

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 253

(By Senator Minard)

[Originating in the Committee on the Judiciary;
reported February 3, 2012.]

A BILL to amend and reenact article 3, chapter 64 of the Code of West Virginia, 1931, as amended, relating generally to the promulgation of administrative rules by the Department of Environmental Protection; legislative mandate or authorization for the promulgation of certain legislative rules by various executive or administrative agencies of the state; authorizing certain of the agencies to promulgate certain legislative rules in the form that the rules were filed in the State Register; authorizing certain of the agencies to promulgate certain legislative rules in the form that the rules were filed in the

State Register and as amended by the Legislature; authorizing certain of the agencies to promulgate certain legislative rules as amended by the Legislature; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to solid waste management; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to hazardous waste management system; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to ambient air quality standards; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to permits for construction and major modification of major stationary sources for the prevention of significant deterioration of air quality; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to standards of performance for new stationary sources; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to the control of air pollution from the combustion of solid waste; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to permits for construction and major modification of major stationary sources which cause or contribute to nonattainment areas; authorizing the

Department of Environmental Protection to promulgate a legislative rule relating to the control of air pollution from hazardous waste treatment, storage and disposal facilities; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to requirements for operating permits; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to emission standards for hazardous air pollutants; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to determining conformity of general federal actions to applicable implementation plans; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to the greenhouse gas emissions inventory program; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to the National Pollutant Discharge Elimination System (NPDES) Program; and authorizing the Department of Environmental Protection to promulgate a legislative rule relating to voluntary remediation and redevelopment.

Be it enacted by the Legislature of West Virginia:

That article 3, chapter 64 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 3. AUTHORIZATION FOR DEPARTMENT OF ENVIRONMENTAL PROTECTION TO PROMULGATE LEGISLATIVE RULES.

§64-3-1. Department of Environmental Protection.

1 (a) The legislative rule filed in the State Register on July
2 29, 2011, authorized under the authority of section five,
3 article fifteen, chapter twenty-two of this code, relating to
4 the Department of Environmental Protection (solid waste
5 management, 33 CSR 1), is authorized.

6 (b) The legislative rule filed in the State Register on July
7 28, 2011, authorized under the authority of section six,
8 article eighteen, chapter twenty-two of this code, relating to
9 the Department of Environmental Protection (hazardous
10 waste management system, 33 CSR 20), is authorized.

11 (c) The legislative rule filed in the State Register on July
12 29, 2011, authorized under the authority of section four,
13 article five, chapter twenty-two of this code, relating to the
14 Department of Environmental Protection (ambient air
15 quality standards, 45 CSR 8), is authorized.

16 (d) The legislative rule filed in the State Register on July
17 29, 2011, authorized under the authority of section four,
18 article five, chapter twenty-two of this code, relating to the

19 Department of Environmental Protection (permits for
20 construction and major modification of major stationary
21 sources for the prevention of significant deterioration of air
22 quality, 45 CSR 14), is authorized.

23 (e) The legislative rule filed in the State Register on July
24 29, 2011, authorized under the authority of section four,
25 article five, chapter twenty-two of this code, relating to the
26 Department of Environmental Protection (standards of
27 performance for new stationary sources, 45 CSR 16), is
28 authorized.

29 (f) The legislative rule filed in the State Register on July
30 29, 2011, authorized under the authority of section four,
31 article five, chapter twenty-two of this code, relating to the
32 Department of Environmental Protection (control of air
33 pollution from combustion of solid waste, 45 CSR 18), is
34 authorized.

35 (g) The legislative rule filed in the State Register on July
36 29, 2011, authorized under the authority of section four,
37 article five, chapter twenty-two of this code, relating to the
38 Department of Environmental Protection (permits for
39 construction and major modification of major stationary

40 sources which cause or contribute to nonattainment areas, 45
41 CSR 19), is authorized.

42 (h) The legislative rule filed in the State Register on July
43 29, 2011, authorized under the authority of section four,
44 article five, chapter twenty-two of this code, relating to the
45 Department of Environmental Protection (control of air
46 pollution from hazardous waste treatment, storage or
47 disposal facilities, 45 CSR 25), is authorized.

48 (i) The legislative rule filed in the State Register on
49 March 16, 2011, authorized under the authority of section
50 four, article five, chapter twenty-two of this code, relating to
51 the Department of Environmental Protection (requirements
52 for operating permits, 45 CSR 30), is authorized.

53 (j) The legislative rule filed in the State Register on July
54 29, 2011, authorized under the authority of section four,
55 article five, chapter twenty-two of this code, relating to the
56 Department of Environmental Protection (emission stan-
57 dards for hazardous air pollutants, 45 CSR 34), is authorized.

58 (k) The legislative rule filed in the State Register on July
59 29, 2011, authorized under the authority of section four,
60 article five, chapter twenty-two of this code, relating to the
61 Department of Environmental Protection (determining

62 conformity of general federal actions to applicable imple-
63 mentation plans (general conformity), 45 CSR 35), is autho-
64 rized.

65 (l) The legislative rule filed in the State Register on July
66 29, 2011, authorized under the authority of section four,
67 article five, chapter twenty-two of this code, relating to the
68 Department of Environmental Protection (greenhouse gas
69 emissions inventory program, 45 CSR 42), is authorized.

70 (m) The legislative rule filed in the State Register on July
71 8, 2011, authorized under the authority of section four,
72 article eleven, chapter twenty-two of this code, approved for
73 promulgation by the Legislature on March 18, 2011, relating
74 to the Department of Environmental Protection (National
75 Pollutant Discharge Elimination System (NPDES) Program,
76 47 CSR 10), is authorized with the following amendments:

77 On page one, subsection 2.6., by striking out “2006” and
78 inserting in lieu thereof “2009”;

79 On page fifteen, subparagraph 4.4.c.1.J., by striking out
80 “40 C.F.R. §412(C) or (D)” and inserting in lieu thereof “40
81 C.F.R. Part 412, Subpart C or D”;

82 And,

83 On page forty-seven, paragraph 13.1.f.2., by striking out
84 all of paragraph 13.1.f.2. and inserting in lieu thereof a new
85 paragraph 13.1.f.2. to read as follows:

86 13.1.f.2. Expansion of AFO to CAFO. For other opera-
87 tions (e.g. resulting from an increase in the number of
88 animals), the owner or operator must seek to obtain coverage
89 under a permit as soon as possible, but no later than ninety
90 (90) days after becoming defined as a CAFO.

91 (n) The legislative rule filed in the State Register on July
92 29, 2011, authorized under the authority of section three,
93 article twenty-two, chapter twenty-two of this code, relating
94 to the Department of Environmental Protection (voluntary
95 remediation and redevelopment, 60 CSR 3), is authorized
96 with the following amendments:

97 On page seventy-eight, by striking out all of the de
98 minimis values for the parameter “Hexachloroethane” and
99 inserting in lieu thereof new de minimis values for the
100 parameter “Hexachloroethane” to read as follows:

101 “Residential Soil - 1.2E+01, Industrial Soil - 6.2E+02,
102 Ground Water - 1.7E+00, Migration to Groundwater - 2.0E-
103 02”;

104 And,

105 On page eighty-two, by striking out all of the de minimis
106 values for the parameter “Trichloroethylene (TCE)” and
107 inserting in lieu thereof new de minimis values for the
108 parameter “Trichloroethylene (TCE)” to read as follows:

109 “Residential Soil - 4.8E-01, Industrial Soil - 2.1E+01,
110 Ground Water - 5.0E+00, Migration to Groundwater - 3.6E-
111 02”.