

MINUTES
South Carolina Liquefied Petroleum Gas Board
Board Meeting
10:00 a.m., April 1, 2014
Office of State Fire Marshal
141 Monticello Trail
Columbia, South Carolina

MEETING CALLED TO ORDER

Richard O'Sheal, Chairman, called the meeting to order at 10:00 a.m.

STATEMENT OF PUBLIC NOTICE

Mr. O'Sheal announced that public notice of this meeting was properly posted at the S. C. Liquefied Gas Board office, 141 Monticello Trail and provided to all requesting persons, organizations, and news media in compliance with Section 30-4-80 of the South Carolina Freedom of Information Act.

INTRODUCTION OF BOARD MEMBERS AND GUESTS

- S.C. Petroleum Gas Board members present: Richard O'Sheal, John Butcher, Rob Freeman, Jerry Tindal, Art Irick, Larry Lucas
- S.C. Petroleum Gas Board members absent: Anthony Segars
- LLR Staff Members participating in this meeting included Ray Hoshall, Board Administrator, Shane Ray, S.C. State Fire Marshal, and Ronnie Yonce, Board Administrative Assistant. Sheridan Spoon, Advice Council advised the Board.
- Guests present for this meeting included David Blackwell, Office of State Fire Marshal, Bruce Kritz, Office of State Fire Marshal, Curtis Smith, Office of State Fire Marshal, Corky Clark, S.C. Propane Gas Association, Rex Kneece, S. C. Propane Gas Association, and Eric Taylor, S. C. Propane Gas Association/Ferrell Gas.

APPROVAL OF APRIL 4, 2013 MEETING MINUTES

Motion: To approve the minutes as submitted. Butcher/Freeman/Approved.

APPROVAL OF AGENDA

Motion: To approve Agenda as distributed. Tindal/Freeman/Approved.

ELECTION OF CHAIRMAN AND VICE CHAIRMAN

An election was held as required by the Practice Act. The first matter of business was the election of the Board Chairman. The Board Administrator called for nominations from the floor. A nomination for Mr. Richard O'Sheal to serve as Chairman was made by Mr. Jerry Tindal and seconded by Mr. John Butcher. A call was made for additional nominations, none being heard, the Board Administrator called for a voice vote. All members voted in the affirmative, and Mr. O'Sheal was congratulated on his reelection as Board Chairman.

The second matter of business was the election of the Vice Chairman. The Board Administrator called for nominations from the floor. A nomination for Mr. John Butcher to serve as Vice Chairman was made by Mr. Richard O'Sheal and seconded by Mr. Jerry Tindal. A call was made for additional nominations, none being heard the Board Administrator called for a voice vote. All members voted in the affirmative, and Mr. Butcher was congratulated on his reelection as Board Vice Chairman.

MANAGEMENT REPORT

Shane Ray, S.C. State Fire Marshal provided an update on the Governor's Task Force project. A request for updated information was not received by the OSFM inasmuch as the LP Gas Board was not in the Regulator Review Task Force Executive Summary Report. From the LLR side, the only item that was addressed was left over from the Legislative Audit Council (LAC) Report addressing dealer storage capacities and waivers. That issue is covered by Statute and any changes would have to be made by this group. We have not addressed it and do not anticipate addressing it in the next legislative session. Basically, there was no negative impact on the LP Gas Board as a result of the Task Force Report.

With regard to the regulations posted in the State Register, both proposed changes are moving the appropriate committees in both legislative bodies at this time. The objective in the proposed regulations was to fix a problem relating to updating the regulations every time a new code or standard edition was released. The goal was to link the statutes and regulations updates to the edition referenced in the International Fire Code that was already adopted by the State. One of the changes that we worked with both the Board and the SCPGA was that plan submittals shall comply with NFPA 58. Another minor clarification was related to what the **Office** of State Fire Marshal may do versus what **the** State Fire Marshal may do.

A question was raised from the floor relating to the International Fire Code adoption of specific standards. Would the IFC adopted the latest edition of an NFPA code, or would it adopt a specific edition of the NFPA code? Chief Ray explained that the IFC would adopt the most recent edition of an NFPA code at the time the IFC was published. The intent is that when the Fire Code, Building Code, Fuel Gas Code, etc., are adopted through the regulatory process by the Building Code Council, those will be the codes that we agree to and it will reference the NFPA codes that we will utilize. Chairman O'Sheal mentioned that that will still not adopt the most recent NFPA codes since the ICC codes and NFPA codes are on different adoption cycles. Chief Ray advised that, for example, the 2012 IFC adopts the 2010 edition of the NFPA 13 on sprinklers. We will have to adopt the 2015 IFC to reach the 2013 edition of NFPA 13. David Blackwell commented that nothing prohibits the use of the latest code; it just establishes that the referenced edition is the minimum standard that can be enforced by the AHJ per Title 1, Chapter 34. Mr. Freeman then stated that the question is since the national training used by the LP Gas industry is based on the most current edition of the NFPA 58. Mr. Clark, as a matter of clarification, asked that when adopting the 2012 edition of the Fire Code, we adopted the 2011 edition of NFPA 58, both by the Building Code Council and by the OSFM, and if that is the case, why have we not adopted NFPA 54 also? Chief Ray responded that whatever the edition of NFPA 54 is referenced in the 2012 Fire Code is what we have adopted. Mr. Irick asked if

NFPA and the ICC were both on a three year cycle, to which Chief Ray responded in the affirmative, but not concurrently in many cases. Remember, we have the option of accepting the latest code edition (according to Title 1, Chapter 34). Chairman O'Sheal asked that if there are any changes being proposed that will impact the industry that we work with this Board and the S.C. Propane Gas Association. Chief Ray then addressed a question posed earlier by the Chairman regarding the relationship between dealers and resellers and their licensing. This has been addressed in the past. The decision was that we would inspect all of the sites. Mr. Hoshall added that we inspect "the facility", we are not inspecting the business. The example used was if a business has a bulk site at one location and an office at another location, we would be inspecting and licensing the bulk facility. Now, if the office location has a reseller facility at that location, it is a separate inspection as a reseller location. This is in part so that all bulk and reseller locations can be plotted into GIS for emergency preparedness purposes. Mr. Hoshall further explained that the upcoming facility inspections would be conducted during the two year licensing period, not in conjunction with the issuance of renewals. New facility inspections will remain unchanged. This will cover both bulk locations and reseller locations. Currently the problem is only found in the field when our deputies just happen by a location and find a repair being made to the facility that is not in conformance with the specific requirement, i.e., an explosion proof motor being replaced with a non-explosion proof motor. Mr. Irick added that this may be indicative of an even larger problem and that being unqualified people perform work on LP gas systems. Often the reseller performs the work themselves, not knowing that they cannot perform the work. Chief Ray emphasized that one of our objectives is to develop consistency within our office so that all deputies are providing the same service to you and the industry. Our mission is to assist you with compliance instead of enforcement. We will continue down that path of providing assistance so we can minimize the amount of enforcement that we have to perform. We are not announcing inspections, but yet they are not to be considered as surprise inspections. Surprise tends to indicate a desire to enforce, rather than a desire to help educate licensees and help them to achieve compliance. Employee training is an important area of compliance. Under the current statutes and regulations, only one person is required to be permitted at each facility. It is incumbent on that person to ensure that the others working at dispensing and handling LP gas have been trained. Mr. Freeman commended the OSFM on the aggressive program of attempting to inspect all bulk sites and reseller sites on a two year cycle. It shows a commitment to getting out into the field and helping to ensure that facilities are operating properly. He suggested that checklists be provided to the users so that they know what to expect during an inspection so they can begin working towards compliance even before the inspection visit. He also commended OSFM for expanding into the area of training record inspection. Again, a checklist covering what will be expected would be nice. The Association can broadcast this information to the field ahead of time as part of the education process. The Association and the industry would be glad to assist in developing the checklists. Mr. Hoshall suggested the formation of an Ad Hoc committee to assist in checklist development. Mr. Irick addressed the fact that he received many complaints from customer relating to practices occurring at reseller facilities. There seems to be a gap between the one person permitted to handle LP gas and the rest of the people working at a facility. Many of these people do not understand the physiological and properties of propane and the proper filling methods. Mr. Irick voiced that he is not sure if only having one trained

person per facility is a good idea. Mr. Hoshall advised that this may be something that the Chairman may wish to assign to an Ad Hoc committee to review. This method of operation has been a Board approved procedure since 2005 where only one person has to be tested and permitted to handle the dispensing of LP gas. Mr. Hoshall added that he is not sure if this was the intent of the statutes and regulations, but it has been the standard practice since 2005. We have had recent incidents where only one person at the facility was permitted as a qualifier and that person resigned. Many people we talk with at facilities that are not the permitted employee state that the only training they have received was watching a video and had never had any human interface. Mr. Hoshall added again, that this is something that we need to look at carefully in 2014.

At that point Mr. Freeman reminded those in attendance that not everyone needs to be licensed, that there is a difference between being licensed and being trained. Training is already covered in NFPA 58, which says that everyone that handles propane will be trained in the job function and the training shall be documented. If an inspection is conducted and the documentation of training cannot be produced, that is already a violation. Mr. Lucas also questioned whether the inspection process included a checklist and whether training records were part of the checklist. Mr. Hoshall replied that the OSFM was working towards that goal. Under current inspection policies, the only time a reseller facility received an inspection is when the supplier is setting up the operation, and hence, there are no training records to review. Our goal with the re-inspection every two years is to evaluate both the facility and the training programs. Mr. Irick asked to clarify that when OSFM goes out to a reseller facility there would be one person listed as a permitted employee. All other employees would be trained and certified by the permitted employee. Mr. Hoshall reiterated that was a correct statement. Training for other employees could be done by either the permitted employee or by the supplier, in any case, the training must be documented. If OSFM observes an unsafe operation and questions the employee or the licensee regarding training, and if none can be verified, OSFM can issue a Cease and Desist Order until such time that the condition has been mitigated. Mr. Spoon offered that if the Board sees additional needs, the statute or the regulations could be changed to reflect additional requirements. Chairman O'Sheal added that much depends on the organization selling the propane and their commitment to following the requirements. He stated that the Highway Patrol would not be as busy if everybody just obeyed the law. Mr. Hoshall was asked just what OSFM would be looking at for training documentation. He replied that is the weakest point. NFPA says there will be training and it will be documented. That is obviously a very ambiguous requirement. Mr. Irick commented that from personal experience, that training may consist of someone showing the employee the procedure one time and that is the extent of the training. Mr. Taylor (Safety and Training Director for the SCPGA) agreed with both sides of the discussion. If OSFM continues to develop consistency and work to assure accountability things are already in place to drastically aid the reseller in doing the things that are already required. It is true that there are many complaints of operators not doing what they are supposed to be doing, but it is the dealer's job to make sure all things are in place. Inconsistency in the frequency of inspections conducted by OSFM has caused many resellers to become lazy. They know that the Fire Marshal is probably not coming. He continued by saying that the step of conducting two-year inspections, although a major undertaking by OSFM will

go a long way in making dealers and resellers more accountable and that the dealers and the Association will support that program. Chairman O'Sheal offered to establish an Ad Hoc committee to discuss issues and any changes that need to be made. Mr. Irick agreed that it was a need, but further clarified that there have been incidents where husband sent wife to have a cylinder filled, she put it in the trunk of her car and brought it home. The husband opened the truck and the trunk was full of gas because the LP filler overfilled the cylinder. The bottom line was that person brought those bottles to Mr. Irick and will probably never buy propane again. Mr. Freeman stated that the trend of the industry is moving away from the filling cylinders and moving to the use of exchange cabinets where the cylinders are filled on automated carousels by robots and inspected by trained personnel. The 20-pound cylinders are now equipped with overfill prevention devices (OPD's) and have been for the past 15 years. These OPD's are not to be used as the primary filling method and greatly reduced the problems with overfilling. Mr. Irick concurred that OPD's have reduced the number of overfill incidents, he has observed resellers filling cylinders not even putting them on the scale but using the OPD as a filling device. Mr. O'Sheal reminded everyone that this goes back to the OSFM being consistent in conducting inspections. Again, an Ad Hock Committed was suggested by the Chairman.

Motion: To form an Ad Hock Committee to review the procedures. Butcher/Tindal/Approved.

The Chairman asked to volunteers to serve on the Ad Hock Committee: Mr. Lucas, Mr. Irick, Mr. Clark, and Mr. Taylor volunteered. The OSFM agreed to assist the committee.

Mr. Clark asked a question regarding the issue that arose with Battle Gas regarding licensing of LP gas resellers and whether the reseller site was under the general dealer license. Mr. Hoshall advised that since we license the facility, not the company, as stated in the regulations each facility will be licensed. Therefore, in the case where there is an office with a reseller, it is still a reseller. If you have a bulk facility where you happen to have a reseller unit on it, that location can easily be read as a single facility. In the case where the bulk facility and office are not co-located, we inspect the bulk facility and not the office. But if there is a reseller unit at the office, it will be licensed as a separate reseller facility. During the hearing concerning Battle Gas we did make the concession that we would not require two separate dealer licenses, but a dealer license for the bulk plant and reseller license for the reseller unit at the office location. We have to be careful not to add any additional license categories in light of the LAC audit several years ago when an unauthorized category of Dealer-Modified was illegally added. Bottom line, they will need to have a reseller license for the Battle Gas reseller facility.

Mr. Hoshall advised the attendees that effective April 15, 2014, Mr. Spoon has accepted a position as a Board Administrator for the Podiatry and Medical Boards. On behalf of the Board, the Chairman expressed his thanks and appreciation for all of the hard work and contributions that Mr. Spoon has made for the Board.

Mr. Hoshall then addressed several housekeeping items related to the meeting. Members were reminded that their travel reimbursement forms were provided with their meeting packets. Regardless whether or not the member was claiming mileage for this meeting, they need to sign in the appropriate place and return them before they leave today.

Copies of the Administrator's comments at the Annual Association meeting held in Savannah were provided to all attendees. The Chairman commended the Administrator for the presentation at the meeting.

NEW BUSINESS

Mr. O'Sheal called for any new business. All Board Members received a copy of the SCPGA Recommended Best Practice for LP Gas container removal from the premises of a customer who has discontinued service. Last year the SCPGA, through Mr. Clark and Mr. Kneece, was summoned to the Office of Consumer Affairs over the issue of a container that had not been removed over a year or so after the service was discontinued. The issue involved billing and tank rental. The Association was tasked with developing a plan, the result of which is the Recommended Best Practices. This is being brought to the Boards attention for information only.

Mr. Hoshall then brought to the attention of the Board a Cease and Desist Order that was issued on March 7, 2014 after OSFM received a complaint, similar to the situation Mr. Irick described earlier. The complainant felt that the cylinder may have been overfilled by the reseller, and that she did receive a thermal burn injury as a result. She reported that when her husband brought the cylinder home from having been filled and placed it in the yard beside the home, every 15 minutes she heard a noise coming from the cylinder. She went out to inspect the cylinder and at the time she was looking into the valve assembly, the relief valve released. Fortunately she was wearing glasses at the time and described her injury as "having a black eye." She provided receipts from the reseller. On the initial site visit, Deputy Smith learned that the only qualifying party (LPE) had resigned four months earlier. With Chairman O'Sheal's concurrence, a C & D was issued until such time that they had an LPE tested and permitted for that location. Subsequent to Deputy Smith's visit, OSFM learned that the cylinder indeed had been over filled based on the actual receipts. The receipt showed that not only was more gas put into the cylinder than the code would allow, it actually had more gas put in that would physically fit into the cylinder. They did send an employee for testing, however, the C & D is still in effect as a result of the inspection. OSFM requested the S.C. Department of Agriculture to inspect the scale that was being used for cylinder refilling. Their inspection revealed that the scale was severely out of calibration. The scale is being calibrated and other repairs, such as electrical issues. No Board action is required.

PUBLIC COMMENTS

Although not a member of the public, Mr. Freeman asked to give a brief report about the previous winter and how this winter may play into future Board actions. The propane industry was very

challenge this winter. The challenge was primarily in the Midwest, but it certainly trickled into our neck of the woods. It relates to a huge crop drying season. The general public may not be aware, but there is now a bushel of corn in everyone's gasoline tank because ethanol makes up about 10% of our gasoline supply. A huge portion of the prairies have been plowed up and planted in corn and that corn crop was very wet this summer. Almost 400 million gallons of propane was used in the Midwest to dry that corn. Propane became in a very short supply in the Midwest and that was followed on by the coldest winter in the last twenty years, particularly in the Midwest, but it even affected South Carolina. When the Midwest ran out of propane, they came to the Southeast and to the pipeline systems and the storage supplies we had here for our customers and it vanished very quickly and went to the Dakotas and Ohio, and Minnesota and Michigan. When that happened, the Governor of South Carolina was very responsive and she issued transportation waivers and the industry responded to the challenge. For the record the propane industry needed the support of Governor Haley's office. Freeman Gas Company sent trucks as far away as Houston, Texas. We didn't have any customers that ran short of propane, but we really needed the support of government. One thing that came of this is that Mr. Freeman is serving on a national task force looking at the propane infrastructure supplying the United States. Many dealers are going to "just in time inventory." There is a lot of regulatory pressure to downsize the storage of flammable fuels in our communities. The National Propane Gas Association is urging dealers to maintain a 10 day supply of propane on hand, because the pipeline and railroads that traditionally have carried propane are beginning to concentrate on carrying other liquids being produced by the shale gas industry, such as ethylene and propylene, and other liquids coming out of the ground. The propane industry can no longer rely on pipelines, railcars, and traditional transport systems to propane. Adequate storage of propane at the local level is important. This is a heads up to the OSFM that there may be an increase in the number of storage facilities in the local level. There was also an increase in the demand for propane for industrial users normally using natural gas, due to the curtailing of natural gas. May be a need to inspect more industrial facilities as these backup units are pressed into use when there is a curtailment of natural gas.

ADJOURNMENT

Motion: To adjourn the meeting of the Liquefied Petroleum Gas Board.
Freeman/Irick/Approved.

Whereupon, at approximately 11:32 a.m. the meeting of the Liquefied Petroleum Gas Board was concluded.