

WEST VIRGINIA CODE: §22-15-17

§22-15-17. Limited extension of solid waste facility closure deadline.

(a) The director may grant an extension of the closure deadline up to September 30, 1994, to a solid waste facility required under the terms of an extension granted pursuant to this subsection to close by June 30, 1993, or required by solid waste management rules to close by September 30, 1993, provided that the solid waste facility:

(1) Has a solid waste facility permit, or by March 1, 1993, had an application to obtain a permit pending before the division for the construction of a landfill in accordance with title forty-seven, series thirty-eight, solid waste management rules; and

(2) Has a certificate of need or had an application pending therefor, from the Public Service Commission; and

(3) Has been determined by the director to pose no significant hazard to public health, safety or the environment; and

(4) Has entered into a compliance schedule with the Division of Environmental Protection to be in full compliance, no later than September 30, 1994, with title forty-seven, series thirty-eight, solid waste management rules or to be in full compliance, no later than September 30, 1994, with pre-closure provisions of title forty-seven, series thirty-eight, solid waste management rules: Provided, That no such extension of closure deadline shall extend beyond the thirty-first day of March, 1994, or such date as any landfill installs a composite liner system, for any landfill in a county in which there is also located a commercial solid waste landfill which has installed a composite liner system in accordance with the requirements of the solid waste management rules.

(b) Any solid waste facility seeking to extend its closure deadline until September 30, 1994, shall submit to the director, no later than April 30, 1993, an application sufficient to demonstrate compliance with the requirements of subsection (a) of this section. The director shall grant or deny any application within thirty days of receipt thereof: Provided, That as a condition precedent for granting such closure extension, a solid waste facility must enter into an agreement with the director that the solid waste facility shall, no later than September 30, 1993, complete and submit to the director an analysis of the facility's specific requirements and cost to comply with the applicable design criteria, groundwater monitoring provisions of title forty-seven, series thirty-eight, solid waste management rules and the corrective action, financial assurance and closure and post-closure care provisions of Subtitle (d) of the federal Resource Conservation and Recovery Act, 42 U.S.C. 6941-6949.

(c) Any party who is aggrieved by an order of the director regarding the grant or denial of an extension of the closure deadline for a solid waste facility pursuant to this section may obtain judicial review thereof in the same manner as provided in section four, article five,

chapter twenty-nine-a of this code, which provisions shall apply to and govern such review with like effect as if the provisions of said section were set forth in extenso in this section, except that the petition shall be filed, within the time specified in section four, article five, chapter twenty-nine-a of this code, in the circuit court of the county where such facility exists: Provided, That the court shall not in any manner permit the continued acceptance of solid waste at the facility pending review of the decision of the director of the division.

(d) The judgment of the circuit court shall be final unless reversed, vacated or modified on appeal to the Supreme Court of Appeals, in accordance with the provisions of section one, article six, chapter twenty-nine-a of this code, except that notwithstanding the provisions of said section, the petition seeking such review must be filed with said Supreme Court of Appeals within thirty days from the date of entry of the judgment of the circuit court.

(e) Notwithstanding any other provision of this article, the director, upon receipt of a request for an extension, shall grant an extension of the closure deadline up to September 30, 1994, to any solid waste facility required to close on the thirty-first day of March, 1993, or September 30, 1993, which is owned by a solid waste authority or owned by a municipality and which accepts at least thirty percent of its waste from within the county in which it is located and which has not been determined by the director to pose a significant risk to human health and safety or cause substantial harm to the environment and which could not be granted an extension up to September 30, 1994, pursuant to the terms of subsections (a) and (b) of this section if:

(1) The cost of transporting the waste is prohibitive; or

(2) The cost of disposing of waste in other solid waste facilities within the watershed would increase.

(f) Notwithstanding any other provision of this article, the director shall grant an extension of the closure deadline up to September 30, 1994, to any solid waste landfill which, on or before March 1, 1993, has entered into a compliance schedule with the director for the construction of a transfer station or to any solid waste landfill which on March 1, 1993, is already in the process of constructing a solid waste transfer station and applies by April 1, 1993, to enter into with the director, a compliance schedule for the completion of the transfer station: Provided, That upon the completion of the transfer station and commencement of operations of the transfer station, such landfill shall cease accepting solid waste for disposal.

(g) Notwithstanding any other provision of this article, any commercial solid waste facility which has demonstrated and continues to be in compliance with the requirements of subsections (a) and (b) of the prior enactment of this section in chapter one hundred twenty-five, acts of the Legislature, regular session, 1993, may make application by August 1, 1994, to the director for a special extension of the closure deadline up to December 31, 1994. Such application shall set forth all reasons why the applicant should receive a special extension. The director shall grant or deny an application within thirty days of receipt thereof. As a

condition for being granted a special extension, the solid waste facility permittee must meet one of the following conditions:

- (1) Have started construction of an approved composite liner system; or
- (2) Have obtained financing for such construction; or
- (3) Have demonstrated good faith efforts to obtain such financing and the director has made a finding, in writing, that such financing and construction is likely to occur within the extension period and that the facility is necessary to the waste management plan of the watershed or the geographic area served.