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NEW DRUG AND ALCOHOL TESTING CUSTODY AND CONTROL FORM MUST BE USED BEGINNING 8/30/21

Last year, the Office of Management and Budget (OMB) approved a new Department of Health and Human Services (HHS) Federal Drug Testing Custody and Control Form (CCF). The form must be used by employers performing drug and alcohol testing for CDL drivers. In order to allow for an orderly transition to the new form, the OMB authorized the use of the old CCF form through August 29, 2021. However, beginning August 30, 2021, DOT-regulated employers and/or their service agents (specimen collectors, laboratories, Medical Review Officers) must use the new form. The new CCF form is available [here](#). Some laboratories may have already contacted employers and collectors with information about the delivery of the revised CCF form. A list of HHS certified laboratories can be found [here](#).

Employers or collectors should monitor your existing supply of old CCF forms and coordinate the delivery of the new revised CCF form with an HHS-certified laboratory. Any employer or agent using the old CCF form after August 29, 2021, must provide a signed statement (i.e., a memorandum for the record) to accompany the CCF form to the testing laboratory. The memorandum must state that the incorrect form contains all the information needed for a valid DOT drug test, and that the incorrect form was used inadvertently or as the only means of conducting a test, in circumstances beyond the employer's or agent's control. The statement must also list the steps taken to prevent future use of expired Federal forms for DOT tests. The employer or agent must supply the memorandum on the same business day on which use of the expired form was discovered by fax or courier. Use of the expired form will only be deemed "corrected" if test of the accompanying specimen occurs at an HHS-certified laboratory. Additional information is available [here](#).

CAPITOL HILL UPDATE

This week, the Senate passed the \$1.2 trillion bipartisan infrastructure package, the Infrastructure Investment and Jobs Act, by a vote of 69-30, with several senior Republican Senators voting in favor - notably Senate Minority Leader Mitch McConnell (R-KY). The bill was a product of bipartisan negotiations between ten Senators, and includes historic spending on roads, bridges, rail, and airports, along with electric vehicle and other clean energy investments. The bill will now go to the House where it faces potential challenges from liberal Democrats and timing is uncertain.

The BIB would provide \$7.5 billion in grant funding for states to partner with the private sector to build out EV charging, in which \$2.5 billion is set aside for alternative fuel corridors for EV charging, hydrogen, natural gas and propane infrastructure. The bill also appropriates \$7.5 billion for clean energy transportation. This \$15 billion for clean transportation is significantly less than the \$174 billion President Biden requested specifically for EV charging. The BIB does not include a gas tax increase or allow EV charging at rest areas. It also does not include EV user fees or additional tax credits to purchase EVs. Furthermore, the BIB does not include retrofit requirements to install automatic emergency braking systems or require rear underride protection. Most of the bill is paid for through repurposing unspent pandemic relief funds and unspent unemployment benefits.

Immediately after approving the bipartisan package, Senate Democrats approved a budget resolution by a simple majority vote. This maneuver formally begins the reconciliation process, which Democrats can approve on party-line vote in the House and Senate. The budget resolution outlines "instructions" to set initial funding allocations for a \$3.5 trillion spending package. Details in the budget resolution are sparse, which is especially the case for most clean energy incentives, which are largely funded through tax revision. At a high-level, the resolution and the accompanying detailed memorandum, focus on key Biden Administration priorities, including clean energy technology, electric vehicle investments, and the establishment of a methane polluter fee. The resolution authorizes \$1.75 trillion in new borrowing, meaning a minimum of \$1.75 trillion in new revenue largely funded by several proposed tax increases, including:

- Increased tax rates on corporations and the wealthiest Americans.
- Increased IRS tax enforcement; and
- A carbon import fee, which would essentially put tariffs on imported goods produced with high carbon-emissions (or from high carbon-emitting countries).

The rate of the proposed tax increases should be viewed as aspirational as many moderate Democrats are unlikely to support such progressive tax policies. Before passing the resolution, the Senate adopted several non-binding amendments, including:

- Amendment from Senator Deb Fischer (R-NE) that would limit eligibility for EV tax credits to individuals making less than \$100,000 per year and setting maximum eligible car prices at \$40,000.
- Amendment from Senator John Thune (R-SD) to preserve step-up in basis, which is designed to prevent large capital gains taxes.

With passage of the budget resolution, each Senate Committee received instructions to implement their budget timelines and prepare legislative text by September 15. While all Senate Democrats voted in favor of the resolution, Senators Joe Manchin (D-WV) and Kyrsten Sinema (D-AZ) have expressed concern at the \$3.5 trillion price tag, and Senator Manchin in particular is concerned with some of the climate provisions.

House Speaker Nancy Pelosi (D-CA) has said she will not allow a vote on the Senate-passed infrastructure package until the Senate has passed a reconciliation package. The House will return early from August recess to pass a budget resolution (similar to what the Senate just passed). Then, the Senate will begin formally constructing a reconciliation package this fall. The political dynamics of the infrastructure package and reconciliation package are tricky, as Congressional Democrats have limited vote margins and must satisfy the moderate and progressive wings of the Caucus. While moderate House Democrats would prefer an immediate vote on the Senate-passed infrastructure package, progressive House Democrats have refused to consider the package until the Senate passes a reconciliation package, which will not occur until the fall.

Also, this week, EV industry stakeholders formed a new trade association to mobilize private capital and forge public-private partnerships to accelerate EV charging infrastructure. The National EV Charging Initiative includes a variety of electrical utilities, environmental groups, and automobile industry members, including:

- Alliance for Automotive Innovation (which includes BMW, Ford, Toyota, Uber, and Lyft)
- Alliance for Transportation Electrification (which includes GM, Ford, and Honda)
- Sierra Club
- International Brotherhood of Electrical Workers
- Environmental Defense Fund

WHITE HOUSE ASKS FTC TO INVESTIGATE U.S. GASOLINE PRICES

In an August 11 letter to Federal Trade Commission (FTC) Chair Lina Khan, Brian Dees, the Director of the National Economic Council, asked the FTC to "Use all of its available tools to monitor the U.S. gasoline market and address any illegal conduct that might be contributing price increases for consumers at the pump." Citing the asymmetrical phenomenon in oil and gas markets in which gas prices tend to rise more quickly to adjust to spikes in oil prices than they fall when the price declines, Deese said that "the President wants to ensure that consumers are not paying more for gas because of anti-competitive or other illegal practices. This action by the White House to address rising gasoline prices has been used frequently by prior administrations of both parties. EMA General Counsel will be responding to the letter shortly.

Meanwhile, White House national security adviser Jake Sullivan called on OPEC to increase their production amid pandemic-related cuts. Click [here](#) for the story.

FMCSA ISSUES DRUG AND ALCOHOL CLEARINGHOUSE REGISTRATION PROCESS FOR STUDENT DRIVERS

The Federal Motor Carrier Safety Administration (FMCSA) updated the CDL Driver Drug and Alcohol Clearinghouse registration process to clarify how student drivers with a commercial driver's license (CDL) or commercial learner's permit (CLP) should register. The Clearinghouse is a secure online, searchable electronic database where all CDL driver drug and alcohol violations are now posted. The Clearinghouse provides employers, CDL drivers, medical review officers (MRO), substance abuse professionals (SAP), state driver licensing agencies (SDLA) and enforcement authorities real-time information about CDL drivers drug and alcohol program violations. The Clearinghouse contain records of violations of drug and alcohol prohibitions, including positive drug or alcohol test results, test refusals, completion of return-to-duty (RTD) process and follow-up testing plan. CDL drivers, CLPs, employers, MROs, SAPs and SDLAs must all register to use the database.

What is The Registration Path for Student Drivers?

The registration path student drivers select depends on their employment status:

- Student drivers who are *employed by a motor carrier* must **Register as a Driver**
- Student drivers in training programs that are *not affiliated with or operated by motor carriers* must **Register as a Student Driver**

Student drivers who are enrolled in training programs that are not affiliated with or operated by motor carriers must designate a consortium/third-party administrator (C/TPA) to fulfill their drug and alcohol testing requirements.

What is a C/TPA?

A C/TPA is a service agent that performs required actions to help keep an employer or, in this case, a student driver, compliant with the DOT/FMCSA Drug and Alcohol Testing rules and regulations. Student drivers should contact a C/TPA before designating them in the Clearinghouse to act on their behalf. A driver training school may register in the Clearinghouse as a C/TPA to conduct queries and/or report violations on behalf of the student driver.

How Can a Student Driver Register?

Download step-by-step registration instructions below:

- [How to Register as a Driver](#)
- [How to Register as a Student Driver](#)

Additional instructional guides and learning materials are available in the [Clearinghouse Learning Center](#).

EXXONMOBIL AND CHEVRON AIM TO PRODUCE LOWER EMISSION FUELS

ExxonMobil and Chevron aim to produce more sustainable low carbon liquid fuels without having to spend billions to upgrade their refineries. Click [here](#) for the story.

USEFUL TOOL FROM NOAA'S NATIONAL OCEAN SERVICE, NATIONAL WEATHER SERVICE AND NATIONAL HURRICANE CENTER

This week, NOAA's National Ocean Service (NOS)/ Center for Operational Oceanographic Products and Services (CO-OPS) activated Storm QuickLooks, which provides real-time data as storms come in. Storm QuickLooks is a risk management tool and is part of the Coastal Inundation Dashboard. Click [here](#) to access it.

The Dashboard provides real-time and historic coastal flooding information at coastal water level stations. The product highlights observed water levels with respect to established coastal flooding thresholds and integrates National Weather Service (NWS) coastal flood advisories, watches and warnings along with active tropical cyclone information from the National Hurricane Center (NHC). The storm QuickLooks product is a custom Dashboard with a unique URL, highlighting real-time water levels at locations impacted by an active tropical cyclone along with the latest storm track and any active watches or warnings issued by NHC.

With the increased demand for inundation-related products and services, NOAA's CO-OPS recently established a Coastal Hazards Branch to serve as an operational focal point for NOS coastal inundation services and begin to link long-term changes in sea level to an increased frequency of high tide flooding events.

EMA BACKS REMANDING CLIMATE CASE TO FEDERAL COURT

Last week, the Energy Marketers of America (EMA), NACS and National Association of Manufacturers (NAM) filed an opposition to a Rhode Island (RI) federal court's remand of a state climate challenge against major oil companies. Citing a May decision of the U.S. Supreme court finding in BP v. Mayor and City Council of Baltimore, a climate change case in which EMA submitted an amicus brief in support of BP and the other major oil company defendants, EMA argued that the case should be tried in federal court. Although the case involved a procedural issue related to whether the case would proceed in a federal or state court, it is of significant importance in determining whether cities, like Baltimore, can ultimately prevail. State courts, applying traditional state law causes of action, have allowed the cases to proceed to where they will ultimately be tried by a jury. Federal courts, on the other hand, are considerably more likely to decide the cases under federal common law, which would warrant a dismissal of the cases before the huge potential liability and enormous costs of litigation leave the defendants with no alternative but to settle. As one federal court of appeals recently stated in affirming the dismissal of a climate change case brought by the City of New York, the responsibility for global warming cannot be shifted to energy producers when "every single person who uses gas and electricity contributes to global warming."

EMA got involved in the Baltimore case as well as other cases including RI after local marketers were added to the list of (mostly major oil company) defendants as part of a strategy to defeat federal jurisdiction and keep the cases in local state courts. The Supreme Court's opinion could dampen the enthusiasm of coastal cities, like Baltimore, to continue to bring these cases against energy producers and marketers. Although it dealt only with a procedural issue, the decision could also hasten the day when one of the cases proceeds to the Supreme Court for a substantive review and, very likely, a decision that the effects of global climate change are not the responsibility of the petroleum industry.

NHTSA PROPOSED FUEL EFFICIENCY STANDARD AIMS FOR FLEETWIDE AVERAGE OF 48 MPG BY 2026

The National Highway Traffic Safety Administration (NHTSA) this week issued a proposed rulemaking that would require automakers to achieve an 8 percent annual improvement in fuel efficiency for model years 2024-2026. The new fuel efficiency requirements are significantly more stringent than the 1.5 percent annual gains in fuel efficiency set by the Trump administration in 2020. The NHTSA proposed fuel efficiency targets translate into a fleetwide standard of approximately 48 mpg, 8.7 mpg greater than the Trump Administration's goal. However, these are laboratory attained standards. Real world fuel economy is generally 20 to 30 percent lower than fuel economy achieved in the laboratory.

NHTSA is also proposing two alternative fuel economy standards to the one outlined above: A less stringent alternative based on the California Air Resources Board fuel efficiency standards that would achieve a 5.3 mpg improvement over the Trump era standard, and a more stringent efficiency standard that are the same the Obama administration set in 2012 that would result in a 11.9 mpg more than the Trump 2020 standards would have achieved. The NHTSA proposed rule follows the EPA's separated proposed rulemaking issued last week to require more stringent tailpipe emissions for model years 2023 through 2026. The EPA's proposal is part of President Bidens program to achieve a 50 percent market share for electric vehicle sales in the US by 2030. NHTSA will take public comment on its proposal for 60 days upon publication in the Federal Register. EPA is taking public comment on its own tailpipe emissions proposal through September 27, 2021.

COORDINATING RESEARCH COUNCIL RELEASES STUDY ON THE CAUSE OF ACCELERATED CORROSION IN UST SYSTEMS

The Coordinating Research Council (CRC), a non-profit research arm of the petroleum equipment and automotive industry, has released a final report on a major research project aimed at identifying causes of accelerated corrosion in underground storage tank systems containing ultra-low sulfur diesel fuel (ULSD). The study is important to energy marketers because accelerated corrosion is an ongoing problem that is more widespread than initially thought. Accelerated corrosion often resembles used coffee grounds and can quickly form on and disable newly installed UST equipment including submersible turbine pumps, drop tubes, sensor probes and certain dispenser components in as little as a month.

EMA has been an active participant in accelerated corrosion studies since the phenomenon was first identified in 2008. The CRC study follows earlier ULSD accelerated corrosion research conducted by the EPA and the Clean Diesel Fuel Alliance. Taken together, these earlier studies conducted in the field, suggest accelerated corrosion of drop tubes, submersible turbine pumps, sensor probes and dispenser components are widespread and involves microbial activity possibly brought on by ethanol contamination and water intrusion. In contrast, CRC study focused on laboratory, controlled-condition tests using corrosion "coupons," small strips of metal subjected to various microbial activity. This in-lab approach was taken to isolate specific factors that could influence corrosion including sulfur content, water, microbes in the fuel, biodiesel content, ethanol contamination, and diesel fuel additives. In the study, different statistical measures were used to determine which factors truly impact corrosion. However, no conclusions were drawn on whether any one factor slightly increased or decreased corrosion. Nevertheless, the key findings of the study can be summarized as follows:

- Water, more than any other factor, clearly linked to corrosion. All test conditions with free water had corrosion.
- Microbial growth in tanks which have water links to increased corrosion. It is less clear that externally added microbe colonies caused greater corrosion than natural colonies.
- Fuel sulfur content did not have a strong correlation with corrosion. However, some analyses showed an increase in corrosion rates with increasing sulfur content.
- Biodiesel content in fuel also did not have a strong or clear correlation with corrosion.
- Ethanol has been found at very low levels in diesel fuel, likely due to cross contamination in handling. The combination of ethanol and some microbes can lead to acetic acid formation which might contribute to increased corrosion on the tank bottom or in the vapor space above the fuel level.

The full CRC accelerated corrosion report can be downloaded [here](#).

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

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

December 2, 2021 – Washington (WIED) Holiday Party – Little Creek Resort & Casino – Shelton, WA

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

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Petro Pete: *"Friday the 13th is still better than Monday the whatever."*

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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.