

**MINUTES OF THE
STORAGE TANK ADVISORY COMMITTEE MEETING
SEPTEMBER 1, 2015**

The Storage Tank Advisory Committee (STAC) met on September 1, 2015, at the Rachel Carson State Office Building, 400 Market Street, Room 105, Harrisburg. Thirteen (13) voting members were present, which constituted a quorum.

Voting members in attendance were:

Local Government:

Lisa Schaefer, County Commissioners Association of Pennsylvania
Dennis Hameister, Pennsylvania State Association of Township Supervisors

Regulated Community:

Judy Brackin, Associated Petroleum Industries of Pennsylvania (STAC Vice-Chairperson)
John Arnold, Pennsylvania Petroleum Association
Nancy Maricondi, Petroleum Retailers and Auto Repair Association, Inc.
Scott Nowicki, Pennsylvania Chemical Industry Council
Stephen Hieber, Tank Installers of Pennsylvania

Public:

Robert May, Synergy Environmental Inc.
David Gallogly, Pennsylvania Environmental Council
Charles Frey, Jr., Highland Tank & Mfg. Co.

Registered Professional Engineer:

Francis Catherine, Affiliated Services International, LLC

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
John Kulik, Pennsylvania Petroleum Association

CALL MEETING TO ORDER

John Arnold called the September 1, 2015, meeting of the STAC to order.

APPROVAL OF MINUTES FROM JUNE 2, 2015, MEETING

The minutes from the June 2, 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, Tyler Courtney, Commissioner, Westmoreland County, and Lisa Schaefer, County Commissioners Association of Pennsylvania (CCAP), were reappointed to the STAC as the member and alternate member, respectively, representing the CCAP and local government.

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 for the fiscal year ending June 30, 2015 (FY 14-15), totaled \$294 million, as compared to \$275 million for the prior fiscal year. Mr. Burgan stated that liabilities for FY 14-15 stood at \$404 million, as compared to \$434 million for the prior year. As of June 30, 2015, the USTIF showed an unfunded deficit of \$135 million. The deficit on June 30, 2014, was \$167 million. Mr. Burgan noted that the unfunded deficit just five years ago was \$301 million. With regards to receipts, the fund took in \$71.5 million in FY 14-15 as compared to \$82.5 million for the prior year. The decline in revenue for FY 14-15 was due to less received in investment earnings. Total disbursements for FY 14-15 totaled \$62.7 million as compared to \$53.5 million for the prior year. It was noted that net receipts over disbursements for FY 14-15 was a little over \$9 million.

Mr. Burgan reported that the number of claims filed with the USTIF for calendar year 2015, as of this morning, stood at 104. On May 29, 2015, the USTIF received its 6,000th claim since inception of the fund in February 1994.

Next, Mr. Burgan reported that the new USTIF website should be fully operational within the next two weeks. In addition, Mr. Burgan stated that the June workshop to obtain input from tank owners and distributors with regards to the web-based fee billing system went very well.

Dave Gallogy asked Mr. Burgan about the personnel changes at the USTIF, and specifically if a Claims Manager had been hired. Mr. Burgan stated that he expects to have a permanent Claims

Manager effective September 14. Mr. Burgan also reported that the USTIF is now fully staffed in the revenue collections area.

Mr. Gallogly noted that the USTIF website shows only four sites out for competitive bid. Mr. Burgan responded that the number of claims is down, and the number of stalled sites is down. Therefore, there are fewer candidate sites for the competitive bid process. The USTIF noticed the downward trend in candidate sites approximately 18 months ago.

Mr. Gallogly questioned whether or not the budget impasse has had any effect on USTIF operations. Mr. Burgan replied that USTIF has its own fund and receives no revenue from the general fund. Therefore, there has been no impact on the USTIF.

Lastly, Mr. Gallogly inquired about the status of the general fund loan repayment under the Memorandum of Understanding. Mr. Burgan stated that the Governor's budget included the first annual payment of \$7 million. However, the amount of any repayment will not be known until the state budget is finalized.

DEP UPDATE

The **summary of comments received on the "Guidelines for the Evaluation of UST Cathodic Protection Systems" Draft Technical Guidance** was the first topic of discussion. Kris Shiffer, DEP, reported that only one comment was received during the 30-day public comment period. The comment received was actually on the "UST Cathodic Protection System Evaluation Form" referenced by the guidance and not on the guidance itself. Mr. Shiffer stated that the guidance will now be finalized and the notice of the availability of the final UST Cathodic Protection guidance will be published in the *Pennsylvania Bulletin* in the near future.

Next, Mr. Shiffer provided an **overview of the revised Federal UST Regulations**. Mr. Shiffer informed the committee that the final EPA rulemaking will become effective on October 13. However, 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 3 years to revise Chapter 245 and apply for revised SPA.

The final EPA rulemaking focuses on improving operation and maintenance of UST system equipment that was required in their 1988 regulations. EPA received numerous comments during the public comment period and the final rule strikes an appropriate balance between protecting the environment and minimizing the cost to owners and operators. Mr. Shiffer reviewed the various revisions to the EPA regulations covering such topics as: secondary containment requirements for new and replaced tanks and piping; operator training requirements; periodic operation and maintenance requirements for UST systems; removing certain deferrals; compatibility; and groundwater and vapor monitoring.

Mr. Shiffer noted that DEP has already incorporated the secondary containment and operator training requirements into Chapter 245. Therefore, expect no changes to Chapter 245 with respect to these requirements. Dennis Hameister inquired if EPA looked to Pennsylvania's operator training regulations in developing their regulations. Mr. Shiffer responded that EPA

developed their operator training requirements based on grant guidelines that EPA issued under the Federal Energy Policy Act of 2005. Pennsylvania developed their regulations in accordance with these same guidelines.

With regards to the three-year requirement to test spill buckets, Mr. Shiffer noted that double-walled spill buckets with continuous interstitial monitoring between the spill bucket walls are not required to meet the testing requirement. Steve Hieber inquired if a visual gauge in the interstice of the spill bucket could serve to provide for interstitial monitoring. Mr. Shiffer stated that it is his understanding that a visual gauge can be used to provide for interstitial monitoring if it is checked during the monthly walkthrough inspection.

Overfill prevention equipment must be inspected every three years. Inspection involves physically removing the equipment (i.e. flapper, ball float) and making sure that it works properly. Mr. Hieber noted that there are two fill tubes where the equipment does not need to be removed. The manufacturers of the fill tubes are OPW and Franklin. Mr. Shiffer stated that as long as the inspection is performed according to manufacturer instructions the requirement will be met.

The three-year secondary containment testing was revised from the proposed rulemaking to not include testing of tank and piping interstitial spaces. Also, the testing is only required for containment sumps used for piping interstitial monitoring since the sumps must be tight for release detection to work properly. Bob May asked if sump testing would be required for a double-walled piping system equipped with a line leak detector. Mr. Shiffer responded that testing is required if any one of the piping release detection methods is interstitial monitoring. If using interstitial monitoring for monthly release detection, sump testing is required. A question was asked if a facility installed prior to November 10, 2007, could change their method of release detection to avoid the sump testing requirement. Mr. Shiffer responded that the tank owner could legally change their method of release detection to a line test, line leak detector test, or electronic line leak detector test.

Annual release detection equipment testing must be done to make sure release detection equipment is operating properly. Release detection equipment is essentially sensors, mechanical leak detectors and electronic line leak detectors. A question was asked if electronic line leak detectors are being used by a facility to satisfy the 0.2 gph monthly or 0.1 gph annual piping release detection requirement, will the tester need to simulate these leak rates to satisfy the annual release detection equipment testing requirement. Mr. Shiffer responded that DEP would need to discuss this issue with EPA before providing a response to the committee.

Next, Mr. Shiffer noted that emergency generator USTs, previously deferred from release detection requirements, will now be required to perform release detection just like other regulated USTs. Frank Catherine asked how many regulated emergency generator USTs exist in Pennsylvania. Mr. Shiffer responded that he did not have that number available, but stated that DEP would inform owners of existing emergency generator USTs of the new requirements so that they may adequately prepare for implementation.

EPA previously deferred field-constructed USTs and airport hydrant fuel distribution systems from meeting release prevention and detection requirements. EPA has removed the deferral and

created more specific and appropriate requirements for these systems. Pennsylvania has always regulated these systems, but has provided a variance provision for owners of systems that cannot meet the normal release prevention and detection requirements. DEP is not aware of any airport hydrant fuel distribution systems in the Commonwealth. Under current regulations, DEP requires field-constructed USTs to obtain a site-specific installation permit prior to installation.

Wastewater treatment tank systems, USTs containing radioactive materials, and emergency generator USTs at Nuclear Regulatory Commission facilities, previously deferred by EPA, are now reclassified as partially excluded. EPA will continue to regulate installation and cleanup under 40 CFR Part 280.

EPA is requiring notification to the agency when owners and operators are planning to switch to storage of alternative fuels. EPA is also requiring that records be kept in order to demonstrate compatibility of their UST systems with these fuels.

EPA's proposed rulemaking eliminated groundwater and vapor monitoring as methods of release detection. The final rulemaking retained these release detection methods, however a site assessment will be required prior to utilizing the methods. Mr. Shiffer stated that Pennsylvania has no more than a handful of sites that utilize these methods. Mr. Shiffer noted that Pennsylvania currently requires a site assessment be performed should an owner wish to utilize groundwater or vapor monitoring as a release detection method.

With regards to some additional EPA requirements, Mr. Shiffer noted the following:

- Ball float vent valves are no longer an option for overfill protection in new UST systems and when these devices need to be replaced.
- If the internal lining inspection shows that the lining fails and cannot be repaired, then the UST system must be permanently closed. EPA allows for repairs. Currently, DEP does not allow repairs and has no plans to change that position. Pennsylvania has approximately 77 lined USTs.
- New owners must notify the agency within 30 days of acquiring ownership of a UST. DEP currently requires notification through the registration process.
- The 1988 EPA UST regulation linked a repair to a release to the environment and the requirement that the repair be tested. The 2015 revision removes the link so that fixes not associated with releases must also be tested prior to use.
- Language was added that an interstitial alarm is an unusual operating condition requiring investigation as a suspected release. Interstitial integrity testing was added as a way of investigating a suspected release.

Charles Frey asked why an interstitial alarm is considered a release. Mr. Shiffer responded that it is an unusual operating condition that needs to be checked out. It is considered a suspected release and not a confirmed release. Mr. May inquired if integrity testing was the default requirement in response to an interstitial alarm. Mr. Shiffer stated that integrity testing has been added as an option for suspected release investigation and is not a requirement.

Lastly, Mr. Shiffer noted that EPA updated some language and addressed some housekeeping issues in the final rulemaking. As far as implementation and outreach is concerned, EPA

updated their website to highlight the new regulations and requirements. In addition, EPA is in the process of developing new and revised guidance documents to assist the regulated community.

Mr. Shiffer informed the committee that program staff will be meeting with EPA representatives in October regarding the regulations. At the December STAC meeting, DEP intends to provide the committee with key concepts of the Chapter 245 revisions. In addition, any needed clarification on the federal UST regulations will be presented. This will also be an opportunity for committee members to identify suggested changes to Chapter 245. The plan is to begin to provide draft regulatory language of the Chapter 245 revisions at the March 2016 STAC meeting.

Mr. Gallogly asked how compliance with the various new testing and inspection requirements will be determined. Mr. Shiffer responded that compliance will be determined during the facility operations inspection conducted by a DEP-certified inspector. Mr. Hameister inquired if there are any changes to the Class C operator training requirements. Mr. Shiffer stated that the preamble to the final EPA regulation indicates that all employees meeting the definition of a Class C operator need to be trained as Class C operators. Clarification on the issue will be sought from EPA, however DEP does not intend to change the current requirement that each facility have at least one Class C operator. A question was raised as to whether or not approved Class A and B training vendors will need to resubmit an application for approval incorporating the new regulatory requirements. Mr. Shiffer responded that a revised application will be required and that DEP will be developing materials to facilitate both preparation and review of the resubmittals.

As a final note on the topic of the regulations, Mr. Swokel requested that committee members come prepared to the December STAC meeting to share their ideas for change to the Chapter 245 rulemaking.

Mr. Arnold asked the committee if there was any **old business** to discuss. There being none, under **new business**, Mr. Gallogly gave a **report** on the work of the **Bylaws Subcommittee**. Mr. Gallogly reported that the subcommittee met via email and made several significant revisions to the current bylaws. To begin with, the bylaws were restated to be consistent with language and formatting of other DEP advisory committee bylaws. Secondly, the term of committee members was changed from two years to four years. Third, the number of STAC members was changed from 17 to 16 members. While the Storage Tank and Spill Prevention Act established a committee of 17 members, the reality is that one of the organizations designated to have membership on the STAC was dissolved some years ago. Lastly, the purpose of the committee was revised to reflect the charge as described in the Storage Tank and Spill Prevention Act. Mr. Gallogly made a motion to adopt the bylaws as revised and restated with the motion seconded by Charles Frey. The **revised** and restated **bylaws** were unanimously approved by the committee via voice **vote**. Mr. Swokel stated that the revised bylaws would be posted on the STAC webpage by the end of the week.

Also under **new business**, Mr. Arnold asked if any non-STAC member in attendance wished to provide **public comment**. There being no one, Mr. Arnold noted that the **remaining meeting date for 2015** is December 8. The **meeting dates for 2016** were **approved** on a motion by

Mr. Hameister, seconded by Judy Brackin, as follows: March 8, June 7, September 6 and December 6.

The meeting was **adjourned** at 11:04 a.m., upon motion and seconded.