WEST VIRGINIA LEGISLATURE
EIGHTIETH LEGISLATURE
REGULAR SESSION, 2012

ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 615
(SENATORS KIRKENDOLL, HALL, WELLS
AND STOLLINGS, ORIGINAL SPONSORS)

[Passed March 10, 2012; in effect from passage.]
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(SENATORS KIRKENDOLL, HALL, WELLS AND STOLLINGS, original sponsors)

[Passed March 10, 2012; in effect from passage.]

AN ACT to amend and reenact §22-11-6 of the Code of West Virginia, 1931, as amended, relating to making West Virginia’s Water Pollution Control Act consistent with the federal Water Pollution Control Act, also known as the Clean Water Act, by clarifying that compliance with the effluent limits contained in a National Pollution Discharge Elimination System permit is deemed compliant with West Virginia’s Water Pollution Control Act.

Be it enacted by the Legislature of West Virginia:

That §22-11-6 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 11. WATER POLLUTION CONTROL ACT.

§22-11-6. Requirement to comply with standards of water quality and effluent limitations.

All persons affected by rules establishing water quality standards and effluent limitations shall promptly comply therewith: Provided, That:
(1) Where necessary and proper, the secretary may specify a reasonable time for persons not complying with such standards and limitations to comply therewith, and upon the expiration of any such period of time, the secretary shall revoke or modify any permit previously issued which authorized the discharge of treated or untreated sewage, industrial wastes or other wastes into the waters of this state which result in reduction of the quality of such waters below the standards and limitations established therefor by rules of the board or secretary;

(2) Notwithstanding any rule or permit condition to the contrary, and except for any standard imposed under section 307 of the federal Water Pollution Control Act for a toxic pollutant injurious to human health, compliance with a permit issued pursuant to this article shall be deemed compliance for purposes of both this article and sections 301, 302, 306, 307 and 403 of the federal Water Pollution Control Act. Nothing in this section, however, prevents the secretary from modifying, reissuing or revoking a permit during its term. The provisions of this section addressing compliance with a permit are intended to apply to all existing and future discharges and permits without the need for permit modifications. However, should any such modification be necessary under the terms of this article, then the secretary shall immediately commence the process to effect such modifications; and

(3) The Legislature finds that there are concerns within West Virginia regarding the applicability of the research underlying the federal selenium criteria to a state such as West Virginia which has high precipitation rates and freeflowing streams and that the alleged environmental impacts that were documented in applicable federal research have not been observed in West Virginia and, further, that considerable research is required to determine if selenium is having an impact on West Virginia streams, to validate or determine the proper testing methods for selenium and to better understand the chemical reactions related to selenium mobilization in water. For existing NPDES permits, the
department may extend the time period for achieving water quality-based effluent limits for selenium discharges into waters supporting aquatic life uses to July 1, 2012, upon compliance with all federally required public notice requirements for such modifications, upon a finding that the permittee cannot comply with its existing compliance schedule and that an extension is not in violation of any state or federal laws, rules or regulations. The West Virginia Department of Environmental Protection is hereby directed to undertake a comprehensive study relating to selenium and prepare a report detailing such findings and submitting the report to the Joint Committee on Government and Finance no later than January 1, 2010. In conducting such study, the West Virginia Department of Environmental Protection shall consult with, among others, West Virginia University and the West Virginia Water Research Institute.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signatures]

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect from passage.

[Signatures]

Clerk of the Senate

[Signatures]

Clerk of the House of Delegates

[Signatures]

President of the Senate

Speaker of the House of Delegates

The within is approved this the 2nd Day of April, 2012.

[Signature] Governor
PRESENTED TO THE GOVERNOR

MAR 29 2012

Time 4:10 pm