SERVICE STATION DEALERS OF AMERICA AND ALLIED TRADES

SSDA News

Service Station Dealers of America and Allied Trades

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INSIDE THIS ISSUE:

Governmentt Affairs in Full Swing	1, 20
Governmentt Affairs Report	2, 3, 18
Northern CA DOT Funding	4
MI vs. Mackinac Pipeline	4, 19
Final E-Cigarette Rule	5
Violation of Magnusson-Moss	6, 7, 21
US Shale Oil Still Feeling Pressure	8
SC Senate Approves 4 Billion $ Road Repair	9
API to Next President	10
New Ways to Pay for Roads	11
Vitter Criticizes Methane Rule	12, 20
Edwards, Oil Execs Disagree	13
OSHA's Final Rules	14, 15, 23
TransCanada Still Banking on Keystone XL	16, 17

Government Affairs Efforts in Full Swing

By Roy Littlefield, IV

This year, our government affairs efforts have been seen at a variety of meetings and events in Washington. We remain very active on the Federal level. SSDA-AT has been focused on several issues that will play an integral role in our government affair's platform for 2016.

We testified, attended coalition meetings, actively lobbied on the hill, attended conferences, fundraisers, and met with dealers to discuss these issues.

SSDA-AT Supported Legislation Passed Into Law:

1. Make permanent Section 179
2. Extend 50% Bonus Depreciation through 2017
3. Delayed for two years the "Cadillac Tax"
4. Delayed for two years the Medical Device Act

2016 Issues:

1. Comprehensive Tax Reform
2. LIFO Repeal
3. Estate Tax
4. Online Sales
5. Tariffs
6. FLSA- Overtime Proposal
7. Social Issues

Regulatory Issues:

1. NHTSA- Registration and Recall
2. IRS Inspections for Wage and Hour
3. IRS Inspections for Imported Casings
4. OSHA Inspections

We have also been hearing from members regarding a variety of issues. These included, OSHA inspections, 40 hour work week, AAA, state inspections, tire registration, healthcare, tariffs, online sales, and negative ads on the repair industry.

This year, SSDA-AT attended several Highway Users Alliance taskforce meetings this year. Most notably, "Energy and the Environment" and "Highway Trust Fund Policy". At the environmental meeting SSDA-AT discussed our concerns with OSHA inspections, EPA restrictions, an attack on crumb rubber, and other tire and automotive recycling initiatives. At the trust fund policy meeting, we continued to voice our concern with any potential taxes that could be aimed at our industry in the future as a ways of funding.

Earlier this year, SSDA-AT led the discussion at the SBA Office of Advocacy, Pension Roundtable on the IRS's new proposed rule on cross-testing retirement plans. SSDA-AT also met with top officials at the Treasury and IRS to explain the problems with this proposed rule.

SSDA-AT regularly attends the small business labor safety (OSHA/MSHA) roundtable meetings. We remain strong voices in the Family Business Coalition, working to repeal the Estate Tax, and the Save LIFO coalition which aimed to save the accounting system used by many in our industry.

SSDA-AT also participated in a roundtable on the Department of Labor's proposed rules to implement the President's Executive Order on paid sick leave for government contractors hosted by the Small Business Administration with a number of representatives from the Department of Labor.

Continued on page 20

Government Affairs Report

By Roy Littlefield

Our government affairs efforts were seen across the country at several state shows and at a variety of meetings and events in Washington.

At the beginning of the month SSDA-AT traveled to the New England show to discuss tire registration. SSDA-AT also traveled to the TAG meeting in New Orleans to discuss government affairs issues the spoke to dealers in Arkansas for their show. We attended the Virginia show and answered government affairs related questions. At many of the shows, SSDA-AT maintained a booth. Members continue to voice their concerns across the country on a variety of issues including: OSHA inspections, 40 hour work week, AAA, state inspections, tire registration, healthcare, tariffs, online sales, and negative ads.

SSDA-AT attended several meetings in the month of April including two taskforce meetings for the Highway Users Alliance that were "Energy and the Environment" and "Highway trust fund policy". At the environmental meeting SSDA-AT discussed our concerns with OSHA inspections, EPA restrictions, an attack on crumb rubber, and other tire recycling initiatives. At the trust fund policy meeting, we continued to voice our concern with any potential taxes that could be aimed at our industry in the future as a ways of funding.

SSDA-AT also attended a Family Business coalition meeting to discuss the Estate tax and other pending tax initiatives. We signed onto a new letter this month urging the Senate to hold a vote on the Estate tax this year while we still have momentum from the bill passing the House. We continue to update our members on this issue and encourage them to contact their Senators to let them know of its importance.

SSDA-AT also attended a lunch with Rep. Earl Blumenauer (D-OR-3) to discuss the outcome of the highway bill and the prospects for different funding options moving forward. Blumenauer is currently a member of the Ways and Means Committee and the subcommittees on Health, Social Security, and Trade. The Congressman has an extensive background in transportation funding and ideas. He shared some words of encouragement that the next Congress will hopefully work better together.

Near the end of the month SSDA-AT also attended a Congressional Reception and Awards Ceremony at the U.S. Capitol Building. The reception was sponsored by the American Conservative Union Foundation and in attendance were the most conservative members of Congress. The following members attended the reception and received awards of Conservative Excellence based on voting record:

100%	
Rep. Brian Babin	Rep. Mo Brooks
Rep. Dave Brat	Rep. Bradley Byrne
Rep. Ken Buck	Rep. Steve Chabot
Sen. Ted Cruz	Rep. Jason Chaffetz
Rep. Ron DeSantis	Rep. Curt Clawson
Rep. Scott DesJarlais	Rep. Doug Collins
Rep. Blake Farenthold	Sen. Tom Cotton
Rep. Jim Bridenstine	Rep. Tim Walberg
	Rep. Roger Williams

96%	
Rep. Stephen Fincher	Sen. Mike Lee
Rep. Richard Hudson	Rep. Thomas Massie
Rep. Jason Smith	Rep. Tom McClintock
Sen. David Vitter	Rep. Mark Meadows
Rep. Trent Franks	Rep. Gary Palmer
Rep. Scott Garrett	Rep. Scott Perry
Rep. Bob Goodlatte	Rep. John Ratcliffe
Rep. Trey Gowdy	Rep. Phil Roe
Rep. Andy Harris	Rep. Dana Rohrabacher
Rep. Jody Hice	Sen. Ben Sasse
Rep. George Holding	Rep. David Schweikert
Rep. Sam Johnson	Rep. Lamar Smith
Rep. Jim Jordan	Rep. Marln Stutzman
Rep. Doug LaMalfa	Rep. Mark Walker
	Rep. Ted Yoho

Continued on page 3

Government Affairs Report

95%
Rep. Justin Amash
Rep. Marsha Blackburn
Rep. Rod Blum
Rep. John Boozman
Sen. Mike Crapo
Rep. Jeff Duncan
Rep. John Duncan
Rep. John Fleming
Rep. Randy Forbes
Rep. Louie Gohmert
Rep. Paul Gosar
Rep. Garret Graves
Rep. Jeb Hensarling
Rep. Tim Huelskamp
Rep. Bill Huizenga
Rep. Robert Hurt
Rep. Lynn Jenkins
Rep. Raul Labrador
Rep. Doug Lamborn
Sen. James Lankford
Rep. Barry Loudermilk
Rep. Mia Love
Rep. Cynthia Lummis
Rep. Kenny Marchant
Rep. Jeff Miller
Rep. Mick Mulvaney
Rep. Randy Neugebauer
Sen. Rand Paul
Rep. Mike Pompeo
Sen. James Risch
Rep. Matt Salmon
Rep. Jim Sensenbrenner
Sen. Richard Shelby
Rep. Adrian Smith

94%
Sen. Marco Rubio

92%
Rep. Mike Bishop
Rep. Michael Burges
Rep. Buddy Carter
Sen. Bill Cassidy
Rep. Mike Conaway
Sen. Steve Daines
Sen. Deb Fischer
Rep. Bill Flores
Sen. Chuck Grassley
Sen. Duncan Hunter
Sen. James Inhofe
Rep. Bob Latta
Rep. Luke Messer
Rep. Pete Olson
Rep. Bill Posey
Rep. Tom Price
Rep. Reid Ribble
Rep. Todd Rokita
Rep. David Rouzer
Rep. Mark Sanford
Sen. Tim Scott
Rep. Austin Scott
Sen. Jeff Sessions

91%
Sen. Mike Enzi
Rep. Tom Graves
Rep. Billy Long
Rep. Scott Tipton
Rep. Rob Woodall

The following members received awards of Conservative Achievement based on voting record:

88%
Rep. Rick Allen
Rep. Gus Bilirakis
Rep. Rick Crawford
Sen. Joni Ernst
Rep. Chuck Fleishmann
Rep. Bob Gibbs
Rep. Randy Weber
Rep. Daniel Webster
Rep. Brad Wenstrup
Rep. Bruce Westerman
Rep. Kevin Yoder

87%
Rep. Steve King
Rep. Darrell Issa
Rep. Patrick McHenry
Rep. John Mica
Rep. Steven Palazzo
Rep. Erik Paulsen
Sen. David Perdue
Rep. Robert Pittenger
Rep. Glenn Grothman
Rep.French Hill
Rep. Randy Hultgren
Rep. Walter Jones
Rep. Michael McCaul
Rep. Alex Mooney
Sen. Jerry Moran
Rep. Keith Rothfus
Rep. Pete Sessions
Sen. Dan Sullivan

86%
Rep. Chris Stewart

83%
Sen. Roy Blunt
Rep. Kevin Brady
Rep. Mike Coffman
Rep. Tom Emmer
Rep. Virginia Foxx
Rep. Will Hurd
Sen. Johnny Isakson
Rep. Tom Rice
Rep. Ed Royce
Rep. Mac Thornberry
Sen. Pat Toomey
Rep. Jacki Walorski
Rep. David Young

82%
Rep. Todd Young

SSDA-AT continues to work with other industry groups and in April we partnered with SEMA to take part in an "RPM Working Group" – which is comprised of organizations that support passage of the "Recognizing the Protection of Motorsports Act" (HR 4715, S 2659). The joint industry letter submitted on April 1st to the EPA in response to its Notice of Data Availability demonstrated the effectiveness of collaboration. SSDA-AT has worked with TIA and SEMA on several EPA concerns this year.

Continued on page 18

FUNDING: U.S. DOT Announces $750,000 for Emergency Repairs to Federal Roads Throughout Northern California

U.S. Transportation Secretary Anthony Foxx announced yesterday the immediate availability of $750,000 in Emergency Relief (ER) funds from the Federal Highway Administration (FHWA) to stabilize and repair roads damaged by heavy rains on federal lands throughout northern California.

“Thousands of drivers use these roads each year – especially during the heavy tourism months of summer," said Secretary Foxx. “We are committed to doing everything we can to help repair and reopen these federal routes quickly and safely, to ensure the people and businesses of California do not suffer economically.”

For nearly two weeks beginning March 3, heavy rains saturated northern California, contributing to several large slides and rock falls that damaged roads in three National Forests and one district of the U.S. Bureau of Land Management. These ER funds will be released quickly for use on the highest priority roads to stabilize and repair the impacted roadway embankments and removal of slide debris from roadways.

These funds will help road crews begin repairs and restore traffic. Repair costs for the damage are currently estimated at $2 million, though this amount is likely to increase as additional damage assessments are completed. This initial “quick release” payment is a first installment on the costs of other repairs once they are known.

The FHWA's ER program provides funding for highways and bridges damaged by natural disasters or catastrophic events.

Senators Push Feds to Raise Liability Stakes on Mackinac Pipeline

Michigan's two Democratic senators want the Department of Transportation to change the way it regulates oil pipelines crossing underneath the Great Lakes in order to raise the liability stakes should they break and cause a spill.

U.S. Sens. Gary Peters and Debbie Stabenow sent DOT head Anthony Foxx a letter on May 17 urging him to reclassify underwater pipeline segments like the Enbridge Line 5 under the Mackinac straits as separate "offshore" facilities.

Right now, Peters said Line 5 is regulated as "onshore" facility, which means the Pipeline Hazardous Materials Safety Administration (PHMSA) holds it to less stringent regulatory standard and caps the insurance liability at $634 million.

Should an "offshore" pipeline spill, "there's no limit to the liability," said Peters.

Enbridge's own cleanup estimate for a spill from Line 5 reaches $1 billion if the break were to happen in the winter, when the straits are iced-over. Total cleanup of the 2010 Enbridge spill into the Kalamazoo River cost more than $1.2 billion.

A state Pipeline Safety Advisory Board already wants to use a planned risk assessment study to establish new insurance and surety requirements beyond the $1 million minimum specified in the company's 1953 easement. The state considers that 63-year-old insurance figure outdated.

Tweaking the regulations would require Enbridge to have 24-hour response teams on standby as well as "make sure it's not the taxpayers paying for cleanup,"

Continued on page 19

Feds Announce Final E-Cigarette Rule - That Nearly Bans Them

Electronic cigarettes and premium cigars will now be regulated the same way as tobacco cigarettes and regular cigars, according to a new federal rule issued on May 5th.

Under the rule, the U.S. Food and Drug Administration would have to approve all tobacco products not currently regulated that hit stores after February 2007. The e-cigarette industry was virtually nonexistent before then.

Premium, hand-rolled cigars would also be included in the new regulation.This final rule also prohibits the sale of "covered tobacco products" to individuals under the age of 18 and requires the display of health warnings on cigarette tobacco, roll-your own tobacco, and covered tobacco product packages and in advertisements.

The Tobacco Control Act of 2009 sets February 15, 2007, as the latest date by which all tobacco products would have to have to be grandfathered in. Mitch Zeller, head of the FDA's Center for Tobacco Products, has said publicly that he couldn't choose a later date, although industry officials disagree.

That means nearly all every e-cigarette on the market — and every different flavor and nicotine level — would require a separate application for federal approval. Each application could cost $1 million or more, says Jeff Stier, an e-cigarette advocate with the National Center for Public Policy Research and industry officials.

An amendment to appropriations legislation working its way through the House would change the date so more e-cigarettes would be grandfathered in.

The proposed rule was released more than two years ago in April 2014 and the final rule gives the industry two additional years to comply. The industry will have had "plenty of time to submit their applications," says Robin Koval, CEO of the Truth Initiative, an anti-tobacco health group.

Koval says "it's perfectly reasonable" that people should know what's in something that "you inhale into your lungs."

"All of these products should have to be held to some standard," says Koval.

Department of Health and Human Services Secretary Sylvia Burwell and FDA Administrator Robert Califf, a physician, were scheduled to brief reporters at 10:30 a.m. on May 5th.

Industry experts say treating e-cigarettes, which don't contain tobacco, the same as cigarettes could lead to such onerous and costly approval that all but the largest tobacco companies would be forced out of the market — and possibly those companies too.

The Tobacco Control Act requires the FDA to use science to weigh the potential benefits of e-cigarettes against any potential health risk, for both the individual users and the whole population, which Stier says would be all but impossible.

That could force e-cigarette smokers back to regular cigarettes, he says.

E-cigarettes help people trying to quit smoking, says Patricia Kovacevic, general counsel and chief compliance officer at e-cigarette manufacturer Nicopure. She and other e-cigarette advocates cited a Royal College of Physicians' report last week that showed e-cigarettes' benefits.

Lawmakers have to address the possible adverse health effects of e-cigarettes, she says, but the rule doesn't account for the comparative benefits of e-cigarettes over regular tobacco products for improving overall public health.

Violation of Magnuson Moss Petition for Investigation

Last fall, SSDA-AT, the Automotive Oil Change Association, and Automotive Aftermarket Industry Association wrote the Federal Trade Commission regarding a release from Honda and Acura that attempted to mislead consumers as to the quality of non-original equipment replacement parts and the possibility that use of these parts could void their new car warranties. We further contended that this release was a violation of the Magnuson Moss Warranty Act (MMWA) which prohibits the conditioning of warranties based on the use of a non-original equipment part. While the Commission chose not to take any action against Honda or Acura based on that release, we appreciated the official consumer alert issued in 2011 to inform consumers about their rights under federal warranty law. Our prediction that lack of enforcement action would encourage further egregious behavior, however, came to pass and we submitted another complaint against Mazda for misleading consumers regarding the use of aftermarket parts and services.

While we await the Commission's consideration of the pending Mazda complaint, our groups must urge the Commission to take action against yet another automaker: Kia Motors. Apparently, Kia did not read the section of FTC's consumer alert that reads: "Simply using an aftermarket part does not void your warranty." In Technical Service Bulletin #114 dated February 2012 with the subject heading

"AFTERMARKET OIL FILTERS" (see attached), Kia states the following:

Kia does not test or approve any aftermarket filters and only recommends the use of Kia genuine parts that are designed to operate at the specifications set forth during engine lubrication design and testing. If the engine oil has been changed recently and a noise condition has developed, perform an inspection of the oil filter and or Customer oil change maintenance records to help you in determining if an aftermarket filter or the wrong oil viscosity was used. If the vehicle is equipped with an aftermarket oil filter, perform an oil change and filter using the correct oil grade / viscosity and a replacement genuine Kia oil filter at the customer's expense."

There are three obvious problems with that part of the bulletin. First, it specifies use of "an aftermarket oil filter" as reason alone to replace the filter at the customer's expense. In other words, simply using an aftermarket part can void your warranty if you own a 2012 Kia.

Second, Kia's bulletin doesn't even contemplate diagnostic work to determine the source of any "noise condition" developed, but rather directs technicians to assume an aftermarket oil filter is to blame. Despite a complete lack of evidence, Kia eliminates all aftermarket oil filter options as if none could possibly work. In fact, manufacturers are currently producing aftermarket oil filters in compliance with Kia's specifications and quality requirements, and these filters are used every day without incident.

The third obvious problem with Kia's bulletin is Kia's directive that technicians automatically charge customers to replace aftermarket oil filters with Kia oil filters regardless of whether the aftermarket filter actually caused a problem. This sounds remarkably similar to a warranty-voiding clause combined with a directive to ignore the manufacturer's burden of proof under MMWA. To be perfectly clear that this is the case, Kia goes on to state the following:

Note: Customer concerns as a result of incorrect oil viscosity or use of aftermarket oil filter should not be treated as a warranty repair and any related damage is not warrantable, nor is changing the

Continued on page 7

Violation of Magnuson Moss Petition for Investigation

Continued from page 6

engine oil and filter to isolate this condition.

If the technician changes the aftermarket filter and the problem turns out to be caused by something else, warranty coverage for the service is nevertheless denied; i.e., every Kia customer using an aftermarket oil filter will lose warranty coverage for at least the parts and services associated with the Kia-directed automatic oil and filter change as well as damages for other engine problems Kia alleges to be "related" to oil filter function.

The MMWA manufacturer's burden of proof is not that it need merely show an aftermarket part "relates" to damage, but that it "caused" any alleged damage. As the FTC states in its consumer alert: "The Magnuson-Moss Warranty Act makes it illegal for companies to void your warranty or deny coverage under the warranty simply because you used an aftermarket or recycled part." The alert goes on to say that if there is a problem with use of an aftermarket part or how it was installed, the manufacturer or dealer may deny a warranty claim. However, the manufacturer must first "show that the aftermarket or recycled part caused the need for repairs before denying warranty coverage." Kia's directives circumvent this process entirely: the mere presence of an aftermarket oil filter automatically voids warranty coverage for the oil change parts and services as well as any damage Kia says "relates" to oil filter function.

Does FTC know how many engine problems arguably "relate" to oil filter function but aren't necessarily caused by any problem with the oil filter part itself? Specifically, oil filter ballooning and gasket popping can be caused by a malfunctioning engine check valve, while the filter leaking oil around the gasket can be caused by the oil filter face plate—an engine part—not being completely flat. Basic lack of engine coolant causes many problems as well—camshaft damage, valve damage, crank damage, and head gasket damage—yet Kia could rationally argue they're all "related" to oil filter function. Oil starvation is another classic problem Kia could claim "relates" to oil filter function, but it is also caused by oil pump malfunction as well as gunk build-up from prolonged drain intervals. So long as they don't have to prove causation, Kia has a veritable smorgasbord of engine problems available to wrongfully blame on the use of aftermarket oil filters and the average layperson consumer will never know the difference.

SSDA-AT requested that the Commission take immediate action to require Kia to withdraw the bulletin and issue a correction: that use of non-Kia oil filters is permissible, and that it would be Kia's burden of proof to prove a non-Kia part caused any alleged damage before denying warranty coverage.

Ms. Greisman, it appears that the absence of action as we requested by the Commission on the Honda release is leading more and more car companies to not only engage in similar misleading tactics regarding the use of non-original equipment parts by consumers, but also to ratchet up the unlawful rhetoric and service directives. Immediate action is needed to both protect consumers from Kia in the short term, and to stop other automakers from jumping on this anti-consumer bandwagon.

Safety Fitness Determination Notice of Proposed Rulemaking

On Thursday, January 21, 2016, the Federal Motor Carrier Safety Administration (FMCSA) published in the Federal Register a notice of proposed rulemaking (NPRM) designed to enhance the Agency's ability to identify non-compliant mo-

Continued on page 21

U.S. Shale Oil Still Facing Pressure

Oil production in key U.S. shale formations declined and, while a recovery in crude oil prices is an incentive, risks do remain, market analysis finds.

Platts Analytics finds oil production in the Eagle Ford shale basin in Texas, one of the more productive formations of its kind, declined about 3 percent in March for the eighth straight month of loss. In the Bakken shale in North Dakota, output was down 2 percent from February and on par with the general loss in production.

"In 2015, producers in both the Eagle Ford and Bakken realized tremendous efficiency gains through cost reductions, quicker drill times and higher initial production rates," Taylor Cavey, an analyst for Platts, said in an emailed statement. "However, given the lower-for-longer commodity price environment, the extent to which further efficiencies can be reached is questionable."

A monthly drilling report from the U.S. Energy Information Administration found total U.S. crude oil production is on pace to decline 2 percent for April. Output from two of the more lucrative shale basins in the country -- the Bakken reserve area in North Dakota and the Eagle Ford formation in Texas -- are showing steady declines, the monthly drilling report found.

Year-on-year, output from Eagle Ford is down 21 percent, while North Dakota production is lower by 8 percent, Platts found.

Crude oil prices are down about 20 percent from this time last year as supply-side pressures build against a lackluster global economy. Prices in April soared, however, on expectations the market was returning to balance. The price for West Texas Intermediate, the U.S. benchmark price, was around $44 per barrel and Platts found that, for most producers, anything above $40 was generally positive for future development.

Cavey said there's an incentive, however, for most producers to stand pat until further momentum builds, though there remains some concern that a market recovery may add to supply-side pressure.

"Capital budgets [for energy companies] have been reduced on average an additional 40 percent from last year," he added. "Producers can only stretch themselves so far until they are forced to fold."

South Carolina: Senate Approves $4 Billion Road-Repair Plan

The S.C. Senate gave final approval to a $4 billion road-repair plan that includes fixing Malfunction Junction.

State Rep. Gary Simrill, R-York, expects the Senate proposal, which also includes replacing nearly 400 bridges, to be approved by the S.C. House.

"The House has continually supported — by a wide majority of votes — more money for road funding," said Simrill, assistant majority leader of the Republican-controlled House.

Legislators plan to pair the Senate's funding proposal with a separate plan to restructure the oversight boards at the state's two road agencies.

Some legislators have argued the governor should have more control of the legislatively controlled commission that oversees the S.C. Department of Transportation. That would remove politics from road projects, critics say.

Critics also say legislators should not control the S.C. Transportation Infrastructure Bank, which finances road-repair projects by issuing debt.

Senate leader Hugh Leatherman, R-Florence, praised the proposal.

"This is a good first step but not a complete fix," he said. "We'll need to come back in subsequent years to provide a recurring and sustainable fix.

"It is absolutely vital that we have a dedicated source of dollars going toward infrastructure projects," he added, referring indirectly to failed efforts to increase the state's gas taxes to help pay for road repairs.

Republican state Sens. Lee Bright, Kevin Bryant, Tom Corbin and Shane Martin, who oppose borrowing or increasing taxes, voted against the Senate proposal.

The best chance for the road-repair proposal to become law is to combine it with a fix for the boards that oversee the roads agencies, said state Sen. Larry Grooms, R-Berkeley. That is because some legislators only favor changing the structure of the roads agencies while others only favor more money for road repairs.

Republican Gov. Nikki Haley has pushed for more control of the roads agencies. "We need to reform the (Transportation Department) so that we get rid of the political horse trading and instead have a state plan that focuses on needs like traffic, safety and economic development," said Haley spokeswoman Chaney Adams. "Until that happens, we're wasting taxpayer dollars."

Grooms said he is more confident every day that a road-repair proposal will pass, including restructuring and more money. "Going home with nothing is not acceptable."

API's Gerard to Next President: "If you Can't Assist, Please Don't Hinder our Industry's Ability to Produce"

American Petroleum Institute President Jack Gerard called on the winner of November's presidential election not to increase regulation on a struggling domestic oil and gas industry.

"At stake is nothing less than sustained American global energy leadership and with it millions of well-paying jobs, American economic prosperity and national security," he said. "If you can't assist, please don't hinder our industry's ability to produce, refine and store the energy our nation and the world needs."

Gerard's comments during the Offshore Technology Conference follow a statement on the campaign trail by likely Democratic nominee Hillary Rodham Clinton that she would ban hydraulic fracturing on federal oil and gas leases.

Meanwhile, the "Keep it in the ground" environmental movement, which seeks to shift the country away from fossil fuels, is gaining increasing traction with Democrats in Congress. And wealthy donors like Jay Faison, the North Carolina businessman, are pushing Republican candidates to embrace clean energy sources.

Gerard argued the presidential and congressional elections in November were likely to prove critical in determining the future of the oil and gas industry in the United States.

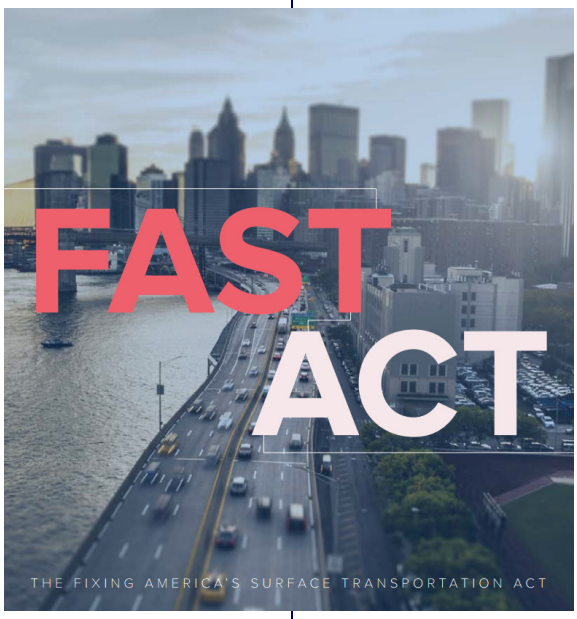
He said increases in oil and gas production over the past five years could be erased if future policies were overly restrictive.

"In spite of our industry's record of safe operations and leadership, we have to contend with policies that seem determined to undermine the progress our nation has made to become a global energy leader through rules and regulations that stifle domestic energy production," he said.

New Ways to Pay for Roads

The Fixing America's Surface Transportation (FAST) Act, passed by Congress and signed by President Obama on December 4, authorizes what no federal legislation has ever authorized: $95 million for states to research and test new ways to fund roads.

Currently highway funding relies mainly on taxing gasoline and diesel fuels. But these are inadequate to keep pace with the funding ambitions of the federal, state, and local governments, which encourage fuel economy and even the use of electrically powered vehicles, which use no fuel. Hence the search for alternative methods. TOLLROAD-news reports that states seeking such methods include California, Florida, Georgia, Illinois, New York, Oregon, Pennsylvania, Texas, and Virginia.



California has already pioneered new ways of charging for road use. In 1995 it authorized the construction of express toll lanes in the medians of a 10-mile section of State Route 91 (east of Anaheim) and an eight-mile section of I-15 (north of San Diego). Users of those lanes are required to open accounts with the highway authority, and their vehicles carry electronic devices, called "transponders," that enable their accounts to be debited. Similar methods (for example, EZ Pass tollbooths) are now widely used in other parts of the country, and also in Canada, Chile, England, France, Germany, Italy, Norway, Portugal, Singapore, Sweden, and other countries.

What other methods can there be for charging for road use?

A simple possibility would be to require vehicle owners to submit periodic odometer readings and to pay on the basis of total miles traveled. Such a system could help ensure that total expenditures on roads were covered by road users and property owners, who often finance local roads.

More promising could be the use of the GPS (Global Positioning System) to enable vehicle owners to track the use of their vehicles and transmit for billing the total miles driven. To protect privacy, information about specific trips should not be transmitted. The problem with GPS is that it is widely believed it can be used to enable outsiders to track vehicles. In fact they cannot do this, in the same way that sextants could help crews know their own ships' positions but could not enable others to track the ships.

While such methods are usually triggered by the need to raise revenues for specific road facilities (which cannot be raised with fuel taxes), they also have other advantages. One is the possibility of increasing road-use charges to reduce traffic congestion at specific places and times. Another is to ensure that payments by road users go to those who provide the roads they travel on. Systems that route road-use payments to those who provide the roads help governments to ensure that roads are provided only when their costs are covered by those who use them or otherwise benefit from them.

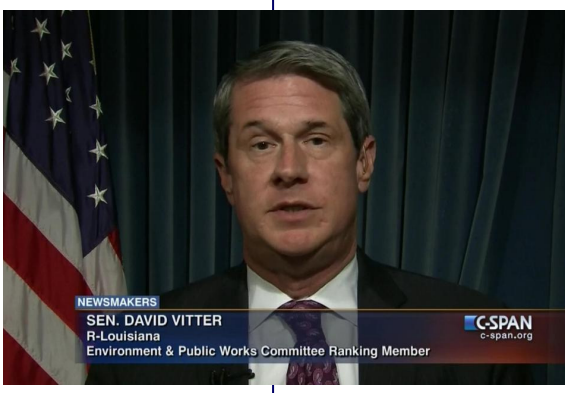
Unfortunately for road users and taxpayers, some governments — even in the United States — are

Continued on page 20

Vitter, Senators Criticize Methane Rule

U.S. Sen. David Vitter and others are criticizing a federal regulation that would attempt to sharply cut methane emissions from American oil and gas production in a letter sent to the Obama's chief environmental administrator.

The rule by the Environmental Protection Agency is the major element of an administration goal to reduce methane emissions from oil and gas drilling by up to 45 percent by 2025, compared to 2012 levels. It would require energy producers to find and repair leaks at oil and gas wells and capture gas that escapes from wells that use the common drilling technique known as hydraulic fracturing, or fracking.



The ruling has drawn varying levels of praise from environmental groups and criticism from oil and gas industry stakeholders and republican congressmen.

EPA administrator Gina McCarthy said the new rule would "protect public health and reduce pollution linked to cancer and other serious health effects while allowing industry to continue to grow and provide a vital source of energy for Americans across the country."

The letter, sent Friday and addressed to McCarthy, raised an issue with the ruling. The senators say they don't think the administration understands the effects of the rule.

"Given that so many of our communities are being impacted by current market conditions, any new regulations impacting oil and natural gas should be based on reliable, transparent data that is devoid of any political considerations. At this point, we remain deeply skeptical that EPA's revisions to its methane emissions data meet those criteria," the senators said.

Methane, the key component of natural gas, tends to leak during oil and gas production. Although it makes up just a sliver of greenhouse gas emissions in the United States, it is far more powerful than carbon dioxide at trapping heat in the atmosphere, making it a top target for environmentalists concerned about global warming.

Officials estimate the rule would cost the industry about $530 million in 2025. Those costs would be outweighed by reduced health care costs and other benefits totaling about $690 million, officials estimate.

But even as oil and natural gas production has risen dramatically in recent years, methane emissions have fallen, thanks to new technologies that have reduced waste and improved efficiency.

Vitter, a Republican from Metairie who is retiring at the end of the year, has often

Continued on page 20

Edwards, Oil Execs Disagree on Industry's Help Restoring Coast

Gov. John Bel Edwards is pushing to get the oil and natural gas industries to pay for restoring Louisiana's fragile coast by encouraging them to settle lawsuits alleging they caused extensive damage to coastal lands. The governor met with industry leaders and company executives on May 13 and asked them to settle the numerous lawsuits, filed by local governments, and help pay for coastal restoration, according to letters obtained by The Associated Press.

Industry leaders have rejected his request. But, the governor, in a letter sent to industry organizations, said he wanted to meet with them again to discuss settlements.
Three coastal parishes are seeking compensation for alleged state permit violations, coastal damage and pollution. Earlier this year the governor and Attorney General Jeff Landry intervened in those suits.
Louisiana has lost about 1,900 square miles of coast since the 1930s and continues to lose about 17 square miles a year. It is one of this impoverished state's most dire problems.

In Thursday's letter, Edwards said he was disappointed that last week's meeting did not result in "a more constructive dialogue" and "a possible structure to resolve the related liability issues."

"At this point, we have two choices — work together toward an amicable solution or spend years in litigation," Edwards wrote. "There should be no doubt that it is in the best interests of Louisiana and the industry to choose the former option."

Industry leaders, though, said they are not considering settlements.

"It is evident that the state is seeking to move us into an area of discussion that is impossible," said a letter from Chris John, president of Louisiana Mid-Continent Oil and Gas Association, and Don Briggs, president of Louisiana Oil and Gas Association.

The letter said the state was seeking to hold the oil and gas industry "accountable for a substantial amount of damages without making any effort to establish liability."

At issue are claims that oil and gas companies violated their permits by failing to fix damage caused by oil drilling, such as digging thousands of miles of canals that scientists say led to salt water intrusion and land loss. The oil industry disputes that contention and argues permits were not violated.
"The lawsuits were filed by profit-motivated lawyers, and are not a funding mechanism" for coastal restoration, the industry groups wrote.

The position taken by Edwards, a Democrat, is very different from that of his predecessor, Republican Gov. Bobby Jindal. Jindal was opposed to suits against the industry over coastal damage.

In a telephone interview, Briggs said Edwards suggested in the May 13 meeting that Louisiana faces spending $100 billion on coastal restoration over the coming decades and that the industry should pay a sizeable amount of that.

Briggs said the industry is not interested in settlement talks.

"The reality is that we are not in any negotiations," he said. "We are not even talking about that. The only person talking about that is the governor."

OSHA's Final Rule to 'Nudge' Employers

On May 11, the U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) issued a final rule to modernize injury data collection to better inform workers, employers, the public and OSHA about workplace hazards. With this new rule, OSHA is applying the insights of behavioral economics to improve workplace safety and prevent injuries and illnesses.

OSHA requires many employers to keep a record of injuries and illnesses to help these employers and their employees identify hazards, fix problems and prevent additional injuries and illnesses. The Bureau of Labor Statistics reports more than three million workers suffer a workplace injury or illness every year. Currently, little or no information about worker injuries and illnesses at individual employers is made public or available to OSHA. Under the new rule, employers in high-hazard industries will send OSHA injury and illness data that the employers are already required to collect, for posting on the agency's website.

The final rule requires employers in certain industries to electronically submit to OSHA injury and illness data that employers are already required to keep under existing OSHA regulations.

The final rule requires employers in certain industries to electronically submit to OSHA injury and illness data that employers are already required to keep under existing OSHA regulations. The frequency and content of these establishment-specific submissions is set out in the final rule and is dependent on the size and industry of the employer. OSHA intends to post the data from these submissions on a publicly accessible website. OSHA does not intend to post any information on the website that could be used to identify individual employees.

The final rule also amends OSHA's recordkeeping regulation to update requirements on how employers inform employees to report work-related injuries and illnesses to their employer. The final rule requires employers to inform employees of their right to report work-related injuries and illnesses free from retaliation; clarifies the existing implicit requirement that an employer's procedure for reporting work-related injuries and illnesses must be reasonable and not deter or discourage employees from reporting; and incorporates the existing statutory prohibition on retaliating against employees for reporting work-related injuries or illnesses. The final rule also amends OSHA's existing recordkeeping regulation to clarify the rights of employees and their representatives to access the injury and illness records.

OSHA's regulation at 29 CFR part 1904 requires employers with more than 10 employees in most industries to keep records of occupational injuries and illnesses at their establishments. Employers covered by these rules must record each recordable employee injury and illness on an OSHA Form 300.

Just as public disclosure of their kitchens' sanitary conditions encourages restaurant owners to improve food safety, OSHA expects that public disclosure of work injury data will encourage employers to increase their efforts to prevent work-related injuries and illnesses.

"Since high injury rates are a sign of poor management, no employer wants to be seen publicly as operating a dangerous workplace," said Assistant Secretary of Labor for Occupational Safety and Health Dr. David Michaels. "Our new reporting requirements will 'nudge' employers to prevent worker injuries and illnesses to demonstrate to investors, job seekers, customers and the public that they operate

Continued on page 15

OSHA's Final Rule to 'Nudge' Employers

Continued from page 14

safe and well-managed facilities. Access to injury data will also help OSHA better target our compliance assistance and enforcement resources at establishments where workers are at greatest risk, and enable 'big data' researchers to apply their skills to making workplaces safer."

The availability of these data will enable prospective employees to identify workplaces where their risk of injury is lowest; as a result, employers competing to hire the best workers will make injury prevention a higher priority. Access to these data will also enable employers to benchmark their safety and health performance against industry leaders, to improve their own safety programs.

To ensure that the injury data on OSHA logs are accurate and complete, the final rule also promotes an employee's right to report injuries and illnesses without fear of retaliation, and clarifies that an employer must have a reasonable procedure for reporting work-related injuries that does not discourage employees from reporting. This aspect of the rule targets employer programs and policies that, while nominally promoting safety, have the effect of discouraging workers from reporting injuries and, in turn leading to incomplete or inaccurate records of workplace hazards.

Using data collected under the new rule, OSHA will create the largest publicly available data set on work injuries and illnesses, enabling researchers to better study injury causation, identify new workplace safety hazards before they become widespread and evaluate the effectiveness of injury and illness prevention activities. OSHA will remove all personally identifiable information associated with the data before it is publicly accessible.

Under the new rule, all establishments with 250 or more employees in industries covered by the recordkeeping regulation must electronically submit to OSHA injury and illness information from OSHA Forms 300, 300A, and 301. Establishments with 20-249 employees in certain industries* must electronically submit information from OSHA Form 300A only.

The new requirements take effect Aug. 10, 2016, with phased in data submissions beginning in 2017. These requirements do not add to or change an employer's obligation to complete and retain injury and illness records under the Recording and Reporting Occupational Injuries and Illnesses regulation.

SSDA-AT had submitted comments in strong opposition to this new rule. SSDA-AT stated, “We do not believe that the publication of this confidential information reduces the influence of special interests, tracks how the government uses tax dollars, or empowers the public to influence the decisions that affect their lives. Therefore, using the Open Government Initiative as the legal foundation for public access to injury and illness data is not consistent with the goals and intent outlined by the Memorandum on Transparency and Open Government”.

In the background materials accompanying the rule, OSHA refers to the alleged benefits of “public” access to these reports in terms of customer decision-making. While this approach may be well intentioned, it ignores the realities of the marketplace. Competitors have obvious incentives to use injury and illness data for competitive advantage. Meanwhile, customers viewing the raw data out of context may well draw incorrect conclusions, particularly if aided by the self-interested and distorted representations of these competitors. Absent proper context, raw data on workplace injuries and illnesses is an unreliable measure of an employer’s

Continued on page 23

TransCanada Still Banking on Keystone XL Approval

Despite a resounding "no" from the Obama Administration, US$2.4 billion in written-off costs, and a pending NAFTA appeal and court challenge, TransCanada Corp.'s C$8 billion Keystone XL oil pipeline remains in the company's long-term plans.

Shipping contracts remain in place, most of the landowner agreements that are needed have been obtained and miles of pipe awaiting burial sits in fields in Montana, CEO Russell Girling said April 29 at the company's annual meeting in Calgary, Alberta. Girling did not say what it would take to revive the regulatory process for the oil-sands-to-U.S. Midwest conduit, but it is still on TransCanada's radar.

"In addition to our near-term projects, we continue to advance [C]$45 billion of longer-term projects," Girling told the company's annual stockholder gathering. The project slate "includes the Energy East and Keystone XL crude oil pipelines, which together could provide 2 million barrels per day of much-needed long-haul capacity."

U.S. Secretary of State John Kerry brought the Keystone XL plan to a grinding halt in November 2015 after seven years of consideration, nixing a needed Presidential Permit for the cross-border line amid concern that its construction would exacerbate emissions from Alberta's oil sands region. Girling expressed optimism that changes in governments and climate policy at both the provincial and federal levels in Canada might sway the Obama administration's view of the project. The company booked C$6 million in Keystone XL costs in the first quarter.

As Girling spoke to shareholders who gathered at a conference facility in Canada Olympic Park, a key venue for the 1988 Winter Olympics on the outskirts of TransCanada's hometown, Alberta Premier Rachel Notley was making the rounds in Washington and other Eastern U.S. cities to pitch the province's climate strategy, which includes an emissions cap on oil sands developments and a far-reaching carbon tax. Her visit, almost one year after her socialist New Democratic Party ousted the right-leaning party that ruled the province for more than four decades, comes on the heels of a visit by Prime Minister Justin Trudeau, who was also in the U.S. to promote his government's environmental credentials.

"Certainly we believe that things are shifting from a policy perspective," Girling said. "The government has been changed, [as has] the government's position with respect to climate change. Certainly on the Alberta level, again we see the change in government. They have initiated policy here in the province, putting in place a cap on the emissions from the oil sands and putting in place a carbon tax. Certainly the

Continued on page 17

TransCanada Still Banking on Keystone XL Approval

Continued from page 16

kind of things that, at least at the time were perceived to be problems — those were the words they used at the time of denial — [the province] seems to be working hard to shore up its reputation in those places. I would hope that down the road there would be an opportunity to have a conversation about bringing this important project back."

The line remains important for Alberta oil sands producers, whose product has been stung harder by the drop in commodities prices than lighter crudes because of North American pipeline bottlenecks and a lack of access to markets outside of the U.S., he said.
"Keystone XL remains, I think, a very critical and needed piece of infrastructure for North America," Girling said. "What we know is that Canadian oil sands production will continue to grow, just with the projects that they have underway right now that they're already committed to, we'll see about 500,000 bbl/d by the end of the decade. The most-critical issue for them at this time is getting market access, and the single-biggest refining market in the world is the U.S. Gulf Coast."

Keystone XL would provide a short cut to TransCanada's existing Keystone network, taking crude across Montana, South Dakota and Nebraska to a hub in Steele City, Neb. From there it could be shipped to the Midwest or down an existing link that ends on the Gulf Coast.

At a press conference after the meeting, Girling contrasted the cost of overcoming regulatory hurdles in Canada and the U.S. with Mexico. TransCanada recently won a contract to build a US$550 million gas pipeline project with the Mexican government. Last week, Canada's national energy regulator issued an expanded review period for the company's proposed C$15.7 billion Energy East pipeline, into which Girling estimated the company has sunk C$700 million so far.

"Clearly what we've found is the risk that we need to take in Mexico to participate in a large-scale infrastructure investment is far less than it is in the United States" and Canada, Girling said. "In Mexico it costs us something like [C]$5 million to put together a bid and make our bid. If we win, we get our permits, we work with landowners and we start construction right away. So our capital at risk, if you will, is [C]$5 million, if we lose, we're out [C]$5 million. In the case of Keystone XL, we spent somewhere around US$2.5 billion to finally determine whether or not we could even get a permit. And when you look at Energy East we're into that project [C]$700 million and we don't even know whether or not we'll get a permit."

Despite regulatory problems on some of its projects, TransCanada's acquisition of Columbia Pipeline Group for about US$13 billion including debt is moving smoothly toward an expected closing in the second half. Columbia filed its draft proxy statement with the Securities and Exchange Commission and mailed it after receiving no comment, Girling said. TransCanada has not received any feedback on its foreign investment review or Hart-Scott-Rodino Act filings.

"Things are going well with the closing, we've made our filings," Girling said. "We haven't seen any major stumbling blocks. I think one of the keys again for this acquisition for us was it was in a region where we weren't a major player, and therefore I think we have limited competition issues. From a transaction perspective it's an all-cash offer, we tried to create a situation where it was a very compelling value for both their shareholders and our shareholders."

Government Affairs Report

Continued from page 3

WHITE HOUSE CONFERENCE ON SMALL BUSINESS

SSDA-AT is working as part of a coalition to promote a new White House Conference on Small Business.

There have been three prior White House Conferences on Small Business (in 1980, 1990 and 1995). We believe that another White House Conference will help bring attention back to the role of small business in the economy and provide a valuable forum for addressing, and finding constructive solutions to, small business issues.

The coalition is working towards the introduction of a bill providing for a new White House Conference on Small Business to be introduced in the House and Senate later this spring. In order for this bill to be successful, it is important that the effort have broad public support.

A critical piece to the success of the WHCSB is the utilization of state conferences to ensure broad and equitable representation of the very diverse small-business community. Through the state conferences, which feed into the regional conferences and then into the national conference, small-business owners are able to develop, enhance and fully embrace the key issues facing small businesses nationwide. In addition to building consensus, growing small-business networks and nurturing future small-business leaders, the state conferences and broad participation of small businesses lend credibility to the final list of recommendations. It also eliminates any concerns that any single constituent group or sponsoring party hand-picked delegates to such a conference.

Despite action and success on a variety of issues impacting small business, there has not been a White House conference in more than two decades. That is far too long to go without giving voice and a forum to America's small businesses which account for 99 percent of U.S. private sector employers and 64 percent of net new private sector jobs. The 114th Congress should reunite the wide variety of voices within the small business community to help educate Congress and the White House on issues that matter most through an organized effort to identify and rank these priorities. Just as in 1995, Members of Congress can leverage the collective strength and voice of small business advocacy to work with the White House to enact timely and impactful legislation.

ACTION REQUESTED:

We urge Members of Congress to introduce and enact legislation authorizing a White House Conference on Small Business (WHCSB). Legislation is necessary in the near-term to ensure that small business issues remain at the forefront of policy discussions and also to ensure small business has a voice at the highest levels of the American government.

TARIFF ANALYSIS

On April 21st, the Commerce Department decided that Farm/OTR/industrial tires produced in China and imported into the USA from September 1, 2013 through August 31, 2014 shall have combined Anti-Dumping and Countervailing Tariffs ranging from 65.33% to 70.55%, instead of the lower rate of approximately 12 to 18%.

This means that tires imported and sold during these dates will cost the importers of record a substantial amount more because the tariff is not what they thought at the time of importation, but quite a bit more.

lier this year, the International Trade Commission opened up an investigation on Farm/OTR/ Industrial tires produced in India and Sri Lanka. Soon the agency will announce its recommendations as to whether or not to place a tariff on these tires. If history is any indication, the United Steel Workers have been victorious in these efforts.

Senators Push Feds to Raise Liability Stakes on Mackinac Pipeline

Continued from page 4

said Peters, who sits on the senate committee that oversees PHMSA.

Peters said PHMSA, a DOT sub-agency, should be able to make the change on its own, but he's prepared to insert language requiring the reclassification if the agency's 2016 reauthorization bill comes back to the senate. "We're asking them to get it done," he said.

"Legislation takes time."

Artealia Gilliard, PHMSA spokesperson, said via email that "we received the letter and will respond directly to the Senators."

The letter is the latest action by Michigan Congressional delegates openly aimed at tightening regulations on Line 5, which is already being studied this year by state contractors who are evaluating the pipeline's operational risk and whether there are viable alternatives to having it traverse the Mackinac straits.

In March, the Senate passed provisions added by Peters and Stabenow into the PHMSA reauthorization bill that would designate the Great Lakes as an "Unusually Sensitive Area" and subject pipelines in or near the lakes to greater safety standards.

Also included in the bill is language that would require PHMSA and pipeline operators work ice cover into their spill response planning and require the Government Accountability Office (GAO) consider the risks posed by age, condition, materials and construction of a pipeline in safety reporting.

The age of Line 5, built in 1953 before the Mackinac Bridge, is among the chief concerns among those who would like to see it removed or replaced.

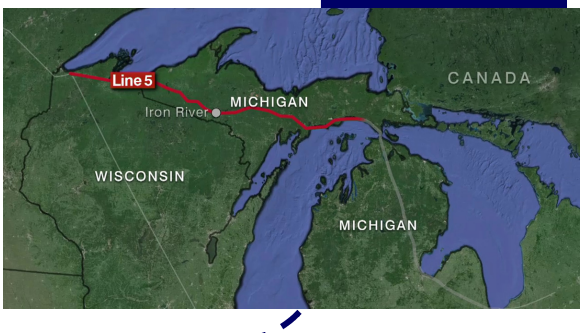
In April, Rep. Candice Miller, R-Harrison Township, introduced the Great Lakes Pipeline Safety Act of 2016, which would force Enbridge to shut down Line 5 if an 18-month comprehensive study found the pipelines posed a significant risk.

At the state level, Sen. Rick Jones, R-Grand Ledge, introduced legislation in April that would force any existing pipeline operator with an easement to cross Michigan's Great Lakes "and connecting waters" prepare a formal Environmental Impact Statement that includes alternatives to the pipeline, performed by a "qualified, independent third party."

Enbridge spokesperson Ryan Duffy said the company already tailors its various pipeline spill response plans to each specific environment.

"We inspect Line 5 inside and out with high tech tools and those inspection reports show us that Line 5, while not perfect, is in very good condition and meets or exceeds today's standards for new pipelines," he wrote in an email.

The PHMSA bill is awaiting U.S. House approval. It reauthorizes the agency through 2019. As written, the bill would also give PHMSA new hiring powers to address understaffing and encourages the agency to adopt new mapping technology to prevent accidental pipeline damage during excavations.



LEGISLATIVE UPDATE

Continued from page 1

SSDA-AT also attended CPAC (Conservative Political Action Conference) and spoke directly with 2016 Republican candidates.

SSDA-AT continues to work with other industry groups and in April we partnered with SEMA and TIA to take part in an "RPM Working Group" - which is comprised of organizations that support passage of the "Recognizing the Protection of Motorsports Act" (HR 4715, S 2659). The joint industry letter submitted on April 1st to the EPA in response to its Notice of Data Availability demonstrated the effectiveness of collaboration. SSDA-AT has worked with SEMA and TIA on several EPA concerns this year.

As an industry we must come together to combat these issues.

We encourage everyone to attend the 2016 Industry Issues Forum, which will be held on Friday, September 9th, 2016 from 9:30am to12pm at the Roland Powell Convention Center, in Ocean City, Maryland, during our annual Convention and Trade Show.

At this session we will have the opportunity to discuss these issues and others that may be concerning to your business.

This year we have extended the Forum by 30 minutes to accommodate all of our speakers. We should have a broad section of our industry in attendance, and SSDA-AT looks forward to your participation and attendance. Thank you for the continued support!

Vitter, Senators Criticize Methane Rule

Continued from page 12

been critical of the EPA and Obama's efforts to regulate the environmental impacts of the oil and gas industry. During a recent Senate Environment and Public Works Committee meeting, Vitter accused McCarthy and the EPA of violating the Small Business Regulatory Flexibility Act by pushing the regulation forward without allowing small entity representatives to review and comment on the proposal.

"It is deeply troubling to see the EPA's political agenda dictate its use and application of scientific data, as seen in their recent methane rule," said Vitter in a statement. "The Obama EPA has a long history of skewing the facts in order to push through their far-left environmental agenda, regardless of the cost on the economy or American jobs, and I quite look forward to EPA's explanation of the scientific methodology behind their seemingly baseless methane rule."

The EPA said Thursday it is also asking energy companies to provide a range of information on existing drilling wells, including the types of technologies that could be used to reduce methane emissions. EPA will collect the information for the next year, with the intent of issuing a rule sometime next year.

Violation of Magnuson Moss Petition for Investigation

Continued from page 7

tor carriers. The Safety Fitness Determination (SFD) NPRM would update FMCSA's safety fitness rating methodology by integrating on-road safety data from inspections, along with the results of carrier investigations and crash reports, to determine a motor carrier's overall safety fitness on a monthly basis.

On May 5th, SSDA-AT attended a Small Business Transportation Safety Roundtable to discuss the proposed rule. SSDA-AT is asking members who have concerns with the proposed rule to voice them to the association.

The proposed SFD rule would replace the current three-tier federal rating system of "satisfactory-conditional-unsatisfactory" for federally regulated commercial motor carriers (in place since 1982) with a single determination of "unfit," which would require the carrier to either improve its operations or cease operations.

How can I find out more about the Safety Fitness Determination (SFD) Notice of Proposed Rulemaking (NPRM)?

The proposal will be available at www.regulations.gov at docket number FMCSA-2015-0001. The initial comment period has been extended until May 23, 2016. Response comments will be accepted for an additional 30 days.

The Agency has developed a calculator for motor carriers to determine how the proposed rule. To view the calculator see this link:https://csa.fmcsa.dot.gov/sfd/SFDCalculator.aspx

What are the big differences?

- There would no longer be three safety ratings: satisfactory, conditional or unsatisfactory. Rather, there would only be one safety rating: "unfit."
- Carriers would be assessed monthly, using fixed failure measures that are identified in the NPRM. Stricter standards would be used for those BASICS with a higher correlation to crash risk: Unsafe Driving and Hours of Service Compliance.
- Violations of a revised list of "critical" and "acute" safety regulations would result in failing a BASIC.
- All investigation results would be used, not just from comprehensive on-site reviews.
- A carrier could be proposed unfit by failing two or more BASICs through:
  - Inspections
  - Investigation result
  - A combination of both

The carriers identified in the Agency's analysis have crash rates that are more than three times the national average.

Why is FMCSA proposing changes?

- Currently, FMCSA and its State partners can only assess the safety of a small number of motor carriers.
- Using additional safety data from our systems will allow FMCSA and its State partners to be more efficient in assessing carriers and identifying those that should be proposed unfit.
- Under the present system, it is possible for carriers with a conditional safety rating to operate indefinitely.
- Through SFD proposal, a broader amount of safety data would be used in making the proposed determination.

Using the proposed process, the Agency estimates that 75,000 carriers a month would be assessed for safety fitness.
How is SFD different than the Safety Measurement

Continued on page 22

Violation of Magnuson Moss Petition for Investigation

Continued from page 21

System (SMS)?

- SFD is a safety rating system, SMS is prioritization system.
- Under SFD, a motor carrier's performance is compared to an absolute failure standard, not against other motor carriers.
- A motor carrier's SFD performance measures are not impacted by other carriers' performance.

A higher data sufficiency standard is used in SFD; a motor carrier would need to have 11 or more inspections with violations in a BASIC before it could potentially fail the BASIC.

How would I know if this proposal would impact my company?

If your company does not have 11 or more inspections with violations in two or more BASICs and/or an investigation with violations cited in the past month, you would not be impacted by this proposed rule.

Approximately 77,000 (15%) of over 500,000 carriers have a safety rating:

- 57,000 Satisfactory ratings
- 19,000 Conditional ratings
- 1,700 Unsatisfactory ratings

Of the 77,000 ratings:

- 5,858 - Issued within 1 year
- 4,390 - Issued within 2 years
- 10,316 - Issued within 5 years
- 22,095 - Issued within 10 years
- 34,684 - Older than 10 years

According to U.S. Department of Transportation, 3,056 carrier are estimated to be impacted by the proposal.

New Ways to Pay for Roads

Continued from page 11

not interested in ensuring that road costs are covered by those willing to pay them, nor in ensuring that payments made for roads are really spent on roads. This results in much avoidable waste, for which the phrase "roads to nowhere" has been coined.

New ways of funding roads could help to avoid such waste by enabling the establishment of self-financing road systems to be provided by private companies or even by state-owned ones, such as the New Jersey or Pennsylvania turnpikes. Self-financing road systems should be required to publish accounts showing the usage of each road and the money paid for it. There would still be problems — such as the allocation of costs between different types of vehicles — but toll-road managements deal with such problems daily all over the world.

The key is to find a system of paying for roads that, while ensuring the privacy of road users, enables the amounts paid for each road to be known and compared with its costs. That is why the $95 million allocated by the federal government to enable the states to research this issue is so important.

OSHA's Final Rule to 'Nudge' Employers

Continued from page 15

safety record. In addition to commercial competitors, other hostile interests (political, personal, ideological) could use or threaten to use this data to fashion negative ad campaigns, create frivolous litigation, or engage in other mischief based on easy access to sensitive information in its most raw form.

SSDA-AT is also concerned that the posting of this raw data will negatively affect the accuracy of reporting based on a company's knowledge that competitors and consumers will be able to view the data. There will be a strong incentive to "fudge" the data or participate in "creative" reporting, based in part on the assumption that "everyone's doing it." The more companies that believe consumers are viewing this data, the greater the incentive for distorting their own data or designing schemes to have their competitor's data viewed negatively.

SSDA-AT's primary objection is to the "publication" and public access to raw injury and illness data without the benefit of a contextual explanation. There is a great risk of misuse of such highly sensitive data by both competitors and other adversaries. Since it would be in such a raw form and subject to distortion, this data will be of questionable value in consumer decision-making. Our members understand OSHA's desire for this data to direct its policy making, but we urge that the data remains confidential between the Agency and the employer. We also urge that the scope of this rule be pared down to a much smaller volume of data, impacting far fewer establishments and targeted to obtain only the most serious injury and illness information. Then there must be an evaluation of the data collection and reporting program to determine whether it actually leads to concrete improvements in workplace health and safety. Finally, any form of electronic reporting must be phased in to allow for a smooth transition for those establishments that have not moved to entirely electronic systems.

Without any empirical data to support the perceived benefits or justify the additional costs, OSHA is speculating that the implementation of this proposed rule will have a positive impact on workplace health and safety. In many instances, businesses will be forced to reallocate resources from proven risk management practices in order to comply with the increased reporting requirements.

Under the Occupational Safety and Health Act of 1970, employers are responsible for providing safe and healthful workplaces for their employees. OSHA's role is to ensure these conditions for America's working men and women by setting and enforcing standards, and providing training, education and assistance. For more information, visit www.osha.gov.

The final rule is available on Federal Register at: https://s3.amazonaws.com/public-inspection.federalregister.gov/2016-10443.pdf.

OSHA
Occupation Safety & Health Administration

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