

**MINUTES OF THE  
STORAGE TANK ADVISORY COMMITTEE MEETING  
MARCH 10, 2009**

The Storage Tank Advisory Committee (STAC) met on March 10, 2009, at the Rachel Carson State Office Building, 400 Market Street, 14th Floor, Harrisburg. Nine (9) voting members and alternate members were present, which constituted a quorum.

Voting members and alternate members in attendance were:

Local Government:

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

Regulated Community:

Judy Brackin, Associated Petroleum Industries of Pennsylvania  
John Arnold, Petroleum Marketers & Convenience Store Association  
Elizabeth Fernandez, Pennsylvania Chemical Industry Council  
Walter Rimmer, Tank Installers of Pennsylvania

Public Members:

Robert May, Synergy Environmental, Inc.  
Stephen Benes, Hermitage, PA

Registered Professional Engineer:

Mark Onesky, Onesky Engineering, Inc.

Non-voting alternates in attendance were:

Rolf Hanson, Associated Petroleum Industries of Pennsylvania  
John Kulik, Petroleum Marketers & Convenience Store Association

**CALL MEETING TO ORDER**

John Arnold, Committee Chairperson, called the March 10, 2009, meeting of the STAC to order.

**APPROVAL OF MINUTES FROM JUNE 10, 2008, MEETING**

The minutes from the June 10, 2008, meeting were approved as submitted, upon motion and seconded.

## STAC MEMBERSHIP LIST

John Arnold provided the following update to the STAC:

Steve Hieber has been reappointed to serve another two-year term as the member representing the **Tank Installers of PA**. Walt Rimmer continues as the alternate member.

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.

Efforts continue to seek interest from the PA League of Women Voters to serve as a **public** member.

J.P. Ilves has been reappointed to serve another two-year term as the member representing the **Hydrogeologists**. Bill Minnick continues as the alternate member.

DEP is currently in the process of appointing Mark Onesky to serve a two-year term as the member representing the **Registered Professional Engineers**, and Michele Cipollone to serve a two-year term as the alternate member representing the Registered Professional Engineers.

## DEP UPDATE

Troy Conrad, Director, DEP **Land Recycling Program**, provided an **update** on Land Recycling Program activities as they affect storage tank cleanup efforts. Mr. Conrad reported that approval has been received to move forward with revisions to the Land Recycling Program regulations contained in Chapter 250. The revisions will not involve policy changes, but rather changes to some statewide health standards as a result of the anticipated adoption of EPA's revised Risk Assessment Guidelines for Superfund. The rulemaking will also add a requirement that the DEP revisit the statewide health standards every two years. Mr. Conrad stated that Land Recycling Program workshops and technical training are planned for the upcoming year for remediators and consultants. The workshops and training are to include information regarding implementation of the Uniform Environmental Covenants Act (UECA). UECA requires remediators who use an engineering or institutional control to demonstrate the attainment of an Act 2 standard to place an environmental covenant on the remediated property or to obtain a waiver from DEP. As part of implementing UECA, Mr. Conrad stated that the program has updated the list of "frequently asked questions," provided guidance as to how to apply the UECA requirements, and revised the model environmental covenant. Mr. Conrad pointed out that a separate rulemaking to address the details that the UECA doesn't contain is in the works. In fact, this coming Friday (March 13<sup>th</sup>), an external stakeholders group will be meeting to specifically discuss the conversion of deed restrictions to environmental covenants that UECA requires within 60 months of the effective date of the UECA. Mr. Conrad stated that the stakeholders group includes representatives from Sunoco and Atlantic Richfield due to the large number of storage tank release sites that will require conversion. In response to Mr. Conrad's comments concerning upcoming revisions to the Land Recycling Program regulations to include some changes to the statewide health standards, Steve Harman, Director of the Bureau of Special

Funds, Department of Insurance, who also serves as Executive Director of the Underground Storage Tank Indemnification Board, expressed concern that the revised statewide health standards should apply going forward. Otherwise, Mr. Harman indicated that sites will never get cleaned up and claims will never be closed if the standards keep changing during remedial efforts. Jo Ellen Litz stated that the existing deed restriction should be adequate. Ms. Litz expressed concern that an additional cost to convert deed restrictions to environmental covenants is not warranted and does not result in any additional remediation of the site. Mr. Arnold questioned Mr. Conrad as to how Sunoco and Atlantic Richfield were chosen to serve on the stakeholders group and also why small business is not represented. Mr. Conrad stated that BP Amoco is remediating sites (some of which were owned at one time by Atlantic Richfield) under a multi-site agreement in Pennsylvania. Mr. Conrad stated that the makeup of the stakeholders group is as follows: two remediators, Atlantic Richfield and Sunoco, five attorneys in private practice and four consultants. Elizabeth Fernandez inquired as to the timeframe for putting the regulatory revisions in place. Mr. Conrad stated that they just received approval to move forward with the regulatory process, but hoped that a revised rulemaking would be in place before the end of calendar year 2010. Ms. Litz again expressed concern that the conversion to environmental covenants is going to have a considerable, negative economic impact on small businesses. Bob May asked the USTIF representatives in attendance if they would pay for the cost of the conversion of the deed restriction to an environmental covenant. Mr. Harman stated that they have not developed a policy with regards to this issue. However, USTIF expressed concern that if additional payments need to be made for conversions to environmental covenants, some claims will need to be reopened, and reserves will need to be set aside. Setting aside additional reserves impacts the actuarial soundness of USTIF and may also impact fees paid by tank owners. There was considerable discussion as to whether or not STAC should serve on the stakeholders group or otherwise provide input into the deed restriction conversion to environmental covenant issue prior to the next STAC meeting in June. Mr. Conrad stressed that there will be a lot of internal discussion following the stakeholders group meeting and that the program would not be presenting any draft regulatory language until the fall. It was agreed that Mr. Conrad would attend the June 9<sup>th</sup> STAC meeting to discuss and seek STACs input on this issue.

Kurt Klapkowski, DEP Program Counsel for the Storage Tank Program, provided an update on **Federal/State Legislation**. First, Mr. Klapkowski reported on state HB 681 that would require increased payments from the USTIF for certain past approved claims, sunset the heating oil cleanup program on June 30, 2010, and expand the “pump and plug” grant program to tanks that have been upgraded. Mr. Klapkowski also reported on two additional pieces of state legislation. State HB 347 would establish limits on the raising of retail motor fuel prices to once every 24 hours. State SB 247 would provide for tax credits for distributors of alternative fuels. John Kulik expressed concern about the recent statement from the U.S. Department of Agriculture Secretary calling for an immediate increase in the ethanol content in gasoline from 10% to 12 or 13%. The committee agreed that this bears watching as it could have a considerable impact on the integrity of tank systems to include pumps, seals and dispensing equipment; the liability of the tank owner; and engine manufacturer warranties. Mr. Kulik questioned the USTIF representatives if an increase in ethanol content would have any impact on claim approval. Mr. Miceli responded by stating that the tank contains petroleum and is a regulated tank. Therefore, the increased ethanol content would have no effect on the ability of the USTIF to approve the claim.

Dawn Heimbach, DEP, presented an update on the **Underground Storage Tank (UST) Pollution Prevention (“Pump and Plug”) Program**. Since 1998, 1,002 grants have been approved for a total of \$5,126,422. For state fiscal year 2007-2008, 41 grants were approved for a total of over \$245,000. For the current state fiscal year 2008-2009, 19 grants have been approved for a total of nearly \$127,000. There are no applications pending.

Craig Olewiler, DEP, provided an update on the **UST Environmental Cleanup Program**. DEP is currently addressing 17 state-lead and special projects, and three catastrophic release projects. For the current state fiscal year, 68 Heating Oil Cleanup Program grants have been awarded totaling over \$286,000. There are two applications pending.

Next on the agenda, Larry Frey, DEP, reported on the status of **Administrative Training for Certified Individuals**. Mr. Frey reported that participation in an administrative training session will be required for renewal of tank handling certification categories beginning November 10, 2009. Renewal of certification based on activities performed will cease, and administrative training coupled with technical training or testing will be required for re-certification. A list of technical training courses is available through the Storage Tank Program homepage and new courses are being added as they are approved. Mr. Frey reported that there is at least one technical training course available for each certification category. DEP has held at least two administrative training sessions at each of the regional offices, and trained about 200 of the approximately 800 certified tank handlers. The next scheduled training session is in the Northwest region on March 25<sup>th</sup>. Training sessions will be canceled if an insufficient number of installers register. Mr. Frey stated that the program will issue a Daily Update article this summer as a reminder to certified tank handlers to attend an administrative training session. In addition, letters notifying certified individuals and companies of upcoming expiration dates will include a colored sheet containing the changes in certification renewal requirements.

Following Mr. Frey, Bill Baker, DEP, reported on the status of **Technical Training for UST and AST Inspectors**. Mr. Baker stated that UST inspectors carry the IUM certification and are primarily responsible for conducting operations inspections at underground storage tank facilities such as gasoline stations. Facility operations inspections are required at least once every three years. IUM training is necessary in order to keep inspectors up-to-date on any policy or regulation changes related to their certification and to provide technical guidance related to existing and new practices and standards. IUM training is required within two years of renewal in order to recertify, and to conduct inspections after initial certification. There are 96 IUM certified inspectors, 72 of which have attended training since January of 2008. Ten individuals have attended initial training. Twenty-eight of the IUM certified inspectors will require re-certification training within the next two years. IUM renewal training was conducted at each of the DEP regional offices during August of 2008 and at DEP headquarters in February 2009. Initial IUM training was conducted in January, June and October 2008 and is scheduled for June and October of this year. IUM renewal training sessions are tentatively planned for this coming fall.

With regards to ASTs, Mr. Baker stated that AST inspectors are responsible for conducting installation inspections at the time of construction; in-service integrity inspections, where a tank continues to contain product and may be in operation during the inspection; out-of-service integrity inspections, where the tank must be removed from service, emptied and cleaned, prior

to inspection; and modification inspections, when major repairs or modifications are made to large, field-erected tanks. There are two categories of certified AST inspectors: IAF certified inspectors may conduct any of the aforementioned inspection types on large (>21,000 gallon) AST's and must carry a valid 653 certification from the American Petroleum Institute. IAM certified inspectors may conduct any of the aforementioned inspection types on small (21,000 gallon and less), shop-built ASTs. IAM and IAF inspectors require renewal certification training within two years of their renewal date. All inspectors require re-certification every three years. No initial training is required. Currently, there are 68 individuals certified to conduct AST inspections. Fifty-five individuals have both IAF and IAM certification. There are no inspectors who are only IAF certified. Thirteen individuals hold IAM certification only. To date, 37 certified AST inspectors have attended technical training. Twelve inspectors will need to be trained in the next year in order to renew their certification. Twenty-one inspectors will require renewal certification training during the next two years. During 2008 and 2009, training sessions were held as follows: Meadville, October 7, 2008; Norristown, October 22, 2008; Pittsburgh, November 18, 2008; Wilkes-Barre, January 6, 2009; and Harrisburg, February 3, 2009. A session is tentatively scheduled for DEP headquarters on May 11, 2009, with two additional training sessions planned for DEP headquarters later in 2009.

Ray Powers, DEP, reported on **Significant Operational Compliance**. Significant Operational Compliance (SOC) is reported to EPA on a semi-annual basis and is measured by the results of initial third-party inspections conducted during the prior 12 months at underground storage tank (UST) facilities. At the end of FFY 2008 (September 30, 2008), SOC with release prevention (spill, overflow and corrosion) was 89%, exceeding the EPA Region 3 states' average of 78% and the national average of 80%. SOC with release detection was 81%, exceeding the EPA Region 3 states' average of 71% and the national average of 75%. About 14 years ago, our SOC with release detection was 30%. SOC with both release prevention and release detection (overall SOC) was 73%, exceeding the EPA Region 3 states' average of 62% and the national average of 66%. Just four years ago our overall SOC was 58%.

The status of the **UST Operator Training Proposed Rulemaking** was the next topic of discussion. Ray Powers reported that the Environmental Quality Board approved the draft UST Operator Training rulemaking on December 16, 2008, for publication in the *Pa. Bulletin* as proposed rulemaking with a 30-day public comment period. Mr. Powers stated that publication in the *Pa. Bulletin* will occur this coming Saturday, March 14<sup>th</sup>. An e-mail will be sent to all members with a link to the *Pa. Bulletin* notice of the proposed rulemaking. The public comment period will end on April 13<sup>th</sup>. Following the 30-day public comment period, the Independent Regulatory Review Commission will have 30 days to review and provide comments. Mr. Powers indicated that it is our intent to discuss the comments, proposed resolution of the issues, and regulatory revisions at the June STAC meeting. Mr. Powers went on to say that if there are few comments resulting in insignificant changes, the STAC may be able to consider a final rulemaking in June. Lastly, Mr. Powers stated that once a final rulemaking is reviewed with STAC, DEP will work with the previously established UST Operator Training stakeholder group and any interested STAC members to draft training course outlines for the Class A and Class B operators, and written instructions and procedures for the Class C operators.

Charlie Swokel, DEP, provided a report on the **USTIB Allocation Requests**. Mr. Swokel stated that the DEP allocation requests under the Underground Storage Tank (UST) Pollution

Prevention and Environmental Cleanup Programs, and for Investigation and Closure Costs, were approved by the Underground Storage Tank Indemnification Board (USTIB) on September 18, 2008.

Under the UST Pollution Prevention Program, commonly called the "Pump and Plug" program, DEP requested and received a \$175,000 allocation for FY 09/10. The UST Environmental Cleanup Program provides DEP with funding for state-lead and special project sites. In addition, this allocation provides grants to owners of underground heating oil storage tanks with a capacity of 3,000 gallons or less to help defray the cost of corrective action. DEP requested and received a \$750,000 allocation for FY 09/10. The "Catastrophic Release" allocation provides funding to address releases that pose a significant risk to human health and the environment. DEP requested and received a \$100,000 allocation for FY 09/10. Lastly, DEP requested and received \$1.475 million for FY 09/10 to pay for the administrative costs relating to UST corrective action. In total, under all four allocations, DEP requested and received \$2.5 million. Also, DEP received authorization to spend any of the remaining prior year allocations.

George Hartenstein, DEP, provided information on the **Federal Stimulus Funding** to be received by Pennsylvania under the LUST Trust Fund grant. Mr. Hartenstein stated that \$200 million is being made available nationwide and that the vast majority of the money will go to the states. EPA is in the process of developing grant guidelines and determining the amounts that each state can apply for. DEP will utilize the stimulus money to address new remediation projects involving underground storage tanks where the owner is bankrupt, recalcitrant or non-existent. Mr. Kulik inquired if the money could be used to pay for administrative costs. While grant guidelines have not been issued, it is believed that the money can be used in the same manner as traditional LUST Trust Fund monies to include paying for administrative costs. However, since the purpose of the stimulus money is to create and sustain jobs, the intent is for DEP to utilize this money entirely to address new cleanup sites.

Next on the agenda, **USTIF** provided an **update** on their program activities. Steve Harman, Executive Director of the Underground Storage Tank Indemnification Board, and Jim Miceli, USTIF Claims Manager, attended from the USTIF. Mr. Harman stated that he had good news and bad news to report. The good news is that the number of new claims, the number of open claims, and payments made on claims are down. He reported that instituting competitive bidding for cleanup work and requiring consultants to present a work plan of the proposed remedial action are greatly helping to keep costs down. With regard to the bad news, Mr. Harman indicated that revenues are down several million dollars due to a decrease in consumption and also due to a considerably lower return on the USTIF investments. It was also noted that USTIF did receive the \$8 million loan repayment last October for the current fiscal year. However, the Governor's budget for FY 2009-2010 only contains a loan repayment of \$1 million, as opposed to the scheduled \$10 million repayment. John Kulik stated that given the rather gloomy budget situation, it may be unrealistic to expect a higher repayment amount for the coming fiscal year. Mark Onesky received clarification from the USTIF that professional engineers, as well as professional geologists, can prepare work plans. USTIF will look at updating their web site in this regard.

Mr. Arnold inquired if there was any **Old Business**. There being none, Mr. Arnold asked if there was any **New Business**. There being none, the **meeting was adjourned**, upon motion and second. The next scheduled advisory committee meeting is June 9, 2009.