
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

AS RE-REPORTED FROM COMMITTEE ON CONSERVATION, HOUSE OF
REPRESENTATIVES, AS AMENDED, APRIL 13, 1988

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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22 The General Assembly of the Commonwealth of Pennsylvania
23 hereby enacts as follows:

24 CHAPTER 1

25 GENERAL PROVISIONS

26 Section 101. Short title.

27 This act shall be known and may be cited as the Municipal
28 Waste Planning, Recycling and Waste Reduction Act.

29 Section 102. Legislative findings; declaration of policy and
30 goals.

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

3 (1) Improper municipal waste practices create public
4 health hazards, environmental pollution and economic loss,
5 and cause irreparable harm to the public health, safety and
6 welfare.

7 (2) Parts of this Commonwealth have inadequate and
8 rapidly diminishing processing and disposal capacity for
9 municipal waste.

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

13 (4) Needed additional municipal waste processing and
14 disposal facilities have not been developed in a timely
15 manner because of diffused responsibility for municipal waste
16 planning, processing and disposal among numerous and
17 overlapping units of local government.

18 (5) It is necessary to give counties the primary
19 responsibility to plan for the processing and disposal of
20 municipal waste generated within their boundaries to insure
21 the timely development of needed processing and disposal
22 facilities.

23 (6) Proper and adequate processing and disposal of
24 municipal waste generated within a county requires the
25 generating county to give first choice to new processing and
26 disposal sites located within that county.

27 (7) It is appropriate to provide those living near
28 municipal waste processing and disposal facilities with
29 additional guarantees of the proper operation of such
30 facilities and to provide incentives for municipalities to

1 host such facilities.

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

4 (9) Prompt payment and efficient collection of the
5 recycling fee created by this act are essential to the
6 administration of the recycling grants provided by this act.

7 (10) Authorizing counties to control the flow of
8 municipal waste and recyclable constituents of municipal
9 waste is necessary to guarantee, among other things, the long
10 term economic viability of resource recovery facilities and
11 municipal waste landfills, ensure that such facilities and
12 landfills can be financed, moderate the cost of such
13 facilities and landfills over the long term, protect existing
14 capacity, and assist in the development of markets for
15 recyclable materials by guaranteeing a steady flow of such
16 materials.

17 (11) Public agencies in the Commonwealth purchase
18 significant quantities of products or materials annually.

19 (12) By purchasing products or materials made from
20 recycled materials, public agencies in the Commonwealth can
21 help stimulate the market for such materials and thereby
22 foster recycling, and can also educate the public concerning
23 the utility and availability of such materials.

24 (13) Removing certain materials from the municipal
25 waste-stream will decrease the flow of solid waste to
26 municipal waste landfills, aid in the conservation and
27 recovery of valuable resources, conserve energy in the
28 manufacturing process, increase the supply of reusable
29 materials for the Commonwealth's industries, and will also
30 reduce substantially the required capacity of proposed

1 resource recovery facilities and contribute to their overall
2 combustion efficiency, thereby resulting in significant cost
3 savings in the planning, construction and operation of these
4 facilities.

5 (14) It is in the public interest to promote the source
6 separation of marketable waste materials on a Statewide basis
7 so that reusable materials may be returned to the economic
8 mainstream in the form of raw materials or products rather
9 than be disposed of at the Commonwealth's overburdened
10 municipal waste processing or disposal facilities.

11 (15) The recycling of marketable materials by
12 municipalities in the Commonwealth and Commonwealth agencies,
13 and the development of public and private sector recycling
14 activities on an orderly and incremental basis, will further
15 demonstrate the Commonwealth's long term commitment to an
16 effective and coherent solid waste management strategy.

17 (16) Operators of municipal waste landfills and resource
18 recovery facilities should give first priority to the
19 disposal or processing of municipal waste generated within
20 the host county because, among other reasons, the host county
21 is most directly affected by operations at the facility, and
22 because local processing or disposal of municipal waste saves
23 energy and transportation costs.

24 (17) The Commonwealth recognizes that both municipal
25 waste landfills and resource recovery facilities will be
26 needed as part of an integrated strategy to provide for the
27 processing and disposal of the Commonwealth's municipal
28 waste.

29 (18) This act is enacted under the authority of
30 Amendment X of the Constitution of the United States of

1 America, under which the police power to protect the health,
2 safety and welfare of the citizens is reserved to the states.

3 (19) The Commonwealth is responsible for the protection
4 of the health, safety and welfare of its citizens concerning
5 solid waste management.

6 (20) All aspects of solid waste management, particularly
7 the disposition of solid waste, pose a critical threat to the
8 health, safety and welfare of the citizens of this
9 Commonwealth.

10 (21) UNCONTROLLED INCREASES IN THE DAILY VOLUMES OF <—
11 SOLID WASTE RECEIVED AT MUNICIPAL WASTE LANDFILLS HAVE
12 SIGNIFICANTLY DECREASED THEIR REMAINING LIFETIMES, DISRUPTING
13 THE MUNICIPAL WASTE PLANNING PROCESS AND THE ABILITY OF
14 MUNICIPALITIES RELYING ON THE LANDFILLS TO CONTINUE USING
15 THEM. THESE INCREASES HAVE THREATENED TO SIGNIFICANTLY AND
16 ADVERSELY AFFECT PUBLIC HEALTH AND SAFETY WHEN MUNICIPALITIES
17 FIND THEY CAN NO LONGER USE THE FACILITIES. UNCONTROLLED
18 INCREASES IN DAILY WASTE VOLUMES CAN ALSO CAUSE INCREASED
19 NOISE, ODORS, TRUCK TRAFFIC, AND OTHER SIGNIFICANT ADVERSE
20 EFFECTS ON THE ENVIRONMENT AS WELL AS ON PUBLIC HEALTH AND
21 SAFETY.

22 (22) BY PURCHASING, PROCESSING AND MARKETING OBSOLETE
23 AND OTHER MATERIALS WHICH WOULD OTHERWISE HAVE BEEN MANAGED
24 AS MUNICIPAL OR RESIDUAL WASTE, THE COMMONWEALTH'S EXISTING
25 FOR-PROFIT SCRAP PROCESSING AND RECYCLING INDUSTRY HAS BEEN
26 AND REMAINS ESSENTIAL TO THE EFFICIENT AND EFFECTIVE
27 MANAGEMENT OF SOLID WASTE.

28 (23) IN CARRYING OUT THEIR POWERS AND DUTIES UNDER THIS
29 ACT, COUNTIES AND OTHER MUNICIPALITIES SHOULD:

30 (I) ENSURE THAT THE ABILITY OF THE SCRAP PROCESSING

1 AND RECYCLING INDUSTRY TO CONTINUE PURCHASING, PROCESSING
2 AND MARKETING RECOVERABLE MATERIALS IS NOT THEREBY
3 IMPAIRED.

4 (II) UTILIZE TO THE FULLEST EXTENT PRACTICABLE ALL
5 AVAILABLE FACILITIES AND EXPERTISE WITHIN THE SCRAP
6 PROCESSING AND RECYCLING INDUSTRY FOR PROCESSING AND
7 MARKETING RECYCLABLE MATERIALS FROM MUNICIPAL WASTE.

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

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

12 (2) Encourage the development of waste reduction and
13 recycling as a means of managing municipal waste, conserving
14 resources and supplying energy through planning, grants and
15 other incentives.

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

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

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

25 (6) Establish a recycling fee for municipal waste
26 landfills and resource recovery facilities to provide grants
27 for recycling, planning and related purposes.

28 (7) Establish a host municipality benefit fee for
29 municipal waste landfills and resource recovery facilities
30 that are permitted after the effective date of this act and

1 to provide benefits to host municipalities for the presence
2 of such facilities.

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

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

12 (10) Shift the primary responsibility for developing and
13 implementing municipal waste management plans from
14 municipalities to counties.

15 (11) Require all public agencies of the Commonwealth to
16 aid and promote the development of recycling through their
17 procurement policies for the general welfare and economy of
18 the Commonwealth.

19 (12) Require certain municipalities to implement
20 recycling programs to return valuable materials to productive
21 use, to conserve energy and to protect capacity at municipal
22 waste processing or disposal facilities.

23 (13) Implement Article 1, section 27 of the Constitution
24 of Pennsylvania.

25 (14) STRENGTHEN THE DEPARTMENT'S EXISTING AUTHORITY TO
26 REGULATE DAILY WASTE VOLUMES THAT MAY BE RECEIVED AT A
27 MUNICIPAL WASTE LANDFILL TO PROTECT AGAINST THE UNEXPECTED OR
28 UNPLANNED LOSS OF FACILITIES AND TO ENSURE THAT THE
29 FACILITIES OPERATE IN A MANNER THAT PROTECTS THE ENVIRONMENT
30 AS WELL AS PUBLIC HEALTH AND SAFETY.

←

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

3 (1) At least 25% of all municipal waste generated in
4 this Commonwealth on and after January 1, 1997, should be
5 recycled.

6 (2) The weight or volume of municipal waste generated
7 per capita in this Commonwealth on January 1, 1997, should,
8 to the greatest extent practicable, be less than the weight
9 or volume of municipal waste generated per capita on the
10 effective date of this act.

11 (3) Each person living or working in this Commonwealth
12 shall be taught the economic, environmental, and energy value
13 of recycling and waste reduction, and shall be encouraged
14 through a variety of means to participate in such activities.

15 (4) The Commonwealth should, to the greatest extent
16 practicable, procure and use products and materials with
17 recycled content, and procure and use materials that are
18 recyclable.

19 Section 103. Definitions.

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

23 "Abatement." The restoration, reclamation, recovery, etc.,
24 of a natural resource adversely affected by the activity of a
25 person.

26 "Commission." The Pennsylvania Public Utility Commission and
27 its authorized representatives.

28 "Commonwealth agency." The Commonwealth and its departments,
29 boards, commissions and agencies, Commonwealth owned
30 universities, and the State Public School Building Authority,

1 the State Highway and Bridge Authority, and any other authority
2 now in existence or hereafter created or organized by the
3 Commonwealth.

4 ~~"County." Includes the City of Philadelphia but not~~ ←
5 ~~Philadelphia County.~~

6 "Department." The Department of Environmental Resources of
7 the Commonwealth and its authorized representatives.

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

13 "Feasibility study." A study which analyzes a specific
14 municipal waste processing or disposal system to assess the
15 likelihood that the system can be successfully implemented,
16 including, but not limited to, an analysis of the prospective
17 market, the projected costs and revenues of the system, the
18 municipal waste-stream that the system will rely upon and
19 various options available to implement the system.

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

23 "Leaf waste." Leaves, garden residues, shrubbery and tree
24 trimmings, and similar material, but not including grass
25 clippings.

26 "Local public agency."

27 (1) Counties, cities, boroughs, towns, townships, school
28 districts, and any other authority now in existence or
29 hereafter created or organized by the Commonwealth.

30 (2) All municipal or school or other authorities now in

1 existence or hereafter created or organized by any county,
2 city, borough, township or school district or any combination
3 thereof.

4 (3) Any and all other public bodies, authorities,
5 councils of government, officers, agencies or
6 instrumentalities of the foregoing, whether exercising a
7 governmental or proprietary function.

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

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

20 "Municipal waste." Any garbage, refuse, industrial lunchroom
21 or office waste and other material, including solid, liquid,
22 semisolid or contained gaseous material, resulting from
23 operation of residential, municipal, commercial or institutional
24 establishments and from community activities and any sludge not
25 meeting the definition of residual or hazardous waste in the
26 Solid Waste Management Act from a municipal, commercial or
27 institutional water supply treatment plant, waste water
28 treatment plant or air pollution control facility. THE TERM DOES <—
29 NOT INCLUDE SOURCE-SEPARATED RECYCLABLE MATERIALS.

30 "Municipal waste landfill." Any facility that is designed,

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

7 "Municipality." A county, city, borough, incorporated town,
8 township or home rule municipality.

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

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

24 "Pollution." Contamination of any air, water, land or other
25 natural resources of this Commonwealth that will create or is
26 likely to create a public nuisance or to render the air, water,
27 land or other natural resources harmful, detrimental or
28 injurious to public health, safety or welfare, or to domestic,
29 municipal, commercial, industrial, agricultural, recreational or
30 other legitimate beneficial uses, or to livestock, wild animals,

1 birds, fish or other life.

2 "Post consumer waste material." Any product generated by a
3 business or consumer which has served its intended end use, and
4 which has been separated from solid waste for the purposes of
5 collection, recycling, and disposition. The term includes
6 industrial byproducts that would otherwise go to disposal or
7 processing facilities. The term does not include internally
8 generated scrap that is commonly returned to industrial or
9 manufacturing process.

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

16 "Project development." Those activities required to be
17 conducted prior to constructing a processing or disposal
18 facility that has been shown to be feasible, including, but not
19 limited to, public input and participation, siting, procurement
20 and vendor contract negotiations, and market and municipal waste
21 supply assurance negotiations.

22 "Public agency." Any Commonwealth agency or local public
23 agency.

24 "Reasonable expansion." The growth of an existing permitted
25 MUNICIPAL WASTE landfill to land which is contiguous to the <—
26 existing landfill, which contiguous land is owned in fee by the <—
27 owner of the landfill or which land is subject to an irrevocable
28 option exercisable within one year OF THE EFFECTIVE DATE OF THIS <—
29 ACT in favor of the owner of the landfill on the date that the <—
30 plan is submitted and which contiguous land contains the same

1 ~~geological features which are present at the existing~~ landfill.

2 "Recycled content." Products or materials containing post
3 consumer waste materials.

4 "Recycling." The collection, separation, recovery and sale
5 or reuse of metals, glass, paper, leaf waste, plastics and other
6 materials which would otherwise be disposed or processed as
7 municipal waste.

8 "Remaining available permitted capacity." The remaining
9 permitted capacity that is actually available for processing or
10 disposal to the county or other municipality that generated the
11 waste.

12 "Remaining permitted capacity." The weight or volume of
13 municipal waste that can be processed or disposed at an existing
14 municipal waste processing or disposal facility. The term shall
15 include only weight or volume capacity for which the department
16 has issued a permit under the Solid Waste Management Act. The
17 term shall not include any facility that the department
18 determines, or has determined, has failed and continues to fail
19 to comply with the provisions of the Solid Waste Management Act,
20 and the regulations promulgated pursuant thereto, or any permit
21 conditions.

22 "Residual waste." Any garbage, refuse, other discarded
23 material or other waste, including solid, liquid, semisolid or
24 contained gaseous materials resulting from industrial, mining
25 and agricultural operations and any sludge from an industrial,
26 mining or agricultural water supply treatment facility, waste
27 water treatment facility or air pollution control facility,
28 provided that it is not hazardous. The term shall not include
29 coal refuse as defined in the act of September 24, 1968
30 (P.L.1040, No.318), known as the Coal Refuse Disposal Control

1 Act. The term shall not include treatment sludges from coal mine
2 drainage treatment plants, disposal of which is being carried on
3 pursuant to and in compliance with a valid permit issued
4 pursuant to the act of June 22, 1937 (P.L.1987, No.394), known
5 as The Clean Streams Law.

6 "Resource recovery facility." A facility that provides for
7 the extraction and utilization of materials or energy from
8 municipal waste that is generated off-site, including, but not
9 limited to, a facility that mechanically extracts materials from
10 municipal waste, a combustion facility that converts the organic
11 fraction of municipal waste to usable energy, and any chemical
12 and biological process that converts municipal waste into a fuel
13 product or other usable materials. The term also includes any
14 facility for the combustion of municipal waste that is generated
15 off-site, whether or not the facility is operated to recover
16 energy. The term does not include METHANE GAS EXTRACTION FROM A ←
17 MUNICIPAL WASTE LANDFILL, NOR SHALL IT INCLUDE any separation
18 and collection center, drop-off point or collection center for
19 recycling municipal waste, or any source separation or
20 collection center for composting leaf waste.

21 "Secretary." The Secretary of Environmental Resources of the
22 Commonwealth.

23 "Solid waste." Solid waste, as defined in the act of July 7,
24 1980 (P.L.380, No.97), known as the Solid Waste Management Act.

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

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

29 "SOURCE-SEPARATED RECYCLABLE MATERIALS." MATERIALS THAT ARE ←
30 SEPARATED FROM MUNICIPAL WASTE AT THE POINT OF ORIGIN FOR THE

1 PURPOSE OF RECYCLING.

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

8 "Transportation." The offsite removal of any municipal waste
9 at any time after generation.

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

16 "Waste reduction." Design, manufacture or use of a product
17 to minimize weight of municipal waste that requires processing
18 or disposal, including, but not limited to:

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

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

25 Section 104. Construction of act.

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

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

1 CHAPTER 3

2 POWERS AND DUTIES

3 Section 301. Powers and duties of department.

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

7 (1) Administer the municipal waste planning, recycling
8 and waste reduction program pursuant to the provisions of
9 this act and the regulations promulgated pursuant thereto.

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

13 (3) Provide technical assistance to municipalities and
14 Commonwealth agencies, including, but not limited to, the
15 training of personnel.

16 (4) Initiate, conduct and support research,
17 demonstration projects and investigations, and coordinate all
18 State agency research programs pertaining to municipal waste
19 management systems.

20 (5) Regulate municipal waste planning, including, but
21 not limited to, the development and implementation of county
22 municipal waste management plans.

23 (6) Approve, conditionally approve or disapprove
24 municipal waste management plans, issue orders, conduct
25 inspections and abate public nuisances to implement the
26 provisions and purposes of this act and the regulations
27 promulgated pursuant to this act.

28 (7) Serve as the agency of the Commonwealth for the
29 receipt of moneys from the Federal Government or other public
30 agencies or private agencies and expend such moneys for

1 studies and research with respect to, and for the enforcement
2 and administration of, the provisions and purposes of this
3 act and the regulations promulgated pursuant thereto.

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

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

11 (10) Appoint such advisory committees as the secretary
12 deems necessary and proper to assist the department in
13 carrying out the provisions of this act. The secretary is
14 authorized to pay reasonable and necessary expenses incurred
15 by the members of such advisory committees in carrying out
16 their functions.

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

21 (12) Take any action not inconsistent with this act that
22 the department may deem necessary or proper to collect the
23 recycling fee provided by this act, and to insure the payment
24 of the host municipality benefit fee and to ensure the
25 payment of the site-specific postclosure fee and moneys for
26 the trust fund for municipally operated landfills provided by
27 this act.

28 (13) Administer and distribute moneys in the Recycling
29 Fund for any public educational programs on recycling and
30 waste reduction that the department believes to be

1 appropriate, for technical assistance to counties in the
2 preparation of municipal waste management plans, for
3 technical assistance to municipalities concerning recycling
4 and waste reduction, to conduct research, and for other
5 purposes consistent with this act.

6 (14) To promote and emphasize recycling and waste
7 reduction in the Commonwealth by, among other things:

8 (i) Conducting a comprehensive, innovative and
9 effective public education program concerning the value
10 of recycling and waste reduction, and of public
11 opportunities to participate in such activities, in
12 cooperation with the Department of Education.

13 (ii) Developing and maintaining a data base on
14 recycling and waste reduction in the Commonwealth, and
15 making the information in that data base available to the
16 public.

17 (iii) Coordinating recycling and waste reduction
18 efforts among Commonwealth agencies.

19 (iv) Providing financial and other assistance to
20 municipalities that are required by section 1501 to
21 implement recycling programs.

22 (V) PROVIDING INFORMATION ABOUT POTENTIAL RECYCLING
23 MARKETS TO MUNICIPALITIES AND OTHER INTERESTED PERSONS. ←

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

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

1 The Environmental Quality Board shall have the power and its
2 duty shall be to adopt the regulations of the department to
3 accomplish the purposes and to carry out the provisions of this
4 act.

5 Section 303. Powers and duties of counties.

6 (a) Primary responsibility of county.--Each county shall
7 have the power and its duty shall be to insure the availability
8 of adequate permitted processing and disposal capacity for the
9 municipal waste which is generated within its boundaries. As
10 part of this power, a county:

11 ~~(1) May require all persons collecting or transporting~~ <—
12 ~~municipal waste within the county to obtain licenses for the~~
13 ~~purpose of directing waste to facilities designated pursuant~~
14 ~~to subsection (e).~~

15 (1) MAY REQUIRE ALL PERSONS COLLECTING OR TRANSPORTING <—
16 MUNICIPAL WASTE TO OR FROM LOCATIONS WITHIN THE COUNTY TO
17 OBTAIN LICENSES FOR THE PURPOSE OF DIRECTING WASTE TO
18 FACILITIES DESIGNATED UNDER SUBSECTION (E).

19 ~~(2)~~(1) (2) Shall have the power and duty to implement <—
20 its approved plan as it relates to the processing and
21 disposal of municipal waste generated within its boundaries.

22 ~~(3)~~(2) (3) May plan for the processing and disposal of <—
23 municipal waste generated outside its boundaries and to
24 implement its approved plan as it relates to the processing
25 and disposal of such waste.

26 ~~(4)~~(3) (4) May ~~prohibit~~ PETITION THE DEPARTMENT TO <—
27 ~~LIMIT OR RESTRICT~~ PROHIBIT municipal waste processing or
28 disposal facilities located within the geographic boundaries
29 of the county from processing or disposing of municipal waste
30 generated or produced outside the geographical boundaries of

1 the county if this processing or disposal would significantly
2 ~~diminish the~~ ~~CONTRIBUTE TO A SHORTAGE OF~~ DIMINISH THE <—
3 processing or disposal capacity ~~of the facilities.~~ ~~AVAILABLE~~ <—
4 ~~TO THE COUNTY~~ OF THE FACILITIES.

5 (5) MAY PROHIBIT THE SITING OF ADDITIONAL RESOURCE <—
6 RECOVERY FACILITIES WITHIN ITS GEOGRAPHIC BOUNDARIES IF, AS
7 OF THE EFFECTIVE DATE OF THIS ACT, A RESOURCE RECOVERY
8 FACILITY IS OPERATING WITHIN THE COUNTY.

9 (6) MAY ADOPT ORDINANCES, RESOLUTIONS, REGULATIONS AND
10 STANDARDS FOR THE RECYCLING OF MUNICIPAL WASTE IF ONE OF THE
11 FOLLOWING REQUIREMENTS ARE MET:

12 (I) SUCH ORDINANCES, RESOLUTIONS, REGULATIONS OR
13 STANDARDS ARE SET FORTH IN THE APPROVED PLAN, AND DO NOT
14 INTERFERE WITH THE IMPLEMENTATION OF ANY MUNICIPAL
15 RECYCLING PROGRAM UNDER SECTION 1501.

16 (II) SUCH ORDINANCES, RESOLUTIONS, REGULATIONS OR
17 STANDARDS ARE NECESSARY TO IMPLEMENT A MUNICIPAL
18 RECYCLING PROGRAM UNDER SECTION 1501 WHICH THE
19 MUNICIPALITY HAS DELEGATED TO THE COUNTY PURSUANT TO
20 SECTION 304.

21 (7) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, IF
22 THERE ARE TWO OR MORE PERMITTED AND OPERATING LANDFILLS
23 PROCESSING OR DISPOSING OF OUT-OF-COUNTY MUNICIPAL WASTE, THE
24 COUNTY OF SITUS MAY PROHIBIT THE PROCESSING OF DISPOSAL OF
25 OUT-OF-COUNTY MUNICIPAL WASTE AT ANY NEW LANDFILL PERMITTED
26 AFTER OCTOBER 21, 1987. NOTHING IN THIS PARAGRAPH SHALL
27 PROHIBIT A FACILITY THAT IS NEWLY PERMITTED AFTER OCTOBER 21,
28 1987, FROM PROCESSING OR DISPOSING OF OUT-OF-COUNTY MUNICIPAL
29 WASTE AS LONG AS THE OUT-OF-COUNTY MUNICIPAL WASTE DOES NOT
30 EXCEED 10% OF THE DAILY CAPACITY OF THE FACILITY AS

1 PERMITTED, AS RATED BY THE DEPARTMENT AND AS AGREED UPON BY
2 THE GOVERNING BODY OF THE COUNTY IN WHICH THE FACILITY IS
3 LOCATED. FOR THE PURPOSE OF THIS PARAGRAPH, THE TERM "OUT-OF-
4 COUNTY MUNICIPAL WASTE" MEANS WASTE THAT IS PRODUCED OR
5 GENERATED OUTSIDE THE GEOGRAPHIC BOUNDARIES OF THE COUNTY.
6 NOTHING IN THIS SUBSECTION SHALL BE CONSTRUED TO AFFECT THE
7 RIGHTS OF EXISTING MUNICIPAL WASTE LANDFILLS, NOR SHALL THIS
8 SUBSECTION EFFECT ANY MODIFICATION, EXTENSION, ADDITION OR
9 RENEWAL OF PERMITS.

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. WHERE THIS ACT IMPOSES A DUTY ON A COUNTY, THE DUTY <—
14 SHALL BE IMPOSED ON THE ENTITY WHICH IS CREATED WHEN TWO OR MORE
15 COUNTIES FORM A JOINT PLANNING EFFORT.

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

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

1 this act and the regulations promulgated pursuant thereto.

2 (e) Designated sites.--A county with an approved municipal
3 waste management plan that was submitted pursuant to section
4 501(a) or (c) of this act is also authorized to require that all
5 municipal wastes generated within its boundaries shall be
6 processed or disposed at a designated processing or disposal
7 facility that is contained in the approved plan and permitted by
8 the department under the act of July 7, 1980 (P.L.380, No.97),
9 known as the Solid Waste Management Act. No county shall direct
10 municipal waste that would otherwise be recycled to any resource
11 recovery facility or other facility for purposes other than
12 recycling such waste. A COUNTY WHICH DESIGNATES THAT MUNICIPAL ←
13 WASTE GENERATED WITHIN ITS BOUNDARIES SHALL BE PROCESSED OR
14 DISPOSED AT A DESIGNATED FACILITY SHALL PERMIT A MUNICIPALITY OR
15 COMMERCIAL ESTABLISHMENT TO CONTRACT FOR ALTERNATIVE METHODS OF
16 WASTE PROCESSING OR DISPOSAL IF DOING SO WOULD RESULT IN A
17 SAVINGS TO THE MUNICIPALITY OR COMMERCIAL ESTABLISHMENT AND
18 WOULD NOT IMPAIR THE OPERATION OF THE FACILITY DESIGNATED BY THE
19 COUNTY. This subsection shall not apply to municipal waste going
20 to existing or future on-site captive commercial disposal
21 facilities used for the exclusive disposal of municipal waste
22 generated by that commercial operation.

23 (f) Report.--On or before April 1 of each year, each county
24 shall submit a report to the department describing:

25 (1) Its progress in implementing its department-approved
26 municipal waste management plan or in developing such a plan.

27 (2) The weight or volume of materials that were recycled
28 by municipal recycling programs in the county in the
29 preceding calendar year.

30 Section 304. Powers and duties of municipalities other than

1 counties.

2 (a) Responsibility of other municipalities.--Each
3 municipality other than a county shall have the power and its
4 duty shall be to assure the proper and adequate transportation,
5 collection and storage of municipal waste which is generated or
6 present within its boundaries, TO ASSURE ADEQUATE CAPACITY BY <—
7 THE ADOPTION OF VOLUME RESTRICTIONS, and to adopt and implement
8 programs for the collection and recycling of municipal waste as
9 provided in this act.

10 (b) Ordinances.--~~In carrying out its duties under this~~ <—

11 (1) IN CARRYING OUT ITS DUTIES UNDER THIS section, a <—
12 municipality other than a county may adopt resolutions,
13 ordinances, regulations and standards for the RECYCLING, <—
14 transportation, storage and collection of municipal wastes,
15 which shall not be less stringent than, and not in violation
16 of or inconsistent with, the provisions and purposes of the
17 Solid Waste Management Act, this act and the regulations
18 promulgated pursuant thereto.

19 (2) THE HOST MUNICIPALITY SHALL HAVE THE AUTHORITY TO <—
20 ADOPT REASONABLE ORDINANCES, INCLUDING, BUT NOT LIMITED TO,
21 ORDINANCES CONCERNING THE HOURS AND DAYS OF OPERATION OF THE
22 FACILITY AND TRAFFIC. SUCH ORDINANCES MAY BE IN ADDITION TO,
23 BUT NOT LESS STRINGENT THAN, NOT INCONSISTENT WITH, AND NOT
24 IN VIOLATION OF, ANY PROVISION OF THIS ACT, ANY REGULATION
25 PROMULGATED PURSUANT TO THIS ACT OR ANY LICENSE ISSUED
26 PURSUANT TO THIS ACT. SUCH ORDINANCES FOUND TO BE
27 INCONSISTENT AND NOT IN SUBSTANTIAL CONFORMITY WITH THIS ACT
28 SHALL BE SUPERSEDED. APPEALS UNDER THIS SUBSECTION MAY BE
29 BROUGHT BEFORE A COURT OF COMPETENT JURISDICTION.

30 (c) Contracting of responsibility.--A municipality other

1 than a county may contract with any municipality, municipal
2 authority or other persons to carry out its duties for the
3 RECYCLING, transportation, collection and storage of municipal ←—
4 waste, if the RECYCLING, transportation, collection or storage ←—
5 activity or facility is conducted or operated in a manner that
6 is consistent with the Solid Waste Management Act, this act and
7 the regulations promulgated pursuant thereto. Any such person
8 shall be jointly and severally responsible with the municipality
9 other than a county when carrying out its duties for
10 transportation, collection or storage activity or facility.

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

22 (e) Term and renewals of certain contracts.--The governing
23 body of a municipality other than a county shall have the power
24 to, and may, enter into contracts having an initial term of five
25 years with optional renewal periods of up to five years with
26 persons responsible for the collection or transportation of
27 municipal waste generated within the municipality. The
28 limitations imposed on contracts by section 1502(XXVII) of the
29 act of June 24, 1931 (P.L.1206, No.331), known as The First
30 Class Township Code, and section 702 (VIII) of the act of May 1,

1 1933 (P.L.103, No.69), known as The Second Class Township Code,
2 shall not apply to contracts entered into pursuant to this act.

3 (f) Report.--On or before February 15 of each year, each
4 municipality other than a county that is implementing a
5 recycling program shall submit a report to the county in which
6 the municipality is located. The report shall describe the
7 weight or volume of materials that were recycled by the
8 municipal recycling program in the preceding calendar year.

9 CHAPTER 5

10 MUNICIPAL WASTE PLANNING

11 Section 501. Schedule for submission of municipal waste
12 management plans.

13 (a) Submission of plan.--Except as provided in subsections
14 (b) and (c), each county shall submit to the department within
15 two and one-half years of the effective date of this act an
16 officially adopted plan for a municipal waste management plan
17 for municipal waste generated within its boundaries. Such plan
18 shall be consistent with the requirements of this act. FOR THE <—
19 PURPOSES OF THIS CHAPTER, THE TERM "COUNTY" INCLUDES CITIES OF
20 THE FIRST CLASS BUT DOES NOT INCLUDE COUNTIES OF THE FIRST
21 CLASS.

22 (b) Existing plans.--A county that has submitted a complete
23 municipal waste management plan to the department for approval
24 on or before 30 days from the effective date of this act, shall
25 be deemed to have a plan approved pursuant to section 505 if, on
26 or before the effective 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 (c) Plan revisions.--Each county with an approved municipal
6 waste management plan shall submit a revised plan to the
7 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 (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 chapter except to the extent that the county demonstrates to
15 the department's satisfaction that irrevocable contracts made
16 by or pursuant to the approved plan preclude compliance with
17 the requirements of this chapter.

18 (3) When otherwise required by the department.

19 (d) Procedure for considering plan revisions.--At least 30
20 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 (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(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 the reasonable expansion of such facilities.~~
13 The plan shall contain an analysis of the effect of current and
14 planned recycling on waste generated within the county. The plan
15 shall also explain the extent to which existing facilities will
16 be 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 the reasonable~~
19 ~~expansion of such facilities.~~ For purposes of this subsection,
20 existing facilities shall include facilities ~~for which a~~ HOLDING <—
21 PERMITS AND FACILITIES FOR WHICH A COMPLETE permit application
22 under the Solid Waste Management Act is filed with the
23 department within one year from the effective date of this act
24 ~~or the date a plan is approved~~ WITHIN ONE YEAR OF THE DATE <—
25 WRITTEN NOTICE OF THE DEVELOPMENT OF A PLAN OR A SUBSTANTIAL
26 PLAN REVISION IS GIVEN TO MUNICIPALITIES PURSUANT TO SECTION
27 503(B), whichever is the later, unless such permit application
28 is denied by the department. In addition, the plan shall give
29 consideration to the potential REASONABLE expansion of existing <—
30 municipal waste processing or disposal facilities located in the

1 county. ~~For the purposes of this subsection, the department~~ ←
2 ~~shall determine whether applications are complete within 90 days~~
3 ~~of their receipt and, if incomplete, specify to the applicant~~
4 ~~all deficiencies of the application.~~

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

15 (e) Description of recyclable waste.--

16 (1) The plan shall describe and evaluate:

17 (i) The kind and weight or volume of municipal waste
18 that could be recycled, giving consideration at a minimum
19 to the following materials: clear glass OR colored glass, ←
20 aluminum, steel and bimetallic cans, high grade office
21 paper, newsprint, corrugated paper, plastics, leaf waste
22 and grass clippings.

23 (ii) Potential benefits of recycling, including the
24 potential solid waste reduction and the avoided cost of
25 municipal waste processing or disposal.

26 (iii) Existing materials recovery operations and the
27 kind and weight or volume of materials recycled by the
28 operations, whether public or private.

29 (iv) The compatibility of recycling with other
30 municipal waste processing or disposal methods, giving

1 consideration to and describing anticipated and available
2 markets for materials collected through municipal
3 recycling programs.

4 (v) Proposed or existing collection methods for
5 recyclable materials.

6 (vi) Options for ensuring the collection of
7 recyclable materials.

8 (vii) Options for the processing, storage and sale
9 of recyclable materials, including market commitments.

10 The plan shall consider the results of the market
11 development study required by section 508, if the results
12 are available.

13 (viii) Options for municipal cooperation or
14 agreement for the collection, processing and sale of
15 recyclable materials.

16 (ix) A schedule for implementation of the recycling
17 program.

18 (x) Estimated costs of operating and maintaining a
19 recycling program, estimated revenue from the sale or use
20 of materials and avoided costs of processing or disposal.

21 (xi) What consideration for the collection,
22 marketing and disposition of recyclable materials will be
23 accorded to persons engaged in the business of recycling
24 on the effective date of this act, whether or not the
25 persons are operating for profit.

26 (XII) A PUBLIC INFORMATION AND EDUCATION PROGRAM ←
27 THAT WILL PROVIDE COMPREHENSIVE AND SUSTAINED PUBLIC
28 NOTICE OF RECYCLING PROGRAM FEATURES AND REQUIREMENTS.

29 (2) Any county containing municipalities that are
30 required by section 1501 to implement recycling programs

1 shall take the provisions of that section into account in
2 preparing the recycling portion of its plan.

3 (3) Nothing in this chapter shall be construed or
4 understood to require preparation of a county municipal waste
5 management plan prior to developing and implementing any
6 recycling program required by Chapter 15.

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

15 (1) Explain in detail the reason for selecting such
16 facility or program.

17 (2) Describe alternative facilities or programs,
18 including, but not limited to, waste reduction, recycling, or
19 resource recovery facilities or programs, that were
20 considered.

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

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

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

30 (g) Location.--The plan shall identify the general location

1 within a county where each municipal waste processing or
2 disposal facility and each recycling operation identified in
3 subsection (f) will be located, and either identify the site of
4 each facility if the site has already been chosen or explain how
5 the site will be chosen. For any facility that is proposed to be
6 located outside the county, the plan shall explain in detail the
7 reasons for selecting such a facility.

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

12 (i) Public function.--Where the county determines that it is
13 in the public interest for municipal waste transportation,
14 processing and disposal to be a public function, the plan shall
15 provide for appropriate mechanisms, SUBJECT TO THE LIMITATIONS <—
16 SET FORTH IN SECTION 902(A) ON THE USE OF GRANT MONEYS BY
17 MUNICIPALITIES FOR PURCHASING EQUIPMENT FOR PROCESSING SOLID
18 WASTE.

19 (j) Copies of ordinances and resolutions.--The plan shall
20 include any proposed ordinances, contracts or requirements that
21 will be used to insure the operation of any facilities proposed
22 in the plan. For each ordinance, contract or requirement, the
23 plan shall identify the areas of the county to be affected, the
24 expected effective date and the implementing mechanism.

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

1 consideration planning, zoning, population estimates,
2 engineering and economics.

3 (l) Methods of disposal other than by contract.--If the
4 county proposes to require, by means other than contracts, that
5 municipal wastes generated within its boundaries be processed or
6 disposed at a designated facility, the plan shall so state. The
7 plan shall explain the basis for such a proposal, giving
8 consideration to alternative means of ensuring that waste
9 generated within the county's boundaries is processed or
10 disposed in an environmentally acceptable manner. A copy of the
11 proposed ordinance or other legal instrument that would
12 effectuate this proposal shall also be included.

13 (m) County ownership.--If the county proposes to own or
14 operate a municipal waste processing or disposal facility, the
15 plan shall so state. The plan shall also explain the basis for
16 such a proposal, giving consideration to the comparative costs
17 and benefits of private ownership and operation of municipal
18 waste processing or disposal facilities.

19 (n) Other information.--The plan shall include any other
20 information that the department may require.

21 (o) Noninterference with certain resource recovery
22 facilities and landfills.--

23 ~~(1) Except as provided in section 303(a)(4), no county~~ ←
24 ~~municipal waste management plan shall interfere with any of~~
25 ~~the following:~~

26 ~~(i) The design, construction or operation of any~~
27 ~~municipal waste processing, disposal or resource recovery~~
28 ~~facility or the reasonable expansion of such facility or~~
29 ~~municipal waste landfill that is part of a complete~~
30 ~~municipal waste management plan submitted by a~~

1 ~~municipality or organization of municipalities under the~~
2 ~~Solid Waste Management Act prior to the effective date of~~
3 ~~this act or the date such plan is undertaken, whichever~~
4 ~~is the later, and for which a complete permit application~~
5 ~~under the Solid Waste Management Act is submitted to the~~
6 ~~department within one year of the effective date of this~~
7 ~~act.~~

8 ~~(ii) The projects, plans or operations of a~~
9 ~~municipality authority created under the act of May 2,~~
10 ~~1945 (P.L.382, No.164), known as the Municipality~~
11 ~~Authorities Act of 1945, or of an organization of~~
12 ~~municipalities which (municipality authority or~~
13 ~~organization of municipalities) is created by two or more~~
14 ~~municipalities prior to the effective date of this act~~
15 ~~for the purposes of providing for collection, storage,~~
16 ~~transportation, processing or disposal of solid waste~~
17 ~~generated within the municipalities and which~~
18 ~~(municipality authority or organization of~~
19 ~~municipalities) submits to the department within two~~
20 ~~years of the effective date of this act, and has approved~~
21 ~~by the department, a solid waste management plan,~~
22 ~~consistent with the other provisions of this section,~~
23 ~~that includes each member municipality. This subparagraph~~
24 ~~applies to the projects, plans and operations of~~
25 ~~municipalities which are members of the municipality~~
26 ~~authority or organization of municipalities.~~

27 ~~(2) Within 120 days after receiving a complete plan, the~~
28 ~~department shall give it preliminary or technical approval~~
29 ~~under 25 Pa. Code §§ 75.11 through 75.13 or disapprove it.~~
30 ~~For the purposes of this subsection, the department shall~~

1 ~~determine whether applications are complete within 90 days of~~
2 ~~their receipt and, if incomplete, specify to the applicant~~
3 ~~all deficiencies of the application.~~

4 (1) NO COUNTY MUNICIPAL WASTE MANAGEMENT PLAN SHALL ←
5 INTERFERE WITH THE DESIGN, CONSTRUCTION, OR OPERATION OF ANY
6 MUNICIPAL WASTE PROCESSING OR DISPOSAL FACILITY, INCLUDING
7 ANY REASONABLE EXPANSION OF AN EXISTING FACILITY, THAT MEETS
8 THE FOLLOWING REQUIREMENTS:

9 (I) THE FACILITY IS INCLUDED IN A COMPLETE PLAN
10 SUBMITTED, PRIOR TO THE EFFECTIVE DATE OF THIS ACT, BY A
11 MUNICIPALITY AUTHORITY CREATED UNDER THE ACT OF MAY 2,
12 1945 (P.L.382, NO.164), KNOWN AS THE MUNICIPALITY
13 AUTHORITIES ACT OF 1945, OR AN ORGANIZATION OF
14 MUNICIPALITIES, WHICH MUNICIPAL AUTHORITY OR ORGANIZATION
15 OF MUNICIPALITIES WAS CREATED BY TWO OR MORE
16 MUNICIPALITIES FOR THE PURPOSE OF PROVIDING FOR THE
17 COLLECTION, STORAGE, TRANSPORTATION, PROCESSING OR
18 DISPOSAL OF SOLID WASTE GENERATED WITHIN THE
19 MUNICIPALITIES.

20 (II) A COMPLETE PERMIT APPLICATION FOR THE FACILITY
21 UNDER THE SOLID WASTE MANAGEMENT ACT IS SUBMITTED TO THE
22 DEPARTMENT WITHIN ONE YEAR OF THE EFFECTIVE DATE OF THE
23 ACT.

24 (2) WITHIN 120 DAYS AFTER RECEIVING A COMPLETE PLAN
25 SUBMITTED PURSUANT TO THIS SUBSECTION, THE DEPARTMENT SHALL
26 GIVE IT PRELIMINARY OR TECHNICAL APPROVAL UNDER 25 PA. CODE
27 §§ 75.11 (RELATING TO OFFICIAL PLANS) AND 75.13 (RELATING TO
28 OFFICIAL PLAN IMPLEMENTATION) OR DISAPPROVE IT.

29 (P) WASTE RETURN.--THE PLAN SHALL INCLUDE A PROVISION THAT
30 ALLOWS A MUNICIPAL WASTE AUTHORITY RECEIVING UNAUTHORIZED OR

1 EMERGENCY SHIPMENTS OF MUNICIPAL WASTE FROM ANOTHER AUTHORITY TO
2 RETURN AN AMOUNT OF MUNICIPAL WASTE EQUAL TO THE AMOUNT OF
3 MUNICIPAL WASTE RECEIVED FROM THE AUTHORITY EXPERIENCING THE
4 EMERGENCY OR SENDING THE UNAUTHORIZED WASTE.

5 (Q) PUBLIC PARTICIPATION.--THE PLAN SHALL INCLUDE PROVISIONS
6 FOR PUBLIC PARTICIPATION IN THE IMPLEMENTATION OF THE PLAN,
7 INCLUDING, BUT NOT LIMITED TO, AN ADVISORY COMMITTEE TO PROVIDE
8 OVERSIGHT AND ADVICE ON THE IMPLEMENTATION OF THE PLAN.

9 Section 503. Development of municipal waste management plans.

10 (a) Advisory committee.--Prior to preparing a plan or
11 substantial plan revisions for submission to the department in
12 accordance with the provisions of this act, the county shall
13 form an advisory committee, which shall include representatives
14 of all classes of municipalities within the county, citizen
15 organizations, industry, the private solid waste industry
16 operating within the county, THE PRIVATE RECYCLING OR SCRAP ←
17 MATERIAL PROCESSING INDUSTRY OPERATING WITHIN THE COUNTY, the
18 county recycling coordinator, if one exists, and any other
19 persons deemed appropriate by the county. The advisory committee
20 shall review the plan during its preparation, make suggestions
21 and propose any changes it believes appropriate.

22 (b) Written notice.--The county shall provide written notice
23 to all municipalities within the county when plan development
24 begins and shall provide periodic written progress reports to
25 such municipalities concerning the preparation of the plan.

26 (c) Review and comment.--Prior to adoption by the governing
27 body of the county, the county shall submit copies of the
28 proposed plan for review and comment to the department, all
29 municipalities within the county, all areawide planning agencies
30 and the county health department, if one exists. The county

1 shall also make the proposed plan available for public review
2 and comment. The period for review and comment shall be 90 days.
3 The county shall hold at least one public hearing on the
4 proposed plan during this period. The plan subsequently
5 submitted to the governing body of the county for adoption shall
6 be accompanied by a document containing written responses to
7 comments made during the comment period.

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

21 (e) Statement of objections.--A municipality may not
22 disapprove of a proposed county plan unless the municipality's
23 resolution of disapproval contains a concise statement of its
24 objections to the plan. Each municipality disapproving a plan
25 shall immediately transmit a copy of its resolution of
26 disapproval to the county and the advisory committee. A
27 conditional approval shall be considered a disapproval.

28 Section 504. Failure to ratify plan.

29 (a) Submission.--If the plan is not ratified as provided in
30 section 503(d), the county shall meet with the advisory

1 committee to discuss the reasons that the plan was not ratified.
2 The advisory committee shall submit a recommendation concerning
3 a revised county plan to the county within 45 days after it
4 becomes apparent that the plan has failed to obtain
5 ratification. The advisory committee's recommendation shall
6 specifically address the objections stated by municipalities in
7 their resolutions of disapproval of the county plan.

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

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

28 (d) Failure to ratify revised plan.--If the plan is not
29 ratified as provided in subsection (b), the county shall submit
30 the revised plan to the department for approval. The revised

1 plan shall be submitted within ten days after it is apparent
2 that the plan has failed to obtain ratification and shall be
3 accompanied by the county's written response to the objections
4 stated by municipalities in the resolutions of disapproval.

5 Section 505. Review of municipal waste management plans.

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

12 (b) Minimum plan requirement.--The department shall approve
13 any county plan that demonstrates to the satisfaction of the
14 department that:

15 (1) The plan is complete ~~and accurate~~, ACCURATE AND <—
16 CONSISTENT WITH THIS ACT AND REGULATIONS PROMULGATED
17 HEREUNDER.

18 (2) The plan provides for the maximum feasible
19 development and implementation of recycling programs.

20 (3) The plan provides for the TRANSPORTATION, processing <—
21 and disposal of municipal waste in a manner that is
22 consistent with the requirements of the Solid Waste
23 Management Act, and the regulations promulgated pursuant
24 thereto.

25 (4) The plan provides for the TRANSPORTATION, processing <—
26 and disposal of municipal waste for at least ten years.

27 (5) If the plan proposes that municipal waste generated
28 within the county's boundaries be required, by means other
29 than contracts, to be processed or disposed at a designated
30 facility, the plan explains the basis for doing so.

1 (6) If the plan proposes that the county own or operate
2 a municipal waste processing or disposal facility, the plan
3 explains the basis for doing so.

4 ~~(c) Zoning powers unaffected. Nothing in this act shall be~~ <—
5 ~~construed or understood to enlarge or diminish the authority of~~
6 ~~municipalities to adopt ordinances pursuant to, or to exempt~~
7 ~~persons acting under the authority of this act from the~~
8 ~~provisions of the act of July 31, 1968 (P.L.805, No.247), known~~
9 ~~as the Pennsylvania Municipalities Planning Code.~~

10 (C) ZONING POWERS UNAFFECTED.--NOTHING IN THIS ACT SHALL BE <—
11 CONSTRUED OR UNDERSTOOD TO ENLARGE OR DIMINISH THE AUTHORITY OF
12 MUNICIPALITIES TO ADOPT ORDINANCES PURSUANT TO, OR TO EXEMPT
13 PERSONS ACTING UNDER THE AUTHORITY OF THIS ACT FROM THE
14 PROVISIONS OF, THE ACT OF JULY 31, 1968 (P.L.805, NO.247), KNOWN
15 AS THE PENNSYLVANIA MUNICIPALITIES PLANNING CODE, EXCEPT THAT
16 ANY EXPANSION OF AN EXISTING MUNICIPAL WASTE LANDFILL OWNED AND
17 OPERATED BY ANY LOCAL PUBLIC AGENCY SHALL NOT BE REQUIRED TO
18 COMPLY WITH ANY ORDINANCE OR OTHER LOCAL REGULATION, PROVIDED
19 THE LOCAL PUBLIC AGENCY HAS RECEIVED A PERMIT FROM THE
20 DEPARTMENT PURSUANT TO THE PROVISIONS OF THE ACT OF JULY 7, 1980
21 (P.L.380, NO.97), KNOWN AS THE SOLID WASTE MANAGEMENT ACT.
22 Section 506. Contracts.

23 (a) General rule.--Except as otherwise provided in this act,
24 nothing in this act shall be construed to interfere with, or in
25 any way modify, the provisions of any contract for municipal
26 waste disposal, processing or collection in force in any county,
27 other municipality or municipal authority upon the effective
28 date of this act OR PRIOR TO THE ADOPTION PURSUANT TO THIS ACT <—
29 OF A DEPARTMENT-APPROVED MUNICIPAL WASTE MANAGEMENT PLAN.

30 (b) Renewals.--No renewal of any existing contract upon the

1 expiration or termination of the original term thereof, and no
2 new contract for municipal waste disposal, processing or
3 collection shall be entered into after the effective date of
4 this act, ~~unless~~ IF such renewal or such new contract shall ~~shall~~ ←
5 FAILS TO conform to the applicable provisions of this act ~~and~~ OR ←
6 INTERFERES WITH THE IMPLEMENTATION OF a department-approved
7 municipal waste management plan.

8 ~~(c) Renegotiation option. If no plan has been approved for~~ ←
9 ~~the county, no contract renewal or new contract for municipal~~
10 ~~waste disposal, processing or collection shall be entered into~~
11 ~~unless such contract contains a provision for renegotiation to~~
12 ~~conform to the approved plan when such plan is approved by the~~
13 ~~department.~~

14 Section 507. Relationship between plans and permits.

15 (a) Limitation on permit issuance.--After the date of
16 departmental approval of a county municipal waste management
17 plan under section 505, the department ~~may~~ SHALL not issue any ←
18 new permit, or any permit that results in additional capacity,
19 for a municipal waste landfill or resource recovery facility
20 under the act of July 7, 1980 (P.L.380, No.97), known as the
21 Solid Waste Management Act, in the county unless the applicant
22 demonstrates to the department's satisfaction that the proposed
23 facility:

24 (1) is provided for in the plan for the county; or

25 (2) meets all of the following requirements:

26 (i) The proposed facility will not interfere with
27 implementation of the approved plan.

28 (ii) The proposed facility will not interfere with
29 municipal waste collection, storage, transportation,
30 processing or disposal in the host county.

1 (iii) The governing body of the proposed host county
2 has provided a written statement approving the location
3 of the proposed facility, or the proposed location of the
4 facility is preferable to alternative locations, giving
5 consideration to environmental and economic factors.

6 (b) Exemption.--This section shall not impose any limitation
7 on the department's authority to issue a permit in a county
8 prior to the department's approval of a municipal waste
9 management plan for the county under this act.

10 Section 508. Studies.

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

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

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

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

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

26 (5) Specific recommendations on markets for recycled
27 materials for each region of this Commonwealth.

28 (b) Update of market study.--Within three years after the
29 completion of the market development study described in
30 subsection (a), the department shall submit to the General

1 Assembly an update of the study, taking into account information
2 developed since its completion.

3 (c) Waste reduction.--Within 24 months after the effective
4 date of this act, the department shall submit to the General
5 Assembly a report:

6 (1) That describes various mechanisms that could be
7 utilized to stimulate and enhance waste reduction, including
8 their advantages and disadvantages. The mechanisms to be
9 analyzed shall include, but not be limited to, incentives for
10 prolonging product life, methods for ensuring product
11 recyclability, taxes for excessive packaging, tax incentives,
12 prohibitions on the use of certain products and performance
13 standards for products.

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

17 (d) Update of waste reduction study.--Within three years
18 after the completion of the waste reduction study described in
19 subsection (c), the department shall submit to the General
20 Assembly an update of the study, taking into account information
21 developed since its completion.

22 (E) DISTRIBUTION TO MUNICIPALITIES.--THE DEPARTMENT SHALL
23 PROMPTLY MAKE AVAILABLE TO MUNICIPALITIES AND OTHER INTERESTED
24 PERSONS THE RESULTS OF THE STUDIES REQUIRED BY THIS SECTION.
25 Section 509. Best available technology.

<—

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

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

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

16 Section 510. Permit requirements.

17 (A) ASH RESIDUE DISPOSAL.--The department shall not issue <—
18 any approval or permit for a resource recovery facility under
19 the act of July 7, 1980 (P.L.380, No.97), known as the Solid
20 Waste Management Act, unless the applicant has provided the
21 department with adequate documentation and assurances that all
22 FLY AND BOTTOM ash residue produced from or by a resource <—
23 recovery facility ~~will be disposed at a~~ SHALL BE: <—

- 24 (1) COLLECTED SEPARATELY; AND
25 (2) TESTED SEPARATELY TO DETERMINE ITS HAZARDOUS NATURE.
26 ASH RESIDUE DETERMINED TO BE HAZARDOUS WASTE AS DEFINED IN
27 THE SOLID WASTE MANAGEMENT ACT SHALL BE DISPOSED AT A
28 PERMITTED HAZARDOUS WASTE DISPOSAL FACILITY. ASH RESIDUE
29 DETERMINED NOT TO BE HAZARDOUS WASTE AS DEFINED IN THE SOLID
30 WASTE MANAGEMENT ACT SHALL BE DISPOSED AT A permitted

1 landfill OR BY ANY OTHER METHOD APPROVED BY THE DEPARTMENT. <—
2 Prior to the approval of any permit application for a
3 resource recovery facility, the operator shall submit a plan
4 to the department for the alternate disposal of municipal
5 waste designated for disposal at the resource recovery
6 facility.

7 (B) STUDY OF EFFECT ON WATER SUPPLY.--THE DEPARTMENT SHALL <—
8 NOT ISSUE ANY APPROVAL OR PERMIT FOR A RESOURCE RECOVERY
9 FACILITY UNLESS THE APPLICANT HAS PROVIDED THE DEPARTMENT WITH A
10 STUDY THAT DOCUMENTS THE SHORT-TERM AND LONG-TERM EFFECTS THAT
11 THE PROJECT WILL HAVE ON THE PUBLIC AND PRIVATE WATER SUPPLY.
12 THE STUDY SHALL INCLUDE, BUT NOT BE LIMITED TO, EFFECTS OF
13 POLLUTION, CONTAMINATION, DIMINUTION, ALTERNATIVE SOURCES OF
14 WATER ADEQUATE IN QUANTITY AND QUALITY FOR THE PURPOSES SERVED
15 BY THE WATER SUPPLY BOTH PUBLIC AND PRIVATE.

16 Section 511. Site limitation.

17 ~~(a) General rule.~~ (A) GENERAL RULE.--No municipal waste <—
18 landfill or resource recovery facility shall be located within
19 ~~300~~ 1,000 yards of a park, playground OR cemetery ~~or school~~. The <—
20 department shall not issue a permit to any operator of such a
21 landfill or facility as defined in this section. For purposes of
22 this section, a municipal waste landfill or resource recovery
23 facility shall include the processing, compacting, treatment,
24 storage, off-loading OR transferring. ~~or in any other way~~ <—
25 ~~dealing with municipal waste.~~

26 ~~(b) Counties of the first class. No new incinerators, trash~~
27 ~~to steam facilities or mass burn facilities shall be constructed~~
28 ~~in any city of the first class.~~

29 (B) CERTAIN LANDFILLS.--THE DEPARTMENT SHALL NOT ISSUE A <—
30 PERMIT FOR, NOR ALLOW THE OPERATION OF, A NEW MUNICIPAL-WASTE

1 LANDFILL, A NEW RESIDUAL-WASTE TREATMENT FACILITY OR A NEW
2 DISPOSAL FACILITY WITHIN 1,000 YARDS OF A BUILDING WHICH IS
3 OWNED BY A SCHOOL DISTRICT AND USED FOR INSTRUCTIONAL PURPOSES.
4 THIS SUBSECTION SHALL NOT AFFECT ANY MODIFICATION, EXTENSION,
5 ADDITION OR RENEWAL OF EXISTING PERMITTED FACILITIES.

6 ~~Section 512.— Issuance of permits.~~ <—

7 ~~(a) General rule.— The department shall review and approve~~
8 ~~or disapprove all applications for permits, permit modifications~~
9 ~~and other determinations under the Solid Waste Management Act~~
10 ~~within 90 days of the time the department determines that an~~
11 ~~application for action is reasonably complete. The department~~
12 ~~shall make a determination regarding whether an application is~~
13 ~~reasonably complete within 45 days of the filing of an~~
14 ~~application with the department and shall identify all areas in~~
15 ~~which an application is incomplete when issuing a notice of~~
16 ~~deficiency. The department shall review any amended application~~
17 ~~filed in response to a notice of deficiency within 30 days of~~
18 ~~the filing of the amended application with the department.~~
19 ~~Nothing in this section shall prohibit the department and the~~
20 ~~applicant from the agreeing to extend any deadline for action~~
21 ~~provided by this section. Nothing in this section shall prohibit~~
22 ~~the department from requesting and accepting supplemental~~
23 ~~information, explanations and clarifications regarding the~~
24 ~~content of an application prior to the deadline for department~~
25 ~~action.~~

26 ~~(b) Conditions.— Except as necessary to avoid an imminent~~
27 ~~threat to the public health, safety or the environment, the~~
28 ~~department shall not impose or modify conditions upon a permit~~
29 ~~issued or impose or modify conditions upon operations or other~~
30 ~~activities conducted under the Solid Waste Management Act~~

~~1 without prior notice to the applicant or permittee and affording
2 the applicant or permittee an opportunity to comment upon the
3 proposed conditions. The department shall review comments
4 submitted in response to the proposed conditions and either
5 amend the conditions or explain in writing the department's
6 response to comments received from the applicant or permittee.~~

7 SECTION 512. COMPLETENESS REVIEW. <—

8 (A) GENERAL RULE.--AFTER RECEIPT OF A PERMIT APPLICATION,
9 THE DEPARTMENT SHALL DETERMINE WHETHER THE APPLICATION IS
10 ADMINISTRATIVELY COMPLETE. FOR PURPOSES OF THIS SECTION, AN
11 APPLICATION IS ADMINISTRATIVELY COMPLETE IF IT CONTAINS
12 NECESSARY INFORMATION, MAPS, FEES AND OTHER DOCUMENTS,
13 REGARDLESS OF WHETHER THE INFORMATION, MAPS, FEES AND DOCUMENTS
14 WOULD BE SUFFICIENT FOR ISSUANCE OF THE PERMIT.

15 (1) IF THE APPLICATION IS NOT ADMINISTRATIVELY COMPLETE,
16 THE DEPARTMENT SHALL, WITHIN 60 DAYS OF RECEIPT OF THE
17 APPLICATION, RETURN IT TO THE APPLICANT, ALONG WITH A WRITTEN
18 STATEMENT OF THE SPECIFIC INFORMATION, MAPS, FEES AND
19 DOCUMENTS THAT ARE REQUIRED TO MAKE THE APPLICATION
20 ADMINISTRATIVELY COMPLETE.

21 (2) THE DEPARTMENT SHALL DENY THE APPLICATION IF THE
22 APPLICANT FAILS TO PROVIDE THE INFORMATION, MAPS, FEES AND
23 DOCUMENTS WITHIN 90 DAYS OF RECEIPT OF THE NOTICE IN
24 PARAGRAPH (1).

25 (B) REVIEW PERIOD.--

26 (1) THE DEPARTMENT SHALL ISSUE OR DENY PERMIT
27 APPLICATIONS UNDER THIS ACT WITHIN THE FOLLOWING PERIODS OF
28 TIME:

29 (I) FOR MUNICIPAL WASTE AND DEMOLITION WASTE
30 LANDFILLS, WITHIN 12 MONTHS FROM THE DATE OF THE

1 DEPARTMENT'S DETERMINATION UNDER SUBSECTION (A) THAT THE
2 APPLICATION IS ADMINISTRATIVELY COMPLETE.

3 (II) FOR ALL OTHER PERMITS, WITHIN SIX MONTHS FROM
4 THE DATE OF THE DEPARTMENT'S DETERMINATION UNDER
5 SUBSECTION (A) THAT THE APPLICATION IS ADMINISTRATIVELY
6 COMPLETE.

7 (2) THE TIME PERIODS IN PARAGRAPH (1) DO NOT INCLUDE A
8 PERIOD BEGINNING WITH THE DATE THAT THE DEPARTMENT IN WRITING
9 HAS REQUESTED THE APPLICANT TO MAKE SUBSTANTIVE CORRECTIONS
10 OR CHANGES TO THE APPLICATION AND ENDING WITH THE DATE THAT
11 THE APPLICANT SUBMITS THE CORRECTIONS OR CHANGES TO THE
12 DEPARTMENT'S SATISFACTION.

13 CHAPTER 7

14 RECYCLING FEE

15 Section 701. Recycling fee for municipal waste landfills and
16 resource recovery facilities.

17 (a) Imposition.--There is imposed a recycling fee of ~~\$1.25~~ ←
18 \$2 per ton for all solid waste processed at resource recovery
19 facilities and for all solid waste except process residue and
20 nonprocessable waste from a resource recovery facility that is
21 disposed of at municipal waste landfills. Such fee shall be paid
22 by the operator of each municipal waste landfill and resource
23 recovery facility.

24 (b) Alternative calculation.--The fee for operators of
25 municipal waste landfills and resource recovery facilities that
26 do not weigh solid waste when it is received shall be calculated
27 as if three cubic yards were equal to one ton of solid waste.

28 (c) Waste weight requirement.--On and after January 1, 1988,
29 each operator of a municipal waste landfill and resource
30 recovery facility that has received 30,000 or more cubic yards

1 of solid waste in the previous calendar year shall weigh all
2 solid waste when it is received. The scale used to weigh solid
3 waste shall conform to the requirements of the act of December
4 1, 1965 (P.L.988, No.368), known as the Weights and Measures Act
5 of 1965, and the regulations promulgated pursuant thereto. The
6 operator of the scale shall be a licensed public weighmaster
7 under the act of April 28, 1961 (P.L.135, No.64), known as the
8 Public Weighmaster's Act, and the regulations promulgated
9 pursuant thereto.

10 (d) Sunset for fee.--No fee shall be imposed under this
11 section on and after the first day of the eleventh year
12 following the effective date of this act. FIVE YEARS AFTER THE ←
13 EFFECTIVE DATE OF THIS ACT, THE ENVIRONMENTAL QUALITY BOARD
14 SHALL REVIEW THE FEE ESTABLISHED BY THIS SECTION AND DETERMINE
15 WHETHER THE FEE SHOULD BE RAISED OR LOWERED. IF THE
16 ENVIRONMENTAL QUALITY BOARD DECIDES THE FEE SHOULD BE CHANGED,
17 IT MAY PROMULGATE A REGULATION SETTING FORTH A DIFFERENT FEE.
18 THIS REGULATION SHALL SUPERSEDE THE FEE ESTABLISHED IN THIS
19 SECTION.

20 Section 702. Form and timing of recycling fee payment.

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

27 (b) Quarterly reports.--Each recycling fee payment shall be
28 accompanied by a form prepared and furnished by the department
29 and completed by the operator. The form shall state the total
30 weight or volume of solid waste received by the facility during

1 the payment period and provide any other aggregate information
2 deemed necessary by the department to carry out the purposes of
3 this act. The form shall be signed by the operator.

4 (c) Timeliness of payment.--The operator shall be deemed to
5 have made a timely payment of the recycling fee if the operator
6 complies with all of the following:

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

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

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

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

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

30 (f) Alternative proof of payment.--For purposes of this

1 section, presentation of a receipt indicating that the payment
2 was mailed by registered or certified mail on or before the due
3 date shall be evidence of timely payment.

4 Section 703. Collection and enforcement of fee.

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

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

19 (c) Assessment notices.--

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

28 (2) The operator charged with the deficiency shall have
29 30 days to pay the deficiency in full or, if the operator
30 wishes to contest the deficiency, forward the amount of the

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

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

14 (4) The amount determined after administrative hearing
15 or after waiver of administrative hearing shall be payable to
16 the Commonwealth and shall be collectible in the manner
17 provided in section 1709.

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

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

26 (d) Filing of appeals.--Notwithstanding any other provision
27 of law, all appeals of final department actions concerning the
28 resource recovery fee, including, but not limited to, petitions
29 for refunds, shall be filed with the Environmental Hearing
30 Board.

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

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

14 Section 704. Records.

15 Each operator shall keep daily records of all deliveries of
16 solid waste to the facility as required by the department,
17 including, but not limited to, the name and address of the
18 hauler, the source of the waste, the kind of waste received and
19 the weight or volume of the waste. A copy of these records shall
20 be maintained at the site by the operator for no less than five
21 years and shall be made available to the department for
22 inspection, upon request. A COPY OF THESE RECORDS SHALL BE
23 TRANSMITTED TO THE HOST MUNICIPALITY. ←

24 Section 705. Surcharge.

25 The provisions of any law to the contrary notwithstanding,
26 the operator may collect the fee imposed by this section as a
27 surcharge on any fee schedule established pursuant to law,
28 ordinance, resolution or contract for solid waste processing or
29 disposal operations at the facility. In addition, any person who
30 collects or transports solid waste subject to the recycling fee

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

9 Section 706. Recycling Fund.

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

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

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

23 (1) At least 70% shall be expended by the department for
24 grants to municipalities for the development and
25 implementation of recycling programs as set forth in section
26 902, recycling coordinators as provided in section 903, FOR ←
27 GRANTS FOR MUNICIPAL RECYCLING PROGRAMS AS SET FORTH IN
28 SECTION 904, and market development and waste reduction
29 studies as set forth in section 508; for implementation of
30 the recommendations in the studies required by section 508;

1 and for research conducted or funded by the Department of
2 Transportation pursuant to section 1505.

3 (2) Up to 10% may be expended by the department for
4 grants for feasibility studies for municipal waste processing
5 and disposal facilities, except for facilities for the
6 combustion of municipal waste that are not proposed to be
7 operated for the recovery of energy as set forth in section
8 901.

9 (3) Up to 30% may be expended by the department for
10 public information, public education and technical assistance
11 programs concerning LITTER CONTROL, recycling and waste ←—
12 reduction, including technical assistance programs for
13 counties and other municipalities, for research and
14 demonstration projects, for planning grants as set forth in
15 section 901, for the host inspector training program as set
16 forth in section 1102, and for other purposes consistent with
17 this act.

18 (4) AT LEAST \$150,000 SHALL BE EXPENDED BY THE ←—
19 DEPARTMENT FOR PUBLIC EDUCATION PROGRAMS CONCERNING, BUT NOT
20 LIMITED TO, LITTER CONTROL, RECYCLING AND WASTE REDUCTION.
21 THIS AMOUNT SHALL BE A COMPONENT OF THE 30% PROVIDED FOR IN
22 PARAGRAPH (3).

23 ~~(4)~~ (5) No more than 3% may be expended for the ←—
24 collection and administration of moneys in the fund.

25 (d) Additional funding.--There is hereby appropriated to the
26 department from the General Fund the amount necessary to assure
27 payment of grants under section 902(a) provided the amount shall
28 not exceed 35% of the total amount of all grants awarded under
29 section 902(a).

30 (e) Transfer.--On the first day of the sixteenth year after

1 the fee imposed by section 701 becomes effective, all moneys in
2 the Recycling Fund that are not obligated shall be transferred
3 to the Solid Waste Abatement Fund and expended in the same
4 manner as other moneys in the Solid Waste Abatement Fund. On the
5 first day of the nineteenth year after the fee imposed by
6 section 701 becomes effective, all moneys in the Recycling Fund
7 that are not expended shall be transferred to the Solid Waste
8 Abatement Fund and expended in the same manner as other moneys
9 in the Solid Waste Abatement Fund.

10 (f) Advisory committee.--The secretary shall establish a
11 Recycling Fund Advisory Committee composed of representatives of
12 counties, other municipalities, municipal authorities, the
13 municipal waste management industry, the municipal waste
14 recycling industry, municipal waste generating industry and the
15 general public. THE COMMITTEE SHALL ALSO INCLUDE MEMBERS OF THE <—
16 GENERAL ASSEMBLY, ONE APPOINTED BY EACH OF THE FOLLOWING: THE
17 SPEAKER OF THE HOUSE OF REPRESENTATIVES, THE MINORITY LEADER OF
18 THE HOUSE OF REPRESENTATIVES, THE PRESIDENT PRO TEMPORE OF THE
19 SENATE AND THE MINORITY LEADER OF THE SENATE. The committee
20 shall meet at least annually to review the Commonwealth's
21 progress in meeting the goals under section 102(c), to recommend
22 priorities on expenditures from the fund, and to advise the
23 secretary on associated activities concerning the administration
24 of the fund. The department shall reimburse members of the
25 committee for reasonable travel, hotel and other necessary
26 expenses incurred in performance of their duties under this
27 section.

28 (g) Annual reports.--The department shall submit an annual
29 report to the General Assembly on receipts to and disbursements
30 from the Recycling Fund in the previous fiscal year, projections

1 for revenues and expenditures in the coming fiscal year, and the
2 Commonwealth's progress in achieving the goals set forth in
3 section 102(c). THE ANNUAL REPORT DUE TWO YEARS BEFORE THE
4 EXPIRATION OF THE RECYCLING FEE UNDER SECTION 701(D) SHALL
5 CONTAIN A RECOMMENDATION WHETHER THE FEE SHOULD CONTINUE TO BE
6 IMPOSED AFTER THE EXPIRATION DATE AND, IF SO, THE PROPOSED
7 AMOUNT OF THE FEE. <—

8 CHAPTER 9

9 GRANTS

10 Section 901. Planning grants.

11 The department ~~may~~ SHALL, upon application from a county, <—
12 award grants for the cost of preparing municipal waste
13 management plans in accordance with this act; for carrying out
14 related studies, surveys, investigations, inquiries, research
15 and analyses, including those related by siting; and for
16 environmental mediation. The department may also award grants
17 under this section for feasibility studies and project
18 development for municipal waste processing or disposal
19 facilities, except for facilities for the combustion of
20 municipal waste that are not proposed to be operated for the
21 recovery of energy. The application shall be made on a form
22 prepared and furnished by the department. The application shall
23 contain such information as the department deems necessary to
24 carry out the provisions and purposes of this act. The grant to
25 any county under this section shall be ~~50%~~ 80% of the approved <—
26 cost of such plans and studies.

27 Section 902. Grants for development and implementation of
28 municipal recycling programs.

29 (a) Authorization.--The department ~~may~~ SHALL award grants <—
30 for development and implementation of municipal recycling

1 programs, upon application from any municipality WHICH MEETS THE <—
2 REQUIREMENTS OF THIS SECTION AND WHICH IS REQUIRED BY SECTION
3 1501 TO IMPLEMENT A RECYCLING PROGRAM. THE DEPARTMENT MAY AWARD
4 GRANTS FOR DEVELOPMENT AND IMPLEMENTATION OF MUNICIPAL RECYCLING
5 PROGRAMS, UPON APPLICATION FROM ANY MUNICIPALITY WHICH IS NOT
6 REQUIRED BY SECTION 1501 TO IMPLEMENT A RECYCLING PROGRAM AND
7 WHICH OTHERWISE MEETS THE REQUIREMENTS OF THIS SECTION. The
8 grant provided by this section may be used to identify markets,
9 develop a public education campaign, purchase collection and
10 storage equipment, and do other things necessary to establish a
11 municipal recycling program. The grant may be used to purchase
12 collection equipment, only to the extent needed for collection
13 of recyclable materials, and mechanical processing equipment,
14 only to the extent that such equipment is not available to the
15 program in the private sector. The application shall be made on
16 a form prepared and furnished by the department. The application
17 shall explain the structure and operation of the program and
18 shall contain such other information as the department deems
19 necessary to carry out the provisions and purposes of this act.
20 The grant under this section to a municipality required by
21 section 1501 to implement a recycling program shall be ~~80%~~ 90% <—
22 of the approved cost of establishing a municipal recycling
23 program. The grant under this section to a municipality not
24 required by section 1501 to implement a recycling program shall
25 be ~~80%~~ UP TO 90% of the approved cost of establishing a <—
26 municipal recycling program. In addition to the grant under this
27 section to a financially distressed municipality that is
28 required by section 1501 to implement a recycling program shall
29 be 20% of the approved cost of establishing a municipal
30 recycling program from grants ~~authorized under section 203(f) of~~ <—

1 ~~the act of July 10, 1987 (P.L.246, No.47), known as the~~
2 ~~Financial Distressed Municipalities Act.~~ AUTHORIZED UNDER THE <—
3 ACT OF JULY 9, 1986 (P.L.1223, NO.110), KNOWN AS THE FINANCIALLY
4 DISADVANTAGED MUNICIPALITIES MATCHING ASSISTANCE ACT.

5 (b) Prerequisites.--The department shall not award any grant
6 under this section unless it is demonstrated to the department's
7 satisfaction that:

8 (1) The application is complete and accurate.

9 (2) The recycling program for which the grant is sought
10 does not duplicate any other recycling programs operating
11 within the municipality.

12 (3) If the ~~application~~ APPLICANT is not required to <—
13 implement a recycling program by section 1501, the
14 application describes the collection system for the program,
15 including:

16 (i) materials collected and persons affected;

17 (ii) contracts for the operation of the program;

18 (iii) markets or uses for collected materials,
19 giving consideration to the results of the market
20 development study required by section 508 if the results
21 are available;

22 (iv) ordinances or other mechanisms that will be
23 used to ensure that materials are collected;

24 (v) public information and education;

25 (vi) program economics, including avoided processing
26 or disposal costs; and

27 (vii) other information deemed necessary by the
28 department.

29 (c) Municipal retroactive grants with restrictions.--The
30 grant authorized by this section may be awarded to any

1 municipality for eligible costs incurred for a municipal
2 recycling program after 60 days prior to the effective date of
3 this act. However, no grant may be authorized under this section
4 for a municipal recycling program that has received a grant from
5 the department under the act of July 20, 1974 (P.L.572, No.198),
6 known as the Pennsylvania Solid Waste - Resource Recovery
7 Development Act, except for costs that were not paid by such
8 grant.

9 ~~(d) Priority. Each municipality, other than a county, which~~ ←
10 ~~establishes and implements a mandatory source separation and~~
11 ~~collection program for recyclable materials shall be given the~~
12 ~~same priority with municipalities subject to the requirements of~~
13 ~~section 1501 for grants under this section.~~

14 Section 903. Grants for recycling coordinators.

15 (a) Authorization.--The department may award grants for the
16 salary and expenses of recycling coordinators, upon application
17 from any county. The application shall be made on a form
18 prepared and furnished by the department. The application shall
19 explain the duties and activities of the county recycling
20 coordinator. If a recycling coordinator has been active prior to
21 the year for which the grant is sought, the application shall
22 also explain the coordinator's activities and achievements in
23 the previous year.

24 (b) Limit on grant.--The grant under this section shall not
25 exceed 50% of the approved cost of the recycling coordinator's
26 salary and expenses.

27 SECTION 904. PERFORMANCE GRANTS FOR MUNICIPAL RECYCLING ←
28 PROGRAMS.

29 (A) AUTHORIZATION.--THE DEPARTMENT SHALL AWARD ANNUAL
30 PERFORMANCE GRANTS FOR MUNICIPAL RECYCLING PROGRAMS, UPON

1 APPLICATION FROM A MUNICIPALITY. THE APPLICATION SHALL BE MADE
2 ON A FORM PREPARED AND FURNISHED BY THE DEPARTMENT. THE
3 APPLICATION SHALL CONTAIN SUCH INFORMATION AS THE DEPARTMENT
4 DEEMS NECESSARY TO CARRY OUT THE PROVISIONS AND PURPOSES OF THIS
5 ACT.

6 (B) AVAILABILITY.--THE DEPARTMENT SHALL AWARD A GRANT UNDER
7 THIS SUBSECTION TO A MUNICIPALITY BASED ON FACTORS SUCH AS:

8 (1) TYPE AND WEIGHT OF MUNICIPAL WASTE RECYCLED
9 ANNUALLY.

10 (2) TYPE AND VOLUME OF MUNICIPAL WASTE RECYCLED
11 ANNUALLY.

12 (3) UNIT COST TO COLLECT, STORE, TRANSPORT AND PREPARE
13 TO SELL TO RECYCLER.

14 (4) GRANTS OR OTHER SUBSIDY INCOME FROM SELLING MATERIAL
15 TO RECYCLER.

16 (5) TOTAL COST OF OPERATION.

17 (6) EFFECTIVENESS OF PROGRAM.

18 (C) AMOUNT.--THE AMOUNT OF THE GRANT SHALL BE BASED ON
19 AVAILABLE FUNDS UNDER SECTION 706 AND SHALL BE AVAILABLE TO ALL
20 MUNICIPALITIES WHICH HAVE A RECYCLING PROGRAM IN EXISTENCE ON OR
21 WILL INITIATE A PROGRAM AFTER THE EFFECTIVE DATE OF THIS ACT.

22 (D) PREREQUISITES.--THE DEPARTMENT SHALL NOT AWARD ANY GRANT
23 UNDER THIS SECTION UNLESS THE APPLICATION IS COMPLETE AND
24 ACCURATE, AND THE MATERIALS WERE ACTUALLY MARKETED.

25 Section ~~904~~ 905. General limitations. <—

26 (a) Content of application.--Each grant application under
27 this chapter shall include provisions for an independent
28 performance audit, which shall be completed within six months
29 after all reimbursable work under the grant has been completed.

30 (b) Monetary limit on grant.--The department may not award

1 more than 10% of the moneys available under any grant under this
2 chapter in any fiscal year to any county, including
3 municipalities within the county.

4 (c) Other limitations on grants.--The department may not
5 award any grant under this chapter to any county or municipality
6 that has failed to comply with the conditions set forth in
7 previously awarded grants under this chapter, the requirements
8 of this chapter, and any regulations promulgated pursuant
9 thereto.

10 (d) Lapse of grant.--A grant offering pursuant to this
11 chapter shall lapse automatically if funds for the grant are not
12 encumbered within one year of the offering. To obtain the grant
13 after an offering has lapsed, the grantee must submit a new
14 application in a subsequent funding period.

15 (e) Lapse of encumbered funds.--Grant funds that have been
16 encumbered shall lapse automatically to the recycling fund if
17 the funds are not expended within two years after they have been
18 encumbered. The department may, upon written request from the
19 grantee, extend the two-year period for an additional period of
20 up to three months. To obtain any funds that have lapsed to the
21 recycling fund, the grantee must submit a new application in a
22 subsequent funding period.

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 January 8, 1960 (1959 P.L.2119, No.787),
4 known as the Air Pollution Control Act, and the act of
5 November 26, 1978 (P.L.1375, No.325), known as the Dam Safety
6 and Encroachments Act, within five working days after the
7 preparation of such reports.

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

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

16 (b) Operator information.--Every operator of a municipal
17 waste landfill or resource recovery facility shall provide to
18 the host municipality copies of all air and water quality
19 monitoring data as required by the department for the facility
20 conducted by or on behalf of the operator, within five days
21 after such data becomes available to the operator.

22 (c) Public information.--All information provided to the
23 host municipality under this section shall be made available to
24 the public for review upon request.

25 (d) Information to county.--If the host municipality owns or
26 operates the municipal waste landfill or resource recovery
27 facility, or proposes to own or operate such landfill or
28 facility, the information required by this section shall be
29 provided to the county within which the landfill or facility is
30 located or proposed to be located instead of the host

1 municipality.

2 (E) SIGN ON VEHICLE.--A VEHICLE OR CONVEYANCE USED FOR THE <—
3 TRANSPORTING OF SOLID WASTE SHALL BEAR THE NAME AND BUSINESS
4 ADDRESS OF THE PERSON OR MUNICIPALITY WHICH OWNS THE VEHICLE OR
5 CONVEYANCE.

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 only those records required by the
20 department, take samples and conduct inspections. ~~However,~~ <—
21 ~~certified municipal inspectors may not issue orders.~~ THE <—
22 MUNICIPAL INSPECTOR HAS THE RIGHT TO HALT OPERATIONS OF THE
23 FACILITY IF THE INSPECTOR DETERMINES THAT THERE IS AN
24 IMMEDIATE THREAT TO HEALTH AND SAFETY. THIS HALT IN
25 OPERATIONS SHALL REMAIN IN EFFECT UNTIL THE DEPARTMENT
26 EVALUATES THE SITUATION AND DETERMINES WHETHER THERE IS A
27 CONTINUING NEED FOR THE HALT IN OPERATIONS. IF THE DEPARTMENT
28 DETERMINES THERE IS NO CONTINUING NEED FOR THE HALT IN
29 OPERATIONS, THE MUNICIPAL INSPECTOR HAS THE RIGHT TO APPEAL
30 THIS DETERMINATION TO THE COURT OF COMMON PLEAS, WHICH SHALL

1 CONSIDER THE MATTER IMMEDIATELY.

2 (3) The department is authorized to pay for the host
3 inspection training program and to pay 50% of the approved
4 cost of employing a certified host municipality inspector for
5 a period not to exceed five years.

6 (b) Departmental information.--

7 (1) Whenever any host municipality presents information
8 to the department which gives the department reason to
9 believe that any municipal waste landfill or resource
10 recovery facility is in violation of any requirement of the
11 act of June 22, 1937 (P.L.1987, No.394), known as The Clean
12 Streams Law, the act of January 8, 1960 (1959 P.L.2119,
13 No.787), known as the Air Pollution Control Act, the act of
14 November 26, 1978 (P.L.1375, No.325), known as the Dam Safety
15 and Encroachments Act, and the Solid Waste Management Act,
16 any regulation promulgated pursuant thereto, or the condition
17 of any permit issued pursuant thereto, the department will
18 promptly conduct an inspection of such facility.

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

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

28 (4) Upon written request of a host municipality to the
29 department, the department will allow a certified inspector
30 of such municipality to accompany department inspectors on

1 routine inspections of municipal waste landfills and resource
2 recovery facilities.

3 (5) THE HOST MUNICIPAL INSPECTOR SHALL HAVE THE RIGHT TO ←
4 INSPECT THE MUNICIPAL WASTE FACILITY INDEPENDENT OF THE
5 DEPARTMENT AT ANY TIME.

6 (c) County involvement.--If the host municipality owns or
7 operates the municipal waste landfill or resource recovery
8 facility, the training and inspection requirements of this
9 section shall be available to the county within which the
10 landfill or facility is located instead of the host
11 municipality.

12 Section 1103. Water supply testing for contiguous landowners.

13 (a) Required water sampling.--Upon written request from
14 persons owning land contiguous to a municipal waste landfill,
15 the operator of such landfill shall have quarterly sampling and
16 analysis conducted of private water supplies used by such
17 persons for drinking water. Such sampling and analysis shall be
18 conducted by a laboratory certified pursuant to the act of May
19 1, 1984 (P.L.206, No.43), known as the Pennsylvania Safe
20 Drinking Water Act. The laboratory shall be chosen by the
21 landowners from a list of regional laboratories supplied by the
22 department. Sampling and analysis shall be at the expense of the
23 landfill operator. Upon request the landfill operator shall
24 provide copies of the analyses to persons operating resource
25 recovery facilities that dispose of the residue from the
26 facilities at the landfill.

27 (b) Extent of analysis.--Water supplies shall be analyzed
28 for all parameters or chemical constituents determined by the
29 department to be indicative of typical contamination from
30 municipal waste landfills. The laboratory performing such

1 sampling and analysis shall provide written copies of sample
2 results to the landowner and to the department.

3 (c) Additional sampling required.--If the analysis indicates
4 possible contamination from a municipal waste landfill, the
5 department may conduct, or require the landfill operator to have
6 the laboratory conduct, additional sampling and analysis to
7 determine more precisely the nature, extent and source of
8 contamination.

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

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

26 (b) Notification to department.--Any landowner or water
27 purveyor suffering pollution, contamination or diminution of a
28 public or private water supply as a result of solid waste
29 disposal activities at a municipal waste management facility may
30 so notify the department and request that an investigation be

1 conducted. Within ten days of such notification, the department
2 shall begin investigation of any such claims and shall, within
3 120 days of the notification, make a determination. If the
4 department finds that the pollution or diminution was caused by
5 the operation of a municipal waste management facility or if it
6 presumes the owner or operator of a municipal waste facility
7 responsible for pollution, contamination or diminution pursuant
8 to subsection (c), then it shall issue such orders to the owner
9 or operator as are necessary to insure compliance with
10 subsection (a).

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

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

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

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

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

30 (4) The owner or operator did not cause the pollution,

1 contamination or diminution.

2 (e) Independent testing.--Any owner or operator electing to
3 preserve its defenses under subsection (d)(1) or (2) shall
4 retain the services of an independent certified laboratory to
5 conduct the preoperation survey of water supplies. A copy of the
6 results of any survey shall be submitted to the department and
7 the landowner or water purveyor in a manner prescribed by the
8 department.

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

14 Section 1105. Purchase of cogenerated electricity.

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

26 ~~(b) Limited Public Utility Commission review.~~—A contract <—
27 entered into between a resource recovery facility and a public
28 utility in accordance with subsection (a), shall be subject to a
29 one time review and approval by the commission at the time the
30 contract is entered into, notwithstanding the provisions of 66

1 ~~Pa.C.S. § 508 (relating to power of the commission to vary,~~
2 ~~reform and revise contracts).~~

3 Section 1106. Public Utility Commission.

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

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

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

25 (2) If the request is in the form of petition for
26 declaratory order, the petitioner shall comply with the
27 requirements of 52 Pa. Code § 5.41 et seq. (relating to
28 petitions) and 52 Pa. Code § 57.39 (relating to informal
29 consultation and commission proceedings). Within 30 days
30 after filing such petition, the commission or its staff

1 assigned to the matter may request that the parties file
2 legal memoranda addressing any issues raised therein. Within
3 60 days after filing of such petition or legal memoranda,
4 whichever is later, the commission shall act to grant or deny
5 such petition.

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

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

20 (d) Effect of section.--The provisions of this section shall
21 take effect notwithstanding the adoption or failure to adopt any
22 regulations by the Public Utility Commission regarding the
23 purchase of electric energy from qualifying facilities, as such
24 term is defined in section 210 of the Federal Public Utility
25 Regulatory Policies Act of 1978 (Public Law 95-617, 92 Stat.
26 3117) regulations and commission regulations.
27 Section 1107. Claims resulting from pollution occurrences.

28 (a) Financial responsibility.--

29 (1) Any permit application by a person other than a
30 municipality or municipal authority under the Solid Waste

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

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

18 ~~(i) A commercial pollution liability insurance~~ <—
19 ~~policy.~~

20 (I) COMMERCIAL POLLUTION LIABILITY INSURANCE. <—

21 (ii) A secured standby trust to become self-insured
22 that satisfies a financial test established by
23 regulation.

24 (iii) A trust fund financed by the person and
25 administered by an independent trustee approved by the
26 department.

27 (b) Municipal financial responsibility.--

28 (1) Any permit application by a municipality or
29 municipal authority under the Solid Waste Management Act for
30 a municipal waste landfill or resource recovery facility

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

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

18 ~~(i) A commercial pollution liability insurance~~ <—
19 ~~policy.~~

20 (I) COMMERCIAL POLLUTION LIABILITY INSURANCE. <—

21 (ii) A trust fund financed by the municipality and
22 administered by an independent trustee approved by the
23 department.

24 (iii) An insurance pool or self-insurance program
25 authorized by 42 Pa.C.S. § 8564 (relating to liability
26 insurance and self-insurance).

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

1 (c) Liability limited.--A host municipality or county or
2 municipality within the planning area may not be held liable for
3 bodily injury or property damage resulting from pollution
4 occurrences solely by reasons of participation in the
5 preparation or adoption of a county or municipal solid waste
6 plan. Nothing herein shall be construed to prevent any host
7 municipality, county or municipality within the planning area
8 from obtaining or giving such indemnities as may be appropriate
9 in connection with the ownership, operation or control of a
10 municipal solid waste facility.

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

15 (a) Establishment by county.--Each county shall establish an
16 interest-bearing trust with an accredited financial institution
17 for every municipal waste landfill that is operating within its
18 boundaries. This trust shall be established within 60 days of
19 the effective date of this act for landfills permitted by the
20 department prior to the effective date of this act. The trust
21 shall be established prior to the operation of any landfill
22 permitted by the department after the effective date of this
23 act.

24 (b) Purpose.--The trust created for any landfill by this
25 section may be used only for remedial measures and emergency
26 actions that are necessary to prevent or abate adverse effects
27 upon the environment after closure of the landfill. However, the
28 county may withdraw actual costs incurred in establishing and
29 administering the fund in an amount not to exceed 0.5% of the
30 moneys deposited in the fund.

1 (c) Amount.--Each operator of a municipal waste landfill
2 shall pay into the trust on a quarterly basis an amount equal to
3 25¢ per ton of weighed waste or 25¢ per three cubic yards of
4 volume measured waste for all solid waste received at the
5 landfill.

6 (d) Trustee.--The trustee shall manage the trust in
7 accordance with all applicable laws and regulations, except that
8 moneys in the trust shall be invested in a manner that will
9 allow withdrawals as provided in subsection (f). The trustee
10 shall be a person whose trust activities are examined and
11 regulated by a State or Federal agency. The trustee may resign
12 only after giving 120 days' notice to the department and after
13 the appointment of a new trustee. The trustee shall have an
14 office located within the county where the landfill is located.

15 (e) Trust agreement.--The provisions of the trust agreement
16 shall be consistent with the requirements of this section and
17 shall be provided by the operator of the landfill on a form
18 prepared and approved by the department. The trust agreement
19 shall be accompanied by a formal certification of
20 acknowledgment.

21 (f) Withdrawal of funds.--The trustee may release moneys
22 from the trust only upon written request of the operator of a
23 landfill and upon prior written approval by the department. Such
24 request shall include the proposed amount and purpose of the
25 withdrawal and a copy of the department's written approval of
26 the expenditure. A copy of the request shall be provided to the
27 county and the host municipality. A copy of any withdrawal
28 document prepared by the trustee shall be provided to the
29 department, the county and the host municipality. No withdrawal
30 from this trust may be made until after the department has

1 certified closure of the landfill.

2 (g) Abandonment of trust.--If the department certifies to
3 the trustee that the operator of a landfill has abandoned the
4 operation of the landfill or has failed or refused to comply
5 with the requirements of the Solid Waste Management Act, the
6 regulations promulgated pursuant thereto or the terms or
7 conditions of its permit, in any respect, the trustee shall
8 forthwith pay the full amount of the trust to the department.
9 The department may not make such certification unless it has
10 given 30 days' written notice to the operator, the county, and
11 the trustee of the department's intent to do so.

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

16 (i) Surplus.--Any moneys remaining in a trust subsequent to
17 final closure of a landfill under the Solid Waste Management Act
18 and the regulations promulgated pursuant thereto shall, upon
19 release of the bond by the department, be divided equally
20 between the county and the host municipality.

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

27 (k) Other remedies.--The remedies provided to the department
28 in this section are in addition to any other remedies provided
29 at law or in equity.

30 (l) County not liable.--Nothing in this section shall be

1 understood or construed as imposing any additional
2 responsibility or liability upon the county for compliance of a
3 municipal waste landfill or resource recovery facility with the
4 requirements of this act, the Solid Waste Management Act and the
5 regulations promulgated pursuant thereto.

6 Section 1109. Trust fund for municipally operated landfills.

7 (a) Establishment of trust.--Except as provided in
8 subsection (b), each municipality or municipal authority
9 operating a landfill solely for municipal waste not classified
10 hazardous shall establish an interest-bearing trust with an
11 accredited financial institution. This trust shall be
12 established within 60 days of the effective date of this act for
13 landfills permitted by the department prior to the effective
14 date of this act. The trust shall be established prior to the
15 operation of any landfill permitted by the department after the
16 effective date of this act.

17 (b) Exemption.--Any municipality or municipal authority that
18 has posted a bond that is consistent with the provisions of the
19 Solid Waste Management Act and the regulations promulgated
20 pursuant thereto shall not be required to establish the trust
21 set forth in this section.

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

29 (d) Amount.--Each municipality or municipal authority
30 operating a landfill solely for municipal waste not classified

1 hazardous shall pay into the trust on a quarterly basis an
2 amount determined by the department for each ton or cubic yard
3 of solid waste disposed at the landfill. This amount shall be
4 based on the estimated cost of completing final closure of the
5 landfill and the weight or volume of waste to be disposed at the
6 landfill prior to closure.

7 (e) Trustee.--The trustee shall manage the trust in
8 accordance with all applicable laws and regulations, except that
9 moneys in the trust shall be invested in a manner that will
10 allow withdrawals as provided in subsection (g). The trustee
11 shall be a person whose trust activities are examined and
12 regulated by a State or Federal agency. The trustee may resign
13 only after giving 120 days' notice to the department and after
14 the appointment of a new trustee.

15 (f) Trust agreement.--The provisions of the trust agreement
16 shall be consistent with the requirements of this section and
17 shall be provided by the municipality or municipal authority on
18 a form prepared and approved by the department. The trust
19 agreement shall be accompanied by a formal certification of
20 acknowledgment.

21 (g) Withdrawal of funds.--The trustee may release moneys
22 from the trust only upon written request of the municipality or
23 municipal authority and upon prior written approval by the
24 department. Such request shall include the proposed amount and
25 purpose of the withdrawal and a copy of the department's written
26 approval of the expenditure. A copy of the request shall be
27 provided to the host municipality. A copy of any withdrawal
28 document prepared by the trustee shall be provided to the
29 department and to the host municipality. No withdrawal from this
30 trust may be made until after closure of the landfill.

1 (h) Abandonment of trust.--If the department certifies to
2 the trustee that the municipality or municipal authority has
3 abandoned the operation of the landfill or has failed or refused
4 to comply with the requirements of the Solid Waste Management
5 Act or the regulations promulgated pursuant thereto in any
6 respect, the trustee shall forthwith pay the full amount of the
7 trust to the department. The department may not make such
8 certification unless it has given 30 days' written notice to the
9 municipality or municipal authority and the trustee of the
10 department's intent to do so.

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

15 (j) Surplus.--Except for trusts that have been abandoned as
16 provided in subsection (h), any moneys remaining in a trust
17 subsequent to final closure of a landfill under the Solid Waste
18 Management Act and the regulations promulgated pursuant thereto
19 shall, upon certification of final closure by the department, be
20 returned to the municipality or municipal authority.

21 (k) Duty under law.--Nothing in this section shall be
22 understood or construed to in any way relieve the municipality
23 or municipal authority of any duty or obligation imposed by this
24 act, the Solid Waste Management Act, any other act administered
25 by the department, the regulations promulgated pursuant thereto,
26 or the terms or conditions of any permit.

27 (l) Other remedies.--The remedies provided to the department
28 in this section are in addition to any other remedies provided
29 at law or in equity.

30 Section 1110. Independent evaluation of permit applications.

1 At the request of a host municipality, the department may
2 reimburse a host municipality for costs incurred for an
3 independent permit application review, by a professional
4 engineer who is licensed in this Commonwealth and who has
5 previous experience in preparing such permit applications, of an
6 application under the act of July 7, 1980 (P.L.380, No.97),
7 known as the Solid Waste Management Act, for a new municipal
8 waste landfill or resource recovery facility or that would
9 result in additional capacity for a municipal waste landfill or
10 resource recovery facility. Reimbursement shall not exceed
11 \$10,000 per complete application.

12 Section 1111. Protection of capacity.

13 ~~(a) New permits. A permit issued by the department under~~ <—
14 ~~the act of July 7, 1980 (P.L.380, No.97), known as the Solid~~
15 ~~Waste Management Act, for a new municipal waste landfill or~~
16 ~~resource recovery facility or that results in additional~~
17 ~~capacity for a municipal waste landfill or resource recovery~~
18 ~~facility shall include a permit condition setting forth the~~
19 ~~weight or volume of municipal waste generated within the host~~
20 ~~county that the operator shall allow to be delivered for~~
21 ~~disposal or processing at the facility for a specified period.~~

22 ~~(b) Existing permits. Within six months after the effective~~
23 ~~date of this act, the department shall modify each municipal~~
24 ~~waste landfill and resource recovery facility permit issued~~
25 ~~under the Solid Waste Management Act before the effective date~~
26 ~~of this act. The permit modification shall consist of a permit~~
27 ~~condition setting forth the weight or volume of municipal waste~~
28 ~~generated within the host county that the operator shall allow~~
29 ~~to be delivered to the facility for disposal or processing at~~
30 ~~the facility for a specified period.~~

1 (A) PERMIT CONDITION.--THE FOLLOWING PERMITS ISSUED BY THE
 2 DEPARTMENT UNDER THE ACT OF JULY 7, 1980 (P.L.380, NO.97), KNOWN
 3 AS THE SOLID WASTE MANAGEMENT ACT, SHALL INCLUDE A PERMIT
 4 CONDITION, IF PROVIDED PURSUANT TO THIS SECTION WHICH REQUIRE
 5 COMPLIANCE WITH AN AGREEMENT OR ARBITRATION AWARD, SETTING FORTH
 6 THE WEIGHT OR VOLUME OF MUNICIPAL WASTE GENERATED WITHIN THE
 7 COUNTY AND MUNICIPALITY, THE OPERATOR SHALL ALLOW AND THE RATES,
 8 TERMS OF CONDITIONS WITH WHICH MUNICIPAL WASTE IS TO BE
 9 DELIVERED FOR DISPOSAL OR PROCESSING AT THE FACILITY FOR A
 10 SPECIFIED PERIOD:

11 (1) A PERMIT FOR A NEW MUNICIPAL WASTE LANDFILL OR
 12 RESOURCE RECOVERY FACILITY.

13 (2) A PERMIT THAT RESULTS IN ADDITIONAL CAPACITY FOR A
 14 MUNICIPAL WASTE LANDFILL OR RESOURCE RECOVERY FACILITY.

15 (3) IN THE CASE OF AN EXISTING FACILITY, A PERMIT
 16 MODIFICATION THAT RESULTS IN AN INCREASE IN THE AVERAGE OR
 17 MAXIMUM DAILY VOLUME OF WASTE THAT MAY BE RECEIVED FOR
 18 PROCESSING OR DISPOSAL AT THE FACILITY.

19 (B) DETERMINATION.--THE PERMIT CONDITION SHALL BE DETERMINED
 20 IN THE FOLLOWING MANNER:

21 (1) THE APPLICANT SHALL NOTIFY THE HOST COUNTY AND HOST
 22 MUNICIPALITY UPON FILING AN APPLICATION FOR PERMIT PURSUANT
 23 TO SUBSECTION (A). WITHIN 60 DAYS AFTER RECEIVING WRITTEN
 24 NOTICE FROM THE APPLICANT THAT AN APPLICATION HAS BEEN FILED
 25 WITH THE DEPARTMENT, THE HOST COUNTY AND HOST MUNICIPALITY
 26 SHALL PROVIDE WRITTEN NOTICE TO THE APPLICANT AND THE
 27 DEPARTMENT IF IT INTENDS TO NEGOTIATE WITH THE APPLICANT. IF
 28 THE HOST COUNTY AND HOST MUNICIPALITY DOES NOT PROVIDE SUCH
 29 NOTICE, AND IF THE PERMIT IS ISSUED, THE PERMIT CONDITION
 30 SHALL STATE THAT NO WASTE CAPACITY IS RESERVED FOR THE HOST

1 COUNTY AND HOST MUNICIPALITY. THE NEGOTIATION PERIOD SHALL
2 COMMENCE UPON THE DATE OF RECEIPT OF THE WRITTEN NOTICE TO
3 THE APPLICANT FROM THE HOST COUNTY AND HOST MUNICIPALITY AND
4 SHALL CONTINUE FOR 30 DAYS. THE ISSUES TO BE CONSIDERED IN
5 NEGOTIATIONS SHALL INCLUDE, BUT NOT BE LIMITED TO, THE WEIGHT
6 OR VOLUME OF CAPACITY RESERVED TO A HOST COUNTY AND HOST
7 MUNICIPALITY AND AN INCREASE IN THE AVERAGE VOLUME OF WASTE
8 IN AN AMOUNT UP TO THE AMOUNT OF CAPACITY SET ASIDE FOR
9 MUNICIPAL WASTE GENERATED WITHIN THE HOST COUNTY AND HOST
10 MUNICIPALITY.

11 (2) IF THE HOST COUNTY AND HOST MUNICIPALITY AND THE
12 APPLICANT AGREE TO A WEIGHT OR VOLUME OF WASTE CAPACITY TO BE
13 RESERVED FOR THE HOST COUNTY AND HOST MUNICIPALITY, THEY
14 SHALL NOTIFY THE DEPARTMENT IN WRITING.

15 (3) IF THE HOST COUNTY AND HOST MUNICIPALITY AND THE
16 APPLICANT HAVE FAILED TO REACH AN AGREEMENT WITHIN THE 30-DAY
17 NEGOTIATION PERIOD THEN EITHER PARTY TO THE DISPUTE, AFTER
18 WRITTEN NOTICE TO THE OTHER PARTY CONTAINING SPECIFICATIONS
19 OF THE ISSUE OR ISSUES IN DISPUTE, MAY REQUEST THE
20 APPOINTMENT OF A BOARD OF ARBITRATION PURSUANT TO PARAGRAPH
21 (7). SUCH NOTICE SHALL BE MADE IN WRITING TO THE OTHER PARTY
22 WITHIN FIVE DAYS OF THE END OF THE NEGOTIATION PERIOD. IN
23 MAKING THE DECISION AS TO THE TERMS OF THE AGREEMENT, THE
24 BOARD SHALL CONSIDER AMONG OTHER THINGS THE AVAILABILITY OF
25 DISPOSAL ALTERNATIVES TO THE HOST COUNTY AND HOST
26 MUNICIPALITY. SHOULD THE HOST COUNTY AND HOST MUNICIPALITY
27 FAIL TO REQUEST ARBITRATION WITHIN FIVE DAYS, THEN THE PERMIT
28 CONDITION SHALL STATE THAT NO WASTE CAPACITY IS RESERVED FOR
29 THE HOST COUNTY AND HOST MUNICIPALITY.

30 (4) IF THE COUNTY AND MUNICIPALITY ELECT TO NEGOTIATE

1 WITH THE APPLICANT PURSUANT TO THIS SECTION, ANY AGREEMENT OR
2 ARBITRATION AWARD SHALL PROVIDE, UNLESS THE HOST COUNTY AND
3 HOST MUNICIPALITY AND APPLICANT AGREE OTHERWISE, THAT THE
4 COUNTY AND MUNICIPALITY SHALL UTILIZE THE CAPACITY RESERVED
5 IN AN AGREED UPON TIME FRAME.

6 (5) SHOULD THE APPLICANT AND THE HOST COUNTY AND HOST
7 MUNICIPALITY BE UNABLE TO AGREE TO THE TERMS OF THE AGREEMENT
8 GOVERNING SUCH UTILIZATION WITHIN 30 DAYS OF AN AGREEMENT OR
9 AN ARBITRATION AWARD AS TO THE WEIGHT OR VOLUME WASTE
10 CAPACITY TO BE RESERVED IN THE FACILITY, EITHER PARTY CAN
11 REQUEST THE APPOINTMENT OF AN ARBITRATION BOARD PURSUANT TO
12 PARAGRAPH (7). IN MAKING THE DECISION AS TO THE TERMS OF THE
13 AGREEMENT FOR UTILIZATION, THE BOARD SHALL CONSIDER, AMONG
14 OTHER THINGS, THE WEIGHT OR VOLUME OF CAPACITY RESERVED TO A
15 HOST COUNTY AND HOST MUNICIPALITY UNDER ANY PERMIT ISSUED
16 PURSUANT TO THIS SECTION, AN INCREASE IN THE AVERAGE VOLUME
17 OF WASTE IN AN AMOUNT UP TO THE AMOUNT OF CAPACITY SET ASIDE
18 FOR MUNICIPAL WASTE GENERATED WITHIN THE HOST COUNTY AND HOST
19 MUNICIPALITY, THE FINANCIAL VIABILITY OF THE FACILITY, THE
20 TERMS, INCLUDING THE RATES PER TON FOR DISPOSAL, OF THE
21 CONTRACTS ENTERED INTO BY THE APPLICANT FOR USE OF THE
22 FACILITY BY OTHER THAN THE HOST COUNTY AND HOST MUNICIPALITY.

23 (6) EXCEPT AS PROVIDED IN PARAGRAPH (1), THE DEPARTMENT
24 SHALL NOT ISSUE ANY PERMIT UNDER THIS SECTION UNLESS IT HAS
25 RECEIVED WRITTEN NOTICE OF AN AGREEMENT BETWEEN THE APPLICANT
26 AND HOST COUNTY AND HOST MUNICIPALITY AS TO THE WEIGHT OR
27 VOLUME OF CAPACITY TO BE RESERVED FOR THE HOST COUNTY AND
28 HOST MUNICIPALITY AS PROVIDED IN PARAGRAPH (2) OR UNLESS IT
29 HAS RECEIVED WRITTEN NOTICE THAT A BOARD OF ARBITRATION
30 APPOINTED PURSUANT TO PARAGRAPH (7) HAS SETTLED ALL ISSUES IN

1 DISPUTE BETWEEN THE HOST COUNTY AND HOST MUNICIPALITY AND THE
2 APPLICANT. THE DEPARTMENT SHALL INCLUDE A PERMIT CONDITION
3 RESERVING SUCH CAPACITY PROVIDED FOR IN SUCH AGREEMENTS OR
4 ARBITRATION AWARDS.

5 (7) THE BOARD OF ARBITRATION SHALL BE COMPOSED OF THREE
6 PERSONS, ONE APPOINTED BY THE APPLICANT, ONE APPOINTED BY THE
7 HOST COUNTY AND HOST MUNICIPALITY AND A THIRD MEMBER TO BE
8 AGREED UPON BY THE APPLICANT AND SUCH HOST COUNTY AND HOST
9 MUNICIPALITY. THE MEMBERS OF THE BOARD REPRESENTING THE
10 APPLICANT AND THE HOST COUNTY AND HOST MUNICIPALITY SHALL BE
11 NAMED WITHIN FIVE DAYS FROM THE DATE OF THE REQUEST FOR THE
12 APPOINTMENT OF SUCH BOARD. IF, AFTER A PERIOD OF TEN DAYS
13 FROM THE DATE OF THE APPOINTMENT OF THE TWO ARBITRATORS
14 APPOINTED BY THE HOST COUNTY AND HOST MUNICIPALITY AND THE
15 APPLICANT, THE THIRD ARBITRATOR HAS NOT BEEN SELECTED BY
16 THEM, THEN EITHER ARBITRATOR MAY REQUEST THE AMERICAN
17 ARBITRATION ASSOCIATION, OR ITS SUCCESSOR IN FUNCTION, TO
18 FURNISH A LIST OF THREE MEMBERS OF SAID ASSOCIATION WHO ARE
19 RESIDENTS OF PENNSYLVANIA FROM WHICH THE THIRD ARBITRATOR
20 SHALL BE SELECTED. THE ARBITRATOR APPOINTED BY THE APPLICANT
21 SHALL ELIMINATE ONE NAME FROM THE LIST WITHIN FIVE DAYS AFTER
22 PUBLICATION OF THE LIST, FOLLOWING WHICH THE ARBITRATOR
23 APPOINTED BY THE HOST COUNTY AND HOST MUNICIPALITY SHALL
24 ELIMINATE ONE NAME FROM THE LIST WITHIN FIVE DAYS THEREAFTER.
25 THE INDIVIDUAL WHOSE NAME REMAINS ON THE LIST SHALL BE THE
26 THIRD ARBITRATOR AND SHALL ACT AS CHAIRMAN OF THE BOARD OF
27 ARBITRATION. THE BOARD OF ARBITRATION THUS ESTABLISHED SHALL
28 COMMENCE THE ARBITRATION PROCEEDINGS WITHIN TEN DAYS AFTER
29 THE THIRD ARBITRATOR IS SELECTED AND SHALL MAKE ITS
30 DETERMINATION WITHIN 30 DAYS AFTER THE APPOINTMENT OF THE

1 THIRD ARBITRATOR.

2 (c) Department.--The department may take any action
3 authorized by statute that the department deems necessary to
4 ensure that operators of municipal waste landfills and resource
5 recovery facilities give priority to the disposal or processing
6 of municipal waste generated within the host county.

7 (D) CONSULTATION.--THE HOST COUNTY SHALL CONSULT WITH THE
8 HOST MUNICIPALITY AS PART OF THE PROCEDURE SET FORTH UNDER THIS
9 SECTION. <—

10 SECTION 1112. WASTE VOLUMES.

11 (A) GENERAL RULE.--NO PERSON OR MUNICIPALITY OPERATING A
12 MUNICIPAL WASTE LANDFILL MAY RECEIVE SOLID WASTE AT THE LANDFILL
13 IN EXCESS OF THE MAXIMUM AND AVERAGE DAILY VOLUME APPROVED IN
14 THE PERMIT BY THE DEPARTMENT UNDER THE SOLID WASTE MANAGEMENT
15 ACT, OR AUTHORIZED BY ANY REGULATION PROMULGATED PURSUANT TO THE
16 SOLID WASTE MANAGEMENT ACT.

17 (B) NEW PERMITS.--

18 (1) A PERMIT ISSUED BY THE DEPARTMENT UNDER THE SOLID
19 WASTE MANAGEMENT ACT FOR A NEW MUNICIPAL WASTE LANDFILL, OR
20 THAT RESULTS IN ADDITIONAL CAPACITY FOR A MUNICIPAL WASTE
21 LANDFILL, SHALL INCLUDE A PERMIT CONDITION SETTING FORTH THE
22 MAXIMUM AND AVERAGE VOLUMES OF SOLID WASTE THAT MAY BE
23 RECEIVED ON A DAILY BASIS.

24 (2) THE DEPARTMENT MAY NOT APPROVE ANY PERMIT
25 APPLICATION FOR A NEW MUNICIPAL WASTE LANDFILL, OR THAT WOULD
26 RESULT IN ADDITIONAL CAPACITY FOR A MUNICIPAL WASTE LANDFILL,
27 UNLESS THE APPLICANT DEMONSTRATES ALL OF THE FOLLOWING TO THE
28 DEPARTMENT'S SATISFACTION:

29 (I) THAT THE PROPOSED MAXIMUM AND AVERAGE DAILY
30 WASTE VOLUMES WILL NOT CAUSE OR CONTRIBUTE TO ANY

1 VIOLATIONS OF THIS ACT; THE SOLID WASTE MANAGEMENT ACT;
2 ANY OTHER STATUTE ADMINISTERED BY THE DEPARTMENT; OR ANY
3 REGULATION PROMULGATED PURSUANT TO THIS ACT, THE SOLID
4 WASTE MANAGEMENT ACT OR ANY OTHER STATUTE ADMINISTERED BY
5 THE DEPARTMENT.

6 (II) THAT THE PROPOSED MAXIMUM AND AVERAGE DAILY
7 WASTE VOLUMES WILL NOT CAUSE OR CONTRIBUTE TO ANY PUBLIC
8 NUISANCE FROM ODORS, NOISES, DUST, TRUCK TRAFFIC OR OTHER
9 CAUSES.

10 (III) THAT THE PROPOSED MAXIMUM AND AVERAGE DAILY
11 WASTE VOLUMES WILL NOT INTERFERE WITH, OR CONTRADICT ANY
12 PROVISION CONTAINED IN, ANY APPLICABLE COUNTY SOLID WASTE
13 MANAGEMENT PLAN THAT HAS BEEN APPROVED BY THE DEPARTMENT.

14 (C) EXISTING PERMITS.--WITHIN SIX MONTHS AFTER THE EFFECTIVE
15 DATE OF THIS ACT, THE DEPARTMENT SHALL REVIEW THE DAILY VOLUME
16 LIMITS IN EACH MUNICIPAL WASTE LANDFILL PERMIT ISSUED UNDER THE
17 SOLID WASTE MANAGEMENT ACT BEFORE THE EFFECTIVE DATE OF THIS ACT
18 AND, THEREAFTER, TAKE ANY ACTION THAT IT DEEMS NECESSARY TO
19 CARRY OUT THE PROVISIONS AND PURPOSES OF THIS ACT AND THE SOLID
20 WASTE MANAGEMENT ACT.

21 (D) PERMIT MODIFICATION.--THE DEPARTMENT MAY NOT APPROVE ANY
22 PERMIT MODIFICATION REQUEST UNDER THE SOLID WASTE MANAGEMENT ACT
23 TO INCREASE DAILY VOLUMES OF SOLID WASTE RECEIVED AT A MUNICIPAL
24 WASTE LANDFILL UNLESS THE APPLICANT DEMONSTRATES ALL OF THE
25 FOLLOWING TO THE DEPARTMENT'S SATISFACTION:

26 (1) INCREASED DAILY VOLUMES WILL NOT CAUSE OR CONTRIBUTE
27 TO ANY VIOLATIONS OF THIS ACT; THE SOLID WASTE MANAGEMENT
28 ACT; ANY OTHER STATUTE ADMINISTERED BY THE DEPARTMENT; OR ANY
29 REGULATIONS PROMULGATED PURSUANT TO THIS ACT, THE SOLID WASTE
30 MANAGEMENT ACT OR ANY OTHER STATUTE ADMINISTERED BY THE

1 DEPARTMENT.

2 (2) INCREASED DAILY VOLUMES WILL NOT CAUSE OR CONTRIBUTE
3 TO ANY PUBLIC NUISANCE FROM ODORS, NOISE, DUST, TRUCK TRAFFIC
4 OR OTHER CAUSES.

5 (3) INCREASED DAILY VOLUMES WILL NOT REDUCE THE
6 REMAINING LIFETIME OF A LANDFILL, BASED ON ITS REMAINING
7 PERMITTED CAPACITY, TO LESS THAN THREE YEARS FROM THE DATE OF
8 ISSUANCE OF THE PERMIT MODIFICATION.

9 (4) INCREASED DAILY VOLUMES WILL NOT INTERFERE WITH, OR
10 CONTRADICT ANY PROVISION CONTAINED IN, AN APPLICABLE COUNTY
11 SOLID WASTE MANAGEMENT PLAN THAT HAS BEEN APPROVED BY THE
12 DEPARTMENT.

13 (E) EMERGENCIES.--

14 (1) NOTWITHSTANDING ANY PROVISION OF LAW TO THE
15 CONTRARY, THE DEPARTMENT SHALL IMMEDIATELY MODIFY A MUNICIPAL
16 WASTE LANDFILL OR RESOURCE RECOVERY FACILITY PERMIT TO ALLOW
17 INCREASED DAILY WASTE VOLUMES OR INCREASED MONTHLY WASTE
18 VOLUMES, OR BOTH, WHEN THE DEPARTMENT FINDS, IN WRITING, THAT
19 THIS ACTION IS NECESSARY TO PREVENT A PUBLIC HEALTH OR
20 ENVIRONMENTAL EMERGENCY AND PUBLISHES PUBLIC NOTICE OF THE
21 FINDING. ACTION UNDER THIS PARAGRAPH SHALL BE TAKEN PURSUANT
22 TO SECTION 503(E) OF THE SOLID WASTE MANAGEMENT ACT.

23 (2) WHEN THE DEPARTMENT DETERMINES THAT THE REMAINING
24 LIFETIME OF ANY MUNICIPAL WASTE LANDFILL, BASED ON ITS
25 REMAINING PERMITTED CAPACITY, IS THREE YEARS OR LESS, THE
26 LANDFILL OPERATOR SHALL GIVE WRITTEN NOTICE OF THE FINDING TO
27 ALL MUNICIPALITIES THAT GENERATE MUNICIPAL WASTE RECEIVED AT
28 THE LANDFILL. NOTICE SHALL BE GIVEN ANNUALLY THEREAFTER UNTIL
29 CLOSURE OF THE LANDFILL OR UNTIL THE DEPARTMENT HAS ISSUED A
30 PERMIT UNDER THE SOLID WASTE MANAGEMENT ACT EXPANDING THE

1 CAPACITY OF THE LANDFILL TO MORE THAN THREE YEARS. THIS ACT
2 SHALL NOT BE UNDERSTOOD OR CONSTRUED TO IMPOSE ANY OBLIGATION
3 ON THE DEPARTMENT TO FIND ALTERNATIVE PROCESSING OR DISPOSAL
4 CAPACITY.

5 (F) ENFORCEMENT.--IN ADDITION TO ANY OTHER REMEDIES PROVIDED
6 AT LAW OR IN EQUITY, THE DEPARTMENT SHALL ASSESS A CIVIL PENALTY
7 OF AT LEAST \$100 PER TON FOR EACH TON OF WASTE RECEIVED AT ANY
8 MUNICIPAL WASTE LANDFILL IN EXCESS OF THE DAILY OR MONTHLY
9 VOLUME LIMITATIONS SET FORTH IN ITS PERMIT. EXCEPT FOR THE
10 MINIMUM AMOUNT, THE PENALTY SHALL BE ASSESSED AND COLLECTED IN
11 THE MANNER SET FORTH IN SECTION 1704. EACH TON OF WASTE IN
12 EXCESS OF THE PERMIT SHALL BE CONSIDERED A SEPARATE VIOLATION OF
13 THIS ACT.

14 (G) PREFERENCE TO HOST COUNTY WASTE.--PURSUANT TO SECTION
15 1111(A), A FACILITY WILL GIVE A PREFERENCE TO WASTE GENERATED
16 WITHIN THE HOST COUNTY WHEN THE FACILITY RECEIVES AN INCREASE IN
17 ITS AVERAGE DAILY VOLUME.

18 CHAPTER 13

19 HOST MUNICIPALITY AND COUNTY BENEFIT FEE <—

20 Section 1301. Host municipality benefit fee.

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

1 COUNTY, the fee shall be apportioned among them according to the
2 percentage of the permitted area located in each municipality
3 AND COUNTY. <—

4 (b) Amount.--The fee is ~~\$1~~ \$1.50 TO THE HOST MUNICIPALITY <—
5 AND \$1.50 TO THE COUNTY per ton of weighed solid waste or ~~\$1~~ per <—
6 three cubic yards of volume-measured solid waste for all solid
7 waste received at a landfill or facility.

8 (c) Municipal options.--Nothing in this section or section
9 1302 shall prevent a host municipality AND COUNTY from receiving <—
10 a higher fee or receiving the fee in a different form or at
11 different times than provided in this section and section 1302,
12 if the host municipality AND COUNTY and the operator of the <—
13 municipal waste landfill or resource recovery facility agree in
14 writing.

15 SECTION 1302. HOST COUNTY BENEFIT FEE. <—

16 (A) IMPOSITION.--THERE IS IMPOSED A HOST COUNTY BENEFIT FEE
17 UPON THE OPERATOR OF EACH MUNICIPAL WASTE LANDFILL OR RESOURCE
18 RECOVERY FACILITY THAT RECEIVES A NEW PERMIT OR PERMIT THAT
19 RESULTS IN ADDITIONAL CAPACITY FROM THE DEPARTMENT UNDER THE
20 SOLID WASTE MANAGEMENT ACT AFTER THE EFFECTIVE DATE OF THIS ACT.
21 THE FEE SHALL BE PAID TO THE HOST COUNTY. IF THE HOST COUNTY
22 OWNS OR OPERATES THE LANDFILL OR FACILITY, THE FEE SHALL NOT BE
23 IMPOSED FOR WASTE GENERATED WITHIN SUCH COUNTY. IF THE LANDFILL
24 OR FACILITY IS LOCATED WITHIN MORE THAN ONE HOST COUNTY, THE FEE
25 SHALL BE APPORTIONED AMONG THEM ACCORDING TO THE PERCENTAGE OF
26 THE PERMITTED AREA LOCATED IN EACH COUNTY.

27 (B) AMOUNT.--THE FEE IS 25¢ PER TON OF WEIGHED SOLID WASTE
28 OR 25¢ PER THREE CUBIC YARDS OF VOLUME-MEASURED SOLID WASTE FOR
29 ALL SOLID WASTE RECEIVED AT THE LANDFILL OR FACILITY.

30 (C) USE.--THE HOST COUNTY SHALL USE THE FUNDS COLLECTED

1 PURSUANT TO THIS SECTION TO OFFSET ANY ENVIRONMENTAL DEGRADATION
2 OR TRANSPORTATION-RELATED COSTS THE COUNTY, OR MUNICIPALITIES
3 OTHER THAN THE HOST MUNICIPALITY IN THE COUNTY, MIGHT OTHERWISE
4 BEAR IN CONNECTION WITH THE OPERATION OF THE FACILITY.

5 (D) COUNTY OPTIONS.--NOTHING IN THIS CHAPTER SHALL PREVENT A
6 HOST COUNTY FROM RECEIVING THE FEE IN A DIFFERENT FORM OR AT
7 DIFFERENT TIMES THAN PROVIDED IN THIS CHAPTER, IF THE HOST
8 COUNTY AND THE OPERATOR OF THE MUNICIPAL WASTE LANDFILL OR
9 RESOURCE RECOVERY FACILITY AGREE IN WRITING.

10 Section ~~1302~~ 1303. Form and timing of host municipality benefit <—
11 fee payment.

12 (a) Quarterly payment.--Each operator subject to ~~section~~ <—
13 ~~1301~~ SECTIONS 1301 AND 1302 shall make the host municipality <—
14 benefit fee payment quarterly. The fee shall be paid on or
15 before the twentieth day of April, July, October and January for
16 the three months ending the last day of March, June, September
17 and December.

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

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

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

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

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

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

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

19 Section ~~1303~~ 1304. Collection and enforcement of fee. ←

20 (a) Interest.--If an operator fails to make a timely payment
21 of the host municipality benefit fee OR HOST COUNTY BENEFIT FEE, ←
22 the operator shall pay interest on the unpaid amount due at the
23 rate established pursuant section 806 of the act of April 9,
24 1929 (P.L.343, No.176), known as The Fiscal Code, from the last
25 day for timely payment to the date paid.

26 (b) Additional penalty.--In addition to the interest
27 provided in subsection (a), if an operator fails to make timely
28 payment of the host municipality benefit fee AND HOST COUNTY ←
29 BENEFIT FEE, there shall be added to the amount of fee actually
30 due 5% of the amount of such fee, if the failure to file a

1 timely payment is for not more than one month, with an
2 additional 5% for each additional month, or fraction thereof,
3 during which such failure continues, not exceeding 25% in the
4 aggregate.

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

16 (d) Constructive trust.--All host municipality benefit fees
17 AND HOST COUNTY BENEFIT FEES collected by an operator and held <—
18 by such operator prior to payment to the host municipality OR <—
19 HOST COUNTY shall constitute a trust fund for the host
20 municipality OR HOST COUNTY, RESPECTIVELY, and such trust shall <—
21 be enforceable against such operator, its representatives and
22 any person receiving any part of such fund without consideration
23 or with knowledge that the operator is committing a breach of
24 the trust. However, any person receiving payment of lawful
25 obligation of the operator from such fund shall be presumed to
26 have received the same in good faith and without any knowledge
27 of the breach of trust.

28 (e) Manner of collection.--The amount due and owing under
29 section 1301 OR 1302 shall be collectible by the host <—
30 municipality OR HOST COUNTY, RESPECTIVELY, in the manner <—

1 provided in section 1709.

2 (f) Remedies cumulative.--The remedies provided to host
3 municipalities AND HOST COUNTIES in this section are in addition <—
4 to any other remedies provided at law or in equity.

5 Section ~~1304~~ 1305. Records. <—

6 Each operator that is required to pay the ~~Host Municipality~~ <—
7 ~~Benefit Fee~~ HOST MUNICIPALITY BENEFIT FEE OR HOST COUNTY BENEFIT <—
8 FEE shall keep daily records of all deliveries of solid waste to
9 the landfill or facility, as required by the host municipality,
10 including, but not limited to, the name and address of the
11 hauler, the source of the waste, the kind of waste received and
12 the weight or volume of the waste. Such records shall be
13 maintained in Pennsylvania by the operator for no less than five
14 years and shall be made available to the host municipality AND <—
15 HOST COUNTY for inspection upon request.

16 Section ~~1305~~ 1306. Surcharge. <—

17 The provisions of any law to the contrary notwithstanding,
18 the operator of any municipal waste landfill or resource
19 recovery facility subject to section 1301 OR 1302 may collect <—
20 the ~~host municipality benefit fee~~ FEES as a surcharge on any fee <—
21 schedule established pursuant to law, ordinance, resolution or
22 contract for solid waste disposal or processing operations at
23 the landfill or facility. In addition, any person who collects
24 or transports solid waste ~~subject to the host municipality~~ <—
25 ~~benefit fee~~ to a municipal waste landfill or resource recovery
26 facility subject to ~~section 1301~~ SECTIONS 1301 AND 1302 may <—
27 impose a surcharge on any fee schedule established pursuant to
28 law, ordinance, resolution or contract for the collection or
29 transportation of solid waste to the landfill or facility. The
30 surcharge shall be equal to the increase in processing or

1 disposal fees at the landfill or facility attributable to the
2 host municipality benefit fee AND HOST COUNTY BENEFIT FEE. <—
3 However, interest and penalties on the fee under section 1303(a)
4 and (b) may not be collected as a surcharge.

5 SECTION 1307. PAYMENT OF RESIDENTIAL TAXES. <—

6 WITH THE APPROVAL OF THE DEPARTMENT, THE OPERATOR SHALL
7 ESTABLISH A REASONABLE SURCHARGE ON RATES CHARGED FOR WASTE
8 DISPOSED AT THE REGIONAL FACILITY TO BE PAID TO THE HOST
9 MUNICIPALITY, HOST COUNTY AND HOST SCHOOL DISTRICT FOR THE
10 PAYMENT OF ALL MUNICIPAL, COUNTY AND SCHOOL DISTRICT PROPERTY
11 TAXES FOR INDIVIDUALS WHOSE PRIMARY RESIDENCE IS WITHIN ONE-HALF
12 MILE OF THE PERMIT AREA OR IS CONTIGUOUS TO THE PROPERTY OWNED
13 BY THE OPERATOR. THE OPERATOR SHALL CHOOSE WHICH METHOD OF
14 REIMBURSEMENT TO USE. FOR THE PURPOSE OF THIS SECTION, A PRIMARY
15 RESIDENCE IS THE PROPERTY IN WHICH THE OWNER RESIDES FOR AT
16 LEAST NINE MONTHS OF EACH YEAR PERIOD.

17 CHAPTER 15

18 RECYCLING AND WASTE REDUCTION

19 Section 1501. Municipal implementation of recycling programs.

20 (a) Large population.--Within ~~two~~ THREE years after the <—
21 effective date of this act, each municipality other than a
22 county that has a population of 10,000 or more people shall
23 establish and implement a source separation and collection
24 program for recyclable materials in accordance with this
25 section. Population shall be determined by the most recent
26 decennial census by the Bureau of the Census of the United
27 States Department of Commerce.

28 (b) Small population.--Within ~~three~~ FOUR years after the <—
29 effective date of this act, each municipality other than a
30 county that has a population of more than 5,000 people but less

1 than 10,000 people, and which has a population density of more
2 than 300 people per square mile, shall establish and implement a
3 source separation and collection program for recyclable
4 materials in accordance with this section. Population shall be
5 determined based on the most recent decennial census by the
6 Bureau of the Census of the United States Department of
7 Commerce.

8 (c) Contents.--The source separation and collection program
9 shall include, at a minimum, the following elements:

10 (1) An ordinance or regulation adopted by the governing
11 body of the ~~county~~ or municipality, requiring all of the ←
12 following:

13 (i) Persons to separate at least three materials
14 deemed appropriate by the municipality from other
15 municipal waste generated at their homes, apartments and
16 other residential establishments and to store such
17 material until collection. The three materials shall be
18 chosen from the following: clear glass OR colored glass, ←
19 aluminum, steel and bimetallic cans, high-grade office
20 paper, newsprint, corrugated paper and plastics.

21 (ii) Persons to separate leaf waste from other
22 municipal waste generated at their homes, apartments and
23 other residential establishments until collection unless
24 those persons have otherwise provided for the composting
25 of leaf waste. THE GOVERNING BODY OF A MUNICIPALITY SHALL ←
26 ALLOW AN OWNER, LANDLORD OR AGENT OF AN OWNER OR LANDLORD
27 OF MULTIFAMILY RENTAL HOUSING PROPERTIES WITH FOUR OR
28 MORE UNITS TO COMPLY WITH ITS RESPONSIBILITIES UNDER THIS
29 SECTION BY ESTABLISHING A COLLECTION SYSTEM FOR
30 RECYCLABLE MATERIALS AT EACH PROPERTY. THE COLLECTION

1 SYSTEM MUST INCLUDE SUITABLE CONTAINERS FOR COLLECTING
2 AND SORTING MATERIALS, EASILY ACCESSIBLE LOCATIONS FOR
3 THE CONTAINERS, AND WRITTEN INSTRUCTIONS TO THE OCCUPANTS
4 CONCERNING THE USE AND AVAILABILITY OF THE COLLECTION
5 SYSTEM. OWNERS, LANDLORDS AND AGENTS OF OWNERS OR
6 LANDLORDS WHO COMPLY WITH THIS ACT SHALL NOT BE LIABLE
7 FOR THE NONCOMPLIANCE OF OCCUPANTS OF THEIR BUILDINGS.

8 (iii) Persons to separate high grade office paper,
9 aluminum, corrugated paper and leaf waste and other
10 material deemed appropriate by the municipality generated
11 at commercial, municipal or institutional establishments
12 and from community activities and to store the material
13 until collection. The governing body of a municipality
14 shall exempt persons occupying commercial, institutional
15 and municipal ~~premises~~ ESTABLISHMENTS within its ←
16 municipal boundaries from the ~~source-separation~~ ←
17 requirements of the ordinance or regulation if those
18 persons have otherwise provided for the recycling of
19 materials they are required by this section to recycle.
20 To be eligible for an exemption under this subparagraph,
21 a commercial or institutional solid waste generator must
22 annually provide written documentation to the
23 municipality of the total number of tons recycled.

24 (2) A scheduled day, at least once per month, during
25 which separated materials are to be placed at the curbside or
26 a similar location for collection.

27 (3) A system, including trucks and related equipment,
28 that collects recyclable materials from the curbside or
29 similar locations at least once per month from each residence
30 or other person generating municipal waste in the county or

1 municipality. THE MUNICIPALITY, OTHER THAN A COUNTY, SHALL ←
2 EXPLAIN HOW THE SYSTEM WILL OPERATE, THE DATES OF COLLECTION,
3 THE RESPONSIBILITIES OF PERSONS WITHIN THE MUNICIPALITY AND
4 INCENTIVES AND PENALTIES.

5 (4) Provisions to ensure compliance with the ordinance,
6 including incentives and penalties.

7 (5) Provisions for the recycling of collected materials.

8 (d) Notice.--Each municipality subject to this section shall ←
9 ESTABLISH A COMPREHENSIVE AND SUSTAINED PUBLIC INFORMATION AND
10 EDUCATION PROGRAM CONCERNING RECYCLING PROGRAM FEATURES AND
11 REQUIREMENTS. AS A PART OF THIS PROGRAM, EACH MUNICIPALITY
12 SHALL, at least 30 days prior to the initiation of the recycling
13 program and at least once every six months thereafter, notify
14 all persons occupying residential, commercial, institutional and
15 municipal premises within its boundaries of the requirements of
16 the ordinance. The governing body of a municipality may, in its
17 discretion as it deems necessary and appropriate, place an
18 advertisement in a newspaper circulating in the municipality,
19 post a notice in public places where public notices are
20 customarily posted, including a notice with other official
21 notifications periodically mailed to residential taxpayers or
22 utilize any combination of the foregoing.

23 (e) Agreements.--A municipality may enter into a written
24 agreement with other persons, including persons transporting
25 municipal waste on the effective date of this act, pursuant to
26 which the persons undertake to fulfill some or all of the
27 municipality's responsibilities under this section. A person who
28 enters an agreement under this subsection shall be responsible
29 with the municipality for implementation of this section.

30 (f) Preference.--In implementing its recycling program, a

1 municipality shall accord consideration for the collection,
2 marketing and disposition of recyclable materials to persons
3 engaged in the business of recycling on the effective date of
4 this act, whether or not the persons were operating for profit.

5 (G) RECYCLING BY OPERATOR.--AN OPERATOR OF A LANDFILL OR <—
6 RESOURCE RECOVERY FACILITY MAY CONTRACT WITH A MUNICIPALITY TO
7 PROVIDE RECYCLING SERVICES IN LIEU OF THE CURBSIDE RECYCLING
8 PROGRAM. THE CONTRACT MUST ENSURE THAT AT LEAST 25% OF THE WASTE
9 RECEIVED IS RECYCLED. THE ECONOMIC AND ENVIRONMENTAL IMPACT OF
10 THE PROPOSED TECHNOLOGY USED FOR THE RECYCLING SHALL RECEIVE
11 PRIOR APPROVAL FROM THE DEPARTMENT.

12 (H) EXEMPTION.--

13 (1) TWO YEARS AFTER A MUNICIPALITY IS REQUIRED BY THIS
14 SECTION TO ESTABLISH AND IMPLEMENT A MUNICIPAL RECYCLING
15 PROGRAM, IT MAY FILE WITH THE DEPARTMENT A WRITTEN REQUEST
16 FOR AN EXEMPTION FROM THIS SECTION.

17 (2) THE DEPARTMENT MAY NOT APPROVE A REQUEST FOR AN
18 EXEMPTION UNLESS THE MUNICIPALITY DEMONSTRATES ALL OF THE
19 FOLLOWING TO THE DEPARTMENT'S SATISFACTION:

20 (I) THE MUNICIPALITY HAS MADE TIMELY GRANT
21 APPLICATIONS TO THE DEPARTMENT UNDER SECTIONS 902 AND
22 904.

23 (II) FOR A PERIOD OF AT LEAST TWO YEARS, THE
24 MUNICIPALITY HAS EXERCISED ITS BEST EFFORTS TO IMPLEMENT
25 THE PROGRAM REQUIRED BY THIS SECTION.

26 (III) THE MUNICIPALITY HAS COLLECTED, TRANSPORTED,
27 PROCESSED AND MARKETED MATERIALS, OR HAS CONTRACTED FOR
28 THE COLLECTION, TRANSPORTATION, PROCESSING AND MARKETING
29 OF MATERIALS.

30 (IV) REASONABLE AND NECESSARY COSTS OF OPERATING THE

1 PROGRAM EXCEED INCOME FROM THE SALE OF USED OR COLLECTED
2 MATERIAL, AVOIDED COSTS OF MUNICIPAL WASTE PROCESSING OR
3 DISPOSAL, AND GRANT MONEY RECEIVED FROM THE DEPARTMENT
4 PURSUANT TO SECTIONS 902 AND 904.

5 (3) IF THE DEPARTMENT APPROVES A REQUEST, THE
6 MUNICIPALITY SHALL BE EXEMPT FROM THE REQUIREMENTS OF THIS
7 SECTION ON AND AFTER THE DATE OF THE DEPARTMENT'S APPROVAL.
8 HOWEVER, THE MUNICIPALITY SHALL IMMEDIATELY PAY TO THE
9 DEPARTMENT AN AMOUNT EQUAL TO THE DEPRECIATED VALUE OF ANY
10 CAPITAL EQUIPMENT, BUILDINGS, OR OTHER STRUCTURES OR
11 FACILITIES THAT WERE CONSTRUCTED OR OBTAINED THROUGH
12 DEPARTMENTAL GRANTS UNDER SECTIONS 902 AND 904.

13 Section 1502. Facilities operation and recycling.

14 (a) Leaf waste.--Two years after the effective date of this
15 act, no municipal waste landfill may accept for disposal, and no
16 resource recovery facility may accept for processing, other than
17 composting, ~~truckloads~~ LOADS composed primarily of leaf waste. ←

18 (b) Drop-off centers.--

19 (1) Two years after the effective date of this act, no
20 person may operate a municipal waste landfill, resource
21 recovery facility or transfer station unless the operator has
22 established at least one drop-off center for the collection
23 and sale of recyclable material, including, at a minimum,
24 clear glass, aluminum, high grade office paper and cardboard.
25 The center must be located at the facility or in a place that
26 is easily accessible to persons generating municipal waste
27 that is processed or disposed at the facility. Each drop-off
28 center must contain bins or containers where recyclable
29 materials may be placed and temporarily stored. If the
30 operation of the drop-off center requires attendants, the

1 center shall be open at least eight hours per week, including
2 four hours during evenings or weekends. A PERSON WHO DEPOSITS <—
3 NONRECYCLABLE MATERIAL IN A DROP-OFF CENTER ESTABLISHED UNDER
4 THIS SUBSECTION COMMITS A SUMMARY OFFENSE.

5 (2) Each operator shall, at least 30 days prior to the
6 initiation of the drop-off center program and at least once
7 every six months thereafter, notify all persons generating
8 municipal waste that is processed or disposed at the
9 facility. The operator shall place an advertisement in a
10 newspaper circulating in the municipality or provide notice
11 in another manner approved by the department.

12 (C) REMOVAL OF RECYCLABLE MATERIALS.--TWO YEARS AFTER THE <—
13 EFFECTIVE DATE OF THIS ACT, NO PERSON MAY OPERATE A RESOURCE
14 RECOVERY FACILITY UNLESS THE OPERATOR HAS DEVELOPED A PROCESS
15 FOR THE SORTING OF MUNICIPAL WASTE PRIOR TO INCINERATION AND FOR
16 THE REMOVAL TO THE GREATEST EXTENT POSSIBLE OF RECYCLABLE
17 MATERIALS INCLUDING, BUT NOT LIMITED TO, PLASTICS, HIGH GRADE
18 OFFICE PAPER, ALUMINUM, CLEAR GLASS, AND NEWSPAPER, FROM THE
19 WASTE TO BE INCINERATED. THE DEPARTMENT, BY REGULATION, SHALL
20 ESTABLISH STANDARDS AND CRITERIA FOR THE SORTING AND REMOVAL
21 PROCESS.

22 (D) REMOVAL OF HAZARDOUS MATERIALS.--TWO YEARS AFTER THE
23 EFFECTIVE DATE OF THIS ACT, NO PERSON MAY OPERATE A RESOURCE
24 RECOVERY FACILITY UNLESS THE OPERATOR HAS DEVELOPED A PROCESS
25 FOR THE SORTING OF MUNICIPAL WASTE PRIOR TO INCINERATION AND FOR
26 THE REMOVAL TO THE GREATEST EXTENT POSSIBLE OF HAZARDOUS
27 MATERIALS, INCLUDING, BUT NOT LIMITED TO, PLASTICS, CORROSIVE
28 MATERIALS, BATTERIES, PRESSURIZED CANS AND HOUSEHOLD HAZARDOUS
29 MATERIALS, FROM THE WASTE TO BE INCINERATED. THE DEPARTMENT, BY
30 REGULATION, SHALL ESTABLISH STANDARDS AND CRITERIA FOR THE

1 SORTING AND REMOVAL PROCESS.

2 Section 1503. Commonwealth recycling and waste reduction.

3 (a) Recycling.--Within two years after the effective date of
4 this act, each Commonwealth agency, in coordination with the
5 Department of General Services, shall establish and implement a
6 source separation and collection program for recyclable
7 materials produced as a result of agency operations, including,
8 at a minimum, aluminum, high grade office paper and corrugated
9 paper. The source separation and collection program shall
10 include, at a minimum, procedures for collecting and storing
11 recyclable materials, bins or containers for storing materials,
12 and contractual or other arrangements with buyers.

13 (b) Waste reduction.--Within two years after the effective
14 date of this act, each Commonwealth agency, in coordination with
15 the department of General Services, shall establish and
16 implement a waste reduction program for materials used in the
17 course of agency operations. The program shall be designed and
18 implemented to achieve the maximum feasible reduction of waste
19 generated as a result of agency operations.

20 (c) Use of composted materials.--All Commonwealth agencies
21 responsible for the maintenance of public lands in this
22 Commonwealth shall, to the maximum extent practicable and
23 feasible, give due consideration and preference to the use of
24 compost materials in all land maintenance activities which are
25 to be paid with public funds.

26 ~~Section 1504. Procurement by Department of General Services.~~ <—

27 ~~(a) Review of policies.—~~

28 ~~(1) The Department of General Services shall review and~~
29 ~~revise its existing procurement procedures and specifications~~
30 ~~for the purchase of products and materials to eliminate~~

1 ~~procedures and specifications that explicitly discriminate~~
2 ~~against products and materials with recycled content. The~~
3 ~~Department of General Services shall review and revise its~~
4 ~~procedures and specifications on a continuing basis to~~
5 ~~encourage the use of products and materials with recycled~~
6 ~~content and shall, in developing new procedures and~~
7 ~~specification, encourage the use of products and materials~~
8 ~~with recycled content.~~

9 ~~(2) The Department of General Services shall review and~~
10 ~~revise its procurement procedures and specifications for the~~
11 ~~purchase of products and materials to ensure, to the maximum~~
12 ~~extent economically feasible, that the Department of General~~
13 ~~Services purchases products or materials that may be recycled~~
14 ~~or reused when these products are discarded. The Department~~
15 ~~of General Services shall complete an initial review and~~
16 ~~revision within one year from the effective date of this act.~~
17 ~~The Department of General Services shall review and revise~~
18 ~~its procedures and specifications on a continuing basis to~~
19 ~~encourage the use of products and materials that may be~~
20 ~~recycled or reused and shall, in developing new procedures~~
21 ~~and specifications, encourage the use of products and~~
22 ~~materials that may be recycled or reused.~~

23 ~~(b) Bidding.—~~

24 ~~(1) A person who submits a bid to the Department of~~
25 ~~General Services for a contract that includes the purchase of~~
26 ~~products or materials shall certify, in writing, either the~~
27 ~~percentage by weight of recycled content in the product that~~
28 ~~is the subject of the bid or such other measure of recycled~~
29 ~~content as may be set forth in the Department of General~~
30 ~~Services' invitation for bids. A person may certify that the~~

1 ~~products or materials contain no recycled content.~~

2 ~~(2) The Department of General Services shall, in issuing~~
3 ~~an invitation for bids, require that all bidders who seek to~~
4 ~~qualify for the preference set forth in subsection (c)~~
5 ~~certify that the products or materials that are the subject~~
6 ~~of the bid contain a minimum percentage of recycled content~~
7 ~~that is set forth in the invitation for bids.~~

8 ~~(c) Award of contracts. Upon evaluation of bids opened for~~
9 ~~every public contract by the Department of General Services that~~
10 ~~includes the purchase of products or materials, the Department~~
11 ~~of General Services shall identify the lowest responsible bidder~~
12 ~~and any other responsible bidders whose prices exceed that of~~
13 ~~the lowest responsible bidder by 5% or less who have certified~~
14 ~~that the products or materials contain at least the minimum~~
15 ~~percentage of recycled content that is set forth in the~~
16 ~~Department of General Services' invitation for bids. If no~~
17 ~~bidders offer products or materials with the minimum prescribed~~
18 ~~recycled content, the Department of General Services shall award~~
19 ~~the contract to the lowest responsible bidder. This subsection~~
20 ~~does not apply to products and materials used in highway and~~
21 ~~bridge maintenance.~~

22 ~~(d) Rulemaking. The Department of General Services may~~
23 ~~adopt regulations as it deems necessary to carry out the~~
24 ~~provisions and purposes of this section.~~

25 ~~(e) Cooperation. All Commonwealth agencies shall cooperate~~
26 ~~with the Department of General Services in carrying out this~~
27 ~~section.~~

28 ~~(f) Annual report. The Department of General Services shall~~
29 ~~submit an annual report to the General Assembly concerning its~~
30 ~~implementation of this section. This report shall include a~~

1 ~~description of what actions the Department of General Services~~
2 ~~has taken in the previous year to implement this section. This~~
3 ~~report shall be submitted on or before the anniversary of the~~
4 ~~effective date of this act.~~

5 ~~(g) Partial repeal. Sections 2403(b), (c) and 2409(h) of~~
6 ~~the act of April 9, 1929 (P.L.177, No.175), known as The~~
7 ~~Administrative Code of 1929, are repealed to the extent that~~
8 ~~they are inconsistent with subsection (c).~~

9 ~~Section 1505. Procurement by Department of Transportation.~~

10 ~~(a) Review of policies.—~~

11 ~~(1) The Department of Transportation shall review and~~
12 ~~revise its existing procurement procedures and specifications~~
13 ~~for the purchase of products and materials to eliminate~~
14 ~~procedures and specifications that explicitly discriminate~~
15 ~~against products and materials with recycled content and to~~
16 ~~encourage the use of products and materials with recycled~~
17 ~~content. The Department of Transportation shall complete an~~
18 ~~initial review and revision within one year of the effective~~
19 ~~date of this act. The Department of Transportation shall~~
20 ~~review and revise its procedures and specifications on a~~
21 ~~continuing basis to encourage the use of products and~~
22 ~~materials with recycled content and shall, in developing new~~
23 ~~procedures and specifications, encourage the use of products~~
24 ~~and materials with recycled content.~~

25 ~~(2) The Department of Transportation shall review and~~
26 ~~revise its procurement procedures and specifications for the~~
27 ~~purchase of products and materials to ensure, to the maximum~~
28 ~~extent economically feasible, that the Department of~~
29 ~~Transportation purchases products or materials that may be~~
30 ~~recycled or reused when these products or materials are~~

1 ~~discarded. The Department of Transportation shall complete an~~
2 ~~initial review and revision within one year of the effective~~
3 ~~date of this act. The Department of Transportation shall~~
4 ~~review and revise its procedures and specifications on a~~
5 ~~continuing basis to encourage the use of products and~~
6 ~~materials that may be recycled or reused and shall, in~~
7 ~~developing new procedures and specifications, encourage the~~
8 ~~use of products and materials that may be recycled or reused.~~

9 ~~(b) Rulemaking. The Department of Transportation may adopt~~
10 ~~regulations as it deems necessary to carry out the provisions~~
11 ~~and purposes of this section.~~

12 ~~(c) Cooperation. All Commonwealth agencies shall cooperate~~
13 ~~with the Department of Transportation in carrying out this~~
14 ~~section.~~

15 ~~(d) Testing. A person who believes that a particular~~
16 ~~constituent of solid waste or any product or material with~~
17 ~~recycled content may be beneficially used in lieu of another~~
18 ~~product or material in the Commonwealth's transportation system~~
19 ~~may request the Department of Transportation to evaluate that~~
20 ~~constituent, product or material. The Department of~~
21 ~~Transportation, in consultation with the department, shall~~
22 ~~conduct a preliminary review of each proposal to identify which~~
23 ~~proposals merit an evaluation. If the Department of~~
24 ~~Transportation finds, after an evaluation, that the constituent,~~
25 ~~product or material may be beneficially used, it shall amend its~~
26 ~~procedures and specifications to allow the use of the~~
27 ~~constituent product or material.~~

28 ~~(e) Grants. The Department of Transportation may award~~
29 ~~research and demonstration grants concerning the potential~~
30 ~~beneficial use of a particular constituent of solid waste, or~~

1 ~~any product or material with recycled content, in lieu of~~
2 ~~another product or material in the Commonwealth's transportation~~
3 ~~system. The application shall be made on a form prepared and~~
4 ~~furnished by the Department of Transportation and shall contain~~
5 ~~the information the Department of Transportation deems~~
6 ~~necessary.~~

7 ~~(f) Annual report. The Department of Transportation shall~~
8 ~~submit an annual report to the General Assembly concerning its~~
9 ~~implementation of this section. This report shall include a~~
10 ~~description of what actions the Department of Transportation has~~
11 ~~taken in the previous year to implement this section. This~~
12 ~~report shall be submitted on or before the anniversary of the~~
13 ~~effective date of this act.~~

14 ~~Section 1506. Procurement options for local public agencies and~~
15 ~~certain Commonwealth agencies.~~

16 ~~(a) General rule. This section sets forth procurement~~
17 ~~options for local public agencies. These procurement options are~~
18 ~~also available to Commonwealth agencies for which materials are~~
19 ~~not purchased by the Department of General Services or the~~
20 ~~Department of Transportation. Nothing in this act shall be~~
21 ~~construed to require the agencies to exercise the options set~~
22 ~~forth in this section.~~

23 ~~(b) Procedural options. Each public agency subject to this~~
24 ~~section may, at its discretion, do any of the following:~~

25 ~~(1) Review and revise its procurement procedures and~~
26 ~~specifications for purchases of paper, lubricating oil, tires~~
27 ~~and other products or materials to eliminate procedures and~~
28 ~~specifications that discriminate against recycled products or~~
29 ~~materials.~~

30 ~~(2) Review and revise its procurement procedures and~~

1 ~~specifications for purchases of paper, lubricating oil, tires~~
2 ~~and other products or materials to ensure, to the maximum~~
3 ~~extent economically feasible, that the agency purchases~~
4 ~~products or materials that may be recycled or reused when~~
5 ~~these products are discarded.~~

6 ~~(3) Require that a person who submits a bid to the~~
7 ~~agency for a contract for purchase products or materials for~~
8 ~~use by or on behalf of the agency certify, in writing, either~~
9 ~~the percentage by weight of recycled content in the product~~
10 ~~or material that is the subject of the bid, or such other~~
11 ~~measure of recycled content as may be set forth in the~~
12 ~~agency's invitation for bids.~~

13 ~~(4) Establish specifications for bids for public~~
14 ~~contracts that require all bidders to propose that a stated~~
15 ~~minimum percentage of products or materials to be used for~~
16 ~~the contract be made from recycled material.~~

17 ~~(c) Contract options. Each public agency that is subject to~~
18 ~~this section may, at its discretion, award contracts according~~
19 ~~to one of the following methods, when the method is set forth in~~
20 ~~the invitation for bids:~~

21 ~~(1) Upon evaluation of bids opened for a public contract~~
22 ~~by a public agency for the purchase of products or materials,~~
23 ~~the public agency shall identify the lowest responsible~~
24 ~~bidder and any other responsible bidders whose prices exceed~~
25 ~~that of the lowest responsible bidder by a preference~~
26 ~~percentage to be set forth in the invitation for bids, but~~
27 ~~not more than 5% of the bid amount. If no bidders offer~~
28 ~~products or materials with the minimum prescribed recycled~~
29 ~~content, the agency shall award the contract to the lowest~~
30 ~~responsible bidder.~~

~~(2) Upon evaluation of bids opened for a public contract, the agency shall identify the lowest responsible bidder. Where there is a tie for lowest responsible bidder, the agency in determining to whom to award the contract shall consider, as one factor in its determination, which of the bids provides for the greatest weight of recycled material in the product or products to be purchased, or for the best measure of recycled content other than weight as may be set forth in the invitation for bids.~~

~~(d) Other laws. The options set forth in this section may be exercised, notwithstanding any other provision of law to the contrary.~~

SECTION 1504. PROCUREMENT BY COMMONWEALTH AGENCIES. <—

(A) INITIAL REVIEW.--

(1) COMMONWEALTH AGENCIES SHALL REVIEW AND REVISE THEIR EXISTING PROCUREMENT PROCEDURES AND SPECIFICATIONS FOR THE PURCHASE OF GOODS, SUPPLIES, EQUIPMENT, MATERIALS AND PRINTING TO:

(I) ELIMINATE PROCEDURES AND SPECIFICATIONS THAT EXPLICITLY DISCRIMINATE AGAINST GOODS, SUPPLIES, EQUIPMENT, MATERIALS AND PRINTING WITH RECYCLED CONTENT; AND

(II) ENCOURAGE THE USE OF GOODS, SUPPLIES, EQUIPMENT, MATERIALS AND PRINTING WITH RECYCLED CONTENT.

(B) CONTINUING REVIEW.--COMMONWEALTH AGENCIES SHALL REVIEW AND REVISE THEIR PROCEDURES AND SPECIFICATIONS ON A CONTINUING BASIS TO ENCOURAGE THE USE OF GOODS, SUPPLIES, EQUIPMENT, MATERIALS AND PRINTING WITH RECYCLED CONTENT AND SHALL, IN DEVELOPING NEW PROCEDURES AND SPECIFICATIONS, ENCOURAGE THE USE OF GOODS, SUPPLIES, EQUIPMENT, MATERIALS AND PRINTING WITH

1 RECYCLED CONTENT.

2 (C) RECYCLED MATERIALS.--

3 (1) COMMONWEALTH AGENCIES SHALL REVIEW AND REVISE THEIR
4 PROCUREMENT PROCEDURES AND SPECIFICATIONS FOR THE PURCHASE OF
5 GOODS, SUPPLIES, EQUIPMENT, MATERIALS AND PRINTING TO ENSURE,
6 TO THE MAXIMUM EXTENT ECONOMICALLY FEASIBLE, THAT SUCH
7 AGENCIES PURCHASE GOODS, SUPPLIES, EQUIPMENT, MATERIALS AND
8 PRINTING THAT MAY BE RECYCLED OR REUSED WHEN SUCH GOODS,
9 SUPPLIES, EQUIPMENT, MATERIALS AND PRINTING ARE DISCARDED.

10 (2) COMMONWEALTH AGENCIES SHALL REVIEW AND REVISE THEIR
11 PROCUREMENT PROCEDURES AND SPECIFICATIONS ON A CONTINUING
12 BASIS TO ENCOURAGE THE USE OF GOODS, SUPPLIES, EQUIPMENT,
13 MATERIALS AND PRINTING THAT MAY BE RECYCLED OR REUSED.

14 (3) COMMONWEALTH AGENCIES SHALL ALSO, IN DEVELOPING NEW
15 PROCEDURES AND SPECIFICATIONS, ENCOURAGE THE USE OF GOODS,
16 SUPPLIES, EQUIPMENT, MATERIALS AND PRINTING THAT MAY BE
17 RECYCLED OR REUSED.

18 SECTION 1505. PROCUREMENT BY DEPARTMENT OF GENERAL SERVICES.

19 (A) BIDDING.--IN ISSUING INVITATIONS TO BID FOR THE PURCHASE
20 OF GOODS, SUPPLIES, EQUIPMENT, MATERIALS AND PRINTING, THE
21 DEPARTMENT OF GENERAL SERVICES SHALL SET FORTH A MINIMUM
22 PERCENTAGE OF RECYCLED CONTENT FOR THE GOODS, SUPPLIES,
23 EQUIPMENT, MATERIALS AND PRINTING THAT MUST BE CERTIFIED BY A
24 BIDDER IN ORDER TO QUALIFY FOR THE PREFERENCE IN SUBSECTION (B).
25 A PERSON MAY SUBMIT A BID THAT DOES NOT CERTIFY THAT THE GOODS,
26 SUPPLIES, EQUIPMENT, MATERIALS OR PRINTING CONTAIN SUCH MINIMUM
27 PERCENTAGE OF RECYCLED CONTENT. THE DEPARTMENT OF GENERAL
28 SERVICES MAY WAIVE THIS REQUIREMENT FOR GOODS, SUPPLIES,
29 EQUIPMENT, MATERIALS AND PRINTING THAT CANNOT BE PROCURED WITH
30 RECYCLED CONTENT.

1 (B) PREFERENCE.--EVERY BIDDER FOR THE PURCHASE OF GOODS,
2 SUPPLIES, EQUIPMENT, MATERIALS AND PRINTING WHICH CERTIFIES THAT
3 THE GOODS, SUPPLIES, EQUIPMENT, MATERIALS AND PRINTING SUBJECT
4 TO THE BID CONTAIN THE MINIMUM PERCENTAGE OF RECYCLED CONTENT
5 THAT IS SET FORTH IN THE INVITATION FOR BIDS SHALL BE GRANTED A
6 PREFERENCE EQUAL TO 5% OF THE BID AMOUNT AGAINST ANY BIDDER THAT
7 HAS NOT SO CERTIFIED.

8 (C) TIES.--WHEN THERE IS A TIE FOR LOWEST RESPONSIBLE
9 BIDDER, THE DEPARTMENT OF GENERAL SERVICES MAY CONSIDER, AS ONE
10 FACTOR IN DETERMINING TO WHOM TO AWARD THE CONTRACT, WHICH OF
11 THE BIDS PROVIDES FOR THE GREATEST WEIGHT OF RECYCLED CONTENT IN
12 THE GOODS, SUPPLIES, EQUIPMENT, MATERIALS OR PRINTING, OR SUCH
13 OTHER MEASURE OF RECYCLED CONTENT AS MAY BE SET FORTH IN THE
14 INVITATION FOR BIDS.

15 (D) IMPLEMENTATION.--THE DEPARTMENT OF GENERAL SERVICES MAY
16 CARRY OUT THE PROVISIONS AND PURPOSES OF THIS SECTION THROUGH
17 APPROPRIATE CONTRACTUAL PROVISIONS AND INVITATIONS TO BID,
18 THROUGH THE ADOPTION OF SUCH REGULATIONS AS IT DEEMS NECESSARY,
19 OR BOTH.

20 (E) FEDERAL FUNDS.--THE PROVISIONS OF THIS SECTION SHALL NOT
21 BE APPLICABLE WHEN SUCH PROVISIONS MAY JEOPARDIZE THE RECEIPT OF
22 FEDERAL FUNDS.

23 (F) ADDITIONAL PROVISIONS.--THE REQUIREMENTS OF THIS SECTION
24 ARE IN ADDITION TO THOSE SET FORTH IN SECTION 1504 FOR THE
25 DEPARTMENT OF GENERAL SERVICES.

26 (G) COOPERATION.--ALL COMMONWEALTH AGENCIES SHALL COOPERATE
27 WITH THE DEPARTMENT OF GENERAL SERVICES IN CARRYING OUT THIS
28 SECTION.

29 (H) ANNUAL REPORT.--THE DEPARTMENT OF GENERAL SERVICES SHALL
30 SUBMIT AN ANNUAL REPORT TO THE GENERAL ASSEMBLY CONCERNING THE

1 IMPLEMENTATION OF THIS SECTION. THIS REPORT SHALL INCLUDE A
2 DESCRIPTION OF WHAT ACTIONS THE DEPARTMENT OF GENERAL SERVICES
3 HAS TAKEN IN THE PREVIOUS YEAR TO IMPLEMENT THIS SECTION. THIS
4 REPORT SHALL BE SUBMITTED ON OR BEFORE THE ANNIVERSARY OF THE
5 EFFECTIVE DATE OF THIS ACT.

6 SECTION 1506. TESTING BY DEPARTMENT OF TRANSPORTATION.

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

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

29 (C) ANNUAL REPORT.--THE DEPARTMENT OF TRANSPORTATION SHALL
30 SUBMIT AN ANNUAL REPORT TO THE GENERAL ASSEMBLY CONCERNING ITS

1 IMPLEMENTATION OF THIS SECTION. THIS REPORT SHALL INCLUDE A
2 DESCRIPTION OF WHAT ACTIONS THE DEPARTMENT OF TRANSPORTATION HAS
3 TAKEN IN THE PREVIOUS YEAR TO IMPLEMENT THIS SECTION. THIS
4 REPORT SHALL BE SUBMITTED ON OR BEFORE THE ANNIVERSARY OF THE
5 EFFECTIVE DATE OF THIS ACT.

6 (D) RULEMAKING.--THE DEPARTMENT OF TRANSPORTATION MAY ADOPT
7 REGULATIONS AS IT DEEMS NECESSARY TO CARRY OUT THIS SECTION.

8 (E) COOPERATION.--ALL COMMONWEALTH AGENCIES SHALL COOPERATE
9 WITH THE DEPARTMENT OF TRANSPORTATION IN CARRYING OUT THIS
10 SECTION.

11 SECTION 1507. PROCUREMENT PROCEDURES FOR LOCAL PUBLIC AGENCIES.

12 (A) PURPOSE.--EACH LOCAL PUBLIC AGENCY MAY, AT ITS
13 DISCRETION, REVIEW AND REVISE ITS PROCUREMENT PROCEDURES AND
14 SPECIFICATIONS FOR PURCHASES OF GOODS, SUPPLIES, EQUIPMENT,
15 MATERIALS AND PRINTING TO:

16 (1) ELIMINATE PROCEDURES AND SPECIFICATIONS THAT
17 EXPLICITLY DISCRIMINATE AGAINST GOODS, SUPPLIES, EQUIPMENT,
18 MATERIALS AND PRINTING WITH RECYCLED CONTENT;

19 (2) ENCOURAGE THE USE OF GOODS, SUPPLIES, EQUIPMENT,
20 MATERIALS AND PRINTING WITH RECYCLED CONTENT; AND

21 (3) ENSURE, TO THE MAXIMUM EXTENT ECONOMICALLY FEASIBLE,
22 THAT IT PURCHASES GOODS, SUPPLIES, EQUIPMENT, MATERIALS AND
23 PRINTING THAT MAY BE RECYCLED OR REUSED WHEN SUCH GOODS,
24 SUPPLIES, EQUIPMENT, MATERIALS AND PRINTING ARE DISCARDED.

25 (B) OPTIONS.--THE OPTIONS SET FORTH IN THIS SECTION MAY BE
26 EXERCISED, NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE
27 CONTRARY.

28 SECTION 1508. PROCUREMENT OPTIONS FOR LOCAL PUBLIC AGENCIES AND
29 CERTAIN COMMONWEALTH AGENCIES.

30 (A) GENERAL RULE.--THIS SECTION SETS FORTH PROCUREMENT

1 OPTIONS FOR LOCAL PUBLIC AGENCIES. THESE PROCUREMENT OPTIONS ARE
2 ALSO AVAILABLE TO COMMONWEALTH AGENCIES OTHER THAN THE
3 DEPARTMENT OF GENERAL SERVICES.

4 (B) OPTIONS.--EACH PUBLIC AGENCY SUBJECT TO THIS SECTION
5 MAY, AT ITS DISCRETION, DO ANY OF THE FOLLOWING:

6 (1) IN ISSUING INVITATIONS TO BID FOR THE PURCHASE OF
7 GOODS, SUPPLIES, EQUIPMENT, MATERIALS AND PRINTING, SET FORTH
8 A MINIMUM PERCENTAGE OF RECYCLED CONTENT FOR THE GOODS,
9 SUPPLIES, EQUIPMENT, MATERIALS AND PRINTING THAT MUST BE
10 CERTIFIED BY A BIDDER IN ORDER TO QUALIFY FOR THE PREFERENCE
11 IN THIS PARAGRAPH. A PERSON MAY SUBMIT A BID THAT DOES NOT
12 CERTIFY THAT THE GOODS, SUPPLIES, EQUIPMENT, MATERIALS OR
13 PRINTING CONTAIN SUCH MINIMUM PERCENTAGE OF RECYCLED CONTENT.
14 EVERY BIDDER FOR THE PURCHASE OF GOODS, SUPPLIES, EQUIPMENT,
15 MATERIALS AND PRINTING WHICH CERTIFIES THAT THE GOODS,
16 SUPPLIES, EQUIPMENT, MATERIALS AND PRINTING SUBJECT TO THE
17 BID CONTAIN THE MINIMUM PERCENTAGE OF RECYCLED CONTENT THAT
18 IS SET FORTH IN THE INVITATION FOR BIDS SHALL BE GRANTED A
19 PREFERENCE EQUAL TO 5% OF THE BID AMOUNT AGAINST ANY BIDDER
20 THAT HAS NOT SO CERTIFIED.

21 (2) ESTABLISH SPECIFICATIONS FOR BIDS FOR PUBLIC
22 CONTRACTS THAT REQUIRE ALL BIDDERS TO PROPOSE THAT A STATED
23 MINIMUM PERCENTAGE OF GOODS, SUPPLIES, EQUIPMENT, MATERIALS
24 OR PRINTING TO BE USED FOR THE CONTRACT BE MADE FROM RECYCLED
25 MATERIAL.

26 (3) UPON EVALUATION OF BIDS OPENED FOR A PUBLIC CONTRACT
27 FOR GOODS, SUPPLIES, EQUIPMENT, MATERIALS OR PRINTING, THE
28 AGENCY SHALL IDENTIFY THE LOWEST RESPONSIBLE BIDDER. WHERE
29 THERE IS A TIE FOR LOWEST RESPONSIBLE BIDDER, THE AGENCY
30 SHALL CONSIDER, AS ONE FACTOR IN DETERMINING TO WHOM TO AWARD

1 THE CONTRACT, WHICH OF THE BIDS PROVIDES FOR THE GREATEST
2 WEIGHT OF RECYCLED CONTENT IN THE GOODS, SUPPLIES, EQUIPMENT,
3 MATERIALS OR PRINTING, OR SUCH OTHER MEASURE OF RECYCLED
4 CONTENT AS MAY BE SET FORTH IN THE INVITATION FOR BIDS.

5 (C) OTHER LAWS.--THE OPTIONS SET FORTH IN THIS SECTION MAY
6 BE EXERCISED, NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE
7 CONTRARY.

8 Section ~~1507~~ 1509. Recycling at educational institutions. <—

9 The department, in consultation with the Department of
10 Education, shall develop guidelines for source separation and
11 collection of recyclable materials and for waste reduction in
12 primary and secondary schools, colleges and universities,
13 whether the schools, colleges and universities are public or
14 nonpublic. At a minimum, the guidelines shall address generated
15 in administrative offices, classrooms, dormitories and
16 cafeterias. The Department of Education shall distribute these
17 guidelines and encourage their implementation. The guidelines
18 shall be developed and distributed within two years of the
19 effective date of this act, except that the guidelines are not
20 required to be distributed to educational institutions that are
21 Commonwealth agencies implementing recycling programs under
22 section ~~1505~~ 1503. <—

23 SECTION 1510. RECYCLED PAPER PRODUCTS. <—

24 (A) GENERAL RULE.--THE DEPARTMENT OF GENERAL SERVICES SHALL,
25 TO THE FULLEST EXTENT POSSIBLE WHEN CONTRACTING FOR PAPER OR
26 PAPER PRODUCTS, PURCHASE OR APPROVE FOR PURCHASE ONLY SUCH PAPER
27 OR PAPER PRODUCTS THAT ARE MANUFACTURED OR PRODUCED FROM
28 RECYCLED PAPER AS SPECIFIED IN SUBSECTION (B).

29 (B) IMPLEMENTATION.--THE PROVISIONS OF SUBSECTION (A) SHALL
30 BE IMPLEMENTED BY THE DEPARTMENT OF GENERAL SERVICES SO THAT, OF

1 THE TOTAL VOLUME OF PAPER PURCHASED, RECYCLED PAPER COMPOSES AT
2 LEAST 10% OF THE VOLUME IN 1989, AT LEAST 25% OF THE VOLUME IN
3 1991 AND AT LEAST 40% OF THE VOLUME IN 1993.

4 (C) NEWSPRINT.--IN THE CASE OF THE PURCHASE OF NEWSPRINT AND
5 NEWSPRINT PRODUCTS, AT LEAST 40% OF THE SECONDARY WASTE PAPER
6 MATERIAL USED IN RECYCLED NEWSPRINT SHALL BE POSTCONSUMER
7 NEWSPAPER WASTE.

8 (D) APPLICATION OF SECTION.--THIS SECTION SHALL NOT APPLY TO
9 THE PURCHASE OF PAPER CONTAINERS FOR FOOD OR BEVERAGES.

10 (E) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING
11 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
12 SUBSECTION:

13 "POSTCONSUMER WASTE." ANY PRODUCT GENERATED BY A BUSINESS OR
14 CONSUMER WHICH HAS SERVED ITS INTENDED END USE, AND WHICH HAS
15 BEEN SEPARATED FROM SOLID WASTE FOR THE PURPOSES OF COLLECTION,
16 RECYCLING AND DISPOSITION AND WHICH DOES NOT INCLUDE SECONDARY
17 WASTE MATERIAL OR DEMOLITION WASTE.

18 "RECYCLED PAPER." ANY PAPER HAVING A TOTAL WEIGHT CONSISTING
19 OF NOT LESS THAN 20% SECONDARY WASTE PAPER MATERIAL IN 1989, NOT
20 LESS THAN 30% OF SAID MATERIAL IN 1991, NOT LESS THAN 40% OF
21 SAID MATERIAL IN 1993, AND NOT LESS THAN 50% OF SAID MATERIAL IN
22 1996 AND THEREAFTER, AND NOT LESS THAN 10% POSTCONSUMER WASTE
23 BEGINNING IN 1996.

24 "SECONDARY WASTE PAPER MATERIAL." PAPER WASTE GENERATED
25 AFTER THE COMPLETION OF A PAPERMAKING PROCESS, SUCH AS
26 POSTCONSUMER WASTE MATERIAL, ENVELOPE CUTTINGS, BINDERY
27 TRIMMINGS, PRINTING WASTE, CUTTING AND OTHER CONVERTING WASTE,
28 BUTT ROLLS AND MILL WRAPPERS. THE TERM SHALL NOT INCLUDE FIBROUS
29 WASTE GENERATED DURING THE MANUFACTURING PROCESS, SUCH AS FIBERS
30 RECOVERED FROM WASTEWATER OR TRIMMINGS OF PAPER MACHINE ROLLS,

1 FIBROUS BY-PRODUCTS OF HARVESTING, EXTRACTIVE OR WOODCUTTING
2 PROCESS, OR FOREST RESIDUE SUCH AS BARK.

3 CHAPTER 17

4 ENFORCEMENT AND REMEDIES

5 Section 1701. Unlawful conduct.

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

8 (1) Violate, or cause or assist in the violation of, any
9 provision of this act, any regulation promulgated hereunder,
10 any order issued hereunder, or the terms or conditions of any
11 municipal waste management plan approved by the department
12 under this act.

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

16 (3) Fail to adhere to the schedule set forth in an
17 approved plan for planning, design, siting, construction or
18 operation of municipal waste processing or disposal
19 facilities.

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

23 (5) Fail to make a timely payment of the recycling fee
24 or host municipality benefit fee.

25 (6) Hinder, obstruct, prevent or interfere with the
26 department or its personnel in the performance of any duty
27 under this act.

28 (7) Hinder, obstruct, prevent or interfere with host
29 municipalities or their personnel in the performance of any
30 duty related to the collection of the host municipality

1 benefit fee or in conducting any inspection authorized by
2 this act.

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

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

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

13 Section 1702. Enforcement orders.

14 (a) Issuance.--The department may issue such orders to
15 persons as it deems necessary to aid in the enforcement of the
16 provisions of this act. Such orders may include, but shall not
17 be limited to, orders requiring persons to comply with approved
18 municipal waste management plans and orders requiring compliance
19 with the provisions of this act and the regulations promulgated
20 pursuant thereto. Any order issued under this act shall take
21 effect upon notice, unless the order specifies otherwise. An
22 appeal to the Environmental Hearing Board shall not act as a
23 supersedeas. The power of the department to issue an order under
24 this act is in addition to any other remedy which may be
25 afforded to the department pursuant to this act or any other
26 act.

27 (b) Compliance.--It shall be the duty of any person to
28 proceed diligently to comply with any order issued pursuant to
29 subsection (a). If such person fails to proceed diligently or
30 fails to comply with the order within such time, if any, as may

1 be specified, such person shall be guilty of contempt and shall
2 be punished by the court in an appropriate manner, and for this
3 purpose, application may be made by the department to the
4 Commonwealth Court, which is hereby granted jurisdiction.

5 Section 1703. Restraining violations.

6 (a) Injunctions.--In addition to any other remedies provided
7 in this act, the department may institute a suit in equity in
8 the name of the Commonwealth where unlawful conduct or public
9 nuisance exists for an injunction to restrain a violation of
10 this act, the regulations promulgated pursuant thereto, any
11 order issued pursuant thereto, or the terms or conditions of any
12 approved municipal waste management plan, and to restrain the
13 maintenance or threat of a public nuisance. In any such
14 proceeding, the court shall, upon motion of the Commonwealth,
15 issue a prohibitory or mandatory preliminary injunction if it
16 finds that the defendant is engaging in unlawful conduct as
17 defined by this act or is engaged in conduct which is causing
18 immediate and irreparable harm to the public. The Commonwealth
19 shall not be required to furnish bond or other security in
20 connection with such proceedings. In addition to an injunction,
21 the court, in such equity proceedings, may levy civil penalties
22 as specified in section 1704.

23 (b) Jurisdiction.--In addition to any other remedies
24 provided for in this act, upon relation of any district attorney
25 of any county affected, or upon relation of the solicitor of any
26 county or municipality affected, an action in equity may be
27 brought in a court of competent jurisdiction for an injunction
28 to restrain any and all violations of this act or the
29 regulations promulgated pursuant thereto, or to restrain any
30 public nuisance.

1 (c) Concurrent remedies.--The penalties and remedies
2 prescribed by this act shall be deemed concurrent, and the
3 existence of or exercise of any remedy shall not prevent the
4 department from exercising any other remedy hereunder, at law or
5 in equity.

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

10 Section 1704. Civil penalties.

11 (a) Assessment.--In addition to proceeding under any other
12 remedy available at law or in equity for a violation of any
13 provision of this act, the regulations promulgated hereunder,
14 any order of the department issued hereunder, or any term or
15 condition of an approved municipal waste management plan, the
16 department may assess a civil penalty upon a person for such
17 violation. Such a penalty may be assessed whether or not the
18 violation was willful or negligent. In determining the amount of
19 the penalty, the department shall consider the willfulness of
20 the violation; the effect on the municipal waste planning
21 process; damage to air, water, land or other natural resources
22 of this Commonwealth or their uses; cost of restoration and
23 abatement; savings resulting to the person in consequence of
24 such violation; deterrence of future violations; and other
25 relevant factors. If the violation leads to issuance of a
26 cessation order, a civil penalty shall be assessed.

27 (b) Escrow.--When the department assesses a civil penalty,
28 it shall inform the person of the amount of the penalty. The
29 person charged with the penalty shall then have 30 days to pay
30 the penalty in full or, if the person wishes to contest either

1 the amount of the penalty or the fact of the violation, either
2 to forward the proposed amount to the department for placement
3 in an escrow account with the State Treasurer or with a bank in
4 this Commonwealth or to post an appeal bond in the amount of the
5 penalty. The bond must be executed by a surety licensed to do
6 business in this Commonwealth and must be satisfactory to the
7 department. If, through administrative or judicial review of the
8 proposed penalty, it is determined that no violation occurred or
9 that the amount of the penalty shall be reduced, the department
10 shall, within 30 days, remit the appropriate amount to the
11 person, with an interest accumulated by the escrow deposit.
12 Failure to forward the money or the appeal bond to the
13 department within 30 days shall result in a waiver of all legal
14 rights to contest the violation or the amount of the penalty.

15 (c) Amount.--The maximum civil penalty which may be assessed
16 pursuant to this section is \$10,000 per violation. Each
17 violation for each separate day and each violation of 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 constitute a
21 separate offense under this section.

22 (d) Statute of limitations.--Notwithstanding any other
23 provision of law to the contrary, there shall be a statute of
24 limitations of five years upon actions brought by the
25 Commonwealth under this section.

26 Section 1705. Criminal penalties.

27 (a) Summary offense.--Any person, other than a municipal
28 official exercising his official duties, who violates any
29 provision of this act, any regulation promulgated hereunder, any
30 order issued hereunder, or the terms or conditions of any

1 approved municipal waste management plan shall, upon conviction
2 thereof in a summary proceeding, be sentenced to pay a fine of
3 not less than \$100 and not more than \$1,000 and costs and, in
4 default of the payment of such fine and costs, to undergo
5 imprisonment for not more than 30 days.

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

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

25 (d) Violations to be separate offense.--Each violation for
26 each separate day and each violation of any provision of this
27 act, any regulation promulgated hereunder, any order issued
28 hereunder, or the terms or conditions of any approved municipal
29 waste management plan, shall constitute a separate offense under
30 subsections (a), (b) and (c).

1 Section 1706. Existing rights and remedies preserved;
2 cumulative remedies authorized.

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

25 Section 1707. Production of materials; recordkeeping
26 requirements.

27 (a) Authority of department.--The department and its agents
28 and employees shall:

29 (1) Have access to, and require the production of, books
30 and papers, documents, and physical evidence pertinent to any

1 matter under investigation.

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

6 (3) Have the authority to enter any building, property,
7 premises or place where solid waste is generated, stored,
8 processed, treated or disposed of for the purposes of making
9 an investigation or inspection necessary to ascertain the
10 compliance or noncompliance by any person with the provisions
11 of this act and the regulations promulgated under this act.
12 In connection with the inspection or investigation, samples
13 may be taken of a solid, semisolid, liquid or contained
14 gaseous material for analysis. If, analysis is made of the
15 samples, a copy of the results of the analysis shall be
16 furnished within five business days after receiving the
17 analysis to the person having apparent authority over the
18 building, property, premises or place.

19 (b) Warrants.--An agent or employee of the department may
20 apply for a search warrant to any Commonwealth official
21 authorized to issue a search warrant for the purposes of
22 inspecting or examining any property, building, premises, place,
23 book, record or other physical evidence; of conducting tests; or
24 of taking samples of any solid waste. The warrant shall be
25 issued upon probable cause. It shall be sufficient probable
26 cause to show any of the following:

27 (1) The inspection, examination, test or sampling is
28 pursuant to a general administrative plan to determine
29 compliance with this act.

30 (2) The agent or employee has reason to believe that a

1 violation of this act has occurred or may occur.

2 (3) The agent or employee has been refused access to the
3 property, building, premises, place, book, record or physical
4 evidence or has been prevented from conducting tests or
5 taking samples.

6 Section 1708. Withholding of State funds.

7 In addition to any other penalties provided in this act, the
8 department may notify the State Treasurer to withhold payment of
9 all or any portion of funds payable to the municipality by the
10 department from the General Fund or any other fund if the
11 municipality has engaged in any unlawful conduct under section
12 1701. Upon notification, the State Treasurer shall hold in
13 escrow such moneys due to such municipality until such time as
14 the department notifies the State Treasurer that the
15 municipality has complied with such requirement or schedule.

16 Section 1709. Collection of fines, fees, etc.

17 (a) Lien.--All fines, fees, interest and penalties and any
18 other assessments shall be collectible in any manner provided by
19 law for the collection of debts. If the person liable to pay any
20 such amount neglects or refuses to pay the same after demand,
21 the amount, together with interest and any costs that may
22 accrue, shall be a judgment in favor of the Commonwealth or the
23 host municipality, as the case may be, upon the property of such
24 person, but only after same has been entered and docketed of
25 record by the prothonotary of the county where such property is
26 situated. The Commonwealth or host municipality, as the case may
27 be, may at any time transmit to the prothonotaries of the
28 respective counties certified copies of all such judgments, and
29 it shall be the duty of each prothonotary to enter and docket
30 the same of record in his office, and to index the same as

1 judgments are indexed, without requiring the payment of costs as
2 a condition precedent to the entry thereof.

3 (b) Deposit of fines.--All fines collected pursuant to
4 sections 1704 and 1705 shall be paid into the Solid Waste
5 Abatement Fund.

6 Section 1710. Right of citizen to intervene in proceedings.

7 Any citizen of this Commonwealth having an interest which is
8 or may be adversely affected shall have the right on his own
9 behalf, without posting bond, to intervene in any action brought
10 pursuant to section 1703 or 1704.

11 ~~Section 1711. Remedies of citizens.~~ <—

12 ~~(a) Commencement of civil action. Except as provided in~~
13 ~~subsection (b), any person having an interest which is or may be~~
14 ~~adversely affected may commence a civil suit on his own behalf~~
15 ~~to compel compliance with this act, or any rule or regulation~~
16 ~~promulgated hereunder, against any municipality where the~~
17 ~~municipality fails to comply with the provisions of this act or~~
18 ~~against the department where there is alleged a failure of the~~
19 ~~department to perform any act which is not discretionary with~~
20 ~~the department.~~

21 ~~(b) Notice. No action pursuant to this section may be~~
22 ~~commenced prior to 60 days after the plaintiff has given notice,~~
23 ~~in writing, notifying the department of the section of this act~~
24 ~~or the rule or regulation for which compliance is sought. In~~
25 ~~addition, no such action may be commenced if the department has~~
26 ~~commenced and is diligently proceeding with performance of the~~
27 ~~required nondiscretionary act.~~

28 ~~(c) Multiple actions. No action under this section may be~~
29 ~~commenced if the department has commenced and is diligently~~
30 ~~prosecuting a civil action in a court of the United States or of~~

1 ~~the Commonwealth, has issued an order, or has entered a consent~~
2 ~~order and agreement or consent degree to require compliance with~~
3 ~~this act, any regulation promulgated under this act, any order~~
4 ~~of the department issued under this act or any term or condition~~
5 ~~of an approved municipal waste management plan. If the~~
6 ~~department has commenced and is diligently prosecuting a civil~~
7 ~~action in a court of the Commonwealth, any person with an~~
8 ~~interest which is or may be adversely affected may intervene as~~
9 ~~of right.~~

10 ~~Section 1712. Affirmative defense.~~

11 ~~(a) Defense. It shall be an affirmative defense to any~~
12 ~~action by the department pursuant to section 1702, 1704, 1705 or~~
13 ~~1708 and any action brought pursuant to section 1711 against any~~
14 ~~municipality alleged to be in violation of section 1501 that~~
15 ~~such municipality's failure to comply is caused by excessive~~
16 ~~costs of the program required by section 1501. Program costs are~~
17 ~~excessive when reasonable and necessary costs of operating the~~
18 ~~program exceed income from the sale or use of collected~~
19 ~~material, grant money received from the department pursuant to~~
20 ~~section 902, and avoided costs of municipal waste processing or~~
21 ~~disposal.~~

22 ~~(b) Requirements. A municipality may not assert the~~
23 ~~affirmative defense provided by this section if it has failed:~~

24 ~~(1) To make a timely grant application to the department~~
25 ~~pursuant to section 902.~~

26 ~~(2) To exercise its best efforts to implement the~~
27 ~~program required by section 1501 for at least two years after~~
28 ~~it was required to establish and implement the program.~~

29 ~~(c) Construction. Nothing in this section shall be~~
30 ~~construed or understood:~~

1 ~~(1) To create an affirmative defense for a municipality~~
2 ~~that is alleged to be in violation of any provision of law~~
3 ~~other than section 1501.~~

4 ~~(2) To create an affirmative defense for any person~~
5 ~~other than a municipality.~~

6 ~~(3) To modify or affect existing statutory and case law~~
7 ~~concerning affirmative defenses to department actions, except~~
8 ~~as expressly provided in subsection (a).~~

9 SECTION 1711. REMEDIES OF CITIZENS. ←

10 (A) AUTHORITY TO BRING CIVIL ACTION.--EXCEPT AS PROVIDED IN
11 SUBSECTION (C), ANY AFFECTED PERSON MAY COMMENCE A CIVIL ACTION
12 ON HIS OWN BEHALF AGAINST ANY PERSON WHO IS ALLEGED TO BE IN
13 VIOLATION OF THIS ACT.

14 (B) JURISDICTION.--THE ENVIRONMENTAL HEARING BOARD IS HEREBY
15 GIVEN JURISDICTION OVER CITIZEN SUIT ACTIONS BROUGHT UNDER THIS
16 SECTION AGAINST THE DEPARTMENT. ACTIONS AGAINST ANY OTHER
17 PERSONS UNDER THIS SECTION MAY BE TAKEN IN A COURT OF COMPETENT
18 JURISDICTION. SUCH JURISDICTION IS IN ADDITION TO ANY RIGHTS OF
19 ACTION NOW OR HEREAFTER EXISTING IN EQUITY, OR UNDER THE COMMON
20 LAW OR STATUTORY LAW.

21 (C) NOTICE.--NO ACTION MAY BE COMMENCED UNDER THIS SECTION
22 PRIOR TO 60 DAYS AFTER THE PLAINTIFF HAS GIVEN NOTICE OF THE
23 VIOLATION TO THE SECRETARY, TO THE HOST MUNICIPALITY AND TO ANY
24 ALLEGED VIOLATOR OF THE ACT, OF OTHER ENVIRONMENTAL PROTECTION
25 ACTS, OR OF THE REGULATION OR ORDER OF THE DEPARTMENT WHICH HAS
26 ALLEGEDLY BEEN VIOLATED, NOR SHALL ANY ACTION BE COMMENCED UNDER
27 THIS SECTION IF THE SECRETARY HAS COMMENCED AND IS DILIGENTLY
28 PROSECUTING AN ADMINISTRATIVE ACTION BEFORE THE ENVIRONMENTAL
29 HEARING BOARD, OR A CIVIL OR CRIMINAL ACTION IN A COURT OF THE
30 UNITED STATES OR A STATE TO REQUIRE COMPLIANCE WITH SUCH PERMIT,

1 STANDARD, REGULATION, CONDITION, REQUIREMENT, PROHIBITION OR
2 ORDER.

3 (D) AWARD OF COSTS.--THE ENVIRONMENTAL HEARING BOARD OR A
4 COURT OF COMPETENT JURISDICTION, IN ISSUING ANY FINAL ORDER IN
5 ANY ACTION BROUGHT PURSUANT TO SUBSECTION (A), MAY AWARD COSTS
6 OF LITIGATION, INCLUDING REASONABLE ATTORNEY AND EXPERT WITNESS
7 FEES, TO ANY PARTY, WHENEVER THE BOARD OR COURT DETERMINES SUCH
8 AWARD IS APPROPRIATE.

9 Section ~~1713~~ 1712. Public information. <—

10 (a) General rule.--Except as provided in subsection (b),
11 records, reports or other information obtained under this act
12 shall be available to the public for inspection or copying
13 during regular business hours.

14 (b) Confidentiality.--The department may, upon request,
15 designate records, reports or information as confidential when
16 the person providing the information demonstrates all of the
17 following:

18 (1) The information contains the trade secrets,
19 processes, operations, style of work or apparatus of a person
20 or is otherwise confidential business information.

21 (2) The information does not relate to public health,
22 safety, welfare, or the environment.

23 (c) Separation of information.--When submitting information
24 under this act, a person shall designate the information which
25 the person believes is confidential or shall submit that
26 information separately from other information being submitted.

27 SECTION 1713. WHISTLEBLOWER PROVISIONS. <—

28 (A) ADVERSE ACTION PROHIBITED.--NO EMPLOYER MAY DISCHARGE,
29 THREATEN, OR OTHERWISE DISCRIMINATE OR RETALIATE AGAINST AN
30 EMPLOYEE REGARDING THE EMPLOYEE'S COMPENSATION, TERMS,

1 CONDITIONS, LOCATION OR PRIVILEGES OF EMPLOYMENT BECAUSE THE
2 EMPLOYEE MAKES A GOOD FAITH REPORT OR IS ABOUT TO REPORT,
3 VERBALLY OR IN WRITING, TO THE EMPLOYER OR APPROPRIATE AUTHORITY
4 AN INSTANCE OF WRONGDOING UNDER THIS ACT.

5 (B) REMEDIES.--THE REMEDIES, PENALTIES AND ENFORCEMENT
6 PROCEDURES FOR VIOLATIONS OF THIS SECTION SHALL BE AS PROVIDED
7 IN THE ACT OF DECEMBER 12, 1986 (P.L.1559, NO.169), KNOWN AS THE
8 WHISTLEBLOWER LAW.

9 (C) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING
10 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
11 SUBSECTION:

12 "APPROPRIATE AUTHORITY." A FEDERAL, STATE OR LOCAL
13 GOVERNMENT BODY, AGENCY OR ORGANIZATION HAVING JURISDICTION OVER
14 CRIMINAL LAW ENFORCEMENT, REGULATORY VIOLATIONS, PROFESSIONAL
15 CONDUCT OR ETHICS, OR WASTE; OR A MEMBER, OFFICER, AGENT,
16 REPRESENTATIVE OR SUPERVISORY EMPLOYEE OF THE BODY, AGENCY OR
17 ORGANIZATION. THE TERM INCLUDES, BUT IS NOT LIMITED TO, THE
18 OFFICE OF ATTORNEY GENERAL, THE DEPARTMENT OF THE AUDITOR
19 GENERAL, THE TREASURY DEPARTMENT, THE GENERAL ASSEMBLY AND
20 COMMITTEES OF THE GENERAL ASSEMBLY HAVING THE POWER AND DUTY TO
21 INVESTIGATE CRIMINAL LAW ENFORCEMENT, REGULATORY VIOLATIONS,
22 PROFESSIONAL CONDUCT OR ETHICS, OR WASTE.

23 "EMPLOYEE." A PERSON WHO PERFORMS A SERVICE FOR WAGES OR
24 OTHER REMUNERATION UNDER A CONTRACT OF HIRE, WRITTEN OR ORAL,
25 EXPRESS OR IMPLIED, FOR AN EMPLOYER, WHETHER OR NOT THE EMPLOYER
26 IS A PUBLIC BODY.

27 "EMPLOYER." A PERSON SUPERVISING ONE OR MORE EMPLOYEES,
28 INCLUDING THE EMPLOYEE IN QUESTION; A SUPERIOR OF THAT
29 SUPERVISOR; OR AN AGENT OF A PUBLIC BODY.

30 "GOOD FAITH REPORT." A REPORT OF CONDUCT DEFINED IN THIS ACT

1 AS WRONGDOING OR WASTE WHICH IS MADE WITHOUT MALICE OR
2 CONSIDERATION OF PERSONAL BENEFIT AND WHICH THE PERSON MAKING
3 THE REPORT HAS REASONABLE CAUSE TO BELIEVE IS TRUE.

4 "PUBLIC BODY." ALL OF THE FOLLOWING:

5 (1) A STATE OFFICER, AGENCY, DEPARTMENT, DIVISION,
6 BUREAU, BOARD, COMMISSION, COUNCIL, AUTHORITY OR OTHER BODY
7 IN THE EXECUTIVE BRANCH OF STATE GOVERNMENT.

8 (2) A COUNTY, CITY, TOWNSHIP, REGIONAL GOVERNING BODY,
9 COUNCIL, SCHOOL DISTRICT, SPECIAL DISTRICT OR MUNICIPAL
10 CORPORATION, OR A BOARD, DEPARTMENT, COMMISSION, COUNCIL OR
11 AGENCY.

12 (3) ANY OTHER BODY WHICH IS CREATED BY COMMONWEALTH OR
13 POLITICAL SUBDIVISION AUTHORITY OR WHICH IS FUNDED IN ANY
14 AMOUNT BY OR THROUGH COMMONWEALTH OR POLITICAL SUBDIVISION
15 AUTHORITY OR A MEMBER OR EMPLOYEE OF THAT BODY.

16 "WASTE." AN EMPLOYER'S CONDUCT OR OMISSIONS WHICH RESULT IN
17 SUBSTANTIAL ABUSE, MISUSE, DESTRUCTION OR LOSS OF FUNDS OR
18 RESOURCES BELONGING TO OR DERIVED FROM COMMONWEALTH OR POLITICAL
19 SUBDIVISION SOURCES.

20 "WHISTLEBLOWER." A PERSON WHO WITNESSES OR HAS EVIDENCE OF
21 WRONGDOING OR WASTE WHILE EMPLOYED AND WHO MAKES A GOOD FAITH
22 REPORT OF THE WRONGDOING OR WASTE, VERBALLY OR IN WRITING, TO
23 ONE OF THE PERSON'S SUPERIORS, TO AN AGENT OF THE EMPLOYER OR TO
24 AN APPROPRIATE AUTHORITY.

25 "WRONGDOING." A VIOLATION WHICH IS NOT OF A MERELY TECHNICAL
26 OR MINIMAL NATURE OF A FEDERAL OR STATE STATUTE OR REGULATION,
27 OF A POLITICAL SUBDIVISION ORDINANCE OR REGULATION OR OF A CODE
28 OF CONDUCT OR ETHICS DESIGNED TO PROTECT THE INTEREST OF THE
29 PUBLIC OR THE EMPLOYER.

30 SECTION 1714. ADDITIONAL PENALTIES.

1 (A) DRIVER LICENSE.--IF ANY PERSON IS CONVICTED OF OR PLEADS
2 GUILTY OR NO CONTEST TO A VIOLATION OF SECTION 610(1) OF THE
3 SOLID WASTE MANAGEMENT ACT, THE DEPARTMENT SHALL, WITHIN 30
4 DAYS, SEND A CERTIFIED COPY OF THE JUDGMENT TO THE DEPARTMENT OF
5 TRANSPORTATION. UPON RECEIPT OF THE CERTIFIED COPY OF THE
6 JUDGMENT, THE DEPARTMENT OF TRANSPORTATION SHALL SUSPEND THE
7 OPERATING PRIVILEGE OF THE PERSON FOR ONE YEAR.

8 (B) VEHICLE FORFEITURE.--ANY VEHICLE, EQUIPMENT OR
9 CONVEYANCE USED FOR THE TRANSPORTATION OR DISPOSAL OF SOLID
10 WASTE IN THE COMMISSION OF AN OFFENSE UNDER SECTION 610(1) OF
11 THE SOLID WASTE MANAGEMENT ACT SHALL BE DEEMED CONTRABAND AND
12 FORFEITED TO THE DEPARTMENT. THE PROVISIONS OF LAW RELATING TO
13 THE SEIZURE, SUMMARY AND JUDICIAL FORFEITURE, AND CONDEMNATION
14 OF INTOXICATING LIQUOR SHALL APPLY TO SEIZURES AND FORFEITURES
15 UNDER THIS SECTION. PROCEEDS FROM THE SALE OF FORFEITED
16 VEHICLES, EQUIPMENT OR CONVEYANCE SHALL BE DEPOSITED IN THE
17 SOLID WASTE ABATEMENT FUND.

18 (C) RESPONSIBILITY FOR COST.--THE OPERATOR OF ANY VEHICLE,
19 EQUIPMENT OR CONVEYANCE FORFEITED UNDER SUBSECTION (B) SHALL BE
20 RESPONSIBLE FOR ANY COSTS INCURRED IN PROPERLY DISPOSING OF
21 WASTE IN THE VEHICLE, EQUIPMENT OR CONVEYANCE.

22 CHAPTER 19

23 MISCELLANEOUS PROVISIONS

24 Section 1901. Severability.

25 The provisions of this act are severable. If any provision of
26 this act or its application to any person or circumstance is
27 held invalid, the invalidity shall not affect other provisions
28 or applications of this act which can be given effect without
29 the invalid provision or application.

30 Section 1902. Repeals.

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

5 ~~(b) Inconsistent repeals. Except as provided in section~~ <—

6 (B) INCONSISTENT REPEALS.-- <—

7 (1) EXCEPT AS PROVIDED IN SECTION 501(b) of this act,
8 the first through fourth sentences of section 201(b) and
9 section 201(c), (d) and (e) of the act of July 7, 1980
10 (P.L.380, No.97), known as the Solid Waste Management Act,
11 are repealed insofar as they are inconsistent with this act.

12 (2) ALL ACTS AND PARTS OF ACTS INCONSISTENT WITH SECTION <—

13 1505 ARE HEREBY REPEALED TO THE EXTENT OF THE INCONSISTENCY.

14 Section 1903. Effective date.

15 This act shall take effect in 60 days.