

1 **ENROLLED**

2 COMMITTEE SUBSTITUTE

3 FOR

4 **Senate Bill No. 133**

5 (SENATOR SNYDER, *original sponsor*)

6 \_\_\_\_\_  
7 [Passed March 8, 2014; in effect from passage.]  
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10  
11 AN ACT to amend and reenact article 3, chapter 64 of the Code of  
12 West Virginia, 1931, as amended, relating generally to the  
13 promulgation of administrative rules by the Department of  
14 Environmental Protection; legislative mandate or authorization  
15 for the promulgation of certain legislative rules by various  
16 executive or administrative agencies of the state; authorizing  
17 certain of the agencies to promulgate certain legislative  
18 rules as amended by the Legislature; authorizing certain of  
19 the agencies to promulgate certain legislative rules in the  
20 form that the rules were filed in the State Register;  
21 authorizing certain of the agencies to promulgate certain  
22 legislative rules with various modifications presented to and  
23 recommended by the Legislative Rule-Making Review Committee;  
24 authorizing certain of the agencies to promulgate certain

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

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

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

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

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

17 **§64-3-1. Department of Environmental Protection.**

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

24 On pages ten and eleven, by striking out all of subdivision

1 5.7.a. and inserting in lieu thereof a new subdivision 5.7.a. to  
2 read as follows:

3       5.7.a. All applications for well work permits shall be  
4 accompanied by a well site safety plan to address proper safety  
5 measures to be employed for the protection of persons on the well  
6 site, as well as the general public in the area surrounding the  
7 well site. Each plan shall be specific to the well site described  
8 in the permit application and include the surrounding area. The  
9 plan shall encompass all aspects of the operation, including the  
10 actual well work for which the permit is sought, the anticipated  
11 MSDS for the chemical components added to the hydraulic fracturing  
12 fluid, and completion, production, and work-over activities. It  
13 shall be made available on the well site during all phases of the  
14 operation and provide an emergency point of contact and twenty-four  
15 (24)-hour contact information for the well operator. At least  
16 seven (7) days before commencement of well work or site preparation  
17 work that involves any disturbance of the land, the well operator  
18 shall provide a copy of the well site safety plan to the local  
19 emergency planning committee (LEPC) for the emergency planning  
20 district in which the well work will occur or to the county office  
21 of emergency services. The operator shall also provide one copy of  
22 the Well Site Safety Plan to the surface owner, any water purveyor  
23 and any surface owner subject to notice and water testing as  
24 provided in section 15 of this rule: *Provided, That in the event*

1 the Well Site Safety Plan previously provided to a surface owner,  
2 water purveyor or surface owner, is later amended, in whole or in  
3 part, the operator shall provide a copy of the amendments to the  
4 surface owner, water purveyor or surface owner. The operator  
5 should work closely with the local first responders to familiarize  
6 them with potential incidents that are related to oil and gas  
7 development, so that the local first responders have the  
8 information they need to provide the support necessary for the  
9 operator to implement the well site safety plan. The well site  
10 safety plan shall include, at a minimum, the information contained  
11 in subdivisions 5.7.b. through 5.7.h.

12 (b) The legislative rule filed in the State Register on July  
13 22, 2013, 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 (c) The legislative rule filed in the State Register on July  
18 22, 2013, authorized under the authority of section four, article  
19 five, chapter twenty-two of this code, modified by the Department  
20 of Environmental Protection to meet the objections of the  
21 Legislative Rule-Making Review Committee and refiled in the State  
22 Register on September 4, 2013, relating to the Department of  
23 Environmental Protection (permits for construction and major  
24 modification of major stationary sources for the prevention of

1 significant deterioration of air quality, 45 CSR 14), is  
2 authorized.

3 (d) The legislative rule filed in the State Register on July  
4 22, 2013, authorized under the authority of section four, article  
5 five, chapter twenty-two of this code, relating to the Department  
6 of Environmental Protection (standards of performance for new  
7 stationary sources, 45 CSR 16), is authorized.

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

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

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

1 (h) The legislative rule filed in the State Register on July  
2 22, 2013, authorized under the authority of section four, article  
3 five, chapter twenty-two of this code, relating to the Department  
4 of Environmental Protection (emission standards for hazardous air  
5 pollutants, 45 CSR 34), is authorized.

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

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

16 And,

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

19 (j) The legislative rule filed in the State Register on July  
20 26, 2013, authorized under the authority of section seven, article  
21 eleven, chapter twenty-two of this code, modified by the Department  
22 of Environmental Protection to meet the objections of the  
23 Legislative Rule-Making Review Committee and refiled in the State  
24 Register on December 18, 2013, relating to the Department of

1 Environmental Protection (state certification of activities  
2 requiring federal licenses and permits, 47 CSR 5A), is authorized.

3 (k) The legislative rule filed in the State Register on July  
4 26, 2013, authorized under the authority of section three, article  
5 twenty-two, chapter twenty-two of this code, modified by the  
6 Department of Environmental Protection to meet the objections of  
7 the Legislative Rule-Making Review Committee and refiled in the  
8 State Register on December 17, 2013, relating to the Department of  
9 Environmental Protection (voluntary remediation and redevelopment,  
10 60 CSR 3), is authorized, with the following amendment:

11 On page two, subsection 2.22., line twenty-one, following the  
12 words "refers to a", by striking the "A"; and

13 On page three, subsection 2.35., line twenty-six, by striking  
14 the words "Section 3 of Article 22"; and

15 On page nine, paragraph 4.3.d.6., line thirty-five, by  
16 striking the character "2" at the beginning of the line; and

17 On page nine, paragraph 4.3.d.6., line forty-five, following  
18 the words "greater than", by striking the character "2"; and

19 On page ten, subdivision 5.1.d., line three, following the  
20 words "W.Va. Code §22-22", by inserting a hyphen and the words '1,  
21 et seq.'; and

22 On page fourteen, subdivision 5.3.k., line four, following the  
23 words "and practical knowledge" by striking the semi-colon; and

24 On page fifteen, subdivision 5.5.e., line three, by striking



1 the word "thirty" at the beginning of the line; and

2 On page nineteen, subparagraph 7.4.b.21.A., line twenty, by

3 renumbering the subparagraph as 7.4.b.1.A.; and

4 On page nineteen, subparagraph 7.4.b.31.B., line twenty-four,

5 by renumbering the subparagraph as 7.4.b.1.B.; and

6 On page nineteen, subparagraph 7.4.b. .1.C., line twenty-nine,

7 by renumbering the subparagraph as 7.4.b.1.C.; and

8 On page nineteen, paragraph 7.4.b.52., line thirty-three, by

9 renumbering the paragraph as 7.4.b.2.; and

10 On page nineteen, subparagraph 7.4.b.62.A., line thirty-eight,

11 by renumbering the subparagraph as 7.4.b.2.A.; and

12 On page twenty, subparagraph 7.4.b.72.B, line one, by

13 renumbering the subparagraph as 7.4.b.2.B.; and

14 On page twenty, paragraph 7.4.b.83., line five, by renumbering

15 the it as subparagraph 7.4.b.2.C.; and

16 On page twenty, subparagraph 7.4.b.105, line fifteen, by

17 renumbering the subparagraph as 7.4.b.2.D.; and

18 On page thirty-six, paragraph 10.2.b., at the beginning of

19 line sixteen, by striking the "5", before the words "five days";

20 and

21 On page thirty-eight, subdivision 11.4., line six, following

22 the words "have been submitted to the", by striking the word

23 "Division" and inserting in lieu thereof the word "Department"; and

24 On page thirty-eight, paragraph 12.2.a., line thirty-six,

1 following the words "applicant and determine within", by striking  
2 the word "sixty"; and

3       On page thirty-nine, paragraph 12.2.c., line fifteen,  
4 following the words "final report was properly issued, he", by  
5 inserting the words "or she".