

AST and Zone Coverages

Zoom Meeting with
Oil and Gas Industry

October 29, 2020



west virginia department of environmental protection
Promoting a Healthy Environment

AST Oil & Gas Universe

- Level 1 Tanks ~1574
- Level 2 Tanks ~ 233
- Level RL/MN ~21243

~8% of the O&G tanks registered are regulated



1. Why was this done without notice, producer input, or public comment?

- DHHR



2. How can the oil and gas companies become involved sooner before changes are made?

- DHHR



3. How frequent will these layers be updated?

- DHHR
- WVDEP updates the layers Annually



4. What's the hurry, where has there been an issue and what problem are you trying to solve?

- DHHR



5. Do the agencies understand the current distressed price producers are receiving for their natural gas and oil?



- Statutorily (Chapter 22, Article 30) WVDEP has an obligation to recognize zones when they are designated by DHHR.
- WVDEP continues to work industry.
 - Tank exemption for tanks 210 barrels or less that are not in a ZCC.
 - Tank relocation



- Reduced sampling requirements
- New clean-up Guidance (CAGD)
- Voluntary Consent Orders



- WVDEP understands that environmental compliance has costs associated with it, but WVDEP also understands that there are cost and other ramifications when compliance is not met.
 - Release may affect ability to use drinking water
 - Clean-up of releases can be costly





Marion County- product from O&G tank in stream



Release from O&G AST in ditch leading to a stream above a water intake – Ritchie County



Release from O&G AST impacting the stream above a water intake



Ritchie County –O&G release above water intake





Calhoun County -O&G release into stream above water intake

6. Do the agencies understand one of the biggest concerns is the extraordinary cost to "modify" or close these systems to stay compliant? One producer, based on previous designation criteria, spent \$60,000 to modify tanks to be compliant—only now to discover that 10 of these tanks at 6 sites have been re-designated and declared non-compliant based on these new criteria.



- WVDEP needs some help to understand this question.
 - It is not clear how the tank owner modified these tanks to be compliant and what new criteria they believe is making the tanks non-compliant.
 - If the tank owner spent money to upgrade the tanks to be compliant with requirements for a Level 1 or Level 2 tank, the zone change should not negatively affect the compliance of the tanks. The AST rule for Level 1 and Level 2 tanks did not change.



7. Why now, and in advance of the implementation date, are inspectors already seeking appointments to inspect newly designated level one tanks when the deadline has been extended?



- WVDEP believes there is a misunderstanding based upon this question. WVDEP Inspectors have been directed to continue Inspection of existing regulated ASTs in order to meet statutory requirements for inspection (22-30-15) frequency. They are offering compliance assistance when encountering an AST whose designation is going to change.



8. When will the Level 1 & Level 2 requirements (i.e. FFSs, SPRPs, 14d/30d inspections) be due or required to be in place?



- The Fit for Service would be due by January 1, 2022.
- Requirements for all other compliance items would begin on January 1, 2021.
 - WVDEP will work with tank owners on an individual basis to achieve compliance. This may be done through a voluntary consent order.



9. Are notifications being sent out for tanks that change from Level 1 or 2 to R&L?



- Notifications were sent out if a tank level changed and/or when the water intake information changed.
 - Because of the addition of zones, most tank levels changes that occurred were to a regulated level 1 or 2; however, if a water intake closed a regulated tank could go to RL.
 - The tank owner(s) should let us know if they were designated RL and we will check into it.



10. Most producers, due to low wellhead pricing, have limited cash flow at this time. NOV's, penalties and fines could lead to business closures. Why isn't finding ways to assist producers the bigger plan?



- WVDEP is a regulatory agency. WVDEP's mission statement is to efficiently and effectively carry out the State's environmental laws and regulations that are designed to provide and maintain a healthful environment consistent with the economic benefits derived from strong agricultural, manufacturing, tourism and energy-producing industries.



- As previously mentioned, WVDEP has continually worked with industry on exemptions, sampling, cleanup numbers, tank relocation, and voluntary consent orders.
- Many of the NOVs written on ASTs are addressed in a timely manner by the tank owner and don't result in penalties. WVDEP utilizes discretion in penalizing tank owners



11. Will there be a grace period in which we can move/downsize some of these tanks before all this goes into effect, and we have to do it per the ZCC?



- ASTs that are currently RL or RL/MN that are being affected by the zone change have until midnight on December 31, 2020 to move or close the tanks.
 - Registration will need to be updated and some minimal documentation such as a disposal certificate and/or photos will need to be provided to show that the tank was closed or moved.



12. For tanks that would now be considered regulated after the reclassification, is there a grace period to bring these tanks into compliance-certified FFS inspections, spill plan submittals, LEPC/ Municipal Authority notifications, etc. What is the deadline to have re-designated tanks compliant?



- The Fit for Service would be due by January 1, 2022.
- Requirements for all other compliance items would begin on January 1, 2021.
 - WVDEP will work with tank owners on an individual basis to achieve compliance. This may be done through a voluntary consent order.



13. Related to GW & SW intake notifications-- if one is unable to find contact information for intakes by means of internet searches, contacting WVDEP/ LEPCs, etc., is there someone to contact as a last resort? In the past, WVDEP suggested documenting that notifications were not made because contact information was unavailable.

DHHR
WVDEP



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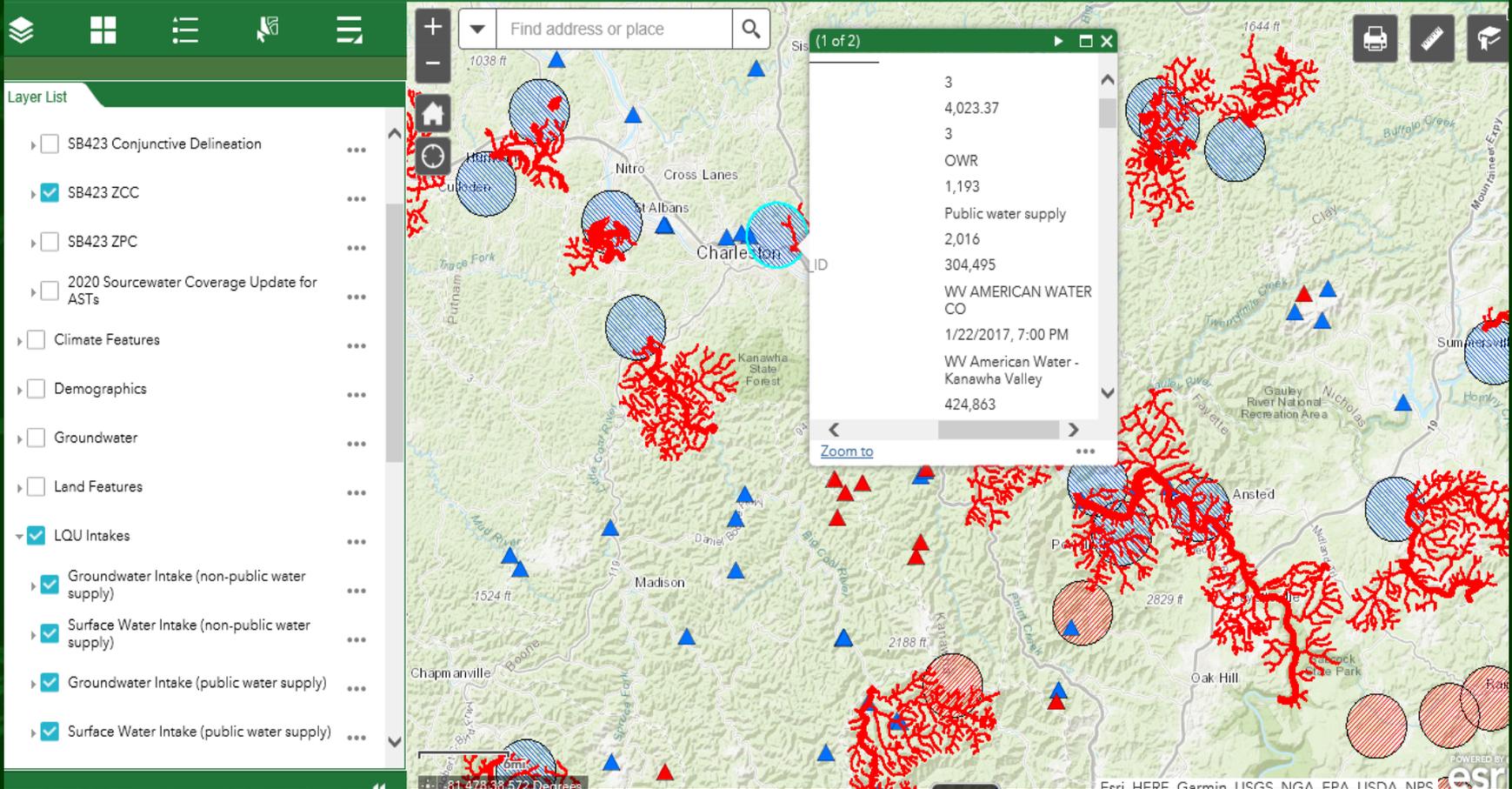
<https://tagis.dep.wv.gov/WVWaterPlan/>

The screenshot displays the 'West Virginia Water Resources Management Plan' web application. The browser address bar shows the URL <https://tagis.dep.wv.gov/WVWaterPlan/>. The application title is 'West Virginia Water Resources Management Plan'. The interface includes a search bar with the text 'Find address or place', a layer list on the left, and a map of West Virginia showing water resources. The layer list includes:

- SB423 Conjunctive Delineation
- SB423 ZCC
- SB423 ZPC
- 2020 Sourcewater Coverage Update for ASTs
- Climate Features
- Demographics
- Groundwater
- Land Features
- LQU Intakes
 - Groundwater Intake (non-public water supply)
 - Surface Water Intake (non-public water supply)
 - Groundwater Intake (public water supply)
 - Surface Water Intake (public water supply)

The map shows various water features, including rivers (Elk River, Kanawha River, Mingo River, etc.), creeks (Clay Creek, etc.), and water intakes (red triangles and circles). The map is powered by Esri, HERE, Garmin, USGS, NGA, EPA, USDA, NPS.

dep
West Virginia Water Resources Management Plan
TAGIS Applications | Print Huc 8 Watersheds | Web Viewer Instructions | WVDEP - Water Use Information



- Layer List
- SB423 Conjunctive Delineation ...
 - SB423 ZCC ...
 - SB423 ZPC ...
 - 2020 Sourcewater Coverage Update for ASTs ...
 - Climate Features ...
 - Demographics ...
 - Groundwater ...
 - Land Features ...
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 - Groundwater Intake (non-public water supply) ...
 - Surface Water Intake (non-public water supply) ...
 - Groundwater Intake (public water supply) ...
 - Surface Water Intake (public water supply) ...

Find address or place

(1 of 2)

EP_APPLICATION_ID	424,863
OWNER_FEIN	550307487
OWNER_ADDRESS_LINE1	1600 Pennsylvania Avenue
OWNER_ADDRESS_LINE2	
OWNER_CITY	Charleston
OWNER_STATE_TTCODE	STATE
OWNER_STATE	WV
OWNER_ZIP_CODE	25302
OWNER_PHONE	304-353-6300
OWNER_EMAIL	
CONTACT_FIRST_NAME	Jon
CONTACT_LAST_NAME	Jarvis
CONTACT_PHONE	304-353-6367
CONTACT_EMAIL	jon.jarvis@amwater.com
FACILITY_MAILING_ADDRESS	PO Box 1906
FACILITY_MAILING_ADDRESS2	
FACILITY_MAILING_CITY	Charleston
FACILITY_STATE_TTCODE	STATE
FACILITY_STATE	WV
FACILITY_MAILING_ZIP_CODE	25327
FACILITY_EMAIL	jon.jarvis@amwater.com
FACILITY_PHONE	304-353-6367
FACILITY_FAX	304-345-4963
SIC_CODE	4,941
NAICS_CODE	221,310

[Zoom to](#)

14. If there have been no (suspected or confirmed) releases from a regulated AST system and there are no visual indications of a release (stained soils, dead vegetation, etc.), why does WVDEP typically still require soil or groundwater sampling (under their tank closure guidance- which is only a guidance, not legislation)? (This question is more relevant to tank batteries where one tank is being permanently closed but the remaining tanks are staying in service.)

- Closure sampling is important to ensure that a site is not left contaminated. Release may go unreported; therefore, using that as a criteria for whether to sample or not is not prudent.
- Closure sampling affords the tank owner, the property owner, and WVDEP some assurance that when the tank owner closed the AST at a site there was no contamination.



- Groundwater and/or surface water sampling is not generally requested at closure. It may be requested as part of corrective action when there has been a release. The concept of testing for evidence of a release during tank closure is different than the concept of achieving a final clean-up level during formal corrective action.



- In accordance with §47CSR63 11.3.c., Closure activities must be performed in accordance with industry standards and closure guidance documents developed by the Secretary. Therefore, the closure requirements are part of the legislation.
- WVDEP has worked with and will work with industry to grant sampling waivers, in some cases, where there are multiple tanks in a battery. For example, the under the tank & lowest point inside secondary containment could be waived and additional samples would be collected outside the secondary containment.



15. What is the current status of the ESS update for ASTs? Can companies participate in any beta testing that might occur? Will the ESS update give tank owners/ operators the ability to deregister RL/MN tanks themselves (instead of needing WVDEP to do so)?



- Internal testing is occurring on the new version of ESS. External testing will not be reading until early 2021.
- Some companies/consultants will be asked to perform beta testing. Selection will, in part, be dependent upon the company's availability to do the testing when needed and to meet testing deadlines.



- No, the new version of ESS will not allow tank owners/operators the ability to “deregister” RL/MN tanks themselves. Registration is extremely important to the AST Program and maintaining the database is important. Tanks are not removed from the database. Owners/operators had the ability early on in the current ESS system to close their RL tanks; however, some did so inappropriately.



Thank You!!



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Closure Guidance For Regulated AST's

- Tank closure guidance can be found at the following site:
<https://dep.wv.gov/WWE/ee/tanks/abovegroundstoragetanks/Pages/TankClosureGuidance.aspx>
- The Corrective Action Guidance Document and closure documents can be downloaded at the following site:
<https://dep.wv.gov/WWE/ee/tanks/lustmain/Pages/default.aspx>

The closure guidance and documents are used for regulated (Level 1 and Level 2) tanks. For closure of tanks affected by the 2020 zone coverage, please move to the next two slide.



Closure of Tanks Affected by the 2020 Zone Changes Prior to January 1, 2021

- If you own a tank that will become regulated (level one or two) due to the revision to AST groundwater, surface water and tank tier determination, and wish to close the tank prior to January 1, 2021 you will need to submit closure documentation via email to DEP.AST@wv.gov to have the tank marked permanently out of service in the database. Acceptable documents include certificates of cleaning and disposal, waste manifests, and photos. Be sure to include the tank registration label and date of closure in the email.
Do not submit an application to deregister the tanks, as deregistration is not a method of closure.
- This closure method may only be used for tanks that were not regulated prior to the 2020 update
- This is also an acceptable method used for all RL/MN (oil and gas exempt) tanks year round.



Closure of Tanks Affected by the 2020 Zone Changes After January 1, 2021

- If you wish to close the tank after January 1, 2021, the tanks will have to undergo closure as a regulated AST. You will need to refer to the AST Closure Guidance Memo here:

<https://dep.wv.gov/WWE/ee/tanks/lustmain/Documents/Appendix%20D5%20AST%20LAST%20Closure%20Memo.pdf>.

The closure templates and spreadsheets are available in Appendix D-6 and D-6-1 of the following:

<https://dep.wv.gov/WWE/ee/tanks/lustmain/Pages/default.aspx>

. If you have questions about the closure process please contact DEP.AST@wv.gov for further guidance.

