

**FEDERAL GRANT OPPORTUNITIES AVAILABLE TO UST OWNERS**

The [Bipartisan Infrastructure Law](#) and the [Inflation Reduction Act](#) provided significant funding for federal grant programs. Several of these grant programs have goals related to OUST program concerns.

Click [here](#) to view the list of grant opportunities available.

These are nation wide grants from the federal government, so send in your applications early. The main grant for biofuels infrastructure has 500 million available. They haven't set their application due date yet; so they do recommend working on the application right now and then submitting as soon as the application period is announced.

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

**SPECIAL EMA MEMBERS CODE FOR NACS SHOW 2023 REGISTRATION**

Registration is now open for the 2023 NACS Show in Atlanta, Georgia from October 3–6.

[CLICK HERE](#) to register for the NACS Show and **PLEASE USE THE EMA NACS SHOW REGISTRATION CODE BELOW.**

**EMA Registration Code  
EMANS2023**

Using this code rewards EMA with \$100 for every retailer or jobber paid registration. And to assist with early registrations, this special code will extend the Early Bird rate until June 9, 2023, for anyone who uses the code as well as providing the \$100 EMA reward for anyone registering at any rate after the Early Bird rate expires. EMA encourages EMA state execs to promote and share with your state association's member companies. \*\*Please note that EMA State Execs are comped for NACS Show Registration.

Additionally, the NACS Show registration is separate from EMA's Fall Meeting registration. [Again, the EMA NACS Show Registration Code is: EMANS2023](#) and [CLICK HERE](#) for Full Instructions to register.

Questions registering? Contact NACS Show registration customer service at [nacs@maritz.com](mailto:nacs@maritz.com) or 469-513-9489, Monday-Friday, 9:00 a.m. – 5:00 p.m. EST, for assistance.

**ORAL FLUID TESTING APPROVED FOR DETECTING DRUG USE UNDER US DOT DRUG AND ALCOHOL PROGRAM**

The Department of Transportation (DOT) this week published a final rule in the Federal Register ([88 FR 27596](#)) that amends the U.S. DOT's drug testing program to include the discretionary use by employers of oral fluid testing. Oral fluid testing is a win for EMA member companies because it offers a cheaper, more immediate, less intrusive, more reliable and quicker method of testing drivers for drug use than urine sample testing. Oral fluid testing also shortens the window of detection for drug use to just 48 hours. The shorter detection window is a more accurate indicator of when a driver is operating under the influence of drugs.

Last year, EMA submitted written comments to the U.S. DOT on the proposed rule supporting the discretionary use by employers of oral fluid testing as an alternative to urine sample testing. Urine Sample testing is less effective than oral fluid testing due to widespread cheating by drivers. According to the U.S. DOT, studies have consistently shown that CDL drivers are increasingly using an array of commercially available products specifically designed to successfully defeat urine specimen drug tests. Cheating on urine testing is difficult to detect since direct observation of specimen collection is prohibited, except under a few narrow exceptions.

Oral fluid testing offers greater convenience for employers over urine specimen testing. Oral fluid tests are inexpensive and provide an immediately available alternative method for testing drivers who are unable to produce a urine sample. Oral

specimens can be collected in less than five minutes, anywhere, at any time, including the workplace. A special collection facility or extensive collection site preparation is not required. In addition, with oral fluid testing there is no time lost to rescheduling drivers who attempt to evade drug testing due to shy bladder claims. Finally, oral fluid tests provide a more recent snapshot in time of possible drug use that is important to capture for post-accident and reasonable suspicion testing. All these benefits reduce the amount of time an employee is away from the job for drug testing, which offers significant cost savings for the employer.

#### *Effective Date*

The final rule giving employers the choice to use oral fluid testing is effective June 1, 2023. However, oral fluid testing cannot be implemented until the U.S. Department of Health and Human Services (HHS) certifies at least two laboratories (one for primary specimens and the other for split specimens) to conduct oral testing. EMA expects HHS laboratory certification for oral fluid testing to be available within the next 30 days. EMA will notify marketers when certification is complete. In the alternative, marketers can check the U.S. DOT [online list of certified laboratories](#) to find oral fluid testing labs once they are approved and listed by the HHS.

#### What the New Rule Means for Employers

- The employer, **not the employee**, chooses the collection methodology for the test reason (e.g., randoms will start with urine; follow-ups will use oral fluid).
- The employer, **not the employee**, chooses the collection methodology for the subsequent collection following a shy bladder, dry mouth, or other test that requires a directly observed collection.
- Employers must establish business relationships with certified oral fluid collectors and labs, whether directly or through company service agents.
- Employers must have a standing order in place with each collection site indicating the type of collection to be performed (i.e., urine or oral fluid) and when.
- Employers must have employer representatives available to oral fluid specimen collectors 24-7 just as is currently required for urine testing:
  - Employer representatives must provide collectors with a phone number.
  - Employer representatives must be available to the collector to discuss if there are problem collections.
  - Employer representatives should always be available to discuss standing orders on the type of test employer wants administered if problem collection scenarios arise (e.g., if an employee does not provide a sufficient urine specimen, should an oral fluid collection?).

#### *What the New Rule Means for Employees*

- Employees may be subject to either an oral fluid collection or a urine collection for any DOT-regulated test (i.e., pre-employment, random, reasonable suspicion/ cause, post-accident, return-to-duty, or follow-up).
- The choice of whether to conduct an oral fluid or a urine test is up to the employer.
- While the employer may opt for only one methodology, oral fluid testing must be available for directly observed collections for transgender and nonbinary individuals.

The final rule also explains what the rule means for Medical Review Officers (MRO), specimen collectors, laboratories and Substance Abuse Professionals (SAP). More information of the impact on these groups can be found [here](#). Marketers should contact their third-party drug and alcohol testing consortium for specific details on implementation of oral fluid testing.

**EMA Contact: Mark S. Morgan, Regulatory Counsel [mmorgan@emamerica.org](mailto:mmorgan@emamerica.org).**

#### **WASHINGTON UPDATE**

The House was in recess, but the Supreme Court, Senate, and Administration were hard at work, reinforcing the timing of EMA's annual Day on the Hill, because with so much in the air, now is the time for us to be talking to our delegations.

Starting with the Judicial Branch, the Supreme Court announced it would hear a case that would bring into question the almost-forty-year-old precedent known as Chevron deference, whereby courts typically defer to federal agency interpretations of otherwise-ambiguous Congressional directives. In other words, judges typically let the agencies interpret the laws themselves barring anything completely antithetical to the will of Congress. Since Chevron deference became legal precedent, we've seen Presidents in both parties seek to use regulations to implement policies where Congress may not. If the Supreme Court rolls back this precedent, it will mean that the Biden Administration, and any future Administration, would have its hands full trying to enforce any regulation as opponents could (and likely would) litigate indefinitely. It would be a major shift in the federal government, and it would pull some policy-making power from the White House and give it back to Congress (and to activist judges).

Speaking of regulations and permitting, Sen. Joe Manchin (D-WV), who now has a formidable opponent in West Virginia Governor Jim Justice, announced he would be open to rolling back some of the provisions he had initially supported in last year's Inflation Reduction Act (IRA), noting he didn't feel the White House was implementing the programs in the manner he'd intended when he handed President Biden the deciding vote on the bill last Congress. In addition to that, he has suggested that one thing that must happen for the US to remain competitive with China and other countries. He said that "in the United States, it often takes between five and ten years — sometimes longer — to get critical energy infrastructure projects approved, putting us years behind allies like Canada, Australia, and more recently the EU, who each have policies designed to complete permitting in three years or less." His proposal would help eliminate the legal hurdles faced by large projects, including the Mountain Valley Pipeline, which would be approved to bring natural gas from the Senator's state to Southern Virginia.

In the same vein, reports have shown that the Administration is considering pressing pause on proposed regulations on Renewable Identification Numbers (RINs) generated from renewable electricity (eRINs), given concerns there may be significant legal hurdles to be cleared before EV makers start receiving tradable tax credits for their use of renewable electricity. It remains to be seen what they will do, but a postponement would be an interesting development.

On April 12, the EPA issued a Notice of Proposed Rulemaking (NPRM) that it would revise the Greenhouse Gas Emissions (GHG) standards for new heavy vehicles built from 2028-2032. In addition to the emissions component, the NPRM includes requirements for zero-emission vehicle warranties as well as monitoring requirements for the health of batteries in plug in hybrid and battery electric vehicles. The NPRM would also revise certain EPA regulations to align with the Clean Air Act more closely. This came about after the White House urged EPA to find a way to electrify 2/3rds of new heavy vehicles. Well, on May 3, the trucking industry took advantage of several EPA webinars to slam the proposal as, at best, half-baked. Many in the industry, both from operator and producer sides, said they supported broader electrification, but stressed that any rule requiring new EVs without investing in charging infrastructure was destined to fail.

Meanwhile, Senator Bernie Sanders (I-VT) introduced a new messaging bill that's already dead-on arrival in the House and Senate that calls for a \$17 hourly minimum wage which is an increase from the \$15 previous bill. Furthermore, the 400,000-member United Auto Workers union has yet to endorse President Biden due to his Administration's aggressive electric vehicle policies. "The federal government is pouring billions into the electric vehicle transition, with no strings attached and no commitment to workers. The EV transition is at serious risk of becoming a race to the bottom," the group wrote.

In other news, 43 petroleum groups sent a letter to Senate Commerce Committee leaders urging them to oppose Ann Carlson's nomination to lead National Highway Traffic and Safety Administration (NHTSA), arguing that she would "reorient the agency to force drivers into electric vehicles in the name of climate change" and that she also failed to disclose "conflicts of interest with dark money climate groups" — namely, the Sher Edling law firm that has brought climate lawsuits against oil and gas companies. EMA also opposes Carlson's nomination because she does not support cleaner greener liquid fuels which will lower carbon emissions compared to EVs that rely on mining for critical minerals that are destroying the planet. Click [here](#) for more information.

And because you cannot escape a piece of policy-related news without discussing the debt limit, we learned this week that, because of (1) lower than expected tax receipts and (2) a more efficient IRS, the X date at which the U.S. Treasury would run out of money and default on our debt could come in early June. This was originally anticipated to come later in the year. At this time, there are two sets of discussions. One is the one about getting something done to resolve the debt limit for several years (Democrats are proposing December 2024, Republicans sometime earlier in the year), and another is about the potential for a short-term deal to give Congressional Leaders a few extra weeks to get the issue sorted out. At this point, both sides on both positions have supporters and detractors, but hopefully we will learn more when the President and Congressional leadership meets next week to discuss it.

### **FMCSA TO PROPOSE NEW RULE MANDATING SPEED LIMITERS FOR COMMERCIAL MOTOR VEHICLES**

The Federal Motor Carrier Safety Administration (FMCSA) is set to announce its intent to proceed with a proposed rulemaking to require speed limiters on commercial motor vehicles (CMV) with a GVWR greater than 26,000 lbs. The requirement would apply to new and existing CMVs that are equipped with factory installed engine control units capable of limiting engine speed to a maximum to be determined under the rulemaking. According to the FMCSA, all CMVs manufactured since 1999 are equipped with ECUs. However, FMCSA said it is likely that only ECUs installed in model years 2003 and later will be able to limit speeds to a set minimum. The FMCSA has yet to determine the maximum speed limit for CMVs or the model years subject to the speed limiter mandate.

The FMCSA's Notice of Intent seeks additional data from stakeholders to determine if a different approach to speed limiters should be adopted by the FMCSA. EMA is on record opposing past speed limiter proposals due to costs and safety concerns. Speed limiters create unnecessary traffic congestion and dangerous speed differentials among vehicles resulting in higher crash rates. EMA will submit comments in opposition to the upcoming proposed speed limiter rule and take other actions to prevent its adoption as a regulatory requirement by the FMCSA.

## **HURRICANE PREPAREDNESS**

May 1 kicked off Hurricane Preparedness Week. Sponsored by the National Oceanic and Atmospheric Administration (NOAA) before the June 1 start of the Atlantic hurricane season, the week raises awareness of the hazards posed by hurricanes. FEMA and NOAA continue their partnership to urge you to take steps to be better prepared. You can help increase awareness and motivate your friends, families, and communities to get prepared and stay informed before hurricane season.

[CLICK HERE](#) for more information.

## **WEEKEND READS**

[EV Holdouts Growing, Study Shows](#)

[Credit Card Fees Could Cost Consumers Almost \\$800 Million for Mother's Day | Merchants Payments Coalition](#)

[California OKs Advanced Clean Fleet rule; here's a summary of it | FreightWaves](#)

[Americans aren't yet sold on electric cars though Biden is bullish on the vehicles | Washington Examiner](#)

[Oil deals decline — but a big rebound may loom | Axios](#)

[AFPM: EPA vehicle proposal will “effectively ban gasoline and diesel vehicles,” advantaging China | American Fuel & Petrochemical Manufacturers](#)

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## **FEDERATED INSURANCE: IT'S YOUR LIFE**

### **Protecting Your Employees with Key Person Life Insurance**

As a business owner, you know that your employees are an important asset of your business. Each business has individuals with specialized skills, knowledge, and valuable customer relationships that are critical to its success. If your business relies heavily on key employees, it may suffer tremendously without those individuals and it may be a good idea to think about investing in key person life insurance.

Please click [here](#) to learn about the impact losing a key employee has on your business and what is Key Person Life Insurance.

Please always feel free to contact your [Federated](#) regional representative or EMA's National Account Executive [Jon Medo](#) at 800.533.0472 for any additional information or risk management questions. **Federated is a Partner in EMA's Board of Directors Council.**

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. Qualified counsel should be sought with questions specific to your circumstances. © 2023 Federated Mutual Insurance Company.

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## **PLEASE NOTE UPCOMING DATES FOR WPMA EVENTS**

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

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

June 22, 2023 - UPMRA Utah Summer Golf Classic - Davis Park Golf Course - Fruit Heights, UT

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 - Hilton Garden Inn - St. George, UT

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# REGISTRATION IS OPEN FOR THE FOLLOWING EVENTS



## **MONTANA CONVENTION**

Click [here](#) to see Schedule of Events for the Montana Convention held June 6-7 at Fairmont Resort in Fairmont, MT.

Choose your attendee type to register: [Attendee](#) or [Exhibitor](#)

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## **WASHINGTON CONVENTION**

Click [here](#) to see the schedule of events for the Washington Convention held June 19-21 at Suncadia Resort in Cle Elum, WA.

Choose your attendee type to register: [Attendee](#) or [Exhibitor](#)

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## **UTAH GOLF**

Registration for the **UPMRA Summer Golf Classic** held June 22 at Davis Park Golf Course in Fruit Heights.

Breakfast and Range Balls - 6:30 - 7:30 am  
Shotgun Start, Scramble Format - 7:30 am  
Lunch and Prizes awarded in Clubhouse - 12:30 pm

Click [here](#) to register.

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## **IDAHO CONVENTION**

Click [here](#) to to see Schedule of Events for the IPM&CSA Convention held August 2-4 at Sun Valley Resort in Sun Valley, ID.

Choose your attendee type to register: [Attendee](#) or [Exhibitor](#)

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## **OREGON CONFERENCE**

Click [here](#) to see the schedule of events for the Oregon Conference held July 16-18 at Sunriver Resort, Sunriver, OR.

Choose this link to register: [Attendee](#)

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## **UTAH CONVENTION**

Click [here](#) to to see Schedule of Events for the UPMRA Convention held October 25-27 at the Hilton Garden Inn, St. George, UT.

Choose your attendee type to register: [Attendee](#) or [Exhibitor](#)

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Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington  
and Associate scholarship **2023 WINNERS** ...



**\$4,000**

**SCHOLARSHIP**

**RECIPIENTS!**



**WPMA**  
SCHOLARSHIP FOUNDATION

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

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**Petro Pete:** Last night my girlfriend was complaining that I never listen to her... or something like that.

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