

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2895 Session of
1990

INTRODUCED BY D. R. WRIGHT, GEORGE, COY, STISH, FAIRCHILD,
BILLOW, PETRARCA, JACKSON, McCALL, STUBAN, LUCYK, HALUSKA,
MIHALICH, VEON, TANGRETTI, SCHULER, RYBAK, RUDY, PHILLIPS,
DEMPSEY, VAN HORNE, PESCI, ROBBINS, BELARDI, LAUGHLIN, MELIO,
CAWLEY, PISTELLA, TRELLO, DeLUCA, MORRIS, DOMBROWSKI, MAINE,
COLAIZZO, CAPPABIANCA, LESCOVITZ, FEE, STABACK, TELEK,
SERAFINI AND COHEN, SEPTEMBER 25, 1990

REFERRED TO COMMITTEE ON CONSERVATION, SEPTEMBER 25, 1990

AN ACT

1 Amending the act of October 18, 1988 (P.L.756, No.108), entitled
2 "An act providing for the cleanup of hazardous waste sites;
3 providing further powers and duties of the Department of
4 Environmental Resources and the Environmental Quality Board;
5 providing for response and investigations for liability and
6 cost recovery; establishing the Hazardous Sites Cleanup Fund;
7 providing for certain fees and for enforcement, remedies and
8 penalties; and repealing certain provisions relating to the
9 rate of the capital stock franchise tax," further providing
10 for the Hazardous Waste Facility Siting Team.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 Section 1. Section 309(a) and (c) of the act of October 18,
14 1988 (P.L.756, No.108), known as the Hazardous Sites Cleanup
15 Act, are amended and the section is amended by adding
16 subsections to read:

17 Section 309. Hazardous Waste Facility Siting Team.

18 (a) Establishment.--Within 30 days after the effective date
19 of this act, the secretary shall establish a Hazardous Waste

1 Facility Siting Team consisting of department personnel with the
2 particular expertise necessary for the complete review of permit
3 applications for commercial hazardous waste treatment or
4 disposal facilities. The secretary shall select siting team
5 representatives from each section of review required to
6 determine conformity of applications with [siting criteria
7 contained in Phase I of 25 Pa. Code Ch. 75 Subch. F (relating to
8 siting hazardous waste treatment and disposal facilities)] 25
9 Pa. Code § 269.21 et seq. (relating to Phase I exclusionary
10 criteria) and other applicable law and regulations relating to
11 the review and approval of permit applications. Members of the
12 siting team shall include attorneys, engineers and such other
13 administrative and program personnel considered essential by the
14 secretary for expedited review of permit applications. The
15 performance of the siting team's duties pursuant to this section
16 shall be deemed a priority with regard to any other work
17 assignments and responsibilities.

18 * * *

19 (c) Expedited site review.--Within five months of the
20 receipt of an administratively complete siting module portion of
21 a permit application for a commercial hazardous waste treatment
22 or disposal facility, the siting team shall complete its review
23 of the siting modules to determine the conformity of the
24 proposed site to the siting criteria established pursuant to
25 [Phase I of] 25 Pa. Code [Ch. 75 Subch. F] § 269.21 et seq. Upon
26 filing the siting modules with the siting team, an applicant
27 shall provide written notification of such filing to the
28 governing bodies of the proposed host county and host
29 municipality. To facilitate review by the host county and host
30 municipality, grants may be made available pursuant to section

1 304(d). In addition, members of the department's siting team
2 shall be available to the applicant and the governing bodies of
3 the proposed host county and host municipality for the purpose
4 of discussing the siting modules and their conformity with the
5 siting criteria. The siting team shall conduct one public
6 hearing and at least one public information meeting on the
7 application at locations near the proposed site during the five-
8 month review period. The siting team shall notify the applicant,
9 the host county and host municipality of its determination
10 regarding the conformity of the siting modules with the siting
11 criteria in writing.

12 * * *

13 (g) Site location criteria.--No hazardous waste treatment or
14 disposal facility may be located within five air miles of a
15 school, community park, hospital, church, retail center, nursing
16 home or occupied dwelling. The distance from a facility to a
17 feature or structure described in this section shall be measured
18 from the perimeter of the facility site.

19 (h) Exclusionary siting criteria.--The provisions of 25 Pa.
20 Code § 269.21 et seq. (relating to Phase I exclusionary
21 criteria) shall apply to the proposed facility site, which shall
22 include the entire site, including all contiguous land owned or
23 under the control of the proposed owner or operator of the
24 hazardous waste facility and identified in a permit or permit
25 application.

26 (i) Siting application criteria.--

27 (1) The siting team shall not accept any permit
28 application or siting module for the siting, construction or
29 operation of a hazardous waste treatment or disposal facility
30 unless that permit application or siting module is

1 accompanied by a completed engineering design of the proposed
2 facility that is in conformance with performance standards
3 established by the department. The department shall not
4 review or consider a pending application for the construction
5 or operation of a hazardous waste facility until the
6 engineering design of the proposed facility is complete.

7 (2) Notwithstanding any other provision of law to the
8 contrary, no permit for the construction or operation of a
9 hazardous waste treatment or disposal facility that
10 incinerates or trial burns hazardous waste shall be granted
11 unless and until the applicant can demonstrate that the
12 facility has been designed and will be operated in such
13 manner to achieve a destruction and removal efficiency of
14 100% for each hazardous constituent, as defined at 40 CFR
15 Part 261, App. VIII (July 1, 1989), established pursuant to
16 the Resource Conservation and Recovery Act of 1976 (Public
17 Law 94-580, 42 U.S.C. § 6901 et seq.), designated in its
18 permit application and that the waste will pose no threat to
19 human health or the environment when burned in the
20 incinerator.

21 (3) Notwithstanding any other provision of law to the
22 contrary, a permit for the construction or operation of a
23 hazardous waste treatment or disposal facility that
24 incinerates hazardous waste must, as a condition of the
25 permit, require the installation of an air emission
26 monitoring system approved by the department. The monitoring
27 system must provide continuous measurements to ensure
28 compliance with emission limits. The system must also be
29 capable of providing a permanent record of monitored
30 emissions that will be available upon request to the

1 department and the general public. The department shall
2 provide periodic inspection of the monitoring system to
3 determine its continued accuracy. At any time after normal
4 start-up, if the permitted facility's emissions exceed permit
5 requirements, based on accurate and valid emissions data, the
6 facility shall immediately report the excess to the
7 department and immediately either commence appropriate
8 modifications to the facility to ensure its ability to meet
9 permitted requirements or commence shutdown if the
10 modifications cannot be completed within 72 hours. This
11 paragraph shall not be construed to limit the authority of
12 the department to regulate incinerator operations under any
13 other law.

14 Section 2. This act shall apply to permit applications
15 pending before the Department of Environmental Resources, the
16 Environmental Hearing Board or a court of competent jurisdiction
17 on the effective date of this act as well as to permit
18 applications submitted on or after the effective date of this
19 act.

20 Section 3. This act shall take effect in 60 days.