

HB 2134

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STATE OF WEST VIRGINIA

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1995



ENROLLED

Com. Sub. For

HOUSE BILL No. *2134*

(By Delegate & *Gallegher Douglas*)
Compton, Linch, Faircloth and Piggyp



Passed *March 10,* 1995

In Effect *From* Passage



ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 2134

(BY DELEGATES GALLAGHER, DOUGLAS, COMPTON, LINCH,
FAIRCLOTH AND RIGGS)

[Passed March 10, 1995; in effect from passage.]

AN ACT to amend and reenact sections one, two and three, article one, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact article three of said chapter, all relating generally to the promulgation of administrative rules by the various executive or administrative agencies and the procedures relating thereto; the legislative mandate or authorization for the promulgation of certain legislative rules by various executive and 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 legislative rules as amended by the Legislature; authorizing certain of the agencies to promulgate legislative rules with various modifications presented to and recommended by the legislative rule-making review committee; authorizing the division of environmental protection to promulgate legislative rules relating to the requirements for determining conformity of general federal actions to applicable air quality implementation plans (general conformity), as modified;

authorizing the division of environmental protection to promulgate legislative rules relating to emission standards for hazardous air pollutants pursuant to 40 CFR Part 63, as modified; authorizing the division of environmental protection to promulgate legislative rules relating to standards of performance for new stationary sources, as modified and amended; authorizing the division of environmental protection to promulgate legislative rules relating to permits for construction and major modification of major stationary sources of air pollution for the prevention of significant deterioration, as modified; authorizing the division of environmental protection to promulgate legislative rules relating to requirements for determining conformity of transportation plans, programs and projects developed, funded or approved under title 23 U.S.C. or the federal transit act, to applicable air quality implementation plans, as modified; authorizing the division of environmental protection to promulgate legislative rules relating to the prevention and control of air pollution from the operation of coal preparation plants and coal handling operations, as modified; authorizing the division of environmental protection to promulgate legislative rules relating to the prevention and control of air pollution from hazardous waste treatment, storage or disposal facilities, as modified; authorizing the division of environmental protection to promulgate legislative rules relating to acid rain provisions and permits, as modified; authorizing the division of environmental protection to promulgate legislative rules relating to emission standards for hazardous air pollutants pursuant to 40 CFR Part 61, as modified; authorizing the division of environmental protection to promulgate legislative rules relating to provisions for determination of compliance with air quality management rules, as modified; authorizing the division of environmental protection to promulgate legislative rules relating to the prevention and control of air pollution from the combustion of refuse, as modified; authorizing the division of environmental protection to promulgate legislative rules relating to dam safety, as modified and amended; authorizing the division of environmental protection to promulgate legislative rules relating to regulations governing environmental laboratories certification and

standards of performance, as modified; authorizing the division of environmental protection to promulgate legislative rules relating to the state water pollution control revolving fund program, as modified; authorizing the environmental quality board to promulgate legislative rules relating to the requirements governing water quality standards, as modified; authorizing the division of environmental protection to promulgate legislative rules relating to underground storage tanks; authorizing the division of environmental protection to promulgate legislative rules relating to hazardous waste management, as modified; authorizing the division of environmental protection to promulgate legislative rules relating to the standards for certification of blasters-surface coal mines, as modified and amended; authorizing the division of environmental protection to promulgate legislative rules relating to abandoned mine lands and reclamation, as modified; authorizing the solid waste management board to promulgate legislative rules relating to the disbursement of grants to solid waste authorities; and authorizing the division of environmental protection to promulgate legislative rules relating to the prevention and control of particulate air pollution from combustion of fuel in indirect heat exchangers, as amended; authorizing the division of environmental protection to promulgate legislative rules relating to surface coal mining and reclamation, as amended.

Be it enacted by the Legislature of West Virginia:

That sections one, two and three, article one, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that article three of said chapter be amended and reenacted, all to read as follows:

ARTICLE 1. GENERAL LEGISLATIVE AUTHORIZATION.

§64-1-1. Legislative authorization.

1 Under the provisions of article three, chapter
 2 twenty-nine-a of the code of West Virginia, the Legislature
 3 expressly authorizes the promulgation of the rules de-

4 scribed in articles two through ten of this chapter, subject
5 only to the limitations set forth with respect to each such
6 rule in the section or sections of this chapter authorizing
7 its promulgation. The Legislature declares that all rules
8 now or hereafter authorized under articles two through ten
9 of this chapter are within the legislative intent of the statute
10 which the rule is intended to implement, extend, apply or
11 interpret. Legislative rules promulgated pursuant to the
12 provisions of articles one through ten of this chapter in
13 effect at the effective date of this section shall continue in
14 full force and effect until reauthorized in this chapter by
15 legislative enactment, or until amended by emergency rule
16 pursuant to the provisions of article three, chapter
17 twenty-nine-a of this code.

§64-1-2. Effective date of rules.

1 The effective date of the legislative rules authorized in
2 articles two through ten of this chapter shall be governed
3 by the provisions of section thirteen, article three, chapter
4 twenty-nine-a, unless the agency promulgating the rules
5 establishes an effective date which is earlier than that pro-
6 vided by section thirteen, article three, chapter twenty-
7 nine-a, in which case the effective date established by the
8 agency shall control, unless the Legislature in the bill
9 authorizing the rules establishes an effective date for such
10 rules in which case the effective date established by the
11 Legislature shall control.

§64-1-3. Technical deficiencies waived.

1 The Legislature declares each legislative rule now or
2 hereafter authorized under articles two through ten of this
3 chapter to have been validly promulgated notwithstanding
4 any failure to comply with any requirement of chapter
5 twenty-nine-a for the promulgation of rules at any stage
6 of the promulgation process prior to authorization by the
7 Legislature in articles two through ten of this chapter.

**ARTICLE 3. AUTHORIZATION FOR BUREAU OF ENVIRON-
MENT TO PROMULGATE LEGISLATIVE RULES.**

§64-3-1. Division of environmental protection.

1 (a) The legislative rules filed in the state register on the
2 twelfth day of August, one thousand nine hundred
3 ninety-four, modified by the division of environmental
4 protection to meet the objections of the legislative
5 rule-making review committee and refiled in the state
6 register on the twenty-third day of November, one thou-
7 sand nine hundred ninety-four, relating to the division of
8 environmental protection (requirements for determining
9 conformity of general federal actions to applicable air
10 quality implementation plans (general conformity), 45
11 CSR 35), are authorized.

12 (b) The legislative rules filed in the state register on
13 the twelfth day of August, one thousand nine hundred
14 ninety-four, modified by the division of environmental
15 protection to meet the objections of the legislative
16 rule-making review committee and refiled in the state
17 register on the twenty-third day of November, one thou-
18 sand nine hundred ninety-four, relating to the division of
19 environmental protection (emission standards for hazard-
20 ous air pollutants pursuant to 40 CFR Part 63, 45 CSR 34),
21 are authorized.

22 (c) The legislative rules filed in the state register on the
23 twelfth day of August, one thousand nine hundred
24 ninety-four, modified by the division of environmental
25 protection to meet the objections of the legislative
26 rule-making review committee and refiled in the state
27 register on the twenty-third day of November, one thou-
28 sand nine hundred ninety-four, relating to the division of
29 environmental protection (standards of performance for
30 new stationary sources, 45 CSR 16), are authorized with
31 the amendment set forth below:

32 "On page two, section 4, subsection 4.1, subdivision
33 4.1.i, by striking out 'Part 60.195(b)' and inserting in lieu
34 thereof 'Part 60.194(d)';

35 On page two, section 4, subsection 4.1., subdivision

36 4.1.k, by striking out 'Part 60.335(a)(1)(i)' and inserting
37 in lieu thereof 'Part 60.335(f)(1)';

38 And,

39 On page two, section 4, after subdivision 'k', by insert-
40 ing a new subdivision to read as follows:

41 '1. Part 60.335(f)(1).' "

42 (d) The legislative rules filed in the state register on
43 the fifteenth day of August, one thousand nine hundred
44 ninety-four, modified by the division of environmental
45 protection to meet the objections of the legislative
46 rule-making review committee and refiled in the state
47 register on the nineteenth day of December, one thousand
48 nine hundred ninety-four, relating to the division of envi-
49 ronmental protection (permits for construction and major
50 modification of major stationary sources of air pollution
51 for the prevention of significant deterioration, 45 CSR 14),
52 are authorized.

53 (e) The legislative rules filed in the state register on the
54 twelfth day of August, one thousand nine hundred
55 ninety-four, modified by the division of environmental
56 protection to meet the objections of the legislative
57 rule-making review committee and refiled in the state
58 register on the twenty-third day of November, one thou-
59 sand nine hundred ninety-four, relating to the division of
60 environmental protection (requirements for determining
61 conformity of transportation plans, programs and projects
62 developed, funded or approved under title 23 U.S.C. or
63 the federal transit act, to applicable air quality implemen-
64 tation plans, 45 CSR 36), are authorized.

65 (f) The legislative rules filed in the state register on the
66 twelfth day of August, one thousand nine hundred
67 ninety-four, modified by the division of environmental
68 protection to meet the objections of the legislative
69 rule-making review committee and refiled in the state
70 register on the twenty-ninth day of December, one thou-

71 sand nine hundred ninety-four, relating to the division of
72 environmental protection (to prevent and control air pol-
73 lution from the operation of coal preparation plants and
74 coal handling operations, 45 CSR 5), are authorized.

75 (g) The legislative rules filed in the state register on
76 the thirteenth day of September one thousand nine hun-
77 dred ninety-four, modified by the division of environmen-
78 tal protection to meet the objections of the legislative
79 rule-making review committee and refiled in the state
80 register on the twelfth day of January, one thousand nine
81 hundred ninety-five, relating to the division of environ-
82 mental protection (to prevent and control air pollution
83 from hazardous waste treatment, storage or disposal facili-
84 ties, 45 CSR 25), are authorized.

85 (h) The legislative rules filed in the state register on
86 the twelfth day of August, one thousand nine hundred
87 ninety-four, modified by the division of environmental
88 protection to meet the objections of the legislative
89 rule-making review committee and refiled in the state
90 register on the twenty-third day of November, one thou-
91 sand nine hundred ninety-four, relating to the division of
92 environmental protection (acid rain provisions and per-
93 mits, 45 CSR 33), are authorized.

94 (i) The legislative rules filed in the state register on the
95 twelfth day of August, one thousand nine hundred
96 ninety-four, modified by the division of environmental
97 protection to meet the objections of the legislative
98 rule-making review committee and refiled in the state
99 register on the twenty-third day of November, one thou-
100 sand nine hundred ninety-four, relating to the division of
101 environmental protection (emission standards for hazard-
102 ous air pollutants pursuant to 40 CFR Part 61, 45 CSR 15),
103 are authorized.

104 (j) The legislative rules filed in the state register on the
105 twelfth day of August, one thousand nine hundred
106 ninety-four, modified by the division of environmental

107 protection to meet the objections of the legislative
108 rule-making review committee and refiled in the state
109 register on the twenty-third day of November, one thou-
110 sand nine hundred ninety-four, relating to the division of
111 environmental protection (provisions for determination of
112 compliance with air quality management rules, 45 CSR
113 38), are authorized.

114 (k) The legislative rules filed in the state register on
115 the twelfth day of August, one thousand nine hundred
116 ninety-four, modified by the division of environmental
117 protection to meet the objections of the legislative
118 rule-making review committee and refiled in the state
119 register on the twenty-third day of November, one thou-
120 sand nine hundred ninety-four, relating to the division of
121 environmental protection (to prevent and control air pol-
122 lution from combustion of refuse, 45 CSR 6), are autho-
123 rized.

124 (l) The legislative rules filed in the state register on the
125 fifteenth day of August, one thousand nine hundred
126 ninety-four, modified by the division of environmental
127 protection to meet the objections of the legislative
128 rule-making review committee and refiled in the state
129 register on the fourth day of January, one thousand nine
130 hundred ninety-five, relating to the division of environ-
131 mental protection (dam safety, 47 CSR 34), are authorized
132 with the amendments set forth below:

133 On page 9, section §47-34-3, by striking out 3.5.2.
134 c.A, and substituting therefor the following:

135 "3.5.2.c.A. An impoundment exceeding forty (40)
136 feet in height or four hundred (400) acre-feet storage
137 volume shall not be classified as a Class 3 dam.";

138 On pages 17 and 18, section §47-34-7, at the end of
139 section 7.1.1.b.C. by adding the following:

140 "The design precipitation for a Class 3 dam may be
141 reduced based on Risk Assessment pursuant to paragraph

142 3.5.4 of this rule, but in no case to less than a P_{100} rainfall
143 of six (6) hours in duration."

144 On page 40, section §47-34-13, by striking out section
145 13.2 and substituting therefor the following:

146 "Performance Requirements - All dams completed
147 before July 1, 1973 shall meet the applicable design re-
148 quirements of Section 7 of this rule. Those dams which
149 do not meet the applicable design requirement of Section
150 7 of this rule shall be modified, breached, removed, or
151 properly abandoned pursuant to the provisions of this
152 rule. In developing the required plans, specifications, and
153 documentation necessary to bring the structure into con-
154 formity with section 7 of this rule, the design engineer
155 may consider in his submitted analyses, peculiarities and
156 local conditions for each impounding structure with rec-
157 ognition of the many factors involved, some of which may
158 not be precisely known. Existing construction documen-
159 tation and the historical performance of the structure in-
160 cluding documented storms and spillway flows may be
161 considered by the engineer as part of the evaluation of the
162 structure. Upon approval by the Director of the plans,
163 specifications, and documentation submitted by the engi-
164 neer, the director may issue a certificate of approval."

165 (m) The legislative rules filed in the state register on
166 the fifteenth day of August, one thousand nine hundred
167 ninety-four, modified by the division of environmental
168 protection to meet the objections of the legislative
169 rule-making review committee and refiled in the state
170 register on the eleventh day of January, one thousand nine
171 hundred ninety-five, relating to the division of environ-
172 mental protection (regulations governing environmental
173 laboratories certification and standards of performance, 47
174 CSR 32), are authorized.

175 (n) The legislative rules filed in the state register on
176 the twenty-eighth day of February, one thousand nine
177 hundred ninety-four, modified by the division of environ-

178 mental protection to meet the objections of the legislative
179 rule-making review committee and refiled in the state
180 register on the twenty-eighth day of July, one thousand
181 nine hundred ninety-four, relating to the division of envi-
182 ronmental protection (state water pollution control revolv-
183 ing fund program, 47 CSR 31), are authorized.

184 (o) The legislative rules filed in the state register on
185 the fifteenth day of August, one thousand nine hundred
186 ninety-four, relating to the division of environmental pro-
187 tection (underground storage tanks, 47 CSR 36), are au-
188 thorized.

189 (p) The legislative rules filed in the state register on
190 the fifteenth day of August, one thousand nine hundred
191 ninety-four, modified by the division of environmental
192 protection to meet the objections of the legislative
193 rule-making review committee and refiled in the state
194 register on the thirteenth day of January, one thousand
195 nine hundred ninety-five, relating to the division of envi-
196 ronmental protection (hazardous waste management regu-
197 lations, 47 CSR 35), are authorized.

198 (q) The legislative rules filed in the state register on
199 the twenty-second day of July, one thousand nine hundred
200 ninety-four, modified by the division of environmental
201 protection to meet the objections of the legislative
202 rule-making review committee and refiled in the state
203 register on the twenty-ninth day of August, one thousand
204 nine hundred ninety-four, relating to the division of envi-
205 ronmental protection (standards for certification of
206 blasters-surface coal mines, 38 CSR 2C), are authorized
207 with the amendments set forth below:

208 On page 4, section 38.2C.4, after the words "Form
209 MR-30-TR." by inserting a second paragraph to read as
210 follows:

211 "In lieu of completing the training program, the appli-
212 cant for certification or re-certification may complete a
213 self-study course using the study guide and other materi-

214 als available from the Division of Environmental Protec-
215 tion."

216 On page 8, subsection 8.2, after the words "refresher
217 training course" by inserting the phrase "or complete the
218 self-study course."

219 On page 8 at subsection 10.1 by striking out the
220 phrase "a cessation order and/or take other action as pro-
221 vided in West Virginia Code 22-3-16 and 17" and the
222 phrase "the provisions of West Virginia Code 22-3-1 et
223 seq., rules promulgated under that article, or".

224 On page 9, subsection 11.1, by striking out the subsec-
225 tion and inserting in lieu thereof a new subsection to read
226 as follows: "11.1. **Suspension** - Upon service of a written
227 notice of violation by the Director to a certified blaster, the
228 Director may suspend his or her certification. Prior to the
229 issuance of such an order, the certified blaster shall be
230 granted a hearing before the Director to show cause why
231 his or her certification should not be suspended."

232 On page 9, subsection 11.2, by striking out the phrase
233 "or cessation order" in the first sentence.

234 On page 9, Section 12, by striking out the phrase
235 "cessation order".

236 (r) The legislative rules filed in the state register on the
237 fifteenth day of August, one thousand nine hundred
238 ninety-four, modified by the division of environmental
239 protection to meet the objections of the legislative
240 rule-making review committee and refiled in the state
241 register on the sixth day of January, one thousand nine
242 hundred ninety-five, relating to the division of environ-
243 mental protection (rules and regulations relating to aban-
244 doned mine lands and reclamation, 38 CSR 2D), are au-
245 thorized.

246 (s) The Legislature hereby authorizes and directs the
247 division of environmental protection to promulgate the
248 legislative rules filed in the state register on February,

249 seventh, one thousand nine hundred ninety-five, relating
250 to the prevention and control of particulate air pollution
251 from combustion of fuel in indirect heat exchangers, 45
252 CSR 2, effective the * day of *, one thousand nine hun-
253 dred ninety-five, with the amendments set forth below:

254 On page eight, section 3.4(e) after the word "operated" by
255 adding the words "at normal operating loads";

256 And,

257 On page thirteen, section 9.4 by striking the words
258 "monthly or", and, following the words "quarterly basis"
259 by striking the word "as"; and by inserting the words "un-
260 less otherwise" following the words "quarterly basis" .

261 And,

262 On page thirteen, by creating a new section, designated
263 section "45.2.10. Variances.

264 10.1. In the event of an unavoidable shortage of fuel
265 having characteristics or specifications necessary for a fuel
266 burning unit to comply with the opacity standards set
267 forth in section 3 or any emergency situation or condition
268 creating a threat to public safety or welfare, the Director
269 may grant an exception to the otherwise applicable visible
270 emission standards for a period not to exceed fifteen (15)
271 days, provided that visible emissions during the exception
272 period do not exceed a maximum six (6) minute average
273 of thirty (30) percent and that a reasonable demonstration
274 is made by the owner or operator that the emission stan-
275 dards under section 4 of this rule will not be exceeded
276 during the exemption period.";

277 10.2. In the event a fuel burning unit employing a
278 flue gas desulphurization system must by-pass such sys-
279 tem because of necessary planned or unplanned mainte-
280 nance, visible emissions may not exceed twenty percent
281 (20%) opacity during such period of maintenance. The
282 Director may require advance notice of necessary planned
283 maintenance, including a description of the necessity of

284 the maintenance activity and its expected duration and
285 may limit the duration of the variance or the amount of
286 the excess opacity exception herein allowed. The Director
287 shall be notified of unplanned maintenance and may limit
288 the duration of the variance or the amount of excess opac-
289 ity exception allowed during unplanned maintenance.

290 And, by renumbering subsequent sections.

291 (t) The legislative rules filed in the state register on the
292 nineteenth day of August, one thousand nine hundred
293 ninety-four, relating to the division of environmental pro-
294 tection (surface mining and reclamation regulations, 38
295 CSR 2), are authorized "with the amendments set forth
296 below"

297 On pages 2 and 3, by striking out subsections 1.6, 1.7
298 and 1.8 in their entirety;

299 On page 6, by inserting a new subsection 2.20, to read
300 as follows, and renumbering subsequent subsections;

301 "Chemical Treatment means - the treatment of water
302 from a surface coal mining operation using chemical
303 reagents such as but not limited to sodium hydroxide,
304 calcium carbonate, or anhydrous ammonia for purposes
305 of meeting applicable state and federal effluent limita-
306 tions. Chemical treatment does not include passive treat-
307 ment systems such as but not limited to limestone drains,
308 wetlands, alkaline addition, application of flyash, agricul-
309 tural lime, or injection of flyash, limestone, or other min-
310 erals into underground coal operations."

311 On page 16, section 2, by striking out subsection 2.92
312 and renumbering the subsequent subsections.

313 On page 25, by striking the second paragraph of sub-
314 section 3.1 (o) and inserting in lieu thereof a new second
315 paragraph 3.1 of subsection 3.1 (o), to read as follows:
316 "Any permit application which references an approved
317 centralized ownership and control file may be determined
318 to be complete and accurate for the purposes of this sub-

319 section. Each centralized ownership and control file shall
320 at a minimum:"

321 On page 63, by striking out subsection 3.25 (e); .

322 On page 63, by striking out the first sentence in sub-
323 section 3.26, and inserting in lieu thereof the following:

324 "(a) All changes including name changes, replace-
325 ments, and additions to the ownership or control data
326 relative to a permittee or assignee who will function as an
327 operator pursuant to the provisions of paragraph (c) of
328 subsection 3.25 of this rule shall be reported to the Direc-
329 tor."

330 On page 64, after subsection 3.26 (a) (5) by inserting
331 a new subsection 3.26 (a) (5) to read as follows:

332 "(6) In the event that a permittee or operator has in-
333 curred no changes in its ownership and control informa-
334 tion and therefore has not been obligated to file a report
335 within any consecutive twelve-month period, that permittee
336 or operator is required to notify the Director in writing
337 that no changes to the information required by paragraphs
338 (b), (c), (d), and (i) of subsection 3.1 of this rule have
339 occurred."

340 On page 64, by striking out subsection 3.27 (a) and
341 inserting in lieu thereof the following:

342 "(a) All active surface mining operations shall be sub-
343 ject to the renewal requirements and provisions for issu-
344 ance of a renewal discussed in Section 19 of the Act: *Pro-*
345 *vided*, That the Director may waive the requirement for
346 renewal if the permittee certifies in writing that all coal
347 extraction is completed, that all backfilling and regrading
348 will be completed within sixty (60) days prior to the expi-
349 ration date of the permit, and that an application for Phase
350 I bond release will be filed prior to the expiration date of
351 the permit. Failure of the permittee complete backfilling
352 and regrading within sixty (60) days prior to the expira-
353 tion date of the permit will nullify the waiver.

354 Those operations which have been granted inactive
355 status in accordance with subsection 14.11 of this rule
356 shall also be subject to the renewal requirements of Sec-
357 tion 19 of the Act.

358 Applications for renewal shall be filed on forms pro-
359 vided by the Director and shall contain at a minimum the
360 following information:"

361 On page 79, by striking out subsection 3.32 (i) and
362 renumbering the remaining subsections.

363 On page 80, subsection 3.34 (b) after the word "crite-
364 ria" by inserting the words "paragraph (b) of subsection
365 3.32 of this section";

366 On page 80, by striking out subsection 3.34 (b) (3)
367 and substituting therefor a new subsection 3.34 (b) (3), to
368 read as follows: "(3) The permittee was linked to a viola-
369 tion, penalty or fee through ownership or control, under
370 the violation review criteria, paragraph (b) of subsection
371 3.32 of this section at the time the permit was issued and
372 an ownership or control link between the permittee and
373 the person responsible for the violation, penalty or fee still
374 exists, or when the link was severed the permittee contin-
375 ues to be responsible for the violation, penalty or fee."

376 On page 82, by striking out subsection 3.34 (g) and
377 substituting therefor a new subparagraph (g) to read as
378 follows:

379 "(g) For purposes of this subsection, a permit is issued
380 when it is originally approved, as well as when a transfer,
381 assignment, or sale of permit rights is approved pursuant
382 to paragraphs (a) or (c), subsection 3.25 of this rule, or
383 where a permit is revised pursuant to subsection 3.26 of
384 this rule."

385 On page 86, at the end of subsection 4.4, by adding
386 the following sentence: "Prospecting roads are to be de-
387 signed, constructed, maintained, and reclaimed in accor-
388 dance with the provisions of subsection 13.6 of this rule."

389 On page 88, by inserting a new subsection 4.7 (a) (1)
390 to read as follows: (1) minimize downstream sedimenta-
391 tion and flooding and renumbering the remaining subsec-
392 tions.

393 On page 92, subsection 4.12, by inserting a new sen-
394 tence between the second and third sentence which reads
395 as follows:

396 "Where the certification statement indicates a change from
397 the design standards or construction requirements ap-
398 proved in the permit, such changes will be documented in
399 as-built plans and submitted for approval to the Director
400 as a permit revision."

401 On Page 148, section 11.6 (a) in the underscored
402 language, after the word, "completed" by inserting the
403 words "or nearly completed"

404 On Page 223, by striking out subsection 14.14 (g) (8)
405 and inserting in lieu thereof a new subsection 14.14 (g)
406 (8), to read as follows: "(8) Surface water runoff from
407 areas above and adjacent to the fill shall be diverted into
408 properly designed and constructed stabilized diversion
409 channels which have been designed using best current
410 technology to safely pass the peak runoff from a 100
411 year, 24-hour precipitation event. The channel shall be
412 designed and constructed to ensure stability of the fill,
413 control erosion, and minimize water infiltration into the
414 fill."

415 On Page 232, by inserting a new subsection, designat-
416 ed subsection 14.19 (d) to read as follows: "(d) Timber
417 from clearing and grubbing operations may be wind-
418 rowed below the projected toe of the outslope in a manner
419 that will provide shelter and habitat for game and non-
420 game wildlife and provide for enhanced sediment control.
421 These materials may not be placed in natural water courses
422 or where they will be covered by spoil material at the toe
423 of the outslope. The wind-rows must be of relatively uni-
424 form height and width and must be more or less evenly

425 distributed along the lower reaches and within the permit
426 area."

427 On Page 240, subsection 17.1, in the first sentence,
428 after the words "mining and reclamation," by striking out
429 the remainder of the paragraph and substituting therefor
430 the following: "required by the Act and these Rules, in-
431 cluding the engineering analyses and designs; the devel-
432 opment of cross-section maps and plans; the geologic
433 drilling and statement of results of test borings and core
434 samplings; preblast surveys; the collection of site-specific
435 resource information and production of protection and
436 enhancement plans for fish and wildlife habitats and other
437 environmental values; and the collection of archaeological
438 and historical information; and any other archaeological
439 and historical information required by the federal depart-
440 ment of the interior and the preparation of plans that may
441 be necessitated thereby; and the director shall provide or
442 assume the cost of training coal operators that meet the
443 qualifications concerning the preparation of permit appli-
444 cations and compliance with the regulatory program, and
445 shall ensure that qualified coal operators are aware of the
446 assistance available under this section.

447 On Page 240, subsection 17.1, after the first paragraph
448 by inserting a new paragraph, to read as follows: "The
449 Director will develop a procedure for the interstate coordi-
450 nation and exchange of information collected under the
451 Small Operators Assistance Program."

452 On Page 241, by striking out subsection 17.4 in its
453 entirety and substituting therefor the following: "17.4
454 Request for Assistance. Each applicant requesting assis-
455 tance shall provide information on forms provided by the
456 director in an application that shall be clear and concise
457 and shall be provided in a format prescribed by the Direc-
458 tor and/or a format required by the Federal Office of Sur-
459 face Mining Reclamation and Enforcement."

460 On Page 249, subsection 17.7 (a) (4), after the words

461 "twelve (12) month period" by striking the remainder of
462 the sentence and inserting in lieu thereof the words "im-
463 mediately following permit issuance."

464 On page 273, subsection 20.6 (a), after the word
465 "first" the words "thirty (30)" by striking out and inserting
466 in lieu thereof the words "fifteen" '

467 On page 273, subsection 20.6 (c), after the words "date
468 of the" by striking out, the words "Assessment Officer
469 receiving the finding specified in paragraph (a) of this
470 subsection." and inserting in lieu thereof the words "issu-
471 ance of a notice or order";

472 On page 274, subsection 20.6 (d), by striking out the
473 first sentence, and inserting in lieu thereof the following:
474 "The time and place of an informal assessment conference
475 shall be posted at the Department of Environmental Pro-
476 tection Office nearest to the operation.

477 **§64-3-2. Environmental boards.**

478 (a) The legislative rules filed by the environmental
479 quality board in the state register on the fifteenth day of
480 August, one thousand nine hundred ninety-four, under the
481 authority of section four, article three, chapter twenty-
482 two-b of this code, modified by the environmental quality
483 board to meet the objections of the legislative rule-making
484 committee and refiled in the state register on the twelfth
485 day of January, one thousand nine hundred ninety-five,
486 relating to the division of environmental protection (re-
487 quirements governing water quality standards, 46 CSR 1),
488 are authorized.

489 (b) The legislative rules filed by the solid waste man-
490 agement board in the state register on the fourth day of
491 August, one thousand nine hundred ninety-four, under the
492 authority of section six, article three, chapter twenty-two-c
493 of this code, relating to the solid waste management board
494 (regulating for the disbursement of grants to solid waste
495 authorities, 54 CSR 5), are authorized.

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

Paul Schonover

Chairman Senate Committee

Ernest C. Moore

Chairman House Committee

Originating in the House.

Takes effect from passage

Harrell Robinson

Clerk of the Senate

Donald L. Kapp

Clerk of the House of Delegates

Earl Ray Embelin

President of the Senate

Paul Caban

Speaker of the House of Delegates

The within is approved this the 24th
day of March 1995.

Gaston Caperton
Governor



PRESENTED TO THE

GOVERNOR

Date 3/23/95

Time 11:57 am