

WEST VIRGINIA LEGISLATURE
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ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 133

(SENATOR SNYDER, *ORIGINAL SPONSOR*)

[PASSED MARCH 8, 2014; IN EFFECT FROM PASSAGE.]

E N R O L L E D

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Senate Bill No. 133

(SENATOR SNYDER, *original sponsor*)

[Passed March 8, 2014; in effect from passage.]

AN ACT 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 as amended by the Legislature; 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 with various modifications presented to and recommended by the Legislative Rule-Making Review Committee; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee and as amended by the Legislature; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to horizontal well development; 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 emission standards for hazardous air pollutants; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to requirements governing water quality standards; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to state certification of activities requiring federal licenses and permits; 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 May
2 6, 2013, authorized under the authority of section six, article
3 six-a, chapter twenty-two of this code, approved for
4 promulgation by the Legislature on April 12, 2013, relating
5 to the Department of Environmental Protection (horizontal
6 well development, 35 CSR 8), is authorized with the
7 following amendment:

8 On pages ten and eleven, by striking out all of
9 subdivision 5.7.a. and inserting in lieu thereof a new
10 subdivision 5.7.a. to read as follows:

11 5.7.a. All applications for well work permits shall be
12 accompanied by a well site safety plan to address proper
13 safety measures to be employed for the protection of persons
14 on the well site, as well as the general public in the area
15 surrounding the well site. Each plan shall be specific to the
16 well site described in the permit application and include the
17 surrounding area. The plan shall encompass all aspects of the
18 operation, including the actual well work for which the
19 permit is sought, the anticipated MSDS for the chemical
20 components added to the hydraulic fracturing fluid, and
21 completion, production, and work-over activities. It shall be
22 made available on the well site during all phases of the
23 operation and provide an emergency point of contact and
24 twenty-four (24)-hour contact information for the well
25 operator. At least seven (7) days before commencement of
26 well work or site preparation work that involves any
27 disturbance of the land, the well operator shall provide a copy
28 of the well site safety plan to the local emergency planning
29 committee (LEPC) for the emergency planning district in
30 which the well work will occur or to the county office of
31 emergency services. The operator shall also provide one
32 copy of the Well Site Safety Plan to the surface owner, any

33 water purveyor and any surface owner subject to notice and
34 water testing as provided in section 15 of this rule: *Provided*,
35 That in the event the Well Site Safety Plan previously
36 provided to a surface owner, water purveyor or surface
37 owner, is later amended, in whole or in part, the operator
38 shall provide a copy of the amendments to the surface owner,
39 water purveyor or surface owner. The operator should work
40 closely with the local first responders to familiarize them with
41 potential incidents that are related to oil and gas
42 development, so that the local first responders have the
43 information they need to provide the support necessary for
44 the operator to implement the well site safety plan. The well
45 site safety plan shall include, at a minimum, the information
46 contained in subdivisions 5.7.b. through 5.7.h.

47 (b) The legislative rule filed in the State Register on July
48 22, 2013, authorized under the authority of section four,
49 article five, chapter twenty-two of this code, relating to the
50 Department of Environmental Protection (ambient air quality
51 standards, 45 CSR 8), is authorized.

52 (c) The legislative rule filed in the State Register on July
53 22, 2013, authorized under the authority of section four,
54 article five, chapter twenty-two of this code, modified by the
55 Department of Environmental Protection to meet the
56 objections of the Legislative Rule-Making Review
57 Committee and refiled in the State Register on September 4,
58 2013, relating to the Department of Environmental Protection
59 (permits for construction and major modification of major
60 stationary sources for the prevention of significant
61 deterioration of air quality, 45 CSR 14), is authorized.

62 (d) The legislative rule filed in the State Register on July
63 22, 2013, authorized under the authority of section four,
64 article five, chapter twenty-two of this code, relating to the
65 Department of Environmental Protection (standards of

66 performance for new stationary sources, 45 CSR 16), is
67 authorized.

68 (e) The legislative rule filed in the State Register on July
69 22, 2013, authorized under the authority of section four,
70 article five, chapter twenty-two of this code, relating to the
71 Department of Environmental Protection (control of air
72 pollution from combustion of solid waste, 45 CSR 18), is
73 authorized.

74 (f) The legislative rule filed in the State Register on July
75 22, 2013, authorized under the authority of section four,
76 article five, chapter twenty-two of this code, relating to the
77 Department of Environmental Protection (permits for
78 construction and major modification of major stationary
79 sources which cause or contribute to nonattainment areas, 45
80 CSR 19), is authorized.

81 (g) The legislative rule filed in the State Register on July
82 22, 2013, authorized under the authority of section four,
83 article five, chapter twenty-two of this code, relating to the
84 Department of Environmental Protection (control of air
85 pollution from hazardous waste treatment, storage or disposal
86 facilities, 45 CSR 25), is authorized.

87 (h) The legislative rule filed in the State Register on July
88 22, 2013, authorized under the authority of section four,
89 article five, chapter twenty-two of this code, relating to the
90 Department of Environmental Protection (emission standards
91 for hazardous air pollutants, 45 CSR 34), is authorized.

92 (i) The legislative rule filed in the State Register on July
93 26, 2013, authorized under the authority of section four,
94 article eleven, chapter twenty-two of this code, modified by
95 the Department of Environmental Protection to meet the
96 objections of the Legislative Rule-Making Review

97 Committee and refiled in the State Register on November 27,
98 2013, relating to the Department of Environmental Protection
99 (requirements governing water quality standards, 47 CSR 2),
100 is authorized with the following amendment:

101 On page thirty-seven, parameter 8.1, by striking out the
102 words “For water with pH <6.5 or >9.0”;

103 And,

104 On page thirty-seven, by striking out all of parameters
105 8.1.1 and 8.1.2.

106 (j) The legislative rule filed in the State Register on July
107 26, 2013, authorized under the authority of section seven,
108 article eleven, chapter twenty-two of this code, modified by
109 the Department of Environmental Protection to meet the
110 objections of the Legislative Rule-Making Review
111 Committee and refiled in the State Register on December 18,
112 2013, relating to the Department of Environmental Protection
113 (state certification of activities requiring federal licenses and
114 permits, 47 CSR 5A), is authorized.

115 (k) The legislative rule filed in the State Register on July
116 26, 2013, authorized under the authority of section three,
117 article twenty-two, chapter twenty-two of this code, modified
118 by the Department of Environmental Protection to meet the
119 objections of the Legislative Rule-Making Review
120 Committee and refiled in the State Register on December 17,
121 2013, relating to the Department of Environmental Protection
122 (voluntary remediation and redevelopment, 60 CSR 3), is
123 authorized, with the following amendment:

124 On page two, subsection 2.22., line twenty-one, following
125 the words “refers to a”, by striking the “A”; and

126 On page three, subsection 2.35., line twenty-six, by striking
127 the words “Section 3 of Article 22”; and

128 On page nine, paragraph 4.3.d.6., line thirty-five, by
129 striking the character “2” at the beginning of the line; and

130 On page nine, paragraph 4.3.d.6., line forty-five, following
131 the words “greater than”, by striking the character “2”; and

132 On page ten, subdivision 5.1.d., line three, following the
133 words “W.Va. Code §22-22”, by inserting a hyphen and the
134 words ‘1, et seq.’; and

135 On page fourteen, subdivision 5.3.k., line four, following
136 the words “and practical knowledge” by striking the
137 semi-colon; and

138 On page fifteen, subdivision 5.5.e., line three, by striking
139 the word “thirty” at the beginning of the line; and

140 On page nineteen, subparagraph 7.4.b.21.A., line twenty, by
141 renumbering the subparagraph as 7.4.b.1.A.; and

142 On page nineteen, subparagraph 7.4.b.31.B., line
143 twenty-four, by renumbering the subparagraph as 7.4.b.1.B.;
144 and

145 On page nineteen, subparagraph 7.4.b. .1.C., line
146 twenty-nine, by renumbering the subparagraph as 7.4.b.1.C.;
147 and

148 On page nineteen, paragraph 7.4.b.52., line thirty-three, by
149 renumbering the paragraph as 7.4.b.2.; and

150 On page nineteen, subparagraph 7.4.b.62.A., line
151 thirty-eight, by renumbering the subparagraph as 7.4.b.2.A.; and

152 On page twenty, subparagraph 7.4.b.72.B, line one, by
153 renumbering the subparagraph as 7.4.b.2.B.; and

154 On page twenty, paragraph 7.4.b.83., line five, by
155 renumbering the it as subparagraph 7.4.b.2.C.; and

156 On page twenty, subparagraph 7.4.b.105, line fifteen, by
157 renumbering the subparagraph as 7.4.b.2.D.; and

158 On page thirty-six, paragraph 10.2.b., at the beginning of
159 line sixteen, by striking the "5", before the words "five days";
160 and

161 On page thirty-eight, subdivision 11.4., line six,
162 following the words "have been submitted to the", by striking
163 the word "Division" and inserting in lieu thereof the word
164 "Department"; and

165 On page thirty-eight, paragraph 12.2.a., line thirty-six,
166 following the words "applicant and determine within", by
167 striking the word "sixty"; and

168 On page thirty-nine, paragraph 12.2.c., line fifteen,
169 following the words "final report was properly issued, he", by
170 inserting the words "or she".

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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Chairman Senate Committee

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Chairman House Committee

Originated in the Senate.

In effect from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

The within this
the Day of, 2014.

.....
Governor