WEST VIRGINIA LEGISLATURE
EIGHTIETH LEGISLATURE
REGULAR SESSION, 2012

ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 253
(Senator Minard, original sponsor)

[Passed March 8, 2012; in effect from passage.]
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[Passed March 8, 2012; 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 in the form that the rules were filed in the State Register and as amended by the Legislature; authorizing certain of the agencies to promulgate certain legislative rules 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 hazardous waste management system; 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 for the prevention of significant deterioration of air quality; 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 the control of air pollution from the combustion of solid waste; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to permits for construction and major modification of major stationary sources which cause or contribute to nonattainment areas; 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 requirements for operating 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 determining conformity of general federal actions to applicable implementation plans; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to the greenhouse gas emissions inventory program; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to the National Pollutant Discharge Elimination System (NPDES) Program; and authorizing the Department of Environmental Protection to promulgate a legislative rule relating to voluntary remediation and redevelopment.

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 29, 2011, authorized under the authority of section five, article fifteen, chapter twenty-two of this code, relating to the Department of Environmental Protection (solid waste management, 33 CSR 1), is authorized.

2. (b) The legislative rule filed in the State Register on July 28, 2011, authorized under the authority of section six, article eighteen, chapter twenty-two of this code, relating to the Department of Environmental Protection (hazardous waste management system, 33 CSR 20), is authorized.

3. (c) The legislative rule filed in the State Register on July 29, 2011, 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, 45 CSR 8), is authorized.

4. (d) The legislative rule filed in the State Register on July 29, 2011, authorized under the authority of section four, article five, chapter twenty-two of this code, relating to the Department of Environmental Protection (permits for construction and major modification of major stationary sources for the prevention of significant deterioration of air quality, 45 CSR 14), is authorized.

5. (e) The legislative rule filed in the State Register on July 29, 2011, 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, 45 CSR 16), is authorized.

6. (f) The legislative rule filed in the State Register on July 29, 2011, authorized under the authority of section four, article five, chapter twenty-two of this code, relating to the Department of Environmental Protection (control of air pollution from combustion of solid waste, 45 CSR 18), is authorized.
(g) The legislative rule filed in the State Register on July 29, 2011, authorized under the authority of section four, article five, chapter twenty-two of this code, relating to the Department of Environmental Protection (permits for construction and major modification of major stationary sources which cause or contribute to nonattainment areas, 45 CSR 19), is authorized.

(h) The legislative rule filed in the State Register on July 29, 2011, authorized under the authority of section four, article five, chapter twenty-two of this code, relating to the Department of Environmental Protection (control of air pollution from hazardous waste treatment, storage or disposal facilities, 45 CSR 25), is authorized.

(i) The legislative rule filed in the State Register on March 16, 2011, authorized under the authority of section four, article five, chapter twenty-two of this code, relating to the Department of Environmental Protection (requirements for operating permits, 45 CSR 30), is authorized.

(j) The legislative rule filed in the State Register on July 29, 2011, 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, 45 CSR 34), is authorized.

(k) The legislative rule filed in the State Register on July 29, 2011, authorized under the authority of section four, article five, chapter twenty-two of this code, relating to the Department of Environmental Protection (determining conformity of general federal actions to applicable implementation plans (general conformity), 45 CSR 35), is authorized.

(l) The legislative rule filed in the State Register on July 29, 2011, authorized under the authority of section four, article five, chapter twenty-two of this code, relating to the Department of Environmental Protection (greenhouse gas emissions inventory program, 45 CSR 42), is authorized.
(m) The legislative rule filed in the State Register on July 8, 2011, authorized under the authority of section four, article eleven, chapter twenty-two of this code, approved for promulgation by the Legislature on March 18, 2011, relating to the Department of Environmental Protection (National Pollutant Discharge Elimination System (NPDES) Program, 47 CSR 10), is authorized with the following amendments:

On page one, subsection 2.6., by striking out “2006” and inserting in lieu thereof “2009”;

On page fifteen, subparagraph 4.4.c.1.J., by striking out “40 C.F.R. §412(C) or (D)” and inserting in lieu thereof “40 C.F.R. Part 412, Subpart C or D”;

And,

On page forty-seven, paragraph 13.1.f.2., by striking out all of paragraph 13.1.f.2. and inserting in lieu thereof a new paragraph 13.1.f.2. to read as follows:

13.1.f.2. Expansion of AFO to CAFO. For other operations (e.g. resulting from an increase in the number of animals), the owner or operator must seek to obtain coverage under a permit as soon as possible, but no later than ninety (90) days after becoming defined as a CAFO.

(n) The legislative rule filed in the State Register on July 29, 2011, authorized under the authority of section three, article twenty-two, chapter twenty-two of this code, relating to the Department of Environmental Protection (voluntary remediation and redevelopment, 60 CSR 3), is authorized with the following amendments:

On page seventy-eight, by striking out all of the de minimis values for the parameter “Hexachloroethane” and inserting in lieu thereof new de minimis values for the parameter “Hexachloroethane” to read as follows:

“Residential Soil - 1.2E+01, Industrial Soil - 6.2E+02, Ground Water - 1.7E+00, Migration to Groundwater - 2.0E-02”;
And,

On page eighty-two, by striking out all of the de minimis values for the parameter "Trichloroethylene (TCE)" and inserting in lieu thereof new de minimis values for the parameter "Trichloroethylene (TCE)" to read as follows:

"Residential Soil - 4.8E-01, Industrial Soil - 2.1E+01, Ground Water - 5.0E+00, Migration to Groundwater - 3.6E-02".
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 of the House of Delegates

The within is approved this the 30th Day of March, 2012.

Governor