

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1355 Session of
2021

INTRODUCED BY INNAMORATO, MADDEN, HOHENSTEIN, HILL-EVANS,
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SHUSTERMAN, VITALI AND N. NELSON, MAY 10, 2021

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
MAY 10, 2021

AN ACT

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

22 The General Assembly of the Commonwealth of Pennsylvania

23 hereby enacts as follows:

24 Section 1. The definitions of "drill cuttings," and "solid
25 waste" in section 103 of the act of July 7, 1980 (P.L.380,

1 No.97), known as the Solid Waste Management Act, amended
2 November 25, 2020 (P.L.1233, No.127), are amended and the
3 section is amended by adding a definition to read:

4 Section 103. Definitions.

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

8 * * *

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

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

19 * * *

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

24 (1) Coal ash.

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

27 * * *

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

30 Section 302. Disposal, processing and storage of residual

1 waste.

2 * * *

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

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

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

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

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

17 (i) Chloride.

18 (ii) Bromide.

19 (iii) Sulfate.

20 (iv) Nitrate.

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

25 (i) Toxicity.

26 (ii) Corrosivity.

27 (iii) Ignitability.

28 (iv) Reactivity.

29 (6) Test leachate prior to discharge, in accordance with
30 best practice standards through gamma-ray spectrometry using

1 high-purity germanium (HPGe) and lithium-drifted germanium
2 (Ge(Li)) detectors and any of their successor technologies,
3 as specified in 40 CFR 141.25(a) (relating to analytical
4 methods for radioactivity), for the presence of all of the
5 following naturally occurring radionuclides:

6 (i) Uranium and its decay products.

7 (ii) Thorium and its decay products.

8 (iii) Radium and its decay products.

9 (iv) Potassium-40.

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

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

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

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

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

24 (e) A facility shall establish and maintain records to
25 compare the testing results regarding municipal waste or
26 residual waste that enters the facility with the testing results
27 regarding leachate leaving the facility, to determine the
28 effectiveness of the disposal or processing of the municipal
29 waste or residual waste. The following apply:

30 (1) For comparison purposes, the same testing

1 requirements shall be used on the municipal waste or residual
2 waste that enters the facility and the leachate leaving the
3 facility.

4 (2) The facility shall report quarterly to the
5 department and the municipality in which the facility is
6 located the testing results regarding the municipal waste or
7 residual waste that enters the facility and the leachate
8 leaving the facility. The report shall include the following:

9 (i) Volume and contents of the waste.

10 (ii) Type of waste, by category.

11 (iii) The presence of radionuclides, chloride,
12 bromide, sulfate or nitrate and their concentration
13 levels.

14 (iv) The presence and level of toxicity,
15 corrosivity, ignitability or reactivity.

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

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

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

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

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

1 Section 304. Exempt special wastes.

2 (a) The following apply:

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

16 (i) Uranium and its decay products.

17 (ii) Thorium and its decay products.

18 (iii) Radium and its decay products.

19 (iv) Potassium-40.

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

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

24 (i) Chloride.

25 (ii) Bromide.

26 (iii) Sulfate.

27 (iv) Nitrate.

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

30 (i) Best available technology economically

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

3 (ii) A representative sample, as defined in 40 CFR
4 260.10 (relating to definitions), must be tested.

5 (b) The following apply regarding reports:

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

10 (i) Volume and contents of the waste.

11 (ii) Type of waste, by category.

12 (iii) The presence of radionuclides, chloride,
13 bromide, sulfate or nitrate and their concentration
14 levels.

15 (iv) The presence and level of toxicity,
16 corrosivity, ignitability or reactivity.

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

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

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

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

29 Section 4. Section 502(d) of the act is amended to read:
30 Section 502. Permit and license application requirements.

1 * * *

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

1 employment of emergency medical personnel and emergency
2 communications in coal mines."

3 * * *

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