

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 183 Session of  
1991

INTRODUCED BY GEORGE, HASAY, SURRA, HANNA, CAPPABIANCA, FARGO,  
COLE, PESCI, JOSEPHS, FEE, STISH, COHEN, STUBAN, CARONE,  
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KASUNIC, SCHEETZ, McNALLY, LAUGHLIN, BATTISTO, SERAFINI, FOX,  
STURLA AND MICHLOVIC, JANUARY 30, 1991

AS REPORTED FROM COMMITTEE ON CONSERVATION, HOUSE OF  
REPRESENTATIVES, AS AMENDED, NOVEMBER 12, 1991

## AN ACT

1 Providing for the review of persons making application for  
2 certain permits relating to the disposition of waste;  
3 providing for further duties of the Department of  
4 Environmental Resources and the Attorney General; providing  
5 penalties; and making repeals.

6 The General Assembly finds as follows:

7 (1) The ~~collection, transportation,~~ treatment, storage, <—  
8 recycling, ~~brokering~~ and disposal of solid waste are critical <—  
9 components of the economic structure of this Commonwealth  
10 and, when properly controlled and regulated, make substantial  
11 contributions to the general welfare, health and prosperity  
12 of this Commonwealth and its inhabitants by minimizing the  
13 serious health and environmental threats inherent in the  
14 management of these wastes.

15 (2) The regulatory provisions of this act are designed  
16 to extend strict Commonwealth regulation to those persons

involved in the operations of these permitted activities so as to foster and justify public confidence and trust in the credibility and integrity of the conduct of these activities.

(3) The solid, ~~hazardous and low level radioactive~~ AND HAZARDOUS waste industries in this Commonwealth can attain, maintain and retain integrity, public confidence and trust, and can promote the general public interest, only under a system of control and regulation that precludes the participation therein of persons with known criminal records, habits or associations, and excludes or removes from any position of authority or responsibility any person known to be so deficient in reliability, expertise or competence with specific reference to the solid, ~~hazardous or low level radioactive~~ AND HAZARDOUS waste industries that his participation would create or enhance the dangers of unsound, unfair or illegal practices, methods and activities in the conduct of the business of these industries.

(4) Notwithstanding the fact that the major percentage of operators involved in these industries are respectable and responsible and that there exists in this Commonwealth a substantial waste industry capable of meeting the permit standards, the solid, ~~hazardous and low level radioactive~~ AND HAZARDOUS waste industries remain vulnerable to corrupting influences.

(5) Therefore, it is vital to the interests of the Commonwealth to prevent entry, direct or indirect, into the operations of the solid, ~~hazardous or low level radioactive~~ AND HAZARDOUS waste industries of persons who have pursued economic gains in an occupational manner or context violative of the criminal code or civil public policies of the

Commonwealth, and it is to the end of excluding such persons  
that the regulatory and investigatory powers and duties  
provided in this supplementary act shall be exercised to the  
fullest extent consistent with law.

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

## CHAPTER 1

### PRELIMINARY PROVISIONS

Section 101. Short title.

This act shall be known and may be cited as the Waste

1 Industry Disclosure Law.

2 Section 102. Definitions.

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

6 "Applicant." Any person seeking a permit under any of the  
7 regulatory acts.

8 "Application." The forms and accompanying documents filed in  
9 connection with the applicant's request for a permit.

10 "Business concern." Any corporation, association, firm,  
11 partnership, trust or other form of commercial organization.

12 "Department." The Department of Environmental Resources of  
13 the Commonwealth.

14 "Disclosure statement." A statement submitted to the  
15 department by an applicant as provided for in Chapter 3.

16 "Key employee." Any person employed IN A MANAGEMENT POSITION <—  
17 by the applicant or the permittee ~~in a supervisory capacity or~~ <—  
18 empowered to make OVERALL discretionary decisions with respect <—  
19 to the solid, ~~hazardous or low level radioactive~~ OR HAZARDOUS <—  
20 waste operations of the business concern, OR ANY PERSON EMPLOYED <—  
21 IN A MANAGEMENT POSITION BY THE APPLICANT OR PERMITTEE EMPOWERED  
22 TO MAKE OVERALL DISCRETIONARY DECISIONS WITH RESPECT TO SOLID OR  
23 HAZARDOUS WASTE OPERATIONS AT A FACILITY OR CAPTIVE FACILITY, AS  
24 DEFINED IN THE REGULATORY ACTS, OF THE BUSINESS CONCERN, but  
25 shall not include employees exclusively engaged in the physical  
26 or mechanical collection, transportation, treatment, storage,  
27 recycling, brokering or disposal of solid, ~~hazardous or low~~ <—  
28 ~~level radioactive~~ OR HAZARDOUS waste. <—

29 "Permittee." Any person who has received a permit.

30 "Regulatory acts." The act of July 7, 1980 (P.L.380, No.97),

1 known as the Solid Waste Management Act; THE ACT OF JULY 13, <—  
2 1988 (P.L.525, NO.93), REFERRED TO AS THE INFECTIOUS AND  
3 CHEMOTHERAPEUTIC WASTE LAW; the act of July 28, 1988 (P.L.556,  
4 No.101), known as the Municipal Waste Planning, Recycling and  
5 Waste Reduction Act; and the act of October 18, 1988 (P.L.756,  
6 No.108), known as the Hazardous Sites Cleanup Act.

7 SECTION 103. POWERS AND DUTIES. <—

8 (A) DEPARTMENT.--THE DEPARTMENT SHALL HAVE THE POWER AND ITS  
9 DUTY SHALL BE TO ADOPT ANY RULES AND REGULATIONS NEEDED TO  
10 ACCOMPLISH THE PURPOSES AND CARRY OUT THE PROVISIONS OF THIS  
11 ACT.

12 (B) OFFICE OF ATTORNEY GENERAL.--THE OFFICE OF ATTORNEY  
13 GENERAL SHALL HAVE THE POWER AND ITS DUTY SHALL BE TO CONDUCT  
14 INVESTIGATIONS OF CRIMINAL CONVICTIONS INDICATED ON THE  
15 DISCLOSURE STATEMENT OR CERTIFICATION STATEMENT.

16 CHAPTER 3

17 DISCLOSURE STATEMENTS

18 Section 301. Requirements.

19 (a) General rule.--In addition to any procedure, condition  
20 or information requirement of any of the regulatory acts, every  
21 APPLICANT AND permittee shall file the disclosure statement OR <—  
22 CERTIFICATION STATEMENT required under this act with the  
23 department and the Attorney General. All APPLICANTS AND <—  
24 permittees shall also file the disclosure statement when there  
25 is a change in the controlling interest of the business concern.

26 (b) Fingerprints.--Any person required to be listed in the  
27 disclosure statement shall be fingerprinted for identification  
28 and investigation purposes in accordance with the regulations of  
29 the Attorney General.

30 Section 302. Content.

(A) STATEMENT.--The disclosure statement shall include the  
following:

(1) The full name, business address and Social Security  
number of the applicant, or, if the applicant is a business  
concern, of any officers, directors, partners or key  
employees thereof and all persons or business concerns  
holding any equity in or debt liability of that business  
concern. If the business concern is a publicly traded  
corporation, the disclosure statement shall include all  
persons or business concerns holding more than 5% of the  
equity in or debt liability of that business concern, except  
~~that, where the debt liability is held by a chartered lending~~  
~~institution, the applicant need only supply the name and~~  
~~business address of the lending institution.~~ THAT:

(I) WHERE THE DEBT LIABILITY OF SUCH BUSINESS  
CONCERN OR ITS PARENT ORGANIZATION OR SUBSIDIARY IS HELD  
BY A CHARTERED LENDING INSTITUTION, THE BUSINESS CONCERN  
NEED ONLY SUPPLY THE NAME AND BUSINESS ADDRESS OF THE  
LENDING INSTITUTION; OR

(II) WHERE A CLASS OF EQUITY SECURITIES OF SUCH  
BUSINESS CONCERN OR ITS PARENT ORGANIZATION OR SUBSIDIARY  
IS REGISTERED ON A NATIONAL SECURITIES EXCHANGE, THE  
BUSINESS CONCERN WILL BE DEEMED IN COMPLIANCE WITH ALL  
THE PROVISIONS OF THIS SECTION REQUIRING THE DISCLOSURE  
OF ITS EQUITY AND DEBT LIABILITIES OF ITSELF, ITS PARENT  
ORGANIZATION AND SUBSIDIARIES, IF THE BUSINESS CONCERN  
SUPPLIES COPIES OF ANY FILINGS RECEIVED BY IT, ITS PARENT  
ORGANIZATION AND SUBSIDIARIES, OF SCHEDULE 13-D OR  
SCHEDULE 13-G PURSUANT TO THE SECURITIES EXCHANGE ACT OF  
1934 (48 STAT. 881, 15 U.S.C. § 78M(G)(1)).

(2) The full name, business address and Social Security number of all officers, directors or partners of any business concern disclosed in the statement and the names and addresses of all persons holding any equity in or the debt liability of any business concern so disclosed. If the business concern is a publicly traded corporation, the disclosure statement shall include all persons or business concerns holding more than 5% of the equity in or debt liability of that business concern, except that, ~~where the debt liability is held by a chartered lending institution, the applicant need only supply the name and business address of the lending institution.~~

(I) WHERE THE DEBT LIABILITY OF SUCH BUSINESS CONCERN OR ITS PARENT ORGANIZATION OR SUBSIDIARY IS HELD BY A CHARTERED LENDING INSTITUTION, THE BUSINESS CONCERN NEED ONLY SUPPLY THE NAME AND BUSINESS ADDRESS OF THE LENDING INSTITUTION; OR

(II) WHERE A CLASS OF EQUITY SECURITIES OF SUCH BUSINESS CONCERN OR ITS PARENT ORGANIZATION OR SUBSIDIARY IS REGISTERED ON A NATIONAL SECURITIES EXCHANGE, THE BUSINESS CONCERN WILL BE DEEMED IN COMPLIANCE WITH ALL THE PROVISIONS OF THIS SECTION REQUIRING THE DISCLOSURE OF ITS EQUITY AND DEBT LIABILITIES OF ITSELF, ITS PARENT ORGANIZATION AND SUBSIDIARIES, IF THE BUSINESS CONCERN SUPPLIES COPIES OF ANY FILINGS RECEIVED BY IT, ITS PARENT ORGANIZATION AND SUBSIDIARIES, OF SCHEDULE 13-D OR SCHEDULE 13-G PURSUANT TO THE SECURITIES EXCHANGE ACT OF 1934.

(3) The full name and business address of any company which collects, transports, treats, stores, recycles, brokers

1 or disposes of solid waste, residual, municipal, low-level  
2 radioactive or hazardous waste and in which the applicant  
3 holds an equity interest.

4 (4) A description of experience and credentials in,  
5 including any past or present licenses for, the collection,  
6 transportation, treatment, storage, recycling, brokering or  
7 disposal of solid, hazardous or low-level radioactive waste  
8 possessed by the applicant, or, if the applicant is a  
9 business concern, by the key employees, officers, directors  
10 or partners thereof.

11 (5) A listing and explanation of any notices of  
12 violation or prosecution, administrative orders or license  
13 revocations which were issued by any Federal or State  
14 authority in the ten years immediately preceding the filing  
15 of the application and which are pending or have resulted in  
16 a finding or a settlement of a violation of any law or rule  
17 and regulation relating to the collection, transportation,  
18 treatment, storage, recycling, brokering or disposal of  
19 solid, hazardous or low-level radioactive waste by the  
20 applicant, or, if the applicant is a business concern, by any  
21 key employee, officer, director or partner thereof.

22 (6) A listing and explanation of any judgment of  
23 liability or conviction which was rendered, pursuant to any  
24 Federal or State statute or local ordinance, against the  
25 applicant, or, if the applicant is a business concern,  
26 against any key employee, officer, director or partner  
27 thereof.

28 (7) A listing of all labor unions and trade and business  
29 associations in which the applicant was a member or with  
30 which the applicant had a collective bargaining agreement



1 during the ten years preceding the date of the filing of the  
2 application.

3 (8) A listing of any agencies outside this Commonwealth  
4 which had regulatory responsibility over the applicant in  
5 connection with his collection, transportation, treatment,  
6 storage, recycling, brokering or disposal of solid, hazardous  
7 or low-level radioactive waste.

8 (9) Any other information the Attorney General or the  
9 department may require ~~that relates to the competency,~~ <—  
10 ~~reliability or good character of the applicant.~~ RELATING TO <—  
11 SOLID WASTE MANAGEMENT OR THE BUSINESS OF SOLID WASTE  
12 MANAGEMENT OF THE APPLICANT OR PERMITTEE.

13 (B) ANNUAL CERTIFICATION.--

14 (1) EVERY PERMITTEE, COMMENCING JANUARY 15 OF THE YEAR  
15 IMMEDIATELY FOLLOWING THE EFFECTIVE DATE OF THIS ACT AND UPON  
16 JANUARY 15 OF EACH YEAR THEREAFTER, SHALL FILE AN ANNUAL  
17 CERTIFICATION STATEMENT WITH THE DEPARTMENT, EXCEPT THAT THE  
18 CERTIFICATION STATEMENT FILED ON JANUARY 15 OF THE YEAR  
19 IMMEDIATELY FOLLOWING THE EFFECTIVE DATE OF THIS ACT SHALL  
20 INCLUDE THE INFORMATION REQUIRED BY THIS SUBSECTION FOR THE  
21 IMMEDIATELY PREVIOUS TEN YEARS.

22 (2) THE PERSON FILING THE ANNUAL CERTIFICATION STATEMENT  
23 SHALL EITHER CERTIFY THAT WITHIN THE IMMEDIATELY PRIOR YEAR  
24 NEITHER THE PERSON NOR ANY KEY EMPLOYEE HAS BEEN CONVICTED OF  
25 CRIMINAL ACTIVITY OR, IN THE EVENT SUCH CONVICTIONS HAVE  
26 OCCURRED, AN EXPLANATION INCLUDING THE FOLLOWING:

27 (I) THE FACTS AND CIRCUMSTANCES RELATING TO SUCH  
28 CONVICTIONS AND THE RELATIONSHIP OF SUCH CONVICTIONS TO  
29 THE ACTIVITIES OF SUCH PERSON REGULATED PURSUANT TO THE  
30 REGULATORY ACTS OR THE INFECTIOUS AND CHEMOTHERAPEUTIC

WASTE LAW;

(II) WHETHER THE PERSONS OR EMPLOYEES CONVICTED HAVE BEEN SUSPENDED OR DISASSOCIATED FROM THE ACTIVITIES OF THE PERSON FILING THE CERTIFICATION;

(III) WHAT ACTIVITIES, IF ANY, HAVE BEEN UNDERTAKEN TO REMEDY THE IMPACT OF THE CONVICTION UPON THE REGULATED ACTIVITIES OF THE PERSON FILING THE CERTIFICATION OR TO PREVENT OR AVOID ANY FUTURE CONVICTIONS; AND

(IV) ANY PENALTIES, SANCTIONS OR OTHER DISPOSITION OF THE CRIMINAL CONVICTIONS DISCLOSED.

(3) THE CERTIFICATION FILED ON JANUARY 15, 1992, AND EACH YEAR THEREAFTER, SHALL CONSIST OF THE IMMEDIATELY PRIOR YEAR.

(4) A FEE OF \$500 SHALL ACCOMPANY EACH CERTIFICATION STATEMENT FILED UNDER THIS SUBSECTION BY THE PERMITTEE. THIS FEE MAY BE CHANGED BY REGULATION BY THE ATTORNEY GENERAL AFTER ONE YEAR FROM THE EFFECTIVE DATE OF THIS ACT.

Section 303. Procedure.

(a) Investigative report.--The Attorney General shall, within 120 days of the receipt of the disclosure statement from an applicant for an initial permit, prepare and transmit to the department an investigative report on the applicant, based in part upon the disclosure statement, except that this deadline may be extended for a reasonable period of time, for good cause, by the department and the Attorney General. In preparing this report, the Attorney General may request and receive criminal history information from the Federal Bureau of Investigation.

(b) Review of report in connection with application.-- The departmental review of the application shall include a review of the disclosure statement and investigative report.

1 (c) Duty of applicants and permittees.--All applicants and  
2 permittees shall have the continuing duty to provide any  
3 assistance or information requested by the department or the  
4 Attorney General and to cooperate in any inquiry or  
5 investigation conducted by the Attorney General and in any  
6 inquiry, investigation, or hearing conducted by the department.  
7 If, upon issuance of a formal request to answer any inquiry or  
8 produce information, evidence or testimony, any applicant or  
9 permittee refuses to comply, the application may be denied or  
10 the permit may be revoked by the department.

11 (d) Fee.--The Attorney General may charge and collect, ~~in~~ <—  
12 ~~accordance with a fee schedule adopted by regulation,~~ such fees  
13 from applicants and permittees as may be necessary to cover the  
14 costs of enforcing this act. The fee shall be calculated on the  
15 basis of ~~\$100 per~~ each individual required to be listed in the <—  
16 disclosure statement or shown to have a beneficial interest  
17 other than an equity interest or debt liability in the business  
18 of the applicant or the permittee IN ACCORDANCE WITH THE <—  
19 FOLLOWING FEE SCHEDULE:

20 (1) \$600 PER EACH KEY EMPLOYEE; AND

21 (2) \$635 PER COMPANY WHERE THE NUMBER OF KEY EMPLOYEES  
22 IS ONE, \$1,775 PER COMPANY WHERE THE NUMBER OF KEY EMPLOYEES  
23 IS TWO OR THREE, \$5,150 PER COMPANY WHERE THE NUMBER OF KEY  
24 EMPLOYEES IS FOUR TO SEVEN AND \$15,650 PER COMPANY WHERE THE  
25 NUMBER OF KEY EMPLOYEES IS EIGHT OR MORE.

26 THIS FEE SCHEDULE MAY BE CHANGED BY REGULATION BY THE ATTORNEY  
27 GENERAL AFTER ONE YEAR FROM THE EFFECTIVE DATE OF THIS ACT. FEES  
28 COLLECTED UNDER THIS SECTION SHALL BE PLACED IN A RESTRICTED  
29 REVENUE ACCOUNT KNOWN AS THE WASTE INDUSTRY INVESTIGATIVE REPORT  
30 FUND AND MADE AVAILABLE UPON EXECUTIVE AUTHORIZATION FOR

1 ADMINISTRATIVE AND INVESTIGATIVE ACTIVITIES OF THE ATTORNEY  
2 GENERAL, THE DEPARTMENT OR THE ENVIRONMENTAL HEARING BOARD.

3 (e) Changes and additions.--If any of the information  
4 required to be included in the disclosure statement changes, or  
5 if any additional information should be added after the filing  
6 of the statement, the applicant or permittee shall provide that  
7 information to the department and the Attorney General, in  
8 writing, within 30 days of the change or addition.

9 (f) Penalty.--A person commits a felony of the third degree  
10 if he provides any false information or makes any false  
11 statement on any document or during any testimony offered at any  
12 stage of the permit process or investigation made by the  
13 Attorney General.

14 Section 304. Investigative interrogatory.

15 (a) General rule.--Whenever the Attorney General determines  
16 that there exists a reasonable suspicion that any person may  
17 have information or may be in possession, custody or control of  
18 any documentary materials relevant to an investigation of an  
19 applicant or a permittee conducted pursuant to this act, it may  
20 issue, in writing, and cause to be served upon that person an  
21 investigative interrogatory requiring that person to answer  
22 questions under oath and produce material for examination.

23 (b) Content of interrogatory.--Each interrogatory shall:

24 (1) Identify the permittee or applicant who is the  
25 subject of the investigation.

26 (2) Advise the person that he has the right to discuss  
27 the interrogatory with legal counsel prior to returning it to  
28 the Attorney General or prior to making material available,  
29 as provided in subsection (f), and that he has the right to  
30 file in Commonwealth Court a petition to modify or set aside

1 the interrogatory, as provided in subsection (i).

2 (3) Describe the class or classes of documentary  
3 material to be produced thereunder, with sufficient  
4 particularity as to permit the material to be reasonably  
5 identified.

6 (4) Prescribe a return date, which date shall provide a  
7 reasonable period of time within which answers may be made  
8 and within which material so demanded may be assembled and  
9 made available for inspection and copying or reproduction, as  
10 provided in subsection (f).

11 (c) Prohibitions.--No interrogatory shall:

12 (1) contain any requirement which would be held to be  
13 unreasonable if contained in a subpoena duces tecum issued in  
14 aid of a grand jury investigation; or

15 (2) require the production of any documentary evidence  
16 which would be otherwise privileged from disclosure if  
17 demanded by a subpoena duces tecum issued in aid of a grand  
18 jury investigation.

19 (d) Service.--Service of any interrogatory filed under this  
20 section may be made upon any person by:

21 (1) delivering a duly executed copy thereof to the  
22 person or any partner, executive officer, managing agent,  
23 employee or general agent thereof, or to any agent thereof  
24 authorized by appointment or by law to receive service of  
25 process on behalf of the person;

26 (2) delivering a duly executed copy thereof to the  
27 principal office or place of business of the person to be  
28 served; or

29 (3) depositing a copy in the United States mail, by  
30 registered or certified mail duly addressed to the person at

1 his principal office or place of business.

2 (e) Proof of service.--A verified return by the individual  
3 serving an interrogatory, setting forth the manner of service,  
4 shall be prima facie proof of service. In the case of service by  
5 registered or certified mail, the return shall be accompanied by  
6 the return post office receipt of delivery of the interrogatory.

7 (f) Documentary material.--

8 (1) Any person upon whom an interrogatory issued under  
9 this section has been duly served which requires the  
10 production of material shall make the material available for  
11 inspection and copying or reproduction to the Attorney  
12 General at the principal place of business of that person in  
13 this Commonwealth or at any other place as the Attorney  
14 General and the person thereafter may agree and prescribe in  
15 writing, on the return date specified in the interrogatory or  
16 on a later date as the Attorney General may prescribe in  
17 writing. Upon written agreement between the person and the  
18 Attorney General, copies may be substituted for all or any  
19 part of the original material. The Attorney General may cause  
20 the preparation of any copies of documentary material as may  
21 be required for official use by the Attorney General.

22 (2) No material produced pursuant to this section shall  
23 be available for examination by an individual other than the  
24 DEPARTMENT, THE Attorney General or any person retained by <—  
25 the Attorney General in connection with the enforcement of  
26 this act, without the consent of the person who produced the  
27 material. Under reasonable terms and conditions as the  
28 Attorney General shall prescribe, documentary material, while  
29 in his possession, shall be available for examination by the  
30 person who produced the material or by any of his duly

1 authorized representatives.

2 (3) In any investigation conducted pursuant to this act,  
3 the Attorney General ~~may~~ SHALL present before the department, <—  
4 court or grand jury any documentary material in his  
5 possession pursuant to this section, subject to any  
6 protective order deemed proper by the ~~Commonwealth Court~~ <—  
7 ENVIRONMENTAL HEARING BOARD. <—

8 (g) Return of material.--

9 (1) Upon completion of the review and investigation for  
10 which any documentary material was produced under this  
11 section and completion of any case or proceeding arising from  
12 the investigation, the Attorney General shall return, to the  
13 person who produced the material, all the material, other  
14 than copies thereof made by the Attorney General pursuant to  
15 this section, which has not passed into the control of the  
16 department or any court or grand jury through the  
17 introduction thereof into the record of the case or  
18 proceeding.

19 (2) When any documentary material has been produced by  
20 any person under this section for use in an investigation,  
21 and no case or proceeding arising therefrom has been  
22 instituted within two years after ~~completion of the~~ <—  
23 ~~examination and analysis of all evidence assembled in the~~  
24 ~~course of the investigation~~ SUBMISSION OF DOCUMENTARY <—  
25 MATERIAL TO THE DEPARTMENT, the person shall be entitled upon  
26 written demand made upon the Attorney General, to the return  
27 of all documentary material, other than copies thereof made  
28 pursuant to this section, so produced by him.

29 (h) Enforcement.--Whenever a person fails to comply with any  
30 investigative interrogatory duly served upon him under this

1 section, or whenever satisfactory copying or reproduction of any  
2 material cannot be done and a person refuses to surrender the  
3 material, the Attorney General may file ~~in Commonwealth Court~~ <—  
4 WITH THE ENVIRONMENTAL HEARING BOARD a petition for an order of <—  
5 the ~~court~~ BOARD for the enforcement of this section. <—

6 (i) Petition for relief.--At any time before the return date  
7 specified in the interrogatory, the person served with the  
8 interrogatory may file ~~in Commonwealth Court~~ WITH THE <—  
9 ENVIRONMENTAL HEARING BOARD a petition for an order modifying or  
10 setting aside the interrogatory. The time allowed for compliance  
11 with the interrogatory shall not run during the pendency of this  
12 petition. The petition shall specify each ground upon which the  
13 petitioner relies in seeking relief, and may be based upon any  
14 failure of the interrogatory to comply with the provisions of  
15 this section or upon any constitutional or other legal right or  
16 privilege of the petitioner. In this proceeding, the Attorney  
17 General shall establish the existence of an investigation  
18 pursuant to this act and the nature and subject matter of the  
19 investigation.

20 Section 305. Subpoena power.

21 (a) General rule.--Whenever the Attorney General determines  
22 that there exists a reasonable suspicion that any person may  
23 have information or knowledge relevant to an investigation  
24 conducted pursuant to this act, he may issue in writing and  
25 cause to be served upon that person a subpoena to appear and be  
26 examined under oath before the Attorney General.

27 (b) Content of subpoena.--The subpoena shall:

28 (1) Identify the permittee or applicant who is the  
29 subject of the investigation.

30 (2) Advise that person that he may have an attorney



1 present when he appears and testifies or otherwise responds  
2 to the subpoena, and that he has the right, at any time  
3 before the return date of the subpoena, to file in <—  
4 ~~Commonwealth Court~~ WITH THE ENVIRONMENTAL HEARING BOARD a <—  
5 petition to modify or set aside the subpoena, as provided in  
6 subsection (f).

7 (3) Prescribe a date and time at which time that person  
8 must appear to testify, under oath, provided that this date  
9 shall not be less than seven days from the date of service of  
10 the subpoena.

11 (c) Disclosure of information.--

12 (1) Except as otherwise provided in this section, no  
13 information derived pursuant to the subpoena shall be  
14 disclosed by the Attorney General or the department without  
15 the consent of the person testifying.

16 (2) In any investigation conducted pursuant to this act,  
17 the Attorney General may present before the department,  
18 BOARD, court or grand jury any information disclosed pursuant <—  
19 to the subpoena, subject to any protective order deemed  
20 proper by the Commonwealth Court.

21 (d) Service.--Service of a subpoena pursuant to this section  
22 shall be by any of those methods specified in the Pennsylvania  
23 Rules of Civil Procedure for service of summons and complaint in  
24 a civil action.

25 (e) Enforcement.--Whenever any person fails to comply with  
26 any subpoena duly served upon him under this section or whenever  
27 satisfactory copying or reproduction of any material cannot be  
28 done and a person refuses to surrender the material, the  
29 Attorney General may file in the Commonwealth Court a petition  
30 for an order of the court for the enforcement of the subpoena.

1 (f) Petition for relief.--At any time before the return date  
2 specified in the subpoena, the person who has been served with  
3 the subpoena may file in the Commonwealth Court a petition for  
4 an order modifying or setting aside the subpoena. The time  
5 allowed for compliance with the subpoena shall not run during  
6 the pendency of this petition. The petition shall specify each  
7 ground upon which the petitioner relies in seeking relief and  
8 may be based upon any failure of the subpoena to comply with the  
9 provisions of this section or upon any constitutional or other  
10 legal right or privilege of the practitioner. In this  
11 proceeding, the Attorney General shall establish the existence  
12 of an investigation pursuant to this act and the nature and  
13 subject matter of the investigation.

14 Section 306. Unauthorized disclosure.

15 Any public officer or employee who discloses to any person or  
16 agency, other than the DEPARTMENT, THE Attorney General or a <—  
17 person retained by the Attorney General as herein provided, the  
18 name of any person who receives an investigative interrogatory  
19 or a subpoena or any information obtained pursuant thereto,  
20 except in proceedings involving an alleged violation of this act  
21 and except as so directed by the Attorney General, commits a  
22 misdemeanor of the third degree.

23 Section 307. Immunity.

24 (a) General rule.--If any person in attendance pursuant to a  
25 subpoena or interrogatory issued pursuant to this act refuses to  
26 answer personally a question or produce evidence of any kind, or  
27 make the required answers on the ground that he may be  
28 incriminated thereby, and if the Attorney General, in a writing  
29 directed to that person, orders that he answer the question or  
30 produce the evidence, the person shall comply with the order. If

1 the person has complied with the order and if, but for this  
2 section, he would have been privileged to withhold the answer  
3 given or the evidence produced, that answer, testimony or  
4 evidence, or any evidence directly or indirectly derived  
5 therefrom, may not be used against him in any prosecution for a  
6 crime or offense concerning which he gave answer or produced  
7 evidence, provided that the answer, testimony or evidence is  
8 responsive to the question propounded. That person may, however,  
9 be prosecuted or subject to penalty or forfeiture for any  
10 perjury, false swearing or contempt committed in answering, or  
11 failing to answer, or in producing evidence or failing to  
12 produce evidence or in failing to do so in accordance with the  
13 order.

14 ~~(b) Penalty. Any person who fails to obey the command of~~ <—  
15 ~~the subpoena, after being ordered to do so by a court of~~  
16 ~~competent jurisdiction, commits a felony of the third degree. In~~  
17 ~~the alternative, if~~

18 (B) PENALTY.--IF a person fails to obey the command of a <—  
19 subpoena after being ordered to do so by a court of competent  
20 jurisdiction, the Attorney General may apply to that court to  
21 adjudge the person in contempt and to commit him to jail until  
22 such time as he purges himself of contempt by responsively  
23 answering, testifying or producing evidence as ordered.

24 Section 308. Denial of applications and action on permits.

25 (a) Involvement in criminal matters.--Except as provided in  
26 subsections (c) and (d), the department shall not approve a  
27 permit application and may revoke, suspend or modify a permit  
28 under the regulatory acts ~~or the act of July 13, 1988 (P.L.525,~~ <—  
29 ~~No.93), referred to as the Infectious and Chemotherapeutic Waste~~  
30 ~~Law~~ if any of the following apply:

1           (1) The applicant or permittee or a ~~related party~~ KEY       <—  
2       EMPLOYEE of the applicant or permittee:

3           (i) has been convicted of a felony under the laws of  
4       the Commonwealth, the United States or any other  
5       jurisdiction;

6           (ii) has been convicted of a misdemeanor relating to  
7       solid waste management or the business of solid waste  
8       management under the laws of the Commonwealth, the United  
9       States or any other jurisdiction;

10          (iii) has entered into a plea bargain arrangement  
11       and pleaded guilty to lesser charges if the original  
12       charge was a felony under subparagraph (ii); or

13          (iv) is currently under investigation by any  
14       Federal, State or local law enforcement agency; however,  
15       at the written request of the applicant or permittee, the  
16       department may defer decision upon the application or  
17       action upon the permit until the investigation is  
18       completed.

19          (2) The applicant or permittee or any ~~related party~~ KEY       <—  
20       EMPLOYEE of the applicant or permittee is subject to current  
21       or pending charges for a misdemeanor related to solid waste  
22       management or a felony. However, at the written request of  
23       the applicant or permittee or person charged, the department  
24       may defer decision upon the application or action upon the  
25       permit during pendency of the charge.

26       (b) Lack of ~~integrity or~~ competence.--The department may       <—  
27       deny, suspend, modify or revoke a permit under the regulatory  
28       ~~acts or the Infectious and Chemotherapeutic Waste Law if:~~       <—

29           ~~(1) there is substantial evidence that the applicant or~~  
30       ~~permittee lacks the honesty, trustworthiness or integrity~~

1 ~~necessary to operate under the permit in a manner as to~~  
2 ~~safeguard the interest of the public; or~~

3 ~~(2) the applicant or permittee, or a related party of~~  
4 ACTS IF THE APPLICANT OR PERMITTEE, OR A KEY EMPLOYEE OF the <—  
5 applicant or permittee, in any prior business management  
6 performance record in the collection, transportation,  
7 processing, treatment, storage or disposal of solid waste has  
8 not exhibited the expertise and competence necessary to  
9 conduct the activities authorized by the permit.

10 (c) Severance of interest or affiliation.--The department  
11 may approve a permit application under the regulatory acts ~~or~~ <—  
12 ~~the Infectious and Chemotherapeutic Waste Law~~ if the applicant  
13 severs the interest, affiliation or activity which would result  
14 in a permit denial, revocation, suspension or modification under  
15 subsection (a) and the department determines that approval of  
16 the permit is in the public interest.

17 (d) Application filed under prior law.--The department may  
18 approve a permit application under the regulatory acts ~~or the~~ <—  
19 ~~Infectious and Chemotherapeutic Waste Law~~ if the application was  
20 filed with the department before the effective date of this  
21 section and the permit issued by the department includes a  
22 condition that allows the department to revoke the permit if the  
23 disclosure form, a compliance review or an investigation shows  
24 that the permit would be subject to denial, revocation,  
25 suspension or modification under subsections (a) or (b).

26 Section 309. Severance of affiliation.

27 Notwithstanding the disqualification of the applicant or  
28 permittee pursuant to this act, the department may issue or  
29 renew a permit if the applicant or permittee severs the interest  
30 of or affiliation with the person who would otherwise cause that

1 disqualification or may issue or renew a permit on a temporary  
2 basis for a period not to exceed six months if, upon the  
3 recommendation of the Attorney General, the department  
4 determines that the issuance or renewal of the permit is  
5 necessitated by the public interest.

6 CHAPTER 9  
7 MISCELLANEOUS PROVISIONS

8 SECTION 901. ANNUAL REPORT. <—

9 (A) OFFICE OF ATTORNEY GENERAL.--THE OFFICE OF ATTORNEY  
10 GENERAL SHALL, BY OCTOBER 1 OF EACH YEAR, SUBMIT A REPORT OF ITS  
11 ACTIVITIES UNDER THIS ACT TO THE GENERAL ASSEMBLY. THIS REPORT  
12 SHALL INCLUDE, BUT NOT BE LIMITED TO, A LISTING OF THE FORMS  
13 REVIEWED BY THE OFFICE, A LISTING OF CASES WHERE CRIMINAL  
14 VIOLATIONS WERE FOUND OR WHERE PERSONS REFUSED TO COMPLY WITH OR  
15 COOPERATE UNDER THIS ACT, AND A LISTING OF CASES WHERE PERSONS  
16 HAVE USED DISASSOCIATION TO COMPLY WITH THIS ACT.

17 (B) DEPARTMENT.--THE DEPARTMENT SHALL, BY OCTOBER 1 OF EACH  
18 YEAR, SUBMIT A REPORT OF ITS ACTIVITIES UNDER THIS ACT TO THE  
19 GENERAL ASSEMBLY. THE REPORT SHALL INCLUDE, BUT NOT BE LIMITED  
20 TO, A LISTING OF THE INSTANCES WHERE PERMITS, LICENSES OR  
21 REGISTRATIONS WERE DENIED OR REVOKED AS A RESULT OF THIS ACT.

22 Section ~~901~~ 902. Rules and regulations. <—

23 The department, with the advice of the Attorney General and  
24 in the manner provided by law, shall promulgate the rules and  
25 regulations necessary to carry out this act. These regulations  
26 shall not, however, be subject to review under any provision of  
27 the act of June 25, 1982 (P.L.633, No.181), known as the  
28 Regulatory Review Act.

29 Section ~~902~~ 903. Repeals. <—

30 All acts and parts of acts are repealed insofar as they are

1 inconsistent with this act.

2 Section ~~903~~ 904. Effective date.

←

3 This act shall take effect in 60 days.