WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 1992

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ENROLLED

HOUSE BILL No. 4631

(By Delegates Reid and Staton)

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Passed March 7, 1992

In Effect From Passage
ENROLLED

H. B. 4631

(By DELEGATES REID AND STATON)

[Passed March 7, 1992; in effect 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 increasing the specified eighteen month extension for a permit; and to allow extension periods to be at the discretion of the chief of the water resources section of the division of natural resources.

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 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 assist him in
carrying out the duties and responsibilities imposed
upon him under the provisions of this article and the
rules and regulations of the board; such cooperation
shall include, but not be limited to, a written recommen-
dation approving or disapproving the granting of the
permit and the reason or reasons for such recommen-
dation, which recommendation and the reason or
reasons therefor shall be submitted to the chief within
the specified time period prescribed by rules and
regulations of the board.

(b) The department’s permit shall be issued upon such
reasonable terms and conditions as the chief may direct
if (1) the application, together with all supporting
information and data and other evidence, establishes
that any and all discharges or releases, escapes, deposits
and disposition of treated or untreated sewage, indus-
trial wastes, or other wastes, or the effluent therefrom,
resulting from the activity or activities for which the
application for a permit was made will not cause
pollution of the waters of this state or violate any
effluent limitations or any rules and regulations of the
board: Provided, That the chief may issue a permit
whenever in his judgment the water quality standards
of the state may be best protected by the institution of
a program of phased pollution abatement which under
the terms of the permit may temporarily allow a limited
degree of pollution of the waters of the state; and (2) in
cases wherein it is required, such applicant shall include
the name and address of the responsible agent as set
forth in section eight-b of this article.

(c) Each permit issued under this article shall have
a fixed term not to exceed five years: Provided, That
when the applicant, in accordance with agency rules,
has made a timely and complete application for permit
reissuance, the permit term may be extended by the
chief, at his discretion, for a period not to exceed one
hundred twenty months beyond its expiration date.
Upon expiration of a permit, a new permit may be issued by the chief upon condition that the discharges or releases, escapes, deposits and disposition thereunder meet or will meet all applicable state and federal water quality standards, effluent limitations and all other requirements of this 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 application 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 prescribed 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 received 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 applicable 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, suspension, 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 from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within................................. this the 1st day of April, 1992.

Governor