AN ACT

1 Amending the act of July 7, 1980 (P.L.380, No.97), entitled "An act providing for the planning and regulation of solid waste storage, collection, transportation, processing, treatment, and disposal; requiring municipalities to submit plans for municipal waste management systems in their jurisdictions; authorizing grants to municipalities; providing regulation of the management of municipal, residual and hazardous waste; requiring permits for operating hazardous waste and solid waste storage, processing, treatment, and disposal facilities; and licenses for transportation of hazardous waste; imposing duties on persons and municipalities; granting powers to municipalities; authorizing the Environmental Quality Board and the Department of Environmental Protection to adopt rules, regulations, standards and procedures; granting powers to and imposing duties upon county health departments; providing remedies; prescribing penalties; and establishing a fund," in general provisions, further providing for definitions; in residual waste, further providing for disposal, processing and storage of residual waste and providing for exempt special wastes; and making an editorial change.

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

Section 1. The definitions of "drill cuttings" and "solid waste" in section 103 of the act of July 7, 1980 (P.L.380, No.97), known as the Solid Waste Management Act, are amended and the section is amended by adding a definition to read:
Section 103. Definitions.

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

"Drill cuttings." Rock cuttings and related mineral residues created during the drilling of wells pursuant to the act of December 19, 1984 (P.L.1140, No.223), known as the "Oil and Gas Act," 58 Pa.C.S. (relating to oil and gas) provided such materials are disposed of at the well site and pursuant to section 206 of the "Oil and Gas Act." 58 Pa.C.S. § 3216 (relating to well site restoration).

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

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

(1) Coal ash.

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

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

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

(b) It shall be unlawful for any person or municipality who
stores, processes, or disposes of residual waste to fail to:

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

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

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

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

(i) Chloride.

(ii) Bromide.

(iii) Sulfate.

(iv) Nitrate.

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

(i) Toxicity.

(ii) Corrosivity.

(iii) Ignitability.

(iv) Reactivity.

(6) Test leachate prior to discharge, in accordance with best practice standards through gamma-ray spectrometry using high-purity germanium (HPGe) and lithium-drifted germanium (Ge(Li)) detectors and any of their successor technologies, as specified in 40 CFR 141.25(a) (relating to analytical
methods for radioactivity), for the presence of all of the following naturally occurring radionuclides:

(i) Uranium and its decay products.
(ii) Thorium and its decay products.
(iii) Radium and its decay products.
(iv) Potassium-40.
(v) Lead-210/Polonium-210.

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

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

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

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

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

(1) For comparison purposes, the same testing requirements shall be used on the municipal waste or residual waste that enters the facility and the leachate leaving the
(2) The facility shall report quarterly to the department and the municipality in which the facility is located the testing results regarding the municipal waste or residual waste that enters the facility and the leachate leaving the facility. The report shall include the following:

(i) Volume and contents of the waste.
(ii) Type of waste, by category.
(iii) The presence of radionuclides, chloride, bromide, sulfate or nitrate and their concentration levels.
(iv) The presence and level of toxicity, corrosivity, ignitability or reactivity.

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

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

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

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

Section 3. The act is amended by adding a section to read:

Section 304. Exempt special wastes.

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

(1) Uranium and its decay products.
(2) Thorium and its decay products.
(3) Radium and its decay products.
(4) Potassium-40.

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

(1) Chloride.
(2) Bromide.
(3) Sulfate.
(4) Nitrate.

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

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

(2) A representative sample, as defined in 40 CFR 260.10 (relating to definitions), must be tested.
(d) A facility shall report quarterly to the department and the municipality in which the facility is located any exempt special waste from a drilling site that is received by the facility. The report shall include the following:

(1) Volume and contents of the waste.
(2) Type of waste, by category.
(3) The presence of radionuclides, chloride, bromide, sulfate or nitrate and their concentration levels.
(4) The presence and level of toxicity, corrosivity, ignitability or reactivity.

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

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

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

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

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

Section 502. Permit and license application requirements.

* * *

(d) The application for a permit shall set forth the manner in which the operator plans to comply with the requirements of the act of June 22, 1937 (P.L.1987, No.394), known as "The Clean Streams Law," the act of May 31, 1945 (P.L.1198, No.418), known
as the "Surface Mining Conservation and Reclamation Act," the act of January 8, 1960 (1959 P.L.2119, No.787), known as the "Air Pollution Control Act," and the act of November 26, 1978 (P.L.1375, No.325), known as the "Dam Safety and Encroachments Act," as applicable. No approval shall be granted unless the plan provides for compliance with the statutes hereinabove enumerated, and failure to comply with the statutes hereinabove enumerated during construction and operation or thereafter shall render the operator liable to the sanctions and penalties provided in this act for violations of this act and to the sanctions and penalties provided in the statutes hereinabove enumerated for violations of such statutes. Such failure to comply shall be cause for revocation of any approval or permit issued by the department to the operator. Compliance with the provisions of this subsection and with the provisions of this act and the provisions of the statutes hereinabove enumerated shall not relieve the operator of the responsibility for complying with the provisions of all other applicable statutes, including, but not limited to the act of [July 17, 1961](P.L.659, No.339), known as the "Pennsylvania Bituminous Coal Mine Act," July 7, 2008 (P.L.654, No.55), known as the "Bituminous Coal Mine Safety Act," the act of November 10, 1965 (P.L.721, No.346), known as the "Pennsylvania Anthracite Coal Mine Act," and the act of July 9, 1976 (P.L.931, No.178), entitled "An act providing emergency medical personnel; employment of emergency medical personnel and emergency communications in coal mines."

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