

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 975 Session of
1989

INTRODUCED BY HOLL, BELL, LOEPER, HOPPER, RHOADES, CORMAN,
LEMOND, GREENLEAF, SHUMAKER, O'PAKE, WENGER, GREENWOOD,
FUMO, PETERSON, SALVATORE AND FISHER, MAY 31, 1989

REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, MAY 31, 1989

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," further
18 providing for licensing, permitting and other requirements
19 for the land disposal of sewage sludge.

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

22 Section 1. Section 104(16) and (17) of the act of July 7,
23 1980 (P.L.380, No.97), known as the Solid Waste Management Act,
24 are amended and the section is amended by adding a paragraph to
25 read:

26 Section 104. Powers and duties of the department.

1 The department in consultation with the Department of Health
2 regarding matters of public health significance shall have the
3 power and its duty shall be to:

4 * * *

5 (16) require the payment of such annual inspection fees
6 and perform such inspections of hazardous waste treatment and
7 disposal facilities as are provided for in the Environmental
8 Quality Board guidelines adopted pursuant to section 105(e).
9 This provision shall not be construed to limit or restrict
10 the department's inspection powers as elsewhere set forth in
11 this act; [and]

12 (17) administer funds collected by the United States
13 Government and granted to Pennsylvania for the purpose of
14 closing, maintaining or monitoring abandoned or closed
15 hazardous waste storage, treatment or disposal sites and for
16 the purpose of action to abate or prevent pollution at such
17 sites. If Congress has not authorized the collection of such
18 funds within one year after the effective date of this act,
19 or if the department finds that the funding program
20 authorized is inadequate, the department shall transmit to
21 the General Assembly within 15 months after the effective
22 date of this act a proposal for the establishment of a fund
23 in Pennsylvania comprised of surcharges collected from users
24 of hazardous waste storage, treatment and disposal facilities
25 excluding captive facilities in the Commonwealth. Such fund
26 shall be proposed for the purpose of closing, maintaining or
27 monitoring hazardous waste storage, treatment or disposal
28 sites excluding captive facilities which have been abandoned
29 or which have been closed for at least 20 years, and for the
30 purpose of taking action to abate or prevent pollution at

1 such closed or abandoned sites[.]; and

2 (18) enter into agreements with any interested county,
3 or any board, commission or committee established by the
4 county, including, in all instances, representatives from any
5 host municipality, to assist the department in monitoring the
6 land application of sewage sludge within the county.

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

8 Section 204. Land application of sewage sludge.

9 (a) The department may enter into cooperative agreements
10 with any interested county, or any board, commission or
11 committee established by the county, that desires to assist the
12 department in monitoring the land application of sewage sludge
13 within its jurisdiction. Monitoring activity under the
14 agreements would include site inspection or the taking of
15 samples of sludge, soil, water and vegetation for testing, or
16 both. The county shall demonstrate to the department's
17 satisfaction that the county has the technical competence
18 necessary to meet the monitoring responsibilities under the
19 agreement. The department shall provide such assistance and
20 require compliance with such procedures as it deems appropriate
21 to assure that all sampling and testing is standardized and
22 uniform. No authority to enforce the provisions of this act or
23 any rules or regulations promulgated hereunder shall be
24 delegated by the department under any agreement.

25 (b) The department shall maintain a Statewide inventory of
26 lands upon which sewage sludge had been applied pursuant to
27 permits issued under section 501. For each land application
28 site, the inventory shall include all data submitted with the
29 permit application and any subsequent data obtained by or
30 submitted to the department relating thereto.

1 (c) Any person who intends to apply sewage sludge to any
2 land pursuant to a permit issued under section 501 shall first
3 file with the county conservation district, or in a county where
4 there is no conservation district, with the county health
5 department, in the county in which the land is located a
6 certification signed and acknowledged by the landowner, and
7 indexed in the name of the owner, indicating that the soil on
8 the land is to be amended with sewage sludge, the permit number
9 under which such activity will occur, and any other information
10 deemed appropriate by the department sufficient to provide
11 adequate notice thereof to a subsequent owner or interested
12 person.

13 Section 3. Section 501 of the act is amended by adding a
14 subsection to read:

15 Section 501. Permits and licenses required; transition scheme;
16 reporting requirements.

17 * * *

18 (d) It shall be unlawful for any person or municipality to
19 apply sewage sludge to land, if this activity would require a
20 permit pursuant to this act, or to commercially transport sludge
21 for treatment or disposal, without having first obtained a
22 license from the department to conduct the activities.

23 Section 4. Section 503(a) of the act is amended to read:

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

26 (a) Upon approval of the application, the department shall
27 issue a permit for the operation of a solid waste storage,
28 treatment, processing or disposal facility or area or a license
29 for the transportation of hazardous wastes or a sewage sludge
30 license, as set forth in the application and further conditioned

1 by the department.

2 * * *

3 Section 5. Section 505 of the act is amended by adding
4 subsections to read:

5 Section 505. Bonds.

6 * * *

7 (f) Except as provided in subsection (g), prior to the
8 issuance of any sewage sludge license, the applicant for a
9 license shall file with the department a bond on a form to be
10 prescribed and furnished by the department, payable to the
11 Commonwealth and conditioned upon compliance by the licensee
12 with every requirement of this act, rule and regulation of the
13 department, order of the department and term and condition of
14 the license. The amount of the bond required shall be in an
15 amount determined by the secretary. The licensee may elect to
16 deposit cash or automatically renewable irrevocable letters of
17 credit which are terminable only upon 90 days' written notice to
18 the operator and the department, or negotiable bonds of the
19 Federal Government or of the Commonwealth, the Pennsylvania
20 Turnpike Commission, the General State Authority, the State
21 Public School Building Authority or any municipality within this
22 Commonwealth. The cash amount of the deposit, irrevocable
23 letters of credit, or market value of the securities shall be
24 equal at least to the sum of the bond. The secretary shall, upon
25 receipt of any such deposit of cash or negotiable bonds,
26 immediately place the same with the State Treasurer, whose duty
27 it shall be to receive and hold the same in the name of the
28 Commonwealth, in trust, for the purposes for which the deposit
29 is made. The State Treasurer shall at all times be responsible
30 for the custody and safekeeping of the deposits. The licensee

1 making the deposit shall be entitled, from time to time, to
2 demand and receive from the State Treasurer, on the written
3 order of the secretary, the whole or any portion of any
4 collateral so deposited, upon depositing with him, in lieu
5 thereof, other collateral of the classes herein specified having
6 a market value at least equal to the sum of the bond, and to
7 demand, receive and recover the interest and income from the
8 negotiable bonds as the same becomes due and payable. When
9 negotiable bonds, deposited as aforesaid, mature or are called,
10 the State Treasurer, at the request of the licensee, shall
11 convert the negotiable bonds into other negotiable bonds of the
12 classes herein specified as may be designated by the licensee.
13 Where notice of intent to terminate a letter of credit is given,
14 the department shall, after 30 days' written notice to the
15 licensee and in the absence of a replacement of the letter of
16 credit within the 30-day period by the licensee with other
17 acceptable bond guarantees provided herein, draw upon and
18 convert the letter of credit into cash and hold it as a
19 collateral bond guarantee. Liability under the bond shall be for
20 the duration of the license and for a period of one year after
21 the expiration of the license.

22 (g) (1) If the applicant for a sewage sludge license is a
23 municipality or municipal authority, then that municipality
24 or municipal authority may, in lieu of the bond required in
25 subsection (f), present to the department satisfactory
26 evidence of financial assurances for satisfying claims of
27 bodily injury and property damage resulting from pollution
28 occurrences arising from the application of sewage sludge.

29 (2) The form and amount of such financial assurances
30 shall be specified by the department. The required financial

1 assurances may include, but are not limited to, the
2 following:

3 (i) Commercial pollution liability insurance.

4 (ii) A trust fund financed by the municipality and
5 administered by an independent trustee approved by the
6 department.

7 (iii) An insurance pool or self-insurance program
8 authorized by 42 Pa.C.S. § 8564 (relating to liability
9 insurance and self-insurance).

10 (3) In no case shall the department establish minimum
11 financial assurance amounts for a municipality that are
12 greater than the damage limitations established in 42 Pa.C.S.
13 Ch. 85 Subch. C (relating to actions against local parties).

14 Section 6. This act shall take effect in 60 days.