

June 3, 2022

Visit us online at www.wpma.com

WP-06-03-22

EPA LIKELY TO ADOPT HIGHER 2021 RFS ETHANOL BLENDING VOLUME THAN ORIGINALLY PROPOSED

The Biden administration is likely to raise ethanol blending mandates for 2021 above the level set in the agency's proposed rulemaking issued in December. The higher blending mandates are designed to align with actual consumption levels over the same time period. EPA has consistently opposed any blending mandate under the RFS greater than 9.7 percent of projected customer demand as determined by the Energy Information Administration (EIA). In December, the EPA proposed that refiners blend 13.32 billion gallons of ethanol into the fuel pool, a move that angered Farm Belt lawmakers and biofuel producers who said it was too low. However, recent federal figures show U.S. consumption of ethanol at 13.94 billion gallons. The administration is now considering lifting the 2021 blending mandate to align with that level. Administration officials met at the White House on Tuesday to review options for the mandates for the years 2020-2022, which are being set retroactively because of disruptions caused by the fallout of the COVID-19 pandemic.

Small refiners are concerned about the higher blending mandates. The EPA can issue refiners Small Refinery Exemptions (SREs) to blending mandates if they prove the obligations harm them financially. However, the EPA in December proposed rejecting pending applications for the SREs, following a court decision that narrowed the conditions in which the agency can grant them. As a response to the likely SRE denials, the EPA is expected to extend RFS compliance period for small refiners for the years 2019, 2020 and 2021. U.S. renewable fuel credit prices climbed 11 percent on Wednesday. U.S. renewable fuel (D6) credits traded at \$1.50 each, up from \$1.35 each before news of likely higher ethanol blending mandates.

The U.S. EPA has entered into a consent decree with Growth Energy to issue minimum biofuel blending volumes no later than June 3. The consent decree was the result of settlement of a lawsuit between the EPA and Growth Energy over the agency's tardiness in meeting statutory deadlines for issuing blending volumes that ethanol producers and refiners rely on to manage production. EPA will report on the RFS proposal once it is released.

EPA PROPOSED HAZARDOUS AIR POLLUTANT EMISSION STANDARDS MAY EXTEND TO GASOLINE BULK PLANTS, LOADING RACKS AND CARGO TANK VEHICLES

The U.S. Environmental Protection Agency (EPA) is proposing amendments to the emissions standards for hazardous air pollution for gasoline distribution facilities. The EPA is proposing to revise National Emission Standards for Hazardous Air Pollutants (NESHAP) requirements for storage tanks, loading operations, cargo tanks and equipment leaks to reflect cost-effective developments in practices, process, or controls. The EPA is also proposing New Source Performance Standards to reflect best system of emissions reduction for loading operations and equipment leaks.

The EPA has not previously included small gasoline bulk plants, loading racks and cargo tank vehicles in NESHAP standards. However, there are indications that this equipment may become regulated for the first time under the EPA's proposed rule. EPA is examining the 120-page proposed rule to determine if downstream gasoline distributing facilities and cargo tank vehicles could be regulated under NESHAP. If so, this could raise gas prices and put small businesses in a precarious situation. More details to come and again this is just a proposed rule so EPA will have time to comment and meet with Biden Administration officials to ensure small businesses are not impacted.

FMCSA EXTENDS COMMENT DEADLINE ON CONTROVERSIAL SPEED LIMITER PROPOSAL FOR COMMERCIAL MOTOR VEHICLES

The Federal Motor Carrier Safety Administration (FMCSA) announced an extension in the comment period for a proposed rulemaking that would require speed limiters for commercial motor vehicles (CMVs) weighing over 26,000 pounds and operated in interstate commerce. The extension was granted due to stakeholder concern over the short 30-day comment period initially set for the proposed rule. EPA supported the extension based on the potential impact the proposal would have on energy marketers with transportation operations.

The FMCSA, in conjunction with the National Highway Traffic Safety Administration, first proposed a speed limiter rule back on September 7, 2016, that was never acted upon. That rule would have required speed limiters on newly manufactured CMVs. The FMCSA now says it intends to issue a supplemental proposed rulemaking that would require motor carriers to retrofit CMVs manufactured after 2003 with speed limiters. According to the FMCSA, CMVs manufactured after this date are equipped with electronic engine control units (ECUs) capable of governing maximum vehicle speed. Motor carriers would be required to retrofit ECUs by reprogramming them for use as a speed limiter set at a maximum speed that will be determined by the FMCSA in a final rulemaking. As in the previous proposed rule, the new FMCSA proposal would apply to CMVs over 26,000 pounds operating in interstate commerce. The proposed rule would also require motor carriers to maintain the ECU limit for the service life of the vehicle. The FMCSA proposal has already garnered 12,000 public comments on the proposal, the overwhelming majority of which are opposed to speed limiters.

LEGISLATIVE UPDATE

The House and Senate return Monday from Memorial Day Recess with a daunting agenda: both chambers will explore paths to address gun violence and will begin the annual defense policy bill process. The House and Senate will continue negotiating changes to the “China legislation” that promotes investments in domestic technologies to compete with China.

Senate Republicans reported that Senator Joe Manchin (D-WV) is currently more interested in negotiating a slimmed-down reconciliation than continuing bipartisan energy tax credit discussions. As we have written, Senator Manchin has expressed interest in an “inflation-fighting” reconciliation bill that includes clean energy tax credits, raises taxes, and lowers drug prices. While it is clear that the previous iteration of Build Back Better is dead, a new version could be fast-tracked should Senators Manchin and Kyrsten Sinema (D-AZ) agree. The 48 other Senate Democrats would likely agree to any version – no matter how small – ahead of the midterm Congressional elections. Should reconciliation talks fail, Senator Manchin will likely turn towards an end of year bipartisan energy package that would focus simply on extending clean energy tax credits. Still, the Congressional calendar is not favorable to Democrats, as much serious legislating will stall between August and November.

House Republicans began laying out their energy and climate agenda should they win a majority this November. The plan – released from the “Energy, Climate, and Conservation” task force – focuses on an all-the-above energy strategy that promotes private sector innovation to curb emissions. Republicans noted their support for traditional oil and gas, along with cleaner technologies such as wind, solar, small modular nuclear reactors, hydrogen, and carbon capture. The proposal also formalizes Republican opposition to mandates, taxes, or regulations to achieve carbon goals. Many Congressional Democrats criticized the proposal as not serious.

Across the pond, gas prices rose after the European Union announced a deal to impose an import ban on seaborne Russian crude oil six months from adoption and petroleum products after eight months. While there will be exceptions for certain pipelines and countries, the policy change is likely to impose significant economic costs on Russia. Looking abroad to help lower the price at the pump, White House officials confirmed anonymously that President Biden will meet with the Crown Prince of Saudi Arabia – Mohammed bin Salman – during his upcoming Middle East visit.

FMCSA EXTENDS NATIONAL HOS WAIVER WHICH ADDS DIESEL EXHAUST FLUID; WAIVER CONTINUES TO COVER ALL DELIVERIES

At EMA’s request, the FMCSA is expanding 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. The amended emergency declaration also expands the scope and use of the of the HOS waiver to add diesel exhaust fluid (DEF) and still include all deliveries of gasoline, diesel, jet fuel, ethyl alcohol, heating oil, propane, and natural gas now through August 31, 2022. 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. EMA requested the extension because of potential diesel and DEF shortages.

DHS SECURE TOMORROW SERIES TOOLKIT

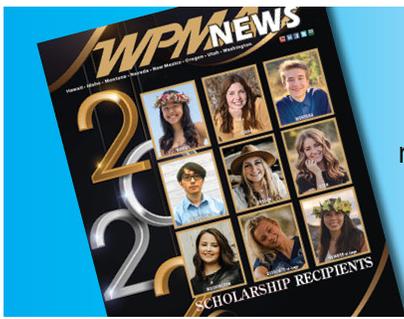
The DHS Cybersecurity and Infrastructure Security Agency (CISA) wants all Critical Infrastructure Partners to be aware of the first iteration of the Secure Tomorrow Series Toolkit, interactive and thought-provoking products for critical infrastructure stakeholders on how to use strategic foresight methods to identify emerging risks and risk management strategies to secure your critical infrastructure systems.

Established by CISA’s National Risk Management Center (NRMC), the Secure Tomorrow Series effort is a strategic foresight capability focused on anticipating future risk drivers, critical uncertainties, and trends—such as aging infrastructure, global pandemics, and emerging technologies—to help enhance organizational resiliency. Central to the effort is the selection of topics with the potential for highly disruptive impacts to multiple National Critical Functions (NCFs) in the next 5-20 years. The three topics are anonymity and privacy, trust and social cohesion, and data storage and transmission.

The NRMC engaged with subject matter experts, thought leaders, and others from academia, think tanks, the private sector, and National Labs to refine the knowledge base for each topic and help lay the foundation for the Toolkit’s products. These products include game templates, facilitator and player guides, read-aheads, and other materials uniquely designed to allow users to self-facilitate and conduct four different strategic foresight activities relevant to their organization, region, or sector.

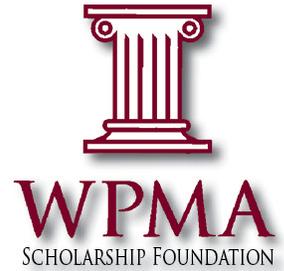
In a constantly changing and complex operating environment, using strategic foresight to explore alternative futures and potential drivers of change is a potent technique for improving decision-making to manage uncertainty.

- To learn more, read CISA’s blog article, [Secure Tomorrow Series Toolkit: Using Strategic Foresight to Prepare for the Future](#).
- Download/share the Secure Tomorrow Series Toolkit.



Look for the
2022 WPMA
scholarship
recipients in the
WPMA News
Summer
Magazine

2022 SCHOLARSHIP RECIPIENTS!



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

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: “It’s never too late to be what you want to be. Unless you want to be younger.”

© 2022 Western Petroleum Marketers Association - All rights reserved. No part of this work may be reproduced or copied in any form or by any means - graphic, electronic, or mechanical, including photocopying, recording, or otherwise. The information herein is also intended for the sole purpose of members of the Western Petroleum Marketers Association (WPMA). Any other use is strictly prohibited without the express written consent of the WPMA.

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.