

ENVIRONMENTAL RESOURCES (27 PA.C.S.) - OMNIBUS AMENDMENTS

Act of Jun. 29, 2002, P.L. 596, No. 90

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Session of 2002

No. 2002-90

HB 2044

AN ACT

Amending Title 27 (Environmental Resources) of the Pennsylvania Consolidated Statutes, consolidating the Environmental Laboratory Accreditation Act; providing for whistleblower protection; establishing a waste transportation safety program, the Waste Transportation Safety Account and a disposal fee for municipal waste landfills; providing for deposit of the disposal fee, for surcharge and for allocation from Environmental Stewardship Fund; imposing penalties; and making repeals.

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

Section 1. Part IV heading of Title 27 of the Pennsylvania Consolidated Statutes is amended and the part is amended by adding a chapter to read:

PART IV
ENVIRONMENTAL PROTECTION
[(Reserved)]
CHAPTER 41
ENVIRONMENTAL LABORATORY ACCREDITATION

Sec.

- 4101. Scope of chapter.
- 4102. Definitions.
- 4103. Establishment of program.
- 4104. Powers and duties.
- 4105. Powers and duties of Environmental Quality Board.
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- 4112. Whistleblower protection.
- 4113. Continuation of existing rules and regulations.

§ 4101. Scope of chapter.

This chapter deals with environmental laboratory accreditation.

§ 4102. Definitions.

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

"Accreditation." A determination by the Department of Environmental Protection that an environmental laboratory is

capable of performing one or more classes of testing or analysis of environmental samples in accordance with this chapter.

"Certificate of accreditation." A document issued by the Department of Environmental Protection certifying that an environmental laboratory has met standards for accreditation.

"Department." The Department of Environmental Protection of the Commonwealth.

"Environmental Hearing Board." The board established under the act of July 13, 1988 (P.L.530, No.94), known as the Environmental Hearing Board Act.

"Environmental laboratory." A facility engaged in the testing or analysis of environmental samples.

"Environmental Quality Board." The board established under section 1920-A of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

"Environmental sample." A solid, liquid, gas or other specimen taken for the purpose of testing or analysis as required by an environmental statute.

"Environmental statute." A statute administered by the Department of Environmental Protection relating to the protection of the environment or of public health, safety and welfare.

"Laboratory supervisor." A technical supervisor of an environmental laboratory who supervises laboratory procedures and reporting of analytical data.

"NELAC." The National Environmental Laboratory Accreditation Conference.

"NELAP." The National Environmental Laboratory Accreditation Program.

"Secretary." The Secretary of Environmental Protection of the Commonwealth.

§ 4103. Establishment of program.

(a) Establishment.--The department shall establish an accreditation program for environmental laboratories.

(b) Accreditation.--An environmental laboratory must be accredited under this chapter and be in compliance with all the provisions of this chapter in order to generate data or perform analyses to be used to comply with an environmental statute.

(c) Testing and analysis.--All testing and analysis requirements of an environmental statute shall be performed by an environmental laboratory accredited under this chapter. Testing and analysis shall be performed in accordance with the requirements of this chapter, the environmental statutes and any conditions imposed by the department.

§ 4104. Powers and duties.

The department shall have the following powers and duties:

(1) Establish, administer and enforce an environmental laboratory accreditation program which shall include accreditation standards necessary for a State certification program. The program shall also include a NELAP accreditation program for those laboratories seeking this certification. The program may also include any other specific broad-based Federal or State accreditation program for certification.

(2) Issue, renew, deny, revoke, suspend or modify certificates of accreditation to environmental laboratories

in accordance with regulations adopted by the Environmental Quality Board.

(3) Impose terms or conditions on accreditation as necessary to implement and enforce this chapter.

(4) Conduct inspections and tests or samplings, including the examination and copying of records and data pertinent to a matter under investigation. Duly authorized agents and employees of the department may at reasonable times enter and examine property, facilities, operations and activities subject to regulation under this chapter.

(5) Issue orders and initiate proceedings as necessary to implement and enforce this chapter.

(6) Require a fee for the processing of an application for a certificate of accreditation, including the issuance, renewal, modification or other action relating to the certificate, in an amount sufficient to pay the department's cost of implementing and administering the accreditation program.

(7) Provide technical assistance and advice to persons and environmental laboratories subject to this chapter.

(8) Contract with third parties to inspect and monitor environmental laboratories.

(9) Cooperate with appropriate Federal, State, interstate and local government units and private organizations to implement this chapter.

(10) Allow the use of experimental procedures on a case-by-case basis to satisfy the testing or analysis requirements established under an environmental statute.

(11) Seek approval as an accrediting authority from NELAP.

§ 4105. Powers and duties of Environmental Quality Board.

(a) General rule.--The Environmental Quality Board shall adopt regulations as necessary to implement this chapter, to include the establishment of:

(1) Testing or analysis to be conducted by an environmental laboratory.

(2) Allowable fees for environmental laboratories.

(3) Requirements for education, training and experience of laboratory supervisors.

(4) Criteria and procedures to be used by the department to accredit environmental laboratories, which may include proficiency test samples and onsite audits.

(b) Accreditation.--An environmental laboratory shall be accredited pursuant to this chapter and in compliance with the provisions of this chapter in order to generate the data and perform analysis to be used to comply with an environmental statute.

(c) General certificate program.--The Environmental Quality Board may adopt regulations that establish a general certificate of accreditation program or certificates of accreditation by rule.

(d) Unique needs.--To the extent possible, the Environmental Quality Board shall establish requirements and procedures that address the unique needs of small businesses, municipalities, municipal authorities and in-house laboratories.

§ 4106. Requirements of certificate of accreditation.

(a) Forms.--Applications, certificates and other documents shall be in a form prescribed by the department.

(b) General requirements.--An environmental laboratory shall have the staff, management structure, equipment, quality assurance and quality control procedures and recordkeeping procedures necessary to ensure that the environmental laboratory generates valid and accurate test results in accordance with all conditions of accreditation and this chapter.

(c) Laboratory supervisor.--Testing, analysis and reporting of data by an accredited laboratory shall be under the direct supervision of a laboratory supervisor. The laboratory supervisor shall certify that each test or analysis is accurate and valid and that the test or analysis was performed in accordance with all conditions of accreditation. The department may disqualify a laboratory supervisor who is responsible for the submission of inaccurate test or analysis results.

(d) Access to records and data.--An accredited laboratory shall provide the department with access to inspect records and data maintained under this chapter and to conduct tests and sampling related to inspections.

§ 4107. Interim requirements.

(a) Registration.--All environmental laboratories shall register with the department by October 2, 2002, on a registration form prepared by the department. An environmental laboratory which begins testing or analysis of environmental samples after this date shall register with the department before beginning operations.

(b) Time for application.--All environmental laboratories shall apply for accreditation within six months after the Environmental Quality Board establishes an accreditation requirement by regulation for a type of laboratory. The submission of an application shall provide interim authorization to continue operations until the department takes final action on the application.

(c) NELAP accreditation.--An environmental laboratory may apply to the department for NELAP accreditation after the department is approved as an accrediting authority by NELAP. The department may grant NELAP accreditation to a laboratory that meets the requirements of this chapter and the most current version of the NELAC standards that are hereby incorporated by reference.

(d) Temporary fees.--Until regulations are promulgated under this chapter, the following fees shall be charged:

(1) Five thousand dollars for the processing of an application for NELAP accreditation.

(2) Fifty dollars for the processing of an application for registration.

§ 4108. Advisory committee.

The secretary shall appoint a Laboratory Accreditation Advisory Committee to provide technical assistance under this chapter. The committee shall consist of 11 members, including the following:

(1) One representative of a municipal authority.

(2) One representative from a commercial environmental

laboratory.

(3) One representative from an industrial environmental laboratory.

(4) One representative from an academic laboratory.

(5) One representative from a small environmental laboratory.

(6) One environmental engineer.

(7) One member of an association of community water supply systems.

(8) One member of an association of wastewater systems.

(9) One member with technical expertise in the testing and analysis of environmental samples.

(10) Two members of the general public.

§ 4109. Unlawful conduct.

(a) General rule.--It shall be unlawful for a person to violate or to cause or assist in the violation of this chapter, to fail to comply with an order or condition of accreditation within the time specified by the department or to hinder, obstruct, prevent or interfere with the department in the performance of its duties under this chapter.

(b) Refusal of accreditation.--The department may refuse to issue a certificate of accreditation to an environmental laboratory which has demonstrated a lack of intention or ability to comply with this chapter or engaged in unlawful conduct or which has an employee, officer, contractor, agent or other person set forth in regulation who has engaged in unlawful activity under this chapter unless the applicant demonstrates to the satisfaction of the department that the unlawful conduct is being or has been corrected.

(c) Denial of access.--It shall be unlawful for an accredited laboratory or other person subject to regulation under this chapter to deny the department access to make inspections and conduct tests or sampling, including the examination and copying of books, papers, records and data pertinent to any matter under investigation pursuant to this chapter. Failure to provide the department with access shall result in the immediate suspension of any accreditation of the laboratory. Upon notice from the department, the laboratory shall immediately cease testing or analysis of environmental samples. The department may revoke an accreditation for failure to provide the department with access to make inspections and conduct tests or sampling, including the examination and copying of books, papers, records and data pertinent to any matter under investigation pursuant to this chapter.

(d) Notice.--The environmental laboratory shall notify each of its customers in writing within 72 hours of receipt of the department's notice if the department suspends or revokes in whole or in part a certificate of accreditation. The notice shall be on a form and in a manner approved by the department.

§ 4110. Penalties.

(a) Criminal penalties.--

(1) A person who knowingly, willfully or recklessly misrepresents that a test or an environmental sample is accurate or was performed in accordance with procedures authorized pursuant to this chapter commits a misdemeanor of

the third degree and, upon conviction, shall be subject to a fine of not less than \$1,250 nor more than \$12,500 or to imprisonment for a period of not more than one year, or both, for each separate offense.

(2) A person who knowingly, willfully or recklessly performs or reports an inaccurate test or analysis of an environmental sample commits a misdemeanor of the third degree and shall, upon conviction, be subject to a fine of not less than \$1,250 nor more than \$12,500 or to imprisonment for a period of not more than one year, or both, for each separate offense.

(3) A person who knowingly, willfully or recklessly misrepresents that an environmental laboratory holds a certificate of accreditation under this chapter commits a misdemeanor of the third degree and shall, upon conviction, be subject to a fine of not less than \$1,250 nor more than \$12,500 or to imprisonment for a period of not more than one year, or both, for each separate offense.

(b) Administrative penalties.--

(1) In addition to any other remedy available at law or equity, the department may assess an administrative penalty for a violation of this chapter. The penalty may be assessed whether or not the violation was willful or negligent. When determining the amount of the penalty, the department shall consider the willfulness of the violation, the damage or injury or threat of damage or injury to public health or the environment, the costs to the department for investigation and enforcement, the economic benefit of the violation to the person and other related factors. The department shall inform the person of the amount of the penalty. The administrative penalty shall not exceed \$5,000 per day per violation.

(2) Every day a violation continues shall be a separate violation.

(3) The amount of the penalty assessed after a hearing before the Environmental Hearing Board or after waiver of the right to appeal the assessment shall be payable to the Commonwealth and collectable in any manner provided at law for collection of debts. If any person liable to pay any such penalty neglects or refuses to pay the penalty after demand, the amount of the penalty, together with interest and cost that may accrue, shall constitute a judgment in favor of the department upon the property of such person from the date it has been entered and docketed of record by the prothonotary of the county in which the property is situated. The department may at any time transmit to the prothonotaries of any county in which the person holds property certified copies of all such judgments, and it shall be the duty of each prothonotary to enter and docket the judgment of record in his or her office and to index the judgment as judgments are indexed, without requiring the payment of costs by the department.

(c) Concurrent penalties.--Penalties and other remedies under this chapter shall be concurrent and shall not prevent the department from exercising any other available remedy at law or equity.

(d) Rebuttable presumption.--Failure of an environmental laboratory or laboratory supervisor to maintain adequate records or proficiency test samples as required creates a rebuttable presumption that the test or analysis was not conducted as required.

(e) Falsifying results.--It shall be unlawful to falsify the results of testing or analysis of environmental samples or to violate the provisions of 18 Pa.C.S. § 4903 (relating to false swearing) or 4904 (relating to unsworn falsification to authorities) in the context of the submission of the results of testing and analysis of environmental samples under an environmental statute.

§ 4111. Records.

Records required under this chapter shall be maintained for five years unless otherwise specified in regulation.

§ 4112. Whistleblower protection.

An employee of an environmental laboratory covered by this chapter shall be deemed to be an employee under the act of December 12, 1986 (P.L.1559, No.169), known as the Whistleblower Law, in regard to good faith reports of potential violations of this chapter. Environmental laboratories covered by this chapter shall be deemed to be an employer under the Whistleblower Law in regard to good faith reports of potential violations of this chapter.

§ 4113. Continuation of existing rules and regulations.

All existing rules and regulations promulgated pursuant to any environmental statute remain in full force and effect until superseded and repealed by the rules and regulations promulgated pursuant to this chapter.

Section 2. Title 27 is amended by adding chapters to read:

CHAPTER 62

WASTE TRANSPORTATION SAFETY

Sec.

6201. Short title of chapter.

6202. Definitions.

6203. Establishment of program.

6204. Waste Transportation Safety Program.

6205. Compliance history review.

6206. Responsibilities of municipal or residual waste processing or disposal facilities.

6207. Enforcement.

6208. Penalties.

6209. Construction of chapter.

§ 6201. Short title of chapter.

This chapter shall be known and may be cited as the Waste Transportation Safety Act.

§ 6202. Definitions.

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

"Combination." Two or more vehicles physically interconnected in tandem.

"Department." The Department of Environmental Protection of the Commonwealth and its authorized representatives.

"Law enforcement officer." A Pennsylvania State Police

officer or a police officer certified pursuant to 53 Pa.C.S. Ch. 21 Subch. D (relating to municipal police education and training).

"Motor carrier vehicle." As defined in 75 Pa.C.S. § 102 (relating to definitions). For purposes of this chapter, the terms "truck," "truck tractor" and "combination" refer to vehicles used to transport municipal or residual waste.

"Municipal Waste Planning, Recycling and Waste Reduction Act." The act of July 28, 1988 (P.L.556, No.101), known as the Municipal Waste Planning, Recycling and Waste Reduction Act,

"Owner." A person other than a lienholder having the property right in or title to a vehicle.

"Qualified Commonwealth employee." Any of the following who have completed training in the inspection or weighing of vehicles as required by 75 Pa.C.S. Chs. 47 (relating to inspection of vehicles) and 49 (relating to size, weight and load):

(1) A law enforcement officer.

(2) A qualified Department of Transportation employee.

"Secretary." The Secretary of Environmental Protection of the Commonwealth.

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

"Transportation." The offsite removal of municipal and residual waste any time after generation.

"Transporter." The owner of a public or private waste transportation vehicle. An individual driving a waste transportation vehicle who is not the owner is not a "transporter" for purposes of this chapter.

"Waste trailer." A vehicle having a registered weight in excess of 10,000 pounds used to carry waste and designed to be towed by a motor vehicle.

"Waste transportation vehicle." Public and private motor carrier vehicles and waste trailers, as defined in this chapter, regularly used in transporting municipal or residual waste to a processing or disposal facility in this Commonwealth. The term does not include vehicles currently registered by the department pursuant to 25 Pa.Code § 285.225 (relating to transportation of residential septage).

§ 6203. Establishment of program.

(a) Establishment.--A Waste Transportation Safety Program is established to protect the public health, safety and welfare and the environment.

(b) Duties.--The Waste Transportation Safety Program shall:

(1) Ensure the responsible and safe transportation of municipal or residual waste to processing and disposal facilities by requiring written authorization from the department.

(2) Prohibit a waste processing or disposal facility from accepting municipal or residual waste from a waste transportation vehicle engaged in commerce without a valid authorization sticker issued by the department.

(3) Provide the department with the authority to deny or revoke written authorization where the agency finds that the transporter has failed or continues to fail to comply with

applicable laws and regulations.

(4) Establish a transportation authorization fee for the administration and enforcement of this chapter.

(c) Relationship to other laws.--Notwithstanding anything to the contrary in this chapter, the Solid Waste Management Act or the Municipal Waste Planning, Recycling and Waste Reduction Act, no county and no municipality may implement a municipal waste or residual waste transportation authorization or licensing program after the effective date of this chapter.

§ 6204. Waste Transportation Safety Program.

(a) Written authorization required.--It shall be unlawful for a transporter to operate a waste transportation vehicle without obtaining written authorization from the department.

(b) Interim written application.--

(1) Within 120 days of the effective date of this chapter, a transporter currently doing business in the Commonwealth shall submit an application for interim written authorization on a form prescribed by the department. This form shall be accompanied by a fee of \$100 per truck or, in the case of a combination, \$50 per truck tractor and \$50 per waste trailer. Each application shall also be accompanied by a copy of the official base State registration provided for in 75 Pa.C.S. § 6144 (relating to vehicle registration and licensing), evidence of the current official certificate of inspection and a current certificate of insurance.

(2) A transporter seeking to do business in this Commonwealth after the effective date of this chapter shall submit an application for interim written authorization on a form prescribed by the department. This form shall be accompanied by a fee of \$100 per truck or, in the case of a combination, \$50 per truck tractor and \$50 per waste trailer. Each application shall also be accompanied by a copy of the official base State registration provided for in 75 Pa.C.S. § 6144, evidence of the current official certificate of inspection and a current certificate of insurance.

(c) Interim written authorization.--Within 60 days of receipt of the fee and documentation required under subsection (b), the department shall issue and provide the transporter with an interim written authorization and authorization stickers for each truck, truck tractor and waste trailer. The authorization stickers shall indicate the transporter's interim written authorization number. An authorization sticker shall be displayed prominently on the left front side of the truck or truck tractor, and an authorization sticker shall be displayed prominently on the back of the truck or waste trailer. Each waste transportation vehicle shall carry a copy of the interim written authorization issued to the transporter by the department and, upon request, present the interim written authorization to the department or a qualified Commonwealth employee.

(d) Term of interim written authorization.--The interim written authorization shall be valid until the transporter receives final authorization unless suspended or revoked by the department.

(e) Compliance history.--Upon notification from the

department, the transporter shall submit on a form provided by the department documentation of compliance history in conformity with section 6205 (relating to compliance history review).

(f) Final written authorization.--Upon evaluation of the transporter's compliance history under section 6205, the department shall make a determination on the issuance of a final written authorization. The final written authorization shall include the transporter's written authorization number, the expiration date and authorization stickers for each truck, truck tractor and waste trailer.

(g) Term of final written authorization.--The final written authorization shall be valid for one year unless suspended or revoked by the department. The terms and conditions of an expired written authorization shall automatically continue when the following conditions are met:

(1) The transporter has submitted a timely renewal application in accordance with subsection (h).

(2) The department is unable, through no fault of the transporter, to issue or deny a written authorization prior to the expiration date of the previous written authorization.

(h) Final written authorization application renewal.--Ninety days prior to expiration of final written authorization, a transporter shall submit an application for renewal of its final written authorization on a form prescribed by the department, accompanied by a fee of \$100 per truck or, in the case of a combination, \$50 per truck tractor and a \$50 per waste trailer. Each application shall also be accompanied by a copy of the official base State registration, the current official certificate of inspection and a current certificate of insurance pursuant to 75 Pa.C.S. (relating to vehicles) for each truck, truck tractor and waste trailer. After publishing a notice in the Pennsylvania Bulletin, no later than July 1 and effective no earlier than January 1 of the following year, the department shall evaluate and may modify the written authorization annual fee in an amount sufficient to cover the actual costs of the department, Pennsylvania State Police and the Department of Transportation in implementing and enforcing this chapter. The annual fee paid to the department by a transporter shall not exceed \$200 per truck or, in the case of a combination, \$100 per truck tractor and \$100 per waste trailer.

(i) Transfer of written authorization.--Written authorization for a waste transportation vehicle may be transferred to another owner in accordance with the procedures in this section.

(j) Procedure for transfer.--In order to use the waste transportation vehicle to transport municipal or residual waste to a processing or disposal facility in this Commonwealth, the new owner shall be deemed to have interim written authorization upon the submission and receipt by the department of a complete application fee as set forth in subsection (b). The interim written authorization shall remain in effect until the department issues or denies final written authorization based upon a review of the new owner's compliance history information as required by this section.

(k) Powers and duties of Environmental Quality Board.--The

Environmental Quality Board shall have the power and duty to adopt regulations to accomplish the purposes and to carry out the provisions of this chapter.

(1) Restricted account.--All fees, fines and penalties collected under the provisions of this chapter shall be paid into the State Treasury in a separate restricted account known as the Waste Transportation Safety Account, which is hereby established. The Waste Transportation Safety Account shall be administered by the department for the administration and enforcement of the Waste Transportation Safety Program, including the inspection of waste transportation vehicles and reimbursing the Pennsylvania State Police and the Department of Transportation for their costs in administering and enforcing this chapter.

§ 6205. Compliance history review.

(a) Transporter noncompliance.--In carrying out the provisions of this chapter, the department may deny, suspend, modify or revoke any written authorization if it finds or receives findings from the Pennsylvania State Police or the Department of Transportation that:

(1) The transporter has failed or continues to fail to comply with any provision of:

- (i) this chapter;
- (ii) the Solid Waste Management Act;
- (iii) the Municipal Waste Planning, Recycling and Waste Reduction Act;
- (iv) any other Federal or State statute relating to environmental protection, motor vehicle safety or to the protection of the public health, safety and welfare;
- (v) any rule or regulation of the department;
- (vi) any order of the department; or
- (vii) any condition of any permit, license or other written authorization issued by the department.

(2) The transporter has shown a lack of ability or intention to comply with:

- (i) any provision of this chapter;
- (ii) any of the acts referred to in this subsection;
- (iii) any rule or regulation of the department or order of the department; or
- (iv) any condition of any permit or license issued by the department as indicated by past or continuing violations.

(b) Related corporations.--In the case of a corporate transporter, the department may deny, suspend, modify or revoke a written authorization if the department finds that a corporation is related to another past or present corporation which committed violations of the Solid Waste Management Act and this chapter. A corporation is related to another corporation if they have common principals or have parent or subsidiary corporation relationships.

§ 6206. Responsibilities of municipal or residual waste processing or disposal facilities.

(a) General rule.--No municipal or residual waste processing or disposal facility shall accept municipal or residual waste from a waste transportation vehicle without a current

authorization sticker issued by the department. Failure to comply with this provision shall result in a penalty assessment of \$2,000 against the operator of the processing or disposal facility.

(b) Disposition.--All penalty assessments collected under this section shall be paid into the Waste Transportation Safety Account.

§ 6207. Enforcement.

(a) Authority of qualified Commonwealth employees.--A qualified Commonwealth employee shall be authorized to assist the department in enforcing provisions of this chapter. The authority granted under this section shall be exercised only when the employee is in uniform and is conducting an inspection of a vehicle as described in 75 Pa.C.S. Chs. 47 (relating to inspection of vehicles) and 49 (relating to size, weight and load).

(b) Training of qualified Commonwealth employees.--The Department of Transportation may train and qualify Commonwealth employees to inspect waste transportation vehicles as authorized under this section and as provided for in 75 Pa.C.S. Chs. 47 and 49. The Department of Transportation shall have the power to adopt regulations to implement this subsection, as necessary.

(c) Disposition.--All fines and penalties collected as a result of violations of this chapter shall be paid into the Waste Transportation Safety Account.

§ 6208. Penalties.

(a) Criminal penalties.--A transporter who violates the provisions of this chapter commits a misdemeanor of the third degree and, upon conviction for the first offense, shall pay a penalty of not less than \$5,000 nor more than \$10,000. Upon the second or subsequent conviction of an offense under this chapter, a transporter commits a misdemeanor of the second degree and shall pay a penalty of not less than \$10,000 nor more than \$25,000, and the court may order the operating privilege of the transporter to be suspended for a period of up to one year, or both.

(b) Civil penalties.--

(1) In addition to proceeding under any other remedy available at law or in equity for a violation of any provision of this chapter, the regulations promulgated hereunder, any order of the department issued under this chapter or any term or condition of a written authorization, the department may assess a civil penalty upon a transporter. Such penalty may be assessed whether or not the violation was willful or negligent. In determining the amount of the penalty, the department shall consider the willfulness of the violation, the effect on waste transportation safety, damage to the natural resources of this Commonwealth or their uses, cost of restoration and abatement, savings resulting to the violator in consequence of such violation, deterrence of future violations and other relevant factors. If the violation leads to the issuance of a cessation order, a civil penalty shall be assessed.

(2) When the department assesses a civil penalty, it shall inform the transporter of the amount of the penalty.

The transporter shall then have 30 days to pay the penalty in full or, if the transporter wishes to contest either the amount of the penalty or the fact of the violation, the transporter shall forward the proposed amount of the penalty to the department for placement in an escrow account with the State Treasurer or with a bank in this Commonwealth or post an appeal bond in the amount of the penalty. The bond must be executed by a surety licensed to do business in this Commonwealth and must be satisfactory to the department. If, through administrative or judicial review of the proposed penalty, it is determined that no violation occurred or that the amount of the penalty shall be reduced, the department shall, within 30 days, remit the appropriate amount to the transporter with any interest accumulated by the escrow deposit. Failure to forward the money or the appeal bond to the department within 30 days shall result in a waiver of all legal rights to contest the violation or the amount of the penalty.

(3) The maximum civil penalty which may be assessed pursuant to this chapter is \$10,000 per violation. Each violation for each separate day and each violation of any provision of the chapter, any regulation promulgated hereunder, any order issued under this chapter or the terms or conditions of any written authorization shall constitute a separate offense under this chapter.

(4) Notwithstanding any other provisions of law to the contrary, there shall be a statute of limitations of five years upon actions brought by the Commonwealth under this chapter.

(c) Enforcement orders.--

(1) The department may issue orders to such transporters, counties and municipalities as it deems necessary to aid in the enforcement of this chapter. Such orders may include, but shall not be limited to, orders modifying, suspending or revoking written authorizations and orders requiring transporters, counties and municipalities to cease unlawful activities or operations of a waste transportation vehicle which in the course of operation is in violation of this chapter, any rule or regulation of the department or any terms and conditions of a written authorization issued under this chapter. An order issued under this chapter shall take effect upon notice unless the order specifies otherwise. An appeal to the Environmental Hearing Board shall not act as a supersedeas. The power of the department to issue an order under this chapter is in addition to any other remedy which may be afforded to the department pursuant to this chapter or any other act.

(2) It shall be the duty of any transporter to proceed diligently to comply with any order issued pursuant to this section. If such transporter fails to proceed diligently or fails to comply with the order within such time, if any, as may be specified, such transporter commits contempt and shall be punished by the court in an appropriate manner, and for this purpose application may be made to the Commonwealth Court, which is hereby granted jurisdiction.

(d) Injunctions.--

(1) In addition to any other remedies provided in this chapter, the department may institute a suit in equity in the name of the Commonwealth where unlawful conduct exists for an injunction to restrain a violation of this chapter, the regulations promulgated under this chapter, any order issued pursuant hereto or the terms or conditions of any written authorization. In any such proceeding, the court shall, upon the motion of the Commonwealth, issue a prohibitory or mandatory preliminary injunction if it finds that the defendant is engaging in unlawful conduct as defined by this chapter or is engaged in conduct which is causing immediate or irreparable harm to the public. The Commonwealth shall not be required to furnish bond or other security in connection with such proceedings. In addition to an injunction, the court in such equity proceedings may levy civil penalties as specified in this chapter.

(2) In addition to any other remedies provided for in this chapter, an action in equity may be brought in a court of competent jurisdiction for an injunction to restrain any and all violations of this chapter or the regulations promulgated under this chapter.

(3) Actions instituted under this section may be filed in the appropriate court of common pleas or in the Commonwealth Court, which courts are hereby granted jurisdiction to hear such actions.

(e) Concurrent remedies.--The penalties and remedies provided in this chapter shall be deemed concurrent and cumulative with all other existing provisions of law or equity. The existence or exercise of any remedy shall not prevent the department from exercising any other remedy under this chapter at any law or in equity.

(f) Forfeiture of waste transportation vehicle.--

(1) A waste transportation vehicle shall be deemed contraband and forfeited to the department if it is transporting municipal or residual waste to a processing or disposal facility in this Commonwealth without a written authorization if the transporter applied for and was denied the written authorization for that vehicle. The waste transportation vehicle forfeiture provisions established in this subsection shall also apply to a waste transportation vehicle used by a transporter who, after receiving notice from the department to obtain written authorization, fails to obtain written authorization under the requirements of the Waste Transportation Safety Program. The provisions of law relating to seizure, summary and judicial forfeiture and condemnation of intoxicating liquor shall apply to seizures and forfeitures under this chapter. Proceeds from the sale of forfeited waste transportation vehicles shall be deposited in the Waste Transportation Safety Account.

(2) The owner of any vehicle or conveyance forfeited under this chapter shall be responsible for any costs incurred in properly disposing of waste in the vehicle or conveyance.

(g) Disposition.--All fines and penalties collected under

this section shall be paid into the Waste Transportation Safety Account.

§ 6209. Construction of chapter.

(a) Liberal construction.--This chapter shall be liberally construed so as best to effectuate the goals and purposes of this chapter.

(b) Pari materia.--This chapter shall be construed in pari materia with the Solid Waste Management Act and 75 Pa.C.S. (relating to vehicles).

CHAPTER 63
DISPOSAL FEE

Sec.

6301. Disposal fee for municipal waste landfills.

6302. Deposit of disposal fee.

6303. Surcharge.

6304. Sunset.

6305. Allocation for Environmental Stewardship Fund.

6306. Adjustments.

§ 6301. Disposal fee for municipal waste landfills.

(a) Imposition.--Except as otherwise provided in subsection (b), each operator of a municipal waste landfill shall pay, in the same manner prescribed in Chapter 7 of the act of July 27, 1988 (P.L.566, No.101), known as the Municipal Waste Planning, Recycling and Waste Reduction Act, a disposal fee of \$4 per ton for all solid waste disposed of at the municipal waste landfill. The fee established in this section shall apply to process residue and nonprocessable waste from a resource recovery facility that is disposed of at the municipal waste landfill and is in addition to the fee established in section 701 of the Municipal Waste Planning, Recycling and Waste Reduction Act.

(b) Exceptions.--The fee established under this section shall not apply to the following:

(1) Process residue and nonprocessable waste that is permitted for beneficial use or for use as alternate daily cover at a municipal waste landfill.

(2) Solid waste from a hazardous waste treatment facility that is converted into nonhazardous waste and disposed of at a municipal waste landfill.

§ 6302. Deposit of disposal fee.

(1) For the fiscal year 2002-2003, fees received by the department pursuant to section 6301 (relating to disposal fee for municipal waste landfills) shall be paid into the State Treasury as follows:

(i) The first \$50,000,000 in fees collected shall be deposited into the Environmental Stewardship Fund established in Chapter 61 (relating to environmental stewardship and watershed protection).

(ii) Any fees collected thereafter shall be deposited in the General Fund.

(2) For the fiscal year 2003-2004 and beyond, all fees collected shall be deposited into the Environmental Stewardship Fund established in Chapter 61.

§ 6303. Surcharge.

(a) Owners and operators.--The owner or operator of a municipal waste landfill which collects and remits the fee

established pursuant to section 6301 (relating to disposal fee for municipal waste landfills) may pass through and collect the fee from any person who delivered the waste to the municipal waste landfill as a surcharge in accordance with section 705 of the Municipal Waste Planning, Recycling and Waste Reduction Act on any fee schedule established pursuant to law, ordinance, resolution or contract for solid waste disposal operations at the municipal waste landfill.

(b) Transporters and transfer stations.--The transporter or transfer station that is charged a fee or surcharge pursuant to section 6302 (relating to deposit of disposal fee) or subsection (a) may pass through and obtain the fee from the generator of such waste as a surcharge in accordance with section 705 of the Municipal Waste Planning, Recycling and Waste Reduction Act on any fee schedule established pursuant to law, ordinance, resolution or contract for solid waste collection, transfer, transport and delivery.

§ 6304. Sunset.

No fee or surcharge shall be imposed under this chapter on and after July 1, 2012.

§ 6305. Allocation for Environmental Stewardship Fund.

For fiscal years 2002-2003 through 2006-2007, the department shall utilize 10% of the money allocated annually to it under section 6104(d) (relating to fund) to provide grants for safe drinking water projects and wastewater treatment projects. Grants under this section shall be made for the same purposes and shall be subject to the same limitations as grants authorized in section 6110 (relating to environmental infrastructure grants to water and wastewater treatment facilities).

§ 6306. Adjustments.

When the Governor's proposed budget for the upcoming fiscal year, as submitted pursuant to section 12 of Article VIII of the Constitution of Pennsylvania, contains a revision to the revenue estimate for the current year of at least 3% less than the official revenue estimate for the current year, the funds deposited pursuant to section 6302(2) (relating to deposit of disposal fee) may be adjusted by transferring or redirecting up to 25% of these deposits to the General Fund.

Section 3. The act of April 2, 2002 (P.L.225, No.25), known as the Environmental Laboratory Accreditation Act, is repealed.

Section 4. The addition of 27 Pa.C.S. Ch. 41 is a continuation of the act of April 2, 2002 (P.L.225, No.25), known as the Environmental Laboratory Accreditation Act. The following apply:

(1) All actions taken under the Environmental Laboratory Accreditation Act are valid under 27 Pa.C.S. Ch. 41.

(2) Orders and determinations which were made under the Environmental Laboratory Accreditation Act and which are in effect on the effective date of section 2 of this act shall remain valid until vacated or modified under 27 Pa.C.S. Ch. 41.

(3) Regulations which were promulgated under the Environmental Laboratory Accreditation Act and which are in effect on the effective date of section 2 of this act shall

remain valid until amended under 27 Pa.C.S. Ch. 41.

(4) Any difference in language between 27 Pa.C.S. Ch. 41 and the Environmental Laboratory Accreditation Act is intended only to conform to the style of the Pennsylvania Consolidated Statutes and is not intended to change or affect the legislative intent, judicial construction or administration and implementation of the Environmental Laboratory Accreditation Act.

Section 5. This act shall take effect as follows:

(1) The addition of 27 Pa.C.S. §§ 6204(a) and 6206(a) shall take effect in 180 days.

(2) The addition of 27 Pa.C.S. Ch. 63 shall take effect in 10 days.

(3) This section shall take effect immediately.

(4) The remainder of this act shall take effect in 60 days.

APPROVED--The 29th day of June, A. D. 2002.

MARK S. SCHWEIKER