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Tomblin: Chemical storage bill gives DEP 'tools'

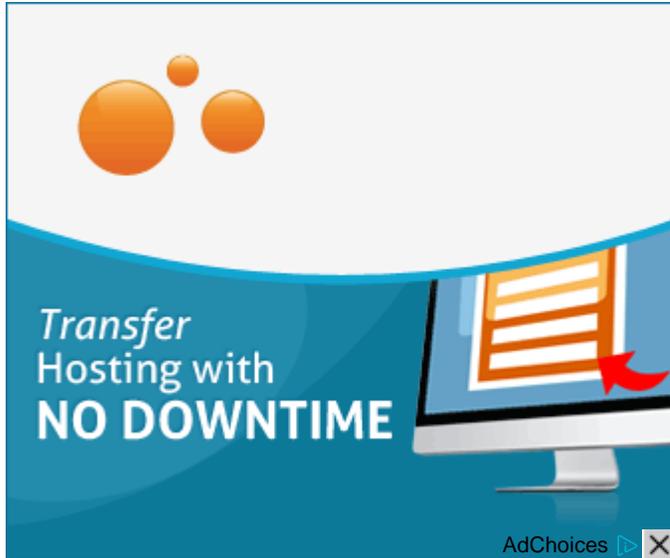
Report by environmental group says broader reforms needed

By Ken Ward Jr.

CHARLESTON, W.Va. -- Gov. Earl Ray Tomblin on Monday revealed some details of an above-ground storage tank regulatory bill, outlining an approach that environmental groups called far too narrow to address issues raised by the Jan. 9 chemical leak that contaminated the water supply serving 300,000 West Virginians.

Tomblin said his bill would give the state Department of Environmental Protection "the tools necessary" to prevent another similar incident at what the DEP estimates are more than 1,000 storage tank sites around the state.

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"Make no mistake: The discharge of chemical or other contaminants is unacceptable, and neither I nor anyone else standing here will tolerate it," Tomblin said, flanked at a news conference by Sen. Joe Manchin, D-W.Va., and state Democratic legislative leaders.

Officials said Tomblin's bill would require safety standards for above-ground storage tanks, force public water systems to prepare for similar emergencies, and mandate that tank-farm operators hire an engineer to inspect their facilities annually.

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"This proposed legislation includes reasonable, common sense provisions to regulate above-ground storage tanks across the state including those located in areas of critical concern near our public water supply and distribution systems," the governor said in a prepared statement.

While the governor was holding his news conference in Charleston, a statewide group released its own report with recommendations on what the state should do in the wake of the Freedom Industries' leak.

The West Virginia Rivers Coalition called on lawmakers to force state regulators to beef up inspections and permit requirements, update threat assessments for drinking water supplies and change the state's political tone and end the frequent anti-regulatory rhetoric.

"The vigor with which elected officials, agency heads and members of the Legislature seek to protect human health and the environment underlies the findings of this report," the group said.

"In recent years, the tone of many of our state leaders has been clear -- too much regulation and too much involvement by the United States Environmental Protection Agency," the coalition said. "Any serious recognition of the link between protecting the environment and promoting a healthy, diversified economy is often lost."

The Rivers Coalition report focuses on improvements to state implementation of three key laws:

- Under the Clean Water Act, the state should mandate inspections of all facilities with water pollution permits, stop giving less-rigorous "general permit" review to operations located near drinking water intakes, and increasing funding and staffing for the Department of Environmental Protection's water quality programs.

- Under the Safe Drinking Water Act, the state should update its source-water assessment report for the Elk River and all drinking water supplies across the state, set site-specific standards for chemicals used in large quantities, and mandate that local emergency planners look more carefully at situations like the one on the Elk River in Charleston.

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- Under the Emergency Planning and Community Right to Know Act, state officials should provide more support to local emergency planners, and use chemical inventory reports to manage and minimize risk to drinking water supplies.

The approach recommended by the Rivers Coalition is more broad and stringent than the steps announced by the governor.

For example, the Tomblin plan would not mandate DEP inspections of tank-farm facilities, instead leaving that task to company-hired engineers who would certify the operations meet state standards.



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The Rivers Coalition said that the Legislature should mandate that the DEP inspect all facilities that hold water pollution permits, and should immediately inspect the most critical sites.

"No one should be surprised that an administration that has done so little to uphold clean water standards would propose such a limited approach," said Angie Rosser, executive director of the Rivers Coalition. "The governor needs to acknowledge the scale and scope of the challenges in protecting our water supplies and lead a complete transformation of the state's attitude and approach to regulation and enforcement."

Evan Hansen, president of the Morgantown-based consulting firm Downstream Strategies and co-author of the Rivers Coalition report, noted that the Freedom Industries site had a storm-water pollution permit from the DEP. That permit gave the DEP broad inspection authority and required the company to submit plans for things like protecting the groundwater.

"The state had the information and authority necessary to significantly reduce the risk of this spill occurring," Hansen said.

During his public appearance Monday, Tomblin repeatedly referred to the Freedom Industries' site as "unregulated."

"It was not regulated, and this bill will address that," Tomblin said.

When asked about the DEP's approval of the site's storm-water permit, and the agency's inspection authority under that permit, Tomblin referred questions to DEP Secretary Randy Huffman.

"I designate this as not being unregulated, but being underregulated," Huffman said.

In an interview, Huffman explained that the storm-water permit in question is a "general permit," a type of pollution authorization that involves far less scrutiny by the DEP than what's called an "individual" permit.

During Monday's news conference, Senate President Jeff Kessler, D-Marshall, and House Speaker Tim Miley, D-Harrison, addressed the state's near-constant political rhetoric against government regulations.

"There are 300,000 people in nine counties in West Virginia that wish we had a little more regulation," Kessler said.

Miley said, "We need to get beyond the stigma that is attached to regulations." He said that regulations need to be fair and reasonable, but added, "I'd rather save lives than worry about saving a few regulations. Saving lives always has to come first."

Sen. John Unger, D-Berkeley, noted that he introduced his own legislation last week in response to the leak and said the state's leaders need to remind themselves and other West Virginians that strong rules that protect clean water are a vital economic development tool.

"We need to reinforce it," said Unger, who chairs a special legislative panel on water issues. "One of the things that draws people to West Virginia is quality of life. If we diminish that quality of life, people aren't going to want to come here to live or create jobs."

Prior to the news conference, Tomblin deputy chief of staff Jason Pizatella appeared on the MetroNews radio show "Talkline" and described the governor's approach as a "targeted" and "common sense" set of rules "to make sure something like this never happens again."

"We know accidents do happen, but this legislation will go very, very far in trying to prevent something like this from ever happening again," Pizatella said.

Pizatella also said, though, that the governor is looking for a tightly focused plan, not on broad, sweeping changes in existing state environmental or public health policies.

"This was a hole in our regulations, or a soft spot," Pizatella said. "We're not going to reinvent the wheel here. We're not going to overregulate. We're not going to re-regulate."

Reach Ken Ward Jr. at kw...@wvgazette.com or 304-348-1702.