WEST VIRGINIA CODE: §22-30-9

§22-30-9. Spill prevention and response plan.

(a) Within one hundred eighty days of the effective date of this article, each owner or operator of a regulated aboveground storage tank shall submit to the secretary a spill prevention and response plan for all regulated aboveground storage tanks at a facility or location. Owners and operators of regulated aboveground storage tanks shall file updated plans required to be submitted by this section no less frequently than every five years. The spill prevention and response plan shall at a minimum:

(1) Describe the activity that occurs at the site and provide an inventory of the types and amounts of fluids stored in regulated aboveground storage tanks at the facility. The plan shall provide a reference to the location of the safety data sheets (SDS) required by the Occupational Safety and Health Administration for all fluids stored in regulated aboveground storage tanks at the facility;

(2) Identify all facility-related positions with duties and responsibilities for overseeing the implementation of the facility's plan and list all facility emergency coordinators;

(3) Describe a preventive maintenance program, monitoring and inspection procedures, and employee training programs;

(4) Describe the general release response procedures that the aboveground storage tank facility and contract emergency personnel shall employ upon the occurrence of any release;

(5) Provide contact information for the state, county and municipal emergency management agencies and the nearest downstream public water supply intake, and designate the person or persons to be notified in the event of a release from a regulated aboveground storage tank that could reach waters of the state; and

(6) Provide the secretary with any other information he or she may reasonably request.

(b) Each owner of a regulated aboveground storage tank with an approved spill prevention and response plan shall submit to the secretary a revised plan or addendum to the plan in accordance with the requirements of this article if any of the following occur:

(1) There is a substantial modification in design, construction, operation or maintenance of any regulated aboveground storage tank, secondary containment or leak detection equipment or methods, or there are other circumstances that increase the potential for fires, explosions or releases of fluids;

(2) There is a substantial modification in emergency equipment at the facility;

(3) There are substantial changes in emergency response protocols at the aboveground

WV Legislature

storage tank facility;

(4) The plan fails in an emergency;

(5) The removal or the addition of any regulated aboveground storage tank; or

(6) Other circumstances occur for which the secretary requests an update.

(c) The secretary shall approve the spill prevention and response plan or reject the plan and require modifications as may be necessary and reasonable to assure the protection of the source water of a public water system from a release of fluids from a regulated aboveground storage tank. If rejected, the owner or operator of the regulated aboveground storage tank shall submit a revised plan to the secretary for approval within thirty days of receipt of notification of the secretary's decision. Failure to comply with a plan approved by the secretary pursuant to this section is a violation of this article.

(d) In lieu of a plan developed in accordance with the requirements of this section, the owner or operator of a regulated aboveground storage tank may certify to the secretary that it is subject to: (1) A groundwater protection plan approved by the secretary; or (2) a spill prevention control and countermeasures plan that complies the requirements of 40 C. F. R. Part 112. Such plans shall be made available for review or submitted to the secretary upon request.

(e) Nothing contained in this section relieves the owner or operator of an aboveground storage tank from his or her obligation to report any release in accordance with the provisions of this chapter and the rules promulgated thereunder.

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