
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1355 Session of
2020

INTRODUCED BY MUTH, SANTARSIERO, FARNESE, COSTA AND IOVINO,
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; in residual
19 waste, further providing for disposal, processing and storage
20 of residual waste and providing for exempt special wastes;
21 and making editorial changes.

22 The General Assembly of the Commonwealth of Pennsylvania
23 hereby enacts as follows:

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

27 AN ACT

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

17 Section 2. The definitions of "department," "drill
18 cuttings," "secretary" and "solid waste" in section 103 of the
19 act are amended and the section is amended by adding a
20 definition to read:

21 Section 103. Definitions.

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

25 * * *

26 "Department." The Department of Environmental [Resources]
27 Protection of the Commonwealth of Pennsylvania and its
28 authorized representatives.

29 * * *

30 "Drill cuttings." Rock cuttings and related mineral residues

1 created during the drilling of wells pursuant to [the act of
2 December 19, 1984 (P.L.1140, No.223), known as the "Oil and Gas
3 Act,"] 58 Pa.C.S. (relating to oil and gas), provided such
4 materials are disposed of at the well site and pursuant to
5 [section 206 of the "Oil and Gas Act."] 58 Pa.C.S. § 3216
6 (relating to well site restoration).

7 "Exempt special waste." A solid waste excluded as a
8 hazardous waste under 40 CFR 261.4(b)(5) (relating to
9 exclusions).

10 * * *

11 "Secretary." The Secretary of the Department of
12 Environmental [Resources] Protection of the Commonwealth of
13 Pennsylvania.

14 "Solid waste." Any waste, including but not limited to,
15 municipal, residual or hazardous wastes, including solid,
16 liquid, semisolid or contained gaseous materials. The term does
17 not include coal ash or drill cuttings, except for drill
18 cuttings from geologic formations that contain oil or gas
19 deposits.

20 * * *

21 Section 3. Sections 105(c) and 106(b) of the act are amended
22 to read:

23 Section 105. Powers and duties of the Environmental Quality
24 Board.

25 * * *

26 (c) The Environmental Quality Board shall have the power and
27 its duty shall be to adopt rules and regulations and standards
28 to provide for the coordination of administration and
29 enforcement of this act between the Department of Environmental
30 [Resources] Protection and county health departments where they

1 exist.

2 * * *

3 Section 106. Powers and duties of county health departments;
4 limitation.

5 * * *

6 (b) Notwithstanding the grant of powers in subsection (a),
7 in any case where administration and enforcement of this act by
8 a county health department shall conflict with administration
9 and enforcement by the Department of Environmental [Resources]
10 Protection, administration and enforcement by the Department of
11 Environmental [Resources] Protection shall take precedence over
12 administration and enforcement by a county health department.

13 Section 4. Section 302(b) of the act is amended and the
14 section is amended by adding subsections to read:

15 Section 302. Disposal, processing and storage of residual
16 waste.

17 * * *

18 (b) It shall be unlawful for any person or municipality who
19 stores, processes, or disposes of residual waste to fail to:

20 (1) Use such methods and facilities as are necessary to
21 control leachate, runoff, discharges and emissions from
22 residual waste in accordance with department regulations.

23 (2) Use such methods and facilities as are necessary to
24 prevent the harmful or hazardous mixing of wastes.

25 (3) Design, construct, operate and maintain facilities
26 and areas in a manner which shall not adversely effect or
27 endanger public health, safety and welfare or the environment
28 or cause a public nuisance.

29 (4) Test leachate prior to discharge for the presence of
30 all of the following in accordance with National Pollutant

1 Discharge Elimination System requirements:

2 (i) Chloride.

3 (ii) Bromide.

4 (iii) Sulfate.

5 (iv) Nitrate.

6 (5) Test leachate prior to discharge for hazardous
7 characteristics in accordance with requirements under 40 CFR
8 Pt. 261 Subpt. C (relating to characteristics of hazardous
9 waste), including:

10 (i) Toxicity.

11 (ii) Corrosivity.

12 (iii) Ignitability.

13 (iv) Reactivity.

14 (6) Test leachate prior to discharge for the presence of
15 all of the following naturally occurring radionuclides in
16 accordance with the standards under the Safe Drinking Water
17 Act (Public Law 93-523, 21 U.S.C. § 349 and 42 U.S.C. §§ 201
18 and 300f et seq.), as amended, including:

19 (i) Uranium and its decay products.

20 (ii) Thorium and its decay products.

21 (iii) Radium and its decay products.

22 (iv) Potassium-40.

23 (v) Lead-210/Polonium-210.

24 (c) In accordance with the standards specified in subsection
25 (b) (4), (5) and (6):

26 (1) A facility shall test municipal waste or residual
27 waste at the time that the municipal waste or residual waste
28 enters the facility.

29 (2) A facility shall test any municipal waste or
30 residual waste leachate prior to processing onsite or leaving

1 the facility.

2 (d) A residual waste landfill under 25 Pa. Code Ch. 288
3 (relating to residual waste landfills), which accepts residual
4 waste under this act, shall add naturally occurring
5 radionuclides, as described in subsection (b)(6), to the
6 groundwater testing conducted by the residual waste landfill.

7 (e) A facility shall establish and maintain records to
8 compare the testing results regarding municipal waste or
9 residual waste that enters the facility with the testing results
10 regarding leachate leaving the facility, to determine the
11 effectiveness of the disposal or processing of the municipal
12 waste or residual waste. The following shall apply:

13 (1) For comparison purposes, the same testing
14 requirements shall be used on the municipal waste or residual
15 waste that enters the facility and the leachate leaving the
16 facility.

17 (2) The facility shall report quarterly to the
18 department and the municipality in which the facility is
19 located the testing results regarding the municipal waste or
20 residual waste that enters the facility and the leachate
21 leaving the facility. The report shall include the following:

22 (i) Volume and contents of the waste.

23 (ii) Type of waste, by category.

24 (iii) The presence of radionuclides, chloride,
25 bromide, sulfate or nitrate and their concentration
26 levels.

27 (iv) The presence and level of toxicity,
28 corrosivity, ignitability or reactivity.

29 (3) The department shall make the reports under this
30 subsection available on the department's publicly accessible

1 Internet website.

2 (4) A copy of the reports under this subsection shall be
3 made available for review at the facility.

4 (5) The department shall require a public hearing if the
5 leachate exceeds the permissible levels under the National
6 Pollutant Discharge Elimination System or the Safe Drinking
7 Water Act, as amended, or is hazardous according to 40 CFR
8 Pt. 261 Subpt. C.

9 (f) A person or municipality may not, for the purpose of
10 storage, processing or disposal, provide or receive residual
11 waste that exceeds permissible levels in accordance with the
12 standards specified in subsection (b) (4), (5) and (6).

13 Section 5. The act is amended by adding a section to read:
14 Section 304. Exempt special wastes.

15 (a) The following shall apply:

16 (1) It shall be unlawful for any person or municipality
17 who stores, processes or disposes of residual waste to
18 receive exempt special waste from a facility unless the
19 exempt special waste is nonhazardous and nonradioactive, as
20 determined using the hazardous waste characteristic
21 properties of ignitability, corrosivity, reactivity and
22 toxicity described under 40 CFR Pt. 261 Subpt. C (relating to
23 characteristics of hazardous waste) and the Safe Drinking
24 Water Act (Public Law 93-523, 21 U.S.C. § 349 and 42 U.S.C.
25 §§ 201 and 300f et seq.), as amended, including:

26 (i) Uranium and its decay products.

27 (ii) Thorium and its decay products.

28 (iii) Radium and its decay products.

29 (iv) Potassium-40.

30 (v) Lead-210/Polonium-210.

1 (2) Waste should be tested for all of the following in
2 accordance with National Pollutant Discharge Elimination
3 System requirements:

4 (i) Chloride.

5 (ii) Bromide.

6 (iii) Sulfate.

7 (iv) Nitrate.

8 (3) In determining whether exempt special waste is
9 nonhazardous, at a minimum:

10 (i) Best available technology economically
11 achievable, as described in 33 U.S.C. § 1314(b)(2)(B)
12 (relating to information and guidelines), must be used.

13 (ii) A representative sample, as defined in 40 CFR
14 260.10 (relating to definitions), must be tested.

15 (b) The following shall apply regarding reports:

16 (1) A facility shall report quarterly to the department
17 and the municipality in which the facility is located any
18 exempt special waste from a drilling site that is received by
19 the facility. The report shall include the following:

20 (i) Volume and contents of the waste.

21 (ii) Type of waste, by category.

22 (iii) The presence of radionuclides, chloride,
23 bromide, sulfate or nitrate and their concentration
24 levels.

25 (iv) The presence and level of toxicity,
26 corrosivity, ignitability or reactivity.

27 (2) The department shall make the reports under this
28 subsection available on the department's publicly accessible
29 Internet website.

30 (3) A copy of the reports under this subsection shall be

1 made available for review at the facility.

2 (c) If exempt special waste is not nonhazardous, as
3 described in subsection (a), the department or municipality
4 shall schedule a public hearing to address the hazardous levels.

5 (d) A person, municipality or facility may not, for the
6 purpose of storage, processing or disposal, provide or receive
7 exempt special waste that is not nonhazardous, as described in
8 subsection (a).

9 Section 6. Sections 402, 502(d), 507(a) introductory
10 paragraph and 602(d) of the act are amended to read:

11 Section 402. Listing of hazardous waste.

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

1 Section 502. Permit and license application requirements.

2 * * *

3 (d) The application for a permit shall set forth the manner
4 in which the operator plans to comply with the requirements of
5 the act of June 22, 1937 (P.L.1987, No.394), known as "The Clean
6 Streams Law," the act of May 31, 1945 (P.L.1198, No.418), known
7 as the "Surface Mining Conservation and Reclamation Act," the
8 act of January 8, 1960 (1959 P.L.2119, No.787), known as the
9 "Air Pollution Control Act," and the act of November 26, 1978
10 (P.L.1375, No.325), known as the "Dam Safety and Encroachments
11 Act," as applicable. No approval shall be granted unless the
12 plan provides for compliance with the statutes hereinabove
13 enumerated, and failure to comply with the statutes hereinabove
14 enumerated during construction and operation or thereafter shall
15 render the operator liable to the sanctions and penalties
16 provided in this act for violations of this act and to the
17 sanctions and penalties provided in the statutes hereinabove
18 enumerated for violations of such statutes. Such failure to
19 comply shall be cause for revocation of any approval or permit
20 issued by the department to the operator. Compliance with the
21 provisions of this subsection and with the provisions of this
22 act and the provisions of the statutes hereinabove enumerated
23 shall not relieve the operator of the responsibility for
24 complying with the provisions of all other applicable statutes,
25 including, but not limited to the act of [July 17, 1961
26 (P.L.659, No.339), known as the "Pennsylvania Bituminous Coal
27 Mine Act,"] July 7, 2008 (P.L.654, No.55), known as the
28 "Bituminous Coal Mine Safety Act," the act of November 10, 1965
29 (P.L.721, No.346), known as the "Pennsylvania Anthracite Coal
30 Mine Act," and the act of July 9, 1976 (P.L.931, No.178),

1 entitled "An act providing emergency medical personnel;
2 employment of emergency medical personnel and emergency
3 communications in coal mines."

4 * * *

5 Section 507. Siting of hazardous waste treatment and disposal
6 facilities.

7 (a) The Department of Environmental [Resources] Protection
8 shall have the power and authority to develop, prepare and
9 modify the Pennsylvania Hazardous Waste Facilities Plan. The
10 plan shall include:

11 * * *

12 Section 602. Enforcement orders.

13 * * *

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

28 Section 7. This act shall take effect in 60 days.