

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1808 Session of 2019

INTRODUCED BY MACKENZIE, CALTAGIRONE, JAMES, KEEFER, MILLARD, MIZGORSKI, MOUL, NEILSON, ROTHMAN, SAYLOR, ZIMMERMAN AND QUINN, SEPTEMBER 16, 2019

AS REPORTED FROM COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 10, 2020

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.

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

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

AN ACT

1 Providing for the planning and regulation of solid waste
2 storage, collection, transportation, processing, treatment,
3 and disposal; requiring municipalities to submit plans for
4 municipal waste management systems in their jurisdictions;
5 authorizing grants to municipalities; providing regulation of
6 the management of municipal, residual and hazardous waste;
7 requiring permits for operating hazardous waste and solid
8 waste storage, processing, treatment, and disposal
9 facilities; and licenses for transportation of hazardous
10 waste; imposing duties on persons and municipalities;
11 granting powers to municipalities; authorizing the
12 Environmental Quality Board and the Department of
13 Environmental [Resources] Protection to adopt rules,
14 regulations, standards and procedures; granting powers to and
15 imposing duties upon county health departments; providing
16 remedies; prescribing penalties; and establishing a fund.

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

22 Section 103. Definitions.

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

26 * * *

27 "ADVANCED RECYCLING." A MANUFACTURING PROCESS FOR THE <--
28 CONVERSION OF POST-USE POLYMERS THROUGH PROCESSES, INCLUDING
29 PYROLYSIS, GASIFICATION, DEPOLYMERIZATION, CATALYTIC CRACKING,
30 REFORMING, HYDROGENATION AND OTHER SIMILAR TECHNOLOGIES, INTO

1 ANY OF THE FOLLOWING:

2 (1) BASIC HYDROCARBON RAW MATERIALS, FEEDSTOCKS,
3 CHEMICALS, LIQUID FUELS, WAXES AND LUBRICANTS.

4 (2) OTHER PRODUCTS, INCLUDING, BUT NOT LIMITED TO,
5 MONOMERS, OLIGOMERS, PLASTICS, CRUDE OIL, NAPHTHA, LIQUID
6 TRANSPORTATION FUELS AND OTHER BASIC HYDROCARBONS.

7 "ADVANCED RECYCLING FACILITY." A MANUFACTURING FACILITY THAT
8 RECEIVES POST-USE POLYMERS AND SEPARATES, STORES AND CONVERTS
9 THE POST-USE POLYMERS USING ADVANCED RECYCLING. THE TERM DOES
10 NOT INCLUDE A RESOURCE RECOVERY FACILITY, PROCESSING FACILITY,
11 MUNICIPAL WASTE PROCESSING OR DISPOSAL FACILITY OR ANY OTHER
12 FACILITY THAT RECEIVES UNSORTED MUNICIPAL WASTE FOR THE PURPOSE
13 OF SEPARATING OUT POST-USE POLYMERS FOR USE IN ADVANCED
14 RECYCLING.

15 * * *

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

19 * * *

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

30 ~~"Gasification facility." A manufacturing facility that~~

1 ~~receives, separates, stores and converts post use polymers and~~
2 ~~recoverable feedstocks using gasification. A gasification~~
3 ~~facility shall not be considered to be a municipal waste~~
4 ~~disposal or processing facility, a processing facility, an~~
5 ~~incinerator or a resource recovery facility.~~

6 * * *

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

18 * * *

19 ~~"Post use polymers." Plastic polymers that derive from any~~ <--
20 ~~household, industrial, municipal, community, commercial or other~~
21 ~~source of operations or activities which might otherwise become~~
22 ~~a waste if not converted into valuable raw, intermediate and~~
23 ~~final products, including, but not limited to, plastic,~~
24 ~~monomers, chemicals, waxes, lubricants, chemical feedstocks,~~
25 ~~crude oil, diesel, gasoline, diesel and gasoline blendstocks,~~
26 ~~home heating oil and other fuels, including ethanol and~~
27 ~~transportation fuel. Post use polymers may contain incidental~~
28 ~~contaminants or impurities such as paper labels or metal rings.~~
29 ~~Post use polymers are not mixed with solid waste, municipal~~
30 ~~waste, residual waste, medical waste, hazardous waste, e waste,~~

1 ~~tires or construction demolition debris. Post use polymers shall~~
2 ~~not be considered solid wastes, residual wastes or municipal~~
3 ~~wastes.~~

4 "POST-USE POLYMERS." POST-USE PLASTIC DERIVED FROM ANY <--
5 RESIDENTIAL, MUNICIPAL OR COMMERCIAL SOURCE THAT WOULD NOT
6 OTHERWISE BE RECYCLED, INCLUDING SOURCE-SEPARATED RECYCLABLE
7 PLASTICS FROM A MATERIALS RECYCLING FACILITY, THAT IS NOT MIXED
8 WITH SOLID WASTE, MUNICIPAL WASTE, RESIDUAL WASTE, REGULATED
9 MEDICAL AND CHEMOTHERAPEUTIC WASTE, HAZARDOUS WASTE, ELECTRONIC
10 WASTE, WASTE TIRES OR CONSTRUCTION OR DEMOLITION WASTE AND MAY
11 CONTAIN INCIDENTAL CONTAMINANTS OR IMPURITIES, SUCH AS PAPER
12 LABELS OR METAL RINGS. FOR THE PURPOSE OF THIS ACT, POST-USE
13 POLYMERS THAT ARE CONVERTED USING ADVANCED RECYCLING SHALL NOT
14 BE CONSIDERED SOLID WASTE, MUNICIPAL WASTE OR RESIDUAL WASTE.

15 "Processing."

16 (1) The term includes any of the following:

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

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

23 (2) The term does not include [a] any of the following:

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

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

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

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

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

19 ~~(1) Post use polymers.~~

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

1 ~~"Residual waste."~~

2 ~~(1) The term includes any of the following:~~

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

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

11 ~~(2) The term does not include:~~

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

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

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

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

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

28 ~~(iv) Post use polymers or recoverable feedstocks~~
29 ~~when these materials are converted through pyrolysis or~~
30 ~~gasification.~~

1 (II) THE CONVERSION OF POST-USE POLYMERS THROUGH <--
2 ADVANCED RECYCLING IN WHICH THE MANUFACTURING ACTIVITIES,
3 HANDLING OF THE POST-USE POLYMERS AT AN ADVANCED
4 RECYCLING FACILITY AND THE PRODUCTS AND BY-PRODUCTS OF
5 THE ADVANCED RECYCLING CONVERSION COMPLY WITH ALL
6 APPLICABLE ENVIRONMENTAL PROTECTION AGENCY AND DEPARTMENT
7 RULES AND REGULATIONS.

8 "Secretary." The Secretary of the Department of
9 Environmental [Resources] Protection of the Commonwealth of
10 Pennsylvania.

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

15 (1) Coal ash [or drill].

16 (2) Drill cuttings.

17 ~~(3) Post use polymers or recoverable feedstocks when~~ <--
18 ~~these materials are converted through pyrolysis or~~
19 ~~gasification.~~

20 * * *

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

1 ~~gasification.~~ THE CONVERSION OF POST-USE POLYMERS THROUGH
 2 ADVANCED RECYCLING IN WHICH THE MANUFACTURING ACTIVITIES,
 3 HANDLING OF THE POST-USE POLYMERS AT AN ADVANCED RECYCLING
 4 FACILITY AND THE PRODUCTS AND BY-PRODUCTS OF THE ADVANCED
 5 RECYCLING CONVERSION COMPLY WITH ALL APPLICABLE ENVIRONMENTAL
 6 PROTECTION AGENCY AND DEPARTMENT RULES AND REGULATIONS.

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

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

11 * * *

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

18 * * *

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

21 * * *

22 (b) Notwithstanding the grant of powers in subsection (a),
 23 in any case where administration and enforcement of this act by
 24 a county health department shall conflict with administration
 25 and enforcement by the Department of Environmental [Resources]
 26 Protection, administration and enforcement by the Department of
 27 Environmental [Resources] Protection shall take precedence over
 28 administration and enforcement by a county health department.

29 Section 402. Listing of hazardous waste.

30 The Environmental Quality Board shall establish rules and

1 regulations identifying the characteristics of hazardous wastes
2 and listing particular hazardous wastes which shall be subject
3 to the provisions of this act. The list promulgated shall in no
4 event prevent the department from regulating other wastes,
5 which, although not listed, the department has determined to be
6 hazardous; the Department of Environmental [Resources]
7 Protection may regulate such hazardous wastes when the
8 department has determined such waste poses a substantial present
9 or potential hazard to the human health or the environment by
10 any means including, but not limited to, issuance of orders and
11 the imposition of terms and conditions of permits. The board
12 shall identify the characteristics of hazardous wastes and list
13 particular hazardous wastes within 30 days after the effective
14 date of this section, which initial list shall not be subject to
15 section 107 of this act but shall be promulgated in accordance
16 with section 204(3) [(relating to omission of notice of proposed
17 rule making)] of the act of July 31, 1968 (P.L.769, No.240),
18 referred to as the Commonwealth Documents Law.

19 Section 507. Siting of hazardous waste treatment and disposal
20 facilities.

21 (a) The Department of Environmental [Resources] Protection
22 shall have the power and authority to develop, prepare and
23 modify the Pennsylvania Hazardous Waste Facilities Plan. The
24 plan shall include:

25 * * *

26 Section 602. Enforcement orders.

27 * * *

28 (d) The Department of Environmental [Resources] Protection
29 shall have the power to order, orally or in writing, any person
30 or municipality to immediately suspend or modify hazardous waste

1 treatment or disposal activities when he determines that
2 continued operation will jeopardize public health, safety or
3 welfare. Said order shall be effective upon issuance and may
4 only be superseded by further department action or, after an
5 appeal has been perfected, by the Environmental Hearing Board
6 after notice and hearing. Furthermore, said order may require
7 remedial actions to be taken in order to prevent harm to public
8 health, safety or welfare. Within two business days after the
9 issuance of such oral order, the department shall issue a
10 written order reciting and modifying, where appropriate, the
11 terms and conditions contained in the oral order.

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