2019

# APPRESTATE ENERGY ASSOCIATION

WOMEN **GET THE FACTS ABOUT** SAFETY DOCUMENTATION **Technology-based safety** documentation is critical. **EMPHASIZE SAFETY WITH** MAKE THEIR **REGULAR MEETINGS Educate and protect** your employees with concise meetings. MARK ON **NYS BANS SALARY HISTORY QUESTIONS AND EXPANDS EQUAL PAY PROTECTIONS** THE ENERGY INDUSTRY Now is the time to take steps to comply with this new law.

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# ENERGY ASSOCIATION



### features

- 6 CAN YOU DECREASE RUNOUTS WHILE REDUCING TRUCKS ON THE ROAD?
  - By Philip Baratz, Angus Energy
- TODAY'S FUELS REQUIRE A WHOLE NEW LOOK AT OIL TANK INSTALLATION AND MAINTENANCE PROCEDURES

By John Levey, Oilheat

- 9 GET THE FACTS ABOUT SAFETY DOCUMENTATION
  - By Alex Burns, P3 Propane Safety
- EMPHASIZE SAFETY WITH REGULAR MEETINGS

By Federated Mutual Insurance Company

12 THE IMPACT OF POLICY-DRIVEN ELECTRIFICATION ON YOUR CUSTOMERS

By Paul Nazzaro, Advanced Fuel Solutions, Inc.

- 13 GET READY TO RUMBLE
  By Richard Rutigliano, PriMedia, Inc.
- 15 NYS BANS SALARY HISTORY QUESTIONS AND EXPANDS EQUAL PAY PROTECTIONS

By Ben Mudrick and Amy Hemenway, Harter Secrest & Emery LLP

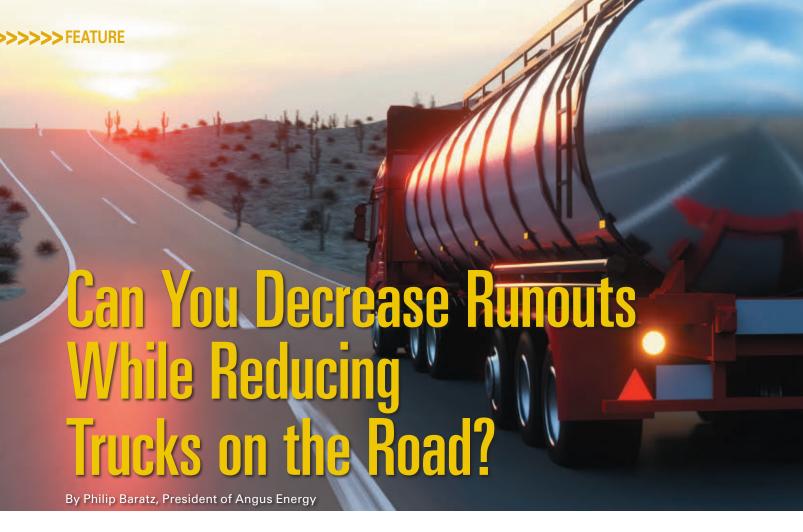
16 WOMEN MAKE THEIR MARK ON THE ENERGY INDUSTRY

By Erin Holohan Haskell, HeatingHelp.com & Women in Energy

- 18 RECORD NUMBER OF PETROLEUM MARKETERS ATTEND PMAA'S DAY ON THE HILL By PMAA
- 18 INDEX TO ADVERTISERS







**OVER THE PAST** few years, as Angus has expanded our legacy hedging-based business into the broader approach of "what can we do to help our clients run more efficient and profitable businesses," we've spent a lot of time focusing on Business Intelligence and Remote Monitoring offerings. The base premise being the more you know about every aspect of your business, the fewer surprises you will have and the better positioned you would be to use that information to make better decisions.

If you look at the expense pie that consists of Customer Acquisition Costs, SG&A, and Delivery Costs, the biggest expense for any fuel oil retailer is the cost to make deliveries. It requires many vehicles - most of which sit idly for most of the calendar year. It requires one of the hardest to acquire commodities truck drivers, especially those who are not actually driving for the full year. It also requires a lot of fuel, fleet maintenance, unscheduled repairs, insurance premiums, tire replacements, dispatchers, on-board computers, routing expertise, etc. Although this is widely known, the industry hasn't done much to make deliveries any more efficient over the last few decades, but that is starting to change.

The importance of remote monitoring and routing software cannot be overstated. The only thing that might be worse for an oil dealer than a money-losing, 40-gallon delivery into a 275-gallon tank is allowing that tank to run out of oil. Just be thankful that you don't have hundreds of "0-gallon deliveries" like many propane dealers have! Remote monitoring should go a long way toward eliminating deliveries that are either too small or too large. However, I want to focus on another part of the delivery, dispatch, routing triumvirate: when deliveries are scheduled in the first place - not the size of the delivery.

As it stands right now, you have a good deal of specific information on your customers that assist you in planning when to make your next delivery to them (in this case, we are referring to auto-delivery customers, not to will-call). Each customer's tank has a tank size, a K-factor, an optimal delivery and a "reserve" (the latter two being the inverse of one another). The math - using either K-factor or tank monitors, is actually pretty simple. If you determine the amount of fuel in the tank, and you can keep projecting consumption over the next week to 10 days, you should fairly accurately be able to project when the tank will have room in it for the optimal delivery.

So, (intentionally simplistic), each day we look at the sum total of all of the tanks that have room for an optimal delivery (or a different size delivery if you are "pulling ahead HDD's"). Once we add up all the "needed" deliveries, we then figure out how many trucks and drivers we need to make those needed deliveries, given the constraints that each company has - truck capacity, number of available drivers, rack locations, driver hours and overtime, etc. Basically, we divide the total deliveries needed by the number of deliveries normally made by a truck, and we arrive at our truck and driver scheduling.

This tried and true practice leads to some very predictable outcomes, some of which we think might be worth challenging:

- Since consumption follows the Heat Curve, we find that deliveries also match that same curve
- · Reserves are generally set by tank size not by customer K-factor

- Reserve levels are rarely considered or changed, leading to the same size delivery in January as in July – despite the fact that the reserve factors are much higher consumption in January (fewer days till a run out)
- · The percentage of deliveries with very high K-factors is pretty much the same regardless of the season
- The attitude of being conservative with delivery sizes seems to get worse each time there is a run out (this one makes perfect sense)

The one that is most frustrating to us is the fact (based on a study of over 400,000 customers) that on average about 15 percent of all deliveries in the month of January are to customers with K-factors that are over 10! In a normal January in the Northeast, this group of customers would consume fewer than 100 gallons for the entire month, yet 15 percent of the stops are to fill up their tanks. In addition, why is their reserve the same size as a customer with a K of 5? If January is your busiest month, why not fill the high-K's before January and then not deliver to those customers for the entire month?

That was a very basic example of "scheduling optimization" but one worth thinking about as we all move toward trying to manage delivery expenses without adding to the risk of runouts. In our world, we are always "peeking into the tank" to see if there is room for a delivery. However, by looking only at the next delivery we end up "losing the forest for the trees." We can't optimize a year if we aren't looking ahead at the entire year.

The scheduling model for the future uses every bit of data you have, and still works hand in hand with your back-office accounting system. However, it also includes a formulaic approach to manage the expense side of the ledger. If you can shift around some deliveries over the course of the year, and structure them so that a few trucks are not needed during the peak season - all without increasing run outs - how would that impact your bottom line? The future, which is not that far away, will have you managing the scheduling process proactively, not just waiting for the tank to say, "okay, I am ready for a delivery."

Combining the power of scheduling optimization, with routing expertise and remote monitoring puts the notion of efficiency maximization back into your hands.





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# **Today's Fuels Require** A Whole New Look at **OIL TANK INSTALLATION and MAINTENANCE PROCEDURES**



By John Levey, Oilheat

NORA PUBLISHED THE last edition of its fuel oil tank manual, Heating Oil Storage Tanks, Guide for Quality Installation and Maintenance in 2006. Since then there have been significant changes in tank manufacturer's installation instructions and in the fuels that our industry delivers to our customers. NORA is in the process of editing an updated manual that should be ready for release in the next several months.

Anecdotal information from the industry indicates that fuel oil tank failures and fuel unit failures have increased over the last few years. Some in the industry believe that this is due to the expanded use of Biofuel and/or ultra-low sulfur diesel fuel (ULSD). However, research into these issues has not found a link between Biodiesel fuel blends and these failures. In fact, many of the issues assumed to be due to Biodiesel have occurred in systems that use straight #2 oil with no Biodiesel component (B0).

A common reason given for fuel unit replacement is that the unit became "bound" and wouldn't turn. These failures have occurred with units using straight #2 oil and those using Bioheat.

The common denominator with the two fuel units above, and all of the "bound" fuel units I've seen so far, is the presence of water in the fuel oil tank.

So, where does the water come from? It appears that today's fuels tend to absorb more water than traditional fuels and they also tend to shed more of that water rather than holding it in suspension. While research continues to be done on the subject, those in the oilheat industry need to deal with the situation today. Rather than waiting to find out "WHY" it's happening we need to focus on "HOW" we can prevent the consequences that the additional water in fuel systems create.

The first thing that needs to be addressed is tank installation procedures. Tank manufacturers indicate that:

- Above ground steel tanks need to be pitched 1/4" per foot toward the bottom opening to prevent water from building up inside the tank.
- Condensation can form in a tank during shipping and storage. Water and ice MUST be removed from the tank prior to installation.
- If a tank is installed with the supply to the burner made through an opening at the top of the tank, the tank must be sloped toward the bottom outlet AND equipped with a dedicated opening on the top of the tank used for verifying and removing water from the tank.

• OR the tank must be sloped properly and installed with a drain valve inserted in the tank's bottom outlet.

In addition, the UL sticker attached to each UL tank clearly states "Do NOT transfer oil from the old tank into this tank." This is to prevent the transfer of water and microbes into the new tank. For non-emergency tank installations this is easy - let the tank get down to a very low level before replacing it.

For emergency situations this can be problematic, the customer will normally be reluctant to have the oil in the existing tank discarded. Some companies utilize a temporary tank to hold the oil until it's used up and then connect the new tank. While this can be burdensome, it's better than having the new tank fail prematurely due to the transfer of water and microbes in the transferred fuel.

#### TANK MAINTENANCE

Tank maintenance requirements are also changing due to concerns about water accumulation. According to Granby's instructions, proper tank maintenance should include checking tanks for water at least once a year. For outside above ground tanks this is easy, insert a tank stick coated with a few inches of water finding paste through the fill pipe to the tank bottom.

For bottom outlet basement tanks that are properly installed with the minimum ¼" tilt toward the bottom draw off, any water accumulation will show in the oil filter if it's installed at the tank. If the filter is not at the tank, simply shut off the tank valve, place a receptacle under the valve, remove the flare nut and open the valve. Any water accumulation will drain into the receptacle. When clean, water free oil flows, close the valve and reattach the flare fitting.

If the tank is not properly pitched, or is an older model with a side outlet, the process is a bit more complicated. Typically, either an unused opening at the top of the tank, or the tank gauge, must be removed and a tank stick coated with water finding paste inserted to the tank bottom. If water is found, it can be removed with a hand pump or a pony pump. Care must be taken to ensure that the plug or gauge that was removed is properly secured with pipe joint compound after the water has been removed.

I strongly recommend that companies performing oilheat service offer tank inspections, including checking for water, in their annual maintenance procedures.



By Alex Burns, P3 Propane Safety

**PROPANE SAFETY EXPERTS** report

that, on average, 35 percent of safety documentation is inaccurate or incomplete. At first glance, it may appear as an exaggeration. However, when considering factors like complex industry requirements, limitations associated with traditional paper documentation, and the range of human error, this percentage becomes all too absolute. The reality of the situation is that propane marketers using outdated paper-driven processes are putting themselves at risk for safety and

How can 35 percent of safety documentation become inaccurate? A single safety inspection form has 50 required fields including critical operating tests like leak checks and flow and lock-up testing. This means 50 opportunities for incomplete or inaccurate data on just one of hundreds of forms. Once a

compliance issues.

form is completed in the field, it is filed away in a cabinet and typically not revisited until the appliance or system is due for reevaluation. In a worst-case scenario, the form may only get a second look when an issue arises with the inspected system. By that point, it may be too late to assess if the form was completed properly, and may not be sufficient evidence to protect the company from fines or legal claims.

## MAJOR CHALLENGES OF SAFETY DOCUMENTATION

Paper-driven safety documentation allows too great of a margin of error between the field and the filing cabinet. This method provides no efficient way for management to audit safety inspection data. After all, 50 form fields per safety inspection form is time-consuming to complete by hand,

and even more time-consuming to audit. Now is that 35 percent average looking more plausible?

## Additional liabilities of traditional paper safety documentation processes in the propane industry include:

- Lack of systematic processes to follow up on inaccurate or incomplete service records and inspections
- Difficulties keeping track of compliance requirements, like when regulators need to be replaced or when DOT cylinder re-qualifications are due, and maintaining NFPA 58 Cathodic Protection inspection requirements
- Accountability issues, no simple way for management to identify technicians that are repeating mistakes or omissions on documentation

Safety documentation is a glaring challenge that propane marketers face daily. Beyond the internal inefficiencies and operational safety hazards that inaccurate safety documentation can cause, it simply cannot be overlooked that inaccurate safety documentation poses a serious threat to overall compliance and risk management. Singular issues that could arise from inaccurate or incomplete safety data can lead to costly fines, dangerous scenarios, and potentially expensive litigation. So, how can propane marketers address and overcome the challenges of safety documentation in our industry?

#### **IMPLEMENTING A TECHNOLOGY-BASED SAFETY DOCUMENTATION PROCESS** A CRITICAL SOLUTION FOR **PROPANE MARKETERS**

Utilizing a technology-driven safety documentation process is the way to take your safety documentation from 65 percent accurate to 100 percent accurate. Doing so will maximize internal efficiencies and significantly reduce company risk.

A technology-based safety documentation system has the ability to automatically store, retrieve, and audit your safety documentation and compliance data. Instead of letting documents gather dust in a filing cabinet, they are automatically updated to a secure cloud-based platform. Complex documents. like safety inspection forms with 50 fields, can be evaluated for accuracy and completeness in a matter of seconds by advanced Error Recognition Technology. Forms with missing or incomplete information are immediately flagged for correction. Additionally, any important deadline requirements, like replacements and renewal inspections, are logged and flagged for a future follow-up.

#### Adopting a technology-driven process delivers highly valuable advantages:

- · An automated, systematic process to follow up on service records and inspections
- Proactive alerts for compliance deadlines, like regulator replacement, DOT cylinder re-qualifications, and NFPA 58 Cathodic Protection requirements
- · Photo documentation capabilities to document NFPA 58 container placement requirements
- · Mobile safety inspections that automatically sync to a cloud-based system

 Management reports to analyze safety data and assess employee performance

All of these elements come together to create an efficient and effective safety documentation process that translates immediate benefits into lasting results. Beyond improving efficiencies directly affected by safety data, a technology-based system will enhance daily operations and provide important performance snapshots for management staff.

Management can use the system to easily generate 12 individual management reports from a single safety inspection form. The system can also generate management reports for individual service technicians. This provides a detailed summary of technician performance so management can customize training to specific service technicians based on the errors that have been identified, thus minimizing future mistakes.

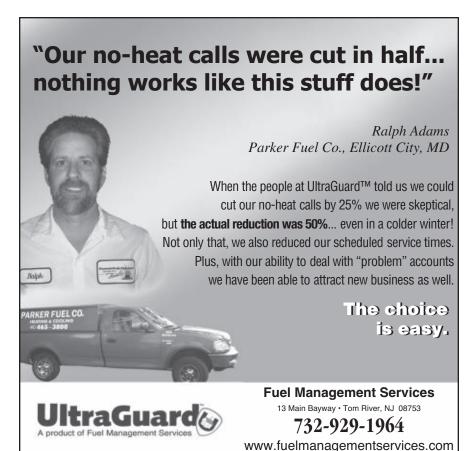
Today, the P3 Compliance System has become the leading technology-based safety documentation system for propane marketers. It was developed to serve a glaring need in our industry, and continues to adapt and advance to continue doing just that. New integration capabilities with back-end operating systems, monthly CTMV discharge system inspections, and offline mobile capabilities are some of the latest advancements that help propane marketers reduce risk, maintain compliance, and maximize efficiencies.

Because, at the end of the day, that's what it is all about. Does your current safety documentation process have what it takes to help your company maximize efficiencies, avoid potential safety risks, and uphold regulatory compliance? If you rely on a paper-driven process, the answer is: "Not likely." Stop struggling with the challenges of safety documentation and start benefiting from the solution. Schedule a free no-obligation consult to see how the P3 Compliance System can transform your safety documentation data, maximize internal operations, and most importantly, protect your propane company.

#### **ABOUT THE AUTHOR**

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WORKPLACE SAFETY HAS no end point—only a goal: to reduce the frequency of unsafe practices that threaten employees' wellbeing and a business's ability to complete its work. Businesses should emphasize safety as a priority and educate workers on how to avoid workplace accidents. One of the most common and effective methods of accomplishing this objective is the safety meeting, a short, regular gathering of managers and employees that addresses potential hazards on the job.

#### **TIMING IS IMPORTANT**

Hold safety meetings as often as it makes sense, but not so often that you lose your employees' engagement. Schedule the meetings for a time and place that's convenient for everyone. Unless an issue needs immediate attention, first thing in the morning or directly after lunch both work well. Employees will likely be gathered in one place and the work day will be least interrupted.

#### **KEEP THE MEETINGS SHORT**

Take enough time to make sure your message is understood. If you give too much information, your employees will lose concentration, and everyone's time will be wasted. Up to a half-hour is a good length for the main presentation.

#### **FOCUS YOUR AGENDA**

Don't try to cover too much in each meeting. Choose a topic that is timely and relevant, and addresses hazardous operating practices. Using real examples helps workers connect the lessons with their own work. Speak as specifically as possible while making sure you don't call out specific employees. The aim is to raise awareness of hazards, not embarrass your workers. Consider including the following in your meeting:

• Recent injuries – What happened? Why did it happen? What should have been done differently?

- Recent safety violations What was the violation? What hazard did it create? What are the possible injuries that could have resulted?
- Upcoming work schedule What hazards are you concerned about?
   What safety equipment should be used? What procedures should be followed?

#### MAKE IT INTERESTING

Know your material – don't just read from a clipboard. You'll be more conversational and engaging. Use visual aids, too. If you're talking about ladder safety, for example, bring a ladder for demonstration. Whatever you do, make your talk memorable.

#### **WRAP IT UP**

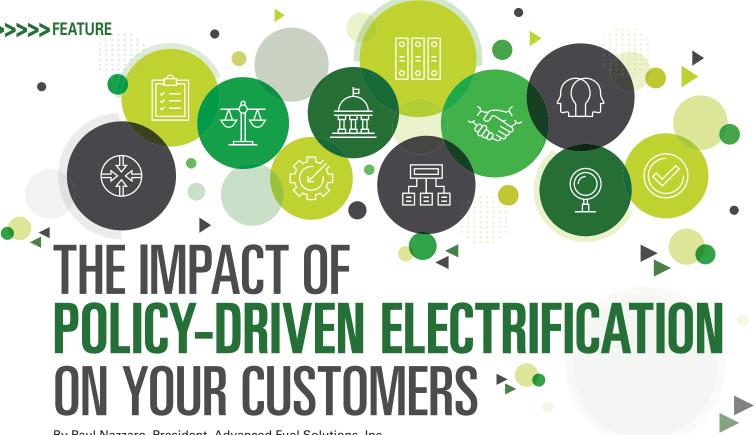
After you've delivered your main message, summarize the main points to reinforce the importance of what they just heard. Plan some time for discussion or questions.

#### **KEEP AN ATTENDANCE RECORD**

This is not for discipline. Knowing who was at the meeting will help you ensure that everyone receives your message. If an employee missed the meeting, follow up later.

When you hold effective safety meetings, you're sending a message: safety is a priority. Your employees will ultimately appreciate your concern, and you can focus on running a successful business.

NOTE: This article is for general information and risk prevention only and should not be considered legal or other expert advice. The recommendations herein may help reduce, but are not guaranteed to eliminate, any or all risk of loss. The information herein may be subject to, and is not a substitute for, any laws or regulations that may apply. Qualified counsel should be sought with questions specific to your circumstances. ©2019 Federated Mutual Insurance Company.



By Paul Nazzaro, President, Advanced Fuel Solutions, Inc.

THE CRIPPLING HEAT wave that swept over two-thirds of the country in late July placed excess strain on the U.S. electric grid, causing dangerous outages as nearby as Long Island and leaving many to wonder how the grid will fare against increased peak demand due to upward trending temperatures and a growing population.

The problem, as authors of last year's National Climate Assessment wrote, is that "the electrical grid handles virtually the entire cooling load, while the heating load is distributed among electricity, natural gas, heating oil, passive solar, and biofuel."

If policy makers get their way, however, the second half of that statement may no longer be true.

Readers of this publication have likely heard by now that state and federal policy makers in the Northeast and beyond are aiming to phase out carbon-intensive fuels, including home heating oil and natural gas, through widespread electrification and carbon taxation that would put many heating oil companies today out of business. Their logic is that through electrification, they can decarbonize the heating sector by shifting the power grid to 100 percent renewable energy over time. Although this is far from feasible in the near term, that's exactly the narrative that many legislators are espousing to their constituents. And unless our industry works to educate our customers on the realities of policy-driven electrification - while also moving to higher blends of Bioheat® Fuel - that's the narrative they'll be led to believe.

Here are some realities that heating oil customers need to know.

#### **COST OF CONVERSION**

Converting one's home to an electric heating system will require a considerable upfront financial investment - even with incentives that will almost certainly never pay for itself. This is particularly true for those who have already invested in high-efficiency heating oil equipment. A recent study by ICF concluded that policy-driven electrification would increase the average residential household energy-related costs by approximately 38 to 46 percent, resulting in an increase to the average affected residential household of between \$750 and \$910 per year. The study concludes that this cost would far outweigh the benefit of electrification, which would result in a negligible 1 to 1.5 percent reduction of GHG emissions by 2035.

As our colleague in Maine, Jaime Py, president of the Maine Energy Marketers Association said, "Converting to an allelectric system for whole-home heating could cost the average consumer as much as \$25,000, and wouldn't even necessarily guarantee quality comfort. Additionally, upgrading the grid to support mass deployment of heat pumps and electric vehicles would cost billions. On the other hand, biofuels may, in the not-too-distant future, be able to make our customers 100-percent renewable for just a couple hundred bucks in seal and pump replacements."

#### QUESTIONABLE **ENVIRONMENTAL IMPACT** AND FEASIBILITY

There is an abundance of misinformation regarding the cleanliness of electricity. Today, according to the U.S. Energy Administration, GHG-emitting fossil fuels are the largest sources of energy for electricity generation. Ninety-one percent of all coal burned in the United States goes to the country's electric grid. Arguably the most polluting of all fossil fuels when factoring in both the mining and combustion process, coal produces more than a quarter of the country's electricity. Thirty-five percent of U.S. electricity is sourced from natural gas, which is primarily comprised of methane. If methane is released into the atmosphere before being used, it is 84 times more potent than carbon dioxide over short periods of time and 30 times more

Continued on page 14



# Facing the New York State Climate Leadership and Community Protection Act and Other Environmental Legislation

By Richard Rutigliano, PriMedia, Inc.

IN LATE JULY, Governor Cuomo signed the NYS Climate Leadership and Community Protection Act, aiming to "reduce greenhouse gas emissions from all anthropogenic sources 100 percent over 1990 levels by the year 2050, with an incremental target of at least a 40 percent reduction in climate pollution by the year 2030.1"

It further required, "measures to achieve reductions in energy use in existing residential or commercial buildings, including the beneficial electrification of water and space heating in buildings...requiring annual building energy benchmarking, [and] disclosing energy efficiency in home sales."

Or, as summarized by law.com, "This will require a phasing out of oil-powered heating systems and gasoline-powered cars.<sup>2</sup>"

Just a few months earlier, New York City passed the "Climate Mobilization Act," which requires buildings larger than 25,000 sq.ft. to reduce emissions 40 percent by 2030 and 80 percent by 2050. Those that don't will face large fines. These upgrades and fees will increase rent costs and may limit space availability for higher-energy-use businesses. And variations on the "Green New Deal" are still being discussed in D.C.

We are facing a turning point, and everyone in the heating oil industry, from association leaders to corporate CEOs to individual retailers, needs to work together to reposition our image and our industry. It will be difficult, but our history has been written through innovation – from ice and coal to heating oil to Bioheat® fuel – and we have the knowledge and experience to build upon these challenges and be part of the solution.

#### **IT'S TIME TO BAND TOGETHER**

These laws are not "potential threats." We need to help their advisory committees develop action plans that offer viable real-world solutions, acknowledge the problems of heat pumps in cold climates as well as issues with electric generation and distribution, and do not tax businesses and homeowners into the ground. We need to do this together.

Join the fight. ESEA is on the front lines at the state capital, armed with facts, figures and data on the benefits of our fuels, the emissions reductions available from equipment upgrades, and the cleanliness of ULSHO and Bioheat® fuel. They work with national partners to have our voices heard in Washington D.C., as well. Right now, NORA is testing higher Bioheat® blends, other low carbon renewable fuels and smart, higher-efficiency, electric-and-oil fueled equipment. ESEA has a political action committee to which you can and should donate, and can provide you with even more information on its actions. We urge you to learn everything there is about this important issue, and share the information with everyone you know!

Get on message. We already have a green, clean, renewable solution in Bioheat® fuel that is getting better every year. Laboratory testing as well as real-world applications have proven that B20 and even higher blends can be used safely in heating equipment, produce fewer lifecycle emissions than natural gas, and reduce greenhouse gas emissions further as the blend level increases.

Our positive message is strong and should be shouted from every rooftop,

but the pocketbook issue is one that should not be discounted. These laws are going to cost your customers real money. While we are united in the quest to reduce carbon and other emissions, there needs to be real discussions about options beyond "strategic electrification." Electrification will not be a low-cost fix, especially in New York, where we will need expensive cold climate heat pumps and back-up heat sources. There are legitimate concerns about the electric power grid, non-fossil fuel generation output, and the speed with which new generation facilities can be built. Insufficient electricity in mid-December for heat-pump customers could be deadly. A storm knocking out power for a week could annihilate entire communities. We already have a solution that does not cost anything additional to the homeowner, provides on-demand/ on-premises storage, and has an active distribution system.

#### WHAT ELSE YOU CAN DO

Offer Solutions: Your customers trust you with their homes. Offer them the solutions they need – clean, renewable Bioheat® fuel, higher efficiency equipment, and smart thermostats and controls to further reduce their usage. Empower them to tell their elected representatives that they don't want to pay more in taxes and conversion costs and don't want to be beholden to the electric company any more than necessary.

**Website:** Make sure your website features a "What You Need to Know" section with information on the Climate Leadership

Continued on page 14

#### THE IMPACT OF...

Continued from page 12

potent over the long term. A report by the Environmental Defense Fund surmises that natural gas released during the extraction process and through pipeline leaks negates much of its clean-burning benefit over other fossil fuels. Hydropower also has its environmental drawbacks, including destruction of natural habitats, disruption of migratory patterns, changes in water quality, wildlife displacement, and other ecological concerns.

A growing number of U.S. policy makers are advocating for an electrical power grid based on 100 percent renewable energy by 2050 – something most experts say we are far from capable of accomplishing. To substantially increase electricity demand by electrifying the heating sector, and then to meet that demand through 100 percent renewable energy, has been deemed unrealistic by entities including Intergovernmental Panel on Climate Change, the National Oceanic and Atmospheric Administration, the National Renewable Energy Laboratory, and the International Energy Agency.

According to UC San Diego professor George Tynan, author of a study in the *Proceedings of the National Academy of Sciences* by 21 of the nation's leading energy experts, "We need a broad portfolio of clean energy technologies in order to achieve an affordable transition to a low-carbon-emission energy system...It's important for policy makers and the public to understand we still have significant progress to make before we are have a realistic chance of achieving the required emissions reductions reliably and cost effectively."

#### COMPROMISED SERVICE, CONVENIENCE, AND RELIABILITY

Tynan's points about reliability and cost-effectiveness are not to be overlooked. For a heating oil customer, converting to electric heat means placing your home heating needs in the hands of a large utility company rather than your trusted heating oil dealer, who offers the convenience of budget and service plans, price protection, and who can be counted on 24/7 to keep your family safe and warm in emergency situations.

Which brings us back to this past July, when 27,000 utility customers on Long Island were left scrambling to stay cool due to excess strain on the electric grid during a nationwide heat wave that led to at least six deaths. To

prevent such emergencies in the future, last year's National Climate Assessment, authored by more than a dozen federal agencies and hundreds of leading scientists, concluded: "In order to meet increased demands for peak electricity, additional generation and distribution facilities will be needed, or demand will have to be managed through a variety of mechanisms."

What do electrification advocates expect will happen during a widespread cold snap once heating demand is shouldered by the electric grid alone? Peak electricity demand would increase, dangerous outages could potentially occur, and depending on any other co-occurring winter weather events, responders could be stretched perilously thin.

#### **THE ROAD TO B50**

Fortunately, our industry has a solution. Over the past two decades, the heating oil supply pool has been increasingly cleansed of sulfur and blended with renewable, clean-burning biodiesel to create ultra-low-sulfur Bioheat® Fuel. As you know, this is commonly delivered to customers today at B2 to B20 blends. With the anti-carbon policy directives being drafted and signed across the Northeast, Mid-Atlantic and beyond, the time to pursue higher blends is now. Brookhaven National Laboratory's recent technical report, B20 to B100 Blends as Heating Fuels, should give us every confidence that we can safely do so. The National Oilheat Research Alliance has announced its commitment to conducting further research with the goal of attaining a B50 blend level by 2030. A 50-percent biodiesel blend would align with virtually every carbon-reduction target to date, and is already being supported by several state and regional oilheat association, including ESEA.

If none of this is enough to convince you that we are witnessing the evolution of oilheat, I would encourage you to read the New England Fuel Institute's milestone resolution to henceforth refer to the heating oil industry as the "renewable liquid heating fuels industry."

I would also encourage you to visit the new and improved consumer Bioheat website, www.mybioheat.com for more information, resources, and facts that you can share with your own customers to stay a step ahead of electrification proponents with your message, your product, and your business.

#### **GET READY TO...**

Continued from page 13

and Community Protection Act, Green New Deal, Carbon Tax initiatives and any other environmental legislation that passes. Drill down on the talking points, and include links to your association's website and other relevant sites. Include a letter for them to send to their representatives and local media outlets detailing the costs they'd incur to switch heating systems.

**Digital outreach:** Emails. Social media posts. Sponsored updates. Online review sites. Use these tools as often as possible to make sure customers and non-customers understand the issues involved and just how much these changes will cost them.

Newsletters and Direct Mail: You can produce a newsletter that focuses on these issues and the services you already offer to reduce your customers' carbon footprints. Use bill inserts and envelope slips to introduce the issues, literally in black and white, and direct the reader to your website (or association site) for more information.

#### **LONG TERM**

We know the drill. The industry has been here before, and we are still standing. The tools and strategies are the same ones PriMedia has been providing for more than 26 years. We have worked beside energy retailers, marketers and wholesalers through price spikes, natural gas challenges and fuel embargoes. We have also been here with dealers to celebrate ULSHO, Bioheat® fuel, and NORA's reauthorization. From traditional advertising to customer communications to digital marketing, PriMedia can help you find the right mix of tactics to help your customers understand how the heating oil industry is not the problem...we offer the solution.

#### **ABOUT THE AUTHOR**

PriMedia has been providing fuel dealers and home service contractors with strategic and marketing solutions since 1993. For help with your company's customer communications, call 1-800-796-3342 or contact us online at goprimedia.com.

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# NYS BANS Salary History Questions and Expands Equal Pay Protections

By Ben Mudrick and Amy Hemenway, Harter Secrest & Emery LLP

YOU ARE FILLING out an online job application and you get to the box asking for your salary at your last job. You hesitate. You worry that disclosing your pay might limit how much you will be offered, and what you really need now is a raise in pay. Or maybe it's the opposite. You worry that you won't get a second look because you were paid too much at your last job and will be deemed "overqualified."

Suddenly a brilliant idea strikes you. You will leave the box blank! You click "Next Page" on the application and the dang online application won't let you move on to the next screen until you enter the information. Foiled again.

Well, for all of you who have been through this awkward dance in the past, we have some good news. On the other hand, for those New York employers who rely on salary history when making job offers, we have bad news.

Beginning January 7, 2020, New York employers will be prohibited from inquiring about an individual's salary history when deciding whether to offer employment or determining the amount of salary to be offered. Employers are also prohibited from retaliating against any individual who refuses to divulge their salary history.

According to the legislation, the purpose of this salary history prohibition is to prevent wage discrimination, especially against women and minorities who continue to suffer from wage inequality. According to the legislation's sponsors, "[Asking about salary history] is used by employers to justify their lower pay rate and/or marginal pay increase for employees. This practice is a root cause of continued wage inequality."

Whether or not you agree with this assessment, now is to time to take steps to comply with the law. To comply with the new legislation, employers should review their current external and internal hiring practices to remove requests for salary history and eliminate prior salary history as a factor considered in setting pay. Attention should be paid to the application,



interview, and job offer process. In addition, everyone involved in the process, including recruiters, human resources, interviewers, and managers, should be trained on how to avoid questions about salary history and how to get information about candidates' qualifications without linking them to compensation.

The law does allow individuals to voluntarily provide salary history, but employers can only use the volunteered information in limited circumstances to confirm prior wages as part of negotiating a higher wage requested by the individual. It is also important to be careful about agreeing to higher salaries based on such negotiations because that could inadvertently result in pay disparities for employees who perform similar work, which brings us to our next legal update...

In a separate bill, the NYS legislature revised the equal pay provisions found in Labor Law Section 194. Beginning October 8, 2019, New York's equal pay protections will expand to cover any employee in any protected status, including age, race/color, creed, national origin, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristic, familial status, marital status, or domestic violence victim status. Until now, the law only required equal pay based on sex. The legislature also lowered the burden of proof for claims of pay

discrimination from one requiring a showing of "equal" work to one requiring a showing of "substantially similar work."

Pay differentials based on seniority systems, merit systems, or systems measuring earnings by quantity or quality of production, or that are based on a bona fide factor other than protected status (e.g., education, training, or experience), and that are job-related and consistent with business necessity are still permitted (but note that there is no mention of "better salary negotiators"). Finally, the law is expanded to also cover interns, in addition to employees.

Going forward, employers should keep an eye out for potential pay disparities based on all protected statuses, not just between males and females, when they review compensation structures and make pay decisions. Employers should also document how specific compensation decisions are made.

We expect the New York Department of Labor will issue additional guidance in the lead up to both bills taking effect. We will provide updates on our website: www.hselaw.com/blog/labor-and-employment.com

#### **ABOUT THE AUTHORS**

Ben Mudrick and Amy Hemenway are partners at Harter Secrest & Emery LLP. Both advise employers regularly on employment-related matters.



# Women Make Their Mark On The Energy Industry

By Erin Holohan Haskell, HeatingHelp. com & Women in Energy

"WHEN I WAS a little girl, I wanted to be just like my dad. I loved being in the shop and learning how things worked," says Bobbi-Jeanne Hill of W.B. Hill Inc. She is now a proud member of the next generation of the company her family founded in 1910. W.B. Hill specializes in tank truck and trailer fabrication and repairs. One of her favorite projects was working with her dad on a "gas station on wheels" to provide assistance during natural disasters.

In an industry that has been predominantly male, Hill and many women like her have been making their mark. She notes, "When I was younger, there were rarely women at trade shows. And if they were there, they were models or cheerleaders hired to stand in booths...but it's not that way anymore. I think the industry is changing for the better, especially for women."

Part of that change is being spurred by Women in Energy, a new association that provides career resources, as well as networking and mentoring opportunities. "Our mission is to connect and empower women working in the energy industry," says Judy Garber, Executive Director of Women in Energy. "We also educate younger generations about career opportunities available within our industry."

Garber, who has spent decades in the energy industry, reflects on her career path, "When I was growing up, women had three career choices: nurse, teacher, or secretary. And none of those choices appealed to me. Today you can do whatever you want to do as a woman. And young women should take advantage of those choices because prior generations of women have paved the way for them."

"I think women have always been behind the scenes," says Roberta Fagan, Executive Director of the Oil Heat Institute of RI, and President of Women in Energy. "A lot of our businesses are multi-generational, family businesses and I think women have been there all along. But in today's changing and evolving energy sector, women are coming to the forefront and saying, 'We have the skills to help our companies diversify and stay relevant."

Garber, Marjorie Feinman (Associate Director of Fuel Merchants Association of NJ), and fellow industry leaders founded Women in Energy in 2017 to help other professionals and strengthen our industry. "It's been wonderful working with this group of very talented, bright women," says Garber.

The association has grown rapidly and had record attendance at its annual conference in



May 2019 in Hershey, PA. The event featured an empowering two-day program filled with education and networking. Women in Energy emphasizes education and mentorship; and members have benefited by learning from one another and sharing their knowledge.

"It seems to be a theme that women encourage each other, especially in this industry," says Liz Hill of Primedia, Inc.

Women in Energy launched their Mentorship Award this year and invited three students to attend the conference, meet members, and learn more about the career paths that are available to them.

Members of Women in Energy include women and men working in various areas of the energy industry, including HVAC companies, manufacturing, fuel dealers, fuel truck and equipment sales, insurance agencies, media organizations, technology firms, and more.

When asked about their work history, many women have noted that they did not initially plan on joining the energy industry, but are pleased that their career paths brought them here. Others are embracing their roles as the next generation to lead a family business.

Allison Heaney became President of Skaggs-Walsh, a heating-oil provider, in 1994 when her father, Peter, passed away. She was just 24 years old at the time, but she weathered the storm and took charge. "It is a hard industry, but it is a very rewarding industry," Heaney says.

Women in our industry have faced adversity, but Women in Energy is providing them with valuable career tools and support.

"This industry is very welcoming," says Marci Gagnon of Qualpay. "For every one person that I've had a challenge with, there have been 50-60 people that have offered insight or have just been really supportive. So while this industry may seem very male dominant, it's actually here for everyone. And it's amazing to see that companies are not only being passed down to men, but women are also starting to take over their family-owned businesses. And so, there's more opportunity for women in this space. And there are a lot of great folks who are helping to empower them in the industry."

Tina Starner, an environmental compliance specialist, adds, "There are opportunities to prove yourself and to prove that women do belong in this industry, as in any industry. We've got what it takes to grab the baton and run with it."

Visit www.wewomeninenergy.com to learn more about Women in Energy.

#### **ABOUT THE AUTHOR**

Erin Holohan Haskell is President of HeatingHelp.com, a vibrant online community and trusted resource for heating information. She is also a founding member and Vice President of Women in Energy.





# RECORD NUMBER OF PETROLEUM MARKETERS ATTEND PMAA'S DAY ON THE HILL



By PMAA

IN MAY, OVER 300 petroleum marketers participated in PMAA's record setting annual DC Conference and "Day on the Hill." And New York led all states with the most marketers at the event with over 20 attending! PMAA's opening speaker was Denton Cinquegrana, Chief Oil Analyst for Oil Price Information Service (OPIS), who gave an overview of the gasoline and distillate markets, the RFS and the future of liquid fuels. Attendees also heard from Congressman Greg Pence (IN), the Vice President's brother, who used to be in the petroleum marketing class of trade.

The key takeaway from the event was that the industry is under attack. With ideas emerging on Capitol Hill to ban petroleum based products within 10 years aka the "Green New Deal," it was important that marketers traveled to our nation's capital to highlight their concerns with an all-electric

vehicle (EV) world. As the liquid fuels industry continues to make a significant dent in carbon emissions, lawmakers need to hear our story that electrification is unlikely to reduce America's carbon footprint. Some of the questions marketers posed to Congress included: If the U.S. achieved total electrification, how would motorists get out of harm's way if a category 5 Hurricane was heading to the eastern seaboard? Would the power grid be able to handle the demand? How would the nation repair and build its roads and bridges when EVs do not currently pay a single penny into the Highway Trust Fund (HTF)? In the end, DC conference attendees urged lawmakers to support legislation to eliminate the EV tax credit and ensure that EVs pay into the HFT.

DC conference attendees also sought Congressional support in a letter to the

Federal Motor Carrier Safety Administration (FMCSA) spearheaded by Rep. Rick Crawford (R-AR). The letter urged FMCSA to extend the 100 air-mile radius short - haul driver exception to 150 miles to reflect the maximum distance most CDL drivers in the petroleum industry travel to load supply. Furthermore, marketers worked to get cosponsors on "The Food and Fuel Consumer Protection Act," which would reduce the ethanol mandate to 9.7 percent of projected gasoline demand. And last but not least, attendees highlighted their concerns with rest area commercialization and urged lawmakers to reinstate the \$1 per gallon biodiesel blender's tax credit.

We hope to see everyone at the PMAA fall conference at the Hyatt Regency Atlanta (September 30-October 1) in conjunction with the NACS Show.

#### Index to Advertisers

| 4                  |
|--------------------|
| Inside Back Cover  |
| Inside Front Cover |
| 3                  |
| 7                  |
| 17                 |
| 3                  |
|                    |

| FUEL MANAGEMENT SERVICES                |
|---|
| Angus Energy, Inc                       |
| www.angusenergy.com                     |
| Fuel Management Services, Inc           |
| www.fuelmanagementservices.com          |
| World Fuel Services7                    |
| www.wfscorp.com                         |
| HEATING OIL                             |
| Advanced Fuel Solutions                 |
| www.yourfuelsolution.com                |
| HYDRONIC SYSTEMS                        |
| Slant/Fin Corporation Inside Back Cover |
| www.slantfin.com                        |
| MARINE FUEL                             |
| Advanced Fuel Solutions                 |
| www.yourfuelsolution.com                |
| OIL COMPANIES                           |
| World Fuel Services7                    |
| www.wfscorp.com                         |
| OIL TANKS                               |
| Roth North AmericaInside Back Cover     |
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