

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 367

Session of
1985

INTRODUCED BY GEORGE, MANDERINO, D. R. WRIGHT, IRVIS, JAROLIN, WOZNIAK, STEIGHNER, RYBAK, MORRIS, BALDWIN, LINTON, TRELLO, FEE, LIVENGOD, FREEMAN, CAWLEY, STABACK, STEWART, LUCYK, COY, HASAY, CIMINI, CLYMER, BOWLEY, BROUJOS, FRYER, WAMBACH, LEVDANSKY, MRKONIC, ACOSTA, CIVERA, LLOYD, DALEY, STEVENS, GALLAGHER, TIGUE, KUKOVICH, CLARK, SALOOM, PUNT, McCALL, E. Z. TAYLOR, BELARDI, MAIALE, HOWLETT, G. M. SNYDER, F. E. TAYLOR, CAPPABIANCA, HALUSKA, DeLUCA, KASUNIC, DUFFY, PRESTON, ANGSTADT, SAURMAN, B. SMITH, PRATT, CALTAGIRONE, GRUITZA, BARBER, JOSEPHS, WIGGINS, OLASZ, STUBAN, COLE, TRUMAN, TELEK, PISTELLA, PETRONE, DISTLER, VEON, CORDISCO, MICOZZIE, HARPER AND DONATUCCI, FEBRUARY 13, 1985

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
JANUARY 28, 1986

AN ACT

1 Amending the act of July 7, 1980 (P.L.380, No.97), entitled "An
2 act providing for the planning and regulation of solid waste
3 storage, collection, transportation, processing, treatment,
4 and disposal; requiring municipalities to submit plans for
5 municipal waste management systems in their jurisdictions;
6 authorizing grants to municipalities; providing regulation of
7 the management of municipal, residual and hazardous waste;
8 requiring permits for operating hazardous waste and solid
9 waste storage, processing, treatment, and disposal
10 facilities; and licenses for transportation of hazardous
11 waste; imposing duties on persons and municipalities;
12 granting powers to municipalities; authorizing the
13 Environmental Quality Board and the Department of
14 Environmental Resources to adopt rules, regulations,
15 standards and procedures; granting powers to and imposing
16 duties upon county health departments; providing remedies;
17 prescribing penalties; and establishing a fund," further
18 providing for the approval of permits and licenses and for
19 the power and duties of municipalities; PROHIBITING THE
20 SITING OF HAZARDOUS WASTE TREATMENT OR DISPOSAL FACILITIES IN
21 THE VICINITY OF CERTAIN BUILDINGS; requiring a fee for
22 emergency groundwater contamination plans; ~~and~~ further
23 providing for search warrants; FURTHER PROVIDING REGULATION

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1 OF THE MANAGEMENT OF HAZARDOUS WASTE; FURTHER PROVIDING FOR
2 THE POWERS AND DUTIES OF THE DEPARTMENT OF ENVIRONMENTAL
3 RESOURCES; ESTABLISHING A HAZARDOUS SUBSTANCE ACCOUNT;
4 FURTHER PRESCRIBING PENALTIES; FURTHER PROVIDING REMEDIES;
5 AND PROVIDING FOR JURISDICTION OF COMMONWEALTH COURT.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 ~~Section 1. The act of July 7, 1980 (P.L.380, No.97), known~~ <—
9 ~~as the Solid Waste Management Act, is amended by adding a~~
10 ~~section to read:~~

11 SECTION 1. SECTION 105(H) OF THE ACT OF JULY 7, 1980 <—
12 (P.L.380, NO.97), KNOWN AS THE SOLID WASTE MANAGEMENT ACT, IS
13 AMENDED TO READ:

14 SECTION 105. POWERS AND DUTIES OF THE ENVIRONMENTAL QUALITY
15 BOARD.

16 * * *

17 (H) ISSUANCE OF A CERTIFICATE OF PUBLIC NECESSITY UNDER THIS
18 SECTION SHALL SUSPEND AND SUPERSEDE ANY AND ALL LOCAL LAWS WHICH
19 WOULD PRECLUDE OR PROHIBIT THE ESTABLISHMENT OF A HAZARDOUS
20 WASTE TREATMENT OR DISPOSAL FACILITY AT SAID SITE, INCLUDING
21 ZONING ORDINANCES, BUT SHALL NOT SUSPEND OR SUPERSEDE ORDINANCES
22 WHICH REGULATE THE SITING OR CONTINUED OPERATION OF A FACILITY
23 ENACTED UNDER SECTION 504(D). THE SUSPENSION AND SUPERSESSION IS
24 EXPLICITLY EXTENDED TO ANY PERSON TO WHOM SUCH CERTIFICATES
25 ISSUED FOR THE PURPOSE OF HAZARDOUS WASTE TREATMENT OR DISPOSAL,
26 AND TO THE SUCCESSORS AND ASSIGNS OF SUCH PERSON.

27 * * *

28 SECTION 2. THE ACT IS AMENDED BY ADDING A SECTION TO READ:
29 Section 106.1. Powers and duties of host municipalities and
30 counties.

31 (a) Whenever the department intends to make an inspection or
32 conduct tests on any property, building, premises or place where

1 solid waste is generated, stored, processed, treated or disposed
2 of it shall, prior thereto, notify the chief executive officer
3 or governing body of the host municipality and the county
4 commissioners of the county wherein the host municipality is
5 located for the purpose of inviting persons designated by such
6 municipality or county as its representatives to accompany the
7 employees or agents of the department onto the site to observe
8 such inspections or tests. Copies of the results of all
9 inspections and tests made by the department or by others at the
10 direction or order of the department shall be forwarded
11 immediately upon receipt of such results by the department to
12 the chief executive officer or governing body of the host
13 municipality and the county commissioners of the county wherein
14 the host municipality is located.

15 (b) The host municipality and the county wherein the host
16 municipality is located both shall have the power to make
17 inspections or investigations of any property, building,
18 premises or place where solid waste is generated, stored,
19 processed, treated or disposed of and shall be entitled to
20 access to, and require the production of, books and papers,
21 documents and physical evidence pertinent to any matter relative
22 to such solid waste.

23 (c) Whenever the chief executive officer or governing body
24 of a host municipality or the county commissioners of the county
25 wherein the host municipality is located presents information to
26 the department which should give the department reason to
27 believe that any person is in violation of any requirement of
28 this act, any regulation promulgation hereunder or any permit or
29 license issued hereunder, the department, through its regional
30 director in charge of the area in question, shall meet with

1 representatives of such municipality or county within five days
2 of receipt of such information. If the concerns of the
3 municipality or county have not been dealt with in a
4 satisfactory manner at the end of 60 days following such a
5 meeting, the information shall be delivered directly to the
6 secretary along with the report of the regional director. Within
7 five days of receipt of the information by the secretary, a
8 meeting shall be held between the secretary and representatives
9 of the municipality or county. The secretary shall make a final
10 report to the municipality or county within 60 days following
11 such meeting. This right or remedy shall be in addition to and
12 not a prior condition to the exercise of any other existing or
13 future right or remedy of the municipality or county.

14 SECTION 3. THE ACT IS AMENDED BY ADDING AN ARTICLE TO READ: <—

15 ARTICLE IV-A

16 RESPONSE TO HAZARDOUS WASTE

17 SECTION 401-A. DEFINITIONS.

18 (A) GENERAL DEFINITIONS.--THE FOLLOWING WORDS AND PHRASES
19 WHEN USED IN THIS ARTICLE SHALL HAVE THE MEANINGS GIVEN TO THEM
20 IN THIS SECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

21 "ACCOUNT." THE HAZARDOUS SUBSTANCE ACCOUNT CREATED UNDER
22 SECTION 402-A.

23 "DISPOSE." TO DISCARD WASTE INTO OR ON LAND AS A FINAL
24 ACTION AFTER USE HAS BEEN ACHIEVED AND NO INTENDED BENEFICIAL
25 USE OR REUSE CAN BE DEMONSTRATED. THE TERM DOES NOT INCLUDE
26 INJECTION OF MATERIALS FOR THE PURPOSE OF STIMULATING OR
27 TREATING WELLS FOR THE PRODUCTION OF CRUDE OIL, NATURAL GAS,
28 WATER OR GEOTHERMAL ENERGY OR FOR THE PURPOSE OF SECONDARY,
29 TERTIARY OR OTHER ENHANCED RECOVERY OF CRUDE OIL OR NATURAL GAS
30 NOR MATERIALS WHICH ARE BROUGHT TO THE SURFACE IN CONJUNCTION

1 WITH THE PRODUCTION OF GEOTHERMAL RESOURCES, CRUDE OIL OR
2 NATURAL GAS AND WHICH ARE REINJECTED.

3 "FEDERAL ACT." THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
4 COMPENSATION, AND LIABILITY ACT OF 1980 (PUBLIC LAW 96-510, 94
5 STAT. 2767)).

6 "HAZARDOUS SUBSTANCE."

7 (1) THE TERM INCLUDES:

8 (I) SUBSTANCES DESIGNATED UNDER SECTION 311(B)(2)(A)
9 OF THE FEDERAL WATER POLLUTION CONTROL ACT (62 STAT.
10 1155, 33 U.S.C. § 1321(B)(2)(A)).

11 (II) ELEMENTS, COMPOUNDS, MIXTURES, SOLUTIONS OR
12 SUBSTANCES DESIGNATED UNDER SECTION 102 OF THE FEDERAL
13 ACT (42 U.S.C. § 9602).

14 (III) HAZARDOUS WASTES HAVING THE CHARACTERISTICS
15 IDENTIFIED UNDER OR LISTED UNDER SECTION 3001 OF THE
16 SOLID WASTE DISPOSAL ACT (PUBLIC LAW 89-272, 42 U.S.C. §
17 6921).

18 (IV) TOXIC POLLUTANTS LISTED UNDER SECTION 307(A) OF
19 THE FEDERAL WATER POLLUTION CONTROL ACT (62 STAT. 1155,
20 33 U.S.C. § 1317(A)).

21 (V) HAZARDOUS AIR POLLUTANTS LISTED UNDER SECTION
22 112 OF THE CLEAN AIR ACT (PUBLIC LAW 95-95, 42 U.S.C. §
23 7412).

24 (VI) IMMINENTLY HAZARDOUS CHEMICAL SUBSTANCES OR
25 MIXTURES WITH RESPECT TO WHICH THE ADMINISTRATOR OF THE
26 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY HAS TAKEN
27 ACTION UNDER SECTION 7 OF THE TOXIC SUBSTANCES CONTROL
28 ACT (PUBLIC LAW 94-469, 15 U.S.C. § 2606).

29 (VII) HAZARDOUS WASTES AS DEFINED BY REGULATIONS
30 PROMULGATED UNDER THIS ARTICLE.

1 (2) THE TERM DOES NOT INCLUDE PETROLEUM, INCLUDING CRUDE
2 OIL OR ANY FRACTION THEREOF WHICH IS NOT OTHERWISE
3 SPECIFICALLY LISTED OR DESIGNATED AS A HAZARDOUS SUBSTANCE IN
4 PARAGRAPH (1); NATURAL GAS, NATURAL GAS LIQUIDS, LIQUEFIED
5 NATURAL GAS OR SYNTHETIC GAS USABLE FOR FUEL; MIXTURES OF
6 NATURAL GAS AND SYNTHETIC GAS USED FOR FUEL; THE ASH PRODUCED
7 BY A RESOURCE RECOVERY FACILITY UTILIZING A MUNICIPAL SOLID
8 WASTE STREAM; NOR NONTOXIC, NONFLAMMABLE, NONCORROSIVE STORM
9 WATER RUNOFF DRAINED FROM UNDERGROUND VAULTS, CHAMBERS OR
10 MANHOLES INTO GUTTERS OR STORM SEWERS.

11 "HAZARDOUS WASTE." THE MEANING PROVIDED IN SECTION 1004 OF
12 THE SOLID WASTE DISPOSAL ACT (PUBLIC LAW 84-272, 42 U.S.C. §
13 6903).

14 "NATURAL RESOURCE." LAND, FISH, WILDLIFE, BIOTA, AIR, WATER,
15 GROUND WATER, DRINKING WATER SUPPLIES AND OTHER RESOURCES
16 BELONGING TO, MANAGED BY, HELD IN TRUST BY, APPERTAINING TO OR
17 OTHERWISE CONTROLLED BY THE UNITED STATES, A STATE OR LOCAL
18 GOVERNMENT OR A FOREIGN GOVERNMENT. THE TERM INCLUDES THE
19 RESOURCES OF THE FISHERY CONSERVATION ZONE ESTABLISHED BY THE
20 FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976 (PUBLIC LAW 94-
21 265, 90 STAT. 331).

22 "PERSON." AN INDIVIDUAL, TRUST, FIRM, JOINT STOCK COMPANY OR
23 CORPORATION. THE TERM INCLUDES GOVERNMENT CORPORATIONS,
24 PARTNERSHIPS AND ASSOCIATIONS. THE TERM INCLUDES THE
25 COMMONWEALTH AND ITS POLITICAL SUBDIVISIONS AND THE FEDERAL
26 GOVERNMENT, AND THEIR AGENCIES.

27 "RELEASE." SPILLING, LEAKING, PUMPING, POURING, EMITTING,
28 EMPTYING, DISCHARGING, INJECTING, ESCAPING, LEACHING, DUMPING OR
29 DISPOSING INTO THE ENVIRONMENT. THE TERM DOES NOT INCLUDE:

30 (1) A RELEASE WHICH RESULTS IN EXPOSURE TO PERSONS

1 SOLELY WITHIN A WORKPLACE, WITH RESPECT TO A CLAIM WHICH
2 EXPOSED PERSONS MAY ASSERT AGAINST THEIR EMPLOYER.

3 (2) EMISSIONS FROM THE ENGINE EXHAUST OF A MOTOR
4 VEHICLE, ROLLING STOCK, AIRCRAFT, VESSEL OR PIPELINE PUMPING
5 STATION ENGINE.

6 (3) RELEASE OF SOURCE, BY-PRODUCT OR SPECIAL NUCLEAR
7 MATERIAL FROM A NUCLEAR INCIDENT AS THOSE TERMS ARE DEFINED
8 IN THE ATOMIC ENERGY ACT OF 1954 (68 STAT. 921, 28 U.S.C. §§
9 2341(3)(A)-(C) AND 2342(1)-(4) AND 42 U.S.C. § 2011 ET SEQ.).

10 (4) THE NORMAL APPLICATION OF FERTILIZER, PLANT GROWTH
11 REGULANTS AND PESTICIDES.

12 "RELEASE AUTHORIZED OR PERMITTED PURSUANT TO LAW." A RELEASE
13 INTO THE ENVIRONMENT WHICH IS AUTHORIZED BY STATUTE, ORDINANCE,
14 REGULATION OR RULE OF A REGIONAL, STATE OR LOCAL AGENCY OR
15 GOVERNMENT OR WHICH IS AUTHORIZED, BY A SPECIFIC PERMIT, LICENSE
16 OR SIMILAR AUTHORIZATION FROM AN AGENCY WHICH (PERMIT, LICENSE
17 OR AUTHORIZATION) RECOGNIZES A STANDARD INDUSTRY PRACTICE. THE
18 TERM "VARIANCES" OBTAINED FROM AN AGENCY WHICH ALLOW OPERATIONS
19 FOR FACILITIES DURING A PERIOD OF TIME WHEN RELEASES FROM THE
20 FACILITIES DO NOT CONFORM WITH RELEVANT STATUTES, ORDINANCES,
21 REGULATIONS OR RULES. THE TERM INCLUDES A FEDERALLY PERMITTED
22 RELEASE, AS DEFINED BY SECTION 101(10) OF THE FEDERAL ACT (42
23 U.S.C. § 9601(10)) AND RELEASES WHICH ARE IN ACCORDANCE WITH A
24 COURT ORDER OR CONSENT DECREE.

25 "REMEDY" OR "REMEDIAL ACTION." THOSE ACTIONS, CONSISTENT
26 WITH A PERMANENT REMEDY, TAKEN INSTEAD OF OR IN ADDITION TO
27 REMOVAL ACTIONS IN THE EVENT OF A RELEASE OR THREATENED RELEASE
28 OF A HAZARDOUS SUBSTANCE INTO THE ENVIRONMENT, TO PREVENT OR
29 MINIMIZE THE RELEASE OF HAZARDOUS SUBSTANCES SO THAT THEY DO NOT
30 MIGRATE TO CAUSE SUBSTANTIAL DANGER TO PRESENT OR FUTURE PUBLIC

1 HEALTH OR WELFARE OR THE ENVIRONMENT. THE TERM INCLUDES, BUT IS
2 NOT LIMITED TO, ACTIONS AT THE LOCATION OF THE RELEASE SUCH AS
3 STORAGE; CONFINEMENT; PERIMETER PROTECTION USING DIKES,
4 TRENCHES, OR DITCHES; CLAY COVER; NEUTRALIZATION; CLEANUP OF
5 RELEASED HAZARDOUS SUBSTANCES OR CONTAMINATED MATERIALS;
6 RECYCLING, REUSE, DIVERSION, DESTRUCTION, OR SEGREGATION OF
7 REACTIVE WASTES; DREDGING OR EXCAVATIONS; REPAIR OR REPLACEMENT
8 OF LEAKING CONTAINERS; COLLECTION OF LEACHATE AND RUNOFF; ONSITE
9 TREATMENT OR INCINERATION; PROVISION OF ALTERNATIVE WATER
10 SUPPLIES; AND MONITORING REASONABLY REQUIRED TO ASSURE THAT THE
11 ACTIONS PROTECT THE PUBLIC HEALTH AND WELFARE AND THE
12 ENVIRONMENT. THE TERM INCLUDES THE COSTS OF PERMANENT RELOCATION
13 OF RESIDENTS AND BUSINESSES AND COMMUNITY FACILITIES WHERE THE
14 PRESIDENT OF THE UNITED STATES DETERMINES THAT, ALONE OR IN
15 COMBINATION WITH OTHER MEASURES, RELOCATION IS MORE COST-
16 EFFECTIVE THAN AND ENVIRONMENTALLY PREFERABLE TO THE
17 TRANSPORTATION, STORAGE, TREATMENT, DESTRUCTION OR SECURE
18 OFFSITE DISPOSITION OF HAZARDOUS SUBSTANCES OR THAT RELOCATION
19 MAY OTHERWISE BE NECESSARY TO PROTECT THE PUBLIC HEALTH AND
20 WELFARE. THE TERM DOES NOT INCLUDE OFFSITE TRANSPORT OF
21 HAZARDOUS SUBSTANCES OR THE STORAGE, TREATMENT, DESTRUCTION OR
22 SECURE OFFSITE DISPOSITION OF HAZARDOUS SUBSTANCES OR
23 CONTAMINATED MATERIALS UNLESS THE PRESIDENT OF THE UNITED STATES
24 DETERMINES THAT THESE ACTIONS ARE MORE COST-EFFECTIVE THAN OTHER
25 REMEDIAL ACTIONS; WILL CREATE NEW CAPACITY TO MANAGE IN
26 COMPLIANCE WITH TITLE II, SUBTITLE C, OF THE SOLID WASTE
27 DISPOSAL ACT (PUBLIC LAW 89-272, 42 U.S.C. CH.82, SUBCH. III),
28 OR ARE NECESSARY TO PROTECT PUBLIC HEALTH OR WELFARE OR THE
29 ENVIRONMENT FROM A PRESENT OR POTENTIAL RISK WHICH MAY BE
30 CREATED BY FURTHER EXPOSURE TO THE CONTINUED PRESENCE OF THE

1 SUBSTANCES OR MATERIALS.

2 "REMOVE" OR "REMOVAL." THE CLEANUP OR REMOVAL OF RELEASED
3 HAZARDOUS SUBSTANCES FROM THE ENVIRONMENT; NECESSARY ACTIONS
4 TAKEN IN THE EVENT OF THE THREAT OF RELEASE OF HAZARDOUS
5 SUBSTANCES INTO THE ENVIRONMENT; NECESSARY ACTIONS TO MONITOR,
6 ASSESS AND EVALUATE THE RELEASE OR THREAT OF RELEASE OF
7 HAZARDOUS SUBSTANCES; THE DISPOSAL OF REMOVED MATERIAL; OR
8 NECESSARY ACTIONS TO PREVENT, MINIMIZE OR MITIGATE DAMAGE TO THE
9 PUBLIC HEALTH OR WELFARE OR TO THE ENVIRONMENT WHICH MAY
10 OTHERWISE RESULT FROM A RELEASE OR THREAT OF RELEASE. THE TERM
11 INCLUDES, BUT IS NOT LIMITED TO, SECURITY FENCING OR OTHER
12 MEASURES TO LIMIT ACCESS, PROVISION OF ALTERNATIVE WATER
13 SUPPLIES, TEMPORARY EVACUATION AND HOUSING OF THREATENED
14 INDIVIDUALS NOT OTHERWISE PROVIDED FOR, ACTIONS TAKEN UNDER
15 SECTION 104(B) OF THE FEDERAL ACT (42 U.S.C. § 9604(B)) AND
16 EMERGENCY ASSISTANCE WHICH MAY BE PROVIDED UNDER THE DISASTER
17 RELIEF ACT OF 1974 (PUBLIC LAW 93-288, 88 STAT. 143).

18 "RESPONSE ACTION." REMEDY, REMEDIAL ACTION OR REMOVAL.

19 "TRADE SECRET." INCLUDES, BUT IS NOT LIMITED TO, FORMULAS,
20 PLANS, PATTERNS, PROCESSES, TOOLS, MECHANISMS, COMPOUNDS,
21 PROCEDURE COMPOUNDS, PRODUCTION DATA OR COMPILATIONS OF
22 INFORMATION WHICH ARE NOT PATENTED; WHICH ARE KNOWN ONLY TO
23 CERTAIN INDIVIDUALS WITHIN A BUSINESS OR COMMERCIAL CONCERN;
24 WHICH ARE USED TO FABRICATE, PRODUCE, DEVELOP OR COMPOUND AN
25 ARTICLE OF TRADE OR A SERVICE HAVING COMMERCIAL VALUE; AND WHICH
26 PROVIDE THE PERSON IN POSSESSION OF THEM WITH A COMPETITIVE
27 ADVANTAGE OVER OTHER BUSINESSES WITHOUT POSSESSION.

28 (B) ADDITIONAL DEFINITIONS.--EXCEPT AS OTHERWISE PROVIDED IN
29 THIS ARTICLE, OR UNLESS THE CONTEXT REQUIRES OTHERWISE, THE
30 DEFINITIONS SET FORTH IN SECTION 101 OF THE FEDERAL ACT (42

1 U.S.C. § 9601) SHALL APPLY TO THIS ARTICLE.

2 SECTION 402-A. HAZARDOUS SUBSTANCE ACCOUNT.

3 (A) CREATION.--THERE IS ESTABLISHED A SPECIAL ACCOUNT IN THE
4 TREASURY DEPARTMENT TO BE KNOWN AS THE HAZARDOUS SUBSTANCE
5 ACCOUNT. IN ADDITION TO FUNDS APPROPRIATED BY THE GENERAL
6 ASSEMBLY AND EXCEPT AS PROVIDED IN SUBSECTION (B), THE FOLLOWING
7 SHALL BE DEPOSITED INTO AND CREDITED TO THE STATE ACCOUNT:

8 (1) MONEY RECOVERED UNDER SECTIONS 419-A THROUGH 425-A.

9 (2) ASSESSMENTS COLLECTED UNDER SECTIONS 413-A THROUGH
10 417-A.

11 (3) FINES AND PENALTIES COLLECTED UNDER THIS ARTICLE

12 (4) FUNDS RECEIVED FROM THE FEDERAL GOVERNMENT UNDER THE
13 FEDERAL ACT.

14 (5) MONEY RECEIVED FROM RESPONSIBLE PARTIES FOR REMEDIAL
15 ACTION OR REMOVAL AT A SPECIFIC SITE.

16 (6) INTEREST EARNED ON MONEY HELD IN THE ACCOUNT.

17 (B) SUBACCOUNT.--

18 (1) A SEPARATE SUBACCOUNT FOR SITE OPERATION AND
19 MAINTENANCE SHALL BE ESTABLISHED WITHIN THE ACCOUNT. IN
20 ADDITION TO FUNDS SPECIFICALLY APPROPRIATED BY THE GENERAL
21 ASSEMBLY FOR SITE OPERATION AND MAINTENANCE, THE FOLLOWING
22 SHALL BE DEPOSITED INTO AND CREDITED TO THE SUBACCOUNT:

23 (I) MONEY RECEIVED FROM RESPONSIBLE PARTIES FOR SITE
24 OPERATION AND MAINTENANCE.

25 (II) FUNDS RECEIVED FROM THE FEDERAL GOVERNMENT
26 UNDER THE FEDERAL ACT FOR SITE OPERATION AND MAINTENANCE.

27 (III) FUNDS RECEIVED FROM POLITICAL SUBDIVISIONS OR
28 FROM COMMONWEALTH AGENCIES FOR SITE OPERATION AND
29 MAINTENANCE.

30 (2) THE SUBACCOUNT SHALL BE ADMINISTERED BY THE

1 SECRETARY FOR RESPONSE ACTIONS AS SET FORTH IN SECTIONS 408-A
2 THROUGH 418-A, FOR ADMINISTRATION AND ENFORCEMENT OF THIS
3 ARTICLE, AND FOR ANY OTHER PURPOSE SPECIFICALLY AUTHORIZED BY
4 THIS ARTICLE.

5 (3) THE SUBACCOUNT SHALL BE ADMINISTERED BY THE
6 SECRETARY ONLY FOR RESPONSE ACTIONS THAT INVOLVE SITE
7 OPERATION AND MAINTENANCE.

8 (C) APPROPRIATION.--MONEY PLACED INTO THE ACCOUNT OR THE
9 SUBACCOUNT UNDER THIS SECTION IS MADE AVAILABLE IMMEDIATELY AND
10 ARE SPECIFICALLY APPROPRIATED TO THE DEPARTMENT TO ADMINISTER
11 THIS ARTICLE. IT IS THE INTENT OF THIS ARTICLE THAT THE ACCOUNT
12 AND SUBACCOUNT SHALL ACT AS REVOLVING FUNDS WHEREBY
13 APPROPRIATIONS, DEPOSITS AND PAYMENTS, AND INTEREST EARNED ARE
14 CONTINUOUSLY APPROPRIATED AND MAY BE APPLIED AND REAPPLIED FOR
15 THE PURPOSES OF THIS ARTICLE. MONEY IN THE ACCOUNT AND
16 SUBACCOUNT SHALL NOT LAPSE TO THE GENERAL FUND NOR BE
17 TRANSFERRED TO ANY OTHER FUND OR ACCOUNT IN THE STATE TREASURY.
18 SECTION 403-A. ANNUAL DISPOSAL REPORT.

19 (A) BY MARCH 1, 1987, AND BY MARCH 1 OF EACH YEAR
20 THEREAFTER, A PERSON WHO SUBMITTED FOR OFFSITE DISPOSAL OR WHO
21 DISPOSED OF ONSITE MORE THAN 500 POUNDS OF HAZARDOUS WASTE IN
22 THIS COMMONWEALTH DURING THE PRECEDING CALENDAR YEAR SHALL
23 REPORT TO THE DEPARTMENT THE TOTAL AMOUNT OF HAZARDOUS WASTE
24 WHICH THAT PERSON HAS SUBMITTED FOR DISPOSAL OR DISPOSED OF IN
25 THIS COMMONWEALTH DURING THE PRECEDING CALENDAR YEAR. THIS
26 SUBSECTION DOES NOT APPLY TO A PERSON WHO IS ALREADY PROVIDING
27 THIS INFORMATION TO THE DEPARTMENT.

28 (B) THE TOTAL AMOUNT OF HAZARDOUS WASTE REPORTED UNDER
29 SUBSECTION (A) SHALL BE THE TOTAL WEIGHT, MEASURED IN TONS, OF
30 ALL COMPONENTS OF THE WASTE IN THE FORM IN WHICH THE WASTE

1 EXISTED AT THE TIME OF SUBMISSION FOR DISPOSAL OR AT THE TIME OF
2 DISPOSAL.

3 (C) A PERSON WHO FAILS TO FILE THE REPORT REQUIRED BY THIS
4 SECTION SHALL BE LIABLE FOR A CIVIL PENALTY NOT TO EXCEED \$500
5 FOR EACH DAY THE VIOLATION CONTINUES. A PERSON WHO KNOWINGLY
6 FAILS TO FILE THE REPORT COMMITS A MISDEMEANOR OF THE THIRD
7 DEGREE AND SHALL, UPON CONVICTION, BE SENTENCED TO PAY A FINE OF
8 NOT MORE THAN \$25,000 OR TO IMPRISONMENT FOR NOT MORE THAN ONE
9 YEAR, OR BOTH.

10 SECTION 404-A. IMPOSITION OF ASSESSMENTS.

11 (A) AFTER DECEMBER 31, 1986, AN ASSESSMENT SHALL BE IMPOSED
12 UPON PERSONS ENGAGED IN THE GENERATION OF HAZARDOUS WASTE WITHIN
13 THIS COMMONWEALTH. THE ASSESSMENT SHALL BE DETERMINED AS
14 FOLLOWS:

15 (1) TWELVE DOLLARS PER TON OF HAZARDOUS WASTE GENERATED
16 AFTER DECEMBER 31, 1986, WHICH IS DISPOSED OF IN A LANDFILL.

17 (2) NINE DOLLARS PER TON OF HAZARDOUS WASTE GENERATED
18 AFTER DECEMBER 31, 1986, WHICH IS TREATED OR DISPOSED OF,
19 EXCLUSIVE OF DISPOSAL IN A LANDFILL, IN A FACILITY LOCATED
20 OFF THE SITE OF THE GENERATION OF THE WASTE.

21 (3) TWO DOLLARS PER TON OF HAZARDOUS WASTE GENERATED
22 AFTER DECEMBER 31, 1986, WHICH IS INCINERATED ON THE SITE
23 WHERE THE WASTE IS GENERATED BY THE PERSON WHO GENERATED THE
24 WASTE.

25 (B) AFTER DECEMBER 31, 1986, AN ASSESSMENT SHALL BE IMPOSED
26 UPON PERSONS HOLDING PERMITS FOR THE STORAGE, TREATMENT OR
27 DISPOSAL OF HAZARDOUS WASTE UNDER THIS ARTICLE. THE ASSESSMENT
28 SHALL BE DETERMINED AS FOLLOWS:

29 (1) TWELVE DOLLARS PER TON OF HAZARDOUS WASTE WHICH IS
30 DISPOSED OF IN A LANDFILL AFTER DECEMBER 31, 1986.

1 (2) NINE DOLLARS PER TON OF HAZARDOUS WASTE WHICH IS
2 TREATED OR DISPOSED OF, EXCLUSIVE OF DISPOSAL IN A LANDFILL
3 AFTER DECEMBER 31, 1986, IN A FACILITY LOCATED OFF THE SITE
4 WHERE THE WASTE IS GENERATED.

5 (3) NO ASSESSMENT UNDER THIS SUBSECTION SHALL BE IMPOSED
6 UPON DISPOSAL OF HAZARDOUS WASTE WHERE THE WASTE WAS
7 GENERATED BY PERSONS SUBJECT TO ASSESSMENT UNDER SUBSECTION
8 (A).

9 (C) NO PERSON SHALL BE REQUIRED TO PAY AN ASSESSMENT IN A
10 QUARTER IF THE AMOUNT DUE IS \$15 OR LESS PER QUARTER UNDER
11 SUBSECTION (E).

12 (D) GENERATORS OF HAZARDOUS WASTE WHO TREAT OR DISPOSE OF
13 HAZARDOUS WASTES ON THE SITE OF GENERATION AND WHO ARE SUBJECT
14 TO THE ASSESSMENTS IMPOSED UNDER THIS SECTION SHALL SUBMIT TO
15 THE DEPARTMENT, ON A FORM APPROVED BY THE DEPARTMENT, QUARTERLY
16 REPORTS DETAILING THE QUANTITIES OF HAZARDOUS WASTES GENERATED
17 AT THE SITE. THE REPORT SHALL BE SUBMITTED BY THE 20TH DAY OF
18 THE MONTH AFTER THE END OF EACH QUARTER. THE FIRST REPORT SHALL
19 BE SUBMITTED BY APRIL 20, 1987. THIS SUBSECTION DOES NOT APPLY
20 IF THE INFORMATION IS ALREADY BEING PROVIDED TO THE DEPARTMENT.

21 (E) THE ASSESSMENTS IMPOSED BY THIS SECTION SHALL BE
22 REPORTED AND PAID TO THE DEPARTMENT, ON A QUARTERLY BASIS, BY
23 THE 20TH DAY OF THE MONTH AFTER THE END OF EACH QUARTER. THE
24 PAYMENT SHALL BE ACCOMPANIED BY A RETURN IN A FORM PRESCRIBED BY
25 THE DEPARTMENT.

26 (F) FOLLOWING EACH QUARTERLY REPORTING DATE, THE SECRETARY
27 SHALL CERTIFY THE AMOUNT DEPOSITED IN THE ACCOUNT DURING THE
28 QUARTER AND THE CUMULATIVE AMOUNT COLLECTED SINCE THE START OF
29 THE CURRENT CALENDAR YEAR. IF THE SECRETARY CERTIFIES THAT THE
30 TOTAL ANNUAL AMOUNT COLLECTED AS OF THE END OF ANY QUARTER

EQUALS OR EXCEEDS \$10,000,000, NO ASSESSMENT SHALL BE COLLECTED FOR THE REMAINDER OF THE YEAR.

(G) PENALTIES ARE AS FOLLOWS:

(1) IF A GENERATOR OR PERSON SUBJECT TO ASSESSMENT BY THIS SECTION FAILS OR REFUSES TO FILE A RETURN OR TO FURNISH INFORMATION REQUESTED IN WRITING BY THE DEPARTMENT, THE DEPARTMENT MAY, FROM INFORMATION IN ITS POSSESSION, MAKE AN ESTIMATE AND ISSUE AN ASSESSMENT AGAINST THE GENERATOR OR PERSON AND MAY ADD A PENALTY OF 15% OF THE AMOUNT OF THE ASSESSMENT SO DETERMINED. THIS PENALTY SHALL BE IN ADDITION TO OTHER APPLICABLE PENALTIES.

(2) IF THE ASSESSMENT OR A PORTION OF THE ASSESSMENT IMPOSED BY THIS SECTION IS NOT PAID BY THE DATE PRESCRIBED FOR ITS PAYMENT, THERE SHALL BE COLLECTED, AS PART OF THE ASSESSMENT, INTEREST UPON THE UNPAID AMOUNT AT THE RATE OF 10% A YEAR FROM THE DATE PRESCRIBED FOR ITS PAYMENT UNTIL PAYMENT IS ACTUALLY MADE TO THE DEPARTMENT.

(H) THIS SECTION DOES NOT APPLY TO THE COMMONWEALTH OR ITS POLITICAL SUBDIVISIONS.

(I) FOR THE PURPOSES OF THIS SECTION, GENERATION OF HAZARDOUS WASTE DOES NOT INCLUDE RETRIEVAL OR CREATION OF HAZARDOUS WASTE WHICH MUST BE DISPOSED OF DUE TO REMEDIATION OF AN INACTIVE DISPOSAL SITE. NO ASSESSMENT SHALL BE IMPOSED UNDER THIS SECTION ON THE RESOURCE RECOVERY OF HAZARDOUS WASTE, INCLUDING APPROVED BOILER-WASTE FUEL-BURNING OPERATIONS. SECTION 405-A. REMOVAL OR REMEDY OF RELEASE OF HAZARDOUS WASTE.

(A) SECTIONS 403-A AND 404-A DO NOT APPLY TO THE COMMONWEALTH OR A POLITICAL SUBDIVISION OR A CONTRACTOR OF EITHER WHICH REMOVES OR REMEDIES A RELEASE, BY ANOTHER PERSON, OF HAZARDOUS WASTE. THIS SUBSECTION APPLIES TO ACTS PERFORMED

1 AFTER DECEMBER 31, 1986.

2 (B) THE PERSON RESPONSIBLE FOR A RELEASE OF HAZARDOUS WASTE
3 WHICH HAS BEEN REMOVED OR REMEDIED BY THE COMMONWEALTH OR A
4 POLITICAL SUBDIVISION OR A CONTRACTOR OF EITHER SHALL SUBMIT TO
5 THE DEPARTMENT THE INFORMATION REQUIRED BY SECTION 403-A FOR THE
6 HAZARDOUS WASTE WHICH WAS RELEASED AND SHALL PAY THE ASSESSMENT
7 PROVIDED IN SECTION 404-A.

8 SECTION 406-A. VOLUNTARY HAZARDOUS WASTE COLLECTION PROGRAM.

9 THE REPORTING REQUIREMENTS OF SECTION 403-A AND THE
10 ASSESSMENT IMPOSED BY SECTION 404-A DO NOT APPLY TO HAZARDOUS
11 WASTES COLLECTED BY DESIGNATED COUNTY OFFICIALS WHICH RESULT
12 FROM VOLUNTARY HAZARDOUS WASTE COLLECTION PROGRAMS IF THE TOTAL
13 QUANTITIES COLLECTED ARE LIMITED TO 1,000 KILOGRAMS OR LESS PER
14 MONTH FROM ALL SOURCES. FOR THE PURPOSES OF THIS SECTION,
15 "VOLUNTARY HAZARDOUS WASTE COLLECTION PROGRAM" MEANS A PROGRAM
16 IN WHICH SMALL QUANTITIES OF HAZARDOUS WASTES ARE RECEIVED FROM
17 NONINDUSTRIAL SOURCES, STORED AND ULTIMATELY TRANSFERRED TO A
18 LICENSED HAZARDOUS WASTE DISPOSAL SITE.

19 SECTION 407-A. DEPOSIT IN ACCOUNT.

20 MONEY COLLECTED OR RECEIVED BY THE DEPARTMENT UNDER SECTIONS
21 403-A THROUGH 406-A SHALL BE DEPOSITED IN THE ACCOUNT.

22 SECTION 408-A. QUALIFICATION.

23 (A) FOR RESPONSE ACTIONS TAKEN UNDER THE FEDERAL ACT, ONLY
24 THOSE COSTS FOR ACTIONS WHICH ARE CONSISTENT WITH THE
25 PRIORITIES, GUIDELINES, CRITERIA AND REGULATIONS CONTAINED IN
26 THE NATIONAL CONTINGENCY PLAN, AS REVISED AND REPUBLISHED, UNDER
27 SECTIONS 105 OF THE FEDERAL ACT (42 U.S.C. § 9605), SHALL
28 QUALIFY FOR EXPENDITURE BY THE SECRETARY UNDER SECTIONS 409-A
29 AND 411-A.

30 (B) FOR RESPONSE ACTIONS NOT TAKEN UNDER THE FEDERAL ACT OR

FOR RESPONSE ACTIONS TAKEN WHICH ARE NOT SPECIFICALLY ADDRESSED
BY THE PRIORITIES, GUIDELINES, CRITERIA AND REGULATIONS
CONTAINED IN THE NATIONAL CONTINGENCY PLAN THE COSTS SHALL ALSO
QUALIFY FOR EXPENDITURE BY THE SECRETARY UNDER SECTIONS 409-A
AND 411-A IF THEY ARE, TO THE MAXIMUM EXTENT POSSIBLE,
CONSISTENT WITH THE PRIORITIES, GUIDELINES, CRITERIA AND
REGULATIONS CONTAINED IN THE NATIONAL CONTINGENCY PLAN FOR
SIMILAR RELEASES, SITUATIONS OR EVENTS.

(C) RESPONSE ACTIONS TAKEN UNDER THIS ARTICLE BY THE
DEPARTMENT, REGIONAL AGENCIES OR AGENCIES OF POLITICAL
SUBDIVISIONS MAY NOT DUPLICATE FEDERAL RESPONSE ACTIONS.
SECTION 409-A. ADMINISTRATIVE COSTS AND EXPENSES.

(A) CONSISTENT WITH THE REQUIREMENTS OF SECTION 114(C) OF
THE FEDERAL ACT (42 U.S.C. § 9614(C)), MONEY IN THE ACCOUNT MAY
BE EXPENDED BY THE SECRETARY FOR THE FOLLOWING PURPOSES:

(1) THE COSTS AND EXPENSES REASONABLY NECESSARY FOR AND
INCIDENTAL TO THE ADMINISTRATION OF THIS ARTICLE BY THE
DEPARTMENT.

(2) THE STATE SHARE MANDATED UNDER SECTION 104(C)(3) OF
THE FEDERAL ACT (42 U.S.C. § 9604(C)(3)).

(3) THE PURCHASE BY THE COMMONWEALTH OR A POLITICAL
SUBDIVISION, WITH THE APPROVAL OF THE SECRETARY, OF HAZARDOUS
SUBSTANCE RESPONSE EQUIPMENT AND OTHER PREPARATIONS FOR
RESPONSE TO A RELEASE OF HAZARDOUS SUBSTANCES. EQUIPMENT
SHALL BE PURCHASED IN A COST-EFFECTIVE MANNER, AFTER
CONSIDERATION OF THE ADEQUACY OF EXISTING EQUIPMENT OWNED BY
THE COMMONWEALTH OR THE POLITICAL SUBDIVISION AND OF THE
AVAILABILITY OF EQUIPMENT OWNED BY PRIVATE CONTRACTORS.

(4) THE COST OF REMOVAL AND REMEDIAL ACTION INCURRED BY
THE COMMONWEALTH OR A POLITICAL SUBDIVISION, WITH THE

1 APPROVAL OF THE SECRETARY, IN RESPONSE TO A RELEASE OR A
2 THREATENED RELEASE OF A HAZARDOUS SUBSTANCE, TO THE EXTENT
3 THE COSTS ARE NOT REIMBURSED BY THE FEDERAL ACT.

4 (5) THE COST OF ACTIONS TAKEN UNDER SECTION 417-A(B), TO
5 THE EXTENT THAT THESE COSTS ARE NOT PAID BY THE FEDERAL ACT.

6 (6) COST INCURRED IN COOPERATION WITH THE AGENCY FOR
7 TOXIC SUBSTANCES AND DISEASE REGISTRY, ESTABLISHED UNDER
8 SECTION 104(I) OF THE FEDERAL ACT (42 U.S.C. § 9604(I)), AND
9 COSTS OF HEALTH EFFECT STUDIES UNDERTAKEN REGARDING SPECIFIC
10 SITES OR SPECIFIC SUBSTANCES AT SPECIFIC SITES. FUNDS
11 APPROPRIATED FOR THIS PURPOSE MAY NOT EXCEED \$500,000 IN A
12 FISCAL YEAR. THESE ACTIONS MAY NOT DUPLICATE REASONABLY
13 AVAILABLE FEDERAL ACTIONS AND STUDIES.

14 (B) THE SECRETARY SHALL EXPEND FEDERAL FUNDS WHICH HAVE BEEN
15 APPROPRIATED TO THE ACCOUNT CONSISTENT WITH THE REQUIREMENTS
16 SPECIFIED IN SECTION 114 OF THE FEDERAL ACT (42 U.S.C. § 9614)
17 AND FOR THE PURPOSES FOR WHICH THE FUNDS WERE PROVIDED TO THE
18 COMMONWEALTH.

19 SECTION 410-A. APPROPRIATION ON SPECIFIC SITE BASIS.

20 APPROPRIATIONS MADE BY THE GENERAL ASSEMBLY TO THE ACCOUNT
21 MAY BE MADE ON A SPECIFIC SITE BASIS. THESE FUNDS SHALL BE
22 EXPENDED ONLY FOR COSTS INCURRED IN RESTORING, REHABILITATING,
23 REPLACING OR ACQUIRING THE EQUIVALENT OF A NATURAL RESOURCE
24 INJURED, DEGRADED, DESTROYED OR LOST AS A RESULT OF A RELEASE OF
25 A HAZARDOUS SUBSTANCE AT A SPECIFIC SITE, TO THE EXTENT THAT THE
26 COSTS ARE NOT REIMBURSED UNDER THE FEDERAL ACT AND TAKING INTO
27 ACCOUNT PROCESSES OF NATURAL REHABILITATION, RESTORATION AND
28 REPLACEMENT.

29 SECTION 411-A. REMOVAL OR REMEDIAL ACTION.

30 (A) THE SECRETARY IS AUTHORIZED TO COORDINATE COMMONWEALTH

1 RESPONSE ACTIONS FOR SITES IDENTIFIED IN SECTION 412-A IN ORDER
2 TO ASSURE THE MAXIMUM USE OF AVAILABLE FEDERAL FUNDS.

3 (B) THE SECRETARY MAY INITIATE REMOVAL OR REMEDIAL ACTION
4 UNDER THIS ARTICLE UNLESS THESE ACTIONS HAVE BEEN TAKEN OR ARE
5 BEING TAKEN PROPERLY AND IN A TIMELY FASHION BY A RESPONSIBLE
6 PARTY.

7 (C) AT LEAST 30 DAYS BEFORE INITIATING REMOVAL OR REMEDIAL
8 ACTIONS, THE DEPARTMENT SHALL MAKE A REASONABLE EFFORT TO NOTIFY
9 THE PERSONS IDENTIFIED BY THE DEPARTMENT AS POTENTIALLY
10 RESPONSIBLE PARTIES AND SHALL PUBLISH NOTICE OF THIS ACTION IN A
11 NEWSPAPER OF GENERAL CIRCULATION IN THE AFFECTED AREA. NOTICE
12 SHALL BE BY REGISTERED OR CERTIFIED MAIL TO THE LAST KNOWN
13 ADDRESS OF THE PERSON IDENTIFIED BY THE DEPARTMENT. THIS
14 SUBSECTION DOES NOT APPLY TO ACTIONS TAKEN UNDER SECTION 416-
15 A(B). A RESPONSIBLE PARTY MAY BE HELD LIABLE UNDER THIS ARTICLE
16 WHETHER OR NOT THE RESPONSIBLE PARTY RECEIVED THE NOTICE
17 SPECIFIED IN THIS SUBSECTION.

18 SECTION 412-A. CRITERIA FOR SELECTION AND PRIORITY RANKING.

19 (A) BY JANUARY 1, 1987, THE DEPARTMENT SHALL PROMULGATE
20 REGULATIONS SETTING FORTH THE CRITERIA FOR THE SELECTION AND
21 PRIORITY RANKING OF SITES FOR REMEDIAL ACTION UNDER THIS
22 ARTICLE. THEY SHALL TAKE INTO ACCOUNT THE PERTINENT FACTORS
23 RELATING TO THE PUBLIC HEALTH AND THE ENVIRONMENT, WHICH SHALL
24 INCLUDE, BUT NOT BE LIMITED TO, POTENTIAL HAZARDS TO PUBLIC
25 HEALTH AND ENVIRONMENT, THE RISK OF FIRE OR EXPLOSION, TOXIC
26 HAZARDS, AND THE CRITERIA ESTABLISHED UNDER SECTION 105(8) OF
27 THE FEDERAL ACT (42 U.S.C. § 9605(8)).

28 (B) THE DEPARTMENT SHALL PREPARE AND REVISE, AT LEAST
29 ANNUALLY, A LIST OF THE PRIORITY RANKING OF SITES. THE LIST
30 SHALL BE TRANSMITTED TO THE GENERAL ASSEMBLY BY JANUARY 1 OF

1 EACH YEAR, EXCEPT THAT, FOR 1987, THE LIST SHALL BE SUBMITTED AS
2 SOON AS POSSIBLE BEFORE JANUARY 1, 1988. THE LIST SHALL BE
3 PUBLISHED AS A NOTICE IN THE PENNSYLVANIA BULLETIN. THE
4 DEPARTMENT SHALL BEAR THE COST OF PUBLICATION UNDER SECTION 409-
5 A(A)(1). THE DEVELOPMENT OF THE PRIORITY RANKING OF SITES SHALL
6 BE SUBJECT TO THE REGULATIONS PROMULGATED UNDER SUBSECTION (A).

7 (C) CONSISTENT WITH THE PROVISIONS OF THIS ARTICLE, MONEY IN
8 THE ACCOUNT SHALL BE EXPENDED IN CONFORMANCE WITH THE PRIORITY
9 RANKING OF SITES. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO
10 PROHIBIT THE EXPENDITURE OF FUNDS ON MORE THAN ONE SITE ON THE
11 LIST AT ONE TIME.

12 SECTION 413-A. REPORT TO GENERAL ASSEMBLY.

13 BY MARCH 1 OF EACH YEAR, THE DEPARTMENT SHALL SUBMIT A REPORT
14 TO THE GENERAL ASSEMBLY WHICH SHALL CONTAIN ALL OF THE FOLLOWING
15 INFORMATION:

16 (1) THE ACTUAL FUNDS EXPENDED FOR EACH SITE LISTED
17 DURING THE PRECEDING FISCAL YEAR UNDER SECTION 412-A.

18 (2) THE COMMONWEALTH'S EFFORTS TO OBTAIN AVAILABLE
19 FEDERAL FUNDS FOR THE PURPOSES OF THIS ARTICLE.

20 (3) AN ACCOUNTING OF FEDERAL FUNDS WHICH HAVE BEEN
21 OBTAINED BY OR COMMITTED TO THE COMMONWEALTH.

22 (4) THE COMMONWEALTH'S EFFORTS TO OBTAIN CONTRIBUTIONS
23 FOR REMOVAL OR REMEDIAL ACTIONS FROM POTENTIALLY RESPONSIBLE
24 PARTIES.

25 SECTION 414-A. FEDERAL FUNDS; COOPERATIVE AGREEMENTS.

26 THE COMMONWEALTH SHALL ACTIVELY SEEK TO OBTAIN FEDERAL FUNDS
27 TO WHICH IT IS ENTITLED UNDER THE FEDERAL ACT AND SHALL TAKE
28 ACTIONS NECESSARY TO ENTER INTO CONTRACTUAL OR COOPERATIVE
29 AGREEMENTS UNDER SECTIONS 104(C)(3) AND (D)(1) OF THE FEDERAL
30 ACT (42 U.S.C. § 9604(C)(3) AND (D)(1)).

1 SECTION 415-A. TRADE SECRETS.

2 (A) PROTECTION.--THE DEPARTMENT MAY NOT DISCLOSE TRADE
3 SECRETS RECEIVED BY IT UNDER THIS ARTICLE, EXCEPT TO AUTHORIZED
4 REPRESENTATIVES, CONTRACTORS, OR OTHER GOVERNMENT AGENCIES IN
5 CONNECTION WITH THE DEPARTMENT'S RESPONSIBILITIES UNDER THIS
6 ARTICLE. THE DEPARTMENT MAY ALSO MAKE AVAILABLE TO THE UNITED
7 STATES ENVIRONMENTAL PROTECTION AGENCY INFORMATION REQUIRED BY
8 LAW TO BE FURNISHED TO THAT AGENCY. THE SHARING OF INFORMATION
9 BETWEEN THE DEPARTMENT AND THE UNITED STATES ENVIRONMENTAL
10 PROTECTION AGENCY UNDER THIS SUBSECTION SHALL NOT CONSTITUTE A
11 WAIVER BY THE DEPARTMENT OR AN AFFECTED PERSON OF A PRIVILEGE OF
12 CONFIDENTIALITY PROVIDED BY LAW WHICH PERTAINS TO THE
13 INFORMATION. THE DEPARTMENT SHALL, BY REGULATION, ESTABLISH
14 PROCEDURES TO ENSURE THAT TRADE SECRETS ARE UTILIZED ONLY IN
15 CONNECTION WITH THESE RESPONSIBILITIES AND ARE NOT OTHERWISE
16 DISSEMINATED WITHOUT THE CONSENT OF THE PERSON WHO PROVIDED THE
17 INFORMATION TO THE DEPARTMENT.

18 (B) PROCEDURE.--

19 (1) WHEN SUBMITTING INFORMATION REQUIRED BY THIS
20 ARTICLE, A PERSON SHALL IDENTIFY THE INFORMATION THAT THE
21 PERSON BELIEVES IS ENTITLED TO PROTECTION AS A TRADE SECRET
22 AND SHALL SUBMIT THE INFORMATION IDENTIFIED AS A TRADE SECRET
23 SEPARATELY FROM OTHER INFORMATION SUBMITTED UNDER THIS
24 ARTICLE, IN ACCORDANCE WITH PROCEDURES PRESCRIBED BY THE
25 DEPARTMENT IN REGULATIONS UNDER SUBSECTION (A). INFORMATION
26 NOT IDENTIFIED AS A TRADE SECRET SHALL BE MADE AVAILABLE TO
27 THE PUBLIC UNLESS PROHIBITED FROM DISCLOSURE BY OTHER
28 PROVISIONS OF LAW.

29 (2) A PERSON MAY REQUEST A REVIEW OF A TRADE SECRET
30 CLAIM. A REVIEW OF A TRADE SECRET CLAIM SHALL BE MADE IN THE

1 SAME MANNER AS A REVIEW OF A TRADE SECRET CLAIM UNDER SECTION
2 11 OF THE ACT OF OCTOBER 5, 1984 (P.L.734, NO.159), KNOWN AS
3 THE WORKER AND COMMUNITY RIGHT-TO-KNOW ACT.

4 (C) PENALTY.--A PERSON WHO INTENTIONALLY AND KNOWINGLY
5 DISCLOSES TRADE SECRETS, EXCEPT IN ACCORDANCE WITH THE
6 PROVISIONS OF THIS SECTION, COMMITS A MISDEMEANOR OF THE THIRD
7 DEGREE, AND SHALL, UPON CONVICTION, BE SENTENCED TO PAY A FINE
8 OF NOT MORE THAN \$5,000, OR TO IMPRISONMENT FOR NOT MORE THAN
9 ONE YEAR, OR BOTH.

10 SECTION 416-A. EMERGENCIES.

11 (A) WHENEVER THE SECRETARY DETERMINES THAT THERE MAY BE AN
12 IMMINENT OR SUBSTANTIAL ENDANGERMENT TO THE PUBLIC HEALTH OR
13 WELFARE OR TO THE ENVIRONMENT BECAUSE OF A RELEASE OR A
14 THREATENED RELEASE OF A HAZARDOUS SUBSTANCE, THE SECRETARY MAY
15 TAKE THE FOLLOWING ACTIONS:

16 (1) ORDER RESPONSIBLE PARTIES TO TAKE APPROPRIATE
17 REMOVAL OR REMEDIAL ACTION NECESSARY TO PROTECT THE PUBLIC
18 HEALTH AND SAFETY AND THE ENVIRONMENT. NO ORDER UNDER THIS
19 PARAGRAPH MAY BE MADE TO AN OWNER OF REAL PROPERTY SOLELY ON
20 THE BASIS OF THAT OWNERSHIP.

21 (2) TAKE OR CONTRACT FOR NECESSARY REMOVAL OR REMEDIAL
22 ACTION.

23 (3) REQUEST THE ATTORNEY GENERAL TO SECURE RELIEF
24 NECESSARY TO ABATE THE DANGER OR THREAT. COMMONWEALTH COURT
25 SHALL HAVE JURISDICTION TO GRANT SUCH RELIEF AS THE PUBLIC
26 INTEREST AND EQUITIES OF THE CASE MAY REQUIRE.

27 (B) RELEASE OF SUBSTANCES.--WHEN THE SECRETARY DETERMINES
28 THAT A RELEASE OF A HAZARDOUS SUBSTANCE HAS OCCURRED OR IS ABOUT
29 TO OCCUR, THE SECRETARY MAY TAKE THE FOLLOWING ACTIONS, IN
30 ADDITION TO OTHER ACTIONS WHICH MAY BE AUTHORIZED BY THIS

1 ARTICLE:

2 (1) UNDERTAKE INVESTIGATIONS, MONITORING, SURVEYS,
3 TESTING AND OTHER INFORMATION GATHERING NECESSARY TO IDENTIFY
4 THE EXISTENCE, SOURCE, NATURE AND EXTENT TO THE HAZARDOUS
5 SUBSTANCES INVOLVED AND THE EXTENT OF DANGER TO THE PUBLIC
6 HEALTH OR ENVIRONMENT.

7 (2) UNDERTAKE PLANNING AND LEGAL, FISCAL, ECONOMIC,
8 ENGINEERING, ARCHITECTURAL AND OTHER STUDIES OR
9 INVESTIGATIONS NECESSARY OR APPROPRIATE TO PLAN AND DIRECT
10 RESPONSE ACTIONS, TO RECOVER THE COSTS OF THOSE ACTIONS, AND
11 TO ENFORCE THIS ARTICLE.

12 (C) WHEN THERE IS A RELEASE OR THREATENED RELEASE OF A
13 HAZARDOUS SUBSTANCE INTO THE ENVIRONMENT, THE SECRETARY MAY TAKE
14 NECESSARY REMOVAL OR REMEDIAL ACTION IN ACCORDANCE WITH THIS
15 ARTICLE.

16 SECTION 417-A. BIDDING FOR REMEDIAL OR REMOVAL ACTIONS.

17 (A) THE DEPARTMENT MAY PREQUALIFY BIDDERS FOR REMEDIAL OR
18 REMOVAL ACTIONS TAKEN UNDER SECTION 416-A. THE DEPARTMENT MAY
19 REJECT THE BID OF A PROSPECTIVE BIDDER THAT HAS NOT BEEN
20 PREQUALIFIED.

21 (B) TO PREQUALIFY BIDDERS, THE DEPARTMENT SHALL ADOPT, BY
22 REGULATION, AND APPLY A UNIFORM SYSTEM OF RATING BIDDERS. IN
23 ORDER TO OBTAIN INFORMATION FOR RATING, THE DEPARTMENT MAY
24 REQUIRE FROM PROSPECTIVE BIDDERS ANSWERS TO QUESTIONS,
25 INCLUDING, BUT NOT LIMITED TO, QUESTIONS ABOUT THE BIDDER'S
26 FINANCIAL ABILITY; THE BIDDER'S EXPERIENCE IN REMOVAL AND
27 REMEDIAL ACTION INVOLVING HAZARDOUS SUBSTANCES; THE BIDDER'S
28 PAST SAFETY RECORD; AND THE BIDDER'S PAST PERFORMANCE ON
29 FEDERAL, STATE OR LOCAL GOVERNMENT PROJECTS. THE DEPARTMENT MAY
30 ALSO REQUIRE PROSPECTIVE BIDDERS TO SUBMIT FINANCIAL STATEMENTS.

1 (C) THE DEPARTMENT SHALL UTILIZE THE BUSINESS FINANCIAL DATA
2 AND INFORMATION SUBMITTED BY A BIDDER UNDER THIS SECTION ONLY
3 FOR THE PURPOSES OF PREQUALIFYING BIDDERS AND SHALL NOT
4 OTHERWISE DISCLOSE THIS DATA OR INFORMATION.

5 SECTION 418-A. PUBLIC PARTICIPATION.

6 (A) UPON WRITTEN REQUEST BY A PERSON AFFECTED BY A RESPONSE
7 ACTION TAKEN UNDER THIS ARTICLE, THE DEPARTMENT SHALL HOLD A
8 PUBLIC MEETING IN THE VICINITY OF THE LOCATION OF THE RELEASE OR
9 THREATENED RELEASE. NOTICE OF THE MEETING SHALL BE GIVEN IN
10 ACCORDANCE WITH THE ACT OF JULY 19, 1974 (P.L.486, NO.175),
11 REFERRED TO AS THE PUBLIC AGENCY OPEN MEETING LAW. AT THE PUBLIC
12 MEETING, THE DEPARTMENT SHALL MAKE AVAILABLE ALL INFORMATION IN
13 ITS POSSESSION WHICH RELATES TO THE RELEASE OR THREATENED
14 RELEASE AND THE RESPONSE ACTION EXCEPT FOR THAT INFORMATION
15 WHICH IS PROTECTED FROM DISCLOSURE BY THIS ARTICLE OR BY STATE
16 OR FEDERAL LAW. THE DEPARTMENT SHALL PERMIT A PERSON, UPON
17 REQUEST, TO TESTIFY AND TO PRESENT EVIDENCE RELATIVE TO THE
18 RELEASE OR THREATENED RELEASE AND THE RESPONSE ACTION.

19 (B) THE DEPARTMENT SHALL DEVELOP AND MAKE AVAILABLE TO THE
20 PUBLIC A SCHEDULE OF ACTIVITIES FOR EACH SITE FOR WHICH REMEDIAL
21 ACTION IS EXPECTED TO BE TAKEN BY THE DEPARTMENT UNDER THIS
22 ARTICLE AND SHALL MAKE AVAILABLE TO THE PUBLIC A PLAN PROVIDED
23 TO THE DEPARTMENT BY A RESPONSIBLE PARTY UNLESS THE DEPARTMENT
24 IS PROHIBITED FROM RELEASING INFORMATION BY STATE OR FEDERAL
25 LAW.

26 SECTION 419-A. LIABILITY.

27 (A) A PERSON WHO RELEASES OR THREATENS TO RELEASE A
28 HAZARDOUS SUBSTANCE INTO THE ENVIRONMENT SHALL BE LIABLE TO THE
29 DEPARTMENT FOR COSTS INCURRED BY IT IN TAKING A RESPONSE ACTION
30 RELATED TO THE RELEASE OR THREATENED RELEASE. THE DEPARTMENT MAY

1 RECOVER COSTS IN AN ACTION IN EQUITY BROUGHT BEFORE COMMONWEALTH
2 COURT. THE DEPARTMENT MAY ALSO RECOVER AN ADMINISTRATIVE COST
3 EQUAL TO 10% OF THE COSTS INCURRED IN TAKING THE RESPONSE ACTION
4 OR \$500, WHICHEVER IS GREATER.

5 (B) A PARTY FOUND LIABLE FOR COSTS INCURRED IN TAKING A
6 RESPONSE ACTION WHO ESTABLISHES BY A PREPONDERANCE OF THE
7 EVIDENCE THAT ONLY A PORTION OF THE COSTS ARE ATTRIBUTABLE TO
8 THE PARTY'S ACTIONS SHALL BE LIABLE FOR THAT PORTION OF THE
9 COSTS.

10 (C) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO DEPRIVE A
11 PARTY OF A DEFENSE AVAILABLE IN EQUITY.

12 SECTION 420-A. PUNITIVE DAMAGES.

13 (A) A PERSON WHO RELEASES OR THREATENS TO RELEASE A
14 HAZARDOUS SUBSTANCE AND WHO FAILS TO PROVIDE APPROPRIATE REMOVAL
15 OR REMEDIAL ACTION IN ACCORDANCE WITH AN ORDER OF THE SECRETARY
16 OR OF COMMONWEALTH COURT ISSUED UNDER SECTION 416-A SHALL BE
17 LIABLE TO THE DEPARTMENT FOR PUNITIVE DAMAGES IN AN AMOUNT EQUAL
18 TO THREE TIMES THE AMOUNT OF COSTS INCURRED BY THE DEPARTMENT AS
19 A RESULT OF THE FAILURE OF THE PERSON TO PROPERLY CARRY OUT THE
20 ORDER. THE DEPARTMENT MAY RECOVER PUNITIVE DAMAGES IN AN ACTION
21 BROUGHT BEFORE COMMONWEALTH COURT.

22 (B) THERE SHALL BE NO RECOVERY OF PUNITIVE DAMAGES UNDER
23 THIS SECTION FOR INJURY TO NATURAL RESOURCES WHICH OCCURRED
24 WHOLLY BEFORE JANUARY 1, 1987. THIS SECTION SHALL NOT BE
25 CONSTRUED AS PRECLUDING THE RECOVERY OF PUNITIVE DAMAGES FOR
26 INJURY TO OR LOSS OF NATURAL RESOURCES IN AN ACTION BROUGHT
27 PURSUANT TO ANY OTHER PROVISION OF LAW.

28 SECTION 421-A. EXCULPATORY INSTRUMENTS.

29 NO INDEMNIFICATION, HOLD-HARMLESS, OR SIMILAR AGREEMENT OR
30 CONVEYANCE SHALL BE EFFECTIVE TO TRANSFER LIABILITY FOR COSTS OR

DAMAGES RECOVERABLE UNDER THIS ARTICLE. THIS SECTION DOES NOT
BAR AN AGREEMENT TO INSURE, HOLD HARMLESS OR INDEMNIFY A PARTY
FOR LIABILITY UNDER THIS ARTICLE.

SECTION 422-A. COLLATERAL ESTOPPEL.

THE ENTRY OF A JUDGMENT AGAINST A PARTY TO AN ACTION TO
RECOVER COSTS SHALL NOT BE DEEMED TO BAR A FUTURE ACTION BY THE
DEPARTMENT AGAINST ANY OTHER PERSON FOR COSTS INCURRED RELATING
TO THE SAME RESPONSE ACTION IF THE ORIGINAL PARTY WAS FOUND
LIABLE FOR ONLY A PORTION OF THE COSTS INCURRED UNDER SECTION
419-A(B).

SECTION 423-A. CONSTRUCTION OF ARTICLE.

(A) THIS ARTICLE SHALL NOT BE CONSTRUED TO IMPOSE ANY NEW
LIABILITY ASSOCIATED WITH ACTS THAT OCCURRED ON OR BEFORE
JANUARY 1, 1987, IF THOSE ACTS WERE NOT IN VIOLATION OF EXISTING
STATE AND FEDERAL LAWS OR REGULATIONS AT THE TIME THE ACTS
OCCURRED.

(B) NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO AUTHORIZE
RECOVERY FOR COSTS INCURRED OR DAMAGES FOR A RELEASE AUTHORIZED
PURSUANT TO LAW.

(C) EXCEPT AS PROVIDED IN SECTION 419-A, NOTHING IN THIS
ARTICLE SHALL AFFECT OR MODIFY THE OBLIGATIONS OR LIABILITY OF A
PERSON UNDER ANY OTHER PROVISION OF STATE OR FEDERAL LAW, FOR
DAMAGES, INJURY OR LOSS RESULTING FROM A RELEASE OR FROM REMOVAL
OR REMEDIAL ACTION OR FOR THE COSTS OF REMOVAL OR REMEDIAL
ACTION OF HAZARDOUS SUBSTANCES.

SECTION 424-A. CIVIL PENALTY.

A PERSON WHO INTENTIONALLY MAKES A FALSE STATEMENT OR
REPRESENTATION IN A REPORT OR INFORMATION FURNISHED TO THE
DEPARTMENT OR WHO INTENTIONALLY FAILS TO PROVIDE ANY INFORMATION
REQUESTED PURSUANT TO REGULATIONS PROMULGATED UNDER THIS ARTICLE

1 SHALL BE LIABLE FOR A CIVIL PENALTY NOT TO EXCEED \$25,000 FOR
2 EACH SEPARATE VIOLATION, OR FOR EACH DAY DURING WHICH THE
3 VIOLATION CONTINUES.

4 SECTION 425-A. DEPOSIT OF MONEY IN ACCOUNT.

5 MONEY RECOVERED UNDER SECTIONS 419-A THROUGH 424-A SHALL BE
6 DEPOSITED IN THE ACCOUNT.

7 SECTION 426-A. REGULATIONS.

8 THE DEPARTMENT MAY PROMULGATE REGULATIONS FOR THE
9 ADMINISTRATION AND ENFORCEMENT OF THIS ARTICLE.

10 Section ~~2~~ 4. Section 502(b) of the act is amended to read: <—

11 Section 502. Permit and license application requirements.

12 * * *

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

30 * * *

1 Section 3 5. Section 503 of the act is amended by adding a <—
2 subsection to read:

3 Section 503. Granting, denying, renewing, modifying, revoking
4 and suspending permits and licenses.

5 * * *

6 (f) Every permit or license and any modification or renewal
7 thereof shall be issued and the continued use of any existing
8 permit or license shall be upon the condition that the permittee
9 or licensee complies with the provisions of section 608 of this
10 act. Failure to comply with such provisions shall subject the
11 permit or license to revocation or suspension.

12 Section 4 6. Section 504 of the act is amended to read: <—
13 Section 504. Approval by governing body.

14 (a) Applications for a permit shall be reviewed by the
15 appropriate county, county planning agency or county health
16 department where they exist and the host municipality, and they
17 may recommend to the department conditions upon, revisions to,
18 or disapproval of the permit only if specific cause is
19 identified. In such case the department shall be required to
20 publish in the Pennsylvania Bulletin its justification for
21 overriding the county's recommendations. If the department does
22 not receive comments within 60 days, the county shall be deemed
23 to have waived its right to review.

24 (b) The host municipality, in which a proposed storage,
25 treatment or disposal site of hazardous waste is to be located,
26 shall have the authority to object to the issuance of a permit
27 or license for the storage, treatment or disposal of hazardous
28 waste. The governing body of such a municipality shall arrive at
29 its decision, within 90 days, in an open public meeting and
30 after holding at least one public hearing on the subject. Upon

1 objection by the governing body, the municipality shall
2 immediately notify the department. The department shall have 30
3 days to reply to the host municipality's objections. During this
4 30-day period the department must hold at least one public
5 hearing in the host municipality to take testimony on the
6 advisability of issuing a permit. If at the end of this 30-day
7 period the department has determined to issue the permit, there
8 shall be an additional 30-day period in which the applicant, the
9 host municipality and the department may negotiate for an
10 agreement. Such agreement may provide for reasonable fees and
11 compensation to be paid by the applicant to the municipality for
12 reasonable measures to protect the public health and safety, the
13 environment and the economy of the host municipality. Such an
14 agreement may also provide for reasonable payments to
15 individuals residing in the host municipality for reduced
16 property values and other costs and damages an individual may
17 incur as a result of the siting of a hazardous waste facility in
18 the municipality.

19 (c) In the event that the department is unable to overcome
20 the objections of the host municipality within the second 30-day
21 time period, the court of common pleas shall appoint an
22 arbitrator who shall meet with the host municipality, the
23 applicant and the department. The parties shall have 60 days to
24 reach an agreement. If no agreement is reached at the end of 60
25 days, the decision of the arbitrator shall take effect. The
26 decision of the arbitrator may be appealed to the court of
27 common pleas by the host municipality, the applicant or the
28 department within 30 days of the date of the decision of the
29 arbitrator.

30 (d) The host municipality may by ordinance create zoning

rules, require permits for and create environmental rules and
regulations equal to or more stringent than the Commonwealth's
on the siting and operation of a hazardous waste site FACILITY,
PROVIDED THAT SUCH ORDINANCES DO NOT PRECLUDE OR PROHIBIT THE
SITING OR CONTINUED OPERATION OF HAZARDOUS WASTE FACILITIES.

SECTION 7. SECTION 507 OF THE ACT IS AMENDED BY ADDING A
SUBSECTION TO READ:

SECTION 507. SITING OF HAZARDOUS WASTE TREATMENT AND DISPOSAL
FACILITIES.

* * *

(H) NOTWITHSTANDING ANY REVIEWS CONDUCTED PURSUANT TO THIS
ACT, THE DEPARTMENT SHALL NOT ISSUE ANY PERMIT FOR, OR ALLOW THE
OPERATION OF, ANY HAZARDOUS WASTE TREATMENT FACILITY OR
HAZARDOUS WASTE DISPOSAL FACILITY WITHIN TWO MILES OF ANY PUBLIC
FACILITY OR BUILDING WHICH IS OWNED BY A SCHOOL DISTRICT OR A
PRIVATE OR PAROCHIAL SCHOOL.

Section ~~5~~ 8. The act is amended by adding a section to read:
Section 508. Imposition and use of fee.

(a) Persons engaged in this Commonwealth in the business of
operating a solid waste disposal site shall pay a fee to cover
the cost of establishing emergency plans and funds to deal with
the possibility of problems occurring from that site, namely
groundwater contamination.

(b) The fee shall be used by the department for:

(1) Establishment and maintenance of emergency plans
prepared by the department, other Commonwealth agencies,
school districts or municipalities.

(2) Purchase of protective and emergency supplies and
equipment to deal with groundwater contamination.

(3) Financial assistance to municipalities, school

districts and State agencies to carry out any remedial action
for groundwater contamination.

(c) Within 30 days after the beginning of each fiscal year
of the Commonwealth, each person who possessed a permit or
operating license issued by the department for a solid waste
disposal site during any portion of the previous fiscal year
shall pay to the department an annual fee to be determined by
the department. The fee shall be placed into the Solid Waste
Abatement Fund for use by the department under the requirements
of this section.

Section ~~6~~ 9. Sections 608 and 609 of the act are amended to <—
read:

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

(a) The department and its agents and employees shall:

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

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

(3) Enter any building, property, premises or place
where solid waste is generated, stored, processed, treated or
disposed of for the purposes of making such investigation or
inspection as may be necessary to ascertain the compliance or
noncompliance by any person or municipality with the
provisions of this act and the rules or regulations
promulgated hereunder. In connection with such inspection or

1 investigation, samples may be taken of any solid, semisolid,
2 liquid or contained gaseous material for analysis. If any
3 analysis is made of such samples, a copy of the results of
4 the analysis shall be furnished within five business days to
5 the person having apparent authority over the building,
6 property, premises or place.

7 (b) The powers granted to the department in subsection
8 (a)(1) and (3) are hereby granted to the host municipality, the
9 county wherein the host municipality is located and the
10 designated agents and employees of such municipality and county.

11 Section 609. Search warrants.

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

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

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

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

30 Section 7 10. This act shall take effect in 60 days.

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