WEST virginia legislature

2023 regular session

ENROLLED

Committee Substitute

for

House Bill 2640

By Delegate Foster

[Passed March 6, 2023; in effect from passage.]

AN ACT to amend and reenact §64-3-1 of the Code of West Virginia, 1931, as amended, all relating generally to authorizing certain agencies of the Department of Environmental Protection to promulgate legislative rules; authorizing the rules as filed and as modified 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 standards of performance for new stationary sources; 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 control of ozone season nitrogen oxides emissions; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to quarrying and reclamation; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to the Recycling Assistance Grant Program; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to the Reclamation of Abandoned and Dilapidated Properties Grant Program; and authorizing the Secretary’s Office of the Department of Environmental Protection to promulgate a legislative rule relating to reclamation of solar and wind electricity generation facilities.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3. Authorization for Department of Environmental Protection. to promulgate legislative rules.

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

1. The legislative rule filed in the State Register on July 21, 2022, authorized under the authority of §22-5-4 of this code, relating to the Department of Environmental Protection (standards of performance for new stationary sources, [45 CSR 16](https://apps.sos.wv.gov/adlaw/csr/ruleview.aspx?document=17661&KeyWord=)), is authorized.
2. The legislative rule filed in the State Register on July 21, 2022, authorized under the authority of §22-5-4 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 20, 2022, relating to the Department of Environmental Protection (requirements for operating permits, [45 CSR 30](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=45-30)), is authorized with the amendment set forth below:

On page 39, subdivision 8.1.a.1, by striking the number “$15,000” and inserting in lieu thereof the number “$5,000”.

(c) The legislative rule filed in the State Register on July 21, 2022, authorized under the authority of §22-5-4 of this code, relating to the Department of Environmental Protection (emission standards for hazardous air pollutants, [45 CSR 34](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=45-34)), is authorized.

(d) The legislative rule filed in the State Register on July 21, 2022, authorized under the authority of §22-5-4 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 16, 2022, relating to the Department of Environmental Protection (control of ozone season nitrogen oxides emissions, [45 CSR 40](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=45-40)), is authorized.

(e) The legislative rule filed in the State Register on May 26, 2022, authorized under the authority of §22-4-4 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 October 6, 2022, relating to the Department of Environmental Protection (rules for quarrying and reclamation, [38 CSR 03](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=38-03)), is authorized.

(f) The legislative rule filed in the State Register on July 29, 2022, authorized under the authority of §22-15A-19 of this code, relating to the Department of Environmental Protection (recycling assistance grant program, [33 CSR 10](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=33-10)), is authorized.

(g) The legislative rule filed in the State Register on July 29, 2022, authorized under the authority of §22-15A-30 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 October 14, 2022, relating to the Department of Environmental Protection (Reclamation of Abandoned and Dilapidated Properties Grant Program, [33 CSR 13](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=33-13)), is authorized with the following amendment:

On page 2, after subdivision 4.1.b., by inserting a new subdivision 4.1.c. to read as follows:

“4.1.c. This project shall give priority to structures near highly visible traffic areas, tourism corridors, and/or common open space.”

§64-3-2. Department of Environmental Protection – Secretary’s Office.

The legislative rule filed in the State Register on July 29, 2022, authorized under the authority of §22-32-7 of this code, relating to the Department of Environmental Protection – Secretary’s Office (reclamation of solar and wind electricity generating facilities, [60 CSR 11](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=60-11)), is authorized with the following amendments:

On page 5, subparagraph 4.1.d.iii after the word, ‘slabs” by inserting the words “to a minimum depth of 36 inches below the surface”;

On page 5, subsection 4.4 after the word “receipt” by adding the following:

“The department shall only deny an alternative decommissioning agreement if they determine that it will not result in the restoration of the property to a condition in which it can be used towards the same or a similar use as its use prior to the onset of the alternative decommissioning agreement.”;

And,

On page 7, by striking out subdivision 6.2.a and inserting in lieu thereof subdivision 6.2.a to read as follows:

“6.2.a. Estimated costs of decommissioning and salvage value as submitted by the owner in the decommissioning plan and in accordance with these rules with such costs estimated by the department using current machinery production handbooks and publications or other documented or substantiated cost estimates acceptable to the department.”

The Clerk of the House of Delegates and the Clerk of the Senate hereby certify that the foregoing bill is correctly enrolled.

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*Clerk of the House of Delegates*

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*Clerk of the Senate*

Originated in the House of Delegates.

In effect from passage.

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*Speaker of the House of Delegates*

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*President of the Senate*

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The within is ................................................ this the...........................................

Day of ..........................................................................................................., 2023.

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*Governor*