
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

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, MAY 28, 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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6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 ARTICLE I
9 GENERAL PROVISIONS

10 Section 101. Short title.

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

13 Section 102. Legislative finding; declaration of policy.

14 The Legislature hereby determines, declares and finds that,
15 since improper and inadequate solid waste practices create
16 public health hazards, environmental pollution, and economic
17 loss, and cause irreparable harm to the public health, safety
18 and welfare, it is the purpose of this act to:

19 (1) establish and maintain a cooperative State and local
20 program of planning and technical and financial assistance
21 for comprehensive solid waste management;

22 (2) encourage the development of resource recovery as a
23 means of managing solid waste, conserving resources, and
24 supplying energy;

25 (3) require permits for the operation of municipal and
26 residual waste processing and disposal systems, licenses for
27 the transportation of hazardous waste and permits for
28 hazardous waste storage, treatment, and disposal;

29 (4) protect the public health, safety and welfare from
30 the short and long term dangers of transportation,

1 processing, treatment, storage, and disposal of all wastes;

2 ~~and~~ ←

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

5 (6) ESTABLISH THE PENNSYLVANIA HAZARDOUS WASTE ←
6 FACILITIES PLAN, WHICH PLAN SHALL ADDRESS THE PRESENT AND
7 FUTURE NEEDS FOR THE TREATMENT AND DISPOSAL OF HAZARDOUS
8 WASTE IN THIS COMMONWEALTH;

9 (7) DEVELOP AN INVENTORY OF THE NATURE AND QUANTITY OF
10 HAZARDOUS WASTE GENERATED WITHIN THIS COMMONWEALTH OR
11 DISPOSED OF WITHIN THIS COMMONWEALTH, WHEREVER GENERATED;

12 (8) PROJECT THE NATURE AND QUANTITY OF HAZARDOUS WASTE
13 THAT WILL BE GENERATED WITHIN THIS COMMONWEALTH IN THE NEXT
14 20 YEARS OR WILL BE DISPOSED OF WITHIN THIS COMMONWEALTH,
15 WHEREVER GENERATED; ~~AND~~ ←

16 (9) PROVIDE A MECHANISM TO ESTABLISH HAZARDOUS WASTE
17 FACILITY SITES;

18 (10) IMPLEMENT ARTICLE I, SECTION 27 OF THE PENNSYLVANIA ←
19 CONSTITUTION; AND

20 (11) UTILIZE, WHEREVER FEASIBLE, THE CAPABILITIES OF
21 PRIVATE ENTERPRISE IN ACCOMPLISHING THE DESIRED OBJECTIVES OF
22 AN EFFECTIVE, COMPREHENSIVE SOLID WASTE MANAGEMENT PROGRAM.

23 Section 103. Definitions.

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

27 "Abatement." The restoration, reclamation, recovery, etc.,
28 of a natural resource adversely affected by the activity of a
29 person, permittee or municipality.

30 "Agricultural waste." Poultry and livestock manure, or

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

9 "CAPTIVE FACILITIES." FACILITIES WHICH ARE LOCATED UPON <—
10 LANDS OWNED BY A GENERATOR OF HAZARDOUS WASTE AND WHICH ARE
11 OPERATED TO PROVIDE FOR THE TREATMENT OR DISPOSAL SOLELY OF SUCH
12 GENERATOR'S HAZARDOUS WASTE.

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

17 "Commonwealth." The Commonwealth of Pennsylvania.

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

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

27 "Food processing waste." Residual materials in liquid or
28 solid form generated in the slaughtering of poultry and
29 livestock, or in processing and converting fish, seafood, milk,
30 meat, and eggs to food products; it also means residual

1 materials generated in the processing, converting, or
2 manufacturing of fruits, vegetables, crops and other commodities
3 into marketable food items.

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

7 "Hazardous waste." Any garbage, refuse, sludge from ~~sewage,~~ <—
8 AN industrial or other waste water treatment plant, SLUDGE FROM <—
9 A water supply treatment plant, or air pollution control
10 facility and other DISCARDED material including solid, liquid, <—
11 ~~radioactive and nuclear material,~~ semisolid or contained gaseous <—
12 material resulting from municipal, commercial, industrial,
13 institutional, mining, or agricultural operations, and from
14 community activities, or any combination of the above, (BUT DOES <—
15 NOT INCLUDE SOLID OR DISSOLVED MATERIAL IN DOMESTIC SEWAGE, OR
16 SOLID OR DISSOLVED MATERIALS IN IRRIGATION RETURN FLOWS OR
17 INDUSTRIAL DISCHARGES WHICH ARE POINT SOURCES SUBJECT TO PERMITS
18 UNDER § 402 OF THE FEDERAL WATER POLLUTION CONTROL ACT, AS
19 AMENDED (86 STAT. 880) OR SOURCE, SPECIAL NUCLEAR, OR BY-PRODUCT
20 MATERIAL AS DEFINED BY THE U.S. ATOMIC ENERGY ACT OF 1954, AS
21 AMENDED (68 STAT. 923)), which because of its quantity,
22 concentration, or physical, chemical, or infectious
23 characteristics may:

24 (1) CAUSE OR SIGNIFICANTLY contribute to an increase in <—
25 mortality or an increase in morbidity in either an individual
26 or the total population; or

27 (2) pose a SUBSTANTIAL present or potential hazard to <—
28 human health or the environment when IMPROPERLY treated, <—
29 stored, transported, disposed of or otherwise managed.

30 THE TERM "HAZARDOUS WASTE" SHALL NOT INCLUDE COAL REFUSE AS <—

1 DEFINED IN THE ACT OF SEPTEMBER 24, 1968 (P.L.1040, NO.318),
2 KNOWN AS THE "COAL REFUSE DISPOSAL CONTROL ACT." "HAZARDOUS
3 WASTE" SHALL NOT INCLUDE TREATMENT SLUDGES FROM COAL MINE
4 DRAINAGE TREATMENT PLANTS, DISPOSAL OF WHICH IS BEING CARRIED ON
5 PURSUANT TO AND IN COMPLIANCE WITH A VALID PERMIT ISSUED
6 PURSUANT TO THE ACT OF JUNE 22, 1937 (P.L.1987, NO.394), KNOWN
7 AS "THE CLEAN STREAMS LAW."

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

12 "Institutional establishment." Any establishment engaged in
13 service, including, but not limited to, hospitals, nursing
14 homes, orphanages, schools and universities.

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

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

22 "Mine." Any deep or surface mine, whether active, inactive
23 or abandoned.

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

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

28 "Municipal waste." Any garbage, refuse, INDUSTRIAL LUNCHROOM <—
29 OR OFFICE WASTE and other material including solid, liquid,
30 semisolid or contained gaseous material resulting from operation

1 of residential, municipal, commercial or institutional
2 establishments and from community activities and any sludge not
3 meeting the definition of residual or hazardous waste hereunder
4 from a municipal, commercial or institutional water supply
5 treatment plant, waste water treatment plant, or air pollution
6 control facility.

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

27 "Person." Any individual, partnership, corporation,
28 association, institution, cooperative enterprise, municipal
29 authority, Federal Government or agency, State institution and
30 agency (including, but not limited to, the Department of General

1 Services and the State Public School Buildings Authority),
2 ~~including municipalities as defined hereunder~~ or any other legal ←
3 entity whatsoever which is recognized by law as the subject of
4 rights and duties. In any provisions of this act prescribing a
5 fine, imprisonment or penalty, or any combination of the
6 foregoing, the term "person" shall include the officers and
7 directors of any corporation or other legal entity having
8 officers and directors.

9 "POINT SOURCES SUBJECT TO PERMITS UNDER § 402 OF THE FEDERAL ←
10 WATER POLLUTION CONTROL ACT." POINT SOURCE DISCHARGES FOR WHICH
11 VALID AND CURRENT PERMITS HAVE BEEN ISSUED UNDER § 402 OF THE
12 FEDERAL WATER POLLUTION CONTROL ACT, AS AMENDED (86 STAT.880) TO
13 THE EXTENT THAT SUCH DISCHARGES ARE AUTHORIZED BY SAID PERMITS.

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

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

28 "Residual waste." Any garbage, refuse, OTHER DISCARDED ←
29 MATERIAL or other waste including solid, liquid, semisolid, or
30 contained gaseous materials resulting from industrial, mining

1 and agricultural operations and any sludge from an industrial,
2 mining or agricultural water supply treatment facility, waste
3 water treatment facility or air pollution control facility,
4 provided that it is not hazardous. THE TERM "RESIDUAL WASTE" <—
5 SHALL NOT INCLUDE COAL REFUSE AS DEFINED IN THE "COAL REFUSE
6 DISPOSAL CONTROL ACT." "RESIDUAL WASTE" SHALL NOT INCLUDE
7 TREATMENT SLUDGES FROM COAL MINE DRAINAGE TREATMENT PLANTS, <—
8 DISPOSAL OF WHICH IS BEING CARRIED ON PURSUANT TO AND IN
9 COMPLIANCE WITH A VALID PERMIT ISSUED PURSUANT TO "THE CLEAN
10 STREAMS LAW."

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

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

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

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

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

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

4 Section 104. Powers and duties of the department.

5 The department in ~~consolidation~~ CONSULTATION with the ←
6 Department of Health regarding matters of public health
7 significance shall have the power and its duty shall be to:

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

10 (2) cooperate with appropriate Federal, State,
11 interstate and local units of government and with appropriate
12 private organizations in carrying out its duties under this
13 act;

14 (3) develop a Statewide solid waste management plan in
15 cooperation with local governments, the Department of
16 Community Affairs, THE DEPARTMENT OF COMMERCE and the State ←
17 Planning Board; emphasis shall be given to area-wide
18 planning;

19 (4) provide technical assistance to municipalities
20 including the training of personnel;

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

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

27 (7) issue permits, licenses and orders, and specify the
28 terms and conditions thereof, and conduct inspections and
29 abate public nuisances to implement the purposes and
30 provisions of this act and the rules, regulations and

1 standards adopted pursuant to this act;

2 (8) require the payment of a fee ACCORDING TO A STANDARD ←
3 UNIFORM SCHEDULE OF PERMIT AND LICENSE FEES for the
4 processing of any permit or license application. Permit and
5 license fees shall be in an amount sufficient to cover the
6 aggregate cost of reviewing all applications, acting on all
7 applications, processing all renewals, and administering all
8 the terms and conditions of all permits and all provisions of
9 this act RELATING THERETO; ←

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

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

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

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

29 (13) do any and all other acts and things not
30 inconsistent with any provision of this act, which it may

1 deem necessary or proper for the effective enforcement of
2 this act and the rules or regulations which may be
3 promulgated hereunder AFTER CONSULTING WITH THE DEPARTMENT OF <—
4 HEALTH REGARDING MATTERS OF PUBLIC HEALTH SIGNIFICANCE;

5 (14) DEVELOP, PREPARE AND SUBMIT TO THE ENVIRONMENTAL
6 QUALITY BOARD, WITHIN TWO YEARS AFTER THE EFFECTIVE DATE OF
7 THIS ACT, ITS PROPOSED PENNSYLVANIA HAZARDOUS WASTE
8 FACILITIES PLAN;

9 (15) DEVELOP, PREPARE AND PUBLISH IN THE PENNSYLVANIA
10 BULLETIN SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ACT ITS
11 PRELIMINARY ENVIRONMENTAL, SOCIAL AND ECONOMIC CRITERIA AND <—
12 STANDARDS FOR SITING HAZARDOUS WASTE TREATMENT AND DISPOSAL
13 FACILITIES;

14 (16) REQUIRE THE PAYMENT OF SUCH ANNUAL INSPECTION FEES
15 AND PERFORM SUCH INSPECTIONS OF HAZARDOUS WASTE TREATMENT AND
16 DISPOSAL FACILITIES ~~EXCLUDING CAPTIVE FACILITIES~~ AS ARE <—
17 PROVIDED FOR IN THE ENVIRONMENTAL QUALITY BOARD GUIDELINES
18 ADOPTED PURSUANT TO SECTION 105(E)., ~~AND REQUESTED BY THE~~ <—
19 ~~MUNICIPALITY IN WHICH THE FACILITY IS LOCATED.~~ THIS PROVISION
20 SHALL NOT BE CONSTRUED TO LIMIT OR RESTRICT THE DEPARTMENT'S
21 INSPECTION POWERS AS ELSEWHERE SET FORTH IN THIS ACT; AND

22 (17) ADMINISTER FUNDS COLLECTED BY THE UNITED STATES
23 GOVERNMENT AND GRANTED TO PENNSYLVANIA FOR THE PURPOSE OF
24 CLOSING, MAINTAINING OR MONITORING ABANDONED OR CLOSED
25 HAZARDOUS WASTE STORAGE, TREATMENT OR DISPOSAL SITES
26 ~~EXCLUDING CAPTIVE FACILITIES~~ AND FOR THE PURPOSE OF ACTION TO <—
27 ABATE OR PREVENT POLLUTION AT SUCH SITES. IF CONGRESS HAS NOT
28 AUTHORIZED THE COLLECTION OF SUCH FUNDS WITHIN ONE YEAR AFTER
29 THE EFFECTIVE DATE OF THIS ACT, OR IF THE DEPARTMENT FINDS
30 THAT THE FUNDING PROGRAM AUTHORIZED IS INADEQUATE, THE

1 DEPARTMENT SHALL TRANSMIT TO THE GENERAL ASSEMBLY WITHIN 15
2 MONTHS AFTER THE EFFECTIVE DATE OF THIS ACT A PROPOSAL FOR
3 THE ESTABLISHMENT OF A FUND IN PENNSYLVANIA COMPRISED OF
4 SURCHARGES COLLECTED FROM USERS OF HAZARDOUS WASTE STORAGE,
5 TREATMENT AND DISPOSAL FACILITIES EXCLUDING CAPTIVE
6 FACILITIES IN THE COMMONWEALTH. SUCH FUND SHALL BE PROPOSED
7 FOR THE PURPOSE OF CLOSING, MAINTAINING OR MONITORING
8 HAZARDOUS WASTE STORAGE, TREATMENT OR DISPOSAL SITES
9 EXCLUDING CAPTIVE FACILITIES WHICH HAVE BEEN ABANDONED OR
10 WHICH HAVE BEEN CLOSED FOR AT LEAST 20 YEARS, AND FOR THE
11 PURPOSE OF TAKING ACTION TO ABATE OR PREVENT POLLUTION AT
12 SUCH CLOSED OR ABANDONED SITES.

13 Section 105. Powers and duties of the Environmental Quality
14 Board.

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

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

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

1 (D) THE ENVIRONMENTAL QUALITY BOARD SHALL HAVE THE POWER AND
2 ITS DUTY SHALL BE TO ADOPT A PENNSYLVANIA HAZARDOUS WASTE
3 FACILITIES PLAN.

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

6 (1) PROVIDE FOR THE NECESSARY INSPECTION OF HAZARDOUS
7 WASTE TREATMENT AND DISPOSAL FACILITIES ~~EXCLUDING CAPTIVE~~ <—
8 ~~FACILITIES~~ CONSIDERING THE DEGREE OF HAZARD AND THE QUANTITY
9 OF WASTES HANDLED.

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

12 (3) ENCOURAGE COOPERATIVE AGREEMENTS BETWEEN LOCAL
13 COMMUNITIES AND THE HAZARDOUS WASTE FACILITY OPERATORS TO
14 MINIMIZE LOCAL CONCERNS REGARDING THE OPERATION OF THE
15 FACILITY.

16 ~~(4) PROVIDE FOR THE NECESSARY INSPECTION OF CAPTIVE~~ <—
17 ~~TREATMENT OR DISPOSAL FACILITIES CONSIDERING THE DEGREE OF~~
18 ~~HAZARD AND THE QUANTITY OF WASTES HANDLED. SUCH PROVISION~~
19 ~~SHALL BE PROMULGATED BY THE BOARD ONLY AT THE REQUEST OF THE~~
20 ~~MUNICIPALITY IN WHICH THE CAPTIVE TREATMENT OR DISPOSAL~~
21 ~~FACILITY IS LOCATED.~~

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

25 (F) IN ADDITION TO EXERCISING ITS POWERS AND DUTIES UNDER
26 SECTION 1920-A OF THE ACT OF APRIL 9, 1929 (P.L.177, NO.175),
27 KNOWN AS "THE ADMINISTRATIVE CODE OF 1929," THE ENVIRONMENTAL
28 QUALITY BOARD SHALL HAVE THE POWER AND ITS DUTY SHALL BE TO
29 ASSIST IN THE IMPLEMENTATION OF THE PENNSYLVANIA HAZARDOUS WASTE
30 FACILITIES PLAN THROUGH THE ISSUANCE OF CERTIFICATES OF PUBLIC

1 NECESSITY FOR THE ESTABLISHMENT OF HAZARDOUS WASTE TREATMENT OR
2 DISPOSAL FACILITIES. ANY PERSON PRIOR TO APPLYING FOR A
3 CERTIFICATE OF NECESSITY SHALL HAVE OBTAINED ALL PERMITS FROM
4 THE DEPARTMENT OF THE FEDERAL AGENCY AUTHORIZED TO ISSUE SUCH
5 PERMITS IN THE COMMONWEALTH AND SHALL HAVE IMPLEMENTED ALL
6 IMPACT ASSESSMENTS AND PUBLIC PARTICIPATION PROGRAMS. IN ISSUING
7 CERTIFICATES OF PUBLIC NECESSITY THE ENVIRONMENTAL QUALITY BOARD
8 SHALL:

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

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

16 (3) ISSUE SUCH CERTIFICATES OF PUBLIC NECESSITY FOR THE
17 OPERATION OF HAZARDOUS WASTE TREATMENT AND DISPOSAL
18 FACILITIES AS ARE WARRANTED BY:

19 (I) THE EXTENT TO WHICH THE FACILITY IS IN
20 CONFORMANCE WITH THE PENNSYLVANIA HAZARDOUS WASTE
21 FACILITIES PLAN;

22 (II) THE IMPACT OF THE PROPOSED FACILITY ON ADJACENT
23 POPULATED AREAS AND AREAS THROUGH WHICH WASTES ARE
24 TRANSPORTED TO SUCH FACILITY;

25 (III) THE IMPACT ON THE BOROUGH, TOWNSHIP, TOWN OR
26 CITY IN WHICH THE FACILITY IS TO BE LOCATED IN TERMS OF
27 HEALTH, SAFETY, COST AND CONSISTENCY WITH LOCAL PLANNING;
28 AND

29 (IV) THE EXTENT TO WHICH THE PROPOSED FACILITY HAS
30 BEEN THE SUBJECT OF A PUBLIC PARTICIPATION PROGRAM IN

1 WHICH CITIZENS HAVE HAD A MEANINGFUL OPPORTUNITY TO
2 PARTICIPATE IN EVALUATION OF ALTERNATE SITES OR
3 TECHNOLOGIES, DEVELOPMENT OF SITING CRITERIA,
4 SOCIOECONOMIC ASSESSMENT, AND ALL OTHER PHASES OF THE
5 SITE SELECTION PROCESS.

6 (4) PROVIDE THE PUBLIC WITH OPPORTUNITIES TO COMMENT
7 UPON THE APPLICATION FOR CERTIFICATE OF PUBLIC NECESSITY AND
8 CONSIDER THE COMMENTS SUBMITTED.

9 (5) ACCEPT APPLICATIONS FOR CERTIFICATES OF PUBLIC
10 NECESSITY ONLY FROM PERSONS OR MUNICIPALITIES WHICH HAVE
11 OBTAINED THE NECESSARY SOLID WASTE TREATMENT OR DISPOSAL
12 PERMITS FROM THE DEPARTMENT OR FROM THE FEDERAL AGENCY
13 AUTHORIZED TO ISSUE SUCH PERMITS IN THE COMMONWEALTH.

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

20 (H) ISSUANCE OF A CERTIFICATE OF PUBLIC NECESSITY UNDER THIS
21 SECTION SHALL SUSPEND AND SUPERSEDE ANY AND ALL LOCAL LAWS WHICH
22 WOULD PRECLUDE OR PROHIBIT THE ESTABLISHMENT OF A HAZARDOUS
23 WASTE TREATMENT OR DISPOSAL FACILITY AT SAID SITE, INCLUDING
24 ZONING ORDINANCES. THE SUSPENSION AND SUPERSESSION IS EXPLICITLY
25 EXTENDED TO ANY PERSON TO WHOM SUCH CERTIFICATES ISSUED FOR THE
26 PURPOSE OF HAZARDOUS WASTE TREATMENT OR DISPOSAL, AND TO THE
27 SUCCESSORS AND ASSIGNS OF SUCH PERSON.

28 (I) DURING ALL DELIBERATIONS OF THE BOARD A REPRESENTATIVE
29 OF THE COUNTY AND TOWNSHIP, BOROUGH OR MUNICIPALITY AFFECTED
30 WILL BE INVITED TO PARTICIPATE. <—

1 (J) REGULATIONS PROMULGATED UNDER THIS SECTION CONCERNING
2 THE GENERATION, TRANSPORTATION, STORAGE, TREATMENT AND DISPOSAL
3 OF HAZARDOUS WASTES MAY, TO THE EXTENT CONSISTENT WITH FEDERAL
4 REGULATIONS PROMULGATED UNDER THE RESOURCE CONSERVATION AND
5 RECOVERY ACT, ESTABLISH CLASSES OF HAZARDOUS WASTES TAKING INTO
6 ACCOUNT THE RELATIVE AVAILABILITY TO THE ENVIRONMENT OF THE
7 HAZARDOUS CONSTITUENTS IN WASTE MATERIALS AND THE DEGREE OF
8 HAZARD THEREBY PRESENTED.

9 Section 106. Powers and duties of county health departments;
10 limitation.

11 (a) The county health department WHERE IT EXISTS of each of <—
12 the counties of the Commonwealth ~~shall have the power and its~~ <—
13 ~~duty shall be to administer and enforce the provisions of this~~
14 ~~act together with the Department of Environmental Resources.~~ MAY <—
15 ELECT TO ADMINISTER AND ENFORCE ANY OF THE PROVISIONS OF THIS
16 ACT TOGETHER WITH THE DEPARTMENT IN ACCORDANCE WITH THE <—
17 ESTABLISHED POLICIES, PROCEDURES, GUIDELINES, STANDARDS AND
18 RULES AND REGULATIONS OF THE DEPARTMENT. WHERE THIS PROGRAM
19 ACTIVITY EXCEEDS THE MINIMUM PROGRAM REQUIREMENTS ADOPTED BY THE
20 ADVISORY HEALTH BOARD UNDER THE PROVISIONS OF THE ACT OF AUGUST
21 24, 1951 (P.L.1304, NO.315), KNOWN AS THE "LOCAL HEALTH
22 ADMINISTRATION LAW," SUCH ACTIVITY MAY BE FUNDED THROUGH
23 CONTRACTUAL AGREEMENTS WITH THE DEPARTMENT. THE DEPARTMENT IS
24 AUTHORIZED TO PROVIDE FUNDS TO COUNTY HEALTH DEPARTMENTS FROM
25 FUNDS APPROPRIATED FOR THIS PURPOSE BY THE GENERAL ASSEMBLY.

26 (b) Notwithstanding the grant of powers in subsection (a),
27 in any case where administration and enforcement of this act by
28 a county health department shall conflict with administration
29 and enforcement by the Department of Environmental Resources,
30 administration and enforcement by the Department of

1 Environmental Resources shall take precedence over
2 administration and enforcement by a county health department.
3 Section 107. Legislative oversight.

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

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

20 AT LEAST 30 DAYS PRIOR TO CONSIDERATION BY THE ENVIRONMENTAL <—
21 QUALITY BOARD OF DRAFT REGULATIONS FOR PROPOSED RULEMAKING, THE
22 DEPARTMENT SHALL SUBMIT SUCH DRAFT REGULATIONS TO THE SENATE
23 ENVIRONMENTAL RESOURCES AND HOUSE CONSERVATION COMMITTEES OF THE
24 GENERAL ASSEMBLY FOR THEIR REVIEW AND COMMENT.

25 SECTION 108. POWERS AND DUTIES OF THE ENVIRONMENTAL HEARING
26 BOARD.

27 IN ADDITION TO EXERCISING ITS POWERS AND DUTIES TO HOLD
28 HEARINGS AND ISSUE ADJUDICATIONS OR ANY ORDER, PERMIT, LICENSE
29 OR DECISION OF THE DEPARTMENT ACCORDING TO THE PROVISIONS OF
30 "THE ADMINISTRATIVE CODE OF 1929" AND THE ADMINISTRATIVE AGENCY

1 LAW, THE ENVIRONMENTAL HEARING BOARD SHALL HAVE THE POWER AND
2 ITS DUTY SHALL BE TO HOLD, IF REQUESTED TO DO SO BY ANY PERSON <—
3 ~~OR MUNICIPALITY RECEIVING~~ PARTY TO A DULY PERFECTED APPEAL OF AN
4 ORAL ORDER UNDER SECTION 602(D), TO HOLD A HEARING ON ~~THE~~ ANY <—
5 DULY FILED PETITION FOR SUPERSEDEAS OF SUCH ORDER WITHIN SIX
6 BUSINESS DAYS OF THE RECEIPT OF SUCH ~~ORDER~~ REQUEST BY THE BOARD. <—

7 ARTICLE II

8 MUNICIPAL WASTE

9 Section 201. Submission of plans; permits.

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

18 (b) Each municipality ~~with a population density of 300 or~~ <—
19 ~~more inhabitants per square mile and each municipality with a~~
20 ~~population density of less than 300 wherein the department has~~
21 ~~identified a waste problem or a potential waste problem~~ WITH A <—
22 POPULATION DENSITY OF 300 OR MORE INHABITANTS PER SQUARE MILE
23 AND EACH MUNICIPALITY WITH A POPULATION DENSITY OF LESS THAN 300
24 WHEREIN THE DEPARTMENT HAS IDENTIFIED A WASTE PROBLEM OR A
25 POTENTIAL WASTE PROBLEM shall submit to the department an
26 officially adopted plan for a municipal waste management system
27 or systems serving the areas within its jurisdiction within two
28 years of the effective date of this section, and shall, from
29 time to time, submit such revisions of said plan as it deems
30 necessary or as the department may require. NOTHING IN THIS <—

1 SUBSECTION SHALL PROHIBIT SUCH A MUNICIPALITY FROM REQUESTING
2 THE COUNTY IN WHICH IT IS LOCATED, AND THE COUNTY OR AN AGENCY
3 IT DESIGNATES FROM AGREEING, TO PERFORM THIS FUNCTION IN ITS
4 BEHALF. WHENEVER A COUNTY PREPARES AND ADOPTS SUCH A SOLID WASTE
5 MANAGEMENT PLAN AND REVISIONS THERETO, IT SHALL PROVIDE FOR THE
6 PARTICIPATION AND REVIEW OF ALL AFFECTED MUNICIPALITIES.
7 WHENEVER A CITY, BOROUGH, INCORPORATED TOWN OR TOWNSHIP PREPARES
8 ITS OWN SOLID WASTE MANAGEMENT PLAN OR REVISIONS THERETO, IT
9 SHALL PROVIDE FOR REVIEW BY THE COUNTY PRIOR TO ADOPTION. ALL
10 SOLID WASTE MANAGEMENT PLANS AND SUBSEQUENT REVISIONS SHALL
11 BECOME OFFICIAL UPON FORMAL ADOPTION BY THE GOVERNING BODY OF
12 THE MUNICIPALITY AND APPROVAL AND CERTIFICATION BY THE
13 DEPARTMENT.

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

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

25 (e) Every plan shall:

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

1 public nuisance, and shall otherwise provide for the safe and
2 sanitary disposal of municipal waste.

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

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

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

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

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

22 (f) The plan shall be reviewed by appropriate official
23 planning agencies within a municipality, including a planning
24 agency with area-wide jurisdiction, if one exists, ~~and~~ the <—
25 county, COUNTY planning commission, AND COUNTY HEALTH DEPARTMENT <—
26 FOR CONSISTENCY WITH PROGRAMS OF PLANNING IF ONE EXISTS, of
27 planning for the area, and all such reviews shall be transmitted
28 to the department with the proper plan. In the event a review of
29 any plan has not been transmitted by such planning agency or
30 commission within 90 days of its submission to such agency or

1 commission, then such agency or commission shall be deemed to
2 have waived its right to review the plan, and the department
3 shall then review the plan for approval in the absence of the
4 reviews of such planning agency or commission.

5 (g) The department is hereby authorized to approve or
6 disapprove plans for municipal waste management systems
7 submitted in accordance with this act. Any plan which has not
8 been disapproved within ~~one year~~ 120 DAYS of the date of its ←
9 submission shall be deemed an approved plan, unless notice of
10 pending investigation is given to the applicant by the
11 department before expiration of the ~~one year~~ 120-DAY period. ←

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

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

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

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

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

30 Section 202. Powers and duties of municipalities.

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

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

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

23 IN CASES WHERE THE PLANNING AGENCY DETERMINES AND THE GOVERNING <—
24 BODY APPROVES THAT IT IS IN THE PUBLIC INTEREST FOR MUNICIPAL
25 WASTES MANAGEMENT AND DISPOSAL TO BE A PUBLIC FUNCTION, THE PLAN
26 SHALL PROVIDE FOR THE MECHANISMS. MUNICIPALITIES ARE AUTHORIZED
27 TO REQUIRE BY ORDINANCE THAT ALL MUNICIPAL WASTES GENERATED
28 WITHIN THEIR JURISDICTION SHALL BE DISPOSED AT A DESIGNATED
29 FACILITY.

30 Section 203. Grants authorized.

1 (a) The department is authorized to assist municipalities by
2 administering grants to pay ~~up to~~ 50% of the costs of preparing ←
3 official plans for municipal waste management systems in
4 accordance with the requirements of this act and the rules,
5 regulations, and standards adopted pursuant to this act, and for
6 carrying out related studies, surveys, investigations,
7 inquiries, research and analyses.

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

10 ARTICLE III

11 RESIDUAL WASTE

12 Section 301. Management of residual waste.

13 No person or municipality shall store, transport, process, or
14 dispose of residual waste within this Commonwealth unless such
15 storage, OR transportation, IS CONSISTENT WITH OR SUCH ←
16 processing or disposal is authorized by the rules and
17 regulations of the department and no person or municipality
18 shall own or operate a residual waste processing or disposal
19 facility unless such person or municipality has first obtained a
20 permit for such facility from the department.

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

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

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

30 (1) Use such methods and facilities as are necessary to

1 ~~prevent leaching~~ CONTROL LEACHATE, runoff, discharges and <—
2 emissions from residual waste IN ACCORDANCE WITH DEPARTMENT <—
3 REGULATIONS.

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

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

12 Section 303. Transportation of residual waste.

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

15 (1) to any processing or disposal facility within the
16 Commonwealth unless such facility holds a permit issued by
17 the department to accept such waste; or

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

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

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

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

30 (2) TAKE IMMEDIATE STEPS TO CONTAIN AND CLEAN UP SPILLS <—

1 OR ACCIDENTAL DISCHARGES OF SUCH WASTE, AND NOTIFY THE
2 DEPARTMENT, PURSUANT TO DEPARTMENT REGULATIONS, OF ALL SPILLS
3 OR ACCIDENTAL DISCHARGES WHICH OCCUR ON PUBLIC HIGHWAYS OR
4 PUBLIC AREAS OR WHICH MAY ENTER THE WATERS OF THE
5 COMMONWEALTH AS DEFINED BY THE ACT OF JUNE 22, 1937
6 (P.L.1987, NO.394), KNOWN AS "THE CLEAN STREAMS LAW," OR ANY
7 OTHER SPILL WHICH IS GOVERNED BY ANY NOTIFICATION
8 REQUIREMENTS OF THE DEPARTMENT.

9 ARTICLE IV

10 HAZARDOUS WASTE

11 Section 401. Management of hazardous waste.

12 ~~(a)~~ No person or municipality shall store, transport, treat, <—
13 or dispose of hazardous waste within this Commonwealth unless
14 such storage, transportation, treatment, or disposal is
15 authorized by the rules and regulations of the department; no
16 person or municipality shall own or operate a hazardous waste
17 storage, treatment or disposal facility unless such person or
18 municipality has first obtained a permit for the storage,
19 treatment and disposal of hazardous waste from the department;
20 and, no person or municipality shall transport hazardous waste
21 within the Commonwealth unless such person or municipality has
22 first obtained a license for the transportation of hazardous
23 waste from the department.

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

30 Section 402. Listing of hazardous waste.

1 The Environmental Quality Board shall establish rules and
2 regulations identifying the characteristics of hazardous wastes
3 and listing particular hazardous wastes which shall be subject
4 to the provisions of this act. The list promulgated shall in no
5 event prevent the department from regulating other wastes,
6 which, although not listed, the department has determined to be
7 hazardous; ~~such regulation of hazardous wastes may be~~ THE <—
8 DEPARTMENT OF ENVIRONMENTAL RESOURCES MAY REGULATE SUCH
9 HAZARDOUS WASTES WHEN THE DEPARTMENT HAS DETERMINED SUCH WASTE
10 POSES A SUBSTANTIAL PRESENT OR POTENTIAL HAZARD TO THE HUMAN
11 HEALTH OR THE ENVIRONMENT by any means including, but not
12 limited to, issuance of orders and the imposition of terms and
13 conditions of permits. THE BOARD SHALL IDENTIFY THE <—
14 CHARACTERISTICS OF HAZARDOUS WASTES AND LIST PARTICULAR
15 HAZARDOUS WASTES WITHIN 30 DAYS AFTER THE EFFECTIVE DATE OF THIS
16 SECTION, WHICH INITIAL LIST SHALL NOT BE SUBJECT TO SECTION 107
17 OF THIS ACT BUT SHALL BE PROMULGATED IN ACCORDANCE WITH SECTION
18 204(3) (RELATING TO OMISSION OF NOTICE OF PROPOSED RULE MAKING)
19 OF THE ACT OF JULY 31, 1968 (P.L.769, NO.240), REFERRED TO AS
20 THE COMMONWEALTH DOCUMENTS LAW.

21 Section 403. Generation, transportation, storage, treatment
22 and disposal of hazardous waste.

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

29 (b) It shall be unlawful for any person or municipality who
30 generates, transports, stores, treats or disposes of hazardous

1 waste to fail to:

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

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

12 (3) Use containers appropriate for such hazardous waste
13 and for the activity undertaken.

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

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

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

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

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

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

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

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

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

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

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

24 (c) After January 1, 1981 any producer of any hazardous
25 waste or any producer having a by-product of production which is
26 a hazardous waste may be required by the department to submit to
27 the department for its approval a plan relating to the disposal
28 of such hazardous waste at either an on-site disposal area or an
29 off-site disposal area BEFORE TRANSFERRING, TREATING OR
30 DISPOSING OF THIS WASTE. <—

1 Section 404. Transition scheme.

2 (A) Any person or municipality who: <—

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

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

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

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

20 (B) ANY PERSON OR MUNICIPALITY WHO: <—

21 (1) AS OF THE EFFECTIVE DATE OF THIS ACT TRANSPORTS
22 HAZARDOUS WASTE WITHIN THE COMMONWEALTH AND IS REQUIRED TO
23 HAVE A LICENSE UNDER THIS ACT;

24 (2) HAS COMPLIED WITH THE REQUIREMENTS OF SECTION
25 501(C);

26 (3) HAS MADE AN APPLICATION FOR A LICENSE UNDER THIS
27 ACT; AND

28 (4) TRANSPORTS AND CONTINUES TO TRANSPORT IN SUCH A
29 MANNER AS WILL NOT CAUSE, OR CREATE A RISK OF, A HEALTH
30 HAZARD, A PUBLIC NUISANCE, OR AN ADVERSE EFFECT UPON THE

1 ENVIRONMENT; SHALL BE TREATED AS HAVING BEEN ISSUED SUCH
2 LICENSE UNTIL SUCH TIME AS A FINAL DEPARTMENTAL ACTION ON
3 SUCH APPLICATION IS MADE. IN NO INSTANCE SHALL SUCH PERSON OR
4 MUNICIPALITY CONTINUE TO TRANSPORT HAZARDOUS WASTE WITHOUT
5 OBTAINING A LICENSE FROM THE DEPARTMENT WITHIN TWO YEARS
6 AFTER THE DATE OF ENACTMENT.

7 Section 405. Conveyance of disposal site property.

8 After the effective date of this act, the grantor in every
9 deed for the conveyance of property on which hazardous waste is
10 presently being disposed, OR has ever been disposed BY THE <—
11 GRANTOR OR TO THE GRANTOR'S ACTUAL KNOWLEDGE ~~or is suspected of~~ <—
12 ~~having been disposed~~ shall include in the property description
13 section of such deed an acknowledgement of such hazardous waste
14 disposal; such acknowledgement to include to the extent such
15 information is available, but not be limited to, the surface
16 area size and exact location of the disposed waste and a
17 description of the types of hazardous wastes contained therein.
18 Such amended property description shall be made a part of the
19 deed for all future conveyances or transfers of the subject
20 property: PROVIDED, HOWEVER, THAT THE WARRANTY IN SUCH DEED <—
21 SHALL NOT BE APPLICABLE TO THE SURFACE AREA SIZE AND EXACT
22 LOCATION OF THE DISPOSED WASTE AND A DESCRIPTION OF THE TYPES OF
23 HAZARDOUS WASTES CONTAINED THEREIN.

24 ARTICLE V

25 APPLICATIONS AND PERMITS

26 Section 501. Permits and licenses required; transition scheme;
27 reporting requirements.

28 (a) It shall be unlawful for any person or municipality to
29 use, or continue to use, their land or the land of any other
30 person or municipality as a solid waste processing, storage,

1 treatment or disposal area without first obtaining a permit from
2 the department as required by this act: Provided, however, That
3 this section shall not apply to the short-term storage of
4 byproducts which are utilized in the processing or manufacturing
5 of other products, to the extent that such byproducts are not
6 hazardous, and do not create a public nuisance or adversely
7 affect the air, water and other natural resources of the
8 Commonwealth: And provided further, however, That the provisions
9 of this section shall not apply to agricultural waste produced
10 in the course of normal farming operations NOR THE USE OF FOOD ←
11 PROCESSING WASTES IN THE COURSE OF NORMAL FARMING OPERATIONS
12 PROVIDED THAT SUCH WASTES ARE NOT CLASSIFIED BY THE BOARD AS
13 HAZARDOUS.

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

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

1 Section 502. Permit and license application requirements.

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

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

22 (c) All records, reports, or information contained in the
23 hazardous waste storage, treatment or disposal facility permit
24 application submitted to the department under this section shall
25 be available to the public; except that the department shall
26 consider a record, report or information or particular portion
27 thereof, confidential in the administration of this act if the
28 applicant can show cause that the records, reports or
29 information, or a particular portion thereof (but not emission
30 or discharge data or information concerning solid waste which is

1 potentially toxic in the environment), if made public, would
2 divulge production or sales figures or methods, processes or
3 production unique to such applicant or would otherwise tend to
4 affect adversely the competitive position of such applicant by
5 revealing trade secrets. Nothing herein shall be construed to
6 prevent disclosure of such report, record or information to the
7 Federal Government or other State agencies as may be necessary
8 for purposes of administration of any Federal or State law.

9 (d) The application for a permit shall set forth the manner
10 in which the operator plans to comply with the requirements of
11 ~~the act of June 25, 1913 (P.L.555, No.355), referred to as the~~ ←
12 ~~Water Obstructions Act,~~ the act of June 22, 1937 (P.L.1987,
13 No.394), known as "The Clean Streams Law," the act of May 31,
14 1945 (P.L.1198, No.418), known as the "Surface Mining
15 Conservation and Reclamation Act," the act of January 8, 1960
16 (1959 P.L.2119, No.787), known as the "Air Pollution Control
17 Act," and the act of November 26, 1978 (P.L.1375, No.325), known
18 as the "Dam Safety and Encroachments Act," as applicable. No
19 approval shall be granted unless the plan provides for
20 compliance with the statutes hereinabove enumerated, and failure
21 to comply with the statutes hereinabove enumerated during
22 construction and operation or thereafter shall render the
23 operator liable to the sanctions and penalties provided in this
24 act for violations of this act and to the sanctions and
25 penalties provided in the statutes hereinabove enumerated for
26 violations of such statutes. Such failure to comply shall be
27 cause for revocation of any approval or permit issued by the
28 department to the operator. Compliance with the provisions of
29 this subsection and with the provisions of this act and the
30 provisions of the statutes hereinabove enumerated shall not

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

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

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

18 (G) THE DEPARTMENT, UPON RECEIPT OF AN APPLICATION FOR A ←
19 PERMIT, SHALL GIVE WRITTEN NOTICE TO EACH AND EVERY MUNICIPALITY
20 IN WHICH THE PROPOSED HAZARDOUS WASTE FACILITY WILL BE LOCATED.
21 Section 503. Granting, denying, renewing, modifying, revoking
22 and suspending permits and licenses.

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

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

30 (c) In carrying out the provisions of this act, the

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

26 (d) Any person or municipality which has engaged in unlawful
27 conduct as defined in this act, or whose partner, associate,
28 officer, parent corporation, subsidiary corporation, contractor,
29 subcontractor or agent has engaged in such unlawful conduct,
30 shall be denied any permit or license required by this act

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

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

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

16 (2) is creating a public nuisance;

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

19 (4) adversely affects the environment;

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

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

24 Section 504. Approval by governing body.

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

29 APPLICATIONS FOR A PERMIT SHALL BE REVIEWED BY THE <—
30 APPROPRIATE COUNTY, COUNTY PLANNING AGENCY OR COUNTY HEALTH

1 DEPARTMENT WHERE THEY EXIST AND THE HOST MUNICIPALITY, and they <—
2 may recommend to the department conditions upon, revisions to,
3 or disapproval of the permit only if specific cause is
4 identified. In such case the department shall be required to
5 publish in the Pennsylvania Bulletin its justification for
6 overriding the county's recommendations. If the department does
7 not receive comments within 60 days, the county shall be deemed
8 to have waived its right to review.

9 Section 505. Bonds.

10 (a) ~~Prior~~ WITH THE EXCEPTION OF MUNICIPALITIES OPERATING <—
11 LANDFILLS SOLELY FOR MUNICIPAL WASTE NOT CLASSIFIED HAZARDOUS,
12 PRIOR to the commencement of operations, the operator of a
13 municipal or residual waste processing or disposal facility or
14 of a hazardous waste storage, treatment or disposal facility for
15 which a permit is required by this section shall file with the
16 department a bond for the land affected by such facility on a
17 form prescribed and furnished by the department. Such bond shall
18 be payable to the Commonwealth and conditioned so that the
19 operator shall comply with the requirements of this act, ~~the act~~ <—
20 ~~of June 25, 1913 (P.L.555, No.355), referred to as the Water~~
21 ~~Obstructions Act,~~ the act of June 22, 1937 (P.L.1987, No.394),
22 known as "The Clean Streams Law," the act of May 31, 1945
23 (P.L.1198, No.418), known as the "Surface Mining Conservation
24 and Reclamation Act," the act of January 8, 1960 (1959 P.L.2119,
25 No.787), known as the "Air Pollution Control Act," and the act
26 of November 26, 1978 (P.L.1375, No.325), known as the "Dam
27 Safety and Encroachments Act." The department may require
28 additional bond amounts for the permitted areas should such an
29 increase be determined by the department to be necessary to meet
30 the requirements of this act. The amount of the bond required

1 shall be in an amount determined by the secretary based upon the
2 total estimated cost to the Commonwealth of completing final
3 closure according to the permit granted to such facility and
4 such measures as are necessary to prevent adverse effects upon
5 the environment; such measures include but are not limited to
6 satisfactory monitoring, post-closure care, and remedial
7 measures. The bond amount shall reflect the additional cost to
8 the Commonwealth which may be entailed by being required to
9 bring personnel and equipment to the site. All permits shall be
10 bonded for at least \$10,000. Liability under such bond shall be
11 for the duration of the operation, and for a period of UP TO ten ←
12 full years after final closure of the permit site. Such bond
13 shall be executed by the operator and a corporate surety
14 licensed to do business in the Commonwealth and approved by the
15 secretary: Provided, however, That the operator may elect to
16 deposit cash, certificates of deposit, automatically renewable
17 irrevocable letters of credit which are terminable only upon 90
18 days written notice to the operator and the department, or
19 negotiable bonds of the United States Government or the
20 Commonwealth of Pennsylvania, the Pennsylvania Turnpike
21 Commission, the General State Authority, the State Public School
22 Building Authority, or any municipality within the Commonwealth,
23 with the department in lieu of a corporate surety. The cash
24 amount of such deposit, irrevocable letters of credit or market
25 value of such securities shall be equal at least to the sum of
26 the bond. The secretary shall, upon receipt of any such deposit
27 of cash or negotiable bonds, immediately place the same with the
28 State Treasurer, whose duty it shall be to receive and hold the
29 same in the name of the Commonwealth, in trust, for the purposes
30 for which such deposit is made. The State Treasurer shall at all

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

22 (b) In the case of applications for permits where the
23 department determines that the operations are reasonably
24 anticipated to continue for a period of at least ten years from
25 the date of application, the operator may elect to deposit
26 collateral and file a collateral bond as provided in subsection
27 (a) according to the following phase deposit schedule. The
28 operator shall, prior to commencing operations, deposit \$10,000
29 or 25% of the amount of the bond determined under subsection
30 (a), whichever is greater. The operator shall, thereafter,

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

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

27 (d) If the operator abandons the operation of a municipal or
28 residual waste processing or disposal facility or a hazardous
29 waste storage, treatment or disposal facility for which a permit
30 is required by this section or if the permittee fails or refuses

1 to comply with the requirements of this act in any respect for
2 which liability has been charged on the bond, the secretary
3 shall declare the bond forfeited and shall certify the same to
4 the Department of Justice which shall proceed to enforce and
5 collect the amount of liability forfeited thereon, and where the
6 operation has deposited cash or securities as collateral in lieu
7 of a corporate surety, the secretary shall declare said
8 collateral forfeited and shall direct the State Treasurer to pay
9 said funds into the Waste Abatement Fund. Should any corporate
10 surety fail to promptly pay, in full, forfeited bond, it shall
11 be disqualified from writing any further surety bonds under this
12 act.

13 (e) Prior to the issuance of any license for the
14 transportation of hazardous waste, the applicant for a license
15 shall file with the department a collateral bond on a form
16 prescribed and furnished by the department. Such bond shall be
17 payable to the Commonwealth and conditioned upon compliance by
18 the licensee with every requirement of this act, rule and
19 regulation of the department, order of the department and term
20 and condition of the license. The amount of the bond required
21 shall be in an amount determined by the secretary, but in an
22 amount no less than \$10,000. The department may require
23 additional bond amounts if the department determines such
24 additional amounts are necessary to guarantee compliance with
25 this act. The licensee may elect to deposit cash or
26 automatically renewable irrevocable letters of credit which are
27 terminable only upon 90 days written notice to the operator and
28 the department, or negotiable bonds of the United States
29 Government or the Commonwealth of Pennsylvania, the Pennsylvania
30 Turnpike Commission, the General State Authority, the State

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

1 it as a collateral bond guarantee. Liability under such bond
2 shall be for the duration of the license and for a period of one
3 year after the expiration of the license.

4 Section 506. Financial responsibility.

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

13 SECTION 507. SITING OF HAZARDOUS WASTE TREATMENT AND DISPOSAL
14 FACILITIES. ←

15 (A) THE DEPARTMENT OF ENVIRONMENTAL RESOURCES SHALL HAVE THE
16 POWER AND AUTHORITY TO DEVELOP, PREPARE AND MODIFY THE
17 PENNSYLVANIA HAZARDOUS WASTE FACILITIES PLAN. THE PLAN SHALL
18 INCLUDE:

19 (1) CRITERIA AND STANDARDS FOR SITING HAZARDOUS WASTE
20 TREATMENT AND DISPOSAL FACILITIES.

21 (2) AN INVENTORY AND EVALUATION OF THE SOURCES OF
22 HAZARDOUS WASTE CONCENTRATION WITHIN THE COMMONWEALTH
23 INCLUDING TYPES AND QUANTITIES OF HAZARDOUS WASTE.

24 (3) AN INVENTORY AND EVALUATION OF CURRENT HAZARDOUS
25 WASTE PRACTICES WITHIN THE COMMONWEALTH INCLUDING EXISTING
26 HAZARDOUS WASTE TREATMENT AND DISPOSAL FACILITIES.

27 (4) A DETERMINATION OF FUTURE HAZARDOUS WASTE FACILITY
28 NEEDS BASED ON AN EVALUATION OF EXISTING TREATMENT AND
29 DISPOSAL FACILITIES INCLUDING THEIR LOCATION, CAPACITIES AND
30 CAPABILITIES, AND THE EXISTING AND PROJECTED GENERATION OF

1 HAZARDOUS WASTE WITHIN THE COMMONWEALTH AND INCLUDING WHERE
2 THE DEPARTMENT WITHIN ITS DISCRETION FINDS SUCH INFORMATION
3 TO BE AVAILABLE, THE PROJECTED GENERATION OUTSIDE THE
4 COMMONWEALTH OF HAZARDOUS WASTES EXPECTED TO BE TRANSPORTED
5 INTO THE COMMONWEALTH FOR STORAGE, TREATMENT OR DISPOSAL.

6 (5) AN ANALYSIS OF METHODS, INCENTIVES OR TECHNOLOGIES
7 FOR SOURCE REDUCTION, DETOXIFICATION, REUSE AND RECOVERY OF
8 HAZARDOUS WASTE AND A STRATEGY FOR IMPLEMENTING SUCH METHODS,
9 INCENTIVES AND TECHNOLOGIES.

10 (6) IDENTIFICATION OF SUCH HAZARDOUS WASTE TREATMENT AND
11 DISPOSAL FACILITIES AND THEIR LOCATIONS (IN ADDITION TO
12 EXISTING FACILITIES) AS ARE NECESSARY TO PROVIDE FOR THE
13 PROPER MANAGEMENT OF HAZARDOUS WASTE GENERATED WITHIN THIS
14 COMMONWEALTH.

15 (B) IN PREPARATION OF THE PLAN THE DEPARTMENT SHALL CONSULT
16 WITH AFFECTED PERSONS, MUNICIPALITIES AND STATE AGENCIES. ~~WITHIN~~ ←
17 WITHIN 60 DAYS AFTER THE EFFECTIVE DATE OF THIS ACT THE
18 SECRETARY SHALL APPOINT THE PENNSYLVANIA HAZARDOUS WASTE
19 FACILITIES PLANNING ADVISORY COMMITTEE. THE DEPARTMENT SHALL
20 INSURE THAT THE ADVISORY BODY CONSIST OF SUBSTANTIALLY
21 EQUIVALENT PROPORTIONS OF THE FOLLOWING FOUR GROUPS: PRIVATE
22 CITIZENS, REPRESENTATIVES OF PUBLIC INTEREST GROUPS, PUBLIC
23 OFFICIALS AND CITIZENS OR REPRESENTATIVES OF ORGANIZATIONS WITH
24 SUBSTANTIAL ECONOMIC INTEREST IN THE PLAN. IT SHALL SPECIFICALLY
25 INCLUDE BUT NOT BE LIMITED TO A REPRESENTATIVE OF A WASTE
26 TREATMENT OPERATOR, A WASTE ~~TREATMENT~~ GENERATOR, LOCAL ←
27 GOVERNMENTS, ENVIRONMENTALISTS, AND ACADEMIC SCIENTIST.

28 (C) THE COMMITTEE MAY RECOMMEND TO THE DEPARTMENT THE
29 ADOPTION OF SUCH RULES AND REGULATIONS, STANDARDS, CRITERIA AND
30 PROCEDURES AS IT DEEMS NECESSARY AND ADVISABLE FOR THE

1 PREPARATION, DEVELOPMENT, ADOPTION AND IMPLEMENTATION OF THE
2 PENNSYLVANIA HAZARDOUS WASTE FACILITIES PLAN.

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

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

8 (F) THE COMMITTEE SHALL DISBAND AFTER ADOPTION OF THE PLAN
9 BY THE ENVIRONMENTAL QUALITY BOARD UNLESS THE COMMITTEE IS
10 RECONSTITUTED AS A PROVISION OF THE PLAN.

11 (G) NOT LATER THAN TWO YEARS AFTER THE DATE OF ENACTMENT OF
12 THIS ACT, THE ENVIRONMENTAL QUALITY BOARD SHALL ADOPT THE
13 PENNSYLVANIA HAZARDOUS WASTE FACILITIES PLAN AND THE DEPARTMENT
14 SHALL REVIEW AND AMEND SAID PLAN AS NECESSARY BUT IN NO EVENT
15 LESS THAN EVERY FIVE YEARS FOLLOWING ADOPTION.

16 ARTICLE VI

17 ENFORCEMENT AND REMEDIES

18 Section 601. Public nuisances.

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

28 Section 602. Enforcement orders.

29 (a) The department may issue orders to such persons and
30 municipalities as it deems necessary to aid in the enforcement

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

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

26 (c) Any person or municipality ordered by the department to
27 repair, alter, construct, or reconstruct a solid waste facility
28 or area shall take such steps for the repair, alteration,
29 construction, or reconstruction of the facility or area as may
30 be necessary for the storage, processing, treatment and disposal

1 of its solid waste in compliance with this act and the rules and
2 regulations of the department, and standards and orders of the
3 department.

4 (D) THE DEPARTMENT OF ENVIRONMENTAL RESOURCES' INSPECTOR <—
5 RESOURCES SHALL HAVE THE POWER TO ORDER, ORALLY OR IN WRITING,
6 ANY PERSON OR MUNICIPALITY TO IMMEDIATELY SUSPEND OR MODIFY
7 HAZARDOUS WASTE TREATMENT OR DISPOSAL ACTIVITIES WHEN HE
8 DETERMINES THAT CONTINUED OPERATION WILL JEOPARDIZE PUBLIC
9 HEALTH, SAFETY OR WELFARE. SAID ORDER SHALL BE EFFECTIVE UPON
10 ISSUANCE AND MAY ONLY BE SUPERSEDED BY FURTHER DEPARTMENT ACTION
11 OR, AFTER AN APPEAL HAS BEEN PERFECTED, BY THE ENVIRONMENTAL <—
12 HEARING BOARD AFTER NOTICE AND HEARING. FURTHERMORE, SAID ORDER
13 MAY REQUIRE REMEDIAL ACTIONS TO BE TAKEN IN ORDER TO PREVENT
14 HARM TO PUBLIC HEALTH, SAFETY OR WELFARE. WITHIN TWO BUSINESS
15 DAYS AFTER THE ISSUANCE OF SUCH ORAL ORDER, THE DEPARTMENT SHALL
16 ISSUE A WRITTEN ORDER RECITING AND MODIFYING, WHERE APPROPRIATE,
17 THE TERMS AND CONDITIONS CONTAINED IN THE ORAL ORDER.

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

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

28 Section 604. Restraining violations.

29 (a) In addition to any other remedies provided in this act,
30 the department may institute a suit in equity in the name of the

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

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

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

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

30 Section 605. Civil penalties.

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

1 section is \$25,000 per offense. Each violation for each separate
2 day and each violation of any provision of this act, any rule or
3 regulation under this act, any order of the department, or any
4 term or condition of a permit shall constitute a separate and
5 distinct offense under this section. A GENERATOR OF HAZARDOUS <—
6 WASTE WHO HAS COMPLIED WITH SECTION 403 AND HAS DESIGNATED ON
7 THE MANIFEST A FACILITY PERMITTED TO TREAT OR DISPOSE OF HIS
8 WASTES SHALL NOT BE HELD LIABLE FOR CIVIL PENALTIES WITH RESPECT
9 TO SUCH WASTES BY OTHER PERSONS AFTER:

10 (1) THE WASTES HAVE BEEN TRANSPORTED IN COMPLIANCE WITH
11 ALL APPLICABLE PROVISIONS OF THIS ACT AND REGULATIONS
12 PROMULGATED AND LICENSES ISSUED THEREUNDER; AND

13 (2) SUCH WASTES HAVE BEEN ACCEPTED BY A DISPOSAL OR
14 TREATMENT FACILITY PERMITTED TO RECEIVE SUCH WASTES AND
15 DESIGNATED ON THE MANIFEST.

16 Section 606. Criminal penalties.

17 (a) Any person, OTHER THAN A MUNICIPAL OFFICIAL EXERCISING <—
18 HIS OFFICIAL DUTIES, or ANY municipality who violates any <—
19 provision of this act, the rules and regulations of the
20 department, or any order of the department, or any term or
21 condition of any permit upon conviction thereof in a summary
22 proceeding, shall be sentenced to pay a fine of not less than
23 \$100 and not more than \$1,000 and costs and, in default of the
24 payment of such fine and costs, to undergo imprisonment for not
25 more than 30 days.

26 (b) Any person OTHER THAN A MUNICIPAL OFFICIAL EXERCISING <—
27 HIS OFFICIAL DUTIES who violates any provision of this act, any
28 rule or regulation of the department, any order of the
29 department, or any term or condition of any permit, shall be
30 guilty of a misdemeanor of the third degree and, upon

1 conviction, shall be sentenced to pay a fine of not less than
2 \$1,000 but not more than \$25,000 per day for each violation or
3 to imprisonment for a period of not more than one year, or both.

4 (c) Any person OTHER THAN A MUNICIPAL OFFICIAL EXERCISING <—
5 HIS OFFICIAL DUTIES who, within two years after a conviction of
6 a misdemeanor for any violation of this act, violates any
7 provision of this act, any rule or regulation of the department,
8 any order of the department, or any term or condition of any
9 permit shall be guilty of a misdemeanor of the second degree
10 and, upon conviction, shall be sentenced to pay a fine of not
11 less than \$2,500 nor more than \$50,000 for each violation or to
12 imprisonment for a period of not more than two years, or both.

13 (D) ANY PERSON OR MUNICIPALITY THAT KNOWINGLY: <—

14 (1) TRANSPORTS ANY HAZARDOUS WASTE TO A FACILITY WHICH
15 DOES NOT HAVE A PERMIT UNDER THIS ACT TO ACCEPT SUCH WASTE
16 FOR STORAGE, TREATMENT OR DISPOSAL; OR <—

17 ~~(2) STORES, TREATS OR DISPOSES OF ANY HAZARDOUS WASTE <—~~
18 ~~WITHOUT HAVING OBTAINED A PERMIT OF SUCH STORAGE, TREATMENT~~
19 ~~OR DISPOSAL; OR~~

20 ~~(3)~~ (2) MAKES ANY FALSE STATEMENT OR REPRESENTATION IN
21 ANY APPLICATION LABEL, MANIFEST, RECORD, REPORT, PERMIT OR
22 OTHER DOCUMENT RELATING TO HAZARDOUS WASTE GENERATION,
23 STORAGE, TRANSPORTATION, TREATMENT OR DISPOSAL, WHICH IS
24 FILED, SUBMITTED, MAINTAINED OR USED FOR PURPOSES OF
25 COMPLIANCE WITH THIS ACT OR ANY MUNICIPALITY WHICH KNOWINGLY
26 STORES, TREATS OR DISPOSES OF ANY HAZARDOUS WASTE WITHOUT
27 HAVING OBTAINED A PERMIT FOR SUCH STORAGE, TREATMENT OR
28 DISPOSAL;

29 SHALL BE GUILTY OF A MISDEMEANOR OF THE THIRD DEGREE AND, UPON
30 CONVICTION, SHALL BE SENTENCED TO PAY A FINE OF NOT LESS THAN

1 \$1,000 BUT NOT MORE THAN \$25,000 PER DAY FOR EACH VIOLATION.

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

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

17 ~~(e)~~ (G) Any person who intentionally, knowingly OR ←
18 recklessly, ~~or negligently~~ stores, transports, treats, or ←
19 disposes of hazardous waste within the Commonwealth in violation
20 of any provision of this act, and whose acts or omissions cause
21 pollution, a public nuisance or bodily injury to any person,
22 shall be guilty of a felony of the first degree, and upon
23 conviction, shall be sentenced to pay a fine of not less than
24 \$10,000 but not more than \$500,000 per day for each violation or
25 to a term of imprisonment of not less than two years, but not
26 more than 20 years, or both.

27 ~~(f)~~ (H) Each violation for each separate day and each ←
28 violation of any provision of this act, any rule or regulation
29 of the department, any order of the department, or term and
30 condition of a permit shall constitute a separate and distinct

1 offense under subsections (a), (b), (c), (d) and (e).

2 ~~(g)~~ (I) With respect to the offenses specified in subsection <—
3 (a), (b), (c) and ~~(d)~~ (F), it is the legislative purpose to <—
4 impose absolute liability for such offenses. HOWEVER, A <—
5 GENERATOR WHO HAS COMPLIED WITH SECTION 403 SHALL NOT BE HELD
6 CRIMINALLY LIABLE UNDER THIS SECTION IF ~~SUCH~~ WASTES HAVE BEEN <—
7 TRANSPORTED ~~TO SUCH FACILITY~~ IN COMPLIANCE WITH ALL APPLICABLE <—
8 PROVISIONS OF THIS ACT AND THE REGULATIONS PROMULGATED AND
9 LICENSES ISSUED THEREUNDER, AND PROVIDED THAT SUCH WASTES HAVE
10 BEEN ACCEPTED BY ~~SUCH~~ A FACILITY DESIGNATED IN ACCORDANCE WITH <—
11 SECTION 403(B)(6).

12 ~~(h)~~ (J) With respect to the offenses specified in <—
13 subsections (a), (b), (c), (d) ~~and (e)~~, (E), (F) AND (G), it is <—
14 the legislative purpose to impose liability on corporations.
15 Section 607. Existing rights and remedies preserved; cumulative
16 remedies authorized.

17 Nothing in this act shall be construed as estopping the
18 Commonwealth, or any district attorney or solicitor of a
19 municipality, from proceeding in courts of law or equity to
20 abate pollution forbidden under this act, or abate nuisances
21 under existing law. It is hereby declared to be the purposes of
22 this act to provide additional and cumulative remedies to
23 control the collection, storage, transportation, processing,
24 treatment, and disposal of solid waste within the Commonwealth,
25 and nothing contained in this act shall in any way abridge or
26 alter rights of action or remedies now or hereafter existing in
27 equity, or under the common law or statutory law, criminal or
28 civil, nor shall any provision in this act, or the granting of
29 any permit under this act, or any act done by virtue of this
30 act, be construed as estopping the Commonwealth, persons or

1 municipalities, in the exercise of their rights under the common
2 law or decisional law or in equity, from proceeding in courts of
3 law or equity to suppress nuisances, or to abate any pollution
4 now or hereafter existing, or to enforce common law or statutory
5 rights. No courts of this Commonwealth having jurisdiction to
6 abate public or private nuisances shall be deprived of such
7 jurisdiction in any action to abate any private or public
8 nuisance instituted by any person for the reasons that such
9 nuisance constitutes air or water pollution.

10 Section 608. Production of materials; recordkeeping
11 requirements; rights of entry.

12 The department and its agents and employees shall: ~~under any~~ ←
13 ~~and all circumstances:~~

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

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

22 (3) Enter any building, property, premises or place
23 WHERE SOLID WASTE IS GENERATED, STORED, PROCESSED, TREATED OR ←
24 DISPOSED OF for the purposes of making such investigation or
25 inspection as may be necessary to ascertain the compliance or
26 noncompliance by any person or municipality with the
27 provisions of this act and the rules or regulations
28 promulgated hereunder. In connection with such inspection or
29 investigation, samples may be taken of any solid, semisolid,
30 liquid or contained gaseous material for analysis. IF ANY ←

1 ANALYSIS IS MADE OF SUCH SAMPLES, A COPY OF THE RESULTS OF
2 THE ANALYSIS SHALL BE FURNISHED WITHIN FIVE BUSINESS DAYS TO
3 THE PERSON HAVING APPARENT AUTHORITY OVER THE BUILDING,
4 PROPERTY, PREMISES OR PLACE.

5 Section 609. Search warrants.

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

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

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

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

23 Section 610. Unlawful conduct.

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

25 (1) Dump or deposit, or permit the dumping or
26 depositing, of any solid waste onto the surface of the ground
27 or underground or into the waters of the Commonwealth, by any
28 means, unless a permit for the dumping of such solid wastes
29 has been obtained from the department; provided, the
30 Environmental Quality Board may by regulation exempt certain

1 activities associated with normal farming operations as
2 defined by this act from such permit requirements.

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

9 (3) Burn solid wastes without a permit from the
10 department.

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

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

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

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

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

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

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

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

21 ~~Section 611. Presumption of law for civil and administrative~~ <—
22 ~~—proceedings.~~

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

1 ~~the damage, contamination, or pollution.~~

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

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

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

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

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

27 Any vehicle, equipment, or conveyance used for the
28 transportation or disposal ~~of~~ of hazardous waste in the <—
29 commission of an offense under section 606 shall be deemed
30 contraband and shall be seized and forfeited to the department.

1 The provisions of law relating to the seizure, summary and
2 judicial forfeiture, and condemnation of intoxicating liquor
3 shall apply to seizures and forfeitures under the provisions of
4 this section.

5 Section ~~615~~ 614. Right of citizen to ~~initiate or~~ intervene <—
6 in proceedings.

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

12 Section ~~616~~ 615. Notice of proposed settlement. <—

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

21 SECTION 616. LIMITATION ON ACTION. <—

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

26 ARTICLE VII

27 SOLID WASTE ABATEMENT FUND

28 Section 701. Solid Waste Abatement Fund.

29 (A) All fines, penalties AND bond forfeitures ~~and fees~~ <—
30 collected under the provisions of this act shall be paid into

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

8 (B) ALL SUCH MONEYS PLACED IN THE SOLID WASTE ABATEMENT FUND <—
9 UNDER THE PROVISIONS OF THIS SECTION ARE HEREBY MADE AVAILABLE
10 IMMEDIATELY, AND ARE HEREBY SPECIFICALLY APPROPRIATED TO THE
11 DEPARTMENT FOR THE PURPOSES SPECIFIED IN THIS SECTION.

12 (C) ESTIMATES OF THE AMOUNTS TO BE EXPENDED UNDER THIS ACT
13 SHALL BE SUBMITTED TO THE GOVERNOR FOR HIS APPROVAL OR
14 DISAPPROVAL.

15 ARTICLE VIII <—

16 ~~COMMONWEALTH LIABILITY~~ <—

17 LEASING REAL ESTATE <—

18 Section 801. ~~Commonwealth liability.~~ NO PROHIBITION AGAINST <—
19 LEASING REAL ESTATE.

20 ~~(a) The Commonwealth shall defend, indemnify and save <—~~
21 ~~harmless its employees from any and all claims of damage, injury~~
22 ~~or liability arising or resulting from the performance of their~~
23 ~~duties under this act. If a cause of action results in a final~~
24 ~~judgment of a court of competent jurisdiction entered against~~
25 ~~the Commonwealth, the department, its officers or employees~~
26 ~~arising out of the ownership, construction, operation or~~
27 ~~maintenance of a hazardous waste treatment or disposal facility~~
28 ~~said judgment shall be subject to the limitation of damages~~
29 ~~provisions of 42 Pa.C.S. § 5111 (relating to limitations on~~
30 ~~damages) and shall be a judgment against the General Fund of the~~

1 ~~Commonwealth and shall not be chargeable to any annual~~
2 ~~appropriation of the department. This provision is not intended~~
3 ~~to create new liabilities or waive existing immunities.~~

4 (b) Nothing in this act shall be construed to prevent the
5 Commonwealth from leasing ~~State land~~ such real estate owned by <—
6 the Commonwealth as is not being used in connection with the
7 work of any department, board or commission thereof for a period
8 of not more than 50 years to individuals, firms, corporations or
9 the United States Government pursuant to section 2402(i) of "The
10 Administrative Code of 1929," for the purpose of operating
11 hazardous waste storage, treatment or disposal facilities.

12 ARTICLE ~~VIII~~ IX <—

13 LIBERAL CONSTRUCTION

14 Section ~~801~~ 901. Construction of act. <—

15 The terms and provisions of this act are to be liberally
16 construed, so as to best achieve and effectuate the goals and
17 purposes hereof. ~~Notwithstanding any other provision of this act~~ <—
18 ~~to the contrary, this act shall not be construed to empower any~~
19 ~~agency of the Commonwealth of Pennsylvania to acquire, construct~~
20 ~~or operate any hazardous waste facilities, otherwise known as~~
21 ~~siting.~~

22 ARTICLE ~~IX~~ X <—

23 REPEALER; EFFECTIVE DATE

24 Section ~~901~~ 1001. Repeal. <—

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

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

1 Section ~~902~~ 1002. Severability. <—

2 If any provision of this act or the application thereof ~~to~~ <—
3 ~~the disposal of nuclear or radioactive wastes~~ is held invalid,
4 such invalidity shall not effect other provisions or
5 applications of this act which can be given effect without the
6 invalid provisions or application and to this end the provisions
7 of this act are declared to be severable.

8 Section ~~903~~ 1003. Effective date. <—

9 ~~This act shall take effect immediately.~~ <—

10 SECTION 402 OF THIS ACT SHALL TAKE EFFECT IMMEDIATELY; THE <—
11 REMAINDER OF THIS ACT SHALL TAKE EFFECT IN 60 DAYS.