

September 18, 2026

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Information is due to Kim White at kimw@wpma.com by Thursday for the following day's Weekly Update.

The following information provided by:

EMA-Energy Marketers of America



Inside the Beltway Update

Both the House and Senate returned to Washington, DC this week. While Wednesday marked the House's last day before the midterm elections, the Senate is set to be in session for the next two weeks.

On Monday, the House unanimously voted to pass the Common Cents Act (H.R. 10167), which would allow cash transactions to be rounded to the nearest five cents. The vote comes after the Senate passed its own version of the Common Cents Act (S.1525) in August. Rather than taking up

the Senate bill, the House chose to pass an identical version of its own, sending the bill back to the Senate for another vote. The vote is expected to occur next week.

The House also passed two Congressional Review Act (CRA) resolutions to overturn Biden-era Environmental Protection Agency (EPA) actions that permitted California to impose stricter emission standards for ocean-going vessels and commercial harbor craft. H.J. Res. 210 and H.J. Res. 213 will now head to the Senate for a vote. Currently, there are four other proposed CRA resolutions, introduced in June and July, awaiting action. These resolutions aim to overturn EPA Clean Air Act waivers covering emissions from vehicles, small off-road engines, and greenhouse gases. In the coming weeks, alongside the two House-passed CRA resolutions, the Senate is expected to take up all six resolutions.

With the midterm elections approaching, Republicans have proposed solutions to lower gas prices. Rep. Tim Burchett (R-TN) introduced two pieces of legislation to ban US diesel exports: the first creates a temporary prohibition on the export of diesel fuel, and the second bans the export of diesel fuel from the US during certain times. Interior Secretary Doug Burgum also weighed in on this issue, voicing his opposition to fuel export bans, arguing they would not bring down oil prices. In addition, Rep. Andy Harris (R-MD) led a push to suspend the federal gas tax until 2027. Rep. Harris, alongside members of the House Freedom Caucus, held up a procedural vote this week to demand a vote on the gas tax suspension. However, Speaker Mike Johnson (R-LA) stated there was no Republican consensus on the idea and halted the House Freedom Caucus' push.

Meanwhile, the House Sustainable Energy and Environment Coalition (SEEC) released a report laying out its Democratic policy agenda for the next Congress. In the report, the SEEC shared its goal of providing a funding increase for the Low Income Home Energy Assistance Program (LIHEAP). Specifically, the SEEC's agenda proposed to have data centers pay into a fund that would directly support LIHEAP.

Following Sen. Mitch McConnell's (R-KY) return to Congress, Senate Agriculture Republicans advanced a farm bill out of committee on a party-line 12-11 vote on Wednesday. Notably, the bill includes a provision to permit the year-round sale of E15. Buried in the nutrition title are three SNAP provisions retailers have watched for years: a ban on EBT processing fees through 2031, a nationwide push to EBT chip cards, and permanent SNAP online purchasing. The fee ban is the margin item. EBT fees work like swipe fees—an extra charge retailers cannot negotiate. Convenience stores are a major SNAP channel. In many rural and highway markets, the fuel site is the nearest place to buy staples, and those customers often stop for gas first. Chip-enabled EBT cards cut skimming risk for recipients. A permanent online SNAP program, by contrast, matters most to large chains, grocery apps, and delivery platforms.

No Democrats voted for the bill, as the package includes a one-year delay of the One Big Beautiful Bill's SNAP benefit cost sharing provision with the states, while the Democrats demanded a two-year delay.

Looking ahead, Congress is facing upcoming government funding deadlines. While President Trump signed a continuing resolution to fund the government, it expires on December 11. This approaching deadline means that Congress must pass full-year spending bills or take additional stopgap funding measures. As of now, the House has passed three of its 12 spending bills, including Agriculture-FDA, Military Construction-VA, and National Security-State. The other nine bills have been approved by the House Appropriations Committee, while the Senate, by contrast, has not advanced any of its bills out of committee. Of importance to EMA, the Credit Card Competition Act (H.R. 7035/ S. 3623) is still awaiting action. As a reminder, the Senate version that was originally introduced in January, added three cosponsors in August, signaling a renewed momentum for the bill.

And finally, the Senate Environment and Public Works Committee held a mark up to advance S. 3135, the Cold Weather Diesel Reliability Act, by a 10–9 vote along a party line vote. The measure was reported to the full Senate.

EPA under Administrator Zeldin has already issued guidance easing engine derates and dropping certain DEF sensor requirements, and it is preparing a 2027 heavy-duty NOx proposal that would further limit or eliminate inducements. Environmental groups oppose those changes, warning of higher NOx pollution if DEF use declines. Related House legislation, including the Diesel Engine Flexibility Act, has also advanced. Given that all democrats opposed the measure in committee, the bill faces an uphill battle in the Senate because it will take 60 votes for passage.

EMA Regulatory Alert: [FMCSA Grants 90-Day Hours-of-Service Waiver for Gasoline and Diesel Hauls](#)

The Federal Motor Carrier Safety Administration has issued a 90-day hours-of-service waiver for motor carriers and drivers operating commercial motor vehicles in interstate commerce to transport gasoline and diesel fuel. The waiver took effect at 12:00 a.m. on September 16, 2026, and expires at 11:59 p.m. on December 16, 2026.

FMCSA granted the relief to support timely fuel distribution amid global supply-chain disruptions and anticipated increases in late-summer and fall demand, including agricultural harvesting. The agency determined that the limited waiver is in the public interest and, with the conditions below, is likely to achieve a level of safety equivalent to, or greater than, the level that would be achieved absent the waiver.

Why this matters to energy marketers

Reliable inbound gasoline and diesel deliveries are essential to retail, wholesale, and commercial fuel operations. The waiver gives eligible carriers additional operating flexibility when demand rises, provided they satisfy the waiver's safety, documentation, and reporting requirements. The waiver is relevant both to marketers that operate their own delivery fleets, which are motor carriers in their own right, and to marketers that rely on third-party carriers.

Key operating terms

- Drivers may drive no more than 16 hours in any 24-hour period. That cap applies even if another HOS exception, waiver, or exemption is also in use.
- In each 24-hour period, the driver must take either a minimum six-consecutive-hour break in the sleeper berth or, if there is no sleeper berth, a minimum eight-consecutive-hour off-duty break.
- If a driver says immediate rest is needed, the carrier must allow the driver to stop at a safe location and take at least 10 consecutive hours off duty before driving again.
- The waiver also applies while the driver returns empty to the carrier's terminal or the driver's normal work-reporting location. The 10-hour rest-on-request requirement described above applies during the return trip as well.
- When a driver moves from waiver operations back to normal HOS, a 10-hour break is required if total on-duty time under the waiver—or combined waiver and normal operations—equals or exceeds 14 hours.
- Drivers must carry a physical or digital copy of the waiver and present it to law enforcement on request.
- All other FMCSRs remain in effect, including records-of-duty-status and electronic-logging requirements, CDL requirements, drug and alcohol testing, insurance, hazardous materials, and size-and-weight rules.

Who may use the waiver

Eligible operations are limited to gasoline and diesel transportation. The waiver does not extend to other products that many marketers deliver, such as heating oil, kerosene, propane, or jet fuel. Drivers must hold a valid CDL with required endorsements and must not be subject to an out-of-service order, disqualification, or loss of driving privileges. Motor carriers with a conditional safety rating are excluded. Any carrier or driver under an active out-of-service order is also excluded until the order is rescinded in writing.

Oversight and reporting

Carriers must notify FMCSA by email to MCPSD@DOT.GOV within two business days of any crash, as defined in 49 CFR 390.5T, involving a driver operating under the waiver. The notice must include the crash location; driver and vehicle identifiers; injuries and fatalities; the police-reported cause of the crash, if available; citations; the driver's total on-duty time during the seven consecutive days preceding the crash; and the total on-duty and driving time during the work shift preceding the crash. Carriers must also collect and provide to FMCSA on request the total number of drivers who operated under the waiver. Carriers should begin tracking waiver use now so they can respond

promptly to any such request. FMCSA may revoke the waiver in whole or as to a specific carrier or driver if safety declines.

State preemption

While the waiver is in effect, states may not enforce interstate rules that conflict with it for drivers and carriers operating under the waiver. States may adopt matching relief for intrastate operations. The federal waiver does not itself cover intrastate deliveries. Unless a state adopts matching relief, intrastate operations remain subject to that state's hours-of-service rules.

Energy marketers should confirm that their carriers understand and satisfy the eligibility and operating conditions before using the waiver. Marketers that operate their own fleets should apply the same review to their own drivers and operations. Each participating driver must carry a physical or digital copy of the waiver, and carriers should retain a copy with their compliance materials.

Marketers should also keep in mind that the waiver permits additional hours but does not require them. Federal rules prohibit motor carriers, shippers, receivers, and transportation intermediaries from coercing drivers to operate in violation of the FMCSRs (49 CFR 390.6), including pressuring a driver who has requested rest to keep driving. Compliance with the waiver also will not, by itself, shield a company from liability if a fatigued driver is involved in a crash. Marketers should consider adopting a written policy that driver rest requests will be honored without penalty.

To read FMCSA's Grant of Waiver, click [here](#).

EMA Regulatory Alert: **PHMSA Issues Final Preemption Determination Protecting Uniform Federal Standards for Gasoline Transportation**

EMA is pleased to report a significant regulatory victory for the fuel distribution industry. The Pipeline and Hazardous Materials Safety Administration (PHMSA) has issued a final administrative determination concluding that the Hazardous Materials Transportation Act (HMTA) and the Hazardous Materials Regulations (HMR) preempt state common law tort claims concerning the marking, employee training, loading and unloading operations, and hazardous materials classification of gasoline transported by cargo tank motor vehicles (CTMVs). EMA actively participated in this proceeding and the final determination vindicates the position EMA advocated on behalf of the fuel marketing industry.

Background

Earlier this year, EMA submitted formal comments to PHMSA supporting Exxon Mobil Corporation's petition for a preemption determination under HMTA. The petition arose from state tort litigation seeking to impose obligations on gasoline marketers — including additional benzene-specific warning labels, carrier-level employee training duties, loading equipment redesign, and product reclassification — that went beyond what the HMR requires.

EMA was explicitly recognized by the agency among a broad coalition supporting preemption that included the American Petroleum Institute, U.S. Chamber of Commerce, Western States Petroleum Association, and 17 State Attorneys General. EMA argued that allowing state tort claims to function as de facto regulatory requirements would fracture the uniform federal framework that protects both safety and interstate commerce, creating a patchwork of conflicting obligations. EMA's comments specifically highlighted the operational consequences for small and mid-sized fuel distributors — including compliance cost escalation, disruption to interstate fuel resiliency, and the procedural irregularity of imposing regulatory duties through tort litigation rather than notice-and-comment rulemaking.

PHMSA's Ruling and Analysis

In a nutshell, PHMSA determined that the HTMA and HMR fully preempt State common law tort claims, reaffirming that 49 U.S.C. 5125(a) and (b) contain independent bases for preemption. PHMSA's notice included a topic-by-topic analysis addressing each claim category:

Container Marking and Shipping Papers. PHMSA found that state common law duties requiring benzene-specific cancer warnings on gasoline containers and shipping papers are preempted. The HMR already provides an exhaustive, globally harmonized hazard communication system under 49 CFR Part 172. State-specific supplementary warnings are not "substantively the same" as HMR requirements and would undermine the uniform, immediately recognizable hazard indicators that first responders rely on.

Employee Training. PHMSA found that state tort duties imposing training obligations beyond the HMR's standardized framework — including duties directed at employees of third-party carriers — present an obstacle to the Federal training scheme under 49 CFR Part 172, Subpart H. The agency noted that a patchwork of state-specific training regimes would burden national carriers that routinely cross state lines. Notably, PHMSA also emphasized that requiring a fuel company to train third-party drivers is in direct conflict with the HMR's well-established definitions of hazmat employer and hazmat employee.

Loading and Unloading Equipment Design. PHMSA confirmed that loading arm design and operational specifications applicable to bulk gasoline facilities are captured by the HMR. State tort judgments finding federally compliant loading equipment "defective" would effectively impose new, localized design requirements — constituting non-federal requirements concerning the designing and fabricating of packaging components that are not substantively the same as the HMR. The agency reasoned that "forcing operators to retrofit loading equipment to satisfy disparate State jury verdicts presents a substantial obstacle to the safe, uniform transportation of gasoline in interstate commerce."

Hazardous Material Classification. PHMSA held that any state common law duty that would require gasoline to be treated as something other than a Class 3 flammable liquid — effectively compelling product redesign to eliminate benzene — would constitute an impermissible re-classification that directly conflicts with the HMR's internationally harmonized classification scheme.

Judicial Review is Possible

Any party aggrieved by PHMSA's determination may file a petition for reconsideration within 20 days of Federal Register publication or seek judicial review in an appropriate United States Court of Appeals within 60 days.

EMA will monitor any challenge and keep members informed of further developments.

"This determination is a win for every fuel marketer in America. Uniform federal standards exist for a reason — they keep drivers safe, supply chains moving, and small businesses out of an impossible maze of conflicting state requirements. PHMSA got this right," stated EMA President Rob Underwood.

EMA's Fall Meeting at the NACS Show 2026: October 5-6: Website and Registration Open!

Get ready for an exciting and productive EMA Fall Meeting, held alongside the NACS Show! Connect with industry leaders, gain valuable insights, and celebrate excellence at the Wynn Las Vegas!

Event Highlights:

- Oct 5, Afternoon: Kick off with a New Attendee Orientation & Federal Legislative Update to get up to speed on key issues.
- Oct 5, Evening: Join the EMA/NACS Reception Salute to State Association Executives at the Wynn/Encore Chopin Patio sponsored by Altria and PMI.
- Oct 6, Morning: Start your day with a Buffet Breakfast, followed by Region and Committee Meetings to collaborate and strategize.
- Oct 6, Afternoon: Celebrate at the Distinguished Service Award Luncheon, honoring former Kentucky/Ohio Marketer and EMA Past Chair Jeff Lykins, proudly sponsored by Federated Insurance. The EMA Board of Directors Meeting will follow.

Register now in the link below and be part of the EMA Fall Meeting at the NACS Show. We look forward to seeing you in Las Vegas! For more details, [visit the website](#).

2026 NACS Show housing has now concluded for online reservations. However, there are still other hotels available! For up-to-date availability, please call Connections Housing, our official housing company at 404-378-6024, Monday-Friday 9am-6pm EST and a dedicated NACS Show representative can assist you.

Due to the proximity of the event dates, please contact your desired hotel directly to make any changes or cancels to an existing reservation.

Federated Insurance Risk Management Academy Complimentary Webinar



Everyone Is a Target - How Can Cybersecurity Help You?

Thursday, September 17, 2026, 2:00 PM Eastern Time

This webinar gives an overview of the importance of implementing cybersecurity measures to protect against evolving threats, including ransomware attacks and AI-powered phishing. It will highlight the growing trend of double extortion, Ransomware-as-a-Service (RaaS), and critical infrastructure attacks, along with insights from case studies of significant ransomware incidents.

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WHAT YOU WILL LEARN

- How cybercriminals use AI-powered phishing and deepfakes.
- Best practices for ransomware prevention and response.
- Why employee training and monitoring are vital.
- Steps to choose the right cybersecurity tools and providers.

WHO SHOULD ATTEND

- Business Owners/Operators
- Risk Managers
- Operations Managers
- HR Professionals

For additional information or to discuss this in further detail, please contact your [Federated](#) regional representative or EMA's National Account Executive [Jack West](#) at [507.455.5175](tel:507.455.5175) for any additional information or risk management questions.

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[Hazmat violations put 700 trucks OOS in unannounced blitz | CCJ Digital](#)

[How California regulations are reshaping U.S. energy and consumer costs | BIC Magazine](#)

[Oil Executives Say the Great Fuel Crisis Is Here | The Wall Street Journal](#)



KEYNOTE SPEAKER



ADAM CAROLLA

Known for his sharp wit, candid commentary and unmistakable sense of humor, Adam Carolla brings an entertaining and thought-provoking perspective to the WPMAEXPO stage.

CLOSING SPEAKER

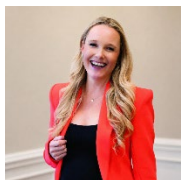


JEB BUSH

(Former Florida Governor 1999-2007)

Drawing on his experience in business, public service and leadership, Jeb Bush offers insights and perspectives that will leave you informed, inspired and ready to think differently.

LADIES LUNCHEON



SARAH WELLS

Olympian

Sarah Wells has conquered adversity on the world's biggest stage, from Olympic hurdles to racing across deserts, mountains, and international airports on The Amazing Race.

With grit, humor, and practical strategies, Sarah inspires audiences to turn challenges into opportunities and achieve their own excellence.

The Ladies Luncheon is a ticketed event.



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September 24-26, 2026 ECAN (Nevada) Little Dogs Event, The Incline Lodge, Tahoe, NV

October 15, 2026 HEMA (Hawaii) Golf Tournament, Poipu Bay, Koloa, HI

October 27-29, 2026 UPMRA (Utah) Convention, Hilton Garden Inn, St. George, UT

December 9, 2026 OFA Holiday Party, Waverley Country Club, Portland, OR

February 16-18, 2027 WPMAEXPO, MGM Grand, Las Vegas, NV

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