

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1840 Session of 1979

INTRODUCED BY BITTLE, FEE, BELARDI, SERAFINI, GEIST, LETTERMAN, J. L. WRIGHT, JR., STEIGHNER, GLADECK, MACKOWSKI, PICCOLA, MANMILLER, SALVATORE, LEVI, GALLEN, NOYE, CESSAR, SPENCER, VROON, DIETZ, SIEMINSKI, ARTY, GOEBEL, GEESEY, MUSTO AND DOMBROWSKI, OCTOBER 15, 1979

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES, OCTOBER 29, 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
13 Environmental Resources to adopt rules, regulations,
14 standards and procedures; providing remedies; prescribing
15 penalties; and establishing a fund.

TABLE OF CONTENTS

16
17 Article I. General Provisions
18 Section 101. Short title.
19 Section 102. Legislative finding; declaration of policy.
20 Section 103. Definitions.
21 Section 104. Powers and duties of the department.
22 Section 105. Powers and duties of the Environmental Quality

1 Board.

2 SECTION 106. LEGISLATIVE OVERSIGHT. <—

3 Article II. Municipal Waste

4 Section 201. Submission of plans; permits.

5 Section 202. Powers and duties of municipalities.

6 Section 203. Grants authorized.

7 Article III. Residual Waste

8 Section 301. Management of residual waste.

9 Section 302. Disposal, processing and storage of residual
10 waste.

11 Section 303. Transportation of residual waste.

12 Article IV. Hazardous Waste

13 Section 401. Management of hazardous waste.

14 Section 402. Listing of hazardous waste.

15 Section 403. Generation, transportation, storage,
16 treatment and disposal of hazardous waste.

17 Section 404. Transition scheme.

18 Section 405. Conveyance of disposal site property.

19 Article V. Applications and Permits

20 Section 501. Permits and licenses required; transition
21 scheme; reporting requirements.

22 Section 502. Permit and license application requirements.

23 Section 503. Granting, denying, renewing, modifying,
24 revoking and suspending permits and licenses.

25 SECTION 504. APPROVAL BY GOVERNING BODY. <—

26 Section ~~504~~ 505. Bonds. <—

27 Section ~~505~~ 506. Financial responsibility. <—

28 Article VI. Enforcement and Remedies

29 Section 601. Public nuisances.

30 Section 602. Enforcement orders.

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

2 Section 604. Restraining violations.

3 Section 605. Civil penalties.

4 Section 606. Criminal penalties.

5 Section 607. Existing rights and remedies preserved;
6 cumulative remedies authorized.

7 Section 608. Production of materials; recordkeeping
8 requirements; rights of entry.

9 Section 609. Search warrants.

10 Section 610. Unlawful conduct.

11 Section 611. Presumption of law for civil and administrative
12 proceedings.

13 Section 612. Collection of fines and penalties.

14 Section 613. Recovery of costs of abatement.

15 Section 614. Forfeiture of contraband.

16 SECTION 615. NOTICE OF PROPOSED SETTLEMENT. <—

17 Article VII. Solid Waste Abatement Fund

18 Section 701. Solid Waste Abatement Fund.

19 Article VIII. Liberal Construction

20 Section 801. Construction of act.

21 Article IX. Repealer; Effective Date

22 Section 901. Repeal.

23 SECTION 902. SEVERABILITY. <—

24 Section ~~902~~ 903. Effective date. <—

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

27 ARTICLE I

28 GENERAL PROVISIONS

29 Section 101. Short title.

30 This act shall be known and may be cited as the "Solid Waste

1 Management Act."

2 Section 102. Legislative finding; declaration of policy.

3 The Legislature hereby determines, declares and finds that,
4 since improper and inadequate solid waste practices create
5 public health hazards, environmental pollution, and economic
6 loss, and cause irreparable harm to the public health, safety
7 and welfare, it is the purpose of this act to:

8 (1) establish and maintain a cooperative State and local
9 program of planning and technical and financial assistance
10 for comprehensive solid waste management;

11 (2) encourage the development of resource recovery as a
12 means of managing solid waste, conserving resources, and
13 supplying energy;

14 (3) require permits for the operation of municipal and
15 residual waste processing and disposal systems, licenses for
16 the transportation of hazardous waste and permits for
17 hazardous waste storage, treatment, and disposal;

18 (4) protect the public health, safety and welfare from
19 the short and long term dangers of transportation,
20 processing, treatment, storage, and disposal of all wastes;
21 and

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

24 Section 103. Definitions.

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

28 "ABATEMENT." THE RESTORATION, RECLAMATION, RECOVERY, ETC., ←
29 OF A NATURAL RESOURCE ADVERSELY AFFECTED BY THE ACTIVITY OF A
30 PERSON, PERMITTEE OR MUNICIPALITY.

1 "Agricultural waste." Poultry and livestock manure, or
2 residual materials in liquid or solid form generated in the
3 production and marketing of poultry, livestock, fur bearing
4 animals, and their products, provided that such agricultural
5 waste is not hazardous. The term includes the residual materials
6 generated in producing, harvesting, and marketing of all
7 agronomic, horticultural, and silvicultural crops or commodities
8 grown on what are usually recognized and accepted as farms,
9 forests, or other agricultural lands.

10 "Commercial establishment." Any establishment engaged in
11 nonmanufacturing or processing business, including, but not
12 limited to, stores, markets, office buildings, restaurants,
13 shopping centers and theaters.

14 "Commonwealth." The Commonwealth of Pennsylvania.

15 "Department." The Department of Environmental Resources of
16 the Commonwealth of Pennsylvania and its authorized
17 representatives.

18 "Disposal." The incineration, deposition, injection,
19 dumping, spilling, leaking, or placing of solid waste into or on
20 the land or water in a manner that the solid waste or a
21 constituent of the solid waste enters the environment, is
22 emitted into the air or is discharged to the waters of the
23 Commonwealth.

24 "Food processing waste." Residual materials in liquid or
25 solid form generated in the slaughtering of poultry and
26 livestock, or in processing and converting fish, seafood, milk,
27 meat, and eggs to food products; it also means residual
28 materials generated in the processing, converting, or
29 manufacturing of fruits, vegetables, crops and other commodities
30 into marketable food items.

1 "Food processing wastes used for agricultural purposes." The
2 use of food processing wastes in normal farming operations as
3 defined in this section.

4 "Hazardous waste." Any garbage, refuse, sludge from sewage,
5 industrial or other waste water treatment plant, water supply
6 treatment plant, or air pollution control facility and other
7 material including solid, liquid, RADIOACTIVE AND NUCLEAR ←—
8 MATERIAL semisolid or contained gaseous material resulting from
9 municipal, commercial, industrial, institutional, mining, or
10 agricultural operations, and from community activities, or any
11 combination of the above, which because of its quantity,
12 concentration, or physical, chemical, or infectious
13 characteristics ~~may~~: ←—

14 (1) ~~contribute~~ CONTRIBUTES to an increase in mortality ←—
15 or an increase in morbidity in either an individual or
16 the total population; or

17 (2) ~~pose~~ POSES a present or potential hazard to human ←—
18 health or the environment when treated, stored, transported,
19 disposed of or otherwise managed.

20 "Industrial establishment." Any establishment engaged in
21 manufacturing or processing, including, but not limited to
22 factories, foundries, mills, processing plants, refineries,
23 mines and slaughterhouses.

24 "Institutional establishment." Any establishment engaged in
25 service, including, but not limited to, hospitals, nursing
26 homes, orphanages, schools and universities.

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

30 "Manifest system." A written record identifying the

1 quantity, composition, origin, routing, and destination of
2 hazardous waste from the point of generation to the point of
3 disposal, treatment or storage.

4 "Mine." Any deep or surface mine, whether active, inactive
5 or abandoned.

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

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

10 "Municipal waste." Any garbage, refuse and other material
11 including solid, liquid, semisolid or contained gaseous material
12 resulting from operation of residential, municipal, commercial
13 or institutional establishments and from community activities
14 and any sludge not meeting the definition of residual or
15 hazardous waste hereunder from a municipal, commercial or
16 institutional water supply treatment plant, waste water
17 treatment plant, or air pollution control facility.

18 "Normal farming operations." The customary and generally
19 accepted activities, practices and procedures that farms adopt,
20 use, or engage in year after year in the production and
21 preparation for market of poultry, livestock, and their
22 products; and in the production, harvesting and preparation for
23 market of agricultural, agronomic, horticultural silvicultural
24 and aquicultural crops and commodities; provided that such
25 operations are conducted in compliance with applicable laws, and
26 provided that the use or disposal of these materials will not
27 pollute the air, water, or other natural resources of the
28 Commonwealth, nor adversely affect the public health, welfare or
29 safety. It includes the storage and utilization of agricultural
30 and food process wastes for animal feed, and includes the

1 agricultural utilization of septic tank cleanings and sewage
2 sludges which are generated off-site. It includes the
3 management, collection, storage, transportation, use or disposal
4 of manure, other agricultural waste and food processing waste on
5 land where such materials will improve the condition of the
6 soil, the growth of crops, or in the restoration of the land for
7 the same purposes.

8 "Person." Any individual, partnership, corporation,
9 association, institution, cooperative enterprise, municipal
10 authority, Federal government or agency, State institution and
11 agency (including, but not limited to, the Department of General
12 Services and the State Public School Buildings Authority),
13 including municipalities as defined hereunder or any other legal
14 entity whatsoever which is recognized by law as the subject of
15 rights and duties. In any provisions of this act prescribing a
16 fine, imprisonment or penalty, or any combination of the
17 foregoing, the term "person" shall include the officers and
18 directors of any corporation or other legal entity having
19 officers and directors.

20 "Pollution." Contamination of any air, water, land or other
21 natural resources of the Commonwealth such as will create or is
22 likely to create a nuisance or to render such air, water, land
23 or other natural resources harmful, detrimental or injurious to
24 public health, safety or welfare, or to domestic, municipal,
25 commercial, industrial, agricultural, recreational or other
26 legitimate beneficial uses, or to livestock, wild animals,
27 birds, fish or other life.

28 "Processing." Any technology used for the purpose of
29 reducing the volume or bulk of municipal or residual waste or
30 any technology used to convert part or all of such waste

1 materials for reuse. Processing facilities include but are not
2 limited to transfer facilities, composting facilities, and
3 resource recovery facilities.

4 "Residual waste." Any garbage, refuse or other waste
5 including solid, liquid, semisolid, or contained gaseous
6 materials resulting from industrial, mining and agricultural
7 operations and any sludge from an industrial, mining or
8 agricultural water supply treatment facility, waste water
9 treatment facility or air pollution control facility, provided
10 that it is not hazardous.

11 "Secretary." The Secretary of the Department of
12 Environmental Resources of the Commonwealth of Pennsylvania.

13 "Solid waste." Any waste, including but not limited to,
14 municipal, residual or hazardous wastes, including solid,
15 liquid, semisolid or contained gaseous materials.

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

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

25 "Treatment." Any method, technique, or process, including
26 neutralization, designed to change the physical, chemical, or
27 biological character or composition of any waste so as to
28 neutralize such waste or so as to render such waste
29 nonhazardous, safer for transport, suitable for recovery,
30 suitable for storage, or reduced in volume. Such term includes

1 any activity or processing designed to change the physical form
2 or chemical composition of waste so as to render it neutral or
3 nonhazardous.

4 Section 104. Powers and duties of the department.

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

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

8 (2) cooperate with appropriate Federal, State,
9 interstate and local units of government and with appropriate
10 private organizations in carry out its duties under this act;

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

15 (4) provide technical assistance to municipalities
16 including the training of personnel;

17 (5) initiate, conduct, and support research,
18 demonstration projects, and investigations, and coordinate
19 all State agency research programs, pertaining to solid waste
20 management systems;

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

23 (7) issue permits, licenses and orders, and specify the
24 terms and conditions thereof, and conduct inspections and
25 abate public nuisances to implement the purposes and
26 provisions of this act and the rules, regulations and
27 standards adopted pursuant to this act;

28 (8) require the payment of a fee for the processing of
29 any permit or license application. Permit and license fees
30 shall be in an amount sufficient to cover the aggregate cost

1 of reviewing all applications, acting on all applications,
2 processing all renewals, and administering all the terms and
3 conditions of all permits and all provisions of this act;

4 (9) serve as the agency of the Commonwealth for the
5 receipt of moneys from the Federal government or other public
6 agencies or private agencies and expend such moneys for
7 studies and research with respect to, and for the enforcement
8 and administration of, the purposes and provisions of this
9 act and the rules and regulations promulgated thereunder;

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

15 (11) institute prosecutions against any person or
16 municipality under this act;

17 (12) appoint such advisory committees as the Secretary
18 deems necessary and proper to assist the department in
19 carrying out the provisions of this act. The secretary is
20 authorized to pay reasonable and necessary expenses incurred
21 by the members of such advisory committees in carrying out
22 their functions; and

23 (13) do any and all other acts and things not
24 inconsistent with any provision of this act, which it may
25 deem necessary or proper for the effective enforcement of
26 this act and the rules or regulations which may be
27 promulgated hereunder.

28 Section 105. Powers and duties of the Environmental Quality
29 Board.

30 (a) The Environmental Quality Board shall have the power and

1 its duty shall be to adopt the rules and regulations of the
2 department to accomplish the purposes and to carry out the
3 provisions of this act, including but not limited to the
4 establishment of rules and regulations relating to the
5 protection of safety, health, welfare and property of the public
6 and the air, water and other natural resources of the
7 Commonwealth.

8 (b) The Environmental Quality Board shall, by regulation,
9 set the term of expiration of permits and licenses appropriate
10 to the category of the permit or license.

11 SECTION 106. LEGISLATIVE OVERSIGHT. ←

12 (A) PRIOR TO THE PROMULGATION OF PROPOSED REGULATIONS
13 RELATING TO THIS ACT, THE ENVIRONMENTAL QUALITY BOARD SHALL
14 SUBMIT SUCH PROPOSED REGULATIONS TO THE JOINT LEGISLATIVE AIR
15 AND WATER POLLUTION CONTROL AND CONSERVATION COMMITTEE.

16 (B) UPON SUBMISSION OF THE PROPOSED REGULATIONS TO THE
17 COMMITTEE, THE COMMITTEE SHALL HAVE 60 DAYS IN WHICH TO APPROVE,
18 MODIFY OR VETO THE PROPOSED REGULATIONS. IF THE COMMITTEE TAKES
19 NO ACTION WITHIN THE 60-DAY PERIOD, THE REGULATIONS SHALL BE
20 DEEMED TO HAVE BEEN APPROVED BY THE COMMITTEE. IF THE COMMITTEE
21 VETOES THE PROPOSED REGULATIONS OR OTHERWISE RAISES OBJECTIONS,
22 THE BOARD SHALL WITHDRAW THE PROPOSED REGULATIONS, OR MODIFY
23 THEM IN SUCH A MANNER AS SHALL BE APPROVED BY THE COMMITTEE.
24 UPON APPROVAL BY THE COMMITTEE OR THE EXPIRATION OF THE 60-DAY
25 PERIOD WITH NO ACTION, THE BOARD MAY PROCEED TO DEPOSIT THE
26 PROPOSED REGULATIONS FOR PUBLICATION IN THE PENNSYLVANIA
27 BULLETIN IN THE MANNER PROVIDED BY LAW.

28 ARTICLE II

29 MUNICIPAL WASTE

30 Section 201. Submission of plans; permits.

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

9 (b) Each municipality with a population density of 300 or
10 more inhabitants per square mile AND EACH MUNICIPALITY WITH A ←—
11 POPULATION DENSITY OF LESS THAN 300 WHEREIN THE DEPARTMENT HAS
12 IDENTIFIED A WASTE PROBLEM OR A POTENTIAL WASTE PROBLEM shall
13 submit to the department an officially adopted plan for a
14 municipal waste management system or systems serving the areas
15 within its jurisdiction within two years of the effective date
16 of this section, and shall, from time to time, submit such
17 revisions of said plan as it deems necessary or as the
18 department may require.

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

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

29 (e) Every plan shall:

30 (1) Provide for the orderly extension of municipal waste

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (l) The department may order, or obtain an injunction
30 requiring municipalities to implement the plans which they have

1 submitted, in accordance with this act and the rules,
2 regulations and procedures of the department.

3 Section 202. Powers and duties of municipalities.

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

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

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

26 Section 203. Grants authorized.

27 (a) The department is authorized to assist municipalities by
28 administering grants to pay up to 50% of the costs of preparing
29 official plans for municipal waste management systems in
30 accordance with the requirements of this act and the rules,

1 regulations, and standards adopted pursuant to this act, and for
2 carrying out related studies, surveys, investigations,
3 inquiries, research and analyses.

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

6 ARTICLE III

7 RESIDUAL WASTE

8 Section 301. Management of residual waste.

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

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

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

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

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

28 (2) Use such methods and facilities as are necessary to
29 prevent the harmful or hazardous mixing of wastes or such
30 mixing as may render disposal in compliance with this act

1 impracticable.

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

6 Section 303. Transportation of residual waste.

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

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

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

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

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

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

24 ARTICLE IV

25 HAZARDOUS WASTE

26 Section 401. Management of hazardous waste.

27 (a) No person or municipality shall store, transport, treat,
28 or dispose of hazardous waste within this Commonwealth unless
29 such storage, transportation, treatment, or disposal is
30 authorized by the rules and regulations of the department; no

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

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

13 Section 402. Listing of hazardous waste.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (12) Immediately notify the department AND THE AFFECTED <—
22 MUNICIPALITY OR MUNICIPALITIES of any spill or accidental
23 discharge of such waste in accordance with a contingency plan
24 approved by the department and take immediate steps to
25 contain and clean up the spill or discharge.

26 (C) AFTER JANUARY 1, 1981 ANY PRODUCER OF ANY HAZARDOUS <—
27 WASTE OR ANY PRODUCER HAVING A BY-PRODUCT OF PRODUCTION WHICH IS
28 A HAZARDOUS WASTE MAY BE REQUIRED BY THE DEPARTMENT TO SUBMIT TO
29 THE DEPARTMENT FOR ITS APPROVAL A PLAN RELATING TO THE DISPOSAL
30 OF SUCH HAZARDOUS WASTE AT EITHER AN ON-SITE DISPOSAL AREA OR AN

1 OFF-SITE DISPOSAL AREA.

2 Section 404. Transition scheme.

3 Any person or municipality who:

4 (1) owns or operates a hazardous waste storage or
5 treatment facility required to have a permit under this act,
6 which facility is in existence on the effective date of this
7 act;

8 (2) has complied with the requirements of section
9 501(c);

10 (3) has made an application for a permit under this act;
11 and

12 (4) operates and continues to operate in such a manner
13 as will not cause, or create a risk of, a health hazard, a
14 public nuisance, or an adverse effect upon the environment;
15 shall be treated as having been issued such permit until such
16 time as a final departmental action on such application is made.
17 In no instance shall such person or municipality continue to
18 store or treat hazardous wastes without obtaining a permit from
19 the department within two years after the date of enactment
20 hereof.

21 Section 405. Conveyance of disposal site property.

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

1 Such amended property description shall be made a part of the
2 deed for all future conveyances or transfers of the subject
3 property.

4 ARTICLE V

5 APPLICATIONS AND PERMITS

6 Section 501. Permits and licenses required; transition scheme;
7 reporting requirements.

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

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

25 (c) Not later than 90 days after promulgation or revision of
26 regulations under section 402 identifying by its characteristics
27 or listing any substance as hazardous waste, any person or
28 municipality generating or transporting such substance or owning
29 or operating a facility for treatment, storage, or disposal of
30 such substance shall file with the department a notification

1 stating the location and general description of such activity
2 and the identified or listed hazardous wastes handled by such
3 person or municipality. Not more than one such notification
4 shall be required to be filed with respect to the same
5 substance. No identified or listed hazardous waste may be
6 transported, treated, processed, stored or disposed of unless
7 notification has been given as required under this subsection.
8 Section 502. Permit and license application requirements.

9 (a) Application for any permit or license shall be in
10 writing, shall be made on forms provided by the department and
11 shall be accompanied by such plans, designs and relevant data as
12 the department may require. Such plans, designs and data shall
13 be prepared by a registered professional engineer.

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

29 (c) All records, reports, or information contained in the
30 hazardous waste storage, treatment or disposal facility permit

1 application submitted to the department under this section shall
2 be available to the public; except that the department shall
3 consider a record, report or information or particular portion
4 thereof, confidential in the administration of this act if the
5 applicant can show cause that the records, reports or
6 information, or a particular portion thereof (but not emission
7 or discharge data or information concerning solid waste which is
8 potentially toxic in the environment), if made public, would
9 divulge production or sales figures or methods, processes or
10 production unique to such applicant or would otherwise tend to
11 affect adversely the competitive position of such applicant by
12 revealing trade secrets. Nothing herein shall be construed to
13 prevent disclosure of such report, record or information to the
14 Federal government or other State agencies as may be necessary
15 for purposes of administration of any Federal or State law.

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

1 this act and to the sanctions and penalties provided in the
2 statutes hereinabove enumerated for violations of such statutes.
3 Such failure to comply shall be cause for revocation of any
4 approval or permit issued by the department to the operator.
5 Compliance with the provisions of this subsection and with the
6 provisions of this act and the provisions of the statutes
7 hereinabove enumerated shall not relieve the operator of the
8 responsibility for complying with the provisions of all other
9 applicable statutes, including, but not limited to the act of
10 July 17, 1961 (P.L.659, No.339), known as the "Pennsylvania
11 Bituminous Coal Mine Act," the act of November 10, 1965
12 (P.L.721, No.346), known as the "Pennsylvania Anthracite Coal
13 Mine Act," and the act of July 9, 1976 (P.L.931, No.178),
14 entitled "An act providing emergency medical personnel;
15 employment of emergency medical personnel and emergency
16 communications in coal mines."

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

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

25 Section 503. Granting, denying, renewing, modifying, revoking
26 and suspending permits and licenses.

27 (a) Upon approval of the application, the department shall
28 issue a permit for the operation of a solid waste storage,
29 treatment, processing or disposal facility or area or a license
30 for the transportation of hazardous wastes, as set forth in the

1 application and further conditioned by the department.

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

4 (c) In carrying out the provisions of this act, the
5 department may deny, suspend, modify, or revoke any permit or
6 license if it finds that the applicant, permittee or licensee
7 has failed or continues to fail to comply with any provision of
8 this act, the act of June 25, 1913 (P.L.555, No.355), referred
9 to as the Water Obstructions Act, the act of June 22, 1937
10 (P.L.1987, No.394), known as "The Clean Streams Law," the act of
11 January 8, 1960 (1959 P.L.2119, No.787), known as the "Air
12 Pollution Control Act," and the act of November 26, 1978
13 (P.L.1375, No.325), known as the "Dam Safety Act," or any other
14 state or Federal statute relating to environmental protection or
15 to the protection of the public health, safety and welfare; or
16 any rule or regulation of the department; or any order of the
17 department; or any condition of any permit or license issued by
18 the department; or if the department finds that the applicant,
19 permittee or licensee has shown a lack of ability or intention
20 to comply with any provision of this act or any of the acts
21 referred to in this subsection or any rule or regulation of the
22 department or order of the department, or any condition of any
23 permit or license issued by the department as indicated by past
24 or continuing violations. IN THE CASE OF A CORPORATE APPLICANT, ←
25 PERMITTEE OR LICENSEE, THE DEPARTMENT MAY DENY THE ISSUANCE OF A
26 LICENSE OR PERMIT IF IT FINDS THAT A PRINCIPAL OF THE
27 CORPORATION WAS A PRINCIPAL OF ANOTHER CORPORATION WHICH
28 COMMITTED PAST VIOLATIONS OF THIS ACT.

29 (d) Any person or municipality which has engaged in unlawful
30 conduct as defined in this act, or whose partner, associate,

1 officer, parent corporation, subsidiary corporation, contractor,
2 subcontractor or agent has engaged in such unlawful conduct,
3 shall be denied any permit or license required by this act
4 unless the permit or license application demonstrates to the
5 satisfaction of the department that the unlawful conduct has
6 been corrected. Independent contractors and agents who are to
7 operate under any permit shall be subject to the provisions of
8 this act. Such independent contractors, agents and the permittee
9 shall be jointly and severally liable, without regard to fault,
10 for violations of this act which occur during the contractor's
11 or agent's involvement in the course of operations.

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

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

19 (2) is creating a public nuisance;

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

22 (4) adversely affects the environment;

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

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

27 SECTION 504. APPROVAL BY GOVERNING BODY. <—

28 NO PERMIT OR LICENSE FOR THE DISPOSAL OF HAZARDOUS WASTE
29 SHALL BE GRANTED WITHOUT THE WRITTEN CONSENT OR APPROVAL OF THE
30 GOVERNING BODY OF THE COUNTY IN WHICH THE PROPOSED DISPOSAL SITE

1 IS LOCATED.

2 Section ~~504~~ 505. Bonds. ←

3 (a) Prior to the commencement of operations, the operator of
4 a municipal or residual waste processing or disposal facility or
5 of a hazardous waste storage, treatment or disposal facility for
6 which a permit is required by this section shall file with the
7 department a bond for the land affected by such facility on a
8 form prescribed and furnished by the department. Such bond shall
9 be payable to the Commonwealth and conditioned so that the
10 operator shall comply with the requirements of this act, the act
11 of June 25, 1913 (P.L.555, No.355), referred to as the Water
12 Obstructions Act, the act of June 22, 1937 (P.L.1987, No.394),
13 known as "The Clean Streams Law," the act of May 31, 1945
14 (P.L.1198, No.418), known as the "Surface Mining Conservation
15 and Reclamation Act," the act of January 8, 1960 (1959 P.L.2119,
16 No.787), known as the "Air Pollution Control Act," and the act
17 of November 26, 1978 (P.L.1375, No.325), known as the "Dam
18 Safety Act." The department may require additional bond amounts
19 for the permitted areas should such an increase be determined by
20 the department to be necessary to meet the requirements of this
21 act. The amount of the bond required shall be in an amount
22 determined by the secretary based upon the total estimated cost
23 to the Commonwealth of completing final closure according to the
24 permit granted to such facility and such measures as are
25 necessary to prevent adverse effects upon the environment; such
26 measures include but are not limited to satisfactory monitoring,
27 post-closure care, and remedial measures. The bond amount shall
28 reflect the additional cost to the Commonwealth which may be
29 entailed by being required to bring personnel and equipment to
30 the site. All permits shall be bonded for at least \$10,000.

1 Liability under such bond shall be for the duration of the
2 operation, and for a period of ten full years after final
3 closure of the permit site. Such bond shall be executed by the
4 operator and a corporate surety licensed to do business in the
5 Commonwealth and approved by the secretary: Provided, however,
6 That the operator may elect to deposit cash, certificates of
7 deposit, automatically renewable irrevocable letters of credit
8 which are terminable only upon 90 days written notice to the
9 operator and the department, or negotiable bonds of the United
10 States Government or the Commonwealth of Pennsylvania, the
11 Pennsylvania Turnpike Commission, the General State Authority,
12 the State Public School Building Authority, or any municipality
13 within the Commonwealth, with the department in lieu of a
14 corporate surety. The cash amount of such deposit, irrevocable
15 letters of credit or market value of such securities shall be
16 equal at least to the sum of the bond. The secretary shall, upon
17 receipt of any such deposit of cash or negotiable bonds,
18 immediately place the same with the State Treasurer, whose duty
19 it shall be to receive and hold the same in the name of the
20 Commonwealth, in trust, for the purposes for which such deposit
21 is made. The State Treasurer shall at all times be responsible
22 for the custody and safekeeping of such deposits. The operator
23 making the deposit shall be entitled from time to time to demand
24 and receive from the State Treasurer, on the written order of
25 the secretary, the whole or any portion of any collateral so
26 deposited, upon depositing with him, in lieu thereof, other
27 collateral of the classes herein specified having a market value
28 at least equal to the sum of the bond, also to demand, receive
29 and recover the interest and income from said negotiable bonds
30 as the same becomes due and payable: Provided, however, That

1 where negotiable bonds, deposited as aforesaid, mature or are
2 called, the State Treasurer, at the request of the permittee,
3 shall convert such negotiable bonds into such other negotiable
4 bonds of the classes herein specified as may be designated by
5 the permittee: And provided further, That where notice of intent
6 to terminate a letter of credit is given, the department shall,
7 after 30 days written notice to the operator and in the absence
8 of a replacement of such letter of credit within such 30-day
9 period by the operator with other acceptable bond guarantees
10 provided herein, draw upon and convert such letter of credit
11 into cash and hold it as a collateral bond guarantee.

12 (b) In the case of applications for permits where the
13 department determine that the operations are reasonably
14 anticipated to continue for a period of at least ten years from
15 the date of application, the operator may elect to deposit
16 collateral and file a collateral bond as provided in subsection
17 (a) according to the following phase deposit schedule. The
18 operator shall, prior to commencing operations, deposit \$10,000
19 or 25% of the amount of the bond determined under subsection
20 (a), whichever is greater. The operator shall, thereafter,
21 annually deposit 10% of the remaining bond amount for a period
22 of ten years. Interest accumulated by such collateral shall
23 become a part of the bond. The department may require additional
24 bonding at any time to meet the intent of subsection (a). The
25 collateral shall be deposited in trust, with the State Treasurer
26 as provided in subsection (a) or with a bank, selected by the
27 department, which shall act as trustee for the benefit of the
28 Commonwealth, according to rules and regulations promulgated
29 hereunder, to guarantee the operator's compliance with this act
30 and the statutes enumerated in subsection (a). The operator

1 shall be required to pay all costs of the trust. The collateral
2 deposit, or part thereof, shall be released of liability and
3 returned to the operator, together with a proportional share of
4 accumulated interest, upon the conditions of and pursuant to the
5 schedule and criteria for release provided in this act.

6 (c) The operator shall, prior to commencing operations on
7 any additional land exceeding the estimate made in the
8 application for a permit, file an additional application and
9 bond. Upon receipt of such additional application and related
10 documents and information as would have been required for the
11 additional land had it been included in the original application
12 for a permit and should all the requirements of this act be met
13 as were necessary to secure the permit, the secretary shall
14 promptly issue an amended permit covering the additional acreage
15 covered by such application, and shall determine the additional
16 bond requirement therefor.

17 (d) If the operator abandons the operation of a municipal or
18 residual waste processing or disposal facility or a hazardous
19 waste storage, treatment or disposal facility for which a permit
20 is required by this section or if the permittee fails or refuses
21 to comply with the requirements of this act in any respect for
22 which liability has been charged on the bond, the secretary
23 shall declare the bond forfeited and shall certify the same to
24 the Department of Justice which shall proceed to enforce and
25 collect the amount of liability forfeited thereon, and where the
26 operation has deposited cash or securities as collateral in lieu
27 of a corporate surety, the secretary shall declare said
28 collateral forfeited and shall direct the State Treasurer to pay
29 said funds into the Waste Abatement Fund. Should any corporate
30 surety fail to promptly pay, in full, forfeited bond, it shall

1 be disqualified from writing any further surety bonds under this
2 act.

3 (e) Prior to the issuance of any license for the
4 transportation of hazardous waste, the applicant for a license
5 shall file with the department a collateral bond on a form
6 prescribed and furnished by the department. Such bond shall be
7 payable to the Commonwealth and conditioned upon compliance by
8 the licensee with every requirement of this act, rule and
9 regulation of the department, order of the department and term
10 and condition of the license. The amount of the bond required
11 shall be in an amount determined by the secretary, but in an
12 amount no less than \$10,000. The department may require
13 additional bond amounts if the department determines such
14 additional amounts are necessary to guarantee compliance with
15 this act. The licensee may elect to deposit cash or
16 automatically renewable irrevocable letters of credit which are
17 terminable only upon 90 days written notice to the operator and
18 the department, or negotiable bonds of the United States
19 Government or the Commonwealth of Pennsylvania, the Pennsylvania
20 Turnpike Commission, the General State Authority, the State
21 Public School Building Authority, or any municipality within the
22 Commonwealth. No corporate surety bond is authorized by this
23 subsection. The cash amount of such deposit, irrevocable letters
24 of credit, or market value of such securities shall be equal at
25 least to the sum of the bond. The secretary shall, upon receipt
26 of any such deposit of cash or negotiable bonds, immediately
27 place the same with the State Treasurer, whose duty it shall be
28 to receive and hold the same in the name of the Commonwealth, in
29 trust, for the purposes for which such deposit is made. The
30 State Treasurer shall at all times be responsible for the

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

23 Section ~~505~~ 506. Financial responsibility. ←

24 The Environmental Quality Board shall adopt such additional
25 regulations to provide for proof of financial responsibility of
26 owners or operators of hazardous waste storage, treatment, and
27 disposal facilities, as necessary or desirable for closure of
28 the facility, post-closure monitoring and maintenance, sudden
29 and accidental occurrences, and nonsudden and accidental
30 occurrences, and to comply with section 3004 of the Resource

1 Conservation and Recovery Act of 1976 42 U.S.C. §6924.

2 ARTICLE VI

3 ENFORCEMENT AND REMEDIES

4 Section 601. Public Nuisances.

5 Any violation of any provision of this act, any rule or
6 regulation of the department, any order of the department, or
7 any term or condition of any permit, shall constitute a public
8 nuisance. Any person or municipality committing such a violation
9 shall be liable for the costs of abatement of any pollution and
10 any public nuisance caused by such violation. The Environmental
11 Hearing Board and any court of competent jurisdiction is hereby
12 given jurisdiction over actions to recover the costs of such
13 abatement.

14 Section 602. Enforcement orders.

15 (a) The department may issue orders to such persons and
16 municipalities as it deems necessary to aid in the enforcement
17 of the provisions of this act. Such orders may include, but
18 shall not be limited to, orders modifying, suspending or
19 revoking permits and orders requiring persons and municipalities
20 to cease unlawful activities or operations of a solid waste
21 facility which in the course of its operation is in violation of
22 any provision of this act, any rule or regulation of the
23 department or any terms and conditions of a permit issued under
24 this act. An order issued under this act shall take effect upon
25 notice, unless the order specifies otherwise. An appeal to the
26 Environmental Hearing Board shall not act as a supersedeas. The
27 power of the department to issue an order under this act is in
28 addition to any other remedy which may be afforded to the
29 department pursuant to this act or any other act.

30 (b) If the department finds that the storage, collection,

1 transportation, processing, treatment or disposal of solid waste
2 is causing pollution of the air, water, land or other natural
3 resources of the Commonwealth or is creating a public nuisance,
4 the department may order the person or the municipality to alter
5 its storage, collection, transportation, processing, treatment
6 or disposal systems to provide such storage, collection,
7 transportation, processing, treatment, or disposal systems as
8 will prevent pollution and public nuisances. Such order shall
9 specify the length of time after receipt of the order within
10 which the facility or area shall be repaired, altered,
11 constructed or reconstructed.

12 (c) Any person or municipality ordered by the department to
13 repair, alter, construct, or reconstruct a solid waste facility
14 or area shall take such steps for the repair, alteration,
15 construction, or reconstruction of the facility or area as may
16 be necessary for the storage, processing, treatment and disposal
17 of its solid waste in compliance with this act and the rules and
18 regulations of the department, and standards and orders of the
19 department.

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

21 It shall be the duty of any person and municipality to
22 proceed diligently to comply with any order issued pursuant to
23 section 602. If such person or municipality fails to proceed
24 diligently, or fails to comply with the order within such time,
25 if any, as may be specified, such person or municipality shall
26 be guilty of contempt, and shall be punished by the court in an
27 appropriate manner and for this purpose, application may be made
28 by the department to the Commonwealth Court, which court is
29 hereby granted jurisdiction.

30 Section 604. Restraining violations.

1 (a) In addition to any other remedies provided in this act,
2 the department may institute a suit in equity in the name of the
3 Commonwealth where a violation of law or nuisance exists for an
4 injunction to restrain a violation of this act or the rules,
5 regulations, standards or orders adopted or issued thereunder
6 and to restrain the maintenance or threat of a public nuisance.
7 In any such proceeding, the court shall, upon motion of the
8 Commonwealth, issue a prohibitory or mandatory preliminary
9 injunction if it finds that the defendant is engaging in
10 unlawful conduct as defined by this act or is engaged in conduct
11 which is causing immediate and irreparable harm to the public.
12 The Commonwealth shall not be required to furnish bond or other
13 security in connection with such proceedings. In addition to an
14 injunction, the court in such equity proceedings, may levy civil
15 penalties as specified in section 605.

16 (b) In addition to any other remedies provided for in this
17 act, upon relation of any district attorney of any county
18 affected, or upon relation of the solicitor of any municipality
19 affected, an action in equity may be brought in a court of
20 competent jurisdiction for an injunction to restrain any and all
21 violations of this act or the rules and regulations promulgated
22 hereunder, or to restrain any public nuisance or detriment to
23 health.

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

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

1 actions.

2 Section 605. Civil penalties.

3 In addition to proceeding under any other remedy available at
4 law or in equity for a violation of any provision of this act,
5 any rule or regulation of the department or order of the
6 department or any term or condition of any permit issued by the
7 department, the department may assess a civil penalty upon a
8 person for such violation. Such a penalty may be assessed
9 whether or not the violation was willful OR negligent. ~~or~~ ←
10 ~~without fault.~~ In determining the amount of the penalty, the
11 department shall consider the willfulness of the violation,
12 damage to air, water, land or other natural resources of the
13 Commonwealth or their uses, cost of restoration and abatement,
14 savings resulting to the person in consequence of such
15 violation, and other relevant factors. If the violation leads to
16 the issuance of a cessation order or occurs after the release of
17 security for performance, a civil penalty shall be assessed.

18 When the department proposes to assess a civil penalty, it shall
19 inform the person or municipality of the proposed amount of said
20 penalty. The person charged with the penalty shall then have 30
21 days to pay the proposed penalty in full or, if the person
22 wishes to contest either the amount of the penalty or the fact
23 of the violation, the person shall within such 30 day period
24 file an appeal of such action with the Environmental Hearing
25 Board, and forward the proposed amount to the department within
26 30 days for placement in an escrow account with the State
27 Treasurer or any Pennsylvania bank. Failure to appeal ~~and~~ ←
28 ~~forward the money to the department~~ within 30 days shall result
29 in a waiver of all legal rights to contest the violation or the
30 amount of the penalty. Any other statute to the contrary

1 notwithstanding, there shall be no statute of limitations upon
2 actions brought by the department pursuant to this section. The
3 maximum civil penalty which may be assessed pursuant to this
4 section is \$25,000 per offense. Each violation for each separate
5 day and each violation of any provision of this act, any rule or
6 regulation under this act, any order of the department, or any
7 term or condition of a permit shall constitute a separate and
8 distinct offense under this section.

9 Section 606. Criminal penalties.

10 (a) Any person or municipality who violates any provision of
11 this act, the rules and regulations of the department, or any
12 order of the department, or any term or condition of any permit
13 upon conviction thereof in a summary proceeding, shall be
14 sentenced to pay a fine of not less than \$100 and not more than
15 \$1,000 and costs and, in default of the payment of such fine and
16 costs, to undergo imprisonment for not more than 30 days.

17 (b) Any person or municipality who violates any provision of
18 this act, any rule or regulation of the department, any order of
19 the department, or any term or condition of any permit, shall be
20 guilty of a misdemeanor of the third degree and, upon
21 conviction, shall be sentenced to pay a fine of not less than
22 \$1,000 but not more than \$25,000 per day for each violation or
23 to imprisonment for a period of not more than one year, or both.

24 (c) Any person or municipality who, within two years after a
25 conviction of a misdemeanor for any violation of this act,
26 violates any provision of this act, any rule or regulation of
27 the department, any order of the department, or any term or
28 condition of any permit shall be guilty of a misdemeanor of the
29 second degree and, upon conviction, shall be sentenced to pay a
30 fine of not less than \$2,500 nor more than \$50,000 for each

1 violation or to imprisonment for a period of not more than two
2 year, or both.

3 (d) Any person who stores, transports, treats, or disposes
4 of hazardous waste within the Commonwealth in violation of
5 section 401, or in violation of any order of the department
6 shall be guilty of a felony of the second degree and, upon
7 conviction, shall be sentenced to pay a fine of not less than
8 \$2,500 but not more than \$100,000 per day for each violation or
9 to imprisonment for not less than two years but not more than
10 ten years, or both.

11 (e) Any person who intentionally, knowingly, recklessly, or
12 negligently stores, transports, treats, or disposes of hazardous
13 waste within the Commonwealth in violation of any provision of
14 this act, and whose acts or omissions cause pollution, a public
15 nuisance or bodily injury to any person, shall be guilty of a
16 felony of the first degree, and upon conviction, shall be
17 sentenced to pay a fine of not less than \$10,000 but not more
18 than \$500,000 per day for each violation or to a term of
19 imprisonment of not less than two years, but not more than 20
20 years, or both.

21 (f) Each violation for each separate day and each violation
22 of any provision of this act, any rule or regulation of the
23 department, any order of the department, or term and condition
24 of a permit shall constitute a separate and distinct offense
25 under subsections (a), (b), (c), (d) and (e).

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

29 (h) With respect to the offenses specified in subsections
30 (a), (b), (c), (d) and (e), it is the legislative purpose to

1 impose liability on corporations.

2 Section 607. Existing rights and remedies preserved; cumulative
3 remedies authorized.

4 Nothing in this act shall be construed as estopping the
5 Commonwealth, or any district attorney or solicitor of a
6 municipality, from proceeding in courts of law or equity to
7 abate pollution forbidden under this act, or abate nuisances
8 under existing law. It is hereby declared to be the purposes of
9 this act to provide additional and cumulative remedies to
10 control the collection, storage, transportation, processing,
11 treatment, and disposal of solid waste within the Commonwealth,
12 and nothing contained in this act shall in any way abridge or
13 alter rights of action or remedies now or hereafter existing in
14 equity, or under the common law or statutory law, criminal or
15 civil, nor shall any provision in this act, or the granting of
16 any permit under this act, or any act done by virtue of this
17 act, be construed as estopping the Commonwealth, persons or
18 municipalities, in the exercise of their rights under the common
19 law or decisional law or in equity, from proceeding in courts of
20 law or equity to suppress nuisances, or to abate any pollution
21 now or hereafter existing, or to enforce common law or statutory
22 rights. No courts of this Commonwealth having jurisdiction to
23 abate public or private nuisances shall be deprived of such
24 jurisdiction in any action to abate any private or public
25 nuisance instituted by any person for the reasons that such
26 nuisance constitutes air or water pollution.

27 Section 608. Production of materials; recordkeeping
28 requirements; rights of entry.

29 The department and its agents and employees shall under any
30 and all circumstances:

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

4 (2) Require any person or municipality engaged in the
5 storage, transportation, processing, treatment or disposal of
6 any solid waste to establish and maintain such records and
7 make such reports and furnish such information as the
8 department may prescribe.

9 (3) Enter any building, property, premises or place for
10 the purposes of making such investigation or inspection as
11 may be necessary to ascertain the compliance or noncompliance
12 by any person or municipality with the provisions of this act
13 and the rules or regulations promulgated hereunder. In
14 connection with such inspection or investigation, samples may
15 be taken of any solid, semisolid, liquid or contained gaseous
16 material for analysis.

17 Section 609. Search warrants.

18 An agent or employee of the department may apply for a search
19 warrant to any Commonwealth official authorized to issue a
20 search warrant for the purposes of inspecting or examining any
21 property, building, premise, place, book, record or other
22 physical evidence, of conducting tests, or of taking samples of
23 any solid waste. Such warrant shall be issued upon probable
24 cause. It shall be sufficient probable cause to show any of the
25 following:

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

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

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

5 Section 610. Unlawful conduct.

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

7 (1) Dump or deposit, or permit the dumping or
8 depositing, of any solid waste onto the surface of the ground
9 or underground or into the waters of the Commonwealth, by any
10 means, unless a permit for the dumping of such solid wastes
11 has been obtained from the department; provided, the
12 Environmental Quality Board may be regulation exempt certain
13 activities associated with normal farming operations as
14 defined by this act from such permit requirements.

15 (2) Construct, alter, operate or utilize a solid waste
16 storage, treatment, processing or disposal facility without a
17 permit from the department as required by this act or in
18 violation of the rules or regulations adopted under this act,
19 or orders of the department, or in violation of any term or
20 condition of any permit issued by the department.

21 (3) Burn solid wastes without a permit from the
22 department.

23 (4) Store, collect, transport, process, treat, or
24 dispose of, or assist in the storage, collection,
25 transportation, processing, treatment, or disposal of, solid
26 waste contrary to the rules or regulations adopted under this
27 act, or orders of the department, or any term or any
28 condition of any permit, or in any manner as to create a
29 public nuisance or to adversely affect the public health,
30 safety and welfare.

1 (5) Transport hazardous waste without first having
2 obtained a license from the department to conduct such
3 transport activities.

4 (6) Transport or permit the transportation of any solid
5 waste to any storage, treatment, processing or disposal
6 facility or area unless such facility or area possesses a
7 permit issued by the department to accept such wastes, or
8 contrary to the rules or regulations adopted under this act,
9 or orders of the department, or in such a manner as to
10 adversely affect or endanger the public health, safety and
11 welfare or environment through which such transportation
12 occurs.

13 (7) Refuse, hinder, obstruct, delay, or threaten any
14 agent or employee of the department in the course of
15 performance of any duty under this act, including, but not
16 limited to, entry and inspection under any circumstances.

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

20 (i) dumped or deposited or discharged in any manner
21 into the surface of the earth or underground or into the
22 waters of the Commonwealth unless a permit for the
23 dumping or depositing or discharging of such residual or
24 hazardous waste has first been obtained from the
25 department; or

26 (ii) stored, treated, processed, disposed of or
27 discharged by a residual or hazardous waste facility
28 unless such facility is operated under a permit first
29 obtained from the department.

30 (9) Cause or assist in the violation of any provision of

1 this act, any rule or regulation of the department, any order
2 of the department or any term or condition of any permit.

3 Section 611. Presumption of law for civil and administrative
4 proceedings.

5 It shall be presumed as a rebuttable presumption of law that
6 a person or municipality which stores, treats, or disposes of
7 hazardous waste shall be liable, without proof of fault,
8 negligence, or causation, for all damages, contamination or
9 pollution within 2,500 feet of the perimeter of the area where
10 hazardous waste activities have been carried out. Such
11 presumption may be overcome by clear and convincing evidence
12 that the person or municipality so charged did not contribute to
13 the damage, contamination, or pollution.

14 Section 612. Collection of fines and penalties.

15 All fines and penalties shall be collectible in any manner
16 provided by law for the collection of debts. If any person
17 liable to pay any such penalty neglects or refuses to pay the
18 same after demand, the amount together with interest and any
19 costs that may accrue, shall be a judgment in favor of the
20 Commonwealth upon the property of such person, but only after
21 same has been entered and docketed of record by the prothonotary
22 of the county where such property is situated. The department
23 may, at any time, transmit to the prothonotaries of the
24 respective counties certified copies of all such judgments, and
25 it shall be the duty of each prothonotary to enter and docket
26 the same of record in his office, and to index the same as
27 judgments are indexed, without requiring the payment of costs as
28 a condition precedent to the entry thereof.

29 Section 613. Recovery of costs of abatement.

30 Any person or municipality who causes a public nuisance shall

1 be liable for the costs of abatement. The department, any
2 Commonwealth agency, or any municipality which undertakes to
3 abate a public nuisance may recover the costs of abatement in an
4 action in equity brought before any court of competent
5 jurisdiction. In addition, the Environmental Hearing Board is
6 hereby given jurisdiction over actions by the department to
7 recover the costs of abatement.

8 Section 614. Forfeiture of contraband.

9 Any vehicle, equipment, or conveyance used for the
10 transportation of disposal of hazardous waste in the commission
11 of an offense under section 606 shall be deemed contraband and
12 shall be seized and forfeited to the department. The provisions
13 of law relating to the seizure, summary and judicial forfeiture,
14 and condemnation of intoxicating liquor shall apply to seizures
15 and forfeitures under the provisions of this section.

16 SECTION 615. NOTICE OF PROPOSED SETTLEMENT. ←

17 IF A SETTLEMENT IS PROPOSED IN ANY ACTION BROUGHT PURSUANT TO
18 SECTION 602, 604, 605, 606 OR 607, THE TERMS OF SUCH SETTLEMENT
19 SHALL BE PUBLISHED IN A NEWSPAPER OF GENERAL CIRCULATION IN THE
20 AREA WHERE THE VIOLATIONS ARE ALLEGED TO HAVE OCCURRED AT LEAST
21 30 DAYS PRIOR TO THE TIME WHEN SUCH SETTLEMENT IS TO TAKE
22 EFFECT. THE PUBLICATION SHALL CONTAIN A SOLICITATION FOR PUBLIC
23 COMMENTS CONCERNING SUCH SETTLEMENT WHICH SHALL BE DIRECTED TO
24 THE GOVERNMENT AGENCY BRINGING THE ACTION.

25 ARTICLE VII

26 SOLID WASTE ABATEMENT FUND

27 Section 701. Solid Waste Abatement Fund.

28 All fines, penalties, bond forfeitures and fees collected
29 under the provisions of this act shall be paid into the Treasury
30 of the Commonwealth into a special fund to be known as the

1 "Solid Waste Abatement Fund" hereby established. The Solid Waste
2 Abatement Fund shall be administered by the department for
3 abatement or elimination of present or potential hazards to
4 human health or to the environment from the improper treatment,
5 transportation, storage, processing, or disposal of solid
6 wastes, and for the enforcement of this act.

7 ARTICLE VIII

8 LIBERAL CONSTRUCTION

9 Section 801. Construction of act.

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

15 ARTICLE IX

16 REPEALER; EFFECTIVE DATE

17 Section 901. Repeal.

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

20 SECTION 902. SEVERABILITY. <—

21 IF ANY PROVISION OF THIS ACT OR THE APPLICATION THEREOF TO
22 THE DISPOSAL OF NUCLEAR OR RADIOACTIVE WASTES IS HELD INVALID,
23 SUCH INVALIDITY SHALL NOT EFFECT OTHER PROVISIONS OR
24 APPLICATIONS OF THIS ACT WHICH CAN BE GIVEN EFFECT WITHOUT THE
25 INVALID PROVISIONS OR APPLICATION AND TO THIS END THE PROVISIONS
26 OF THIS ACT ARE DECLARED TO BE SEVERABLE.

27 Section ~~902~~ 903. Effective date. <—

28 This act shall take effect immediately.