

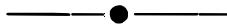
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OFFICE OF THE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2004



ENROLLED

COMMITTEE SUBSTITUTE
FOR

House Bill No. 4193

(By Delegates Mahan, R. Thompson, Cann,
Kominar, Armstead and Faircloth)



Passed March 12, 2004

In Effect from Passage

FILED

2004 APR -5 A 11: 50

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FOR

H. B. 4193

(BY DELEGATES MAHAN, R. THOMPSON, CANN,
KOMINAR, ARMSTEAD AND FAIRCLOTH)

[Passed March 12, 2004; in effect from passage.]

AN ACT to amend and reenact article 3, chapter 64 of the code of West Virginia, 1931, as amended, all relating generally to the promulgation of administrative rules by the various executive or administrative agencies and the procedures relating thereto; 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 with various modifications presented to and recommended by the legislative rule-making review committee; 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 with various modifications presented to and recom-

mended by the legislative rule-making review committee and as amended by the Legislature; disapproving certain legislative rules presented to the Legislature for authorization; authorizing the department of environmental protection to promulgate a legislative rule relating to the Nox budget trading program as a means of control and reduction of nitrogen oxides from nonelectric generating units; authorizing the department of environmental protection to promulgate a legislative rule relating to emission standards for hazardous air pollutants pursuant to 40 CFR Part 61; authorizing the department of environmental protection to promulgate a legislative rule relating to standards of performance for new stationary sources pursuant to 40 CFR Part 60; authorizing the department of environmental protection to promulgate a legislative rule relating to the prevention and control of air pollution from hazardous waste treatment, storage or disposal facilities; authorizing the department of environmental protection to promulgate a legislative rule relating to emission standards for hazardous air pollutants for source categories pursuant to 40 CFR Part 63; authorizing the department of environmental protection to promulgate a legislative rule relating to requirements for determining conformity of transportation plans, programs and projects developed, funded or approved under Title 23 U.S.C. or the federal transit laws applicable air quality implementation plans (transportation conformity); authorizing the department of environmental protection to promulgate a legislative rule relating to surface mining reclamation; authorizing the department of environmental protection to promulgate a legislative rule relating to solid waste management; authorizing the department of environmental protection to promulgate a legislative rule relating to hazardous waste management; authorizing the department of environmental protection to promulgate a legislative rule relating to the West Virginia NPDES rule for coal mining facilities; authorizing the environmental quality board to promulgate a legislative rule relating to requirements governing water quality standards; and authorizing the environmental quality board to

promulgate emergency and legislative rules on or before the first day of October, two thousand four to revise the aquatic life aluminum criteria.

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.

1 (a) The legislative rule filed in the state register on the
2 twenty-ninth day of July, two thousand three, authorized under
3 the authority of section four, article five, chapter twenty-two of
4 this code, relating to the department of environmental protec-
5 tion (Nox budget trading program as a means of control and
6 reduction of nitrogen oxides from non-electric generating units,
7 45 CSR 1), is authorized.

8 (b) The legislative rule filed in the state register on the
9 thirtieth day of July, two thousand three, authorized under the
10 authority of section four, article five, chapter twenty-two of this
11 code, relating to the department of environmental protection
12 (emission standards for hazardous air pollutants pursuant to 40
13 CFR Part 61, 45 CSR 15), is authorized.

14 (c) The legislative rule filed in the state register on the
15 thirtieth day of July, two thousand three, authorized under the
16 authority of section four, article five, chapter twenty-two of this
17 code, relating to the department of environmental protection
18 (standards of performance for new stationary sources pursuant
19 to 40 CFR Part 60, 45 CSR 16), is authorized with the following
20 amendment:

21 Wherever the rule has been amended to insert the term
22 “Division of Water and Waste Management” the existing
23 language of the rule prior to the amendment denoting a change
24 in the name of the agency of reference shall be retained.

25 (d) The legislative rule filed in the state register on the
26 twenty-ninth day of July, two thousand three, authorized under
27 the authority of section four, article five, chapter twenty-two of
28 this code, relating to the department of environmental protec-
29 tion (to prevent and control air pollution from hazardous waste
30 treatment, storage or disposal facilities, 45 CSR 25), is autho-
31 rized with the following amendment:

32 Wherever the rule has been amended to insert the term
33 “Division of Water and Waste Management”, the existing
34 language of the rule prior to the amendment denoting a change
35 in the name of the agency of reference shall be retained.

36 (e) The legislative rule filed in the state register on the
37 thirty-first day of July, two thousand three, authorized under the
38 authority of section four, article five, chapter twenty-two of this
39 code, relating to the department of environmental protection
40 (emission standards for hazardous air pollutants for source
41 categories pursuant to 40 CFR Part 63, 45 CSR 34), is autho-
42 rized with the following amendment:

43 Wherever the rule has been amended to insert the term
44 “Division of Water and Waste Management”, the existing
45 language of the rule prior to the amendment denoting a change
46 in the name of the agency of reference shall be retained.

47 (f) The legislative rule filed in the state register on the
48 thirtieth day of July, two thousand three, authorized under the
49 authority of section four, article five, chapter twenty-two of this
50 code, relating to the department of environmental protection
51 (requirements for determining conformity of transportation
52 plans, programs and projects developed, funded or approved

53 under Title 23 U.S.C. or the federal transit laws applicable to air
54 quality implementation plans (transportation conformity), 45
55 CSR 36), is authorized with the following amendment:

56 Wherever the rule has been amended to insert the term
57 “Division of Water and Waste Management”, the existing
58 language of the rule prior to the amendment denoting a change
59 in the name of the agency of reference shall be retained.

60 (g) The legislative rule filed in the state register on the
61 thirty-first day of July, two thousand three, authorized under the
62 authority of section four, article three, chapter twenty-two of
63 this code, modified by the department of environmental
64 protection to meet the objections of the legislative rule-making
65 review committee and refiled in the state register on the
66 sixteenth day of January, two thousand four, relating to the
67 department of environmental protection (surface mining
68 reclamation, 38 CSR 2), is authorized.

69 (h) The legislative rule filed in the state register on the first
70 day of August, two thousand three, authorized under the
71 authority of section five, article fifteen, chapter twenty-two of
72 this code, modified by the department of environmental
73 protection to meet the objections of the legislative rule-making
74 review committee and refiled in the state register on the second
75 day of December, two thousand three, relating to the depart-
76 ment of environmental protection (solid waste management, 33
77 CSR 1), is authorized with the following amendment:

78 Wherever the rule has been amended to insert the term
79 “Division of Water and Waste Management”, the existing
80 language of the rule prior to the amendment denoting a change
81 in the name of the agency of reference shall be retained.

82 (i) The legislative rule filed in the state register on the
83 thirty-first day of July, two thousand three, authorized under the
84 authority of section one, article eighteen, chapter twenty-two of

85 this code, modified by the department of environmental
86 protection to meet the objections of the legislative rule-making
87 review committee and refiled in the state register on the second
88 day of December, two thousand three, relating to the depart-
89 ment of environmental protection (hazardous waste manage-
90 ment, 33 CSR 20), is authorized with the following amendment:

91 Wherever the rule has been amended to insert the term
92 “Division of Water and Waste Management”, the existing
93 language of the rule prior to the amendment denoting a change
94 in the name of the agency of reference shall be retained.

95 (j) The legislative rule filed in the state register on the
96 thirty-first day of July, two thousand three, authorized under the
97 authority of section four, article eleven, chapter twenty-two of
98 this code, modified by the department of environmental
99 protection to meet the objections of the legislative rule-making
100 review committee and refiled in the state register on the
101 twentieth day of November, two thousand three, relating to the
102 department of environmental protection (West Virginia NPDES
103 rule for coal mining facilities, 47 CSR 30), is authorized with
104 the following amendment:

105 Wherever the rule has been amended to insert the term
106 “Division of Water and Waste Management”, the existing
107 language of the rule prior to the amendment denoting a change
108 in the name of the agency of reference shall be retained.

§64-3-2. Environmental quality board.

1 The legislative rule filed in the state register on the first day
2 of August, two thousand three, under the authority of section
3 four, article three, chapter twenty-two-b of this code, relating to
4 the environmental quality board (requirements governing water
5 quality standards, 46 CSR 1), is not authorized.

6 (1) The legislative rule filed in the state register on the
7 fourteenth day of April, two thousand three, and effective the
8 twenty-fifth day of June, two thousand three, authorized under
9 the authority of section four, article three, chapter twenty-two-b
10 of this code, authorized by the Legislature during the regular
11 session of the Legislature in two thousand three, relating to the
12 environmental quality board (requirements governing water
13 quality standards, 46 CSR 1), is reauthorized with the following
14 amendments:

15 On page seven, section 6.2.d., after the words “(require-
16 ments for Category A waters.)”, by striking out the words “The
17 manganese human health criteria shall not apply where the
18 discharge point of the manganese is located more than five
19 miles upstream from a known drinking water source.” and
20 inserting the following:

21 “The manganese human health criterion shall only apply
22 within the five-mile zone immediately upstream above a known
23 public or private water supply used for human consumption.”;

24 On page ten, section 7.2.a.2., after the words “(to its
25 headwaters.)” by striking out the words “Until September 1,
26 2004, the one-half mile zone described in this section shall not
27 apply to the Ohio River main channel (between Brown’s Island
28 and the left descending bank) between river mile points 61.0
29 and 63.5.” and inserting in lieu thereof the words “Until
30 September 1, 2010, or until action by the Environmental
31 Quality Board to revise this provision, whichever comes first,
32 the one-half (½) mile zone described in this section shall not
33 apply to the Ohio River main channel (between Brown’s Island
34 and the left descending bank) between river mile points 61.0
35 and 63.5 for the Category A criterion for iron as set forth in §8
36 herein. Weirton Steel Corporation shall conduct monthly
37 monitoring of the treated water at its drinking water plant for
38 iron and submit the results of such monitoring to the West

39 Virginia Bureau for Public Health and the Office of Water
40 Resources of the West Virginia Department of Environmental
41 Protection. In addition, Weirton Steel Corporation shall submit
42 a written report regarding the status of its drinking water plant
43 and the issues pertaining thereto to the Environmental Quality
44 Board on or before March 1, 2007.”;

45 On pages twelve and thirteen, section 7.2.d.16.2. after the
46 words “the following instream criteria:” by striking the remain-
47 der of 7.2.d.16.2. and inserting in lieu thereof, the following:

48 “Lead 14 ug/l, Daily Maximum, Temperature 100 degree F
49 (monitored per Footnote 12 of the permit); Iron 4.0 mg/l,
50 monthly average and 8.0 mg/l Daily Maximum (monitored per
51 Footnote 12 of the permit). Weirton Steel Corporation shall
52 continue to submit to the Office of Water Resources of the
53 West Virginia Department of Environmental Protection, on an
54 annual basis summary reports on the water quality of the
55 discharge from Outlet 004 and the efforts made by Weirton
56 Steel Corporation during the previous year to improve the
57 quality of the discharge. These exceptions shall be in effect
58 until action by the Environmental Quality Board to revise the
59 exceptions or until July 1, 2007, whichever comes first.”;

60 On page thirteen, section 7.2.d.19. By adding a new
61 paragraph designated 7.2.d.19.3 to read as follows:

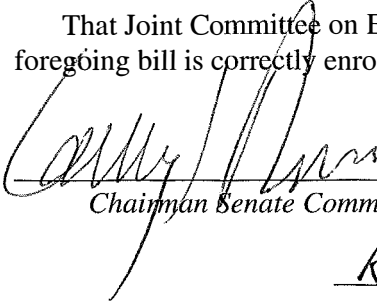
62 7.2.d.19.3. Except that in Ward Hollow of Davis Creek, the
63 following site-specific numeric criterion for chloride shall apply
64 for Category A and Category B1 (chronic aquatic life protec-
65 tion):310,000 ug/L.;

66 On page 30, APPENDIX E, TABLE 1, column one, by
67 striking out the words “The concentration of un-ionized
68 ammonia (NH₃) shall not exceed 50 ug/l.; and

69 On page 30, APPENDIX E, TABLE 1, by striking the all
70 the provisions of 8.2. and on page 31, by renumbering 8.2.1 as
71 8.2..

72 (2) In addition to the forgoing amendments to the rule the
73 environmental quality board shall, in cooperation with the
74 regulated community and the department of environmental
75 protection, propose for promulgation in accordance with the
76 provisions of article three, chapter twenty-nine-a of this code,
77 an emergency and legislative rule on or before the first day of
78 October, two thousand four, to revise the aquatic life aluminum
79 criteria.

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



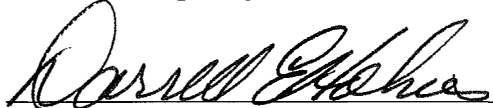
Chairman Senate Committee




Chairman House Committee

Originating in the House.

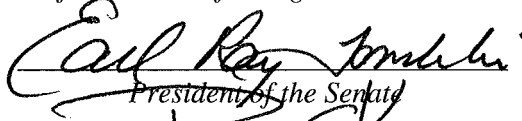
In effect from passage.



Clerk of the Senate



Clerk of the House of Delegates

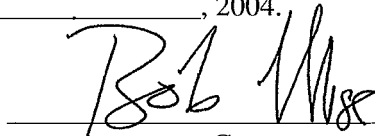


President of the Senate



Speaker of the House of Delegates

The within is approved this the 5th
day of April, 2004.



Governor

PRESENTED TO THE

GOVERNOR

DATE 3/31/04

TIME 10:00am