

**MINUTES OF THE
STORAGE TANK ADVISORY COMMITTEE MEETING
DECEMBER 6, 2011**

The Storage Tank Advisory Committee (STAC) met on December 6, 2011, at the Rachel Carson State Office Building, 400 Market Street, 14th Floor, Harrisburg. Thirteen (13) voting members were present, which constituted a quorum.

Voting members in attendance were:

Local Government:

Jo Ellen Litz, County Commissioners Association of Pennsylvania
Dennis Hameister, Pennsylvania State Association of Township Supervisors

Regulated Community:

Judy Brackin, Associated Petroleum Industries of Pennsylvania
John Arnold, Pennsylvania Petroleum Marketers & Convenience Store Association
Gauttam Patel, Petroleum Retailers & Auto Repair Association, Inc.
Samuel Capri, Pennsylvania Chemical Industry Council
Stephen Hieber, Tank Installers of Pennsylvania

Public:

Robert May, Synergy Environmental, Inc.
Timothy Bytner, Babst Calland
David Gallogly, Pennsylvania Environmental Council

Registered Professional Engineer:

Francis Catherine, Kimball Engineering

Hydrogeologist:

Jan Peter Ilves, JPI Associates, Inc.

Active Commercial Farm Owner/Operator:

James Harbach, Loganton, PA

Non-voting alternates in attendance were:

John Kulik, Pennsylvania Petroleum Marketers & Convenience Store Association
Nancy Maricondi, Petroleum Retailers & Auto Repair Association, Inc.
Walter Rimmer, Tank Installers of Pennsylvania

Meredith Odat, Babst Calland
William Neilson, Pennsylvania Farm Bureau

CALL MEETING TO ORDER

John Arnold, Committee Chairperson, called the December 6, 2011, meeting of the STAC to order.

APPROVAL OF MINUTES FROM JUNE 7, 2011, MEETING

The minutes from the June 7, 2011, meeting were approved as submitted, upon motion and seconded. Jo Ellen Litz requested that URL's be provided in future minutes, as appropriate.

STAC MEMBERSHIP LIST

Charlie Swokel, DEP, reported that the following STAC appointments/reappointments were made since the June 7, 2011, meeting:

1. Joseph Leighton (alternate) representing the **Associated Petroleum Industries of Pennsylvania**.
2. Jo Ellen Litz (member) and Lisa Schaefer (alternate) representing **local government** and the **County Commissioners Association of Pennsylvania**.
3. John Arnold (member) and John Kulik (alternate) representing the **Pennsylvania Petroleum Marketers & Convenience Store Association**.
4. Timothy Bytner (member) and Meredith Odat (alternate) representing the **public**.
5. Dennis Hameister (member) and Holly Fishel (alternate) representing **local government** and the **Pennsylvania State Association of Township Supervisors**.

USTIF UPDATE

Next on the agenda, the Underground Storage Tank Indemnification Fund (**USTIF**) provided an **update** on their program activities. Steve Harman, Director, Bureau of Special Funds, Department of Insurance, and Executive Director, Underground Storage Tank Indemnification Board, attended representing the USTIF. Mr. Harman indicated that the USTIF is seeing a slight increase in the number of reported claims for 2011 as compared to 2010. Mr. Harman stated that USTIF's unfunded liability stands at \$269 million. However, that number is on the decline and the USTIF remains in a good position to continue to pay reasonable costs associated with claims for at least ten years. John Arnold asked about the cost per claim. Mr. Harman stated that the cost per claim averages approximately \$200,000. Dennis Hameister asked about the statewide distribution of claims filed and the predominant regulated substance released. Mr. Harman responded that most claims result from gasoline releases at service stations. Mr. Harman stated that the USTIF Annual Report contains information as to the number of claims filed by county.

PROPOSAL TO REVISE FEDERAL UST REGULATIONS

Claudette Reed, Team Leader – Underground Storage Tank/Leaking Underground Storage Tank Program, U.S. EPA – Region 3 (Philadelphia) attended to provide an overview of the **proposal to revise the federal underground storage tank (UST) regulations**. Ms. Reed stated the proposal was published in the November 18, 2011, *Federal Register*, with a 90-day public comment period. Ms. Reed reviewed the various ways in which comments may be submitted on the proposed rule and stated that the public comment period will end on February 16, 2012.

The proposal will allow EPA to catch up with states that have revised their regulations several times since 1988, and to provide for further protection of human health and the environment. To begin with, Ms. Reed stated that EPA needed to incorporate Federal Energy Policy Act requirements into their regulations pertaining to operator training and secondary containment. In addition, EPA believes it necessary to establish requirements for the proper operation and maintenance of UST systems. Ms. Reed stated that for those states that have received State Program Approval from EPA, these revisions, when final, will not have an immediate impact on UST owners and operators. Pennsylvania has State Program Approval. Under the proposal, states will have three years to revise their regulations and submit a revised State Program Approval package to EPA.

Ms. Reed reviewed a document titled “Comparison of 1988 UST Regulations And Proposed UST Regulations” that was provided to those in attendance and is available on the EPA web site (www.epa.gov/oust/fedlaws/proposedregs.html). The document was developed to describe the significant differences between the 1988 federal UST regulations and EPA’s proposed changes, as well as provide additional information about the changes. Ms. Reed did not discuss the proposal for operator training and secondary containment since EPA has already approved Pennsylvania’s program in these two areas. Ms. Reed did review the proposed operation and maintenance requirements that include walkthrough inspections and equipment testing. These proposed provisions are being incorporated to ensure that owners and operators maintain their equipment properly to prevent releases. Ms. Reed also covered the deferrals that EPA proposes to remove from the existing regulations pertaining to emergency generator tanks, field constructed tanks, airport hydrant systems, and wastewater treatment tank systems. Bob May asked if the alternative leak rates and frequencies have been established to monitor and detect releases from airport hydrant systems. Ms. Reed stated that the rates and frequencies are included in the proposal.

Ms. Reed went on to discuss other areas of the regulations that are proposed to be changed. These areas pertain to eliminating flow restrictors in vent lines as overfill prevention equipment, permanently closing tanks that fail the periodic internal lining inspection and the lining cannot be repaired, providing for various notifications to implementing agencies with important information about UST systems, helping owners demonstrate compatibility with their UST systems, providing clarity that fixing parts of the UST system not linked to a release are also repairs and therefore testing is necessary, phasing out vapor and groundwater monitoring as release detection options for owners and operators within five years, adding interstitial monitoring alarms as an example of an unusual operating condition that must be reported as a suspected release and investigated as such, adding newer technologies and codes of practice, removing references to the upgrade requirement deadlines that passed more than ten years ago,

correcting editorial and technical corrections in the current regulations, and requiring states with program approval to submit a revised State Program Approval package within 3 years.

Mr. Harman asked if there is anything in the proposal that would impact on the approval of state assurance funds. Ms. Reed indicated that she is not aware of anything in the proposal that would impact state assurance funds. The committee asked how the DEP will be proceeding as a result of EPA's regulatory proposal. Mr. Swokel responded that the program will, first and foremost, be reviewing and providing comments on the proposal to EPA. Mr. Swokel encouraged committee members to also review and provide comments to EPA on the proposal. Mr. Swokel stated that the program would not proceed to amend Chapter 245 until after the EPA proposal is finalized. At that time, the program will begin the process of revising Chapter 245 and will work closely with the committee throughout the regulatory process.

DEP UPDATE

Mr. Swokel discussed changes to the DEP's organizational structure of significance to the STAC. Brownfield redevelopment is a priority of the Corbett administration. As a result, all site remediation **program** activities have been **reorganized** under one organization, the new Bureau of Environmental Cleanup and Brownfields, to mirror environmental cleanup programs in the regional offices. The Bureau of Environmental Cleanup and Brownfields is comprised of the Division of Cleanup Standards (Troy Conrad is the Division Chief), Site Remediation Division (George Hartenstein is the Division Chief), and the Division of Storage Tanks (Mr. Swokel is the Division Chief). The Division of Cleanup Standards (also known as the Land Recycling Program) was moved into the new Bureau from the Office of Community Revitalization and Local Government Support. That office has been abolished. The Site Remediation Division (formerly known as the Division of Remediation Services) and the Division of Storage Tanks were moved into the new Bureau from the Bureau of Waste Management. Mr. Swokel stated that the Director of the Bureau of Environmental Cleanup and Brownfields is Denise Brinley. The new Bureau is an addition to the renamed Waste, Air, Radiation and Remediation (WARR) Deputate. Vince Brisini is the Deputy for WARR.

Kurt Klapkowski, DEP Program Counsel for the Storage Tank Program, provided an update on **Federal/State Legislation**. Mr. Klapkowski reported that all is quiet on the legislation front at both the federal and state levels. However, Mr. Klapkowski did indicate that both the Pollution Prevention Program and Environmental Cleanup Program are due to sunset on June 30, 2012. The DEP receives funding from the USTIF to administer both of these programs. The DEP has communicated that there is a continued need for these programs and provided draft statutory language to extend these programs.

Troy Conrad, Director, DEP **Land Recycling Program**, stated that the program recently approached the Cleanup Standards Scientific Advisory Board (CSSAB) concerning revising the Technical Guidance Manual (TGM). No major changes are anticipated. However, there are areas of the TGM where the language is out-of-date and clarity is need. In addition, the program would like to include the series of questions and answers currently available on the web site in the revision to the TGM. Mr. Conrad stated that the program will be working with a subcommittee of the CSSAB to revise the TGM over the next nine to twelve months.

Mr. Conrad also stated that the program would like to incorporate the 2004 Vapor Intrusion Guidance (a separate document) into the TGM. A workgroup of the CSSAB will be reviewing and updating the document taking into consideration an American Society of Testing and Material document pertaining to the evaluation of vapor intrusion during real estate transactions and an Interstate Technical Review Committee document regarding evaluation of vapor intrusion risks. Also, EPA is planning to publish final vapor intrusion guidance in 2012 or 2013 and the program is looking to be in synch with the EPA guidance. Mr. Conrad stated that the subject of vapor intrusion is difficult to deal with in that sampling is not easy and results vary considerably with such things as building construction. In the end, Mr. Conrad indicated that the program is looking to come up with guidance that is practical, protective and cost-effective. Mr. Conrad stated that the documents will be made available for review under the CSSAB on the DEP web site.

Lastly, Mr. Conrad stated that the process to revise the Chapter 250 regulations will begin in the near future. The program is obligated by regulation to review available toxicological information and revise the statewide health standards, as necessary, every three years. Mr. Conrad indicated that the program expects only a small number of statewide health standards to be revised with the next rulemaking.

George Hartenstein, DEP, provided a **Final Report on the Federal Leaking Underground Storage Tank (LUST) Stimulus Funding**. Pennsylvania received approximately \$6,163,000 under a LUST Trust Fund grant to address regulated, underground storage tank release sites of concern. Mr. Hartenstein stated that 70 sites throughout the Commonwealth were addressed and all funding received from EPA was expended. Mr. Hartenstein reported the following accomplishments with the stimulus funding: tank closure/assessment completed at 39 sites, interim remedial actions taken at 23 sites, 32 site characterization reports completed, 11 remedial action completion reports completed, removed about 130 storage tanks, removed and disposed of approximately 10,000 ton of contaminated soil, and pumped and disposed of around 100,000 gallons of contaminated water. Mr. Hartenstein indicated that some of the sites addressed with stimulus funding, especially those involving off-site impacts, will need further work. These projects will be addressed under the Environmental Cleanup Program utilizing USTIF money.

Next on the agenda, Mr. Shiffer reported on **Significant Operational Compliance**. Recently, the Division of Storage Tanks transmitted the Federal Fiscal Year (FFY) 2011 LUST Prevention Grant End-of-Year Performance Measures Report to EPA Region 3. DEP reported a compliance rate of 92% for release prevention (spill, overflow and corrosion), 87% for release detection, and 80% for both release prevention and release detection (the overall significant operational compliance (SOC) rate). SOC is measured by the results of initial third-party inspections conducted during the prior 12 months. Of the 56 states and territories, Pennsylvania ranks 14th in terms of highest overall SOC rate. Further, Mr. Shiffer stated that of the 9 states with 20,000 or more regulated USTs, Pennsylvania ranks 2nd in overall SOC behind only Texas. With regards to release prevention, Pennsylvania is tied with Texas for 2nd. Florida is 1st. Saving the best news for last, Pennsylvania ranks 1st in terms of highest release detection rate.

The status of the **UST Operator Training** implementation was the next topic of discussion. To date, DEP has approved 20 vendors to provide Class A and B training. In addition, seven training programs are currently under review and three training applications are awaiting review.

In response to questions, Mr. Shiffer stated that the DEP, by regulation, has 120 days to review a training course proposal. Mr. Shiffer indicated that the actual time it takes to receive training course approval is highly dependent on the quality of the submittal. Mr. Shiffer also stated that, for example, a training course application must address all forms of release detection, not only the release detection conducted at a particular facility or facilities. Approval as a Class A or B operator means that the individual can serve in that capacity at any facility in Pennsylvania and must be familiar with all requirements.

Lastly under the DEP Update, Mr. Shiffer discussed the **Product Distributor Letter**. In an effort to identify unregistered, regulated storage tanks, program staff prepared a letter reminding product distributors that when delivering product to a regulated storage tank, proper storage tank registration documentation should be reviewed and verified to avoid being in violation of the storage tank regulations. The letter was mailed to 1,172 product distributors on September 28. The letter was also provided to the Pennsylvania Petroleum Marketers and Convenience Store Association and Pennsylvania Farm Bureau in order that they may share the information with their membership.

The letter provides examples of commonly overlooked regulated storage tanks and reminds product distributors to verify proper registration prior to delivering to a regulated storage tank. For example, a 4,000 gallon tank containing diesel fuel on a mushroom farm is not exempt from the registration requirement. Also, aboveground storage tanks containing diesel fuel and kerosene for use in emergency generators are not exempt from the registration requirement unless they are 1,100 gallons or less in size.

Mr. Arnold asked the committee if there was any **old business** to discuss before moving on to Election of Officers and the Nominating Committee Report. There being none, Judy Brackin provided the **Election of Officers – Nominating Committee Report**. The Nominating Committee was comprised of Judy Brackin as Chairperson, John Kulik, and Sam Capri. Ms. Brackin stated that the Nominating Committee met via conference calls and considered John Arnold, Judy Brackin, Ed Knittel and Bob May for the positions of Chairperson and Vice-Chairperson on the STAC. After considering and discussing all four potential candidates, the Nominating Committee nominated John Arnold as Chairperson and Judy Brackin as Vice-Chairperson.

Under **new business**, John Arnold opened the floor to any additional nominations for the positions of Chairperson and Vice-Chairperson on the STAC. There being no additional nominations, upon motion by Bob May and second, John Arnold and Judy Brackin were elected to serve another term on the STAC as Chairperson and Vice-Chairperson, respectively.

Also under new business, the committee **approved the meeting dates for 2012**, which are as follows: March 6, June 5, September 11 and December 4. Mr. Swokel informed the committee that next year's meetings will be held in Room 105.

The meeting was then **adjourned** at 11:36 a.m., upon motion and second.