WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1984

ENROLLED

HOUSE BILL No. 1842

(By Mr. Del. Ballewz)

Passed March 10, 1984

In Effect Ninety days from Passage
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 water pollution control act; permits required; transfer of permits; prior 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.

(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 cooperate with the chief and
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14 assist him in carrying out the duties and responsibilities im-
15 posed upon him under the provisions of this article and the
16 rules and regulations of the board; such cooperation shall in-
17 clude, but not be limited to, a written recommendation ap-
18 proving or disapproving the granting of the permit and the
19 reason or reasons for such recommendation, which recom-
20 mendation and the reason or reasons therefor shall be sub-
21 mitted to the chief within the specified time period prescribed
22 by rules and regulations of the board.

23 (b) The department's permit shall be issued upon such
24 reasonable terms and conditions as the chief may direct if (1)
25 the application, together with all supporting information and
26 data and other evidence, establishes that any and all dis-
27 charges or releases, escapes, deposits and disposition of treated
28 or untreated sewage, industrial wastes, or other wastes, or the
29 effluent therefrom, resulting from the activity or activities for
30 which the application for a permit was made will not cause
31 pollution of the waters of this state or violate any effluent
32 limitations or any rules and regulations of the board: Pro-
33 vided, That the chief may issue a permit whenever in his
34 judgment the water quality standards of the state may be
35 best protected by the institution of a program of phased
36 pollution abatement which under the terms of the permit may
37 temporarily allow a limited degree of pollution of the waters
38 of the state; and (2) in cases wherein it is required, such ap-
39 plicant shall include the name and address of the responsible
40 agent as set forth in section eight-b of this article.

41 (c) Each permit issued under this article shall have a fixed
42 term not to exceed five years: Provided, That when the ap-
43 plicant, in accordance with agency rules, has made a timely
44 and complete application for permit reissuance, the permit
45 term may be extended by the chief, at his discretion, for a
46 period not to exceed eighteen months beyond its expiration
47 date. Upon expiration of a permit, a new permit may be is-
48 sued by the chief upon condition that the discharges or re-
49 leases, escapes, deposits and disposition thereunder meet or
50 will meet all applicable state and federal water quality stand-
51 ards, effluent limitations and all other requirements of this
52 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 applica-
tion 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 pre-
scribed 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 re-
ceived 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) A permit shall be transferable to another person upon
proper notification to the division and in accordance with ap-
plicable regulations. Such transfer shall not become effective
until it is reflected 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 heretofore issued
under the provisions of this article, and which have not been
heretofore revoked, are subject to review, revocation, suspen-
sion, 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

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 20 day of , 1984.

Governor