

No. 1989-55

AN ACT

HB 139

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 Resources 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," further providing for powers and duties of the department; and providing for the beneficial use or reclamation of municipal and residual waste.

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

Section 1. Section 103 of the act of July 7, 1980 (P.L.380, No.97), known as the Solid Waste Management Act, 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:

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"Beneficial use." Use or reuse of residual waste or residual material derived from residual waste for commercial, industrial or governmental purposes, where the use does not harm or threaten public health, safety, welfare or the environment, or the use or reuse of processed municipal waste for any purpose, where the use does not harm or threaten public health, safety, welfare or the environment.

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Section 2. Section 104(16) and (17) of the act are amended and the section is amended by adding a paragraph to read:

Section 104. Powers and duties of the department.

The department in consultation with the Department of Health regarding matters of public health significance shall have the power and its duty shall be to:

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(16) require the payment of such annual inspection fees and perform such inspections of hazardous waste treatment and disposal facilities as are provided for in the Environmental Quality Board guidelines adopted pursuant to section 105(e). This provision shall not be construed to limit or

restrict the department's inspection powers as elsewhere set forth in this act; **[and]**

(17) administer funds collected by the United States Government and granted to Pennsylvania for the purpose of closing, maintaining or monitoring abandoned or closed hazardous waste storage, treatment or disposal sites and for the purpose of action to abate or prevent pollution at such sites. If Congress has not authorized the collection of such funds within one year after the effective date of this act, or if the department finds that the funding program authorized is inadequate, the department shall transmit to the General Assembly within 15 months after the effective date of this act a proposal for the establishment of a fund in Pennsylvania comprised of surcharges collected from users of hazardous waste storage, treatment and disposal facilities excluding captive facilities in the Commonwealth. Such fund shall be proposed for the purpose of closing, maintaining or monitoring hazardous waste storage, treatment or disposal sites excluding captive facilities which have been abandoned or which have been closed for at least 20 years, and for the purpose of taking action to abate or prevent pollution at such closed or abandoned sites[.]; **and**

(18) encourage the beneficial use or processing of municipal waste or residual waste when the department determines that such use does not harm or present a threat of harm to the health, safety or welfare of the people or environment of this Commonwealth. The department shall establish waste regulations to effectuate the beneficial use of municipal and residual waste, including regulations for the issuance of general permits for any category of beneficial use or processing of municipal waste or residual waste on a regional or Statewide basis in accordance with the regulations adopted by the Environmental Quality Board. The department may or may not require insurance under section 502(e) or bonds under section 505(a) for any general permit or class of general permits promulgated under this paragraph. Except with the written approval of the department, no waste may be stored for longer than one year. Residual wastes being stored shall be monitored for changes in physical and chemical properties, including leachability, pursuant to applicable regulations, by the person or municipality beneficially using or processing such waste. The department may require the submission of periodic analyses or other information to insure that the quality of residual waste to be beneficially used or processed does not change. A municipality or person beneficially using or processing the residual waste shall immediately notify the department, upon forms provided by department, of any change in the physical or chemical properties of the residual waste, including leachability; and the department shall conduct an investigation and order necessary corrective action. Upon receipt of a signed, written complaint of any person whose health, safety or welfare may be adversely affected by a physical or chemical change in the properties of residual waste to be beneficially used or processed, including leachability, the department shall determine the validity of the complaint and take appropriate action.

Section 3. Sections 602(b) and (c), 608(2) and (3) and 610(4) of the act are amended to read:

Section 602. Enforcement orders.

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(b) If the department finds that the storage, collection, transportation, processing, treatment, *beneficial use* or disposal of solid waste is causing pollution of the air, water, land or other natural resources of the Commonwealth or is creating a public nuisance, the department may order the person or the municipality to alter its storage, collection, transportation, processing, treatment, *beneficial use* or disposal systems to provide such storage, collection, transportation, processing, treatment, *beneficial use* or disposal systems as will prevent pollution and public nuisances. Such order shall specify the length of time after receipt of the order within which the facility or area shall be repaired, altered, constructed or reconstructed.

(c) Any person or municipality ordered by the department to repair, alter, construct, or reconstruct a solid waste facility or area shall take such steps for the repair, alteration, construction, or reconstruction of the facility or area as may be necessary for the storage, processing, treatment, *beneficial use* and disposal of its solid waste in compliance with this act and the rules and regulations of the department, and standards and orders of the department.

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Section 608. Production of materials; recordkeeping requirements; rights of entry.

The department and its agents and employees shall:

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(2) Require any person or municipality engaged in the storage, transportation, processing, treatment, *beneficial use* or disposal of any solid waste to establish and maintain such records and make such reports and furnish such information as the department may prescribe.

(3) Enter any building, property, premises or place where solid waste is generated, stored, processed, treated, *beneficially used* or disposed of for the purposes of making such investigation or inspection as may be necessary to ascertain the compliance or noncompliance by any person or municipality with the provisions of this act and the rules or regulations promulgated hereunder. In connection with such inspection or investigation, samples may be taken of any solid, semisolid, liquid or contained gaseous material for analysis. If any analysis is made of such samples, a copy of the results of the analysis shall be furnished within five business days to the person having apparent authority over the building, property, premises or place.

Section 610. Unlawful conduct.

It shall be unlawful for any person or municipality to:

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(4) Store, collect, transport, process, treat, *beneficially use*, or dispose of, or assist in the storage, collection, transportation, processing, treatment, *beneficial use* or disposal of, solid waste contrary to the rules or reg-

ulations adopted under this act, or orders of the department, or any term or any condition of any permit, or in any manner as to create a public nuisance or to adversely affect the public health, safety and welfare.

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Section 4. Nothing in this act shall be deemed to affect section 508 of the act nor any other provision of the act in relation to coal ash.

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

APPROVED—The 11th day of July, A. D. 1989.

ROBERT P. CASEY