West Coast Products, LLC brought an important issue before a California federal court. Can a supplier insist, as a condition of renewal of a PMPA motor fuel franchise, that the franchisee accept an unwanted minimarket franchise agreement as well?

When the Rosedale Plaza Group became the dealer of a BP supplied station, it accepted assignment not only of the previous dealer’s PMPA motor fuel franchise, but also the dealer’s am/pm Franchise Mini-Market Agreement for the operation of the station’s convenience store.

When renewal time came, the new dealer made known to BP that it no longer desired to operate its convenient store as an am/pm franchise mini-market. BP insisted that the

dealer accept renewal both of the am/pm franchise agreement and of the PMPA motor fuel franchise agreement on a take-it-or-leave-it basis. When the dealer refused to cave in to BP’s demands, BP sent a notice of nonrenewal. The dealer filed suit, asserting that the PMPA prohibited a franchisor from requiring a franchisee to enter into a “non-motor fuel, non-necessary, mini-market convenient store franchise agreement” as a condition of maintaining its PMPA motor fuel franchise.

After the court entered a preliminary injunction maintaining the dealer’s status pending the outcome of the litigation, both parties moved for summary judgment, apparently believing the issue to be a clear matter of law for the court to decide. The court disagreed. In a lengthy opinion that analyzed exhaustively the limited legal precedents relied upon by each party, the court denied both motions for summary judgment and held that it would be up to a jury to determine whether the continuation of the convenience store as an am/pm franchise was essential to the continuation of the motor fuel franchise. Expert testimony would be required, the court said, to resolve that issue.

In the few earlier decisions that have considered analogous issues, franchisees and franchisors have flip-flopped regarding whether a PMPA motor fuel franchise agreement and a secondary franchise agreement are interdependent, depending upon the nature of their dispute.

In *Smith v. Atlantic Richfield Co.*, 533 F. Supp. 264 (E.D. Pa. 1982), for example, ARCO – a predecessor of BP – desired to terminate its dealer’s am/pm convenient store franchise because he refused to remove coin-operated video games from the store’s premises. Relying upon the close nexus between his gasoline and convenient store operations, the dealer sought to invoke

PMPA protection to enjoin the termination of his convenience store franchise agreement. ARCO moved to dismiss the case for lack of jurisdiction, arguing that the PMPA was limited in scope to the termination or nonrenewal of motor fuel franchises. The court agreed with ARCO. Rejecting the dealer's argument that the two agreements were "so intertwined and interdependent as to constitute one franchise," the court held "as a matter of law" that the convenience store agreement was not "a secondary arrangement essential to the operation of the motor fuel franchise."

In the Rosedale Plaza Group case, the dealer argued that if – as the Smith court held – continuation of a mini-market franchise is not essential to the continuation of dealer's core motor fuel franchise, then the supplier may not insist upon renewal of its mini-market franchise agreement as a condition to the renewal of its PMPA motor fuel agreement.

Although the court in the Rosedale Plaza Group case did not accept the dealer's black and white argument, its decision to let the jury determine the issue of interdependence probably left the dealer in a pretty good situation. It may be difficult for BP to argue to a jury that continuation of the mini-market franchise agreement was either material or essential to continuation of the dealer's PMPA motor fuel agreement, where the dealer intended to continue full operation of the convenience store, but simply not under the terms of a specific minimarket franchise agreement.

Given the importance of convenience store operations to the financial viability of so many service station operations, the ultimate determination in the Rosedale Plaza Group case is of considerable significance. It is an important issue yet to be decided.

Payment Card Industries Data Security Standards (PCI)

Industry Data Security Standards, otherwise known as PCI, will be required by July 1, 2010 in many service stations. The mandate by credit card companies and some oil companies will require all data processing equipment at the station be brought into compliance to provide the utmost security when making a credit card sale. All Gillbarco pumps will need updating and can be replaced with a Passport System. In order to meet compliance by July 1, at the very least, the system needs to be updated to one of these methods.

Currently reports hold that only the system will need to be updated at a cost of up to \$6000, depending on what system you have in place. To access and use the system to accept credit cards a station must have the system in place no later than July 1, 2010.

The updating of the keypads at the pumps was also to be required by July 1, but it has been put off for a couple of years. However, as of July 1, 2010 debit cards will not be able to be accepted unless the keypad at the pump has been updated.

While the system is expensive there are some that believe it is not as secure as touted. Highly publicized data breaches over the last few months, occurring at stations that are seemingly PCI compliant, begs the question does PCI compliance equal security? The answer is, it depends on your definition of security. Unfortunately no business is ever completely secure but companies can mitigate their risk.

Service stations should check there system to be sure that they will be in compliance with their credit card companies' requirements by July 1 or they may find themselves in a situation where their pumps

will not accept credit card sales. While there is some discussion that the deadline may be extended it may not be true of all companies and all stations.

We will provide more information as it becomes available.

Majors, Marketers Struggle To Meet PCI Deadline

Nerves are starting to fray at refiner and marketer offices across the U.S. as the deadline nears to replace thousands of Gilbarco G-sites that will not comply with PCI security standards as of July 1 this year. There are an estimated 30,000 Gilbarco systems that will have to be replaced with either Gilbarco's Passport or other PCI-approved POS.

There are 1,350 G-sites at Citgo stations alone and Citgo sent out an urgent reminder about the PCI deadline to jobbers this week. Some majors, including BP and Chevron, have said that they will not process card sales for stations not in PCI compliance come July 1. Gilbarco said this week that it will "be able to meet demand" for Passport POS and the new PCI-approved software, Version 8.02, but getting the stuff into retail sites is another matter entirely.

In Texas, jobbers say a large Gilbarco distributor has notified them that it will not be able to meet PCI deadlines if it does not receive their Passport orders by March 31. Similar reports are coming from other markets, including the Mid-Atlantic.

"Technician capacity is specific to each region, as it's based on the number of technicians employed by the distributors and service providers in the region," Gilbarco spokeswoman Lucy Sackett said. According to major oil officials, Gilbarco has been

having problems with the Passport software. Majors testing it have found multiple bugs, including glitches that shut down dispensers (OE 02/22/10). Chevron warned its marketers in December that it could not guarantee the V.8.02 upgrade would be available in time "due to the complexity" and "issues encountered thus far." Shell and BP were still in the final testing stage for the software this week. It's not clear if other majors have signed off on the programming.

Majors "have been riding Gilbarco pretty hard to get this done," says one payments industry expert. "A number of firms have also been talking to Visa about relaxing the [July 1] deadline because we have no control over the situation," says an exec with one major. "Gilbarco is in an absolute pickle, we've no idea why it's taking them so long."

Gilbarco being in a "pickle" puts majors in the same position – they will have to decide whether to follow through on threats to cut off stations that does not meet PCI standards. Chevron, for example, said last September that non-compliant cash register systems will not be able to accept cards as of July 1. BP said this week that it will cut stores off its network, too, even if their failure to install new POS is a result of Gilbarco's problems.

"BP is not responsible - in any event - for your failure to meet the deadline," Nancy Tosto, BP's Payment Systems Manager, said in a memo to jobbers. BP confirmed that position later in the week. "At this point, BP is committed to shutting off credit card acceptance at non-compliant stations given the risks associated with operating in a non-compliant manner," said a company spokesman.

The situation for BP jobbers may be more complicated still because BP is requiring them to install a Fortigate firewall device

before they put in a new Passport or other POS system. The firewall must be ordered through BP 45 days before the POS device is installed. Jobbers who didn't realize that are now scrambling to get the work done.

Some jobbers say they can't believe that majors will make good on threats to stop accepting credit cards, simply because of the financial loss and customer inconvenience and ill-will that would follow. "Any major that shuts down a station's ability to accept cards must be crazy - it's like putting a gun to your head and pulling the trigger," said one multi-branded wholesaler who admits to being "way behind" on upgrading some of his branded sites, from installing new POS to outside dispenser pad overlays and inside card swipes. Shell is still looking at the situation but is unlikely to turn marketers off its card network. More than 80% of its sites have put in PCI-compliant equipment already, said a Shell exec. "It seems a bit unfair to cut them off our network for something beyond their control."

Shell and BP offered jobbers financial aid to help defray PCI costs – most other refiners just passed through vendor discounts. In January 2009, Shell introduced a 1ct/gal incentive over two years for PCI-compliant systems, with some of that payable up front. BP has a "G-site sunset incentive," capped at \$3,000/site, but the new EPOS equipment must be installed by the end of March to qualify.

ExxonMobil says it is "well aware of the concerns surrounding the upcoming deadline for certification of point-of-sale applications. We are looking closely at the issue and considering our options." Valero says it expects its company-operated stores to be PCI-compliant before July 1, but is not sure about wholesaler sites.

Meanwhile, Gilbarco said this week that its Passport POS has been approved by the PCI

Security Council, contrary to reports that it is still awaiting PCI's okay on a part of its system (OE 02/22/10). Asked about the technical problems majors encountered with its Passport software, the Greensboro, N.C., firm said only that it "leads our industry" in the number of approved network certifications.

Some marketers who have already installed Passport have complained that Gilbarco distributors said they would charge them another \$1,000/site fee for a second visit to their stations to install the new Passport software when it becomes available. Gilbarco said this week that it will give marketers who ordered and paid for Passports after Oct. 10, 2008 a fixed onsite labor credit.

"Gilbarco will provide the software at no charge, even for those customers who have let their service contract lapse," Sackett said. "If the contractor cannot combine the upgrade with other planned trips to the site, the retailer will pay mileage and travel to the site," she said.

Carole Donoghue, cdonoghue@opisnet.com
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Skimming Concerns? Here's What You Need to Know.

With the recent reports of credit card skimming, the Association provides context and tips to mitigate the likelihood that you are a target. Protecting customer data is a top priority for retailers

A number of news reports over the past month have focused on the topic of credit card skimming. Consultant Gray Taylor separates fact from fiction, and provide tips for what retailers and consumers can do to minimize the likelihood they are a target.

What is skimming?

1. Skimming is any attempt to acquire the data from a credit or debit card transaction. At its simplest, it is stealing credit card receipts. Today, it often involves placing a small electronic device over a terminal that the criminal later takes back to download card data. In all cases, the thieves need to open your dispenser to place the skimming device(s).

Is skimming a particular problem at convenience stores/gas stations?

1. The incidence of skimming at the fuel island is over-exaggerated, as industry data points to retail environments where the consumer gives up possession of the card as the biggest source of skimming. In fact, according to the 2009 Verizon Business Data Breach Investigations Report, the real risk to consumers isn't retail at all; 93 percent of compromised accounts occurred at breaches within financial institutions. The simple fact is that criminals go "where the money is," and complicated, site-based hacks of retailers is a high-risk, low-yield proposition.
2. Consumer Reports magazine and other publications have suggested that customers use signature debit, instead of PIN, to minimize the risk. Is this good advice?
3. The recommendation that consumers not use their PINs when paying is erroneous at best, and could increase consumer risk of compromise, overdrafts and increases retail prices.
4. Industry data shows that card transactions without PINs have a six times greater chance of being compromised – which is why PIN usage is the de facto standard for world payments. Consumers who choose not to use a PIN are also at risk for overdraft fees that occur when their bank does not

remove debit holds from their account in a timely fashion. Signature-based transactions are processed on the antiquated Visa and MasterCard systems that do not process in real-time, versus the instant operation of PIN debit. Not using PIN also increases the cost of the transactions, which is passed back to the consumer. The Federal Reserve Bank of Kansas City documented that a \$50 transaction processed with a PIN cost the retailer 49 cents, while the same transaction processed without a PIN cost the retailer 68 cents – a cost difference of 19 cents.

5. The assertion that "a lot of gas pumps use older technologies, so PIN codes are not encrypted" is totally unsupported by the facts. With the introduction of master session encryption technology in the early 1990s, fuel dispensers have been required by Visa and electronic funds transfer networks to encrypt PINS or not accept PIN debit. In fact, every one of the estimated 6 million fuel dispenser terminals installed today accepting PIN debit encrypts PIN numbers – as has been the case for the past 15 years. The convenience and petroleum retail segment has invested more than \$5 billion in payment systems and technology to provide a safe, fast and accurate card payment experience for consumers.

How can a retailer check if terminals are being skimmed?

1. Unless you are a trained dispenser technician, you probably can't tell. We recommend serial-numbered security strips and periodic inspections of them. The idea is to know if the dispenser has been accessed – if a strip is broken, then shut down the dispenser and call in a tech to inspect the pump.

How can retailers minimize the risk of being skimmed?

Here are three simple steps:

1. Use serialized security strips over all access doors you wish to protect.
2. Re-key the locks on dispenser doors that have access to electronic payment data.
3. Consider investing in anti-breach kits for dispensers. Manufacturers now offer anti-breach kits, which generally notify and shut down dispensers that are accessed without proper security code entry. This can be expensive, but is the ultimate line of defense.

What should a retailer do if there is an incident?

1. Stop the bleeding. Take the dispenser offline to discontinue any more transactions.
2. Have a tech identify the device, but do not remove or touch it. If there is no device, get it in writing from the tech and restart the dispenser.
3. Call the police to inspect. Remember, this is a crime scene and the perpetrators are probably doing the same thing to other retailers in the general area. Also, the Secret Service and FBI are frequently involved in large cases; let the police handle this. After the investigation, ask for a dated police report.
4. You don't know if any of the cards used at the dispenser have been compromised, so don't assume that they have been.

Do you have advice for consumers?

1. Use payment terminals and ATMs at established retail or banking locations, where access to the device is controlled by on-site personnel.
2. Use a PIN whenever you can; it reduces your risk of compromise six-fold and leads to lower retail prices.
3. Place reasonable limits on the daily or weekly withdrawals from ATMs.

Even the latest chip and PIN technology currently being installed outside of the

United States has proven to be vulnerable to attack. The latest reports of skimming and the recent news of hundreds of company systems being hacked is irrefutable evidence that the United States needs to have a national conversation about payment, identity and access security, and how this country can lead the world to the next generation of data security, instead of following it.

Go Green this Spring when you Support 100% Wind Power Choose the Energy Plus™ Green Option

Small changes can make a big impact. Now more than ever, it is important for consumers to consider the environment when it comes to using electricity. To help members, the New York State Association of Service Stations and Repair Shops has partnered with Energy Plus™ to offer a unique program that includes annual Cash Back and sales tax savings every month all while supporting 100% wind generated power- one of the cleanest forms of energy available.

By choosing Energy Plus™ as your electricity supplier and enrolling in the green option, you will be directly reducing our nation's requirement for electricity generated from the combustion of fossil fuels. You will also be eligible for a sales tax waiver of up to 9.75% on the delivery portion of your electricity bill each month. As an added bonus, you will earn 3% Cash Back on the annual electricity supply charges for your business and a \$50 activation bonus for each enrolled account. For residential accounts, you can take advantage of the same sales tax savings while earning 2% Cash Back and a \$25 activation bonus.

The best part is that you can try Energy

Plus™ risk-free. There are no changes to your service- your utility company will continue to deliver your electricity, mail your bill, read your meter, and handle any power outages. Also, there are no sign-up fees, cancellation fees, or long-term commitments. To be eligible you just need an address within the Energy Plus™ service area, which covers all of New York State, except areas covered by the Long Island Power Authority (LIPA), due to limited eligibility for choice programs in the LIPA region.

To learn more about Cash Back and Tax Savings for NYSASSRS Members, Call 866-964-5672 and mention Offer Code “0059” or visit:
www.EnergyPlusCompany.com/NYSASSRS59.

Minimum Age For Cashiers Who Sell Alcoholic Beverages

The regulations for clerks who sell alcoholic beverages taken from page 7 of the State Liquor Authority Handbook are as follows:

1. Clerks and cashiers who handle and receive payment for alcoholic beverages in drug stores, grocery stores and convenience stores must be at least 16 years old and must be supervised by someone who is at least 18 years old.
2. Clerks and cashiers in liquor and/or wine stores must be at least 18 years old.

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Policy Give You 35%
Of Your Premium Back
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DMV Record Retrieval

DMV record retrieval is available to association members and affiliates at a cost of \$12 per record. Additionally, you may order DMV certified paper abstracts of drivers license, vehicle registration, and vehicle title records for an additional fee of \$2 per abstract. To use this service, please call 518-452-4367 or 716-656-1035

We Have Changed Our Web Address

The Association is pleased to announce a new web site. The old website has been completely revamped to provide you with easier faster access to the information you need. The new address is

www.nysassrs.com

Our e-mail address has changed to:

state@nysassrs.com

In addition to being able to read back issues of newsletters, and providing you with links to important sites we have added a bulletin board to keep you better informed as stories break.

WARNING

**YOU CANNOT DO
INSPECTIONS IF ANY OF YOUR
EQUIPMENT IS MISSING OR
INOPERABLE.**

**PERFORMING AN INSPECTION
UNDER THESE CONDITIONS
CAN RESULT IN REVOCATION
OR SUSPENSION OF YOUR
INSPECTION LICENSE.**

New EPA Requirements for Automotive Refinishing

Second Notice

NESHAP Notification Automotive Refinishing

This is a follow-up to the previous mailing you received from the Small Business Environmental Assistance Program (SBEAP) regarding the need to complete the *National Emission Standard for Hazardous Air Pollutants (NESHAP) Initial Notification & Notice of Compliance Form* (NESHAP form).

The U.S. Environmental Protection Agency (EPA) passed a new regulation that affects all automotive refinishing shops. This regulation [40 CFR Part 63, Subpart HHHHHH] addresses the hazardous metal compounds of lead, cadmium, manganese, nickel and chromium (referred to as target HAPs) that are components in many automotive coatings.

The regulation requires the Initial Notification to be submitted by January 11, 2010 for existing shops – in operation before 9/17/2007.

Here are some tips to keep in mind when completing the form:

- For item #3, please check the motor vehicle or mobile equipment surface coating box and specify the number of painters, prep stations and spray booths.
- For item #5, the majority of existing shops should select the middle option – this will serve as the Initial Notification and the facility will be in compliance by 1/10/2011.

If you have recently submitted the form, you do not have to take any additional action at this time.

The SBEAP (1-800-780-7227) can assist you and answer any questions you may have while completing the NESHAP form. It is very important that you take the time to complete this form in order to avoid any future enforcement actions by the NYSDEC/USEPA.

**National Emission Standard for Hazardous Air Pollutants (NESHAP) for
Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources**
40 CFR 63, Subpart HHHHHH

Initial Notification & Notification of Compliance Status

1. Owner Information

Company Name		Owner Name & Title	
Mailing Address		Phone Number	
City	State	Zip	e-mail (if available)

2. Facility Information (if different)

Facility Name		Operator Name & Title	
Physical Address (if operator address/phone is different, please provide information on a separate sheet)		Phone Number	
City	State	Zip	e-mail (if available)

Address where Compliance Records are kept (if different than Facility Address)

--

Enter DEC ID #

	-				-				
--	---	--	--	--	---	--	--	--	--

 Or Check here if Exempt from Permitting

3. Surface Coating Operations

3a. This facility performs the following types of surface coating

- Yes, check all that apply No, skip to #4
- motor vehicle or mobile equipment surface coating
- motor vehicle or mobile equipment surface coating operations that repairs vehicles at the customer's location, rather than at a fixed location.
- metal &/or plastic parts with paints containing cadmium, chromium, lead, manganese or nickel
 - _____ Number of painters usually employed
 - _____ Number of preparation stations
 - _____ Number of spray booths

3b. Surface coating operations are required to comply with 40 CFR 63.11173(e) through (g):

- ▶ Train and certify all spray painters in the proper application of surface coatings and environmental compliance.
- ▶ Spray-applied coatings are applied in a preparation station or spray booth that meets the requirements of 40 CFR 63.11173(e)(2) and equipped with filter technology that captures ≥ 98% of paint overspray.
- ▶ All spray applied coatings are applied with high volume low pressure (HVLV), airless, air-assisted airless spray guns, electrostatic application or equivalent technology.
- ▶ Use non-atomized spray gun cleaning methods or enclosed spray gun washer.

4. Methylene Chloride Paint Stripping Operations

4a. This facility performs paint stripping operations using products that contain methylene chloride.

- Yes, check all that apply No, skip to #5
- Type of Stripping: Chemical Mechanical Other: _____
- Substrate(s): Wood Plastic Metal Other: _____
- Do you plan to use more than 1 ton per year of Methylene Chloride (MeCl) in your Paint Stripping Operations?
 Yes No

- 4b. Methylene chloride (MeCl) paint stripping operations are required to comply with 40 CFR 63.11173(a) through (d):
- ▶ Implement management practices to minimize the evaporative emissions of MeCl by
 - evaluating each application to ensure there is a need for paint stripping,
 - evaluating each MeCl paint stripping operations to ensure no alternative technology is available,
 - reducing exposure of MeCl to the air,
 - optimizing conditions at time of application to reduce evaporation, and
 - practicing proper storage and disposal of paint strippers.
 - ▶ If you use more than 1 ton of MeCl annually, you must also do the following:
 - Maintain copies of annual usage of paint strippers containing MeCl on site at all times,
 - Develop and implement a written MeCl minimization plan and keep plan on site, and
 - Post a sign outlining the MeCl minimization plan in each area where paint stripping occurs.

5. Compliance Status & Certification

This facility is an area source whose potential emissions of hazardous air pollutants (HAP) are less than, or are capped below, 25 tons per year of total HAPs or 10 tons per year of any single HAP. (you must check one)

- This is a new facility where initial surface coating and/or paint stripping operations began after September 17, 2007 and the facility is in compliance with the requirements of 3b and/or 4b, as applicable, or will be upon startup.
- This is an existing facility* where initial surface coating and/or paint stripping operations began on or before September 17, 2007 and I am submitting this form as an *Initial Notification** only. The facility will be in compliance with all applicable requirements by 01/10/2011 and will resubmit this form to certify compliance by 03/11/2011.
- This is an existing facility* where initial surface coating and/or paint stripping operations began on or before September 17, 2007 and I am submitting this form as an *Initial Notification** and *Notification of Compliance Status*. I am certifying the facility is in compliance with the requirements of 3b and/or 4b, as applicable.

* Existing facilities must file an *Initial Notification* by 01/11/2010 and have until 03/11/2011 to certify compliance with applicable requirements.

I certify that the information contained in this report is accurate, true and complete to the best of my knowledge. I understand that the facility is subject to 40 CFR Part 63 Subpart HHHHHH, National Emission Standards for Hazardous Air Pollutants: Paint Stripping and Miscellaneous Surface Coating Operations at Area Source.

Signature of Responsible Official* _____ Date _____ Owner
 Print Name of Responsible Official _____ Title _____ Operator

Provide the following information for the Responsible Official or check if same as Owner Information or Facility Information.

Address		Phone Number	
		()	
City	State	Zip	e-mail (if available)

- * A Responsible Official can be:
- The president, vice president, secretary, or treasurer of the company that owns the facility;
 - An owner or manager of the facility;
 - A government official, if the facility is owned by the Federal, State, City, or County government; or a ranking military officer, if the facility is located at a military base.

Instructions for Submitting Information for National Emission Standard for Hazardous Air Pollutant (NESHAP) 40 CFR 63, Subpart HHHHHH

The federal NESHAP regulation requires submittal of initial notification; notification of compliance status and an annual notification of changes report (to report changes in information previously submitted and deviations from the requirements, if applicable). Information required by these regulations should be sent to three separate offices 1) US Environmental Protection Agency (EPA) Regional office for New York, 2) New York State Department of Environmental Conservation (NYSDEC) Central Office and 3) to the Regional Air Pollution Control Engineer (RAPCE) at the NYSDEC office for the county where your business is located.

Please note, forms prepared by the EPA or SBEAP are sample forms that can be used to meet the regulatory requirements. While you are not required to use these forms, you must submit the information required under the rule. After you have prepared the required information or form, make a copy for your records and submit a copy by mail to each of the following offices:

- U.S. EPA Region 2
Director, Division of Enforcement and Compliance Assistance
290 Broadway
New York, New York 10007-1886

- NYSDEC, Division of Air Resources
Bureau of Stationary Sources
625 Broadway
Albany, NY 12233-3254

- NYSDEC Regional Office for the county where your business is located:
 - Nassau & Suffolk Counties: NYSDEC Region 1, Mr. Ajay Shah-RAPCE
Stony Brook University, 50 Circle Road
Stony Brook, NY 11790-3409

 - New York City (Brooklyn, Bronx, Manhattan, Queens and Staten Island):
NYSDEC Region 2, Mr. Sam Lieblich-RAPCE
1 Hunter's Point Plaza, 47-40 21st Street
Long Island City, NY 11101-5407

 - Dutchess, Orange, Putnam, Rockland, Sullivan, Ulster, Westchester Counties:
NYSDEC Region 3, Mr. Ken Grzyb-RAPCE
21 South Putt Corners Road
New Paltz, NY 12561-1696

 - Albany, Columbia, Delaware, Greene, Montgomery, Otsego, Rensselaer, Schenectady, Schoharie Counties:
NYSDEC Region 4, Mr. Don Spencer-RAPCE
1130 North Westcott Road
Schenectady, NY 12306-2014

 - Clinton, Essex, Franklin, Fulton, Hamilton, Saratoga, Warren, Washington Counties:
NYSDEC Region 5 Sub-office, Mr. Jim Coutant-RAPCE
232 Golf Course Road, P.O. Box 220
Warrensburg, NY 12885

 - Herkimer, Jefferson, Lewis, Oneida, St. Lawrence Counties:
NYSDEC Region 6, Mr. Tom Morgan-RAPCE
State Office Building
317 Washington Street
Watertown, NY 13601-3787

 - Broome, Cayuga, Chenango, Cortland, Madison, Onondaga, Oswego, Tioga, Tompkins Counties:
NYSDEC Region 7, Mr. Reginald Parker-RAPCE
615 Erie Blvd. West
Syracuse, NY 13204-2400

 - Chemung, Genesee, Livingston, Monroe, Ontario, Orleans, Schuyler, Seneca, Steuben, Wayne, Yates Counties:
NYSDEC Region 8, Mr. Tom Marriott-RAPCE
6274 E. Avon-Lima Road
Avon, NY 14414-9519

 - Allegany, Cattaraugus, Chautauqua, Erie, Niagara, Wyoming Counties:
NYSDEC Region 9, Mr. Larry Sitzman-RAPCE
270 Michigan Avenue
Buffalo, NY 14203-2999

- Remember to make a copy for your records

RSGDAofWNY

Repair Shop and Gasoline Dealers Association of Western New York

Member Legal Services Plan

Administered by
KENNEY SHELTON LIPTAK & NOWAK, LLP

Dues paying members in good standing with the Association are entitled to participate in our group legal services plan that provides the following services:

- Five billable hours of legal services for representation and defense at Department of Motor Vehicles or any other New York state Administrative Proceeding or Hearing for repair-shop related issues, and in Small Claims Court, if your business is sued. The Plan does not include representation in any court other than Small Claims or in any matter where the member is charged with a misdemeanor or felony.
- Additional legal services for covered services as listed above, and representation in business-related matters brought in any court other than Small Claims, will be provided at the law firms standard hourly rate (\$200) less 25% member discounted rate (\$150).
- One hour of free consultation per year for business-related transactions, including leases, supply contracts, and franchise agreements.
- Real estate (residential) purchase or sale at a flat fee rate:
Sale \$400
Purchase \$400
- Estate planning at a flat fee rate:
Simple will (single) \$100
Simple will (husband and wife) \$150

In order to participate in the plan, you must be a dues paying member, in good standing, and must have been a member for at least ninety days prior to the need for legal services.

If you are in need of this service, you must first call the association office at (585) 423-9924 or (716) 656-1035. The association will then contact the law firm to relay your information. You will be contacted by the law firm, personally, to schedule an interview.

The law firm of Kenney Shelton Liptak and Nowak, LLP was chosen to administer the RSGDAofWNY legal plan based on their knowledge and familiarity with the needs of our industry.

**To become a dues paying member of RSGDAofWNY
and be eligible for legal services, call (716) 656-1035**

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Save up to 9.75%
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Enjoy the same service
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ENERGY PLUS 

Tax Savings every month.

Skip the sales tax on delivery charges with Energy Plus. You'll save up to 9.75% off the delivery portion of your bill every month because you'll qualify for an automatic New York State sales tax waiver for choosing an alternate supplier. Enjoy the waiver from the very first month you're with Energy Plus.

For your business AND home.

Energy Plus provides electricity to both homes and businesses throughout New York so you can sign up all your accounts. Residential accounts receive a \$25 sign-up bonus check and 2% Cash Back rebate check on annual electricity supply charges. * Sign up both your business and home and start saving today!

Is there any cost to cancel?

Absolutely not! With Energy Plus, there are no costs to enroll, no monthly fees associated with your account, and no penalties for cancellation. Unlike some fixed-rate products, you can try Energy Plus risk-free!

No service changes—service remains with your local utility.

The best part is that nothing about your service will change. Your local utility will continue to deliver your electricity, read your meter, handle service emergencies, and send your monthly statement. You'll be earning Cash Back and saving money, while still enjoying the safety and reliability of your current service.

Act Now!

Call **866-964-5672** and mention **Offer Code "59"** or visit
www.EnergyPlusRewards.com/NYSASSRS59 to learn more.

Corporate Accounts



Give Your Shop The Winning Advantage

Single User Pricing	Monthly Payment		Activation	
Manager/Repair/Estimator (TeamWorks)	\$357	\$214	\$199	\$0
ManagerPlus/Repair/Estimator (TeamWorks Plus)	\$397	\$244	\$199	\$0
Manager/Repair/Estimator (TeamWorks) with OnDemand5.com	\$328	\$204	\$199	\$0
ManagerPlus/Repair/Estimator (TeamWorks Plus) with OnDemand5.com	\$368	\$234	\$199	\$0
OnDemand5.com (3-users)	\$199	\$154	\$199	\$0
OnDemand5 Repair and Estimator	\$229	\$164	\$199	\$0
OnDemand5.com (Repair Only)	\$189	\$144	\$199	\$0
OnDemand5 (Repair Only)	\$189	\$154	\$199	\$0
Multi-User Pricing	Monthly Payment		Activation	
Manager/Repair/Estimator (TeamWorks)	\$437	\$254	\$199	\$0
ManagerPlus/Repair/Estimator (TeamWorks Plus)	\$487	\$294	\$199	\$0
OnDemand5 Repair and Estimator	\$278	\$220	\$199	\$0
OnDemand5 (Repair Only)	\$229	\$194	\$199	\$0
Promo Code: POPDSCT ID: 463				

Corporate discount has already been applied. Please see Exhibit B for details. Not combinable with other offers or discounts. Include first month's payment with all orders. New customers only. **Expires 3/31/10.**



Phone: 888-724-6742 x6313
Web Site: Mitchell1.com



Corporate Accounts



Competitive Customers Add-On Mitchell 1 For as Little as \$99/mo. For Six Months

Single User Pricing	First 6 Months	After 6 Months	Activation	
Repair & Estimator (Desktop)	\$99	\$164	\$199	\$0
OnDemand5.com	\$99	\$154	\$199	\$0
Multi-User Pricing	First 6 Months	After 6 Months	Activation	
Repair & Estimator (Desktop)	\$150	\$220	\$199	\$0

Promo Code: COMSWAP ID: 463

Must have one of the following in order to be considered for the Competitive Swap Out Promo:

- Either a shop management system or Alldata, Chilton Pro or Identifix.
- Repair or Repair / Estimator orders that are written under the COMSWAP promo, must have proof of a Repair product.
- User must provide proof of current Competitive subscription to qualify. Competitive customers who have been expired 90 days or less are eligible for this promo. Include first month's payment on order.



Phone: 888-724-6742 x6313
Web Site: Mitchell1.com



Corporate Accounts



Competitive Customers Add-On Mitchell 1 For as Little as \$139/mo. For Three Months

Single User Pricing	First 6 Months	After 6 Months	Activation	
TeamWorks with Manager	\$149	\$214	\$199	\$0
TeamWorks with ManagerPlus	\$169	\$244	\$199	\$0
TeamWorks with Manager and OnDemand5.com	\$139	\$204	\$199	\$0
TeamWorks with ManagerPlus and OnDemand5.com	\$159	\$234	\$199	\$0
Multi-User Pricing	First 6 Months	After 6 Months	Activation	
TeamWorks with Manager	\$169	\$254	\$199	\$0
TeamWorks with ManagerPlus	\$199	\$294	\$199	\$0

Promo Code: COMSWAP ID: 463

Must have one of the following in order to be considered for the Competitive Swap Out Promo:

- Either a shop management system or Alldata, Chilton Pro or Identifix.
- Repair or Repair / Estimator orders that are written under the COMSWAP promo, must have proof of a Repair product.
- User must provide proof of current Competitive subscription to qualify. Competitive customers who have been expired 90 days or less are eligible for this promo. Include first month's payment on order.



Phone: 888-724-6742 x6313
Web Site: Mitchell1.com

