

STAKEHOLDER'S MEETING

Aboveground Storage Tanks

October 1, 2014



New Regulations

- Senate Bill 373 - the “Tank Bill”- led to the creation of the Aboveground Storage Tank Program
- Rough Draft Emergency Rule 47CSR63 ABOVEGROUND STORAGE TANKS (AST’s)



1. General Applicability

- 1.1. Scope. -- This legislative rule governs the construction, installation, upgrading, use, maintenance, testing, and closure of aboveground storage tanks in this State. This rule establishes three (3) levels for aboveground storage tank (AST) regulation based upon potential risk to public health or the environment.



1.5.a. The following are excluded from the requirements of this Rule by definition

- Shipping containers
- Barges or boats
- Swimming pools
- Process vessels as defined in §22-30-3
- Structures holding wastewater being actively treated or processed
- Mobile tanks (less than 60 days)
- Surface impoundments, pits, ponds, lagoons



1.5.b. The following are excluded from this Rule because they are equipment

- Electrical equipment such as transformers, circuit breakers, and voltage regulators
- Heating and cooling equipment
- Equipment or machinery containing substances for operational purposes



1.5.c. This Rule establishes three (3) levels for AST regulation based upon potential risk to public health or the environment

- Level 1 AST exhibit a high risk due to their contents, location, or size
- Level 2 AST exhibit a reduced risk, lower than Level 1
- Level 3 AST exhibit a low risk due to their contents or because the ASTs are subject to strict regulations under another program



1.5.c.3.A. Level 3 AST's are excluded from the requirements of this Rule, except

- Sections 3.1, 3.3, Registration
- Sections 3.5, Notification of Closure
- Sections 3.6, Notification of Change in Service or Status
- Sections 3.7, AST transfer of ownership



- 1.5.e. Tanks located in an underground area (such as a basement, vault, cellar, mine, or tunnel) are aboveground storage tanks if the tanks are situated upon or above the surface of the floor.
- 1.6. Reference Standards -- The industry standards listed serve, in part, as the basis for the standards enacted under this Rule.
(11 Stds are listed)



2. Definitions

- 2.1. The definitions contained in W. Va. Code § 22-30-3 apply to this Rule (16 definitions)
- In addition there are 73 definitions included in this Rule



- 2.3. “Aboveground storage tank system” means an aboveground storage tank as defined by W. Va. Code § 22-30-3(1), its piping, and all its ancillary components, including dispensing systems, spill containment devices, overfill protection devices, secondary containment systems, and any associated release detection equipment.



2.35. “Level 1 AST” means

ASTs with the potential for high risk to public health or the environment due to contents, size or location.

- Located in zones of critical concern, wellhead protection areas or groundwater intake area under the influence of surface water
- Contain hazardous substances
- Capacity of 50,000 gallons or more
- Any tank determined by DEP secretary to be high risk

Exceptions: Tanks containing potable water, filtered surface water, demineralized water, noncontact cooling water or water stored for fire or emergency purposes, food or food-grade materials, or hazardous waste tanks subject to 40 C.F.R. § 264.

- 2.36. “Level 2 AST” means an AST or AST system that is considered to be low risk based upon location with respect to water intakes and populated areas. Additionally, a Level 2 AST or AST system is an AST that is not defined as a Level 1 or Level 3 AST system.
- 2.37. “Level 3 AST” means an AST or AST system that contains potable water, filtered surface water, demineralized water, noncontact cooling water, or water stored for fire or emergency purposes, food or food grade materials or hazardous waste tanks subject to regulation under 40C.F.R. §264.



3. Registration

- 3.1. Registration Requirements --Every owner of an AST in WV shall register each AST, regardless of its operational state. (10-1-14)
- 3.1.c. All aboveground storage tanks placed into service on or after October 1, 2014 shall be registered prior to being placed into service.
- 3.1.c.1. After October 1, 2014, it is unlawful for any owner or operator to operate an AST that has not been registered or for which the applicable registration fee has not been paid



3.1.d. Amended registrations shall be made for the following:

- 3.1.d.1. Removal or relocation of an AST
- 3.1.d.2. Change in operating status
- 3.1.d.3. Change in use of a storage tank to or from regulated to non-regulated status
- 3.1.d.4. Change in substance
- 3.1.d.5. Change of ownership or operator
- 3.1.d.6. Change of contact information



- 3.2. The owner of the AST shall renew its registration annually by paying the registration fees in accordance with the Aboveground Storage Tank Fee Assessment Rule.
- 3.6. Notification of Change in Service or Status must be submitted to the Department, at least thirty (30) days prior to beginning the change in service or status.



4. AST Certificates to Operate

- 4.1.a. The owner's registration form shall also serve as a basis for an AST Certificate to Operate application.
- 4.1.a.1. An AST Certificate to Operate may be issued solely on the basis of the registration form.
- 4.1.a.2. The Secretary may request supplemental information as needed



- 4.1.b. Failure to register a tank, failure to obtain a Certificate to Operate, or revocation of a Certificate to Operate does not relieve a tank owner or operator from the obligation to fully comply with all applicable requirements of the AST Act and its Rules.



4.1.c. AST Certificates to Operate will be renewed automatically on an annual basis provided:

- 4.1.c.1. Tank registration fees are paid
- 4.1.c.2. Financial Responsibility is maintained
- 4.1.c.3. The requirements of the AST Act and all Rules promulgated thereunder are complied with



4.2 Siting Requirements for New ASTs

- 4.2.a. ASTs must be positioned to meet all applicable requirements of the local and the State Fire Marshal for flammable and combustible substances.
- 4.2.b. ASTs must have a minimum spacing of not less than three (3) feet between tanks, and between tanks and dike walls.
- 4.2.c. ASTs shall not be located above underground utilities or directly beneath overhead power lines.



4.2.d. The Secretary may reject an application for ASTs at new facilities if:

- 4.2.d.1. The new facility is located within a current zone of critical concern unless a PE certifies that sufficient controls are present to protect water supplies;
- 4.2.d.2. The new facility is located at a site with karst topography, unless a PE certifies that surface or subsurface conditions will not result in excessive tank system settlement or unstable support of the proposed AST system.
- 4.2.d.3. The Secretary determines that the installation of the AST system poses a threat to public health and the environment.



12. Delivery Prohibition

- 12.1. Product deliverers/transporters, shall not deliver product into an AST, unless the owner or operator provides proof of compliance with the following requirements:
 - 12.1.a. Registration and payment of annual fee; and
 - 12.1.b. Financial Responsibility



12.2. Ineligibility to Receive Product for Compliance Related Violations (Secretaries determination)

- 12.2.a.1. Leak detection, Section 10.3
- 12.2.a.2. Corrosion protection, Section 9
- 12.2.a.3. Secondary containment, Section 10.2
- 12.2.a.4. Financial responsibility, Section 13
- 12.2.a.5. Spill prevention and overflow prevention, Section 10.1



- 12.2.h. Any product deliverer, owner, or operator who violates the provisions of this section is subject to enforcement action.



Questions?



AST Program

Applies to tanks that hold at least 1,320 gallons of liquid, are 90 percent or more aboveground and that are at a fixed location for 60 days or more.

Deadlines:

- Oct. 1 – Tanks must be registered
- Dec. 3 – Spill prevention response plans must be submitted
- Jan. 1 – Tank inspection certifications are due



Level 1 ASTs-Deadlines

Tank Certifications: Subject to the SB373 requirement that the certification be submitted by **Jan. 1** after the inspection is performed by ...

- a qualified registered professional engineer,
- a qualified person working under the direct supervision of a professional engineer,
- or an individual certified to perform tank inspections by the American Petroleum Institute (API) or Steel Tank Institute

Spill Prevention Response Plans: Must be submitted by the **Dec. 3** deadline and must meet all requirements of SB373.



Level 2 & Level 3 ASTs-Deadlines

Tank Certifications: Both Level 2 and Level 3 ASTs can be inspected and certified by any of the people listed for Level 1 ASTs – OR – by owners or operators. The certification for these tanks must still be submitted by **Jan. 1**.

Spill Prevention Response Plans: Due **Dec. 3** for Level 2 ASTs, level 2 AST's are permitted to submit other applicable plans such as SPCC or GPP in place or a SPRP. Many level 3 ASTs are required to submit Emergency Response Plans to the EPA as required by the Public Health Security and Bioterrorism Preparedness and Response Act of 2002. The submission of that plan may be in lieu of a SPRPs.

