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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**SENATE BILL**

**No. 528**

Session of  
1987

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INTRODUCED BY FISHER, RHOADES, HELFRICK, REIBMAN, SHUMAKER,  
LEWIS, SCANLON, CORMAN, SALVATORE, LEMMOND, ROSS, STAUFFER  
AND MUSTO, MARCH 10, 1987

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AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF  
REPRESENTATIVES, AS AMENDED, MAY 11, 1988

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AN ACT

1 Providing for planning for the processing and disposal of  
2 municipal waste; requiring counties to submit plans for  
3 municipal waste management systems within their boundaries;  
4 authorizing grants to counties and municipalities for  
5 planning, resource recovery and recycling; imposing and  
6 collecting fees; establishing certain rights for host  
7 municipalities; requiring municipalities to implement  
8 recycling programs; requiring Commonwealth agencies to  
9 procure recycled materials; imposing duties; granting powers  
10 to counties and municipalities; authorizing the Environmental  
11 Quality Board to adopt regulations; authorizing the  
12 Department of Environmental Resources to implement this act;  
13 providing remedies; prescribing penalties; establishing a  
14 fund; and making repeals.

15 TABLE OF CONTENTS

16 Chapter 1. General Provisions

17 Section 101. Short title.

18 Section 102. Legislative findings; declaration of policy and  
19 goals.

20 Section 103. Definitions.

21 Section 104. Construction of act.

22 Chapter 3. Powers and Duties

1 Section 301. Powers and duties of department.  
2 Section 302. Powers and duties of Environmental Quality Board.  
3 Section 303. Powers and duties of counties.  
4 Section 304. Powers and duties of municipalities other than  
5 counties.  
6 Chapter 5. Municipal Waste Planning  
7 Section 501. Schedule for submission of municipal waste  
8 management plans.  
9 Section 502. Content of municipal waste management plans.  
10 Section 503. Development of municipal waste management plans.  
11 Section 504. Failure to ratify plan.  
12 Section 505. Review of municipal waste management plans.  
13 Section 506. Contracts.  
14 Section 507. Relationship between plans and permits.  
15 Section 508. Studies.  
16 Section 509. Best available technology.  
17 Section 510. Permit requirements.  
18 Section 511. Site limitation.  
19 ~~Section 512. Issuance of permits.~~ <—  
20 SECTION 512. COMPLETENESS REVIEW. <—  
21 Chapter 7. Recycling Fee  
22 Section 701. Recycling fee for municipal waste landfills and  
23 resource recovery facilities.  
24 Section 702. Form and timing of recycling fee payment.  
25 Section 703. Collection and enforcement of fee.  
26 Section 704. Records.  
27 Section 705. Surcharge.  
28 Section 706. Recycling Fund.  
29 Chapter 9. Grants  
30 Section 901. Planning grants.

1 Section 902. Grants for development and implementation of  
2 municipal recycling programs.

3 Section 903. Grants for recycling coordinators.

4 SECTION 904. PERFORMANCE GRANTS FOR MUNICIPAL RECYCLING ←—  
5 PROGRAMS.

6 Section ~~904~~ 905. General limitations. ←—

7 Chapter 11. Assistance to Municipalities

8 Section 1101. Information provided to host municipalities.

9 Section 1102. Joint inspections with host municipalities.

10 Section 1103. Water supply testing for contiguous landowners.

11 Section 1104. Water supply protection.

12 Section 1105. Purchase of cogenerated electricity.

13 Section 1106. Public Utility Commission.

14 Section 1107. Claims resulting from pollution occurrences.

15 Section 1108. Site-specific postclosure fund.

16 Section 1109. Trust fund for municipally operated landfills.

17 Section 1110. Independent evaluation of permit applications.

18 Section 1111. Protection of capacity.

19 SECTION 1112. WASTE VOLUMES. ←—

20 Chapter 13. Host Municipality AND COUNTY Benefit Fee ←—

21 Section 1301. Host municipality benefit fee.

22 SECTION 1302. HOST COUNTY BENEFIT FEE. ←—

23 Section ~~1302~~ 1303. Form and timing of host municipality ←—  
24 benefit fee payment.

25 Section ~~1303~~ 1304. Collection and enforcement of fee. ←—

26 Section ~~1304~~ 1305. Records. ←—

27 Section ~~1305~~ 1306. Surcharge. ←—

28 ~~SECTION 1307. PAYMENT OF RESIDENTIAL TAXES.~~ ←—

29 Chapter 15. Recycling and Waste Reduction

30 Section 1501. Municipal implementation of recycling programs.

1 Section 1502. Facilities operation and recycling.

2 Section 1503. Commonwealth recycling and waste reduction.

3 ~~Section 1504. Procurement by Department of General Services.~~ <—

4 ~~Section 1505. Procurement by Department of Transportation.~~

5 ~~Section 1506. Procurement options for local public agencies~~  
6 ~~and certain Commonwealth agencies.~~

7 SECTION 1504. PROCUREMENT BY COMMONWEALTH AGENCIES. <—

8 SECTION 1505. PROCUREMENT BY DEPARTMENT OF GENERAL SERVICES.

9 SECTION 1506. TESTING BY DEPARTMENT OF TRANSPORTATION.

10 SECTION 1507. PROCUREMENT PROCEDURES FOR LOCAL PUBLIC AGENCIES.

11 SECTION 1508. PROCUREMENT OPTIONS FOR LOCAL PUBLIC AGENCIES AND  
12 CERTAIN COMMONWEALTH AGENCIES.

13 Section ~~1507~~ 1509. Recycling at educational institutions. <—

14 SECTION 1510. RECYCLED PAPER PRODUCTS. <—

15 Chapter 17. Enforcement and Remedies

16 Section 1701. Unlawful conduct.

17 Section 1702. Enforcement orders.

18 Section 1703. Restraining violations.

19 Section 1704. Civil penalties.

20 Section 1705. Criminal penalties.

21 Section 1706. Existing rights and remedies preserved;  
22 cumulative remedies authorized.

23 Section 1707. Production of materials; recordkeeping  
24 requirements.

25 Section 1708. Withholding of State funds.

26 Section 1709. Collection of fines, fees, etc.

27 Section 1710. Right of citizen to intervene in proceedings.

28 Section 1711. Remedies of citizens.

29 ~~Section 1712. Affirmative defense.~~ <—

30 Section ~~1713~~ 1712. Public information. <—

1 SECTION 1713. WHISTLEBLOWER PROVISION.

2 SECTION 1714. ADDITIONAL PENALTIES.

3 Chapter 19. Miscellaneous Provisions

4 Section 1901. Severability.

5 Section 1902. Repeals.

6 Section 1903. Effective date.

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

9 CHAPTER 1

10 GENERAL PROVISIONS

11 Section 101. Short title.

12 This act shall be known and may be cited as the Municipal  
13 Waste Planning, Recycling and Waste Reduction Act.

14 Section 102. Legislative findings; declaration of policy and  
15 goals.

16 (a) Legislative findings.--The Legislature hereby  
17 determines, declares and finds that:

18 (1) Improper municipal waste practices create public  
19 health hazards, environmental pollution and economic loss,  
20 and cause irreparable harm to the public health, safety and  
21 welfare.

22 (2) Parts of this Commonwealth have inadequate and  
23 rapidly diminishing processing and disposal capacity for  
24 municipal waste.

25 (3) Virtually every county in this Commonwealth will  
26 have to replace existing municipal waste processing and  
27 disposal facilities over the next decade.

28 (4) Needed additional municipal waste processing and  
29 disposal facilities have not been developed in a timely  
30 manner because of diffused responsibility for municipal waste

1 planning, processing and disposal among numerous and  
2 overlapping units of local government.

3 (5) It is necessary to give counties the primary  
4 responsibility to plan for the processing and disposal of  
5 municipal waste generated within their boundaries to insure  
6 the timely development of needed processing and disposal  
7 facilities.

8 (6) Proper and adequate processing and disposal of  
9 municipal waste generated within a county requires the  
10 generating county to give first choice to new processing and  
11 disposal sites located within that county.

12 (7) It is appropriate to provide those living near  
13 municipal waste processing and disposal facilities with  
14 additional guarantees of the proper operation of such  
15 facilities and to provide incentives for municipalities to  
16 host such facilities.

17 (8) Waste reduction and recycling are preferable to the  
18 processing or disposal of municipal waste.

19 (9) Prompt payment and efficient collection of the  
20 recycling fee created by this act are essential to the  
21 administration of the recycling grants provided by this act.

22 (10) Authorizing counties to control the flow of  
23 municipal waste and recyclable constituents of municipal  
24 waste is necessary to guarantee, among other things, the long  
25 term economic viability of resource recovery facilities and  
26 municipal waste landfills, ensure that such facilities and  
27 landfills can be financed, moderate the cost of such  
28 facilities and landfills over the long term, protect existing  
29 capacity, and assist in the development of markets for  
30 recyclable materials by guaranteeing a steady flow of such

1 materials.

2 (11) Public agencies in the Commonwealth purchase  
3 significant quantities of products or materials annually.

4 (12) By purchasing products or materials made from  
5 recycled materials, public agencies in the Commonwealth can  
6 help stimulate the market for such materials and thereby  
7 foster recycling, and can also educate the public concerning  
8 the utility and availability of such materials.

9 (13) Removing certain materials from the municipal  
10 waste-stream will decrease the flow of solid waste to  
11 municipal waste landfills, aid in the conservation and  
12 recovery of valuable resources, conserve energy in the  
13 manufacturing process, increase the supply of reusable  
14 materials for the Commonwealth's industries, and will also  
15 reduce substantially the required capacity of proposed  
16 resource recovery facilities and contribute to their overall  
17 combustion efficiency, thereby resulting in significant cost  
18 savings in the planning, construction and operation of these  
19 facilities.

20 (14) It is in the public interest to promote the source  
21 separation of marketable waste materials on a Statewide basis  
22 so that reusable materials may be returned to the economic  
23 mainstream in the form of raw materials or products rather  
24 than be disposed of at the Commonwealth's overburdened  
25 municipal waste processing or disposal facilities.

26 (15) The recycling of marketable materials by  
27 municipalities in the Commonwealth and Commonwealth agencies,  
28 and the development of public and private sector recycling  
29 activities on an orderly and incremental basis, will further  
30 demonstrate the Commonwealth's long term commitment to an

1 effective and coherent solid waste management strategy.

2 (16) Operators of municipal waste landfills and resource  
3 recovery facilities should give first priority to the  
4 disposal or processing of municipal waste generated within  
5 the host county because, among other reasons, the host county  
6 is most directly affected by operations at the facility, and  
7 because local processing or disposal of municipal waste saves  
8 energy and transportation costs.

9 (17) The Commonwealth recognizes that both municipal  
10 waste landfills and resource recovery facilities will be  
11 needed as part of an integrated strategy to provide for the  
12 processing and disposal of the Commonwealth's municipal  
13 waste.

14 (18) This act is enacted under the authority of  
15 Amendment X of the Constitution of the United States of  
16 America, under which the police power to protect the health,  
17 safety and welfare of the citizens is reserved to the states.

18 (19) The Commonwealth is responsible for the protection  
19 of the health, safety and welfare of its citizens concerning  
20 solid waste management.

21 (20) All aspects of solid waste management, particularly  
22 the disposition of solid waste, pose a critical threat to the  
23 health, safety and welfare of the citizens of this  
24 Commonwealth.

25 (21) UNCONTROLLED INCREASES IN THE DAILY VOLUMES OF  
26 SOLID WASTE RECEIVED AT MUNICIPAL WASTE LANDFILLS HAVE  
27 SIGNIFICANTLY DECREASED THEIR REMAINING LIFETIMES, DISRUPTING  
28 THE MUNICIPAL WASTE PLANNING PROCESS AND THE ABILITY OF  
29 MUNICIPALITIES RELYING ON THE LANDFILLS TO CONTINUE USING  
30 THEM. THESE INCREASES HAVE THREATENED TO SIGNIFICANTLY AND

←

1 ADVERSELY AFFECT PUBLIC HEALTH AND SAFETY WHEN MUNICIPALITIES  
2 FIND THEY CAN NO LONGER USE THE FACILITIES. UNCONTROLLED  
3 INCREASES IN DAILY WASTE VOLUMES CAN ALSO CAUSE INCREASED  
4 NOISE, ODORS, TRUCK TRAFFIC AND OTHER SIGNIFICANT ADVERSE  
5 EFFECTS ON THE ENVIRONMENT AS WELL AS ON PUBLIC HEALTH AND  
6 SAFETY.

7 (22) BY PURCHASING, PROCESSING AND MARKETING OBSOLETE  
8 AND OTHER MATERIALS WHICH WOULD OTHERWISE HAVE BEEN MANAGED  
9 AS MUNICIPAL OR RESIDUAL WASTE, THE COMMONWEALTH'S EXISTING  
10 FOR-PROFIT SCRAP PROCESSING AND RECYCLING INDUSTRY HAS BEEN  
11 AND REMAINS ESSENTIAL TO THE EFFICIENT AND EFFECTIVE  
12 MANAGEMENT OF SOLID WASTE.

13 (23) IN CARRYING OUT THEIR POWERS AND DUTIES UNDER THIS  
14 ACT, COUNTIES AND OTHER MUNICIPALITIES SHOULD:

15 (I) ENSURE THAT THE ABILITY OF THE SCRAP PROCESSING  
16 AND RECYCLING INDUSTRY TO CONTINUE PURCHASING, PROCESSING  
17 AND MARKETING RECOVERABLE MATERIALS IS NOT THEREBY  
18 IMPAIRED.

19 (II) UTILIZE TO THE FULLEST EXTENT PRACTICABLE ALL  
20 AVAILABLE FACILITIES AND EXPERTISE WITHIN THE SCRAP  
21 PROCESSING AND RECYCLING INDUSTRY FOR PROCESSING AND  
22 MARKETING RECYCLABLE MATERIALS FROM MUNICIPAL WASTE.

23 (b) Purpose.--It is the purpose of this act to:

24 (1) Establish and maintain a cooperative State and local  
25 program of planning and technical and financial assistance  
26 for comprehensive municipal waste management.

27 (2) Encourage the development of waste reduction and  
28 recycling as a means of managing municipal waste, conserving  
29 resources and supplying energy through planning, grants and  
30 other incentives.

1           (3) Protect the public health, safety and welfare from  
2 the short and long term dangers of transportation,  
3 processing, treatment, storage and disposal of municipal  
4 waste.

5           (4) Provide a flexible and effective means to implement  
6 and enforce the provisions of this act.

7           (5) Utilize, wherever feasible, the capabilities of  
8 private enterprise in accomplishing the desired objectives of  
9 an effective, comprehensive solid waste management plan.

10          (6) Establish a recycling fee for municipal waste  
11 landfills and resource recovery facilities to provide grants  
12 for recycling, planning and related purposes.

13          (7) Establish a host municipality benefit fee for  
14 municipal waste landfills and resource recovery facilities  
15 that are permitted after the effective date of this act and  
16 to provide benefits to host municipalities for the presence  
17 of such facilities.

18          (8) Establish a site-specific postclosure fee for  
19 currently operating and future permitted municipal waste  
20 landfills for remedial measures and emergency actions that  
21 are necessary to prevent or abate adverse effects upon the  
22 environment after the closure of such landfills.

23          (9) Establish trust funds for municipally operated  
24 landfills to ensure that there are sufficient funds available  
25 for completing the final closure of such landfills under the  
26 Solid Waste Management Act.

27          (10) Shift the primary responsibility for developing and  
28 implementing municipal waste management plans from  
29 municipalities to counties.

30          (11) Require all public agencies of the Commonwealth to

1 aid and promote the development of recycling through their  
2 procurement policies for the general welfare and economy of  
3 the Commonwealth.

4 (12) Require certain municipalities to implement  
5 recycling programs to return valuable materials to productive  
6 use, to conserve energy and to protect capacity at municipal  
7 waste processing or disposal facilities.

8 (13) Implement Article 1, section 27 of the Constitution  
9 of Pennsylvania.

10 (14) STRENGTHEN THE DEPARTMENT'S EXISTING AUTHORITY TO  
11 REGULATE DAILY WASTE VOLUMES THAT MAY BE RECEIVED AT A  
12 MUNICIPAL WASTE LANDFILL TO PROTECT AGAINST THE UNEXPECTED OR  
13 UNPLANNED LOSS OF FACILITIES AND TO ENSURE THAT THE  
14 FACILITIES OPERATE IN A MANNER THAT PROTECTS THE ENVIRONMENT  
15 AS WELL AS PUBLIC HEALTH AND SAFETY. ←

16 (c) Declaration of goals.--The General Assembly therefore  
17 declares the following goals:

18 (1) At least 25% of all municipal waste generated in  
19 this Commonwealth on and after January 1, 1997, should be  
20 recycled.

21 (2) The weight or volume of municipal waste generated  
22 per capita in this Commonwealth on January 1, 1997, should,  
23 to the greatest extent practicable, be less than the weight  
24 or volume of municipal waste generated per capita on the  
25 effective date of this act.

26 (3) Each person living or working in this Commonwealth  
27 shall be taught the economic, environmental, and energy value  
28 of recycling and waste reduction, and shall be encouraged  
29 through a variety of means to participate in such activities.

30 (4) The Commonwealth should, to the greatest extent

1 practicable, procure and use products and materials with  
2 recycled content, and procure and use materials that are  
3 recyclable.

4 Section 103. Definitions.

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

8 "Abatement." The restoration, reclamation, recovery, etc.,  
9 of a natural resource adversely affected by the activity of a  
10 person.

11 "Commission." The Pennsylvania Public Utility Commission and  
12 its authorized representatives.

13 "Commonwealth agency." The Commonwealth and its departments,  
14 boards, commissions and agencies, Commonwealth owned  
15 universities, and the State Public School Building Authority,  
16 the State Highway and Bridge Authority, and any other authority  
17 now in existence or hereafter created or organized by the  
18 Commonwealth.

19 ~~"County." Includes the City of Philadelphia but not~~ <—  
20 ~~Philadelphia County.~~

21 "Department." The Department of Environmental Resources of  
22 the Commonwealth and its authorized representatives.

23 "Disposal." The deposition, injection, dumping, spilling,  
24 leaking or placing of solid waste into or on the land or water  
25 in a manner that the solid waste or a constituent of the solid  
26 waste enters the environment, is emitted into the air or is  
27 discharged to the waters of this Commonwealth.

28 "Feasibility study." A study which analyzes a specific  
29 municipal waste processing or disposal system to assess the  
30 likelihood that the system can be successfully implemented,

1 including, but not limited to, an analysis of the prospective  
2 market, the projected costs and revenues of the system, the  
3 municipal waste-stream that the system will rely upon and  
4 various options available to implement the system.

5 "Host municipality." The municipality other than the county  
6 within which a municipal waste landfill or resource recovery  
7 facility is located or is proposed to be located.

8 "Leaf waste." Leaves, garden residues, shrubbery and tree  
9 trimmings, and similar material, but not including grass  
10 clippings.

11 "Local public agency."

12 (1) Counties, cities, boroughs, towns, townships, school  
13 districts, and any other authority now in existence or  
14 hereafter created or organized by the Commonwealth.

15 (2) All municipal or school or other authorities now in  
16 existence or hereafter created or organized by any county,  
17 city, borough, township or school district or any combination  
18 thereof.

19 (3) Any and all other public bodies, authorities,  
20 councils of government, officers, agencies or  
21 instrumentalities of the foregoing, whether exercising a  
22 governmental or proprietary function.

23 "Management." The entire process, or any part thereof, of  
24 storage, collection, transportation, processing, treatment and  
25 disposal of solid wastes by any person engaging in such process.

26 "Municipal recycling program." A source separation and  
27 collection program for recycling municipal waste, or a program  
28 for designated drop-off points or collection centers for  
29 recycling municipal waste, that is operated by or on behalf of a  
30 municipality. The term includes any source separation and

1 collection program for composting yard waste that is operated by  
2 or on behalf of a municipality. The term shall not include any  
3 program for recycling demolition waste or sludge from sewage  
4 treatment plants or water supply treatment plants.

5 "Municipal waste." Any garbage, refuse, industrial lunchroom  
6 or office waste and other material, including solid, liquid,  
7 semisolid or contained gaseous material, resulting from  
8 operation of residential, municipal, commercial or institutional  
9 establishments and from community activities and any sludge not  
10 meeting the definition of residual or hazardous waste in the  
11 Solid Waste Management Act from a municipal, commercial or  
12 institutional water supply treatment plant, waste water  
13 treatment plant or air pollution control facility. THE TERM DOES ←  
14 NOT INCLUDE SOURCE-SEPARATED RECYCLABLE MATERIALS.

15 "Municipal waste landfill." Any facility that is designed,  
16 operated or maintained for the disposal of municipal waste,  
17 whether or not such facility possesses a permit from the  
18 department under the Solid Waste Management Act. The term shall  
19 not include any facility that is used exclusively for disposal  
20 of demolition waste or sludge from sewage treatment plants or  
21 water supply treatment plants.

22 "Municipality." A county, city, borough, incorporated town,  
23 township or home rule municipality.

24 "Operator." A person engaged in solid waste processing or  
25 disposal. Where more than one person is so engaged in a single  
26 operation, all persons shall be deemed jointly and severally  
27 responsible for compliance with the provisions of this act.

28 "Person." Any individual, partnership, corporation,  
29 association, institution, cooperative enterprise, municipality,  
30 municipal authority, Federal Government or agency, State

1 institution or agency (including, but not limited to, the  
2 Department of General Services and the State Public School  
3 Building Authority), or any other legal entity whatsoever which  
4 is recognized by law as the subject of rights and duties. In any  
5 provisions of this act prescribing a fine, imprisonment or  
6 penalty, or any combination of the foregoing, the term "person"  
7 shall include the officers and directors of any corporation or  
8 other legal entity having officers and directors.

9 "Pollution." Contamination of any air, water, land or other  
10 natural resources of this Commonwealth that will create or is  
11 likely to create a public nuisance or to render the air, water,  
12 land or other natural resources harmful, detrimental or  
13 injurious to public health, safety or welfare, or to domestic,  
14 municipal, commercial, industrial, agricultural, recreational or  
15 other legitimate beneficial uses, or to livestock, wild animals,  
16 birds, fish or other life.

17 "Postconsumer waste material." Any product generated by a  
18 business or consumer which has served its intended end use, and  
19 which has been separated from solid waste for the purposes of  
20 collection, recycling, and disposition. The term includes  
21 industrial byproducts that would otherwise go to disposal or  
22 processing facilities. The term does not include internally  
23 generated scrap that is commonly returned to industrial or  
24 manufacturing process.

25 "Processing." Any technology used for the purpose of  
26 reducing the volume or bulk of municipal waste or any technology  
27 used to convert part or all of such waste materials for offsite  
28 reuse. Processing facilities include, but are not limited to,  
29 transfer facilities, composting facilities and resource recovery  
30 facilities.

1 "Project development." Those activities required to be  
2 conducted prior to constructing a processing or disposal  
3 facility that has been shown to be feasible, including, but not  
4 limited to, public input and participation, siting, procurement  
5 and vendor contract negotiations, and market and municipal waste  
6 supply assurance negotiations.

7 "Public agency." Any Commonwealth agency or local public  
8 agency.

9 "Reasonable expansion." The growth of an existing permitted  
10 MUNICIPAL WASTE landfill to land which is contiguous to the <—  
11 existing landfill, which contiguous land is owned in fee by the <—  
12 owner of the landfill or which land is subject to an irrevocable  
13 option exercisable within one year OF THE EFFECTIVE DATE OF THIS <—  
14 ACT in favor of the owner of the landfill on the date that the <—  
15 ~~plan is submitted and which contiguous land contains the same~~  
16 ~~geological features which are present at the existing landfill.~~

17 "Recycled content." Products or materials containing  
18 postconsumer waste materials.

19 "Recycling." The collection, separation, recovery and sale  
20 or reuse of metals, glass, paper, leaf waste, plastics and other  
21 materials which would otherwise be disposed or processed as  
22 municipal waste.

23 "Remaining available permitted capacity." The remaining  
24 permitted capacity that is actually available for processing or  
25 disposal to the county or other municipality that generated the  
26 waste.

27 "Remaining permitted capacity." The weight or volume of  
28 municipal waste that can be processed or disposed at an existing  
29 municipal waste processing or disposal facility. The term shall  
30 include only weight or volume capacity for which the department

1 has issued a permit under the Solid Waste Management Act. The  
2 term shall not include any facility that the department  
3 determines, or has determined, has failed and continues to fail  
4 to comply with the provisions of the Solid Waste Management Act,  
5 and the regulations promulgated pursuant thereto, or any permit  
6 conditions.

7 "Residual waste." Any garbage, refuse, other discarded  
8 material or other waste, including solid, liquid, semisolid or  
9 contained gaseous materials resulting from industrial, mining  
10 and agricultural operations and any sludge from an industrial,  
11 mining or agricultural water supply treatment facility, waste  
12 water treatment facility or air pollution control facility,  
13 provided that it is not hazardous. The term shall not include  
14 coal refuse as defined in the act of September 24, 1968  
15 (P.L.1040, No.318), known as the Coal Refuse Disposal Control  
16 Act. The term shall not include treatment sludges from coal mine  
17 drainage treatment plants, disposal of which is being carried on  
18 pursuant to and in compliance with a valid permit issued  
19 pursuant to the act of June 22, 1937 (P.L.1987, No.394), known  
20 as The Clean Streams Law.

21 "Resource recovery facility." A facility that provides for  
22 the extraction and utilization of materials or energy from  
23 municipal waste that is generated off-site, including, but not  
24 limited to, a facility that mechanically extracts materials from  
25 municipal waste, a combustion facility that converts the organic  
26 fraction of municipal waste to usable energy, and any chemical  
27 and biological process that converts municipal waste into a fuel  
28 product or other usable materials. The term also includes any  
29 facility for the combustion of municipal waste that is generated  
30 off-site, whether or not the facility is operated to recover

1 energy. The term does not include METHANE GAS EXTRACTION FROM A ←  
2 MUNICIPAL WASTE LANDFILL, NOR SHALL IT INCLUDE any separation  
3 and collection center, drop-off point or collection center for  
4 recycling municipal waste, or any source separation or  
5 collection center for composting leaf waste.

6 "Secretary." The Secretary of Environmental Resources of the  
7 Commonwealth.

8 "Solid waste." Solid waste, as defined in the act of July 7,  
9 1980 (P.L.380, No.97), known as the Solid Waste Management Act.

10 "Solid Waste Abatement Fund." The fund created pursuant to  
11 section 701 of the Solid Waste Management Act.

12 "Solid Waste Management Act." The act of July 7, 1980  
13 (P.L.380, No.97).

14 "SOURCE-SEPARATED RECYCLABLE MATERIALS." MATERIALS THAT ARE ←  
15 SEPARATED FROM MUNICIPAL WASTE AT THE POINT OF ORIGIN FOR THE  
16 PURPOSE OF RECYCLING.

17 "Storage." The containment of any municipal waste on a  
18 temporary basis in such a manner as not to constitute disposal  
19 of such waste. It shall be presumed that the containment of any  
20 municipal waste in excess of one year constitutes disposal. This  
21 presumption can be overcome by clear and convincing evidence to  
22 the contrary.

23 "Transportation." The offsite removal of any municipal waste  
24 at any time after generation.

25 "Treatment." Any method, technique or process, including,  
26 but not limited to, neutralization, designed to change the  
27 physical, chemical or biological character or composition of any  
28 municipal waste so as to neutralize such waste or so as to  
29 render such waste safer for transport, suitable for recovery,  
30 suitable for storage or reduced in volume.

1 "Waste reduction." Design, manufacture or use of a product  
2 to minimize weight of municipal waste that requires processing  
3 or disposal, including, but not limited to:

4 (1) design or manufacturing activities which minimize  
5 the weight or volume of materials contained in a product, or  
6 increase durability or recyclability; and

7 (2) use of products that contain as little material as  
8 possible, are capable of being reused or recycled or have an  
9 extended useful life.

10 Section 104. Construction of act.

11 (a) Liberal construction.--The terms and provisions of this  
12 act are to be liberally construed, so as to best achieve and  
13 effectuate the goals and purposes hereof.

14 (b) Para materia.--This act shall be construed in para  
15 materia with the Solid Waste Management Act.

16 CHAPTER 3

17 POWERS AND DUTIES

18 Section 301. Powers and duties of department.

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

22 (1) Administer the municipal waste planning, recycling  
23 and waste reduction program pursuant to the provisions of  
24 this act and the regulations promulgated pursuant thereto.

25 (2) Cooperate with appropriate Federal, State,  
26 interstate and local units of government and with appropriate  
27 private organizations in carrying out its duties under this  
28 act.

29 (3) Provide technical assistance to municipalities and  
30 Commonwealth agencies, including, but not limited to, the

1 training of personnel.

2 (4) Initiate, conduct and support research,  
3 demonstration projects and investigations, and coordinate all  
4 State agency research programs pertaining to municipal waste  
5 management systems.

6 (5) Regulate municipal waste planning, including, but  
7 not limited to, the development and implementation of county  
8 municipal waste management plans.

9 (6) Approve, conditionally approve or disapprove  
10 municipal waste management plans, issue orders, conduct  
11 inspections and abate public nuisances to implement the  
12 provisions and purposes of this act and the regulations  
13 promulgated pursuant to this act.

14 (7) Serve as the agency of the Commonwealth for the  
15 receipt of moneys from the Federal Government or other public  
16 agencies or private agencies and expend such moneys for  
17 studies and research with respect to, and for the enforcement  
18 and administration of, the provisions and purposes of this  
19 act and the regulations promulgated pursuant thereto.

20 (8) Institute, in a court of competent jurisdiction,  
21 proceedings against any person to compel compliance with the  
22 provisions of this act, any regulation promulgated pursuant  
23 thereto, any order of the department, or the terms and  
24 conditions of any approved municipal waste management plan.

25 (9) Institute prosecutions against any person under this  
26 act.

27 (10) Appoint such advisory committees as the secretary  
28 deems necessary and proper to assist the department in  
29 carrying out the provisions of this act. The secretary is  
30 authorized to pay reasonable and necessary expenses incurred

1 by the members of such advisory committees in carrying out  
2 their functions.

3 (11) Encourage and, where the department determines it  
4 is appropriate, require counties and other municipalities to  
5 carry out their duties under this act, using the full range  
6 of incentives and enforcement authority provided in this act.

7 (12) Take any action not inconsistent with this act that  
8 the department may deem necessary or proper to collect the  
9 recycling fee provided by this act, and to insure the payment  
10 of the host municipality benefit fee and to ensure the  
11 payment of the site-specific postclosure fee and moneys for  
12 the trust fund for municipally operated landfills provided by  
13 this act.

14 (13) Administer and distribute moneys in the Recycling  
15 Fund for any public educational programs on recycling and  
16 waste reduction that the department believes to be  
17 appropriate, for technical assistance to counties in the  
18 preparation of municipal waste management plans, for  
19 technical assistance to municipalities concerning recycling  
20 and waste reduction, to conduct research, and for other  
21 purposes consistent with this act.

22 (14) To promote and emphasize recycling and waste  
23 reduction in the Commonwealth by, among other things:

24 (i) Conducting a comprehensive, innovative and  
25 effective public education program concerning the value  
26 of recycling and waste reduction, and of public  
27 opportunities to participate in such activities, in  
28 cooperation with the Department of Education.

29 (ii) Developing and maintaining a data base on  
30 recycling and waste reduction in the Commonwealth, and

1 making the information in that data base available to the  
2 public.

3 (iii) Coordinating recycling and waste reduction  
4 efforts among Commonwealth agencies.

5 (iv) Providing financial and other assistance to  
6 municipalities that are required by section 1501 to  
7 implement recycling programs.

8 (V) PROVIDING INFORMATION ABOUT POTENTIAL RECYCLING ←  
9 MARKETS TO MUNICIPALITIES AND OTHER INTERESTED PERSONS.

10 (15) Do any and all other acts and things, not  
11 inconsistent with any provision of this act, which it may  
12 deem necessary or proper for the effective enforcement of  
13 this act and the regulations promulgated pursuant thereto  
14 after consulting with the Department of Health regarding  
15 matters of public health significance.

16 Section 302. Powers and duties of Environmental Quality Board.

17 The Environmental Quality Board shall have the power and its  
18 duty shall be to adopt the regulations of the department to  
19 accomplish the purposes and to carry out the provisions of this  
20 act.

21 Section 303. Powers and duties of counties.

22 (a) Primary responsibility of county.--Each county shall  
23 have the power and its duty shall be to insure the availability  
24 of adequate permitted processing and disposal capacity for the  
25 municipal waste which is generated within its boundaries. As  
26 part of this power, a county:

27 ~~(1) May require all persons collecting or transporting ←~~  
28 ~~municipal waste within the county to obtain licenses for the~~  
29 ~~purpose of directing waste to facilities designated pursuant~~  
30 ~~to subsection (e).~~

1 (1) MAY REQUIRE ALL PERSONS COLLECTING OR TRANSPORTING <—  
2 MUNICIPAL WASTE TO OR FROM LOCATIONS WITHIN THE COUNTY TO  
3 OBTAIN LICENSES FOR THE PURPOSE OF DIRECTING WASTE TO  
4 FACILITIES DESIGNATED UNDER SUBSECTION (E).

5 ~~(2)~~(1) (2) Shall have the power and duty to implement <—  
6 its approved plan as it relates to the processing and  
7 disposal of municipal waste generated within its boundaries.

8 ~~(3)~~(2) (3) May plan for the processing and disposal of <—  
9 municipal waste generated outside its boundaries and to  
10 implement its approved plan as it relates to the processing  
11 and disposal of such waste.

12 ~~(4)~~(3) ~~(4)~~ May prohibit PETITION THE DEPARTMENT TO <—  
13 LIMIT OR RESTRICT PROHIBIT municipal waste processing or  
14 disposal facilities located within the geographic boundaries  
15 of the county from processing or disposing of municipal waste  
16 generated or produced outside the geographical boundaries of  
17 the county if this processing or disposal would significantly  
18 diminish the CONTRIBUTE TO A SHORTAGE OF DIMINISH THE <—  
19 processing or disposal capacity of the facilities. AVAILABLE <—  
20 TO THE COUNTY OF THE FACILITIES.

21 ~~(5)~~ (4) MAY PROHIBIT THE SITING OF ADDITIONAL RESOURCE <—  
22 RECOVERY FACILITIES WITHIN ITS GEOGRAPHIC BOUNDARIES IF, AS  
23 OF THE EFFECTIVE DATE OF THIS ACT, A RESOURCE RECOVERY  
24 FACILITY IS OPERATING WITHIN THE COUNTY.

25 ~~(6)~~ (5) MAY ADOPT ORDINANCES, RESOLUTIONS, REGULATIONS <—  
26 AND STANDARDS FOR THE RECYCLING OF MUNICIPAL WASTE IF ONE OF  
27 THE FOLLOWING REQUIREMENTS ARE MET:

28 (I) SUCH ORDINANCES, RESOLUTIONS, REGULATIONS OR  
29 STANDARDS ARE SET FORTH IN THE APPROVED PLAN, AND DO NOT  
30 INTERFERE WITH THE IMPLEMENTATION OF ANY MUNICIPAL

1 RECYCLING PROGRAM UNDER SECTION 1501.

2 (II) SUCH ORDINANCES, RESOLUTIONS, REGULATIONS OR  
3 STANDARDS ARE NECESSARY TO IMPLEMENT A MUNICIPAL  
4 RECYCLING PROGRAM UNDER SECTION 1501 WHICH THE  
5 MUNICIPALITY HAS DELEGATED TO THE COUNTY PURSUANT TO  
6 SECTION 304.

7 ~~(7) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, IF~~ <—  
8 ~~THERE ARE TWO OR MORE PERMITTED AND OPERATING LANDFILLS~~  
9 ~~PROCESSING OR DISPOSING OF OUT OF COUNTY MUNICIPAL WASTE, THE~~  
10 ~~COUNTY OF SITUS MAY PROHIBIT THE PROCESSING OF DISPOSAL OF~~  
11 ~~OUT OF COUNTY MUNICIPAL WASTE AT ANY NEW LANDFILL PERMITTED~~  
12 ~~AFTER OCTOBER 21, 1987. NOTHING IN THIS PARAGRAPH SHALL~~  
13 ~~PROHIBIT A FACILITY THAT IS NEWLY PERMITTED AFTER OCTOBER 21,~~  
14 ~~1987, FROM PROCESSING OR DISPOSING OF OUT OF COUNTY MUNICIPAL~~  
15 ~~WASTE AS LONG AS THE OUT OF COUNTY MUNICIPAL WASTE DOES NOT~~  
16 ~~EXCEED 10% OF THE DAILY CAPACITY OF THE FACILITY AS~~  
17 ~~PERMITTED, AS RATED BY THE DEPARTMENT AND AS AGREED UPON BY~~  
18 ~~THE GOVERNING BODY OF THE COUNTY IN WHICH THE FACILITY IS~~  
19 ~~LOCATED. FOR THE PURPOSE OF THIS PARAGRAPH, THE TERM "OUT OF~~  
20 ~~COUNTY MUNICIPAL WASTE" MEANS WASTE THAT IS PRODUCED OR~~  
21 ~~GENERATED OUTSIDE THE GEOGRAPHIC BOUNDARIES OF THE COUNTY.~~  
22 ~~NOTHING IN THIS SUBSECTION SHALL BE CONSTRUED TO AFFECT THE~~  
23 ~~RIGHTS OF EXISTING MUNICIPAL WASTE LANDFILLS, NOR SHALL THIS~~  
24 ~~SUBSECTION EFFECT ANY MODIFICATION, EXTENSION, ADDITION OR~~  
25 ~~RENEWAL OF PERMITS.~~

26 (b) Joint planning.--Any two or more counties may adopt and  
27 implement a single municipal waste management plan for the  
28 municipal waste generated within the combined area of the  
29 counties. WHERE THIS ACT IMPOSES A DUTY ON A COUNTY, THE DUTY <—  
30 SHALL BE IMPOSED ON THE ENTITY WHICH IS CREATED WHEN TWO OR MORE

1 COUNTIES FORM A JOINT PLANNING EFFORT.

2 (c) Ordinances and resolutions.--In carrying out its duties  
3 under this section, a county may adopt ordinances, resolutions,  
4 regulations and standards for the TRANSPORTATION, processing and <—  
5 disposal of municipal waste, which shall not be less stringent  
6 than, and not in violation of or inconsistent with, the  
7 provisions and purposes of the Solid Waste Management Act, this  
8 act and the regulations promulgated pursuant thereto.

9 (d) Delegation of county responsibility.--A county may enter  
10 into a written agreement with another municipality or municipal  
11 authority pursuant to which the person undertakes to fulfill  
12 some or all of the county's responsibilities under this act for  
13 municipal waste planning and implementation of the approved  
14 county plan. Any such person shall be jointly and severally  
15 responsible with the county for municipal waste planning and  
16 implementation of the approved county plan in accordance with  
17 this act and the regulations promulgated pursuant thereto.

18 (e) Designated sites.--A county with an approved municipal  
19 waste management plan that was submitted pursuant to section  
20 501(a) or (c) of this act is also authorized to require that all  
21 municipal wastes generated within its boundaries shall be  
22 processed or disposed at a designated processing or disposal  
23 facility that is contained in the approved plan and permitted by  
24 the department under the Solid Waste Management Act. No county  
25 shall direct municipal waste that would otherwise be recycled to  
26 any resource recovery facility or other facility for purposes  
27 other than recycling such waste. A COUNTY WHICH DESIGNATES THAT <—  
28 MUNICIPAL WASTE GENERATED WITHIN ITS BOUNDARIES SHALL BE  
29 PROCESSED OR DISPOSED AT A DESIGNATED FACILITY SHALL PERMIT A  
30 MUNICIPALITY OR COMMERCIAL ESTABLISHMENT TO CONTRACT FOR

1 ~~ALTERNATIVE METHODS OF WASTE PROCESSING OR DISPOSAL IF DOING SO~~  
2 ~~WOULD RESULT IN A SAVINGS TO THE MUNICIPALITY OR COMMERCIAL~~  
3 ~~ESTABLISHMENT AND WOULD NOT IMPAIR THE OPERATION OF THE FACILITY~~  
4 ~~DESIGNATED BY THE COUNTY.~~ This subsection shall not apply to  
5 municipal waste going to existing or future on-site captive  
6 commercial disposal facilities used for the exclusive disposal  
7 of municipal waste generated by that commercial operation.

8 (f) Report.--On or before April 1 of each year, each county  
9 shall submit a report to the department describing:

10 (1) Its progress in implementing its department-approved  
11 municipal waste management plan or in developing such a plan.

12 (2) The weight or volume of materials that were recycled  
13 by municipal recycling programs in the county in the  
14 preceding calendar year.

15 Section 304. Powers and duties of municipalities other than  
16 counties.

17 (a) Responsibility of other municipalities.--Each  
18 municipality other than a county shall have the power and its  
19 duty shall be to assure the proper and adequate transportation,  
20 collection and storage of municipal waste which is generated or  
21 present within its boundaries, ~~TO ASSURE ADEQUATE CAPACITY BY~~ <—  
22 ~~THE ADOPTION OF VOLUME RESTRICTIONS,~~ FOR THE DISPOSAL OF <—  
23 MUNICIPAL WASTE GENERATED WITHIN ITS BOUNDARIES BY MEANS OF THE  
24 PROCEDURE SET FORTH IN SECTION 1111, and to adopt and implement  
25 programs for the collection and recycling of municipal waste as  
26 provided in this act.

27 (b) Ordinances.--~~In carrying out its duties under this~~ <—

28 (1) IN CARRYING OUT ITS DUTIES UNDER THIS section, a <—  
29 municipality other than a county may adopt resolutions,  
30 ordinances, regulations and standards for the RECYCLING, <—

1 transportation, storage and collection of municipal wastes,  
2 which shall not be less stringent than, and not in violation  
3 of or inconsistent with, the provisions and purposes of the  
4 Solid Waste Management Act, this act and the regulations  
5 promulgated pursuant thereto.

6 (2) THE HOST MUNICIPALITY SHALL HAVE THE AUTHORITY TO <—  
7 ADOPT REASONABLE ORDINANCES, INCLUDING, BUT NOT LIMITED TO,  
8 ORDINANCES CONCERNING THE HOURS AND DAYS OF OPERATION OF THE  
9 FACILITY AND TRAFFIC. SUCH ORDINANCES MAY BE IN ADDITION TO,  
10 BUT NOT LESS STRINGENT THAN, NOT INCONSISTENT WITH AND NOT IN  
11 VIOLATION OF, ANY PROVISION OF THIS ACT, ANY REGULATION  
12 PROMULGATED PURSUANT TO THIS ACT OR ANY LICENSE ISSUED  
13 PURSUANT TO THIS ACT. SUCH ORDINANCES FOUND TO BE  
14 INCONSISTENT AND NOT IN SUBSTANTIAL CONFORMITY WITH THIS ACT  
15 SHALL BE SUPERSEDED. APPEALS UNDER THIS SUBSECTION MAY BE  
16 BROUGHT BEFORE A COURT OF COMPETENT JURISDICTION.

17 (c) Contracting of responsibility.--A municipality other  
18 than a county may contract with any municipality, municipal  
19 authority or other persons to carry out its duties for the  
20 RECYCLING, transportation, collection and storage of municipal <—  
21 waste, if the RECYCLING, transportation, collection or storage <—  
22 activity or facility is conducted or operated in a manner that  
23 is consistent with the Solid Waste Management Act, this act and  
24 the regulations promulgated pursuant thereto. Any such person  
25 shall be jointly and severally responsible with the municipality  
26 other than a county when carrying out its duties for  
27 transportation, collection or storage activity or facility.

28 (d) Designated sites.--A municipality other than a county  
29 may require by ordinance that all municipal waste generated  
30 within its jurisdiction shall be disposed of at a designated

1 permitted facility. Such ordinance shall remain in effect until  
2 the county in which the municipality is located adopts a waste  
3 flow control ordinance as part of a plan submitted to the  
4 department pursuant to section 501(a) or (c) and approved by the  
5 department. Except as provided in section 502(m), any such  
6 county ordinance shall supersede any such municipal ordinance to  
7 the extent that the municipal ordinance is inconsistent with the  
8 county ordinance.

9 (e) Term and renewals of certain contracts.--The governing  
10 body of a municipality other than a county shall have the power  
11 to, and may, enter into contracts having an initial term of five  
12 years with optional renewal periods of up to five years with  
13 persons responsible for the collection or transportation of  
14 municipal waste generated within the municipality. The  
15 limitations imposed on contracts by clause XXVII of section 1502  
16 of the act of June 24, 1931 (P.L.1206, No.331), known as The  
17 First Class Township Code, and clause VIII of section 702 of the  
18 act of May 1, 1933 (P.L.103, No.69), known as The Second Class  
19 Township Code, shall not apply to contracts entered into  
20 pursuant to this act.

21 (f) Report.--On or before February 15 of each year, each  
22 municipality other than a county that is implementing a  
23 recycling program shall submit a report to the county in which  
24 the municipality is located. The report shall describe the  
25 weight or volume of materials that were recycled by the  
26 municipal recycling program in the preceding calendar year.

## 27 CHAPTER 5

### 28 MUNICIPAL WASTE PLANNING

29 Section 501. Schedule for submission of municipal waste  
30 management plans.

1 (a) Submission of plan.--Except as provided in subsections  
2 (b) and (c), each county shall submit to the department within  
3 two and one-half years of the effective date of this act an  
4 officially adopted plan for a municipal waste management plan  
5 for municipal waste generated within its boundaries. Such plan  
6 shall be consistent with the requirements of this act. FOR THE ←  
7 PURPOSES OF THIS CHAPTER, THE TERM "COUNTY" INCLUDES CITIES OF  
8 THE FIRST CLASS BUT DOES NOT INCLUDE COUNTIES OF THE FIRST  
9 CLASS.

10 (b) Existing plans.--A county that has submitted a complete  
11 municipal waste management plan to the department for approval  
12 on or before 30 days from the effective date of this act, shall  
13 be deemed to have a plan approved pursuant to section 505 if, on  
14 or before the effective date of this act:

15 (1) The department has granted technical or preliminary  
16 approval of such plan under 25 Pa. Code §§ 75.11 through  
17 75.13.

18 (2) More than one-half of the municipalities within the  
19 county, representing more than one-half of the county's  
20 population as determined by the most recent decennial census  
21 by the United States Bureau of the Census, have adopted  
22 resolutions approving such plan.

23 (c) Plan revisions.--Each county with an approved municipal  
24 waste management plan shall submit a revised plan to the  
25 department in accordance with the requirements of this act:

26 (1) At least three years prior to the time all remaining  
27 available permitted capacity for the county will be  
28 exhausted.

29 (2) For plans approved pursuant to subsection (b),  
30 within two years of the effective date of this act. Such plan

1 revisions shall be consistent with the requirements of this  
2 chapter except to the extent that the county demonstrates to  
3 the department's satisfaction that irrevocable contracts made  
4 by or pursuant to the approved plan preclude compliance with  
5 the requirements of this chapter.

6 (3) When otherwise required by the department.

7 (d) Procedure for considering plan revisions.--At least 30  
8 days before submitting any proposed plan revision to the  
9 department, the county shall submit a copy of the proposed  
10 revision to the advisory committee established pursuant to  
11 section 503 and to each municipality within the county. All plan  
12 revisions that are determined by the county or by the department  
13 to be substantial shall be subject to the requirements of  
14 sections 503 and 504. The plan revisions required by subsection  
15 (c)(2) shall be considered substantial plan revisions.

16 Section 502. Content of municipal waste management plans.

17 (a) General rule.--Except as provided in section 501(b),  
18 every plan submitted after the effective date of this act shall  
19 comply with the provisions of this section.

20 (b) Description of waste.--The plan shall describe and  
21 explain the origin, content and weight or volume of municipal  
22 waste currently generated within the county's boundaries, and  
23 the origin, content and weight or volume of municipal waste that  
24 will be generated within the county's boundaries during the next  
25 ten years.

26 (c) Description of facilities.--The plan shall identify and  
27 describe the facilities where municipal waste is currently being  
28 disposed or processed and the remaining available permitted  
29 capacity of such facilities ~~and the capacity which could be made~~ ←  
30 ~~available through the reasonable expansion of such facilities.~~

1 The plan shall contain an analysis of the effect of current and  
2 planned recycling on waste generated within the county. The plan  
3 shall also explain the extent to which existing facilities will  
4 be used during the life of the plan, and shall not substantially  
5 impair the use of their remaining permitted capacity ~~or of~~ ←  
6 ~~capacity which could be made available through the reasonable~~  
7 ~~expansion of such facilities.~~ For purposes of this subsection,  
8 existing facilities shall include facilities ~~for which a~~ HOLDING ←  
9 PERMITS AND FACILITIES FOR WHICH A COMPLETE permit application  
10 under the Solid Waste Management Act is filed with the  
11 department within one year from the effective date of this act  
12 ~~or the date a plan is approved~~ WITHIN ONE YEAR OF THE DATE ←  
13 WRITTEN NOTICE OF THE DEVELOPMENT OF A PLAN ~~OR~~ IS GIVEN TO ←  
14 MUNICIPALITIES PURSUANT TO SECTION 503(B) OR WITHIN SIX MONTHS  
15 OF THE WRITTEN NOTICE FOR A SUBSTANTIAL PLAN REVISION IS GIVEN  
16 TO MUNICIPALITIES PURSUANT TO SECTION 503(B), whichever is the  
17 later, unless such permit application is denied by the  
18 department. In addition, the plan shall give consideration to  
19 the potential REASONABLE expansion of existing municipal waste ←  
20 processing or disposal facilities located in the county. ~~For the~~ ←  
21 ~~purposes of this subsection, the department shall determine~~  
22 ~~whether applications are complete within 90 days of their~~  
23 ~~receipt and, if incomplete, specify to the applicant all~~  
24 ~~deficiencies of the application.~~

25 (d) Estimated future capacity.--The plan shall estimate the  
26 processing or disposal capacity needed for the municipal waste  
27 that will be generated in the county during the next ten years.  
28 The assessment shall describe the primary variables affecting  
29 this estimate and the extent to which they can reasonably be  
30 expected to affect the estimate, including, but not limited to,

1 the amount of residual waste disposed or processed at municipal  
2 waste disposal or processing facilities in the county and the  
3 extent to which residual waste may be disposed or processed at  
4 such facilities during the next ten years.

5 (e) Description of recyclable waste.--

6 (1) The plan shall describe and evaluate:

7 (i) The kind and weight or volume of municipal waste  
8 that could be recycled, giving consideration at a minimum  
9 to the following materials: clear glass OR colored glass, ←  
10 aluminum, steel and bimetallic cans, high grade office  
11 paper, newsprint, corrugated paper, plastics, leaf waste  
12 and grass clippings.

13 (ii) Potential benefits of recycling, including the  
14 potential solid waste reduction and the avoided cost of  
15 municipal waste processing or disposal.

16 (iii) Existing materials recovery operations and the  
17 kind and weight or volume of materials recycled by the  
18 operations, whether public or private.

19 (iv) The compatibility of recycling with other  
20 municipal waste processing or disposal methods, giving  
21 consideration to and describing anticipated and available  
22 markets for materials collected through municipal  
23 recycling programs.

24 (v) Proposed or existing collection methods for  
25 recyclable materials.

26 (vi) Options for ensuring the collection of  
27 recyclable materials.

28 (vii) Options for the processing, storage and sale  
29 of recyclable materials, including market commitments.

30 The plan shall consider the results of the market

1 development study required by section 508, if the results  
2 are available.

3 (viii) Options for municipal cooperation or  
4 agreement for the collection, processing and sale of  
5 recyclable materials.

6 (ix) A schedule for implementation of the recycling  
7 program.

8 (x) Estimated costs of operating and maintaining a  
9 recycling program, estimated revenue from the sale or use  
10 of materials and avoided costs of processing or disposal.

11 (xi) What consideration for the collection,  
12 marketing and disposition of recyclable materials will be  
13 accorded to persons engaged in the business of recycling  
14 on the effective date of this act, whether or not the  
15 persons are operating for profit.

16 (XII) A PUBLIC INFORMATION AND EDUCATION PROGRAM ←—  
17 THAT WILL PROVIDE COMPREHENSIVE AND SUSTAINED PUBLIC  
18 NOTICE OF RECYCLING PROGRAM FEATURES AND REQUIREMENTS.

19 (2) Any county containing municipalities that are  
20 required by section 1501 to implement recycling programs  
21 shall take the provisions of that section into account in  
22 preparing the recycling portion of its plan.

23 (3) Nothing in this chapter shall be construed or  
24 understood to require preparation of a county municipal waste  
25 management plan prior to developing and implementing any  
26 recycling program required by Chapter 15.

27 (f) Financial factors.--The plan shall describe the type,  
28 mix, size, expected cost and proposed methods of financing the  
29 facilities, recycling programs or waste reduction programs that  
30 are proposed for the processing and disposal of the municipal

1 waste that will be generated within the county's boundaries  
2 during the next ten years. For every proposed facility,  
3 recycling program or waste reduction program, the plan shall  
4 discuss all of the following:

5 (1) Explain in detail the reason for selecting such  
6 facility or program.

7 (2) Describe alternative facilities or programs,  
8 including, but not limited to, waste reduction, recycling, or  
9 resource recovery facilities or programs, that were  
10 considered.

11 (3) Evaluate the environmental, energy, life cycle cost  
12 and economic advantages and disadvantages of the proposed  
13 facility or program as well as the alternatives considered.

14 (4) Show that adequate provision for existing and  
15 reasonably anticipated future recycling has been made in  
16 designing the size of any proposed facility.

17 (5) Set forth a time schedule and program for planning,  
18 design, siting, construction and operation of each proposed  
19 facility or program.

20 (g) Location.--The plan shall identify the general location  
21 within a county where each municipal waste processing or  
22 disposal facility and each recycling operation identified in  
23 subsection (f) will be located, and either identify the site of  
24 each facility if the site has already been chosen or explain how  
25 the site will be chosen. For any facility that is proposed to be  
26 located outside the county, the plan shall explain in detail the  
27 reasons for selecting such a facility.

28 (h) Implementing entity identification.--The plan shall  
29 identify the governmental entity that will be responsible for  
30 implementing the plan on behalf of the county and describe the

1 legal basis for that entity's authority to do so.

2 (i) Public function.--Where the county determines that it is  
3 in the public interest for municipal waste transportation,  
4 processing and disposal to be a public function, the plan shall  
5 provide for appropriate mechanisms, SUBJECT TO THE LIMITATIONS <—  
6 SET FORTH IN SECTION 902(A) ON THE USE OF GRANT MONEYS BY  
7 MUNICIPALITIES FOR PURCHASING EQUIPMENT FOR PROCESSING SOLID  
8 WASTE.

9 (j) Copies of ordinances and resolutions.--The plan shall  
10 include any proposed ordinances, contracts or requirements that  
11 will be used to insure the operation of any facilities proposed  
12 in the plan. For each ordinance, contract or requirement, the  
13 plan shall identify the areas of the county to be affected, the  
14 expected effective date and the implementing mechanism.

15 (k) Orderly extension.--The plan shall provide for the  
16 orderly extension of municipal waste management systems in a  
17 manner that is consistent with the needs of the area and is also  
18 consistent with any existing State, regional or local plans  
19 affecting the development, use and protection of air, water,  
20 land or other natural resources. The plan shall also take into  
21 consideration planning, zoning, population estimates,  
22 engineering and economics.

23 (l) Methods of disposal other than by contract.--If the  
24 county proposes to require, by means other than contracts, that  
25 municipal wastes generated within its boundaries be processed or  
26 disposed at a designated facility, the plan shall so state. The  
27 plan shall explain the basis for such a proposal, giving  
28 consideration to alternative means of ensuring that waste  
29 generated within the county's boundaries is processed or  
30 disposed in an environmentally acceptable manner. A copy of the

1 proposed ordinance or other legal instrument that would  
2 effectuate this proposal shall also be included.

3 (m) County ownership.--If the county proposes to own or  
4 operate a municipal waste processing or disposal facility, the  
5 plan shall so state. The plan shall also explain the basis for  
6 such a proposal, giving consideration to the comparative costs  
7 and benefits of private ownership and operation of municipal  
8 waste processing or disposal facilities.

9 (n) Other information.--The plan shall include any other  
10 information that the department may require.

11 (o) Noninterference with certain resource recovery  
12 facilities and landfills.--

13 ~~(1) Except as provided in section 303(a)(4), no county~~ <—  
14 ~~municipal waste management plan shall interfere with any of~~  
15 ~~the following:~~

16 ~~(i) The design, construction or operation of any~~  
17 ~~municipal waste processing, disposal or resource recovery~~  
18 ~~facility or the reasonable expansion of such facility or~~  
19 ~~municipal waste landfill that is part of a complete~~  
20 ~~municipal waste management plan submitted by a~~  
21 ~~municipality or organization of municipalities under the~~  
22 ~~Solid Waste Management Act prior to the effective date of~~  
23 ~~this act or the date such plan is undertaken, whichever~~  
24 ~~is the later, and for which a complete permit application~~  
25 ~~under the Solid Waste Management Act is submitted to the~~  
26 ~~department within one year of the effective date of this~~  
27 ~~act.~~

28 ~~(ii) The projects, plans or operations of a~~  
29 ~~municipality authority created under the act of May 2,~~  
30 ~~1945 (P.L.382, No.164), known as the Municipality~~

1 ~~Authorities Act of 1945, or of an organization of~~  
2 ~~municipalities which (municipality authority or~~  
3 ~~organization of municipalities) is created by two or more~~  
4 ~~municipalities prior to the effective date of this act~~  
5 ~~for the purposes of providing for collection, storage,~~  
6 ~~transportation, processing or disposal of solid waste~~  
7 ~~generated within the municipalities and which~~  
8 ~~(municipality authority or organization of~~  
9 ~~municipalities) submits to the department within two~~  
10 ~~years of the effective date of this act, and has approved~~  
11 ~~by the department, a solid waste management plan,~~  
12 ~~consistent with the other provisions of this section,~~  
13 ~~that includes each member municipality. This subparagraph~~  
14 ~~applies to the projects, plans and operations of~~  
15 ~~municipalities which are members of the municipality~~  
16 ~~authority or organization of municipalities.~~

17 ~~(2) Within 120 days after receiving a complete plan, the~~  
18 ~~department shall give it preliminary or technical approval~~  
19 ~~under 25 Pa. Code §§ 75.11 through 75.13 or disapprove it.~~  
20 ~~For the purposes of this subsection, the department shall~~  
21 ~~determine whether applications are complete within 90 days of~~  
22 ~~their receipt and, if incomplete, specify to the applicant~~  
23 ~~all deficiencies of the application.~~

24 (1) NO COUNTY MUNICIPAL WASTE MANAGEMENT PLAN SHALL <—  
25 INTERFERE WITH THE DESIGN, CONSTRUCTION OR OPERATION OF ANY  
26 MUNICIPAL WASTE PROCESSING OR DISPOSAL FACILITY, INCLUDING  
27 ANY REASONABLE EXPANSION OF AN EXISTING FACILITY, THAT MEETS  
28 THE FOLLOWING REQUIREMENTS:

29 (I) THE FACILITY IS INCLUDED IN A COMPLETE PLAN  
30 SUBMITTED, PRIOR TO THE EFFECTIVE DATE OF THIS ACT, BY A

1 MUNICIPALITY AUTHORITY CREATED UNDER THE ACT OF MAY 2,  
2 1945 (P.L.382, NO.164), KNOWN AS THE MUNICIPALITY  
3 AUTHORITIES ACT OF 1945, OR AN ORGANIZATION OF  
4 MUNICIPALITIES, WHICH MUNICIPAL AUTHORITY OR ORGANIZATION  
5 OF MUNICIPALITIES WAS CREATED BY TWO OR MORE  
6 MUNICIPALITIES FOR THE PURPOSE OF PROVIDING FOR THE  
7 COLLECTION, STORAGE, TRANSPORTATION, PROCESSING OR  
8 DISPOSAL OF SOLID WASTE GENERATED WITHIN THE  
9 MUNICIPALITIES.

10 (II) A COMPLETE PERMIT APPLICATION FOR THE FACILITY  
11 UNDER THE SOLID WASTE MANAGEMENT ACT IS SUBMITTED TO THE  
12 DEPARTMENT WITHIN ONE YEAR OF THE EFFECTIVE DATE OF THE  
13 ACT.

14 (2) WITHIN 120 DAYS AFTER RECEIVING A COMPLETE PLAN  
15 SUBMITTED PURSUANT TO THIS SUBSECTION, THE DEPARTMENT SHALL  
16 GIVE IT PRELIMINARY OR TECHNICAL APPROVAL UNDER 25 PA. CODE  
17 §§ 75.11 (RELATING TO OFFICIAL PLANS) AND 75.13 (RELATING TO  
18 OFFICIAL PLAN IMPLEMENTATION) OR DISAPPROVE IT.

19 (P) WASTE RETURN.--THE PLAN SHALL INCLUDE A PROVISION THAT  
20 ALLOWS A MUNICIPAL WASTE AUTHORITY RECEIVING UNAUTHORIZED OR  
21 EMERGENCY SHIPMENTS OF MUNICIPAL WASTE FROM ANOTHER AUTHORITY TO  
22 RETURN AN AMOUNT OF MUNICIPAL WASTE EQUAL TO THE AMOUNT OF  
23 MUNICIPAL WASTE RECEIVED FROM THE AUTHORITY EXPERIENCING THE  
24 EMERGENCY OR SENDING THE UNAUTHORIZED WASTE.

25 (Q) PUBLIC PARTICIPATION.--THE PLAN SHALL INCLUDE PROVISIONS  
26 FOR PUBLIC PARTICIPATION IN THE IMPLEMENTATION OF THE PLAN,  
27 INCLUDING, BUT NOT LIMITED TO, AN ADVISORY COMMITTEE TO PROVIDE  
28 OVERSIGHT AND ADVICE ON THE IMPLEMENTATION OF THE PLAN.

29 Section 503. Development of municipal waste management plans.

30 (a) Advisory committee.--Prior to preparing a plan or

1 substantial plan revisions for submission to the department in  
2 accordance with the provisions of this act, the county shall  
3 form an advisory committee, which shall include representatives  
4 of all classes of municipalities within the county, citizen  
5 organizations, industry, the private solid waste industry  
6 operating within the county, THE PRIVATE RECYCLING OR SCRAP ←  
7 MATERIAL PROCESSING INDUSTRY OPERATING WITHIN THE COUNTY, the  
8 county recycling coordinator, if one exists, and any other  
9 persons deemed appropriate by the county. The advisory committee  
10 shall review the plan during its preparation, make suggestions  
11 and propose any changes it believes appropriate.

12 (b) Written notice.--The county shall provide written notice  
13 to all municipalities within the county when plan development  
14 begins and shall provide periodic written progress reports to  
15 such municipalities concerning the preparation of the plan.

16 (c) Review and comment.--Prior to adoption by the governing  
17 body of the county, the county shall submit copies of the  
18 proposed plan for review and comment to the department, all  
19 municipalities within the county, all areawide planning agencies  
20 and the county health department, if one exists. The county  
21 shall also make the proposed plan available for public review  
22 and comment. The period for review and comment shall be 90 days.  
23 The county shall hold at least one public hearing on the  
24 proposed plan during this period. The plan subsequently  
25 submitted to the governing body of the county for adoption shall  
26 be accompanied by a document containing written responses to  
27 comments made during the comment period.

28 (d) Adoption and ratification of plan.--The governing body  
29 of the county shall adopt a plan within 60 days from the end of  
30 the public comment period. Not later than ten days following

1 adoption of a plan by the governing body of the county, the plan  
2 shall be sent to municipalities within the county for  
3 ratification. If a municipality does not act on the plan within  
4 90 days of its submission to such municipality, it shall be  
5 deemed to have ratified the plan. If more than one-half of the  
6 municipalities, representing more than one-half of the county's  
7 population as determined by the most recent decennial census by  
8 the United States Bureau of the Census, ratify the plan, then  
9 the county within ten days of ratification shall submit the plan  
10 to the department for approval.

11 (e) Statement of objections.--A municipality may not  
12 disapprove of a proposed county plan unless the municipality's  
13 resolution of disapproval contains a concise statement of its  
14 objections to the plan. Each municipality disapproving a plan  
15 shall immediately transmit a copy of its resolution of  
16 disapproval to the county and the advisory committee. A  
17 conditional approval shall be considered a disapproval.

18 Section 504. Failure to ratify plan.

19 (a) Submission.--If the plan is not ratified as provided in  
20 section 503(d), the county shall meet with the advisory  
21 committee to discuss the reasons that the plan was not ratified.  
22 The advisory committee shall submit a recommendation concerning  
23 a revised county plan to the county within 45 days after it  
24 becomes apparent that the plan has failed to obtain  
25 ratification. The advisory committee's recommendation shall  
26 specifically address the objections stated by municipalities in  
27 their resolutions of disapproval of the county plan.

28 (b) Adoption of revised plan by county.--The governing body  
29 of the county shall adopt a revised plan within 75 days after it  
30 has become apparent that the original plan has failed to obtain

1 ratification. Not later than five days following adoption of a  
2 revised plan by the governing body of the county, the plan shall  
3 be sent to municipalities within the county for ratification. If  
4 a municipality does not act on the revised plan within 45 days  
5 of its submission to such municipality, it shall be deemed to  
6 have ratified the plan. If more than one-half of the  
7 municipalities, representing more than one-half of the county's  
8 population as determined by the most recent decennial census by  
9 the United States Bureau of the Census, ratify the revised plan,  
10 then the county within ten days of ratification shall submit the  
11 revised plan to the department for approval.

12 (c) Statement of objections.--A municipality may not  
13 disapprove of a proposed revised county plan unless the  
14 municipality's resolution of disapproval contains a concise  
15 statement of its objections to the plan. Each municipality shall  
16 immediately transmit a copy of its resolution of disapproval to  
17 the county.

18 (d) Failure to ratify revised plan.--If the plan is not  
19 ratified as provided in subsection (b), the county shall submit  
20 the revised plan to the department for approval. The revised  
21 plan shall be submitted within ten days after it is apparent  
22 that the plan has failed to obtain ratification and shall be  
23 accompanied by the county's written response to the objections  
24 stated by municipalities in the resolutions of disapproval.

25 Section 505. Review of municipal waste management plans.

26 (a) Departmental approval options.--Within 30 days after  
27 receiving a complete plan, the department shall approve,  
28 conditionally approve or disapprove it, unless the department  
29 gives written notice that additional time is necessary to  
30 complete its review. If the department gives such notice, it

1 shall have 30 additional days to render a decision.

2 (b) Minimum plan requirement.--The department shall approve  
3 any county plan that demonstrates to the satisfaction of the  
4 department that:

5 (1) The plan is complete ~~and accurate~~, ACCURATE AND <—  
6 CONSISTENT WITH THIS ACT AND REGULATIONS PROMULGATED  
7 HEREUNDER.

8 (2) The plan provides for the maximum feasible  
9 development and implementation of recycling programs.

10 (3) The plan provides for the TRANSPORTATION, processing <—  
11 and disposal of municipal waste in a manner that is  
12 consistent with the requirements of the Solid Waste  
13 Management Act, and the regulations promulgated pursuant  
14 thereto.

15 (4) The plan provides for the TRANSPORTATION, processing <—  
16 and disposal of municipal waste for at least ten years.

17 (5) If the plan proposes that municipal waste generated  
18 within the county's boundaries be required, by means other  
19 than contracts, to be processed or disposed at a designated  
20 facility, the plan explains the basis for doing so.

21 (6) If the plan proposes that the county own or operate  
22 a municipal waste processing or disposal facility, the plan  
23 explains the basis for doing so.

24 ~~(c) Zoning powers unaffected. Nothing in this act shall be <—~~  
25 ~~construed or understood to enlarge or diminish the authority of~~  
26 ~~municipalities to adopt ordinances pursuant to, or to exempt~~  
27 ~~persons acting under the authority of this act from the~~  
28 ~~provisions of the act of July 31, 1968 (P.L.805, No.247), known~~  
29 ~~as the Pennsylvania Municipalities Planning Code.~~

30 (C) ZONING POWERS UNAFFECTED.--NOTHING IN THIS ACT SHALL BE <—

1 CONSTRUED OR UNDERSTOOD TO ENLARGE OR DIMINISH THE AUTHORITY OF  
2 MUNICIPALITIES TO ADOPT ORDINANCES PURSUANT TO, OR TO EXEMPT  
3 PERSONS ACTING UNDER THE AUTHORITY OF THIS ACT FROM THE  
4 PROVISIONS OF, THE ACT OF JULY 31, 1968 (P.L.805, NO.247), KNOWN  
5 AS THE PENNSYLVANIA MUNICIPALITIES PLANNING CODE, EXCEPT THAT  
6 ANY EXPANSION OF AN EXISTING MUNICIPAL WASTE LANDFILL OWNED AND  
7 OPERATED BY ANY LOCAL PUBLIC AGENCY SHALL NOT BE REQUIRED TO  
8 COMPLY WITH ANY ORDINANCE OR OTHER LOCAL REGULATION, PROVIDED  
9 THE LOCAL PUBLIC AGENCY HAS RECEIVED A PERMIT FROM THE  
10 DEPARTMENT PURSUANT TO THE PROVISIONS OF THE SOLID WASTE  
11 MANAGEMENT ACT.

12 Section 506. Contracts.

13 (a) General rule.--Except as otherwise provided in this act,  
14 nothing in this act shall be construed to interfere with, or in  
15 any way modify, the provisions of any contract for municipal  
16 waste disposal, processing or collection in force in any county,  
17 other municipality or municipal authority upon the effective  
18 date of this act OR PRIOR TO THE ADOPTION PURSUANT TO THIS ACT <—  
19 OF A DEPARTMENT-APPROVED MUNICIPAL WASTE MANAGEMENT PLAN.

20 (b) Renewals.--No renewal of any existing contract upon the  
21 expiration or termination of the original term thereof, and no  
22 new contract for municipal waste disposal, processing or  
23 collection shall be entered into after the effective date of  
24 this act, ~~unless~~ IF such renewal or such new contract shall <—  
25 FAILS TO conform to the applicable provisions of this act and OR <—  
26 INTERFERES WITH THE IMPLEMENTATION OF a department-approved  
27 municipal waste management plan.

28 ~~(c) Renegotiation option. If no plan has been approved for <—~~  
29 ~~the county, no contract renewal or new contract for municipal~~  
30 ~~waste disposal, processing or collection shall be entered into~~

1 ~~unless such contract contains a provision for renegotiation to~~  
2 ~~conform to the approved plan when such plan is approved by the~~  
3 ~~department.~~

4 (C) RENEGOTIATION OPTION.--IF NO PLAN HAS BEEN APPROVED FOR <—  
5 THE COUNTY, NO CONTRACT RENEWAL OR NEW CONTRACT FOR MUNICIPAL  
6 WASTE DISPOSAL, PROCESSING OR COLLECTION SHALL BE ENTERED INTO  
7 UNLESS SUCH CONTRACT CONTAINS A PROVISION FOR RENEGOTIATION TO  
8 CONFORM TO THE APPROVED PLAN WHEN SUCH PLAN IS APPROVED BY THE  
9 DEPARTMENT.

10 Section 507. Relationship between plans and permits.

11 (a) Limitation on permit issuance.--After the date of  
12 departmental approval of a county municipal waste management  
13 plan under section 505, the department ~~may~~ SHALL not issue any <—  
14 new permit, or any permit that results in additional capacity,  
15 for a municipal waste landfill or resource recovery facility  
16 under the Solid Waste Management Act in the county unless the  
17 applicant demonstrates to the department's satisfaction that the  
18 proposed facility:

19 (1) is provided for in the plan for the county; or

20 (2) meets all of the following requirements:

21 (i) The proposed facility will not interfere with  
22 implementation of the approved plan.

23 (ii) The proposed facility will not interfere with  
24 municipal waste collection, storage, transportation,  
25 processing or disposal in the host county.

26 (iii) The governing body of the proposed host county  
27 has provided a written statement approving the location  
28 of the proposed facility, or the proposed location of the  
29 facility is preferable to alternative locations, giving  
30 consideration to environmental and economic factors.

1 (b) Exemption.--This section shall not impose any limitation  
2 on the department's authority to issue a permit in a county  
3 prior to the department's approval of a municipal waste  
4 management plan for the county under this act.

5 Section 508. Studies.

6 (a) Market development for recyclable municipal waste.--  
7 Within 15 months after the effective date of this act, the  
8 department shall submit to the General Assembly a report that  
9 describes:

10 (1) The current and projected capacity of existing  
11 markets to absorb materials generated by municipal recycling  
12 programs in this Commonwealth.

13 (2) Market conditions that inhibit or affect demand for  
14 materials generated by municipal recycling programs.

15 (3) Potential opportunities to increase demand for and  
16 use of materials generated by municipal recycling programs.

17 (4) Recommendations for specific actions to increase and  
18 stabilize the demand for materials generated by municipal  
19 recycling programs, including, but not limited to, proposed  
20 legislation if necessary.

21 (5) Specific recommendations on markets for recycled  
22 materials for each region of this Commonwealth.

23 (b) Update of market study.--Within three years after the  
24 completion of the market development study described in  
25 subsection (a), the department shall submit to the General  
26 Assembly an update of the study, taking into account information  
27 developed since its completion.

28 (c) Waste reduction.--Within 24 months after the effective  
29 date of this act, the department shall submit to the General  
30 Assembly a report:

1           (1) That describes various mechanisms that could be  
2 utilized to stimulate and enhance waste reduction, including  
3 their advantages and disadvantages. The mechanisms to be  
4 analyzed shall include, but not be limited to, incentives for  
5 prolonging product life, methods for ensuring product  
6 recyclability, taxes for excessive packaging, tax incentives,  
7 prohibitions on the use of certain products and performance  
8 standards for products.

9           (2) That includes recommendations to stimulate and  
10 enhance waste reduction, including, but not limited to,  
11 proposed legislation if necessary.

12       (d) Update of waste reduction study.--Within three years  
13 after the completion of the waste reduction study described in  
14 subsection (c), the department shall submit to the General  
15 Assembly an update of the study, taking into account information  
16 developed since its completion.

17       (E) DISTRIBUTION TO MUNICIPALITIES.--THE DEPARTMENT SHALL  
18 PROMPTLY MAKE AVAILABLE TO MUNICIPALITIES AND OTHER INTERESTED  
19 PERSONS THE RESULTS OF THE STUDIES REQUIRED BY THIS SECTION.  
20 Section 509. Best available technology.

←

21       (a) Publication of criteria.--The department, after public  
22 notice and an opportunity for comment, shall publish in the  
23 Pennsylvania Bulletin criteria for best available technology (as  
24 defined in 25 Pa. Code § 121.1 (relating to definitions)) for  
25 new resource recovery facilities.

26       (b) Restriction on issuance of certain permits.--The  
27 department shall not issue any approval or permit for a resource  
28 recovery facility under the act of January 8, 1960 (1959  
29 P.L.2119, No.787), known as the Air Pollution Control Act, that  
30 is less stringent than any provision of the applicable best

1 available technology criteria. The department shall require any  
2 resource recovery facility to operate in compliance with the  
3 applicable best available technology criteria.

4 (c) Operation tests and reports.--The operator of any  
5 resource recovery facility shall conduct tests for emissions of  
6 particulate matter in accordance with standards of performance  
7 for new sources specified by the United States Environmental  
8 Protection Agency for incinerators, resource recovery facilities  
9 and associated control devices and shall report the results in a  
10 manner established by the department.

11 Section 510. Permit requirements.

12 (A) ASH RESIDUE DISPOSAL.--The department shall not issue <—  
13 any approval or permit for a resource recovery facility under  
14 the Solid Waste Management Act unless the applicant has provided  
15 the department with adequate documentation and assurances that  
16 all FLY AND BOTTOM ash residue produced from or by a resource <—  
17 recovery facility ~~will be disposed at a~~ SHALL BE: <—

- 18 (1) COLLECTED SEPARATELY; AND
- 19 (2) TESTED SEPARATELY TO DETERMINE ITS HAZARDOUS NATURE.

20 ASH RESIDUE DETERMINED TO BE HAZARDOUS WASTE AS DEFINED IN  
21 THE SOLID WASTE MANAGEMENT ACT SHALL BE DISPOSED AT A  
22 PERMITTED HAZARDOUS WASTE DISPOSAL FACILITY. ASH RESIDUE  
23 DETERMINED NOT TO BE HAZARDOUS WASTE AS DEFINED IN THE SOLID  
24 WASTE MANAGEMENT ACT SHALL BE DISPOSED AT A permitted  
25 landfill OR BY ANY OTHER METHOD APPROVED BY THE DEPARTMENT. <—

26 Prior to the approval of any permit application for a  
27 resource recovery facility, the operator shall submit a plan  
28 to the department for the alternate disposal of municipal  
29 waste designated for disposal at the resource recovery  
30 facility.

1 (B) STUDY OF EFFECT ON WATER SUPPLY.--THE DEPARTMENT SHALL <—  
2 NOT ISSUE ANY APPROVAL OR PERMIT FOR A RESOURCE RECOVERY  
3 FACILITY UNLESS THE APPLICANT HAS PROVIDED THE DEPARTMENT WITH A  
4 STUDY THAT DOCUMENTS THE SHORT-TERM AND LONG-TERM EFFECTS THAT  
5 THE PROJECT WILL HAVE ON THE PUBLIC AND PRIVATE WATER SUPPLY.  
6 THE STUDY SHALL INCLUDE, BUT NOT BE LIMITED TO, EFFECTS OF  
7 POLLUTION, CONTAMINATION, DIMINUTION, AND ALTERNATIVE SOURCES OF  
8 WATER ADEQUATE IN QUANTITY AND QUALITY FOR THE PURPOSES SERVED  
9 BY THE WATER SUPPLY BOTH PUBLIC AND PRIVATE.

10 ~~Section 511. Site limitation.~~ <—

11 ~~(a) General rule. (A) GENERAL RULE. No municipal waste <—~~  
12 ~~landfill or resource recovery facility shall be located within~~  
13 ~~300 1,000 yards of a park, playground OR cemetery or school. The <—~~  
14 ~~department shall not issue a permit to any operator of such a~~  
15 ~~landfill or facility as defined in this section. For purposes of~~  
16 ~~this section, a municipal waste landfill or resource recovery~~  
17 ~~facility shall include the processing, compacting, treatment,~~  
18 ~~storage, off loading OR transferring. or in any other way <—~~  
19 ~~dealing with municipal waste.~~

20 ~~(b) Counties of the first class. No new incinerators, trash~~  
21 ~~to steam facilities or mass burn facilities shall be constructed~~  
22 ~~in any city of the first class.~~

23 ~~(B) CERTAIN LANDFILLS. THE DEPARTMENT SHALL NOT ISSUE A <—~~  
24 ~~PERMIT FOR, NOR ALLOW THE OPERATION OF, A NEW MUNICIPAL WASTE~~  
25 ~~LANDFILL, A NEW RESIDUAL WASTE TREATMENT FACILITY OR A NEW~~  
26 ~~DISPOSAL FACILITY WITHIN 1,000 YARDS OF A BUILDING WHICH IS~~  
27 ~~OWNED BY A SCHOOL DISTRICT AND USED FOR INSTRUCTIONAL PURPOSES.~~  
28 ~~THIS SUBSECTION SHALL NOT AFFECT ANY MODIFICATION, EXTENSION,~~  
29 ~~ADDITION OR RENEWAL OF EXISTING PERMITTED FACILITIES.~~

30 ~~Section 512. Issuance of permits.~~

1       ~~(a) General rule. The department shall review and approve~~  
2 ~~or disapprove all applications for permits, permit modifications~~  
3 ~~and other determinations under the Solid Waste Management Act~~  
4 ~~within 90 days of the time the department determines that an~~  
5 ~~application for action is reasonably complete. The department~~  
6 ~~shall make a determination regarding whether an application is~~  
7 ~~reasonably complete within 45 days of the filing of an~~  
8 ~~application with the department and shall identify all areas in~~  
9 ~~which an application is incomplete when issuing a notice of~~  
10 ~~deficiency. The department shall review any amended application~~  
11 ~~filed in response to a notice of deficiency within 30 days of~~  
12 ~~the filing of the amended application with the department.~~  
13 ~~Nothing in this section shall prohibit the department and the~~  
14 ~~applicant from the agreeing to extend any deadline for action~~  
15 ~~provided by this section. Nothing in this section shall prohibit~~  
16 ~~the department from requesting and accepting supplemental~~  
17 ~~information, explanations and clarifications regarding the~~  
18 ~~content of an application prior to the deadline for department~~  
19 ~~action.~~

20       ~~(b) Conditions. Except as necessary to avoid an imminent~~  
21 ~~threat to the public health, safety or the environment, the~~  
22 ~~department shall not impose or modify conditions upon a permit~~  
23 ~~issued or impose or modify conditions upon operations or other~~  
24 ~~activities conducted under the Solid Waste Management Act~~  
25 ~~without prior notice to the applicant or permittee and affording~~  
26 ~~the applicant or permittee an opportunity to comment upon the~~  
27 ~~proposed conditions. The department shall review comments~~  
28 ~~submitted in response to the proposed conditions and either~~  
29 ~~amend the conditions or explain in writing the department's~~  
30 ~~response to comments received from the applicant or permittee.~~

1 SECTION 511. SITE LIMITATION. <—

2 (A) GENERAL RULE.--THE DEPARTMENT SHALL NOT ISSUE A PERMIT  
3 FOR, NOR ALLOW THE OPERATION OF, A NEW MUNICIPAL WASTE LANDFILL,  
4 A NEW RESIDUAL WASTE TREATMENT FACILITY, A NEW RESOURCE RECOVERY  
5 FACILITY, OR A NEW DISPOSAL FACILITY WITHIN 300 YARDS OF A  
6 BUILDING WHICH IS OWNED BY A SCHOOL DISTRICT AND USED FOR  
7 INSTRUCTIONAL PURPOSES, RESIDENTIAL HOUSING, PARKS OR  
8 PLAYGROUNDS EXISTING PRIOR TO THE DATE THE DEPARTMENT HAS  
9 RECEIVED AN ADMINISTRATIVELY COMPLETE APPLICATION FOR A PERMIT  
10 FOR SUCH FACILITIES. FOR THE PURPOSES OF THIS SECTION, A  
11 MUNICIPAL WASTE LANDFILL OR RESOURCE RECOVERY FACILITY SHALL  
12 INCLUDE FACILITIES FOR THE PROCESSING, COMPACTING, TREATMENT,  
13 STORAGE, OFF-LOADING OR TRANSFERRING OF MUNICIPAL WASTE. THIS  
14 SUBSECTION SHALL NOT AFFECT ANY MODIFICATION, EXTENSION,  
15 ADDITION OR RENEWAL OF EXISTING PERMITTED FACILITIES.

16 (B) EXEMPTION BY REQUEST.--THE GOVERNING BODY OF A  
17 MUNICIPALITY IN WHICH A NEW FACILITY IS PROPOSED MAY REQUEST THE  
18 DEPARTMENT TO WAIVE THE 300 YARD PROHIBITION IN SUBSECTION (A)  
19 WITHIN ITS JURISDICTION AND, UPON SUCH REQUEST, THE DEPARTMENT  
20 SHALL WAIVE THE 300 YARD PROHIBITION AND SHALL NOT USE SUCH  
21 PROHIBITION AS THE BASIS FOR THE DENIAL OF A NEW PERMIT.

22 SECTION 512. COMPLETENESS REVIEW. <—

23 (A) GENERAL RULE.--AFTER RECEIPT OF A PERMIT APPLICATION FOR <—  
24 A LANDFILL OR RESOURCE RECOVERY FACILITY, THE DEPARTMENT SHALL  
25 DETERMINE WHETHER THE APPLICATION IS ADMINISTRATIVELY COMPLETE.  
26 FOR PURPOSES OF THIS SECTION, AN APPLICATION IS ADMINISTRATIVELY  
27 COMPLETE IF IT CONTAINS NECESSARY INFORMATION, MAPS, FEES AND  
28 OTHER DOCUMENTS, REGARDLESS OF WHETHER THE INFORMATION, MAPS,  
29 FEES AND DOCUMENTS WOULD BE SUFFICIENT FOR ISSUANCE OF THE  
30 PERMIT.

1 (1) IF THE APPLICATION IS NOT ADMINISTRATIVELY COMPLETE,  
2 THE DEPARTMENT SHALL, WITHIN 60 DAYS OF RECEIPT OF THE  
3 APPLICATION, RETURN IT TO THE APPLICANT, ALONG WITH A WRITTEN  
4 STATEMENT OF THE SPECIFIC INFORMATION, MAPS, FEES AND  
5 DOCUMENTS THAT ARE REQUIRED TO MAKE THE APPLICATION  
6 ADMINISTRATIVELY COMPLETE.

7 (2) THE DEPARTMENT SHALL DENY THE APPLICATION IF THE  
8 APPLICANT FAILS TO PROVIDE THE INFORMATION, MAPS, FEES AND  
9 DOCUMENTS WITHIN 90 DAYS OF RECEIPT OF THE NOTICE IN  
10 PARAGRAPH (1).

11 (B) REVIEW PERIOD.--

12 (1) THE DEPARTMENT SHALL ISSUE OR DENY PERMIT  
13 APPLICATIONS UNDER THIS ACT WITHIN THE FOLLOWING PERIODS OF  
14 TIME:

15 (I) FOR MUNICIPAL WASTE AND DEMOLITION WASTE  
16 LANDFILLS, WITHIN 12 MONTHS FROM THE DATE OF THE  
17 DEPARTMENT'S DETERMINATION UNDER SUBSECTION (A) THAT THE  
18 APPLICATION IS ADMINISTRATIVELY COMPLETE.

19 (II) FOR ALL OTHER PERMITS, WITHIN SIX MONTHS FROM  
20 THE DATE OF THE DEPARTMENT'S DETERMINATION UNDER  
21 SUBSECTION (A) THAT THE APPLICATION IS ADMINISTRATIVELY  
22 COMPLETE.

23 (2) THE TIME PERIODS IN PARAGRAPH (1) DO NOT INCLUDE A  
24 PERIOD BEGINNING WITH THE DATE THAT THE DEPARTMENT IN WRITING  
25 HAS REQUESTED THE APPLICANT TO MAKE SUBSTANTIVE CORRECTIONS  
26 OR CHANGES TO THE APPLICATION AND ENDING WITH THE DATE THAT  
27 THE APPLICANT SUBMITS THE CORRECTIONS OR CHANGES TO THE  
28 DEPARTMENT'S SATISFACTION.

29 CHAPTER 7

30 RECYCLING FEE

1 Section 701. Recycling fee for municipal waste landfills and  
2 resource recovery facilities.

3 (a) Imposition.--There is imposed a recycling fee of ~~\$1.25~~ ←  
4 \$2 per ton for all solid waste processed at resource recovery  
5 facilities and for all solid waste except process residue and  
6 nonprocessable waste from a resource recovery facility that is  
7 disposed of at municipal waste landfills. Such fee shall be paid  
8 by the operator of each municipal waste landfill and resource  
9 recovery facility.

10 (b) Alternative calculation.--The fee for operators of  
11 municipal waste landfills and resource recovery facilities that  
12 do not weigh solid waste when it is received shall be calculated  
13 as if three cubic yards were equal to one ton of solid waste.

14 (c) Waste weight requirement.--On and after January 1, 1988,  
15 each operator of a municipal waste landfill and resource  
16 recovery facility that has received 30,000 or more cubic yards  
17 of solid waste in the previous calendar year shall weigh all  
18 solid waste when it is received. The scale used to weigh solid  
19 waste shall conform to the requirements of the act of December  
20 1, 1965 (P.L.988, No.368), known as the Weights and Measures Act  
21 of 1965, and the regulations promulgated pursuant thereto. The  
22 operator of the scale shall be a licensed public weighmaster  
23 under the act of April 28, 1961 (P.L.135, No.64), known as the  
24 Public Weighmaster's Act, and the regulations promulgated  
25 pursuant thereto.

26 (d) Sunset for fee.--No fee shall be imposed under this  
27 section on and after the first day of the eleventh year  
28 following the effective date of this act. FIVE YEARS AFTER THE ←  
29 EFFECTIVE DATE OF THIS ACT, THE ENVIRONMENTAL QUALITY BOARD  
30 SHALL REVIEW THE FEE ESTABLISHED BY THIS SECTION AND DETERMINE

1 WHETHER THE FEE SHOULD BE RAISED OR LOWERED. IF THE  
2 ENVIRONMENTAL QUALITY BOARD DECIDES THE FEE SHOULD BE CHANGED,  
3 IT MAY PROMULGATE A REGULATION SETTING FORTH A DIFFERENT FEE.  
4 THIS REGULATION SHALL SUPERSEDE THE FEE ESTABLISHED IN THIS  
5 SECTION.

6 Section 702. Form and timing of recycling fee payment.

7 (a) Quarterly payments.--Each operator of a municipal waste  
8 landfill and resource recovery facility shall make the recycling  
9 fee payment quarterly. The fee shall be paid on or before the  
10 20th day of April, July, October and January for the three  
11 months ending the last day of March, June, September and  
12 December.

13 (b) Quarterly reports.--Each recycling fee payment shall be  
14 accompanied by a form prepared and furnished by the department  
15 and completed by the operator. The form shall state the total  
16 weight or volume of solid waste received by the facility during  
17 the payment period and provide any other aggregate information  
18 deemed necessary by the department to carry out the purposes of  
19 this act. The form shall be signed by the operator.

20 (c) Timeliness of payment.--The operator shall be deemed to  
21 have made a timely payment of the recycling fee if the operator  
22 complies with all of the following:

23 (1) The enclosed payment is for the full amount owed  
24 pursuant to this section and no further departmental action  
25 is required for collection.

26 (2) The payment is accompanied by the required form, and  
27 such form is complete and accurate.

28 (3) The letter transmitting the payment that is received  
29 by the department is postmarked by the United States Postal  
30 Service on or prior to the final day on which the payment is

1 to be received.

2 (d) Discount.--Any operator that makes a timely payment of  
3 the recycling fee as provided in this section shall be entitled  
4 to credit and apply against the fee payable, a discount of 1% of  
5 the amount of the fee collected.

6 (e) Refunds.--Any operator that believes he has overpaid the  
7 recycling fee may file a petition for refund to the department.  
8 If the department determines that the operator has overpaid the  
9 fee, the department shall refund to the operator the amount due  
10 him, together with interest at a rate established pursuant to  
11 section 806.1 of the act of April 9, 1929 (P.L.343, No.176),  
12 known as The Fiscal Code, from the date of overpayment. No  
13 refund of the recycling fee shall be made unless the petition  
14 for the refund is filed with the department within six months of  
15 the date of the overpayment.

16 (f) Alternative proof of payment.--For purposes of this  
17 section, presentation of a receipt indicating that the payment  
18 was mailed by registered or certified mail on or before the due  
19 date shall be evidence of timely payment.

20 Section 703. Collection and enforcement of fee.

21 (a) Interest.--If an operator fails to make a timely payment  
22 of the recycling fee, the operator shall pay interest on the  
23 unpaid amount due at the rate established pursuant section 806  
24 of the act of April 9, 1929 (P.L.343, No.176), known as The  
25 Fiscal Code, from the last day for timely payment to the date  
26 paid.

27 (b) Additional penalty.--In addition to the interest  
28 provided in subsection (a), if an operator fails to make timely  
29 payment of the recycling fee, there shall be added to the amount  
30 of fee actually due 5% of the amount of such fee, if the failure

1 to file a timely payment is for not more than one month, with an  
2 additional 5% for each additional month, or fraction thereof,  
3 during which such failure continues, not exceeding 25% in the  
4 aggregate.

5 (c) Assessment notices.--

6 (1) If the department determines that any operator has  
7 not made a timely payment of the recycling fee, it will send  
8 the operator a written notice of the amount of the  
9 deficiency, within 30 days of determining such deficiency.  
10 When the operator has not provided a complete and accurate  
11 statement of the weight or volume of solid waste received at  
12 the facility for the payment period, the department may  
13 estimate the weight or volume in its notice.

14 (2) The operator charged with the deficiency shall have  
15 30 days to pay the deficiency in full or, if the operator  
16 wishes to contest the deficiency, forward the amount of the  
17 deficiency to the department for placement in an escrow  
18 account with the State Treasurer or any Pennsylvania bank, or  
19 post an appeal bond in the amount of the deficiency. Such  
20 bond shall be executed by a surety licensed to do business in  
21 this Commonwealth and be satisfactory to the department.  
22 Failure to forward the money or the appeal bond to the  
23 department within 30 days shall result in a waiver of all  
24 legal rights to contest the deficiency.

25 (3) If, through administrative or judicial review of the  
26 deficiency, it is determined that the amount of deficiency  
27 shall be reduced, the department shall within 30 days remit  
28 the appropriate amount to the operator, with any interest  
29 accumulated by the escrow deposit.

30 (4) The amount determined after administrative hearing

1 or after waiver of administrative hearing shall be payable to  
2 the Commonwealth and shall be collectible in the manner  
3 provided in section 1709.

4 (5) Any other provision of law to the contrary  
5 notwithstanding, there shall be a statute of limitations of  
6 five years upon actions brought by the Commonwealth pursuant  
7 to this section.

8 (6) If any amount due hereunder remains unpaid 30 days  
9 after receipt of notice thereof, the department may order the  
10 operator of the facility to cease receiving any solid waste  
11 until the amount of the deficiency is completely paid.

12 (d) Filing of appeals.--Notwithstanding any other provision  
13 of law, all appeals of final department actions concerning the  
14 resource recovery fee, including, but not limited to, petitions  
15 for refunds, shall be filed with the Environmental Hearing  
16 Board.

17 (e) Constructive trust.--All recycling fees collected by an  
18 operator and held by such operator prior to payment to the  
19 department shall constitute a trust fund for the Commonwealth,  
20 and such trust shall be enforceable against such operator, its  
21 representatives and any person receiving any part of such fund  
22 without consideration or with knowledge that the operator is  
23 committing a breach of the trust. However, any person receiving  
24 payment of lawful obligation of the operator from such fund  
25 shall be presumed to have received the same in good faith and  
26 without any knowledge of the breach of trust.

27 (f) Remedies cumulative.--The remedies provided to the  
28 department in this section are in addition to any other remedies  
29 provided at law or in equity.

30 Section 704. Records.

1 Each operator shall keep daily records of all deliveries of  
2 solid waste to the facility as required by the department,  
3 including, but not limited to, the name and address of the  
4 hauler, the source of the waste, the kind of waste received and  
5 the weight or volume of the waste. A copy of these records shall  
6 be maintained at the site by the operator for no less than five  
7 years and shall be made available to the department for  
8 inspection, upon request. A COPY OF THESE RECORDS SHALL BE  
9 TRANSMITTED TO THE HOST MUNICIPALITY. ←

10 Section 705. Surcharge.

11 The provisions of any law to the contrary notwithstanding,  
12 the operator may collect the fee imposed by this section as a  
13 surcharge on any fee schedule established pursuant to law,  
14 ordinance, resolution or contract for solid waste processing or  
15 disposal operations at the facility. In addition, any person who  
16 collects or transports solid waste subject to the recycling fee  
17 to a municipal waste landfill or resource recovery facility may  
18 impose a surcharge on any fee schedule established pursuant to  
19 law, ordinance, resolution or contract for the collection or  
20 transportation of solid waste to the facility. The surcharge  
21 shall be equal to the increase in disposal fees at the facility  
22 attributable to the recycling fee. However, interest and  
23 penalties on the fee under section 703(a) and (b) may not be  
24 collected as a surcharge.

25 Section 706. Recycling Fund.

26 (a) Establishment.--All fees received by the department  
27 pursuant to section 701 shall be paid into the State Treasury  
28 into a special fund to be known as the Recycling Fund, which is  
29 hereby established.

30 (b) Appropriation.--All moneys placed in the Recycling Fund

1 are hereby appropriated to the department for the purposes set  
2 forth in this section. The department shall, from time to time,  
3 submit to the Governor for his approval estimates of amounts to  
4 be expended under this act.

5 (c) Allocations.--The department shall, to the extent  
6 practicable, allocate the moneys received by the Recycling Fund,  
7 including all interest generated thereon, in the following  
8 manner over the life of the fund:

9 (1) At least 70% shall be expended by the department for  
10 grants to municipalities for the development and  
11 implementation of recycling programs as set forth in section  
12 902, recycling coordinators as provided in section 903, FOR ←  
13 GRANTS FOR MUNICIPAL RECYCLING PROGRAMS AS SET FORTH IN  
14 SECTION 904, and market development and waste reduction  
15 studies as set forth in section 508; for implementation of  
16 the recommendations in the studies required by section 508;  
17 and for research conducted or funded by the Department of  
18 Transportation pursuant to section 1505.

19 (2) Up to 10% may be expended by the department for  
20 grants for feasibility studies for municipal waste processing  
21 and disposal facilities, except for facilities for the  
22 combustion of municipal waste that are not proposed to be  
23 operated for the recovery of energy as set forth in section  
24 901.

25 (3) Up to 30% may be expended by the department for  
26 public information, public education and technical assistance  
27 programs concerning LITTER CONTROL, recycling and waste ←  
28 reduction, including technical assistance programs for  
29 counties and other municipalities, for research and  
30 demonstration projects, for planning grants as set forth in

1 section 901, for the host inspector training program as set  
2 forth in section 1102, and for other purposes consistent with  
3 this act.

4 (4) AT LEAST \$150,000 SHALL BE EXPENDED BY THE <—  
5 DEPARTMENT FOR PUBLIC EDUCATION PROGRAMS CONCERNING, BUT NOT  
6 LIMITED TO, LITTER CONTROL, RECYCLING AND WASTE REDUCTION.  
7 THIS AMOUNT SHALL BE A COMPONENT OF THE 30% PROVIDED FOR IN  
8 PARAGRAPH (3).

9 ~~(4)~~ (5) No more than 3% may be expended for the <—  
10 collection and administration of moneys in the fund.

11 ~~(d) Additional funding. There is hereby appropriated to the <—~~  
12 ~~department from the General Fund the amount necessary to assure~~  
13 ~~payment of grants under section 902(a) provided the amount shall~~  
14 ~~not exceed 35% of the total amount of all grants awarded under~~  
15 ~~section 902(a).~~

16 ~~(e)~~ (D) Transfer.--On the first day of the sixteenth year <—  
17 after the fee imposed by section 701 becomes effective, all  
18 moneys in the Recycling Fund that are not obligated shall be  
19 transferred to the Solid Waste Abatement Fund and expended in  
20 the same manner as other moneys in the Solid Waste Abatement  
21 Fund. On the first day of the nineteenth year after the fee  
22 imposed by section 701 becomes effective, all moneys in the  
23 Recycling Fund that are not expended shall be transferred to the  
24 Solid Waste Abatement Fund and expended in the same manner as  
25 other moneys in the Solid Waste Abatement Fund.

26 ~~(f)~~ (E) Advisory committee.--The secretary shall establish a <—  
27 Recycling Fund Advisory Committee composed of representatives of  
28 counties, other municipalities, municipal authorities, the  
29 municipal waste management industry, the municipal waste  
30 recycling industry, municipal waste generating industry and the

1 general public. THE COMMITTEE SHALL ALSO INCLUDE MEMBERS OF THE <—  
2 GENERAL ASSEMBLY, ONE APPOINTED BY EACH OF THE FOLLOWING: THE  
3 SPEAKER OF THE HOUSE OF REPRESENTATIVES, THE MINORITY LEADER OF  
4 THE HOUSE OF REPRESENTATIVES, THE PRESIDENT PRO TEMPORE OF THE  
5 SENATE AND THE MINORITY LEADER OF THE SENATE. The committee  
6 shall meet at least annually to review the Commonwealth's  
7 progress in meeting the goals under section 102(c), to recommend  
8 priorities on expenditures from the fund, and to advise the  
9 secretary on associated activities concerning the administration  
10 of the fund. The department shall reimburse members of the  
11 committee for reasonable travel, hotel and other necessary  
12 expenses incurred in performance of their duties under this  
13 section.

14 ~~(g)~~ (F) Annual reports.--The department shall submit an <—  
15 annual report to the General Assembly on receipts to and  
16 disbursements from the Recycling Fund in the previous fiscal  
17 year, projections for revenues and expenditures in the coming  
18 fiscal year, and the Commonwealth's progress in achieving the  
19 goals set forth in section 102(c). THE ANNUAL REPORT DUE TWO <—  
20 YEARS BEFORE THE EXPIRATION OF THE RECYCLING FEE UNDER SECTION  
21 701(D) SHALL CONTAIN A RECOMMENDATION WHETHER THE FEE SHOULD  
22 CONTINUE TO BE IMPOSED AFTER THE EXPIRATION DATE AND, IF SO, THE  
23 PROPOSED AMOUNT OF THE FEE.

## 24 CHAPTER 9

### 25 GRANTS

26 Section 901. Planning grants.

27 The department ~~may~~ SHALL, upon application from a county, <—  
28 award grants for the cost of preparing municipal waste  
29 management plans in accordance with this act; for carrying out  
30 related studies, surveys, investigations, inquiries, research

1 and analyses, including those related by siting; and for  
2 environmental mediation. The department may also award grants  
3 under this section for feasibility studies and project  
4 development for municipal waste processing or disposal  
5 facilities, except for facilities for the combustion of  
6 municipal waste that are not proposed to be operated for the  
7 recovery of energy. The application shall be made on a form  
8 prepared and furnished by the department. The application shall  
9 contain such information as the department deems necessary to  
10 carry out the provisions and purposes of this act. The grant to  
11 any county under this section shall be ~~50%~~ 80% of the approved ←  
12 cost of such plans and studies.

13 Section 902. Grants for development and implementation of  
14 municipal recycling programs.

15 (a) Authorization.--The department ~~may~~ SHALL award grants ←  
16 for development and implementation of municipal recycling  
17 programs, upon application from any municipality WHICH MEETS THE ←  
18 REQUIREMENTS OF THIS SECTION AND WHICH IS REQUIRED BY SECTION  
19 1501 TO IMPLEMENT A RECYCLING PROGRAM. THE DEPARTMENT MAY AWARD  
20 GRANTS FOR DEVELOPMENT AND IMPLEMENTATION OF MUNICIPAL RECYCLING  
21 PROGRAMS, UPON APPLICATION FROM ANY MUNICIPALITY WHICH IS NOT  
22 REQUIRED BY SECTION 1501 TO IMPLEMENT A RECYCLING PROGRAM AND  
23 WHICH OTHERWISE MEETS THE REQUIREMENTS OF THIS SECTION. The  
24 grant provided by this section may be used to identify markets,  
25 develop a public education campaign, purchase collection and  
26 storage equipment, and do other things necessary to establish a  
27 municipal recycling program. The grant may be used to purchase  
28 collection equipment, only to the extent needed for collection  
29 of recyclable materials, and mechanical processing equipment,  
30 only to the extent that such equipment is not available to the

1 program in the private sector. The application shall be made on  
2 a form prepared and furnished by the department. The application  
3 shall explain the structure and operation of the program and  
4 shall contain such other information as the department deems  
5 necessary to carry out the provisions and purposes of this act.  
6 The grant under this section to a municipality required by  
7 section 1501 to implement a recycling program shall be ~~80%~~ 90% <—  
8 of the approved cost of establishing a municipal recycling  
9 program. The grant under this section to a municipality not  
10 required by section 1501 to implement a recycling program shall  
11 be ~~80%~~ UP TO 90% of the approved cost of establishing a <—  
12 municipal recycling program. In addition to the grant under this  
13 section to a financially distressed municipality AS DEFINED <—  
14 UNDER SECTION 203(F) OF THE ACT OF JULY 10, 1987 (P.L.246,  
15 NO.47), KNOWN AS THE FINANCIALLY DISTRESSED MUNICIPALITIES ACT,  
16 that is required by section 1501 to implement a recycling  
17 program shall be ~~20%~~ ELIGIBLE FOR AN ADDITIONAL GRANT EQUAL TO <—  
18 10% of the approved cost of establishing a municipal recycling  
19 program. ~~from grants authorized under section 203(f) of the act~~ <—  
20 ~~of July 10, 1987 (P.L.246, No.47), known as the Financial~~  
21 ~~Distressed Municipalities Act. AUTHORIZED UNDER THE ACT OF JULY~~ <—  
22 ~~9, 1986 (P.L.1223, NO.110), KNOWN AS THE FINANCIALLY~~  
23 ~~DISADVANTAGED MUNICIPALITIES MATCHING ASSISTANCE ACT.~~

24 (b) Prerequisites.--The department shall not award any grant  
25 under this section unless it is demonstrated to the department's  
26 satisfaction that:

- 27 (1) The application is complete and accurate.
- 28 (2) The recycling program for which the grant is sought  
29 does not duplicate any other recycling programs operating  
30 within the municipality.

1 (3) If the ~~application~~ APPLICANT is not required to  
2 implement a recycling program by section 1501, the  
3 application describes the collection system for the program,  
4 including:

5 (i) materials collected and persons affected;  
6 (ii) contracts for the operation of the program;  
7 (iii) markets or uses for collected materials,  
8 giving consideration to the results of the market  
9 development study required by section 508 if the results  
10 are available;

11 (iv) ordinances or other mechanisms that will be  
12 used to ensure that materials are collected;

13 (v) public information and education;

14 (vi) program economics, including avoided processing  
15 or disposal costs; and

16 (vii) other information deemed necessary by the  
17 department.

18 (c) Municipal retroactive grants with restrictions.--The  
19 grant authorized by this section may be awarded to any  
20 municipality for eligible costs incurred for a municipal  
21 recycling program after 60 days prior to the effective date of  
22 this act. However, no grant may be authorized under this section  
23 for a municipal recycling program that has received a grant from  
24 the department under the act of July 20, 1974 (P.L.572, No.198),  
25 known as the Pennsylvania Solid Waste - Resource Recovery  
26 Development Act, except for costs that were not paid by such  
27 grant.

28 ~~(d) Priority. Each municipality, other than a county, which~~  
29 ~~establishes and implements a mandatory source separation and~~  
30 ~~collection program for recyclable materials shall be given the~~

1 ~~same priority with municipalities subject to the requirements of~~  
2 ~~section 1501 for grants under this section.~~

3 Section 903. Grants for recycling coordinators.

4 (a) Authorization.--The department may award grants for the  
5 salary and expenses of recycling coordinators, upon application  
6 from any county. The application shall be made on a form  
7 prepared and furnished by the department. The application shall  
8 explain the duties and activities of the county recycling  
9 coordinator. If a recycling coordinator has been active prior to  
10 the year for which the grant is sought, the application shall  
11 also explain the coordinator's activities and achievements in  
12 the previous year.

13 (b) Limit on grant.--The grant under this section shall not  
14 exceed 50% of the approved cost of the recycling coordinator's  
15 salary and expenses.

16 SECTION 904. PERFORMANCE GRANTS FOR MUNICIPAL RECYCLING  
17 PROGRAMS. <—

18 (A) AUTHORIZATION.--THE DEPARTMENT SHALL AWARD ANNUAL  
19 PERFORMANCE GRANTS FOR MUNICIPAL RECYCLING PROGRAMS, UPON  
20 APPLICATION FROM A MUNICIPALITY. THE APPLICATION SHALL BE MADE  
21 ON A FORM PREPARED AND FURNISHED BY THE DEPARTMENT. THE  
22 APPLICATION SHALL CONTAIN SUCH INFORMATION AS THE DEPARTMENT  
23 DEEMS NECESSARY TO CARRY OUT THE PROVISIONS AND PURPOSES OF THIS  
24 ACT.

25 (B) AVAILABILITY.--THE DEPARTMENT SHALL AWARD A GRANT UNDER  
26 THIS SECTION TO A MUNICIPALITY BASED ON FACTORS SUCH AS:

27 (1) TYPE AND WEIGHT OF MUNICIPAL WASTE RECYCLED  
28 ANNUALLY.

29 (2) TYPE AND VOLUME OF MUNICIPAL WASTE RECYCLED  
30 ANNUALLY.

1 (3) UNIT COST TO COLLECT, STORE, TRANSPORT AND PREPARE  
2 TO SELL TO RECYCLER.

3 (4) GRANTS OR OTHER SUBSIDY INCOME FROM SELLING MATERIAL  
4 TO RECYCLER.

5 (5) TOTAL COST OF OPERATION.

6 (6) EFFECTIVENESS OF PROGRAM.

7 (C) AMOUNT.--THE AMOUNT OF THE GRANT SHALL BE BASED ON  
8 AVAILABLE FUNDS UNDER SECTION 706 AND SHALL BE AVAILABLE TO ALL  
9 MUNICIPALITIES WHICH HAVE A RECYCLING PROGRAM IN EXISTENCE ON OR  
10 WILL INITIATE A PROGRAM AFTER THE EFFECTIVE DATE OF THIS ACT.

11 (D) PREREQUISITES.--THE DEPARTMENT SHALL NOT AWARD ANY GRANT  
12 UNDER THIS SECTION UNLESS THE APPLICATION IS COMPLETE AND  
13 ACCURATE, AND THE MATERIALS WERE ACTUALLY MARKETED.

14 Section ~~904~~ 905. General limitations. ←

15 (a) Content of application.--Each grant application under  
16 this chapter shall include provisions for an independent  
17 performance audit, which shall be completed within six months  
18 after all reimbursable work under the grant has been completed.

19 (b) Monetary limit on grant.--The department may not award  
20 more than 10% of the moneys available under any grant under this  
21 chapter in any fiscal year to any county, including  
22 municipalities within the county.

23 (c) Other limitations on grants.--The department may not  
24 award any grant under this chapter to any county or municipality  
25 that has failed to comply with the conditions set forth in  
26 previously awarded grants under this chapter, the requirements  
27 of this chapter, and any regulations promulgated pursuant  
28 thereto.

29 (d) Lapse of grant.--A grant offering pursuant to this  
30 chapter shall lapse automatically if funds for the grant are not

1 encumbered within one year of the offering. To obtain the grant  
2 after an offering has lapsed, the grantee must submit a new  
3 application in a subsequent funding period.

4 (e) Lapse of encumbered funds.--Grant funds that have been  
5 encumbered shall lapse automatically to the recycling fund if  
6 the funds are not expended within two years after they have been  
7 encumbered. The department may, upon written request from the  
8 grantee, extend the two-year period for an additional period of  
9 up to three months. To obtain any funds that have lapsed to the  
10 recycling fund, the grantee must submit a new application in a  
11 subsequent funding period.

12 CHAPTER 11

13 ASSISTANCE TO MUNICIPALITIES

14 Section 1101. Information provided to host municipalities.

15 (a) Departmental information.--The department will provide  
16 all of the following information to the governing body of host  
17 municipalities for municipal waste landfills and resource  
18 recovery facilities:

19 (1) Copies of each department inspection report for such  
20 facilities under the Solid Waste Management Act, the act of  
21 June 22, 1937 (P.L.1987, No.394), known as The Clean Streams  
22 Law, the act of January 8, 1960 (1959 P.L.2119, No.787),  
23 known as the Air Pollution Control Act, and the act of  
24 November 26, 1978 (P.L.1375, No.325), known as the Dam Safety  
25 and Encroachments Act, within five working days after the  
26 preparation of such reports.

27 (2) Prompt notification of all department enforcement or  
28 emergency actions for such facilities, including, but not  
29 limited to, abatement orders, cessation orders, proposed and  
30 final civil penalty assessments, and notices of violation.

1 (3) Copies of all air and water quality monitoring data  
2 collected by the department at such facilities, within five  
3 working days after complete laboratory analysis of such data  
4 becomes available to the department.

5 (b) Operator information.--Every operator of a municipal  
6 waste landfill or resource recovery facility shall provide to  
7 the host municipality copies of all air and water quality  
8 monitoring data as required by the department for the facility  
9 conducted by or on behalf of the operator, within five days  
10 after such data becomes available to the operator.

11 (c) Public information.--All information provided to the  
12 host municipality under this section shall be made available to  
13 the public for review upon request.

14 (d) Information to county.--If the host municipality owns or  
15 operates the municipal waste landfill or resource recovery  
16 facility, or proposes to own or operate such landfill or  
17 facility, the information required by this section shall be  
18 provided to the county within which the landfill or facility is  
19 located or proposed to be located instead of the host  
20 municipality.

21 (E) SIGN ON VEHICLE.--A VEHICLE OR CONVEYANCE USED FOR THE <—  
22 TRANSPORTING OF SOLID WASTE SHALL BEAR THE NAME AND BUSINESS  
23 ADDRESS OF THE PERSON OR MUNICIPALITY WHICH OWNS THE VEHICLE OR  
24 CONVEYANCE.

25 Section 1102. Joint inspections with host municipalities.

26 (a) Training of inspectors.--

27 (1) The department shall establish and conduct a  
28 training program to certify host municipality inspectors for  
29 municipal waste landfills and resource recovery facilities.

30 This program will be available to no more than two persons

1 who have been designated in writing by the host municipality.  
2 The department shall hold training programs at least twice a  
3 year. The department shall certify host municipality  
4 inspectors upon completion of the training program and  
5 satisfactory performance in an examination administered by  
6 the department.

7 (2) Certified municipal inspectors are authorized to  
8 enter property, inspect only those records required by the  
9 department, take samples and conduct inspections. ~~However,~~ ←  
10 ~~certified municipal inspectors may not issue orders.~~ ← THE  
11 MUNICIPAL INSPECTOR HAS THE RIGHT TO HALT OPERATIONS OF THE  
12 FACILITY IF THE INSPECTOR DETERMINES THAT THERE IS AN  
13 IMMEDIATE THREAT TO HEALTH AND SAFETY. THIS HALT IN  
14 OPERATIONS SHALL REMAIN IN EFFECT UNTIL THE DEPARTMENT  
15 EVALUATES THE SITUATION AND DETERMINES WHETHER THERE IS A  
16 CONTINUING NEED FOR THE HALT IN OPERATIONS. IF THE DEPARTMENT  
17 DETERMINES THERE IS NO CONTINUING NEED FOR THE HALT IN  
18 OPERATIONS, THE MUNICIPAL INSPECTOR HAS THE RIGHT TO APPEAL  
19 THIS DETERMINATION TO THE COURT OF COMMON PLEAS, WHICH SHALL  
20 CONSIDER THE MATTER IMMEDIATELY.

21 (3) The department is authorized to pay for the host  
22 inspection training program and to pay 50% of the approved  
23 cost of employing a certified host municipality inspector for  
24 a period not to exceed five years.

25 (b) Departmental information.--

26 (1) Whenever any host municipality presents information  
27 to the department which gives the department reason to  
28 believe that any municipal waste landfill or resource  
29 recovery facility is in violation of any requirement of the  
30 act of June 22, 1937 (P.L.1987, No.394), known as The Clean

1 Streams Law, the act of January 8, 1960 (1959 P.L.2119,  
2 No.787), known as the Air Pollution Control Act, the act of  
3 November 26, 1978 (P.L.1375, No.325), known as the Dam Safety  
4 and Encroachments Act, and the Solid Waste Management Act,  
5 any regulation promulgated pursuant thereto, or the condition  
6 of any permit issued pursuant thereto, the department will  
7 promptly conduct an inspection of such facility.

8 (2) The department will notify the host municipality of  
9 this inspection and will allow a certified municipal  
10 inspector from the host municipality to accompany the  
11 inspector during the inspection.

12 (3) If there is not sufficient information to give the  
13 department reasons to believe that there is a violation, the  
14 department will provide a written explanation to the host  
15 municipality of its decision not to conduct an inspection  
16 within 30 days of the request for inspection.

17 (4) Upon written request of a host municipality to the  
18 department, the department will allow a certified inspector  
19 of such municipality to accompany department inspectors on  
20 routine inspections of municipal waste landfills and resource  
21 recovery facilities.

22 (5) THE HOST MUNICIPAL INSPECTOR SHALL HAVE THE RIGHT TO <—  
23 INSPECT THE MUNICIPAL WASTE FACILITY INDEPENDENT OF THE  
24 DEPARTMENT AT ANY TIME.

25 (c) County involvement.--If the host municipality owns or  
26 operates the municipal waste landfill or resource recovery  
27 facility, the training and inspection requirements of this  
28 section shall be available to the county within which the  
29 landfill or facility is located instead of the host  
30 municipality.

1 Section 1103. Water supply testing for contiguous landowners.

2 (a) Required water sampling.--Upon written request from  
3 persons owning land contiguous to a municipal waste landfill,  
4 the operator of such landfill shall have quarterly sampling and  
5 analysis conducted of private water supplies used by such  
6 persons for drinking water. Such sampling and analysis shall be  
7 conducted by a laboratory certified pursuant to the act of May  
8 1, 1984 (P.L.206, No.43), known as the Pennsylvania Safe  
9 Drinking Water Act. The laboratory shall be chosen by the  
10 landowners from a list of regional laboratories supplied by the  
11 department. Sampling and analysis shall be at the expense of the  
12 landfill operator. Upon request the landfill operator shall  
13 provide copies of the analyses to persons operating resource  
14 recovery facilities that dispose of the residue from the  
15 facilities at the landfill.

16 (b) Extent of analysis.--Water supplies shall be analyzed  
17 for all parameters or chemical constituents determined by the  
18 department to be indicative of typical contamination from  
19 municipal waste landfills. The laboratory performing such  
20 sampling and analysis shall provide written copies of sample  
21 results to the landowner and to the department.

22 (c) Additional sampling required.--If the analysis indicates  
23 possible contamination from a municipal waste landfill, the  
24 department may conduct, or require the landfill operator to have  
25 the laboratory conduct, additional sampling and analysis to  
26 determine more precisely the nature, extent and source of  
27 contamination.

28 (d) Written notice of rights.--On or before 60 days from the  
29 effective date of this act for permits issued under the Solid  
30 Waste Management Act prior to the effective date of this act,

1 and at or before the time of permit issuance for permits issued  
2 under the Solid Waste Management Act after the effective date of  
3 this act, the operator of each municipal waste landfill shall  
4 provide contiguous landowners with written notice of their  
5 rights under this section on a form prepared by the department.  
6 Section 1104. Water supply protection.

7 (a) Alternative water supply requirement.--Any person owning  
8 or operating a municipal waste management facility that affects  
9 a public or private water supply by pollution, contamination or  
10 diminution shall restore or replace the affected supply with an  
11 alternate source of water adequate in quantity or quality for  
12 the purposes served by the water supply. If any person shall  
13 fail to comply with this requirement, the department may issue  
14 such orders to the person as are necessary to assure compliance.

15 (b) Notification to department.--Any landowner or water  
16 purveyor suffering pollution, contamination or diminution of a  
17 public or private water supply as a result of solid waste  
18 disposal activities at a municipal waste management facility may  
19 so notify the department and request that an investigation be  
20 conducted. Within ten days of such notification, the department  
21 shall begin investigation of any such claims and shall, within  
22 120 days of the notification, make a determination. If the  
23 department finds that the pollution or diminution was caused by  
24 the operation of a municipal waste management facility or if it  
25 presumes the owner or operator of a municipal waste facility  
26 responsible for pollution, contamination or diminution pursuant  
27 to subsection (c), then it shall issue such orders to the owner  
28 or operator as are necessary to insure compliance with  
29 subsection (a).

30 (c) Rebuttable presumption.--Unless rebutted by one of the

1 four defenses established in subsection (d), it shall be  
2 presumed that the owner or operator of a municipal waste  
3 landfill is responsible for the pollution, contamination or  
4 diminution of a public or private water supply that is within  
5 one-quarter mile of the perimeter of the area where solid waste  
6 disposal activities have been carried out.

7 (d) Defenses.--In order to rebut the presumption of  
8 liability established in subsection (c), the owner or operator  
9 must affirmatively prove by clear and convincing evidence one of  
10 the following four defenses:

11 (1) The pollution, contamination or diminution existed  
12 prior to any municipal waste landfill operations on the site  
13 as determined by a preoperation survey.

14 (2) The landowner or water purveyor refused to allow the  
15 owner or operator access to conduct a preoperation survey.

16 (3) The water supply is not within one-quarter mile of  
17 the perimeter of the area where solid waste disposal  
18 activities have been carried out.

19 (4) The owner or operator did not cause the pollution,  
20 contamination or diminution.

21 (e) Independent testing.--Any owner or operator electing to  
22 preserve its defenses under subsection (d)(1) or (2) shall  
23 retain the services of an independent certified laboratory to  
24 conduct the preoperation survey of water supplies. A copy of the  
25 results of any survey shall be submitted to the department and  
26 the landowner or water purveyor in a manner prescribed by the  
27 department.

28 (f) Other remedies preserved.--Nothing in this act shall  
29 prevent any landowner or water purveyor who claims pollution,  
30 contamination or diminution of a public or private water supply

1 from seeking any other remedy that may be provided at law or in  
2 equity.

3 Section 1105. Purchase of cogenerated electricity.

4 ~~(a) Request to public utility.~~—The owner or operator of a <—  
5 resource recovery facility may request that any public utility  
6 enter into a contract providing for the interconnection of the  
7 facility with the public utility and the purchase of electric  
8 energy, or electric energy and capacity, produced and offered  
9 for sale by the facility. The terms of any such contract shall  
10 be in accordance with the Federal Public Utility Regulatory  
11 Policies Act of 1978 (Public Law 95-617, 92 Stat. 3117) and any  
12 subsequent amendments, and any applicable Federal regulations  
13 promulgated pursuant thereto, and the regulations of the  
14 commission.

15 ~~(b) Limited Public Utility Commission review.~~—A contract <—  
16 entered into between a resource recovery facility and a public  
17 utility in accordance with subsection (a), shall be subject to a  
18 one time review and approval by the commission at the time the  
19 contract is entered into, notwithstanding the provisions of 66  
20 Pa.C.S. § 508 (relating to power of the commission to vary,  
21 reform and revise contracts).

22 Section 1106. Public Utility Commission.

23 (a) Application.--If the owner or operator of a resource  
24 recovery facility and a public utility fail to agree upon the  
25 terms and conditions of a contract for the purchase of electric  
26 energy, or electric energy and capacity, within 90 days of the  
27 request by the facility to negotiate such a contract, or if the  
28 public utility fails to offer a contract, either the owner or  
29 operator of the facility or the public utility may request the  
30 commission to establish the terms and conditions of such a

1 contract. Such request may be for an informal consultation, a  
2 petition for declaratory order or a formal complaint, as  
3 appropriate under the circumstances.

4 (b) Commission response.--The commission shall respond to  
5 any such request, unless time limits are waived by the owner or  
6 operator and utility, as follows:

7 (1) If the request is for an informal consultation, such  
8 consultation shall be held within 30 days, and commission  
9 staff shall make its recommendation to the parties within 30  
10 days after the last consultation or submittal of last  
11 requested data, whichever is later. Such recommendation may  
12 be oral or written, but shall not be binding on the parties  
13 or commission.

14 (2) If the request is in the form of petition for  
15 declaratory order, the petitioner shall comply with the  
16 requirements of 52 Pa. Code § 5.41 et seq. (relating to  
17 petitions) and 52 Pa. Code § 57.39 (relating to informal  
18 consultation and commission proceedings). Within 30 days  
19 after filing such petition, the commission or its staff  
20 assigned to the matter may request that the parties file  
21 legal memoranda addressing any issues raised therein. Within  
22 60 days after filing of such petition or legal memoranda,  
23 whichever is later, the commission shall act to grant or deny  
24 such petition.

25 (3) If the request is in the form of a formal complaint,  
26 the case shall proceed in accordance with 66 Pa.C.S. § 101 et  
27 seq. (relating to public utilities). However, the complaint  
28 may be withdrawn at any time, and the matter may proceed as  
29 set forth in paragraph (1) or (2).

30 (c) Status as public utility.--A resource recovery facility

1 shall not be deemed a public utility, as such is defined in 66  
2 Pa.C.S. § 101 et seq., if such facility produces thermal energy  
3 for sale to a public utility and/or ten or less retail  
4 customers, all of whom agree to purchase from such facility  
5 under mutually agreed upon terms, or if such facility produces  
6 thermal energy for sale to any number of retail customers, all  
7 of which are located on the same site or site contiguous to that  
8 of the selling facility.

9 (d) Effect of section.--The provisions of this section shall  
10 take effect notwithstanding the adoption or failure to adopt any  
11 regulations by the Public Utility Commission regarding the  
12 purchase of electric energy from qualifying facilities, as such  
13 term is defined in section 210 of the Federal Public Utility  
14 Regulatory Policies Act of 1978 (Public Law 95-617, 92 Stat.  
15 3117) regulations and commission regulations.  
16 Section 1107. Claims resulting from pollution occurrences.

17 (a) Financial responsibility.--

18 (1) Any permit application by a person other than a  
19 municipality or municipal authority under the Solid Waste  
20 Management Act for a municipal waste landfill or resource  
21 recovery facility shall certify that the applicant has in  
22 force, or will, prior to the initiation of operations under  
23 the permit, have in force, financial assurances for  
24 satisfying claims of bodily injury and property damage  
25 resulting from pollution occurrences arising from the  
26 operation of the landfill or facility. Such financial  
27 assurances shall be in place until the effective date of  
28 closure certification under the Solid Waste Management Act  
29 and the regulations promulgated pursuant thereto, unless the  
30 department determines that the landfill or facility may

1 continue to present a significant risk to the public health,  
2 safety and welfare or the environment.

3 (2) The form and amount of such financial assurances  
4 shall be specified by the department. The required financial  
5 assurances may include, but are not limited to, the  
6 following:

7 ~~(i) A commercial pollution liability insurance~~ ←  
8 ~~policy.~~

9 (I) COMMERCIAL POLLUTION LIABILITY INSURANCE. ←

10 (ii) A secured standby trust to become self-insured  
11 that satisfies a financial test established by  
12 regulation.

13 (iii) A trust fund financed by the person and  
14 administered by an independent trustee approved by the  
15 department.

16 (b) Municipal financial responsibility.--

17 (1) Any permit application by a municipality or  
18 municipal authority under the Solid Waste Management Act for  
19 a municipal waste landfill or resource recovery facility  
20 shall certify that the applicant has in force, or will, prior  
21 to the initiation of operations under the permit, have in  
22 force, financial assurances for satisfying claims of bodily  
23 injury and property damage resulting from pollution  
24 occurrences arising from the operation of the landfill or  
25 facility, to the extent that such claims are allowed by 42  
26 Pa.C.S. Ch. 85 Subch. C (relating to actions against local  
27 parties). Such financial assurances shall be in place until  
28 the effective date of closure certification under the Solid  
29 Waste Management Act and the regulations promulgated pursuant  
30 thereto, unless the department determines that the landfill

1 or facility may continue to present a significant risk to the  
2 public health, safety and welfare or the environment.

3 (2) The form and amount of such financial assurances  
4 shall be specified by the department. The required financial  
5 assurances may include, but are not limited to, the  
6 following:

7 ~~(i) A commercial pollution liability insurance~~ ←  
8 ~~policy.~~

9 (I) COMMERCIAL POLLUTION LIABILITY INSURANCE. ←

10 (ii) A trust fund financed by the municipality and  
11 administered by an independent trustee approved by the  
12 department.

13 (iii) An insurance pool or self-insurance program  
14 authorized by 42 Pa.C.S. § 8564 (relating to liability  
15 insurance and self-insurance).

16 (3) In no case shall the department establish minimum  
17 financial assurance amounts for a municipality that are  
18 greater than the damage limitations established in 42 Pa.C.S.  
19 Ch. 85 Subch. C.

20 (c) Liability limited.--A host municipality or county or  
21 municipality within the planning area may not be held liable for  
22 bodily injury or property damage resulting from pollution  
23 occurrences solely by reasons of participation in the  
24 preparation or adoption of a county or municipal solid waste  
25 plan. Nothing herein shall be construed to prevent any host  
26 municipality, county or municipality within the planning area  
27 from obtaining or giving such indemnities as may be appropriate  
28 in connection with the ownership, operation or control of a  
29 municipal solid waste facility.

30 (d) Effect on tort claims.--Nothing in this act shall be

1 construed or understood as in any way modifying or affecting the  
2 provisions set forth in 42 Pa.C.S. Ch. 85 Subch. C.  
3 Section 1108. Site-specific postclosure fund.

4 (a) Establishment by county.--Each county shall establish an  
5 interest-bearing trust with an accredited financial institution  
6 for every municipal waste landfill that is operating within its  
7 boundaries. This trust shall be established within 60 days of  
8 the effective date of this act for landfills permitted by the  
9 department prior to the effective date of this act. The trust  
10 shall be established prior to the operation of any landfill  
11 permitted by the department after the effective date of this  
12 act.

13 (b) Purpose.--The trust created for any landfill by this  
14 section may be used only for remedial measures and emergency  
15 actions that are necessary to prevent or abate adverse effects  
16 upon the environment after closure of the landfill. However, the  
17 county may withdraw actual costs incurred in establishing and  
18 administering the fund in an amount not to exceed 0.5% of the  
19 moneys deposited in the fund.

20 (c) Amount.--Each operator of a municipal waste landfill  
21 shall pay into the trust on a quarterly basis an amount equal to  
22 25¢ per ton of weighed waste or 25¢ per three cubic yards of  
23 volume measured waste for all solid waste received at the  
24 landfill.

25 (d) Trustee.--The trustee shall manage the trust in  
26 accordance with all applicable laws and regulations, except that  
27 moneys in the trust shall be invested in a manner that will  
28 allow withdrawals as provided in subsection (f). The trustee  
29 shall be a person whose trust activities are examined and  
30 regulated by a State or Federal agency. The trustee may resign

1 only after giving 120 days' notice to the department and after  
2 the appointment of a new trustee. The trustee shall have an  
3 office located within the county where the landfill is located.

4 (e) Trust agreement.--The provisions of the trust agreement  
5 shall be consistent with the requirements of this section and  
6 shall be provided by the operator of the landfill on a form  
7 prepared and approved by the department. The trust agreement  
8 shall be accompanied by a formal certification of  
9 acknowledgment.

10 (f) Withdrawal of funds.--The trustee may release moneys  
11 from the trust only upon written request of the operator of a  
12 landfill and upon prior written approval by the department. Such  
13 request shall include the proposed amount and purpose of the  
14 withdrawal and a copy of the department's written approval of  
15 the expenditure. A copy of the request shall be provided to the  
16 county and the host municipality. A copy of any withdrawal  
17 document prepared by the trustee shall be provided to the  
18 department, the county and the host municipality. No withdrawal  
19 from this trust may be made until after the department has  
20 certified closure of the landfill.

21 (g) Abandonment of trust.--If the department certifies to  
22 the trustee that the operator of a landfill has abandoned the  
23 operation of the landfill or has failed or refused to comply  
24 with the requirements of the Solid Waste Management Act, the  
25 regulations promulgated pursuant thereto or the terms or  
26 conditions of its permit, in any respect, the trustee shall  
27 forthwith pay the full amount of the trust to the department.  
28 The department may not make such certification unless it has  
29 given 30 days' written notice to the operator, the county, and  
30 the trustee of the department's intent to do so.

1 (h) Use of abandoned trust.--The department shall expend all  
2 moneys collected pursuant to subsection (g) for the purposes set  
3 forth in subsection (b). The department may expend money  
4 collected from a trust for a landfill only for that landfill.

5 (i) Surplus.--Any moneys remaining in a trust subsequent to  
6 final closure of a landfill under the Solid Waste Management Act  
7 and the regulations promulgated pursuant thereto shall, upon  
8 release of the bond by the department, be divided equally  
9 between the county and the host municipality.

10 (j) Duty under law.--Nothing in this section shall be  
11 understood or construed to in any way relieve the operator of a  
12 municipal waste landfill of any duty or obligation imposed by  
13 this act, the Solid Waste Management Act any other act  
14 administered by the department, the regulations promulgated  
15 pursuant thereto or the terms or conditions of any permit.

16 (k) Other remedies.--The remedies provided to the department  
17 in this section are in addition to any other remedies provided  
18 at law or in equity.

19 (l) County not liable.--Nothing in this section shall be  
20 understood or construed as imposing any additional  
21 responsibility or liability upon the county for compliance of a  
22 municipal waste landfill or resource recovery facility with the  
23 requirements of this act, the Solid Waste Management Act and the  
24 regulations promulgated pursuant thereto.

25 Section 1109. Trust fund for municipally operated landfills.

26 (a) Establishment of trust.--Except as provided in  
27 subsection (b), each municipality or municipal authority  
28 operating a landfill solely for municipal waste not classified  
29 hazardous shall establish an interest-bearing trust with an  
30 accredited financial institution. This trust shall be

1 established within 60 days of the effective date of this act for  
2 landfills permitted by the department prior to the effective  
3 date of this act. The trust shall be established prior to the  
4 operation of any landfill permitted by the department after the  
5 effective date of this act.

6 (b) Exemption.--Any municipality or municipal authority that  
7 has posted a bond that is consistent with the provisions of the  
8 Solid Waste Management Act and the regulations promulgated  
9 pursuant thereto shall not be required to establish the trust  
10 set forth in this section.

11 (c) Purpose.--The trust created for any landfill by this  
12 section may be used only for completing final closure of the  
13 landfill according to the permit granted by the department under  
14 the Solid Waste Management Act and taking such measures as are  
15 necessary to prevent adverse effects upon the environment. Such  
16 measures include but are not limited to satisfactory monitoring,  
17 postclosure care and remedial measures.

18 (d) Amount.--Each municipality or municipal authority  
19 operating a landfill solely for municipal waste not classified  
20 hazardous shall pay into the trust on a quarterly basis an  
21 amount determined by the department for each ton or cubic yard  
22 of solid waste disposed at the landfill. This amount shall be  
23 based on the estimated cost of completing final closure of the  
24 landfill and the weight or volume of waste to be disposed at the  
25 landfill prior to closure.

26 (e) Trustee.--The trustee shall manage the trust in  
27 accordance with all applicable laws and regulations, except that  
28 moneys in the trust shall be invested in a manner that will  
29 allow withdrawals as provided in subsection (g). The trustee  
30 shall be a person whose trust activities are examined and

1 regulated by a State or Federal agency. The trustee may resign  
2 only after giving 120 days' notice to the department and after  
3 the appointment of a new trustee.

4 (f) Trust agreement.--The provisions of the trust agreement  
5 shall be consistent with the requirements of this section and  
6 shall be provided by the municipality or municipal authority on  
7 a form prepared and approved by the department. The trust  
8 agreement shall be accompanied by a formal certification of  
9 acknowledgment.

10 (g) Withdrawal of funds.--The trustee may release moneys  
11 from the trust only upon written request of the municipality or  
12 municipal authority and upon prior written approval by the  
13 department. Such request shall include the proposed amount and  
14 purpose of the withdrawal and a copy of the department's written  
15 approval of the expenditure. A copy of the request shall be  
16 provided to the host municipality. A copy of any withdrawal  
17 document prepared by the trustee shall be provided to the  
18 department and to the host municipality. No withdrawal from this  
19 trust may be made until after closure of the landfill.

20 (h) Abandonment of trust.--If the department certifies to  
21 the trustee that the municipality or municipal authority has  
22 abandoned the operation of the landfill or has failed or refused  
23 to comply with the requirements of the Solid Waste Management  
24 Act or the regulations promulgated pursuant thereto in any  
25 respect, the trustee shall forthwith pay the full amount of the  
26 trust to the department. The department may not make such  
27 certification unless it has given 30 days' written notice to the  
28 municipality or municipal authority and the trustee of the  
29 department's intent to do so.

30 (i) Use of abandoned trust.--The department shall expend all

1 moneys collected pursuant to subsection (h) for the purposes set  
2 forth in subsection (c). The department may expend money  
3 collected from a trust for a landfill only for that landfill.

4 (j) Surplus.--Except for trusts that have been abandoned as  
5 provided in subsection (h), any moneys remaining in a trust  
6 subsequent to final closure of a landfill under the Solid Waste  
7 Management Act and the regulations promulgated pursuant thereto  
8 shall, upon certification of final closure by the department, be  
9 returned to the municipality or municipal authority.

10 (k) Duty under law.--Nothing in this section shall be  
11 understood or construed to in any way relieve the municipality  
12 or municipal authority of any duty or obligation imposed by this  
13 act, the Solid Waste Management Act, any other act administered  
14 by the department, the regulations promulgated pursuant thereto,  
15 or the terms or conditions of any permit.

16 (l) Other remedies.--The remedies provided to the department  
17 in this section are in addition to any other remedies provided  
18 at law or in equity.

19 Section 1110. Independent evaluation of permit applications.

20 At the request of a host municipality, the department may  
21 reimburse a host municipality for costs incurred for an  
22 independent permit application review, by a professional  
23 engineer who is licensed in this Commonwealth and who has  
24 previous experience in preparing such permit applications, of an  
25 application under the Solid Waste Management Act, for a new  
26 municipal waste landfill or resource recovery facility or that  
27 would result in additional capacity for a municipal waste  
28 landfill or resource recovery facility. Reimbursement shall not  
29 exceed \$10,000 per complete application.

30 Section 1111. Protection of capacity.

1       ~~(a) New permits. A permit issued by the department under~~       <—  
2 ~~the act of July 7, 1980 (P.L.380, No.97), known as the Solid~~  
3 ~~Waste Management Act, for a new municipal waste landfill or~~  
4 ~~resource recovery facility or that results in additional~~  
5 ~~capacity for a municipal waste landfill or resource recovery~~  
6 ~~facility shall include a permit condition setting forth the~~  
7 ~~weight or volume of municipal waste generated within the host~~  
8 ~~county that the operator shall allow to be delivered for~~  
9 ~~disposal or processing at the facility for a specified period.~~

10       ~~(b) Existing permits. Within six months after the effective~~  
11 ~~date of this act, the department shall modify each municipal~~  
12 ~~waste landfill and resource recovery facility permit issued~~  
13 ~~under the Solid Waste Management Act before the effective date~~  
14 ~~of this act. The permit modification shall consist of a permit~~  
15 ~~condition setting forth the weight or volume of municipal waste~~  
16 ~~generated within the host county that the operator shall allow~~  
17 ~~to be delivered to the facility for disposal or processing at~~  
18 ~~the facility for a specified period.~~

19       (A) PERMIT CONDITION.--THE FOLLOWING PERMITS ISSUED BY THE       <—  
20 DEPARTMENT UNDER THE SOLID WASTE MANAGEMENT ACT, SHALL INCLUDE A  
21 PERMIT CONDITION, IF PROVIDED PURSUANT TO THIS SECTION, WHICH  
22 REQUIRE COMPLIANCE WITH AN AGREEMENT OR ARBITRATION AWARD,  
23 SETTING FORTH THE WEIGHT OR VOLUME OF MUNICIPAL WASTE GENERATED  
24 WITHIN THE COUNTY AND MUNICIPALITY THAT THE OPERATOR SHALL ALLOW  
25 AND THE RATES, TERMS OR CONDITIONS WITH WHICH MUNICIPAL WASTE IS  
26 TO BE DELIVERED FOR DISPOSAL OR PROCESSING AT THE FACILITY FOR A  
27 SPECIFIED PERIOD:

28           (1) A PERMIT FOR A NEW MUNICIPAL WASTE LANDFILL OR  
29       RESOURCE RECOVERY FACILITY.

30           (2) A PERMIT THAT RESULTS IN ADDITIONAL CAPACITY FOR A

1 MUNICIPAL WASTE LANDFILL OR RESOURCE RECOVERY FACILITY.

2 (3) IN THE CASE OF AN EXISTING FACILITY, A PERMIT  
3 MODIFICATION THAT RESULTS IN AN INCREASE IN THE AVERAGE OR  
4 MAXIMUM DAILY VOLUME OF WASTE THAT MAY BE RECEIVED FOR  
5 PROCESSING OR DISPOSAL AT THE FACILITY.

6 (B) DETERMINATION.--THE PERMIT CONDITION SHALL BE DETERMINED  
7 IN THE FOLLOWING MANNER:

8 (1) THE APPLICANT SHALL NOTIFY THE HOST COUNTY AND HOST  
9 MUNICIPALITY UPON FILING AN APPLICATION FOR PERMIT PURSUANT  
10 TO SUBSECTION (A). WITHIN 60 DAYS AFTER RECEIVING WRITTEN  
11 NOTICE FROM THE APPLICANT THAT AN APPLICATION HAS BEEN FILED  
12 WITH THE DEPARTMENT, THE HOST COUNTY AND HOST MUNICIPALITY  
13 SHALL PROVIDE WRITTEN NOTICE TO THE APPLICANT AND THE  
14 DEPARTMENT IF IT INTENDS TO NEGOTIATE WITH THE APPLICANT. IF  
15 THE HOST COUNTY AND HOST MUNICIPALITY DO NOT PROVIDE SUCH  
16 NOTICE AND, IF THE PERMIT IS ISSUED, THE PERMIT CONDITION  
17 SHALL STATE THAT NO WASTE CAPACITY IS RESERVED FOR THE HOST  
18 COUNTY AND HOST MUNICIPALITY. THE NEGOTIATION PERIOD SHALL  
19 COMMENCE UPON THE DATE OF RECEIPT OF THE WRITTEN NOTICE TO  
20 THE APPLICANT FROM THE HOST COUNTY AND HOST MUNICIPALITY AND  
21 SHALL CONTINUE FOR 30 DAYS. THE ISSUES TO BE CONSIDERED IN  
22 NEGOTIATIONS SHALL INCLUDE, BUT NOT BE LIMITED TO, THE WEIGHT  
23 OR VOLUME OF CAPACITY RESERVED TO A HOST COUNTY AND HOST  
24 MUNICIPALITY AND AN INCREASE IN THE AVERAGE VOLUME OF WASTE  
25 IN AN AMOUNT UP TO THE AMOUNT OF CAPACITY SET ASIDE FOR  
26 MUNICIPAL WASTE GENERATED WITHIN THE HOST COUNTY AND HOST  
27 MUNICIPALITY.

28 (2) IF THE HOST COUNTY AND HOST MUNICIPALITY AND THE  
29 APPLICANT AGREE TO A WEIGHT OR VOLUME OF WASTE CAPACITY TO BE  
30 RESERVED FOR THE HOST COUNTY AND HOST MUNICIPALITY, THEY

1 SHALL NOTIFY THE DEPARTMENT IN WRITING.

2 (3) IF THE HOST COUNTY AND HOST MUNICIPALITY AND THE  
3 APPLICANT HAVE FAILED TO REACH AN AGREEMENT WITHIN THE 30-DAY  
4 NEGOTIATION PERIOD THEN EITHER PARTY TO THE DISPUTE, AFTER  
5 WRITTEN NOTICE TO THE OTHER PARTY CONTAINING SPECIFICATIONS  
6 OF THE ISSUE OR ISSUES IN DISPUTE, MAY REQUEST THE  
7 APPOINTMENT OF A BOARD OF ARBITRATION PURSUANT TO PARAGRAPH  
8 (7). SUCH NOTICE SHALL BE MADE IN WRITING TO THE OTHER PARTY  
9 WITHIN FIVE DAYS OF THE END OF THE NEGOTIATION PERIOD. IN  
10 MAKING THE DECISION AS TO THE TERMS OF THE AGREEMENT, THE  
11 BOARD SHALL CONSIDER AMONG OTHER THINGS THE AVAILABILITY OF  
12 DISPOSAL ALTERNATIVES TO THE HOST COUNTY AND HOST  
13 MUNICIPALITY. SHOULD THE HOST COUNTY AND HOST MUNICIPALITY  
14 FAIL TO REQUEST ARBITRATION WITHIN FIVE DAYS, THEN THE PERMIT  
15 CONDITION SHALL STATE THAT NO WASTE CAPACITY IS RESERVED FOR  
16 THE HOST COUNTY AND HOST MUNICIPALITY.

17 (4) IF THE COUNTY AND MUNICIPALITY ELECT TO NEGOTIATE  
18 WITH THE APPLICANT PURSUANT TO THIS SECTION, ANY AGREEMENT OR  
19 ARBITRATION AWARD SHALL PROVIDE, UNLESS THE HOST COUNTY AND  
20 HOST MUNICIPALITY AND APPLICANT AGREE OTHERWISE, THAT THE  
21 COUNTY AND MUNICIPALITY SHALL UTILIZE THE CAPACITY RESERVED  
22 IN AN AGREED UPON TIME FRAME.

23 (5) SHOULD THE APPLICANT AND THE HOST COUNTY AND HOST  
24 MUNICIPALITY BE UNABLE TO AGREE TO THE TERMS OF THE AGREEMENT  
25 GOVERNING SUCH UTILIZATION WITHIN 30 DAYS OF AN AGREEMENT OR  
26 AN ARBITRATION AWARD AS TO THE WEIGHT OR VOLUME OF WASTE  
27 CAPACITY TO BE RESERVED IN THE FACILITY, EITHER PARTY CAN  
28 REQUEST THE APPOINTMENT OF AN ARBITRATION BOARD PURSUANT TO  
29 PARAGRAPH (7). IN MAKING THE DECISION AS TO THE TERMS OF THE  
30 AGREEMENT FOR UTILIZATION, THE BOARD SHALL CONSIDER, AMONG

1 OTHER THINGS, THE WEIGHT OR VOLUME OF CAPACITY RESERVED TO A  
2 HOST COUNTY AND HOST MUNICIPALITY UNDER ANY PERMIT ISSUED  
3 PURSUANT TO THIS SECTION, AN INCREASE IN THE AVERAGE VOLUME  
4 OF WASTE IN AN AMOUNT UP TO THE AMOUNT OF CAPACITY SET ASIDE  
5 FOR MUNICIPAL WASTE GENERATED WITHIN THE HOST COUNTY AND HOST  
6 MUNICIPALITY, THE FINANCIAL VIABILITY OF THE FACILITY, AND  
7 THE TERMS, INCLUDING THE RATES PER TON FOR DISPOSAL, OF THE  
8 CONTRACTS ENTERED INTO BY THE APPLICANT FOR USE OF THE  
9 FACILITY BY OTHER THAN THE HOST COUNTY AND HOST MUNICIPALITY.

10 (6) EXCEPT AS PROVIDED IN PARAGRAPH (1), THE DEPARTMENT  
11 SHALL NOT ISSUE ANY PERMIT UNDER THIS SECTION UNLESS IT HAS  
12 RECEIVED WRITTEN NOTICE OF AN AGREEMENT BETWEEN THE APPLICANT  
13 AND HOST COUNTY AND HOST MUNICIPALITY AS TO THE WEIGHT OR  
14 VOLUME OF CAPACITY TO BE RESERVED FOR THE HOST COUNTY AND  
15 HOST MUNICIPALITY AS PROVIDED IN PARAGRAPH (2) OR UNLESS IT  
16 HAS RECEIVED WRITTEN NOTICE THAT A BOARD OF ARBITRATION  
17 APPOINTED PURSUANT TO PARAGRAPH (7) HAS SETTLED ALL ISSUES IN  
18 DISPUTE BETWEEN THE HOST COUNTY AND HOST MUNICIPALITY AND THE  
19 APPLICANT. THE DEPARTMENT SHALL INCLUDE A PERMIT CONDITION  
20 RESERVING SUCH CAPACITY PROVIDED FOR IN SUCH AGREEMENTS OR  
21 ARBITRATION AWARDS.

22 (7) THE BOARD OF ARBITRATION SHALL BE COMPOSED OF THREE  
23 PERSONS, ONE APPOINTED BY THE APPLICANT, ONE APPOINTED BY THE  
24 HOST COUNTY AND HOST MUNICIPALITY AND A THIRD MEMBER TO BE  
25 AGREED UPON BY THE APPLICANT AND SUCH HOST COUNTY AND HOST  
26 MUNICIPALITY. THE MEMBERS OF THE BOARD REPRESENTING THE  
27 APPLICANT AND THE HOST COUNTY AND HOST MUNICIPALITY SHALL BE  
28 NAMED WITHIN FIVE DAYS FROM THE DATE OF THE REQUEST FOR THE  
29 APPOINTMENT OF SUCH BOARD. IF, AFTER A PERIOD OF TEN DAYS  
30 FROM THE DATE OF THE APPOINTMENT OF THE TWO ARBITRATORS

1 APPOINTED BY THE HOST COUNTY AND HOST MUNICIPALITY AND THE  
2 APPLICANT, THE THIRD ARBITRATOR HAS NOT BEEN SELECTED BY  
3 THEM, THEN EITHER ARBITRATOR MAY REQUEST THE AMERICAN  
4 ARBITRATION ASSOCIATION, OR ITS SUCCESSOR IN FUNCTION, TO  
5 FURNISH A LIST OF THREE MEMBERS OF SAID ASSOCIATION WHO ARE  
6 RESIDENTS OF PENNSYLVANIA FROM WHICH THE THIRD ARBITRATOR  
7 SHALL BE SELECTED. THE ARBITRATOR APPOINTED BY THE APPLICANT  
8 SHALL ELIMINATE ONE NAME FROM THE LIST WITHIN FIVE DAYS AFTER  
9 PUBLICATION OF THE LIST, FOLLOWING WHICH THE ARBITRATOR  
10 APPOINTED BY THE HOST COUNTY AND HOST MUNICIPALITY SHALL  
11 ELIMINATE ONE NAME FROM THE LIST WITHIN FIVE DAYS THEREAFTER.  
12 THE INDIVIDUAL WHOSE NAME REMAINS ON THE LIST SHALL BE THE  
13 THIRD ARBITRATOR AND SHALL ACT AS CHAIRMAN OF THE BOARD OF  
14 ARBITRATION. THE BOARD OF ARBITRATION THUS ESTABLISHED SHALL  
15 COMMENCE THE ARBITRATION PROCEEDINGS WITHIN TEN DAYS AFTER  
16 THE THIRD ARBITRATOR IS SELECTED AND SHALL MAKE ITS  
17 DETERMINATION WITHIN 30 DAYS AFTER THE APPOINTMENT OF THE  
18 THIRD ARBITRATOR.

19 (c) Department.--The department may take any action  
20 authorized by statute that the department deems necessary to  
21 ensure that operators of municipal waste landfills and resource  
22 recovery facilities give priority to the disposal or processing  
23 of municipal waste generated within the host county.

24 (D) CONSULTATION.--THE HOST COUNTY SHALL CONSULT WITH THE <—  
25 HOST MUNICIPALITY AS PART OF THE PROCEDURE SET FORTH UNDER THIS  
26 SECTION.

27 SECTION 1112. WASTE VOLUMES.

28 (A) GENERAL RULE.--NO PERSON OR MUNICIPALITY OPERATING A  
29 MUNICIPAL WASTE LANDFILL MAY RECEIVE SOLID WASTE AT THE LANDFILL  
30 IN EXCESS OF THE MAXIMUM AND AVERAGE DAILY VOLUME APPROVED IN

1 THE PERMIT BY THE DEPARTMENT UNDER THE SOLID WASTE MANAGEMENT  
2 ACT, OR AUTHORIZED BY ANY REGULATION PROMULGATED PURSUANT TO THE  
3 SOLID WASTE MANAGEMENT ACT.

4 (B) NEW PERMITS.--

5 (1) A PERMIT ISSUED BY THE DEPARTMENT UNDER THE SOLID  
6 WASTE MANAGEMENT ACT FOR A NEW MUNICIPAL WASTE LANDFILL, OR  
7 THAT RESULTS IN ADDITIONAL CAPACITY FOR A MUNICIPAL WASTE  
8 LANDFILL, SHALL INCLUDE A PERMIT CONDITION SETTING FORTH THE  
9 MAXIMUM AND AVERAGE VOLUMES OF SOLID WASTE THAT MAY BE  
10 RECEIVED ON A DAILY BASIS.

11 (2) THE DEPARTMENT MAY NOT APPROVE ANY PERMIT  
12 APPLICATION FOR A NEW MUNICIPAL WASTE LANDFILL, OR THAT WOULD  
13 RESULT IN ADDITIONAL CAPACITY FOR A MUNICIPAL WASTE LANDFILL,  
14 UNLESS THE APPLICANT DEMONSTRATES ALL OF THE FOLLOWING TO THE  
15 DEPARTMENT'S SATISFACTION:

16 (I) THAT THE PROPOSED MAXIMUM AND AVERAGE DAILY  
17 WASTE VOLUMES WILL NOT CAUSE OR CONTRIBUTE TO ANY  
18 VIOLATIONS OF THIS ACT; THE SOLID WASTE MANAGEMENT ACT;  
19 ANY OTHER STATUTE ADMINISTERED BY THE DEPARTMENT; OR ANY  
20 REGULATION PROMULGATED PURSUANT TO THIS ACT, THE SOLID  
21 WASTE MANAGEMENT ACT OR ANY OTHER STATUTE ADMINISTERED BY  
22 THE DEPARTMENT.

23 (II) THAT THE PROPOSED MAXIMUM AND AVERAGE DAILY  
24 WASTE VOLUMES WILL NOT CAUSE OR CONTRIBUTE TO ANY PUBLIC  
25 NUISANCE FROM ODORS, NOISES, DUST, TRUCK TRAFFIC OR OTHER  
26 CAUSES.

27 (III) THAT THE PROPOSED MAXIMUM AND AVERAGE DAILY  
28 WASTE VOLUMES WILL NOT INTERFERE WITH, OR CONTRADICT ANY  
29 PROVISION CONTAINED IN, ANY APPLICABLE COUNTY SOLID WASTE  
30 MANAGEMENT PLAN THAT HAS BEEN APPROVED BY THE DEPARTMENT.

1 (C) EXISTING PERMITS.--WITHIN SIX MONTHS AFTER THE EFFECTIVE  
2 DATE OF THIS ACT, THE DEPARTMENT SHALL REVIEW THE DAILY VOLUME  
3 LIMITS IN EACH MUNICIPAL WASTE LANDFILL PERMIT ISSUED UNDER THE  
4 SOLID WASTE MANAGEMENT ACT BEFORE THE EFFECTIVE DATE OF THIS ACT  
5 AND, THEREAFTER, TAKE ANY ACTION THAT IT DEEMS NECESSARY TO  
6 CARRY OUT THE PROVISIONS AND PURPOSES OF THIS ACT AND THE SOLID  
7 WASTE MANAGEMENT ACT.

8 (D) PERMIT MODIFICATION.--THE DEPARTMENT MAY NOT APPROVE ANY  
9 PERMIT MODIFICATION REQUEST UNDER THE SOLID WASTE MANAGEMENT ACT  
10 TO INCREASE DAILY VOLUMES OF SOLID WASTE RECEIVED AT A MUNICIPAL  
11 WASTE LANDFILL UNLESS THE APPLICANT DEMONSTRATES ALL OF THE  
12 FOLLOWING TO THE DEPARTMENT'S SATISFACTION:

13 (1) INCREASED DAILY VOLUMES WILL NOT CAUSE OR CONTRIBUTE  
14 TO ANY VIOLATIONS OF THIS ACT; THE SOLID WASTE MANAGEMENT  
15 ACT; ANY OTHER STATUTE ADMINISTERED BY THE DEPARTMENT; OR ANY  
16 REGULATIONS PROMULGATED PURSUANT TO THIS ACT, THE SOLID WASTE  
17 MANAGEMENT ACT OR ANY OTHER STATUTE ADMINISTERED BY THE  
18 DEPARTMENT.

19 (2) INCREASED DAILY VOLUMES WILL NOT CAUSE OR CONTRIBUTE  
20 TO ANY PUBLIC NUISANCE FROM ODORS, NOISE, DUST, TRUCK TRAFFIC  
21 OR OTHER CAUSES.

22 (3) INCREASED DAILY VOLUMES WILL NOT REDUCE THE  
23 REMAINING LIFETIME OF A LANDFILL, BASED ON ITS REMAINING  
24 PERMITTED CAPACITY, TO LESS THAN THREE YEARS FROM THE DATE OF  
25 ISSUANCE OF THE PERMIT MODIFICATION.

26 (4) INCREASED DAILY VOLUMES WILL NOT INTERFERE WITH, OR  
27 CONTRADICT ANY PROVISION CONTAINED IN, AN APPLICABLE COUNTY  
28 SOLID WASTE MANAGEMENT PLAN THAT HAS BEEN APPROVED BY THE  
29 DEPARTMENT.

30 (E) EMERGENCIES.--

1 (1) NOTWITHSTANDING ANY PROVISION OF LAW TO THE  
2 CONTRARY, THE DEPARTMENT SHALL IMMEDIATELY MODIFY A MUNICIPAL  
3 WASTE LANDFILL OR RESOURCE RECOVERY FACILITY PERMIT TO ALLOW  
4 INCREASED DAILY WASTE VOLUMES OR INCREASED MONTHLY WASTE  
5 VOLUMES, OR BOTH, WHEN THE DEPARTMENT FINDS, IN WRITING, THAT  
6 THIS ACTION IS NECESSARY TO PREVENT A PUBLIC HEALTH OR  
7 ENVIRONMENTAL EMERGENCY AND PUBLISHES PUBLIC NOTICE OF THE  
8 FINDING. ACTION UNDER THIS PARAGRAPH SHALL BE TAKEN PURSUANT  
9 TO SECTION 503(E) OF THE SOLID WASTE MANAGEMENT ACT.

10 (2) WHEN THE DEPARTMENT DETERMINES THAT THE REMAINING  
11 LIFETIME OF ANY MUNICIPAL WASTE LANDFILL, BASED ON ITS  
12 REMAINING PERMITTED CAPACITY, IS THREE YEARS OR LESS, THE  
13 LANDFILL OPERATOR SHALL GIVE WRITTEN NOTICE OF THE FINDING TO  
14 ALL MUNICIPALITIES THAT GENERATE MUNICIPAL WASTE RECEIVED AT  
15 THE LANDFILL. NOTICE SHALL BE GIVEN ANNUALLY THEREAFTER UNTIL  
16 CLOSURE OF THE LANDFILL OR UNTIL THE DEPARTMENT HAS ISSUED A  
17 PERMIT UNDER THE SOLID WASTE MANAGEMENT ACT EXPANDING THE  
18 CAPACITY OF THE LANDFILL TO MORE THAN THREE YEARS. THIS ACT  
19 SHALL NOT BE UNDERSTOOD OR CONSTRUED TO IMPOSE ANY OBLIGATION  
20 ON THE DEPARTMENT TO FIND ALTERNATIVE PROCESSING OR DISPOSAL  
21 CAPACITY.

22 (F) ENFORCEMENT.--IN ADDITION TO ANY OTHER REMEDIES PROVIDED  
23 AT LAW OR IN EQUITY, THE DEPARTMENT SHALL ASSESS A CIVIL PENALTY  
24 OF AT LEAST \$100 PER TON FOR EACH TON OF WASTE RECEIVED AT ANY  
25 MUNICIPAL WASTE LANDFILL IN EXCESS OF THE DAILY OR MONTHLY  
26 VOLUME LIMITATIONS SET FORTH IN ITS PERMIT. EXCEPT FOR THE  
27 MINIMUM AMOUNT, THE PENALTY SHALL BE ASSESSED AND COLLECTED IN  
28 THE MANNER SET FORTH IN SECTION 1704. EACH TON OF WASTE IN  
29 EXCESS OF THE PERMIT SHALL BE CONSIDERED A SEPARATE VIOLATION OF  
30 THIS ACT.

1 (G) PREFERENCE TO HOST COUNTY WASTE.--PURSUANT TO SECTION  
2 1111(A), A FACILITY WILL GIVE A PREFERENCE TO WASTE GENERATED  
3 WITHIN THE HOST COUNTY WHEN THE FACILITY RECEIVES AN INCREASE IN  
4 ITS AVERAGE DAILY VOLUME.

5 CHAPTER 13

6 HOST MUNICIPALITY AND COUNTY BENEFIT FEE <—

7 Section 1301. Host municipality benefit fee.

8 (a) Imposition.--There is imposed a host municipality  
9 benefit fee upon the operator of each municipal waste landfill  
10 or resource recovery facility that receives a new permit or  
11 permit that results in additional capacity from the department  
12 under the Solid Waste Management Act after the effective date of  
13 this act. The fee shall be paid to the host municipality ~~AND~~ <—  
14 ~~COUNTY~~. If the host municipality ~~OR COUNTY~~ owns or operates the <—  
15 landfill or facility, the fee shall not be imposed for waste  
16 generated within such municipality ~~OR COUNTY~~. If the landfill or <—  
17 facility is located within more than one host municipality ~~OR~~ <—  
18 ~~COUNTY~~, the fee shall be apportioned among them according to the  
19 percentage of the permitted area located in each municipality  
20 ~~AND COUNTY~~. <—

21 (b) Amount.--The fee is ~~\$1~~ \$1.50 TO THE HOST MUNICIPALITY <—  
22 ~~AND \$1.50 TO THE COUNTY~~ per ton of weighed solid waste or ~~\$1~~ <—  
23 \$1.50 per three cubic yards of volume-measured solid waste for  
24 all solid waste received at a landfill or facility.

25 (c) Municipal options.--Nothing in this section or section  
26 ~~1302~~ 1303 shall prevent a host municipality ~~AND COUNTY~~ from <—  
27 receiving a higher fee or receiving the fee in a different form  
28 or at different times than provided in this section and section  
29 ~~1302~~ 1303, if the host municipality ~~AND COUNTY~~ and the operator <—  
30 of the municipal waste landfill or resource recovery facility

1 agree in writing.

2 SECTION 1302. HOST COUNTY BENEFIT FEE. <—

3 (A) IMPOSITION.--THERE IS IMPOSED A HOST COUNTY BENEFIT FEE  
4 UPON THE OPERATOR OF EACH MUNICIPAL WASTE LANDFILL OR RESOURCE  
5 RECOVERY FACILITY THAT RECEIVES A NEW PERMIT OR PERMIT THAT  
6 RESULTS IN ADDITIONAL CAPACITY FROM THE DEPARTMENT UNDER THE  
7 SOLID WASTE MANAGEMENT ACT AFTER THE EFFECTIVE DATE OF THIS ACT.  
8 THE FEE SHALL BE PAID TO THE HOST COUNTY. IF THE HOST COUNTY  
9 OWNS OR OPERATES THE LANDFILL OR FACILITY, THE FEE SHALL NOT BE  
10 IMPOSED FOR WASTE GENERATED WITHIN SUCH COUNTY. IF THE LANDFILL  
11 OR FACILITY IS LOCATED WITHIN MORE THAN ONE HOST COUNTY, THE FEE  
12 SHALL BE APPORTIONED AMONG THEM ACCORDING TO THE PERCENTAGE OF  
13 THE PERMITTED AREA LOCATED IN EACH COUNTY.

14 (B) AMOUNT.--THE FEE IS 25¢ PER TON OF WEIGHED SOLID WASTE  
15 OR 25¢ PER THREE CUBIC YARDS OF VOLUME-MEASURED SOLID WASTE FOR  
16 ALL SOLID WASTE RECEIVED AT THE LANDFILL OR FACILITY.

17 (C) USE.--THE HOST COUNTY SHALL USE THE FUNDS COLLECTED  
18 PURSUANT TO THIS SECTION TO OFFSET ANY COSTS IMPOSED BY THIS ACT <—  
19 OR ANY ENVIRONMENTAL DEGRADATION OR TRANSPORTATION-RELATED COSTS  
20 THE COUNTY, OR MUNICIPALITIES OTHER THAN THE HOST MUNICIPALITY  
21 IN THE COUNTY, MIGHT OTHERWISE BEAR IN CONNECTION WITH THE  
22 OPERATION OF THE FACILITY.

23 (D) COUNTY OPTIONS.--NOTHING IN THIS CHAPTER SHALL PREVENT A  
24 HOST COUNTY FROM RECEIVING A HIGHER FEE OR THE FEE IN A <—  
25 DIFFERENT FORM OR AT DIFFERENT TIMES THAN PROVIDED IN THIS  
26 CHAPTER, IF THE HOST COUNTY AND THE OPERATOR OF THE MUNICIPAL  
27 WASTE LANDFILL OR RESOURCE RECOVERY FACILITY AGREE IN WRITING.

28 Section ~~1302~~ 1303. Form and timing of host municipality benefit <—  
29 fee payment.

30 (a) Quarterly payment.--Each operator subject to ~~section~~ <—

1 ~~1301~~ SECTIONS 1301 AND 1302 shall make the host municipality <—  
2 benefit fee AND HOST COUNTY BENEFIT FEE payment quarterly. The <—  
3 fee shall be paid on or before the twentieth day of April, July,  
4 October and January for the three months ending the last day of  
5 March, June, September and December.

6 (b) Quarterly reports.--Each host municipality benefit fee  
7 AND HOST COUNTY BENEFIT FEE payment shall be accompanied by a <—  
8 form prepared and furnished by the department and completed by  
9 the operator. The form shall state the weight or volume of solid  
10 waste received by the landfill or facility during the payment  
11 period and provide any other information deemed necessary by the  
12 department to carry out the purposes of the act. The form shall  
13 be signed by the operator. A copy of the form shall be sent to  
14 the department at the same time that the fee and form are sent  
15 to the host municipality.

16 (c) Timeliness of payment.--An operator shall be deemed to  
17 have made a timely payment of the host municipality benefit fee  
18 AND HOST COUNTY BENEFIT FEE if all of the following are met: <—

19 (1) The enclosed payment is for the full amount owed  
20 pursuant to this section, and no further host municipality OR <—  
21 HOST COUNTY action is required for collection.

22 (2) The payment is accompanied by the required form, and  
23 such form is complete and accurate.

24 (3) The letter transmitting the payment that is received  
25 by the host municipality OR HOST COUNTY is postmarked by the <—  
26 United States Postal Service on or prior to the final day on  
27 which the payment is to be received.

28 (d) Discount.--Any operator that makes a timely payment of  
29 the host municipality benefit fee OR HOST COUNTY BENEFIT FEE as <—  
30 provided in this section shall be entitled to credit and apply

1 against the fee payable by him a discount of 1% of the amount of  
2 the fee collected by him.

3 (e) Alternative proof.--For purposes of this section,  
4 presentation of a receipt indicating that the payment was mailed  
5 by registered or certified mail on or before the due date shall  
6 be evidence of timely payment.

7 Section ~~1303~~ 1304. Collection and enforcement of fee. <—

8 (a) Interest.--If an operator fails to make a timely payment  
9 of the host municipality benefit fee OR HOST COUNTY BENEFIT FEE, <—  
10 the operator shall pay interest on the unpaid amount due at the  
11 rate established pursuant section 806 of the act of April 9,  
12 1929 (P.L.343, No.176), known as The Fiscal Code, from the last  
13 day for timely payment to the date paid.

14 (b) Additional penalty.--In addition to the interest  
15 provided in subsection (a), if an operator fails to make timely  
16 payment of the host municipality benefit fee AND HOST COUNTY <—  
17 BENEFIT FEE, there shall be added to the amount of fee actually  
18 due 5% of the amount of such fee, if the failure to file a  
19 timely payment is for not more than one month, with an  
20 additional 5% for each additional month, or fraction thereof,  
21 during which such failure continues, not exceeding 25% in the  
22 aggregate.

23 (c) Assessment notices.--If the host municipality OR HOST <—  
24 COUNTY determines that any operator of a municipal waste  
25 landfill or resource recovery facility has not made a timely  
26 payment of the host municipality benefit fee OR HOST COUNTY <—  
27 BENEFIT FEE, RESPECTIVELY, it will send a written notice for the  
28 amount of the deficiency to such operator within 30 days from  
29 the date of determining such deficiency. When the operator has  
30 not provided a complete and accurate statement of the weight or

1 volume of solid waste received at the landfill or facility for  
2 the payment period, the host municipality OR HOST COUNTY may <—  
3 estimate the weight or volume in its deficiency notice.

4 (d) Constructive trust.--All host municipality benefit fees  
5 AND HOST COUNTY BENEFIT FEES collected by an operator and held <—  
6 by such operator prior to payment to the host municipality OR <—  
7 HOST COUNTY shall constitute a trust fund for the host  
8 municipality OR HOST COUNTY, RESPECTIVELY, and such trust shall <—  
9 be enforceable against such operator, its representatives and  
10 any person receiving any part of such fund without consideration  
11 or with knowledge that the operator is committing a breach of  
12 the trust. However, any person receiving payment of lawful  
13 obligation of the operator from such fund shall be presumed to  
14 have received the same in good faith and without any knowledge  
15 of the breach of trust.

16 (e) Manner of collection.--The amount due and owing under  
17 section 1301 OR 1302 shall be collectible by the host <—  
18 municipality OR HOST COUNTY, RESPECTIVELY, in the manner <—  
19 provided in section 1709.

20 (f) Remedies cumulative.--The remedies provided to host  
21 municipalities AND HOST COUNTIES in this section are in addition <—  
22 to any other remedies provided at law or in equity.

23 Section ~~1304~~ 1305. Records. <—

24 Each operator that is required to pay the ~~Host Municipality~~ <—  
25 ~~Benefit Fee~~ HOST MUNICIPALITY BENEFIT FEE OR HOST COUNTY BENEFIT <—  
26 FEE shall keep daily records of all deliveries of solid waste to  
27 the landfill or facility, as required by the host municipality  
28 OR HOST COUNTY, including, but not limited to, the name and <—  
29 address of the hauler, the source of the waste, the kind of  
30 waste received and the weight or volume of the waste. Such

1 records shall be maintained in Pennsylvania by the operator for  
2 no less than five years and shall be made available to the host  
3 municipality AND HOST COUNTY for inspection upon request. <—

4 Section ~~1305~~ 1306. Surcharge. <—

5 The provisions of any law to the contrary notwithstanding,  
6 the operator of any municipal waste landfill or resource  
7 recovery facility subject to section 1301 OR 1302 may collect <—  
8 the ~~host municipality benefit fee~~ FEES as a surcharge on any fee <—  
9 schedule established pursuant to law, ordinance, resolution or  
10 contract for solid waste disposal or processing operations at  
11 the landfill or facility. In addition, any person who collects  
12 or transports solid waste ~~subject to the host municipality~~ <—  
13 ~~benefit fee~~ to a municipal waste landfill or resource recovery  
14 facility subject to ~~section 1301~~ SECTIONS 1301 AND 1302 may <—  
15 impose a surcharge on any fee schedule established pursuant to  
16 law, ordinance, resolution or contract for the collection or  
17 transportation of solid waste to the landfill or facility. The  
18 surcharge shall be equal to the increase in processing or  
19 disposal fees at the landfill or facility attributable to the  
20 host municipality benefit fee AND HOST COUNTY BENEFIT FEE. <—  
21 However, interest and penalties on the fee under section 1303(a)  
22 and (b) may not be collected as a surcharge.

23 ~~SECTION 1307. PAYMENT OF RESIDENTIAL TAXES.~~ <—

24 ~~WITH THE APPROVAL OF THE DEPARTMENT, THE OPERATOR SHALL~~  
25 ~~ESTABLISH A REASONABLE SURCHARGE ON RATES CHARGED FOR WASTE~~  
26 ~~DISPOSED AT THE REGIONAL FACILITY TO BE PAID TO THE HOST~~  
27 ~~MUNICIPALITY, HOST COUNTY AND HOST SCHOOL DISTRICT FOR THE~~  
28 ~~PAYMENT OF ALL MUNICIPAL, COUNTY AND SCHOOL DISTRICT PROPERTY~~  
29 ~~TAXES FOR INDIVIDUALS WHOSE PRIMARY RESIDENCE IS WITHIN ONE HALF~~  
30 ~~MILE OF THE PERMIT AREA OR IS CONTIGUOUS TO THE PROPERTY OWNED~~

1 ~~BY THE OPERATOR. THE OPERATOR SHALL CHOOSE WHICH METHOD OF~~  
2 ~~REIMBURSEMENT TO USE. FOR THE PURPOSE OF THIS SECTION, A PRIMARY~~  
3 ~~RESIDENCE IS THE PROPERTY IN WHICH THE OWNER RESIDES FOR AT~~  
4 ~~LEAST NINE MONTHS OF EACH YEAR PERIOD.~~

5 CHAPTER 15

6 RECYCLING AND WASTE REDUCTION

7 Section 1501. Municipal implementation of recycling programs.

8 (a) Large population.--Within ~~two~~ THREE years after the <—  
9 effective date of this act, each municipality other than a  
10 county that has a population of 10,000 or more people shall  
11 establish and implement a source separation and collection  
12 program for recyclable materials in accordance with this  
13 section. Population shall be determined by the most recent  
14 decennial census by the Bureau of the Census of the United  
15 States Department of Commerce.

16 (b) Small population.--Within ~~three~~ FOUR years after the <—  
17 effective date of this act, each municipality other than a  
18 county that has a population of more than 5,000 people but less  
19 than 10,000 people, and which has a population density of more  
20 than 300 people per square mile, shall establish and implement a  
21 source separation and collection program for recyclable  
22 materials in accordance with this section. Population shall be  
23 determined based on the most recent decennial census by the  
24 Bureau of the Census of the United States Department of  
25 Commerce.

26 (c) Contents.--The source separation and collection program  
27 shall include, at a minimum, the following elements:

28 (1) An ordinance or regulation adopted by the governing  
29 body of the ~~county or~~ municipality, requiring all of the <—  
30 following:

1 (i) Persons to separate at least three materials  
2 deemed appropriate by the municipality from other  
3 municipal waste generated at their homes, apartments and  
4 other residential establishments and to store such  
5 material until collection. The three materials shall be  
6 chosen from the following: clear glass OR colored glass, ←  
7 aluminum, steel and bimetallic cans, high-grade office  
8 paper, newsprint, corrugated paper and plastics.

9 (ii) Persons to separate leaf waste from other  
10 municipal waste generated at their homes, apartments and  
11 other residential establishments until collection unless  
12 those persons have otherwise provided for the composting  
13 of leaf waste. THE GOVERNING BODY OF A MUNICIPALITY SHALL ←  
14 ALLOW AN OWNER, LANDLORD OR AGENT OF AN OWNER OR LANDLORD  
15 OF MULTIFAMILY RENTAL HOUSING PROPERTIES WITH FOUR OR  
16 MORE UNITS TO COMPLY WITH ITS RESPONSIBILITIES UNDER THIS  
17 SECTION BY ESTABLISHING A COLLECTION SYSTEM FOR  
18 RECYCLABLE MATERIALS AT EACH PROPERTY. THE COLLECTION  
19 SYSTEM MUST INCLUDE SUITABLE CONTAINERS FOR COLLECTING  
20 AND SORTING MATERIALS, EASILY ACCESSIBLE LOCATIONS FOR  
21 THE CONTAINERS, AND WRITTEN INSTRUCTIONS TO THE OCCUPANTS  
22 CONCERNING THE USE AND AVAILABILITY OF THE COLLECTION  
23 SYSTEM. OWNERS, LANDLORDS AND AGENTS OF OWNERS OR  
24 LANDLORDS WHO COMPLY WITH THIS ACT SHALL NOT BE LIABLE  
25 FOR THE NONCOMPLIANCE OF OCCUPANTS OF THEIR BUILDINGS.

26 (iii) Persons to separate high grade office paper,  
27 aluminum, corrugated paper and leaf waste and other  
28 material deemed appropriate by the municipality generated  
29 at commercial, municipal or institutional establishments  
30 and from community activities and to store the material

1           until collection. The governing body of a municipality  
2           shall exempt persons occupying commercial, institutional  
3           and municipal ~~premises~~ ESTABLISHMENTS within its           <—  
4           municipal boundaries from the ~~source-separation~~           <—  
5           requirements of the ordinance or regulation if those  
6           persons have otherwise provided for the recycling of  
7           materials they are required by this section to recycle.  
8           To be eligible for an exemption under this subparagraph,  
9           a commercial or institutional solid waste generator must  
10          annually provide written documentation to the  
11          municipality of the total number of tons recycled.

12          (2) A scheduled day, at least once per month, during  
13          which separated materials are to be placed at the curbside or  
14          a similar location for collection.

15          (3) A system, including trucks and related equipment,  
16          that collects recyclable materials from the curbside or  
17          similar locations at least once per month from each residence  
18          or other person generating municipal waste in the county or  
19          municipality. THE MUNICIPALITY, OTHER THAN A COUNTY, SHALL           <—  
20          EXPLAIN HOW THE SYSTEM WILL OPERATE, THE DATES OF COLLECTION,  
21          THE RESPONSIBILITIES OF PERSONS WITHIN THE MUNICIPALITY AND  
22          INCENTIVES AND PENALTIES.

23          (4) Provisions to ensure compliance with the ordinance,  
24          including incentives and penalties.

25          (5) Provisions for the recycling of collected materials.

26          (d) Notice.--Each municipality subject to this section shall  
27          ESTABLISH A COMPREHENSIVE AND SUSTAINED PUBLIC INFORMATION AND           <—  
28          EDUCATION PROGRAM CONCERNING RECYCLING PROGRAM FEATURES AND  
29          REQUIREMENTS. AS A PART OF THIS PROGRAM, EACH MUNICIPALITY  
30          SHALL, at least 30 days prior to the initiation of the recycling

1 program and at least once every six months thereafter, notify  
2 all persons occupying residential, commercial, institutional and  
3 municipal premises within its boundaries of the requirements of  
4 the ordinance. The governing body of a municipality may, in its  
5 discretion as it deems necessary and appropriate, place an  
6 advertisement in a newspaper circulating in the municipality,  
7 post a notice in public places where public notices are  
8 customarily posted, including a notice with other official  
9 notifications periodically mailed to residential taxpayers or  
10 utilize any combination of the foregoing.

11 ~~(c) Agreements. A municipality may enter into a written~~ <—  
12 ~~agreement with other persons, including persons transporting~~  
13 ~~municipal waste on the effective date of this act, pursuant to~~  
14 ~~which the persons undertake to fulfill some or all of the~~  
15 ~~municipality's responsibilities under this section. A person who~~  
16 ~~enters an agreement under this subsection shall be responsible~~  
17 ~~with the municipality for implementation of this section.~~

18 (E) IMPLEMENTATION.-- <—

19 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2), A MUNICIPALITY  
20 SHALL IMPLEMENT ITS RESPONSIBILITIES FOR COLLECTION,  
21 TRANSPORTATION, PROCESSING AND MARKETING MATERIALS UNDER THIS  
22 SECTION IN ONE OF THE FOLLOWING WAYS:

23 (I) COLLECT, TRANSPORT, PROCESS AND MARKET MATERIALS  
24 AS REQUIRED BY THIS SECTION.

25 (II) ENTER INTO CONTRACTS WITH OTHER PERSONS FOR THE  
26 COLLECTION, TRANSPORTATION, PROCESSING AND MARKETING OF  
27 MATERIALS AS REQUIRED BY THIS SECTION. A PERSON WHO  
28 ENTERS INTO A CONTRACT UNDER THIS SUBSECTION SHALL BE  
29 RESPONSIBLE WITH THE MUNICIPALITY FOR IMPLEMENTATION OF  
30 THIS SECTION.

1 (2) NOTHING IN THIS SECTION REQUIRES A MUNICIPALITY TO  
2 COLLECT, TRANSPORT, PROCESS AND MARKET MATERIALS, OR TO  
3 CONTRACT FOR THE COLLECTION, TRANSPORTATION, PROCESSING AND  
4 MARKETING OF MATERIALS FROM ESTABLISHMENTS OR ACTIVITIES  
5 WHERE ALL OF THE FOLLOWING ARE MET:

6 (I) THE MUNICIPALITY IS NOT COLLECTING AND  
7 TRANSPORTING MUNICIPAL WASTE FROM SUCH ESTABLISHMENT OR  
8 ACTIVITY.

9 (II) THE MUNICIPALITY HAS NOT CONTRACTED FOR THE  
10 COLLECTION AND TRANSPORTATION OF MUNICIPAL WASTE FROM  
11 SUCH ESTABLISHMENT OR ACTIVITY.

12 (III) THE MUNICIPALITY HAS ADOPTED AN ORDINANCE AS  
13 REQUIRED BY THIS SECTION, AND THE ESTABLISHMENT OR  
14 ACTIVITY IS IN COMPLIANCE WITH THE PROVISIONS OF SECTION  
15 1501.

16 (f) Preference.--In implementing its recycling program, a  
17 municipality shall accord consideration for the collection,  
18 marketing and disposition of recyclable materials to persons  
19 engaged in the business of recycling on the effective date of  
20 this act, whether or not the persons were operating for profit.

21 (G) RECYCLING BY OPERATOR.--AN OPERATOR OF A LANDFILL OR <—  
22 RESOURCE RECOVERY FACILITY MAY CONTRACT WITH A MUNICIPALITY TO  
23 PROVIDE RECYCLING SERVICES IN LIEU OF THE CURBSIDE RECYCLING  
24 PROGRAM. THE CONTRACT MUST ENSURE THAT AT LEAST 25% OF THE WASTE  
25 RECEIVED IS RECYCLED. THE ECONOMIC AND ENVIRONMENTAL IMPACT OF  
26 THE PROPOSED TECHNOLOGY USED FOR THE RECYCLING SHALL RECEIVE  
27 PRIOR APPROVAL FROM THE DEPARTMENT.

28 (H) EXEMPTION.--

29 (1) TWO YEARS AFTER A MUNICIPALITY IS REQUIRED BY THIS  
30 SECTION TO ESTABLISH AND IMPLEMENT A MUNICIPAL RECYCLING

1 PROGRAM, IT MAY FILE WITH THE DEPARTMENT A WRITTEN REQUEST  
2 FOR AN EXEMPTION FROM THIS SECTION.

3 (2) THE DEPARTMENT MAY NOT APPROVE A REQUEST FOR AN  
4 EXEMPTION UNLESS THE MUNICIPALITY DEMONSTRATES ALL OF THE  
5 FOLLOWING TO THE DEPARTMENT'S SATISFACTION:

6 (I) THE MUNICIPALITY HAS MADE TIMELY GRANT  
7 APPLICATIONS TO THE DEPARTMENT UNDER SECTIONS 902 AND  
8 904.

9 (II) FOR A PERIOD OF AT LEAST TWO YEARS, THE  
10 MUNICIPALITY HAS EXERCISED ITS BEST EFFORTS TO IMPLEMENT  
11 THE PROGRAM REQUIRED BY THIS SECTION.

12 (III) THE MUNICIPALITY HAS COLLECTED, TRANSPORTED,  
13 PROCESSED AND MARKETED MATERIALS, OR HAS CONTRACTED FOR  
14 THE COLLECTION, TRANSPORTATION, PROCESSING AND MARKETING  
15 OF MATERIALS.

16 (IV) REASONABLE AND NECESSARY COSTS OF OPERATING THE  
17 PROGRAM EXCEED INCOME FROM THE SALE OF USED OR COLLECTED  
18 MATERIAL, AVOIDED COSTS OF MUNICIPAL WASTE PROCESSING OR  
19 DISPOSAL, AND GRANT MONEY RECEIVED FROM THE DEPARTMENT  
20 PURSUANT TO SECTIONS 902 AND 904.

21 (3) IF THE DEPARTMENT APPROVES A REQUEST, THE  
22 MUNICIPALITY SHALL BE EXEMPT FROM THE REQUIREMENTS OF THIS  
23 SECTION ON AND AFTER THE DATE OF THE DEPARTMENT'S APPROVAL.  
24 HOWEVER, THE MUNICIPALITY SHALL IMMEDIATELY PAY TO THE  
25 DEPARTMENT AN AMOUNT EQUAL TO THE DEPRECIATED VALUE OF ANY  
26 CAPITAL EQUIPMENT, BUILDINGS, OR OTHER STRUCTURES OR  
27 FACILITIES THAT WERE CONSTRUCTED OR OBTAINED THROUGH  
28 DEPARTMENTAL GRANTS UNDER SECTIONS 902 AND 904.

29 Section 1502. Facilities operation and recycling.

30 (a) Leaf waste.--Two years after the effective date of this

1 act, no municipal waste landfill may accept for disposal, and no  
2 resource recovery facility may accept for processing, other than  
3 composting, ~~truckloads~~ LOADS composed primarily of leaf waste. ←

4 (b) Drop-off centers.--

5 (1) Two years after the effective date of this act, no  
6 person may operate a municipal waste landfill, resource  
7 recovery facility or transfer station unless the operator has  
8 established at least one drop-off center for the collection  
9 and sale of recyclable material, including, at a minimum,  
10 clear glass, aluminum, high grade office paper and cardboard.  
11 The center must be located at the facility or in a place that  
12 is easily accessible to persons generating municipal waste  
13 that is processed or disposed at the facility. Each drop-off  
14 center must contain bins or containers where recyclable  
15 materials may be placed and temporarily stored. If the  
16 operation of the drop-off center requires attendants, the  
17 center shall be open at least eight hours per week, including  
18 four hours during evenings or weekends. A PERSON WHO DEPOSITS ←  
19 NONRECYCLABLE MATERIAL IN A DROP-OFF CENTER ESTABLISHED UNDER  
20 THIS SUBSECTION COMMITS A SUMMARY OFFENSE.

21 (2) Each operator shall, at least 30 days prior to the  
22 initiation of the drop-off center program and at least once  
23 every six months thereafter, notify all persons generating  
24 municipal waste that is processed or disposed at the  
25 facility. The operator shall place an advertisement in a  
26 newspaper circulating in the municipality or provide notice  
27 in another manner approved by the department.

28 (C) REMOVAL OF RECYCLABLE MATERIALS.--TWO YEARS AFTER THE ←  
29 EFFECTIVE DATE OF THIS ACT, NO PERSON MAY OPERATE A RESOURCE  
30 RECOVERY FACILITY UNLESS THE OPERATOR HAS DEVELOPED A PROCESS

1 FOR THE SORTING OF MUNICIPAL WASTE PRIOR TO INCINERATION AND FOR  
2 THE REMOVAL TO THE GREATEST EXTENT POSSIBLE OF RECYCLABLE  
3 MATERIALS INCLUDING, BUT NOT LIMITED TO, PLASTICS, HIGH GRADE  
4 OFFICE PAPER, ALUMINUM, CLEAR GLASS AND NEWSPAPER, FROM THE  
5 WASTE TO BE INCINERATED. THE DEPARTMENT, BY REGULATION, SHALL  
6 ESTABLISH STANDARDS AND CRITERIA FOR THE SORTING AND REMOVAL  
7 PROCESS.

8 (D) REMOVAL OF HAZARDOUS MATERIALS.--TWO YEARS AFTER THE  
9 EFFECTIVE DATE OF THIS ACT, NO PERSON MAY OPERATE A RESOURCE  
10 RECOVERY FACILITY UNLESS THE OPERATOR HAS DEVELOPED A PROCESS  
11 FOR THE SORTING OF MUNICIPAL WASTE PRIOR TO INCINERATION AND FOR  
12 THE REMOVAL TO THE GREATEST EXTENT POSSIBLE OF HAZARDOUS  
13 MATERIALS, INCLUDING, BUT NOT LIMITED TO, PLASTICS, CORROSIVE  
14 MATERIALS, BATTERIES, PRESSURIZED CANS AND HOUSEHOLD HAZARDOUS  
15 MATERIALS, FROM THE WASTE TO BE INCINERATED. THE DEPARTMENT, BY  
16 REGULATION, SHALL ESTABLISH STANDARDS AND CRITERIA FOR THE  
17 SORTING AND REMOVAL PROCESS.

18 Section 1503. Commonwealth recycling and waste reduction.

19 (a) Recycling.--Within two years after the effective date of  
20 this act, each Commonwealth agency, in coordination with the  
21 Department of General Services, shall establish and implement a  
22 source-separation and collection program for recyclable  
23 materials produced as a result of agency operations, including,  
24 at a minimum, aluminum, high grade office paper and corrugated  
25 paper. The source-separation and collection program shall  
26 include, at a minimum, procedures for collecting and storing  
27 recyclable materials, bins or containers for storing materials,  
28 and contractual or other arrangements with buyers.

29 (b) Waste reduction.--Within two years after the effective  
30 date of this act, each Commonwealth agency, in coordination with

1 the department of General Services, shall establish and  
2 implement a waste reduction program for materials used in the  
3 course of agency operations. The program shall be designed and  
4 implemented to achieve the maximum feasible reduction of waste  
5 generated as a result of agency operations.

6 (c) Use of composted materials.--All Commonwealth agencies  
7 responsible for the maintenance of public lands in this  
8 Commonwealth shall, to the maximum extent practicable and  
9 feasible, give due consideration and preference to the use of  
10 compost materials in all land maintenance activities which are  
11 to be paid with public funds.

12 ~~Section 1504. Procurement by Department of General Services.~~ <—

13 ~~(a) Review of policies.—~~

14 ~~(1) The Department of General Services shall review and~~  
15 ~~revise its existing procurement procedures and specifications~~  
16 ~~for the purchase of products and materials to eliminate~~  
17 ~~procedures and specifications that explicitly discriminate~~  
18 ~~against products and materials with recycled content. The~~  
19 ~~Department of General Services shall review and revise its~~  
20 ~~procedures and specifications on a continuing basis to~~  
21 ~~encourage the use of products and materials with recycled~~  
22 ~~content and shall, in developing new procedures and~~  
23 ~~specification, encourage the use of products and materials~~  
24 ~~with recycled content.~~

25 ~~(2) The Department of General Services shall review and~~  
26 ~~revise its procurement procedures and specifications for the~~  
27 ~~purchase of products and materials to ensure, to the maximum~~  
28 ~~extent economically feasible, that the Department of General~~  
29 ~~Services purchases products or materials that may be recycled~~  
30 ~~or reused when these products are discarded. The Department~~

1 ~~of General Services shall complete an initial review and~~  
2 ~~revision within one year from the effective date of this act.~~  
3 ~~The Department of General Services shall review and revise~~  
4 ~~its procedures and specifications on a continuing basis to~~  
5 ~~encourage the use of products and materials that may be~~  
6 ~~recycled or reused and shall, in developing new procedures~~  
7 ~~and specifications, encourage the use of products and~~  
8 ~~materials that may be recycled or reused.~~

9 ~~(b) Bidding.—~~

10 ~~(1) A person who submits a bid to the Department of~~  
11 ~~General Services for a contract that includes the purchase of~~  
12 ~~products or materials shall certify, in writing, either the~~  
13 ~~percentage by weight of recycled content in the product that~~  
14 ~~is the subject of the bid or such other measure of recycled~~  
15 ~~content as may be set forth in the Department of General~~  
16 ~~Services' invitation for bids. A person may certify that the~~  
17 ~~products or materials contain no recycled content.~~

18 ~~(2) The Department of General Services shall, in issuing~~  
19 ~~an invitation for bids, require that all bidders who seek to~~  
20 ~~qualify for the preference set forth in subsection (c)~~  
21 ~~certify that the products or materials that are the subject~~  
22 ~~of the bid contain a minimum percentage of recycled content~~  
23 ~~that is set forth in the invitation for bids.~~

24 ~~(c) Award of contracts.— Upon evaluation of bids opened for~~  
25 ~~every public contract by the Department of General Services that~~  
26 ~~includes the purchase of products or materials, the Department~~  
27 ~~of General Services shall identify the lowest responsible bidder~~  
28 ~~and any other responsible bidders whose prices exceed that of~~  
29 ~~the lowest responsible bidder by 5% or less who have certified~~  
30 ~~that the products or materials contain at least the minimum~~

1 ~~percentage of recycled content that is set forth in the~~  
2 ~~Department of General Services' invitation for bids. If no~~  
3 ~~bidders offer products or materials with the minimum prescribed~~  
4 ~~recycled content, the Department of General Services shall award~~  
5 ~~the contract to the lowest responsible bidder. This subsection~~  
6 ~~does not apply to products and materials used in highway and~~  
7 ~~bridge maintenance.~~

8 ~~(d) Rulemaking. The Department of General Services may~~  
9 ~~adopt regulations as it deems necessary to carry out the~~  
10 ~~provisions and purposes of this section.~~

11 ~~(e) Cooperation. All Commonwealth agencies shall cooperate~~  
12 ~~with the Department of General Services in carrying out this~~  
13 ~~section.~~

14 ~~(f) Annual report. The Department of General Services shall~~  
15 ~~submit an annual report to the General Assembly concerning its~~  
16 ~~implementation of this section. This report shall include a~~  
17 ~~description of what actions the Department of General Services~~  
18 ~~has taken in the previous year to implement this section. This~~  
19 ~~report shall be submitted on or before the anniversary of the~~  
20 ~~effective date of this act.~~

21 ~~(g) Partial repeal. Sections 2403(b), (c) and 2409(h) of~~  
22 ~~the act of April 9, 1929 (P.L.177, No.175), known as The~~  
23 ~~Administrative Code of 1929, are repealed to the extent that~~  
24 ~~they are inconsistent with subsection (c).~~

25 ~~Section 1505. Procurement by Department of Transportation.~~

26 ~~(a) Review of policies.—~~

27 ~~(1) The Department of Transportation shall review and~~  
28 ~~revise its existing procurement procedures and specifications~~  
29 ~~for the purchase of products and materials to eliminate~~  
30 ~~procedures and specifications that explicitly discriminate~~

1 ~~against products and materials with recycled content and to~~  
2 ~~encourage the use of products and materials with recycled~~  
3 ~~content. The Department of Transportation shall complete an~~  
4 ~~initial review and revision within one year of the effective~~  
5 ~~date of this act. The Department of Transportation shall~~  
6 ~~review and revise its procedures and specifications on a~~  
7 ~~continuing basis to encourage the use of products and~~  
8 ~~materials with recycled content and shall, in developing new~~  
9 ~~procedures and specifications, encourage the use of products~~  
10 ~~and materials with recycled content.~~

11 ~~(2) The Department of Transportation shall review and~~  
12 ~~revise its procurement procedures and specifications for the~~  
13 ~~purchase of products and materials to ensure, to the maximum~~  
14 ~~extent economically feasible, that the Department of~~  
15 ~~Transportation purchases products or materials that may be~~  
16 ~~recycled or reused when these products or materials are~~  
17 ~~discarded. The Department of Transportation shall complete an~~  
18 ~~initial review and revision within one year of the effective~~  
19 ~~date of this act. The Department of Transportation shall~~  
20 ~~review and revise its procedures and specifications on a~~  
21 ~~continuing basis to encourage the use of products and~~  
22 ~~materials that may be recycled or reused and shall, in~~  
23 ~~developing new procedures and specifications, encourage the~~  
24 ~~use of products and materials that may be recycled or reused.~~

25 ~~(b) Rulemaking. The Department of Transportation may adopt~~  
26 ~~regulations as it deems necessary to carry out the provisions~~  
27 ~~and purposes of this section.~~

28 ~~(c) Cooperation. All Commonwealth agencies shall cooperate~~  
29 ~~with the Department of Transportation in carrying out this~~  
30 ~~section.~~

1       ~~(d) Testing. A person who believes that a particular~~  
2 ~~constituent of solid waste or any product or material with~~  
3 ~~recycled content may be beneficially used in lieu of another~~  
4 ~~product or material in the Commonwealth's transportation system~~  
5 ~~may request the Department of Transportation to evaluate that~~  
6 ~~constituent, product or material. The Department of~~  
7 ~~Transportation, in consultation with the department, shall~~  
8 ~~conduct a preliminary review of each proposal to identify which~~  
9 ~~proposals merit an evaluation. If the Department of~~  
10 ~~Transportation finds, after an evaluation, that the constituent,~~  
11 ~~product or material may be beneficially used, it shall amend its~~  
12 ~~procedures and specifications to allow the use of the~~  
13 ~~constituent product or material.~~

14       ~~(e) Grants. The Department of Transportation may award~~  
15 ~~research and demonstration grants concerning the potential~~  
16 ~~beneficial use of a particular constituent of solid waste, or~~  
17 ~~any product or material with recycled content, in lieu of~~  
18 ~~another product or material in the Commonwealth's transportation~~  
19 ~~system. The application shall be made on a form prepared and~~  
20 ~~furnished by the Department of Transportation and shall contain~~  
21 ~~the information the Department of Transportation deems~~  
22 ~~necessary.~~

23       ~~(f) Annual report. The Department of Transportation shall~~  
24 ~~submit an annual report to the General Assembly concerning its~~  
25 ~~implementation of this section. This report shall include a~~  
26 ~~description of what actions the Department of Transportation has~~  
27 ~~taken in the previous year to implement this section. This~~  
28 ~~report shall be submitted on or before the anniversary of the~~  
29 ~~effective date of this act.~~

30 ~~Section 1506. Procurement options for local public agencies and~~

1                   certain Commonwealth agencies.

2       ~~(a) General rule. This section sets forth procurement~~  
3 ~~options for local public agencies. These procurement options are~~  
4 ~~also available to Commonwealth agencies for which materials are~~  
5 ~~not purchased by the Department of General Services or the~~  
6 ~~Department of Transportation. Nothing in this act shall be~~  
7 ~~construed to require the agencies to exercise the options set~~  
8 ~~forth in this section.~~

9       ~~(b) Procedural options. Each public agency subject to this~~  
10 ~~section may, at its discretion, do any of the following:~~

11           ~~(1) Review and revise its procurement procedures and~~  
12 ~~specifications for purchases of paper, lubricating oil, tires~~  
13 ~~and other products or materials to eliminate procedures and~~  
14 ~~specifications that discriminate against recycled products or~~  
15 ~~materials.~~

16           ~~(2) Review and revise its procurement procedures and~~  
17 ~~specifications for purchases of paper, lubricating oil, tires~~  
18 ~~and other products or materials to ensure, to the maximum~~  
19 ~~extent economically feasible, that the agency purchases~~  
20 ~~products or materials that may be recycled or reused when~~  
21 ~~these products are discarded.~~

22           ~~(3) Require that a person who submits a bid to the~~  
23 ~~agency for a contract for purchase products or materials for~~  
24 ~~use by or on behalf of the agency certify, in writing, either~~  
25 ~~the percentage by weight of recycled content in the product~~  
26 ~~or material that is the subject of the bid, or such other~~  
27 ~~measure of recycled content as may be set forth in the~~  
28 ~~agency's invitation for bids.~~

29           ~~(4) Establish specifications for bids for public~~  
30 ~~contracts that require all bidders to propose that a stated~~

1 ~~minimum percentage of products or materials to be used for~~  
2 ~~the contract be made from recycled material.~~

3 ~~(c) Contract options. Each public agency that is subject to~~  
4 ~~this section may, at its discretion, award contracts according~~  
5 ~~to one of the following methods, when the method is set forth in~~  
6 ~~the invitation for bids:~~

7 ~~(1) Upon evaluation of bids opened for a public contract~~  
8 ~~by a public agency for the purchase of products or materials,~~  
9 ~~the public agency shall identify the lowest responsible~~  
10 ~~bidder and any other responsible bidders whose prices exceed~~  
11 ~~that of the lowest responsible bidder by a preference~~  
12 ~~percentage to be set forth in the invitation for bids, but~~  
13 ~~not more than 5% of the bid amount. If no bidders offer~~  
14 ~~products or materials with the minimum prescribed recycled~~  
15 ~~content, the agency shall award the contract to the lowest~~  
16 ~~responsible bidder.~~

17 ~~(2) Upon evaluation of bids opened for a public~~  
18 ~~contract, the agency shall identify the lowest responsible~~  
19 ~~bidder. Where there is a tie for lowest responsible bidder,~~  
20 ~~the agency in determining to whom to award the contract shall~~  
21 ~~consider, as one factor in its determination, which of the~~  
22 ~~bids provides for the greatest weight of recycled material in~~  
23 ~~the product or products to be purchased, or for the best~~  
24 ~~measure of recycled content other than weight as may be set~~  
25 ~~forth in the invitation for bids.~~

26 ~~(d) Other laws. The options set forth in this section may~~  
27 ~~be exercised, notwithstanding any other provision of law to the~~  
28 ~~contrary.~~

29 SECTION 1504. PROCUREMENT BY COMMONWEALTH AGENCIES. <—

30 (A) INITIAL REVIEW.--

1 (1) COMMONWEALTH AGENCIES SHALL REVIEW AND REVISE THEIR  
2 EXISTING PROCUREMENT PROCEDURES AND SPECIFICATIONS FOR THE  
3 PURCHASE OF GOODS, SUPPLIES, EQUIPMENT, MATERIALS AND  
4 PRINTING TO:

5 (I) ELIMINATE PROCEDURES AND SPECIFICATIONS THAT  
6 EXPLICITLY DISCRIMINATE AGAINST GOODS, SUPPLIES,  
7 EQUIPMENT, MATERIALS AND PRINTING WITH RECYCLED CONTENT;  
8 AND

9 (II) ENCOURAGE THE USE OF GOODS, SUPPLIES,  
10 EQUIPMENT, MATERIALS AND PRINTING WITH RECYCLED CONTENT.

11 (B) CONTINUING REVIEW.--COMMONWEALTH AGENCIES SHALL REVIEW  
12 AND REVISE THEIR PROCEDURES AND SPECIFICATIONS ON A CONTINUING  
13 BASIS TO ENCOURAGE THE USE OF GOODS, SUPPLIES, EQUIPMENT,  
14 MATERIALS AND PRINTING WITH RECYCLED CONTENT AND SHALL, IN  
15 DEVELOPING NEW PROCEDURES AND SPECIFICATIONS, ENCOURAGE THE USE  
16 OF GOODS, SUPPLIES, EQUIPMENT, MATERIALS AND PRINTING WITH  
17 RECYCLED CONTENT.

18 (C) RECYCLED MATERIALS.--

19 (1) COMMONWEALTH AGENCIES SHALL REVIEW AND REVISE THEIR  
20 PROCUREMENT PROCEDURES AND SPECIFICATIONS FOR THE PURCHASE OF  
21 GOODS, SUPPLIES, EQUIPMENT, MATERIALS AND PRINTING TO ENSURE,  
22 TO THE MAXIMUM EXTENT ECONOMICALLY FEASIBLE, THAT SUCH  
23 AGENCIES PURCHASE GOODS, SUPPLIES, EQUIPMENT, MATERIALS AND  
24 PRINTING THAT MAY BE RECYCLED OR REUSED WHEN SUCH GOODS,  
25 SUPPLIES, EQUIPMENT, MATERIALS AND PRINTING ARE DISCARDED.

26 (2) COMMONWEALTH AGENCIES SHALL REVIEW AND REVISE THEIR  
27 PROCUREMENT PROCEDURES AND SPECIFICATIONS ON A CONTINUING  
28 BASIS TO ENCOURAGE THE USE OF GOODS, SUPPLIES, EQUIPMENT,  
29 MATERIALS AND PRINTING THAT MAY BE RECYCLED OR REUSED.

30 (3) COMMONWEALTH AGENCIES SHALL ALSO, IN DEVELOPING NEW

1 PROCEDURES AND SPECIFICATIONS, ENCOURAGE THE USE OF GOODS,  
2 SUPPLIES, EQUIPMENT, MATERIALS AND PRINTING THAT MAY BE  
3 RECYCLED OR REUSED.

4 SECTION 1505. PROCUREMENT BY DEPARTMENT OF GENERAL SERVICES.

5 (A) BIDDING.--IN ISSUING INVITATIONS TO BID FOR THE PURCHASE  
6 OF GOODS, SUPPLIES, EQUIPMENT, MATERIALS AND PRINTING, THE  
7 DEPARTMENT OF GENERAL SERVICES SHALL SET FORTH A MINIMUM  
8 PERCENTAGE OF RECYCLED CONTENT FOR THE GOODS, SUPPLIES,  
9 EQUIPMENT, MATERIALS AND PRINTING THAT MUST BE CERTIFIED BY A  
10 BIDDER IN ORDER TO QUALIFY FOR THE PREFERENCE IN SUBSECTION (B).  
11 A PERSON MAY SUBMIT A BID THAT DOES NOT CERTIFY THAT THE GOODS,  
12 SUPPLIES, EQUIPMENT, MATERIALS OR PRINTING CONTAIN SUCH MINIMUM  
13 PERCENTAGE OF RECYCLED CONTENT. THE DEPARTMENT OF GENERAL  
14 SERVICES MAY WAIVE THIS REQUIREMENT FOR GOODS, SUPPLIES,  
15 EQUIPMENT, MATERIALS AND PRINTING THAT CANNOT BE PROCURED WITH  
16 RECYCLED CONTENT.

17 (B) PREFERENCE.--EVERY BIDDER FOR THE PURCHASE OF GOODS,  
18 SUPPLIES, EQUIPMENT, MATERIALS AND PRINTING WHICH CERTIFIES THAT  
19 THE GOODS, SUPPLIES, EQUIPMENT, MATERIALS AND PRINTING SUBJECT  
20 TO THE BID CONTAIN THE MINIMUM PERCENTAGE OF RECYCLED CONTENT  
21 THAT IS SET FORTH IN THE INVITATION FOR BIDS SHALL BE GRANTED A  
22 PREFERENCE EQUAL TO 5% OF THE BID AMOUNT AGAINST ANY BIDDER THAT  
23 HAS NOT SO CERTIFIED.

24 (C) TIES.--WHEN THERE IS A TIE FOR LOWEST RESPONSIBLE  
25 BIDDER, THE DEPARTMENT OF GENERAL SERVICES MAY CONSIDER, AS ONE  
26 FACTOR IN DETERMINING TO WHOM TO AWARD THE CONTRACT, WHICH OF  
27 THE BIDS PROVIDES FOR THE GREATEST WEIGHT OF RECYCLED CONTENT IN  
28 THE GOODS, SUPPLIES, EQUIPMENT, MATERIALS OR PRINTING, OR SUCH  
29 OTHER MEASURE OF RECYCLED CONTENT AS MAY BE SET FORTH IN THE  
30 INVITATION FOR BIDS.

1 (D) IMPLEMENTATION.--THE DEPARTMENT OF GENERAL SERVICES MAY  
2 CARRY OUT THE PROVISIONS AND PURPOSES OF THIS SECTION THROUGH  
3 APPROPRIATE CONTRACTUAL PROVISIONS AND INVITATIONS TO BID,  
4 THROUGH THE ADOPTION OF SUCH REGULATIONS AS IT DEEMS NECESSARY,  
5 OR BOTH.

6 (E) FEDERAL FUNDS.--THE PROVISIONS OF THIS SECTION SHALL NOT  
7 BE APPLICABLE WHEN SUCH PROVISIONS MAY JEOPARDIZE THE RECEIPT OF  
8 FEDERAL FUNDS.

9 (F) ADDITIONAL PROVISIONS.--THE REQUIREMENTS OF THIS SECTION  
10 ARE IN ADDITION TO THOSE SET FORTH IN SECTION 1504 FOR THE  
11 DEPARTMENT OF GENERAL SERVICES.

12 (G) COOPERATION.--ALL COMMONWEALTH AGENCIES SHALL COOPERATE  
13 WITH THE DEPARTMENT OF GENERAL SERVICES IN CARRYING OUT THIS  
14 SECTION.

15 (H) ANNUAL REPORT.--THE DEPARTMENT OF GENERAL SERVICES SHALL  
16 SUBMIT AN ANNUAL REPORT TO THE GENERAL ASSEMBLY CONCERNING THE  
17 IMPLEMENTATION OF THIS SECTION. THIS REPORT SHALL INCLUDE A  
18 DESCRIPTION OF WHAT ACTIONS THE DEPARTMENT OF GENERAL SERVICES  
19 HAS TAKEN IN THE PREVIOUS YEAR TO IMPLEMENT THIS SECTION. THIS  
20 REPORT SHALL BE SUBMITTED ON OR BEFORE THE ANNIVERSARY OF THE  
21 EFFECTIVE DATE OF THIS ACT.

22 SECTION 1506. TESTING BY DEPARTMENT OF TRANSPORTATION.

23 (A) TESTING.--A PERSON WHO BELIEVES THAT A PARTICULAR  
24 CONSTITUENT OF SOLID WASTE OR ANY PRODUCT OR MATERIAL WITH  
25 RECYCLED CONTENT MAY BE BENEFICIALLY USED IN LIEU OF ANOTHER  
26 PRODUCT OR MATERIAL IN THE COMMONWEALTH'S TRANSPORTATION SYSTEM  
27 MAY REQUEST THE DEPARTMENT OF TRANSPORTATION TO EVALUATE THAT  
28 CONSTITUENT, PRODUCT OR MATERIAL. THE DEPARTMENT OF  
29 TRANSPORTATION, IN CONSULTATION WITH THE DEPARTMENT, SHALL  
30 CONDUCT A PRELIMINARY REVIEW OF EACH PROPOSAL TO IDENTIFY WHICH

1 PROPOSALS MERIT AN EVALUATION. IF THE DEPARTMENT OF  
2 TRANSPORTATION FINDS, AFTER AN EVALUATION, THAT THE CONSTITUENT,  
3 PRODUCT OR MATERIAL MAY BE BENEFICIALLY USED, IT SHALL AMEND ITS  
4 PROCEDURES AND SPECIFICATIONS TO ALLOW THE USE OF THE  
5 CONSTITUENT PRODUCT OR MATERIAL.

6 (B) GRANTS.--THE DEPARTMENT OF TRANSPORTATION MAY AWARD  
7 RESEARCH AND DEMONSTRATION GRANTS CONCERNING THE POTENTIAL  
8 BENEFICIAL USE OF A PARTICULAR CONSTITUENT OF SOLID WASTE, OR  
9 ANY PRODUCT OR MATERIAL WITH RECYCLED CONTENT, IN LIEU OF  
10 ANOTHER PRODUCT OR MATERIAL IN THE COMMONWEALTH'S TRANSPORTATION  
11 SYSTEM. THE APPLICATION SHALL BE MADE ON A FORM PREPARED AND  
12 FURNISHED BY THE DEPARTMENT OF TRANSPORTATION AND SHALL CONTAIN  
13 THE INFORMATION THE DEPARTMENT OF TRANSPORTATION DEEMS  
14 NECESSARY.

15 (C) ANNUAL REPORT.--THE DEPARTMENT OF TRANSPORTATION SHALL  
16 SUBMIT AN ANNUAL REPORT TO THE GENERAL ASSEMBLY CONCERNING ITS  
17 IMPLEMENTATION OF THIS SECTION. THIS REPORT SHALL INCLUDE A  
18 DESCRIPTION OF WHAT ACTIONS THE DEPARTMENT OF TRANSPORTATION HAS  
19 TAKEN IN THE PREVIOUS YEAR TO IMPLEMENT THIS SECTION. THIS  
20 REPORT SHALL BE SUBMITTED ON OR BEFORE THE ANNIVERSARY OF THE  
21 EFFECTIVE DATE OF THIS ACT.

22 (D) RULEMAKING.--THE DEPARTMENT OF TRANSPORTATION MAY ADOPT  
23 REGULATIONS AS IT DEEMS NECESSARY TO CARRY OUT THIS SECTION.

24 (E) COOPERATION.--ALL COMMONWEALTH AGENCIES SHALL COOPERATE  
25 WITH THE DEPARTMENT OF TRANSPORTATION IN CARRYING OUT THIS  
26 SECTION.

27 SECTION 1507. PROCUREMENT PROCEDURES FOR LOCAL PUBLIC AGENCIES.

28 (A) PURPOSE.--EACH LOCAL PUBLIC AGENCY MAY, AT ITS  
29 DISCRETION, REVIEW AND REVISE ITS PROCUREMENT PROCEDURES AND  
30 SPECIFICATIONS FOR PURCHASES OF GOODS, SUPPLIES, EQUIPMENT,

1 MATERIALS AND PRINTING TO:

2 (1) ELIMINATE PROCEDURES AND SPECIFICATIONS THAT  
3 EXPLICITLY DISCRIMINATE AGAINST GOODS, SUPPLIES, EQUIPMENT,  
4 MATERIALS AND PRINTING WITH RECYCLED CONTENT;

5 (2) ENCOURAGE THE USE OF GOODS, SUPPLIES, EQUIPMENT,  
6 MATERIALS AND PRINTING WITH RECYCLED CONTENT; AND

7 (3) ENSURE, TO THE MAXIMUM EXTENT ECONOMICALLY FEASIBLE,  
8 THAT IT PURCHASES GOODS, SUPPLIES, EQUIPMENT, MATERIALS AND  
9 PRINTING THAT MAY BE RECYCLED OR REUSED WHEN SUCH GOODS,  
10 SUPPLIES, EQUIPMENT, MATERIALS AND PRINTING ARE DISCARDED.

11 (B) OPTIONS.--THE OPTIONS SET FORTH IN THIS SECTION MAY BE  
12 EXERCISED, NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE  
13 CONTRARY.

14 SECTION 1508. PROCUREMENT OPTIONS FOR LOCAL PUBLIC AGENCIES AND  
15 CERTAIN COMMONWEALTH AGENCIES.

16 (A) GENERAL RULE.--THIS SECTION SETS FORTH PROCUREMENT  
17 OPTIONS FOR LOCAL PUBLIC AGENCIES. THESE PROCUREMENT OPTIONS ARE  
18 ALSO AVAILABLE TO COMMONWEALTH AGENCIES OTHER THAN THE  
19 DEPARTMENT OF GENERAL SERVICES.

20 (B) OPTIONS.--EACH PUBLIC AGENCY SUBJECT TO THIS SECTION  
21 MAY, AT ITS DISCRETION, DO ANY OF THE FOLLOWING:

22 (1) IN ISSUING INVITATIONS TO BID FOR THE PURCHASE OF  
23 GOODS, SUPPLIES, EQUIPMENT, MATERIALS AND PRINTING, SET FORTH  
24 A MINIMUM PERCENTAGE OF RECYCLED CONTENT FOR THE GOODS,  
25 SUPPLIES, EQUIPMENT, MATERIALS AND PRINTING THAT MUST BE  
26 CERTIFIED BY A BIDDER IN ORDER TO QUALIFY FOR THE PREFERENCE  
27 IN THIS PARAGRAPH. A PERSON MAY SUBMIT A BID THAT DOES NOT  
28 CERTIFY THAT THE GOODS, SUPPLIES, EQUIPMENT, MATERIALS OR  
29 PRINTING CONTAIN SUCH MINIMUM PERCENTAGE OF RECYCLED CONTENT.

30 EVERY BIDDER FOR THE PURCHASE OF GOODS, SUPPLIES, EQUIPMENT,

1 MATERIALS AND PRINTING WHICH CERTIFIES THAT THE GOODS,  
2 SUPPLIES, EQUIPMENT, MATERIALS AND PRINTING SUBJECT TO THE  
3 BID CONTAIN THE MINIMUM PERCENTAGE OF RECYCLED CONTENT THAT  
4 IS SET FORTH IN THE INVITATION FOR BIDS SHALL BE GRANTED A  
5 PREFERENCE EQUAL TO 5% OF THE BID AMOUNT AGAINST ANY BIDDER  
6 THAT HAS NOT SO CERTIFIED.

7 (2) ESTABLISH SPECIFICATIONS FOR BIDS FOR PUBLIC  
8 CONTRACTS THAT REQUIRE ALL BIDDERS TO PROPOSE THAT A STATED  
9 MINIMUM PERCENTAGE OF GOODS, SUPPLIES, EQUIPMENT, MATERIALS  
10 OR PRINTING TO BE USED FOR THE CONTRACT BE MADE FROM RECYCLED  
11 MATERIAL.

12 (3) UPON EVALUATION OF BIDS OPENED FOR A PUBLIC CONTRACT  
13 FOR GOODS, SUPPLIES, EQUIPMENT, MATERIALS OR PRINTING, THE  
14 AGENCY SHALL IDENTIFY THE LOWEST RESPONSIBLE BIDDER. WHERE  
15 THERE IS A TIE FOR LOWEST RESPONSIBLE BIDDER, THE AGENCY  
16 SHALL CONSIDER, AS ONE FACTOR IN DETERMINING TO WHOM TO AWARD  
17 THE CONTRACT, WHICH OF THE BIDS PROVIDES FOR THE GREATEST  
18 WEIGHT OF RECYCLED CONTENT IN THE GOODS, SUPPLIES, EQUIPMENT,  
19 MATERIALS OR PRINTING, OR SUCH OTHER MEASURE OF RECYCLED  
20 CONTENT AS MAY BE SET FORTH IN THE INVITATION FOR BIDS.

21 (C) OTHER LAWS.--THE OPTIONS SET FORTH IN THIS SECTION MAY  
22 BE EXERCISED, NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE  
23 CONTRARY.

24 Section ~~1507~~ 1509. Recycling at educational institutions. ←

25 The department, in consultation with the Department of  
26 Education, shall develop guidelines for source separation and  
27 collection of recyclable materials and for waste reduction in  
28 primary and secondary schools, colleges and universities,  
29 whether the schools, colleges and universities are public or  
30 nonpublic. At a minimum, the guidelines shall address generated

1 in administrative offices, classrooms, dormitories and  
2 cafeterias. The Department of Education shall distribute these  
3 guidelines and encourage their implementation. The guidelines  
4 shall be developed and distributed within two years of the  
5 effective date of this act, except that the guidelines are not  
6 required to be distributed to educational institutions that are  
7 Commonwealth agencies implementing recycling programs under  
8 section ~~1505~~ 1503. <—

9 SECTION 1510. RECYCLED PAPER PRODUCTS. <—

10 (A) GENERAL RULE.--THE DEPARTMENT OF GENERAL SERVICES SHALL,  
11 TO THE FULLEST EXTENT POSSIBLE WHEN CONTRACTING FOR PAPER OR  
12 PAPER PRODUCTS, PURCHASE OR APPROVE FOR PURCHASE ONLY SUCH PAPER  
13 OR PAPER PRODUCTS THAT ARE MANUFACTURED OR PRODUCED FROM  
14 RECYCLED PAPER AS SPECIFIED IN SUBSECTION (B).

15 (B) IMPLEMENTATION.--THE PROVISIONS OF SUBSECTION (A) SHALL  
16 BE IMPLEMENTED BY THE DEPARTMENT OF GENERAL SERVICES SO THAT, OF  
17 THE TOTAL VOLUME OF PAPER PURCHASED, RECYCLED PAPER COMPOSES AT  
18 LEAST 10% OF THE VOLUME IN 1989, AT LEAST 25% OF THE VOLUME IN  
19 1991 AND AT LEAST 40% OF THE VOLUME IN 1993.

20 (C) NEWSPRINT.--IN THE CASE OF THE PURCHASE OF NEWSPRINT AND  
21 NEWSPRINT PRODUCTS, AT LEAST 40% OF THE SECONDARY WASTE PAPER  
22 MATERIAL USED IN RECYCLED NEWSPRINT SHALL BE POSTCONSUMER  
23 NEWSPAPER WASTE.

24 (D) APPLICATION OF SECTION.--THIS SECTION SHALL NOT APPLY TO  
25 THE PURCHASE OF PAPER CONTAINERS FOR FOOD OR BEVERAGES.

26 (E) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING  
27 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS  
28 SUBSECTION:

29 "POSTCONSUMER WASTE." ANY PRODUCT GENERATED BY A BUSINESS OR  
30 CONSUMER WHICH HAS SERVED ITS INTENDED END USE, AND WHICH HAS

1 BEEN SEPARATED FROM SOLID WASTE FOR THE PURPOSES OF COLLECTION,  
2 RECYCLING AND DISPOSITION AND WHICH DOES NOT INCLUDE SECONDARY  
3 WASTE MATERIAL OR DEMOLITION WASTE.

4 "RECYCLED PAPER." ANY PAPER HAVING A TOTAL WEIGHT CONSISTING  
5 OF NOT LESS THAN 20% SECONDARY WASTE PAPER MATERIAL IN 1989, NOT  
6 LESS THAN 30% OF SAID MATERIAL IN 1991, NOT LESS THAN 40% OF  
7 SAID MATERIAL IN 1993, AND NOT LESS THAN 50% OF SAID MATERIAL IN  
8 1996 AND THEREAFTER, AND NOT LESS THAN 10% POSTCONSUMER WASTE  
9 BEGINNING IN 1996.

10 "SECONDARY WASTE PAPER MATERIAL." PAPER WASTE GENERATED  
11 AFTER THE COMPLETION OF A PAPERMAKING PROCESS, SUCH AS  
12 POSTCONSUMER WASTE MATERIAL, ENVELOPE CUTTINGS, BINDERY  
13 TRIMMINGS, PRINTING WASTE, CUTTING AND OTHER CONVERTING WASTE,  
14 BUTT ROLLS AND MILL WRAPPERS. THE TERM SHALL NOT INCLUDE FIBROUS  
15 WASTE GENERATED DURING THE MANUFACTURING PROCESS, SUCH AS FIBERS  
16 RECOVERED FROM WASTEWATER OR TRIMMINGS OF PAPER MACHINE ROLLS,  
17 FIBROUS BY-PRODUCTS OF HARVESTING, EXTRACTIVE OR WOODCUTTING  
18 PROCESS, OR FOREST RESIDUE SUCH AS BARK.

19 CHAPTER 17

20 ENFORCEMENT AND REMEDIES

21 Section 1701. Unlawful conduct.

22 (a) Offenses defined.--It shall be unlawful for any person  
23 to:

24 (1) Violate, or cause or assist in the violation of, any  
25 provision of this act, any regulation promulgated hereunder,  
26 any order issued hereunder, or the terms or conditions of any  
27 municipal waste management plan approved by the department  
28 under this act.

29 (2) Fail to adhere to the schedule set forth in, or  
30 pursuant to, this act for developing or submitting to the

1 department a municipal waste management plan.

2 (3) Fail to adhere to the schedule set forth in an  
3 approved plan for planning, design, siting, construction or  
4 operation of municipal waste processing or disposal  
5 facilities.

6 (4) Act in a manner that is contrary to the approved  
7 county plan or otherwise fail to act in a manner that is  
8 consistent with the approved county plan.

9 (5) Fail to make a timely payment of the recycling fee  
10 or host municipality benefit fee.

11 (6) Hinder, obstruct, prevent or interfere with the  
12 department or its personnel in the performance of any duty  
13 under this act.

14 (7) Hinder, obstruct, prevent or interfere with host  
15 municipalities or their personnel in the performance of any  
16 duty related to the collection of the host municipality  
17 benefit fee or in conducting any inspection authorized by  
18 this act.

19 (8) Violate the provisions of 18 Pa.C.S. § 4903  
20 (relating to false swearing) or 4904 (relating to unsworn  
21 falsification to authorities) in complying with any provision  
22 of this act, including, but not limited to, providing or  
23 preparing any information required by this act.

24 (9) Fail to make any payment to the site-specific  
25 postclosure fund or the trust fund for municipally operated  
26 landfills in accordance with the provisions of this act.

27 (b) Public nuisance.--All unlawful conduct set forth in  
28 subsection (a) shall also constitute a public nuisance.

29 Section 1702. Enforcement orders.

30 (a) Issuance.--The department may issue such orders to

1 persons as it deems necessary to aid in the enforcement of the  
2 provisions of this act. Such orders may include, but shall not  
3 be limited to, orders requiring persons to comply with approved  
4 municipal waste management plans and orders requiring compliance  
5 with the provisions of this act and the regulations promulgated  
6 pursuant thereto. Any order issued under this act shall take  
7 effect upon notice, unless the order specifies otherwise. An  
8 appeal to the Environmental Hearing Board shall not act as a  
9 supersedeas. The power of the department to issue an order under  
10 this act is in addition to any other remedy which may be  
11 afforded to the department pursuant to this act or any other  
12 act.

13 (b) Compliance.--It shall be the duty of any person to  
14 proceed diligently to comply with any order issued pursuant to  
15 subsection (a). If such person fails to proceed diligently or  
16 fails to comply with the order within such time, if any, as may  
17 be specified, such person shall be guilty of contempt and shall  
18 be punished by the court in an appropriate manner, and for this  
19 purpose, application may be made by the department to the  
20 Commonwealth Court, which is hereby granted jurisdiction.

21 Section 1703. Restraining violations.

22 (a) Injunctions.--In addition to any other remedies provided  
23 in this act, the department may institute a suit in equity in  
24 the name of the Commonwealth where unlawful conduct or public  
25 nuisance exists for an injunction to restrain a violation of  
26 this act, the regulations promulgated pursuant thereto, any  
27 order issued pursuant thereto, or the terms or conditions of any  
28 approved municipal waste management plan, and to restrain the  
29 maintenance or threat of a public nuisance. In any such  
30 proceeding, the court shall, upon motion of the Commonwealth,

1 issue a prohibitory or mandatory preliminary injunction if it  
2 finds that the defendant is engaging in unlawful conduct as  
3 defined by this act or is engaged in conduct which is causing  
4 immediate and irreparable harm to the public. The Commonwealth  
5 shall not be required to furnish bond or other security in  
6 connection with such proceedings. In addition to an injunction,  
7 the court, in such equity proceedings, may levy civil penalties  
8 as specified in section 1704.

9 (b) Jurisdiction.--In addition to any other remedies  
10 provided for in this act, upon relation of any district attorney  
11 of any county affected, or upon relation of the solicitor of any  
12 county or municipality affected, an action in equity may be  
13 brought in a court of competent jurisdiction for an injunction  
14 to restrain any and all violations of this act or the  
15 regulations promulgated pursuant thereto, or to restrain any  
16 public nuisance.

17 (c) Concurrent remedies.--The penalties and remedies  
18 prescribed by this act shall be deemed concurrent, and the  
19 existence of or exercise of any remedy shall not prevent the  
20 department from exercising any other remedy hereunder, at law or  
21 in equity.

22 (d) Venue.--Actions instituted under this section may be  
23 filed in the appropriate court of common pleas or in the  
24 Commonwealth Court, which courts are hereby granted jurisdiction  
25 to hear such actions.  
26 Section 1704. Civil penalties.

27 (a) Assessment.--In addition to proceeding under any other  
28 remedy available at law or in equity for a violation of any  
29 provision of this act, the regulations promulgated hereunder,  
30 any order of the department issued hereunder, or any term or

1 condition of an approved municipal waste management plan, the  
2 department may assess a civil penalty upon a person for such  
3 violation. Such a penalty may be assessed whether or not the  
4 violation was willful or negligent. In determining the amount of  
5 the penalty, the department shall consider the willfulness of  
6 the violation; the effect on the municipal waste planning  
7 process; damage to air, water, land or other natural resources  
8 of this Commonwealth or their uses; cost of restoration and  
9 abatement; savings resulting to the person in consequence of  
10 such violation; deterrence of future violations; and other  
11 relevant factors. If the violation leads to issuance of a  
12 cessation order, a civil penalty shall be assessed.

13 (b) Escrow.--When the department assesses a civil penalty,  
14 it shall inform the person of the amount of the penalty. The  
15 person charged with the penalty shall then have 30 days to pay  
16 the penalty in full or, if the person wishes to contest either  
17 the amount of the penalty or the fact of the violation, either  
18 to forward the proposed amount to the department for placement  
19 in an escrow account with the State Treasurer or with a bank in  
20 this Commonwealth or to post an appeal bond in the amount of the  
21 penalty. The bond must be executed by a surety licensed to do  
22 business in this Commonwealth and must be satisfactory to the  
23 department. If, through administrative or judicial review of the  
24 proposed penalty, it is determined that no violation occurred or  
25 that the amount of the penalty shall be reduced, the department  
26 shall, within 30 days, remit the appropriate amount to the  
27 person, with an interest accumulated by the escrow deposit.  
28 Failure to forward the money or the appeal bond to the  
29 department within 30 days shall result in a waiver of all legal  
30 rights to contest the violation or the amount of the penalty.

1 (c) Amount.--The maximum civil penalty which may be assessed  
2 pursuant to this section is \$10,000 per violation. Each  
3 violation for each separate day and each violation of any  
4 provision of this act, any regulation promulgated hereunder, any  
5 order issued hereunder, or the terms or conditions of any  
6 approved municipal waste management plan shall constitute a  
7 separate offense under this section.

8 (d) Statute of limitations.--Notwithstanding any other  
9 provision of law to the contrary, there shall be a statute of  
10 limitations of five years upon actions brought by the  
11 Commonwealth under this section.

12 Section 1705. Criminal penalties.

13 (a) Summary offense.--Any person, other than a municipal  
14 official exercising his official duties, who violates any  
15 provision of this act, any regulation promulgated hereunder, any  
16 order issued hereunder, or the terms or conditions of any  
17 approved municipal waste management plan shall, upon conviction  
18 thereof in a summary proceeding, be sentenced to pay a fine of  
19 not less than \$100 and not more than \$1,000 and costs and, in  
20 default of the payment of such fine and costs, to undergo  
21 imprisonment for not more than 30 days.

22 (b) Misdemeanor offense.--Any person, other than a municipal  
23 official exercising his official duties, who violates any  
24 provision of this act, any regulation promulgated hereunder, any  
25 order issued hereunder, or the terms or conditions of any  
26 approved municipal waste management plan, commits a misdemeanor  
27 of the third degree and shall, upon conviction, be sentenced to  
28 pay a fine of not less than \$1,000 but not more than \$10,000 per  
29 day for each violation or to imprisonment for a period of not  
30 more than one year, or both.

1 (c) Second or subsequent offense.--Any person, other than a  
2 municipal official exercising his official duties who, within  
3 two years after a conviction of a misdemeanor for any violation  
4 of this act, violates any provision of this act, any regulation  
5 promulgated hereunder, any order issued hereunder, or the terms  
6 or conditions of any approved municipal waste management plan,  
7 commits a misdemeanor of the second degree and shall, upon  
8 conviction, be sentenced to pay a fine of not less than \$2,500  
9 nor more than \$25,000 for each violation or to imprisonment for  
10 a period of not more than two years, or both.

11 (d) Violations to be separate offense.--Each violation for  
12 each separate day and each violation of any provision of this  
13 act, any regulation promulgated hereunder, any order issued  
14 hereunder, or the terms or conditions of any approved municipal  
15 waste management plan, shall constitute a separate offense under  
16 subsections (a), (b) and (c).

17 Section 1706. Existing rights and remedies preserved;  
18 cumulative remedies authorized.

19 Nothing in this act shall be construed as estopping the  
20 Commonwealth, or any district attorney of a county or solicitor  
21 of a municipality, from proceeding in courts of law or equity to  
22 abate pollution forbidden under this act, or abate nuisances  
23 under existing law. It is hereby declared to be the purpose of  
24 this act to provide additional and cumulative remedies to  
25 control municipal waste planning and management within this  
26 Commonwealth, and nothing contained in this act shall in any way  
27 abridge or alter rights of action or remedies now or hereafter  
28 existing in equity, or under the common law or statutory law,  
29 criminal or civil. Nothing in this act, or the approval of any  
30 municipal waste management plan under this act, or any act done

1 by virtue of this act, shall be construed as estopping the  
2 Commonwealth or persons in the exercise of their rights under  
3 the common law or decisional law or in equity, from proceeding  
4 in courts of law or equity to suppress nuisances, or to abate  
5 any pollution now or hereafter existing, or to enforce common  
6 law or statutory rights. No court of this Commonwealth having  
7 jurisdiction to abate public or private nuisances shall be  
8 deprived of such jurisdiction in any action to abate any private  
9 or public nuisance instituted by any person for the reason that  
10 such nuisance constitutes air or water pollution.

11 Section 1707. Production of materials; recordkeeping  
12 requirements.

13 (a) Authority of department.--The department and its agents  
14 and employees shall:

15 (1) Have access to, and require the production of, books  
16 and papers, documents, and physical evidence pertinent to any  
17 matter under investigation.

18 (2) Require any person engaged in the municipal waste  
19 management or municipal waste planning to establish and  
20 maintain such records and make such reports and furnish such  
21 information as the department may prescribe.

22 (3) Have the authority to enter any building, property,  
23 premises or place where solid waste is generated, stored,  
24 processed, treated or disposed of for the purposes of making  
25 an investigation or inspection necessary to ascertain the  
26 compliance or noncompliance by any person with the provisions  
27 of this act and the regulations promulgated under this act.

28 In connection with the inspection or investigation, samples  
29 may be taken of a solid, semisolid, liquid or contained  
30 gaseous material for analysis. If, analysis is made of the

1 samples, a copy of the results of the analysis shall be  
2 furnished within five business days after receiving the  
3 analysis to the person having apparent authority over the  
4 building, property, premises or place.

5 (b) Warrants.--An agent or employee of the department may  
6 apply for a search warrant to any Commonwealth official  
7 authorized to issue a search warrant for the purposes of  
8 inspecting or examining any property, building, premises, place,  
9 book, record or other physical evidence; of conducting tests; or  
10 of taking samples of any solid waste. The warrant shall be  
11 issued upon probable cause. It shall be sufficient probable  
12 cause to show any of the following:

13 (1) The inspection, examination, test or sampling is  
14 pursuant to a general administrative plan to determine  
15 compliance with this act.

16 (2) The agent or employee has reason to believe that a  
17 violation of this act has occurred or may occur.

18 (3) The agent or employee has been refused access to the  
19 property, building, premises, place, book, record or physical  
20 evidence or has been prevented from conducting tests or  
21 taking samples.

22 Section 1708. Withholding of State funds.

23 In addition to any other penalties provided in this act, the  
24 department may notify the State Treasurer to withhold payment of  
25 all or any portion of funds payable to the municipality by the  
26 department from the General Fund or any other fund if the  
27 municipality has engaged in any unlawful conduct under section  
28 1701. Upon notification, the State Treasurer shall hold in  
29 escrow such moneys due to such municipality until such time as  
30 the department notifies the State Treasurer that the

1 municipality has complied with such requirement or schedule.

2 Section 1709. Collection of fines, fees, etc.

3 (a) Lien.--All fines, fees, interest and penalties and any  
4 other assessments shall be collectible in any manner provided by  
5 law for the collection of debts. If the person liable to pay any  
6 such amount neglects or refuses to pay the same after demand,  
7 the amount, together with interest and any costs that may  
8 accrue, shall be a judgment in favor of the Commonwealth or the  
9 host municipality, as the case may be, upon the property of such  
10 person, but only after same has been entered and docketed of  
11 record by the prothonotary of the county where such property is  
12 situated. The Commonwealth or host municipality, as the case may  
13 be, may at any time transmit to the prothonotaries of the  
14 respective counties certified copies of all such judgments, and  
15 it shall be the duty of each prothonotary to enter and docket  
16 the same of record in his office, and to index the same as  
17 judgments are indexed, without requiring the payment of costs as  
18 a condition precedent to the entry thereof.

19 (b) Deposit of fines.--All fines collected pursuant to  
20 sections 1704 and 1705 shall be paid into the Solid Waste  
21 Abatement Fund.

22 Section 1710. Right of citizen to intervene in proceedings.

23 Any citizen of this Commonwealth having an interest which is  
24 or may be adversely affected shall have the right on his own  
25 behalf, without posting bond, to intervene in any action brought  
26 pursuant to section 1703 or 1704.

27 ~~Section 1711. Remedies of citizens.~~ <—

28 ~~(a) Commencement of civil action. Except as provided in~~  
29 ~~subsection (b), any person having an interest which is or may be~~  
30 ~~adversely affected may commence a civil suit on his own behalf~~

1 ~~to compel compliance with this act, or any rule or regulation~~  
2 ~~promulgated hereunder, against any municipality where the~~  
3 ~~municipality fails to comply with the provisions of this act or~~  
4 ~~against the department where there is alleged a failure of the~~  
5 ~~department to perform any act which is not discretionary with~~  
6 ~~the department.~~

7 ~~(b) Notice. No action pursuant to this section may be~~  
8 ~~commenced prior to 60 days after the plaintiff has given notice,~~  
9 ~~in writing, notifying the department of the section of this act~~  
10 ~~or the rule or regulation for which compliance is sought. In~~  
11 ~~addition, no such action may be commenced if the department has~~  
12 ~~commenced and is diligently proceeding with performance of the~~  
13 ~~required nondiscretionary act.~~

14 ~~(c) Multiple actions. No action under this section may be~~  
15 ~~commenced if the department has commenced and is diligently~~  
16 ~~prosecuting a civil action in a court of the United States or of~~  
17 ~~the Commonwealth, has issued an order, or has entered a consent~~  
18 ~~order and agreement or consent decree to require compliance with~~  
19 ~~this act, any regulation promulgated under this act, any order~~  
20 ~~of the department issued under this act or any term or condition~~  
21 ~~of an approved municipal waste management plan. If the~~  
22 ~~department has commenced and is diligently prosecuting a civil~~  
23 ~~action in a court of the Commonwealth, any person with an~~  
24 ~~interest which is or may be adversely affected may intervene as~~  
25 ~~of right.~~

26 ~~Section 1712. Affirmative defense.~~

27 ~~(a) Defense. It shall be an affirmative defense to any~~  
28 ~~action by the department pursuant to section 1702, 1704, 1705 or~~  
29 ~~1708 and any action brought pursuant to section 1711 against any~~  
30 ~~municipality alleged to be in violation of section 1501 that~~

1 ~~such municipality's failure to comply is caused by excessive~~  
2 ~~costs of the program required by section 1501. Program costs are~~  
3 ~~excessive when reasonable and necessary costs of operating the~~  
4 ~~program exceed income from the sale or use of collected~~  
5 ~~material, grant money received from the department pursuant to~~  
6 ~~section 902, and avoided costs of municipal waste processing or~~  
7 ~~disposal.~~

8 ~~(b) Requirements.—A municipality may not assert the~~  
9 ~~affirmative defense provided by this section if it has failed:~~

10 ~~(1) To make a timely grant application to the department~~  
11 ~~pursuant to section 902.~~

12 ~~(2) To exercise its best efforts to implement the~~  
13 ~~program required by section 1501 for at least two years after~~  
14 ~~it was required to establish and implement the program.~~

15 ~~(c) Construction.—Nothing in this section shall be~~  
16 ~~construed or understood:~~

17 ~~(1) To create an affirmative defense for a municipality~~  
18 ~~that is alleged to be in violation of any provision of law~~  
19 ~~other than section 1501.~~

20 ~~(2) To create an affirmative defense for any person~~  
21 ~~other than a municipality.~~

22 ~~(3) To modify or affect existing statutory and case law~~  
23 ~~concerning affirmative defenses to department actions, except~~  
24 ~~as expressly provided in subsection (a).~~

25 SECTION 1711. REMEDIES OF CITIZENS. ←

26 (A) AUTHORITY TO BRING CIVIL ACTION.--EXCEPT AS PROVIDED IN  
27 SUBSECTION (C), ANY AFFECTED PERSON MAY COMMENCE A CIVIL ACTION  
28 ON HIS OWN BEHALF AGAINST ANY PERSON WHO IS ALLEGED TO BE IN  
29 VIOLATION OF THIS ACT.

30 (B) JURISDICTION.--THE ENVIRONMENTAL HEARING BOARD IS HEREBY

1 GIVEN JURISDICTION OVER CITIZEN SUIT ACTIONS BROUGHT UNDER THIS  
2 SECTION AGAINST THE DEPARTMENT. ACTIONS AGAINST ANY OTHER  
3 PERSONS UNDER THIS SECTION MAY BE TAKEN IN A COURT OF COMPETENT  
4 JURISDICTION. SUCH JURISDICTION IS IN ADDITION TO ANY RIGHTS OF  
5 ACTION NOW OR HEREAFTER EXISTING IN EQUITY, OR UNDER THE COMMON  
6 LAW OR STATUTORY LAW.

7 (C) NOTICE.--NO ACTION MAY BE COMMENCED UNDER THIS SECTION  
8 PRIOR TO 60 DAYS AFTER THE PLAINTIFF HAS GIVEN NOTICE OF THE  
9 VIOLATION TO THE SECRETARY, TO THE HOST MUNICIPALITY AND TO ANY  
10 ALLEGED VIOLATOR OF THE ACT, OF OTHER ENVIRONMENTAL PROTECTION  
11 ACTS, OR OF THE REGULATION OR ORDER OF THE DEPARTMENT WHICH HAS  
12 ALLEGEDLY BEEN VIOLATED, NOR SHALL ANY ACTION BE COMMENCED UNDER  
13 THIS SECTION IF THE SECRETARY HAS COMMENCED AND IS DILIGENTLY  
14 PROSECUTING AN ADMINISTRATIVE ACTION BEFORE THE ENVIRONMENTAL  
15 HEARING BOARD, OR A CIVIL OR CRIMINAL ACTION IN A COURT OF THE  
16 UNITED STATES OR A STATE TO REQUIRE COMPLIANCE WITH SUCH PERMIT,  
17 STANDARD, REGULATION, CONDITION, REQUIREMENT, PROHIBITION OR  
18 ORDER.

19 (D) AWARD OF COSTS.--THE ENVIRONMENTAL HEARING BOARD OR A  
20 COURT OF COMPETENT JURISDICTION, IN ISSUING ANY FINAL ORDER IN  
21 ANY ACTION BROUGHT PURSUANT TO SUBSECTION (A), MAY AWARD COSTS  
22 OF LITIGATION, INCLUDING REASONABLE ATTORNEY AND EXPERT WITNESS  
23 FEES, TO ANY PARTY, WHENEVER THE BOARD OR COURT DETERMINES SUCH  
24 AWARD IS APPROPRIATE.

25 Section ~~1713~~ 1712. Public information. ←

26 (a) General rule.--Except as provided in subsection (b),  
27 records, reports or other information obtained under this act  
28 shall be available to the public for inspection or copying  
29 during regular business hours.

30 (b) Confidentiality.--The department may, upon request,

1 designate records, reports or information as confidential when  
2 the person providing the information demonstrates all of the  
3 following:

4 (1) The information contains the trade secrets,  
5 processes, operations, style of work or apparatus of a person  
6 or is otherwise confidential business information.

7 (2) The information does not relate to public health,  
8 safety, welfare, or the environment.

9 (c) Separation of information.--When submitting information  
10 under this act, a person shall designate the information which  
11 the person believes is confidential or shall submit that  
12 information separately from other information being submitted.

13 SECTION 1713. WHISTLEBLOWER PROVISIONS. ←

14 (A) ADVERSE ACTION PROHIBITED.--NO EMPLOYER MAY DISCHARGE,  
15 THREATEN, OR OTHERWISE DISCRIMINATE OR RETALIATE AGAINST AN  
16 EMPLOYEE REGARDING THE EMPLOYEE'S COMPENSATION, TERMS,  
17 CONDITIONS, LOCATION OR PRIVILEGES OF EMPLOYMENT BECAUSE THE  
18 EMPLOYEE MAKES A GOOD FAITH REPORT OR IS ABOUT TO REPORT,  
19 VERBALLY OR IN WRITING, TO THE EMPLOYER OR APPROPRIATE AUTHORITY  
20 AN INSTANCE OF WRONGDOING UNDER THIS ACT.

21 (B) REMEDIES.--THE REMEDIES, PENALTIES AND ENFORCEMENT  
22 PROCEDURES FOR VIOLATIONS OF THIS SECTION SHALL BE AS PROVIDED  
23 IN THE ACT OF DECEMBER 12, 1986 (P.L.1559, NO.169), KNOWN AS THE  
24 WHISTLEBLOWER LAW.

25 (C) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING  
26 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS  
27 SUBSECTION:

28 "APPROPRIATE AUTHORITY." A FEDERAL, STATE OR LOCAL  
29 GOVERNMENT BODY, AGENCY OR ORGANIZATION HAVING JURISDICTION OVER  
30 CRIMINAL LAW ENFORCEMENT, REGULATORY VIOLATIONS, PROFESSIONAL

1 CONDUCT OR ETHICS, OR WASTE; OR A MEMBER, OFFICER, AGENT,  
2 REPRESENTATIVE OR SUPERVISORY EMPLOYEE OF THE BODY, AGENCY OR  
3 ORGANIZATION. THE TERM INCLUDES, BUT IS NOT LIMITED TO, THE  
4 OFFICE OF ATTORNEY GENERAL, THE DEPARTMENT OF THE AUDITOR  
5 GENERAL, THE TREASURY DEPARTMENT, THE GENERAL ASSEMBLY AND  
6 COMMITTEES OF THE GENERAL ASSEMBLY HAVING THE POWER AND DUTY TO  
7 INVESTIGATE CRIMINAL LAW ENFORCEMENT, REGULATORY VIOLATIONS,  
8 PROFESSIONAL CONDUCT OR ETHICS, OR WASTE.

9 "EMPLOYEE." A PERSON WHO PERFORMS A SERVICE FOR WAGES OR  
10 OTHER REMUNERATION UNDER A CONTRACT OF HIRE, WRITTEN OR ORAL,  
11 EXPRESS OR IMPLIED, FOR AN EMPLOYER, WHETHER OR NOT THE EMPLOYER  
12 IS A PUBLIC BODY.

13 "EMPLOYER." A PERSON SUPERVISING ONE OR MORE EMPLOYEES,  
14 INCLUDING THE EMPLOYEE IN QUESTION; A SUPERIOR OF THAT  
15 SUPERVISOR; OR AN AGENT OF A PUBLIC BODY.

16 "GOOD FAITH REPORT." A REPORT OF CONDUCT DEFINED IN THIS ACT  
17 AS WRONGDOING OR WASTE WHICH IS MADE WITHOUT MALICE OR  
18 CONSIDERATION OF PERSONAL BENEFIT AND WHICH THE PERSON MAKING  
19 THE REPORT HAS REASONABLE CAUSE TO BELIEVE IS TRUE.

20 "PUBLIC BODY." ALL OF THE FOLLOWING:

21 (1) A STATE OFFICER, AGENCY, DEPARTMENT, DIVISION,  
22 BUREAU, BOARD, COMMISSION, COUNCIL, AUTHORITY OR OTHER BODY  
23 IN THE EXECUTIVE BRANCH OF STATE GOVERNMENT.

24 (2) A COUNTY, CITY, TOWNSHIP, REGIONAL GOVERNING BODY,  
25 COUNCIL, SCHOOL DISTRICT, SPECIAL DISTRICT OR MUNICIPAL  
26 CORPORATION, OR A BOARD, DEPARTMENT, COMMISSION, COUNCIL OR  
27 AGENCY.

28 (3) ANY OTHER BODY WHICH IS CREATED BY COMMONWEALTH OR  
29 POLITICAL SUBDIVISION AUTHORITY OR WHICH IS FUNDED IN ANY  
30 AMOUNT BY OR THROUGH COMMONWEALTH OR POLITICAL SUBDIVISION

1 AUTHORITY OR A MEMBER OR EMPLOYEE OF THAT BODY.

2 "WASTE." AN EMPLOYER'S CONDUCT OR OMISSIONS WHICH RESULT IN  
3 SUBSTANTIAL ABUSE, MISUSE, DESTRUCTION OR LOSS OF FUNDS OR  
4 RESOURCES BELONGING TO OR DERIVED FROM COMMONWEALTH OR POLITICAL  
5 SUBDIVISION SOURCES.

6 "WHISTLEBLOWER." A PERSON WHO WITNESSES OR HAS EVIDENCE OF  
7 WRONGDOING OR WASTE WHILE EMPLOYED AND WHO MAKES A GOOD FAITH  
8 REPORT OF THE WRONGDOING OR WASTE, VERBALLY OR IN WRITING, TO  
9 ONE OF THE PERSON'S SUPERIORS, TO AN AGENT OF THE EMPLOYER OR TO  
10 AN APPROPRIATE AUTHORITY.

11 "WRONGDOING." A VIOLATION WHICH IS NOT OF A MERELY TECHNICAL  
12 OR MINIMAL NATURE OF A FEDERAL OR STATE STATUTE OR REGULATION,  
13 OF A POLITICAL SUBDIVISION ORDINANCE OR REGULATION OR OF A CODE  
14 OF CONDUCT OR ETHICS DESIGNED TO PROTECT THE INTEREST OF THE  
15 PUBLIC OR THE EMPLOYER.  
16 SECTION 1714. ADDITIONAL PENALTIES.

17 (A) DRIVER LICENSE.--IF ANY PERSON IS CONVICTED OF OR PLEADS  
18 GUILTY OR NO CONTEST TO A VIOLATION OF SECTION 610(1) OF THE  
19 SOLID WASTE MANAGEMENT ACT, THE DEPARTMENT SHALL, WITHIN 30  
20 DAYS, SEND A CERTIFIED COPY OF THE JUDGMENT TO THE DEPARTMENT OF  
21 TRANSPORTATION. UPON RECEIPT OF THE CERTIFIED COPY OF THE  
22 JUDGMENT, THE DEPARTMENT OF TRANSPORTATION SHALL SUSPEND THE  
23 OPERATING PRIVILEGE OF THE PERSON FOR ONE YEAR.

24 (B) VEHICLE FORFEITURE.--ANY VEHICLE, EQUIPMENT OR  
25 CONVEYANCE USED FOR THE TRANSPORTATION OR DISPOSAL OF SOLID  
26 WASTE IN THE COMMISSION OF AN OFFENSE UNDER SECTION 610(1) OF  
27 THE SOLID WASTE MANAGEMENT ACT SHALL BE DEEMED CONTRABAND AND  
28 FORFEITED TO THE DEPARTMENT. THE PROVISIONS OF LAW RELATING TO  
29 THE SEIZURE, SUMMARY AND JUDICIAL FORFEITURE, AND CONDEMNATION  
30 OF INTOXICATING LIQUOR SHALL APPLY TO SEIZURES AND FORFEITURES

1 UNDER THIS SECTION. PROCEEDS FROM THE SALE OF FORFEITED  
2 VEHICLES, EQUIPMENT OR CONVEYANCE SHALL BE DEPOSITED IN THE  
3 SOLID WASTE ABATEMENT FUND.

4 (C) RESPONSIBILITY FOR COST.--THE OPERATOR OF ANY VEHICLE,  
5 EQUIPMENT OR CONVEYANCE FORFEITED UNDER SUBSECTION (B) SHALL BE  
6 RESPONSIBLE FOR ANY COSTS INCURRED IN PROPERLY DISPOSING OF  
7 WASTE IN THE VEHICLE, EQUIPMENT OR CONVEYANCE.

8 CHAPTER 19

9 MISCELLANEOUS PROVISIONS

10 Section 1901. Severability.

11 The provisions of this act are severable. If any provision of  
12 this act or its application to any person or circumstance is  
13 held invalid, the invalidity shall not affect other provisions  
14 or applications of this act which can be given effect without  
15 the invalid provision or application.

16 Section 1902. Repeals.

17 (a) Absolute repeals.--The last sentence in section 201(b),  
18 section 201(f) through (l) and sections 202 and 203 of the act  
19 of July 7, 1980 (P.L.380, No.97), known as the Solid Waste  
20 Management Act, are repealed.

21 ~~(b) Inconsistent repeals. Except as provided in section~~ <—

22 (B) INCONSISTENT REPEALS.-- <—

23 (1) EXCEPT AS PROVIDED IN SECTION 501(b) of this act,  
24 the first through fourth sentences of section 201(b) and  
25 section 201(c), (d) and (e) of the act of July 7, 1980  
26 (P.L.380, No.97), known as the Solid Waste Management Act,  
27 are repealed insofar as they are inconsistent with this act.

28 (2) ALL ACTS AND PARTS OF ACTS INCONSISTENT WITH SECTION <—  
29 1505 ARE HEREBY REPEALED TO THE EXTENT OF THE INCONSISTENCY.

30 Section 1903. Effective date.

1        This act shall take effect in 60 days.