
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 949 Session of
1991

INTRODUCED BY D. R. WRIGHT, COHEN, S. H. SMITH, FREEMAN,
FAIRCHILD, BELARDI, BILLOW, STABACK, HERSHEY, LaGROTTA, BUSH,
FOX, ARGALL, CIVERA, WOGAN, JOSEPHS, TRELLO, PESCI, STURLA,
CALTAGIRONE, COLAIZZO, MAYERNIK, LUCYK, GRUITZA, CLYMER,
HANNA, KRUSZEWSKI, PETRARCA, OLASZ, PETRONE, SCHEETZ,
D. W. SNYDER, CARONE, PISTELLA, KASUNIC, RUDY, SERAFINI,
STAIRS, FARGO, RICHARDSON, PHILLIPS AND GIGLIOTTI,
APRIL 2, 1991

REFERRED TO COMMITTEE ON CONSERVATION, APRIL 2, 1991

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," providing for waste
10 minimization.

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

13 Section 1. Section 103 of the act of October 18, 1988
14 (P.L.756, No.108), known as the Hazardous Sites Cleanup Act, is
15 amended by adding definitions to read:

16 Section 103. Definitions.

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

1 * * *

2 "Hazardous waste generator." A person or municipality that
3 produces or creates hazardous waste, as defined under the act of
4 July 7, 1980 (P.L.380, No.97), known as the Solid Waste
5 Management Act, and any regulations promulgated under that act.

6 "Hazardous waste minimization." The reduction of hazardous
7 waste or residual waste generation using source reduction or
8 recycling techniques.

9 * * *

10 "Source reduction." The reduction or elimination of waste
11 generation at the source by methods, including, but not limited
12 to, process modification, a change in raw materials or
13 feedstocks used in a production process or operation, improved
14 efficiency of machinery, recycling within a process or any
15 action that reduces the amount of waste leaving a process. The
16 term does not include any of the following:

17 (1) Actions taken after a hazardous waste is generated.

18 (2) Actions that merely concentrate the constituents of
19 a hazardous waste to reduce its volume or that dilute the
20 hazardous waste to reduce its hazardous characteristics.

21 (3) Actions that merely shift hazardous wastes from one
22 environmental medium to another environmental medium.

23 (4) Treatment.

24 "Trade secret." Includes, but is not limited to, any
25 formula, plan, pattern, process, tool, mechanism, compound,
26 procedure, production, data or compilation of information which:

27 (1) Is not patented.

28 (2) Is known only to certain individuals within a
29 commercial concern who are using it to fabricate, produce or
30 compound an article of trade or a service having commercial

1 value.

2 (3) Gives its user an opportunity to obtain a business
3 advantage over competitors who do not know or use it.

4 * * *

5 "Waste exchange." A service that transfers information
6 between waste generators and potential users.

7 Section 2. The act is amended by adding a section to read:

8 Section 1303.1. Waste minimization plan.

9 (a) General rule.--Each hazardous waste generator shall
10 prepare and implement a waste minimization plan to demonstrate
11 that a program is in place to reduce the volume and toxicity of
12 hazardous waste generated to the degree that is determined by
13 the department to be technologically and economically feasible.
14 The waste minimization plan shall be prepared, submitted to the
15 department and available for inspection within one year of the
16 effective date of this section. Implementation shall commence
17 within 18 months of the effective date of this section.

18 (b) Contents of plan.--Each waste minimization plan shall
19 contain the following information:

20 (1) A description of each hazardous waste stream
21 generated at the facility, the generation rate by weight or
22 volume per unit of production and an evaluation of the nature
23 and extent of any current or previous waste minimization
24 programs or efforts at the facility.

25 (2) A plan for reducing the volume of hazardous waste
26 generated by source reduction techniques to the greatest
27 extent that is technologically and economically feasible. The
28 plan shall describe the specific source reduction techniques
29 that will be implemented, the extent to which the volume of
30 waste will be reduced and the manner in which the reduction

1 will be measured. The plan shall include a detailed
2 evaluation of the potential for waste reduction by changing
3 the nature or quantity of raw materials, changing production
4 equipment or technology, improving production operations and
5 procedures, improving quality control and employee education,
6 redesigning or reformulating end products and other means.
7 The plan shall fully document and explain the generator's
8 rationale for rejecting any source reduction approach
9 available to the generator.

10 (3) A detailed analysis of the potential for cost
11 savings from source reduction, including savings in raw
12 materials and energy, reduced disposal costs, reduced
13 environmental liability, increased operational efficiency and
14 other factors.

15 (4) An evaluation and, to the extent practicable, a
16 quantification of the effects of the chosen source reduction
17 method on emissions and discharges to air, water and land.

18 (5) For each hazardous waste stream that will not be
19 eliminated by source reduction techniques, a plan for using
20 or reclaiming the waste to the greatest extent that is
21 technologically and economically feasible. For each waste,
22 the plan shall include an evaluation of the likelihood that
23 listing such waste with a waste exchange would result in the
24 use or reclamation of such waste. For each waste, a detailed
25 analysis of the potential for onsite use or reclamation shall
26 be conducted, including an analysis of available
27 technologies. A detailed analysis of the potential for
28 offsite use or reclamation, including consideration of
29 potential markets or reclamation facilities, shall be
30 completed. An analysis of the potential for costs savings

1 from recycling shall be prepared, including the criteria
2 listed in paragraph (2).

3 (6) For each waste stream that will not be eliminated by
4 source reduction, use or reclamation techniques, an analysis
5 of the treatment and disposal alternatives available. The
6 selected alternative must minimize the present and future
7 threat to human health and the environment.

8 (7) A timetable for implementation of each element of
9 the waste minimization plan.

10 (c) Certification.--At the time a waste minimization plan is
11 submitted to the department, the generator shall certify that
12 the generator has implemented, is implementing or will be
13 implementing the source reduction measures identified in the
14 waste minimization plan according to the implementation schedule
15 contained in the plan. A generator may determine not to
16 implement a measure contained in the plan only if the generator
17 determines, upon conducting further analysis or due to
18 unexpected circumstances, that the selected measure is not
19 technically feasible or economically practicable and the
20 department concurs in this determination or if attempts to
21 implement that measure reveal that the measure would result in,
22 or has resulted in, any of the following:

23 (1) An increase in the generation of hazardous waste.

24 (2) An increase in the release of hazardous chemicals to
25 other environmental media.

26 (3) A significant increase in the risk of an adverse
27 impact to human health or the environment.

28 (d) Annual report.--Each generator shall submit an annual
29 waste minimization report. The report shall be on a form
30 provided by the department and shall contain the following

1 information:

2 (1) The name, identification number, mailing address and
3 location of the generator.

4 (2) A list of each hazardous waste stream generated, the
5 hazardous waste number, the generation rate by weight or
6 volume per unit of production for the current or previous
7 years and the percent increase or decrease in the generation
8 rate.

9 (3) An assessment of the effect, during the current year
10 and previous years, of each hazardous waste minimization
11 measure implemented upon the generation of hazardous waste.
12 The report shall consider, but not be limited to, measures
13 which use all of the following approaches:

14 (i) Source reduction.

15 (ii) Recycling.

16 (iii) Treatment.

17 (4) A description of factors during the current
18 reporting year or two previous years that have affected
19 hazardous waste generation and onsite and offsite management,
20 including, but not limited to, any of the following:

21 (i) Changes in business activity.

22 (ii) Changes in waste classification.

23 (iii) Natural phenomena.

24 (iv) Other factors that have affected either the
25 quantity of hazardous waste generated or onsite and
26 offsite hazardous waste management requirements.

27 (5) Other information as required by the department.

28 (e) Annual report to Governor and General Assembly.--

29 Commencing July 1, 1993, the secretary shall prepare and submit
30 to the Governor and to the General Assembly an annual report of

1 the department's operations and activities in carrying out the
2 provisions of this section. The report shall include, but not be
3 limited to, all of the following information:

4 (1) An evaluation of the hazardous waste source
5 reduction progress in this Commonwealth.

6 (2) Recommendations for legislation.

7 (3) Identification of any Federal, State or private
8 economic and financial incentives that can best accelerate
9 and maximize the research and development of source reduction
10 and other hazardous waste minimization technologies and
11 approaches.

12 (4) The status, funding and results of all research
13 projects.

14 (f) Trade secrets.--The department shall adopt regulations
15 to ensure that trade secrets designated by a hazardous waste
16 generator in the waste minimization plan required by this
17 section are utilized by the department only in connection with
18 the responsibilities of the department under this section and
19 that those trade secrets are not otherwise disseminated by the
20 department or any authorized representative of the department
21 without the consent of the generator. However, any information
22 shall be made available to governmental agencies for use in
23 making studies and for use in judicial review or enforcement
24 proceedings involving the person furnishing the information. The
25 regulations shall conform with the corresponding trade secret
26 regulations adopted by the Environmental Protection Agency
27 pursuant to the Resource Conservation and Recovery Act of 1976
28 (Public Law 94-580, 42 U.S.C. § 6901 et seq.), except that the
29 regulations adopted by the department may be more stringent or
30 more extensive than the Federal trade secret regulations.

1 (1) The department shall protect from disclosure any
2 trade secret designated by the generator under this section.

3 (2) This section does not permit a generator to refuse
4 to disclose the information required under this section to
5 the department.

6 (3) Any officer or employee of the department who,
7 because of employment or official position, has possession of
8 or access to confidential information and who, knowing that
9 disclosure of the information to the general public is
10 prohibited by this section, knowingly and intentionally
11 discloses the information to any person not entitled to
12 receive it, commits a misdemeanor of the third degree and
13 shall, upon conviction, be sentenced to pay a fine of not
14 more than \$1,000.

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