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WP-08-09-13

### **REPORT ISSUED ON UST SYSTEMS BIOFUELS COMPATIBILITY**

Recently, the Association of State and Territorial Solid Waste Management Officials (ASTSWMO)'s Alternative Fuels Workgroup Tanks Subcommittee issued a UST biofuels compatibility report to serve as a resource for state UST agencies, UST owners and operators, and contractors to evaluate equipment compatibility under EPA's compatibility requirement when storing biofuels. The workgroup developed a template for the Compatibility Evaluation Checklist designed to ensure all UST components are evaluated properly for compatibility. The report also lists recommendations for state tank programs and UST owners and operators, which could serve as a model for addressing concerns about accelerated corruptions of UST equipment with E10 and E10 plus blends. There are 22 case summaries in the report that highlight fuel and equipment material computability observations showing consequences of incompatibility. Although ASTSWMO does not write standards or regulations, it can influence state agency regulations.

PMAA's UST Task Force will review the report closely and will issue a subsequent report. If you would like to review the report, click [here](http://pmaa.org/weeklyreview/attachments/ASTSWMOBiofuelsCompatibility_Final_June%202013.pdf). ([http://pmaa.org/weeklyreview/attachments/ASTSWMOBiofuelsCompatibility\\_Final\\_June%202013.pdf](http://pmaa.org/weeklyreview/attachments/ASTSWMOBiofuelsCompatibility_Final_June%202013.pdf))

### **FMCSA PROPOSES TO ELIMINATE SIGNIFICANT PAPERWORK BURDEN ON CDL DRIVERS**

U.S. Department of Transportation's Federal Motor Carrier Safety Administration (FMCSA) announced a proposal to eliminate a burdensome daily paperwork requirement for CDL drivers that will reduce regulatory costs for all petroleum marketers. Current federal regulations require commercial truck drivers to conduct pre- and post-trip equipment inspections and keep on file Driver Vehicle Inspection Reports (DVIRs) after each inspection, regardless of whether or not an issue requiring repairs is identified. DVIRs are the 19th-highest paperwork burden, based on the number of hours needed to comply, imposed across all federal agencies. A recent FMCSA study noted that the paperwork burden is not justified given that only 5 percent of reports filed include defects. Under the proposed rule change, commercial truck drivers would continue conducting pre- and post-trip inspections. However, DVIRs would be required only if defects or deficiencies were discovered by or reported to the driver during the day's operations.

In June 2012, the Federal Motor Carrier Safety Administration eliminated a comparable requirement for truck drivers operating intermodal equipment trailers used for transporting containerized cargo shipments. By eliminating a requirement for drivers to submit "no defect" inspection reports of intermodal equipment trailer, cost savings to the intermodal industry is estimated to be \$54 million annually without an adverse impact upon safety.

The FMCSA will collect and review comments on the proposed rule which can be [viewed here](http://www.fmcsa.dot.gov/rules-regulations/administration/rulemakings/proposed/Driver-Vehicle-Inspection-Report-NPRM.pdf). (<http://www.fmcsa.dot.gov/rules-regulations/administration/rulemakings/proposed/Driver-Vehicle-Inspection-Report-NPRM.pdf>) PMAA will submit comments supporting the change.

### **U.S.COURT OF APPEALS INVALIDATES 30-MINUTE BREAK REQUIREMENT FOR SHORT HAUL DRIVERS**

This week, the U.S Court of Appeals for the District of Columbia handed petroleum marketers a significant victory by vacating a key provision in the new hours of service regulations that went into effect on July 1. Specifically, the Court vacated the provision requiring drivers to take a 30-minute break within the first eight hours of coming on duty as it applies to short haul drivers only. Short haul drivers are those that travel less than a 100 air mile radius from their home base and return each day after their shift ends.

The court decision is a significant victory for petroleum marketers who would not only be forced to pay drivers for the 30-minute break but also lose 30-minutes from the 14-hour daily maximum driving window within which drivers may drive no more than 11-hours.

The court vacated the 30-minute break requirement for short haul drivers as part of its decision on a petition by the trucking industry to strike down the all the new HOS provisions that went into effect on July 1, including the 34-hour restart provision. The court, however, kept in place the 34-hour restart provision, the requirement that it may only be used once per week and must include two overnight periods between 1:00 a.m. and 5:00 a.m.

In its opinion vacating the 30-minute break period for short haul drivers, the court cited written comments filed by PMAA and NEFI on the HOS rulemaking opposing the break period as it applied to short haul petroleum marketers.

The following HOS provisions are unaffected by the court decision and must be complied with as of July 1, 2013:

#### **1) Maximum 11-Hour Daily Driving Period:**

The maximum 11-hour daily driving period remains unchanged under the new rule. The U.S. DOT had proposed to reduce the number of hours a driver could drive in a day to 10 but decided not to adopt the change due to opposition from industry

groups including PMAA. Drivers may drive up to 11-hours within a daily 14-hour driving “window”.

**Example:** A driver has had 10 consecutive hours off, comes to work at 6:00 a.m. and drives from 7:00 a.m. until 2:00 p.m. (seven hours driving). The driver may continue to drive for another four-hours but only within the 14- hour driving window that begins when the driver came on duty at 6:00 a.m. When the driver goes off duty, he/she may not drive again until having at least 10 consecutive hours off duty. The driver may do other work after 6:30 p.m., but cannot drive a commercial motor vehicle on a public road.

## **2) Maximum 14-Hour Daily On-Duty Period:**

The maximum 14-hour daily “driving window” formerly called the driver’s “on duty period” is effectively reduced to 13 ½ hours due to the new 30-minute mandatory rest period requirement. A driver can drive the maximum 11 hours per day only within the 14-hour driving window after which 10 consecutive off duty hours is required before the driver may return to driving a CMV.

**Example:** A driver has 10 continuous hours off and comes to work at 6:00 a.m. The driver must not drive after 8:00 p.m. that evening, which is 14 hours later. The driver may do other work after 8:00 p.m., but cannot do any more driving until taking at least 10 consecutive hours off.

## **3) Mandatory 34-Hour Rest Period to Restart Driver’s Work Week:**

The new rule limits when and how often a driver can “restart” the work week. The 34-hour restart provision is maintained in the new rule but significantly limited. The new HOS rule now requires the 34-hour restart period to include two periods between 1:00 a.m. to 5:00 a.m. to allow drivers the opportunity to sleep according to their natural circadian rhythms. The two 1:00 a.m. to 5:00 a.m. periods need not be consecutive. This change will likely force drivers who work overnight to be off duty for longer than 34-hours in order to get a valid restart. The new rule also limits the use of the restart period to once during any 168-hour period. Finally, if the driver has multiple 34-hour periods off within a seven-day period, the driver must indicate in log book or on time records which one of the 34-hour periods is being counted as the official restart. The new restart limitations effectively reduce the maximum number of hours a truck driver can drive during a work week from 82 hours to 70 hours.

**Example:** If a driver is following the 70-hour/eight-day limit and works 14 hours per day for five days in a row, the driver will have been on duty for 70 hours. The driver would not be able drive again until the he or she drops below 70 hours worked in an eight-day period. However, if the driver’s employer allows use of the 34-hour restart provision, he or she would have driving time available immediately after 34 consecutive hours off duty. The driver would then begin a new period of eight consecutive days and have 70 hours available. However, effective July 1, 2013, the hours of service regulations limit the use of the 34-hour restart provision to once every 168 hours (once a week) and require that anyone using the 34-hour restart provision have as part of the restart two off-duty periods that include 1:00 a.m. to 5:00 a.m.

## **4) New Definition of “Egregious” Violations:**

Companies and drivers that commit egregious violations of the rule could face the maximum penalties for each offense. Trucking companies that allow drivers to exceed the 11-hour driving limit by three or more hours could be fined \$11,000 per offense, and the drivers themselves could face civil penalties of up to \$2,750 for each offense. This rule allows, but does not require, the agency to treat these violations as egregious. An “egregious” offense negatively impacts carrier safety rating scores.

[Click here](#) for additional information.

<http://www.fmcsa.dot.gov/rules-regulations/topics/hos-final/hos-final-rule.aspx>

## **EPA FINALIZES 2013 RFS BLENDING VOLUMES**

On Tuesday, the EPA held firm in its finalized 2013 RFS corn-based ethanol volume mandate requiring obligated parties (refiners) to blend 13.8 billion gallons, but indicated that the agency has concerns with the upcoming 2014 blending volumes and it intends to use its statutory authority to address them. Overall, the EPA decided to make minimal changes to the 2013 RFS blending requirements. The agency only reduced the cellulosic biofuel requirement by 50 percent. Obligated parties such as refiners and importers will have an additional four months to meet their 2013 renewable volume obligations (RVOs) by extending the compliance deadline from February 28, 2014 to June 30, 2014.

Final blending volumes:

Biomass-based diesel -- 1.28 billion gallons or 1.13 percent (finalized in September 2012)

Advanced biofuels -- 2.75 billion gallons or 1.62 percent

Cellulosic biofuels -- 6 million or 0.0004 percent

Total renewable fuels -- 16.55 billion gallon RFS mandate for 2013

The EPA noted that the E10 blend wall is a concern for 2014 and the agency intends to use its RFS statutory authority to adjust both the advanced biofuel and total renewable volumes. They will propose the adjustments in its upcoming notice of proposed rulemaking (NPRM) 2014 RFS blending volume requirement which is expected in September.

PMAA continues to encourage EPA to make changes to the 2014 corn-based ethanol blending requirement to achievable levels in today's marketplace.

### **FEDERATED INSURANCE – RISK MANAGER TRAINING SEMINAR**

Federated Insurance will be holding a Risk Manager Training Seminar for Petro/C-Store/Travel Plaza Operators September 9 – 11, 2013 in Owatona, MN.

Key agenda items include:

- MVRs/Drivers' Standards
- Distracted Driving
- Hiring, Screening, Retaining Employees
- Managing the Ultimate Risk/Business Succession Planning
- Petro/C-Store/Travel Plaza Operators Claims Handling
- Employment-Related Practices Liability
- Implementing a Drug & Alcohol Free Workplace
- Federated's Shield Network
- How Your Business is Underwritten
- Petro/C-Store/Travel Plaza Operators Loss Keys (major loss areas in your industry)

For more information, please contact your marketing representative or Royetta Spurgeon at 1.800.533.0472 or [DRM@fedins.com](mailto:DRM@fedins.com).

Enroll now at [www.federatedinsurance.com](http://www.federatedinsurance.com).

### **JOIN PMAA IN ATLANTA THIS OCTOBER**

PMAA will hold its Fall Meeting on October 11-12 at the Hyatt Regency Atlanta. Please view current information at <http://www.pmaa.org/pmaameetings/upcomingmeetings.asp>.

### **2014 WESTERN PETROLEUM MARKETERS CONVENTION & CONVENIENCE STORE EXPO LAS VEGAS, NEVADA**

Start planning now to attend the 2014 WPMA Convention and Convenience Store Expo. It will be held at the Mirage in Las Vegas, Nevada. Mark your calendars for **February 18-20, 2014**.

### **MARK YOUR CALENDARS FOR UPCOMING EVENTS IN 2013**

**August 27-29, 2013** – New Mexico (NMPMA) Convention – Albuquerque Marriott Pyramid North, Albuquerque, NM

**September 12-13, 2013** - Utah (UPMRA) Convention - Zermatt Resort - Midway, UT

**October 4, 2013** – HPMA Golf Tournament –Mauna Lani Resort, South Course– Kohala Coast, Big Island, HI

Petro Pete: ***“Tomorrow (noun) – A mystical land where 99% of all human productivity, motivation and achievement is stored.”***

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