Aboveground Storage Tank Regulatory Update

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Environmental Enforcement
WV Code Chapter 22, Article 30

• “AST Act”
• Originally established via Senate Bill 373 in the 2014 Legislative Session
• Revised via Senate Bill 423 in the 2015 Legislative Session
• Response to the Freedom Industries Spill
Applicability of the AST Act

• Statutory Tank Definition
• Found at 22-30-3(1)
• A tank is:
  – Made to contain 1,320 gallons of fluid
  – 90% above the ground, non-earthen
  – Remains in one location for 365 days
Applicability of the AST Act

• A tank is not:
  – A shipping container regulated by Railroad Safety Act or DOT
  – Barges or boats
  – Swimming Pools
  – Process Vessels including wastewater treatment devices
  – Devices containing water (drinking water, surface water, groundwater...)

Applicability of the AST Act

• A tank is not:
  – Device containing food or food grade materials used for human or animal consumption
  – Located on a farm and contents are not distributed commercially **except** when the tank is in a Zone of Critical Concern
  – Empty Tanks held inventory or offered for sale
  – Pipe lines and liquid traps
  – Electrical Equipment
What Must a “Tank” do?

• Register by July 1, 2015
  – (previously October 1, 2014)
  – Nearly 50,000 tanks have been registered since June 10, 2014
  – Registration is electronic
  – Lots of tank data in now available
What Must a “Tank” do now?

• Display the required signage
• Owner’s / operator’s emergency contact phone number
• DEP Spill Line (800-642-3074)
• Tank registration number
  – 3 digit county code and 8 more numbers
Noteworthy AST Data

• Oldest tank
  – 124 years old
  – Installed in 1891
  – 4,200 gallon tank (100 barrel)
  – Crude and brine

• Tanks over one million gallons
  – 248

• Largest Tank
  – 9.2 million gallon
  – Natural gas condensates
Important Definitions

• Regulated Level 1 tank
  – Located in a ZCC, source water protection area or public surface water influenced groundwater supply source area; or
  – Contains substance that appears on the “List of Lists” in a concentration of 1% or greater; or
    • CERCLA, EPCRA and 112(r) of the CAA
    • Does not include petroleum (CERCLA petroleum exclusion)
  – 50,000 gallons or greater in size regardless of contents or location
More Important Definitions

• Regulated Level 2 tank
  – Located in a ZPC and is not a Level 1
Tank Locations

Currently in use and TOS Tanks: 43,145

- In ZCC: 3,722 (8.63%)
- In ZPC: 3,879 (8.99%)
- In SWPA: 647 (1.50%)
- Capacity >= 50,000G: 946 (2.19%)
List of Lists

- 1,836 contain material found on the list of lists
- 1,391 are level one because of contents ONLY
How many tanks will be regulated?

11,000(ish)
AST Act Requirements

• Register Tanks and collect a Fee
• Regulate Level 1 to a higher standard
• Promulgate Rules
  – Design, construction and maintenance of ASTs and secondary containment
  – Leak detection
  – Record Keeping
  – Corrosion prevention
  – Closure Requirements
  – Fees
AST Act Requirements

• Permit Amendments
• AST Evaluation and Certification at regular intervals
  – Evaluation by PE, API or STI Certified Individuals
• Financial Responsibility
• Corrective Action
• Spill Prevention Response Plans or certification of a GPP or SPCC
AST Act Requirements

• Notice to Government and Water Companies
  – Public water system, state, county and municipal emergency response organizations

• Signage

• Public Access to Information
Legislative Rules

• 47 CSR 63 – AST Rule
  – Specific tank operation and management requirements

• 47 CSR 64 – AST Fee Rule
  – Annual fees for regulated tanks

• 47 CSR 65 – Administrative Penalty Rule
  – Resolution of enforcement actions and assessment of penalties
Mapping Tools

http://tagis.dep.wv.gov/WVWaterPlan/
Thank You!!

Questions?

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