

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 528

Session of 1987

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

SENATOR FISHER, ENVIRONMENTAL RESOURCES AND ENERGY, AS AMENDED, JUNE 24, 1987

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; REQUIRING MUNICIPALITIES TO IMPLEMENT
8 RECYCLING PROGRAMS; REQUIRING COMMONWEALTH AGENCIES TO
9 PROCURE RECYCLED MATERIALS; imposing duties; granting powers
10 to counties and municipalities; authorizing the Environmental
11 Quality Board to adopt regulations; authorizing the
12 Department of Environmental Resources to implement this act;
13 providing remedies; prescribing penalties; establishing a
14 fund; and making repeals.

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1 The General Assembly of the Commonwealth of Pennsylvania
2 hereby enacts as follows:

3 CHAPTER 1

4 GENERAL PROVISIONS

5 Section 101. Short title.

6 This act shall be known and may be cited as the Municipal
7 Waste Planning ~~and Resource Recovery~~, RECYCLING AND WASTE <—
8 REDUCTION Act.

9 Section 102. Legislative findings; declaration of policy and
10 goals.

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

13 (1) Improper municipal waste practices create public
14 health hazards, environmental pollution and economic loss,
15 and cause irreparable harm to the public health, safety and
16 welfare.

17 (2) Parts of this Commonwealth have inadequate and
18 rapidly diminishing processing and disposal capacity for
19 municipal waste.

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

23 (4) Needed additional municipal waste processing and
24 disposal facilities have not been developed in a timely
25 manner because of diffused responsibility for municipal waste
26 planning, processing and disposal among numerous and
27 overlapping units of local government.

28 (5) It is necessary to give counties the primary
29 responsibility to plan for the processing and disposal of
30 municipal waste generated within their boundaries to insure

1 the timely development of needed processing and disposal
2 facilities.

3 (6) Proper and adequate processing and disposal of
4 municipal waste generated within a county requires the
5 generating county to give first choice to new processing and
6 disposal sites located within that county.

7 (7) It is appropriate to provide those living near
8 municipal waste processing and disposal facilities with
9 additional guarantees of the proper operation of such
10 facilities and to provide incentives for municipalities to
11 host such facilities.

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

14 (9) Prompt payment and efficient collection of the
15 ~~resource recovery~~ RECYCLING fee created by this act are <—
16 essential to the administration of the ~~resource recovery and~~ <—
17 recycling grants provided by this act.

18 (10) AUTHORIZING COUNTIES TO CONTROL THE FLOW OF <—
19 MUNICIPAL WASTE AND RECYCLABLE CONSTITUENTS OF MUNICIPAL
20 WASTE IS NECESSARY TO GUARANTEE, AMONG OTHER THINGS, THE LONG
21 TERM ECONOMIC VIABILITY OF RESOURCE RECOVERY FACILITIES AND
22 MUNICIPAL WASTE LANDFILLS, ENSURE THAT SUCH FACILITIES AND
23 LANDFILLS CAN BE FINANCED, MODERATE THE COST OF SUCH
24 FACILITIES AND LANDFILLS OVER THE LONG TERM, PROTECT EXISTING
25 CAPACITY, AND ASSIST IN THE DEVELOPMENT OF MARKETS FOR
26 RECYCLABLE MATERIALS BY GUARANTEEING A STEADY FLOW OF SUCH
27 MATERIALS.

28 (11) PUBLIC AGENCIES IN THE COMMONWEALTH PURCHASE
29 SIGNIFICANT QUANTITIES OF PRODUCTS OR MATERIALS ANNUALLY.

30 (12) BY PURCHASING PRODUCTS OR MATERIALS MADE FROM

1 RECYCLED MATERIALS, PUBLIC AGENCIES IN THE COMMONWEALTH CAN
2 HELP STIMULATE THE MARKET FOR SUCH MATERIALS AND THEREBY
3 FOSTER RECYCLING, AND CAN ALSO EDUCATE THE PUBLIC CONCERNING
4 THE UTILITY AND AVAILABILITY OF SUCH MATERIALS.

5 (13) REMOVING CERTAIN MATERIALS FROM THE MUNICIPAL
6 WASTE-STREAM WILL DECREASE THE FLOW OF SOLID WASTE TO
7 MUNICIPAL WASTE LANDFILLS, AID IN THE CONSERVATION AND
8 RECOVERY OF VALUABLE RESOURCES, CONSERVE ENERGY IN THE
9 MANUFACTURING PROCESS, INCREASE THE SUPPLY OF REUSABLE
10 MATERIALS FOR THE COMMONWEALTH'S INDUSTRIES, AND WILL ALSO
11 REDUCE SUBSTANTIALLY THE REQUIRED CAPACITY OF PROPOSED
12 RESOURCE RECOVERY FACILITIES AND CONTRIBUTE TO THEIR OVERALL
13 COMBUSTION EFFICIENCY, THEREBY RESULTING IN SIGNIFICANT COST
14 SAVINGS IN THE PLANNING, CONSTRUCTION AND OPERATION OF THESE
15 FACILITIES.

16 (14) IT IS IN THE PUBLIC INTEREST TO PROMOTE THE SOURCE
17 SEPARATION OF MARKETABLE WASTE MATERIALS ON A STATEWIDE BASIS
18 SO THAT REUSABLE MATERIALS MAY BE RETURNED TO THE ECONOMIC
19 MAINSTREAM IN THE FORM OF RAW MATERIALS OR PRODUCTS RATHER
20 THAN BE DISPOSED OF AT THE COMMONWEALTH'S OVERBURDENED
21 MUNICIPAL WASTE PROCESSING OR DISPOSAL FACILITIES.

22 (15) THE RECYCLING OF MARKETABLE MATERIALS BY
23 MUNICIPALITIES IN THE COMMONWEALTH AND COMMONWEALTH AGENCIES,
24 AND THE DEVELOPMENT OF PUBLIC AND PRIVATE SECTOR RECYCLING
25 ACTIVITIES ON AN ORDERLY AND INCREMENTAL BASIS, WILL FURTHER
26 DEMONSTRATE THE COMMONWEALTH'S LONG TERM COMMITMENT TO AN
27 EFFECTIVE AND COHERENT SOLID WASTE MANAGEMENT STRATEGY.

28 (16) OPERATORS OF MUNICIPAL WASTE LANDFILLS AND RESOURCE
29 RECOVERY FACILITIES SHOULD GIVE FIRST PRIORITY TO THE
30 DISPOSAL OR PROCESSING OF MUNICIPAL WASTE GENERATED WITHIN

1 THE HOST COUNTY BECAUSE, AMONG OTHER REASONS, THE HOST COUNTY
2 IS MOST DIRECTLY AFFECTED BY OPERATIONS AT THE FACILITY, AND
3 BECAUSE LOCAL PROCESSING OR DISPOSAL OF MUNICIPAL WASTE SAVES
4 ENERGY AND TRANSPORTATION COSTS.

5 (17) THE COMMONWEALTH RECOGNIZES THAT BOTH MUNICIPAL
6 WASTE LANDFILLS AND RESOURCE RECOVERY FACILITIES WILL BE
7 NEEDED AS PART OF AN INTEGRATED STRATEGY TO PROVIDE FOR THE
8 PROCESSING AND DISPOSAL OF THE COMMONWEALTH'S MUNICIPAL
9 WASTE.

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

11 (1) Establish and maintain a cooperative State and local
12 program of planning and technical and financial assistance
13 for comprehensive municipal waste management.

14 (2) Encourage the development of waste reduction, AND <—
15 recycling and ~~resource recovery~~ as a means of managing <—
16 municipal waste, conserving resources and supplying energy
17 through planning, grants and other incentives.

18 (3) Protect the public health, safety and welfare from
19 the short and long term dangers of transportation,
20 processing, treatment, storage and disposal of municipal
21 waste.

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

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

27 (6) Establish a ~~resource recovery~~ RECYCLING fee for <—
28 municipal waste landfills AND RESOURCE RECOVERY FACILITIES to <—
29 provide grants for ~~resource recovery~~, recycling, planning and <—
30 related purposes.

1 (7) Establish a host municipality benefit fee for
2 municipal waste landfills and resource recovery facilities
3 that are permitted after the effective date of this act ~~so~~ ←
4 ~~that municipalities might consider encouraging such~~
5 ~~facilities to be located within their boundaries, and provide~~
6 AND TO PROVIDE benefits to host municipalities for the ←
7 presence of such facilities.

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

13 (9) Establish trust funds for municipally operated
14 landfills to ensure that there are sufficient funds available
15 for completing the final closure of such landfills under the
16 Solid Waste Management Act.

17 (10) Shift the primary responsibility for developing and
18 implementing municipal waste management plans from
19 municipalities to counties.

20 (11) REQUIRE ALL PUBLIC AGENCIES OF THE COMMONWEALTH TO ←
21 AID AND PROMOTE THE DEVELOPMENT OF RECYCLING THROUGH THEIR
22 PROCUREMENT POLICIES FOR THE GENERAL WELFARE AND ECONOMY OF
23 THE COMMONWEALTH.

24 (12) REQUIRE CERTAIN MUNICIPALITIES TO IMPLEMENT
25 RECYCLING PROGRAMS TO RETURN VALUABLE MATERIALS TO PRODUCTIVE
26 USE, TO CONSERVE ENERGY AND TO PROTECT CAPACITY AT MUNICIPAL
27 WASTE PROCESSING OR DISPOSAL FACILITIES.

28 (13) IMPLEMENT ARTICLE 1, SECTION 27 OF THE CONSTITUTION
29 OF PENNSYLVANIA.

30 (c) Declaration of goals.--The General Assembly therefore

1 declares the following goals:

2 ~~(1) At least 40% of all municipal waste generated in~~ <—
3 ~~this Commonwealth on and after January 1, 1997, should be~~
4 ~~processed at resource recovery facilities.~~

5 ~~(2) (1) At least an additional 25% of all municipal~~ <—
6 ~~waste generated in this Commonwealth on and after January 1,~~
7 ~~1997, should be recycled by municipal recycling programs and~~ <—
8 ~~other recycling facilities.~~

9 (2) THE WEIGHT OR VOLUME OF MUNICIPAL WASTE GENERATED <—
10 PER CAPITA IN THIS COMMONWEALTH ON JANUARY 1, 1997, SHOULD,
11 TO THE GREATEST EXTENT PRACTICABLE, BE LESS THAN THE WEIGHT
12 OR VOLUME OF MUNICIPAL WASTE GENERATED PER CAPITA ON THE
13 EFFECTIVE DATE OF THIS ACT.

14 (3) EACH PERSON LIVING OR WORKING IN THIS COMMONWEALTH
15 SHALL BE TAUGHT THE ECONOMIC, ENVIRONMENTAL, AND ENERGY VALUE
16 OF RECYCLING AND WASTE REDUCTION, AND SHALL BE ENCOURAGED
17 THROUGH A VARIETY OF MEANS TO PARTICIPATE IN SUCH ACTIVITIES.

18 (4) THE COMMONWEALTH SHOULD, TO THE GREATEST EXTENT
19 PRACTICABLE, PROCURE AND USE PRODUCTS AND MATERIALS WITH
20 RECYCLED CONTENT, AND PROCURE AND USE MATERIALS THAT ARE
21 RECYCLABLE.

22 Section 103. Definitions.

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

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

29 "Commission." The Pennsylvania Public Utility Commission and
30 its authorized representatives.

1 "COMMONWEALTH AGENCY." THE COMMONWEALTH AND ITS DEPARTMENTS, <—
2 BOARDS, COMMISSIONS AND AGENCIES, COMMONWEALTH OWNED
3 UNIVERSITIES, AND THE STATE PUBLIC SCHOOL BUILDING AUTHORITY,
4 THE STATE HIGHWAY AND BRIDGE AUTHORITY, AND ANY OTHER AUTHORITY
5 NOW IN EXISTENCE OR HEREAFTER CREATED OR ORGANIZED BY THE
6 COMMONWEALTH.

7 "COUNTY." INCLUDES THE CITY OF PHILADELPHIA BUT NOT
8 PHILADELPHIA COUNTY.

9 "Department." The Department of Environmental Resources of
10 the Commonwealth and its authorized representatives.

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

16 "FEASIBILITY STUDY." A STUDY WHICH ANALYZES A SPECIFIC <—
17 MUNICIPAL WASTE PROCESSING OR DISPOSAL SYSTEM TO ASSESS THE
18 LIKELIHOOD THAT THE SYSTEM CAN BE SUCCESSFULLY IMPLEMENTED,
19 INCLUDING, BUT NOT LIMITED TO, AN ANALYSIS OF THE PROSPECTIVE
20 MARKET, THE PROJECTED COSTS AND REVENUES OF THE SYSTEM, THE
21 MUNICIPAL WASTE-STREAM THAT THE SYSTEM WILL RELY UPON AND
22 VARIOUS OPTIONS AVAILABLE TO IMPLEMENT THE SYSTEM.

23 "Host municipality." The municipality other than the county
24 within which a municipal waste landfill or resource recovery
25 facility is located or is proposed to be located.

26 "LEAF WASTE." LEAVES, GARDEN RESIDUES, SHRUBBERY AND TREE <—
27 TRIMMINGS, AND SIMILAR MATERIAL, BUT NOT INCLUDING GRASS
28 CLIPPINGS.

29 "LOCAL PUBLIC AGENCY."

30 (1) COUNTIES, CITIES, BOROUGH, TOWNS, TOWNSHIPS, SCHOOL

1 DISTRICTS, AND ANY OTHER AUTHORITY NOW IN EXISTENCE OR
2 HEREAFTER CREATED OR ORGANIZED BY THE COMMONWEALTH.

3 (2) ALL MUNICIPAL OR SCHOOL OR OTHER AUTHORITIES NOW IN
4 EXISTENCE OR HEREAFTER CREATED OR ORGANIZED BY ANY COUNTY,
5 CITY, BOROUGH, TOWNSHIP OR SCHOOL DISTRICT OR ANY COMBINATION
6 THEREOF.

7 (3) ANY AND ALL OTHER PUBLIC BODIES, AUTHORITIES,
8 COUNCILS OF GOVERNMENT, OFFICERS, AGENCIES OR
9 INSTRUMENTALITIES OF THE FOREGOING, WHETHER EXERCISING A
10 GOVERNMENTAL OR PROPRIETARY FUNCTION.

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

14 "Municipal recycling program." A source separation and
15 collection program for recycling municipal waste, or a program
16 for designated drop-off points or collection centers for
17 recycling municipal waste, that is operated by or on behalf of a
18 municipality. The term includes any source separation and
19 collection program for composting yard waste that is operated by
20 or on behalf of a municipality. The term shall not include any
21 program for recycling demolition waste or sludge from sewage
22 treatment plants or water supply treatment plants.

23 "Municipal waste." Any garbage, refuse, industrial lunchroom
24 or office waste and other material, including solid, liquid,
25 semisolid or contained gaseous material, resulting from
26 operation of residential, municipal, commercial or institutional
27 establishments and from community activities and any sludge not
28 meeting the definition of residual or hazardous waste in the
29 Solid Waste Management Act from a municipal, commercial or
30 institutional water supply treatment plant, waste water

1 treatment plant or air pollution control facility.

2 "Municipal waste landfill." Any facility that is designed,
3 operated or maintained for the disposal of municipal waste,
4 whether or not such facility possesses a permit from the
5 department under the Solid Waste Management Act. The term shall
6 not include any facility that is used exclusively for disposal
7 of demolition waste or sludge from sewage treatment plants or
8 water supply treatment plants.

9 "Municipality." A county, city, borough, incorporated town,
10 township or home rule municipality.

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

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

26 "Pollution." Contamination of any air, water, land or other
27 natural resources of this Commonwealth that will create or is
28 likely to create a public nuisance or to render the air, water,
29 land or other natural resources harmful, detrimental or
30 injurious to public health, safety or welfare, or to domestic,

1 municipal, commercial, industrial, agricultural, recreational or
2 other legitimate beneficial uses, or to livestock, wild animals,
3 birds, fish or other life.

4 "POST CONSUMER WASTE MATERIAL." ANY PRODUCT GENERATED BY A <—
5 BUSINESS OR CONSUMER WHICH HAS SERVED ITS INTENDED END USE, AND
6 WHICH HAS BEEN SEPARATED FROM SOLID WASTE FOR THE PURPOSES OF
7 COLLECTION, RECYCLING, AND DISPOSITION. THE TERM INCLUDES
8 INDUSTRIAL BYPRODUCTS THAT WOULD OTHERWISE GO TO DISPOSAL OR
9 PROCESSING FACILITIES. THE TERM DOES NOT INCLUDE INTERNALLY
10 GENERATED SCRAP THAT IS COMMONLY RETURNED TO INDUSTRIAL OR
11 MANUFACTURING PROCESS.

12 "Processing." Any technology used for the purpose of
13 reducing the volume or bulk of municipal waste or any technology
14 used to convert part or all of such waste materials for offsite
15 reuse. Processing facilities include, but are not limited to,
16 transfer facilities, composting facilities and resource recovery
17 facilities.

18 "Project development." Those activities required to be
19 conducted prior to constructing a ~~resource recovery~~ PROCESSING <—
20 OR DISPOSAL facility that has been shown to be feasible,
21 including, but not limited to, public input and participation,
22 siting, procurement and vendor contract negotiations, and market
23 and municipal waste supply assurance negotiations.

24 "PUBLIC AGENCY." ANY COMMONWEALTH AGENCY OR LOCAL PUBLIC <—
25 AGENCY.

26 "RECYCLED CONTENT." PRODUCTS OR MATERIALS CONTAINING POST
27 CONSUMER WASTE MATERIALS.

28 "Recycling." The collection, separation, recovery and sale
29 or reuse of metals, glass, paper, LEAF WASTE, plastics and other <—
30 materials which would otherwise be disposed OR PROCESSED as <—

1 municipal waste.

2 "Remaining available permitted capacity." The remaining
3 permitted capacity that is actually available for processing or
4 disposal to the county or other municipality that generated the
5 waste.

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

19 "Residual waste." Any garbage, refuse, other discarded
20 material or other waste, including solid, liquid, semisolid or
21 contained gaseous materials resulting from industrial, mining
22 and agricultural operations and any sludge from an industrial,
23 mining or agricultural water supply treatment facility, waste
24 water treatment facility or air pollution control facility,
25 provided that it is not hazardous. The term shall not include
26 coal refuse as defined in the act of September 24, 1968
27 (P.L.1040, No.318), known as the Coal Refuse Disposal Control
28 Act. The term shall not include treatment sludges from coal mine
29 drainage treatment plants, disposal of which is being carried on
30 pursuant to and in compliance with a valid permit issued

1 pursuant to the act of June 22, 1937 (P.L.1987, No.394), known
2 as The Clean Streams Law.

3 ~~"Resource recovery." The extraction and utilization from~~ <—
4 ~~municipal waste of materials or energy. The term includes, but~~
5 ~~is not limited to, the operation of resource recovery facilities~~
6 ~~or municipal recycling programs.~~

7 "Resource recovery facility." A facility that provides for
8 the extraction and utilization of materials or energy from
9 municipal waste THAT IS GENERATED OFF-SITE, including, but not <—
10 limited to, a facility that mechanically extracts materials from
11 municipal waste, a combustion facility that converts the organic
12 fraction of municipal waste to usable energy, and any chemical
13 and biological process that converts municipal waste into a fuel
14 product or other usable materials. THE TERM ALSO INCLUDES ANY <—
15 FACILITY FOR THE COMBUSTION OF MUNICIPAL WASTE THAT IS GENERATED
16 OFF-SITE, WHETHER OR NOT THE FACILITY IS OPERATED TO RECOVER
17 ENERGY. The term does not include methane gas extraction from a
18 municipal waste landfill, nor shall it include any separation
19 and collection center, drop-off point or collection center for
20 recycling municipal waste, or any source separation or
21 collection center for composting yard LEAF waste. <—

22 ~~"Resource recovery feasibility study." A study which~~ <—
23 ~~analyzes a specific resource recovery system to assess the~~
24 ~~likelihood that the system can be successfully implemented,~~
25 ~~including, but not limited to, an analysis of the prospective~~
26 ~~market, the projected costs and revenues of the system, the~~
27 ~~municipal waste stream that the system will rely upon and~~
28 ~~various options available to implement the system.~~

29 "Secretary." The Secretary of Environmental Resources of the
30 Commonwealth.

1 "Solid waste." Solid waste, as defined in the act of July 7,
2 1980 (P.L.380, No.97), known as the Solid Waste Management Act.

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

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

7 "Storage." The containment of any municipal waste on a
8 temporary basis in such a manner as not to constitute disposal
9 of such waste. It shall be presumed that the containment of any
10 municipal waste in excess of one year constitutes disposal. This
11 presumption can be overcome by clear and convincing evidence to
12 the contrary.

13 "Transportation." The offsite removal of any municipal waste
14 at any time after generation.

15 "Treatment." Any method, technique or process, including,
16 but not limited to, neutralization, designed to change the
17 physical, chemical or biological character or composition of any
18 municipal waste so as to neutralize such waste or so as to
19 render such waste safer for transport, suitable for recovery,
20 suitable for storage or reduced in volume.

21 "Waste reduction." Design, manufacture or use of a product
22 to minimize weight of municipal waste that requires processing
23 or disposal, including, BUT NOT LIMITED TO: ←

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

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

30 Section 104. Construction of act.

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

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

6 CHAPTER 3

7 POWERS AND DUTIES

8 Section 301. Powers and duties of department.

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

12 (1) Administer the municipal waste planning ~~and resource~~ <—
13 ~~recovery~~, RECYCLING AND WASTE REDUCTION program pursuant to <—
14 the provisions of this act and the regulations promulgated
15 pursuant thereto.

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

19 (3) Provide technical assistance to municipalities AND <—
20 COMMONWEALTH AGENCIES, including, but not limited to, the
21 training of personnel.

22 (4) Initiate, conduct and support research,
23 demonstration projects and investigations, and coordinate all
24 State agency research programs pertaining to municipal waste
25 management systems.

26 (5) Regulate municipal waste planning, including, but
27 not limited to, the development and implementation of county
28 municipal waste management plans.

29 (6) Approve, conditionally approve or disapprove
30 municipal waste management plans, issue orders, conduct

1 inspections and abate public nuisances to implement the
2 provisions and purposes of this act and the regulations
3 promulgated pursuant to this act.

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

10 (8) Institute, in a court of competent jurisdiction,
11 proceedings against any person to compel compliance with the
12 provisions of this act, any regulation promulgated pursuant
13 thereto, any order of the department, or the terms and
14 conditions of any approved municipal waste management plan.

15 (9) Institute prosecutions against any person under this
16 act.

17 (10) Appoint such advisory committees as the secretary
18 deems necessary and proper to assist the department in
19 carrying out the provisions of this act. The secretary is
20 authorized to pay reasonable and necessary expenses incurred
21 by the members of such advisory committees in carrying out
22 their functions.

23 (11) Encourage and, where the department determines it
24 is appropriate, require counties and other municipalities to
25 carry out their duties under this act, using the full range
26 of incentives and enforcement authority provided in this act.

27 (12) Take any action not inconsistent with this act that
28 the department may deem necessary or proper to collect the
29 ~~resource-recovery~~ RECYCLING fee provided by this act, and to <—
30 insure the payment of the host municipality benefit fee and

1 TO ENSURE THE PAYMENT OF the site-specific postclosure fee <—
2 and moneys for the trust fund for municipally operated
3 landfills provided by this act.

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

11 ~~(14)~~ (13) Administer and distribute moneys in the <—
12 Resource Recovery RECYCLING Fund for any public educational
13 programs on recycling and waste reduction that the department
14 believes to be appropriate, for technical assistance to
15 counties in the preparation of municipal waste management
16 plans, for technical assistance to municipalities concerning
17 recycling and waste reduction, to conduct research, and for
18 other purposes consistent with this act.

19 (14) TO PROMOTE AND EMPHASIZE RECYCLING AND WASTE <—
20 REDUCTION IN THE COMMONWEALTH BY, AMONG OTHER THINGS:

21 (I) CONDUCTING A COMPREHENSIVE, INNOVATIVE AND
22 EFFECTIVE PUBLIC EDUCATION PROGRAM CONCERNING THE VALUE
23 OF RECYCLING AND WASTE REDUCTION, AND OF PUBLIC
24 OPPORTUNITIES TO PARTICIPATE IN SUCH ACTIVITIES, IN
25 COOPERATION WITH THE DEPARTMENT OF EDUCATION.

26 (II) DEVELOPING AND MAINTAINING A DATA BASE ON
27 RECYCLING AND WASTE REDUCTION IN THE COMMONWEALTH, AND
28 MAKING THE INFORMATION IN THAT DATA BASE AVAILABLE TO THE
29 PUBLIC.

30 (III) COORDINATING RECYCLING AND WASTE REDUCTION

1 EFFORTS AMONG COMMONWEALTH AGENCIES.

2 (IV) PROVIDING FINANCIAL AND OTHER ASSISTANCE TO
3 MUNICIPALITIES THAT ARE REQUIRED BY SECTION 1501 TO
4 IMPLEMENT RECYCLING PROGRAMS.

5 (15) Do any and all other acts and things, not
6 inconsistent with any provision of this act, which it may
7 deem necessary or proper for the effective enforcement of
8 this act and the regulations promulgated pursuant thereto
9 after consulting with the Department of Health regarding
10 matters of public health significance.

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

12 The Environmental Quality Board shall have the power and its
13 duty shall be to adopt the regulations of the department to
14 accomplish the purposes and to carry out the provisions of this
15 act.

16 ~~Section 303. Powers and duties of Environmental Hearing Board.~~ <—

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

23 Section ~~304~~ 303. Powers and duties of counties. <—

24 (a) Primary responsibility of county.--Each county shall
25 have the power and its duty shall be to insure the availability
26 of adequate permitted processing and disposal capacity for the
27 municipal waste which is generated within its boundaries. As
28 part of this power, a county:

29 (1) May require all persons collecting or transporting
30 municipal waste within the county to obtain licenses for the

1 purpose of directing waste to facilities designated pursuant
2 to subsection (e).

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

6 (3) May plan for the processing and disposal of
7 municipal waste generated outside its boundaries and to
8 implement its approved plan as it relates to the processing
9 and disposal of such waste.

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

14 (c) Ordinances and resolutions.--In carrying out its duties
15 under this section, a county may adopt ordinances, resolutions,
16 regulations and standards for the processing and disposal of
17 municipal waste, which shall not be less stringent than, and not
18 in violation of or inconsistent with, the provisions and
19 purposes of the Solid Waste Management Act, this act and the
20 regulations promulgated pursuant thereto.

21 (d) Delegation of county responsibility.--A county may enter
22 into a written agreement with another municipality or municipal
23 authority pursuant to which the person undertakes to fulfill
24 some or all of the county's responsibilities under this act for
25 municipal waste planning and implementation of the approved
26 county plan. Any such person shall be jointly and severally
27 responsible with the county for municipal waste planning and
28 implementation of the approved county plan in accordance with
29 this act and the regulations promulgated pursuant thereto.

30 (e) Designated sites.--A county with an approved municipal

1 waste management plan that was submitted pursuant to section
2 501(a), ~~(b) or (d)~~ OR (C) of this act is also authorized to
3 require that all municipal wastes generated within its
4 boundaries shall be processed or disposed at a designated
5 processing or disposal facility that is contained in the
6 approved plan and ~~that was~~ permitted by the department ~~after~~
7 ~~July 1, 1986~~ UNDER THE ACT OF JULY 7, 1980 (P.L.380, NO.97),
8 KNOWN AS THE SOLID WASTE MANAGEMENT ACT. No county shall direct
9 municipal waste that would otherwise be recycled to any resource
10 recovery facility or other facility for purposes other than
11 recycling such waste.

12 (F) REPORT.--ON OR BEFORE APRIL 1 OF EACH YEAR, EACH COUNTY
13 SHALL SUBMIT A REPORT TO THE DEPARTMENT DESCRIBING:

14 (1) ITS PROGRESS IN IMPLEMENTING ITS DEPARTMENT-APPROVED
15 MUNICIPAL WASTE MANAGEMENT PLAN OR IN DEVELOPING SUCH A PLAN.

16 (2) THE WEIGHT OR VOLUME OF MATERIALS THAT WERE RECYCLED
17 BY MUNICIPAL RECYCLING PROGRAMS IN THE COUNTY IN THE
18 PRECEDING CALENDAR YEAR.

19 Section ~~305~~ 304. Powers and duties of municipalities other than
20 counties.

21 (a) Responsibility of other municipalities.--Each
22 municipality other than a county shall have the power and its
23 duty shall be to assure the proper and adequate transportation,
24 collection and storage of municipal waste which is generated OR
25 PRESENT within its boundaries. ~~As part of that power,~~
26 ~~municipalities other than counties may~~ AND TO adopt and
27 implement programs for the collection and recycling of municipal
28 waste AS PROVIDED IN THIS ACT.

29 (b) Ordinances.--In carrying out its duties under this
30 section, a municipality other than a county may adopt

1 resolutions, ordinances, regulations and standards for the
2 transportation, storage and collection of municipal wastes,
3 which shall not be less stringent than, and not in violation of
4 or inconsistent with, the provisions and purposes of the Solid
5 Waste Management Act, this act and the regulations promulgated
6 pursuant thereto.

7 (c) Delegation of responsibility.--A municipality other than
8 a county may contract with any municipality or municipal
9 authority to carry out its duties for the transportation,
10 collection and storage of municipal waste, if the
11 transportation, collection or storage activity or facility is
12 conducted or operated in a manner that is consistent with the
13 Solid Waste Management Act, this act and the regulations
14 promulgated pursuant thereto.

15 (d) Designated sites.--A municipality other than a county
16 may require by ordinance that all municipal waste generated
17 within its jurisdiction shall be disposed of at a designated
18 permitted facility. Such ordinance shall remain in effect until
19 the county in which the municipality is located adopts a waste
20 flow control ordinance as part of a plan submitted to the
21 department pursuant to section 501(a), ~~(b) or (d)~~ OR (C) and <—
22 approved by the department. Except as provided in section 502(n) <—
23 (M), any such county ordinance shall supersede any such <—
24 municipal ordinance to the extent that the municipal ordinance
25 is inconsistent with the county ordinance.

26 (e) Term and renewals of certain contracts.--The governing
27 body of a municipality OTHER THAN A COUNTY shall have the power <—
28 to, and may, enter into contracts having an initial term of five
29 years with optional renewal periods of up to five years with
30 persons responsible for the collection or transportation of

1 municipal waste generated within the municipality. The
2 provisions of this subsection shall not apply to the disposal of
3 municipal solid waste. THE LIMITATIONS IMPOSED ON CONTRACTS BY ←
4 SECTION 1502(XXVII) OF THE ACT OF JUNE 24, 1931 (P.L.1206,
5 NO.331), KNOWN AS THE FIRST CLASS TOWNSHIP CODE, AND SECTION 702
6 (VIII) OF THE ACT OF MAY 1, 1933 (P.L.103, NO.69), KNOWN AS THE
7 SECOND CLASS TOWNSHIP CODE, SHALL NOT APPLY TO CONTRACTS ENTERED
8 INTO PURSUANT TO THIS ACT.

9 (F) REPORT.--ON OR BEFORE FEBRUARY 15 OF EACH YEAR, EACH
10 MUNICIPALITY OTHER THAN A COUNTY THAT IS IMPLEMENTING A
11 RECYCLING PROGRAM SHALL SUBMIT A REPORT TO THE COUNTY IN WHICH
12 THE MUNICIPALITY IS LOCATED. THE REPORT SHALL DESCRIBE THE
13 WEIGHT OR VOLUME OF MATERIALS THAT WERE RECYCLED BY THE
14 MUNICIPAL RECYCLING PROGRAM IN THE PRECEDING CALENDAR YEAR.

15 CHAPTER 5

16 MUNICIPAL WASTE PLANNING

17 Section 501. Schedule for submission of municipal waste
18 management plans.

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

25 ~~(b) Request for alternative date. A county may request the ←~~
26 ~~department to establish an alternative date to that set forth in~~
27 ~~subsection (a) if such request is received by the department no~~
28 ~~later than 120 days from the effective date of this act. If the~~
29 ~~department approves the request, the county's plan shall be~~
30 ~~submitted to the department on the date stated in the~~

1 ~~department's approval. Each such request, if approved, shall be~~
2 ~~updated and submitted to the department for approval annually on~~
3 ~~or before the date on which the department first approved the~~
4 ~~request. The department may not approve any request unless such~~
5 ~~request:~~

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

10 ~~(2) Estimates the time before all remaining available~~
11 ~~permitted capacity that can be included in this request will~~
12 ~~be exhausted, and justifies such estimate.~~

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

21 ~~(e)~~ (B) Existing plans.--A county that has submitted a <—
22 complete municipal waste management plan to the department for
23 approval on or before ~~September 1, 1987~~ 30 DAYS FROM THE <—
24 EFFECTIVE DATE OF THIS ACT, shall be deemed to have a plan
25 approved pursuant to section 505 if, on or before the effective
26 date of this act:

27 (1) The department has granted technical or preliminary
28 approval of such plan under 25 Pa. Code §§ 75.11 through
29 75.13.

30 (2) More than one-half of the municipalities within the

1 county, representing more than one-half of the county's
2 population as determined by the most recent decennial census
3 by the United States Bureau of the Census, have adopted
4 resolutions approving such plan.

5 ~~(d)~~ (C) Plan revisions.--Each county with an approved <—
6 municipal waste management plan shall submit a revised plan to
7 the department in accordance with the requirements of this act:

8 (1) At least three years prior to the time all remaining
9 available permitted capacity for the county will be
10 exhausted.

11 (2) For plans approved pursuant to subsection ~~(e)~~ (B), <—
12 within two years of the effective date of this act. Such plan
13 revisions shall be consistent with the requirements of this
14 ~~act~~ CHAPTER except to the extent that the county demonstrates <—
15 TO THE DEPARTMENT'S SATISFACTION that ~~commitments~~ IRREVOCABLE <—
16 CONTRACTS made by or pursuant to the approved plan preclude
17 compliance with the requirements of this ~~act~~ CHAPTER. <—

18 (3) When otherwise required by the department.

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

28 Section 502. Content of municipal waste management plans.

29 (a) General rule.--Except as provided in section 501~~(e)~~ (B), <—
30 every plan submitted after the effective date of this act shall

1 comply with the provisions of this section.

2 (b) Description of waste.--The plan shall describe and
3 explain the origin, content and weight or volume of municipal
4 waste currently generated within the county's boundaries, and
5 the origin, content and weight or volume of municipal waste that
6 will be generated within the county's boundaries during the next
7 ten years.

8 (c) Description of facilities.--The plan shall identify and
9 describe the facilities where municipal waste is currently being
10 disposed or processed and the remaining available permitted
11 capacity of such facilities AND THE CAPACITY WHICH COULD BE MADE <—
12 AVAILABLE THROUGH EXPANSION OF SUCH FACILITIES. The plan shall
13 contain an analysis of the effect of current and planned
14 recycling on waste generated within the county. The plan shall
15 also explain the extent to which existing facilities will be
16 used during the life of the plan, and shall not substantially
17 impair the use of their remaining permitted capacity OR OF <—
18 CAPACITY WHICH COULD BE MADE AVAILABLE THROUGH EXPANSION OF SUCH
19 FACILITIES. For purposes of this subsection, existing facilities
20 shall include facilities for which a ~~complete~~ permit application <—
21 under the Solid Waste Management Act is filed with the
22 department within ~~six months~~ ONE YEAR from the effective date of <—
23 this act OR THE DATE A PLAN IS APPROVED, WHICHEVER IS THE LATER, <—
24 unless such permit application is denied by the department. IN <—
25 ADDITION, THE PLAN SHALL GIVE CONSIDERATION TO THE POTENTIAL
26 EXPANSION OF EXISTING MUNICIPAL WASTE PROCESSING OR DISPOSAL
27 FACILITIES LOCATED IN THE COUNTY. FOR THE PURPOSES OF THIS
28 SUBSECTION, THE DEPARTMENT SHALL DETERMINE WHETHER APPLICATIONS
29 ARE COMPLETE WITHIN 90 DAYS OF THEIR RECEIPT AND, IF INCOMPLETE,
30 SPECIFY TO THE APPLICANT ALL DEFICIENCIES OF THE APPLICATION.

1 (d) Estimated future capacity.--The plan shall estimate the
2 processing or disposal capacity needed for the municipal waste
3 that will be generated in the county during the next ten years.
4 The assessment shall describe the primary variables affecting
5 this estimate and the extent to which they can reasonably be
6 expected to affect the estimate, including, but not limited to,
7 the amount of residual waste disposed or processed at municipal
8 waste disposal or processing facilities in the county and the
9 extent to which residual waste may be disposed or processed at
10 such facilities during the next ten years.

11 ~~(c) Description of recyclable waste. The plan shall~~ <—
12 ~~describe the kind and weight or volume of municipal waste that~~
13 ~~could be recycled through municipal recycling programs and the~~
14 ~~potential benefits of recycling, including the avoided cost of~~
15 ~~municipal waste processing or disposal. The plan shall also~~
16 ~~describe the compatibility of recycling with other municipal~~
17 ~~waste processing or disposal methods, giving consideration to~~
18 ~~and describing anticipated and available markets or uses for~~
19 ~~materials collected through municipal recycling programs. If~~
20 ~~recycling is proposed, the plan shall describe the kind and~~
21 ~~weight or volume of recyclable materials that will be collected;~~
22 ~~proposed collection methods for recyclable materials; options~~
23 ~~for insuring the collection of recyclable materials, including,~~
24 ~~but not limited to, municipal ordinances; and options for~~
25 ~~municipal cooperation or agreement for the collection,~~
26 ~~processing and sale of recyclable material.~~

27 (E) DESCRIPTION OF RECYCLABLE WASTE.-- <—

28 (1) THE PLAN SHALL DESCRIBE AND EVALUATE:

29 (I) THE KIND AND WEIGHT OR VOLUME OF MUNICIPAL WASTE
30 THAT COULD BE RECYCLED, GIVING CONSIDERATION AT A MINIMUM

1 TO THE FOLLOWING MATERIALS: CLEAR GLASS, COLORED GLASS,
2 ALUMINUM, STEEL AND BIMETALLIC CANS, HIGH GRADE OFFICE
3 PAPER, NEWSPRINT, CORRUGATED PAPER, PLASTICS, LEAF WASTE
4 AND GRASS CLIPPINGS.

5 (II) POTENTIAL BENEFITS OF RECYCLING, INCLUDING THE
6 POTENTIAL SOLID WASTE REDUCTION AND THE AVOIDED COST OF
7 MUNICIPAL WASTE PROCESSING OR DISPOSAL.

8 (III) EXISTING MATERIALS RECOVERY OPERATIONS AND THE
9 KIND AND WEIGHT OR VOLUME OF MATERIALS RECYCLED BY THE
10 OPERATIONS, WHETHER PUBLIC OR PRIVATE.

11 (IV) THE COMPATIBILITY OF RECYCLING WITH OTHER
12 MUNICIPAL WASTE PROCESSING OR DISPOSAL METHODS, GIVING
13 CONSIDERATION TO AND DESCRIBING ANTICIPATED AND AVAILABLE
14 MARKETS FOR MATERIALS COLLECTED THROUGH MUNICIPAL
15 RECYCLING PROGRAMS.

16 (V) PROPOSED OR EXISTING COLLECTION METHODS FOR
17 RECYCLABLE MATERIALS.

18 (VI) OPTIONS FOR ENSURING THE COLLECTION OF
19 RECYCLABLE MATERIALS.

20 (VII) OPTIONS FOR THE PROCESSING, STORAGE AND SALE
21 OF RECYCLABLE MATERIALS, INCLUDING MARKET COMMITMENTS.
22 THE PLAN SHALL CONSIDER THE RESULTS OF THE MARKET
23 DEVELOPMENT STUDY REQUIRED BY SECTION 508, IF THE RESULTS
24 ARE AVAILABLE.

25 (VIII) OPTIONS FOR MUNICIPAL COOPERATION OR
26 AGREEMENT FOR THE COLLECTION, PROCESSING AND SALE OF
27 RECYCLABLE MATERIALS.

28 (IX) A SCHEDULE FOR IMPLEMENTATION OF THE RECYCLING
29 PROGRAM.

30 (X) ESTIMATED COSTS OF OPERATING AND MAINTAINING A

1 RECYCLING PROGRAM, ESTIMATED REVENUE FROM THE SALE OR USE
2 OF MATERIALS AND AVOIDED COSTS OF PROCESSING OR DISPOSAL.

3 (XI) WHAT CONSIDERATION FOR THE COLLECTION,
4 MARKETING AND DISPOSITION OF RECYCLABLE MATERIALS WILL BE
5 ACCORDED TO PERSONS ENGAGED IN THE BUSINESS OF RECYCLING
6 ON THE EFFECTIVE DATE OF THIS ACT, WHETHER OR NOT THE
7 PERSONS ARE OPERATING FOR PROFIT.

8 (2) ANY COUNTY CONTAINING MUNICIPALITIES THAT ARE
9 REQUIRED BY SECTION 1501 TO IMPLEMENT RECYCLING PROGRAMS
10 SHALL TAKE THE PROVISIONS OF THAT SECTION INTO ACCOUNT IN
11 PREPARING THE RECYCLING PORTION OF ITS PLAN.

12 (3) NOTHING IN THIS CHAPTER SHALL BE CONSTRUED OR
13 UNDERSTOOD TO REQUIRE PREPARATION OF A COUNTY MUNICIPAL WASTE
14 MANAGEMENT PLAN PRIOR TO DEVELOPING AND IMPLEMENTING ANY
15 RECYCLING PROGRAM REQUIRED BY CHAPTER 15.

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

24 (1) Explain in detail the reason for selecting such
25 facility or program.

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

30 (3) Evaluate the environmental, energy, life cycle cost

1 and economic advantages and disadvantages of the proposed
2 facility or program as well as the alternatives considered.

3 (4) Show that adequate provision for existing and
4 reasonably anticipated future recycling has been made in
5 designing the size of any proposed facility.

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

9 (g) Location.--The plan shall identify the general location
10 within a county where each municipal waste processing or
11 disposal facility AND EACH RECYCLING OPERATION identified in <—
12 subsection (f) will be located, and either identify the site of
13 each facility if the site has already been chosen or explain how
14 the site will be chosen. FOR ANY FACILITY THAT IS PROPOSED TO BE <—
15 LOCATED OUTSIDE THE COUNTY, THE PLAN SHALL EXPLAIN IN DETAIL THE
16 REASONS FOR SELECTING SUCH A FACILITY.

17 ~~(h) Prior written approval. For any municipality waste <—~~
18 ~~landfill or resource recovery facility to be permitted after the~~
19 ~~effective date of this act that is proposed to be located~~
20 ~~outside of the boundaries of the county for which the plan is~~
21 ~~submitted:~~

22 ~~(1) the plan shall contain a written statement approving~~
23 ~~the facility from the governing body of the county where the~~
24 ~~facility is proposed to be located; or~~

25 ~~(2) provide an explanation for the failure to obtain a~~
26 ~~written statement, in which case the plan shall also cover~~
27 ~~all of the following:~~

28 ~~(i) Identify the site on which the facility is~~
29 ~~proposed to be located; explain the nature of the~~
30 ~~county's property right to use that site for municipal~~

~~waste processing or disposal; and demonstrate that
written notice has been given to the host municipality.~~

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

~~(iii) Describe alternative sites within the
generator county that were considered and explain the
reasons these alternative sites were rejected.~~

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

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

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

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

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

~~(l)~~ (K) Orderly extension.--The plan shall provide for the
orderly extension of municipal waste management systems in a <—

1 manner that is consistent with the needs of the area and is also
2 consistent with any existing State, regional or local plans
3 affecting the development, use and protection of air, water,
4 land or other natural resources. The plan shall also take into
5 consideration planning, zoning, population estimates,
6 engineering and economics.

7 ~~(m)~~ (L) Other information.--The plan shall include any other <—
8 information that the department may require.

9 ~~(n)~~ (M) Noninterference with certain resource recovery <—
10 facilities AND LANDFILLS.--~~No county municipal waste management <—~~
11 ~~plan shall interfere with the design, construction~~

12 (1) NO COUNTY MUNICIPAL WASTE MANAGEMENT PLAN SHALL <—
13 INTERFERE WITH ANY OF THE FOLLOWING:

14 (I) THE DESIGN, CONSTRUCTION or operation of any
15 MUNICIPAL WASTE PROCESSING, DISPOSAL OR resource recovery <—
16 facility OR THE REASONABLE EXPANSION OF SUCH FACILITY OR <—
17 MUNICIPAL WASTE LANDFILL that is part of a complete
18 municipal waste management plan submitted by a
19 municipality or organization of municipalities under the
20 Solid Waste Management Act prior to the effective date of
21 this act OR THE DATE SUCH PLAN IS UNDERTAKEN, WHICHEVER <—
22 IS THE LATER, and for which a complete permit application
23 under the Solid Waste Management Act is submitted to the
24 department within one year of the effective date of this
25 act. ~~Within 120~~ <—

26 (II) THE PROJECTS, PLANS OR OPERATIONS OF A <—
27 MUNICIPALITY AUTHORITY CREATED UNDER THE ACT OF MAY 2,
28 1945 (P.L.382, NO.164), KNOWN AS THE MUNICIPALITY
29 AUTHORITIES ACT OF 1945, OR OF AN ORGANIZATION OF
30 MUNICIPALITIES WHICH (MUNICIPALITY AUTHORITY OR

1 ORGANIZATION OF MUNICIPALITIES) IS CREATED BY TWO OR MORE
2 MUNICIPALITIES PRIOR TO THE EFFECTIVE DATE OF THIS ACT
3 FOR THE PURPOSES OF PROVIDING FOR COLLECTION, STORAGE,
4 TRANSPORTATION, PROCESSING OR DISPOSAL OF SOLID WASTE
5 GENERATED WITHIN THE MUNICIPALITIES AND WHICH
6 (MUNICIPALITY AUTHORITY OR ORGANIZATION OF
7 MUNICIPALITIES) SUBMITS TO THE DEPARTMENT WITHIN TWO
8 YEARS OF THE EFFECTIVE DATE OF THIS ACT, AND HAS APPROVED
9 BY THE DEPARTMENT, A SOLID WASTE MANAGEMENT PLAN,
10 CONSISTENT WITH THE OTHER PROVISIONS OF THIS SECTION,
11 THAT INCLUDES EACH MEMBER MUNICIPALITY. THIS SUBPARAGRAPH
12 APPLIES TO THE PROJECTS, PLANS AND OPERATIONS OF
13 MUNICIPALITIES WHICH ARE MEMBERS OF THE MUNICIPALITY
14 AUTHORITY OR ORGANIZATION OF MUNICIPALITIES.

15 (2) WITHIN 120 days after receiving a complete plan
16 ~~submitted pursuant to this subsection~~, the department shall <—
17 give it preliminary or technical approval under 25 Pa. Code
18 §§ 75.11 through 75.13 or disapprove it. FOR THE PURPOSES OF <—
19 THIS SUBSECTION, THE DEPARTMENT SHALL DETERMINE WHETHER
20 APPLICATIONS ARE COMPLETE WITHIN 90 DAYS OF THEIR RECEIPT
21 AND, IF INCOMPLETE, SPECIFY TO THE APPLICANT ALL DEFICIENCIES
22 OF THE APPLICATION.

23 Section 503. Development of municipal waste management plans.

24 (a) Advisory committee.--Prior to preparing a plan or
25 substantial plan revisions for submission to the department in
26 accordance with the provisions of this act, the county shall
27 form an advisory committee, which shall include representatives
28 of all classes of municipalities within the county, citizen
29 organizations, industry, THE COUNTY RECYCLING COORDINATOR, IF <—
30 ONE EXISTS, and any other persons deemed appropriate by the

1 county. The advisory committee shall review the plan during its
2 preparation, make suggestions and propose any changes it
3 believes appropriate.

4 (b) Written notice.--The county shall provide written notice
5 to all municipalities within the county when plan development
6 begins and shall provide periodic written progress reports to
7 such municipalities concerning the preparation of the plan.

8 (c) Review and comment.--Prior to adoption by the governing
9 body of the county, the county shall submit copies of the
10 proposed plan for review and comment to the department, all
11 municipalities within the county, all areawide planning agencies
12 and the county health department, if one exists. The county
13 shall also make the proposed plan available for public review
14 and comment. The period for review and comment shall be 90 days.
15 The county shall hold at least one public hearing on the
16 proposed plan during this period. The plan subsequently
17 submitted to the governing body of the county for adoption shall
18 be accompanied by a document containing written responses to
19 comments made during the comment period.

20 (d) Adoption and ratification of plan.--The governing body
21 of the county shall adopt a plan within 60 days from the end of
22 the public comment period. Not later than ten days following
23 adoption of a plan by the governing body of the county, the plan
24 shall be sent to municipalities within the county for
25 ratification. If a municipality does not act on the plan within
26 90 days of its submission to such municipality, it shall be
27 deemed to have ratified the plan. If more than one-half of the
28 municipalities, representing more than one-half of the county's
29 population as determined by the most recent decennial census by
30 the United States Bureau of the Census, ratify the plan, then

1 the county within ten days of ratification shall submit the plan
2 to the department for approval.

3 (e) Statement of objections.--A municipality may not
4 disapprove of a proposed county plan unless the municipality's
5 resolution of disapproval contains a concise statement of its
6 objections to the plan. Each municipality disapproving a plan
7 shall immediately transmit a copy of its resolution of
8 disapproval to the county and the advisory committee. A ←
9 CONDITIONAL APPROVAL SHALL BE CONSIDERED A DISAPPROVAL.

10 Section 504. Failure to ratify plan.

11 (a) Submission.--If the plan is not ratified as provided in
12 section 503(d), the county shall meet with the advisory
13 committee to discuss the reasons that the plan was not ratified.
14 The advisory committee shall submit a recommendation concerning
15 a revised county plan to the county within 45 days after it
16 becomes apparent that the plan has failed to obtain
17 ratification. The advisory committee's recommendation shall
18 specifically address the objections stated by municipalities in
19 their resolutions of disapproval of the county plan.

20 (b) Adoption of revised plan by county.--The governing body
21 of the county shall adopt a revised plan within 75 days after it
22 has become apparent that the original plan has failed to obtain
23 ratification. Not later than five days following adoption of a
24 revised plan by the governing body of the county, the plan shall
25 be sent to municipalities within the county for ratification. If
26 a municipality does not act on the revised plan within 45 days
27 of its submission to such municipality, it shall be deemed to
28 have ratified the plan. If more than one-half of the
29 municipalities, representing more than one-half of the county's
30 population as determined by the most recent decennial census by

1 the United States Bureau of the Census, ratify the revised plan,
2 then the county within ten days of ratification shall submit the
3 revised plan to the department for approval.

4 (c) Statement of objections.--A municipality may not
5 disapprove of a proposed revised county plan unless the
6 municipality's resolution of disapproval contains a concise
7 statement of its objections to the plan. Each municipality shall
8 immediately transmit a copy of its resolution of disapproval to
9 the county.

10 (d) Failure to ratify revised plan.--If the plan is not
11 ratified as provided in subsection (b), the county shall submit
12 the revised plan to the department for approval. The revised
13 plan shall be submitted within ten days after it is apparent
14 that the plan has failed to obtain ratification and shall be
15 accompanied by the county's written response to the objections
16 stated by municipalities in the resolutions of disapproval.

17 Section 505. Review of municipal waste management plans.

18 (a) Departmental approval options.--Within 30 days after
19 receiving a complete plan, the department shall approve,
20 conditionally approve or disapprove it, unless the department
21 gives written notice that additional time is necessary to
22 complete its review. If the department gives such notice, it
23 shall have 30 additional days to render a decision.

24 (b) Minimum plan requirement.--The department shall not
25 approve any county plan unless the plan demonstrates to the
26 satisfaction of the department that:

27 (1) The plan is complete and accurate.

28 ~~(2) The plan gives priority to the implementation of~~ <—
29 ~~municipal recycling programs and to the development and use~~
30 ~~of resource recovery facilities to address the county's~~

1 ~~projected municipal waste processing and disposal needs,~~
2 ~~giving consideration to environmental, energy and economic~~
3 ~~factors.~~

4 (2) THE PLAN PROVIDES FOR THE MAXIMUM FEASIBLE <—
5 DEVELOPMENT AND IMPLEMENTATION OF RECYCLING PROGRAMS.

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

10 (4) The plan provides ~~a feasible method~~ for the <—
11 processing and disposal of municipal waste FOR AT LEAST TEN <—
12 YEARS.

13 ~~(5) For any municipal waste landfills or resource <—~~
14 ~~recovery facilities that are proposed to be located outside~~
15 ~~the county, the plan includes a copy of the written notice~~
16 ~~that was provided to the host municipality and:~~

17 ~~(i) contains a written statement approving the~~
18 ~~facility from the governing body of the county where the~~
19 ~~facility is proposed to be located and is not~~
20 ~~inconsistent with the approved plan for the county where~~
21 ~~the facility is proposed to be located; or~~

22 ~~(ii) provides a clear and convincing rationale for~~
23 ~~locating the facility outside the county that complies~~
24 ~~with the requirements of section 502(h).~~

25 (c) Zoning powers unaffected.--Nothing in this act shall be
26 construed or understood to enlarge or diminish the authority of
27 municipalities to adopt ordinances pursuant to, or to exempt
28 ~~entities or individuals~~ PERSONS acting under the authority of <—
29 this act from the provisions of the act of July 31, 1968

30 (P.L.805, No.247), known as the Pennsylvania Municipalities

1 Planning Code.

2 Section 506. Contracts.

3 (a) General rule.--Except as ~~provided in sections 705 and~~ <—
4 ~~1305~~ OTHERWISE PROVIDED IN THIS ACT, nothing in this act shall <—
5 be construed to interfere with, or in any way modify, the
6 provisions of any contract for municipal waste disposal,
7 processing or collection in force in any county, other
8 municipality or municipal authority upon the effective date of
9 this act.

10 (b) Renewals.--No renewal of any existing contract upon the
11 expiration or termination of the original term thereof, and no
12 new contract for municipal waste disposal, processing or
13 collection shall be entered into after the effective date of
14 this act, unless such renewal or such new contract shall conform
15 to the applicable provisions of THIS ACT AND a department- <—
16 approved municipal waste management plan.

17 (c) Renegotiation option.--If no plan has been approved for
18 the county, no contract renewal or new contract for municipal
19 waste disposal, processing or collection shall be entered into
20 unless such contract contains a provision for renegotiation to
21 conform to the approved plan when such plan is approved by the
22 department.

23 Section 507. Relationship between plans and permits.

24 ~~The department shall not issue any municipal waste landfill~~ <—
25 ~~or resource recovery permit under the Solid Waste Management~~
26 ~~Act, in a county:~~

27 ~~(1) On and after the date that the governing body of the~~
28 ~~county has approved a municipal waste management plan but~~
29 ~~before a plan is approved by the department under section~~
30 ~~505, unless the department has considered the potential~~

1 ~~effect of that permit on the proposed plan.~~

2 ~~(2) On and after the date of departmental approval of~~
3 ~~the county municipal waste management plan under section 505,~~
4 ~~unless the permit applicant demonstrates to the department's~~
5 ~~satisfaction that:~~

6 ~~(i) For waste generated within the county, the~~
7 ~~proposed facility is provided for in the approved plan~~
8 ~~for that county.~~

9 ~~(ii) For waste generated outside the county:~~

10 ~~(A) the proposed facility is provided for in the~~
11 ~~approved plan for the county that generated the~~
12 ~~waste; or~~

13 ~~(B) the county where the permitted facility~~
14 ~~would be located has failed to adhere to the schedule~~
15 ~~set forth in its approved plan for planning, design,~~
16 ~~siting, construction or operation of municipal waste~~
17 ~~processing or disposal facilities.~~

18 AFTER THE DATE OF DEPARTMENTAL APPROVAL OF A COUNTY MUNICIPAL <—
19 WASTE MANAGEMENT PLAN UNDER SECTION 505, THE DEPARTMENT MAY NOT
20 ISSUE ANY NEW PERMIT, OR ANY PERMIT THAT RESULTS IN ADDITIONAL
21 CAPACITY, FOR A MUNICIPAL WASTE LANDFILL OR RESOURCE RECOVERY
22 FACILITY UNDER THE ACT OF JULY 7, 1980 (P.L.380, NO.97), KNOWN
23 AS THE SOLID WASTE MANAGEMENT ACT, IN THE COUNTY UNLESS THE
24 APPLICANT DEMONSTRATES TO THE DEPARTMENT'S SATISFACTION THAT THE
25 PROPOSED FACILITY:

26 (1) IS PROVIDED FOR IN THE PLAN FOR THE COUNTY; OR

27 (2) MEETS ALL OF THE FOLLOWING REQUIREMENTS:

28 (I) THE PROPOSED FACILITY WILL NOT INTERFERE WITH
29 IMPLEMENTATION OF THE APPROVED PLAN.

30 (II) THE PROPOSED FACILITY WILL NOT INTERFERE WITH

1 MUNICIPAL WASTE COLLECTION, STORAGE, TRANSPORTATION,
2 PROCESSING OR DISPOSAL IN THE HOST COUNTY.

3 (III) THE GOVERNING BODY OF THE PROPOSED HOST COUNTY
4 HAS PROVIDED A WRITTEN STATEMENT APPROVING THE LOCATION
5 OF THE PROPOSED FACILITY, OR THE PROPOSED LOCATION OF THE
6 FACILITY IS PREFERABLE TO ALTERNATIVE LOCATIONS, GIVING
7 CONSIDERATION TO ENVIRONMENTAL AND ECONOMIC FACTORS.

8 Section 508. Studies.

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

13 (1) The current and projected capacity of existing
14 markets to absorb materials generated by municipal recycling
15 programs in this Commonwealth.

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

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

20 (4) Recommendations for specific actions to increase and
21 stabilize the demand for materials generated by municipal
22 recycling programs, including, but not limited to, proposed
23 legislation if necessary.

24 (B) UPDATE OF MARKET STUDY.--WITHIN THREE YEARS AFTER THE <—
25 COMPLETION OF THE MARKET DEVELOPMENT STUDY DESCRIBED IN
26 SUBSECTION (A), THE DEPARTMENT SHALL SUBMIT TO THE GENERAL
27 ASSEMBLY AN UPDATE OF THE STUDY, TAKING INTO ACCOUNT INFORMATION
28 DEVELOPED SINCE ITS COMPLETION.

29 ~~(b)~~ (C) Waste reduction.--Within 24 months after the <—
30 effective date of this act, the department shall submit to the

1 General Assembly a report:

2 (1) That describes various mechanisms that could be
3 utilized to stimulate and enhance waste reduction, including
4 their advantages and disadvantages. The mechanisms to be
5 analyzed shall include, but not be limited to, incentives for
6 prolonging product life, methods for ensuring product
7 recyclability, LABELING REQUIREMENTS FOR RECYCLABLE PRODUCTS <—
8 AND PRODUCTS WITH RECYCLED CONTENT, taxes for excessive
9 packaging, tax incentives, prohibitions on the use of certain
10 products and performance standards for products.

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

14 (D) UPDATE OF WASTE REDUCTION STUDY.--WITHIN THREE YEARS <—
15 AFTER THE COMPLETION OF THE WASTE REDUCTION STUDY DESCRIBED IN
16 SUBSECTION (C), THE DEPARTMENT SHALL SUBMIT TO THE GENERAL
17 ASSEMBLY AN UPDATE OF THE STUDY, TAKING INTO ACCOUNT INFORMATION
18 DEVELOPED SINCE ITS COMPLETION.

19 Section 509. Best available technology.

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

25 (b) Restriction on issuance of certain permits.--The
26 department shall not issue any approval or permit for a resource
27 recovery facility under the act of January 8, 1960 (1959
28 P.L.2119, No.787), known as the Air Pollution Control Act, that
29 is less stringent than any provision of the applicable best
30 available technology criteria. The department shall require any

1 resource recovery facility to operate in compliance with the
2 applicable best available technology criteria.

3 (c) Operation tests and reports.--The operator of any
4 resource recovery facility shall conduct tests for emissions of
5 particulate matter in accordance with standards of performance
6 for new sources specified by the United States Environmental
7 Protection Agency for incinerators, resource recovery facilities
8 and associated control devices and shall report the results in a
9 manner established by the department.

10 SECTION 510. PERMIT REQUIREMENTS. <—

11 THE DEPARTMENT SHALL NOT ISSUE ANY APPROVAL OR PERMIT FOR A
12 RESOURCE RECOVERY FACILITY UNDER THE ACT OF JULY 7, 1980
13 (P.L.380, NO.97), KNOWN AS THE SOLID WASTE MANAGEMENT ACT,
14 UNLESS THE APPLICANT HAS PROVIDED THE DEPARTMENT WITH ADEQUATE
15 DOCUMENTATION AND ASSURANCES THAT ALL ASH RESIDUE PRODUCED FROM
16 OR BY A RESOURCE RECOVERY FACILITY WILL BE DISPOSED AT A
17 PERMITTED LANDFILL. PRIOR TO THE APPROVAL OF ANY PERMIT
18 APPLICATION FOR A RESOURCE RECOVERY FACILITY, THE OPERATOR SHALL
19 SUBMIT A PLAN TO THE DEPARTMENT FOR THE ALTERNATE DISPOSAL OF
20 MUNICIPAL WASTE DESIGNATED FOR DISPOSAL AT THE RESOURCE RECOVERY
21 FACILITY.

22 CHAPTER 7

23 ~~RESOURCE RECOVERY RECYCLING FEE~~ <—

24 Section 701. ~~Resource recovery~~ RECYCLING fee for municipal <—
25 waste landfills AND RESOURCE RECOVERY FACILITIES. <—

26 ~~(a) Imposition. There is imposed a resource recovery fee of~~ <—
27 ~~\$1.25 per ton for all solid waste disposed of at municipal waste~~
28 ~~landfills. Such fee shall be paid by the operator of each~~
29 ~~municipal waste landfill.~~

30 (A) IMPOSITION.--THERE IS IMPOSED A RECYCLING FEE OF \$1.25 <—

1 PER TON FOR ALL SOLID WASTE PROCESSED AT RESOURCE RECOVERY
2 FACILITIES AND FOR ALL SOLID WASTE EXCEPT PROCESS RESIDUE AND
3 NONPROCESSIBLE WASTE FROM A RESOURCE RECOVERY FACILITY THAT IS
4 DISPOSED OF AT MUNICIPAL WASTE LANDFILLS. SUCH FEE SHALL BE PAID
5 BY THE OPERATOR OF EACH MUNICIPAL WASTE LANDFILL AND RESOURCE
6 RECOVERY FACILITY.

7 (b) Alternative calculation.--~~Except as provided in~~ <—
8 ~~subsection (c), the fee for operators of municipal waste~~
9 ~~landfills~~ THE FEE FOR OPERATORS OF MUNICIPAL WASTE LANDFILLS AND <—
10 RESOURCE RECOVERY FACILITIES that do not weigh solid waste when
11 it is received shall be calculated as if three cubic yards were
12 equal to one ton of solid waste.

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

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

28 Section 702. Form and timing of ~~resource recovery~~ RECYCLING fee <—
29 payment.

30 (a) Quarterly payments.--Each operator of a municipal waste

1 landfill ~~shall make the resource recovery~~ AND RESOURCE RECOVERY <—
2 FACILITY SHALL MAKE THE RECYCLING fee payment quarterly. The fee
3 shall be paid on or before the 20th day of April, July, October
4 and January for the three months ending the last day of March,
5 June, September and December.

6 (b) Quarterly reports.--Each ~~resource recovery~~ RECYCLING fee <—
7 payment shall be accompanied by a form prepared and furnished by
8 the department and completed by the operator. The form shall
9 state the TOTAL weight or volume of solid waste received by the <—
10 ~~landfill~~ FACILITY during the payment period and provide any <—
11 other AGGREGATE information deemed necessary by the department <—
12 to carry out the purposes of this act. The form shall be signed
13 by the operator.

14 (c) Timeliness of payment.--The operator shall be deemed to
15 have made a timely payment of the ~~resource recovery~~ RECYCLING <—
16 fee if the operator complies with all of the following:

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

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

22 (3) The letter transmitting the payment that is received
23 by the department is postmarked by the United States Postal
24 Service on or prior to the final day on which the payment is
25 to be received.

26 (d) Discount.--Any operator that makes a timely payment of
27 the ~~resource recovery~~ RECYCLING fee as provided in this section <—
28 shall be entitled to credit and apply against the fee payable, a
29 discount of 1% of the amount of the fee collected.

30 (e) Refunds.--Any operator that believes he has overpaid the

1 ~~resource recovery~~ RECYCLING fee may file a petition for refund <—
2 to the department. If the department determines that the
3 operator has overpaid the fee, the department shall refund to
4 the operator the amount due him, together with interest at a
5 rate established pursuant to section 806.1 of the act of April
6 9, 1929 (P.L.343, No.176), known as The Fiscal Code, from the
7 date of overpayment. No refund of the ~~resource recovery~~ <—
8 RECYCLING fee shall be made unless the petition for the refund <—
9 is filed with the department within six months of the date of
10 the overpayment.

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

15 Section 703. Collection and enforcement of fee.

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

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

30 (c) Assessment notices.--

1 (1) If the department determines that any operator of a ~~←~~
2 ~~municipal waste landfill~~ has not made a timely payment of the
3 ~~resource recovery~~ RECYCLING fee, it will send the operator a ~~←~~
4 written notice of the amount of the deficiency, within 30
5 days of determining such deficiency. When the operator has
6 not provided a complete and accurate statement of the weight
7 or volume of solid waste received at the ~~landfill~~ FACILITY ~~←~~
8 for the payment period, the department may estimate the
9 weight or volume in its notice.

10 (2) The operator charged with the deficiency shall have
11 30 days to pay the deficiency in full or, if the operator
12 wishes to contest the deficiency, forward the amount of the
13 deficiency to the department for placement in an escrow
14 account with the State Treasurer or any Pennsylvania bank, or
15 post an appeal bond in the amount of the deficiency. Such
16 bond shall be executed by a surety licensed to do business in
17 this Commonwealth and be satisfactory to the department.
18 Failure to forward the money or the appeal bond to the
19 department within 30 days shall result in a waiver of all
20 legal rights to contest the deficiency.

21 (3) If, through administrative or judicial review of the
22 deficiency, it is determined that the amount of deficiency
23 shall be reduced, the department shall within 30 days remit
24 the appropriate amount to the operator, with any interest
25 accumulated by the escrow deposit.

26 (4) The amount determined after administrative hearing
27 or after waiver of administrative hearing shall be payable to
28 the Commonwealth and shall be collectible in the manner
29 provided in section ~~1509~~ 1709. ~~←~~

30 (5) Any other provision of law to the contrary

1 notwithstanding, there shall be a statute of limitations of
2 five years upon actions brought by the Commonwealth pursuant
3 to this section.

4 (6) If any amount due hereunder remains unpaid 30 days
5 after receipt of notice thereof, the department may order the
6 operator of the ~~landfill~~ FACILITY to cease receiving any <—
7 solid waste until the amount of the deficiency is completely
8 paid.

9 (d) Filing of appeals.--Notwithstanding any other provision
10 of law, all appeals of final department actions concerning the
11 resource recovery fee, including, but not limited to, petitions
12 for refunds, shall be filed with the Environmental Hearing
13 Board.

14 (e) Constructive trust.--All ~~resource recovery~~ RECYCLING <—
15 fees collected by an operator and held by such operator prior to
16 payment to the department shall constitute a trust fund for the
17 Commonwealth, and such trust shall be enforceable against such
18 operator, its representatives and any person receiving any part
19 of such fund without consideration or with knowledge that the
20 operator is committing a breach of the trust. However, any
21 person receiving payment of lawful obligation of the operator
22 from such fund shall be presumed to have received the same in
23 good faith and without any knowledge of the breach of trust.

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

27 Section 704. Records.

28 Each operator ~~of a municipal waste landfill~~ shall keep daily <—
29 records of all deliveries of solid waste to the ~~landfill~~ <—
30 FACILITY as required by the department, including, but not <—

1 limited to, the name and address of the hauler, the source of
2 the waste, the kind of waste received and the weight or volume
3 of the waste. A copy of these records shall be maintained at the
4 site by the operator for no less than five years and shall be
5 made available to the department for inspection, upon request.
6 Section 705. Surcharge.

7 The provisions of any law to the contrary notwithstanding,
8 the operator ~~of any municipal waste landfill~~ may collect the fee <—
9 imposed by this section as a surcharge on any fee schedule
10 established pursuant to law, ordinance, resolution or contract
11 for solid waste ~~disposal operations at the landfill~~ PROCESSING <—
12 OR DISPOSAL OPERATIONS AT THE FACILITY. In addition, any person
13 who collects or transports solid waste subject to the ~~resource~~ <—
14 ~~recovery~~ RECYCLING fee to a municipal waste landfill OR RESOURCE <—
15 RECOVERY FACILITY may impose a surcharge on any fee schedule
16 established pursuant to law, ordinance, resolution or contract
17 for the collection or transportation of solid waste to the
18 ~~landfill~~ FACILITY. The surcharge shall be equal to the increase <—
19 in disposal fees at the ~~landfill attributable to the resource~~ <—
20 ~~recovery~~ FACILITY ATTRIBUTABLE TO THE RECYCLING fee. However, <—
21 interest and penalties on the fee under section 703(a) and (b)
22 may not be collected as a surcharge.

23 Section 706. ~~Resource Recovery~~ RECYCLING Fund. <—

24 (a) Establishment.--All fees received by the department
25 pursuant to section 701 shall be paid into the State Treasury
26 into a special fund to be known as the ~~Resource Recovery~~ <—
27 RECYCLING Fund, which is hereby established. <—

28 (b) Appropriation.--All moneys placed in the ~~Resource~~ <—
29 ~~Recovery~~ RECYCLING Fund are hereby appropriated to the <—
30 department for the purposes set forth in this section. The

1 department shall, from time to time, submit to the Governor for
2 his approval estimates of amounts to be expended under this act.

3 (c) Allocations.--The department shall, to the extent
4 practicable, allocate the moneys received by the Resource
5 Recovery RECYCLING Fund, including all interest generated
6 thereon, in the following manner over the life of the fund:

7 (1) At least 70% shall be expended by the department for
8 grants to municipalities for the development and
9 implementation of recycling programs as set forth in section
10 ~~905, performance grants for municipal recycling programs as~~
11 ~~set forth in section 906, and market development and waste~~
12 ~~reduction studies as set forth in section 508.~~ 902, RECYCLING
13 COORDINATORS AS PROVIDED IN SECTION 903, AND MARKET
14 DEVELOPMENT AND WASTE REDUCTION STUDIES AS SET FORTH IN
15 SECTION 508; FOR IMPLEMENTATION OF THE RECOMMENDATIONS IN THE
16 STUDIES REQUIRED BY SECTION 508; AND FOR RESEARCH CONDUCTED
17 OR FUNDED BY THE DEPARTMENT OF TRANSPORTATION PURSUANT TO
18 SECTION 1505.

19 (2) Up to ~~20%~~ 10% may be expended by the department for
20 grants for ~~resource recovery~~ feasibility studies FOR
21 MUNICIPAL WASTE PROCESSING AND DISPOSAL FACILITIES, EXCEPT
22 FOR FACILITIES FOR THE COMBUSTION OF MUNICIPAL WASTE THAT ARE
23 NOT PROPOSED TO BE OPERATED FOR THE RECOVERY OF ENERGY as set
24 forth in ~~sections 902 and 903 and for grants for resource~~
25 ~~recovery project development as set forth in section 904~~ IN
26 SECTION 901.

27 (3) Up to ~~10%~~ 30% may be expended by the department for
28 public information, public education and technical assistance
29 programs concerning recycling and waste reduction, including
30 technical assistance programs for counties and other

1 municipalities, for research and demonstration projects, FOR ←
2 PLANNING GRANTS AS SET FORTH IN SECTION 901, FOR THE HOST
3 INSPECTOR TRAINING PROGRAM AS SET FORTH IN SECTION 1102, and
4 for other purposes consistent with this act.

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

7 (d) Transfer.--On the first day of the sixteenth year after
8 the fee imposed by section 701 becomes effective, all moneys in
9 the ~~Resource Recovery~~ RECYCLING Fund that are not obligated ←
10 shall be transferred to the Solid Waste Abatement Fund and
11 expended in the same manner as other moneys in the Solid Waste
12 Abatement Fund. On the first day of the nineteenth year after
13 the fee imposed by section 701 becomes effective, all moneys in
14 the ~~Resource Recovery~~ RECYCLING Fund that are not expended shall ←
15 be transferred to the Solid Waste Abatement Fund and expended in
16 the same manner as other moneys in the Solid Waste Abatement
17 Fund.

18 (e) Advisory committee.--The secretary shall establish a
19 ~~Resource Recovery~~ RECYCLING Fund Advisory Committee composed of ←
20 representatives of counties, other municipalities, municipal
21 authorities, the municipal waste management industry, the
22 municipal waste recycling industry and the general public. The
23 committee shall meet at least annually to review the
24 Commonwealth's progress in meeting the goals under section
25 102(c), to recommend priorities on expenditures from the fund,
26 and to advise the secretary on associated activities concerning
27 the administration of the fund. The department shall reimburse
28 members of the committee for reasonable travel, hotel and other
29 necessary expenses incurred in performance of their duties under
30 this section.

1 (f) Annual reports.--The department shall submit an annual
2 report to the General Assembly on receipts to and disbursements
3 from the ~~Resource Recovery Fund in the previous~~ RECYCLING FUND <—
4 IN THE PREVIOUS FISCAL year, projections for revenues and
5 expenditures in the coming FISCAL year, and the Commonwealth's <—
6 progress in achieving the goals set forth in section 102(c).

7 CHAPTER 9

8 ~~RESOURCE RECOVERY GRANTS~~ <—

9 Section 901. Planning grants.

10 ~~(a) Authorization.~~The department may, UPON APPLICATION <—
11 FROM A COUNTY, award grants for the cost of preparing municipal
12 waste management plans in accordance with this act and; for <—
13 carrying out related studies, surveys, investigations,
14 inquiries, research and analyses, ~~upon application from any~~ <—
15 ~~county.~~ ANALYSES, INCLUDING THOSE RELATED BY SITING; AND FOR <—
16 ENVIRONMENTAL ACTION. THE DEPARTMENT MAY ALSO AWARD GRANTS UNDER
17 THIS SECTION FOR FEASIBILITY STUDIES AND PROJECT DEVELOPMENT FOR
18 MUNICIPAL WASTE PROCESSING OR DISPOSAL FACILITIES, EXCEPT FOR
19 FACILITIES FOR THE COMBUSTION OF MUNICIPAL WASTE THAT ARE NOT
20 PROPOSED TO BE OPERATED FOR THE RECOVERY OF ENERGY. The
21 application shall be made on a form prepared and furnished by
22 the department. The application shall contain such information
23 as the department deems necessary to carry out the provisions
24 and purposes of this act. The grant to any county under this
25 section shall be 50% of the approved cost of such plans and
26 studies.

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

30 ~~Section 902.~~ Grants to counties for resource recovery

1 ~~feasibility studies.~~

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

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

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

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

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

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

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

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

28 ~~(a) Authorization. The department may award grants for~~
29 ~~resource recovery feasibility studies, upon application from any~~
30 ~~public institution. The application shall be made on a form~~

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

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

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

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

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

20 ~~Section 904. Grants for project development for resource~~
21 ~~recovery facilities.~~

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

1 ~~(b) Prerequisites. The department shall not award any grant~~
2 ~~under this section unless the application is complete and~~
3 ~~accurate and demonstrates all of the following to the~~
4 ~~department's satisfaction:~~

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

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

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

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

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

25 Section 905 902. Grants for development and implementation of <—
26 municipal recycling programs.

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

1 education campaign, purchase collection and storage equipment,
2 and do other things necessary to establish a municipal recycling
3 program. The grant may be used to purchase ~~mechanical processing~~ <—
4 ~~equipment~~ COLLECTION EQUIPMENT, only to the extent needed for <—
5 collection of recyclable materials, AND MECHANICAL PROCESSING <—
6 EQUIPMENT, ONLY TO THE EXTENT THAT SUCH EQUIPMENT IS NOT
7 AVAILABLE TO THE PROGRAM IN THE PRIVATE SECTOR. The application
8 shall be made on a form prepared and furnished by the
9 department. The application shall explain the structure and
10 operation of the program and shall contain such other
11 information as the department deems necessary to carry out the
12 provisions and purposes of this act. The grant under this
13 section ~~shall not exceed 50% of the approved cost of~~ <—
14 ~~establishing a municipal recycling program.~~ TO A MUNICIPALITY <—
15 REQUIRED BY SECTION 1501 TO IMPLEMENT A RECYCLING PROGRAM SHALL
16 BE 50% OF THE APPROVED COST OF ESTABLISHING A MUNICIPAL
17 RECYCLING PROGRAM. THE GRANT UNDER THIS SECTION TO A
18 MUNICIPALITY NOT REQUIRED BY SECTION 1501 TO IMPLEMENT A
19 RECYCLING PROGRAM SHALL BE UP TO 50% OF THE APPROVED COST OF
20 ESTABLISHING A MUNICIPAL RECYCLING PROGRAM.

21 (b) Prerequisites.--The department shall not award any grant
22 under this section unless the application is complete and
23 accurate and demonstrates to the department's satisfaction that:
24 ~~the recycling program for which the grant is sought does not~~ <—
25 ~~duplicate any other recycling programs operating within the~~
26 ~~municipality. In addition, the department shall not award any~~
27 ~~grant to any municipality under this section unless the proposed~~
28 ~~recycling program is consistent with the approved county~~
29 ~~municipal waste management plan.~~

30 (1) THE APPLICATION IS COMPLETE AND ACCURATE. <—

1 (2) THE RECYCLING PROGRAM FOR WHICH THE GRANT IS SOUGHT
2 DOES NOT DUPLICATE ANY OTHER RECYCLING PROGRAMS OPERATING
3 WITHIN THE MUNICIPALITY.

4 (3) IF THE APPLICATION IS NOT REQUIRED TO IMPLEMENT A
5 RECYCLING PROGRAM BY SECTION 1501, THE APPLICATION DESCRIBES
6 THE COLLECTION SYSTEM FOR THE PROGRAM, INCLUDING:

7 (I) MATERIALS COLLECTED AND PERSONS AFFECTED;

8 (II) CONTRACTS FOR THE OPERATION OF THE PROGRAM;

9 (III) MARKETS OR USES FOR COLLECTED MATERIALS,
10 GIVING CONSIDERATION TO THE RESULTS OF THE MARKET
11 DEVELOPMENT STUDY REQUIRED BY SECTION 508 IF THE RESULTS
12 ARE AVAILABLE;

13 (IV) ORDINANCES OR OTHER MECHANISMS THAT WILL BE
14 USED TO ENSURE THAT MATERIALS ARE COLLECTED;

15 (V) PUBLIC INFORMATION AND EDUCATION;

16 (VI) PROGRAM ECONOMICS, INCLUDING AVOIDED PROCESSING
17 OR DISPOSAL COSTS; AND

18 (VII) OTHER INFORMATION DEEMED NECESSARY BY THE
19 DEPARTMENT.

20 (c) Municipal retroactive grants with restrictions.--The
21 grant authorized by this section may be awarded to any
22 municipality for ELIGIBLE costs incurred for a municipal ←
23 recycling program after ~~January 1, 1987~~ 60 DAYS PRIOR TO THE ←
24 EFFECTIVE DATE OF THIS ACT. However, no grant may be authorized
25 under this section for a municipal recycling program that has
26 received a grant from the department under the act of July 20,
27 1974 (P.L.572, No.198), known as the Pennsylvania Solid Waste -
28 Resource Recovery Development Act, except for costs that were
29 not paid by such grant.

30 (D) PRIORITY.--IN AWARDING GRANTS UNDER THIS SECTION, THE ←

1 DEPARTMENT SHALL GIVE PRIORITY TO MUNICIPALITIES THAT ARE
2 REQUIRED BY SECTION 1501 TO IMPLEMENT RECYCLING PROGRAMS.
3 SECTION 903. GRANTS FOR RECYCLING COORDINATORS. ←

4 (A) AUTHORIZATION.--THE DEPARTMENT MAY AWARD GRANTS FOR THE
5 SALARY AND EXPENSES OF RECYCLING COORDINATORS, UPON APPLICATION
6 FROM ANY COUNTY. THE APPLICATION SHALL BE MADE ON A FORM
7 PREPARED AND FURNISHED BY THE DEPARTMENT. THE APPLICATION SHALL
8 EXPLAIN THE DUTIES AND ACTIVITIES OF THE COUNTY RECYCLING
9 COORDINATOR. IF A RECYCLING COORDINATOR HAS BEEN ACTIVE PRIOR TO
10 THE YEAR FOR WHICH THE GRANT IS SOUGHT, THE APPLICATION SHALL
11 ALSO EXPLAIN THE COORDINATOR'S ACTIVITIES AND ACHIEVEMENTS IN
12 THE PREVIOUS YEAR.

13 (B) LIMIT ON GRANT.--THE GRANT UNDER THIS SECTION SHALL NOT
14 EXCEED 50% OF THE APPROVED COST OF THE RECYCLING COORDINATOR'S
15 SALARY AND EXPENSES.

16 SECTION 904. GENERAL LIMITATIONS.

17 (A) CONTENT OF APPLICATION.--EACH GRANT APPLICATION UNDER
18 THIS CHAPTER SHALL INCLUDE PROVISIONS FOR AN INDEPENDENT
19 PERFORMANCE AUDIT, WHICH SHALL BE COMPLETED WITHIN SIX MONTHS
20 AFTER ALL REIMBURSABLE WORK UNDER THE GRANT HAS BEEN COMPLETED.

21 (B) MONETARY LIMIT ON GRANT.--THE DEPARTMENT MAY NOT AWARD
22 MORE THAN 10% OF THE MONEYS AVAILABLE UNDER ANY GRANT UNDER THIS
23 CHAPTER IN ANY FISCAL YEAR TO ANY COUNTY, INCLUDING
24 MUNICIPALITIES WITHIN THE COUNTY.

25 (C) OTHER LIMITATIONS ON GRANTS.--THE DEPARTMENT MAY NOT
26 AWARD ANY GRANT UNDER THIS CHAPTER TO ANY COUNTY OR MUNICIPALITY
27 THAT HAS FAILED TO COMPLY WITH THE CONDITIONS SET FORTH IN
28 PREVIOUSLY AWARDED GRANTS UNDER THIS CHAPTER, THE REQUIREMENTS
29 OF THIS CHAPTER, AND ANY REGULATIONS PROMULGATED PURSUANT
30 THERETO.

1 (D) LAPSE OF GRANT.--A GRANT OFFERING PURSUANT TO THIS
2 CHAPTER SHALL LAPSE AUTOMATICALLY IF FUNDS FOR THE GRANT ARE NOT
3 ENCUMBERED WITHIN ONE YEAR OF THE OFFERING. TO OBTAIN THE GRANT
4 AFTER AN OFFERING HAS LAPSED, THE GRANTEE MUST SUBMIT A NEW
5 APPLICATION IN A SUBSEQUENT FUNDING PERIOD.

6 (E) LAPSE OF ENCUMBERED FUNDS.--GRANT FUNDS THAT HAVE BEEN
7 ENCUMBERED SHALL LAPSE AUTOMATICALLY TO THE RECYCLING FUND IF
8 THE FUNDS ARE NOT EXPENDED WITHIN TWO YEARS AFTER THEY HAVE BEEN
9 ENCUMBERED. THE DEPARTMENT MAY, UPON WRITTEN REQUEST FROM THE
10 GRANTEE, EXTEND THE TWO-YEAR PERIOD FOR AN ADDITIONAL PERIOD OF
11 UP TO THREE MONTHS. TO OBTAIN ANY FUNDS THAT HAVE LAPSED TO THE
12 RECYCLING FUND, THE GRANTEE MUST SUBMIT A NEW APPLICATION IN A
13 SUBSEQUENT FUNDING PERIOD.

14 ~~Section 906. Performance grants for municipal recycling~~ <—
15 ~~programs.~~

16 ~~(a) Authorization. The department may award annual~~
17 ~~performance grants for municipal recycling programs other than~~
18 ~~programs for the composting of yard waste upon application from~~
19 ~~any municipality. The application shall be made on a form~~
20 ~~prepared and furnished by the department. The application shall~~
21 ~~contain such information as the department deems necessary to~~
22 ~~carry out the provisions and purposes of this act.~~

23 ~~(b) Availability and amount.—~~

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

28 ~~(i) for the first year, up to \$5 per ton;~~

29 ~~(ii) for the second year, up to \$5 per ton;~~

30 ~~(iii) for the third year, up to \$3 per ton;~~

1 ~~(iv) for the fourth year, up to \$3 per ton; and~~

2 ~~(v) for the fifth year, up to \$2 per ton.~~

3 ~~(2) Where the municipality is serviced by a resource~~
4 ~~recovery facility and where the recycled municipal waste for~~
5 ~~which the grant is sought would otherwise have been processed~~
6 ~~at the resource recovery facility, the department may award~~
7 ~~an additional grant under this paragraph up to an additional~~
8 ~~\$5 per ton of municipal waste recycled annually for a period~~
9 ~~not in excess of two years.~~

10 ~~(c) Prerequisites. The department shall not award any grant~~
11 ~~under this section unless the application is complete and~~
12 ~~accurate, and demonstrates all of the following to the~~
13 ~~department's satisfaction:~~

14 ~~(1) The recycling program does not duplicate any other~~
15 ~~recycling programs operating within the municipality.~~

16 ~~(2) The recycled materials for which the grant is~~
17 ~~sought:~~

18 ~~(i) were not diverted from another recycling program~~
19 ~~already in existence on the effective date of the~~
20 ~~ordinance establishing the municipal recycling program;~~

21 ~~and~~

22 ~~(ii) were actually marketed.~~

23 CHAPTER 11

24 ASSISTANCE TO MUNICIPALITIES

25 Section 1101. Information provided to host municipalities.

26 (a) Departmental information.--The department will provide
27 all of the following information to the governing body of host
28 municipalities for municipal waste landfills and resource
29 recovery facilities:

30 (1) Copies of each department inspection report for such

1 facilities under the Solid Waste Management Act, the act of
2 June 22, 1937 (P.L.1987, No.394), known as The Clean Streams
3 Law, ~~the act of May 31, 1945 (P.L.1198, No.418), known as the~~ <—
4 ~~Surface Mining Conservation and Reclamation Act,~~ the act of
5 January 8, 1960 (1959 P.L.2119, No.787), known as the Air
6 Pollution Control Act, AND the act of November 26, 1978 <—
7 (P.L.1375, No.325), known as the Dam Safety and Encroachments
8 Act, ~~and the act of December 19, 1984 (P.L.1093, No.219),~~ <—
9 ~~known as the Noncoal Surface Mining Conservation and~~
10 ~~Reclamation Act,~~ within five working days after the
11 preparation of such reports.

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

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

20 (b) Operator information.--Every operator of a municipal
21 waste landfill or resource recovery facility shall provide to
22 the host municipality copies of all air and water quality
23 monitoring data AS REQUIRED BY THE DEPARTMENT for the facility <—
24 conducted by or on behalf of the operator, within five days
25 after such data becomes available to the operator.

26 (c) Public information.--All information provided to the
27 host municipality UNDER THIS SECTION shall be made available to <—
28 the public for review upon request.

29 (d) Information to county.--If the host municipality owns or
30 operates the municipal waste landfill or resource recovery

1 facility, or proposes to own or operate such landfill or
2 facility, the information required by this section shall be
3 provided to the county within which the landfill or facility is
4 located or proposed to be located instead of the host
5 municipality.

6 Section 1102. Joint inspections with host municipalities.

7 (a) Training of inspectors.--

8 (1) The department shall establish and conduct a
9 training program to certify host municipality inspectors for
10 municipal waste landfills and resource recovery facilities.
11 This program will be available to no more than two persons
12 who have been designated in writing by the host municipality.
13 The department shall hold training programs at least twice a
14 year. The department shall certify host municipality
15 inspectors upon completion of the training program and
16 satisfactory performance in an examination administered by
17 the department.

18 (2) Certified municipal inspectors are authorized to
19 enter property, inspect records, take samples and conduct
20 inspections ~~when they are accompanied by, and under the~~ <—
21 ~~supervision of, department inspectors.~~ However, certified
22 municipal inspectors may not issue orders ~~during an~~ <—
23 ~~inspection.~~

24 (3) The department is authorized to pay for the host
25 inspection training program and to pay 50% of the approved
26 cost of employing a certified host municipality inspector for
27 a period not to exceed five years. ~~All moneys paid under this~~ <—
28 ~~paragraph shall be from funds appropriated for this purpose~~
29 ~~by the General Assembly.~~

30 (b) Departmental information.--

1 (1) Whenever any host municipality presents information
2 to the department which gives the department reason to
3 believe that any municipal waste landfill or resource
4 recovery facility is in violation of any requirement of the
5 act of June 22, 1937 (P.L.1987, No.394), known as The Clean
6 Streams Law, ~~the act of May 31, 1945 (P.L.1198, No.418),~~ <—
7 ~~known as the Surface Mining Conservation and Reclamation Act,~~
8 the act of January 8, 1960 (1959 P.L.2119, No.787), known as
9 the Air Pollution Control Act, the act of November 26, 1978
10 (P.L.1375, No.325), known as the Dam Safety and Encroachments
11 Act, AND the Solid Waste Management Act, ~~and the act of~~ <—
12 ~~December 19, 1984 (P.L.1093, No.219), known as the Noncoal~~
13 ~~Surface Mining Conservation and Reclamation Act,~~ any
14 regulation promulgated pursuant thereto, or the condition of
15 any permit issued pursuant thereto, the department will
16 promptly conduct an inspection of such facility.

17 (2) The department will notify the host municipality of
18 this inspection and will allow a certified municipal
19 inspector from the host municipality to accompany the
20 inspector during the inspection.

21 (3) If there is not sufficient information to give the
22 department reasons to believe that there is a violation, the
23 department will provide a written explanation to the host
24 municipality of its decision not to conduct an inspection
25 within 30 days of the request for inspection.

26 (4) Upon written request of a host municipality to the
27 department, the department will allow a certified inspector
28 of such municipality to accompany department inspectors on
29 routine inspections of municipal waste landfills and resource
30 recovery facilities.

1 (c) County involvement.--If the host municipality owns or
2 operates the municipal waste landfill or resource recovery
3 facility, the training and inspection requirements of this
4 section shall be available to the county within which the
5 landfill or facility is located instead of the host
6 municipality.

7 Section 1103. Water supply testing for contiguous landowners.

8 (a) Required water sampling.--Upon written request from
9 persons owning land contiguous to a municipal waste landfill,
10 the operator of such landfill shall have quarterly sampling and
11 analysis conducted of private water supplies used by such
12 persons for drinking water. Such sampling and analysis shall be
13 conducted by a laboratory certified pursuant to the act of May
14 1, 1984 (P.L.206, No.43), known as the Pennsylvania Safe
15 Drinking Water Act. The laboratory shall be chosen by the
16 landowners from a list of regional laboratories supplied by the
17 department. Sampling and analysis shall be at the expense of the
18 landfill operator. UPON REQUEST THE LANDFILL OPERATOR SHALL
19 PROVIDE COPIES OF THE ANALYSES TO PERSONS OPERATING RESOURCE
20 RECOVERY FACILITIES THAT DISPOSE OF THE RESIDUE FROM THE
21 FACILITIES AT THE LANDFILL. ←

22 (b) Extent of analysis.--Water supplies shall be analyzed
23 for all parameters or chemical constituents determined by the
24 department to be indicative of typical contamination from
25 municipal waste landfills. The laboratory performing such
26 sampling and analysis shall provide written copies of sample
27 results to the landowner and to the department.

28 (c) Additional sampling required.--If the analysis indicates
29 possible contamination from a municipal waste landfill, the
30 department may conduct, or require the landfill operator to have

1 the laboratory conduct, additional sampling and analysis to
2 determine more precisely the nature, extent and source of
3 contamination.

4 (d) Written notice of rights.--On or before 60 days from the
5 effective date of this act for permits issued under the Solid
6 Waste Management Act prior to the effective date of this act,
7 and at or before the time of permit issuance for permits issued
8 under the Solid Waste Management Act after the effective date of
9 this act, the operator of each municipal waste landfill shall
10 provide contiguous landowners with written notice of their
11 rights under this section on a form prepared by the department.
12 Section 1104. Water supply protection.

13 (a) Alternative water supply requirement.--Any person owning
14 or operating a municipal waste management facility that affects
15 a public or private water supply by pollution, contamination or
16 diminution shall restore or replace the affected supply with an
17 alternate source of water adequate in quantity or quality for
18 the purposes served by the water supply. If any person shall
19 fail to comply with this requirement, the department may issue
20 such orders to the person as are necessary to assure compliance.

21 (b) Notification to department.--Any landowner or water
22 purveyor suffering pollution, contamination or diminution of a
23 public or private water supply as a result of solid waste
24 disposal activities at a municipal waste management facility may
25 so notify the department and request that an investigation be
26 conducted. Within ten days of such notification, the department
27 shall begin investigation of any such claims and shall, within
28 120 days of the notification, make a determination. If the
29 department finds that the pollution or diminution was caused by
30 the operation of a municipal waste management facility or if it

1 presumes the owner or operator of a municipal waste facility
2 responsible for pollution, contamination or diminution pursuant
3 to subsection (c), then it shall issue such orders to the owner
4 or operator as are necessary to insure compliance with
5 subsection (a).

6 (c) Rebuttable presumption.--Unless rebutted by one of the
7 four defenses established in subsection (d), it shall be
8 presumed that the owner or operator of a municipal waste
9 landfill is responsible for the pollution, contamination or
10 diminution of a public or private water supply that is within
11 one-quarter mile of the perimeter of the area where solid waste
12 disposal activities have been carried out.

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

17 (1) The pollution, contamination or diminution existed
18 prior to any municipal waste landfill operations on the site
19 as determined by a preoperation survey.

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

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

25 (4) The OWNER OR OPERATOR DID NOT CAUSE THE pollution, <—
26 contamination or diminution. ~~occurred as a result of some~~ <—
27 ~~cause other than solid waste disposal activities.~~

28 (e) Independent testing.--Any owner or operator electing to
29 preserve its defenses under subsection (d)(1) or (2) shall
30 retain the services of an independent certified laboratory to

1 conduct the preoperation survey of water supplies. A copy of the
2 results of any survey shall be submitted to the department and
3 the landowner or water purveyor in a manner prescribed by the
4 department.

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

10 Section 1105. Purchase of cogenerated electricity.

11 (a) Request to public utility.--The owner or operator of a
12 resource recovery facility may request that any public utility
13 enter into a contract providing for the interconnection of the
14 facility with the public utility and the purchase of electric
15 energy, or electric energy and capacity, produced and offered
16 for sale by the facility. The terms of any such contract shall
17 be in accordance with the Federal Public Utility Regulatory
18 Policies Act of 1978 (Public Law 95-617, 92 Stat. 3117) and any
19 subsequent amendments, and any applicable Federal regulations
20 promulgated pursuant thereto, and the regulations of the
21 commission.

22 (b) Limited Public Utility Commission review.--A contract
23 entered into between a resource recovery facility and a public
24 utility in accordance with subsection (a), shall ~~provide for~~ BE ←
25 SUBJECT TO a one-time review and approval by the commission at
26 the time the contract is entered into, notwithstanding the
27 provisions of 66 Pa.C.S. § 508 (relating to power of the
28 commission to vary, reform and revise contracts).

29 Section 1106. Public Utility Commission.

30 (a) Application.--If the owner or operator of a resource

1 recovery facility and a public utility fail to agree upon the
2 terms and conditions of a contract for the purchase of electric
3 energy, or electric energy and capacity, within 90 days of the
4 request by the facility to negotiate such a contract, or if the
5 public utility fails to offer a contract, either the owner or
6 operator of the facility or the public utility may request the
7 commission to establish the terms and conditions of such a
8 contract. Such request may be for an informal consultation, a
9 petition for declaratory order or a formal complaint, as
10 appropriate under the circumstances.

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

14 (1) If the request is for an informal consultation, such
15 consultation shall be held within 30 days, and commission
16 staff shall make its recommendation to the parties within 30
17 days after the last consultation or submittal of last
18 requested data, whichever is later. Such recommendation may
19 be oral or written, but shall not be binding on the parties
20 or commission.

21 (2) If the request is in the form of petition for
22 declaratory order, the petitioner shall comply with the
23 requirements of 52 Pa. Code § 5.41 et seq. (relating to
24 petitions) and 52 Pa. Code § 57.39 (relating to informal
25 consultation and commission proceedings). Within 30 days
26 after filing such petition, the commission or its staff
27 assigned to the matter may request that the parties file
28 legal memoranda addressing any issues raised therein. Within
29 60 days after filing of such petition or legal memoranda,
30 whichever is later, the commission shall act to grant or deny

1 such petition.

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

7 (c) Status as public utility.--A resource recovery facility
8 shall not be deemed a public utility, as such is defined in 66
9 Pa.C.S. § 101 et seq., if such facility produces thermal energy
10 for sale to a public utility and/or ten or less retail
11 customers, all of whom agree to purchase from such facility
12 under mutually agreed upon terms, or if such facility produces
13 thermal energy for sale to any number of retail customers, all
14 of which are located on the same site or site contiguous to that
15 of the selling facility.

16 (d) Effect of section.--The provisions of this section shall
17 take effect notwithstanding the adoption or failure to adopt any
18 regulations by the Public Utility Commission regarding the
19 purchase of electric energy from qualifying facilities, as such
20 term is defined in section 210 of the Federal Public Utility
21 Regulatory Policies Act of 1978 (Public Law 95-617, 92 Stat.
22 3117) regulations and commission regulations.
23 Section 1107. Claims resulting from pollution occurrences.

24 (a) Financial responsibility.--

25 (1) Any permit application by a person other than a
26 municipality or municipal authority under the Solid Waste
27 Management Act for a municipal waste landfill or resource
28 recovery facility ~~that is provided for in an approved~~ ←
29 ~~municipal waste management plan~~ shall certify that the
30 applicant has in force, or will, prior to the initiation of

1 operations under the permit, have in force, financial
2 assurances for satisfying claims of bodily injury and
3 property damage resulting from pollution occurrences arising
4 from the operation of the landfill or facility. Such
5 financial assurances shall be in place until the effective
6 date of closure certification under the Solid Waste
7 Management Act and the regulations promulgated pursuant
8 thereto, unless the department determines that the landfill
9 or facility may continue to present a significant risk to the
10 public health, safety and welfare or the environment.

11 (2) The form and amount of such financial assurances
12 shall be specified by the department. The required financial
13 assurances may include, but are not limited to, the
14 following:

15 (i) A commercial pollution liability insurance
16 policy.

17 (ii) A secured standby trust to become self-insured
18 that satisfies a financial test established by
19 regulation.

20 (iii) A trust fund financed by the person and
21 administered by an independent trustee approved by the
22 department.

23 (b) Municipal financial responsibility.--

24 (1) Any permit application by a municipality or
25 municipal authority under the Solid Waste Management Act for
26 a municipal waste landfill or resource recovery facility ~~that~~ ←
27 ~~is provided for in an approved municipal waste management~~
28 ~~plan~~ shall certify that the applicant has in force, or will,
29 prior to the initiation of operations under the permit, have
30 in force, financial assurances for satisfying claims of

1 bodily injury and property damage resulting from pollution
2 occurrences arising from the operation of the landfill or
3 facility, to the extent that such claims are allowed by 42
4 Pa.C.S. Ch. 85 Subch. C (relating to actions against local
5 parties). Such financial assurances shall be in place until
6 the effective date of closure certification under the Solid
7 Waste Management Act and the regulations promulgated pursuant
8 thereto, unless the department determines that the landfill
9 or facility may continue to present a significant risk to the
10 public health, safety and welfare or the environment.

11 (2) The form and amount of such financial assurances
12 shall be specified by the department. The required financial
13 assurances may include, but are not limited to, the
14 following:

15 (i) A commercial pollution liability insurance
16 policy.

17 (ii) A trust fund financed by the municipality and
18 administered by an independent trustee approved by the
19 department.

20 (iii) An insurance pool or self-insurance program
21 authorized by 42 Pa.C.S. § 8564 (relating to liability
22 insurance and self-insurance).

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

27 ~~(c) Indemnification. Any person other than a municipality~~ ←
28 ~~or municipal authority that holds a permit under the Solid Waste~~
29 ~~Management Act for a municipal waste landfill or resource~~
30 ~~recovery facility that is part of an approved municipal waste~~

1 ~~management plan shall indemnify and hold harmless all counties~~
2 ~~within the planning area where the facility is located, all~~
3 ~~municipalities within the planning area and the host~~
4 ~~municipality, for claims of bodily injury and property damage~~
5 ~~against the counties and municipalities resulting from pollution~~
6 ~~occurrences arising from the operation of the facility. A host~~
7 ~~municipality may not be held liable for bodily injury and~~
8 ~~property damage resulting from pollution occurrences arising~~
9 ~~from the operation of a municipal waste landfill or resource~~
10 ~~recovery facility if such host municipality does not own,~~
11 ~~operate or control the ownership or operation of the landfill or~~
12 ~~facility.~~

13 (C) LIABILITY LIMITED.--A HOST MUNICIPALITY OR COUNTY OR <—
14 MUNICIPALITY WITHIN THE PLANNING AREA MAY NOT BE HELD LIABLE FOR
15 BODILY INJURY OR PROPERTY DAMAGE RESULTING FROM POLLUTION
16 OCCURRENCES SOLELY BY REASONS OF PARTICIPATION IN THE
17 PREPARATION OR ADOPTION OF A COUNTY OR MUNICIPAL SOLID WASTE
18 PLAN. NOTHING HEREIN SHALL BE CONSTRUED TO PREVENT ANY HOST
19 MUNICIPALITY, COUNTY OR MUNICIPALITY WITHIN THE PLANNING AREA
20 FROM OBTAINING OR GIVING SUCH INDEMNITIES AS MAY BE APPROPRIATE
21 IN CONNECTION WITH THE OWNERSHIP, OPERATION OR CONTROL OF A
22 MUNICIPAL SOLID WASTE FACILITY.

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

27 (a) Establishment by county.--Each county shall establish an
28 interest-bearing trust with an accredited financial institution
29 for every municipal waste landfill that is operating within its
30 boundaries. This trust shall be established within 60 days of

1 the effective date of this act for landfills permitted by the
2 department prior to the effective date of this act. The trust
3 shall be established prior to the operation of any landfill
4 permitted by the department after the effective date of this
5 act.

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

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

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

27 (e) 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 operator of the landfill on a form
30 prepared and approved by the department. The trust agreement

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

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

14 (g) Abandonment of trust.--If the department certifies to
15 the trustee that the operator of a landfill has abandoned the
16 operation of the landfill or has failed or refused to comply
17 with the requirements of the Solid Waste Management Act, ~~or~~ the <—
18 regulations promulgated pursuant thereto OR THE TERMS OR <—
19 CONDITIONS OF ITS PERMIT, in any respect, the trustee shall
20 forthwith pay the full amount of the trust to the department.
21 The department may not make such certification unless it has
22 given 30 days' written notice to the operator, the county, and
23 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~~ RELEASE OF THE BOND by the
2 department, be divided equally between the county and the host
3 municipality.

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

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

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

19 Section 1109. Trust fund for municipally operated landfills.

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

30 (b) Exemption.--Any municipality or municipal authority that

1 has posted a bond that is consistent with the provisions of the
2 Solid Waste Management Act and the regulations promulgated
3 pursuant thereto shall not be required to establish the trust
4 set forth in this section.

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

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

20 (e) 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 (g). 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.

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

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

4 (g) Withdrawal of funds.--The trustee may release moneys
5 from the trust only upon written request of the municipality or
6 municipal authority AND UPON PRIOR WRITTEN APPROVAL BY THE ←
7 DEPARTMENT. 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 host municipality. A copy of any withdrawal
11 document prepared by the trustee shall be provided to the
12 department and to the host municipality. No withdrawal from this
13 trust may be made until after closure of the landfill.

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

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

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

1 Management Act and the regulations promulgated pursuant thereto
2 shall, upon certification of final closure by the department, be
3 returned to the municipality or municipal authority.

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

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

13 SECTION 1110. INDEPENDENT EVALUATION OF PERMIT APPLICATIONS. <—

14 THE DEPARTMENT MAY REIMBURSE HOST MUNICIPALITIES FOR COSTS
15 INCURRED FOR PROFESSIONAL TECHNICAL REVIEW OF A PERMIT
16 APPLICATION UNDER THE ACT OF JULY 7, 1980 (P.L.380, NO.97),
17 KNOWN AS THE SOLID WASTE MANAGEMENT ACT, FOR A NEW MUNICIPAL
18 WASTE LANDFILL OR RESOURCE RECOVERY FACILITY OR THAT WOULD
19 RESULT IN ADDITIONAL CAPACITY FOR A MUNICIPAL WASTE LANDFILL OR
20 RESOURCE RECOVERY FACILITY. REIMBURSEMENT SHALL NOT EXCEED
21 \$10,000 PER COMPLETE APPLICATION.

22 SECTION 1111. PROTECTION OF CAPACITY.

23 (A) NEW PERMITS.--A PERMIT ISSUED BY THE DEPARTMENT UNDER
24 THE ACT OF JULY 7, 1980 (P.L.380, NO.97), KNOWN AS THE SOLID
25 WASTE MANAGEMENT ACT, FOR A NEW MUNICIPAL WASTE LANDFILL OR
26 RESOURCE RECOVERY FACILITY OR THAT RESULTS IN ADDITIONAL
27 CAPACITY FOR A MUNICIPAL WASTE LANDFILL OR RESOURCE RECOVERY
28 FACILITY SHALL INCLUDE A PERMIT CONDITION SETTING FORTH THE
29 WEIGHT OR VOLUME OF MUNICIPAL WASTE GENERATED WITHIN THE HOST
30 COUNTY THAT THE OPERATOR SHALL ALLOW TO BE DELIVERED FOR

1 DISPOSAL OR PROCESSING AT THE FACILITY FOR A SPECIFIED PERIOD.

2 (B) EXISTING PERMITS.--WITHIN SIX MONTHS AFTER THE EFFECTIVE
3 DATE OF THIS ACT, THE DEPARTMENT SHALL MODIFY EACH MUNICIPAL
4 WASTE LANDFILL AND RESOURCE RECOVERY FACILITY PERMIT ISSUED
5 UNDER THE SOLID WASTE MANAGEMENT ACT BEFORE THE EFFECTIVE DATE
6 OF THIS ACT. THE PERMIT MODIFICATION SHALL CONSIST OF A PERMIT
7 CONDITION SETTING FORTH THE WEIGHT OR VOLUME OF MUNICIPAL WASTE
8 GENERATED WITHIN THE HOST COUNTY THAT THE OPERATOR SHALL ALLOW
9 TO BE DELIVERED TO THE FACILITY FOR DISPOSAL OR PROCESSING AT
10 THE FACILITY FOR A SPECIFIED PERIOD.

11 (C) DEPARTMENT.--THE DEPARTMENT MAY TAKE ANY ACTION
12 AUTHORIZED BY STATUTE THAT THE DEPARTMENT DEEMS NECESSARY TO
13 ENSURE THAT OPERATORS OF MUNICIPAL WASTE LANDFILLS AND RESOURCE
14 RECOVERY FACILITIES GIVE PRIORITY TO THE DISPOSAL OR PROCESSING
15 OF MUNICIPAL WASTE GENERATED WITHIN THE HOST COUNTY.

16 CHAPTER 13

17 HOST MUNICIPALITY BENEFIT FEE

18 Section 1301. Host municipality benefit fee.

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

1 (b) Amount.--The fee is \$1 per ton of weighed solid waste or
2 \$1 per three cubic yards of volume-measured solid waste for all
3 solid waste received at a landfill or facility.

4 (c) Municipal options.--Nothing in this section or section
5 1302 shall prevent a host municipality from receiving a higher
6 fee or receiving the fee in a different form or at different
7 times than provided in this section and section 1302, if the
8 host municipality and the operator of the municipal waste
9 landfill or resource recovery facility agree in writing.
10 Section 1302. Form and timing of host municipality benefit fee
11 payment.

12 (a) Quarterly payment.--Each operator subject to section
13 1301 shall make the host municipality benefit fee payment
14 quarterly. The fee shall be paid on or before the twentieth day
15 of April, July, October and January for the three months ending
16 the last day of March, June, September and December.

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

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

30 (1) The enclosed payment is for the full amount owed

1 pursuant to this section, and no further host municipality
2 action is required for collection.

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

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

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

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

17 Section 1303. Collection and enforcement of fee.

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

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

1 exceeding 25% in the aggregate.

2 (c) Assessment notices.--If the host municipality determines
3 that any operator of a municipal waste landfill or resource
4 recovery facility has not made a timely payment of the host
5 municipality benefit fee, it will send a written notice for the
6 amount of the deficiency to such operator within 30 days from
7 the date of determining such deficiency. When the operator has
8 not provided a complete and accurate statement of the weight or
9 volume of solid waste received at the landfill or facility for
10 the payment period, the host municipality may estimate the
11 weight or volume in its deficiency notice.

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

23 (e) Manner of collection.--The amount due and owing under
24 section 1301 shall be collectible by the host municipality in
25 the manner provided in section ~~1509~~ 1709. <—

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

29 Section 1304. Records.

30 Each operator that is required to pay the Host Municipality

1 Benefit Fee shall keep daily records of all deliveries of solid
2 waste to the landfill or facility, as required by the host
3 municipality, including, but not limited to, the name and
4 address of the hauler, the source of the waste, the kind of
5 waste received and the weight or volume of the waste. Such
6 records shall be maintained in Pennsylvania by the operator for
7 no less than five years and shall be made available to the host
8 municipality for inspection upon request.

9 Section 1305. Surcharge.

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

27 CHAPTER 15

28 RECYCLING AND WASTE REDUCTION

29 SECTION 1501. MUNICIPAL IMPLEMENTATION OF RECYCLING PROGRAMS.

30 (A) LARGE POPULATION.--WITHIN TWO YEARS AFTER THE EFFECTIVE

1 DATE OF THIS ACT, EACH MUNICIPALITY OTHER THAN A COUNTY THAT HAS
2 A POPULATION OF 10,000 OR MORE PEOPLE SHALL ESTABLISH AND
3 IMPLEMENT A SOURCE SEPARATION AND COLLECTION PROGRAM FOR
4 RECYCLABLE MATERIALS IN ACCORDANCE WITH THIS SECTION. POPULATION
5 SHALL BE DETERMINED BY THE MOST RECENT DECENNIAL CENSUS BY THE
6 BUREAU OF THE CENSUS OF THE UNITED STATES DEPARTMENT OF
7 COMMERCE.

8 (B) SMALL POPULATION.--WITHIN THREE YEARS AFTER THE
9 EFFECTIVE DATE OF THIS ACT, EACH MUNICIPALITY OTHER THAN A
10 COUNTY THAT HAS A POPULATION OF MORE THAN 5,000 PEOPLE BUT LESS
11 THAN 10,000 PEOPLE, AND WHICH HAS A POPULATION DENSITY OF MORE
12 THAN 300 PEOPLE PER SQUARE MILE, SHALL ESTABLISH AND IMPLEMENT A
13 SOURCE SEPARATION AND COLLECTION PROGRAM FOR RECYCLABLE
14 MATERIALS IN ACCORDANCE WITH THIS SECTION. POPULATION SHALL BE
15 DETERMINED BASED ON THE MOST RECENT DECENNIAL CENSUS BY THE
16 BUREAU OF THE CENSUS OF THE UNITED STATES DEPARTMENT OF
17 COMMERCE.

18 (C) CONTENTS.--THE SOURCE SEPARATION AND COLLECTION PROGRAM
19 SHALL INCLUDE, AT A MINIMUM, THE FOLLOWING ELEMENTS:

20 (1) AN ORDINANCE OR REGULATION ADOPTED BY THE GOVERNING
21 BODY OF THE COUNTY OR MUNICIPALITY, REQUIRING ALL OF THE
22 FOLLOWING:

23 (I) PERSONS TO SEPARATE CLEAR GLASS, ALUMINUM AND
24 OTHER MATERIAL DEEMED APPROPRIATE BY THE MUNICIPALITY
25 FROM OTHER MUNICIPAL WASTE GENERATED AT THEIR HOMES,
26 APARTMENTS AND OTHER RESIDENTIAL ESTABLISHMENTS AND TO
27 STORE SUCH MATERIAL UNTIL COLLECTION.

28 (II) PERSONS TO SEPARATE LEAF WASTE FROM OTHER
29 MUNICIPAL WASTE GENERATED AT THEIR HOMES, APARTMENTS AND
30 OTHER RESIDENTIAL ESTABLISHMENTS UNTIL COLLECTION UNLESS

1 THOSE PERSONS HAVE OTHERWISE PROVIDED FOR THE COMPOSTING
2 OF LEAF WASTE.

3 (III) PERSONS TO SEPARATE HIGH GRADE OFFICE PAPER,
4 ALUMINUM, CORRUGATED PAPER AND LEAF WASTE AND OTHER
5 MATERIAL DEEMED APPROPRIATE BY THE MUNICIPALITY GENERATED
6 AT COMMERCIAL, MUNICIPAL OR INSTITUTIONAL ESTABLISHMENTS
7 AND FROM COMMUNITY ACTIVITIES AND TO STORE THE MATERIAL
8 UNTIL COLLECTION. THE GOVERNING BODY OF A MUNICIPALITY
9 MAY EXEMPT PERSONS OCCUPYING COMMERCIAL, INSTITUTIONAL
10 AND MUNICIPAL PREMISES WITHIN ITS MUNICIPAL BOUNDARIES
11 FROM THE SOURCE-SEPARATION REQUIREMENTS OF THE ORDINANCE
12 OR REGULATION IF THOSE PERSONS HAVE OTHERWISE PROVIDED
13 FOR THE RECYCLING OF MATERIALS THEY ARE REQUIRED BY THIS
14 SECTION TO RECYCLE. TO BE ELIGIBLE FOR AN EXEMPTION UNDER
15 THIS SUBPARAGRAPH, A COMMERCIAL OR INSTITUTIONAL SOLID
16 WASTE GENERATOR MUST ANNUALLY PROVIDE WRITTEN
17 DOCUMENTATION TO THE MUNICIPALITY OF THE TOTAL NUMBER OF
18 TONS RECYCLED.

19 (2) A SCHEDULED DAY, AT LEAST ONCE PER MONTH, DURING
20 WHICH SEPARATED MATERIALS ARE TO BE PLACED AT THE CURBSIDE OR
21 A SIMILAR LOCATION FOR COLLECTION.

22 (3) A SYSTEM, INCLUDING TRUCKS AND RELATED EQUIPMENT,
23 THAT COLLECTS RECYCLABLE MATERIALS FROM THE CURBSIDE OR
24 SIMILAR LOCATIONS AT LEAST ONCE PER MONTH FROM EACH RESIDENCE
25 OR OTHER PERSON GENERATING MUNICIPAL WASTE IN THE COUNTY OR
26 MUNICIPALITY.

27 (4) PROVISIONS TO ENSURE COMPLIANCE WITH THE ORDINANCE,
28 INCLUDING INCENTIVES AND PENALTIES.

29 (5) PROVISIONS FOR THE RECYCLING OF COLLECTED MATERIALS.

30 (D) NOTICE.--EACH MUNICIPALITY SUBJECT TO THIS SECTION

1 SHALL, AT LEAST 30 DAYS PRIOR TO THE INITIATION OF THE RECYCLING
2 PROGRAM AND AT LEAST ONCE EVERY SIX MONTHS THEREAFTER, NOTIFY
3 ALL PERSONS OCCUPYING RESIDENTIAL, COMMERCIAL, INSTITUTIONAL AND
4 MUNICIPAL PREMISES WITHIN ITS BOUNDARIES OF THE REQUIREMENTS OF
5 THE ORDINANCE. THE GOVERNING BODY OF A MUNICIPALITY MAY, IN ITS
6 DISCRETION AS IT DEEMS NECESSARY AND APPROPRIATE, PLACE AN
7 ADVERTISEMENT IN A NEWSPAPER CIRCULATING IN THE MUNICIPALITY,
8 POST A NOTICE IN PUBLIC PLACES WHERE PUBLIC NOTICES ARE
9 CUSTOMARILY POSTED, INCLUDING A NOTICE WITH OTHER OFFICIAL
10 NOTIFICATIONS PERIODICALLY MAILED TO RESIDENTIAL TAXPAYERS OR
11 UTILIZE ANY COMBINATION OF THE FOREGOING.

12 (E) AGREEMENTS.--A MUNICIPALITY MAY ENTER INTO A WRITTEN
13 AGREEMENT WITH OTHER PERSONS, INCLUDING PERSONS TRANSPORTING
14 MUNICIPAL WASTE ON THE EFFECTIVE DATE OF THIS ACT, PURSUANT TO
15 WHICH THE PERSONS UNDERTAKE TO FULFILL SOME OR ALL OF THE
16 MUNICIPALITY'S RESPONSIBILITIES UNDER THIS SECTION. A PERSON WHO
17 ENTERS AN AGREEMENT UNDER THIS SUBSECTION SHALL BE RESPONSIBLE
18 WITH THE MUNICIPALITY FOR IMPLEMENTATION OF THIS SECTION.

19 (F) PREFERENCE.--IN IMPLEMENTING ITS RECYCLING PROGRAM, A
20 MUNICIPALITY SHALL ACCORD CONSIDERATION FOR THE COLLECTION,
21 MARKETING AND DISPOSITION OF RECYCLABLE MATERIALS TO PERSONS
22 ENGAGED IN THE BUSINESS OF RECYCLING ON THE EFFECTIVE DATE OF
23 THIS ACT, WHETHER OR NOT THE PERSONS WERE OPERATING FOR PROFIT.
24 SECTION 1502. FACILITIES OPERATION AND RECYCLING.

25 (A) LEAF WASTE.--TWO YEARS AFTER THE EFFECTIVE DATE OF THIS
26 ACT, NO MUNICIPAL WASTE LANDFILL MAY ACCEPT FOR DISPOSAL, AND NO
27 RESOURCE RECOVERY FACILITY MAY ACCEPT FOR PROCESSING, OTHER THAN
28 COMPOSTING, TRUCKLOADS COMPOSED PRIMARILY OF LEAF WASTE.

29 (B) DROP-OFF CENTERS.--

30 (1) TWO YEARS AFTER THE EFFECTIVE DATE OF THIS ACT, NO

1 PERSON MAY OPERATE A MUNICIPAL WASTE LANDFILL, RESOURCE
2 RECOVERY FACILITY OR TRANSFER STATION UNLESS THE OPERATOR HAS
3 ESTABLISHED AT LEAST ONE DROP-OFF CENTER FOR THE COLLECTION
4 AND SALE OF RECYCLABLE MATERIAL, INCLUDING, AT A MINIMUM,
5 CLEAR GLASS, ALUMINUM, HIGH GRADE OFFICE PAPER AND CARDBOARD.
6 THE CENTER MUST BE LOCATED AT THE FACILITY OR IN A PLACE THAT
7 IS EASILY ACCESSIBLE TO PERSONS GENERATING MUNICIPAL WASTE
8 THAT IS PROCESSED OR DISPOSED AT THE FACILITY. EACH DROP-OFF
9 CENTER MUST CONTAIN BINS OR CONTAINERS WHERE RECYCLABLE
10 MATERIALS MAY BE PLACED AND TEMPORARILY STORED. IF THE
11 OPERATION OF THE DROP-OFF CENTER REQUIRES ATTENDANTS, THE
12 CENTER SHALL BE OPEN AT LEAST EIGHT HOURS PER WEEK, INCLUDING
13 FOUR HOURS DURING EVENINGS OR WEEKENDS.

14 (2) EACH OPERATOR SHALL, AT LEAST 30 DAYS PRIOR TO THE
15 INITIATION OF THE DROP-OFF CENTER PROGRAM AND AT LEAST ONCE
16 EVERY SIX MONTHS THEREAFTER, NOTIFY ALL PERSONS GENERATING
17 MUNICIPAL WASTE THAT IS PROCESSED OR DISPOSED AT THE
18 FACILITY. THE OPERATOR SHALL PLACE AN ADVERTISEMENT IN A
19 NEWSPAPER CIRCULATING IN THE MUNICIPALITY OR PROVIDE NOTICE
20 IN ANOTHER MANNER APPROVED BY THE DEPARTMENT.

21 SECTION 1503. COMMONWEALTH RECYCLING AND WASTE REDUCTION.

22 (A) RECYCLING.--WITHIN TWO YEARS AFTER THE EFFECTIVE DATE OF
23 THIS ACT, EACH COMMONWEALTH AGENCY, IN COORDINATION WITH THE
24 DEPARTMENT OF GENERAL SERVICES, SHALL ESTABLISH AND IMPLEMENT A
25 SOURCE SEPARATION AND COLLECTION PROGRAM FOR RECYCLABLE
26 MATERIALS PRODUCED AS A RESULT OF AGENCY OPERATIONS, INCLUDING,
27 AT A MINIMUM, ALUMINUM, HIGH GRADE OFFICE PAPER AND CORRUGATED
28 PAPER. THE SOURCE SEPARATION AND COLLECTION PROGRAM SHALL
29 INCLUDE, AT A MINIMUM, PROCEDURES FOR COLLECTING AND STORING
30 RECYCLABLE MATERIALS, BINS OR CONTAINERS FOR STORING MATERIALS,

1 AND CONTRACTUAL OR OTHER ARRANGEMENTS WITH BUYERS.

2 (B) WASTE REDUCTION.--WITHIN TWO YEARS AFTER THE EFFECTIVE
3 DATE OF THIS ACT, EACH COMMONWEALTH AGENCY, IN COORDINATION WITH
4 THE DEPARTMENT OF GENERAL SERVICES, SHALL ESTABLISH AND
5 IMPLEMENT A WASTE REDUCTION PROGRAM FOR MATERIALS USED IN THE
6 COURSE OF AGENCY OPERATIONS. THE PROGRAM SHALL BE DESIGNED AND
7 IMPLEMENTED TO ACHIEVE THE MAXIMUM FEASIBLE REDUCTION OF WASTE
8 GENERATED AS A RESULT OF AGENCY OPERATIONS.

9 (C) USE OF COMPOSTED MATERIALS.--ALL COMMONWEALTH AGENCIES
10 RESPONSIBLE FOR THE MAINTENANCE OF PUBLIC LANDS IN THIS
11 COMMONWEALTH SHALL, TO THE MAXIMUM EXTENT PRACTICABLE AND
12 FEASIBLE, GIVE DUE CONSIDERATION AND PREFERENCE TO THE USE OF
13 COMPOST MATERIALS IN ALL LAND MAINTENANCE ACTIVITIES WHICH ARE
14 TO BE PAID WITH PUBLIC FUNDS.

15 SECTION 1504. PROCUREMENT BY DEPARTMENT OF GENERAL SERVICES.

16 (A) REVIEW OF POLICIES.--

17 (1) THE DEPARTMENT OF GENERAL SERVICES SHALL REVIEW AND
18 REVISE ITS EXISTING PROCUREMENT PROCEDURES AND SPECIFICATIONS
19 FOR THE PURCHASE OF PRODUCTS AND MATERIALS TO ELIMINATE
20 PROCEDURES AND SPECIFICATIONS THAT EXPLICITLY DISCRIMINATE
21 AGAINST PRODUCTS AND MATERIALS WITH RECYCLED CONTENT. THE
22 DEPARTMENT OF GENERAL SERVICES SHALL REVIEW AND REVISE ITS
23 PROCEDURES AND SPECIFICATIONS ON A CONTINUING BASIS TO
24 ENCOURAGE THE USE OF PRODUCTS AND MATERIALS WITH RECYCLED
25 CONTENT AND SHALL, IN DEVELOPING NEW PROCEDURES AND
26 SPECIFICATION, ENCOURAGE THE USE OF PRODUCTS AND MATERIALS
27 WITH RECYCLED CONTENT.

28 (2) THE DEPARTMENT OF GENERAL SERVICES SHALL REVIEW AND
29 REVISE ITS PROCUREMENT PROCEDURES AND SPECIFICATIONS FOR THE
30 PURCHASE OF PRODUCTS AND MATERIALS TO ENSURE, TO THE MAXIMUM

1 EXTENT ECONOMICALLY FEASIBLE, THAT THE DEPARTMENT OF GENERAL
2 SERVICES PURCHASES PRODUCTS OR MATERIALS THAT MAY BE RECYCLED
3 OR REUSED WHEN THESE PRODUCTS ARE DISCARDED. THE DEPARTMENT
4 OF GENERAL SERVICES SHALL COMPLETE AN INITIAL REVIEW AND
5 REVISION WITHIN ONE YEAR FROM THE EFFECTIVE DATE OF THIS ACT.
6 THE DEPARTMENT OF GENERAL SERVICES SHALL REVIEW AND REVISE
7 ITS PROCEDURES AND SPECIFICATIONS ON A CONTINUING BASIS TO
8 ENCOURAGE THE USE OF PRODUCTS AND MATERIALS THAT MAY BE
9 RECYCLED OR REUSED AND SHALL, IN DEVELOPING NEW PROCEDURES
10 AND SPECIFICATIONS, ENCOURAGE THE USE OF PRODUCTS AND
11 MATERIALS THAT MAY BE RECYCLED OR REUSED.

12 (B) BIDDING.

13 (1) A PERSON WHO SUBMITS A BID TO THE DEPARTMENT OF
14 GENERAL SERVICES FOR A CONTRACT THAT INCLUDES THE PURCHASE OF
15 PRODUCTS OR MATERIALS SHALL CERTIFY, IN WRITING, EITHER THE
16 PERCENTAGE BY WEIGHT OF RECYCLED CONTENT IN THE PRODUCT THAT
17 IS THE SUBJECT OF THE BID OR SUCH OTHER MEASURE OF RECYCLED
18 CONTENT AS MAY BE SET FORTH IN THE DEPARTMENT OF GENERAL
19 SERVICES' INVITATION FOR BIDS. A PERSON MAY CERTIFY THAT THE
20 PRODUCTS OR MATERIALS CONTAIN NO RECYCLED CONTENT.

21 (2) THE DEPARTMENT OF GENERAL SERVICES SHALL, IN ISSUING
22 AN INVITATION FOR BIDS, REQUIRE THAT ALL BIDDERS WHO SEEK TO
23 QUALIFY FOR THE PREFERENCE SET FORTH IN SUBSECTION (C)
24 CERTIFY THAT THE PRODUCTS OR MATERIALS THAT ARE THE SUBJECT
25 OF THE BID CONTAIN A MINIMUM PERCENTAGE OF RECYCLED CONTENT
26 THAT IS SET FORTH IN THE INVITATION FOR BIDS.

27 (C) AWARD OF CONTRACTS.--UPON EVALUATION OF BIDS OPENED FOR
28 EVERY PUBLIC CONTRACT BY THE DEPARTMENT OF GENERAL SERVICES THAT
29 INCLUDES THE PURCHASE OF PRODUCTS OR MATERIALS, THE DEPARTMENT
30 OF GENERAL SERVICES SHALL IDENTIFY THE LOWEST RESPONSIBLE BIDDER

1 AND ANY OTHER RESPONSIBLE BIDDERS WHOSE PRICES EXCEED THAT OF
2 THE LOWEST RESPONSIBLE BIDDER BY 5% OR LESS WHO HAVE CERTIFIED
3 THAT THE PRODUCTS OR MATERIALS CONTAIN AT LEAST THE MINIMUM
4 PERCENTAGE OF RECYCLED CONTENT THAT IS SET FORTH IN THE
5 DEPARTMENT OF GENERAL SERVICES' INVITATION FOR BIDS. IF NO
6 BIDDERS OFFER PRODUCTS OR MATERIALS WITH THE MINIMUM PRESCRIBED
7 RECYCLED CONTENT, THE DEPARTMENT OF GENERAL SERVICES SHALL AWARD
8 THE CONTRACT TO THE LOWEST RESPONSIBLE BIDDER. THIS SUBSECTION
9 DOES NOT APPLY TO PRODUCTS AND MATERIALS USED IN HIGHWAY AND
10 BRIDGE MAINTENANCE.

11 (D) RULEMAKING.--THE DEPARTMENT OF GENERAL SERVICES MAY
12 ADOPT REGULATIONS AS IT DEEMS NECESSARY TO CARRY OUT THE
13 PROVISIONS AND PURPOSES OF THIS SECTION.

14 (E) COOPERATION.--ALL COMMONWEALTH AGENCIES SHALL COOPERATE
15 WITH THE DEPARTMENT OF GENERAL SERVICES IN CARRYING OUT THIS
16 SECTION.

17 (F) ANNUAL REPORT.--THE DEPARTMENT OF GENERAL SERVICES SHALL
18 SUBMIT AN ANNUAL REPORT TO THE GENERAL ASSEMBLY CONCERNING ITS
19 IMPLEMENTATION OF THIS SECTION. THIS REPORT SHALL INCLUDE A
20 DESCRIPTION OF WHAT ACTIONS THE DEPARTMENT OF GENERAL SERVICES
21 HAS TAKEN IN THE PREVIOUS YEAR TO IMPLEMENT THIS SECTION. THIS
22 REPORT SHALL BE SUBMITTED ON OR BEFORE THE ANNIVERSARY OF THE
23 EFFECTIVE DATE OF THIS ACT.

24 (G) PARTIAL REPEAL.--SECTIONS 2403(B), (C) AND 2409(H) OF
25 THE ACT OF APRIL 9, 1929 (P.L.177, NO.175), KNOWN AS THE
26 ADMINISTRATIVE CODE OF 1929, ARE REPEALED TO THE EXTENT THAT
27 THEY ARE INCONSISTENT WITH SUBSECTION (C).

28 SECTION 1505. PROCUREMENT BY DEPARTMENT OF TRANSPORTATION.

29 (A) REVIEW OF POLICIES.--

30 (1) THE DEPARTMENT OF TRANSPORTATION SHALL REVIEW AND

1 REVERSE ITS EXISTING PROCUREMENT PROCEDURES AND SPECIFICATIONS
2 FOR THE PURCHASE OF PRODUCTS AND MATERIALS TO ELIMINATE
3 PROCEDURES AND SPECIFICATIONS THAT EXPLICITLY DISCRIMINATE
4 AGAINST PRODUCTS AND MATERIALS WITH RECYCLED CONTENT AND TO
5 ENCOURAGE THE USE OF PRODUCTS AND MATERIALS WITH RECYCLED
6 CONTENT. THE DEPARTMENT OF TRANSPORTATION SHALL COMPLETE AN
7 INITIAL REVIEW AND REVISION WITHIN ONE YEAR OF THE EFFECTIVE
8 DATE OF THIS ACT. THE DEPARTMENT OF TRANSPORTATION SHALL
9 REVIEW AND REVISE ITS PROCEDURES AND SPECIFICATIONS ON A
10 CONTINUING BASIS TO ENCOURAGE THE USE OF PRODUCTS AND
11 MATERIALS WITH RECYCLED CONTENT AND SHALL, IN DEVELOPING NEW
12 PROCEDURES AND SPECIFICATIONS, ENCOURAGE THE USE OF PRODUCTS
13 AND MATERIALS WITH RECYCLED CONTENT.

14 (2) THE DEPARTMENT OF TRANSPORTATION SHALL REVIEW AND
15 REVISE ITS PROCUREMENT PROCEDURES AND SPECIFICATIONS FOR THE
16 PURCHASE OF PRODUCTS AND MATERIALS TO ENSURE, TO THE MAXIMUM
17 EXTENT ECONOMICALLY FEASIBLE, THAT THE DEPARTMENT OF
18 TRANSPORTATION PURCHASES PRODUCTS OR MATERIALS THAT MAY BE
19 RECYCLED OR REUSED WHEN THESE PRODUCTS OR MATERIALS ARE
20 DISCARDED. THE DEPARTMENT OF TRANSPORTATION SHALL COMPLETE AN
21 INITIAL REVIEW AND REVISION WITHIN ONE YEAR OF THE EFFECTIVE
22 DATE OF THIS ACT. THE DEPARTMENT OF TRANSPORTATION SHALL
23 REVIEW AND REVISE ITS PROCEDURES AND SPECIFICATIONS ON A
24 CONTINUING BASIS TO ENCOURAGE THE USE OF PRODUCTS AND
25 MATERIALS THAT MAY BE RECYCLED OR REUSED AND SHALL, IN
26 DEVELOPING NEW PROCEDURES AND SPECIFICATIONS, ENCOURAGE THE
27 USE OF PRODUCTS AND MATERIALS THAT MAY BE RECYCLED OR REUSED.

28 (B) RULEMAKING.--THE DEPARTMENT OF TRANSPORTATION MAY ADOPT
29 REGULATIONS AS IT DEEMS NECESSARY TO CARRY OUT THE PROVISIONS
30 AND PURPOSES OF THIS SECTION.

1 (C) COOPERATION.--ALL COMMONWEALTH AGENCIES SHALL COOPERATE
2 WITH THE DEPARTMENT OF TRANSPORTATION IN CARRYING OUT THIS
3 SECTION.

4 (D) TESTING.--A PERSON WHO BELIEVES THAT A PARTICULAR
5 CONSTITUENT OF SOLID WASTE OR ANY PRODUCT OR MATERIAL WITH
6 RECYCLED CONTENT MAY BE BENEFICIALLY USED IN LIEU OF ANOTHER
7 PRODUCT OR MATERIAL IN THE COMMONWEALTH'S TRANSPORTATION SYSTEM
8 MAY REQUEST THE DEPARTMENT OF TRANSPORTATION TO EVALUATE THAT
9 CONSTITUENT, PRODUCT OR MATERIAL. THE DEPARTMENT OF
10 TRANSPORTATION, IN CONSULTATION WITH THE DEPARTMENT, SHALL
11 CONDUCT A PRELIMINARY REVIEW OF EACH PROPOSAL TO IDENTIFY WHICH
12 PROPOSALS MERIT AN EVALUATION. IF THE DEPARTMENT OF
13 TRANSPORTATION FINDS, AFTER AN EVALUATION, THAT THE CONSTITUENT,
14 PRODUCT OR MATERIAL MAY BE BENEFICIALLY USED, IT SHALL AMEND ITS
15 PROCEDURES AND SPECIFICATIONS TO ALLOW THE USE OF THE
16 CONSTITUENT PRODUCT OR MATERIAL.

17 (E) GRANTS.--THE DEPARTMENT OF TRANSPORTATION MAY AWARD
18 RESEARCH AND DEMONSTRATION GRANTS CONCERNING THE POTENTIAL
19 BENEFICIAL USE OF A PARTICULAR CONSTITUENT OF SOLID WASTE, OR
20 ANY PRODUCT OR MATERIAL WITH RECYCLED CONTENT, IN LIEU OF
21 ANOTHER PRODUCT OR MATERIAL IN THE COMMONWEALTH'S TRANSPORTATION
22 SYSTEM. THE APPLICATION SHALL BE MADE ON A FORM PREPARED AND
23 FURNISHED BY THE DEPARTMENT OF TRANSPORTATION AND SHALL CONTAIN
24 THE INFORMATION THE DEPARTMENT OF TRANSPORTATION DEEMS
25 NECESSARY.

26 (F) ANNUAL REPORT.--THE DEPARTMENT OF TRANSPORTATION SHALL
27 SUBMIT AN ANNUAL REPORT TO THE GENERAL ASSEMBLY CONCERNING ITS
28 IMPLEMENTATION OF THIS SECTION. THIS REPORT SHALL INCLUDE A
29 DESCRIPTION OF WHAT ACTIONS THE DEPARTMENT OF TRANSPORTATION HAS
30 TAKEN IN THE PREVIOUS YEAR TO IMPLEMENT THIS SECTION. THIS

1 REPORT SHALL BE SUBMITTED ON OR BEFORE THE ANNIVERSARY OF THE
2 EFFECTIVE DATE OF THIS ACT.

3 SECTION 1506. PROCUREMENT OPTIONS FOR LOCAL PUBLIC AGENCIES AND
4 CERTAIN COMMONWEALTH AGENCIES.

5 (A) GENERAL RULE.--THIS SECTION SETS FORTH PROCUREMENT
6 OPTIONS FOR LOCAL PUBLIC AGENCIES. THESE PROCUREMENT OPTIONS ARE
7 ALSO AVAILABLE TO COMMONWEALTH AGENCIES FOR WHICH MATERIALS ARE
8 NOT PURCHASED BY THE DEPARTMENT OF GENERAL SERVICES OR THE
9 DEPARTMENT OF TRANSPORTATION. NOTHING IN THIS ACT SHALL BE
10 CONSTRUED TO REQUIRE THE AGENCIES TO EXERCISE THE OPTIONS SET
11 FORTH IN THIS SECTION.

12 (B) PROCEDURAL OPTIONS.--EACH PUBLIC AGENCY SUBJECT TO THIS
13 SECTION MAY, AT IS DISCRETION, DO ANY OF THE FOLLOWING:

14 (1) REVIEW AND REVISE ITS PROCUREMENT PROCEDURES AND
15 SPECIFICATIONS FOR PURCHASES OF PAPER, LUBRICATING OIL, TIRES
16 AND OTHER PRODUCTS OR MATERIALS TO ELIMINATE PROCEDURES AND
17 SPECIFICATIONS THAT DISCRIMINATE AGAINST RECYCLED PRODUCTS OR
18 MATERIALS.

19 (2) REVIEW AND REVISE ITS PROCUREMENT PROCEDURES AND
20 SPECIFICATIONS FOR PURCHASES OF PAPER, LUBRICATING OIL, TIRES
21 AND OTHER PRODUCTS OR MATERIALS TO ENSURE, TO THE MAXIMUM
22 EXTENT ECONOMICALLY FEASIBLE, THAT THE AGENCY PURCHASES
23 PRODUCTS OR MATERIALS THAT MAY BE RECYCLED OR REUSED WHEN
24 THESE PRODUCTS ARE DISCARDED.

25 (3) REQUIRE THAT A PERSON WHO SUBMITS A BID TO THE
26 AGENCY FOR A CONTRACT FOR PURCHASE PRODUCTS OR MATERIALS FOR
27 USE BY OR ON BEHALF OF THE AGENCY CERTIFY, IN WRITING, EITHER
28 THE PERCENTAGE BY WEIGHT OF RECYCLED CONTENT IN THE PRODUCT
29 OR MATERIAL THAT IS THE SUBJECT OF THE BID, OR SUCH OTHER
30 MEASURE OF RECYCLED CONTENT AS MAY BE SET FORTH IN THE

1 AGENCY'S INVITATION FOR BIDS.

2 (4) ESTABLISH SPECIFICATIONS FOR BIDS FOR PUBLIC
3 CONTRACTS THAT REQUIRE ALL BIDDERS TO PROPOSE THAT A STATED
4 MINIMUM PERCENTAGE OF PRODUCTS OR MATERIALS TO BE USED FOR
5 THE CONTRACT BE MADE FROM RECYCLED MATERIAL.

6 (C) CONTRACT OPTIONS.--EACH PUBLIC AGENCY THAT IS SUBJECT TO
7 THIS SECTION MAY, AT ITS DISCRETION, AWARD CONTRACTS ACCORDING
8 TO ONE OF THE FOLLOWING METHODS, WHEN THE METHOD IS SET FORTH IN
9 THE INVITATION FOR BIDS:

10 (1) UPON EVALUATION OF BIDS OPENED FOR A PUBLIC CONTRACT
11 BY A PUBLIC AGENCY FOR THE PURCHASE OF PRODUCTS OR MATERIALS,
12 THE PUBLIC AGENCY SHALL IDENTIFY THE LOWEST RESPONSIBLE
13 BIDDER AND ANY OTHER RESPONSIBLE BIDDERS WHOSE PRICES EXCEED
14 THAT OF THE LOWEST RESPONSIBLE BIDDER BY A PREFERENCE
15 PERCENTAGE TO BE SET FORTH IN THE INVITATION FOR BIDS, BUT
16 NOT MORE THAN 5% OF THE BID AMOUNT. IF NO BIDDERS OFFER
17 PRODUCTS OR MATERIALS WITH THE MINIMUM PRESCRIBED RECYCLED
18 CONTENT, THE AGENCY SHALL AWARD THE CONTRACT TO THE LOWEST
19 RESPONSIBLE BIDDER.

20 (2) UPON EVALUATION OF BIDS OPENED FOR A PUBLIC
21 CONTRACT, THE AGENCY SHALL IDENTIFY THE LOWEST RESPONSIBLE
22 BIDDER. WHERE THERE IS A TIE FOR LOWEST RESPONSIBLE BIDDER,
23 THE AGENCY IN DETERMINING TO WHOM TO AWARD THE CONTRACT SHALL
24 CONSIDER, AS ONE FACTOR IN ITS DETERMINATION, WHICH OF THE
25 BIDS PROVIDES FOR THE GREATEST WEIGHT OF RECYCLED MATERIAL IN
26 THE PRODUCT OR PRODUCTS TO BE PURCHASED, OR FOR THE BEST
27 MEASURE OF RECYCLED CONTENT OTHER THAN WEIGHT AS MAY BE SET
28 FORTH IN THE INVITATION FOR BIDS.

29 (D) OTHER LAWS.--THE OPTIONS SET FORTH IN THIS SECTION MAY
30 BE EXERCISED, NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE

1 CONTRARY.

2 SECTION 1507. RECYCLING AT EDUCATIONAL INSTITUTIONS.

3 THE DEPARTMENT, IN CONSULTATION WITH THE DEPARTMENT OF
4 EDUCATION, SHALL DEVELOP GUIDELINES FOR SOURCE SEPARATION AND
5 COLLECTION OF RECYCLABLE MATERIALS AND FOR WASTE REDUCTION IN
6 PRIMARY AND SECONDARY SCHOOLS, COLLEGES AND UNIVERSITIES,
7 WHETHER THE SCHOOLS, COLLEGES AND UNIVERSITIES ARE PUBLIC OR
8 NONPUBLIC. AT A MINIMUM, THE GUIDELINES SHALL ADDRESS GENERATED
9 IN ADMINISTRATIVE OFFICES, CLASSROOMS, DORMITORIES AND
10 CAFETERIAS. THE DEPARTMENT OF EDUCATION SHALL DISTRIBUTE THESE
11 GUIDELINES AND ENCOURAGE THEIR IMPLEMENTATION. THE GUIDELINES
12 SHALL BE DEVELOPED AND DISTRIBUTED WITHIN TWO YEARS OF THE
13 EFFECTIVE DATE OF THIS ACT, EXCEPT THAT THE GUIDELINES ARE NOT
14 REQUIRED TO BE DISTRIBUTED TO EDUCATIONAL INSTITUTIONS THAT ARE
15 COMMONWEALTH AGENCIES IMPLEMENTING RECYCLING PROGRAMS UNDER
16 SECTION 1505.

17 CHAPTER ~~15~~ 17

18 ENFORCEMENT AND REMEDIES

19 Section ~~1501~~ 1701. Unlawful conduct.

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

22 (1) Violate, or cause or assist in the violation of, any
23 provision of this act, any regulation promulgated hereunder,
24 any order issued hereunder, or the terms or conditions of any
25 municipal waste management plan approved by the department
26 under this act.

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

30 (3) Fail to adhere to the schedule set forth in an

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

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

7 (5) Fail to make a timely payment of the ~~resource~~ <—
8 ~~recovery~~ RECYCLING fee or host municipality benefit fee. <—

9 (6) Hinder, obstruct, prevent or interfere with the
10 department or its personnel in the performance of any duty
11 under this act.

12 (7) Hinder, obstruct, prevent or interfere with host
13 municipalities or their personnel in the performance of any
14 duty related to the collection of the host municipality
15 benefit fee OR IN CONDUCTING ANY INSPECTION AUTHORIZED BY <—
16 THIS ACT.

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

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

25 (b) Public nuisance.--All unlawful conduct set forth in
26 subsection (a) shall also constitute a public nuisance.

27 Section ~~1502~~ 1702. Enforcement orders. <—

28 (a) Issuance.--The department may issue such orders to
29 persons as it deems necessary to aid in the enforcement of the
30 provisions of this act. Such orders may include, but shall not

1 be limited to, orders requiring persons to comply with approved
2 municipal waste management plans and orders requiring compliance
3 with the provisions of this act and the regulations promulgated
4 pursuant thereto. Any order issued under this act shall take
5 effect upon notice, unless the order specifies otherwise. An
6 appeal to the Environmental Hearing Board shall not act as a
7 supersedeas. The power of the department to issue an order under
8 this act is in addition to any other remedy which may be
9 afforded to the department pursuant to this act or any other
10 act.

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

19 Section ~~1503~~ 1703. Restraining violations. ←

20 (a) Injunctions.--In addition to any other remedies provided
21 in this act, the department may institute a suit in equity in
22 the name of the Commonwealth where unlawful conduct or public
23 nuisance exists for an injunction to restrain a violation of
24 this act, the regulations promulgated pursuant thereto, any
25 order issued pursuant thereto, or the terms or conditions of any
26 approved municipal waste management plan, and to restrain the
27 maintenance or threat of a public nuisance. In any such
28 proceeding, the court shall, upon motion of the Commonwealth,
29 issue a prohibitory or mandatory preliminary injunction if it
30 finds that the defendant is engaging in unlawful conduct as

1 defined by this act or is engaged in conduct which is causing
2 immediate and irreparable harm to the public. The Commonwealth
3 shall not be required to furnish bond or other security in
4 connection with such proceedings. In addition to an injunction,
5 the court, in such equity proceedings, may levy civil penalties
6 as specified in section ~~1504~~ 1704. ←

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

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

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

24 Section ~~1504~~ 1704. Civil penalties. ←

25 (a) Assessment.--In addition to proceeding under any other
26 remedy available at law or in equity for a violation of any
27 provision of this act, the regulations promulgated hereunder,
28 any order of the department issued hereunder, or any term or
29 condition of an approved municipal waste management plan, the
30 department may assess a civil penalty upon a person for such

1 violation. Such a penalty may be assessed whether or not the
2 violation was willful or negligent. In determining the amount of
3 the penalty, the department shall consider the willfulness of
4 the violation; the effect on the municipal waste planning
5 process; damage to air, water, land or other natural resources
6 of this Commonwealth or their uses; cost of restoration and
7 abatement; savings resulting to the person in consequence of
8 such violation; deterrence of future violations; and other
9 relevant factors. If the violation leads to issuance of a
10 cessation order, a civil penalty shall be assessed.

11 (b) ~~Notice~~ ESCROW.--When the department assesses a civil <—
12 penalty, it shall inform the person of the amount of the
13 penalty. The person charged with the penalty shall then have 30
14 days to pay the penalty in full or, if the person wishes to
15 contest either the amount of the penalty or the fact of the
16 violation, ~~the person shall, within such 30 day period, file an~~ <—
17 ~~appeal of such action with the Environmental Hearing Board.~~
18 ~~Failure to appeal within 30 days shall result in a waiver of all~~
19 ~~legal rights to contest the violation or the amount of the~~
20 ~~penalty. The maximum~~ EITHER TO FORWARD THE PROPOSED AMOUNT TO <—
21 THE DEPARTMENT FOR PLACEMENT IN AN ESCROW ACCOUNT WITH THE STATE
22 TREASURER OR WITH A BANK IN THIS COMMONWEALTH OR TO POST AN
23 APPEAL BOND IN THE AMOUNT OF THE PENALTY. THE BOND MUST BE
24 EXECUTED BY A SURETY LICENSED TO DO BUSINESS IN THIS
25 COMMONWEALTH AND MUST BE SATISFACTORY TO THE DEPARTMENT. IF,
26 THROUGH ADMINISTRATIVE OR JUDICIAL REVIEW OF THE PROPOSED
27 PENALTY, IT IS DETERMINED THAT NO VIOLATION OCCURRED OR THAT THE
28 AMOUNT OF THE PENALTY SHALL BE REDUCED, THE DEPARTMENT SHALL,
29 WITHIN 30 DAYS, REMIT THE APPROPRIATE AMOUNT TO THE PERSON, WITH
30 AN INTEREST ACCUMULATED BY THE ESCROW DEPOSIT. FAILURE TO

1 FORWARD THE MONEY OR THE APPEAL BOND TO THE DEPARTMENT WITHIN 30
2 DAYS SHALL RESULT IN A WAIVER OF ALL LEGAL RIGHTS TO CONTEST THE
3 VIOLATION OR THE AMOUNT OF THE PENALTY.

4 (C) AMOUNT.--THE MAXIMUM civil penalty which may be assessed
5 pursuant to this section is \$10,000 ~~per day~~ per violation. Each <—
6 violation for each separate day and each violation of any
7 provision of this act, any regulation promulgated hereunder, any
8 order issued hereunder, or the terms or conditions of any
9 approved municipal waste management plan shall constitute a
10 separate offense under this section.

11 (D) STATUTE OF LIMITATIONS.--NOTWITHSTANDING ANY OTHER <—
12 PROVISION OF LAW TO THE CONTRARY, THERE SHALL BE A STATUTE OF
13 LIMITATIONS OF FIVE YEARS UPON ACTIONS BROUGHT BY THE
14 COMMONWEALTH UNDER THIS SECTION.

15 Section ~~1505~~ 1705. Criminal penalties. <—

16 (a) Summary offense.--Any person, other than a municipal
17 official exercising his official duties, who violates any
18 provision of this act, any regulation promulgated hereunder, any
19 order issued hereunder, or the terms or conditions of any
20 approved municipal waste management plan shall, upon conviction
21 thereof in a summary proceeding, be sentenced to pay a fine of
22 not less than \$100 and not more than \$1,000 and costs and, in
23 default of the payment of such fine and costs, to undergo
24 imprisonment for not more than 30 days.

25 (b) Misdemeanor offense.--Any person, other than a municipal
26 official exercising his official duties, who violates any
27 provision of this act, any regulation promulgated hereunder, any
28 order issued hereunder, or the terms or conditions of any
29 approved municipal waste management plan, commits a misdemeanor
30 of the third degree and shall, upon conviction, be sentenced to

1 pay a fine of not less than \$1,000 but not more than \$10,000 per
2 day for each violation or to imprisonment for a period of not
3 more than one year, or both.

4 (c) Second or subsequent offense.--Any person, other than a
5 municipal official exercising his official duties who, within
6 two years after a conviction of a misdemeanor for any violation
7 of this act, violates any provision of this act, any regulation
8 promulgated hereunder, any order issued hereunder, or the terms
9 or conditions of any approved municipal waste management plan,
10 commits a misdemeanor of the second degree and shall, upon
11 conviction, be sentenced to pay a fine of not less than \$2,500
12 nor more than \$25,000 for each violation or to imprisonment for
13 a period of not more than two years, or both.

14 (d) Violations to be separate offense.--Each violation for
15 each separate day and each violation of any provision of this
16 act, any regulation promulgated hereunder, any order issued
17 hereunder, or the terms or conditions of any approved municipal
18 waste management plan, shall constitute a separate offense under
19 subsections (a), (b) and (c).

20 Section ~~1506~~ 1706. Existing rights and remedies preserved; ←
21 cumulative remedies authorized.

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

1 existing in equity, or under the common law or statutory law,
2 criminal or civil. Nothing in this act, or the approval of any
3 municipal waste management plan under this act, or any act done
4 by virtue of this act, shall be construed as estopping the
5 Commonwealth or persons in the exercise of their rights under
6 the common law or decisional law or in equity, from proceeding
7 in courts of law or equity to suppress nuisances, or to abate
8 any pollution now or hereafter existing, or to enforce common
9 law or statutory rights. No court of this Commonwealth having
10 jurisdiction to abate public or private nuisances shall be
11 deprived of such jurisdiction in any action to abate any private
12 or public nuisance instituted by any person for the reason that
13 such nuisance constitutes air or water pollution.

14 Section ~~1507~~ 1707. Production of materials; recordkeeping <—
15 requirements.

16 (A) AUTHORITY OF DEPARTMENT.--The department and its agents <—
17 and employees shall:

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

21 (2) Require any person engaged in the municipal waste
22 management or municipal waste planning to establish and
23 maintain such records and make such reports and furnish such
24 information as the department may prescribe.

25 (3) HAVE THE AUTHORITY TO ENTER ANY BUILDING, PROPERTY, <—
26 PREMISES OR PLACE WHERE SOLID WASTE IS GENERATED, STORED,
27 PROCESSED, TREATED OR DISPOSED OF FOR THE PURPOSES OF MAKING
28 AN INVESTIGATION OR INSPECTION NECESSARY TO ASCERTAIN THE
29 COMPLIANCE OR NONCOMPLIANCE BY ANY PERSON WITH THE PROVISIONS
30 OF THIS ACT AND THE REGULATIONS PROMULGATED UNDER THIS ACT.

1 IN CONNECTION WITH THE INSPECTION OR INVESTIGATION, SAMPLES
2 MAY BE TAKEN OF A SOLID, SEMISOLID, LIQUID OR CONTAINED
3 GASEOUS MATERIAL FOR ANALYSIS. IF, ANALYSIS IS MADE OF THE
4 SAMPLES, A COPY OF THE RESULTS OF THE ANALYSIS SHALL BE
5 FURNISHED WITHIN FIVE BUSINESS DAYS AFTER RECEIVING THE
6 ANALYSIS TO THE PERSON HAVING APPARENT AUTHORITY OVER THE
7 BUILDING, PROPERTY, PREMISES OR PLACE.

8 (B) WARRANTS.--AN AGENT OR EMPLOYEE OF THE DEPARTMENT MAY
9 APPLY FOR A SEARCH WARRANT TO ANY COMMONWEALTH OFFICIAL
10 AUTHORIZED TO ISSUE A SEARCH WARRANT FOR THE PURPOSES OF
11 INSPECTING OR EXAMINING ANY PROPERTY, BUILDING, PREMISES, PLACE,
12 BOOK, RECORD OR OTHER PHYSICAL EVIDENCE; OF CONDUCTING TESTS; OR
13 OF TAKING SAMPLES OF ANY SOLID WASTE. THE WARRANT SHALL BE
14 ISSUED UPON PROBABLE CAUSE. IT SHALL BE SUFFICIENT PROBABLE
15 CAUSE TO SHOW ANY OF THE FOLLOWING:

16 (1) THE INSPECTION, EXAMINATION, TEST OR SAMPLING IS
17 PURSUANT TO A GENERAL ADMINISTRATIVE PLAN TO DETERMINE
18 COMPLIANCE WITH THIS ACT.

19 (2) THE AGENT OR EMPLOYEE HAS REASON TO BELIEVE THAT A
20 VIOLATION OF THIS ACT HAS OCCURRED OR MAY OCCUR.

21 (3) THE AGENT OR EMPLOYEE HAS BEEN REFUSED ACCESS TO THE
22 PROPERTY, BUILDING, PREMISES, PLACE, BOOK, RECORD OR PHYSICAL
23 EVIDENCE OR HAS BEEN PREVENTED FROM CONDUCTING TESTS OR
24 TAKING SAMPLES.

25 Section ~~1508~~ 1708. Withholding of State funds. <—

26 In addition to any other penalties provided in this act, the
27 department may notify the State Treasurer to withhold payment of
28 all or any portion of funds payable to the municipality by the
29 department from the General Fund or any other fund if the
30 municipality has engaged in any unlawful conduct under section

1 ~~1501~~ 1701. Upon notification, the State Treasurer shall hold in <—
2 escrow such moneys due to such municipality until such time as
3 the department notifies the State Treasurer that the
4 municipality has complied with such requirement or schedule.

5 Section ~~1509~~ 1709. Collection of fines, fees, etc. <—

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

22 (b) Deposit of fines.--All fines collected pursuant to
23 sections ~~1504 and 1505~~ 1704 and 1705 shall be paid into the <—
24 Solid Waste Abatement Fund.

25 Section ~~1510~~ 1710. Right of citizen to intervene in <—
26 proceedings.

27 Any citizen of this Commonwealth having an interest which is
28 or may be adversely affected shall have the right on his own
29 behalf, without posting bond, to intervene in any action brought
30 pursuant to section ~~1503 or 1504~~ 1703 or 1704. <—

1 SECTION 1711. REMEDIES OF CITIZENS.

2 (A) COMMENCEMENT OF CIVIL ACTION.--EXCEPT AS PROVIDED IN
3 SUBSECTION (B), ANY PERSON HAVING AN INTEREST THAT IS OR MAY BE
4 ADVERSELY AFFECTED MAY COMMENCE A CIVIL ACTION OR HIS OWN BEHALF
5 AGAINST ANY PERSON OTHER THAN THE DEPARTMENT TO COMPEL
6 COMPLIANCE WITH THIS ACT, ANY REGULATION PROMULGATED UNDER THIS
7 ACT, ANY ORDER OF THE DEPARTMENT ISSUED UNDER THIS ACT OR ANY
8 TERM OR CONDITION OF AN APPROVED MUNICIPAL WASTE MANAGEMENT
9 PLAN. THE COURTS OF COMMON PLEAS SHALL HAVE JURISDICTION OF
10 ACTIONS UNDER THIS SECTION. VENUE SHALL BE AS SET FORTH IN THE
11 PENNSYLVANIA RULES OF CIVIL PROCEDURE CONCERNING CIVIL ACTIONS.

12 (B) NOTICE.--NO ACTION UNDER THIS SECTION MAY BE COMMENCED
13 PRIOR TO 60 DAYS AFTER THE PLAINTIFF HAS GIVEN THE DEPARTMENT
14 AND THE ALLEGED VIOLATOR WRITTEN NOTICE OF THE VIOLATION.

15 (C) MULTIPLE ACTIONS.--NO ACTION UNDER THIS SECTION MAY BE
16 COMMENCED IF THE DEPARTMENT HAS COMMENCED AND IS DILIGENTLY
17 PROSECUTING A CIVIL ACTION IN A COURT OF THE UNITED STATES OR OF
18 THE COMMONWEALTH, HAS ISSUED AN ORDER, OR HAS ENTERED A CONSENT
19 ORDER AND AGREEMENT OR CONSENT DEGREE TO REQUIRE COMPLIANCE WITH
20 THIS ACT, ANY REGULATION PROMULGATED UNDER THIS ACT, ANY ORDER
21 OF THE DEPARTMENT ISSUED UNDER THIS ACT OR ANY TERM OR CONDITION
22 OF AN APPROVED MUNICIPAL WASTE MANAGEMENT PLAN. IF THE
23 DEPARTMENT HAS COMMENCED AND IS DILIGENTLY PROSECUTING A CIVIL
24 ACTION IN A COURT OF THE COMMONWEALTH, ANY PERSON WITH AN
25 INTEREST WHICH IS OR MAY BE ADVERSELY AFFECTED MAY INTERVENE AS
26 OF RIGHT.

27 SECTION 1712. AFFIRMATIVE DEFENSE.

28 (A) DEFENSE.--IT SHALL BE AN AFFIRMATIVE DEFENSE TO ANY
29 ACTION BY THE DEPARTMENT PURSUANT TO SECTION 1704, 1705 OR 1708
30 AGAINST ANY MUNICIPALITY ALLEGED TO BE IN VIOLATION OF SECTION

1 1501 THAT SUCH MUNICIPALITY'S FAILURE TO COMPLY IS CAUSED BY
2 EXCESSIVE COSTS OF THE PROGRAM REQUIRED BY SECTION 1501. PROGRAM
3 COSTS ARE EXCESSIVE WHEN REASONABLE AND NECESSARY COSTS OF
4 OPERATING THE PROGRAM EXCEED INCOME FROM THE SALE OR USE OF
5 COLLECTED MATERIAL, GRANT MONEY RECEIVED FROM THE DEPARTMENT
6 PURSUANT TO SECTION 902, AND AVOIDED COSTS OF MUNICIPAL WASTE
7 PROCESSING OR DISPOSAL.

8 (B) REQUIREMENTS.--A MUNICIPALITY MAY NOT ASSERT THE
9 AFFIRMATIVE DEFENSE PROVIDED BY THIS SECTION IF IT HAS FAILED:

10 (1) TO MAKE A TIMELY GRANT APPLICATION TO THE DEPARTMENT
11 PURSUANT TO SECTION 902.

12 (2) TO EXERCISE ITS BEST EFFORTS TO IMPLEMENT THE
13 PROGRAM REQUIRED BY SECTION 1501 FOR AT LEAST TWO YEARS AFTER
14 IT WAS REQUIRED TO ESTABLISH AND IMPLEMENT THE PROGRAM.

15 (C) CONSTRUCTION.--NOTHING IN THIS SECTION SHALL BE
16 CONSTRUED OR UNDERSTOOD:

17 (1) TO CREATE AN AFFIRMATIVE DEFENSE FOR A MUNICIPALITY
18 THAT IS ALLEGED TO BE IN VIOLATION OF ANY PROVISION OF LAW
19 OTHER THAN SECTION 1501.

20 (2) TO CREATE AN AFFIRMATIVE DEFENSE FOR ANY PERSON
21 OTHER THAN A MUNICIPALITY.

22 (3) TO MODIFY OR AFFECT EXISTING STATUTORY AND CASE LAW
23 CONCERNING AFFIRMATIVE DEFENSES TO DEPARTMENT ACTIONS, EXCEPT
24 AS EXPRESSLY PROVIDED IN SUBSECTION (A).

25 CHAPTER ~~17~~ 19

26 MISCELLANEOUS PROVISIONS

27 Section ~~1701~~ 1901. Severability.

28 The provisions of this act are severable. If any provision of
29 this act or its application to any person or circumstance is
30 held invalid, the invalidity shall not affect other provisions

1 or applications of this act which can be given effect without
2 the invalid provision or application.

3 Section ~~1702~~ 1902. Repeals. ←

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

8 (b) Inconsistent repeals.--Except as provided in section
9 ~~501(e)~~ 501(B) of this act, the first through fourth sentences of ←
10 section 201(b) and section 201(c), (d) and (e) of the act of
11 July 7, 1980 (P.L.380, No.97), known as the Solid Waste
12 Management Act, are repealed insofar as they are inconsistent
13 with this act.

14 Section ~~1703~~ 1903. Effective date. ←

15 This act shall take effect in 60 days.