

No. 1842

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OFFICE OF THE GOVERNOR

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1984

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# ENROLLED

HOUSE BILL No. 1842

(By  Del. Ballou )

— ● —

Passed March 10, 1984

In Effect Ninety Days from Passage



ENROLLED

# H. B. 1842

(By DELEGATE BALLOUZ)

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[Passed March 10, 1984; in effect ninety days from passage.]

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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.**

1 (a) The chief or his duly authorized representatives shall  
2 conduct such investigation as is deemed necessary and proper  
3 in order to determine whether any such application should be  
4 granted or denied. In making such investigation and determina-  
5 tion as to any application pertaining solely to sewage, the  
6 chief shall consult with the director of the division of sanitary  
7 engineering of the state department of health, and in making  
8 such investigation and determination as to any application per-  
9 taining to any activity specified in subdivision (7), subsection  
10 (b), section five of this article, the chief shall consult with the  
11 director of the state geological and economic survey and the  
12 deputy director of the oil and gas division of the department of  
13 mines, and all such persons shall cooperate with the chief and

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.

53 (d) An application for a permit incident to remedial action  
54 in accordance with the provisions of section eleven of this  
55 article shall be processed and decided as any other applica-  
56 tion for a permit required under the provisions of section five  
57 of this article.

58 (e) A complete application for any permit shall be acted  
59 upon by the chief, and the department's permit delivered or  
60 mailed, or a copy of any order of the chief denying any such  
61 application delivered or mailed to the applicant by the chief,  
62 within a reasonable time period as prescribed by rules and  
63 regulations of the board.

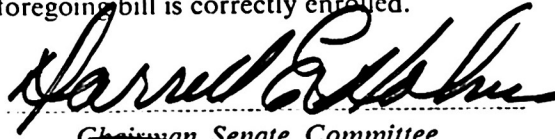
64 (f) When it is established that an application for a permit  
65 should be denied, the chief shall make and enter an order to  
66 that effect, which order shall specify the reasons for such  
67 denial, and shall cause a copy of such order to be served on  
68 the applicant by registered or certified mail. The chief shall  
69 also cause a notice to be served with a copy of such order,  
70 which notice shall advise the applicant of his right to appeal  
71 to the board by filing a notice of appeal on the form pre-  
72 scribed by the board for such purpose, with the board, in  
73 accordance with the provisions of section fifteen of this article,  
74 within thirty days after the date upon which the applicant re-  
75 ceived the copy of such order. However, an applicant may  
76 alter the plans and specifications for the proposed activity and  
77 submit a new application for any such permit, in which event  
78 the procedure hereinbefore outlined with respect to an original  
79 application shall apply.

80 (g) A permit shall be transferable to another person upon  
81 proper notification to the division and in accordance with ap-  
82 plicable regulations. Such transfer shall not become effective  
83 until it is reflected in the records of the division of water  
84 resources.

85 (h) All permits for the discharge of sewage, industrial  
86 wastes or other wastes into any waters of the state issued by  
87 the water resources board prior to July one, one thousand  
88 nine hundred sixty-four, and all permits heretofore issued  
89 under the provisions of this article, and which have not been  
90 heretofore revoked, are subject to review, revocation, suspen-

91 sion, modification and reissuance in accordance with the  
92 terms and conditions of this article and the rules and regula-  
93 tions promulgated thereunder. Any order of revocation, sus-  
94 pension or modification made and entered pursuant to this  
95 subsection shall be upon at least twenty days notice and  
96 shall specify the reasons for such revocation, suspension or  
97 modification and the chief shall cause a copy of such order,  
98 together with a copy of a notice of the right to appeal to the  
99 board as provided for in section eight of this article, to be  
100 served upon the permit holder as specified in said section  
101 eight.

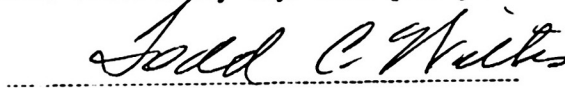
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

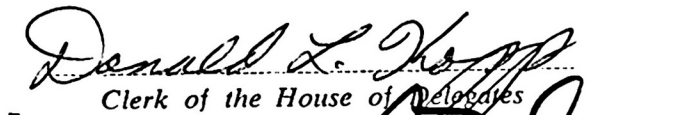
  
 Chairman Senate Committee


  
 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 30  
 day of March, 1984.

  
 Governor

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