

1 ENGROSSED

2 COMMITTEE SUBSTITUTE

3 FOR

4 **Senate Bill No. 133**

5 (By Senator Snyder)

6 _____
7 [Originating in the Committee on the Judiciary;
8 reported February 7, 2014.]
9 _____

10
11
12 A BILL to amend and reenact article 3, chapter 64 of the Code of
13 West Virginia, 1931, as amended, relating generally to the
14 promulgation of administrative rules by the Department of
15 Environmental Protection; legislative mandate or authorization
16 for the promulgation of certain legislative rules by various
17 executive or administrative agencies of the state; authorizing
18 certain of the agencies to promulgate certain legislative
19 rules as amended by the Legislature; authorizing certain of
20 the agencies to promulgate certain legislative rules in the
21 form that the rules were filed in the State Register;
22 authorizing certain of the agencies to promulgate certain
23 legislative rules with various modifications presented to and
24 recommended by the Legislative Rule-Making Review Committee;

1 authorizing certain of the agencies to promulgate certain
2 legislative rules with various modifications presented to and
3 recommended by the Legislative Rule-Making Review Committee
4 and as amended by the Legislature; authorizing the Department
5 of Environmental Protection to promulgate a legislative rule
6 relating to horizontal well development; authorizing the
7 Department of Environmental Protection to promulgate a
8 legislative rule relating to ambient air quality standards;
9 authorizing the Department of Environmental Protection to
10 promulgate a legislative rule relating to permits for
11 construction and major modification of major stationary
12 sources for the prevention of significant deterioration of air
13 quality; authorizing the Department of Environmental
14 Protection to promulgate a legislative rule relating to
15 standards of performance for new stationary sources;
16 authorizing the Department of Environmental Protection to
17 promulgate a legislative rule relating to the control of air
18 pollution from the combustion of solid waste; authorizing the
19 Department of Environmental Protection to promulgate a
20 legislative rule relating to permits for construction and
21 major modification of major stationary sources which cause or
22 contribute to nonattainment areas; authorizing the Department
23 of Environmental Protection to promulgate a legislative rule
24 relating to the control of air pollution from hazardous waste

1 treatment, storage and disposal facilities; authorizing the
2 Department of Environmental Protection to promulgate a
3 legislative rule relating to emission standards for hazardous
4 air pollutants; authorizing the Department of Environmental
5 Protection to promulgate a legislative rule relating to
6 requirements governing water quality standards; authorizing
7 the Department of Environmental Protection to promulgate a
8 legislative rule relating to state certification of activities
9 requiring federal licenses and permits; and authorizing the
10 Department of Environmental Protection to promulgate a
11 legislative rule relating to voluntary remediation and
12 redevelopment.

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

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

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

18 **§64-3-1. Department of Environmental Protection.**

19 (a) The legislative rule filed in the State Register on May 6,
20 2013, authorized under the authority of section six, article six-a,
21 chapter twenty-two of this code, approved for promulgation by the
22 Legislature on April 12, 2013, relating to the Department of
23 Environmental Protection (horizontal well development, 35 CSR 8),
24 is authorized with the following amendment:

1 On pages ten and eleven, by striking out all of subdivision
2 5.7.a. and inserting in lieu thereof a new subdivision 5.7.a. to
3 read as follows:

4 5.7.a. All applications for well work permits shall be
5 accompanied by a well site safety plan to address proper safety
6 measures to be employed for the protection of persons on the well
7 site, as well as the general public in the area surrounding the
8 well site. Each plan shall be specific to the well site described
9 in the permit application and include the surrounding area. The
10 plan shall encompass all aspects of the operation, including the
11 actual well work for which the permit is sought, the anticipated
12 MSDS for the chemical components added to the hydraulic fracturing
13 fluid, and completion, production, and work-over activities. It
14 shall be made available on the well site during all phases of the
15 operation and provide an emergency point of contact and twenty-four
16 (24)-hour contact information for the well operator. At least
17 seven (7) days before commencement of well work or site preparation
18 work that involves any disturbance of the land, the well operator
19 shall provide a copy of the well site safety plan to the local
20 emergency planning committee (LEPC) for the emergency planning
21 district in which the well work will occur or to the county office
22 of emergency services. The operator shall also provide one copy of
23 the Well Site Safety Plan to the surface owner, any water purveyor
24 and any surface owner subject to notice and water testing as

1 provided in section 15 of this rule. The operator should work
2 closely with the local first responders to familiarize them with
3 potential incidents that are related to oil and gas development, so
4 that the local first responders have the information they need to
5 provide the support necessary for the operator to implement the
6 well site safety plan. The well site safety plan shall include, at
7 a minimum, the information contained in subdivisions 5.7.b. through
8 5.7.h.

9 (b) The legislative rule filed in the State Register on July
10 22, 2013, authorized under the authority of section four, article
11 five, chapter twenty-two of this code, relating to the Department
12 of Environmental Protection (ambient air quality standards, 45 CSR
13 8), is authorized.

14 (c) The legislative rule filed in the State Register on July
15 22, 2013, authorized under the authority of section four, article
16 five, chapter twenty-two of this code, modified by the Department
17 of Environmental Protection to meet the objections of the
18 Legislative Rule-Making Review Committee and refiled in the State
19 Register on September 4, 2013, relating to the Department of
20 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.

24 (d) The legislative rule filed in the State Register on July

1 22, 2013, authorized under the authority of section four, article
2 five, chapter twenty-two of this code, relating to the Department
3 of Environmental Protection (standards of performance for new
4 stationary sources, 45 CSR 16), is authorized.

5 (e) The legislative rule filed in the State Register on July
6 22, 2013, authorized under the authority of section four, article
7 five, chapter twenty-two of this code, relating to the Department
8 of Environmental Protection (control of air pollution from
9 combustion of solid waste, 45 CSR 18), is authorized.

10 (f) The legislative rule filed in the State Register on July
11 22, 2013, authorized under the authority of section four, article
12 five, chapter twenty-two of this code, relating to the Department
13 of Environmental Protection (permits for construction and major
14 modification of major stationary sources which cause or contribute
15 to nonattainment areas, 45 CSR 19), is authorized.

16 (g) The legislative rule filed in the State Register on July
17 22, 2013, authorized under the authority of section four, article
18 five, chapter twenty-two of this code, relating to the Department
19 of Environmental Protection (control of air pollution from
20 hazardous waste treatment, storage or disposal facilities, 45 CSR
21 25), is authorized.

22 (h) The legislative rule filed in the State Register on July
23 22, 2013, authorized under the authority of section four, article
24 five, chapter twenty-two of this code, relating to the Department

1 of Environmental Protection (emission standards for hazardous air
2 pollutants, 45 CSR 34), is authorized.

3 (i) The legislative rule filed in the State Register on July
4 26, 2013, authorized under the authority of section four, article
5 eleven, chapter twenty-two of this code, modified by the Department
6 of Environmental Protection to meet the objections of the
7 Legislative Rule-Making Review Committee and refiled in the State
8 Register on November 27, 2013, relating to the Department of
9 Environmental Protection (requirements governing water quality
10 standards, 47 CSR 2), is authorized with the following amendment:

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

13 And,

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

16 (j) The legislative rule filed in the State Register on July
17 26, 2013, authorized under the authority of section seven, article
18 eleven, chapter twenty-two of this code, modified by the Department
19 of Environmental Protection to meet the objections of the
20 Legislative Rule-Making Review Committee and refiled in the State
21 Register on December 18, 2013, relating to the Department of
22 Environmental Protection (state certification of activities
23 requiring federal licenses and permits, 47 CSR 5A), is authorized.

24 (k) The legislative rule filed in the State Register on July

1 26, 2013, authorized under the authority of section three, article
2 twenty-two, chapter twenty-two of this code, modified by the
3 Department of Environmental Protection to meet the objections of
4 the Legislative Rule-Making Review Committee and refiled in the
5 State Register on December 17, 2013, relating to the Department of
6 Environmental Protection (voluntary remediation and redevelopment,
7 60 CSR 3), is authorized.