MINUTES OF THE
STORAGE TANK ADVISORY COMMITTEE MEETING
DECEMBER 8, 2015

The Storage Tank Advisory Committee (STAC) met on December 8, 2015, at the Rachel Carson State Office Building, 400 Market Street, Room 105, Harrisburg. Twelve (12) voting members were present, which constituted a quorum. Two of the 12 voting members participated via WebEx.

Voting members in attendance were:

Local Government:

Scott Weaver, Pennsylvania State Association of Boroughs
Dennis Hameister, Pennsylvania State Association of Township Supervisors

Regulated Community:

Judy Brackin, Associated Petroleum Industries of Pennsylvania (STAC Vice-Chairperson)
Scott Nowicki, 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
Charles Frey, Jr., Highland Tank & Mfg. Co.

Registered Professional Engineer:

Francis Catherine, P. Joseph Lehman, Inc. Consulting Engineers

Hydrogeologist:

Mark Miller, Moody and Associates, Inc.

Active Commercial Farm Owner or Operator:

Michael Platt, PM Farms, Inc.

Non-voting alternates in attendance were:

Holly Fishel, Pennsylvania State Association of Township Supervisors
Joseph Leighton, Associated Petroleum Industries of Pennsylvania

CALL MEETING TO ORDER

Judy Brackin called the December 8, 2015, meeting of the STAC to order.

APPROVAL OF MINUTES FROM SEPTEMBER 1, 2015, MEETING

The minutes from the September 1, 2015, meeting were approved as submitted, upon motion and seconded.

STAC MEMBERSHIP LIST

Charlie Swokel, DEP, reported that 15 of the 16 positions on the STAC are filled. The only vacancy is a local government seat.

Since the last meeting, Dennis Hameister and Holly Fishel were reappointed to the STAC as the member and alternate member, respectively, representing the Pennsylvania State Association of Township Supervisors and local government. Also reappointed were John Arnold (member) and John Kulik (alternate member) representing the Pennsylvania Petroleum Association.

USTIF UPDATE

Next on the agenda, the Underground Storage Tank Indemnification Fund (**USTIF**) provided an **update** on their program activities. Richard Burgan, Director, Bureau of Special Funds, Department of Insurance, and Executive Director, Underground Storage Tank Indemnification Board (USTIB), attended representing the USTIF.

Mr. Burgan stated that assets as of September 30, 2015, totaled $288 million, as compared to $294 million as of June 30, 2015. The loss of $6 million over the first quarter of the new fiscal year (FY 15-16) was directly related to the market downturn in September. With regards to receipts, the fund took in $8.6 million during the first quarter of FY 15-16. Total disbursements for the first quarter of FY 15-16 totaled $13.1 million. It was noted that net disbursements over receipts for the first quarter of FY 15-16 were $4.5 million. Mr. Burgan stated that as of September 30, 2015, the USTIF showed an unfunded liability of $147.3 million. The deficit on June 30, 2015, was $135.3 million. Mr. Burgan noted that the unfunded deficit increased by $12 million during the first quarter of FY 15-16 due to a loss in investment income and a $6 million encumbrance for the ICF International claim services contract.

Mr. Burgan reported that the number of claims filed with the USTIF for calendar year 2015, as of this morning, stood at 141. For calendar year 2014, 171 claims were filed. The number of pending claims is approximately 1,150 and is relatively stable. At the end of December 2014, there were 1,178 pending claims.

Next, Mr. Burgan reported that this Thursday will be the final USTIB meeting for calendar year 2015. Aon Global Risk Consulting will make a presentation of the findings from their actuarial analysis of the USTIF. In addition, DEP will present its requests for funding to be effective at the start of fiscal year 2016-17. Lastly, Mr. Burgan reported that the new USTIF website is fully operational and can be accessed at ustif.pa.gov.

Dennis Hameister asked about the type of claims being reported to the USTIF and if claims are being filed by townships. Mr. Burgan responded that claims are being reported as a result of tank pulls, DEP inspections, and spills and overfills. Mr. Burgan was not able to report as to whether townships were filing claims.

DEP UPDATE

An update on the **revised Federal UST regulations** was the first topic of discussion. Kris Shiffer, DEP, noted that at the last STAC meeting a question was asked about the use of electronic line leak detectors by a facility to satisfy the 0.2 gph monthly or 0.1 gph annual piping release detection requirement, and whether the tester will need to simulate these leak rates to satisfy the annual release detection equipment testing requirement. Mr. Shiffer stated that the tester will need to simulate these leak rates and that the new version of PEI RP1200 will provide test methods that will satisfy the testing requirements.

Ms. Brackin asked the committee if there was any **old business** to discuss. There being none, under **new business**, Mr. Shiffer presented the **conceptual revisions to Chapter 245.** Mr. Shiffer stated that since Pennsylvania has State Program Approval (SPA), the new EPA requirements will not become effective in Pennsylvania until DEP incorporates the requirements into Chapter 245. In accordance with the final EPA rulemaking, DEP has three years to revise Chapter 245 and apply for revised SPA.

Mr. Shiffer began by reviewing the new EPA requirements that must be incorporated into Chapter 245 in order for Pennsylvania to maintain SPA. With regards to containment sump testing, Dave Gallogly asked if there will be a requirement for underground storage tank (UST) systems to have containment sumps. Mr. Shiffer responded that containment sumps are only required for new systems and when greater than 50% of the piping is replaced. Bob May inquired if a UST system has double-walled piping with some form of line leak detection, does the sump need to be tested. Mr. Shiffer stated that containment sump testing will be required if interstitial monitoring is being performed. Mr. May noted that Massachusetts, for example, allows containment sump testing to be performed with a limited amount of water as long as the sensor will be triggered. Mr. Shiffer stated that DEP's current thinking is to require the water level to be above the highest penetration.

Mr. Shiffer then discussed DEP's current thinking as to the testing requirements that would need to be performed by DEP-certified individuals. DEP is proposing that overfill prevention equipment testing be a certified activity. A statement was made that overfill prevention equipment testing would require UST system installation and modification (UMX) certification as opposed to UST system tightness tester (UTT) certification. Mr. Shiffer stated that is correct. It is proposed that containment sump testing not be required to be performed by a certified individual. With regards to release detection testing, the thinking is to have the testing conducted by an individual trained and certified by the equipment manufacturer. If the manufacturer does not have a certification program, then the testing would need to be performed by a certified individual. Mr. May suggested that overfill prevention equipment testing could be performed by a UTT certified individual and that same individual could be allowed to do the repair. This would eliminate the need to involve a UMX certified individual at an additional cost to the tank owner.

Next, Mr. Shiffer discussed concepts for revising Chapter 245 in addition to the new EPA requirements that will need to be incorporated. Mr. Shiffer began with identifying minor revisions to several definitions contained in Chapter 245.1 to which there were no comments. The changes would be made to provide for clarity and to ensure consistency.

With regards to the certification program for installers and inspectors contained in Subchapter B of Chapter 245, DEP proposes to add a new certification category for minor modifications only. Minor modifications would include such activities as changing out drop tubes, replacing penetration boots in tank sumps, replacing drain valves in spill buckets, and adding spike anodes underneath dispensers. Charlie Frey asked if this would include manufacturer warranties. Mr. Shiffer responded that this new category would be for individuals to become certified who only wish to perform minor modifications. Mr. Frey stated that fiberglass tanks are treated one way and all other tanks another way in the regulations. Mr. Frey noted that this should be corrected at some point. Mr. Shiffer stated that regardless of the type of tank systems, tank handling activities must be conducted by certified individuals.

DEP would also like to see newly certified aboveground storage tank (AST) inspectors complete DEP-provided initial inspector training to be consistent with UST inspector requirements. Lastly, with regards to the certification program, DEP would like to see language added that requires AST modification inspection reports to be submitted within 30 days from completion. The current requirement is 60 days from completion. In this way, the length of time between submittal of the modification report and modification inspection report will be shortened.

The next discussion focused on conceptual changes to permitting contained in Subchapter C of Chapter 245. Currently, DEP's position has been that if you add a 2,000-gallon aboveground storage tank (AST) to a 20,000-gallon AST at an existing facility, the tank owner does not need to apply for a Site-specific Installation Permit (SSIP). However, a spill prevention response plan (SPRP) would be required as the aggregate capacity is now in excess of 21,000 gallons. DEP has not viewed this scenario as a new large AST facility. However, there has been confusion among the regulated and consultant communities concerning when an SSIP would or would not be required. In another example, if an existing facility is adding an aggregate capacity in excess of 21,000 gallons, DEP would like to clarify that an SSIP would be required. DEP would also like to add an expiration date to the SSIP application. Currently, the SSIP application has no expiration date. Therefore, there have been cases where the SSIP application remains open because the project did not proceed. Mr. May commented that the addition of a 2,000-gallon AST to a 20,000-gallon AST at a facility poses little additional risk. While an SSIP may not be required, an SPRP will be necessary. Mr. May noted that 21,000 gallons may not be the right number to trigger the SPRP requirement. Mr. Gallogly stated that he understood, under the proposal, that an SSIP would be required when adding four 20,000-gallon ASTs to a 2,000-gallon AST. However, he asked if an SSIP would be required when adding a 10,000-gallon AST to a 2,000-gallon AST, and then adding another 10,000-gallon AST. Mr. Shiffer stated that an SSIP would not be required when adding either 10,000-gallon AST. With regards to the idea of having an expiration date for the SSIP application, Ms. Brackin asked what DEP had in mind for a timeframe. Mr. Shiffer asked the committee members for input, but indicated that DEP is thinking of five years. Scott Weaver suggested five years to be consistent with state building permits. Mr. May suggested 10 years to be tied to the inspection schedule. Timothy Bytner

asked if the SSIP itself would need to be renewed. Mr. Shiffer responded that the SSIP is a construction permit and would not need to be renewed.

Subchapter D of Chapter 245 dealing with corrective action was next up for discussion. The only suggested revision is to add language that gives DEP the authority to suspend remedial action if it is determined that the remedy will not achieve the selected cleanup standard. Currently, the responsible party may suspend remedial action, but the DEP does not have that authority. There were no comments on this suggestion.

Next, potential revisions to the technical standards for USTs (Subchapter E of Chapter 245) was discussed. To begin with, DEP suggests requiring overfill prevention equipment to be permanently installed. The primary reason for this suggestion is that overfill prevention equipment will require periodic testing. In order for testing to occur, the equipment needs to have been installed.

Another idea is to exclude USTs used solely for emergency generator purposes from the automatic pump shut-off requirement. Should a containment sump fill with water during a storm event, DEP does not want a generator to stop functioning during such an emergency. DEP is also suggesting deletion of the following language regarding overfill prevention requirements: "Restrict flow 30 minutes prior to overfilling,…or automatically shut off flow into the tank so that none of the fittings located on top of the tank are exposed to product due to overfilling." DEP is not aware of any facility that utilizes this method of overfill prevention. Stephen Hieber stated that several trucking firms utilize the method in filling USTs from ASTs. Mr. Shiffer responded that those facilities have indicated to DEP that they utilize a different method. Mr. Shiffer requested Mr. Hieber to provide further information.

DEP is suggesting adding clarifying language to the regulation with regards to what triggers a dispenser pan upgrade. Currently, the dispenser pan upgrade requirement is being implemented in accordance with an existing program fact sheet. This suggested regulatory change would simply clarify DEP's current position.

Also, DEP is suggesting requiring failed tests of overfill, spill containment and cathodic protection equipment to be submitted to DEP by the tank owner. A question was asked if a DEP-certified individual would need to report the failure if they conducted the test. Mr. Shiffer responded that the individual would only need to report it if the test is required to be conducted by a DEP-certified individual and the failure is considered a suspected release. At the current time, the testing of overfill prevention equipment is the only testing being contemplated as a requirement to be conducted by a DEP-certified individual. Since the failure of overfill prevention equipment is not in itself considered a suspected release, reporting by the DEP-certified individual would not be required. Mr. Gallogly suggested that DEP consider a test failure as a suspected release so that the tank owner must investigate the potential problem as opposed to simply reporting the failure to DEP.

Lastly with regards to USTs, DEP would like to clarify that UST systems must be empty before submitting an amended registration form to place the system in temporarily out-of-use status. DEP would also like to add clarifying language to state that removal of a dispenser is a partial system closure consistent with current program guidance. Mr. May questioned what constitutes

a partial system closure of a dispenser. Mr. Shiffer responded that a partial system closure is triggered when an existing dispenser is being replaced with excavation, or when an existing dispenser is being removed and not replaced. Mr. Bytner inquired if DEP is considering establishing a timeframe for a dispenser to be replaced. DEP has not considered setting any such deadline.

The next subject up for discussion was the technical standards for large ASTs contained in Subchapter F of Chapter 245. DEP would like to clarify in regulation that ASTs being returned to service must have all deficiencies resolved prior to placing product in the tank. Currently, the language states that all deficiencies must be resolved "prior to returning the tank to operating status." Mr. May asked if a deficiency with a UST in temporary out-of-service (TOS) status that is discovered during an inspection must be corrected immediately, or can the correction wait until the tank system is brought back into use. Mr. Shiffer responded that the timeliness of the resolution of the deficiency depends on the nature of the situation. If, for example, a deficiency is noted with the cathodic protection system, which needs to be maintained while a UST is in TOS, that deficiency must be immediately corrected. Mr. Shiffer also noted that large ASTs must be maintained while in TOS. So, paint may need to be applied to a large AST in TOS to prevent corrosion and deterioration.

Currently, large ASTs are required to be visually inspected every 72 hours. DEP proposes to add regulatory language to require that the inspections be documented. Ms. Brackin asked if hand-held MARLIN-type devices could be used to meet the documentation requirement. Mr. Shiffer acknowledged that they could be used as long as the device maintains the proper information. Mr. Bytner inquired if DEP is looking to limit the time that the records would have to be maintained. Mr. Shiffer sought input from the committee. Mr. Bytner suggested no longer than 12 months.

DEP would like to add a timeframe for the tank owner to submit an updated SPRP. Mr. Shiffer suggested a timeframe of 90 or 120 days. Mr. Gallogly asked if DEP considered eliminating the requirement to prepare and submit an SPRP and utilizing another plan such as the Federal Spill Prevention Control and Countermeasure (SPCC) Plan to meet the SPRP requirements. Ms. Brackin stated that they have one plan with a table of contents that addresses all program requirements. She noted that it has worked well and that they have had no issues with inspectors from various agencies. Mr. Shiffer stated that DEP would have to be satisfied that any SPCC Plan contained all of the SPRP requirements. Lastly, DEP noted that the Storage Tank and Spill Prevention Act requires submittal of the initial SPRP and all revisions to DEP.

DEP also proposes that any facility requiring an SPRP maintain a log book detailing tank handling activities that are performed on a tank system. DEP suggests maintaining log records for a period of three years. DEP has encountered facilities that have no record as to who performed tank handling activities or when tank handling activities were conducted. DEP believes that it is good practice to maintain a log book and adds an additional layer of security at the facility. Ms. Brackin asked if electronic records would be acceptable, and must the records be on a per-tank basis. Mr. Shiffer responded that electronic records would meet the requirement provided that they are producible and provided on a per-tank basis.

For consistency, DEP would like to replace the language "monthly visual inspections" with "visual inspections at least once every 30 days." With the current language, Mr. Shiffer explained that a facility could go 60 days without an inspection and still be compliant. Mr. May commented that the suggested language would create a logistics nightmare as inspections would be due on different dates each month. Mr. Frey suggested that DEP consider language that requires inspections every 35 days to eliminate Mr. May's concern.

A significant revision that DEP would like to pursue concerns ASTs in underground vaults. Currently, these tank systems, if required to be inspected due to capacity and substance stored, are inspected once every 10 years. DEP noted that they have had corrosion and moisture issues associated with these systems. Mr. May asked about the number of such regulated systems. Mr. Shiffer stated that DEP is aware of 38 systems. Mr. Frey noted that Underwriters Laboratory dropped the listing for this type of system about five years ago. Mr. May asked if DEP has experienced environmental issues, i.e. releases from the vaults, and noted that an inspection of such system costs about $5,000. Mr. Shiffer reiterated that there has been compliance issues associated with vaulted ASTs. Since vaulted ASTs are essentially USTs, DEP's thinking is to require inspections every three years, which is the same as the UST inspection requirement. Mr. Shiffer stated that the three-year inspection requirement could be phased in and not begin until after the next inspection has occurred.

DEP would like to add language to Chapter 245 to make it clear that regulated tank systems that become exempt and then re-regulated at a later date must meet current technical requirements. This clarification would simply codify current policy. There were no comments on this suggestion.

With the 2007 regulatory changes to Chapter 245, DEP added language that requires owners of large ASTs to submit a variance request for an extension of the temporary removal-from-service status. For small ASTs and USTs, an extension of the temporary removal-from-service can be requested without submission of a variance request. DEP does not believe that an extension of the temporary removal-from-service for any tank system fits what is normally considered a variance. Variances are submitted when unique or peculiar circumstances make compliance technically impractical, infeasible or unsafe. Therefore, DEP suggests modifying the language for a temporary removal-from-service extension for large ASTs to be consistent with a temporary removal-from-service request for all other tank systems.

Next, with regards to large ASTs, Section 245.526 currently states that "piping installed after October 11, 1997,…shall be adequately protected from corrosion…" This is piping within the containment area. DEP believes that piping needs to be protected against corrosion regardless of the date of installation and suggests deleting the current language. Ms. Brackin stated that a phase-in period will be necessary to provide tank owners with time to comply. Mr. Shiffer responded that DEP has not seen an inspection report indicating that piping was installed pre- or post-October 11, 1997. Certified inspectors view piping within the containment area without regard to the date of installation. Further, Mr. Shiffer noted that the regulations, in general, require that all piping be protected against corrosion. Mr. May noted that API 570 requires that all piping be protected.

Lastly under the subchapter dealing with large ASTs, DEP is contemplating exempting large ASTs that store a mixture of bituminous obtained from native deposits or as a petroleum by-product used for roofing or paving that is in a solid state at 100 degrees Fahrenheit or less from out-of-service inspections. These are typically tanks that store coal tar, a highly hazardous substance. DEP is aware of 18 such tanks. Mr. Bytner asked if these tanks are currently exempt from regulation. Mr. Shiffer stated that highly hazardous coal tar tanks are not. DEP's proposal would only exempt the tanks from an out-of-service inspection. These inspections are onerous and costly. Further, these regulated substances, if released, immediately become solid, remain within containment, and pose little if any risk to the environment.

The final subchapter (Subchapter G) of Chapter 245 discussed for proposed revision concerns the requirements for small ASTs. Currently, owners of small ASTs cannot submit a variance request to DEP as there is no variance section in Subchapter G. Owners of USTs and large ASTs do have the ability to submit a variance request. DEP believes that small AST owners should also have the ability to submit a variance request. Therefore, DEP proposes to add a variance section to Subchapter G. Members of the committee concurred with DEP's suggestion.

Presently, the regulations state that emergency containment must be sufficiently impermeable to contain any potential release. DEP stated that "any potential release" is subject to interpretation. Therefore, DEP suggests specifying the size of the containment area to be 110% of the capacity of the largest tank in the containment area. This would be consistent with the large AST requirement. Committee members concurred with the suggestion.

DEP is seeing significant non-compliance with small ASTs that require inspection. Currently, these tanks are required to be inspected every 10 years and the compliance rate currently stands at less than 50%. Mr. May asked what is non-compliant about these tanks. Mr. Shiffer responded that the paint has deteriorated, maintenance checks are not being performed, and there are containment issues. There are approximately 7,000 small ASTs that require inspection. DEP believes that increasing the inspection frequency to every five years can result in increased compliance. Compliance rates increased when the inspection frequency was increased for USTs. Mr. May commented that perhaps DEP could accept a certificate of compliance from tank owners. Scott Nowicki stated that he sees maintenance deficiencies when inspecting small ASTs and agreed with the five-year inspection frequency.

The final three suggestions for revision to Subchapter G received no comment from committee members. First, DEP proposes to remove the requirement for a 10-year lining inspection for small ASTs. DEP does not believe this inspection is necessary, and it is a provision that has not been strictly enforced since the requirement became effective in 2007. Second, DEP proposes to add a sentence to Section 245.612 stating that equipment shall be maintained in a good state of repair and function as designed. This is simply a clarification of current DEP policy. Third, regarding double-walled ASTs, DEP proposes that spill buckets be permanently installed and shutdown procedures be written. In addition, DEP would like to clarify what is required to meet both emergency and secondary containment requirements.

A question was raised as to when DEP planned to present proposed rulemaking to the Environmental Quality Board. Mr. Swokel responded late 2016 at the earliest, more likely early 2017.

Ms. Brackin commented that DEP may want to take a look at the definition of "De minimis." To begin with, the Material Safety Data Sheet (MSDS) has been replaced with the Safety Data Sheet (SDS). So, this is a change that needs to be made to the definition. However, the more problematic issue is that certain regulated substances that pose little or no risk to the environment are being brought into the realm of regulation due to the fact that they must be reported on the SDS. These substances, should a release occur, become gaseous and volatilize, yet containment requirements must be met as if the released substance is a liquid. Ms. Brackin stated that they have such substances contained in spheroid ASTs and have submitted a variance request to DEP.

While a significant number of revisions to Chapter 245 were proposed today, Mr. Frey complimented DEP staff in proposing to eliminate some requirements based upon years of experience in implementing the program.

Mr. Swokel stated that DEP staff will discuss comments received from the committee on the various concepts presented today and come back in March to further discuss some of the concepts discussed today along with potentially new concepts. Mr. Swokel noted that draft regulatory language would not be presented until the June STAC meeting.

Under **new business**, Ms. Brackin noted the **meeting dates for 2016** as March 8, June 7, September 6 and December 6. Mr. Swokel noted that the March meeting will be held in the DEP Southcentral Regional Office and that directions will be provided prior to the meeting.

The meeting was **adjourned** at 12:26 p.m., upon motion and seconded.