

June 3, 2016

WR-16-21

BILL TO DELAY OZONE STANDARD WILL HIT THE HOUSE FLOOR NEXT WEEK

H.R. 4775, known as the "Ozone Standards Implementation Act of 2016," will come to the House floor for a vote next week. The legislation would extend state deadlines to submit implementation plans for the new ozone standard of 70 parts per billion until 2026 and also extend the statutory review cycle for all of the National Ambient Air Quality Standards from five years to ten years. Additionally, it would order EPA's Clean Air Scientific Advisory Committee to provide advice to EPA on new standards' "adverse public health, welfare, social, economic or energy effects," among other changes. Click [here](#) for a detailed analysis of the final rule and how it might impact petroleum marketers.

The bill was introduced by Energy and Power Subcommittee Vice Chairman Pete Olson (R-TX), Rep. Bill Flores (R-TX), House Majority Leader Kevin McCarthy (R-CA), House Majority Whip and Steve Scalise (R-LA), Rep. Bob Latta (R-OH), and Rep. Henry Cuellar (D-TX). The Obama Administration has not yet issued a veto threat which gives the bill some hope for passage during a lame duck session later this year.

PMAA recently joined over 200 associations, companies and state groups in a [letter](#) of support for this bill that will be very beneficial for cities struggling to reach attainment status.

LANGUAGE TO DELAY SAFETY FITNESS DETERMINATION RULEMAKING PASSES COMMITTEE

Recently, the House Appropriations Committee passed the FY2017 Transportation Housing and Urban Development Appropriations Bill. Section 135 of the bill is strongly supported by PMAA. This section of the bill stops the Federal Motor Carrier Safety Administration (FMCSA) from proceeding with the Safety Fitness Determination (SFD) rulemaking until all reforms related to the Compliance, Safety and Accountability/Safety Measurement System (CSA/SMS) programs mandated by the last highway law are completed.

The FMCSA issued a Notice of Proposed Rulemaking: "Carrier Safety Fitness Determination" on January 21, 2016. The current safety fitness rating system ranks carriers as Satisfactory, Conditional or Unsatisfactory based on a comprehensive safety compliance review. The rule proposes to radically modify the Safety Fitness rating system in which carriers are evaluated for both the enforcement community and the general public. The new methodology would be based on on-road safety data using five of the Agency's seven Behavior Analysis and Safety Improvement Categories (BASICs); an investigation, which will consider all seven BASICs, or a combination of on-road safety data and investigation information. The proposed new system would remove all of the existing ratings and create only one rating, "Unfit."

Our primary concern with the proposal is that the new proposed methodology utilizes flawed CSA/SMS data and scores, which pursuant to the FAST Act; Congress has directed the agency to

completely overhaul just two months ago. While we support the goal of an easily understandable, rational safety fitness determination system, this proposal is built on a flawed foundation. Sec. 135 requires FMCSA to complete reforms to the CSA/SMS system before proceeding to a new method of evaluating safety fitness of carriers.

Prior to debate of the bill PMAA joined onto a coalition letter [here](#) opposing efforts to kill this critical language.

THE SUPREME COURT AND CONGRESS PROVIDE PROGRESS ON WOTUS RULING

On Tuesday the Supreme Court, by a vote of 8 to 0, made it easier for landowners to sue the government earlier in the process when the Corps of Engineers first denies a permit under the Clean Water Act. In an opinion by Chief Justice John Roberts, the court determined that plaintiffs no longer have to wait until the full administrative process is over to contest the determination.

The EPA issued a final rule in May 2015 that aimed to expand federal jurisdiction over navigable waters under the Clean Water Act. The rule is important to petroleum marketers because it defines how far federal clean water regulations extend into local land use and permitting decisions including the construction of new gasoline stations and surface water runoff from parking and fueling areas. Many petroleum marketers with bulk storage could also be adversely affected by the revised definition. Last year, PMAA joined with a coalition representing a range of businesses, industries, and commercial interests to voice strong opposition to the revised definition of the Waters of the United States (WOTUS) proposed by the EPA and the U.S. Army Corps of Engineers (COE).

At the most fundamental level, the rule represents an unjustified expansion of Clean Water Act jurisdiction far beyond the limits of federal regulation explicitly established by Congress and affirmed by the courts. The rule gives federal agencies direct authority over land use decisions that Congress had intentionally preserved to the States. It will intrude so far into traditional State and local land use authority that it is difficult to imagine that Congress intended this outcome. GOP leaders in Congress have vowed to pass legislation that more narrowly defines waters subject to the Clean Water Act and earlier this year sent legislation to the President that was then vetoed. Last week the House Appropriations Committee approved language that would prohibit EPA from expending any funds on the WOTUS rule.

The rule was slated to go into effect on August 28, 2015, but a federal appeals court issued a stay while it further reviews the Army Corps of Engineers authority under the Clean Water Act jurisdiction over water features.

HOUSE TO TAKE UP APPROPRIATIONS BILL WITH HOS PROVISION NEXT WEEK

Last week, the House Appropriations Committee marked up its FY 2017 Transportation-HUD Appropriations bill and the full House is expected to vote on the bill sometime next week.

PMAA recently joined 94 other associations in [communicating](#) strong support for language in S. 2844 which would prevent a reverse to the pre-2003 Hours of Service (HOS) rules. Without Congressional action, truckers will have to revert to pre-2003 rules that required drivers to do "rolling recaps" of their hours each week.

PMAA strongly supports the effort to correct the statutory error and is part of a coalition pushing for this in Congress. The Obama Administration has issued a veto threat due to concerns with some policy riders in the bill.

MAY 2016 PMAA SMALL BUSINESS COMMITTEE (SBC) PAC CONTRIBUTIONS

PAC Co-Chairs Brad Bell and Tim Keigher are grateful for the PMAA Small Business Committee (SBC) PAC contributions from the following individuals during the May 1 - 31, 2016 time frame:

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FEDERATED INSURANCE EMPLOYMENT PRACTICES NETWORK HR QUESTION OF THE MONTH

[Federated Insurance's](#) HR Question of the Month focuses on employment-related practices liability issues. June's topic was: While in the process of interviewing for a new position to be filled in the next month, a candidate has disclosed an injury requiring 4-6 months of rehab. How do we proceed? Please click [here](#) to read the response.

For additional information or to discuss this in further detail, please contact your Federated regional representative or PMAA's National Account Executive [Jerry Leemkuil](#) at 800.533.0472.

PMAA MDF CONTRIBUTORS FOR MAY 2016

PMAA's Marketer Defense Fund wants to thank the following individuals for their Marketer Defense Fund (MDF) contributions during the May 1- 31, 2016 timeframe:

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PMAA MEMBER SERVICES SPOTLIGHT FEATURING: LABORCHEX

Resumes: Accepting one may not be enough!

Many jobseekers have resumes. The reasons why are obvious. But remember: A resume tells you only what the person wants to admit. And recent surveys of employers indicate that more than 50 percent of applicants misrepresent themselves on resumes.

So what can you do? Insist that all persons complete your job application, as well. After all, your application will ask specific questions that may not be addressed on a resume, such as "Why did you leave this job?" Also, and surprisingly, the application details may end up be different from those on the resume. Such blatant discrepancies can indicate an intention to mislead you.

A program of legally compliant and consistent background checks will put the odds in your favor that you hire people who have represented themselves honestly.

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