SD OIL & LP GAS CHRONICLE NEWS

November 2012 Newsletter

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US to Achieve Record Oil Production
from Associated Press

U.S. oil output is surging so fast that the United States could soon overtake Saudi Arabia as the world's biggest producer. Driven by high prices and new drilling methods, U.S. production of crude and other liquid hydrocarbons is on track to rise seven percent this year to an average of 10.9 million barrels per day. This will be the fourth straight year of crude increases and the biggest single-year gain since 1951.

The Energy Department forecasts that U.S. production of crude and other liquid hydrocarbons, which includes biofuels, will average 11.4 million barrels per day next year. That would be a record for the U.S. and just below Saudi Arabia's output of 11.6 million barrels. Citibank forecasts U.S. production could reach 13 million to 15 million barrels per day by 2020, helping to make North America "the new Middle East."

The last year the U.S. was the world's largest producer was 2002, after the Saudis drastically cut production because of low oil prices in the aftermath of 9/11. Since then, the Saudis and the Russians have been the world leaders.

Increased drilling is driving economic growth in states such as North Dakota, Oklahoma, Wyoming, Montana and Texas, all of which have unemployment rates far below the national average of 7.8 percent. North Dakota is at 3 percent and Oklahoma at 5.2 percent. Businesses that serve the oil industry, such as steel companies that supply drilling pipe and railroads that transport oil, aren't the only ones benefiting. Homebuilders, auto dealers and retailers in energy-producing states are also getting a lift.

"Five years ago, if I or anyone had predicted today's production growth, people would have thought we were crazy," says Jim Burkhard, head of oil markets research at IHS CERA, an energy consulting firm.

PMAA News
Update from Washington, DC

REPORT ON KEYSTONE XL PIPELINE REROUTE RELEASED

Earlier this week, Nebraska's Department of Environmental Quality (DEQ) released a report on TransCanada's proposed reroute of the Keystone XL pipeline. TransCanada is proposing to reroute the 36-inch diameter pipeline further east to address environmental concerns. The report highlights how TransCanada will ultimately be responsible for any accidental release from the pipeline. TransCanada would also provide baseline water well testing for domestic and livestock water wells within 300 feet of the route along with implementing mitigation measures to protect ground water. According to Nebraska's DEQ, the agency plans to conduct a public hearing on the proposed reroute on December 4th and then submit its final evaluation to the governor who will then issue a final decision regarding state approval of the pipeline reroute.

DEQ's final determination will not include a recommendation on whether the pipeline should be built. The U.S. State Department isn't expected to make a final determination on the pipeline until early next year in which it will review the DEQ report and the Nebraska Governor, Dave Heineman's (R), determination.

SPENDING CUTS LOOM FOR EPA

Regardless of the Presidential election outcome, the EPA is likely to face major budget cuts in an effort to reduce total discretionary spending. On January 2, 2013, federal government spending will be curtailed by $109 billion, called sequestration, split evenly between defense and discretionary spending. A recently issued White House report said that under this scenario, EPA is expected to face a cut of approximately $8.4 million next year, down to $7.7 billion. The automatic cuts stem from last year's bipartisan approved legislation called The Budget Control Act (BCA) which cuts $1.2 trillion from discretionary and defense spending over ten years.

Congress wants to avoid the first wave of budget cuts and many political analysts believe Congress will pass an extension of the Bush tax cuts and delay automatic spending cuts for one-year which will give Congress time to address the growing federal deficit. Others say that there's the potential for a grand bargain deal during the lame duck session before the automatic budget cuts go into effect. There isn't one discretionary program that isn't immune from sequestration.

News of potential EPA budget cuts have alarmed the environmental community including the Natural Resources Defense Council, The Wilderness Society and the Defenders of Wildlife who warn that EPA budget cuts will hinder EPA's ability to enforce the Clean Air Act and implement emissions rules. Other groups have called for a balanced approach when dealing with EPA and other discretionary spending cuts. The EPA hasn't released any details into how the agency plans to address sequestration, but is currently reviewing its options.

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FMCSA WARNS OF FRAUDULENT U.S. DOT LETTERS SEEKING COMPANY FINANCIAL INFORMATION

The U.S. Federal Motor Carrier Safety Administration (FMCSA) is warning of a new round of fraudulent letters to petroleum marketers which is part of a reoccurring nationwide identity theft scheme. The letter targets both marketers bidding for contracts or supply quotes with U.S. government agencies as well as those who are not involved with government contracting. The letter appears on Department of Transportation (DOT) letterhead and is entitled "Authorization to Release Financial Information Form". The letter generally arrives by fax and typically signed by someone claiming to be a "Senior Procurement Officer" with the DOT. A Washington, D.C. address is included in the letter but little other identifying information is provided. This letter is fraudulent. The DOT never requests financial information from prospective contractors wishing to submit bid proposals or quotes for goods or services. Other versions of a similar letter have been sent out to contractors purporting to be from Equifax and other companies. These letters are also a fraudulent means to obtain financial information.

The DOT recommends that any company responding to the fraudulent letter notify their financial institution immediately. For questions about a DOT request regarding procurement, contact the Office of the Senior Procurement Executive at (202) 366–4263 or the office of procurement for any of the individual DOT operating administrations. If you would like to report a fraudulent request for information to DOT, please contact the Office of Inspector General (OIG) by calling (800) 424–9071. Click here for an example of these letters being sent out to prospective government contractors. For more information on the letters from Equifax please visit their website.

LAWMAKER URGES FAA TO REPLACE LEADED AVIATION FUEL WITH UNLEADED

The House Energy and Commerce Committee ranking member Henry Waxman (D-CA) sent a letter to the Federal Aviation Administration's Acting Administrator, Michael Huerta, urging the agency to reduce the use of leaded fuel in general aviation aircraft because of environmental and health concerns. AvGas is currently exempted from EPA's rules that eliminated lead from motor fuels.

According to the FAA, it plans to reduce the use of leaded AvGas fuel and develop a replacement unleaded fuel by 2018. Rep. Waxman wants the FAA to expedite the process citing an Aviation Fuel Club's study which shows lead-free gasoline can power 80 percent of all piston aircraft. The general aviation industry expressed several liability concerns with lead-free gasoline when the EPA sought comments on limiting lead in general aviation aircraft in an advance notice of public rulemaking in 2010. These issues will need to be addressed before any replacement fuel is certified for general aviation use.

CBO CRITICAL OF CARBON TAX

A national carbon tax would impose a disproportionate burden on low-income households, according to a Congressional Budget Office (CBO) document released this week. A carbon tax would make fossil fuels,

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NPGA News
from Washington, DC

NPGA PREARES FOR THE NEXT CONGRESS, LAME DUCK SESSION

On October 25, 2012 NPGA staff met with OSHA to discuss the Crane Rule and the negative impact it will have on the propane industry. NPGA outlined the cost benefit analysis, possible ways to alter the rule to exempt the propane industry, and finally, the material delivery exclusion.

OSHA was not moved by the cost benefit analysis, and while the information would be compelling to a third party bystander, OSHA maintained that their completed analysis was adequate. OSHA was equally closed to the idea of altering the rule. They were not willing to reopen the rule for any reason.

NPGA had the most success arguing that the delivery of a propane tank fell under the material delivery exclusion which already exists in the rule.

NPGA provided a thorough description of the delivery of a propane tank, and matched it to the requirements of the rule. We also specified that construction activities, such as laying pipe and hooking up the tank to the piping were a separate activity. OSHA could not commit to an answer, and we did not expect them to, but they did state that the argument had "merit". OSHA explained the only way to get a firm answer was to file a formal letter requesting an interpretation.

This meeting in and of itself should be regarded as a success since it opened up a new route that could lead to a positive end result. NPGA will continue to work with OSHA and prepare for other opportunities to "fix" this regulation.

For further information, please contact Robert F. Helminiak, Director, Regulatory Affairs at rhelminiak@npga.org or 202.355.1321.

TS&S COMMITTEE WORKS ON IFC

Since its meeting in September, NPGA's Technology, Standards and Safety Committee has been processing three "fast track" ballots. The fast track process is necessary in this case because the deadline for submissions to the International Fire Code (IFC) is January 3, 2013.

The IFC is important to the propane industry because it has been adopted by states and

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2013 Propane Days

Tues, June 18, 2013 - Wed, June 19, 2013
Hyatt Regency Capitol Hill

local jurisdictions across the United States. The IFC does reference NFPA 58 "LP-Gas Code" to fill in the gaps. However, there are some provisions in the IFC that conflict with NFPA 58 and the TS&S Committee is working to identify those conflicts and propose changes to the IFC to resolve them.

Two of the three fast track proposals address the requirements for autogas propane. The docket designated Tbc-1797 attempts to change the provision in 2307.2.2 of the IFC such that dispensers are not required to be listed. Currently, that section specifies that dispensers must be listed, along with hose, hose connections and several other pieces of equipment that are assembled into a dispenser unit. The TS&S Committee maintains that many existing propane dispensers are not listed, but the dispenser itself is comprised of listed components and therefore the assembly should be considered to be equivalent to a listed dispenser.

Another docket is Tbc-1799, which proposes to modify paragraph 2307.6 in the IFC to permit the general public to conduct refueling operations. Currently, the code prohibits that operation for propane vehicles, but the TS&S Committee feels that with proper training, the general public should be permitted to refuel their own vehicles.

The third fast track docket, Tbc-1795, proposes to strike the term "public way" from section 6104.3 in the IFC, which addresses the location of stationary containers. NFPA 58 does not restrict the installation of containers with respect to a public way and therefore removing this requirement from the IFC will bring both documents into closer agreement.

For more information, please contact Bruce Swiecicki [bswiecicki@npga.org].

RATES ON TEPPCO SCHEDULED TO INCREASE NOVEMBER 16, 2012

NPGA and a coalition of 82 companies and state associations have been pursuing a policy of just and reasonable rates to ship propane on the TEPPCO pipeline.
On March 16, 2012, TEPPCO filed a major rate increase proposal with the Federal Energy Regulatory Commission (FERC). NPGA opposed this. FERC ultimately accepted the rate increase subject to refund, but delayed implementation of the increase until November 16, 2012. This means that while the rates will go up to the proposed levels on that date, TEPPCO will have to hold them in a special account pending the final resolution of the case at FERC.

NPGA filed its primary testimony on October 9, 2012, demonstrating the unjust and unreasonable nature of the TEPPCO proposal. This and other documents filed in the case will be considered during an Administrative Law hearing scheduled for January 30, 2013.

For further information please contact Phil Squair [psquair@npga.org].

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such as gasoline, diesel and heating oil, more expensive and discourage consumption. Theoretically, reduced fuel consumption would reduce global warming; however, the economic burden would be greater for low income households.

In recent months, some national think tanks have suggested a carbon tax would be a good method for reducing CO2 emissions while increasing revenue for the federal government. PMAA has opposed a carbon tax because it is an unfair hidden tax that will especially burden consumers of petroleum products.

The CBO document said that setting a price of $28 per metric ton on carbon dioxide emissions, or approximately $103 per ton of carbon, would impose a cost of $425 a year, or 2.5 percent of after-tax income for low-income households, while it would impose a cost of $1,380 a year, or less than one percent of after-tax income, on high-income households. The disproportionate impact is due to the fact that lower-income households spend a larger portion of their income overall, and energy costs also make up a larger share of expenditures by lower-income households because they are necessities.

HEALTH-CARE SURVEY TAPS A VEIN

CHICAGO – A Modern Healthcare Internet survey conducted after last week's presidential election "tapped a deep vein of anger over the effects of the Patient Protection and Affordable Care Act, with a large group of respondents saying they had waited to see Tuesday's outcome before fully embracing the law," according to the publication's **website**.

Of the nearly 830 respondents, 67% said the health-care reform law would have a negative impact on their healthcare business, while 33% said it would have a positive impact.

A majority of respondents agreed that Republican candidate Mitt Romney would have had more positive impact on their health-care business, because he would have "raised the prospect of repealing" current law.

The survey contained two fill-in-the-blank questions where respondents shared their skepticism about the law:

"In answering what was the single thing the Obama administration could do 'to help healthcare executives benefit most from the law,' the most common answers among the 539 submitted were 'resign' and 'repeal it.' Many respondents also stressed the need to address the Medicare sustainable growth-rate payment formula, and improving overall clarity around the schedule for implementing the law's various goals," notes the news source, adding:

"'Wave his magic wand and create enough primary care physicians to manage the added population of patients,' one person wrote, reflecting another common theme about the concern over the number of front-line doctors that will be needed in coming years."

NACS Washington Report
November 15, 2012

PRESIDENT OBAMA ENCOURAGES BIPARTISAN APPROACH TO FISCAL CLIFF

"We're both going to hold hands and do what's right for the American people," said the president at a press conference.

In his first speech at the White House following re-election, President Obama held a press conference yesterday on a handful of topics, including the now infamous CIA scandal with General Petraeus, and more importantly to America's businesses and taxpayers, the fiscal cliff.

"Right now, our economy is still recovering from a very deep and damaging crisis, so our top priority has to be jobs and growth. We've got to build on the progress that we've made because this nation succeeds when we've got a growing, thriving middle class," said the president, outlining two options on taxes:

"Option one, if Congress fails to act by the end of this year, everybody's taxes will automatically go up, including the 98% of Americans who make less than $250,000 a year, and the 97% of small businesses who earn less than $250,000 a year. That doesn't make sense. Our economy can't afford that right now. Certainly, no middle class family can afford that right now. And nobody in either party says that they want it to happen.

The other option is to pass a law right now that would prevent any tax hike whatsoever on the first $250,000 of everybody's income. And by the way, that means every American, including the wealthiest Americans, get a tax cut. It means that 98% of all Americans and 97% of all small businesses won't see their taxes go up a single dime."

The president also noted his willingness to reach across the aisle for solutions: "I am open to new ideas. If the Republican counterparts, or some Democrats, have a great idea for us to raise revenue, maintain progressivity, make sure the middle class isn't getting hit, reduces our deficit, encourages growth, I'm not going to just slam the door in their face. I want to hear — I want to hear ideas from everybody."

When asked if he could "envision any scenario in which we do go off the fiscal cliff at the end of the year," Obama reiterated the need to pass a law that would "provide certainty to middle-class families," families who make less than $250,000 a year and small businesses; "that their taxes will not go up a single dime next year. Give them that certainty right now. We can get that done."

He also added that it's a matter of "whether or not we come together and go ahead and say — Democrats and Republicans, we're both going to hold hands and do what's right for the American people. And I hope that's what happens."

Reprint of RFGSA Story from June 2012 NL
Inspections in SD in October 2012

I have had some reports that the RFGSA inspectors have been in SD in the month of October 2012. FYI please refer to the following article so that you are aware of your rights as a gasoline retailers if you should be visited by these inspectors.

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.

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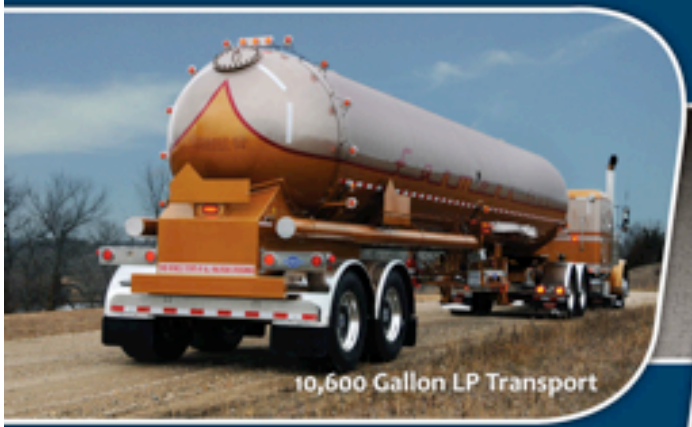
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2012 Class Schedule

Basic Principles (1.0)		Propane Delivery (2.2/2.4)	
November 7-8	Watertown	December 4-6	Watertown

2013 Class Schedule

Basic Principles (1.0)		Propane Delivery (2.2/2.4)	
January 8-9	Pierre	February 5-7	Pierre
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

News from NACS

FUTURE OF FUELS: 2025

NACS Show educational session reveals what consumers will be using at convenience stores to fuel their vehicles.

LAS VEGAS – October 2012: What is the future of retail fuels? Depending on whom you ask, the future could be in compressed natural gas (CNG), liquefied natural gas (LNG), hydrogen or electric. In Monday's educational session, "What Will You Sell in 2025?" motor fuels experts discussed the types of fuels that could be available for convenience store retailers to sell in the next decade.

Alternative fuels are becoming increasingly important as consumers' disposable incomes shrink, gas prices rise, fuel efficiency standards and emission requirements are established, and our desire to end dependence on imported oil increases. However, one deciding factor in an alternative fuel's emergence into mainstream use will be the cost of building the infrastructure to support it.

"It's truly a case of the chicken or the egg. What comes first — the infrastructure or the vehicle?" said Norman Turiano, senior manager of fuel marketing, Wawa Inc. "Retailers need vehicles there first so they can build the infrastructure and get the return on investment. Automobile manufacturers want the infrastructure there first to justify building the vehicles. We are slowly moving forward on both fronts, but critical mass has yet to have been achieved."

Each alternative fuel has its own advantages and disadvantages. For example, electric vehicles are the easiest to deploy in terms of access to infrastructure, but not support the business model, he said.

"CNG and LNG have the advantage in domestic abundance, transmission infrastructure and low cost for consumers. Hydrogen appears to have the disadvantages in those areas, but technological advances could change that," Turiano noted. "In fact, we don't know what future advances in technology may still change the landscape. Look at how fracking changed the economics of natural gas in only the last 14 years."

Retailers who yearn to be on the frontlines of the fuels market must be aware of all emerging fuels and understand the geopolitical issues.

"To really take advantage of the future fuels, you have to keep aware of new developments, resolve the issues in advance and be prepared when the opportunity arises to exploit them," he said.

GE, CLEAN ENERGY PARTNER ON "AMERICA'S NATURAL GAS HIGHWAY"

Clean Energy will use GE's MicroLNG technology at two new LNG facilities.

HOUSTON – On November 13, 2012, GE and Clean Energy Fuels announced a collaboration to expand the infrastructure for natural gas transportation in the United States. The agreement supports Clean

Energy's efforts in developing "America's Natural Gas Highway," a fueling network that will enable trucks to operate on liquefied natural gas (LNG).

As part of the collaboration, Clean Energy Fuels will initially purchase two ecomagination-qualified MicroLNG plants from GE Oil & Gas. The plug-and-play modular units, which are designed to rapidly liquefy natural gas while minimizing a site's physical footprint, will support fueling stations along critical transportation corridors.

"GE is proud to be partnering with Clean Energy Fuels to develop natural gas infrastructure in the U.S. Clean Energy is an industry leader in pioneering a new way for America to fuel its vehicles and to further gain energy independence," said GE Chairman and CEO Jeff Immelt, in a press release. "With an abundance of cleaner, more affordable natural gas here in the U.S., this is an important opportunity for GE to join Clean Energy in changing the way America drives. It's also a critical step in developing a natural gas-for-transportation fuel model that can be easily exported to other countries interested in exactly these kinds of breakthrough projects."

Clean Energy expects to complete approximately 70 LNG stations by the end of 2012, with more planned for next year. The LNG produced by the MicroLNG plants will be used primarily at Pilot-Flying J truck stops that serve truckers across the country. The two GE MicroLNG plants are targeted to begin operation in 2015. The two companies are currently assessing the best locations for these first two LNG plants.

NACS AND OTHER GROUPS TO APPEAL PRELIMINARY RULING IN PROPOSED SWIPE FEE SETTLEMENT

NACS will ask the U.S. Court of Appeals for the Second Circuit to deny preliminary approval due to the legal defects in the proposed settlement.

ALEXANDRIA, VA – NACS and other named plaintiffs are filing a notice of appeal to challenge last Friday's ruling by the U.S. District Court for the Eastern District of New York, which grants preliminary approval to a proposed settlement of a long-standing antitrust class action filed by merchants against Visa, MasterCard and the largest banks. A majority of the 19 named plaintiffs have indicated that they will ask the U.S. Court of Appeals for the Second Circuit to deny preliminary approval due to the legal defects in the proposed settlement.

"We will ask the U.S. Court of Appeals for the Second Circuit to deny preliminary approval due to the legal defects in the proposed settlement," said NACS President and CEO Hank Armour. "It is unclear whether a stay will be issued to prevent notices of the settlement going to the millions of merchants who accept credit cards."

The majority of named plaintiffs – including NACS – have rejected the proposed settlement, and approximately 1,200 additional merchants and retailer groups have filed papers objecting to preliminary approval of the proposed settlement. Additionally, the National Federation of Independent Businesses (NFIB) and the Public Interest Research Group (PIRG) each filed Amicus briefs in support of our opposition.

"This settlement has fatal legal defects. We look forward to presenting the problems we see in this proposal to the Second Circuit Court of Appeals," said Jeffrey Shinder, managing partner, Constantine Cannon LLC, counsel to the merchants objecting to the proposed settlement.

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).

"The merchant community is deeply committed to reforms that bring transparency and competition to the broken electronic payments market. The volume and diversity of those objecting to this flawed proposal are remarkable and continues to grow," said Shinder.

The only issues considered at the preliminary approval hearing were whether there are legal defects in the proposal – the overall fairness of the proposal will not be fully considered until later.

"This battle is not close to being over, and NACS and the other objectors will fight at every opportunity to either scuttle this flawed settlement and begin earnest negotiations, or take the case to court," said Armour.

POST-ELECTION, EPA T MOVE FAST ON DELAYED RULES

The agency will likely finalize rules on greenhouse gas emissions from new power plants and also propose a Tier III standard for motor vehicles and fuel pollution.

WASHINGTON – The Environmental Protection Agency (EPA) will soon finalize a suite of rules that the election had put on hold, Inside EPA reports. Rules receiving action include a plan to slash greenhouse gas emissions from new power plants. The agency will likely put forth a Tier III standard to reduce pollution from vehicles and fuel.

The EPA has put off issuing any controversial rules since early 2012, focusing instead on popular regulations, such as its greenhouse gas rule for vehicles. But now that the election is over, the agency will release regulations that are sure to garner opposition from Republicans, who have been expecting a slew of EPA regulations if the president was re-elected.

With President Obama in office for another term, the EPA has four additional years to finish its work, which may mean the agency will push through stalled proposals immediately to avoid any partisan, fiscal fights. "EPA will either rush the rules out before the Republicans can get organized and in front of whatever deal they're going to have on the debt ceiling and tax rates," said one energy strategist. The source said

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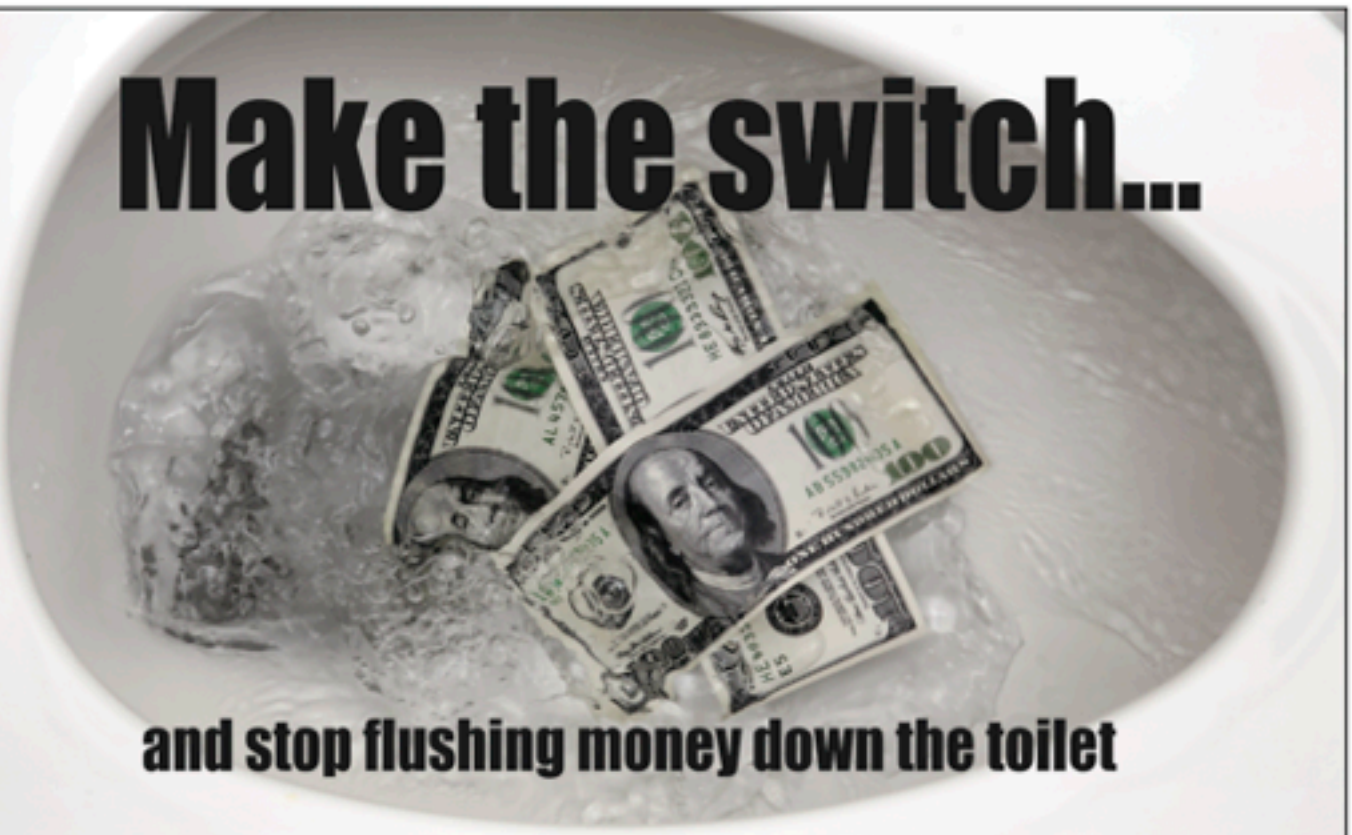

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EPA could dole the regulations out in a slow trickle starting now and ending June 30.

Environmentalists will be pressuring the agency to propose Tier III standards, after that proposal was delayed in the spring over worry about how it would impact soaring gasoline prices.

AMT COULD HIT 30 MILLION HOUSEHOLDS

Congress has yet to act to fix the Alternative Minimum Tax.

WASHINGTON – More than 30 million households could be impacted by the Alternative Minimum Tax (AMT) if Congress refuses to fix it this year, The Hill reports. “An AMT patch simply has to get done by the beginning of January, and both sides know it,” said a Democratic congressional aide.

Complicating the task is the acrimonious discussion over the Bush tax rates. Democrats want to cap the rates for families making up to $250,000, while Republicans want to extend the rates to all who pay taxes.

If legislators can’t move beyond these tax rates, AMT action could be pushed off to 2013, which could mean millions of taxpayers would be filing amended returns — a headache of colossal proportions for the IRS. “Taxpayers begin to file their returns in January,” said a tax lobbyist. “It would be a tax administration nightmare if Congress waited until 2013 to address the 2012 AMT patch.”

Because AMT was never indexed for inflation, Congress has to “patch” it to help middle-class families avoid paying the minimum tax. The last congressional patch expired Dec. 31, 2011. “The AMT patch ensures that Congress must come back and do something, but I'm not certain that addressing the patch gives one side or the other any leverage regarding the other major ‘cliff’ issues,” said the tax lobbyist.