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

HOW DOES A BILL WORK?

NO ONE KNOWS ANYMORE, BILLY.
REALLY...NO ONE KNOWS.

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
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**

- **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

- 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*

- 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)

- 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

• Coal Industry’s Fate Increasingly Dependant on Politics

• Interesting Election Cycle in W.Va.

- Local & National

• Senate Bill 373

• Continue Efforts-NPDES

• Sharpen Skills & Understanding
Thank You!