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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2927 Session of  
2020

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INTRODUCED BY INNAMORATO, RABB, HILL-EVANS, GALLOWAY, LEE,  
SCHLOSSBERG, SANCHEZ, KINSEY, ULLMAN, MADDEN, FRANKEL, GREEN,  
LONGIETTI, DONATUCCI, OTTEN, ISAACSON, SHUSTERMAN, BURGOS AND  
KENYATTA, OCTOBER 14, 2020

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REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,  
OCTOBER 14, 2020

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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; in residual  
19 waste, further providing for disposal, processing and storage  
20 of residual waste and providing for exempt special wastes;  
21 and making editorial changes.

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

24 Section 1. The title of the act of July 7, 1980 (P.L.380,  
25 No.97), known as the Solid Waste Management Act, is amended to  
26 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," "drill cuttings," "secretary" and "solid waste" in section 103 of the 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:

\* \* \*

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

\* \* \*

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

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

11 \* \* \*

12 "Secretary." The Secretary of [the Department of]  
13 Environmental [Resources] Protection of the Commonwealth of  
14 Pennsylvania.

15 "Solid waste." Any waste, including but not limited to,  
16 municipal, residual or hazardous wastes, including solid,  
17 liquid, semisolid or contained gaseous materials. The term does  
18 not include coal ash or drill cuttings, except for drill  
19 cuttings from geologic formations that contain oil or gas  
20 deposits.

21 \* \* \*

22 Section 3. Sections 105(c) and 106(b) of the act are amended  
23 to read:

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

26 \* \* \*

27 (c) The Environmental Quality Board shall have the power and  
28 its duty shall be to adopt rules and regulations and standards  
29 to provide for the coordination of administration and  
30 enforcement of this act between the Department of Environmental

1 [Resources] Protection and county health departments where they  
2 exist.

3 \* \* \*

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

6 \* \* \*

7 (b) Notwithstanding the grant of powers in subsection (a),  
8 in any case where administration and enforcement of this act by  
9 a county health department shall conflict with administration  
10 and enforcement by the Department of Environmental [Resources]  
11 Protection, administration and enforcement by the Department of  
12 Environmental [Resources] Protection shall take precedence over  
13 administration and enforcement by a county health department.

14 Section 4. Section 302(b) of the act is amended and the  
15 section is amended by adding subsections to read:

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

18 \* \* \*

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

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

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

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

30 (4) Test leachate prior to discharge for the presence of

1 all of the following in accordance with National Pollutant  
2 Discharge Elimination System requirements:

3 (i) Chloride.

4 (ii) Bromide.

5 (iii) Sulfate.

6 (iv) Nitrate.

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

11 (i) Toxicity.

12 (ii) Corrosivity.

13 (iii) Ignitability.

14 (iv) Reactivity.

15 (6) Test leachate prior to discharge for the presence of  
16 all of the following naturally occurring radionuclides in  
17 accordance with the standards under the Safe Drinking Water  
18 Act (Public Law 93-523, 21 U.S.C. § 349 and 42 U.S.C. §§ 201  
19 and 300f et seq.), as amended, including:

20 (i) Uranium and its decay products.

21 (ii) Thorium and its decay products.

22 (iii) Radium and its decay products.

23 (iv) Potassium-40.

24 (v) Lead-210/Polonium-210.

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

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

30 (2) A facility shall test any municipal waste or

1 residual waste leachate prior to processing onsite or leaving  
2 the facility.

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

8 (e) A facility shall establish and maintain records to  
9 compare the testing results regarding municipal waste or  
10 residual waste that enters the facility with the testing results  
11 regarding leachate leaving the facility, to determine the  
12 effectiveness of the disposal or processing of the municipal  
13 waste or residual waste. The following shall apply:

14 (1) For comparison purposes, the same testing  
15 requirements shall be used on the municipal waste or residual  
16 waste that enters the facility and the leachate leaving the  
17 facility.

18 (2) The facility shall report quarterly to the  
19 department and the municipality in which the facility is  
20 located the testing results regarding the municipal waste or  
21 residual waste that enters the facility and the leachate  
22 leaving the facility. The report shall include the following:

23 (i) Volume and contents of the waste.

24 (ii) Type of waste, by category.

25 (iii) The presence of radionuclides, chloride,  
26 bromide, sulfate or nitrate and their concentration  
27 levels.

28 (iv) The presence and level of toxicity,  
29 corrosivity, ignitability or reactivity.

30 (3) The department shall make the reports under this

1 subsection available on the department's publicly accessible  
2 Internet website.

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

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

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

14 Section 5. The act is amended by adding a section to read:  
15 Section 304. Exempt special wastes.

16 (a) The following shall apply:

17 (1) It shall be unlawful for any person or municipality  
18 who stores, processes or disposes of residual waste to  
19 receive exempt special waste from a facility unless the  
20 exempt special waste is nonhazardous and nonradioactive, as  
21 determined using the hazardous waste characteristic  
22 properties of ignitability, corrosivity, reactivity and  
23 toxicity described under 40 CFR Pt. 261 Subpt. C (relating to  
24 characteristics of hazardous waste) and the Safe Drinking  
25 Water Act (Public Law 93-523, 21 U.S.C. § 349 and 42 U.S.C.  
26 §§ 201 and 300f et seq.), as amended, including:

27 (i) Uranium and its decay products.

28 (ii) Thorium and its decay products.

29 (iii) Radium and its decay products.

30 (iv) Potassium-40.

1           (v) Lead-210/Polonium-210.

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

5           (i) Chloride.

6           (ii) Bromide.

7           (iii) Sulfate.

8           (iv) Nitrate.

9           (3) In determining whether exempt special waste is  
10 nonhazardous, at a minimum:

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

14           (ii) A representative sample, as defined in 40 CFR  
15 260.10 (relating to definitions), must be tested.

16 (b) The following shall apply regarding reports:

17           (1) A facility shall report quarterly to the department  
18 and the municipality in which the facility is located any  
19 exempt special waste from a drilling site that is received by  
20 the facility. The report shall include the following:

21           (i) Volume and contents of the waste.

22           (ii) Type of waste, by category.

23           (iii) The presence of radionuclides, chloride,  
24 bromide, sulfate or nitrate and their concentration  
25 levels.

26           (iv) The presence and level of toxicity,  
27 corrosivity, ignitability or reactivity.

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



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

3           (c) If exempt special waste is not nonhazardous, as  
4           described in subsection (a), the department or municipality  
5           shall schedule a public hearing to address the hazardous levels.

6           (d) A person, municipality or facility may not, for the  
7           purpose of storage, processing or disposal, provide or receive  
8           exempt special waste that is not nonhazardous, as described in  
9           subsection (a).

10          Section 6. Sections 402, 502(d), 507(a) introductory  
11 paragraph and 602(d) of the act are amended to read:

12          Section 402. Listing of hazardous waste.

13          The Environmental Quality Board shall establish rules and  
14 regulations identifying the characteristics of hazardous wastes  
15 and listing particular hazardous wastes which shall be subject  
16 to the provisions of this act. The list promulgated shall in no  
17 event prevent the department from regulating other wastes,  
18 which, although not listed, the department has determined to be  
19 hazardous; the Department of Environmental [Resources]  
20 Protection may regulate such hazardous wastes when the  
21 department has determined such waste poses a substantial present  
22 or potential hazard to the human health or the environment by  
23 any means including, but not limited to, issuance of orders and  
24 the imposition of terms and conditions of permits. The board  
25 shall identify the characteristics of hazardous wastes and list  
26 particular hazardous wastes within 30 days after the effective  
27 date of this section, which initial list shall not be subject to  
28 section 107 of this act but shall be promulgated in accordance  
29 with section 204(3) [(relating to omission of notice of proposed  
30 rule making)] of the act of July 31, 1968 (P.L.769, No.240),

1 referred to as the Commonwealth Documents Law.

2 Section 502. Permit and license application requirements.

3 \* \* \*

4 (d) The application for a permit shall set forth the manner  
5 in which the operator plans to comply with the requirements of  
6 the act of June 22, 1937 (P.L.1987, No.394), known as "The Clean  
7 Streams Law," the act of May 31, 1945 (P.L.1198, No.418), known  
8 as the "Surface Mining Conservation and Reclamation Act," the  
9 act of January 8, 1960 (1959 P.L.2119, No.787), known as the  
10 "Air Pollution Control Act," and the act of November 26, 1978  
11 (P.L.1375, No.325), known as the "Dam Safety and Encroachments  
12 Act," as applicable. No approval shall be granted unless the  
13 plan provides for compliance with the statutes hereinabove  
14 enumerated, and failure to comply with the statutes hereinabove  
15 enumerated during construction and operation or thereafter shall  
16 render the operator liable to the sanctions and penalties  
17 provided in this act for violations of this act and to the  
18 sanctions and penalties provided in the statutes hereinabove  
19 enumerated for violations of such statutes. Such failure to  
20 comply shall be cause for revocation of any approval or permit  
21 issued by the department to the operator. Compliance with the  
22 provisions of this subsection and with the provisions of this  
23 act and the provisions of the statutes hereinabove enumerated  
24 shall not relieve the operator of the responsibility for  
25 complying with the provisions of all other applicable statutes,  
26 including, but not limited to the act of [July 17, 1961  
27 (P.L.659, No.339), known as the "Pennsylvania Bituminous Coal  
28 Mine Act,"] July 7, 2008 (P.L.654, No.55), known as the  
29 "Bituminous Coal Mine Safety Act," the act of November 10, 1965  
30 (P.L.721, No.346), known as the "Pennsylvania Anthracite Coal

1 Mine Act," and the act of July 9, 1976 (P.L.931, No.178),  
2 entitled "An act providing emergency medical personnel;  
3 employment of emergency medical personnel and emergency  
4 communications in coal mines."

5 \* \* \*

6 Section 507. Siting of hazardous waste treatment and disposal  
7 facilities.

8 (a) The Department of Environmental [Resources] Protection  
9 shall have the power and authority to develop, prepare and  
10 modify the Pennsylvania Hazardous Waste Facilities Plan. The  
11 plan shall include:

12 \* \* \*

13 Section 602. Enforcement orders.

14 \* \* \*

15 (d) The Department of Environmental [Resources] Protection  
16 shall have the power to order, orally or in writing, any person  
17 or municipality to immediately suspend or modify hazardous waste  
18 treatment or disposal activities when he determines that  
19 continued operation will jeopardize public health, safety or  
20 welfare. Said order shall be effective upon issuance and may  
21 only be superseded by further department action or, after an  
22 appeal has been perfected, by the Environmental Hearing Board  
23 after notice and hearing. Furthermore, said order may require  
24 remedial actions to be taken in order to prevent harm to public  
25 health, safety or welfare. Within two business days after the  
26 issuance of such oral order, the department shall issue a  
27 written order reciting and modifying, where appropriate, the  
28 terms and conditions contained in the oral order.

29 Section 7. This act shall take effect in 60 days.