

October 28, 2022

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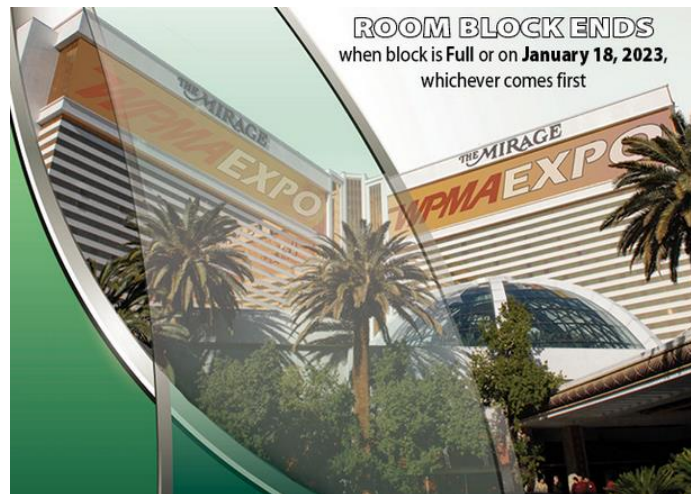


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The following information provided by: **EMA**
Energy Marketers of America



EMA AND OTHERS FILE BRIEFS ON CHALLENGE TO EPA REINSTATEMENT OF CALIFORNIA WAIVER

EMA, along with 14 other private petitioners and 17 states, filed their opening briefs this week with the federal appeals court in Washington, D.C. on their challenges to EPA's reinstatement last March of the Clean Air Act preemption waiver for California's motor vehicle greenhouse gas emissions standards and zero-emission vehicle mandate to address climate change.

EMA, joined by NACS, AFPM, Valero, and renewable fuels groups, told the court that the waiver provision in the Clean Air Act does not permit California to have its own state standards for national and international problems like climate change. The brief details how the Clean Air Act's text, structure, and history make clear that the "California waiver" is intended to address only unique and extraordinary conditions in the State that result from in-state emissions and local pollution concentrations and that global climate change does not qualify or fit into California's particularized smog conditions.

"Congress has neither mandated a wholesale shift in the U.S. vehicle fleet from internal-combustion engine vehicles to electric vehicles nor given California the 'pen' to transform motor fuels retailing across the country," said EMA President Rob Underwood. "Any effort to address and solve global climate change must come from Congress and not from EPA and certainly not from a single state, California."

The brief submitted by EMA and the others points out that California does not "need" its own emission standards to "meet" global climate-change conditions because, as EPA previously concluded in 2019, the State's emission standards will make no meaningful difference in conditions in California related to climate change. In addition, the brief argues that EPA's flip-flop in

reinstating the California waiver based on the agency's novel view of its reconsideration authority under the Clean Air Act cannot be legally sustained.

"EMA will remain fully engaged in fighting any bans on gasoline-powered vehicles, including from California," Underwood said. "In addition to the legal challenges, there remain plenty of practical challenges to a transition to electric vehicles, including skeptical consumers about the performance and range of EVs, that the Association will continue to provide leadership within the industry."

EPA and intervenors supporting the agency will now file their opposing briefs with the appellate court, followed by a reply by EMA and the other petitioners. In addition to asking the court to review the Biden administration's restoration of the Clean Air Act waiver for California, EMA also is seeking review of EPA's tailpipe emissions standards issued last December that would effectively mandate a percentage of EVs in order for automakers to meet the federal standards.

NFPA MEETS ON EV CHARGING AT GAS STATIONS

The NFPA 30A Technical Committee met in St Louis this week to address public comments on the proposed revisions to the code. An entire day was devoted to addressing the proposed Chapter 15 dealing with EV Charging at a gas station. Based on comments received during the public comment period, several revisions were made to the original proposed chapter and a revised draft of the chapter was presented to the committee. Presentations were made to the committee by the National Electrical Manufacturers Association (NEMA) representing NACS, NATSO, and SIGMA; Shell, and Electrify America. A revised draft of the chapter was ultimately approved by the committee after several amendments were proposed and approved with several open issues deferred to a future meeting. Approval of two-thirds of the full NFPA 30A Technical Committee is still required.

While there were several changes made to address issues raised by EMA and others, the approved chapter retains a definition for the EV Charging Area that includes the EV charger and the EV while charging at the full extent of the output cable, requirements for an emergency shut-off, and requirements for controls to limit the ability of a spill to drain through or pool within the charging area. These issues were extensively debated, and the committee overwhelmingly defeated two attempts to limit the application of the classified (hazardous) area to the EV charger and related control equipment which would have allowed the EV and the charging cable to be within the classified (hazardous) area while charging. The committee took similar strong positions on the requirements for an emergency shut-off and controlling drainage and pooling in the charging area. While the committee voted to approve the revised chapter as amended, several issues raised with the section dealing with the classified (hazardous) areas (e.g., the setbacks from the dispensers, tanks, and tank vehicles) will be addressed at a subsequent meeting early next month and the proposed chapter amended as approved by the committee. This includes the classified (hazardous) areas associated with the tank vehicle while transferring fuel to USTs. EMA will be considering proposed amendments to further refine this and other provisions of this section. The final revised proposed chapter will be submitted to the full Technical Committee later this year for ballot.

EMA URGES WHITE HOUSE TO ADDRESS HOME HEATING OIL SUPPLY ISSUES

Yesterday, EMA sent a [letter](#) to the White House urging the Administration to address the negative impact of low heating oil supply that is already being felt by residential consumers and heating oil dealers. To address this challenge, EMA requested that the Administration immediately take the following steps:

- Issue an immediate hours of service waiver for heating oil drivers for the duration of the winter heating season.
- Temporarily waive the Jones Act so that foreign vessels can replenish low heating oil inventory in the Northeast.
- Include an additional \$1 billion emergency supplemental appropriation for the Low-Income Home Energy Assistance Program (LIHEAP) in Fiscal Year 2023 federal appropriations legislation.

URGENT: FOLLOW UP TO EMA BULK PLANT VAPOR RECOVERY SURVEY

The EPA is proposing to require vapor balancing equipment at any bulk plant with gasoline storage tanks. Under the proposal, any bulk plant with a maximum daily design throughput capacity of 4,000 gallons or more of gasoline would require vapor recovery for loading and unloading operations. In other words, the 4,000-gallon design capacity applies to gasoline tank/tanks located at a bulk plant. Vapor recovery would be required if you are receiving gasoline into your bulk plant storage tank and when you're loading your truck at the loading rack. This rule does not affect the requirements for vapor recovery at your customer's tanks such as delivering gasoline to a 500-gallon skid tank on a farm.

Currently, the EPA only requires vapor recovery at bulk plants with actual daily gasoline throughput of 20,000 gallons or more. Lowering the gasoline threshold trigger from 20,000 gallons throughput to just 4,000 gallons design capacity would bring most bulk plants under federal vapor recovery requirements for the first time.

The Energy Marketers of America (EMA) is opposing this regulatory change because of the significant compliance costs it would impose on small business energy marketers. We need data measuring how many bulk plants would fall under the proposed rule if finalized. This data will allow EMA to calculate the approximate overall cost impact on energy marketers with gasoline bulk storage. This survey is designed to follow up on our prior survey to better define impact on our members in preparing for our meeting with EPA. [Please answer this survey in the link below by Friday, November 4th.](#)

[CLICK HERE TO TAKE THE UPDATED SURVEY](#)

REMINDER: URGE LAWMAKERS TO COSPONSOR "THE CREDIT CARD COMPETITION ACT OF 2022"

Reps. Peter Welch (D-VT) and Lance Gooden (R-TX) introduced bipartisan legislation known as "The Credit Card Competition Act of 2022" which would ensure retailer choice in payment routing by requiring at least two unaffiliated processors on credit cards, the same process that is used for debit card transactions. Swipe fees remain the second highest operating cost for convenience stores which costs the industry \$138 billion annually. The House bill, H.R. 8874, joins companion legislation already introduced in the Senate, S. 4674, by Majority Whip Dick Durbin (D-IL) and Senator Roger Marshall (R-KS).

[URGE YOUR LAWMAKERS TO COSPONSOR
"THE CREDIT CARD COMPETITION ACT!"](#)

WEEKEND READS

[Will Electric Vehicles Kill the Gas Station?](#)

[Second rail union rejects deal, raising strike threat anew](#)

[Biden struggles to sell climate win in final midterm stretch](#)

[Biden's climate change measures could take a hit if Republicans regain control of Congress](#)

[DOE: Lax oversight pushed taxpayer-funded battery tech to China](#)

[U.S. EPA begins work to set up \\$27 bln green bank](#)

FEDERATED INSURANCE: IT'S YOUR LIFE

Can You Afford the Loss of a Key Employee?

If you're like most business owners, you have one or more go-to employees when it comes to the day-to-day operation of your company. They have the management skills, technical know-how, experience, or customer relationships upon which you rely — you trust them to make the right decisions when you're not available. They can be at any level or in any position, but they are people your business can't do without. Now that you have them on your team, what would happen if you were to lose one of them due to a premature death, long-term illness or disability, or another employment opportunity?

Please click [here](#) to read this important article.

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.**

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PLEASE NOTE UPCOMING DATES FOR WPMA EVENTS

December 1, 2022 - Oregon Holiday Party - Portland Golf Club - Portland, OR

December 8, 2022 - Washington Holiday Party - Topgolf - Renton, WA

February 21-23, 2023 - WPMA Convention & EXPO - Mirage Hotel- Las Vegas, NV

April 27-28, 2023 – Nevada Big Dogs – Red Rock Hotel/Sienna Golf Course – Las Vegas, NV

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

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

July 16-18, 2023 – OFA Oregon Conference – Sunriver Resort – Sunriver, OR

August 2-4, 2023 – IMP&CSA Idaho Convention – Sun Valley Resort – Sun Valley, ID

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