

---

THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

# HOUSE BILL

## No. 1654

Session of  
1987

---

INTRODUCED BY SEMMEL, J. L. WRIGHT, STAIRS, RICHARDSON,  
D. W. SNYDER, BELARDI, ARTY, WASS, PHILLIPS, NAHILL, FISCHER,  
NOYE, SHOWERS, HERMAN, DISTLER, BARLEY, FOX, G. SNYDER, BURD,  
HERSHEY, FARGO, GRUPPO AND SAURMAN, JULY 2, 1987

---

REFERRED TO COMMITTEE ON CONSERVATION, JULY 2, 1987

---

AN ACT

1 Providing for the establishment of a solid waste resource  
2 recovery program; establishing a management board, a recovery  
3 advisory council and enforcement agencies; providing for the  
4 issuing and revocation of permits; and providing for  
5 enforcement.

6 TABLE OF CONTENTS

7 Chapter 1. Preliminary Provisions

8 Section 101. Short title.

9 Section 102. Legislative findings and declarations.

10 Section 103. Definitions.

11 Chapter 2. Solid Waste Resource Recovery Management Board

12 Section 201. Existence; membership; chairperson.

13 Section 202. Terms of office; expiration.

14 Section 203. Appointment of members; Senate confirmation.

15 Section 204. Meetings; quorum.

16 Section 205. Compensation; expenses; per diem.

17 Section 206. Executive director.

18 Section 207. Personnel; facilities; civil service.

1 Section 208. Conflicts of interest.

2 Chapter 3. Solid Waste Resource Recovery Advisory Council

3 Section 301. Solid Waste Resource Recovery Advisory Council.

4 Section 302. Responsibility of council.

5 Section 303. Compensation of members; election of chairperson

6 and vice chairperson; staff.

7 Section 304. Termination of council.

8 Chapter 4. Solid Waste Resource Recovery Program

9 Section 401. Adoption of State programs; elements.

10 Section 402. Conversion facilities for solid wastes; public

11 policy and legislative intent; submission of plan

12 and recommendations; construction and operation

13 agreements.

14 Section 403. Annual report.

15 Section 404. Landfills; methane gas recovery; public policy and

16 legislative intent; feasibility study; program

17 development.

18 Section 405. Agricultural waste conversion to synthetic fuel;

19 public policy and legislative intent; feasibility

20 analysis; demonstration project.

21 Section 406. Study; methane gas monitoring and migration;

22 reports.

23 Section 407. Actions to be taken by board; summary of findings,

24 actions and recommendations.

25 Section 408. Local agencies; business entities; agreements or

26 contracts for conversion facilities of solid

27 wastes; proposals; financing.

28 Chapter 5. Technical and Financial Assistance

29 Section 501. Purpose.

30 Section 502. Necessity of appropriation.

1 Section 503. Eligible projects and activities.  
2 Section 504. Requirements for award.  
3 Section 505. Requirements for award; matching funds; economic  
4 viability.  
5 Section 506. Procedures for disbursement, oversight, etc.  
6 Section 507. Recycling projects; conditions; usual components  
7 of recyclable municipal and household wastes.  
8 Section 508. Payments; conditions; control procedures.  
9 Chapter 6. Establishment of Enforcement Agency; Powers and  
10 Duties of Enforcement Agency  
11 Section 601. Designation of enforcement agency.  
12 Section 602. Powers of enforcement agency.  
13 Section 603. Facilities for hazardous wastes; enforcement  
14 activities.  
15 Section 604. Mixed waste disposal facilities; enforcement and  
16 regulatory authority.  
17 Section 605. Fees where Solid Waste Resource Recovery  
18 Management Board is enforcement agency.  
19 Section 606. Fees.  
20 Section 607. Review of proposed designation, enforcement  
21 program and enforcement agencies; withdrawal of  
22 approval.  
23 Chapter 7. Permit and Inspection Program  
24 Section 701. Permits.  
25 Section 702. Investigations by enforcement agency, board or  
26 department.  
27 Section 703. Public inspection of reports, applications or  
28 other documents.  
29 Section 704. Single and multiple use facilities; permits.  
30 Section 705. Inventory of facilities violating minimum

1 standards; file of permitted facilities;  
2 inspection and investigations.

3 Chapter 8. Administrative Enforcement and Remedies Available to  
4 an Enforcement Agency

5 Section 801. Cease and desist orders; cleanup and abatement  
6 work; petition for cleanup or abatement work;  
7 contracts; costs.

8 Section 802. Intentional or negligent violation of permit or  
9 operation with permit; fines and penalties;  
10 actions to recover; disposition of collected  
11 funds; other remedies.

12 Section 803. Emergency cease and desist or cleanup order.

13 Chapter 9. Denial, Suspension or Revocation of Permits

14 Section 901. Hearing to determine issuance of permit.

15 Section 902. Hearing to determine suspension, modification or  
16 revocation of permit.

17 Section 903. Notice of defense.

18 Section 904. Hearing panel.

19 Section 905. Conduct of proceedings.

20 Section 906. Decision.

21 Section 907. Petition for reinstatement of permit or reduction  
22 of penalty.

23 Chapter 10. Administrative Enforcement and Remedies

24 Section 1001. Appeals; powers of board on appeal.

25 Section 1002. Scope of review; disposition by board.

26 Section 1003. Operations within jurisdiction of more than one  
27 enforcement agency; resolution of conflicts by  
28 board.

29 Section 1004. Board enforcement upon agency request.

30 Section 1005. Coordination of enforcement with Department of

1 Health.

2 Section 1006. Petition for injunctive relief; activities of

3 facility operators.

4 Section 1007. Petition for injunctive relief; nonenforcement

5 by enforcement agency.

6 Section 1008. Administrative procedure regulations.

7 Section 1009. Actions in common pleas court to contest

8 enforcement agency actions.

9 Chapter 11. Other Provisions

10 Section 1101. Injunctive relief under act; necessity of showing

11 irreparable damage or adequate remedy at law.

12 Section 1102. Waiver of individual standards.

13 Chapter 12. Miscellaneous Provisions

14 Section 1201. Repeals.

15 Section 1202. Effective date.

16 The General Assembly of the Commonwealth of Pennsylvania

17 hereby enacts as follows:

18 CHAPTER 1

19 PRELIMINARY PROVISIONS

20 Section 101. Short title.

21 This act shall be known and may be cited as the Renewable

22 Resources Act.

23 Section 102. Legislative findings and declarations.

24 The General Assembly finds and declares as follows:

25 (1) The increasing volume and variety of solid wastes

26 being generated throughout this Commonwealth, coupled with

27 the often inadequate existing methods of managing such

28 wastes, are creating conditions which threaten the public

29 health, safety and well-being by contributing to air, water

30 and land pollution; to the production of flies, rodents and

1       litter; to the waste of dwindling natural resources; and to  
2       the general deterioration of the environment.

3       (2) The situation referred to in paragraph (1) arises  
4       from the interaction of a number of factors, including rapid  
5       population increase; decentralized urban growth; industrial  
6       expansion; agricultural changes; transportation improvements;  
7       and technological developments in the manufacturing,  
8       packaging and marketing of consumer products, which  
9       collectively are placing planning, economic and resource base  
10      limitations upon the availability of land for solid waste  
11      disposal.

12      (3) The traditional methods of solid waste management in  
13      this Commonwealth directed largely to land disposal may not  
14      meet future requirements for eliminating environmental  
15      pollution and conserving natural resources.

16      (4) Methods of solid waste management emphasizing source  
17      reduction, recovery, conversion, incineration and recycling  
18      of all solid wastes are essential to the long-range  
19      preservation of the health, safety and well-being of the  
20      public; to the economic productivity and environmental  
21      quality of this Commonwealth; and to the conservation of this  
22      Commonwealth's remaining natural resources.

23      (5) The burden placed on existing solid waste management  
24      systems to collect disposed and littered products and the  
25      need to reduce energy in other resource consumption make it  
26      imperative that the present high level of recycling activity  
27      be continued and that resource recovery systems be developed  
28      to process all recyclable materials, as well as other energy-  
29      rich components of solid wastes.

30      (6) It is in the public interest to establish and

1 maintain a solid waste resource recovery policy, working in  
2 conjunction with the act of July 7, 1980 (P.L.380, No.97),  
3 known as the Solid Waste Management Act, and the act of July  
4 20, 1974 (P.L.572, No.198), known as the Pennsylvania Solid  
5 Waste-Resource Recovery Development Act, the objective of  
6 which will be to manage solid wastes in this Commonwealth so  
7 as to protect the public health, safety and well-being; to  
8 preserve the environment; and to provide for the maximum  
9 reutilization and conversion to other uses of the resources  
10 contained therein.

11 Section 103. Definitions.

12 The following words and phrases when used in this act shall  
13 have the meanings given to them in this section unless the  
14 context clearly indicates otherwise:

15 "Authorized recycling agent." A person that a local  
16 governing body or private commercial entity authorizes or  
17 contracts with to collect its recyclable waste material. The  
18 term includes a municipal collection service, private refuse  
19 hauler, private recycling enterprise or private nonprofit  
20 corporation or association.

21 "Board." The Solid Waste Resource Recovery Management Board.

22 "Council." The Solid Waste Resource Recovery Advisory  
23 Council.

24 "Department." The Department of Environmental Resources of  
25 the Commonwealth.

26 "Designated collection location." The place where an  
27 authorized recycling agent has contracted with either the local  
28 governing body or a private entity to pick up segregated,  
29 recyclable material. This location will customarily be the  
30 curbside of a residential neighborhood or the service alley of a

1 commercial enterprise.

2 "Disposal facility" or "facility." A facility or location  
3 where disposal of solid wastes occurs.

4 "Disposal site" or "site." The place, location, tract of  
5 land, area or premises which are in use, are intended to be used  
6 or have been used for the landfill disposal of solid wastes.

7 "Disposal site owner." The person who holds title to the  
8 property used as a disposal site after January 1, 1988.

9 "Enforcement agency." The local agency, the board or the  
10 department designated for the purpose of carrying out the  
11 enforcement provisions.

12 "Enforcement program." The regulations and procedures  
13 adopted by the enforcement agency under this act.

14 "Hazard." A condition, practice or procedure which is or may  
15 be dangerous, harmful or perilous to employees, property,  
16 neighbors or the general public.

17 "Hazardous waste." Garbage, refuse, sludge from an  
18 industrial or other waste water treatment plant, sludge from a  
19 water supply treatment plant or air pollution control facility  
20 and other discarded material.

21 (1) The term includes solid, liquid, semisolid or  
22 contained gaseous material resulting from municipal,  
23 commercial, industrial, institutional, mining or agricultural  
24 operations or from community activities.

25 (2) The term does not include any of the following:

26 (i) Solid or dissolved material in domestic sewage.

27 (ii) Solid or dissolved materials in irrigation  
28 return flows or industrial discharges which are point  
29 sources subject to permits under section 402 of the

30 Federal Water Pollution Control Act (62 Stat. 1155, 33



U.S.C. § 1342).

(iii) Source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954 (68 Stat. 921, 28 U.S.C. §§ 2341(3)(A)-(C) and 2342(1)-(4) and 42 U.S.C. § 2011 et seq.), which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may:

(A) cause or significantly contribute to an increase in mortality or an increase in morbidity in either an individual or the total population; or

(B) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

(3) The term does not include coal refuse as defined in the act of September 24, 1968 (P.L.1040, No.318), known as the Coal Refuse Disposal Control Act, nor treatment sludges, from coal mine drainage treatment plants, disposal of which is being carried on pursuant to and in compliance with a valid permit issued pursuant to the act of June 22, 1937 (P.L.1987, No.394), known as The Clean Streams Law.

"Implementation schedule." A schedule which indicates approximate dates for the orderly and timely implementation of planned policies and programs. The term includes approximate dates for the establishment, expansion and closure of a site for a solid waste facility identified and reserved in the plan.

"Local governing body." The legislative body of a local agency which is an enforcement agency.

"Operator." The person to whom the approval to operate a disposal site, transfer-processing station or collection system

1 is granted.

2 "Person." An individual, or an entity. The term includes  
3 government entities.

4 "Pollution." The condition caused by the presence, in or on  
5 a body of water, soil or air of a solid waste or substance  
6 derived from a solid waste in such quantity, of such nature and  
7 duration or under such condition that the quality, appearance or  
8 usefulness of the water, soil or air is significantly degraded  
9 or adversely altered.

10 "Processing." The reduction, separation, recovery,  
11 conversion or recycling of solid wastes.

12 "Recycling." The process of sorting, cleansing, treating and  
13 reconstituting waste or other discarded material for the purpose  
14 of using the altered form.

15 "Regional planning agency." A planning commission, planning  
16 department or planning committee of the governing body.

17 "Resource recovery facility." A facility which provides for  
18 the extraction and utilization of materials and values from  
19 solid waste, including the separation, recycling and recovery of  
20 solid waste. The term includes a high-temperature incinerator.

21 "Resource recovery program." The Solid Waste Resource  
22 Recovery Program under Chapter 4.

23 "Segregated from other waste material." Any of the  
24 following:

25 (1) The placement of recyclable materials in separate  
26 containers.

27 (2) The binding of recyclable materials separately from  
28 the other waste materials.

29 (3) The physical separation of recyclable material from  
30 other waste material.

1 "Solid waste." Putrescible and nonputrescible solid,  
2 semisolid and liquid wastes. The term includes garbage, trash,  
3 refuse, paper, rubbish, ashes, industrial wastes, demolition and  
4 construction wastes, abandoned vehicles and parts of abandoned  
5 vehicles, discarded home and industrial appliances, manure,  
6 vegetable or animal solid and semisolid wastes and other  
7 discarded solid and semisolid wastes.

8 "Solid waste disposal" or "disposal." The final disposition  
9 of solid waste onto land, into the atmosphere or into the waters  
10 of this Commonwealth.

11 "Solid waste facility." A disposal facility, a disposal site  
12 or a solid waste transfer-processing station.

13 "Solid waste handling" or "handling." The collection,  
14 transportation, storage, transfer or processing of solid wastes.

15 "State policy." The State policy for resource recovery.

16 "Transfer-processing station" or "station." Those facilities  
17 utilized to receive solid wastes; to temporarily store,  
18 separate, convert or process materials in the solid wastes; or  
19 to transfer the solid wastes directly from smaller to larger  
20 vehicles for transport. The term does not include a facility,  
21 the principal function of which is to receive, store, separate,  
22 convert or otherwise process manure in accordance with State  
23 minimum standards, or wastes which have already been separated  
24 for reuse and are not intended for disposal.

## 25 CHAPTER 2

### 26 SOLID WASTE RESOURCE RECOVERY MANAGEMENT BOARD

27 Section 201. Existence; membership; chairperson.

28 (a) Board established.--The Solid Waste Resource Recovery  
29 Management Board is established in the department.

30 (b) Membership.--The board shall consist of the following

1 members:

2 (1) One member, appointed by the Governor, who is a  
3 mayor of a city or a city council member.

4 (2) One member, appointed by the Governor, who is a  
5 county commissioner.

6 (3) Three representatives of the public, appointed by  
7 the Governor.

8 (4) One representative of the public, appointed by the  
9 Speaker of the House of Representatives, who have specialized  
10 education and experience in natural resources conservation  
11 and resource recovery.

12 (5) One representative of the public, appointed by the  
13 President pro tempore of the Senate, who is a registered  
14 civil engineer in this Commonwealth and has specialized  
15 education and experience in natural resources conservation  
16 and resource recovery.

17 (6) Two members, appointed by the Governor, from the  
18 private sector of the solid waste management industry of this  
19 Commonwealth.

20 (c) Chairperson.--The Governor shall appoint one of the  
21 members of the board as chairperson. The chairperson shall serve  
22 half time and shall receive an annual salary as prescribed by  
23 the regulations promulgated under this act.

24 Section 202. Terms of office; expiration.

25 The terms of the voting members shall be four years,  
26 commencing on January 1, 1988. The members first appointed to  
27 the board shall classify themselves by lot so that the terms of  
28 two members shall expire January 1, 1990, the terms of two  
29 members shall expire January 1, 1991, and the terms of three  
30 members shall expire January 1, 1992.

1 Section 203. Appointment of members; Senate confirmation.

2 The appointments of members to the board made by the Governor  
3 shall be subject to confirmation by a majority of the members of  
4 the Senate.

5 Section 204. Meetings; quorum.

6 The board shall hold meetings at least monthly at times and  
7 places determined by it. The Governor shall designate the time  
8 and place for the first meeting of the board. It shall be  
9 scheduled by January 30, 1988. Five members of the board  
10 constitutes a quorum for the purpose of transacting business of  
11 the board.

12 Section 205. Compensation; expenses; per diem.

13 Each member of the board shall receive the necessary travel  
14 and other expenses incurred in the performance of official  
15 duties out of appropriations made for the support of the board.  
16 In addition, each member except the chairperson, shall receive  
17 \$75 for each day attending meetings of the board. When  
18 necessary, the members of the board may travel inside or outside  
19 this Commonwealth.

20 Section 206. Executive director.

21 The board shall appoint an executive director, who shall  
22 administer the functions of the board.

23 Section 207. Personnel; facilities; civil service.

24 The board may appoint clerical and secretarial employees,  
25 technical personnel and other staff, and acquire facilities, as  
26 necessary for the performance of its functions. The staff of the  
27 board shall be subject to the relevant system and procedures of  
28 the act of August 5, 1941 (P.L.752, No.286), known as the Civil  
29 Service Act.

30 Section 208. Conflicts of interest.

1 (a) Board action.--No member of the board shall participate  
2 in a board action which involves the member or a solid waste  
3 handler with which the member is connected as a director,  
4 officer or employee or in which the director has a direct  
5 personal financial interest.

6 (b) Proceedings.--No member of the board shall participate  
7 in a proceeding before an agency as a consultant or in any other  
8 capacity on behalf of a solid waste handler.

9 CHAPTER 3

10 SOLID WASTE RESOURCE RECOVERY ADVISORY COUNCIL

11 Section 301. Solid Waste Resource Recovery Advisory Council.

12 (a) Council established.--The Solid Waste Resource Recovery  
13 Advisory Council is established. The council shall consist of  
14 the following 25 members appointed by the Governor and confirmed  
15 by a majority of the members of the Senate:

16 (1) Two representatives of private solid waste handlers.

17 (2) Two representatives of public solid waste handlers.

18 (3) Two representatives of private solid waste disposal  
19 facility operators.

20 (4) Two representatives of public solid waste disposal  
21 facility operators.

22 (5) Six representatives of major, private solid waste-  
23 producing industries, including the glass, can, paper, steel  
24 and chemical industries.

25 (6) One county public health officer.

26 (7) Three representatives of the agriculture and timber  
27 industries.

28 (8) Two representatives of well-established citizen  
29 action solid waste resource recovery programs.

30 (9) One county commissioner.

1           (10) One city councilman.

2           (11) Three representatives of the public at large, each  
3       of whom possesses special knowledge or experience in solid  
4       waste management and resource recovery, the conservation of  
5       natural resources or environmental pollution.

6       (b) Ex officio members.--The executive director of the board  
7       and the Secretaries of the Department of Environmental  
8       Resources, Department of Commerce, Department of Health,  
9       Department of Community Affairs and Department of Agriculture,  
10      or their designees, shall serve as ex officio, nonvoting  
11      members.

12      (c) Monthly meetings to be held.--The council shall hold  
13      meetings at least monthly at times and places determined by it.  
14      The Governor shall designate the time and place for the first  
15      meeting of the council. It shall be scheduled by January 30,  
16      1988. Thirteen members of the council constitutes a quorum for  
17      the purpose of transacting business of the council.

18      Section 302. Responsibility of council.

19      The council shall be responsible for all of the following:

20           (1) Initial preparation and recommendation to the board,  
21      by December 31, 1988, of the resource recovery program.

22           (2) Reviewing and recommending to the board revisions in  
23      the resource recovery program and in State policy after  
24      adoption.

25           (3) Making recommendations to the board concerning each  
26      county solid waste management plan submitted to the  
27      department.

28           (4) Providing advice and assistance to citizen-action  
29      groups, solid waste producing industries and public and  
30      private solid waste collection and disposal organizations on

1 the development and implementation of solid waste recycling  
2 and resource recovery programs.

3 (5) Providing advice and assistance to the board in  
4 connection with a study by the board of the nature, extent  
5 and methods of reducing and controlling the litter problem on  
6 a Statewide basis.

7 Section 303. Compensation of members; election of chairperson  
8 and vice chairperson; staff.

9 Members of the council shall serve without compensation but  
10 shall be entitled to a per diem of \$75 and be reimbursed for  
11 travel expenses incurred as a result of official council  
12 business. A chairperson and vice chairperson shall be elected  
13 annually from among the members. Professional and clerical staff  
14 for the council shall be provided by the board.

15 Section 304. Termination of council.

16 The council shall terminate on January 1, 1992.

#### 17 CHAPTER 4

#### 18 SOLID WASTE RESOURCE RECOVERY PROGRAM

19 Section 401. Adoption of State programs; elements.

20 The board shall adopt, by January 1, 1990, after review,  
21 notice, public hearings and modification by the board, as  
22 necessary, the Solid Waste Resource Recovery Program, which  
23 shall be submitted to the board by the council no later than  
24 December 31, 1988. The program shall include, but not be limited  
25 to, the following elements:

26 (1) Guidelines, criteria, procedures and financial  
27 participation formulas for the initiation and maintenance of  
28 a major State-directed research and development program,  
29 jointly with public and private entities and individuals, to  
30 develop technologically and economically feasible systems for



1 the collection, reduction, separation, recovery, conversion,  
2 incineration and recycling of solid wastes and the  
3 environmentally safe disposal of nonusable residues. The  
4 research and development program shall be so structured as to  
5 insure maximum entitlement by the State and its contractees  
6 of all matching money available from any Federal, State or  
7 private source. The program may include, among its basic  
8 objectives, the design, construction and testing of pilot  
9 equipment and systems for the processing of solid wastes.

10 (2) Special studies and demonstration projects on the  
11 recovery of useful energy and resources from solid wastes,  
12 including, but not limited to, the following:

13 (i) Methods of recovering resources and energy from  
14 the solid wastes and recommended uses of the resources  
15 and energy for the local, State, national or  
16 international welfare, including identification of  
17 potential markets for recovered resources and the impact  
18 of the distribution of the resources on existing markets.

19 (ii) The use of high-temperature incinerators to  
20 recycle waste and minimize the need for dumping.

21 (iii) Changes in current product characteristics and  
22 production and packaging practices which would reduce the  
23 amount of solid wastes generated at sources.

24 (iv) Methods of collection, reduction, separation  
25 and containerization which will encourage the more  
26 efficient utilization of facilities and contribute to  
27 more effective programs for the reuse of solid wastes.

28 (v) The use of State procurement to develop market  
29 demand for recovered resources, with special emphasis on  
30 maximum possible State use of recycled paper.

(vi) Recommended incentives, including State grants, loans and other assistance, and disincentives to public agencies and private organizations and individuals, necessary to accelerate the reclamation and recycling of resources from solid wastes.

(vii) The effects of existing public policies, including subsidies and economic incentives and disincentives, percentage depletion allowances, capital gains treatment and other tax incentives and disincentives, upon the recycling and reuse of solid wastes and the likely effects of the modification or elimination of the incentives and disincentives upon the reuse, recycling and conversion of resources.

(viii) The advantages and disadvantages of, and methods of imposing, disposal taxes on packaging, containers, vehicles and other manufactured goods which (taxes) would reflect the cost of final disposal, the value of recoverable components of the item and social costs associated with the nonrecycling or uncontrolled disposal of the items.

(3) State pilot resource recovery projects, at State institution or institutions where the projects are deemed most feasible. Each project shall be designed to provide for the maximum possible reuse and recycling of the solid wastes generated by the institution. Based upon data developed during the project, this element of the resource recovery program may be expanded or discontinued by the board.

(4) Permit requirements for solid waste resource recovery facilities.

Section 402. Conversion facilities for solid wastes; public

1 policy and legislative intent; submission of plan  
2 and recommendations; construction and operation  
3 agreements.

4 The General Assembly finds and declares that effective solid  
5 waste management can aid in the development of alternative  
6 sources of energy through the conversion of solid waste material  
7 into energy, synthetic fuels and reusable materials. It is the  
8 policy of the Commonwealth and the intent of the General  
9 Assembly that a well-coordinated governmental effort be directed  
10 toward achieving an efficient process for the conversion of  
11 solid wastes into energy, synthetic fuels and reusable  
12 materials. This policy is specifically designed to encourage the  
13 dual objectives of materials recovery and the development of  
14 supplemental energy resources. Not later than January 1, 1991,  
15 and after consultation with interested cities and counties, the  
16 department, the Department of Commerce, the Department of  
17 Community Affairs, the Department of Health and one standing  
18 committee in both the Senate and the House of Representatives,  
19 as determined by the President pro tempore of the Senate and the  
20 Speaker of the House of Representatives, respectively, the board  
21 shall select one or more sites that are suitable for the  
22 establishment of facilities for the conversion of solid wastes  
23 into energy, synthetic fuels or reusable materials. This  
24 selection shall be predicated upon information that shows the  
25 feasibility of the particular process based upon availability of  
26 markets, project economics, impact of a facility on local  
27 employment, local needs for new energy sources, conformance  
28 with local land use planning and a guaranteed volume of waste or  
29 feed stock. The Department of Commerce and the Department of  
30 Community Affairs shall assist the board in identifying

1 appropriate sources of funding and developing a plan for  
2 financing the facilities. The board shall submit the plan and  
3 its recommendations to the General Assembly not later than  
4 December 31, 1991.

5 Section 403. Annual report.

6 The board shall submit an annual report, together with  
7 recommendations for legislation, on the status of all projects  
8 and their financing to the General Assembly, not later than June  
9 1, 1992, and annually thereafter.

10 Section 404. Landfills; methane gas recovery; public policy and  
11 legislative intent; feasibility study; program  
12 development.

13 (a) Policy.--It is the policy of the Commonwealth and the  
14 intent of the General Assembly to encourage the recovery and  
15 utilization of methane gas produced during the natural  
16 decomposition of wastes at landfills in this Commonwealth, to  
17 the extent that such recovery and utilization is technologically  
18 and economically feasible and when other, more productive  
19 resource and energy recovery options or opportunities are not  
20 available. It is, further, the policy of the Commonwealth and  
21 the intent of the General Assembly to encourage private sector  
22 participation in this effort.

23 (b) Feasibility study to be undertaken.--The board shall  
24 undertake a study regarding the feasibility of recovering  
25 methane gas from landfills. The feasibility study shall include,  
26 but not be limited to, an assessment of the available  
27 information on all of the following:

28 (1) The state of the art of methane recovery technology  
29 and the development of examples of demonstrated or  
30 experimental methane recovery systems.

1           (2) Landfill requirements necessary for effective  
2 methane recovery, including, but not limited to, landfill  
3 size, depth, venting, amount of water and composition of  
4 wastes.

5           (3) Methods for estimating the life of the gas resource  
6 at landfill sites and for determining gas production  
7 potential.

8           (4) Capital requirements for methane recovery technology  
9 and the impact of State assistance in funding.

10          (5) Institutional arrangements.

11          (6) Potential end uses for recovered methane, including  
12 the mixture of purified gas with natural gas, direct  
13 industrial applications of low-BTU gas, electrical generation  
14 from raw gas and conversion to methanol, and a comparison of  
15 the energy value and costs for each end use.

16          (7) Landfill sites in this Commonwealth which have  
17 significant potential for effective, economical methane  
18 recovery.

19          (8) The role of methane recovery in waste management and  
20 resource recovery programs and a brief comparison of methane  
21 recovery with other energy and material options as regards  
22 energy potential, environmental impacts and capital costs.

23          (c) Program to be developed.--Based upon the findings of the  
24 feasibility study, the board shall develop a proposed program to  
25 implement maximum feasible recovery of methane gas at landfills  
26 in this Commonwealth. The program shall include recommendations  
27 on each of the following subjects indicated where action or  
28 financial support by the Commonwealth is appropriate:

29           (1) The role of methane recovery in the resource  
30 recovery program adopted by the board including priorities

1 for funding.

2 (2) Appropriate roles for State and local government in  
3 implementing methane recovery at landfills and the role of  
4 the board in providing technical assistance to private and  
5 public entities undertaking methane recovery projects.

6 (3) Requirements for further data analysis.

7 (4) Demonstration projects.

8 (5) Sources of funding for methane recovery projects.

9 (6) Financial incentives necessary to facilitate private  
10 sector investment in methane recovery, including the  
11 possibility of investment tax credits, State assistance in  
12 funding and the Pennsylvania Public Utility Commission  
13 deregulation of sales to multiple customers.

14 (7) Study of the feasibility of improving the design and  
15 engineering of future landfills to enhance methane recovery.

16 (8) Legislative and executive actions necessary to  
17 implement the program.

18 (d) Study and program to be submitted.--The board shall  
19 submit the feasibility study and the recommendations for the  
20 program to implement maximum feasible recovery of methane at  
21 landfills to the General Assembly and the Governor on or before  
22 December 31, 1993.

23 Section 405. Agricultural waste conversion to synthetic fuel;  
24 public policy and legislative intent; feasibility  
25 analysis; demonstration project.

26 (a) Findings.--The General Assembly finds and declares that  
27 there exists a significant water pollution problem associated  
28 with the current practice of using extraordinarily large amounts  
29 of agricultural wastes on land as a means of both fertilization  
30 and disposal. The conversion of agricultural wastes to a

1 synthetic fuel might serve to mitigate the water pollution  
2 problem and the solid waste disposal problems, as well as  
3 provide an additional source of energy.

4 (b) Expression of intent.--This section shall serve as an  
5 expression of the intent of the Commonwealth to actively explore  
6 and develop the alternative of conversion of agricultural wastes  
7 to synthetic fuels, rather than the current practices.

8 (c) Feasibility analysis.--After a consultation with the  
9 department, the Department of Agriculture and the Department of  
10 Commerce, the board shall determine the economic feasibility of  
11 developing a research and demonstration project which would  
12 further the development of the concept of conversion of  
13 agricultural wastes to synthetic fuel. As a part of this  
14 feasibility analysis, the board shall do all of the following:

15 (1) Determine whether an adequate volume of wastes would  
16 be available to serve such a project.

17 (2) Complete an analysis of the costs of transporting  
18 the agricultural wastes from the field to the conversion  
19 unit.

20 (3) Determine whether a mobile or stationary system  
21 should be developed and demonstrated.

22 (4) Develop a test program that will result in the  
23 construction and demonstration of such a system.

24 (5) Determine the availability of matching Federal  
25 funds.

26 (d) Construction and field demonstration to be undertaken.--  
27 Upon a finding by the board that a research and demonstration  
28 proposed is an economically feasible solution to problems caused  
29 by the current use of agricultural wastes, with the assistance  
30 and cooperation of the department and the Department of

1 Agriculture, the board shall undertake the construction and  
2 field demonstration of a system for the conversion of  
3 agricultural wastes to synthetic fuel. The field demonstration  
4 shall be completed by December 31, 1993. The demonstration  
5 program shall study the various parameters of system performance  
6 regarding air pollution emissions, other environmental impacts,  
7 the utility of the system on various types of agricultural  
8 wastes, the evaluation of the reliability of the process and an  
9 overall economic analysis.

10 (e) Evaluation of system.--As a result of this demonstration  
11 project, the board shall provide for public consumption,  
12 documentation regarding the evaluation of the system. If the  
13 demonstration is a successful one, the documentation shall be in  
14 a form that would encourage commercial development of conversion  
15 of agricultural wastes to synthetic fuel.

16 Section 406. Study; methane gas monitoring and migration;  
17 reports.

18 (a) Responsibility of board to protect public health and  
19 safety.--

20 (1) The board shall be responsible for insuring that  
21 landfill operators and local governments protect the public  
22 health and safety with respect to the migration of  
23 combustible gas from solid waste disposal sites. In carrying  
24 out that responsibility, the board shall undertake a two-year  
25 study in order to do all of the following:

26 (i) Determine the most effective means of monitoring  
27 gas release.

28 (ii) Develop technical specifications or gas  
29 migration control systems which would be compatible with  
30 maximum recovery of the gas for use as an energy source.



1 (iii) Formulate standards for determining the  
2 maximum concentration of methane gas that should be  
3 allowed to migrate from landfills.

4 (iv) Develop a technical assistance strategy to help  
5 local governments and landfill operators correct  
6 deficiencies.

7 (2) During the course of the study, the board shall  
8 evaluate existing gas-monitoring systems, consult with  
9 industry representatives and conduct a literature search to  
10 develop a compendium of gas-control techniques, and test new  
11 technologies at Pennsylvania landfills that have experienced  
12 gas-migration problems.

13 (b) Reports to be prepared.--The board shall prepare two  
14 reports on or before January 1, 1994, on the findings made  
15 during the study conducted under subsection (a). One report  
16 shall be technical in nature and shall include recommended  
17 actions that landfill operators could take to minimize gas  
18 migration and maximize the public health and safety at existing  
19 landfills. Another report, to the General Assembly, shall  
20 include a summary of the technical findings and recommendations  
21 for legislative and administrative actions which can be taken to  
22 enhance these safety objectives.

23 (c) Board may seek Federal funds.--The board may seek  
24 Federal funds for activities in support of its responsibilities  
25 under this section.

26 Section 407. Actions to be taken by board; summary of findings,  
27 actions and recommendations.

28 The board shall take, or cause to be taken by contract,  
29 actions necessary to identify the geographical location of  
30 existing or potential markets for recoverable materials,

1 identify the economic and technical barriers to the use of  
2 recovered materials and encourage the development of new uses  
3 for recovered materials. A summary of the findings and any  
4 actions taken and any recommendations resulting from the actions  
5 shall be transmitted to the Governor and the General Assembly in  
6 the annual report.

7 Section 408. Local agencies; business entities; agreements or  
8 contracts for conversion facilities of solid  
9 wastes; proposals; financing.

10 (a) Agreement and contracts authorized.--A local agency may  
11 enter into agreements with other local agencies or into  
12 contracts with business entities for the design, construction or  
13 operation of a facility for the conversion of solid wastes into  
14 energy, synthetic fuel or reusable materials if the construction  
15 of the facility conforms to the act of July 7, 1980 (P.L.380,  
16 No.97), known as the Solid Waste Management Act. One contractor  
17 may be selected to perform the design, construction and  
18 operation under one contract; or separate contracts may be  
19 entered into with one or more contractors.

20 (b) Proposals may be requested.--Prior to awarding a  
21 contract or entering into an agreement, a local agency shall  
22 request proposals from qualified business entities. After  
23 evaluating the proposals, the local agency may award the  
24 contract on the basis of the experience of the contractor, the  
25 type of technology employed by the contractor, the costs to the  
26 local agency and other relevant considerations. If the local  
27 agency desires, it may consider proposals only from those  
28 business entities which have previously submitted a statement of  
29 qualifications and information and have been deemed qualified to  
30 submit a proposal by the local agency. To be deemed qualified,

1 the business entity must have established its qualifications in  
2 accordance with standards published by the local agency.

3 (c) Financing.--A facility designed, constructed or operated  
4 under this section shall be eligible for financing with State  
5 revenue bonds or other available sources of financing.

6 (d) Powers are in addition to other powers.--The powers  
7 conferred on local agencies in this section are in addition to  
8 any other powers which may be possessed by the agencies.

9 (e) Public building requirements not changed.--Nothing in  
10 this section shall be construed to change public building  
11 requirements.

12 (f) Definitions.--As used in this section the following  
13 words and phrases shall have the meanings given to them in this  
14 subsection:

15 "Business entity." An organization or enterprise operated  
16 for profit. The term includes a proprietorship, partnership,  
17 firm, business trust, joint venture, syndicate, corporation or  
18 association.

19 "Local agency." A county, city, incorporated town, township,  
20 borough, special district authorized to collect, dispose of or  
21 collect and dispose of solid wastes or joint powers authorized  
22 to construct and operate a facility for the conversion of solid  
23 wastes into energy, synthetic fuel or reusable material.

## 24 CHAPTER 5

### 25 TECHNICAL AND FINANCIAL ASSISTANCE

26 Section 501. Purpose.

27 Through the provision of technical and financial assistance,  
28 the board shall support projects and activities to achieve the  
29 goals and fulfill its responsibilities under this act.

30 Section 502. Necessity of appropriation.

No funds shall be expended for projects and activities eligible for assistance under this act unless funds are appropriated by the General Assembly.

Section 503. Eligible projects and activities.

Projects and activities eligible for State financial assistance shall be limited to the following:

- (1) Research and development projects.
- (2) Projects that demonstrate a new or innovative process, technology or system.
- (3) Technical studies.
- (4) Practices to improve solid waste management health and safety practices in this Commonwealth.
- (5) Public awareness, education and participation programs.

Section 504. Requirements for award.

Before awarding financial assistance, the board shall determine that the project or activity meets all of the following requirements:

- (1) The project or activity helps to increase the cost effectiveness of resource recovery in this Commonwealth.
- (2) The funds do not replace existing funding which would be used for the same purposes.
- (3) The project or activity is applicable to the Statewide resolution of the solid waste management problems.
- (4) The project or activity is consistent with existing county resource recovery management plans and has the explicit support of the affected local jurisdictions.

Section 505. Requirements for award; matching funds; economic viability.

The board shall, to the maximum extent feasible, award

1 financial assistance to those projects and activities which can  
2 demonstrate the following:

3 (1) The commitment of matching funds by the proponent of  
4 the project or activity.

5 (2) The long-term economic viability of the project or  
6 activity.

7 Section 506. Procedures for disbursement, oversight, etc.

8 The board shall provide, by regulations, procedures for the  
9 disbursement, oversight and audit of funds and for the  
10 evaluation of the effectiveness of projects and activities  
11 assisted under this act.

12 Section 507. Recycling projects; conditions; usual components  
13 of recyclable municipal and household wastes.

14 (a) Conditions.--Before providing financial assistance to  
15 recycling projects, the board shall determine that the project  
16 to be financed meets all of the following conditions:

17 (1) The project tests or demonstrates a new or  
18 innovative technology or system for recovering recyclable  
19 materials.

20 (2) The applicant provides sufficient evidence for the  
21 board to find that the materials to be collected are not  
22 being recovered and would not otherwise be recovered without  
23 State financing under this chapter.

24 (3) The materials collected will be absorbed in an  
25 existing materials recovery operation or the materials, by  
26 being collected, will create a new market.

27 (b) Assistance prohibited in certain cases.--The board shall  
28 not provide financial assistance to an applicant, or to an  
29 entity owned or operated by an applicant, if that applicant is  
30 purchasing or will be purchasing recyclable materials, other

1 than the usual components of recyclable municipal and household  
2 wastes, at a location within the same geographic area as an  
3 existing recycling operation and if those purchases will divert  
4 the waste away from the existing recycling operations which also  
5 purchase the recyclable materials. For the purpose of this  
6 section, the term "usual components of recyclable municipal and  
7 household wastes" includes only those items commonly left at the  
8 curb for municipal curbside collection.

9 Section 508. Payments; conditions; control procedures.

10 (a) Advance payment.--The board, upon determining that an  
11 advance payment is essential for the effective implementation of  
12 a project or activity receiving assistance under this act and to  
13 the extent funds are available and appropriated subsequent to  
14 January 1, 1988, may advance, not more than once each fiscal  
15 year, to a community-based, private, nonprofit agency with which  
16 it has contracted for the delivery of services, an amount not to  
17 exceed 25% of the annual allocation to be made to the agency  
18 under the contract during the fiscal year. Advance payments may  
19 be provided for services to be performed under a contract that  
20 meets either of the following conditions:

21 (1) A total annual contract amount is \$200,000 or less.

22 (2) The contract is with any community-based, private,  
23 nonprofit agency with modest reserves and potential cash flow  
24 problems.

25 (b) Certain advance payment prohibited.--No advance payment  
26 shall be made if the total annual contract exceeds \$200,000  
27 without the prior approval of the board.

28 (c) Plan for advance payment.--The board shall develop a  
29 plan to establish control procedures for advance payments. The  
30 plan shall include a procedure whereby the board determines

1 whether or not an advance payment is essential for the effective  
2 implementation of a particular program being funded.

3 CHAPTER 6  
4 ESTABLISHMENT OF ENFORCEMENT AGENCY; POWERS AND DUTIES  
5 OF ENFORCEMENT AGENCY

6 Section 601. Designation of enforcement agency.

7 (a) Enforcement agency to be designated in each county.--On  
8 or before January 1, 1989, there shall be designated within each  
9 county an enforcement agency to carry out the provisions of this  
10 act. If an agency is not designated in a county, the board, in  
11 addition to its other powers, shall be the enforcement agency  
12 within the county.

13 (b) Procedure for designation.--The designation of the  
14 enforcement agency shall be made by any of the following  
15 procedures:

16 (1) The county commissioners or the governing body in a  
17 home rule county may designate the enforcement agency subject  
18 to approval by a majority of the cities located within the  
19 county which contain a majority of the population of the  
20 county.

21 (2) The county and the cities within the county may  
22 enter into a joint exercise of powers agreement for the  
23 purpose of establishing an enforcement agency.

24 (3) The county and each city within the county may  
25 designate an enforcement agency to carry out the provisions  
26 of this act. In the case of a city which is coterminous with  
27 a county, the city shall designate the enforcement agency.

28 (c) Designation to be approved by the board.--No enforcement  
29 agency designated on or after January 1, 1995, may exercise the  
30 powers and duties of an enforcement agency until the designation

1 is approved by the board. The board shall approve each  
2 designation unless it finds that the designated enforcement  
3 agency is not capable of fulfilling its responsibilities under  
4 the enforcement program.

5 (d) Board to be enforcement agency in certain cases.--If no  
6 enforcement agency is designated and the board becomes the  
7 enforcement agency, nothing in this act shall prevent a  
8 designation of an enforcement agency under subsection (a) at a  
9 later date.

10 (e) Designation may be withdrawn.--A designation made under  
11 this section may be withdrawn in the same manner in which it was  
12 made.

13 (f) Certain agencies may not be designated as enforcement  
14 agency; waiver.--No local governmental department or agency  
15 which is the operating unit for a solid waste handling or  
16 disposal operation may be the enforcement agency for the type of  
17 solid waste handling or disposal operation it conducts. A waiver  
18 to this requirement may be granted by the board upon submission  
19 of details by the local entity requesting the waiver. The board  
20 may review annual effects of the waiver.

21 (g) Prohibitions against local governing body acting as  
22 enforcement agency.--No local governing body acting in the  
23 capacity of an enforcement agency may enact, issue, enforce,  
24 suspend, revoke or modify a statute, ordinance, regulation,  
25 license or permit relating to a facility that accepts both  
26 hazardous wastes and other solid wastes and which meets any of  
27 the criteria found under the act of July 7, 1980 (P.L.380,  
28 No.97), known as the Solid Waste Management Act. Nothing in this  
29 section authorizes an operator of a facility that accepts both  
30 hazardous wastes and other solid wastes to violate a term or



1 condition of a local land use or facility permit or any other  
2 provision of law not in conflict with this act.

3 Section 602. Powers of enforcement agency.

4 The enforcement agency, within its jurisdiction, has the  
5 following powers and duties:

6 (1) Enforce all provisions of this act and the  
7 regulations adopted under this act.

8 (2) Coordinate action in solid waste handling and  
9 disposal with other Federal, State and local agencies and  
10 private persons.

11 (3) Request enforcement by appropriate Federal, State  
12 and local agencies of their respective laws governing solid  
13 waste storage, handling and disposal.

14 (4) File with the board, upon its request, information  
15 the board deems necessary.

16 (5) Develop, implement and maintain inspection,  
17 enforcement and training programs.

18 (6) Adopt an enforcement program consisting of  
19 regulations necessary to implement the provisions of this act  
20 and the regulations promulgated under this act and to  
21 establish specific local standards for resource recovery  
22 subject to approval by a majority vote of its local governing  
23 body. Regulations under this paragraph shall be consistent  
24 with the provisions of this act and regulations adopted by  
25 the board.

26 (7) Keep and maintain records of its inspection,  
27 enforcement, training and regulatory programs and of other  
28 official action in accordance with regulations adopted by the  
29 board.

30 (8) Consult with the appropriate local health agency

concerning all actions which involve health standards. The consultation shall include affording the health agency adequate notice and opportunity to conduct and report the evaluation as it reasonably deems appropriate.

Section 603. Facilities for hazardous wastes; enforcement activities.

For those facilities which accept only hazardous wastes and to which the provisions of the act of July 7, 1980 (P.L.380, No.97), known as the Solid Waste Management Act, apply, the board shall have no enforcement or regulatory authority. All enforcement activities for these facilities relative to the control of hazardous wastes shall be performed by the department under the Solid Waste Management Act.

Section 604. Mixed waste disposal facilities; enforcement and regulatory authority.

For those facilities which accept both hazardous wastes and other solid wastes, the department shall exercise enforcement and regulatory powers relating to the control of the hazardous wastes at the facility under the provisions of the act of July 7, 1980 (P.L.380, No.97), known as the Solid Waste Management Act.

Section 605. Fees where Solid Waste Resource Recovery Management Board is enforcement agency.

If the board becomes the enforcement agency, it may charge reasonable fees to the local governing body to recover operation costs.

Section 606. Fees.

The enforcement agency may, upon a majority vote of its local governing body, prescribe, revise and collect fees or other charges from an operator of a resource recovery facility or from

1 a person who conducts solid waste handling. The fee or other  
2 charge shall be based on the weight, volume or type of solid  
3 waste which is received or handled by the operator or person or  
4 on any other appropriate basis. The fee or other charge imposed  
5 by the enforcement agency under this section may not exceed the  
6 actual costs of the resource recovery enforcement authorized  
7 under this act. A local governing body having rate-setting  
8 authority shall grant the private operator adequate compensation  
9 for additional costs incurred under this section through  
10 necessary rate adjustments if it is determined to be justified  
11 by the local governing body.

12 Section 607. Review of proposed designation, enforcement  
13 program and enforcement agencies; withdrawal of  
14 approval.

15 (a) Board to review proposed designation and enforcement  
16 program.--The board shall review the proposed designation and  
17 the enforcement program and shall obtain the recommendation of  
18 the department regarding the proposed designation of the  
19 enforcement agency and its enforcement program. The board shall  
20 consider the recommendation in determining its approval of the  
21 designation and its acceptance of the enforcement program.

22 (b) Board to review enforcement agency.--The board shall  
23 periodically review the enforcement agency and its  
24 implementation of the enforcement program. If the board finds  
25 that an agency is not consistently filling its responsibilities  
26 under the enforcement program, the board shall notify the  
27 enforcement agency of the particular reasons for finding that  
28 the enforcement agency is not fulfilling its responsibilities  
29 and of the board's intention to withdraw its approval of the  
30 designation if, within a time to be specified in that

1 notification but in no event less than 30 days, the enforcement  
2 agency does not take the corrective actions specified by the  
3 board.

4 (c) Withdrawal of approval.--If the board withdraws its  
5 approval of the designation of an enforcement agency, another  
6 enforcement agency shall be designated under this act within 90  
7 days and approved by the board. If no designation is made within  
8 90 days, the board shall become the enforcement agency within  
9 the jurisdiction of the enforcement agency until the disapproved  
10 enforcement agency can demonstrate to the board that it can  
11 fulfill its responsibilities under the enforcement program or  
12 another agency is designated as the enforcement agency and the  
13 board approves the new designation.

#### 14 CHAPTER 7

#### 15 PERMIT AND INSPECTION PROGRAM

16 Section 701. Permits.

17 (a) Notice of operation to be filed.--A person operating a  
18 solid waste resource recovery facility under an approved permit  
19 by the department dated prior to January 1, 1988, shall file a  
20 notice of operation with the appropriate enforcement agency and  
21 the board by June 1, 1988.

22 (b) Application to be filed.--A person who proposes to  
23 become an operator of a resource recovery facility after January  
24 1, 1988, shall file with the department, with a copy to the  
25 board and the enforcement agency having jurisdiction over the  
26 facility, an application for a resource recovery facility permit  
27 at least 120 days in advance of the date on which it is desired  
28 to commence operation. The board and the enforcement agency  
29 shall submit to the department written comments following their  
30 review of the application no later than 90 days following

1 receipt of the application.

2 (c) Unauthorized operation prohibited.--The operation of a  
3 solid waste resource recovery facility by any person except as  
4 authorized under to a solid waste resource recovery facility  
5 permit is prohibited.

6 (d) Other permits shall be required.--All other permit  
7 requirements required by the department under the act of July 7,  
8 1980 (P.L.380, No.97), known as the Solid Waste Management Act,  
9 which are not in conflict with this act shall be required prior  
10 to receiving a permit for the operation of a solid waste  
11 resource recovery facility.

12 Section 702. Investigations by enforcement agency, board or  
13 department.

14 (a) Investigations authorized.--An enforcement agency, the  
15 board or the department, in issuing or reviewing a resource  
16 recovery facility permit or in connection with an action  
17 relating to a resource recovery facility or authorized by this  
18 act, may investigate within its jurisdiction the operation of a  
19 resource recovery facility; a transfer-processing station;  
20 disposal site; or collection, equipment-handling or storage area  
21 for solid wastes.

22 (b) Reports to be supplied.--In an investigation under  
23 subsection (a), the enforcement agency, the board or the  
24 department may require a person who is or proposes to become an  
25 operator of a facility, station, site or area to furnish, under  
26 penalty of perjury, technical or monitoring program reports or  
27 other reports as the enforcement agency may specify.

28 (c) Facilities may be inspected.--In an investigation under  
29 subsection (a), the enforcement agency, board or department may  
30 inspect the facility, equipment or vehicle used for storage,

1 collection, transportation, processing or disposal of solid  
2 wastes as necessary to insure compliance with this act and to  
3 determine that resource recovery facility permits are being  
4 complied with. The inspection shall be made with the consent of  
5 the owner or possessor of the facility or, if consent is  
6 refused, with a warrant issued pursuant law. In the event of an  
7 emergency affecting the public health or safety, an inspection  
8 may be made without consent or the issuance of a warrant.

9 Section 703. Public inspection of reports, applications or  
10 other documents.

11 Upon the request of a person furnishing a report, notice,  
12 application or other document required by this act, the  
13 enforcement agency, the board or the department shall not make  
14 available for inspection by the public those portions of the  
15 report, notice, application or other document which contain  
16 trade secrets as defined in the act of October 5, 1984 (P.L.734,  
17 No.159), known as the Worker and Community Right-to-Know Act.  
18 These portions shall be made available to government agencies  
19 for their use in making reports and to the State, to any State  
20 agency, or to the enforcement agency in judicial review of  
21 enforcement proceedings involving the person furnishing the  
22 report.

23 Section 704. Single and multiple use facilities; permits.

24 (a) Hazardous waste facilities.--For those facilities which  
25 accept only hazardous wastes, a resource recovery facility  
26 permit issued by the board is not required. A single hazardous  
27 waste facility permit issued by the department under the act of  
28 July 7, 1980 (P.L.380, No.97), known as the Solid Waste  
29 Management Act, is the only permit necessary for the use and  
30 operation of hazardous waste disposal facilities.

(b) Multiple use facilities.--For those facilities which accept both hazardous wastes and other solid wastes, two permits shall be required:

(1) The hazardous waste facility permit issued by the department under the Solid Waste Management Act.

(2) The resource recovery facility permit issued by the board under this act.

(c) Nonexclusive.--Nothing in this section shall limit or supersede any other permit or licensing requirements imposed by other provisions of law.

Section 705. Inventory of facilities violating minimum standards; file of permitted facilities; inspection and investigations.

(a) Inventories of facilities that violate minimum standards to be maintained.--The board shall maintain an inventory of resource recovery facilities which violate State minimum standards. To the extent it is practicable to do so, the board shall incorporate in this inventory existing information collected in the course of previous surveys of this type and similar information made available to the board by enforcement agencies. If a resource recovery facility is proposed to be included in the inventory, the board shall give notice by certified mail to the affected enforcement agency, the disposal site owner and the operator of the resource recovery facility. If, within 90 days of that notice, the violation has not been corrected, the resource recovery facility shall be included in the inventory. The board shall update and publish the inventory twice annually.

(b) Inspection.--The board shall maintain a file of all permitted resource recovery facilities and shall require the

1 enforcement agency to inspect at least 50% of the permitted  
2 facilities that receive more than 100 tons of solid wastes a day  
3 and at least 25% of all other permitted resource recovery  
4 facilities every year.

## 5 CHAPTER 8

### 6 ADMINISTRATIVE ENFORCEMENT AND REMEDIES AVAILABLE TO 7 AN ENFORCEMENT AGENCY

8 Section 801. Cease and desist orders; cleanup and abatement  
9 work; petition for cleanup or abatement work;  
10 contracts; costs.

11 (a) Cease and desist orders.--A person who is operating or  
12 proposes to operate a resource recovery facility in violation of  
13 the resource recovery facility permit, who is operating or who  
14 proposes to operate a facility without a resource recovery  
15 facility permit or who owns a facility and causes or permits the  
16 operator of the facility to violate a resource recovery facility  
17 permit or to operate the facility without a resource recovery  
18 facility permit shall, upon order of the enforcement agency,  
19 cease and desist the improper action, clean up any solid wastes,  
20 abate the effects of the solid wastes and take any other  
21 necessary remedial action.

22 (b) Enforcement agency may act when there is an imminent  
23 threat to life or health.--If any of the circumstances set forth  
24 in subsection (a) pose an imminent threat to life or health, the  
25 enforcement agency may expend available money to perform  
26 cleanup, abatement and remedial work required.

27 (c) Nonthreatening situations.--If the circumstances set  
28 forth in subsection (a) do not pose an imminent threat to life  
29 or health but the enforcement agency deems it necessary for the  
30 public health to perform cleanup, abatement or remedial work,



1 the enforcement agency shall petition the hearing panel, as  
2 provided for in section 904, for authorization to perform such  
3 work. Upon receiving a petition, the hearing panel may do either  
4 of the following:

5 (1) Summarily deny the petition, if it fails to allege  
6 sufficient facts to establish that its work is necessary to  
7 protect the public health.

8 (2) Hold a hearing on the matter and thereafter deny,  
9 grant or grant in part the petition.

10 (d) Hearing panel to render decision.--If the hearing panel  
11 grants a petition submitted under subsection (c), the hearing  
12 panel shall, in a written decision, specify the nature of  
13 actions that the enforcement agency may take and the maximum  
14 amount of money to be expended for the actions.

15 (e) Enforcement agency may perform work.--Actions taken  
16 under subsection (b) or (c) may be taken in default of, or in  
17 addition to, remedial work by the operator or other persons and  
18 regardless of whether injunctive relief is being sought. The  
19 enforcement agency may perform work itself or by or in  
20 cooperation with a governmental agency or private contractor and  
21 may use rented tools or equipment, either with or without  
22 operators furnished. The enforcement agency may enter into oral  
23 or written contracts for its work. The contracts, whether  
24 written or oral, may include provisions for equipment rental and  
25 the furnishing of labor and materials necessary to accomplish  
26 the work.

27 (f) Costs recoverable.--If, under this section, solid waste  
28 is cleaned up, the effects of solid waste are abated or other  
29 necessary remedial actions are taken by any governmental agency,  
30 the person who caused the circumstances specified in subsection

1 (a) shall be liable to that governmental agency, to the extent  
2 of the reasonable costs actually incurred in cleaning up the  
3 operation, abating the effects of the operation or taking other  
4 remedial action. The amount of the costs shall be recoverable in  
5 a civil action by the governmental agency, together with the  
6 costs of suit incurred by the agency in recovering the money.  
7 The agency shall reimburse the board to the extent of the  
8 latter's contribution from available money.

9 Section 802. Intentional or negligent violation of permit or  
10 operation with permit; fines and penalties;  
11 actions to recover; disposition of collected  
12 funds; other remedies.

13 (a) Civil penalty.--A person who operates a resource  
14 recovery facility except as permitted by a resource recovery  
15 facility permit or who intentionally or negligently violates a  
16 regulation adopted by the board for the storage or removal of  
17 solid wastes shall be subject to a civil penalty not to exceed  
18 \$1,000 for each day the violation or operation occurs.

19 (b) Enforcement.--An attorney authorized to act on behalf of  
20 the enforcement agency, at the request of the enforcement  
21 agency, shall petition the court of common pleas to impose,  
22 assess and recover the sums provided in subsection (a). If the  
23 enforcement agency fails to petition the court of common pleas,  
24 the district attorney shall, at the request of the board,  
25 petition the court of common pleas to impose, assess and recover  
26 the sums. One-half of the funds collected shall be paid to the  
27 Solid Waste Abatement Fund as defined in the act of July 7, 1980  
28 (P.L.380, No.97), known as the Solid Waste Management Act. One-  
29 half of the funds shall be paid to the county in which such  
30 action is brought.

1 (c) Remedies in addition to other remedies.--Remedies under  
2 this section are in addition to and do not supersede or limit  
3 any other remedies, civil or criminal.

4 Section 803. Emergency cease and desist or cleanup order.

5 If an enforcement agency finds that a person is operating a  
6 resource recovery facility or proposes to operate a resource  
7 recovery facility which causes or threatens to cause a condition  
8 of hazard, pollution or nuisance constituting an emergency  
9 requiring immediate action to protect the public health, welfare  
10 or safety the enforcement agency may issue a cease and desist or  
11 cleanup order under this section. If the enforcement agency  
12 fails to issue an order, the board may do so.

## 13 CHAPTER 9

### 14 DENIAL, SUSPENSION OR REVOCATION OF PERMITS

15 Section 901. Hearing to determine issuance of permit.

16 (a) Hearings authorized.--If the enforcement agency denies a  
17 permit, or if the applicant deems the terms and conditions of  
18 the proposed permit inappropriate, the applicant may request a  
19 hearing. The hearing shall be held in accordance with this act.

20 (b) Statement of issues to be filed.--A hearing to determine  
21 whether a permit should be issued shall be initiated by the  
22 filing of a statement of issues by the enforcement agency. The  
23 enforcement agency shall file the statement within 15 days after  
24 receiving a written request from an applicant for a hearing. The  
25 statement of issues shall be a written statement specifying the  
26 statutes and regulations with which the applicant shall show  
27 compliance by producing proof at the hearing and stating any  
28 particular matters that have come to the attention of the  
29 enforcement agency which would authorize a denial of the permit.

30 (c) Service of statement of issues.--The statement of issues

1 and a notice of defense shall be served on the applicant  
2 personally or by registered mail at least 20 days prior to the  
3 hearing. Service by registered mail shall be effective only if a  
4 regulation of the enforcement agency requires the applicant to  
5 file his address with the enforcement agency and to notify the  
6 enforcement agency of any change and if the registered letter  
7 containing the statement of issues and accompanying materials is  
8 mailed to the applicant at the latest address on file with the  
9 agency. The notice of hearing shall be in a form approved by the  
10 board.

11 Section 902. Hearing to determine suspension, modification or  
12 revocation of permit.

13 (a) Basis for suspension, modification or revocation.--After  
14 a hearing, a permit may be suspended, modified or revoked by the  
15 enforcement agency for cause, including, but not limited to, the  
16 following:

17 (1) Violating a term or condition contained in the  
18 permit.

19 (2) Having obtained the permit by misrepresentation or  
20 failure to disclose fully all relevant facts.

21 (3) Having a change in a condition that requires either  
22 a temporary or permanent modification, reduction or  
23 elimination of the permitted operation to bring it into  
24 compliance with the requirements of this chapter.

25 (b) Hearing on suspension, modification or revocation.--A  
26 hearing to determine whether a permit should be revoked,  
27 suspended or modified shall be initiated by the enforcement  
28 agency filing an accusation. The accusation shall be a written  
29 statement of charges which sets forth, in ordinary and concise  
30 language, the acts or omissions with which the permittee is

1 charged. It shall specify the statutes and regulations which the  
2 permittee is alleged to have violated but shall not consist  
3 merely of charges phrased in the language of statutes and  
4 regulations.

5 (c) Service of documents.--The accusation and all  
6 accompanying documents shall be served on the permittee  
7 personally or by registered mail. Service by registered mail  
8 shall be effective only if an enforcement agency regulation  
9 requires the permittee to file his address with the enforcement  
10 agency and to notify the agency of any change and if the  
11 registered letter containing the accusation and accompanying  
12 documents is mailed to the permittee at the latest address on  
13 file with the agency.

14 (d) Notice of defense.--The agency shall include with the  
15 accusation a form entitled notice of defense, which, when signed  
16 by or on behalf of the permittee and returned to the agency,  
17 will acknowledge service of the accusation and constitute a  
18 notice of defense under this act. The accusations shall also be  
19 accompanied by a statement that the permittee may request a  
20 hearing by filing a notice of defense within 20 days after  
21 service upon the permittee of the accusation, that failure to do  
22 so will constitute a waiver of its right to a hearing and that  
23 the permittee has the right to inspect and copy documents  
24 relative to the accusation. This statement shall be in a form  
25 approved by the board.

26 Section 903. Notice of defense.

27 (a) Notice of defense.--Within 20 days after service upon  
28 the permittee, the permittee may file with the enforcement  
29 agency a notice of defense in which he may do one or more of the  
30 following:

1           (1) Request a hearing.

2           (2) Object to the accusation upon the ground that it  
3 does not state acts or omissions upon which the enforcement  
4 agency may proceed.

5           (3) Object to the form of the accusation on the ground  
6 that it is so indefinite or uncertain that the permittee  
7 cannot identify the transaction or prepare his defense.

8           (b) Hearing.--The permittee shall be entitled to a hearing  
9 on the merits if the permittee files a notice of defense. A  
10 notice of defense shall be deemed a specific denial of all parts  
11 of the accusation not expressly admitted. Failure to file the  
12 notice shall constitute a waiver of the right to a hearing; but  
13 the agency, in its discretion, may consent to a hearing.

14          (c) Notice of defense to be in writing.--The notice of  
15 defense shall be in writing, shall be signed by or on behalf of  
16 the permittee and shall state the permittee's mailing address.

17          (d) Copies to be sent.--A copy of any accusation or  
18 statement of issues filed by an enforcement agency shall be  
19 sent, when filed, to the board.

20 Section 904. Hearing panel.

21 All hearings required to be conducted under this act shall be  
22 conducted by a hearing panel of five persons appointed by the  
23 local governing body. The hearing panel shall be appointed by  
24 the local governing body under either of the following  
25 alternatives:

26           (1) A local governing body may appoint itself as the  
27 hearing panel.

28           (2) An independent hearing panel may be appointed. When  
29 an independent hearing panel is appointed, no more than one  
30 member of the governing body shall serve on the hearing

1 panel. Members of the panel shall be selected for their  
2 legal, administrative or technical abilities in areas  
3 relating to solid waste management. At least one member of  
4 the panel shall be a technical expert with knowledge of solid  
5 waste management methods and technology. At least one member  
6 shall be a representative of the public at large. Panel  
7 members shall serve for a term of two years, and may serve  
8 more than one term, but no more than two consecutive terms.  
9 If a member does not complete a term, the governing body may  
10 appoint a replacement to serve out the remainder of the  
11 expired term.

12 Section 905. Conduct of proceedings.

13 (a) Panel to conduct hearing.--The panel shall conduct the  
14 hearing, determine the facts and issue a decision. The decision  
15 shall be binding on parties unless appealed under section  
16 906(c). Other than local officials, members of the hearing panel  
17 may receive per diem and necessary expenses while conducting the  
18 hearing. After initiation of a proceeding in which an applicant  
19 for a permit or a permittee is entitled to a hearing on the  
20 merits, a party, upon written request made to another party  
21 prior to the hearing, is entitled to:

22 (1) Obtain the names and addresses of witnesses to the  
23 extent known to the other party, including, but not limited  
24 to, those intended to be called to testify at the hearing.

25 (2) Inspect and make a copy of relevant documents in the  
26 possession or custody or under the control of the other  
27 party, including statements made by a person pertaining to  
28 the subject matter of the proceedings, writings pertaining to  
29 the subject matter of the proceeding and investigative  
30 reports made by or on behalf of the enforcement agency or

1 other party pertaining to the subject matter of the  
2 proceeding. Nothing in this paragraph shall authorize the  
3 inspection or copying of material which is privileged from  
4 disclosure by law or otherwise made confidential or protected  
5 as the attorney's work product.

6 (b) Petition to compel discovery.--A party claiming that a  
7 request for discovery under subsection (a) has not been complied  
8 with may serve and file a verified petition to compel discovery  
9 in the court of common pleas for the judicial district in which  
10 the hearing will be held, naming as respondent the party  
11 refusing or failing to comply with subsection (a). Petitions  
12 shall be served upon the respondent and filed within 15 days  
13 after the respondent first failed or refused to comply with  
14 subsection (a).

15 (c) Order to show cause may be issued.--If, from a reading  
16 of the petition, the court is satisfied that the petition sets  
17 forth good cause for relief, the court shall issue an order to  
18 show cause directed to the respondent; otherwise, the court  
19 shall enter an order denying the petition. The order to show  
20 cause shall be served upon the respondent and the respondent's  
21 attorney of record in the administrative proceeding by personal  
22 service or registered mail and shall be returnable no later than  
23 ten days from its issuance. The respondent shall have the right  
24 to serve and file a written answer to the petition and order to  
25 show cause.

26 (d) Proceeding to be stayed.--The administrative proceedings  
27 shall be stayed during the pendency of the proceeding before the  
28 court of common pleas only if the court issues an order to show  
29 cause.

30 (e) Court to decide case.--The court shall decide the case



1 on the matters examined by the court in camera, the papers filed  
2 by the parties and such oral argument and additional evidence as  
3 the court may allow.

4 (f) Order to be filed within 30 days.--The court shall, no  
5 later than 30 days after the filing of a petition, file its  
6 order denying or granting the petition. The order of the court  
7 shall be in writing, setting forth the matters the petitioner is  
8 entitled to discover. A copy of the order shall be mailed by the  
9 clerk to the parties.

10 (g) Order of court to be final.--The order of the court  
11 shall be final and not subject to review by appeal. A party  
12 aggrieved by such order may, within 15 days after the service of  
13 the court's order, serve and file, in the appropriate court of  
14 appeals, a petition for a writ of mandamus to compel the court  
15 of common pleas to set aside or otherwise modify its order.  
16 Section 906. Decision.

17 (a) Official notice may be taken.--In reaching a decision,  
18 official notice may be taken, prior to submission of the case  
19 for decision, of generally accepted technical or scientific  
20 matter pertaining to resource recovery management and of any  
21 fact which may be judicially noticed by the courts of this  
22 Commonwealth. Parties present at the hearings shall be informed  
23 of the matters to be noticed, and those matters shall be noted  
24 in the record. Parties shall be given a reasonable opportunity,  
25 on request, to refute the officially noticed matters by evidence  
26 or by written or oral presentation of authority.

27 (b) Decision to be rendered within 30 days.--Within 30 days  
28 after the case is submitted for decision, the hearing panel  
29 shall issue its decision. Copies of the decision shall be sent  
30 to the parties and to the board. The hearing panel may conduct a

1 hearing under this act with three members of the panel present.  
2 However, cases shall be determined by concurrence of three  
3 members. The decision shall be in writing and shall contain  
4 findings of fact, a determination of the issues presented and  
5 the penalty, if any.

6 (c) Decision to be effective in 30 days.--The decision shall  
7 become effective 30 days after it is mailed or personally served  
8 upon the permittee unless the permittee files an appeal to the  
9 board. If an appeal is filed, the decision of the hearing panel  
10 shall be stayed, pending determination by the board.

11 (d) Failure to file notice of defense.--If the permittee  
12 fails to file a notice of defense or to appear at the hearing,  
13 the hearing panel may take action based upon information  
14 supplied by the permittee to the enforcement agency in writing,  
15 including, but not limited to, the permit application. Where the  
16 burden of proof is on the permittee to establish that he is  
17 entitled to the action of the enforcement agency sought, the  
18 hearing panel may act without taking further evidence.

19 (e) Mitigation.--Nothing in this section shall be construed  
20 to deprive the permittee of the right to mitigation.

21 Section 907. Petition for reinstatement of permit or reduction  
22 of penalty.

23 A person whose permit has been revoked or suspended may  
24 petition an enforcement agency for reinstatement or reduction of  
25 penalty after a period of not less than one year has elapsed  
26 from the effective date of the decision or from the date of the  
27 denial of a similar petition. If the enforcement agency declines  
28 to take the action requested, the petitioner, upon request,  
29 shall be afforded a hearing under this act.

30 CHAPTER 10

ADMINISTRATIVE ENFORCEMENT AND REMEDIES

Section 1001. Appeals; powers of board on appeal.

(a) Appeal.--Within 30 days of issuance of a written decision by a hearing panel at which review was made of action or failure to act by an enforcement agency, an aggrieved person may appeal to the board to review the written decision of the hearing panel. The board may review a written decision of the hearing panel at any time on its own motion.

(b) Action of board after appeal.--Within 30 days after an appeal has been filed with the board, the board may do any of the following:

(1) Determine not to hear the appeal if the appellant fails to raise substantial issues.

(2) Determine not to hear the appeal if the appellant failed to participate in the administrative hearing before the hearing panel if a hearing was held, except that the board shall hear the appeal if the appellant has good and excusable cause for failure to appear.

(3) Determine to accept the appeal and decide the matter without a hearing on the basis of the record before the hearing panel and on written arguments submitted by the parties.

(4) Determine to accept the appeal and hold a hearing within 60 days unless the parties stipulate to extending the hearing date.

(c) Board may decline to hear appeal.--If the board declines to hear the appeal, it shall notify the parties; and the decision of the hearing panel shall become effective within 30 days from the date of the board's notification to the parties unless judicial review is sought.

1 (d) Evidence.--If the board accepts the appeal, the evidence  
2 before the board shall consist of the record before the  
3 enforcement agency and the hearing panel and any other relevant  
4 evidence which, in the judgment of the board, should be  
5 considered to effectuate and implement the policies of this act.  
6 Section 1002. Scope of review; disposition by board.

7 (a) General rule.--In reviewing a decision of a hearing  
8 panel, the board's review shall be limited to those issues that  
9 relate to the enforcement of the State minimum standards for  
10 resource recovery activities. The board may find the decision of  
11 the hearing panel inconsistent with the purposes of this act and  
12 the standards adopted by the board. Upon a finding that the  
13 decision of the hearing panel was inconsistent, the board may do  
14 any of the following:

15 (1) Direct that the appropriate action be taken by the  
16 enforcement agency.

17 (2) Refer the matter to any other State agency having  
18 jurisdiction.

19 (3) Take the appropriate action itself.

20 (b) Powers.--In taking action under this section, the board  
21 is vested, in addition to its other powers, with all the powers  
22 of the enforcement agency under this act.

23 Section 1003. Operations within jurisdiction of more than one  
24 enforcement agency; resolution of conflicts by  
25 board.

26 If an operation of a resource recovery facility is carried on  
27 within the jurisdiction of more than one enforcement agency and  
28 there is disagreement between enforcement agencies involved as  
29 to the conditions in the solid waste facility permit which  
30 should be established for enforcement, either enforcement agency

1 may submit the disagreement to the board for resolution.

2 Section 1004. Board enforcement upon agency request.

3 Upon the request of the enforcement agency, the board may  
4 enforce any of the provisions of this act. In taking action  
5 under this section, the board is vested, in addition to its  
6 other powers, with all the powers of the enforcement agency  
7 under this act.

8 Section 1005. Coordination of enforcement with Department of  
9 Health.

10 The board, in taking enforcement action authorized by this  
11 act relating to a health standard, shall coordinate the  
12 enforcement with the Department of Health.

13 Section 1006. Petition for injunctive relief; activities of  
14 facility operators.

15 An attorney authorized to act on behalf of the enforcement  
16 agency, at the agency's request, may petition the court of  
17 common pleas for injunctive relief to enforce a provision of  
18 this act, a term or condition in a resource recovery facility  
19 permit or a regulation adopted by the board for the storage of  
20 solid wastes or for the operation of collection and  
21 transportation equipment.

22 Section 1007. Petition for injunctive relief; nonenforcement by  
23 enforcement agency.

24 If the enforcement agency fails to enforce a provision, term,  
25 condition or regulation under section 1006, the district  
26 attorney shall, at the request of the board, petition the court  
27 of common pleas for injunctive relief to enforce it.

28 Section 1008. Administrative procedure regulations.

29 The board shall, by regulation, require the appropriate  
30 administrative procedures, including notice to the permittee, to

1 be followed by the enforcement agency, prior to taking action  
2 against a person.

3 Section 1009. Actions in common pleas court to contest  
4 enforcement agency actions.

5 Failure to appeal to the board for review as provided in this  
6 act shall not preclude a person from filing action in the court  
7 of common pleas to contest the action of an enforcement agency  
8 brought under this act.

## 9 CHAPTER 11

### 10 OTHER PROVISIONS

11 Section 1101. Injunctive relief under act; necessity of showing  
12 irreparable damage or adequate remedy at law.

13 (a) Injunctive relief.--In a civil action brought under this  
14 act in which injunctive relief is sought, it shall not be  
15 necessary to allege or prove, that irreparable damage will occur  
16 should the injunctive relief not be issued or that the remedy at  
17 law is inadequate. Any form of injunctive relief shall issue  
18 without such allegations and without such proof.

19 (b) Certain powers not to be assumed.--The powers and duties  
20 of the department under the act of July 7, 1980 (P.L.380,  
21 No.97), known as the Solid Waste Management Act, including those  
22 concerning the issuance of permits for hazardous waste disposal  
23 sites; enforcement activities related to the handling,  
24 transportation, storage, use, processing and disposal of  
25 hazardous wastes; and the development of programs for the  
26 recycling and recovery of resources from hazardous wastes shall  
27 not be assumed or duplicated by the board under its  
28 responsibilities, powers and duties under this act.

29 Section 1102. Waiver of individual standards.

30 (a) General rule.--The board may grant waivers of individual

1 regulations adopted under this act only when the board has  
2 determined any of the following:

3 (1) That a hardship exists or will exist if no waiver is  
4 granted and that granting a waiver will further Commonwealth  
5 policies or will relieve the hardship.

6 (2) That the operation is an experimental one designed  
7 to develop new methods or technology and that granting the  
8 waiver will significantly facilitate implementation of  
9 Commonwealth policy.

10 (b) Procedure.--A request for a waiver shall be accompanied  
11 by detailed information justifying the waiver and demonstrating  
12 that no significant adverse health, safety or environmental  
13 impacts will result from the waiver. The board may place  
14 conditions on the waiver and shall reexamine each waiver at  
15 least every two years to determine whether it should remain in  
16 force or should have more or different conditions.

## 17 CHAPTER 12

### 18 MISCELLANEOUS PROVISIONS

19 Section 1201. Repeals.

20 All acts and parts of acts are repealed insofar as they are  
21 inconsistent with this act.

22 Section 1202. Effective date.

23 This act shall take effect in 60 days.