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WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 1998



ENROLLED

Com. Sub. for House Bill No. 4578

(By Delegates Ashley, Martin, Seacrist and Staton)



Passed March 13, 1998

In Effect Ninety Days from Passage

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OFFICE OF THE CLERK
SENATE OF WEST VIRGINIA

ENROLLED

COMMITTEE SUBSTITUTE

FOR

H. B. 4578

(BY DELEGATES ASHLEY, MARTIN, SEACRIST AND STATON)

[Passed March 13, 1998; in effect ninety days from passage.]

AN ACT to amend article five, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section eighteen, relating to requiring the director of the division of environmental protection to propose legislative rules; establishing a market-based air emission banking and trading program; and providing for emissions credits.

Be it enacted by the Legislature of West Virginia:

That article five, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section eighteen, to read as follows:

ARTICLE 5. AIR POLLUTION CONTROL.

§22-5-18. Market-based banking and trading programs, emissions credits; director to promulgate rules.

- 1 (a) Within one hundred eighty days after the effective
- 2 date of this section, the director shall propose legislative
- 3 rules for promulgation in accordance with article three,

4 chapter twenty-nine-a of this code, to the full extent
5 allowed by federal and state law, one or more rules
6 establishing a voluntary emissions trading and banking
7 program that provides incentives to make progress toward
8 the attainment or maintenance of the national ambient air
9 quality standards, the reduction or prevention of
10 hazardous air contaminants or the protection of human
11 health and welfare and the environment from air
12 pollution.

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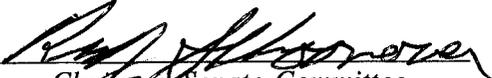
13 (b) Any person reducing air emission from a source to
14 a greater extent than otherwise required by state or federal
15 law is entitled to an emissions credit in the amount of the
16 excess emission reduction. The director shall establish a
17 system by ^{LEGISLATIVE} rule for quantifying, verifying and registering
18 all emissions reduction credits, which are eligible for
19 banking and trading if achieved after the first day of
20 January, one thousand nine hundred ninety-one, to the
21 extent permitted by federal law. Credits also shall be
22 available for permanent shutdowns: *Provided*, That the
23 credits may be transferred by the depositor to the state
24 office of economic development or to a public interest
25 group of the depositor's designation. Except for
26 voluntary reductions of nitrogen oxides, ten percent of
27 any emission credits registered with the director shall be
28 credited to an account for the benefit of the state and
29 retired from future use, if not used within ten years. All
30 other emissions reduction credits registered shall remain in
31 effect until used and debited or retired, if not used within
32 ten years. The director may charge a reasonable
33 transaction fee at the time any credits are registered and
34 shall deposit the fees in the air pollution control fund.

35 (c) Emission credits registered by a person in
36 accordance with subsection (b) of this section may be used
37 by the person to satisfy emission reduction requirements
38 that would otherwise be required under state or federal law
39 or the credits may be used for the same purpose at another
40 source, by the person who registered the credit or by
41 another person to whom the credit was transferred. Same
42 source use of banked emission credits requires prior
43 notification to the West Virginia office of air quality. The
44 rules may not prohibit the transfer of credits among

45 persons, but shall establish procedures by which transfers
46 are identified, tracked and accounted for in the program.
47 The division may establish the emissions trading program
48 as a state, multistate or regional program as long as the
49 program contributes to the goal of improving the air
50 quality in West Virginia and in the air quality region
51 where the source is located.

52 (d) The director may propose legislative rules for
53 promulgation in accordance with article three, chapter
54 twenty-nine-a of this code, establishing classes of volatile
55 organic compounds, and shall allow banking and trading
56 of different volatile organic compounds within the same
57 class. In lieu thereof, trading shall be allowed among all
58 volatile organic compounds where not inconsistent with
59 federal law and where similar degrees of hazard and
60 qualitative impact are anticipated with respect to air
61 quality. For any emissions banking and trading program
62 used for the purpose of making progress toward attaining
63 or maintaining the national ambient air quality standard
64 for ozone, the director may allow reductions of volatile
65 organic compounds to be substituted for required
66 reductions of oxides of nitrogen, or reductions of oxides
67 of nitrogen to be substituted for required reductions of
68 volatile organic compounds, where appropriate, if not
69 inconsistent with federal law.

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



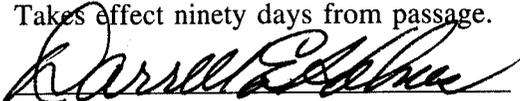
Chairman Senate Committee



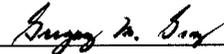
Chairman House Committee

Originating in the House.

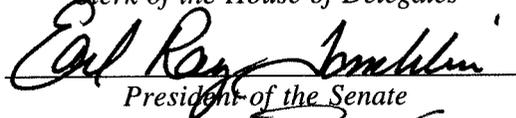
Takes effect ninety days from passage.



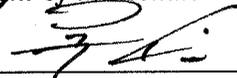
Clerk of the Senate



Clerk of the House of Delegates

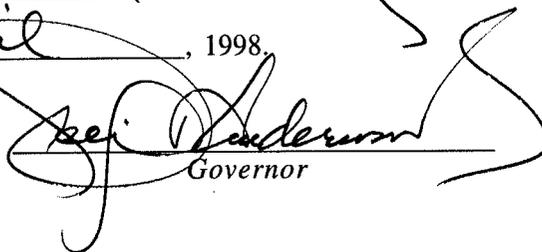


President of the Senate



Speaker of the House of Delegates

The within approved this the 8th
day of April, 1998.



Governor

PRESENTED TO THE

GOVERNOR

Date 3/31/98

Time 2:49 pm