WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1983

ENROLLED

SENATE BILL NO. 481

(By Mr. Williams)

PASSED March 12, 1983

In Effect

(Handwritten notes on the document)
AN ACT to amend and reenact section seven, article five-a, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the procedure concerning water pollution control permits; transfer of permits; prior permits; extension of permit when reissuance application pending; discretionary issuance of permits upon reasonable terms and conditions; permits to have a fixed term; and denial of permits.

Be it enacted by the Legislature of West Virginia:

That section seven, article five-a, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 5A. WATER POLLUTION CONTROL ACT.

§20-5A-7. Procedure concerning permits required under article; transfer of permits; prior permits.

1 (a) The chief or his 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 division of sanitary engineering of the state department of health, and in making such investigation and determination as to any application pertaining to any activity specified in subdivision (7), subsection (b), section five of this article, the chief shall consult
with the director of the state geological and economic
survey and the deputy director of the oil and gas division
of the department of mines, and all such persons shall
coopetate with the chief and assist him in carrying out the
duties and responsibilities imposed upon him under the
provisions of this article and the rules and regulations of
the board; such cooperation shall include, but not be
limited to, a written recommendation approving or dis-
approving 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 and regulations of the board.

(b) The department's permit shall be issued upon such
reasonable terms and conditions as the chief may direct
if (1) the application, together with all supporting in-
formation 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, result-
ing from the activity or activities for which the applica-
tion for a permit was made will not cause pollution
of the waters of this state or violate any effluent limita-
tions or any rules and regulations of the board: Provided,
That the chief may issue a permit whenever in his judg-
ment 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 ad-
dress of the responsible agent as set forth in section
eight-b of this article.

(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 re-
issuance, the permit term may be extended by the chief,
at his discretion, for a period not to exceed eighteen
months beyond its expiration date. 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, 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 eleven of this article shall be processed and decided as any other application for a permit required under the provisions of section five of this article.

(e) A complete application for any permit shall be acted upon by the chief, and the department'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 and regulations of the board.

(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 his 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 section fifteen of this article, within thirty days after the date upon which the applicant received the copy of such order. 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) Upon the sale of property which includes an activity for which the department's permit was granted, the permit shall be transferable to the new owner, but the transfer shall not become effective until the provisions of section eight-b of this article are fully complied with, and until such transfer is made in the records of the division 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 one, one thousand nine hundred sixty-four, and all permits here-tofore issued under the provisions of this article, 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 and regulations 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 eight of this article, to be served upon the permit holder as specified in said section eight.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Donald Anello
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Donald P. Vail
Clerk of the House of Delegates

Walter J. McNichols
President of the Senate

Speaker House of Delegates

The within is approved this the 29th day of March, 1983.

Governor