

WPMAEXPO[®]



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Please contact Emily Perry at emilyp@wpma.com with your donation or questions regarding Silent Auction donations.

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Preregistration for the WPMAEXPO ends February 2nd.

[CLICK HERE to register for the 2024 WPMAEXPO](#)

CREDIT CARD FEES UPDATE

The NACS team has put together resources for you to file your own comment letter on the Fed's proposed rule to lower the debit swipe fee rate. NACS has long advocated for the Fed to revisit the regulated rate and substantially lower it. This November, the Fed published a proposal to lower the rate to 14.4 cents. While we

support the Fed taking action, we believe it should be much lower than what the Fed is proposing. As we've seen in other rulemakings, having a large number of stakeholder comments makes all the difference. This rulemaking could mean hundreds of millions in savings for our industry. We also know that the banking trade associations are running their own comment campaigns where their members are telling the Fed not to lower the rate at all. This is why it is crucial that the Fed hear from not just NACS but our member companies as well.

We've tried to simplify the process for you. The steps to file a comment letter:

- You can either personalize the template letter than NACS has prepared for you (Download [here](#)) or you can write your own letter using [these talking points](#).
- To file your letter, email it to regs.comments@federalreserve.gov with the subject line 'Docket No. R-1818' and forward a copy to Margaret Hardin (Mhardin@convenience.org).

The comment deadline is end of day on **Tuesday, February 12, 2024**.

We can't overemphasize the importance of your business weighing in. We hope you'll consider filing a letter and appreciate your consideration.

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



EMA Regulatory Reminder: The Corporate Transparency Act (CTA) – In Effect January 1, 2024, Without Further Congressional Action

In December 2020, Congress passed the Corporate Transparency Act (CTA) as part of the National Defense Authorization Act (NDAA). According to the Financial Crimes Enforcement Network (FinCEN), the purpose of the CTA is to “better enable critical national security, intelligence, and law enforcement efforts to counter money laundering, the financing of terrorism, and other illicit activity” by [creating a federal framework](#) for reporting, storing, and disclosing beneficial ownership information of “reporting companies.”

While the CTA was ostensibly targeted to foreign-owned companies, domestic companies – particularly small businesses – who meet the broad definition of reporting company will be affected by the CTA's disclosure provision. The CTA took effect on January 1, 2024.

Compliance with the reporting requirements depends on the formation date of each reporting company. For entities formed prior to January 1, 2024, reports must be filed no later than January 1, 2025. If there is a change to the information previously submitted to FinCEN, an entity must file an updated report within 30 calendar days of the change occurring. The same applies for any situations where a reporting company becomes aware of an inaccuracy in a report.

For entities formed on or after January 1, 2024, reports must be filed within 30 calendar days of when it receives actual notice that its creation has become effective or when the secretary of state or similar office provides public notice of its formation, whichever occurs first.

What is a “Reporting Company?”

Under the CTA, a reporting company is defined as a corporation, a limited liability company, or other entity that is 1) formed by filing documents with a secretary of state or similar office of a state or Indian tribe or 2) formed under the law of a foreign country and registered to do business in the United States.

FinCEN has provided an extensive list of entities exempted to the term “reporting company.” Three such exempt entities include publicly traded companies, public utility companies, and entities that employ more than 20 employees, operate at a physical office in the United States, and filed federal tax returns demonstrating more than \$5 million in gross receipts or sales. **For purposes of the exemption, a "full-time employee" in any given month provides at least 30 service hours, regardless of whether the employee is paid by salary or by the hour.**

Even with the exemptions, tens of millions of entities will be required to file beneficial ownership reports with FinCEN. The filing requirements will affect a broad range of entities, including but not limited to, smaller private companies and joint ventures that are not exempt.

What is Required to Be Reported and When?

Reporting companies will be required starting in 2024 to deliver to FinCEN a report containing the following information about the reporting company:

- Entity's full legal name
- Trade names
- A complete current address
- The jurisdiction it was formed in or jurisdiction in which a foreign company first registers
- Internal Revenue Service Taxpayer Identification Number and Employer Identification Number

More notably, reporting companies must also furnish the following information to FinCEN about each beneficial owner and company applicant of the reporting company:

- Full legal name
- Date of birth
- Current business or residential address
- A unique identifying number from an acceptable identification document (i.e., passport, driver's license, etc.) or FinCEN identifier

The CTA defines "beneficial owner" as an individual, who directly or indirectly, exercises substantial control over the reporting company or owns or controls at least 25 percent of the ownership interests of the reporting company. An individual exercises "substantial control" over an entity if the individual 1) serves as a senior officer, 2) has authority over the appointment or removal of a senior officer or a majority of the board of directors, or 3) directs, determines, or has substantial influence over important business decisions.

The CTA also excludes certain individuals and entities from the term "beneficial owner," including minor children, individuals acting as agents, employees, individuals with a future inherited interest, and creditors. However, the parents of minor children – who would meet the beneficial owner standard but for the exception noted – must have their information reported, according to the CTA.

A "company applicant" is an individual who directly files the formation documents for the reporting company.

Violations and Penalties

A false, fraudulent, or incomplete beneficial ownership report constitutes a reporting violation only if it is the willful act of an individual. Failure to comply with the CTA reporting requirements can lead to significant civil and criminal penalties, including a maximum civil penalty of \$500 per day (up to \$10,000) and imprisonment for up to two years.

Who Has Access to the Reports?

FinCEN is required to maintain the information in these reports in a confidential, secure, and non-public database. Under the CTA, beneficial ownership information is neither publicly accessible nor subject to requests under the Freedom of Information Act. However, the CTA authorizes FinCEN to disclose beneficial ownership information to a) federal agencies engaged in national security, intelligence, or law enforcement, b) state, local, or tribal law enforcement for purposes of criminal or civil investigations, c) federal agency issued in response to a request for assistance to a foreign investigation or prosecution, d) financial institutions requesting this information, with the consent of the reporting company, to facilitate compliance with customer due diligence regulations, and e) federal functional regulators or other appropriate regulatory agencies. FinCEN is currently engaged in the rulemaking process for rules on protection and confidentiality regarding these reports.

The Protecting Small Business Information Act of 2023 (H.R. 4035), filed by Speaker Pro Tem and House Financial Services Chairman Patrick McHenry (R-NC) last year, delays the CTA's reporting requirements from

taking effect until Treasury finalizes its rulemaking process. Many trade and professional association groups including EMA have lobbied in support of H.R. 4035.

EMA encourages energy marketers to check with their attorneys and accountants about whether they must report.

Update on DOL's Final Rule on Independent Contractor Classification

On Jan. 9, 2024, the U.S. Department of Labor's (DOL) Wage and Hour Division announced its final rule on strong [Employee or Independent Contractor Classification](#). The announcement marks the end of a rulemaking process that started with the DOL's Oct. 22 notice of proposed rulemaking (NPRM) on workers classification under the Fair Labor Standards Act (FLSA). Officials received more than 55,000 public comments in response to the NPRM. The new rule replaces a 2021 policy issued by the Trump administration and is based off an [administrative interpretation](#) issued by the DOL under the Obama administration. Like the NPRM, the final rule preserves the use of an "economic realities" test that analyzes an employee's classification through the totality of the circumstances of the worker-employer relationship.

EEMA is concerned with the final rule as its member companies' contract with common carriers to haul motor fuels. Typically, the energy marketer has engaged a company to pull and deliver products, as well as manage automatic fuel deliveries, and this arrangement should not be problematic. Where there could be some pause is if the common carrier uses independent operators as drivers. This is one area where the DOL rule would come into play. The likelihood is that hauling costs would go up if the independent operators working with the common carrier are now considered employees. Additionally, if an EMA member company uses an independent operator to deliver fuels or packaged goods (e.g., lubricants) for the company, including using the EMA members' trucks, they are also likely to be captured by the DOL final rule. Outside of transportation, there are issues under the DOL rule where the energy marketer uses independent contractors for sales or other non-transportation roles (e.g., accounting or environmental compliance). "The bottom line is that this Rule will likely lead to higher consumer costs at the pump," said EMA President Rob Underwood.

The DOL's initial attempt to withdraw the Trump-era rule was stalled after a federal judge found that the DOL violated the Administrative Procedure Act (APA) by failing to properly seek comment or consider policy alternative before delaying and revoking the rule. The new rule was published in the Federal Register on Jan. 10, and it will go into effect on March 11.

[CLICK HERE](#) for further information.

Inside the Beltway Update

New Year, Same Congress, Same Problems. Last weekend, Speaker Johnson and Senate Majority Leader Schumer announced that they had reached an agreement on spending levels and, in a surprise to anyone who wasn't paying attention, it was the same deal that former Speaker McCarthy struck with President Biden last summer. Since this announcement, members of the far-right-wing House Freedom Caucus have been discussing their options for opposing this deal, up to and including the possibility of replacing the replacement Speaker because he "got rolled worse than Kevin" in this deal.

So why did Speaker Johnson "cave" if he knew it would draw the ire of his right flank? Three reasons: (1) the spending levels are enshrined in law (Fiscal Responsibility Act of 2023), so he is simply following the law; (2) there is NO agreement that will satisfy the Freedom Caucus and remain passable in the Democrat-controlled Senate; and (3) he is learning that the view is very different when you are responsible for keeping the wheels of government turning than when you're lobbying politically charged grenades from the back bench. In short, Johnson has recognized that he cannot pass any Senate-palatable spending bills without House Democrats, so he must accept a deal that can secure two-thirds of House Members.

It is worth noting that several of the House Republican funding bills were not even capable of securing enough Republicans to pass the House, whereas the Senate has bipartisan support of its entire slate of funding legislation. As such, most lawmakers outside of the Freedom Caucus were not taking the House-proposed spending bills too seriously.

Still, this spending agreement is far from a done deal, because while Speaker Johnson has committed to top-line the funding level, the funding levels for each of the 12 bills have not been determined, and Johnson has not committed to a Continuing Resolution nearly all agree is needed to allow House and Senate appropriators to reach agreement under the deal. Additionally, in order to avoid completely alienating his caucus, Johnson has said that far-right members will be able to include a number of “conservative” policy riders that should allow them to exert power over the Administration. Of course, those riders would never pass the Senate, so this path forward is untenable as well.

With a topline number of \$1.7 trillion, the agreement includes \$886 billion for defense (a three percent increase over FY 2023) and \$773 billion for nondefense programs (less than a one percent decrease from FY 2023).

The defense and nondefense numbers essentially mirror those established in the Fiscal Responsibility Act of 2023 (FRA/the debt limit agreement). In agreeing to the FRA numbers, Speaker Johnson was able to secure additional offsets, including \$10 billion from the IRS and approximately \$6 billion in unspent COVID relief. Despite all this, earlier this week, members of the Freedom Caucus rejected a rule from House Leadership as a rebuke to the Speaker’s deal with Majority Leader Schumer and at this point, members of the Freedom Caucus are calling on the Speaker to renege on his deal, which would almost certainly trigger at least a partial government shutdown.

Fortunately, the House managed to pass a resolution striking a Federal Highway Administration rule eliminating domestic sourcing requirements for certain EV charging components. This comes after House Freedom Caucus members temporarily rejected the rule bringing the resolution to the floor in an act of defiance following the Speaker’s agreement with Senate Democrats. Still, while passage is a significant rebuke of the Administration’s dismissal of Buy America requirements on EV charging equipment, the President is expected to veto the resolution when it reaches his desk, and Congress is unlikely to have the necessary votes to enact the law over such veto.

At the same time, Senate Energy and Natural Resources Committee Chair Joe Manchin (D-WV) held a hearing to attack the Biden Administration’s implementation and oversight of the EV tax credit, which he believes is too deferential to China. His criticism stems from the belief that the White House is not implementing the credit the way he and other Senators had envisioned when they incorporated the EV tax credit into the Inflation Reduction Act.

While the White House is playing for the draw on the repeal of the EV charging rules, the Department of Transportation (DOT) has awarded \$623 million for charging stations in 22 states and Puerto Rico. This is the first tranche of funding from the \$2.5 billion Charging and Fueling Infrastructure Discretionary Grant Program established under the Infrastructure Investment and Jobs (IIJA) Act. About half of the chargers are expected to be located in community centers, like schools and multi-family housing developments. The remainder will mostly be built along highway corridors, and 70 percent of the investment from the overall project is expected to be targeted towards disadvantaged communities.

EPA Holds Hearing on California EV Mandate

More than 100 witnesses testified earlier this week at an EPA virtual hearing on California’s Clean Air Act waiver request for its Advanced Clean Cars II (ACC II) rule that has been pending before the Agency since May 2023. The ACC II rule, adopted by the State in August 2022, phases out the sale of new gasoline-powered cars and light-duty vehicles in California by 2035.

The overwhelming majority of the witnesses at the hearing represented environmental and public health groups, and they defended the waiver request, saying it demonstrates California’s continuing need for a separate motor vehicle emissions control program and because the zero-emission vehicle mandate curbs greenhouse gas emissions.

Industry representatives pushed back on the waiver request, citing issues with refueling limitations, charging points, and affordability. They emphasized that these issues will be significantly exacerbated, because 11 states (CO, DE, MD, MA, NJ, NM, NY, OR, VT, VA and WA) already have adopted the ACC II rule and three jurisdictions (DC, ME and RI) have initiated the process to adopt the California program.

EMA has joined legal challenges to the ACC II rule waiver request brought in federal court by 17 states and industry groups. “EMA continues to advocate for a diverse mix of technologies, including less carbon-intense motor fuels, to satisfy consumer needs and affordability and to provide needed national and energy security,” said EMA President Rob Underwood. “Simply put, banning access to new, internal-combustion engine vehicles is not necessary to get needed emission reductions.”

States Issue HOS Waivers

Due to severe winter weather multiple states have issued State of Emergency and Hours of Service waivers for residential and transportation fuels this week. [Click here](#) to review the state waivers. Additionally, the Federal Motor Carrier Safety Administration (FMCSA) has established a toll-free hotline at 1-877-831-2250 for anyone seeking inquiries pertaining to FMCSA Regulations during a declared disaster.

WEEKEND READS

[Rental giant Hertz dumps EVs, including Teslas, for gas cars](#)

[FDA ordered to reconsider denial of approval for vape products](#)

[The 2024 Election And The Impact On The Oil Market | Forbes](#)

[To spur more EV chargers, regulators must get creative with demand charges](#)

[US oil stockpiles rise more than forecast, distillates build to Sept 2021 high -EIA](#)

[US EIA forecasts lower oil prices in 2025, expects production to outpace demand](#)

Federated Insurance

Back to the Basics: Common OSHA Citations and Recordkeeping Review



Thursday, January 18, 2023 (1:00 PM CST)
60 minutes | Complimentary | Advance registration required

This webinar offers a concise overview of OSHA's commonly cited standards and the essential recordkeeping protocols that most organizations must adhere to. By participating, you'll gain a comprehensive understanding of potential compliance pitfalls, enabling you to proactively address them and help avoid costly penalties. Additionally, you'll learn about requirements for maintaining and submitting accurate injury and illness records, helping safeguard both your employees and your bottom line.

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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 EMA Journal fall issue is now available.

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PLEASE NOTE UPCOMING DATES FOR WPMA EVENTS

January 30-31, 2024 - Washington WIDE Day on the Hill - Olympia, 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 1, 2024 - Hawaii (HEMA) Golf Tournament - 11:30 am - Oahu Country Club - Honolulu, HI

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

July 14-16, 2024 - Oregon (OFA) Conference - Sunriver Resort - Sunriver, OR

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

REGISTRATION IS OPEN FOR THE FOLLOWING EVENT



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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Petro Pete: I used to have a job at a calendar factory, but I got the sack because I took a couple of days off.

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