SD OIL & LP GAS CHRONICLE NEWS

May 2017 Newsletter

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# Tax Reform Issues Center Stage Before Propane Days

On Tuesday, May 23, 2017, the House Ways & Means Committee held a hearing on tax reform that focused on the controversial Border Adjustability proposal (BAT). This topic has garnered significant attention since its inclusion in the House Republican tax blueprint that was released last year. Both proponents and opponents of its role in tax reform have been staking out positions as the tax reform debate has progressed. This hearing allowed for Members of the Committee to express their opinions on the topic, as well as hear from witnesses representing businesses and academia.

Since the beginning of this year, NPGA has engaged with Members of the Committee to share our tax reform priorities. As part of those conversations, NPGA has highlighted potential supply problems if a BAT were to be enacted and the economy not respond as proponents suggest it theoretically would. Of note to the propane industry is that without a full and immediate rise in the value of the dollar, there would be a price incentive to increase propane exports. This change in the marketplace could lead to supply problems. Also, without a full dollar value adjustment, propane imports from Canada would also be subject to higher prices, further hampering the domestic supply.

The BAT will continue to be a part of the tax reform discussions in Washington, so it is important that the propane industry share our thoughts on the proposal with Congress. Tax reform remains one of NPGA's top legislative issues and will be a focus of the Capitol Hill meetings at next month's Propane Days fly-in. If you have not already registered, please do so ***here.***

# NACS News
# Update from Washington, DC

## House Leadership Decides to Protect Debit Reform

*Plans to remove debit repeal from the Choice Act were announced.*

WASHINGTON – Politico is reporting that House Republicans are removing the repeal of debit swipe fee reform from H.R. 10, the Financial CHOICE Act, after facing significant pressure from members in the Republican conference. The repeal effort is the most controversial piece of the massive legislation aimed at repealing and reforming parts of the Dodd-Frank Wall Street Reform Act.

For nearly a year, the retail industry has opposed House Financial Services Chairman Jeb Hensarling's proposal to repeal the Durbin Amendment, which limited what the largest banks could charge in swipe fees and injected competition on swipe fees and network routing fees into the debit card market. NACS, along with other members of the Merchants Payments Coalition, have led the efforts to strip the repeal provision from the Financial CHOICE Act.

On May 24, House leadership began surveying members of their conference on the CHOICE Act, and it became clear that the votes were not there to pass the bill unless the repeal of debit reform was removed from the bill.

Politico reports, "House Republican leaders will drop language from a sweeping bank deregulation bill that would have eliminated a cap on debit card swipe fees, handing a major victory to retail lobbyists who spent months trying to kill the provision." "House Financial Services Committee Chairman Jeb Hensarling plans to offer a manager's amendment to remove the provision from the bill, which he wrote, committee spokesman Jeff Emerson said."

The announcement from the House Financial Services Committee is welcomed by NACS and the retail industry. We look forward to seeing the official language in the manager's amendment, and encourage members to continue to voice support for the debit reforms to your representatives until it is officially removed.

## Will Robots Take Over Retail Jobs?

*The automation wave will likely kick cashiers to the curb first.*

NEW YORK CITY – Retailers have long had self-checkout lanes, but lately, more are embracing other automatic technology, such as proximity beacons and robot shelf stockers. That means companies will need fewer employees in the near future, leaving up to 7.5 million jobs at risk in the United States, Fast Company reports. Currently, the retail industry employs around 10% of the total U.S. workforce.

"Labor productivity has been stagnant in the retail industry for a long time and now we're seeing minimum wage increases around the country and a tight labor market that's forcing up wages," said John Wilson, head of research at Cornerstone Capital. "That's putting pressure on companies to solve these problems at a time when a lot of these technologies are coming into play."

Wilson pointed out that cashiers—74% of whom are female—would likely be the first casualty in the automation wave. Retail salespeople would also be on the bubble, as more shoppers are turning to their smartphones for info about products and selections. "Smartphones have all kinds of information about the products you want to buy, so the need for salespeople is considerably less," he said.

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Already, Sally the robot makes salads, and a San Francisco café has a robot barista. The report, commissioned by Investor Responsibility Research Center Institute, found that areas likely to be targeted for automation already have higher unemployment rates. "Walmart and other large retailers have greater market share in communities with less than 500,000 people. … If employment trends correlate to market share location, retail automation by retailers could disproportionately impact these smaller communities," the report said.

## Retailers Bring Up E15 in Meetings on Capitol Hill

*Kwik Trip, Kum and Go and RaceTrac met with Congress to move legislation that would allow them to sell E15 year-round.*

WASHINGTON – This week, convenience retailers, including Kwik Trip, Kum and Go and RaceTrac, came to Washington to urge Congress to support legislation (S. 517) that would remove a regulatory barrier to sell E15 during the summer months.

The legislation, introduced in the Senate by Sen. Deb Fischer (R-NE) and in the House by Rep. Adrian Smith (R-NE), would give fuel blends containing greater than 10% ethanol a waiver from the Clean Air Act requirement that gasoline meet strict limits on volatility, as was done for E10. Without a waiver, E15 cannot be sold in most parts in the United States during the summer months, except in certain areas with air quality challenges.

The group shared that they want the ability to sell E15 to customers who want to buy E15 to fuel their vehicles, but in order to make the investment they need to be able to sell E15 year-round. This arbitrary regulatory obstacle is one of the major barriers in offering higher blends of renewable fuel into the marketplace.

As reported in several "inside the beltway" news outlets, Fischer garnered a commitment to hold a hearing to consider S. 517 from the chairman of the Senate Committee on Environment and Public Works, but no date has been given when this may occur.

# NPGA News
## News from Washington, DC

### Regulatory Reform Act Moves Forward

Legislation that would make changes to the Administrative Procedure Act (APA) is making its way to the Senate floor. The Regulatory Reform Act, authored by Senator Rob Portman (R-OH), received a favorable vote out of the Senate Homeland Security & Governmental Affairs Committee and is now ready for consideration by the entire Senate. The bill would require federal agencies to take additional measures for regulations that pose an economic impact above $100 million. The additional measures include consideration of at least three alternatives to the regulation and publication of technical data and modeling research utilized by the agency.

The legislation is championed by the U.S. Chamber of Commerce, which argues that these permanent changes to the APA would improve the regulatory process for stakeholders. The APA is the primary law governing how agencies engage the public, develop, and promulgate regulations. The legislation is available online here, and an opinion article by the U.S. Chamber of Commerce on the legislation is available here.

### Propane Marketers Call on Labor Secretary to Postpone OSHA Crane Rule

WASHINGTON, DC (May 8, 2017) – On behalf of the members of the National Propane Gas Association (NPGA), the organization called on newly confirmed U.S. Department of Labor Secretary Alexander Acosta to immediately delay the compliance deadline for certain provisions of the Crane and Derricks in Construction regulation. The current compliance deadline of November 10, 2017, is a three year extension of the initial deadline. OSHA intended to propose modifications to the crane operator certification component of the regulation during the extension, but the agency has failed to do so.

Rick Roldan, NPGA's President and CEO said, "OSHA has failed to hold up their end of the bargain during the last three years and provide modifications to the existing rule. The industry is depending on Secretary Acosta to take action and hold OSHA accountable." He continued, "NPGA requests that Secretary Acosta immediately postpone the compliance deadline by an additional three years and instruct the agency to reengage stakeholders in changing the regulation."

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NPGA has long-held objections to the regulation and its applicability to the propane industry. At the onset, NPGA challenged the regulation's relevance to propane tank delivery and subsequently argued for exclusion from the regulation. However, OSHA maintains that the regulation is activity-specific rather than industry-specific; therefore, the requirements of the regulation may cover some propane tank deliveries by articulating or mobile cranes.

Delaying this regulation is likely to be one of the main discussion topics during NPGA's annual fly-in, Propane Days, next month. Additionally, NPGA is preparing a White Paper detailing the requirements of the Crane and Derricks in Construction regulation as it is currently finalized.

## Employment Screening Trends and Pitfalls

Business in most industries continues its upward trajectory in 2017, and companies are hiring at a brisk pace. With the increased urgency in hiring, some companies have found it necessary to hire first, ask questions later. This can be risky. Employers should be aware of and minimize potential liability during their hiring process.

### Background Screening

Background checks can be useful to help employers make personnel decisions. An employer may, where appropriate, ask questions about an applicant's background or require a background check. But there are some risks involved. Implementing the following may help minimize those risks.

- Be sure to consult with your attorney, and **review and comply** with federal, state, and local laws regarding background checks, as many regulate this information. For example, the "Ban the Box" regulation limits the scope of verbal and/or application questions to help ensure people with criminal convictions have a fair chance to work. It may also define the timeframe during which background checks can be conducted.
- With the help of your attorney, create a **process** that clearly outlines the checks you order (e.g., motor vehicle records, credit checks, criminal checks, drug tests, etc.) and how this information will or won't be used in employment decisions.
- In all cases, make sure your actions are **consistent but not rigid**. Define your decision-making criteria but use good judgement in assessing a candidate's unique, individual circumstances. Treating candidates consistently helps reduce the potential for discrimination.

### Social Media

There is no question that social media is changing the way businesses work. The use of social media in the hiring process is becoming more common and can provide a better picture of a potential candidate. But, a person's online postings could contain many pieces of information that may be considered protected. For example, even a brief search could reveal:

- Age
- Sex/Sexual Orientation
- Race/Color/National Origin/Religion
- Disability/Pregnancy/Medical Conditions

Once you review a candidate's online profile, a court will likely assume you are aware of that person's protected characteristics. If you choose to include a social media review as part of your hiring process, here are some best practices to help reduce your risks:

- Use information available only to the public at large. Do not ask for passwords or attempt to "friend" candidates in order to access private information.
- Develop a policy that clearly outlines permitted uses of the information, sites you review, etc.
- Wait to do your search until after you've met the candidate in person.
- Be consistent—conduct the same searches at the same point in the process for every candidate.
- Ask your attorney whether you should print or save screen shots as documentation if you see something that you use in your hiring decision.
- Consider the source. There are things like cyber bullying and imposter social media accounts. You may want to give the candidate a chance to explain objectionable content.
- Be aware of and comply with federal and state laws that apply.

Keeping up on the latest trends and pitfalls in employee screening is prudent to successful hiring and hiring practices. For more information specific to your situation and state, log in to the Federated Employment Practices Network (FEPN) or consult qualified legal counsel. To learn more about FEPN, contact your local Federated marketing representative.


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# Trump's Budget Calls for Tolling, Rest Area Commercialization

***Administration's 2018 budget proposal would 'liberalize' current tolling policy and allow private investment in rest areas.***

May 25, 2017

WASHINGTON – This week the Trump administration released its 2018 budget proposal, which includes recommendations to change federal law on current tolling policy and allow for private investment in rest areas.

The White House fact sheet on the budget proposal states: "Tolling is generally restricted on Interstate highways. This restriction prevents public and private investment in such facilities. We should reduce this restriction and allow the states to assess their transportation needs and weigh the relative merits of tolling assets. The administration also supports allowing the private sector to construct, operate, and maintain Interstate rest areas, which are often overburden[ed] and inadequately maintained."

Although Congress passed the 5-year, $305 billion highway bill in late 2015, state departments of transportation continue searching for ways to increase highway investment, including revenue schemes that the federal government is prohibited from implementing, such as tolling and the sale of fuel or other commercial services at rest areas, known as rest area commercialization. Because truckstops and travel plazas typically are located within one-quarter mile of an Interstate exit, such revenue schemes would severely damage the nation's truckstop and travel plaza industry by putting exit-based businesses at a competitive disadvantage. Convenience retailers located near an interstate exit would face similar issues.

The Alliance for Toll-Free Interstates (ATFI), of which NACS is a member, is communicating to members of Congress its opposition to Trump's 2018 budget in respect to tolling:

"ATFI members have serious reservations about the potential for over-reliance on private investment to fund improvements to our highway infrastructure; such scenarios invariably lead to functional monopolies that subject users to exorbitant, regressive tolling rates. Moreover, private investment in infrastructure is not the panacea it is often touted to be, as self-interested private corporations would only focus on our most profitable (i.e. urban area) projects and leave rural states out in the cold. Finally, it would result in a windfall for companies participating in projects that would occur anyway, misdirecting much-needed funds away from deserving projects in other, often overlooked parts of the country."

While policymakers may believe that rest area commercialization would be an easy way for states to generate revenue, the fact is that it would jeopardize private businesses that for the last 50-plus years have operated under the current law and established locations at the highway exits. Due to their advantageous locations, state-owned commercial rest areas establish virtual monopolies on the sale of services to highway travelers.

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NACS continues to urge that Congress maintains the current prohibition on rest area commercialization, and that Congress must reject any attempt to weaken existing law on tolling existing federal highways. “While our industry supports having a well-maintained interstate highways system and investing in new infrastructure, we do not believe that tolling existing federal highways and commercializing rest stop areas is the answer,” said Paige Anderson, director of government relations at NACS. in response to the release of the Trump FY 2018 budget. “These recommendations have been debated in the past and were opposed by Congress, and we urge current congressional leaders to reject these proposals.”

NACS is part of a broad coalition of organizations that oppose rest area commercialization, including NATSO, which represents truckstops and travel centers and founded the coalition. Rest area commercialization transfers the point of sale away from the current competitive environment at highway exits to the sole business contractor that pays the largest amount to rent the location on the shoulder of the highway.

As more on this issue develops, NACS will update members via NACS Daily and through calls to action. If you would like more information, contact NACS Government Relations Director Paige Anderson at panderson@convenience.org.

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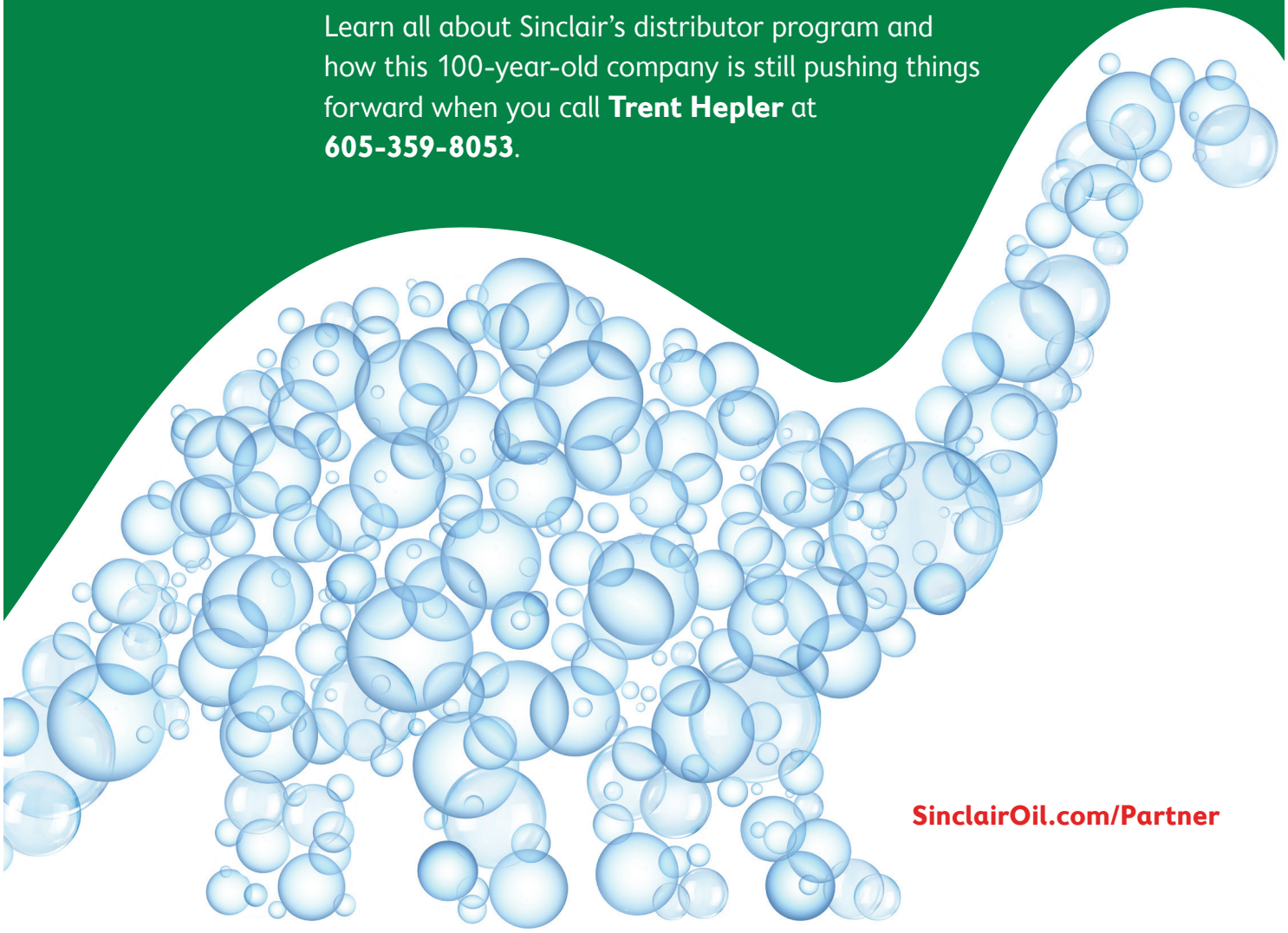

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# NPGA and PERC Leadership Address
## Supply Questions

Dear NPGA Member:

A recent ICF study reveals that propane production in the United States grew by 70 percent from 2009-2015 while retail demand slightly declined. However, as domestic production has risen, so have exports. With proper planning, we have adequate supply to meet the demand for our retail customers; but a number of factors must also be considered. For example, transportation, supply logistics, degree-day deviations, crop drying demand, exports and other variables now affect the supply available for our markets. In 2017, more than 10 billion gallons of propane will leave the United States and transportation resources are virtually unchanged from the winter of 2013/2014 leaving propane marketers to ask the question, "Will I have access to the propane I need to serve my customers?"

During the last few weeks, we have heard from many of you regarding concerns about propane supply for the upcoming 2017/2018 winter. These concerns are primarily driven by lower than normal National Storage inventory levels versus the prior year coupled with an increase in propane exports.

Today, we are writing to update you on the steps the National Propane Gas Association (NPGA) and the Propane Education and Research Council (PERC) are taking to improve the reliability of propane supply in the United States. However, it is incumbent for each marketer to work diligently to establish supply plans that can address seasons of peak demand. These actions are taking place at the Federal, State, and industry level and build upon lessons learned from the winter of 2013/2014, including Regional Supply Distribution influences.

### Federal Actions

- **Rail and pipeline prioritization**: NPGA is communicating with the Association of Oil Pipelines and the Association of American Railroads to ensure that during our peak usage times, product is flowing to key supply points around the United States.
- **Hours of Service:** NPGA is working with the U.S. Department of Transportation reviewing regional Hours-of-Service waivers and briefing new staff on the time-sensitive nature of these waivers.
- **Jones Act Waiver:** NPGA is laying the foundation for a waiver of the Jones Act of 1920 if needed and advocating for reform of the 1970's era Stafford Act outlining federal emergency response procedures.
- **EIA Data:** We are asking officials at the Energy Information Administration of the Department of Energy to expand their supply notifications to include exports in their "days of supply" calculations.

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## State Level

- **Regional Energy Office Communications**: At the state level, NPGA is coordinating communications with state energy officials and policy makers with the goal of educating state officials about regional propane supply factors. This effort is designed to build relationships with key decision makers in advance of the winter heating season.
- **NPGA Propane Supplier Section Communications:** NPGA Propane Supplier Section and Propane Supply & Logistics Committee experts will provide consultation support to State Executives and members to proactively seek state-level hours-of-service waivers if needed.
- **LIHEAP Funds Availability:** We are urging the appropriate officials to seek waivers to apply for and receive LIHEAP funds earlier in the season to facilitate early fills for low-income customers.

## Industry Level

We strongly urge all members to download the NPGA Supply and Infrastructure Task Force White Paper linked below. Key points in that document include working with your supplier and customers to prepare for the 2017/2018 winter. A successful winter heating season depends on collaboration and planning at every level.

- **Research and Data:** The Propane Education & Research Council will be updating and expanding its 2015 infrastructure study, revealing changes in how, when, and by what mechanisms propane is moving through the supply chain.
- **Evaluation of Strategic Propane Reserve**: NPGA will be collaborating with PERC on a study to determine the feasibility for potential strategic reserves based on regional dynamics.
- **NPGA Supply Updates:** Every month, NPGA posts an inventory outlook to its webpage. We encourage every marketer to review this information and start creating a plan.
- **Marketer Best Practices:** The NPGA Supply and Infrastructure Task Force White Paper helps educate marketers on the steps they could take to avoid a repeat of the winter of 2013/2014. The White Paper contains recommendations for both marketers and NPGA. This document recommends both policy initiatives and marketer actions that have a positive impact on providing a reliable energy source - propane - to U.S. consumers.
To download a copy, please visit: www.npga.org/NPGASupplyRecommendations.

We will continue to communicate with members on efforts to maintain to the reliable access to propane.

Sincerely,

Stuart Weidie, NPGA Chairman
Tom VanBuren, PERC Chairman
Rick Roldan, NPGA President & CEO
Roy Willis, PERC President & CEO

# Deadline Extended for NACS Scholarship Entries

## Now until June 9, retailers can nominate tomorrow's c-store leaders to receive a scholarship.

May 31, 2017

ALEXANDRIA, Va. – How can you encourage promising young workers to make convenience retailing their career? By recognizing these rising industry leaders by nominating them for a scholarship through the NACS Foundation.

The deadline has been extended until June 9 for retailers to invest in the development of their employees who show leadership potential—one of the smartest business decisions you can make. Many of today's convenience industry leaders got their start at the store level. Through hard work and a commitment to learning, these individuals followed their career paths to positions of senior leadership. The NACS Scholarship Program makes it possible for retailers to help support this journey.

The NACS Scholarship Program was established in 1991 to honor industry icons Jim Yates and David Erikson by providing a means for retail members to recognize, reward and develop top talent within their companies by investing in their employees' education and excellence. Since then, the program has awarded more than $400,000 in the form of scholarships to NACS retail member company employees who demonstrate leadership potential.

Each year, the NACS Foundation distributes up to 11 scholarships in the amount of $3,000 each to selected applicants for tuition costs toward undergraduate career education, community college or university. In addition, the 2017 scholarship recipients will also receive a stipend to attend this year's NACS Show in Chicago on October 17-20, where they will be recognized during a special evening ceremony and given a firsthand opportunity to learn more about exciting career paths in the industry.

The program is designed for college and university students—rising leaders who have demonstrated leadership potential within the convenience channel. **To be eligible for the scholarship, applicants must be current full- or part-time employees of a NACS retail member company and must also be enrolled for the fall 2017 semester at any accredited two- or four-year college, university or technical institution, and continue to be enrolled for the entire school year (2017-18).** See how the scholarships have helped past winners achieve their professional and personal dreams in this video.

**Companies may nominate multiple applicants for scholarships. The deadline to submit applications for the 2017-18 NACS Scholarship has been extended to Friday, June 9**. Award winners will be notified on or before June 30. Read more about the NACS Scholarship Program and download an

# 2017 Training Programs

## Certified Employee Training Program

| | | |
|---|---|---|
| January 3-4 | Basic Principles and Practices | Pierre |
| February 7-9 | 2.2/2.4 Propane Delivery | Pierre |
| March 7-8 | Basic Principles and Practices | Sioux Falls |
| April 4-6 | 2.2/2.4 Propane Delivery | Sioux Falls |
| May 2-3 | Basic Principles and Practices | Rapid City |
| June 6-8 | 2.2/2.4 Propane Delivery | Rapid City |
| July 11-12 | Basic Principles and Practices | Aberdeen |
| July 18-20 | 3.0 Basic Plant Operations | Mitchell |
| August 1-3 | 2.2/2.4 Propane Delivery | Aberdeen |
| August 15-17 | 4.1 Distribution Systems | Mitchell |
| August 29-30 | 4.2 Distribution Systems | Mitchell |
| September 25-26 | Basic Principles and Practices | Deadwood |
| October 10-12 | 2.2/2.4 Propane Delivery | Rapid City |
| November 1-2 | Basic Principles and Practices | Mitchell |
| December 5-7 | 2.2/2.4 Propane Delivery | Mitchell |

## UST Owner/Operator

### 2017 UST Owner/Operator Training

| | |
|---|---|
| March 21 | Yankton Kelly Inn |
| March 22 | Sioux Falls Ramkota |
| March 23 | Rapid City Ramkota |
| May 3 | Rapid City Ramkota |
| May 4 | Pierre – Location TBA |
| Sept 5 | Sioux Falls Ramkota |
| Sept 6 | Watertown Event Center |
| Sept 7 | Aberdeen Ramkota |
| Nov 1 | Rapid City Ramkota |
| Nov 2 | Sioux Falls Ramkota |

**March 21 & Sept 5 classes: 1 - 5 pm.**
Remaining Classes 8 am to 12 noon.

Please go to the sdp2ma.com website. Class schedule will be posted under Education and Training.

Or visit SD DENR website:
To register: http://denr.sd.gov/des/gw/tanks/TankOperatorTraining.aspx


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**Contact Ryan Meyer at 651-355-8408 or ryan.meyer@chsinc.com and together, we'll face any storm that comes our way.**

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