

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 133

(By Senator Snyder)

[Originating in the Committee on the Judiciary;
reported February 7, 2014.]

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 with various modifications presented to and recommended by the Legislative Rule-Making Review Committee; 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
28 copy of the well site safety plan to the local emergency
29 planning committee (LEPC) for the emergency planning
30 district in which the well work will occur or to the county
31 office of emergency services. The operator shall also provide
32 one copy of the Well Site Safety Plan to the surface owner,
33 any water purveyor and any surface owner subject to notice
34 and water testing as provided in section 15 of this rule. The

35 operator should work closely with the local first responders
36 to familiarize them with potential incidents that are related to
37 oil and gas development, so that the local first responders have
38 the information they need to provide the support necessary for
39 the operator to implement the well site safety plan. The well site
40 safety plan shall include, at a minimum, the information
41 contained in subdivisions 5.7.b. through 5.7.h.

42 (b) The legislative rule filed in the State Register on July
43 22, 2013, authorized under the authority of section four,
44 article five, chapter twenty-two of this code, relating to the
45 Department of Environmental Protection (ambient air quality
46 standards, 45 CSR 8), is authorized.

47 (c) 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, modified by the
50 Department of Environmental Protection to meet the
51 objections of the Legislative Rule-Making Review
52 Committee and refiled in the State Register on September 4,
53 2013, relating to the Department of Environmental Protection

54 (permits for construction and major modification of major
55 stationary sources for the prevention of significant
56 deterioration of air quality, 45 CSR 14), is authorized.

57 (d) The legislative rule filed in the State Register on July
58 22, 2013, authorized under the authority of section four,
59 article five, chapter twenty-two of this code, relating to the
60 Department of Environmental Protection (standards of
61 performance for new stationary sources, 45 CSR 16), is
62 authorized.

63 (e) The legislative rule filed in the State Register on July
64 22, 2013, authorized under the authority of section four,
65 article five, chapter twenty-two of this code, relating to the
66 Department of Environmental Protection (control of air
67 pollution from combustion of solid waste, 45 CSR 18), is
68 authorized.

69 (f) The legislative rule filed in the State Register on July
70 22, 2013, authorized under the authority of section four,
71 article five, chapter twenty-two of this code, relating to the
72 Department of Environmental Protection (permits for

73 construction and major modification of major stationary
74 sources which cause or contribute to nonattainment areas, 45
75 CSR 19), is authorized.

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

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

88 (i) The legislative rule filed in the State Register on July
89 26, 2013, authorized under the authority of section four,
90 article eleven, chapter twenty-two of this code, modified by
91 the Department of Environmental Protection to meet the

92 objections of the Legislative Rule-Making Review
93 Committee and refiled in the State Register on November 27,
94 2013, relating to the Department of Environmental Protection
95 (requirements governing water quality standards, 47 CSR 2),
96 is authorized with the following amendment:

97 On page thirty-seven, parameter 8.1, by striking out the
98 words "For water with pH <6.5 or >9.0";

99 And,

100 On page thirty-seven, by striking out all of parameters
101 8.1.1 and 8.1.2.

102 (j) The legislative rule filed in the State Register on July
103 26, 2013, authorized under the authority of section seven,
104 article eleven, chapter twenty-two of this code, modified by
105 the Department of Environmental Protection to meet the
106 objections of the Legislative Rule-Making Review
107 Committee and refiled in the State Register on December 18,
108 2013, relating to the Department of Environmental Protection
109 (state certification of activities requiring federal licenses and
110 permits, 47 CSR 5A), is authorized.

111 (k) The legislative rule filed in the State Register on July
112 26, 2013, authorized under the authority of section three,
113 article twenty-two, chapter twenty-two of this code, modified
114 by the Department of Environmental Protection to meet the
115 objections of the Legislative Rule-Making Review
116 Committee and refiled in the State Register on December 17,
117 2013, relating to the Department of Environmental Protection
118 (voluntary remediation and redevelopment, 60 CSR 3), is
119 authorized.