



# Technical Standards and Safety Authority

## Minutes of the Liquid Fuels Advisory Council Meeting on May 15, 2014

Minutes of the Liquid Fuels Advisory Council meeting of the Technical Standards and Safety Authority (TSSA) held in Boardroom 1434, 14<sup>th</sup> Floor, Centre Tower, and 3300 Bloor Street West, Toronto, Ontario at 9:00 a.m. on the 27<sup>th</sup> day of November 2013.

**Present:** Robert (Bob) Smith (Chair), Canadian Oil Heat Association, Terry Ablett, Wagg's Petroleum Equipment Ltd., Trish Anderson, CIPMA, Eric Bristow, Canadian Fuels, Brent Francis, Francis Fuels Ltd., John Lastoria for (Andrea Ongaro), Canadian Tire Corporation, and Matilda Presner, Consumers Advisory Council.

**In attendance:** John Marshall, Director, Ann-Marie Barker, Engineer, (all items except 19), Michael Beard, President and CEO (all items except items 13, 14, 15), Sandra Cooke, Compliance Manager (item 17), Zenon Fraczkowski, Engineering Manager (all items except 19), Wilson Lee, Director Stakeholder Relations (item 9 and 15), Maram Khalif, Council Coordinator (all items except 19), David Scriven, VP Research and Corporate Secretary (items all except 17 and 18), Richard Smart, Chief Financial and Information Officer (item 8), Srikanth Mangalam, Director Public Safety Risk Management (item 11), Supraja Sridharan, Public Safety Risk Analyst (item 11), Jonathan Tsao, Advisor Government Relations (all except items 19) and Peter Wong, VP Operations (all items except item 19).

**Regrets:** Jim Wood, McKeown & Wood Ltd.

**Guests:** Sarah Jeffrey-Hampton Senior Policy and Program Analyst, Ministry of Consumer Services (MCS) (items 1 – 18), Stephen Koch, Canadian Oil Heat Association (items 1-14), Trudy Lowe, 7-Eleven (item 18) and Luis Trujillo, 7-Eleven (item 18).

### **1. Constitution of Meeting**

R. Smith, Chair, called the meeting to order. Roundtable introductions followed.

### **2. TSSA's Safety Moment**

J. Marshall introduced the emergency evacuation terms in case of fire during the meeting. A video on the dangers of distracted driving was also shown as part of TSSA's safety moment.

### **3. Approval of May 15, 2014 Agenda**

Council members approved the agenda for the May 15, 2014 meeting as presented.

### **4. Approval of the Minutes**

Council members approved the minutes from the November 27, 2013 Liquid Fuels Advisory Council meeting as drafted, as being a true and correct record of that meeting.



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### **5. Review Action Items From Last Meeting**

A. Barker reviewed the outstanding action items from previous meetings with council members, noting that the items highlighted in grey were completed.

Protocol for fuels oils spills and leaks has been discussed at the Risk Reduction Group level. The consultation process is complete and this matter will be finalized by the end of the month.

The second outstanding item regarding council voting on the top priority safety issues was added in the agenda as item 12 for information and discussion, if necessary.

### **6. Council Chair's Report**

The Chair shared with council that he submitted the Chair's annual report to the President and CEO's office and the report will be shared with council at the next meeting.

### **7. TSSA CEO'S Report**

As part of the advanced materials for this meeting, members received a report from the President and CEO regarding TSSA's key activities over the last quarter, which was treated as read.

M. Beard provided an update of a recent propane explosion in the Brampton area. TSSA's response and the status of the incident site's inspections were noted as a positive improvement since the last major incident in the propane industry. TSSA, the Fire Marshal Department and the First Responders' rapid response coordination was also acknowledged.

TSSA's Corporate Social Responsibility (CSR), which has been currently launched recently, was also highlighted.

### **8. Fee Review & White Paper Working Group Update**

With the aid of a PowerPoint presentation, R. Smart provided an overview of the options paper for fee review and framework.

Lessons learned from previous fee review and framework was presented with the emphasis of focusing on value for money and innovation. Past challenges were also shared with council, such as, complexity and understanding of the invoicing process; transparency; effectiveness of incentives and deterrents; as well as the use of technology.

Moving forward, objectives of the options paper were highlighted with a focus on innovation and standardization. The options paper consultation process will include cross functional teams at TSSA and will utilize project and change management methodology. This consultation will engage stakeholders and will include third party input from a researcher and feedback from TSSA's customers.

Discussion ensued around the underlying message for the options paper and ways to affect the behavior of organizations in order to achieve compliance. Public safety is the priority. There were further discussions regarding the cost of perfect compliance versus the cost of the lowest compliance and finding a common ground for optimum compliance. Feasibility of partnering with other similar regulators and the creation of bulk licensing or integration for certain fees was also considered.



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The options paper presentation will be posted with the minutes.

### 9. Northern Action Plan and Embedded Fee

J. Marshall introduced two issues related to the Northern region of Ontario:

- some small businesses were shut down either voluntarily or due to non-compliance infractions and;
- credits issued by TSSA for invoices (for embedded inspection fees) that were paid by the customers for inspections that weren't conducted.

Recognizing the unique nature of northern community issues, it was emphasized that TSSA's focus is on public and environmental safety and assisting operators with compliance of the regulations. J. Marshall also affirmed that TSSA was working diligently to allow extended time to comply with certain orders in order to minimize the impact of any preceding issues on small business.

T. Ablett expressed the view from the region noting that credits being issued will not be well received and will create distrust within the industry. He noted that the current inspection fees being issued were twice as much as the credits being received, which creates financial issues in the region. Developing a risk mitigation list for the region to efficiently deal with these issues was recommended. The financial impact on small businesses as a result of the amount of orders being issued was further discussed.

Ways to resolve these issues without compromising safety were discussed. One recommendation was the efficient utilization of declaration of compliance to avoid site follow up. Where possible, TSSA will conduct administrative follow ups (i.e. telephone call) to also reduce the number of site follow ups and subsequent flat fees charges.

Other historical underlying issues were also discussed in detail, such as, older gas stations being bought by new owners who do not understand the regulations and liabilities of assuming outstanding infractions. Developing ways to alert or educate prospective parties around issues relating to business buyer/seller were also discussed. Simple reminders on TSSA's website for regulatory checks before buying or selling businesses are being considered.

### 10. Issues and Incident Report

There were no incidents reported since the last meeting.

### 11. Liquid Fuels Safety Compliance Report

With the aid of a PowerPoint presentation, S. Mangalam provided safety compliance information regarding the Fuels Safety Program including a five year trend ending third quarter of TSSA's fiscal year.

Under the top five clauses cited in FYQ3 issued orders (periodic inspections), council would like the report to include examples of the orders so they can disseminate the information to the industry in a more self explanatory way. Data related to the incidents and near misses were also requested to be included in the next compliance report.

The Oil Burner Technician (OBT) shortage was discussed in detail. Certificate holders in this sector are unwilling to do the 10-year inspection of the appliance because they are being sued for any problems that occur after the inspection. This has had a negative impact on enrollment at the colleges and has caused insurance premiums for OBTs to increase. Council would like to put the onus for maintenance on



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the appliance owner or have a limited term of liability after inspection by an OBT. Council emphasized that the future shortage of these skills will impact the industry and ultimately Ontarians at large.

The fuel oil inspection issue needs more exploration and discussion and is out of scope for the advisory council. Resolving the future shortage of OBTs will need a balanced approach between MCS and TSSA to reduce risk and find a regulatory solution.

Council established a subgroup comprised by R. Smith, E. Bristow, T. Ablett (on a temporary basis) led by B. Francis. This subgroup will propose changes to the regulations to address the problem of liability for the 10-year inspections. This approach was supported by members of Canadian Oil Heat Association (COHA). The subgroup will present a paper with their findings and a business case recommending regulation review by MCS.

**ACTION:** Subgroup consisting of R. Smith, E. Bristow, T. Ablett, and B. Francis will explore the 10-year fuel oil inspection issue to prompt regulation review process based on their findings.

**ACTION:** Compliance Report PowerPoint presentation will be posted with the minutes.

## 12. Priority Safety Issues

**Single Wall Fuel Oil Tank Analysis:** the results of the analysis were discussed along with how the findings will be utilized. TSSA will be exploring options with COHA.

**Public Education:** this item was not discussed at this meeting.

## 13. Risk Reduction Group Update (RRG)

As part of the advanced materials for this meeting, members received a summary of all fuels RRG meetings since the last council meeting, which were treated as read.

A discussion ensued around the use of cell phones at gas stations. At the last Liquid Fuels RRG meeting, industry requested that TSSA re-consider our position on not using cell phones at the pumps since they would like to implement cell phone payments. The TSSA legal department advised that TSSA should not overrule the cell phone manufacturers' instructions. These instructions state that cell phones are not to be used in hazardous areas.

Further discussions ensued around the safety issue related to the use of cell phones and other distractions at the fuel pumps. Council acknowledged the liability that TSSA would be assuming if we endorsed cell phone use in hazardous areas. TSSA suggested to council that they should approach the cell phone manufacturers and ask them to remove the restriction from their instructions.

## 14. Ministry of Consumer Services (MCS)

S. Jeffrey-Hampton addressed the council's request to have a regulation review for the liquid fuels industry. She highlighted the information provided regarding the northern region and acknowledged the efforts by both TSSA and industry to find an efficient way of minimizing negative impacts. She also informed council of all the factors that are needed in order to open a particular regulation for review.

She further emphasized that having a strong business case with supportive evidence is a good place to start to initiate a regulation review.



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### 15. Other Issues

**Source Water Protection:** W. Lee informed council that this was an ongoing consultation with MOE and 13 local source water protection committees.

He also provided a brief update around the issue: MOE and the local source water protection committees named TSSA and MCS under implementation phase of policies disregarding TSSA's mandate and its regulations. Some of these committees have removed TSSA and MCS from their policies. TSSA and MCS were diligently working with MOE and other source protection committees to have all municipalities remove any references to TSSA and MCS in their implementation phases. To date, most of the municipalities removed TSSA from the implementation phase of their policies.

W. Lee reported to council that there has been no change since the last meeting and requested this item to be removed from the agenda as a standing item until more information becomes available.

**Ontario College of Trades (OCOT):** W. Lee provided a brief background on this issue by highlighting the overlapping regulatory issues arising from the inception of OCOT especially in gas fitters trade for this industry. He reported to council that an agreement has been reached to allow gas fitters to remain under TSSA's regulatory mandate due to its nature of interacting with the general public.

He noted this is still an ongoing issue and information will be shared with council as it becomes available.

### 16. Membership Matrix for Council

As part of the advanced materials for this meeting, members received a revised matrix, which was treated as read.

The changes were presented and council was encouraged to submit any recommendations to D. Scriven. If there are no objections or feedback, the matrix will be adopted as presented.

### 17. Introduction of TSSA's External Ombudsman

As part of the advanced material for this meeting, council received TSSA's external ombudsman's charter, which was treated as read.

With the aid of a PowerPoint presentation which forms part of the record of the meeting, S. Cooke presented the background information on how the ombudsman's office was developed; examples of how the office can help the industry; and her contact information.

### 18. Questions on Information Items and Other Business

**Electronic Line Leak Detectors (ELLD):** Electronic Line Leak Detectors (ELLD): T. Anderson indicated to council that Canadian Independent Petroleum Marketers Association (CIPMA) members are concerned about three proposed changes to the Liquid Fuels Handling Code (LFHC): the proposal for all new and existing double-wall pressure piping systems to have ELLD; the proposal to no longer allow underground piping to be abandoned in situ; and the proposal to have all submersible pumps installed in a monitored sump by June 1, 2018.



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CIPMA's opinion is that ELLD is an expensive fix for an improbable event and that it would financially drain retailers while not delivering environmental benefits. TSSA disagrees. Piping is the largest source of leaks. ELLD will provide positive monitoring of pressure systems with double wall piping. This will alleviate many of the problems we now have with leaking sumps and entry boots since ELLD would provide leak detection and shut down the pumps regardless of the condition of the sump. Also, once a station is built, there is no easy way to ensure that the secondary containment piping is intact; ELLD will provide another level of safety for the primary piping. T. Ablett also indicated that when there is a problem with water leaking into the sumps, many site operators 'fix' the problem by raising the sensors. If there is a fuel leak, the sensors would not be able to detect it.

T. Anderson invited guests Trudy Lowe of 7-Eleven Canada and Luis Trujillo of Facility Maintenance & Construction to voice their concerns. Ms. Lowe was concerned that the proposal in the LFHC was to install a hard-wired ELLD which would be very expensive since trenching would be required for the installation. A. Barker assured her that this was not the case and that the LFHC would allow wireless ELLD (i.e. not wired to the building). A. Barker also indicated that the installation of ELLD would be staged so that older piping systems are done first. This will allow industry to plan and budget for the changes.

For new sites, the cost of ELLD will be approximately \$6,000 for three Submersible Turbine Pumps (STPs). To retrofit a similar site will cost approximately \$20,000 if the site already has an electronic monitoring system and \$30,000 if it does not. Costs will be site specific.

Regarding the proposal to no longer allow underground piping to be abandoned in situ, CIPMA regards this as a redundant and costly requirement. A. Barker pointed out that prior to July 2005, when Advisory FS-057-05 was published; all piping had to be removed from the ground once it was out-of-service. At that time the Liquid Fuels RRG requested a provision for abandoning pipe on urban sites since they sometimes found a lot of service lines that made the removal of piping difficult. Currently TSSA has no record of sites where pipe has been abandoned and no assurance that the criteria in the advisory were being followed. The current RRG has suggested that TSSA revoke this advisory and only allow piping to be abandoned by variance. This will ensure that TSSA has a record and can ascertain that the proper procedure is followed.

Regarding the proposal to have all submersible pumps installed in a monitored sump by June 1, 2018, CIPMA has requested that the deadline be extended to December 31, 2018. A. Barker indicated that she would discuss this at the next RRG meeting but could see no problem with changing the deadline.

The concerns in particular relation to the proposed implementation timing, CIPMA and Canadian Fuels are seeking a longer staged implementation timing.

### **19. In Camera**

Council met *in camera* without management and guests.

### **20. Termination**

The meeting was terminated at 1:20 p.m. The next meeting is scheduled for December 2, 2014.