

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

**SENATE BILL**No. 29 Session of  
2023

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INTRODUCED BY MUTH, HAYWOOD, FONTANA, KEARNEY AND CAPPELLETTI,  
JANUARY 18, 2023

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REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, JANUARY 18, 2023

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## 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 Protection 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 an editorial change.

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

24 Section 1. The definitions of "drill cuttings" and "solid  
25 waste" in section 103 of the act of July 7, 1980 (P.L.380,  
26 No.97), known as the Solid Waste Management Act, are amended and  
27 the section is amended by adding a definition 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 "Drill cuttings." Rock cuttings and related mineral residues  
7 created during the drilling of wells pursuant to [the act of  
8 December 19, 1984 (P.L.1140, No.223), known as the "Oil and Gas  
9 Act,"] 58 Pa.C.S. (relating to oil and gas) provided such  
10 materials are disposed of at the well site and pursuant to  
11 [section 206 of the "Oil and Gas Act."] 58 Pa.C.S. § 3216  
12 (relating to well site restoration).

13 "Exempt special waste." A solid waste excluded as a  
14 hazardous waste under 40 CFR 261.4(b)(5) (relating to  
15 exclusions).

16 \* \* \*

17 "Solid waste." Any waste, including but not limited to,  
18 municipal, residual or hazardous wastes, including solid,  
19 liquid, semisolid or contained gaseous materials. The term does  
20 not include any of the following:

21 (1) Coal ash.

22 (2) Drill cuttings, except for drill cuttings from  
23 geologic formations that contain oil or gas deposits.

24 \* \* \*

25 Section 2. Section 302(b) of the act is amended and the  
26 section is amended by adding subsections to read:

27 Section 302. Disposal, processing and storage of residual  
28 waste.

29 \* \* \*

30 (b) It shall be unlawful for any person or municipality who

1 stores, processes, or disposes of residual waste to fail to:

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

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

7 (3) Design, construct, operate and maintain facilities  
8 and areas in a manner which shall not adversely effect or  
9 endanger public health, safety and welfare or the environment  
10 or cause a public nuisance.

11 (4) Test leachate prior to discharge for the presence of  
12 all of the following in accordance with National Pollutant  
13 Discharge Elimination System requirements:

14 (i) Chloride.

15 (ii) Bromide.

16 (iii) Sulfate.

17 (iv) Nitrate.

18 (5) Test leachate prior to discharge for hazardous  
19 characteristics in accordance with requirements under 40 CFR  
20 Pt. 261 Subpt. C (relating to characteristics of hazardous  
21 waste), including:

22 (i) Toxicity.

23 (ii) Corrosivity.

24 (iii) Ignitability.

25 (iv) Reactivity.

26 (6) Test leachate prior to discharge, in accordance with  
27 best practice standards through gamma-ray spectrometry using  
28 high-purity germanium (HPGe) and lithium-drifted germanium  
29 (Ge(Li)) detectors and any of their successor technologies,  
30 as specified in 40 CFR 141.25(a) (relating to analytical

1 methods for radioactivity), for the presence of all of the  
2 following naturally occurring radionuclides:

3 (i) Uranium and its decay products.

4 (ii) Thorium and its decay products.

5 (iii) Radium and its decay products.

6 (iv) Potassium-40.

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

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

10 (1) A facility shall test municipal waste or residual  
11 waste at the time that the municipal waste or residual waste  
12 enters the facility.

13 (2) A facility shall test any municipal waste or  
14 residual waste leachate prior to processing onsite or leaving  
15 the facility.

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

21 (e) A facility shall establish and maintain records to  
22 compare the testing results regarding municipal waste or  
23 residual waste that enters the facility with the testing results  
24 regarding leachate leaving the facility, to determine the  
25 effectiveness of the disposal or processing of the municipal  
26 waste or residual waste. The following provisions apply to  
27 testing under this subsection:

28 (1) For comparison purposes, the same testing  
29 requirements shall be used on the municipal waste or residual  
30 waste that enters the facility and the leachate leaving the

1 facility.

2 (2) The facility shall report quarterly to the  
3 department and the municipality in which the facility is  
4 located the testing results regarding the municipal waste or  
5 residual waste that enters the facility and the leachate  
6 leaving the facility. The report shall include the following:

7 (i) Volume and contents of the waste.

8 (ii) Type of waste, by category.

9 (iii) The presence of radionuclides, chloride,  
10 bromide, sulfate or nitrate and their concentration  
11 levels.

12 (iv) The presence and level of toxicity,  
13 corrosivity, ignitability or reactivity.

14 (3) The department shall make the reports under this  
15 subsection available on the department's publicly accessible  
16 Internet website.

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

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

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

28 Section 3. The act is amended by adding a section to read:  
29 Section 304. Exempt special wastes.

30 (a) It shall be unlawful for a person or municipality that

1 stores, processes or disposes of residual waste to receive  
2 exempt special waste from a facility unless the exempt special  
3 waste is nonhazardous and nonradioactive, as determined using  
4 the hazardous waste characteristic properties of ignitability,  
5 corrosivity, reactivity and toxicity described under 40 CFR Pt.  
6 261 Subpt. C (relating to characteristics of hazardous waste)  
7 and the best practice standards through gamma-ray spectrometry  
8 using high-purity germanium (HPGe) and lithium-drifted germanium  
9 (Ge(Li)) detectors and any of their successor technologies, as  
10 specified in 40 CFR 141.25(a) (relating to analytical methods  
11 for radioactivity), including:

12 (1) Uranium and its decay products.

13 (2) Thorium and its decay products.

14 (3) Radium and its decay products.

15 (4) Potassium-40.

16 (5) Lead-210/Polonium-210.

17 (b) Waste should be tested for all of the following in  
18 accordance with National Pollutant Discharge Elimination System  
19 requirements:

20 (1) Chloride.

21 (2) Bromide.

22 (3) Sulfate.

23 (4) Nitrate.

24 (c) In determining whether exempt special waste is  
25 nonhazardous, at a minimum:

26 (1) Best available technology economically achievable,  
27 as described in 33 U.S.C. § 1314(b)(2)(B) (relating to  
28 information and guidelines), must be used.

29 (2) A representative sample, as defined in 40 CFR 260.10  
30 (relating to definitions), must be tested.

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

5 (1) Volume and contents of the waste.

6 (2) Type of waste, by category.

7 (3) The presence of radionuclides, chloride, bromide,  
8 sulfate or nitrate and their concentration levels.

9 (4) The presence and level of toxicity, corrosivity,  
10 ignitability or reactivity.

11 (e) The department shall make the reports under this  
12 subsection available on the department's publicly accessible  
13 Internet website.

14 (f) A copy of the reports under subsection (e) shall be made  
15 available for review at the facility.

16 (g) If exempt special waste is not nonhazardous, as  
17 described in subsections (a) and (b), the department or  
18 municipality shall schedule a public hearing to address the  
19 hazardous levels.

20 (h) A person, municipality or facility may not, for the  
21 purpose of storage, processing or disposal, provide or receive  
22 exempt special waste that is not nonhazardous, as described in  
23 subsections (a) and (b).

24 Section 4. Section 502(d) of the act is amended to read:

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 5. This act shall take effect in 60 days.