

May 7, 2021

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WP-05-07-21

NV BIG DOGS SILENT AUCTION IS CLOSING TODAY at 3:00 pm (PDT)

Bid now on items offered in the Nevada Big Dogs silent auction. You can bid either online [here](#) or through the WPMA APP [here](#). Many exciting items up for bid. Here are some examples: a night at Top Golf with Actress Gina Carano or dinner for four at the San Francisco Yacht Club. Hurry, time is running out.

EMLI (PMLI) REGISTRATION IS OPEN NOW

We are excited to announce that registration is open for the Energy Marketers Leadership Institute (EMLI)!

EMLI is new and improved and is designed to make it easier and more affordable for WPMA members to attend. The EMLI programs will be delivered online via Zoom video conference and will include breakout rooms so that the leaders who are attending can interact and learn together.

Special thanks to Lea McCullough for her leadership in working with Meridian to design and deliver the EMLI programs. For more information on how to register go to: <https://emamasters.com/energy-marketers-leadership-institute/>

WPMA COVID-19 - CRITICAL REFERENCES FOR MEMBERS

Please visit our web site for up-to-date information related to your business and the COVID-19 pandemic. You will find the link on our home page at www.wpma.com.

MEMBERS AND ASSOCIATES - YOU CAN CONTRIBUTE!

WPMA welcomes industry-related articles for publication in the WPMA News magazine. All members and associate members of WPMA are eligible to submit items for publication. Articles will be included as space allows, and no self-promoting articles or editorials will be accepted. WPMA reserves the right to edit and make adaption of such contributions to accommodate the magazine's space and style. Please submit articles or content to Jan Roothoff, WPMA Administration/IT Director at janr@wpma.com, or mail to Jan Roothoff, Western Petroleum Marketers Association, PO Box 571500, Murray, UT 84157-1500. Submissions for the Winter edition of WPMA News magazine are due before November 1st. Later submissions will be considered for the Spring issue.

BIDEN ADMINISTRATION WITHDRAWS INDEPENDENT CONTRACTOR RULE

This week, the Department of Labor (DOL) withdrew the Trump Administration's final rule that clarified the standard for determining employee versus independent contractor status under the Fair Labor Standards Act (FLSA). The withdrawal of the final rule took effect yesterday. Independent contractors are not entitled to the federal minimum wage, overtime pay and other benefits that covered employees receive under the FLSA. DOL will not replace the Trump administration independent contractor rule with a new one, instead falling back on the decades old "economic realities" test. In withdrawing the prior administration's independent contractor rule, DOL said it "believed that the Rule is inconsistent with the FLSA's text and purpose and would have a confusing and disruptive effect on workers and businesses alike due to its departure from longstanding judicial precedent." The Trump Administration issued its final independent contractor rule before leaving office on January 6, 2021, which would have:

- Reaffirmed an "economic reality" test to determine whether an individual is in business for him or herself (independent contractor) or is economically dependent on a potential employer for work (FLSA employee).
- Identified and explains two "core factors" that are most probative to the question of whether a worker is economically dependent on someone else's business or is in business for him or herself:
 - The nature and degree of control over the work.
 - The worker's opportunity for profit or loss based on initiative and/or investment.
- Identified three other factors that may serve as additional guideposts in the analysis, particularly when the two core factors do not point to the same classification. The factors are:
 - The amount of skill required for the work.
 - The degree of permanence of the working relationship between the worker and the potential employer.
 - Whether the work is part of an integrated unit of production.
- The actual practice of the worker and the potential employer is more relevant than what may be contractually or theoretically possible.
- Provides six fact-specific examples applying the factors.

While DOL said it does not plan to issue a replacement rule at this time, President Biden has indicated his support for an "ABC test" like the one used in California. California, Illinois, Massachusetts and New Jersey use a more stringent independent contractor test. If DOL interprets the economic realities test like these States, the following factors could come into play:

- Whether the worker controls and directs the performance of the work free from the hiring entity.
- Whether the worker performs tasks that are outside the usual course of the hiring entity's business.
- Whether the worker is customarily engaged in an independently-established trade, occupation or business of the same nature as the work performed for the hiring entity.

Marketers should expect the Biden DOL to favor classification of workers as employees, rather than as independent contractors. Companies using independent contractors should evaluate whether these individuals are properly classified, recognizing that this issue is going to be a focus of the new administration.

EMA REGULATORY ALERT: LEGALIZED MARIJUANA AND CBD OIL STRICTLY PROHIBITED UNDER U.S. DOT DRUG TESTING REGULATIONS

The U.S. Department of Transportation (DOT) Office of Drug and Alcohol has once again clarified the agency's drug and alcohol policy concerning the legalized use under state laws of CBD oil and legalized marijuana by CDL drivers. The policy is important to energy marketers because it addresses how state legalization of CBD oil and marijuana for medical and recreation purposes is treated under U.S. DOT drug testing requirements for CDL drivers (49 CFR Part 40). The federal DOT does not recognize state legalization laws. The substances are banned under federal law.

Both CBD oil and marijuana contain THC, a banned Schedule 1 substance under U.S DOT regulations. CBD oil derived from hemp contains 0.3 percent concentration of THC. THC concentrations in marijuana may range from anywhere between 5 percent and 30 percent. The U.S. DOT drug testing regulations do not authorize the use of Schedule I drugs for any reason. Therefore, a medical review officer (MRO) conducting driver drug tests will not issue a negative test result simply because the THC detected in a driver's urine specimen was from the legalized recreational use of CBD oil or marijuana. In addition, an MRO will not issue a negative drug test based upon information that a physician recommended that the employee use medical marijuana where states have passed medical marijuana initiatives. Instead, THC from these (or any other) source will result in a positive test for the driver.

Click [here](#) to read the full regulatory alert.

HOUSE ENERGY AND COMMERCE COMMITTEE HOLDS ANOTHER HEARING ON ELECTRIFICATION Biofuels Industry Concerned About President Biden's EV Goals

On Wednesday, members of the House Energy and Commerce Committee's Subcommittee on Energy held a hearing on "The CLEAN Future Act: Driving Decarbonization of the Transportation Sector."

The CLEAN Act is comprehensive legislation to reach a 100 percent "clean" economy no later than 2050. The Subcommittee focused on decarbonizing the transportation sector through investments in electric vehicles and EV infrastructure. Witnesses were Amol Phadke, M.S., Ph.D., Staff Scientist and Deputy Department Head, International Energy Analysis Department, Lawrence Berkeley National Laboratory; Joe Britton, Executive Director, Zero Emissions Transportation Association; Josh Nassar, Legislative Director, International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW); David Jankowsky, Founder and President, Francis Energy; Michelle Michot Foss, Ph.D., Fellow in Energy & Minerals, Baker Institute for Public Policy, Center for Energy Studies, Rice University; and AJ Siccardi, President, Metroplex Energy.

In his opening statement, Chairman Frank Pallone, Jr. said that, "When charging stations are as ubiquitous as gas stations, then consumers will have a choice, and we truly will be in a position to win the future." Meanwhile, Rep. Kurt Schrader (D-OR) asked hearing witnesses whether they would support setting aside funds for small businesses to install alternative energy infrastructure at their retail locations, an EMA transportation top priority. Click [here](#) to read EMA's transportation policy issue brief. EMA argues that maintaining a strong infrastructure for liquid fuels as well as support for small business fuel marketers will allow America to continue winning the present and respond effectively to future disasters.

Metroplex Energy President AJ Siccardi said that businesses must be allowed pathways to compete and, "...there are several impediments that make it challenging for fuel retailers to locate a pathway to profitability with respect to EV charging. Most of these impediments involve an electricity market structure that was not designed for – and is not surprisingly incompatible with – the retail fuel market. Foremost among these headwinds is the threat of regulated utilities making use of their status as monopolies to gain a competitive edge over private businesses. Throughout the country today, for example, regulated utilities are seeking to convince public utility commissions that they should be able to charge all their ratepayers – regardless of income – a higher dollar figure on their monthly electric bill in order to underwrite the utilities' investment in EV charging stations. Private companies like RaceTrac do not have access to such a pool of risk-free capital. What's more, many regulated utilities want to bill EV charging station owners more money for electricity than their own cost to power their utility-owned chargers. If these efforts persist, fuel retailers will not consider EV charging stations to be an attractive investment. No amount of grant money or tax incentives will change that fundamental reality."

Additionally, Rep. Bobby Rush (D-IL) reintroduced “The New Opportunities to Expand Healthy Air Using Sustainable Transportation (No Exhaust) Act,” this week which authorizes more than \$7 billion per year in grants and rebates over the next decade for states to install electric vehicle networks for cars and trucks. Details include: \$2 billion per year for the deployment of EV charging equipment; \$2.5 billion per year for large-scale projects to electrify the transportation sector; \$2.5 billion per year to accelerate the domestic manufacturing of EVs; \$100 million per year for a program providing rebates to eligible entities that install publicly accessible EV supply equipment and \$96 million per year for the deployment of EVs in disadvantaged and underserved communities. The bill would also require a challenge assessment for expanding electric vehicle access to underserved and disadvantaged communities, including the number of existing and planned Level 2 charging stations and DC FAST charging stations for commercial fleets and for heavy-duty electric vehicles.

Meanwhile, Senator Tom Carper (D-DE), Chairman of the Senate Environment and Public Works Committee, urged EPA to adopt a national emission standard that would essentially ban internal combustion engine vehicles. Click [here](#) to read the press release.

In related news, Politico reported that although President Biden says ethanol has an important role in his reduced emissions goals, the President’s transportation plan leaves ethanol with only a small slice of the budget package and the industry has turned to Members of Congress to fight for their place in the plan. Click [here](#) for the story.

GAO INVESTIGATING SMALL REFINER BLENDING WAIVERS ISSUED UNDER THE TRUMP ADMINISTRATION

The EPA is providing the Government Accountability Office (GAO) with confidential documents relating to small refiner’s petitions for exemptions to biofuel blending mandates under the RFS. The EPA announced it will provide the GAO with all documents, information, and data related to small refinery exemption petitions received by the agency from the start of the RFS program through the present. The GAO requested the documents as part of its investigation into the dramatic expansion of small refiner renewable fuel blending waivers issued under the Trump Administration.

The investigation originated after Members of Congress from corn producing states asked the GAO back in 2019 to investigate the Trump Administration’s secretive process for reviewing small refinery exemption petitions. GAO launched the investigation in 2020 and requested the EPA to provide all information related to small refinery exemption approvals. However, the EPA stymied the investigation by refusing to provide the documents on three separate occasions. The exemptions have sparked controversy between the oil industry and ethanol producers. The ethanol producers say that the exemptions hurt demand for ethanol, while the oil industry argues the exemptions are necessary to keep small refiners in business. GAO said it is also investigating small refiner viability scores assigned to the waiver applications by the Energy Department, which helps advise EPA on the program.

Meanwhile, EPA Administrator Michael Regan indicated this week that his agency is likely to issue proposed biofuel blending requirements very soon for 2021 and 2022 by this summer, with a final rule completed by the end of November.

EMA URGES PRESIDENT BIDEN TO SUPPORT HEALTHY WORKPLACES TAX CREDIT

On Wednesday, EMA joined a coalition of 50 associations representing millions of employees and many millions more customers in asking President Biden to include the bipartisan “Healthy Workplaces Tax Credit Act” ([S. 537](#) and [H.R. 1944](#)) in the next federal legislative package to protect the safety of workers, customers, and the public.

Sponsored by Senator’s Kyrsten Sinema (D-AZ) and Rob Portman (R-OH), and Representative’s Tom Rice (R-SC), Stephanie Murphy (D-FL), Darin LaHood (R-IL), and Jimmy Panetta (D-CA), the bipartisan legislation would create a targeted and temporary tax credit available to business entities and nonprofits for qualified expenses. The bill would allow a refundable tax credit against payroll taxes for 50 percent of the costs incurred by a business for increased testing, personal protective equipment (PPE), disinfecting, extra cleaning, reconfiguring workspaces to adhere to social distancing guidelines and training and education on the prevention of COVID-19 transmission.

In the [letter](#) the coalition states that, “According to the National Safety Council, employers have already spent an average of \$5,208 per employee on various workplace safety practices since the onset of the COVID-19 pandemic. Despite the Paycheck Protection Program and other relief programs, many businesses and nonprofits are still struggling financially and should not have to decide between safety and going out of business.”

EMA CONTINUES TO OPPOSE INCREASES IN MINIMUM LIABILITY COVERAGE FOR MOTOR CARRIERS

This week, EMA joined the Owner-Operator Independent Drivers Association and other business groups in a letter to members of Congress who serve on the Blue Dogs and Problem Solvers caucuses urging them to oppose increases in the existing minimum liability coverage for motor carriers. Although the proposal to raise the minimum liability coverage is focused on non-hazardous materials motor carriers, EMA believes if the proposed increase is adopted, it could lead to a slippery slope to include hazardous motor carriers in the future. [Read the letter here.](#)

EMA SBC PAC SILENT AUCTION AND RAFFLE IS LIVE!

The Energy Marketers of America (EMA) SBC PAC Silent Auction and Raffle is now open and with more items to be added throughout the week!

Get your birthday and other gift shopping completed this week and next on the EMA SBC PAC Silent Auction site. EMA SBC PAC Co-Chairs Brad Bell and Tim Keigher want you to know that the auction includes items for men, women and children, so this is a terrific opportunity to finish your shopping!

The Auction has just opened and will close Friday, May 14 at 12:00 p.m. Eastern. **To access our great selection of auction items, text EMA to 71760, click the link, and follow the instructions on the screen to register.**

Please note: You will be asked to provide a credit card to complete your registration. Nothing will be charged to your card on file unless you are a winning bidder or make a donation. The money used to pay for these auction items (by the winning bidders) must be personal money only, not corporate!

As you browse auction items, you will be able to place a bid at any one of the next pre-set bid increments or use the "Set Up AUTOBID" feature to let the system bid on your behalf up to your maximum amount. You can choose "Watch This Item" to add your favorites to the "My Bids" section of your account. If you are outbid on an item, you will be notified by text message. At the end of the auction next Friday, you will be notified by text message if you are a winning bidder.

If you need assistance at any point throughout the auction, please contact C2Auctions for support at chris@c2auctions.net. EMA knows that you will have fun again this year with this online auction, which will benefit the PAC!

Thank you for your support! We look forward to seeing you online next week.

APRIL 2021 EMA SMALL BUSINESS COMMITTEE (SBC) PAC CONTRIBUTIONS

PAC Co-Chairs Brad Bell and Tim Keigher are grateful for the Energy Marketers of America Small Business Committee (SBC) PAC contributions from the following individuals during the April 1-30, 2021 time frame:

Connecticut: David Daniels, Samuel Gault, Chris Herb, Donald Mitchell, Gary Sippin, Craig Snyder, David Sousa

Kentucky: Alexander Fassas, Jeff Lykins

Michigan: Larry Galgoci, Daniel Pohl

Mississippi: Andrew Bryant, Eric Prince, Stanley Roberts

Nebraska: Jennifer Likes

Pennsylvania: Steven Ohl

FEDERATED INSURANCE RISK MANAGEMENT ACADEMY WEBINAR

Fall Prevention: Slips, Trips, Falls and Common OSHA Citations: Tuesday, May 18, 2021, 1:00 p.m. CT

Jobsite and workplace hazards related to falls continue to be a common source of OSHA citations year in and year out. At the same time, slips, trips, and falls continue to be one of the most frequent sources of claims. Not only is it costly in monetary terms but it can result in loss of livelihood or even loss of life. Join us for this webinar to hear a safety professional and a claims professional have a dialogue about workplace falls – from prevention and best practices to the consequences when falls do occur.

What you will learn:

- Why fall-related items appear in the OSHA Top 10 List in multiple places each year
- What you can do to help prevent falls
- The nature of the claims that typically result from falls
- Common misconceptions

[Advanced registration](#) is required for this 45-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. Federated is an EMA Corporate Platinum Partner.

APRIL 2021 CONTRIBUTORS TO EMA MDF

Energy Marketers of America's Marketer Defense Fund wants to thank the following individuals for their Marketer Defense Fund (MDF) contributions during the April 1- 30, 2021 timeframe:

Arizona: Arizona Petroleum Marketers Association

Colorado: Colorado Petroleum Marketers & Convenience Store Association

Connecticut: Rick Bologna, Yolanda Cortese

Indiana: Trout Moser

Mississippi: Steven K. Dickerson, Stanley Roberts, Howard Waring

Missouri: Missouri Petroleum Marketers and Convenience Store Association

Nebraska: Doug Hall

New Mexico: New Mexico Petroleum Marketers Association

Oregon: Oregon Fuels Association

Washington: Bradley Bell, Washington Independent Energy Distributors

Corporate donations are acceptable. MDF funds have been used to create a COVID-19 Situational Update & Resources webpage, to hire experts to cover important regulatory agencies and disaster relief dedicated to strengthening our lobbying efforts on Capitol Hill. Click [here](#) to donate to the EMA MDF.

2020 FEDERATED INSURANCE ANNUAL REPORT AVAILABLE NOW

The 2020 Federated Insurance Annual Report is available now in a [digital version](#).

In it, we deliver our message of risk management and its ability to help save lives, prevent injuries, and protect businesses. Additionally, we highlight three client stories that demonstrate how impactful this message truly is.

We also share how we delivered value in 2020 through: risk management, our association relationships, our financial strength and stability, our commitment to our culture and communities, and through our leadership.
At Federated Insurance, It's Our Business to Protect Yours®

MARK YOUR CALENDARS FOR UPCOMING EVENTS

June 7-9, 2021 - Montana (MPMCSA) Convention -Fairmont Hot Springs Resort - Fairmont, MT

June 21-24, 2021 - Washington (WIED) Convention - Suncadia Resort - Cle Elum, WA

June 24, 2021 - Utah (UPMRA) Summer Golf Classic - Bountiful Ridge GC - Bountiful, UT

July 25-27, 2021 - Oregon (OFA) Annual Conference - Sunriver Resort - Sunriver, OR

August 4-6, 2021 - Idaho (IPM&CSA) Convention - Sun Valley Resort - Sun Valley, ID

August 23-25, 2021 - New Mexico (NMPMA) Convention - Sandia Resort & Casino - Albuquerque, NM

September 15-17, 2021 - Utah (UPMRA) Convention - Sheraton Park City Hotel - Park City, UT

February 22-24, 2022 – WPMA Convention & Expo – Mirage Hotel– Las Vegas, NV

Be sure to subscribe to all of our social channels for great tips, industry trends, and insider information about association activities and upcoming events!



Petro Pete: “Sometimes you will never know the VALUE of a moment until it becomes a MEMORY.”

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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: janr@wpma.com. Thanks.

Classified Ads

EMPLOYMENT OPPORTUNITY

Controller / Accounting Manager, Burley, ID

Lynch Energy is looking for a driven, strategic leader to oversee general accounting operations and processes to ensure timely financial reporting. The Controller performs a critical function for our company, reconciling account balances and bank statements, processing payroll, maintaining general ledger, and preparing month-end close procedures, and reports directly to the CFO. A successful Controller combines excellent analytical skills with a thorough knowledge of accounting principles to analyze financial reports and forecasts, collaborating closely with senior management and office staff to accomplish company objectives.

Must Have Bachelor's Degree or higher in Accounting, Finance, or other relevant field, and 5+ years of experience in a position of leadership in Accounting. Salary \$75k-\$100k, commensurate with experience.

Contact Paul Cundick, HR Director for more information (Paul@lynchoilinc.com) or apply directly at LynchEnergyInc.com

EMPLOYMENT OPPORTUNITY

Independent Agent, California / Arizona / Nevada

Wilson/Rogers & Associates (www.WilsonRogers.com) is seeking an entrepreneurial-minded **Independent Agent / Manufacturers Representative** to join our team! Agent will be responsible to promote and support contractual manufacturers within the Petroleum Equipment Industry in the Southwestern US. Primary territory includes California, Arizona and Nevada. Agent will be responsible to maintain existing and develop new relationships with key Distributors, Contractors, Engineers and End Users of equipment used for the safe storage, transfer, monitoring and dispensing of petroleum products and related fluids, as well as lighting solutions for such applications.

Ability to work independently out of a home-based office is required, as is the ability to travel approximately 50% of the time. Ideal candidate would be located in the Southern part of the territory, such as within the triangle of Las Vegas, Phoenix and Los Angeles.

Compensation:

Agent will be a 1099 contract worker with Bonus opportunities.
Weekly advance provided and reconciled quarterly vs. commission income.
Approved business and travel expenses covered by Wilson/Rogers.
Computer, Printer and Cell Phone provided by Wilson/Rogers.

If you are an aggressive entrepreneur with a positive attitude and excellent social skills, consider joining our team today!

Please contact or submit resume to:

Steve Latimer

President

Wilson/Rogers & Associates

(206) 743-4592

Steve@WilsonRogers.com