

# SD OIL & LP GAS CHRONICLE NEWS

November 2017 Newsletter

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of the South Dakota  
Petroleum and  
Propane Marketers  
Association

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## Volkswagen Settlement - SD Mitigation Trust

**From Barb Regynski at SD DENR concerning the VW Settlement.** The trustee has 120 days (that would be around February 1, 2018) from the Trust Effective Date (October 2, 2017) to decide if they are going to designate South Dakota as a beneficiary to the trust. Beneficiaries must submit their mitigation plans to the trust 30 days prior to submitting their first funding request. So, the earliest we could possibly get funds would be around March 1, 2018. We are currently accepting input on what should be included in the state's beneficiary mitigation plan. Some things people could comment on are: which of the ten categories should be included in the plan; is there a preference for clean diesel, alternative fuels (propane), or electric; should projects be open to governmental agencies, non-governmental agencies, or both; how should we prioritize projects; and any other ideas they think would be helpful. The sooner they can submit their ideas, the better. Once we have a draft plan, we plan on having it open for a 30-day public comment period. After reviewing the comments, we will finalize the plan and would like to have it ready to be submitted as close to being named a beneficiary as possible. People can watch for updates at the State's VW website: <http://denr.sd.gov/des/aq/aaVW.aspx> .

If you have ideas or suggestions on what you would like to see this money used for (Propane powered vehicles and low emission diesel vehicles are a couple of options), please click on the above link and submit your **ideas/suggestions/comments as soon as possible.**

**Comments should be submitted to Barb Regynski at: [DENRINTERNET@state.sd.us](mailto:DENRINTERNET@state.sd.us)**

The association has submitted preliminary comments in March 2017, but will submit more details comments on suggestions for uses of the VW Settlement monies.

**For your convenience, I have published the information in this newsletter-pages 6-7-8.**

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*The Board of Directors of the South Dakota Petroleum and Propane Marketers Association are marketer members who volunteer their time to serve. Each director serves 2 – 3 year terms and officers serve an additional six years as they move through the chairs.*

*I would like to thank both past and present directors and officers who give their time, knowledge, and expertise to make the association a success.*

***Dawna Leitzke, Executive Director***

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## News from NACS

### NACS, SIGMA COMMENT ON GHG STANDARDS FOR NEWER VEHICLES

Associations say the government should not favor one light-duty vehicle technology over another.

WASHINGTON – Last week, NACS and SIGMA [sent a joint letter](#) to the U.S. Environmental Protection Agency (EPA) and the National Highway Traffic Safety Administration (NHTSA) in response to their mid-term evaluation of greenhouse gas (GHG) emissions standards for model year 2022-2025 light-duty vehicles.

NACS and SIGMA are urging the agencies to treat light-duty natural gas vehicles as equivalent to electric vehicles. The associations do not believe that valiative criteria should be manipulated to push a single technology (or policy), such as electric vehicle technology, and they do not support treating NGVs on par with EVs and believe this principle should apply universally to any technology that demonstrates the necessary emissions outcomes.

“Regulatory incentives and requirements built into current GHG emissions standards disproportionately favor EV technology over NGVs. Yet, evidence shows that the emissions benefits from NGVs are equal to those of EV technology. Thus, there is no reason to favor one efficient emissions technology over another,” the associations wrote.

NACS and SIGMA noted that adding that parity in incentives for NGVs and EVs would encourage automakers to transition light-duty vehicle segments to compressed natural gas (CNG), and including NGVs in the formulation of GHG emissions targets for 2022-2025 model year light-duty vehicles could increase EPA’s estimates of achievable emissions and fuel economy improvements, “which would weigh in favor of maintaining existing emissions reduction targets.”

The associations urge EPA and NHTSA to change existing regulatory incentives and dual-fuel vehicle design requirements to create a level playing field for light-duty natural gas vehicles and electric vehicles.



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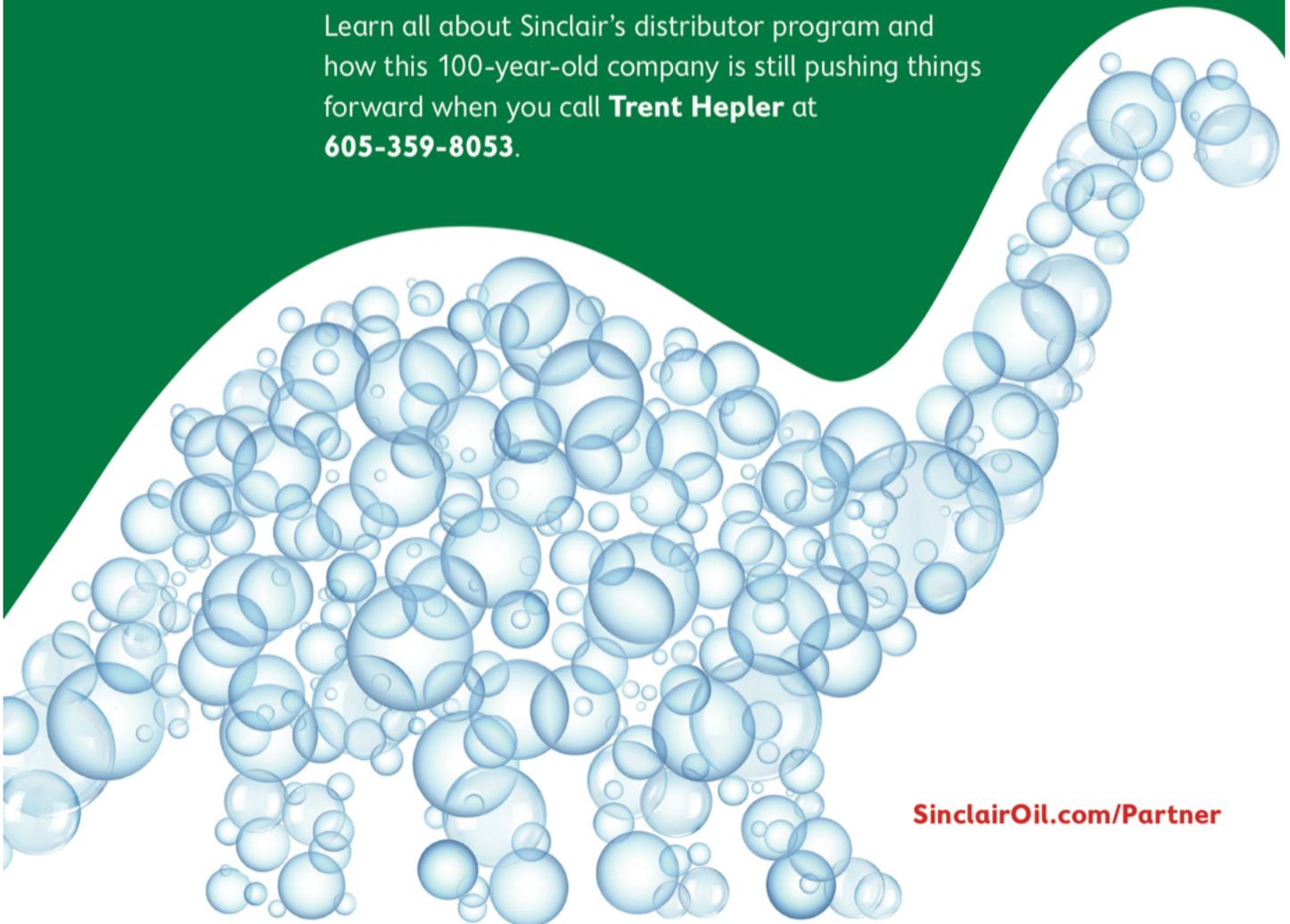


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# NPGA News

## News from Washington, DC

### Propane Victories in Three Pipeline Cases

First, on November 22, the Federal Energy Regulatory Commission denied a petition requested by Magellan that the Commission approve transactions in which its marketing affiliate would ship products on Magellan and, in sales of those products, charge a transportation price different from the FERC-approved tariff for Magellan. NPGA and its ally Airlines for America protested the Magellan proposal because it would diminish transparency in pipeline operations and would amount to an unlawful rebate. Importantly, even though Magellan does not carry propane, NPGA protested out of a concern that an adverse FERC order would tilt the playing field in terms of having FERC adopt affiliate rules for liquids pipelines. The Commission agreed with NPGA and A4A and denied the Magellan request. NPGA understands from anecdotal evidence that similar transactions are occurring on other pipelines that have not sought a FERC blessing.

Second, on November 27, Michigan Governor Rick Snyder reached an agreement with Enbridge with regard to some of the issues swirling around its Line 5 in Michigan. The agreement provides that Enbridge will cease operation of Line 5 in periods of sustained adverse weather in the Straits of Mackinac. This addresses concerns about difficulties in remediating a spill in challenging weather conditions and concerns about anchor strikes, which are seen as the greatest threat to the pipeline crossing. There is no question that such shutdowns will provide operating challenges for the propane industry. Enbridge will also construct a new horizontally drilled crossing under the St. Clair River into Ontario near Sarnia. Although the St. Clair River crossing has not been a focus of the State proceedings, this action is not a surprise in that that section of pipeline arguably creates similar or perhaps greater concerns than the Mackinac crossing. The parties also will study the prospect of replacing the current Mackinac crossing with a tunneled or directionally drilled pipe. In the risk analysis report released this summer in draft and this month in final, this alternative appeared to be the most cost-effective means to increase the safety of the Straits crossing. Enbridge and the State have also reached agreement as to further steps and discussions aimed at ensuring safe operation of the pipeline. The agreement appears to be a constructive step toward addressing safety concerns while continuing to operate this piece of energy infrastructure that is critical to Michigan and the eastern half of the United States.

Third, on November 28 the U.S. Court of Appeals for the D.C. Circuit denied a petition for review by the Association of Oil Pipe Lines concerning the indexed-rate methodology adopted by the Federal Energy Regulatory Commission at the end of 2015 that became effective in the middle

of 2016. In its [order](#), FERC largely adopted a proposal made by NPGA and Airlines for America that resulted in a decrease in pipeline rates in mid-2016. NPGA believes that the FERC order will save propane shippers more than two hundred million dollars over the 2016-2021 period. Although there are several further avenues for legal action. It is highly unlikely that they would, if pursued, change this result.

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## VW Settlement Details

On January 24, 2016, the United States and the State of California filed a lawsuit against Volkswagen alleging it had manufactured diesel cars sold and operated in the U.S. beginning in 2009 with systems intended to defeat emissions tests. These systems allowed vehicles to emit nitrogen oxide (NOx) pollution at levels that significantly exceeded the amounts allowed under the Clean Air Act.

Volkswagen has agreed to settle some of these allegations. The [first partial settlement](#) was in regard to the installation and use of emission testing defeat devices in 2.0 liter diesel vehicles and a [second partial settlement](#) was in regard to the installation and use of emission testing defeat devices in 3.0 liter diesel vehicles. The overall settlement consists of three major parts:

### **Part 1: Buyback, Lease Termination, Vehicle Modification and Emissions Compliant Recall Program**

Volkswagen is required to earmark about \$11.2 billion (\$10.033 billion from the first 2.0 liter consent decree and \$1.2 billion from the second 3.0 liter consent decree) to buy back affected noncompliant vehicles, terminate leases early, or repair the vehicles by 2019 or 2020 depending on the make and model. Volkswagen administers this part of the settlement directly with affected vehicle owners. Additional information is available at [www.VWCourtSettlement.com](http://www.VWCourtSettlement.com).

### **Part 2: National Zero Emissions Vehicle (ZEV) Investment Plan**

Volkswagen is required to invest \$2 billion (\$800 million within California and \$1.2 billion outside of California) over 10 years in the zero emissions vehicle (ZEV) infrastructure, access, and awareness initiatives. The form of the Trust Agreement can be found in [Appendix C](#) of the first partial consent decree. This part of the settlement will be administered by Volkswagen, the U.S. EPA and California in four 30-month investment cycles. For each round, project proposals are submitted to Volkswagen, and Volkswagen develops an investment plan to be reviewed and approved by the EPA. The first round of project proposals closed January 16, 2017. Proposals for the second round are currently being accepted. Additional information is available at [www.electrifyamerica.com](http://www.electrifyamerica.com).

### **Part 3: Environmental Mitigation Trust**

Volkswagen is required to fund an Environmental Mitigation Trust in the amount of \$2.925 billion (\$2.7 billion from the first 2.0 liter consent decree and \$225 million from the second 3.0 liter consent decree) to be used to offset the lifetime excess air pollution (i.e. nitrogen oxide emissions) emitted by the Volkswagen vehicles that violated the Clean Air Act. The form of the Trust Agreement can be found in [Appendix D](#) of the first partial consent decree. The fund is distributed among states, territories and federally-recognized tribes based on the proportion of affected VW diesel vehicles registered in each jurisdiction.

#### **Tribal Allocation**

Nearly \$54.5 million of the Mitigation Trust were allocated to federally-recognized tribes, to be disbursed annually over 6 years. The Department of Justice will consult with tribes to determine how these funds will be allocated among the tribes. Tribes are not required to submit Beneficiary Mitigation Plans. Tribes may submit funding requests annually, due September 1 each year. Certification is due at the time of the first funding request.

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## State Allocation

South Dakota expects to receive \$8.125 million dollars from the Environmental Mitigation Trust. The funds are to be disbursed within 10 years, with no more than one-third disbursed in the first year or two-thirds disbursed in the first two years. A Beneficiary Mitigation Plan must be developed that summarizes how the State allocation of mitigation funds will be distributed among the various eligible mitigation actions to reduce nitrogen oxide emissions. The Plan will be based on eligible mitigation actions that can produce the greatest air quality benefit in terms of nitrogen oxide emission reductions, reduced public exposure, and the promotion of clean vehicle technologies. The Plan will be developed through a public process, with multiple opportunities for public comment. The Beneficiary Mitigation Plan must then be approved by the Trustee.

## Eligible Mitigation Actions

The Trust establishes a process to administer the funds, and identifies [10 categories](#) of mitigation actions that will be eligible for funding along with reimbursement rates for these actions. Eligible actions focus on reducing nitrogen oxide pollution from primarily diesel-powered trucks and buses. Generally, the types of approved actions include replacing older diesel-powered trucks, buses, industrial vehicles and other powered equipment with new, lower emissions equipment. Categories of eligible vehicles and equipment are as follows:

1. Class 8 local freight trucks and port drayage trucks
2. Class 4-8 school buses, shuttle buses or transit buses
3. Freight switcher locomotives
4. Ferries and tugs
5. Ocean going vessels shorepower
6. Class 4-7 local freight trucks
7. Airport ground support equipment
8. Forklifts and port cargo handling equipment
9. Light duty Zero Emissions Vehicle supply equipment
10. Matching funds for projects eligible under the federal [Diesel Emission Reduction Act \(DERA\)](#)

## Next Steps

The court has approved a Trustee who will be responsible for administering the Trust and approving plans proposed by beneficiaries. The State and Tribe Trust Agreements have been executed by the settling parties and filed with the court. As a result of [this filing](#), the Trust Effective Date has been set to October 2, 2017. The Trust Effective Date kicks off the timeline for each state to take the required actions to qualify to receive funds. Within 60 days of the Trust Effective Date, South Dakota must submit a Certification Form in electronic format and by mail, signed by the Governor, explaining how South Dakota qualifies to be a Beneficiary under the Trust.

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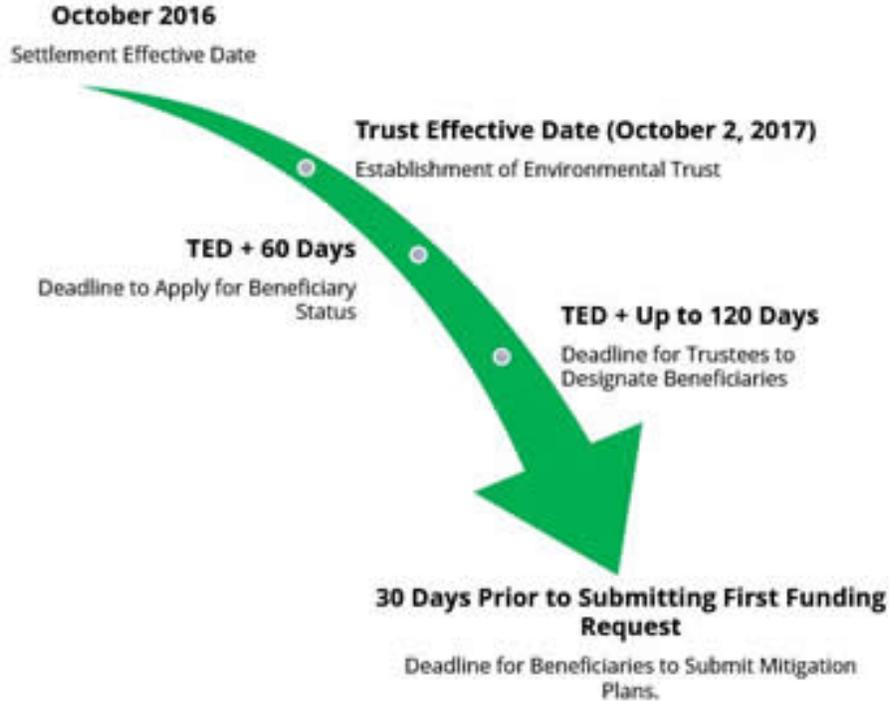
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[This form](#) was submitted November 21, 2017. If no one objects to South Dakota's request for certification, the Trustee can grant the request and designate South Dakota as a Beneficiary. The proposed agreement requires Beneficiaries to submit a Beneficiary Mitigation Plan to the Trustee no later than 30 days prior to submitting its first funding request. South Dakota is soliciting input from the public as the State develops its Beneficiary Mitigation Plan. We are currently accepting informal input on how to develop the Beneficiary Mitigation Plan that best meets the needs of South Dakota. Please submit your ideas to [Barb Regynski](#). These are [the comments](#) that have been received prior to the draft mitigation plan.



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## TOBACCO COMPANIES START COURT-ORDERED ADS AGAINST SMOKING

The advertisements in print and on TV will run for a year.

November 30, 2017

WINSTON-SALEM, N.C. – Tobacco ads return to the nation’s airwaves for the first time since 1971, only this time, instead of promoting smoking, tobacco companies admit to making cigarettes addictive, [USA Today](#) reports.

Philip Morris, which makes Marlboro, and R.J. Reynolds, which manufacturers Camel and Newport brands, have to run the court-mandated ads proclaiming the companies knew the cigarettes were designed to be addictive and altered smokers’ brains. The TV and newspaper ads also must say that smoking kills 1,200 Americans daily. The ads must run for an entire year.

The companies, which must pay for the placements of these ads, had fought for 11 years to delay the ads after a 2006 court ruling. The original 1999 Department of Justice lawsuit against Philip Morris and R.J. Reynolds initiated a federal order for the firms to run “corrective statements” to counteract years of misinformation.

The court’s order requires the companies to publish five statements related to cigarette smoking across several communication channels, including newspaper and television ads, on the companies’ websites and on cigarette packs for a year or more. Statements include that tobacco firms changed the ingredients in cigarettes to make them more addictive, that “light” cigarettes aren’t any safer than regular cigarettes and that you can get lung cancer from second-hand smoke.

“We’re focused on the future,” said Murray Garnick, executive vice president of Philip Morris owner Altria. Many tobacco companies, including Philip Morris, are working on [alternative options](#) to cigarettes, such as heat-not-burn and vaping products.

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## IT'S BEGINNING TO LOOK A LOT LIKE WINTER

It shouldn't be surprising that weather-related auto accidents account for a lot of insurance claims every year.

No matter where you do business, every state, including southern states, experience periods of severe winter weather. Commuters and employees who drive as part of their job face driving risks every day, but especially in harsh weather.

### Keep an Eye on the Sky

Roads covered with ice, snow, sleet, heavy rain, or freezing rain can affect vehicle traction, handling, and even visibility. These best practices may help you and your employees prepare for winter road hazards.

- **Remain alert** for scattered slippery spots, especially on bridge decks and overpasses. Frozen slush can produce ruts that can "grab" the vehicle's wheels and affect steering.
- **Adjust speed** to compensate for road conditions. Snow and ice dramatically increase the time and distance a car or truck needs to maneuver and stop. When driving on snow or ice, speed should be well below the posted limit.
- **Leave extra room** between you and the vehicles around you. This could give you an extra second or two for reacting more evenly in a surprise situation, and help avoid sudden maneuvers that can cause rear-end collisions, spinouts, or rollovers.

### Outlook, Watch, Warning, Advisory – Know the Difference

The National Weather Service issues these forecasts, which are broadcast on NOAA Weather Radio and local radio and television stations. Knowing when an alert has been issued in your area helps drivers to plan accordingly.

### The Driver

Drivers need patience. They shouldn't hurry to travel when driving may be difficult. They also need to pay attention to changing road conditions and stay focused on the situation. Distracted or drowsy drivers have slower reaction times, which could mean the difference between safely avoiding an accident—or not. Winter driving and behind-the-wheel distractions could be a deadly combination.

### The Vehicle

You'll appreciate having your vehicle ready for winter, too. Check the windshield fluid level, and ensure the wiper blades are appropriate for cold weather. Clear all windows of snow, frost, or ice before hitting the road.

Cold weather affects tire pressure, which should be checked as temperatures drop. Sufficient tire tread depth is essential for better traction. If your state allows tire chains, keep a set handy. If you drive long distances or in rural areas, carry emergency supplies in case of a breakdown.

### Be Prepared

Federated's Shield Network<sup>®</sup> offers a selection of risk management materials and videos that can help your employees prepare for cold-weather driving. Please make it home safely every day.

This article is intended to provide general information and recommendations regarding risk prevention only and should not be considered legal advice. Following these guidelines does not guarantee reduced losses or elimination of any risks. This information may be subject to regulations and restrictions in your state. Qualified counsel should be sought regarding questions specific to your circumstances and applicable state or federal laws. © 2017 Federated Mutual Insurance Company. All rights reserved.



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Finally, several shippers have filed a complaint at FERC against the Colonial pipeline, alleging that it is vastly over-earning its cost of service. Although Colonial does not transport propane, there has been a long-standing concern that a number of liquids pipelines are over-earning their cost of service. Launching a complaint challenge is an expensive and lengthy process, but it will be important to watch how the Commission addresses these issues. In the last few years the Commission itself initiated proceedings against natural gas pipelines, the customers of which had thought for almost a decade that they were overcollecting their costs.

## **NPGA Continues Engagement with CSX to Improve Service**

This past summer and into the fall, shippers of propane on CSX railroad began experiencing significant increases in railcar transit times over the same time period in previous years. A shift in CSX's operational strategy implemented at the beginning of the year had a greater than anticipated impact on the railroad's operations. In addition, the railroad restructured its customer service department that resulted in an inability of many propane shippers to obtain a sufficient and timely resolution of their concerns.

Given the reduction in the quality of rail service during what is typically a low propane demand period, propane shippers expressed serious concerns over the ability of the railroad to meet the upcoming winter heating demand, which would have significant consequences if CSX was unable to provide timely delivery of propane. To that end, NPGA organized a meeting in October of industry representatives (consisting primarily of CSX freight-paying shippers) and top CSX officials at the railroad's headquarters in Jacksonville to directly express our concerns.

At the meeting, CSX provided additional detail on their shift to Precision Scheduled Railroading (PSR) and the impact it had internally on their customer service model and externally on overall rail operations. Further to this, CSX committed to addressing the various logistical and customer service concerns highlighted by NPGA and their industry representatives.

Subsequent to the October meeting, NPGA recently held a follow up conference call with CSX representatives for a status update. In general, it was evident that rail service, and particularly, railcar transit times, had definitely improved. CSX has also implemented a propane prioritization process that began November 1, 2017 where if a railcar is delayed or sits idle for more than 48 hours, CSX will open a problem resolution log to address/resolve the issue. Finally, CSX expressed their confidence they have adequate crews and resources available to meet the expected increase or spikes in winter volume demand, particularly in the Northeast.

NPGA has sought to work directly with CSX to resolve the industry's concerns, and thus far, we are pleased that things are trending in the positive direction.

Nevertheless, we remain engaged with CSX to ensure our industry is well-positioned to address any logistical issues that may arise.



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# 2017 Training Programs

Certified Employee Training Program

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

## 2017 UST Owner/Operator Training

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

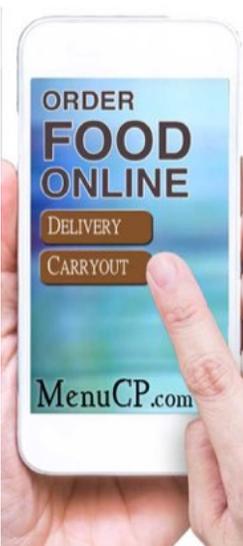
**March 21 & Sept 5 classes: 1 - 5 pm.**  
Remaining Classes 8 am to 12 noon.

Please go to the [sdp2ma.com](http://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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UST Owner/Operator



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