

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 983 Session of
2003

INTRODUCED BY RAFFERTY, BRIGHTBILL, PICCOLA, O'PAKE, KUKOVICH,
CORMAN, TARTAGLIONE, COSTA, BOSCOLA, C. WILLIAMS, RHOADES,
FERLO AND GORDNER, DECEMBER 18, 2003

SENATOR M. WHITE, ENVIRONMENTAL RESOURCES AND ENERGY, AS
AMENDED, NOVEMBER 9, 2004

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 permit and license application requirements,
19 for granting, denying, renewing, modifying, revoking and
20 suspending permits and licenses, FOR ENFORCEMENT ORDERS and <—
21 for unlawful conduct; and providing for repeat violations.

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

24 Section 1. Sections 502 and 503 of the act of July 7, 1980
25 (P.L.380, No.97), known as the Solid Waste Management Act, are
26 amended to read:

1 Section 502. Permit and license application requirements.

2 (a) Application for any permit or license shall be in
3 writing, shall be made on forms provided by the department and
4 shall be accompanied by such plans, designs and relevant data as
5 the department may require. Such plans, designs and data shall
6 be prepared by a registered professional engineer.

7 (b) The application for a permit to operate a hazardous
8 waste storage, treatment or disposal facility shall also be
9 accompanied by a form, prepared and furnished by the department,
10 containing the written consent of the landowner to entry upon
11 any land to be affected by the proposed facility by the
12 Commonwealth and by any of its authorized agents prior to and
13 during operation of the facility and for 20 years after closure
14 of the facility, for the purpose of inspection and for the
15 purpose of any such pollution abatement or pollution prevention
16 activities as the department deems necessary. Such forms shall
17 be deemed to be recordable documents and prior to the initiation
18 of operations under the permit, such forms shall be recorded and
19 entered into the deed book (d.b.v.) indexing system at the
20 office of the recorder of deeds in the counties in which the
21 area to be affected under the permit is situated.

22 (c) All records, reports, or information contained in the
23 hazardous waste storage, treatment or disposal facility permit
24 application submitted to the department under this section shall
25 be available to the public; except that the department shall
26 consider a record, report or information or particular portion
27 thereof, confidential in the administration of this act if the
28 applicant can show cause that the records, reports or
29 information, or a particular portion thereof (but not emission
30 or discharge data or information concerning solid waste which is

1 potentially toxic in the environment), if made public, would
2 divulge production or sales figures or methods, processes or
3 production unique to such applicant or would otherwise tend to
4 affect adversely the competitive position of such applicant by
5 revealing trade secrets. Nothing herein shall be construed to
6 prevent disclosure of such report, record or information to the
7 Federal Government or other State agencies as may be necessary
8 for purposes of administration of any Federal or State law.

9 (d) The application for a permit shall set forth the manner
10 in which the operator plans to comply with the requirements of
11 the act of June 22, 1937 (P.L.1987, No.394), known as "The Clean
12 Streams Law," the act of May 31, 1945 (P.L.1198, No.418), known
13 as the "Surface Mining Conservation and Reclamation Act," the
14 act of January 8, 1960 (1959 P.L.2119, No.787), known as the
15 "Air Pollution Control Act," and the act of November 26, 1978
16 (P.L.1375, No.325), known as the "Dam Safety and Encroachments
17 Act," as applicable. No approval shall be granted unless the
18 plan provides for compliance with the statutes hereinabove
19 enumerated, and failure to comply with the statutes hereinabove
20 enumerated during construction and operation or thereafter shall
21 render the operator liable to the sanctions and penalties
22 provided in this act for violations of this act and to the
23 sanctions and penalties provided in the statutes hereinabove
24 enumerated for violations of such statutes. Such failure to
25 comply shall be cause for revocation of any approval or permit
26 issued by the department to the operator. Compliance with the
27 provisions of this subsection and with the provisions of this
28 act and the provisions of the statutes hereinabove enumerated
29 shall not relieve the operator of the responsibility for
30 complying with the provisions of all other applicable statutes,

1 including, but not limited to the act of July 17, 1961 (P.L.659,
2 No.339), known as the "Pennsylvania Bituminous Coal Mine Act,"
3 the act of November 10, 1965 (P.L.721, No.346), known as the
4 "Pennsylvania Anthracite Coal Mine Act," and the act of July 9,
5 1976 (P.L.931, No.178), entitled "An act providing emergency
6 medical personnel; employment of emergency medical personnel and
7 emergency communications in coal mines."

8 (e) The application for a permit shall certify that the
9 operator has in force, or will, prior to the initiation of
10 operations under the permit have in force, an ordinary public
11 liability insurance policy in an amount to be prescribed by
12 rules and regulations promulgated hereunder.

13 (e.1) The application for a permit shall certify that the
14 operator does not have any outstanding violations of this act or <—
15 any public nuisances which have not been corrected as of the
16 time of the application. The permit application shall also
17 certify that the operator has complied with any enforcement
18 orders issued by the department. The department shall not accept
19 an application for review until it verifies the certification
20 required by this section. Failure to so certify, or the
21 submission of a false certification, shall be cause for denial
22 of the application, and may constitute cause for the revocation
23 or modification of any existing approval or permit issued by the
24 department to the operator.

25 (f) The department may require such other information, and
26 impose such other terms and conditions, as it deems necessary or
27 proper to achieve the goals and purposes of this act.

28 (g) The department, upon receipt of an application for a
29 permit, shall give written notice to each and every municipality
30 in which the proposed hazardous waste facility will be located.

1 Section 503. Granting, denying, renewing, modifying, revoking
2 and suspending permits and licenses.

3 (a) Upon approval of the application, the department shall
4 issue a permit for the operation of a solid waste storage,
5 treatment, processing or disposal facility or area or a license
6 for the transportation of hazardous wastes, as set forth in the
7 application and further conditioned by the department.

8 (b) No permit shall be issued unless and until all
9 applicable bonds have been posted with the department.

10 (c) In carrying out the provisions of this act, the
11 department may deny, suspend, modify, or revoke any permit or
12 license if it finds that the applicant, permittee or licensee
13 has failed or continues to fail to comply with any provision of
14 this act, the act of June 22, 1937 (P.L.1987, No.394), known as
15 "The Clean Streams Law," the act of January 8, 1960 (1959
16 P.L.2119, No.787), known as the "Air Pollution Control Act," and
17 the act of November 26, 1978 (P.L.1375, No.325), known as the
18 "Dam Safety and Encroachments Act," or any other state or
19 Federal statute relating to environmental protection or to the
20 protection of the public health, safety and welfare; or any rule
21 or regulation of the department; or any order of the department;
22 or any condition of any permit or license issued by the
23 department; or if the department finds that the applicant,
24 permittee or licensee has shown a lack of ability or intention
25 to comply with any provision of this act or any of the acts
26 referred to in this subsection or any rule or regulation of the
27 department or order of the department, or any condition of any
28 permit or license issued by the department as indicated by past
29 or continuing violations. In the case of a corporate applicant,
30 permittee or licensee, the department may deny the issuance of a

1 license or permit if it finds that a principal of the
2 corporation was a principal of another corporation which
3 committed past violations of this act.

4 (d) Any person or municipality which has engaged in unlawful
5 conduct as defined in this act, or whose partner, associate,
6 officer, parent corporation, subsidiary corporation, contractor,
7 subcontractor or agent has engaged in such unlawful conduct,
8 shall be denied any permit or license required by this act
9 unless the permit or license application demonstrates to the
10 satisfaction of the department that the unlawful conduct has

11 been corrected. ~~Any person or municipality which is found during~~ <—
12 ~~review of a permit or application to have engaged in three or~~
13 ~~more prior violations of this act shall be denied the renewal of~~
14 ~~any permit or license, and any review of the permit or license~~
15 ~~shall be suspended.~~ Independent contractors and agents who are
16 to operate under any permit shall be subject to the provisions
17 of this act. Such independent contractors, agents and the
18 permittee shall be jointly and severally liable, without regard
19 to fault, for violations of this act which occur during the
20 contractor's or agent's involvement in the course of operations.

21 (e) Any permit or license granted by the department, as
22 provided in this act, shall be revocable or subject to
23 modification or suspension at any time the department determines
24 that the solid waste storage, treatment, processing or disposal
25 facility or area or transportation of solid waste:

26 (1) is, or has been, conducted in violation of this act
27 or the rules, regulations, adopted pursuant to the act;

28 (2) is creating a public nuisance;

29 (3) is creating a potential hazard to the public health,
30 safety and welfare;

1 (4) adversely affects the environment;
2 (5) is being operated in violation of any terms or
3 conditions of the permit; or
4 (6) was operated pursuant to a permit or license that was
5 not granted in accordance with law.

6 SECTION 2. SECTION 602(B) OF THE ACT, AMENDED JULY 11, 1989 <—
7 (P.L.331, NO.55), IS AMENDED TO READ:

8 SECTION 602. ENFORCEMENT ORDERS.

9 * * *

10 (B) IF THE DEPARTMENT FINDS THAT THE STORAGE, COLLECTION,
11 TRANSPORTATION, PROCESSING, TREATMENT, BENEFICIAL USE OR
12 DISPOSAL OF SOLID WASTE IS CAUSING POLLUTION OF THE AIR, WATER,
13 LAND OR OTHER NATURAL RESOURCES OF THE COMMONWEALTH OR IS
14 CREATING A PUBLIC NUISANCE, THE DEPARTMENT [MAY] SHALL ORDER THE
15 PERSON OR THE MUNICIPALITY TO ALTER ITS STORAGE, COLLECTION,
16 TRANSPORTATION, PROCESSING, TREATMENT, BENEFICIAL USE OR
17 DISPOSAL SYSTEMS TO PROVIDE SUCH STORAGE, COLLECTION,
18 TRANSPORTATION, PROCESSING, TREATMENT, BENEFICIAL USE OR
19 DISPOSAL SYSTEMS AS WILL PREVENT POLLUTION AND PUBLIC NUISANCES.
20 SUCH ORDER SHALL SPECIFY THE LENGTH OF TIME AFTER RECEIPT OF THE
21 ORDER WITHIN WHICH THE FACILITY OR AREA SHALL BE REPAIRED,
22 ALTERED, CONSTRUCTED OR RECONSTRUCTED.

23 * * *

24 Section ~~2~~ 3. The act is amended by adding a section to read: <—
25 Section 607.1. Repeat violations.

26 In addition to any other remedies provided in this act, the
27 department may impose a higher penalty up to \$50,000 upon any
28 person or municipality that demonstrates a pattern of multiple
29 violations of section 610. Penalties imposed by the department
30 under this section upon any person or municipality that

1 demonstrates a pattern of multiple violations of section 610
2 shall not be waived by the department. THIS SECTION SHALL NOT <—
3 PRECLUDE THE DEPARTMENT FROM APPROVING A COMMUNITY ENVIRONMENTAL
4 PROJECT.

5 ~~Section 3. Section 610 of the act, amended July 11, 1989,~~ <—
6 ~~(P.L.331, No.55), is amended to read:~~

7 ~~Section 610. Unlawful conduct.~~

8 ~~It shall be unlawful for any person or municipality to:~~

9 ~~(1) Dump or deposit, or permit the dumping or~~
10 ~~depositing, of any solid waste onto the surface of the ground~~
11 ~~or underground or into the waters of the Commonwealth, by any~~
12 ~~means, unless a permit for the dumping of such solid wastes~~
13 ~~has been obtained from the department; provided, the~~
14 ~~Environmental Quality Board may by regulation exempt certain~~
15 ~~activities associated with normal farming operations as~~
16 ~~defined by this act from such permit requirements.~~

17 ~~(2) Construct, alter, operate or utilize a solid waste~~
18 ~~storage, treatment, processing or disposal facility without a~~
19 ~~permit from the department as required by this act or in~~
20 ~~violation of the rules or regulations adopted under this act,~~
21 ~~or orders of the department, or in violation of any term or~~
22 ~~condition of any permit issued by the department.~~

23 ~~(3) Burn solid wastes without a permit from the~~
24 ~~department.~~

25 ~~(4) Store, collect, transport, process, treat,~~
26 ~~beneficially use, or dispose of, or assist in the storage,~~
27 ~~collection, transportation, processing, treatment, beneficial~~
28 ~~use or disposal of, solid waste contrary to the rules or~~
29 ~~regulations adopted under this act, or orders of the~~
30 ~~department, or any term or any condition of any permit, or in~~

1 ~~any manner as to create a public nuisance or to adversely~~
2 ~~affect the public health, safety and welfare.~~

3 ~~(5) Transport hazardous waste without first having~~
4 ~~obtained a license from the department to conduct such~~
5 ~~transport activities.~~

6 ~~(6) Transport or permit the transportation of any solid~~
7 ~~waste to any storage, treatment, processing or disposal~~
8 ~~facility or area unless such facility or area possesses a~~
9 ~~permit issued by the department to accept such wastes, or~~
10 ~~contrary to the rules or regulations adopted under this act,~~
11 ~~or orders of the department, or in such a manner as to~~
12 ~~adversely affect or endanger the public health, safety and~~
13 ~~welfare or environment through which such transportation~~
14 ~~occurs.~~

15 ~~(7) Refuse, hinder, obstruct, delay, or threaten any~~
16 ~~agent or employee of the department in the course of~~
17 ~~performance of any duty under this act, including, but not~~
18 ~~limited to, entry and inspection under any circumstances.~~

19 ~~(8) Consign, assign, sell, entrust, give or in any way~~
20 ~~transfer residual or hazardous waste which is at any time~~
21 ~~subsequently, by any such person or any other person:~~

22 ~~(i) dumped or deposited or discharged in any manner~~
23 ~~into the surface of the earth or underground or into the~~
24 ~~waters of the Commonwealth unless a permit for the~~
25 ~~dumping or depositing or discharging of such residual or~~
26 ~~hazardous waste has first been obtained from the~~
27 ~~department; or~~

28 ~~(ii) stored, treated, processed, disposed of or~~
29 ~~discharged by a residual or hazardous waste facility~~
30 ~~unless such facility is operated under a permit first~~

1 ~~obtained from the department.~~

2 ~~(9) Cause or assist in the violation of any provision of~~
3 ~~this act, any rule or regulation of the department, any order~~
4 ~~of the department or any term or condition of any permit.~~

5 ~~(10) Cause or permit offensive odors, excessive noise,~~
6 ~~dangerous truck traffic or the excessive blowing of trash,~~
7 ~~dust or other materials.~~

8 Section 4. This act shall take effect in 60 days.