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## Reliable Home Heating Act

On June 23, 2014, the House approved, by voice vote, the “Reliable Home Heating Act” (S. 2086) which would provide state governors with greater autonomy in extending the Department of Transportation’s temporary emergency declarations, including Hours of Service (HOS), up to an additional 60 days (for a total of 90 days) for propane and heating oil.

The Senate bill sponsored by Senators John Thune (R-SD) and Amy Klobuchar (D-MN) was approved by unanimous consent last month. The bill would also provide an early warning system in which the U.S. Energy Information Administration (EIA) would notify governors when propane or heating oil supplies fall below the most recent five year average for more than three consecutive weeks. Currently, DOT temporary emergency declarations only last for 30 days which is not enough time to bring certainty to propane and heating oil suppliers.

President Obama is expected to sign S. 2086.



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# PMAA News

## Update from Washington, DC

### New FMCSA Policy Gives Marketers More Control over Data used for Safety Ratings

The Federal Motor Carrier Safety Administration (FMCSA) has issued an Interpretative Rule and Statement of Policy that makes it possible for motor carriers to remove negative information from a key federal database used to determine motor carrier safety ratings. As a result, motor carriers will have more control over the information used to determine their FMCSA safety rating score.

The new policy changes the federal Motor Carrier Management Information System (MCMIS) by giving state agencies the ability to update motor carrier safety information to reflect adjudicated citations related to roadside inspection violations. Prior to the policy change, motor carrier violations resulting from roadside inspections were sent to the MCMIS database without any ability to update the information after a court had a chance to review and rule on the underlying citation. Consequently, the motor carrier's MCMIS safety record would continue to list a "violation" even after a court dismissed the citation or found the carrier innocent.

The new FMCSA policy will be applied only to citations issued at roadside inspections beginning August 23, 2014. There is no retroactive applicability to existing citations.

In addition, updates to reflect adjudicated results will not occur automatically. Instead, motor carriers will be required to electronically submit proof of adjudication through the FMCSA's DataQ's data portal. The documents will be reviewed by the applicable state motor carrier agency for authenticity and posted on MCMIS.

A PMAA Regulatory Report on the new policy change is being prepared by Mark Morgan, PMAA Regulatory Counsel.

### Senators Propose 12 Cent Motor Fuels Tax Increase

On June 18, Senators Chris Murphy (D-CT) and Bob Corker (R-TN) proposed a 12 cent-per-gallon (cpg) tax increase for both gasoline and diesel fuel over the next two years and indexing to inflation in order to replenish the Highway Trust Fund (HTF). It is expected to raise \$164 billion over 10 years. Although lead transportation chairs Senator Barbara Boxer (D-CA) and Representative Bill Shuster (R-PA) have said there are not enough votes to pass a gas tax increase this year, the Murphy-Corker proposal might serve as a bipartisan starting point for highway funding negotiations next year.

Since 2008, Congress has transferred \$54 billion into the Highway Trust Fund, mostly from the General Fund, to maintain solvency. Congress has looked at other alternatives to improve the HTF including a user fee based on the number of miles driven (VMT), however, this proposal has been unable to gain momentum. The motor fuels tax hasn't been raised since 1993. It is likely that Congress will provide for a short-term fix to the HTF. Proposals include using savings from cutting Saturday postal delivery, using revenue from a tax holiday on repatriated earnings as well as transferring the

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remaining \$1.4 billion in the LUST fund which PMAA and like-minded associations adamantly oppose.

Senate Finance Committee Chairman Ron Wyden (D-OR) and Ranking Member Hatch (R-UT) hope to have a proposal out of Committee before the July 4th recess.

## Senate Energy Committee Approves Keystone XL Pipeline

The Keystone XL pipeline debate continues as the Senate Energy Committee approved the pipeline largely along party lines on Wednesday by a vote of 12 - 10. Newly installed Senate Energy Committee Chairwoman Mary Landrieu (D-LA) introduced the pipeline approval bill along with Senator John Hoeven (R-ND). Senator Joe Manchin (D-WV) and Landrieu were the only Democrats on the Committee who supported the bill. Prospects for the bill to get to the Senate floor and final passage are slim given there are 58 confirmed yes votes in the Senate which is short of the 60 votes needed for passage. If President Obama were to veto the legislation, Keystone proponents would need 67 votes to override the President. It is likely the only way forward is for the President to approve the pipeline.

Earlier this year, the President delayed a decision on the pipeline indefinitely pending State Department approval which means a decision isn't likely until after the November elections. The Keystone XL pipeline enjoys overwhelming support from Americans, with 65 percent saying it should be approved and 22 percent opposed, according to a Washington Post-ABC poll.



## Panel Recommends Lower Ozone Standard

A federal environmental advisory committee reported in early June 2014, that the EPA should consider lowering the current 75 ppb ozone national ambient air quality standard to 60-70 ppb. The report even went further to suggest a 60 to 65 ppb range would be best, stating that a standard of 70 ppb would offer only a "limited margin of safety" for human health. Established in 1977, the Clean Air Scientific Advisory Committee (CASAC) provides advice to the EPA Administrator on the technical bases for EPA's national ambient air quality standards. EPA is under court order to issue a proposed rule to either revise or retain the current standard by December 1, 2014 and EPA will consider the Committee's recommendations in making that determination.

EPA's potential ozone proposed rule is estimated to cost upwards of one trillion dollars per year from 2020-2030, according to the [National Association of Manufacturers](#). Lowering of the standard would force more counties into non-attainment, and, therefore, requiring RFG and lower RVP gasoline which would increase the cost of motor fuels. PMAA believes the economic consequences from a new ozone standard will be severe and must be considered. Current standards are working and the value of moving towards a lower ozone standard is not backed by scientific evidence. An overly stringent ozone standard will create bottlenecks and chaos in the gasoline marketplace.



# US DOT Annual Hazmat Registration Deadline is July 1, 2014

The U.S. DOT's Pipeline and Hazardous Material Safety Administration (PHMSA) requires all interstate and intrastate marketers transporting petroleum products in placarded vehicles to register and pay an annual HAZMAT fee. Registration is necessary to obtain federal operating authority for the transportation of hazardous materials.

**Registration Deadline:** Marketers with expiring HAZMAT registration certificates must register and pay the required fee by **July 1, 2014**.

**Registration Fee:** The annual registration fee is \$275 for small businesses and \$2,600 for large businesses. Most petroleum marketers should qualify for the \$275 small business fee (see below).

**Registration Process:** Online registration is available at <http://phmsa.dot.gov/hazmat/registration>. Electronic registration allows registrants to download their operating certificate immediately.

**Multi-year Registration:** PHMSA allows one, two and three year registrations. As a result, not all current HAZMAT registrants will be required to re-register for the 2014-2015 registration cycle. Marketers should check their HAZMAT registration certificate for the date of expiration before attempting to register for the 2014-2015 registration period.

The following Q & A will assist in compliance:

**Q. 1. Who must register and pay the fee?**

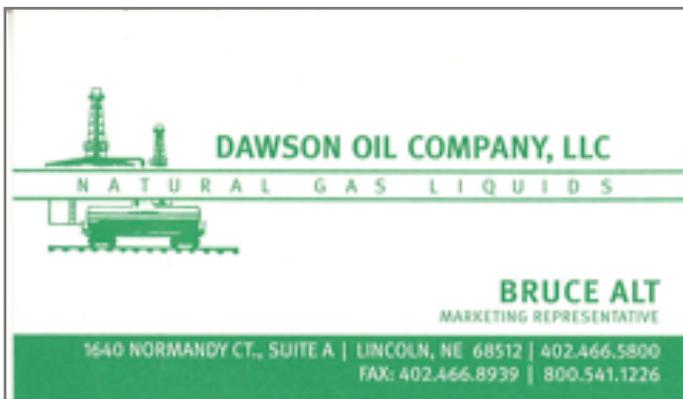
*A. Any business (intrastate or interstate) shipping hazardous materials requiring a U.S. DOT placard must register each year and pay the fee. Petroleum jobbers, common carriers of petroleum products, oil heat dealers and propane suppliers who ship their products in trucks must register and pay the fee.*

**Q. 2. What happens if I don't register?**

*A. If you fail to register by the deadline then you lose your authority to operate your trucks in both intrastate and interstate commerce. Your authority to operate is the certificate you receive from PHMSA once you register and pay the fee. A current certificate must be kept in the cab of each HAZMAT vehicle at all times. If you are subject to a roadside inspection or DOT audit and do not have a current certificate your authority to operate will be revoked and you could be fined up to \$32,500 per day of violation.*

**Q. 3. Why is the U.S. DOT collecting the fee?**

*A. The money collected from the registration program is given back to state emergency response authorities in the form of training grants for fire and police and emergency preparedness organizations.*



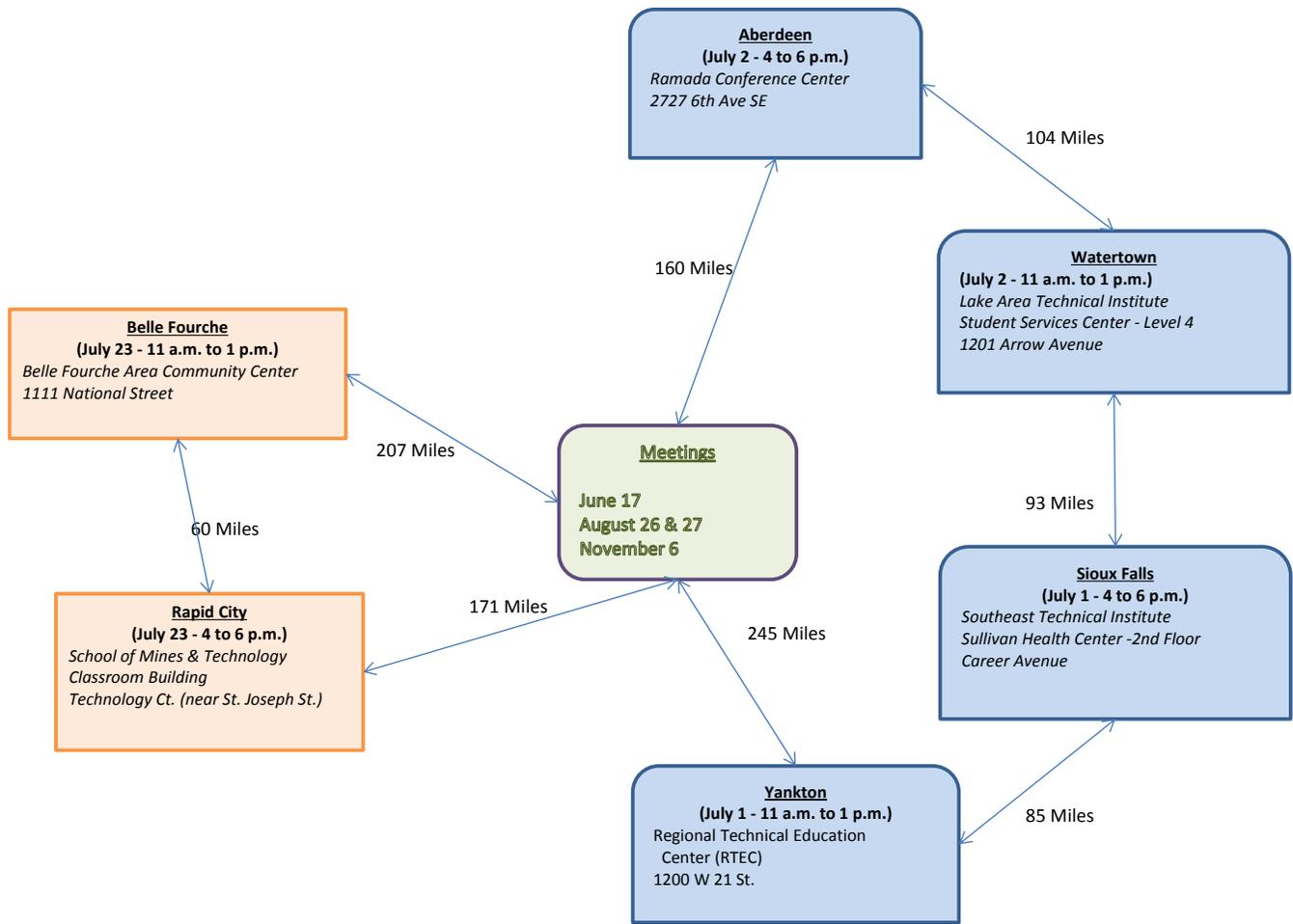
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# SD Transportation Summer Study

## Regional Meetings

The Highway Needs and Finance Committee is holding subgroup meetings in six locations in July to obtain public input on the problems and solutions for the state and local highways, roads, and bridges. Attached is a file that shows the date and locations for the subgroup meetings. Several committee members will be present at each subgroup meeting location. More information on the committee may be found on the LRC website under the Highway Needs and Financing Committee: <http://legis.sd.gov/interim/Interim.aspx?Session=Eighty-Ninth>

We encourage you and your members to attend one of the subgroup meetings to voice their problems and solutions.



SDP<sub>2</sub>MA Annual Convention  
September 23-24, 2014  
The Lodge - Deadwood, SD

# NPGA News

## Supply Planning Resources Available

NPGA's Supply and Infrastructure Task Force produced a white paper with suggestions for marketers on the topic of supply planning. Approved by the Board of Directors on June 2, the white paper provides several recommendations and issues to consider as marketers prepare for the upcoming winter heating season. [Click here to download.](#)

The white paper emphasizes that there are no "one size fits all" type solutions to the problems that occurred in the winter of 2013-2014 and that all propane supply planning must be customized to each marketer's region, sources of supply, customer base, and numerous other factors. Importantly, the white paper does not include industry requirements, technical instructions, standards of care, or legal advice.

## National Fuel Gas Code Challenges

The 2015 edition of the NFPA 54/ANSI Z223.1 National Fuel Gas Code was presented to the NFPA membership for approval last week in Las Vegas and two motions were made to amend the code. In addition, NFPA 59 Utility LP-Gas Plant Code was presented to the membership and adopted with no modifications made.

The first proposed amendment to the fuel gas code was to include the use of a specific corrugated stainless steel tubing (CSST) product that the manufacturers claim could be installed without the use of an electrical bonding jumper to the building's grounding system. The specific material that was discussed is a black jacketed material described as an "arc-resistant" product that dissipates electrical energy imparted by "high voltage transient events" such as nearby lightning strikes. The supporting statements indicate that the jacket material can "disrupt the focus of the arc" and reduce the energy level caused by the voltage spike to something less than that required to create a hole in the tubing wall.

After the testimony concluded, the NFPA membership voted to uphold the committee's action and deny the motion for amendment. Therefore, the code will still require electrical bonding for all installations of CSST.

The second amendment proposed for the fuel gas code was to strike language that the committee approved, which would require that for existing appliance installations, any time that a building envelope component was replaced or altered (other than roofing material), the fuel gas appliance installation must be inspected to verify compliance with the code requirements for combustion and ventilation air, as well as the proper venting of the appliance. Several arguments were presented against adopting such a provision, including consideration of the practical aspects of trying to enforce this requirement. The NFPA membership sided with those who to do away with the requirement and voted to strike that new text from the code.

The 2015 edition of the National Fuel Gas Code is expected to be available in August.



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# Jerry Brick from North Star Energy Named NPGA Treasurer

WASHINGTON, DC – The Board of Directors of the National Propane Gas Association (NPGA) has elected Jerry Brick of North Star Energy LLC in Aberdeen, SD, as the organization’s national treasurer. Brick has served in a variety of leadership positions with the organization, including the Executive Committee, Governmental Affairs



Committee, Member Services Committee, and issue specific task forces. In his role as treasurer, Brick will be responsible for overseeing the organization’s budget and finances.

Brick joins a distinguished slate of national officers. NPGA elevated David Lugar (Amerigas) to the position of Chairman of the Board; Charlie Ory (Aero Propane Gas Co.) was elected as Chairman Elect; and Stuart Weidie (Blossman Gas, Inc.) was elected Vice Chairman. Each officer will serve a one year term in their positions, and Gary France (France Propane Service) became Immediate Past Chairman.

Rick Roldan, NPGA’s President and CEO said, “I’m looking forward to working with this group of officers as the industry grows and adapts to changing energy market dynamics. Each officer brings a unique skill set to the industry and I’m confident that all of NPGA’s members will benefit from their expertise.”

	
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**Q. 4. How Do I know my registration is current or not?**

A. Registration status may be checked on line by logging onto: [the DOT.Gov lookup site](#). Enter either your company name, U.S. DOT number or zip code in the data fields provided to check whether your HAZMAT registration certificate is current.

**Q. 5. How do I register?**

A. *span>* There are two ways to register. First you may mail in a paper registration form to PHMSA. A registration form and instructions can be downloaded at <http://hazmat.dot.gov/regs/register/register.htm>. You may also register online at <http://hazmat.dot.gov/regs/register/register.htm>. On-line registration allows you to register, pay the fee and download your operating certificate.

**Q. 6. When is the HAZMAT registration deadline?**

A. July 1, 2014 is the registration deadline for all new and expiring hazardous materials registration certificates.

**Q. 7. What should I do with registration certificate once I receive it?*span>* <**

A. Keep the original certificate in your files and place a photocopy in the cab of each HAZMAT placarded vehicle by July 1, 2014

**Q. 8. How much is the annual HAZMAT registration fee?:**

A. The annual registration fee is based business size. For registration year 2014-2015, the fee for small businesses is \$275 for one year; \$525 for two years (2014-2016) and \$775 for three years (2014-2017). For registration year 2014-2015, the fee for large businesses is \$2,600 for one year.

**Q. 9. How do I determine the size of my business so I know which fee to pay?**

A. It is very likely that your business qualifies for the **lower** registration fee. Determining size is left up to the company applying for the registration certificate. PHMSA follows Small Business Administration (SBA) size categories to classify whether a business is large or small for the purposes of determining the amount of the annual registration fee. The SBA determines business size according to NAICS (North American Industrial Classification System) codes based on either the number of employees in the company or on annual gross receipts. The following NAICS codes and size criteria apply when calculating which fee to pay:

**NAICS CODE 424710 - Petroleum Bulk Stations or Terminals:** Petroleum marketers in this category are considered small businesses and must pay the \$275 fee if the company employs fewer than 100 employees.

**NAICS CODE 424720 - Petroleum and Petroleum Product Wholesalers (no bulk storage):** Petroleum marketers in this category are considered small businesses and must pay the \$275 fee if the company employs fewer than 100 employees.

**NAICS CODE 454311 - Heating Oil Dealers:** Heating oil dealers in this category are considered small businesses and must pay the \$275 fee if the company employs fewer than 50 employees.

**JOHN HEPLER**  
ENERGY ACCOUNT MANAGER

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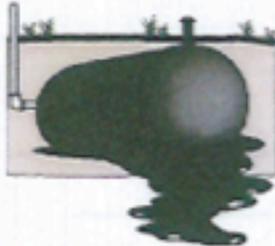
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# Abandoned Tank Removal Program

## Why should I consider getting my tank removed?



Tanks should be removed for two reasons. First, as tanks corrode, any petroleum that may still be in them will leak into our state's ground water. One gallon of gasoline has the potential to render one million gallons of water undrinkable. Leaks from tanks can also contaminate soil around the tanks and cause unhealthy gasoline vapors to seep into basements of private homes and businesses. Since these tanks are buried under several feet of soil, these problems can go unnoticed for years.

Second, the longer these old tanks remain in the ground, the more corroded they become. As the tanks become more corroded, there is an increased risk of the tank collapsing, and someone, or something, falling into the hole or tank.

## What tanks will the state remove?

The state wants to remove every out-of-service underground storage tank that was used to store a petroleum product. Examples of petroleum products are gasoline, diesel, fuel oil, aviation fuel, waste oil, etc. The state will not remove petroleum tanks that may be inaccessible, such as beneath a building. The free tank removals do not apply to tanks that were in service for the sale of petroleum fuels on or after April 1, 1988. Also, non-petroleum tanks such as propane tanks, cisterns, and septic tanks are not eligible under this program.

## How are the tanks removed?

All you need to do is give the state permission to dig up your tanks and do any necessary cleanup. After you give your permission, the Department of Environment and Natural Resources (DENR) will hire private contractors to remove any remaining product from the tank, remove the tank, and test the soil. The contractor will also remove piping and contaminated backfill around the tank. The contractor then fills the hole. The state pays for all the costs associated with removing the tanks from your property and any additional cleanup that is needed. However, the state does not pay to have the site resurfaced with new pavement, concrete, gravel, or grass.

## What does the program cost me?

The best news associated with this program is that with the exception of resurfacing costs, it is free to the landowner! This is an opportunity that you cannot pass up if you own property with eligible underground storage tanks that are no longer in service.

The program is funded by DENR's Petroleum Release Compensation Fund (PRCF). This is a fund created in part to address environmental problems associated with spills from tanks. The money comes from a tank inspection fee imposed on wholesale distributors of petroleum fuels.

## Is there a lien placed on my property by the state?

The answer is NO! When the program was first approved by the 2000 Legislature, the state was required to place a lien on the property for five years. However, a bill was introduced during the 2001 legislative session to eliminate the lien. The bill was approved by the legislature and, because of an emergency clause on the bill, went into effect immediately after it was signed.

## How do I give my permission to have my tanks removed?

All you need to do is fill out the Tank Removal Form on the reverse of this sheet and return it to the address at the top of the form.

## If I have questions, how can I get more information?

- Visit <http://denr.sd.gov/TankYank>
- Call the Abandoned Tank Removal Program at (605) 773-3296;
- E-mail at [DENRINTERNET@state.sd.us](mailto:DENRINTERNET@state.sd.us); or
- Write to: Abandoned Tank Removal Program, Department of Environment and Natural Resources, 523 E. Capitol Avenue, Pierre, SD 57501



**Get Your Abandoned Underground Petroleum Tanks Removed for FREE!!**

## News from NACS

### Consumers May Have to Wait for more Secure Credit Cards

New report estimates that 30% of credit cards, and twice that of debit cards, will not be EMV compliant by 2015.

BOSTON – Despite the hacking theft of some 40 million debit and credit card numbers from Target Corp. last year, most banks say they are not yet ready to begin large-scale distribution of the more secure cards that are common in Europe, according to a [Boston Globe article](#).

Card issuers have said the Target breach has spurred them to work harder to meet an October 2015 deadline to replace the current cards with ones whose microchips generate unique codes for every transaction. So-called chip cards — also known as smart cards and EMV cards — make it more difficult for thieves to make and use fake cards, although they do not secure the cards against data breaches. (For more on data security, read “[Half Covered](#)” in the May issue of *NACS Magazine*.)

But, in a new report by Boston-based consultancy, Aite Group, they estimate that 30% of credit cards and nearly 60% of debit cards will not have the new technology by October 2015.

After that date, the payment processors Visa and MasterCard have said, any card issuer or retailer that has not adopted the new technology will [foot the bill for any fraudulent transaction](#) that could have been prevented by EMV chips.

It’s disappointing, because consumers needed more secure payments technology yesterday, not tomorrow,” Christina Tetreault, a staff attorney for Consumers Union advocacy group, told the Boston Globe. [Aite Group’s report](#), released earlier this week, included interviews with 18 of the top 40 credit card issuers in the United States. Only one of the seven largest card issuers surveyed by Aite said it was planning to have all of its cards embedded with EMV technology by October 2015.

Aite Group also analyzed conditions in

five countries that have made the switch to EMV cards and found that fraud committed with counterfeit cards has dropped by about half. However, EMV technology has not curbed theft in one important area: purchases made online. There, Aite found that fraud is on the rise around the world, even in countries with chip cards.

### Fuel Economy Standards Drive Down Projected Gasoline Use

Demand for diesel fuel expected to rise, with increasing heavy-duty vehicle use.

WASHINGTON – According to the U.S. Energy Information Administration's (EIA) Annual Energy Outlook 2014 (AEO2014), more-stringent vehicle fuel economy standards will contribute to a decline in motor gasoline consumption through 2040. At the same time, growth in heavy-duty vehicle miles traveled is

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# SDP<sub>2</sub>MA Endorses worldpay

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# 2014 Training Programs

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## 2014 Class Schedule

### **Basic Principles**

Jan. 7-8 Pierre  
 March 4-5 Aberdeen  
 May 6-7 Rapid City  
 July 8-9 Sioux Falls  
 September 22-23 Deadwood  
 November 4-5 Mitchell

### **Bobtail Delivery**

Feb. 4-6 Pierre  
 April 8-10 Aberdeen  
 June 10-12 Rapid City  
 August 5-7 Sioux Falls  
 October 7-9 Rapid City  
 December 2-4 Mitchell

### **4.1 Distribution Systems**

May 20-22 Rapid City  
 July 22-24 Mitchell

### **4.2 Distribution Systems**

June 17-19 Rapid City  
 August 19-21 Mitchell

### **Plant Operations**

July 29-31 Mitchell

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## 2014 - Locations

March 25 Sioux Falls Ramkota (1 -5 pm)  
 March 26 Aberdeen - Dakota Event Center  
 March 27 Mobridge Wrangler Inn  
  
 June 10 Rapid City Ramkota (8 am - 12 noon)  
 June 10 Rapid City Ramkota (1 - 5 pm)  
 June 11 Mitchell Highlands Conference Center

**All other seminars 8 am to noon.**

September 25 Deadwood - The Lodge  
 September 26 Pierre Club House Inn  
  
 November 18 Rapid City Ramkota  
 November 19 Sioux Falls Ramkota

To register: <http://denr.sd.gov/des/gw/tanks/TankOperatorTraining.aspx>

Orange indicates completed training courses.



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greater than those vehicles' fuel economy, contributing to rising diesel fuel demand.

One of the primary drivers of the decrease in motor gasoline consumption is more stringent fuel economy standards that, based on National Highway Transportation Safety Administration (NHTSA) estimates, will require new light-duty vehicles to average about 49 miles per gallon by the 2025 model year (compared to the current compliance estimate of about 33 miles per gallon in 2012). While vehicle miles traveled (VMT) are expected to increase overall, ostensibly leading to increased fuel consumption, in fact, higher fuel efficiency standards more than offset this increase to result in an overall decline in motor gasoline consumption.

In contrast to the projected decline in gasoline use, a strong increase in heavy-duty vehicle use leads to an increase in consumption of diesel fuel. New refinery projects are expected to focus on shifting production from gasoline to distillate fuels to

meet growing domestic and global demand for diesel. In addition to meeting domestic demand, refineries continue to export finished products to international markets.

### Comment Period Extended for FDA's Proposed E-Cigarette Rules

Public submissions will be accepted until August 8.

WASHINGTON – The Food and Drug Administration's (FDA) Center for Tobacco Products (CTP) has announced an extension of the comment period on the agency's proposed deeming regulations. The public will now have August 8 to submit written or electronic comments on the proposal. Comments can be submitted electronically at [www.regulations.gov](http://www.regulations.gov).

Released in April, the [FDA's proposed rule](#) would prevent minors from purchasing e-cigarettes and give the agency authority over e-cigarettes, cigars, pipe tobacco, nicotine gels, hookah and dissolvables. The FDA proposes including the additional items in several provisions that apply to regulated tobacco products, such as age and identification requirements to restrict sales to youths under 18 and prohibitions on free samples and vending machine sales.

In March, NACS issued [a statement of position](#) that encourages stores selling e-cigarettes to adopt, as a best practice, a policy of treating these products as age-restricted, subjecting them to the same age-verification procedures as those applicable to tobacco products.

The proposed rule does not include restrictions on online sales or television advertising. The FDA is also not banning flavoring, as many cigars and e-cigarette products come in flavors such as peach and cherry. Such restrictions would require separate rulemaking.

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# SUMMONS

State

County

Employee,

Plaintiff,

vs.

Your Company,

Defendant.

Call  
Employment  
Lawyer!!!

THIS SUMMONS IS DIRECTED TO THE BUSINESS OWNER.

1. **YOU ARE BEING SUED.** The Plaintiff has alleged that she was harassed in the workplace. Plaintiff's Complaint against you is attached to this summons. Do not throw these papers away that affect your rights. You must respond to this lawsuit even though it is not your fault. You must file a response to this summons with the court file number on this summons.

## Who's Keeping You Out of Court?

Every employer, no matter what size, has to deal with human resource issues, regulations, and employment law changes. Contact your local marketing representative to learn how you can gain complimentary, unlimited access to independent employment law attorneys who provide state-specific legal advice on your employment-related questions.

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