

1 **Senate Bill No. 594**

2 (By Senators Kessler (Mr. President), Unger and Cann)

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4 [Introduced February 14, 2014; referred to the

5 Committee on the Judiciary.]

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10 A BILL to amend the Code of West Virginia, 1931, as amended, by

11 adding thereto a new section, designated §22-15-24, relating

12 to allowing the disposal of drill cuttings and associated

13 drilling waste in commercial solid waste facilities; requiring

14 solid waste authority, Public Service Commission and

15 Department of Environmental Protection approval; requiring

16 siting plan or an amendment to an existing siting plan;

17 requiring a certificate of need or an amendment to an existing

18 certificate of need; authorizing solid waste facilities

19 currently receiving drilling wastes to continue under certain

20 circumstances; and requiring Department of Environmental

21 Protection to set standards, by rule, for cell liners,

22 leachate systems, leachate management and treatment.

23 *Be it enacted by the Legislature of West Virginia:*

24 That the Code of West Virginia, 1931, as amended, be amended

1 by adding thereto a new section, designated §22-15-24, to read as
2 follows:

3 **ARTICLE 15. SOLID WASTE MANAGEMENT ACT.**

4 **§22-15-24. Authorizing drill cuttings and waste be deposited in**
5 **solid waste facilities; conditions; rulemaking.**

6 (a) A commercial solid waste facility may lawfully receive
7 drill cuttings and associated drilling waste generated from
8 horizontal well sites only if the following conditions are met:

9 (1) The drill cuttings and associated drilling waste are
10 placed in a separate cell dedicated solely to the disposal of
11 drilling waste;

12 (2) The cell is specifically authorized at the location of the
13 facility by the local commercial solid waste facility siting plan,
14 or an amendment thereto, promulgated in accordance with section
15 twenty-four, article four, chapter twenty-two-c of this code and
16 its implementing rules, regardless of whether that section would
17 otherwise require the siting plan to specifically address the cell;

18 (3) The cell is specifically authorized by a certificate of
19 need, or an amendment to an existing certificate of need, issued by
20 the Public Service Commission as provided in section one-c, article
21 two, chapter twenty-four of this code; and

22 (4) The cell for drilling waste meets the standards
23 established by the Department of Environmental Protection as
24 provided in subsection (e) of this section.

1 (b) Any Class A solid waste facility that has obtained a
2 certificate of need for the operation of a separate cell for drill
3 cuttings and associated waste at the time of the enactment of the
4 amendments to this section has met the requirements of subdivision
5 (4), subsection (a) of this section.

6 (c) Any Class A facility that was, at the time of the
7 enactment of this section, accepting drill cuttings and associated
8 waste may, with the consent of the Department of Environmental
9 Protection, continue to accept the waste until the first occurring
10 of the following:

11 (1) September 30, 2014;

12 (2) The applicable solid waste authority's denial of the
13 facility's request to amend the local commercial solid waste
14 facility siting plan; or

15 (3) The Public Service Commission's denial of the facility's
16 application for a certificate of need.

17 (d) A permit or certificate of need authorizing the
18 construction or operation of a separate cell for drill cuttings and
19 associated waste may authorize a solid waste facility to accept
20 more solid waste per month than would otherwise be allowed for that
21 facility by sections eight and nine of this article, but only by
22 that amount necessary to allow the separate cell to accept the
23 quantity of drill cutting waste authorized by the applicable
24 commercial solid waste facility siting plan. Any siting plan

1 authorizing a separate cell for drill cuttings and associated waste
2 shall specify the maximum quantity of the waste, in tons per month,
3 that may be accepted at the separate cell. Any siting plan
4 authorizing a separate cell for drilling waste that does not
5 specify a maximum quantity authorizes only the quantity the
6 facility could otherwise accept within the limits imposed by said
7 sections eight and nine. As used in this section, the term "solid
8 waste" has the same meaning given to it in section two, article
9 four, chapter twenty-two-c of this code and includes drill cuttings
10 and associated waste that are disposed of in a separate cell.

11 (e) The Department of Environmental Protection shall propose
12 emergency and legislative rules to establish standards for cell
13 liners, leachate systems, leachate treatment and continued leachate
14 testing for new solid waste facility cells for drill cuttings and
15 associated wastes, which are sufficient to protect human health and
16 the environment.

NOTE: The purpose of this bill is to allow the disposal of
drill cuttings and associated drilling waste generated from
horizontal well sites in commercial solid waste facilities upon
approval of the local or regional solid waste authority, PSC and
DEP.

DEP has authorized solid waste facilities to accept drill
cuttings and associated waste in excess of current tonnage caps
established by local solid waste authorities in siting plans. DEP
has not established standards for cell liners or leachate control
or monitoring.

The bill allows those Class A landfills that are taking the
drill cutting and associated waste to continue to accept them under

certain conditions. The bill requires disposal in a separate cell dedicated solely for those wastes. It requires DEP to establish standards for cell liners, leachate systems, leachate treatment and continued leachate testing, by rule, that will protect human health and the environment.

This section is new; therefore, strike-throughs and underscoring have been omitted.