

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 133**

4 (By Senator Snyder)

5 _____
6 [Originating in the Committee on the Judiciary;

7 reported February 7, 2014.]

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10
11 A BILL 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 in the form that the rules were filed in the State
19 Register; authorizing certain of the agencies to promulgate
20 certain legislative rules with various modifications presented
21 to and recommended by the Legislative Rule-Making Review
22 Committee; authorizing the Department of Environmental
23 Protection to promulgate a legislative rule relating to
24 horizontal well development; authorizing the Department of

1 Environmental Protection to promulgate a legislative rule
2 relating to ambient air quality standards; authorizing the
3 Department of Environmental Protection to promulgate a
4 legislative rule relating to permits for construction and
5 major modification of major stationary sources for the
6 prevention of significant deterioration of air quality;
7 authorizing the Department of Environmental Protection to
8 promulgate a legislative rule relating to standards of
9 performance for new stationary sources; authorizing the
10 Department of Environmental Protection to promulgate a
11 legislative rule relating to the control of air pollution from
12 the combustion of solid waste; authorizing the Department of
13 Environmental Protection to promulgate a legislative rule
14 relating to permits for construction and major modification of
15 major stationary sources which cause or contribute to
16 nonattainment areas; authorizing the Department of
17 Environmental Protection to promulgate a legislative rule
18 relating to the control of air pollution from hazardous waste
19 treatment, storage and disposal facilities; authorizing the
20 Department of Environmental Protection to promulgate a
21 legislative rule relating to emission standards for hazardous
22 air pollutants; authorizing the Department of Environmental
23 Protection to promulgate a legislative rule relating to
24 requirements governing water quality standards; authorizing

1 the Department of Environmental Protection to promulgate a
2 legislative rule relating to state certification of activities
3 requiring federal licenses and permits; and authorizing the
4 Department of Environmental Protection to promulgate a
5 legislative rule relating to voluntary remediation and
6 redevelopment.

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

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

10 **ARTICLE 3. AUTHORIZATION FOR DEPARTMENT OF ENVIRONMENTAL**
11 **PROTECTION TO PROMULGATE LEGISLATIVE RULES.**

12 **§64-3-1. Department of Environmental Protection.**

13 (a) The legislative rule filed in the State Register on May 6,
14 2013, authorized under the authority of section six, article six-a,
15 chapter twenty-two of this code, approved for promulgation by the
16 Legislature on April 12, 2013, relating to the Department of
17 Environmental Protection (horizontal well development, 35 CSR 8),
18 is authorized with the following amendment:

19 On pages ten and eleven, by striking out all of subdivision
20 5.7.a. and inserting in lieu thereof a new subdivision 5.7.a. to
21 read as follows:

22 5.7.a. All applications for well work permits shall be
23 accompanied by a well site safety plan to address proper safety
24 measures to be employed for the protection of persons on the well

1 site, as well as the general public in the area surrounding the
2 well site. Each plan shall be specific to the well site described
3 in the permit application and include the surrounding area. The
4 plan shall encompass all aspects of the operation, including the
5 actual well work for which the permit is sought, the anticipated
6 MSDS for the chemical components added to the hydraulic fracturing
7 fluid, and completion, production, and work-over activities. It
8 shall be made available on the well site during all phases of the
9 operation and provide an emergency point of contact and twenty-four
10 (24)-hour contact information for the well operator. At least
11 seven (7) days before commencement of well work or site preparation
12 work that involves any disturbance of the land, the well operator
13 shall provide a copy of the well site safety plan to the local
14 emergency planning committee (LEPC) for the emergency planning
15 district in which the well work will occur or to the county office
16 of emergency services. The operator shall also provide one copy of
17 the Well Site Safety Plan to the surface owner, any water purveyor
18 and any surface owner subject to notice and water testing as
19 provided in section 15 of this rule. The operator should work
20 closely with the local first responders to familiarize them with
21 potential incidents that are related to oil and gas development, so
22 that the local first responders have the information they need to
23 provide the support necessary for the operator to implement the
24 well site safety plan. The well site safety plan shall include, at

1 a minimum, the information contained in subdivisions 5.7.b. through
2 5.7.h.

3 (b) 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 (ambient air quality standards, 45 CSR
7 8), is authorized.

8 (c) 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, modified by the Department
11 of Environmental Protection to meet the objections of the
12 Legislative Rule-Making Review Committee and refiled in the State
13 Register on September 4, 2013, relating to the Department of
14 Environmental Protection (permits for construction and major
15 modification of major stationary sources for the prevention of
16 significant deterioration of air quality, 45 CSR 14), is
17 authorized.

18 (d) The legislative rule filed in the State Register on July
19 22, 2013, authorized under the authority of section four, article
20 five, chapter twenty-two of this code, relating to the Department
21 of Environmental Protection (standards of performance for new
22 stationary sources, 45 CSR 16), is authorized.

23 (e) The legislative rule filed in the State Register on July
24 22, 2013, authorized under the authority of section four, article

1 five, chapter twenty-two of this code, relating to the Department
2 of Environmental Protection (control of air pollution from
3 combustion of solid waste, 45 CSR 18), is authorized.

4 (f) The legislative rule filed in the State Register on July
5 22, 2013, authorized under the authority of section four, article
6 five, chapter twenty-two of this code, relating to the Department
7 of Environmental Protection (permits for construction and major
8 modification of major stationary sources which cause or contribute
9 to nonattainment areas, 45 CSR 19), is authorized.

10 (g) 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 (control of air pollution from
14 hazardous waste treatment, storage or disposal facilities, 45 CSR
15 25), is authorized.

16 (h) 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 (emission standards for hazardous air
20 pollutants, 45 CSR 34), is authorized.

21 (i) The legislative rule filed in the State Register on July
22 26, 2013, authorized under the authority of section four, article
23 eleven, chapter twenty-two of this code, modified by the Department
24 of Environmental Protection to meet the objections of the

1 Legislative Rule-Making Review Committee and refiled in the State
2 Register on November 27, 2013, relating to the Department of
3 Environmental Protection (requirements governing water quality
4 standards, 47 CSR 2), is authorized with the following amendment:

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

7 And,

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

10 (j) The legislative rule filed in the State Register on July
11 26, 2013, authorized under the authority of section seven, article
12 eleven, chapter twenty-two of this code, modified by the Department
13 of Environmental Protection to meet the objections of the
14 Legislative Rule-Making Review Committee and refiled in the State
15 Register on December 18, 2013, relating to the Department of
16 Environmental Protection (state certification of activities
17 requiring federal licenses and permits, 47 CSR 5A), is authorized.

18 (k) The legislative rule filed in the State Register on July
19 26, 2013, authorized under the authority of section three, article
20 twenty-two, chapter twenty-two of this code, modified by the
21 Department of Environmental Protection to meet the objections of
22 the Legislative Rule-Making Review Committee and refiled in the
23 State Register on December 17, 2013, relating to the Department of
24 Environmental Protection (voluntary remediation and redevelopment,

1 60 CSR 3), is authorized.