SD OIL & LP GAS CHRONICLE NEWS

March 2013 Newsletter

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

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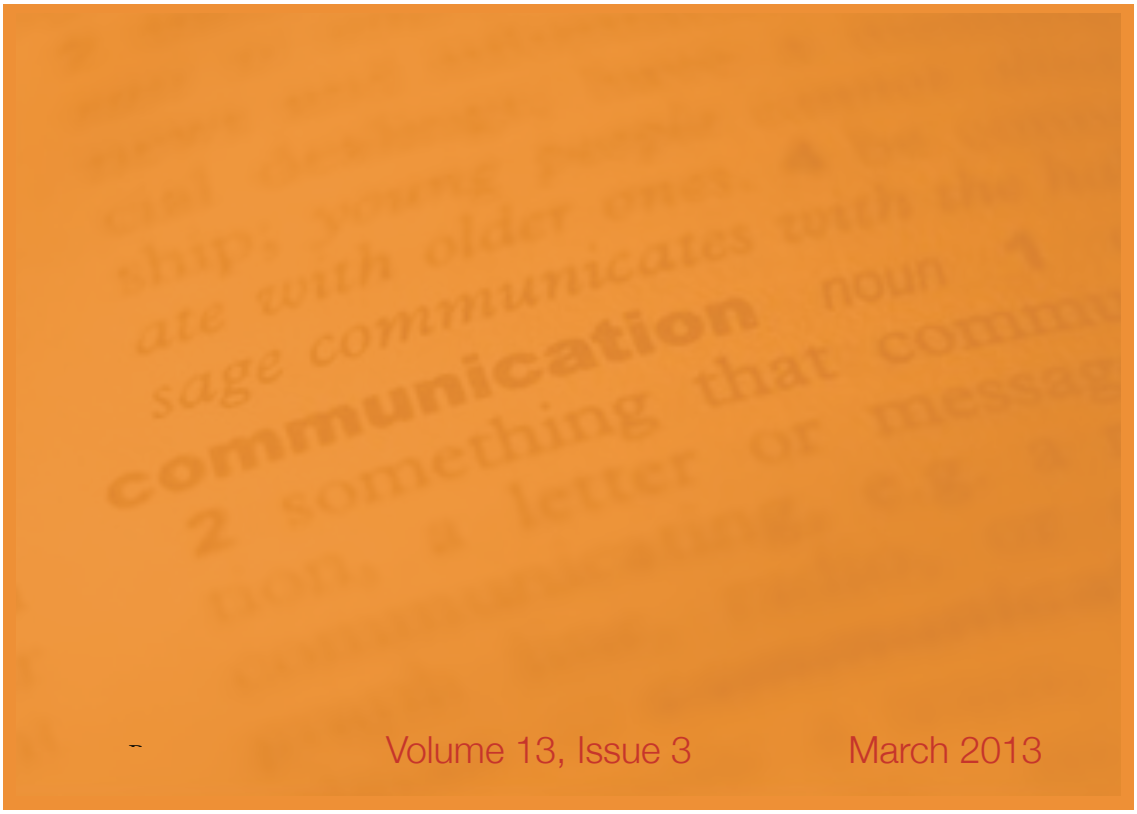

Volume 13, Issue 3 March 2013

Association website getting a new look
Watch for email alert

The South Dakota Petroleum and Propane Marketers Association is getting a new look.

By mid-April 2013, the association's new and updated website will be ready for use by association members. The website will feature a reference library of past newsletters and articles, guidance documents from both state and federal agencies, downloadable registration forms, on line registration, a member password protected section containing the association directory, documents, articles, and archives and many other features.

This new updated web site is will continue to add features over the remainder of 2013. The goal of the new web site will be to give members information, industry updates, compliance documents, continuing education information and registration, convention information and registration, and easy access to important tools for your business all in one place.

Along with the new website will be a new and fresh logo for the association.

Look for an email in the next couple of weeks!

PMAA News
Update from Washington, DC

FARMERS SECURE FOUR MONTH SPCC DELAY

This week, the House and Senate averted a government shutdown by approving a continuing resolution (CR) which funds the federal government through October 1, 2013. The bill passed 318 – 109 and the President is expected to sign the CR.

Although there were nearly 100 Senate amendments pending to the CR, only a few were considered and approved. One amendment, adopted by voice vote, will delay SPCC compliance deadlines for farmers. The amendment prevents funds from being used through Fiscal Year 2013 to implement requirements of EPA's SPCC rule slated to go into effect on May 10, 2013 for farmers. The rule requires them to hire a certified professional engineer to design a SPCC plan and have secondary containment installed. As petroleum marketers well know, the SPCC rule is applicable to any facility, including farms, with an aggregate above-ground oil storage capacity of 1,320 gallons in tanks of 55 gallons or greater.

DOMESTIC FUELS ACT REINTRODUCED

Last week, Rep. John Shimkus (R-IL), Chairman of the House Subcommittee on Environment and the Economy, introduced the "Domestic Fuels Act of 2013" (H.R. 1214), which is designed to provide more legal and regulatory certainty to retailers wanting to sell EPA-approved fuels including E15. H.R. 1214 is similar to legislation introduced last Congress.

The legislation would give the EPA Administrator the authority to issue guidelines to determine whether new and existing underground storage tanks and dispensing equipment are compatible with EPA-approved fuels. It also provides misfueling protection for retailers who abide by EPA's E15 labeling requirements. For instance, if a motorist ignores the labels and fuels a 2000 model year or older vehicle with E15, the retailer would not be held liable if he/she correctly has the E15 label in place. The legislation satisfies this concern, so that retailers can offer E15 with more confidence. Secondly, a retailer storing and dispensing E15 in equipment that satisfies EPA's compatibility requirements will have additional confidence that the infrastructure will perform satisfactorily.

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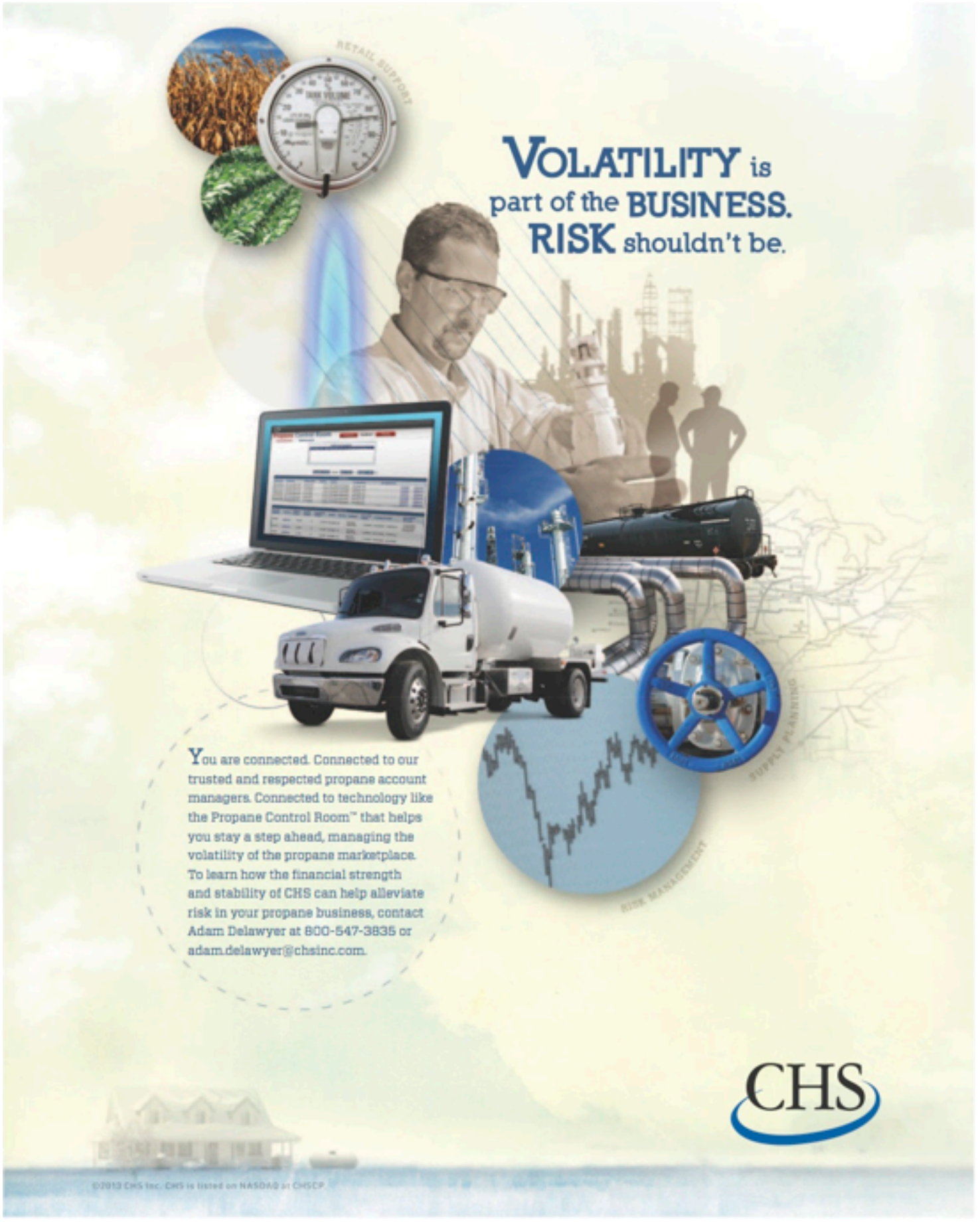
Annual Convention and Expo

September 17-18, 2013

The Lodge

Deadwood, SD



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CHS

PMAA Regulatory Update
US Citizenship and Immigration Service

SUBJECT:	***U.S. Citizenship and Immigration Service***
ISSUE:	***New Form I-9 Employment Eligibility Verification Issued***
PMAA CONTACT:	***Mark S. Morgan, Regulatory Counsel - mmorgan@pmaa.org***
DATE:	***March 25, 2013***

EXECUTIVE SUMMARY: The U.S. Citizenship and Immigration Services (USCIS) recently issued a new Form I-9 that all employers must use to verify employee eligibility to work in the United States. The I-9 form is required for new hires and employees with expiring employment authorization documentation.

REVISED MANDATORY EMPLOYMENT ELIGIBILITY VERIFICATION FORM I-9 ISSUED

The U.S. Citizenship and Immigration Services (USCIS) recently issued a new and revised Form I-9 Employment Eligibility Verification that employers must use to verify employees eligibility for employment in the United States. Employers are required to complete a Form I-9 for every employee hired – both citizen and non-citizen. The I-9 Form has been reformatted and expanded from one page to two and includes additional data fields. The instructions have been revised and written in plain English style so that they are more user friendly for both employees and employers. The new form replaces all previous I-9 forms and is available for immediate use. The previous edition of Form I-9 (OMB control number expiration date of August 31, 2012) will remain valid until May 7, 2013. After May 7, 2013, only the new Form I-9 (Rev. 03/08/13) may be used for new hires and for reverification of current employees with expiring employment authorization documentation.

USCIS also updated its *Handbook for Employers, Guidance for Completing Form I-9*, the companion instruction booklet for the I-9 process. The new M-274 employer's handbook, revised Form I-9, and a list of acceptable documents employers must use for employment eligibility verification are available on the USCIS' website.

The new Form I-9 and List of Acceptable Documents are available on USCIS' web site in English and Spanish. The Spanish version of the Form may only be executed by employers in Puerto Rico. Employers in the 50 states, Washington, DC, and other U.S. territories may use the Spanish version of the Form only as a translation guide and must complete the English version of the Form.

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Senate legislation hasn't been introduced this Congress, but is expected later this year. Until H.R. 1214 is signed into law, PMAA believes E15 sales will be minimal due to the potential legal and regulatory consequences.

GROUPS URGE SUPREME COURT TO CONSIDER E15 CASE

On March 26, 2013, the Alliance of Automobile Manufacturers, the Outdoor Power Equipment Institute and like-minded associations urged the U.S. Supreme Court to take up a case challenging EPA's approval to allow E15 in 2001 and newer vehicles. Last summer, the U.S. Court of Appeals for the District of Columbia Circuit said the groups lacked legal standing to pursue a challenge to EPA's approval of E15 and recently denied a request to rehear the case. In February, the American Petroleum Institute (API) and the Grocery Manufacturers Association along with seven other associations filed a similar request to the Supreme Court to take up the case.

The groups claimed that EPA's E15 approval would harm their members. Auto groups said that E15 would damage engines and potentially void warranties. API agrees with the car makers and has liability, safety and infrastructure concerns about E15 as well. Food groups argued that E15 would require more corn crop to be diverted to ethanol production which would increase the cost of corn, and, ultimately, the cost of food.

The Appeals Court dismissed their arguments on the basis that EPA's E15 approval is not a mandate, but simply permits them to offer the fuel.

IRS ACCEPTING ELECTRONIC FILINGS ONCE AGAIN FOR MOTOR FUEL EXCISE TAX RELATED CLAIMS

The Internal Revenue Service announced today that it has finished updating its tax-processing system software allowing business and individual taxpayers to once again electronically file 2012 federal motor fuel excise tax returns, biodiesel credit claims as well as alternative fuel and alternative fuel mixture credits and income tax returns.

The IRS ceased the electronic filing option due to changes required by the American Taxpayers Relief Act passed by Congress in January. In the interim, claimants were required to file paper returns which created delay in processing motor fuel tax related claims. Over the weekend, the IRS completed reprogramming and testing of its systems for tax-year 2012 including all remaining updates required by the American Taxpayer Relief Act.

Please contact Mark S. Morgan, PMAA Regulatory Counsel, for any questions related to this change.

PMAA
THE PETROLEUM MARKETERS ASSOCIATION OF AMERICA

NPGA News from Washington, DC

Congress Questions Department of Energy on Natural Gas Exports

The House Oversight and Government Reform Subcommittee on Energy Policy and Entitlements held a hearing on natural gas exports. The representative from the U.S. Department of Energy (DOE) testified on the Department's on-going review of public comments on the matter but stopped short of providing any definitive timeline or insights into DOE's mindset or path moving forward.

The Subcommittee also heard testimony from academics supportive of opening exports, and from Industrial Energy Consumers of America, which was opposed. A majority of the Subcommittee members - Democrats and Republicans alike - criticized continuation of the limits on natural gas exports, and voiced concerns about the impacts of prolonged market uncertainty and artificial continuation of high natural gas inventories which discourages development and encourages waste.

The stakes in this issue are high, with ramifications likely to spread through all economic sectors both domestically and internationally. DOE has received up to 200,000 public comments on natural gas exporting, and is committed to sifting through them all. While Congress and the public are itching for an answer, NPGA expects DOE to take its time on this one.

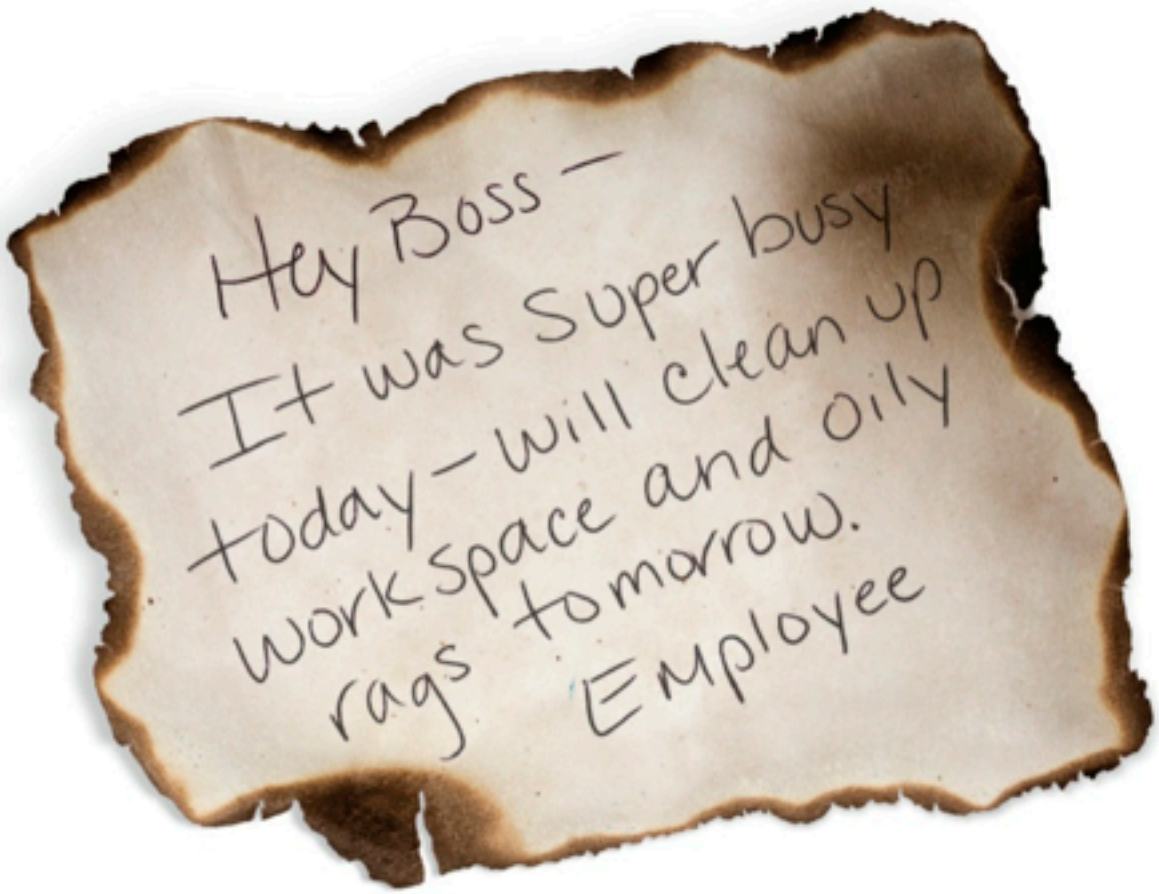
NFPA Amendment Facilitates Greater Use of Propane Powered Stationary Generators

The NFPA Standards Council passed a Tentative Interim Amendment (TIA) to NFPA 58 at its last meeting.

The amendment was made to accommodate the use of stationary generators operating on propane. This is a growing market for the industry and becoming more important for customers, as many are faced with power outages due to natural events such as hurricanes and ice storms. The TIA was overwhelmingly supported by the NFPA Technical Committee on Liquefied Petroleum Gases, aiding its approval by the NFPA Standards Council.

The issue boiled down to a fairly recent requirement that appears in Paragraph 11.3.2.1 of the 2011 edition of NFPA 58. All containers used for "engine fuel" constructed after April 2001 are required to be designed for a maximum allowable working pressure of 312 psig. The intent of this requirement when it was inserted into the code in 2001 was not only to provide a stronger container for motor vehicle service, but also to permit higher pressure settings for relief valves, to reduce the threat of product discharge due to the elevated temperatures that may result while being exposed to hot pavement and other heat producing equipment.

The scope of Chapter 11 in the 2001 edition states that the chapter applies to all engine fuel systems, including those in motor vehicles, agricultural pumping systems, and stationary installations such as for generator applications. Because containers serving stationary installations are not typically exposed to the same hazards or the potential for elevated temperatures that motor vehicle systems might be, the NFPA Technical Committee determined that there was really no justification for requiring those containers to be designed for a 312 psig maximum working pressure. This action will enable stationary generators installed at customer sites to utilize typical stationary ASME 250 psig containers or exchange cylinders to provide fuel to the generator.



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Swipe Fee Settlement
Credit Card Appeal Delayed Until Fall

The U.S. Court of Appeals for the Second Court has ruled that an appeal of the proposed swipe fee settlement that was **announced July 13, 2012**, should wait until after objections to the settlement are filed and heard in September 2013.

The majority of named plaintiffs — including NACS — and approximately 1,200 additional merchants, oppose the proposed settlement and retailer groups have filed papers objecting to preliminary approval of the proposed settlement.

The Court's decision means that settlement notices to retailers across the country can continue to be distributed, and that retailers will have the opportunity to opt out of the monetary portion of the case and/or object to the proposed settlement before it goes to a fairness hearing this fall. Unless the proposed settlement is rejected, retailers will be forced to accept the inadequate rules changes and give the credit card industry the unbounded ability to abuse retailers in the future.

"The court's decision to delay an appeal will motivate more retailers to oppose this proposed settlement," said NACS Chairman Dave Carpenter, president and CEO of J.D. Carpenter Companies Inc. "The proposed settlement does little to address the broken system and could, in fact, make it worse. The courts ultimately cannot let that stand against the will of retailers."

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News from NACS

EPA Report Shows Gains in Fuel Economy

WASHINGTON – The U.S. Environmental Protection Agency (EPA) released its annual report on Friday that tracks the fuel economy of vehicles sold in the United States, underscoring the major increases made in the efficiency of the vehicles Americans drive, reducing oil consumption and cutting carbon emissions.

According to the report, EPA estimates that between 2007 and 2012 fuel economy values increased by 16% while carbon dioxide (CO2) emissions have decreased by 13%, and in 2012 alone the report indicates a significant one year increase of 1.4 miles per gallon (mpg) for cars and trucks.

"Today's report shows that we are making strides toward saving families money at the pump, reducing greenhouse gas emissions and cleaning up the air we breathe," said Gina McCarthy, assistant administrator for EPA's Office of Air and Radiation.

The expected 1.4-mpg improvement in 2012 is based on sales estimates provided to EPA by automakers. EPA's projections show a reduction in CO2 emissions to 374 grams per mile and an increase in average fuel economy to 23.8 mpg. These numbers represent the largest annual improvements since EPA began reporting on fuel economy.

Fuel economy is expected to continue improving significantly under the Obama administration's National Clean Car Program standards. The program will cut greenhouse gas emissions, double fuel economy standards by 2025, and by 2025 reduce oil consumption by more than 2 million barrels a day (as much as half of the oil imported from OPEC every day).

EPA's "**Light-Duty Automotive Technology, Carbon Dioxide Emissions, and Fuel Economy Trends: 1975 through 2012**" report attributes the improvements to the rapid adoption of more efficient technologies, the increasing number of high fuel economy choices for consumers, and the fact that many automakers are already selling vehicles that can meet more stringent future fuel economy and greenhouse gas emissions standards.

The report indicates that the projected gains for 2012 more than make up for a slight dip in fuel economy in 2011. Compared to five years ago, consumers have twice as many hybrid and diesel vehicle choices, a growing set of plug-in electric vehicle options, and a six-fold increase in the number of car models with combined city/highway fuel economy of 30 mpg or higher.

House Committee Examines "Blend Wall" Challenges

WASHINGTON – Launching a bipartisan review of the Renewable Fuels Standard (RFS), the House Energy and Commerce Committee released last week its first in a series of white papers that examine a number of issues emerging with the current system and solicit input from interested stakeholders.

Energy and Commerce Committee Chairman Fred Upton (R-MI), Ranking Member Henry A. Waxman (D-CA) and other committee members are leading the effort to review the law and its implementation.

"It has been more than five years since the RFS was last revised, and we now have a wealth of actual implementation experience with it," the white paper explains. "In some respects, the RFS has unfolded as expected, but in others it has not. Several implementation challenges have emerged that received little if any consideration prior to passage of the Energy Independence and Security Act of 2007. Furthermore, the overall energy landscape has changed since 2007. It is time to undertake an assessment of the RFS."

The white paper addresses the so-called "blend wall," the point at which adding the

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required volume of ethanol to gasoline supplies would result in ethanol blends that exceed 10%, which is the maximum ethanol content approved for sale for use in all vehicles. As gasoline demand has declined in recent years, and ethanol targets have continued to rise, the blend wall is approaching much faster than anticipated. The required volumes of ethanol as set by the RFS must now be added to a smaller-than-expected pool of gasoline, and many experts predict the 10% blend wall may be reached as soon as this year. While blends containing up to 10% ethanol (E-10) have long been used, refiners may need to start producing E15 to stay in compliance.

The approaching blend wall raises a number of issues for producers, refiners, auto manufacturers, and fuel retailers. The white paper examines these issues and poses a number of questions for discussion. The committee is requesting interested stakeholders to send responses to these questions by April 5, 2013.

Washington Report: Take Action on Menu Labeling and Fuels Reform

ALEXANDRIA, Va. – Building on the momentum from last week's Day on Capitol Hill event, NACS is encouraging the entire convenience and fuels retailing industry to write their member of the U.S. House of Representatives on two issues: **menu labeling** and **fuels liability reform**.

Menu Labeling

Draft regulations to enact nutritional labeling requirements would impose unreasonable burdens on many businesses, particularly convenience stores. New legislation, H.R. 1249 Commonsense Nutritional Disclosure Act, would ensure that the final regulations set reasonable standards and treat businesses according to their primary business activities.

Proposed FDA regulations would require chain restaurants, "similar retail food establishments," and vending machines with 20 or more locations to provide specific nutritional information, including calorie-counts on menus, menu boards and drive-thru boards. Self-service items such as buffets and salad bars must contain caloric information "adjacent" to the item. Retailers would have to provide additional nutrition information in writing upon request.

The draft regulations define "similar retail food establishments" as those in which 50% of the floor space (e.g., square footage) is devoted to selling food. This definition would include pre-packaged foods that already have nutritional labels. NACS believes that revenue — not floor space — is how the government should measure a business's primary activity and that floor space is an ambiguous standard prone to manipulation. Also, prepackaged food — which already contains nutritional information — should not be a part of this equation. Instead, the FDA should be looking only at food that is prepared on-site and intended for immediate consumption. H.R. 1249 would require that final regulations adhere to these criteria.

Ask your representatives to support H.R. 1249, the Common Sense Nutrition Disclosure Act, authored by Rep. Cathy McMorris Rodgers (R-WA). This legislation would apply menu-labeling provisions to locations where 50% or more of a store's revenues are from food that is: (a) intended for immediate consumption, or (b) prepared and processed on-site. Prepackaged food would not be considered in this solution. FDA would therefore be able to meet its goals of

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menu labeling under law without adding unnecessary costs to convenience stores.

NACS has provided a letter for you to send to your representatives asking them to support H.R. 1249, which you can also personalize and add specific information about your business. If your representative is already a co-sponsor of H.R. 1249 the NACS Grassroots system will automatically send a letter thanking them for their support. **Send a letter today**.

Fuels Liability Reform

Conflicting federal laws concurrently encourage and penalize retailers for selling new fuels. Recently introduced, H.R. 1214 Domestic Fuels Protection Act, will provide retailers the flexibility and legal protection to more effectively offer their customers new fuels.

Challenging the market is the enactment of the Renewable Fuels Standard (RFS), which mandates that 36 billion gallons of renewable fuels are sold by 2022. However, meeting this mandate will be near impossible to satisfy if retailers are only selling E10 and E85.

However, most retail fueling equipment in the marketplace today is only certified as compatible with E10 and not higher-blend fuels. To sell these higher blends and meet the RFS mandate, retailers would have to replace underground storage tanks, dispensers, nozzles — a very expensive endeavor. Retailers are also in the crosshairs of potential legal action if a consumer misfuels a vehicle that is not compatible with a higher-blend fuel such as E15.

NACS supports legislation that would provide fuel retailers with the opportunity to sell new fuels, such as E15, responsibly and lawfully and protect them from liability if another person misfuels an engine with a non-approved fuel.

Ask your representatives to support H.R. 1214, the Domestic Fuels Protection Act, authored by Rep. John Shimkus (R-IL). The "fuel neutral" bill would ensure that equipment that meets the Environmental Protection Agency's (EPA) equipment compatibility guidelines satisfy all applicable compatibility requirements, protect retailers from misfueling liability and prevent retroactive liability if a fuel sold today is later declared defective.

NACS has provided a letter for you to send to your representatives asking them to support H.R. 1214, which you can also personalize and add specific information about your business. **Send a letter today**.

2013 Training Programs

Certified Employee Training Program (CETP)

Please email the following address for registration forms for all classes: dawna@sdp2ma-sdacs.com or go online to www.sdp2ma-sdacs.com and find registration forms under the CETP tab.

2013 Class Schedule

Basic Principles (1.0)		**Propane Delivery (2.2/2.4)**	
March 5-6	Sioux Falls	April 2-4	Sioux Falls
May 7-8	Aberdeen	June 4-6	Aberdeen
July 9-10	Chamberlain	August 13-15	Chamberlain
September 16-17	Deadwood	October 8-10	Rapid City
November 5-6	Watertown	December 10-12	Watertown

3.0 Plant Operations	July 16-18	Mitchell
4.1 Distribution Systems	April 22-24	Mitchell
4.2 Distribution Systems	April 25-26	Mitchell

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UST Owner/Operator Training

The following classes will be offered to all UST owner/operators in 2013. These classes may be attended by new owner/operators/managers or anyone seeking to gain education about USTs.

March 11	Sioux Falls (1-5 PM)	Ramkota Hotel
March 12	Pierre	Club House Inn and Suites
March 13	Rapid City	Ramkota Hotel
June 11	Chamberlain	AmericInn
June 12	Watertown	Watertown Event Center/Ramkota
June 13	Yankton	The Kelly Inn
September 19	Deadwood	The Lodge
September 20	Aberdeen	Dakota Event Center
November 19	Rapid City	Ramkota Hotel
November 20	Sioux Falls	Ramkota Hotel

All others 8 am to noon.

To register go to: http://denr.sd.gov/denr.sd.gov

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"The court's decision to delay an appeal will motivate more retailers to oppose this proposed settlement," said NACS Chairman Dave Carpenter, president and CEO of J.D. Carpenter Companies Inc. "The proposed settlement does little to address the broken system and could, in fact, make it worse. The courts ultimately cannot let that stand against the will of retailers."

NACS believes the settlement is a bad deal for retailers, primarily because the relief it offers is inadequate and the release is overbroad. With the NACS board's approval, NACS has decided to object to and opt out of the settlement.

NACS is both opting out and objecting to the proposed settlement because it offers class members money damages of only about two months' worth of interchange and, among other things, limited modifications to Visa's and MasterCard's surcharging rules. Worse, the proposed settlement requires class members to release Visa and MasterCard from liability, forever, for *any* anticompetitive rules currently in place (including the interchange or swipe fee rules) and/or any "substantially similar rules" instituted at any time in the future.

Convenience retailers, including NACS member companies, *are not* covered by NACS' objection. Retailers must decide how to respond to the proposed settlement — **read more details**.

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"It is important to note that if you do nothing, it will be presumed by the court that you accept the terms of the proposed settlement," said NACS President and CEO Hank Armour "Even if you submitted a declaration objecting to the proposed settlement last fall, you must respond to the notice and submit something in writing again if you want to opt-out of or object to the proposed settlement."

Notices will be sent to retailers who accepted Visa and/or MasterCard at any time between January 1, 2004 and November 27, 2012.

Part of the proposed settlement already has taken effect. Beginning, January 27, 2013, retailers are allowed to **add fees** to try to recover the swipe fees they pay for credit card transactions. However, surcharges do not affect how swipe fees, the second-largest expense for most retailers, are set and merely make retailers the collection agents for the banks. Objections to the proposed deal from more than 1,200 retailers demonstrate that this is not what retailers want.

The named class plaintiffs opposing the proposed settlement of the case, which is known as "In Re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation," are NACS, Affiliated Foods Midwest, Coborn's Inc., D'Agostino Supermarkets, Jetro Holdings LLC, NATSO, National Community Pharmacists Association (NCPA), National Cooperative Grocers Association (NCGA), National Grocers Association (NGA) and National Restaurant Association (NRA).

"It is clear that this battle is far from over, and we need retailers to once again make their voices heard," said Carpenter. "It is in our best interests to stop this flawed proposal from being finalized."