

---

THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

SENATE BILL

No. 1354 Session of  
2020

---

INTRODUCED BY MUTH, KEARNEY, SANTARSIERO, SCHWANK, SABATINA,  
DINNIMAN AND FARNESE, OCTOBER 16, 2020

---

REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, OCTOBER 16, 2020

---

AN ACT

1 Amending the act of July 7, 1980 (P.L.380, No.97), entitled "An  
2 act providing for the planning and regulation of solid waste  
3 storage, collection, transportation, processing, treatment,  
4 and disposal; requiring municipalities to submit plans for  
5 municipal waste management systems in their jurisdictions;  
6 authorizing grants to municipalities; providing regulation of  
7 the management of municipal, residual and hazardous waste;  
8 requiring permits for operating hazardous waste and solid  
9 waste storage, processing, treatment, and disposal  
10 facilities; and licenses for transportation of hazardous  
11 waste; imposing duties on persons and municipalities;  
12 granting powers to municipalities; authorizing the  
13 Environmental Quality Board and the Department of  
14 Environmental Resources to adopt rules, regulations,  
15 standards and procedures; granting powers to and imposing  
16 duties upon county health departments; providing remedies;  
17 prescribing penalties; and establishing a fund," in general  
18 provisions, further providing for definitions; making an  
19 inconsistent repeal; and making editorial changes.

20 The General Assembly of the Commonwealth of Pennsylvania  
21 hereby enacts as follows:

22 Section 1. The title of the act of July 7, 1980 (P.L.380,  
23 No.97), known as the Solid Waste Management Act, is amended to  
24 read:

25 AN ACT

26 Providing for the planning and regulation of solid waste  
27 storage, collection, transportation, processing, treatment,

1 and disposal; requiring municipalities to submit plans for  
2 municipal waste management systems in their jurisdictions;  
3 authorizing grants to municipalities; providing regulation of  
4 the management of municipal, residual and hazardous waste;  
5 requiring permits for operating hazardous waste and solid  
6 waste storage, processing, treatment, and disposal  
7 facilities; and licenses for transportation of hazardous  
8 waste; imposing duties on persons and municipalities;  
9 granting powers to municipalities; authorizing the  
10 Environmental Quality Board and the Department of  
11 Environmental [Resources] Protection to adopt rules,  
12 regulations, standards and procedures; granting powers to and  
13 imposing duties upon county health departments; providing  
14 remedies; prescribing penalties; and establishing a fund.

15 Section 2. The definitions of "department," "drill  
16 cuttings," "hazardous waste" and "secretary" in section 103 of  
17 the act are amended to read:

18 Section 103. Definitions.

19 The following words and phrases when used in this act shall  
20 have, unless the context clearly indicates otherwise, the  
21 meanings given to them in this section:

22 \* \* \*

23 "Department." The Department of Environmental [Resources]  
24 Protection of the Commonwealth of Pennsylvania and its  
25 authorized representatives.

26 \* \* \*

27 "Drill cuttings." Rock cuttings and related mineral residues  
28 created during the drilling of wells pursuant to [the act of  
29 December 19, 1984 (P.L.1140, No.223), known as the "Oil and Gas  
30 Act,"] 58 Pa.C.S. (relating to oil and gas) provided such

1 materials are disposed of at the well site and pursuant to  
2 [section 206 of the "Oil and Gas Act."] 58 Pa.C.S. § 3216  
3 (relating to well site restoration).

4 \* \* \*

5 "Hazardous waste." Any garbage, refuse, sludge from an  
6 industrial or other waste water treatment plant, sludge from a  
7 water supply treatment plant, or air pollution control facility,  
8 drilling fluids, produced waters and other wastes associated  
9 with the exploration, development or production of crude oil,  
10 natural gas or geothermal energy and other discarded material  
11 including solid, liquid, semisolid or contained gaseous material  
12 resulting from municipal, commercial, industrial, institutional,  
13 mining, or agricultural operations, and from community  
14 activities, or any combination of the above, (but does not  
15 include solid or dissolved material in domestic sewage, or solid  
16 or dissolved materials in irrigation return flows or industrial  
17 discharges which are point sources subject to permits under §  
18 402 of the Federal Water Pollution Control Act, as amended (86  
19 Stat. 880) or source, special nuclear, or by-product material as  
20 defined by the U.S. Atomic Energy Act of 1954, as amended (68  
21 Stat. 923)), which because of its quantity, concentration, or  
22 physical, chemical, or infectious characteristics may:

23 (1) cause or significantly contribute to an increase in  
24 mortality or an increase in morbidity in either an individual  
25 or the total population; or

26 (2) pose a substantial present or potential hazard to  
27 human health or the environment when improperly treated,  
28 stored, transported, disposed of or otherwise managed.

29 The term "hazardous waste" shall not include coal refuse as  
30 defined in the act of September 24, 1968 (P.L.1040, No.318),

1 known as the "Coal Refuse Disposal Control Act." "Hazardous  
2 waste" shall not include treatment sludges from coal mine  
3 drainage treatment plants, disposal of which is being carried on  
4 pursuant to and in compliance with a valid permit issued  
5 pursuant to the act of June 22, 1937 (P.L.1987, No.394), known  
6 as "The Clean Streams Law."

7 \* \* \*

8 "Secretary." The Secretary of the Department of  
9 Environmental [Resources] Protection of the Commonwealth of  
10 Pennsylvania.

11 \* \* \*

12 Section 3. Sections 105(c), 106(b), 402, 502(d), 507(a)  
13 introductory paragraph and 602(d) of the act are amended to  
14 read:

15 Section 105. Powers and duties of the Environmental Quality  
16 Board.

17 \* \* \*

18 (c) The Environmental Quality Board shall have the power and  
19 its duty shall be to adopt rules and regulations and standards  
20 to provide for the coordination of administration and  
21 enforcement of this act between the Department of Environmental  
22 [Resources] Protection and county health departments where they  
23 exist.

24 \* \* \*

25 Section 106. Powers and duties of county health departments;  
26 limitation.

27 \* \* \*

28 (b) Notwithstanding the grant of powers in subsection (a),  
29 in any case where administration and enforcement of this act by  
30 a county health department shall conflict with administration

1 and enforcement by the Department of Environmental [Resources]  
2 Protection, administration and enforcement by the Department of  
3 Environmental [Resources] Protection shall take precedence over  
4 administration and enforcement by a county health department.

5 Section 402. Listing of hazardous waste.

6 The Environmental Quality Board shall establish rules and  
7 regulations identifying the characteristics of hazardous wastes  
8 and listing particular hazardous wastes which shall be subject  
9 to the provisions of this act. The list promulgated shall in no  
10 event prevent the department from regulating other wastes,  
11 which, although not listed, the department has determined to be  
12 hazardous; the Department of Environmental [Resources]  
13 Protection may regulate such hazardous wastes when the  
14 department has determined such waste poses a substantial present  
15 or potential hazard to the human health or the environment by  
16 any means including, but not limited to, issuance of orders and  
17 the imposition of terms and conditions of permits. The board  
18 shall identify the characteristics of hazardous wastes and list  
19 particular hazardous wastes within 30 days after the effective  
20 date of this section, which initial list shall not be subject to  
21 section 107 of this act but shall be promulgated in accordance  
22 with section 204(3) [(relating to omission of notice of proposed  
23 rule making)] of the act of July 31, 1968 (P.L.769, No.240),  
24 referred to as the Commonwealth Documents Law.

25 Section 502. Permit and license application requirements.

26 \* \* \*

27 (d) The application for a permit shall set forth the manner  
28 in which the operator plans to comply with the requirements of  
29 the act of June 22, 1937 (P.L.1987, No.394), known as "The Clean  
30 Streams Law," the act of May 31, 1945 (P.L.1198, No.418), known

1 as the "Surface Mining Conservation and Reclamation Act," the  
2 act of January 8, 1960 (1959 P.L.2119, No.787), known as the  
3 "Air Pollution Control Act," and the act of November 26, 1978  
4 (P.L.1375, No.325), known as the "Dam Safety and Encroachments  
5 Act," as applicable. No approval shall be granted unless the  
6 plan provides for compliance with the statutes hereinabove  
7 enumerated, and failure to comply with the statutes hereinabove  
8 enumerated during construction and operation or thereafter shall  
9 render the operator liable to the sanctions and penalties  
10 provided in this act for violations of this act and to the  
11 sanctions and penalties provided in the statutes hereinabove  
12 enumerated for violations of such statutes. Such failure to  
13 comply shall be cause for revocation of any approval or permit  
14 issued by the department to the operator. Compliance with the  
15 provisions of this subsection and with the provisions of this  
16 act and the provisions of the statutes hereinabove enumerated  
17 shall not relieve the operator of the responsibility for  
18 complying with the provisions of all other applicable statutes,  
19 including, but not limited to the act of [July 17, 1961  
20 (P.L.659, No.339), known as the "Pennsylvania Bituminous Coal  
21 Mine Act,"] July 7, 2008 (P.L.654, No.55), known as the  
22 "Bituminous Coal Mine Safety Act," the act of November 10, 1965  
23 (P.L.721, No.346), known as the "Pennsylvania Anthracite Coal  
24 Mine Act," and the act of July 9, 1976 (P.L.931, No.178),  
25 entitled "An act providing emergency medical personnel;  
26 employment of emergency medical personnel and emergency  
27 communications in coal mines."

28 \* \* \*

29 Section 507. Siting of hazardous waste treatment and disposal  
30 facilities.

1 (a) The Department of Environmental [Resources] Protection  
2 shall have the power and authority to develop, prepare and  
3 modify the Pennsylvania Hazardous Waste Facilities Plan. The  
4 plan shall include:

5 \* \* \*

6 Section 602. Enforcement orders.

7 \* \* \*

8 (d) The Department of Environmental [Resources] Protection  
9 shall have the power to order, orally or in writing, any person  
10 or municipality to immediately suspend or modify hazardous waste  
11 treatment or disposal activities when he determines that  
12 continued operation will jeopardize public health, safety or  
13 welfare. Said order shall be effective upon issuance and may  
14 only be superseded by further department action or, after an  
15 appeal has been perfected, by the Environmental Hearing Board  
16 after notice and hearing. Furthermore, said order may require  
17 remedial actions to be taken in order to prevent harm to public  
18 health, safety or welfare. Within two business days after the  
19 issuance of such oral order, the department shall issue a  
20 written order reciting and modifying, where appropriate, the  
21 terms and conditions contained in the oral order.

22 Section 4. The provisions of 58 Pa.C.S. § 3273.1 are  
23 repealed insofar as they are inconsistent with the amendment of  
24 the definition of "hazardous waste" in section 103 of the act.

25 Section 5. This act shall take effect in 60 days.