

OSHA ISSUES EMERGENCY STANDARD REQUIRING EMPLOYEE COVID-19 VACCINATION OR UNDERGO WEEKLY TESTING

Yesterday, OSHA released a final emergency temporary standard (ETS). The ETS mandates employers with 100 or more employees to require workers to be vaccinated for COVID-19 or produce evidence of a negative covid-19 test once per week. Employers are not responsible for the cost of vaccines or testing. Employers are required to provide up to 4 hours of paid leave for employees receive their vaccination. The four hours cannot be deducted from any sick leave or vacation leave the employee may have accrued. Employers are also required to provide up to two days off for employees who experience side effects of the vaccine. The two days off may be taken from an employee's accrued leave. If an employee has no accrued leave, employers are not required to pay for leave due to vaccine side effects.

Furthermore, truck drivers who work primarily alone and outdoors are exempt from the vaccine and testing mandates.

Truck drivers may enter the workplace for bathroom breaks and still remain exempt but are required to wear masks when indoors. Although truck drivers are exempt from vaccine and testing requirements, employers must still count them as employees when determining whether they meet the 100 employee or more threshold. The ETS also preempts state and local laws that prohibit mandatory indoor mask use, employer inquiry of vaccination status and prohibitions against firing employees who refuse to test for COVID-19.

The ETS is expected to cover 80 million private sector workers nationwide. Employers must develop a clearly written company policy for compliance with ETS detailing procedural requirements for employee vaccination or weekly testing and consequences for noncompliance. The ETS is already facing numerous legal challenges in federal court which may delay implementation of its requirements.

The following Q&A explains the key provisions of the emergency standard that affect energy marketers with over 100 employees. [CLICK HERE TO READ THE FULL REGULATORY REPORT.](#)

EMA will follow-up with a more comprehensive compliance bulletin.

LEGISLATIVE UPDATE

Speaker of the House Nancy Pelosi (D-CA) hopes to have votes Friday on two bills: the \$1.75 trillion reconciliation package (Build Back Better Act, or BBB), and the bipartisan \$1.2 trillion Senate-passed infrastructure package (Infrastructure Investment and Jobs Act, or IIJA). The House has made some changes to the legislation in the past week, most notably lowering the maximum income threshold for receiving EV tax credits and imposing a tax on nicotine. Click [here](#) to read an updated summary of provisions is included below, with changes highlighted.

If the House passes BBB today, the House will then pass the IIJA, sending the bill to President Biden and giving him a major legislative victory. Moderate House Democrats still have concerns over BBB, however, meaning it's possible neither bill is passed this week. These concerns have been exacerbated by the November 2 elections, which saw Republicans sweep all three statewide elections in Virginia and run competitively in New Jersey. Even if the House does pass the BBB, the Senate will likely make extensive changes, meaning negotiations could stretch towards the end of the year. Senate consideration will provide stakeholders with additional opportunities to seek changes.

In other news, Reps. Josh Harder (D-CA), Dusty Johnson (R-SD), and 85 other bipartisan Members sent a [letter](#) to Secretary of Transportation Pete Buttigieg urging the Department to allow truck drivers 18 and older to become licensed to drive across state lines. The [letter](#) cites the current supply chain challenges. In addition, a bipartisan group of seven Midwest governors urged the Environmental Protection Agency to provide guidance on potentially allowing the year-round sale of 15% ethanol blends (e15) in gasoline, noting the recent court decision that vacated portions of the current rule.

Meanwhile, EMA is working with its state associations including the West Virginia Oil Marketers and Grocers Association (OMEGA) that would prevent Americans who make over \$100,000 a year or who are buying an electric vehicle (EV) that costs more than \$40,000 from claiming the EV credit. [CLICK HERE](#) to read the letter.

MARKETERS JOIN COALITION IN OPEN LETTER TO BIDEN ON SUPPLY CHAIN

EMA joined 100 other associations in a [letter](#) to President Biden on Supply Chain Solutions this week. The 5 solutions include support for the Drive Safe Act to allow younger, qualified drivers – between the ages of 18 and 20 – who satisfy rigorous safety, training, and technology requirements to operate in interstate commerce. We encouraged federal agencies, including the Departments of Transportation and Labor, to collaborate with industry and state and local partners to promote transportation and supply chain occupations, particularly commercial truck driving, as a career of choice.

Because we are concerned a vaccine mandate will cripple an already strained supply chain. We ask for flexibility for transportation and supply chain essential workers, particularly truck drivers who spend most of their time in their trucks and have minimal contact with colleagues and customers. Also, Hours of Service Relief Regulatory flexibilities, especially during emergencies, are vital to supply chain continuity. We continue to support last year's changes to the hours-of-service regulations that give commercial truck drivers greater flexibility while improving safety and efficiency. Finally, we urged the Administration to continue to investigate the causes of inefficiencies at our nation's ports and work collaboratively to minimize the bottlenecks and operational practices that prevent the seamless movement of cargo through the supply chain.

EMA OPPOSES TAX HIKES IN BIDEN'S "BUILD BACK BETTER" PLAN

This week, EMA joined other associations in a [letter](#) urging Congress to oppose tax hikes on "Main Street businesses" that are in the Administration's "Build Back Better" (BBB) Framework.

The BBB would expand the 3.8 percent Net Investment Income Tax (NIIT) to all pass-through business income; impose a new surtax of up to 8 percent on all forms of income, including family businesses; and make permanent and expand the loss-limitation rules under Section 461. Moreover, the tax rate hikes in the Framework would apply to businesses making significantly less than the advertised levels. The White House fact sheet suggests the new surtax would impose a 5 percent tax on a taxpayer's modified adjusted gross income over \$10 million, and 8 percent in excess of \$25 million. For pass-through businesses held in trust, however, these thresholds are fifty times lower -- \$200,000 and \$500,000, respectively. The same is true for the expansion of the 3.8 percent NIIT. The expanded NIIT's threshold for joint filers with S corporation or partnership income is \$500,000, but it is just \$13,000 for a family business with ownership shares held in taxable trusts. Due to the prevalence of trusts, the higher tax rates included in the Framework would harm tens of thousands of modestly sized family businesses located across the country.

The rate increases contemplated by the Framework are significant. The Tax Foundation estimates they will push the marginal rates of family businesses making more than \$500,000 to over 50 percent.

GOP RELEASES CLIMATE CHANGE LEGISLATION

This week, Republican Senators Dan Sullivan (AK), Kevin Cramer (ND), and Cynthia Lummis (WY) — all representing major oil producing states released the "American Energy, Jobs, and Climate" plan, which aims to cut global emissions up to 40% from today's levels by 2050. Click [here](#) on the latest.



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It will be held once again at the Mirage in Las Vegas, Nevada.

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Upcoming Cathodic Protection Courses

- [November 17-18 - Albuquerque, NM](#)

Registration is open for Steel Tank Institute's Cathodic Protection Training class in Albuquerque NM. This class is a certification program offering a practical approach for those wanting to become Underground Storage Tank CP testers and for those who simply want to understand readings and test reports.

Class Dates:

November 17-18, 2021

Class Location:

Brewer Oil Co. (Edith Training Facility)
501 Candelaria Rd, NE
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The STI Cathodic Protection Training will enable you to:

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[Cathodic Protection Training \(steeltank.com\)](#)

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.



The banner features a decorative graphic on the left with the text "There is Always SOMETHING TO BE Thankful FOR" in various fonts and colors. To the right, the word "SCHOLARSHIP" is written in large, outlined letters, with "\$4,000" in a large, bold font below it. Further right is a graphic of a classical column. Below the column is the text "OPPORTUNITY!" in large, outlined letters. To the right of this is the WPMA logo, which includes a classical column and the text "WPMA SCHOLARSHIP FOUNDATION". On the far right, a dark green box contains the text "CLICK HERE for a WPMA SCHOLARSHIP Application FORM" in white and yellow.

MARK YOUR CALENDARS FOR UPCOMING EVENTS

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

April 25, 2022 – Hawaii (HPMA) Golf Tournament – Ko Olina Golf Club – Kapolei, HI

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

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Petro Pete: *"A closed mouth gathers no feet."*

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