

September 3, 2021

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WP-09-03-21

Nevada marketers highlighted by the Governor's Office of Energy for their efforts to ensure that all South Lake Tahoe evacuees have fuel to escape the fire.



NV Office of Energy
@NevGOE

...

Replying to @NevGOE

Members of the Nevada Petroleum Marketers and Convenience Store Association, in cooperation with [@NVEmergencyMgmt](#), will transport additional fuel supplies to Carson City and Douglas County to ensure [#CaldorFire](#) evacuees can reach their destination.

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FMCSA EXPANDS NATIONWIDE COVID-19 HOS WAIVER TO FUEL MARKETERS

On Monday, the FMCSA extended the nationwide hours of service waiver (HOS) through November 30, 2021. Also, at the request of EMA, the FMCSA added petroleum products to the list of covered products deemed essential for COVID-19 emergency relief. This means that CDL drivers hauling certain petroleum products are now covered by the national HOS waiver. Specifically, the HOS waiver covers drivers hauling gasoline, diesel fuel, jet fuel and ethyl alcohol. EMA has also been working closely with the FMCSA to have drivers hauling heating oil, kerosene and propane added to the list of qualifying petroleum products subject to the HOS waiver. We expect to have an answer on those products very soon.

EPA ISSUES SECOND RVP WAIVER FOR LOUISIANA AND MISSISSIPPI

The U.S. EPA issued a second RVP waiver for Louisiana and Mississippi on September 2, 2021. The EPA issued this latest RVP waiver due to an "extreme and unusual fuel supply circumstance" caused by widespread power outages, refinery shutdowns, and flooding caused by the hurricane Ida. Under the temporary waiver, regulated parties may produce, sell and distribute winter gasoline in Louisiana and Mississippi with a Reid vapor pressure of no more than 11.5 psi before the addition of ethanol. The waiver is effective immediately and will continue through September 15, 2021. The EPA said the waiver may be modified, terminated or extended as conditions warrant. The full text of the waiver may be seen [here](#).

FTC TO RAMP UP FOCUS ON GAS STATION ACQUISITIONS

As part of the Biden Administration's efforts to stem the recent increase in retail gasoline prices, the Federal Trade Commission (FTC) has indicated an intent to increase its scrutiny of mergers and acquisitions in the petroleum industry. The FTC's Chairperson, Lina Kahn, stated that the FTC is interested in determining whether large national chain retailers are engaging in "collusive practices" to "to restore" higher prices and that FTC staff will investigate any signs of this type of conduct. Part of this effort will be to determine whether large gas station acquisitions would substantially lessen competition for the retail sale of gasoline and diesel by putting too many stations in the hands of the same owners.

The Chairperson's statements come in the wake of the FTC's decisions to challenge several deals involving large acquisitions of gas stations and convenience stores, including 7-Eleven's purchase of nearly 4,000 convenience stores from Marathon and Tri-Star Energy's deal to purchase stores from Hollingsworth Oil Company. After reviewing these deals, the FTC required the acquiring company to sell some of the stations to lessen its concentration in certain geographic markets (usually terminal areas) where both the seller and acquiring company had a substantial presence. The Chairperson's statements may signal closer scrutiny and tougher standards for approving mergers or acquisitions affecting concentrations gas stations and convenience stores nationwide.

The FTC is authorized to engage in a pre-approval review of such transactions where the purchase price is \$92 million or more. This process involves a comparison of market concentrations before and after the merger or acquisition using the Herfindahl-Hirschman Index applied by the FTC's Bureau of Competition. Where post-acquisition concentrations are considered too high, the FTC usually conditions its approval of the merger/acquisition on the divestment by the acquiring company of a portion of the assets to be purchased. The FTC may now have less tolerance for any increase in concentrations, which may delay the approval process or result in killing deals that would have been approved in other Administrations. Ultimately, this type of scrutiny could slow the consolidation in the industry which has been prevalent since the major oil company mergers that began in earnest in the late 1990s.

CONGRESSIONAL UPDATE

With members instructed by Speaker of the House Nancy Pelosi (D-CA) and Senate Majority Leader Chuck Schumer (D-NY) respectively to release their portions of the proposed \$3.5 trillion reconciliation package by September 15, House and Senate Committees are actively working to prepare draft text in advance of committee consideration.

Among these, the House Ways and Means and Senate Finance Committees are debating their approach to capital gains and corporate taxes. One solution reportedly under consideration would be to raise the capital gains rate from 20 to 28 percent for high-income earners, which would end up being an effective 31.8 percent rate when coupled with the Medicare surtax. In addition, they have discussed raising the corporate tax rate from its current 21 to as high as 26 percent, as well as increasing taxes on companies' international earnings from 10.5 to 15 percent. It is worth noting that each of these proposed tax figures are less than President Biden's original Build Back Better agenda. These potential tax revisions are estimated to generate up to \$1 trillion in revenue over the next decade, which is important to many senators -- especially Sen. Joe Manchin (D-WV) --concerned about adding to the national debt. Even so, Sens. Manchin and Sinema (D-AZ) expressed their dissatisfaction with an overall price tag of \$3.5 trillion.

In a Wall Street Journal op-ed published Thursday, Sen. Manchin said that he would not support the \$3.5 trillion package "or anywhere near that level of additional spending" without further clarity on the economic impact of inflation and the national debt on current government programs. "Democratic congressional leaders propose to pass the largest single spending bill in history with no regard to rising inflation, crippling debt or the inevitability of future crises," Manchin wrote. "Instead of rushing to spend trillions on new government programs and additional stimulus funding, Congress should hit a strategic pause on the budget-reconciliation legislation."

While details on the reconciliation proposal are sparse, House Democrats are exploring plans to provide \$2.4 billion for the United States Postal Service to purchase and develop charging infrastructure for electric vehicles (EVs). Under the proposed plan, post offices would become EV charging sites to expand access and accessibility. Outside groups are seeking to influence the process as well. The Alliance for Automotive Innovation unveiled a list of EV Charging Infrastructure Principles that focus on the need for legislation, policies investment and development to support customers as they buy or lease EVs.

The overall political dynamics of infrastructure and reconciliation remain tricky. The House has pledged to begin consideration of the Senate-passed Infrastructure Investment and Jobs Act (IIJA) by September 27, but many progressive Democrats said they will not support IIJA until the Senate passes a reconciliation package. Importantly, it is highly unlikely that a \$3.5 trillion reconciliation package will pass both the House and Senate. A smaller top-line spending level may be possible, which would reduce the need to create new revenue by revising the tax code. However, a decrease in overall size could also be problematic given House progressives all-or-nothing approach to passage.

Aside from reconciliation and consideration of the National Defense Authorization Act, most of Congress is in recess until the week of September 13 – setting up a sprint to accomplish a number of must-do items before federal funding expires on September 30.

FUEL RELIEF FUND NOW IN LOUISIANA

The California-based Fuel Relief Fund (FRF) has been actively providing fuel in Louisiana in response to Hurricane Ida. FRF has deployed a team of volunteer emergency responders who are en route to Louisiana to assist with relief efforts. FRF will source fuel, transport it to the most hard-hit areas, and distribute it—for free—to power hospitals, water treatment plants, first responder vehicles, and search & rescue equipment. FRF will also provide free fuel to the public so that affected families can boil water for drinking, cook food, heat temporary shelters, power their phones to locate loved ones or drive sick and injured family members to receive emergency medical care.

To contribute to this fund, please go to [Fuel Relief Fund | Fuel Saves Lives](#).

Senator Wyden Introduces Small Business Tax Fairness Act

Recently, Senate Finance Committee Chairman Ron Wyden (D-OR) introduced the Small Business Tax Fairness Act (S.2387). This proposal would usher in significant changes, most detrimental, to the current 20 percent deduction for qualified business income for pass-through entities (also known as the 199A deduction).

REMINDER: FREE COMMERCIAL ROUTING APP AVAILABLE TO MARKETERS

Last year, the Department of Homeland Security (DHS) Cybersecurity and Infrastructure Security Agency (CISA) and Idaho National Laboratory (INL) launched an exemplary new Commercial Routing Assistance (CRA) app, which DHS funded and INL developed in partnership with EMA through the All Hazards Consortium's working group, and other industry and government operational professionals.

This free app incorporates vetted data to plot multiple automated or custom routing options while also providing state by state information on regulatory waivers, government closures, prohibitions, restrictions on movement and other orders that affect intrastate and interstate transportation during state and federal emergency declarations. EMA worked closely with CISA and its government partners on development of the app to give marketers, drivers and state association executives the ability to determine in real time, the full impact of emergency declarations on fuel marketers in the states and across the nation.

The App includes a one touch interactive map that allows planners, drivers, and decision-makers to develop strategies necessary to maintain efficient and uninterrupted marketing operations during the COVID-19 environment or other disasters or restrictions. CDL renewal extensions, state driver license agency closures, CDL driver medical renewal grace periods, rest stops and parking closures, and increased size and weight limitations are included for the entire driver route.

The Commercial Routing App (CRA) tool can be accessed at <https://cra.inl.gov>.

FDA DENIES MARKETING APPLICATIONS FOR 55,000 FLAVORED E-CIGARETTE PRODUCTS

The FDA issued the first marketing denial orders (MDOs) for electronic nicotine delivery system (ENDS) products for about 55,000 flavored ENDS products from three applicants. The products from JD Nova Group LLC, Great American Vapes, and Vapor Salon are non-tobacco-flavored ENDS and they include flavors such as Apple Crumble, Dr. Cola and Cinnamon Toast Cereal.

DEM LAWMAKERS PUSH FOR BIOFUEL BOOST IN POTENTIAL RECONCILIATION BILL

Senator Amy Klobuchar (D-MN), along with House democrat lawmakers, sent a letter to Democratic leadership to use the budget reconciliation bill to expand biofuel use. Click here to read the full letter. Provisions Midwest Democrat lawmakers want leadership to include are:

- Fuel pump and UST infrastructure for E10 and B20 plus blends
- Allow retailers to sell E15 year-round
- Set a low-carbon fuel tax credit to encourage ethanol blends of 15 percent or more
- Incentivize manufacturing of flex-fuel vehicles able to burn fuel with higher ethanol content

PRE-REGISTER FOR EMA'S FALL MEETING

EMA will hold its Fall Meeting in conjunction with the NACS Show on October 4-5 at the InterContinental Chicago Magnificent Mile. It is an excellent opportunity to meet your fellow marketers to discuss and learn more about our industry, while also enjoying all the great activities and restaurants that Chicago has to offer.

The EMA meeting will begin with a New Attendee Orientation mid-afternoon on October 4 followed by the Federal Legislative Update. NACS/EMA Reception Salute to State Association Executives and EMA Chair Aaron Littlefield (all EMA members are welcome) will follow at the InterContinental Hotel. On the morning of October 5, there will be a Buffet Breakfast followed by Region and Committee Meetings. The EMA Board of Directors meeting is scheduled after the Distinguished Service Award Luncheon sponsored by EMA Corporate Platinum Partner Federated Insurance. North Dakota Marketer Matt Bjornson is this year's recipient of EMA's highest honor.

You can find all available details here from how to make your hotel reservations through NACS Housing to viewing the Conference Schedule and registering with secure event payment processing. Responding to the Final Invitation Reminder email sent on August 27 is the recommended method to register or decline. Registration will be closing on September 5. Pre-registration is strongly recommended to expedite your time during the conference, to assist us with our hotel guarantees and to have a branded tote and name badge ready for you.

Please make your hotel reservations as soon as possible if you have not already done so. NACS Housing will be assisting with reservations until end of business (Eastern Time) September 15 and will do their best to find rooms in the NACS Housing block. After that date, you will need to contact the hotels directly.

Registration is open for the 2021 NACS Show to be held October 5-8 in Chicago at McCormick Place and is separate from the EMA Meeting Registration.

NEW FOR ALL EMA MARKETERS

If you click here when registering for the show and enter the promo code EMA2021NS you will be assisting the Energy Marketers of America (EMA) and your state member association considerably. By promoting registration using this unique code amongst our marketer members, both EMA and your state member association will receive an increase in revenue, as each registration using that code will deliver a financial gain to these organizations that will be shared between them.

The NACS Show continues to be an important networking and educational trade show to advance your businesses and our industry, and we encourage you to share this information with your state's member companies, particularly those who have attended the NACS Show in previous years, in order to benefit EMA and your state association.

FEDERATED INSURANCE EMPLOYMENT PRACTICES NETWORK HR QUESTION OF THE MONTH

Federated Insurance's HR Question of the Month focuses on employment-related practices liability issues. This month's question is Can a business require employees to show proof they are vaccinated against Covid-19? If the employee is not vaccinated or refuses to show proof of vaccination can the business legally require those employees who are not vaccinated or refuses to show proof of vaccination to wear a mask inside the business? Please click here to read the question and response.

For additional information or to discuss this in further detail, please contact your Federated regional representative or EMA's National Account Executive Jon Medo at 800.533.0472.

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

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
December 14, 2021 – Oregon (OFA) Holiday Event – Portland Golf Club – Portland, OR
February 22-24, 2022 – WPMA Convention & Expo – Mirage Hotel– Las Vegas, NV
May 5-6, 2022 – Nevada (NPM&CSA) Big Dogs – Las Vegas, NV
June 7-8, 2022 – Montana (MPMCSA) Convention – Fairmont Hot Springs Resort – Fairmont, MT
June 20-22, 2022 – Washington (WIED) Convention – Suncadia Resort – Cle Elum, WA
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

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: *"People say I'm condescending. That means I talk down to people."*

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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.

Federated Insurance is presenting a 1-Day Risk Management Seminar

You are invited to attend an exclusive, complimentary Risk Management Academy session hosted by Federated Mutual Insurance Company. [A video](#) about this session is meant to help you learn more about:

1. Losses impacting our industry,
2. Connect with industry peers facing similar challenges, and
3. Apply risk management best practices that make a difference at your business.

Owners, Human Resources Managers, and Designated Risk Managers are encouraged to attend.

Thursday, September 16, 2021

10:00 a.m. to 2:30 p.m.

Residence Inn Boise City Center

400 S. Capitol

Boise, ID 83702

Key Agenda Items:

Risk Management Culture

Managing Your Workers Compensation Risk

- WC Experience Mod
- WC Split Point / Deductibles
- Prompt Claims Reporting
- Return to Work / Modified Duty

Managing Your Drivers

- Distracted Driving
- Employer / Employee Liability
- MVR Services
- Employee Training / Resources
- In-Cab Technology

Click [here](#) to register for this session. If you have questions regarding the event or the registration process, please feel free to contact Federated at 507-455-5315 or email 1DayRMA@fedins.com.
Registration Deadline: **Monday, August 16, 2021.**

One (1) Registration per Company. Space is limited, so please register today!

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