



June 17, 2022

WR-22-24

EMA Opposes SEC's Climate Disclosure Proposed Rule

Today, the Energy Marketers of America (EMA) submitted comments on the Securities and Exchange Commission's ("SEC") proposed rule that would mandate extensive climate disclosures by public companies. While most energy marketers represented by EMA are not public companies and, therefore, are not required to report directly to the SEC, EMA is concerned due to the costs and burdens their SEC-regulated suppliers would be required to disclose greenhouse gas emissions from upstream and downstream activities in its value or supply chain under many, if not most, circumstances.

For public companies that sell motor fuels and heating fuels to be compliant with the Proposed Rule, if finalized, they would need to track and disclose data derived from downstream customers, including energy marketers' individual and day-to-day operations. Unlike the large corporations regulated by the SEC, energy marketers, as small businesses, do not have, and cannot afford, compliance officers or attorneys dedicated solely to SEC compliance activities. This could force energy marketers of all sizes, but especially those with smaller-sized operations, to report data they may be unable to provide, which would result in a costly, additional expense or possibly the loss of business from the inability to report data to their suppliers or customers. EMA also cited privacy and potential liability concerns with the proposed rule.

The good news is that the 6-3 conservative majority of the Supreme Court of the United States (SCOTUS) is likely to weigh in at some point once the rule is finalized and challenged by concerned parties including EMA.

[Click here](#) to readt EMA's comments on the proposed rule.

U.S. DOT Extends Enforcement Discretion Allowing Remote Drug and Alcohol Abuse Evaluations for CDL Drivers

The U.S. Department of Transportation's Office of Drug and Alcohol Policy and Compliance (ODAPC) announced this week the **extension** of expiring agency [enforcement discretion](#) permitting remote drug and alcohol abuse evaluations of CDL drivers by Substance Abuse Professionals (SAP). The enforcement discretion was first issued on April 4, 2020 extended several times and set to expire on June 30, 2022. However, due to the continued need for COVID-19 social distancing, ODAPC is extending the enforcement discretion for remote driver evaluations thru December 31, 2022.

Normally, drug and alcohol abuse driver evaluations must be done in person. COVID related enforcement discretion is necessary to prevent delays in the SAP evaluation of a driver's post violation education, treatment, follow-up testing and aftercare required in order to return to duty. The flexibility to conduct remote assessments and evaluations is voluntary, and SAPs may continue to conduct in-person face-to-face assessments and evaluations as appropriate, according to ODAPC.

SAPs who choose to conduct initial assessments and evaluations and follow up evaluations remotely should consider the following parameters:

1. The technology used should permit a real-time two-way audio and visual communication and interaction between the SAP and CDL driver.
2. The quality of the technology (e.g., speed of the internet connection, clarity of the display, application being used, etc.) should be sufficient to gather all the visual (e.g., non-verbal physical cues) and audible information normally needed to observe in an in-person face-to-face interaction.
3. SAPs may only utilize the technology if authorized under their State-issued license.

The original April 4, 2020 enforcement discretion also allowed service agents including specimen collectors, medical review officers, screening test technicians, breath alcohol technicians and third-party testing consortiums to forgo regularly scheduled requalification training through June 30, 2022. The ODAPC announced it is *not* extending enforcement discretion for requalification training beyond June 30, 2022.

Federation of State Tax Administrators Issues New 50 State Motor Fuel Excise Tax Rates and Laws

The Federation of State Tax Administrators (FSTA) recently published its annual [compendium of state motor fuel excise tax rates and laws](#). The compendium is a comprehensive state-by-state review of motor fuel excise tax requirements that provides 37 data points for each state listed. Those data points include motor fuel excise tax rates; point of collection; collection allowance; exemptions; flash title transactions; citations to state motor fuel excise tax rules and laws; motor fuel tax rate updates; motor fuel environmental and inspection fees; bad debt allowance; tax reporting deadlines; bonding requirements; credit and rebill allowances; motor fuel sales tax; alternative fuel tax rates, incentives and conversion rates; and shipping paper/BOL information requirements.

The compendium is a useful tool to compare state tax laws for parity, identify emerging trends in motor fuel taxation and as a motor fuel excise tax guideline for energy marketers operating in more than one state. The compendium is updated through September 2021.

ASTSWMO Publishes Annual State UST Tank Fund Performance Report

The 2021 Annual State Tank Fund Performance Report is now [available](#) (XLSX file download). The state-by-state comparative report is compiled each year by the Association of State and Territorial Solid Waste Management Officials (ASTSWMO). Annual tank fund performance data and regulatory

requirements for all 50 states, and the District of Columbia are surveyed in the report. State UST tank fund information in the ASTSWMO report include state fund and financial liability requirements; sunset dates; tank fund annual revenues, current balance; current and outstanding claims; annual claims paid; cumulative claims paid over life of program; new or proposed tank fund laws and regulations; COVID-19 impact funding; voluntary or mandatory participation requirements. The report is useful to determine the health of state tank funds, state to state program comparison and to monitor trends in financial assurance programs for USTs.

EMA contact: Mark Morgan, Regulatory Counsel; mmorgan@emamerica.org

House Approves Bill to Allow E15 Year Round

This week, the House approved “Lower Food and Fuels Costs Act,” (H.R. 7606) that includes \$200 million for fiscal years 2022 and 2023 for biofuel infrastructure and a provision to allow year-round sales of E15. The funding would be distributed in the form of competitive grants to support the installation, retrofit, or upgrade of fuel dispensers and pumps and related equipment, storage tank system components, and other infrastructure needed at a fuel station to supply fuel blends that contain more than 10 percent ethanol or 20 percent biodiesel. The infrastructure funding could also support biofuel infrastructure for fuel distribution systems, terminal upgrades, including rail lines, and home heating oil distribution centers. The bill is a messaging bill and is likely dead on arrival in the Senate.

Weekend Reads:

[AFPM, API Respond to President Biden’s Letters to U.S. Refiners](#)

[Biden needs to pump the breaks on his electric vehicle agenda](#)

[President Biden has suddenly discovered that a refinery shortage is driving up fuel prices. He’s blaming refiners, even as he doubles down on the policies that created the shortage](#)

[Chevron Completes Acquisition of Renewable Energy Group](#)

[Biden Plan for EV Chargers on Highways Meets Skepticism in Rural West](#)

[Biden willing to use Defense Production Act to boost refining capacity](#)

[70% of Fuel Retailers Plan to Expand Their Network of Service Stations](#)

EMA’s Fall Meeting at the NACS Show 2022: September 30-October 1

Hotel Reservations Open! Special EMA Members Code for NACS Show Registration

Registration is now open for the 2022 NACS Show in Las Vegas September 30 – October 4! The Early Bird Special is available for Energy Marketers of America members (even if you are also a member of

the NACS) through July 1 by [CLICKING HERE](#). When prompted, enter the EMA NACS Show Registration Code: **EMANS2022**. EMA encourages you to promote and share with your state association's member companies.

***Please note that the NACS Show registration is separate from EMA's Fall Meeting registration which will open in July. Again, the EMA NACS Show Registration Code is: **EMANS2022**.*

You can find all available details, including EMA's Fall Meeting Conference Schedule (September 30-October 1), EMA Housing link and NACS Show registration for EMA Members by [CLICKING HERE](#).

Risk Management Academy for All Industries Offered by Federated Insurance on August 2-4, 2022

Federated Insurance is offering complimentary risk management training for all industries on August 2-4, 2022. Through this valuable session, you will discover methods you can use immediately to help protect profits by reducing risk at your business.

Companies that are the most successful at controlling losses and protecting profits have integrated risk management into their overall company culture. Many have designated a key person as their risk manager. This person is supported by your company's top management and is both responsible and accountable for identifying loss exposures and implementing risk management solutions.

This seminar's objective is to help your risk manager learn the exposures specific to your industry, connect with peers from across the country and apply these best practices within your business.

You can learn more by viewing a brief [video](#) about the Risk Management Academy. To [reserve your spot](#) in the upcoming session or for more information, please contact drm@fedins.com or call 800.533.0472 Extension 455.5958. **Federated is a Partner in EMA's Board of Directors Council.**

Learn.Connect.Apply

At Federated Insurance, It's Our Business to Protect Yours®

Federated Insurance Urges Members to Prepare for Severe Weather and Natural Disasters Now – During the Calm Before the Storm

Severe weather and natural disasters that were once considered unpredictable now feel inevitable. Hurricanes, tornadoes, and wildfires are occurring regularly across the United States. Members need to take action now – in the calm before the storm – to help avoid becoming one of the 1 in 4 businesses that fail following a natural disaster. Federated Insurance is encouraging member clients to take action today with the help of disaster planning and recovery risk management resources. [Learn more.](#)

For additional disaster preparedness resources, log into [mySHIELD®](#) or call Federated's Risk Management Resource Center at [1-888-333-4949](tel:1-888-333-4949). Please always feel free to contact your [Federated](#) regional representative or EMA's National Account Executive [Jon Medo](#) at 800.533.0472 for any

additional information or risk management questions. **Federated is a Partner in EMA's Board of Directors Council.**

Federated Insurance: Risk Management Corner ***Seven Steps to Improve Cybersecurity***

Most businesses have a risk management plan in place to cover general physical risks. But what about electronic ones? No business is immune to cybercrime — do you have the necessary precautions in place to help prevent one wrong click from hurting your business?

No single coverage protects from all types of theft, so review your cybersecurity policy with an insurance professional to make sure your policy accounts for your unique risks. Even if you have adequate insurance, the best way to protect your business is to stop cybercrime before it happens.

To read about the seven potential action items to help bring your cybersecurity risk management plan to life, please click [here](#). Please always feel free to contact your [Federated](#) regional representative or EMA's National Account Executive [Jon Medo](#) at 800.533.0472 for any additional information or risk management questions. **Federated is a Partner in EMA's Board of Directors Council.**

This article is for general information and risk prevention only and should not be considered legal or other expert advice. The recommendations herein may help reduce, but are not guaranteed to eliminate, any or all risk of loss. The information herein may be subject to, and is not a substitute for, any laws or regulations that may apply. Qualified counsel should be sought with questions specific to your circumstances. © 2022 Federated Mutual Insurance Company.

Check Out EMA Journal Anytime Online

EMA Spring Journal is the current issue [online](#). You can take EMA Journal with you wherever you go. Scroll to select the articles that matter to you, then read, learn and share with the icons at the top of your screen. Looking for a past issue? Scroll through past covers on the left side of your browser or use our convenient search feature to find a particular topic. Miss flipping pages? Select "page view" from the menu bar or click the handy magazine icon for a classic page-turner. You can find our Annual Directory [here](#) which is featured in each Fall Issue.

For information on [advertising](#), please call 844.423.7272 or email [Innovative Publishing](#). **Ads for Fall Issue 2022 advertising are due by August 2. This issue features EMA's Annual Directory and is retained as a reference guide year-round by our members.**

EMA Member Services Spotlight Featuring: Save at Office Depot & OfficeMax



Office Depot and National Purchasing Partners (NPP) can help you save money on janitorial, breakroom and cleaning supplies. Whether you're looking to switch to disinfecting hand soap or you want to stock up on all-purpose cleaners, Office Depot and

OfficeMax can help you get the job done. EMA members save money with NPP discounts and free shipping. Certain items are even available for store pickup if your need is immediate.

Additionally, members who enroll with NPP can save on items you use every day, such as office supplies, furniture and technology, both in-store and on-line. Explore NPP's diverse catalog of business and employee offers.

To access Office Depot and OfficeMax discounts through NPP, enroll your business for FREE [here](#). There is no obligation to purchase. NPP is a member benefit provider of EMA.

Restrictions may apply. Subject to availability.