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**ENERGY MARKETERS WIN IMPORTANT STRATEGIC VICTORY IN SUPREME COURT**

On May 17, 2021, the United States Supreme Court issued its decision in *BP v. Mayor and City Council of Baltimore*, a climate change case in which EMA submitted an amicus brief in support of BP and the other major oil company defendants. Although the case involved a procedural issue related to whether the case would proceed in a federal or state court, it is of significant importance in determining whether cities, like Baltimore, can ultimately prevail. State courts, applying traditional state law causes of action, have allowed the cases to proceed to where they will ultimately be tried by a jury. Federal courts, on the other hand, are considerably more likely to decide the cases under federal common law, which would warrant a dismissal of the cases before the huge potential liability and enormous costs of litigation leave the defendants with no alternative but to settle. As one federal court of appeals recently stated in affirming the dismissal of a climate change case brought by the City of New York, the responsibility for global warming cannot be shifted to energy producers when “every single person who uses gas and electricity contributes to global warming.”

EMA got involved in the Baltimore case after local marketers were added to the list of (mostly major oil company) defendants as part of a strategy to defeat federal jurisdiction and keep the cases in local state courts. The Supreme Court's opinion could dampen the enthusiasm of coastal cities, like Baltimore, to continue to bring these cases against energy producers and marketers. Although it dealt only with a procedural issue, the decision could also hasten the day when one of the cases proceeds to the Supreme Court for a substantive review and, very likely, a decision that the effects of global climate change are not the responsibility of the petroleum industry.

**CONGRESSIONAL UPDATE**

The White House is expected to release its response to Senate Republicans' \$568 billion counterproposal to President Biden's American Jobs Plan soon. This comes after continued meetings between top Senate Republicans and key White House officials, who recently discussed various pay-for options, such as an infrastructure bank or revolving fund to catalyze private investment and boost public-private partnerships. White House Press Secretary Jen Psaki made clear, however, that no user fees could violate the President's commitment to not raising taxes on Americans making less than \$400,000 a year. Senate Majority Leader Chuck Schumer (D-NY), though encouraging bipartisan negotiations, is also ensuring that the budget reconciliation process is available should a deal not be reached. Progressives within the Senate and House Democratic Caucuses have expressed frustration at continued negotiations with the GOP and would prefer to pursue the reconciliation route regardless.

On May 19, House Republicans introduced a surface transportation reauthorization bill, the STARTER Act 2.0, which would authorize more than \$400 billion over five years for federal highway, transit, and safety programs. The Transportation and Infrastructure (T&I) Committee released a section-by-section summary and T&I Ranking Member Graves (R-MO) hopes the proposals will be included in the broader infrastructure effort. House Democrats are also expected to release their own surface transportation bill soon, which is being drafted to reconcile T&I Chair DeFazio's (D-OR) priorities with President Biden's. The House Transportation and Infrastructure Surface Transportation markup has been pushed into June. Proposed tentative dates were June 9 and 10, but the markup could now potentially slip even further into June.

The Senate Environment and Public Works Committee plans to introduce its surface transportation bill next week. Chairman Tom Carper (D-DE) said that the bill, which will be bipartisan, will fund fewer EV charging stations than proposed by the White House. This is part of a broader compromise on the Committee, where Republicans have been increasingly open to funding EV charging stations, just not at the level envisioned by the White House. Ranking Member Shelley Moore Capito (R-WV), who is leading GOP negotiations with the White House, said there was a greater than 50/50 chance that a deal would be reached, but doubted it would come before July 4.

**U.S. EPA WILL LIKELY MAINTAIN CURRENT RFS BLENDING VOLUMES FOR 2020 AND 2021 COMPLIANCE YEARS**

The U.S. EPA's biofuel blending mandates for this year and next are likely to be in line with those of 2020 as the agency accounts for weaker fuel demand since the onset of the coronavirus pandemic, three sources familiar with the matter said. The move is designed to spare the U.S. refining industry the added RIN costs associated with the usual annual expansion in renewable volume obligations under the Renewable Fuel Standard, at the expense of biofuel producers and the corn industry which depend on regular increases to grow their businesses. The agency is now intending to issue both the 2021 and 2022 volumes proposals this summer. The EPA last set the annual RFS blending obligations in 2019, when the agency mandated that refiners must blend 20.09 billion gallons of renewable fuel into nation's fuel mix for the 2020

compliance year. The mandate included 15 billion gallons of conventional biofuels like ethanol, with the rest including other forms of biofuels. The upcoming volume proposals are due to include requirements that are largely the same, the three sources said, citing the impact of the coronavirus pandemic. The Biden administration is also expected later this summer to lay out how electric vehicles could qualify for tradable credits under the RFS adding automakers to the mix of RFS stakeholders.

### **FDA RELEASES LIST OF DEEMED NEW TOBACCO PRODUCTS**

This week, the FDA Center for Tobacco Products (CTP) released a list of deemed new tobacco [products](#) for which a premarket tobacco product applications (PMTA) was submitted to FDA by September 9, 2020.

The lists include deemed new tobacco products for which a premarket tobacco product applications (PMTA) was submitted to FDA by September 9, 2020. A court order provided for a one-year period during which time such products might remain on the market pending FDA review. If a negative action is taken by the FDA on the application prior to September 9, 2021, the product must be removed from the market or risk FDA enforcement. If a positive order is issued by the FDA on a product in the lists, the product will be listed on the positive marketing orders page and may continue to be marketed according to the terms specified in the order letter. It is important to keep in mind that the lists are only one source of information. For example, retailers should discuss with their suppliers about the status of any particular tobacco product's application or any product's marketing authorization.

Under a court order from the District Court of Maryland, e-cigarette products that were on the market prior to August 8, 2016, were required to submit PMTAs for the FDA to review and approve by the September 9, 2020 deadline. PMTAs require a product to meet a regulatory hurdle that can be complex and costly. By the FDA providing a public list of e-cigarette products that meet the proper requirements, retailers of these products will be informed as to which they can sell legally in their stores. The Energy Marketers of America, the National Association of Convenience Stores (NACS), the National Association of Truckstop Operators (NATSO), the Society of Independent Gasoline Marketers of America (SIGMA) and the Food Industry Association (FMI) submitted a letter earlier this year to the FDA urging it to release a list of approved e-cigarette products.

### **DOE LAUNCHES NEW INITIATIVE TO PROMOTE ELECTRIC HEAT PUMPS IN RESIDENTIAL AND COMMERCIAL BUILDINGS**

Secretary of Energy Jennifer M. Granholm today announced sweeping actions to power more American homes and buildings with "cleaner" energy services intended to sharply reduce the buildings sector's carbon footprint. The new Department of Energy's (DOE) initiative is designed to cut the energy and emissions footprints of buildings by integrating them with electrified power. The new initiative reflects the latest examples of the Department of Energy's (DOE) whole-building approach to transform the construction, renovation, and operation of buildings and appliances, as well as training workers who build and maintain them:

- Worker Training Grants - New investments of up to \$30 million in grants to train workers in the construction, retrofitting and maintenance of commercial and residential buildings with energy efficient materials and appliances. Grants will go largely to worker educational and training programs.
- Advancing Efficiency in Heating and Cooling Systems - A new national initiative focused on clean and efficient heating and cooling systems in buildings called the [Initiative for Better Energy, Emissions, and Equity \(E3\)](#) will advance the research, development, and deployment of clean heating and cooling systems like heat pumps, advanced water heaters, low-to-no global warming potential refrigerants, and smarter HVAC diagnostic tools.
- Adoption of Smart Building Technologies - A [National Roadmap for Grid-Interactive Efficient Buildings](#) will chart a path to triple the energy efficiency and demand flexibility of U.S. buildings within the decade by implementing recommendations that accelerate the ability of buildings to both reduce and change the timing of energy use through smart building operations.
- Decarbonize Buildings - The [Better Buildings Low Carbon Pilot](#), will work with commercial, industrial, and multifamily organizations to set commitments and share pathways to low and no carbon emission buildings. Today, the first 55 participating organizations were recognized at the Better Buildings Summit.
- High Efficiency Windows -The [Partnership for Advanced Window Solutions \(PAWS\)](#) will accelerate the national availability and adoption of advanced and highly efficient windows and window attachments that improve comfort and reduce building energy use.

EMA will work with the DOE to ensure that electrification efforts are not forced upon state and local authorities. State Association Executives should monitor state programs receiving DOE grants under the new initiative.

## **NOAA ISSUES COUNTRYWIDE 2021 HURRICANE OUTLOOK**

This week NOAA's Climate Prediction Center predicted another above-normal Atlantic hurricane season; an 80 percent chance near-normal or below-normal tropical cyclone activity in the Central Pacific; and an 80 percent likelihood of a near- or below-normal season in the Eastern Pacific. For all the details, please [view](#).

## **IEA REPORT OUTLINES WHAT WOULD BE NECESSARY TO MEET WORLDWIDE ZERO EMISSIONS BY 2050**

This week the world's leading energy agency, the International Energy Agency (IEA) released a report stating that governments and officials are not fully aware of what would be necessary to actually reach net zero emissions by 2050.

According to IEA there is a list of things that would have to occur immediately to keep the average global temperature from reaching a level where the world faces irreversible damage. The IEA report includes a roadmap of what it would take which includes nations would have to immediately phase out gas-powered vehicles and stop approving new coal-fired power plants and new oil and gas fields. To read the entire article, click [here](#).

Despite what environmentalists and the report claims, congress is unlikely to put a price on carbon dioxide emissions through a carbon tax or cap and trade program this congress. For the entire article, click [here](#).

## **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](http://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](mailto: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 1<sup>st</sup>. Later submissions will be considered for the Spring issue.

## **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: "I chose the road less traveled and now I don't know where I am."**

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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](mailto: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](mailto:Paul@lynchoilinc.com)) or apply directly at [LynchEnergyInc.com](http://LynchEnergyInc.com)

### **EMPLOYMENT OPPORTUNITIES**

#### **Manufactures Rep Sales Agents Wanted**

#### **Southwest (California, Arizona, Nevada) and Rocky Mountain (Wyoming, Colorado, Utah, New Mexico) territories**

Wilson/Rogers & Associates ([www.WilsonRogers.com](http://www.WilsonRogers.com)) is seeking **two** entrepreneurial-minded **Independent Agent / Manufacturers Representatives** to join our team! Agents will be responsible for promoting and supporting contractual manufacturers within the Petroleum Equipment Industry in the Southwestern US and Rocky Mountain regions. Agents will be responsible for maintaining existing clients while developing 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.

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](mailto:Steve@WilsonRogers.com)