

House/Senate Bill No. XXX

(By Delegate/Senator XXX)

[Introduced XXX;.]

A BILL to amend and reenact §22-5-1 of the Code of West Virginia, 1931, as amended, relating to regulation of air pollution from oil and gas facilities.

Be it enacted by the Legislature of West Virginia:

That §22-5-1 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

CHAPTER 22. ENVIRONMENTAL RESOURCES.

ARTICLE 5. AIR POLLUTION CONTROL.

§22-5-1. Declaration of policy and purpose.

It is hereby declared to be the public policy of this state and the purpose of this article to achieve and maintain such levels of air quality as will protect human health and safety, and to the greatest degree practicable, prevent injury to plant and animal life and property, foster the comfort and convenience of the people, promote the economic and social development of this state and facilitate the enjoyment of the natural attractions of this state.

To these ends it is the purpose of this article to provide for a coordinated statewide program of air pollution prevention, abatement and control, including air pollution from oil or gas facilities, wells, pipelines and tanks; to facilitate cooperation across jurisdictional lines in dealing with problems of air pollution not confined within single jurisdictions; to assure the economic competitiveness of the state by providing for the timely processing of permit applications and other authorizations under this article; and to provide a framework within which all values may be balanced in the public interest.

Further, it is the public policy of this state to fulfill its primary responsibility for assuring air quality pursuant to the "Federal Clean Air Act," as amended.

§22-5-11. Construction, modification or relocation permits required for stationary sources of air pollutants.

(a) Unless otherwise specifically provided in this article, no person shall construct, modify or relocate any stationary source of air pollutants, including oil or gas wells, pipelines, or other oil or gas facilities, without first obtaining a construction, modification or relocation permit as provided in this article.

b) The secretary shall by rule specify the class or categories of stationary sources to which this section applies. Application for permits shall be made upon such form, in such manner, and within such time as the rule prescribes and shall include such information, as in the judgment of the secretary, will enable him or her to determine whether such source will be so designed as to operate in conformance with the provisions of this article or any rules of the secretary.

(c) Unless otherwise specifically provided in this article, the secretary shall issue a permit for a major stationary source within a reasonable time not to exceed three hundred sixty-five calendar days, after the secretary determines that the application is complete.

(d) Unless otherwise specifically provided in this article, the secretary shall issue a permit for all other sources including modifications of existing major stationary sources which are not major modifications within a reasonable time not to exceed ninety calendar days, after the date the secretary determines the application is complete. The Secretary may extend this time by thirty calendar days to allow for public comment.

(e) A permit application will be denied if the secretary determines that the proposed construction, modification or relocation will not be in accordance with this article or rules promulgated thereunder.

(f) For purposes of this section, a modification is any physical change in, or change in the method of operation of, a stationary source which increases the amount of any air pollutant discharged by a source above the de minimis level set by the secretary.

(g) With respect to the construction of new nonmajor stationary sources, or modifications of nonmajor stationary sources, or modifications which are not major modifications to existing major stationary sources, or relocations of nonmajor stationary sources, the following requirements apply:

(1) The secretary shall issue an administrative update to a permit issued under this section with respect to any of these sources, unless he or she determines that the proposed administrative update will not be in accordance with this article or rules promulgated hereunder, in which case the secretary shall issue an order denying the administrative update. Any administrative update shall be issued by the secretary within a reasonable time not to exceed sixty calendar days after receipt of a complete application. Administrative updates are minor revisions of existing permits as further described and authorized by rule.

(2) The secretary shall, within a reasonable time not to exceed forty-five calendar days after the date the secretary determines that an application is complete, issue a registration under a general permit applicable to any of these sources, unless he or she determines that the proposed construction, modification or relocation will not be in accordance with this article or rules promulgated hereunder. General permits are permits authorizing the construction, modification or relocation of a category of sources by the same owner or operator or involving the same or similar processes or pollutants upon the terms and conditions specified in the general permit for those types of sources.

(3) The secretary shall, within a reasonable time not to exceed forty-five calendar days after receipt of a complete application, issue a temporary permit or a relocation permit, unless he or she determines that the proposed construction, modification or relocation will not be in accordance with this article or rules promulgated hereunder. Temporary permits are permits authorizing the owner or operator to make limited changes for limited periods of time as further described and authorized by rule.

(h) The secretary shall determine whether an application filed under this section is complete within thirty calendar days after receipt of that application at which time the secretary shall notify the applicant in writing as to whether the application is complete or specify any additional information required for the application to be complete.

(i) The secretary, shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty nine-a of this code, to implement the provisions of this section by the first day of August, two thousand eight.

§22-5-12. Operating permits required for stationary sources of air pollution.

No person may operate a stationary source of air pollutants, including oil or gas wells, pipelines or other oil or gas facilities, without first obtaining an operating permit as provided in this section. The director shall promulgate legislative rules, in accordance with chapter twenty-nine-a of this code, which specify classes or categories of stationary sources which are required to obtain an operating permit. The legislative rule shall provide for the form and content of the application procedure including time limitations for obtaining the required permits. Any person who has filed a timely and complete application for a permit or renewal thereof required by this section, and who is abiding by the requirements of this article and the rules promulgated pursuant thereto is in compliance with the requirements of this article and any rule promulgated thereunder until a permit is issued or denied. Any legislative rule promulgated pursuant to the authority granted by this section shall be equivalent to and consistent with rules and regulations adopted by the administrator of United States environmental protection agency pursuant to Title IV and Title V of the Clean Air Act Amendments of 1990, 42 U.S.C. §7651 et seq. and 42 U.S.C. §7661 et seq., respectively: Provided, That such legislative rule may deviate from the federal rules and regulations where a deviation is appropriate to implement the policy and purpose of this article taking into account such factors unique to West Virginia.

NOTE: The purpose of this bill is to clarify that air pollution from oil and gas facilities will be regulated by the Division of Air Quality in accordance with this Article.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.