

# PRARA NEWS

ESTABLISHED 1937

March 2024



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## PRESIDENT'S PAGE

BY: KEVIN FORSYTHE

Dear PRARA Members and Board:

For nearly a year, U.S. natural gas producers have slammed the brakes on production as prices fall. But relentless output gains including from oil companies that pump gas as an oil byproduct have unleashed record supplies. In the oil versus gas contest, gas producers are losing out. Some are shutting in wells, canceling projects or selling themselves to rivals to avoid losses. Natural gas prices this month fell to an inflation-adjusted 30-year low of \$1.59 per thousand cubic feet, benefiting consumers of the fuel like utilities, but hurting producers who are selling at nominal prices as low as they were in the depths of the COVID-19 downturn.

U.S. gas firms last year cut drilling 22% to stem the gusher. But the flows keep coming: The U.S. will pump 105 billion cubic feet a day of gas this year, up 2.5 billion cubic feet a day in the last year. That increase is enough to fuel 12.5 million U.S. homes for a day. In most industries, volume increases are good. More production equals more profit. But rising output has overwhelmed efforts to curtail drilling and even demand from frigid temperatures, leading to a price drop that knocked U.S. gas recently to less than a third of 2022's average \$6.50 per million British thermal units. By contrast, benchmark WTI crude prices fell just 17%.

Oil prices have held steadier thanks to global supply cuts by major OPEC producers and their allies. But soaring gas production, especially from oil companies who view gas as a byproduct of their output, has proven "relatively insensitive to prices," said Nicholas O'Grady, CEO of U.S. shale gas explorer Northern Oil and Gas. Gas producers have been reluctant to cut output deeply on the prospects of giant new liquefied natural gas (LNG) plants opening this decade, he said. LNG exports would drain the excess gas supplies and should return prices to levels that make gas profitable to drill again by 2025.

There are four U.S. projects with export permits on the drawing boards that would consume up to 6.3 billion cubic feet of gas that if they go ahead would be producing LNG later this decade. The danger is that third wave of new LNG plants may be delayed or lost forever. President Joe Biden's administration last month indefinitely paused reviews of new gas-export permits, jeopardizing as much as 32 billion cubic feet per day of future consumption.

'PERFECT STORM'

BKV, short for Banpu Kalnin Ventures, began operations in Pennsylvania in 2016 with a plan to buy additional old gas fields from big oil companies, invest only enough to hold production steady, wait for prices to rise and - only then - invest in expanding production. The moment appeared to arrive in mid-2022. As U.S. gas climbed to over \$9 per thousand cubic feet, BKV's Kalnin launched a costly and ambitious expansion plan.

In July that year, he closed on a \$750 million deal for Exxon Mobil gas properties in North Texas. The same month, he acquired a Temple, Texas, gas-fired power plant for \$460 million. Weeks later, he followed that deal with a \$250 million with Texas-based Verde CO2 LLC to build a dozen carbon sequestration sites across the United States. "We didn't see prices collapsing like they did," said Kalnin at the opening of his first carbon sequestration site in December.

Kalnin, a former McKinsey consultant who spent his early years in Thailand and later worked for the country's national oil and gas company, hasn't given up on his gas-to-power empire. "(Gas prices) are setting up for another fly-up in the second half of 2024," Kalnin said in December, pointing to forecasts for rising LNG demand.

"There are micro windows for IPOs opening up," a spokesperson added on Tuesday. "We are hoping to stay ready for when that micro window opens. Market performances for IPOs and gas prices need to improve," she added. Associated gas, which comes out of wells alongside oil, yanked the rug out from Kalnin's vision. More than a third of all U.S. gas production comes from producers drilling for oil, according to government estimates. That figure is rising as wells mature and more gas comes up than oil.

BKV last year won a lifeline from its parent, selling shares to Banpu for \$150 million to avoid breaching debt covenants. Most of the cash was put into a debt service account.

"You have this perfect storm. A warm winter plus too much gas supply, both primary and associated, and now, possible delays to new LNG export permits," said Blake London, a managing partner of private equity fund Formentera Partners.

**The Bureau of Workers' Compensation Health & Safety Division  
will be offering the following safety webinars in March 2024:**

	<b>Monday, March 4</b>		<b>Tuesday, March 19</b>
3:00pm	Egress & Fire Protection	9:30am	Medical Marijuana
	<b>Tuesday, March 5</b>	11:00am	Governor's Award for Safety Excellence - GASE
9:30am	Excavation & Trenching	1:30pm	Confined Space General Industry
11:00am	Governor's Award for Safety Excellence - GASE		<b>Wednesday, March 20</b>
1:30pm	Backyard & Wildlife Safety	9:30am	Drug & Alcohol Awareness - Employee
3:00pm	Ladders	1:30pm	Opioid Use Disorder
	<b>Wednesday, March 6</b>		<b>Thursday, March 21</b>
9:30am	Machine Guarding	9:30am	Workplace Safety Committee Certification Renewal
1:30pm	Workplace Safety Committee Certification Renewal	10:00am	Active Shooter Training
	<b>Thursday, March 7</b>	11:00am	Dealing with Difficult Co-Workers
9:30am	Ergonomics	1:30pm	Kitchen Safety - Chemicals
11:00am	Bloodborne Pathogens		<b>Friday, March 22</b>
1:30pm	Hearing Conservation & Noise Control Safety	11:00am	Home Fire Safety
	<b>Friday, March 8</b>	3:00pm	Job Safety Analysis
3:00pm	Ergonomics		<b>Monday, March 25</b>
	<b>Monday, March 11</b>	2:00pm	A Business Case for Safety
10:00am	Experience Rating	3:00pm	Stress & Worker Safety
3:00pm	Dealing with Angry People		<b>Tuesday, March 26</b>
	<b>Tuesday, March 12</b>	9:30am	Warehouse Safety
9:30am	Workplace Safety Committee Certification Initial	11:00am	Fire Extinguisher Use
11:00am	Hot Work	1:30pm	Active Shooter Awareness
1:30pm	Ladders		<b>Wednesday, March 27</b>
	<b>Wednesday, March 13</b>	9:30am	Lock-out Tag-out - LOTO
9:30am	Electrical Hazards - Construction	1:30pm	Fall Protection
1:30pm	Incident Investigations		<b>Thursday, March 28</b>
	<b>Thursday, March 14</b>	9:30am	Back Safety & Safe Lifting
9:30am	Scaffolds	11:00am	Governor's Award for Safety Excellence - GASE
11:00am	Governor's Award for Safety Excellence - GASE	1:30pm	Workplace Safety Committee Certification Initial
1:30pm	Patient Handling		<b>Friday, March 29</b>
	<b>Friday, March 15</b>	10:00am	PATHS Overview
11:00am	Walkthrough Surveys	3:00pm	Dealing with Difficult Co-Workers
3:00pm	Mold Awareness		
	<b>Monday, March 18</b>		
10:00am	Mercury Awareness		
3:00pm	PATHS Overview		

To register for any of these events just copy and paste the link into your browser and follow the links:  
<https://www.dli.pa.gov/Businesses/Compensation/WC/safety/paths/calendar/Pages/default.aspx>

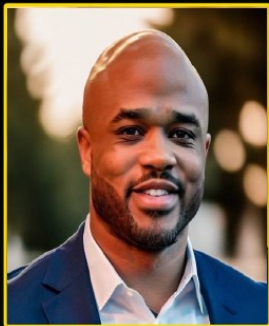
*Remember, registration closes the day before the presentation is scheduled to begin.*

## Federal Court Grants Permanent Stay of Enforcement on Marketing Denial Order for Vuse Alto, Vibe and Solo Menthol Pods

On February 5th, the U.S. 5<sup>th</sup> Circuit Court of Appeals granted R.J. Reynolds Vapor Company (RJR) a permanent stay of enforcement on the FDA’s PMTA Marketing Denial Order (MDO) on Vuse Alto, Vibe and Solo Menthol Pods. As a result of this court action, these products will continue to be allowed on the market for sale.

The permanent stay follows the Court’s most recent October 2023 emergency stay ruling in immediate response to the FDA’s announcement issuing an MDO for VUSE Alto menthol pods in varying nicotine strengths.

The Court also denied FDA’s motion to transfer the case to another circuit. This means the 5th Circuit will decide on the merits of the case, which will likely take a significant amount of time.



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Email: tammy@prara.com**

---

## Pennsylvania Approved class A & B Operator Training Registration Form

Class Date: Wednesday, March 20, 2024  
Time: Registration: 8:30 am  
Class: 9:00 am to 5:00 pm  
Location: PRARA Office  
Price: \$250 per person (non-member)  
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*Please register early*

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Phone Number: \_\_\_\_\_

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# PRARA 2024 Scholarship Fund

For the thirtieth year, the Petroleum Retailers & Auto Repair Association is sponsoring two \$500 College Scholarships to be awarded to a member’s son or daughter. The applicant must be the child of a current **member** of PRARA and must be graduating from high school in 2024 or are already attending a college, trade school, business school, etc. Applicant **must** be enrolled as a full time student. **Postgraduate students are not eligible.** The student must begin classes within 13 months of the award date.

To be eligible, the member must submit the name, address, and telephone number of the child, along with the name of the high school the applicant will graduate from or the name of the college, trade school, business school, etc. already attending to the Association office. **The application below must be mailed to the PRARA office by June 1.** (The postmark) ***No phone applications will be accepted.***

Every applicant will be given a list of three-digit numbers. The child, who holds the three-digit number corresponding to the Pennsylvania lottery on Monday, June 10 and Tuesday, June 11, will be the winner. Who ever won Monday’s lottery **is not eligible** to win Tuesday’s lottery. The applicant closest to the number on Tuesday’s lottery will be the winner. The winners will be based on the **7:00 pm** drawing for both nights. **Winners of previous scholarships are not eligible to participate.** The PRARA Board of Directors will vote to resolve any disputes.

The scholarship maximum is \$500 each. The check will be made out to the student **and** the school of his/her choice. Proof of registration must be provided before check is issued. The scholarship is not limited to potential college students, but to anyone wanting to further their education, whether it is college, trade school, business school, etc.

## PRARA

1051 Brinton Road Suite 304  
 Pittsburgh, PA 15221  
 412-241-2380

### SCHOLARSHIP FUND 2024 APPLICATION

Member’s Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Business Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Applicant’s Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Home Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Did you or will you graduate this year? \_\_\_\_\_

High school graduated from: \_\_\_\_\_

Choice of college, etc. (if known): \_\_\_\_\_

**All Applications Must Be Completed In Full  
 And Returned To The PRARA Office By June 1, 2024**

# SSDA-AT Legislative Updates

## SSDA-AT Submits Comments with other industry groups to FTC regarding PIRG's petition for a rulemaking on Right to Repair

**Re: Docket number FTC–2023–0077; Request for comment on petition for rulemaking submitted by U.S. Public Interest Research Group Education Fund and iFixit.**

Dear Mr. Christie:

The undersigned groups are writing to express our support for the petition for rulemaking submitted by U.S. Public Interest Research Group Education Fund (PIRG) and iFixit urging the Federal Trade Commission (FTC) to promulgate rules governing consumers' right to repair products and devices. The status quo is not working and will only get worse for consumers who need passenger car and truck services as vehicle computerization further escalates.

Consumers rely on the independent automotive maintenance and repair industry for timely and cost-effective services, and FTC clearly described in its 2021 "Nixing the Fix: An FTC Report to Congress on Repair Restrictions" how the Magnusson Moss Warranty Act (MMWA) has not fully met those needs:

"The debate around repair restrictions illustrates the limitations of MMWA's anti-tying provision in repair markets. While the anti-tying provision gives consumers the right to make repairs on their own or through an independent repair shop without voiding a product's warranty, repair restrictions have made it difficult for consumers to exercise this right. Although manufacturers have offered numerous explanations for their repair restrictions, the majority are not supported by the record."

The report goes on to state:

"To address unlawful repair restrictions, the FTC will pursue appropriate law enforcement and regulatory options, as well as consumer education, consistent with our statutory authority."

The report accurately describes the extensive breadth of problems vehicle owners face and recognizes that FTC can take certain steps without further statutory authority.

Our groups have put together a list of recommendations that underscore the need for a comprehensive Right to Repair regulation. Although we are discussing real world examples applicable to the motoring public and aftermarket automotive businesses, we believe the issues raised and most of the solutions suggested can apply across industries.

We also agree with PIRG that Section 5 of the Federal Trade Commission Act applies, and we encourage FTC to use it to consumers' maximum advantage. Lastly, those of us who submitted comments to FTC's 2019 call for comments related to Nixing the Fix: A Workshop on Repair Restrictions incorporate that information by reference here.

### OEM Notification of Rights

One of the major roadblocks experienced by consumers is not knowing about or understanding their MMWA rights or how to enforce them when their warranty claim is denied. This creates a ping pong effect where motorists are caught between the independent shop and the OEM-authorized dealer attempting to determine the actual problem with their vehicle and who is responsible for repairing it. Consumers would benefit in this situation from additional, official guidance regarding their ability to hold an OEM/authorized dealer accountable to explain in writing the justification for denial of the warranty coverage. The importance to consumers of understanding their warranty rights is highlighted by the fact that automobiles are still the first or second-most expensive purchase the average American consumer makes, and most of those consumers rely on those vehicles to get to the jobs necessary to make ends meet.

An example of a common real problem faced by motorists is a claim by an OEM/authorized dealer that the destruction of an engine was caused by the use of a non-OEM oil filter. The evidence necessary to prove that claim can only come from an engine tear-down, i.e., a mere visual inspection that indicates the use of a non-OEM oil filter is not sufficient evidence to prove a non-OEM part caused damage. However, most car owners don't know that it is the duty of the manufacturer to demonstrate the cause of the issue and thus the dealer or manufacturer often gets away with avoiding warranty responsibility simply by blaming the aftermarket part for the issue.

In order to promote compliance with MMWA by dealers and manufacturers, we urge FTC to:

Require OEMs/authorized dealers to provide written notice of MMWA rights at the time of any vehicle warranty repair denial and a written explanation of the evidence justifying warranty coverage denial.

- Require OEMs/authorized dealers to provide written notice of any maintenance or repair claimed to be required as a result of prior vehicle maintenance with an aftermarket part and/or done by an aftermarket service provider. This must be done prior to performing the maintenance or repair.
- Update FTC educational materials to note that consumers have the right to modify their vehicle and that warranty repairs may not be denied simply by the presence of a nonoriginal or specialty part.
- Mandate that disclosure of MMWA rights be included with warranty information provided at the time of vehicle purchase.
- Update FTC's online consumer complaint form by adding notice of MMWA rights and contract dispute resolution options, e.g., BBB Auto Line, for vehicle warranty denials.
- Provide a specific site where automotive consumers can report MMWA-related issues experienced with OEMs/authorized dealers rather than forcing them to navigate the general consumer complaint site. Such action would both guide consumers in their stressful time of transportation crisis and provide improved compliance efforts for FTC.

### Manufacturers' Marketing Practices

FTC's Nixing the Fix report discusses several examples where manufacturers provide communications that appear to discourage the use of non-original equipment parts or services, either in a technical service bulletin or in language used in an owner's manual. Despite FTC's 2015 enforcement action against BMW for including an owner's manual command to consumers to use only MINI dealers for oil changes, automakers continue to include similar commands in owners' manuals. Should FTC pursue the requested rulemaking, the undersigned Associations can provide a comprehensive list of problematic owners' manuals. OEM in-vehicle telematics also command owners to return to the dealer for service. Even technical bulletins include recommendations couched in terms that appear to threaten or outright deny warranty coverage if a non-OEM brand part is used.





# SSDA-AT Legislative Updates

In addition, manufacturers have been advocating for bills in state legislatures across the nation that would require repair shops to use OEM procedures when performing collision repairs. While we do not dispute that shops must use the proper procedures in order to perform repairs, these procedures also “promote” the use of OEM replacement parts, making it appear that they are required in order to correctly complete the repairs.

In order to ensure that consumers receive accurate information, we urge FTC to:

- Recognize and prohibit OEM commands to use dealer service and/or OEM brand parts.
- Establish guidelines for a MMWA anti-tying compliance notice to be included in any communications between OEMs and franchised dealers regarding recommendations for use of original equipment parts or services, including maintenance and repair directives.
- Require manufacturers to include a disclosure in all repair procedures not covered by a warranty or recall that service providers are not required to use OEM parts and that they should consider all parts sourcing options when authorizing repairs.

## Sideways Tie-in Brand Product Sales

Automakers have been exploiting a semantic technicality to avoid the MMWA prohibition against tie-in sales of brand products by requiring OEM brand specification fluids such as antifreeze and transmission fluid to maintain warranty coverage. In this anti-consumer scenario, an OEM requires their brand fluid and/or the brand fluid’s specification which may have its own name as well (e.g., General Motors AC Delco Dexron™ transmission fluid), but restricts access to the brand specification as proprietary property. That means a competitor can only make a competing brand specification fluid if they pay to get that fluid approved by the OEM or they’ll be attacked for fraud and/or stealing intellectual property. All fluids of that approved brand specification type are then (1) far more costly to consumers due to the expensive OEM fees involved, and (2) only available as the OEM allows, both of which are against the public interest.

Moreover, no OEM has proven that its brand specification fluid is the only one with which a vehicle can function properly (15 U.S.C. §2302(c)(1)) because they can’t. In fact, transmission fluid performance claims can be met or exceeded via different additive packages than those used in an OEM’s proprietary blends, which means there is no science-based rationale for discriminating against non-OEM brand fluids achieving required performance claims with a different “recipe.” The national fleet is flush with millions of examples of vehicles successfully operating with non-OEM brand specification fluids that may actually be superior products.

If an OEM requiring a brand product to maintain warranty coverage is an unlawful tie-in sale, then so is an OEM requiring a brand product specification where the OEM retains exclusive control of the specification’s use. Therefore, if a manufacturer makes a brand fluid or other part specification requirement, then they must either make that specification available so non-OEM companies can provide competitive, compliant products or acknowledge the alternative acceptability of fluids meeting a “suitable for use” aftermarket standard, such as the one for transmission fluid that is codified in NIST Handbook 130.

We urge the FTC to:

- Recognize that an OEM requiring a brand product specification where the OEM retains exclusive control of the specification’s use is a form of prohibited tie-in sale of branded products under 15 U.S.C. §2302(c).
- Establish disclosure requirements for OEMs when any brand fluid/part specification is required to maintain warranty coverage such that non-OEM suppliers can ensure to consumers that their products are consistent with or superior to manufacturer specifications.

## Enforcement Measures

Developing better enforcement tools for FTC is more critical than ever. Having a database focused on MMWA would help the FTC better track those types of consumer complaints from the rest. Further, it would be helpful to cross check automotive-related MMWA complaints with consumer complaints made to the National Highway Traffic Safety Administration (NHTSA).

The Hyundai/Kia Theta II engine defect case is a perfect example of how disconnects in the current federal complaint system allow defective vehicles and related OEM mistreatment of consumers to avoid enforcement for years. In the Theta II case, OEMs/authorized dealers made an official practice of denying warranty coverage for the engine defects to consumers who obtained oil changes at non-OEM/dealer locations by claiming a non-OEM oil filter caused every defect. Consumers reported this problem to NHTSA but apparently not to FTC, although several of the undersigned Associations alerted the Bureau of Consumer Protection to the problem as early as 2012. Meanwhile, NHTSA waited years for a sufficient number of fire related engine complaints before taking significant action.

The major repair costs experienced by consumers in the Theta II case could have been avoided with MMWA-specific questions and/or educational information within the complaint systems and an automatic cross-check on complaints between the FTC and NHTSA.

We urge the FTC to:

- Work with NHTSA to create a link between NHTSA’s consumer complaint/recall system and FTC’s consumer complaint system for consumers experiencing (a) warranty denial based on unlawful tie-in sales of brand products and/or services; and/or (b) repeated repair denials based on OEM/authorized dealer inability to diagnose or repair a substantial symptom such as stalling, shuddering, and knocking.

## Telematics

The vast majority of new vehicles sold today have the capacity for wireless transmission of data through telematics. This data has the potential to provide extensive benefits to consumers including improved safety and more efficient repairs. Although the MOUs with automakers may have been a good start, automakers continue to impose control over access to this data, meaning that a vehicle may be owned by an individual, but that individual has no control over their vehicle data. Instead, the vehicle data is collected, used, and may be sold by the OEM with little to no notice to, or consultation with, the owner of the vehicle. Access to mechanical vehicle data is critical to ensuring that independent shops can provide repairs and maintenance for vehicles.

Therefore, if the current control of data by OEMs is left unchecked, they will be the gatekeepers for in-vehicle data, ultimately determining whether a competitive marketplace continues to exist to the point of rendering the MMWA irrelevant.

Should FTC conclude it does not have the authority to restore and preserve consumers rights and a fair marketplace with regard to vehicle telematics, then we urge FTC to support H.R. 906, The REPAIR Act, because this consumer nightmare will not end without federal intervention.

We also incorporate by reference the comments submitted by the Auto Care Association on this issue.

Thank you for giving us the opportunity to comment.

Sincerely,

# MEMBER TO MEMBER SERVICES

## ACCOUNTANTS

J.E. Robinson  
Murrysville, PA  
412-423-1093

## ATM

ATM Cash World  
Tom Ranallo  
Pittsburgh  
800-937-5169

## ATTORNEY

Andrew Klaber  
Chartwell Law Offices  
Sewickley, PA  
412-741-0600

## CLEANING CHEMICALS

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412-672-9628

## COMPLIANCE TESTING

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Sean Tosadori-East Butler  
724-285-4258

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## CONSULTING

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Victor Unger-Bairdford, PA  
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S.I.S.  
J.R. Bachor-Tarentum, PA  
724-224-1220

## ENVIRONMENTAL TANKS & UPGRADES

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Jon Agnew  
Cranberry Township, PA  
800-267-2549 ext. 3636

McRo Construction Inc.  
Donald Rothey Jr.  
Elizabeth, PA  
412-384-6051

S.I.S.  
J.R. Bachor-Tarentum, PA  
724-224-1220

Total Tank Works LLC  
Sean Tosadori-East Butler  
724-285-4258

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Center Independent  
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S.I.S.  
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724-265-5100

S.I.S.  
J.R. Bachor-Tarentum, PA  
724-224-1220

Total Tank Works LLC  
Sean Tosadori-East Butler  
724-285-4258

## TAXES

J.E. Robinson  
Murrysville, PA  
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## UNDERGROUND STORAGE TANK/ LINE TESTING

Enviric, Inc.  
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Total Tank Works LLC  
Sean Tosadori-East Butler  
724-285-4258

## USED TIRE PICKUP

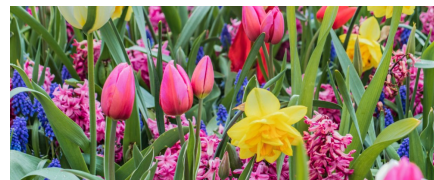
Penn Turf 814-696-7669  
Dan's 724-529-7621  
Liberty 888-868-0097

# Fueled By Turners



**CONTACT:**  
412-372-2211  
info@turnerdairy.net

[www.turnerdairy.net](http://www.turnerdairy.net)  
TurnerDairyFarms  
TurnersPremiumT  
TurnersPremiumT



# Calendar of Events

Daylight Saving Time Begins	March 10
St. Patrick 's Day	March 17
Spring Begins	March 19
A&B Operator Training Class	March 20
Palm Sunday	March 24
Easter	March 31

## Business Hours:

Monday	Closed
Tuesday	8:30-3:30
Wednesday	8:30-3:30
Thursday	8:30-3:30
Friday	Closed

## Contact:

Phone: 412-241-2380

[www.prara.com](http://www.prara.com)



Petroleum Retailers & Auto Repair Association  
1051 Brinton Road Suite 304  
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