

Ads Now on Television *continued from page 1*

usage in the home will also continue to run in publications including *House Beautiful Premier Homes, Ultimate Home Plan Collection, New Country Home, and Log Home Illustrated*.

Online banner, search, and text ads will accompany the entire year-long campaign on networks such as Overture, Google.com, NASCAR.com, CMT.com, HGTV.com, DIY.com and Homebuilder.com.

Helping Improve Air Quality *continued from page 1*

medium-duty trucks contingent upon the successful outcome of the development program.

Partners in the project include IMPCO Technologies, who will develop the fuel systems, as well as CleanFuel USA and the Southwest Research Institute.

The Hino engine, based on the company's JO8C 8.0L platform will be certified to comply with the U.S. Environmental Protection Agency's

2010 standards.

Project partners are confident the engine will meet the 2010 EPA requirements (0.2g NOx), which could boost propane's future as a fuel of choice for trucking fleets of all types.

For more information, contact PERC's Brian Feehan at brian.feehan@propanecouncil.org or (202) 452-8975.

Nominate a Builder for 2006 Awards

Nominate a builder for the *PROPANE Exceptional Energy*® Builder Awards and you could win a trip to the 2006 International Builders' Show in Orlando!

Nomination forms for the fourth annual *PROPANE Exceptional Energy*® Builder Awards are now available at www.propanecouncil.org. The awards, which will be presented at the 2006 International Builders' Show, recognize two homebuilders who consistently and innovatively fuel their building projects with propane.

The 2005 award winner for homes under \$250,000 was Ed Nikles of Ed Nikles Custom Builder, Inc., who was nominated by Wendi Nicholson of Eastern Propane Energy Corporation. The 2004 winner for homes over \$250,000 was Yates Hussey of Yates Hussey Construction, LLC, who was nominated by Harold Van Derveer, Jr., of Van Derveer's LP Gas Service Inc.

This awards program provides propane industry members with an opportunity to reach out to builders in their

communities and develop stronger business relationships. Award winners and their propane industry nominators each receive a complimentary three-day, two-night trip to the Builders' Show.

The deadline for submissions is October 14. An industry panel will judge all nominations.

Visit www.propanecouncil.org for *PROPANE Exceptional Energy*® Builder Awards nomination forms and begin forging stronger relationships with builders in your area. For more information, contact PERC's Tracy Burleson at (202) 452-8975 or tracy.burleson@propanecouncil.org.

Calendar

October 6-7, 2005 – St. Louis, MO
Council Meeting

December 8-9, 2005 – Houston, TX
Council Meeting

Propane Education & Research Council
1140 Connecticut Avenue, NW, Suite 1075
Washington, DC 20036

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VOLUME 7 • NO 3

IN TOUCH

KEEPING YOU UP TO DATE ON PROPANE

FALL 2005

New Energy Guys Ads Now on Television

The Energy Guys are returning to televisions across America this fall with three new TV commercials, part of an overall media blitz that also includes radio, print, and online advertising.

"Outdoor Family Room," which launched at the end of August to capture the Labor Day audience, touts the benefits of an outdoor living area, including family enjoyment and increased home value. The ad features a cameo appearance from Wood, who appeared in last year's "Moving Day" ad.

"Cold Floor," which launched in early September, is in response to strong competition from heat pumps. The ad focuses on the benefits of a propane furnace – warmer air, even heating, and greater reliability.



Scene from new "Outdoor Family Room" ad.

"Shower Time," which also launched in September, focuses on water heating, one of propane's strongest value propositions. This commercial emphasizes that propane provides more than enough hot water for multiple applications within a house at the same time.

The ads are in response to industry requests for new messaging about the variety of propane applications within the home.

The spots began airing nationally on August 29 on networks such as the Food Network, HGTV, TLC and USA, and continue September 5 - October 9 and October 17 - November 20 during NASCAR broadcasts and on NBC, TNT, HGTV, DIY, The Weather Channel, Country Music Television, and other cable networks.

To accompany the new TV ads, radio commercials will begin the week of October 24. Ads heard last spring, including "Ask Propane: In Laws," "Ask Propane: Best Thinking," and "Ask Propane: Reading," will return to networks nationwide.

Consumer print ads focusing on water heaters, furnaces, and overall propane

continued on page 4

Hino Dedicated Propane Truck in Development

Work is now underway on a propane-powered truck engine that will provide marketers an option to use propane in their fleets. Following the Hino protocol for vehicle development and testing requirements, the engine is expected to be available in 2007-2008.

The Propane Education & Research Council agreed to provide \$1.2 million in an industry effort to support Hino Trucks in the development, certification, and sale of a propane Hino JO8E engine for the U.S. market. PERC's decision to provide the development funding was a significant boost to Hino Truck Sales' alternative fuel strategy by differentiating Hino Trucks from other U.S. medium-duty truck manufacturers through offering fleet operators a gaseous fuel alternative to a market dominated by gasoline and diesel engines.

PERC recently received a letter of support for the Hino project from the president of Hino North America, which said the company is committed to commercializing propane-powered Hino

continued on page 4

www.propanecouncil.org

INSIDE THIS ISSUE

HIGHLIGHTS:
Propane Market Trends

SAFETY & TRAINING:
Updated Consumer Safety
Education Materials Available

INDUSTRY:
Propane Exceptional Energy Builder
Award Nominations Due



PROPANE
EXCEPTIONAL ENERGY®

Propane-Powered Sanitizer Helps Stop Avian Influenza Outbreak

For years poultry growers have used and trusted propane as the main heat source in their buildings. Now a new propane-powered poultry house sanitizer, which was used to help stop avian flu outbreaks in Texas last year, promises to utilize propane in a different facet of production—cleaning.

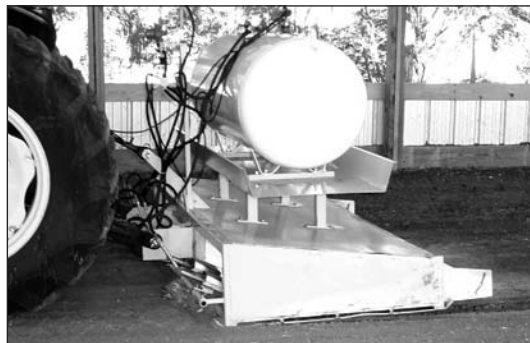
Poultry producers in Texas became all too familiar with avian flu last year as the disease shut down several major poultry operations in the state. With an urgent need to find a way to control further spread of the disease, these producers are now looking to the poultry house sanitizer, marketed under the brand name Red Dragon™. In response to the outbreak, the Texas Animal Health Commission said the poultry operations affected by the disease needed to use a form of flame sanitization before they could re-open their houses for production. Since the treatment, there has not been a reoccurrence of the disease, and some growers

are already using the Red Dragon as part of their sanitation regimen.

The Red Dragon, a new product from Flame Engineering Inc., utilizes six liquid propane torches that project intense, sweeping flames underneath a sturdy steel hood to kill bacteria. The heat from the flames stays constant at approximately 1400°F, which is hot enough to effectively kill pathogens.

“The use of propane to help in the sanitation process of poultry houses is important for both the poultry industry and the propane industry,” said PERC Director of Agriculture Programs Mark Leitman. “Hopefully growers will see these positive results from Texas and seek out flame sanitation in their area.”

“Because of the poultry industry’s confidence in propane, the propane industry is optimistic that poultry house sanitation using propane will become a widely accepted practice,” Leitman said.



Poultry House Sanitizer

However, he acknowledged that the propane industry will have to coordinate their efforts to educate the poultry industry on the performance, economic, safety and environmental benefits of propane for poultry house sanitation.

For more information on the Red Dragon, visit www.flameengineering.com or call (888) 388-6724. For more information on PERC’s agriculture efforts, contact Mark Leitman at mark.leitman@propanecouncil.org or (202) 452-8975.

Fall Media Efforts Focus On the Entire Home

Homeowner media outreach is now in full swing as efforts are being made in each of the four major promotion areas of outdoor living, cooking, water heaters and home heating.

This summer proved very successful for the outdoor living print campaign. A *Washington Post* article that examined the growth of the outdoor living industry in the United States and featured quotes from PERC President Roy Willis continues to appear as a syndicated column in newspapers across the country.

Looking ahead, outdoor living messages will also be promoted on TV. PERC will conduct a series of local interviews featuring

spokesman Brad Staggs, a home improvement expert for HGTV who makes regular appearances on the *Today Show*. During a satellite media tour scheduled for September 14, Staggs will discuss how propane appliances such as patio heaters help extend the life of your outdoor room well into the cooler months.

Other outreach efforts for this fall include a cooking contest, which will be coordinated with a national magazine and featured on usepropane.com. Readers of the December issue of *Country Living* will be asked to submit a favorite recipe – cooked with propane, of course—for the chance at winning a new propane grill, cooktop, or oven. The

program aims to increase traffic on usepropane.com as well as increase awareness of propane’s benefits in cooking.

Also this fall, PERC is emphasizing the benefits of tankless water heaters and how they make a difference during the colder months of the year. PERC is also facilitating a survey in collaboration with the National Association of Home Builders that will reach out to professional builders and obtain information on the latest trends in home heating. That information will then be communicated to homebuilder and consumer media outlets.

For more information, contact PERC’s Tracy Burleson at (202) 452-8975 or tracy.burleson@propanecouncil.org.

Global Technology Conference Coming to Chicago

The international propane community is gathering next year in Chicago – will you be there?

PERC and the World LP Gas Association (WLPGA) are hosting the LP Gas Global Technology Conference on October 16-20, 2006, in Chicago. The conference aims to explore new and emerging technologies, to consider the challenges and issues facing the LP Gas industry where technology can help make a

difference, as well as to create an open dialogue among the technological leaders of the global LP Gas industry.

A call for papers focusing on new market opportunities and technology development has been issued. Abstracts must be received by January 6, 2006.

For more information on the conference and call for papers or to submit an abstract online, visit www.globaltechconference.com or contact PERC at (202) 452-8975.

Updated Propane Consumer Safety Education Materials Now Available

New updated consumer safety education materials for the propane industry are now available! Developed through more than two years of work by industry members including an extensive vetting process with focus groups, human factors experts, and industry oversight, the comprehensive booklet and two companion brochures assist marketers with “duty-to-warn” compliance.

The comprehensive “Propane Safety Booklet” and two companion brochures, “Important Propane Safety Information for You and Your Family” brochure for large tank consumers and “Important Propane Safety Information for Users of Small Cylinders” brochure for small tank users replace “Good Ideas for Propane Safety,” “How’s Your

Nose” and “Safety Tips for Small Cylinders.”

The 28-page “Propane Safety Booklet” replaces “Good Ideas for Propane Safety” and “How’s Your Nose” materials. A package of 25 booklets (item 005606) is \$7.

The eight-panel “Important Propane Safety Information for You and Your Family Brochure,” which features the popular scratch-and-sniff test, fits in a standard business size envelope and can be used as a self-mailer. A package of 125 brochures (item 003121) is \$7.50.

The eight-panel “Important Propane Safety Information for Users of Small Cylinders” brochure, contains detailed information on small cylinder safety. It also features the scratch-and-sniff test and can either fit in a

standard business size envelope or be used as a self-mailer. A package of 125 brochures (item 000017) is \$7.50.

The materials are available through the online *Propane Industry Resource Catalog* at www.propanecatalog.com or by calling customer service at (866) 905-1075. For information, contact PERC’s Courtney Gendron at (202) 452-8975 or courtney.gendron@propanecouncil.org.



New Propane Safety Booklet

Propane MaRC

Creating custom ads for your business? Searching for a photo of propane in use, or even a shot of the Energy Guys? What about industry approved fact sheets to answer any questions that consumers may have? Visit the new Propane Marketing Resource Center, or Propane MaRC.

Propane MaRC will combine the finished ads currently available in the Online Ad Kit with the ‘pieces and parts’ needed to create your own ads. It will include an enhanced photo library, research and factual information and improved usability with easy search and download capabilities. For information contact PERC’s Nisha Starks at (202) 452-8975 or nisha.starks@propanecouncil.org.

New Propane Forklift Brochures Available

Tell others about the benefits of propane forklifts with a series of new brochures. “Propane Is All Over It” (item 008301), “40% Grade” (item 008302), “On Rare Occasions” (item 008303), “More Productive” (item 008304), and “Working Conditions” (item 008305), are

available for \$4 in packs of 25. The back panel of each brochure is blank to allow companies to customize with their own information. The brochures can be ordered through the online *Propane Industry Resource Catalog* at www.propanecatalog.com or by calling customer service at (866) 905-1075. Also, newly developed propane forklift vertical screens are available for use at regional trade shows by contacting PERC’s Sandra Loi at (202) 452-8975 or sandra.loi@propanecouncil.org.



Propane Market Intelligence: Propane Market Trends and Return on Your PERC Investment

The *Market Metrics Initiative (MMI)*, funded by the propane industry through PERC, was undertaken for three reasons:

- Improve the accuracy and usefulness of the annual propane sales survey compiled by the American Petroleum Institute (API) – the industry’s primary source of propane consumption data by end-use market and state.
- Gather additional data – over and above the API Survey – to measure market performance and identify trends, opportunities and challenges in the marketplace by sector and application.
- Provide a statistical model to help measure the effectiveness of PERC programs and the industry’s return on its investment of assessment dollars.

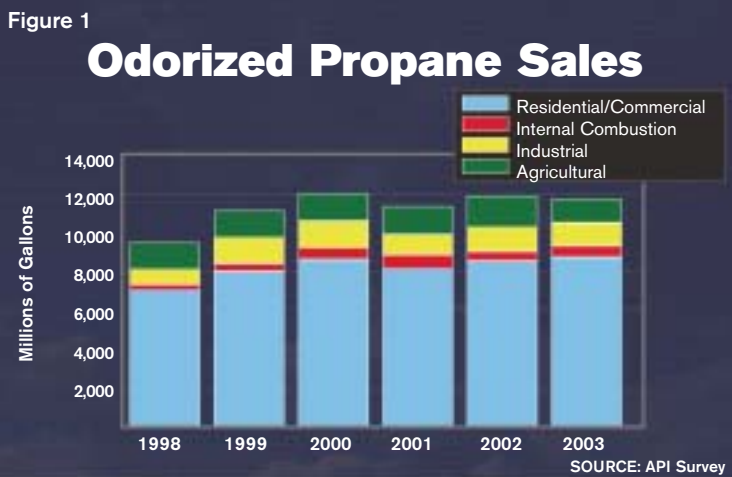
Work on the MMI was completed by Energy and Environmental Analysis, Inc. (EEA) and Harris Interactive. What follows are highlights of findings from the project’s first phase, as presented to the Council at its June Meeting.

Objective 1: Revise the API Survey to improve data accuracy and usefulness

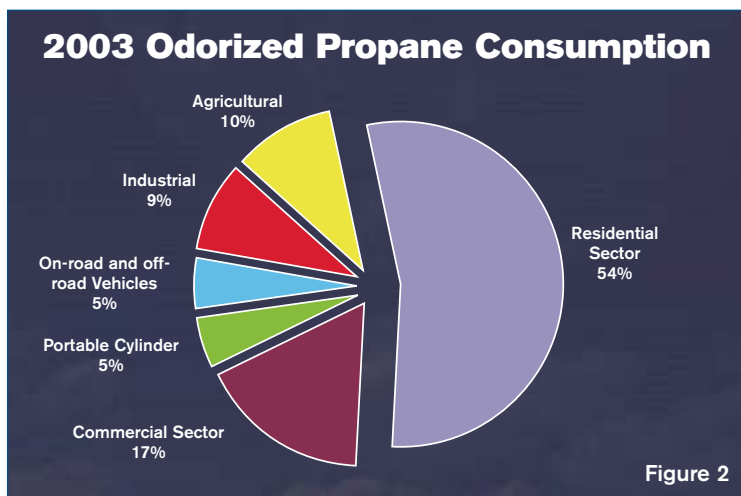
Based on refinements to the API Survey, the confidence level in the data has increased.

Figure 1 shows the results of the API Survey between 1998 and 2003:

- Total odorized propane consumption grew to 11.7 billion gallons in 2003, up from 9.5 billion in 1998.
- Although it should be remembered that use of propane in the residential/commercial sector is highly weather driven, gallon sales increased 21% between 1998 and 2003.
- Although sales in the residential/commercial sector were up 2.5% from 2002 to 2003, overall odorized propane sales decreased by 1.1% during the same period.



Also, as part of the MMI, in 2003 the survey began separating commercial use from residential use. Not surprisingly, the results demonstrated that the residential market provides over half of annual propane sales. In addition, the 2003 survey identified portable cylinder and retail sales for the first time, which have risen to 5% of total propane consumption.



Objective 2: Measure market performance by sector and application

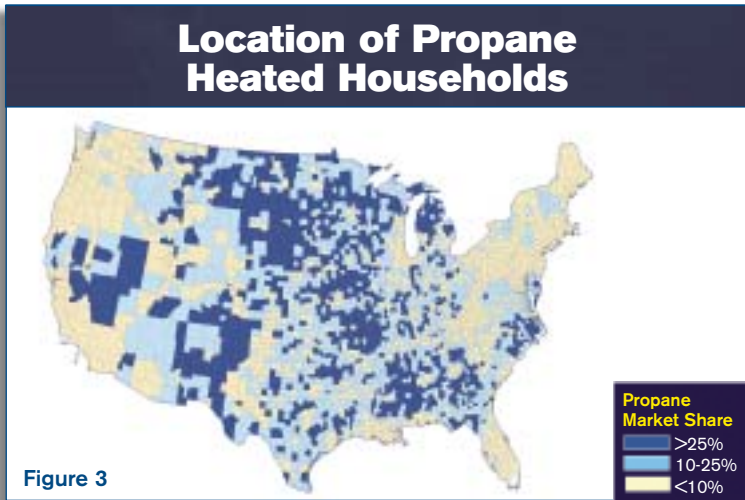
As part of its second objective, the MMI examined the residential space heating market, comparing county-level data from the 2000 U.S. Census with that from 1990.

Key questions included:

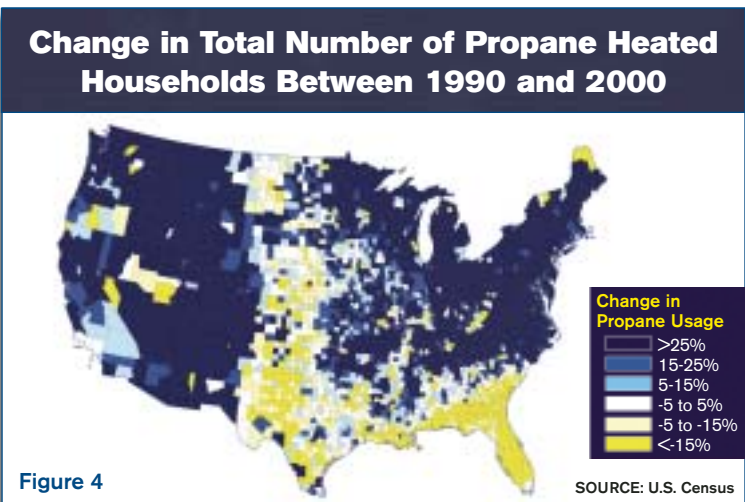
- Where has the greatest growth occurred?

- Which fuels does propane compete with?
- Where is propane increasing/decreasing market share and why?
- What do these patterns tell us about the future?

Figure 3 indicates where propane heated households are located according to the 2000 U.S. Census. The dark blue indicates those counties where more than 25% of the homes are heated by propane; light blue: 10-25%; beige: less than 10%. Not surprisingly, propane market share is greatest in those counties where a high proportion of homes are beyond the natural gas mains.



On Figure 4 the darkest blue indicates those counties that experienced at least a 25% increase in the number of propane-heated homes between 1990 and 2000, driven primarily by the housing boom or the general growth in households. The yellow and white counties, however, experienced a decrease in the number of propane-heated homes, primarily as a result of losing market share to electricity.



In order to understand the competitive environment in the residential heating market, it's important to know what fuel has the greatest market share – as well as which fuels are increasing or decreasing market share. As indicated in Figure 5, natural gas is strongest across much of the Midwest, Great Plains and West. Electricity, on the other hand, dominates the Southeast and Northwest, while fuel oil is predominant in the Northeast.

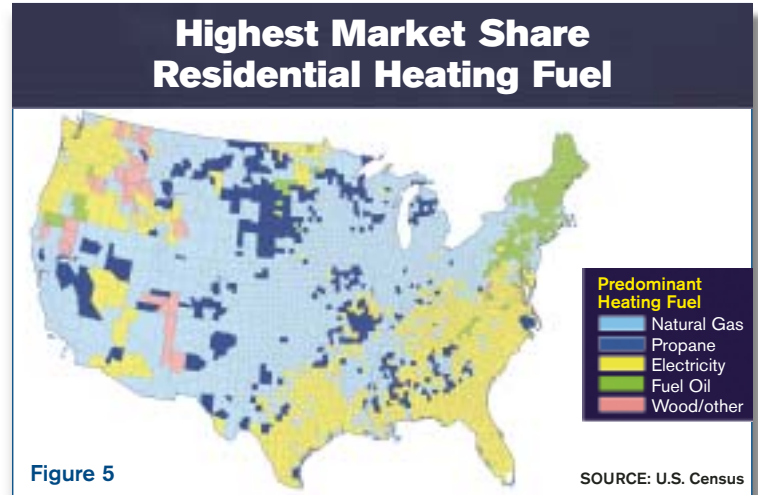


Figure 6 indicates which fuel increased its market share the most between 1990 and 2000. As shown in dark blue, propane did quite well in many counties. Fuel oil continued to increase market share in New England and in several large rural counties in the Northwest. But nationwide, electricity is clearly the fastest growing residential fuel – expanding all across the South, the Southeast and the Great Plains.

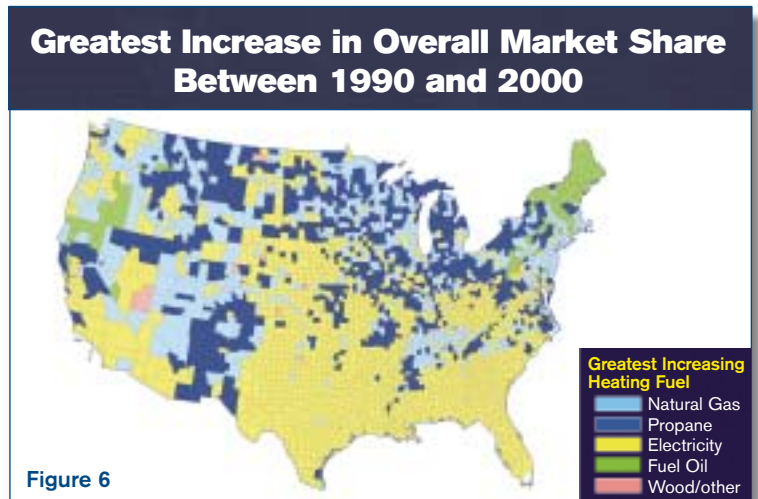


Figure 7, on the other hand, shows the fuel with the greatest decline in market share in each county during the same period. Wood clearly lost market share across wide areas of the country. Natural gas lost market share across much of the South and Southwest. Propane, shown in

dark blue, saw its largest decline in Florida and parts of Alabama and Georgia.

Greatest Decline in Overall Market Share Between 1990 and 2000



Figure 7

SOURCE: U.S. Census

If we look at the same areas on the previous map indicating the fastest increase in market share, it's evident that propane was most likely to lose market share where electricity grew fastest. Conversely, propane had its greatest increases in market share in those counties where it displaced wood and fuel oil.

The MMI then examined other data sources, including DOE Information, Department of Commerce reports, and the American Housing Survey to help provide insight into propane consumption after the 2000 census. The chart indicates propane consumption by end-use, using historic data from 2000 through 2003. The last three bars are EEA's forecast, projecting historic market trends forward.

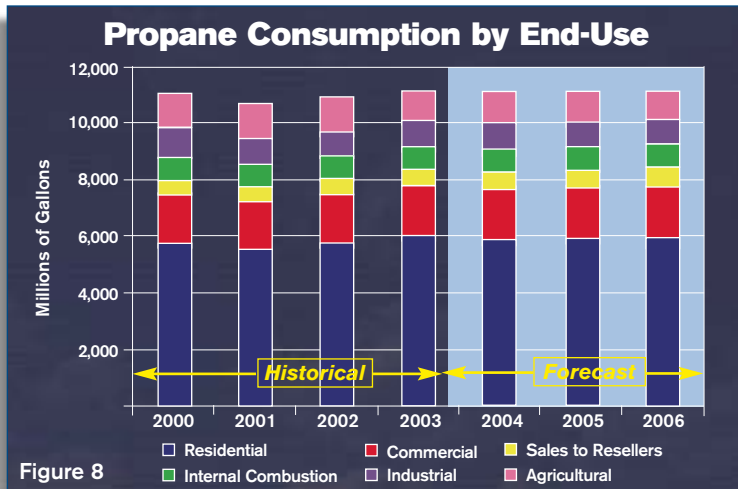


Figure 8

As the chart indicates, EEA predicts a relatively flat growth outlook. One of the main variables impacting the trend, of course, is the price of propane; the propane industry has recently been in a high-priced, volatile marketplace. Based on 2004 pricing levels, EEA forecasts residential and commercial demand to grow at less than 1% per year.

Figure 9 specifically examines the residential market for site-built homes (excluding manufactured housing) in each region of the country. Again, the first four bars are based on historic information, and the last three bars are projections; each bar is segmented based on region. The good news is that the propane housing market is growing in each region.

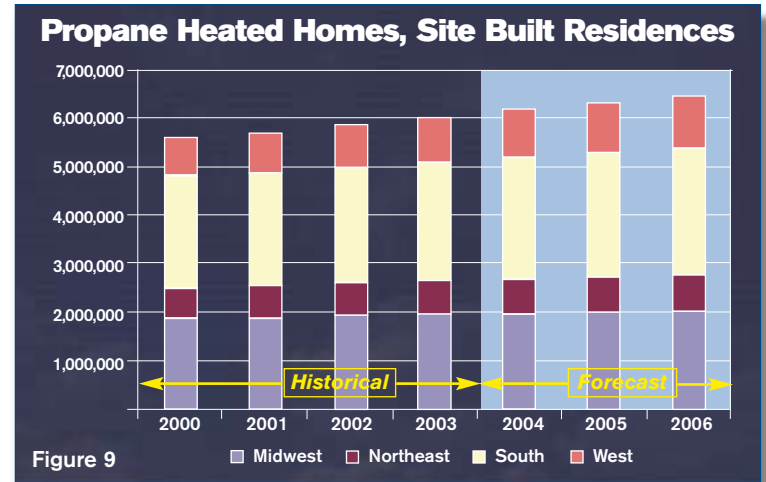


Figure 9

Objective 3: Measure the industry's return on its investment of assessment dollars

PERC's five-year campaign strategy primarily targeted the residential market, with ads and marketing efforts aimed at homeowners and homebuilders, especially those in rural counties. As Figure 10 indicates, PERC was able to increase the advertising budget based on the assessment ramping up one-tenth of a cent each year, increasing from two-tenths of a cent in 2001 to five-tenths in 2004.

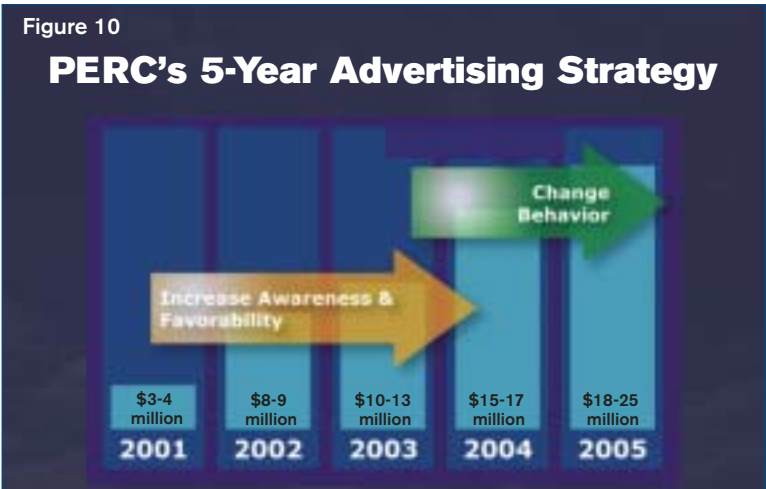


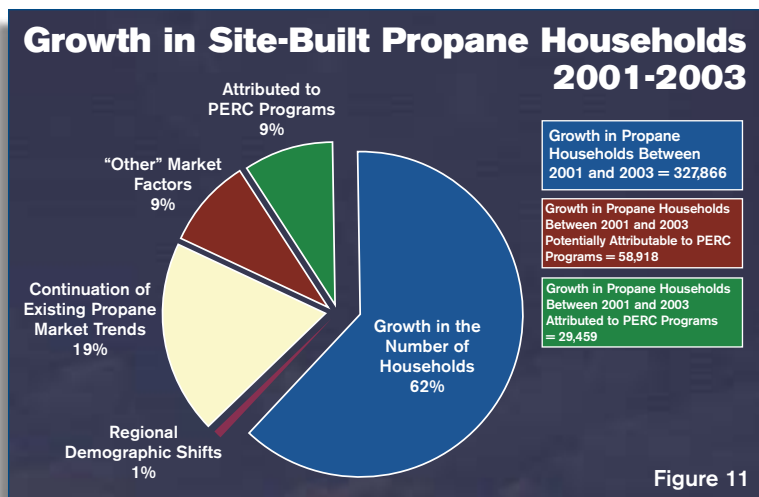
Figure 10

The MMI compared the PERC expenditures to changes in the residential market during the time period for which data was available, 2001-2003. (Note: 2004 data will not be available for analysis until early 2006.) PERC invested \$23.1 million dollars in advertising during this period – that

includes not just national ads, but money spent for home-builder outreach and trade shows, funds used for industry and multi-audience communications, as well as rebate dollars and PERC matching funds used for advertising targeted to the residential market.

EEA first estimated the increase in propane-heated homes during those two years and then subtracted the normal anticipated growth (based on historical data) in propane homes during that period. Having identified the number of new propane households attributable to PERC's advertising campaign, they then multiplied that number by the value of a new customer to the propane industry (based on gross revenue generated, EBITDA – earnings before interest, taxes, depreciation, and amortization, as well as net income calculations).

As illustrated below, the data showed that a total of 327,886 new propane-heated homes were built on site between 2001 and 2003. Of that amount, the majority (about 62%) came into the market as a result of the underlying growth in overall housing. Another 19% resulted from the continuation of previous trends in the propane housing market and about



1% was due to shifts in regional demographics. That left 18%, nearly 59,000 new homes, attributable to PERC programs and

other market factors, including: the impact of fuel prices on residential household growth, natural gas penetration on “trendline” markets, the electricity market events in California and the Midwest, the effects of propane industry consolidation, and changes in end-use technologies, etc. EEA estimated that these other factors accounted for no more than half of the additional households, meaning that just over 29,400 new propane-heated homes, consuming about 22 million gallons of propane last year, can be attributed to PERC's advertising programs. The investment of \$23.1 million in PERC programs is generating more than \$33 million in incremental industry revenues per year. After accounting for the cost of capital, the PERC investment in marketing to homeowners and homebuilders between 2001 and 2003 generated an annual return of 17.5%.

Figure 12

Return on Your PERC Investment

Impacts of a investment of \$23.1 million targeting residential market (homeowners and builders):

- 29,459 new propane heated homes.
- 22 million gallons per year of incremental propane sales.
- \$33 million of incremental revenue per year.
- \$4 million per year in “bottom line” income.
- \$35 million Net Present Value (20 year at 10%) increase in “bottom line” income.

EEA's Best Estimate:

Annual Return on Investment (ROI) of 17.5 percent

As part of the MMI, PERC anticipates updating the return on its marketing investment in the future. As noted earlier, when usage data for 2004 becomes available in early 2006, a new annual return will be calculated.

To see the complete return on investment report, along with the first two Issues and Trends reports, visit propanecouncil.org.

PROPANE
EXCEPTIONAL ENERGY

INSIDE THIS ISSUE

2 Principal Differences Between NFPA 58 and NFPA 59

3 PHMSA Changes the Definition of "Offeror" in the Hazardous Materials Regulations

4 Regulatory Reminders

Regulatory Reminders

- Continue to monitor driver hours of service for company drivers holding Commercial Driver Licenses.
- Periodically review driver vehicle inspection reports to verify that they are properly completed and that repairs affecting the safe operation of the commercial vehicle are documented.
- Check hazmat employee records to verify that required periodic training is documented.

Do you have compliance issues or concerns that are of particular interest to you and that would be helpful to others in the propane industry if covered in this newsletter?

Send your feedback to Gordon Frey via fax at 270-753-9807 or by email to g.frey@its-training.com.

Jurisdictional Pipeline Operators Face Compliance Challenges

Jurisdictional pipelines (propane and propane/air mixtures) are generally defined as systems that supply:

- 10 or more residential service entrances from a common piping and supply system.
- Two or more businesses or other places open to the public from a common piping and supply system (49 CFR 192.3).

The second definition may be applied to a single end user or customer if the pipeline crosses under or is located within a public place. Public place means a place which is generally open to all persons in a community as opposed to being restricted to specific persons. One exception to this definition is a single commercial customer where the system is located entirely on the customers' premises.

Examples of jurisdictional propane pipeline systems, if a common pipeline supply system is used, include:

- Mobile home parks.
- Condominium developments.
- Master meter systems such as a housing subdivision, university, or other multiple building installations.
- Shopping centers.
- Strip malls with two or more businesses.

Propane jurisdictional pipeline operators must comply with the requirements of 49 CFR Part 191, *Transportation of Natural and Other Gas by Pipeline: Annual Reports, Incident Reports, and Safety-Related Condition Reports*, Part 192, *Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards* and NFPA 58, *LP-Gas Code*. Where the requirements of NFPA 58 (and NFPA 59) conflict with those of 49 CFR 192, the federal regulations defer to the NFPA code standards. Where NFPA codes for propane are silent on a Part 192 safety requirement, Part 192 requirements must be followed and implemented.

To comply with fundamental requirements given in the Federal regulations, the propane pipeline operator must have:

- (1) A written Operation and Maintenance Program (O & M) and the supporting documentation of how the plan is implemented;
- (2) A written Emergency Program that may be combined with the O & M plan;
- (3) A written Operator Qualification Program that identifies covered tasks that meet the four-part test in 49 CFR 192, Subpart N, which sets out how and when employees and contractor

continued on page 2



Jurisdictional Pipeline Operators *continued from page 1*

employees must be trained and qualified to perform each covered task, identifies subsequent qualification intervals and methods, and identifies abnormal operating conditions that can be anticipated for each covered task that qualified persons must be able to recognize and how they should properly react;

- (4) A written Pipeline Operator Public Awareness Program conforming to American Petroleum Institute (API) Recommended Practice (RP) 1162, *Public Awareness Programs for Pipeline Operators*;
- (5) Documentation of reports filed with the Office of Pipeline Safety or the appropriate state jurisdictional

authority required by 49 CFR 191; and

- (6) Documentation of procedures and operations that implement the requirements of 49 CFR 192, especially those related to Subparts I, L and M for corrosion control, on-going operations and maintenance functions.

Requirements for item 4 listed above were revised in the Thursday, May 19, 2005, *Federal Register*. The deadline for compliance with API RP 1162 requirements for propane systems having fewer than 25 customers is June 20, 2007. The compliance deadline for larger propane systems is June 20, 2006.

Principal Differences Between NFPA 58 and NFPA 59

NFPA 59, *Utility LP-Gas Plant Code*, is an unknown quantity to most propane marketers. Traditionally, NFPA 59 applied to natural gas utilities that used a propane/air stand-by or peak sharing plant to supply natural gas customers in the event of normal natural gas supply curtailment, abnormally low natural gas distribution system operating pressures during extremely cold weather, or for continued system section operation under by-pass conditions if repairs or construction operations of the pipeline system upstream of the propane/air plant were needed.

With changes to the 2004 edition of NFPA 59 and the proposed adoption by reference of the 2004 edition by the Pipeline and Hazardous Materials Safety Administration (*Federal Register*, Monday, July 18, 2005), propane jurisdictional pipeline operators may face some new compliance issues. The potential for new compliance requirements may arise out of a new definition of a “utility gas plant” in the 2004 edition of NFPA 59 found in 3.3.18. Instead of the previously

understood definition of a utility being a relatively large public or private business operation providing a gas utility service to a defined franchised area, the new definition broadens the meaning of a “utility gas plant” to be, “A plant that stores and vaporizes LP-Gas for distribution that supplies either LP Gas or LP-Gas gas/air mixtures to a gas distribution system of 10 or more customers.”

The scope of NFPA 59 applies to installations with aggregate water storage capacities of 4,001 gallons or more, and is limited to the supply equipment including unloading facilities, storage containers, vaporizers, gas/air mixing equipment and compressed air supply, interconnecting piping within the plant, and any control systems upstream of the distribution pipeline. NFPA 58 applies where the propane or propane/air mixture is introduced into the distribution system and from there downstream. In general, NFPA 59 has more stringent operating and design standards for the bulk storage plant than does NFPA 58.

Principle Differences *continued from page 2*

Even with the recent update to NFPA 59, revisions to this standard have not kept up with those of NFPA 58 over the years as the NFPA 58 Technical Committee has been much more active in this regard than the comparable NFPA 59 committee. Consequently, a number of differences between the two documents still exist such as differing requirements

for identical installations. Because of these differences, a task force consisting of members of both technical committees was formed in early 2005 to perform a side-by-side comparison of NFPA 58 and 59 that will ultimately lead to consistency in the requirements between the two documents, with NFPA 58 serving as the lead document.

PHMSA Changes the Definition of “Offeror” in the Hazardous Materials Regulations

In the Thursday, July 28, 2005, issue of the *Federal Register*, the Pipeline and Hazardous Materials Safety Administration (PHMSA) published a Hazardous Materials Regulations (HMR) final rule re-defining the term “offeror.” The final rule affects 49 CFR §§ 171.2 and 171.8.

In the new rule, *person who offers or offeror* means:

- (1) Any person who does either or both of the following:
 - a. Performs or is responsible for performing, any pre-transportation function required under this subchapter for transportation of the hazardous material in commerce.
 - b. Tenders or makes the hazardous material available to a carrier for transportation in commerce.

- (2) A carrier is not an offeror when it performs a function required by this subchapter as a condition of acceptance of a hazardous material in commerce (e.g., reviewing shipping papers, examining packages to ensure that they are in conformance with this subchapter, or preparing shipping documentation for its own use) or when it transfers a hazardous material to another carrier for continued transportation in commerce without performing a pre-transportation function.

The new definition will primarily impact gas processor loading terminals and, to a lesser extent, propane marketers when they perform a pre-transportation function involving hazardous material shipments in commerce by or for a third party.