

# **WEST VIRGINIA LEGISLATURE**

**2018 REGULAR SESSION**

**Enrolled**

**Committee Substitute**

**for**

**Senate Bill 146**

SENATOR TRUMP, *original sponsor*

[Passed March 2, 2018; in effect from passage]



1 AN ACT to amend and reenact §22-15-10 of the Code of West Virginia, 1931, as amended,  
2 relating to correcting technical errors within the Solid Waste Management Act.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 15. SOLID WASTE MANAGEMENT ACT.**

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

1 (a) Open dumps are prohibited and it is unlawful for any person to create, contribute to, or  
2 operate an open dump or for any landowner to allow an open dump to exist on the landowner's  
3 property unless that open dump is under a compliance schedule approved by the director. The  
4 compliance schedule shall contain an enforceable sequence of actions leading to compliance and  
5 shall not exceed two years. Open dumps operated prior to April 1, 1988, by a landowner or tenant  
6 for the disposal of solid waste generated by the landowner or tenant at his or her residence or  
7 farm, are not a violation of this section, if the open dump was not a violation of law on January 1,  
8 1988, and unauthorized dumps which were created by unknown persons are not a violation of  
9 this section: *Provided*, That a person may not contribute additional solid waste to any such dump  
10 after April 1, 1988, except that the landowners on which unauthorized dumps have been or are  
11 being made are not liable for the unauthorized dumping unless the landowners refuse to  
12 cooperate with the division in stopping the unauthorized dumping.

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

18 (c) Any permit issued under §22-15-1 *et seq.* of this code shall be issued in compliance  
19 with the requirements of §22-15-1 *et seq.* of this code, its rules and §22-11-1 *et seq.* of this code  
20 and the rules, promulgated under §22-11-1 *et seq.* of this code, so that only a single permit is  
21 required of a solid waste facility under those two articles. Each permit issued under §22-15-1 *et*

22 *seq.* of this code shall have a fixed term not to exceed five years: *Provided*, That the director may  
23 administratively extend a permit beyond its five-year term, if the approved solid waste facility is in  
24 compliance with §22-15-1 *et seq.* of this code, its rules, and §22-11-1 *et seq.* of this code and the  
25 rules promulgated under §22-11-1 *et seq.* of this code: *Provided, however*, That the administrative  
26 extension may not be for more than one year. Upon expiration of a permit, the division may issue  
27 renewal permits in compliance with rules promulgated by the director.

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

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

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

43 (g) In addition to all the requirements of §22-15-1 *et seq.* of this code and the rules  
44 promulgated under §22-15-1 *et seq.* of this code, the division may not issue a permit to construct  
45 a new commercial solid waste facility or to expand the spatial area of an existing facility, unless  
46 the Public Service Commission has granted a certificate of need, as provided in §24-2-1c of this  
47 code. If the director approves a permit or permit modification, the certificate of need shall become

48 a part of the permit and all conditions contained in the certificate of need shall be conditions of  
49 the permit and may be enforced by the division in accordance with the provisions of §22-15-1 *et*  
50 *seq.* of this code: *Provided*, That the provisions of this subsection do not apply to materials  
51 recovery facilities or mixed waste processing facilities as defined by §22-15-2 of this code, except  
52 within a 35-mile radius of a facility sited in a karst geological region and which has been permitted  
53 by the West Virginia Department of Environmental Protection as a mixed waste processing facility  
54 and has received a certificate of need by July 1, 2016.

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



The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

.....  
*Chairman, Senate Committee*

.....  
*Chairman, House Committee*

Originated in the Senate.

In effect from passage.

.....  
*Clerk of the Senate*

.....  
*Clerk of the House of Delegates*

.....  
*President of the Senate*

.....  
*Speaker of the House of Delegates*

\_\_\_\_\_

The within ..... this the.....  
Day of ....., 2018.

.....  
*Governor*