

**ENROLLED**

## COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 373**

(Senators Minard, Fanning, Prezioso,

Unger, Boley and Facemyer, *original sponsors*)

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[Passed March 6, 2008; in effect from passage.]

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AN ACT to amend and reenact article 3, chapter 64 of the Code of West Virginia, 1931, as amended, relating generally to the promulgation of administrative rules by the various executive or administrative agencies and the procedures relating thereto; continuing rules previously promulgated by state agencies and boards; legislative mandate or authorization for the promulgation of certain legislative rules; 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 recommended by the Legislative Rule-Making Review Committee and as amended by the Legislature; repealing certain legislative rules; authorizing the Department of Environmental Protection to promulgate legislative rules relating to emission standards for hazardous air pollutants ; 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 repeal a legislative rule relating to the ambient air quality standard for nitrogen dioxide; authorizing the Department of Environmental Protection to repeal 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 the control of air pollution from combustion of solid waste; authorizing the Department of Environmental Protection to repeal a legislative rule relating to the prevention and control of emissions from hospital/medical/infectious waste incinerators; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to the control of air pollution from hazardous waste treatment, storage and disposal facilities; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to the control of annual nitrogen oxides emissions ; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to the control of ozone season nitrogen oxides emissions ; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to the control of annual sulfur dioxide emissions ; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to greenhouse gas emissions inventory program ;

authorizing the Department of Environmental Protection to promulgate a legislative rule relating to the control of air pollution from combustion of refuse ; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to ambient air quality standards ; authorizing the Department of Environmental Protection to repeal a legislative rule relating to ambient air quality standards for carbon monoxide and ozone ; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to surface mining blasting ; 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 voluntary remediation and development ; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to environmental excellence program ; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to standards for the beneficial use of filtrate from water treatment plants; 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 hazardous waste management system; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to underground storage tanks; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to the National Pollutant Discharge Elimination System (NPDES) Program ; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to WV/NPDES rules for coal mining facilities ; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to requirements governing water quality standards ; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to antidegradation implementation procedures ; and authorizing the Solid Waste Management Board to promulgate a legislative rule relating to performance measures and review standards for solid waste authorities operating commercial solid waste facilities .

*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 ENVIRONMENT TO**

#### **PROMULGATE LEGISLATIVE RULES.**

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

(a)The legislative rule filed in the State Register on the twenty-fifth day of July, two thousand seven, authorized under the authority of section four, article five, chapter twenty-two of this code, relating to the Department of Environmental Protection (emission standards for hazardous air pollutants 45 CSR 34), is authorized.

(b)The legislative rule filed in the State Register on the nineteenth day of December, two thousand seven, authorized under the authority of section four, article five, chapter twenty-two of this code, relating to the Department of Environmental Protection (ambient air quality standard for nitrogen dioxide, 45 CSR 12), is repealed.

(c)The legislative rule filed in the State Register on the nineteenth day of December, two thousand seven, authorized under the authority of section four, article five, chapter twenty-two of this code, relating to the Department of Environmental Protection (emission standards for hazardous air pollutants pursuant to 40 CFR part 61, 45 CSR 15), is repealed.

(d)The legislative rule filed in the State Register on the twenty-sixth day of July, two thousand seven, authorized under the authority of section four, article five, chapter twenty-two of this code, relating to the Department of Environmental Protection (standards of performance for new stationary sources 45

CSR 16), is authorized.

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

(f)The legislative rule filed in the State Register on the nineteenth day of December, two thousand seven, authorized under the authority of section four, article five, chapter twenty-two of this code, relating to the Department of Environmental Protection (to prevent and control emissions from hospital/medical/infectious waste incinerators, 45 CSR 24), is repealed.

(g)The legislative rule filed in the State Register on the twenty-sixth day of July, two thousand seven, authorized under the authority of section four, article five, chapter twenty-two of this code, relating to the Department of Environmental Protection (control of air pollution from hazardous waste treatment, storage and disposal facilities, 45 CSR 25), is authorized.

(h) The legislative rule filed in the State Register on the twenty-sixth day of July, two thousand seven, authorized under the authority of section four, article five, chapter twenty-two of this code, relating to the Department of Environmental Protection (control of annual nitrogen oxides emissions, 45 CSR 39), is authorized.

(i) The legislative rule filed in the State Register on the twenty-sixth day of July, two thousand seven, authorized under the authority of section four, article five, chapter twenty-two 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 the fourteenth day of January, two thousand eight, relating to the Department of Environmental Protection (control of ozone season nitrogen oxides emissions, 45 CSR 40), is authorized.

(j) The legislative rule filed in the State Register on the twenty-sixth day of July, two thousand seven, authorized under the authority of section four, article five, chapter twenty-two of this code, relating to the Department of Environmental Protection (control of annual sulfur dioxide emissions, 45 CSR 41), is authorized.

(k)The legislative rule filed in the State Register on the twenty-sixth day of July, two thousand seven, authorized under the authority of section nineteen, article five, chapter twenty-two 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 the fourteenth day of January, two thousand eight, relating to the Department of Environmental Protection (greenhouse gas emissions inventory program, 45 CSR 42), is authorized.

(l) The legislative rule filed in the State Register on the twenty-sixth day of July, two thousand seven, authorized under the authority of section four, article five, chapter twenty-two of this code, relating to the Department of Environmental Protection (control of air pollution from combustion of refuse, 45 CSR 6), is authorized.

(m) The legislative rule filed in the State Register on the twenty-sixth day of July, two thousand seven, authorized under the authority of section four, article five, chapter twenty-two 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 the fourteenth day of January, two thousand eight, relating to the Department of Environmental Protection (ambient air quality standards, 45 CSR 8), is authorized.

(n) The legislative rule filed in the State Register on the nineteenth day of December, two thousand seven, authorized under the authority of section four, article five, chapter twenty-two of this code, relating to the Department of Environmental Protection (ambient air quality standards for carbon monoxide and ozone, 45 CSR 9), is repealed.

(o) The legislative rule filed in the State Register on the twenty-sixth day of July, two thousand seven, authorized under the authority of section four, article three-a, chapter twenty-two 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 the nineteenth day of December, two thousand seven, relating to the Department of Environmental Protection (surface mining blasting, 199 CSR 1), is authorized, with the following amendments:

On page nine, section 3, after "3.8.a." by inserting the following: At least thirty days prior to commencing blasting, an operator's designee shall notify in

writing all owners and occupants of man-made dwellings or structures that the operator or operator's designee will perform preblast surveys.

(p) The legislative rule filed in the State Register on the twenty-sixth day of July, two thousand seven, authorized under the authority of section four, article three, chapter twenty-two 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 the nineteenth day of December, two thousand seven, relating to the Department of Environmental Protection (surface mining reclamation, 38 CSR 2), is authorized with the following amendments:

On pages one hundred twenty-six through one hundred thirty- two, by striking out subsection 11.8. in its entirety .

(q) The legislative rule filed in the State Register on the twenty-sixth day of July, two thousand seven, authorized under the authority of section three, article twenty-two, chapter twenty-two of this code, relating to the Department of Environmental Protection (voluntary remediation and development, 60 CSR 3), is authorized.

(r)The legislative rule filed in the State Register on the twenty-seventh day of July, two thousand seven, authorized under the authority of section four, article twenty-five, chapter twenty- two of this code, relating to the Department of Environmental Protection (environmental excellence program, 60 CSR 8), is authorized.

(s)The legislative rule filed in the State Register on the twenty-fourth day of July, two thousand seven, authorized under the authority of section twenty-three, article fifteen, chapter twenty- two 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 the twentieth day of December, two thousand seven, relating to the Department of Environmental Protection (standards for beneficial use of filtrate from water treatment plants, 33 CSR 9), is authorized.

(t)The legislative rule filed in the State Register on the twenty-seventh day of July, two thousand seven, authorized under the authority of section three, article fifteen-a, chapter twenty- two 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 the seventeenth day of October, two thousand seven, relating to the Department of Environmental Protection (recycling assistance grant program, 33 CSR 10), is authorized with the following amendments:

On page twelve, subdivision 5.1.10., after the words "telephone costs." by striking out the remainder of the subdivision and by inserting in lieu thereof the following: "Rent or lease charges related to a recycling program for a building, or office space are allowable expenditures. However, to obtain grant funds for rent or lease charges, the applicant shall provide the department with a copy of the written rental or lease agreement which shall exceed twenty years and meet the following criteria:

a.

The rental or lease agreement shall not contain any cancellation or termination clause,

b.

The rental or lease agreement shall not be transferrable, and

c.

The rental or lease agreement shall not allow for subleasing;"

On page twelve, by striking out all of subdivision 5.1.11. and inserting in lieu thereof the following, to read as follows:

"5.1.11 Recycling Facility Construction, Improvement and Repairs -- A grant may be used for, but not limited to, new construction or repairs or minor improvements to an existing recycling facility, such as loading docks, sheds, structures, abutment walls, fences, roof repair, gravel or paving, if the land is owned or leased by the grantee. However, to obtain grant funds for construction, improvements and repairs for rental or leased property, the applicant shall provide the department a copy of the written rental or lease agreement which shall exceed twenty years and meet the criteria stated in subdivision 5.1.10. of this rule;"

On page thirteen, subdivision 5.2.2., by striking out the words "and buildings";

And,

On page thirteen, subdivision 5.2.7 after the words "(planting, mowing, weeding, etc.)" by inserting the words "unless the purpose is to provide natural screening to neighboring properties".

(u)The legislative rule filed in the State Register on the twenty-seventh day of July, two thousand seven, authorized under the authority of section six, article eighteen, chapter twenty-two of this code, relating to the Department of Environmental Protection (hazardous waste management system, 33 CSR 20), is authorized.

(v)The legislative rule filed in the State Register on the twenty-sixth day of July, two thousand seven, authorized under the authority of section six, article seventeen, chapter twenty-two 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 the twentieth day of December, two thousand seven, relating to the Department of Environmental Protection (underground storage tanks, 33 CSR 30), is authorized.

(w)The legislative rule filed in the State Register on the twenty-seventh day of July, two thousand seven, authorized under the authority of section four, article eleven, chapter twenty-two of this code, relating to the Department of Environmental Protection (National Pollutant Discharge Elimination System (NPDES) program, 47 CSR 10), is authorized.

(x)The legislative rule filed in the State Register on the twenty-sixth day of July, two thousand seven, authorized under the authority of section four, article eleven, chapter twenty-two 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 the nineteenth day of December, two thousand seven, relating to the Department of Environmental Protection (WV/NPDES rules for coal mining facilities, 47 CSR 30), is authorized with the following amendments:

On page one, subsection 1.8., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";

On page two, subsection 2.6., by striking out the word "Secretary's" and inserting in lieu thereof the word "Director's";

On page two, subsection 2.6., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";

On page three, after subsection 2.14. by inserting a new subsection 2.15., to read as follows:

2.15. "Director" means the director of the Division of Water and Waste Management.;

And renumbering the remaining subsections;

On page three, subsection 2.17., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";

On page three, subsection 2.18., by striking out the word "Secretary's" and inserting in lieu thereof the word "Director's";

On page four, subsection 2.28., after the words "by the" by striking out the word "Secretary" and inserting in lieu thereof the word "Director";

On page four, subsection 2.28., after the words "with the" by striking out the word "Secretary" and inserting in lieu thereof the word "Director";

On page four, subdivision 2.31.a., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";

On page five, subsection 2.37., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";

On page six, subsection 2.50., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";

On page six, subsection 2.51., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";

On page six, subparagraph 3.1.a.6.D, by striking out the word "Secretary" and inserting in lieu thereof the word "Director";

- On page seven, subparagraph 3.1.a.6.G, after the word "The" by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page seven, subparagraph 3.1.a.6.G, after the words "when the" by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page seven, subdivision 3.2.a., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page eight, subdivision 3.5.a., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page eight, subdivision 3.5.b., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page eight, paragraph 3.5.b.1., after the words "to the" by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page eight, paragraph 3.5.b.1., after the words "application the" by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page eight, paragraph 3.5.b.1., after the words "if the" by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page eight, paragraph 3.5.b.2., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page eight, paragraph 3.5.c.1., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page eight, paragraph 3.5.d.1., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page eight, paragraph 3.5.d.3., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page nine, subsection 3.6., by striking out the word "Secretary" and inserting in lieu thereof the words "Director of the Division of Water and Waste Management";
- On page nine, subdivision 3.6.a., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page nine, subdivision 3.6.b., after the words "adopted by the" by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page nine, subdivision 3.6.b., after the words "enforced by the" by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page nine, subdivision 3.6.c., after the word "The" by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page nine, subdivision 3.6.c., after the words "by the" by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page nine, subdivision 3.6.d., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page nine, subsection 4.1., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page nine, subsection 4.2., after the word "The" by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page nine, subsection 4.2., after the words "or the" by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page nine, subsection 4.3., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page ten, subsection 4.3., after the words "when the" by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page ten, subsection 4.3., after the words "to the" by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page ten, subsection 4.3., after the word "The" by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page ten, subdivision 4.5.a., after the words "provide the" by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page ten, subdivision 4.5.a., after the words "by the" by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page twelve, paragraph 4.5.a.17., after the word "The" by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page twelve, paragraph 4.5.a.17., after the words "and the" by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page twelve, subdivision 4.5.b., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page twelve, paragraph 4.5.b.1., after the words "addition, the" by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page twelve, paragraph 4.5.b.1., after the words "effluents, the" by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page twelve, part 4.5.b.1.A.2., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page fourteen, paragraph 4.5.c.1., after the words "to the" by striking out the comma and the word "Secretary" and inserting in lieu thereof the word "Director";
- On page fourteen, paragraph 4.5.c.1., after the words "as the" by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page fourteen, paragraph 4.5.d.1., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";

On page fifteen, subparagraph 4.5.d.1.F., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";

On page fifteen, paragraph 4.5.d.3., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";

On page sixteen, paragraph 4.5.e.3., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";

On page sixteen, subparagraph 4.5.f.2.A., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";

On page seventeen, paragraph 4.5.g.1., after the words "rule, the" by striking out the word "Secretary" and inserting in lieu thereof the word "Director";

On page seventeen, paragraph 4.5.g.1., after the words "notice, the" by striking out the word "Secretary" and inserting in lieu thereof the word "Director";

On page seventeen, paragraph 4.5.g.2., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";

On page seventeen, subdivision 4.7.b., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";

On page eighteen, paragraph 4.7.b.3., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";

On page eighteen, subdivision 4.7.c., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";

On page nineteen, subdivision 5.1.g., by striking out the word "secretary" and inserting in lieu thereof the words "Secretary or Director";

On page nineteen, subsection 5.7., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";

On page nineteen, subsection 5.9., after the words "shall furnish to the" by striking out the word "Secretary" and inserting in lieu thereof the word "Director";

On page nineteen, subsection 5.9., after the words "which the" by striking out the word "Secretary" and inserting in lieu thereof the word "Director";

On page nineteen, subsection 5.9., after the words "shall also furnish to the" by striking out the word "Secretary" and inserting in lieu thereof the word "Director";

On page nineteen, subsection 5.10., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";

On page twenty, subdivision 5.11.c., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";

On page twenty, paragraph 5.11.d.7., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";

On page twenty, subdivision 5.11.g., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";

On page twenty, subsection 5.12., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";

On page twenty-one, subdivision 5.13.a., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";

On page twenty-one, subdivision 5.13.b., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";

On page twenty-one, subparagraph 5.13.d.2.B., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";

On page twenty-one, subparagraph 5.13.d.2.C., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";

On page twenty-one, paragraph 5.13.d.3., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";

On page twenty-one, paragraph 5.13.d.4., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";

On page twenty-two, part 5.13.d.4.A.4., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";

On page twenty-two, part 5.13.d.4.B.4., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";

On page twenty-two, subdivision 5.13.f., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";

On page twenty-two, subdivision 5.13.g., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";

On page twenty-three, paragraph 5.14.d.1., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";

On page twenty-three, subdivision 5.14.e., after the word "The" by striking out the word "Secretary" and inserting in lieu thereof the word "Director";

On page twenty-three, subdivision 5.14.e., after the words "if the" by striking out the word "Secretary" and inserting in lieu thereof the word "Director";

On page twenty-three, subsection 5.16., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";

On page twenty-five, subsection 6.1., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";

On page twenty-five, subdivision 6.1.a., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";

On page twenty-five, subdivision 6.2.b., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";

- On page twenty-five, paragraph 6.2.d.2., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page twenty-six, paragraph 6.2.d.3., after the words "Subpart G, the" by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page twenty-six, subparagraph 6.2.h.1.A., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page twenty-six, subparagraph 6.2.h.2.B., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page twenty-six, subdivision 6.2.i., by striking out the word "Secretary's" and inserting in lieu thereof the word "Director's";
- On page twenty-eight, paragraph 6.2.o.5., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page twenty-nine, subdivision 7.7.d., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page thirty, subdivision 7.9.a., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page thirty, subdivision 8.1.a., by striking out the word "Secretary's" and inserting in lieu thereof the word "Director's";
- On page thirty, subdivision 8.1.a., after the words "to the" by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page thirty, subdivision 8.1.a., after the word "The" by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page thirty, subdivision 8.1.b., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page thirty, subdivision 8.2.a., after the words "to the" by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page thirty, subdivision 8.2.a., after the word "The" by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page thirty-one, subdivision 8.2.b., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page thirty-one, paragraph 8.2.c.1., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page thirty-one, subparagraph 8.2.c.1.D., after the words "where the" by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page thirty-one, subparagraph 8.2.c.1.D., after the words "by the" by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page thirty-one, subparagraph 8.2.c.1.D., after the words "to the" by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page thirty-two, subparagraph 8.2.c.2.B., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page thirty-two, subparagraph 8.2.c.2.D., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page thirty-three, subparagraph 8.2.c.2.L., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page thirty-three, paragraph 8.3.a.1., after the word "The" by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page thirty-three, paragraph 8.3.a.1., after the words "and the" by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page thirty-three, paragraph 8.3.c.1., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page thirty-four, subdivision 9.1.a., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page thirty-four, subdivision 9.2.a., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page thirty-four, paragraph 9.2.a.2., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page thirty-four, subdivision 9.2.b., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page thirty-five, subdivision 10.1.a., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page thirty-five, subdivision 10.1.b., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page thirty-five, subdivision 10.2.b., after the word "the" by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page thirty-five, subdivision 10.2.b., after the word "The" by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page thirty-five, subdivision 10.2.c., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page thirty-six, subparagraph 10.2.d.1.B., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page thirty-six, paragraph 10.2.d.2, by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page thirty-seven, subparagraph 10.2.e.1.G., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";



- On page thirty-seven, subdivision 10.3.a., after the word "the" by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page thirty-seven, subdivision 10.3.a., after the word "The" by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page thirty-seven, subdivision 10.4.a., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page thirty-seven, subdivision 10.5.a., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page thirty-eight, subdivision 10.5.a., after the words "advises the" by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page thirty-eight, subdivision 10.5.a., after the words "then the" by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page thirty-eight, subdivision 10.5.b., after the words "advises the" by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page thirty-eight, subdivision 10.5.b., after the words "resources, the" by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page thirty-eight, subdivision 10.5.c., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page thirty-eight, subdivision 11.1.d., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page thirty-eight, subdivision 11.1.e., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page forty, paragraph 12.3.a.3., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page forty-one, subsection 13.1., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page forty-one, paragraph 13.1.b.5. by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page forty-one, subdivision 13.1.c., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page forty-one, subdivision 13.2.b., after the word "The" by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page forty-one, subdivision 13.2.b., after the word "the" by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page forty-two, subsection 14.1., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page forty-two, subdivision 14.1.a., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page forty-two, subdivision 14.1.b., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page forty-two, subdivision 14.1.c., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page forty-two, subdivision 14.2.a., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page forty-two, subdivision 14.2.b., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page forty-two, subdivision 14.2.c., after the words "by the" by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page forty-two, subdivision 14.2.c., after the words "variance, the" by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page forty-two, subdivision 15.1.a., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- On page forty-three, subsection 15.2., by striking out the word "Secretary" and inserting in lieu thereof the word "Director";
- And,
- On page forty-three, subdivision 15.2.c., by striking out the word "Secretary" and inserting in lieu thereof the word "Director".
- (y) The legislative rule filed in the State Register on the twenty-seventh day of July, two thousand seven, authorized under the authority of section seven-b, article eleven, chapter twenty- two of this code, relating to the Department of Environmental Protection (requirements governing water quality standards, 47 CSR 2), is authorized, with the following amendments:
- On page two, by striking out subsection 2.20. "Waters of special concern" in its entirety and renumbering the remaining subsections;
- On page four, by striking out subdivision 4.1.c. in its entirety and renumbering the remaining subdivisions;
- And,

On page four, newly designated 4.1.c. after the word "State", by changing the period to a comma and adding the following: all Federally designated rivers under the "Wild and Scenic Rivers Act", 16 U.S.C. §1271 et seq.; all streams and other bodies of water in state parks which are high quality waters or naturally reproducing trout streams; waters in national parks and forests which are high quality waters or naturally reproducing trout streams; waters designated under the "National Parks and Recreation Act of 1978", as amended; and pursuant to subsection 7.1. of 60CSR5, those waters whose unique character, ecological or recreational value, or pristine nature constitutes a valuable national or state resource.; And, On pages sixteen through twenty-six by striking Appendix A and inserting in lieu thereof the following:

#### APPENDIX A

### CATEGORY B-2 - TROUT WATERS

This list contains known trout waters and is not intended to exclude any waters which meet the definition in Section 2.20. 2.19.

#### River BasinCountyStream

James River

JMonroeSouth Fork Potts Creek

Potomac River

PJeffersonTown Run

P"Rocky Marsh Run

PBerkeleyOpequon Creek

P"Tuscarora Creek

(Above Martinsburg)

P"Middle Creek

(Above Route 30 Bridge)

P"Mill Creek

P"Hartland Run

P"Mill Run

P"Tillance Creek

PMorganMeadow Branch

PSJeffersonFlowing Springs Run

(Above Halltown)

PS"Cattail Run

PS"Evitt's Run

PS"Big Bullskin Run

PS"Long Marsh Run

PCHampshireCold Stream

PC"Edwards Run and Impoundment

PC"Dillons Run

PCHardyLost River

PC"Camp Branch

PC"Lower Cove Run  
PC"Moores Run  
PC"North River (Above Rio)  
PC"Waites Run  
PC"Trout Run  
PC"Trout Pond (Impoundment)  
PC"Warden Lake (Impoundment)  
PC"Rock Cliff Lake (Impoundment)

River BasinCountyStream

PSBHampshireMill Creek  
PSB"Mill Run  
PSBHardyDumpling Creek  
PSBGrant-PendletonNorth Fork South Branch  
PSBGrantNorth Fork Lunice Creek  
PSB"South Fork Lunice Creek  
PSB"South Mill Creek (Above Hiser)  
PSB"Spring Run  
PSBPendletonHawes Run (Impoundment)  
PSB"Little Fork  
PSB "South Branch (Above North Fork)  
PSB"Senena Creek  
PSB"Laurel Fork  
PSB"Big Run

Potomac River

PNBMineralNorth Fork Patterson Creek  
PNB"Fort Ashby (Impoundment)  
PNB"New Creek  
PNB"New Creek Dam 14 (Impoundment)  
PNB"Mill Creek (Above Markwood)

Monongahela River

MMonongalia-MarionWhiteday Creek  
(Above Smithtown)  
MCMonongaliaMorgan Run  
MC"Coopers Rock (Impoundment)  
MC"Blaney Hollow  
MCPrestonLaurel Run  
MC"Elsey Run  
MC"Saltlick Creek  
MC"Buffalo Creek

MC"Wolf Creek  
MCTuckerClover Run  
MC"Elklick Run  
MC"Horseshoe Run  
MC"Maxwell Run  
MC"Red Creek  
MC"Slip Hill Mill Branch  
MC"Thomas Park (Impoundment)  
MC"Blackwater River (Above Davis)

MC"Blackwater River  
(Below Davis)

MCRandolphCamp Five Run  
MC"Dry Fork (Above Otter Creek)  
MC"Glady Fork  
MC"Laurel Fork  
MC"Gandy Creek (Above Whitmer)

MC"East Fork Glady Fork  
(Above C  
& P Compressor Station)

River BasinCountyStream

MCRandolphShavers Fork  
(Above Little Black Fork)  
MC"Three Spring Run  
MC"Spruce Knob Lake (Impoundment)

MWHarrisonDog Run (Pond)  
MWLewis

Stonecoal

MTBarbourBrushy Fork  
(Above Valley Furnace)  
MT"Teter Creek Lake (Impoundment)  
MT"Mill Run

MTTaylor-BarbourTygart  
Lake Tailwaters  
(Above Route 119 Bridge)  
MTPrestonRoaring Creek  
(Above Little Lick Branch)

MTRandolphTygart River (Above Huttonsville)  
MT"Elkwater Fork  
MT"Big Run

MTBUpshur-Randolph-LewisRight Fork Buckhannon River  
MTBUpshurBuckhannon River  
(Above Beans Mill)  
MTBUpshurFrench Creek

Monongahela River

MTBUpshur-RandolphLeft Fork Right Fork

MTNUpshurRight Fork Middle Fork River  
MTMRandolphMiddle Fork River (Above Cassity)

MYPrestonRhine Creek

Little Kanawha River

LKUpshurLeft Fork-Right  
Fork Little Kanawha River)

LKUpshur-LewisLittle Kanawha River  
(Above Wildcat)

Kanawha River

KEBraxtonSutton Reservoir

KE"Sutton Lake Tailwaters  
(Above Route 38/5 Bridge)

KEWebsterBack Fork  
KE"Desert Fork  
KE"Fall Run  
KE"Laurel Fork

River BasinCountyStream

KE"

Left Fork Holly River

KE"Sugar Creek

KE"Elk River (Above Webster Springs)

KCRaleighStephens Lake (Impoundment)

KC"Marsh Fork (Above Sundial)

KGNicholasSummersville Reservoir (Impoundment)

KG"Summersville

Tailwaters

(Above Collison Creek)

KGNicholasDeer Creek

KGRandolph-

WebsterGauley River

(Above Moust Coal Tipple)

KGFayetteGlade Creek

KGNicholasHominy Creek

KG"Anglins Creek

KGGreenbrier Big Clear Creek

KG"Little Clear Creek and Laurel Run

KG"Meadow Creek

KGFayetteWolf Creek

KGNicholasCherry River

KGGreenbrier-NicholasLaurel Creek

KG""North Fork Cherry River

KGGreenbrierSummit Lake (Impoundment)

KGGreenbrier-NicholasSouth Fork Cherry River

Kanawha River

KGCPocahontas-Webster-Cranberry River  
Nicholas  
KGCPocahontasSouth Fork Cranberry River

KGWPocahontasTea Creek  
KGWPocahontas-WebsterWilliams River (Above Dyer)

KNRaleighGlade Creek  
KNSummersMeadow Creek  
KNFayetteMill Creek  
KN"Laurel Creek (Above Cotton Hill)  
KNRaleighPinch Creek  
KNMonroeRich Creek  
KN"Turkey Creek

KNFayetteDunloup Creek  
(Downstream from Harvey  
Sewage Treatment Plant)

KNMercerEast River (Above Kelleysville)  
KN"Pigeon Creek  
KNMonroeLaurel Creek

KNGMonroeKitchen Creek (Above Gap Mills)  
KNGGreenbrierCulverson Creek  
KNG"Milligan Creek

River BasinCountyStream  
KNGGreenbrier-  
MonroeSecond Creek  
(Rt. 219 Bridge to Nickell's  
Mill)

KNGGreenbrierNorth Fork Anthony Creek  
KNG"Spring Creek  
KNG"Anthony Creek (Above Big Draft)  
KNGPocahontasWatoga Lake  
KNG"Beaver Creek  
KNG"Knapp's Creek  
KNG"Hills Creek

KNG"North Fork Deer

Creek  
(Above Route 28/5)

KNG"Deer Creek  
KNG"Sitlington Creek  
KNG"Stoney Creek  
KNG"Swago Creek

KNG"Buffalo Fork (Impoundment)

KNG"Seneca (Impoundment)  
KNG"Greenbrier River  
(Above Hosterman)

KNG"West Fork-Greenbrier  
River  
(Above the impoundment  
at the tannery)

KNG"Little River-East Fork  
KNG"Little River-West Fork  
KNG"Five Mile Run  
KNG"Mullenax Run  
KNG"Abes Run  
KNBMercerMarsh Fork  
KNB"Camp Creek

OGWyomingPinnacle creek

BSTMcdowellDry Fork (Above Canebrake)

(z) The legislative rule filed in the State Register on the twenty-seventh day of July, two thousand seven, authorized under the authority of section seven-b, article eleven, chapter twenty- two of this code, relating to the Department of Environmental Protection (antidegradation implementation procedures, 60 CSR 5), is authorized with the amendment set forth below:

On page two, subsection 3.2. by striking out the words "Tier 2.5 or";

On page three, by striking out subdivision 3.5.a. in its entirety and by renumbering the remaining subdivisions;

On page three, new subdivision 3.5.a., after the words "Wilderness Area" by inserting the words "or otherwise included in 47CSR2-4.1.c.";

On page three, new subdivision 3.5.b., after the words "Wilderness Area" by striking out the words "not listed pursuant to subsection 8.2. and not listed in Appendix A of this rule " and inserting in lieu thereof, the words "or otherwise included in 47CSR2-4.1.c. or listed pursuant to subsection 7.1. of this rule";

On page three, new subdivision 3.5.d. by striking out the words "Tier 2.5 or";

On page three, subsection 3.7. by striking out the words "Tier 2.5 or";



On page four, subsection 3.8., by striking out the words "Tier 2.5 or";

On pages nine through eleven, by striking out section six in its entirety and renumbering the remaining sections;

On page eleven, subsection 7.2., by striking out "47CSR2-4.1.d." and inserting in lieu thereof the words "47CSR2-4.1.c.";

On page thirteen, by striking out the section caption and inserting in lieu thereof a new section caption to read as follows:

**§60-5-7. Designation of Tier 3 Waters.;**

On pages thirteen and fourteen, by striking out section 8.1. in its entirety and renumbering the remaining subsection;

On page fourteen, new subsection 7.2.a.1., following the words "nominated segment." by striking out the word "Where" and inserting in lieu thereof, the following: When a good faith effort to notify individual property owners has failed, and".

On page fifteen, subsection 9.3. by striking out the words "2.5,";

On page fifteen, subsection 9.6, after the word "Board", by striking out the colon and the remainder of the subsection;

On pages sixteen through twenty-one by striking out Appendix A in its entirety;

And,

On page twenty-two by striking out the caption and inserting in lieu thereof the caption "**APPENDIX A**".

**§64-3-2. Solid Waste Management Board.**

The legislative rule filed in the State Register on the twenty- fifth day of July, two thousand seven, authorized under the authority of section nine-a, article four, chapter twenty-two-c of this code, modified by the Solid Waste Management Board to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on the fifth day of December, two thousand seven, relating to the Solid Waste Management Board (performance measures and review standards for solid waste authorities operating commercial solid waste facilities, 54 CSR 6), is authorized.