

October 9, 2026

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

Please note: Classified ads are not intended for the promotion of an associate member's regular products or services.



The following information provided by:

EMA-Energy Marketers of America





Lewis Wall Jr., CEO of Davenport Energy in Chatham, Virginia, named 2027 Chairman of EMA

At EMA's Fall Meeting in Las Vegas this week, the Board of Directors elected Wall to lead the national trade association representing independent energy marketers. Tom Frawley of Summit Distributing LLC in New Hampshire was elected 1st Vice Chair, and Steve Clark of Genesee Energy in Seattle, Washington, was elected 2nd Vice Chair. Glenn Hasken, chief operating officer of Molo Petroleum (Molo Companies) in Dubuque, Iowa, will serve as Immediate Past Chair.

EMA's Executive Committee acts for the Board of Directors in its absence, interprets and implements policies adopted by the Board, and recommends courses of action to the Board. Wall also represents EMA on the Petroleum Marketers Oil Company, LLC (PMOCO), the association subsidiary that owns the Spirit® brand.

Davenport Energy is a family-owned fuel and propane company founded in Chatham in 1941 by Ben and Lois Davenport. The company, which rebranded from Chatham Oil Company in 2003, supplies propane and other petroleum products to more than 30,000 customers across Virginia and North Carolina and provides gasoline and diesel to more than 300 convenience stores. It employs roughly 175 people.

President Trump Directs Diesel Tax Relief

Federal and State Implementation Remains Unclear

President Trump signed an Executive Order, "Emergency Tax Relief on Diesel Fuel," intended to provide temporary relief from high diesel fuel prices. The Order directs the Treasury Department to provide conditional federal excise tax deferral and specified penalty relief for highway sales and use of dyed diesel from October 5 through December 31, 2026. Trump said on Friday that a big announcement is coming up on diesel so stay tuned.

Importantly, the Executive Order does not itself authorize highway sales or on-highway use of dyed diesel fuel. Whether relief is available, whom it covers, and on what conditions depend on Treasury determinations and guidance not yet issued. State actions also may be necessary. EMA members, therefore, should proceed with caution.

What the Order Directs

Conditional tax deferral (§ 2(a)–(b)). Within five days (October 10, 2026), Treasury, in consultation with the Secretary of War as appropriate, must determine whether relief is authorized under Internal Revenue Code § 7508A, which authorizes Treasury/IRS to postpone certain federal tax deadlines for up to one year. This determination includes whether a qualifying event has occurred, and which taxpayers are affected. If Treasury makes those determinations, it is to defer payment of diesel fuel excise taxes imposed by § 4041(a)(1)(A) or § 4041(b)(1)(B) and incurred from October 5 through December 31, 2026, for the covered taxpayers only. To the extent the law allows, the deferral will be without penalties, interest, additional amounts, or additions to tax.

Penalty relief (§ 2(c)). Additionally, within five days (October 10, 2026), Treasury must direct the IRS to announce that it will not impose penalties under § 6715(a)(1) or (a)(2) when dyed diesel is sold for use or used on the highway during that period. The announcement must also address penalties for failure to make semimonthly deposits.

Implementing guidance (§ 3). Treasury must issue guidance identifying:

- the specific relief and any conditions on it;
- its legal basis;
- the covered taxpayers, persons, locations, acts and liabilities;
- the applicable periods; and
- the date by which postponed taxes must be paid.

Other agencies (§§ 5–8). The other directives in the Executive Order are:

- Treasury must determine and publicly announce how the IRS will allocate fuel-tank inspection and sampling resources during the relief period.
- FMCSA must coordinate with states, industry and labor organizations while continuing all compliance enforcement, including audits, inspections, and monitoring.
- USDA and the White House Office of Intergovernmental Affairs are to promote dyed diesel access for farmers and encourage corresponding state action.

Key Issues for EMA Members

Deferral is not forgiveness. Section 4 of the Executive Order directs Treasury only to explore ways, including legislation, to eliminate the deferred liability. It does not eliminate it. The § 4041(a)(1)(A) tax applies to sales of diesel for use in highway vehicles, so marketers could be among the taxpayers liable for 24.4 cents per gallon when the deferral ends. Pending guidance on covered taxpayers and payment dates, marketers should consider documenting any such sales and customer use.

Federal penalty relief does not resolve EPA or state restrictions. The § 6715 announcement addresses only federal excise tax penalties, and the Order must be implemented consistent with applicable law (§ 9(b)).

EPA's fuel regulations do not currently require on-highway diesel fuel to be free of red dye. The federal red dye requirement is part of the IRS' administration of the fuel excise taxes. EPA instead regulates fuel quality and does require on-highway diesel fuel meet the 15-ppm ultra-low sulfur diesel standard. The President's Order does not direct EPA to act. High-sulfur heating oil and locomotive or marine fuel may not be used in highway vehicles.

State fuel taxes, licensing and reporting requirements, and dyed-fuel prohibitions also continue to apply unless a state acts. States, including Alabama, Arkansas, Indiana, Kentucky, Louisiana, Missouri, Nebraska, North Carolina, North Dakota, Oklahoma, and Texas, have issued emergency relief. These state orders vary, and many are limited to agricultural vehicles, state highways, or short time periods.

Supply impacts. Added demand during harvest and the start of heating season could strain dyed diesel and heating fuel supplies.

A separate program. The IRS has also issued temporary regulations implementing the separate § 6435 refund mechanism for tax-paid fuel later removed from a terminal as dyed fuel for nontaxable use. That program is distinct from the relief under this Order.

Next Steps

Treasury's § 7508A determination and the IRS penalty announcement are due by about October 10. EMA has engaged with Treasury, IRS, EPA, DOE and DOT, and in the coming days, will provide updates, including on state actions, as details become available. EMA Members should wait for the applicable federal and state guidance before changing their dyed-diesel sales, tax collection, recordkeeping, or compliance practices.

EMA members with questions can contact EMA regulatory counsel [Jeff Leiter](#) or [Jorge Roman](#).

EMA Regulatory Alert: [Hurricane Isaias HOS Federal and State Waivers](#)

Hurricane Isaias is moving toward the northern Gulf Coast as a category 3, with emergency declarations and transportation-related regulatory relief measures already activated in several states. In addition, a nationwide FMCSA HOS waiver remains in effect through December 16, 2026, covering interstate transportation of gasoline and diesel fuel.

Federal Relief

While the nationwide HOS waiver from FMCSA is not specific to Hurricane Isaias, it provides some HOS flexibility to drivers seeking to offer direct assistance to affected areas. There is no need for FMCSA to separately declare a regional emergency for operators to make use of the existing relief. See FMCSA's waiver to review its terms and conditions by [clicking here](#).

At this time, the waiver is limited to the interstate transportation of gasoline and diesel fuel. EMA continues to work with FMCSA to expand the covered fuels in the waiver, asking the agency to include heating fuel, aviation fuel, ethanol, denatured ethanol, and propane given related logistics concerns. In addition, EMA has requested a modest increase to the weekly on-duty limits (60/70 hours).

FMCSA could declare a regional emergency to provide more coverage in terms of products (e.g., propane) and relief (e.g., waiving weekly limits) targeted to this emergency. There is no indication that the agency is currently considering an extra layer of relief, as states have also responded.

Pursuant to 49 CFR § 390.23, states also have the authority to trigger interstate HOS relief through an emergency declaration. If they do so, it will be important to check for inconsistencies between the coverage, terms, and conditions of FMCSA's non-emergency waiver and the state-triggered emergency waiver. Drivers must clearly understand and document the authority and relief under which they are operating.

[Click Here for the Full Regulatory Report Including State Updates](#)

EMA Supports FMCSA Proposal to Codify ELP Out-of-Service Rule

On October 9, 2026, EMA submitted comments supporting FMCSA's proposal to codify noncompliance with the English language proficiency (ELP) requirement at 49 CFR 391.11(b)(2) as an out-of-service (OOS) violation. The proposal would write into federal regulations the OOS consequence that has applied at roadside inspections since June 2025, requiring all MCSAP States to adopt compatible requirements.

EMA's comments emphasize that ELP is critical for drivers of placarded cargo tanks, who must use shipping papers and emergency response information and communicate clearly with inspectors and responders. To improve implementation and enforcement consistency, EMA urged FMCSA to:

- Establish objective evaluation criteria for each step of the roadside assessment.
- Require uniform documentation of the assessment step a driver failed and the basis for that determination, giving carriers and drivers a contemporaneous record.
- Define a clear return-to-service pathway.
- Confirm that a driver placed OOS with a loaded cargo tank may remain with the vehicle under the hazmat attendance rule at 49 CFR 397.5(c) until a qualified replacement arrives.

EMA also noted that FMCSA's cost estimates rely on general-freight assumptions that may not reflect fuel distribution, where replacement drivers must hold hazmat and tank vehicle endorsements and many deliveries, such as winter heating oil and propane, are time sensitive.

EMA will continue to monitor the rulemaking and engage with FMCSA as it moves toward a final rule. For questions, contact Regulatory Counsel Jeff Leiter at jleiter@bmalaw.net or Jorge Roman at jroman@bmalaw.net.

Inside the Beltway Update

In the weeks leading up to the midterm elections, gas prices and affordability issues are likely to significantly influence election outcomes. Both the House and Senate are expected to be decided by narrow margins, with the House being more likely to flip. In the House, there are 22 races considered to be highly competitive or toss-ups, with Democrats needing a net gain of four seats to reach the 218-seat threshold. Of these seats, 16 are currently held by Republicans and six by Democrats, increasing the likelihood of a change in control. Many of the members that EMA has met with, including Rep. Bob Latta (R-OH), Rep. Erin Houchin (R-IN), and Rep. Ron Estes (R-KS), are very likely to retain their seats.

On the Senate side, six races have been declared toss-ups, including Alaska, Iowa, Maine, Michigan, Ohio, and Texas. Democrats require a net gain of four seats to take the majority, but five of the six toss-up seats are currently held by Republicans. Of the toss-up races, EMA has previously met with Rep. Ashley Hinson (R-IA), who faces Iowa State Rep. Josh Turek to succeed Sen. Joni Ernst (R-IA), and Sen. Jon Husted (R-OH), who is running a tight race against former Sen. Sherrod Brown (D-OH). In addition to the toss-up races, Rep. Mike Collins (R-GA) is currently trailing Sen. Jon Ossoff (D-GA) by six points, while the

race of Sen. Roger Marshall (R-KS) has shifted from Likely Republican to Lean Republican, with some analysts even calling it a toss-up.

With the House and Senate out of session until after the midterm elections, the Trump administration has continued its efforts to lower oil and gas prices. Environmental Protection Agency (EPA) Administrator Lee Zeldin announced an upcoming proposal to loosen federal oil and gas methane rules. Under the proposal, the EPA would rescind the Super Emitter Program, create separate standards for covers and closed vent systems, and provide technical standard flexibility for systems used to monitor emissions. The EPA would also change its approach to marginal wells by creating two regulatory categories for well sites. The action is another step in the Trump administration's plans to reshape the Biden administration's 2024 oil and gas rules.

In addition to issuing an Executive Order easing restrictions on diesel, President Trump is considering a suspension of the 18.4-cent-per-gallon federal gas tax. A suspension would require Congress to pass legislation, which would likely not happen until after the midterm elections. Previous attempts by the House Freedom Caucus to advance legislation creating a suspension were rejected by Speaker Mike Johnson (R-LA). In the meantime, GOP-led states have begun enacting gas tax holidays through November 2026.

During the lame-duck period, Congress will be tasked with passing appropriations bills and a reconciliation bill that could include farm aid and Iran war funding. House Agriculture Chair Glenn "GT" Thompson (R-PA) stated that he is optimistic Congress will pass a five-year farm bill before the end of the year. Senate Agriculture Chair John Boozman (R-AR) has echoed Rep. Thompson's sentiment, but the House and Senate will need to reconcile the differences between the two bills the chambers have passed.

Risk Management Corner

Reducing Accidents With Regular Housekeeping

Poor housekeeping can correlate directly to [slips, trips, and falls](#) at workplaces, which can result in serious injuries, costly claims, and lost productivity. Maintaining a clean and organized workspace is one of the simplest ways to help protect your employees and clients.

Click [here](#) to read the Federated article.

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](#) for any additional information or risk management questions.

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Weekend Reads:

[Fuel industry warns truck stops against selling 'red dye' diesel after Trump lifts restrictions | NBC News](#)

[Oil prices jump as Iran steps up tanker attacks, hurricane threatens US Gulf production | CNBC](#)

[Lonnie McQuirter Named 2026-27 NACS Chairman | NACS Daily News](#)

[USA Continues Strategic Petroleum Reserve Release | Rigzone](#)



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PLEASE NOTE UPCOMING DATES FOR EVENTS

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 3, 2026 WOMA Holiday Party, Lucky Strike Bowling, Bellevue, WA

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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