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SENATE READIES SURFACE TRANSPORTATION BILL – BIPARTISAN INFRASTRUCTURE DISCUSSIONS CONTINUE

EMA Members Should Urge Lawmakers to Protect Small Business Fuel Marketers in Future Legislation

Over the next month, the House and Senate will consider reauthorization of the *Fixing America's Surface Transportation (FAST) Act* and continue negotiating a potential large-scale infrastructure package with the Biden Administration. With a historic infrastructure package possible, it is imperative for Congress to hear from EMA member companies and ensure that small businesses are part of the conversation.

As EMA Members highlighted during our Virtual Fly In: Section 1303 of the *Moving Forward Act (H.R. 2 - 116th Congress)* proposed creating an alternative fuel infrastructure grant program, which would provide funds for states to deploy electric vehicle (EV) charging and natural gas, propane, and hydrogen fueling infrastructure along designated alternative fuel corridors. The Senate's *Surface Transportation Reauthorization Act* includes similar language. As proposed, the program could authorize over two billion dollars in grants – all while placing small business energy marketers at a competitive disadvantage as award preference could be given to large companies with multiple locations along major transportation routes. Further, the proposed language could allow utilities to access ratepayer funds to own and operate EV charging stations while also receiving federal grant funds for installation. Ultimately, small businesses should be protected by dedicating a portion of federal grant money to small businesses and by including guardrails to ensure that utilities and non-utilities play on the same field. EMA encourages our members to [TAKE ACTION](#) by sending a letter to their Congressional delegation.

On May 27, Senate Republicans announced a \$928 billion infrastructure counteroffer to the Biden Administration's most recent \$1.7 trillion counter offer. The GOP's revised proposal is significantly higher than its initial \$568 billion proposal. Also this week, Sen. Manchin expressed skepticism of the Biden Administration's EV proposals, arguing that the private sector should bear more of the cost to expand EV charging infrastructure. Manchin said: "What we can do is stimulate and mature the market quicker, but throwing \$82 billion towards the private sector to sculpt it? [...] I just said, 'I don't remember Henry Ford — when he built the Model T — that we went out and built filling stations for him.' I don't remember that happening. We should give them incentives and help them mature it. We're willing to do it, but it shouldn't cost as far as the debt to the nation.

SENATE EPW ADVANCES SURFACE TRANSPORTATION LEGISLATION

While robust infrastructure discussions continue, Congress continues work to reauthorize surface transportation legislation. On May 26, the Senate Environment and Public Works Committee unanimously approved the Surface Transportation Reauthorization Act of 2021 (STRA-21), the highway title of the surface transportation reauthorization. STRA-21 provides \$303.5 billion for federal-aid highway programs for fiscal years (FY) 2022-2026, a 34 percent increase over current law. It is important to note that while this bill is not the same as the "infrastructure" bill being discussed by the White House and Senate Republicans right now. Rather, this bill is the first step towards surface transportation reauthorization in the Senate. It is possible that surface transportation will be rolled into a larger infrastructure package, but for right now, the two efforts are running parallel.

STRA-21 continues the current highway formula programs with funding increases, and authorizes new programs focused on bridge projects, climate change, and reconnecting communities. STRA-21 also invests more than \$5 billion over five years in programs targeting the effects of climate change and provides \$2.5 billion, over a five year period, for EV charging and other alternative fuel infrastructure, including hydrogen, natural gas, and propane.

Although STRA-21 represents the first steps in the Senate on surface transportation reauthorization, significant work remains. Additional Senate committees with jurisdiction over various transportation matters still need to draft their respective sections. Further, it is unclear how quickly the legislation could move to the Senate floor and whether it will be combined with a larger infrastructure bill. The House Transportation and Infrastructure Committee is set to consider their version of surface transportation reauthorization on June 9.

IRS MAINTAINS INTEREST RATE PAID TO TAXPAYERS FOR DELAYED REFUND PROCESSING

The Internal Revenue Service announced this week that interest rates will remain the same for the calendar quarter beginning July 1, 2021. The rates are important to energy marketers who have outstanding refunds (underpayments) due from the IRS for the sale of clear untaxed diesel to state and local governments and other exempt groups. The IRS continues to process the backlog of delayed refunds caused by COVID-19. Those rates include:

- 3% for overpayments (two (2) % in the case of a corporation),
- 0.5% for the portion of a corporate overpayment exceeding \$10,000,
- 3% for underpayments and
- 5% for large corporate underpayments.

Under the Internal Revenue Code, the rate of interest is determined on a quarterly basis. For taxpayers other than corporations, the overpayment and underpayment rate is the federal short-term rate plus 3 percentage points. Generally, in the case of a corporation, the underpayment rate is the federal short-term rate plus 3 percentage points and the overpayment rate is the federal short-term rate plus 2 percentage points. Please see the attached [Revenue Ruling 2021-10 PDF](#), for more information.

EMA JOINS FBETC IN SUPPORT FOR CONTINUATION OF STEPPED-UP BASIS

This week EMA joined the Family Business Estate Tax Coalition (FBETC) in a [letter](#) to the Hill stating our support for the continuation of stepped-up basis and a study from EY illustrating that GDP would decrease by \$100 billion over 10 years if stepped-up basis were repealed by imposing a tax on unrealized gains at death.

Repealing stepped-up basis by imposing capital gains taxes when assets transfer ownership at death would force many family-owned businesses to liquidate assets or lay off employees to cover the tax burden. This new tax would be imposed on top of any existing estate tax liability, further compounding the negative impacts and creating a second tax at death.

SENATE FINANCE COMMITTEE ADDRESSES ENERGY TAX CREDITS

Biodiesel Tax Credit Bill is Introduced

On Wednesday, the Senate Finance Committee advanced a \$260 billion package reforming and consolidating energy tax credits. The Clean Energy for America Act, which advanced on a party-line vote, would consolidate a variety of federal incentives into technology-neutral investment or production tax credits. The bill also increases benefits for EVs, adding a separate \$2,500 credit on top of the existing \$7,500 credit if the vehicle was manufactured at a union or domestic facility. In addition, the bill creates a ten percent bonus above the production / investment tax credit for technologies with less than three percent market penetration, which would include sustainable aviation fuel and clean hydrogen. Committee Republicans criticized the bill for removing deductions for oil and gas investments, though Committee Chairman Ron Wyden (D-OR) countered that “drillers and individuals could still claim deductions over a longer period of time.”

Of note, Senators Chuck Grassley (R-IA) and Maria Cantwell (D-WA) introduced legislation this week to extend the current federal biodiesel tax credit program through 2025. “The biodiesel tax credit has proven to work by reducing our dependence on foreign oil and lowering greenhouse gas emissions,” Grassley said in statement. Reps. Cindy Axne (D-IA) and Mike Kelly (R-PA) also introduced companion legislation to extend the \$1.00 per gallon biodiesel blenders’ tax credit for 3 years.

BIDEN ADMINISTRATION FURTHER DELAYS OSHA EMERGENCY COVID-19 WORKPLACE HEALTH STANDARD

The White House Office of Information and Regulatory Affairs (OIRA) is extending its policy review of an OSHA temporary emergency rule that would require employers to follow workplace health protocols designed to protect workers from contracting COVID-19. The emergency rule is controversial because it is believed to impose a one-size-fits-all health standard onto employers across many different industry sectors. The standard is also expected to require employers to conduct COVID-19 risk assessments and follow OSHA guidelines to prevent workplace infections. The emergency rule is being proposed at a time when the pandemic is subsiding and state and local social distancing and mask mandates are being phased-out nationwide. Employers are concerned that if the emergency rule is implemented, they will be forced to follow an employee health standard that is unnecessary and ill-suited for their industry and workplaces. Employers are telling OIRA that instead of a one-size-fits-all standard, they prefer to follow existing CDC guidelines that can be easily adapted to the needs of individual worksites.

OIRA has been holding listening sessions with stakeholders on the emergency rule since April. However, little is known about OSHA’s COVID-19 standard because it has not been released to the public. Emergency rules are not subject to the normal public notice and comment period that typical federal rulemakings must follow. In addition, OIRA is only holding listening sessions where stakeholders testify before a panel and no questions are asked or answered. Nevertheless, interest in testifying remains so high that OIRA has extended the sessions more than a month past their expected end date. The Biden Administration initially set March 15 as deadline for the OSHA rule, but didn’t send it over to OIRA for final review until April 26th. A final rule is likely to be issued this summer.

FMCSA ISSUES WARNING TO CDL DRIVERS ABOUT USE OF HEMP AND CBD PRODUCTS

The Federal Motor Carrier Safety Administration (FMCSA) issued a “Clearinghouse Update” on May 27, 2021 reminding commercial motor vehicle drivers who are regulated by the FMCSA that they should exercise caution when considering

whether to use hemp and cannabidiol (CBD) products. Specifically, the update stated that it is important for all employees who perform safety-sensitive functions, including CDL drivers, to know:

- The use of CBD and Hemp products could lead to a positive drug test result. The U.S. DOT-regulated CDL drivers should exercise caution when considering whether to use CBD products.
- The U.S. DOT requires testing for marijuana and not CBD.
- CBD products can contain much higher levels of THC than specified on the product label leading to a positive test result for marijuana.
- The U.S. DOT's Drug and Alcohol Testing Regulation, does not authorize the use of Schedule I drugs, including marijuana, for any reason.
- CBD use is not a legitimate medical excuse for a marijuana positive result. Therefore, Medical Review Officers will verify a drug test confirmed at the appropriate cutoffs as positive, even if an employee claims they only used a CBD product.

An EMA Compliance Bulletin on this subject can be downloaded [here](#).

EMA JOINS COALITION URGING GOVERNMENTS NOT TO REQUIRE EMPLOYEES TO VALIDATE THAT MASKLESS CUSTOMERS ARE VACCINATED

This week EMA joined a coalition of 10 associations in sending a [letter](#) to the CDC, DHS and OSHA asking them to urge states not to put the onus of verifying vaccination status on employees, as Oregon has done, as that will put employees at risk.

The letter said retail and other employees are not equipped to enforce state and local health restrictions. If required to do so, it could expose employees to dangerous confrontations with customers and put their safety at a far greater risk than allowing an occasional mask-less entry. Last year, EMA worked with DOE and CDC on language to protect employees from having to enforce mask wearing by retail customers. Similarly, this new effort to protect employees from having to validate the vaccination status of maskless customers is critical for their safety.

EMLI (PMLI) REGISTRATION IS OPEN NOW

We are excited to announce that registration is open for the Energy Marketers Leadership Institute (EMLI)!

EMLI is new and improved and is designed to make it easier and more affordable for WPMA members to attend. The EMLI programs will be delivered online via Zoom video conference and will include breakout rooms so that the leaders who are attending can interact and learn together.

Special thanks to Lea McCullough for her leadership in working with Meridian to design and deliver the EMLI programs. For more information on how to register go to: <https://emamasters.com/energy-marketers-leadership-institute/>

MEMBERS AND ASSOCIATES - YOU CAN CONTRIBUTE!

WPMA welcomes industry-related articles for publication in the WPMA News magazine. All members and associate members of WPMA are eligible to submit items for publication. Articles will be included as space allows, and no self-promoting articles or editorials will be accepted. WPMA reserves the right to edit and make adaption of such contributions to accommodate the magazine's space and style. Please submit articles or content to Jan Roothoff, WPMA Administration/IT Director at janr@wpma.com, or mail to Jan Roothoff, Western Petroleum Marketers Association, PO Box 571500, Murray, UT 84157-1500. Submissions for the Winter edition of WPMA News magazine are due before November 1st. Later submissions will be considered for the Spring issue.

MARK YOUR CALENDARS FOR UPCOMING EVENTS

June 7-9, 2021 - Montana (MPMCSA) Convention -Fairmont Hot Springs Resort - Fairmont, MT

June 21-24, 2021 - Washington (WIED) Convention - Suncadia Resort - Cle Elum, WA

June 24, 2021 - Utah (UPMRA) Summer Golf Classic - Bountiful Ridge GC - Bountiful, UT

July 25-27, 2021 - Oregon (OFA) Annual Conference - Sunriver Resort - Sunriver, OR

August 4-6, 2021 - Idaho (IPM&CSA) Convention - Sun Valley Resort - Sun Valley, ID

August 23-25, 2021 - New Mexico (NMPMA) Convention - Sandia Resort & Casino - Albuquerque, NM

September 15-17, 2021 - Utah (UPMRA) Convention - Sheraton Park City Hotel - Park City, UT

February 22-24, 2022 – WPMA Convention & Expo – Mirage Hotel– Las Vegas, NV

Be sure to subscribe to all of our social channels for great tips, industry trends, and insider information about association activities and upcoming events!



Petro Pete: "Those who have long enjoyed such privileges as we enjoy forget in time that men have died to win them." – Franklin D. Roosevelt

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Classified Ads

EMPLOYMENT OPPORTUNITY

Controller / Accounting Manager, Burley, ID

Lynch Energy is looking for a driven, strategic leader to oversee general accounting operations and processes to ensure timely financial reporting. The Controller performs a critical function for our company, reconciling account balances and bank statements, processing payroll, maintaining general ledger, and preparing month-end close procedures, and reports directly to the CFO. A successful Controller combines excellent analytical skills with a thorough knowledge of accounting principles to analyze financial reports and forecasts, collaborating closely with senior management and office staff to accomplish company objectives.

Must Have Bachelor's Degree or higher in Accounting, Finance, or other relevant field, and 5+ years of experience in a position of leadership in Accounting. Salary \$75k-\$100k, commensurate with experience.

Contact Paul Cundick, HR Director for more information (Paul@lynchoilinc.com) or apply directly at LynchEnergyInc.com

EMPLOYMENT OPPORTUNITIES

Manufactures Rep Sales Agents Wanted

Southwest (California, Arizona, Nevada) and Rocky Mountain (Wyoming, Colorado, Utah, New Mexico) territories

Wilson/Rogers & Associates (www.WilsonRogers.com) is seeking **two** entrepreneurial-minded **Independent Agent / Manufacturers Representatives** to join our team! Agents will be responsible for promoting and supporting contractual manufacturers within the Petroleum Equipment Industry in the Southwestern US and Rocky Mountain regions. Agents will be responsible for maintaining existing clients while developing new relationships with key Distributors, Contractors, Engineers and End Users of equipment used for the safe storage, transfer, monitoring and dispensing of petroleum products and related fluids, as well as lighting solutions for such applications.

Ability to work independently out of a home-based office is required, as is the ability to travel approximately 50% of the time.

If you are an aggressive entrepreneur with a positive attitude and excellent social skills, consider joining our team today!

Please contact or submit resume to:

Steve Latimer

President

Wilson/Rogers & Associates

(206) 743-4592

Steve@WilsonRogers.com