WEST VIRGINIA LEGISLATURE
EIGHTY-FIRST LEGISLATURE
REGULAR SESSION, 2014

ENROLLED

COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 133

(SENATOR SNYDER, ORIGINAL SPONSOR)

[PASSED MARCH 8, 2014; 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 as amended by the Legislature; 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 horizontal well development; 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 emission standards for hazardous air pollutants; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to requirements governing water quality standards; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to state certification of activities requiring federal licenses and permits; 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.

(a) The legislative rule filed in the State Register on May 6, 2013, authorized under the authority of section six, article six-a, chapter twenty-two of this code, approved for promulgation by the Legislature on April 12, 2013, relating to the Department of Environmental Protection (horizontal well development, 35 CSR 8), is authorized with the following amendment:

On pages ten and eleven, by striking out all of subdivision 5.7.a. and inserting in lieu thereof a new subdivision 5.7.a. to read as follows:

5.7.a. All applications for well work permits shall be accompanied by a well site safety plan to address proper safety measures to be employed for the protection of persons on the well site, as well as the general public in the area surrounding the well site. Each plan shall be specific to the well site described in the permit application and include the surrounding area. The plan shall encompass all aspects of the operation, including the actual well work for which the permit is sought, the anticipated MSDS for the chemical components added to the hydraulic fracturing fluid, and completion, production, and work-over activities. It shall be made available on the well site during all phases of the operation and provide an emergency point of contact and twenty-four (24)-hour contact information for the well operator. At least seven (7) days before commencement of well work or site preparation work that involves any disturbance of the land, the well operator shall provide a copy of the well site safety plan to the local emergency planning committee (LEPC) for the emergency planning district in which the well work will occur or to the county office of emergency services. The operator shall also provide one copy of the Well Site Safety Plan to the surface owner, any
water purveyor and any surface owner subject to notice and water testing as provided in section 15 of this rule: Provided,
That in the event the Well Site Safety Plan previously provided to a surface owner, water purveyor or surface owner, is later amended, in whole or in part, the operator shall provide a copy of the amendments to the surface owner, water purveyor or surface owner. The operator should work closely with the local first responders to familiarize them with potential incidents that are related to oil and gas development, so that the local first responders have the information they need to provide the support necessary for the operator to implement the well site safety plan. The well site safety plan shall include, at a minimum, the information contained in subdivisions 5.7.b. through 5.7.h.

(b) The legislative rule filed in the State Register on July 22, 2013, 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.

(c) The legislative rule filed in the State Register on July 22, 2013, 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 September 4, 2013, 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.

(d) The legislative rule filed in the State Register on July 22, 2013, 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.

(e) The legislative rule filed in the State Register on July 22, 2013, 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.

(f) The legislative rule filed in the State Register on July 22, 2013, 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 non attainment areas, 45 CSR 19), is authorized.

(g) The legislative rule filed in the State Register on July 22, 2013, 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.

(h) The legislative rule filed in the State Register on July 22, 2013, 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.

(i) The legislative rule filed in the State Register on July 26, 2013, 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 November 27, 2013, relating to the Department of Environmental Protection (requirements governing water quality standards, 47 CSR 2), is authorized with the following amendment:

On page thirty-seven, parameter 8.1, by striking out the words “For water with pH <6.5 or >9.0”;

And,

On page thirty-seven, by striking out all of parameters 8.1.1 and 8.1.2.

(j) The legislative rule filed in the State Register on July 26, 2013, authorized under the authority of section seven, 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 December 18, 2013, relating to the Department of Environmental Protection (state certification of activities requiring federal licenses and permits, 47 CSR 5A), is authorized.

(k) The legislative rule filed in the State Register on July 26, 2013, 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 December 17, 2013, relating to the Department of Environmental Protection (voluntary remediation and redevelopment, 60 CSR 3), is authorized, with the following amendment:

On page two, subsection 2.22., line twenty-one, following the words “refers to a”, by striking the “A”; and
On page three, subsection 2.35., line twenty-six, by striking the words “Section 3 of Article 22”; and

On page nine, paragraph 4.3.d.6., line thirty-five, by striking the character “2” at the beginning of the line; and

On page nine, paragraph 4.3.d.6., line forty-five, following the words “greater than”, by striking the character “2”; and

On page ten, subdivision 5.1.d., line three, following the words “W.Va. Code §22-22”, by inserting a hyphen and the words ‘1, et seq.’; and

On page fourteen, subdivision 5.3.k., line four, following the words “and practical knowledge” by striking the semi-colon; and

On page fifteen, subdivision 5.5.e., line three, by striking the word “thirty” at the beginning of the line; and

On page nineteen, subparagraph 7.4.b.21.A., line twenty, by renumbering the subparagraph as 7.4.b.1.A.; and

On page nineteen, subparagraph 7.4.b.31.B., line twenty-four, by renumbering the subparagraph as 7.4.b.1.B.; and

On page nineteen, subparagraph 7.4.b.1.C., line twenty-nine, by renumbering the subparagraph as 7.4.b.1.C.; and

On page nineteen, paragraph 7.4.b.52., line thirty-three, by renumbering the paragraph as 7.4.b.2.; and

On page nineteen, subparagraph 7.4.b.62.A., line thirty-eight, by renumbering the subparagraph as 7.4.b.2.A.; and
On page twenty, subparagraph 7.4.b.72.B, line one, by renumbering the subparagraph as 7.4.b.2.B.; and

On page twenty, paragraph 7.4.b.83., line five, by renumbering the it as subparagraph 7.4.b.2.C.; and

On page twenty, subparagraph 7.4.b.105, line fifteen, by renumbering the subparagraph as 7.4.b.2.D.; and

On page thirty-six, paragraph 10.2.b., at the beginning of line sixteen, by striking the “5”, before the words “five days”; and

On page thirty-eight, subdivision 11.4., line six, following the words “have been submitted to the”, by striking the word “Division” and inserting in lieu thereof the word “Department”; and

On page thirty-eight, paragraph 12.2.a., line thirty-six, following the words “applicant and determine within”, by striking the word “sixty”; and

On page thirty-nine, paragraph 12.2.c., line fifteen, following the words “final report was properly issued, he”, by inserting the words “or she”.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate 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 1st Day of April, 2014.

Governor
PRESENTED TO THE GOVERNOR

MAR 27 2014

Time 3:00 PM