

February 10, 2023

Visit us online at [www.wpma.com](http://www.wpma.com)

WP-02-10-23



### **PETROLEUM INDUSTRY LOSES AN ICON, JACK CASON**

The Nevada Petroleum Marketers and Convenience Store Association mourns the loss of our friend and colleague, Jack Cason. Jack was a leader in Nevada fuels marketing for more than 70 years. He founded Rebel Oil Company, now branded as ROC1954, and the Las Vegas family business grew to include c-stores, gaming, terminal and rail operations including fuel transports.

Our thoughts are with family members Dana, Pat, Christi and Gina.

### **SILENT AUCTION DONATIONS NEEDED!**

Support the Scholarship Foundation by donating an item with a value of \$100 or more to the 2023 Scholarship Silent Auction.

Past Silent Auction donations have included tickets to sporting events, vacation packages, decorator items, electronics, sports equipment, logo clothing, jewelry, tools, and accessories. If you would like to donate an item, please fill out the Silent Auction Donation Form available under the Scholarship tab on the WPMA website

<https://www.wpma.com/pdf/scholarship/SA19Generic-DonationFrm0701w.pdf>

or e-mail Kathy Michaelis at [kathym@wpma.com](mailto:kathym@wpma.com).

The value of items donated to the auction is tax-deductible.

The following information provided by:  
**EMA-Energy Marketers of America**



### **HOTEL RESERVATIONS AND REGISTRATION NOW OPEN FOR EMAS WASHINGTON CONFERENCE AND DAY ON THE HILL 2023: MAY 10-12!**

EMA's annual Washington Conference and Day on the Hill will be held in Washington, DC from May 10-12 at The Mayflower Hotel. Our industry continues to have dozens of important legislative and regulatory issues to discuss and the Day on the Hill remains the primary focus of this conference.

The meeting will begin with an Opening Session / Issues Briefing and Region meetings in the afternoon of May 10. Our welcome reception, exclusively sponsored by **EMA's Board of Directors Council Partner** Federated Insurance, will include our fun and popular PAC "live" silent auction fundraiser (bidding and virtual viewing through download of the C2Auction App on your mobile phone), concludes the day! On the morning of May 11, marketers will head to Capitol Hill to meet with their Congressional delegations, after a buffet breakfast and issues briefing for those who were not able to attend the opening session. There will be a luncheon exclusively sponsored by **EMA's Board of Directors Council Partner** Altria Group Distribution Company at their Corporate Offices on the Hill. On the evening of May 11, we will feature our 2023 EMA Chair Jason Mirabito along with honoring our other Past Chairs in attendance. Our conference will conclude after the EMA Board of Directors meet on May 12 following a buffet breakfast and committee meetings.

Invitations were sent out at the top of the week to state association members, their members who have attended EMA Conferences in the past and Corporate Partners. You will find all available details, including hotel reservations and meeting

registration, for Washington Conference and Day on the Hill by [CLICKING HERE](#). Please make your room reservations now to attend this important and productive forum to meet with your members of Congress and network with other marketers from across the country! See you in DC in the spring!

## **EMA CONCERNED OVER PROPOSAL TO RESTRICT DURATION AND SCOPE OF STATE HOURS OF SERVICE WAIVERS**

On Monday, the Energy Marketers of America (EMA) submitted comments regarding the Federal Motor Carrier Safety Administration's (FMCSA) proposed rule that would severely limit the authority of state governors to waive federal motor carrier safety hours of service (HOS) regulations during a declared state of emergency. The proposed rule would limit both the scope of FMCSA regulations subject to a state issued waiver and the duration of the waiver itself. Under current federal regulations, when a president, governor, or the FMCSA issues a declaration of emergency, a 30-day exemption from FMCSA regulations is automatically created for drivers providing direct assistance to state and local emergency relief efforts. Those sections include driver: hours of service; medical qualifications including medical exams; CDL licensure and renewal; vehicle inspections, repair and maintenance and training. Under the proposed rule, the FMCSA is seeking to narrow the automatic applicability of emergency exemptions to driver hours-of-service only. Moreover, the FMCSA is proposing to reduce the duration of emergency waivers issued by state governors from 30 days to just 5 days.

In its comments, EMA opposed the reduction of the automatic waiver from 30 days to 5 days for state declarations because it may not provide sufficient time for full recovery from a declared emergency. In the fuel marketing industry, disaster recovery time typically takes 2 to 3 times longer than the duration of the disaster itself. When fuel supply is disrupted, the HOS waiver is essential to restore the flow of finished fuel products to downstream users. The HOS waiver increases the number of loads that can be delivered, and the distance traveled to reach far off supply during emergency declarations. In addition, when a terminal or pipeline outage occurs, resulting in a supply disruption, normal inventories of finished fuel products take time to work their way back through the distribution chain to storage terminals. Return to normal inventories could take up to three weeks after the emergency period is over. Unfortunately, a shorter 5-day state waiver period could also encourage consumer fuel hoarding and long lines at the pump, further limiting supply. EMA expressed the utmost importance of maintaining the current 30-day automatic waiver period for state declared emergencies to guarantee supply during and after a declared emergency.

[CLICK HERE](#) to read the comments.

## **NEW EMPLOYMENT LAWS FROM THE OMNIBUS SPENDING BILL**

With the text of the final bill clocking in at over 1,600 pages, it is no wonder that some items that made their way into the 2023 Consolidated Appropriations Act (aka the omnibus spending bill) that was signed into law at the end of 2022 have gotten less attention than others. Small businesses should be aware of two important employment law changes that were included as part of the spending bill, and which will go into effect this year.

Pregnant Workers Fairness Act –

The Pregnant Workers Fairness Act has been introduced in every Congress since 2011 and made it across the finish line as an amendment to the spending bill in large part due to bipartisan support and backing from some of the large employer-side groups including the Society of Human Resources Management (SHRM).

The provisions will go into effect on June 27, 2023, and apply to all private employers with 15 or more employees. In sum, the new law requires covered employers to provide reasonable accommodations for pregnancy, childbirth or related medical conditions the same way that they would for other disabilities.

Up to this point, federal law has only gone so far as expressly prohibiting discrimination against employees because of their pregnancy or pregnancy related conditions. In 2015, the Supreme Court ruled that it would be discriminatory for an employer to provide an accommodation to an employee with a non-pregnancy related short-term disability but refuse a similar accommodation to an employee with a pregnancy related condition. But where there is no comparable employee with a non-pregnancy related disability, an employee's rights to seek an accommodation for a pregnancy-related disability became blurry.

Because of the lack of clarity and protections at the federal level, more than half of the states have already enacted some type of pregnancy accommodation law. Accordingly, the extent to which the Pregnant Workers Fairness Act will change an employer's legal obligations will largely depend upon where the employer is located. To the extent that the employer is located in a state that imposes obligations that go above and beyond the Pregnant Workers Fairness Act, the employer will still need to comply with the more rigorous state law. To the extent that the employer is located in a state with no pregnancy accommodation law, the employer will need to make sure that they are complying with the Pregnant Workers Fairness Act by June of this year.

The specific requirements of the Pregnant Workers Fairness Act are as follows:

Covered employers are prohibited from refusing to provide reasonable accommodations for "known limitations" arising from an employee's pregnancy, childbirth or related medical condition. Employers will only be excused from providing a reasonable accommodation if it can show that the accommodation would impose an undue hardship on the operation of the business. What constitutes a "reasonable accommodation" or an "undue hardship" for the purposes of the Pregnant Workers Fairness Act will be the same as under the Americans with Disabilities Act (ADA) and there has been extensive rulemaking, guidance and case law fleshing these concepts out in the context of the ADA.

When it comes to making an accommodation, employers will be further prohibited from forcing employees to accept an accommodation selected by the employer without going through the interactive process with the employee. The interactive process is also a concept defined in the ADA which is incorporated into the Pregnant Workers Fairness Act. Additionally, employers may not force employees to take leave (paid or unpaid) if another form of reasonable accommodation is available that would allow the employee to perform the essential functions of their job.

The new law further prohibits employers from denying employment opportunities to otherwise qualified employees or applicants based on the fact that they will need an accommodation due to limitations from pregnancy, childbirth or a related medical condition.

Finally, the law prohibits employers from taking adverse action against an employee for requesting or taking advantage of a reasonable accommodation for limitations related to pregnancy, childbirth or a related medical condition.

Like the ADA and other federal employment non-discrimination laws, the Equal Employment Opportunity Commission (EEOC) will be primarily responsible for enforcing the new law.

#### Pump for Nursing Mothers Act –

The other notable employment law change that was passed as part of the omnibus spending bill is the Pump for Nursing Mothers Act. The Pump for Nursing Mothers Act expands employers' obligation to provide employees with time and space for lactation. The major provisions of the new law went into effect at the time the legislation was signed into law.

In 2010 Congress amended the Fair Labor Standards Act (FLSA) to require employers to provide non-exempt employees with breaks and a private place to express breast milk for a year after the birth of their child. The Pump for Nursing Mothers Act expands the requirement so that it applies to all employees, exempt and non-exempt. The newly expanded law requires that employers provide employees with reasonable lactation breaks for up to a year after their child's birth and that the employer designate a private place that is not a bathroom where that the employee may use to take these breaks free from intrusion from their coworkers or others. The law does not require that employees be paid for these breaks unless they are not completely relieved of their work duties while taking the breaks (for example if they are working at the same time as they are pumping).

There are a few exceptions to these requirements. First, businesses with less than fifty employees do not have to comply with the break requirements if they can establish that the obligations would "impose an undue hardship causing the employer significant difficulty or expense, when considered in relation to the size, financial resources, nature or structure of the employer's business." Small businesses that plan to rely on this exception are well advised to seek legal counsel to ensure that they can satisfy the high standard that they will be required to meet to establish an undue hardship.

There are also industry specific exemptions (which were negotiated at the last minute and drew some ire) for air carriers, rail carriers and motor coach operators.

Before initiating an action against an employer for failing to comply with the Pump for Nursing Mothers Act, employees will be required to notify the employer of their non-compliance and provide the employer with ten days to come into compliance. Accordingly, businesses should take their obligations under the law, and any complaints of non-compliance by employees very seriously.

Employers should also check whether there are any state or local laws that apply to them which relate to lactation breaks. As is the case when it comes to any federal employment law, if the employer is located in a jurisdiction that has a state or local law that is more rigorous than the federal law, the employer will need to comply with the more restrictive requirements.

## **SEC CONSIDERING EASING PROPOSED CLIMATE RELATED RISKS DISCLOSURES**

In a sign that some of the aggressive Republican pushback is working, the Securities and Exchange Commission (SEC) is considering easing a proposed rule that would compel companies to disclose climate-related risks. [The Wall Street Journal reported](#) recently that the SEC is reconsidering just how stringent the reporting requirement will be. The final version of the rule is still expected to require climate disclosures from companies, although the SEC might raise the threshold for reporting.

The rule was first proposed in March and it says companies must report direct and indirect greenhouse gas emissions and the reports must be audited by an outside party. Attorneys general from 25 states filed a lawsuit against the Administration last month over the plan to allow retirement fund managers to consider ESG. The lawsuit, filed in Texas federal court, sought a preliminary injunction to stop the rule from going into effect. Gov. Ron DeSantis (R-FL) additionally approved a measure prohibiting state-run fund managers in Florida from considering environmental, social, and governance standards (ESG) factors when making investments.

The proposed rule fits President Biden's broader climate agenda, including cutting greenhouse gas emissions by more than half by the end of the decade, when compared to 2005 levels. The Department of Labor already has a rule that would allow retirement plan managers to weigh ESG when making investments. This is contrary to and a reversal of Trump-era rules restricting such considerations on the grounds that they don't prioritize investor returns.

In June, EMA submitted comments on the SEC's proposed rule that would mandate extensive climate disclosures by public companies. While most energy marketers represented by EMA are not public companies and, therefore, are not required to report directly to the SEC, EMA is concerned due to the costs and burdens their SEC-regulated suppliers would incur by being required to disclose greenhouse gas emissions from upstream and downstream activities in its value or supply chain under many, if not most, circumstances.

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

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

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

### **INSIDE THE BELTWAY UPDATE**

For the second straight week, House Republicans held hearings designed to question Biden Administration activities and advanced Congressional Review Act (CRA) actions – a vehicle for lawmakers to undo recent agency rulemaking through a simple majority vote. EMA was asked to comment on House Transportation & Infrastructure Chairman Sam Graves (R-MO) and Congressman David Rouzer's (R-NC) CRA on the Biden Administration's Waters of the United States Rule. EMA's President Rob Underwood said:

"The Energy Marketers of America (EMA) recognize the enormous impacts the Biden Administration's "Waters of the United States" (WOTUS) rule will place on small business energy marketers. In large part, WOTUS will determine whether costly land use restrictions will be imposed on new building or expansion projects such as adding renewable liquid fuel pumps and/or electric charging stations. EMA supports the joint resolution of disapproval under the Congressional Review Act (CRA) on the Biden Administration's WOTUS rule."

However, not all administrative action is subject to a CRA. On Thursday, the U.S. Government Accountability Office said the Environmental Protection Agency's (EPA) denial of exemptions for small refineries under the Renewable Fuel Standard last year does not constitute a rule and therefore is not subject to the CRA. Under the RFS program, refiners must blend minimum volumes of renewable fuels into the nation's fuel supply but can petition the agency for an exemption. EPA last year finalized a decision to deny 69 pending small refinery exemption petitions, arguing the refineries did not face disproportionate economic hardship caused by compliance with their volume obligations.

Lawmakers continued efforts from late last year to pressure the Biden Administration to implement a rule effectively allowing the year-round sale of gasoline with 15 percent blends of ethanol. In a letter led by Senators Joni Ernst (R-IA) and Tammy Duckworth (D-IL), 31 Members of Congress urged the Administration to "swiftly and diligently" implement a regulation to allow year-round E15 sales. The letter comes as several Midwest governors called on EPA to permanently remove a fuel volatility waiver, which would allow their states to sell E15 gasoline year-round.

Finally, President Biden's State of the Union address used the opportunity to tout historic federal funding made possible by passage of the Infrastructure Investment and Jobs Act (IIJA) and Inflation Reduction Act (IRA). As expected, much of the President's remarks focused on climate policies and his perspective on a solid economy. However, President Biden appeared to go off-script when he said that the U.S. would need oil and natural gas for many years to come. The President's acknowledgements, which were not included in the prepared remarks circulated in advance, were made as he recounted a conversation with an oil executive who said "well, we're afraid you're going to shut down all the oil wells and all the oil refineries. So, why should we invest in them?" [President Biden responded], 'we're going to need oil for at least another decade and beyond.'" The comments were met with boos from the Democratic side of the House while Republicans cheered, and even laughed, at the President recognizing the importance of the oil and gas industry.

### **MERCHANTS TELL CONGRESS CREDIT CARD COMPETITINO ACT WOULD BLOCK NATIONAL SECURITY THREAT FROM CHINA UNIONPAY**

On Tuesday, the Merchants Payments Coalition (MPC) told a House committee holding a hearing on economic threats from China that passage of the Credit Card Competition Act is needed to keep China from "infiltrating" the U.S. payments processing market.

"MPC has grave concerns over the level of involvement that China has in our nation's payment system," MPC said in a [letter to the House Financial Services Committee](#). "Preventing China from infiltrating the U.S. payments system is one of our top priorities."

"Currently, there is no federal law that prevents any financial institution from doing business with China UnionPay to process payments on its credit cards," the letter said. "If enacted, the Credit Card Competition Act would explicitly forbid card networks



that present a national security threat to the United States (including China UnionPay) from entering the U.S. market. This is a vital provision of the legislation that would significantly serve our national security interests.”

The letter was sent to Chairman Patrick McHenry, (R-NC); Ranking Member Maxine Waters, (D-CA), and other committee members as the panel prepared to hold the hearing on “Combating the Economic Threat from China.” [Click here](#) for the story.

## **WEEKEND READS**

[CNBC: How Small Businesses Are Fighting Inflated Credit Card Swipe Fees](#)

[‘Cobalt Red’ Review: The Human Price of Cobalt | Wall Street Journal](#) (subscription required)

[How Plans to Boost Ethanol Will Reverberate Across US: QuickTake | Bloomberg Law](#) (subscription required)

[Taxing the Weight of EV Batteries Would Be a Real Green Solution | Bloomberg Law](#)

[John Kerry frustrated oil companies aren't interested in costly renewable business](#)

[Biden touts climate bill, knocks oil profits | Politico Pro](#) (subscription required)

[The congressional China-EV showdown | Axios](#)

[Tesla hikes price of Model Y after US alters tax credit rule | AP News](#)

[U.S. Car Makers’ EV Plans Hinge on Made-in-America Batteries | Wall Street Journal](#) (subscription required)

[Fetterman tries to straddle Democratic energy divide | E&E News](#)

[Newsom calls for federal probe into soaring natural gas prices | The Hill](#)

[U.S. is ‘absolutely’ behind on supply chain independence from China, Biden advisor says | CNBC](#)

[3 issues may determine N.Y.’s clean energy future | E&E News](#)

## **FEDERATED INSURANCE RISK MANAGEMENT ACADEMY WEBINAR**

**Risk Management Culture and Leadership: Tuesday, February 21, 2023, 1:00 p.m. CST**

Every business wants, or should want, a great risk management culture. But what does that look like? How do I know if I have one? How do I get one in place if I am not there yet? In this presentation we will answer those questions and provide some keys to establishing and maintaining a great risk management culture.

What you will learn:

- What does a great risk management culture look like?
- What do I need to do to get one in place?
- What steps do I need to take to get this done?
- What is a key to success here?

[Advanced registration](#) is required for this 60-minute webinar.

For additional information or to discuss this in further detail, please contact your [Federated](#) regional representative or EMA’s National Account Executive [Jon Medo](#) at 800.533.0472.

---

# THANK YOU **WPMA EXPO 2023** TOP SPONSORS

Presidential

as of December 20, 2023



Premier



**Register Now** to attend the 2023 WPMA EXPO  
Held at The Mirage in Las Vegas, Nevada.

## PLEASE NOTE UPCOMING DATES FOR WPMA EVENTS

**February 21-23, 2023 - WPMA Convention & EXPO - Mirage Hotel- Las Vegas, NV**

April 27-28, 2023 – Nevada Big Dogs – Red Rock Hotel/Sienna Golf Course – Las Vegas, NV

June 6-7, 2023 – MPMCSA Montana Convention – Fairmont Hot Springs – Fairmont, MT

June 19-21, 2023 – WIED Washington Convention – Suncadia Lodge, Cle Elum, WA

July 16-18, 2023 – OFA Oregon Conference – Sunriver Resort – Sunriver, OR

August 2-4, 2023 – IPM&CSA Idaho Convention – Sun Valley Resort – Sun Valley, ID

August 21-23, 2023 - NMPMA New Mexico Convention - Sandia Resort - Albuquerque, NM

October 25-27, 2023 - UPMRA Utah Convention - TBD - St. George, UT

The banner features a calendar on the left showing the month of March 2023 with the text "MARCH 1st is only Weeks Away!". To the right, it displays "\$4,000 SCHOLARSHIP OPPORTUNITY!" in large, stylized letters. Further right is a classical column icon and the text "WPMA SCHOLARSHIP FOUNDATION". On the far right, a green box contains the text "CLICK HERE for WPMA SCHOLARSHIP Information and to Apply Online!".

## SCHOLARSHIP APPLICANTS NEEDED!!!

The time is fast approaching when the 2023 WPMA scholarship recipients will be selected. **MARCH 1, 2023 IS THE CUT-OFF DATE** for applications to be **submitted online at [wpma.com/scholarship](http://wpma.com/scholarship)**. Usually, there are less than 10 applicants for each WPMA state scholarship and the associate member scholarship, which makes the chances of receiving a scholarship very good. Applicants must be graduating high school seniors, and the son or daughter of a full-time employee of a WPMA member or associate member company. High School seniors who are currently working part-time for a WPMA member company, and have been employed for at least 90 days, may also apply for the scholarship.

The WPMA Scholarship Application and applicant qualification requirements are available on the Scholarship Foundation home page, [www.wpma.com/scholarship](http://www.wpma.com/scholarship).

The WPMA scholarships pay \$500 per semester for up to eight semesters, for a maximum award of \$4,000. **Employers, please remind your full-time employees or part-time senior student employees about the WPMA Scholarship and give our students a chance for some extra financial help with college or vocational training!**

**Petro Pete: People who use selfie sticks really need to have a good, long look at themselves.**

© 2022 Western Petroleum Marketers Association - All rights reserved. No part of this work may be reproduced or copied in any form or by any means - graphic, electronic, or mechanical, including photocopying, recording, or otherwise. The information herein is also intended for the sole purpose of members of the Western Petroleum Marketers Association (WPMA). Any other use is strictly prohibited without the express written consent of the WPMA.

If you do not wish to receive information via fax or e-mail, please contact WPMA at: (801) 263-9762, Fax: (801) 262-9413, or e-mail: [kimw@wpma.com](mailto:kimw@wpma.com) Thanks.

## **CLASSIFIED ADS**

### **FOR SALE:**

2007 Kenworth T800 with Polar tanks.  
Local deliveries, no long haul or mountain  
passes.

Approximately 775,000 miles.

\$199,000.00

Call (208) 765-2266

