

December 18, 2015

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CONGRESS REACHES DEAL ON 2016 SPENDING AND TAX EXTENDERS BILL

President to Sign

Today, Congress approved a nearly \$1.8 trillion tax and spending package which will fund the government through September 30, 2016. The tax portion would revive over 50 expired tax incentives through 2016 which includes the \$1 per-gallon biodiesel blender's tax credit and a 30 percent investment tax credit for alternative fuel pumps. This was a very significant victory for petroleum marketers because some biodiesel producers and members of Congress fought aggressively to move the biodiesel blender's credit to the production level. PMAA was concerned with limited access to supply, blending logistics in the tax and dyed system and the unlikelihood that the credit would be passed on to marketers if moved to a production credit. PMAA actively lobbied Congress on this and also worked closely with NATSO, NACS, NEFI and SIGMA to maintain the biodiesel credit at the blender level.

Meanwhile, Section 179 expensing was made permanent with the expensing limitation raised to \$500,000 and phased out at \$2 million, and those amounts are indexed. The \$250,000 cap on qualified real property is eliminated beginning in 2016 while bonus depreciation is extended and phased out over five years. Included is a two year delay of the Affordable Care Act's Cadillac tax (an excise tax on expensive healthcare plans provided by employers to their employees) and provides that, when (and if) the Cadillac tax does go into effect, it will be fully deductible. Additionally, the 2016 spending bill blocks the Food and Drug Administration (FDA) from using funds to implement its controversial menu labeling rule until September 30, 2016. Although this was a welcomed addition, more needs to be done. PMAA continues to work with NACS in support of the "Common Sense Nutrition Disclosure Act" (H.R. 2017) (S. 2217). The Act would provide flexibility to retailers in order to comply with the onerous final rule. Click [here](#) to write to your Representatives.

<http://www.congressweb.com/pmaa/6?setmobile=1>

The omnibus spending bill also provides \$8.1 billion for the EPA. The Commodity Futures Trading Commission (CFTC) is designated \$250 million, the Leaking Underground Storage Tank Trust Fund will receive approximately \$92 million and the Low Income Home Energy Assistance Program (LIHEAP) is appropriated \$3.39 billion.

Some policy riders were added to the 2016 Omnibus package including language to end the oil export ban. This was a GOP top priority. In order to end the oil export ban and extend/make permanent business tax credits, Minority Leader Nancy Pelosi (D-CA) demanded a five year extension of wind and solar tax credits and a permanent extension of the Earned Income Tax Credit and the Child Tax Credit which were included in the final package.

Another policy rider beneficial to petroleum marketers was included by Senator Susan Collins (R-ME) which suspends the hours-of-service (HOS) 34-hour restart changes until the Federal Motor Carrier Safety Administration (FMCSA) can demonstrate that revised driver rest period contributes to safer commercial vehicle operation. For many years the FMCSA 34-hour restart provision could be used by drivers to restart a work week without restrictions. However, after a contentious rulemaking process, the FMCSA adopted regulatory changes restricting the use of the 34-hour restart to just once per week and requiring the restart to include two overnight rest periods between 1:00 AM and 5:00 AM. As a result of the FMCSA changes, depending on the time of day their final shift ends, drivers would have been required to take more than 34 hours off duty before they can return to work. The change greatly reduced the flexibility petroleum marketers need to schedule drivers efficiently and PMAA fully supported the policy rider's inclusion. The policy rider means that drivers may continue to use the 34 hour restart provision without restriction until further notice.

BILL SEEKS TO DELAY NEW OZONE STANDARD IMPLEMENTATION

A bipartisan group of lawmakers want a two year delay to the start of new ozone standards that were announced in October by the EPA. Ozone standards were lowered from 75 ppb to 70 ppb.

The Clean Air Implementation Act (H.R. 4265), introduced by Congressman Pete Olson (R-TX), would amend the Clean Air Act by requiring the EPA to delay implementation of the new standards for two years so the agency can study how foreign pollution affects ozone levels in areas that would not be in compliance with the new standards. The bill would also require the EPA to review ozone standards every eight years, instead of the current five, and allow the agency to consider the feasibility of new standards when officials draft a new ozone rule. H.R. 4265 is co-sponsored by Reps. Bob Latta (R-OH), Ann Kirkpatrick (D-AZ), and Henry Cuellar (D-TX).

PMAA supports this effort to delay the implementation of the new ozone regulation and will continue to work with Congress to repeal it.

PMAA SIGNS LETTER TO OPPOSE HARMFUL “SUE AND SETTLE” PRACTICE

PMAA recently signed on to a letter that supports legislation in the House designed to curb the abusive practice of “sue and settle,” where advocacy groups sue federal agencies seeking to compel them to specific actions, such as issuing new regulations.

H.R. 712, known as the “Sunshine for Regulatory Decrees and Settlements Act”, will come to the floor of the House of Representatives for a vote during the week of January 4. Passage of H.R. 712 would shed light on the “sue and settle” process and help to make agencies more accountable to the public when they seek to enter into settlement agreements.

FMCSA FINALIZES RULE REQUIRING ELECTRONIC LOG BOOK DEVICES FOR INTERSTATE DRIVER HOS RECORDS

The U.S. DOT’s Federal Motor Carrier Safety Administration (FMCSA) issued a final rule requiring installation of electronic logging devices (ELD) to record driver’s hours of service (HOS) for motor carriers operating in interstate commerce and subject to written log book requirements. The FMCSA was mandated by Congress to adopt the new ELD requirement under the Commercial Motor Vehicle Safety Enhancement Act of 2012 (MAP 21). Installation of ELDs must occur no later than December 16, 2017. The good news for petroleum marketers is the ELD is not required for short-haul motor carriers qualifying for the 100-air mile operating radius exemption from written HOS records. The FMCSA said the new mandate will improve commercial motor vehicle safety and reduce paperwork burdens for both motor carriers and drivers and improve compliance with the applicable HOS rules. The rule was supported by the long haul trucking industry. The final rule does the following:

Mandates installation of ELD by December 16, 2017.

Applies to most interstate drivers who are currently required to prepare and retain written logs to comply with HOS regulations.

Exempts from the ELD requirement interstate and intrastate short-haul drivers who operate within a 100-air mile radius of their base of operation and return home each evening. These drivers may continue using the timecard provision to record HOS.

Requires ELD use only if an interstate driver operates outside the short-haul exemption to the written log book provision for more than 8 days of any 30-day period. (FMCSA regulations allow drivers to operate outside of short haul exemption so long as a written log is maintained for the day the driver goes beyond the 100 mile limit).

The ELD mandate does not apply to:

Interstate or intrastate short haul drivers operating within 100-air mile radius of home base of operations.

Drivers who use written log books for not more than 8 days during any 30 day period.

Drivers of vehicles manufactured before model year 2000.

The technical specifications of the rule require that all ELDs be integrally synchronized with the engine. However, the rule does not preclude the use of smart phones or similar devices which could achieve integral synchronization, including wireless devices provided they comply with FMCSA technical requirements for ELDs.

The rule adopts a clear prohibition against driver harassment and coercion to violate or override ELD mandate by an employer, subject to a civil penalty in addition to the penalty for the underlying violation.

The rule requires the following standardized output and standardized data sets:

Automatic capture of date, time and location when the vehicle is turned on and turned off, when someone starts to drive the vehicle, and when the individual stops driving.

Automatic capture of the date, time and location when manual entries are made so that the driver’s location and time are captured when manual entries (such as on-duty or not driving) are entered.

Allow driver to enter information about the duty status when the vehicle is stopped or parked.

Automatically capture the same duty status options that are available to drivers currently relying upon written log books.

The rule allows carriers to continue using currently installed and compliant electronic onboard recording devices until December 16, 2019 when they must be replaced with ELDs certified under technical requirements of the final rule.

According to the FMCSA, the annualized cost for installation of ELD for a motor carrier that does not currently use an electronic on board recording system ranges from \$525 to \$785 per power vehicle. The FMCSA says the ELD will reduce driver annual paperwork by \$809 per driver. Many petroleum marketers have already made the move to electronic logging devices over the past few years. These marketers will be required to switch out to FMCSA certified compliant ELDs by December 16, 2019.

PMAA will provide additional compliance information once clarifying information is received from the FMCSA.

LEWIS WALL JOINS PMOCO MANAGEMENT COMMITTEE

Lewis Wall, President and Chief Executive Officer of Davenport Energy, Incorporated, based in Chatham, VA, has joined the Management Committee of the Petroleum Marketers Oil Company, LLC, (PMOCO) owner of the Spirit® brand.

Founded in 1941, Davenport Energy has grown from modest beginnings to its current incarnation as a multi-product company with eight regional offices serving more than 25,000 customers. Wall and his uncle Ben Davenport, Jr. have consistently sought to adapt their business model to an evolving market and a changing industry. It's that foresight and adaptability that Wall hopes to bring to his tenure on the PMOCO Management Committee.

"It's a great board, part of a great organization led by an impressive group of people," Wall said. "I'm really looking forward to getting in there and listening and getting up to speed on the conversations the committee has been having, and helping in any way I can to contribute to the growth and health of the Spirit® brand. I consider it a privilege to have been asked to be part of this group."

"I'm delighted that Lewis has agreed to serve on the PMOCO Management Committee," affirmed Spirit® president Vera Haskins. "I believe his vision and energy will be of great benefit to the brand and to all of our licensees. Lewis has been a great supporter of Spirit® in Virginia, with great success growing the brand in that region. I look forward to working with him."

Spirit® is a nationally recognized petroleum brand managed by marketers and owned by the non-profit Petroleum Marketers Association of America (PMAA). Spirit® is committed to redefining independence for the American petroleum marketer. Spirit®'s minimal requirements, affordable fees and flexible business solutions give businesses of all sizes the control they need to compete aggressively in today's tough environment. Spirit® offers a sophisticated, patriotic brand image that inspires loyalty and confidence in consumers nationwide. For more information, visit www.spiritpetroleum.com or call (215) 345-4119.

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WPMAEXPO

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MARK YOUR CALENDARS FOR UPCOMING EVENTS

February 16 – 18, 2016 - WPMA Convention & Expo – Mirage Hotel, Las Vegas, Nevada

May 19-20, 2016 – Nevada (NPM&CSA) Big Dogs Shootout – Red Rock Resort & Casino – Las Vegas, Nevada

June 7-9, 2016 – Montana (MPMCSA) Convention – Fairmont Hot Springs Resort – Butte, Montana

June 20-23, 2016 - Washington (WOMA) Convention - Suncadia Resort - Cle Elum, Washington

August 3 – 5, 2016 - Idaho (IPM&CSA) Convention - Coeur d'Alene Resort - Coeur d'Alene, Idaho

August 22-24, 2016 – New Mexico (NMPMA) Convention – Sandia Resort & Casino – Albuquerque, New Mexico

September 14-16, 2016 - Utah (UPMRA) Convention - DoubleTree Hotel by Hilton - Park City, Utah

June 18-22, 2017 - Washington (WOMA) Convention – Suncadia Resort – Cle Elum, Washington

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

June 17-21, 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

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Petro Pete: "Because it would be hilarious, is probably not a good reason to elect someone to be president."

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