

HB 4277

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OFFICE OF THE CLERK
WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2010



ENROLLED

House Bill No. 4277

(By Delegates Boggs, Miley, Barker and Caputo)



Passed March 13, 2010

In Effect Ninety Days From Passage

E N R O L L E D

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H. B. 4277

WEST VIRGINIA
SECRETARY OF STATE

(BY DELEGATES BOGGS, MILEY, BARKER AND CAPUTO)

[Passed March 13, 2010; in effect ninety days from passage.]

AN ACT to amend and reenact §22-11-3 and §22-11-8 of the Code of West Virginia, 1931, as amended, all relating to authorizing the Secretary of the Department of Environmental Protection to issue National Pollutant Discharge Elimination System permits; defining terms; and correcting antiquated language.

Be it enacted by the Legislature of West Virginia:

That §22-11-3 and §22-11-8 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 11. WATER POLLUTION CONTROL ACT.

§22-11-3. Definitions.

1 Unless the context in which used clearly requires a
2 different meaning, as used in this article:

3 (1) “Activity” or “activities” means any activity or
4 activities for which a permit is required by section seven of
5 this article;

6 (2) “Board” means the environmental quality board,
7 provided in article three, chapter twenty-two-b of this code;

8 (3) “Chief” means the director of the division of water
9 and waste management of the Department of Environmental
10 Protection;

11 (4) “Code” means the Code of West Virginia, 1931, as
12 amended;

13 (5) “Department” means the Department of Environmental
14 Protection;

15 (6) “Disposal system” means a system for treating or
16 disposing of sewage, industrial wastes or other wastes, or the
17 effluent therefrom, either by surface or underground
18 methods, and includes sewer systems, the use of subterranean
19 spaces, treatment works, disposal wells and other systems;

20 (7) “Disposal well” means any well drilled or used for the
21 injection or disposal of treated or untreated sewage, industrial
22 wastes or other wastes into underground strata;

23 (8) “Effluent limitation” means any restriction established
24 on quantities, rates and concentrations of chemical, physical,
25 biological and other constituents which are discharged into
26 the waters of this state;

27 (9) “Establishment” means an industrial establishment,
28 mill, factory, tannery, paper or pulp mill, mine, colliery,
29 breaker or mineral processing operation, quarry, refinery,
30 well and each and every industry or plant or works in the
31 operation or process of which industrial wastes, sewage or
32 other wastes are produced;

33 (10) “Industrial user” means those industries identified in
34 the standard industrial classification manual, United States
35 Bureau of the Budget, 1967, as amended and supplemented,
36 under the category “division d--manufacturing” and other

37 classes of significant waste producers identified under
38 regulations issued by the director or the administrator of the
39 United States environmental protection agency;

40 (11) "Industrial wastes" means any liquid, gaseous, solid
41 or other waste substance, or a combination thereof, resulting
42 from or incidental to any process of industry, manufacturing,
43 trade or business, or from or incidental to the development,
44 processing or recovery of any natural resources; and the
45 admixture with such industrial wastes of sewage or other
46 wastes, as hereinafter defined, is also "industrial waste"
47 within the meaning of this article;

48 (12) "Other wastes" means garbage, refuse, decayed
49 wood, sawdust, shavings, bark and other wood debris and
50 residues resulting from secondary processing; sand, lime,
51 cinders, ashes, offal, night soil, silt, oil, tar, dyestuffs, acids,
52 chemicals, heat or all other materials and substances not
53 sewage or industrial wastes which may cause or might
54 reasonably be expected to cause or to contribute to the
55 pollution of any of the waters of the state;

56 (13) "Outlet" means the terminus of a sewer system or
57 the point of emergence of any water-carried sewage,
58 industrial wastes or other wastes, or the effluent therefrom,
59 into any of the waters of this state, and includes a point
60 source;

61 (14) "Person", "persons" or "applicant" means any
62 industrial user, public or private corporation, institution,
63 association, firm or company organized or existing under the
64 laws of this or any other state or country; State of West
65 Virginia; governmental agency, including federal facilities;
66 political subdivision; county commission; municipal
67 corporation; industry; sanitary district; public service district;
68 drainage district; soil conservation district; watershed

69 improvement district; partnership; trust; estate; person or
70 individual; group of persons or individuals acting
71 individually or as a group; or any legal entity whatever;

72 (15) "Point source" means any discernible, confined and
73 discrete conveyance, including, but not limited to, any pipe,
74 ditch, channel, tunnel, conduit, well, discrete fissure,
75 container, rolling stock or vessel or other floating craft, from
76 which pollutants are or may be discharged;

77 (16) "Pollutant" means industrial wastes, sewage or other
78 wastes as defined in this section;

79 (17) "Pollution" means the man-made or man-induced
80 alteration of the chemical, physical, biological and
81 radiological integrity of the waters of the state;

82 (18) "Publicly owned treatment works" means any
83 treatment works owned by the state or any political
84 subdivision thereof, any municipality or any other public
85 entity, for the treatment of pollutants;

86 (19) "Secretary" means the Secretary of the Department
87 of Environmental Protection or such other person to whom
88 the secretary has delegated authority or duties pursuant to
89 section six or eight, article one of this chapter;

90 (20) "Sewage" means water-carried human or animal
91 wastes from residences, buildings, industrial establishments
92 or other places, together with such groundwater infiltration
93 and surface waters as may be present;

94 (21) "Sewer system" means pipelines or conduits,
95 pumping stations, force mains and all other constructions,
96 facilities, devices and appliances appurtenant thereto, used
97 for collecting or conducting sewage, industrial wastes or
98 other wastes to a point of disposal or treatment;

99 (22) “Treatment works” means any plant, facility, means,
100 system, disposal field, lagoon, pumping station, constructed
101 drainage ditch or surface water intercepting ditch, diversion
102 ditch above or below the surface of the ground, settling tank
103 or pond, earthen pit, incinerator, area devoted to sanitary
104 landfills or other works not specifically mentioned herein,
105 installed for the purpose of treating, neutralizing, stabilizing,
106 holding or disposing of sewage, industrial wastes or other
107 wastes or for the purpose of regulating or controlling the
108 quality and rate of flow thereof;

109 (23) “Water resources”, “water” or “waters” means any
110 and all water on or beneath the surface of the ground,
111 whether percolating, standing, diffused or flowing, wholly or
112 partially within this state, or bordering this state and within
113 its jurisdiction, and includes, without limiting the generality
114 of the foregoing, natural or artificial lakes, rivers, streams,
115 creeks, branches, brooks, ponds (except farm ponds,
116 industrial settling basins and ponds and water treatment
117 facilities), impounding reservoirs, springs, wells,
118 watercourses and wetlands; and

119 (24) “Well” means any shaft or hole sunk, drilled, bored
120 or dug into the earth or into underground strata for the
121 extraction or injection or placement of any liquid or gas, or
122 any shaft or hole sunk or used in conjunction with such
123 extraction or injection or placement. The term “well” does
124 not include any shaft or hole sunk, drilled, bored or dug into
125 the earth for the sole purpose of core drilling or pumping or
126 extracting therefrom potable, fresh or usable water for
127 household, domestic, industrial, agricultural or public use.

§22-11-8. Prohibitions; permits required.

1 (a) The secretary may, after public notice and opportunity
2 for public hearing, issue a permit for the discharge or

3 disposition of any pollutant or combination of pollutants into
4 waters of this state upon condition that the discharge or
5 disposition meets or will meet all applicable state and federal
6 water quality standards and effluent limitations and all other
7 requirements of this article and article three, chapter twenty-
8 two-b of this code.

9 (b) It is unlawful for any person, unless the person holds
10 a permit therefor from the department, which is in full force
11 and effect, to:

12 (1) Allow sewage, industrial wastes or other wastes, or
13 the effluent therefrom, produced by or emanating from any
14 point source, to flow into the waters of this state;

15 (2) Make, cause or permit to be made any outlet, or
16 substantially enlarge or add to the load of any existing outlet,
17 for the discharge of sewage, industrial wastes or other wastes,
18 or the effluent therefrom, into the waters of this state;

19 (3) Acquire, construct, install, modify or operate a
20 disposal system or part thereof for the direct or indirect
21 discharge or deposit of treated or untreated sewage, industrial
22 wastes or other wastes, or the effluent therefrom, into the
23 waters of this state, or any extension to or addition to the
24 disposal system;

25 (4) Increase in volume or concentration any sewage,
26 industrial wastes or other wastes in excess of the discharges
27 or disposition specified or permitted under any existing
28 permit;

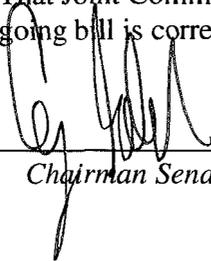
29 (5) Extend, modify or add to any point source, the
30 operation of which would cause an increase in the volume or
31 concentration of any sewage, industrial wastes or other
32 wastes discharging or flowing into the waters of the state;

33 (6) Construct, install, modify, open, reopen, operate or
34 abandon any mine, quarry or preparation plant, or dispose of
35 any refuse or industrial wastes or other wastes from the mine
36 or quarry or preparation plant: *Provided*, That the department's
37 permit is only required wherever the aforementioned activities
38 cause, may cause or might reasonably be expected to cause a
39 discharge into or pollution of waters of the state, except that
40 a permit is required for any preparation plant: *Provided*,
41 *however*, That unless waived in writing by the secretary,
42 every application for a permit to open, reopen or operate any
43 mine, quarry or preparation plant or to dispose of any refuse
44 or industrial wastes or other wastes from the mine or quarry
45 or preparation plant shall contain a plan for abandonment of
46 the facility or operation, which plan shall comply in all
47 respects to the requirements of this article. The plan of
48 abandonment is subject to modification or amendment upon
49 application by the permit holder to the secretary and approval
50 of the modification or amendment by the secretary; or

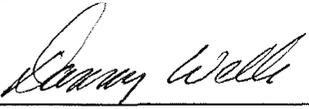
51 (7) Operate any disposal well for the injection or
52 reinjection underground of any industrial wastes, including,
53 but not limited to, liquids or gases, or convert any well into
54 such a disposal well or plug or abandon any such disposal
55 well.

56 (c) Where a person has a number of outlets emerging into
57 the waters of this state in close proximity to one another, the
58 outlets may be treated as a unit for the purposes of this
59 section, and only one permit issued for all the outlets.

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



Chairman Senate Committee



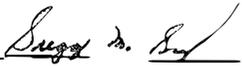
Chairman House Committee

Originating in the House.

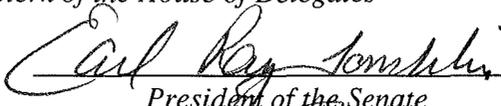
In effect ninety days from passage.



Clerk of the Senate



Clerk of the House of Delegates



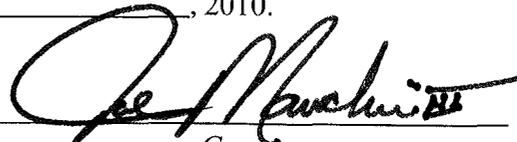
President of the Senate



Speaker of the House of Delegates

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STATE HOUSE
COLUMBIA, SC 29201

The within is approved this the 18th
day of April, 2010.



Governor

PRESENTED TO THE
GOVERNOR

MAR 26 2010

Time 1:40 p