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## **ENERGY MARKETERS OF AMERICA MEMBERS STORM CAPITOL HILL**

This week, EMA led a successful in-person DC Conference and “Day on the Hill,” securing support on key issues including efforts to alleviate the truck driver shortage through a letter from Rep. Congressman Troy Balderson (R-OH). [Click here](#) to read the letter and continue to urge your lawmakers to sign it by June 8th. Additional issues marketers highlighted included the proposed FDA menthol ban and excessive credit card swipe fees. On the heating fuels front, EMA continued to remind lawmakers how important the National Oilheat Research Alliance (NORA) is to small business heating fuel marketers and the need for a long-term reauthorization of the biodiesel blender’s tax credit. EMA’s fly-in was featured in [Politico Influence](#), a well-read newsletter in Washington, which reported:

“The Energy Marketers of America (formerly known as the Petroleum Marketers Association of America), which represents energy marketers of motor and heating fuel products, is holding its first in-person fly-in since 2019. More than 200 energy marketers representing 47 state associations are set to meet with lawmakers and staff to address truck driver shortages and fuel prices. Rep. Drew Ferguson (R-Ga.) addressed the group during its opening session on Tuesday.”

This week in Washington, the House passed H.R. 7688, the Consumer Fuel Price Gouging Prevention Act by along mostly a party line vote of 217-207. Four Democrats opposed the bill. Earlier this week, EMA sent a [letter](#) to Capitol Hill opposing the bill, arguing that the bill failed to take into consideration the impact on fuel markets of the Russia-Ukraine, truck driver shortage, lack of refining capacity, and excessive credit card swipe fees. The good news is that this is a messaging bill that has no chance of becoming law as it will fail in the Senate.

Democrats continue searching for ways to lower fuel prices. The Department of the Interior announced it would produce a Proposed Plan for oil and gas development in the Gulf of Mexico by June 30, 2022, at the urging of Senator Mark Kelly (D-AZ) and Senator Joe Manchin (D-WV).

Conversations over a domestic policy package are also continuing. There are two main discussions. Senator Manchin convened a bipartisan group of Senators to discuss a clean energy tax credit bill that does not disproportionately target traditional forms of energy. Senator Kyrsten Sinema (D-AZ) wants a hypothetical package to prioritize domestic EV battery production at home, including domestic mining for critical minerals. She also hopes to streamline the permitting process, which puts her in line with Senator Manchin and many Republican colleagues. Senator Manchin does not support enhanced subsidies for EVs themselves but would likely support domestic mining/battery production. In parallel, Senator Manchin is discussing a slimmed-down reconciliation package with Senate Majority Leader Chuck Schumer (D-NY). Senator Manchin would like any package – which would have to pass with 50 Democratic votes only – to focus on inflation and deficit reduction by increasing corporate, individual, and capital gains taxes.

As we have discussed before, the problem with both of these items is timing. The legislative calendar is not kind to Congressional Democrats given the increased focus on campaigning that will come after the August Congressional recess. Democratic leaders are also divided on the best step forward, with many believing that Senator Manchin will never agree to a reconciliation package and that a bipartisan energy tax credit bill may be the only possible avenue.

## **EMA CHALLENGES EPA'S REINSTATEMENT OF CALIFORNIA'S WAIVER UNDER THE CLEAN AIR ACT**

On May 13, 2022, EMA filed a petition with a federal Court of Appeals in Washington, D.C. to review EPA’s restoration of California’s waiver of preemption under the Clean Air Act (CAA), which establishes federal regulation of motor vehicle emission standards. The waiver for California’s Advanced Clean Car program allows the State to set more stringent standards than the federal government, including California’s greenhouse gas emission standards and zero emission vehicle mandate. The waiver, granted in 2013, was withdrawn by the Trump Administration, only to be restored by the Biden Administration in March of this year. The case will test whether California can continue to pursue its authority under the Clean Air Act to establish more stringent programs that will mandate electric vehicle use in the State and hasten the elimination of liquid fuels.

EMA joined a petition filed by the American Fuel & Petrochemical Manufacturers (AFPM) to challenge the reinstatement of the waiver. The petition was also joined by NACS and the Domestic Energy Producers Alliance. A separate petition was filed by 17 states whose positions on the waiver’s reinstatement should closely align with EMA’s. In restoring the waiver, the EPA determined that its prior interpretation of the Clean Air Act, which was used to revoke the waiver, was inappropriate and flawed. Whether the Trump EPA was authorized to revoke the waiver will be at issue in this case, as will the legality of the Biden Administration’s reinstatement. In resolving these questions, the Court of Appeals will likely decide whether any “compelling and extraordinary conditions” unique to the State enable California to go its own way in enacting more stringent greenhouse gas emission standards. California was given special treatment in the Clean Air Act because of certain air quality issues unique to the California, such as the elimination of smog. In reinstating the waiver,

the EPA concluded that California met its “compelling and extraordinary circumstances” requirement, and the reasonableness of this determination will most likely be central to the Court’s considerations. Adding to the importance of the decision is the Clean Air Act’s authorization for other states to follow California’s lead. When the waiver was initially granted, some 14 states adopted California’s more stringent motor vehicle emissions rules.

### **FORMER NORA PRESIDENT JOHN HUBER WINS EMA’S HIGHEST HEATING FUEL AWARD**

Yesterday during EMA’s Board of Directors meeting, EMA 1st Vice Chair Jason Mirabito awarded John Huber, former President of the National Oilheat Research Alliance (NORA), the Bob Greenes award which is periodically given to an individual who has made significant contributions to the heating fuel industry. Serving on the Bob Greenes Committee included: Sharon Peterson (Chair), Apple Oil Company, CT; Bruce Spiridonoff, Tevis Energy, PA., MD; Jason Mirabito, Mirabito Energy Products, NY; Chris Herb, Connecticut Energy Marketers Association, CT and **Steve Clark, Genessee Energy, WA.**

Mr. Huber was instrumental in driving the heating fuels industry to increase energy efficiency and developing vocational education and consumer education campaigns. “I know that having been selected for this award means a great deal to John and it is very well deserved,” said EMA President Rob Underwood.

Robert (Bob) Greenes of Petroconsult, Inc. contributed to the heating fuels industry for 30 years on issues to advance and promote heating fuel.

### **EPA EXTENDS THE RVP WAIVER ALLOWING SALE OF E15 THROUGH JUNE 10, 2022**

The U.S. EPA today extended through June 10, 2022, the temporary emergency RVP waiver issued on May 1, 2022, allowing the nationwide sale of E15 during the summer driving season. The temporary waiver was set to expire on May 20, 2022. The temporary waiver is authorized under Clean Air Act sections during emergency fuel supply shortages (CAA§ 21 (c)(4)(C)(ii)(I), 42 U.S.C. § 7454(c)(4)(C)(ii)(I)) and must be renewed every 20 days. The EPA cites the continuing “extreme and unusual” global fuel supply shortages caused by the war in Ukraine affecting all regions of the nation as justification for the waiver extension. The extended RVP waiver can be viewed [here](#).

EMA has repeatedly warned both the EPA and the White House of the limitations involving the sale of E15 for the majority of retail gasoline stations across the nation. Those limitations include compatibility issues with existing UST system components, motorcycles, boats and small gasoline powered equipment and downstream supply chain disruptions. While the emergency waiver is only valid for a maximum 20 days, the EPA said it will issue waiver extensions “so long as the current fuel supply emergency continues.”

According to the waiver, gasoline that does not meet the applicable RVP requirements may not be introduced into terminal storage tanks from which gasoline is dispensed into trucks for distribution to retail outlets in the designated states **after June 10, 2022**, unless EPA renews the waiver. However, any gasoline meeting the conditions of this waiver that is stored in terminal storage tanks for distribution to retail outlets and wholesale purchaser-consumers may be distributed and sold in subject areas in the designated states until the supply is depleted. Likewise, retailers and wholesale purchaser consumers in these areas may continue selling or dispensing gasoline that meets the conditions of this waiver after June 10, 2022, until supplies in their E15 storage tanks are depleted. **EMA expects temporary waiver extensions to be issued throughout the summer driving season which ends on September 15.**

The year-round sale of E15 is already allowed in reformulated gasoline (RFG) areas because RVP does not apply to RFG. Also, several states including Vermont, Maine, New York and Texas (select counties) have adopted regulations disallowing use of the one-pound RVP waiver for reasons other than control of vehicle emissions. The federal waiver may not apply in these states and further state action may be required. EMA will report additional waiver related developments as they occur.

### **REMINDER: FMCSA EXPANDS NATIONAL HOS WAIVER TO INCLUDE ALL MOTOR AND HEATING FUEL; AMENDS WAIVER TO COVER ALL DELIVERIES**

At EMA’s request, the FMCSA expanded the current nationwide CDL driver hour of service (HOS) waiver (49 CFR 395.3) authorized under the March 13, 2020 presidential declaration of national emergency to include both heating oil and propane. The amended emergency declaration also expands the scope and use of the of the HOS waiver to include all deliveries of gasoline, diesel, jet fuel, ethyl alcohol, heating oil, propane and natural gas. The FMCSA said the expansion to all deliveries of covered fuels is due to the impact COVID-19 has had on the nationwide driver shortage. Moreover, energy marketers are not required to have drivers out due to COVID-19 related illness for the HOS to apply. Instead, it is enough that COVID-19 has caused a driver shortage throughout the industry for the waiver to apply to all energy marketers for all deliveries of the covered fuels. The current waiver is still set to expire on May 31, 2022. EMA requested the expansion after receiving reports of diesel shortages and of heating fuel shortages from heating oil and propane dealers.

It is also highly likely that an extended version of the waiver will be released prior to May 31, 2022. Please [click here](#) to read the waiver.

### **HOUSE TO VOTE ON PRICE GOUGING LEGISLATION**

House Democrats plan to move forward with legislation to prevent price gouging from oil and gas companies despite concerns that the legislation won't reduce gas prices and even as it could lack the votes to pass. NATSO, along with other industry trade groups, sent a letter May 16 to Capitol Hill opposing H.R. 7688 and urging lawmakers to consider all of the market conditions that affect the price of fuel before enacting such legislation. The fuel retail industry opposes price gouging, which harms the industry as a whole.

<http://natso.informz.net/z/cjUucD9taT0zNjQwNzkyJnA9MSZ1PTEzODk2NzM1MCZsaT0zNTMzMzk5Mg/index.html>

### **GASOLINE DEMAND CONTINUES TO GROW**

U.S. gasoline demand in the week ended May 16 grew by 3 percent over the previous week, according to data from GasBuddy. Consumer demand for gasoline was also up 1.8 percent from the four-week average, despite retail pump prices hitting record levels over the past two weeks.

<http://natso.informz.net/z/cjUucD9taT0zNjQwNzkyJnA9MSZ1PTEzODk2NzM1MCZsaT0zNTMzMzk5NA/index.html>

### **STRATEGIC PETROLEUM RESERVE FALLS TO 35-YEAR LOW**

Supplies of crude oil in the U.S. Strategic Petroleum Reserve (SPR) fell by 5 million barrels during the week ended May 13, according to the Department of Energy. Inventory levels in the SPR fell to 538 million barrels, the lowest level since 1987. The Biden Administration plans to release 180 million barrels during the next six months.

<http://natso.informz.net/z/cjUucD9taT0zNjQwNzkyJnA9MSZ1PTEzODk2NzM1MCZsaT0zNTMzMzk5NQ/index.html>

### **NATURAL GAS PRICES PRESSURE MANUFACTURERS**

Spiking U.S. natural gas prices, which have doubled this year, are raising costs for manufacturers across the country. The combination of insufficient gas pipeline capacity and bad weather has hampered gas output this year. Manufacturing executives are concerned that the natural gas industry continues to increase the export of the product during a time of supply chain challenges.

<http://natso.informz.net/z/cjUucD9taT0zNjQwNzkyJnA9MSZ1PTEzODk2NzM1MCZsaT0zNTMzMzk5OA/index.html>

### **WHITE HOUSE WEIGHS INFLATION VS. FARMERS IN BIOFUELS MANDATE**

The White House is expected to announce in coming weeks the amount of biofuels like corn-based ethanol that U.S. refiners must blend into their fuel this year, a decision that will force it to weigh taming consumer inflation against supporting the nation's farmers. White House officials are meeting with groups representing oil and consumer goods as they weigh the possible changes.

<http://natso.informz.net/z/cjUucD9taT0zNjM5NzY4JnA9MSZ1PTEzODk2NzM1MCZsaT0zNTMxOTg4OQ/index.html>

### **STATES SUE EPA OVER CALIFORNIA VEHICLE STANDARD**

Seventeen Republican state attorneys general on Friday announced a lawsuit against the Environmental Protection Agency (EPA) for allowing California to set its own vehicle emissions standards. The lawsuit alleges EPA Administrator Michael Regan violated the constitution's doctrine of equal sovereignty by allowing California an exemption from the Clean Air Act, which the Golden State used to impose more stringent emissions limits than the nationwide limit.

<http://natso.informz.net/z/cjUucD9taT0zNjM5NzY4JnA9MSZ1PTEzODk2NzM1MCZsaT0zNTMxOTg5Mg/index.html>

### **WEEKLY DIESEL RETAIL DROPS 1 CENT**

The national average retail price of on-highway diesel fuel fell by 1 cent per gallon during the week ended May 16 to \$5.613, according to the Energy Information Administration. The decreases came in the Midwest, Gulf Coast and West Coast regions, while most of the East Coast experienced increased prices, including New England, which saw a 9 cent jump.

<http://natso.informz.net/z/cjUucD9taT0zNjM5NzY4JnA9MSZ1PTEzODk2NzM1MCZsaT0zNTMxOTg5NQ/index.html>

### **MARK YOUR CALENDARS FOR UPCOMING EVENTS**

**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

**June 30, 2022** – Idaho (IPM&CSA) Golf Tournament – Canyon Springs GC – Twin Falls, ID

**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: “God gave us mouths that close and ears that don’t. That must tell us something.”***

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