WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1984

ENROLLED

SENATE BILL NO. 745

Clausing in the Committee
on Natural Resources

PASSED March 10, 1984

In Effect on Passage
ENROLLED

Senate Bill No. 745

(Originating in the Committee on Natural Resources.)

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

AN ACT to amend and reenact section forty-three, article six, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to consolidation of permitting, enforcement, and rulemaking authority for surface mining operations.

Be it enacted by the Legislature of West Virginia:

That section forty-three, article six, 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 6. WEST VIRGINIA SURFACE COAL MINING AND RECLAMATION ACT.

§20-6-43. Consolidation of permitting, enforcement and rulemaking authority for surface mining operations; National Pollutant Discharge Elimination System; effective date of section.

(a) Notwithstanding any provisions of this chapter to the contrary, all powers, duties and responsibilities of the chief of the division of water resources under article five-a of this chapter with respect to all coal mines, preparation plants and all refuse and waste therefrom subject to said article five-a, are hereby transferred to the director. The director shall have sole authority to issue, amend, transfer,
renew or revoke all permits required under article five-a of this chapter with respect to all coal mines, preparation plants and all refuse and waste therefrom subject to said article five-a. The procedures for issuance, amendment, transferral, renewal and revocation of such permits shall be governed by regulations promulgated pursuant to subsection (b). The director shall consolidate the various permit programs under articles five-a and six of this chapter applicable to all coal mines, preparation plants and all refuse and waste therefrom. All provisions of article five-a heretofore applicable to coal mines, preparation plants and all refuse and waste therefrom shall be continued under this section.

(b) Notwithstanding any provisions of this chapter to the contrary, the reclamation commission shall have sole authority to promulgate rules and regulations necessary or proper to implement the provisions of article five-a of this chapter with respect to all coal mines, preparation plants and all refuse and waste therefrom, except that the water resources board shall have the sole authority pursuant to section three-a of article five-a of this chapter to promulgate rules and regulations setting standards of water quality applicable to the waters of the state. To the extent feasible, the reclamation commission shall promulgate rules and regulations consolidating the various regulatory programs under this chapter applicable to all coal mines, preparation plants and all refuse and waste therefrom. The promulgation of such rules and regulations shall be governed by the provisions of this article.

(c) Notwithstanding any provisions of this chapter to the contrary, the director shall have the sole authority to enforce and shall enforce the rules and regulations of the reclamation commission and the rules and regulations of the water resources board setting water quality standards for the waters of the state as they apply to all coal mines, preparation plants and all refuse and waste therefrom. Rules and regulations adopted by the reclamation commission, pursuant to the requirements of article five-a of this chapter, shall be enforceable by the director under the provisions of article five-a, sections seventeen and nineteen of this chapter, as though the regulations were promulgated by the water resources board: Provided, That
the director's authority to enforce such rules and regulations under article five-a shall not preclude the director or any person from invoking the remedies otherwise provided by article six of this chapter and shall not preclude the director from enforcing the provisions of this article.

(d) Notwithstanding any provisions of this chapter to the contrary, any permit of the director issued pursuant to subsection (a) of this section, or any order issued under article five-a of this chapter, or for the purpose of implementing the "National Pollutant Discharge Elimination System" established under the Federal Clean Water Act shall be appealable only to the state water resources board and such appeal shall be governed by the provisions of section fifteen of article five-a of this chapter.

(e) This section shall become effective upon a proclamation by the governor stating that final approval of the partial transfer of the National Pollutant Discharge Elimination System established under the Federal Clean Water Act contemplated by this section has been given by the Administrator of the United States Environmental Protection Agency.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis  
Chairman Senate Committee

Donald Arello  
Chairman House Committee

Originated in the Senate.

In effect from passage.

Joel C. Wells  
Clerk of the Senate

Donald L. Voop  
Clerk of the House of Delegates

Warren P. Lindsey  
President of the Senate

W. M. See, Jr.  
Speaker House of Delegates

The within is approved this the 30th day of March, 1984.

Governor