

**STATE OF NEW YORK
DEPARTMENT OF TRANSPORTATION
ALBANY, NEW YORK 12232**

At the Office of the Department of
Transportation in the City of Albany
on February 7, 2013

PRESENT:

Clifford A. Thomas, Acting Director
Office of Modal Safety and Security

CASE 27647 - In the matter of motor carrier compliance with regulations pertaining to hours of service for operators of motor trucks, pursuant to 17 NYCRR 820.6.

APPLICATION OF NEW YORK PROPANE GAS ASSOCIATION AND EMPIRE STATE PETROLEUM ASSOCIATION FOR EXCEPTION TO CERTAIN PROVISIONS OF 17 NYCRR 820.6

The New York Propane Gas Association and the Empire State Petroleum Association having requested the Department of Transportation to modify certain provisions of 17 NYCRR 820.6, due to the imposition of an allocation of product to pipeline customers limiting quantities to .87 of the base period loadings. Customers using the pipeline may normally draw some multiple of their base period purchases. The total drawn during the warmer spring and summer months is assigned a value of one, and winter time purchases are limited to some multiple of that base, usually three. Under normal conditions, a propane dealer taking one million gallons during the base period would be entitled to draw three million gallons during the heating season. This is the first time the pipeline provider has posted an allocation fraction *lower* than the base period in effect, reducing customers to summer time supply levels. Given normal or slightly colder weather supplying customers can only be accomplished by modification to the driver-hour-limitation rule. This means customers served by Selkirk will have to retrieve product from distance points adding many hours to driving times of transporters.

In addition, a powerful Nor'easter has occurred throughout New York beginning February 8, 2013, delivering as much as three feet of snow in some areas which has affected the ability to deliver both heating fuels for businesses and home heating and motor fuels for transportation purposes throughout New York State.

It has been determined that action is necessary to address this emergency situation which could result in a threat to public health and safety and that certain rules should be temporarily modified in order to ensure adequate delivery of heating fuels for heating purposes and the transportation of heating fuels from terminal locations to heating fuel delivery and motor fuels for transportation purposes, throughout New York State. Therefore, it is

ORDERED:

The following hours of service regulations are modified with respect to the intrastate transportation of heating fuels to homes and businesses for heating purposes and the transportation of heating fuels from terminal locations to heating fuel delivery companies and motor fuels for transportation purposes, performed by motor carriers effective at the beginning of February 6, 2013 and terminating at the end of February 20, 2013 unless otherwise ordered:

- (1) Section 820.6 (b) is temporarily extended so that no carrier shall permit or require a driver of a motor truck transporting heating fuels or motor fuels, regardless of the number of carriers using the driver's services, nor shall any driver drive for any period after having been on duty more than 72 hours in any seven (7) consecutive days if the employing motor carrier does not operate motor vehicles every day of the week. Any period of (7) seven consecutive days may end with the beginning of any off-duty period of (34) thirty-four or more consecutive hours.
- (2) Section 820.6 (b) is temporarily extended so that no carrier shall permit or require a driver of a motor truck transporting heating fuels or motor fuels, regardless of the number of carriers using the driver's services, nor shall any driver drive for any period after having been on duty more than 84 hours in any eight (8) consecutive days if the employing motor carrier operates motor vehicles every day of the week. Any period of (8) eight consecutive days may end with the beginning of any off-duty period of (34) thirty-four or more consecutive hours.
- (3) That no motor carrier operating under the terms of this order shall require or allow a fatigue or ill driver to operate a commercial motor vehicle. A driver who informs a motor carrier that he or she is not fit to drive shall be given a minimum of 10 consecutive off-duty hours before the driver may return to service.
- (4) That all regulations pertaining to Commercial Driver License requirements, Controlled Substances and Alcohol Use and Testing requirements and Financial Responsibility requirements remain in force and effect for all motor carriers and drivers.
- (5) That motor carriers that have an Out-of-Service Order in effect, or a suspension or revocation of a New York State Certificate as a motor carrier of property, are not eligible to take advantage of the relief from the regulation that this order provides.

By the Office of Modal Safety and Security

A handwritten signature in black ink, appearing to read "Clifford Thomas", written in a cursive style.

Clifford Thomas, Acting Director