WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1996

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ENROLLED

Com. Sub. for
HOUSE BILL No. 4224

(By Delegates Douglas Gallagher, )
Faircloth, Compton, Lynch and Riggs

- - -

Passed MARCH 9, 1996

In Effect from Passage
AN ACT to amend and reenact section one, article one, and sections one and two, article three, all of chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating generally to the promulgation of administrative rules by the various executive or administrative agencies and the procedures relating thereto; providing that any rules proposed by an executive or administrative agency, and introduced in a bill of authorization by the Legislature, but not authorized by the Legislature are disapproved; 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 emission standards for hazardous air pollutants, as filed; authorizing the division of environmental protection to promulgate legislative rules relating to prevention and control 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 filed; authorizing the division of environmental protection to promulgate legislative rules relating to underground storage tanks, as modified; authorizing division of environmental protection to promulgate legislative rules relating to hazardous waste management regulations, as modified; authorizing the division of environmental protection to promulgate legislative rules relating to surface mining and reclamation regulations, as modified and amended; authorizing the division of environmental protection to promulgate legislative rules relating to coalbed methane wells, as modified; authorizing the division of environmental protection to promulgate legislative rules relating to waste tire management, as modified; authorizing the division of environmental protection to promulgate legislative rules relating to sewage sludge management, as modified; authorizing the division of environmental protection to promulgate legislative rules relating to prevention and control of air pollution from the emission of volatile organic compounds, as amended; authorizing the division of environmental protection to promulgate legislative rules relating to monitoring well design standards, as modified; authorizing the division of environmental protection to promulgate legislative rules relating to solid waste management, as modified and amended; authorizing the environmental quality board to promulgate legislative rules relating to requirements governing water quality standards as modified and amended; authorizing the solid waste management board to promulgate legislative rules relating to development of comprehensive litter and solid waste control plans, as modified.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 1. GENERAL LEGISLATIVE AUTHORIZATION.

§64-1-1. Legislative authorization.
Under the provisions of article three, chapter twenty-nine-a of the code of West Virginia, the Legislature expressly authorizes the promulgation of the rules described in articles two through eleven of this chapter, subject only to the limitations set forth with respect to each such rule in the section or sections of this chapter authorizing its promulgation. The Legislature declares that all rules now or hereafter authorized under articles two through eleven of this chapter are within the legislative intent of the statute which the rule is intended to implement, extend, apply or interpret. Legislative rules promulgated pursuant to the provisions of articles one through eleven of this chapter in effect at the effective date of this section shall continue in full force and effect until reauthorized in this chapter by legislative enactment, or until amended by emergency rule pursuant to the provisions of article three, chapter twenty-nine-a of this code. All proposed legislative rules for which bills of authorization have been introduced in the Legislature not specifically authorized under articles two through eleven of this chapter are disapproved by the Legislature.

ARTICLE 3. AUTHORIZATION FOR BUREAU OF ENVIRONMENT TO PROMULGATE LEGISLATIVE RULES.

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

(a) The legislative rules filed in the state register on the twenty-eighth day of July, one thousand nine hundred ninety-five, authorized under the authority of section four, article five, chapter twenty-two of this code, relating to the division of environmental protection (emission standards for hazardous air pollutants pursuant to 40 CFR Part 63, 45CSR34), are authorized.

(b) The legislative rules filed in the state register on the twenty-eighth day of July, one thousand nine hundred ninety-five, authorized under the authority of section four, article five, chapter twenty-two of this code, modified by the division of environmental protection to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-seventh day of October, one thousand nine hundred ninety-five, relat-
(c) The legislative rules filed in the state register on the twenty-eighth day of July, one thousand nine hundred ninety-five, authorized under the authority of section four, article five, chapter twenty-two of this code, relating to the division of environmental protection (to prevent and control air pollution from hazardous waste treatment, storage or disposal facilities, 45CSR25), are authorized.

(d) The legislative rules filed in the state register on the thirty-first day of July, one thousand nine hundred ninety-five, authorized under the authority of section six, article seventeen, chapter twenty-two of this code, modified by the division of environmental protection to meet the objections of the legislative rule-making review committee and refiled in the state register on the eighteenth day of January, one thousand nine hundred ninety-six, relating to the division of environmental protection (underground storage tanks, 47CSR36), are authorized.

(e) The legislative rules filed in the state register on the thirty-first day of July, one thousand nine hundred ninety-five, authorized under the authority of section six, article eighteen, chapter twenty-two of this code, modified by the division of environmental protection to meet the objections of the legislative rule-making review committee and refiled in the state register on the eighteenth day of January, one thousand nine hundred ninety-six, relating to the division of environmental protection (hazardous waste management regulations, 47CSR35), are authorized.

(f) The legislative rules filed in the state register on the thirty-first day of July, one thousand nine hundred ninety-five, authorized under the authority of section four, article three, chapter twenty-two of this code, modified by the division of environmental protection to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-third day of January, one thousand nine hundred ninety-six, relating to the division of environmental protection (surface mining and reclamation regulations, 38CSR2), are authorized with the following amendments:
On page 64, section 3.27, after the word "Director" by
striking out the word "may" and inserting in lieu thereof
the word "shall";

On page 64, section 3.27, after the word "completed"
by striking out the remainder of the first paragraph and
inserting in lieu thereof the following words:
"and reclamation activities are ongoing."

On page 156, section 11.6(c)(6)(A) after the word
"operations" by striking out the words "within five (5)
years of the date of SMA approval,";

On page 156, section 11.6(c)(6)(B) after the word
"(95-87)" by striking out the words "within five (5) years
of the date of SMA approval,";

On page 157, section 11.6(c)(6)(C) after the word
"State" by striking out the words "within five (5) years of
the date of SMA approval,";

On page 163, section 11.6(d)(6)(A), after the word
"applicant" by striking out the words "within five (5) years
of the date of SMA approval,";

On page 164, section 11.6(d)(6)(B), after the word
"95-87" by striking out the words "within five (5) years of
the date of SMA approval,";

On page 164, section 11.6(d)(6)(C), after the word
"wetlands" by striking out the words "within five (5) years
of the date of SMA approval,";

On page 169, section 11.6(e)(5)(A), after the word
"95-87" by striking out the words "within five (5) years of
the date of SMA approval,";

On page 169, section 11.6(e)(5)(B), after the word
"wetlands" by striking out the words "within five (5) years
of the date of SMA approval,";

On page 175, section 11.6(f)(5)(A), after the word
"95-87", by striking out the words "within five (5) years of
the date of SMA approval,";

On page 175, section 11.6(f)(5)(B), after the word
"enhancement" by striking out the words "of wetlands within five (5) years of the date of SMA approval, ".

And,

On page 178, section 12.2 subsection (e) by striking 12.2.e in its entirety and inserting in lieu thereof the following:

Notwithstanding any other provisions of this rule, no bond release or reduction will be granted if, at the time, water discharged from or affected by the operation requires chemical treatment in order to comply with applicable effluent limitations or water quality standards: Provided, That the Director may approve a request for Phase I but not Phase II or III, release if the applicant demonstrates to the satisfaction of the Director that either:

(A) The remaining bond is adequate to assure long term treatment of the drainage; or

(B) The operator has irrevocably committed other financial resources which are adequate to assure long term treatment of the drainage: Provided, That the alternate financial resources must be in acceptable form, and meet the standards set forth in Section 11 of the Act and Section 11 of this rule: Provided, however, That the alternate financial arrangements shall provide a mechanism whereby the Director can assume management of the resources and treatment work in the event that the operator defaults for any reason: And provided further, That default on a treatment obligation under this paragraph shall be considered equivalent to a bond forfeiture, and the operator will be subject to penalties and sanctions, including permit blocking, as if a bond forfeiture had occurred.

In order to make such demonstration as referenced above, the applicant shall address, at a minimum, the current and projected quantity and quality of drainage to be treated, the anticipated duration of treatment, the estimated capital and operating cost of the treatment facility, and the calculations which demonstrate the adequacy of the remaining bond or of the alternate financial resources.

"On page sixteen, section 38-2-2.106, after the words
'sum of the loading' by inserting the words 'or driving';
and by striking out the words 'in a constructed valley fill, backfill, dam, or refuse pile' and inserting in lieu thereof the words 'as determined by acceptable engineering practices';

On page twenty-eight, section 38-2-3.2(e), after the words 'limited number of minor changes' by inserting the words 'that do not significantly affect the health, safety or welfare of the public and';

On page thirty-six, section 38-2-3.6(h)(5), after the words 'as defined in' by striking out the words 'Article 5D of Chapter 20' and inserting in lieu thereof the words 'Article 14 of Chapter 22';

On page thirty-nine, section 38-2-3.8(c), at the end after the words 'reasonable time for compliance.', by inserting a new sentence to read as follows: 'Provided, That those structures and facilities, where it can be demonstrated that reconstruction or revision would result in greater environmental harm and the performance standards set forth in the Act and these regulations can otherwise be met, may be exempt from revision or reconstruction.';

On page one hundred seventy-eight, section 38-2-12.2(d), after the words 'until all coal extraction operations' by inserting the words 'for the permit or increment thereof', and after the words 'the entire disturbed area' by inserting the words 'for the permit or increment thereof';

On page one hundred ninety-seven, section 38-2-14.3(c)(2), after the words 'medium is the best' by inserting the word 'reasonably';

And,

On page two hundred fifteen, section 38-2-14.14(e)(4), by striking the sentence 'Runoff from areas above and adjacent to the fill shall not be allowed to flow onto the fill surface, and shall be diverted into stabilized diversion channels, designed and constructed to safely pass the peak runoff from a 100 year, 24 hour precipitation event.' and inserting in lieu thereof the sentences 'Surface water run-
off from areas above and adjacent to the fill shall be di-
verted into properly designed and constructed stabilized
diversion channels which have been designed using best
current technology to safely pass the peak runoff from a
100 year, 24 hour precipitation event. The channel shall
be designed and constructed to ensure stability of the fill,
control erosion, and minimize water infiltration into the
fill."

(g) The legislative rules filed in the state register on
the twenty-sixth day of July, one thousand nine hundred
ninety-five, authorized under the authority of section four,
article twenty-one, chapter twenty-two of this code, modi-
ified by the division of environmental protection to meet
the objections of the legislative rule-making review com-
mittee and refiled in the state register on the fourteenth
day of December, one thousand nine hundred ninety-five,
relating to the division of environmental protection
(coalbed methane wells, 38CSR23), are authorized.

(h) The legislative rules filed in the state register on
the twenty-third day of November, one thousand nine
hundred ninety-four, authorized under the authority of
section eight, article eleven, chapter twenty of this code,
modified by the division of environmental protection to
meet the objections of the legislative rule-making review
committee and refiled in the state register on the twentieth
day of December, one thousand nine hundred ninety-five,
relating to the division of environmental protection (waste
tire management, 47CSR38G), are authorized.

(i) The legislative rules filed in the state register on the
twenty-second day of June, one thousand nine hundred
ninety-five, authorized under the authority of section
twenty, article fifteen, chapter twenty-two of this code,
modified by the division of environmental protection to
meet the objections of the legislative rule-making review
committee and refiled in the state register on the
twenty-second day of December, one thousand nine hun-
dred ninety-five, relating to the division of environmental
protection (sewage sludge management, 47CSR38D), are
authorized with the amendments set forth below:

On page seven, section 3.2.2, by striking out the words
"Table 3 of this rule will automatically be repealed and replaced with Table 3A of this rule on December 31, 1997 unless this provision is modified prior to that date."

And,

On page seven, section 3.2.2, after the word "rule." by inserting the following: The director is authorized until Dec. 31, 1999 to issue variances to this section to allow land application to soils which exceed the maximum soil concentrations of metals listed in Table 3 where soil analyses demonstrate that other soil factors, including but not limited to, soil pH, cation exchange capacity, organic matter content, or clay content, will limit mobility and availability of the metals. No later than June 30, 1999, the director shall propose revisions to Table 3 to adequately protect soil quality, human health and the environment.

And,

On page 20, by striking the following from table 3: "NOTE: Table 3 of this rule will automatically be repealed and replaced with Table 3A of this rule on December 31, 1997 unless the provision of paragraph 3.2.2 of this rule is modified prior to that date."

And,

On page 21, by striking out all of Table 3A.

(j) The legislative rules filed in the state register on the thirty-first day of July, one thousand nine hundred ninety-five, authorized under the authority of section four, article five, chapter twenty-two of this code, relating to the division of environmental protection (to prevent and control of air pollution from the emission of volatile organic compounds, 45CSR21), are authorized with the following amendment:

"On pages 170 and 171, by striking out section 40 in its entirety and inserting in lieu thereof a new section 40, to read as follows:

§45-21-40. Other Facilities that Emit Volatile Organic Compound (VOC).
40.1. Applicability.

a. This section 40. applies to any facility that has aggregate maximum theoretical emissions of 90.7 megagrams (mg) (100 tons) or more of volatile organic compounds (VOCs) per calendar year in the absence of control devices; provided that this section 40. applies to any source or sources within such facility other than those sources subject to regulation under sections 11. through 39. VOC emissions from sources regulated under sections 11. through 39., but which fall below the applicability thresholds of these sections, and thus are not subject to the emissions control standards of these sections, shall be included in the determination of maximum theoretical emissions for a facility but shall not be subject to the requirements of this section 40. Emissions from sources listed in section 40.1.d. shall not be included in the determination of maximum theoretical emissions for a facility.

b. The owner or operator of a coating line or operation, whose emissions are below this applicability threshold, shall comply with the certification, recordkeeping, and reporting requirements of section 40.6.a.

c. The owner or operator of a non-coating source, whose emissions are below this applicability threshold, shall comply with the certification, recordkeeping, and reporting requirements of section 40.6.b.

d. The requirements of this section 40. shall not apply to coke ovens (including by-product recovery plants), fuel combustion sources, barge loading facilities, jet engine test cells, vegetable oil processing facilities, wastewater treatment facilities, iron and steel production, surface impoundments, pits; and boilers, industrial furnaces, and incinerators having a destruction efficiency of 95 percent or greater.

e. The requirements of this section 40. shall not apply to any facility bound by an order or permit, enforceable by the Director, which limits the facility's emissions to less than 100 tons of VOC per calendar year without the application of control devices.
40.2. Definitions. — As used in this section 40., all terms not defined herein shall have the meaning given them in section 2.

a. 'Reasonably available control measures' (also denoted as RACM) means an emission limit or limits that reflect the application of control technology and/or abatement techniques or measures that are reasonably available, considering technological and economic feasibility. Such emission limits may be considered on a plant-wide basis to achieve emission reduction requirements in the most cost effective manner.

b. "Fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

40.3. Standards. — The owner or operator of a facility subject to this section 40. shall:

a. Except as provided in section 40.3.b.,

1. With respect to any existing non-fugitive emission source which has maximum theoretical emissions of 6 pounds per hour or more, comply with an emission control plan established on a case-by-case basis approved by the Director that meets the definition of reasonably available control measures (RACM) and achieves at least a 90 percent reduction in emissions below the total (aggregate) maximum theoretical emissions from all such non-fugitive emission sources subject to RACM requirements; and

2. With respect to each process unit producing a product or products, intermediate or final, in excess of 1000 megagrams (Mg) (1,100 tons) per year, regardless of whether such product or products are listed in 40 CFR 60.489, comply with an emission control plan for fugitive sources using the methods and criteria of section 37., or alternative methods and criteria approved by the Director. The Director may exempt a process unit from fugitive emission control requirements upon satisfactory demonstration that emissions are of minor significance.

b. With respect to such sources as described in sections 40.3.a.1. and 40.3.a.2., comply with emission limits and
measures based upon an alternative emissions reduction plan approved by the Director considering technical, economic and air quality benefit considerations that, at a minimum, maintains emission control measures incorporated as part of any federally approved maintenance plan for the county or area in which the source is located.

c. With respect to any source at a facility subject to this section 40., which source has maximum theoretical emissions of 6 pounds per hour or more and is constructed, modified or begins operating after the effective date of this rule, comply with a control plan developed on a case-by-case basis approved by the Director that meets the definition of reasonably available control technology (RACT) in section 2.60. for both fugitive and non-fugitive emission sources.

40.4. Submissions and Approval of Control Plans

a. Within 90 days after the effective date of this rule, the owner or operator of a facility subject to this section 40. shall submit any required amendments to the case-by-case RACT control plans previously submitted to the Director, that revise such control plans to meet the definition of reasonably available control measures (RACM).

b. Notwithstanding the provisions of section 9.2., the owner or operator of a facility subject to this rule solely due to this section 40., that requires a major process change and/or major capital investment to comply with RACM requirements, may petition the Director for an additional extension beyond December 31, 1996, for compliance certification, and the Director may grant such extension when warranted. Provided however, such compliance certification date shall be no later than July 31, 1997.

c. The Director shall not approve a RACM plan or an alternative emissions reduction plan under this section 40. unless such plan includes:

1. A commitment to develop and submit a complete RACT plan to the Director within 180 days of a finding
by the Director that a violation of the National Ambient Air Quality Standard for ozone has occurred within the county or maintenance area in which the source is located; and

2. A commitment to achieving full implementation of RACT within 2 years of approval of the RACT plan by the Director.

d. A finding by the Director that a violation of the National Ambient Air Quality Standard for ozone has occurred shall be made based upon verification of a monitored ozone standard violation in the county or maintenance area in which the source is located. The three maintenance areas (the Huntington area, comprising Cabell and Wayne counties; the Charleston area, comprising Kanawha and Putnam counties; and the Parkersburg area, comprising Wood county) shall be treated separately and independently for any such finding(s).

e. All RACM control plans, RACT control plans, and alternative emissions reduction plans approved by the Director pursuant to this section 40. shall be embodied in a consent order or permit in accordance with 45CSR13 or 45CSR30, as required. A facility owner or operator may at any time petition the Director to approve revisions to these plans. The decision concerning said petition shall be issued by the Director in accordance with 45CSR13 or 45CSR30, as required, or a consent order. Any such revisions shall be subject to the public participation requirements of 45CSR13 or 45CSR30.

f. The owner or operator of a facility subject to this section 40. may submit for approval by the Director an emission control plan that meets the definition of reasonably available control technology (RACT) in section 2.60.

40.5. Test methods and procedures. — The owner or operator of any source subject to this section 40. shall demonstrate compliance with section 40.3. by using the applicable test methods specified in sections 41. through 46 or by other means approved by the Director. Notwithstanding the requirements of section 41.1., EPA approval for alternate test methods to demonstrate compliance shall
not be required for sources which are subject solely to emission control requirements specified in section 40.3.

40.6. Reporting and Recordkeeping Requirements for Exempt Non-Control Technique Guideline (CTG) Sources.

a. An owner or operator of a coating line or operation that is exempt from the emission limitations in section 40.3. shall comply with the certification, recordkeeping, and reporting requirements in section 4.2.

b. An owner or operator of a non-coating source that is exempt from the emission limitations in section 40.3. shall submit, upon request by the Director, records that document that the source is exempt from these requirements.

1. These records shall be submitted to the Director within 30 days from the date of request.

2. If such records are not made available, the source will be considered subject to the limits in section 40.3.

40.7. Reporting and Recordkeeping Requirements for Subject Non-CTG Coating Sources. — An owner or operator of a coating line or operation subject to this section 40. and complying with section 40.3. shall comply with the certification, recordkeeping, and reporting requirements in section 4.

40.8. Reporting and Recordkeeping Requirements for Subject Non-CTG, Non-Coating Sources.

a. The owner or operator of the subject VOC sources shall perform all testing and maintain the results of all tests and calculations required under sections 40.3. and 40.5. to demonstrate that the subject source is in compliance.

b. The owner or operator of the subject VOC source shall maintain these records in a readily accessible location for a minimum of 3 years, and shall make these records available to the Director upon verbal or written request.

c. The owner or operator of any facility containing sources subject to this section 40. shall comply with the
requirements in section 5, except that such requirements,
as they apply to sources solely subject to this section 40.,
may be modified by the Director upon petition by the
owner or operator. Any such modified requirements shall
be embodied in the facility's control plan (RACM, RACT
or alternative plan) and reflected in the associated consent
order or permit issued pursuant to 45CSR13 or
45CSR30."

(k) The legislative rules filed in the state register on
the twenty-seventh day of July, one thousand nine hun-
dred ninety-five, authorized under the authority of section
five, article twelve, chapter twenty-two of this code, modi-
fied by the division of environmental protection to meet
the objections of the legislative rule-making review com-
mittee and refiled in the state register on the seventeenth
day of January, one thousand nine hundred ninety-six,
relating to the division of environmental protection (moni-
toring well design standards, 47CSR60), are authorized.

(l) The legislative rules filed in the state register on the
thirty-first day of July, one thousand nine hundred
ninety-five, authorized under the authority of section five,
article fifteen, chapter twenty-two of this code, modified
by the division of environmental protection to meet the
objections of the legislative rule-making review committee
and refiled in the state register on the twenty-fourth day of
January, one thousand nine hundred ninety-six, relating to
the division of environmental protection (solid waste man-
agement, 47CSR38), are authorized with the following
amendments:

"On page 37, subdivision 3.8.4, after the words 'from
the uppermost' by striking the word 'significant.'

On page 142, by striking the existing subdivision
4.11.2.c.A and inserting in lieu thereof the following:

'4.11.2.c.A

The monitoring frequency for all constituents listed in
Appendix I of this rule, must be at least twice a year dur-
ing the active life of the facility, including closure and the
post-closure periods. The director may require more fre-
quent monitoring on a site-specific basis by considering
aquifer flow rate and existing quality of the groundwater.'

On page 148, by striking the existing subdivision
4.11.3.i.A. and inserting in lieu thereof the following:

'4.11.3.i.A.

The director may consider an alternative groundwater
protection standard in consultation with the environmental
quality board pursuant to 47CSR57 for constituents for
which water quality standards have not been established.'

On page 151, subdivision 4.11.5., by following the
words 'any applicable groundwater quality protection
standards' by inserting the words 'and/or background
groundwater quality, pursuant to the requirements of the
Groundwater Protection Act, WVC §22-12-1 et seq.'

On page 152, subdivision 4.11.6.b.A., by following
the words 'Be protective of human health and the environ-
ment' inserting the words 'and maintain existing ground-
water quality, pursuant to the requirements of the Ground-
water Protection Act, WVC §22-12-1 et seq.'

On page 154, subdivision 4.11.6.d.B(f), by striking
the words 'Resource value of the aquifer' and inserting in
lieu thereof the words 'The hydrogeologic characteristics
of the facility and the surrounding land,'

On page 154, subdivision 4.11.6.d.B(f).e by striking
out the words "The hydrogeologic characteristics of the
facility and surrounding land;

And, by renumbering and relettering the remaining
subdivisions of the rule.

On page 156, subdivision 4.11.7.a.A., by following
the words 'Demonstrate compliance with' inserting the
words 'the Groundwater Protection Act, WVC §22-12-1 et
seq., and/or the"

And,

On page 173, subdivision 5.4.3, by adding the follow-
ing sentence to the end of the subdivision: 'A class D facil-
ity other than a class D-1 solid waste facility shall not exceed two (2) acres in size.'

§64-3-2. Environmental boards.

(a) The legislative rules filed by the environmental quality board in the state register on the thirty-first day of July, one thousand nine hundred ninety-five, under the authority of section four, article three, chapter twenty-two-b of this code, modified by the environmental quality board to meet the objections of the legislative rule-making review committee and refiled in the state register on the nineteenth day of January, one thousand nine hundred ninety-six, relating to the environmental quality board (requirements governing water quality standards, 46CSR1), are authorized with the following amendments:

"On page one, section two, by deleting all of subsection 2.1;

On page one by renumbering the following subsection:

On page two, after subsection 2.1, by adding a new subsection 2.2 to read as follows:

'2.2. 'Cumulative' means a pollutant which increases in concentration in an organism by successive additions at different times or in different ways';

And,

On page eight, section five, after the words 'No mixing zones for human health criteria shall be' by striking out the remainder of subdivision c. and inserting in lieu thereof the following:

'established on a stream which has a seven (7) day, ten (10) year return frequency of 5 cfs or less.'

(b) The legislative rules filed in the state register on the twenty-sixth day of July, one thousand nine hundred ninety-five, authorized under the authority of section six, article three, chapter twenty-two-c of this code, modified by the solid waste management board to meet the objections of the legislative rule-making review committee and

34 refiled in the state register on the twenty-sixth day of Oc-
35 tober, one thousand nine hundred ninety-five, relating to
36 the solid waste management board (development of com-
37 prehensive litter and solid waste control plans, 54CSR3),
38 are authorized.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signatures]
Chairman Senate Committee

[Signatures]
Chairman House Committee

Originating in the House.

Takes effect from passage.

[Signatures]
Clerk of the Senate

[Signatures]
Clerk of the House of Delegates

[Signatures]
President of the Senate

[Signatures]
Speaker of the House of Delegates

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The within bill appeared this the 1st day of April, 1996.

[Signature]
Governor