

No. 745

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OFFICE OF THE GOVERNOR

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1984

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ENROLLED

SENATE BILL NO. 745

*Originating in the Committee
on Natural Resources*

—•—

PASSED March 10, 1984

In Effect from 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.

1 (a) Notwithstanding any provisions of this chapter to
2 the contrary, all powers, duties and responsibilities of the
3 chief of the division of water resources under article five-a
4 of this chapter with respect to all coal mines, preparation
5 plants and all refuse and waste therefrom subject to said
6 article five-a, are hereby transferred to the director. The
7 director shall have sole authority to issue, amend, transfer,

8 renew or revoke all permits required under article five-a of
9 this chapter with respect to all coal mines, preparation
10 plants and all refuse and waste therefrom subject to said
11 article five-a. The procedures for issuance, amendment,
12 transferral, renewal and revocation of such permits shall be
13 governed by regulations promulgated pursuant to
14 subsection (b). The director shall consolidate the various
15 permit programs under articles five-a and six of this
16 chapter applicable to all coal mines, preparation plants and
17 all refuse and waste therefrom. All provisions of article
18 five-a heretofore applicable to coal mines, preparation
19 plants and all refuse and waste therefrom shall be
20 continued under this section.

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

37 (c) Notwithstanding any provisions of this chapter to
38 the contrary, the director shall have the sole authority to
39 enforce and shall enforce the rules and regulations of the
40 reclamation commission and the rules and regulations of
41 the water resources board setting water quality standards
42 for the waters of the state as they apply to all coal mines,
43 preparation plants and all refuse and waste therefrom.
44 Rules and regulations adopted by the reclamation
45 commission, pursuant to the requirements of article five-a
46 of this chapter, shall be enforceable by the director under
47 the provisions of article five-a, sections seventeen and
48 nineteen of this chapter, as though the regulations were
49 promulgated by the water resources board: *Provided, That*

50 the director's authority to enforce such rules and
51 regulations under article five-a shall not preclude the
52 director or any person from invoking the remedies
53 otherwise provided by article six of this chapter and shall
54 not preclude the director from enforcing the provisions of
55 this article.

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

65 (e) This section shall become effective upon a
66 proclamation by the governor stating that final approval of
67 the partial transfer of the National Pollutant Discharge
68 Elimination System established under the Federal Clean
69 Water Act contemplated by this section has been given by
70 the Administrator of the United States Environmental
71 Protection Agency.

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

James L. Davis
.....
Chairman Senate Committee

Donald Anello
.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

Todd C. Wells
.....
Clerk of the Senate

Donald L. Obapp
.....
Clerk of the House of Delegates

Warren W. Hear
.....
President of the Senate

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

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

John R. Royce
.....
Governor

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SECY. OF STATE