
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 AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
MAY 24, 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; PROVIDING TAX CREDITS FOR ←
10 TAXPAYERS WHO PURCHASE AND INSTALL RECYCLING EQUIPMENT;
11 imposing duties; granting powers to counties and
12 municipalities; authorizing the Environmental Quality Board
13 to adopt regulations; authorizing the Department of
14 Environmental Resources to implement this act; providing
15 remedies; prescribing penalties; establishing a fund; and
16 making repeals.

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13 The General Assembly of the Commonwealth of Pennsylvania
 14 hereby enacts as follows:

15 CHAPTER 1

16 GENERAL PROVISIONS

17 Section 101. Short title.

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

20 Section 102. Legislative findings; declaration of policy and
 21 goals.

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

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

28 (2) Parts of this Commonwealth have inadequate and
 29 rapidly diminishing processing and disposal capacity for
 30 municipal waste.

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

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

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

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

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

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

25 (9) Prompt payment and efficient collection of the
26 recycling fee created by this act are essential to the
27 administration of the recycling grants provided by this act.

28 (10) Authorizing counties to control the flow of
29 municipal waste and recyclable constituents of municipal
30 waste is necessary to guarantee, among other things, the long

1 term economic viability of resource recovery facilities and
2 municipal waste landfills, ensure that such facilities and
3 landfills can be financed, moderate the cost of such
4 facilities and landfills over the long term, protect existing
5 capacity, and assist in the development of markets for
6 recyclable materials by guaranteeing a steady flow of such
7 materials.

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

10 (12) By purchasing products or materials made from
11 recycled materials, public agencies in the Commonwealth can
12 help stimulate the market for such materials and thereby
13 foster recycling, and can also educate the public concerning
14 the utility and availability of such materials.

15 (13) Removing certain materials from the municipal
16 waste-stream will decrease the flow of solid waste to
17 municipal waste landfills, aid in the conservation and
18 recovery of valuable resources, conserve energy in the
19 manufacturing process, increase the supply of reusable
20 materials for the Commonwealth's industries, and will also
21 reduce substantially the required capacity of proposed
22 resource recovery facilities and contribute to their overall
23 combustion efficiency, thereby resulting in significant cost
24 savings in the planning, construction and operation of these
25 facilities.

26 (14) It is in the public interest to promote the source
27 separation of marketable waste materials on a Statewide basis
28 so that reusable materials may be returned to the economic
29 mainstream in the form of raw materials or products rather
30 than be disposed of at the Commonwealth's overburdened

1 municipal waste processing or disposal facilities.

2 (15) The recycling of marketable materials by
3 municipalities in the Commonwealth and Commonwealth agencies,
4 and the development of public and private sector recycling
5 activities on an orderly and incremental basis, will further
6 demonstrate the Commonwealth's long term commitment to an
7 effective and coherent solid waste management strategy.

8 (16) Operators of municipal waste landfills and resource
9 recovery facilities should give first priority to the
10 disposal or processing of municipal waste generated within
11 the host county because, among other reasons, the host county
12 is most directly affected by operations at the facility, and
13 because local processing or disposal of municipal waste saves
14 energy and transportation costs.

15 (17) The Commonwealth recognizes that both municipal
16 waste landfills and resource recovery facilities will be
17 needed as part of an integrated strategy to provide for the
18 processing and disposal of the Commonwealth's municipal
19 waste.

20 (18) This act is enacted under the authority of
21 Amendment X of the Constitution of the United States of
22 America, under which the police power to protect the health,
23 safety and welfare of the citizens is reserved to the states.

24 (19) The Commonwealth is responsible for the protection
25 of the health, safety and welfare of its citizens concerning
26 solid waste management.

27 (20) All aspects of solid waste management, particularly
28 the disposition of solid waste, pose a critical threat to the
29 health, safety and welfare of the citizens of this
30 Commonwealth.

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1 (21) UNCONTROLLED INCREASES IN THE DAILY VOLUMES OF
2 SOLID WASTE RECEIVED AT MUNICIPAL WASTE LANDFILLS HAVE
3 SIGNIFICANTLY DECREASED THEIR REMAINING LIFETIMES, DISRUPTING
4 THE MUNICIPAL WASTE PLANNING PROCESS AND THE ABILITY OF
5 MUNICIPALITIES RELYING ON THE LANDFILLS TO CONTINUE USING
6 THEM. THESE INCREASES HAVE THREATENED TO SIGNIFICANTLY AND
7 ADVERSELY AFFECT PUBLIC HEALTH AND SAFETY WHEN MUNICIPALITIES
8 FIND THEY CAN NO LONGER USE THE FACILITIES. UNCONTROLLED
9 INCREASES IN DAILY WASTE VOLUMES CAN ALSO CAUSE INCREASED
10 NOISE, ODORS, TRUCK TRAFFIC AND OTHER SIGNIFICANT ADVERSE
11 EFFECTS ON THE ENVIRONMENT AS WELL AS ON PUBLIC HEALTH AND
12 SAFETY.

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

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

21 (I) ENSURE THAT THE ABILITY OF THE SCRAP PROCESSING
22 AND RECYCLING INDUSTRY TO CONTINUE PURCHASING, PROCESSING
23 AND MARKETING RECOVERABLE MATERIALS IS NOT THEREBY
24 IMPAIRED.

25 (II) UTILIZE TO THE FULLEST EXTENT PRACTICABLE ALL
26 AVAILABLE FACILITIES AND EXPERTISE WITHIN THE SCRAP
27 PROCESSING AND RECYCLING INDUSTRY FOR PROCESSING AND
28 MARKETING RECYCLABLE MATERIALS FROM MUNICIPAL WASTE.

29 (24) VEHICLE BATTERIES ARE PARTICULARLY DIFFICULT TO
30 DISPOSE OF AND POTENTIALLY HARMFUL IF IMPROPERLY DISPOSED OF,

<—

1 AND THAT IT IS NECESSARY TO ADOPT A SPECIAL PLAN TO CONTROL
2 DISPOSAL AND PROMOTE RECYCLING OF SUCH BATTERIES. THIS ACT
3 SETS FORTH A COMPREHENSIVE PLAN FOR DISPOSAL OF VEHICLE
4 BATTERIES.

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

6 (1) Establish and maintain a cooperative State and local
7 program of planning and technical and financial assistance
8 for comprehensive municipal waste management.

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

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

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

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

22 (6) Establish a recycling fee for municipal waste
23 landfills and resource recovery facilities to provide grants
24 for recycling, planning and related purposes.

25 (7) Establish a host municipality benefit fee for
26 municipal waste landfills and resource recovery facilities
27 that are permitted after the effective date of this act and
28 to provide benefits to host municipalities for the presence
29 of such facilities.

30 (8) Establish a site-specific postclosure fee for

1 currently operating and future permitted municipal waste
2 landfills for remedial measures and emergency actions that
3 are necessary to prevent or abate adverse effects upon the
4 environment after the closure of such landfills.

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

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

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

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

20 (13) Implement Article 1, section 27 of the Constitution
21 of Pennsylvania.

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

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

30 (1) At least 25% of all municipal waste generated in

1 this Commonwealth on and after January 1, 1997, should be
2 recycled.

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

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

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

16 Section 103. Definitions.

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

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

23 "Commission." The Pennsylvania Public Utility Commission and
24 its authorized representatives.

25 "Commonwealth agency." The Commonwealth and its departments,
26 boards, commissions and agencies, Commonwealth owned
27 universities, and the State Public School Building Authority,
28 the State Highway and Bridge Authority, and any other authority
29 now in existence or hereafter created or organized by the
30 Commonwealth.

1 hereafter created or organized by the Commonwealth.

2 (2) All municipal or school or other authorities now in
3 existence or hereafter created or organized by any county,
4 city, borough, township or school district or any combination
5 thereof.

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

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

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

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

1 NOT INCLUDE SOURCE-SEPARATED RECYCLABLE MATERIALS.

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

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

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

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

26 "PLASTIC BEVERAGE CARRIER." PLASTIC RINGS OR SIMILAR PLASTIC <—
27 CONNECTORS USED AS HOLDING DEVICES IN THE PACKAGING OF
28 BEVERAGES, INCLUDING, BUT NOT LIMITED TO, ALL CARBONATED
29 BEVERAGES, LIQUORS, WINES, FRUIT JUICES, MINERAL WATERS, SODA
30 AND BEER.

1 "Pollution." Contamination of any air, water, land or other
2 natural resources of this Commonwealth that will create or is
3 likely to create a public nuisance or to render the air, water,
4 land or other natural resources harmful, detrimental or
5 injurious to public health, safety or welfare, or to domestic,
6 municipal, commercial, industrial, agricultural, recreational or
7 other legitimate beneficial uses, or to livestock, wild animals,
8 birds, fish or other life.

9 "Postconsumer waste material." Any product generated by a
10 business or consumer which has served its intended end use, and
11 which has been separated from solid waste for the purposes of
12 collection, recycling, and disposition. The term includes
13 industrial byproducts that would otherwise go to disposal or
14 processing facilities. The term does not include internally
15 generated scrap that is commonly returned to industrial or
16 manufacturing process.

17 "Processing." Any technology used for the purpose of
18 reducing the volume or bulk of municipal waste or any technology
19 used to convert part or all of such waste materials for offsite
20 reuse. Processing facilities include, but are not limited to,
21 transfer facilities, composting facilities and resource recovery
22 facilities.

23 "Project development." Those activities required to be
24 conducted prior to constructing a processing or disposal
25 facility that has been shown to be feasible, including, but not
26 limited to, public input and participation, siting, procurement
27 and vendor contract negotiations, and market and municipal waste
28 supply assurance negotiations.

29 "Public agency." Any Commonwealth agency or local public
30 agency.

1 "Reasonable expansion." The growth of an existing permitted
2 MUNICIPAL WASTE landfill to land which is contiguous to the <—
3 existing landfill, which contiguous land is owned in fee by the <—
4 owner of the landfill or which land is subject to an irrevocable
5 option exercisable within one year OF THE EFFECTIVE DATE OF THIS <—
6 ACT in favor of the owner of the landfill on the date that the <—
7 ~~plan is submitted and which contiguous land contains the same~~
8 ~~geological features which are present at the existing landfill.~~

9 "Recycled content." Products or materials containing
10 postconsumer waste materials.

11 "Recycling." The collection, separation, recovery and sale
12 or reuse of metals, glass, paper, leaf waste, plastics and other
13 materials which would otherwise be disposed or processed as
14 municipal waste.

15 "Remaining available permitted capacity." The remaining
16 permitted capacity that is actually available for processing or
17 disposal to the county or other municipality that generated the
18 waste.

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

29 "Residual waste." Any garbage, refuse, other discarded
30 material or other waste, including solid, liquid, semisolid or

1 contained gaseous materials resulting from industrial, mining
2 and agricultural operations and any sludge from an industrial,
3 mining or agricultural water supply treatment facility, waste
4 water treatment facility or air pollution control facility,
5 provided that it is not hazardous. The term shall not include
6 coal refuse as defined in the act of September 24, 1968
7 (P.L.1040, No.318), known as the Coal Refuse Disposal Control
8 Act. The term shall not include treatment sludges from coal mine
9 drainage treatment plants, disposal of which is being carried on
10 pursuant to and in compliance with a valid permit issued
11 pursuant to the act of June 22, 1937 (P.L.1987, No.394), known
12 as The Clean Streams Law.

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

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

30 "Solid waste." Solid waste, as defined in the act of July 7,

1 1980 (P.L.380, No.97), known as the Solid Waste Management Act.

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

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

6 "SOURCE-SEPARATED RECYCLABLE MATERIALS." MATERIALS THAT ARE ←
7 SEPARATED FROM MUNICIPAL WASTE AT THE POINT OF ORIGIN FOR THE
8 PURPOSE OF RECYCLING.

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

15 "Transportation." The offsite removal of any municipal waste
16 at any time after generation.

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

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

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

29 (2) use of products that contain as little material as
30 possible, are capable of being reused or recycled or have an

1 extended useful life.

2 Section 104. Construction of act.

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

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

8 CHAPTER 3

9 POWERS AND DUTIES

10 Section 301. Powers and duties of department.

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

14 (1) Administer the municipal waste planning, recycling
15 and waste reduction program pursuant to the provisions of
16 this act and the regulations promulgated pursuant thereto.

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

21 (3) Provide technical assistance to municipalities and
22 Commonwealth agencies, including, but not limited to, the
23 training of personnel.

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

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

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

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

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

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

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

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

29 (12) Take any action not inconsistent with this act that
30 the department may deem necessary or proper to collect the

1 recycling fee provided by this act, and to insure the payment
2 of the host municipality benefit fee and to ensure the
3 payment of the site-specific postclosure fee and moneys for
4 the trust fund for municipally operated landfills provided by
5 this act.

6 (13) Administer and distribute moneys in the Recycling
7 Fund for any public educational programs on recycling and
8 waste reduction that the department believes to be
9 appropriate, for technical assistance to counties in the
10 preparation of municipal waste management plans, for
11 technical assistance to municipalities concerning recycling
12 and waste reduction, to conduct research, and for other
13 purposes consistent with this act.

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

16 (i) Conducting a comprehensive, innovative and
17 effective public education program concerning the value
18 of recycling and waste reduction, and of public
19 opportunities to participate in such activities, in
20 cooperation with the Department of Education.

21 (ii) Developing and maintaining a data base on
22 recycling and waste reduction in the Commonwealth, and
23 making the information in that data base available to the
24 public.

25 (iii) Coordinating recycling and waste reduction
26 efforts among Commonwealth agencies.

27 (iv) Providing financial and other assistance to
28 municipalities that are required by section 1501 to
29 implement recycling programs.

30 (V) PROVIDING INFORMATION ABOUT POTENTIAL RECYCLING

<—

1 MARKETS TO MUNICIPALITIES AND OTHER INTERESTED PERSONS.

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

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

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

13 Section 303. Powers and duties of counties.

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

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

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

27 ~~(2)~~(1) (2) Shall have the power and duty to implement <—
28 its approved plan as it relates to the processing and
29 disposal of municipal waste generated within its boundaries.

30 ~~(3)~~(2) (3) May plan for the processing and disposal of <—

1 municipal waste generated outside its boundaries and to
2 implement its approved plan as it relates to the processing
3 and disposal of such waste.

4 ~~(4) (3) (4) May prohibit PETITION THE DEPARTMENT TO~~ <—
5 ~~LIMIT OR RESTRICT PROHIBIT municipal waste processing or~~
6 ~~disposal facilities located within the geographic boundaries~~
7 ~~of the county from processing or disposing of municipal waste~~
8 ~~generated or produced outside the geographical boundaries of~~
9 ~~the county if this processing or disposal would significantly~~
10 ~~diminish the CONTRIBUTE TO A SHORTAGE OF DIMINISH THE~~ <—
11 ~~processing or disposal capacity of the facilities. AVAILABLE~~ <—
12 ~~TO THE COUNTY OF THE FACILITIES.~~

13 ~~(5) (4) MAY PROHIBIT THE SITING OF ADDITIONAL RESOURCE~~ <—
14 ~~RECOVERY FACILITIES WITHIN ITS GEOGRAPHIC BOUNDARIES IF, AS~~
15 ~~OF THE EFFECTIVE DATE OF THIS ACT, A RESOURCE RECOVERY~~
16 ~~FACILITY IS OPERATING WITHIN THE COUNTY.~~

17 ~~(6) (5) MAY ADOPT ORDINANCES, RESOLUTIONS, REGULATIONS~~ <—
18 ~~AND STANDARDS FOR THE RECYCLING OF MUNICIPAL WASTE IF ONE OF~~
19 ~~THE FOLLOWING REQUIREMENTS ARE MET:~~

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

24 (II) SUCH ORDINANCES, RESOLUTIONS, REGULATIONS OR
25 STANDARDS ARE NECESSARY TO IMPLEMENT A MUNICIPAL
26 RECYCLING PROGRAM UNDER SECTION 1501 WHICH THE
27 MUNICIPALITY HAS DELEGATED TO THE COUNTY PURSUANT TO
28 SECTION 304.

29 ~~(7) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, IF~~ <—
30 ~~THERE ARE TWO OR MORE PERMITTED AND OPERATING LANDFILLS~~

1 ~~PROCESSING OR DISPOSING OF OUT OF COUNTY MUNICIPAL WASTE, THE~~
2 ~~COUNTY OF SITUS MAY PROHIBIT THE PROCESSING OR DISPOSAL OF~~
3 ~~OUT OF COUNTY MUNICIPAL WASTE AT ANY NEW LANDFILL PERMITTED~~
4 ~~AFTER OCTOBER 21, 1987. NOTHING IN THIS PARAGRAPH SHALL~~
5 ~~PROHIBIT A FACILITY THAT IS NEWLY PERMITTED AFTER OCTOBER 21,~~
6 ~~1987, FROM PROCESSING OR DISPOSING OF OUT OF COUNTY MUNICIPAL~~
7 ~~WASTE AS LONG AS THE OUT OF COUNTY MUNICIPAL WASTE DOES NOT~~
8 ~~EXCEED 10% OF THE DAILY CAPACITY OF THE FACILITY AS~~
9 ~~PERMITTED, AS RATED BY THE DEPARTMENT AND AS AGREED UPON BY~~
10 ~~THE GOVERNING BODY OF THE COUNTY IN WHICH THE FACILITY IS~~
11 ~~LOCATED. FOR THE PURPOSE OF THIS PARAGRAPH, THE TERM "OUT OF~~
12 ~~COUNTY MUNICIPAL WASTE" MEANS WASTE THAT IS PRODUCED OR~~
13 ~~GENERATED OUTSIDE THE GEOGRAPHIC BOUNDARIES OF THE COUNTY.~~
14 ~~NOTHING IN THIS SUBSECTION SHALL BE CONSTRUED TO AFFECT THE~~
15 ~~RIGHTS OF EXISTING MUNICIPAL WASTE LANDFILLS, NOR SHALL THIS~~
16 ~~SUBSECTION EFFECT ANY MODIFICATION, EXTENSION, ADDITION OR~~
17 ~~RENEWAL OF PERMITS.~~

18 ~~(b) Joint planning. Any two or more counties may adopt and~~ <—

19 (B) JOINT PLANNING.-- <—

20 (1) ANY TWO OR MORE COUNTIES MAY ADOPT AND implement a
21 single municipal waste management plan for the municipal
22 waste generated within the combined area of the counties. <—

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

26 (2) WHEN TWO OR MORE COUNTIES FORM A JOINT PLANNING
27 EFFORT AND AN ENTITY IS CREATED TO IMPLEMENT THE PLAN, ANY
28 DUTY IMPOSED ON A COUNTY BY THIS ACT SHALL BE IMPOSED ON THE
29 ENTITY CREATED.

30 (3) WHEN TWO OR MORE COUNTIES FORM A JOINT PLANNING

1 EFFORT AND AN ENTITY IS NOT CREATED TO IMPLEMENT THE PLAN,
2 EACH COUNTY SHALL HAVE THE DUTY TO IMPLEMENT THE PLAN AS SUCH
3 PLAN PERTAINS TO EACH COUNTY.

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

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

20 (e) Designated sites.--A county with an approved municipal
21 waste management plan that was submitted pursuant to section
22 501(a) or (c) of this act is also authorized to require that all
23 municipal wastes generated within its boundaries shall be
24 processed or disposed at a designated processing or disposal
25 facility that is contained in the approved plan and permitted by
26 the department under the Solid Waste Management Act. No county
27 shall direct municipal waste that would otherwise be recycled to
28 any resource recovery facility or other facility for purposes
29 other than recycling such waste. A COUNTY WHICH DESIGNATES THAT ←
30 MUNICIPAL WASTE GENERATED WITHIN ITS BOUNDARIES SHALL BE

1 ~~PROCESSED OR DISPOSED AT A DESIGNATED FACILITY SHALL PERMIT A~~
2 ~~MUNICIPALITY OR COMMERCIAL ESTABLISHMENT TO CONTRACT FOR~~
3 ~~ALTERNATIVE METHODS OF WASTE PROCESSING OR DISPOSAL IF DOING SO~~
4 ~~WOULD RESULT IN A SAVINGS TO THE MUNICIPALITY OR COMMERCIAL~~
5 ~~ESTABLISHMENT AND WOULD NOT IMPAIR THE OPERATION OF THE FACILITY~~
6 ~~DESIGNATED BY THE COUNTY.~~ This subsection shall not apply to
7 municipal waste going to existing or future on-site captive
8 commercial disposal facilities used for the exclusive disposal
9 of municipal waste generated by that commercial operation.

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

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

14 (2) The weight or volume of materials that were recycled
15 by municipal recycling programs in the county in the
16 preceding calendar year.

17 Section 304. Powers and duties of municipalities other than
18 counties.

19 (a) Responsibility of other municipalities.--Each
20 municipality other than a county shall have the power and its
21 duty shall be to assure the proper and adequate transportation,
22 collection and storage of municipal waste which is generated or
23 present within its boundaries, TO ASSURE ADEQUATE CAPACITY BY <—
24 ~~THE ADOPTION OF VOLUME RESTRICTIONS,~~ FOR THE DISPOSAL OF <—
25 MUNICIPAL WASTE GENERATED WITHIN ITS BOUNDARIES BY MEANS OF THE
26 PROCEDURE SET FORTH IN SECTION 1111, and to adopt and implement
27 programs for the collection and recycling of municipal waste as
28 provided in this act.

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

30 (1) IN CARRYING OUT ITS DUTIES UNDER THIS section, a <—

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

8 (2) THE HOST MUNICIPALITY SHALL HAVE THE AUTHORITY TO ←
9 ADOPT REASONABLE ORDINANCES, INCLUDING, BUT NOT LIMITED TO,
10 ORDINANCES CONCERNING THE HOURS AND DAYS OF OPERATION OF THE
11 FACILITY AND TRAFFIC. SUCH ORDINANCES MAY BE IN ADDITION TO,
12 BUT NOT LESS STRINGENT THAN, NOT INCONSISTENT WITH AND NOT IN
13 VIOLATION OF, ANY PROVISION OF THIS ACT, ANY REGULATION
14 PROMULGATED PURSUANT TO THIS ACT OR ANY LICENSE ISSUED
15 PURSUANT TO THIS ACT. SUCH ORDINANCES FOUND TO BE
16 INCONSISTENT AND NOT IN SUBSTANTIAL CONFORMITY WITH THIS ACT
17 SHALL BE SUPERSEDED. APPEALS UNDER THIS SUBSECTION MAY BE
18 BROUGHT BEFORE A COURT OF COMPETENT JURISDICTION.

19 (c) Contracting of responsibility.--A municipality other
20 than a county may contract with any municipality, municipal
21 authority or other persons to carry out its duties for the
22 RECYCLING, transportation, collection and storage of municipal ←
23 waste, if the RECYCLING, transportation, collection or storage ←
24 activity or facility is conducted or operated in a manner that
25 is consistent with the Solid Waste Management Act, this act and
26 the regulations promulgated pursuant thereto. Any such person
27 shall be jointly and severally responsible with the municipality
28 other than a county when carrying out its duties for
29 transportation, collection or storage activity or facility.

30 (d) Designated sites.--A municipality other than a county

1 may require by ordinance that all municipal waste generated
2 within its jurisdiction shall be disposed of at a designated
3 permitted facility. Such ordinance shall remain in effect until
4 the county in which the municipality is located adopts a waste
5 flow control ordinance as part of a plan submitted to the
6 department pursuant to section 501(a) or (c) and approved by the
7 department. Except as provided in section 502(m), any such
8 county ordinance shall supersede any such municipal ordinance to
9 the extent that the municipal ordinance is inconsistent with the
10 county ordinance.

11 (e) Term and renewals of certain contracts.--The governing
12 body of a municipality other than a county shall have the power
13 to, and may, enter into contracts having an initial term of five
14 years with optional renewal periods of up to five years with
15 persons responsible for the collection or transportation of
16 municipal waste generated within the municipality. The
17 limitations imposed on contracts by clause XXVII of section 1502
18 of the act of June 24, 1931 (P.L.1206, No.331), known as The
19 First Class Township Code, and clause VIII of section 702 of the
20 act of May 1, 1933 (P.L.103, No.69), known as The Second Class
21 Township Code, shall not apply to contracts entered into
22 pursuant to this act.

23 (f) Report.--On or before February 15 of each year, each
24 municipality other than a county that is implementing a
25 recycling program shall submit a report to the county in which
26 the municipality is located. The report shall describe the
27 weight or volume of materials that were recycled by the
28 municipal recycling program in the preceding calendar year.

29 CHAPTER 5

30 MUNICIPAL WASTE PLANNING

1 Section 501. Schedule for submission of municipal waste
2 management plans.

3 (a) Submission of plan.--Except as provided in subsections
4 (b) and (c), each county shall submit to the department within
5 two and one-half years of the effective date of this act an
6 officially adopted plan for a municipal waste management plan
7 for municipal waste generated within its boundaries. Such plan
8 shall be consistent with the requirements of this act. FOR THE ←
9 PURPOSES OF THIS CHAPTER, THE TERM "COUNTY" INCLUDES CITIES OF
10 THE FIRST CLASS BUT DOES NOT INCLUDE COUNTIES OF THE FIRST
11 CLASS.

12 (b) Existing plans.--A county that has submitted a complete
13 municipal waste management plan to the department for approval
14 on or before 30 days from the effective date of this act, shall
15 be deemed to have a plan approved pursuant to section 505 if, on
16 or before the effective date of this act:

17 (1) The department has granted technical or preliminary
18 approval of such plan under 25 Pa. Code §§ 75.11 through
19 75.13.

20 (2) More than one-half of the municipalities within the
21 county, representing more than one-half of the county's
22 population as determined by the most recent decennial census
23 by the United States Bureau of the Census, have adopted
24 resolutions approving such plan.

25 (c) Plan revisions.--Each county with an approved municipal
26 waste management plan shall submit a revised plan to the
27 department in accordance with the requirements of this act:

28 (1) At least three years prior to the time all remaining
29 available permitted capacity for the county will be
30 exhausted.

1 (2) For plans approved pursuant to subsection (b),
2 within two years of the effective date of this act. Such plan
3 revisions shall be consistent with the requirements of this
4 chapter except to the extent that the county demonstrates to
5 the department's satisfaction that irrevocable contracts made
6 by or pursuant to the approved plan preclude compliance with
7 the requirements of this chapter.

8 (3) When otherwise required by the department.

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

18 Section 502. Content of municipal waste management plans.

19 (a) General rule.--Except as provided in section 501(b),
20 every plan submitted after the effective date of this act shall
21 comply with the provisions of this section.

22 (b) Description of waste.--The plan shall describe and
23 explain the origin, content and weight or volume of municipal
24 waste currently generated within the county's boundaries, and
25 the origin, content and weight or volume of municipal waste that
26 will be generated within the county's boundaries during the next
27 ten years.

28 (c) Description of facilities.--The plan shall identify and
29 describe the facilities where municipal waste is currently being
30 disposed or processed and the remaining available permitted

1 capacity of such facilities ~~and the capacity which could be made~~ <—
2 ~~available through the reasonable expansion of such facilities.~~
3 The plan shall contain an analysis of the effect of current and
4 planned recycling on waste generated within the county. The plan
5 shall also explain the extent to which existing facilities will
6 be used during the life of the plan, and shall not substantially
7 impair the use of their remaining permitted capacity ~~or of~~ <—
8 ~~capacity which could be made available through the reasonable~~
9 ~~expansion of such facilities.~~ For purposes of this subsection,
10 existing facilities shall include facilities ~~for which a~~ HOLDING <—
11 PERMITS AND FACILITIES FOR WHICH A COMPLETE permit application
12 under the Solid Waste Management Act is filed with the
13 department within one year from the effective date of this act
14 ~~or the date a plan is approved~~ WITHIN ONE YEAR OF THE DATE <—
15 WRITTEN NOTICE OF THE DEVELOPMENT OF A PLAN ~~OR~~ IS GIVEN TO <—
16 MUNICIPALITIES PURSUANT TO SECTION 503(B) OR WITHIN SIX MONTHS
17 OF THE WRITTEN NOTICE FOR A SUBSTANTIAL PLAN REVISION IS GIVEN
18 TO MUNICIPALITIES PURSUANT TO SECTION 503(B), whichever is the
19 later, unless such permit application is denied by the
20 department. In addition, the plan shall give consideration to
21 the potential REASONABLE expansion of existing municipal waste <—
22 processing or disposal facilities located in the county. ~~For the~~ <—
23 ~~purposes of this subsection, the department shall determine~~
24 ~~whether applications are complete within 90 days of their~~
25 ~~receipt and, if incomplete, specify to the applicant all~~
26 ~~deficiencies of the application.~~

27 (d) Estimated future capacity.--The plan shall estimate the
28 processing or disposal capacity needed for the municipal waste
29 that will be generated in the county during the next ten years.
30 The assessment shall describe the primary variables affecting

1 this estimate and the extent to which they can reasonably be
2 expected to affect the estimate, including, but not limited to,
3 the amount of residual waste disposed or processed at municipal
4 waste disposal or processing facilities in the county and the
5 extent to which residual waste may be disposed or processed at
6 such facilities during the next ten years. IF THE PLAN INDICATES ←
7 THAT ADDITIONAL PROCESSING OR DISPOSAL CAPACITY IS NEEDED BY THE
8 COUNTY, THE COUNTY SHALL GIVE PUBLIC NOTICE OF SUCH A
9 DETERMINATION AND SOLICIT PROPOSALS AND RECOMMENDATIONS
10 REGARDING FACILITIES AND PROGRAMS TO PROVIDE SUCH CAPACITY. THE
11 COUNTY SHALL PROVIDE A COPY OF SUCH NOTICE TO THE DEPARTMENT
12 WHICH SHALL CAUSE A COPY OF SUCH NOTICE TO BE PUBLISHED IN THE
13 PENNSYLVANIA BULLETIN.

14 (e) Description of recyclable waste.--

15 (1) The plan shall describe and evaluate:

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

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

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

28 (iv) The compatibility of recycling with other
29 municipal waste processing or disposal methods, giving
30 consideration to and describing anticipated and available

1 markets for materials collected through municipal
2 recycling programs.

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

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

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

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

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

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

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

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

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

28 (2) Any county containing municipalities that are
29 required by section 1501 to implement recycling programs
30 shall take the provisions of that section into account in

1 preparing the recycling portion of its plan.

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

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

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

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

20 (3) Evaluate the environmental, energy, life cycle cost, ←
21 THE COSTS OF COLLECTION AND TRANSPORTATION TO EACH FACILITY
22 CONSIDERED and economic advantages and disadvantages of the
23 proposed facility or program as well as the alternatives
24 considered.

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

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

1 (6) SHOW THAT THE COUNTY UTILIZED A FAIR, OPEN AND
2 COMPETITIVE PROCESS FOR SELECTING SUCH FACILITY OR PROGRAM
3 WHICH CONSIDERED ALTERNATIVES SUGGESTED TO THE COUNTY.

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

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

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

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

29 (k) Orderly extension.--The plan shall provide for the
30 orderly extension of municipal waste management systems in a

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

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

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

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

25 (o) Noninterference with certain resource recovery
26 facilities and landfills.--

27 ~~(1) Except as provided in section 303(a)(4), no county~~ <—
28 ~~municipal waste management plan shall interfere with any of~~
29 ~~the following:~~

30 ~~(i) The design, construction or operation of any~~

1 ~~municipal waste processing, disposal or resource recovery~~
2 ~~facility or the reasonable expansion of such facility or~~
3 ~~municipal waste landfill that is part of a complete~~
4 ~~municipal waste management plan submitted by a~~
5 ~~municipality or organization of municipalities under the~~
6 ~~Solid Waste Management Act prior to the effective date of~~
7 ~~this act or the date such plan is undertaken, whichever~~
8 ~~is the later, and for which a complete permit application~~
9 ~~under the Solid Waste Management Act is submitted to the~~
10 ~~department within one year of the effective date of this~~
11 ~~act.~~

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

1 ~~(2) Within 120 days after receiving a complete plan, the~~
2 ~~department shall give it preliminary or technical approval~~
3 ~~under 25 Pa. Code §§ 75.11 through 75.13 or disapprove it.~~
4 ~~For the purposes of this subsection, the department shall~~
5 ~~determine whether applications are complete within 90 days of~~
6 ~~their receipt and, if incomplete, specify to the applicant~~
7 ~~all deficiencies of the application.~~

8 (1) NO COUNTY MUNICIPAL WASTE MANAGEMENT PLAN SHALL <—
9 INTERFERE WITH THE DESIGN, CONSTRUCTION OR OPERATION OF ANY
10 MUNICIPAL WASTE PROCESSING OR DISPOSAL FACILITY, INCLUDING
11 ANY REASONABLE EXPANSION OF AN EXISTING FACILITY, THAT MEETS <—
12 EITHER OF THE FOLLOWING REQUIREMENTS:

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

24 (II) ~~A~~ THE FACILITY HAS A PERMIT ON THE EFFECTIVE <—
25 DATE OF THIS ACT OR WITHIN ONE YEAR OF THE DATE WRITTEN
26 NOTICE OF THE DEVELOPMENT OF A PLAN OR A PLAN REVISION IS
27 GIVEN TO MUNICIPALITIES PURSUANT TO SECTION 503(B),
28 WHICHEVER IS LATER, OR A COMPLETE PERMIT APPLICATION FOR
29 THE FACILITY UNDER THE SOLID WASTE MANAGEMENT ACT IS
30 SUBMITTED TO THE DEPARTMENT ~~WITHIN ONE YEAR OF THE~~ <—

~~EFFECTIVE DATE OF THE ACT.~~ BY SUCH DATE. <—

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

(P) WASTE RETURN.--THE PLAN SHALL INCLUDE A PROVISION THAT ALLOWS A MUNICIPAL WASTE AUTHORITY RECEIVING UNAUTHORIZED OR EMERGENCY SHIPMENTS OF MUNICIPAL WASTE FROM ANOTHER AUTHORITY TO RETURN AN AMOUNT OF MUNICIPAL WASTE EQUAL TO THE AMOUNT OF MUNICIPAL WASTE RECEIVED FROM THE AUTHORITY EXPERIENCING THE EMERGENCY OR SENDING THE UNAUTHORIZED WASTE.

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

Section 503. Development of municipal waste management plans.

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

(b) Written notice.--The county shall provide written notice

1 to all municipalities within the county when plan development
2 begins and shall provide periodic written progress reports to
3 such municipalities concerning the preparation of the plan.

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

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

29 (e) Statement of objections.--A municipality may not
30 disapprove of a proposed county plan unless the municipality's

1 resolution of disapproval contains a concise statement of its
2 objections to the plan. Each municipality disapproving a plan
3 shall immediately transmit a copy of its resolution of
4 disapproval to the county and the advisory committee. A
5 conditional approval shall be considered a disapproval.

6 Section 504. Failure to ratify plan.

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

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

30 (c) Statement of objections.--A municipality may not

1 disapprove of a proposed revised county plan unless the
2 municipality's resolution of disapproval contains a concise
3 statement of its objections to the plan. Each municipality shall
4 immediately transmit a copy of its resolution of disapproval to
5 the county.

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

13 Section 505. Review of municipal waste management plans.

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

20 (b) Minimum plan requirement.--The department shall approve
21 any county plan that demonstrates to the satisfaction of the
22 department that:

23 (1) The plan is complete ~~and accurate~~, ACCURATE AND ←
24 CONSISTENT WITH THIS ACT AND REGULATIONS PROMULGATED
25 HEREUNDER.

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

28 (3) The plan provides for the TRANSPORTATION, processing ←
29 and disposal of municipal waste in a manner that is
30 consistent with the requirements of the Solid Waste

1 Management Act, and the regulations promulgated pursuant
2 thereto.

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

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

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

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

18 (C) ZONING POWERS UNAFFECTED.--NOTHING IN THIS ACT SHALL BE <—
19 CONSTRUED OR UNDERSTOOD TO ENLARGE OR DIMINISH THE AUTHORITY OF
20 MUNICIPALITIES TO ADOPT ORDINANCES PURSUANT TO, OR TO EXEMPT
21 PERSONS ACTING UNDER THE AUTHORITY OF THIS ACT FROM THE
22 PROVISIONS OF, THE ACT OF JULY 31, 1968 (P.L.805, NO.247), KNOWN
23 AS THE PENNSYLVANIA MUNICIPALITIES PLANNING CODE., EXCEPT THAT <—
24 ANY EXPANSION OF AN EXISTING MUNICIPAL WASTE LANDFILL OWNED AND
25 OPERATED BY ANY LOCAL PUBLIC AGENCY SHALL NOT BE REQUIRED TO
26 COMPLY WITH ANY ORDINANCE OR OTHER LOCAL REGULATION, PROVIDED
27 THE LOCAL PUBLIC AGENCY HAS RECEIVED A PERMIT FROM THE
28 DEPARTMENT PURSUANT TO THE PROVISIONS OF THE SOLID WASTE
29 MANAGEMENT ACT.

30 Section 506. Contracts.

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

8 (b) Renewals.--No renewal of any existing contract upon the
9 expiration or termination of the original term thereof, and no
10 new contract for municipal waste disposal, processing or
11 collection shall be entered into after the effective date of
12 this act, ~~unless~~ IF such renewal or such new contract shall <—
13 FAILS TO conform to the applicable provisions of this act and OR <—
14 INTERFERES WITH THE IMPLEMENTATION OF a department-approved
15 municipal waste management plan. A RENEWAL SHALL NOT EXCEED A <—
16 PERIOD OF TEN YEARS.

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

23 (C) RENEGOTIATION OPTION.--IF NO PLAN HAS BEEN APPROVED FOR <—
24 THE COUNTY, NO CONTRACT RENEWAL OR NEW CONTRACT FOR MUNICIPAL
25 WASTE DISPOSAL, PROCESSING OR COLLECTION SHALL BE ENTERED INTO
26 UNLESS SUCH CONTRACT CONTAINS A PROVISION FOR RENEGOTIATION TO
27 CONFORM TO THE APPROVED PLAN WHEN SUCH PLAN IS APPROVED BY THE
28 DEPARTMENT.

29 Section 507. Relationship between plans and permits.

30 (a) Limitation on permit issuance.--After the date of

1 departmental approval of a county municipal waste management
2 plan under section 505, the department ~~may~~ SHALL not issue any ←
3 new permit, or any permit that results in additional capacity,
4 for a municipal waste landfill or resource recovery facility
5 under the Solid Waste Management Act in the county unless the
6 applicant demonstrates to the department's satisfaction that the
7 proposed facility:

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

9 (2) meets all of the following requirements:

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

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

15 ~~(iii) The governing body of the proposed host county ←~~
16 ~~has provided a written statement approving the location~~
17 ~~of the proposed facility, or the proposed location of the~~
18 ~~facility is preferable to alternative locations, giving~~
19 ~~consideration to environmental and economic factors.~~

20 (III) THE PROPOSED LOCATION OF THE FACILITY IS AT ←
21 LEAST AS SUITABLE AS ALTERNATIVE LOCATIONS GIVING
22 CONSIDERATION TO ENVIRONMENTAL AND ECONOMIC FACTORS.

23 (IV) THE GOVERNING BODY OF THE PROPOSED HOST COUNTY
24 HAS RECEIVED WRITTEN NOTICE OF THE PROPOSED FACILITY FROM
25 THE APPLICANT PURSUANT TO SECTION 504 OF THE SOLID WASTE
26 MANAGEMENT ACT, AND WITHIN 60 DAYS FROM SUCH
27 NOTIFICATION, THE GOVERNING BODY OF THE PROPOSED HOST
28 COUNTY HAS NOT PROVIDED THE DEPARTMENT WITH WRITTEN
29 OBJECTIONS TO THE PROPOSED FACILITY. SHOULD THE GOVERNING
30 BODY OF THE PROPOSED HOST COUNTY FILE TIMELY OBJECTIONS

1 TO THE DEPARTMENT, THE DEPARTMENT SHALL NOT APPROVE THE
2 PERMIT APPLICATION, UNLESS THE DEPARTMENT DETERMINES THE
3 PROPOSED FACILITY COMPLIES WITH THE APPROPRIATE
4 ENVIRONMENTAL, PUBLIC HEALTH AND SAFETY REQUIREMENTS AND
5 IS IN COMPLIANCE WITH THIS SUBPARAGRAPH AND SUBPARAGRAPHS
6 (I), (II) AND (III).

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

11 Section 508. Studies.

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

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

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

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

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

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

29 (b) Update of market study.--Within three years after the
30 completion of the market development study described in

1 subsection (a), the department shall submit to the General
2 Assembly an update of the study, taking into account information
3 developed since its completion.

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

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

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

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

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

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

1 new resource recovery facilities.

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

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

17 (D) NEW TECHNOLOGIES.--NOTHING CONTAINED IN THIS ACT SHALL <—
18 PROHIBIT A PRIVATE COMMERCIAL ENTERPRISE FROM DEVELOPING AND
19 IMPLEMENTING INNOVATIVE OR ALTERNATIVE, ENVIRONMENTALLY
20 ACCEPTABLE, MEANS OF REDUCING, PROCESSING, RECYCLING AND/OR
21 DISPOSING OF WASTE, GENERATED BY THE APPLICANT COMMERCIAL
22 ENTERPRISE'S OPERATION, EITHER ONSITE, OR OTHERWISE, WHICH MEANS
23 ARE NOT VIOLATIVE OF, NOR INCONSISTENT WITH, THE PROVISIONS AND
24 PURPOSES OF THE SOLID WASTE MANAGEMENT ACT, THIS ACT AND/OR
25 DEPARTMENT REGULATIONS.

26 Section 510. Permit requirements.

27 (A) ASH RESIDUE DISPOSAL.--The department shall not issue <—
28 any approval or permit for a resource recovery facility under
29 the Solid Waste Management Act unless the applicant has provided
30 the department with adequate documentation and assurances that

1 all FLY AND BOTTOM ash residue produced from or by a resource <—
2 recovery facility ~~will be disposed at a~~ SHALL BE: <—

3 (1) COLLECTED SEPARATELY; AND

4 (2) TESTED SEPARATELY TO DETERMINE ITS HAZARDOUS NATURE.

5 ASH RESIDUE DETERMINED TO BE HAZARDOUS WASTE AS DEFINED IN
6 THE SOLID WASTE MANAGEMENT ACT SHALL BE DISPOSED AT A
7 PERMITTED HAZARDOUS WASTE DISPOSAL FACILITY. ASH RESIDUE
8 DETERMINED NOT TO BE HAZARDOUS WASTE AS DEFINED IN THE SOLID
9 WASTE MANAGEMENT ACT SHALL BE DISPOSED AT A permitted
10 landfill OR BY ANY OTHER METHOD APPROVED BY THE DEPARTMENT. <—

11 Prior to the approval of any permit application for a
12 resource recovery facility, the operator shall submit a plan
13 to the department for the alternate disposal of municipal
14 waste designated for disposal at the resource recovery
15 facility.

16 (B) STUDY OF EFFECT ON WATER SUPPLY.--THE DEPARTMENT SHALL <—
17 NOT ISSUE ANY APPROVAL OR PERMIT FOR A RESOURCE RECOVERY
18 FACILITY UNLESS THE APPLICANT HAS PROVIDED THE DEPARTMENT WITH A
19 STUDY THAT DOCUMENTS THE SHORT-TERM AND LONG-TERM EFFECTS THAT
20 THE PROJECT WILL HAVE ON THE PUBLIC AND PRIVATE WATER SUPPLY.
21 THE STUDY SHALL INCLUDE, BUT NOT BE LIMITED TO, EFFECTS OF
22 POLLUTION, CONTAMINATION, DIMINUTION, AND ALTERNATIVE SOURCES OF
23 WATER ADEQUATE IN QUANTITY AND QUALITY FOR THE PURPOSES SERVED
24 BY THE WATER SUPPLY BOTH PUBLIC AND PRIVATE.

25 ~~Section 511. Site limitation.~~ <—

26 ~~(a) General rule. (A) GENERAL RULE. No municipal waste <—~~
27 ~~landfill or resource recovery facility shall be located within~~
28 ~~300 1,000 yards of a park, playground OR cemetery or school. The <—~~
29 ~~department shall not issue a permit to any operator of such a~~
30 ~~landfill or facility as defined in this section. For purposes of~~

1 ~~this section, a municipal waste landfill or resource recovery~~
2 ~~facility shall include the processing, compacting, treatment,~~
3 ~~storage, off loading OR transferring. or in any other way~~ <—
4 ~~dealing with municipal waste.~~

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

8 ~~(B) CERTAIN LANDFILLS. THE DEPARTMENT SHALL NOT ISSUE A~~ <—
9 ~~PERMIT FOR, NOR ALLOW THE OPERATION OF, A NEW MUNICIPAL WASTE~~
10 ~~LANDFILL, A NEW RESIDUAL WASTE TREATMENT FACILITY OR A NEW~~
11 ~~DISPOSAL FACILITY WITHIN 1,000 YARDS OF A BUILDING WHICH IS~~
12 ~~OWNED BY A SCHOOL DISTRICT AND USED FOR INSTRUCTIONAL PURPOSES.~~
13 ~~THIS SUBSECTION SHALL NOT AFFECT ANY MODIFICATION, EXTENSION,~~
14 ~~ADDITION OR RENEWAL OF EXISTING PERMITTED FACILITIES.~~

15 ~~Section 512. Issuance of permits.~~

16 ~~(a) General rule. The department shall review and approve~~
17 ~~or disapprove all applications for permits, permit modifications~~
18 ~~and other determinations under the Solid Waste Management Act~~
19 ~~within 90 days of the time the department determines that an~~
20 ~~application for action is reasonably complete. The department~~
21 ~~shall make a determination regarding whether an application is~~
22 ~~reasonably complete within 45 days of the filing of an~~
23 ~~application with the department and shall identify all areas in~~
24 ~~which an application is incomplete when issuing a notice of~~
25 ~~deficiency. The department shall review any amended application~~
26 ~~filed in response to a notice of deficiency within 30 days of~~
27 ~~the filing of the amended application with the department.~~

28 ~~Nothing in this section shall prohibit the department and the~~
29 ~~applicant from the agreeing to extend any deadline for action~~
30 ~~provided by this section. Nothing in this section shall prohibit~~

1 ~~the department from requesting and accepting supplemental~~
2 ~~information, explanations and clarifications regarding the~~
3 ~~content of an application prior to the deadline for department~~
4 ~~action.~~

5 ~~(b) Conditions. Except as necessary to avoid an imminent~~
6 ~~threat to the public health, safety or the environment, the~~
7 ~~department shall not impose or modify conditions upon a permit~~
8 ~~issued or impose or modify conditions upon operations or other~~
9 ~~activities conducted under the Solid Waste Management Act~~
10 ~~without prior notice to the applicant or permittee and affording~~
11 ~~the applicant or permittee an opportunity to comment upon the~~
12 ~~proposed conditions. The department shall review comments~~
13 ~~submitted in response to the proposed conditions and either~~
14 ~~amend the conditions or explain in writing the department's~~
15 ~~response to comments received from the applicant or permittee.~~

16 SECTION 511. SITE LIMITATION. ←

17 (A) GENERAL RULE.--THE DEPARTMENT SHALL NOT ISSUE A PERMIT
18 FOR, NOR ALLOW THE OPERATION OF, A NEW MUNICIPAL WASTE LANDFILL,
19 A NEW RESIDUAL WASTE TREATMENT FACILITY, A NEW RESOURCE RECOVERY
20 FACILITY, OR A NEW DISPOSAL FACILITY WITHIN 300 YARDS OF A
21 BUILDING WHICH IS OWNED BY A SCHOOL DISTRICT AND USED FOR
22 INSTRUCTIONAL PURPOSES, RESIDENTIAL HOUSING, PARKS OR
23 PLAYGROUNDS EXISTING PRIOR TO THE DATE THE DEPARTMENT HAS
24 RECEIVED AN ADMINISTRATIVELY COMPLETE APPLICATION FOR A PERMIT
25 FOR SUCH FACILITIES. FOR THE PURPOSES OF THIS SECTION, A
26 MUNICIPAL WASTE LANDFILL OR RESOURCE RECOVERY FACILITY SHALL
27 INCLUDE FACILITIES FOR THE PROCESSING, COMPACTING, TREATMENT,
28 STORAGE, OFF-LOADING OR TRANSFERRING OF MUNICIPAL WASTE. THIS
29 SUBSECTION SHALL NOT AFFECT ANY MODIFICATION, EXTENSION,
30 ADDITION OR RENEWAL OF EXISTING PERMITTED FACILITIES.

1 (B) EXEMPTION BY REQUEST.--THE GOVERNING BODY OF A
2 MUNICIPALITY IN WHICH A NEW FACILITY IS PROPOSED MAY REQUEST THE
3 DEPARTMENT TO WAIVE THE 300 YARD PROHIBITION IN SUBSECTION (A)
4 WITHIN ITS JURISDICTION AND, UPON SUCH REQUEST, THE DEPARTMENT
5 SHALL WAIVE THE 300 YARD PROHIBITION AND SHALL NOT USE SUCH
6 PROHIBITION AS THE BASIS FOR THE DENIAL OF A NEW PERMIT.
7 SECTION 512. COMPLETENESS REVIEW. <—

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

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

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

26 (B) REVIEW PERIOD.--

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

30 (I) FOR MUNICIPAL WASTE AND DEMOLITION WASTE

1 LANDFILLS, WITHIN 12 MONTHS FROM THE DATE OF THE
2 DEPARTMENT'S DETERMINATION UNDER SUBSECTION (A) THAT THE
3 APPLICATION IS ADMINISTRATIVELY COMPLETE.

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

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

14 SECTION 513. FUTURE AVAILABILITY. ←

15 (A) CAPACITY.--EFFECTIVE FIVE YEARS FROM THE EFFECTIVE DATE
16 OF THIS ACT, EACH COUNTY SHALL HAVE A PROGRAM, ACCEPTABLE BY THE
17 DEPARTMENT, TO ASSURE THE AVAILABILITY WITHIN THE COUNTY OF
18 TREATMENT OR DISPOSAL FACILITIES WHICH:

19 (1) HAVE SUFFICIENT CAPACITY TO PROPERLY DISPOSE OF ALL
20 OF THE MUNICIPAL WASTE REASONABLY EXPECTED TO BE GENERATED
21 WITHIN THE COUNTY FOR THE PERIOD OF THE NEXT TEN YEARS;

22 (2) HAVE SUFFICIENT CAPACITY TO PROPERLY DISPOSE OF ALL
23 ASH RESIDUE REASONABLY EXPECTED TO BE PRODUCED BY OR FROM ALL
24 INCINERATORS AND RESOURCE RECOVERY FACILITIES LOCATED WITHIN
25 THE COUNTY FOR A PERIOD OF THE NEXT 20 YEARS;

26 (3) ARE ACCEPTABLE TO THE DEPARTMENT; AND

27 (4) ARE IN OR WILL BE IN COMPLIANCE WITH ALL APPLICABLE
28 STATUTES, LAWS AND REGULATIONS RELATING TO WASTE DISPOSAL.

29 (B) AVAILABILITY.--FOR THE PURPOSE OF THIS SECTION, "ASSURED
30 AVAILABILITY" SHALL MEAN THAT THE COUNTY SHALL, BY AN AUTHORITY

1 OR OTHERWISE, OWN AND OPERATE A DISPOSAL FACILITY OR FACILITIES
2 WITH SUFFICIENT CAPACITY RESERVED TO THE COUNTY TO SATISFY THE
3 PROVISIONS OF THIS SECTION OR HAVE A BINDING COMMITMENT WITH ONE
4 OR MORE PRIVATE OR PUBLIC ENTITIES FOR THE EXCLUSIVE OR
5 NONEXCLUSIVE RIGHT TO THE USE OF A DISPOSAL FACILITY OR
6 FACILITIES WITH SUFFICIENT CAPACITY RESERVED TO THE COUNTY TO
7 SATISFY THE PROVISIONS OF THIS SECTION. IF FACILITIES DO NOT
8 EXIST WITH SUFFICIENT CAPACITY TO COMPLY WITH THE PROVISIONS OF
9 THIS SECTION, THE COUNTY SHALL HAVE BINDING COMMITMENTS TO
10 PROVIDE SUCH FUTURE ASSURED AVAILABILITY.

11 (C) INTERGOVERNMENTAL AGREEMENTS.--A COUNTY SHALL BE
12 CONSIDERED TO HAVE COMPLIED WITH THE PROVISIONS OF THIS SECTION
13 IF IT HAS ENTERED INTO AN INTERGOVERNMENTAL AGREEMENT WITH ONE
14 OR MORE OTHER COUNTIES FOR THE PURPOSE OF COMPLYING WITH THE
15 REQUIREMENTS OF THIS SECTION. ANY SUCH INTERGOVERNMENTAL
16 AGREEMENT SHALL CONTAIN PROVISIONS THAT ASSURE THAT ALL COUNTIES
17 WHICH ARE PARTIES TO THE AGREEMENT HAVE EACH MET THE PROVISIONS
18 OF THIS SECTION.

19 (D) NONCOUNTY CAPACITY.--NOTWITHSTANDING ANY OTHER PROVISION
20 OF THIS SECTION, NO COUNTY SHALL ENTER INTO ANY BINDING
21 COMMITMENT FOR THE USE OF MORE THAN 10% OF THE ACTUAL OR FUTURE
22 ESTIMATED PERMITTED CAPACITY OF ANY PUBLIC OR PRIVATE FACILITY
23 OUTSIDE THE BOUNDARIES OF THE COUNTY WITHOUT THE EXPRESS
24 APPROVAL OF THE COUNTY OF SITUS OF THE FACILITY, WHICH APPROVAL
25 SHALL NOT BE UNREASONABLY WITHHELD IF THE COUNTY OF SITUS HAS
26 MET THE REQUIREMENTS OF THIS SECTION.

27 (E) COMPLIANCE.--ANY COUNTY WHICH FAILS TO COMPLY WITH THE
28 PROVISIONS OF THIS SECTION SHALL NOT BE ELIGIBLE TO RECEIVE ANY
29 FUNDS AUTHORIZED FOR UNDER THIS ACT OR UNDER THE ACT OF JULY 20,
30 1974 (P.L.572, NO.198), KNOWN AS THE PENNSYLVANIA SOLID WASTE -

1 RESOURCE RECOVERY DEVELOPMENT ACT. ANY MUNICIPALITY WHICH IS
2 LOCATED WITHIN A COUNTY WHICH FAILS TO COMPLY WITH THE
3 PROVISIONS OF THIS SECTION SHALL NOT BE ELIGIBLE FOR ANY FUNDS
4 AUTHORIZED UNDER THIS ACT, EXCEPT AS PROVIDED IN SECTIONS 902,
5 903 AND 904 OF THIS ACT AS RELATES TO RECYCLING, OR UNDER THE
6 PENNSYLVANIA SOLID WASTE - RESOURCE RECOVERY DEVELOPMENT ACT.

7 CHAPTER 7

8 RECYCLING FEE

9 Section 701. Recycling fee for municipal waste landfills and
10 resource recovery facilities.

11 (a) Imposition.--There is imposed a recycling fee of ~~\$1.25~~ ←
12 \$2 per ton for all solid waste processed at resource recovery
13 facilities and for all solid waste except process residue and
14 nonprocessable waste from a resource recovery facility that is
15 disposed of at municipal waste landfills. Such fee shall be paid
16 by the operator of each municipal waste landfill and resource
17 recovery facility.

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

22 (c) Waste weight requirement.--On and after January 1, 1988,
23 each operator of a municipal waste landfill and resource
24 recovery facility that has received 30,000 or more cubic yards
25 of solid waste in the previous calendar year shall weigh all
26 solid waste when it is received. The scale used to weigh solid
27 waste shall conform to the requirements of the act of December
28 1, 1965 (P.L.988, No.368), known as the Weights and Measures Act
29 of 1965, and the regulations promulgated pursuant thereto. The
30 operator of the scale shall be a licensed public weighmaster

1 under the act of April 28, 1961 (P.L.135, No.64), known as the
2 Public Weighmaster's Act, and the regulations promulgated
3 pursuant thereto.

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

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

15 (a) Quarterly payments.--Each operator of a municipal waste
16 landfill and resource recovery facility shall make the recycling
17 fee payment quarterly. The fee shall be paid on or before the
18 20th day of April, July, October and January for the three
19 months ending the last day of March, June, September and
20 December.

21 (b) Quarterly reports.--Each recycling fee payment shall be
22 accompanied by a form prepared and furnished by the department
23 and completed by the operator. The form shall state the total
24 weight or volume of solid waste received by the facility during
25 the payment period and provide any other aggregate information
26 deemed necessary by the department to carry out the purposes of
27 this act. The form shall be signed by the operator.

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

1 (1) The enclosed payment is for the full amount owed
2 pursuant to this section and no further departmental action
3 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 department is postmarked by the United States Postal
8 Service on or prior to the final day on which the payment is
9 to be received.

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

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

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

28 Section 703. Collection and enforcement of fee.

29 (a) Interest.--If an operator fails to make a timely payment
30 of the recycling fee, the operator shall pay interest on the

1 unpaid amount due at the rate established pursuant section 806
2 of the act of April 9, 1929 (P.L.343, No.176), known as The
3 Fiscal Code, from the last day for timely payment to the date
4 paid.

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

13 (c) Assessment notices.--

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

22 (2) The operator charged with the deficiency shall have
23 30 days to pay the deficiency in full or, if the operator
24 wishes to contest the deficiency, forward the amount of the
25 deficiency to the department for placement in an escrow
26 account with the State Treasurer or any Pennsylvania bank, or
27 post an appeal bond in the amount of the deficiency. Such
28 bond shall be executed by a surety licensed to do business in
29 this Commonwealth and be satisfactory to the department.

30 Failure to forward the money or the appeal bond to the

1 department within 30 days shall result in a waiver of all
2 legal rights to contest the deficiency.

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

8 (4) The amount determined after administrative hearing
9 or after waiver of administrative hearing shall be payable to
10 the Commonwealth and shall be collectible in the manner
11 provided in section 1709.

12 (5) Any other provision of law to the contrary
13 notwithstanding, there shall be a statute of limitations of
14 five years upon actions brought by the Commonwealth pursuant
15 to this section.

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

20 (d) Filing of appeals.--Notwithstanding any other provision
21 of law, all appeals of final department actions concerning the
22 resource recovery fee, including, but not limited to, petitions
23 for refunds, shall be filed with the Environmental Hearing
24 Board.

25 (e) Constructive trust.--All recycling fees collected by an
26 operator and held by such operator prior to payment to the
27 department shall constitute a trust fund for the Commonwealth,
28 and such trust shall be enforceable against such operator, its
29 representatives and any person receiving any part of such fund
30 without consideration or with knowledge that the operator is

1 committing a breach of the trust. However, any person receiving
2 payment of lawful obligation of the operator from such fund
3 shall be presumed to have received the same in good faith and
4 without any knowledge of the breach of trust.

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

8 Section 704. Records.

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

18 Section 705. Surcharge.

19 The provisions of any law to the contrary notwithstanding,
20 the operator may collect the fee imposed by this section as a
21 surcharge on any fee schedule established pursuant to law,
22 ordinance, resolution or contract for solid waste processing or
23 disposal operations at the facility. In addition, any person who
24 collects or transports solid waste subject to the recycling fee
25 to a municipal waste landfill or resource recovery facility may
26 impose a surcharge on any fee schedule established pursuant to
27 law, ordinance, resolution or contract for the collection or
28 transportation of solid waste to the facility. The surcharge
29 shall be equal to the increase in disposal fees at the facility
30 attributable to the recycling fee. However, interest and

1 penalties on the fee under section 703(a) and (b) may not be
2 collected as a surcharge.

3 Section 706. Recycling Fund.

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

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

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

17 (1) At least 70% shall be expended by the department for
18 grants to municipalities for the development and
19 implementation of recycling programs as set forth in section
20 902, recycling coordinators as provided in section 903, FOR ←
21 GRANTS FOR MUNICIPAL RECYCLING PROGRAMS AS SET FORTH IN
22 SECTION 904, and market development and waste reduction
23 studies as set forth in section 508; for implementation of
24 the recommendations in the studies required by section 508;
25 and for research conducted or funded by the Department of
26 Transportation pursuant to section 1505.

27 (2) Up to 10% may be expended by the department for
28 grants for feasibility studies for municipal waste processing
29 and disposal facilities, except for facilities for the
30 combustion of municipal waste that are not proposed to be

1 operated for the recovery of energy as set forth in section
2 901.

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

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

17 ~~(4)~~ (5) No more than 3% may be expended for the ←
18 collection and administration of moneys in the fund.

19 ~~(d) Additional funding. There is hereby appropriated to the ←~~
20 ~~department from the General Fund the amount necessary to assure~~
21 ~~payment of grants under section 902(a) provided the amount shall~~
22 ~~not exceed 35% of the total amount of all grants awarded under~~
23 ~~section 902(a).~~

24 ~~(e)~~ (D) Transfer.--On the first day of the sixteenth year ←
25 after the fee imposed by section 701 becomes effective, all
26 moneys in the Recycling Fund that are not obligated shall be
27 transferred to the Solid Waste Abatement Fund and expended in
28 the same manner as other moneys in the Solid Waste Abatement
29 Fund. On the first day of the nineteenth year after the fee
30 imposed by section 701 becomes effective, all moneys in the

1 Recycling Fund that are not expended shall be transferred to the
2 Solid Waste Abatement Fund and expended in the same manner as
3 other moneys in the Solid Waste Abatement Fund.

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

22 ~~(g)~~ (F) Annual reports.--The department shall submit an <—
23 annual report to the General Assembly on receipts to and
24 disbursements from the Recycling Fund in the previous fiscal
25 year, projections for revenues and expenditures in the coming
26 fiscal year, and the Commonwealth's progress in achieving the
27 goals set forth in section 102(c). THE ANNUAL REPORT DUE TWO <—
28 YEARS BEFORE THE EXPIRATION OF THE RECYCLING FEE UNDER SECTION
29 701(D) SHALL CONTAIN A RECOMMENDATION WHETHER THE FEE SHOULD
30 CONTINUE TO BE IMPOSED AFTER THE EXPIRATION DATE AND, IF SO, THE

1 PROPOSED AMOUNT OF THE FEE.

2 CHAPTER 9

3 GRANTS

4 Section 901. Planning grants.

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

21 Section 902. Grants for development and implementation of
22 municipal recycling programs.

23 (a) Authorization.--The department ~~may~~ SHALL award grants <—
24 for development and implementation of municipal recycling
25 programs, upon application from any municipality WHICH MEETS THE <—
26 REQUIREMENTS OF THIS SECTION AND WHICH IS REQUIRED BY SECTION
27 1501 TO IMPLEMENT A RECYCLING PROGRAM. THE DEPARTMENT MAY AWARD
28 GRANTS FOR DEVELOPMENT AND IMPLEMENTATION OF MUNICIPAL RECYCLING
29 PROGRAMS, UPON APPLICATION FROM ANY MUNICIPALITY WHICH IS NOT
30 REQUIRED BY SECTION 1501 TO IMPLEMENT A RECYCLING PROGRAM AND

1 WHICH OTHERWISE MEETS THE REQUIREMENTS OF THIS SECTION. The
2 grant provided by this section may be used to identify markets,
3 develop a public education campaign, purchase collection and
4 storage equipment, and do other things necessary to establish a
5 municipal recycling program. The grant may be used to purchase
6 collection equipment, only to the extent needed for collection
7 of recyclable materials, and mechanical processing equipment,
8 only to the extent that such equipment is not available to the
9 program in the private sector. The application shall be made on
10 a form prepared and furnished by the department. The application
11 shall explain the structure and operation of the program and
12 shall contain such other information as the department deems
13 necessary to carry out the provisions and purposes of this act.
14 The grant under this section to a municipality required by
15 section 1501 to implement a recycling program shall be ~~80%~~ 90% <—
16 of the approved cost of establishing a municipal recycling
17 program. The grant under this section to a municipality not
18 required by section 1501 to implement a recycling program shall
19 be ~~80%~~ UP TO 90% of the approved cost of establishing a <—
20 municipal recycling program. In addition to the grant under this
21 section to a financially distressed municipality AS DEFINED <—
22 UNDER SECTION 203(F) OF THE ACT OF JULY 10, 1987 (P.L.246,
23 NO.47), KNOWN AS THE FINANCIALLY DISTRESSED MUNICIPALITIES ACT,
24 that is required by section 1501 to implement a recycling
25 program shall be ~~20%~~ ELIGIBLE FOR AN ADDITIONAL GRANT EQUAL TO <—
26 10% of the approved cost of establishing a municipal recycling
27 program. ~~from grants authorized under section 203(f) of the act~~ <—
28 ~~of July 10, 1987 (P.L.246, No.47), known as the Financial~~
29 ~~Distressed Municipalities Act. AUTHORIZED UNDER THE ACT OF JULY~~ <—
30 ~~9, 1986 (P.L.1223, NO.110), KNOWN AS THE FINANCIALLY~~

1 ~~DISADVANTAGED MUNICIPALITIES MATCHING ASSISTANCE ACT.~~

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

5 (1) The application is complete and accurate.

6 (2) The recycling program for which the grant is sought
7 does not duplicate any other recycling programs operating
8 within the municipality.

9 (3) If the ~~application~~ APPLICANT is not required to ←
10 implement a recycling program by section 1501, the
11 application describes the collection system for the program,
12 including:

13 (i) materials collected and persons affected;

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

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

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

21 (v) public information and education;

22 (vi) program economics, including avoided processing
23 or disposal costs; and

24 (vii) other information deemed necessary by the
25 department.

26 (c) Municipal retroactive grants with restrictions.--The
27 grant authorized by this section may be awarded to any
28 municipality for eligible costs incurred for a municipal
29 recycling program after 60 days prior to the effective date of
30 this act. However, no grant may be authorized under this section

1 for a municipal recycling program that has received a grant from
2 the department under the act of July 20, 1974 (P.L.572, No.198),
3 known as the Pennsylvania Solid Waste - Resource Recovery
4 Development Act, except for costs that were not paid by such
5 grant.

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

11 Section 903. Grants for recycling coordinators.

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

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

24 SECTION 904. PERFORMANCE GRANTS FOR MUNICIPAL RECYCLING ←
25 PROGRAMS.

26 (A) AUTHORIZATION.--THE DEPARTMENT SHALL AWARD ANNUAL
27 PERFORMANCE GRANTS FOR MUNICIPAL RECYCLING PROGRAMS, UPON
28 APPLICATION FROM A MUNICIPALITY. THE APPLICATION SHALL BE MADE
29 ON A FORM PREPARED AND FURNISHED BY THE DEPARTMENT. THE
30 APPLICATION SHALL CONTAIN SUCH INFORMATION AS THE DEPARTMENT

1 DEEMS NECESSARY TO CARRY OUT THE PROVISIONS AND PURPOSES OF THIS
2 ACT.

3 (B) AVAILABILITY.--THE DEPARTMENT SHALL AWARD A GRANT UNDER
4 THIS SECTION TO A MUNICIPALITY BASED ON FACTORS SUCH AS:

5 (1) TYPE AND WEIGHT OF MUNICIPAL WASTE RECYCLED
6 ANNUALLY.

7 (2) TYPE AND VOLUME OF MUNICIPAL WASTE RECYCLED
8 ANNUALLY.

9 (3) UNIT COST TO COLLECT, STORE, TRANSPORT AND PREPARE
10 TO SELL TO RECYCLER.

11 (4) GRANTS OR OTHER SUBSIDY INCOME FROM SELLING MATERIAL
12 TO RECYCLER.

13 (5) TOTAL COST OF OPERATION WHICH SHALL INCLUDE THE ←
14 COSTS INCURRED BY THE MUNICIPALITY FOR EMPLOYEES ENGAGED IN
15 THE OPERATION.

16 (6) Effectiveness of program.

17 (c) Amount.--The amount of the grant shall be based on
18 available funds under section 706 and shall be available to all
19 municipalities which have a recycling program in existence on or
20 will initiate a program after the effective date of this act.

21 (d) Prerequisites.--The department shall not award any grant
22 under this section unless the application is complete and
23 accurate, and the materials were actually marketed.

24 Section ~~904~~ 905. General limitations. ←

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

29 (b) Monetary limit on grant.--The department may not award
30 more than 10% of the moneys available under any grant under this

1 chapter in any fiscal year to any county, including
2 municipalities within the county.

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

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

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

22 CHAPTER 11

23 ASSISTANCE TO MUNICIPALITIES

24 Section 1101. Information provided to host municipalities.

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

29 (1) Copies of each department inspection report for such
30 facilities under the Solid Waste Management Act, the act of

1 June 22, 1937 (P.L.1987, No.394), known as The Clean Streams
2 Law, the act of January 8, 1960 (1959 P.L.2119, No.787),
3 known as the Air Pollution Control Act, and the act of
4 November 26, 1978 (P.L.1375, No.325), known as the Dam Safety
5 and Encroachments Act, within five working days after the
6 preparation of such reports.

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

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

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

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

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

1 (E) SIGN ON VEHICLE.--A VEHICLE OR CONVEYANCE USED FOR THE <—
2 TRANSPORTING OF SOLID WASTE SHALL BEAR THE NAME AND BUSINESS
3 ADDRESS OF THE PERSON OR MUNICIPALITY WHICH OWNS THE VEHICLE OR
4 CONVEYANCE AND THE SPECIFIC TYPE OF SOLID WASTE TRANSPORTED BY <—
5 THE VEHICLE OR CONVEYANCE. ALL SIGNS SHALL HAVE LETTERING WHICH
6 IS AT LEAST SIX INCHES IN HEIGHT.

7 Section 1102. Joint inspections with host municipalities.

8 (a) Training of inspectors.--

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

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

1 THIS DETERMINATION TO THE COURT OF COMMON PLEAS, WHICH SHALL
2 CONSIDER THE MATTER IMMEDIATELY.

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

7 (b) Departmental information.--

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

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

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

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

1 of such municipality to accompany department inspectors on
2 routine inspections of municipal waste landfills and resource
3 recovery facilities.

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

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

13 Section 1103. Water supply testing for contiguous landowners.

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

28 (b) Extent of analysis.--Water supplies shall be analyzed
29 for all parameters or chemical constituents determined by the
30 department to be indicative of typical contamination from

1 municipal waste landfills. The laboratory performing such
2 sampling and analysis shall provide written copies of sample
3 results to the landowner and to the department.

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

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

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

27 (b) Notification to department.--Any landowner or water
28 purveyor suffering pollution, contamination or diminution of a
29 public or private water supply as a result of solid waste
30 disposal activities at a municipal waste management facility may

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

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

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

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

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

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

1 (4) The owner or operator did not cause the pollution,
2 contamination or diminution.

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

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

15 Section 1105. Purchase of cogenerated electricity.

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

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

1 ~~contract is entered into, notwithstanding the provisions of 66~~
2 ~~Pa.C.S. § 508 (relating to power of the commission to vary,~~
3 ~~reform and revise contracts).~~

4 Section 1106. Public Utility Commission.

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

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

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

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

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

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

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

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

29 (a) Financial responsibility.--

30 (1) Any permit application by a person other than a

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

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

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

21 (I) COMMERCIAL POLLUTION LIABILITY INSURANCE. <—

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

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

28 (b) Municipal financial responsibility.--

29 (1) Any permit application by a municipality or
30 municipal authority under the Solid Waste Management Act for

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

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

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

21 (I) COMMERCIAL POLLUTION LIABILITY INSURANCE. <—

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

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

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

1 Ch. 85 Subch. C.

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

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

15 Section 1108. Site-specific postclosure fund.

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

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

1 moneys deposited in the fund.

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

7 (d) 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 (f). 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. The trustee shall have an
15 office located within the county where the landfill is located.

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

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

1 from this trust may be made until after the department has
2 certified closure of the landfill.

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

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

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

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

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

1 (1) County not liable.--Nothing in this section shall be
2 understood or construed as imposing any additional
3 responsibility or liability upon the county for compliance of a
4 municipal waste landfill or resource recovery facility with the
5 requirements of this act, the Solid Waste Management Act and the
6 regulations promulgated pursuant thereto.

7 Section 1109. Trust fund for municipally operated landfills.

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

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

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

30 (d) Amount.--Each municipality or municipal authority

1 operating a landfill solely for municipal waste not classified
2 hazardous shall pay into the trust on a quarterly basis an
3 amount determined by the department for each ton or cubic yard
4 of solid waste disposed at the landfill. This amount shall be
5 based on the estimated cost of completing final closure of the
6 landfill and the weight or volume of waste to be disposed at the
7 landfill prior to closure.

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

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

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

1 trust may be made until after closure of the landfill.

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

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

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

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

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

1 Section 1110. Independent evaluation of permit applications.

2 At the request of a host municipality, the department may
3 reimburse a host municipality for costs incurred for an
4 independent permit application review, by a professional
5 engineer who is licensed in this Commonwealth and who has
6 previous experience in preparing such permit applications, of an
7 application under the Solid Waste Management Act, for a new
8 municipal waste landfill or resource recovery facility or that
9 would result in additional capacity for a municipal waste
10 landfill or resource recovery facility. Reimbursement shall not
11 exceed \$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 SOLID WASTE MANAGEMENT ACT, SHALL INCLUDE A
3 PERMIT CONDITION, IF PROVIDED PURSUANT TO THIS SECTION, WHICH
4 REQUIRE COMPLIANCE WITH AN AGREEMENT OR ARBITRATION AWARD,
5 SETTING FORTH THE WEIGHT OR VOLUME OF MUNICIPAL WASTE GENERATED
6 WITHIN THE COUNTY AND MUNICIPALITY THAT THE OPERATOR SHALL ALLOW
7 AND THE RATES, TERMS OR CONDITIONS WITH WHICH MUNICIPAL WASTE IS
8 TO BE DELIVERED FOR DISPOSAL OR PROCESSING AT THE FACILITY FOR A
9 SPECIFIED PERIOD:

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

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

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

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

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

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

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

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

29 (4) IF THE COUNTY AND MUNICIPALITY ELECT TO NEGOTIATE
30 WITH THE APPLICANT PURSUANT TO THIS SECTION, ANY AGREEMENT OR

1 ARBITRATION AWARD SHALL PROVIDE, UNLESS THE HOST COUNTY AND
2 HOST MUNICIPALITY AND APPLICANT AGREE OTHERWISE, THAT THE
3 COUNTY AND MUNICIPALITY SHALL UTILIZE THE CAPACITY RESERVED
4 IN AN AGREED UPON TIME FRAME.

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

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

1 APPLICANT. THE DEPARTMENT SHALL INCLUDE A PERMIT CONDITION
2 RESERVING SUCH CAPACITY PROVIDED FOR IN SUCH AGREEMENTS OR
3 ARBITRATION AWARDS.

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

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

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

9 SECTION 1112. WASTE VOLUMES.

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

16 (B) NEW PERMITS.--

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

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

28 (I) THAT THE PROPOSED MAXIMUM AND AVERAGE DAILY
29 WASTE VOLUMES WILL NOT CAUSE OR CONTRIBUTE TO ANY
30 VIOLATIONS OF THIS ACT; THE SOLID WASTE MANAGEMENT ACT;

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

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

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

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

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

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

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

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

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

12 (E) EMERGENCIES.--

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

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

1 SHALL NOT BE UNDERSTOOD OR CONSTRUED TO IMPOSE ANY OBLIGATION
2 ON THE DEPARTMENT TO FIND ALTERNATIVE PROCESSING OR DISPOSAL
3 CAPACITY.

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

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

17 CHAPTER 13

18 HOST MUNICIPALITY AND COUNTY BENEFIT FEE <—

19 Section 1301. Host municipality benefit fee.

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

1 percentage of the permitted area located in each municipality
2 ~~AND COUNTY.~~ <—

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

7 (c) Municipal options.--Nothing in this section or section
8 ~~1302~~ 1303 shall prevent a host municipality ~~AND COUNTY~~ from <—
9 receiving a higher fee or receiving the fee in a different form
10 or at different times than provided in this section and section
11 ~~1302~~ 1303, if the host municipality ~~AND COUNTY~~ and the operator <—
12 of the municipal waste landfill or resource recovery facility
13 agree in writing.

14 SECTION 1302. HOST COUNTY BENEFIT FEE. <—

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

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

29 (C) USE.--~~THE HOST COUNTY SHALL USE THE FUNDS COLLECTED~~ <—

30 (1) THE HOST COUNTY SHALL USE THE FUNDS COLLECTED <—

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

6 (2) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (1), THE <—
7 HOST COUNTY MAY USE A PORTION OF THE FUNDS COLLECTED PURSUANT
8 TO THIS SECTION FOR REMEDIAL MEASURES AND EMERGENCY ACTIONS
9 THAT ARE NECESSARY TO ABATE ADVERSE EFFECTS UPON THE
10 ENVIRONMENT THAT EXIST AT ANY EXISTING OR FORMERLY EXISTING
11 PRIVATELY OPERATED OR MUNICIPALLY OPERATED LANDFILL LOCATED
12 WITHIN THE COUNTY.

13 (D) COUNTY OPTIONS.--NOTHING IN THIS CHAPTER SHALL PREVENT A
14 HOST COUNTY FROM RECEIVING A HIGHER FEE OR THE FEE IN A <—
15 DIFFERENT FORM OR AT DIFFERENT TIMES THAN PROVIDED IN THIS
16 CHAPTER, IF THE HOST COUNTY AND THE OPERATOR OF THE MUNICIPAL
17 WASTE LANDFILL OR RESOURCE RECOVERY FACILITY AGREE IN WRITING.

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

20 (a) Quarterly payment.--Each operator subject to ~~section~~ <—
21 ~~1301~~ SECTIONS 1301 AND 1302 shall make the host municipality <—
22 benefit fee AND HOST COUNTY BENEFIT FEE payment quarterly. The <—
23 fee shall be paid on or before the twentieth day of April, July,
24 October and January for the three months ending the last day of
25 March, June, September and December.

26 (b) Quarterly reports.--Each host municipality benefit fee
27 AND HOST COUNTY BENEFIT FEE payment shall be accompanied by a <—
28 form prepared and furnished by the department and completed by
29 the operator. The form shall state the weight or volume of solid
30 waste received by the landfill or facility during the payment

1 period and provide any other information deemed necessary by the
2 department to carry out the purposes of the act. The form shall
3 be signed by the operator. A copy of the form shall be sent to
4 the department at the same time that the fee and form are sent
5 to the host municipality.

6 (c) Timeliness of payment.--An operator shall be deemed to
7 have made a timely payment of the host municipality benefit fee
8 AND HOST COUNTY BENEFIT FEE if all of the following are met: <—

9 (1) The enclosed payment is for the full amount owed
10 pursuant to this section, and no further host municipality OR <—
11 HOST COUNTY action is required for collection.

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

14 (3) The letter transmitting the payment that is received
15 by the host municipality OR HOST COUNTY is postmarked by the <—
16 United States Postal Service on or prior to the final day on
17 which the payment is to be received.

18 (d) Discount.--Any operator that makes a timely payment of
19 the host municipality benefit fee OR HOST COUNTY BENEFIT FEE as <—
20 provided in this section shall be entitled to credit and apply
21 against the fee payable by him a discount of 1% of the amount of
22 the fee collected by him.

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

27 Section ~~1303~~ 1304. Collection and enforcement of fee. <—

28 (a) Interest.--If an operator fails to make a timely payment
29 of the host municipality benefit fee OR HOST COUNTY BENEFIT FEE, <—
30 the operator shall pay interest on the unpaid amount due at the

1 rate established pursuant section 806 of the act of April 9,
2 1929 (P.L.343, No.176), known as The Fiscal Code, from the last
3 day for timely payment to the date paid.

4 (b) Additional penalty.--In addition to the interest
5 provided in subsection (a), if an operator fails to make timely
6 payment of the host municipality benefit fee AND HOST COUNTY <—
7 BENEFIT FEE, there shall be added to the amount of fee actually
8 due 5% of the amount of such fee, if the failure to file a
9 timely payment is for not more than one month, with an
10 additional 5% for each additional month, or fraction thereof,
11 during which such failure continues, not exceeding 25% in the
12 aggregate.

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

24 (d) Constructive trust.--All host municipality benefit fees
25 AND HOST COUNTY BENEFIT FEES collected by an operator and held <—
26 by such operator prior to payment to the host municipality OR <—
27 HOST COUNTY shall constitute a trust fund for the host
28 municipality OR HOST COUNTY, RESPECTIVELY, and such trust shall <—
29 be enforceable against such operator, its representatives and
30 any person receiving any part of such fund without consideration

1 or with knowledge that the operator is committing a breach of
2 the trust. However, any person receiving payment of lawful
3 obligation of the operator from such fund shall be presumed to
4 have received the same in good faith and without any knowledge
5 of the breach of trust.

6 (e) Manner of collection.--The amount due and owing under
7 section 1301 OR 1302 shall be collectible by the host <—
8 municipality OR HOST COUNTY, RESPECTIVELY, in the manner <—
9 provided in section 1709.

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

13 Section ~~1304~~ 1305. Records. <—

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

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

25 The provisions of any law to the contrary notwithstanding,
26 the operator of any municipal waste landfill or resource
27 recovery facility subject to section 1301 OR 1302 may collect <—
28 the ~~host municipality benefit fee~~ FEES as a surcharge on any fee <—
29 schedule established pursuant to law, ordinance, resolution or
30 contract for solid waste disposal or processing operations at

1 the landfill or facility. In addition, any person who collects
2 or transports solid waste ~~subject to the host municipality~~ <—
3 ~~benefit fee~~ to a municipal waste landfill or resource recovery
4 facility subject to ~~section 1301~~ SECTIONS 1301 AND 1302 may <—
5 impose a surcharge on any fee schedule established pursuant to
6 law, ordinance, resolution or contract for the collection or
7 transportation of solid waste to the landfill or facility. The
8 surcharge shall be equal to the increase in processing or
9 disposal fees at the landfill or facility attributable to the
10 host municipality benefit fee AND HOST COUNTY BENEFIT FEE. <—
11 However, interest and penalties on the fee under section 1303(a)
12 and (b) may not be collected as a surcharge.

13 ~~SECTION 1307. PAYMENT OF RESIDENTIAL TAXES.~~ <—

14 ~~WITH THE APPROVAL OF THE DEPARTMENT, THE OPERATOR SHALL~~
15 ~~ESTABLISH A REASONABLE SURCHARGE ON RATES CHARGED FOR WASTE~~
16 ~~DISPOSED AT THE REGIONAL FACILITY TO BE PAID TO THE HOST~~
17 ~~MUNICIPALITY, HOST COUNTY AND HOST SCHOOL DISTRICT FOR THE~~
18 ~~PAYMENT OF ALL MUNICIPAL, COUNTY AND SCHOOL DISTRICT PROPERTY~~
19 ~~TAXES FOR INDIVIDUALS WHOSE PRIMARY RESIDENCE IS WITHIN ONE HALF~~
20 ~~MILE OF THE PERMIT AREA OR IS CONTIGUOUS TO THE PROPERTY OWNED~~
21 ~~BY THE OPERATOR. THE OPERATOR SHALL CHOOSE WHICH METHOD OF~~
22 ~~REIMBURSEMENT TO USE. FOR THE PURPOSE OF THIS SECTION, A PRIMARY~~
23 ~~RESIDENCE IS THE PROPERTY IN WHICH THE OWNER RESIDES FOR AT~~
24 ~~LEAST NINE MONTHS OF EACH YEAR PERIOD.~~

25 CHAPTER 15

26 RECYCLING AND WASTE REDUCTION

27 Section 1501. Municipal implementation of recycling programs.

28 (a) Large population.--Within ~~two~~ THREE years after the <—
29 effective date of this act, each municipality other than a
30 county that has a population of 10,000 or more people shall

1 establish and implement a source separation and collection
2 program for recyclable materials in accordance with this
3 section. Population shall be determined by the most recent
4 decennial census by the Bureau of the Census of the United
5 States Department of Commerce.

6 (b) Small population.--Within ~~three~~ FOUR years after the ←
7 effective date of this act, each municipality other than a
8 county that has a population of more than 5,000 people but less
9 than 10,000 people, and which has a population density of more
10 than 300 people per square mile, shall establish and implement a
11 source separation and collection program for recyclable
12 materials in accordance with this section. Population shall be
13 determined based on the most recent decennial census by the
14 Bureau of the Census of the United States Department of
15 Commerce.

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

18 (1) An ordinance or regulation adopted by the governing
19 body of the ~~county or~~ municipality, requiring all of the ←
20 following:

21 (i) Persons to separate at least three materials
22 deemed appropriate by the municipality from other
23 municipal waste generated at their homes, apartments and
24 other residential establishments and to store such
25 material until collection. The three materials shall be
26 chosen from the following: ~~clear glass OR colored~~ glass, ←
27 aluminum, steel and bimetallic cans, high-grade office
28 paper, newsprint, corrugated paper and plastics.

29 (ii) Persons to separate leaf AND GRASS waste from ←
30 other municipal waste generated at their homes,

1 apartments and other residential establishments until
2 collection unless those persons have otherwise provided
3 for the composting of leaf waste. THE GOVERNING BODY OF A ←
4 MUNICIPALITY SHALL ALLOW AN OWNER, LANDLORD OR AGENT OF
5 AN OWNER OR LANDLORD OF MULTIFAMILY RENTAL HOUSING
6 PROPERTIES WITH FOUR OR MORE UNITS TO COMPLY WITH ITS
7 RESPONSIBILITIES UNDER THIS SECTION BY ESTABLISHING A
8 COLLECTION SYSTEM FOR RECYCLABLE MATERIALS AT EACH
9 PROPERTY. THE COLLECTION SYSTEM MUST INCLUDE SUITABLE
10 CONTAINERS FOR COLLECTING AND SORTING MATERIALS, EASILY
11 ACCESSIBLE LOCATIONS FOR THE CONTAINERS, AND WRITTEN
12 INSTRUCTIONS TO THE OCCUPANTS CONCERNING THE USE AND
13 AVAILABILITY OF THE COLLECTION SYSTEM. OWNERS, LANDLORDS
14 AND AGENTS OF OWNERS OR LANDLORDS WHO COMPLY WITH THIS
15 ACT SHALL NOT BE LIABLE FOR THE NONCOMPLIANCE OF
16 OCCUPANTS OF THEIR BUILDINGS.

17 (iii) Persons to separate high grade office paper,
18 aluminum, corrugated paper and leaf AND GRASS waste and ←
19 other material deemed appropriate by the municipality
20 generated at commercial, municipal or institutional
21 establishments and from community activities and to store
22 the material until collection. The governing body of a
23 municipality shall exempt persons occupying commercial,
24 institutional and municipal ~~premises~~ ESTABLISHMENTS ←
25 within its municipal boundaries from the ~~source~~ ←
26 ~~separation~~ requirements of the ordinance or regulation if
27 those persons have otherwise provided for the recycling
28 of materials they are required by this section to
29 recycle. To be eligible for an exemption under this
30 subparagraph, a commercial or institutional solid waste

1 generator must annually provide written documentation to
2 the municipality of the total number of tons recycled.

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

6 (3) A system, including trucks and related equipment,
7 that collects recyclable materials from the curbside or
8 similar locations at least once per month from each residence
9 or other person generating municipal waste in the county or
10 municipality. THE MUNICIPALITY, OTHER THAN A COUNTY, SHALL <—
11 EXPLAIN HOW THE SYSTEM WILL OPERATE, THE DATES OF COLLECTION,
12 THE RESPONSIBILITIES OF PERSONS WITHIN THE MUNICIPALITY AND
13 INCENTIVES AND PENALTIES.

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

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

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

1 utilize any combination of the foregoing.

2 ~~(c) Agreements. A municipality may enter into a written~~ <—
3 ~~agreement with other persons, including persons transporting~~
4 ~~municipal waste on the effective date of this act, pursuant to~~
5 ~~which the persons undertake to fulfill some or all of the~~
6 ~~municipality's responsibilities under this section. A person who~~
7 ~~enters an agreement under this subsection shall be responsible~~
8 ~~with the municipality for implementation of this section.~~

9 (E) IMPLEMENTATION.-- <—

10 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2), A MUNICIPALITY
11 SHALL IMPLEMENT ITS RESPONSIBILITIES FOR COLLECTION,
12 TRANSPORTATION, PROCESSING AND MARKETING MATERIALS UNDER THIS
13 SECTION IN ONE OF THE FOLLOWING WAYS:

14 (I) COLLECT, TRANSPORT, PROCESS AND MARKET MATERIALS
15 AS REQUIRED BY THIS SECTION.

16 (II) ENTER INTO CONTRACTS WITH OTHER PERSONS FOR THE
17 COLLECTION, TRANSPORTATION, PROCESSING AND MARKETING OF
18 MATERIALS AS REQUIRED BY THIS SECTION. A PERSON WHO
19 ENTERS INTO A CONTRACT UNDER THIS SUBSECTION SHALL BE
20 RESPONSIBLE WITH THE MUNICIPALITY FOR IMPLEMENTATION OF
21 THIS SECTION.

22 (2) NOTHING IN THIS SECTION REQUIRES A MUNICIPALITY TO
23 COLLECT, TRANSPORT, PROCESS AND MARKET MATERIALS, OR TO
24 CONTRACT FOR THE COLLECTION, TRANSPORTATION, PROCESSING AND
25 MARKETING OF MATERIALS FROM ESTABLISHMENTS OR ACTIVITIES
26 WHERE ALL OF THE FOLLOWING ARE MET:

27 (I) THE MUNICIPALITY IS NOT COLLECTING AND
28 TRANSPORTING MUNICIPAL WASTE FROM SUCH ESTABLISHMENT OR
29 ACTIVITY.

30 (II) THE MUNICIPALITY HAS NOT CONTRACTED FOR THE

1 COLLECTION AND TRANSPORTATION OF MUNICIPAL WASTE FROM
2 SUCH ESTABLISHMENT OR ACTIVITY.

3 (III) THE MUNICIPALITY HAS ADOPTED AN ORDINANCE AS
4 REQUIRED BY THIS SECTION, AND THE ESTABLISHMENT OR
5 ACTIVITY IS IN COMPLIANCE WITH THE PROVISIONS OF THIS
6 SECTION.

7 (f) Preference.--In implementing its recycling program, a
8 municipality shall accord consideration for the collection,
9 marketing and disposition of recyclable materials to persons
10 engaged in the business of recycling on the effective date of
11 this act, whether or not the persons were operating for profit.

12 (G) RECYCLING BY OPERATOR.--AN OPERATOR OF A LANDFILL OR <—
13 RESOURCE RECOVERY FACILITY MAY CONTRACT WITH A MUNICIPALITY TO
14 PROVIDE RECYCLING SERVICES IN LIEU OF THE CURBSIDE RECYCLING
15 PROGRAM. THE CONTRACT MUST ENSURE THAT AT LEAST 25% OF THE WASTE
16 RECEIVED IS RECYCLED. THE ECONOMIC AND ENVIRONMENTAL IMPACT OF
17 THE PROPOSED TECHNOLOGY USED FOR THE RECYCLING SHALL RECEIVE
18 PRIOR APPROVAL FROM THE DEPARTMENT.

19 (H) EXEMPTION.--

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

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

27 (I) THE MUNICIPALITY HAS MADE TIMELY GRANT
28 APPLICATIONS TO THE DEPARTMENT UNDER SECTIONS 902 AND
29 904.

30 (II) FOR A PERIOD OF AT LEAST TWO YEARS, THE

1 MUNICIPALITY HAS EXERCISED ITS BEST EFFORTS TO IMPLEMENT
2 THE PROGRAM REQUIRED BY THIS SECTION.

3 (III) THE MUNICIPALITY HAS COLLECTED, TRANSPORTED,
4 PROCESSED AND MARKETED MATERIALS, OR HAS CONTRACTED FOR
5 THE COLLECTION, TRANSPORTATION, PROCESSING AND MARKETING
6 OF MATERIALS.

7 (IV) REASONABLE AND NECESSARY COSTS OF OPERATING THE
8 PROGRAM EXCEED INCOME FROM THE SALE OF USED OR COLLECTED
9 MATERIAL, AVOIDED COSTS OF MUNICIPAL WASTE PROCESSING OR
10 DISPOSAL, AND GRANT MONEY RECEIVED FROM THE DEPARTMENT
11 PURSUANT TO SECTIONS 902 AND 904.

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

20 Section 1502. Facilities operation and recycling.

21 (a) Leaf AND GRASS waste.--Two years after the effective <—
22 date of this act, no municipal waste landfill may accept for
23 disposal, and no resource recovery facility may accept for
24 processing, other than composting, ~~truckloads~~ LOADS composed <—
25 primarily of leaf AND GRASS waste. <—

26 (b) Drop-off centers.--

27 (1) Two years after the effective date of this act, no
28 person may operate a municipal waste landfill, resource
29 recovery facility or transfer station unless the operator has
30 established at least one drop-off center for the collection

1 and sale of recyclable material, including, at a minimum,
2 clear glass, aluminum, high grade office paper and cardboard.
3 The center must be located at the facility or in a place that
4 is easily accessible to persons generating municipal waste
5 that is processed or disposed at the facility. Each drop-off
6 center must contain bins or containers where recyclable
7 materials may be placed and temporarily stored. If the
8 operation of the drop-off center requires attendants, the
9 center shall be open at least eight hours per week, including
10 four hours during evenings or weekends. A PERSON WHO DEPOSITS <—
11 NONRECYCLABLE MATERIAL IN A DROP-OFF CENTER ESTABLISHED UNDER
12 THIS SUBSECTION COMMITS A SUMMARY OFFENSE.

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

20 (C) REMOVAL OF RECYCLABLE MATERIALS.--TWO YEARS AFTER THE <—
21 EFFECTIVE DATE OF THIS ACT, NO PERSON MAY OPERATE A RESOURCE
22 RECOVERY FACILITY UNLESS THE OPERATOR HAS DEVELOPED A PROCESS
23 FOR THE SORTING OF MUNICIPAL WASTE PRIOR TO INCINERATION AND FOR
24 THE REMOVAL TO THE GREATEST EXTENT ~~POSSIBLE~~ PRACTICABLE OF <—
25 RECYCLABLE MATERIALS INCLUDING, BUT NOT LIMITED TO, PLASTICS,
26 HIGH GRADE OFFICE PAPER, ALUMINUM, ~~CLEAR~~ GLASS AND NEWSPAPER, <—
27 FROM THE WASTE TO BE INCINERATED. THE DEPARTMENT, BY REGULATION,
28 SHALL ESTABLISH STANDARDS AND CRITERIA FOR THE SORTING AND
29 REMOVAL PROCESS.

30 (D) REMOVAL OF HAZARDOUS MATERIALS.--TWO YEARS AFTER THE

1 EFFECTIVE DATE OF THIS ACT, NO PERSON MAY OPERATE A RESOURCE
2 RECOVERY FACILITY UNLESS THE OPERATOR HAS DEVELOPED A PROCESS
3 FOR THE SORTING OF MUNICIPAL WASTE PRIOR TO INCINERATION AND FOR
4 THE REMOVAL TO THE GREATEST EXTENT ~~POSSIBLE~~ PRACTICABLE OF ←
5 HAZARDOUS MATERIALS, INCLUDING, BUT NOT LIMITED TO, PLASTICS,
6 CORROSIVE MATERIALS, BATTERIES, PRESSURIZED CANS AND HOUSEHOLD
7 HAZARDOUS MATERIALS, FROM THE WASTE TO BE INCINERATED. THE
8 DEPARTMENT, BY REGULATION, SHALL ESTABLISH STANDARDS AND
9 CRITERIA FOR THE SORTING AND REMOVAL PROCESS.

10 Section 1503. Commonwealth recycling and waste reduction.

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

21 (b) Waste reduction.--Within two years after the effective
22 date of this act, each Commonwealth agency, in coordination with
23 the department of General Services, shall establish and
24 implement a waste reduction program for materials used in the
25 course of agency operations. The program shall be designed and
26 implemented to achieve the maximum feasible reduction of waste
27 generated as a result of agency operations.

28 (c) Use of composted materials.--All Commonwealth agencies
29 responsible for the maintenance of public lands in this
30 Commonwealth shall, to the maximum extent practicable and

1 feasible, give due consideration and preference to the use of
2 compost materials in all land maintenance activities which are
3 to be paid with public funds.

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

5 ~~(a) Review of policies.—~~

6 ~~(1) The Department of General Services shall review and~~
7 ~~revise its existing procurement procedures and specifications~~
8 ~~for the purchase of products and materials to eliminate~~
9 ~~procedures and specifications that explicitly discriminate~~
10 ~~against products and materials with recycled content. The~~
11 ~~Department of General Services shall review and revise its~~
12 ~~procedures and specifications on a continuing basis to~~
13 ~~encourage the use of products and materials with recycled~~
14 ~~content and shall, in developing new procedures and~~
15 ~~specification, encourage the use of products and materials~~
16 ~~with recycled content.~~

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

1 ~~(b) Bidding.—~~

2 ~~(1) A person who submits a bid to the Department of~~
3 ~~General Services for a contract that includes the purchase of~~
4 ~~products or materials shall certify, in writing, either the~~
5 ~~percentage by weight of recycled content in the product that~~
6 ~~is the subject of the bid or such other measure of recycled~~
7 ~~content as may be set forth in the Department of General~~
8 ~~Services' invitation for bids. A person may certify that the~~
9 ~~products or materials contain no recycled content.~~

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

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

30 ~~(d) Rulemaking.— The Department of General Services may~~

1 ~~adopt regulations as it deems necessary to carry out the~~
2 ~~provisions and purposes of this section.~~

3 ~~(c) Cooperation. All Commonwealth agencies shall cooperate~~
4 ~~with the Department of General Services in carrying out this~~
5 ~~section.~~

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

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

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

18 ~~(a) Review of policies.—~~

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

1 ~~procedures and specifications, encourage the use of products~~
2 ~~and materials with recycled content.~~

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

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

20 ~~(c) Cooperation. All Commonwealth agencies shall cooperate~~
21 ~~with the Department of Transportation in carrying out this~~
22 ~~section.~~

23 ~~(d) Testing. A person who believes that a particular~~
24 ~~constituent of solid waste or any product or material with~~
25 ~~recycled content may be beneficially used in lieu of another~~
26 ~~product or material in the Commonwealth's transportation system~~
27 ~~may request the Department of Transportation to evaluate that~~
28 ~~constituent, product or material. The Department of~~
29 ~~Transportation, in consultation with the department, shall~~
30 ~~conduct a preliminary review of each proposal to identify which~~

1 ~~proposals merit an evaluation. If the Department of~~
2 ~~Transportation finds, after an evaluation, that the constituent,~~
3 ~~product or material may be beneficially used, it shall amend its~~
4 ~~procedures and specifications to allow the use of the~~
5 ~~constituent product or material.~~

6 ~~(c) Grants. The Department of Transportation may award~~
7 ~~research and demonstration grants concerning the potential~~
8 ~~beneficial use of a particular constituent of solid waste, or~~
9 ~~any product or material with recycled content, in lieu of~~
10 ~~another product or material in the Commonwealth's transportation~~
11 ~~system. The application shall be made on a form prepared and~~
12 ~~furnished by the Department of Transportation and shall contain~~
13 ~~the information the Department of Transportation deems~~
14 ~~necessary.~~

15 ~~(f) Annual report. The Department of Transportation shall~~
16 ~~submit an annual report to the General Assembly concerning its~~
17 ~~implementation of this section. This report shall include a~~
18 ~~description of what actions the Department of Transportation has~~
19 ~~taken in the previous year to implement this section. This~~
20 ~~report shall be submitted on or before the anniversary of the~~
21 ~~effective date of this act.~~

22 ~~Section 1506. Procurement options for local public agencies and~~
23 ~~certain Commonwealth agencies.~~

24 ~~(a) General rule. This section sets forth procurement~~
25 ~~options for local public agencies. These procurement options are~~
26 ~~also available to Commonwealth agencies for which materials are~~
27 ~~not purchased by the Department of General Services or the~~
28 ~~Department of Transportation. Nothing in this act shall be~~
29 ~~construed to require the agencies to exercise the options set~~
30 ~~forth in this section.~~

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

3 ~~(1) Review and revise its procurement procedures and~~
4 ~~specifications for purchases of paper, lubricating oil, tires~~
5 ~~and other products or materials to eliminate procedures and~~
6 ~~specifications that discriminate against recycled products or~~
7 ~~materials.~~

8 ~~(2) Review and revise its procurement procedures and~~
9 ~~specifications for purchases of paper, lubricating oil, tires~~
10 ~~and other products or materials to ensure, to the maximum~~
11 ~~extent economically feasible, that the agency purchases~~
12 ~~products or materials that may be recycled or reused when~~
13 ~~these products are discarded.~~

14 ~~(3) Require that a person who submits a bid to the~~
15 ~~agency for a contract for purchase products or materials for~~
16 ~~use by or on behalf of the agency certify, in writing, either~~
17 ~~the percentage by weight of recycled content in the product~~
18 ~~or material that is the subject of the bid, or such other~~
19 ~~measure of recycled content as may be set forth in the~~
20 ~~agency's invitation for bids.~~

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

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

29 ~~(1) Upon evaluation of bids opened for a public contract~~
30 ~~by a public agency for the purchase of products or materials,~~

1 ~~the public agency shall identify the lowest responsible~~
2 ~~bidder and any other responsible bidders whose prices exceed~~
3 ~~that of the lowest responsible bidder by a preference~~
4 ~~percentage to be set forth in the invitation for bids, but~~
5 ~~not more than 5% of the bid amount. If no bidders offer~~
6 ~~products or materials with the minimum prescribed recycled~~
7 ~~content, the agency shall award the contract to the lowest~~
8 ~~responsible bidder.~~

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

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

21 SECTION 1504. PROCUREMENT BY COMMONWEALTH AGENCIES. <—

22 (A) INITIAL REVIEW.--

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

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

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

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

10 (C) RECYCLED MATERIALS.--

11 (1) COMMONWEALTH AGENCIES SHALL REVIEW AND REVISE THEIR
12 PROCUREMENT PROCEDURES AND SPECIFICATIONS FOR THE PURCHASE OF
13 GOODS, SUPPLIES, EQUIPMENT, MATERIALS AND PRINTING TO ENSURE,
14 TO THE MAXIMUM EXTENT ECONOMICALLY FEASIBLE, THAT SUCH
15 AGENCIES PURCHASE GOODS, SUPPLIES, EQUIPMENT, MATERIALS AND
16 PRINTING THAT MAY BE RECYCLED OR REUSED WHEN SUCH GOODS,
17 SUPPLIES, EQUIPMENT, MATERIALS AND PRINTING ARE DISCARDED.

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

22 (3) COMMONWEALTH AGENCIES SHALL ALSO, IN DEVELOPING NEW
23 PROCEDURES AND SPECIFICATIONS, ENCOURAGE THE USE OF GOODS,
24 SUPPLIES, EQUIPMENT, MATERIALS AND PRINTING THAT MAY BE
25 RECYCLED OR REUSED.

26 SECTION 1505. PROCUREMENT BY DEPARTMENT OF GENERAL SERVICES.

27 (A) BIDDING.--IN ISSUING INVITATIONS TO BID FOR THE PURCHASE
28 OF GOODS, SUPPLIES, EQUIPMENT, MATERIALS AND PRINTING, THE
29 DEPARTMENT OF GENERAL SERVICES SHALL SET FORTH A MINIMUM
30 PERCENTAGE OF RECYCLED CONTENT FOR THE GOODS, SUPPLIES,

1 EQUIPMENT, MATERIALS AND PRINTING THAT MUST BE CERTIFIED BY A
2 BIDDER IN ORDER TO QUALIFY FOR THE PREFERENCE IN SUBSECTION (B).
3 A PERSON MAY SUBMIT A BID THAT DOES NOT CERTIFY THAT THE GOODS,
4 SUPPLIES, EQUIPMENT, MATERIALS OR PRINTING CONTAIN SUCH MINIMUM
5 PERCENTAGE OF RECYCLED CONTENT. THE DEPARTMENT OF GENERAL
6 SERVICES MAY WAIVE THIS REQUIREMENT FOR GOODS, SUPPLIES,
7 EQUIPMENT, MATERIALS AND PRINTING THAT CANNOT BE PROCURED WITH
8 RECYCLED CONTENT.

9 (B) PREFERENCE.--EVERY BIDDER FOR THE PURCHASE OF GOODS,
10 SUPPLIES, EQUIPMENT, MATERIALS AND PRINTING WHICH CERTIFIES THAT
11 THE GOODS, SUPPLIES, EQUIPMENT, MATERIALS AND PRINTING SUBJECT
12 TO THE BID CONTAIN THE MINIMUM PERCENTAGE OF RECYCLED CONTENT
13 THAT IS SET FORTH IN THE INVITATION FOR BIDS SHALL BE GRANTED A
14 PREFERENCE EQUAL TO 5% OF THE BID AMOUNT AGAINST ANY BIDDER THAT
15 HAS NOT SO CERTIFIED.

16 (C) TIES.--WHEN THERE IS A TIE FOR LOWEST RESPONSIBLE
17 BIDDER, THE DEPARTMENT OF GENERAL SERVICES MAY CONSIDER, AS ONE
18 FACTOR IN DETERMINING TO WHOM TO AWARD THE CONTRACT, WHICH OF
19 THE BIDS PROVIDES FOR THE GREATEST WEIGHT OF RECYCLED CONTENT IN
20 THE GOODS, SUPPLIES, EQUIPMENT, MATERIALS OR PRINTING, OR SUCH
21 OTHER MEASURE OF RECYCLED CONTENT AS MAY BE SET FORTH IN THE
22 INVITATION FOR BIDS.

23 (D) IMPLEMENTATION.--THE DEPARTMENT OF GENERAL SERVICES MAY
24 CARRY OUT THE PROVISIONS AND PURPOSES OF THIS SECTION THROUGH
25 APPROPRIATE CONTRACTUAL PROVISIONS AND INVITATIONS TO BID,
26 THROUGH THE ADOPTION OF SUCH REGULATIONS AS IT DEEMS NECESSARY,
27 OR BOTH.

28 (E) FEDERAL FUNDS.--THE PROVISIONS OF THIS SECTION SHALL NOT
29 BE APPLICABLE WHEN SUCH PROVISIONS MAY JEOPARDIZE THE RECEIPT OF
30 FEDERAL FUNDS.

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

4 (G) COOPERATION.--ALL COMMONWEALTH AGENCIES SHALL COOPERATE
5 WITH THE DEPARTMENT OF GENERAL SERVICES IN CARRYING OUT THIS
6 SECTION.

7 (H) ANNUAL REPORT.--THE DEPARTMENT OF GENERAL SERVICES SHALL
8 SUBMIT AN ANNUAL REPORT TO THE GENERAL ASSEMBLY CONCERNING THE
9 IMPLEMENTATION OF THIS SECTION. THIS REPORT SHALL INCLUDE A
10 DESCRIPTION OF WHAT ACTIONS THE DEPARTMENT OF GENERAL SERVICES
11 HAS 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. TESTING BY DEPARTMENT OF TRANSPORTATION.

15 (A) 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 (B) 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 (C) 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 (D) RULEMAKING.--THE DEPARTMENT OF TRANSPORTATION MAY ADOPT
15 REGULATIONS AS IT DEEMS NECESSARY TO CARRY OUT THIS SECTION.

16 (E) COOPERATION.--ALL COMMONWEALTH AGENCIES SHALL COOPERATE
17 WITH THE DEPARTMENT OF TRANSPORTATION IN CARRYING OUT THIS
18 SECTION.

19 SECTION 1507. PROCUREMENT PROCEDURES FOR LOCAL PUBLIC AGENCIES.

20 (A) PURPOSE.--EACH LOCAL PUBLIC AGENCY MAY, AT ITS
21 DISCRETION, REVIEW AND REVISE ITS PROCUREMENT PROCEDURES AND
22 SPECIFICATIONS FOR PURCHASES OF GOODS, SUPPLIES, EQUIPMENT,
23 MATERIALS AND PRINTING TO:

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

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

29 (3) ENSURE, TO THE MAXIMUM EXTENT ECONOMICALLY FEASIBLE,
30 THAT IT PURCHASES GOODS, SUPPLIES, EQUIPMENT, MATERIALS AND

1 PRINTING THAT MAY BE RECYCLED OR REUSED WHEN SUCH GOODS,
2 SUPPLIES, EQUIPMENT, MATERIALS AND PRINTING ARE DISCARDED.

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

6 SECTION 1508. PROCUREMENT OPTIONS FOR LOCAL PUBLIC AGENCIES AND
7 CERTAIN COMMONWEALTH AGENCIES.

8 (A) GENERAL RULE.--THIS SECTION SETS FORTH PROCUREMENT
9 OPTIONS FOR LOCAL PUBLIC AGENCIES. THESE PROCUREMENT OPTIONS ARE
10 ALSO AVAILABLE TO COMMONWEALTH AGENCIES OTHER THAN THE
11 DEPARTMENT OF GENERAL SERVICES.

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

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

29 (2) ESTABLISH SPECIFICATIONS FOR BIDS FOR PUBLIC
30 CONTRACTS THAT REQUIRE ALL BIDDERS TO PROPOSE THAT A STATED

1 MINIMUM PERCENTAGE OF GOODS, SUPPLIES, EQUIPMENT, MATERIALS
2 OR PRINTING TO BE USED FOR THE CONTRACT BE MADE FROM RECYCLED
3 MATERIAL.

4 (3) UPON EVALUATION OF BIDS OPENED FOR A PUBLIC CONTRACT
5 FOR GOODS, SUPPLIES, EQUIPMENT, MATERIALS OR PRINTING, THE
6 AGENCY SHALL IDENTIFY THE LOWEST RESPONSIBLE BIDDER. WHERE
7 THERE IS A TIE FOR LOWEST RESPONSIBLE BIDDER, THE AGENCY
8 SHALL CONSIDER, AS ONE FACTOR IN DETERMINING TO WHOM TO AWARD
9 THE CONTRACT, WHICH OF THE BIDS PROVIDES FOR THE GREATEST
10 WEIGHT OF RECYCLED CONTENT IN THE GOODS, SUPPLIES, EQUIPMENT,
11 MATERIALS OR PRINTING, OR SUCH OTHER MEASURE OF RECYCLED
12 CONTENT AS MAY BE SET FORTH IN THE INVITATION FOR BIDS.

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

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

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

1 SECTION 1510. RECYCLED PAPER PRODUCTS.

2 (A) GENERAL RULE.--THE DEPARTMENT OF GENERAL SERVICES SHALL,
3 TO THE FULLEST EXTENT POSSIBLE WHEN CONTRACTING FOR PAPER OR
4 PAPER PRODUCTS, PURCHASE OR APPROVE FOR PURCHASE ONLY SUCH PAPER
5 OR PAPER PRODUCTS THAT ARE MANUFACTURED OR PRODUCED FROM
6 RECYCLED PAPER AS SPECIFIED IN SUBSECTION (B).

7 (B) IMPLEMENTATION.--THE PROVISIONS OF SUBSECTION (A) SHALL
8 BE IMPLEMENTED BY THE DEPARTMENT OF GENERAL SERVICES SO THAT, OF
9 THE TOTAL VOLUME OF PAPER PURCHASED, RECYCLED PAPER COMPOSES AT
10 LEAST 10% OF THE VOLUME IN 1989, AT LEAST 25% OF THE VOLUME IN
11 1991 AND AT LEAST 40% OF THE VOLUME IN 1993.

12 (C) NEWSPRINT.--IN THE CASE OF THE PURCHASE OF NEWSPRINT AND
13 NEWSPRINT PRODUCTS, AT LEAST 40% OF THE SECONDARY WASTE PAPER
14 MATERIAL USED IN RECYCLED NEWSPRINT SHALL BE POSTCONSUMER
15 NEWSPAPER WASTE.

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

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

21 "POSTCONSUMER WASTE." ANY PRODUCT GENERATED BY A BUSINESS OR
22 CONSUMER WHICH HAS SERVED ITS INTENDED END USE, AND WHICH HAS
23 BEEN SEPARATED FROM SOLID WASTE FOR THE PURPOSES OF COLLECTION,
24 RECYCLING AND DISPOSITION AND WHICH DOES NOT INCLUDE SECONDARY
25 WASTE MATERIAL OR DEMOLITION WASTE.

26 "RECYCLED PAPER." ANY PAPER HAVING A TOTAL WEIGHT CONSISTING
27 OF NOT LESS THAN 20% SECONDARY WASTE PAPER MATERIAL IN 1989, NOT
28 LESS THAN 30% OF SAID MATERIAL IN 1991, NOT LESS THAN 40% OF
29 SAID MATERIAL IN 1993, AND NOT LESS THAN 50% OF SAID MATERIAL IN
30 1996 AND THEREAFTER, AND NOT LESS THAN 10% POSTCONSUMER WASTE

1 BEGINNING IN 1996.

2 "SECONDARY WASTE PAPER MATERIAL." PAPER WASTE GENERATED
3 AFTER THE COMPLETION OF A PAPERMAKING PROCESS, SUCH AS
4 POSTCONSUMER WASTE MATERIAL, ENVELOPE CUTTINGS, BINDERY
5 TRIMMINGS, PRINTING WASTE, CUTTING AND OTHER CONVERTING WASTE,
6 BUTT ROLLS AND MILL WRAPPERS. THE TERM SHALL NOT INCLUDE FIBROUS
7 WASTE GENERATED DURING THE MANUFACTURING PROCESS, SUCH AS FIBERS
8 RECOVERED FROM WASTEWATER OR TRIMMINGS OF PAPER MACHINE ROLLS,
9 FIBROUS BY-PRODUCTS OF HARVESTING, EXTRACTIVE OR WOODCUTTING
10 PROCESS, OR FOREST RESIDUE SUCH AS BARK.

11 SECTION 1511. LEAD ACID BATTERIES.

12 (A) CERTAIN DISPOSAL PROHIBITED.--NO PERSON MAY PLACE A USED
13 LEAD ACID BATTERY IN MIXED MUNICIPAL SOLID WASTE, DISCARD OR
14 OTHERWISE DISPOSE OF A LEAD ACID BATTERY EXCEPT BY DELIVERY TO
15 AN AUTOMOTIVE BATTERY RETAILER OR WHOLESALER, TO A SECONDARY
16 LEAD SMELTER PERMITTED BY THE ENVIRONMENTAL PROTECTION AGENCY,
17 OR TO A COLLECTION OR RECYCLING FACILITY AUTHORIZED UNDER THE
18 LAWS OF THIS COMMONWEALTH.

19 (B) DISPOSAL BY DEALERS.--NO AUTOMOTIVE BATTERY RETAILER
20 SHALL DISPOSE OF A USED LEAD ACID BATTERY EXCEPT BY DELIVERY TO
21 A SECONDARY LEAD SMELTER PERMITTED BY THE ENVIRONMENTAL
22 PROTECTION AGENCY, OR TO A COLLECTION OR RECYCLING FACILITY
23 AUTHORIZED UNDER THE LAWS OF THIS COMMONWEALTH, OR TO THE AGENT
24 OF A BATTERY MANUFACTURER OR WHOLESALER FOR DELIVERY TO A
25 SECONDARY LEAD SMELTER PERMITTED BY THE ENVIRONMENTAL PROTECTION
26 AGENCY, OR A COLLECTION OR RECYCLING FACILITY AUTHORIZED UNDER
27 THE LAWS OF THIS COMMONWEALTH.

28 (C) PENALTY.--A VIOLATION OF SUBSECTION (A) OR (B)
29 CONSTITUTES A SUMMARY OFFENSE SUBJECT TO A FINE NOT TO EXCEED
30 \$100. EACH BATTERY IMPROPERLY DISPOSED OF SHALL CONSTITUTE A

1 SEPARATE OFFENSE.

2 (D) COLLECTION FOR RECYCLING.--ANY PERSON SELLING OR
3 OFFERING FOR SALE AT RETAIL LEAD ACID BATTERIES SHALL:

4 (1) ACCEPT, AT THE POINT OF TRANSFER, IN A QUANTITY AT
5 LEAST EQUAL TO THE NUMBER PURCHASED, USED LEAD ACID BATTERIES
6 FROM CUSTOMERS IN EXCHANGE FOR NEW BATTERIES PURCHASED.

7 (2) POST WRITTEN NOTICE WHICH MUST BE AT LEAST 8 1/2
8 INCHES BY 11 INCHES IN SIZE AND MUST CONTAIN THE UNIVERSAL
9 RECYCLING SYMBOL AND THE FOLLOWING LANGUAGE:

10 (I) "IT IS ILLEGAL TO DISCARD A MOTOR VEHICLE OR
11 OTHER LEAD ACID BATTERY."

12 (II) "RECYCLE YOUR USED BATTERIES."

13 (III) "STATE LAW REQUIRES US TO ACCEPT USED MOTOR
14 VEHICLE OR OTHER LEAD ACID BATTERIES FOR RECYCLING, IN
15 EXCHANGE FOR NEW BATTERIES PURCHASED."

16 (E) INSPECTION OF AUTOMOTIVE BATTERY RETAILERS.--THE
17 DEPARTMENT SHALL PRODUCE, PRINT AND DISTRIBUTE THE NOTICES
18 REQUIRED BY SUBSECTION (D) TO ALL PLACES WHERE LEAD ACID
19 BATTERIES ARE OFFERED FOR SALE AT RETAIL. THE DEPARTMENT SHALL
20 ALSO INSPECT ALL PLACES WHERE LEAD ACID BATTERIES ARE OFFERED
21 FOR SALE AT RETAIL AT LEAST ONCE EVERY TWO YEARS TO DETERMINE
22 COMPLIANCE WITH THIS SECTION. IN PERFORMING ITS DUTIES UNDER
23 THIS SECTION, THE DEPARTMENT MAY INSPECT ANY PLACE, BUILDING OR
24 PREMISES GOVERNED BY THIS ACT. AUTHORIZED EMPLOYEES OF THE
25 DEPARTMENT MAY ISSUE WARNINGS AND CITATIONS TO PERSONS WHO FAIL
26 TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION. FAILURE TO POST
27 THE REQUIRED NOTICE FOLLOWING WARNING SHALL SUBJECT A CIVIL
28 PENALTY OF \$25 PER DAY, COLLECTIBLE BY THE DEPARTMENT.

29 (F) LEAD ACID BATTERY WHOLESALERS.--ANY PERSON SELLING NEW
30 LEAD ACID BATTERIES AT WHOLESALE SHALL ACCEPT, AT THE POINT OF

1 TRANSFER, USED LEAD ACID BATTERIES FROM CUSTOMERS IN A QUANTITY
2 AT LEAST EQUAL TO THE NUMBER PURCHASED. A PERSON ACCEPTING
3 BATTERIES IN TRANSFER FROM AN AUTOMOTIVE BATTERY RETAILER SHALL
4 BE ALLOWED A PERIOD NOT TO EXCEED 90 DAYS TO REMOVE BATTERIES
5 FROM THE RETAIL POINT OF COLLECTION.

6 (G) ENFORCEMENT.--THE DEPARTMENT OF ENVIRONMENTAL RESOURCES
7 SHALL ENFORCE THIS SECTION.

8 SECTION 1512. RECYCLING EQUIPMENT TAX CREDIT.

9 (A) AMOUNT OF CREDIT.--A TAXPAYER WHO PURCHASES RECYCLING
10 EQUIPMENT TO BE USED EXCLUSIVELY WITHIN THIS COMMONWEALTH FOR
11 RECYCLING POSTCONSUMER WASTE MATERIALS SHALL BE ENTITLED TO A
12 CREDIT AGAINST THE TAXES IMPOSED PURSUANT TO ARTICLES IV OR VI
13 OF THE ACT OF MARCH 4, 1971 (P.L.6, NO.2), KNOWN AS THE TAX
14 REFORM CODE OF 1971, IN AN AMOUNT EQUAL TO 50% OF THE INSTALLED
15 COST OF THE RECYCLING EQUIPMENT. THE AMOUNT OF CREDIT CLAIMED IN
16 THE TAX YEAR DURING WHICH THE RECYCLING EQUIPMENT IS PURCHASED
17 SHALL NOT EXCEED 20% OF THE AMOUNT OF THE TOTAL CREDIT ALLOWABLE
18 AND SHALL NOT EXCEED 50% OF THE TOTAL OF EACH TAX LIABILITY
19 WHICH WOULD BE OTHERWISE DUE.

20 (B) APPLICATION PROCEDURE.--APPLICATION FOR A TAX CREDIT
21 SHALL BE MADE TO THE DEPARTMENT OF REVENUE ON OR BEFORE APRIL 15
22 OF THE YEAR FOLLOWING THE CALENDAR YEAR IN WHICH THE RECYCLING
23 EQUIPMENT IS PURCHASED. THE APPLICATION SHALL INCLUDE A
24 DESCRIPTION OF EACH ITEM OF RECYCLING EQUIPMENT PURCHASED, THE
25 DATE OF PURCHASE AND THE INSTALLED COST OF THE RECYCLING
26 EQUIPMENT, A STATEMENT OF WHERE THE RECYCLING EQUIPMENT IS TO BE
27 USED AND SUCH OTHER INFORMATION AS THE DEPARTMENT OF REVENUE MAY
28 REQUIRE. THE SECRETARY OF REVENUE SHALL REVIEW ALL APPLICATIONS
29 RECEIVED TO DETERMINE WHETHER EXPENDITURES FOR WHICH CREDITS ARE
30 REQUESTED MEET THE REQUIREMENTS OF THIS SECTION AND SHALL ADVISE

1 THE TAXPAYER OF THE AMOUNT OF CREDIT FOR WHICH THE TAXPAYER IS
2 ELIGIBLE UNDER THIS SECTION.

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

6 "POSTCONSUMER WASTE." ANY PRODUCT GENERATED BY A BUSINESS OR
7 CONSUMER WHICH HAS SERVED ITS INTENDED END USE, AND WHICH HAS
8 BEEN SEPARATED FROM SOLID WASTE FOR THE PURPOSES OF COLLECTION,
9 RECYCLING AND DISPOSITION AND WHICH DOES NOT INCLUDE SECONDARY
10 WASTE MATERIAL OR DEMOLITION WASTE.

11 "RECYCLING EQUIPMENT." ANY MACHINERY OR APPARATUS USED
12 EXCLUSIVELY TO PROCESS POSTCONSUMER WASTE MATERIAL AND
13 MANUFACTURING MACHINERY USED EXCLUSIVELY TO PRODUCE FINISHED
14 PRODUCTS COMPOSED OF SUBSTANTIAL POSTCONSUMER WASTE MATERIALS.

15 "SECONDARY WASTE PAPER MATERIAL." PAPER WASTE GENERATED
16 AFTER THE COMPLETION OF A PAPERMAKING PROCESS, SUCH AS
17 POSTCONSUMER WASTE MATERIAL, ENVELOPE CUTTINGS, BINDERY
18 TRIMMINGS, PRINTING WASTE, CUTTING AND OTHER CONVERTING WASTE,
19 BUTT ROLLS AND MILL WRAPPERS. THE TERM SHALL NOT INCLUDE FIBROUS
20 WASTE GENERATED DURING THE MANUFACTURING PROCESS, SUCH AS FIBERS
21 RECOVERED FROM WASTEWATER OR TRIMMINGS OF PAPER MACHINE ROLLS,
22 FIBROUS BY-PRODUCTS OF HARVESTING, EXTRACTIVE OR WOODCUTTING
23 PROCESS OR FOREST RESIDUE SUCH AS BARK.

24 SECTION 1513. MUNICIPAL SPECIAL WASTE COLLECTION PROGRAM.

25 (A) WASTE COLLECTION PROGRAMS.--ANY SPONSORING ENTITY MAY
26 CONDUCT A NONPROFIT MUNICIPALITY HAZARDOUS WASTE COLLECTION
27 PROGRAM FOR THE PURPOSE OF COLLECTING SMALL QUANTITIES OF
28 HAZARDOUS HOUSEHOLD WASTE AND ENCOURAGING RESIDENTS, HOMEOWNERS
29 AND SMALL BUSINESSES TO PROPERLY DISPOSE OF SMALL QUANTITIES OF
30 HAZARDOUS HOUSEHOLD WASTE. THESE PROGRAMS MAY BE CONDUCTED AT

1 SUCH TIMES AND AT SUCH PLACES AS THE SPONSORING ENTITY
2 DETERMINES WOULD BEST ENCOURAGE PROPER DISPOSAL OF WASTE, WOULD
3 DEMONSTRATE ENVIRONMENTALLY SOUND DISPOSAL PROCEDURES AND WOULD
4 PROVIDE THE BEST EDUCATIONAL VALUE TO THE MUNICIPALITY.

5 (B) RECEPTACLES.--MATERIALS COLLECTED UNDER THE PROGRAM
6 SHALL BE DEPOSITED IN A RECEPTACLE PROVIDED BY A TRANSPORTER
7 LICENSED UNDER APPLICABLE FEDERAL AND STATE STATUTES AND
8 REGULATIONS FOR THE HANDLING AND TRANSPORTATION OF HAZARDOUS
9 WASTE.

10 (C) COLLECTION EVENTS.--COLLECTION EVENTS SHALL BE SCHEDULED
11 FOR NOT MORE THAN SEVEN CONSECUTIVE DAYS, AND NO WASTE SHALL
12 REMAIN AT THE COLLECTION SITE FOR MORE THAN 24 HOURS FOLLOWING
13 THE EVENT. COLLECTION RECEPTACLES SHALL BE REMOVED BY THE
14 TRANSPORTER WITHIN 24 HOURS FOLLOWING THE CONCLUSION OF THE
15 COLLECTION EVENT.

16 (D) SITES.--COLLECTION EVENTS MAY BE CONDUCTED ON SITES
17 SELECTED BY THE SPONSORING ENTITY OR ENTITIES. SUCH SITES MAY BE
18 ON PUBLIC OR PRIVATE PROPERTY, INCLUDING, BUT NOT LIMITED TO,
19 PROPERTY OWNED, LEASED OR CONTROLLED BY THE COMMONWEALTH, ITS
20 AGENCIES OR ITS POLITICAL SUBDIVISIONS. WRITTEN PERMISSION TO
21 USE THE SITE FOR THE CONDUCT OF THE EVENT SHALL BE OBTAINED FROM
22 THE OWNER PRIOR TO THE EVENT.

23 (E) LIABILITY.--IN ORDER TO ENCOURAGE THE ESTABLISHMENT OF
24 PROGRAMS FOR THE EDUCATION OF THE PUBLIC AND FOR THE PROPER
25 DISPOSAL OF HOUSEHOLD HAZARDOUS WASTE, AN OWNER WHO, WITHOUT
26 CHARGE, PERMITS ANY PROPERTY TO BE USED AS A SITE FOR A
27 COLLECTION EVENT SHALL NOT BE LIABLE FOR ANY DAMAGE, HARM OR
28 INJURY TO ANY PERSON OR PROPERTY WHICH RESULTS FROM THE USE OF
29 THE PROPERTY AS A SITE FOR A COLLECTION EVENT.

30 (F) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING

1 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
2 SUBSECTION:

3 "OWNER." THE POSSESSOR OF A FEE INTEREST; A TENANT, LESSEE,
4 OCCUPANT, OR PERSON IN CONTROL; OR THE COMMONWEALTH, ITS
5 AGENCIES AND ITS POLITICAL SUBDIVISIONS.

6 "SMALL BUSINESS." ANY COMMERCIAL ESTABLISHMENT NOT REGULATED
7 UNDER THE RESOURCE CONSERVATION AND RECOVERY ACT OF 1976 (PUBLIC
8 LAW 94-580, 42 U.S.C. § 6901 ET SEQ.).

9 "SPONSORING ENTITY." A MUNICIPALITY, A GROUP OF
10 MUNICIPALITIES, A NONPROFIT ORGANIZATION, A NONPROFIT
11 ASSOCIATION OR A VOLUNTEER ORGANIZATION.

12 CHAPTER 17

13 ENFORCEMENT AND REMEDIES

14 Section 1701. Unlawful conduct.

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

17 (1) Violate, or cause or assist in the violation of, any
18 provision of this act, any regulation promulgated hereunder,
19 any order issued hereunder, or the terms or conditions of any
20 municipal waste management plan approved by the department
21 under this act.

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

25 (3) Fail to adhere to the schedule set forth in an
26 approved plan for planning, design, siting, construction or
27 operation of municipal waste processing or disposal
28 facilities.

29 (4) Act in a manner that is contrary to the approved
30 county plan or otherwise fail to act in a manner that is

1 consistent with the approved county plan.

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

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

7 (7) Hinder, obstruct, prevent or interfere with host
8 municipalities or their personnel in the performance of any
9 duty related to the collection of the host municipality
10 benefit fee or in conducting any inspection authorized by
11 this act.

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

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

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

22 (C) UNLAWFUL CONDUCT.--IT SHALL BE UNLAWFUL TO SELL OR OFFER ←
23 FOR SALE BEVERAGES CONNECTED TO EACH OTHER BY PLASTIC BEVERAGE
24 CARRIERS WHERE THE CARRIER IS NOT A DEGRADABLE PLASTIC BEVERAGE
25 CARRIER. THE DEPARTMENT SHALL CERTIFY WHETHER A PLASTIC BEVERAGE
26 CARRIER MEETS THE STANDARDS OF DEGRADABILITY AS DEFINED IN THIS
27 ACT.

28 Section 1702. Enforcement orders.

29 (a) Issuance.--The department may issue such orders to
30 persons as it deems necessary to aid in the enforcement of the

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

12 (b) Compliance.--It shall be the duty of any person to
13 proceed diligently to comply with any order issued pursuant to
14 subsection (a). If such person fails to proceed diligently or
15 fails to comply with the order within such time, if any, as may
16 be specified, such person shall be guilty of contempt and shall
17 be punished by the court in an appropriate manner, and for this
18 purpose, application may be made by the department to the
19 Commonwealth Court, which is hereby granted jurisdiction.
20 Section 1703. Restraining violations.

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

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

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

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

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

25 Section 1704. Civil penalties.

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

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

12 (b) Escrow.--When the department assesses a civil penalty,
13 it shall inform the person of the amount of the penalty. The
14 person charged with the penalty shall then have 30 days to pay
15 the penalty in full or, if the person wishes to contest either
16 the amount of the penalty or the fact of the violation, either
17 to forward the proposed amount to the department for placement
18 in an escrow account with the State Treasurer or with a bank in
19 this Commonwealth or to post an appeal bond in the amount of the
20 penalty. The bond must be executed by a surety licensed to do
21 business in this Commonwealth and must be satisfactory to the
22 department. If, through administrative or judicial review of the
23 proposed penalty, it is determined that no violation occurred or
24 that the amount of the penalty shall be reduced, the department
25 shall, within 30 days, remit the appropriate amount to the
26 person, with an interest accumulated by the escrow deposit.
27 Failure to forward the money or the appeal bond to the
28 department within 30 days shall result in a waiver of all legal
29 rights to contest the violation or the amount of the penalty.

30 (c) Amount.--The maximum civil penalty which may be assessed

1 pursuant to this section is \$10,000 per violation. Each
2 violation for each separate day and each violation of any
3 provision of this act, any regulation promulgated hereunder, any
4 order issued hereunder, or the terms or conditions of any
5 approved municipal waste management plan shall constitute a
6 separate offense under this section.

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

11 Section 1705. Criminal penalties.

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

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

30 (c) Second or subsequent offense.--Any person, other than a

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

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

16 Section 1706. Existing rights and remedies preserved;
17 cumulative remedies authorized.

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

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

10 Section 1707. Production of materials; recordkeeping
11 requirements.

12 (a) Authority of department.--The department and its agents
13 and employees shall:

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

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

21 (3) Have the authority to enter any building, property,
22 premises or place where solid waste is generated, stored,
23 processed, treated or disposed of for the purposes of making
24 an investigation or inspection necessary to ascertain the
25 compliance or noncompliance by any person with the provisions
26 of this act and the regulations promulgated under this act.
27 In connection with the inspection or investigation, samples
28 may be taken of a solid, semisolid, liquid or contained
29 gaseous material for analysis. If, analysis is made of the
30 samples, a copy of the results of the analysis shall be

1 furnished within five business days after receiving the
2 analysis to the person having apparent authority over the
3 building, property, premises or place.

4 (b) Warrants.--An agent or employee of the department may
5 apply for a search warrant to any Commonwealth official
6 authorized to issue a search warrant for the purposes of
7 inspecting or examining any property, building, premises, place,
8 book, record or other physical evidence; of conducting tests; or
9 of taking samples of any solid waste. The warrant shall be
10 issued upon probable cause. It shall be sufficient probable
11 cause to show any of the following:

12 (1) The inspection, examination, test or sampling is
13 pursuant to a general administrative plan to determine
14 compliance with this act.

15 (2) The agent or employee has reason to believe that a
16 violation of this act has occurred or may occur.

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

21 Section 1708. Withholding of State funds.

22 In addition to any other penalties provided in this act, the
23 department may notify the State Treasurer to withhold payment of
24 all or any portion of funds payable to the municipality by the
25 department from the General Fund or any other fund if the
26 municipality has engaged in any unlawful conduct under section
27 1701. Upon notification, the State Treasurer shall hold in
28 escrow such moneys due to such municipality until such time as
29 the department notifies the State Treasurer that the
30 municipality has complied with such requirement or schedule.

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

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

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

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

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

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

27 ~~(a) Commencement of civil action. Except as provided in~~
28 ~~subsection (b), any person having an interest which is or may be~~
29 ~~adversely affected may commence a civil suit on his own behalf~~
30 ~~to compel compliance with this act, or any rule or regulation~~

1 ~~promulgated hereunder, against any municipality where the~~
2 ~~municipality fails to comply with the provisions of this act or~~
3 ~~against the department where there is alleged a failure of the~~
4 ~~department to perform any act which is not discretionary with~~
5 ~~the department.~~

6 ~~(b) Notice. No action pursuant to this section may be~~
7 ~~commenced prior to 60 days after the plaintiff has given notice,~~
8 ~~in writing, notifying the department of the section of this act~~
9 ~~or the rule or regulation for which compliance is sought. In~~
10 ~~addition, no such action may be commenced if the department has~~
11 ~~commenced and is diligently proceeding with performance of the~~
12 ~~required nondiscretionary act.~~

13 ~~(c) Multiple actions. No action under this section may be~~
14 ~~commenced if the department has commenced and is diligently~~
15 ~~prosecuting a civil action in a court of the United States or of~~
16 ~~the Commonwealth, has issued an order, or has entered a consent~~
17 ~~order and agreement or consent decree to require compliance with~~
18 ~~this act, any regulation promulgated under this act, any order~~
19 ~~of the department issued under this act or any term or condition~~
20 ~~of an approved municipal waste management plan. If the~~
21 ~~department has commenced and is diligently prosecuting a civil~~
22 ~~action in a court of the Commonwealth, any person with an~~
23 ~~interest which is or may be adversely affected may intervene as~~
24 ~~of right.~~

25 ~~Section 1712. Affirmative defense.~~

26 ~~(a) Defense. It shall be an affirmative defense to any~~
27 ~~action by the department pursuant to section 1702, 1704, 1705 or~~
28 ~~1708 and any action brought pursuant to section 1711 against any~~
29 ~~municipality alleged to be in violation of section 1501 that~~
30 ~~such municipality's failure to comply is caused by excessive~~

1 ~~costs of the program required by section 1501. Program costs are~~
2 ~~excessive when reasonable and necessary costs of operating the~~
3 ~~program exceed income from the sale or use of collected~~
4 ~~material, grant money received from the department pursuant to~~
5 ~~section 902, and avoided costs of municipal waste processing or~~
6 ~~disposal.~~

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

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

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

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

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

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

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

24 SECTION 1711. REMEDIES OF CITIZENS. <—

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

29 (B) JURISDICTION.--THE ENVIRONMENTAL HEARING BOARD IS HEREBY
30 GIVEN JURISDICTION OVER CITIZEN SUIT ACTIONS BROUGHT UNDER THIS

1 SECTION AGAINST THE DEPARTMENT. ACTIONS AGAINST ANY OTHER
2 PERSONS UNDER THIS SECTION MAY BE TAKEN IN A COURT OF COMPETENT
3 JURISDICTION. SUCH JURISDICTION IS IN ADDITION TO ANY RIGHTS OF
4 ACTION NOW OR HEREAFTER EXISTING IN EQUITY, OR UNDER THE COMMON
5 LAW OR STATUTORY LAW.

6 (C) NOTICE.--NO ACTION MAY BE COMMENCED UNDER THIS SECTION
7 PRIOR TO 60 DAYS AFTER THE PLAINTIFF HAS GIVEN NOTICE OF THE
8 VIOLATION TO THE SECRETARY, TO THE HOST MUNICIPALITY AND TO ANY
9 ALLEGED VIOLATOR OF THE ACT, OF OTHER ENVIRONMENTAL PROTECTION
10 ACTS, OR OF THE REGULATION OR ORDER OF THE DEPARTMENT WHICH HAS
11 ALLEGEDLY BEEN VIOLATED, NOR SHALL ANY ACTION BE COMMENCED UNDER
12 THIS SECTION IF THE SECRETARY HAS COMMENCED AND IS DILIGENTLY
13 PROSECUTING AN ADMINISTRATIVE ACTION BEFORE THE ENVIRONMENTAL
14 HEARING BOARD, OR A CIVIL OR CRIMINAL ACTION IN A COURT OF THE
15 UNITED STATES OR A STATE TO REQUIRE COMPLIANCE WITH SUCH PERMIT,
16 STANDARD, REGULATION, CONDITION, REQUIREMENT, PROHIBITION OR
17 ORDER.

18 (D) AWARD OF COSTS.--THE ENVIRONMENTAL HEARING BOARD OR A
19 COURT OF COMPETENT JURISDICTION, IN ISSUING ANY FINAL ORDER IN
20 ANY ACTION BROUGHT PURSUANT TO SUBSECTION (A), MAY AWARD COSTS
21 OF LITIGATION, INCLUDING REASONABLE ATTORNEY AND EXPERT WITNESS
22 FEES, TO ANY PARTY, WHENEVER THE BOARD OR COURT DETERMINES SUCH
23 AWARD IS APPROPRIATE.

24 Section ~~1713~~ 1712. Public information. ←

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

29 (b) Confidentiality.--The department may, upon request,
30 designate records, reports or information as confidential when

1 the person providing the information demonstrates all of the
2 following:

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

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

8 (c) Separation of information.--When submitting information
9 under this act, a person shall designate the information which
10 the person believes is confidential or shall submit that
11 information separately from other information being submitted.

12 SECTION 1713. WHISTLEBLOWER PROVISIONS. ←

13 (A) ADVERSE ACTION PROHIBITED.--NO EMPLOYER MAY DISCHARGE,
14 THREATEN, OR OTHERWISE DISCRIMINATE OR RETALIATE AGAINST AN
15 EMPLOYEE REGARDING THE EMPLOYEE'S COMPENSATION, TERMS,
16 CONDITIONS, LOCATION OR PRIVILEGES OF EMPLOYMENT BECAUSE THE
17 EMPLOYEE MAKES A GOOD FAITH REPORT OR IS ABOUT TO REPORT,
18 VERBALLY OR IN WRITING, TO THE EMPLOYER OR APPROPRIATE AUTHORITY
19 AN INSTANCE OF WRONGDOING UNDER THIS ACT.

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

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

27 "APPROPRIATE AUTHORITY." A FEDERAL, STATE OR LOCAL
28 GOVERNMENT BODY, AGENCY OR ORGANIZATION HAVING JURISDICTION OVER
29 CRIMINAL LAW ENFORCEMENT, REGULATORY VIOLATIONS, PROFESSIONAL
30 CONDUCT OR ETHICS, OR WASTE; OR A MEMBER, OFFICER, AGENT,

1 REPRESENTATIVE OR SUPERVISORY EMPLOYEE OF THE BODY, AGENCY OR
2 ORGANIZATION. THE TERM INCLUDES, BUT IS NOT LIMITED TO, THE
3 OFFICE OF ATTORNEY GENERAL, THE DEPARTMENT OF THE AUDITOR
4 GENERAL, THE TREASURY DEPARTMENT, THE GENERAL ASSEMBLY AND
5 COMMITTEES OF THE GENERAL ASSEMBLY HAVING THE POWER AND DUTY TO
6 INVESTIGATE CRIMINAL LAW ENFORCEMENT, REGULATORY VIOLATIONS,
7 PROFESSIONAL CONDUCT OR ETHICS, OR WASTE.

8 "EMPLOYEE." A PERSON WHO PERFORMS A SERVICE FOR WAGES OR
9 OTHER REMUNERATION UNDER A CONTRACT OF HIRE, WRITTEN OR ORAL,
10 EXPRESS OR IMPLIED, FOR AN EMPLOYER, WHETHER OR NOT THE EMPLOYER
11 IS A PUBLIC BODY.

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

15 "GOOD FAITH REPORT." A REPORT OF CONDUCT DEFINED IN THIS ACT
16 AS WRONGDOING OR WASTE WHICH IS MADE WITHOUT MALICE OR
17 CONSIDERATION OF PERSONAL BENEFIT AND WHICH THE PERSON MAKING
18 THE REPORT HAS REASONABLE CAUSE TO BELIEVE IS TRUE.

19 "PUBLIC BODY." ALL OF THE FOLLOWING:

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

23 (2) A COUNTY, CITY, TOWNSHIP, REGIONAL GOVERNING BODY,
24 COUNCIL, SCHOOL DISTRICT, SPECIAL DISTRICT OR MUNICIPAL
25 CORPORATION, OR A BOARD, DEPARTMENT, COMMISSION, COUNCIL OR
26 AGENCY.

27 (3) ANY OTHER BODY WHICH IS CREATED BY COMMONWEALTH OR
28 POLITICAL SUBDIVISION AUTHORITY OR WHICH IS FUNDED IN ANY
29 AMOUNT BY OR THROUGH COMMONWEALTH OR POLITICAL SUBDIVISION
30 AUTHORITY OR A MEMBER OR EMPLOYEE OF THAT BODY.

1 "WASTE." AN EMPLOYER'S CONDUCT OR OMISSIONS WHICH RESULT IN
2 SUBSTANTIAL ABUSE, MISUSE, DESTRUCTION OR LOSS OF FUNDS OR
3 RESOURCES BELONGING TO OR DERIVED FROM COMMONWEALTH OR POLITICAL
4 SUBDIVISION SOURCES.

5 "WHISTLEBLOWER." A PERSON WHO WITNESSES OR HAS EVIDENCE OF
6 WRONGDOING OR WASTE WHILE EMPLOYED AND WHO MAKES A GOOD FAITH
7 REPORT OF THE WRONGDOING OR WASTE, VERBALLY OR IN WRITING, TO
8 ONE OF THE PERSON'S SUPERIORS, TO AN AGENT OF THE EMPLOYER OR TO
9 AN APPROPRIATE AUTHORITY.

10 "WRONGDOING." A VIOLATION WHICH IS NOT OF A MERELY TECHNICAL
11 OR MINIMAL NATURE OF A FEDERAL OR STATE STATUTE OR REGULATION,
12 OF A POLITICAL SUBDIVISION ORDINANCE OR REGULATION OR OF A CODE
13 OF CONDUCT OR ETHICS DESIGNED TO PROTECT THE INTEREST OF THE
14 PUBLIC OR THE EMPLOYER.

15 SECTION 1714. ADDITIONAL PENALTIES.

16 (A) DRIVER LICENSE.--IF ANY PERSON IS CONVICTED OF OR PLEADS
17 GUILTY OR NO CONTEST TO A VIOLATION OF SECTION 610(1) OF THE
18 SOLID WASTE MANAGEMENT ACT, THE DEPARTMENT SHALL, WITHIN 30
19 DAYS, SEND A CERTIFIED COPY OF THE JUDGMENT TO THE DEPARTMENT OF
20 TRANSPORTATION. UPON RECEIPT OF THE CERTIFIED COPY OF THE
21 JUDGMENT, THE DEPARTMENT OF TRANSPORTATION SHALL SUSPEND THE
22 OPERATING PRIVILEGE OF THE PERSON FOR ONE YEAR.

23 (B) VEHICLE FORFEITURE.--ANY VEHICLE, EQUIPMENT OR
24 CONVEYANCE USED FOR THE TRANSPORTATION OR DISPOSAL OF SOLID
25 WASTE IN THE COMMISSION OF AN OFFENSE UNDER SECTION 610(1) OF
26 THE SOLID WASTE MANAGEMENT ACT SHALL BE DEEMED CONTRABAND AND
27 FORFEITED TO THE DEPARTMENT. THE PROVISIONS OF LAW RELATING TO
28 THE SEIZURE, SUMMARY AND JUDICIAL FORFEITURE, AND CONDEMNATION
29 OF INTOXICATING LIQUOR SHALL APPLY TO SEIZURES AND FORFEITURES
30 UNDER THIS SECTION. PROCEEDS FROM THE SALE OF FORFEITED

1 VEHICLES, EQUIPMENT OR CONVEYANCE SHALL BE DEPOSITED IN THE
2 SOLID WASTE ABATEMENT FUND.

3 (C) RESPONSIBILITY FOR COST.--THE OPERATOR OF ANY VEHICLE,
4 EQUIPMENT OR CONVEYANCE FORFEITED UNDER SUBSECTION (B) SHALL BE
5 RESPONSIBLE FOR ANY COSTS INCURRED IN PROPERLY DISPOSING OF
6 WASTE IN THE VEHICLE, EQUIPMENT OR CONVEYANCE.

7 CHAPTER 19

8 MISCELLANEOUS PROVISIONS

9 SECTION 1901. REPORT TO GENERAL ASSEMBLY. <—

10 THE SECRETARY OF ENVIRONMENTAL RESOURCES SHALL PREPARE A
11 REPORT TO THE GENERAL ASSEMBLY CONCERNING THE IMPLEMENTATION OF
12 THIS ACT AND THE SUCCESS OF COUNTY AND MUNICIPAL RECYCLING
13 PROGRAMS. THIS REPORT SHALL BE TRANSMITTED TO THE GENERAL
14 ASSEMBLY NO LATER THAN APRIL 1, 1991, AND SHALL BE REVISED, AND
15 MODIFIED IF NECESSARY, AT LEAST ONCE EVERY THREE YEARS
16 THEREAFTER.

17 Section ~~1901~~ 1902. Severability. <—

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

23 Section ~~1902~~ 1903. Repeals. <—

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

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

29 (B) INCONSISTENT REPEALS.-- <—

30 (1) EXCEPT AS PROVIDED IN SECTION 501(b) of this act,

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

5 (2) ALL ACTS AND PARTS OF ACTS INCONSISTENT WITH SECTION <—
6 1505 ARE HEREBY REPEALED TO THE EXTENT OF THE INCONSISTENCY.

7 Section ~~1903~~ 1904. Effective date. <—

8 This act shall take effect in 60 days.