OPGA RAISES OVER $11K FOR OHIO PROPANE PAC

With the November elections fast approaching and shaping up to be another crucial election in the state of Ohio, the OPGA knew that raising additional PAC funds was essential. The Ohio Propane PAC raised $6,000 with its initial plan at the Summer Convention.

The group raised over $5,000 more when OPGA Executive Director Derek Dalling sold his soul. Dalling, a proud Michigan alum, sported his maize and blue at the tailgate reception to kickoff the OPGA Summer Convention. Dalling boldly challenged the OPGA membership to raise an additional $5,000, and if successful, he would shed the maize and blue for scarlet and gray and he would partake in an O-H-I-O photo.

To help the effort, the winnings of $1,000 from the OPGA raffle (including $500 from Dalling) were donated back to OPGA PAC. Past President Bob Herron then dressed as a Michigan cheerleader to help raise additional funds to seal Dalling’s fate.

As promised and without further adieu, here is proof that there is a price tag on one’s soul.

OPGA Executive Director, a proud Michigan alum, poses with his family, Erin, Ashleigh and Jonathon. Dalling challenged OPGA summer convention attendees to raise an additional $5K for the OPGA PAC. In exchange, he agreed to wear an OSU shirt and pose in the iconic O-H-I-O sign.
Nearly a year ago, the Ohio Facilities Construction Commission announced its new School Alternative Fuel Vehicle program, which was created in law through House Bill 49 and became effective on September 28, 2017. It allows school districts to include alternative fuel vehicles and infrastructure into the School Performance Contracting Program.

The School Performance Contracting program was established in 1985 to allow school districts to make energy efficiency improvements to their buildings and use the cost savings to pay for those improvements. The program gives districts the ability to borrow funds without having to pass a ballot issue for the authority to borrow. This limited borrowing authority has given districts the ability to save millions in utility bills and operating costs at no additional taxpayer expense.

The new School Alternative Fuel Vehicle program adds propane vehicles and fueling infrastructure to the list of possible projects allowed under the School Performance Contracting Program. The Commission provides a technical review and approval of proposed projects, and reviews post-construction annual savings reports. There is no application deadline. Alternative fuel vehicle projects can be proposed at any time. More information is available through Clean Fuels Ohio.
OSHA CRANE RULE UPDATE

NPGA’s advocacy efforts to obtain relief from the regulation are at full speed across the board. However, as of today, OSHA has not excluded from the requirements of the Crane Rule the uses of cranes to deliver/retrieve propane tanks at construction sites. Currently, the compliance deadline for third-party certification of crane operators is November 10, 2018. OSHA recently suggested the possibility of a six-month extension of the compliance deadline, but OSHA has not officially extended the deadline as of publication of this update.

The NPGA continues to advocate to OSHA, Congress, and the Executive Branch that propane tank deliveries/retrievals should not fall under the requirements of the Crane Rule.

NPGA is also advancing engagement to the White House through special advisors to Congress, senior domestic policy advisor to Vice President Mike Pence, and the Domestic Policy Council to President Donald Trump. NPGA is organizing another meeting with the Office of Management & Budget (OMB) to emphasize the excessive cost to the propane industry and OSHA’s failure to address those costs with any safety benefit as well as raise the procedural failures of the rulemaking.

In Congress, support for H.R. 5988 Common Sense Certification Reform continues to grow steadily with almost 50 Members of Congress as cosponsors, including several from Ohio. The legislation exempts propane tank deliveries/retrievals from the third-party certification requirement of the Crane Rule. In July, Congressman Drew Ferguson (R-GA), the original cosponsor, sent a public letter to OMB Director Mick Mulvaney that emphasized the impact to our industry and raised H.R.5988. NPGA is planning a congressional briefing with Rep. Ferguson to gain more sponsors. Additionally, outreach to the House and Senate has resulted in letters from each chamber to DOL and OSHA urging the Administration to consider the burden the Crane Rule will have on the propane industry.

PLEASE DIRECT ANY QUESTIONS OR CONCERNS TO NPGA’S REGULATORY & TECHNICAL SERVICES VICE PRESIDENT, MIKE CALDARERA (MCALDARERA@NPGA.ORG) OR REGULATORY AFFAIRS DIRECTOR SARAH REBOLI (SREBOLI@NPGA.ORG).
FMCSA SEEKS PUBLIC COMMENT ON REVISIONS TO CURRENT HOURS-OF-SERVICE FOR INTERSTATE DRIVERS

Areas under consideration for revision include short-haul operations, adverse driving conditions, 30-minute break, and split sleeper-berth.

The U.S. Department of Transportation’s Federal Motor Carrier Safety Administration (FMCSA) announced that it is seeking public comment on revising four specific areas of current hours-of-service (HOS) regulations, which limit the operating hours of commercial truck drivers.

The upcoming Advanced Notice of Proposed Rulemaking (ANPRM), which will be published in the Federal Register, responds to widespread Congressional, industry, and citizen concerns and seeks feedback from the public to determine if HOS revisions may alleviate unnecessary burdens placed on drivers while maintaining safety on our nation’s highways and roads. The four specific areas under consideration for revision are:

- Expanding the current 100 air-mile “short-haul” exemption from 12 hours on-duty to 14 hours on-duty, in order to be consistent with the rules for long-haul truck drivers;
- Extending the current 14-hour on-duty limitation by up to two hours when a driver encounters adverse driving conditions;
- Revising the current mandatory 30-minute break for truck drivers after 8-hours of continuous driving; and
- Reinstating the option for splitting up the required 10-hour off-duty rest break for drivers operating trucks that are equipped with a sleeper-berth compartment.

In addition, the ANPRM seeks public comment and relevant data on two recently submitted petitions requesting regulatory relief from HOS rules (1) pertaining to the 14-hour on-duty limitation (filed by the Owner-Operators Independent Drivers Association) and (2) pertaining to the 10-hour off-duty requirement (filed by TruckerNation).

Earlier this year, the congressionally mandated electronic logging device (ELD) rule, which required most FMCSA-regulated motor carriers to convert their records from paper to an electronic format, became effective. While compliance with the ELD rule has reached nearly 99 percent across the trucking industry, it has also brought focus to HOS regulations, especially with regard to certain regulations having a significant impact on agriculture and other sectors of trucking.

GROWMARK NAMES KAYS DIRECTOR, MARKET DEVELOPMENT

Karmy Kays replaces retiring Brendy Lee in GROWMARK Energy Division. Karmy Kays is joining the GROWMARK Energy Division as the new Director, Market Development. In his role, he will lead GROWMARK’s overall direction in all aspects of sales and marketing of unbranded refined fuels and propane.

ERIC SEARS JOINS NPGA STAFF

Eric Sears, formerly with Auxier Gas Inc. in Batavia, Ohio and who also had served as the OPGA Autogas and New Technology Committee Chair, has joined the NPGA. He will be primarily working with state associations to provide assistance on legislative and regulatory issues. Eric can be reached at esears@npga.org.

OPGA APPOINTS ANN JORGENSEN AND DIANA VICK TO COMMITTEE CHAIRS

The OPGA is proud to announce both Ann Jorgensen, with Prism Propane, and Diana Vick, with Collett Propane, as new committee chairs. Ann Jorgensen will head up the OPGA Autogas and New Technology Committee. Meanwhile, Diana Vick will oversee the future OPGA events as leader of the OPGA Convention Committee.
BEWARE OF SUSPICIOUS AND PREDATORY EMAILS

The OPGA has been made aware of a few recent apparent scams through email requests. The OPGA wants to make sure all members are aware of this scam as well so that you can be wary and rest assured that the OPGA has not been hacked nor involved in anything unscrupulous.

WHAT YOU NEED TO KNOW

The scam involves email messages that appear to come from an OPGA volunteer leader. The emails typically request wire transfers of funds.

The OPGA believes that those sending the email messages have pulled those emails from the OPGA website. The OPGA is proud to place the OPGA Board of Directors on the website along with contact information so that all leaders are easy to access by all members of the association. The OPGA believes that all members should be able to reach out to OPGA leaders with questions or concerns. The downside is that there are clearly clever and sinister people out there using the OPGA transparency for unscrupulous activity.

SPOT IT

If you receive an email with a link, a strange document or a strange request, the OPGA urges you not to click on that link or document. Do not respond to that message.

Often times, if you click on the sender, the true email address will appear and you will quickly realize that the OPGA leader you thought was contacting you was really another individual all together.

If you are unsure about any message you receive from the OPGA, you can always reach out to the OPGA staff and office to confirm the authenticity. It is always best to use caution. And of course, the OPGA will NEVER ask for wire transfers to occur nor the OPGA staff allow association members to transfer funds without at least some notification proper protocols in place. The OPGA is very proud of our financial protocols for good reason! ✪
Make the call:

- To protect your loved ones
- To protect your business
- To protect your financial future and more

You have a lot to protect, and that’s a good thing! I can help you find ways to have the peace of mind knowing you have things covered no matter what life throws at you. That’s the great benefit life insurance can provide, the ability to provide a foundation for your financial future.

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GET YOUR GOOGLE LISTING, CONNECT WITH MORE CUSTOMERS

You’ve probably heard that the Propane Education & Research Council is changing the way customers connect with propane providers at Propane.com. Soon, customers will find you through a local Google search instead of using the Find A Propane Retailer tool.

Google is how people — including your next potential customers — search for everything these days.

Soon, it will also be the way customers find local propane providers at Propane.com because the Propane Education & Research Council will be removing the Find a Propane Retailer tool. Why? Increasingly, Google’s local business listings show up ahead of Find a Propane Retailer in search results. Rather than compete with Google, we’re going to start using their search results at Propane.com.

This is also the reason that claiming and managing your free Google business listing is more important than ever. Customers will only find you in a search at Propane.com if they can find you in a general Google search, too.

To help, PERC has created resources explaining how to claim and manage your listing. If you were unable to make any of our webinar sessions, we’ve posted a video of the webinar below, that you can watch anytime.

Don’t waste any time. Visit PropaneLocalListings.com to claim your listing, and ensure you’re represented when customers look for local propane providers.

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The PRO-Vend 2000 offers a superior system for tracking and reporting your fleet’s propane fuel usage.

MEMBERSHIP CORNER

As fall is in full swing — leaves are starting to change, football is kicking off — OPGA is already preparing for 2019.

OPGA 2019 membership dues invoices are planning to be mailed in late November or early December. Once you receive them, simply mark any changes in contact information, or use the additional contact information sheet to add staff to our database. Enclose payment information and return to the OPGA office.

Processing of payments will begin after January 1, 2019. As a reminder, the OPGA database is dependent upon information provided in the annual dues notices.

As always, if you need any assistance, don’t hesitate to call our office at 844-454-5338.
EXPERT ANALYSIS IS CENTRAL TO PERSONAL INJURY LAWSUIT INVOLVING BARBEQUE GRILL INCIDENT

Texas homeowners, Jose and Lucia Cruz, brought a personal injury lawsuit against Weber-Stephen Products, LLC ("Weber") arising out of a fire and explosion at their residence involving a portable propane gas grill. After multiple inspections, Weber brought the propane tank manufacturer, McWane, Inc. (Manchester Tank) and AmeriGas into the lawsuit asserting the fire was not caused by an issue with the grill but instead by a propane tank leak. This lawsuit illustrates the role of experts in lawsuits where potential technical defects are alleged in equipment used in propane fuel systems. Note that lawsuits centering on technical claims as to equipment defects can become fairly complex as to liability claims and defenses. Experts are used in such lawsuits to analyze issues and allegations outside the common knowledge of typical jurors and to testify about those issues to help the jury, as the trier of fact, understand complex technical evidence.

BACKGROUND/UNDERLYING INCIDENT

Jose Cruz was using a Weber portable propane gas grill in his backyard on July 18, 2015 when a fire and explosion occurred. The Weber grill was fueled by a Manchester tank, which was maintained and filled by AmeriGas. Cruz had purchased the propane tank separately from the grill and had used the tank a number of times before the incident. On the day of the incident Cruz opened the propane tank and ignited the grill but noticed the flames were lower than usual. Regardless, he went to the kitchen to get the food for the grill. When he got back to the grill, Cruz asserted he saw the flames were still low so he turned the fire off, and reignited the grill to see if it would fix the issue with the flame level. When that step didn’t work, Cruz opened the grill cabinet to double check the connection between the tank and the grill. “When he opened the cabinet, he heard a sound of leaking gas and flames suddenly shot out from inside the cabinet.” Unfortunately Cruz was “engulfed in flames” and was “seriously and permanently injured.” After the incident, multiple inspections took place and the lawsuit was filed.

INSPECTIONS

Typically, when a serious propane-related incident occurs there is an incident scene inspection and often at least one follow-up inspection at an expert’s facility where detailed analysis can take place of the equipment and component parts. Here, the first inspection took place on January 20, 2016 at the residence where the fire occurred. On February 23, 2016 a second inspection took place—this time at plaintiffs’ expert’s facility. Weber’s expert disassembled the grill in order to conduct an in-depth inspection. Manchester and AmeriGas also had experts at the second inspection. Plaintiffs filed their lawsuit against Weber after the second inspection but did not sue Manchester or AmeriGas. Later on, plaintiffs filed an amended complaint adding an allegation that the “diameter of the plastic threaded nut component of the regulator was too small which caused stresses on the nut resulting in a crack and failure.” This new allegation caused Weber to request a third inspection in order to re-analyze the technical issues raised. The third inspection took place on October 12, 2016 and experts examined the propane tank that fueled the grill in detail. Weber’s expert “measured the tank threads to see if there was actually interference between the regulator’s thread diameters and the tank threads, since this was the basis of Plaintiffs’ new theory.” Experts also conducted a leak test which showed a “sustained leak related to a defect in the rubber seal in the propane tank.” After the third inspection, Weber filed a motion with the court requesting leave to file a third-party complaint against Manchester and AmeriGas.

THE LAWSUIT

On August 26, 2016, Jose Cruz and his wife, Lucia, brought a negligence-based lawsuit against Weber alleging a design and/or manufacturing defect in the propane gas grill caused the fire and explosion which injured Jose Cruz. As noted above, after two inspections of the grill, plaintiffs filed an Amended Complaint against Weber only and later filed a Second Amended Complaint.

Plaintiffs asserted in the Second Amended Complaint the same propane tank had been attached to the grill on numerous occasions without any incident and Weber designed the grill such that the propane tank was intended to be placed and used, in an enclosed cabinet under the grilling area. Plaintiffs also stated standard propane tanks have threads on the interior area of the metal valve outlets for connections to such things as grills, and that using interior threads protects against gas leaking at the connection. Plaintiffs then alleged Weber “abandoned this safety system” and instead used a plastic nut over “coarse exterior threads of the tank valve outlet” (emphasis added) which did not provide the same protection from leaks. Plaintiffs also asserted exterior threads are mechanical threads, and are not intended to provide a gas seal. Plaintiffs made a number of other highly technical allegations as to Weber’s design which they asserted allowed issues to develop over time with the grill and tank connection eventually leading to a leak at the regulator assembly and tank valve connection which in turn led to and caused the fire and explosion at issue. Plaintiffs
also alleged a safety function feature involving the plastic nut did not operate as intended on the day of the incident.

As noted above, Weber filed a motion requesting leave to file a third-party complaint asserting Manchester as the tank manufacturer, and AmeriGas as the company maintaining and filling the propane tank, may be liable to Weber for all or part of plaintiffs’ claims against it. Over plaintiffs’ objections as to the timing of the motion, the trial court concluded Weber showed good cause for filing the motion and granted Weber leave to file the third-party complaint. In the third-party complaint, Weber denied any liability to plaintiffs but on the other hand asserted that if plaintiffs established liability at trial, then Weber would show any damages were caused not by Weber but by the negligence of Manchester and/or AmeriGas. Weber elaborated on its allegations against Manchester and AmeriGas stating the third inspection showed a significant defect in the Manchester tank such that the tank had a leak at the circular seal, i.e. a defective rubber seal, which allowed propane to freely escape from the tank during the connection and disconnection of the gas regulator.

The outcome of the lawsuit reviewed above is not known at this time. Regardless, the point here is expert witnesses can be a key part of defending a lawsuit involving the use of propane-fueled equipment. One aspect of an expert’s role in analyzing technical issues is often the review of documents related to the manufacture, installation, maintenance and repair of equipment. Propane marketers can be called on to provide documentation about specific pieces of equipment or procedures which is another reason to carefully and consistently follow all inspection and service call procedures, checklists and documentation requirements so accurate and current information can be supplied to experts analyzing alleged gas-related incidents.

Checklists remind us of the minimum necessary steps and make them explicit. They not only offer the possibility of verification but also instill a kind of discipline of higher performance. ~ Atul Gawande

KATHRYN A. (“KATY”) REGIER IS AN ATTORNEY WITH THE SANDBERG, PHOENIX & VON GONTARD, P.C. LAW FIRM IN ITS KANSAS CITY, MO OFFICE. CONTACT: KREGIER@SANDBERGPHOENIX.COM OR (816) 425-9683.

This lawsuit illustrates the role of experts in lawsuits where potential technical defects are alleged in equipment used in propane fuel systems.
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Each year Ohio employers have the opportunity to participate in the Bureau of Workers’ Compensation (BWC) Group-Experience-Rating Program or Group-Retrospective-Rating Program. While these programs are not required, they do provide you with an opportunity to significantly reduce your workers’ compensation premiums, while increasing your awareness of safety and risk-management strategies.

Workplace safety is an important component of these programs. To succeed in accident prevention, BWC encourages you to use the many resources available to you. BWC believes a group-rating program is a partnership that includes you and your employees, your sponsoring organization or third-party administrator (TPA) and BWC. Each has specific roles and responsibilities, all designed to assist in preventing workplace accidents. This letter outlines the safety services expectations you should have as an employer enrolled in a group-rating program.

The employer will:
• Maintain a safe workplace;
• Attend safety training to enhance workplace safety;
• Use BWC’s safety services as needed;
• Fulfill the required two-hour training requirement and provide proof of attendance to sponsor for claim(s) occurring within the last year.

The certified primary and affiliated sponsoring organizations will:
• Sponsor eight hours of safety training (this may be done at one time or may be provided incrementally as long as the total is at least eight hours);
• Provide information regarding safety resources to group members;
• Possibly assist an employer in achieving its safety needs;
• Manage employer fulfillment of the two-hour training requirement, where applicable;
• Publish this letter to group members.

The TPA may:
• Assist sponsoring organizations with fulfilling the group-rating safety requirements;
• Assist an employer with its safety needs;
• Work in conjunction with sponsors to develop safety training and deliver safety resources;
• Provide resources for claims handling.

BWC will:
• Monitor all group-rating safety activities to confirm requirements are met;
• Remain in communication with sponsoring organizations to provide recommendations for fulfilling safety requirements;
• Provide safety training through Ohio’s Center for Occupational Safety & Health;
• Offer on-site safety consultation (hazard assessments, air and noise monitoring, ergonomics evaluation, training) by a BWC safety professional;
• Offer publications and videos for safety program support;
• Conduct employer visits to confirm the employer is meeting group-rating requirements, when appropriate.

The goal of this collaborative effort is to make sure all your safety needs are met. Using these resources will assist you in preventing accidents, reducing claims costs and achieving the highest discounts possible. Below you’ll find contact information for various resources.

FOR MORE INFORMATION CONTACT YOUR TPA, CAREWORKSCOMP AT WWW.CAREWORKSCOM.COM OR THE BWC AT GROUPRATINGSAFETY@BWC.STATE.OH.US OR HTTPS://WWW.BWC.OHIO.GOV/EMPLOYER/SERVICES/SAFETYHYGIENE.ASP.
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2018 SCHEDULE OF EVENTS

NOVEMBER 13
OPERC Board of Directors Meeting
Nationwide Hotel and Conference Center

NOVEMBER 14
Quarterly Membership Meeting
Nationwide Hotel and Conference Center

For more information and updates about these events, please visit www.OhioPropaneGas.org and check back regularly throughout the year.

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