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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**SENATE BILL**

**No. 528**

Session of  
1987

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INTRODUCED BY FISHER, RHOADES, HELFRICK, REIBMAN, SHUMAKER,  
LEWIS, SCANLON, CORMAN, SALVATORE, LEMMOND, ROSS AND  
STAUFFER, MARCH 10, 1987

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REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, MARCH 10, 1987

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AN ACT

1 Providing for planning for the processing and disposal of  
2 municipal waste; requiring counties to submit plans for  
3 municipal waste management systems within their boundaries;  
4 authorizing grants to counties and municipalities for  
5 planning, resource recovery and recycling; imposing and  
6 collecting fees; establishing certain rights for host  
7 municipalities; imposing duties; granting powers to counties  
8 and municipalities; authorizing the Environmental Quality  
9 Board to adopt regulations; authorizing the Department of  
10 Environmental Resources to implement this act; providing  
11 remedies; prescribing penalties; establishing a fund; and  
12 making repeals.

13 TABLE OF CONTENTS

14 Chapter 1. General Provisions

15 Section 101. Short title.

16 Section 102. Legislative findings; declaration of policy and  
17 goals.

18 Section 103. Definitions.

19 Section 104. Construction of act.

20 Chapter 3. Powers and Duties

21 Section 301. Powers and duties of department.

22 Section 302. Powers and duties of Environmental Quality Board.

1 Section 303. Powers and duties of Environmental Hearing Board.  
2 Section 304. Powers and duties of counties.  
3 Section 305. Powers and duties of municipalities other than  
4 counties.  
5 Chapter 5. Municipal Waste Planning  
6 Section 501. Schedule for submission of municipal waste  
7 management plans.  
8 Section 502. Content of municipal waste management plans.  
9 Section 503. Development of municipal waste management plans.  
10 Section 504. Failure to ratify plan.  
11 Section 505. Review of municipal waste management plans.  
12 Section 506. Contracts.  
13 Section 507. Relationship between plans and permits.  
14 Section 508. Studies.  
15 Section 509. Best available technology.  
16 Chapter 7. Resource Recovery Fee  
17 Section 701. Resource recovery fee for municipal waste  
18 landfills.  
19 Section 702. Form and timing of resource recovery fee payment.  
20 Section 703. Collection and enforcement of fee.  
21 Section 704. Records.  
22 Section 705. Surcharge.  
23 Section 706. Resource Recovery Fund.  
24 Chapter 9. Resource Recovery Grants  
25 Section 901. Planning grants.  
26 Section 902. Grants to counties for resource recovery  
27 feasibility studies.  
28 Section 903. Grants to public institutions for resource  
29 recovery feasibility studies.  
30 Section 904. Grants for project development for resource

1                    recovery facilities.

2 Section 905. Grants for development and implementation of

3                    municipal recycling programs.

4 Section 906. Performance grants for municipal recycling

5                    programs.

6 Chapter 11. Assistance to Municipalities

7 Section 1101. Information provided to host municipalities.

8 Section 1102. Joint inspections with host municipalities.

9 Section 1103. Water supply testing for contiguous landowners.

10 Section 1104. Water supply protection.

11 Section 1105. Purchase of cogenerated electricity.

12 Section 1106. Public Utility Commission.

13 Section 1107. Claims resulting from pollution occurrences.

14 Section 1108. Site-specific postclosure fund.

15 Section 1109. Trust fund for municipally operated landfills.

16 Chapter 13. Host Municipality Benefit Fee

17 Section 1301. Host municipality benefit fee.

18 Section 1302. Form and timing of host municipality benefit fee

19                    payment.

20 Section 1303. Collection and enforcement of fee.

21 Section 1304. Records.

22 Section 1305. Surcharge.

23 Chapter 15. Enforcement and Remedies

24 Section 1501. Unlawful conduct.

25 Section 1502. Enforcement orders.

26 Section 1503. Restraining violations.

27 Section 1504. Civil penalties.

28 Section 1505. Criminal penalties.

29 Section 1506. Existing rights and remedies preserved;

30                    cumulative remedies authorized.

1 Section 1507. Production of materials; recordkeeping  
2 requirements.  
3 Section 1508. Withholding of State funds.  
4 Section 1509. Collection of fines, fees, etc.  
5 Section 1510. Right of citizen to intervene in proceedings.  
6 Chapter 17. Miscellaneous Provisions  
7 Section 1701. Severability.  
8 Section 1702. Repeals.  
9 Section 1703. Effective date.

10 The General Assembly of the Commonwealth of Pennsylvania  
11 hereby enacts as follows:

12 CHAPTER 1

13 GENERAL PROVISIONS

14 Section 101. Short title.

15 This act shall be known and may be cited as the Municipal  
16 Waste Planning and Resource Recovery Act.

17 Section 102. Legislative findings; declaration of policy and  
18 goals.

19 (a) Legislative findings.--The Legislature hereby  
20 determines, declares and finds that:

21 (1) Improper municipal waste practices create public  
22 health hazards, environmental pollution and economic loss,  
23 and cause irreparable harm to the public health, safety and  
24 welfare.

25 (2) Parts of this Commonwealth have inadequate and  
26 rapidly diminishing processing and disposal capacity for  
27 municipal waste.

28 (3) Virtually every county in this Commonwealth will  
29 have to replace existing municipal waste processing and  
30 disposal facilities over the next decade.

1           (4) Needed additional municipal waste processing and  
2 disposal facilities have not been developed in a timely  
3 manner because of diffused responsibility for municipal waste  
4 planning, processing and disposal among numerous and  
5 overlapping units of local government.

6           (5) It is necessary to give counties the primary  
7 responsibility to plan for the processing and disposal of  
8 municipal waste generated within their boundaries to insure  
9 the timely development of needed processing and disposal  
10 facilities.

11           (6) Proper and adequate processing and disposal of  
12 municipal waste generated within a county requires the  
13 generating county to give first choice to new processing and  
14 disposal sites located within that county.

15           (7) It is appropriate to provide those living near  
16 municipal waste processing and disposal facilities with  
17 additional guarantees of the proper operation of such  
18 facilities and to provide incentives for municipalities to  
19 host such facilities.

20           (8) Waste reduction and recycling are preferable to the  
21 processing or disposal of municipal waste.

22           (9) Prompt payment and efficient collection of the  
23 resource recovery fee created by this act are essential to  
24 the administration of the resource recovery and recycling  
25 grants provided by this act.

26           (b) Purpose.--It is the purpose of this act to:

27           (1) Establish and maintain a cooperative State and local  
28 program of planning and technical and financial assistance  
29 for comprehensive municipal waste management.

30           (2) Encourage the development of waste reduction,

1 recycling and resource recovery as a means of managing  
2 municipal waste, conserving resources and supplying energy  
3 through planning, grants and other incentives.

4 (3) Protect the public health, safety and welfare from  
5 the short and long term dangers of transportation,  
6 processing, treatment, storage and disposal of municipal  
7 waste.

8 (4) Provide a flexible and effective means to implement  
9 and enforce the provisions of this act.

10 (5) Utilize, wherever feasible, the capabilities of  
11 private enterprise in accomplishing the desired objectives of  
12 an effective, comprehensive solid waste management plan.

13 (6) Establish a resource recovery fee for municipal  
14 waste landfills to provide grants for resource recovery,  
15 recycling, planning and related purposes.

16 (7) Establish a host municipality benefit fee for  
17 municipal waste landfills and resource recovery facilities  
18 that are permitted after the effective date of this act so  
19 that municipalities might consider encouraging such  
20 facilities to be located within their boundaries, and provide  
21 benefits to host municipalities for the presence of such  
22 facilities.

23 (8) Establish a site-specific postclosure fee for  
24 currently operating and future permitted municipal waste  
25 landfills for remedial measures and emergency actions that  
26 are necessary to prevent or abate adverse effects upon the  
27 environment after the closure of such landfills.

28 (9) Establish trust funds for municipally operated  
29 landfills to ensure that there are sufficient funds available  
30 for completing the final closure of such landfills under the

1 Solid Waste Management Act.

2 (10) Shift the primary responsibility for developing and  
3 implementing municipal waste management plans from  
4 municipalities to counties.

5 (c) Declaration of goals.--The General Assembly therefore  
6 declares the following goals:

7 (1) At least 40% of all municipal waste generated in  
8 this Commonwealth on and after January 1, 1997, should be  
9 processed at resource recovery facilities.

10 (2) At least an additional 25% of all municipal waste  
11 generated in this Commonwealth on and after January 1, 1997,  
12 should be recycled by municipal recycling programs and other  
13 recycling facilities.

14 Section 103. Definitions.

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

18 "Abatement." The restoration, reclamation, recovery, etc.,  
19 of a natural resource adversely affected by the activity of a  
20 person.

21 "Commission." The Pennsylvania Public Utility Commission and  
22 its authorized representatives.

23 "Department." The Department of Environmental Resources of  
24 the Commonwealth and its authorized representatives.

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

30 "Host municipality." The municipality other than the county

1 within which a municipal waste landfill or resource recovery  
2 facility is located or is proposed to be located.

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

6 "Municipal recycling program." A source separation and  
7 collection program for recycling municipal waste, or a program  
8 for designated drop-off points or collection centers for  
9 recycling municipal waste, that is operated by or on behalf of a  
10 municipality. The term includes any source separation and  
11 collection program for composting yard waste that is operated by  
12 or on behalf of a municipality. The term shall not include any  
13 program for recycling demolition waste or sludge from sewage  
14 treatment plants or water supply treatment plants.

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

24 "Municipal waste landfill." Any facility that is designed,  
25 operated or maintained for the disposal of municipal waste,  
26 whether or not such facility possesses a permit from the  
27 department under the Solid Waste Management Act. The term shall  
28 not include any facility that is used exclusively for disposal  
29 of demolition waste or sludge from sewage treatment plants or  
30 water supply treatment plants.



1 "Municipality." A county, city, borough, incorporated town,  
2 township or home rule municipality.

3 "Operator." A person engaged in solid waste processing or  
4 disposal. Where more than one person is so engaged in a single  
5 operation, all persons shall be deemed jointly and severally  
6 responsible for compliance with the provisions of this act.

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

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

26 "Processing." Any technology used for the purpose of  
27 reducing the volume or bulk of municipal waste or any technology  
28 used to convert part or all of such waste materials for offsite  
29 reuse. Processing facilities include, but are not limited to,  
30 transfer facilities, composting facilities and resource recovery

1 facilities.

2 "Project development." Those activities required to be  
3 conducted prior to constructing a resource recovery facility  
4 that has been shown to be feasible, including, but not limited  
5 to, public input and participation, siting, procurement and  
6 vendor contract negotiations, and market and municipal waste  
7 supply assurance negotiations.

8 "Recycling." The collection, separation, recovery and sale  
9 or reuse of metals, glass, paper, plastics and other materials  
10 which would otherwise be disposed as municipal waste.

11 "Remaining available permitted capacity." The remaining  
12 permitted capacity that is actually available for processing or  
13 disposal to the county or other municipality that generated the  
14 waste.

15 "Remaining permitted capacity." The weight or volume of  
16 municipal waste that can be processed or disposed at an existing  
17 municipal waste processing or disposal facility. The term shall  
18 include only weight or volume capacity for which the department  
19 has issued a permit under the Solid Waste Management Act. The  
20 term shall not include any facility that the department  
21 determines, or has determined, has failed and continues to fail  
22 to comply with the provisions of the Solid Waste Management Act,  
23 and the regulations promulgated pursuant thereto, or any permit  
24 conditions, unless and until the Environmental Hearing Board  
25 issues a final adjudication voiding any final action by the  
26 department based on that determination and such adjudication is  
27 either affirmed on appeal or not appealed.

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 shall not include  
5 coal refuse as defined in the act of September 24, 1968  
6 (P.L.1040, No.318), known as the Coal Refuse Disposal Control  
7 Act. The term shall not include treatment sludges from coal mine  
8 drainage treatment plants, disposal of which is being carried on  
9 pursuant to and in compliance with a valid permit issued  
10 pursuant to the act of June 22, 1937 (P.L.1987, No.394), known  
11 as The Clean Streams Law.

12 "Resource recovery." The extraction and utilization from  
13 municipal waste of materials or energy. The term includes, but  
14 is not limited to, the operation of resource recovery facilities  
15 or municipal recycling programs.

16 "Resource recovery facility." A facility that provides for  
17 the extraction and utilization of materials or energy from  
18 municipal waste, including, but not limited to, a facility that  
19 mechanically extracts materials from municipal waste, a  
20 combustion facility that converts the organic fraction of  
21 municipal waste to usable energy, and any chemical and  
22 biological process that converts municipal waste into a fuel  
23 product or other usable materials. The term does not include  
24 methane gas extraction from a municipal waste landfill, nor  
25 shall it include any separation and collection center, drop-off  
26 point or collection center for recycling municipal waste, or any  
27 source separation or collection center for composting yard  
28 waste.

29 "Resource recovery feasibility study." A study which  
30 analyzes a specific resource recovery system to assess the

1 likelihood that the system can be successfully implemented,  
2 including, but not limited to, an analysis of the prospective  
3 market, the projected costs and revenues of the system, the  
4 municipal waste stream that the system will rely upon and  
5 various options available to implement the system.

6 "Secretary." The Secretary of Environmental Resources of the  
7 Commonwealth.

8 "Solid waste." Solid waste, as defined in the act of July 7,  
9 1980 (P.L.380, No.97), known as the Solid Waste Management Act.

10 "Solid Waste Abatement Fund." The fund created pursuant to  
11 section 701 of the Solid Waste Management Act.

12 "Solid Waste Management Act." The act of July 7, 1980  
13 (P.L.380, No.97).

14 "Storage." The containment of any municipal waste on a  
15 temporary basis in such a manner as not to constitute disposal  
16 of such waste. It shall be presumed that the containment of any  
17 municipal waste in excess of one year constitutes disposal. This  
18 presumption can be overcome by clear and convincing evidence to  
19 the contrary.

20 "Transportation." The offsite removal of any municipal waste  
21 at any time after generation.

22 "Treatment." Any method, technique or process, including,  
23 but not limited to, neutralization, designed to change the  
24 physical, chemical or biological character or composition of any  
25 municipal waste so as to neutralize such waste or so as to  
26 render such waste safer for transport, suitable for recovery,  
27 suitable for storage or reduced in volume.

28 "Waste reduction." Design, manufacture or use of a product  
29 to minimize weight of municipal waste that requires processing  
30 or disposal, including:

1 (1) design or manufacturing activities which minimize  
2 the weight or volume of materials contained in a product, or  
3 increase durability or recyclability; and

4 (2) use of products that contain as little material as  
5 possible, are capable of being reused or recycled or have an  
6 extended useful life.

7 Section 104. Construction of act.

8 (a) Liberal construction.--The terms and provisions of this  
9 act are to be liberally construed, so as to best achieve and  
10 effectuate the goals and purposes hereof.

11 (b) Para materia.--This act shall be construed in para  
12 materia with the Solid Waste Management Act.

13 CHAPTER 3

14 POWERS AND DUTIES

15 Section 301. Powers and duties of department.

16 The department, in consultation with the Department of Health  
17 regarding matters of public health significance, shall have the  
18 power and its duty shall be to:

19 (1) Administer the municipal waste planning and resource  
20 recovery program pursuant to the provisions of this act and  
21 the regulations promulgated pursuant thereto.

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

25 (3) Provide technical assistance to municipalities,  
26 including, but not limited to, the training of personnel.

27 (4) Initiate, conduct and support research,  
28 demonstration projects and investigations, and coordinate all  
29 State agency research programs pertaining to municipal waste  
30 management systems.

1 (5) Regulate municipal waste planning, including, but  
2 not limited to, the development and implementation of county  
3 municipal waste management plans.

4 (6) Approve, conditionally approve or disapprove  
5 municipal waste management plans, issue orders, conduct  
6 inspections and abate public nuisances to implement the  
7 provisions and purposes of this act and the regulations  
8 promulgated pursuant to this act.

9 (7) Serve as the agency of the Commonwealth for the  
10 receipt of moneys from the Federal Government or other public  
11 agencies or private agencies and expend such moneys for  
12 studies and research with respect to, and for the enforcement  
13 and administration of, the provisions and purposes of this  
14 act and the regulations promulgated pursuant thereto.

15 (8) Institute, in a court of competent jurisdiction,  
16 proceedings against any person to compel compliance with the  
17 provisions of this act, any regulation promulgated pursuant  
18 thereto, any order of the department, or the terms and  
19 conditions of any approved municipal waste management plan.

20 (9) Institute prosecutions against any person under this  
21 act.

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

28 (11) Encourage and, where the department determines it  
29 is appropriate, require counties and other municipalities to  
30 carry out their duties under this act, using the full range

1 of incentives and enforcement authority provided in this act.

2 (12) Take any action not inconsistent with this act that  
3 the department may deem necessary or proper to collect the  
4 resource recovery fee provided by this act, and to insure the  
5 payment of the host municipality benefit fee and the site-  
6 specific postclosure fee and moneys for the trust fund for  
7 municipally operated landfills provided by this act.

8 (13) Accept any solid waste management plan by a county,  
9 solid waste management district or regional agency outside  
10 Pennsylvania that has been developed and approved pursuant to  
11 the applicable law of the state in which the county, district  
12 or agency is located. Any such plan shall also comply with  
13 sections 502(h) and 505(b)(6) for municipal waste to be  
14 processed or disposed in Pennsylvania.

15 (14) Administer and distribute moneys in the Resource  
16 Recovery Fund for any public educational programs on  
17 recycling and waste reduction that the department believes to  
18 be appropriate, for technical assistance to counties in the  
19 preparation of municipal waste management plans, for  
20 technical assistance to municipalities concerning recycling  
21 and waste reduction, to conduct research, and for other  
22 purposes consistent with this act.

23 (15) Do any and all other acts and things, not  
24 inconsistent with any provision of this act, which it may  
25 deem necessary or proper for the effective enforcement of  
26 this act and the regulations promulgated pursuant thereto  
27 after consulting with the Department of Health regarding  
28 matters of public health significance.

29 Section 302. Powers and duties of Environmental Quality Board.

30 The Environmental Quality Board shall have the power and its

1 duty shall be to adopt the regulations of the department to  
2 accomplish the purposes and to carry out the provisions of this  
3 act.

4 Section 303. Powers and duties of Environmental Hearing Board.

5 The Environmental Hearing Board shall have the power and its  
6 duty shall be to hold hearings and issue adjudications on any  
7 final action of the department according to the provisions of  
8 the act of April 9, 1929 (P.L.177, No.175), known as The  
9 Administrative Code of 1929 and 2 Pa.C.S. (relating to  
10 administrative law and procedure).

11 Section 304. Powers and duties of counties.

12 (a) Primary responsibility of county.--Each county shall  
13 have the power and its duty shall be to insure the availability  
14 of adequate permitted processing and disposal capacity for the  
15 municipal waste which is generated within its boundaries. As  
16 part of this power, a county:

17 (1) May require all persons collecting or transporting  
18 municipal waste within the county to obtain licenses for the  
19 purpose of directing waste to facilities designated pursuant  
20 to subsection (e).

21 (2) Shall have the power and duty to implement its  
22 approved plan as it relates to the processing and disposal of  
23 municipal waste generated within its boundaries.

24 (3) May plan for the processing and disposal of  
25 municipal waste generated outside its boundaries and to  
26 implement its approved plan as it relates to the processing  
27 and disposal of such waste.

28 (b) Joint planning.--Any two or more counties may adopt and  
29 implement a single municipal waste management plan for the  
30 municipal waste generated within the combined area of the



1 counties.

2 (c) Ordinances and resolutions.--In carrying out its duties  
3 under this section, a county may adopt ordinances, resolutions,  
4 regulations and standards for the processing and disposal of  
5 municipal waste, which shall not be less stringent than, and not  
6 in violation of or inconsistent with, the provisions and  
7 purposes of the Solid Waste Management Act, this act and the  
8 regulations promulgated pursuant thereto.

9 (d) Delegation of county responsibility.--A county may enter  
10 into a written agreement with another municipality or municipal  
11 authority pursuant to which the person undertakes to fulfill  
12 some or all of the county's responsibilities under this act for  
13 municipal waste planning and implementation of the approved  
14 county plan. Any such person shall be jointly and severally  
15 responsible with the county for municipal waste planning and  
16 implementation of the approved county plan in accordance with  
17 this act and the regulations promulgated pursuant thereto.

18 (e) Designated sites.--A county with an approved municipal  
19 waste management plan that was submitted pursuant to section  
20 501(a), (b) or (d) of this act is also authorized to require  
21 that all municipal wastes generated within its boundaries shall  
22 be processed or disposed at a designated processing or disposal  
23 facility that is contained in the approved plan and that was  
24 permitted by the department after July 1, 1986. No county shall  
25 direct municipal waste that would otherwise be recycled to any  
26 resource recovery facility or other facility for purposes other  
27 than recycling such waste.

28 Section 305. Powers and duties of municipalities other than  
29 counties.

30 (a) Responsibility of other municipalities.--Each

1 municipality other than a county shall have the power and its  
2 duty shall be to assure the proper and adequate transportation,  
3 collection and storage of municipal waste which is generated  
4 within its boundaries. As part of that power, municipalities  
5 other than counties may adopt and implement programs for the  
6 collection and recycling of municipal waste.

7 (b) Ordinances.--In carrying out its duties under this  
8 section, a municipality other than a county may adopt  
9 resolutions, ordinances, regulations and standards for the  
10 transportation, storage and collection of municipal wastes,  
11 which shall not be less stringent than, and not in violation of  
12 or inconsistent with, the provisions and purposes of the Solid  
13 Waste Management Act, this act and the regulations promulgated  
14 pursuant thereto.

15 (c) Delegation of responsibility.--A municipality other than  
16 a county may contract with any municipality or municipal  
17 authority to carry out its duties for the transportation,  
18 collection and storage of municipal waste, if the  
19 transportation, collection or storage activity or facility is  
20 conducted or operated in a manner that is consistent with the  
21 Solid Waste Management Act, this act and the regulations  
22 promulgated pursuant thereto.

23 (d) Designated sites.--A municipality other than a county  
24 may require by ordinance that all municipal waste generated  
25 within its jurisdiction shall be disposed of at a designated  
26 permitted facility. Such ordinance shall remain in effect until  
27 the county in which the municipality is located adopts a waste  
28 flow control ordinance as part of a plan submitted to the  
29 department pursuant to section 501(a), (b) or (d) and approved  
30 by the department. Except as provided in section 502(n), any

1 such county ordinance shall supersede any such municipal  
2 ordinance to the extent that the municipal ordinance is  
3 inconsistent with the county ordinance.

4 (e) Term and renewals of certain contracts.--The governing  
5 body of a municipality shall have the power to, and may, enter  
6 into contracts having an initial term of five years with  
7 optional renewal periods of up to five years with persons  
8 responsible for the collection or transportation of municipal  
9 waste generated within the municipality. The provisions of this  
10 subsection shall not apply to the disposal of municipal solid  
11 waste.

## 12 CHAPTER 5

### 13 MUNICIPAL WASTE PLANNING

14 Section 501. Schedule for submission of municipal waste  
15 management plans.

16 (a) Submission of plan.--Except as provided in subsections  
17 (b) and (c), each county shall submit to the department within  
18 two and one-half years of the effective date of this act an  
19 officially adopted plan for a municipal waste management plan  
20 for municipal waste generated within its boundaries. Such plan  
21 shall be consistent with the requirements of this act.

22 (b) Request for alternative date.--A county may request the  
23 department to establish an alternative date to that set forth in  
24 subsection (a) if such request is received by the department no  
25 later than 120 days from the effective date of this act. If the  
26 department approves the request, the county's plan shall be  
27 submitted to the department on the date stated in the  
28 department's approval. Each such request, if approved, shall be  
29 updated and submitted to the department for approval annually on  
30 or before the date on which the department first approved the

1 request. The department may not approve any request unless such  
2 request:

3 (1) Identifies and describes the facilities where  
4 municipal waste generated in the county is currently being  
5 disposed of or processed, and the remaining available  
6 permitted capacity of those facilities.

7 (2) Estimates the time before all remaining available  
8 permitted capacity that can be included in this request will  
9 be exhausted, and justifies such estimate.

10 (3) Proposes a date for initiating development of the  
11 county's municipal waste management plan that is at least six  
12 years before the time all remaining available permitted  
13 capacity that can be included in this request will be  
14 exhausted, and proposes a date for submitting the plan that  
15 it is at least three years before all remaining available  
16 permitted capacity that can be included in this request will  
17 be exhausted.

18 (c) Existing plans.--A county that has submitted a complete  
19 municipal waste management plan to the department for approval  
20 on or before September 1, 1987, shall be deemed to have a plan  
21 approved pursuant to section 505 if, on or before the effective  
22 date of this act:

23 (1) The department has granted technical or preliminary  
24 approval of such plan under 25 Pa. Code §§ 75.11 through  
25 75.13.

26 (2) More than one-half of the municipalities within the  
27 county, representing more than one-half of the county's  
28 population as determined by the most recent decennial census  
29 by the United States Bureau of the Census, have adopted  
30 resolutions approving such plan.

1 (d) Plan revisions.--Each county with an approved municipal  
2 waste management plan shall submit a revised plan to the  
3 department in accordance with the requirements of this act:

4 (1) At least three years prior to the time all remaining  
5 available permitted capacity for the county will be  
6 exhausted.

7 (2) For plans approved pursuant to subsection (c),  
8 within two years of the effective date of this act. Such plan  
9 revisions shall be consistent with the requirements of this  
10 act except to the extent that the county demonstrates that  
11 commitments made by or pursuant to the approved plan preclude  
12 compliance with the requirements of this act.

13 (3) When otherwise required by the department.

14 (e) Procedure for considering plan revisions.--At least 30  
15 days before submitting any proposed plan revision to the  
16 department, the county shall submit a copy of the proposed  
17 revision to the advisory committee established pursuant to  
18 section 503 and to each municipality within the county. All plan  
19 revisions that are determined by the county or by the department  
20 to be substantial shall be subject to the requirements of  
21 sections 503 and 504. The plan revisions required by subsection  
22 (d)(2) shall be considered substantial plan revisions.

23 Section 502. Content of municipal waste management plans.

24 (a) General rule.--Except as provided in section 501(c),  
25 every plan submitted after the effective date of this act shall  
26 comply with the provisions of this section.

27 (b) Description of waste.--The plan shall describe and  
28 explain the origin, content and weight or volume of municipal  
29 waste currently generated within the county's boundaries, and  
30 the origin, content and weight or volume of municipal waste that

1 will be generated within the county's boundaries during the next  
2 ten years.

3 (c) Description of facilities.--The plan shall identify and  
4 describe the facilities where municipal waste is currently being  
5 disposed or processed and the remaining available permitted  
6 capacity of such facilities. The plan shall contain an analysis  
7 of the effect of current and planned recycling on waste  
8 generated within the county. The plan shall also explain the  
9 extent to which existing facilities will be used during the life  
10 of the plan, and shall not substantially impair the use of their  
11 remaining permitted capacity. For purposes of this subsection,  
12 existing facilities shall include facilities for which a  
13 complete permit application under the Solid Waste Management Act  
14 is filed with the department within six months from the  
15 effective date of this act, unless such permit application is  
16 denied by the department.

17 (d) Estimated future capacity.--The plan shall estimate the  
18 processing or disposal capacity needed for the municipal waste  
19 that will be generated in the county during the next ten years.  
20 The assessment shall describe the primary variables affecting  
21 this estimate and the extent to which they can reasonably be  
22 expected to affect the estimate, including, but not limited to,  
23 the amount of residual waste disposed or processed at municipal  
24 waste disposal or processing facilities in the county and the  
25 extent to which residual waste may be disposed or processed at  
26 such facilities during the next ten years.

27 (e) Description of recyclable waste.--The plan shall  
28 describe the kind and weight or volume of municipal waste that  
29 could be recycled through municipal recycling programs and the  
30 potential benefits of recycling, including the avoided cost of

1 municipal waste processing or disposal. The plan shall also  
2 describe the compatibility of recycling with other municipal  
3 waste processing or disposal methods, giving consideration to  
4 and describing anticipated and available markets or uses for  
5 materials collected through municipal recycling programs. If  
6 recycling is proposed, the plan shall describe the kind and  
7 weight or volume of recyclable materials that will be collected;  
8 proposed collection methods for recyclable materials; options  
9 for insuring the collection of recyclable materials, including,  
10 but not limited to, municipal ordinances; and options for  
11 municipal cooperation or agreement for the collection,  
12 processing and sale of recyclable material.

13 (f) Financial factors.--The plan shall describe the type,  
14 mix, size, expected cost and proposed methods of financing the  
15 facilities, recycling programs or waste reduction programs that  
16 are proposed for the processing and disposal of the municipal  
17 waste that will be generated within the county's boundaries  
18 during the next ten years. For every proposed facility,  
19 recycling program or waste reduction program, the plan shall  
20 discuss all of the following:

21 (1) Explain in detail the reason for selecting such  
22 facility or program.

23 (2) Describe alternative facilities or programs,  
24 including, but not limited to, waste reduction, recycling, or  
25 resource recovery facilities or programs, that were  
26 considered.

27 (3) Evaluate the environmental, energy, life cycle cost  
28 and economic advantages and disadvantages of the proposed  
29 facility or program as well as the alternatives considered.

30 (4) Show that adequate provision for existing and

1 reasonably anticipated future recycling has been made in  
2 designing the size of any proposed facility.

3 (5) Set forth a time schedule and program for planning,  
4 design, siting, construction and operation of each proposed  
5 facility or program.

6 (g) Location.--The plan shall identify the general location  
7 within a county where each municipal waste processing or  
8 disposal facility identified in subsection (f) will be located,  
9 and either identify the site of each facility if the site has  
10 already been chosen or explain how the site will be chosen.

11 (h) Prior written approval.--For any municipality waste  
12 landfill or resource recovery facility to be permitted after the  
13 effective date of this act that is proposed to be located  
14 outside of the boundaries of the county for which the plan is  
15 submitted:

16 (1) the plan shall contain a written statement approving  
17 the facility from the governing body of the county where the  
18 facility is proposed to be located; or

19 (2) provide an explanation for the failure to obtain a  
20 written statement, in which case the plan shall also cover  
21 all of the following:

22 (i) Identify the site on which the facility is  
23 proposed to be located; explain the nature of the  
24 county's property right to use that site for municipal  
25 waste processing or disposal; and demonstrate that  
26 written notice has been given to the host municipality.

27 (ii) Explain in detail the reasons for proposing an  
28 out-of-county site.

29 (iii) Describe alternative sites within the  
30 generator county that were considered and explain the



1 reasons these alternative sites were rejected.

2 (iv) Evaluate the environmental, energy and economic  
3 merits of the site proposed as well as the alternatives  
4 considered.

5 (v) Explain how the construction and operation of  
6 the proposed facility will not interfere with municipal  
7 waste processing and disposal in the host county.

8 (i) Implementing entity identification.--The plan shall  
9 identify the governmental entity that will be responsible for  
10 implementing the plan on behalf of the county and describe the  
11 legal basis for that entity's authority to do so.

12 (j) Public function.--Where the county determines that it is  
13 in the public interest for municipal waste transportation,  
14 processing and disposal to be a public function, the plan shall  
15 provide for appropriate mechanisms.

16 (k) Copies of ordinances and resolutions.--The plan shall  
17 include any proposed waste flow control ordinances or  
18 requirements that will be used to insure the operation of any  
19 facilities proposed in the plan. For each ordinance or  
20 requirement, the plan shall identify the areas of the county to  
21 be affected, the expected effective date and the implementing  
22 mechanism.

23 (l) Orderly extension.--The plan shall provide for the  
24 orderly extension of municipal waste management systems in a  
25 manner that is consistent with the needs of the area and is also  
26 consistent with any existing State, regional or local plans  
27 affecting the development, use and protection of air, water,  
28 land or other natural resources. The plan shall also take into  
29 consideration planning, zoning, population estimates,  
30 engineering and economics.

1 (m) Other information.--The plan shall include any other  
2 information that the department may require.

3 (n) Noninterference with certain resource recovery  
4 facilities.--No county municipal waste management plan shall  
5 interfere with the design, construction or operation of any  
6 resource recovery facility that is part of a complete municipal  
7 waste management plan submitted by a municipality or  
8 organization of municipalities under the Solid Waste Management  
9 Act prior to the effective date of this act, and for which a  
10 complete permit application under the Solid Waste Management Act  
11 is submitted to the department within one year of the effective  
12 date of this act. Within 120 days after receiving a complete  
13 plan submitted pursuant to this subsection, the department shall  
14 give it preliminary or technical approval under 25 Pa. Code §§  
15 75.11 through 75.13 or disapprove it.

16 Section 503. Development of municipal waste management plans.

17 (a) Advisory committee.--Prior to preparing a plan or  
18 substantial plan revisions for submission to the department in  
19 accordance with the provisions of this act, the county shall  
20 form an advisory committee, which shall include representatives  
21 of all classes of municipalities within the county, citizen  
22 organizations, industry and any other persons deemed appropriate  
23 by the county. The advisory committee shall review the plan  
24 during its preparation, make suggestions and propose any changes  
25 it believes appropriate.

26 (b) Written notice.--The county shall provide written notice  
27 to all municipalities within the county when plan development  
28 begins and shall provide periodic written progress reports to  
29 such municipalities concerning the preparation of the plan.

30 (c) Review and comment.--Prior to adoption by the governing

1 body of the county, the county shall submit copies of the  
2 proposed plan for review and comment to the department, all  
3 municipalities within the county, all areawide planning agencies  
4 and the county health department, if one exists. The county  
5 shall also make the proposed plan available for public review  
6 and comment. The period for review and comment shall be 90 days.  
7 The county shall hold at least one public hearing on the  
8 proposed plan during this period. The plan subsequently  
9 submitted to the governing body of the county for adoption shall  
10 be accompanied by a document containing written responses to  
11 comments made during the comment period.

12 (d) Adoption and ratification of plan.--The governing body  
13 of the county shall adopt a plan within 60 days from the end of  
14 the public comment period. Not later than ten days following  
15 adoption of a plan by the governing body of the county, the plan  
16 shall be sent to municipalities within the county for  
17 ratification. If a municipality does not act on the plan within  
18 90 days of its submission to such municipality, it shall be  
19 deemed to have ratified the plan. If more than one-half of the  
20 municipalities, representing more than one-half of the county's  
21 population as determined by the most recent decennial census by  
22 the United States Bureau of the Census, ratify the plan, then  
23 the county within ten days of ratification shall submit the plan  
24 to the department for approval.

25 (e) Statement of objections.--A municipality may not  
26 disapprove of a proposed county plan unless the municipality's  
27 resolution of disapproval contains a concise statement of its  
28 objections to the plan. Each municipality disapproving a plan  
29 shall immediately transmit a copy of its resolution of  
30 disapproval to the county and the advisory committee.

1 Section 504. Failure to ratify plan.

2 (a) Submission.--If the plan is not ratified as provided in  
3 section 503(d), the county shall meet with the advisory  
4 committee to discuss the reasons that the plan was not ratified.  
5 The advisory committee shall submit a recommendation concerning  
6 a revised county plan to the county within 45 days after it  
7 becomes apparent that the plan has failed to obtain  
8 ratification. The advisory committee's recommendation shall  
9 specifically address the objections stated by municipalities in  
10 their resolutions of disapproval of the county plan.

11 (b) Adoption of revised plan by county.--The governing body  
12 of the county shall adopt a revised plan within 75 days after it  
13 has become apparent that the original plan has failed to obtain  
14 ratification. Not later than five days following adoption of a  
15 revised plan by the governing body of the county, the plan shall  
16 be sent to municipalities within the county for ratification. If  
17 a municipality does not act on the revised plan within 45 days  
18 of its submission to such municipality, it shall be deemed to  
19 have ratified the plan. If more than one-half of the  
20 municipalities, representing more than one-half of the county's  
21 population as determined by the most recent decennial census by  
22 the United States Bureau of the Census, ratify the revised plan,  
23 then the county within ten days of ratification shall submit the  
24 revised plan to the department for approval.

25 (c) Statement of objections.--A municipality may not  
26 disapprove of a proposed revised county plan unless the  
27 municipality's resolution of disapproval contains a concise  
28 statement of its objections to the plan. Each municipality shall  
29 immediately transmit a copy of its resolution of disapproval to  
30 the county.

1 (d) Failure to ratify revised plan.--If the plan is not  
2 ratified as provided in subsection (b), the county shall submit  
3 the revised plan to the department for approval. The revised  
4 plan shall be submitted within ten days after it is apparent  
5 that the plan has failed to obtain ratification and shall be  
6 accompanied by the county's written response to the objections  
7 stated by municipalities in the resolutions of disapproval.

8 Section 505. Review of municipal waste management plans.

9 (a) Departmental approval options.--Within 30 days after  
10 receiving a complete plan, the department shall approve,  
11 conditionally approve or disapprove it, unless the department  
12 gives written notice that additional time is necessary to  
13 complete its review. If the department gives such notice, it  
14 shall have 30 additional days to render a decision.

15 (b) Minimum plan requirement.--The department shall not  
16 approve any county plan unless the plan demonstrates to the  
17 satisfaction of the department that:

18 (1) The plan is complete and accurate.

19 (2) The plan gives priority to the implementation of  
20 municipal recycling programs and to the development and use  
21 of resource recovery facilities to address the county's  
22 projected municipal waste processing and disposal needs,  
23 giving consideration to environmental, energy and economic  
24 factors.

25 (3) The plan provides for the processing and disposal of  
26 municipal waste in a manner that is consistent with the  
27 requirements of the Solid Waste Management Act, and the  
28 regulations promulgated pursuant thereto.

29 (4) The plan provides a feasible method for the  
30 processing and disposal of municipal waste.

1           (5) For any municipal waste landfills or resource  
2 recovery facilities that are proposed to be located outside  
3 the county, the plan includes a copy of the written notice  
4 that was provided to the host municipality and:

5           (i) contains a written statement approving the  
6 facility from the governing body of the county where the  
7 facility is proposed to be located and is not  
8 inconsistent with the approved plan for the county where  
9 the facility is proposed to be located; or

10          (ii) provides a clear and convincing rationale for  
11 locating the facility outside the county that complies  
12 with the requirements of section 502(h).

13          (c) Zoning powers unaffected.--Nothing in this act shall be  
14 construed or understood to enlarge or diminish the authority of  
15 municipalities to adopt ordinances pursuant to, or to exempt  
16 entities or individuals acting under the authority of this act  
17 from the provisions of the act of July 31, 1968 (P.L.805,  
18 No.247), known as the Pennsylvania Municipalities Planning Code.  
19 Section 506. Contracts.

20          (a) General rule.--Except as provided in sections 705 and  
21 1305, nothing in this act shall be construed to interfere with,  
22 or in any way modify, the provisions of any contract for  
23 municipal waste disposal, processing or collection in force in  
24 any county, other municipality or municipal authority upon the  
25 effective date of this act.

26          (b) Renewals.--No renewal of any existing contract upon the  
27 expiration or termination of the original term thereof, and no  
28 new contract for municipal waste disposal, processing or  
29 collection shall be entered into after the effective date of  
30 this act, unless such renewal or such new contract shall conform

1 to the applicable provisions of a department-approved municipal  
2 waste management plan.

3 (c) Renegotiation option.--If no plan has been approved for  
4 the county, no contract renewal or new contract for municipal  
5 waste disposal, processing or collection shall be entered into  
6 unless such contract contains a provision for renegotiation to  
7 conform to the approved plan when such plan is approved by the  
8 department.

9 Section 507. Relationship between plans and permits.

10 The department shall not issue any municipal waste landfill  
11 or resource recovery permit under the Solid Waste Management  
12 Act, in a county:

13 (1) On and after the date that the governing body of the  
14 county has approved a municipal waste management plan but  
15 before a plan is approved by the department under section  
16 505, unless the department has considered the potential  
17 effect of that permit on the proposed plan.

18 (2) On and after the date of departmental approval of  
19 the county municipal waste management plan under section 505,  
20 unless the permit applicant demonstrates to the department's  
21 satisfaction that:

22 (i) For waste generated within the county, the  
23 proposed facility is provided for in the approved plan  
24 for that county.

25 (ii) For waste generated outside the county:

26 (A) the proposed facility is provided for in the  
27 approved plan for the county that generated the  
28 waste; or

29 (B) the county where the permitted facility  
30 would be located has failed to adhere to the schedule

1 set forth in its approved plan for planning, design,  
2 siting, construction or operation of municipal waste  
3 processing or disposal facilities.

4 Section 508. Studies.

5 (a) Market development for recyclable municipal waste.--  
6 Within 15 months after the effective date of this act, the  
7 department shall submit to the General Assembly a report that  
8 describes:

9 (1) The current and projected capacity of existing  
10 markets to absorb materials generated by municipal recycling  
11 programs in this Commonwealth.

12 (2) Market conditions that inhibit or affect demand for  
13 materials generated by municipal recycling programs.

14 (3) Potential opportunities to increase demand for and  
15 use of materials generated by municipal recycling programs.

16 (4) Recommendations for specific actions to increase and  
17 stabilize the demand for materials generated by municipal  
18 recycling programs, including, but not limited to, proposed  
19 legislation if necessary.

20 (b) Waste reduction.--Within 24 months after the effective  
21 date of this act, the department shall submit to the General  
22 Assembly a report:

23 (1) That describes various mechanisms that could be  
24 utilized to stimulate and enhance waste reduction, including  
25 their advantages and disadvantages. The mechanisms to be  
26 analyzed shall include, but not be limited to, incentives for  
27 prolonging product life, methods for ensuring product  
28 recyclability, taxes for excessive packaging, tax incentives,  
29 prohibitions on the use of certain products and performance  
30 standards for products.



1 (2) That includes recommendations to stimulate and  
2 enhance waste reduction, including, but not limited to,  
3 proposed legislation if necessary.

4 Section 509. Best available technology.

5 (a) Publication of criteria.--The department, after public  
6 notice and an opportunity for comment, shall publish in the  
7 Pennsylvania Bulletin criteria for best available technology (as  
8 defined in 25 Pa. Code § 121.1 (relating to definitions)) for  
9 new resource recovery facilities.

10 (b) Restriction on issuance of certain permits.--The  
11 department shall not issue any approval or permit for a resource  
12 recovery facility under the act of January 8, 1960 (1959  
13 P.L.2119, No.787), known as the Air Pollution Control Act, that  
14 is less stringent than any provision of the applicable best  
15 available technology criteria. The department shall require any  
16 resource recovery facility to operate in compliance with the  
17 applicable best available technology criteria.

18 (c) Operation tests and reports.--The operator of any  
19 resource recovery facility shall conduct tests for emissions of  
20 particulate matter in accordance with standards of performance  
21 for new sources specified by the United States Environmental  
22 Protection Agency for incinerators, resource recovery facilities  
23 and associated control devices and shall report the results in a  
24 manner established by the department.

25 CHAPTER 7

26 RESOURCE RECOVERY FEE

27 Section 701. Resource recovery fee for municipal waste  
28 landfills.

29 (a) Imposition.--There is imposed a resource recovery fee of  
30 \$1.25 per ton for all solid waste disposed of at municipal waste

1 landfills. Such fee shall be paid by the operator of each  
2 municipal waste landfill.

3 (b) Alternative calculation.--Except as provided in  
4 subsection (c), the fee for operators of municipal waste  
5 landfills that do not weigh solid waste when it is received  
6 shall be calculated as if three cubic yards were equal to one  
7 ton of solid waste.

8 (c) Waste weight requirement.--On and after January 1, 1988,  
9 each operator of a municipal waste landfill that has received  
10 30,000 or more cubic yards of solid waste in the previous  
11 calendar year shall weigh all solid waste when it is received.  
12 The scale used to weigh solid waste shall conform to the  
13 requirements of the act of December 1, 1965 (P.L.988, No.368),  
14 known as the Weights and Measures Act of 1965, and the  
15 regulations promulgated pursuant thereto. The operator of the  
16 scale shall be a licensed public weighmaster under the act of  
17 April 28, 1961 (P.L.135, No.64), known as the Public  
18 Weighmaster's Act, and the regulations promulgated pursuant  
19 thereto.

20 (d) Sunset for fee.--No fee shall be imposed under this  
21 section on and after the first day of the eleventh year  
22 following the effective date of this act.

23 Section 702. Form and timing of resource recovery fee payment.

24 (a) Quarterly payments.--Each operator of a municipal waste  
25 landfill shall make the resource recovery fee payment quarterly.  
26 The fee shall be paid on or before the 20th day of April, July,  
27 October and January for the three months ending the last day of  
28 March, June, September and December.

29 (b) Quarterly reports.--Each resource recovery fee payment  
30 shall be accompanied by a form prepared and furnished by the

1 department and completed by the operator. The form shall state  
2 the weight or volume of solid waste received by the landfill  
3 during the payment period and provide any other information  
4 deemed necessary by the department to carry out the purposes of  
5 this act. The form shall be signed by the operator.

6 (c) Timeliness of payment.--The operator shall be deemed to  
7 have made a timely payment of the resource recovery fee if the  
8 operator complies with all of the following:

9 (1) The enclosed payment is for the full amount owed  
10 pursuant to this section and no further departmental action  
11 is required for collection.

12 (2) The payment is accompanied by the required form, and  
13 such form is complete and accurate.

14 (3) The letter transmitting the payment that is received  
15 by the department is postmarked by the United States Postal  
16 Service on or prior to the final day on which the payment is  
17 to be received.

18 (d) Discount.--Any operator that makes a timely payment of  
19 the resource recovery fee as provided in this section shall be  
20 entitled to credit and apply against the fee payable, a discount  
21 of 1% of the amount of the fee collected.

22 (e) Refunds.--Any operator that believes he has overpaid the  
23 resource recovery fee may file a petition for refund to the  
24 department. If the department determines that the operator has  
25 overpaid the fee, the department shall refund to the operator  
26 the amount due him, together with interest at a rate established  
27 pursuant to section 806.1 of the act of April 9, 1929 (P.L.343,  
28 No.176), known as The Fiscal Code, from the date of overpayment.  
29 No refund of the resource recovery fee shall be made unless the  
30 petition for the refund is filed with the department within six

1 months of the date of the overpayment.

2 (f) Alternative proof of payment.--For purposes of this  
3 section, presentation of a receipt indicating that the payment  
4 was mailed by registered or certified mail on or before the due  
5 date shall be evidence of timely payment.

6 Section 703. Collection and enforcement of fee.

7 (a) Interest.--If an operator fails to make a timely payment  
8 of the resource recovery fee, the operator shall pay interest on  
9 the unpaid amount due at the rate established pursuant section  
10 806 of the act of April 9, 1929 (P.L.343, No.176), known as The  
11 Fiscal Code, from the last day for timely payment to the date  
12 paid.

13 (b) Additional penalty.--In addition to the interest  
14 provided in subsection (b), if an operator fails to make timely  
15 payment of the resource recovery fee, there shall be added to  
16 the amount of fee actually due 5% of the amount of such fee, if  
17 the failure to file a timely payment is for not more than one  
18 month, with an additional 5% for each additional month, or  
19 fraction thereof, during which such failure continues, not  
20 exceeding 25% in the aggregate.

21 (c) Assessment notices.--

22 (1) If the department determines that any operator of a  
23 municipal waste landfill has not made a timely payment of the  
24 resource recovery fee, it will send the operator a written  
25 notice of the amount of the deficiency, within 30 days of  
26 determining such deficiency. When the operator has not  
27 provided a complete and accurate statement of the weight or  
28 volume of solid waste received at the landfill for the  
29 payment period, the department may estimate the weight or  
30 volume in its notice.

1           (2) The operator charged with the deficiency shall have  
2 30 days to pay the deficiency in full or, if the operator  
3 wishes to contest the deficiency, forward the amount of the  
4 deficiency to the department for placement in an escrow  
5 account with the State Treasurer or any Pennsylvania bank, or  
6 post an appeal bond in the amount of the deficiency. Such  
7 bond shall be executed by a surety licensed to do business in  
8 this Commonwealth and be satisfactory to the department.  
9 Failure to forward the money or the appeal bond to the  
10 department within 30 days shall result in a waiver of all  
11 legal rights to contest the deficiency.

12           (3) If, through administrative or judicial review of the  
13 deficiency, it is determined that the amount of deficiency  
14 shall be reduced, the department shall within 30 days remit  
15 the appropriate amount to the operator, with any interest  
16 accumulated by the escrow deposit.

17           (4) The amount determined after administrative hearing  
18 or after waiver of administrative hearing shall be payable to  
19 the Commonwealth and shall be collectible in the manner  
20 provided in section 1509.

21           (5) Any other provision of law to the contrary  
22 notwithstanding, there shall be a statute of limitations of  
23 five years upon actions brought by the Commonwealth pursuant  
24 to this section.

25           (6) If any amount due hereunder remains unpaid 30 days  
26 after receipt of notice thereof, the department may order the  
27 operator of the landfill to cease receiving any solid waste  
28 until the amount of the deficiency is completely paid.

29           (d) Filing of appeals.--Notwithstanding any other provision  
30 of law, all appeals of final department actions concerning the

1 resource recovery fee, including, but not limited to, petitions  
2 for refunds, shall be filed with the Environmental Hearing  
3 Board.

4 (e) Constructive trust.--All resource recovery fees  
5 collected by an operator and held by such operator prior to  
6 payment to the department shall constitute a trust fund for the  
7 Commonwealth, and such trust shall be enforceable against such  
8 operator, its representatives and any person receiving any part  
9 of such fund without consideration or with knowledge that the  
10 operator is committing a breach of the trust. However, any  
11 person receiving payment of lawful obligation of the operator  
12 from such fund shall be presumed to have received the same in  
13 good faith and without any knowledge of the breach of trust.

14 (f) Remedies cumulative.--The remedies provided to the  
15 department in this section are in addition to any other remedies  
16 provided at law or in equity.

17 Section 704. Records.

18 Each operator of a municipal waste landfill shall keep daily  
19 records of all deliveries of solid waste to the landfill as  
20 required by the department, including, but not limited to, the  
21 name and address of the hauler, the source of the waste, the  
22 kind of waste received and the weight or volume of the waste. A  
23 copy of these records shall be maintained at the site by the  
24 operator for no less than five years and shall be made available  
25 to the department for inspection, upon request.

26 Section 705. Surcharge.

27 The provisions of any law to the contrary notwithstanding,  
28 the operator of any municipal waste landfill may collect the fee  
29 imposed by this section as a surcharge on any fee schedule  
30 established pursuant to law, ordinance, resolution or contract

1 for solid waste disposal operations at the landfill. In  
2 addition, any person who collects or transports solid waste  
3 subject to the resource recovery fee to a municipal waste  
4 landfill may impose a surcharge on any fee schedule established  
5 pursuant to law, ordinance, resolution or contract for the  
6 collection or transportation of solid waste to the landfill. The  
7 surcharge shall be equal to the increase in disposal fees at the  
8 landfill attributable to the resource recovery fee. However,  
9 interest and penalties on the fee under section 703(a) and (b)  
10 may not be collected as a surcharge.

11 Section 706. Resource Recovery Fund.

12 (a) Establishment.--All fees received by the department  
13 pursuant to section 701 shall be paid into the State Treasury  
14 into a special fund to be known as the Resource Recovery Fund,  
15 which is hereby established.

16 (b) Appropriation.--All moneys placed in the Resource  
17 Recovery Fund are hereby appropriated to the department for the  
18 purposes set forth in this section. The department shall, from  
19 time to time, submit to the Governor for his approval estimates  
20 of amounts to be expended under this act.

21 (c) Allocations.--The department shall, to the extent  
22 practicable, allocate the moneys received by the Resource  
23 Recovery Fund, including all interest generated thereon, in the  
24 following manner over the life of the fund:

25 (1) At least 70% shall be expended by the department for  
26 grants to municipalities for the development and  
27 implementation of recycling programs as set forth in section  
28 905, performance grants for municipal recycling programs as  
29 set forth in section 906, and market development and waste  
30 reduction studies as set forth in section 508.

1           (2) Up to 20% may be expended by the department for  
2 grants for resource recovery feasibility studies as set forth  
3 in sections 902 and 903 and for grants for resource recovery  
4 project development as set forth in section 904.

5           (3) Up to 10% may be expended by the department for  
6 public information, public education and technical assistance  
7 programs concerning recycling and waste reduction, including  
8 technical assistance programs for counties and other  
9 municipalities, for research and demonstration projects and  
10 for other purposes consistent with this act.

11           (4) No more than 3% may be expended for the collection  
12 and administration of moneys in the fund.

13           (d) Transfer.--On the first day of the sixteenth year after  
14 the fee imposed by section 701 becomes effective, all moneys in  
15 the Resource Recovery Fund that are not obligated shall be  
16 transferred to the Solid Waste Abatement Fund and expended in  
17 the same manner as other moneys in the Solid Waste Abatement  
18 Fund. On the first day of the nineteenth year after the fee  
19 imposed by section 701 becomes effective, all moneys in the  
20 Resource Recovery Fund that are not expended shall be  
21 transferred to the Solid Waste Abatement Fund and expended in  
22 the same manner as other moneys in the Solid Waste Abatement  
23 Fund.

24           (e) Advisory committee.--The secretary shall establish a  
25 Resource Recovery Fund Advisory Committee composed of  
26 representatives of counties, other municipalities, municipal  
27 authorities, the municipal waste management industry, the  
28 municipal waste recycling industry and the general public. The  
29 committee shall meet at least annually to review the  
30 Commonwealth's progress in meeting the goals under section



1 102(c), to recommend priorities on expenditures from the fund,  
2 and to advise the secretary on associated activities concerning  
3 the administration of the fund. The department shall reimburse  
4 members of the committee for reasonable travel, hotel and other  
5 necessary expenses incurred in performance of their duties under  
6 this section.

7 (f) Annual reports.--The department shall submit an annual  
8 report to the General Assembly on receipts to and disbursements  
9 from the Resource Recovery Fund in the previous year,  
10 projections for revenues and expenditures in the coming year,  
11 and the Commonwealth's progress in achieving the goals set forth  
12 in section 102(c).

13 CHAPTER 9

14 RESOURCE RECOVERY GRANTS

15 Section 901. Planning grants.

16 (a) Authorization.--The department may award grants for the  
17 cost of preparing municipal waste management plans in accordance  
18 with this act and for carrying out related studies, surveys,  
19 investigations, inquiries, research and analyses, upon  
20 application from any county. The application shall be made on a  
21 form prepared and furnished by the department. The application  
22 shall contain such information as the department deems necessary  
23 to carry out the provisions and purposes of this act. The grant  
24 to any county under this section shall be 50% of the approved  
25 cost of such plans and studies.

26 (b) General fund.--All grants under this section shall be  
27 made from funds appropriated for this purpose by the General  
28 Assembly.

29 Section 902. Grants to counties for resource recovery  
30 feasibility studies.

1 (a) Authorization.--The department may award grants for  
2 resource recovery feasibility studies, upon application from any  
3 county. The application shall be made on a form prepared and  
4 furnished by the department. The application shall contain such  
5 information as the department deems necessary to carry out the  
6 provisions and purposes of this act. The grant to any county  
7 under this section shall not exceed 50% of the approved cost of  
8 the feasibility study.

9 (b) Prerequisites.--The department shall not award any grant  
10 to a county under this section unless the application is  
11 complete and accurate and demonstrates to the department's  
12 satisfaction that the proposed study:

13 (1) Is necessary for the preparation or implementation  
14 of the county plan.

15 (2) Does not duplicate any prior feasibility study  
16 prepared for or on behalf of the county.

17 (c) Priority.--In awarding grants under this section, the  
18 department shall give priority to the following applicants in  
19 the order listed:

20 (1) Those applicants that propose to use resource  
21 recovery and recycling facilities or programs for the largest  
22 percentage of municipal waste generated within the county.

23 (2) Those applicants that propose to use resource  
24 recovery facilities in conjunction with recycling.

25 Section 903. Grants to public institutions for resource  
26 recovery feasibility studies.

27 (a) Authorization.--The department may award grants for  
28 resource recovery feasibility studies, upon application from any  
29 public institution. The application shall be made on a form  
30 prepared and furnished by the department. The application shall

1 contain such information as the department deems necessary to  
2 carry out the provisions and purposes of this act. The grant to  
3 any public institution under this section shall not exceed 50%  
4 of the approved cost of the feasibility study.

5 (b) Priority.--The department shall not award any grant for  
6 a public institution under this section unless the application  
7 is complete and accurate and demonstrates all of the following  
8 to the department's satisfaction:

9 (1) The county has stated in writing that the proposed  
10 study will not interfere with the preparation or  
11 implementation of the plan for the county in which the public  
12 institution is located.

13 (2) The proposed study does not duplicate any prior  
14 feasibility study prepared for on behalf of the public  
15 institution.

16 (c) Definition.--For purposes of this section, "public  
17 institution" shall mean any government building or complex of  
18 government buildings.

19 Section 904. Grants for project development for resource  
20 recovery facilities.

21 (a) Authorization.--The department may award grants for  
22 project development for resource recovery facilities, upon  
23 application from any county with a department-approved municipal  
24 waste management plan. The application shall be made on a form  
25 prepared and furnished by the department. The application shall  
26 contain such information as the department deems necessary to  
27 carry out the provisions and purposes of this act. The grant  
28 shall not exceed 75% of the approved cost of project  
29 development.

30 (b) Prerequisites.--The department shall not award any grant

1 under this section unless the application is complete and  
2 accurate and demonstrates all of the following to the  
3 department's satisfaction:

4 (1) The proposed project development work is based on an  
5 accurate and complete feasibility study.

6 (2) The proposed project development work is necessary  
7 for the implementation of the approved county plan.

8 (3) The proposed project development work does not  
9 duplicate any prior project development work prepared for or  
10 on behalf of the county.

11 (4) Adequate provision for existing and reasonably  
12 anticipated future recycling has been or will be made in  
13 designing the size of the facility, regardless of when the  
14 county plan was submitted and approved.

15 (c) Grants may be retroactive.--The grant authorized by this  
16 section may be awarded to any county for costs incurred for  
17 project development for resource recovery facilities after  
18 January 1, 1987. However, no grant may be authorized under this  
19 section for a resource recovery facility that has received a  
20 grant from the department under the act of July 20, 1974  
21 (P.L.572, No.198), known as the Pennsylvania Solid Waste-  
22 Resource Recovery Development Act, except for costs that were  
23 not paid by such grant.

24 Section 905. Grants for development and implementation of  
25 municipal recycling programs.

26 (a) Authorization.--The department may award grants for  
27 development and implementation of municipal recycling programs,  
28 upon application from any municipality. The grant provided by  
29 this section may be used to identify markets, develop a public  
30 education campaign, purchase collection and storage equipment,

1 and do other things necessary to establish a municipal recycling  
2 program. The grant may be used to purchase mechanical processing  
3 equipment only to the extent needed for collection of recyclable  
4 materials. The application shall be made on a form prepared and  
5 furnished by the department. The application shall explain the  
6 structure and operation of the program and shall contain such  
7 other information as the department deems necessary to carry out  
8 the provisions and purposes of this act. The grant under this  
9 section shall not exceed 50% of the approved cost of  
10 establishing a municipal recycling program.

11 (b) Prerequisites.--The department shall not award any grant  
12 under this section unless the application is complete and  
13 accurate and demonstrates to the department's satisfaction that  
14 the recycling program for which the grant is sought does not  
15 duplicate any other recycling programs operating within the  
16 municipality. In addition, the department shall not award any  
17 grant to any municipality under this section unless the proposed  
18 recycling program is consistent with the approved county  
19 municipal waste management plan.

20 (c) Municipal retroactive grants with restrictions.--The  
21 grant authorized by this section may be awarded to any  
22 municipality for costs incurred for a municipal recycling  
23 program after January 1, 1987. However, no grant may be  
24 authorized under this section for a municipal recycling program  
25 that has received a grant from the department under the act of  
26 July 20, 1974 (P.L.572, No.198), known as the Pennsylvania Solid  
27 Waste - Resource Recovery Development Act, except for costs that  
28 were not paid by such grant.

29 Section 906. Performance grants for municipal recycling  
30 programs.

1 (a) Authorization.--The department may award annual  
2 performance grants for municipal recycling programs other than  
3 programs for the composting of yard waste upon application from  
4 any municipality. The application shall be made on a form  
5 prepared and furnished by the department. The application shall  
6 contain such information as the department deems necessary to  
7 carry out the provisions and purposes of this act.

8 (b) Availability and amount.--

9 (1) The department may award a grant under this  
10 paragraph to a municipality based on each ton of municipal  
11 waste recycled annually for up to five years. The amount of  
12 the annual grant shall be as follows:

- 13 (i) for the first year, up to \$5 per ton;
- 14 (ii) for the second year, up to \$5 per ton;
- 15 (iii) for the third year, up to \$3 per ton;
- 16 (iv) for the fourth year, up to \$3 per ton; and
- 17 (v) for the fifth year, up to \$2 per ton.

18 (2) Where the municipality is serviced by a resource  
19 recovery facility and where the recycled municipal waste for  
20 which the grant is sought would otherwise have been processed  
21 at the resource recovery facility, the department may award  
22 an additional grant under this paragraph up to an additional  
23 \$5 per ton of municipal waste recycled annually for a period  
24 not in excess of two years.

25 (c) Prerequisites.--The department shall not award any grant  
26 under this section unless the application is complete and  
27 accurate, and demonstrates all of the following to the  
28 department's satisfaction:

29 (1) The recycling program does not duplicate any other  
30 recycling programs operating within the municipality.

1 (2) The recycled materials for which the grant is  
2 sought:

3 (i) were not diverted from another recycling program  
4 already in existence on the effective date of the  
5 ordinance establishing the municipal recycling program;  
6 and

7 (ii) were actually marketed.

8 CHAPTER 11

9 ASSISTANCE TO MUNICIPALITIES

10 Section 1101. Information provided to host municipalities.

11 (a) Departmental information.--The department will provide  
12 all of the following information to the governing body of host  
13 municipalities for municipal waste landfills and resource  
14 recovery facilities:

15 (1) Copies of each department inspection report for such  
16 facilities under the Solid Waste Management Act, the act of  
17 June 22, 1937 (P.L.1987, No.394), known as The Clean Streams  
18 Law, the act of May 31, 1945 (P.L.1198, No.418), known as the  
19 Surface Mining Conservation and Reclamation Act, the act of  
20 January 8, 1960 (1959 P.L.2119, No.787), known as the Air  
21 Pollution Control Act, the act of November 26, 1978  
22 (P.L.1375, No.325), known as the Dam Safety and Encroachments  
23 Act, and the act of December 19, 1984 (P.L.1093, No.219),  
24 known as the Noncoal Surface Mining Conservation and  
25 Reclamation Act, within five working days after the  
26 preparation of such reports.

27 (2) Prompt notification of all department enforcement or  
28 emergency actions for such facilities, including, but not  
29 limited to, abatement orders, cessation orders, proposed and  
30 final civil penalty assessments, and notices of violation.

1 (3) Copies of all air and water quality monitoring data  
2 collected by the department at such facilities, within five  
3 working days after complete laboratory analysis of such data  
4 becomes available to the department.

5 (b) Operator information.--Every operator of a municipal  
6 waste landfill or resource recovery facility shall provide to  
7 the host municipality copies of all air and water quality  
8 monitoring data for the facility conducted by or on behalf of  
9 the operator, within five days after such data becomes available  
10 to the operator.

11 (c) Public information.--All information provided to the  
12 host municipality shall be made available to the public for  
13 review upon request.

14 (d) Information to county.--If the host municipality owns or  
15 operates the municipal waste landfill or resource recovery  
16 facility, or proposes to own or operate such landfill or  
17 facility, the information required by this section shall be  
18 provided to the county within which the landfill or facility is  
19 located or proposed to be located instead of the host  
20 municipality.

21 Section 1102. Joint inspections with host municipalities.

22 (a) Training of inspectors.--

23 (1) The department shall establish and conduct a  
24 training program to certify host municipality inspectors for  
25 municipal waste landfills and resource recovery facilities.  
26 This program will be available to no more than two persons  
27 who have been designated in writing by the host municipality.  
28 The department shall hold training programs at least twice a  
29 year. The department shall certify host municipality  
30 inspectors upon completion of the training program and



1 satisfactory performance in an examination administered by  
2 the department.

3 (2) Certified municipal inspectors are authorized to  
4 enter property, inspect records, take samples and conduct  
5 inspections when they are accompanied by, and under the  
6 supervision of, department inspectors. However, certified  
7 municipal inspectors may not issue orders during an  
8 inspection.

9 (3) The department is authorized to pay for the host  
10 inspection training program and to pay 50% of the approved  
11 cost of employing a certified host municipality inspector for  
12 a period not to exceed five years. All moneys paid under this  
13 paragraph shall be from funds appropriated for this purpose  
14 by the General Assembly.

15 (b) Departmental information.--

16 (1) Whenever any host municipality presents information  
17 to the department which gives the department reason to  
18 believe that any municipal waste landfill or resource  
19 recovery facility is in violation of any requirement of the  
20 act of June 22, 1937 (P.L.1987, No.394), known as The Clean  
21 Streams Law, the act of May 31, 1945 (P.L.1198, No.418),  
22 known as the Surface Mining Conservation and Reclamation Act,  
23 the act of January 8, 1960 (1959 P.L.2119, No.787), known as  
24 the Air Pollution Control Act, the act of November 26, 1978  
25 (P.L.1375, No.325), known as the Dam Safety and Encroachments  
26 Act, the Solid Waste Management Act, and the act of December  
27 19, 1984 (P.L.1093, No.219), known as the Noncoal Surface  
28 Mining Conservation and Reclamation Act, any regulation  
29 promulgated pursuant thereto, or the condition of any permit  
30 issued pursuant thereto, the department will promptly conduct

1 an inspection of such facility.

2 (2) The department will notify the host municipality of  
3 this inspection and will allow a certified municipal  
4 inspector from the host municipality to accompany the  
5 inspector during the inspection.

6 (3) If there is not sufficient information to give the  
7 department reasons to believe that there is a violation, the  
8 department will provide a written explanation to the host  
9 municipality of its decision not to conduct an inspection  
10 within 30 days of the request for inspection.

11 (4) Upon written request of a host municipality to the  
12 department, the department will allow a certified inspector  
13 of such municipality to accompany department inspectors on  
14 routine inspections of municipal waste landfills and resource  
15 recovery facilities.

16 (c) County involvement.--If the host municipality owns or  
17 operates the municipal waste landfill or resource recovery  
18 facility, the training and inspection requirements of this  
19 section shall be available to the county within which the  
20 landfill or facility is located instead of the host  
21 municipality.

22 Section 1103. Water supply testing for contiguous landowners.

23 (a) Required water sampling.--Upon written request from  
24 persons owning land contiguous to a municipal waste landfill,  
25 the operator of such landfill shall have quarterly sampling and  
26 analysis conducted of private water supplies used by such  
27 persons for drinking water. Such sampling and analysis shall be  
28 conducted by a laboratory certified pursuant to the act of May  
29 1, 1984 (P.L.206, No.43), known as the Pennsylvania Safe  
30 Drinking Water Act. The laboratory shall be chosen by the

1 landowners from a list of regional laboratories supplied by the  
2 department. Sampling and analysis shall be at the expense of the  
3 landfill operator.

4 (b) Extent of analysis.--Water supplies shall be analyzed  
5 for all parameters or chemical constituents determined by the  
6 department to be indicative of typical contamination from  
7 municipal waste landfills. The laboratory performing such  
8 sampling and analysis shall provide written copies of sample  
9 results to the landowner and to the department.

10 (c) Additional sampling required.--If the analysis indicates  
11 possible contamination from a municipal waste landfill, the  
12 department may conduct, or require the landfill operator to have  
13 the laboratory conduct, additional sampling and analysis to  
14 determine more precisely the nature, extent and source of  
15 contamination.

16 (d) Written notice of rights.--On or before 60 days from the  
17 effective date of this act for permits issued under the Solid  
18 Waste Management Act prior to the effective date of this act,  
19 and at or before the time of permit issuance for permits issued  
20 under the Solid Waste Management Act after the effective date of  
21 this act, the operator of each municipal waste landfill shall  
22 provide contiguous landowners with written notice of their  
23 rights under this section on a form prepared by the department.  
24 Section 1104. Water supply protection.

25 (a) Alternative water supply requirement.--Any person owning  
26 or operating a municipal waste management facility that affects  
27 a public or private water supply by pollution, contamination or  
28 diminution shall restore or replace the affected supply with an  
29 alternate source of water adequate in quantity or quality for  
30 the purposes served by the water supply. If any person shall

1 fail to comply with this requirement, the department may issue  
2 such orders to the person as are necessary to assure compliance.

3 (b) Notification to department.--Any landowner or water  
4 purveyor suffering pollution, contamination or diminution of a  
5 public or private water supply as a result of solid waste  
6 disposal activities at a municipal waste management facility may  
7 so notify the department and request that an investigation be  
8 conducted. Within ten days of such notification, the department  
9 shall begin investigation of any such claims and shall, within  
10 120 days of the notification, make a determination. If the  
11 department finds that the pollution or diminution was caused by  
12 the operation of a municipal waste management facility or if it  
13 presumes the owner or operator of a municipal waste facility  
14 responsible for pollution, contamination or diminution pursuant  
15 to subsection (c), then it shall issue such orders to the owner  
16 or operator as are necessary to insure compliance with  
17 subsection (a).

18 (c) Rebuttable presumption.--Unless rebutted by one of the  
19 four defenses established in subsection (d), it shall be  
20 presumed that the owner or operator of a municipal waste  
21 landfill is responsible for the pollution, contamination or  
22 diminution of a public or private water supply that is within  
23 one-quarter mile of the perimeter of the area where solid waste  
24 disposal activities have been carried out.

25 (d) Defenses.--In order to rebut the presumption of  
26 liability established in subsection (c), the owner or operator  
27 must affirmatively prove by clear and convincing evidence one of  
28 the following four defenses:

29 (1) The pollution, contamination or diminution existed  
30 prior to any municipal waste landfill operations on the site

1 as determined by a preoperation survey.

2 (2) The landowner or water purveyor refused to allow the  
3 owner or operator access to conduct a preoperation survey.

4 (3) The water supply is not within one-quarter mile of  
5 the perimeter of the area where solid waste disposal  
6 activities have been carried out.

7 (4) The pollution, contamination or diminution occurred  
8 as a result of some cause other than solid waste disposal  
9 activities.

10 (e) Independent testing.--Any owner or operator electing to  
11 preserve its defenses under subsection (d)(1) or (2) shall  
12 retain the services of an independent certified laboratory to  
13 conduct the preoperation survey of water supplies. A copy of the  
14 results of any survey shall be submitted to the department and  
15 the landowner or water purveyor in a manner prescribed by the  
16 department.

17 (f) Other remedies preserved.--Nothing in this act shall  
18 prevent any landowner or water purveyor who claims pollution,  
19 contamination or diminution of a public or private water supply  
20 from seeking any other remedy that may be provided at law or in  
21 equity.

22 Section 1105. Purchase of cogenerated electricity.

23 (a) Request to public utility.--The owner or operator of a  
24 resource recovery facility may request that any public utility  
25 enter into a contract providing for the interconnection of the  
26 facility with the public utility and the purchase of electric  
27 energy, or electric energy and capacity, produced and offered  
28 for sale by the facility. The terms of any such contract shall  
29 be in accordance with the Federal Public Utility Regulatory  
30 Policies Act of 1978 (Public Law 95-617, 92 Stat. 3117) and any

1 subsequent amendments, and any applicable Federal regulations  
2 promulgated pursuant thereto, and the regulations of the  
3 commission.

4 (b) Limited Public Utility Commission review.--A contract  
5 entered into between a resource recovery facility and a public  
6 utility in accordance with subsection (a), shall provide for a  
7 one-time review and approval by the commission at the time the  
8 contract is entered into, notwithstanding the provisions of 66  
9 Pa.C.S. § 508 (relating to power of the commission to vary,  
10 reform and revise contracts).

11 Section 1106. Public Utility Commission.

12 (a) Application.--If the owner or operator of a resource  
13 recovery facility and a public utility fail to agree upon the  
14 terms and conditions of a contract for the purchase of electric  
15 energy, or electric energy and capacity, within 90 days of the  
16 request by the facility to negotiate such a contract, or if the  
17 public utility fails to offer a contract, either the owner or  
18 operator of the facility or the public utility may request the  
19 commission to establish the terms and conditions of such a  
20 contract. Such request may be for an informal consultation, a  
21 petition for declaratory order or a formal complaint, as  
22 appropriate under the circumstances.

23 (b) Commission response.--The commission shall respond to  
24 any such request, unless time limits are waived by the owner or  
25 operator and utility, as follows:

26 (1) If the request is for an informal consultation, such  
27 consultation shall be held within 30 days, and commission  
28 staff shall make its recommendation to the parties within 30  
29 days after the last consultation or submittal of last  
30 requested data, whichever is later. Such recommendation may

1 be oral or written, but shall not be binding on the parties  
2 or commission.

3 (2) If the request is in the form of petition for  
4 declaratory order, the petitioner shall comply with the  
5 requirements of 52 Pa. Code § 5.41 et seq. (relating to  
6 petitions) and 52 Pa. Code § 57.39 (relating to informal  
7 consultation and commission proceedings). Within 30 days  
8 after filing such petition, the commission or its staff  
9 assigned to the matter may request that the parties file  
10 legal memoranda addressing any issues raised therein. Within  
11 60 days after filing of such petition or legal memoranda,  
12 whichever is later, the commission shall act to grant or deny  
13 such petition.

14 (3) If the request is in the form of a formal complaint,  
15 the case shall proceed in accordance with 66 Pa.C.S. § 101 et  
16 seq. (relating to public utilities). However, the complaint  
17 may be withdrawn at any time, and the matter may proceed as  
18 set forth in paragraph (1) or (2).

19 (c) Status as public utility.--A resource recovery facility  
20 shall not be deemed a public utility, as such is defined in 66  
21 Pa.C.S. § 101 et seq., if such facility produces thermal energy  
22 for sale to a public utility and/or ten or less retail  
23 customers, all of whom agree to purchase from such facility  
24 under mutually agreed upon terms, or if such facility produces  
25 thermal energy for sale to any number of retail customers, all  
26 of which are located on the same site or site contiguous to that  
27 of the selling facility.

28 (d) Effect of section.--The provisions of this section shall  
29 take effect notwithstanding the adoption or failure to adopt any  
30 regulations by the Public Utility Commission regarding the

1 purchase of electric energy from qualifying facilities, as such  
2 term is defined in section 210 of the Federal Public Utility  
3 Regulatory Policies Act of 1978 (Public Law 95-617, 92 Stat.  
4 3117) regulations and commission regulations.

5 Section 1107. Claims resulting from pollution occurrences.

6 (a) Financial responsibility.--

7 (1) Any permit application by a person other than a  
8 municipality or municipal authority under the Solid Waste  
9 Management Act for a municipal waste landfill or resource  
10 recovery facility that is provided for in an approved  
11 municipal waste management plan shall certify that the  
12 applicant has in force, or will, prior to the initiation of  
13 operations under the permit, have in force, financial  
14 assurances for satisfying claims of bodily injury and  
15 property damage resulting from pollution occurrences arising  
16 from the operation of the landfill or facility. Such  
17 financial assurances shall be in place until the effective  
18 date of closure certification under the Solid Waste  
19 Management Act and the regulations promulgated pursuant  
20 thereto, unless the department determines that the landfill  
21 or facility may continue to present a significant risk to the  
22 public health, safety and welfare or the environment.

23 (2) The form and amount of such financial assurances  
24 shall be specified by the department. The required financial  
25 assurances may include, but are not limited to, the  
26 following:

27 (i) A commercial pollution liability insurance  
28 policy.

29 (ii) A secured standby trust to become self-insured  
30 that satisfies a financial test established by



1 regulation.

2 (iii) A trust fund financed by the person and  
3 administered by an independent trustee approved by the  
4 department.

5 (b) Municipal financial responsibility.--

6 (1) Any permit application by a municipality or  
7 municipal authority under the Solid Waste Management Act for  
8 a municipal waste landfill or resource recovery facility that  
9 is provided for in an approved municipal waste management  
10 plan shall certify that the applicant has in force, or will,  
11 prior to the initiation of operations under the permit, have  
12 in force, financial assurances for satisfying claims of  
13 bodily injury and property damage resulting from pollution  
14 occurrences arising from the operation of the landfill or  
15 facility, to the extent that such claims are allowed by 42  
16 Pa.C.S. Ch. 85 Subch. C (relating to actions against local  
17 parties). Such financial assurances shall be in place until  
18 the effective date of closure certification under the Solid  
19 Waste Management Act and the regulations promulgated pursuant  
20 thereto, unless the department determines that the landfill  
21 or facility may continue to present a significant risk to the  
22 public health, safety and welfare or the environment.

23 (2) The form and amount of such financial assurances  
24 shall be specified by the department. The required financial  
25 assurances may include, but are not limited to, the  
26 following:

27 (i) A commercial pollution liability insurance  
28 policy.

29 (ii) A trust fund financed by the municipality and  
30 administered by an independent trustee approved by the

1 department.

2 (iii) An insurance pool or self-insurance program  
3 authorized by 42 Pa.C.S. § 8564 (relating to liability  
4 insurance and self-insurance).

5 (3) In no case shall the department establish minimum  
6 financial assurance amounts for a municipality that are  
7 greater than the damage limitations established in 42 Pa.C.S.  
8 Ch. 85 Subch. C.

9 (c) Indemnification.--Any person other than a municipality  
10 or municipal authority that holds a permit under the Solid Waste  
11 Management Act for a municipal waste landfill or resource  
12 recovery facility that is part of an approved municipal waste  
13 management plan shall indemnify and hold harmless all counties  
14 within the planning area where the facility is located, all  
15 municipalities within the planning area and the host  
16 municipality, for claims of bodily injury and property damage  
17 against the counties and municipalities resulting from pollution  
18 occurrences arising from the operation of the facility. A host  
19 municipality may not be held liable for bodily injury and  
20 property damage resulting from pollution occurrences arising  
21 from the operation of a municipal waste landfill or resource  
22 recovery facility if such host municipality does not own,  
23 operate or control the ownership or operation of the landfill or  
24 facility.

25 (d) Effect on tort claims.--Nothing in this act shall be  
26 construed or understood as in any way modifying or affecting the  
27 provisions set forth in 42 Pa.C.S. Ch. 85 Subch. C.  
28 Section 1108. Site-specific postclosure fund.

29 (a) Establishment by county.--Each county shall establish an  
30 interest-bearing trust with an accredited financial institution

1 for every municipal waste landfill that is operating within its  
2 boundaries. This trust shall be established within 60 days of  
3 the effective date of this act for landfills permitted by the  
4 department prior to the effective date of this act. The trust  
5 shall be established prior to the operation of any landfill  
6 permitted by the department after the effective date of this  
7 act.

8 (b) Purpose.--The trust created for any landfill by this  
9 section may be used only for remedial measures and emergency  
10 actions that are necessary to prevent or abate adverse effects  
11 upon the environment after the department has certified closure  
12 of the landfill. However, the county may withdraw actual costs  
13 incurred in establishing and administering the fund in an amount  
14 not to exceed 0.5% of the moneys deposited in the fund.

15 (c) Amount.--Each operator of a municipal waste landfill  
16 shall pay into the trust on a quarterly basis an amount equal to  
17 25¢ per ton of weighed waste or 25¢ per three cubic yards of  
18 volume measured waste for all solid waste received at the  
19 landfill.

20 (d) Trustee.--The trustee shall manage the trust in  
21 accordance with all applicable laws and regulations, except that  
22 moneys in the trust shall be invested in a manner that will  
23 allow withdrawals as provided in subsection (f). The trustee  
24 shall be a person whose trust activities are examined and  
25 regulated by a State or Federal agency. The trustee may resign  
26 only after giving 120 days' notice to the department and after  
27 the appointment of a new trustee. The trustee shall have an  
28 office located within the county where the landfill is located.

29 (e) Trust agreement.--The provisions of the trust agreement  
30 shall be consistent with the requirements of this section and

1 shall be provided by the operator of the landfill on a form  
2 prepared and approved by the department. The trust agreement  
3 shall be accompanied by a formal certification of  
4 acknowledgment.

5 (f) Withdrawal of funds.--The trustee may release moneys  
6 from the trust only upon written request of the operator of a  
7 landfill. Such request shall include the proposed amount and  
8 purpose of the withdrawal and a copy of the department's written  
9 approval of the expenditure. A copy of the request shall be  
10 provided to the county and the host municipality. A copy of any  
11 withdrawal document prepared by the trustee shall be provided to  
12 the department, the county and the host municipality. No  
13 withdrawal from this trust may be made until after the  
14 department has certified closure of the landfill.

15 (g) Abandonment of trust.--If the department certifies to  
16 the trustee that the operator of a landfill has abandoned the  
17 operation of the landfill or has failed or refused to comply  
18 with the requirements of the Solid Waste Management Act, or the  
19 regulations promulgated pursuant thereto in any respect, the  
20 trustee shall forthwith pay the full amount of the trust to the  
21 department. The department may not make such certification  
22 unless it has given 30 days' written notice to the operator, the  
23 county, and the trustee of the department's intent to do so.

24 (h) Use of abandoned trust.--The department shall expend all  
25 moneys collected pursuant to subsection (g) for the purposes set  
26 forth in subsection (b). The department may expend money  
27 collected from a trust for a landfill only for that landfill.

28 (i) Surplus.--Any moneys remaining in a trust subsequent to  
29 final closure of a landfill under the Solid Waste Management Act  
30 and the regulations promulgated pursuant thereto shall, upon

1 certification of final closure by the department, be divided  
2 equally between the county and the host municipality.

3 (j) Duty under law.--Nothing in this section shall be  
4 understood or construed to in any way relieve the operator of a  
5 municipal waste landfill of any duty or obligation imposed by  
6 this act, the Solid Waste Management Act any other act  
7 administered by the department, the regulations promulgated  
8 pursuant thereto or the terms or conditions of any permit.

9 (k) Other remedies.--The remedies provided to the department  
10 in this section are in addition to any other remedies provided  
11 at law or in equity.

12 (l) County not liable.--Nothing in this section shall be  
13 understood or construed as imposing any additional  
14 responsibility or liability upon the county for compliance of a  
15 municipal waste landfill or resource recovery facility with the  
16 requirements of this act, the Solid Waste Management Act and the  
17 regulations promulgated pursuant thereto.

18 Section 1109. Trust fund for municipally operated landfills.

19 (a) Establishment of trust.--Except as provided in  
20 subsection (b), each municipality or municipal authority  
21 operating a landfill solely for municipal waste not classified  
22 hazardous shall establish an interest-bearing trust with an  
23 accredited financial institution. This trust shall be  
24 established within 60 days of the effective date of this act for  
25 landfills permitted by the department prior to the effective  
26 date of this act. The trust shall be established prior to the  
27 operation of any landfill permitted by the department after the  
28 effective date of this act.

29 (b) Exemption.--Any municipality or municipal authority that  
30 has posted a bond that is consistent with the provisions of the

1 Solid Waste Management Act and the regulations promulgated  
2 pursuant thereto shall not be required to establish the trust  
3 set forth in this section.

4 (c) Purpose.--The trust created for any landfill by this  
5 section may be used only for completing final closure of the  
6 landfill according to the permit granted by the department under  
7 the Solid Waste Management Act and taking such measures as are  
8 necessary to prevent adverse effects upon the environment. Such  
9 measures include but are not limited to satisfactory monitoring,  
10 postclosure care and remedial measures.

11 (d) Amount.--Each municipality or municipal authority  
12 operating a landfill solely for municipal waste not classified  
13 hazardous shall pay into the trust on a quarterly basis an  
14 amount determined by the department for each ton or cubic yard  
15 of solid waste disposed at the landfill. This amount shall be  
16 based on the estimated cost of completing final closure of the  
17 landfill and the weight or volume of waste to be disposed at the  
18 landfill prior to closure.

19 (e) Trustee.--The trustee shall manage the trust in  
20 accordance with all applicable laws and regulations, except that  
21 moneys in the trust shall be invested in a manner that will  
22 allow withdrawals as provided in subsection (g). The trustee  
23 shall be a person whose trust activities are examined and  
24 regulated by a State or Federal agency. The trustee may resign  
25 only after giving 120 days' notice to the department and after  
26 the appointment of a new trustee.

27 (f) Trust agreement.--The provisions of the trust agreement  
28 shall be consistent with the requirements of this section and  
29 shall be provided by the municipality or municipal authority on  
30 a form prepared and approved by the department. The trust

1 agreement shall be accompanied by a formal certification of  
2 acknowledgment.

3 (g) Withdrawal of funds.--The trustee may release moneys  
4 from the trust only upon written request of the municipality or  
5 municipal authority. Such request shall include the proposed  
6 amount and purpose of the withdrawal and a copy of the  
7 department's written approval of the expenditure. A copy of the  
8 request shall be provided to the host municipality. A copy of  
9 any withdrawal document prepared by the trustee shall be  
10 provided to the department and to the host municipality. No  
11 withdrawal from this trust may be made until after closure of  
12 the landfill.

13 (h) Abandonment of trust.--If the department certifies to  
14 the trustee that the municipality or municipal authority has  
15 abandoned the operation of the landfill or has failed or refused  
16 to comply with the requirements of the Solid Waste Management  
17 Act or the regulations promulgated pursuant thereto in any  
18 respect, the trustee shall forthwith pay the full amount of the  
19 trust to the department. The department may not make such  
20 certification unless it has given 30 days' written notice to the  
21 municipality or municipal authority and the trustee of the  
22 department's intent to do so.

23 (i) Use of abandoned trust.--The department shall expend all  
24 moneys collected pursuant to subsection (h) for the purposes set  
25 forth in subsection (c). The department may expend money  
26 collected from a trust for a landfill only for that landfill.

27 (j) Surplus.--Except for trusts that have been abandoned as  
28 provided in subsection (h), any moneys remaining in a trust  
29 subsequent to final closure of a landfill under the Solid Waste  
30 Management Act and the regulations promulgated pursuant thereto

1 shall, upon certification of final closure by the department, be  
2 returned to the municipality or municipal authority.

3 (k) Duty under law.--Nothing in this section shall be  
4 understood or construed to in any way relieve the municipality  
5 or municipal authority of any duty or obligation imposed by this  
6 act, the Solid Waste Management Act, any other act administered  
7 by the department, the regulations promulgated pursuant thereto,  
8 or the terms or conditions of any permit.

9 (l) Other remedies.--The remedies provided to the department  
10 in this section are in addition to any other remedies provided  
11 at law or in equity.

## 12 CHAPTER 13

### 13 HOST MUNICIPALITY BENEFIT FEE

14 Section 1301. Host municipality benefit fee.

15 (a) Imposition.--There is imposed a host municipality  
16 benefit fee upon the operator of each municipal waste landfill  
17 or resource recovery facility that receives a new permit or  
18 permit that results in additional capacity from the department  
19 under the Solid Waste Management Act after the effective date of  
20 this act. The fee shall be paid to the host municipality. If the  
21 host municipality owns or operates the landfill or facility, the  
22 fee shall not be imposed for waste generated within such  
23 municipality. If the landfill or facility is located within more  
24 than one host municipality, the fee shall be apportioned among  
25 them according to the percentage of the permitted area located  
26 in each municipality.

27 (b) Amount.--The fee is \$1 per ton of weighed solid waste or  
28 \$1 per three cubic yards of volume-measured solid waste for all  
29 solid waste received at a landfill or facility.

30 (c) Municipal options.--Nothing in this section or section



1 1302 shall prevent a host municipality from receiving a higher  
2 fee or receiving the fee in a different form or at different  
3 times than provided in this section and section 1302, if the  
4 host municipality and the operator of the municipal waste  
5 landfill or resource recovery facility agree in writing.  
6 Section 1302. Form and timing of host municipality benefit fee  
7 payment.

8 (a) Quarterly payment.--Each operator subject to section  
9 1301 shall make the host municipality benefit fee payment  
10 quarterly. The fee shall be paid on or before the twentieth day  
11 of April, July, October and January for the three months ending  
12 the last day of March, June, September and December.

13 (b) Quarterly reports.--Each host municipality benefit fee  
14 payment shall be accompanied by a form prepared and furnished by  
15 the department and completed by the operator. The form shall  
16 state the weight or volume of solid waste received by the  
17 landfill or facility during the payment period and provide any  
18 other information deemed necessary by the department to carry  
19 out the purposes of the act. The form shall be signed by the  
20 operator. A copy of the form shall be sent to the department at  
21 the same time that the fee and form are sent to the host  
22 municipality.

23 (c) Timeliness of payment.--An operator shall be deemed to  
24 have made a timely payment of the host municipality benefit fee  
25 if all of the following are met:

26 (1) The enclosed payment is for the full amount owed  
27 pursuant to this section, and no further host municipality  
28 action is required for collection.

29 (2) The payment is accompanied by the required form, and  
30 such form is complete and accurate.

1           (3) The letter transmitting the payment that is received  
2           by the host municipality is postmarked by the United States  
3           Postal Service on or prior to the final day on which the  
4           payment is to be received.

5           (d) Discount.--Any operator that makes a timely payment of  
6           the host municipality benefit fee as provided in this section  
7           shall be entitled to credit and apply against the fee payable by  
8           him a discount of 1% of the amount of the fee collected by him.

9           (e) Alternative proof.--For purposes of this section,  
10          presentation of a receipt indicating that the payment was mailed  
11          by registered or certified mail on or before the due date shall  
12          be evidence of timely payment.

13          Section 1303. Collection and enforcement of fee.

14          (a) Interest.--If an operator fails to make a timely payment  
15          of the host municipality benefit fee, the operator shall pay  
16          interest on the unpaid amount due at the rate established  
17          pursuant section 806 of the act of April 9, 1929 (P.L.343,  
18          No.176), known as The Fiscal Code, from the last day for timely  
19          payment to the date paid.

20          (b) Additional penalty.--In addition to the interest  
21          provided in subsection (a), if an operator fails to make timely  
22          payment of the host municipality benefit fee, there shall be  
23          added to the amount of fee actually due 5% of the amount of such  
24          fee, if the failure to file a timely payment is for not more  
25          than one month, with an additional 5% for each additional month,  
26          or fraction thereof, during which such failure continues, not  
27          exceeding 25% in the aggregate.

28          (c) Assessment notices.--If the host municipality determines  
29          that any operator of a municipal waste landfill or resource  
30          recovery facility has not made a timely payment of the host

1 municipality benefit fee, it will send a written notice for the  
2 amount of the deficiency to such operator within 30 days from  
3 the date of determining such deficiency. When the operator has  
4 not provided a complete and accurate statement of the weight or  
5 volume of solid waste received at the landfill or facility for  
6 the payment period, the host municipality may estimate the  
7 weight or volume in its deficiency notice.

8 (d) Constructive trust.--All host municipality benefit fees  
9 collected by an operator and held by such operator prior to  
10 payment to the host municipality shall constitute a trust fund  
11 for the host municipality, and such trust shall be enforceable  
12 against such operator, its representatives and any person  
13 receiving any part of such fund without consideration or with  
14 knowledge that the operator is committing a breach of the trust.  
15 However, any person receiving payment of lawful obligation of  
16 the operator from such fund shall be presumed to have received  
17 the same in good faith and without any knowledge of the breach  
18 of trust.

19 (e) Manner of collection.--The amount due and owing under  
20 section 1301 shall be collectible by the host municipality in  
21 the manner provided in section 1509.

22 (f) Remedies cumulative.--The remedies provided to host  
23 municipalities in this section are in addition to any other  
24 remedies provided at law or in equity.

25 Section 1304. Records.

26 Each operator that is required to pay the Host Municipality  
27 Benefit Fee shall keep daily records of all deliveries of solid  
28 waste to the landfill or facility, as required by the host  
29 municipality, including, but not limited to, the name and  
30 address of the hauler, the source of the waste, the kind of

1 waste received and the weight or volume of the waste. Such  
2 records shall be maintained in Pennsylvania by the operator for  
3 no less than five years and shall be made available to the host  
4 municipality for inspection upon request.

5 Section 1305. Surcharge.

6 The provisions of any law to the contrary notwithstanding,  
7 the operator of any municipal waste landfill or resource  
8 recovery facility subject to section 1301 may collect the host  
9 municipality benefit fee as a surcharge on any fee schedule  
10 established pursuant to law, ordinance, resolution or contract  
11 for solid waste disposal or processing operations at the  
12 landfill or facility. In addition, any person who collects or  
13 transports solid waste subject to the host municipality benefit  
14 fee to a municipal waste landfill or resource recovery facility  
15 subject to section 1301 may impose a surcharge on any fee  
16 schedule established pursuant to law, ordinance, resolution or  
17 contract for the collection or transportation of solid waste to  
18 the landfill or facility. The surcharge shall be equal to the  
19 increase in processing or disposal fees at the landfill or  
20 facility attributable to the host municipality benefit fee.  
21 However, interest and penalties on the fee under section 1303(a)  
22 and (b) may not be collected as a surcharge.

23 CHAPTER 15

24 ENFORCEMENT AND REMEDIES

25 Section 1501. Unlawful conduct.

26 (a) Offenses defined.--It shall be unlawful for any person  
27 to:

28 (1) Violate, or cause or assist in the violation of, any  
29 provision of this act, any regulation promulgated hereunder,  
30 any order issued hereunder, or the terms or conditions of any

1 municipal waste management plan approved by the department  
2 under this act.

3 (2) Fail to adhere to the schedule set forth in, or  
4 pursuant to, this act for developing or submitting to the  
5 department a municipal waste management plan.

6 (3) Fail to adhere to the schedule set forth in an  
7 approved plan for planning, design, siting, construction or  
8 operation of municipal waste processing or disposal  
9 facilities.

10 (4) Act in a manner that is contrary to the approved  
11 county plan or otherwise fail to act in a manner that is  
12 consistent with the approved county plan.

13 (5) Fail to make a timely payment of the resource  
14 recovery fee or host municipality benefit fee.

15 (6) Hinder, obstruct, prevent or interfere with the  
16 department or its personnel in the performance of any duty  
17 under this act.

18 (7) Hinder, obstruct, prevent or interfere with host  
19 municipalities or their personnel in the performance of any  
20 duty related to the collection of the host municipality  
21 benefit fee.

22 (8) Violate the provisions of 18 Pa.C.S. § 4903  
23 (relating to false swearing) or 4904 (relating to unsworn  
24 falsification to authorities) in complying with any provision  
25 of this act, including, but not limited to, providing or  
26 preparing any information required by this act.

27 (9) Fail to make any payment to the site-specific  
28 postclosure fund or the trust fund for municipally operated  
29 landfills in accordance with the provisions of this act.

30 (b) Public nuisance.--All unlawful conduct set forth in

1 subsection (a) shall also constitute a public nuisance.

2 Section 1502. Enforcement orders.

3 (a) Issuance.--The department may issue such orders to  
4 persons as it deems necessary to aid in the enforcement of the  
5 provisions of this act. Such orders may include, but shall not  
6 be limited to, orders requiring persons to comply with approved  
7 municipal waste management plans and orders requiring compliance  
8 with the provisions of this act and the regulations promulgated  
9 pursuant thereto. Any order issued under this act shall take  
10 effect upon notice, unless the order specifies otherwise. An  
11 appeal to the Environmental Hearing Board shall not act as a  
12 supersedeas. The power of the department to issue an order under  
13 this act is in addition to any other remedy which may be  
14 afforded to the department pursuant to this act or any other  
15 act.

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

24 Section 1503. Restraining violations.

25 (a) Injunctions.--In addition to any other remedies provided  
26 in this act, the department may institute a suit in equity in  
27 the name of the Commonwealth where unlawful conduct or public  
28 nuisance exists for an injunction to restrain a violation of  
29 this act, the regulations promulgated pursuant thereto, any  
30 order issued pursuant thereto, or the terms or conditions of any

1 approved municipal waste management plan, and to restrain the  
2 maintenance or threat of a public nuisance. In any such  
3 proceeding, the court shall, upon motion of the Commonwealth,  
4 issue a prohibitory or mandatory preliminary injunction if it  
5 finds that the defendant is engaging in unlawful conduct as  
6 defined by this act or is engaged in conduct which is causing  
7 immediate and irreparable harm to the public. The Commonwealth  
8 shall not be required to furnish bond or other security in  
9 connection with such proceedings. In addition to an injunction,  
10 the court, in such equity proceedings, may levy civil penalties  
11 as specified in section 1504.

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

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

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

29 Section 1504. Civil penalties.

30 (a) Assessment.--In addition to proceeding under any other

1 remedy available at law or in equity for a violation of any  
2 provision of this act, the regulations promulgated hereunder,  
3 any order of the department issued hereunder, or any term or  
4 condition of an approved municipal waste management plan, the  
5 department may assess a civil penalty upon a person for such  
6 violation. Such a penalty may be assessed whether or not the  
7 violation was willful or negligent. In determining the amount of  
8 the penalty, the department shall consider the willfulness of  
9 the violation; the effect on the municipal waste planning  
10 process; damage to air, water, land or other natural resources  
11 of this Commonwealth or their uses; cost of restoration and  
12 abatement; savings resulting to the person in consequence of  
13 such violation; deterrence of future violations; and other  
14 relevant factors. If the violation leads to issuance of a  
15 cessation order, a civil penalty shall be assessed.

16 (b) Notice.--When the department assesses a civil penalty,  
17 it shall inform the person of the amount of the penalty. The  
18 person charged with the penalty shall then have 30 days to pay  
19 the penalty in full or, if the person wishes to contest either  
20 the amount of the penalty or the fact of the violation, the  
21 person shall, within such 30-day period, file an appeal of such  
22 action with the Environmental Hearing Board. Failure to appeal  
23 within 30 days shall result in a waiver of all legal rights to  
24 contest the violation or the amount of the penalty. The maximum  
25 civil penalty which may be assessed pursuant to this section is  
26 \$10,000 per day per violation. Each violation for each separate  
27 day and each violation of any provision of this act, any  
28 regulation promulgated hereunder, any order issued hereunder, or  
29 the terms or conditions of any approved municipal waste  
30 management plan shall constitute a separate offense under this



1 section.

2 Section 1505. Criminal penalties.

3 (a) Summary offense.--Any person, other than a municipal  
4 official exercising his official duties, who violates any  
5 provision of this act, any regulation promulgated hereunder, any  
6 order issued hereunder, or the terms or conditions of any  
7 approved municipal waste management plan shall, upon conviction  
8 thereof in a summary proceeding, be sentenced to pay a fine of  
9 not less than \$100 and not more than \$1,000 and costs and, in  
10 default of the payment of such fine and costs, to undergo  
11 imprisonment for not more than 30 days.

12 (b) Misdemeanor offense.--Any person, other than a municipal  
13 official exercising his official duties, who violates any  
14 provision of this act, any regulation promulgated hereunder, any  
15 order issued hereunder, or the terms or conditions of any  
16 approved municipal waste management plan, commits a misdemeanor  
17 of the third degree and shall, upon conviction, be sentenced to  
18 pay a fine of not less than \$1,000 but not more than \$10,000 per  
19 day for each violation or to imprisonment for a period of not  
20 more than one year, or both.

21 (c) Second or subsequent offense.--Any person, other than a  
22 municipal official exercising his official duties who, within  
23 two years after a conviction of a misdemeanor for any violation  
24 of this act, violates any provision of this act, any regulation  
25 promulgated hereunder, any order issued hereunder, or the terms  
26 or conditions of any approved municipal waste management plan,  
27 commits a misdemeanor of the second degree and shall, upon  
28 conviction, be sentenced to pay a fine of not less than \$2,500  
29 nor more than \$25,000 for each violation or to imprisonment for  
30 a period of not more than two years, or both.

1 (d) Violations to be separate offense.--Each violation for  
2 each separate day and each violation of any provision of this  
3 act, any regulation promulgated hereunder, any order issued  
4 hereunder, or the terms or conditions of any approved municipal  
5 waste management plan, shall constitute a separate offense under  
6 subsections (a), (b) and (c).

7 Section 1506. Existing rights and remedies preserved;  
8 cumulative remedies authorized.

9 Nothing in this act shall be construed as estopping the  
10 Commonwealth, or any district attorney of a county or solicitor  
11 of a municipality, from proceeding in courts of law or equity to  
12 abate pollution forbidden under this act, or abate nuisances  
13 under existing law. It is hereby declared to be the purpose of  
14 this act to provide additional and cumulative remedies to  
15 control municipal waste planning and management within this  
16 Commonwealth, and nothing contained in this act shall in any way  
17 abridge or alter rights of action or remedies now or hereafter  
18 existing in equity, or under the common law or statutory law,  
19 criminal or civil. Nothing in this act, or the approval of any  
20 municipal waste management plan under this act, or any act done  
21 by virtue of this act, shall be construed as estopping the  
22 Commonwealth or persons in the exercise of their rights under  
23 the common law or decisional law or in equity, from proceeding  
24 in courts of law or equity to suppress nuisances, or to abate  
25 any pollution now or hereafter existing, or to enforce common  
26 law or statutory rights. No court of this Commonwealth having  
27 jurisdiction to abate public or private nuisances shall be  
28 deprived of such jurisdiction in any action to abate any private  
29 or public nuisance instituted by any person for the reason that  
30 such nuisance constitutes air or water pollution.

1 Section 1507. Production of materials; recordkeeping  
2 requirements.

3 The department and its agents and employees shall:

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

7 (2) Require any person engaged in the municipal waste  
8 management or municipal waste planning to establish and  
9 maintain such records and make such reports and furnish such  
10 information as the department may prescribe.

11 Section 1508. Withholding of State funds.

12 In addition to any other penalties provided in this act, the  
13 department may notify the State Treasurer to withhold payment of  
14 all or any portion of funds payable to the municipality by the  
15 department from the General Fund or any other fund if the  
16 municipality has engaged in any unlawful conduct under section  
17 1501. Upon notification, the State Treasurer shall hold in  
18 escrow such moneys due to such municipality until such time as  
19 the department notifies the State Treasurer that the  
20 municipality has complied with such requirement or schedule.

21 Section 1509. Collection of fines, fees, etc.

22 (a) Lien.--All fines, fees, interest and penalties and any  
23 other assessments shall be collectible in any manner provided by  
24 law for the collection of debts. If the person liable to pay any  
25 such amount neglects or refuses to pay the same after demand,  
26 the amount, together with interest and any costs that may  
27 accrue, shall be a judgment in favor of the Commonwealth or the  
28 host municipality, as the case may be, upon the property of such  
29 person, but only after same has been entered and docketed of  
30 record by the prothonotary of the county where such property is

1 situated. The department or host municipality, as the case may  
2 be, may at any time transmit to the prothonotaries of the  
3 respective counties certified copies of all such judgments, and  
4 it shall be the duty of each prothonotary to enter and docket  
5 the same of record in his office, and to index the same as  
6 judgments are indexed, without requiring the payment of costs as  
7 a condition precedent to the entry thereof.

8 (b) Deposit of fines.--All fines collected pursuant to  
9 sections 1504 and 1505 shall be paid into the Solid Waste  
10 Abatement Fund.

11 Section 1510. Right of citizen to intervene in proceedings.

12 Any citizen of this Commonwealth having an interest which is  
13 or may be adversely affected shall have the right on his own  
14 behalf, without posting bond, to intervene in any action brought  
15 pursuant to section 1503 or 1504.

## 16 CHAPTER 17

### 17 MISCELLANEOUS PROVISIONS

18 Section 1701. Severability.

19 The provisions of this act are severable. If any provision of  
20 this act or its application to any person or circumstance is  
21 held invalid, the invalidity shall not affect other provisions  
22 or applications of this act which can be given effect without  
23 the invalid provision or application.

24 Section 1702. Repeals.

25 (a) Absolute repeals.--The last sentence in section 201(b),  
26 section 201(f) through (l) and sections 202 and 203 of the act  
27 of July 7, 1980 (P.L.380, No.97), known as the Solid Waste  
28 Management Act, are repealed.

29 (b) Inconsistent repeals.--Except as provided in section  
30 501(c) of this act, the first through fourth sentences of

1 section 201(b) and section 201(c), (d) and (e) of the act of  
2 July 7, 1980 (P.L.380, No.97), known as the Solid Waste  
3 Management Act, are repealed insofar as they are inconsistent  
4 with this act.

5 Section 1703. Effective date.

6 This act shall take effect in 60 days.