

**MINUTES OF THE
STORAGE TANK ADVISORY COMMITTEE MEETING
MARCH 11, 2008**

The Storage Tank Advisory Committee (STAC) met on March 11, 2008, at the Rachel Carson State Office Building, 400 Market Street, 14th Floor, Harrisburg. Nine (9) voting members were present, which constituted a quorum.

Voting members in attendance were:

Local Government:

A. Christopher Cap, Pennsylvania State Association of Boroughs
Dennis R. Hameister, Pennsylvania State Association of Township Supervisors

Regulated Community:

Judy Brackin, Associated Petroleum Industries of Pennsylvania
John Arnold, Pennsylvania Petroleum Marketers & Convenience Store Association
J. Stephen Hieber, Tank Installers of Pennsylvania

Public Members:

Robert May, Synergy Environmental, Inc.

Registered Professional Engineer:

Michele A. Cipollone, Glen Mills, PA

Hydrogeologist:

Jan Peter Ilves, JPI Associates, Inc.

Active Commercial Farm Owner/Operator:

Jennifer Harry, Pennsylvania Farm Bureau

Non-voting alternates in attendance were:

John Kulik, Pennsylvania Petroleum Marketers & Convenience Store Association
Walter Rimmer, Tank Installers of Pennsylvania
Mark Onesky, Onesky Engineering, Inc.

CALL MEETING TO ORDER

John Arnold, Committee Chairperson, called the March 11, 2008, meeting of the STAC to order at 10:04 a.m.

APPROVAL OF MINUTES FROM SEPTEMBER 11, 2007, MEETING

The minutes from the September 11, 2007, meeting were approved as submitted, upon motion and seconded.

STAC MEMBERSHIP LIST

John Arnold provided the following update to the STAC:

Dennis R. Hameister has been appointed to serve a two-year term as the member representing the **Pennsylvania State Association of Township Supervisors (PSATS)**. This is a local government position. Holly Fishel continues as the alternate member for the PSATS.

The **Alliance of Automotive Service Providers (AASP) of Pennsylvania** position remains vacant. This is a position provided to the AASP under the Storage Tank and Spill Prevention Act.

Currently, we are in the process of reappointing Theresa Merli as member and Betty Conner as alternate member for a two-year term representing the **PA League of Women Voters**.

Jennifer Harry has been appointed to replace Andrea Sharretts as the member representing the **PA Farm Bureau**. Andrea Sharretts left the PA Farm Bureau. Kristina Watson is the alternate member.

Lastly, the terms of Christopher Cap/Rebecca Kocher (**PA State Association of Boroughs**), and Stephen Benes/Richard Brandes (**Public Member**) will be expiring the end of this month. We are currently in the reappointment process with these members. However, Richard Brandes has indicated that he will not be seeking another term as alternate member representing the Public.

DEP UPDATE

Kurt Klapkowski, DEP Program Counsel for the Storage Tank Program, provided an update on **Federal/State Legislation**. Mr. Klapkowski reported that there is nothing occurring at the federal or state level pertaining to the storage tank program.

Charlie Swokel, DEP, provided a report on the **Underground Storage Tank Indemnification Board (USTIB) allocation requests**. At the September 20, 2007, USTIB meeting, DEP made four separate allocation requests, each of which were approved for state fiscal year 2008-2009. First, DEP received \$200,000 for the Environmental Cleanup Program. This program provides DEP with funding to address state-lead projects and administer the heating oil cleanup grant program. Second, DEP received \$500,000 under the Catastrophic Release allocation that allows DEP to deal with the more problematic and costly state-lead projects. Currently, DEP is funding

three catastrophic release projects. Third, DEP received \$325,000 to support the “pump and plug” grant program through which DEP provides funding to tank owners to assist with the closure of substandard underground storage tanks. The final allocation received will be used to pay for the administrative costs relating to the corrective action program that are not covered by the federal Leaking Underground Storage Tank Trust Fund grant. Under this “Investigation and Closure Costs” allocation, DEP received \$1.525 million. In total, DEP received \$2.55 million to implement the various programs in state fiscal year 2008-2009. In addition, DEP received approval to spend any of the unexpended prior fiscal year allocations.

Dawn Heimbach, DEP, presented an update on the **Pump and Plug Program**. Since 1998, 968 grants have been approved for a total of over \$4.9 million. For state fiscal year 2007-2008, 26 grants have been approved for a total of nearly \$160,000. There are two applications pending.

Craig Olewiler, DEP, provided an update on the **Underground Storage Tank (UST) Environmental Cleanup Program**. DEP is currently addressing 26 state-lead and special projects, and three catastrophic release projects. For the current state fiscal year, 31 Heating Oil Cleanup Program grants have been awarded totaling over \$111,000.

Ray Powers, DEP, provided an update on the **Chapter 245 final rulemaking implementation**. Mr. Powers stated that the rulemaking was published in the *Pennsylvania Bulletin* on November 10, 2007, at which time it became effective. Mr. Powers reviewed the key revisions to the Chapter 245 rulemaking along with DEP’s training and outreach efforts completed and planned concerning the regulatory revisions. It was indicated that the program is providing each storage tank owner with a summary of the regulatory revisions with the mailing of the annual registration invoice. This summary is also available through the Division of Storage Tanks web page. Mr. Powers indicated that the program has registered over 100 of the newly regulated large aboveground heating oil tanks since the regulatory changes went into effect. At this point, Mr. Powers walked the committee through the Division of Storage Tanks web page indicating how to access the Storage Tank Act, Chapter 245 regulations, summary of the recent regulatory revisions, standards applicable to storage tank work, and other pertinent information. Steve Hieber and Bob May stated that there is considerable confusion concerning “when is a sump required” in the case of a dispenser replacement. Mr. Powers responded that a sump is required if the dispenser replacement involves a major modification. Mr. Hieber suggested that the program provide a clarification document pertaining to the issue. Mr. Powers committed to look at providing clarification through a fact sheet or posting on the web site, and indicated the program will also look at clarifying the regulatory language with the next rulemaking.

Mr. Powers moved on to discuss the **Product Delivery Prohibition Guidance and web site**. Establishment of delivery prohibition requirements was a requirement of the Federal Energy Policy Act. The Product Delivery Prohibition guidance was recently finalized and communicated to committee members. Mr. Powers indicated that when DEP suspends or revokes an operating permit through an order, notification is now being made to the product distributor by DEP and the tank owner. DEP also has a delivery prohibition web site that was shown to the committee. This web site, that is updated twice daily, lists those facilities and tanks prohibited from receiving product.

Next on the agenda, Charlie Swokel reported on the status of **federal grant funding for federal fiscal year 2008**. Mr. Swokel reported that the current Underground Storage Tank (UST) and Leaking Underground Storage Tank (LUST) Trust Fund grants are under three-year agreements with EPA. Mr. Swokel indicated that traditional Underground Storage Tank (UST) grant funding has been approximately \$188,000 per year. For federal fiscal year (FFY) 2007, which ended September 30, 2007, DEP received \$446,000. This was the first significant increase in UST grant funding. For FFY 2008, which began October 1, 2007, DEP expects to receive \$980,000 when all is said and done. For FFY 2008, the majority of the UST grant funding is from the LUST Trust Fund (\$30.5m) as opposed to traditional grant dollars (\$2.5m). For FFY 2009 and 2010, EPA has requested that DEP apply for \$300,000 for each year. Mr. Swokel stated that any additional amount of federal funding saves on Storage Tank Fund expenditures.

With regards to the LUST Trust Fund grant, the base LUST Trust Fund grant is just shy of \$1.4 million. However, EPA did indicate to DEP to expect an additional \$250,000 for each FFY of the current grant. Mr. Swokel stated that this would bring the grant amount to \$1.643m for each of the three years.

Jim Shaw, DEP Land Recycling Program, provided a handout concerning revisions to the **Short List of Petroleum Products**. This list of analytical requirements largely affects storage tank cleanups. Mr. Shaw reported that two trimethyl benzene compounds are being added to the leaded gasoline, unleaded gasoline, kerosene, diesel fuel, and mineral insulating oil categories. It was also reported that methyl tert-butyl ether (MTBE) is being added to the kerosene and diesel fuel groups. However, with regards to the kerosene and diesel fuel categories, the previously required semi-volatile analyses have been eliminated. Mr. Shaw indicated that the technical guidance manual has also been revised to explain implementation of the revised short list. Basically, sites that commence investigations to characterize or verify releases after the date the new list becomes effective (March 15, 2008) will use the new list for characterization and attainment demonstration purposes. Mark Onesky questioned the reasoning behind the deletion of the semi-volatile analyses for the kerosene and diesel categories. Mr. Shaw stated that comments received during the public comment period indicated that the semi-volatile compounds rarely exceeded the statewide health standard or were the driver in cleanups.

Troy Conrad, Director, DEP Land Recycling Program, provided a handout and overview of the recently enacted (December 18, 2007) **Uniform Environmental Covenants Act (UECA)**. Mr. Conrad stated that UECA requires that anytime a remediator utilizes an engineering or institutional control, an environmental covenant will need to be placed on the affected property unless waived by DEP. The environmental covenant is perpetual and runs with the property. There currently are no set criteria for waiving an environmental covenant. Waivers will be considered on a case-by-case basis. Based on current estimates, it is expected that 10 to 20 (perhaps as high as 25) projects per month will require an environmental covenant. It is envisioned that an interim guidance pertaining to the implementation of UECA will be available in a few months. In the meantime, the Land Recycling Program home page offers a link to a UECA web page that contains a summary of UECA, a model environmental covenant and a model notice of environmental covenant. Also available on the web site is an interim list of sites that have environmental covenants. An enhanced data base of sites that have environmental covenants is anticipated in six months or so. Mr. Conrad indicated that considerable outreach to the consultant community has occurred and will continue to occur. At this point, Mr. Conrad

entertained questions concerning UECA. Mr. Onesky posed a question concerning how DEP would handle a remedial action completion report submitted under the Storage Tank Act that did not contain the necessary environmental covenant. Mr. Conrad responded by stating that an approval of the report could be provided conditioned on the timely receipt of the required environmental covenant. On the issue, Mr. Conrad pointed out that UECA also requires that cleanups completed to an Act 2 standard prior to UECA will need to be converted to environmental covenants within 5 years, as appropriate. Mr. May commented that he could see how UECA protects the DEP and remediator, but does not see how it necessarily assists the public or municipality when an old land use changes to a new use. A question was posed to Steve Harman, Executive Director of the Underground Storage Tank Indemnification Board, concerning additional payments for fees associated with environmental covenants that may arise out of current cleanup activities and cleanups that have been completed that will require environmental covenants. Mr. Harman stated that the Underground Storage Tank Indemnification Fund (USTIF) will need to monitor how UECA implementation proceeds and will take a position at some point in the future. Mr. Harman indicated that he did not want implementation of UECA to result in a financial burden to the USTIF.

Next on the agenda, Steve Harman provided an **update on USTIF**. Mr. Harman reported that revenues for the first half of state fiscal year 2007-2008 totaled \$35.2 million, with expenditures totaling \$36.7 million. Therefore, USTIF has paid out \$1.5 million more than it has taken in for the first six months of state fiscal year 2007-2008. Mr. Harman stated that USTIF has been working with DEP to review (with the goal of closing out) the aged, open claims in the 1994 to 1999 time period. USTIF and DEP met with Sunoco recently as part of this aged claims project. It was reported that 224 claims were closed during calendar year 2007, the highest number in the last 6 years. Lastly, Mr. Harman reported that there are currently a total of 1,605 open claims and that the number of open claims has been on the decline.

John Arnold asked for any **Old Business**. There being none, under **New Business** Ray Powers reported briefly on the status of the various Federal Energy Policy Act requirements with focused discussion on the **UST Operator Training Requirements**. Mr. Powers reviewed the EPA *Operator Training* grant guidelines that were issued on August 8, 2007. Under the guidelines, a state program is to be in place by August 8, 2009, and all operators are to be trained by August 8, 2012. Mr. Powers reviewed the three classes of operators that must be trained, the training required for each of the three classes of operators, and the training approaches that would meet the operator training requirements.

The committee was informed of the feedback received from those attending the Operator Training Workgroup Meeting that was held on January 18th. Key stakeholders in the meeting included Sheetz, Sunoco, WAWA, Reitz (a tank manufacturer), Atlantis (a certified installer), the Tank Installers of Pennsylvania, and the Pennsylvania Petroleum Marketers and Convenience Store Association. Key concerns raised included the training options that would be acceptable, the cost and availability of training, implementation of the requirements for the small facility owner/operator and frequency of training/retraining. Mr. Powers presented some concepts that DEP is considering and pointed out that DEP has a training course approval process in place and also has authority to require mandatory training for noncompliance through current regulation. Mr. Powers stated that it is DEP's intention to rely on DEP-approved third-party trainers. DEP does not have the resources or the expertise in all areas to provide the training. Operators that

have received training in other states should be recognized along with operators that have participated in National training programs. DEP also believes that DEP-certified installers and inspectors should be recognized as qualified to perform as a Class B operator (and possibly a Class A operator) without additional training. Retraining frequency is not believed necessary; however, new operators do need to be trained. Class C operators (those with the need to respond to emergencies) should be briefed at least annually on the written procedures. Training records should be kept at the facility for review during the facility operations inspection. Mr. Onesky cautioned about accepting reciprocity from other states since other states may not have the same requirements.

Mr. Powers indicated that it is the intention of the program to present draft operator training regulatory language at the June STAC meeting. Mr. Powers informed John Arnold that he would be in contact with him to talk about reconvening the workgroup to further discuss the operator training requirements.

The final item on the agenda was **Election of Officers**. In accordance with the Committee by-laws, John Arnold indicated that a nominating committee comprised of himself, Pam Witmer, Rolf Hanson and John Kulik was established to prepare a list of nominees for the offices of Chairperson and Vice Chairperson. Mr. Arnold stated that the nominating committee nominates John Arnold for the office of Chairperson and Judy Brackin for the office of Vice Chairperson for the next term of the STAC. Mr. Arnold then asked if there were any additional nominations for either office. In the absence of any further nominations, upon motion and seconded, John Arnold was elected as Chairperson and Judy Brackin as Vice Chairperson for another two-year term.

The **meeting was adjourned** at 11:54 a.m., upon motion and second. The next scheduled advisory committee meeting is June 10, 2008.