WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 1998

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ENROLLED

Com. Sub. for
House Bill No. 4136

(By Delegates Hunt, Linch, Compton,
Jenkins, Faircloth and Riggs)

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Passed March 14, 1998

In Effect from Passage
AN ACT to amend and reenact section one, article three, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto a new section, designated section two, all relating generally to the promulgation of administrative rules by the various executive or administrative agencies and the procedures relating thereto; 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 division of environmental protection to promulgate legislative rules relating to acid rain provisions and permits; authorizing division of environmental protection to
promulgate legislative rules relating to emission standards for hazardous air pollutants pursuant to 40 CFR Part 63; authorizing division of environmental protection to promulgate legislative rules relating to hazardous waste management; authorizing division of environmental protection to promulgate legislative rules relating to requirements governing water quality standards; authorizing division of environmental protection to promulgate legislative rules relating to prevention and control particulate air pollution from manufacturing process operations; authorizing division of environmental protection to promulgate legislative rules relating to prevention and control of emissions from municipal solid waste landfills; authorizing division of environmental protection to promulgate legislative rules relating to emission standards for hazardous air pollutants pursuant to 40 CFR Part 63; authorizing division of environmental protection to promulgate legislative rules relating to surface mining and reclamation regulations; authorizing environmental quality board to promulgate legislative rules relating to water quality standards; and authorizing environmental quality board to promulgate legislative rules relating to groundwater standards.

Be it enacted by the Legislature of West Virginia:

That section one, article three, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article be further amended by adding thereto a new section, designated section two, all to read as follows:

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

1 (a) The legislative rule filed in the state register on the first day of August, one thousand nine hundred ninety-seven, authorized under the authority of section seven, article five, chapter twenty-two, of this code, relating to the division of environmental protection (acid rain provisions and permits, 45 CSR 33), is authorized.

7 (b) The legislative rule filed in the state register on the
first day of August, one thousand nine hundred ninety-
seven, authorized under the authority of section seven,
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,
45 CSR 34), is authorized.

(c) The legislative rule filed in the state register on the
first day of August, one thousand nine hundred ninety-
seven, authorized under the authority of section six, article
eighteen, chapter twenty-two of this code, relating to the
division of environmental protection (hazardous waste
management, 33 CSR 20), is authorized.

(d) The legislative rule filed in the state register on the
fourteenth day of August, one thousand nine hundred
ninety-seven, 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 particulate air pollution from manufacturing
process operations, 45 CSR 7) is authorized.

(e) The legislative rule filed in the state register on the
first day of August, one thousand nine hundred
ninety-seven, 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 seventh day of January, one thousand nine hundred ninety-eight, relating to the division of environmental protection (to prevent and control of emissions from municipal solid waste landfills, 45 CSR 23), is authorized.

(f) The legislative rule filed in the state register on the
first day of August, one thousand nine hundred ninety-
seven, authorized under the authority of section seven,
article one, 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 second day of
December, one thousand nine hundred ninety-seven,
relating to the division of environmental protection (to
prevent and control air pollution from hazardous waste
The legislative rule filed in the state register on the first day of August, one thousand nine hundred ninety-seven, authorized under the authority of section three, article one, 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 fifth day of January, one thousand nine hundred ninety-eight, relating to the division of environmental protection (surface mining and reclamation regulations, 38 CSR 2), is authorized.

§64-3-2. Environmental Quality Board.

(a) The legislative rule filed in the state register on the first day of August, one thousand nine hundred ninety-seven, authorized 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 twenty-second day of January, one thousand nine hundred ninety-eight, relating to the environmental quality board (requirements governing water quality standards, 46 CSR 1), is authorized until the thirtieth day of October, 1999:

Provided, That the environmental quality board shall review, revise and propose, within this statutory deadline, and in accordance with the provisions of chapter twenty-nine-a of this code, emergency and legislative rules to address the interpretive differences regarding the designation of category A waters and analyze the need for distance prohibitors for the policies of public drinking water intake, with the following amendments:

By deleting the strike-throughs in subdivisions 8.22.1 and 8.22.2;

And,

On page fourteen, subsection 7.2.b after the word ‘NOTE:’ by inserting the following:

‘With the exception of section 7.2.c.5 listed herein
exceptions do not apply to trout waters nor the requirements of section 3.’

And on page fourteen, after paragraph 7.2.c.4 by inserting a new paragraph 7.2.c.5, to read as follows:

“For the upper Blackwater River from the mouth of Yellow Creek to a point 5.1 miles upstream, when flow is less than 7Q10, naturally occurring values for Dissolved Oxygen as established by data collected by the dischargers within this reach and reviewed by the Board and Division of Environmental Protection shall be the applicable criteria.’

And,

On page forty-four, by striking out subsection 8.17.1 in its entirety and inserting in lieu thereof a new subsection 8.17.1 to read as follows:

“Effluent limitations regarding Mn shall not apply where the applicant certifies the stream or stream segment is not category A water.

(b) The legislative rule filed in the state register on the first day of August, one thousand nine hundred ninety-seven, authorized 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 twenty-third day of January, one thousand nine hundred ninety-eight, relating to the environmental quality board (requirements governing groundwater standards, 46 CSR 12), is authorized.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within approved this the 2nd day of April, 1998.

Governor
PRESENTED TO THE
GOVERNOR
Date: 12/19/98.
Time: 2:35 pm.