



Technical Standards and Safety Authority

Minutes of the Liquid Fuels Advisory Council Advisory Council Meeting on September 19th, 2019

Minutes of the Liquid Fuels Advisory Council meeting of the Technical Standards and Safety Authority (TSSA) held in the Ontario Boardroom, 345 Carlingview Drive, Toronto, Ontario at 9:00 a.m. on the 19th day of September 2019.

Present: Brent Francis (Chair); Francis Fuels Ltd.; Jennifer Stewart, Canadian Independent Petroleum Marketers Association (CIPMA); Jim Wood, Ontario Petroleum Transporters and Technicians Association (OPTTA); John Lastoria, Canadian Tire Corporation; Laurie Marcil, Nature & Outdoor Tourism in Ontario (on Skype); Rae Dulmage, TSSA's Consumers Advisory Council; Rick Hineman, Durham Fuels; Terry Ablett, Wagg's Petroleum Equipment Ltd.

Andrew Chin, Finance Specialist, Special Projects (Item 11); Ann-Marie Barker, Engineering Specialist, Fuels Safety Program; Bonnie Rose, President & CEO; Danielle Fernandes, Advisory Council Coordinator; John Marshall, Director, Fuels Safety Program; Kristian Kennedy, Manager, Government Relations; Phil Simeon, Director, Regulatory Policy; Robert Wiersma, Manager, Public Safety Risk Management; Sandra Cooke, TSSA Ombudsman (Item 7); Suba Ariyaretnam, Manager, General Accounting & Financial Reporting (Item 11); Viola Dessanti, Director, Strategic Analytics (Item 9); Zenon Fraczkowski, Engineering Manager, Fuels Safety Program.

Guests: Jacqueline Kiwanuka, Senior Policy Advisory, Technical Safety Unit, Ministry of Government and Consumer Services; Eric Morales, Senior Policy and Program Analyst, Technical Safety Unit, Ministry of Government and Consumer Services.

Regrets: Marc Gagnon, Canadian Fuels Association; Marcel Pouliot, Trimac Transporters.

1. Constitution of Meeting

The meeting was called to order at 9:05 a.m. The Chair welcomed everyone.

For the safety moment, R. Dulmage, Canadian Chair of the National Committee for International Organization for Standardization (ISO) TC145, provided some context and Council was shown a short video from the ISO on the importance of safety symbols in promoting safety and helping to avoid injury.

2. Approval of the September 19, 2019 Agenda

Council approved the meeting agenda of September 19th, 2019 as presented.

3. Approval of April 11th, 2019 minutes

Council approved the minutes of April 11th, 2019 as presented.

4. Review of Action items from last meeting

B. Francis provided an update on the action item related to standards for tanks and piping and advised that there will be further studies on the safety implications of biodiesel. He added further that though fuel composition is not a matter for the TSSA, it does have safety implications. J. Marshall spoke to the remainder of the action items noting that the action related to responses to disasters will be deferred until further notice. He added that the Memorandum of Understanding (MOU) with the Ministry of the Environment, Conservation, and Parks (MECP) was signed earlier this week. He advised that the rest of the action items would be addressed under today's agenda.

5. Chair's Update

B. Francis spoke to this item, referencing his report to the President and CEO which was circulated prior to the meeting. He elaborated on key opportunities, specifically the development of a response to disaster

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communication plan, the development of a process to deal with abandoned gas stations, and a plan for the identification and development of certificate holders due to a decline in the number of new candidates.

6. TSSA President & CEO's Report

B. Rose treated her report as read. There were no comments or questions from Council.

7. Ombudsman's Report

S. Cooke spoke to this item and began by thanking J. Wood and M. Pouliot for their support on the work being done on enhanced authorizations for tanker trucks. S. Cooke spoke to this item, referring to the report distributed to the Council prior to the meeting. She provided an overview of the role and function of the Office of the Ombudsman and reminded Council that Ombudsman as well as whistle blower services are available to stakeholders.

In response to a question from Council regarding the uptake of the whistleblower services, S. Cooke commented that the service is being used, noting that last year there were 14 cases. She added that the whistler blower service is used less when compared to the issues raised with the Office of the Ombudsman, noting further that most issues relate to the fuels sector.

8. Strategic analytics

V. Dessanti spoke to this item and provided a historical framework for Risk-Informed Decision Making (RIDM) at TSSA. She explained that TSSA is in a period of transformation, which requires a review of the current model to capitalize on opportunities for improvement and consistency, adding further that the model needs to be pressure tested and vetted given TSSA's new strategic direction and in consideration of the Auditor-General (AG) recommendations. As a result, she advised the Council that TSSA is embarking on a peer review of its RIDM framework, adding that TSSA is looking for insights, input, and feedback on the improved risk model in order to prepare and validate a plan for implementing changes in the Spring/Summer of 2020. She added that TSSA is looking for suggestions of individuals best suited to be a part of the peer review panel.

In response to a question from Council regarding examples where data analytics have been used, V. Dessanti advised that risk score has been used to inform the frequency as well as predict the injury burden. She added that using data to drive decision-making is a key pillar in becoming an outcome-based regulator, and specifically, using data to identify areas where the most impact can be made. Additionally, in response to a question regarding how acceptable risk levels are defined, V. Dessanti advised that TSSA utilizes international standards of acceptability. Specifically, she advised, that TSSA uses a criterion of 1.00 FE/mpy (fatality equivalence per million people per year) for evaluating risk to the general population of Ontario and a criterion of 0.3 for evaluating risks to sensitive sub-populations.

9. Safety and Compliance Report

R. Wiersma spoke to this item and treated the report sent to Council ahead of the meeting as read. He highlighted a few key findings in the Annual State of Public Safety Report (ASPR), including an increased trend in the number of occurrences, noting that this is largely driven by increased reporting in both the amusement devices and elevating devices sectors. He explained that a significant difference in the report this year, is the tracking of pipeline occurrences. He added that FY19 saw a decrease in the observed injury burden, noting that this is relevant also in the fuels sector.

As it relates to the fuels sector, R. Wiersma noted that the observed injury burden is decreasing for the fuels sector, adding that the actionable areas remain carbon monoxide (CO) in apartments and condominiums, fuel risks in private dwellings, and fuel risks in schools. He advised Council the main occurrences for the liquid fuels sector are leaks, spills, fire, and CO releases, noting further that they predominantly occur in private dwellings and retail fueling stations. Furthermore, R. Wiersma presented data on compliance by fuel type and explained that though compliance is lower, as it relates to liquid fuels, the level of high-risk orders is less than 1% overall.

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In response to a question from Council regarding the change in compliance between 2016 and 2017, R. Wiersma advised that there was a change in the model in 2017 which resulted in a drop in the compliance rates in 2017. In response to a question from Council regarding the sample size, R. Wiersma advised that the data shown represents reported incidents. J. Marshall added that occurrences can go unreported, noting that high-risk/high profile issues would be hard to miss. Z. Fraczkowski questioned whether there was an opportunity to look at the environmental impact on equipment/technology, whether there was an opportunity to look predictively at certain issues in order to prevent occurrences before they happen. B. Francis noted that there is some move toward this, providing the example of the increased use of double walled tanks and other technological innovations. In response to a question regarding whether mandatory maintenance would be a consideration given the number of occurrences in private dwellings, J. Marshall advised that this issue was discussed and turned down at the national code committee, adding that the issue was supported by the Heating, Refrigeration and Air Conditioning Institute of Canada (HRAI), but due to a lack of support at the code committee no progress was made.

a. Report on High risk orders

R. Wiersma spoke to this action item, referring to the presentation circulated prior to the meeting. He advised of the top high-risk orders, noting that as it related to liquid fuels most orders are low risk.

10. Incidents/ issues report

J. Marshall spoke to this item and advised there were not many incidents to report at this meeting. He advised of an explosion incident on a boat resulting from equipment failure. Additionally, J. Marshall provided an update on the fuel oil distributor program, currently being formalized by TSSA. He noted that increased oversight over fuel oil distributors was recommended by the Auditor General (AG), adding that TSSA is working on a plan which should be implemented in 2020.

11. Business Model (Fee Structure)

B. Rose spoke to this item, referring to the presentation shared with Council prior to the meeting. She advised that our existing fee model is outdated and complex, and that a new model is required to support TSSA's transition to becoming an outcome-based regulator, adding that its scope will cover all programs and all activities. She added that the guiding principles for the new business model are 1) simplicity; 2) equitability; 3) encouragement of compliance; 4) efficiency; 5) dispute reduction; 6) cost recoverability; and 7) accessibility. She confirmed that TSSA is moving away from a fee-for-service model towards a model where the license fee is inclusive of regulatory inspection activities, adding that the new model would be revenue neutral. She proposed the following options for consideration within the framework: 1) flat fee regardless of category; 2) flat fee based on category; or 3) flat fee based on risk and category. He advised Council that this change is intended to be revenue neutral. Moreover, K. Kennedy noted that online consultation would be utilized after each council meeting, adding that TSSA would be requesting feedback from various industry groups in addition to the Advisory Councils. B. Rose advised that once we have consensus on the option to pursue, further detail will be provided, with the final rollout to depend on the complexity of the option chosen. Council was presented with some examples specific to the Liquid Fuels program for discussion.

There was significant discussion on this topic. Several members had questions surrounding the number of re-inspections permitted by the model. S. Ariyaretnam advised that the license fee will be inclusive of the inspection fee, however the specific number of follow-ups covered under the one fee has not yet been determined. He noted further that the license fee would be determined by looking at an average number of inspections in order to determine the fee. B. Rose added further that the average bill will remain the same, this is intended to be revenue neutral, explaining that this consultation is about getting the model right. There was additional discussion regarding the merits of options two and three.

In response to a question regarding the role and importance of an educational component particularly as it relates to option three, B. Rose advised Council that TSSA is developing a compliance support program for high risk entities to compliment inspections. She noted that this program is completely voluntary and free of charge,



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adding that it is targeted at high-risk owners/operators with the goal of increasing compliance. Several Council members noted that this model would make budgeting more predictable and overall more equitable. There was some additional discussion regarding the categorization within the sector. S. Ariyaretnam provided some examples of potential categories for liquid fuels and noted that TSSA is looking for Council input as to what should be the categorization within the sector. In response to a question regarding cost recoverability of unlicensed sites, J. Marshall explained that this issue will have to be addressed, adding that there needs to be a mechanism in place to incentivize payment. There was some additional discussion regarding the merits of each option, the importance of fee predictability, and the reduction of administrative burden. Council was advised that a link to the online consultation platform would be shared with them shortly after the meeting and would remain open until the end of December. K. Kennedy encouraged the associations to share the consultation link with their members.

12. Ministry of Government & Consumer Services (MGCS) Update

E. Morales spoke to this item and provided an overview of the report distributed to the Council prior to the meeting. He advised that the Honourable Lisa Thompson was appointed Minister of Government and Consumer Services. He spoke to various burden reduction initiatives undertaken by MGCS, noting that in July the Minister held a burden reduction roundtable with TSSA and various stakeholders. Among other items, he provided an update on the agricultural exemption consultation, Ministerial Exemption for 'first-fill' activities, the approval of amendments to the Fuel Industry Certificates regulation, and alternate rules being applied to the Operating Engineers program.

There were no questions or comments from Council.

13. Council Issues

J. Marshall provided Council with an update on the issue of abandoned gas stations. He advised that TSSA has been able to finalize a list of known sites in Ontario and has provided this list to MECP. He noted that the MOU with MECP has been signed earlier this week and explained that the MOU deals with both information sharing and the transfer of responsibility. He added that the abandoned sites have been turned over to MECP and the municipality will be notified. J. Marshall advised Council that TSSA is working with both MGCS and MECP to review how the concerns of source water committees can be addressed, and if a fund can be set up to help deal with these sites.

In response to a comment from a Council member regarding a stalled housing project due to an abandoned gas station, J. Marshall advised that TSSA has tried a number of approaches to remove abandoned gas stations with little success. He noted that owners often do not have the means to decommission the site. B. Francis questioned why the cost of clean up is so high, unlike in American jurisdictions, adding that this should be reviewed and investigated.

14. Updates

a. RRG update

A. Barker spoke to this item, referencing the material distributed to Council prior to the meeting. She advised that the last meeting of the RRG was via teleconference on September 9th, 2019 in which the major issues discussed were additive injection systems and the mobile fueling advisory. She noted that the challenge with the mobile fueling advisory specifically is that the code does not differentiate between class 1 and class 2 liquids, so the advisory must accommodate for all fuels. Additionally, she advised Council that licensing is another requirement, noting that once the program is developed, the license requirement and fee will follow.

In response to a question from Council regarding how it works in the current state, A. Barker advised that currently this is a gap discovered by TSSA. She added that there are a number of licenses, but none that cover mobile fueling. Additionally, in response to a question regarding whether tanker truck requirements

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would be considered, A. Barker confirmed that the requirement for tanker trucks is not new for retailing, it has been in the code for some time. She noted that it must be a B620 tanker truck, and it must be licensed, adding that if we found a company that was not complying, they would be shut down. In response to a question regarding the status of unattended fueling, A. Barker advised that the currently priority is the issuance of the mobile fueling advisory, noting that currently there is nothing new to report as it relates to unattended fueling.

b. B-138 (inspection of portable appliances)

G. Thong spoke to this item and provided Council with a history of the B-138 code which was developed to address the gap in B-139. She noted that currently TSSA is working on the code adoption documents (CAD), however it is currently on hold for review. P. Simeon added that TSSA will be triaging and prioritizing all CAD amendments organization wide. He noted that TSSA wants to demonstrate a consistent approach on how these are reviewed and implemented. He advised that four considerations underpin the analysis. First, does the code address a safety gap? What is the gap? What is the improvement, and what evidence supports this? Second, what is the cost to business? Third, how does this align with the outcome-based regulator model and/or an AG recommendation? And fourth, has there been adequate stakeholder engagement? He stressed that TSSA wants to be consistent in the approach to CAD assessments and implementation.

In response to a question from Council as to whether this is on hold until the assessment is complete, P. Simeon confirmed, and explained that this is not about not implementing the code, it is about demonstrating the need for adoption and demonstrating with data that code adoption is in the best interest of safety.

15. Associations' Updates

J. Wood advised that it has been a busy few months for OPTTA, adding that they are involved in several initiatives introduced by TSSA, noting that OPTTA is involved in a number of TSSA committees. He added that OPTTA has just finishing training season, including emergency response training for technicians.

L. Marcil confirmed it has been a busy year for NOTO, advising they are actively sharing TSSA safety information. She advised that NOTO is willing to help get information out to stakeholders regarding the business model consultation.

16. Questions and Other Business

J. Lastoria raised the issue of the carbon stickers cautioning that the government's sticker initiative has "politicized" gas stations. He added that he has received reports of vandalism, noting that this is troubling and is not a far leap to actual harm to businesses' employees. J. Marshall advised Council that the TSSA has no enforcement authority as it relates to the carbon stickers, noting that if there is no sticker, TSSA inspectors give one to the operator to install. He advised Council to send reports of vandalism to MECP. There was some discussion on this issue with some Council members advising that the carbon stickers may force rearrangement of other safety stickers on the dispensers.

In response to a question from Council regarding an update on the Ontario College of Trades (OCOT), J. Marshall confirmed that the Ministry of Training, Colleges, and Universities has taken over OCOT's mandate but there are no other recent updates. K. Kennedy added that TSSA has been asked to contribute input into the further state of OCOT.



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17. Council Administration

a. Matrix review

The membership matrix was affirmed by Council, as presented. R. Hineman renewed his membership on the Council. J. Marshall confirmed a vacancy on Council for a representative from a 'Standards Development Organization or Certified Body'.

Action: D. Fernandes to update the affirmation date of the membership matrix.

Action: D. Fernandes to update renewal date for R. Hineman.

Action: D. Fernandes to confirm membership renewal of J. Stewart and M. Gagnon.

Action: D. Fernandes to issue a call for nominations for a representative from a 'Standards Development Organization or Certified Body'.

b. Council Administration

K. Kennedy spoke to this item and advise the Council that D. Fernandes is now the new Council coordinator. He advised that meetings will no longer be scheduled two or three years in advance, but rather on a per annum basis in order to better leverage the Council more strategically for matters that require consultation. Additionally, he advised that moving forward, any action items identified during Council meetings would need to be phrased as a Council deliverable as opposed to referencing corporate projects more broadly. He also advised Council that TSSA would be leveraging 'Bang the Table/ Engage TSSA' for online consultation to complement Council meetings during times when Council is not scheduled to meet, or the matter is lengthier than the Council meeting would allow. There was a comment from Council regarding the timeframe for minutes, K. Kennedy advised that we aim to have the minutes distributed four weeks from the meeting date.

There were no comments or questions from Council.

c. Advisory Council Survey

K. Kennedy provided an overview of the Advisory Council Survey results, he advised that 'Bang the table/Engage TSSA' was utilized to conduct the survey, adding that the number of respondents were lower than in past years. The survey found a slight increase in the overall impression of the relationship between TSSA and the councils, but he cautioned that these results are based on a relatively narrow dataset.

In response to a comment from Council regarding firewalls preventing members from taking the survey, K. Kennedy confirmed that he will review and investigate this issue.

18. Adjournment

The meeting adjourned at approximately 1:00 p.m. Council held an in-camera session with B. Rose, followed by a Council-only in-camera session without TSSA staff or guests.



Appendix

Link to Business Model (Fee Structure) Consultation and Material
(Double Click Paper Clip to open)



<https://engagetssa.org/business-model-consultation-2019>

Advisory Council Survey Results
(Double Click Paper Clip to open)

