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OSHA RELEASES COVID-19 EMERGENCY TEMPORARY STANDARD

Nearly three months after its original due date, the Occupational Safety and Health Administration (OSHA) finally released its much-anticipated COVID-19 Emergency Temporary Standard (ETS). To the surprise (and relief) of many, the ETS is much more limited than anticipated and only applies to healthcare and healthcare support service workers.

As we previously reported, one of President Biden's first actions upon assuming office was to issue an Executive Order on COVID-19 safety which, among other things, directed OSHA to "consider whether any emergency temporary standards on COVID-19, including with respect to masks in the workplace, are necessary, and if such standards are determined to be necessary, issue them by March 15, 2021." OSHA indicated that it planned to release an emergency temporary standard but missed the March 15 deadline. Then on April 27, the Office of Management and Budget's Office of Information and Regulatory Affairs (OIRA) confirmed that OSHA had submitted an emergency temporary standard for review – teeing off more than a month of anxious anticipation from businesses and advocacy groups across the spectrum.

Of course, for businesses, the big concern was that the emergency temporary standard (which was submitted to OIRA before the CDC announced its latest updated recommendations on face masks) would impose requirements that would create additional burdens and hurdles for them just as the economy has begun to fully reopen.

For most businesses, these concerns were allayed by the fact that the ETS (which spans just over 900 pages) makes it clear that it only applies to "settings where any employee provides healthcare services or healthcare support services." OSHA estimates that around 10.3 million workers will be covered by the new ETS. Of course, businesses with covered employees will have their work cut out for them to make sure that they are conforming with each and every requirement of the ETS, which includes provisions related to PPE, the physical workplace and paid leave for employees so they can get vaccinated and recover from vaccines. That said, these businesses may be relieved to find that many of the provisions are consistent with prior OSHA guidance and that they are already in compliance in many respects.

For businesses that are not covered by the new ETS, OSHA simply updated its Guidance on Mitigating and Preventing the Spread of COVID-19 in the Workplace. Though many employers have relied on this Guidance to assist them over the last year, compliance with the OSHA Guidance (as opposed to the ETS) is voluntary. That said, since many jurisdictions have drawn from the guidance to create their own state and local rules – some of which are mandatory – it will be important for businesses of all stripes to make sure they are staying in compliance with the rules that apply to them.

CONGRESSIONAL UPDATE***House T&I Committee Advances Highway Bill***

This week, President Biden ended bipartisan infrastructure negotiations with Sen. Shelley Moore Capito (R-WV) after both sides remained hundreds of billions of dollars apart and could not agree on pay-fors. Now, infrastructure discussions are being led by a group of ten bipartisan Senators, who late Thursday announced a tentative infrastructure agreement. Although the plan has not been unveiled, the proposal would not raise taxes and would fund infrastructure at \$1.2 trillion over eight years. Earlier this week, Senator Romney stated the Senators were considering indexing the gas tax as a potential offset. The White House stated it will work with the Senators in the days ahead to flush out details on policy and pay-fors.

Some Democratic Senators have argued that the party should pursue reconciliation to pass a larger package without Republican votes. However, it is not certain Democrats would be able to do this, as several Senators, most notably Joe Manchin (D-WV) and Kyrsten Sinema (D-AZ), still remain opposed to reconciliation. Democrats are also conflicted over climate provisions. This week, White House Climate Advisor Gina McCarthy suggested that the White House would accept an infrastructure package without significant climate provisions, prompting frustration from progressive House and Senate Democrats. Former Vice President Al Gore spoke with President Biden this week, urging him to not backtrack on his climate commitments.

Meanwhile, the House Transportation and Infrastructure Committee passed a \$547 billion package early Thursday aimed at fixing the nation's roads and transit systems. In a marathon 19-hour meeting that began on Wednesday, the Committee considered more than 200 amendments to the transportation package. Democrats said the bill would lay the foundations for President Biden's proposed \$2.3 trillion American Jobs Plan. The bill includes \$343 billion for road and bridge construction, as well as highway safety measures, an increase of more than 50 percent over the last transportation bill Congress passed in 2015. The bill seeks to ensure that states maintain existing highway infrastructure before adding new

lanes and would create programs aimed at reducing carbon emissions from driving.

Click [here](#) to read provisions of the bill which would have a direct impact on small business energy marketers. Please keep in mind that most of these issues will likely not survive when the House negotiates with the Senate.

The bill also includes \$5.67 billion in "Member Designated Projects," also known as earmarks. Democrats submitted roughly 70 percent of the chosen projects, with Republicans submitting the remainder.

While drafting of surface transportation legislation is traditionally a bipartisan process, Transportation and Infrastructure Committee Ranking Member Sam Graves (R-MO) released a statement after the bill's introduction, noting, "despite a narrower margin of power and the President's call for bipartisanship, the Majority never seriously considered incorporating Republican priorities and reaching a compromise." Throughout the markup, Republicans argued that the bill limits state flexibility in decision-making, wastes taxpayer money on projects not related to infrastructure, and fails to streamline project delays. Only two Members, Rep. Jennifer González-Colón (R-PR) and Rep. Brian Fitzpatrick (R-PA), crossed party lines to vote in favor of the bill.

The INVEST in America Act represents the House's first step on surface transportation. House Majority Leader Steny Hoyer (D-MD) is planning to hold a vote on the legislation the week of June 28, and Chairman DeFazio stated that the House and Senate will possibly conference at the end of the summer. Congress must pass a new surface transportation bill, or another extension, before the FAST Act expires on September 30, 2021. There is no requirement or legislative deadline for infrastructure legislation. It is possible that surface transportation reauthorization and infrastructure legislation will be combined.

LABOR LEADERS ASK BIDEN TO WAIVE RFS ETHANOL MANDATE TO PRESERVE REFINERY INFRASTRUCTURE JOBS

Labor leaders are pressing the Biden administration to waive renewable fuel blending mandates under the RFS in response to requests from governors, mayors and others to take immediate action. In a letter to the President, labor union leaders requested urgent action to "reduce the skyrocketing cost" of biofuel blending credits (RINs) "and preserve American union jobs." According to union leaders, the high-cost U.S. refiners must pay for RINs, particularly ethanol credits, siphons off money for refinery upgrade projects that typically employ thousands of union workers. The price of RINs has more than doubled since the start of the hitting an all-time high of \$1.97, according to RIN markets analysts. The biofuel industry opposes any reduction in blending mandates under the RFS and say refiners can avoid the high cost of RINs by investing in more blending infrastructure to generate their own RINs.

BIDEN ADMINISTRATION ANNOUNCES ROLL BACK OF TRUMP-ERA WATERS OF THE U.S. RULE

The Environmental Protection Agency (EPA) announced this week that it plans to revise a Trump-era rule that limits the types of water bodies that warrant federal protection from pollution. The scope of the waters of the U.S. rule is important to energy marketers because it largely determines whether costly land use restrictions will be imposed on new building or expansion projects or whether such projects can move forward at all. The Trump rule limited which waters receive protections under the Clean Water Act, excluding certain types of wetlands and streams, including those that only appear as a result of rain or snow melt. The Trump rule replaced an Obama-era rule that expanded protection for those streams and wetlands in order to prevent pollution from reaching larger sources, including those used for drinking water.

According to the EPA and Army Corps of Engineers, the Trump-era rule resulted in a 25 percent drop in waters that qualify for Clean Water Act protections. This week, the Administration instructed the Justice Department to seek a court order requiring the rule be sent back to the EPA and Army Corp of engineers for a new rulemaking. In new court declarations filed this week, Justice Department lawyers argued that the rule must be sent back for reconsideration because statements in the rule's preamble call into question whether the EPA and Army considered scientific evidence and water quality impacts when narrowing the scope of protection for these waters. The language at issue in the preamble is a statement by EPA and Army that they did not rely on agency documents in the record when narrowing the types of water that merit protection, a clear violation of both the Clean Water Act and the Administrative Procedure Act which establishes the process federal agencies must follow when promulgating rules. The EPA said it expects to issue a proposed rulemaking on a new waters of the U.S. later this year.

TC ENERGY TERMINATES THE KEYSTONE XL PIPELINE PROJECT

On Wednesday, thirteen years after the initial proposal, TC Energy Corporation and its partner the Government of Alberta, announced the termination of the \$9 billion Keystone XL Pipeline Project.

On January 20, his first day in office, President Biden revoked the pipeline's permits, thereby reversing former President Trump's approval of the line. The company said it would continue to coordinate with regulators, stakeholders and Indigenous groups to meet its environmental and regulatory commitments and ensure a safe exit from the project.

The Administration is under further pressure from environmentalists to shut down other pipelines like Enbridge Line 3 and the Dakota Access Line. House Energy and Commerce Committee Republicans have announced a forum to discuss the cancellation, which will include leaders of America's Power; the Aluminum Association; and the American Action Forum.

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

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

June 29, 2021 - Idaho (IPM&CSA) Magic Valley PAC Fund Golf - Canyon Springs GC - Twin Falls, ID

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 2, 2021 - Idaho (IPM&CSA) Teton Valley PAC Fund Golf - Teton Reserve GC - Victor, ID

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: "I believe we should all pay our taxes with a smile. I tried, but they wanted CASH."

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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