

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Originating

Senate Bill 940

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HAMILTON, HELTON, JEFFRIES, MAYNARD, ROSE,
THORNE, AND WOODRUM

[Originating in the Committee on Government
Organization; reported March 27, 2025]

1 A BILL to amend and reenact §22-11-8 of the Code of West Virginia, 1931, as amended, relating
2 to specifying that a political subdivision that administers a water pollution permit under
3 delegation from the Department of Environmental Protection may not impose standards
4 or requirements more stringent than any federal or state rule, regulation, program, or
5 permitting regime; and providing limited exceptions.

Be it enacted by the Legislature of West Virginia:

ARTICLE 11. WATER POLLUTION CONTROL ACT.

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

1 (a) The secretary may, after public notice and opportunity for public hearing, issue a permit
2 for the discharge or disposition of any pollutant or combination of pollutants into waters of this
3 state upon condition that the discharge or disposition meets or will meet all applicable state and
4 federal water quality standards and effluent limitations and all other requirements of this article
5 and §22B-3-1 *et seq.* of this code. While permits shall contain conditions that are designed to
6 meet all applicable state and federal water quality standards and effluent limitations, water quality
7 standards themselves ~~shall~~ may not be incorporated wholesale either expressly or by reference
8 as effluent standards or limitations in a permit issued pursuant to this article.

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

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

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

16 (3) Acquire, construct, install, modify, or operate a disposal system or part thereof for the
17 direct or indirect discharge or deposit of treated or untreated sewage, industrial wastes or other

wastes, or the effluent therefrom, into the waters of this state, or any extension to or addition to the disposal system;

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

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

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

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

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

43 (d) Any ordinance of a political subdivision of this state may not be more stringent than
44 any federal or state rule, regulation, program, or permitting regime, unless:

45 (1) The executive office of the political subdivision first makes a specific written finding
46 substantiating that scientifically supportable evidence exists for the rule, regulation, program, or
47 permitting regime and reflecting factors unique to the political subdivision making the request; and

48 (2) The request is reviewed and approved in writing by the secretary. The secretary shall
49 review the request and render a decision within 90 days of receipt.