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," in general
18 provisions, further providing for definitions; and making
19 editorial changes.

The General Assembly of the Commonwealth of Pennsylvania

hereby enacts as follows:

Section 1. The title of the act of July 7, 1980 (P.L.380,
No.97), known as the Solid Waste Management Act, is amended to
read:

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 [Resources] 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.

Section 2. The definitions of "department," "municipal waste," "processing," "residual waste," "secretary," "solid waste" and "treatment" in section 103 of the act, amended February 15, 2018 (P.L.19, No.7), are amended and the section is amended by adding definitions 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:

* * *

"Department." The Department of Environmental [Resources] Protection of the Commonwealth of Pennsylvania and its authorized representatives.

* * *

"Gasification." A manufacturing process through which
recoverable feedstocks or post-use polymers are heated and converted into a fuel-gas mixture in an oxygen-deficient atmosphere and the mixture is converted into valuable raw, intermediate and final products, including, but not limited to, plastic, monomers, chemicals, waxes, lubricants, chemical feedstocks, crude oil, diesel, gasoline, diesel and gasoline blendstocks, home heating oil and other fuels, including ethanol and transportation fuel. Gasification shall not be considered processing, incineration or treatment.

"Gasification facility." A manufacturing facility that receives, separates, stores and converts post-use polymers and recoverable feedstocks using gasification. A gasification facility shall not be considered to be a municipal waste disposal or processing facility, a processing facility, an incinerator or a resource recovery facility.

* * *

"Municipal waste." Any garbage, refuse, industrial lunchroom or office waste and other material including solid, liquid, semisolid or contained gaseous material resulting from operation of residential, municipal, commercial or institutional establishments and from community activities and any sludge not meeting the definition of residual or hazardous waste hereunder from a municipal, commercial or institutional water supply treatment plant, waste water treatment plant, or air pollution control facility. The term does not include post-use polymers or recoverable feedstocks where these materials are converted through pyrolysis or gasification.

* * *

"Post-use polymers." Plastic polymers that derive from any household, industrial, municipal, community, commercial or other
source of operations or activities which might otherwise become a waste if not converted into valuable raw, intermediate and final products, including, but not limited to, plastic, monomers, chemicals, waxes, lubricants, chemical feedstocks, crude oil, diesel, gasoline, diesel and gasoline blendstocks, home heating oil and other fuels, including ethanol and transportation fuel. Post-use polymers may contain incidental contaminants or impurities such as paper labels or metal rings. Post-use polymers are not mixed with solid waste, municipal waste, residual waste, medical waste, hazardous waste, e-waste, tires or construction demolition debris. Post-use polymers shall not be considered solid wastes, residual wastes or municipal wastes.

"Processing."

(1) The term includes any of the following:

(i) Any method or technology used for the purpose of reducing the volume or bulk of municipal or residual waste or any method or technology used to convert part or all of such waste materials for off-site reuse.

(ii) Transfer facilities, composting facilities, and resource recovery facilities.

(2) The term does not include any of the following:

(i) A collection or processing center that is only for source-separated recyclable materials, including clear glass, colored glass, aluminum, steel and bimetallic cans, high-grade office paper, newsprint, corrugated paper and plastics.

(ii) Pyrolysis or gasification processes that utilize post-use polymers or recoverable feedstocks.

"Pyrolysis." A manufacturing process through which post-use
polymers are heated in the absence of oxygen until melted and thermally decomposed and then cooled, condensed and converted into valuable raw, intermediate and final products, including, but not limited to, plastic, monomers, chemicals, waxes, lubricants, chemical feedstocks, crude oil, diesel, gasoline, diesel and gasoline blendstocks, home heating oil and other fuels, including ethanol and transportation fuel. Pyrolysis shall not be considered processing, incineration or treatment.

"Pyrolysis facility." A manufacturing facility that receives, separates, stores and converts post-use polymers using pyrolysis. A pyrolysis facility shall not be considered to be a municipal waste disposal or processing facility, a processing facility, an incinerator or a resource recovery facility.

"Recoverable feedstocks." One or more of the following materials, derived from recoverable waste, that has been processed so that it may be used as feedstock in a gasification facility:

1. Post-use polymers.
2. Materials, including, but not limited to, municipal solid waste that contains post-use polymers, and other post-industrial waste containing post-use polymers, that have been processed into a fuel or feedstock for which the Environmental Protection Agency has made a nonwaste determination under 40 CFR 241.3(c) (relating to standards and procedures for identification of non-hazardous secondary materials that are solid wastes when used as fuels or ingredients in combustion units) or otherwise determined are not waste or for which the department has made a nonwaste determination.

"Residual waste."
The term includes any of the following:

(i) Any garbage, refuse, other discarded material or other waste including solid, liquid, semisolid, or contained gaseous materials resulting from industrial, mining and agricultural operations.

(ii) Any sludge from an industrial, mining or agricultural water supply treatment facility, waste water treatment facility or air pollution control facility, provided that it is not hazardous.

The term does not include:

(i) Coal refuse as defined in the "Coal Refuse Disposal Control Act."

(ii) Treatment sludges from coal mine drainage treatment plants, disposal of which is being carried on pursuant to and in compliance with a valid permit issued pursuant to "The Clean Streams Law."

(iii) Current generation blast furnace, iron and steel slag if:

(A) used onsite as a waste processing liming agent in acid neutralization or onsite in place of aggregate or sold and distributed in the stream of commerce for consumption, use or further processing into another desired commodity; and

(B) managed as an item of commercial value in accordance with industry practices to ensure commercial value.

(iv) Post-use polymers or recoverable feedstocks when these materials are converted through pyrolysis or gasification.

"Secretary." The Secretary of the Department of
Environmental Protection of the Commonwealth of Pennsylvania.

"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 or drill cuttings.
(2) Drill cuttings.
(3) Post-use polymers or recoverable feedstocks when these materials are converted through pyrolysis or gasification.

"Treatment." Any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any waste so as to neutralize such waste or so as to render such waste nonhazardous, safer for transport, suitable for recovery, suitable for storage, or reduced in volume. Such term includes any activity or processing designed to change the physical form or chemical composition of waste so as to render it neutral or nonhazardous. The term does not include the conversion of post-use polymers or recoverable feedstocks through pyrolysis or gasification.

Section 3. Sections 105(c), 106(b), 402, 507(a) introductory paragraph and 602(d) of the act are amended to read:

Section 105. Powers and duties of the Environmental Quality Board.

(c) The Environmental Quality Board shall have the power and its duty shall be to adopt rules and regulations and standards
to provide for the coordination of administration and enforcement of this act between the Department of Environmental Resources Protection and county health departments where they exist.

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Section 106. Powers and duties of county health departments; limitation.

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(b) Notwithstanding the grant of powers in subsection (a), in any case where administration and enforcement of this act by a county health department shall conflict with administration and enforcement by the Department of Environmental Resources Protection, administration and enforcement by the Department of Environmental Resources Protection shall take precedence over administration and enforcement by a county health department.

Section 402. Listing of hazardous waste.

The Environmental Quality Board shall establish rules and regulations identifying the characteristics of hazardous wastes and listing particular hazardous wastes which shall be subject to the provisions of this act. The list promulgated shall in no event prevent the department from regulating other wastes, which, although not listed, the department has determined to be hazardous; the Department of Environmental Resources Protection may regulate such hazardous wastes when the department has determined such waste poses a substantial present or potential hazard to the human health or the environment by any means including, but not limited to, issuance of orders and the imposition of terms and conditions of permits. The board shall identify the characteristics of hazardous wastes and list particular hazardous wastes within 30 days after the effective
date of this section, which initial list shall not be subject to
section 107 of this act but shall be promulgated in accordance
with section 204(3) [(relating to omission of notice of proposed
rule making)] of the act of July 31, 1968 (P.L.769, No.240),
referred to as the Commonwealth Documents Law.
Section 507. Siting of hazardous waste treatment and disposal
facilities.
(a) The Department of Environmental [Resources] Protection
shall have the power and authority to develop, prepare and
modify the Pennsylvania Hazardous Waste Facilities Plan. The
plan shall include:
   * * *
Section 602. Enforcement orders.
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(d) The Department of Environmental [Resources] Protection
shall have the power to order, orally or in writing, any person
or municipality to immediately suspend or modify hazardous waste
treatment or disposal activities when he determines that
continued operation will jeopardize public health, safety or
welfare. Said order shall be effective upon issuance and may
only be superseded by further department action or, after an
appeal has been perfected, by the Environmental Hearing Board
after notice and hearing. Furthermore, said order may require
remedial actions to be taken in order to prevent harm to public
health, safety or welfare. Within two business days after the
issuance of such oral order, the department shall issue a
written order reciting and modifying, where appropriate, the
terms and conditions contained in the oral order.
Section 4. This act shall take effect in 60 days.