

# **WEST VIRGINIA LEGISLATURE**

**2019 REGULAR SESSION**

**Committee Substitute**

**for**

**Senate Bill 163**

SENATOR MAYNARD, *original sponsor*

[Originating in the Committee on the Judiciary;

Reported on February 4, 2019]

1 A BILL to amend and reenact §64-3-1 of the Code of West Virginia, 1931, as amended, relating  
2 generally to authorizing agencies under the Department of Environmental Protection to  
3 promulgate rules; authorizing the rules as filed, as modified by the Legislative Rule-Making  
4 Review Committee, and as amended by the Legislature; authorizing the Department of  
5 Environmental Protection to promulgate a legislative rule relating to emission standards  
6 for hazardous air pollutants; authorizing the Department of Environmental Protection to  
7 promulgate a legislative rule relating to ambient air quality standards; authorizing the  
8 Department of Environmental Protection to promulgate a legislative rule relating to  
9 standards of performance for new stationary sources; authorizing the Department of  
10 Environmental Protection to promulgate a legislative rule relating to control of air pollution  
11 from hazardous waste treatment, storage, and disposal facilities; authorizing the  
12 Department of Environmental Protection to promulgate a legislative rule relating to  
13 requirements for determining conformity of transportation plans, programs, and projects  
14 developed, funded, or approved under Title 23 U.S.C. or the Federal Transit Laws to  
15 applicable air quality implementation plans (transportation conformity); authorizing the  
16 Department of Environmental Protection to promulgate a legislative rule relating to  
17 provisions for determination of compliance with air quality management rules; authorizing  
18 the Department of Environmental Protection to promulgate a legislative rule relating to  
19 cross-state air pollution rule to control annual nitrogen oxides emissions, annual sulfur  
20 dioxide emissions, and ozone season nitrogen oxides emissions; and authorizing the  
21 Department of Environmental Protection to promulgate a legislative rule relating to  
22 requirements governing water quality standards.

*Be it enacted by the Legislature of West Virginia:*

**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 24, 2018, authorized under the  
2 authority of §22-5-4 of this code, relating to the Department of Environmental Protection (emission  
3 standards for hazardous air pollutants, 45 CSR 34), is authorized.

4 (b) The legislative rule filed in the State Register on July 24, 2018, authorized under the  
5 authority of §22-5-4 of this code, relating to the Department of Environmental Protection (ambient  
6 air quality standards, 45 CSR 8), is authorized.

7 (c) The legislative rule filed in the State Register on July 24, 2018, authorized under the  
8 authority of §22-5-4 of this code, relating to the Department of Environmental Protection  
9 (standards of performance for new stationary sources, 45 CSR 16), is authorized.

10 (d) The legislative rule filed in the State Register on July 24, 2018, authorized under the  
11 authority of §22-5-4 of this code, relating to the Department of Environmental Protection (control  
12 of air pollution from hazardous waste treatment, storage, and disposal facilities, 45 CSR 25), is  
13 authorized.

14 (e) The legislative rule filed in the State Register on July 24, 2018, authorized under the  
15 authority of §22-5-4 of this code, relating to the Department of Environmental Protection  
16 (requirements for determining conformity of transportation plans, programs, and projects  
17 developed, funded, or approved under Title 23 U.S.C. or the Federal Transit Laws, to applicable  
18 air quality implementation plans (transportation conformity), 45 CSR 36), is authorized.

19 (f) The legislative rule filed in the State Register on July 24, 2018, authorized under the  
20 authority of §22-5-4 of this code, relating to the Department of Environmental Protection  
21 (provisions for determination of compliance with air quality management rules, 45 CSR 38), is  
22 authorized.

23 (g) The legislative rule filed in the State Register on July 24, 2018, authorized under the  
24 authority of §22-5-4 of this code, relating to the Department of Environmental Protection (cross-  
25 state air pollution rule to control annual nitrogen oxides emissions, annual sulfur dioxide

26 emissions, and ozone season nitrogen oxides emissions, 45 CSR 43), is authorized.

27 (h) The legislative rule filed in the State Register on July 27, 2018, authorized under the  
28 authority of §22-11-4 of this code, modified by the Department of Environmental Protection to  
29 meet the objections of the Legislative Rule-Making Review Committee and refiled in the State  
30 Register on December 10, 2018, relating to the Department of Environmental Protection  
31 (requirements governing water quality standards, 47 CSR 2), is authorized with the following  
32 amendment:

33 On page 18, after subdivision 8.5.a., by adding a new subdivision 8.6. to read as follows:

34 "8.6. On or before April 1, 2020, the Secretary shall propose updates to the numeric human  
35 health criteria found in Appendix E., subsection 8.23. Organics and subsection 8.25 Phenolic  
36 Materials to be presented to the 2021 Legislative Session. The Secretary shall allow for  
37 submission of proposed human health criteria until October 1, 2019, and for public comment and  
38 agency review for an appropriate time thereafter.