SSDA News

Service Station Dealers of America and Allied Trades

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INSIDE THIS ISSUE:

Joe Biden's Death Tax Plan

By Roy Littlefield

During the presidential campaign, President-elect Biden proposed a number of changes to how family businesses are taxed, including hiking the death tax. Here is a "quick" look at some of the potential policy changes we'll be up against.

Joe Biden's Death Tax Plan:

Biden would return to 2009 law for the death tax ($3.5 million exemption and 45% rate vs. $11.7 exemption for individuals/$23.4 million for couples in 2021 and 40% rate). According to the JCT, this change would more than triple the number of taxpayers currently subject to the death tax. Joe Biden's other proposed tax increases would compound the financial and compliance burden on next generation family business owners.

Step up in basis repeal

Joe Biden has proposed repealing the step up in basis provision of the law. ATR has catalogued the President-elect advocating for eliminating step up on the stump several times. As an example, consider a family distribution business started with no basis that has grown to a $50 million business with locations and jobs across several regions. If step up in basis were repealed, upon the sale of the business, the next generation of ownership would owe capital gains taxes on the full $50 million in appreciation throughout the lifetime of the business, instead of, as current law calls for, having the basis "stepped-up" to its current fair market value on the date of the previous owner's passing. Stepping up the basis of property protects next generation business owners from the potential double whammy of paying a 40% death tax and then another large capital gains tax upon the sale or future passing on of the business.

Capital Gains Due at Death

Death is not predictable in the same way a planned sale is which makes the estate tax hard to plan for and pay. When a business owner passes away, under the Biden plan, inheritors would now owe capital gains taxes as if a profitable sale of the family business had occurred upon the owner's death in addition to death taxes. This would add yet another layer of complexity to the tax code for family businesses at the worst possible time.

Taxing Capital Gains as Ordinary Income

The potential tax increase on family businesses will be compounded by the Biden plan to tax capital gains as ordinary income. A part owner of a large family business making over $1 million in income would potentially have to pay the ordinary income tax rate on a small business they inherited at death versus the capital gains tax rate.

After Senate control is decided on January 5th, SSDA-AT will set its legislative priorities for the 117th Congress we'll be working with our Senate partners to oppose any roll back of the Tax Cuts and Jobs Act proposed by the Biden administration.

We expect 2021 to be an active year for the death tax, step up in basis, and protecting other technical changes relating to estate planning so please stay tuned for more frequent updates as we gear up to protect family businesses from these policies.

The Power of Digital Advertising

The reason that digital advertising is so important is that search engines are where almost every customer buying journey begins. Every day Google gets 3.5-billion searches, Bing gets nearly 875-million, and Yahoo gets another 585-million search queries. That equates to a combined total of almost 5-billion daily searches. Yet despite the volume, the oldest joke in digital marketing is “The best place to hide a dead body is on the second page of Google” because 60% of traffic goes to the top three listings and less than 10% of all searchers will ever go to the second page.

Research has also shown that if a user cannot find what they are looking for on the very top of the first page of search results they will enter a new, different set of search terms rather than drill down into the initial results. Most importantly, 97% of online users perform a search to find local businesses like yours.

Paid digital advertising is a marketing method where companies pay a “publisher” - such as a search engine provider or website owner or a social media platform - each time someone views or clicks on one of their ads. Essentially, companies use the paid ads or keywords to “buy” visits to their site rather than earning them organically over time. Different companies will bid for the ad space or a specific keyword in a search, the publisher accepts the highest bid, and then places the ad at the top of the page where it has maximum visibility and the greatest chance of being clicked on. Enough click-throughs and the resulting jump in traffic will help turn the purchaser’s website into a highly ranked destination by Google and the other big search engines. At the end of the day, it’s a basic equation: Spend enough, place a solid ad, and you will get top placement on page one in a search.

That’s why you need to have a clear paid advertising strategy for your business and a solid approach is to develop one that covers the big three pillars of online ads: Search, social, and display. Although they are all similar in some ways, they all have different advantages and can reach different audiences, so let’s break them down.

SEARCH ADVERTISING BASICS: SEO, SEM, AND DISPLAY ADS

Search Engine Optimization (SEO) “organically” increases your platform visibility on search engines such as Google or Yahoo and drives more traffic to your dealership’s website. Organic (non-paid) search results are ranked by the quality and content of the web page and make up most of the content you see after a search. To rank at the top of this section, your landing page needs to be relevant for the searcher and needs to have a high click-through rate. SEO makes up around one-third of all traffic to company websites and accounts for more traffic than paid and social put together, but it takes time and expertise to build. Successful SEO requires extensive knowledge of how search engines work and takes time and practice to get right because it is a moving target. For example, search engine algorithms on Google alone are updated as many as 500 to 600 times a year and requires constant monitoring and modifications to be effective.

To accelerate the ability for your business to be quickly found in web searching, you’ll need to use paid Search Engine Marketing (SEM). SEM is used to describe online searches that begin by clicking through on a paid ad.

Some of the most common terms used to define to SEM activities include:

Paid Search Advertising: Short, text-based ads that are placed on search engines like Google, Yahoo, Bing, and appear at the top right-hand side of the page when search results are displayed

Pay-Per-Click (PPC): The pricing model for what you will pay if someone clicks on your ad and goes to your website or landing page. These ads appear in the top search engine slots and direct searchers directly to the page you want them to land on

Cost-Per-Click (CPC): The fee you pay when a user clicks on your ad to visit your website or landing page

Cost-Per-Thousand Impressions (CPM): Most search ads are sold on a CPC / PPC basis, but some advertising options may also be sold on a CPM basis

Display Ads: A step up from standard PPC text-based ads, this approach uses either static or dynamic images (e.g. banners, videos, audio, or polling formats) that offer a more engaging experience that helps capture the attention of your target audience and drive conversion

SEM effectively turbocharges your online marketing because paid search ads drive traffic directly to your website or straight to your service and inventory pages. The most common form of this is the Pay-Per-Click (PPC) model. On one level, paid search ads are simple.

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NET DRIVEN

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If you are a tire dealer and a big winter storm is forecast for your area, you absolutely want to advertise your inventory on Google. When someone searches for keywords you bid on, like "studded tires" or "best winter tire," their search term will trigger your text ad. Your ad will show up in the sponsored section of the search results at the top of the page just to the right of all the organic entries.

You can also use PPC to target searchers based on their geography with search ads, so it's only shown to people in your local area. It's a great way to compete in your industry and target local audiences and people who are already looking for your services. This is a cost-effective approach to getting visibility quickly and may not be as expensive as you'd think. A recent review of Google AdWords pricing shows that the minimum bid per keyword is only 5-cents, while the most expensive keywords (like "insurance" or "loans") can range up to $670 per click!

Beyond text ads, you can also use PPC strategies with "Display" ads. Display advertising is a way to grow your brand's awareness online and are targeted based on user activity. Display ads (often banner ads or "rich media" formats like video or audio) are shown to your target audience when they are browsing the Internet. With a 90% reach across all Internet users worldwide, Google's display network is the largest in the world and reaches more than 2-million sites and more than 650,000 mobile apps.

Effective display formats include:

Static Banner Ads: A banner is a simple image ad that is served onto a web page. Static banner ads typically consist of a single image file with no audio, video or additional features

Animated Ads: Animated ads are a cut above static banner ads when it comes to capturing the attention of the target audience. Animation creates movement that naturally catches the eye and works against what is known as "banner blindness," prompting target audiences to investigate your message

Video Ads: While video ads are primarily served through video content platforms like Netflix and YouTube, they can also be distributed through display ad networks like Google. The great thing about video advertising today is that almost everybody has access to a mobile phone with reasonably high-quality video capabilities and consumers love them!

Display ads are powerful tools, but require advanced audience targeting and the creative ability to build a dynamic web-based ad. To maximize your dealership's success online, you need to develop a strategy that blends both PPC and Display formats

FACEBOOK AND INSTAGRAM MARKETING

Facebook has a huge audience - a staggering 2.4 billion people use it every month! But beyond keeping connected with friends and family, people are increasingly using Facebook to connect with businesses of all sizes. The company recently reported that two-thirds of its users say they visit a local business's Facebook Page at least once a week. Potential customers are already looking for businesses like your dealership on Facebook and having a clear, focused Facebook marketing strategy is the only way to tap into this existing audience.

Here are six ways you can significantly boost your dealership's advertising reach through Facebook:

News Feed Ads: Cost-effective ads that target unique audiences and can track traffic and conversion on your website

Conversion Ads: Target and deliver certain actions such as "Request a demo" or "Take a test drive"

Carousel Ads: Feature several rotating images in a single ad to display different models and feature packages

Engagement Ads: Best used to drive "likes" and comments on your ads, increasing validation and visibility

Lead Generation Ads: Allow users to fill out lead forms on their own Facebook wall without going to your website

Remarketing Ads: Connect your website inventory feed to Facebook, then advertise to past visitors with ads customized to highlight the products and services they viewed

Facebook's high traffic flow and wide range of ad mediums offer several ways to enhance your brand. It also allows you to promote products and services through social experiences that can drive loyalty and help create the most powerful type of marketing – word of mouth referrals.

The Power of Digital Advertising

Although Instagram is owned by Facebook, it's a network of younger users. According to recent studies, more than half of the global Instagram user population is younger than 34 years old. There's a nearly even split between the genders with 51% female and 49% male users. Since this younger population is less likely to have a long-term relationship with a tire dealer or repair shop in place, Instagram is a potent tool for dealers seeking to attract new customers. With its easy-to-use visual interface, it's also a great way to build your brand because Instagram puts a "face" on your dealership that encourages trust and engagement among potential customers. Having an Instagram account signals that your business is reputable, real, and transparent to this audience.

Instagram currently offers business users three formats for advertising:
Photo ads: These look like regular photo posts, but they have a "Sponsored" label above the photo. They also have a "Learn More" button in the bottom right corner under the photo.
Video ads: Like the photo ads, these look like regular video posts, but with a "Sponsored" label on top.
Carousel ads: These ads look identical to photo ads but feature multiple photos that users can swipe through.

You can promote your posts with ad dollars while also gaining access to key analytics on their performance. Advertising on Instagram absolutely makes sense because Instagram often has up to 10-times the engagement of Facebook, so you are likely to get far better results from your ads. Since Instagram uses the same Ad Manager platform as Facebook, it has all of the same great tracking capabilities that Facebook offers. That means you can create a post about a new product or special promotion and see everything from link clicks, to leads to conversions and the cost-per-result on any campaign you run. In addition, you can also break down the results you receive to see who or where they came from (i.e. gender, age range, location, device type, etc.).

THE BEST OPTION FOR YOUR BUSINESS
As you can see, there are a lot of different choices when it comes to developing an effective online strategy for your dealership. The truth is all of these tactics work, but it's also important to evaluate the success of each before continuing to invest your dollars in a particular bucket.

No matter what advertising mix you try, some of the key metrics you'll want to watch include:
Clicks: Every conversion starts with a click, and the higher number of clicks are an early indicator of PPC success
Click-Through-Rate (CTR): CTR is measured by dividing the total number of clicks your campaign got in the month (or period being reported) by its total impressions. This equation tells you that out of 1,000 impressions, your ad was clicked 100 times and your CTR is 10% percent for example. Knowing what CTR is and how to measure it is key to being able to indicate your performance.
Cost-Per-Click (CPC): CPC measures exactly how much an advertiser has paid. You can measure CPC by dividing the total cost of a campaign by the number of times the ad was clicked in that campaign.
Conversion Rate (CVR): You can measure conversion rate by dividing the number of conversions the campaign received by the total clicks. Since conversion rate is expressed as a percentage, if the campaign had 100 clicks and 10 conversions, 10/100 means that the conversion rate would be 10 percent. Beyond being a key indicator of a successful campaign, CVR is the main reason why most businesses hire an outside PPC marketing firm!

Based on these and other metrics, you may want to start small across multiple channels to test the waters and then invest in the two or three strategies that are delivering the best results. But to have a strong paid advertising strategy, you need to have a strong understanding of your target audience. Where do they "live" online? What do they care about? What are they searching for, what kind of language do they use, and what do they buy? Remember that young customer who was searching for those studded tires? He or she may have clicked on your Instagram ad at the beginning of winter and might not make a purchase immediately, but your company made an impression. That means your brand stands a better chance of being remembered when they begin searching for local tire shops a few weeks later and your PPC ad pops up at the top of the page and they click through.

Understanding your target market, how they behave, and then measuring how they react to your content is key to the success of all your campaigns!

From: www.netdriven.com.

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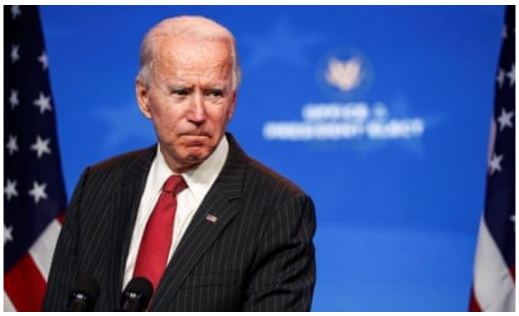
Biden Presidency Imperils Key Oil Pipelines



President-elect Joe Biden's campaign promise to phase out oil probably signals the end of the long-delayed Keystone XL oil pipeline and threatens the future of Dakota Access, another major crude conduit.

Obstructing pipeline projects is one way Mr. Biden could accelerate America's shift toward renewable energy, by making oil more difficult and expensive to move around. Other policies that require legislative signoff would be more challenging to implement unless Democrats won control of the Senate.

EIA projects flat US oil production through 2021

eia
U.S. Energy Information Administration

The Energy Information Administration expects US crude oil production to hold at around the current level through the end of 2021, while West Texas Intermediate prices are seen averaging $43 per barrel in the first six months of 2021, up from $40 per barrel in the second half of 2020. US crude oil output recovered to 10.6 million bpd as of August after reaching a low point of 10 million bpd in May, but remains well below the 12.9-million-bpd record set in November 2019.

SSDA-AT Sends PPP Support Letter to Congress

Dear Majority Leader McConnell, Speaker Pelosi, Democratic Leader Schumer and Minority Leader McCarthy:

We, the undersigned associations representing thousands of banks, credit unions, financial institutions, nonprofits and businesses of all sizes that serve America's consumers, write to urge you to immediately address the overburdensome Paycheck Protection Program (PPP) forgiveness process before the end of the year.

Congress can solve this problem and inject the equivalent of $7 billion into our economy by passing bipartisan, common-sense legislation to streamline PPP forgiveness for small businesses on Main Street in communities across the country.

We encourage Congress to quickly consider legislation that will help countless businesses navigate the overly complex forgiveness process. S. 4117, The Paycheck Protection Program Small Business Forgiveness Act, sponsored by Senators Kevin Cramer, Bob Menendez, Thom Tillis and Kyrsten Sinema and H.R. 7777, The Paycheck Protection Small Business Forgiveness Act, sponsored by Reps. Chrissy Houlahan and Fred Upton are bipartisan and bicameral legislation introduced earlier this Congress and would reduce compliance costs by streamlining the forgiveness process for mom-and-pop businesses who received PPP loans during these unprecedented times. Additionally, passing such legislation that would expand the hold harmless protections for lenders will provide financial institutions that originated and currently service PPP loans the opportunity to focus their time and energy on providing much-needed credit and financial services to individuals and businesses by creating regulatory certainty for PPP loans in the future.

The PPP forgiveness process for millions of American businesses will begin in earnest in the coming months. Businesses have been patiently awaiting for Congress to act, hoping that an improved and streamlined forgiveness process will ensure they can focus their time, energy, and resources back into their business and communities instead of allocating significant time and expense into completing complex forgiveness forms.

America's small businesses, and the millions of men and women who work at them, are the foundations of communities across the country and the economy and in order to assist them, we urge Congress to quickly pass legislation that would forgive PPP loans of less than $150,000 upon the borrower's completion of a simple, one-page forgiveness document. PPP loans of $150,000 and under account for 87 percent of total PPP recipients, but less than 28 percent of PPP loan dollars. Expediting the loan forgiveness process for many of these hard-hit businesses would save more than $7 billion and hours of paperwork.

Data provided in an independent analysis by AQN Strategies (AQN) has shown an estimated benefit of issuing auto-forgiveness for various loan size thresholds. AQN anticipates the combined resource requirements of operators' time and/or third-party expenses to represent an effective cost of $2,000-$4,000 for each business that applies for forgiveness, requiring 20-100 hours of focused time from key leaders of these businesses. With an average loan size of less than $19,000 for the smallest 60% of loans, this estimate would represent 10-20% of the loan amount itself, which is otherwise intended to support payroll, rent, and other obligations necessary to keep businesses alive and ready to restart. In addition, AQN's analysis suggests that the cost to businesses and lenders would be lower than the cost for the government to auto-forgive loans.

On behalf of our members and the millions of small businesses we serve, we urge you to improve the PPP forgiveness process and support streamlined forgiveness efforts, such as S. 4117 and H.R. 7777. Time is of the essence and we look forward to working with you to pass these critical bills. Thank you for your strong, common-sense leadership on such a critical issue.

Sincerely,

SSDA-AT and other trade associations

ENR: Biden Climate Goals Will Boost Renewable Energy, but Fossil Fuel Still Has Life

Addressing climate change and its effects is one of President-elect Joe Biden's top four priorities. Growing the clean-energy sector will be necessary to achieve his new administration's goal of economy-wide, net-zero emissions by 2050 at the latest, a 2035 target for a "carbon pollution-free power sector" and plans to rejoin the 2015 Paris Agreement, from which President Donald Trump announced the US would withdraw, an action that took effect on Nov. 4.

That global agreement sets a collective goal of limiting CO_2 rise in the 21st century to under 2° C above pre-industrial levels, with each country submitting specific reductions. The U.S. had initially pledged to cut, by 2025, greenhouse gas emissions to 26%-28% below the 2005 level, as well as strive for an overall 28% emissions reduction.

Rejoining the agreement will likely lead the administration "to put a lot of money into increasing the use of renewable energy, and construction projects will have to factor that into their planning and designs," says Raymond Lodato, University of Chicago assistant instructional professor in the Environmental and Urban Studies and Public Policy Studies programs.

"Already, red states like Texas are investing heavily in renewable energy despite the lack of direction from the federal government," he says. "Any project currently in the planning stages should be trying to limit the carbon impact of both the construction and the built project as much as possible."

In a conference call with congressional leaders, the president-elect and members noted the renewable-energy sector's potential to fuel bipartisan solutions for climate change and the need for well-paying union jobs.

The jobs potential has already generated action, with a Nov. 19 announcement by North America's Building Trades Unions and leading U.S. offshore wind developer Orsted of a deal to "transition U.S. union construction workers" into that renewable energy sector as a "model for labor-management cooperation and workforce development," they said.

"Our highly trained men and women professionals now will gain new experience in deepwater ocean work," said building trades' President Sean McGarvey, who added that the pact follows one between Orsted and 300 union craft trades who built the 30-MW Block Island wind farm off the Rhode Island coast, completed in 2017.

Orsted has much larger projects under development off the coasts of Rhode Island, New Jersey, Maryland and Virginia, as well as work in other renewables sectors.

The Solar Energy Industries Association's legislative and regulatory agendas to put the U.S. on a path to 100% clean energy includes infrastructure, job programs and "most urgently" a new tax policy that rapidly expands the use of solar energy, says Lyle Rawlings, president of New Jersey-based Advanced Solar Products and vice president of a 62-member group cooperative.

He adds that it wants a 30% federal investment tax credit for projects extended through 2025. The existing credit, now at 26%, will drop to 22% at the end of 2020. The best action would be to convert tax credits to a cash grant to open a new way to deploy capital, support a rapid conversion to renewables and have a stimulus effect to end the COVID-19 recession, Rawlings told ENR.

"This will likely have Biden's support," he says. President Trump's policies hit the solar industry hard with higher tariffs on photovoltaic panels and regulatory changes that made it more difficult for clean energy projects to compete with fossil fuels. "It was pretty much a comprehensive assault on renewable energy," he says.

Looking Offshore

Offshore wind is likely to play a central role in

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ENR: Biden Climate Goals Will Boost Renewable Energy, but Fossil Fuel Still Has Life

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Biden's energy agenda, said Ed Crooks, vice chair of industry research firm Wood Mackenzie.

While serving in the U.S. Senate from Delaware, Biden was an early supporter and strong proponent of offshore wind-energy development, says Jim Lanard, a former executive with Blue Water Wind, which was developing a windfarm off the state's coast at the time.

Through mandates or goals, states are committed to nearly 30 GW of renewable energy. "But in the east, there is not a lot of space for solar or land-based wind, so the only way those standards can be met is with offshore wind," Lanard says.

Brandon Burke, policy director for The Business Network for Offshore Wind, an advocacy group for project developers, says federal approval—possibly by year end—of final environmental permits for the first major U.S. commercial-scale project could quicken other signoffs "and significantly enhance market certainty that investors must see to justify large manufacturing investments."

U.S. government approval of the $2-billion, 800-MW Vineyard Wind project off the Massachusetts coast was set back by more than a year in 2019, with new permit requirements added at the last minute. Some saw this as politically-motivated.

Burke says the Federal Energy Regulatory Commission (FERC) should also have a bigger role in requiring regional entities such as grid operators to develop integrated transmission planning approaches, with the federal government also offering more direct and indirect financial support to build and upgrade infrastructure.

N.J.'s New Bar for States, Feds

That role was brought into focus on Nov. 18, with New Jersey announcing an alliance between a state and a grid operator, PJM Interconnect, to jointly develop what would be the first offshore wind power connection into the existing state transmission system, which could become a regional hub.

New Jersey's Board of Public Utilities now will seek bid proposals in first-quarter 2021 for design and construction options for onshore system upgrades, potential offshore platforms to collect energy from multiple wind farms, and an ocean transmission "backbone" to channel collected power from multiple state facilties and offshore lease areas.

The approach would be a departure for planned projects so far, whose developers have won approval to control offshore wind power transmission as well as production, to insure that third parties delays in completing grid connection construction do not impact generation schedules.

New Jersey has a goal of 7,500 MW of offshore wind by 2025.

"I am optimistic that with the changing of the guard in Washington, a more functional FERC will be cooperative with regional grids," said Joseph Fiordaliso, board president. "The future is bright."

A next step for the Interior Dept.'s Bureau of Ocean Energy Management is to lease more area on the outer continental shelf for wind projects, including segments farther out to sea that will minimize conflicts with commercial and military interests. Even with lukewarm Trump administration support, there were "record-breaking offshore wind lease area auction results in the past four years," says Burke, with more than $400 million paid by developers.

"Results like these make the department one of the federal government's largest revenue generators," he contends. Proponents also see growth potential in a Biden government for West Coast and Gulf of Mexico offshore wind, with better federal inter-agency cooperation and bipartisan congressional support Offshore wind "is a once-in-a-generation opportunity to create jobs, expand companies and push American innovation," says Burke.

AP: Trump Pushes New Environmental Rollbacks on Way Out the Door

Down to its final weeks, the Trump administration is working to push through dozens of environmental rollbacks that could weaken century-old protections for migratory birds, expand Arctic drilling and hamstring future regulation of public health threats.

The pending changes, which benefit oil and gas and other industries, deepen the challenges for President-elect Joe Biden, who made restoring and advancing protections for the environment, climate and public health a core piece of his campaign.

“We’re going to see a real scorched-earth effort here at the tail end of the administration,” said Brian Rutledge, a vice president at the National Audubon Society.

The proposed changes cap four years of unprecedented environmental deregulation by President Donald Trump, whose administration has worked to fundamentally change how federal agencies apply and enforce the Clean Water Act, Clean Air Act and other protections.

Most of the changes are expected to sail through the approval process, which includes the White House releasing the final version and publication in the Federal Register.

Some decisions, if they go into effect, will be easy for Biden to simply reverse. He already has pledged to return the United States to the Paris climate accord as a first step in his own $2 trillion climate plan. But he faces years of work in court and within agencies to repair major Trump cuts to the nation’s framework of environmental protections.

One change that Trump wants to push through would restrict criminal prosecution for industries responsible for the deaths of the nation’s migratory birds. Hawks and other birds that migrate through the central U.S. to nesting grounds on the Great Plains navigate deadly threats — from electrocution on power lines, to wind turbines that knock them from the air and oil field waste pits where landing birds perish in toxic water.

Right now, the Migratory Bird Treaty Act of 1918 is a vital tool for protecting more than 1,000 species of birds including hawks and other birds of prey. Federal prosecutors use the act to recover damages, including $100 million from BP for its 2010 oil rig spill into the Gulf of Mexico, which killed more than 100,000 seabirds.

But the Trump administration wants to make sure companies face no criminal liability for such preventable, unintentional deaths.

Federal officials advanced the bird treaty changes to the White House, one of the final steps before adoption, two days after news organizations declared Biden the winner of the presidential race.

For industry, “that’s an important one,” said Rachel Jones, vice president of the National Association of Manufacturers. Jones lobbied for the changes in the Migratory Bird Treaty Act at a meeting last year between private-sector representatives and staff from the White House and Interior Department. “It really matters in relation to the infrastructure we need for a modern society.”

The administration’s latest action to cement its policies ahead of Biden taking office came Thursday, as the Department of Interior published an analysis justifying plans to ease rules on mining, drilling and grazing across millions of acres in seven Western states. A judge had blocked the plans last year, saying such activities left unchecked were likely to harm a struggling bird species, the greater sage grouse.

Earlier moves by the Trump administration, which are now facing court challenges, remove protections for millions of miles of waterways and wetlands, narrow protections for wildlife species facing extinction and open more of the hundreds of millions of acres of public land to oil and gas drilling.

Asked about the push now, as Trump and many of his supporters continue to deny his election loss, Environmental Protection Agency spokesman James Hewitt said, “EPA continues to advance this admin-

AP: Trump Pushes New Environmental Rollbacks on Way Out the Door

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istration's commitment to meaningful environmental progress while moving forward with our regulatory reform agenda."

Pushing to get new rules on the books before the end of a president's term is not unusual — former Presidents Barack Obama and George W. Bush both did it, said Cary Coglianese, an expert on administrative law and rule-making at the University of Pennsylvania Carey Law School.

Obama agency heads, after a 2016 Trump victory that surprised many, pushed through rules that sought to protect funding for Planned Parenthood and toughen pollution rules on the oil and gas industries, among others.

But environmentalists and some former federal officials said the actions being taken in Trump's final days reflect a pro-industry agenda taken to the extreme, in disregard for imperiled wildlife, climate change and damage to human health from air pollution.

"What we're seeing at the end is what we've seen all along, which is a fealty to private interests over public interests," said David Hayes, former deputy secretary of the Interior Department under Obama and now adjunct professor at the New York University School of Law. "They seem intent on finalizing these as a kind of ideological point."

Many of the final rollbacks still pending under the Trump administration have significant implications for oil and gas companies. That includes the administration's steps this week toward a sale of energy leases in the Arctic National Wildlife Refuge.

Monday's announcement of upcoming sale drew rebukes from environmentalists and Democrats in Congress.

Brett Hartl with the Center for Biological Diversity said backers of drilling are playing the long game and know that another Republican administration favorable to drilling will come along eventually.

"Any time you've officially got an area under lease … it makes it harder to keep the land protected in the long run," Hartl said.

Another proposal that arrived at the White House last week would set emissions standards for small but dangerous particles of pollution emitted by refineries and other industrial sources. Other changes would allow more drilling and mining on thousands of square miles of public lands around New Mexico's Chaco Canyon National Historical Park and deep in the Alaska wilderness.

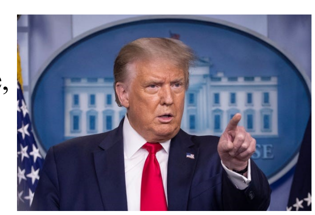
The Trump administration from its first days pursued American "energy dominance," in which imported oil would no longer be needed and U.S. companies would produce a surplus of fuels that could be sold to other countries.

Finalizing the pending changes is critical to maintaining the nation's "energy leadership," said American Petroleum Institute senior vice president Frank Macchiarola. For the oil and gas industry, he said, the opening of the Arctic refuge to drilling was long overdue and would provide jobs and needed revenue for the state of Alaska.

Trump critics are looking to two pending Senate contests in Georgia for insight into how easily any of his administration's last-minute changes can be undone.

If Democrats win both, they'll control the Senate and the House and will be in position to invoke the Congressional Review Act, which allows Congress to strike down newly approved regulations. Otherwise, outside parties could sue or the Biden administration would have to undertake the often lengthy process of reversing changes that are fully enacted before Trump leaves office.

"Regulations are not like diamonds," said Coglianese, the Penn law professor. "They don't last forever."



SSDA-AT Sends Letter to Congress Supporting RPM Act

Dear Members of Congress,

I respectfully request that Congress pass the Recognizing the Protection of Motorsports Act, H.R. 5434/S. 2602, in 2020. The bipartisan RPM Act protects the right to convert an automobile or motorcycle into a racecar used exclusively at the track.

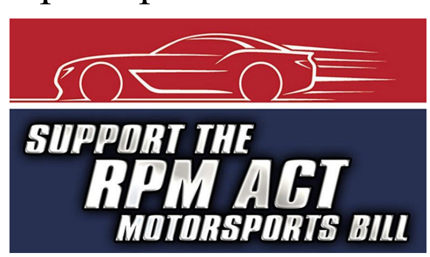
Modifying a vehicle into a racecar is an integral part of America's automotive heritage. Many types of racing, including NASCAR, were founded on the premise that street vehicles, including motorcycles, can be converted into dedicated race vehicles.

Racing events are an economic driver for many communities and a source of affordable family-friendly entertainment for millions, with participants that range from professionals to novices using converted race vehicles.

Congress never intended for the Clean Air Act (CAA) to apply to motor vehicles modified for competition use only. However, the EPA maintains that CAA requires converted vehicles driven exclusively on the track to remain emissions-compliant.

The RPM Act clarifies that transforming motor vehicles into racecars used exclusively for competition does not violate the CAA.

It is imperative that Congress passes the RPM Act to provide long-term certainty to racers and motorsports parts businesses.



Sincerely,

SSDA-AT

SSDA-AT Defends Newly Passed Right to Repair Law to Members of Congress

Dear Chairman Shelby, Ranking Member Leahy, Chairwoman Collins, and Ranking Member Reed,

We are a diverse coalition of stakeholders in the motor vehicle repair and maintenance sector. On behalf of our collective industries, we are writing to share our thoughts on the Senate draft of the FY2021 Transportation, Housing and Urban Development (THUD) Appropriations bill, telematics, and Right to Repair efforts in Massachusetts.

Thank you for noting the current debate over telematics by including language in the explanatory statement for the THUD bill which encourages the National Highway Traffic Safety Administration (NHTSA) to work with stakeholders on this issue.

We welcome the opportunity to work with NHTSA and other agencies to demonstrate to the Agency, Congress, and other parties that the independent aftermarket can access vehicle data safely and securely. Technology that ensures the cybersecure access to data for owners and their authorized repair shops already exists, and the independent aftermarket continues to lead and innovate on this front.

In addition to thanking you for the language in the THUD bill, we call your attention to the overwhelming Right to Repair victory that took place in Massachusetts on behalf of vehicle owners in the commonwealth. We urge the authorizing committees within Congress to consider federal legislation similar to the Massachusetts referendum in the 117th Congress.

On November 3rd, a ballot referendum (known as Question 1) in Massachusetts passed by a tremendous margin (75 percent to 25 percent), demonstrating the determination of the commonwealth's citizens to have access to their vehicles' repair data. The initiative will require vehicle manufacturers to provide control of mechanical data to vehicle owners and further permits owners to authorize repair shops to access mechanical data directly from their vehicle. This will allow owners continued access to the competitive repair industry, providing consumer choice based on price, location, quality of work and other factors.

We are concerned about and disagree with vehicle manufacturer claims that allowing the independent aftermarket and repair industry access to vehicle generated data is a safety risk. Consumers rely on regular maintenance and service, as well as repair of their vehicles, to ensure that their vehicles are a safe and reliable mode of transportation. The current average age of a vehicle on the road is almost 12 years. The industries we collectively represent are committed to ensuring the safety of vehicles we service and have decades of experience doing just that.

In closing, we thank you for the THUD report language and reiterate our request for the authorizing committees within Congress to act in the next session to institute a federal standard for vehicle data access consistent with what was passed in Massachusetts. This can be done in such a way that sets cybersecurity requirements for vehicle manufacturers that ensure safety without unduly preventing a competitive repair market.

This issue is of significant consequence to consumers across the country, and we believe policymakers and stakeholders must take a holistic approach to the issue. We look forward to working with you, NHTSA, the automakers, and all other parties to ensure and protect the safety of vehicles and consumers rights to vehicle repair data.

Sincerely,

SSDA-AT and other trade associations

SSDA®
SERVICE STATION DEALERS OF AMERICA AND ALLIED TRADES

China Inks First Term Deal for U.S. LNG Since Trade War Erupted

China inked its first term deal to buy liquefied natural gas from an American exporter since the trade war disrupted deliveries, a sign of confidence that relations with the U.S. could be normalizing.

Foran Energy Group said it signed a framework agreement with U.S. producer Cheniere Energy Inc. to purchase 26 cargoes between 2021 and 2025. The deal was made during the annual trade fair in Shanghai, a signature project of President Xi Jinping designed to showcase China's openness to the world. Prices will be linked to the U.S. Henry Hub benchmark.

Chinese firms had stopped signing longer-term supply contracts with U.S. exporters after Beijing slapped tariffs on shipments in retaliation to U.S. levies on Chinese goods in 2018. A long-negotiated supply deal between Cheniere and Sinopec, China's refining and petrochemicals giant, never materialized due in part to the trade spat.

American LNG sales to China stopped completely between May 2019 and March this year. Imports have since resumed as Beijing looks to honor its commitments to the phase-one trade deal signed with Washington in January, even as broader political relations between the world's two largest economies have been stretched almost to breaking point.

Earlier this year, China introduced a tariff waiver program that included LNG in a bid to increase imports. But China's largest buyers have been uneasy about making long-term pledges in case relations with Washington were to suddenly sour.

Cheniere sent nine LNG cargoes to China between March and August of this year, U.S. Department of Energy figures show.

The company's deal with Foran comes shortly after the PipeChina natural gas project was completed in the third quarter. The pipeline system allows third-party access to Chinese LNG terminals and natural gas pipelines, Cheniere Executive Vice President and Chief Commercial Officer Anatol Feygin said during a Friday investors call.

"It's in a great market in South China for us that we can access and continue to support," Feygin said. "We do not see this as a one-off. We think this as a whole cadre of companies that we can engage with for years and look forward to continued success and continued traction there."

U.S. Refinery Runs Remain Lower than the Five-Year Range

Since April, when responses to the 2019 novel coronavirus disease (COVID-19) reduced demand for refined products such as gasoline, distillate fuel, and jet fuel, gross inputs of crude oil and other raw materials to U.S. refineries (refinery runs) have been lower than the five-year range (2015–19). Although runs have increased compared with their April lows, the continued effects of the pandemic, in addition to seasonal factors, have resulted in continued lower refinery runs. As of October 30, U.S. refinery runs were 14.0 million barrels per day (b/d), or about 13% lower than the average for this time of year, according to the U.S. Energy Information Administration's (EIA) Weekly Petroleum Status Report.

In April, substantial declines in U.S. domestic demand for petroleum fuels resulted in a significant reduction in U.S. refinery operations. Beginning in June, some refiners began increasing their refinery runs in response to gradual increases in demand, particularly for gasoline. By the week ending August 21, gross inputs to refineries reached 15.3 million b/d, the highest level since April.

U.S. refinery runs typically reach their annual high point in mid-to-late August. After that, some refineries undergo seasonal maintenance while gasoline demand begins to decrease, resulting in reduced runs. In 2020, refinery runs decreased from their mid-August high of 15.3 million b/d to nearly 14.0 million b/d by mid-September and generally remained near that level for the rest of September and throughout October.

The Gulf Coast is the largest refining region in the country and has been affected by a particularly active storm season this year. The Gulf Coast region is the source of most U.S. petroleum exports and is more likely to be affected by less global demand for petroleum fuels.

East Coast refiners have experienced the largest decline in runs from the five-year average in percentage terms. EIA attributes much of the change in East Coast refining to the closure of Philadelphia Energy Solutions in June 2019, the region's largest refinery.

The Midwest is the only U.S. region where refinery runs have been higher than the previous five-year average since April. Refinery runs in the Midwest likely increased because of greater agriculture sector demand from this fall's harvest.

New Code of Practice for Repairs of Containment Sumps

Dear UST Community

I am writing you today to make sure that you are aware that the National Leak Prevention Association-Ken Wilcox Associates, Inc. (NLPA/KWA) has recently completed the development of a standard that sets requirements for the repair of containment sumps.

As many of you probably know, the 2015 Federal UST regulation (40 CFR 280.33 (a)) requires that repairs to UST systems be properly conducted in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory to ensure that repairs will prevent releases. OUST's technical compendium has been updated to reflect that this code of practice meets the regulatory requirements as an acceptable standard for containment sump repairs: https://www.epa.gov/ust/underground-storage-tank-ust-technical-compendium-about-2015-ust-regulation#repairs

We very much appreciate our state, territory, tribal, industry and other partners' efforts to continue to collaboratively implement the 2015 Federal and respective state UST regulations across the country (especially during this difficult time of the COVID 19 pandemic!). The development of this standard is yet another example of these good collaborative efforts. Without proper repairs sumps may fail to prevent releases when there is a leak from piping or pumping equipment. More information about the standard can be found at https://www.nlpa-online.org/standards.html. In addition we understand NEIWPCC is planning to host a webinar about this standard in the Dec-January timeframe; more information will be posted https://neiwpcc.org/our-programs/underground-storage-tanks/ust-training-resources-inspection-leak-prevention/

If anyone has any questions please do not hesitate to contact me or Russ Brauksieck (brauksieck.james@epa.gov) of our OUST team.

Thank you.

Tony Raia

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Biden to Move Fast to Strike Down Trump's Environmental Agenda

The EPA and Interior Department under President-elect Joe Biden will have a range of tools at their disposal to start undoing President Donald Trump's deregulatory agenda on the environment, according to former agency officials, lawyers, and environmentalists.

Many of the administration's more ambitious environmental goals, such as reviving regulations on climate pollutants from power plants and automobiles, will take longer to change or put into place. But most observers expect Biden's team to get working immediately after inauguration on smaller measures, such as the "secret science" rule that would block the EPA from using scientific research that isn't or can't be made public.

"They'll be starting right out of the gate," predicted Jody Freeman, director of the Environmental and Energy Law Program at Harvard Law School.

But some who support Trump's rollbacks warn that Biden will pay for being too ambitious in efforts to reverse them.

"The election was a clear mandate for moderation," said Kathleen Sgamma, president of the Western Energy Alliance, an oil and gas industry trade group. "We'll no doubt see some changes in the first 100 days, but there is just no room for radical socialist ideas."

'Stroke of a Pen'

One of the fastest and easiest actions the environmental agencies can take is to strike down Trump-era guidance that the Biden team disagrees with, said Sam Sankar, senior vice president for programs at Earthjustice.

"That can be done with the stroke of a pen," Sankar said.

Dozens of such guidance documents are now on the books. Among the candidates for immediate rescission is an October memo from the Environmental Protection Agency, arguing that the Clean Air Act gives states flexibility to administer air pollution requirements and saying some exemptions are appropriate, Sankar said.

Another likely kill is an April 2018 memo on metrics known as significant impact levels, which set thresholds for how much air pollution facilities can produce when expanding or upgrading without degrading air quality, according to Sankar.

The Biden administration also plans to rejoin the Paris climate accord almost immediately without congressional approval. The U.S. officially left the agreement on Nov. 4.

Monuments, Environmental Justice

Biden is also expected to immediately restore the boundaries of the much-contested Bears Ears and Grand Staircase-Escalante national monuments in Utah, which former Trump reduced in size, said Drew Caputo, vice president of litigation at Earthjustice. Conservation groups and Native American tribes are also challenging the moves in court.

"Biden could come in and redesignate the entirety of Bears Ears as a national monument," Caputo said. "That would basically fix the problem."

The White House or agencies could also swiftly issue their own guidance or executive orders to start putting their agenda on paper. One example is a new guidance document that directs agencies to consider environmental justice in their decision-making, said Erik Schlenker-Goodrich, executive director of the Western Environmental Law Center.

That would be consistent with the direction Biden has signaled on the campaign trail, and a bill that Vice President-elect Kamala Harris introduced in July as a senator from California, that would require permitting agencies to consider cumulative impacts to frontline communities under the Clean Water Act and Clean Air Act.

Bureau of Land Management decisions and land plans made under deputy director William Perry Pendley could also be set aside nationwide, said John Leshy, a real property law professor at the University of California, Hastings, and former Interior Department solicitor in the Clinton administration.

A Montana court in September deemed Pendley's tenure as acting land bureau director illegal because it violated the Federal Vacancies Reform Act.

Biden could also ask his new agency solicitors to issue rapid legal opinions, such as claiming that actions taken during the time Pendley served at Interior were unlawful, said Mark Squillace, a natural resources law professor at the University of Colorado, Boulder.

Biden to Move Fast to Strike Down Trump's Environmental Agenda

Continued from page 14

Such a ruling would have the practical effect of invalidating a Trump regulatory rollback until a court overturns the solicitor's ruling or a new rule replaces it.

"Someone might challenge that opinion, but my guess is that a carefully written opinion would be tough to overturn," Squillace said.

Stop-Work Orders

The Biden team could also simply stop working on pending rulemakings that cut against his agenda by preventing them from becoming final, said Kevin Minoli, who worked at the EPA from 2000 to 2018 and is now a partner at Alston & Bird LLP.

"I would expect on Day One, at 12:01, there will be a direction to put pens down on things that are not yet final, and to take actions to prevent things from publishing in the Federal Register," Minoli said. "And if it's been sent to the Federal Register but not yet published, the direction will be to send it back."

One high-profile target could be the "secret science" rule, a sharp break from its decades-old approach to regulatory science—if the rule isn't final by Inauguration Day.

The EPA could also swiftly drop pending lawsuits over regulations that the Biden team doesn't want to appeal because the rules are inconsistent with their agenda, Sankar, from Earthjustice, said. In cases where courts have remanded rules back to the EPA for further work, the agency's reconsideration is likely to be that "we don't want to do this anymore," he said.

The Biden administration could pursue voluntary remands of contested regulations in some cases, rather than continuing to litigate them. Agencies are poised to backtrack on major Trump-era rules, including the Affordable Clean Energy rule, federal auto emissions standards, and the rollback of methane restrictions for the oil and gas industry.

NEPA, Climate Change Goals

But if the EPA wants to undo final rules issued by the previous administration, the agency will have to launch entirely new rulemakings—a process that generally takes years, often embroils agencies in heated squabbles with stakeholders, and sometimes leads to court battles.

"The Biden administration is going to have to be careful about putting its resources toward the most important rulemaking proceedings," Sankar said.

Trump's National Environmental Policy Act regulatory rollbacks fall into the category of long-term regulatory reversals. Finalized in July, the reforms scale back what kinds of environmental consequences agencies consider when approving new oil wells, pipelines, highways, and other projects.

The Biden administration will also be under enormous pressure from environmental groups to show it's tackling climate change across a host of agencies. The EPA in the Obama administration tried to set greenhouse gas emissions limits on power plants, only to have the U.S. Supreme Court stay the regulations in 2016. It's unclear whether Biden's EPA would try to resurrect those rules, or start from scratch—and how the newly reconstituted Supreme Court would view those moves.

Nicolas Loris, an economist at the conservative Heritage Foundation, said he's concerned that Biden policies that restrict access to domestic resources could increase energy prices, thereby making it harder to build certain projects and punishing consumers—an especially worrisome prospect given the economic strain brought on by the coronavirus pandemic.

"I worry that that's not going to fundamentally shift the consumption of those resources, and that a lot of that production will take place in other parts of the world where the environmental standards aren't as rigorous as in the U.S.," Loris said.

CRA Off the Table?

Congressional Democrats' ability to use a legislative tool to nix last-minute Trump administration rules may have narrowed. Unless two Georgia Senate Democratic candidates prevail in runoff elections in January, Democrats will find it harder to use the Congressional Review Act, which gives the House and Senate 60 session days after a rule is finalized to vote to nullify it with a simple majority.

One regulation Democrats could use the act to strike down is a U.S. Forest Service rule published in late October that strips protections from Alaska's Tongass National Forest—America's largest—which is now open to new logging and mining.

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