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COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 253

(By Senator Minard)

[Originating in the Committee on the Judiciary;
reported February 3, 2012.]

A BILL 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

1 legislative rules as amended by the Legislature; authorizing
2 the Department of Environmental Protection to promulgate a
3 legislative rule relating to solid waste management;
4 authorizing the Department of Environmental Protection to
5 promulgate a legislative rule relating to hazardous waste
6 management system; authorizing the Department of Environmental
7 Protection to promulgate a legislative rule relating to
8 ambient air quality standards; authorizing the Department of
9 Environmental Protection to promulgate a legislative rule
10 relating to permits for construction and major modification of
11 major stationary sources for the prevention of significant
12 deterioration of air quality; authorizing the Department of
13 Environmental Protection to promulgate a legislative rule
14 relating to standards of performance for new stationary
15 sources; authorizing the Department of Environmental
16 Protection to promulgate a legislative rule relating to the
17 control of air pollution from the combustion of solid waste;
18 authorizing the Department of Environmental Protection to
19 promulgate a legislative rule relating to permits for
20 construction and major modification of major stationary
21 sources which cause or contribute to nonattainment areas;
22 authorizing the Department of Environmental Protection to
23 promulgate a legislative rule relating to the control of air

1 pollution from hazardous waste treatment, storage and disposal
2 facilities; authorizing the Department of Environmental
3 Protection to promulgate a legislative rule relating to
4 requirements for operating permits; authorizing the Department
5 of Environmental Protection to promulgate a legislative rule
6 relating to emission standards for hazardous air pollutants;
7 authorizing the Department of Environmental Protection to
8 promulgate a legislative rule relating to determining
9 conformity of general federal actions to applicable
10 implementation plans; authorizing the Department of
11 Environmental Protection to promulgate a legislative rule
12 relating to the greenhouse gas emissions inventory program;
13 authorizing the Department of Environmental Protection to
14 promulgate a legislative rule relating to the National
15 Pollutant Discharge Elimination System (NPDES) Program; and
16 authorizing the Department of Environmental Protection to
17 promulgate a legislative rule relating to voluntary
18 remediation and redevelopment.

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

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

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

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

2 (a) The legislative rule filed in the State Register on July
3 29, 2011, authorized under the authority of section five, article
4 fifteen, chapter twenty-two of this code, relating to the
5 Department of Environmental Protection (solid waste management, 33
6 CSR 1), is authorized.

7 (b) The legislative rule filed in the State Register on July
8 28, 2011, authorized under the authority of section six, article
9 eighteen, chapter twenty-two of this code, relating to the
10 Department of Environmental Protection (hazardous waste management
11 system, 33 CSR 20), is authorized.

12 (c) The legislative rule filed in the State Register on July
13 29, 2011, authorized under the authority of section four, article
14 five, chapter twenty-two of this code, relating to the Department
15 of Environmental Protection (ambient air quality standards, 45 CSR
16 8), is authorized.

17 (d) The legislative rule filed in the State Register on July
18 29, 2011, authorized under the authority of section four, article
19 five, chapter twenty-two of this code, relating to the Department
20 of Environmental Protection (permits for construction and major
21 modification of major stationary sources for the prevention of
22 significant deterioration of air quality, 45 CSR 14), is
23 authorized.

1 (e) The legislative rule filed in the State Register on July
2 29, 2011, authorized under the authority of section four, article
3 five, chapter twenty-two of this code, relating to the Department
4 of Environmental Protection (standards of performance for new
5 stationary sources, 45 CSR 16), is authorized.

6 (f) The legislative rule filed in the State Register on July
7 29, 2011, authorized under the authority of section four, article
8 five, chapter twenty-two of this code, relating to the Department
9 of Environmental Protection (control of air pollution from
10 combustion of solid waste, 45 CSR 18), is authorized.

11 (g) The legislative rule filed in the State Register on July
12 29, 2011, authorized under the authority of section four, article
13 five, chapter twenty-two of this code, relating to the Department
14 of Environmental Protection (permits for construction and major
15 modification of major stationary sources which cause or contribute
16 to nonattainment areas, 45 CSR 19), is authorized.

17 (h) The legislative rule filed in the State Register on July
18 29, 2011, authorized under the authority of section four, article
19 five, chapter twenty-two of this code, relating to the Department
20 of Environmental Protection (control of air pollution from
21 hazardous waste treatment, storage or disposal facilities, 45 CSR
22 25), is authorized.

23 (I) The legislative rule filed in the State Register on March

1 16, 2011, authorized under the authority of section four, article
2 five, chapter twenty-two of this code, relating to the Department
3 of Environmental Protection (requirements for operating permits, 45
4 CSR 30), is authorized.

5 (j) The legislative rule filed in the State Register on July
6 29, 2011, authorized under the authority of section four, article
7 five, chapter twenty-two of this code, relating to the Department
8 of Environmental Protection (emission standards for hazardous air
9 pollutants, 45 CSR 34), is authorized.

10 (k) The legislative rule filed in the State Register on July
11 29, 2011, authorized under the authority of section four, article
12 five, chapter twenty-two of this code, relating to the Department
13 of Environmental Protection (determining conformity of general
14 federal actions to applicable implementation plans (general
15 conformity), 45 CSR 35), is authorized.

16 (l) The legislative rule filed in the State Register on July
17 29, 2011, authorized under the authority of section four, article
18 five, chapter twenty-two of this code, relating to the Department
19 of Environmental Protection (greenhouse gas emissions inventory
20 program, 45 CSR 42), is authorized.

21 (m) The legislative rule filed in the State Register on July
22 8, 2011, authorized under the authority of section four, article
23 eleven, chapter twenty-two of this code, approved for promulgation

1 by the Legislature on March 18, 2011, relating to the Department of
2 Environmental Protection (National Pollutant Discharge Elimination
3 System (NPDES) Program, 47 CSR 10), is authorized with the
4 following amendments:

5 On page one, subsection 2.6., by striking out "2006" and
6 inserting in lieu thereof "2009";

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

10 And,

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

14 13.1.f.2. Expansion of AFO to CAFO. For other operations (e.g.
15 resulting from an increase in the number of animals), the owner or
16 operator must seek to obtain coverage under a permit as soon as
17 possible, but no later than ninety (90) days after becoming defined
18 as a CAFO.

19 (n) The legislative rule filed in the State Register on July
20 29, 2011, authorized under the authority of section three, article
21 twenty-two, chapter twenty-two of this code, relating to the
22 Department of Environmental Protection (voluntary remediation and
23 redevelopment, 60 CSR 3), is authorized with the following

1 amendments:

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

6 "Residential Soil - 1.2E+01, Industrial Soil - 6.2E+02, Ground
7 Water - 1.7E+00, Migration to Groundwater - 2.0E-02";

8 And,

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

13 "Residential Soil - 4.8E-01, Industrial Soil - 2.1E+01, Ground
14 Water - 5.0E+00, Migration to Groundwater - 3.6E-02".