

## **EXECUTIVE SUMMARY**

### **DEPARTMENT OF ENVIRONMENTAL PROTECTION**

#### **Final Rulemaking**

#### **25 Pa. Code Chapter 245**

#### **(Underground Storage Tank Operator Training Requirements)**

The Pennsylvania Storage Tank and Spill Prevention Act, 35 P.S. § 6021.101–6021.2104, provides for the regulation of storage tanks and facilities in the Commonwealth, and confers responsibility to the Environmental Quality Board (EQB) to adopt rules and regulations of the Department to accomplish the purposes of this act. The final-form rulemaking amends the current underground storage tank (UST) regulations at Chapter 245 to establish comprehensive UST operator training requirements for three distinct classes of UST operators. The operator training proposal includes descriptions of the three classes of UST operators to be trained, required training for each class of operator, acceptable forms of training for each class of operator, and deadlines for new and existing operators to meet the training requirements. These changes are necessary to meet federal mandates as explained below.

There are companion federal regulations at 40 CFR Part 280. The current Chapter 245 is similar to most aspects of the federal UST rules. Operator training requirements are not contained in the federal UST regulations. However, Section 9010 of Subtitle I of the Solid Waste Disposal Act, as amended by Section 1524 of the Energy Policy Act of 2005, required EPA to develop and publish guidelines that establish training requirements for UST operators. This section also requires that states receiving federal funds under Subtitle I develop state-specific training requirements, with regulatory enforcement authority, consistent with the EPA guidelines, by August 8, 2009. Additionally, states must ensure that all three classes of operators are trained according to state-specific training requirements by August 8, 2012. Since Pennsylvania receives funding under Subtitle I, failure to establish an operator training program will jeopardize receipt of future federal funding under Subtitle I for the UST and Leaking UST (cleanup) programs. For federal fiscal year 2009, the Department received \$2.79 million in federal funds from EPA for these programs under Subtitle I.

Several storage tank industry professionals and national trainers have inquired about providing UST operator training in Pennsylvania. It is anticipated that Department-certified tank installers and inspectors, state and national associations, and other third-party trainers will create a market and offer the required training to UST operators. Current program regulations contain provisions for approval of trainers and related training courses. Since the final-form rulemaking provides for a wide array of training options, costs to the tank owners and operators should be minimized.

There are approximately 3,500 tank owners with operators at nearly 8,700 UST facilities in Pennsylvania that will be affected by this rulemaking. More than half of the owners are major corporations, while the remaining owners are small businesses, some farms and various government entities.

The Storage Tank Advisory Committee (STAC) was involved in the development and review of the rulemaking and voted at its meeting on June 9, 2009, to support and forward the regulation to the EQB for consideration to publish as final-form rulemaking. A letter and attachment from the STAC Vice-Chairperson to the EQB on the draft final rulemaking is attached.

The proposal was published in the *Pennsylvania Bulletin* on March 14, 2009, commencing a 30-day public comment period. Six commentators, including the Independent Regulatory Review Commission, submitted comments to the EQB on the proposed rulemaking. No public meetings or hearings were necessary.

Substantive changes between proposed and final rulemaking were only made to § 245.436. The significant change delineates requirements for facilities to be manned with trained operators onsite when dispensing motor fuel for retail sales to the general public, which corresponds with Department of Labor and Industry, flammable and combustible liquids requirements in 37 Pa. Code Chapter 13. Other changes involve only minor corrections and clarifications.