

FILED

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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
**SEVENTY-NINTH LEGISLATURE**  
**REGULAR SESSION, 2010**

—●—  
**ENROLLED**

COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 273**

(SENATORS MINARD, SNYDER, PREZIOSO, UNGER,  
BOLEY AND K. FACEMYER, *original sponsors*)

[Passed March 13, 2010; in effect from passage.]

SB 273

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C. P. ...  
SECRETARY OF STATE

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(SENATORS MINARD, SNYDER, PREZIOSO,  
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[Passed March 13, 2010; in effect from passage.]

AN ACT to amend and reenact article 3, chapter 64 of the Code of West Virginia, 1931, as amended, relating generally to the promulgation of administrative rules by the Department of Environmental Protection; 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 with various modifications presented to and recommended by the Legislative Rule-Making Review Committee and as

amended by the Legislature; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to solid waste management; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to the covered electronic devices takeback program; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to hazardous waste management systems; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to ambient air quality standards; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to permits for construction and major modification of major stationary sources of air pollution for the prevention of significant deterioration; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to standards of performance for new stationary sources; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to permits for construction and major modification of major stationary sources of air pollution which cause or contribute to nonattainment; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to the control of air pollution from hazardous waste treatment, storage and disposal facilities; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to acid rain provisions and permits; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to emission standards for hazardous air pollutants; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to the National Pollutant Discharge Elimination System (NPDES) Program; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to requirements governing groundwater standards; authorizing the Department of Environmental Protection to promulgate a legislative rule relating

to water pollution control permit fee schedules; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to the WV/NPDES rules for coal mining facilities; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to monitoring wells; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to monitoring well design standards; and authorizing the Department of Environmental Protection to promulgate a legislative rule relating to oil and- gas wells and other wells.

*Be it enacted by the Legislature of West Virginia:*

That article 3, chapter 64 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 3. AUTHORIZATION FOR DEPARTMENT OF ENVIRONMENTAL PROTECTION TO PROMULGATE LEGISLATIVE RULES.**

**§64-3-1. Department of Environmental Protection.**

1 (a) The legislative rule filed in the State Register on July  
2 30, 2009, authorized under the authority of section five,  
3 article fifteen, chapter twenty-two of this code, modified  
4 by the Department of Environmental Protection to meet  
5 the objections of the Legislative Rule-Making Review  
6 Committee and refiled in the State Register on December  
7 11, 2009, relating to the Department of Environmental  
8 Protection (Solid Waste Management, 33 CSR 1), is  
9 authorized.

10 (b) The legislative rule filed in the State Register on  
11 April 9, 2009, authorized under the authority of section  
12 twenty-nine, article fifteen-a, chapter twenty-two of this  
13 code, relating to the Department of Environmental  
14 Protection (Covered Electronic Devices Takeback Pro-  
15 gram, 33 CSR 11), is authorized.

16 (c) The legislative rule filed in the State Register on July  
17 30, 2009, authorized under the authority of section six,  
18 article eighteen, chapter twenty-two of this code, modified  
19 by the Department of Environmental Protection to meet  
20 the objections of the Legislative Rule-Making Review  
21 Committee and refiled in the State Register on December  
22 14, 2009, relating to the Department of Environmental  
23 Protection (Hazardous Waste Management Systems, 33  
24 CSR 20), is authorized.

25 (d) The legislative rule filed in the State Register on July  
26 28, 2009, authorized under the authority of section four,  
27 article five, chapter twenty-two of this code, relating to  
28 the Department of Environmental Protection (Ambient Air  
29 Quality Standards, 45 CSR 8), is authorized.

30 (e) The legislative rule filed in the State Register on July  
31 28, 2009, authorized under the authority of section four,  
32 article five, chapter twenty-two of this code, modified by  
33 the Department of Environmental Protection to meet the  
34 objections of the Legislative Rule-Making Review Com-  
35 mittee and refiled in the State Register on December 14,  
36 2009, relating to the Department of Environmental  
37 Protection (Permits for Construction and Major Modifica-  
38 tion of Major Stationary Sources of Air Pollution for the  
39 Prevention of Significant Deterioration, 45 CSR 14), is  
40 authorized.

41 (f) The legislative rule filed in the State Register on July  
42 28, 2009, authorized under the authority of section four,  
43 article five, chapter twenty-two of this code, relating to  
44 the Department of Environmental Protection (Standards  
45 of Performance for New Stationary Sources, 45 CSR 16),  
46 is authorized.

47 (g) The legislative rule filed in the State Register on July  
48 28, 2009, authorized under the authority of section four,  
49 article five, chapter twenty-two of this code, relating to

50 the Department of Environmental Protection (Permits for  
51 Construction and Major Modification of Major Stationary  
52 Sources of Air Pollution Which Cause or Contribute to  
53 Nonattainment, 45 CSR 19), is authorized.

54 (h) The legislative rule filed in the State Register on July  
55 28, 2009, authorized under the authority of section four,  
56 article five, chapter twenty-two of this code, relating to  
57 the Department of Environmental Protection (Control of  
58 Air Pollution from Hazardous Waste Treatment, Storage  
59 or Disposal Facilities, 45 CSR 25), is authorized.

60 (i) The legislative rule filed in the State Register on July  
61 28, 2009, authorized under the authority of section four,  
62 article five, chapter twenty-two of this code, relating to  
63 the Department of Environmental Protection (Acid Rain  
64 Provisions and Permits, 45 CSR 33), is authorized.

65 (j) The legislative rule filed in the State Register on July  
66 28, 2009, authorized under the authority of section four,  
67 article five, chapter twenty-two of this code, relating to  
68 the Department of Environmental Protection (Emission  
69 Standards for Hazardous Air Pollutants, 45 CSR 34), is  
70 authorized.

71 (k) The legislative rule filed in the State Register on July  
72 30, 2009, authorized under the authority of section four,  
73 article eleven, chapter twenty-two of this code, modified  
74 by the Department of Environmental Protection to meet  
75 the objections of the Legislative Rule-Making Review  
76 Committee and refiled in the State Register on September  
77 17, 2009, relating to the Department of Environmental  
78 Protection (National Pollutant Discharge Elimination  
79 System (NPDES) Program, 47 CSR 10), is authorized.

80 (l) The legislative rule filed in the State Register on July  
81 30, 2009, authorized under the authority of section four,  
82 article twelve, chapter twenty-two of this code, modified  
83 by the Department of Environmental Protection to meet

84 the objections of the Legislative Rule-Making Review  
 85 Committee and refiled in the State Register on September  
 86 18, 2009, relating to the Department of Environmental  
 87 Protection (Requirements Governing Ground Water  
 88 Standards, 47 CSR 12), is authorized with the following  
 89 amendment:

90 On pages three through five by striking out all of  
 91 Appendix A and inserting in lieu thereof a new Appendix  
 92 A to read as follows:

93 **APPENDIX A**  
 94 **Organic Compounds**

95 <u>Constituent</u>	Limit (mg/L)
	(except where noted)
96 Alachlor	0.002
97 Aldicarb	0.003
98 Aldicarb sulfone	0.002
99 Aldicarb sulfoxide	0.004
100 Atrazine	0.003
101 Benzene	0.005
102 Benzo (a) pyrene (PAH)	0.0002
103 Bromodichloromethane (THM) <sup>1</sup>	0.08
104 Bromoform (THM) <sup>1</sup>	0.08
105 Carbofuran	0.04
106 Carbon tetrachloride	0.005
107 Chlordane	0.002
108 Chloroform (THM) <sup>1</sup>	0.08
109 2, 4-D	0.07
110 Dalapon	0.2
111 Di(2-ethylhexyl)adipate	0.4
112 Di(2-ethylhexyl)phthalate	0.006
113 Dibromochloromethane (THM) <sup>1</sup>	0.08
114 Dibromochloropropane (DBCP)	0.0002
115 Dichloroacetic acid	0.06
116 Dichlorobenzene p-	0.075
117 Dichlorobenzene o-	0.6
118 Dichlorobenzene m-	0.6

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119	Dichloroethane (1, 2)	0.005
120	Dichloroethylene (1, 1-)	0.007
121	Dichloroethylene (cis-1, 2-)	0.07
122	Dichloroethylene (trans-1, 2-)	0.1
123	Dichloromethane	0.005
124	Dichloropropane (1, 2-)	0.005
125	Dinoseb	0.007
126	Diquat	0.02
127	Endothall	0.1
128	Endrin	0.002
129	Ethylbenzene	0.7
130	Ethylene dibromide (EDB)	0.00005
131	Glyphosate	0.7
132	Heptachlor	0.0004
133	Heptachlor epoxide	0.0002
134	Hexachlorobenzene	0.001
135	Hexachlorocyclopentadiene	0.05
136	Lindane	0.0002
137	Methoxychlor	0.04
138	Monochloroacetic acid <sup>2</sup>	0.06
139	Monochlorobenzene	0.1
140	Oxamyl (Vydate)	0.2
141	Pentachlorophenol	0.001
142	Picloram	0.5
143	Polychlorinated biphenyls	0.0005
144	Simazine	0.004
145	Styrene	0.1
146	2, 3, 7, 8-TCDD (Dioxin)	0.00000003
147	Tetrachlorethylene	0.005
148	Toluene	1.0
149	Toxaphene	0.003
150	2, 4, 5-TP (Silvex)	0.05
151	Trichloroacetic acid <sup>2</sup>	0.06
152	Trichlorobenzene (1, 2, 4-)	0.07
153	Trichloroethane (1, 1, 1-)	0.2
154	Trichloroethane (1, 1, 2-)	0.005
155	Trichloroethylene	0.005
156	Vinyl Chloride	0.002
157	Xylenes (Total)	10



158

**Inorganic Compounds**

159	<b><u>Constituent</u></b>	<b><u>Limit (mg/L)</u></b> <b>(except where noted)</b>
160	Arsenic	0.01
161	Asbestos	7 MFL <sup>3</sup>
162	Barium	2.0
163	Beryllium	0.004
164	Bromate	0.01
165	Cadmium	0.005
166	Chloramine	4.0
167	Chlorine	4.0
168	Chlorine dioxide	0.8
169	Chlorite	1.0
170	Chromium (Total)	0.1
171	Copper	1.3
172	Cyanide	0.2
173	Fluoride	4.0
174	Lead	0.015
175	Mercury (Inorganic)	0.002
176	Nitrate (as N)	10
177	Nitrite (as N)	1.0
178	Total Nitrate and Nitrite (both as N)	10
179	Selenium	0.05
180	Thallium	0.002

181

**Radionuclides**

182	Beta particle and photon activity	4 mrem <sup>4</sup>
183	Gross alpha particle activity	15 pCi/L <sup>5</sup>
184	Combined Radium 226 and 228	5 pCi/L
185	Radon	300 pCi/L
186	Uranium	30 µg/L <sup>6</sup>

187 1-The total of the trihalomethanes (THM) is 0.08 mg/L

188 2-The total of the haloacetic acids is 0.06 mg/L

189 3 - MFL = million fibers per liter

190 4 - mrem = millirem (rem = roentgen - equivalent - man)

191 5 - pCi = picocurie

192 6 - ug/L = microgram per liter

193 (m) The legislative rule filed in the State Register on July  
194 30, 2009, authorized under the authority of section ten,  
195 article eleven, chapter twenty-two of this code, modified  
196 by the Department of Environmental Protection to meet  
197 the objections of the Legislative Rule-Making Review  
198 Committee and refiled in the State Register on September  
199 17, 2009, relating to the Department of Environmental  
200 Protection (Water Pollution Control Permit Fee Schedules,  
201 47 CSR 26), is authorized.

202 (n) The legislative rule filed in the State Register on July  
203 31, 2009, authorized under the authority of section four,  
204 article eleven, chapter twenty-two of this code, modified  
205 by the Department of Environmental Protection to meet  
206 the objections of the Legislative Rule-Making Review  
207 Committee and refiled in the State Register on September  
208 17, 2009, relating to the Department of Environmental  
209 Protection (WV/NPDES Rules for Coal Mining Facilities,  
210 47 CSR 30), is authorized with the following amendments:

*DOH/P*  
211 On page ten, subparagraph 4.5.a.6.L., by striking out the  
212 words "Licensed Land" and inserting in lieu there of the  
213 word "Professional";

214 And,

215 On page fourteen, part 4.5.d.1.A.11., by striking out the  
216 words "Licensed Land" and inserting in lieu there of the  
217 word "Professional".

218 (o) The legislative rule filed in the State Register on July  
219 27, 2009, authorized under the authority of section five,  
220 article twelve, chapter twenty-two of this code, modified  
221 by the Department of Environmental Protection to meet  
222 the objections of the Legislative Rule-Making Review  
223 Committee and refiled in the State Register on December  
224 16, 2009, relating to the Department of Environmental  
225 Protection (Monitoring Wells, 47 CSR 59), is authorized.

226 (p) The legislative rule filed in the State Register on July  
227 27, 2009, authorized under the authority of section five,  
228 article twelve, chapter twenty-two of this code, modified  
229 by the Department of Environmental Protection to meet  
230 the objections of the Legislative Rule-Making Review  
231 Committee and refiled in the State Register on December  
232 16, 2009, relating to the Department of Environmental  
233 Protection (Monitoring Well Design Standards, 47 CSR  
234 60), is authorized with the following amendment:

235 On page seventeen, subdivision 19.3.a., after the words  
236 “eighty percent (80%)” by inserting the word “silica”.

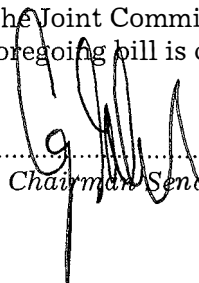
237 (q) The legislative rule filed in the state register on the  
238 twenty-first day of April, two thousand nine, authorized  
239 under the authority of section two, article six, chapter  
240 twenty-two, of this code, modified by the Department of  
241 Environmental Protection to meet the objections of the  
242 legislative rule-making review committee and refiled in  
243 the state register on the fifteenth day of January, two  
244 thousand ten, relating to the Department of Environmen-  
245 tal Protection (oil and gas wells and other wells, 35 CSR  
246 4), is authorized with the following amendment:


247 On page twenty-five, subdivision 16.4.d., by striking out  
248 the words “authorized by the Office, based on soil analysis  
249 from the operator, to be suitable to prevent seepage or  
250 leakage” and inserting in lieu thereof the words “deemed  
251 to be suitable to prevent seepage or leakage based on soil  
252 analysis from the operator and standards developed and  
253 certified by a registered professional engineer and ap-  
254 proved by the Office. Before deeming pits suitable to  
255 prevent seepage or leakage without a synthetic liner, the  
256 chief shall notify the surface owner that the surface owner  
257 is entitled to receive notice of the application for the well  
258 work permit and that the operator has requested that the  
259 pit be deemed suitable to prevent seepage or leakage  
260 without a synthetic liner. If the surface owner objects, the

261 chief shall hold a hearing pursuant to article five, chapter  
262 twenty-nine-A of the Code of West Virginia before deter-  
263 mining that the pit is suitable to prevent seepage or  
264 leakage.

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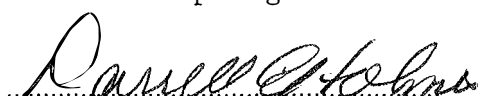
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

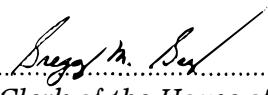
  
.....  
Chairman Senate Committee

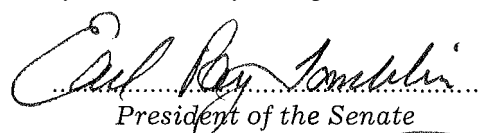
  
.....  
Chairman House Committee

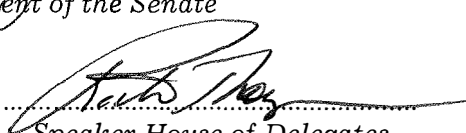
Originated in the Senate.

In effect from passage.

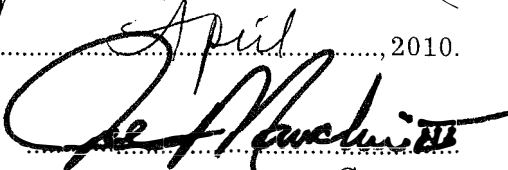
  
.....  
Clerk of the Senate

  
.....  
Clerk of the House of Delegates

  
.....  
President of the Senate

  
.....  
Speaker House of Delegates

The within *is* approved ..... this the *2nd* .....  
Day of *April* ..... 2010.

  
.....  
Governor

PRESENTED TO THE  
GOVERNOR

APR 01 2010

Time 4:10 pm