WEST VIRGINIA CODE: §22-30-5

§22-30-5. Aboveground Storage Tank Regulatory Program.

(a) The secretary shall develop a regulatory program for new and existing regulated aboveground storage tanks and secondary containment that takes into account the size, location and contents of the tanks and sets out tiered requirements for regulated tanks. Level 1 tanks shall be regulated to a higher standard of tank and secondary containment integrity based upon their proximity to a public surface water supply source or public surface water influenced groundwater supply source.

(b) The rules promulgated by the secretary for regulated tanks and secondary containment shall, at a minimum, include the following:

(1) Criteria for the design, construction and maintenance of aboveground storage tanks;

(2) Criteria for the design, construction, maintenance or methods of secondary containment;

(3) Criteria for the design, operation, maintenance or methods of leak detection. Acceptable leak detection shall include, but not be limited to, visual inspections, an inventory control system together with tank testing, or a comparable system or method designed to identify leaks from aboveground storage tanks;

(4) Requirements for recordkeeping;

(5) Requirements for the development of maintenance and corrosion prevention plans;

(6) Requirements for the closure of aboveground storage tanks and any remediation necessary as a result of release from the aboveground storage tank;

(7) The assessment of a registration fee, and annual operation and response fees as determined by the secretary;

(8) Certificate to operate issuance only after the application and any other supporting documents have been submitted, reviewed and approved by the secretary;

(9) A procedure for the administrative resolution of violations including the assessment of administrative civil penalties.

(c) For those entities that are otherwise regulated under those provisions of this chapter that necessitate individual, site-specific permits or plans that require appropriate containment and diversionary structures or equipment to prevent discharged or released materials from reaching the waters of the state, the secretary may amend those permits or plans associated with those permits or both at the request of the permittee to include conditions pertaining to the management and control of regulated tanks, so long as those conditions in the opinion of

WV Legislature

the secretary are sufficient in combination with practices and protections already in place to protect the waters of the state. In its application for permit or plan modification, the permittee shall advise the secretary whether, how and to what extent the permittee adheres to other standards or plans with regard to tank and secondary containment integrity, inspection and spill prevention and response, including, without limitation, API 653 standards for Tank Inspection, Repair, Alteration and Reconstruction or STI SP001 Standards for Aboveground Storage Tanks or the requirements of the federal spill prevention and countermeasures program governed by 40 C. F. R. Part 112. Inclusion of ASTs in amended permits or plans would not relieve the owner or operator's responsibility to pay registration, certificate to operate or Protect Our Water Fund fees. Specifically, the permits or plans the secretary may amend include:

(1) Permits issued pursuant to the Surface Coal Mining and Reclamation Act, article three of this chapter;

(2) Permits issued by the Office of Oil and Gas pursuant to article six or six-a of this chapter or spill pollution and control measures plans required under 35 C. S. R. 1;

(3) Individual permits issued pursuant to the National Pollution Discharge Elimination System, article eleven of this chapter;

(4) Permits issued pursuant to the Solid Waste Management Act, article fifteen of this chapter; and

(5) Groundwater protection plans issued pursuant to article twelve of this chapter.

(d) Any entity whose permit or plan modification or amendment relating to tank integrity and secondary containment design operation and maintenance is approved by the secretary and so maintained shall be deemed to be compliant with this article and entitles the entity to a certificate to operate so long as the registration requirements of section four of this article are also met.

(e) The manner and time frames for implementation of the regulatory program required by this section shall be established by the secretary through the proposal of emergency or legislative rules in accordance with the provisions of article three, chapter twenty-nine-a of this code.

WV Legislature