

# SD OIL & LP GAS CHRONICLE NEWS

June 2012 Newsletter

The official publication  
of the South Dakota  
Petroleum and  
Propane Marketers  
Association

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## UST Owner/Operator Training Register at [www.denr.sd.gov](http://www.denr.sd.gov)

The South Dakota Petroleum and Propane Marketers Association and Rounds and Associates have completed 42 Underground Storage Tank Owner/Operator Training as of June 21, 2012. In excess of 1000 tank owners and operators have been certified and trained for Class A, Class B or Class A/B operators.

If you have NOT been trained and are required to take this training, you have 8 additional dates to get your certification. All operators: Class A, Class B and Class C must be trained by August 8, 2012.

To register, go to: [www.denr.sd.gov](http://www.denr.sd.gov)

July 10	Rapid City AM	Ramkota Hotel	Sylvan I & II
July 10	Rapid City PM	Ramkota Hotel	Sylvan I & II
July 11	Rapid City AM	Ramkota Hotel	Sylvan I & II
July 24	Sioux Falls PM	Ramkota Hotel	Harvest Room
July 25	Sioux Falls AM	Ramkota Hotel	Harvest Room
July 25	Sioux Falls PM	Ramkota Hotel	Harvest Room
August 2	Rapid City AM	Ramkota Hotel	Washington Room
August 3	Sioux Falls AM	Ramkota Hotel	Jefferson Room

am = 8 am to 12 noon

pm = 1 - 5 pm

# PMAA News

## Update from Washington, DC

### GOP ENERGY BILL PASSES HOUSE PASSES

On June 21, the House passed the “The Domestic Energy and Jobs Act,” (H.R. 4480) along party lines 248 – 163. The measure included several GOP energy related bills that have been introduced or passed during the 112th Congress. The chances of H.R. 4480 becoming law are slim since the Senate is unlikely to pass similar legislation.

H.R. 4480 included Reps. Ed Whitfield (R-KY) and John Barrow’s (D-GA) “Gasoline Regulations Act of 2012” (H.R. 4471) which would create an interagency committee to analyze regulations that can lead to higher gasoline prices, particularly three pending EPA air quality rules: Tier III limits on sulfur in gasoline, a new ozone standard and emissions curbs for refineries. The analysis and cost considerations would require at least 13 months to complete. Also included in H.R. 4480 was the "Strategic Energy Production Act" which would require any SPR release to be coordinated with proportional increases in domestic crude oil production. Basically, if the President releases oil from the SPR, then he would have to open a percentage of federal land for oil exploration if this bill were to become law. Republicans argued that the President used the SPR as a political tool in the past to lower energy prices to help his reelection chances.

The comprehensive bill also included the “Providing Leasing Certainty for American Energy Act of 2012” which would require a minimum annual acreage leasing plan that makes available at least 25 percent of the lands open for leasing each year. More importantly, it cuts at the red tape by setting a firm timeline for the Secretary of the Interior to issue leases. A similar bill, “Streamlining Permitting of American Energy Act of 2012” was also included in the GOP

comprehensive energy bill that would set a 90 day time limit to file a legal challenge to an energy project. Republicans argue that while U.S. oil production is at its highest levels in years, the majority of that production has taken place on private lands while actual public land development has fallen under the Obama Administration’s policies.

PMAA supports legislation that expands America’s energy portfolio and prevents costly EPA ozone regulations. PMAA has also asked House members to support oil futures market reform initiatives.

Continued on page 3 .....



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## SUBCOMMITTEE HEARING ON FUELS LIABILITY BILL

**WEDNESDAY, June 13, 2012** - The American Trucking Associations (ATA) has elevated its criticisms of the Federal Motor Carriers Safety Administration (FMCSA). According to ATA, FMCSA has been unresponsive to recommendations for changes widely supported by both truckers and trucking companies.

ATA has been especially critical of changes to the Federal Compliance, Safety, Accountability (CSA) program website that lists all accidents (fatality or injury) that carriers are involved in – without listing which vehicle/driver was at fault. No matter what the circumstance of the wrongful other party: alcohol, excess speed, inattention, if a carrier is involved, it goes on the site. Of course this is information that is accessed by competitors, shippers, attorneys and media. The petroleum industry was especially concerned when learning an automobile driver ran a red light, killing a tanker truck driver, but CSA reported the accident not disclosing the trucker was not at fault. In the absence of full disclosure, innocent persons and companies can be harmed.

Since the site first went up, FMCSA has been expected to correct for this by listing the accountable party on the site. Yet, when FMCSA will actually update the site with a crash accountability system is anyone's guess. In March, Administrator Anne Ferro said the agency needed to rethink its planned revisions.

## NEW ETHANOL TESTING AT GAS STATIONS IMMINENT

**TUESDAY, June 12, 2012** - Petroleum marketers who splashblend ethanol should take extra precautions to insure E-10 gasoline blends do not exceed 10 percent ethanol. As part of a national E-15 misfueling plan approved by EPA, the RFG Survey Association (RFGSA) will be taking fuel samples at gas stations across the U.S. and sending results directly to EPA. RFGSA will be sampling E-10 locations as well as locations offering E-15. If E-10 blends exceed 10 percent ethanol, retailers (and their supplier) could be subject to fines by EPA up to \$37,500 per day.

"While splashblending has been shown to be a reliable method for ethanol blending, now would be a good time for blenders to review their operations and do some independent testing," said PMAA President Dan Gilligan. "A tiny variation in blending procedures could be very costly in terms of EPA fines," he said.

Participating in the RFGSA survey is voluntary for retailers and it is customary for RFGSA inspectors to request cooperation from retailers in terms of paperwork and process. PMAA recommends that retailers check with their fuel suppliers if questions arise about a pending RFGSA inspection.

To learn more about RFGSA, please [click here](#).

<p><b>Randy Glanzer</b> VP Marketing &amp; Sales</p>	
	
<p>P.O. Box 8245 Rapid City, SD 57709 rglanzer@wyref.com</p>	<p>Office: 605-342-1614 800-658-4776 Cell: 605-484-1877</p>

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# NPGA Propane Days

## Jerry Brick, NPGA National Director for South Dakota

In addition to the Propane Days events, I attended the Member Services Committee meeting. A major industry trend that has implications throughout state and national associations is the consolidation of marketer members. Even though the number of bulk plants is remaining steady, NPGA membership and dues are showing a decline. To be certain that valuable dues assets are being used for the best purpose, NPGA has created a Membership Dues Task Force. The Executive Committee is also working on its "Vision 2014 Advocacy Program for the Future".

At the Marketer, State and District Directors Meeting, intrastate marketers and multi-state marketers each elected three representatives to the Executive Committee. I was elected as an intrastate marketer to a two year term on the Executive Committee.

Following the elections, our new NPGA Chairman, Ray Murray, briefed the marketers and directors on Vision 2014. This consists of three primary areas where NPGA needs to be active: smart communications; credible analytics; and specialized consultants.

In the area of smart communications, discussion is focused on the differences between a paid advertising campaign and a program where NPGA communications help drive debates toward our preferred outcomes. Many industry sectors invest resources in advertising designed to keep their name in the papers or on websites dedicated to their issues. However, it is the consensus of the leadership that there is a smarter way of achieving this goal for an association the size of NPGA, and that is to bolster our ability to push

our positions and statement into the media at times and places of our choosing. While we do this some now, it is on an ad hoc basis that isn't frequent enough to build a steady presence. The consensus is that NPGA needs the equivalent of a congressional Press Secretary tasked to build relationships with reporters, provide quotes and statements on a proactive basis, and otherwise keep NPGA's name and issues in the spotlight. This could be done by adding a staff function or retaining an outside communications firm.

Credible analytics entails economic, statistical, or engineering knowledge that serves to underpin NPGA's public policy positions. Since the climate change debate, NPGA has utilized ICF International for much of this work. Not only are they an independent and respected organization, they have significant expertise in the propane industry having also performed work for PERC. I learned how respected ICF International is whenever I mentioned to our legislators in Washington that data and statistics I was using to make my point were gathered by this firm. Everyone in Washington seems to know their data is accurate. Maintaining our ability to compete with other industry representatives in terms of the substantive backup of our arguments is critical.

Specialized outside consultants is another area where NPGA needs to expend resources and we know this is very useful. NPGA retained Kirt Johnson because of his particular relationships with the key congressional tax committees, which helped us with the tax provisions beginning with the 2005 Energy bill. NPGA retained Breaux-Lott because of their ability to reach individual Senators during the climate change debate. There undoubtedly will

Continued on page 9.....



**Dennis Gamble**  
General Manager of Lubricants

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**di-zas-ter (n)** a calamitous event, especially one occurring suddenly and causing great loss of life, damage, or hardship, such as a tornado, fire, or hail storm

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# FDA Tobacco Compliance Webinar

## August 21, 2012

### Did you know....

The U.S. Food and Drug Administration (FDA) has authority to regulate tobacco, including sales of tobacco in retail stores. Even though the legal age to purchase and use tobacco is 18, the FDA regulations say that **SELLERS MUST CARD ANYONE UNDER THE AGE OF 27** who is buying cigarettes or smokeless tobacco.

The FDA has been conducting compliance checks in businesses, and has completed nearly 60,000 inspections nationwide. The agency is now issuing civil money penalties for violations found during the inspections. Monetary penalties for tobacco non-compliance can result in fines from \$250 to \$10,000.

While the FDA isn't currently conducting compliance checks in South Dakota, it's important for tobacco retailers to know what the federal requirements are, and to train their staff on the proper sales of tobacco products.

### Webinar will tell you how to comply with the federal regs

Our Association is providing a convenient opportunity for you to find out more about the FDA requirements, the civil monetary penalty process, and what your responsibilities are as a tobacco retailer.

The South Dakota Retailers Association, South Dakota Petroleum and Propane Marketers Association, and the South Dakota Association of Cooperatives are working together to host an FDA Tobacco Compliance Webinar on Tuesday, August 21 at 10:00 a.m. Central / 9:00 a.m. Mountain Time. The program will feature a presentation by Doug Anderson of We Card, and there will be an opportunity to ask questions at the end of the presentation. There is no charge to register (however, long distance charges may apply).

We encourage you to sign up for this program today. You are welcome to register as many people from your business as you like; just be sure to provide a separate email address for each person who is registering.

Register for the webinar at: <https://www1.gotomeeting.com/register/771553417>

### How the webinar will work:

1. Once you sign up, you'll receive a confirmation email.
2. You will receive reminder emails the day before the webinar, and the morning of the webinar.
3. The confirmation and reminder emails will have instructions on how to participate in the webinar on August 21.
4. The day of the webinar: you will call the phone number provided in the reminder emails, and listen to the presentation by phone. You will also click on the link provided in the reminder emails, and will watch a PowerPoint presentation online.

### Webinar details in brief:

Date	Tuesday, August 21, 2012
Time	10:00 am Central / 9 am Mountain Time
Topic	FDA Tobacco Compliance Webinar
Presenter	Doug Anderson, President, We Card
Cost	There is no cost to register / since you will be calling to listen to the audio, long distance charges may apply
Registration	Sign up at <a href="https://www1.gotomeeting.com/register/771553417">https://www1.gotomeeting.com/register/771553417</a>

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# 85 Octane News

## Official Attorney General Opinion



### NEWS RELEASE

**Marty J. Jackley**  
South Dakota Attorney General

**Charles McGuigan**  
Chief Deputy Attorney General

### ***Official Attorney General Opinion on Sale of 85 Octane Gasoline Released***

FOR IMMEDIATE RELEASE : Thursday, June 21, 2012

PIERRE, S.D. – Attorney General Marty Jackley announced today that pursuant to a request from the Governor's Office, the Official Attorney General Opinion regarding the sale of gasoline with an antiknock index rating of 85 octane had been completed and released.

#### ANSWER:

Under current rules promulgated by the Department of Public Safety, gasoline or gasoline-oxygenate blends (hereinafter “gasoline”) with an antiknock index rating of 85 octane may not be legally sold in the state. The National Institute of Standards and Technology (NIST) standards adopted by the Department prohibit the sale of gasoline with an antiknock index of less than 86 octane. This prohibition does not conflict with other statutes and administrative rules, and is therefore controlling.

#### CONCLUSION:

The conclusion that gasoline with an antiknock index rating of 85 octane may not be sold in South Dakota is based upon current statutes and rules. The Legislature, and the Department of Public Safety, to the extent it has authority under SDCL §§ 37-2-6 and 32-2-7, may alter this arrangement to authorize the sale of 85 octane gasoline in the state.

For any additional questions regarding this matter, contact Sara Rabern at 605-773-3215,

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come another time when NPGA needs specialized legislative help to supplement staff resources.

PERC is looking for volunteer marketers to become active in three working groups. They are safety, technology and markets. They want a cross section of expertise to bring their talents to these working groups. If you are interested in becoming active in a working group, contact PERC. Some of the projects that PERC is presently working on include the Freightliner propane powered medium duty truck which is to be available in the first quarter of 2013, propane air conditioning and commercial lawn mowing.

The next day, those attending Propane Days received a legislative issues briefing before meeting with our Senators and Representative. The four issues identified by NPGA as important to the propane industry were:

- 1) Extend alternative fuel tax credits by enacting the Propane Gas Act of 2011.

- 2) Ensure parity for propane in all Department of Energy R&D programs.
- 3) Ensure proper regulatory oversight of propane pipelines.
- 4) Support permanent estate tax relief.

I also wanted to talk to our congressional delegation about issues that affect all Americans such as a balanced budget amendment, extension of the Bush tax cuts before the end of the year and their plan for deficit reduction. I wanted to know if this congress could work together before the election or would there be stalemate until after the elections. I would say that I was received in each legislator's office with respect and a willingness to understand my position on each issue.

For those who chose to not attend Propane Days this year, you missed a great opportunity to communicate directly with those legislators who can make a difference in our everyday lives. Please plan to attend Propane Days next year.

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## 2012 Class Schedule

### Basic Principles (1.0)

July 11-12	Aberdeen
September 24-25	Sioux Falls
November 7-8	Watertown
4.1 Distribution Sytems	June 24-25
6.0 Appliance Installation	August 14-15

### Propane Delivery (2.2/2.4)

August 7-9	Aberdeen
October 2-4	Sioux Falls
December 4-6	Watertown
Mitchell	
Mitchell	

## 2013 Class Schedule

### Basic Principles (1.0)

January 8-9	Pierre
March 5-6	Sioux Falls
May 7-8	Aberdeen
July 9-10	Chamberlain
September 16-17	Deadwood
November 5-6	Watertown
3.0 Plant Operations	July 9-10
4.1 Distribution Systems	April 22-24
4.2 Distribution Systems	April 25-26

### Propane Delivery (2.2/2.4)

February 5-7	Pierre
April 2-4	Sioux Falls
June 4-6	Aberdeen
August 13-15	Chamberlain
October 8-10	Rapid City
December 10-12	Watertown
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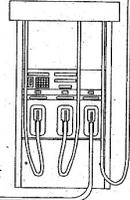
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## News from NACS

### EPA Gives Final Approval to E15 Sales

However, many hoops remain before consumers will actually fill up with the higher-blend fuel.

WASHINGTON – The U.S. Environmental Protection Agency (EPA) has given the final okay for the sale of E15 at gasoline stations in the United States, but there remains several hurdles before consumers will see it at the pump, the Sioux Argus Leader reports.

On June 15, EPA approved the first misfueling mitigation plans (MMPs) for individual companies, the agency notes on its website. Companies whose plans were approved had notified EPA in writing that they wished to use the March 2, 2012, Model Plan. Before approving their requests, EPA sought more information about how E15 would be dispensed, particularly from blender pumps.

While the agency had given E15 its sanction in January 2011, the EPA had a series of procedures to go through before **gasoline retailers could sell the fuel. The agency wanted to ensure the higher blend** was labeled and sold properly to avoid misfueling, since E15 is only for use in cars and light trucks with the 2001 model year and forward. Older vehicles and light equipment should not use the fuel.

“I think there are a number of stations, particularly in the Midwest, that will be very interested in doing this, and there will

certainly be encouragement from the renewable fuel industry for it to be done as quickly as possible,” said Tom Vilsack, U.S. Department of Agriculture Secretary said last week.

“Anything that paves the way for E15 is a good thing, and [June 15], we got the last hurdle removed, so we should be able to see additional biofuel use,” Vilsack said, adding that it will “take some time” before E15 will be at local gasoline stations.

To get the fuel onto the marketplace, other requirements from federal, state and localities will need to be tackled. One example is E15 compatibility for tank and dispensers. Also, several states have restrictions on selling certain ethanol-gasoline blends, so laws would need to be altered in those states.

“Retailers interested in selling this product need to proceed carefully to ensure they are compliant with all applicable laws and regulations,” advised NACS Vice President of Government Relations John Eichberger. “For example, not only must they be certain their equipment is appropriately listed as compatible with the fuel, they must abide by the misfueling regulations issued by EPA to prevent consumers from used E15 in non-approved engines. And retailers must be certain to clearly identify the product on price signs to avoid confusing the consumer when comparing prices among various products.”

“I wouldn’t expect to be seeing [E15] in gasoline stations across the country any time real soon,” said Pat Westhoff, who directs the Food and Agriculture Policy Research



**Kathleen Jamison**  
Sales Representative

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Institute at the University of Missouri. “As of right now, there appears to be some resistance on the part of consumers because of concerns about mileage and concerns about (its impact) on their vehicle.”

Many retailers remain skeptical about stocking E15, citing **concerns** over using the blend in older fueling systems. NACS continues supporting legislation in Congress (H.R. 4345 and S. 2264) to reform the liabilities associated with selling new fuels. In particular, the legislation will allow equipment currently in use to potentially be recertified as compatible with a new fuel like E15 and it will protect retailers who comply with EPA’s misfueling regulations from certain liabilities if a consumer ignores the labels and misfuels a non-approved engine.

**Contact your legislators today and urge them to support this important legislation.**

**Skimming Continues at the Pump**

Retailers should keep a close eye on their gasoline dispensers.

ATLANTA – A RaceTrac station in Atlanta was hit by a skimmer at the pump, WBS-TV reports. Federal agencies, including the Secret Service, report that skimmers are usually connected to a criminal network and are not a single operation. Last year, a Tampa-area **RaceTrac** store was targeted with skimming devices at the pump.

Secret Service agents looking into the Atlanta incident say the skimmer ring is at least statewide. In Coweta County, Ga., law enforcement officials have heard from close to 100 victims of a similar skimming incident.

Investigators said the stolen data makes its way to New York, where it is used to fabricate credit and debit cards. There’s “no way to tell by looking at the pump [if it has a skimming device]. Only way is to open pump and still wouldn't know unless you're a technician,” said Coweta County Sheriff's Office investigator Jason Fetner.

RaceTrac said it’s upgrading its card-reader technology at infected pumps and has employees checking the pumps three times daily.

NACS has several resources on skimming, including a fact sheet that **explains skimming** and the **WeCare Decals**, tamper-evident labels that help retailers identify potential security breaches if skimming devices are inserted at fuel dispensers or other unattended PIN-entry devices.

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June 18, 2012

OFFICE OF  
SOLID WASTE AND  
EMERGENCY RESPONSE

**MEMORANDUM**

**SUBJECT:** Changes in the Insurance Industry: Suggestion to carefully check your UST insurance policy

**FROM:** Carolyn Hoskinson, Director   
Office of Underground Storage Tanks

**TO:** UST Industry Associations  
State UST/LUST/Fund Program Contacts

UST insurance has played and continues to play an important role in ensuring that UST owners and operators have a means to provide for corrective actions or third-party damages in the event of an accidental release from their UST systems. To ensure they are buying and retaining appropriate coverage for their UST systems, owners and operators should understand and be attentive to the underlying language, terms, and conditions of their policies. I invite you to share this memo with others who are interested in the use of UST insurance.

The particular development that sparked my desire to send this reminder was that the U.S. Environmental Protection Agency (EPA) recently learned that Zurich American Insurance Company (Zurich) will no longer issue new UST insurance policies and will not renew existing UST insurance policies. Because Zurich has been one of the major national UST insurance providers over the years, EPA is aware that many UST owners and operators across the United States have used Zurich's UST insurance policies to provide coverage against corrective actions and third-party damages. If you are one of them, and you are now converting to a new policy, now would be a great time to read it carefully and ensure you have the coverage that you need.

But I'm addressing this memo to all owners and operators, and those states who oversee them, because it is essential for everyone to carefully discuss their policies with their insurance agents or brokers to make sure owners fully understand the coverage they are purchasing and what their responsibilities are under their policies, should they have a release from their UST systems. You don't want to find out *after* a release that you bought a policy that isn't going to cover you.

To my state colleagues; remember that when you're inspecting your facilities, and confirming that they are meeting their FR obligations, it is important to ensure that not only do they have a policy, but that it meets the specific federal and state requirements.

**Continued on page 16.....**

*Fueling*  
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I highly recommend to all the *Guide to Tank Insurance*, published by the Association of State and Territorial Solid Waste Management Officials (ASTSWMO). This document presents useful examples of UST insurance policy language that could impact the extent of coverage under the policy. To access this document, see:

[www.astswmo.org/Files/Policies\\_and\\_Publications/Tanks/2011.10\\_Guide\\_to\\_Tank\\_Insurance\\_FINAL.pdf](http://www.astswmo.org/Files/Policies_and_Publications/Tanks/2011.10_Guide_to_Tank_Insurance_FINAL.pdf)

Another resource that may be of use to UST owners and operators is EPA's *List Of Known Insurance Providers For Underground Storage Tank Owners And Operators* ([www.epa.gov/swrust1/pubs/inslist.htm](http://www.epa.gov/swrust1/pubs/inslist.htm)). This document contains information on insurance companies, brokers, and agents offering UST insurance.

If you have any questions about federal requirements for UST insurance, please contact Cho-Yi Kwan ([kwan.choyi@epa.gov](mailto:kwan.choyi@epa.gov) or 703-347-8908) of my staff.

cc: ASTSWMO  
EPA Regional UST Program Managers  
EPA OUST Regional Liaisons



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