

ABOVEGROUND STORAGE TANK ACT

SB's 373 & 423

Protecting the environment depends on us.



Division of Water and Waste Management

Scott Mandirola 4/01/2015

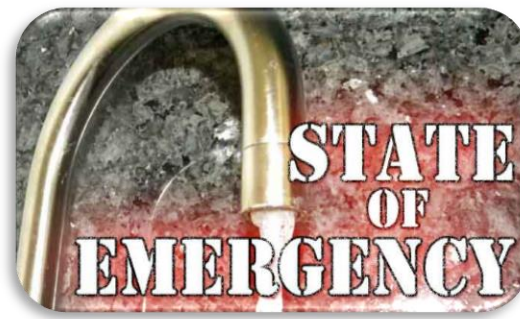
The beginning...



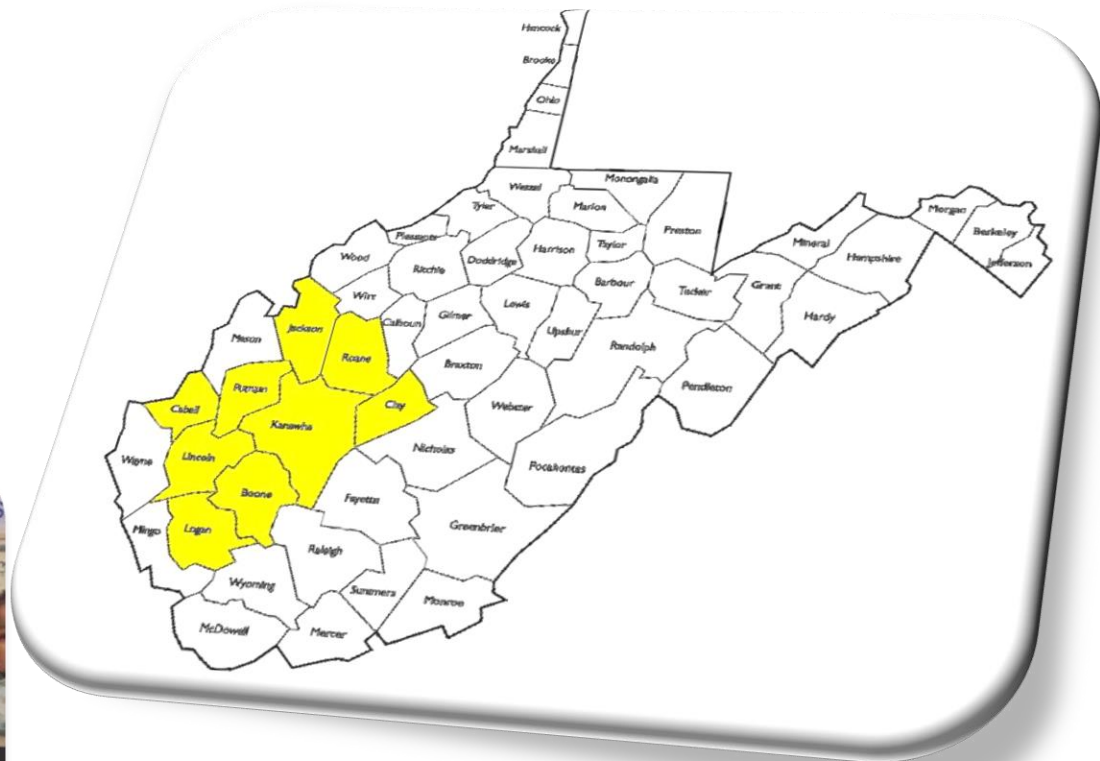
- January 9th, 2014
 - DEP Investigates citizen reports of licorice smell
 - Freedom Industries reports spill of 7500 gallons of 4-methylcyclohexane methanol into the Elk River



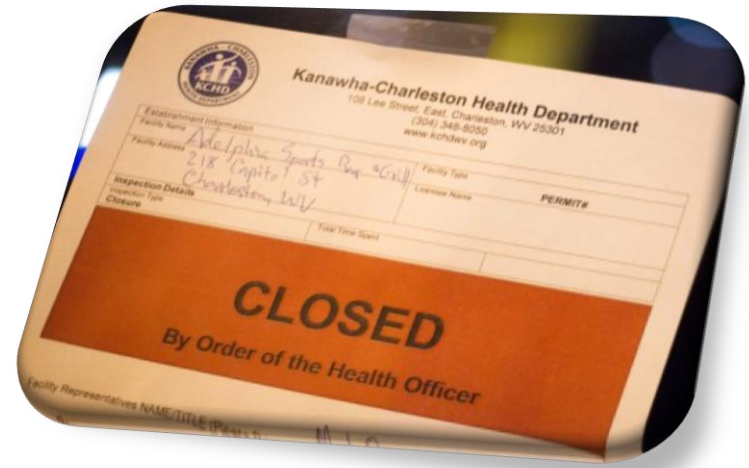
WV Water Crisis



- January 9th, 2014
- Governor declares state of emergency for 9 affected counties
 - Kanawha
 - Putnam
 - Boone
 - Jackson
 - Lincoln
 - Roane
 - Clay
 - Logan
 - Cabell



WV Water Crisis



- January 9th, 2014
- **DO NOT USE BAN** Issued for more than 300,000 West Virginia American Water customers
- Schools and restaurants all ordered closed
- Legislators went home



The aftermath...


- SB 373 passed unanimously, Article 30 and 31
- Effective 6/6/2014
- Website developed
- Tank registration
- Done via ESS system
- Much guidance written

 west virginia department of environmental protection
- Promoting a Healthy Environment

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Aboveground Storage Tanks (ASTs)



Overview of the Aboveground Storage Tank Act and Its Implementation

Senate Bill 373, containing the Aboveground Storage Tank Act §22-30 and the Public Water Supply Protection Act §22-31 was approved by the 2014 Legislature and signed into law by Governor Earl Ray Tomblin on April 1, 2014. The law officially took effect on June 6, 2014, 90 days from its date of passage on March 8, 2014. The bill requires an inventory and registration of aboveground storage tanks. The bill also requires development of a variety of aboveground storage tank regulations for consideration in the 2015 Legislative session.

DEP is still accepting online AST registrations via the Electronic Submission System (ESS). The registration process includes questions about tank size, contents, construction, age and location. To assist in the registration process, there is a comprehensive AST Registration User's Guide available at the link below or on the ESS signup/login page that provides screen-by-screen instructions. DEP employees also are on hand to assist tank owners who are subject to the requirements of a newly enacted law intended to help prevent future leaks such as the one on Jan. 9 that contaminated the drinking water of approximately 300,000 West Virginia residents.

[See if you need to register your AST](#)

[See sample of electronic registration form](#)

[See the Registration User's Guide](#)

[Sign up for a login ID or log in to start registering](#)

On Oct. 1, 2014, DEP hosted a working meeting to discuss the rough draft of the AST Emergency Rule. This meeting allowed DEP to receive input and ideas on ways to ensure the rule fulfills its intended purpose.

Featured Links

- Enrolled Final Version Senate Bill No. 373
- Industry Standards, Organizations, & Other Resources
- Interim Spill Prevention Response Plan Guidance
- Interim Tank Certification Guidance
- Interim Tank Closure Guidance
- Required Signage
- Frequently Asked Questions
- Definitions
- Public Input Received for AST Rulemaking
- AST Contacts
- Hazardous Substances as Defined in Section 101(14) of CERCLA
- Leaking AST

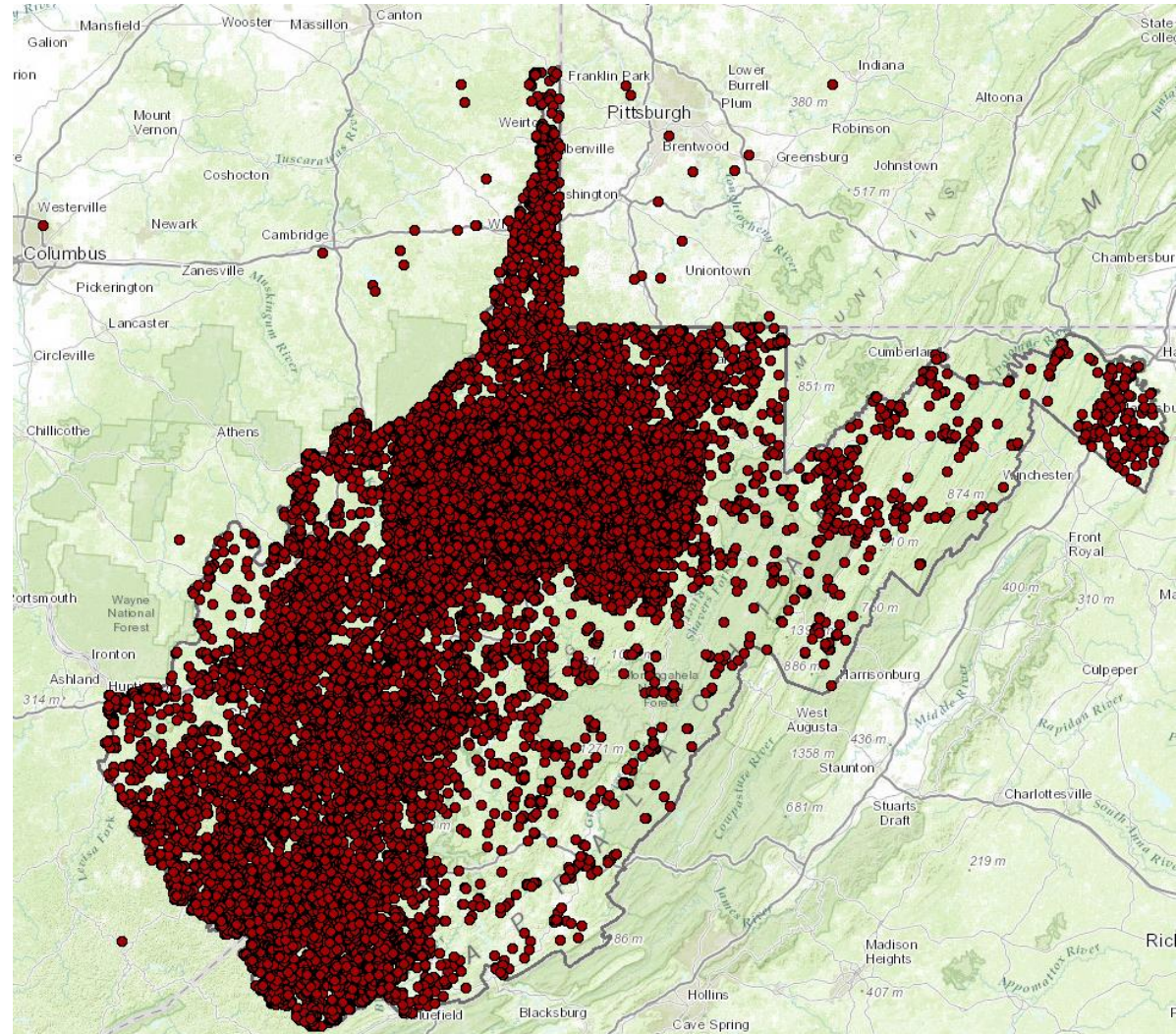
Learn more about the Final 47 CSR 62 Interpretive Rule filed on Oct. 21, 2014, after the comment period. See comments and responses; the public hearing transcript; and the final rule here.

Important Dates

- June 6, 2014 - Statute becomes effective
- June 10, 2014 - Registration period opening
- Sept. 1, 2014 - NPDES General Permit holders having ASTs within the zone of critical concern must have applied for an NPDES Individual Permit (W.Va. Code §22-31-9)
- Oct. 1, 2014 - All tanks must be registered (W.Va. Code §22-30-4)
- Dec. 3, 2014 - Spill Prevention Response Plan Submittals due (W.Va. Code §22-30-9)
- Jan. 1, 2015 - Inspections and certifications of all ASTs by a qualified person due (W.Va. Code §22-30-6)

Registrations

- Due 10/1/2014
- Still trickling in...



Registrations – fun facts

- **51,201 tanks as of 3/18/15**

	Cas Number	Top 10 Substances	Count
1	008002-05-9	Crude oil	13121
2	8028-77-1	Brine, oil and gas	10381
3	7647-14-5	Brine	5338
4	007732-18-5	Water	4767
5	--	Brine	2529
6	68476-34-6	Diesel fuel	1815
7	068919-39-1	Natural gas condensates	974
8	OTHER	BRINE, CRUDE OIL	854
9	007647-14-5	Sodium chloride (NaCl)	804
10	008012-95-1	Mineral oils, highly-refined	751

Kanawha	8660
Lewis	4151
Wyoming	3187
Harrison	2520
Doddridge	2369
Ritchie	2329
Upshur	1903
Jackson	1198
McDowell	1135
Marshall	1133

Biggest Tanks

Size	Substance	County
9,259,782	Natural gas condensates	Brooke
6,421,170	Fuel oil, no. 2	Wayne
6,355,944	Fuel oil, no. 2	Wayne
6,233,388	Natural gas condensates	Brooke
6,226,878	Natural gas condensates	Brooke

Oldest Tanks

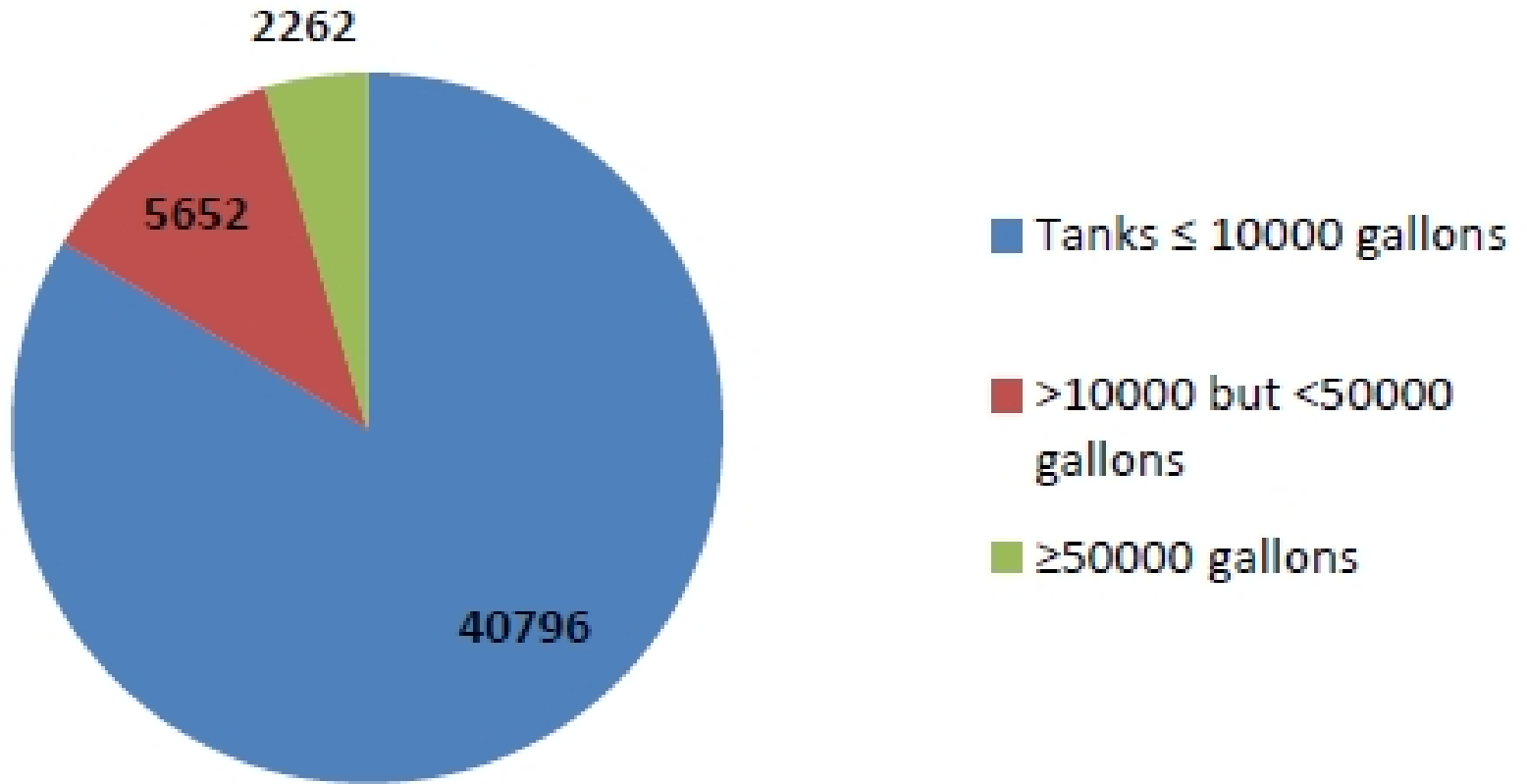
Year Constructed	Size	County	Substance
1888	4200.00	Harrison	Crude oil
1891	4200.00	Doddridge	Crude oil
1895	4200.00	Doddridge	Crude oil
1895	4200.00	Doddridge	Crude oil
1895	4200.00	Doddridge	Crude oil

	County	Submitted Tanks in ZCC	Submitted Tanks in WPA	Year Built Avg.	Capacity Gallons Avg.	Capacity Gallons Max.
1	Marshall	509	331	1992	75,468	2,000,000
2	Hancock	272	16	1982	255,195	5,040,000
3	Brooke	251	57	1981	212,903	9,259,782
4	Logan	249	0	2004	10,297	250,000
5	Berkeley	140	57	1999	145,901	3,500,000
6	Raleigh	124	60	1995	37,545	2,000,000
7	Kanawha	118	2	1990	12,504	200,000
8	Mingo	102	8	1999	19,406	500,000
9	Lewis	98	1	1993	10,017	500,000
10	Wyoming	96	61	2002	9,837	220,000



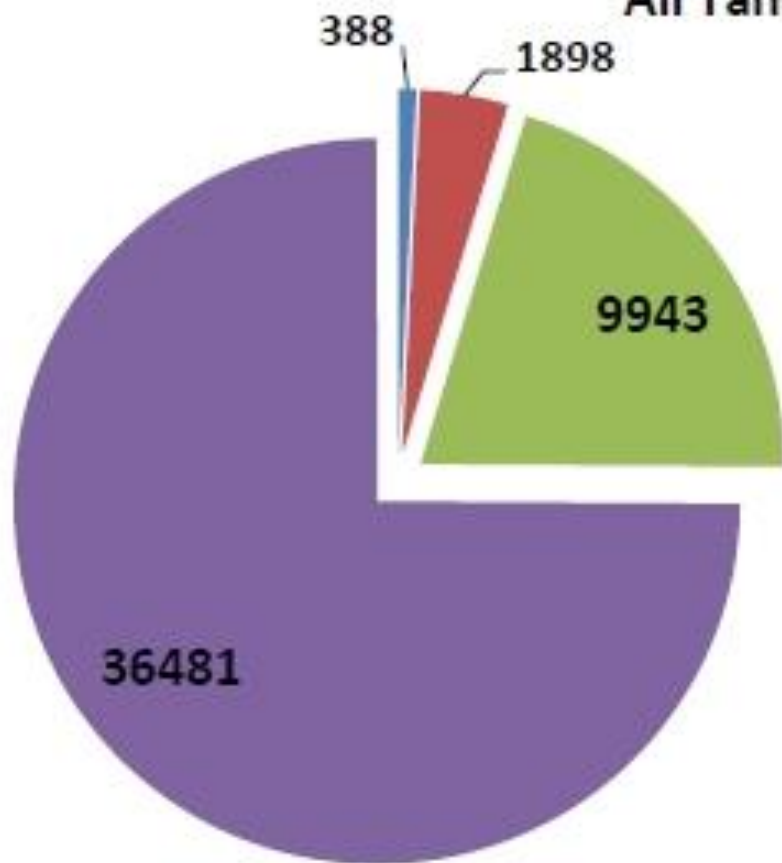
Tank Capacity

All Tanks



Tank Ages

All Tanks



- Tanks >75 years old
- Tank between 50 to 75 years old
- Tanks between 30 to 49 years old
- Tanks < 30 years old

SB 423

- **Greatly relaxed regulatory bill introduced**
- **Committee substitute passed Senate Judiciary after several negotiating sessions**
- **Senate approval**
- **Then public hearing in House**
- **House Judiciary, 1 amendment**
- **House Floor debate, 1 amendment**
- **Back to Senate for concurrence**
- **Not Signed – copy came out on website 3/18/15**

SB 423 highlights vs SB373

22-30-3 Definitions

- **Definition, AST still 1,320 gallons except:**
 - **Water tanks, mobile tanks 365 vs 60days, shipping containers, boats, pools, process vessels, food, empty tanks in inventory, pipelines, transformers**
- **First point of isolation defined**
- **Process vessel - biological, chemical or physical change**
- **Level 1 tanks - ZCC, >50,000 gal, listed hazardous substance**
- **Level 2 tanks - Zone of Peripheral Concern (ZPC)**

- **Regulated AST – level 1 or 2 tank**
- **Release – into water of the state or out of secondary containment**
- **Zone of Peripheral Concern (ZPC) - 10 hour travel time to intake (area outside the ZCC)**

22-30-4 inventory and registration

- **All tanks must be register by July 1, 2015**
- **Allows for initial registration fees prior to rulemaking**
 - **\$40 for tanks that have registered**
 - **\$20 new tanks installed after July 1, 2015**

22-30-5 AST Regulatory Program

- **Removed specifics, gave discretion to Secretary**
- **Tiered regulatory approach for “regulated” ASTs**
- **Certificate to Operate, annual operation fee**
- **Ability to include tank requirements in existing permits**
 - **Article 3, 6, 6a, individual NPDES, GPP**
- **Regulated tanks still pay annual fee**

22-30-6 Evaluation & Certification

- Each “Regulated” AST must be inspected
- Deadline, 180 days after rules established
- Frequency of subsequent inspections and certs establish by Secretary in legislative rule

22-30-9 Spill Prevention and Response Plans

- **Regulated tanks must submit 180 days after effective date of legislation**
- **Updated every 5 years vs 3**
- **In lieu of plan, owner may certify they are subject to a GPP or SPCC**

22-30-10 Notice to Local Governments and Water Companies

- **Owner or operator of an regulated AST must supply information on the type and quantity of material stored to the water company, subject to trade secrets or restricted information by Homeland Security as per section 14 of this article**

22-30-13 Protect Our Waters Fund

- **\$1 million cap on the fund, vary fees to maintain it**

22-30-14 Public access to information

- **Except trade secrets or restricted information by Homeland Security**
- **Release subject to \$5,000 fine**
- **List of potential sources of significant contamination developed and maintained by BPH working with DEP**

22-30-15 Inspection, Monitoring and Testing

- **DEP inspections for all level 1 tanks every 3 years (was annual in ZCC only)**

22-30-25 Waiving Requirements

- **Much removed, new definition of AST**
- **Secretary may still designate additional categories of AST for which requirements can be waived**

Largely unchanged

22-30-7 Financial Responsibility

22-30-8 Corrective action

22-30-11 Required Signage

22-30-12 AST Administration Fund

22-30-16 Administrative Orders

22-30-17 Civil and Criminal Penalties

22-30-18 Appeals to EQB

- 22-30-19 Duplicative Enforcement Prohibition**
- 22-30-21 Interagency Cooperation**
- 22-30-22 Imminent and Substantial Danger**
- 22-30-24 Powers and Duties of the Secretary**
- 22-30-26 Secretary's authority to require individual NPDES permits within a ZCC**

Other SB 423 highlights

- **Most of Article 31 eliminated**
- **DHHR is Chair of Public Water Supply Study Commission**

SB 423 – Likely Next Steps

- **Revise and Re-notice §47CSR63 Tank Regulations**
- **Revise and Re-notice §47CSR64 Fee Regulations**
- **Notice for Comment Civil Administrative Penalty Regulations §47CSR65**

Questions