

December 3, 2021

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REPORT: EPA LIKELY TO LOWER CORN ETHANOL MANDATE FOR 2020 AND 2021

According to Reuters, the U.S. EPA plans to publish its long awaited proposed Renewable Fuels Standard in a matter of days. The EPA is expected to reduce blending mandates for 2020 to 17.1 billion gallons and 18.6 billion gallons for 2021. The EPA delayed decisions on 2021 blending obligations by more than a year and recently missed the November 30th deadline to finalize 2022 blending mandates. The EPA told at least two U.S. Democratic Senate offices to expect retroactively lower volumes for 2020 and 2021 and a restoration of volumes in 2022. EMA has for many years called for lower annual corn ethanol blending volumes that would allow marketers to determine for themselves whether to sell E15 rather than be required to do so through a de facto mandate. After the news on Thursday, RIN prices for renewable fuel (D6) credit fell more than 7 percent to \$1.00 each from \$1.08 each.

EMA COMPLIANCE BULLETIN: FMCSA EXTENDS NATIONAL WAIVER FOR HOS, MEDICAL EXAMS, MEDICAL CERTIFICATES & RENEWAL OF CDL LICENSES

EMA Contact: Mark S. Morgan, Regulatory Counsel mmorgan@emamerica.org

The Federal Motor Carrier Safety Administration (FMCSA) is extending a number of expiring nationwide regulatory waivers authorized under the March 13, 2020 presidential declaration of national emergency and the January 31, 2020 public health emergency issued in response to the ongoing COVID-19 pandemic. Several of the extended regulatory waivers are beneficial to energy marketers and the drivers they employ. The FMCSA is extending waivers for hours of service (HOS), Commercial Driver License (CDL) renewal, Commercial Learners Permit (CLP) renewal, driver medical exams, medical certificates and medical variances through February 28, 2022.

Hours of Service Waiver

The FMCSA's Emergency Declaration 2020-002 supporting the nationwide HOS waiver became effective in March of 2020 and has been extended with modifications throughout the COVID-19 crisis. EMA worked closely to the FMCSA to ensure that petroleum products remained a covered product deemed essential for COVID-19 emergency relief.

Gasoline, Diesel Fuel and Jet Fuel

- Drivers hauling **gasoline, diesel fuel, jet fuel and ethyl alcohol** qualify for the HOS waiver until the current waiver expires on February 28, 2022 or is modified or terminated by the FMCSA.

Heating Oil and Propane

- The waiver extension does not include heating oil or propane, despite EMA's efforts to have those products deemed essential. FMCSA said it did not include propane and heating oil in the latest extension at the request of Northeast governors because these products are not in short supply. Instead, the governors assured FMCSA they would issue HOS waivers based upon the individual needs of their respective states.

Although not named specifically, heating oil and propane are covered under the waiver if they are used for **direct assistance** to COVID-19 related facilities such as for power-generation or space heating for temporary vaccine and testing sites, nursing homes, medical laboratories, hospitals, temporary treatment centers, etc. Preventing these facilities from running out of heating oil or propane is considered one example of providing direct assistance to COVID-19 relief efforts, according to the FMCSA. The agency said it will continue to monitor heating oil and propane supplies for shortages and issue separate HOS waivers, as necessary.

Emergency Declaration Restrictions & Conditions

Motor carriers and drivers providing direct assistance to the national emergency are granted emergency relief from 49 CFR § 395.3, maximum driving time for property-carrying vehicles (HOS), subject to the following restrictions and conditions:

- FMCSA Emergency Declaration 2020-002 only waives the hours-of-service regulations under 40 CFR 395.3.

- Motor carriers operating under the waiver must report to the FMCSA within 5 days after the end of each month. To report, motor carriers must access their portal account at <https://portal.fmcsa.dot.gov/login>, log-in with their FMCSA portal credentials, and access the Emergency Declaration Reporting under the Available FMCSA Systems section of the page.
- Motor carriers or drivers currently subject to an out-of-service order are not eligible for HOS relief under the waiver.
- When direct assistance emergency relief efforts related to COVID-19 is terminated, both motor carriers and drivers are subject to the HOS requirements. However, a driver may return empty to the motor carrier's terminal or the driver's normal work reporting location without complying with HOS regulations.
- When a driver is moving from emergency relief efforts to normal operations, a 10-hour break is required when the total time a driver operates conducting emergency relief efforts or a combination of emergency relief and normal operations equals 14 hours.

CDL License & Permit Renewal, Driver Medical Exams & Medical Certificate Waiver

The FMCSA is extending through February 28, 2022 the regulatory waiver that **permits**, but **not requires** States to:

- Extend the validity of CDLs (due for renewal on or after March 1, 2020) beyond the eight-year maximum period of validity under the Federal Motor Carrier Safety Regulations (MCSRs).
- Extend the validity of CLPs (due for renewal on or after March 1, 2020) beyond the one-year maximum period of validity required under the FMCSRs without requiring CLP holders to retake the general and endorsement knowledge tests.
- Allow CLP holders to take the CDL skills test without waiting 14 days after issuance of the CLP.

The FMCSA is extending through February 28, 2022 the requirement that CDL holders, CLP holders, have a **medical exam** and **medical certificate**, provided they have a valid medical certificate or medical variance issued for a period of 90 days or longer and expired on or after September 1, 2021.

Additional Information

[HOS Waiver](#)

[HOS Waiver FMCSA Enforcement Discretion](#)

[CDL License, CLP, Medical Exam and Medical Certificate Waiver](#)

DOT CALL FOR COMMENTS ABOUT NEW CHARGING AND FUELING INFRASTRUCTURE PROGRAMS

The recently enacted Bipartisan Infrastructure Law invests in the deployment of electric vehicle (EV) charging infrastructure through a National Electric Vehicle Formula Program (EV Charging Program). The law provides funding to States to strategically deploy EV charging infrastructure and to establish an interconnected network to facilitate data collection, access, and reliability. Specifically, funds from the formula program need to be used to build out charging infrastructure along designated alternative fuel corridors.

The law also establishes a discretionary grant program for Charging and Fueling Infrastructure (Charging and Fueling Infrastructure Program) to strategically deploy publicly accessible EV charging infrastructure and hydrogen, propane, and natural gas fueling infrastructure along designated alternative fuel corridors, along rural corridors and in underserved or disadvantaged communities, or in certain other locations. Funds from the EV charging program can be used not just to acquire and install EV charging infrastructure but to operate and maintain it and to facilitate data sharing. The federal government will pay 80 percent of project costs, and a private entity hired to do the work can pay the 20 percent match. Further, DOT wants this program to deploy publicly accessible EV charging infrastructure accessible to all drivers of such vehicles (Tesla's charging stations are only available to Tesla drivers).

The law directs DOT, in coordination with the DOE, to develop guidance for both programs. This week, the Federal Highway Administration (FHWA) invited public comments [Federal Register: Development of Guidance for Electric Vehicle Charging Infrastructure Deployment](#) to inform the development of the guidance. FHWA is especially interested in comments suggesting ways that the guidance could promote equity in the deployment of EV charging infrastructure under these programs. FHWA has provided twelve statutory considerations for the EV Charging Program for which they are soliciting comments. A significant concern for EMA is ensuring that small businesses can participate in the program and have reasonable access to the grant funding.

EMA's Alternate Energy Task Force will review these considerations and EMA will provide comments before the January 28, 2022 deadline.

FUELS INSTITUTE RELEASES THE DIESEL FUEL SAMPLING STUDY

The Fuels Institute's Diesel Fuel Quality Council released the final report on the Diesel Fuel Sampling Study. The study sampled diesel fuel from 190 nozzles and 134 tanks at 119 retail and 15 non-retail fueling facilities throughout the US. Samples were analyzed for a variety of parameters important to fuel quality. The report provides the results of the analysis as well as a comparison to benchmarks, the relationship between fuel properties, and an evaluation of regional differences in the results. In addition, certain information (e.g., dispenser filters (make/model/particulate size), monthly fuel throughput, and if the site performs routine preventative maintenance about each facility was collected and discussed). You can download a copy of the [report](#) from the Fuels Institute's web page.

CAPITOL HILL UPDATE

Yesterday, Congress reached an agreement to continue government funding at fiscal year 2021 levels through February 18, 2022.

Meanwhile, the Senate has yet to begin focus in earnest on the House-passed Build Back Better Act (BBB) – President's Biden's \$1.75 trillion tax-and-spend package covering the Administration's priority issues including climate change, education, and healthcare. Senate Majority Leader Chuck Schumer (D-NY) announced the Senate would take up the bill the week of December 13, but many view this as an overly ambitious timeline given ongoing policy objections from Senators Manchin (D-WV), Sinema (D-AZ), and others.

While Congress addresses a large December to-do list, President Biden continues to take steps to address issues related to inflation, supply chains, and the emerging Omega COVID-19 variant. The Biden Administration said it has no plans to change the timing or amount of its planned oil release from the Strategic Petroleum Reserves in an effort to further reduce gasoline prices. Many speculated that the Administration would rethink its strategy given the recent decline in oil prices following developments from Russia and OPEC.

This week, 18 House Republicans, led by Congressman Scott Fitzgerald (R-WI) and Kelly Armstrong (R-ND), sent a letter to President Biden expressing concern over his actions encouraging the Federal Trade Commission (FTC) to investigate oil and gas companies over allegations of price-gouging regarding the recent rises in gas prices. The group of House Republicans argued that President Biden's "request for an FTC investigation into gasoline prices is nothing more than misdirection to avert the public's attention from [the] Administration's failed energy policies.

The suggested antitrust investigation is an inappropriate response to market effects caused by government action. If [the President's] true intention is to lower consumer costs for American households at the gas pump, [letter signatories] encourage [President Biden] to pursue a more effective approach by reversing these policies and empowering our domestic oil and gas industry to restore the energy independence that we recently enjoyed."

GET YOUR HOLIDAY GIFT SHOPPING DONE BY PARTICIPATING IN THE EMA SBC PAC HOLIDAY AUCTION!

Get your holiday gift shopping completed on the EMA SBC PAC Holiday Auction site. EMA SBC PAC Co-Chairs Brad Bell and Tim Keigher want you to know that the holiday auction includes items for men, women, and children, so this is a terrific opportunity to finish your shopping, and **many items have been added in the past week!**

The Holiday Auction is open and **will close Monday, December 13 at 12:00 p.m. Eastern**. If you have items that you would like to contribute for the holiday Auction, please contact [Sabrina Pitcher](#) or at 703-351-8000 by December 6th. **To access the great selection of auction items, text EMA to 71760, click the link, and follow the instructions on the screen to register.**

Please note: You will be asked to provide a credit card in order to complete your registration. Nothing will be charged to your card on file unless you are a winning bidder or make a donation. The money used to pay for these holiday auction items (by the winning bidders) must be personal money only, not corporate!

As you browse holiday auction items, you will be able to place a bid at any one of the next pre-set bid increments or use the "Set Up AUTOBID" feature to let the system bid on your behalf up to your maximum amount. You can choose "Watch This Item" to add your favorites to the "My Bids" section of your account. If you are outbid on an item, you will be notified by text message. At the end of the auction Monday, December 13, you will be notified by text message if you are a winning bidder.

If you need assistance at any point throughout the auction, please contact C2Auctions for support at chris@c2auctions.net. EMA knows that you will have fun again this year with this online holiday auction, which will benefit the PAC and help you meet your 2021 PAC goals!

WELCOME BACK

WPMA EXPO

February 22-24, 2022
Mirage, Las Vegas, NV

[Register now](#) to attend the 2022 WPMAEXPO.
It will be held once again at the Mirage in Las Vegas, Nevada.

THANK YOU **WPMA EXPO 2022 TOP SPONSORS**

as of November 18, 2021



The banner features a woman in a red winter hat and scarf holding a small gift box. The text on the banner reads: "My wish list: A WPMA Scholarship!" Below this, it says "SCHOLARSHIP \$4,000 OPPORTUNITY!" and "WPMA SCHOLARSHIP FOUNDATION". To the right, there is a column icon and the text "CLICK HERE for a WPMA SCHOLARSHIP Application FORM".

MARK YOUR CALENDARS FOR UPCOMING EVENTS

December 14, 2021 – Oregon (OFA) Holiday Event – Portland Golf Club – Portland, OR

February 22-24, 2022 – WPMA Convention & Expo – Mirage Hotel– Las Vegas, NV

April 25, 2022 – Hawaii (HPMA) Golf Tournament – Ko Olina Golf Club – Kapolei, HI

May 5-6, 2022 – Nevada (NPM&CSA) Big Dogs – Las Vegas, NV

June 7-8, 2022 – Montana (MPMCSA) Convention – Fairmont Hot Springs Resort – Fairmont, MT

June 20-22, 2022 – Washington (WIED) Convention – Suncadia Resort – Cle Elum, WA

June 23, 2022 - Utah (UPMRA) Summer Golf Classic - Stonebridge GC - West Valley City, UT

July 17-19, 2022 – Oregon (OFA) Annual Convention – Sunriver Resort – Sunriver, OR

August 3-5, 2022 – Idaho (IPM&CSA) Convention – Coeur d'Alene Resort – Coeur d'Alene, ID

August 22-24, 2022 – New Mexico (NMPMA) Convention – Sandia Resort & Casino – Albuquerque, NM

September 14-16, 2022 – Utah (UPMRA) Convention – Sheraton Park City Hotel – Park City, UT

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 have a friend who is a compulsive liar. He keeps trying to convince me, but I don't believe him."*

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Thanks.