



## Technical Standards and Safety Authority

Minutes of the Liquid Fuels Advisory Council

Meeting on April 11, 2019

**Present:** Brent Francis (Chair), Francis Fuels Ltd.; Rae Dulmage, Consumers Advisory Council; Marc Gagnon, Canadian Fuels Association (via Skype); John Lastoria, Canadian Tire Corporation; Laurie Marcil, Nature & Outdoor Tourism in Ontario (by Skype); Michelle Rae for Terry Ablett, Wagg's Petroleum Equipment LTD; Jim Wood, Ontario Petroleum Transporters and Technicians Association .

Bonnie Rose, President and CEO (item 1-7); Dan Brazier, Chief Financial Officer (item 11); John Marshall, Director of Fuels; Zenon Fraczkowski, Manager, Fuels; Joanne Rider, VP, Communications and Stakeholder Relations (Interim); Denis Caza, Public Safety Risk Analyst (item 8-11); James Ban, Policy Advisor; Kristian Kennedy, Manager Government Relations; Ian Shaw, Stakeholder Relations Advisor; Danielle Fernandes, Council Coordinator (Interim).

**Guests:** Sarah Jeffrey-Hampton, Senior Policy & Program Analyst, Ministry of Government and Consumer Services; Diana Bosnjak, Senior Policy Advisor, Ministry of Government and Consumer Services.

**Regrets:** Rick Hineman, Durham Fuels; Nathan Fahey, Manager, Ministry of Government and Consumer Services; Ann-Marie Barker, Engineer Specialist; Tom Ayers, Vice President, General Counsel and Legal; Marcel Pouliot, Trimac Transportation; Jennifer Stewart, Canadian Independent Petroleum Marketers Association.

### 1. Constitution of Meeting

The Chair called the meeting to order at 9:06 a.m.

For the Safety Moment, Council was shown a short video from the U.S. Department of Transportation on the dangers of refilling non-refillable DOT39 propane cylinders, such as the 1lb cylinders used for camping.

### 2. Approval of the April 11, 2019 Agenda

Council approved the meeting agenda for April 11, 2019 as presented

### 3. Approval of November 22, 2018 minutes

Council approved the minutes of November 22, 2018 as presented.

### 4. Review of Action Items from last meeting

J. Marshall spoke to the pending action items. In relations to standards for tanks and piping, it was noted that B. Francis is to update on the matter at the next LFAC meeting following the Canadian General Standards Board (CGSB) meeting. At today's meeting updates will be provided as they relate abandoned gas stations, the use of cell phones at fueling stations, and the LFAC membership matrix. As it relates to the Memorandum of Understanding (MOU) with the Ministry of Environment, Conservation and Parks (MECP), J. Marshall advised the MOU is in progress and is currently with MECP prior to TSSA sign off.

### 5. Chair's Report

B. Francis encourage everyone to participate in both council meetings and RRGs. He advocated respect for each position in order to work toward a common goal.

### 6. TSSA President and CEO's Report



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B. Rose treated the President and CEO's Report to Advisory Councils, distributed prior to the meeting, as read. She provided a brief update on the Auditor General (AG) and advised that as soon as the AG action plan is finalized and reviewed by the Ministry of Government and Consumer Services (MGCS), it will be shared with the Advisory Councils.

### 7. Action Plan in response to the Auditor General's Report

B. Rose updated Council on the Auditor General Plan, confirming that the major themes identified by the Auditor General are consistent with TSSA's Strategic Plan, such as the TSSA's transformation to become an Outcome-Based Regulator, new IS system support, and the need for a new business model that moves TSSA away from the current fee for service model.

### 8. TSSA's Transformation to an Outcome-Based Regulator

S. Cooke spoke to this item, referring to the PowerPoint presentation shared with Council prior to the meeting. She elaborated on TSSA's move towards becoming a collaborative, outcomes-oriented regulator. Specifically, it was noted that this change represents a cultural shift that looks to work with regulated communities to increase compliance through education and compliance support. As it relates to the Fuels Safety program, S. Cooke spoke to the need for industry consultation in the development of checklists as a means of ensuring inspector consistency. She referenced the natural draft boiler case study and the cylinder exchange pilot to exemplify the importance of risk analytics and evidence to drive decision making, a pillar of the outcome-based regulator model. She advised that an external advisory group has been created to review this initiative and provide feedback.

In response to a question from council regarding whether TSSA has considered mentorship through associations and whether there will be additional instruction for inspectors, S. Cooke noted that we are in the early stages of this transformation and that we are exploring all options. As it relates to inspectors, she noted that training will be provided to inspectors on how to interact with people. J. Marshall added that TSSA is looking at enhancing inspector training, dovetailing on the training practices used in the Elevating Devices program area. He also noted that TSSA is open to exploring the use of new technology as means of improving inspector training.

In response to a question related to the unintended consequence of inspectors benefiting from repeat visits, S. Cooke acknowledged the concern and provided the example of the use of Declarations of Compliance (DCs) as a mechanism to reduce visits on low- and medium-risk orders. She asserted that because the fuels industry is so large, the focus of inspection should be evidence based and targeted at high risk orders. J. Marshall further clarified that inspectors are paid hourly and thus have no incentive for repeat visits. Moreover, he noted that new fee structure and business model will look to harmonizing time spent during inspections, and the checklists should help facilitate inspector consistency and foster a relationship between the inspector and client.

In response to concern raised by council related to the challenges with deregulation and self-regulation and the harmonization of these with the mandate of public safety, S. Cooke affirmed that the outcome-based regulator model would work to enhance public safety as it focuses on high-risk sites and contractors, allowing TSSA to do more inspections, and provide better safety services. It should not be viewed as a "watering down", but rather a more focused approach to inspections that is underpinned by evidence and analytics.

### 9. Safety and Compliance Report

D. Caza spoke to this item referring to the presentation circulated to council members prior to the meeting. He advised that there were no fatalities, no permanent injuries and no non-permanent injuries in the first two quarters of FY19. He added that Liquid Fuels saw compliance increase by 3% at the end of FY18, however, during the first two quarters of FY19, compliance rates are down. Moreover, D. Caza noted that the top 5



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clauses cited in issued order were considered low risk, representing approximately 48% of orders issued. Only 7% of the orders were classified as high risk.

**Action: D. Caza to send council report on high-risk orders.**

### 10. Incidents/Issues Report

J. Marshall provided an update on a tanker leak that resulted in a sizable spill in November, noting that there was no enforcement action on the part of TSSA. Second, J. Marshall spoke to an incident occurring the day before this meeting whereby an individual was pumping contaminated fuel into plastic containers for a burn-off and dumping the rest down a drain pipe. This resulted in the individual suffering minor burns.

### 11. Fee Review

D. Brazier spoke to this item he advised the proposed fee increase, scheduled to take effect July 1, 2019, for Fuels Safety program would include a 4.5% increase in the first year and then 3.5% in the subsequent years. He noted that TSSA is working on revising the fee structure more generally as part of a future fee review. There would be consultation with stakeholders with timeframes and options for implementation being shared accordingly.

In response to a question related to the root causes for cross-subsidization, D. Brazier noted that the focus will be on forecasting activities and then using these to inform a fee structure that would work to eliminate cross-subsidization. The new fee structure should facilitate an environment in which all programs are essentially funding themselves. He added further that TSSA is looking to a simpler fee structure to reduce the cycle of collections, through, for example, enhanced authorizations.

### 12. Ministry of Government and Consumer Services (MGCS) update

S. Hampton spoke to this item and treated the material as read. She noted that the AG report was highly focused on Liquid Fuels and particularly abandoned gas stations and tanks. She added that industry is well-positioned to providing insight into how to deal with this AG recommendation. She then opened the floor to questions.

In response to a concern from council regarding local contaminated sites and funding to clean up such sites, S. Hampton noted that she appreciates the challenges environmental clean-up poses and advised that MGCS is not a funding ministry. B. Francis advocated for the use of carbon tax dollars to fund clean up of these sites and attributed the prohibitive costs of remediation to overregulation of persons who perform clean-ups. J. Marshall added that TSSA legal counsel has struggled to find solutions for contaminated sites over many years, noting that charging an owner/operator who is already bankrupt will not result in removal of tanks from the ground. He further noted that currently there is a TSSA process for dealing with these sites. When classified as abandoned, TSSA notifies MECP of the decision to classify the site as abandoned. TSSA records non-compliance associated with the site and this information is made available to anyone upon request.

### 13. Council issues

Abandoned gas stations

J. Marshall requested the Chair to consider this item as complete due to the discussion surrounding the matter of abandoned gas stations during the MGCS update (item 12).



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### 14. Updates

#### A) Risk Reduction Groups (RRG)

Z. Fraczkowski provided an update to the Council regarding the RRGs, referring to the update document circulated to Council prior to the meeting. In relation to the Liquid Fuels RRG, he noted that the major issues being addressed related to cellular phone use at gas pumps, incident reporting, mobile fueling, private fuel operator (PFO) audits and the CAD amendment to LFHC 2017. He confirmed that the cell phone advisory has been published. As it relates to the Fuel Oil RRG, Z. Fraczkowski noted that the focus of this RRG is on 2020 national code adoption.

In response to a question regarding what is happening with the Ontario College of Trades (OCOT), S. Hampton advised that the Ministry of Training, Colleges and Universities (MTCU) would be taking back the majority of the activities that were within the scope of OCOT, noting there would be more updates in late summer. MGCS will ensure updates on OCOT are included in MGCS updates to Council.

#### B) Use of cell phones at fueling stations

J. Marshall spoke to this item and confirmed that the Advisory has been issued, noting that advisory allows for cell phone use as a pay app only. He thanked the Canadian Fuels Association (CFA) for their contribution in getting the risk analysis completed.

### 15. Associations' updates

M. Rae for the Ontario Petroleum Contractors Association (OPCA), provided an update indicating that the association's key focus, though in its early stages, is on continuing education. She invited TSSA to work with OPCA. She noted that the inspector checklists were a good idea and hopes the OPCA can contribute.

J. Wood provided an update for the Ontario Petroleum Transporters and Technicians Association, advising they are working on rebranding with a new logo and website along with training updates.

L. Marcil for Nature and Outdoor Tourism Ontario (NOTO) noted her enthusiasm for the checklists and hopes her association can contribute. She added that the information related to the cell phone advisory and the Outcome-Based Regulator will be included in the NOTO newsletter.

### 16. Questions and other business

#### A) Matrix review

B. Francis reference the membership list circulated and noted that there were a few vacancies.

#### B) Membership renewal

All memberships were up to date.

### 17. Adjournment

The meeting adjourned at approximately 11:35 a.m. Council held an in-camera session with Bonnie Rose, followed by a Council-only in-camera session without TSSA staff or guests.