

Legislative & Regulatory Update



Mine Drainage Task Force Symposium

Jason Bostic

West Virginia Coal Association

March 25, 2014

Overview

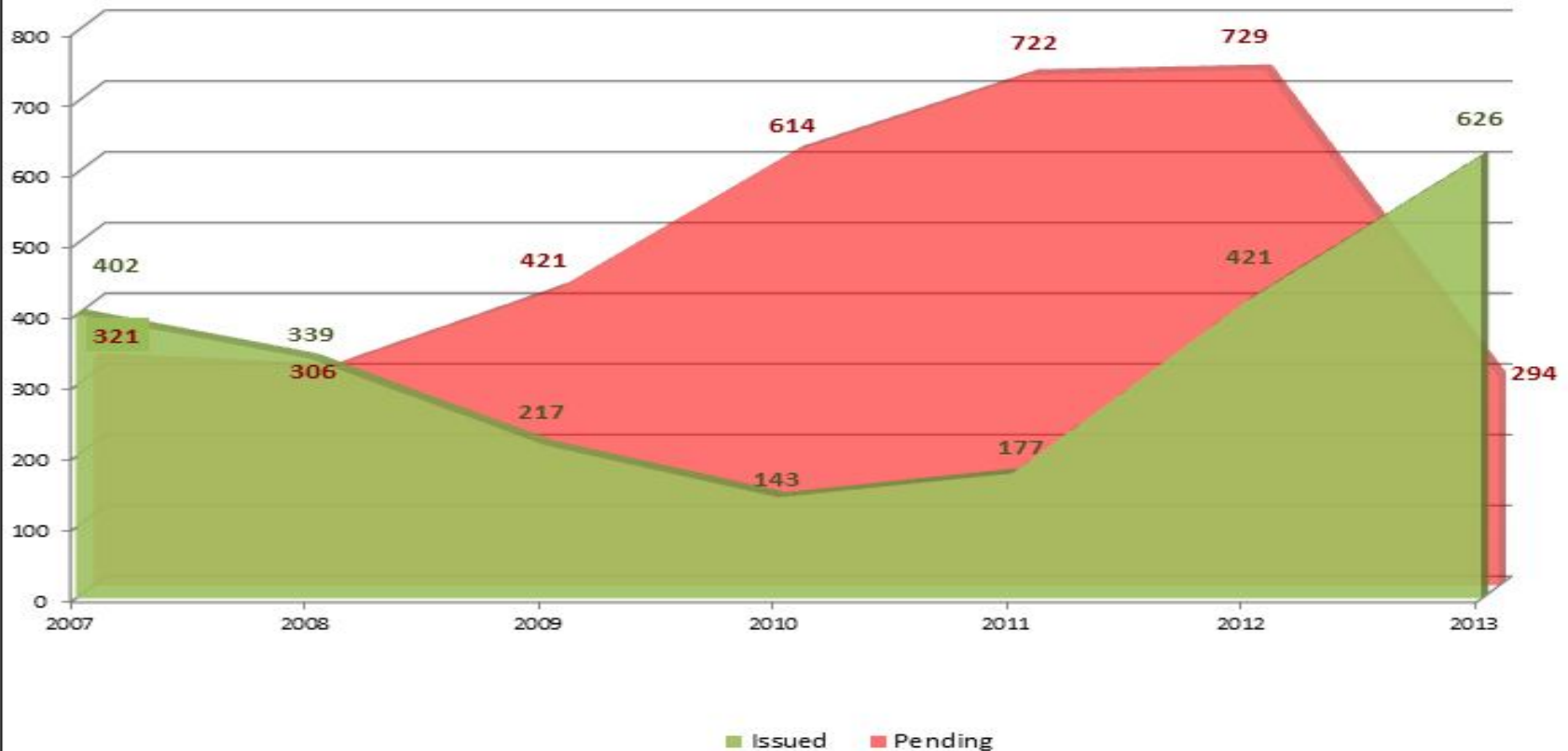


- Regulatory Update
- Legislature and the Coal Industry
- Outlook

Regulatory Update

NPDES Permitting

Coal Mining- Related NPDES Permits
Pending vs. Issued
2007-2013



2014 Regular Session of the Legislature



January 8-March 8, 2014

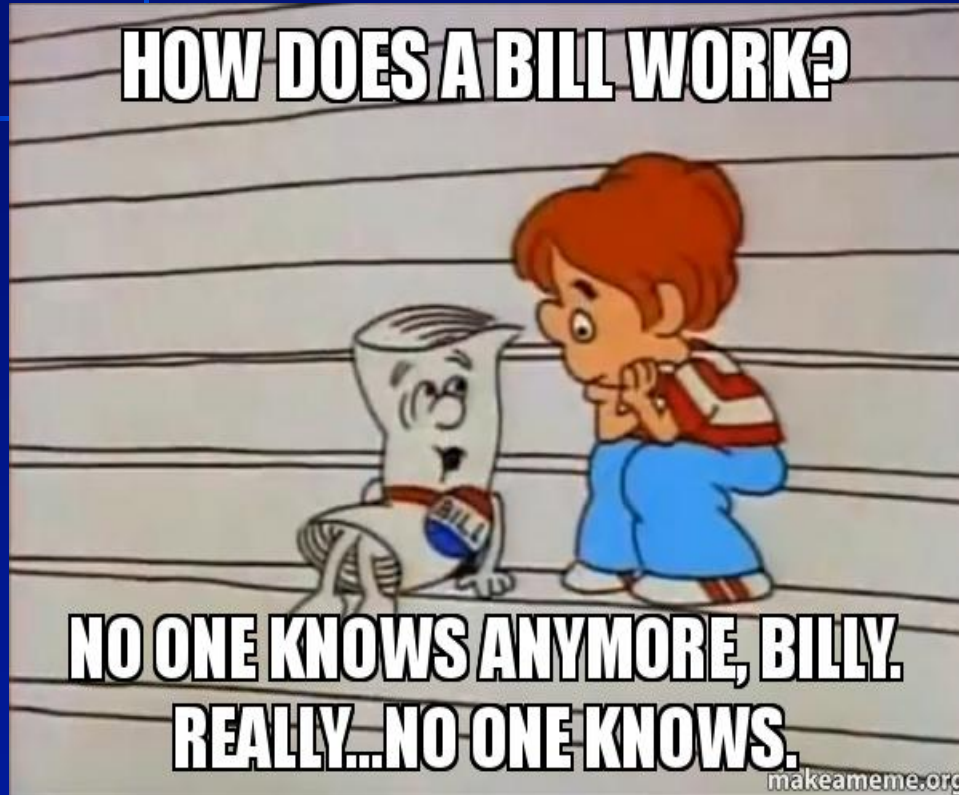
60-Day Regular Session

1,876 Bills Introduced

201 Bills Passed / Awaiting Action by Governor



2014 Regular Session of the Legislature



182 Bills Related to
Coal Mining in Some
Way

2014 Regular Session of the Legislature

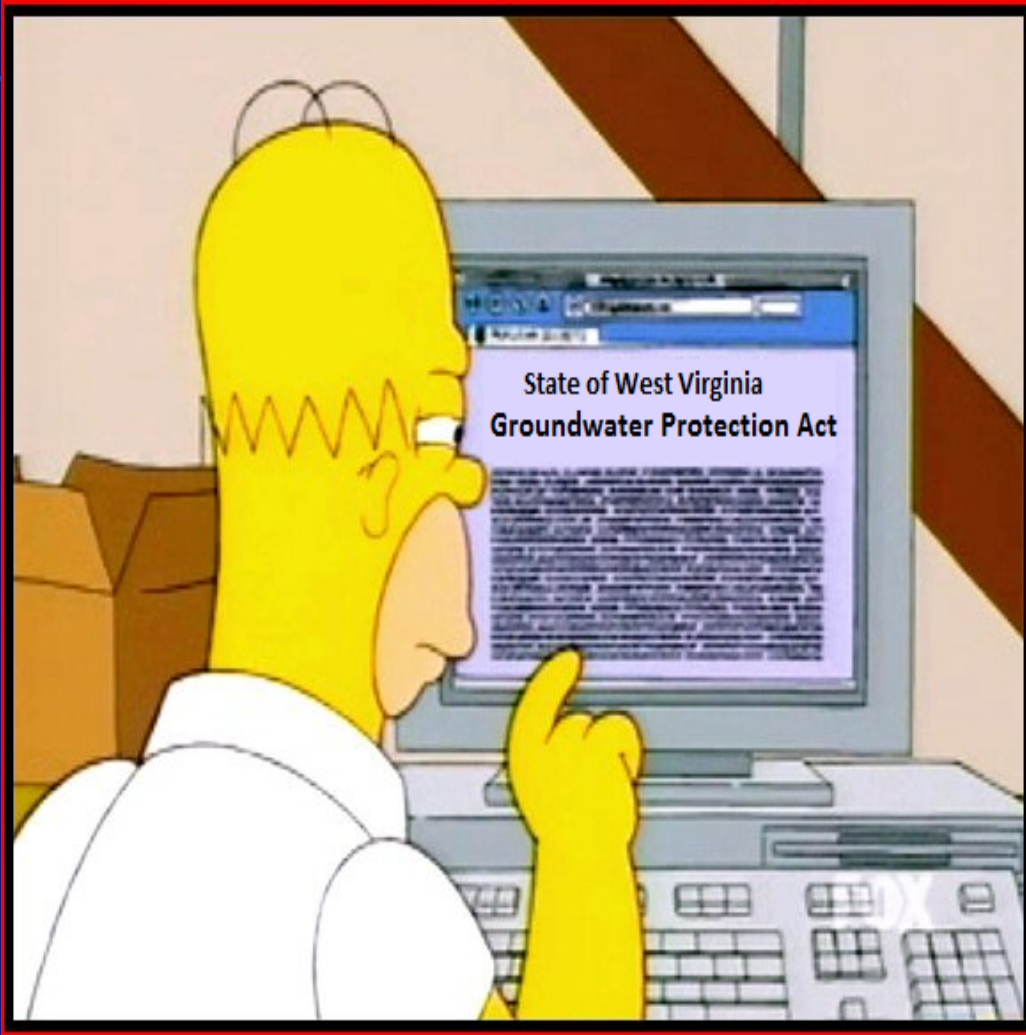
In One Word:
Interesting



**52 Democrats
48 Republicans
New Speaker
New Committee Chairs**

2014 Regular Session of the Legislature

Elk River Chemical Spill Dominated the Session



- 23 Bills Introduced in the Wake of the Spill
- Hearings
- Governor's Proposal (SB 373)

Very Little Discussion or Consideration of ***EXISTING*** Statues, Regulations and Guidance

A Little Comparison...

**-25,000 Complete and Partial
State Environmental
Inspections at West Virginia
Coal Mines**

**-“Target” GPA Inspections at
91 Prep Plants Completed
within 3 Days**



west virginia department of environmental protection

Division of Water and Waste Management
601 57th Street SE
Charleston, WV 25304
Phone: (304) 926-0495
Fax: (304) 926-0463

Earl Ray Tomblin, Governor
Randy C. Huffman, Cabinet Secretary
www.dep.wv.gov

**CONSENT ORDER
ISSUED UNDER THE
HAZARDOUS WASTE MANAGEMENT ACT
WEST VIRGINIA CODE, CHAPTER 22, ARTICLE 18**

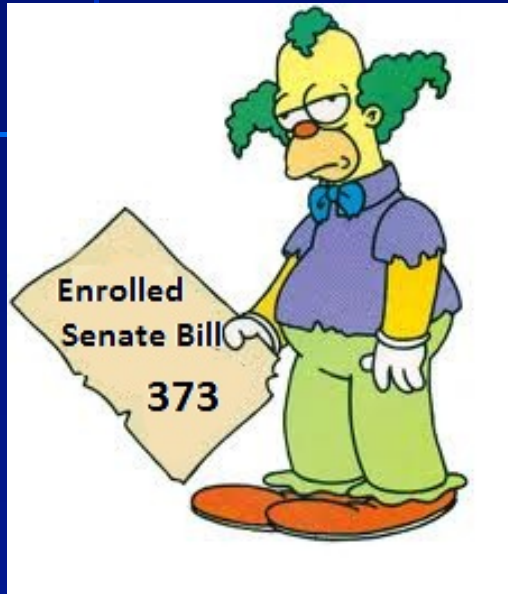
TO: WVDNR - Cass Scenic Railroad State Park
Brad Leslie, WVDNR-PRS-PE&M
324 4th Avenue
South Charleston, WV 25303-1228

DATE: February 6, 2014

ORDER NO.: HW-14-004



Politics– Senate Bill 373



Introduced Jan. 16

Passed Senate Jan. 28

House H&HR Committee

(Three Hearings- 14 Amendments)

House Judiciary Committee

(Four Hearings-35 Amendments-Nine Hour Debate)

House Finance Committee

(Four Amendments)

Floor of the House

(50 Amendments-Five Hours of Debate)

Passed House March 5

Concurred by the Senate March 8



Specifics– Senate Bill 373

- **“Tanks” >1,320 gallons containing any substance but clean water**
- **Requires registration of ALL tanks (no exceptions)**
- **Creates new regulatory program for tanks:**
 - minimum construction, inspection, maintenance, secondary containment standards**
 - Requires Spill Prevention Control & Countermeasures Plans**
 - Requires reporting of “releases”**
- **Allows WV DEP to exclude by rule tanks adequately regulated under an existing state / federal program**
- **Exempts tanks for which SPCCs are required under federal regulations (petroleum)**
- **Requires WV DEP to compile inventory of significant sources of potential contamination with Zones of Critical Concern of public water systems**
- **Allows agency to require additional permitting within the ZCC**
- **Prohibits the use of General NPDES permits within a ZCC**
- **Grants the Bureau for Public Health the right to enter and inspect a facility within a ZCC**

Specifics— Legislature & Coal Water Quality Standards

WEST VIRGINIA LEGISLATURE

EIGHTY-FIRST LEGISLATURE

REGULAR SESSION, 2014

—●—
E N R O L L E D

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 133

(SENATOR SNYDER, *ORIGINAL SPONSOR*)

[PASSED MARCH 8, 2014; IN EFFECT FROM PASSAGE.]

•Revision to State WQStds for Beryllium

0.007 ug/L to 4 ug/L

(Already Approved by EPA)

•Hardness Based Aluminum Standard

-10 Days In the Session, EPA Sends Letter
Raising Concerns— Aluminum and Mussels

-Joint Decision Made to Remove the Aluminum
Criteria from Rule Package

-Resubmit in the Summer

Specifics— Legislature & Coal State Mitigation Rule

WEST VIRGINIA LEGISLATURE

EIGHTY-FIRST LEGISLATURE

REGULAR SESSION, 2014

—●—
E N R O L L E D

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 133

(SENATOR SNYDER, *ORIGINAL SPONSOR*)

[PASSED MARCH 8, 2014; IN EFFECT FROM PASSAGE.]

- Requires State to Accept Federal Mitigation as Satisfying State Mitigation Requirements
- (Finally) Mirrors Statutory Changes Made by the Legislature 10 Years Ago
- Increases Permit Fee

Specifics— Legislature & Coal

Special Reclamation Fund Tax Credit

WEST VIRGINIA LEGISLATURE
EIGHTY-FIRST LEGISLATURE
REGULAR SESSION, 2014

—●—
ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 167

(SENATOR SNYDER, *ORIGINAL SPONSOR*)

[PASSED MARCH 8, 2014; IN EFFECT FROM PASSAGE.]

- Tax Rule that Implements the Provisions of Legislation Passed Last Year
- Allows Active Mine Operator to Claim “Rebate” On Payment of Special Reclamation Fund Tax for Voluntary Reclamation of a Bond Forfeiture Site

Proposed Constitutional Amendment **Water Belongs to the State** **Then Everyone Else (Maybe)**

WEST VIRGINIA HOUSE OF DELEGATES

Second Regular Session

SJR 12

Proposing constitutional amendment
designated Protecting and
Conserving West Virginia's Water
Resources for the Use and Benefit
of its Citizens Amendment

RCS# 445

3/08/2014

7:21 PM

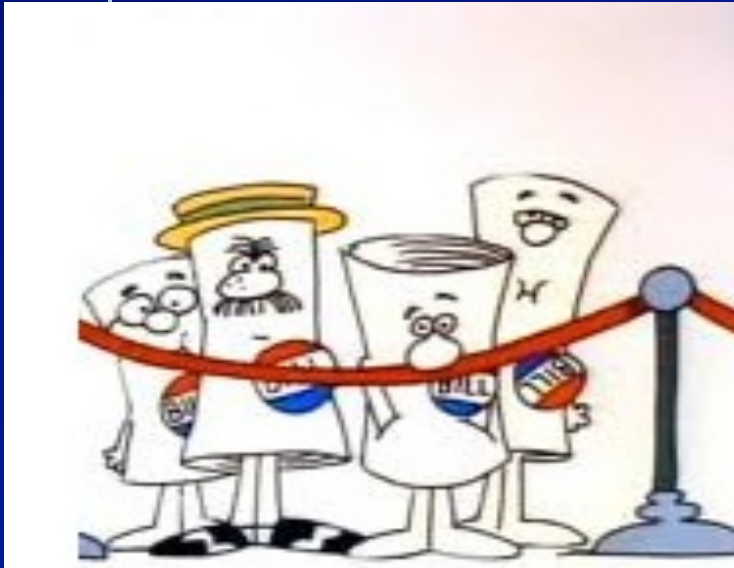
ADOPTION

YEAS: 43 NAYS: 54 NOT VOTING: 3 REJECTED

- If Passed, Would Have Placed a Constitutional Amendment on the Ballot
- Spill Reaction
- Passed the Senate Unanimously
- House Rejects on the Last Night of the Session**

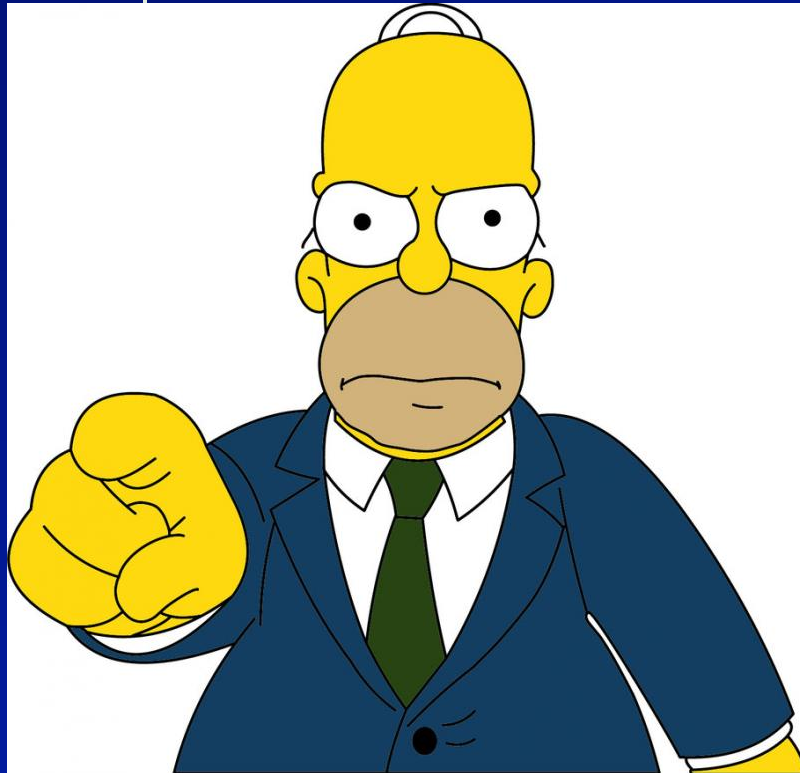
Specifics— Legislature & Coal

What Didn't Make It



- State Tree Nursery Bill
- Outlaw MCHM Storage, Use in W.Va.
- Another Try at Permit Shield
- Impoundments / Coal Slurry
- Lots of Bad Tank Bills
- Lots of Bad Public Water Supply Bills

Other Stuff: *GHG NSPS*



WE NEED YOUR HELP

- Comments on NSPS for New Coal Fired Plants Due in May
- EPA will Release NSPS for Existing Plants in June (?)
- File Comments (Please)

Other Stuff



- SBZ Rule (Yes, Really)
- Selenium (HB 2579)
- TDNs (Railroads???)
- Aluminum
- Litigation (Appeals)
 - Spruce Veto
 - Conductivity Guidance
 - NSPS / GHG / Mobile Sources

Outlook



- Senate Bill 373
- Continue Efforts-
NPDES
- Sharpen Skills &
Understanding

- Coal Industry's Fate
Increasingly Dependant
on Politics
- Interesting Election
Cycle in W.Va.
-Local & National





Thank You!