

**WEST VIRGINIA LEGISLATURE**

**REGULAR SESSION, 1990**



**ENROLLED**

*Committee Substitute for*  
**SENATE BILL NO. 149**

(By Senator *Brackemuhl, et al*)



**PASSED March 7, 1990**

In Effect *90 days from* **Passage**

**ENROLLED**  
COMMITTEE SUBSTITUTE  
FOR  
**Senate Bill No. 149**

(BY SENATORS BRACKENRICH, PARKER,  
CHERNENKO AND HAWSE, *original sponsors*)

[Passed March 7, 1990; in effect ninety days from passage.]

AN ACT to amend and reenact section two, article five-a, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, further defining the term "other wastes" in the water pollution control act.

*Be it enacted by the Legislature of West Virginia:*

That section two, 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-2. Definitions.**

- 1 Unless the context in which used clearly requires a
- 2 different meaning, as used in this article:
- 3 (a) "Director" shall mean the director of the division
- 4 of natural resources;
- 5 (b) "Board" shall mean the state water resources
- 6 board;

7 (c) "Chief" shall mean the chief of the section of  
8 water resources of the division of natural resources;

9 (d) "Person", "persons" or "applicant" shall mean  
10 any industrial user, public or private corporation,  
11 institution, association, firm or company organized or  
12 existing under the laws of this or any other state or  
13 country; state of West Virginia; governmental agency,  
14 including federal facilities; political subdivision; county  
15 commission; municipal corporation; industry; sanitary  
16 district; public service district; drainage district; soil  
17 conservation district; watershed improvement district;  
18 partnership; trust; estate; person or individual; group  
19 of persons or individuals acting individually or as a  
20 group; or any legal entity whatever;

21 (e) "Water resources", "water" or "waters" shall  
22 mean any and all water on or beneath the surface of  
23 the ground, whether percolating, standing, diffused or  
24 flowing, wholly or partially within this state, or  
25 bordering this state and within its jurisdiction, and  
26 shall include, without limiting the generality of the  
27 foregoing, natural or artificial lakes, rivers, streams,  
28 creeks, branches, brooks, ponds (except farm ponds,  
29 industrial settling basins and ponds and water treat-  
30 ment facilities), impounding reservoirs, springs, wells,  
31 watercourses and wetlands;

32 (f) "Pollution" shall mean the man-made or man-  
33 induced alteration of the chemical, physical, biological  
34 and radiological integrity of the waters of the state;

35 (g) "Sewage" shall mean water-carried human or  
36 animal wastes from residences, buildings, industrial  
37 establishments or other places, together with such  
38 ground water infiltration and surface waters as may  
39 be present;

40 (h) "Industrial wastes" shall mean any liquid,  
41 gaseous, solid or other waste substance, or a combina-  
42 tion thereof, resulting from or incidental to any  
43 process of industry, manufacturing, trade or business,  
44 or from or incidental to the development, processing  
45 or recovery of any natural resources; and the admix-  
46 ture with such industrial wastes of sewage or other

47 wastes, as hereinafter defined, shall also be considered  
48 "industrial wastes" within the meaning of this article;

49 (i) "Industrial user" shall mean those industries  
50 identified in the standard industrial classification  
51 manual, United States Bureau of the Budget, 1967, as  
52 amended and supplemented, under the category  
53 "division d—manufacturing" and other classes of  
54 significant waste producers identified under regula-  
55 tions issued by the board or the administrator of the  
56 United States environmental protection agency;

57 (j) "Other wastes" shall mean garbage, refuse,  
58 decayed wood, sawdust, shavings, bark and other wood  
59 debris and residues resulting from secondary process-  
60 ing; sand, lime, cinders, ashes, offal, night soil, silt, oil,  
61 tar, dyestuffs, acids, chemicals, heat, or all other  
62 materials and substances not sewage or industrial  
63 wastes which may cause or might reasonably be  
64 expected to cause or to contribute to the pollution of  
65 any of the waters of the state;

66 (k) "Establishment" shall mean an industrial estab-  
67 lishment, mill, factory, tannery, paper or pulp mill,  
68 mine, colliery, breaker or mineral processing opera-  
69 tion, quarry, refinery, well, and each and every  
70 industry or plant or works in the operation or process  
71 of which industrial wastes, sewage or other wastes are  
72 produced;

73 (l) "Sewer system" shall mean pipelines or conduits,  
74 pumping stations, force mains and all other construc-  
75 tions, facilities, devices and appliances appurtenant  
76 thereto, used for collecting or conducting sewage,  
77 industrial wastes or other wastes to a point of disposal  
78 or treatment;

79 (m) "Treatment works" shall mean any plant,  
80 facility, means, system, disposal field, lagoon, pumping  
81 station, constructed drainage ditch or surface water  
82 intercepting ditch, diversion ditch above or below the  
83 surface of the ground, settling tank or pond, earthen  
84 pit, incinerator, area devoted to sanitary landfills, or  
85 other works not specifically mentioned herein,  
86 installed for the purpose of treating, neutralizing,

87 stabilizing, holding or disposing of sewage, industrial  
88 wastes or other wastes or for the purpose of regulating  
89 or controlling the quality and rate of flow thereof;

90 (n) "Publicly owned treatment works" shall mean  
91 any treatment works owned by the state or any  
92 political subdivision thereof, any municipality or any  
93 other public entity, for the treatment of pollutants;

94 (o) "Disposal system" shall mean a system for  
95 treating or disposing of sewage, industrial wastes or  
96 other wastes, or the effluent therefrom, either by  
97 surface or underground methods, and shall be con-  
98 strued to include sewer systems, the use of subterra-  
99 nean spaces, treatment works, disposal wells and other  
100 systems;

101 (p) "Outlet" shall mean the terminus of a sewer  
102 system or the point of emergence of any water-carried  
103 sewage, industrial wastes or other wastes, or the  
104 effluent therefrom, into any of the waters of this state,  
105 and shall include a point source;

106 (q) "Point source" shall mean any discernible,  
107 confined and discrete conveyance, including, but not  
108 limited to, any pipe, ditch, channel, tunnel, conduit,  
109 well, discrete fissure, container, rolling stock, or vessel  
110 or other floating craft, from which pollutants are or  
111 may be discharged;

112 (r) "Activity" or "activities" shall mean any activity  
113 or activities for which a permit is required by the  
114 provisions of section five of this article;

115 (s) "Disposal well" shall mean any well drilled or  
116 used for the injection or disposal of treated or  
117 untreated sewage, industrial wastes or other wastes  
118 into underground strata;

119 (t) "Effluent limitation" shall mean any restriction  
120 established on quantities, rates and concentrations of  
121 chemical, physical, biological and other constituents  
122 which are discharged into the waters of this state;

123 (u) "Code" shall mean the code of West Virginia,  
124 one thousand nine hundred thirty-one, as amended;

125 (v) "Division" shall mean the division of natural  
126 resources;

127 (w) "Well" shall mean any shaft or hole sunk,  
128 drilled, bored or dug into the earth or into under-  
129 ground strata for the extraction or injection or place-  
130 ment of any liquid or gas, or any shaft or hole sunk or  
131 used in conjunction with such extraction or injection  
132 or placement. The term "well" shall not have included  
133 within its meaning any shaft or hole sunk, drilled,  
134 bored or dug into the earth for the sole purpose of core  
135 drilling or pumping or extracting therefrom potable,  
136 fresh or usable water for household, domestic, indus-  
137 trial, agricultural or public use; and

138 (x) "Pollutant" shall mean industrial wastes, sewage  
139 or other wastes as defined in this section.

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

*Frederick L. Parker*  
.....  
Chairman Senate Committee

*Brend V. Kelly*  
.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage

*Samuel B. Baker*  
.....  
Clerk of the Senate

*Donald A. Hoop*  
.....  
Clerk of the House of Delegates

*Walter S. Suter*  
.....  
President of the Senate

*Paul C. Abner*  
.....  
Speaker House of Delegates

The within is approved this the 17th day of March 1990

*Walter S. Suter*  
.....  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/12/90

Time 10:24 am



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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE