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FMCSA EXTENDS HOS WAIVER FOR HEATING FUEL SHIPMENTS TO JANUARY 28

The Federal Motor Carrier Safety Administration (FMCSA) has extended that driver hours of service (HOS) waiver to January 28, 2018. The original waiver was issued on December 30, 2017 and was set to expire on January 14. PMAA worked closely with the FMCSA to obtain the waiver extension. PMAA told the FMCSA the extension was necessary to meet peak demand loads for heating fuels in the affected areas in the aftermath of extended extreme cold temperatures ending earlier this week. PMAA said the extension would allow heating oil (HO) and propane dealers to replenish residential and intermediate bulk storage tanks to appropriate midwinter levels so that they can return to normal seasonal delivery schedules. HO dealers found it impossible to meet the high demand for heating oil and propane during the cold snap while operating within the HOS restrictions. High rates of consumption by both residential customers and electric utilities required drivers to make more delivery runs, travel further distances and drive longer hours to obtain sufficient supply to meet the demand. The FMCSA waiver does the following:

Deadline - Extends HOS waiver until 1/28/18 or until the end of the emergency period, whichever comes first.

Applicability – Applies to shipments of heating fuels, including heating oil, propane and kerosene. The waiver extension does not cover motor fuels unless they are used exclusively for heating purposes.

Intrastate and Interstate Drivers Included – The waiver covers all interstate and intrastate drivers transporting heating fuels. Interstate drivers are covered for all heating fuel shipments into, from and between states. The HOS waiver applies to intrastate drivers because the FMCSA considers petroleum products within the “stream” of interstate commerce from well head to end consumer and thus under federal jurisdiction. This is true even though the driver picks up and delivers the heating fuel to the end user without ever crossing a state boundary.

States Covered – The HOS waiver extension is effective for shipments of heating fuels into, from, between and wholly within the following states: Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Maine, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, Washington, D.C., West Virginia and Wisconsin.

Driver Responsibilities – Drivers must keep a copy of the waiver extension in their possession while driving. Drivers must continue to record their daily hours of duty status. Drivers must write or input the words “Emergency Declaration” in the “Remarks” section of their daily record of duty status. Drivers who do not record daily hours of service pursuant to the 100 air-mile radius exemption are not required to record hours under the waiver.

Got questions? Contact Mark S. Morgan PMAA Regulatory Counsel at mmorgan@pmaa.org or 202-364-6767.

CONGRESS HAS MUCH TO ACCOMPLISH BEFORE SPRING

The GOP has had good reason to celebrate lately, as they passed a comprehensive tax reform package for the first time in decades just before the Christmas holiday. However, there is still much work to be done before the Spring, during which members begin making preparations for their upcoming midterm elections in November. Once Spring arrives, there will likely not be much legislation passed.

The most pressing issue is to fund the government and avoid a government shutdown. On December 21, Congress approved a bill to extend government funding through January 19. This was the last major piece of legislation that Congress had to address before Christmas. Now, Congress will again have to fund the government by either passing a full spending package or another short-term spending package, known as a continuing resolution (CR). As of last month, there was a possibility that the next spending bill may include the Senate Finance Committee’s separate tax extenders package, but that plan was scrapped. That legislation was introduced last month which includes a retroactive extension of the biodiesel blenders tax credit through 2018. It is looking like Congress will likely pass another CR to keep the government open, since neither party would want to see a government shutdown.

Before a final funding package is put in place, there must first be an agreement on top-line spending numbers which will need to be bipartisan in order for the budget to pass out of the Senate. However, this could be a challenging task because, although both parties support an increase in some military spending, the two parties are far apart on domestic spending levels. Once an agreement on the top-line numbers has been reached, the detailed appropriations will then need to be hashed out.

One issue affecting Republican’s passage of any upcoming legislation is the swearing in of new Senator Doug Jones (D-

AL) last week. The Republican majority has moved from 52-48 to 51-49 since Sen. Jones' election victory last month to replace current U.S. Attorney General Jeff Sessions. Further complicating the Republican majority issue is the fact that Republican Sen. John McCain (R-AZ) and others may have to miss votes due to health issues.

Democrats now have a rare bargaining chip to use during the budget process because Republicans will need votes in order for legislation to pass. Immigration will be a top issue particularly dealing with President Trump's September order to end Deferred Action for Childhood Arrivals (DACA), the program which protected undocumented immigrants who were brought here as children. President Trump will not sign a budget deal that protects DACA unless funding for a wall is included. Funding the Children's Health Insurance Program (CHIP) and hurricane and wildfire disaster relief. Furthermore, repeal of the Affordable Care Act is still on the table although some Republicans may be content with the stripping of the individual mandate that is included in the tax reform bill.

Beyond the budget the biggest issue the first part of the year is infrastructure reform. The White House is expected to release a more detailed proposal soon. Controversy will surround funding and the details of any infrastructure bill.

EPA STILL CONTEMPLATING REWRITE OF OZONE RULE

On Monday, the Environmental Protection Agency (EPA) told a federal court that it is still reviewing the 2015 ozone standard. However, the EPA didn't give a time estimate of when they would be finishing their review, even though it is making strides with the states to implement the rule. Last week, environmental groups requested that a federal court set an April 30 deadline for EPA to issue attainment area designations, which would give the states the 120 days they are currently permitted to fight any designations they disagree with.

In late November, the EPA published attainment designations under the 2015 ozone standard. The National Ambient Air Quality Standards (NAAQS) designations will go into effect on January 15. These designations are important to marketers because those counties designated as being in nonattainment will likely be required to adopt more stringent Reid Vapor Pressure (RVP) or reformulated gasoline (RFG) requirements.

The EPA certified that 2,646 counties, two tribal areas and five territories, or about 85 percent of the nation's counties, meet the new standard of 70 parts per billion of ozone in ambient air. However, the agency stopped short of saying which areas of the country do not meet the Obama administration's 2015 regulation on ozone.

After the EPA failed to delay the process by another year over the summer, the EPA was required under the Clean Air Act to make all the decisions by October 1 but missed the deadline. In a statement, EPA said that "in the spirit of cooperative federalism, EPA will continue to work with states and the public to help areas with underlying technical issues, disputed designations, and/or insufficient information." The statement also said that "EPA modeling, state agency comments, and peer-reviewed science indicate international emissions and background ozone can contribute significantly to areas meeting attainment thresholds. The agency intends to address these areas in a separate future action."

PMAA has been actively engaged in fighting more stringent ozone standards that would have a negative impact on petroleum marketers.

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Mark your calendars for February 20-22, 2018. Make plans now to attend the 2018 WPMAEXPO. It will be held once again at the Mirage in Las Vegas, Nevada.

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May 3-4, 2018 – NPM&CSA Big Dogs – Red Rock Casino – Las Vegas, Nevada

June 5-7, 2018 – MPMCSA Convention & Expo – Fairmont, MT

June 18-21, 2018 – Washington (WOMA) Convention – Suncadia Resort – Cle Elum, Washington

August 8-10, 2018 – Idaho (IPM&CSA) Convention – Coeur d'Alene Resort – Coeur d'Alene, Idaho

August 20-22, 2018 – New Mexico (NMPMA) Convention – Sandia Resort & Casino, Albuquerque, NM

September 12-14, 2018 – Utah (UPMRA) Convention – Doubletree by Hilton, Park City, UT

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