

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1840 Session of 1979

INTRODUCED BY MESSRS. 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 30, 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; GRANTING POWERS TO AND IMPOSING
15 DUTIES UPON COUNTY HEALTH DEPARTMENTS; providing remedies;
16 prescribing penalties; and establishing a fund.

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

1 ARTICLE I

2 GENERAL PROVISIONS

3 Section 101. Short title.

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

6 Section 102. Legislative finding; declaration of policy.

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

12 (1) establish and maintain a cooperative State and local  
13 program of planning and technical and financial assistance  
14 for comprehensive solid waste management;

15 (2) encourage the development of resource recovery as a  
16 means of managing solid waste, conserving resources, and  
17 supplying energy;

18 (3) require permits for the operation of municipal and  
19 residual waste processing and disposal systems, licenses for  
20 the transportation of hazardous waste and permits for  
21 hazardous waste storage, treatment, and disposal;

22 (4) protect the public health, safety and welfare from  
23 the short and long term dangers of transportation,  
24 processing, treatment, storage, and disposal of all wastes;  
25 and

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

28 Section 103. Definitions.

29 The following words and phrases when used in this act shall  
30 have, unless the context clearly indicates otherwise, the

1 meanings given to them in this section:

2 "Abatement." The restoration, reclamation, recovery, etc.,  
3 of a natural resource adversely affected by the activity of a  
4 person, permittee or municipality.

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

14 "Commercial establishment." Any establishment engaged in  
15 nonmanufacturing or processing business, including, but not  
16 limited to, stores, markets, office buildings, restaurants,  
17 shopping centers and theaters.

18 "Commonwealth." The Commonwealth of Pennsylvania.

19 "Department." The Department of Environmental Resources of  
20 the Commonwealth of Pennsylvania and its authorized  
21 representatives.

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

28 "Food processing waste." Residual materials in liquid or  
29 solid form generated in the slaughtering of poultry and  
30 livestock, or in processing and converting fish, seafood, milk,

1 meat, and eggs to food products; it also means residual  
2 materials generated in the processing, converting, or  
3 manufacturing of fruits, vegetables, crops and other commodities  
4 into marketable food items.

5 "Food processing wastes used for agricultural purposes." The  
6 use of food processing wastes in normal farming operations as  
7 defined in this section.

8 "Hazardous waste." Any garbage, refuse, sludge from sewage,  
9 industrial or other waste water treatment plant, water supply  
10 treatment plant, or air pollution control facility and other  
11 material including solid, liquid, radioactive and nuclear  
12 material, semisolid or contained gaseous material resulting from  
13 municipal, commercial, industrial, institutional, mining, or  
14 agricultural operations, and from community activities, or any  
15 combination of the above, which because of its quantity,  
16 concentration, or physical, chemical, or infectious  
17 characteristics may:

18 (1) ~~contributes~~ contribute to an increase in mortality <—  
19 or an increase in morbidity in either an individual or the  
20 total population; or

21 (2) ~~poses~~ pose a present or potential hazard to human <—  
22 health or the environment when treated, stored, transported,  
23 disposed of or otherwise managed.

24 "Industrial establishment." Any establishment engaged in  
25 manufacturing or processing, including, but not limited to  
26 factories, foundries, mills, processing plants, refineries,  
27 mines and slaughterhouses.

28 "Institutional establishment." Any establishment engaged in  
29 service, including, but not limited to, hospitals, nursing  
30 homes, orphanages, schools and universities.

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

4 "Manifest system." A written record identifying the  
5 quantity, composition, origin, routing, and destination of  
6 hazardous waste from the point of generation to the point of  
7 disposal, treatment or storage.

8 "Mine." Any deep or surface mine, whether active, inactive  
9 or abandoned.

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

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

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

22 "Normal farming operations." The customary and generally  
23 accepted activities, practices and procedures that farms adopt,  
24 use, or engage in year after year in the production and  
25 preparation for market of poultry, livestock, and their  
26 products; and in the production, harvesting and preparation for  
27 market of agricultural, agronomic, horticultural, silvicultural  
28 and aquicultural crops and commodities; provided that such  
29 operations are conducted in compliance with applicable laws, and  
30 provided that the use or disposal of these materials will not

1 pollute the air, water, or other natural resources of the  
2 Commonwealth, nor adversely affect the public health, welfare or  
3 safety. It includes the storage and utilization of agricultural  
4 and food process wastes for animal feed, and includes the  
5 agricultural utilization of septic tank cleanings and sewage  
6 sludges which are generated off-site. It includes the  
7 management, collection, storage, transportation, use or disposal  
8 of manure, other agricultural waste and food processing waste on  
9 land where such materials will improve the condition of the  
10 soil, the growth of crops, or in the restoration of the land for  
11 the same purposes.

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

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

1 birds, fish or other life.

2 "Processing." Any technology used for the purpose of  
3 reducing the volume or bulk of municipal or residual waste or  
4 any technology used to convert part or all of such waste  
5 materials for reuse. Processing facilities include but are not  
6 limited to transfer facilities, composting facilities, and  
7 resource recovery facilities.

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

15 "Secretary." The Secretary of the Department of  
16 Environmental Resources of the Commonwealth of Pennsylvania.

17 "Solid waste." Any waste, including but not limited to,  
18 municipal, residual or hazardous wastes, including solid,  
19 liquid, semisolid or contained gaseous materials.

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

27 "Transportation." The removal of any solid waste at any time  
28 after generation.

29 "Treatment." Any method, technique, or process, including  
30 neutralization, designed to change the physical, chemical, or

1 biological character or composition of any waste so as to  
2 neutralize such waste or so as to render such waste  
3 nonhazardous, safer for transport, suitable for recovery,  
4 suitable for storage, or reduced in volume. Such term includes  
5 any activity or processing designed to change the physical form  
6 or chemical composition of waste so as to render it neutral or  
7 nonhazardous.

8 Section 104. Powers and duties of the department IN  
9 CONSOLIDATION WITH THE DEPARTMENT OF HEALTH  
10 REGARDING MATTERS OF PUBLIC HEALTH SIGNIFICANCE.

←

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

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

14 (2) cooperate with appropriate Federal, State,  
15 interstate and local units of government and with appropriate  
16 private organizations in carrying out its duties under this  
17 act;

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

22 (4) provide technical assistance to municipalities  
23 including the training of personnel;

24 (5) initiate, conduct, and support research,  
25 demonstration projects, and investigations, and coordinate  
26 all State agency research programs, pertaining to solid waste  
27 management systems;

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

30 (7) issue permits, licenses and orders, and specify the

1 terms and conditions thereof, and conduct inspections and  
2 abate public nuisances to implement the purposes and  
3 provisions of this act and the rules, regulations and  
4 standards adopted pursuant to this act;

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

11 (9) serve as the agency of the Commonwealth for the  
12 receipt of moneys from the Federal government or other public  
13 agencies or private agencies and expend such moneys for  
14 studies and research with respect to, and for the enforcement  
15 and administration of, the purposes and provisions of this  
16 act and the rules and regulations promulgated thereunder;

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

22 (11) institute prosecutions against any person or  
23 municipality under this act;

24 (12) appoint such advisory committees as the secretary  
25 deems necessary and proper to assist the department in  
26 carrying out the provisions of this act. The secretary is  
27 authorized to pay reasonable and necessary expenses incurred  
28 by the members of such advisory committees in carrying out  
29 their functions; and

30 (13) do any and all other acts and things not

1 inconsistent with any provision of this act, which it may  
2 deem necessary or proper for the effective enforcement of  
3 this act and the rules or regulations which may be  
4 promulgated hereunder.

5 Section 105. Powers and duties of the Environmental Quality  
6 Board.

7 (a) The Environmental Quality Board shall have the power and  
8 its duty shall be to adopt the rules and regulations of the  
9 department to accomplish the purposes and to carry out the  
10 provisions of this act, including but not limited to the  
11 establishment of rules and regulations relating to the  
12 protection of safety, health, welfare and property of the public  
13 and the air, water and other natural resources of the  
14 Commonwealth.

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

18 (C) THE ENVIRONMENTAL QUALITY BOARD SHALL HAVE THE POWER AND <—  
19 ITS DUTY SHALL BE TO ADOPT RULES AND REGULATIONS TO PROVIDE FOR  
20 THE COORDINATION OF ADMINISTRATION AND ENFORCEMENT OF THIS ACT  
21 BETWEEN THE DEPARTMENT OF ENVIRONMENTAL RESOURCES AND COUNTY  
22 HEALTH DEPARTMENTS.

23 SECTION 106. POWERS AND DUTIES OF COUNTY HEALTH DEPARTMENTS,  
24 LIMITATION.

25 (A) THE COUNTY HEALTH DEPARTMENT OF EACH OF THE COUNTIES OF  
26 THE COMMONWEALTH SHALL HAVE THE POWER AND ITS DUTY SHALL BE TO  
27 ADMINISTER AND ENFORCE THE PROVISIONS OF THIS ACT TOGETHER WITH  
28 THE DEPARTMENT OF ENVIRONMENTAL RESOURCES.

29 (B) NOTWITHSTANDING THE GRANT OF POWERS IN SUBSECTION (A),  
30 IN ANY CASE WHERE ADMINISTRATION AND ENFORCEMENT OF THIS ACT BY

1 A COUNTY HEALTH DEPARTMENT SHALL CONFLICT WITH ADMINISTRATION  
2 AND ENFORCEMENT BY THE DEPARTMENT OF ENVIRONMENTAL RESOURCES,  
3 ADMINISTRATION AND ENFORCEMENT BY THE DEPARTMENT OF  
4 ENVIRONMENTAL RESOURCES SHALL TAKE PRECEDENCE OVER  
5 ADMINISTRATION AND ENFORCEMENT BY A COUNTY HEALTH DEPARTMENT.  
6 Section ~~106~~ 107. Legislative oversight. ←

7 (a) Prior to the promulgation of proposed regulations  
8 relating to this act, the Environmental Quality Board shall  
9 submit such proposed regulations to the Joint Legislative Air  
10 and Water Pollution Control and Conservation Committee.

11 (b) Upon submission of the proposed regulations to the  
12 committee, the committee shall have 60 days in which to approve,  
13 modify or veto the proposed regulations. If the committee takes  
14 no action within the 60-day period, the regulations shall be  
15 deemed to have been approved by the committee. If the committee  
16 vetoes the proposed regulations or otherwise raises objections,  
17 the board shall withdraw the proposed regulations, or modify  
18 them in such a manner as shall be approved by the committee.  
19 Upon approval by the committee or the expiration of the 60-day  
20 period with no action, the board may proceed to deposit the  
21 proposed regulations for publication in the Pennsylvania  
22 Bulletin in the manner provided by law.

23 ARTICLE II

24 MUNICIPAL WASTE

25 Section 201. Submission of plans; permits.

26 (a) No person or municipality shall store, collect,  
27 transport, process, or dispose of municipal waste within this  
28 Commonwealth unless such storage, collection, transportation,  
29 processing or disposal is authorized by the rules and  
30 regulations of the department and no person or municipality

1 shall own or operate a municipal waste processing or disposal  
2 facility unless such person or municipality has first obtained a  
3 permit for such facility from the department.

4 (b) Each municipality with a population density of 300 or  
5 more inhabitants per square mile and each municipality with a  
6 population density of less than 300 wherein the department has  
7 identified a waste problem or a potential waste problem shall  
8 submit to the department an officially adopted plan for a  
9 municipal waste management system or systems serving the areas  
10 within its jurisdiction within two years of the effective date  
11 of this section, and shall, from time to time, submit such  
12 revisions of said plan as it deems necessary or as the  
13 department may require.

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

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

24 (e) Every plan shall:

25 (1) Provide for the orderly extension of municipal waste  
26 management systems in a manner consistent with the needs and  
27 plans of the whole area, and in a manner which will not  
28 create a risk of pollution of the water, air, land or other  
29 natural resources of the Commonwealth, nor constitute a  
30 public nuisance, and shall otherwise provide for the safe and

1 sanitary disposal of municipal waste.

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

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

13 (4) Set forth a time schedule and proposed methods for  
14 financing the development, construction and operation of the  
15 planned municipal waste management systems, together with the  
16 estimated cost thereof.

17 (5) Include a provision for periodic revision of the  
18 plan.

19 (6) Include such other information as the department  
20 shall require.

21 (f) The plan shall be reviewed by appropriate official  
22 planning agencies within a municipality, including a planning  
23 agency with area-wide jurisdiction, if one exists and the county  
24 planning commission, for consistency with programs of planning  
25 for the area, and all such reviews shall be transmitted to the  
26 department with the proper plan. In the event a review of any  
27 plan has not been transmitted by such planning agency or  
28 commission within 90 days of its submission to such agency or  
29 commission, then such agency or commission shall be deemed to  
30 have waived its right to review the plan, and the department

1 shall then review the plan for approval in the absence of the  
2 reviews of such planning agency or commission.

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

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

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

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

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

24 (l) The department may order, or obtain an injunction  
25 requiring municipalities to implement the plans which they have  
26 submitted, in accordance with this act and the rules,  
27 regulations and procedures of the department.

28 Section 202. Powers and duties of municipalities.

29 (a) Each municipality shall be responsible for the  
30 collection, transportation, processing, and disposal of

1 municipal waste which is generated or present within its  
2 boundaries and shall be responsible for implementing its  
3 approved plan as it relates to the storage, collection,  
4 transportation, processing, and disposal of its municipal  
5 wastes.

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

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

22 (a) The department is authorized to assist municipalities by  
23 administering grants to pay up to 50% of the costs of preparing  
24 official plans for municipal waste management systems in  
25 accordance with the requirements of this act and the rules,  
26 regulations, and standards adopted pursuant to this act, and for  
27 carrying out related studies, surveys, investigations,  
28 inquiries, research and analyses.

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

1 ARTICLE III

2 RESIDUAL WASTE

3 Section 301. Management of residual waste.

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

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

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

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

20 (1) Use such methods and facilities as are necessary to  
21 prevent leaching, runoff, discharges and emissions from  
22 residual waste.

23 (2) Use such methods and facilities as are necessary to  
24 prevent the harmful or hazardous mixing of wastes or such  
25 mixing as may render disposal in compliance with this act  
26 impracticable.

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

1 Section 303. Transportation of residual waste.

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

4 (1) to any processing or disposal facility within the  
5 Commonwealth unless such facility holds a permit issued by  
6 the department to accept such waste; or

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

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

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

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

19 ARTICLE IV

20 HAZARDOUS WASTE

21 Section 401. Management of hazardous waste.

22 (a) No person or municipality shall store, transport, treat,  
23 or dispose of hazardous waste within this Commonwealth unless  
24 such storage, transportation, treatment, or disposal is  
25 authorized by the rules and regulations of the department; no  
26 person or municipality shall own or operate a hazardous waste  
27 storage, treatment or disposal facility unless such person or  
28 municipality has first obtained a permit for the storage,  
29 treatment and disposal of hazardous waste from the department;  
30 and, no person or municipality shall transport hazardous waste

1 within the Commonwealth unless such person or municipality has  
2 first obtained a license for the transportation of hazardous  
3 waste from the department.

4 (b) The storage, transportation, treatment, and disposal of  
5 hazardous waste are hereby declared to be ultrahazardous  
6 activities, regardless whether such activities were conducted  
7 prior to the enactment hereof.

8 Section 402. Listing of hazardous waste.

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

18 Section 403. Generation, transportation, storage, treatment  
19 and disposal of hazardous waste.

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

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

29 (1) Maintain such records as are necessary to accurately  
30 identify the quantities of hazardous waste generated, the

1 constituents thereof which are significant in quantity or in  
2 potential harm to human health or the environment, the method  
3 of transportation and the disposition of such wastes; and  
4 where applicable, the source and delivery points of such  
5 hazardous waste.

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

9 (3) Use containers appropriate for such hazardous waste  
10 and for the activity undertaken.

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

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

21 (6) Transport hazardous waste for treatment, storage or  
22 disposal to such treatment, storage or disposal facilities  
23 which the shipper has designated on the manifest form as a  
24 facility permitted to receive such waste or as a facility not  
25 within the Commonwealth.

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

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

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

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

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

7 (10) Develop and implement contingency plans for  
8 effective action to minimize and abate hazards from any  
9 treatment, storage, transportation or disposal of any  
10 hazardous waste.

11 (11) Maintain such operation, train personnel, and  
12 assure financial responsibility for such storage, treatment  
13 or disposal operations to prevent adverse effects to the  
14 public health, safety and welfare and to the environment and  
15 to prevent public nuisances.

16 (12) Immediately notify the department and the affected  
17 municipality or municipalities of any spill or accidental  
18 discharge of such waste in accordance with a contingency plan  
19 approved by the department and take immediate steps to  
20 contain and clean up the spill or discharge.

21 (c) After January 1, 1981 any producer of any hazardous  
22 waste or any producer having a by-product of production which is  
23 a hazardous waste may be required by the department to submit to  
24 the department for its approval a plan relating to the disposal  
25 of such hazardous waste at either an on-site disposal area or an  
26 off-site disposal area.

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

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. In the case of a corporate applicant,  
20 permittee or licensee, the department may deny the issuance of a  
21 license or permit if it finds that a principal of the  
22 corporation was a principal of another corporation which  
23 committed past violations of this act.

24 (d) Any person or municipality which has engaged in unlawful  
25 conduct as defined in this act, or whose partner, associate,  
26 officer, parent corporation, subsidiary corporation, contractor,  
27 subcontractor or agent has engaged in such unlawful conduct,  
28 shall be denied any permit or license required by this act  
29 unless the permit or license application demonstrates to the  
30 satisfaction of the department that the unlawful conduct has

1 been corrected. Independent contractors and agents who are to  
2 operate under any permit shall be subject to the provisions of  
3 this act. Such independent contractors, agents and the permittee  
4 shall be jointly and severally liable, without regard to fault,  
5 for violations of this act which occur during the contractor's  
6 or agent's involvement in the course of operations.

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

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

14 (2) is creating a public nuisance;

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

17 (4) adversely affects the environment;

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

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

22 Section 504. Approval by governing body.

23 No permit or license for the disposal of hazardous waste  
24 shall be granted without the written consent or approval of the  
25 governing body of the county in which the proposed disposal site  
26 is located.

27 Section 505. Bonds.

28 (a) Prior to the commencement of operations, the operator of  
29 a municipal or residual waste processing or disposal facility or  
30 of a hazardous waste storage, treatment or disposal facility for

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

1 That the operator may elect to deposit cash, certificates of  
2 deposit, automatically renewable irrevocable letters of credit  
3 which are terminable only upon 90 days written notice to the  
4 operator and the department, or negotiable bonds of the United  
5 States Government or the Commonwealth of Pennsylvania, the  
6 Pennsylvania Turnpike Commission, the General State Authority,  
7 the State Public School Building Authority, or any municipality  
8 within the Commonwealth, with the department in lieu of a  
9 corporate surety. The cash amount of such deposit, irrevocable  
10 letters of credit or market value of such securities shall be  
11 equal at least to the sum of the bond. The secretary shall, upon  
12 receipt of any such deposit of cash or negotiable bonds,  
13 immediately place the same with the State Treasurer, whose duty  
14 it shall be to receive and hold the same in the name of the  
15 Commonwealth, in trust, for the purposes for which such deposit  
16 is made. The State Treasurer shall at all times be responsible  
17 for the custody and safekeeping of such deposits. The operator  
18 making the deposit shall be entitled from time to time to demand  
19 and receive from the State Treasurer, on the written order of  
20 the 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.

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

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

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

28 (e) Prior to the issuance of any license for the  
29 transportation of hazardous waste, the applicant for a license  
30 shall file with the department a collateral bond on a form

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

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

18 Section 506. Financial responsibility.

19 The Environmental Quality Board shall adopt such additional  
20 regulations to provide for proof of financial responsibility of  
21 owners or operators of hazardous waste storage, treatment, and  
22 disposal facilities, as necessary or desirable for closure of  
23 the facility, post-closure monitoring and maintenance, sudden  
24 and accidental occurrences, and nonsudden and accidental  
25 occurrences, and to comply with section 3004 of the Resource  
26 Conservation and Recovery Act of 1976 42 U.S.C. § 6924.

27 ARTICLE VI

28 ENFORCEMENT AND REMEDIES

29 Section 601. Public nuisances.

30 Any violation of any provision of this act, any rule or

1 regulation of the department, any order of the department, or  
2 any term or condition of any permit, shall constitute a public  
3 nuisance. Any person or municipality committing such a violation  
4 shall be liable for the costs of abatement of any pollution and  
5 any public nuisance caused by such violation. The Environmental  
6 Hearing Board and any court of competent jurisdiction is hereby  
7 given jurisdiction over actions to recover the costs of such  
8 abatement.

9 Section 602. Enforcement orders.

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

25 (b) If the department finds that the storage, collection,  
26 transportation, processing, treatment or disposal of solid waste  
27 is causing pollution of the air, water, land or other natural  
28 resources of the Commonwealth or is creating a public nuisance,  
29 the department may order the person or the municipality to alter  
30 its storage, collection, transportation, processing, treatment

1 or disposal systems to provide such storage, collection,  
2 transportation, processing, treatment, or disposal systems as  
3 will prevent pollution and public nuisances. Such order shall  
4 specify the length of time after receipt of the order within  
5 which the facility or area shall be repaired, altered,  
6 constructed or reconstructed.

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

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

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

25 Section 604. Restraining violations.

26 (a) In addition to any other remedies provided in this act,  
27 the department may institute a suit in equity in the name of the  
28 Commonwealth where a violation of law or nuisance exists for an  
29 injunction to restrain a violation of this act or the rules,  
30 regulations, standards or orders adopted or issued thereunder

1 and to restrain the maintenance or threat of a public nuisance.  
2 In any such proceeding, the court shall, upon motion of the  
3 Commonwealth, issue a prohibitory or mandatory preliminary  
4 injunction if it finds that the defendant is engaging in  
5 unlawful conduct as defined by this act or is engaged in conduct  
6 which is causing immediate and irreparable harm to the public.  
7 The Commonwealth shall not be required to furnish bond or other  
8 security in connection with such proceedings. In addition to an  
9 injunction, the court in such equity proceedings, may levy civil  
10 penalties as specified in section 605.

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

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

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

27 Section 605. Civil penalties.

28 In addition to proceeding under any other remedy available at  
29 law or in equity for a violation of any provision of this act,  
30 any rule or regulation of the department or order of the

1 department or any term or condition of any permit issued by the  
2 department, the department may assess a civil penalty upon a  
3 person for such violation. Such a penalty may be assessed  
4 whether or not the violation was willful or negligent. In  
5 determining the amount of the penalty, the department shall  
6 consider the willfulness of the violation, damage to air, water,  
7 land or other natural resources of the Commonwealth or their  
8 uses, cost of restoration and abatement, savings resulting to  
9 the person in consequence of such violation, and other relevant  
10 factors. If the violation leads to the issuance of a cessation  
11 order or occurs after the release of security for performance, a  
12 civil penalty shall be assessed. When the department proposes to  
13 assess a civil penalty, it shall inform the person or  
14 municipality of the proposed amount of said penalty. The person  
15 charged with the penalty shall then have 30 days to pay the  
16 proposed penalty in full or, if the person wishes to contest  
17 either the amount of the penalty or the fact of the violation,  
18 the person shall within such 30 day period file an appeal of  
19 such action with the Environmental Hearing Board, and forward  
20 the proposed amount to the department within 30 days for  
21 placement in an escrow account with the State Treasurer or any  
22 Pennsylvania bank. Failure to appeal within 30 days shall result  
23 in a waiver of all legal rights to contest the violation or the  
24 amount of the penalty. Any other statute to the contrary  
25 notwithstanding, there shall be no statute of limitations upon  
26 actions brought by the department pursuant to this section. The  
27 maximum civil penalty which may be assessed pursuant to this  
28 section is \$25,000 per offense. Each violation for each separate  
29 day and each violation of any provision of this act, any rule or  
30 regulation under this act, any order of the department, or any

1 term or condition of a permit shall constitute a separate and  
2 distinct offense under this section.

3 Section 606. Criminal penalties.

4 (a) Any person or municipality who violates any provision of  
5 this act, the rules and regulations of the department, or any  
6 order of the department, or any term or condition of any permit  
7 upon conviction thereof in a summary proceeding, shall be  
8 sentenced to pay a fine of not less than \$100 and not more than  
9 \$1,000 and costs and, in default of the payment of such fine and  
10 costs, to undergo imprisonment for not more than 30 days.

11 (b) Any person ~~or municipality~~ who violates any provision of <—  
12 this act, any rule or regulation of the department, any order of  
13 the department, or any term or condition of any permit, shall be  
14 guilty of a misdemeanor of the third degree and, upon  
15 conviction, shall be sentenced to pay a fine of not less than  
16 \$1,000 but not more than \$25,000 per day for each violation or  
17 to imprisonment for a period of not more than one year, or both.

18 (c) Any person ~~or municipality~~ who, within two years after a <—  
19 conviction of a misdemeanor for any violation of this act,  
20 violates any provision of this act, any rule or regulation of  
21 the department, any order of the department, or any term or  
22 condition of any permit shall be guilty of a misdemeanor of the  
23 second degree and, upon conviction, shall be sentenced to pay a  
24 fine of not less than \$2,500 nor more than \$50,000 for each  
25 violation or to imprisonment for a period of not more than two  
26 years, or both.

27 (d) Any person who stores, transports, treats, or disposes  
28 of hazardous waste within the Commonwealth in violation of  
29 section 401, or in violation of any order of the department  
30 shall be guilty of a felony of the second degree and, upon

1 conviction, shall be sentenced to pay a fine of not less than  
2 \$2,500 but not more than \$100,000 per day for each violation or  
3 to imprisonment for not less than two years but not more than  
4 ten years, or both.

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

15 (f) Each violation for each separate day and each violation  
16 of any provision of this act, any rule or regulation of the  
17 department, any order of the department, or term and condition  
18 of a permit shall constitute a separate and distinct offense  
19 under subsections (a), (b), (c), (d) and (e).

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

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

26 Section 607. Existing rights and remedies preserved; cumulative  
27 remedies authorized.

28 Nothing in this act shall be construed as estopping the  
29 Commonwealth, or any district attorney or solicitor of a  
30 municipality, from proceeding in courts of law or equity to

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

21 Section 608. Production of materials; recordkeeping  
22 requirements; rights of entry.

23 The department and its agents and employees shall under any  
24 and all circumstances:

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

28 (2) Require any person or municipality engaged in the  
29 storage, transportation, processing, treatment or disposal of  
30 any solid waste to establish and maintain such records and

1 make such reports and furnish such information as the  
2 department may prescribe.

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

11 Section 609. Search warrants.

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

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

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

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

29 Section 610. Unlawful conduct.

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

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

9           (2) Construct, alter, operate or utilize a solid waste  
10          storage, treatment, processing or disposal facility without a  
11          permit from the department as required by this act or in  
12          violation of the rules or regulations adopted under this act,  
13          or orders of the department, or in violation of any term or  
14          condition of any permit issued by the department.

15          (3) Burn solid wastes without a permit from the  
16          department.

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

25          (5) Transport hazardous waste without first having  
26          obtained a license from the department to conduct such  
27          transport activities.

28          (6) Transport or permit the transportation of any solid  
29          waste to any storage, treatment, processing or disposal  
30          facility or area unless such facility or area possesses a

1 permit issued by the department to accept such wastes, or  
2 contrary to the rules or regulations adopted under this act,  
3 or orders of the department, or in such a manner as to  
4 adversely affect or endanger the public health, safety and  
5 welfare or environment through which such transportation  
6 occurs.

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

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

14 (i) dumped or deposited or discharged in any manner  
15 into the surface of the earth or underground or into the  
16 waters of the Commonwealth unless a permit for the  
17 dumping or depositing or discharging of such residual or  
18 hazardous waste has first been obtained from the  
19 department; or

20 (ii) stored, treated, processed, disposed of or  
21 discharged by a residual or hazardous waste facility  
22 unless such facility is operated under a permit first  
23 obtained from the department.

24 (9) Cause or assist in the violation of any provision of  
25 this act, any rule or regulation of the department, any order  
26 of the department or any term or condition of any permit.

27 Section 611. Presumption of law for civil and administrative  
28 proceedings.

29 It shall be presumed as a rebuttable presumption of law that  
30 a person or municipality which stores, treats, or disposes of

1 hazardous waste shall be liable, without proof of fault,  
2 negligence, or causation, for all damages, contamination or  
3 pollution within 2,500 feet of the perimeter of the area where  
4 hazardous waste activities have been carried out. Such  
5 presumption may be overcome by clear and convincing evidence  
6 that the person or municipality so charged did not contribute to  
7 the damage, contamination, or pollution.

8 Section 612. Collection of fines and penalties.

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

23 Section 613. Recovery of costs of abatement.

24 Any person or municipality who causes a public nuisance shall  
25 be liable for the costs of abatement. The department, any  
26 Commonwealth agency, or any municipality which undertakes to  
27 abate a public nuisance may recover the costs of abatement in an  
28 action in equity brought before any court of competent  
29 jurisdiction. In addition, the Environmental Hearing Board is  
30 hereby given jurisdiction over actions by the department to

1 recover the costs of abatement.

2 Section 614. Forfeiture of contraband.

3 Any vehicle, equipment, or conveyance used for the  
4 transportation of disposal of hazardous waste in the commission  
5 of an offense under section 606 shall be deemed contraband and  
6 shall be seized and forfeited to the department. The provisions  
7 of law relating to the seizure, summary and judicial forfeiture,  
8 and condemnation of intoxicating liquor shall apply to seizures  
9 and forfeitures under the provisions of this section.

10 SECTION 615. RIGHT OF CITIZEN TO INITIATE OR INTERVENE  
11 IN PROCEEDINGS. <—

12 ANY CITIZEN OF THIS COMMONWEALTH HAVING AN INTEREST WHICH IS  
13 OR MAY BE ADVERSELY AFFECTED SHALL HAVE THE RIGHT ON HIS OWN  
14 BEHALF, WITHOUT POSTING BOND, TO INITIATE OR INTERVENE IN ANY  
15 ACTION BROUGHT PURSUANT TO SECTION 602, 604, 605 OR 607.

16 Section ~~615~~ 616. 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 NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT TO THE ←  
16 CONTRARY, THIS ACT SHALL NOT BE CONSTRUED TO EMPOWER ANY AGENCY  
17 OF THE COMMONWEALTH OF PENNSYLVANIA TO ACQUIRE, CONSTRUCT OR  
18 OPERATE ANY HAZARDOUS WASTE FACILITIES, OTHERWISE KNOWN AS  
19 SITING.

20 ARTICLE IX

21 REPEALER; EFFECTIVE DATE

22 Section 901. Repeal.

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

25 Section 902. Severability.

26 If any provision of this act or the application thereof to  
27 the disposal of nuclear or radioactive wastes is held invalid,  
28 such invalidity shall not effect other provisions or  
29 applications of this act which can be given effect without the  
30 invalid provisions or application and to this end the provisions

- 1 of this act are declared to be severable.
- 2 Section 903. Effective date.
- 3 This act shall take effect immediately.