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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 1992



# ENROLLED

HOUSE BILL No. 4631

(By Delegates REID AND STATON)



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  
2 shall conduct such investigation as is deemed necessary  
3 and proper in order to determine whether any such  
4 application should be granted or denied. In making such  
5 investigation and determination as to any application  
6 pertaining solely to sewage, the chief shall consult with  
7 the director of the division of sanitary engineering of the  
8 state department of health, and in making such inves-  
9 tigation and determination as to any application  
10 pertaining to any activity specified in subdivision (7),  
11 subsection (b), section five of this article, the chief shall

12 consult with the director of the state geological and  
13 economic survey and the deputy director of the oil and  
14 gas division of the department of mines, and all such  
15 persons shall cooperate with the chief and assist him in  
16 carrying out the duties and responsibilities imposed  
17 upon him under the provisions of this article and the  
18 rules and regulations of the board; such cooperation  
19 shall include, but not be limited to, a written recommen-  
20 dation approving or disapproving the granting of the  
21 permit and the reason or reasons for such recommen-  
22 dation, which recommendation and the reason or  
23 reasons therefor shall be submitted to the chief within  
24 the specified time period prescribed by rules and  
25 regulations of the board.

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

46 (c) Each permit issued under this article shall have  
47 a fixed term not to exceed five years: *Provided*, That  
48 when the applicant, in accordance with agency rules,  
49 has made a timely and complete application for permit  
50 reissuance, the permit term may be extended by the  
51 chief, at his discretion, for a period not to exceed one  
52 hundred twenty months beyond its expiration date.

53 Upon expiration of a permit, a new permit may be  
54 issued by the chief upon condition that the discharges  
55 or releases, escapes, deposits and disposition thereunder  
56 meet or will meet all applicable state and federal water  
57 quality standards, effluent limitations and all other  
58 requirements of this article.

59 (d) An application for a permit incident to remedial  
60 action in accordance with the provisions of section  
61 eleven of this article shall be processed and decided as  
62 any other application for a permit required under the  
63 provisions of section five of this article.

64 (e) A complete application for any permit shall be  
65 acted upon by the chief, and the department's permit  
66 delivered or mailed, or a copy of any order of the chief  
67 denying any such application delivered or mailed to the  
68 applicant by the chief, within a reasonable time period  
69 as prescribed by rules and regulations of the board.

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

88 (g) A permit shall be transferable to another person  
89 upon proper notification to the division and in accor-  
90 dance with applicable regulations. Such transfer shall  
91 not become effective until it is reflected in the records  
92 of the division of water resources.

93 (h) All permits for the discharge of sewage, industrial  
94 wastes or other wastes into any waters of the state issued  
95 by the water resources board prior to July one, one  
96 thousand nine hundred sixty-four, and all permits  
97 heretofore issued under the provisions of this article,  
98 and which have not been heretofore revoked, are subject  
99 to review, revocation, suspension, modification and  
100 reissuance in accordance with the terms and conditions  
101 of this article and the rules and regulations promulgated  
102 thereunder. Any order of revocation, suspension or  
103 modification made and entered pursuant to this subsec-  
104 tion shall be upon at least twenty days' notice and shall  
105 specify the reasons for such revocation, suspension or  
106 modification and the chief shall cause a copy of such  
107 order, together with a copy of a notice of the right to  
108 appeal to the board as provided for in section eight of  
109 this article, to be served upon the permit holder as  
110 specified in said section eight.

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

*Samuel Heck*

Chairman Senate Committee

*Ezra C. Moore*

Chairman House Committee

Originating in the House.

Takes effect from passage.

*David Edinger*

Clerk of the Senate

*Donald R. Kapp*

Clerk of the House of Delegates

*Kurt Buntline*

President of the Senate

*Bob Zell*

Speaker of the House of Delegates

The within is approved this the 1<sup>st</sup> day of April, 1992.

*Yaston Caperton*  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/27/92

Time 3:45 pm