WEST VIRGINIA CODE: §22-11-11

§22-11-11. Procedure concerning permits required under article; transfer of permits; prior permits.

(a) The chief or his or her duly authorized representatives shall conduct such investigation as is deemed necessary and proper in order to determine whether any such application should be granted or denied. In making such investigation and determination as to any application pertaining solely to sewage, the chief shall consult with the director of the office of environmental health services of the state bureau of public health, and in making such investigation and determination as to any application pertaining to any activity specified in subdivision (7), subsection (b), section eight of this article, the chief shall consult with the director of the state geological and economic survey and the chief of the office of oil and gas of the division, and all such persons shall cooperate with the chief and assist him or her in carrying out the duties and responsibilities imposed upon him or her under the provisions of this article and the rules of the director and board; such cooperation shall include, but not be limited to, a written recommendation approving or disapproving the granting of the permit and the reason or reasons for such recommendation, which recommendation and the reason or reasons therefor shall be submitted to the chief within the specified time period prescribed by rules of the director.

(b) The division's permit shall be issued upon such reasonable terms and conditions as the chief may direct if (1) the application, together with all supporting information and data and other evidence, establishes that any and all discharges or releases, escapes, deposits and disposition of treated or untreated sewage, industrial wastes or other wastes, or the effluent therefrom, resulting from the activity or activities for which the application for a permit was made will not cause pollution of the waters of this state or violate any effluent limitations or any rules of the board or director: Provided, That the chief may issue a permit whenever in his or her judgment the water quality standards of the state may be best protected by the institution of a program of phased pollution abatement which under the terms of the permit may temporarily allow a limited degree of pollution of the waters of the state; and (2) in cases wherein it is required, such applicant shall include the name and address of the responsible agent as set forth in subsection (e), section section six, article six of this chapter.

(c) Each permit issued under this article shall have a fixed term not to exceed five years: Provided, That when the applicant, in accordance with agency rules, has made a timely and complete application for permit reissuance, the permit term may be extended by the chief, at his or her discretion. An extension may be granted for a period not to exceed twelve months beyond its expiration date. Successive extensions may be granted for periods not to exceed twelve months if the chief determines additional time is necessary in order to process the application for permit reissuance. Upon expiration of a permit, a new permit may be issued by the chief upon condition that the discharges or releases, escapes, deposits and disposition thereunder meet or will meet all applicable state and federal water quality standards,

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effluent limitations and all other requirements of this article.

(d) An application for a permit incident to remedial action in accordance with the provisions of section sixteen of this article shall be processed and decided as any other application for a permit required under the provisions of section eight of this article.

(e) A complete application for any permit shall be acted upon by the chief, and the division's permit delivered or mailed, or a copy of any order of the chief denying any such application delivered or mailed to the applicant by the chief, within a reasonable time period as prescribed by rules of the director.

(f) When it is established that an application for a permit should be denied, the chief shall make and enter an order to that effect, which order shall specify the reasons for such denial, and shall cause a copy of such order to be served on the applicant by registered or certified mail. The chief shall also cause a notice to be served with a copy of such order, which notice shall advise the applicant of the right to appeal to the board by filing a notice of appeal on the form prescribed by the board for such purpose, with the board, in accordance with the provisions of, and within the time specified in, section seven, article one, chapter twenty-two-b of this code. However, an applicant may alter the plans and specifications for the proposed activity and submit a new application for any such permit, in which event the procedure hereinbefore outlined with respect to an original application shall apply.

(g) A permit is transferable to another person upon proper notification to the chief and in accordance with applicable rules. Such transfer does not become effective until it is reflected in the records of the office of water resources.

(h) All permits for the discharge of sewage, industrial wastes or other wastes into any waters of the state issued by the water resources board prior to July 1, 1964, and all permits heretofore issued under the provisions of former article five-a, chapter twenty of this code, and which have not been heretofore revoked, are subject to review, revocation, suspension, modification and reissuance in accordance with the terms and conditions of this article and the rules promulgated thereunder. Any order of revocation, suspension or modification made and entered pursuant to this subsection shall be upon at least twenty days' notice and shall specify the reasons for such revocation, suspension or modification and the chief shall cause a copy of such order, together with a copy of a notice of the right to appeal to the board as provided for in section twelve of this article, to be served upon the permit holder as specified in said section twelve.

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