



EMA URGES FMCSA TO DELAY ENTRY LEVEL DRIVER TRAINING REQUIREMENTS

Today, EMA sent a letter to the Department of Transportation to extend the compliance deadline for the Federal Motor Carrier Safety Administration's (FMCSA) Entry Level Driver Training (ELDT) rule. The ELDT rule establishes new knowledge and behind the wheel testing for new applicants who wish to obtain a CDL license for the first time or upgrade their current CDL from Class A to Class B or obtain a hazardous material endorsement. Only trainers certified by the FMCSA may provide the new training.

The letter said, "EMA believes that transferring much of the current CDL driver training responsibilities from state to federal control at this critical time will cause further disruption to supply chain logistics that are already strained to the breaking point. EMA members, like most industries in the transportation sector, are struggling to recruit and retain enough qualified CDL drivers to meet fuel supply demand by wholesale and retail consumers. Mandating entry level drivers to seek out certified training providers, undergo stringent new classroom curricula requiring an 80 percent test score to pass along with new behind the wheel proficiency training will severely hamper recruiting and retainment efforts for all transportation industry sectors." [CLICK HERE](#) to read the letter.

The original compliance date for the ELDT rule was set for February 7, 2021 but was pushed back to February 7, 2022. The delay was due to ongoing technical problems with the ELDT electronic database designed to contain driver-specific training information. The FMCSA Training Provider Registry (TPR) is a centralized database that receives and stores entry level driver training certification information. State licensing agencies are required to access the database to confirm completion of training before allowing driver/ applicants to take their skills test necessary to obtain a CDL. The ELDT rule requires states to update their own electronic databases in order to accommodate the receipt of driver-specific information from the TPR. However, most states have yet to complete interface capabilities.

The ELDT training was mandated by Congress in 2012 under the "Moving Ahead for Progress in the 21st Century Act."

EMA COMPLIANCE BULLETIN: OSHA ISSUES EMERGENCY STANDARD REQUIRING EMPLOYEE COVID-19 VACCINATION OR TESTING

OSHA released a final emergency temporary standard (ETS) in November requiring employee COVID-19 vaccination or weekly testing at all employers with 100 or more employees. The ETS was stayed by a federal court last month which delayed the original December 5, 2021 compliance deadline. On Dec. 17, the 6th U.S. Circuit Court of Appeals lifted the stay and OSHA is now requiring employers with 100 or more employees to have their covid-19 testing in place by January 10, 2022. Employee testing must begin by February 9, 2022. However, compliance may be stayed once again as a number of state attorney generals opposed to ETS have appealed the lifting of the stay to the U.S. Supreme Court. It is not known if or when the Court will hear the appeal. In the meantime, covered employers should assume the ETS is going forward as planned and prepare to come into compliance by the January 10th and February 9th compliance deadlines.

NEW RULE ALLOWS DEPARTMENT OF ENERGY TO ONCE AGAIN CONSIDER TECHNOLOGICAL ADVANCES TO INCREASE APPLIANCE EFFICIENCY

The Department of Energy released a new rule on Tuesday that revokes a rule finalized during the Trump Administration. Essentially, the Trump rule barred the Department of Energy from using different techniques in appliance designs to increase efficiency, such as venting changes. As a result, DOE could not proceed with a rulemaking to increase efficiency

of gas appliances. In the new rule, DOE will allow a broader look at ways to improve the efficiency of appliances and be able to consider ways to improve the efficiency of appliances that may be cost effective, and thus increase the minimum AFUE for home heating appliances. This may result in the need to redesign home appliances in the future. However, this is really, just the first step in that effort, and whether and how aggressively DOE will move is undetermined. In the earlier rulemaking, DOE did not include oil heat equipment in the improved standard. Natural gas industry representatives are disappointed by the administration’s decision to disregard the difference condensing and non-condensing appliances saying that doing so would impose high installation costs require physical changes to homes and businesses and limit consumer choice with regards to fuel type. EMA will continue to watch this area to ensure that equipment changes are reasonable and achievable by the industry.

CAPITOL HILL UPDATE

In a move that surprised many in the Democratic party, Senator Joe Manchin (D-WV) said he could not support the current form of the Build Back Better Act (BBB) – President Biden’s partisan \$1.75 trillion climate change, healthcare, and education package. The House passed the BBB in November on partisan lines, while the legislation has been the subject of extensive debate and “Byrd Rule” determinations in the Senate. Senator Manchin’s surprise announcement on Fox News came after negotiations between he and the White House deteriorated. The White House immediately fired back at Senator Manchin, alleging that he went back on his word.

Senator Manchin’s comments effectively eliminate passage of the current version of the BBB, as his vote is critical for Senate Democrats to secure the needed 50-vote threshold to pass a budget reconciliation measure. Despite this apparent reality, the White House and Democratic members of Congress still believe a deal can be reached. Senator Manchin reportedly offered a counteroffer to the White House with billions in energy investments. In fact, some reported that Senator Manchin’s preferred package was similar to the White House’s proposal except that it excluded the Child Tax Credit.

Accordingly, the legislative effort for passing some type of reconciliation measure is by no means “dead” as some media reports indicate. In fact, Senate Majority Leader Chuck Schumer (D-NY) is pushing for a floor vote on a revised BBB when Congress is back in town next month, Speaker Pelosi is fully behind the effort (remember, she corralled her divergent caucus to pass BBB), and President Biden has vowed to keep the negotiations moving forward. Should the current BBB move for a vote in the Senate, many Senators – knowing the bill will not pass – might also oppose for political reasons. These Senators could include Senators Sinema (D-AZ), Kelly (D-AZ), Tester (D-MT), as well as members in contested 2022 elections like Sen. Hassan (D-NH).

Senator Manchin has expressed his desire to have both spending and revenue measures cover the full 10-year budget window, indicating that he is still open to negotiating. Some Democrats, including New Democrat Coalition Chair Rep. Suzan DelBene (D-WA), are expressing support for a proposal that would authorize fewer programs appropriately for a shorter timeframe.

When Congress returns in January, Democrats will have a challenge in messaging a strategy moving forward. While an official date is not announced, President Biden is expected to present the State of the Union in late February or early March. There will be a strong push from the White House to ensure President Biden can discuss his legislative achievements when he addresses the nation.

2022 FEDERAL MOTOR FUEL EXCISE TAX RATES AND CREDITS

Federal motor fuel excise tax rates below include the 1/10th cpg non-refundable LUST tax imposed on both dyed and clear liquid fuel. There is no refund of the LUST tax. Tax exempt parties are required to pay the .001 cpg.

<u>Product</u>	<u>Rate</u>	<u>Cents Per/Gal</u>
Gasoline	\$ 0.184	18.4 cpg
Gasoline (removed for alcohol blending)	\$ 0.184	18.4 cpg
Alcohol (for use in downstream gasoline blending)	\$ 0.184	18.4 cpg
Aviation Gasoline	\$ 0.194	19.4 cpg
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Biodiesel Blender’s Credit	\$ 1.000	100.0 cpg
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Heating Oil	\$ 0.001	1/10th cpg
Diesel (clear)	\$ 0.244	24.4 cpg
Diesel (dyed)	\$ 0.001	1/10th cpg
Diesel (dyed used in trains)*	\$ 0.001	1/10th cpg

Diesel (removed for blending with biodiesel)	\$ 0.244	24.4 cpg
Diesel (used in certain intercity and local buses)	\$ 0.170	17.0 cpg
Biodiesel (removed for blending with diesel)	\$ 0.244	24.4 cpg
Kerosene (clear)	\$ 0.244	24.4 cpg
Kerosene (dyed)	\$ 0.001	1/10th cpg
Kerosene (clear - non-commercial aviation)**	\$ 0.219	21.9 cpg
Kerosene (clear - for use in non-taxable aviation)	\$ 0.001	1/10th cpg
Kerosene (clear - for use in commercial aviation not foreign trade)	\$ 0.044	4.4 cpg

Alternative Fuels - On Highway Use in a Motor Vehicle

Propane (liquefied propane gas) (gasoline gallon equivalent)***	\$ 0.183	18.3 cpg
Compressed Natural Gas (CNG) (gasoline gallon equivalent)***	\$ 0.183	18.3 cpg
Liquefied Natural Gas (diesel fuel gallon equivalent)***	\$ 0.243	24.3 cpg
“P” Series Fuels	\$ 0.184	18.4 cpg
Liquefied Fuel (derived from biomass)	\$ 0.244	24.4 cpg

IMPORTANT! The 50 cent per gallon alternative fuel credit and alternative fuel mixture credit expire on December 31, 2021.

Oil Spill Liability Tax

The oil spill liability tax (OSLT) is \$0.09 cents per barrel of crude. The OSLT expressed in cents per gallon (CPG) on finished product is as follows:

Finished Product	Oil Spill Liability Tax Expressed in CPG
Diesel Fuel	\$0.002143 cpg
Biodiesel 5%	\$0.002036 cpg
Biodiesel 20%	\$0.001714 cpg
Gasoline 100%	\$0.002143 cpg
Gasoline E10	\$0.001929 cpg

IMPORTANT! The OSLT is paid by refiners and passed downstream as a cost, not a tax. Some terminal operators break out the OSLT on product transfer documents for their own accounting purposes even though there is no requirement to do so. When downstream marketers break out the OSLT as a separate line item on customer invoices and/or contract bids, it looks like a tax. Tax exempt customers get confused when the OSLT is broken out as a separate line item and may mistakenly demand a refund or refuse to pay it.

Notes

*This tax is paid by the railroads, NOT by the ultimate vendor.

** Marketers pay \$.244 cpg at the rack, user’s rate is \$.219. Ultimate vendor claim is 2.5 cpg. The ultimate vendor is the only party that can make the claim for 2.5 cpg. Ultimate vendor must have a certificate from the ultimate purchaser verifying the fuel is used for non-commercial aviation. Ultimate vendor must have an IRS 637 UA registration to file claim.

***For taxation purposes, one gasoline gallon equivalent (GGE) is equal to 5.75 pounds (lbs.) of propane and 5.66 lbs. of CNG. One diesel gallon equivalence (DGE) is equal to 6.06 lbs. of LNG. (Reference 26 U.S. Code 4041 and 4081).

BIDEN ADMINISTRATION FINALIZES FUEL ECONOMY STANDARDS RULE

On Monday, the Biden Administration released its final Corporate Average Fuel Economy Standards (CAFE) to significantly tighten light truck and car fuel efficiency. The new efficiency standards will result in a 40-mpg requirement for light trucks and cars by 2026. By comparison, the Trump era CAFE standards required a 32-mpg efficiency requirement by 2026. Under the EPA's projections, CAFE standards are expected to begin a shift to electric vehicles over the next decade pushing sales of EVs and plug-in hybrids to about 17 percent in model year 2026 from an expected 7 percent in model year 2023, still far from President Biden's goal for half of U.S. car sales to be EVs by 2030. However, that goal is widely seen as overly optimistic given that EVs sales represented only 3 percent of all passenger cars sales in 2020.

Automakers are also concerned with Biden's fuel economy plan as it represents a dramatic shift from the current U.S. auto market and can only happen with policies that include incentives for EV purchases, adequate government funding for charging stations and money to expand EV manufacturing and the parts supply chain. Senator Manchin's announcement on Fox News Sunday that he can no longer support Build Back Better (BBB) complicates Biden's goal as it included tax credits and rebates to entice people into buying EVs.

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- 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

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***Petro Pete:* "Christmas: the only time of year you can sit in front of a dead tree eating candy out of socks."**

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