



**WPMA**  
SCHOLARSHIP FOUNDATION

### **WPMA SCHOLARSHIP NOW ACCEPTING APPLICATIONS!**

As one of our services to our members, WPMA awards nine merit scholarships annually. The program awards a \$4,000 scholarship (paid \$1,000 annually) to a deserving student within each of the eight WPMA member states each year, and one to a student from an associate member company.

Applicants must be a graduating high school senior and the son or daughter of a WPMA marketer or their full-time employee; or a graduating high school senior who is the son or daughter of an associate member or of a full-time, permanent employee. High school senior students who currently work part-time for a WPMA member company and have worked for the company for at least three months are also eligible to apply for the WPMA scholarship.

[CLICK HERE](#) to apply now!



### **MEMBER SERVICE SPOTLIGHT**

The Coalition for Responsible Tobacco Retailing is committed to helping retailers enforce minimum age laws for the purchase of tobacco products. What began as a small training and education program in a few states has blossomed into a nationwide training effort for retailers. We Card has held over 2,000 classroom training sessions in all 50 states in the U.S. and U.S. territories. Nearly 200,000 owners, managers, and front-line employees have been trained, and over 1 million We Card kits have been distributed to retailers nationwide. While most of their materials apply to tobacco law, many of their items also apply to the legal age to purchase alcohol.

To learn more about CRTR, register to take We Card's Free Behind-the-Counter Online Training or order signage, age calculation and training materials, go to [www.wecard.org](http://www.wecard.org).

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



### **BIDEN ADMINISTRATION SEEKS COURT APPROVAL FOR DELAY IN RULE ALLOWING EIGHT MIDWESTERN STATES' REQUEST TO SELL E15 YEAR-ROUND**

The EPA is asking a federal District Court to approve a delay until next March to finalize a rule granting a Clean Air Act waiver to eight midwestern states to sell E15 year-round. The states are asking for removal of the one-pound waiver requirement for RVP that would open the door for year-round sales of E15 within those states. The eight states seeking removal of the waiver include Iowa, Illinois, Minnesota, Mississippi, Nebraska, Ohio, South Dakota and Wisconsin. The EPA is seeking the delay finalizing the governor's request due to written petitions from stakeholders (including EMA) warning of gasoline supply disruption and higher prices in the eight states and surrounding states should the governor's request be granted.

The Clean Air Act (CAA) contains a provision allowing states to apply for an exclusion from the one-pound RVP waiver provided Governors notify the EPA and provide documentation showing the RVP limit for E10 will increase air pollutant emissions in that state. The Clean Air Act also states that "the Administrator shall, by regulation, apply" the 9.0 psi limitation for that area within 90 days of receiving the request. However, the CAA also provides that if EPA determines – after consultation with the Department of Energy – that promulgation of such regulations would "result in an insufficient supply of gasoline in the State," then it may extend the effective date of the regulations for up to one year, and then may renew that extension for up to two additional periods of up

to one year each. [Magellan petitioned the EPA delay the elimination](#) of the 1psi RVP waiver for E10 plus blends until at least the Spring of 2025.

The EPA is currently consulting with the DOE to determine if exclusion of the one-pound RVP waiver would result in a supply shortage as EMA and other stakeholders predict. The governors of Iowa and Nebraska filed suit for injunctive relief against the EPA over its failure to finalize the rule within six months before the start of the high ozone season. The high ozone season begins June 1, 2024. The governor's request for injunctive relief would require the EPA to finalize the rule by December 31, 2023. In a motion for summary judgment filed this week, the EPA asked the court to give the agency until March 28, 2024 to finalize the rule.

If the EPA is successful, it opens the door to potential additional delays in finalization of the one pound until 2026. EMA comments on the proposed RVP waiver exclusion can be [found here](#).

### **INDEPENDENT CONTRACTOR RULE**

On October 11, 2022, the U.S. Department of Labor (DOL) [announced](#) the long-awaited proposed rule on independent contractor classification. A year later, after an extended public comment period, the proposed rule has finally been submitted to the White House Office of Management and Budget (OMB), indicating that the release of the final rule is imminent. OMB review is the final step in the rulemaking process.

While the precise contours of the final rule are not yet known, it is worth reexamining the proposed rule as it is unlikely that the final rule will contain significant changes. The proposed rule would impose a six-factor "economic reality test," all of which would be equally weighted, and which would look broadly to the "totality of the circumstances" to determine whether a worker is an independent contractor or employee under the Fair Labor Standards Act (FLSA). According to the DOL, the proposed rule is designed to reveal whether workers are, as a matter of "economic reality," "economically dependent" upon the employer or are in business for themselves. Permeating the proposed rule is the DOL's apparent view that an independent contractor should be entrepreneurial in nature. At least four of the six factors look for entrepreneurial or business initiative, skill or acumen – i.e., opportunity for profit or loss; investment by the worker; the control factor; and skill and initiative.

Click [here](#) to read the full Small Business Legislative Council (SBLC) report.

### **PRIVATE FAMILY TRUST COMPANIES: WHAT? WHY? HOW?**

**Webinar: December 6, 2023 3:00pm EST**

The Family Enterprise USA will be holding a webinar on December 6<sup>th</sup> at 3:00 pm EST regarding private family trust companies (PTCs) which are business entities established by families to serve as the trustee for their trusts in furtherance of family, financial, and planning goals. They can be an efficient and effective way to integrate a family enterprise and optimize governance, involving family members and their trusted advisors. PTCs allow families to:

- Manage complex assets, such as operating businesses and real property,
- Maintain control over the management and administration of their assets,
- Engage rising generations through the governance structure,
- Streamline succession planning, as the PTC enjoys a perpetual lifespan,
- Improve communications and family dynamics

In this webcast, Scott Weaver and Kea Molnar from Jackson, Wyoming-based Willow Street, which specializes in advisory, governance, and operations for Wyoming PTCs, will share an introduction to PTCs, common PTC structures, and case study examples of how family enterprise families have benefitted from establishing PTCs. Willow Street is a sister company to Pathstone, an independent wealth management firm serving multigenerational families with complex needs.

[Click Here](#) to register for the event.

### **EPA DROPS OILY WASTEWATER CHANGES**

The EPA said earlier this week that it will not request comments on amending its Used Oil Management Standards to address used oil and wastewater mixtures as part of the Agency's upcoming Resource Conservation Recovery Act (RCRA) "Permitting Updates Proposed Rulemaking" project.

"EMA appreciates EPA listening to energy marketers and others on this issue," said EMA President Rob Underwood. "Hopefully, this is one less regulatory assault on energy marketers by the Biden Administration."

EPA's Used Oil Management Standards (40 CFR Part 279) were promulgated as part of RCRA in 1992, and properly managed and recycled used oil, including oily wastewater mixtures, currently are excluded from being classified and handled as RCRA "hazardous wastes." The Used Oil Management Standards have been largely unchanged over the past three decades, and they have increased the volumes of recycled used oils.

Several years ago, some state hazardous waste officials told EPA that regulating oily wastewater with less than 50 percent oil under the Part 279 standards created a "loophole" for parties to improperly dispose of hazardous wastes as used oil. State officials

suggested that used oil and wastewater mixtures with less than 50 percent used oil be subject to the RCRA characteristic tests and that mixtures that failed one of these four tests be managed as hazardous wastes.

Last year, EPA said that it would address oily wastewater as part of an advance notice of proposed rulemaking that was anticipated to be published for comment in early 2024. EMA has been working as part of a coalition with other trade associations since that time to provide meaningful information to the Agency on the likely adverse effects from altering the Used Oil Management Standards. EPA now says that “we no longer plan to discuss used oil in the upcoming Permitting Updates Proposed Rulemaking.”

### **INSIDE THE BELTWAY UPDATE**

Congress returned from Thanksgiving break this week and, despite pressing legislative deadlines, the House immediately focused attention on possibly expelling George Santos – a Republican Congressman from New York who’s misuse of campaign funds has been the focus of a months-long ethics investigation that concluded just before Thanksgiving. Since passing a Continuing Resolution in mid-November, Congress has some breathing room on government funding – pushing the CR’s deadline beyond their usual mid-December expiration to mid-January and early February. Even so, officials in Washington are focused on implementing priorities before the end of 2023.

On the Wednesday before Thanksgiving, with everyone in recess, the Federal Highway Administration (FHWA) issued a final rule requiring State Departments of Transportation to establish greenhouse gas (GHG) performance measures for routes comprising the National Highway System. US DOT noted that transportation is the largest single contributor to CO2 emissions so addressing tailpipe emissions must be part of the solution. This is significant because vehicle emissions have long been directly regulated by EPA and CARB, but this rule requires infrastructure decisionmakers to consider emissions impacts as well. The rule is already under attack. Several rural, western States object strongly to establishing GHG performance standards, so the rule may draw litigation from Attorneys General in those States.

Additionally, Senator Kevin Cramer (R-ND) threatened to nullify the rule under the Congressional Review Act (CRA), though this would have no impact as the President must sign CRA actions. Relatedly, the Department of Energy announced this week that the Salton Sea, a body of water in Central California, may have sufficient supplies of lithium to reduce the U.S.’s reliance on China to power batteries in EVs. The Department of Energy estimates the Salton Sea may have enough lithium to power 375 million electric vehicles. However, during a House Science Committee hearing on Thursday, Jef Caers, a professor of earth and planetary sciences at Stanford University, expressed skepticism about the Salton Sea’s lithium potential. “The reason for that is that the lithium concentration in Salton Sea is very low,” Caers said, compared to countries like Chile.

Speaking of China, the Administration may be getting closer to delaying a provision in the Inflation Reduction Act that would limit EV tax credits for vehicles with a particular number of foreign-produced parts. The provisions, which were largely designed to preclude China’s inclusion in these supply chains, have also made it extraordinarily difficult for auto manufacturers to produce cars that qualify for some of the tax credits made available to purchasers, thus discouraging them from purchasing EVs. This change would allow more cars to qualify. There are 14 battery plants currently under construction in the U.S., but at this time, there is not sufficient domestic capacity to produce the necessary parts. Still, Senators, including retiring Senator Joe Manchin (D-WV) noted that the rule should follow the intent of Congress in the IRA and continue to bar China and other adversarial countries from the supply chain. This placing the outgoing West Virginia Democrat at odds with another retiring democrat, Michigan Senator Debbie Stabenow, who shared that major automakers like Ford and GM, but also Tesla, have major concerns about the rule in its current form.

Finally, more than 200 Republican lawmakers pushed the EPA to include language that bars the agency from pursuing its efforts to shift the U.S. car fleet toward electric vehicles. [Click here](#) for more information.

### **DOE DECIDES AGAINST ADOPTING STRINGENT NEW ENERGY CONSERVATION STANDARDS FOR OIL, GAS AND ELECTRIC FURNACES**

The U.S. Department of Energy (DOE) issued a proposed determination this week that it will not adopt more stringent energy efficiency standards for non-weatherized oil-fired furnaces; mobile home oil-fired furnaces; weatherized gas furnaces; weatherized oil-fired furnaces; and electric furnaces. The proposed DOE determination is important to heating fuel dealers because more stringent standards would have likely ended the manufacture of oil-fired furnaces.

The Energy Policy Conservation Act (EPCA) requires the DOE to establish energy conservation standards for a wide array of consumer appliances. EPCA also requires DOE to periodically review existing energy conservation standards to determine whether adoption of more-stringent standards for consumer appliances is justified. More stringent standards may only be adopted if they are technologically feasible, economically justified, and result in significant energy savings.

The DOE assessed more stringent energy conservation standards for non-weatherized oil-fired furnaces; mobile home oil-fired furnaces; weatherized gas furnaces; weatherized oil-fired furnaces; and electric furnaces in terms of annual fuel utilization efficiency (AFUE). The DOE determined that amended energy conservation standards for electric furnaces are not technologically feasible. Moreover, the DOE found that oil-fired furnaces and weatherized gas furnaces have relatively small markets which are expected to flatten or decline. Manufacturers facing more stringent standards for these product categories would likely opt to focus on products with larger market shares, resulting in oil fired and weatherized gas furnaces becoming unavailable for consumers. Consequently, DOE determined that amended standards for oil-fired furnaces and weatherized gas furnaces are not economically justified. For these reasons, DOE is unable to conclude that amended standards for furnaces at any of the efficiency levels

analyzed would meet the applicable EPCA statutory criteria (technologically feasible, economically justified and result in significant energy savings).

Therefore, DOE concluded that more stringent energy conservation standards for oil, electric, and weatherized gas furnaces should not be amended at this time. Finally, DOE has determined that it lacks the necessary information to amend furnace stand-by and off-mode standards. Particularly, since some of the functionalities of both modes at issue have significant safety or energy-savings benefits. DOE requests comments on its proposed determination be filed no later than January 29, 2024.

### **CONTINUE TO URGE CONGRESS TO SUPPORT THE CREDIT CARD COMPETITION ACT!**

EMA continues to urge all jobbers and retailers to reach out to their Senators and ask them to VOTE YES on the Credit Card Competition Act. This bill would reduce swipe fees and allow retailers a choice of network to handle the transaction through competition which would save Americans and businesses around \$15 billion in swipe fees per year. Our industry's share of that comes to around \$9,000 per store per year.

**[CLICK HERE TO URGE SENATORS TO SUPPORT THE CREDIT CARD COMPETITION ACT](#)**

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### **WEEKEND READS**

**[US court rejects EPA's decision to withhold small refinery biofuel waivers](#)** | Reuters

**[White House stalls ethanol expansion in Midwest amid price concerns](#)** | Reuters

**[Car dealers tell Biden: Customers aren't ready for electric cars](#)** | Axios

**[EVs less reliable than conventional cars: Consumer Reports](#)** | The Hill

**[Buyers worldwide go for bigger cars, erasing gains from cleaner tech. EVs would help](#)** | AP News

**[BP's search for new CEO to extend into next year as Looney probe drags on](#)**

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### **FEDERATED INSURANCE:**

#### **Risk Management Corner**

Your business' success lies in your careful decisions – and that includes how you approach the **[safety and risk management of your workplace](#)**. Without functional equipment or a clean, organized workplace, the risk for injuries and losses can increase. At the end of the day, **[maintaining your tools and equipment](#)**, along with tackling regular housekeeping, can help.

Federated® clients who are interested in learning more about these important topics can check out **[mySHIELD®](#)** for sample checklists, safety manuals, guides, and other resources. **[Reach out to your local marketing representative](#)** for additional information.

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.

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The **WPMA NEWS** currently serves EIGHT independent petroleum and convenience store associations.

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**EMA JOURNAL - The Official Publication of the Energy Marketers of America**  
Check out the EMA Journal anytime online by clicking **[here](#)**.

The EMA Journal summer issue is now available.

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# THANK YOU **WPMAEXPO** 2024 TOP SPONSORS

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## PLEASE NOTE UPCOMING DATES FOR WPMA EVENTS

December 6, 2023 - OFA Holiday Party - Portland Golf Club - Portland, OR

December 7, 2023 - WA Holiday Party - Topgolf - Renton, WA

February 13, 2024 - Utah UPMRA Day on Capitol Hill - 12:00 - 1:30 pm - Salt Lake City, UT

February 20-22, 2024 - WPMAEXPO - Mirage/Hard Rock Resort - Las Vegas, NV

April 25-26, 2024 - Nevada (NPM&CSA) Big Dogs - Red Rock & Siena Golf Course - Las Vegas, NV

June 4-5, 2024 - Montana (MPMCSA) Convention - Fairmont Hot Springs Resort - Fairmont, MT

June 17-19, 2024 - Washington Energy Convention - Suncadia Lodge - Cle Elum, WA

August 7-9, 2024 - Idaho (IPM&CSA) Convention - Coeur d'Alene Resort, Coeur d'Alene, ID

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## REGISTRATION IS OPEN FOR THE FOLLOWING EVENTS



### OREGON HOLIDAY PARTY

Click [here](#) to register for the Oregon Holiday Party at the Portland Golf Club in Portland, Oregon held December 6, 2023.



### WASHINGTON HOLIDAY PARTY

Click [here](#) to register for the WA Holiday Party at Topgolf in Renton, Washington held December 7, 2023.



### WPMAEXPO

Click [here](#) to register for the WPMAEXPO at The Mirage Resort in Las Vegas, Nevada held February 20-22, 2024

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Always Thankful  
THERE IS SOMETHING TO BE FOR

SCHOOLARSHIP  
\$4,000  
OPPORTUNITY!

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for WPMA  
SCHOLARSHIP  
2024  
Information

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**Petro Pete:** A blind man walked into a bar... and a table... and a chair...

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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: [kimw@wpma.com](mailto:kimw@wpma.com) Thanks.

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