



December 17, 2015

OMNIBUS BILL OUTCOMES FOR FORESTRY

The Appropriations Omnibus spending and tax measure that Congressional leadership published on December 16—and that Congress is expected to vote on and send to the President in short order—includes several items of interest to the forest products value chain. As a follow-up to Wednesday’s Issue Update, a more complete summary follows.

FIA Funding – The Omnibus increases funding for the Forest Inventory & Analysis program to \$75 million for Fiscal Year 2016 (an increase of \$5 million from last year, although not the \$83 million industry had requested).

Treatment of Biomass – The Omnibus’s report language—exerting less authority than the bill, itself—calls upon USDA’s “Bioenergy Program for Advanced Biofuels” to adjust treatment for wood pellets so that this form of fuel is less disadvantaged than at present, compared to liquid biofuels.

Trucking – The Omnibus directs the Department of Transportation **to deliver the much-awaited Truck Size & Weight Study’s final report within 60 days** of the signing of the bill. The bill’s text also **criticizes the claims of “data limitations”** that the study’s Technical Report raised earlier, stating that such claims were invoked inconsistently, suggesting bias within that preliminary Report, calling it “an unsatisfactory document that makes no progress on meeting the Department’s responsibilities under the MAP-21 mandate.” We are also pleased to report the **Omnibus made the pilot provisions for Maine and Vermont permanent.**

The Omnibus outlines well-defined criteria that the Federal Motor Carrier Safety Administration must follow **if it is to lift the current suspension of FMCSA’s Hours-Of-Service Restart** restrictions.

Between the Omnibus and the recently passed Highway Bill, the following **state-specific provisions** will be in place, with respect to truck weight reform:

- Key segments of Interstate in **Wisconsin** and **Michigan** are now open to six-axle log trucks loaded to state-legal weight limits.
- 129,000-pound trucks may now access the **Idaho** Interstate system, provided the configuration is bridge-formula-compliant.

- The Omnibus makes permanent the provisions of the truck-weight pilot project underway in **Maine** and **Vermont**.

H-2B Guestworker Program – The Omnibus alters the newly enacted H-2B Guestworker Wage Rule and “interim final” Program Rule:

- To set **wage-determination criteria** on a more reasonable basis and to allow H-2B employers to use private wage surveys to determine competitive wages.
- To **exempt H-2B workers** who have entered under the normal quotas at any time during the past three years from this year’s 66,000-worker cap.
- To **define “seasonal” as ten months**, as opposed to the nine-month limit now in force.
- To prevent DOL **from implementing the burdensome enforcement scheme** in the “interim final” Program Rule, which placed obstructions on auditing and worker recruitment.

Tax Provisions Made Permanent – The Section 179 small business expensing provision is to be locked in at a \$500,000 limit, with a \$2 million phase-out provision, increasing the limits of purchasing expenses (for qualifying equipment or software) that a business may deduct from gross income. These terms are great improvements over the much smaller limit and phase-out in force during Fiscal Year 2015. It also makes permanent the right of a business with less than \$50 million in annual gross receipts to use the Research & Development credit to offset Alternative Minimum Tax obligations; and for start-up businesses without income tax liability to offset payroll tax with the R&D credit.

Tax Provision Extended – The Omnibus extends through 2019 current rules for expensing 50% of the cost of equipment or software in the current tax year, instead of claiming that value over the course of a longer-term depreciation schedule.

Appropriators had assembled strong support for proposals to include terms affirming the **carbon-neutrality of forest biomass**, for purposes of Clean Power Plan administration; and blocking or limiting the **Waters Of The United States** regulation; and providing a **long-term funding solution for wildfire fighting**. However, **these provisions are omitted** from the Omnibus measure submitted, apparently due to an agreement among House and Senate leadership to bar environmental riders from the bill.

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