



Meet Your Deadlines: West Virginia AST Act Challenges

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Meet the Speakers

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How We Got Here

- January 9, 2014
 - Chemical spill to the Elk River
 - Widespread contamination of public water supply
- Senate Bill 373 introduced January 16, 2014
 - Five legislative committees, all with major changes
 - At least 70 amendments considered
 - Hours and hours of hearings . . .
- Passed March 8, 2014 (final day of Session)

Aboveground Storage Tank Act

 W. Va. Code
§§ 22-30-1 *et*
seq.

 Effective
June 6, 2014



Key Definition

What is an “aboveground storage tank” anyway?

- Device containing accumulation of **>1320 gallons** ... of **fluids** that are **liquids at standard temperature/pressure**
- Constructed primarily of **noncarbon materials**, including wood, concrete, steel, plastic or fiberglass
- More than **90% capacity above the surface** of the ground
- This **includes**:
 - **Mobile devices** remaining in one location on a continuous basis for 60 or more days
 - **Ancillary aboveground/underground pipes** and dispensing systems up to first point of isolation
- But **does not include**:
 - Process vessels
 - Certain shipping containers, railroad cars, barges and boats
 - ...and swimming pools



Key Definition



Key Elements

- Registration (§ 4)
- Permitting and regulatory program (§ 5)
 - Permitting waiver (§ 25)
- Inspection and certification (§ 6)
- Financial responsibility (§ 7)
- Corrective action (§ 8)
- Spill Prevention Response Plans (§ 9)
- Notice to local governments and water companies (§ 10)
- Signage (§ 11)

Upcoming Deadlines

-  **December 3, 2014** – Deadline for Spill Prevention Response Plans
-  **January 1, 2015** – Initial deadline for AST inspection and certification

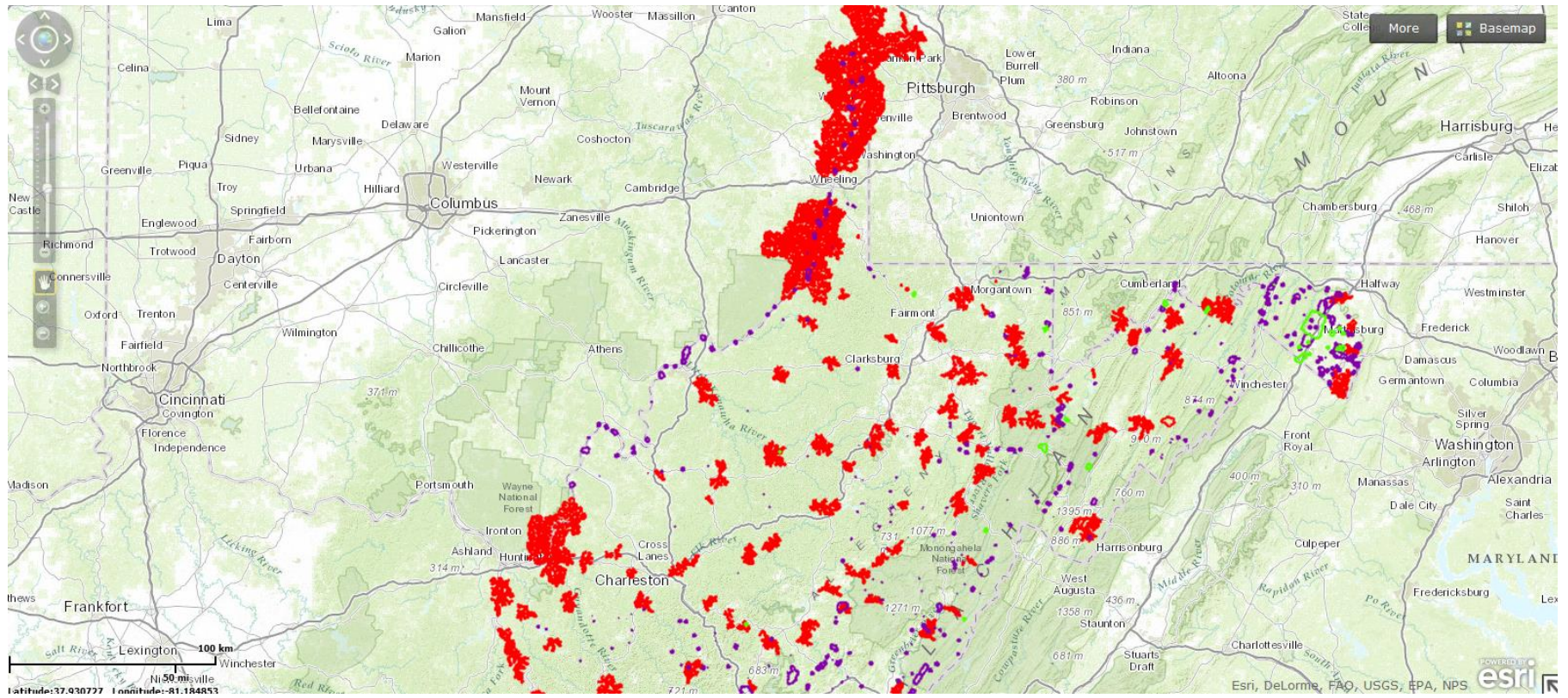


AST Registration Stats

Per WVDEP, as of October 14, 2014 . . .

47,587 ASTs registered

- 15,885 individual registrations
- Approx. 6% located in a “ZCC”



WV Safe Drinking Water Interactive Mapping Service
West Virginia Department of Health and Human Resources



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About



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Basemap



Environmental
FORUM Interpretive Rule (47 CSR 62)

- Adopted **October 21**, effective **November 20, 2014**
- “Bridge” rule – expires **June 1, 2015** unless sooner terminated, continued or re-established as a legislative rule
- Addresses **initial deadlines** for:
 - SPR Plans
 - Inspection and certification



Interpretive Rule (47 CSR 62)

<p>Level 1 (§ 2.2)</p>	<ul style="list-style-type: none"> • Located in critical area (ZCC, etc.); or • Containing CERCLA “hazardous substance”; or • Capacity of 50,000 gallons or greater; or • Any AST identified by WVDEP with potential for high risk of harm to public health or the environment
<p>Level 2 (§ 2.3)</p>	<p>“Catch all” category, neither Level 1 nor Level 3.</p>
<p>Level 3 (§ 2.4)</p>	<ul style="list-style-type: none"> • Containing potable water, filtered or unfiltered surface water or groundwater (excluding flowback water from oil and gas wells), demineralized water, noncontact cooling water or water stored for fire or emergency purposes • Containing food or food-grade materials • Empty mobile tanks • Hazardous waste tanks subject to 40 C.F.R. Parts 264 and 265 (except § 265.201)

Spill Prevention Response Plans

 **Level 1:** Must satisfy W. Va. Code § 22-30-9

 **Level 2:** Alternative compliance options

 Certification of current GPP or Well Site Safety Plan


 Submittal of spill prevention plan under 40 C.F.R. Part 112 or 35 C.S.R. 1


 **Level 3:** Alternative compliance options


 Certification of current GPP or Well Site Safety Plan

 Submittal of Emergency Response Plan to USEPA under Bioterrorism Act of 2002

Inspection and Certification

 **Level 1:** Initial inspection must be performed by an RPE, person working under an RPE, API-certified inspector or STI-certified inspector

 **Levels 2 and 3:** Initial inspection may be conducted by owner, operator, or a designee of the owner or operator

 **Note:** Relief limited to **who** may inspect/certify, not scope of inspections

Emergency/Legislative Rule

- “Rough draft” released on **September 18**
- Comprehensive rulemaking
- Comments due by **October 24**
- WVDEP will file emergency rule with WVSOS in December or January, together with identical legislative rule



Emergency/Legislative Rule Major Issues

What are the standards?



Emergency/Legislative Rule Major Issues

- Requires **retrofitting/upgrades of existing ASTs** to meet standards for
 - Normal and emergency venting
 - Corrosion prevention (cathodic protection, exterior coatings or interior liners/coatings)
 - Leak detection
 - Secondary containment
 - Security
 - Signage

Emergency/Legislative Rule Major Issues

Proposed deadlines for upgrades:

Requirement	Level 1 ASTs	Level 2 ASTs
<ul style="list-style-type: none"> -Normal/emergency venting -Corrosion prevention -Leak detection 	December 31, 2015	June 30, 2016
Secondary containment	3 months after effective date of rule	3 months after effective date of rule
<ul style="list-style-type: none"> -Security -Signage 	No deadline specified	No deadline specified

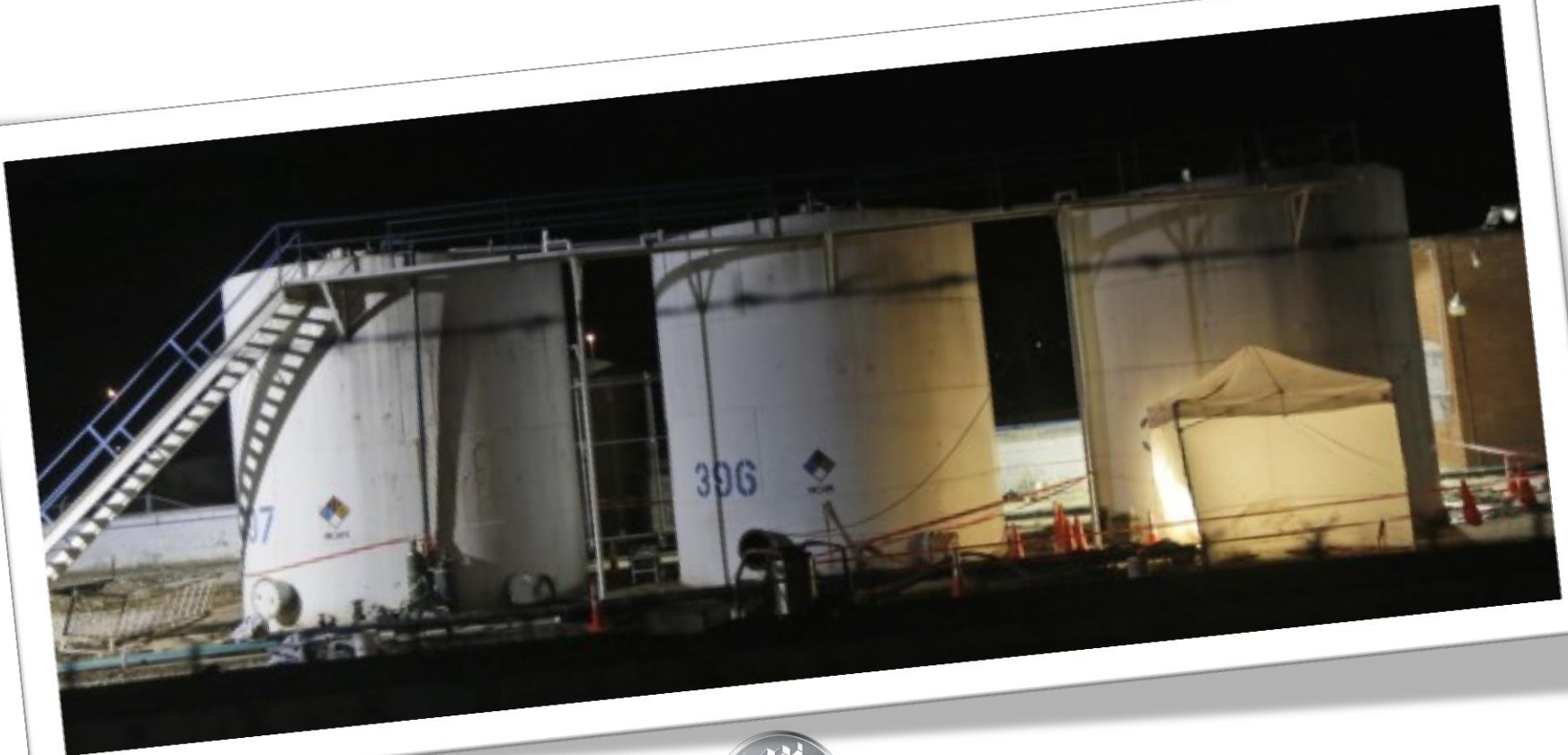
Emergency/Legislative Rule Major Issues

- Scope of Act expanded through broad definitions of **“AST system”** and **“first point of isolation”**
- Replaces “permits” with **“certificates to operate”** but no waiver for SPCC tanks
- Requires consideration of accumulated volume of **manifolded tanks**
- Establishes **siting requirements** for new ASTs

Emergency/Legislative Rule Major Issues

- Imposes numerous **advance notification requirements** for
 - Installation/upgrade
 - Closure
 - Change in service or status
 - Change in ownership (includes “any change in the corporate or business structure” of AST owner)
- Imposes **delivery prohibition** for product deliverers or transporters

Questions?





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