
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, KLINGAMAN AND DOMBROWSKI, OCTOBER 15, 1979

SENATOR MELLOW, ENVIRONMENTAL RESOURCES, IN SENATE, AS AMENDED,
MARCH 25, 1980

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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30 The General Assembly of the Commonwealth of Pennsylvania

1 hereby enacts as follows:

2 ARTICLE I

3 GENERAL PROVISIONS

4 Section 101. Short title.

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

7 Section 102. Legislative finding; declaration of policy.

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

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

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

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

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

26 ~~and~~ ←

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

29 (6) ESTABLISH THE PENNSYLVANIA HAZARDOUS WASTE
30 FACILITIES PLAN, WHICH PLAN SHALL ADDRESS THE PRESENT AND ←

1 FUTURE NEEDS FOR THE TREATMENT AND DISPOSAL OF HAZARDOUS
2 WASTE IN THIS COMMONWEALTH;

3 (7) DEVELOP AN INVENTORY OF THE NATURE AND QUANTITY OF
4 HAZARDOUS WASTE GENERATED WITHIN THIS COMMONWEALTH OR
5 DISPOSED OF WITHIN THIS COMMONWEALTH, WHEREVER GENERATED;

6 (8) PROJECT THE NATURE AND QUANTITY OF HAZARDOUS WASTE
7 THAT WILL BE GENERATED WITHIN THIS COMMONWEALTH IN THE NEXT
8 20 YEARS OR WILL BE DISPOSED OF WITHIN THIS COMMONWEALTH,
9 WHEREVER GENERATED; AND

10 (9) PROVIDE A MECHANISM TO ESTABLISH HAZARDOUS WASTE
11 FACILITY SITES.

12 Section 103. Definitions.

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

16 "Abatement." The restoration, reclamation, recovery, etc.,
17 of a natural resource adversely affected by the activity of a
18 person, permittee or municipality.

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

28 "CAPTIVE FACILITIES." FACILITIES WHICH ARE LOCATED UPON
29 LANDS OWNED BY A GENERATOR OF HAZARDOUS WASTE AND WHICH ARE
30 OPERATED TO PROVIDE FOR THE TREATMENT OR DISPOSAL SOLELY OF SUCH

←

1 GENERATOR'S HAZARDOUS WASTE.

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

6 "Commonwealth." The Commonwealth of Pennsylvania.

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

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

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

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

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

1 resulting from municipal, commercial, industrial, institutional,
2 mining, or agricultural operations, and from community
3 activities, or any combination of the above, (BUT DOES NOT ←
4 INCLUDE SOLID OR DISSOLVED MATERIAL IN DOMESTIC SEWAGE, OR SOLID
5 OR DISSOLVED MATERIALS IN IRRIGATION RETURN FLOWS OR INDUSTRIAL
6 DISCHARGES WHICH ARE POINT SOURCES SUBJECT TO PERMITS UNDER §
7 402 OF THE FEDERAL WATER POLLUTION CONTROL ACT, AS AMENDED (86
8 STAT. 880) OR SOURCE, SPECIAL NUCLEAR, OR BY-PRODUCT MATERIAL AS
9 DEFINED BY THE U.S. ATOMIC ENERGY ACT OF 1954, AS AMENDED (68
10 STAT. 923)), which because of its quantity, concentration, or
11 physical, chemical, or infectious characteristics may:

12 (1) CAUSE OR SIGNIFICANTLY contribute to an increase in ←
13 mortality or an increase in morbidity in either an individual
14 or the total population; or

15 (2) pose a SUBSTANTIAL present or potential hazard to ←
16 human health or the environment when IMPROPERLY treated, ←
17 stored, transported, disposed of or otherwise managed.

18 THE TERM "HAZARDOUS WASTE" SHALL NOT INCLUDE COAL REFUSE AS ←
19 DEFINED IN THE ACT OF SEPTEMBER 24, 1968 (P.L.1040, NO.318),
20 KNOWN AS THE "COAL REFUSE DISPOSAL CONTROL ACT." "HAZARDOUS
21 WASTE" SHALL NOT INCLUDE TREATMENT SLUDGES FROM COAL MINE
22 DRAINAGE TREATMENT PLANTS, DISPOSAL OF WHICH IS BEING CARRIED ON
23 PURSUANT TO AND IN COMPLIANCE WITH A VALID PERMIT ISSUED
24 PURSUANT TO THE ACT OF JUNE 22, 1937 (P.L.1987, NO.394), KNOWN
25 AS "THE CLEAN STREAMS LAW."

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

30 "Institutional establishment." Any establishment engaged in

1 service, including, but not limited to, hospitals, nursing
2 homes, orphanages, schools and universities.

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

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

10 "Mine." Any deep or surface mine, whether active, inactive
11 or abandoned.

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

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

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

25 "Normal farming operations." The customary and generally
26 accepted activities, practices and procedures that farms adopt,
27 use, or engage in year after year in the production and
28 preparation for market of poultry, livestock, and their
29 products; and in the production, harvesting and preparation for
30 market of agricultural, agronomic, horticultural, silvicultural

1 and aquicultural crops and commodities; provided that such
2 operations are conducted in compliance with applicable laws, and
3 provided that the use or disposal of these materials will not
4 pollute the air, water, or other natural resources of the
5 Commonwealth, nor adversely affect the public health, welfare or
6 safety. It includes the storage and utilization of agricultural
7 and food process wastes for animal feed, and includes the
8 agricultural utilization of septic tank cleanings and sewage
9 sludges which are generated off-site. It includes the
10 management, collection, storage, transportation, use or disposal
11 of manure, other agricultural waste and food processing waste on
12 land where such materials will improve the condition of the
13 soil, the growth of crops, or in the restoration of the land for
14 the same purposes.

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

27 "Pollution." Contamination of any air, water, land or other
28 natural resources of the Commonwealth such as will create or is
29 likely to create a PUBLIC nuisance or to render such air, water, ←
30 land or other natural resources harmful, detrimental or

1 injurious to public health, safety or welfare, or to domestic,
2 municipal, commercial, industrial, agricultural, recreational or
3 other legitimate beneficial uses, or to livestock, wild animals,
4 birds, fish or other life.

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

11 "Residual waste." Any garbage, refuse or other waste
12 including solid, liquid, semisolid, or contained gaseous
13 materials resulting from industrial, mining and agricultural
14 operations and any sludge from an industrial, mining or
15 agricultural water supply treatment facility, waste water
16 treatment facility or air pollution control facility, provided
17 that it is not hazardous. THE TERM "RESIDUAL WASTE" SHALL NOT ←
18 INCLUDE COAL REFUSE AS DEFINED IN THE "COAL REFUSE DISPOSAL
19 CONTROL ACT." "RESIDUAL WASTE" SHALL NOT INCLUDE TREATMENT
20 PLANTS, DISPOSAL OF WHICH IS BEING CARRIED ON PURSUANT TO AND IN
21 COMPLIANCE WITH A VALID PERMIT ISSUED PURSUANT TO "THE CLEAN
22 STREAMS LAW."

23 "Secretary." The Secretary of the Department of
24 Environmental Resources of the Commonwealth of Pennsylvania.

25 "Solid waste." Any waste, including but not limited to,
26 municipal, residual or hazardous wastes, including solid,
27 liquid, semisolid or contained gaseous materials.

28 "Storage." The containment of any waste on a temporary basis
29 in such a manner as not to constitute disposal of such waste. It
30 shall be presumed that the containment of any waste in excess of

1 one year constitutes disposal. This presumption can be overcome
2 by clear and convincing evidence to the contrary; however, it
3 shall be conclusive presumption that the storage of wastes in
4 excess of three years constitutes disposal.

5 "Transportation." The OFF-SITE removal of any solid waste at <—
6 any time after generation.

7 "Treatment." Any method, technique, or process, including
8 neutralization, designed to change the physical, chemical, or
9 biological character or composition of any waste so as to
10 neutralize such waste or so as to render such waste
11 nonhazardous, safer for transport, suitable for recovery,
12 suitable for storage, or reduced in volume. Such term includes
13 any activity or processing designed to change the physical form
14 or chemical composition of waste so as to render it neutral or
15 nonhazardous.

16 Section 104. Powers and duties of the department.

17 The department in ~~consolidation~~ CONSULTATION with the <—
18 Department of Health regarding matters of public health
19 significance shall have the power and its duty shall be to:

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

22 (2) cooperate with appropriate Federal, State,
23 interstate and local units of government and with appropriate
24 private organizations in carrying out its duties under this
25 act;

26 (3) develop a Statewide solid waste management plan in
27 cooperation with local governments, the Department of
28 Community Affairs, THE DEPARTMENT OF COMMERCE and the State <—
29 Planning Board; emphasis shall be given to area-wide
30 planning;

1 (4) provide technical assistance to municipalities
2 including the training of personnel;

3 (5) initiate, conduct, and support research,
4 demonstration projects, and investigations, and coordinate
5 all State agency research programs, pertaining to solid waste
6 management systems;

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

9 (7) issue permits, licenses and orders, and specify the
10 terms and conditions thereof, and conduct inspections and
11 abate public nuisances to implement the purposes and
12 provisions of this act and the rules, regulations and
13 standards adopted pursuant to this act;

14 (8) require the payment of a fee ACCORDING TO A STANDARD ←
15 UNIFORM SCHEDULE OF PERMIT AND LICENSE FEES for the
16 processing of any permit or license application. Permit and
17 license fees shall be in an amount sufficient to cover the
18 aggregate cost of reviewing all applications, acting on all
19 applications, processing all renewals, and administering all
20 the terms and conditions of all permits and all provisions of
21 this act RELATING THERETO; ←

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

28 (10) institute in a court of competent jurisdiction,
29 proceedings against any person or municipality to compel
30 compliance with the provisions of this act, any rule or

1 regulation issued thereunder, any order of the department, or
2 the terms and conditions of any permit;

3 (11) institute prosecutions against any person or
4 municipality under this act;

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

11 (13) do any and all other acts and things not
12 inconsistent with any provision of this act, which it may
13 deem necessary or proper for the effective enforcement of
14 this act and the rules or regulations which may be
15 promulgated hereunder AFTER CONSULTING WITH THE DEPARTMENT OF ←
16 HEALTH REGARDING MATTERS OF PUBLIC HEALTH SIGNIFICANCE;

17 (14) DEVELOP, PREPARE AND SUBMIT TO THE ENVIRONMENTAL
18 QUALITY BOARD, WITHIN TWO YEARS AFTER THE EFFECTIVE DATE OF
19 THIS ACT, ITS PROPOSED PENNSYLVANIA HAZARDOUS WASTE
20 FACILITIES PLAN;

21 (15) DEVELOP, PREPARE AND PUBLISH IN THE PENNSYLVANIA
22 BULLETIN SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ACT ITS
23 PRELIMINARY CRITERIA AND STANDARDS FOR SITING HAZARDOUS WASTE
24 TREATMENT AND DISPOSAL FACILITIES;

25 (16) REQUIRE THE PAYMENT OF SUCH ANNUAL INSPECTION FEES
26 AND PERFORM SUCH INSPECTIONS OF HAZARDOUS WASTE TREATMENT AND
27 DISPOSAL FACILITIES EXCLUDING CAPTIVE FACILITIES AS ARE
28 PROVIDED FOR IN THE ENVIRONMENTAL QUALITY BOARD GUIDELINES
29 ADOPTED PURSUANT TO SECTION 105(E), AND REQUESTED BY THE
30 MUNICIPALITY IN WHICH THE FACILITY IS LOCATED. THIS PROVISION

1 SHALL NOT BE CONSTRUED TO LIMIT OR RESTRICT THE DEPARTMENT'S
2 INSPECTION POWERS AS ELSEWHERE SET FORTH IN THIS ACT; AND

3 (17) ADMINISTER FUNDS COLLECTED BY THE UNITED STATES
4 GOVERNMENT AND GRANTED TO PENNSYLVANIA FOR THE PURPOSE OF
5 CLOSING, MAINTAINING OR MONITORING ABANDONED OR CLOSED
6 HAZARDOUS WASTE STORAGE, TREATMENT OR DISPOSAL SITES
7 EXCLUDING CAPTIVE FACILITIES AND FOR THE PURPOSE OF ACTION TO
8 ABATE OR PREVENT POLLUTION AT SUCH SITES. IF CONGRESS HAS NOT
9 AUTHORIZED THE COLLECTION OF SUCH FUNDS WITHIN ONE YEAR AFTER
10 THE EFFECTIVE DATE OF THIS ACT, OR IF THE DEPARTMENT FINDS
11 THAT THE FUNDING PROGRAM AUTHORIZED IS INADEQUATE, THE
12 DEPARTMENT SHALL TRANSMIT TO THE GENERAL ASSEMBLY WITHIN 15
13 MONTHS AFTER THE EFFECTIVE DATE OF THIS ACT A PROPOSAL FOR
14 THE ESTABLISHMENT OF A FUND IN PENNSYLVANIA COMPRISED OF
15 SURCHARGES COLLECTED FROM USERS OF HAZARDOUS WASTE STORAGE,
16 TREATMENT AND DISPOSAL FACILITIES EXCLUDING CAPTIVE
17 FACILITIES IN THE COMMONWEALTH. SUCH FUND SHALL BE PROPOSED
18 FOR THE PURPOSE OF CLOSING, MAINTAINING OR MONITORING
19 HAZARDOUS WASTE STORAGE, TREATMENT OR DISPOSAL SITES
20 EXCLUDING CAPTIVE FACILITIES WHICH HAVE BEEN ABANDONED OR
21 WHICH HAVE BEEN CLOSED FOR AT LEAST 20 YEARS, AND FOR THE
22 PURPOSE OF TAKING ACTION TO ABATE OR PREVENT POLLUTION AT
23 SUCH CLOSED OR ABANDONED SITES.

24 Section 105. Powers and duties of the Environmental Quality
25 Board.

26 (a) The Environmental Quality Board shall have the power and
27 its duty shall be to adopt the rules and regulations of the
28 department to accomplish the purposes and to carry out the
29 provisions of this act, including but not limited to the
30 establishment of rules and regulations relating to the

1 protection of safety, health, welfare and property of the public
2 and the air, water and other natural resources of the
3 Commonwealth.

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

7 (c) The Environmental Quality Board shall have the power and
8 its duty shall be to adopt rules and regulations AND STANDARDS <—
9 to provide for the coordination of administration and
10 enforcement of this act between the Department of Environmental
11 Resources and county health departments WHERE THEY EXIST. <—

12 (D) THE ENVIRONMENTAL QUALITY BOARD SHALL HAVE THE POWER AND
13 ITS DUTY SHALL BE TO ADOPT A PENNSYLVANIA HAZARDOUS WASTE
14 FACILITIES PLAN.

15 (E) THE ENVIRONMENTAL QUALITY BOARD SHALL HAVE THE POWER AND
16 ITS DUTY SHALL BE TO ADOPT GUIDELINES WHICH SHALL:

17 (1) PROVIDE FOR THE NECESSARY INSPECTION OF HAZARDOUS
18 WASTE TREATMENT AND DISPOSAL FACILITIES EXCLUDING CAPTIVE
19 FACILITIES CONSIDERING THE DEGREE OF HAZARD AND THE QUANTITY
20 OF WASTES HANDLED.

21 (2) ESTABLISH AN INSPECTION FEE BASED ON THE FREQUENCY
22 OF INSPECTION PROVIDED FOR IN PARAGRAPH (1).

23 (3) ENCOURAGE COOPERATIVE AGREEMENTS BETWEEN LOCAL
24 COMMUNITIES AND THE HAZARDOUS WASTE FACILITY OPERATORS TO
25 MINIMIZE LOCAL CONCERNS REGARDING THE OPERATION OF THE
26 FACILITY.

27 (4) PROVIDE FOR THE NECESSARY INSPECTION OF CAPTIVE
28 TREATMENT OR DISPOSAL FACILITIES CONSIDERING THE DEGREE OF
29 HAZARD AND THE QUANTITY OF WASTES HANDLED. SUCH PROVISION
30 SHALL BE PROMULGATED BY THE BOARD ONLY AT THE REQUEST OF THE

1 MUNICIPALITY IN WHICH THE CAPTIVE TREATMENT OR DISPOSAL
2 FACILITY IS LOCATED.

3 (5) ESTABLISH AN INSPECTION FEE FOR CAPTIVE FACILITIES
4 BASED ON THE FREQUENCY OF INSPECTION PROVIDED FOR IN
5 PARAGRAPH (4).

6 (F) IN ADDITION TO EXERCISING ITS POWERS AND DUTIES UNDER
7 SECTION 1920-A OF THE ACT OF APRIL 9, 1929 (P.L.177, NO.175),
8 KNOWN AS "THE ADMINISTRATIVE CODE OF 1929," THE ENVIRONMENTAL
9 QUALITY BOARD SHALL HAVE THE POWER AND ITS DUTY SHALL BE TO
10 ASSIST IN THE IMPLEMENTATION OF THE PENNSYLVANIA HAZARDOUS WASTE
11 FACILITIES PLAN THROUGH THE ISSUANCE OF CERTIFICATES OF PUBLIC
12 NECESSITY FOR THE ESTABLISHMENT OF HAZARDOUS WASTE TREATMENT OR
13 DISPOSAL FACILITIES. ANY PERSON PRIOR TO APPLYING FOR A
14 CERTIFICATE OF NECESSITY SHALL HAVE OBTAINED ALL PERMITS FROM
15 THE DEPARTMENT OF THE FEDERAL AGENCY AUTHORIZED TO ISSUE SUCH
16 PERMITS IN THE COMMONWEALTH AND SHALL HAVE IMPLEMENTED ALL
17 IMPACT ASSESSMENTS AND PUBLIC PARTICIPATION PROGRAMS. IN ISSUING
18 CERTIFICATES OF PUBLIC NECESSITY THE ENVIRONMENTAL QUALITY BOARD
19 SHALL:

20 (1) PRESCRIBE THE FORM AND CONTENT OF APPLICATIONS FOR A
21 CERTIFICATE OF PUBLIC NECESSITY TO OPERATE A HAZARDOUS WASTE
22 TREATMENT OR DISPOSAL FACILITY.

23 (2) REQUIRE THE PAYMENT OF A FEE FOR THE PROCESSING OF
24 ANY APPLICATION FOR A CERTIFICATE OF PUBLIC NECESSITY. FEES
25 SHALL BE IN AN AMOUNT SUFFICIENT TO COVER THE AGGREGATE COST
26 OF REVIEWING THE APPLICATION AND ACTING ON IT.

27 (3) ISSUE SUCH CERTIFICATES OF PUBLIC NECESSITY FOR THE
28 OPERATION OF HAZARDOUS WASTE TREATMENT AND DISPOSAL
29 FACILITIES AS ARE WARRANTED BY:

30 (I) THE EXTENT TO WHICH THE FACILITY IS IN

1 CONFORMANCE WITH THE PENNSYLVANIA HAZARDOUS WASTE
2 FACILITIES PLAN;

3 (II) THE IMPACT OF THE PROPOSED FACILITY ON ADJACENT
4 POPULATED AREAS AND AREAS THROUGH WHICH WASTES ARE
5 TRANSPORTED TO SUCH FACILITY;

6 (III) THE IMPACT ON THE BOROUGH, TOWNSHIP, TOWN OR
7 CITY IN WHICH THE FACILITY IS TO BE LOCATED IN TERMS OF
8 HEALTH, SAFETY, COST AND CONSISTENCY WITH LOCAL PLANNING;
9 AND

10 (IV) THE EXTENT TO WHICH THE PROPOSED FACILITY HAS
11 BEEN THE SUBJECT OF A PUBLIC PARTICIPATION PROGRAM IN
12 WHICH CITIZENS HAVE HAD A MEANINGFUL OPPORTUNITY TO
13 PARTICIPATE IN EVALUATION OF ALTERNATE SITES OR
14 TECHNOLOGIES, DEVELOPMENT OF SITING CRITERIA,
15 SOCIOECONOMIC ASSESSMENT, AND ALL OTHER PHASES OF THE
16 SITE SELECTION PROCESS.

17 (4) PROVIDE THE PUBLIC WITH OPPORTUNITIES TO COMMENT
18 UPON THE APPLICATION FOR CERTIFICATE OF PUBLIC NECESSITY AND
19 CONSIDER THE COMMENTS SUBMITTED.

20 (5) ACCEPT APPLICATIONS FOR CERTIFICATES OF PUBLIC
21 NECESSITY ONLY FROM PERSONS OR MUNICIPALITIES WHICH HAVE
22 OBTAINED THE NECESSARY SOLID WASTE TREATMENT OR DISPOSAL
23 PERMITS FROM THE DEPARTMENT OR FROM THE FEDERAL AGENCY
24 AUTHORIZED TO ISSUE SUCH PERMITS IN THE COMMONWEALTH.

25 (G) IN CARRYING OUT THE POWERS AND DUTIES SET FORTH IN THIS
26 SUBSECTION, THE BOARD MAY CONSULT WITH ANY PERSON AND HOLD ANY
27 HEARINGS WHICH IT DEEMS NECESSARY AND PROPER TO ENABLE IT TO
28 RENDER A DECISION TO ISSUE OR DENY THE CERTIFICATE OF PUBLIC
29 NECESSITY AND IN ANY SUCH HEARING THE BOARD SHALL BE REPRESENTED
30 BY A MINIMUM OF THREE MEMBERS.

1 (H) ISSUANCE OF A CERTIFICATE OF PUBLIC NECESSITY UNDER THIS
2 SECTION SHALL SUSPEND AND SUPERSEDE ANY AND ALL LOCAL LAWS WHICH
3 WOULD PRECLUDE OR PROHIBIT THE ESTABLISHMENT OF A HAZARDOUS
4 WASTE TREATMENT OR DISPOSAL FACILITY AT SAID SITE, INCLUDING
5 ZONING ORDINANCES. THE SUSPENSION AND SUPERSESION IS EXPLICITLY
6 EXTENDED TO ANY PERSON TO WHOM SUCH CERTIFICATES ISSUED FOR THE
7 PURPOSE OF HAZARDOUS WASTE TREATMENT OR DISPOSAL, AND TO THE
8 SUCCESSORS AND ASSIGNS OF SUCH PERSON.

9 (I) DURING ALL DELIBERATIONS OF THE BOARD A REPRESENTATIVE
10 OF THE COUNTY, TOWNSHIP, BOROUGH OR MUNICIPALITY AFFECTED WILL
11 BE INVITED TO PARTICIPATE.

12 (J) REGULATIONS PROMULGATED UNDER THIS SECTION CONCERNING
13 THE GENERATION, TRANSPORTATION, STORAGE, TREATMENT AND DISPOSAL
14 OF HAZARDOUS WASTES MAY, TO THE EXTENT CONSISTENT WITH FEDERAL
15 REGULATIONS PROMULGATED UNDER THE RESOURCE CONSERVATION AND
16 RECOVERY ACT, ESTABLISH CLASSES OF HAZARDOUS WASTES TAKING INTO
17 ACCOUNT THE RELATIVE AVAILABILITY TO THE ENVIRONMENT OF THE
18 HAZARDOUS CONSTITUENTS IN WASTE MATERIALS AND THE DEGREE OF
19 HAZARD THEREBY PRESENTED.

20 Section 106. Powers and duties of county health departments;
21 limitation.

22 (a) The county health department WHERE IT EXISTS of each of <—
23 the counties of the Commonwealth ~~shall have the power and its~~ <—
24 ~~duty shall be to administer and enforce the provisions of this~~
25 ~~act together with the Department of Environmental Resources.~~ MAY <—
26 ELECT TO ADMINISTER AND ENFORCE ANY OF THE PROVISIONS OF THIS
27 ACT IN ACCORDANCE WITH THE ESTABLISHED POLICIES, PROCEDURES,
28 GUIDELINES, STANDARDS AND RULES AND REGULATIONS OF THE
29 DEPARTMENT. WHERE THIS PROGRAM ACTIVITY EXCEEDS THE MINIMUM
30 PROGRAM REQUIREMENTS ADOPTED BY THE ADVISORY HEALTH BOARD UNDER

1 THE PROVISIONS OF THE ACT OF AUGUST 24, 1951 (P.L.1304, NO.315),
2 KNOWN AS THE "LOCAL HEALTH ADMINISTRATION LAW," SUCH ACTIVITY
3 MAY BE FUNDED THROUGH CONTRACTUAL AGREEMENTS WITH THE
4 DEPARTMENT. THE DEPARTMENT IS AUTHORIZED TO PROVIDE FUNDS TO
5 COUNTY HEALTH DEPARTMENTS FROM FUNDS APPROPRIATED FOR THIS
6 PURPOSE BY THE GENERAL ASSEMBLY.

7 (b) Notwithstanding the grant of powers in subsection (a),
8 in any case where administration and enforcement of this act by
9 a county health department shall conflict with administration
10 and enforcement by the Department of Environmental Resources,
11 administration and enforcement by the Department of
12 Environmental Resources shall take precedence over
13 administration and enforcement by a county health department.
14 Section 107. Legislative oversight.

15 ~~(a) Prior to the promulgation of proposed regulations~~ <—
16 ~~relating to this act, the Environmental Quality Board shall~~
17 ~~submit such proposed regulations to the Joint Legislative Air~~
18 ~~and Water Pollution Control and Conservation Committee.~~

19 ~~(b) Upon submission of the proposed regulations to the~~
20 ~~committee, the committee shall have 60 days in which to approve,~~
21 ~~modify or veto the proposed regulations. If the committee takes~~
22 ~~no action within the 60 day period, the regulations shall be~~
23 ~~deemed to have been approved by the committee. If the committee~~
24 ~~vetoes the proposed regulations or otherwise raises objections,~~
25 ~~the board shall withdraw the proposed regulations, or modify~~
26 ~~them in such a manner as shall be approved by the committee.~~
27 ~~Upon approval by the committee or the expiration of the 60 day~~
28 ~~period with no action, the board may proceed to deposit the~~
29 ~~proposed regulations for publication in the Pennsylvania~~
30 ~~Bulletin in the manner provided by law.~~

<—

1 AT LEAST 30 DAYS PRIOR TO CONSIDERATION BY THE ENVIRONMENTAL
2 QUALITY BOARD OF DRAFT REGULATIONS FOR PROPOSED RULEMAKING, THE
3 DEPARTMENT SHALL SUBMIT SUCH DRAFT REGULATIONS TO THE SENATE
4 ENVIRONMENTAL RESOURCES AND HOUSE CONSERVATION COMMITTEES OF THE
5 GENERAL ASSEMBLY FOR THEIR REVIEW AND COMMENT.

6 SECTION 108. POWERS AND DUTIES OF THE ENVIRONMENTAL HEARING
7 BOARD.

8 IN ADDITION TO EXERCISING ITS POWERS AND DUTIES TO HOLD
9 HEARINGS AND ISSUE ADJUDICATIONS OR ANY ORDER, PERMIT, LICENSE
10 OR DECISION OF THE DEPARTMENT ACCORDING TO THE PROVISIONS OF
11 "THE ADMINISTRATIVE CODE OF 1929" AND THE ADMINISTRATIVE AGENCY
12 LAW, THE ENVIRONMENTAL HEARING BOARD SHALL HAVE THE POWER AND
13 ITS DUTY SHALL BE TO HOLD, IF REQUESTED TO DO SO BY ANY PERSON
14 OR MUNICIPALITY RECEIVING AN ORAL ORDER UNDER SECTION 602(D), A
15 HEARING ON THE SUPERSEDEAS OF SUCH ORDER WITHIN SIX BUSINESS
16 DAYS OF THE RECEIPT OF SUCH ORDER.

17 ARTICLE II

18 MUNICIPAL WASTE

19 Section 201. Submission of plans; permits.

20 (a) No person or municipality shall store, collect,
21 transport, process, or dispose of municipal waste within this
22 Commonwealth unless such storage, collection, transportation,
23 processing or disposal is authorized by the rules and
24 regulations of the department and no person or municipality
25 shall own or operate a municipal waste processing or disposal
26 facility unless such person or municipality has first obtained a
27 permit for such facility from the department.

28 (b) Each municipality ~~with a population density of 300 or~~ <—
29 ~~more inhabitants per square mile and each municipality with a~~
30 ~~population density of less than 300 wherein the department has~~

1 ~~identified a waste problem or a potential waste problem~~ shall
2 submit to the department an officially adopted plan for a
3 municipal waste management system or systems serving the areas
4 within its jurisdiction within two years of the effective date
5 of this section, and shall, from time to time, submit such
6 revisions of said plan as it deems necessary or as the
7 department may require.

8 (c) When more than one municipality has authority over an
9 existing or proposed municipal waste management system or
10 systems or any part thereof, the required plan or any revisions
11 thereof shall be submitted jointly by the municipalities
12 concerned or by an authority or county or by one or more of the
13 municipalities with the concurrence of all the others.

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

18 (e) Every plan shall:

19 (1) Provide for the orderly extension of municipal waste
20 management systems in a manner consistent with the needs and
21 plans of the whole area, and in a manner which will not
22 create a risk of pollution of the water, air, land or other
23 natural resources of the Commonwealth, nor constitute a
24 public nuisance, and shall otherwise provide for the safe and
25 sanitary disposal of municipal waste.

26 (2) Take into consideration all aspects of planning,
27 zoning, population estimates, engineering and economics so as
28 to delineate with precision those portions of the area which
29 may reasonably be expected to be served by a municipal waste
30 management system within ten years of the submission of the

1 plan, as well as those areas where it is not reasonably
2 foreseeable that a municipal waste management system will be
3 needed within ten years of the submission of the plan.

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

7 (4) Set forth a time schedule and proposed methods for
8 financing the development, construction and operation of the
9 planned municipal waste management systems, together with the
10 estimated cost thereof.

11 (5) Include a provision for periodic revision of the
12 plan.

13 (6) Include such other information as the department
14 shall require.

15 (f) The plan shall be reviewed by appropriate official
16 planning agencies within a municipality, including a planning
17 agency with area-wide jurisdiction, if one exists, ~~and the~~ ←
18 county, COUNTY planning commission, AND COUNTY HEALTH DEPARTMENT ←
19 IF ONE EXISTS, of planning for the area, and all such reviews
20 shall be transmitted to the department with the proper plan. In
21 the event a review of any plan has not been transmitted by such
22 planning agency or commission within 90 days of its submission
23 to such agency or commission, then such agency or commission
24 shall be deemed to have waived its right to review the plan, and
25 the department shall then review the plan for approval in the
26 absence of the reviews of such planning agency or commission.

27 (g) The department is hereby authorized to approve or
28 disapprove plans for municipal waste management systems
29 submitted in accordance with this act. Any plan which has not
30 been disapproved within ~~one year~~ 120 DAYS of the date of its ←

1 submission shall be deemed an approved plan, unless notice of
2 pending investigation is given to the applicant by the
3 department before expiration of the ~~one-year~~ 120-DAY period. ←

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

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

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

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

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

22 Section 202. Powers and duties of municipalities.

23 (a) Each municipality shall be responsible for the
24 collection, transportation, processing, and disposal of
25 municipal waste which is generated or present within its
26 boundaries and shall be responsible for implementing its
27 approved plan as it relates to the storage, collection,
28 transportation, processing, and disposal of its municipal
29 wastes.

30 (b) In carrying out its responsibilities, any such

1 municipality may adopt ordinances, regulations and standards for
2 the storage and collection of municipal wastes which shall be
3 not less stringent than, and not in violation of, the rules,
4 regulations, standards, and procedures of the department for the
5 storage, collection, transportation, processing and disposal of
6 municipal waste. Any ordinances, regulations and standards so
7 adopted shall be made a part of the plan required in section
8 201.

9 (c) Municipalities may contract with any person or other
10 municipality to carry out their responsibilities for the
11 collection, transportation, processing and disposal of municipal
12 wastes, provided that the ultimate disposal is known to be at a
13 site permitted to accept such waste, and provided, further, that
14 no municipality may delegate the duties imposed by this section.
15 IN CASES WHERE THE PLANNING AGENCY DETERMINES AND THE GOVERNING ←
16 BODY APPROVES THAT IT IS IN THE PUBLIC INTEREST FOR MUNICIPAL
17 WASTES MANAGEMENT AND DISPOSAL TO BE A PUBLIC FUNCTION, THE PLAN
18 SHALL PROVIDE FOR THE MECHANISMS. MUNICIPALITIES ARE AUTHORIZED
19 TO REQUIRE BY ORDINANCE THAT ALL MUNICIPAL WASTES GENERATED
20 WITHIN THEIR JURISDICTION SHALL BE DISPOSED AT A DESIGNATED
21 FACILITY.

22 Section 203. Grants authorized.

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

30 (b) All grants shall be made from funds appropriated for

1 this purpose by the General Assembly.

2 ARTICLE III

3 RESIDUAL WASTE

4 Section 301. Management of residual waste.

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

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

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

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

22 (1) Use such methods and facilities as are necessary to
23 prevent ~~leaching~~ LEACHATE, runoff, discharges and emissions <—
24 from residual waste IN ACCORDANCE WITH DEPARTMENT <—
25 REGULATIONS.

26 (2) Use such methods and facilities as are necessary to
27 prevent the harmful or hazardous mixing of wastes. ~~or such~~ <—
28 ~~mixing as may render disposal in compliance with this act~~
29 ~~impracticable.~~

30 (3) Design, construct, operate and maintain facilities

1 and areas in a manner which shall not adversely effect or
2 endanger public health, safety and welfare or the environment
3 or cause a public nuisance.

4 Section 303. Transportation of residual waste.

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

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

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

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

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

19 ~~(2) immediately notify the department of any spill or~~ <—
20 ~~accidental discharge of such waste and take immediate steps~~
21 ~~to contain and clean up the spill or discharge.~~

22 (2) TAKE IMMEDIATE STEPS TO CONTAIN AND CLEAN UP SPILLS <—
23 OR ACCIDENTAL DISCHARGES OF SUCH WASTE, AND NOTIFY THE
24 DEPARTMENT, PURSUANT TO DEPARTMENT REGULATIONS, OF ALL SPILLS
25 OR ACCIDENTAL DISCHARGES WHICH OCCUR ON PUBLIC HIGHWAYS OR
26 PUBLIC AREAS OR WHICH MAY ENTER THE WATERS OF THE
27 COMMONWEALTH AS DEFINED BY THE ACT OF JUNE 22, 1937
28 (P.L.1987, NO.394), KNOWN AS "THE CLEAN STREAMS LAW," OR ANY
29 OTHER SPILL WHICH IS GOVERNED BY ANY NOTIFICATION
30 REQUIREMENTS OF THE DEPARTMENT.

ARTICLE IV

HAZARDOUS WASTE

Section 401. Management of hazardous waste.

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

(b) The storage, transportation, treatment, and disposal of hazardous waste are hereby declared to be ~~ultrahazardous~~ activities, WHICH SUBJECT THE PERSON CARRYING ON THOSE ACTIVITIES TO LIABILITY FOR HARM ALTHOUGH HE HAS EXERCISED UTMOST CARE TO PREVENT HARM, regardless whether such activities were conducted prior to the enactment hereof.

Section 402. Listing of hazardous waste.

The Environmental Quality Board shall establish rules and regulations identifying the characteristics of hazardous wastes and listing particular hazardous wastes which shall be subject to the provisions of this act. The list promulgated shall in no event prevent the department from regulating other wastes, which, although not listed, the department has determined to be hazardous; ~~such regulation of hazardous wastes may be~~ THE DEPARTMENT OF ENVIRONMENTAL RESOURCES MAY REGULATE SUCH

1 HAZARDOUS WASTES WHEN THE DEPARTMENT HAS DETERMINED SUCH WASTE
2 POSES A SUBSTANTIAL PRESENT OR POTENTIAL HAZARD TO THE HUMAN
3 HEALTH OR THE ENVIRONMENT by any means including, but not
4 limited to, issuance of orders and the imposition of terms and
5 conditions of permits.

6 Section 403. Generation, transportation, storage, treatment
7 and disposal of hazardous waste.

8 (a) It shall be unlawful for any person or municipality who
9 generates, transports or stores hazardous waste to transfer such
10 waste unless such person or municipality complies with the rules
11 and regulations of the department and the terms or conditions of
12 any applicable permit or license and any applicable order issued
13 by the department.

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

17 (1) Maintain such records as are necessary to accurately
18 identify the quantities of hazardous waste generated, the
19 constituents thereof which are significant in quantity or in
20 potential harm to human health or the environment, the method
21 of transportation and the disposition of such wastes; and
22 where applicable, the source and delivery points of such
23 hazardous waste.

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

27 (3) Use containers appropriate for such hazardous waste
28 and for the activity undertaken.

29 (4) Furnish information on the general chemical
30 composition of such hazardous waste to persons transporting,

1 treating, storing or disposing of such wastes.

2 (5) Use a manifest system as required by the department
3 to assure that all such hazardous waste generated is
4 designated for treatment, storage or disposal in such
5 treatment, storage or disposal facilities (other than
6 facilities on the premises where the waste is generated,
7 where the use of a manifest system is not necessary) approved
8 by the department, as provided in this article.

9 (6) Transport hazardous waste for treatment, storage or
10 disposal to such treatment, storage or disposal facilities
11 which the shipper has designated on the manifest form as a
12 facility permitted to receive such waste or as a facility not
13 within the Commonwealth.

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

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

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

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

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

25 (10) Develop and implement contingency plans for
26 effective action to minimize and abate hazards from any
27 treatment, storage, transportation or disposal of any
28 hazardous waste.

29 (11) Maintain such operation, train personnel, and
30 assure financial responsibility for such storage, treatment

1 or disposal operations to prevent adverse effects to the
2 public health, safety and welfare and to the environment and
3 to prevent public nuisances.

4 (12) Immediately notify the department and the affected
5 municipality or municipalities of any spill or accidental
6 discharge of such waste in accordance with a contingency plan
7 approved by the department and take immediate steps to
8 contain and clean up the spill or discharge.

9 (c) After January 1, 1981 any producer of any hazardous
10 waste or any producer having a by-product of production which is
11 a hazardous waste may be required by the department to submit to
12 the department for its approval a plan relating to the disposal
13 of such hazardous waste at either an on-site disposal area or an
14 off-site disposal area BEFORE TRANSFERRING, TREATING OR ←
15 DISPOSING OF THIS WASTE.

16 Section 404. Transition scheme.

17 Any person or municipality who:

18 (1) owns or operates a hazardous waste storage or
19 treatment facility required to have a permit under this act,
20 which facility is in existence on the effective date of this
21 act;

22 (2) has complied with the requirements of section
23 501(c);

24 (3) has made an application for a permit under this act;
25 and

26 (4) operates and continues to operate in such a manner
27 as will not cause, or create a risk of, a health hazard, a
28 public nuisance, or an adverse effect upon the environment;
29 shall be treated as having been issued such permit until such
30 time as a final departmental action on such application is made.

1 In no instance shall such person or municipality continue to
2 store or treat hazardous wastes without obtaining a permit from
3 the department within two years after the date of enactment
4 hereof.

5 Section 405. Conveyance of disposal site property.

6 After the effective date of this act, the grantor in every
7 deed for the conveyance of property on which hazardous waste is
8 presently being disposed, OR has ever been disposed ~~or is~~ ←
9 ~~suspected of having been disposed~~ shall include in the property
10 description section of such deed an acknowledgement of such
11 hazardous waste disposal; such acknowledgement to include to the
12 extent such information is available, but not be limited to, the
13 surface area size and exact location of the disposed waste and a
14 description of the types of hazardous wastes contained therein.
15 Such amended property description shall be made a part of the
16 deed for all future conveyances or transfers of the subject
17 property.

18 ARTICLE V

19 APPLICATIONS AND PERMITS

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

22 (a) It shall be unlawful for any person or municipality to
23 use, or continue to use, their land or the land of any other
24 person or municipality as a solid waste processing, storage,
25 treatment or disposal area without first obtaining a permit from
26 the department as required by this act: Provided, however, That
27 this section shall not apply to the short-term storage of
28 byproducts which are utilized in the processing or manufacturing
29 of other products, to the extent that such byproducts are not
30 hazardous, and do not create a public nuisance or adversely

1 affect the air, water and other natural resources of the
2 Commonwealth: And provided further, however, That the provisions
3 of this section shall not apply to agricultural waste produced
4 in the course of normal farming operations PROVIDED THAT SUCH ←
5 WASTES ARE NOT CLASSIFIED BY THE BOARD AS HAZARDOUS.

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

10 (c) Not later than 90 days after promulgation or revision of
11 regulations under section 402 identifying by its characteristics
12 or listing any substance as hazardous waste, any person or
13 municipality generating or transporting such substance or owning
14 or operating a facility for treatment, storage, or disposal of
15 such substance shall file with the department a notification
16 stating the location and general description of such activity
17 and the identified or listed hazardous wastes handled by such
18 person or municipality. Not more than one such notification
19 shall be required to be filed with respect to the same
20 substance. No identified or listed hazardous waste may be
21 transported, treated, processed, stored or disposed of unless
22 notification has been given as required under this subsection.
23 Section 502. Permit and license application requirements.

24 (a) Application for any permit or license shall be in
25 writing, shall be made on forms provided by the department and
26 shall be accompanied by such plans, designs and relevant data as
27 the department may require. Such plans, designs and data shall
28 be prepared by a registered professional engineer.

29 (b) The application for a permit to operate a hazardous
30 waste storage, treatment or disposal facility shall also be

1 accompanied by a form, prepared and furnished by the department,
2 containing the written consent of the landowner to entry upon
3 any land to be affected by the proposed facility by the
4 Commonwealth and by any of its authorized agents prior to and
5 during operation of the facility and for 20 years after closure
6 of the facility, for the purpose of inspection and for the
7 purpose of any such pollution abatement or pollution prevention
8 activities as the department deems necessary. Such forms shall
9 be deemed to be recordable documents and prior to the initiation
10 of operations under the permit, such forms shall be recorded and
11 entered into the deed book (d.b.v.) indexing system at the
12 office of the recorder of deeds in the counties in which the
13 area to be affected under the permit is situated.

14 (c) All records, reports, or information contained in the
15 hazardous waste storage, treatment or disposal facility permit
16 application submitted to the department under this section shall
17 be available to the public; except that the department shall
18 consider a record, report or information or particular portion
19 thereof, confidential in the administration of this act if the
20 applicant can show cause that the records, reports or
21 information, or a particular portion thereof (but not emission
22 or discharge data or information concerning solid waste which is
23 potentially toxic in the environment), if made public, would
24 divulge production or sales figures or methods, processes or
25 production unique to such applicant or would otherwise tend to
26 affect adversely the competitive position of such applicant by
27 revealing trade secrets. Nothing herein shall be construed to
28 prevent disclosure of such report, record or information to the
29 Federal Government or other State agencies as may be necessary
30 for purposes of administration of any Federal or State law.

1 (d) The application for a permit shall set forth the manner
2 in which the operator plans to comply with the requirements of
3 the act of June 25, 1913 (P.L.555, No.355), referred to as the
4 Water Obstructions Act, the act of June 22, 1937 (P.L.1987,
5 No.394), known as "The Clean Streams Law," the act of May 31,
6 1945 (P.L.1198, No.418), known as the "Surface Mining
7 Conservation and Reclamation Act," the act of January 8, 1960
8 (1959 P.L.2119, No.787), known as the "Air Pollution Control
9 Act," and the act of November 26, 1978 (P.L.1375, No.325), known
10 as the "Dam Safety and Encroachments Act," as applicable. No
11 approval shall be granted unless the plan provides for
12 compliance with the statutes hereinabove enumerated, and failure
13 to comply with the statutes hereinabove enumerated during
14 construction and operation or thereafter shall render the
15 operator liable to the sanctions and penalties provided in this
16 act for violations of this act and to the sanctions and
17 penalties provided in the statutes hereinabove enumerated for
18 violations of such statutes. Such failure to comply shall be
19 cause for revocation of any approval or permit issued by the
20 department to the operator. Compliance with the provisions of
21 this subsection and with the provisions of this act and the
22 provisions of the statutes hereinabove enumerated shall not
23 relieve the operator of the responsibility for complying with
24 the provisions of all other applicable statutes, including, but
25 not limited to the act of July 17, 1961 (P.L.659, No.339), known
26 as the "Pennsylvania Bituminous Coal Mine Act," the act of
27 November 10, 1965 (P.L.721, No.346), known as the "Pennsylvania
28 Anthracite Coal Mine Act," and the act of July 9, 1976 (P.L.931,
29 No.178), entitled "An act providing emergency medical personnel;
30 employment of emergency medical personnel and emergency

1 communications in coal mines."

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

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

10 Section 503. Granting, denying, renewing, modifying, revoking
11 and suspending permits and licenses.

12 (a) Upon approval of the application, the department shall
13 issue a permit for the operation of a solid waste storage,
14 treatment, processing or disposal facility or area or a license
15 for the transportation of hazardous wastes, as set forth in the
16 application and further conditioned by the department.

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

19 (c) In carrying out the provisions of this act, the
20 department may deny, suspend, modify, or revoke any permit or
21 license if it finds that the applicant, permittee or licensee
22 has failed or continues to fail to comply with any provision of
23 this act, the act of June 25, 1913 (P.L.555, No.355), referred
24 to as the Water Obstructions Act, the act of June 22, 1937
25 (P.L.1987, No.394), known as "The Clean Streams Law," the act of
26 January 8, 1960 (1959 P.L.2119, No.787), known as the "Air
27 Pollution Control Act," and the act of November 26, 1978
28 (P.L.1375, No.325), known as the "Dam Safety and Encroachments
29 Act," or any other state or Federal statute relating to
30 environmental protection or to the protection of the public

1 health, safety and welfare; or any rule or regulation of the
2 department; or any order of the department; or any condition of
3 any permit or license issued by the department; or if the
4 department finds that the applicant, permittee or licensee has
5 shown a lack of ability or intention to comply with any
6 provision of this act or any of the acts referred to in this
7 subsection or any rule or regulation of the department or order
8 of the department, or any condition of any permit or license
9 issued by the department as indicated by past or continuing
10 violations. In the case of a corporate applicant, permittee or
11 licensee, the department may deny the issuance of a license or
12 permit if it finds that a principal of the corporation was a
13 principal of another corporation which committed past violations
14 of this act.

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

28 (e) Any permit or license granted by the department, as
29 provided in this act, shall be revocable or subject to
30 modification or suspension at any time the department determines

1 that the solid waste storage, treatment, processing or disposal
2 facility or area or transportation of solid waste:

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

5 (2) is creating a public nuisance;

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

8 (4) adversely affects the environment;

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

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

13 Section 504. Approval by governing body.

14 ~~No permit or license for the disposal of hazardous waste~~ <—
15 ~~shall be granted without the written consent or approval of the~~
16 ~~governing body of the county in which the proposed disposal site~~
17 ~~is located.~~

18 APPLICATIONS FOR A PERMIT SHALL BE REVIEWED BY THE <—
19 APPROPRIATE COUNTY, COUNTY PLANNING AGENCY OR COUNTY HEALTH
20 DEPARTMENT WHERE THEY EXIST, AND THEY MAY RECOMMEND TO THE
21 DEPARTMENT CONDITIONS UPON, REVISIONS TO, OR DISAPPROVAL OF THE
22 PERMIT ONLY IF SPECIFIC CAUSE IS IDENTIFIED. IN SUCH CASE THE
23 DEPARTMENT SHALL BE REQUIRED TO PUBLISH IN THE PENNSYLVANIA
24 BULLETIN ITS JUSTIFICATION FOR OVERRIDING THE COUNTY'S
25 RECOMMENDATIONS. IF THE DEPARTMENT DOES NOT RECEIVE COMMENTS
26 WITHIN 60 DAYS, THE COUNTY SHALL BE DEEMED TO HAVE WAIVED ITS
27 RIGHT TO REVIEW.

28 Section 505. Bonds.

29 (a) ~~Prior~~ WITH THE EXCEPTION OF MUNICIPALITIES OPERATING <—
30 LANDFILLS SOLELY FOR MUNICIPAL WASTE NOT CLASSIFIED HAZARDOUS,

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

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

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

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

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

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

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

1 act.

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

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

23 Section 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 SECTION 507. SITING OF HAZARDOUS WASTE TREATMENT AND DISPOSAL
3 FACILITIES. ←

4 (A) THE DEPARTMENT OF ENVIRONMENTAL RESOURCES SHALL HAVE THE
5 POWER AND AUTHORITY TO DEVELOP, PREPARE AND MODIFY THE
6 PENNSYLVANIA HAZARDOUS WASTE FACILITIES PLAN. THE PLAN SHALL
7 INCLUDE:

8 (1) CRITERIA AND STANDARDS FOR SITING HAZARDOUS WASTE
9 TREATMENT AND DISPOSAL FACILITIES.

10 (2) AN INVENTORY AND EVALUATION OF THE SOURCES OF
11 HAZARDOUS WASTE CONCENTRATION WITHIN THE COMMONWEALTH
12 INCLUDING TYPES AND QUANTITIES OF HAZARDOUS WASTE.

13 (3) AN INVENTORY AND EVALUATION OF CURRENT HAZARDOUS
14 WASTE PRACTICES WITHIN THE COMMONWEALTH INCLUDING EXISTING
15 HAZARDOUS WASTE TREATMENT AND DISPOSAL FACILITIES.

16 (4) A DETERMINATION OF FUTURE HAZARDOUS WASTE FACILITY
17 NEEDS BASED ON AN EVALUATION OF EXISTING TREATMENT AND
18 DISPOSAL FACILITIES INCLUDING THEIR LOCATION, CAPACITIES AND
19 CAPABILITIES, AND THE EXISTING AND PROJECTED GENERATION OF
20 HAZARDOUS WASTE WITHIN THE COMMONWEALTH AND INCLUDING WHERE
21 THE DEPARTMENT WITHIN ITS DISCRETION FINDS SUCH INFORMATION
22 TO BE AVAILABLE, THE PROJECTED GENERATION OUTSIDE THE
23 COMMONWEALTH OF HAZARDOUS WASTES EXPECTED TO BE TRANSPORTED
24 INTO THE COMMONWEALTH FOR STORAGE, TREATMENT OR DISPOSAL.

25 (5) AN ANALYSIS OF METHODS, INCENTIVES OR TECHNOLOGIES
26 FOR SOURCE REDUCTION, DETOXIFICATION, REUSE AND RECOVERY OF
27 HAZARDOUS WASTE AND A STRATEGY FOR IMPLEMENTING SUCH METHODS,
28 INCENTIVES AND TECHNOLOGIES.

29 (6) IDENTIFICATION OF SUCH HAZARDOUS WASTE TREATMENT AND
30 DISPOSAL FACILITIES AND THEIR LOCATIONS (IN ADDITION TO

1 EXISTING FACILITIES) AS ARE NECESSARY TO PROVIDE FOR THE
2 PROPER MANAGEMENT OF HAZARDOUS WASTE GENERATED WITHIN THIS
3 COMMONWEALTH.

4 (B) IN PREPARATION OF THE PLAN THE DEPARTMENT SHALL CONSULT
5 WITH AFFECTED PERSONS, MUNICIPALITIES AND STATE AGENCIES WITHIN
6 60 DAYS AFTER THE EFFECTIVE DATE OF THIS ACT THE SECRETARY SHALL
7 APPOINT THE PENNSYLVANIA HAZARDOUS WASTE FACILITIES PLANNING
8 ADVISORY COMMITTEE. THE DEPARTMENT SHALL INSURE THAT THE
9 ADVISORY BODY CONSIST OF SUBSTANTIALLY EQUIVALENT PROPORTIONS OF
10 THE FOLLOWING FOUR GROUPS: PRIVATE CITIZENS, REPRESENTATIVES OF
11 PUBLIC INTEREST GROUPS, PUBLIC OFFICIALS AND CITIZENS OR
12 REPRESENTATIVES OF ORGANIZATIONS WITH SUBSTANTIAL ECONOMIC
13 INTEREST IN THE PLAN. IT SHALL SPECIFICALLY INCLUDE BUT NOT BE
14 LIMITED TO A REPRESENTATIVE OF A WASTE TREATMENT OPERATOR, A
15 WASTE TREATMENT GENERATOR, LOCAL GOVERNMENTS, ENVIRONMENTALISTS,
16 AND ACADEMIC SCIENTIST.

17 (C) THE COMMITTEE MAY RECOMMEND TO THE DEPARTMENT THE
18 ADOPTION OF SUCH RULES AND REGULATIONS, STANDARDS, CRITERIA AND
19 PROCEDURES AS IT DEEMS NECESSARY AND ADVISABLE FOR THE
20 PREPARATION, DEVELOPMENT, ADOPTION AND IMPLEMENTATION OF THE
21 PENNSYLVANIA HAZARDOUS WASTE FACILITIES PLAN.

22 (D) A VACANCY OCCURRING ON THE COMMITTEE SHALL BE FILLED IN
23 THE SAME MANNER AS THE ORIGINAL APPOINTMENT AND THE SECRETARY OR
24 HIS REPRESENTATIVE SHALL SERVE AS CHAIRPERSON OF THE COMMITTEE.

25 (E) THE COMMITTEE SHALL ESTABLISH OPERATING PROCEDURES AND
26 MAY SOLICIT THE ADVICE OF MUNICIPALITIES OR OTHER PERSONS.

27 (F) THE COMMITTEE SHALL DISBAND AFTER ADOPTION OF THE PLAN
28 BY THE ENVIRONMENTAL QUALITY BOARD UNLESS THE COMMITTEE IS
29 RECONSTITUTED AS A PROVISION OF THE PLAN.

30 (G) NOT LATER THAN TWO YEARS AFTER THE DATE OF ENACTMENT OF

1 THIS ACT, THE ENVIRONMENTAL QUALITY BOARD SHALL ADOPT THE
2 PENNSYLVANIA HAZARDOUS WASTE FACILITIES PLAN AND THE DEPARTMENT
3 SHALL REVIEW AND AMEND SAID PLAN AS NECESSARY BUT IN NO EVENT
4 LESS THAN EVERY FIVE YEARS FOLLOWING ADOPTION.

5 ARTICLE VI

6 ENFORCEMENT AND REMEDIES

7 Section 601. Public nuisances.

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

17 Section 602. Enforcement orders.

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

1 addition to any other remedy which may be afforded to the
2 department pursuant to this act or any other act.

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

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

23 (D) THE DEPARTMENT OF ENVIRONMENTAL RESOURCES' INSPECTOR ←
24 SHALL HAVE THE POWER TO ORDER, ORALLY OR IN WRITING, ANY PERSON
25 OR MUNICIPALITY TO IMMEDIATELY SUSPEND OR MODIFY HAZARDOUS WASTE
26 TREATMENT OR DISPOSAL ACTIVITIES WHEN HE DETERMINES THAT
27 CONTINUED OPERATION WILL JEOPARDIZE PUBLIC HEALTH, SAFETY OR
28 WELFARE. SAID ORDER SHALL BE EFFECTIVE UPON ISSUANCE AND MAY
29 ONLY BE SUPERSEDED BY FURTHER DEPARTMENT ACTION OR BY THE
30 ENVIRONMENTAL HEARING BOARD AFTER NOTICE AND HEARING.

1 FURTHERMORE, SAID ORDER MAY REQUIRE REMEDIAL ACTIONS TO BE TAKEN
2 IN ORDER TO PREVENT HARM TO PUBLIC HEALTH, SAFETY OR WELFARE.
3 WITHIN TWO BUSINESS DAYS AFTER THE ISSUANCE OF SUCH ORAL ORDER,
4 THE DEPARTMENT SHALL ISSUE A WRITTEN ORDER RECITING AND
5 MODIFYING, WHERE APPROPRIATE, THE TERMS AND CONDITIONS CONTAINED
6 IN THE ORAL ORDER.

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

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

17 Section 604. Restraining violations.

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

1 injunction, the court in such equity proceedings, may levy civil
2 penalties as specified in section 605.

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

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

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

19 Section 605. Civil penalties.

20 In addition to proceeding under any other remedy available at
21 law or in equity for a violation of any provision of this act,
22 any rule or regulation of the department or order of the
23 department or any term or condition of any permit issued by the
24 department, the department may assess a civil penalty upon a
25 person for such violation. Such a penalty may be assessed
26 whether or not the violation was willful or negligent. In
27 determining the amount of the penalty, the department shall
28 consider the willfulness of the violation, damage to air, water,
29 land or other natural resources of the Commonwealth or their
30 uses, cost of restoration and abatement, savings resulting to

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

25 Section 606. Criminal penalties.

26 (a) Any person OTHER THAN A MUNICIPAL OFFICIAL EXERCISING ←
27 HIS OFFICIAL DUTIES or municipality who violates any provision
28 of this act, the rules and regulations of the department, or any
29 order of the department, or any term or condition of any permit
30 upon conviction thereof in a summary proceeding, shall be

1 sentenced to pay a fine of not less than \$100 and not more than
2 \$1,000 and costs and, in default of the payment of such fine and
3 costs, to undergo imprisonment for not more than 30 days.

4 (b) Any person OTHER THAN A MUNICIPAL OFFICIAL EXERCISING ←
5 HIS OFFICIAL DUTIES who violates any provision of this act, any
6 rule or regulation of the department, any order of the
7 department, or any term or condition of any permit, shall be
8 guilty of a misdemeanor of the third degree and, upon
9 conviction, shall be sentenced to pay a fine of not less than
10 \$1,000 but not more than \$25,000 per day for each violation or
11 to imprisonment for a period of not more than one year, or both.

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

21 (D) ANY PERSON OR MUNICIPALITY THAT KNOWINGLY: ←

22 (1) TRANSPORTS ANY HAZARDOUS WASTE TO A FACILITY WHICH
23 DOES NOT HAVE A PERMIT UNDER THIS ACT TO ACCEPT SUCH WASTE
24 FOR STORAGE, TREATMENT OR DISPOSAL;

25 (2) STORES, TREATS OR DISPOSES OF ANY HAZARDOUS WASTE
26 WITHOUT HAVING OBTAINED A PERMIT OF SUCH STORAGE, TREATMENT
27 OR DISPOSAL; OR

28 (3) MAKES ANY FALSE STATEMENT OR REPRESENTATION IN ANY
29 APPLICATION LABEL, MANIFEST, RECORD, REPORT, PERMIT OR OTHER
30 DOCUMENT RELATING TO HAZARDOUS WASTE GENERATION, STORAGE,

1 TRANSPORTATION, TREATMENT OR DISPOSAL, WHICH IS FILED,
2 SUBMITTED, MAINTAINED OR USED FOR PURPOSES OF COMPLIANCE WITH
3 THIS ACT;

4 SHALL BE GUILTY OF A MISDEMEANOR OF THE THIRD DEGREE AND, UPON
5 CONVICTION, SHALL BE SENTENCED TO PAY A FINE OF NOT LESS THAN
6 \$1,000 BUT NOT MORE THAN \$25,000 PER DAY FOR EACH VIOLATION.

7 (E) ANY PERSON OR MUNICIPALITY THAT WITHIN TWO YEARS AFTER A
8 CONVICTION OF A MISDEMEANOR FOR ANY VIOLATION OF THIS ACT,
9 COMMITS A VIOLATION OF SUBSECTION (F), SHALL BE GUILTY OF A
10 MISDEMEANOR OF THE SECOND DEGREE AND UPON CONVICTION, SHALL BE
11 SENTENCED TO PAY A FINE OF NOT LESS THAN \$2,500 NOR MORE THAN
12 \$50,000 FOR EACH VIOLATION OR TO A TERM OF IMPRISONMENT OF NOT
13 LESS THAN TWO YEARS, BUT NOT MORE THAN 20 YEARS, OR BOTH.

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

22 ~~(e)~~ (G) Any person who intentionally, knowingly, recklessly, ←
23 or negligently stores, transports, treats, or disposes of
24 hazardous waste within the Commonwealth in violation of any
25 provision of this act, and whose acts or omissions cause
26 pollution, a public nuisance or bodily injury to any person,
27 shall be guilty of a felony of the first degree, and upon
28 conviction, shall be sentenced to pay a fine of not less than
29 \$10,000 but not more than \$500,000 per day for each violation or
30 to a term of imprisonment of not less than two years, but not

1 more than 20 years, or both.

2 ~~(f)~~ (H) Each violation for each separate day and each ←
3 violation of any provision of this act, any rule or regulation
4 of the department, any order of the department, or term and
5 condition of a permit shall constitute a separate and distinct
6 offense under subsections (a), (b), (c), (d) and (e).

7 ~~(g)~~ (I) With respect to the offenses specified in subsection ←
8 (a), (b), (c) and ~~(d)~~ (F), it is the legislative purpose to ←
9 impose absolute liability for such offenses. HOWEVER, A ←
10 GENERATOR WHO HAS COMPLIED WITH SECTION 403 SHALL NOT BE HELD
11 CRIMINALLY LIABLE UNDER THIS SECTION IF SUCH WASTES HAVE BEEN
12 TRANSPORTED TO SUCH FACILITY IN COMPLIANCE WITH ALL APPLICABLE
13 PROVISIONS OF THIS ACT AND THE REGULATIONS PROMULGATED AND
14 LICENSES ISSUED THEREUNDER, AND PROVIDED THAT SUCH WASTES HAVE
15 BEEN ACCEPTED BY SUCH FACILITY.

16 ~~(h)~~ (J) With respect to the offenses specified in ←
17 subsections (a), (b), (c), (d) and ~~(e)~~, (E), (F) AND (G), it is ←
18 the legislative purpose to impose liability on corporations.
19 Section 607. Existing rights and remedies preserved; cumulative
20 remedies authorized.

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

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

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

16 The department and its agents and employees shall: ~~under any~~ ←
17 ~~and all circumstances:~~

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

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

26 (3) Enter any building, property, premises or place
27 WHERE SOLID WASTE IS GENERATED, STORED, PROCESSED, TREATED OR ←
28 DISPOSED OF for the purposes of making such investigation or
29 inspection as may be necessary to ascertain the compliance or
30 noncompliance by any person or municipality with the

1 provisions of this act and the rules or regulations
2 promulgated hereunder. In connection with such inspection or
3 investigation, samples may be taken of any solid, semisolid,
4 liquid or contained gaseous material for analysis. IF ANY ←
5 ANALYSIS IS MADE OF SUCH SAMPLES, A COPY OF THE RESULTS OF
6 THE ANALYSIS SHALL BE FURNISHED WITHIN FIVE BUSINESS DAYS TO
7 THE PERSON HAVING APPARENT AUTHORITY OVER THE BUILDING,
8 PROPERTY, PREMISES OR PLACE.

9 Section 609. Search warrants.

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

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

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

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

27 Section 610. Unlawful conduct.

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

29 (1) Dump or deposit, or permit the dumping or
30 depositing, of any solid waste onto the surface of the ground

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

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

13 (3) Burn solid wastes without a permit from the
14 department.

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

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

26 (6) Transport or permit the transportation of any solid
27 waste to any storage, treatment, processing or disposal
28 facility or area unless such facility or area possesses a
29 permit issued by the department to accept such wastes, or
30 contrary to the rules or regulations adopted under this act,

1 or orders of the department, or in such a manner as to
2 adversely affect or endanger the public health, safety and
3 welfare or environment through which such transportation
4 occurs.

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

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

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

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

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

25 ~~Section 611. Presumption of law for civil and administrative~~ <—
26 ~~—proceedings.~~

27 ~~It shall be presumed as a rebuttable presumption of law that~~
28 ~~a person or municipality which stores, treats, or disposes of~~
29 ~~hazardous waste shall be liable, without proof of fault,~~
30 ~~negligence, or causation, for all damages, contamination or~~

1 ~~pollution within 2,500 feet of the perimeter of the area where~~
2 ~~hazardous waste activities have been carried out. Such~~
3 ~~presumption may be overcome by clear and convincing evidence~~
4 ~~that the person or municipality so charged did not contribute to~~
5 ~~the damage, contamination, or pollution.~~

6 Section ~~612~~ 611. Collection of fines and penalties. <—

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

21 Section ~~613~~ 612. Recovery of costs of abatement. <—

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

30 Section ~~614~~ 613. Forfeiture of contraband. <—

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

8 Section ~~615~~ 614. Right of citizen to ~~initiate or~~ intervene ←
9 in proceedings.

10 Any citizen of this Commonwealth having an interest which is
11 or may be adversely affected shall have the right on his own
12 behalf, without posting bond, to initiate or intervene in any
13 action brought pursuant to section ~~602, 604, 605 or 607.~~ 604 OR ←
14 605.

15 Section ~~616~~ 615. Notice of proposed settlement. ←

16 If a settlement is proposed in any action brought pursuant to
17 section ~~602, 604, 605, 606 or 607,~~ 604 OR 605, the terms of such ←
18 settlement shall be published in a newspaper of general
19 circulation in the area where the violations are alleged to have
20 occurred at least 30 days prior to the time when such settlement
21 is to take effect. The publication shall contain a solicitation
22 for public comments concerning such settlement which shall be
23 directed to the government agency bringing the action.

24 SECTION 616. LIMITATION ON ACTION. ←

25 THE PROVISIONS OF ANY OTHER STATUTE TO THE CONTRARY NOT
26 WITHSTANDING, ACTIONS FOR CIVIL OR CRIMINAL PENALTIES UNDER THIS
27 ACT MAY BE COMMENCED AT ANY TIME WITHIN A PERIOD OF 20 YEARS
28 FROM THE DATE THE OFFENSE IS DISCOVERED.

29 ARTICLE VII

30 SOLID WASTE ABATEMENT FUND

1 Section 701. Solid Waste Abatement Fund.

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

11 ARTICLE VIII ←

12 COMMONWEALTH LIABILITY

13 SECTION 801. COMMONWEALTH LIABILITY.

14 (A) THE COMMONWEALTH SHALL DEFEND, INDEMNIFY AND SAVE
15 HARMLESS ITS EMPLOYEES FROM ANY AND ALL CLAIMS OF DAMAGE, INJURY
16 OR LIABILITY ARISING OR RESULTING FROM THE PERFORMANCE OF THEIR
17 DUTIES UNDER THIS ACT. IF A CAUSE OF ACTION RESULTS IN A FINAL
18 JUDGMENT OF A COURT OF COMPETENT JURISDICTION ENTERED AGAINST
19 THE COMMONWEALTH, THE DEPARTMENT, ITS OFFICERS OR EMPLOYEES
20 ARISING OUT OF THE OWNERSHIP, CONSTRUCTION, OPERATION OR
21 MAINTENANCE OF A HAZARDOUS WASTE TREATMENT OR DISPOSAL FACILITY
22 SAID JUDGMENT SHALL BE SUBJECT TO THE LIMITATION OF DAMAGES
23 PROVISIONS OF 42 PA.C.S. § 5111 (RELATING TO LIMITATIONS ON
24 DAMAGES) AND SHALL BE A JUDGMENT AGAINST THE GENERAL FUND OF THE
25 COMMONWEALTH AND SHALL NOT BE CHARGEABLE TO ANY ANNUAL
26 APPROPRIATION OF THE DEPARTMENT. THIS PROVISION IS NOT INTENDED
27 TO CREATE NEW LIABILITIES OR WAIVE EXISTING IMMUNITIES.

28 (B) NOTHING IN THIS ACT SHALL BE CONSTRUED TO PREVENT THE
29 COMMONWEALTH FROM LEASING STATE LAND FOR A PERIOD OF NOT MORE
30 THAN 50 YEARS TO INDIVIDUALS, FIRMS, CORPORATIONS OR THE UNITED

1 STATES GOVERNMENT PURSUANT TO SECTION 2402(I) OF "THE
2 ADMINISTRATIVE CODE OF 1929," FOR THE PURPOSE OF OPERATING
3 HAZARDOUS WASTE STORAGE, TREATMENT OR DISPOSAL FACILITIES.

4 ARTICLE ~~VIII~~ IX ←

5 LIBERAL CONSTRUCTION

6 Section ~~801~~ 901. Construction of act. ←

7 The terms and provisions of this act are to be liberally
8 construed, so as to best achieve and effectuate the goals and
9 purposes hereof. Notwithstanding any other provision of this act
10 to the contrary, this act shall not be construed to empower any
11 agency of the Commonwealth of Pennsylvania to acquire, construct
12 or operate any hazardous waste facilities, otherwise known as
13 siting.

14 ARTICLE ~~IX~~ X ←

15 REPEALER; EFFECTIVE DATE

16 Section ~~901~~ 1001. Repeal. ←

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

19 PROVIDED, HOWEVER, THAT ALL PERMITS AND ORDERS ISSUED, MUNICIPAL
20 SOLID WASTE MANAGEMENT PLANS APPROVED, AND REGULATIONS
21 PROMULGATED UNDER SUCH ACT SHALL REMAIN IN FULL FORCE AND EFFECT
22 UNLESS AND UNTIL MODIFIED, AMENDED, SUSPENDED OR REVOKED.

23 Section ~~902~~ 1002. Severability. ←

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

30 Section ~~903~~ 1003. Effective date. ←

1 This act shall take effect immediately.