

March 18, 2022

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CAPITOL HILL UPDATE

On Tuesday, President Biden signed the Fiscal Year 2022 government funding package into law. The law fully funds government agencies and will provide the funding for implementation of key Biden Administration priorities, including provisions from the Bipartisan Infrastructure Law. The law also includes language that will allow the FDA to regulate synthetic nicotine. Manufacturers must file a Pre-Market Tobacco Application (PMTA) by May 14, 2022, to keep the product on the market while the FDA reviews the products. The FDA will issue a marketing authorization order in response to a submitted PMTA by July 13, 2022.

Congress voted to revoke normal trade relations with Russia, though there is some disagreement in the Senate about when an importation ban of Russian oil should kick in. President Biden has already banned the importation of Russian oil, but Congress wants to codify this policy shift into law.

To mitigate the ensuing recent gas price hikes, Congressional Democrats continue considering different policy responses, with Senator Chris Coons (D-DE) saying “it’s important we get caught trying.” Democrats have floated a variety of ideas, including a gas tax holiday, increased antitrust enforcement around oil prices, and a tax of large oil and gas companies’ profits. None of these ideas have gained traction, however, with many Democrats admitting they could backfire. Other advocacy groups have called on President Biden to invoke the Defense Production Act to force more domestic oil production.

Also this week, Senator Manchin (D-WV) provided additional details over what he could support for a reconciliation bill. This refers to the Build Back Better Act (BBB) – the House-passed \$1.6 trillion domestic policy package focused on tax reform, climate change, and healthcare – that Senator Manchin effectively killed. Senator Manchin said he would support some form of an “all inclusive” climate policy, which would essentially provide tax credits for all forms of clean energy – including hydrogen – and would be paid for by corporate and potentially individual tax rate increases. Senator Manchin emphasized, however, that there are not yet any formal discussions and that the bill could not unfairly target the oil, gas, and coal sectors. Manchin also said a \$4,500 tax credit for EVs is a “nonstarter.” Reconciliation bills can pass with 50 votes, rather than 60, so Senate Republicans cannot block this legislation if it picks up.

If a slimmed down BBB does become reality, some Senate Democrats will seek to include legislation that would require the US electric sector to better plan for power grid upgrades to accommodate the renewable energy rollout. Senators Ed Markey (D-MA), Elizabeth Warren (D-MA), Sheldon Whitehouse (D-RI), and Tina Smith (D-MN) introduced the CHARGE Act of 2022 this week, which would require FERC to establish a minimum reliability standard.

BIDEN ADMINISTRATION CONSIDERS YEAR-ROUND SALES OF E15 TO BRING PRICES DOWN AT THE PUMP

The Biden Administration opened the door to a possible summertime E15 waiver after a bipartisan group of lawmakers called on the White House to lift the ban of summer sales of gasoline with higher blends of ethanol. The White House confirmed that a move to year-round sales of E15 is “in the menu of options” the Biden Administration is evaluating to bring down fuel prices as the summer driving season approaches. Iowa’s congressional delegation in a joint letter to U.S. EPA Administrator Michael Regan last week advocated for the increased use of biofuels. The lawmakers urged the Biden administration to expand the production and potential export of ethanol and biodiesel to meet global energy needs in light of the ban on Russian oil and the global spike in the price of crude. There are numerous factors impact prices at the pump, including crude oil and refinery costs, inflation, supply chain disruptions, transportation costs, speculative bets in the futures markets, credit card interchange fees, boutique fuel costs, federal/state taxes and global uncertainty.

The following day, a bipartisan group of 16 senators, led by Senators John Tune (R-SD) and Dick Durbin (D-IL) sent a letter to President Biden urging him to help curb rising domestic energy costs by enabling year-round sales of E15. Ethanol producers along with other retail groups sent letters to the White House supporting year-round sales of E15.

EMA also sent a letter to the White House urging caution when evaluating a summertime E15 sales waiver stating the EPA lacks the authority to do so under the Clean Air Act and that any cost savings at the pump would be negligible. EMA reminded the Administration of E15 compatibility issues with most UST systems currently in operation and the reduced energy content in ethanol as additional reasons not to lift the summertime ban on E15.

[CLICK HERE TO READ THE LETTER.](#)

CYBER INCIDENT REPORTING PROVISION SIGNED INTO LAW

A landmark provision authored by Senators Gary Peters (D-MI) and Rob Portman (R-OH), Chairman and Ranking Member of the Homeland Security and Governmental Affairs Committee, to enhance our nation’s ability to combat ongoing cybersecurity threats against critical infrastructure has been signed into law as a part of the government funding

legislation that passed this week. The provision would require critical infrastructure owners and operators to report to the Cybersecurity and Infrastructure Security Agency (CISA) if they experience a substantial cyber-attack or if they make a ransomware payment. The new law is a significant step to help combat potential cyber-attacks sponsored by foreign adversaries, including potential threats from the Russian government in retaliation for U.S. support in Ukraine.

There are 16 critical infrastructure sectors, such as energy, whose assets, systems, and networks, whether physical or virtual, are considered so vital to the United States that their incapacitation or destruction would have a debilitating effect on security, national economic security, national public health or safety.

The law will give the National Cyber Director, CISA, and other agencies broad visibility into the cyberattacks taking place across our nation on a daily basis to enable a whole-of-government response, mitigation, and warning to critical infrastructure and others of ongoing and imminent attacks. The legislation strikes a balance between getting information quickly and letting victims respond to an attack without imposing burdensome requirements.

The provision, which is based on the senators' *Cyber Incident Reporting Act*, requires critical infrastructure owners and operators to report to CISA within 72 hours if they are experiencing a substantial cyber-attack and within 24 hours of making a ransomware payment. The provision gives CISA the authority to subpoena entities that fail to report cybersecurity incidents or ransomware payments. Organizations that fail to comply with the subpoena can be referred to the Department of Justice. CISA is required to launch a program that will warn organizations of vulnerabilities that ransomware actors exploit, and to establish a joint ransomware task force to coordinate federal efforts, in consultation with industry, to prevent and disrupt ransomware attacks.

The provisions' requirements are not in effect yet. The federal rulemaking process that will formalize aspects of this legislation will take two years to be completed. The law also requires substantial consultation with industry and creates a federal council to coordinate federal incident reporting requirements to reduce duplicative regulations.

DEMOCRATS CONTINUE TO FIGHT USPS DECISION TO REPLACE FLEET WITH GASOLINE FUELED TRUCKS

House Democrats spearheaded by leaders on the House Oversight and Government Reform Committee are up in arms over the decision of the U.S. Postal Service (USPS) to replace its fleet with almost all gasoline powered trucks. Democrats have asked the USPS's inspector general to investigate the decision, asserting that USPS violated legal environmental requirements.

Specifically, the lawmakers asked Inspector General Tammy Whitcomb to investigate the independent agency by the White House Council for Environmental Quality and the EPA and the environmental analysis underlying the Postal Service's purchase plans, which was conducted after its contract for the next-generation delivery vehicles was already awarded.

Ten Republican senators led by Chuck Grassley (IA), John Cornyn (TX) have urged the President to stop pressing for the USPS to change the decisions about their fleet and to look at "the overwhelming evidence of economic, environmental and security benefits of liquid motor fuels produced across the United States." To read their full comments, see this [letter](#).

DHS AND THE FBI'S CYBERSECURITY ADVISORY

This week, the Cybersecurity and Infrastructure Security Agency (CISA) and the Federal Bureau of Investigation (FBI) released this [joint Cybersecurity Advisory](#) (CSA) to warn organizations that Russian state-sponsored cyber actors have gained network access through exploitation of default multi-factor authentication (MFA) protocols and a known vulnerability. One of the most important security practices to reduce the risk of intrusions remains [MFA](#) and every organization should implement it for all users.

The Advisory notes that now, more than ever, organizations must put their Shields Up to protect against cyber intrusions. Actions that executives and leaders can implement to help protect against this Russian state-sponsored malicious cyber activity include enforcing MFA; reviewing configuration policies; ensuring inactive accounts are disabled uniformly across the active directory and MFA systems; and patching all systems, especially prioritizing [known exploited vulnerabilities](#).

CISA and FBI encourage all organizations to be cognizant of this threat and encourage all organizations to review their [Shields Up webpage](#) to find recommended guidance and actions, and a technical webpage with guidance from CISA and the [Joint Cyber Defense Collaborative](#) (JCDC).

DO GAS PRICES COME DOWN SLOWER THAN THEY RISE?

By Jeff Lenard

The question drivers are asking after oil prices dropped significantly, to under \$100 a barrel.

March 16, 2022

The question we're hearing is why aren't gas prices falling faster now that crude oil prices have dropped?

The answer isn't that cut and dry. Although gas prices are greatly affected by oil prices, linking the two to current prices has its caveats.

Retailers price their fuel based on replacement cost. In other words, the cost to pay for the next shipment of fuel, which is about 8,000 gallons. However, a specific station may receive less if the truck is delivering to multiple locations. The typical convenience store sells more than 5,000 gallons of fuel per day, so it's not unusual to receive daily deliveries, with larger-volume stores seeing multiple deliveries per day. These deliveries during times of rapidly increasing wholesale prices tend to cost more.

When wholesale prices are rising, retailers may hold back the full price increase. It's often like a game of "chicken" to see who blinks first and raises their gas price to pass along the increased wholesale costs. In this scenario, the first retailer to fully adjust prices higher could lose customers to the competition, so most retailers will opt to cut margin and absorb some of the price increase. This is what happened in March 2022 when [wholesale prices jumped by 20 cents](#) or more for multiple days, while gas prices rose by a smaller 10 or so cents per gallon during the same period.

Retail fuel gross margins (before expenses) have averaged about 30 cents per gallon over the past five years. After expenses, which can be 15 to 20 cents per gallon, [a retailer typically sees profit of 10, maybe 15, cents a gallon](#). When margins constrict, like the week of March 7 when they were 18.7 cents per gallon, according to OPIS, retailers are often lucky to break even.

It's also worth noting that most people don't notice that retail gas prices often remain unchanged during the first few days of an oil price increase. When retail prices move, consumers become attuned to what's going on at the pump. After that point, if oil prices and retail gas prices increase, most drivers assume the relationship between the two is immediate.

When oil prices begin to decline from a peak, consumers may expect retail gas prices to immediately follow suit. Instead, the lag continues and can take a few days for any price decreases to be felt at the retail level. There are usually two reasons:

First, just like when wholesale prices climb, retailers may hold their gas prices despite a lower-cost delivery to make up for the margin they lost during the price increase. On any given day, retailers don't know where wholesale prices could be heading, so they try to recapture lost margin as quickly as possible—because they don't know if wholesale prices may rise and margins could tighten. This means that retailers may pass along a smaller percentage of the wholesale price decrease.

Second, there is often softer demand after a period of price increases. When gas prices are a top news story, drivers often fill up in anticipation of higher prices tomorrow, even if it's outside of their regular purchasing pattern of buying gas once a week. When more drivers are topping off gas tanks, demand slows and that affects when retailers schedule their next fuel delivery.

It's often said, although not accurate, that gas prices rise like a rocket and fall like a feather. A prolonged period of rising oil and wholesale gas prices leads to retail price increases, and lower oil and wholesale prices lead to lower retail prices. It just may not appear to happen as quickly as customers would like.

There is one more complication right now. The fuels industry is undergoing the [spring transition to government-mandated summer-blend fuels](#). Since 2000, gas prices have risen by an average of 50 cents from the seasonal low at the beginning of February to the seasonal high, usually in mid-May.

We can't predict where oil prices will go, especially during a time of global uncertainty. We also can't say where gasoline prices will go. But we do know that retailers want lower gas prices just as much as their customers. When prices are low, consumers have more disposable income to make in-store purchases. They're also happier, which is also good for business.

Retailers also get a break from credit card swipe fees—which go up when the price of gas increases. As usual, the credit card companies are one of the winners when prices are high.

PETROLEUM MARKETERS RISK MANAGEMENT ACADEMY OFFERED BY FEDERATED INSURANCE ON APRIL 19-21, 2022

Federated Insurance is offering complimentary risk management training for petroleum marketers on April 19-21, 2022. Through this valuable session, you will discover methods you can use immediately to help protect profits by reducing risk at your business.

Companies that are the most successful at controlling losses and protecting profits have integrated risk management into their overall company culture. Many have designated a key person as their risk manager. This person is supported by your company's top management and is both responsible and accountable for identifying loss exposures and implementing risk management solutions.

This seminar's objective is to help your risk manager learn the exposures specific to the petroleum industry, connect with peers from across the country and apply these best practices within your business.

You can learn more by viewing a brief [video](#) about the Risk Management Academy. To [reserve your spot](#) in the upcoming session or for more information, please contact drm@fedins.com or call 800.533.0472 Extension 455.5958.

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WPMA SCHOLARSHIP FOUNDATION

MARK YOUR CALENDARS FOR UPCOMING EVENTS

April 19, 2022 - Idaho (IPM&CSA) PAC Golf Event – Ridgecrest Golf Course, Nampa Idaho

April 25, 2022 – Hawaii (HEMA) 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 (WI/ED) 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

February 21-23, 2023 – WPMA Convention & Expo – Mirage Hotel– Las Vegas, NV

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Petro Pete: "I believe in a better world where chickens can cross the road without having their motives questioned."

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If you do not wish to receive information via fax or e-mail, please contact WPMA at: (801) 263-9762, Fax: (801) 262-9413, or e-mail: janr@wpma.com. Thanks.

LETTER TO IPM&CSA MEMBERS FROM IDAHO STATE FIRE MARSHALL

BRAD LITTLE
Governor

State of Idaho
DEPARTMENT OF INSURANCE

STATE FIRE MARSHAL'S OFFICE
700 West State Street, 3rd Floor
P.O. Box 83720
Boise, Idaho 83720-0043
Phone (208)334-4370
Fax (208)334-4375
Website: <https://doi.idaho.gov>

DEAN L. CAMERON
Director

KNUTE C. SANDAHL
State Fire Marshal

March 14, 2022

Idaho Petroleum Marketers &
Convenience Store Association
P.O. Box 984
Boise, ID 83701

Dear Association,

Reports of Idahoans dispensing gasoline into un-approved containers have been trickling into my office in response to recent events and the resulting spike in fuel prices. As events continue to escalate, the fire service would expect an increase of these incidents and Idahoans getting creative in capitalizing on fuel purchases at its current price.

In an effort to protect Idahoans, I am urging the Idaho Petroleum Marketers and Convenience Store Association to join me in preventing a potential tragedy by paying particular attention to individuals filling non-compliant containers. Chapter 23, Section 2304.4.1 of the 2018 edition of the International Fire Code, as adopted by the state of Idaho states; *Class I, II, and IIIA liquids shall not be dispensed into a portable container unless such container does not exceed a 6-gallon capacity, is listed or of approved material and construction, and has a tight closure with a screwed or spring-loaded cover so designed that the contents can be dispensed without spilling. Liquids shall not be dispensed into portable or cargo tanks.*

In the event this situation arises, I recommend that the dispenser be immediately shut off and the purchaser be informed of the dangers and code restricting the type of container allowed for fuels.

If you have any questions, please feel free to contact my office.

Sincerely,



Knute C. Sandahl, State Fire Marshal