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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2004



ENROLLED

COMMITTEE SUBSTITUTE
FOR

House Bill No. 4027

(By Mr. Speaker, Mr. Kiss, and Delegate Trump)
[By Request of the Executive]



Passed March 11, 2004

In Effect Ninety Days from Passage

FILED

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FOR

H. B. 4027

(BY MR. SPEAKER, MR. KISS, AND DELEGATE TRUMP)

[BY REQUEST OF THE EXECUTIVE]

[Passed March 11, 2004; in effect ninety days from passage.]

AN ACT to amend the code of West Virginia, 1931, as amended, by adding thereto a new article, designated §22-25-1, §22-25-2, §22-25-3, §22-25-4, §22-25-5, §22-25-6, §22-25-7, §22-25-8, §22-25-9, §22-25-10, §22-25-11, §22-25-12 and §22-25-13, all relating to establishing a voluntary environmental excellence program; creating certain incentives for businesses that exceed the requirements of certain state and federal environmental laws and regulations and increase the quantity and quality of public participation; establishing legislative findings and purpose; defining certain terms; directing the secretary of the department of environmental protection to develop and implement the environmental excellence program; authorizing the secretary of the department of environmental protection to propose certain legislative rules regarding the environmental excellence program; establishing eligibility and application requirements for participation; authorizing the department of environmental protection to

enter into environmental performance agreements with qualified entities and timely review applications; providing for certain program elements; providing for appeal of certain adverse application decisions; providing for the withdrawal, enforcement and termination of participation under certain circumstances; providing for certain incentives to be established for participating in the program; providing certain guidelines for the content of environmental performance agreements; establishing the environmental excellence administrative fund; allowing for gifts and donations to be received by the fund; providing for public participation in the environmental excellence program; providing for a performance review of the program; and providing for expiration of the program in two thousand nine.

Be it enacted by the Legislature of West Virginia:

That the code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §22-25-1, §22-25-2, §22-25-3, §22-25-4, §22-25-5, §22-25-6, §22-25-7, §22-25-8, §22-25-9, §22-25-10, §22-25-11, §22-25-12 and §22-25-13, all to read as follows:

ARTICLE 25. ENVIRONMENTAL EXCELLENCE PROGRAM.

§22-25-1. Legislative findings.

1 The Legislature finds that:

2 (1) Regulated and nonregulated entities that demonstrate a
3 commitment to the environment by going beyond compliance
4 with environmental laws and rules positively impact the quality
5 of life for all citizens of the state by improving the economy
6 and the environment by increasing consumer and public
7 confidence, boosting management and employee morale, and
8 operating in a safe and sensible manner that lessens impacts on
9 the environment.

10 (2) While West Virginia's existing environmental laws play
11 an important role in protecting the environment, environmental
12 protection could be further enhanced by authorizing innovative
13 advances in environmental regulatory methods and approaches.

14 (3) Enhanced public involvement allows the public and
15 community to meaningfully participate in finding solutions for
16 environmental issues in their community while maintaining the
17 vitality of the local and state economy and strengthening ties
18 between businesses, nonbusiness entities and community.

19 (4) Increased use of pollution prevention strategies, more
20 cost-effective options for compliance with environmental
21 standards, improvement of environmental performance, and
22 reduction in occurrences of noncompliance with environmental
23 standards can be achieved through the establishment and
24 implementation of a voluntary environmental excellence
25 program pursuant to this article. This voluntary program will
26 provide entities with the opportunity to enter into an agreement
27 with the department of environmental protection through which
28 the department shall grant recognition and other benefits to
29 participating entities that comply with a prescribed number of
30 program elements established by the secretary of the depart-
31 ment of environmental protection designed to reduce environ-
32 mental impacts beyond those achieved by compliance with
33 environmental laws and permits alone.

§22-25-2. Purpose.

1 The purpose of this article is to authorize the department of
2 environmental protection to establish and administer an
3 environmental excellence program to promote, reward, and
4 encourage superior environmental performance in this state.
5 The environmental excellence program will establish a system
6 to encourage voluntary environmental performance that will
7 exceed existing regulatory standards for health and the environ-

8 ment and result in continual improvement in the state's environ-
9 ment, economy, and quality of life. The program should, if
10 practical, be compatible with other federal programs which
11 create incentives for achieving environmental performance
12 beyond the regulatory requirements, such as the United States
13 environmental protection agency's national performance track
14 program. The environmental excellence program will be
15 established and implemented to accomplish the following:

16 (1) Encourage facility owners and operators to assess the
17 environmental impact of their operations;

18 (2) Encourage innovation by and measure success through
19 facility owners and operators setting measurable and verifiable
20 goals;

21 (3) Increase public participation and encourage stakeholder
22 consensus in the development of innovative environmental
23 regulatory approaches and methods and in monitoring the
24 environmental performance of projects under this article;

25 (4) Focus resources toward achieving positive environmen-
26 tal goals that are important to the community and the state;

27 (5) Report environmental performance information and
28 ambient environmental data to the public in a manner that is
29 accurate, timely, credible, relevant and usable to interested
30 parties;

31 (6) Provide for the measurement of environmental perfor-
32 mance in terms of accomplishing goals and objectives, and
33 require the reporting of those results;

34 (7) Provide facility owners and operators with flexibility to
35 implement the most effective pollution prevention, source
36 reduction, or other pollution reduction strategies for their

37 particular facilities, while complying with verifiable and
38 enforceable pollution limits;

39 (8) Encourage superior environmental performance and
40 continuous improvement toward sustainable levels of resource
41 usage and minimization of pollution discharges, emissions and
42 releases;

43 (9) Promote the transfer of technological and practical
44 environmental innovations that improve environmental perfor-
45 mance in a more efficient, effective, and safe manner; and

46 (10) Strive to lower transaction costs associated with
47 environmental performance.

§22-25-3. Definitions.

1 As used in this article, unless the context otherwise
2 requires:

3 (a) “Cross-media transfer” means a pollutant transfer from
4 one environmental media to another, such as air to water.

5 (b) “Department” means the department of environmental
6 protection.

7 (c) “Environmental goals” means the environmental
8 performance objectives proposed by a qualified applicant that
9 demonstrates superior environmental performance and which
10 may support variances from environmental laws.

11 (d) “Environmental laws” means the following articles of
12 chapter twenty-two of the code of West Virginia, two thousand
13 two, as amended: Four, five, eleven, twelve, fifteen, sixteen,
14 seventeen, and eighteen and legislative rules adopted under one
15 of those articles, or a policy, rule, permit, license, other
16 approval or order issued by the department under one of those

17 articles. "Environmental laws" do not include any provision of
18 the code of West Virginia or of any municipal ordinance or
19 enactment that regulates the selection of a location for a new
20 facility.

21 (e) "Environmental management system" means a formal
22 set of voluntary procedures and policies used to evaluate
23 environmental performance and to achieve measurable or
24 noticeable improvements in that environmental performance
25 through planning and changes in operations, based on a
26 commitment to superior environmental performance. An
27 environmental management system is the part of the overall
28 management system that includes organizational structure,
29 planning activities, responsibilities, practices, procedures,
30 processes, and resources for developing, implementing,
31 achieving, reviewing, and maintaining an environmental policy.
32 An environmental management system includes the following
33 elements:

34 (1) Adoption of an environmental policy that includes a
35 commitment to maintain or exceed compliance with environ-
36 mental and other requirements, pollution prevention, and
37 continual improvement;

38 (2) An analysis of the environmental aspects and impacts
39 of the organization's activities;

40 (3) Significance ranking of environmental aspects and
41 procedures;

42 (4) Plans and procedures to achieve, maintain and exceed
43 requirements set forth by environmental laws;

44 (5) Identification of all legal requirements applicable to the
45 organization's environmental performance;

46 (6) Setting environmental objectives and developing
47 appropriate environmental management programs to meet the
48 objectives;

49 (7) Establishment of a structure for operational control and
50 responsibility for environmental performance;

51 (8) An employee training program to develop awareness of
52 and competence to manage environmental issues;

53 (9) A plan for taking preventive, corrective and emergency
54 action to address environmental problems;

55 (10) A communication plan to collaborate with employees,
56 the public and department on the design of the projects and
57 activities to achieve superior environmental performance;

58 (11) Document control and record keeping of environmen-
59 tal performance;

60 (12) Third party audits of the environmental management
61 system;

62 (13) Third party audits of environmental compliance;

63 (14) Senior management review;

64 (15) Monitoring and measurement of environmental
65 performance; and

66 (16) Other criteria as established by the secretary.

67 (f) "Environmental management system audit" means a
68 systematic and documented third party verification process of
69 evaluating whether an organization's environmental manage-
70 ment system conforms to the criteria set forth by the depart-
71 ment.

72 (g) “Environmental performance agreement” means an
73 agreement entered into between the department and a partici-
74 pant of the program that specifies the participant’s commitment
75 to superior environmental performance, enhanced public
76 involvement, and the incentives to be provided to the partici-
77 pant.

78 (h) “Environmental performance baseline” means the actual
79 emissions, discharges, and impact to the environment by a
80 facility at the time the application to participate in the environ-
81 mental excellence program is filed with the department.

82 (i) “Hazardous substance” or “toxic substance” means those
83 chemicals defined as hazardous substances under section 313 of
84 the federal Superfund Amendments and Reauthorization Act of
85 1986 (SARA Title III), including any subsequent amendments,
86 and sections 101(14) and 102 of the federal Comprehensive
87 Environmental Response, Compensation and Liability Act
88 (CERCLA), as amended.

89 (j) “Participant” means a qualified applicant that has been
90 admitted into the environmental excellence program through
91 the execution of an environmental performance agreement with
92 the department. Participant is limited to the site or facility
93 where the environmental goals will be achieved and does not
94 include the entire company where the company operates
95 multiple sites or facilities.

96 (k) “Pollution prevention” means any practice that reduces
97 the use of any hazardous substance or amount of a pollutant or
98 contaminant prior to reuse, recycling, treatment, or disposal,
99 and reduces the hazards to public health and the environment
100 associated with the use and release of hazardous substances,
101 pollutants or contaminants. Pollution prevention does not
102 include cross-media pollution transfers that do not result in a

103 net decrease of discharge, emission or impact to the environ-
104 ment.

105 (l) "Program" means the environmental excellence program
106 created pursuant to this article.

107 (m) "Qualified applicant" means any regulated or
108 nonregulated facility of a government entity, corporation,
109 partnership, sole proprietorship, municipality, county, city and
110 county, or special district located and doing business in this
111 state that meets the requirements for participation in the
112 program set forth by this article.

113 (n) "Regulated entity" means an entity that requires a
114 permit issued under one of the environmental laws to legally
115 operate in this state or is otherwise subject to enforcement of
116 environmental laws.

117 (o) "Nonregulated entity" means an entity that does not
118 require a permit issued pursuant to environmental laws to
119 legally operate in this state.

120 (p) "Secretary" means the secretary of the department of
121 environmental protection.

122 (q) "Significant impact to the environment" means a release
123 of a substance into the environment which has caused or may
124 cause an adverse affect to natural resources, organisms, flora,
125 fauna or the ecosystem.

126 (r) "Significant impact to human health" means a release of
127 a substance into the environment which has caused or may
128 cause an acute or chronic affect to human health.

129 (s) "Source reduction" means any practice which reduces
130 the amount of any pollutant, contaminant, or hazardous
131 substance entering any waste stream or otherwise being

132 released into the environment, including fugitive emissions,
133 prior to recycling, treatment, or disposal and reduces the
134 hazards to public health and the environment associated with
135 the release of these pollutants, contaminants, or hazardous
136 substances. "Source reduction" includes equipment or technol-
137 ogy modifications, process or procedure modifications, refor-
138 mulation or redesign of products, substitution of raw materials,
139 and improvements in housekeeping, maintenance, training or
140 inventory control. "Source reduction" does not include any
141 practice which alters the physical, chemical, or biological
142 characteristics or the volume of a hazardous substance, pollut-
143 ant or contaminant through a process or activity which itself is
144 not integral to and necessary for the production of a product or
145 the providing of a service.

146 (t) "Superior environmental performance" means environ-
147 mental performance that results in measurable or discernable
148 improvement in the quality of the air, water, land or natural
149 resources or in the protection of the ecosystem beyond that
150 which is actually being achieved by the qualified applicant
151 under compliance with current environmental laws. "Superior
152 environmental performance" does not include pollutant
153 reductions resulting from cross-media pollutant transfers unless
154 it can be demonstrated that such transfer results in an overall
155 improvement to the quality of the air, water, land and natural
156 resources. "Superiorenvironmentalperformance" may include,
157 but is not limited to, any of the following:

158 (1) An entity limits the discharges or emissions of pollut-
159 ants from, or in some other way minimizes the negative effects
160 on air, water, land, natural resources, or human health of, a
161 facility that is owned or operated by the entity or an activity
162 that is performed by the entity to an extent that is greater than
163 is required by applicable environmental laws.

164 (2) An entity minimizes the negative impact on air, water,
165 land, natural resources, or human health of the raw materials
166 used by the entity or the products or services produced or
167 provided by the entity to an extent that is greater than is
168 required by applicable environmental laws.

169 (3) An entity voluntarily engages in restoring, reclaiming,
170 enhancing, or preserving natural resources.

171 (4) An entity organizes segmented or uncoordinated entities
172 that are producing environmental harm into a program that
173 achieves positive environmental results.

174 (5) An entity reduces waste, hazardous substances, or toxic
175 substances in the design, production, delivery, use or reuse of
176 goods and services.

177 (6) An entity reduces or conserves energy, nonrenewable or
178 renewable natural resources through more efficient and
179 sustainable methods.

180 (u) "Toxic use reduction" means changes in production
181 processes, products, or raw materials that reduce, avoid or
182 eliminate the use of toxic or hazardous substances and the
183 generation of hazardous byproducts per unit of production, so
184 as to reduce the overall risks to the health of workers, consum-
185 ers or the environment without creating new risks of concern.

§22-25-4. Powers and duties of the department.

1 (a) Within one year after the effective date of this section,
2 the secretary, after consultation with representatives from the
3 regulated community, local governments, environmental
4 advocacy groups and other interested citizens, shall develop and
5 implement a voluntary environmental excellence program in
6 accordance with this article. The secretary shall propose
7 legislative rules for promulgation in accordance with article

8 three, chapter twenty-nine-a of this code necessary to establish
9 and implement all necessary program elements for the environ-
10 mental excellence program as established in this article. Such
11 program elements shall include, but are not limited to, the
12 following criteria:

13 (1) Participation and entry into the program;

14 (2) Public involvement;

15 (3) Environmental management system;

16 (4) Commitment to superior environmental performance;

17 (5) Communication of program results to the public; and

18 (6) Incentives.

19 (b) In establishing the environmental excellence business
20 program, the secretary may establish classes, categories, or tiers
21 of environmental performance agreements as the secretary
22 considers appropriate, taking into consideration the diversity of
23 businesses and industries in the state, the impact these entities
24 may have on the environment, and the incentives sought by the
25 qualified applicant.

26 (c) The secretary may negotiate with federal regulatory
27 agencies to obtain authority to grant incentives under federal
28 regulatory programs.

29 (d) Participation in the program by any participant is
30 voluntary and is subject to review every three years.

§22-25-5. Eligibility and application requirements.

1 (a) The secretary shall establish by rule the minimum
2 criteria for participation in the environmental excellence

3 program. The minimum criteria shall include, but not be limited
4 to, the following:

5 (1) An identified number of years with no serious civil
6 noncompliance;

7 (2) An identified number of years without any criminal
8 noncompliance;

9 (3) An identified number of years with no activities that
10 resulted in a significant negative impact to human health or the
11 environment;

12 (4) The existence and maintenance of an environmental
13 management system;

14 (5) The existence and maintenance of an environmental
15 management system audit program;

16 (6) The establishment of quantifiable environmental goals
17 which are designed to achieve superior environmental perfor-
18 mance;

19 (7) The existence and maintenance of verifiable, quantita-
20 tive and qualitative measures or methods to document attain-
21 ment of environmental goals; and

22 (8) The existence or establishment of a public participation
23 plan as approved by the secretary that demonstrates that the
24 proposal has broad support, its environmental implications are
25 fully understood by all interested parties, and assures ongoing
26 engagement of the public.

27 (b) The secretary shall establish alternative elective
28 program elements in addition to the mandatory program
29 elements set forth in subsection (a) of this section. Qualified
30 applicants shall select from among the alternative elective

31 program elements and complete those selected within a
32 specified time period. The number of elective program elements
33 shall be determined by the secretary and based on the activity
34 of the participant and the nature of the proposal. All elective
35 program elements shall be designed to result in measurable
36 improvement and enhancement of the environmental quality of
37 the state or shall be activities that are beneficial to the environ-
38 ment. Elective program elements may include, but are not
39 limited to:

40 (1) Development and maintenance of programs that provide
41 technical assistance or mentoring to one or more specified
42 organizations to encourage technology transfers;

43 (2) Active participation in industry or business environmen-
44 tal improvement programs;

45 (3) Publication and public distribution of annual environ-
46 mental performance summary reports;

47 (4) Promotion, sponsorship and participation in community
48 environmental and advisory programs;

49 (5) Development and maintenance of management pro-
50 grams that encourage and reward employees for meeting or
51 exceeding requirements of environmental laws or permits and
52 for participation in voluntary environmental activities; and

53 (6) Development and implementation of programs that
54 reduce adverse environmental impact of development, manu-
55 facturing, distribution and marketing of the participant's
56 products or services.

57 The secretary may establish additional alternative elective
58 program elements so long as the elements are designed to result
59 in the measurable improvement and enhancement of the
60 environmental quality of this state. Any additional alternative

61 elective program elements established by the secretary shall
62 have a reasonable nexus to the industry or business to which it
63 applies.

64 (c) The secretary shall establish application requirements
65 and application forms for entities to submit proposals to
66 participate in the program. The department shall review all
67 applications submitted for the program and shall notify the
68 eligible applicant that the application is complete or that the
69 application is incomplete. If the application is incomplete, the
70 department shall describe what additional information is
71 required to complete the application. The applicant may correct
72 the application and resubmit it at any time.

73 (d) Applicants accepted into an equivalent federal program
74 at the time of submitting an application to the department may
75 satisfy some or all of the eligibility and application require-
76 ments pursuant to this article at the secretary's discretion.

**§22-25-6. Application review and authority to enter into environ-
mental performance agreement.**

1 (a) The secretary shall review all completed applications
2 within a reasonable period of time. If the secretary determines
3 that the application meets the requirements for the program, the
4 secretary shall notify the applicant in writing, and the applica-
5 tion shall be incorporated into a written agreement. If the
6 secretary determines the application does not meet the require-
7 ments of the program, the secretary shall notify the applicant in
8 writing and shall provide an adequate opportunity for the
9 applicant to address the outstanding items.

10 (b) The secretary may enter into one or more agreements
11 with a participant as necessary to implement the provisions of
12 this article. The agreement shall describe the requirements for
13 continued participation and incentives to be provided to the
14 participant.

15 (c) The secretary shall not enter into any environmental
16 performance agreement that would:

17 (1) Violate or waive any specific statutory provision;

18 (2) Waive any federal regulation, unless specifically
19 authorized by the federal government;

20 (3) Result in an increase in emissions, discharges, or other
21 releases above those allowable under the otherwise applicable
22 regulatory requirements; or

23 (4) Address past or ongoing violations or noncompliance by
24 a qualified applicant.

25 (d) The following documents shall be made available for
26 public review:

27 (1) The application, including documentation of compliance
28 with environmental laws and permits applicable to the facility
29 over the last three years, information regarding an appropriate
30 environmental management system, a description of the current
31 status of proposed performance indicators, and an outline of the
32 measures by which the program will be evaluated;

33 (2) The executive's determination regarding their applica-
34 tion; and

35 (3) The agreement described in subsections (a) and (b) of
36 this section.

**§22-25-7. Judicial review of department decision on acceptance of
application to participate in the environmental
excellence program.**

1 The decision of the department to refuse to accept an
2 application for participation in the environmental excellence
3 program is not subject to judicial review. The decision of the

4 department to enter into an environmental performance
5 agreement may be appealed to the environmental quality board
6 by any person aggrieved or adversely affected by the action
7 being appealed, pursuant to the provisions of article one,
8 chapter twenty-two-b of this code.

**§22-25-8. Withdrawal, enforcement and termination from the
program.**

1 (a) Any participant may elect to withdraw from participa-
2 tion in the program at any time upon written notice to the
3 secretary.

4 (b) The secretary shall terminate the participation of any
5 participant in the program if a serious violation is discovered or
6 occurs and the violation is not properly disclosed in accordance
7 with the law or is not corrected or remedied in a timely manner
8 to the satisfaction of the secretary.

9 (c) The secretary may continue the participation of a
10 participant in the program if a serious violation is discovered or
11 occurs and the violation is properly disclosed in accordance
12 with law and is corrected or remedied in a timely manner to the
13 satisfaction of the secretary.

14 (d) A participant's participation in the program shall be
15 suspended from the time the serious violation is discovered or
16 occurs until the time it is corrected or remedied to the satisfac-
17 tion of the secretary.

18 (e) If the secretary determines at any time a participant is
19 failing to perform in accordance with the environmental
20 performance agreement, and if, after written notice to the
21 participant, the participant does not come into conformance
22 within a reasonable period of time, as established by the
23 secretary, the secretary may terminate the participant's partici-
24 pation in the program.

25 (f) All incentives provided by the state pursuant to section
26 nine of this article shall be withdrawn, effective upon termina-
27 tion or withdrawal of the participant's participation in the
28 program. If a participant withdraws or is terminated from the
29 program, any unused incentives will be forfeited.

30 (g) The secretary shall establish, by rule, procedures and
31 criteria that set forth circumstances under which a participant's
32 participation shall be suspended or terminated and criteria for
33 a transition plan for returning to otherwise applicable environ-
34 mental laws if the environmental performance agreement is
35 terminated by the participant for any reason or by the secretary
36 for failure to meet the agreement's stated environmental goals,
37 despite good faith efforts.

§22-25-9. Incentives.

1 The secretary shall propose rules for legislative approval,
2 pursuant to the provisions of chapter twenty-nine-a of this code,
3 establishing incentives to be granted to any participant that
4 complies with all of the mandatory program elements and the
5 prescribed number of elective program elements, as determined
6 by the secretary. Participants may seek some or all of the
7 incentives established pursuant to this subsection.

§22-25-10. Environmental performance agreements; contents, and specifications.

1 (a) The environmental performance agreement shall clearly
2 establish the environmental goals of the participant; public
3 involvement requirements; incentives; reporting requirements;
4 and all other terms to ensure that the proposal is properly
5 implemented and enforceable.

6 (b) In entering into environmental performance agreements,
7 the secretary shall require stricter monitoring, or take other
8 appropriate steps to ensure accountability, for proposals with
9 greater uncertainty of meeting their stated environmental goals.

10 (c) A final environmental performance agreement shall
11 specify:

12 (1) Any otherwise applicable rules, requirements, policies,
13 or practices, modified, waived or replaced;

14 (2) The specific environmental goals of the agreement and
15 the criteria for determining whether the agreement is meeting
16 those goals;

17 (3) A description of how compliance with the agreement
18 will be monitored and enforced, including any penalties that
19 may be imposed for failure to carry out the terms of the
20 agreement;

21 (4) The duration of the agreement and terms for renewal or
22 extension;

23 (5) A transition plan for returning to otherwise applicable
24 environmental laws in the event the agreement is terminated by
25 either the participant or the department;

26 (6) A plan for integrating into the agreement any relevant
27 regulations that are promulgated during the duration of the
28 agreement; and

29 (7) Criteria for determining whether agreement may be
30 transferred in the event of a transfer of ownership of the facility
31 subject to the terms and conditions of the agreement and when
32 applicable, the procedures for transferring the agreement.

**§22-25-11. Recovery of costs to department in developing, negoti-
ating and publicizing environmental performance
agreement; deposition of moneys collected; cre-
ation of environmental excellence program ad-
ministrative fund.**

1 To recover the costs to the department in developing,
2 negotiating and publicizing an environmental performance

3 agreement, the secretary may establish by legislative rule
4 reasonable application, renewal, and administration fees. An
5 “Environmental Excellence Program Administrative Fund” is
6 hereby created in the state treasury. The funds shall be dedi-
7 cated and appropriated to the department to administer the
8 program. Expenditures are not authorized from collections but
9 are to be made only in accordance with appropriation by the
10 Legislature and in accordance with the provisions of article
11 three, chapter twelve of this code and upon the fulfillment of
12 the provisions of article two, chapter five-a of this code:
13 *Provided*, That for the fiscal year ending the thirtieth day of
14 June, two thousand five, expenditures are authorized from
15 collections rather than pursuant to appropriation by the Legisla-
16 ture. Any moneys not utilized by the department for the
17 purposes set forth herein by the thirtieth day of June, two
18 thousand nine, shall revert to the state general revenue fund and
19 the environmental excellence program administration fund shall
20 be dissolved.

§22-25-12. Public participation.

1 To promote a participatory process that will conform to the
2 legislative rules adopted pursuant to section four of this article,
3 to the extent that resources are available in the environmental
4 excellence program administration fund and appropriated by the
5 Legislature, the secretary is authorized to provide logistical and
6 technical support to assure balanced and timely participation in
7 any public process associated with this program.

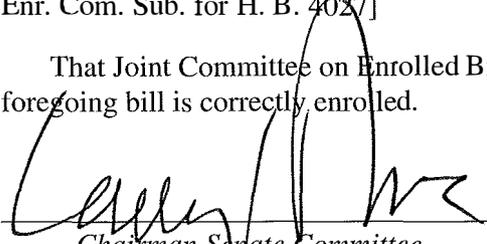
§22-25-13. Review and repeal of the environmental excellence program.

1 (a) The joint committee on government operations shall,
2 pursuant to authority granted in article ten, chapter four of this
3 code, conduct a preliminary performance review of the depart-
4 ment of environmental protection’s compliance with the

5 provisions of this article, and whether it is appropriate to
6 continue this program. In conducting a preliminary performance
7 review, the committee shall follow the guidelines established in
8 section ten, article ten, chapter four of this code. The committee
9 may direct that the focus of the preliminary performance review
10 be on a specific area of operation and may direct further
11 inquiry, when necessary and desirable.

12 (b) This article and any rules promulgated thereunder shall
13 remain in effect until the thirtieth day of June, two thousand
14 nine, at which time this article and any rules promulgated
15 thereunder shall be repealed.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



Chairman Senate Committee



Chairman House Committee

Originating in the House.

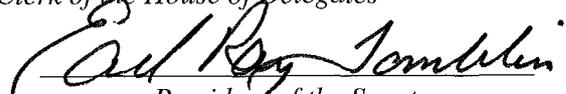
In effect ninety days from passage.



Clerk of the Senate



Clerk of the House of Delegates

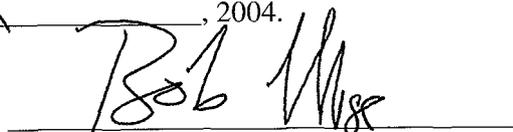


President of the Senate



Speaker of the House of Delegates

The within is approved this the 25th
day of March, 2004.



Governor

PRESENTED TO THE

GOVERNOR

DATE 3/19/09

TIME 2:30