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Details:

(FORM UPDATED: 07/12/2010)

**WISCONSIN STATE LEGISLATURE ...
PUBLIC HEARING - COMMITTEE RECORDS**

2007-08

(session year)

Senate

(Assembly, Senate or Joint)

**Committee on ... Commerce, Utilities and Rail
(SC-CUR)**

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**
- Record of Comm. Proceedings ... **RCP**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt**
- Clearinghouse Rules ... **CRule**
- Hearing Records ... bills and resolutions
(**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
(**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

Vote Record

Committee on Commerce, Utilities and Rail

Date: 11/29
Bill Number: 273
Moved by: Cowles Seconded by: Harsdorf
Motion: Adoption of 273

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Senator Jeffrey Plale, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Roger Breske	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Robert Wirch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator David Hansen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Robert Cowles	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Sheila Harsdorf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Neal Kedzie	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	_____	_____	_____	_____

Motion Carried

Motion Failed

Vote Record

Committee on Commerce, Utilities and Rail

Date: _____

Bill Number: 273

Moved by: Cowles Seconded by: Wirch

Motion: Adoption of SSA1 to 273

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Senator Jeffrey Plale, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Roger Breske	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Robert Wirch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator David Hansen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Robert Cowles	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Sheila Harsdorf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Neal Kedzie	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Totals: _____ _____ _____ _____

Motion Carried

Motion Failed

Vote Record

Committee on Commerce, Utilities and Rail

Date: 11/29

Bill Number: 273

Moved by: Cowles Seconded by: Kedzie

Motion: Adoption of SA 1 to SSA 1 to 273

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Senator Jeffrey Plale, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Roger Breske	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Robert Wirch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator David Hansen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Robert Cowles	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Sheila Harsdorf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Neal Kedzie	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

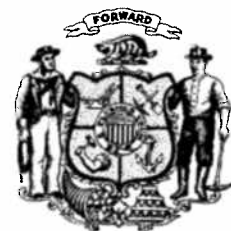
Totals: _____

Motion Carried

Motion Failed



WISCONSIN STATE LEGISLATURE





National PROPANE GAS Association

1150 17th St NW • Suite 310 • Washington, DC 20036 • 202.466.7200 • Fax 202.466.7205

**The Propane Insurance Market:
A White Paper**

By

The Insurance Task Force
National Propane Gas Association
March 2003

Introduction

Beginning in late 2001 and increasing in early 2002, NPGA staff and volunteer leaders heard from members about mounting insurance problems in the propane gas industry. Marketers were encountering significantly higher premiums upon renewal of their liability insurance policies, and there were scattered reports of insurance unavailability. These reports came at the same time that NPGA began to learn of some companies who were getting out of the propane insurance business altogether.

It was convenient and easy to place the blame on the tragic events of September 11, 2001; however, as became readily apparent, the problems ran deeper and broader than might be attributed to those cataclysmic events. Therefore, in mid-2002, newly-elected NPGA Chairman Gene Bissell resolved to improve the industry's understanding of these problems and to see what, if any, role NPGA might play to assist its members.

An Insurance Task Force was appointed by Chairman Bissell chaired by NPGA Vice Chairman Paul Lindsey, All Star Gas, Lebanon, Missouri. Members of the task force include:

Billy Cox, O'Nealgas, Inc., Choudrant, LA
Nutie Dowdle, Dowdle Butane, Columbus, MS
Mike Franger, Franger Gas Co., Inc., Elkhart, IN
Ken Heinz, Ferrellgas, Inc., Liberty, MO
Jim Hurley, Eastern Propane Gas, Rochester, NH
Jay Johnston, Jay Johnston & Assoc., Hopkins, MN
Harry Lyons, LP Gas Insurance Specialists, Lawrenceville, GA
Keith McMahan, Tri-Gas & Oil, Federalsburg, MD
Jim Pearce, Pearce Bottle Gas Inc., Greenville, IN
Doug Schwartzkopf, West Bend Elevator Co., West Bend, IA
Bobby Smith, Smith Bros. Gas Co., Magnolia, NC

The charge that Chairman Bissell gave the task force was three-fold:

- Let members know the reasons behind the increases in insurance rates, and the withdrawal of several insurance companies from propane underwriting.
- Recommend to members actions they can take to minimize the impact of this change in the insurance market on their business.
- Recommend to the Executive Committee any actions NPGA, or a coalition of members, could take to lower the cost and improve the availability of insurance.

Historical Perspective

Prior to getting into the problems of today, a brief historical perspective might be in order. Insurance problems—both generally, as an industry, and specifically as they affect the propane industry—are not new. Indeed, in the earliest days of NPGA's predecessor organization, there have been several committees or task forces which concerned themselves with the industry's insurance problems.

In the mid-1940's, an Insurance Committee was led by NPGA founder H. Emerson Thomas. In September 1945, Mr. Thomas reported to the Board of Directors on behalf of his task force:

“It appears that the largest casualty company that has specialized in LP-Gas products liability and property damage insurance has had an unsatisfactory loss ratio over the past 5 years. As a result of this experience this company is unwilling to write new business freely. The vast majority of casualty insurance companies have investigated the LP-Gas industry and have concluded that they will not write the class of business desired by the industry generally. It is felt that the Association has done a vast amount of educational work intended to make this industry safer. The need for continued safe practice training is evident by the insurance situation.

“The Insurance Committee discussed the possibility and desirability of organizing a mutual casualty insurance company to write insurance exclusively for dealers and distributors of LP-Gas.”

According to subsequent reports from this committee to the Board, they never received sufficient support to recommend organizing a mutual casualty insurance company. It is interesting, however, to review the charge of this task force and its similarity to today's issues, as reported in the Minutes of the Board of Directors in late 1946:

1. To make liability insurance coverage available to all operators in the LP-Gas industry.
2. To work toward a lowering of insurance rates.
3. To cooperate with the Technical & Standards Committee [sic] and the Safety Committee to accomplish a continually better accident record and thus result in lower insurance rates.
4. To develop accident data to tie into the basis of premiums on liability insurance.

5. To move toward standardization of insurance coverage by all underwriters of such insurance and to obtain the utmost coverage for the industry.
6. To encourage insurers to apply more rigid inspections on tank trucks and bulk installations before the acceptance of insurance risks with the object of bringing up the standards of installation and differentiate between the good and bad operator.
7. To disseminate insurance information through the medium of Association publications and the Association Manual with the object of advising members of the Association as to the various types of insurance available and other pertinent insurance information.

Another association investigation into the state of industry insurance coverage took place in the mid-1970s. In 1976, an Ad Hoc Liability Insurance Committee was created to address a situation described as follows:

“There is a rapidly decreasing number of insurance carriers interested in writing liability insurance coverage for this industry. Industries are rated much as occupations are rated for accident insurance. Most carriers have experienced loss in the past two years on all liability insurance, and some have made management decisions to ‘bail out’ of the higher risk industries. This explains carriers’ failure to renew policies, even where no loss experience has occurred.

“The availability and cost of this coverage tends to be cyclical in nature. The current crisis is aggravated by the fact that in addition to the claim and settlement losses, insurance companies have experienced a financial slump in investments, mortgages, etc.”

By late 1977, this committee had advanced to a position where they were about to spend \$10,000 for a feasibility study of an industry captive insurance company; however, prior to doing so, many of the propane marketers who had previously expressed interest in joining such a captive were able to obtain insurance coverage elsewhere and thus lost interest in the association endeavor. In the end, the crisis resolved itself and the association took no further action other than to serve as an information clearinghouse.

A similar scenario recurred in the mid to late 1980’s when NPGA once again formed an insurance task force and once again considered formation of a captive or risk retention group (RRG). Once again, the association decided not to proceed, but an independent group of propane marketers invested in the formation of such an RRG which operated for about five years.

Overview of Insurance Industry Practices

A brief overview of insurance industry practices is needed in order to better understand the cyclical nature of insurance underwriting and the situation that has developed within the last two years.

First and foremost, it is important to understand that the insurance industry is part of the financial services sector of the economy. Millions of dollars flow through insurance companies in the form of premiums which are then invested in a variety of financial

instruments: real estate, bonds, stocks, etc. One of the best descriptions of this activity was provided by Gary Hahn, CPCU, ARM, ALCM, in an article printed in the April 2001 issue of Butane-Propane News, "The State of the Insurance Market and Propane Retailers". Mr. Hahn is Vice President, Risk Management Services, for National Farmers Union Property and Casualty Companies, Aurora, CO.

"As with other financial institutions, capital flows in and out of the insurance marketplace over time. When capital is readily available, rates and premiums tend to decrease, lower deductibles are available, and companies are more liberal in the types of risk they will assume. The insurance market is thus considered to be 'soft'. When capital moves to other financial sectors due to diminishing returns on insurance company equity or because other investments offer better returns on capital, the opposite occurs and the insurance market becomes tighter, or 'hardens'."

Equally important, is that propane distribution is a high-hazard industry. As such, propane marketers are an easy target for plaintiffs' attorneys whenever there is an accident or incident. The liability nature of propane is low frequency/high severity: there may not be many accidents, but when they occur the consequences are usually quite severe. This much is obvious: if there is an incident involving the storage or handling of propane that results in property damage or personal injury, any party involved in that incident, even tangentially, can count on being named in a subsequent lawsuit. This problem appears to be getting worse as the public seems to cry out for someone, other than the aggrieved party, to pay regardless of cause or responsibility.

What is not so obvious, however, are other factors that flow from the high-hazard nature of propane distribution. Propane underwriting involves a certain degree of predictability. Underwriters usually can predict the degree of exposure they might have when they offer to insure a propane marketer based on their past experiences with marketers in similar situations, the inspection of a company's operations, the training of its personnel, and prior case law or jury decisions. But when unpredictability is introduced by outrageous jury awards and new and novel plaintiff theories of liability, insurance carriers begin to look anew at their premiums and even whether they wish to continue to underwrite these companies.

Another less obvious factor is the impact of new insurance carriers suddenly offering to underwrite propane marketer operations. When soft market conditions prevail, new insurers may be lured into this industry segment by the prospects of high premium dollars that can be profitably invested. Not being familiar with this market, they may price their product below market in order to gain market share and are pleased the first year or two as there are few claims; however, the propane insurance market is noted for a "long tail": i.e., that claims frequently are not filed until three years after the incident. If the insurer begins to encounter substantial claims in the third year and beyond for which they may have thin capitalization based on low premium collections and/or poor or declining investments, this frequently will cause them to quickly exit this market.

Finally, A Look at the Current Insurance Problems

As stated earlier, while the events of September 11 were certainly devastating, as will be demonstrated shortly, it is facile to blame all of the current insurance problems on this one

tragic day. The insurance industry was heading into a “hard” market cycle well before September 11. For 10 to 12 years, both insurers and propane marketers experienced good times. Marketers became accustomed to obtaining low premium coverages and being offered extra inducements to switch carriers as many new insurance companies were attracted to this market. At the same time, insurance carriers could offer these low premiums due to the attractive returns they made on their investments during the bull market years of the 1990’s. Investment income was much more important than underwriting profits.

Beginning in 2000, interest rates decreased dramatically along with investment return in the stock market, while the flow of loss activity continued. Underwriters quickly realized that as investment income being earned by insurance companies disappeared, and that premiums collected were insufficient to cover losses, they would have to adjust their pricing upward, restrict coverage terms and cancel those accounts that were unprofitable. Many insurers were looking to 2001 as the beginning of the return to normalcy.

The tragedy of September 11 was a loss no one could conceive. Cost estimates continue to rise well into the billions. According to Arthur J. Gallagher Company, this tragedy will be:

- The largest Workers Compensation loss in history.
- The most expensive aviation disaster in history.
- The largest property loss in history.
- The most expensive business interruption loss in history.
- The largest life insurance catastrophe loss in history.
- And potentially one of the largest liability claims in history.

One of the major impacts of this and other recent large losses (e.g., Enron’s failure, Tropical Storm Allison, current and future asbestos claims, etc.) is a tightening of the reinsurance market. As late as September 2002, Kurt E. Karl, Chief Economist in Swiss Reinsurance’s Economic Research and Consulting, North America, declared that the hardening insurance market “will continue until balance sheets are fixed.” **He expects the hardening market to last until at least 2005!**

Finally, an underlying concern of all insurers who have been interviewed by members of the Insurance Task Force is adherence to industry safe practices. In a soft market, insurers will underwrite just about anyone without too much inquiry into their operational and hiring practices. As the market has hardened, however, marketer safe practices, employee training, and consumer safety education (i.e., so-called “duty to warn”) have taken on critical significance. Indeed, NPGA has witnessed a dramatic increase in interest in the GAS Check® program, as well as much stricter compliance with the reporting obligations of the program.

As one long-time industry safety expert observed, marketers can reduce the potential for accidents and problems, and consequently keep their insurance costs in check, by observing the following four principles.

- Provide “duty to warn” communications to customers.

- Provide thorough and well-documented employee training.
- Be sure that consumer propane systems are up to code.
- Observe proper out of gas procedures as required by NFPA 54.

What Can Marketers Do

Given the current situation, what else can marketers do to try to get the most insurance protection at the least cost? The task force has spent considerable time studying this issue and offers the following recommendations.

- Belong to your national and state associations.
- Use in-house training programs.
- Be sure to comply with all regulations.
- Conduct background checks on employees and random drug tests.
- Participate in GAS Check®.
- Establish a new customer policy covering duty to warn.
- Have an out of gas policy that meets the requirements of NFPA 54.
- Make it customary practice to document all interactions with customers.
- Have your own in-house procedures manual and insure that employees comply with it.
- Comply with insurance company requirements.
- Become politically active and support passage of tort reform laws.
- Be willing to serve on a jury and allow your employees to serve.
- Start early in the year on insurance renewals and have all information and data available.
- Print duty to warn information on the back of sales tickets and other similar pieces of consumer literature.
- Finally, and perhaps most importantly, maintain a company attitude of zero tolerance and safe operations.

Members of the task force sought information on which companies are currently underwriting propane marketers. The information is somewhat sketchy and obviously varies from state to state; however, task force members were advised that the following companies were found to currently offer propane marketer liability coverage in one or more parts of the country.

IMPORTANT NOTE: If a company is not listed in a state that does NOT mean that they may not offer insurance in that market. It only means that NPGA task force members have not been apprised of that fact.

California	Ranger
Colorado	Ranger, St. Paul
Connecticut	First American
Illinois	National Farmers Union
Indiana	Fairfield, Federated, Greatwest Casualty, Nationwide Agribusiness, PT Risk, Ranger, RLI, Utica Natl.,

Iowa	Coop Mutual, EMC, Farmland, Ranger (maybe also Federated and St. Paul)
Kansas	Ranger
Louisiana	Federated, AIG, St. Paul
Maryland	Empire, Ranger, St. Paul
Massachusetts	AIG, Crum & Foster, St. Paul, Utica
Michigan	Ranger
Minnesota	Federated, RLI, Ranger, St. Paul
Mississippi	Ranger, RLI
New Hampshire	AIG, One Beacon, St. Paul
New York	Federated
Ohio	Federated
Oklahoma	RLI
South Carolina	Federated
Tennessee	Federated
Texas	Federated, Lloyd's
Virginia	Federated

One task force member said that he understood the following companies were underwriting propane marketers, but he did not have specific information as to which states they were active: ACE, Discover Re, Ohio Casualty, Lancer Insurance, and Lexington.

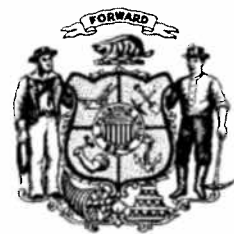
Conclusion

This White Paper has attempted to provide for marketers a better understanding of insurance industry practices and the state of the current insurance market. The task force has also offered some tips and ideas on steps marketers can take that might help improve their insurability and obtain lower premiums. There seems to be little doubt that the current hard market cycle in which the insurance industry is operating today will continue for at least another two to three years.

The NPGA Insurance Task Force, at the direction of the NPGA Executive Committee, will continue to monitor the marketplace and will investigate the desirability and possibility of other alternatives including the formation of a captive insurance group. We hasten to add that no decisions in this regard have been made and no preference is being expressed; however, in order to fulfill the charge given the task force by Chairman Bissell, the task force will explore "what actions NPGA, or a coalition of members, could take to lower the cost and improve the availability of insurance."



WISCONSIN STATE LEGISLATURE





COUNTY OF DOOR

County Government Center
421 Nebraska Street
Sturgeon Bay, WI 54235

Michael J. Serpe
County Administrator
(920) 746-2303
mserpe@co.door.wi.us

January 25, 2007

The Honorable Jim Doyle
Governor of Wisconsin
State Capitol Room 115 East
PO Box 7863
Madison WI 53702

Dear Governor Doyle,

I want thank you for all of the assistance your good office gave Door County in the aftermath of the explosions in Ellison Bay this past July. Your attention to the needs of all of the local units of government is greatly appreciated by all.

Severed propane lines were blamed for several explosions in Ellison Bay July 10, 2006, that claimed the lives of two people and injured about a dozen others. The explosions led the Door County Board of Supervisors to approve a voluntary registry program that would allow people to identify the location of underground fuel tanks and lines. The location information would then be available to anyone planning to excavate the earth. This action was accomplished with a unanimous vote on Tuesday, Jan. 23, 2007 via Resolution No. 2007-09.

During the debate the voluntary aspect of the program received a good deal of attention. Currently, records don't exist for the location of underground propane tanks and lines. Since the program is voluntary, Door County will not confirm the accuracy of, or assume the liability for, any of the information registered in the database. The program is voluntary because counties do not have the authority to mandate the registration of fuel tanks and lines. It is likely that counties are not eager to mandate this program because of the associated fiscal impact.

Rather the discussion focused on the statewide, one-call Diggers Hotline program, which provides information for buried pipes, lines, wires and cables, but does not require that propane tanks and lines be identified. We strongly recommend that the Diggers Hotline program is the logical place for propane delivery systems to be recorded and that the necessary steps to make that a reality be undertaken as quickly as possible.

Please know that you will have the full cooperation of all of our county agencies in this process.

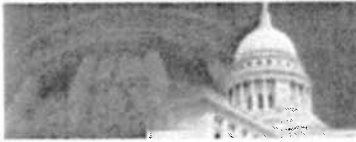
Very truly yours,

Michael J. Serpe
Administrator, County of Door

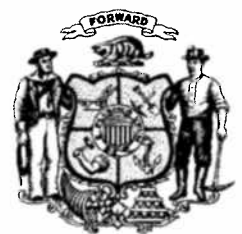
Enclosure

cc: Senator Alan Lasee
Rep. Garey Bies
Craig Thompson, WCA

COPY



WISCONSIN STATE LEGISLATURE





COUNTY OF DOOR

County Government Center
421 Nebraska Street • Sturgeon Bay, WI 54253

Michael J. Serpe
County Administrator
(920) 746-2303

Date: October 22, 2007

Memo to: Committee on Commerce, Utilities and Rail: Senator Jeffrey Plale, Chair
Members: Senators Roger Breske, Robert Wirch, David Hansen, Robert Cowles, Sheila Harsdorf and Neal Kedzie

CC: Representative Garey Bies, 1st Assembly District
Senator Alan Lasee, 1st Senate District

From: Michael Serpe, Door County Administrator

On early Monday, July 10, 2006, a deadly explosion wrecked buildings and killed two vacationers and left their young children orphaned. The blast collapsed a 136-year-old grocery store (The Pioneer Store), burned down a duplex and damaged another duplex/maintenance building. Eight others were transported to local hospitals; five more refused treatment.

It is believed a propane gas leak caused the explosion, which may have resulted from a contractor who may have damaged unmarked underground propane lines.

In an effort to exert some control, limited as county government is to do so in Wisconsin, the Door County Board of Supervisors on the 23rd day of January, 2007 adopted Resolution 2007-09. On the 25th of January, 2007, I sent the transmittal letter to Governor Doyle and the other parties that the County Board wanted to be aware of the action it had taken. The documents are attached to this message.

County Board Chairman Charlie Most and I met with staff at the Department of Commerce on February 6, 2007. The events in Ellison Bay, Milwaukee and West Virginia compelled us to ask that a solution to the problem of unrecorded underground propane distribution systems be addressed immediately. What we learned was this matter of getting the propane industry into the Digger's Hotline is much more complicated at the state level than we thought.

The ONE – CALL SYSTEM is a statewide system that transmission facilities owners established. A single operational center receives excavation notices and transmits notice information to affected-member transmission facilities owners, and is at present heavily utilized. Membership is comprised of transmission facilities owners. The propane industry doesn't fit the current statutory language.

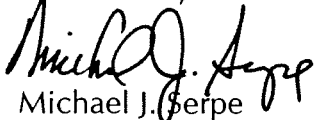
Over the course of our ninety-minute meeting, we went over the ways to get over the statutory and regulatory hurdles that are in our path. I contacted Mr. Randall Knapp,

Executive Director, Wisconsin Propane Gas Association Inc. to see where they are on the part of the issue they're working on (attached). He expressed great interest in our concept and was very eager to see if we could expedite a change from "voluntary" to "mandatory" in the reporting process.

The complexities of this matter are adequately addressed in the language of SB 273 and AB 515.

I'd like to thank the sponsors and supporters of SB 273 and AB 515. I acknowledge that it is one that required a great attention to detail. All of us in Door County as well as other areas of the state will be eager to see how this legislation passed and signed into law.

Best wishes,

A handwritten signature in black ink, appearing to read "Michael J. Berpe". The signature is written in a cursive style with a large initial "M".

Michael J. Berpe
Administrator, County of Door



DOOR COUNTY

Resolution No. 2007-09

**APPROVAL OF VOLUNTARY REGISTRY PROGRAM:
PROPANE TANKS AND DISTRIBUTION SYSTEMS**

TO THE DOOR COUNTY BOARD OF SUPERVISORS:

ROLL CALL Board Members	Aye	Nay	Exc.
ANDERSON	X		
AUSTAD	X		
BRANN			X
DeWITT	X		
FISHER	X		
FONTAINE	X		
FOREST	X		
GOETTELMAN	X		
GULLEY	X		
HAINES	X		
JEANQUART	X		
LIEBE	X		
MOELLER	X		
MOST	X		
MULLIKEN	X		
RUNQUIST	X		
RYAN	X		
SAVARD	X		
VIRLEE	X		
WIEGAND	X		
ZIPPERER	X		

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WHEREAS, It has been determined there is a need for a voluntary registry and information center for the purposes of:

- Receiving and maintaining information voluntarily submitted regarding the existence and location of propane tanks and distribution systems; and
- Making such information readily available to persons planning to engage in digging, blasting, excavating, or other underground construction activities; and

WHEREAS, There is otherwise no readily available source of information regarding the existence and location of propane tanks and distribution systems; and

WHEREAS, The Voluntary Registry Program – Propane Tanks and Distribution Systems is attached hereto and incorporated herein by reference; and

WHEREAS, The Resource Planning Committee has voted to approve the aforesaid Program.

NOW, THEREFORE, BE IT RESOLVED, That the Door County Board of Supervisors does hereby approve the Voluntary Registry Program – Propane Tanks and Distribution Systems.

BE IT FURTHER RESOLVED, That this Resolution be transmitted to state legislators representing Door County and the WCA, for consideration of mandatory registration as a legislative goal

BOARD ACTION
Vote Required: Majority Vote of a Quorum

Motion to Approve Adopted
 Defeated

1st Runquist
2nd Goettkeman

Yes: 20 No: 0 Exc: 1

Reviewed by: [Signature], Corp. Counsel
 Reviewed by: [Signature], Administrator

FISCAL IMPACT: There is no fiscal implication to adopting this resolution for a Voluntary Registry Program: Propane Tanks and Distribution System.
 sms

Certification:
 I, Jill M. Lau, Clerk of Door County, hereby certify that the above is a true and correct copy of a resolution that was adopted on the 23rd day of January, 2007 by the Door County Board of Supervisors.

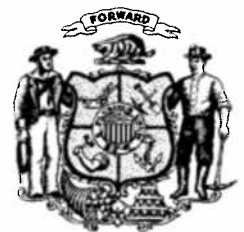
Jill M. Lau
 Jill M. Lau
 County Clerk, Door County

SUBMITTED BY:
Resource Planning Committee

[Signature] Merrell Runquist, Chairman [Signature] Kari Anderson
[Signature] Hugh Mulliken [Signature] Bob Ryan
[Signature] Jaime Forest



WISCONSIN STATE LEGISLATURE





Wisconsin Federation of Cooperatives

131 West Wilson Street, Suite 400 • Madison, WI 53703-3269
Phone 608.258.4400 • Fax 608.258.4407 • www.wfcmac.coop

October 25, 2007

To: Members, Senate Committee on Commerce, Utilities and Rail

From: Tim Clay, Director of Environmental & Regulatory Services
(608) 258-4384

Re: Support for SB 273

Good Day. I'm Tim Clay, Director of Environmental & Regulatory Services for the Wisconsin Federation of Cooperatives (WFC). On behalf of WFC, I am pleased to indicate our strong support for SB 273 and thank each of you for the opportunity to provide comments on this very important bill.

WFC represents more than 600 cooperative businesses approximately 50 of whom are retail suppliers of propane gas for home heating, commercial, and recreational use. WFC firmly believes the elements of the legislation will strengthen consumer and public safety through increased communications and enhanced checks and balances.

The propane industry has worked closely with the co-authors to assure that several safety concerns and consumer protection elements are addressed within the legislation. Paramount to the legislation is three major components.

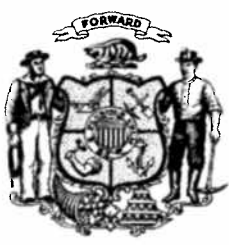
1. **Creation of a minimum financial responsibility and licensing requirement for suppliers who fill liquefied petroleum gas containers for retail use.** The intent of this requirement is to assure that all suppliers not only have the financial means to compensate third parties for damages associated with accidents, but more importantly, it fully integrates the checks and balances system that insurers of suppliers have created with their risk management programs. In today's environment it is straightforward—suppliers who do not adhere to their insurer's risk management program won't be able to maintain their insurance. Wisconsin rules require suppliers to train their employees, install systems properly, maintain their gas systems, make sure systems are tested for leaks in certain situations, and supply their customers with general safety information. Insurance companies are the third parties that validate whether suppliers are meeting these requirements.

2. **Expansion of communications between suppliers and their customers.** The legislation requires greater communication between a customer and their supplier to better assure gas systems are checked for leaks after an interruption to the gas system occurs. The Wisconsin Department of Commerce requires systems to be checked for leaks after system interruptions. However, today many systems are not likely checked due to a lack of consumer awareness of safety concerns, ability, or communication with their supplier.
3. **Additional disclosure requirements for Diggers Hotline.** Finally, the legislation requires Diggers Hotline to make it clear to callers that private utilities, including most propane lines, are not located by Diggers Hotline. Nearly all propane lines serving residences are the property of the homeowner and are entirely located on their property. This additional disclosure is a reminder to the caller that the responsibility to locate private utilities is the responsibility of the digger, not members of Diggers Hotline.

Thank you for your attention to this request of support for Senate Bill 273. I welcome any questions you may have.



WISCONSIN STATE LEGISLATURE





Wisconsin State Fire Chiefs' Association, Inc.

Together We Can Make A Difference

- Education
- Prevention
- Safety
- Suppression
- EMS

DATE: October 25, 2007
TO: Committee on Commerce, Utilities and Rail
FROM: Wisconsin State Fire Chiefs' Association
RE: Support Senate Bill 273

The Wisconsin State Fire Chiefs Association asks that you support Senate Bill 273 requiring underground propane lines to be located and marked prior to any excavation in Wisconsin.

All major utility lines (electric, gas and water) in Wisconsin are required to be located and marked before any excavation project begins. This service provided by the utility companies prevents damage to these buried utilities. A contractor coming in contact with a buried utility can cause extensive damage to the utility service and possible damage to the property and buildings near the damaged utility. Propane lines buried in Wisconsin are not required to be located and marked like all other utilities.

This past year in Wisconsin the fire service has had to respond to two explosions and fires involving multiple deaths in each incident because buried propane lines were damaged by a contractor during excavation. These devastating explosions and loss of lives might not have occurred if the buried propane lines had been required to be located and marked prior to any excavation in the area of the buried lines.

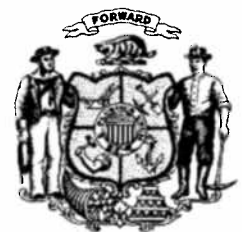
Senate Bill 273 will help eliminate this loss of life and property in the future. The Wisconsin State Fire Chiefs' Association supports this bill and asks that the Committee support this bill also.

Thank you for considering this legislation. If you have any further questions please contact David Bloom, Legislative Liaison, Wisconsin State Fire Chiefs' Association at 608-444-3324.

2120 Fish Hatchery Rd. • Madison, WI 53713
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WISCONSIN STATE LEGISLATURE



Testimony

of

**Randall R Knapp
Executive Director
Wisconsin Propane Gas Association**

before the

Wisconsin Senate Committee of Commerce, Utilities and Rail

RE: 2007 Senate Bill 273

Chairman Plale, Vice Chairman Breske and Distinguished Members of the Committee:

My name is Randy Knapp and I appreciate this opportunity to share my perspective on the importance of passing Senate Bill 273.

Since August 1995, I have been employed in the propane industry which for the past 5 ½ years I have been the Executive Director of the Wisconsin Propane Gas Association also known as the WPGA.

The Wisconsin Propane Gas Association has 125 independent propane retailers (some with multiple locations), 60 multi-state propane retailers, and 73 associate members. The WPGA is a trade and membership service organization providing services that advocate for propane retailers and suppliers throughout the State of Wisconsin. The Associations' primary purpose is to promote awareness and safety of propane as a reliable source of energy. The WPGA assists with education relating to the propane industry and upgrading the level of professionalism propane consumers can expect.

Historical Background

In July of 2003 the Wisconsin Propane Gas Association Board of Director's unanimously voted to implement an insurance task force to research what other states were doing regarding insurance requirements for propane retailers.

During the summer and early fall of 2003 there were a number of meetings and conference calls with the WPGA Insurance Task Force gathering data and information from numerous propane associations throughout the United States.

The WPGA Insurance Task Force asked for assistance from the National Propane Gas Association (NPGA) in Washington DC. NPGA had completed a White Paper on **The Propane Insurance Market**. Do to the length of the White Paper; I have made copies of the document for the committee to review at a later time.

Priority Issues Identified by the Wisconsin Propane Gas Association:

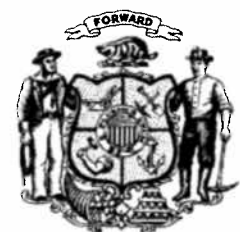
- 1. Propane retailers should have Mandatory Liability Insurance (financial responsibility) to be in the propane industry.**
- 2. To assure that all propane retailers comply with the financial responsibility requirement, they would have to be licensed by the State.**
- 3. Mandatory training and testing utilizing CETP (certified employee training program) for basic propane knowledge, propane delivery skills, propane plant operations & maintenance, etc. Require continuing education to achieve higher standards on a yearly basis.**
- 4. Consumer must inform propane retailer of any propane system changes within a specific time period to verify that a leak test had been performed to insure that the integrity of the system has not been compromised.**
- 5. Consumer warning materials should be distributed to the retail customer on a yearly basis by the propane retailer.**
- 6. Communication requirements between propane retailers and consumers as well as implementation of Digger's Hotline duty to inform callers of the importance to have private gas lines marked on their property before any digging/excavating takes place.**

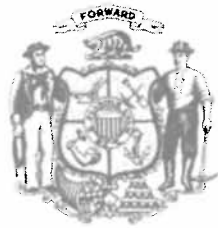
It is my belief that Senate Bill 273 will raise the bar for propane safety within the State of Wisconsin. Please do the right thing!

Thank you!



WISCONSIN STATE LEGISLATURE





1st Senate District
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Madison, Wisconsin 53707-7882

Alan Lasee

State Senator

Telephone: 608 266 3512
Fax: 608 267 6792

Email: Sen.Lasee@legis.wisconsin.gov
Web: www.legis.wi.gov/senate/sen01/news/

Senator Alan Lasee Testimony for Senate Bill 273

Good morning Chairman Plale and members of the committee. Thank you for scheduling Senate Bill 273 for a public hearing today. I apologize that I am not able to be in Madison today to speak with you. I know that Representative Bies will be in attendance to speak to and answer any questions you might have.

As you probably are aware, there was an explosion in Ellison Bay in the summer of 2006. Tragically, two vacationers were killed and many others sustained injuries as a result of a believed propane gas leak. After the explosion, it became very clear that we could no longer allow individuals to dig without a proper check of possible propane lines.

The primary component of Senate Bill 273, or the Propane Safety Act, focuses on new communication requirements between propane suppliers and customers as well as changes to the Statewide Communication System, or Digger's Hotline. Digger's Hotline will notify callers of the importance of having private gas lines marked on their property, and that the gas supplier is to be notified to have those private lines marked prior to excavating. The Hotline will also update its publications and description of what is a private utility to include a propane facility. Consumers will also be required to notify their gas supplier if they modify the gas lines on their property, thereby allowing the supplier to check for possible damage and leaks.

Senate Bill 273 also focuses on the responsibility of propane suppliers specifically undertaking the financial responsibility to operate and maintain a safety-conscious business. By setting financial responsibility standards, propane suppliers will ensure that their employees are well-trained and that maintenance practices are of the highest standards. To ensure that the financial responsibility requirements are met, the Propane Safety Act will

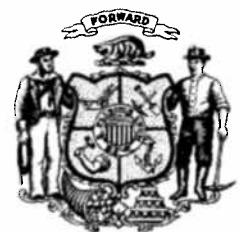
require that propane suppliers be licensed by the Wisconsin Department of Commerce.

This proposal is aimed to increase safety for both consumers and suppliers of propane gas in Wisconsin. Cooperation from Digger's Hotline and representatives of the propane industry has been paramount to creating this package, and I appreciate the willingness of everyone involved to come together and work to prevent another tragedy.

Thank you again for your time and I urge you to support Senate Bill 273.



WISCONSIN STATE LEGISLATURE





**Written Testimony of Representative Garey Bies
Senate Committee on Commerce, Utilities and Rail
Senate Bill 273 – The Propane Safety Act**

Good morning Chairperson Plale and committee members, I appreciate the opportunity to submit my testimony in support of Senate Bill 273, The Propane Safety Act. I intend to keep my comments brief this morning and allow representatives from the industry to speak to the more technical components of the proposal.

First, a little background as to how I became involved with the legislation this session.

In the summer of 2006, in the quiet, tourist community of Ellison Bay in Door County, Wisconsin, there occurred a tragic accident that claimed the lives of two visitors, orphaning two children, injuring many more people, and destroying an historical landmark. The incident, an explosion that was likely the result of a propane gas leak, did not need to happen. That incident brought to the attention of many people around Wisconsin the need for a closer look at the regulation of under ground propane facilities. This bill, The Propane Safety Act, is the result of this need and is critical for Wisconsin's safety.

This legislation, Senate Bill 273 and its companion in the Assembly, is not a knee-jerk reaction to the tragedy in Ellison Bay or other, recent events. The Wisconsin Propane Gas Association has been working on crafting the legislation since the previous session and we now have a proposal that is ready for the legislature. Propane is used in Wisconsin to heat nearly 250,000 homes and over 330 million gallons of propane was sold in the state last year. We need to make sure that the industry in our state is as safe as possible.

There are several main components of the bill. First, this legislation establishes a licensing requirement for propane retailers and makes licensing contingent upon meeting a state minimum financial responsibility requirement. This financial requirement provision is an effective means of ensuring that propane suppliers in Wisconsin are committed to the industry, its safety and its future.

Second, the legislation also enhances the communication requirements between propane suppliers and their customers. This provision is to help make sure that customers and their suppliers stay on the same page as to the condition and location of gas facilities including underground tanks on the customer's property.

Third, the legislation makes changes to the Digger's Hotline service to reflect the importance of underground propane tanks and lines. The Digger's Hotline provision requires that the Hotline indicate to callers that Digger's does not locate private, underground propane lines but that

First for Wisconsin!

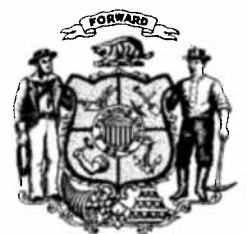
callers should contact the propane gas company to locate the underground lines prior to beginning work. Digger's Hotline will also include information about propane in its published materials.

The Propane Safety Act is the result of a great deal of work between several legislative offices and the propane gas industry. It is important legislation for Wisconsin and I hope that the Legislature can move quickly on it.

Thank you again for the opportunity to appear before you today in support of Senate Bill 273 and I would be happy to answer any questions that you may have.



WISCONSIN STATE LEGISLATURE





WISCONSIN LEGISLATIVE COUNCIL

*Terry C. Anderson, Director
Laura D. Rose, Deputy Director*

TO: SENATOR ALAN LASEE

FROM: John Stolzenberg, Chief of Research Services

RE: Applicability of 2007 Senate Bill 273, Relating to the Regulation of Suppliers of Liquefied Petroleum Gas and the "Digger's Hotline," to Exchange Cages

DATE: November 27, 2007

This memorandum responds to your question on whether exchange cages are subject to new regulations under 2007 Senate Bill 273. An exchange cage is a secure facility used to store empty and full portable tanks of propane as part of a service in which individuals exchange an empty tank for a full tank. A common size of tank stored in an exchange cage is often referred to as a 20 pound tank.*

Overview of Senate Bill 273

Senate Bill 273 relates to the regulation of liquefied petroleum gas (LPG). This gas may be composed of a number of specified hydrocarbons or mixtures of these hydrocarbons, including propane.

The bill establishes a number of requirements for "retail suppliers" of LPG, including that they must be licensed by the Department of Commerce to distribute LPG, maintain proof of financial responsibility, and provide the specified written notice to each customer who owns, leases, or uses a "propane gas system" and obtains propane gas from the retail supplier. The bill authorizes a retail supplier to evacuate a LPG container not under the supplier's ownership under specified conditions and creates a civil cause of action for a licensed retail supplier suffering damages caused by an unlicensed retail supplier filling LPG into a container that does not meet Department of Transportation regulations.

The bill defines "retail supplier" to mean a person engaged in the business of filling containers that have a water capacity of at least four pounds with liquefied petroleum gas that is intended to be used directly from the containers as fuel and not for the person's own use. A key element of this definition of

* The design, construction, installation, operation, and maintenance of propane and other liquefied petroleum gas facilities, including exchange cages, are currently regulated under s. Comm 40.44, Wis. Adm. Code. This section includes, by cross-reference, standards in National Fire Protection Association No. 58, Liquefied Petroleum Gas Code.

retail supplier is that the person must be engaged in the business of *filling* LPG into containers with the specified capacity.

The bill defines “a propane gas system” to be an assembly consisting of one or more containers with a total water capacity of at least 100 gallons and means of conveying propane gas from the containers to a point of connection to devices used to consume the propane gas. A key element of this definition of propane gas system is that the system must include equipment to *convey* the propane from the storage tank to a device that consumes the propane gas.

The bill also requires a person who owns, leases, or uses a propane gas system and who is a customer of a retail supplier to notify the supplier of propane gas for the system of any interruption in the operation of the system due to replacement, modification, repair, or servicing of the system by a person other than the retail supplier. In addition, this bill directs the operator of the “diggers hotline” excavation notification system to provide specified information regarding “private transmission facilities,” including private LPG transmission lines on private property.

Discussion

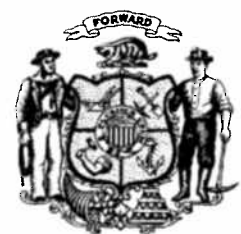
Based upon a review of the new LPG set forth in enacted by Senate Bill 273 that are summarized in the preceding section, none of these regulations apply to an owner or operator of an exchange cage who only engages in storing propane in the cage. If the owner or operator also fills tanks stored in the cage, then the act of filling the tank will cause the person to be a “retail supplier” under the definition of that term in the bill and thus subject the person to the licensing and other requirements placed on retail suppliers by the bill.

If you have any additional questions on Senate Bill 273, please feel free to direct them to me at the Legislative Council staff offices.

JES:jb:ty



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WISCONSIN LEGISLATIVE COUNCIL

*Terry C. Anderson, Director
Laura D. Rose, Deputy Director*

TO: SENATORS ROBERT COWLES AND ALAN LASEE
FROM: John Stolzenberg, Chief of Research Services
RE: Senate Substitute Amendment __ (LRBs0184/1) to 2007 Senate Bill 273
DATE: November 29, 2007

This memorandum responds to your request for a summary of the differences between Senate Substitute Amendment __ (LRBs0184/1) to 2007 Senate Bill 273, the "substitute amendment," and Senate Bill 273, the "bill." The bill relates to the regulation of certain suppliers of liquefied petroleum gas (LPG) and the applicability of the statewide system for notification of the location of transmission facilities. This statewide system is also known as the "diggers hotline" system.

These differences include the following:

License fee: The bill requires the Department of Commerce to fix and collect fees for issuing the license required under the bill to LPG retail suppliers. These fees must, as close as possible, equal the cost of providing this service. The substitute amendment specifies in a new provision that the annual license fee for a retail supplier of LPG who only fills "Department of Transportation cylinders" shall be \$20. [An example of these cylinders is a 20-pound propane tank used to provide fuel to a barbecue grill.]

Doug Johnson
→ Hardware

Excavation clearances: Under the current law governing the diggers hotline system, each excavator must maintain specified clearances between an underground transmission facility marked under this system and the cutting edge or point of any power-operated excavating earth moving equipment. The substitute amendment specifies in a new provision that the minimum clearance for an unexposed underground transmission facility is measured between a marking for the facility and this cutting edge or point rather than between the facility and the cutting edge or point. The substitute amendment also creates an exception for the minimum clearance for an unexposed underground transmission facility to be a clearance as necessary at the beginning of the excavation process to penetrate and remove pavement, rock, or other hard materials.

→ Brian Mitchell & Underground Guys

Brian Mitchell & Propane

Notice to propane customers: The substitute amendment authorizes the Department of Commerce in a new provision to require by rule retail suppliers of propane to inform their customers each year of the obligation of owners of transmission facilities under the diggers hotline law.

John Stolzenberg

Penalties: The bill applies the criminal penalties in the current LPG law administered by the Department of Commerce to violations of Commerce's rules for the design, construction, operation and maintenance of LPG equipment and the requirements in the bill relating to filling, evacuating, and use of LPG containers, and various requirements to provide information. The substitute amendment limits the application of these criminal penalties to *intentional* violations of these rules and requirements, increases the maximum fine from \$100 to \$2,000 and establishes that each day of violation constitutes a separate offense. The substitute amendment also adds civil penalties for the violation of these rules and requirements of a civil forfeiture of not less than \$10 nor more than \$1,000, with each day of violation constituting a separate offense.

Technical clarifications and corrections: The substitute amendment makes various technical clarifications and corrections including incorporating Legislative Reference Bureau corrections to the original bill, clarifying how information is provided from the diggers hotline system to a person providing notice on an intended excavation activity, correcting grammar through the removal of certain commas, and making the references to the various hydrocarbons included in the definition of LPG consistent and nonduplicative.

If you have any additional questions on Senate Bill 273 or the substitute amendment to it, please feel free to contact me directly at the Legislative Council staff offices.

JES:wu:ksm