



2017 WV Legislative Session Briefing

SOOGA Spring Meeting

Marietta, Ohio

April 20, 2017



Independent Oil and Gas Association of West Virginia, Inc.

- Formed in 1959
- Over 600 members
- Serve ALL oil and gas producers: conventional and horizontal
- Serves every aspect of the industry: Exploration, Drilling, Production, Transmission, Marketing, Service Providers, and Royalty owners

Charlie Burd, Executive Director



IOGAWV's Lobbying Team

- Charlie Burd
- Marc Harman
- Phil Reale
- Jim Fealy

Executive Director, IOGAWV

Principal: Hartman, Hartman, and Mullens

Principal: Law Office of Philp A. Reale, PLLC

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2017 LEGISLATIVE SESSION DYNAMICS

- REPUBLICAN majority in both chambers:
 - 34 Senators: 22 Republicans, 12 Democrats (Shift of 4)
 - 100 Delegates 66 Republicans, 33 Democrats (Shift of 1)
 - 1 Independent (Shift of 1)

- 1,802 bills introduced:
 - Senate 694 introduced 132 passed
 - House 1,108 introduced 130 passed
 - 1,802 262

The 14.5% passage is slightly above average (240's).



A YEAR OF TERMOIL

- **\$560 million budget deficit—hours of debated in committee and two floor sessions—NO consensus on a fix**
- **Several tax funding bills—none passed**
- **Medical marijuana—hours of debate in four committees and two floor sessions**



IOGAWV's TOP 2017 LEGISLATIVE PRIORITY

- **Reform of the Aboveground Ground Storage Tank Act**
 - **Achieved with passage of HB-2811 on March 25**
 - **Signed into law on April 4, 2017**
 - **Takes affect June 23, 2017**



House Bill 2811: NON-COMPREHENSIVE Summary

- §22-30-3-1.... the following categories of devices are not subject to the provisions of this article: (m)
- Tanks having a capacity of two hundred ten barrels or less
- Containing brine water or other fluids produced in connection with hydrocarbon production activities, that **ARE NOT** located in a zone of critical concern (ZCC)



House Bill 2811: NON-COMPREHENSIVE Summary

- *Provided*, that all such devices exempted under subdivisions (m)
 - Must still meet the registration requirements
 - Must still meet the notice requirements (above public water intakes)
 - Must still meet the signage requirements



House Bill 2811:
NON-COMPREHENSIVE Summary

➤ **HB-2811**

- ABSOLUTELY **DOES NOT** APPLY TO TANKS LOCATED **INSIDE THE ZCC**
- These tanks are regulated **EXACTLY AS BEFORE** with no changes



House Bill 2811: NON-COMPREHENSIVE Summary

- **"Zone of critical concern"** for a public surface water supply source and for a public surface water influenced groundwater supply source **is a corridor along streams within a watershed that warrants detailed scrutiny due to its proximity to the surface water intake and the intake's susceptibility to potential contaminants within that corridor.** The zone of critical concern is determined using a mathematical model that accounts for stream flows, gradient and area topography. **The length of the zone of critical concern is based on a five-hour time-of-travel of water in the streams to the intake. The width of the zone of critical concern is one thousand feet measured horizontally from each bank of the principal stream and five hundred feet measured horizontally from each bank of the tributaries draining into the principal stream.**



House Bill 2811:
NON-COMPREHENSIVE Summary

REMINDER:

**If you HAVE NOT registered
your tanks—you are still
required to do so!**



House Bill 2811: NON-COMPREHENSIVE Summary

- **The WVDEP is still authorized to collect an **ANNUAL** registration fee of \$40.00 per AST placed in service **PRIOR TO JULY 1, 2015** and \$20.00 per AST placed into service on or **AFTER JULY 1, 2015**. Inflated to the CPI after July 1, 2017. (47CRS65)**
- **PLUS FINES!**



House Bill 2811: NON-COMPREHENSIVE Summary

22-30-17

- (b) **Any owner or operator** of an aboveground storage tank **who knowingly fails to register** or obtain a certificate to operate a regulated aboveground storage tank or submits false information pursuant to this article is liable for a civil penalty not to exceed **\$10,000 for each** aboveground storage tank that is not registered or for which a certificate to operate a regulated aboveground storage tank is not obtained or for which false information is submitted.
- (c) **Any owner or operator** of an aboveground storage tank who fails to comply with any requirement of this article or any standard promulgated by the secretary pursuant to this article is subject to a **civil penalty** not to exceed **\$10,000 for each day** of violation.



House Bill 2811:
NON-COMPREHENSIVE Summary

All producers who own and operate AST'S outside the ZCC, **save \$1,000'S per tank—per year!!**

HERE'S HOW.....



House Bill 2811: NON-COMPREHENSIVE Summary

- By exempting these tanks:
 - You are only subject to WVDEP Office of Oil and Gas inspectors
 - You are now free of the **corrosion** and other **inspection requirements**, estimated at \$1,000 per year—per tank;

AND...



**House Bill 2811:
NON-COMPREHENSIVE Summary**

You are no longer subject to costly “tank closure” procedures that are conservatively estimated at \$10,000 per tank site for cleaning, sampling, and engineers to develop the remediation plan, and more.



House Bill 2811: NON-COMPREHENSIVE Summary

3.5. Notification of Closure -- An owner of an AST or AST system who closes a tank shall submit to the Department an AST closure form, **at least thirty (30) days prior to beginning the permanent closure.** The Owner **must adhere to** the requirements for permanent closure as specified in **Subsection 11.4** of this Rule and as provided in permanent closure guidance documents developed by the Department. The thirty (30) day time period may be waived when the action is in response to a release from an existing aboveground storage tank or AST system on the site or at the discretion of the Secretary for good cause shown.



House Bill 2811: NON-COMPREHENSIVE Summary

11.4 Permanent Closure of AST Systems

11.4.a. To place an AST system in permanent closure, owners or operators **must empty and clean the AST, piping, and any associated equipment by removing all liquids and accumulated residues. All tanks taken out of service must be either dismantled and removed from the site or rendered unusable for the storage of any substance.**

11.4.c. **Closure activities must be performed in accordance with industry standards such as API, NFPA, and STI and closure guidance documents developed by the Secretary.**

11.4.d. **Closure activities must be performed by a qualified person, a professional engineer, a person certified by API or STI, or a person holding certification under another program approved by the Secretary.**



House Bill 2811: NON-COMPREHENSIVE Summary

- **11.4.e.7. Procedures for closure sampling** for the AST system closures.
 - **11.4.e.7.C. Analytical measurement methods;**
 - **11.4.e.7.E. Sufficient description of physical and chemical properties** of the substance(s) being sampled for to determine if sampling procedures and analytical methods are adequate to properly detect a release if one occurred.
 - **11.4.f. The tank owner or operator shall submit a closure report to the Secretary no later than thirty (30) days** after the closure has been completed. The closure report shall describe the AST system closure procedures including findings of any closure sampling required as part of the closure.
 - **11.4.g. If contaminated soil, sediment, surface water or groundwater, or free product is discovered, or confirmed by either direct observation or indicated by the analytical results of the closure sampling, the owner or operator shall proceed with the corrective action as directed by the Secretary.**



House Bill 2811:
NON-COMPREHENSIVE Summary

All producers who own and operate AST'S outside the ZCC, **save \$1,000'S per tank—per year!!**



Other Important Legislation

- **SB-224 Employer's bond for wages and benefits (§21-5-14)**
 - Set the bond amount equal to the total of the employer's gross payroll for 4-weeks at full capacity or production, plus 15% ...
 - **NEW EXEMPTIONS:**
 - (1) Entity has been in business in another State for at least five years and has at least \$1 million in assets; **OR**
 - (2) Entity is a subsidiary of a parent company in business for at least five years.
 - This bill passed on April 8 and is awaiting action by the Governor



Other Important Legislation

- **SB-505 Reclamation Requirements (§22-6-A-14)**
 - ...partial reclamation shall begin upon completion of the construction of the well pad. ...
 - the term “partial reclamation” means grading or terracing and planting or seeding the area disturbed that is not required in drilling, completing or producing any of the horizontal wells on the well pad in accordance with the erosion and sediment control plan.
 - This bill increases the maximum time period for partial reclamation from 24 months to 5-years. All reclamation must still be done within 6 months from the expiration of the 5-year period.
 - Signed into law by Governor Justice on April 18



Other Important Legislation

- **HB-3064 Permits for excess size and weight (§17C-17-1)**
 - The purpose of this bill is to permit the commissioner of highways to issue annual permits allowing vehicles of a size and weight exceeding certain specifications to operate over specified routes designated by the commissioner.
 - Such permit is subject to an engineering analysis that demonstrate that the vehicle permitted under this subdivision does not adversely affect the designated routes when compared to the size, weight, and load provisions of this chapter.
 - (B) The maximum gross vehicle weight permitted under this subsection is 120,000 pounds.
 - Passed April 7—awaits decision by Governor Justice



Other Important Legislation

- **Legislation that failed to pass but was supported by IOGAWV**
 - **HB-3092 Valuation Tax Relief Bill**
 - IOGAWV legislation that:
 - Addressed determining a “fair market value” in a well’s valuation for property tax purposes
 - Created a process whereby appeals could be made to an Administrative Law Judge rather than going through the local board of review.
 - **SB-9** Regulating unmanned aircraft systems (Drones)
 - **SB-484** Taxation Legislation-protected existing exemptions



**IF YOU OPERATE WELLS IN
WV AND YOU'RE NOT AN
IOGAWV MEMBER,
YOU SHOULD BE!!**