
Washington Secures Convention Speaker Line Up:

Executive Director, Lea McCullough has secured the General Business Session Speaker Line-Up for the 2024 WIDE Convention! This is a year you will not want to miss!



June 18th, 2024

General Business Session beginning at 8 am:

- Federated Insurance Presentation
- Diana Carlen, WIDE Legislative Recap
- Russ Olson, Pollution Liability Insurance Agency
- Todd Myers, Washington Policy Center
- Jim Ellis, Political Strategist
- David Reichert, WA Gubernatorial Candidate

Evening Entertainment beginning at 7 pm:

- Kevin Viner, Mentalist and Entertainer

Registration is **OPEN!** We encourage you to [register early](#), secure your [hotel rooms](#), and if you are associate member or a vendor, [pick your tradeshow booth](#) early for best location on the floor! We are excited to see you at Suncadia Resort in Cle Elum, WA!

P.S. Stay tuned for an announcement of a **NEW CONVENTION LOCATION in 2025!**

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



EPA Adopts EMA's Throughput Trigger Language that Exempts Most Energy Marketers from Costly Small Gasoline Bulk Plant Vapor Balancing Requirements

The EPA released its long-awaited final rule that regulates volatile organic compound (VOC) emissions from bulk plants with gasoline storage tanks. The final rule is a big victory for energy marketers because it exempts bulk plants with an annual average daily gasoline throughput that does not exceed 4,000 gallons per day from expensive vapor balancing equipment retrofit requirements.

The National Emission Standards for Hazardous Air Pollutants (NESHAP) proposed rule would have required all bulk plants with a maximum design capacity of 4,000 gallons or more per day of gasoline throughput to add vapor balancing equipment to loading racks. The 4,000-gallon maximum design capacity language represents a theoretical daily gasoline throughput based on bulk plant design characteristics rather than actual daily gasoline throughput which is typically a much smaller volume.

EMA submitted written comments on the proposed rule and met regularly with the EPA, the Small Business Administration Office of Advocacy, the White House Office of Management and Budget and members of Congress to express deep concern over the proposed design capacity throughput language, the failure of the agency to accurately estimate the number of bulk plants affected by the rule and the economic impact a vapor balancing retrofit would have on small business energy marketers. Based on gasoline bulk plant surveys and upgrade cost information collected by EMA, the cost to upgrade a gasoline bulk plant to a vapor balance system for both transport unloading and tank vehicle loading would exceed \$120,000 per facility if the proposed rule were finalized.

Last year, Senator Kevin Cramer (R-ND) and Congressman John Joyce (R-PA), along with 82 lawmakers including Democratic Representatives Angie Craig (MN) and Bennie Thompson (MS), sent a [bicameral/bipartisan letter](#) to the EPA arguing that the proposed rule would lead to “higher fuel costs or the elimination of intermediate gasoline storage at small bulk plants, impacting supply to end users offering vital services to their local communities and potentially cutting off whole communities during an emergency.”

EMA’s efforts paid off as the EPA adopted the 4,000-gallon actual daily gasoline throughput trigger in the final rule. The EPA also agreed with EMA that the 4,000-gallon daily throughput should be averaged on an annual basis rather than a daily basis. EMA told the agency that annual averaging was essential in order to allow marketers to periodically surpass the 4,000 gallons of gasoline per-day to meet unusual demand without triggering the vapor balancing retrofit, provided annual daily throughput averaged over a year did not exceed 4,000 gallons. The EPA agreed to include annual daily throughput averaging into the final rule as well.

The final rule also changes cargo tank vapor tightness test standards from a graduated tightness requirement ranging from 1.0 to 2.5 inches of water pressure drop over five minutes depending on compartment size to a slightly more stringent 0.50 to 1.25 inches of water pressure drop over the same period. Cargo tank test facilities confirmed with EMA during the comment period for the proposed rule that the vapor tightness test changes in the final rule would not require any cargo tank equipment retrofit requirements. Also, the rule requires annual leak detection inspection using optical gas imaging. Monthly inspections using sight, sound and smell remain largely unchanged.

EMA will provide a comprehensive compliance document for marketers in the near future.

Senate Transportation Security Screening Modernization Act Introduced

Good news! The senate companion bill (number not yet assigned) to the House Transportation Security Screening Modernization Act (H.R. 5840) was introduced by Senator Roger Wicker (R-MS) along with Senators Jon Tester (D-MT), Deb Fischer (R-NE), and Angus King (I-ME). The bill was introduced in the House last year by Representatives Garret Graves (R-LA), Adam Smith (D-WA), Mark Green (R-TN), Michael Guest (R-MS), Salud Carbajal (D-CA), and Dina Titus (D-NV).

The Energy Marketers of America (EMA) endorsed the Transportation Security Screening Modernization Act last year in a [letter](#) to House lawmakers which would direct the Department of Transportation to work with the Department of Homeland Security’s Transportation Security Administration (TSA) to eliminate costly background check redundancies within the Transportation Worker Identification Credential (TWIC), Hazardous Materials Endorsement (HME), and TSA PreCheck programs. The nation’s supply chains are continually impacted by bureaucratic red tape requiring our nation’s essential workers to undergo many different security clearances to do one job. For example, a driver operating a truck with hazardous materials from a port must receive credentials from multiple Federal agencies, including Transportation Security Administration (TSA) and Customs and Border Protection (CBP). This cumbersome process hinders America’s supply chain from operating at its full capacity.

"By combining each of the different steps along the credentialing process into one cohesive process, this legislation will help eliminate this logjam and get these drivers out on the road more quickly while, at the same time, maintaining the same levels of scrutiny," said EMA President Rob Underwood. In fact, the Government Accountability Office (GAO) had recommended these steps be taken in 2007 especially since all it does is smooth out an unnecessarily cumbersome credentialing process.

Passage of the bills will be a major benefit for energy marketers who already face major hurdles in hiring qualified CDL drivers and will be a top priority for EMA’s DC Conference and “Day on the Hill.”

Texas Judge Blocks Labor Board's Joint-Employer Rule

In the fall of 2023, the National Labor Relations Board (NLRB) promulgated [a rule](#) that would have made it significantly easier for the agency to find the existence of “joint-employment” between two or more entities. The rule was challenged in federal court and the effective date was delayed by the NLRB to February 2024 and [then by a judge](#) to March 2024. It now appears the rule will be on hold for longer – if not permanently. U.S. District Judge J. Campbell Barker in Tyler agreed with the challengers to the ‘joint employers’ rule, including the U.S. Chamber of Commerce, that it is too broad and violates federal labor law. The rule, issued in October, had been set to take effect on March 11th.

The judge found the rule to be improper because “it would treat some companies as the employers of contract or franchise workers even when they lacked any meaningful control over their working conditions.” The joint-employment doctrine often is used by federal agencies to impose liability on two or more companies with respect to a group of employees, such as a staffing company and its client or a franchisor and franchisee. For example, the NLRB can use the doctrine to impose liability for violations of the National Labor Relations Act (NLRA) on multiple companies, and the agency has been at the forefront of changes to how joint employment is evaluated.

A finding of joint employment can have significant consequences for companies under the NLRA. From a practical perspective, each company found to be a joint employer by the NLRB may be held liable for the unfair labor practices of their co-employers. For example, many energy marketers operate convenience stores where the employees of vendors of beverages, snacks, and other items come into the store and stock the coolers and shelves as part of the deliveries. Energy marketers, as convenience store operators, have agreements with their vendors that commonly set forth prudent, reasonable service expectations and requirements that have an impact on the vendor’s employees. One such contractual provision allows the energy marketer to retain the right to reject the vendor’s delivery driver if the driver berates the convenience store staff, threatens violence, or behaves in an inappropriate manner while at the energy marketer’s facility. Under the final rule, the Board can find that the energy marketer’s contractual retention of the right to reject a driver as retaining a right to control the vendor’s employment practices. The final rule, therefore, does not adequately take into consideration the reasonable and prudent needs for customers, such as the energy marketers represented by EMA, to require their vendors to meet certain standards and requirements, especially those relating to health, safety, and security.

Another example, as part of their retail motor fuel operations, energy marketers often dictate the time of day when transport deliveries of gasoline or diesel fuel can be made into the underground storage tanks at a particular location, largely because of the store’s smaller “footprint.” It is difficult, and it increases safety hazards, to have a large transport truck blocking driveway access during the store’s rush hours. Merely limiting the “window” for fuel deliveries conceivably could subject the energy marketer to joint employer liability.

Bottom line... to the extent this court ruling staying the NLRB's new joint-employer rule remains intact – appeals are likely – it may offer some reprieve on the labor law front for companies using contingent labor and/or franchise models. Stay tuned.

EMA Continues Support of the Death Tax Repeal Act

EMA is a member of the Family Business Coalition (FBC) which continues its fight to extend tax relief, kill the death tax, and prevent adoption of policies that would be harmful to family businesses like repealing step-up in basis and taxing unrealized capital gains.

FBC recently testified before the Senate Small Business Committee at a hearing titled: "Succession Planning: Opportunities to Build Wealth and Keep Jobs in Local Communities." Read the full FBC comments [here](#).

Earlier this year, EMA joined the coalition in a [letter](#) supporting Congressman Randy Feenstra (R-IA) and Congressman Sanford Bishop’s (D-GA) Death Tax Repeal Act which was introduced in January and continues to get mentions in the press. The House bill is now up to 166 cosponsors and Senator Thune’s (R-SD) companion bill has reached 41 cosponsors so far.

President Biden Releases 2025 Budget Proposal

On Monday, the Biden Administration released its Fiscal Year (FY) 2025 budget proposal totaling \$7.3 trillion in spending. Like all presidential budgets, ultimate passage of President Biden’s 2025 budget proposal is dead on arrival, especially since republicans control the House. In both chambers, most domestic programs must have bipartisan advocates. And in the Senate, bipartisan support will be imperative because it takes 60 votes to move spending bills past delaying tactics. President Biden’s FY 2025 budget is largely intended to highlight to voters the differing priorities between Biden and former President Donald Trump ahead of the November elections.

The president calls for cutting \$3 trillion from the nation’s deficits over the next 10 years which would be paid for by increasing the corporate tax rate, enacting a minimum tax on billionaires, and quadrupling the stock buybacks tax. Biden is proposing about \$4.9 trillion in net tax increases—mostly on business and those making more than \$400,000 a year, which is his definition of rich and doesn’t account for inflation over the last few years. It would also raise funding for the Social Security Administration (SSA) by an 8.9 percent increase aimed at expanding access to the program for “underserved communities.” Importantly for marketers, the White House budget also calls for the establishment of a national paid family and medical leave program that would operate under the SSA. Other Democratic priorities are included in the budget: improved immigration courts, increases to the maximum Pell Grant award, the housing voucher program, and a proposal for a new program guaranteeing affordable childcare for families with annual incomes below \$200,000.

[Click here](#) for the details impacting energy marketers.

Biden Administration Announces Strategy for a Nationwide EV Fueling Infrastructure Network for Medium and Heavy-Duty Trucks

The Biden Administration this week released the National Zero-Emission Freight Corridor Strategy developed by the DOE’s Joint Office of Energy and Transportation, in collaboration with the U.S. DOT and the U.S. EPA. The Strategy will guide the nationwide deployment of zero-emission medium and heavy-duty vehicle (ZE-MHDV) charging stations and hydrogen fueling infrastructure from 2024 to 2040. The goal of the strategy is to provide ubiquitous and convenient access to electric vehicle (EV)

charging and hydrogen refueling along the National Highway Freight Network and promote 30 percent ZE-MHDV sales by 2030 and ultimately 100 percent ZE-MHDV sales by 2040.

The Strategy is to align public policy and investments by prioritizing, sequencing, and accelerating infrastructure along the newly designated National Highway Freight Network in four phases. In order to move the Strategy forward, the Federal Highway Administration has designated a National EV Freight Corridors along the National Highway Freight Network and other key roadways. The designations, which are required by the Bipartisan Infrastructure Law (BIL), are designed to build a convenient, reliable national EV charging network that supports both individual drivers and commercial needs and support the administration's goal of achieving national net zero emissions by 2050. [Click here](#) to find maps of each phase of the National EV Freight Corridor and additional information on implementation.

Senators Introduce CRA Resolution to Nullify EPA's Particulate Matter Standard

Yesterday, Senate Minority Leader Mitch McConnell (R-KY) introduced a Congressional Review Act (CRA) resolution of disapproval to nullify the EPA's National Ambient Air Quality Standards (NAAQS) final rule for particulate matter (PM). In December 2020, the EPA reviewed and decided to retain the standard set in 2012 for both PM2.5 and PM10 or 2.5 micrometers or less in diameter and 10 micrometers in diameter, respectively. Despite the agency's figures showing direct emissions of PM2.5 are down 40 percent from 1990 levels and the recent review finalized at the end of 2020, the EPA announced on February 7, 2024 its decision to narrow the level of the primary annual PM2.5 from 12 to 9 micrograms per cubic meter.

This rule could place approximately 40 percent of the United States' counties in nonattainment status which could effectively end manufacturing growth in nonattainment counties and result in existing businesses foregoing expansion, downsizing, or relocating.

[Click here](#) for bill text.

EMA Urges Congress to Support "The Overtime Pay Flexibility Act"

Recently, EMA joined the Partnership to Protect Workplace Opportunity and 84 employer organizations in sending a [letter](#) to Congress urging support of H.R. 7367, the Overtime Pay Flexibility Act, which would prohibit the Department of Labor from finalizing, implementing, or enforcing its proposed overtime pay rulemaking.

If allowed to go into effect, DOL's rule will negatively impact employers from all sectors and force millions of workers to lose access to critical benefits, their hard-fought status in the workplace, opportunities for career advancement, flexible work arrangements, and potentially their jobs entirely.

The Overtime Pay Flexibility Act would protect workers, American businesses, and the economy from this disastrous policy. We urge Congress to pass this much-needed legislation and require DOL to abandon this misguided rulemaking and go back to the drawing board if it wishes to make changes to the overtime regulations.

WEEKEND READS

[EV euphoria is dead. Automakers are scaling back or delaying their electric vehicle plans | CNBC](#)

[Domestic oil production currently thrives, but the Biden administration fights it | Fox Business \(Video\)](#)

[El Niño, La Niña "swing" may juice Atlantic hurricanes | Axios](#)

[Opinion: Priuses, Teslas and the fight over what makes a car green | Washington Post](#)

Federated Insurance Risk Management Academy Webinar

Who Are Your Safest Drivers: Thursday, March 21, 2024, 2:00 p.m. Eastern Daylight Time

Company drivers today face distractions unlike any in history, and poor driving behaviors put your company at risk. We'll take a look into how you can recognize and promote safe driving through the use of our Federated DriveSAFESM telematics program.

What you will learn:

- Why the safety of your drivers and others is so important to your business' success
- How it takes more than just a policy to get the message across and protect your business
- How to help your drivers move from good to great

Advanced registration required for this 30-minute webinar.

Please always feel free to contact your Federated regional representative or EMA's new National Account Executive, Patrick Cunningham at 507.455.8935 for any additional information or risk management questions.



This article is for general information and risk prevention only and should not be considered legal or other expert advice. The recommendations herein may help reduce, but are not guaranteed to eliminate, any or all risk of loss. The information herein may be subject to, and is not a substitute for, any laws or regulations that may apply.



The **WPMA NEWS** currently serves EIGHT independent petroleum and convenience store associations.

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EMA JOURNAL - The Official Publication of the Energy Marketers of America

Check out the EMA Journal anytime online by clicking [here](#).

The EMA Journal **SPRING** issue is now available.

Feature article, "Meet the New EMA Chair, Brad Bell"

PLEASE NOTE UPCOMING DATES FOR WPMA EVENTS

- April 1, 2024 - Hawaii (HEMA) Golf Tournament - 11:30 am - Oahu Country Club - Honolulu, HI
- April 25-26, 2024 - Nevada (NPM&CSA) Big Dogs - Red Rock & Siena Golf Course - Las Vegas, NV
- May 1, 2024 - Idaho (IPM&CSA) Boise PAC Golf Tournament- Ridgecrest Golf Course - Nampa, ID
- June 4-5, 2024 - Montana (MPMCSA) Convention - Fairmont Hot Springs Resort - Fairmont, MT
- June 17-19, 2024 - Washington Energy Convention - Suncadia Lodge - Cle Elum, WA
- July 14-16, 2024 - Oregon (OFA) Conference - Sunriver Resort - Sunriver, OR
- August 7-9, 2024 - Idaho (IPM&CSA) Convention - Coeur d'Alene Resort, Coeur d'Alene, ID
- August 20-22, 2024 - New Mexico (MMPMA) Convention - Sandia Resort - Albuquerque, NM
- October 1-3, 2024 - Utah (UPMRA) Convention - Hilton Garden Inn - St. George, UT

Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington and Associate scholarship applications are *NOW* in process ...



\$4,000

SCHOLARSHIPS



WPMA
SCHOLARSHIP FOUNDATION

Look for the winning **Recipients** to be featured in the *WPMA News Scholarship Magazine* coming this **AUGUST**

Petro Pete: Why did the man name his dogs Rolex and Timex? Because they were watchdogs.

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