# Washington Policy and COVID-19 Update

Presented by
The Franklin Partnership, LLC
Policy Resolution Group at Bracewell
May 14, 2021







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- Bi-partisan Washington, D.C.-based government relations firm
- Representing manufacturing industry since 2002
- Clients include: manufacturing associations, defense contractors, hospitals, cities



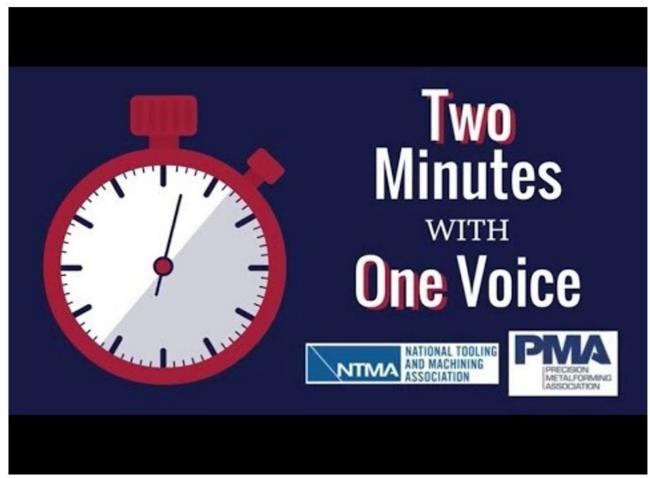
#### Strategic Communications Firm – Policy Resolution Group at Bracewell

- Wash, D.C.-based public affairs & strategic communications consultants
- Promote NTMA and PMA in print, digital and other media
- Support Franklin Partnership government relations efforts by designing and implementing coordinated strategic communications strategy
- Representing metalworking industry since 2003

Nothing contained in here shall be deemed legal or financial advice.

# Stay Connected





#### Contents

- CDC and EEOC Testing and Vaccination Requirements
- CDC Reopening Guidelines
- Federal Unemployment Insurance Challenges
- PPP Loan Update
- Infrastructure Talks Status
- Tax Increase Timeline
- Supply Chain Disruptions

# Workplace Safety and Compliance

# CDC: Employer COVID Testing

#### Antigen Testing for Screening in Non-Healthcare Workplaces

A tool to prevent the spread of COVID-19

Updated May 4, 2021 Languages ▼

Print

Antigen tests are an effective tool to help employers prevent the spread COVID-19 in the workplace. Antigen tests, when used for screening employees in non-healthcare workplaces, can detect current infection before an employee enters the workplace or returns to work. Antigen tests are

- · Easy to give
- · Quick to return results
- Low in cost

Antigen tests are especially useful for screening because they can identify staff

- With COVID-19 who do not have signs or symptoms and no known exposure to COVID-19
- Who are at increased risk of exposure to COVID-19, such as business travelers and those who work in crowded indoor spaces

### CDC: Employer COVID Testing

#### Employers that require screening

- · Must make sure the testing is job-related and consistent with a business need
- Must get <u>employee consent</u> before giving a test
  - If employees do not consent, employers should consider providing other options that are appropriate, such as reassignment to tasks that can be performed via telework or working in a way that maintains physical distance from other workers or customers.

#### How to provide antigen tests

There are two main ways employers can provide antigen tests to screen employees for the virus that causes COVID-19.

- Testing personnel. An employer can directly run a testing program or hire testing personnel to test employees at the
  workplace or at a clinic location. Employers should ensure that they, or that the laboratories or testing sites they hire
  or contract, obtain a <u>Clinical Laboratory Improvement Amendments (CLIA) certificate and meet CLIA regulations</u>.
- 2. **Test kit.** A kit that employers provide or employees can purchase, and can be used anywhere at home, in a car, or any other private and convenient location.

If providing test kits for screening your employees, you as the employer will want to

- Use a test that received EUA by the FDA.
- Develop policies that encourage employees to participate in a testing program without fear of reprisals for having a
  positive test, and ensure employees are aware of these policies.
- Encourage the use of mobile apps that record, store, and display the date and time of a test result.

# EEOC: Still No Employer Vaccination Guidance

- The Equal Employment Opportunity Commission (EEOC) has weighed in with guidance that answers some workplace vaccination questions. Employers may encourage or possibly require COVID-19 vaccinations, but policies must comply with the Americans with Disabilities Act (ADA), Title VII of the Civil Rights Act of 1964 (Title VII) and other workplace laws, according to the EEOC.
- The EEOC has said that asking an employee to show proof of a Covid-19 vaccination would not violate disability law, but cautioned that any follow-up questions "such as asking why an individual did not receive a vaccination, may elicit information about a disability."
- There remains concern that offering employees incentives to receive a vaccine may discriminate against employees who cannot/do not receive the vaccine
- EEOC in April said it would issue guidance

### EEOC: Employer COVID Vaccination

K.5. If an employer requires vaccinations when they are available, how should it respond to an employee who indicates that he or she is unable to receive a COVID-19 vaccination because of a disability? (12/16/20)

The ADA allows an employer to have a <u>qualification standard</u> that includes "a requirement that an individual shall not pose a direct threat to the health or safety of individuals in the workplace." However, if a safety-based qualification standard, such as a vaccination requirement, screens out or tends to screen out an individual with a disability, the employer must show that an unvaccinated employee would pose a direct threat due to a "significant risk of substantial harm to the health or safety of the individual or others that cannot be eliminated or reduced by reasonable accommodation." 29 C.F.R. 1630.2(r). Employers should conduct an individualized assessment of four factors in determining whether a direct threat exists: the duration of the risk; the nature and severity of the potential harm; the likelihood that the potential harm will occur; and the imminence of the potential harm. A conclusion that there is a direct threat would include a determination that an unvaccinated individual will expose others to the virus at the worksite. If an employer determines that an individual who cannot be vaccinated due to disability poses a direct threat at the worksite, the employer cannot exclude the employee from the workplace—or take any other action—unless there is no way to provide a reasonable accommodation (absent <u>undue hardship</u>) that would eliminate or reduce this risk so the unvaccinated employee does not pose a direct threat.

If there is a direct threat that cannot be reduced to an acceptable level, the employer can exclude the employee from physically entering the workplace, but this does not mean the employer may automatically terminate the worker. Employers will need to determine if any other rights apply under the EEO laws or other federal, state, and local authorities. For example, if an employer excludes an employee based on an inability to accommodate a request to be exempt from a vaccination requirement, the employee may be entitled to accommodations such as performing the current position remotely. This is the same step that employers take when physically excluding employees from a worksite due to a current COVID-19 diagnosis or symptoms; some workers may be entitled to telework or, if not, may be eligible to take leave under the FMLA or under the employer's policies. See also Section J. EEO rights relating to pregnancy.

Managers and supervisors responsible for communicating with employees about compliance with the employer's vaccination requirement should know how to recognize an accommodation request from an employee with a disability and know to whom the request should be referred for consideration. Employers and employees should engage in a flexible, interactive process to identify workplace accommodation options that do not constitute an undue hardship (significant difficulty or expense). This process should include determining whether it is necessary to obtain supporting documentation about the employee's disability and considering the possible options for accommodation given the nature of the workforce and the employee's position. The prevalence in the workplace of employees who already have received a COVID-19 vaccination and the amount of contact with others, whose vaccination status could be unknown, may impact the undue hardship consideration. In discussing accommodation requests, employers and employees also may find it helpful to consult the Job Accommodation Network (JAN) website as a resource for different types of accommodations, <a href="https://askjan.org/topics/COVID-19.cfm">www.askjan.org/topics/COVID-19.cfm</a>.

JAN's materials specific to COVID-19 are at https://askjan.org/topics/COVID-19.cfm.

Managers and supervisors are reminded that it is unlawful to disclose that an employee is receiving a reasonable accommodation or retaliate against an employee for <u>requesting an</u> accommodation.

### EEOC: Employer COVID Vaccination

**K.7.** What happens if an employer cannot exempt or provide a reasonable accommodation to an employee who cannot comply with a mandatory vaccine policy because of a disability or sincerely held religious practice or belief? (12/16/20) If an employee cannot get vaccinated for COVID-19 because of a disability or sincerely held religious belief, practice, or observance, and there is no reasonable accommodation possible, then it would be lawful for the employer to exclude the employee from the workplace. This does not mean the employer may automatically terminate the worker. Employers will need to determine if any other rights apply under the EEO laws or other federal, state, and local authorities.

#### When You've Been Fully Vaccinated

How to Protect Yourself and Others

Updated May 13, 2021

Languages \*

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#### Choosing Safer Activities

- If you are fully vaccinated, you can resume activities that you did prior to the pandemic.
- Fully vaccinated people can resume activities without wearing a mask or physically distancing, except where required by federal, state, local, tribal, or territorial laws, rules, and regulations, including local business and workplace guidance.
- If you haven't been vaccinated yet, <u>find a vaccine</u>.



Safer Activities

#### What You Should Keep Doing







For now, if you've been fully vaccinated:

- You will still need to follow guidance at your workplace and local businesses.
- If you <u>travel</u>, you should still take steps to <u>protect yourself and others</u>. You will still be <u>required to wear a mask</u> on planes, buses, trains, and other forms of public transportation traveling into, within, or out of the United States, and in U.S. transportation hubs such as airports and stations. Fully vaccinated <u>international travelers</u> arriving in the United States are still <u>required to get tested</u> within 3 days of their flight (or show documentation of recovery from COVID-19 in the past 3 months) and should still get tested 3-5 days after their trip.
- You should still watch out for <u>symptoms of COVID-19</u>, especially if you've been around someone who is sick. If you have symptoms of COVID-19, you should get <u>tested</u> and <u>stay home</u> and away from others.
- People who have a condition or are taking medications that weaken the immune system, should talk to their healthcare provider to discuss their activities. They may need to keep taking all <u>precautions</u> to prevent COVID-19.

# Interim Public Health Recommendations for Fully Vaccinated People

Updated May 13, 2021

Languages \*

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#### Summary of Recent Changes

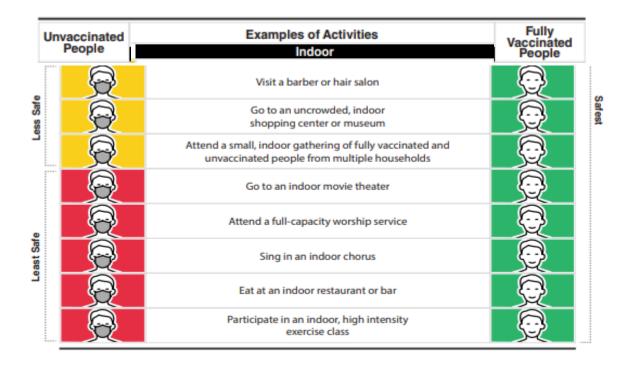
Updates as of May 13, 2021

- Update that fully vaccinated people no longer need to wear a mask or physically distance in any setting, except where required by federal, state, local, tribal, or territorial laws, rules, and regulations, including local business and workplace guidance
- Update that fully vaccinated people can refrain from testing following a known exposure unless they are residents or employees of a correctional or detention facility or a homeless shelter

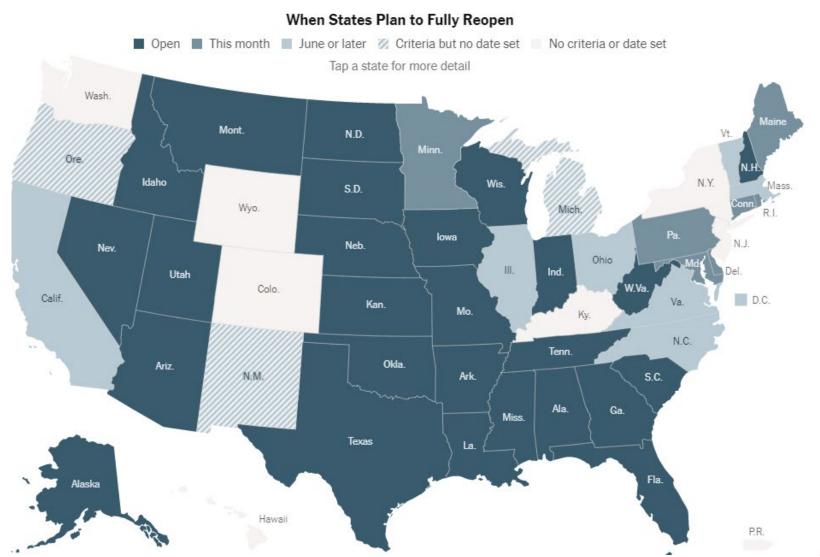
#### **Choosing Safer Activities**

Accessible link: https://www.cdc.gov/coronavirus/2019-ncov/daily-life-coping/participate-in-activities.html

	Unvaccinated People	Examples of Activities Outdoor	Fully Vaccinated People	
	9	Walk, run, wheelchair roll, or bike outdoors with members of your household	Q	
Safest	9	Attend a small, outdoor gathering with fully vaccinated family and friends	Q	
	<del>-</del>	Attend a small, outdoor gathering with fully vaccinated and unvaccinated people	9	
Safe	<del>-</del> <del>Q</del>	Dine at an outdoor restaurant with friends from multiple households	Q	
Safe	Q	Attend a crowded, outdoor event, like a live performance, parade, or sports event	9	



# State "Reopening" Timeline



# 15 States Ending Expanded Federal Unemployment

#### The states that have announced an end to the federal COVID-related benefits include:

Alabama, effective June 19

Arkansas, effective June 26

Georgia, effective June 26

Idaho, effective June 19

Iowa, effective June 12

Mississippi, effective June 12

Missouri, effective June 12

Montana, effective June 27

North Dakota, effective June 19

Ohio, effective June 26

South Carolina, effective June 30

South Dakota, effective June 26

Tennessee, effective July 3

Utah, effective June 26

Wyoming, effective June 19

- The federal assistance programs, which include extra \$300-a-week payments, are set to expire on Sept. 6
- The pandemic-era programs also offer unemployment to those typically ineligible, including gig workers.

# How to Report Employees Who Do Not Return to Work

"We're going to make it clear that anyone collecting unemployment, who was offered a suitable job, must take the job or lose their unemployment benefits," President Joe Biden





#### **Refusal of Work Reporting Form**

Please utilize this form to notify us of one or more claimants who have refused to return to work. This information will assist IDES in making our determination of benefit eligibility. Generally, an individual must show good cause for refusing a bona fide, suitable offer of work.

In determining whether any work is suitable for an individual, consideration shall be given to the degree of risk involved to their: health, safety, and morals; physical fitness and prior training; experience and prior earnings; length of unemployment and prospects for securing local work in their customary occupation; and the distance of the available work from their residence. To read more about Refusal of Work (Section 603 of the IL UI Act), please review the Unemployment Insurance Law Handbook on our website.

Include as many workers as you are aware on one submittal. If later you need to protest additional workers, please remove any that were previously reported.

Employer UI Account Number	
Employer Name	
DBA	
Business Address	
City, State, Zip	
Contact Name	
Contact Telephone Number	
TPA Name and Contact Info	
(if applicable)	
Please explain what steps,	
if any, the employer has taken	
to limit exposure to COVID-19	
in the workplace?	

https://www2.illinois.gov/ides/employers/Pages/Refusal-to-Return.aspx

# OMB Still Taking Meetings on OSHA COVID ETS

Mon 26	Tue	1071			
26		Wed	Thu	Fri	Sat
	27	28	29	30	1
1 Completed	4 Completed	4 Completed	3 Completed	3 Completed	8
					15
2 Completed	1 Completed 2 Scheduled	3 Scheduled	6 Scheduled	3 Scheduled	
		19	20	21	22
1 Scheduled	1 Scheduled				
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OSHA is Hiring! Apply Here

# PPP Loan Update

### IRS Notice 2021-20: PPP1 Deductions Safe Harbor

This revenue procedure provides a safe harbor for certain taxpayers that received a loan pursuant to the Paycheck Protection Program (PPP) and, based on guidance issued by the Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) prior to the enactment of the COVID-related Tax Relief Act of 2020 (COVID Tax Relief Act), enacted as Subtitle B of Title II of Division N of the Consolidated Appropriations Act, 2021 (Appropriations Act), Public Law 116-260, 134 Stat. 1182 (Dec. 27, 2020), did not deduct certain otherwise deductible expenses paid or incurred during the taxpayer's taxable year(s) ending after March 26, 2020, and on or before December 31, 2020 (2020 taxable year) that resulted in, or were expected to result in, forgiveness of the loan. Under the safe harbor, such taxpayers may elect to deduct these expenses on the taxpayer's timely filed original Federal income tax return or information return, as applicable, for the taxpayer's first taxable year following the taxpayer's 2020 taxable year rather than filing an amended return or administrative adjustment request for the taxpayer's 2020 taxable year.

# SBA PPP Loan Funds Exhausted – Applications Closed

#### **Industry for 2021 PPP**

NAICS Sector Description	Loan Count	Net Dollars	% of Amount
Accommodation and Food Services	413,649	\$40,166,661,560	15%
Construction	486,555	\$32,008,135,505	12%
Health Care and Social Assistance	426,762	\$27,386,709,753	11%
Professional, Scientific, and Technical Services	584,694	\$27,181,988,787	10%
Other Services (except Public Administration)	908,742	\$23,929,231,242	9%
Manufacturing	191,605	\$21,497,224,666	8%
Retail Trade	396,780	\$13,936,733,564	5%
Transportation and Warehousing	582,460	\$13,250,364,789	5%
Administrative and Support and Waste Management and Remediation Services	318,390	\$11,654,039,046	4%
Wholesale Trade	155,633	\$9,789,916,813	4%
Agriculture, Forestry, Fishing and Hunting	517,937	\$9,755,945,137	4%
Arts, Entertainment, and Recreation	188,238	\$6,871,625,030	3%
Real Estate and Rental and Leasing	229,600	\$6,781,200,844	3%
Educational Services	90,371	\$4,856,354,647	2%
Information	65,717	\$3,923,898,145	2%
Finance and Insurance	112,104	\$3,152,103,957	1%
Mining	20,069	\$2,336,611,234	1%
Public Administration	15,499	\$711,502,637	0%
Management of Companies and Enterprises	6,365	\$451,931,480	0%
Utilities	5,180	\$379,247,299	0%

Approvals through 05/09/2021

# PPP Loan Forgiveness Summary

#### Forgiveness by loan count

Data as of May 10, 2021

Applications not yet received	1.9 million
Under review	182k
Amount not forgiven	-
Forgiven	3.1 million
Total 2020 PPP volume	5.2 million

https://www.sba.gov/funding-programs/loans/covid-19-relief-options/paycheck-protection-program/ppp-data

Infrastructure, Taxes, and Tariffs

### Infrastructure Next Steps

- President Biden releases his Budget Request and Green Book by Memorial Day
- House Democrats must decide in coming weeks what Budget Resolution to move
- Budget Resolution will have reconciliation instructions for "infrastructure", "family" bills
- Should confirm that Democrats intend to go it alone
- Bipartisan White House leadership meeting May 12 held
- Senate GOP may be willing to go up to \$800 billion, still likely too low
- House Tax Committee Chair not opposed to Build America Bonds
- House Transportation Chair: Committee will move infrastructure bill by July 4

#### Status of Tax Increases

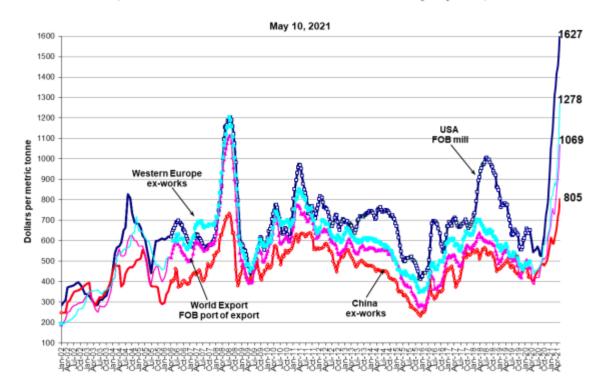
- Committees have begun holding hearings
- House Ways and Means Committee Chair may not demand paying for all of infrastructure
- Congress may have different priorities than White House
- Treasury Green Book coming out end of May, will detail White House tax policy
- President Biden starting to soften stance on 28% c-corporation rate
- Small business, farm community pushing back on stepped up basis
- Democrats will need to thread the needle between moderates and progressives
- All Republicans say no reversals of Tax Cuts and Jobs Act

### Advocacy in Washington on Steel Supply/Prices

#### SteelBenchmarker<sup>TM</sup> HRB Price

#### USA, China, Western Europe and World Export

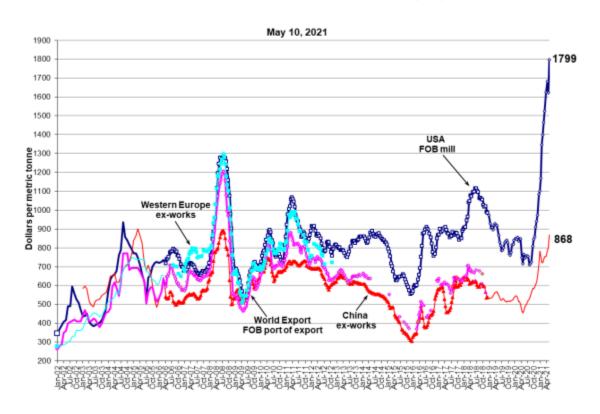
(WSD's PriceTrack data, Jan. 2002 - March 2006; SteelBenchmarker data begins April 2006)



#### SteelBenchmarkerTM CRC Price

#### USA, China, Western Europe and World Export

(WSD's PriceTrack data, Jan. 2002 - March 2006; SteelBenchmarker data begins April 2006)

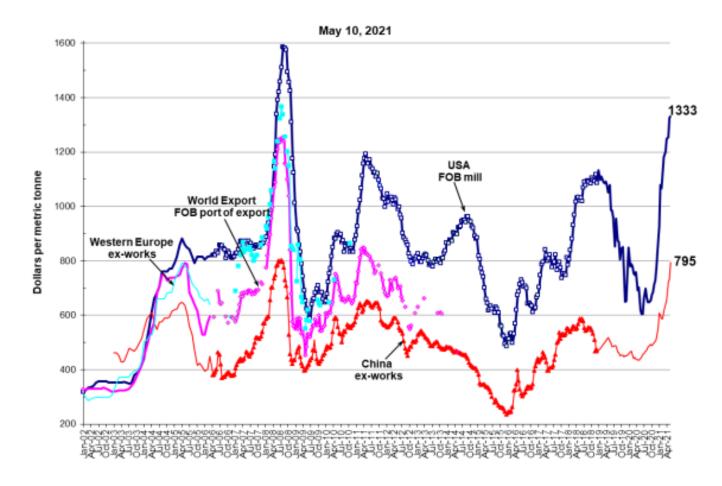


# Advocacy in Washington on Steel Supply/Prices

#### SteelBenchmarker<sup>TM</sup> Plate Price

#### USA, China, Western Europe and World Export

(WSD's PriceTrack data, Jan. 2002 - March 2006; SteelBenchmarker data begins April 2006)



# Advocacy in Washington on Steel Supply/Prices



For Immediate Release May 6, 2021 Contact:

Maya Bogle, 202-828-1727 maya.bogle@bracewell.com

#### Hundreds of U.S. Manufacturing Companies Ask President Biden to Terminate Section 232 Steel & Aluminum Tariffs

Washington, D.C. – A group of over 300 businesses manufacturing in the U.S.—from family-owned metalforming shops to nationally branded companies—sent a <u>letter</u> to President Joe Biden today requesting the immediate termination of the Section 232 steel and aluminum tariffs that were initiated three years ago under the Trump administration. Together, the companies represent a broad swath of a U.S. manufacturing sector currently struggling to meet demand and stay competitive due to supply shortages, long lead times, and artificially high prices for their key inputs. The letter was organized by the Coalition of American Metal Manufacturers and Users, the National Foreign Trade Council and other groups representing steel and aluminum-using U.S. companies.

The letter provided an overview of the dire supply situation confronting manufacturers and explained the challenges created by the Section 232 steel and aluminum tariffs.

"It is businesses manufacturing in America such as ours who pay the tariffs on imports, and it is our businesses and employees who suffer when our product cannot compete with overseas manufacturers because the U.S. is an island of high steel and aluminum prices," reads the letter. "On some products, American businesses pay 40 percent more for similar steel compared to their European counterparts — an unsustainable situation for any U.S. employer."

"The vast majority of manufacturers in the U.S., such as ours, use only domestically-produced steel and aluminum, but it is industrial users such as ourselves who face major disruptions to our operations due to the lack of availability of these raw materials. Many of us are accustomed to four to six-week delivery times for common steel products. Now we receive delivery quotes for 16-20 weeks with some products not promised for delivery until 2022." says the letter.

#### 306 Manufacturers Send Biden Ltr to Terminate Tariffs

May 5, 2021

The Honorable Joseph R. Biden President of the United States The White House 1600 Pennsylvania Avenue Washington, D.C. 20500

Dear President Biden:

On behalf of the undersigned businesses manufacturing products across the United States and employing millions of Americans, we urge you to immediately terminate the Section 232 steel and aluminum tariffs imposed on this country's trade and national security allies.

Manufacturers in the United States currently face historic shortages of readily available and globally-priced steel and aluminum products at a time when the country is relying on our sector to help drive the economy and overcome the unprecedented challenges caused by the COVID-19 pandemic. Without termination of the tariffs, this situation will worsen if Washington moves forward with an infrastructure bill to invest in America, as these projects will create more strain on domestic steel and aluminum supplies, causing delays in construction and risking manufacturing jobs.

The temporary increase of 4,800 steel industry jobs in the United States since 2018 recorded by the Bureau of Labor Statistics is not directly attributable to the Section 232 tariffs and is dwarfed by the 6.2 million American manufacturing jobs at risk in steel- and aluminum-using industries. It is businesses manufacturing in America such as ours who pay the tariffs on imports, and it is our businesses and employees who suffer when our product cannot compete with overseas manufacturers because the U.S. is an island of high steel and aluminum prices. On some products, American businesses pay 40 percent more for similar steel compared to their European counterparts — an unsustainable situation for any U.S. employer.

Hudson Precision Products Co. Broadview, Illinois

Principal Manufacturing Corporation Broadview, Illinois

Prince Industries Carol Stream, Illinois

Performance Stamping Co Inc Carpentersville, Illinois

Progressive Coating Chicago, Illinois

Tower Metalworking Fluids Chicago, Illinois

Cap & Seal LP Elgin, Illinois

ITW Shakeproof Automotive Elgin, Illinois

Semblex Corp. Elmhurst, Illinois

Ex-Cell Kaiser, LLC Franklin Park, Illinois Lyon LLC Montgomery, Illinois

Sko-Die, Inc. Morton Grove, Illinois

NTN USA Corporation Mount Prospect, Illinois

MacLean-Fogg Company Mundelein, Illinois

Lewis Spring & Mfg. Company Niles, Illinois

DKB Partners AAA Tool and Machine Co. O'Fallon, Illinois

Pitcher Insurance Agency, Inc. Palatine, Illinois

Burnex Corp Ringwood, Illinois

Dec Tool Corporation Saint Charles, Illinois

Manor Tool and Mfg. Co. Schiller Park, Illinois EPCO Products, Inc. Fort Wayne, Indiana

Precise Manufacturing Fort Wayne, Indiana

Reed Mfg Services Franklin, Indiana

MVO USA, Inc. Indianapolis, Indiana

Reliable Metalcraft Corp. Mishawaka, Indiana

Ahaus Tool and Engineering, Inc. Richmond, Indiana

General Stamping & Metalworks South Bend, Indiana

Peerless Machinery South Bend, Indiana

Steel Warehouse; Lock Joint Tube South Bend, Indiana

B. Walter & Co. Wabash, Indiana

### Steel, Aluminum, Other Tariff Pressure Points

- Senate Finance Committee Chairman said a colleague asks about 232 every day
- USTR Katherine Tai said she is pleased with progress US-EU making
- U.S.-EU/OECD must reach an agreement first on China overcapacity
- G-7 meetings in UK June 11-13 announcement on tariffs possible
- Retaliatory tariffs on U.S. distilled spirits wine set to double June 1, 2021
- Wine-state lawmakers call on USTR to resolve Boeing-Airbus Section 301 dispute
- State lawsuit pending against US Steel that they falsified exclusion objections

#### Media

#### CRAIN'S CLEVELAND BUSINESS

"Our members report increased lead times for steel, aluminum, copper, brass and other metals," Klotz said. "Steel prices are at near record highs, making it difficult for U.S. manufacturers to compete. Some of our members report paying 40% more for steel than their overseas competitors. PMA continues to call on the Biden administration to terminate the Section 232 steel and aluminum tariffs, which no longer are needed and are one of the main causes for chaos in the market."

# the fabricator.

# NTMA to host 2021 Virtual AMPED MFG Career Summit

# MiBiz

The PMA is pushing hard for the Biden administration to reverse the Section 232 tariffs on steel and aluminum that were put in place by the former Trump administration. The move would open up supply and drive down prices, according to Klotz.

# The Washington Post

"The conditions in the steel market no longer support the need for these tariffs. In fact, their continuation jeopardizes the future of the U.S. steel industry due to the situation this has placed their customers in," said Scott Buehrer, president of B. Walter and Co. in Wabash, Ind., a maker of fabricated metal products.

# The Titusville Herald

Thirty teams from high schools located throughout northwestern Pennsylvania met at Meadville Area Senior High School with their hopes and battle-bots in hand to compete in the 2021 RoboBOTS competition sponsored by the Northwestern Pennsylvania National Tooling and Machining Association (NTMA).

### Donate to NTMA, PMA to Support Advocacy in DC

NTMA's Government Affairs Administrative Fund (GAAF) allows the association to undertake initiatives aimed at educating elected officials on tooling and machining and the industry's priority issues. It also permits us to support a variety of activities to inform and mobilize our members, as well as to protect and promote the industry with key lawmakers. You can use corporate OR personal funds to donate to the GAAF.

Donate Today!

https://ntma.org/programs/advocacy/

#### PMA ADVOCACY FUND

PMA's Advocacy Fund supports the association's day-to-day lobbying and public relations efforts in Washington, D.C., increasing the industry's visibility in Congress, the Administration and the public. You can use corporate OR personal funds to donate to the advocacy fund.

Donate Today!

https://www.pma.org/advocacy/donate-today.asp

# Questions?

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<u> https://www.pma.org/advocacy/donate-today.asp</u>

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