

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 814 Session of
1999

INTRODUCED BY GRUCELA, FREEMAN, MARKOSEK, SERAFINI, TANGRETTI,
GEORGE, STEELMAN, HORSEY, MUNDY, DeLUCA, LAUGHLIN,
YOUNGBLOOD, McNAUGHTON, LEVDANSKY, McCALL, MELIO, JOSEPHS,
M. COHEN, WILLIAMS, YUDICHAK, TRELLO, RUFFING, SOLOBAY, COSTA
AND ROONEY, MARCH 10, 1999

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
MARCH 10, 1999

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," adding
18 definitions; and further providing for submission of plans
19 and permits, for permits and licenses required, for granting
20 of permits and licenses and for bonds.

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

23 Section 1. Section 103 of the act of July 7, 1980 (P.L.380,
24 No.97), known as the Solid Waste Management Act, is amended by
25 adding definitions to read:

1 Section 103. Definitions.

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

5 * * *

6 "Affected municipality." A municipality within one mile of a
7 proposed municipal waste landfill, that is on an approach route
8 to a municipal waste landfill regulated by this act, or that is
9 otherwise adversely impacted by a facility.

10 * * *

11 "Host municipality." The municipality other than the county
12 within which a municipal waste landfill is located or is
13 proposed to be located.

14 * * *

15 Section 2. Sections 502 and 503 of the act are amended by
16 adding subsections to read:

17 Section 502. Permit and license application requirements.

18 * * *

19 (d.1) The application shall include all records, reports,
20 information and dispositions relating to violations of 75
21 Pa.C.S. Pt. IV (relating to vehicle characteristics). Such
22 information shall be considered by the department when
23 considering an application under this section.

24 * * *

25 Section 503. Granting, denying, renewing, modifying, revoking
26 and suspending permits and licenses.

27 * * *

28 (b.1) No permit shall be issued for the siting of a new
29 municipal waste landfill or the expansion of an existing
30 municipal waste landfill in a municipality where a referendum

1 has been conducted pursuant to section 504.1 and the electorate
2 has voted against the siting of a new municipal waste landfill
3 or the expansion of an existing municipal waste landfill.

4 * * *

5 (c.1) In carrying out the provisions of this act, the
6 department may deny, suspend, modify, or revoke any permit or
7 license if it finds that the applicant, permittee or licensee
8 has failed or continues to fail to comply with the provisions of
9 75 Pa.C.S. Pt. IV (relating to vehicle characteristics).

10 * * *

11 (f) Any permit issued under this act for the operation of a
12 municipal waste landfill will be issued for a fixed term
13 consistent with the approved operation and design plans of a
14 municipal waste landfill and not to exceed ten years. No
15 municipal waste may be disposed of or processed at such a
16 landfill after the expiration of its permit term. Expiration of
17 the permit term shall not limit the operator's responsibility
18 for complying with requirements under this act, the
19 environmental protection acts, regulations thereunder or the
20 terms or conditions of its permits. The department shall, from
21 time to time, but at intervals not to exceed two years, review a
22 permit issued to a municipal waste landfill under this act. In
23 its review, the department shall evaluate the permit to
24 determine whether it reflects currently applicable operating
25 requirements as well as current technology and management
26 practices. The department may require modification, suspension
27 or revocation of the permit when necessary to carry out the
28 purposes of this act or the environmental protection acts.

29 Section 3. The act is amended by adding a section to read:
30 Section 504.1. Referendum on siting of municipal waste

1 landfills or expansion of existing municipal
2 waste landfills.

3 (a) Prior to the approval of an application for a permit to
4 operate a municipal waste landfill or a permit to expand an
5 existing municipal waste landfill's capacity by the governing
6 body or the department, the county board of elections shall
7 conduct a binding referendum in the host municipality and all
8 affected municipalities. The department shall not issue such a
9 permit if a majority of the municipalities participating in the
10 referendum reject the proposed siting or expansion by a majority
11 vote of the electors in each municipality.

12 (b) The binding referendum shall be conducted at the first
13 primary, municipal or general election occurring at least 60
14 days after the department has notified the host county that it
15 has received an application for a permit to operate a municipal
16 waste landfill or to expand the capacity of an existing
17 facility.

18 (c) The results of the binding referendum shall be
19 transmitted to the department, the governing body of the county,
20 the host municipality and all affected municipalities.

21 (d) Procedures under this section shall be in accordance
22 with the act of June 3, 1937 (P.L.1333, No.320), known as the
23 "Pennsylvania Election Code."

24 Section 4. Section 505 of the act, amended July 11, 1990
25 (P.L.450, No.109), is amended to read:
26 Section 505. Bonds.

27 (a) With the exception of municipalities operating landfills
28 solely for municipal waste not classified hazardous, prior to
29 the commencement of operations, the operator of a municipal or
30 residual waste processing or disposal facility or of a hazardous

1 waste storage, treatment or disposal facility for which a permit
2 is required by this section shall file with the department a
3 bond for the land affected by such facility on a form prescribed
4 and furnished by the department. Such bond shall be payable to
5 the Commonwealth and conditioned so that the operator shall
6 comply with the requirements of this act, the act of June 22,
7 1937 (P.L.1987, No.394), known as "The Clean Streams Law," the
8 act of May 31, 1945 (P.L.1198, No.418), known as the "Surface
9 Mining Conservation and Reclamation Act," the act of January 8,
10 1960 (1959 P.L.2119, No.787), known as the "Air Pollution
11 Control Act," and the act of November 26, 1978 (P.L.1375,
12 No.325), known as the "Dam Safety and Encroachments Act." The
13 department may require additional bond amounts for the permitted
14 areas should such an increase be determined by the department to
15 be necessary to meet the requirements of this act. The amount of
16 the bond required shall be in an amount determined by the
17 secretary based upon the total estimated cost to the
18 Commonwealth of completing final closure according to the permit
19 granted to such facility and such measures as are necessary to
20 prevent adverse effects upon the environment; such measures
21 include but are not limited to satisfactory monitoring, post-
22 closure care, and remedial measures. The bond amount shall
23 reflect the additional cost to the Commonwealth which may be
24 entailed by being required to bring personnel and equipment to
25 the site. All permits shall be bonded for at least [\$10,000]
26 \$50,000. Liability under such bond shall be for the duration of
27 the operation, and for a period of up to [ten] 15 full years
28 after final closure of the permit site. Such bond shall be
29 executed by the operator and a corporate surety licensed to do
30 business in the Commonwealth and approved by the secretary:

1 Provided, however, That the operator may elect to deposit cash,
2 certificates of deposit, automatically renewable irrevocable
3 letters of credit which are terminable only upon 90 days written
4 notice to the operator and the department, or negotiable bonds
5 of the United States Government or the Commonwealth of
6 Pennsylvania, the Pennsylvania Turnpike Commission, the General
7 State Authority, the State Public School Building Authority, or
8 any municipality within the Commonwealth, with the department in
9 lieu of a corporate surety. The cash amount of such deposit,
10 irrevocable letters of credit or market value of such securities
11 shall be equal at least to the sum of the bond. The secretary
12 shall, upon receipt of any such deposit of cash or negotiable
13 bonds, immediately place the same with the State Treasurer,
14 whose duty it shall be to receive and hold the same in the name
15 of the Commonwealth, in trust, for the purposes for which such
16 deposit is made. The State Treasurer shall at all times be
17 responsible for the custody and safekeeping of such deposits.
18 The operator making the deposit shall be entitled from time to
19 time to demand and receive from the State Treasurer, on the
20 written order of the secretary, the whole or any portion of any
21 collateral so deposited, upon depositing with him, in lieu
22 thereof, other collateral of the classes herein specified having
23 a market value at least equal to the sum of the bond, also to
24 demand, receive and recover the interest and income from said
25 negotiable bonds as the same becomes due and payable: Provided,
26 however, That where negotiable bonds, deposited as aforesaid,
27 mature or are called, the State Treasurer, at the request of the
28 permittee, shall convert such negotiable bonds into such other
29 negotiable bonds of the classes herein specified as may be
30 designated by the permittee: And provided further, That where

1 notice of intent to terminate a letter of credit is given, the
2 department shall, after 30 days written notice to the operator
3 and in the absence of a replacement of such letter of credit
4 within such 30-day period by the operator with other acceptable
5 bond guarantees provided herein, draw upon and convert such
6 letter of credit into cash and hold it as a collateral bond
7 guarantee. In addition to criteria contained in department
8 regulations governing the adjustment of bond or trust amounts
9 and bond forfeiture, the department may require an operator to
10 deposit additional bond or trust amounts based on the compliance
11 history of the facility.

12 (a.1) The department may provide by regulation that the
13 amount of the bond required also reflect the potential
14 liabilities and costs associated with the transportation of
15 solid waste to a facility.

16 (b) In the case of applications for permits where the
17 department determines that the operations are reasonably
18 anticipated to continue for a period of at least ten years from
19 the date of application, the operator may elect to deposit
20 collateral and file a collateral bond as provided in subsection
21 (a) according to the following phase deposit schedule. The
22 operator shall, prior to commencing operations, deposit
23 [\$10,000] \$50,000 or [25%] 50% of the amount of the bond
24 determined under subsection (a), whichever is greater. The
25 operator shall, thereafter, annually deposit 10% of the
26 remaining bond amount for a period of ten years. Interest
27 accumulated by such collateral shall become a part of the bond.
28 The department may require additional bonding at any time to
29 meet the intent of subsection (a). The collateral shall be
30 deposited in trust, with the State Treasurer as provided in

1 subsection (a) or with a bank, selected by the department, which
2 shall act as trustee for the benefit of the Commonwealth,
3 according to rules and regulations promulgated hereunder, to
4 guarantee the operator's compliance with this act and the
5 statutes enumerated in subsection (a). The operator shall be
6 required to pay all costs of the trust. The collateral deposit,
7 or part thereof, shall be released of liability and returned to
8 the operator, together with a proportional share of accumulated
9 interest, upon the conditions of and pursuant to the schedule
10 and criteria for release provided in this act.

11 (c) The operator shall, prior to commencing operations on
12 any additional land exceeding the estimate made in the
13 application for a permit, file an additional application and
14 bond. Upon receipt of such additional application and related
15 documents and information as would have been required for the
16 additional land had it been included in the original application
17 for a permit and should all the requirements of this act be met
18 as were necessary to secure the permit, the secretary shall
19 promptly issue an amended permit covering the additional acreage
20 covered by such application, and shall determine the additional
21 bond requirement therefor.

22 (d) If the operator abandons the operation of a municipal or
23 residual waste processing or disposal facility or a hazardous
24 waste storage, treatment or disposal facility for which a permit
25 is required by this section or if the permittee fails or refuses
26 to comply with the requirements of this act in any respect for
27 which liability has been charged on the bond, the secretary
28 shall declare the bond forfeited and shall certify the same to
29 the Department of Justice which shall proceed to enforce and
30 collect the amount of liability forfeited thereon, and where the

1 operation has deposited cash or securities as collateral in lieu
2 of a corporate surety, the secretary shall declare said
3 collateral forfeited and shall direct the State Treasurer to pay
4 said funds into the Waste Abatement Fund. Should any corporate
5 surety fail to promptly pay, in full, forfeited bond, it shall
6 be disqualified from writing any further surety bonds under this
7 act.

8 (e) Prior to the issuance of any license for the
9 transportation of hazardous waste, the applicant for a license
10 shall file with the department a collateral bond on a form
11 prescribed and furnished by the department. Such bond shall be
12 payable to the Commonwealth and conditioned upon compliance by
13 the licensee with every requirement of this act, rule and
14 regulation of the department, order of the department and term
15 and condition of the license. The amount of the bond required
16 shall be in an amount determined by the secretary, but in an
17 amount no less than [\$10,000] \$50,000. The department may
18 require additional bond amounts if the department determines
19 such additional amounts are necessary to guarantee compliance
20 with this act. The licensee may elect to deposit cash or
21 automatically renewable irrevocable letters of credit which are
22 terminable only upon 90 days written notice to the operator and
23 the department, or negotiable bonds of the United States
24 Government or the Commonwealth of Pennsylvania, the Pennsylvania
25 Turnpike Commission, the General State Authority, the State
26 Public School Building Authority, or any municipality within the
27 Commonwealth. No corporate surety bond is authorized by this
28 subsection. The cash amount of such deposit, irrevocable letters
29 of credit, or market value of such securities shall be equal at
30 least to the sum of the bond. The secretary shall, upon receipt

1 of any such deposit of cash or negotiable bonds, immediately
2 place the same with the State Treasurer, whose duty it shall be
3 to receive and hold the same in the name of the Commonwealth, in
4 trust, for the purposes for which such deposit is made. The
5 State Treasurer shall at all times be responsible for the
6 custody and safekeeping of such deposits. The licensee making
7 the deposit shall be entitled from time to time to demand and
8 receive from the State Treasurer, on the written order of the
9 secretary, the whole or any portion of any collateral so
10 deposited, upon depositing with him, in lieu thereof, other
11 collateral of the classes herein specified having a market value
12 at least equal to the sum of the bond, also to demand, receive
13 and recover the interest and income from said negotiable bonds
14 as the same becomes due and payable: Provided, however, That
15 where negotiable bonds, deposited as aforesaid, mature or are
16 called, the State Treasurer, at the request of the licensee,
17 shall convert such negotiable bonds into such other negotiable
18 bonds of the classes herein specified as may be designated by
19 the licensee: And provided further, That where notice of intent
20 to terminate a letter of credit is given, the department shall,
21 after 30 days written notice to the licensee and in the absence
22 of a replacement of such letter of credit within such 30-day
23 period by the licensee with other acceptable bond guarantees
24 provided herein, draw upon and convert such letter of credit
25 into cash and hold it as a collateral bond guarantee. Liability
26 under such bond shall be for the duration of the license and for
27 a period of one year after the expiration of the license.

28 (f) Notwithstanding any other provisions of this act, when
29 an application for the land application of sewage sludge is made
30 by a municipality or a municipal authority, the filing of a bond

1 with the department shall not be required as a condition for
2 issuance of a permit to the municipality or municipal authority
3 for the application of the sewage sludge for land reclamation or
4 agricultural utilization purposes.

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