WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2002

ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 4163

(By Delegates Mahan, Wills, Cann, Kominar, Faircloth and Riggs)

Passed March 9, 2002

In Effect from Passage
AN ACT to amend and reenact article three, 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; legislative mandate or authorization for the promulgation of certain legislative rules by various executive or 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 certain legislative rules with various modifications presented to and recommended by the legislative rule-making review committee; authorizing certain of the agencies to promulgate certain legislative rules as amended by the Legislature; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to

and recommended by the legislative rule-making review committee and as amended by the Legislature; authorizing department of environmental protection to promulgate legislative rule relating to ambient air quality standards for sulfur oxides and particulate matter; authorizing department of environmental protection to promulgate legislative rule relating to ambient air quality standards for carbon monoxide and ozone; authorizing department of environmental protection to promulgate legislative rule relating to emission standards for hazardous air pollutants; authorizing department of environmental protection to promulgate legislative rule relating to standard of performance for new stationary sources; authorizing department of environmental protection to promulgate legislative rule relating to prevention and control of air pollution from hazardous waste treatment, storage or disposal facilities; authorizing department of environmental protection to promulgate legislative rule relating to acid rain provisions and permits; authorizing department of environmental protection to promulgate legislative rule relating to nitrogen oxide budget trading program as means of control and reduction of nitrogen oxides; authorizing department of environmental protection to promulgate legislative rule relating to prevention and control of emissions from commercial and industrial solid waste incineration units; authorizing department of environmental protection to promulgate legislative rule relating to nitrogen oxide budget trading program as means of control and reduction of nitrogen oxides from electric generating units; authorizing department of environmental protection to promulgate legislative rule relating to emission standards for hazardous air pollutants for source categories; authorizing department of environmental protection to promulgate legislative rule relating to awarding West Virginia stream partners program grants; authorizing department of environmental protection to promulgate legislative rule relating to voluntary remediation and redevelopment; authorizing department of environmental protection to promulgate legislative rule relating to surface
mining and reclamation; authorizing department of environmental protection to promulgate legislative rule relating to coal-related dam safety; authorizing department of environmental protection to promulgate legislative rule relating to hazardous waste management; authorizing department of environmental protection to promulgate legislative rule relating to administrative proceedings and civil penalty assessment; authorizing department of environmental protection to promulgate legislative rule relating to state certification of activities requiring federal licenses and permits; authorizing department of environmental protection to promulgate legislative rule relating to underground injection control; authorizing department of environmental protection to promulgate legislative rule relating to groundwater protection standards at Dominion “Generation” steam electric generation facility at Mount Storm, West Virginia; authorizing department of environmental protection to promulgate legislative rule relating to WVNPDES rules for coal mining facilities; authorizing environmental quality board to promulgate legislative rule relating to requirements governing water quality standards; authorizing environmental quality board to promulgate legislative rule relating to requirements governing groundwater standards; and authorizing solid waste management board to promulgate legislative rule relating to disbursement of grants to solid waste authorities.

Be it enacted by the Legislature of West Virginia:

That article three, 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 3. AUTHORIZATION FOR DEPARTMENT OF ENVIRONMENT TO PROMULGATE LEGISLATIVE RULES.

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

(a) The legislative rule filed in the state register on the
twenty-seventh day of July, two thousand one, authorized under the authority of section four, article five, chapter twenty-two of this code, relating to the department of environmental protection (ambient air quality standards for sulfur oxides and particulate matter, 45 CSR 8), is authorized.

(b) The legislative rule filed in the state register on the twenty-seventh day of July, two thousand one, authorized under the authority of section four, article five, chapter twenty-two of this code, relating to the department of environmental protection (ambient air quality standards for carbon monoxide and ozone, 45 CSR 9), is authorized.

(c) The legislative rule filed in the state register on the twenty-seventh day of July, two thousand one, authorized under the authority of section four, article five, chapter twenty-two of this code, relating to the department of environmental protection (emission standards for hazardous air pollutants pursuant to 40 CFR Part 61, 45 CSR 15), is authorized.

(d) The legislative rule filed in the state register on the twenty-seventh day of July, two thousand one, authorized under the authority of section four, article five, chapter twenty-two of this code, relating to the department of environmental protection (standards of performance for new stationary sources pursuant to 40 CFR Part 60, 45 CSR 16), is authorized.

(e) The legislative rule filed in the state register on the twenty-seventh day of July, two thousand one, authorized under the authority of section four, article five, chapter twenty-two of this code, relating to the department of environmental protection (to prevent and control air pollution from hazardous waste treatment, storage or disposal facilities, 45 CSR 25), is authorized.

(f) The legislative rule filed in the state register on the twenty-seventh day of July, two thousand one, authorized under
the authority of section four, article five, chapter twenty-two of this code, relating to the department of environmental protection (acid rain provisions and permits, 45 CSR 33), is authorized.

(g) The legislative rule filed in the state register on the twenty-seventh day of July, two thousand one, authorized under the authority of section four, article five, chapter twenty-two of this code, modified by the department of environmental protection to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-eighth day of November, two thousand one, relating to the department of environmental protection (NOx budget trading program as a means of control and reduction of nitrogen oxides, 45 CSR 1), is authorized.

(h) The legislative rule filed in the state register on the twenty-seventh day of July, two thousand one, authorized under the authority of section four, article five, chapter twenty-two of this code, modified by the department of environmental protection to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-sixth day of December, two thousand one, relating to the department of environmental protection (to prevent and control emissions from commercial and industrial solid waste incineration units, 45 CSR 18), is authorized.

(i) The legislative rule filed in the state register on the twenty-seventh day of July, two thousand one, authorized under the authority of section four, article five, chapter twenty-two of this code, modified by the department of environmental protection to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-eighth day of November, two thousand one, relating to the department of environmental protection (NOx budget trading program as a means of control and reduction of nitrogen oxides

from electric generating units, 45 CSR 26), is authorized with the following amendments:

On page sixteen, subsection 40.1, by striking out the words "37,125 tons" and inserting in lieu thereof the words "the number of NOx tons apportioned to electric generating units in the State of West Virginia as set forth in paragraph (g)(2)(ii) of 40 CFR §51.121, as amended from time to time,";

On page eighteen, subsection 42.2, in the first sentence, after the words "a total number of NOx allowances equal to," by striking out the remainder of the sentence and by inserting in lieu thereof the words "95 percent of the portion of the state NOx trading program budget under section 40, covering such units."

On page eighteen, subdivision 42.2.b, by striking out subdivision 42.2.b in its entirety and inserting in lieu thereof a new subdivision 42.2.b to read as follows:

"42.2.b. If the initial total number of NOx allowances allocated to all NOx Budget units under subsection 4.1. for an ozone season under subdivision 42.2.a. does not equal 95 percent of the portion of the state NOx trading program budget under section 40, covering such units, the Secretary will adjust the total number of NOx allowances allocated to all such NOx Budget units for the ozone season under subdivision 42.2.a. so that the total number of NOx allowances allocated equals 95 percent of the portion of the state NOx trading program budget under section 40, covering such units. This adjustment will be made by multiplying each unit’s allocation by 95 percent of the portion of the state NOx trading program budget under section 40, covering such units; dividing by the total number of NOx allowances allocated under subdivision 42.2.a. for the ozone season; and rounding to the nearest whole number of NOx allowances as appropriate."
On page eighteen, subdivision 42.4.a, by striking out the number “5,833” and inserting in lieu thereof the words “5 percent of the”;

And,

On page twenty, subsection 42.6, in the definition of the term “State NOx trading program budget excluding allocation set-aside,” by striking out the words “less the allocation set-aside set forth in subdivision 42.4.a” and inserting in lieu thereof the words “multiplied by 95 percent.”.

(j) The legislative rule filed in the state register on the twenty-seventh day of July, two thousand one, authorized under the authority of section four, article five, chapter twenty-two of this code, modified by the department of environmental protection to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-sixth day of December, two thousand one, relating to the department of environmental protection (emission standards for hazardous air pollutants for source categories pursuant to 40 CFR Part 63, 45 CSR 34), is authorized.

(k) The legislative rule filed in the state register on the twenty-fourth day of July, two thousand one, authorized under the authority of section four, article thirteen, chapter twenty of this code, relating to the department of environmental protection (awarding of the West Virginia stream partners program grant, 60 CSR 4), is authorized.

(l) The legislative rule filed in the state register on the twenty-sixth day of July, two thousand one, authorized under the authority of section three, article twenty-two, chapter twenty-two of this code, modified by the department of environmental protection to meet the objections of the legislative rule-making review committee and refiled in the state
register on the twenty-first day of November, two thousand one, relating to the department of environmental protection (voluntary remediation and redevelopment, 60 CSR 3), is authorized with the following amendment:

On page forty-six, section 9.2.a. after the words “to the satisfaction of the” by striking out the word “director” and inserting in lieu thereof the word “secretary”.

(m) The legislative rule filed in the state register on the twenty-fourth day of July, two thousand one, authorized under the authority of sections four and twelve, article three, chapter twenty-two of this code, modified by the department of environmental protection to meet the objections of the legislative rule-making review committee and refiled in the state register on the sixteenth day of January, two thousand two, relating to the department of environmental protection (surface mining and reclamation rule, 38 CSR 2), is authorized with the following amendments:

On page one hundred sixty-nine, at the beginning of the second paragraph of subdivision 14.15.a. by designating the second paragraph as 14.15.a.1. and the third paragraph as 14.15.a.2.;

On page one hundred sixty-nine, newly designated paragraph 14.15.a.2., by striking out the word “Incorporate” and by inserting in lieu thereof “All permit applications shall incorporate”;

On page one hundred seventy, paragraph 14.15.b.5. at the end of the paragraph by adding the following: “Regardless of the allowable limits contained in this section, any disturbed area other than those specified in subdivision 14.15.c. of this rule must complete backfilling and rough grading within 180 days of final mineral removal.”;
On page one hundred seventy, at the end of subparagraph 14.15.b.6.A. by adding the following: “Where operations contemplated under this section are approved with incidental contour mining, which may include augering or highwall mining, the acreage must be calculated in the allowable disturbance authorized in this paragraph. The incidental contour pit length cannot exceed 3000 feet and backfilling/grading shall follow mineral removal within 180 days. Regardless of the allowable limits contained in section fourteen of this rule, any disturbed area other than those specified in subdivision 14.15.c. of this rule must complete backfilling and rough grading within 180 days of final mineral removal. Operations required to comply with AOC+ guidelines or approved specific post-mining land use requirements must complete backfilling and rough grading within 270 days of final mineral removal unless a waiver is otherwise granted by the Secretary pursuant to this section.”;

On page one hundred seventy one, by striking out part 14.15.b.6.B.1. in its entirety and inserting in lieu thereof a new part 14.15.b.6.B.1. to read as follows:

“14.15.b.6.B.1. Pre-stripping or benching operations cannot exceed four hundred (400) acres for any single permit and cannot precede dragline operations more than twenty-four (24) months unless otherwise approved by the Secretary or necessary to satisfy AOC+ requirements, specific post-mining land use requirements or special materials handling facilities requirements. All fill construction must occur during this phase of operation and be conducted in accordance with subdivision 14.15.d. of this rule.”;

On page one hundred seventy-one, at the end of subparagraph 14.15.c.1. by adding the following: “Provided, That with the exception of permanent haulroads, drainage control systems and material handling facilities (including but are not limited to
such facilities as preparation plants, fixed coal stock-
piles/transfer areas and commercial forestry topsoil areas) the
total acreage of all other semi-permanent ancillary facilities
cannot exceed ten percent of the total permit acreage.”;

On page one hundred seventy-one, at the end of paragraph
14.15.c.3. by adding the words: “The Secretary may consider
larger acreage for clearing operations where it can be demon-
strated that it is necessary to comply with applicable National
Environmental Policy Act requirements.”;

On page one hundred seventy one, by striking out subdivi-
sion 14.15.d. in its entirety and inserting in lieu thereof a new
subdivision 14.15.d. to read as follows:

“14.15.d. Excess Spoil Disposal Fills. All fills must be
constructed contemporaneously and contiguously with that
segment of the operation that contains the material that is
designated to be placed in the fill. In addition to all other
standards in effect, the following shall apply to excess spoil
disposal fills.”;

On pages one hundred seventy-one and one hundred
seventy-two, by striking out the second paragraph of subdivi-
sion 14.15.d. in its entirety and inserting in lieu thereof a newly
designated paragraph 14.15.d.1. to read as follows:

“14.15.d.1. All fills must be planned for continuous
material placement until designed capacity is reached and
cannot have a period of inactivity that exceeds 180 days unless
otherwise approved by the secretary on a permit specific basis
to accommodate AOC+, post-mining land use or special
material handling situations.”;

On page one hundred seventy-two, by striking out the third
paragraph of subdivision 14.15.d. in its entirety and inserting in
lieu thereof a newly designated paragraph 14.15.d.2. to read as follows:

“14.15.d.3. The areas where contour mining is proposed within the confines of the fill are not eligible for the exemption contained in 14.15.c.2.”;

On page one hundred seventy-two, by striking out the fourth paragraph of subdivision 14.15.d. in its entirety and inserting in lieu thereof a newly designated paragraph 14.15.d.3. to read as follows:

“14.15.d.3. Operations that propose fills that are designed to use single lift top-down construction shall bond the proposed fill areas based upon the maximum amount per acre specified in WV Code § 22-3-12(c)(1).”;

On page one hundred seventy-two by inserting a newly designated subdivision 14.15.e. to read as follows:

“14.15.e. Applicability. Permit applications pending approval on the first day of January, two thousand three, shall within 120 days of permit approval have a mining and reclamation plan which is consistent with the criteria set forth in this subdivision. Permit applications which are submitted after the first day of January, two thousand three shall not be issued a permit without a mining and reclamation plan which is consistent with the criteria set forth in this subdivision.”;

On page one hundred seventy-one and one hundred seventy-two, by inserting a newly designated paragraph 14.15.e.1. to read as follows:

“14.15.e.1. After the first day of January, two thousand three, the mining and reclamation plan for all active mining operations must be consistent with the applicable time criteria set forth in this paragraph. Where permit revisions area
necessary to satisfy this requirement, the revisions shall be prepared and submitted to the Secretary for approval within 180 days. Full compliance with the revised mining and reclamation plan shall be accomplished within twelve (12) months from the date of the Secretary’s approval.

On page one hundred seventy-two, by inserting a newly designated paragraph 14.15.e.2. to read as follows:

“14.15.e.2. After the first day of January, two thousand three, the mining and reclamation plan for mining operations which have approved inactive status or when permits have been issued but the operation has not started must be consistent with the applicable time criteria of this paragraph. Where permit revisions are necessary to satisfy this requirement, the revisions shall be prepared and submitted to the Secretary for approval within 180 days. Full compliance with the revised mining and reclamation plan shall be accomplished within twelve (12) months from the date of the Secretary’s approval.”;

On page one hundred seventy-two, by inserting a newly designated paragraph 14.15.e.3. to read as follows:

“14.15.e.3. The Secretary may consider contemporaneous reclamation plans on multiple permitted areas with contiguous areas of disturbance to ensure that contemporaneous reclamation is practiced on a total operational basis. In order to establish a method of orderly transition between operations, plans submitted on multiple permitted areas cannot add allowable disturbed areas in such a manner as to result in increased disturbed areas on a single operation unless a variance is obtained pursuant to subdivision 14.15.g.”;

And by renumbering the remainder of the section;

On page one hundred seventy-two, by striking out current subdivision 14.15.f. in its entirety and by inserting a newly
designated subdivision 14.15.g. in lieu thereof to read as follows:

“14.15.g. Variance - Permit Applications. The Secretary may grant approval of a mining and reclamation plan for a permit which seeks a variance to one or more of the standards set forth in this subsection, if on the basis of site specific conditions and sound scientific and/or engineering data, the applicant can demonstrate that compliance with one or more of these standards is not technologically or economically feasible. The Secretary shall make written findings in accordance with the applicable provisions of section 3.32 of this rule when granting or denying a request for variance under this section.”;

And by renumbering the remainder of this section;

On page one hundred seventy-two, newly designated paragraph 14.15.g.2., after the word “infeasible”, by adding a comma and the words “including a discussion and feasibility analysis of alternatives that were considered.”;

On page one hundred seventy-two, newly designated subdivision 14.15.h., after the word “subdivision”, by striking out “14.15.f.” and inserting in lieu thereof “14.15.g.”;

And,

On page one hundred seventy-two, by striking out subdivision 14.15.i. in its entirety and inserting in lieu thereof, a new subdivision 14.15.i. to read as follows:

“14.15.i. Notwithstanding any provision of this rule to the contrary, revision of the mining and reclamation plan contained in a permit is required prior to any change in mining methods which would substantially affect the standards contained in this section.”
(n) The legislative rule filed in the state register on the twenty-fourth day of July, two thousand one, authorized under the authority of section four, article fourteen, chapter twenty-two of this code, modified by the department of environmental protection to meet the objections of the legislative rule-making review committee and refiled in the state register on the sixteenth day of January, two thousand two, relating to the department of environmental protection (coal related dam safety, 38 CSR 4), is authorized.

(o) The legislative rule filed in the state register on the twenty-fourth day of July, two thousand one, authorized under the authority of section six, article eighteen, chapter twenty-two of this code, modified by the department 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 December, two thousand one, relating to the department of environmental protection (hazardous waste management, 33 CSR 20), is authorized.

(p) The legislative rule filed in the state register on the twenty-sixth day of July, two thousand one, authorized under the authority of section twenty-two, article eleven, chapter twenty-two of this code, modified by the department of environmental protection to meet the objections of the legislative rule-making review committee and refiled in the state register on the thirtieth day of October, two thousand one, relating to the department of environmental protection (administrative proceedings and civil penalty assessment, 47 CSR 1), is authorized.

(q) The legislative rule filed in the state register on the twenty-sixth day of July, two thousand one, authorized under the authority of section four, article eleven, chapter twenty-two of this code, modified by the department 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, two thousand two, relating to the
department of environmental protection (state certification of
activities requiring federal licenses and permits, 47 CSR 5A),
is authorized with the following amendments:

On page two, subsection 2.12, following the words “stream
loss” by striking out the remainder of the sentence;

On page two, at the end of subsection 2.13 following the
words “or longer” by inserting a comma and the following:
“except for structures defined as temporary structures in this
section.”;

On page two, following subsection 2.15 by adding a new
subsection, to read as follows: “2.16 'Temporary Structure'
means, for structures permitted under § 22-3-1 et seq., any
structure which will be removed before or upon final bond
release; for structures not permitted under § 22-3-1 et seq.,
temporary structure means any structure which will be removed
upon completion of the project.”;

On page three, subsection 4.1, by striking the word
“General” and inserting in lieu thereof, the following: “Infor-
mation contained within environmental processes and reviews
such as environmental assessments, environmental impact
statements and mining and reclamation plans, may be used to
meet part or all of the requirements of this rule.”

And, by renumbering the following subsection;

On page four, by striking out subdivision 4.2.a. In its
entirety; and, by renumbering the remainder of the subsection;

On page six, after the newly designated subdivision 4.2.e.
by adding a new subdivision 4.2.f. to read as follows:
“4.2.f. This subsection is only applicable to activities that meet the definition of a surface mining operation as defined in WV Code §22-3-3. This information shall accompany the state water quality certification application:

4.2.f.1. A No Practical Alternative Demonstration. A demonstration containing, but not limited to, the following:

4.2.f.1.A. Demonstrate that there is not a practical alternative in the Water of the U.S., including other alternatives that were considered but eliminated.

4.2.f.1.B. That treatment facilities will be located as close as practical to the source(s) with which it is associated.

4.2.f.1.C. Such activity will impact Waters of the U.S. no more than is necessary to accommodate its proper construction and operation.

4.2.f.1.D. Maps, plans, specification and design analyses for the preferred alternative to the project.

4.2.f.2. An Impact Analysis - a detailed analysis of the potential impacts, the extent applicable, of the proposed project on water quality and quantity, fish and wildlife, aquatic habitat, parks, recreation, in-stream and downstream uses.

4.2.f.3. A Biological Survey of the Stream. - Each applicant will follow established and accepted protocols for collection, analysis, documentation and presentation of biological data from Waters of the U.S., i.e., U.S. Environmental Protection Agency’s ‘Rapid Bioassessment Protocols for Use in Wadeable Streams and Rivers’. Station locations shall be located one (1) above the proposed activity, one (1) at the proposed activity and one (1) downstream of the proposed activity or other station locations necessary to assess the activity’s impact. The Secretary, may at his or her discretion, request from the applicant
certain state preferred biologic indices to facility review. The
survey requirement may be waived with the Department’s
concurrence.

4.2.f.4. A Delineation of the Stream to be Impacted. - The
length, width and depth of the stream segment impacted shall
be measured. Width and depth measurements shall be made at
one hundred (100) foot intervals. The stream delineation shall
indicate the ephemeral and intermittent/perennial segments to
be impacted. The stream shall be measured from the farthest
downstream disturbance, excluding stream crossings associated
with haul roads for surface mining operations, upstream to the
beginning of an intermittent stream, as defined in 46 CSR 1-2.9
and/or 38 CSR 2-2.71. The applicant shall provide a table
listing the station number with the corresponding acreage
including the drainage area from the toe of the pond and the toe
of the fill.

4.2.f.4.A. Submit all findings in an appendix to the report
including, but not limited to, the following:

4.2.f.4.B. Name of person(s) conducting the stream
delineation and his or her qualifications (i.e., DEP representa-
tive, company representative, consultant, biologist, etc.).

4.2.f.4.C. Date delineation was conducted.

4.2.f.4.D. Recent weather conditions and those on the day
of the delineation.

4.2.f.4.E. A statement verifying the October, 1999 DEP
Stream Delineation Memorandum was followed in the determi-
nation process.

4.2.f.4.F. Method used for determination (i.e., post-hold or
benthic).
435 4.2.f.4.G. A copy of field notes, photographs and stream
delineation map that indicates the results in relation to the
proposed activity, if possible."

438 5.1.a.1 The surface mining and NPDES permit numbers, if
applicable and available.

440 On page nine, after paragraph 6.2.c.4. by adding a new
paragraph 6.2.c.5. to read as follows: "6.2.c.5. An applicant for
a proposed project who desires to provide compensatory in-kind
mitigation prior to the disturbance of the mitigable resource,
will comply with the following criteria:

445 A. Mitigation ration will be at one (1) unit created to every
one (1) unit impacted.

447 B. Mitigation shall be completed 12 months prior to the
impact of the resource.

449 C. Mitigation plans will meet the review and approval of
the Department of Environmental Protection and Division of
Natural Resources. Satisfactory completion will be determined
by concurrence of DEP and DNR prior to final approval of
mitigation obligation."

454 And,

455 By renumbering the remaining paragraphs in the subdivi-
456 sion.

457 (r) The legislative rule filed in the state register on the
nineteenth day of July, two thousand one, authorized under the
authority of section four, article eleven, chapter twenty-two of
this code, modified by the department 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 September, two thousand one, relating to the
department of environmental protection (underground injection
control, 47 CSR 13), is authorized.

(s) The legislative rule filed in the state register on the
nineteenth day of July, two thousand one, authorized under the
authority of section five, article twelve, chapter twenty-two of
this code, modified by the department 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 September, two thousand one, relating to the
department of environmental protection (groundwater protec-
tion standards at Dominion “Generation” steam electric
generation facility, Mt. Storm, West Virginia, 47 CSR 57B), is
authorized.

(t) The legislative rule filed in the state register on the
twenty-fourth day of July, two thousand one, authorized under
the authority of section one, article eleven, chapter twenty-two
of this code, relating to the department of environmental
protection (WVNPDDES rules for coal mining facilities, 47 CSR
30), is authorized with the following amendments:

On page one, subsection 1.1, after the word “Scope” by
striking out the words “These rules establish” and inserting in
lieu thereof the words “This rule establishes”;

On page one, subsection 1.9 after the word “his” by
inserting the words “or her”;

On page one, the first paragraph in section 2 by striking out
the word “shall”;

On page three, by inserting a newly designated subsection
2.15. to read as follows:
“2.15. ‘Director’ means the director of the Division of Water Resources.”; And, by renumbering the remainder of the section;

On page five, in newly designated subsection 2.52. after the word “Code” by striking through “§22-3” and inserting in lieu thereof “§22-3-1 et seq.”;

On page seven, paragraph 3.5.b.1., line six, after the words “granted for” by striking out the word “no”;

On page eight, subdivision 3.5.c. by striking through the last sentence in its entirety and inserting the following: “The proposed permittee shall demonstrate that he or she has accepted all necessary permit responsibilities.”;

On page eight, subdivision 3.5.e. in the second sentence after the words “inclusion in” by striking out the word “that” and inserting in lieu thereof the word “the”;

On page eleven, subparagraph 4.5.a.6.L., after the words “must be” by inserting the words “notarized and”;

On page thirteen, part 4.5.b.1.A.2., line five after the words “request for” by striking out the word “such”;

On page thirteen, part 4.5.b.1.E.1., at the beginning of line one by striking out the word “He” and inserting in lieu thereof the words “The applicant”;

On page thirteen, subpart 4.5.b.1.E.2., at the beginning of line one by striking out the word “He” and inserting in lieu thereof the words “The applicant”;

On page fifteen, part 4.5.d.1.A.11., after the words “must be” by inserting the words “notarized and”;
On page sixteen, paragraph 4.5.d.3., after the words “required by” by striking out the words “Sections 4.5.a. of these rules” and inserting in lieu thereof the words “Section 4.5.a. of this rule”;

On page sixteen, part 4.5.d.4.A.3., in line three after the word “if” by striking out the word “such” and inserting in lieu thereof the word “the”;

On page sixteen, part 4.5.d.4.A.3., in line four after the word “unavailable,” by striking out the word “then”;

On page seventeen, subparagraph 4.5.f.2.A., line two after the words “to the” by striking out the words “Regional Administrator” and by inserting in lieu thereof the words “Environmental Protection Agency Region III Administrator”;

On page eighteen, paragraph 4.7.a.1., line three after the words “purpose of” by striking out the words “Section 4.7 of these rules” and by inserting in lieu thereof the words “this section”;

On page nineteen, by striking out subsection 4.8 in its entirety.

On page twenty, subdivision 5.1.g., after the words “Environmental Quality Board” by inserting the words “Title 60”;

On page twenty-five, subsection 5.17., line seven after the word “wastewaters” by striking out the word “and”;

On page twenty-five, subdivision 5.18.d., after the words “the expiration of the WV/NPDES permit,” by striking out the word “then”;
On page twenty-nine, paragraph 6.2.o.5., after the words “Section 6.2.e of” by striking out the words “these rules are” and by inserting in lieu thereof the words “this rule is”;  

On page thirty-two, subparagraph 8.2.c.2.C., line one after the word “New” by striking the word “Regulations” and inserting in lieu thereof the word “Rules”;  

On page thirty-two, subparagraph 8.2.c.2.C., line two after the word “standards” by striking the word “regulations” and inserting in lieu thereof the word “rules”;  

On page thirty-two, subparagraph 8.2.c.2.C., line four after the word “standards” by striking the word “regulations” and inserting in lieu thereof a comma and the word “rules”;  

On page thirty-two, part 8.2.c.2.C.1., line two after the word “standards” by striking the word “regulations” and inserting in lieu thereof the word “rules”;  

On page thirty-two, part 8.2.c.2.C.2., line four after the word “promulgated” by striking the word “regulations” and inserting in lieu thereof the words “rules or”;  

On page thirty-three, part 8.2.c.2.C.2., line five after the words “that portion of the” by striking the word “regulations” and inserting in lieu thereof inserting the words “rules”;  

On page thirty-four, subdivision 9.1.a., line four after the words “major facilities by the” by striking out the words “Regional Administrator” and by inserting in lieu thereof the words “Environmental Protection Agency Regional III Administrator”;  

On page thirty-five, subdivision 9.2.a. by striking out the words “Regional Administrator” and by inserting in lieu thereof
the words “Environmental Protection Agency Regional III Administrator”;

On page thirty-five, paragraph 9.2.a.2. by striking out the words “Regional Administrator” and by inserting in lieu thereof the words “Environmental Protection Agency Regional III Administrator”;

On page forty-three, subdivision 15.1.a., line two after the words “in accordance with” by striking out the words “Sections 11, 12, 15, and 19 of Article 11;” and by inserting in lieu thereof “W.Va. Code §§ 22-11-11, 12, 15 and 19”;

On page forty-three, subdivision 15.1.b., line three after the words “in accordance with” by striking out the words “Section 22 of Article 11; and” and by inserting in lieu thereof the words “W.Va. Code § 22-11-22”;

And,

On page forty-three, subdivision 15.1.c., line two after the words “in accordance with” by striking out the words “Section 24 of Article 11” and by inserting in lieu thereof the words “W.Va. Code § 22-11-24”.

§64-3-2. Environmental quality board.

(a) The legislative rule filed in the state register on the twenty-seventh day of July, two thousand one, 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 eleventh day of January, two thousand two, relating to the environmental quality board (requirements governing water quality standards, 46 CSR 1), is authorized.
(b) The legislative rule filed in the state register on the twenty-seventh day of July, two thousand one, authorized under the authority of section four, article twelve, chapter twenty-two 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 eleventh day of January, two thousand two, relating to the environmental quality board (requirements governing groundwater standards 46 CSR 12), is authorized.

§64-3-3. Solid waste management board.

The legislative rule filed in the state register on the nineteenth day of July, two thousand one, 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 refiled in the state register on the tenth day of October, two thousand one, relating to the solid waste management board (disbursement of grants to solid waste authorities, 54 CSR 5), is authorized.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In 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 is approved this the 3rd day of April, 2002.

Governor