



PROPANE EXCHANGE

May 2009 * West Virginia Propane Gas Assn.

www.wvpropanegas.org * 703.530-9772

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DATES TO REMEMBER

June 15-19, 2009	Basic & Bobtail Delivery Bridgeport, WV
June 23-24, 2009	Summer Membership Mtg Stonewall Resort Roanoke, WV
July 16-17, 2009	GAS Check Bridgeport, WV
July 20-23, 2009	Basic & Vapor Install Beckley, WV
Sept 14-15, 2009	Fall Annual Meeting Lakeview Resort Morgantown, WV

WV May Lose State Rebate Funds Response to API Survey Low

The latest report from PERC shows that *only 4 marketers have responded* to the annual API Sales of Gallons of Propane survey which was sent out in April. There were reminders in the March and April issues of Propane Exchange about this survey which was originally due May 11th.

Why is this survey important?

The survey determines the allocation WV receives when the Propane Education & Research Council (PERC) sends back its state rebate to support activities like the CETP schools for West Virginia.

When the response from WV marketers is low, it means that we will get fewer dollars for education and marketing efforts in a future year.

You need to act now. If you have not completed the survey, make it a priority NOW. It is not a very long or complicated form to complete.

Can't find your survey? Didn't get a survey?

Request a survey from API's Crystal Harrod at harrod@api.org and call API at 202-682-8492 with any questions.

News Flash:

Businesses Who Take ARRA's Energy-Saving Steps This Year May Get Bigger Tax Savings Next Year

The recently enacted American Recovery and Reinvestment Act (ARRA) of 2009 contained a number of either new or expanded tax benefits on expenditures to reduce energy use or create new energy sources.

The Internal Revenue Service reminds businesses that many energy-saving steps taken this year may result in bigger tax savings next year. IRS encourages businesses to explore whether they are eligible for any of the new energy tax provisions.

An IRS Fact Sheet on Energy Provisions of the American Recovery and Reinvestment Act of 2009 may be found at:

<http://www.irs.gov/newsroom/article/0,,id=206871,00.html>.

More information on the wide range of energy items is also available on the special Recovery section of IRS.gov at:

<http://www.irs.gov/newsroom/article/0,,id=206875,00.html>.

NEWS FROM DC & CHARLESTON



Propane Industry Focuses on Six Key Issues

Six key issues have been identified as important to the Propane Industry when propane marketers and suppliers come to Washington, DC for Propane Days in June.

WV Executive Director Tom Osina joined representatives from around the country earlier this month to learn about these issues in a webinar sponsored by NPGA.

The issues include the Waxman-Markey Climate Change Legislation (Cap-and-Trade); Extending Federal Tax Credits for Propane Vehicles and Refueling Infrastructure (including alternative fueled lawn mowers); Extending Federal Tax Credits for Water Heaters, Furnaces, & Tankless Water Heaters; Eliminating Regulatory Burdens on LPG Engine Conversions; Eliminating Regulatory Burdens on LPG Engine Conversions; and Employee Free Choice Act.

State Director Dean Haldeman will be visiting the WV Congressional and Senate delegation on these issues when Propane Days takes place on June 9-10, 2009 in Washington, DC.

One of the featured speakers of the two-day event is T. Boone Pickens, who has been advocating energy independence through a high profile marketing campaign which started in the Summer of 2008.

More details may be found at www.propanedays.com.

GOVERNOR MANCHIN SIGNS PROPANE BILL

WVPGA Lobbyist Rudy Seacrist reports that Governor Joe Manchin signed HB 2968 which requires the State Fire Commission to establish training requirements for those who set propane installations (see April issue of **Propane Exchange** for full text of legislation).

The Commission has until July 1, 2009 to develop these criteria for review and approval by the General Assembly.

Save these dates for CETP schools:

*June 15-19, 2009
Bridgeport, WV*

*July 16-17, 2009
Bridgeport, WV*

*July 20-23, 2009
Beckley, WV*

CETP Schools Set for Summer



More Educational Opportunities Coming Up

Plans are underway to offer Certified Employee Training classes this summer.

Coming up the week of June 15-19, 2009, classes in Basic Principles & Practices 1.0 and Vapor Installation 4.2 will be taught. The location will be the Days Inn in Bridgeport right off I-79.

GAS Check will be offered July 16-17, 2009 at the Days Inn in Bridgeport.

A third set of classes will be offered the week of July 20-23, 2009. Subjects taught then will be Basic Principles & Practices 1.0 and Bobtail Delivery 2.1/2.2. The meeting site is the Sleep Inn in Beaver (Beckley) adjacent to I-64.

Other classes will be offered based on interest and demand. So, if you want a specific class, drop a note to the Association Office via email using wvpga@aol.com

Meanwhile, visit www.wvpropanegas.org to obtain registration forms.



Participate in the 2009 Safe Grilling Campaign

Get customizable items from the 2009 Safe Grilling Media Kit. The kit includes a news release about the campaign, safe grilling tips, 2009 grilling survey findings, and mouth-watering recipe suggestions courtesy of partner Certified Angus Beef LLC. Customize the materials with your company information and share them with your customers and local media outlets. For help with downloading and customizing materials, email us at mymarketingassistant@collemcvoy.com or call 866-907-1885

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Tort Reform: What It Means for Marketers



Due to the nature of propane gas, when a propane accident occurs, tort litigation often follows. There are many facets of tort litigation; however the most common claim asserted following a propane accident is negligence. Negligence involves the failure to exercise the standard of care that a reasonably prudent person would have exercised in a similar situation. Within the context of the propane industry, this means that a marketer should exercise the standard of care expected of marketers in the industry. In essence, a marketer should adhere to the commonly accepted industry standards.

Following an accident, marketers often find themselves the target of tort litigation. This is true even if the accident was caused by a modification or repair to the propane system that was completed by an independent third party. This other third party could be another contractor, the actual customer or anyone else given access to the system. Even if an accident was caused by the acts of an independent third party, marketers continue to find themselves embroiled in litigation with increasing regularity. This is due, in great part, to the fact that marketers are typically the final link to the end user in the propane distribution chain. Such a position puts marketers in a particularly vulnerable situation within the context of tort law.

Once involved in tort litigation, marketers and their insurance companies are forced to incur significant litigation expenses to defend against the claims alleged. This is true even if it is ultimately determined that the marketer bears no responsibility for the accident. Litigation can also damage a marketer's business reputation and have an adverse effect on a marketer's future insurance premiums.

Based on these reasons, many state propane associations have increased their lobbying efforts to urge governments to pass tort reform legislation in favor of marketers. Our firm has worked closely with some of these associations to further such efforts. *(Editor's Note: WVPGA has introduced such legislation in the 2007 & 08 sessions of the State Legislature but it has not gotten out of committee).*

There are currently eighteen states that have some form of limited liability legislation in favor of marketers. The context and applicability of the statutes, however, varies widely with the jurisdictions. These statutes range from simply allowing evidence of consumer or third-party negligence to providing actual immunity from liability for marketers when the accident involves third party or consumer modification or repair to the propane system. The most common statutory language provides some form of immunity if an alteration, modification, or repair to the propane system was accomplished without the marketer's knowledge and that action ultimately caused the accident at issue.

While the current trend to provide some protection to marketers for accidents they did not cause is promising, a majority of states still have not adopted these legislative protections. Therefore, marketers and state propane associations should continue their lobbying efforts to protect the industry from inappropriate tort litigation. Also, since the limited liability laws are not consistent throughout the country, each marketer should be aware of what protections, if any, are provided for them in their state.

Finally, even with the current legislation trend, marketers should continue to remain proactive about safety concerns. **Such vigilance is the best antidote to prevent propane accidents and the tort litigation that so often follows.**

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