WEST VIRGINIA CODE: §22-18-8

§22-18-8. Permit process; undertaking activities without a permit.

(a) No person may own, construct, modify, operate or close any facility or site for the treatment, storage or disposal of hazardous waste identified or listed under this article, nor shall any person store, treat or dispose of any such hazardous waste without first obtaining a permit from the director for such facility, site or activity and all other permits as required by law. Such permit shall be issued, after public notice and opportunity for public hearing, upon such reasonable terms and conditions as the director may direct if the application, together with all supporting information and data and other evidence establishes that the construction, modification, operation or closure, as the case may be, of the hazardous waste facility, site or activity will not violate any provisions of this article or any of the rules promulgated by the director as required by this article: Provided, That in issuing the permits required by this subsection, the director shall not regulate those aspects of a hazardous waste treatment, storage or disposal facility which are the subject of the permitting or licensing requirements of: (1) Section seven of this article, and which need not be regulated in order for the director to perform his or her duties under this article; or (2) subdivision (13), subsection (a), section six of this article, which need not be regulated under any other provision of this article.

(b) The director shall prescribe a form of application for all permits issued by the director.

(c) The director may require a plan for the closure of such facility or site to be submitted along with an application for a permit which plan for closure shall comply in all respects with the requirements of this article and any rules promulgated hereunder. Such plan of closure is subject to modification upon application by the permit holder to the director and approval of such modification by the director.

(d) An environmental analysis shall be submitted with the permit application for all hazardous waste treatment, storage or disposal facilities which are major facilities as that term may be defined by rules promulgated by the director: Provided, That facilities in existence on November 19, 1980, need not comply with this subsection. Such environmental analysis shall contain information of the type, quality and detail that will permit adequate consideration of the environmental, technical and economic factors involved in the establishment and operation of such facilities:

(1) The portion of the applicant’s environmental analysis dealing with environmental assessments shall contain, but not be limited to:

(A) The potential impact of the method and route of transportation of hazardous waste to the site and the potential impact of the establishment and operation of such facilities on air and water quality, existing land use, transportation and natural resources in the area affected by such facilities;

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(B) A description of the expected effect of such facilities; and

(C) Recommendations for minimizing any adverse impact.

(2) The portion of the applicant's environmental analysis dealing with technical and economic assessments shall contain, but not be limited to:

(A) Detailed descriptions of the proposed site and facility, including site location and boundaries and facility purpose, type, size, capacity and location on the site and estimates of the cost and charges to be made for material accepted, if any;

(B) Provisions for managing the site following cessation of operation of the facility; and

(C) Qualifications of owner and operation, including a description of the applicant's prior experience in hazardous waste management operations.

(e) Any person undertaking, without a permit, any of the activities for which a permit is required under this section or under section seven of this article, or any person violating any term or condition under which a permit has been issued pursuant to this section or pursuant to section seven of this article, is subject to the enforcement procedures of this article.

(f) Notwithstanding any provision to the contrary in subsections (a) through (e) of this section or section seven of this article, any surface coal mining and reclamation operation that has a permit covering any coal mining wastes or overburden which has been issued or approved under article three of this chapter, shall be considered to have all necessary permits issued pursuant to this article with respect to the treatment, storage or disposal of such wastes or overburden. Rules promulgated under this article are not applicable to treatment, storage or disposal of coal mining wastes and overburden which are covered by such a permit.

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