

December 9, 2022

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WP-12-09-22

PLEASE SUPPORT THE 2023 SCHOLARSHIP SILENT AUCTION!

In May 2023, the WPMA Scholarship Foundation will award \$32,000 in scholarships to graduating high school seniors. The Foundation receives a large portion of its funding from the annual Scholarship Silent Auction held at the WPMAEXPO in February. Please support the Scholarship Foundation by donating an item with a value of \$100 or more to the 2023 Scholarship Silent Auction.

Past Silent Auction donations have included tickets to sporting events, vacation packages, decorator items, electronics, sports equipment, logo clothing, jewelry, tools, and accessories. If you would like to donate an item, please fill out the Silent Auction Donation Form available under the Scholarship tab on the WPMA website

<https://www.wpma.com/pdf/scholarship/SA19Generic-DonationFrm0701w.pdf> or e-mail Kathy Michaelis at kathym@wpma.com.

The value of items donated to the auction is tax-deductible.



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



EMA SENDS LETTER TO CONGRESSIONAL LEADERSHIP ON E15

On Wednesday, the Energy Marketers of America (EMA) sent a [Letter to Congressional Leadership](#) regarding the "Consumer and Fuel Retailer Choice Act of 2022," (S. 5145) that would allow E15 to be sold throughout the year. The legislation was endorsed by the American Petroleum Institute, NACS, NATSO, SIGMA and several agriculture associations including Growth Energy and the Renewable Fuels Association.

In the letter, EMA said that it is willing to support the legislation provided Congress appropriates sufficient funding for UST system compatibility upgrades made available to small business fuel marketers. Specifically, the grant program should include an "80-20" cost share (similar to the current federal EV infrastructure cost sharing formula), with the federal government covering 80 percent of the capital expenditures associated with UST system upgrades to entice small businesses to make necessary upgrades. UST system retrofits or replacement can cost more than \$100,000 per site in capital expenditures which are far beyond the ability of small business fuel retailers with multiple sites to pay. The EPA confirmed in an E15 UST system compatibility guidance document in January 2020 that said, "most older and even some newer existing UST systems (which

includes but is not limited to tanks, pumps, ancillary equipment, lines, gaskets, and sealants) are not fully compatible with E15 and require modification before storing E15.”

Unfortunately, the current 50/50 cost sharing formula for the United States Department of Agriculture’s (USDA) Higher Blend Infrastructure Incentive Program (HBIIIP) does not provide a strong enough incentive for small business energy marketers to make compatibility upgrades. Under the HBIIIP program, many energy marketers would be saddled with capital investment expenditures for higher ethanol blend compatibility upgrades that far exceed their ability to pay. An 80/20 cost sharing formula would level the playing field across all federal alternative fueling infrastructure programs and provide energy marketers with strong and realistic incentives to upgrade their UST systems for higher ethanol blends.

Meanwhile, a House companion was also introduced by Reps. Angie Craig (D-MN) and Adrian Smith (R-NE) which has 21 co-sponsors. Additionally, 250 groups and companies [sent a letter](#) to congressional leaders supporting the bill. While there is no guarantee Congress can pass the E15 bill legislatively before the end of the year, EMA urges Congress to appropriate sufficient funding so that small businesses can participate in the E15 market.

Finally, the Biden Administration is reviewing a petition by a group of Midwest governors to permit the year-round sale of E15 in their states. The petition is authorized under a provision in the Clean Air Act allowing an exclusion from the 1 psi waiver for E10 upon notification by a governor that the higher RVP limit will increase air emissions in that state. The Clean Air Act then requires the EPA to grant the petition and promulgate regulations to revert to a 9 psi RVP for that area no later than 90 days after the date of receipt of the notification. However, if the EPA determines the request would result in a shortage of gasoline in the petitioning state, implementation may be delayed up to two years. No such determination has been made yet by the administration. EMA believes the approval of an exclusion from the 1 psi waiver would require the creation of a boutique fuel exclusive to the petitioning states, thus limiting gasoline supply to the region.

ENERGY MARKETERS OF AMERICA (EMA) FILES AMICUS BRIEF CHALLENGING NHTSA'S FUEL ECONOMY STANDARDS

On December 1, 2022, an amicus brief was filed with the U.S. Court of Appeals in Washington, D.C. on behalf of EMA and other associations challenging NHTSA’s fuel-economy standards for passenger cars and light-duty trucks. The standards will require automobile manufacturers to obtain a fleet-wide average of 49 miles per gallon for model-year 2026, a standard that can be met only by converting a significant percentage of their fleets to electric vehicles.

EMA’s brief is premised on the NHTSA standard being a de facto electric-vehicle mandate, which NHTSA lacks the power to require. A principal basis for EMA’s position is the “major questions doctrine” applied by the Supreme Court to invalidate the Biden Administration’s vaccine mandate, its eviction moratorium, and its attempt to eliminate coal-fired generating plants. All of these cases involved broad policy questions having a major impact on the nation’s economy. As such, they are outside the purview of federal agencies unless Congress clearly and unequivocally grants an agency the power to decide them.

Enforcing an electric-vehicle mandate will also have a major impact on the economy by ultimately eliminating an entire class of internal combustion-powered vehicles. EMA’s brief argues that Congress did not provide NHTSA with such sweeping authority, and, in fact, it prohibited NHTSA from considering electric vehicles in promulgating its fuel-economy standards. The Court of Appeals decision in this case is likely to end up in the Supreme Court, which has shown a willingness to apply the “major questions doctrine” in cases like this.

EMA SUBMITS COMMENTS TO JOINT EMPLOYER PROPOSED RULE

This week, the Energy Marketers of America submitted comments the National Labor Relations Board’s (Board) Notice of Proposed Rulemaking (NPRM) regarding the Standard for Determining Joint Employer Status. EMA urged the Board to withdraw its NPRM, because the proposed definition is too broad and too vague to be workable in practice, including for the energy marketing companies. EMA argued that a functional joint employer standard must be clearly defined to require direct control to be exercised over a worker’s essential terms and conditions of employment. Unfortunately, the open-ended nature of the Board’s proposed definition of “essential terms and conditions of employment” is much too vague and unclear to enable companies, including energy marketers, to conduct a proper evaluation of their business practices with an eye towards a possible determination of joint employer status with their contractual partners. EMA urged the NLRB to leave in place its 2020 final rule.

[Click here](#) to read the comments.

CONGRESSIONAL UPDATE

Sinema Leaves Democratic Party

Breaking News.... Early Friday morning, in a live interview with CNN, Arizona Senator Kyrsten Sinema says she is switching her party affiliation from Democratic to Independent. Sen. Sinema says she will not caucus with Republicans but believes the broken partisan system in Washington does not serve Arizonans well. Senator Sinema’s decision allows Democrats to maintain a 50-seat majority but creates additional challenges for Senate Majority Leader Schumer. The power of Senators Manchin and Sinema, or “Manchinema”, may be stronger than ever.

Congress has returned for its lame duck session prior to the start of the new Congress on January 3, 2023. Outstanding items which may be addressed before the end of the year include Fiscal Year (FY) 2023 appropriations legislation, the FY 2023 National Defense Authorization Act (NDAA), and year-end tax legislation. Congressional leaders have reached agreement on total defense spending but remain in negotiations on topline non-defense spending in advance of the December 16 government funding deadline. A short-term continuing resolution (CR) is now being contemplated to push the government funding deadline

to December 23, and a year-long CR, maintaining funding levels from the prior fiscal year, remains a possibility absent an agreement before the end of the year. Importantly, the fate of government funding – and a year-end omnibus package – will determine whether additional legislation, such as the Credit Card Competition Act, can advance this year.

On Tuesday, the NDAA was filed in the House, following significant disagreements over additional provisions to be included in the bill, including federal permitting reform legislation advocated by Sen. Joe Manchin (D-WV). Permitting reform was not included in the final version of the NDAA, following bipartisan concerns over the provisions. The House passed the NDAA yesterday under suspension, and final Senate consideration is expected next week.

House and Senate committee leaders are continuing to discuss a potential tax extenders package, which may include partisan priorities such as an extension of the expanded Child Tax Credit and extensions of expiring tax provisions from the 2017 Tax Cuts and Jobs Act (TCJA). The Biden Administration is continuing to implement tax provisions enacted in the Inflation Reduction Act (IRA), including several new or expanded federal subsidies for clean energy and climate projects. Recently, congressional Democrats rejected calls to revisit the IRA's tax provisions, amid criticism from Republicans and European policymakers.

Congress has also begun to determine party leaders and committee assignments for the 118th Congress. House Minority Leader Kevin McCarthy (R-CA) has secured the nomination of House Republicans to serve as the next Speaker of the House, however, McCarthy still requires the support of a majority of the House on January 3 to be elected as Speaker. In addition, House Minority Whip Steve Scalise (R-LA) will be the next House Majority Leader, and Reps. Hakeem Jeffries (D-NY) and Katherine Clark (D-MA) have been elected as the next House Minority Leader and House Minority Whip, respectively. This month, Democrats and Republicans will also meet to determine committee leadership in the upcoming Congress. While several committee elections are uncontested, including major energy and environment committees, contested elections include the incoming Chair of the House Ways and Means and Budget Committees, as well as the ranking Democrat on the House Oversight Committee.

Meanwhile, Senators John Barrasso (R-WY) continues to push for legislation to be attached to an end of the year spending deal that would allow renewable diesel (RD) fuel production facilities to qualify for certain Department of Energy loans. The “Renewable Diesel and Sustainable Aviation Fuel Parity Act of 2022” aims to increase RD use by exempting RD that meets the same ASTM specifications as diesel fuel from federal labeling requirements. Several associations oppose the bill including NATSO, SIGMA and the American Trucking Associations (ATA) arguing that eliminating the label at the pump would lead to a situation “where retailers and consumers are not fully aware whether they are purchasing renewable diesel or petroleum-based diesel — the price of the two would be the same, rather than renewable diesel having a cost advantage.” [Click here](#) for the story.

Biomass-based diesel fuels include biodiesel and renewable diesel, both of which are refined from the same types of fat, oil, and grease feedstocks. Renewable diesel is chemically indistinguishable from petroleum diesel (known as a drop-in diesel fuel), meaning that it meets specifications for use in existing infrastructure and diesel engines and is not subject to any blending limitations. Biodiesel is a mixture of chemical compounds known as alkyl esters and is often combined with petroleum diesel in blends of 5 percent to 20 percent, known as B5 to B20, respectively.

EIA projects that production of renewable diesel supply will grow because of its compatibility with existing distribution infrastructure and engines, higher state and federal targets for renewable fuel production, incentives from tax credits, and the conversion of existing petroleum refineries into renewable diesel refineries.

HOUSE BILL WOULD BLOCK SEC FROM REQUIRING COMPANIES TO DISCLOSE ESG PLANS

This week, Rep. Bill Huizenga (R-MI) and Rep. Andy Barr (R-KY), introduced **The Mandatory Materiality Requirement Act of 2022**, a companion bill to the one introduced in September by Senator Mike Rounds (R-SD). The bills would block the Securities and Exchange Commission (SEC) from requiring additional disclosures from public companies, including the SEC's proposed rules that would require publicly traded companies to disclose their environmental, social and corporate governance (ESG) plans.

In June, EMA submitted comments on the SEC's proposed rule that would mandate extensive climate disclosures by public companies. While most energy marketers represented by EMA are not public companies and, therefore, are not required to report directly to the SEC, EMA is concerned due to the costs and burdens their SEC-regulated suppliers would incur by being required to disclose greenhouse gas emissions from upstream and downstream activities in its value or supply chain under many, if not most, circumstances.

For public companies that sell motor fuels and heating fuels to be compliant with the Proposed Rule, if finalized, they would need to track and disclose data derived from downstream customers, including energy marketers' individual and day-to-day operations. Unlike the large corporations regulated by the SEC, energy marketers, as small businesses, do not have, and cannot afford, compliance officers or attorneys dedicated solely to SEC compliance activities. This could force energy marketers of all sizes, but especially those with smaller-sized operations, to report data they may be unable to provide, which would result in a costly, additional expense or possibly the loss of business from the inability to report data to their suppliers or customers. EMA also cited privacy and potential liability concerns with the proposed rule.

The good news is that the 6-3 conservative majority of the Supreme Court of the United States (SCOTUS) is likely to weigh in at some point once the rule is finalized and challenged by concerned parties including EMA.

[Click here](#) to read EMA's comments on the proposed rule.

TAX FOUNDATION RELEASES STUDY ON STATE TOBACCO TAXES

This week, the Tax Foundation confirmed in a study that excessive tax rates on cigarettes encourage substantial black and gray market movement of tobacco products into high-tax states from low-tax states or foreign sources.

[Click here](#) to read the details.

EMA JOINS COALITION IN SUPPORT LETTER FOR FAMILY AND SMALL BUSINESS TAXPAYER PROTECTION ACT

EMA joined a coalition [letter](#) in support of the **Family and Small Business Taxpayer Protection Act**, H.R. 9092. This legislation would rescind the Inflation Reduction Act of 2022's billions in funding for the Internal Revenue Service's (IRS) expanded enforcement efforts, while retaining funding for the IRS to focus on improving taxpayer services and modernizing operations to serve taxpayers.

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

Recently, 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).

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

WEEKEND READS:

[Republicans launch probe of Biden energy policies - E&E News \(eenews.net\)](#)

[Toyota unveils hydrogen-powered pickup and SUV | Fox News](#)

['Buy America' timeline threatens to delay EV charger network | E&E News \(eenew.net\)](#)

[The Texas Public Policy Foundation's National Crusade Against Climate Action - The New York Times \(nytimes.com\)](#)
(subscription required)

[Keystone Pipeline could be sold \(axios.com\)](#)

[A Roadmap for Meeting Future EV Charging Demands](#)

[U.S. Fed proposes plan for banks to manage climate-linked financial risk | Reuters](#)

[GM, LG joint venture to invest \\$275 million in Tennessee battery cell plant | Reuters](#)

Federated Insurance Risk Management Academy Webinar

Cyber Security — Back to Basics: Tuesday, December 20, 2022, 1:00 p.m. CST

In today's world it can be easy to get overwhelmed with trying to keep your business and your customers safe. New security vendors are popping up every day, new regulations are being developed, business partners are adding increased security requirements to their contracts, and things won't be slowing down anytime soon. Sometimes the best place to start is with the basics. What security controls do you really need? How can you best protect your company and customer data? Are you prepared to respond if you experience an incident? Join us for the answers to these questions and more to help secure your business from today's greatest cyber threats.

What you will learn:

- How to prepare for a cyber incident
- The basic cyber security controls everyone needs to implement
- The top 3 things you can do today to significantly increase your security

[Advanced registration](#) is required for this 60-minute webinar.

For additional information or to discuss this in further detail, please contact your [Federated](#) regional representative or EMA's National Account Executive [Jon Medo](#) at 800.533.0472.

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PLEASE NOTE UPCOMING DATES FOR WPMA EVENTS

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 – IPM&CSA Idaho Convention – Sun Valley Resort – Sun Valley, ID

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SCHOLARSHIP
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Information!

WPMA SCHOLARSHIP APPLICATION NOW DIGITAL!

For all graduating seniors wanting to apply for one of the nine scholarships awarded through the WPMA Scholarship Foundation, the application process is now completely digital!

Simply click below to access the scholarship portal and create a password to begin. Students have the ability to leave the application and return at their convenience.

Don't miss this opportunity to help the next generation start out on the right foot by sharing this information with any of your co-workers with a graduating senior. Seniors who work part-time for a marketer member company, and have been employed at least 90 days, are also eligible to apply.

[CLICK HERE TO ACCESS SCHOLARSHIP PORTAL](#)



Petro Pete: Refusing to go to the gym is a form of resistance training.

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