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April 2021

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American Rescue Plan Poised To Boost Economy And Most Workers' Incomes

The U.S. economy contracted 3.5 percent last year but is expected to grow 7 percent this year according to Goldman Sachs. Propelled by $2 trillion hoard of household savings, growing business investments, and government policy of assistance to states, firms, and tax cuts for low and middle-income financially-stressed households, under the American Rescue Plan Act (H.R. 1319).

There are still 10 million fewer workers than before the pandemic, and though the last unemployment report was promising, around 7.5 million workers are applying for unemployment each week and many are working fewer hours. The average workweek fell from 34.9 hours in January to 34.6 hours in February, equivalent to a payroll loss of a million workers according to Barron's.

A March 8th analysis of the Senate bill by Urban Institute/Brookings Tax Policy Center found the measure "would reduce Federal taxes in 2021 by an average of $3,000 and raise after-tax incomes by 3.8 percent. Families with children would get an average tax cut of more than $6,000 . . .

"In 2021, low- and moderate-income households (those making $91,000 or less) would receive 70 percent of the tax benefits from the Senate measure. Among families with children, low- and middle-income households would get nearly three-quarters of the benefits.

A household making $25,000 or less would receive an average tax cut of $2,800, boosting their after-tax income 20 percent. A low-income household with children would get an average tax cut of nearly $7,700, raising their after-tax income by more than 35 percent."

Overall, the Senate bill cuts taxes by $467 billion in 2021, according to the Joint Committee on Taxation, but the salient feature is "a 20 percent boost in after-tax income for the lowest-earning 20 percent of households," with no hike in the minimum wage.

Taxes Urban/Brookings modeled were the four largest in the Schumer bill: $1,400 economic impact payments, refundable child tax credit, expanded refundable earned income credit, and refundable child and dependent care tax credit. These are temporary tax credits that Democrats make little secret of wanting to make permanent.

Beside boosts in appropriations for agriculture, energy, education, housing, transportation, health care, rural broadband, rental and mortgage assistance, etc., here are the highlights of the Senate bill for FY 2021 unless other dates are given:

• Enhances employee retention tax credit (Section 9651 of the Schumer bill) by permitting certain hardest-hit businesses to count wages paid to all employees as qualifying wages; in addition, the credit would be available to business start-ups.
• Economic Impact Payments (cash grants) of $1,400 to individuals earning up to $75,000 ($2,800 for couples up to $150,0000), plus $1,400 per dependent, including those in college; payments fully phased out when AGI reaches $80,000 for singles, $120,000 for heads of household, and $160,000 for joint filers without children;
• Supplemental Federal benefit of $300 for workers receiving state unemployment compensation, available through September 6th;
• Bigger and fully refundable Child Tax Credit of $3,600 for each child under age 6, and $3,000 up to age 17;
• $25 billion expansion of Earned Income Tax Credit to cover additional childless adults;
• Easing child care costs for working parents by larger and fully refundable child and dependent care tax credit of up to $4,000 for one child and $8,000 for two or more;
• $16 billion for Child Care and Development Block Grant in FY 2021, additional $35 billion through September 30, 2025; $24 billion for emergency Child Care Stabilization Funding for FY 2021;
• Saving unemployed workers $25 billion by exempting households with income below $150,000 from Federal tax on the first $10,200 of calendar year 2020 unemployment benefits;
• Excluding from gross income the full amount of student loan indebtedness discharged (paid up or cancelled) after December 31, 2020 and before January 1, 2026;
• Additional funds for veterans programs (see Title VIII of the bill) including claims and appeals processing, medical care and health needs, supply chain modernization, state homes, veteran rapid retraining assistance program, and prohibition on copayments and cost-sharing by veterans during COVID-19 emergency;
• Indian Health Service (Section 11001) and Housing Assistance and Supportive Services Programs (Section 11003);
• 15% boost in food stamp benefit which was first enacted in CARES, now extended through September 30;
• $75 billion for vaccinations, treatments, and supplies;
• $19 billion for rural and community health centers;
• $50 billion for Federal Emergency Management Agency (FEMA);
• $26 billion direct assistance for restaurants, bars, and live venues;
• $15 billion direct assistance for airlines payroll support;
• $350 billion for state and local governments, of which the state total, $220 billion, is distributed based on state unemployment rate rather than population size;
• $129 billion for elementary and secondary schools, $40 billion for higher education, on top of $113 billion already provided but largely unspent;
• $30 billion for public transit agencies;
• $7 billion more for the small business Paycheck Protection Program originally established by the CARES Act;
• $86 billion to strengthen single-employer and multiemployer pension plans;
• $35 billion for premium subsidies under the Affordable Care Act (Obamacare);
• Repeal of election to allocate interest on worldwide basis (Section 9671 of the bill).

Are New Taxes Likely in 2021?

This is a key question that the SSDA-AT is closely monitoring as the new Biden Administration continues to settle in after their first month in office. As of the writing of this report, no significant legislation which would increase taxes has yet to gain any momentum in the House or Senate. However, during the campaign President Biden proposed a number of new taxes and changes to the tax code. Some believe that at least some of his tax plan will be included in a second budget reconciliation bill. Even though at least some are convinced that a second reconciliation bill would be used to increase taxes (as outlined below), others believe it may be used for infrastructure only or a combination of both increased taxes and new spending for infrastructure.

The argument against raising taxes this year is while the country is in a recession and the new COVID stimulus bill is likely to stimulate our economy it makes no sense to pass a major tax bill, including a significant tax increase to corporations, which would have a depressive impact on our economy. While our deficit is significant, the cost of borrowing remains low so a strong argument can be made that it is more important to get out of the recession and get people back to work first. Increasing taxes on the corporations at a time when they would hopefully be responsible for a good deal of needed reemployment of their employees does not seem to make sense.

Of course, only a simple majority is needed to pass a major tax and/or infrastructure bill in the Senate when it is passed through the reconciliation process. The most significant tax items that we see possibly emerging in a second reconciliation bill which is likely to be passed sometime in the fall, are the following:

•The elimination of many of the tax cuts passed in the Tax Cuts and Jobs Act for individuals making more than $400,000. This was the centerpiece of the President's tax plan set forth during his campaign. For example, many taxpayers who were in the 35% or 37% tax brackets would find themselves in the 39.6% bracket.
•The elimination or limitation of Section 199A which provides a 20% deduction for pass-through entities for taxpayers with income over $400,000. Unfortunately, this valuable deduction for many small businesses and privately owned businesses that operate as pass-through entities (e.g., partnerships, Sub-S corporations, LLCs that are taxed as partnerships, sole proprietorships) will already automatically terminate at the end of 2025 under the Tax Cuts and Jobs Act.

•Limiting the value of itemized deductions to 28% - in other words those in higher income tax brackets would not be able to receive the full value of their deductions. Also, the so-called "Pease Limitations" would be brought back into the law for those taxpayers with income over $400,000. The concept behind these limitations would be to even the playing field between high- and low-income taxpayers so that someone in the 28% tax bracket would be receiving the same value deduction as an individual in the 37% (or higher) tax bracket. It is possible that the $10,000 SALT (state and local tax) deduction limitation enacted by the Tax Cuts and Jobs Act would be repealed, but the impact of the repeal would be offset somewhat by the above limitations on the value of deductions.

•The elimination of the deduction of 401(k) and IRA contributions from income but instead a credit equal to the amount of the contribution multiplied by a fixed percentage (possibly 26%) would be available. This proposal has been met with a real lack of enthusiasm on the Hill and particularly by those members of Congress who are most knowledgeable of the retirement plan system. Many retirement plan experts question how this proposal would even work – it would seem that all contributions made after the change from a deduction to a credit would have to be tracked separately and new accounts established since people in higher income tax brackets would have effectively paid income tax on a portion of their contributions. This means they would have established some "basis" in their accounts which at least theoretically should not be subject to income tax when distributed from the retirement plan or the IRA. If an enacted version of this proposal were to end up subjecting a portion of the contributions to double taxation, it is likely that this could reduce future contributions to 401(k) plans and IRAs, thereby adversely affecting the retirement plan security of millions of Americans.

•The elimination of the step up in basis at death. Today when assets go through an estate, they receive a step up in basis to the then fair market value. For instance, if a decedent had a basis of $100,000 in his personal residence which had a fair market value of $600,000 at the time of death, then under current law his heir(s) would inherit the property with a basis of $600,000. If the heir(s) then sold the house, there would be no capital gains tax. Under this proposal, the heir(s) would now have $500,000 of capital gains. This would be a brand-new tax and it is irrelevant whether the heir has income above or below $400,000. This provision has not been fleshed out so it is not clear whether death would be an event triggering capital gains, or the recognition of capital gains would occur at a later time when the asset was sold. It is also not clear whether a certain amount of gain would be exempt from this provision and/or whether certain assets such as a portion of a personal residence would be exempt. When this proposal was unsuccessfully advanced by the Obama administration, it was structured so that capital gains due on a small business would be deferred until the business was sold (under that provision the tax was otherwise triggered by death). When former President Trump advanced his proposal while he was running for the presidency back in 2016, it appeared that he would have exempted $10 million of capital gains – though this provision on his website was garbled so that some thought his proposal was that people with assets below $10 million would be exempt rather than $10 million of gain.

Even though this change is portrayed by its supporters as closing a huge loophole for the rich, the reality is that if the step up in basis were to be eliminated, it would generate a major new capital gains tax for millions of Americans, including those who are in the middle or lower-middle income class. For example, and as explained above, the heir(s) of an older individual who has lived in the same house (which has greatly appreciated and has a very low basis) for 60 – 70 years is likely to end up with a significant amount of capital gains tax. Without this new tax, this same individual's estate and his/her heir(s) would have paid NO tax.

•For individuals with more than $1 million (or a lower amount – perhaps $400,000!) in taxable income, long term capital gains rates and qualified dividends would be subject to ordinary income tax rates, rather than the current 20% preferred rate on capital gains.

•The top corporate rate would increase from 21% to 28%. The reduced 21% rate came in the Tax Cuts and Jobs Act. Many felt that this reduction was too extreme and that an increase is necessary to raise needed revenue. The Section 199A deduction was enacted in order to keep some sort of parity between the rates charged a pass-through entity with that charged a C Corporation. The 199A 20% deduction provides a marginal tax rate of 29.6%. A new minimum 15% tax on corporations with at least $100 million in revenue could also be included.

•The reduction of the current federal estate tax exemption from $11.7 million to $5.85 million immediately rather than waiting for the automatic reduction which would occur at the end of 2025 under the Tax Cuts and Jobs Act. It is possible that the estate tax rate, currently at 40%, could also be increased to 45% or even higher for larger estates.

•The elimination of NOL carrybacks and the elimination or limitation of like-kind exchanges under Internal Revenue Code Section 1031.

•An expanded Social Security payroll tax would subject wages above $400,000 to the 6.2% Social Security payroll tax (this would also be true for self-employment income over $400,000). In practice this would mean that for an individual making over $400,000, income up to $142,800 would be subject to the normal 6.2% payroll tax and then the 6.2% payroll tax would start up again on all income over $400,000. What is not discussed at all with this new proposed payroll tax for individuals with income over $400,000 is the cost of this proposal for employers who presumably would have to match the 6.2% on the additional income (income over $400,000) subject to the payroll tax. But note a change in Social Security cannot be accomplished in a reconciliation bill.

•The possible repeal of fossil fuel tax preferences.

There may also be some positive changes:

•An increase in the child tax credit is expected. There may be some relief with student loans and/or a credit for first time home buyers.
•Perhaps the SECURE Act 2.0 provisions would be included in this bill. These are provisions SSDA-AT strongly supports.
•New or expanded tax credits to encourage manufacturing and renewable energy or other provisions which would protect against climate change could be included. Additional relief for small business might also be included.

A few points – if a tax bill were to be enacted this year, many tax experts believe that the effective date of the legislation would be retroactive to January 1, 2021. Even though it is constitutional to enact retroactive tax legislation, it seems unlikely that there would be a retroactive effective date given the 50-50 split in the Senate. It is far more likely that the bill would have an effective date of January 1, 2022 or at least no earlier than the date of enactment or conceivably the date the legislation is first introduced.

More importantly, given the 50-50 Senate, in order to pass any of the provisions listed above, either all of the Democrats would have to vote for the legislation, or some Republicans would have to do so. It is clear that Senator Joe Manchin (D-WV) and Senator Kyrsten Sinema (D-AZ) have already established that they are going to hold to a centrist position. Senator Manchin is well known for his support of small business and is extremely knowledgeable on sophisticated tax issues. Thus, he is not someone who will be swayed by a 30 second soundbite but would instead understand the real impact of a tax change on his constituents.

If either or both Senators Manchin and Sinema (or other Democrat Senators) were to vote against a bill that eliminated the step up in basis and the reduction in the federal estate tax exemption, how likely is it that Senator Susan Collins (R-ME), Senator Lisa Murkowski (R-AK), Senator Mitt Romney (R-UT) or other Republican Senators would vote in favor of the bill? Given this dynamic, it may be that many of these provisions will not be included in any tax legislation until at least 2023.

On the other hand, given the extraordinary level of our national debt, it would seem that at some point members of Congress are going to have to get serious about reducing the deficit and try to balance the budget. One could argue that no one has been serious about reducing our debt for the last many years, so why start now, but the numbers are becoming so significant and so outside of historical norms that Congress may finally have to deal with it. Nevertheless, given our current recession this would not seem to be the year for attempting to reduce the deficit.

Finally, we will be watching the IRS closely to see what new regulations are being developed. Most tax experts fully expect a flood of new regulations over the next four years.

Biden's $2.3 Trillion Infrastructure Plan Boosts EVs

President Joe Biden yesterday unveiled a $2.3 trillion infrastructure plan that among other things aims to upgrade the nation's highways, bridges, transit systems and ports and speed the adoption of electric vehicles to move the country away from fossil fuels.

The "American Jobs Plan," which faces an uphill fight in the divided Senate, includes $621 billion for modernizing 20,000 miles of highways, building 500,000 EV charging stations and investing in public transit and other infrastructure.

To advance EVs, the plan proposes a "$174 billion investment to win the EV market." Part of the funds would go to automakers to spur domestic supply chains from raw materials to parts, retool factories to compete globally, and support American workers to make batteries and EVs." Also on tap: electrifying the federal fleet, including the U.S. Postal Service.

Regarding EV charging infrastructure, the plan seeks to create grant and incentive programs for both the private sector and state and local governments.

As a sweetener for consumers, the plan would provide point-of-sale rebates and tax incentives to buy EVs made in America.

Speaking in Pittsburgh, Biden called the massive plan "a once-in-a-generation investment in America unlike anything we've seen or done since we built the interstate highway system and the space race decades ago. In fact, it's the largest American jobs investment since World War II. It will create millions of jobs, good-paying jobs."

Biden's plan would be financed by raising corporate taxes to 28% from 21% and increasing taxes on companies' foreign earnings.

The White House said, "the plan includes $20 billion to improve road safety for all users, including increases to existing safety programs and a new Safe Streets for All program to fund state and local 'vision zero' plans and other improvements to reduce crashes and fatalities, especially for cyclists and pedestrians."

Biden set the goal of eliminating power grid emissions by 2035 by requiring that electricity come from low-carbon sources.

The infrastructure plan includes $16 billion for "union jobs plugging oil and gas wells and restoring and reclaiming abandoned coal, hardrock, and uranium mines," the White House said. To remediate and redevelop Brownfield and Superfund sites, the plan earmarks $5 billion for the effort.

There's also $15 billion to invest in demonstration projects for Biden's climate research and development priorities, "including utility-scale energy storage, carbon capture and storage, hydrogen, advanced nuclear, rare earth element separations, floating offshore wind, biofuel/bioproducts, quantum computing, and electric vehicles, as well as strengthening U.S. technological leadership in these areas in global markets."

Ethanol Likely to Get Boost from Biden's Climate Target

President Biden has made no secret of his climate agenda, which is likely to boost ethanol production in the

U.S., the Wall Street Journal reports. The Environmental Protection Agency (EPA) under the Trump Administration issued 85 exemptions for refiners who didn't meet the required blending mandates of the Renewable Fuel Standard (RFS), a significant increase from the 23 issued during former President Barack Obama's second term.

Under the Biden Administration, oil refiners seeking similar exemptions might find them difficult to obtain, especially in light of a January 2020 court of appeals ruling that the EPA should not have offered three refineries renewable fuel exemptions. Two of the three refiners appealed the decision to the U.S. Supreme Court, which will soon hear arguments.

New EPA officials will set blending obligations for this year, as the Trump Administration missed the Nov. 30 deadline. Analysts predict the mandates will probably be stringent for 2021 and 2022, with strong agency enforcement.

Another point of contention will likely be a national low-carbon fuel standard, which the Renewable Fuels Association favors and the American Fuel & Petrochemical Manufacturers (AFPM) opposes. AFPM wants a national octane standard to replace the RFS, which the ethanol industry doesn't want.

Further complicating matters is the Biden Administration's push of electric vehicles and policies friendly to EVs. "It will be interesting to see how ethanol and biodiesel interests potentially line up with their gasoline and diesel counterparts," noted Susan Lafferty, partner at law firm Eversheds Sutherland.

Marathon Petroleum Pushes Speedway Sale to Second Quarter of 2021

Industry watchers waiting for Speedway LLC to officially change hands will have to wait a little longer.

In August, Marathon Petroleum Corp. (MPC) reached an agreement to sell the Enon-based convenience store chain to 7-Eleven Inc. for $21 billion. As part of the agreement, Irving, Texas-based 7-Eleven — a wholly owned, indirect subsidiary of Seven & i Holdings Co. Ltd. — will acquire approximately 3,900 Speedway stores located in 35 states

The deal was slated to close in the first quarter of 2021, and a timeline MPC was still targeting in early February, as Convenience Store News previously reported.

However, in a filing with the U.S. Securities and Exchange Commission, the company is now pushing the timeline to early in the second quarter.

"The company has previously referenced the first quarter of 2021 as the target for closing the transaction but now is targeting closing early in the second quarter of 2021, subject to customary closing conditions and the receipt of regulatory approvals," MPC said in the filing. "7-Eleven and the company continue to engage productively with the Federal Trade Commission [FTC] in its review of the transaction."

Earlier this month, the International Brotherhood of Teamsters sent a letter to the FTC asking the agency to pause its review of the sale, which also includes a 15-year fuel supply agreement between MPC and 7-Eleven.

"Effectively, this agreement duplicates vertical integration — minus any efficiencies — and thus may provide an incentive for Marathon to raise wholesale prices to competing retailers," President James Hoffa wrote. "With gas prices now on a steep rise to nearly $3 a gallon in most states, the FTC should exercise its full authority to ensure that the Marathon/7-Eleven supply agreement will neither limit competitors' ability to buy fuel nor stick customers with sky-high costs to refill their gas tanks to get to and from work and school."

The transaction would grow 7-Eleven's network to more than 13,000 c-stores — more than double the size of the nearest competitor, Alimentation Couche-Tard Inc.'s Circle K banner, according to Hoffa, who added the rest of industry is mostly made up of individually owned stores.

Based in Findlay, MPC is an integrated downstream energy company that operates the nation's largest refining system. MPC's marketing system includes branded locations across the United States, including Marathon-brand retail outlets. Speedway LLC, an MPC subsidiary, owns and operates retail convenience stores across the United States. MPC also owns the general partner and majority limited partner interest in MPLX LP, a midstream company.

Visa Under DOJ Investigation

The Department of Justice's antitrust unit is reportedly probing whether Visa Inc. is involved in anticompetitive practices in the debit-card market, the Wall Street Journal reports, citing unnamed sources. NACS, the Merchants Payments Coalition and other merchant companies and associations have raised concerns for years that Visa and Mastercard have worked with card-issuing banks to limit merchants' ability to do business with competing debit networks.

The DOJ has been gathering information on "whether Visa, the largest U.S. card network, has limited merchants' ability to route debit-card transactions over card networks that are often less expensive," the Wall Street Journal said. "Many of the department's questions have focused on online debit-card transactions, but investigators have asked about in-store issues as well."

The newspaper said Visa declined to comment on the report.

Convenience stores paid about $11.8 billion in credit card swipe fees in 2019, making it the second highest operating cost after labor, according to NACS State of the Industry data. NACS has battled the big card networks for years to reduce swipe fees.

"It is great to see the Justice Department investigating the anticompetitive practices of Visa," said Lyle Beckwith, NACS senior vice president of government relations. "NACS members have been frustrated for years by the roadblocks the payment card networks and banks put in their way when they try to save a little money on card transactions. The antitrust problems with Visa and

Mastercard setting swipe fees for their banks to the tune of tens of billions of dollars per year is a huge problem, but it is compounded by their stifling of competition on the fees merchants must pay to card networks."

In addition to the Justice Department probe, payment network practices have been the subject of renewed congressional scrutiny in recent weeks. Senator Richard Durbin (D-IL) commented during a recent Senate Judiciary Committee hearing last week that swipe fees are "far in excess of any reasonable measure of cost" and that Visa and Mastercard are "so dominant in the payments market that merchants couldn't stay in business without using their cards," as NACS Daily reported.

And, two weeks ago, Sen. Durbin and Rep. Peter Welch (D-VT) sent Visa and Mastercard a letter asking them to cancel the April fee increases that they had planned. saying they would "undermine efforts to help the economy recover," the letter said. The card networks last week agreed to postpone those increases until April 2022.

US Final Rule on Independent Contractors Now in Jeopardy

The U.S. Labor Department's final rule defining independent contractor status -- recently developed by the Trump administration -- has been put on hold and under the Biden administration may be rescinded, according to a recent notice from the DOL.

The rule, published in the Federal Register Jan. 7, 2021, was to take effect March 8. It was designed to provide clarity on which workers are independent contractors under the Fair Labor Standards Act.

Clarity on independent contractor status is important to petroleum haulers who hire owner-operators as truckers. Some haulers have faced legal challenges for classifying these workers as independent contractors. Employers can get sued for back wages and various benefits if they misclassify employees as independent contractors, legal sources have told OPIS.

In a notice posted to the DOL website, the department said that a Jan. 20, 2021, memorandum from the assistant to the president and chief of staff froze the regulation pending review. The DOL said that on March 4 it delayed the rule's effective date until May 7. Then on March 11, the epartment said it announced a proposed rule to rescind the independent contractor rule (86 FR 14027).

The final rule, now in jeopardy, would:

--Reaffirm an "economic reality" test to determine if an individual is an independent contractor or is an employee economically dependent on a potential employer for work.

--Explain two "core factors" that would help prove independent contractor status: the nature and degree of control over the work and the worker's opportunity for profit or loss based on initiative and/or investment.

--Identify three more factors that provide more guidance in analyzing worker status: the amount of skill required for the work; the degree of permanence of the working relationship between the worker and the potential employer; and whether the work is part of an integrated unit of production.

--Reporting by Donna Harris

Dec 2020 US Vehicle Miles Up 4.4% From Nov; Full Year Hits 18-Yr Low: Data

Total vehicle miles traveled (VMT) in December 2020 rebounded more than 4% compared with figures of the month before, as their year-over-year deficit slightly narrowed versus November's level, the latest U.S. Federal Highway Administration's (FHA) Traffic Volume Trends report shows.

On a full-year basis, 2020 VMT, which measures all miles driven on public roads and highways, fell around 13% from 2019's level to the lowest since 2002 because of the nationwide closures of businesses, schools and other economic factors because of the COVID-19 pandemic, FHA, a unit of the U.S. Department of Transportation (DOT), said in the report released Thursday.

Estimated December VMT was 244.1 billion, rebounding 4.4% from 233.8 billion in November 2020, which marked a seven-month low, according to the FHA. OPIS notes that part of the month-to-month gain could be attributed to the holidays reflected in the historical trend despite the pandemic.

On a year-over-year basis, December 2020 VMT was down 10.3%, slightly stronger than the 10.7% year-on-year deficits in November 2020 and 8.4% in October 2020. Looking at region by region, December VMT improved solidly in all five tracked by the FHA from those in November, with the Northeast posting a 6% month-to-month gain.

Year over year, the deficits for Northeast (minus 15.2%) and North Central (minus 11.9%) and the West (minus 11.2%) led all regions in declines of VMT.

In terms of states, December VMT year-over-year deficits in Vermont (minus 19.1%), District of Columbia (minus 18.7%) and Pennsylvania (minus 18.4%) led all regions with the biggest declines.

For full-year 2020, the FHA estimates VMT fell by 0.43 trillion, or 13.2%, to
2.83 trillion in 2020, which is equivalent to a reduction of nearly 170 million metric tons of carbon dioxide, according to the agency.

--Reporting by Frank Tang

Company to Pay $3 Million Penalty for Selling Emissions Defeat Devices: EIA

A U.S. aftermarket auto parts company will pay $3 million in clean air act penalties for selling emissions-control defeat devices, according to the U.S. Environmental Protection Agency.

In an announcement Tuesday, EPA said that between January 2017 and February 2019, Premier Performance of

Rexburg, Idaho, and three of its related companies sold more than 64,000 parts of components that bypass vehicle emission devices.

The company -- which EPA characterized as "one of the nation's largest sellers of aftermarket automotive parts" -- agreed to pay the penalty and to also stop manufacturing and selling products that violate the federal Clean Air Act, the agency said.

The parts were designed for use on diesel pickup trucks and engines manufactured by General Motors and Ford as well as Cummins Inc. and FCA US LLC, according to EPA.

Premier Performance has also instituted procedural safeguards to prevent the sale of defeat devices, EPA said.

When announcing the agreement, EPA said it estimates that removing emission controls from one truck has the same impact on oxides of nitrogen (NOx) emissions as putting about 300 new pickup trucks on the road. EPA said the agreement will prevent the release of approximately 3.5 million pounds of air pollution per year.

Premier did not respond to a request for comment by publication time.

EPA said its investigation of Premier was part of its ongoing initiative to stop the sale of aftermarket defeat devices. The effort was first implemented in 2020 and EPA resolved 31 cases during the year, the agency said.

When releasing a November 2020 report on the environmental impact of diesel truck defeat devices, EPA said federal enforcement efforts are generally focused on upstream manufacturers and suppliers of aftermarket defeat devices.

The agency relies on individual states to enforce their own laws against tampering, operating tampered vehicles, or selling tampered vehicles.

In the report, EPA cites estimates from its Air Enforcement Division that emissions controls have been removed from more than 550,000 diesel pickup rucks over the last decade. That's equal to about 15% of the national fleet of diesel trucks originally certified with emissions controls, according to the report.Defeat devices include a variety of aftermarket auto parts as well as hardware and software intended to override installed emissions controls systems.

Tampering with emissions controls allows owners to avoid the costs of maintaining vehicle systems and can increase fuel economy and/or power, the EPA report said.

--Reporting by Steve Cronin,

EV Charging Is No Bestseller for Phillips 66

For Phillips 66, electric vehicle charging is “not a runaway bestseller”, as charging is both slower and more expensive when compared with the cost of at-home charging, according to Horace Hobbs, the U.S. refiner’s chief economist.

As AutoBlog.com reported, less than 2% of the refiner’s 7,000 retail locations in the United States and Europe now have EV charging capabilities. But retailers like Phillips must ask consumers to pay a higher price for electricity than what customers would pay if they charged their cars at home, Hobbs said during a recent fuel conference presentation.

“There’s not a fleet out there today to keep the chargers running at a rate that would support economically putting it in more of the facilities,” Hobbs said.

Phillips has enjoyed better success with electric charging in European urban areas where parking is more expensive, and customers use charging stations as parking spots. While Phillips expects EV penetration to grow in the United States in the future, they believe most users will likely charge their cars at home, according to Hobbs.

“We think that’s the optimal solution—the least expensive electricity and get the most satisfied customer out of it,” Hobbs said.

Wawa Agrees to Pay Customers Up to $9 Million Over Data Breach

A little more than a year after detecting a data breach, Wawa Inc. agreed to a settlement with its customers.

Under the class-action settlement, the convenience retailer will pay affected customers $9 million and spend $35 million to upgrade its cybersecurity, The Philadelphia Inquirer reported.

The proposed settlement, filed with federal court on Feb. 19, provides for relief in the form of Wawa gift cards capped at $8 million in aggregate, cash reimbursements of out-of-pocket costs capped at $1 million in aggregate, as well as significant data security enhancements to Wawa's systems, according to an announcement from Haverford, Pa.-based law firm Chimicles Schwartz Kriner & Donaldson-Smith LLP (CSK&D).

Wawa customers who used credit or debit cards at the retailer's stores or fuel pumps between March 4, 2019 and Dec. 12, 2019 are eligible for relief. The amount varies depending on how individual customers were affected.

Wawa spokesperson Lori Bruce told The Philadelphia Inquirer that under the plan, a third-party administrator will oversee the gift cards and payments. It will name the administrator once the plan is approved.

Under the plan, the c-store retailer will pay an additional $3.2 million to cover administration costs, as well as pay attorney fees and expenses, among other costs, the news butletin an open letter to customers in December 2019, Wawa CEO Chris Gheysens said malware affected payment card information used at potentially all Wawa locations beginning at different points in time after March 4, 2019 and until it was contained on Dec. 12, as Convenience Store News previously reported.

In the settlement announcement last week, CSK&D said data security incident that impacted all Wawa c-stores and fuel pumps.

Pennsylvania-based Wawa operates 920 c-stores in Pennsylvania, New Jersey, Delaware, Maryland, Virginia, Florida and Washington, D.C.

Shell to Levy Fees on US Stations Failing to Meet Chip Card Deadline

Shell wholesalers will be charged monthly fees beginning May 1 for each Shell station that has not complied with the Europay Mastercard Visa (EMV) technology standards for accepting chip payment cards at the pump, according to a message sent this month.

On May 1, there will be a $250/month fee for each site that doesn't accept chip cards at the gas islands. On July 1, the fee increases to $500/month. While OPIS obtained a message sent to Motiva wholesalers, Motiva confirmed the fees apply to the entire Shell station network.

Shell joins other fuel brands charging noncompliance fees for failure to adopt EMV at the pump. For example, OPIS reported in November 2020 that Chevron will levy a $500 monthly fee per station if sites fail to comply with minimum IT requirements as of April 1, 2021. The minimum standards include accepting chip cards at the gas islands.

"Each location's noncompliance fee will be administered to the wholesaler's account beginning in May and will continue for subsequent months until the location is EMV compliant," wrote Bill Spurgeon, executive vice president of Motiva marketing and sales.

"Additional fee increases following July 1, 2021, will be subject to future announcement. These fees will help offset additional costs to Shell to maintain and operate two EPOS (electronic point-of-sale) system platforms until all locations in the Shell network transition to the EMV standard," Spurgeon said.

Shell locations that remain noncompliant with the EMV standard could be debranded, according to the Motiva notice. However, the warning does not provide a cut-off date for noncompliance. "Shell strongly encourages that all efforts be made by the wholesaler to adhere to the EMV hardware and software standards," the notice said.

Shell notified branded wholesalers last year that they may be charged noncompliance fees for stations that don't accept chip cards at the pump by the mid-April 2021 deadline set by the payment card networks. After that time, sites failing to comply with EMV will be liable for counterfeit card fraud.

The oil brand continues to provide resources to help stations meet the liability shift deadline for outdoor EMV, including workshops, special pricing on new dispensers, free point-of-purchase signage, co-op eligible EMV advertising and help-desk support, the notice said.

--Reporting by Donna Harris

DMV Record Retrieval

DMV record retrieval is available to association members and affiliates at a cost of $12 per record. Additionally, you may order DMV certified paper abstracts of driver's license, vehicle registration, and vehicle title records for an additional fee of $2 per abstract. Please call 607-723-1849

Lawley
INSURANCE | EMPLOYEE BENEFITS

Lawley Declares Dividend for 29th Year

NEW YORK STATE ASSOCIATION OF SERVICE STATION & REPAIR SHOPS, INC

Declared Dividend is 35%

In 2021* the New York State Association of Service Stations & Repair Shops, Inc. is proud to declare a dividend for the Workers Compensation Safety Group #536 of **35%**. This will be the 29th consecutive year that the group will pay the dividend.

In addition to this dividend, members have enjoyed as much as a **60%** savings on their premiums.

Checks will be processed March 15th and mailed directly to your address by The State Insurance Fund.

** Applies to Policy Term 5/1/19 - 5/1/20*

Further Details

Please contact:
Bill Adams at 716.849.8641 or by email at badams@lawleyinsurance.com if you have any questions or concerns.

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