

April 14, 2017

Visit us online at [www.wpma.com](http://www.wpma.com)

WP-04-14-17

**EPA SIGNALS IT MAY AMEND OR ELIMINATE STRICT OZONE STANDARDS ADOPTED BY OBAMA ADMINISTRATION**

The Court of Appeals for the District of Columbia has agreed to delay oral arguments in a lawsuit brought against the EPA's 2015 ozone pollution standard. The ruling is a victory for the Trump Administration which asked for the delay to give the EPA more time to determine whether the rule needs to be changed or eliminated. The standard, finalized under the Obama Administration, lowered the allowable concentration of ozone from 75 parts per billion to 70 parts per billion. The lower ozone emissions would have pushed hundreds of counties nationwide into nonattainment with federal air pollution standards and mandated the introduction of RFG gasoline in many.

PMAA has actively opposed the new ozone standard since it was first proposed due to the expansion of RFG areas. The suit was originally brought by opponents of the new standards. Justice Department lawyers, who only last year were defending the ozone rule, asked for the delay. It is not clear whether the EPA will make major changes to the rule as the Trump Administration has yet to announce any official policy statement on federal ozone standards.

Repealing or changing the rule would require an extensive regulatory process that could take a year or more to complete. The Justice Department told the court in a written brief that "the EPA intends to closely review the 2015 rule, and the prior positions taken by the agency with respect to the 2015 rule may not necessarily reflect its ultimate conclusions after that review is complete." The Court ordered the EPA to report back on its progress within 90 days.

**TRUCKING GROUP ASKS U.S. SUPREME COURT TO OVERTURN ELECTRONIC LOG BOOK MANDATE**

The Owner-Operator Independent Drivers Association (OOIDA) this week filed a petition asking the United States Supreme Court to hear its lawsuit seeking to overturn the Federal Motor Carrier Safety Administration's (FMCSA) electronic log book (ELD) mandate for recording driver hours of service. The OOIDA lawsuit alleges that the ELD rule is arbitrary and capricious and violates the Fourth Amendment of the U.S. Constitution banning unreasonable search and seizures by the government. The lawsuit argues that the authority of the FMCSA to collect driver data from ELD device is no substitute for obtaining a judicial warrant required by the Fourth Amendment. OOIDA is appealing a decision handed down by the United States Court of Appeals for the 7th Circuit that sided with the FMCSA. The court ruled the ELD rule "is not arbitrary or capricious, nor does it violate the Fourth Amendment." The ELD rule was published in December 2015 and requires motor carriers to equip trucks with electronic log book data recorders to record driver hours of service beginning December 18, 2017.

There are a number of exceptions to the ELD mandate including:

- Drivers operating under the 150-air-mile radius short-haul exception from keeping written log books to record hours of service;
- Drivers who occasionally keep a logbook but do not do so for more than eight days in any 30-day period; and
- Model year 1999 and older trucks.

PMAA has consistently opposed the ELD mandate since it was first proposed and is currently working with the FMCSA to clarify the short haul driver exception to the mandate. Whether the Supreme Court will hear the OOIDA appeal remains uncertain. The Supreme Court receives hundreds of petitions each year but generally hears only a few dozen cases. It requires the vote of four out of the nine justices on the Supreme Court for the case to be heard.

There's no timetable for when the court will make its decision on whether it will hear the case.

**SWIPE FEE LEGISLATION TO BE INTRODUCED SOON**

On Tuesday, it was announced that the House Financial Services Committee Chairman Jeb Hensarling (R-TX) will reintroduce a bill before the end of the month to provide an alternative to the 2010 Dodd-Frank Wall Street Reform Act, known as the "Financial CHOICE Act" which would repeal the Durbin Amendment.

PMAA has been working with the Merchants Payments Coalition (MPC) and meeting with House Financial Services Committee members for the past year to educate members of Congress about the benefits of the Durbin Amendment. Now that we know the legislation includes the provision to strip the Durbin Amendment, we are going to make this a top issue during PMAA's Day on the Hill in May.

Also, please click [here](http://www.pmaa.org/weeklyreview/attachments/SupremeCourtRulesin2Cases0417.pdf) (<http://www.pmaa.org/weeklyreview/attachments/SupremeCourtRulesin2Cases0417.pdf>) for an update from PMAA General Counsel regarding the credit card interchange fee litigation.

## CONGRESS IN A TWO WEEK RECESS; FEDERAL GOVERNMENT FUNDING TO EXPIRE ON APRIL 28TH

Since the FY 2017 began on October 1, 2016, Congress has been keeping the government open through a series of stop-gap funding measures known as continuing resolutions (CRs). The last CR was passed in December 2016 which funds the government through April 28, 2017. Currently, Congress is in a two week recess so when they return on April 25th, they will have just four working days to strike a deal to keep the government open.

Bipartisan negotiations are underway on another CR to keep the government running on existing funding levels. Despite their differences, neither parties' leadership has any interest in a government shutdown. However, there are a few factors in the mix that could make striking a deal more easily said than done.

First, President Trump requested that Congress pass a supplemental spending bill to increase defense spending by \$30 billion and provide an additional \$3 billion in funding to start building the southern border wall that the President promised during his campaign. Under the President's proposal, these increases would be partially offset by \$18 billion in cuts to non-defense spending. The proposal has drawn concerns from many sides.

Republican moderates are concerned about the cost of a border wall and cuts in medical research and in other areas of domestic spending that could come back to haunt them in the next election while Democrats will likely oppose a budget deal that makes significant cuts to domestic programs. At this point, it looks like Republican leaders will attempt to deal with the President's request separate and apart from the primary spending deal, in large part because they know that they need the support of at least eight Democrats to pass the bill out of the Senate. The President has not said whether he will sign a bill that does not include his supplemental funding requests. However, if Congress passes a stop-gap bill, vetoing it, and potentially shouldering the full blame for a government shutdown, would be an exceptionally risky and unlikely move for the President.

Adding to the complications, multiple members of the House Freedom Caucus, which played a significant role in derailing the House Republican leadership's recent attempt at healthcare reform, have stated that they will not support a spending bill simply to avoid a shutdown but will instead be looking at the contents of the bill itself.

Our bet is that the Republicans and Democrats will strike a deal to continue existing funding levels and the President will sign it. Whether that deal will extend through the end of FY2017 or come up short, requiring Congress to once again revisit the issue before October, is anyone's guess.

## ANNOUNCING NEW WPMA MEMBER SERVICE

WPMA has partnered with American Fidelity Assurance Company to provide its Marketer members with supplemental employee benefits, employee benefits education and enrollment, online enrollment tools and communication, and Patient Protection and Affordable Care Act (ACA) compliance.

For more information, visit [www.americanfidelity.com](http://www.americanfidelity.com).

## PLAN TO ATTEND THE 2018 WPMAEXPO



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.

## MARK YOUR CALENDARS FOR UPCOMING EVENTS

**May 4-5, 2017** – Nevada (NPM&CSA) Big Dogs Shootout – Las Vegas, Nevada

**June 6-8, 2017** – Montana (MPMCSA) Convention – Northern Hotel – Billings, Montana

**June 19-22, 2017** – Washington (WOMA) Convention – Suncadia Resort – Cle Elum, Washington

**June 22, 2017** – Utah (UPMRA) Summer Classic PAC Golf Outing – Stonebridge GC, WVC, Utah

**August 2-4, 2017** – Idaho (IPM&CSA) Convention – Sun Valley Resort – Sun Valley, Idaho

**August 21-23, 2017** – New Mexico (NMPMA) Convention – Sandia Resort – Albuquerque, New Mexico

**September 13-15, 2017** – Utah (UPMRA) Convention – Zermatt Resort – Midway, Utah

**February 20-22, 2018** – WPMA Convention & Expo – Mirage Hotel– Las Vegas, Nevada

**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



**Be sure to subscribe to all of our social channels for great tips, industry trends, and insider information about association activities and upcoming events!**



**Petro Pete: “I called the Gambling Help Line but they wouldn’t give me any money.”**

© 2017 Western Petroleum Marketers Association - All rights reserved. No part of this work may be reproduced or copied in any form or by any means - graphic, electronic, or mechanical, including photocopying, recording, or otherwise. The information herein is also intended for the sole purpose of members of the Western Petroleum Marketers Association (WPMA). Any other use is strictly prohibited without the express written consent of the WPMA. If you do not wish to receive information via fax or e-mail, please contact WPMA at: (801) 263-9762, Fax: (801) 262-9413, or e-mail: [janr@wpma.com](mailto:janr@wpma.com). Thanks.