

**Minutes of PSTIF Advisory Committee Meeting
June 14, 2016**

Chairman Ayers called the meeting to order at 10:32 a.m. Carol Eighmey introduced Steve Sturgess, new DNR Hazardous Waste Program Director, and Thais Folta, Assistant Attorney General recently assigned as counsel for the PSTIF Board of Trustees.

Members Present:

Steve Ayers, Ayers Oil Co., CHAIRMAN
Mark Jordan, Wallis Oil Co., VICE CHAIRMAN
Mark Abel, Abel Oil Co.
Tracy Barth, MFA Petroleum Co.
Gary Bemboom, Bemboom Enterprises d/b/a BeeLine Snack Shops
Todd Burkhardt, Neumayer Equipment Co.
Phil Farrell, Double Check Co.
Ken Koon, MO DNR/HWP/Tanks Section
Ron Leone, MO Petroleum Marketers and Convenience Store Assn.
David Mangelsdorf, Home Service Oil Co.
Ron Morton, Town & Country Supermarket
Heather Peters, MO DNR/HWP/Compliance & Enforcement Section
Ryan Rowden, Missouri Petroleum Council
Jason Smith, Environmental Works, Inc.
Adam Troutwine, Polsinelli
Sonny Underwood, Mid-South Steel Products, Inc.
Curtis Wall, MDA/Weights, Measures, and Consumer Protection Division
Terri Willits (for Zarar "Bobby" Lodhi), Lion Petroleum

Members Absent:

Ron Bachman, St. Joe Petroleum
Wayne Baker, Warrenton Oil Co.
Bruce Barnes, Santie Oil Co.
Daryl Bowles, DK Environmental, LLC
Paul Cox, Cox Oil Co.
Lori Larkin, AIG
Stewart McIntyre, Big River Oil
Jack Sachs, Hocker Oil Co.

Staff Present:

Carol R. Eighmey, Executive Director, PSTIF
Thais Folta, Attorney General's Office
Dan Henry, Williams & Company Consulting
Diane James, Executive Assistant, PSTIF
Dorcee Lauen, Williams & Company Consulting

Staff Present (cont.):

Patrick J. Vuchetich, Williams & Company Consulting
David Walters, Williams & Company Consulting

Others Present:

Rick Elgin, Midwest Environmental Consultants
Chris Farrell, Double Check Co.
Donnie Greenwalt, Wallis Oil Co.
Don McNutt, Midwest Petroleum Co. and PSTIF Trustee
David Pate, Industrial and Petroleum Environmental Services
Doug Potts, Commerce Bank
Paul Sheetz, Industrial and Petroleum Environmental Services
Bill Sloan, Commerce Bank
Steve Sturgess, MO DNR, Hazardous Waste Program
Brian Wiegert, Rounds & Associates

Review/Approval of Minutes – October 22, 2015 Meeting

Curtis Wall moved that the minutes be approved. Ryan Rowden seconded.
Motion carried.

Overview of Current Operations

Chairman Ayers briefly reviewed the information provided in members' packets and invited questions or comments. There were none.

Ms. Eighmey encouraged members and other attendees to let her or Williams & Company know if they have or hear feedback on the recent mailing regarding the July 1 Operator Training deadline.

Proposed DNR UST Rule Changes and Schedule

Ms. Eighmey reviewed the schedule in members' packets, noting the DNR is proposing an effective date of April 30, 2017 for the rules themselves, although there are different compliance deadlines for various provisions in the rules.

Heather Peters announced the DNR is planning to hold a training session on July 21 to explain the new rules; it will include an explanation of PEI RP1200. More information on the training session will be provided as it is available.

Chairman Ayers then led a discussion about the list of changes contained in members' packets, inviting questions and comments on each.

Under the first section of the list – “Changes Being Proposed to Implement EPA Rules” – there was discussion about Item #3. In response to questions about when containment is required to be installed under dispensers, Heather Peters clarified that if an owner replaces an existing dispenser, such as after a customer’s vehicle hits one, and the existing dispenser does not have a containment sump, DNR will not require installation of a containment sump unless the fitting to the piping or the UST piping itself is also replaced. Members noted DNR’s proposed rule language differs slightly from EPA’s so this item should be in the second section of the list. They also suggested revising the wording in the list so it better reflects what Ms. Peters described.

Questions were raised regarding Item #5; Ms. Peters explained EPA wants states to know when an UST owner/operator is changing to a higher-blend biofuel so the regulator can make certain the equipment is compatible with the higher blend. It was noted EPA’s rules requires every o/o to demonstrate the equipment is compatible when he/she changes to a higher blend fuel; DNR’s rule will not require the o/o to submit compatibility documentation if the DNR already has such documentation in hand for the equipment being used at that site.

There was considerable discussion about Item #6, with some comments that the language in 10 CSR 26-2.035(1) regarding testing of containment sumps is unclear. Ms. Peters agreed to consider revisions to make the meaning clearer. During this discussion, it was noted that double-walled sumps installed prior to July 1, 2017 are not subject to the testing new sump testing requirements. Also, new UST systems installed after July 1, 2017 are *not* required to have double-walled containment sumps. Thus, in the future, there will be three types of sumps: (1) single-walled and double-walled sumps that existed prior to July 1, 2017; (2) single-walled sumps installed after July 1, 2017, and (3) double-walled sumps installed after July 1, 2017. DNR’s proposed rules impose different requirements on each of the three categories of sumps.

Questions were raised about what DNR’s requirements will be with regard to disposal of water used for hydrostatic testing of sumps and spill buckets. Ms. Peters said the Department was nearing conclusion of its internal discussions on this and a written bulletin would be available in time for the July 21 training.

Regarding Item #7, Tracy Barth asked why existing overfill prevention devices cannot be “grandfathered;” Ms. Peters indicated DNR realizes many overfill prevention devices will likely fail their first test, triggering substantial expenses for new equipment, but this testing requirement is mandated by EPA.

Regarding Item #8, Ms. Peters noted a triennial test is also an option for double-walled spill buckets in lieu of monthly monitoring of the interstitial space.

During discussion of Item #9, related to “spot repairs” of spill buckets, it was noted this item should appear in the second part of the list as a “Missouri-specific change.”

During discussion of Item #12, relating to SIR, members asked whether the proposed rules specify a deadline by which the owner/operator must have the SIR report in hand; Ms. Peters said the rule does not contain a deadline, but EPA's intent is that SIR reports be in the owner/operator's hand by the end of each

month. She said some SIR vendors are considering modifying their procedures so reports can be generated with only 20 days of data. However, DNR plans to issue a policy memo stating it will suffice if the owner/operator receives each month's SIR report by the 10th of the following month.

There was considerable discussion of Item #13 regarding testing leak detection equipment. Several members suggested it is unnecessary to remove ATG probes and test them as part of annual leak detection equipment testing, since it is evident from the ATG functions themselves whether the probe is working. Some opined that removing the probes may void the manufacturer's warranty. David Mangelsdorf moved that the Committee formally ask DNR to explore other options for this rule that would allow more flexibility, rather than requiring every probe to be removed from the tank for annual testing. Mark Jordan seconded; motion carried.

Regarding the same item, Ms. Peters was asked if the backup battery has to be checked in every case, even if the owner/operator is using a different system for "backup" of his ATG. She said no, the battery check is only required if it is the ATG backup method being relied upon.

Regarding Item #14, monthly walk-through inspections, Sonny Underwood noted a water check is also required. Donnie Greenwalt asked whether the owner/operator can document compliance with this requirement by having a standard inspection procedure and documenting findings that require action or follow-up. This prompted discussions about how compliance with the rules will be checked by PSTIF staff, who annually check compliance at PSTIF-insured UST sites, and DNR staff, who focus primarily on non-PSTIF-insured sites and only check them once every three years. Ms. Eighmey said decisions regarding how compliance will be checked, and how often, have not been made yet; she expressed concern that once DNR's new rules are implemented, it will be too onerous to check every item at every insured site annually. She said the PSTIF will engage in additional discussions with DNR and stakeholders before making decisions about how the rules will be administered.

Chairman Ayers then moved to a discussion of the rule changes DNR is proposing that deviate somewhat from EPA's rules, but are intended to accomplish the same outcomes. After a brief discussion of these items, members expressed appreciation for the additional flexibility DNR is providing with these provisions.

Finally, Chairman Ayers invited discussion on each of the amended or new requirements DNR is proposing that are not triggered by EPA. It was agreed that reducing the length of advance notice required for new UST installations is a good change. Regarding DNR's proposal to ban vapor monitoring and groundwater

monitoring as leak detection methods, it was suggested a notice be sent to owners/operators currently using those methods to make certain they know the ban is being proposed.

There was a brief discussion about whether DNR's proposed rules change the definition of a UST; Ms. Peters indicated she does not think a change is being proposed, but Ms. Eighmey and some Committee members expressed concern that it is. She said she would discuss this further with Ms. Peters at a later time.

Regarding the requirement to give DNR notice before installing new piping, Ms. Peters was asked whether this will hamper an owner's efforts to install new piping promptly, especially if he/she has a pressing need to do so. Ms. Peters responded that DNR has authority to waive the 14-day deadline.

Concerns were again expressed, as in prior meetings, about the requirement that owners/operators must obtain and retain photos of interior lining inspections.

Ms. Eighmey encouraged continued feedback to PSTIF and/or DNR regarding the proposed changes, again noting the August 15 deadline by which DNR intends to submit the proposed rules to the Secretary of State for publication and public comment. She reiterated there remains much work to be done to decide how the PSTIF will administer the new rules.

Jason Smith noted some other states wait until the tank owner has a leak before checking compliance with all the operation and maintenance rules; Ms. Eighmey concurred, but noted Missouri's statute has long required the compliance check as part of the application for coverage and suggested the approach used in other states is not an "insurance-like" approach like Missouri's is.

However, she said the PSTIF may need to be less stringent in administering DNR's rules, or check compliance less frequently, etc., to avoid the process of obtaining coverage being too onerous and time-consuming. She noted that, because Missouri is one of the first states moving to implement EPA's new rules, we are "on the leading edge" of these decisions. Additional discussion followed; it was clarified UST owners/operators are not and will not be required to have records onsite at the UST facility. Members asked each other to quantify how much additional paperwork would be generated by the new rules, but no clear answer emerged from the discussion. Sonny Underwood suggested PEI's RP900 contains a checklist that may be useful, although the RP is currently being revised.

Cleanups and Claim Closures

Ms. Eighmey summarized the PSTIF Trustees' ongoing concerns about the length of time it is taking to get cleanups completed and claim files closed, noting no insurer wants claim files open for 10, 15, or 20 years.

