



## Supreme Court Ruling Allowing Debit Card Swipe Fee Challenge to Move Forward

The National Retail Federation welcomed the July 1st U.S. Supreme Court ruling allowing a lawsuit that says the Federal Reserve set its 2011 cap on debit card “swipe” fees too high to move forward despite arguments that the suit was filed too late.

“There are multiple reasons why the statute of limitations has not expired in this case,” NRF Chief Administrative Officer and General Counsel Stephanie Martz said. “The bottom line is that a small business harmed by a faulty regulation should not be denied its day in court based on a technicality, especially one that has been in dispute. The Federal Reserve set the cap far higher than intended by Congress and merchants like Corner Post have paid millions of dollars too much as a result, in turn driving up prices for their customers. That harm is ongoing and hasn’t been changed by the passage of time. The Supreme Court has made the right decision by allowing this lawsuit to be decided on its merits.”



*Brady Lund, Vice President  
Corner Post*

The Supreme Court ruled in favor of a 2021 federal lawsuit **filed by the Corner Post, a Watford City, ND, convenience store** that was joined by the North Dakota Retail Association and the North Dakota Petroleum Marketers Association. The case challenged a Federal Reserve cap on debit card swipe fees that took effect in 2011, saying it was set higher

than intended by Congress. NRF is not a party, but Martz is a co-counsel in the case.

The issue before the Supreme Court was whether the case was blocked by the six-year statute of limitations on challenges to most federal regulations. While the suit was filed 10 years after regulations setting the cap took effect, it argues that the six-year period began again after a 2015 update of the regulations. In addition, the Corner Post was not established until 2018, meaning it was not affected until then, the lawsuit says. Five federal appeals courts

ruled against the Corner Post, but the 6<sup>th</sup> U.S. Circuit Court of Appeals held that the six-year limit does not start to run until a party is aggrieved..

The lawsuit says the Fed set the cap higher than allowed under the Durbin Amendment, a 2010 law directing it to adopt regulations resulting in debit card swipe fees that were “reasonable” and “proportional” to banks’ costs. Congress limited costs the Fed could consider to incremental expenses and the Fed initially proposed a limit of 7-12 cents per transaction. Under pressure from banks, however, it also took fixed costs, fraud losses, transaction monitoring and network processing fees into consideration. The final cap, which applies only to financial institutions with at least \$10 billion assets, was set at 21 cents plus 1 cent for fraud prevention and 0.05% for fraud loss recovery.

Since then, the Fed has reviewed banks’ costs every two years as required by the law but has not kept the cap proportional to falling costs. A Fed survey found banks allowable costs averaged 7.7 cents per transaction as of 2009, meaning the cap was originally less than three times the cost. The latest survey showed the average had dropped to **3.9 cents by 2021, making the cap over five times banks’ costs.**

Last October, the Fed finally proposed lowering the cap to 14.4 cents per transaction and reducing the amount for fraud loss to 0.04% but raising the amount for fraud prevention to 1.3 cents. This May, NRF filed comments saying the base rate should be 10.5 cents to keep it at the original proportion, although tiered rates could be set based on banks’ debit card transaction volume. NRF said the 1 cent for fraud prevention should be eliminated since adoption of EMV chip cards in 2015 shifted fraud costs to merchants, and that the percentage for fraud cost should be based on banks’ net costs after considering fraud borne by merchants.

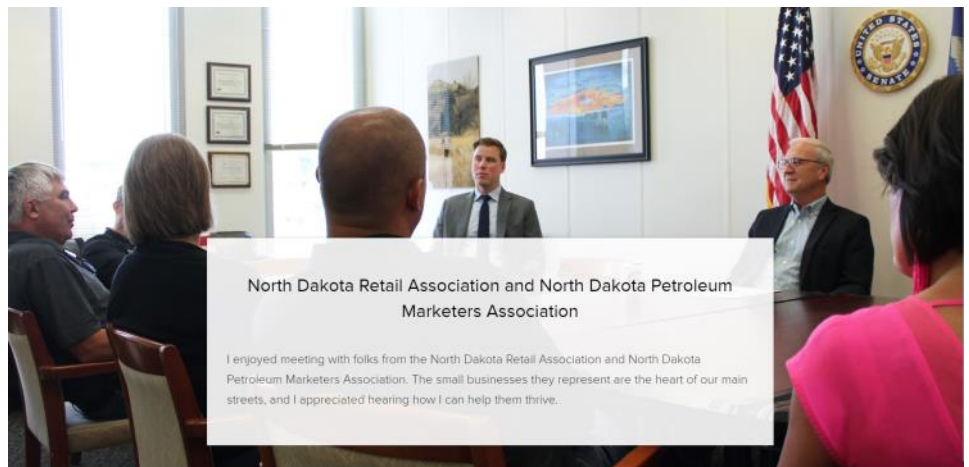
Before Durbin, banks charged about 45 cents to process a typical debit transaction, and regulation has saved merchants \$9.4 billion a year, with studies showing 70% of the savings has been passed on to consumers. Debit and credit card swipe fees are most merchants’ highest cost after labor and drive up prices by over \$1,100 a year for the average family. Debit swipe fees totaled \$36.3 billion in 2023 and total swipe fees have more than doubled over the past decade to a record \$172 billion.

## EMA State Director - Chris Fitterer



Chris Fitterer, a key figure in New England, North Dakota, has made significant contributions to the petroleum industry through a varied and successful career. He oversees the operations and strategic planning of Fitterer Oil and its associated companies, Fitterer Sales and Fitterer Automotive, ensuring their efficient operation. Chris is also an active participant in the North Dakota Petroleum Marketers Association (NDPMA) Board of Directors, where he plays a part in forming policies and addressing challenges within the industry. He is set to become the Chairman of the board.

In 2011, Chris expanded business ventures by opening The Hub Convenience Stores in Dickinson, ND, a move that underscored his commitment to providing quality service. This venture quickly became a trusted establishment in the area. On a personal note, Chris has been married for 25 years to his wife, Rhonda, and has two children, Addison and Mark. He is also actively involved in his community, having served on the City Council of New England, ND, for 12 years. Chris's work reflects a blend of professional success and community engagement, showcasing the values that New England and North Dakota hold dear.



### Energy Marketers of America

The Energy Marketers of America (EMA) is a federation of 48 state and regional trade associations representing family-owned and operated small business energy marketers throughout the United States.

Energy marketers represent a vital link in the motor and heating fuels distribution chain. EMA members supply 80 percent of all finished motor and heating fuel products sold nationwide including renewable hydrocarbon biofuels, gasoline, diesel fuel, biofuels, heating fuel, jet fuel, kerosene, racing fuel and lubricating oils.

Moreover, energy marketers represented by EMA own and operate approximately 60,000 retail motor fuel stations nationwide, supply motor fuels to an additional 40,000 gas stations and heating fuel to more than 5 million homes and businesses.

### EMA Board of Directors

The EMA Board of Directors is composed of EMA's elected officers, including the immediate past president, and one representative, **State Director**, from each of EMA's Member associations.

The Board of Directors is the principal governing body of the association. It is responsible for approving all of EMA's policy positions of legislative and regulatory issues; it approves the EMA annual budget; and it elects the associations officers.

## EPA Adopts EMA's Throughput Trigger Language that Exempts Most Energy Marketers from Costly Small Gasoline Bulk Plant Vapor Balancing Requirements

The EPA released its long-awaited final rule that regulates volatile organic compound (VOC) emissions from bulk plants with gasoline storage tanks. The final rule is a big victory for energy marketers because it exempts bulk plants with an annual average daily gasoline throughput that does not exceed 4,000 gallons per day from expensive vapor balancing equipment retrofit requirements.

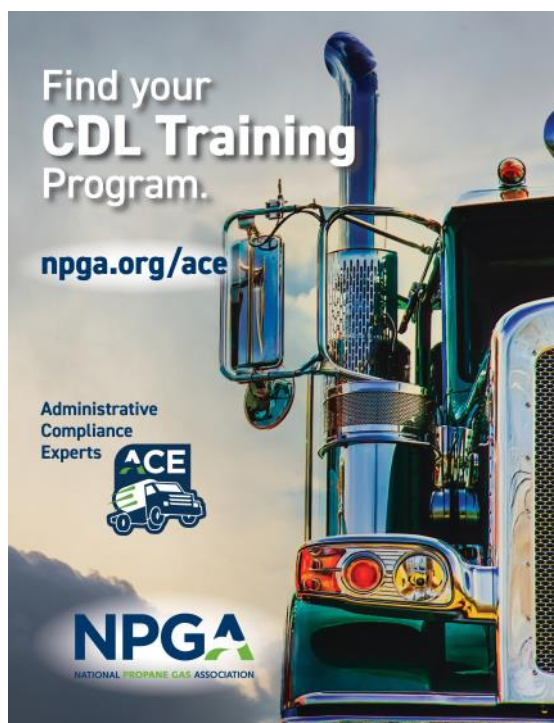
The National Emission Standards for Hazardous Air Pollutants (NESHAP) proposed rule would have required all bulk plants with a maximum design capacity of 4,000 gallons or more per day of gasoline throughput to add vapor balancing equipment to loading racks. The 4,000-gallon maximum design capacity language represents a theoretical daily gasoline throughput based on bulk plant design characteristics rather than actual daily gasoline throughput which is typically a much smaller volume.

EMA submitted written comments on the proposed rule and met regularly with the EPA, the Small Business Administration Office of Advocacy, the White House Office of Management and Budget and members of Congress to express deep concern over the proposed design capacity throughput language, the failure of the agency to accurately estimate the number of bulk plants affected by the rule and the economic impact a vapor balancing retrofit would have on small business energy marketers. Based on gasoline bulk plant surveys and upgrade cost information collected by EMA, the cost to upgrade a gasoline bulk plant to a vapor balance system for both transport unloading and tank vehicle loading would exceed \$120,000 per facility if the proposed rule were finalized.

Last year, Senator Kevin Cramer (R-ND) and Congressman John Joyce (R-PA), along with 82 lawmakers including Democratic Representatives Angie Craig (MN) and Bennie Thompson (MS), sent a bicameral/bipartisan letter to the EPA arguing that the proposed rule would lead to "higher fuel costs or the elimination of intermediate gasoline storage at small bulk plants, impacting supply to end users offering vital services to their local communities and potentially cutting off whole communities during an emergency."

EMA's efforts paid off as the EPA adopted the 4,000-gallon actual daily gasoline throughput trigger in the final rule. The EPA also agreed with EMA that the 4,000-gallon daily throughput should be averaged on an annual basis rather than a daily basis. EMA told the agency that annual averaging was essential in order to allow marketers to periodically surpass the 4,000 gallons of gasoline per-day to meet unusual demand without triggering the vapor balancing retrofit, provided annual daily throughput averaged over a year did not exceed 4,000 gallons. The EPA agreed to include annual daily throughput averaging into the final rule as well.

The final rule also changes cargo tank vapor tightness test standards from a graduated tightness requirement ranging from 1.0 to 2.5 inches of water pressure drop over five minutes depending on compartment size to a slightly more stringent 0.50 to 1.25 inches of water pressure drop over the same period. Cargo tank test facilities confirmed with EMA during the comment period for the proposed rule that the vapor tightness test changes in the final rule would not require any cargo tank equipment retrofit requirements. Also, the rule requires annual leak detection inspection using optical gas imaging. Monthly inspections using sight, sound and smell remain largely unchanged.



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Valued NDPMA Members:

I hope your summers are off to good starts. It's been six months since the last newsletter was printed. We have decided to print a newsletter twice a year now. If you are like the Association office, we receive so many emails it's hard to keep track of all the information. We want to give you a chance to keep the newsletter within reach and at your fingertips should you need it.

As you will see when reading this newsletter, NDPMA and EMA are going all out to protect your businesses on a number of fronts. Every single one of these issues and battles are filled with stressful ups and downs as we fight the just fight on your industry's behalf.

I've been told by many people NDPMA needs to blow its horn more often and brag about all the good we are doing for the retail petroleum industry. I would be the first to point out, I have seldom gone a mission alone. I have always had the support of the NDPMA board and its members, behind our work.

I would direct you to the front page of the newsletter as an example. It took us five years to get the legal ruling we were seeking related to debit card fees. None of this can happen without Corner Post and Brady Lund being willing to step up and join the lawsuit.

The same goes for another recent Industry victory highlighted in this newsletter. The modifications made to the EPA's Gasoline Vapor Recovery rule were essentially spearheaded by two EMA members who just happen to be great supporters of NDPMA, Matt Bjornson and Vern Kelley. This was largely a Midwest



*Matt Bjornson & Vern Kelley*

issue. Bjornson and Kelley did a lot of the heavy lifting garnering vital bulk plant information and working with the EMA and EPA to reach a just outcome. This work saved marketers in ND and MN Millions of dollars. Both of these cases are great examples of **HOW YOUR VOICES MAKE A DIFFERENCE!**

Truth be told, I keep telling myself one day when this process for me nears an end, I will have to sit down and try and piece all the accomplishments we achieved as an association (That's all of us - Including all NDPMA Members) together. Right now, I think it better to remain humble and grateful. There's always more work to do.

All that being said, NDPMA is just going to keep grinding. There are more fish to fry if you will. Nationally, the Association continues to relentlessly pursue passage of the *Credit Card Competition Act*. On the state level, the Petroleum Tank Fund Advisory Board continues to work with the ND DEQ in finalizing the new AST regulations.

Speaking of political battles, the General Election cycle is now upon us. The first presidential debate was in my opinion, a sad commentary on the state of political affairs in this GREAT NATION! I find it hard to believe any family member of President Biden would not have stepped in and stopped him from taking the stage. It brought back some painful memories of my mom's short bout with brain cancer when she had a hard time maintaining a train of thought. It's inconceivable to me how people close to the President would allow him to debate. My more pressing concern is when do we become a "United" States of America again? This obscene partisan political polarization from both sides is pulling this country under. I pray to God it's not going to take another 9/11 attack to get us **ALL** pulling on the rope in the same direction. Regardless, I urge you all to get out and vote in November. We have to start somewhere.

Don't forget the PAC Golf outing August 1 at Hawktree in Bismarck. The NDPMA Convention and Tradeshow is slated for October 21-23 at Delta Marriott in Fargo. Mary is busy piecing the plans together for another great show.

*Mike Rud*

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## Latest Tax Relief Concerns for Independent Businesses

In 2017, EMA along with its individual state associations, in conjunction with a large number of other national business associations worked with Congress on small business tax relief efforts. The 2017 tax relief had a positive effect on the economy, prior to the COVID-19 pandemic and to this day. These same small business owners now believe these tax benefits should be made permanent rather than be allowed to expire at the end of 2025.

### Small Business Deduction

The centerpiece of the pro-small business tax changes is Section 199A, the 20% small business reduction. The majority of American small business operations are organized as pass-throughs (S corporations, LLCs, sole proprietorships, or partnerships). According to the NFIB Statistics more than 90% of all businesses are organized as pass-through businesses, including 98.6% of non-employers and 75.2% of small employers.

Small business owners can claim up to a 20% tax deduction on their share of the business' income up to \$182,100 for individual filers and \$364,200 for those filing jointly in tax year 2023. For tax year 2024, business income up to \$191,950 (individual) or \$383,900 (joint) is eligible for the full 20% Small Business Deduction. According to the Congressional Research Service, in 2020 80% of the 199A claims were made by those with an AGI less than two hundred thousand dollars.

Making QBID permanent narrows the difference between the marginal tax burden on corporate profits (big business) and the marginal tax burden on pass-through business profits (mainly small business). The limitations currently in place ensure that the benefits allow the small businesses that drive our economy to continue to invest in the economy and job growth.

### THE ASK:

**Make QBID deductions permanent as soon as possible to give small business certainty in making long term investments in their business.**

## Initial Change to the Federal Overtime Rule Goes Into Effect July 1

Starting July 1st, salaried workers making less than \$43,888 per year may now qualify for overtime pay. The threshold is set to increase again to \$58,656 on January 1, 2025. Previously, only salaried workers making less than \$35,568 annually qualified for overtime pay when they worked more than 40 hours in a week.

The Fair Labor Standards Act ("FLSA") regulates when employees must be paid minimum wage and overtime. Under the FLSA, overtime pay, which is due to all employees who do not fall within a specified exemption, is one and one-half times an employee's regular pay rate for every hour that is worked beyond 40 hours in a work week. While hourly workers are generally entitled to overtime pay, salaried workers are not if they earn above a certain pay level and supervise other workers. That pay level is what the Department of Labor recently increased.

On April 23, 2024, the U.S. Department of Labor ("DOL") announced the release of a final rule raising the minimum annual salary thresholds on July 1, 2024 and then again on January 1, 2025. This primarily applies to executive, administrative, and professional employees, commonly referred to as the "White Collar Overtime Exemptions."

When a similar rule was supposed to take effect in 2016, the implementation was paused at the last moment by a federal judge who held that DOL exceeded its authority by making salary, rather than job duties, the controlling factor for whether an employee is an exempt executive, administrative, or professional employee. The 2016 rule never took effect, although the DOL approved a smaller increase to the minimum salary level in 2019, to the current \$35,568 (or \$684 per week).

In June, another federal judge heard arguments on a motion to block implementation of the DOL's new 2024 rule in the lawsuit *State of Texas v. United States Department of Labor*. The judge only halted the law, however, for workers employed by the state government of Texas. Such limited relief means, for now, that the rule is implemented and that employers must comply with the revised threshold of \$43,888.

Besides the State of Texas lawsuit, business groups also sued DOL in a federal district court in Texas on the overtime rule, claiming DOL went beyond its authority under the Fair Labor Standards Act. While the first increase to \$43,888 per year is now in effect, it is still to be determined whether the larger increase in January will take effect given the ongoing lawsuits. We will continue to keep you apprised of the legal proceedings.



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## Retailers Welcome Judge's Order Rejecting Flawed Settlement Over Visa and Mastercard 'Swipe' Fees

The National Retail Federation welcomed a federal judge's order rejecting the proposed settlement of a class-action antitrust lawsuit over "swipe" fees charged to merchants to process Visa and Mastercard credit card transactions.

"This settlement was never agreed to by the retail industry as a whole and would have done nothing to end anticompetitive practices and fix our nation's broken payments market," NRF Chief Administrative Officer and General Counsel Stephanie Martz said. "The proposed reduction in swipe fees was tiny and temporary and ignored the underlying issue of how these fees are centrally set rather than allowing banks to compete to offer the best rates. We're glad the judge has seen this backroom deal for what it is so we can move forward to real relief from these ever-increasing fees that drive up costs for small businesses and prices for American families."

U.S. District Judge Margo Brodie this morning issued an order saying "the court finds that it is not likely to grant final approval to the settlement and accordingly denies plaintiff's motion for preliminary settlement approval." The order followed remarks Brodie made during a June 13 hearing that she was unlikely to approve the settlement, citing concerns after NRF and other merchant groups said it would not provide adequate relief.

Attorneys for NRF wrote in a letter to Brodie in April that the proposed settlement would have failed to end Visa and Mastercard's practice of centrally setting swipe fees charged by all banks that issue their cards. It also failed to reverse a controversial "honor all cards" rule requiring merchants to accept all cards from each network regardless of fees.

The proposed settlement of the 19-year-old lawsuit was announced in March. Under the settlement, Visa and Mastercard would have reduced rates for each swipe fee category by four basis points for three years and average rates by seven basis points for five years. But credit card swipe fees currently average 2.26% of the transaction – 226 basis points – and NRF said the proposed reduction was "a drop in the bucket."

The rate reduction would have saved merchants an average \$6 billion a year but comes as swipe fees for Visa and Mastercard credit cards totaled \$100 billion last year. In addition, the agreement applied only to "interchange" fees that go to card-issuing banks while Visa and Mastercard would be free to raise "network" fees they receive, potentially offsetting any savings.

Other parts of the settlement were "impracticable or meaningless," the letter said, noting a provision that would allow merchants to impose a surcharge on customers who use premium cards that carry higher-than average swipe fees. While the agreement would have provided only temporary relief, it included a "virtually limitless" ban on future merchant litigation over swipe fees and had no opt-out provision for merchants who did not agree with its terms.

The letter said the settlement's failures came largely because attorneys for the small group of named plaintiffs – five small businesses claiming to represent the entire retail industry – had "effectively frozen us out" despite repeated offers by NRF to assist.

With the settlement failing to make a major impact on swipe fees, NRF has maintained that **Congress still needs to pass the Credit Card Competition Act**. The bipartisan bill would require large banks to enable an alternative processing network on Visa and Mastercard credit cards, leading to competition over fees, security and service.

### Urge Congress to Support the Credit Card Competition Act!

Senator Marshall (R-KS) has filed the "The Credit Card Competition Act" (CCCA) as an amendment to the Federal Aviation Administration (FAA) reauthorization legislation currently pending on the Senate floor. While it is still unclear which amendments will ultimately be considered, the credit cards companies and big banks are unleashing their grassroots on the Hill to oppose it. The amendment's passage would ensure retailer choice in payment routing by requiring at least two unaffiliated processors on credit cards -- the same process that is currently used for debit card transactions. Swipe fees are the second highest operating cost for convenience store retailers and while these fees continue to rise because of inflation, Congress can help now by approving the CCCA!

Reach out to your Senators and ask them to VOTE YES on the Credit Card Competition Act amendment. This amendment would reduce swipe fees and allow retailers a choice of network to handle the transaction through competition which would save Americans and businesses around \$16.4 billion in swipe fees per year.

[www.energymarketersofamerica.org/advocacy/legislative-action-center/#/35](http://www.energymarketersofamerica.org/advocacy/legislative-action-center/#/35)



## VISA/MasterCard Settlement Accepting Claims Forms through August 30, 2024

After the VISA/MasterCard case was filed over 18 years ago, and over 5 years since the court approved the September 18, 2018 Class Settlement Agreement, the Class Administrator of the \$5.5 billion payment card interchange fee settlement fund has mailed out claim forms to retailers/marketers who may be eligible for a share of the Settlement Fund. **On May 14, 2024, the Court granted an extension of the claims-filing deadline to August 30, 2024.**

**CLAIMANTS** must have accepted VISA and/or MasterCard as payment for their sales of goods or services between January 1, 2004 and January 25, 2019. If you received a Claim Form in the mail and want to file a claim online using the Claimant ID provided, please use this link:

[www.paymentcardsettlement.com/en](http://www.paymentcardsettlement.com/en)

**Branded marketers** should submit a claim, for branded sales, even though there is currently a dispute about whether they or their branded supplier is entitled to recover the settlement share for credit card sales through their branded supplier’s respective systems. A Special Master has been appointed by the court to hear appeals from denials of eligibility, such as claim denials based on the alleged status of branded retailers as indirect payers.

**THE CLAIMS** The actual claim amount, per \$ of sales approved, will be calculated after the Claims Administrator calculates the total amount of the claims submitted. If you receive a claim form in the mail, fill it out and return it to the Settlement Administrator in accordance with the instructions on the form using the assigned Claim ID number. If your claim is denied, you

will be able to bring it before the Special Master for review. If you did not receive a form, you can access the settlement website below and enter your Tax ID number (TIN) to find out whether the Settlement Administrator considers you eligible at [www.paymentcardsettlement.com/en/Login](http://www.paymentcardsettlement.com/en/Login) While EMA has not secured the procedures to be utilized by the Special Master, a determination of ineligibility obtained by accessing the above-referenced login information should be sufficient as a denial of your claim to warrant an appeal to the Special Master.

Please note that the “Court Approved Claim Form” is only 1 page long. A fund this large attracts firms who think of inventive ways to obtain some of the settlement. Several marketers have received solicitations to assist with their claims due to the anticipated long delay until payout. Given that this case was filed in 2005, the time until payout is unknown but it will likely be lengthy. Marketers may of course choose their own path but should understand that filing their claim form is simple.

If your claim is denied on the ground that you are an “indirect payer,” and you wish to lodge an appeal, you may want to first seek guidance from your attorney, although you are free to file your appeal without attorney assistance. The primary basis for any such appeal would be that you are, in fact, a direct payer of the interchange fees paid on each card transaction.

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## 2024-2025 Federal Heavy Highway Vehicle Use Tax Due August 31 for Vehicles Used on Road After July 1, 2024

The 2024 Heavy Highway Vehicle Use (HHVU) tax reporting period runs from July 1, 2024 to June 30, 2025. The HHVU tax is paid on each commercial motor vehicle with a gross vehicle weight of 55,000 pounds or greater; and travels 5,000 miles or more per year. The HHVU applies to most petroleum cargo tank vehicles and transports. Once the HHVU tax is filed and paid, the IRS will return IRS Form 2290 with a “paid” stamp.

### What’s New with 2290 Filings:

The IRS *reinstated* the use of debit card and credit card payment methods for the HHVU tax that it suspended during the Covid-19 pandemic. Form 2290 filers are able to pay their Form 2290 tax liability with either a credit, debit card, check or by EFTPS.

### Filing Form:

For the current tax period July 1, 2024 to June 30, 2025 use [IRS Form 2290 \(Rev. July 2024\)](#) and [IRS Form 2290 Instructions \(Rev- July 2024\)](#).

Any amount due from the previous 2023-2024 filing period must be filed on the IRS [Form 2290 \(Rev. July 2023\)](#) and [IRS Form 2290 Instructions \(Rev. July 2023\)](#).

### Filing Deadlines:

The filing deadline for Form 2290 is **based on the month the taxpayer first uses the taxable vehicle on public highways** during the reporting period.

- For vehicles first used on a public highway in the month of July 2024, file Form 2290 **between** July 1 and August 31, 2024.
- For vehicles first used on a public highway **after** July 31, 2024, file Form 2290 by the last day of the month following the month in which you first used the vehicle on a public highway. The tax for the current filing season is prorated for vehicles first used on a public highway after July.

### Filing Methods:

- **Electronic Filing:** Form 2290 may be filed [electronically](#). Taxpayers **must** file electronically if reporting 25 or more vehicles on Form 2290.
- **Use EMA's exclusive endorsement agreement with ThinkTrade**, an IRS authorized e-filing service provider and a BBB accredited company with A+ rating. ThinkTrade offers EMA member companies a 15 percent discount off ThinkTrade’s e-filing services through a dedicated landing page to prepare, file and pay federal excise tax returns on IRS Forms 720, 8849 and 2290.

- For more information about ThinkTrade and EMA’s landing page to file taxes, please visit <https://taxexcise.com/ema/>

**IMPORTANT!** All taxpayers are encouraged to file electronically. Electronic filing generally allows for quicker processing of your return. A stamped Schedule 1 can be available **within minutes** after filing and acceptance by the IRS.

**Paper Filing:** Taxpayers may file a paper copy of Form 2290 via the U.S. Postal Service. See Form 2290 Instructions for the correct mailing address. Expect to receive a stamped Schedule 1 returned within 6 weeks after filing.

### Calculating Payment Amount:

The per vehicle tax payment amount of the HHVU tax is calculated based on gross vehicle weight (GVW) and the month the vehicle is first used during the reporting year. The minimum annual HHVU weight tax is \$100 for vehicles in use between July 1, 2024 and June 30, 2025 having a GVW of 55,000 pounds. This amount increases to a maximum \$550 for vehicles with a GVW over 75,000 pounds. See “Tax Computation” table on [IRS Form 2290 \(Rev. July 2024\)](#).

The per vehicle tax payment amount for the current filing period is prorated for vehicles first used on a public highway after July 1. For vehicles not in use during July 2024, the applicable annual HHVU weight tax rate is reduced by 1/12 for each calendar month after July 31 until the vehicle is first used. For example, the annual HHVU tax on a vehicle first used in October of the 2024-2025 reporting year is reduced by 3/12ths of the annual rate based on GVW because it was not in use for the first three months of the reporting year. The monthly proration calculations are fully explained on [IRS Form 2290 Instructions \(Rev- July 2024\)](#).

**For additional information, contact the IRS Form 2290 Call Center: 1 (866) 699-4096.**

## NACS Show Registration

The NACS Show is returning to Las Vegas this October, and it’s time to start planning.

Register for the NACS Show:

[www.nacsshow.com/register/start](http://www.nacsshow.com/register/start)

Please use the EMA NACS Show registration code:

**EMANS2024**

If you have already registered, please provide your full name, company, state and date you registered to Susan Isard ( [sisard@emamerica.org](mailto:sisard@emamerica.org) ) so she can work with NACS to have your registration re-coded.

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## Federated Insurance® Launches 2½-Day Risk Management Academy

**Petroleum: August 20-22**

**All Industries: November 5-7**

Federated Insurance® is excited to formally invite business owners to attend one of our complimentary 2½ - Day Risk Management Academy (RMA) offerings in 2024. These industry-specific sessions are held at Federated®'s Home Office in Owatonna, Minnesota, and are led by risk management professionals.

Often, business owners may find themselves so busy in the day-to-day workings of their company that they may have less time to focus on the overall safety of their business. The RMA sessions can help business owners learn how to prevent losses impacting their bottom line by developing risk management best practices, connecting with industry peers facing similar challenges and insurance professionals who are committed to helping owners, and applying what is learned to make a difference at their businesses.

Building a culture of workplace safety starts with business leaders. Learn more and sign up today to attend one of these valuable 2½-Day RMAs to help take risk management to the next level.

[www.federatedinsurance.com/services/risk-mgmt-academy](http://www.federatedinsurance.com/services/risk-mgmt-academy)



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**MEMORANDUM**

TO: Industries Operating in North Dakota

FROM: L. David Glatt, P.E., Director   
North Dakota Department of Environmental Quality (NDDEQ)

SUBJECT: Self-Audits under N.D.C.C. ch. 32-40.2

DATE: June 12, 2024

This memorandum is a reminder to industries operating in North Dakota that the state has implemented a procedure for industry to conduct self-audits of operations to assess environmental compliance. The audits are voluntary, internal, and comprehensive evaluations that are intended to prevent noncompliance with environmental laws, rules, or permits enforced under chapters 23.1-04 (Hazardous Waste), 23.1-06 (Air Pollution), 23.1-08 (Solid Waste), 38-08 (Gas & Oil Resources), or 61-28 (Surface Water Pollution).

Environmental audits may be conducted by an owner, operator, or prospective owner or operator. Environmental audits are expected to provide benefits to industry, regulators, the public, and the environment in North Dakota.

An Environmental Audit may be conducted at any time. However, to gain protection against enforcement, the process described in N.D.C.C. ch. 32-40.2 and summarized in the NDDEQ Environmental Audit Policy, must be followed. That policy is located on our website at <https://deq.nd.gov/Director/EnvironmentalAudits/>.

Note that all audit documents and correspondence must be submitted in writing to: [deq-legal@nd.gov](mailto:deq-legal@nd.gov). This email address should be added to the company's address book as all communication will be through this email and may contain time-sensitive information.

Information concerning environmental audits can be found on our website at: <https://deq.nd.gov/Director/EnvironmentalAudits/>. If you have questions regarding environmental audits, please contact the NDDEQ at [deq-legal@nd.gov](mailto:deq-legal@nd.gov).



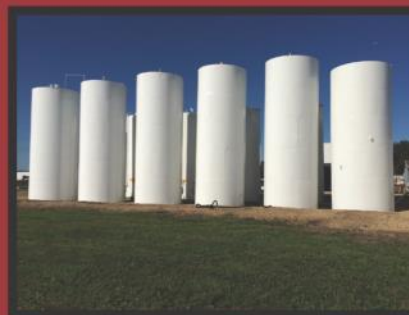
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## New We Card In-Store Campaign Addresses Adult Purchases for Those Underage

Join the tens of thousands of retailers who are helping to prevent *and discourage* adult purchases of tobacco and vaping products on behalf of underage people.

*We Card's* new program targets "social sourcing," or adult purchases of tobacco and vaping products on behalf of minors. After field testing, *We Card* is rolling out the national in-store campaign to raise awareness of the "social access" problem and is introducing this program to the nation's retailers *at no cost*.

**Order your FREE We Card Kit to raise awareness of adults' role in social sourcing and offers retailers an opportunity to address the issue.**

"*We Card's* new in-store campaign bolsters existing responsible retailing efforts to identify and deny underage purchase attempts of age-restricted products like tobacco and vaping products," said Doug Anderson, President *We Card*.

Retailers can choose from one of two campaign themes:

The **Be A Real Influencer** theme includes an eye-catching set of friendly, young adults aged 21+, inspiring them to "be a real influencer" and be comfortable saying "no" when asked by someone

underage to buy or give them tobacco and vaping products.

The **We Card We Care** theme informs customers, "if they're under 21, NO Bumping, NO Borrowing And NO Buying for Them."

Each campaign theme includes a variety of in-store signage with a QR code call-to-action to learn more and sign up for updates. *We Card* will run supportive social and digital communications. Both themes were well received after testing across a range of retail environments including convenience chains, small operators, and other retail store types.

"After the positive reception among retailers and customers in our field testing, we are excited to offer free in store materials that offer retailers an opportunity to participate in efforts to reduce adult purchases for minors," said Anderson.

Both campaigns are readily available, and retailers are posting them in-store all throughout 2024 as it is a long term, multiple year campaign. Order the campaign's FREE kit at [wecard.org/Free-Kit](http://wecard.org/Free-Kit).



### Prevent Underage Access to Tobacco and Vapor Purchases.

Join thousands of retailers helping to prevent adult purchases of tobacco and vapor products on behalf of those underage.



**BE A REAL INFLUENCER**

Be comfortable saying no when someone under 21 asks you to buy or give them tobacco and vapor products.

Scan our QR code to learn what you can say, and do your part to prevent underage access.



**WE CARE.**

If they're under 21:  
**NO Bumping. NO Borrowing. And NO Buying For Them.**

Scan our QR code to learn what you can say, and do your part to prevent underage access.

[wecard.org/Free-Kit](http://wecard.org/Free-Kit)



**FREE Retail Store Signage Kit**

Order now, available only while supplies last.

[wecard.org/Free-Kit](http://wecard.org/Free-Kit)



**FREE Retail Store Signage Kit: Two options available—order today!**



## FDA Authorizes Four Menthol-Flavored E-Cigarette Products

NJOY has the first non-tobacco flavored e-cigarette products to be authorized by the FDA

The U.S. Food and Drug Administration has authorized the marketing of four menthol-flavored e-cigarette products through the premarket tobacco product application (PMTA) pathway: NJOY Ace Pod Menthol 2.4%, NJOY Ace Pod Menthol 5%, NJOY Daily Menthol 4.5% and NJOY Daily Extra Menthol 6%. The authorizations mark the first non-tobacco flavored e-cigarette products to be authorized by the FDA.

The two authorized Ace products are sealed, pre-filled, non-refillable pods that are used with the previously authorized Ace device, and the two authorized Daily products are disposable e-cigarettes with a prefilled, non-refillable e-liquid reservoir.

“Importantly, each application is reviewed on a case-by-case basis and today’s actions are specific to these four products only—the authorizations do not apply to any other menthol-flavored e-cigarette products. To legally market a new tobacco product in the United States, a company must receive a written marketing order from the FDA. While this action permits these specific tobacco products to be legally marketed in the United States, it does not mean these tobacco products are safe nor are they ‘FDA approved,’” said the FDA’s Center for Tobacco Products in a statement.

The approval comes on the heels of a Senate Judiciary Committee oversight hearing, “Combatting the Youth Vaping Epidemic by Enhancing Enforcement Against Illegal E-Cigarettes,” during which Senators were critical of the regulatory oversight and approval process for these products. NACS sent a letter to the committee on behalf of the industry, advocating for enhanced enforcement of illegal e-cigarette sales and more clarity from FDA regarding what retailers can and cannot sell.

To date, the FDA has authorized 27 tobacco- and menthol-flavored e-cigarette products and devices, including the newly authorized four NJOY products. Further information on tobacco products that may be legally marketed in the United States is available in FDA’s Searchable Tobacco Products Database.

As of April 2024, FDA has issued approximately 670 warning letters to firms for manufacturing and/or

distributing illegal e-cigarette products and issued more than 550 warning letters to retailers for the sale of unauthorized e-cigarettes. The agency has also filed civil money penalty complaints against more than 50 e-cigarette manufacturers and more than 100 retailers for manufacture and/or sale of unauthorized new tobacco products, as well as complaints for permanent injunction against seven e-cigarette manufacturers.

## Vaping Products not approved by the FDA

Valued NDPMA Members:

Please review this memo to make sure you are not selling vaping products not approved by the FDA. **This alert could save you thousands of dollars in penalties.**

The FDA has accelerated its efforts to address illicit e-cigarette products in the marketplace. Since the beginning of 2024, FDA filed "Civil Money Penalty (CMP)" complaints against 40 brick and mortar retailers selling Elf Bar and Esco Bar flavored disposable vapor products, which the FDA noted were the first and second most commonly used brands, respectively among youth e-cigarette users according to the 2023 National Youth Tobacco Survey. In these cases, the amount being **sought against each of the retailers is \$20,678**, which is the maximum penalty allowed for a single violation of the FDA tobacco regulations.

The National Association of Tobacco Outlets (NATO) has been tracking FDA's recent enforcement actions and publishing them on their website here:

[www.natocentral.org/fda/enforcement-actions](http://www.natocentral.org/fda/enforcement-actions)

There is a list of roughly 70 brands that FDA has taken public enforcement action against and have been cited as unauthorized or illegally sold in FDA warning letters, civil money penalties, or import alerts.

I’m trying to get a pulse on how prevalent the sale of the illegal products listed above are in ND retail outlets, mainly c-stores. NDPMA is in the process of reviewing potential legislation at the state level to address this issue. **Please share any insight you might have on the sales in your area.**

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## USDA Accepting New Applications for the Higher Blends Infrastructure Incentive Program through September 30th

July 1, the USDA will begin accepting new applications in grants through the Higher Blends Infrastructure Incentive Program (HBIIIP). These grants support the infrastructure needed to lower out-of-pocket costs for energy marketers to install and upgrade biofuel-related infrastructure such as pumps, dispensers and storage tanks. The HBIIIP funds are available for both retail and wholesale fueling/storage facilities. The application window to distribute the \$90 million in HBIIIP grants ends September 30, 2024.

### How the HBIIIP Funds Will be Distributed

HBIIIP seeks to increase the availability of higher blends of ethanol and biodiesel derived from U.S. agricultural products by sharing the costs to build and retrofit biofuel-related infrastructure.

Grants cover up to 75% or \$5 million of total project costs to help facilities convert to higher-blend fuels. The fuels must be greater than 10% for ethanol and greater than 5% for biodiesel.

Starting July 1, \$90 million will be available to support a variety of fueling operations:

- Approximately \$67.5 million will be made available to transportation fueling facilities, including fueling stations; convenience stores; larger retail stores that also sell fuel; and transportation, freight, rail and marine fleet facilities.
- Approximately \$18 million will be available to fuel distribution facilities, including terminal operations, depots and midstream operations.
- Up to \$4.5 million will be made available to home heating oil distribution facilities.

### How to Apply

For a webinar to provide applicants an overview of the HBIIIP program along with information on how to enroll for access to the HBIIIP application system:

[www.youtube.com/watch?v=wSgRJJIEHkw](https://www.youtube.com/watch?v=wSgRJJIEHkw)

## EMA Sues EPA over Regulation Banning Most New Gas Cars

In June, the Energy Marketers of America (EMA), along with several other organizations, filed a petition with the DC Circuit Court to sue the U.S. Environmental Protection Agency (EPA) over its regulation, finalized in March, that will effectively ban most new gas cars and trucks in less than eight years.

This petition is one of three filed challenging EPA's light- and medium-duty vehicle emissions standards for model years 2027-2032. The other two petitions were filed by the American Petroleum Institute and a coalition of U.S. biofuel producers. In total, 36 petitioners are represented among the three filings.

*"The EPA doesn't have a leg to stand on where its gas car ban regulation is concerned, and we are going to make that case in court. This regulation is clearly bad for consumers as it will quickly and drastically restrict their ability to find and purchase affordable new gas cars. It's bad for marketers of American-made liquid fuels and for U.S. energy security. And importantly, it's also unlawful. EPA does not have authority under the law to do this."*

– Rob Underwood, President, Energy Marketers of America

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The United States Department of Transportation (DOT) in 49 Code of Federal Regulations (CFR) 172.201(d) requires that "a shipping paper must contain an emergency response telephone number".

In addition, 49 CFR 172.604(a) states, "The telephone number must be:

- Monitored at all times the hazardous material is in transportation, including storage incidental to transportation;
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Your company will be **invoiced** within thirty **(30) days** of your registration.

If you have any questions, please call 352-323-3500





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Company Enrolled by: \_\_\_\_\_  
Printed Name & Title Signature

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**Instructions:**

Complete all parts of this agreement

Additional branches of your company may be added to this coverage

List all branches and contact names on company letterhead

Email to: [sales@infotrac.net](mailto:sales@infotrac.net) or Fax: 1-352-323-0005

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