WEST VIRGINIA CODE: §22-15-10

§22-15-10. Prohibitions; permits required.

(a) Open dumps are prohibited and it is unlawful for any person to create, contribute to, or operate an open dump or for any landowner to allow an open dump to exist on the landowner's property unless that open dump is under a compliance schedule approved by the director. The compliance schedule shall contain an enforceable sequence of actions leading to compliance and shall not exceed two years. Open dumps operated prior to April 1, 1988, by a landowner or tenant for the disposal of solid waste generated by the landowner or tenant at his or her residence or farm, are not a violation of this section, if the open dump was not a violation of law on January 1, 1988, and unauthorized dumps which were created by unknown persons are not a violation of this section: Provided, That a person may not contribute additional solid waste to any such dump after April 1, 1988, except that the landowners on which unauthorized dumps have been or are being made are not liable for the unauthorized dumping unless the landowners refuse to cooperate with the division in stopping the unauthorized dumping.

(b) It is unlawful for any person, unless the person holds a valid permit from the division to install, establish, construct, modify, operate, or abandon any solid waste facility. All approved solid waste facilities shall be installed, established, constructed, modified, operated, or abandoned in accordance with §22-15-1 et seq. of this code, plans, specifications, orders, instructions, and rules in effect.

(c) Any permit issued under §22-15-1 et seq. of this code shall be issued in compliance with the requirements of §22-15-1 et seq. of this code, its rules and §22-11-1 et seq. of this code and the rules, promulgated under §22-11-1 et seq. of this code, so that only a single permit is required of a solid waste facility under those two articles. Each permit issued under §22-15-1 et seq. of this code shall have a fixed term not to exceed five years: Provided, That the director may administratively extend a permit beyond its five-year term, if the approved solid waste facility is in compliance with §22-15-1 et seq. of this code, its rules, and §22-11-1 et seq. of this code and the rules promulgated under §22-11-1 et seq. of this code: Provided, however, That the administrative extension may not be for more than one year. Upon expiration of a permit, the division may issue renewal permits in compliance with rules promulgated by the director.

(d) For existing solid waste facilities which formerly held division of health permits which expired by law and for which complete permit applications for new permits pursuant to §22-15-1 et seq. of this code were submitted as required by law, the division may enter an administrative order to govern solid waste activities at the facilities, which may include a compliance schedule, consistent with the requirements of the division's solid waste management rules, to be effective until final action is taken to issue or deny a permit for the facility pursuant to §22-15-1 et seq. of this code, or until further order of the division.

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(e) A person may not dispose of any solid waste in this state in a manner which endangers the environment or the public health, safety, or welfare as determined by the director: Provided, That the carcasses of dead animals may be disposed of in any solid waste facility or in any other manner as provided for in this code. Upon request by the director, the Commissioner of the Bureau for Public Health shall provide technical advice concerning the disposal of solid waste or carcasses of dead animals within the state.

(f) A commercial solid waste facility shall not discriminate in favor of or against the receipt of any waste otherwise eligible for disposal at the facility based on its geographic origin.

(g) In addition to all the requirements of §22-15-1 et seq. of this code and the rules promulgated under §22-15-1 et seq. of this code, the division may not issue a permit to construct a new commercial solid waste facility or to expand the spatial area of an existing facility, unless the Public Service Commission has granted a certificate of need, as provided in §24-2-1c of this code. If the director approves a permit or permit modification, the certificate of need shall become a part of the permit and all conditions contained in the certificate of need shall be conditions of the permit and may be enforced by the division in accordance with the provisions of §22-15-1 et seq. of this code: Provided, That the provisions of this subsection do not apply to materials recovery facilities or mixed waste processing facilities as defined by §22-15-2 of this code, except within a 35-mile radius of a facility sited in a karst geological region and which has been permitted by the West Virginia Department of Environmental Protection as a mixed waste processing facility and has received a certificate of need by July 1, 2016.

(h) The director shall propose legislative rules for promulgation pursuant to §29A-3-1 et seq. of this code which reflect the purposes as set forth in this section.

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