

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

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INTRODUCED BY BITTLE, FEE, BELARDI, SERAFINI, GEIST, LETTERMAN,
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VROON, DIETZ, SIEMINSKI, ARTY, GOEBEL AND GEESEY,
OCTOBER 15, 1979

REFERRED TO COMMITTEE ON CONSERVATION, OCTOBER 15, 1979

AN ACT

1 Providing for the planning and regulation of solid waste
2 storage, collection, transportation, processing, treatment,
3 and disposal; requiring municipalities to submit plans for
4 municipal waste management systems in their jurisdictions;
5 authorizing grants to municipalities; providing regulation of
6 the management of municipal, residual and hazardous waste;
7 requiring permits for operating hazardous waste and solid
8 waste storage, processing, treatment, and disposal
9 facilities; and licenses for transportation of hazardous
10 waste; imposing duties on persons and municipalities;
11 granting powers to municipalities; authorizing the
12 Environmental Quality Board and the Department of
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20 The General Assembly of the Commonwealth of Pennsylvania
21 hereby enacts as follows:

22 ARTICLE I

23 GENERAL PROVISIONS

24 Section 101. Short title.

25 This act shall be known and may be cited as the "Solid Waste
26 Management Act."

27 Section 102. Legislative finding; declaration of policy.

28 The Legislature hereby determines, declares and finds that,
29 since improper and inadequate solid waste practices create
30 public health hazards, environmental pollution, and economic

1 loss, and cause irreparable harm to the public health, safety
2 and welfare, it is the purpose of this act to:

3 (1) establish and maintain a cooperative State and local
4 program of planning and technical and financial assistance
5 for comprehensive solid waste management;

6 (2) encourage the development of resource recovery as a
7 means of managing solid waste, conserving resources, and
8 supplying energy;

9 (3) require permits for the operation of municipal and
10 residual waste processing and disposal systems, licenses for
11 the transportation of hazardous waste and permits for
12 hazardous waste storage, treatment, and disposal;

13 (4) protect the public health, safety and welfare from
14 the short and long term dangers of transportation,
15 processing, treatment, storage, and disposal of all wastes;
16 and

17 (5) provide a flexible and effective means to implement
18 and enforce the provisions of this act.

19 Section 103. Definitions.

20 The following words and phrases when used in this act shall
21 have, unless the context clearly indicates otherwise, the
22 meanings given to them in this section:

23 "Agricultural waste." Poultry and livestock manure, or
24 residual materials in liquid or solid form generated in the
25 production and marketing of poultry, livestock, fur bearing
26 animals, and their products, provided that such agricultural
27 waste is not hazardous. The term includes the residual materials
28 generated in producing, harvesting, and marketing of all
29 agronomic, horticultural, and silvicultural crops or commodities
30 grown on what are usually recognized and accepted as farms,

1 forests, or other agricultural lands.

2 "Commercial establishment." Any establishment engaged in
3 nonmanufacturing or processing business, including, but not
4 limited to, stores, markets, office buildings, restaurants,
5 shopping centers and theaters.

6 "Commonwealth." The Commonwealth of Pennsylvania.

7 "Department." The Department of Environmental Resources of
8 the Commonwealth of Pennsylvania and its authorized
9 representatives.

10 "Disposal." The incineration, deposition, injection,
11 dumping, spilling, leaking, or placing of solid waste into or on
12 the land or water in a manner that the solid waste or a
13 constituent of the solid waste enters the environment, is
14 emitted into the air or is discharged to the waters of the
15 Commonwealth.

16 "Food processing waste." Residual materials in liquid or
17 solid form generated in the slaughtering of poultry and
18 livestock, or in processing and converting fish, seafood, milk,
19 meat, and eggs to food products; it also means residual
20 materials generated in the processing, converting, or
21 manufacturing of fruits, vegetables, crops and other commodities
22 into marketable food items.

23 "Food processing wastes used for agricultural purposes." The
24 use of food processing wastes in normal farming operations as
25 defined in this section.

26 "Hazardous waste." Any garbage, refuse, sludge from sewage,
27 industrial or other waste water treatment plant, water supply
28 treatment plant, or air pollution control facility and other
29 material including solid, liquid, semisolid or contained gaseous
30 material resulting from municipal, commercial, industrial,

1 institutional, mining, or agricultural operations, and from
2 community activities, or any combination of the above, which
3 because of its quantity, concentration, or physical, chemical,
4 or infectious characteristics may:

5 (1) contribute to an increase in mortality or an
6 increase in morbidity in either an individual or the
7 total population; or

8 (2) pose a present or potential hazard to human health
9 or the environment when treated, stored, transported,
10 disposed of or otherwise managed.

11 "Industrial establishment." Any establishment engaged in
12 manufacturing or processing, including, but not limited to
13 factories, foundries, mills, processing plants, refineries,
14 mines and slaughterhouses.

15 "Institutional establishment." Any establishment engaged in
16 service, including, but not limited to, hospitals, nursing
17 homes, orphanages, schools and universities.

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

21 "Manifest system." A written record identifying the
22 quantity, composition, origin, routing, and destination of
23 hazardous waste from the point of generation to the point of
24 disposal, treatment or storage.

25 "Mine." Any deep or surface mine, whether active, inactive
26 or abandoned.

27 "Mining." The process of the extraction of minerals from the
28 earth or from waste or stockpiles or from pits or banks.

29 "Municipality." A city, borough, incorporated town, township
30 or county or any authority created by any of the foregoing.

1 "Municipal waste." Any garbage, refuse and other material
2 including solid, liquid, semisolid or contained gaseous material
3 resulting from operation of residential, municipal, commercial
4 or institutional establishments and from community activities
5 and any sludge not meeting the definition of residual or
6 hazardous waste hereunder from a municipal, commercial or
7 institutional water supply treatment plant, waste water
8 treatment plant, or air pollution control facility.

9 "Normal farming operations." The customary and generally
10 accepted activities, practices and procedures that farms adopt,
11 use, or engage in year after year in the production and
12 preparation for market of poultry, livestock, and their
13 products; and in the production, harvesting and preparation for
14 market of agricultural, agronomic, horticultural silvicultural
15 and aquicultural crops and commodities; provided that such
16 operations are conducted in compliance with applicable laws, and
17 provided that the use or disposal of these materials will not
18 pollute the air, water, or other natural resources of the
19 Commonwealth, nor adversely affect the public health, welfare or
20 safety. It includes the storage and utilization of agricultural
21 and food process wastes for animal feed, and includes the
22 agricultural utilization of septic tank cleanings and sewage
23 sludges which are generated off-site. It includes the
24 management, collection, storage, transportation, use or disposal
25 of manure, other agricultural waste and food processing waste on
26 land where such materials will improve the condition of the
27 soil, the growth of crops, or in the restoration of the land for
28 the same purposes.

29 "Person." Any individual, partnership, corporation,
30 association, institution, cooperative enterprise, municipal

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

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

19 "Processing." Any technology used for the purpose of
20 reducing the volume or bulk of municipal or residual waste or
21 any technology used to convert part or all of such waste
22 materials for reuse. Processing facilities include but are not
23 limited to transfer facilities, composting facilities, and
24 resource recovery facilities.

25 "Residual waste." Any garbage, refuse or other waste
26 including solid, liquid, semisolid, or contained gaseous
27 materials resulting from industrial, mining and agricultural
28 operations and any sludge from an industrial, mining or
29 agricultural water supply treatment facility, waste water
30 treatment facility or air pollution control facility, provided

1 that it is not hazardous.

2 "Secretary." The Secretary of the Department of
3 Environmental Resources of the Commonwealth of Pennsylvania.

4 "Solid waste." Any waste, including but not limited to,
5 municipal, residual or hazardous wastes, including solid,
6 liquid, semisolid or contained gaseous materials.

7 "Storage." The containment of any waste on a temporary basis
8 in such a manner as not to constitute disposal of such waste. It
9 shall be presumed that the containment of any waste in excess of
10 one year constitutes disposal. This presumption can be overcome
11 by clear and convincing evidence to the contrary; however, it
12 shall be conclusive presumption that the storage of wastes in
13 excess of three years constitutes disposal.

14 "Transportation." The removal of any solid waste at any time
15 after generation.

16 "Treatment." Any method, technique, or process, including
17 neutralization, designed to change the physical, chemical, or
18 biological character or composition of any waste so as to
19 neutralize such waste or so as to render such waste
20 nonhazardous, safer for transport, suitable for recovery,
21 suitable for storage, or reduced in volume. Such term includes
22 any activity or processing designed to change the physical form
23 or chemical composition of waste so as to render it neutral or
24 nonhazardous.

25 Section 104. Powers and duties of the department.

26 The department shall have the power and its duty shall be to:

27 (1) administer the solid waste management program
28 pursuant to the provisions of this act;

29 (2) cooperate with appropriate Federal, State,
30 interstate and local units of government and with appropriate

1 private organizations in carry out its duties under this act;

2 (3) develop a Statewide solid waste management plan in
3 cooperation with local governments, the Department of
4 Community Affairs, and the State Planning Board; emphasis
5 shall be given to area-wide planning;

6 (4) provide technical assistance to municipalities
7 including the training of personnel;

8 (5) initiate, conduct, and support research,
9 demonstration projects, and investigations, and coordinate
10 all State agency research programs, pertaining to solid waste
11 management systems;

12 (6) regulate the storage, collection, transportation,
13 processing, treatment and disposal of solid waste;

14 (7) issue permits, licenses and orders, and specify the
15 terms and conditions thereof, and conduct inspections and
16 abate public nuisances to implement the purposes and
17 provisions of this act and the rules, regulations and
18 standards adopted pursuant to this act;

19 (8) require the payment of a fee for the processing of
20 any permit or license application. Permit and license fees
21 shall be in an amount sufficient to cover the aggregate cost
22 of reviewing all applications, acting on all applications,
23 processing all renewals, and administering all the terms and
24 conditions of all permits and all provisions of this act;

25 (9) serve as the agency of the Commonwealth for the
26 receipt of moneys from the Federal government or other public
27 agencies or private agencies and expend such moneys for
28 studies and research with respect to, and for the enforcement
29 and administration of, the purposes and provisions of this
30 act and the rules and regulations promulgated thereunder;

1 (10) institute in a court of competent jurisdiction,
2 proceedings against any person or municipality to compel
3 compliance with the provisions of this act, any rule or
4 regulation issued thereunder, any order of the department, or
5 the terms and conditions of any permit;

6 (11) institute prosecutions against any person or
7 municipality under this act;

8 (12) appoint such advisory committees as the Secretary
9 deems necessary and proper to assist the department in
10 carrying out the provisions of this act. The secretary is
11 authorized to pay reasonable and necessary expenses incurred
12 by the members of such advisory committees in carrying out
13 their functions; and

14 (13) do any and all other acts and things not
15 inconsistent with any provision of this act, which it may
16 deem necessary or proper for the effective enforcement of
17 this act and the rules or regulations which may be
18 promulgated hereunder.

19 Section 105. Powers and duties of the Environmental Quality
20 Board.

21 (a) The Environmental Quality Board shall have the power and
22 its duty shall be to adopt the rules and regulations of the
23 department to accomplish the purposes and to carry out the
24 provisions of this act, including but not limited to the
25 establishment of rules and regulations relating to the
26 protection of safety, health, welfare and property of the public
27 and the air, water and other natural resources of the
28 Commonwealth.

29 (b) The Environmental Quality Board shall, by regulation,
30 set the term of expiration of permits and licenses appropriate

1 to the category of the permit or license.

2 ARTICLE II

3 MUNICIPAL WASTE

4 Section 201. Submission of plans; permits.

5 (a) No person or municipality shall store, collect,
6 transport, process, or dispose of municipal waste within this
7 Commonwealth unless such storage, collection, transportation,
8 processing or disposal is authorized by the rules and
9 regulations of the department and no person or municipality
10 shall own or operate a municipal waste processing or disposal
11 facility unless such person or municipality has first obtained a
12 permit for such facility from the department.

13 (b) Each municipality with a population density of 300 or
14 more inhabitants per square mile shall submit to the department
15 an officially adopted plan for a municipal waste management
16 system or systems serving the areas within its jurisdiction
17 within two years of the effective date of this section, and
18 shall, from time to time, submit such revisions of said plan as
19 it deems necessary or as the department may require.

20 (c) When more than one municipality has authority over an
21 existing or proposed municipal waste management system or
22 systems or any part thereof, the required plan or any revisions
23 thereof shall be submitted jointly by the municipalities
24 concerned or by an authority or county or by one or more of the
25 municipalities with the concurrence of all the others.

26 (d) Every plan, and any revision thereof, shall delineate
27 areas where municipal waste management systems are in existence
28 and areas where the municipal waste management systems are
29 planned to be available within a ten-year period.

30 (e) Every plan shall:

1 (1) Provide for the orderly extension of municipal waste
2 management systems in a manner consistent with the needs and
3 plans of the whole area, and in a manner which will not
4 create a risk of pollution of the water, air, land or other
5 natural resources of the Commonwealth, nor constitute a
6 public nuisance, and shall otherwise provide for the safe and
7 sanitary disposal of municipal waste.

8 (2) Take into consideration all aspects of planning,
9 zoning, population estimates, engineering and economics so as
10 to delineate with precision those portions of the area which
11 may reasonably be expected to be served by a municipal waste
12 management system within ten years of the submission of the
13 plan, as well as those areas where it is not reasonably
14 foreseeable that a municipal waste management system will be
15 needed within ten years of the submission of the plan.

16 (3) Take into consideration any existing State plan
17 affecting the development, use and protection of air, water,
18 land or other natural resources.

19 (4) Set forth a time schedule and proposed methods for
20 financing the development, construction and operation of the
21 planned municipal waste management systems, together with the
22 estimated cost thereof.

23 (5) Include a provision for periodic revision of the
24 plan.

25 (6) Include such other information as the department
26 shall require.

27 (f) The plan shall be reviewed by appropriate official
28 planning agencies within a municipality, including a planning
29 agency with area-wide jurisdiction, if one exists and the county
30 planning commission, for consistency with programs of planning

1 for the area, and all such reviews shall be transmitted to the
2 department with the proper plan. In the event a review of any
3 plan has not been transmitted by such planning agency or
4 commission within 90 days of its submission to such agency or
5 commission, then such agency or commission shall be deemed to
6 have waived its right to review the plan, and the department
7 shall then review the plan for approval in the absence of the
8 reviews of such planning agency or commission.

9 (g) The department is hereby authorized to approve or
10 disapprove plans for municipal waste management systems
11 submitted in accordance with this act. Any plan which has not
12 been disapproved within one year of the date of its submission
13 shall be deemed an approved plan, unless notice of pending
14 investigation is given to the applicant by the department before
15 expiration of the one-year period.

16 (h) The department is hereby authorized to approve or
17 disapprove revisions of plans for municipal waste management
18 systems submitted in accordance with this act.

19 (i) The department is authorized to provide technical
20 assistance to counties, municipalities and authorities in
21 coordinating plans for municipal waste management systems
22 required by this act, including revisions of such plans.

23 (j) The department may establish priorities for the time
24 within which plans shall be submitted and may, in appropriate
25 cases, require the submission of joint plans.

26 (k) The department may issue any order or may institute any
27 appropriate legal or equitable action to compel municipalities
28 to submit plans in accordance with this act and the rules,
29 regulations and procedures of the department.

30 (l) The department may order, or obtain an injunction

1 requiring municipalities to implement the plans which they have
2 submitted, in accordance with this act and the rules,
3 regulations and procedures of the department.

4 Section 202. Powers and duties of municipalities.

5 (a) Each municipality shall be responsible for the
6 collection, transportation, processing, and disposal of
7 municipal waste which is generated or present within its
8 boundaries and shall be responsible for implementing its
9 approved plan as it relates to the storage, collection,
10 transportation, processing, and disposal of its municipal
11 wastes.

12 (b) In carrying out its responsibilities, any such
13 municipality may adopt ordinances, regulations and standards for
14 the storage and collection of municipal wastes which shall be
15 not less stringent than, and not in violation of, the rules,
16 regulations, standards, and procedures of the department for the
17 storage, collection, transportation, processing and disposal of
18 municipal waste. Any ordinances, regulations and standards so
19 adopted shall be made a part of the plan required in section
20 201.

21 (c) Municipalities may contract with any person or other
22 municipality to carry out their responsibilities for the
23 collection, transportation, processing and disposal of municipal
24 wastes, provided that the ultimate disposal is known to be at a
25 site permitted to accept such waste, and provided, further, that
26 no municipality may delegate the duties imposed by this section.
27 Section 203. Grants authorized.

28 (a) The department is authorized to assist municipalities by
29 administering grants to pay up to 50% of the costs of preparing
30 official plans for municipal waste management systems in

1 accordance with the requirements of this act and the rules,
2 regulations, and standards adopted pursuant to this act, and for
3 carrying out related studies, surveys, investigations,
4 inquiries, research and analyses.

5 (b) All grants shall be made from funds appropriated for
6 this purpose by the General Assembly.

7 ARTICLE III

8 RESIDUAL WASTE

9 Section 301. Management of residual waste.

10 No person or municipality shall store, transport, process, or
11 dispose of residual waste within this Commonwealth unless such
12 storage, transportation, processing or disposal is authorized by
13 the rules and regulations of the department and no person or
14 municipality shall own or operate a residual waste processing or
15 disposal facility unless such person or municipality has first
16 obtained a permit for such facility from the department.

17 Section 302. Disposal, processing and storage of residual waste.

18 (a) It shall be unlawful for any person or municipality to
19 dispose, process, store, or permit the disposal, processing or
20 storage of any residual waste in a manner which is contrary to
21 the rules and regulations of the department or to any permit or
22 to the terms or conditions of any permit or any order issued by
23 the department.

24 (b) It shall be unlawful for any person or municipality who
25 stores, processes, or disposes of residual waste to fail to:

26 (1) Use such methods and facilities as are necessary to
27 prevent leaching, runoff, discharges and emissions from
28 residual waste.

29 (2) Use such methods and facilities as are necessary to
30 prevent the harmful or hazardous mixing of wastes or such

1 mixing as may render disposal in compliance with this act
2 impracticable.

3 (3) Design, construct, operate and maintain facilities
4 and areas in a manner which shall not adversely effect or
5 endanger public health, safety and welfare or the environment
6 or cause a public nuisance.

7 Section 303. Transportation of residual waste.

8 (a) It shall be unlawful for any person or municipality to
9 transport or permit the transportation of residual waste:

10 (1) to any processing or disposal facility within the
11 Commonwealth unless such facility holds a permit issued by
12 the department to accept such waste; or

13 (2) in a manner which is contrary to the rules and
14 regulations of the department or any permit or the conditions
15 of any permit or any order issued by the department.

16 (b) It shall be unlawful for any person or municipality who
17 transports residual waste to fail to:

18 (1) use such methods, equipment and facilities as are
19 necessary to transport residual waste in a manner which shall
20 not adversely affect or endanger the environment or the
21 public health, welfare and safety; and

22 (2) immediately notify the department of any spill or
23 accidental discharge of such waste and take immediate steps
24 to contain and clean up the spill or discharge.

25 ARTICLE IV

26 HAZARDOUS WASTE

27 Section 401. Management of hazardous waste.

28 (a) No person or municipality shall store, transport, treat,
29 or dispose of hazardous waste within this Commonwealth unless
30 such storage, transportation, treatment, or disposal is

1 authorized by the rules and regulations of the department; no
2 person or municipality shall own or operate a hazardous waste
3 storage, treatment or disposal facility unless such person or
4 municipality has first obtained a permit for the storage,
5 treatment and disposal of hazardous waste from the department;
6 and, no person or municipality shall transport hazardous waste
7 within the Commonwealth unless such person or municipality has
8 first obtained a license for the transportation of hazardous
9 waste from the department.

10 (b) The storage, transportation, treatment, and disposal of
11 hazardous waste are hereby declared to be ultrahazardous
12 activities, regardless whether such activities were conducted
13 prior to the enactment hereof.

14 Section 402. Listing of hazardous waste.

15 The Environmental Quality Board shall establish rules and
16 regulations identifying the characteristics of hazardous wastes
17 and listing particular hazardous wastes which shall be subject
18 to the provisions of this act. The list promulgated shall in no
19 event prevent the department from regulating other wastes,
20 which, although not listed, the department has determined to be
21 hazardous; such regulation of hazardous wastes may be by any
22 means including, but not limited to, issuance of orders and the
23 imposition of terms and conditions of permits.

24 Section 403. Generation, transportation, storage, treatment
25 and disposal of hazardous waste.

26 (a) It shall be unlawful for any person or municipality who
27 generates, transports or stores hazardous waste to transfer such
28 waste unless such person or municipality complies with the rules
29 and regulations of the department and the terms or conditions of
30 any applicable permit or license and any applicable order issued

1 by the department.

2 (b) It shall be unlawful for any person or municipality who
3 generates, transports, stores, treats or disposes of hazardous
4 waste to fail to:

5 (1) Maintain such records as are necessary to accurately
6 identify the quantities of hazardous waste generated, the
7 constituents thereof which are significant in quantity or in
8 potential harm to human health or the environment, the method
9 of transportation and the disposition of such wastes; and
10 where applicable, the source and delivery points of such
11 hazardous waste.

12 (2) Label any containers used for the storage,
13 transportation or disposal of such hazardous waste so as to
14 identify accurately such waste.

15 (3) Use containers appropriate for such hazardous waste
16 and for the activity undertaken.

17 (4) Furnish information on the general chemical
18 composition of such hazardous waste to persons transporting,
19 treating, storing or disposing of such wastes.

20 (5) Use a manifest system as required by the department
21 to assure that all such hazardous waste generated is
22 designated for treatment, storage or disposal in such
23 treatment, storage or disposal facilities (other than
24 facilities on the premises where the waste is generated,
25 where the use of a manifest system is not necessary) approved
26 by the department, as provided in this article.

27 (6) Transport hazardous waste for treatment, storage or
28 disposal to such treatment, storage or disposal facilities
29 which the shipper has designated on the manifest form as a
30 facility permitted to receive such waste or as a facility not

1 within the Commonwealth.

2 (7) Submit reports to the department at such times as
3 the department deems necessary, listing out:

4 (i) the quantities of hazardous waste generated
5 during a particular time period; and

6 (ii) the method of disposal of all hazardous waste.

7 (8) Carry out transportation activities in compliance
8 with the rules and regulations of the department and the
9 Pennsylvania Department of Transportation.

10 (9) Treat, store and dispose of all such waste in
11 accordance with the rules and regulations of the department
12 and permits, permit conditions and orders of the department.

13 (10) Develop and implement contingency plans for
14 effective action to minimize and abate hazards from any
15 treatment, storage, transportation or disposal of any
16 hazardous waste.

17 (11) Maintain such operation, train personnel, and
18 assure financial responsibility for such storage, treatment
19 or disposal operations to prevent adverse effects to the
20 public health, safety and welfare and to the environment and
21 to prevent public nuisances.

22 (12) Immediately notify the department of any spill or
23 accidental discharge of such waste in accordance with a
24 contingency plan approved by the department and take
25 immediate steps to contain and clean up the spill or
26 discharge.

27 Section 404. Transition scheme.

28 Any person or municipality who:

29 (1) owns or operates a hazardous waste storage or
30 treatment facility required to have a permit under this act,

1 which facility is in existence on the effective date of this
2 act;
3 (2) has complied with the requirements of section
4 501(c);
5 (3) has made an application for a permit under this act;
6 and
7 (4) operates and continues to operate in such a manner
8 as will not cause, or create a risk of, a health hazard, a
9 public nuisance, or an adverse effect upon the environment;
10 shall be treated as having been issued such permit until such
11 time as a final departmental action on such application is made.
12 In no instance shall such person or municipality continue to
13 store or treat hazardous wastes without obtaining a permit from
14 the department within two years after the date of enactment
15 hereof.

16 Section 405. Conveyance of disposal site property.

17 After the effective date of this act, the grantor in every
18 deed for the conveyance of property on which hazardous waste is
19 presently being disposed, has ever been disposed or is suspected
20 of having been disposed shall include in the property
21 description section of such deed an acknowledgement of such
22 hazardous waste disposal; such acknowledgement to include to the
23 extent such information is available, but not be limited to, the
24 surface area size and exact location of the disposed waste and a
25 description of the types of hazardous wastes contained therein.
26 Such amended property description shall be made a part of the
27 deed for all future conveyances or transfers of the subject
28 property.

29

ARTICLE V

30

APPLICATIONS AND PERMITS

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1 Section 501. Permits and licenses required; transition scheme;
2 reporting requirements.

3 (a) It shall be unlawful for any person or municipality to
4 use, or continue to use, their land or the land of any other
5 person or municipality as a solid waste processing, storage,
6 treatment or disposal area without first obtaining a permit from
7 the department as required by this act: Provided, however, That
8 this section shall not apply to the short-term storage of
9 byproducts which are utilized in the processing or manufacturing
10 of other products, to the extent that such byproducts are not
11 hazardous, and do not create a public nuisance or adversely
12 affect the air, water and other natural resources of the
13 Commonwealth: And provided further, however, That the provisions
14 of this section shall not apply to agricultural waste produced
15 in the course of normal farming operations.

16 (b) It shall be unlawful for any person or municipality to
17 transport hazardous waste within the Commonwealth unless such
18 person or municipality has first obtained a license from the
19 department to conduct such transportation activities.

20 (c) Not later than 90 days after promulgation or revision of
21 regulations under section 402 identifying by its characteristics
22 or listing any substance as hazardous waste, any person or
23 municipality generating or transporting such substance or owning
24 or operating a facility for treatment, storage, or disposal of
25 such substance shall file with the department a notification
26 stating the location and general description of such activity
27 and the identified or listed hazardous wastes handled by such
28 person or municipality. Not more than one such notification
29 shall be required to be filed with respect to the same
30 substance. No identified or listed hazardous waste may be

1 transported, treated, processed, stored or disposed of unless
2 notification has been given as required under this subsection.
3 Section 502. Permit and license application requirements.

4 (a) Application for any permit or license shall be in
5 writing, shall be made on forms provided by the department and
6 shall be accompanied by such plans, designs and relevant data as
7 the department may require. Such plans, designs and data shall
8 be prepared by a registered professional engineer.

9 (b) The application for a permit to operate a hazardous
10 waste storage, treatment or disposal facility shall also be
11 accompanied by a form, prepared and furnished by the department,
12 containing the written consent of the landowner to entry upon
13 any land to be affected by the proposed facility by the
14 Commonwealth and by any of its authorized agents prior to and
15 during operation of the facility and for 20 years after closure
16 of the facility, for the purpose of inspection and for the
17 purpose of any such pollution abatement or pollution prevention
18 activities as the department deems necessary. Such forms shall
19 be deemed to be recordable documents and prior to the initiation
20 of operations under the permit, such forms shall be recorded and
21 entered into the deed book (d.b.v.) indexing system at the
22 office of the Recorder of Deeds in the counties in which the
23 area to be affected under the permit is situated.

24 (c) All records, reports, or information contained in the
25 hazardous waste storage, treatment or disposal facility permit
26 application submitted to the department under this section shall
27 be available to the public; except that the department shall
28 consider a record, report or information or particular portion
29 thereof, confidential in the administration of this act if the
30 applicant can show cause that the records, reports or

1 information, or a particular portion thereof (but not emission
2 or discharge data or information concerning solid waste which is
3 potentially toxic in the environment), if made public, would
4 divulge production or sales figures or methods, processes or
5 production unique to such applicant or would otherwise tend to
6 affect adversely the competitive position of such applicant by
7 revealing trade secrets. Nothing herein shall be construed to
8 prevent disclosure of such report, record or information to the
9 Federal government or other State agencies as may be necessary
10 for purposes of administration of any Federal or State law.

11 (d) The application for a permit shall set forth the manner
12 in which the operator plans to comply with the requirements of
13 the act of June 25, 1913 (P.L.555, No.355), referred to as the
14 Water Obstructions Act, the act of June 22, 1937 (P.L.1987,
15 No.394), known as "The Clean Streams Law," the act of May 31,
16 1945 (P.L.1198, No.418), known as the "Surface Mining
17 Conservation and Reclamation Act," the act of January 8, 1960
18 (1959 P.L.2119, No.787), known as the "Air Pollution Control
19 Act," and the act of November 26, 1978 (P.L.1375, No.325), known
20 as the "Dam Safety Act," as applicable. No approval shall be
21 granted unless the plan provides for compliance with the
22 statutes hereinabove enumerated, and failure to comply with the
23 statutes hereinabove enumerated during construction and
24 operation or thereafter shall render the operator liable to the
25 sanctions and penalties provided in this act for violations of
26 this act and to the sanctions and penalties provided in the
27 statutes hereinabove enumerated for violations of such statutes.
28 Such failure to comply shall be cause for revocation of any
29 approval or permit issued by the department to the operator.
30 Compliance with the provisions of this subsection and with the

1 provisions of this act and the provisions of the statutes
2 hereinabove enumerated shall not relieve the operator of the
3 responsibility for complying with the provisions of all other
4 applicable statutes, including, but not limited to the act of
5 July 17, 1961 (P.L.659, No.339), known as the "Pennsylvania
6 Bituminous Coal Mine Act," the act of November 10, 1965
7 (P.L.721, No.346), known as the "Pennsylvania Anthracite Coal
8 Mine Act," and the act of July 9, 1976 (P.L.931, No.178),
9 entitled "An act providing emergency medical personnel;
10 employment of emergency medical personnel and emergency
11 communications in coal mines."

12 (e) The application for a permit shall certify that the
13 operator has in force, or will, prior to the initiation of
14 operations under the permit have in force, an ordinary public
15 liability insurance policy in an amount to be prescribed by
16 rules and regulations promulgated hereunder.

17 (f) The department may require such other information, and
18 impose such other terms and conditions, as it deems necessary or
19 proper to achieve the goals and purposes of this act.

20 Section 503. Granting, denying, renewing, modifying, revoking
21 and suspending permits and licenses.

22 (a) Upon approval of the application, the department shall
23 issue a permit for the operation of a solid waste storage,
24 treatment, processing or disposal facility or area or a license
25 for the transportation of hazardous wastes, as set forth in the
26 application and further conditioned by the department.

27 (b) No permit shall be issued unless and until all
28 applicable bonds have been posted with the department.

29 (c) In carrying out the provisions of this act, the
30 department may deny, suspend, modify, or revoke any permit or

1 license if it finds that the applicant, permittee or licensee
2 has failed or continues to fail to comply with any provision of
3 this act, the act of June 25, 1913 (P.L.555, No.355), referred
4 to as the Water Obstructions Act, the act of June 22, 1937
5 (P.L.1987, No.394), known as "The Clean Streams Law," the act of
6 January 8, 1960 (1959 P.L.2119, No.787), known as the "Air
7 Pollution Control Act," and the act of November 26, 1978
8 (P.L.1375, No.325), known as the "Dam Safety Act," or any other
9 state or Federal statute relating to environmental protection or
10 to the protection of the public health, safety and welfare; or
11 any rule or regulation of the department; or any order of the
12 department; or any condition of any permit or license issued by
13 the department; or if the department finds that the applicant,
14 permittee or licensee has shown a lack of ability or intention
15 to comply with any provision of this act or any of the acts
16 referred to in this subsection or any rule or regulation of the
17 department or order of the department, or any condition of any
18 permit or license issued by the department as indicated by past
19 or continuing violations.

20 (d) Any person or municipality which has engaged in unlawful
21 conduct as defined in this act, or whose partner, associate,
22 officer, parent corporation, subsidiary corporation, contractor,
23 subcontractor or agent has engaged in such unlawful conduct,
24 shall be denied any permit or license required by this act
25 unless the permit or license application demonstrates to the
26 satisfaction of the department that the unlawful conduct has
27 been corrected. Independent contractors and agents who are to
28 operate under any permit shall be subject to the provisions of
29 this act. Such independent contractors, agents and the permittee
30 shall be jointly and severally liable, without regard to fault,

1 for violations of this act which occur during the contractor's
2 or agent's involvement in the course of operations.

3 (e) Any permit or license granted by the department, as
4 provided in this act, shall be revocable or subject to
5 modification or suspension at any time the department determines
6 that the solid waste storage, treatment, processing or disposal
7 facility or area or transportation of solid waste:

8 (1) is, or has been, conducted in violation of this act
9 or the rules, regulations, adopted pursuant to the act;

10 (2) is creating a public nuisance;

11 (3) is creating a potential hazard to the public health,
12 safety and welfare;

13 (4) adversely affects the environment;

14 (5) is being operated in violation of any terms or
15 conditions of the permit; or

16 (6) was operated pursuant to a permit or license that was
17 not granted in accordance with law.

18 Section 504. Bonds.

19 (a) Prior to the commencement of operations, the operator of
20 a municipal or residual waste processing or disposal facility or
21 of a hazardous waste storage, treatment or disposal facility for
22 which a permit is required by this section shall file with the
23 department a bond for the land affected by such facility on a
24 form prescribed and furnished by the department. Such bond shall
25 be payable to the Commonwealth and conditioned so that the
26 operator shall comply with the requirements of this act, the act
27 of June 25, 1913 (P.L.555, No.355), referred to as the Water
28 Obstructions Act, the act of June 22, 1937 (P.L.1987, No.394),
29 known as "The Clean Streams Law," the act of May 31, 1945
30 (P.L.1198, No.418), known as the "Surface Mining Conservation

1 and Reclamation Act," the act of January 8, 1960 (1959 P.L.2119,
2 No.787), known as the "Air Pollution Control Act," and the act
3 of November 26, 1978 (P.L.1375, No.325), known as the "Dam
4 Safety Act." The department may require additional bond amounts
5 for the permitted areas should such an increase be determined by
6 the department to be necessary to meet the requirements of this
7 act. The amount of the bond required shall be in an amount
8 determined by the secretary based upon the total estimated cost
9 to the Commonwealth of completing final closure according to the
10 permit granted to such facility and such measures as are
11 necessary to prevent adverse effects upon the environment; such
12 measures include but are not limited to satisfactory monitoring,
13 post-closure care, and remedial measures. The bond amount shall
14 reflect the additional cost to the Commonwealth which may be
15 entailed by being required to bring personnel and equipment to
16 the site. All permits shall be bonded for at least \$10,000.
17 Liability under such bond shall be for the duration of the
18 operation, and for a period of ten full years after final
19 closure of the permit site. Such bond shall be executed by the
20 operator and a corporate surety licensed to do business in the
21 Commonwealth and approved by the secretary: Provided, however,
22 That the operator may elect to deposit cash, certificates of
23 deposit, automatically renewable irrevocable letters of credit
24 which are terminable only upon 90 days written notice to the
25 operator and the department, or negotiable bonds of the United
26 States Government or the Commonwealth of Pennsylvania, the
27 Pennsylvania Turnpike Commission, the General State Authority,
28 the State Public School Building Authority, or any municipality
29 within the Commonwealth, with the department in lieu of a
30 corporate surety. The cash amount of such deposit, irrevocable

1 letters of credit or market value of such securities shall be
2 equal at least to the sum of the bond. The secretary shall, upon
3 receipt of any such deposit of cash or negotiable bonds,
4 immediately place the same with the State Treasurer, whose duty
5 it shall be to receive and hold the same in the name of the
6 Commonwealth, in trust, for the purposes for which such deposit
7 is made. The State Treasurer shall at all times be responsible
8 for the custody and safekeeping of such deposits. The operator
9 making the deposit shall be entitled from time to time to demand
10 and receive from the State Treasurer, on the written order of
11 the secretary, the whole or any portion of any collateral so
12 deposited, upon depositing with him, in lieu thereof, other
13 collateral of the classes herein specified having a market value
14 at least equal to the sum of the bond, also to demand, receive
15 and recover the interest and income from said negotiable bonds
16 as the same becomes due and payable: Provided, however, That
17 where negotiable bonds, deposited as aforesaid, mature or are
18 called, the State Treasurer, at the request of the permittee,
19 shall convert such negotiable bonds into such other negotiable
20 bonds of the classes herein specified as may be designated by
21 the permittee: And provided further, That where notice of intent
22 to terminate a letter of credit is given, the department shall,
23 after 30 days written notice to the operator and in the absence
24 of a replacement of such letter of credit within such 30-day
25 period by the operator with other acceptable bond guarantees
26 provided herein, draw upon and convert such letter of credit
27 into cash and hold it as a collateral bond guarantee.

28 (b) In the case of applications for permits where the
29 department determine that the operations are reasonably
30 anticipated to continue for a period of at least ten years from

1 the date of application, the operator may elect to deposit
2 collateral and file a collateral bond as provided in subsection
3 (a) according to the following phase deposit schedule. The
4 operator shall, prior to commencing operations, deposit \$10,000
5 or 25% of the amount of the bond determined under subsection
6 (a), whichever is greater. The operator shall, thereafter,
7 annually deposit 10% of the remaining bond amount for a period
8 of ten years. Interest accumulated by such collateral shall
9 become a part of the bond. The department may require additional
10 bonding at any time to meet the intent of subsection (a). The
11 collateral shall be deposited in trust, with the State Treasurer
12 as provided in subsection (a) or with a bank, selected by the
13 department, which shall act as trustee for the benefit of the
14 Commonwealth, according to rules and regulations promulgated
15 hereunder, to guarantee the operator's compliance with this act
16 and the statutes enumerated in subsection (a). The operator
17 shall be required to pay all costs of the trust. The collateral
18 deposit, or part thereof, shall be released of liability and
19 returned to the operator, together with a proportional share of
20 accumulated interest, upon the conditions of and pursuant to the
21 schedule and criteria for release provided in this act.

22 (c) The operator shall, prior to commencing operations on
23 any additional land exceeding the estimate made in the
24 application for a permit, file an additional application and
25 bond. Upon receipt of such additional application and related
26 documents and information as would have been required for the
27 additional land had it been included in the original application
28 for a permit and should all the requirements of this act be met
29 as were necessary to secure the permit, the secretary shall
30 promptly issue an amended permit covering the additional acreage

1 covered by such application, and shall determine the additional
2 bond requirement therefor.

3 (d) If the operator abandons the operation of a municipal or
4 residual waste processing or disposal facility or a hazardous
5 waste storage, treatment or disposal facility for which a permit
6 is required by this section or if the permittee fails or refuses
7 to comply with the requirements of this act in any respect for
8 which liability has been charged on the bond, the secretary
9 shall declare the bond forfeited and shall certify the same to
10 the Department of Justice which shall proceed to enforce and
11 collect the amount of liability forfeited thereon, and where the
12 operation has deposited cash or securities as collateral in lieu
13 of a corporate surety, the secretary shall declare said
14 collateral forfeited and shall direct the State Treasurer to pay
15 said funds into the Waste Abatement Fund. Should any corporate
16 surety fail to promptly pay, in full, forfeited bond, it shall
17 be disqualified from writing any further surety bonds under this
18 act.

19 (e) Prior to the issuance of any license for the
20 transportation of hazardous waste, the applicant for a license
21 shall file with the department a collateral bond on a form
22 prescribed and furnished by the department. Such bond shall be
23 payable to the Commonwealth and conditioned upon compliance by
24 the licensee with every requirement of this act, rule and
25 regulation of the department, order of the department and term
26 and condition of the license. The amount of the bond required
27 shall be in an amount determined by the secretary, but in an
28 amount no less than \$10,000. The department may require
29 additional bond amounts if the department determines such
30 additional amounts are necessary to guarantee compliance with

1 this act. The licensee may elect to deposit cash or
2 automatically renewable irrevocable letters of credit which are
3 terminable only upon 90 days written notice to the operator and
4 the department, or negotiable bonds of the United States
5 Government or the Commonwealth of Pennsylvania, the Pennsylvania
6 Turnpike Commission, the General State Authority, the State
7 Public School Building Authority, or any municipality within the
8 Commonwealth. No corporate surety bond is authorized by this
9 subsection. The cash amount of such deposit, irrevocable letters
10 of credit, or market value of such securities shall be equal at
11 least to the sum of the bond. The secretary shall, upon receipt
12 of any such deposit of cash or negotiable bonds, immediately
13 place the same with the State Treasurer, whose duty it shall be
14 to receive and hold the same in the name of the Commonwealth, in
15 trust, for the purposes for which such deposit is made. The
16 State Treasurer shall at all times be responsible for the
17 custody and safekeeping of such deposits. The licensee making
18 the deposit shall be entitled from time to time to demand and
19 receive from the State Treasurer, on the written order of the
20 secretary, the whole or any portion of any collateral so
21 deposited, upon depositing with him, in lieu thereof, other
22 collateral of the classes herein specified having a market value
23 at least equal to the sum of the bond, also to demand, receive
24 and recover the interest and income from said negotiable bonds
25 as the same becomes due and payable: Provided, however, That
26 where negotiable bonds, deposited as aforesaid, mature or are
27 called, the State Treasurer, at the request of the permittee,
28 shall convert such negotiable bonds into such other negotiable
29 bonds of the classes herein specified as may be designated by
30 the permittee: And provided further, That where notice of intent

1 to terminate a letter of credit is given, the department shall,
2 after 30 days written notice to the operator and in the absence
3 of a replacement of such letter of credit within such 30-day
4 period by the operator with other acceptable bond guarantees
5 provided herein, draw upon and convert such letter of credit
6 into cash and hold it as a collateral bond guarantee. Liability
7 under such bond shall be for the duration of the license and for
8 a period of one year after the expiration of the license.

9 Section 505. Financial responsibility.

10 The Environmental Quality Board shall adopt such additional
11 regulations to provide for proof of financial responsibility of
12 owners or operators of hazardous waste storage, treatment, and
13 disposal facilities, as necessary or desirable for closure of
14 the facility, post-closure monitoring and maintenance, sudden
15 and accidental occurrences, and nonsudden and accidental
16 occurrences, and to comply with section 3004 of the Resource
17 Conservation and Recovery Act of 1976 42 U.S.C. §6924.

18 ARTICLE VI

19 ENFORCEMENT AND REMEDIES

20 Section 601. Public Nuisances.

21 Any violation of any provision of this act, any rule or
22 regulation of the department, any order of the department, or
23 any term or condition of any permit, shall constitute a public
24 nuisance. Any person or municipality committing such a violation
25 shall be liable for the costs of abatement of any pollution and
26 any public nuisance caused by such violation. The Environmental
27 Hearing Board and any court of competent jurisdiction is hereby
28 given jurisdiction over actions to recover the costs of such
29 abatement.

30 Section 602. Enforcement orders.

1 (a) The department may issue orders to such persons and
2 municipalities as it deems necessary to aid in the enforcement
3 of the provisions of this act. Such orders may include, but
4 shall not be limited to, orders modifying, suspending or
5 revoking permits and orders requiring persons and municipalities
6 to cease unlawful activities or operations of a solid waste
7 facility which in the course of its operation is in violation of
8 any provision of this act, any rule or regulation of the
9 department or any terms and conditions of a permit issued under
10 this act. An order issued under this act shall take effect upon
11 notice, unless the order specifies otherwise. An appeal to the
12 Environmental Hearing Board shall not act as a supersedeas. The
13 power of the department to issue an order under this act is in
14 addition to any other remedy which may be afforded to the
15 department pursuant to this act or any other act.

16 (b) If the department finds that the storage, collection,
17 transportation, processing, treatment or disposal of solid waste
18 is causing pollution of the air, water, land or other natural
19 resources of the Commonwealth or is creating a public nuisance,
20 the department may order the person or the municipality to alter
21 its storage, collection, transportation, processing, treatment
22 or disposal systems to provide such storage, collection,
23 transportation, processing, treatment, or disposal systems as
24 will prevent pollution and public nuisances. Such order shall
25 specify the length of time after receipt of the order within
26 which the facility or area shall be repaired, altered,
27 constructed or reconstructed.

28 (c) Any person or municipality ordered by the department to
29 repair, alter, construct, or reconstruct a solid waste facility
30 or area shall take such steps for the repair, alteration,

1 construction, or reconstruction of the facility or area as may
2 be necessary for the storage, processing, treatment and disposal
3 of its solid waste in compliance with this act and the rules and
4 regulations of the department, and standards and orders of the
5 department.

6 Section 603. Duty to comply with orders of the department.

7 It shall be the duty of any person and municipality to
8 proceed diligently to comply with any order issued pursuant to
9 section 602. If such person or municipality fails to proceed
10 diligently, or fails to comply with the order within such time,
11 if any, as may be specified, such person or municipality shall
12 be guilty of contempt, and shall be punished by the court in an
13 appropriate manner and for this purpose, application may be made
14 by the department to the Commonwealth Court, which court is
15 hereby granted jurisdiction.

16 Section 604. Restraining violations.

17 (a) In addition to any other remedies provided in this act,
18 the department may institute a suit in equity in the name of the
19 Commonwealth where a violation of law or nuisance exists for an
20 injunction to restrain a violation of this act or the rules,
21 regulations, standards or orders adopted or issued thereunder
22 and to restrain the maintenance or threat of a public nuisance.
23 In any such proceeding, the court shall, upon motion of the
24 Commonwealth, issue a prohibitory or mandatory preliminary
25 injunction if it finds that the defendant is engaging in
26 unlawful conduct as defined by this act or is engaged in conduct
27 which is causing immediate and irreparable harm to the public.
28 The Commonwealth shall not be required to furnish bond or other
29 security in connection with such proceedings. In addition to an
30 injunction, the court in such equity proceedings, may levy civil

1 penalties as specified in section 605.

2 (b) In addition to any other remedies provided for in this
3 act, upon relation of any district attorney of any county
4 affected, or upon relation of the solicitor of any municipality
5 affected, an action in equity may be brought in a court of
6 competent jurisdiction for an injunction to restrain any and all
7 violations of this act or the rules and regulations promulgated
8 hereunder, or to restrain any public nuisance or detriment to
9 health.

10 (c) The penalties and remedies prescribed by this act shall
11 be deemed concurrent and the existence of or exercise of any
12 remedy shall not prevent the department from exercising any
13 other remedy hereunder, at law or in equity.

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

18 Section 605. Civil penalties.

19 In addition to proceeding under any other remedy available at
20 law or in equity for a violation of any provision of this act,
21 any rule or regulation of the department or order of the
22 department or any term or condition of any permit issued by the
23 department, the department may assess a civil penalty upon a
24 person for such violation. Such a penalty may be assessed
25 whether or not the violation was willful, negligent, or without
26 fault. In determining the amount of the penalty, the department
27 shall consider the willfulness of the violation, damage to air,
28 water, land or other natural resources of the Commonwealth or
29 their uses, cost of restoration and abatement, savings resulting
30 to the person in consequence of such violation, and other

1 relevant factors. If the violation leads to the issuance of a
2 cessation order or occurs after the release of security for
3 performance, a civil penalty shall be assessed. When the
4 department proposes to assess a civil penalty, it shall inform
5 the person or municipality of the proposed amount of said
6 penalty. The person charged with the penalty shall then have 30
7 days to pay the proposed penalty in full or, if the person
8 wishes to contest either the amount of the penalty or the fact
9 of the violation, the person shall within such 30 day period
10 file an appeal of such action with the Environmental Hearing
11 Board, and forward the proposed amount to the department within
12 30 days for placement in an escrow account with the State
13 Treasurer or any Pennsylvania bank. Failure to appeal and
14 forward the money to the department within 30 days shall result
15 in a waiver of all legal rights to contest the violation or the
16 amount of the penalty. Any other statute to the contrary
17 notwithstanding, there shall be no statute of limitations upon
18 actions brought by the department pursuant to this section. The
19 maximum civil penalty which may be assessed pursuant to this
20 section is \$25,000 per offense. Each violation for each separate
21 day and each violation of any provision of this act, any rule or
22 regulation under this act, any order of the department, or any
23 term or condition of a permit shall constitute a separate and
24 distinct offense under this section.

25 Section 606. Criminal penalties.

26 (a) Any person or municipality who violates any provision of
27 this act, the rules and regulations of the department, or any
28 order of the department, or any term or condition of any permit
29 upon conviction thereof in a summary proceeding, shall be
30 sentenced to pay a fine of not less than \$100 and not more than

1 \$1,000 and costs and, in default of the payment of such fine and
2 costs, to undergo imprisonment for not more than 30 days.

3 (b) Any person or municipality who violates any provision of
4 this act, any rule or regulation of the department, any order of
5 the department, or any term or condition of any permit, shall be
6 guilty of a misdemeanor of the third degree and, upon
7 conviction, shall be sentenced to pay a fine of not less than
8 \$1,000 but not more than \$25,000 per day for each violation or
9 to imprisonment for a period of not more than one year, or both.

10 (c) Any person or municipality who, within two years after a
11 conviction of a misdemeanor for any violation of this act,
12 violates any provision of this act, any rule or regulation of
13 the department, any order of the department, or any term or
14 condition of any permit shall be guilty of a misdemeanor of the
15 second degree and, upon conviction, shall be sentenced to pay a
16 fine of not less than \$2,500 nor more than \$50,000 for each
17 violation or to imprisonment for a period of not more than two
18 year, or both.

19 (d) Any person who stores, transports, treats, or disposes
20 of hazardous waste within the Commonwealth in violation of
21 section 401, or in violation of any order of the department
22 shall be guilty of a felony of the second degree and, upon
23 conviction, shall be sentenced to pay a fine of not less than
24 \$2,500 but not more than \$100,000 per day for each violation or
25 to imprisonment for not less than two years but not more than
26 ten years, or both.

27 (e) Any person who intentionally, knowingly, recklessly, or
28 negligently stores, transports, treats, or disposes of hazardous
29 waste within the Commonwealth in violation of any provision of
30 this act, and whose acts or omissions cause pollution, a public

1 nuisance or bodily injury to any person, shall be guilty of a
2 felony of the first degree, and upon conviction, shall be
3 sentenced to pay a fine of not less than \$10,000 but not more
4 than \$500,000 per day for each violation or to a term of
5 imprisonment of not less than two years, but not more than 20
6 years, or both.

7 (f) Each violation for each separate day and each violation
8 of any provision of this act, any rule or regulation of the
9 department, any order of the department, or term and condition
10 of a permit shall constitute a separate and distinct offense
11 under subsections (a), (b), (c), (d) and (e).

12 (g) With respect to the offenses specified in subsection
13 (a), (b), (c) and (d), it is the legislative purpose to impose
14 absolute liability for such offenses.

15 (h) With respect to the offenses specified in subsections
16 (a), (b), (c), (d) and (e), it is the legislative purpose to
17 impose liability on corporations.

18 Section 607. Existing rights and remedies preserved; cumulative
19 remedies authorized.

20 Nothing in this act shall be construed as estopping the
21 Commonwealth, or any district attorney or solicitor of a
22 municipality, from proceeding in courts of law or equity to
23 abate pollution forbidden under this act, or abate nuisances
24 under existing law. It is hereby declared to be the purposes of
25 this act to provide additional and cumulative remedies to
26 control the collection, storage, transportation, processing,
27 treatment, and disposal of solid waste within the Commonwealth,
28 and nothing contained in this act shall in any way abridge or
29 alter rights of action or remedies now or hereafter existing in
30 equity, or under the common law or statutory law, criminal or

1 civil, nor shall any provision in this act, or the granting of
2 any permit under this act, or any act done by virtue of this
3 act, be construed as estopping the Commonwealth, persons or
4 municipalities, in the exercise of their rights under the common
5 law or decisional law or in equity, from proceeding in courts of
6 law or equity to suppress nuisances, or to abate any pollution
7 now or hereafter existing, or to enforce common law or statutory
8 rights. No courts of this Commonwealth having jurisdiction to
9 abate public or private nuisances shall be deprived of such
10 jurisdiction in any action to abate any private or public
11 nuisance instituted by any person for the reasons that such
12 nuisance constitutes air or water pollution.

13 Section 608. Production of materials; recordkeeping
14 requirements; rights of entry.

15 The department and its agents and employees shall under any
16 and all circumstances:

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

20 (2) Require any person or municipality engaged in the
21 storage, transportation, processing, treatment or disposal of
22 any solid waste to establish and maintain such records and
23 make such reports and furnish such information as the
24 department may prescribe.

25 (3) Enter any building, property, premises or place for
26 the purposes of making such investigation or inspection as
27 may be necessary to ascertain the compliance or noncompliance
28 by any person or municipality with the provisions of this act
29 and the rules or regulations promulgated hereunder. In
30 connection with such inspection or investigation, samples may

1 be taken of any solid, semisolid, liquid or contained gaseous
2 material for analysis.

3 Section 609. Search warrants.

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

12 (1) that the inspection, examination, test, or sampling
13 is pursuant to a general administrative plan to determine
14 compliance with this act;

15 (2) that the agent or employee has reason to believe
16 that a violation of this act has occurred or may occur; or

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

21 Section 610. Unlawful conduct.

22 It shall be unlawful for any person or municipality to:

23 (1) Dump or deposit, or permit the dumping or
24 depositing, of any solid waste onto the surface of the ground
25 or underground or into the waters of the Commonwealth, by any
26 means, unless a permit for the dumping of such solid wastes
27 has been obtained from the department; provided, the
28 Environmental Quality Board may be regulation exempt certain
29 activities associated with normal farming operations as
30 defined by this act from such permit requirements.

1 (2) Construct, alter, operate or utilize a solid waste
2 storage, treatment, processing or disposal facility without a
3 permit from the department as required by this act or in
4 violation of the rules or regulations adopted under this act,
5 or orders of the department, or in violation of any term or
6 condition of any permit issued by the department.

7 (3) Burn solid wastes without a permit from the
8 department.

9 (4) Store, collect, transport, process, treat, or
10 dispose of, or assist in the storage, collection,
11 transportation, processing, treatment, or disposal of, solid
12 waste contrary to the rules or regulations adopted under this
13 act, or orders of the department, or any term or any
14 condition of any permit, or in any manner as to create a
15 public nuisance or to adversely affect the public health,
16 safety and welfare.

17 (5) Transport hazardous waste without first having
18 obtained a license from the department to conduct such
19 transport activities.

20 (6) Transport or permit the transportation of any solid
21 waste to any storage, treatment, processing or disposal
22 facility or area unless such facility or area possesses a
23 permit issued by the department to accept such wastes, or
24 contrary to the rules or regulations adopted under this act,
25 or orders of the department, or in such a manner as to
26 adversely affect or endanger the public health, safety and
27 welfare or environment through which such transportation
28 occurs.

29 (7) Refuse, hinder, obstruct, delay, or threaten any
30 agent or employee of the department in the course of

1 performance of any duty under this act, including, but not
2 limited to, entry and inspection under any circumstances.

3 (8) Consign, assign, sell, entrust, give or in any way
4 transfer residual or hazardous waste which is at any time
5 subsequently, by any such person or any other person;

6 (i) dumped or deposited or discharged in any manner
7 into the surface of the earth or underground or into the
8 waters of the Commonwealth unless a permit for the
9 dumping or depositing or discharging of such residual or
10 hazardous waste has first been obtained from the
11 department; or

12 (ii) stored, treated, processed, disposed of or
13 discharged by a residual or hazardous waste facility
14 unless such facility is operated under a permit first
15 obtained from the department.

16 (9) Cause or assist in the violation of any provision of
17 this act, any rule or regulation of the department, any order
18 of the department or any term or condition of any permit.

19 Section 611. Presumption of law for civil and administrative
20 proceedings.

21 It shall be presumed as a rebuttable presumption of law that
22 a person or municipality which stores, treats, or disposes of
23 hazardous waste shall be liable, without proof of fault,
24 negligence, or causation, for all damages, contamination or
25 pollution within 2,500 feet of the perimeter of the area where
26 hazardous waste activities have been carried out. Such
27 presumption may be overcome by clear and convincing evidence
28 that the person or municipality so charged did not contribute to
29 the damage, contamination, or pollution.

30 Section 612. Collection of fines and penalties.

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

15 Section 613. Recovery of costs of abatement.

16 Any person or municipality who causes a public nuisance shall
17 be liable for the costs of abatement. The department, any
18 Commonwealth agency, or any municipality which undertakes to
19 abate a public nuisance may recover the costs of abatement in an
20 action in equity brought before any court of competent
21 jurisdiction. In addition, the Environmental Hearing Board is
22 hereby given jurisdiction over actions by the department to
23 recover the costs of abatement.

24 Section 614. Forfeiture of contraband.

25 Any vehicle, equipment, or conveyance used for the
26 transportation of disposal of hazardous waste in the commission
27 of an offense under section 606 shall be deemed contraband and
28 shall be seized and forfeited to the department. The provisions
29 of law relating to the seizure, summary and judicial forfeiture,
30 and condemnation of intoxicating liquor shall apply to seizures

1 and forfeitures under the provisions of this section.

2 ARTICLE VII

3 SOLID WASTE ABATEMENT FUND

4 Section 701. Solid Waste Abatement Fund.

5 All fines, penalties, bond forfeitures and fees collected
6 under the provisions of this act shall be paid into the Treasury
7 of the Commonwealth into a special fund to be known as the
8 "Solid Waste Abatement Fund" hereby established. The Solid Waste
9 Abatement Fund shall be administered by the department for
10 abatement or elimination of present or potential hazards to
11 human health or to the environment from the improper treatment,
12 transportation, storage, processing, or disposal of solid
13 wastes, and for the enforcement of this act.

14 ARTICLE VIII

15 LIBERAL CONSTRUCTION

16 Section 801. Construction of act.

17 The terms and provisions of this act are to be liberally
18 construed, so as to best achieve and effectuate the goals and
19 purposes hereof. The principles of strict liability in tort
20 shall apply to all rights of action and remedies with respect to
21 hazardous wastes, provided by this act.

22 ARTICLE IX

23 REPEALER; EFFECTIVE DATE

24 Section 901. Repeal.

25 The act of July 31, 1968 (P.L.788, No.241), known as the
26 "Pennsylvania Solid Waste Management Act," is repealed.

27 Section 902. Effective date.

28 This act shall take effect immediately.