

AN ACT

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

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

25 CHAPTER 1

26 GENERAL PROVISIONS

27 Section 101. Short title.

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

30 Section 102. Legislative findings; declaration of policy and

1 goals.

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

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

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

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

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

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

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

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

1 facilities and to provide incentives for municipalities to  
2 host such facilities.

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

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

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

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

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

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

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

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

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

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

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

30 (18) This act is enacted under the authority of

1 Amendment X of the Constitution of the United States of  
2 America, under which the police power to protect the health,  
3 safety and welfare of the citizens is reserved to the states.

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

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

11 (21) Uncontrolled increases in the daily volumes of  
12 solid waste received at municipal waste landfills have  
13 significantly decreased their remaining lifetimes, disrupting  
14 the municipal waste planning process and the ability of  
15 municipalities relying on the landfills to continue using  
16 them. These increases have threatened to significantly and  
17 adversely affect public health and safety when municipalities  
18 find they can no longer use the facilities. Uncontrolled  
19 increases in daily waste volumes can also cause increased  
20 noise, odors, truck traffic and other significant adverse  
21 effects on the environment as well as on public health and  
22 safety.

23 (22) By purchasing, processing and marketing obsolete  
24 and other materials which would otherwise have been managed  
25 as municipal or residual waste, the Commonwealth's existing  
26 for-profit scrap processing and recycling industry has been  
27 and remains essential to the efficient and effective  
28 management of solid waste.

29 (23) In carrying out their powers and duties under this  
30 act, counties and other municipalities should:



1 (i) Ensure that the ability of the scrap processing  
2 and recycling industry to continue purchasing, processing  
3 and marketing recoverable materials is not thereby  
4 impaired.

5 (ii) Utilize to the fullest extent practicable all  
6 available facilities and expertise within the scrap  
7 processing and recycling industry for processing and  
8 marketing recyclable materials from municipal waste.

9 (24) Vehicle batteries are particularly difficult to  
10 dispose of and potentially harmful if improperly disposed of,  
11 and that it is necessary to control disposal and promote  
12 recycling of such batteries.

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

14 (1) Establish and maintain a cooperative State and local  
15 program of planning and technical and financial assistance  
16 for comprehensive municipal waste management.

17 (2) Encourage the development of waste reduction and  
18 recycling as a means of managing municipal waste, conserving  
19 resources and supplying energy through planning, grants and  
20 other incentives.

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

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

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

30 (6) Establish a recycling fee for municipal waste

1 landfills and resource recovery facilities to provide grants  
2 for recycling, planning and related purposes.

3 (7) Establish a host municipality benefit fee for  
4 municipal waste landfills and resource recovery facilities  
5 that are permitted on or after the effective date of this act  
6 and to provide benefits to host municipalities for the  
7 presence of such facilities.

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

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

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

20 (11) Require all public agencies of the Commonwealth to  
21 aid and promote the development of recycling through their  
22 procurement policies for the general welfare and economy of  
23 the Commonwealth.

24 (12) Require certain municipalities to implement  
25 recycling programs to return valuable materials to productive  
26 use, to conserve energy and to protect capacity at municipal  
27 waste processing or disposal facilities.

28 (13) Implement Article 1, section 27 of the Constitution  
29 of Pennsylvania.

30 (14) Strengthen the department's existing authority to

1 regulate daily waste volumes that may be received at a  
2 municipal waste landfill to protect against the unexpected or  
3 unplanned loss of facilities and to ensure that the  
4 facilities operate in a manner that protects the environment  
5 as well as public health and safety.

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

8 (1) At least 25% of all municipal waste and source-  
9 separated recyclable materials generated in this Commonwealth  
10 on and after January 1, 1997, should be recycled.

11 (2) The weight or volume of municipal waste generated  
12 per capita in this Commonwealth on January 1, 1997, should,  
13 to the greatest extent practicable, be less than the weight  
14 or volume of municipal waste generated per capita on the  
15 effective date of this act.

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

20 (4) The Commonwealth should, to the greatest extent  
21 practicable, procure and use products and materials with  
22 recycled content, and procure and use materials that are  
23 recyclable.

24 Section 103. Definitions.

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

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

1 "Average daily volume." The mean daily volume received at a  
2 facility taking into account weather, seasonal variations,  
3 scheduled community cleanup days and other factors.

4 "Commission." The Pennsylvania Public Utility Commission and  
5 its authorized representatives.

6 "Commonwealth agency." The Commonwealth and its departments,  
7 boards, commissions and agencies, Commonwealth owned  
8 universities, and the State Public School Building Authority,  
9 the State Highway and Bridge Authority, and any other authority  
10 now in existence or hereafter created or organized by the  
11 Commonwealth.

12 "Degradable plastic beverage carrier." Plastic beverage  
13 carriers that degrade by biological processes, photodegradation,  
14 chemodegradation or degradation by other natural processes. The  
15 degradation process does not produce or result in a residue or  
16 by-product considered to be hazardous waste.

17 "Department." The Department of Environmental Resources of  
18 the Commonwealth and its authorized representatives.

19 "Disposal." The deposition, injection, dumping, spilling,  
20 leaking or placing of solid waste into or on the land or water  
21 in a manner that the solid waste or a constituent of the solid  
22 waste enters the environment, is emitted into the air or is  
23 discharged to the waters of this Commonwealth.

24 "Feasibility study." A study which analyzes a specific  
25 municipal waste processing or disposal system to assess the  
26 likelihood that the system can be successfully implemented,  
27 including, but not limited to, an analysis of the prospective  
28 market, the projected costs and revenues of the system, the  
29 municipal waste-stream that the system will rely upon and  
30 various options available to implement the system.

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

4 "Leaf waste." Leaves, garden residues, shrubbery and tree  
5 trimmings, and similar material, but not including grass  
6 clippings.

7 "Local public agency."

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

11 (2) All municipal or school or other authorities now in  
12 existence or hereafter created or organized by any county,  
13 city, borough, township or school district or any combination  
14 thereof.

15 (3) Any and all other public bodies, authorities,  
16 councils of government, officers, agencies or  
17 instrumentalities of the foregoing, whether exercising a  
18 governmental or proprietary function.

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

22 "Municipal recycling program." A source separation and  
23 collection program for recycling municipal waste or source  
24 separated recyclable materials, or a program for designated  
25 drop-off points or collection centers for recycling municipal  
26 waste or source-separated recyclable materials, that is operated  
27 by or on behalf of a municipality. The term includes any source  
28 separation and collection program for composting yard waste that  
29 is operated by or on behalf of a municipality. The term shall  
30 not include any program for recycling construction/demolition

1 waste or sludge from sewage treatment plants or water supply  
2 treatment plants.

3 "Municipal waste." Any garbage, refuse, industrial lunchroom  
4 or office waste and other material, including solid, liquid,  
5 semisolid or contained gaseous material, resulting from  
6 operation of residential, municipal, commercial or institutional  
7 establishments and from community activities and any sludge not  
8 meeting the definition of residual or hazardous waste in the  
9 Solid Waste Management Act from a municipal, commercial or  
10 institutional water supply treatment plant, waste water  
11 treatment plant or air pollution control facility. The term does  
12 not include source-separated recyclable materials.

13 "Municipal waste landfill." Any facility that is designed,  
14 operated or maintained for the disposal of municipal waste,  
15 whether or not such facility possesses a permit from the  
16 department under the Solid Waste Management Act. The term shall  
17 not include any facility that is used exclusively for disposal  
18 of construction/demolition waste or sludge from sewage treatment  
19 plants or water supply treatment plants.

20 "Municipality." A county, city, borough, incorporated town,  
21 township or home rule municipality.

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

26 "Person." Any individual, partnership, corporation,  
27 association, institution, cooperative enterprise, municipality,  
28 municipal authority, Federal Government or agency, State  
29 institution or agency (including, but not limited to, the  
30 Department of General Services and the State Public School

1 Building Authority), or any other legal entity whatsoever which  
2 is recognized by law as the subject of rights and duties. In any  
3 provisions of this act prescribing a fine, imprisonment or  
4 penalty, or any combination of the foregoing, the term "person"  
5 shall include the officers and directors of any corporation or  
6 other legal entity having officers and directors.

7 "Plastic beverage carrier." Plastic rings or similar plastic  
8 connectors used as holding devices in the packaging of  
9 beverages, including, but not limited to, all carbonated  
10 beverages, liquors, wines, fruit juices, mineral waters, soda  
11 and beer.

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

20 "Postconsumer material." Any product generated by a business  
21 or consumer which has served its intended end use, and which has  
22 been separated or diverted from solid waste for the purposes of  
23 collection, recycling, and disposition. The term includes  
24 industrial byproducts that would otherwise go to disposal or  
25 processing facilities. The term does not include internally  
26 generated scrap that is commonly returned to industrial or  
27 manufacturing processes.

28 "Processing." Any technology used for the purpose of  
29 reducing the volume or bulk of municipal waste or any technology  
30 used to convert part or all of such waste materials for offsite

1 reuse. Processing facilities include, but are not limited to,  
2 transfer facilities, composting facilities and resource recovery  
3 facilities.

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

10 "Public agency." Any Commonwealth agency or local public  
11 agency.

12 "Reasonable expansion." The growth of an existing permitted  
13 municipal waste landfill to land which is contiguous to the  
14 existing municipal waste landfill which contiguous land is owned  
15 in fee by the owner of the municipal waste landfill or which  
16 land is subject to an irrevocable option exercisable within one  
17 year in favor of the owner of the municipal waste landfill on  
18 the date that written notice of the development of a plan or a  
19 plan revision pursuant to section 503(b) and which contiguous  
20 land contains the same geological features which are present at  
21 the existing municipal waste landfill and for which a permit  
22 application under the Solid Waste Management Act is filed within  
23 one year of such notice.

24 "Recycled content." Goods, supplies, equipment, materials  
25 and printing containing postconsumer materials.

26 "Recycling." The collection, separation, recovery and sale  
27 or reuse of metals, glass, paper, leaf waste, plastics and other  
28 materials which would otherwise be disposed or processed as  
29 municipal waste or the mechanized separation and treatment of  
30 municipal waste (other than through combustion) and creation and



1 recovery of reuseable materials other than a fuel for the  
2 operation of energy.

3 "Recycling facility." A facility employing a technology that  
4 is a process that separates or classifies municipal waste and  
5 creates or recovers reuseable materials that can be sold to or  
6 reused by a manufacturer as a substitute for or a supplement to  
7 virgin raw materials. The term "recycling facility" shall not  
8 mean transfer stations or landfills for solid waste nor  
9 composting facilities or resource recovery facilities.

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

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

24 "Residual waste." Any garbage, refuse, other discarded  
25 material or other waste, including solid, liquid, semisolid or  
26 contained gaseous materials resulting from industrial, mining  
27 and agricultural operations and any sludge from an industrial,  
28 mining or agricultural water supply treatment facility, waste  
29 water treatment facility or air pollution control facility,  
30 provided that it is not hazardous. The term shall not include

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

8 "Resource recovery facility." A processing facility that  
9 provides for the extraction and utilization of materials or  
10 energy from municipal waste that is generated off-site,  
11 including, but not limited to, a facility that mechanically  
12 extracts materials from municipal waste, a combustion facility  
13 that converts the organic fraction of municipal waste to usable  
14 energy, and any chemical and biological process that converts  
15 municipal waste into a fuel product. The term also includes any  
16 facility for the combustion of municipal waste that is generated  
17 off-site, whether or not the facility is operated to recover  
18 energy. The term does not include:

19 (1) Any composting facility.

20 (2) Methane gas extraction from a municipal waste  
21 landfill.

22 (3) Any separation and collection center, drop-off point  
23 or collection center for recycling, or any source separation  
24 or collection center for composting leaf waste.

25 (4) Any facility, including all units in the facility,  
26 with a total processing capacity of less than 50 tons per  
27 day.

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, interstate  
18 and local units of government and with appropriate private  
19 organizations in carrying out its duties under this act.

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

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

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

30 (6) Approve, conditionally approve or disapprove

1 municipal waste management plans, issue orders, conduct  
2 inspections and abate public nuisances to implement the  
3 provisions and purposes of this act and the regulations  
4 promulgated pursuant to this act.

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

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

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

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

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

28 (12) Take any action not inconsistent with this act that  
29 the department may deem necessary or proper to collect the  
30 recycling fee provided by this act, to ensure the payment of

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

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

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

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

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

23 (iii) Coordinating recycling and waste reduction  
24 efforts among Commonwealth agencies.

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

28 (v) Providing information about potential recycling  
29 markets to municipalities and other interested persons.

30 (15) Do any and all other acts and things, not

1 inconsistent with any provision of this act, which it may  
2 deem necessary or proper for the effective enforcement of  
3 this act and the regulations promulgated pursuant thereto  
4 after consulting with the Department of Health regarding  
5 matters of public health significance.

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

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

11 Section 303. Powers and duties of counties.

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

17 (1) May require all persons to obtain licenses to  
18 collect and transport municipal waste subject to the plan to  
19 a municipal waste processing or disposal facility designated  
20 pursuant to subsection (e).

21 (2) Shall have the power and duty to implement its  
22 approved plan, including a plan approved under section  
23 501(b), as it relates to the processing and disposal of  
24 municipal waste generated within its boundaries.

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

29 (4) May adopt ordinances, resolutions, regulations and  
30 standards for the recycling of municipal waste or source-

1 separated recyclable material if one of the following  
2 requirements are met:

3 (i) Such ordinances, resolutions, regulations or  
4 standards are set forth in the approved plan, and do not  
5 interfere with the implementation of any municipal  
6 recycling program under section 1501.

7 (ii) Such ordinances, resolutions, regulations or  
8 standards are necessary to implement a municipal  
9 recycling program under section 1501 which the  
10 municipality has delegated to the county pursuant to  
11 section 304.

12 (5) May prohibit the siting of additional resource  
13 recovery facilities within its geographic boundaries where  
14 any additional resource recovery facility is inconsistent  
15 with the county plan pursuant to section 501(b) unless such  
16 facilities meet the criteria of section 502(c)(2) and  
17 (o)(1)(iii).

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

22 (c) Ordinances and resolutions.--In carrying out its duties  
23 under this section, a county may adopt ordinances, resolutions,  
24 regulations and standards for the processing and disposal of  
25 municipal waste, which shall not be less stringent than, and not  
26 in violation of or inconsistent with, the provisions and  
27 purposes of the Solid Waste Management Act, this act and the  
28 regulations promulgated pursuant thereto.

29 (d) Delegation of county responsibility.--A county may enter  
30 into a written agreement with another person pursuant to which



1 the person undertakes to fulfill some or all of the county's  
2 responsibilities under this act for municipal waste planning and  
3 implementation of the approved county plan. Any such person  
4 shall be jointly and severally responsible with the county for  
5 municipal waste planning and implementation of the approved  
6 county plan in accordance with this act and the regulations  
7 promulgated pursuant thereto.

8 (e) Designated sites.--A county with an approved municipal  
9 waste management plan that was submitted pursuant to section  
10 501(a), (b) or (c) of this act is also authorized to require  
11 that all municipal wastes generated within its boundaries shall  
12 be processed or disposed at a designated processing or disposal  
13 facility that is contained in the approved plan and permitted by  
14 the department under the act of July 7, 1980 (P.L.380, No.97),  
15 known as the Solid Waste Management Act. No county shall direct  
16 municipal waste or source-separated recyclable materials that  
17 would otherwise be recycled to any resource recovery facility or  
18 other facility for purposes other than recycling such waste.  
19 This subsection shall not apply to municipal waste going to  
20 existing or future on-site captive commercial disposal  
21 facilities used for the exclusive disposal of municipal waste  
22 generated by that commercial operation.

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

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

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

1 calendar year.

2 Section 304. Powers and duties of municipalities other than  
3 counties.

4 (a) Responsibility of other municipalities.--Each  
5 municipality other than a county shall have the power and its  
6 duty shall be to assure the proper and adequate transportation,  
7 collection and storage of municipal waste which is generated or  
8 present within its boundaries, to assure adequate capacity for  
9 the disposal of municipal waste generated within its boundaries  
10 by means of the procedure set forth in section 1111, and to  
11 adopt and implement programs for the collection and recycling of  
12 municipal waste or source-separated recyclable materials as  
13 provided in this act.

14 (b) Ordinances.--

15 (1) In carrying out its duties under this section, a  
16 municipality other than a county may adopt resolutions,  
17 ordinances, regulations and standards for the recycling,  
18 transportation, storage and collection of municipal wastes,  
19 or source-separated recyclable materials which shall not be  
20 less stringent than, and not in violation of or inconsistent  
21 with, the provisions and purposes of the Solid Waste  
22 Management Act, this act and the regulations promulgated  
23 pursuant thereto.

24 (2) The host municipality shall have the authority to  
25 adopt reasonable ordinances concerning the hours and days  
26 during which vehicles may deliver waste to the facility and  
27 the routing of traffic on public roads to the facility. Such  
28 ordinances may be in addition to, but not less stringent  
29 than, not inconsistent with and not in violation of, any  
30 provision of the Solid Waste Management Act, any regulation

1 promulgated pursuant to that act, any order issued under that  
2 act, or any permit issued pursuant to that act. Such  
3 ordinances found to be inconsistent and not in substantial  
4 conformity with this paragraph shall be superseded. Appeals  
5 under this paragraph may be brought before a court of  
6 competent jurisdiction.

7 (c) Contracting of responsibility.--A municipality other  
8 than a county may contract with any person to carry out its  
9 duties for the recycling, transportation, collection and storage  
10 of municipal waste and source-separated recyclable materials, if  
11 the recycling, transportation, collection or storage activity or  
12 facility is conducted or operated in a manner that is consistent  
13 with the Solid Waste Management Act, this act and the  
14 regulations promulgated pursuant thereto. Any such person shall  
15 be jointly and severally responsible with the municipality other  
16 than a county when carrying out its duties for transportation,  
17 collection or storage activity or facility.

18 (d) Designated sites.--A municipality other than a county  
19 may require by ordinance that all municipal waste generated  
20 within its jurisdiction shall be disposed of or processed at a  
21 designated permitted facility. Such ordinance shall include an  
22 ordinance that is part of a plan approved under section 501(b).  
23 Such ordinance shall remain in effect until the county in which  
24 the municipality is located adopts a waste flow control  
25 ordinance as part of a plan submitted to the department pursuant  
26 to section 501(a) or (c) and approved by the department. Except  
27 as provided in section 502(o), any such county ordinance shall  
28 supersede any such municipal ordinance to the extent that the  
29 municipal ordinance is inconsistent with the county ordinance.

30 (e) Term and renewals of certain contracts.--The governing

1 body of a municipality other than a county shall have the power  
2 to, and may, enter into contracts having an initial term of five  
3 years with optional renewal periods of up to five years with  
4 persons responsible for the collection or transportation of  
5 municipal waste generated within the municipality. The  
6 limitations imposed on contracts by section 1502(XXVII) of the  
7 act of June 24, 1931 (P.L.1206, No.331), known as The First  
8 Class Township Code, and section 702 (VIII) of the act of May 1,  
9 1933 (P.L.103, No.69), known as The Second Class Township Code,  
10 shall not apply to contracts entered into pursuant to this act.  
11 Nothing in this act shall impair municipalities, other than  
12 counties, from entering into disposal contracts under section  
13 502(o).

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

## 20 CHAPTER 5

### 21 MUNICIPAL WASTE PLANNING

22 Section 501. Schedule for submission of municipal waste  
23 management plans.

24 (a) Submission of plan.--Except as provided in subsections  
25 (b) and (c), each county shall submit to the department within  
26 two and one-half years of the effective date of this act an  
27 officially adopted municipal waste management plan for municipal  
28 waste generated within its boundaries. Such plan shall be  
29 consistent with the requirements of this act. For the purposes  
30 of this chapter, the term "county" includes cities of the first

1 class but does not include counties of the first class.

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

6 (1) The department has granted technical or preliminary  
7 approval of such plan under 25 Pa. Code §§ 75.11 through  
8 75.13 within 90 days after the submission of the plan.

9 (2) More than one-half of the municipalities within the  
10 county, representing more than one-half of the county's  
11 population as determined by the most recent decennial census  
12 by the United States Bureau of the Census, have adopted  
13 resolutions approving such plan within 180 days after  
14 submission of the plan.

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

18 (1) At least three years prior to the time all remaining  
19 available permitted capacity for the county will be  
20 exhausted.

21 (2) For plans approved pursuant to subsection (b),  
22 within two years of the effective date of this act. Such plan  
23 revisions shall be consistent with the requirements of this  
24 chapter except to the extent that the county demonstrates to  
25 the department's satisfaction that irrevocable contracts made  
26 by or pursuant to the approved plan preclude compliance with  
27 the requirements of this chapter.

28 (3) When otherwise required by the department.

29 (d) Procedure for considering plan revisions.--At least 30  
30 days before submitting any proposed plan revision to the

1 department, the county shall submit a copy of the proposed  
2 revision to the advisory committee established pursuant to  
3 section 503 and to each municipality within the county. All plan  
4 revisions that are determined by the county or by the department  
5 to be substantial shall be subject to the requirements of  
6 sections 503 and 504. The plan revisions required by subsection  
7 (c)(2) shall be considered substantial plan revisions.

8 Section 502. Content of municipal waste management plans.

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

12 (b) Description of waste.--The plan shall describe and  
13 explain the origin, content and weight or volume of municipal  
14 waste currently generated within the county's boundaries, and  
15 the origin, content and weight or volume of municipal waste that  
16 will be generated within the county's boundaries during the next  
17 ten years.

18 (c) Description of facilities.--The plan shall identify and  
19 describe the facilities where municipal waste is currently being  
20 disposed or processed and the remaining available permitted  
21 capacity of such facilities and the capacity which could be made  
22 available through the reasonable expansion of such facilities.  
23 The plan shall contain an analysis of the effect of current and  
24 planned recycling on waste generated within the county. The plan  
25 shall also explain the extent to which existing facilities will  
26 be used during the life of the plan, and shall not substantially  
27 impair the use of their remaining permitted capacity or of  
28 capacity which could be made available through the reasonable  
29 expansion of such facilities. For purposes of this subsection,  
30 existing facilities shall include:

1           (1) Facilities holding permits for which a complete  
2 permit application under the Solid Waste Management Act is  
3 filed with the department within one year from the effective  
4 date of this act or within one year of the date written  
5 notice of the development of a plan is given to  
6 municipalities pursuant to section 503(b) or within six  
7 months of the written notice for a substantial plan revision  
8 is given to municipalities pursuant to section 503(b),  
9 whichever is the later, unless such permit application is  
10 denied by the department.

11           (2) Resource recovery facilities for which the owner or  
12 operator of the facility has deposited funds into escrow for  
13 financing of the facility or has secured permanent bond  
14 financing for the facility or has signed an electric power  
15 contract with a public utility and such contract has been  
16 approved by the commission.

17           (3) Any facility which is a resource recovery facility  
18 or municipal waste landfill which, on or before the effective  
19 date of this act to the department's satisfaction meets all  
20 of the following criteria:

21           (i) The applicant has acquired ownership of the  
22 site.

23           (ii) The applicant has agreements for disposal of  
24 municipal waste.

25           (iii) The applicant meets one of the following:

26           (A) The applicant has a permit from the  
27 department on the effective date of this act.

28           (B) The applicant has received a permit within  
29 one year from the date written notice of the plan or  
30 the plan revisions is given to the municipalities

1           pursuant to section 503(b).

2           (C) A permit application is submitted to the  
3           department within one year of the effective date of  
4           this act.

5 In addition, the plan shall give consideration to the potential  
6 expansion of existing municipal waste processing or disposal  
7 facilities located in the county. For the purposes of this  
8 subsection, the department shall determine whether applications  
9 are complete within 90 days of their receipt and, if incomplete,  
10 specify to the applicant all deficiencies of the application.  
11 Any subsequent plan revisions shall identify and describe the  
12 facilities where municipal waste is currently being disposed or  
13 processed and the remaining available permitted capacity of such  
14 facilities and the plan shall consider the capacity which could  
15 be made available through the reasonable expansion of such  
16 facilities.

17       (d) Estimated future capacity.--The plan shall estimate the  
18 processing or disposal capacity needed for the municipal waste  
19 that will be generated in the county during the next ten years.  
20 The assessment shall describe the primary variables affecting  
21 this estimate and the extent to which they can reasonably be  
22 expected to affect the estimate, including, but not limited to,  
23 the amount of residual waste disposed or processed at municipal  
24 waste disposal or processing facilities in the county and the  
25 extent to which residual waste may be disposed or processed at  
26 such facilities during the next ten years. If the plan indicates  
27 that additional processing or disposal capacity is needed by the  
28 county, the county shall give public notice of such a  
29 determination and solicit proposals and recommendations  
30 regarding facilities and programs to provide such capacity. The



1 county shall provide a copy of such notice to the department  
2 which shall cause a copy of such notice to be published in the  
3 Pennsylvania Bulletin.

4 (e) Description of recyclable materials.--

5 (1) The plan shall describe and evaluate:

6 (i) The kind and weight or volume of materials that  
7 could be recycled, giving consideration at a minimum to  
8 the following materials: clear glass, colored glass,  
9 aluminum, steel and bimetallic cans, high grade office  
10 paper, newsprint, corrugated paper, plastics and leaf  
11 waste.

12 (ii) Potential benefits of recycling, including the  
13 potential solid waste reduction and the avoided cost of  
14 municipal waste processing or disposal.

15 (iii) Existing materials recovery operations and the  
16 kind and weight or volume of materials recycled by the  
17 operations, whether public or private.

18 (iv) The compatibility of recycling with other  
19 municipal waste processing or disposal methods, giving  
20 consideration to and describing anticipated and available  
21 markets for materials collected through municipal  
22 recycling programs.

23 (v) Proposed or existing collection methods for  
24 recyclable materials.

25 (vi) Options for ensuring the collection of  
26 recyclable materials.

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

29 The plan shall consider the results of the market  
30 development study required by section 508, if the results

1 are available.

2 (viii) Options for municipal cooperation or  
3 agreement for the collection, processing and sale of  
4 recyclable materials.

5 (ix) A schedule for implementation of the recycling  
6 program.

7 (x) Estimated costs of operating and maintaining a  
8 recycling program, estimated revenue from the sale or use  
9 of materials and avoided costs of processing or disposal.  
10 This estimate shall be based on a comparison of public  
11 and private operation of some or all parts of the  
12 recycling program.

13 (xi) What consideration for the collection,  
14 marketing and disposition of recyclable materials will be  
15 accorded to persons engaged in the business of recycling  
16 on the effective date of this act, whether or not the  
17 persons are operating for profit.

18 (xii) A public information and education program  
19 that will provide comprehensive and sustained public  
20 notice of recycling program features and requirements.

21 (2) Any county containing municipalities that are  
22 required by section 1501 to implement recycling programs  
23 shall take the provisions of that section into account in  
24 preparing the recycling portion of its plan.

25 (3) Nothing in this chapter shall be construed or  
26 understood to prohibit preparation of a county municipal  
27 waste management plan prior to developing and implementing  
28 any recycling program required by Chapter 15.

29 (f) Financial factors.--The plan shall describe the type,  
30 mix, size, expected cost and proposed methods of financing the

1 facilities, recycling programs or waste reduction programs that  
2 are proposed for the processing and disposal of the municipal  
3 waste or source-separated recyclable materials that will be  
4 generated within the county's boundaries during the next ten  
5 years. For every proposed facility, recycling program or waste  
6 reduction program, the plan shall discuss all of the following:

7 (1) Explain in detail the reason for selecting such  
8 facility or program.

9 (2) Describe alternative facilities or programs,  
10 including, but not limited to, waste reduction, recycling, or  
11 resource recovery facilities or programs, that were  
12 considered and provide reasonable assurances that the county  
13 utilized a fair, open and competitive process for selecting  
14 such facilities or programs from among alternatives which  
15 were suggested to the county.

16 (3) Evaluate the environmental, energy, life cycle cost,  
17 the costs of transportation to each facility considered and  
18 economic advantages and disadvantages of the proposed  
19 facility or program as well as the alternatives considered.

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

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

26 (g) Location.--The plan shall identify the general location  
27 within a county where each municipal waste processing or  
28 disposal facility and each recycling program identified in  
29 subsection (f) will be located, and either identify the site of  
30 each facility if the site has already been chosen or explain how

1 the site will be chosen. For any facility that is proposed to be  
2 located outside the county, the plan shall explain in detail the  
3 reasons for selecting such a facility.

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

8 (i) Public function.--Where the county determines that it is  
9 in the public interest for municipal waste processing or  
10 disposal to be a public function, the plan shall provide for  
11 appropriate mechanisms, subject to the limitations set forth in  
12 section 902(a) on the use of grant moneys by municipalities for  
13 purchasing equipment for processing solid waste.

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

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

29 (l) Methods of disposal other than by contract.--If the  
30 county proposes to require, by means other than contracts, that

1 municipal wastes generated within its boundaries be processed or  
2 disposed at a designated facility under section 303(c), the plan  
3 shall so state. The plan shall explain the basis for such a  
4 proposal, giving consideration to alternative means of ensuring  
5 that waste generated within the county's boundaries is processed  
6 or disposed in an environmentally acceptable manner. A copy of  
7 the proposed ordinance or other legal instrument that would  
8 effectuate this proposal shall also be included.

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

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

17 (o) Noninterference with certain resource recovery  
18 facilities and landfills.--

19 (1) No county municipal waste management plan shall  
20 interfere with the design, construction, operation, financing  
21 or contractual obligations of any municipal processing or  
22 disposal facility, including any reasonable expansion of an  
23 existing facility which meets any of the following  
24 requirements:

25 (i) A resource recovery facility or municipal waste  
26 landfill that is part of a complete municipal waste  
27 management plan submitted by a municipality or  
28 organization of municipalities under the Solid Waste  
29 Management Act prior to the effective date of this act,  
30 and for which a complete permit application under the

1 Solid Waste Management Act is submitted to the department  
2 within one year of the effective date of this act.

3 (ii) The projects, plans or operations of a  
4 municipality authority created under the act of May 2,  
5 1945 (P.L.382, No.164), known as the Municipality  
6 Authorities Act of 1945, or of an organization of  
7 municipalities which (municipality authority or  
8 organization of municipalities) is created by two or more  
9 municipalities prior to the effective date of this act  
10 for the purposes of providing for collection, storage,  
11 transportation, processing or disposal of solid waste  
12 generated within the municipalities and which  
13 (municipality authority or organization of  
14 municipalities) submits to the department within one year  
15 of the effective date of this act, and is approved by the  
16 department, a solid waste management plan, consistent  
17 with the other provisions of this section, that includes  
18 each member municipality. This subparagraph applies to  
19 the projects, plans and operations of municipalities  
20 which are members of the municipality authority or  
21 organization of municipalities.

22 (iii) The owner or operator of the facility has  
23 deposited funds into escrow for financing of the facility  
24 or has secured permanent bond financing for the facility  
25 or has signed an electric power contract with a public  
26 utility and such a contract has been approved by the  
27 commission.

28 (iv) The implementation of a county municipal waste  
29 plan pursuant to section 501(b) which has designated an  
30 existing permitted solid waste management facility, on or

1 before the effective date of this act, owned by a local  
2 public agency other than the county in which the facility  
3 is located.

4 (v) The facility is a resource recovery facility or  
5 municipal waste landfill which, on or before the  
6 effective date of this act to the department's  
7 satisfaction, meets all of the following criteria:

8 (A) The applicant has acquired ownership of the  
9 site.

10 (B) The applicant has agreements for disposal of  
11 municipal waste.

12 (C) The applicant meets one of the following:

13 (I) The applicant has a permit from the  
14 department on the effective date of this act.

15 (II) The applicant has received a permit  
16 within one year from the date written notice of  
17 the plan or the plan revisions is given to the  
18 municipalities pursuant to section 503(b).

19 (III) A permit application is submitted to  
20 the department within one year of the effective  
21 date of this act.

22 (2) Within 120 days after receiving a complete plan, the  
23 department shall give it preliminary or technical approval  
24 under 25 Pa. Code §§ 75.11 through 75.13 or disapprove it.

25 (p) Public participation.--The plan shall include provisions  
26 for public participation in the implementation of the plan,  
27 including, but not limited to, an advisory committee to provide  
28 oversight and advice on the implementation of the plan.

29 Section 503. Development of municipal waste management plans.

30 (a) Advisory committee.--Prior to preparing a plan or

1 substantial plan revisions for submission to the department in  
2 accordance with the provisions of this act, the county shall  
3 form an advisory committee, which shall include representatives  
4 of all classes of municipalities within the county, citizen  
5 organizations, industry, the private solid waste industry  
6 operating within the county, the private recycling or scrap  
7 material processing industry operating within the county, the  
8 county recycling coordinator, if one exists, and any other  
9 persons deemed appropriate by the county. The advisory committee  
10 shall review the plan during its preparation, make suggestions  
11 and propose any changes it believes appropriate.

12 (b) Written notice.--The county shall provide written notice  
13 to all municipalities within the county when plan development  
14 begins and shall provide periodic written progress reports to  
15 such municipalities concerning the preparation of the plan.

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

28 (d) Adoption and ratification of plan.--The governing body  
29 of the county shall adopt a plan within 60 days from the end of  
30 the public comment period. Not later than ten days following



1 adoption of a plan by the governing body of the county, the plan  
2 shall be sent to municipalities within the county for  
3 ratification. If a municipality does not act on the plan within  
4 90 days of its submission to such municipality, it shall be  
5 deemed to have ratified the plan. If more than one-half of the  
6 municipalities, representing more than one-half of the county's  
7 population as determined by the most recent decennial census by  
8 the United States Bureau of the Census, ratify the plan, then  
9 the county within ten days of ratification shall submit the plan  
10 to the department for approval.

11 (e) Statement of objections.--A municipality may not  
12 disapprove of a proposed county plan unless the municipality's  
13 resolution of disapproval contains a concise statement of its  
14 objections to the plan. Each municipality disapproving a plan  
15 shall immediately transmit a copy of its resolution of  
16 disapproval to the county and the advisory committee. A  
17 conditional approval shall be considered a disapproval.

18 Section 504. Failure to ratify plan.

19 (a) Submission.--If the plan is not ratified as provided in  
20 section 503(d), the county shall meet with the advisory  
21 committee to discuss the reasons that the plan was not ratified.  
22 The advisory committee shall submit a recommendation concerning  
23 a revised county plan to the county within 45 days after it  
24 becomes apparent that the plan has failed to obtain  
25 ratification. The advisory committee's recommendation shall  
26 specifically address the objections stated by municipalities in  
27 their resolutions of disapproval of the county plan.

28 (b) Adoption of revised plan by county.--The governing body  
29 of the county shall adopt a revised plan within 75 days after it  
30 has become apparent that the original plan has failed to obtain

1 ratification. Not later than five days following adoption of a  
2 revised plan by the governing body of the county, the plan shall  
3 be sent to municipalities within the county for ratification. If  
4 a municipality does not act on the revised plan within 45 days  
5 of its submission to such municipality, it shall be deemed to  
6 have ratified the plan. If more than one-half of the  
7 municipalities, representing more than one-half of the county's  
8 population as determined by the most recent decennial census by  
9 the United States Bureau of the Census, ratify the revised plan,  
10 then the county within ten days of ratification shall submit the  
11 revised plan to the department for approval.

12 (c) Statement of objections.--A municipality may not  
13 disapprove of a proposed revised county plan unless the  
14 municipality's resolution of disapproval contains a concise  
15 statement of its objections to the plan. Each municipality shall  
16 immediately transmit a copy of its resolution of disapproval to  
17 the county.

18 (d) Failure to ratify revised plan.--If the plan is not  
19 ratified as provided in subsection (b), the county shall submit  
20 the revised plan to the department for approval. The revised  
21 plan shall be submitted within ten days after it is apparent  
22 that the plan has failed to obtain ratification and shall be  
23 accompanied by the county's written response to the objections  
24 stated by municipalities in the resolutions of disapproval.

25 Section 505. Review of municipal waste management plans.

26 (a) Departmental approval options.--Within 30 days after  
27 receiving a complete plan, the department shall approve,  
28 conditionally approve or disapprove it, unless the department  
29 gives written notice that additional time is necessary to  
30 complete its review. If the department gives such notice, it

1 shall have 30 additional days to render a decision.

2 (b) Minimum plan requirement.--The department shall approve  
3 any county plan that demonstrates to the satisfaction of the  
4 department that:

5 (1) The plan is complete and accurate, and consistent  
6 with this act and regulations promulgated hereunder.

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

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

13 (4) The plan provides for the processing and disposal of  
14 municipal waste for at least ten years.

15 (5) If the plan proposes that municipal waste generated  
16 within the county's boundaries be required, by means other  
17 than contracts, to be processed or disposed at a designated  
18 facility under section 303(e), the plan explains the basis  
19 for doing so.

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

23 (c) Zoning powers unaffected.--Nothing in this act shall be  
24 construed or understood to enlarge or diminish the authority of  
25 municipalities to adopt ordinances pursuant to, or to exempt  
26 persons acting under the authority of this act from, the  
27 provisions of the act of July 31, 1968 (P.L.805, No.247), known  
28 as the Pennsylvania Municipalities Planning Code, provided such  
29 ordinances do not interfere with the reasonable expansion,  
30 pursuant to a permit application filed with the department prior

1 to the effective date of this act, of existing permitted  
2 municipal owned municipal waste landfills.

3 Section 506. Contracts.

4 (a) General rule.--Except as otherwise provided in this act,  
5 nothing in this act shall be construed to interfere with, or in  
6 any way modify, the provisions of any contract for municipal  
7 waste disposal, processing or collection in force in any county,  
8 other municipality or municipal authority upon the effective  
9 date of this act or prior to the adoption pursuant to this act  
10 of a department-approved municipal waste management plan.

11 (b) Renewals.--No renewal of any existing contract upon the  
12 expiration or termination of the original term thereof, and no  
13 new contract for municipal waste disposal, processing or  
14 collection shall be entered into after the effective date of  
15 this act, if such renewal or such new contract fails to conform  
16 to the applicable provisions of this act or interferes with the  
17 implementation of a department-approved municipal waste  
18 management plan.

19 Section 507. Relationship between plans and permits.

20 (a) Limitation on permit issuance.--After the date of  
21 submission to the department of all executed ordinances,  
22 contracts or other requirements under section 513, the  
23 department shall not issue any permit, or any permit that  
24 results in additional capacity, for a municipal waste landfill  
25 or resource recovery facility under the Solid Waste Management  
26 Act, in the county unless the applicant demonstrates to the  
27 department's satisfaction that the proposed facility:

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

29 (2) meets all of the following requirements:

30 (i) The proposed facility will not interfere with

1 implementation of the approved plan.

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

5 (iii) The proposed location of the facility is at  
6 least as suitable as alternative locations giving  
7 consideration to environmental and economic factors.

8 (iv) The governing body of the proposed host county  
9 has received written notice of the proposed facility from  
10 the applicant pursuant to section 504 of the Solid Waste  
11 Management Act, and within 60 days from such  
12 notification, the governing body of the proposed host  
13 county has not provided the department with written  
14 objections to the proposed facility. Should the governing  
15 body of the proposed host county file timely objections  
16 to the department, the department shall not approve the  
17 permit application, unless the department determines the  
18 proposed facility complies with the appropriate  
19 environmental, public health and safety requirements and  
20 is in compliance with this paragraph.

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

25 Section 508. Studies.

26 (a) Market development for recyclable materials.--Within 15  
27 months after the effective date of this act, the department  
28 shall submit to the General Assembly a report that describes:

29 (1) The current and projected capacity of existing  
30 markets to absorb materials generated by municipal recycling

1 programs in this Commonwealth.

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

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

6 (4) Recommendations for specific actions to increase and  
7 stabilize the demand for materials generated by municipal  
8 recycling programs, including, but not limited to, proposed  
9 legislation if necessary.

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

12 (b) Update of market study.--Within three years after the  
13 completion of the market development study described in  
14 subsection (a), the department shall submit to the General  
15 Assembly an update of the study, taking into account information  
16 developed since its completion.

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

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

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

1 (d) Update of waste reduction study.--Within three years  
2 after the completion of the waste reduction study described in  
3 subsection (c), the department shall submit to the General  
4 Assembly an update of the study, taking into account information  
5 developed since its completion.

6 (e) Distribution to municipalities.--The department shall  
7 promptly make available to municipalities and other interested  
8 persons the results of the studies required by this section.

9 Section 509. Best available technology.

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

15 (b) Restriction on issuance of certain permits.--The  
16 department shall not issue any approval or permit for a new  
17 resource recovery facility under the act of January 8, 1960  
18 (1959 P.L.2119, No.787), known as the Air Pollution Control Act,  
19 that is less stringent than any provision of the applicable best  
20 available technology criteria. The department shall require any  
21 permit renewal of a resource recovery facility to operate in  
22 compliance with the reasonably available technology control  
23 standards as established by the department.

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

1 (d) New technologies.--Nothing contained in this act shall  
2 prohibit a private commercial enterprise from developing and  
3 implementing innovative or alternative, environmentally  
4 acceptable, means of reducing, processing, recycling and/or  
5 disposing of waste generated by the applicant commercial  
6 enterprise's operation, either onsite or otherwise, which means  
7 are not violative of, nor inconsistent with, the provisions and  
8 purposes of the Solid Waste Management Act, this act and  
9 department regulations.

10 Section 510. Permit requirements.

11 (a) Permits.--The department shall not issue any approval or  
12 permit for a resource recovery facility under the Solid Waste  
13 Management Act, unless the applicant has provided the department  
14 with adequate documentation and assurances that all ash residue  
15 produced from or by a resource recovery facility will be  
16 disposed at a permitted landfill. Prior to the approval of any  
17 permit application for a resource recovery facility, the  
18 operator shall submit a plan to the department for the alternate  
19 disposal of municipal waste designated for disposal at the  
20 resource recovery facility.

21 (b) Study of effects on water supply.--The department shall  
22 not issue any approval or permit for a resource recovery  
23 facility unless the applicant has provided the department with a  
24 study that documents the short-term and long-term effects that  
25 the facility will have on the public and private water supply.  
26 The study shall include, but not be limited to, effects of  
27 pollution, contamination, diminution, and alternative sources of  
28 water adequate in quantity and quality for the purposes served  
29 by the water supply both public and private.

30 Section 511. Site limitation.



1 (a) General rule.--The department shall not issue a permit  
2 for, nor allow the operation of, a new municipal waste landfill,  
3 a new commercial residual waste treatment facility or a new  
4 resource recovery facility within 300 yards of a building which  
5 is owned by a school district or a parochial school and used for  
6 instructional purposes, parks or playgrounds existing prior to  
7 the date the department has received an administratively  
8 complete application for a permit for such facilities. This  
9 subsection shall not affect any modification, extension,  
10 addition or renewal of existing permitted facilities.

11 (b) Existing features.--In applying subsection (a), the  
12 department shall use the same provisions concerning existing  
13 features that are present in its municipal waste regulations for  
14 other areas where municipal waste landfills and resource  
15 recovery facilities are prohibited.

16 (c) Authorization.--Nothing in this section shall prevent  
17 the department from establishing site limitations by regulation  
18 under the Solid Waste Management Act, in addition to or more  
19 stringent than those established in this section.

20 (d) Exemption by request.--The current property owner under  
21 subsection (a) in which a new facility is proposed may waive the  
22 300-yard prohibition by signing a written waiver and, upon such  
23 request, the department shall waive the 300 yard prohibition and  
24 shall not use such prohibition as the basis for the denial of a  
25 new permit.

26 (e) Waiver.--The department may grant a waiver of the  
27 property line setback requirement in the department's  
28 regulations under the Solid Waste Management Act for resource  
29 recovery facilities if, upon petition by a permit applicant, the  
30 department determines that the proposed facility is in

1 conformance with local zoning codes and that the operation of  
2 the facility would result in an overall reduction in air  
3 emissions and that all owners of occupied dwellings within the  
4 above setbacks have provided written waivers consenting to the  
5 facility being closer than required in the regulations.

6 Section 512. Completeness review.

7 (a) General rule.--After receipt of a permit application  
8 under the Solid Waste Management Act for a landfill or resource  
9 recovery facility, the department shall determine whether the  
10 application is administratively complete. For purposes of this  
11 section, an application is administratively complete if it  
12 contains necessary information, maps, fees and other documents,  
13 regardless of whether the information, maps, fees and documents  
14 would be sufficient for issuance of the permit.

15 (1) If the application is not administratively complete,  
16 the department shall, within 60 days of receipt of the  
17 application, return it to the applicant, along with a written  
18 statement of the specific information, maps, fees and  
19 documents that are required to make the application  
20 administratively complete.

21 (2) The department shall deny the application if the  
22 applicant fails to provide the information, maps, fees and  
23 documents within 90 days of receipt of the notice in  
24 paragraph (1).

25 (b) Review period.--

26 (1) The department shall issue or deny permit  
27 applications under this act within the following periods of  
28 time:

29 (i) For municipal waste and construction/demolition  
30 waste landfills, within nine months from the date of the

1 department's determination under subsection (a) that the  
2 application is administratively complete.

3 (ii) For all other permits, within six months from  
4 the date of the department's determination under  
5 subsection (a) that the application is administratively  
6 complete.

7 (2) The time periods in paragraph (1) do not include a  
8 period beginning with the date that the department in writing  
9 has requested the applicant to make substantive corrections  
10 or changes to the application and ending with the date that  
11 the applicant submits the corrections or changes to the  
12 department's satisfaction.

13 Section 513. Future availability.

14 (a) Submission of ordinances.--Within one year following  
15 approval of a plan by the department, including plans approved  
16 pursuant to section 501(b), the county shall cause to be  
17 submitted to the department copies of all executed ordinances,  
18 contracts or other requirements to implement its approved plan  
19 and that will be used to ensure sufficient available capacity to  
20 properly dispose or process all municipal waste that is expected  
21 to be generated within the county for the next ten years. The  
22 county may have such documents, contracts or other requirements  
23 submitted by a person to whom it has delegated such  
24 responsibility under section 303(d).

25 (b) Acceptable documents.--The contracts or other documents  
26 shall make the demonstration required by subsection (a) by any  
27 of the following:

28 (1) County ownership, operation or control of a facility  
29 or facilities with such available capacity.

30 (2) Contracts between the county and one or more persons

1 for the right to use a facility or facilities with such  
2 available capacity.

3 (3) Third-party contracts for the right to use a  
4 facility or facilities with such available capacity.

5 (c) Compliance.--The county shall assure that facilities  
6 subject to this section meet the requirements of section 507(a).

7 (d) Definition.--As used in this section, the term  
8 "sufficient available capacity" includes facilities not in  
9 existence for which the county has binding commitments.

10 CHAPTER 7

11 RECYCLING FEE

12 Section 701. Recycling fee for municipal waste landfills and  
13 resource recovery facilities.

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

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

25 (c) Waste weight requirement.--On and after April 9, 1990,  
26 each operator of a municipal waste landfill and resource  
27 recovery facility that has received 30,000 or more cubic yards  
28 of solid waste in the previous calendar year shall weigh all  
29 solid waste when it is received. The scale used to weigh solid  
30 waste shall conform to the requirements of the act of December

1 1, 1965 (P.L.988, No.368), known as the Weights and Measures Act  
2 of 1965, and the regulations promulgated pursuant thereto. The  
3 operator of the scale shall be a licensed public weighmaster  
4 under the act of April 28, 1961 (P.L.135, No.64), known as the  
5 Public Weighmaster's Act, and the regulations promulgated  
6 pursuant thereto.

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

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

11 (a) Quarterly payments.--Each operator of a municipal waste  
12 landfill and resource recovery facility shall make the recycling  
13 fee payment quarterly. The fee shall be paid on or before the  
14 20th day of April, July, October and January for the three  
15 months ending the last day of March, June, September and  
16 December.

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

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

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

30 (2) The payment is accompanied by the required form, and

1 such form is complete and accurate.

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

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

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

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

24 Section 703. Collection and enforcement of fee.

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

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

9 (c) Assessment notices.--

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

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

29 (3) If, through administrative or judicial review of the  
30 deficiency, it is determined that the amount of deficiency

1 shall be reduced, the department shall within 30 days remit  
2 the appropriate amount to the operator, with any interest  
3 accumulated by the escrow deposit.

4 (4) The amount determined after administrative hearing  
5 or after waiver of administrative hearing shall be payable to  
6 the Commonwealth and shall be collectible in the manner  
7 provided in section 1709.

8 (5) Any other provision of law to the contrary  
9 notwithstanding, there shall be a statute of limitations of  
10 five years upon actions brought by the Commonwealth pursuant  
11 to this section.

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

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

21 (e) Constructive trust.--All recycling fees collected by an  
22 operator and held by such operator prior to payment to the  
23 department shall constitute a trust fund for the Commonwealth,  
24 and such trust shall be enforceable against such operator, its  
25 representatives and any person receiving any part of such fund  
26 without consideration or with knowledge that the operator is  
27 committing a breach of the trust. However, any person receiving  
28 payment of lawful obligation of the operator from such fund  
29 shall be presumed to have received the same in good faith and  
30 without any knowledge of the breach of trust.



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

4 Section 704. Records.

5 Each operator shall keep daily records of all deliveries of  
6 solid waste to the facility as required by the department,  
7 including, but not limited to, the name and address of the  
8 hauler, the source of the waste, the kind of waste received and  
9 the weight or volume of the waste. A copy of these records shall  
10 be maintained at the site by the operator for no less than five  
11 years and shall be made available to the department and the host  
12 municipality for inspection, upon request.

13 Section 705. Surcharge.

14 The provisions of any law to the contrary notwithstanding,  
15 the operator may collect the fee imposed by this section as a  
16 surcharge on any fee schedule established pursuant to law,  
17 ordinance, resolution or contract for solid waste processing or  
18 disposal operations at the facility. In addition, any person who  
19 collects or transports solid waste subject to the recycling fee  
20 to a municipal waste landfill or resource recovery facility may  
21 impose a surcharge on any fee schedule established pursuant to  
22 law, ordinance, resolution or contract for the collection or  
23 transportation of solid waste to the facility. The surcharge  
24 shall be equal to the increase in disposal fees at the facility  
25 attributable to the recycling fee. However, interest and  
26 penalties on the fee under section 703(a) and (b) may not be  
27 collected as a surcharge.

28 Section 706. Recycling Fund.

29 (a) Establishment.--All fees received by the department  
30 pursuant to section 701 shall be paid into the State Treasury

1 into a special fund to be known as the Recycling Fund, which is  
2 hereby established.

3 (b) Appropriation.--All moneys placed in the Recycling Fund  
4 are hereby appropriated to the department for the purposes set  
5 forth in this section. The department shall annually submit to  
6 the Governor for his approval estimates of amounts to be  
7 expended under this act.

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

12 (1) At least 70% shall be expended by the department for  
13 grants to municipalities for the development and  
14 implementation of recycling programs as set forth in section  
15 902, recycling coordinators as provided in section 903, for  
16 grants for municipal recycling programs as set forth in  
17 section 904, and market development and waste reduction  
18 studies as set forth in section 508; for implementation of  
19 the recommendations in the studies required by section 508;  
20 and for research conducted or funded by the Department of  
21 Transportation pursuant to section 1505.

22 (2) Up to 10% may be expended by the department for  
23 grants for feasibility studies for municipal waste processing  
24 and disposal facilities, except for facilities for the  
25 combustion of municipal waste that are not proposed to be  
26 operated for the recovery of energy as set forth in section  
27 901.

28 (3) Up to 30% may be expended by the department for  
29 public information, public education and technical assistance  
30 programs concerning litter control, recycling and waste

1 reduction, including technical assistance programs for  
2 counties and other municipalities, for research and  
3 demonstration projects, for planning grants as set forth in  
4 section 901, for the host inspector training program as set  
5 forth in section 1102, and for other purposes consistent with  
6 this act.

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

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

19 (e) Advisory committee.--The secretary shall establish a  
20 Recycling Fund Advisory Committee composed of representatives of  
21 counties, other municipalities, municipal authorities, the  
22 municipal waste management industry, the municipal waste  
23 recycling industry, municipal waste generating industry and the  
24 general public. The committee shall also include members of the  
25 General Assembly, one appointed by each of the following: the  
26 Speaker of the House of Representatives, the Minority Leader of  
27 the House of Representatives, the President pro tempore of the  
28 Senate and the Minority Leader of the Senate. The committee  
29 shall meet at least annually to review the Commonwealth's  
30 progress in meeting the goals under section 102(c), to recommend

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

7 (f) Annual reports.--The department shall submit an annual  
8 report to the General Assembly on receipts to and disbursements  
9 from the Recycling Fund in the previous fiscal year, projections  
10 for revenues and expenditures in the coming fiscal year, and the  
11 Commonwealth's progress in achieving the goals set forth in  
12 section 102(c). The annual report due two years before the  
13 expiration of the recycling fee under section 701(d) shall  
14 contain a recommendation whether the fee should continue to be  
15 imposed after the expiration date and, if so, the proposed  
16 amount of the fee.

## 17 CHAPTER 9

### 18 GRANTS

19 Section 901. Planning grants.

20 The department shall, upon application from a county, award  
21 grants for the cost of preparing municipal waste management  
22 plans in accordance with this act; for carrying out related  
23 studies, surveys, investigations, inquiries, research and  
24 analyses, including those related by siting; and for  
25 environmental mediation. The department may also award grants  
26 under this section for feasibility studies and project  
27 development for municipal waste processing or disposal  
28 facilities, except for facilities for the combustion of  
29 municipal waste that are not proposed to be operated for the  
30 recovery of energy. The application shall be made on a form

1 prepared and furnished by the department. The application shall  
2 contain such information as the department deems necessary to  
3 carry out the provisions and purposes of this act. The grant to  
4 any county under this section shall be 80% of the approved cost  
5 of such plans and studies.

6 Section 902. Grants for development and implementation of  
7 municipal recycling programs.

8 (a) Authorization.--The department shall award grants for  
9 development and implementation of municipal recycling programs,  
10 upon application from any municipality which meets the  
11 requirements of this section. The grant provided by this section  
12 may be used to identify markets, develop a public education  
13 campaign, purchase collection and storage equipment, and do  
14 other things necessary to establish a municipal recycling  
15 program. The grant may be used to purchase collection equipment,  
16 only to the extent needed for collection of recyclable  
17 materials, and mechanical processing equipment, only to the  
18 extent that such equipment is not available to the program in  
19 the private sector. The application shall be made on a form  
20 prepared and furnished by the department. The application shall  
21 explain the structure and operation of the program and shall  
22 contain such other information as the department deems necessary  
23 to carry out the provisions and purposes of this act. The grant  
24 under this section to a municipality required by section 1501 to  
25 implement a recycling program shall be 90% of the approved cost  
26 of establishing a municipal recycling program. The grant under  
27 this section to a municipality not required by section 1501 to  
28 implement a recycling program shall be 90% of the approved cost  
29 of establishing a municipal recycling program. In addition to  
30 the grant under this section, a financially distressed

1 municipality, as defined in section 203(f) of the act of July  
2 10, 1987 (P.L.246, No.47), known as the Financial Distressed  
3 Municipalities Act, that is required by section 1501 to  
4 implement a recycling program shall be eligible for an  
5 additional grant equal to 10% of the approved cost of  
6 establishing a municipal recycling program.

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

10 (1) The application is complete and accurate.

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

14 (3) If the applicant is not required to implement a  
15 recycling program by section 1501, the application describes  
16 the collection system for the program, including:

17 (i) materials collected and persons affected;

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

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

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

25 (v) public information and education;

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

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

30 (4) If the municipality proposes to use some or all of

1 the grant funds to purchase mechanical processing equipment,  
2 the equipment is not available to the program in the private  
3 sector. Before submitting the application to the department,  
4 the municipality shall publish in a newspaper of general  
5 circulation a notice describing in reasonable detail the  
6 equipment which the municipality proposes to purchase or  
7 cause to be purchased and the proposed uses of the equipment,  
8 and allow 30 days for written response from any interested  
9 persons. The application shall describe the responses  
10 received and shall explain why the municipality has concluded  
11 that such equipment is not available from the private sector.

12 (c) Municipal retroactive grants with restrictions.--The  
13 grant authorized by this section may be awarded to any  
14 municipality for eligible costs incurred for a municipal  
15 recycling program after 60 days prior to the effective date of  
16 this act. However, no grant may be authorized under this section  
17 for a municipal recycling program that has received a grant from  
18 the department under the act of July 20, 1974 (P.L.572, No.198),  
19 known as the Pennsylvania Solid Waste - Resource Recovery  
20 Development Act, except for costs that were not paid by such  
21 grant.

22 (d) Priority.--Each municipality, other than a county, which  
23 establishes and implements a mandatory source separation and  
24 collection program for recyclable materials shall be given the  
25 same priority with municipalities subject to the requirements of  
26 section 1501 for grants under this section.  
27 Section 903. Grants for recycling coordinators.

28 (a) Authorization.--The department shall award grants to  
29 reimburse counties for authorized costs incurred for the salary  
30 and expenses of recycling coordinators, upon application from

1 any county. The application shall be made on a form prepared and  
2 furnished by the department. The application shall explain the  
3 duties and activities of the county recycling coordinator. If a  
4 recycling coordinator has been active prior to the year for  
5 which the grant is sought, the application shall also explain  
6 the coordinator's activities and achievements in the previous  
7 year.

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

11 Section 904. Performance grants for municipal recycling  
12 programs.

13 (a) Authorization.--The department shall award annual  
14 performance grants for municipal recycling programs, upon  
15 application from a municipality. The application shall be made  
16 on a form prepared and furnished by the department. The  
17 application shall contain such information as the department  
18 deems necessary to carry out the provisions and purposes of this  
19 act.

20 (b) Availability.--The department shall award a grant under  
21 this section to a municipality based on the type and weight of  
22 source-separated recyclable materials identified in section 1501  
23 that were recycled in the previous calendar year, and the  
24 population of the municipality.

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

29 (d) Prerequisites.--The department shall not award any grant  
30 under this section unless the application is complete and



1 accurate, and the materials were actually marketed. The  
2 department shall not award any grant under this section for the  
3 operation of a leaf waste composting facility.

4 Section 905. General limitations.

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

9 (b) Monetary limit on grant.--The department may not award  
10 more than 10% of the moneys available under any grant under this  
11 chapter in any fiscal year to any county.

12 (c) Other limitations on grants.--The department may not  
13 award any grant under this chapter to any county or municipality  
14 that has failed to comply with the conditions set forth in  
15 previously awarded grants under this chapter, the requirements  
16 of this chapter, and any regulations promulgated pursuant  
17 thereto.

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

23 (e) Lapse of encumbered funds.--Grant funds that have been  
24 encumbered shall lapse automatically to the recycling fund if  
25 the funds are not expended within two years after they have been  
26 encumbered. The department may, upon written request from the  
27 grantee, extend the two-year period for an additional period of  
28 up to three months. To obtain any funds that have lapsed to the  
29 recycling fund, the grantee must submit a new application in a  
30 subsequent funding period.

1 (f) Availability of funds.--All obligations of the  
2 Commonwealth under this chapter are contingent upon the  
3 availability of funds under section 706.

4 CHAPTER 11

5 ASSISTANCE TO MUNICIPALITIES

6 Section 1101. Information provided to host municipalities.

7 (a) Departmental information.--The department will provide  
8 all of the following information to the governing body of host  
9 municipalities for municipal waste landfills and resource  
10 recovery facilities:

11 (1) Copies of each department inspection report for such  
12 facilities under the Solid Waste Management Act, the act of  
13 June 22, 1937 (P.L.1987, No.394), known as The Clean Streams  
14 Law, the act of January 8, 1960 (1959 P.L.2119, No.787),  
15 known as the Air Pollution Control Act, and the act of  
16 November 26, 1978 (P.L.1375, No.325), known as the Dam Safety  
17 and Encroachments Act, within five working days after the  
18 preparation of such reports.

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

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

27 (b) Operator information.--Every operator of a municipal  
28 waste landfill or resource recovery facility shall provide to  
29 the host municipality copies of all air and water quality  
30 monitoring data as required by the department for the facility

1 conducted by or on behalf of the operator, within five days  
2 after such data becomes available to the operator.

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

6 (d) Information to county.--If the host municipality owns or  
7 operates the municipal waste landfill or resource recovery  
8 facility, or proposes to own or operate such landfill or  
9 facility, the information required by this section shall be  
10 provided to the county within which the landfill or facility is  
11 located or proposed to be located instead of the host  
12 municipality.

13 (e) Sign on vehicle.--A vehicle or conveyance used for the  
14 transporting of solid waste shall bear the name and business  
15 address of the person or municipality which owns the vehicle or  
16 conveyance and the specific type of solid waste transported by  
17 the vehicle or conveyance. All signs shall have lettering which  
18 is at least six inches in height.

19 Section 1102. Joint inspections with host municipalities.

20 (a) Training of inspectors.--

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

1           (2) Certified municipal inspectors are authorized to  
2 enter property, inspect only those records required by the  
3 department, take samples and conduct inspections in  
4 accordance with department regulations as applicable to  
5 department inspectors. However, certified municipal  
6 inspectors may not issue orders except as provided in this  
7 subsection. A certified municipal inspector may order the  
8 operator of a facility to cease any operation or activity at  
9 the facility which constitutes an immediate threat to public  
10 health and safety and which represents a violation of the  
11 Solid Waste Management Act, the regulations promulgated under  
12 that act, any order issued under that act, or the terms or  
13 conditions of a permit issued under that act. The order shall  
14 expire within two hours unless the inspector notifies the  
15 department and the governing body of the host municipality.  
16 The department may, after conducting an inspection, supersede  
17 the inspector's order by issuing an order of its own which  
18 vacates or modifies the terms of the inspector's order. If  
19 the department does not supersede the order, the order shall  
20 expire after 24 hours unless otherwise extended, continued or  
21 modified by a court pursuant to section 1703(b).

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

26           (4) The department may decertify host municipality  
27 inspectors pursuant to regulations promulgated by the  
28 Environmental Quality Board.

29           (b) Departmental information.--

30           (1) Whenever any host municipality presents information

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

13 (2) The department will notify the host municipality of  
14 this inspection and will allow a certified municipal  
15 inspector from the host municipality to accompany the  
16 inspector during the inspection.

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

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

27 (c) County involvement.--If the host municipality owns or  
28 operates the municipal waste landfill or resource recovery  
29 facility, the training and inspection requirements of this  
30 section shall be available to the county within which the

1 landfill or facility is located instead of the host  
2 municipality.

3 Section 1103. Water supply testing for contiguous landowners.

4 (a) Required water sampling.--Upon written request from  
5 persons owning land contiguous to a municipal waste landfill,  
6 the operator of such landfill shall have quarterly sampling and  
7 analysis conducted of private water supplies used by such  
8 persons for drinking water. Such sampling and analysis shall be  
9 conducted by a laboratory certified pursuant to the act of May  
10 1, 1984 (P.L.206, No.43), known as the Pennsylvania Safe  
11 Drinking Water Act. The laboratory shall be chosen by the  
12 landowners from a list of regional laboratories supplied by the  
13 department. Sampling and analysis shall be at the expense of the  
14 landfill operator. Upon request, the landfill operator shall  
15 provide copies of the analyses to persons operating resource  
16 recovery facilities that dispose of the residue from the  
17 facilities at the landfill.

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

24 (c) Additional sampling required.--If the analysis indicates  
25 possible contamination from a municipal waste landfill, the  
26 department may conduct, or require the landfill operator to have  
27 the laboratory conduct, additional sampling and analysis to  
28 determine more precisely the nature, extent and source of  
29 contamination.

30 (d) Written notice of rights.--On or before 60 days from the

1 effective date of this act for permits issued under the Solid  
2 Waste Management Act prior to the effective date of this act,  
3 and at or before the time of permit issuance for permits issued  
4 under the Solid Waste Management Act after the effective date of  
5 this act, the operator of each municipal waste landfill shall  
6 provide contiguous landowners with written notice of their  
7 rights under this section on a form prepared by the department.  
8 Section 1104. Water supply protection.

9 (a) Alternative water supply requirement.--Any person owning  
10 or operating a municipal waste management facility that  
11 adversely affects a public or private water supply by pollution,  
12 degradation, diminution or other means shall restore the  
13 affected supply at no additional cost to the owner or replace  
14 the affected supply with an alternate source of water that is of  
15 like quantity and quality to the original supply at no  
16 additional cost to the owner. If any person shall fail to comply  
17 with this requirement, the department may issue such orders to  
18 the person as are necessary to assure compliance.

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

1 pollution, degradation or diminution pursuant to subsection (c),  
2 then it shall issue such orders to the owner or operator as are  
3 necessary to ensure compliance with subsection (a).

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

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

15 (1) The pollution, degradation or diminution existed  
16 prior to any municipal waste management operations on the  
17 site as determined by a preoperation survey.

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

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

23 (4) The owner or operator did not cause the pollution,  
24 degradation or diminution.

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



1 department.

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

7 Section 1105. Purchase of cogenerated electricity.

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

18 Section 1106. Pennsylvania Public Utility Commission.

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

30 (b) Commission response.--The commission shall respond to

1 any such request, unless time limits are waived by the owner or  
2 operator and utility, as follows:

3 (1) If the request is for an informal consultation, such  
4 consultation shall be held within 30 days, and commission  
5 staff shall make its recommendation to the parties within 30  
6 days after the last consultation or submittal of last  
7 requested data, whichever is later. Such recommendation may  
8 be oral or written, but shall not be binding on the parties  
9 or commission.

10 (2) If the request is in the form of petition for  
11 declaratory order, the petitioner shall comply with the  
12 requirements of 52 Pa. Code § 5.41 et seq. (relating to  
13 petitions) and 52 Pa. Code § 57.39 (relating to informal  
14 consultation and commission proceedings). Within 30 days  
15 after filing such petition, the commission or its staff  
16 assigned to the matter may request that the parties file  
17 legal memoranda addressing any issues raised therein. Within  
18 60 days after filing of such petition or legal memoranda,  
19 whichever is later, the commission shall act to grant or deny  
20 such petition.

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

26 (c) Status as public utility.--A resource recovery facility  
27 shall not be deemed a public utility, as such is defined in 66  
28 Pa.C.S. § 101 et seq., if such facility produces thermal energy  
29 for sale to a public utility and/or ten or less retail  
30 customers, all of whom agree to purchase from such facility

1 under mutually agreed upon terms, or if such facility produces  
2 thermal energy for sale to any number of retail customers, all  
3 of which are located on the same site or site contiguous to that  
4 of the selling facility.

5 (d) Effect of section.--The provisions of this section shall  
6 take effect notwithstanding the adoption or failure to adopt any  
7 regulations by the commission regarding the purchase of electric  
8 energy from qualifying facilities, as such term is defined in  
9 section 210 of the Federal Public Utility Regulatory Policies  
10 Act of 1978 (Public Law 95-617, 92 Stat. 3117), the regulations  
11 promulgated pursuant thereto and commission regulations.

12 Section 1107. Claims resulting from pollution occurrences.

13 (a) Financial responsibility.--

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

29 (2) The form and amount of such financial assurances  
30 shall be specified by the department. The required financial

1       assurances may include, but are not limited to, the  
2       following:

3               (i) Commercial pollution liability insurance.

4               (ii) A secured standby trust to become self-insured  
5       that satisfies a financial test established by  
6       regulation.

7               (iii) A trust fund financed by the person and  
8       administered by an independent trustee approved by the  
9       department.

10       (b) Municipal financial responsibility.--

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

27               (2) The form and amount of such financial assurances  
28       shall be specified by the department. The required financial  
29       assurances may include, but are not limited to, the  
30       following:

1 (i) Commercial pollution liability insurance.  
2 (ii) A trust fund financed by the municipality and  
3 administered by an independent trustee approved by the  
4 department.

5 (iii) An insurance pool or self-insurance program  
6 authorized by 42 Pa.C.S. § 8564 (relating to liability  
7 insurance and self-insurance).

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

12 (c) Liability limited.--A host municipality or county or  
13 municipality within the planning area may not be held liable for  
14 bodily injury or property damage resulting from pollution  
15 occurrences solely by reasons of participation in the  
16 preparation or adoption of a county or municipal solid waste  
17 plan. Nothing herein shall be construed to prevent any host  
18 municipality, county or municipality within the planning area  
19 from obtaining or giving such indemnities as may be appropriate  
20 in connection with the ownership, operation or control of a  
21 municipal solid waste facility.

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

25 Section 1108. Site-specific postclosure fund.

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

1 department prior to the effective date of this act. The trust  
2 shall be established prior to the operation of any landfill  
3 permitted by the department after the effective date of this  
4 act. The requirement to establish a trust shall be satisfied by  
5 the submission to the department of a preexisting trust  
6 agreement which is substantially similar to the requirements of  
7 this section.

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

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

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

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

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

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

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

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

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

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

13 (k) Other remedies.--The remedies provided to the department  
14 in this section are in addition to any other remedies provided  
15 at law or in equity.

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

22 Section 1109. Trust fund for municipally operated landfills.

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



1 operation of any landfill permitted by the department after the  
2 effective date of this act.

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

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

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

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

1 (f) Trust agreement.--The provisions of the trust agreement  
2 shall be consistent with the requirements of this section and  
3 shall be provided by the municipality or municipal authority on  
4 a form prepared and approved by the department. The trust  
5 agreement shall be accompanied by a formal certification of  
6 acknowledgment.

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

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

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

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

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

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

17 Section 1110. Independent evaluation of permit applications.

18 At the request of a host municipality, the department may  
19 reimburse a host municipality for costs incurred for an  
20 independent permit application review, by a professional  
21 engineer who is licensed in this Commonwealth and who has  
22 previous experience in preparing such permit applications, of an  
23 application under the Solid Waste Management Act, for a new  
24 municipal waste landfill or resource recovery facility or that  
25 would result in additional capacity for a municipal waste  
26 landfill or resource recovery facility. Reimbursement shall not  
27 exceed \$10,000 per complete application.

28 Section 1111. Protection of capacity.

29 (a) Permit condition.--The following permits issued by the  
30 department under the Solid Waste Management Act, shall include a

1 permit condition, if provided pursuant to this section, which  
2 require compliance with an agreement or arbitration award,  
3 setting forth the weight or volume of municipal waste generated  
4 within the county and municipality that the operator shall allow  
5 and the rates, terms or conditions with which municipal waste is  
6 to be delivered for disposal or processing at the facility for a  
7 specified period:

8 (1) A permit for a new municipal waste landfill or  
9 resource recovery facility.

10 (2) A permit that results in additional capacity for a  
11 municipal waste landfill or resource recovery facility.

12 (3) In the case of an existing facility, a permit  
13 modification that results in an increase in the average or  
14 maximum daily volume of waste that may be received for  
15 processing or disposal at the facility.

16 (b) Determination.--The permit condition shall be determined  
17 in the following manner:

18 (1) The applicant shall notify the host county and host  
19 municipality upon filing an application for permit pursuant  
20 to subsection (a). Within 60 days after receiving written  
21 notice from the applicant that an application has been filed  
22 with the department, the host county and host municipality  
23 shall provide written notice to the applicant and the  
24 department if it intends to negotiate with the applicant. If  
25 the host county and host municipality do not provide such  
26 notice and, if the permit is issued, the permit condition  
27 shall state that no waste capacity is reserved for the host  
28 county and host municipality. The negotiation period shall  
29 commence upon the date of receipt of the written notice to  
30 the applicant from the host county and host municipality and

1 shall continue for 30 days. The issues to be considered in  
2 negotiations shall include, but not be limited to, the weight  
3 or volume of capacity reserved to a host county and host  
4 municipality and an increase in the average volume of waste  
5 up to the amount of capacity set aside for municipal waste  
6 generated within the host county and host municipality.

7 (2) If the host county and host municipality and the  
8 applicant agree to a weight or volume of waste capacity to be  
9 reserved for the host county and host municipality, they  
10 shall notify the department in writing.

11 (3) If the host county and host municipality and the  
12 applicant have failed to reach an agreement within the 30-day  
13 negotiation period then either party to the dispute, after  
14 written notice to the other party containing specifications  
15 of the issue or issues in dispute, may request the  
16 appointment of a board of arbitration pursuant to paragraph  
17 (7). Such notice shall be made in writing to the other party  
18 within five days of the end of the negotiation period. In  
19 making the decision as to the terms of the agreement, the  
20 board shall consider among other things the availability of  
21 disposal alternatives to the host county and host  
22 municipality. Should the host county and host municipality  
23 fail to request arbitration within five days, then the permit  
24 condition shall state that no waste capacity is reserved for  
25 the host county and host municipality.

26 (4) If the county and municipality elect to negotiate  
27 with the applicant pursuant to this section, any agreement or  
28 arbitration award shall provide, unless the host county and  
29 host municipality and applicant agree otherwise, that the  
30 county and municipality shall utilize the capacity reserved

1 in an agreed upon time frame.

2 (5) Should the applicant and the host county and host  
3 municipality be unable to agree to the terms of the agreement  
4 governing such utilization within 30 days of an agreement or  
5 an arbitration award as to the weight or volume of waste  
6 capacity to be reserved in the facility, either party can  
7 request the appointment of an arbitration board pursuant to  
8 paragraph (7). In making the decision as to the terms of the  
9 agreement for utilization, the board shall consider, among  
10 other things, the weight or volume of capacity reserved to a  
11 host county and host municipality under any permit issued  
12 pursuant to this section, an increase in the average volume  
13 of waste in an amount up to the amount of capacity set aside  
14 for municipal waste generated within the host county and host  
15 municipality, the financial viability of the facility, and  
16 the terms, including the rates per ton for disposal, of the  
17 contracts entered into by the applicant for use of the  
18 facility by other than the host county and host municipality.

19 (6) Except as provided in paragraph (1), the department  
20 shall not issue any permit under this section unless it has  
21 received written notice of an agreement between the applicant  
22 and host county and host municipality as to the weight or  
23 volume of capacity to be reserved for the host county and  
24 host municipality as provided in paragraph (2) or unless it  
25 has received written notice that a Board of Arbitration  
26 appointed pursuant to paragraph (7) has settled all issues in  
27 dispute between the host county and host municipality and the  
28 applicant. The department shall include a permit condition  
29 reserving such capacity provided for in such agreements or  
30 arbitration awards.

1           (7) The board of arbitration shall be composed of three  
2 persons, one appointed by the applicant, one appointed by the  
3 host county and host municipality and a third member to be  
4 agreed upon by the applicant and such host county and host  
5 municipality. The members of the board representing the  
6 applicant and the host county and host municipality shall be  
7 named within five days from the date of the request for the  
8 appointment of such board. If, after a period of ten days  
9 from the date of the appointment of the two arbitrators  
10 appointed by the host county and host municipality and the  
11 applicant, the third arbitrator has not been selected by  
12 them, then either arbitrator may request the American  
13 Arbitration Association, or its successor in function, to  
14 furnish a list of three members of said association who are  
15 residents of Pennsylvania from which the third arbitrator  
16 shall be selected. The arbitrator appointed by the applicant  
17 shall eliminate one name from the list within five days after  
18 publication of the list, following which the arbitrator  
19 appointed by the host county and host municipality shall  
20 eliminate one name from the list within five days thereafter.  
21 The individual whose name remains on the list shall be the  
22 third arbitrator and shall act as chairman of the board of  
23 arbitration. The board of arbitration thus established shall  
24 commence the arbitration proceedings within ten days after  
25 the third arbitrator is selected and shall make its  
26 determination within 30 days after the appointment of the  
27 third arbitrator.

28       (c) Department.--The department may take any action  
29 authorized by statute that the department deems necessary to  
30 ensure that operators of municipal waste landfills and resource

1 recovery facilities give priority to the disposal or processing  
2 of municipal waste generated within the host county.

3 (d) Consultation.--The host county shall consult with the  
4 host municipality as part of the procedure set forth under this  
5 section.

6 (e) Exemption.--The provisions of this section shall not  
7 apply to a resource recovery facility financed by the host  
8 municipality or municipal authority, and to facilities for the  
9 disposal of ash residue from municipal waste incinerators which,  
10 prior to the enactment date of this act, agree to provide  
11 capacity to all municipalities located within the county and  
12 which can be documented to the department.

13 Section 1112. Waste volumes.

14 (a) General rule.--No person or municipality operating a  
15 municipal waste landfill may receive solid waste at the landfill  
16 in excess of the maximum or average daily volume approved in the  
17 permit by the department under the Solid Waste Management Act,  
18 or authorized by any regulation promulgated pursuant to the  
19 Solid Waste Management Act.

20 (b) New permits.--

21 (1) A permit issued by the department under the Solid  
22 Waste Management Act for a new municipal waste landfill, or  
23 that results in additional capacity for a municipal waste  
24 landfill, shall include a permit condition setting forth the  
25 maximum and average volumes of solid waste that may be  
26 received on a daily basis.

27 (2) The department may not approve any permit  
28 application for a new municipal waste landfill, or that would  
29 result in additional capacity for a municipal waste landfill,  
30 unless the applicant demonstrates all of the following to the



1 department's satisfaction:

2 (i) That the proposed maximum and average daily  
3 waste volumes will not cause or contribute to any  
4 violations of this act; the Solid Waste Management Act;  
5 any other statute administered by the department; or any  
6 regulation promulgated pursuant to this act, the Solid  
7 Waste Management Act or any other statute administered by  
8 the department.

9 (ii) That the proposed maximum and average daily  
10 waste volumes will not cause or contribute to any public  
11 nuisance from odors, noises, dust, truck traffic or other  
12 causes.

13 (iii) That the proposed maximum and average daily  
14 waste volumes will not interfere with, or contradict any  
15 provision contained in, any applicable county solid waste  
16 management plan that has been approved by the department.

17 (c) Existing permits.--Within six months after the effective  
18 date of this act, the department shall review the maximum and  
19 average daily volume limits in each municipal waste landfill  
20 permit issued under the Solid Waste Management Act before the  
21 effective date of this act. In reviewing any existing municipal  
22 waste landfill permit, the department shall consider:

23 (1) That the proposed maximum and average daily waste  
24 volumes will not cause or contribute to any violations of  
25 this act; the Solid Waste Management Act; any other statute  
26 administered by the department; or any regulation promulgated  
27 pursuant to this act, the Solid Waste Management Act or any  
28 other statute administered by the department.

29 (2) That the proposed maximum and average daily waste  
30 volumes will not cause or contribute to any public nuisance

1 from odors, noises, dust, truck traffic or other causes.

2 (3) That the proposed maximum and average daily waste  
3 volumes will not interfere with, or contradict any provision  
4 contained in, any applicable county solid waste management  
5 plan that has been approved by the department.

6 This subsection does not require a second review for facilities  
7 where the department reviewed daily waste volumes 12 months  
8 before the enactment date of this act.

9 (d) Permit modification.--The department may not approve any  
10 permit modification request under the Solid Waste Management Act  
11 to increase the maximum or average daily volumes of solid waste  
12 received at a municipal waste landfill unless the applicant  
13 demonstrates all of the following to the department's  
14 satisfaction:

15 (1) Increased daily volumes will not cause or contribute  
16 to any violations of this act; the Solid Waste Management  
17 Act; any other statute administered by the department; or any  
18 regulations promulgated pursuant to this act, the Solid Waste  
19 Management Act or any other statute administered by the  
20 department.

21 (2) Increased daily volumes will not cause or contribute  
22 to any public nuisance from odors, noise, dust, truck traffic  
23 or other causes.

24 (3) Increased daily volumes will not reduce the  
25 remaining lifetime of a landfill, based on its remaining  
26 permitted capacity, to less than three years from the date of  
27 issuance of the permit modification.

28 (4) Increased daily volumes will not interfere with or  
29 contradict any provision contained in an applicable county  
30 municipal management plan that has been approved by the

1 department.

2 (e) Emergencies.--

3 (1) Notwithstanding any provision of law to the  
4 contrary, the department shall immediately modify a municipal  
5 waste landfill permit to allow increased maximum or average  
6 daily waste volumes when the department finds, in writing,  
7 that this action is necessary to prevent a public health or  
8 environmental emergency and publishes public notice of the  
9 finding. Action under this paragraph shall be taken pursuant  
10 to section 503(e) of the Solid Waste Management Act.

11 (2) When the department determines that the remaining  
12 lifetime of any municipal waste landfill, based on its  
13 remaining permitted capacity, is three years or less, the  
14 landfill operator shall give written notice of the finding to  
15 all municipalities that generate municipal waste received at  
16 the landfill. Notice shall be given annually thereafter until  
17 closure of the landfill or until the department has issued a  
18 permit under the Solid Waste Management Act expanding the  
19 capacity of the landfill to more than three years. This act  
20 shall not be understood or construed to impose any obligation  
21 on the department to find alternative processing or disposal  
22 capacity.

23 (f) Enforcement.--In addition to any other remedies provided  
24 at law or in equity, the department shall assess a civil penalty  
25 of at least \$100 per ton for each ton of waste received at any  
26 municipal waste landfill in excess of the maximum or average  
27 daily volume limitations set forth in its permit. Except for the  
28 minimum amount, the penalty shall be assessed and collected in  
29 the manner set forth in section 1704. Each ton of waste in  
30 excess of the permit shall be considered a separate violation of

1 this act.

2 (g) Preference to host county waste.--Pursuant to section  
3 1111(a), a facility will give a preference to waste generated  
4 within the host county when the facility receives an increase in  
5 its average daily volume.

6 CHAPTER 13  
7 HOST MUNICIPALITY BENEFIT FEE

8 Section 1301. Host municipality benefit fee.

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

22 (b) Amount.--The fee is \$1 per ton of weighed solid waste or  
23 \$1 per three cubic yards of volume-measured solid waste for all  
24 solid waste received at a landfill or facility. Any amounts paid  
25 by an operator to a host municipality pursuant to a preexisting  
26 agreement shall serve as a credit against the fee amount imposed  
27 by this section.

28 (c) Municipal options.--Nothing in this section or section  
29 1302 shall prevent a host municipality from receiving a higher  
30 fee or receiving the fee in a different form or at different

1 times than provided in this section and section 1302, if the  
2 host municipality and the operator of the municipal waste  
3 landfill or resource recovery facility agree in writing.

4 (d) Supersede.--The fee imposed by this section shall  
5 preempt and supersede any tax imposed on each municipal waste  
6 landfill or resource recovery facility under the act of December  
7 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling  
8 Act, which is in excess of the amount imposed on or before  
9 December 31, 1987.

10 (e) County options.--Nothing in this act shall prevent a  
11 host county from negotiating a fee or fee in a different form,  
12 if the host county and the operator of the municipal waste  
13 landfill or resource recovery agree in writing. Any county who  
14 has negotiated a fee as of the effective date of this act may  
15 require that the fee be continued.

16 Section 1302. Form and timing of host municipality benefit fee  
17 payment.

18 (a) Quarterly payment.--Each operator subject to section  
19 1301 shall make the host municipality benefit fee payment  
20 quarterly. The fee shall be paid on or before the twentieth day  
21 of April, July, October and January for the three months ending  
22 the last day of March, June, September and December.

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

1 the same time that the fee and form are sent to the host  
2 municipality.

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

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

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

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

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

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

23 Section 1303. Collection and enforcement of fee.

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

30 (b) Additional penalty.--In addition to the interest

1 provided in subsection (a), if an operator fails to make timely  
2 payment of the host municipality benefit fee, there shall be  
3 added to the amount of fee actually due 5% of the amount of such  
4 fee, if the failure to file a timely payment is for not more  
5 than one month, with an additional 5% for each additional month,  
6 or fraction thereof, during which such failure continues, not  
7 exceeding 25% in the aggregate.

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

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

29 (e) Manner of collection.--The amount due and owing under  
30 section 1301 shall be collectible by the host municipality in

1 the manner provided in section 1709.

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

5 Section 1304. Records.

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

15 Section 1305. Surcharge.

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



1 However, interest and penalties on the fee under section 1303(a)  
2 and (b) may not be collected as a surcharge.

3 CHAPTER 15

4 RECYCLING AND WASTE REDUCTION

5 Section 1501. Municipal implementation of recycling programs.

6 (a) Large population.--Within two years after the effective  
7 date of this act, each municipality other than a county that has  
8 a population of 10,000 or more people shall establish and  
9 implement a source separation and collection program for  
10 recyclable materials in accordance with this section. Population  
11 shall be determined by the most recent decennial census by the  
12 Bureau of the Census of the United States Department of  
13 Commerce.

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

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

26 (1) An ordinance or regulation adopted by the governing  
27 body of the municipality, requiring all of the following:

28 (i) Persons to separate at least three materials  
29 deemed appropriate by the municipality from other  
30 municipal waste generated at their homes, apartments and

1 other residential establishments and to store such  
2 material until collection. The three materials shall be  
3 chosen from the following: clear glass, colored glass,  
4 aluminum, steel and bimetallic cans, high-grade office  
5 paper, newsprint, corrugated paper and plastics. Nothing  
6 in the ordinance or regulation shall be deemed to impair  
7 the ownership of separated materials by the person who  
8 generated them unless and until such materials are placed  
9 at curbside or similar location for collection by the  
10 municipality or its agents.

11 (ii) Persons to separate leaf waste from other  
12 municipal waste generated at their homes, apartments and  
13 other residential establishments until collection unless  
14 those persons have otherwise provided for the composting  
15 of leaf waste. The governing body of a municipality shall  
16 allow an owner, landlord or agent of an owner or landlord  
17 of multifamily rental housing properties with four or  
18 more units to comply with its responsibilities under this  
19 section by establishing a collection system for  
20 recyclable materials at each property. The collection  
21 system must include suitable containers for collecting  
22 and sorting materials, easily accessible locations for  
23 the containers, and written instructions to the occupants  
24 concerning the use and availability of the collection  
25 system. Owners, landlords and agents of owners or  
26 landlords who comply with this act shall not be liable  
27 for the noncompliance of occupants of their buildings.

28 (iii) Persons to separate high grade office paper,  
29 aluminum, corrugated paper and leaf waste and other  
30 material deemed appropriate by the municipality generated

1 at commercial, municipal or institutional establishments  
2 and from community activities and to store the material  
3 until collection. The governing body of a municipality  
4 shall exempt persons occupying commercial, institutional  
5 and municipal establishments within its municipal  
6 boundaries from the requirements of the ordinance or  
7 regulation if those persons have otherwise provided for  
8 the recycling of materials they are required by this  
9 section to recycle. To be eligible for an exemption under  
10 this subparagraph, a commercial or institutional solid  
11 waste generator must annually provide written  
12 documentation to the municipality of the total number of  
13 tons recycled.

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

17 (3) A system, including trucks and related equipment,  
18 that collects recyclable materials from the curbside or  
19 similar locations at least once per month from each residence  
20 or other person generating municipal waste in the county or  
21 municipality. The municipality, other than a county, shall  
22 explain how the system will operate, the dates of collection,  
23 the responsibilities of persons within the municipality and  
24 incentives and penalties.

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

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

28 (d) Notice.--Each municipality subject to this section shall  
29 establish a comprehensive and sustained public information and  
30 education program concerning recycling program features and

1 requirements. As a part of this program, each municipality  
2 shall, at least 30 days prior to the initiation of the recycling  
3 program and at least once every six months thereafter, notify  
4 all persons occupying residential, commercial, institutional and  
5 municipal premises within its boundaries of the requirements of  
6 the ordinance. The governing body of a municipality may, in its  
7 discretion as it deems necessary and appropriate, place an  
8 advertisement in a newspaper circulating in the municipality,  
9 post a notice in public places where public notices are  
10 customarily posted, including a notice with other official  
11 notifications periodically mailed to residential taxpayers or  
12 utilize any combination of the foregoing.

13 (e) Implementation.--

14 (1) Except as provided in paragraph (2), a municipality  
15 shall implement its responsibilities for collection,  
16 transportation, processing and marketing materials under this  
17 section in one or both of the following ways:

18 (i) Collect, transport, process or market materials  
19 as required by this section.

20 (ii) Enter into contracts with other persons for the  
21 collection, transportation, processing or marketing of  
22 materials as required by this section. A person who  
23 enters into a contract under this subsection shall be  
24 responsible with the municipality for implementation of  
25 this section.

26 (2) Nothing in this section requires a municipality to  
27 collect, transport, process and market materials, or to  
28 contract for the collection, transportation, processing and  
29 marketing of materials from establishments or activities  
30 where all of the following are met:

1 (i) The municipality is not collecting and  
2 transporting municipal waste from such establishment or  
3 activity.

4 (ii) The municipality has not contracted for the  
5 collection and transportation of municipal waste from  
6 such establishment or activity.

7 (iii) The municipality has adopted an ordinance as  
8 required by this section, and the establishment or  
9 activity is in compliance with the provisions of this  
10 section.

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

16 (g) Recycling by operator.--An operator of a landfill or  
17 resource recovery facility may contract with a municipality to  
18 provide recycling services in lieu of the curbside recycling  
19 program. The contract must ensure that at least 25% of the waste  
20 received is recycled. The economic and environmental impact of  
21 the proposed technology used for the recycling shall receive  
22 prior approval from the department.

23 (h) Alternative program.--A municipality shall be deemed to  
24 comply with this section through the use and operation of a  
25 recycling facility if it demonstrates all of the following to  
26 the department's satisfaction:

27 (1) Materials separated, collected, recovered or created  
28 by the recycling facility can be marketed as readily as  
29 materials collected through a curbside recycling program.

30 (2) The mechanical separation technology used in the

1 recycling facility has been demonstrated to be effective for  
2 the life of operations at the facility.

3 Section 1502. Facilities operation and recycling.

4 (a) Leaf waste.--Two years after the effective date of this  
5 act, no municipal waste landfill may accept for disposal, and no  
6 resource recovery facility may accept for processing, other than  
7 composting, truckloads composed primarily of leaf waste.

8 (b) Drop-off centers.--

9 (1) Two years after the effective date of this act, no  
10 person may operate a municipal waste landfill, resource  
11 recovery facility or transfer station unless the operator has  
12 established at least one drop-off center for the collection  
13 and sale of at least three recyclable materials. The three  
14 materials shall be chosen from the following: clear glass,  
15 colored glass, aluminum, steel and bimetallic cans, high  
16 grade office paper, newsprint, corrugated paper and plastics.  
17 The center must be located at the facility or in a place that  
18 is easily accessible to persons generating municipal waste  
19 that is processed or disposed at the facility. Each drop-off  
20 center must contain bins or containers where recyclable  
21 materials may be placed and temporarily stored. If the  
22 operation of the drop-off center requires attendants, the  
23 center shall be open at least eight hours per week, including  
24 four hours during evenings or weekends.

25 (2) Each operator shall, at least 30 days prior to the  
26 initiation of the drop-off center program and at least once  
27 every six months thereafter, provide public notice of the  
28 availability of the drop-off center. The operator shall place  
29 an advertisement in a newspaper circulating in the  
30 municipality or provide notice in another manner approved by

1 the department.

2 (c) Removal of recyclable materials.--Two years after the  
3 effective date of this act, no person may operate a resource  
4 recovery facility unless the operator has developed a program  
5 for the removal to the greatest extent practicable of recyclable  
6 materials, such as plastics, high grade office paper, aluminum,  
7 clear glass and newspaper from the waste to be incinerated.

8 (d) Removal of hazardous materials.--Two years after the  
9 effective date of this act, no person may operate a resource  
10 recovery facility unless the operator has developed a program  
11 for the removal to the greatest extent practicable of hazardous  
12 materials, such as plastics, corrosive materials, batteries,  
13 pressurized cans and household hazardous materials from the  
14 waste to be incinerated.

15 Section 1503. Commonwealth recycling and waste reduction.

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

26 (b) Waste reduction.--Within two years after the effective  
27 date of this act, each Commonwealth agency, in coordination with  
28 the department of General Services, shall establish and  
29 implement a waste reduction program for materials used in the  
30 course of agency operations. The program shall be designed and

1 implemented to achieve the maximum feasible reduction of waste  
2 generated as a result of agency operations.

3 (c) Use of composted materials.--All Commonwealth agencies  
4 responsible for the maintenance of public lands in this  
5 Commonwealth shall, to the maximum extent practicable and  
6 feasible, give due consideration and preference to the use of  
7 compost materials in all land maintenance activities which are  
8 to be paid with public funds.

9 Section 1504. Procurement by Commonwealth agencies.

10 (a) Initial review.--

11 (1) Commonwealth agencies shall review and revise their  
12 existing procurement procedures and specifications for the  
13 purchase of goods, supplies, equipment, materials and  
14 printing to:

15 (i) eliminate procedures and specifications that  
16 explicitly discriminate against goods, supplies,  
17 equipment, materials and printing with recycled content;  
18 and

19 (ii) encourage the use of goods, supplies,  
20 equipment, materials and printing with recycled content.

21 (b) Continuing review.--Commonwealth agencies shall review  
22 and revise their procedures and specifications on a continuing  
23 basis to encourage the use of goods, supplies, equipment,  
24 materials and printing with recycled content and shall, in  
25 developing new procedures and specifications, encourage the use  
26 of goods, supplies, equipment, materials and printing with  
27 recycled content.

28 (c) Recycled materials.--

29 (1) Commonwealth agencies shall review and revise their  
30 procurement procedures and specifications for the purchase of



1 goods, supplies, equipment, materials and printing to ensure,  
2 to the maximum extent economically feasible, that such  
3 agencies purchase goods, supplies, equipment, materials and  
4 printing that may be recycled or reused when such goods,  
5 supplies, equipment, materials and printing are discarded.

6 (2) Commonwealth agencies shall review and revise their  
7 procurement procedures and specifications on a continuing  
8 basis to encourage the use of goods, supplies, equipment,  
9 materials and printing that may be recycled or reused.

10 (3) Commonwealth agencies shall also, in developing new  
11 procedures and specifications, encourage the use of goods,  
12 supplies, equipment, materials and printing that may be  
13 recycled or reused.

14 Section 1505. Procurement by Department of General Services.

15 (a) Bidding.--In issuing invitations to bid for the purchase  
16 of goods, supplies, equipment, materials and printing, the  
17 Department of General Services shall set forth a minimum  
18 percentage of recycled content for the goods, supplies,  
19 equipment, materials and printing that must be certified by a  
20 bidder in order to qualify for the preference in subsection (b).  
21 For goods, supplies, equipment, materials and printing for which  
22 the Environmental Protection Agency has adopted procurement  
23 guidelines under the Resource Conservation and Recovery Act of  
24 1976 (Public Law 94-580, 42 U.S.C. § 6901 et seq.), as amended,  
25 the minimum percentage of recycled content shall not be less  
26 than is specified in such guidelines. A person may submit a bid  
27 that does not certify that the goods, supplies, equipment,  
28 materials or printing contain such minimum percentage of  
29 recycled content. The Department of General Services may waive  
30 this requirement for goods, supplies, equipment, materials and

1 printing that cannot be procured with recycled content.

2 (b) Preference.--Every bidder for the purchase of goods,  
3 supplies, equipment, materials and printing which certifies that  
4 the goods, supplies, equipment, materials and printing subject  
5 to the bid contain the minimum percentage of recycled content  
6 that is set forth in the invitation for bids shall be granted a  
7 preference equal to 5% of the bid amount against any bidder that  
8 has not so certified. The Department of General Services shall  
9 waive this requirement for paper products purchased for State-  
10 owned hospitals.

11 (c) Ties.--When there is a tie for lowest responsible  
12 bidder, the Department of General Services may consider, as one  
13 factor in determining to whom to award the contract, which of  
14 the bids provides for the greatest weight of recycled content in  
15 the goods, supplies, equipment, materials or printing, or such  
16 other measure of recycled content as may be set forth in the  
17 invitation for bids.

18 (d) Implementation.--The Department of General Services may  
19 carry out the provisions and purposes of this section through  
20 appropriate contractual provisions and invitations to bid,  
21 through the adoption of such regulations as it deems necessary,  
22 or both.

23 (e) Federal funds.--The provisions of this section shall not  
24 be applicable when such provisions may jeopardize the receipt of  
25 Federal funds.

26 (f) Additional provisions.--The requirements of this section  
27 are in addition to those set forth in section 1504 for the  
28 Department of General Services.

29 (g) Cooperation.--All Commonwealth agencies shall cooperate  
30 with the Department of General Services in carrying out this

1 section.

2 (h) Annual report.--The Department of General Services shall  
3 submit an annual report to the General Assembly concerning the  
4 implementation of this section. This report shall include a  
5 description of what actions the Department of General Services  
6 has taken in the previous year to implement this section. This  
7 report shall be submitted on or before the anniversary of the  
8 effective date of this act.

9 Section 1506. Testing by Department of Transportation.

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

23 (b) Grants.--The Department of Transportation may award  
24 research and demonstration grants concerning the potential  
25 beneficial use of a particular constituent of solid waste, or  
26 any product or material with recycled content, in lieu of  
27 another product or material in the Commonwealth's transportation  
28 system. The application shall be made on a form prepared and  
29 furnished by the Department of Transportation and shall contain  
30 the information the Department of Transportation deems

1 necessary.

2 (c) Annual report.--The Department of Transportation shall  
3 submit an annual report to the General Assembly concerning its  
4 implementation of this section. This report shall include a  
5 description of what actions the Department of Transportation has  
6 taken in the previous year to implement this section. This  
7 report shall be submitted on or before the anniversary of the  
8 effective date of this act.

9 (d) Rulemaking.--The Department of Transportation may adopt  
10 regulations as it deems necessary to carry out this section.

11 (e) Cooperation.--All Commonwealth agencies shall cooperate  
12 with the Department of Transportation in carrying out this  
13 section.

14 Section 1507. Procurement procedures for local public agencies.

15 (a) Purpose.--Each local public agency may, at its  
16 discretion, review and revise its procurement procedures and  
17 specifications for purchases of goods, supplies, equipment,  
18 materials and printing to:

19 (1) eliminate procedures and specifications that  
20 explicitly discriminate against goods, supplies, equipment,  
21 materials and printing with recycled content;

22 (2) encourage the use of goods, supplies, equipment,  
23 materials and printing with recycled content; and

24 (3) ensure, to the maximum extent economically feasible,  
25 that it purchases goods, supplies, equipment, materials and  
26 printing that may be recycled or reused when such goods,  
27 supplies, equipment, materials and printing are discarded.

28 (b) Options.--The options set forth in this section may be  
29 exercised, notwithstanding any other provision of law to the  
30 contrary.

1 Section 1508. Procurement options for local public agencies and  
2 certain Commonwealth agencies.

3 (a) General rule.--This section sets forth procurement  
4 options for local public agencies. These procurement options are  
5 also available to Commonwealth agencies other than the  
6 Department of General Services.

7 (b) Options.--Each public agency subject to this section  
8 may, at its discretion, do any of the following:

9 (1) In issuing invitations to bid for the purchase of  
10 goods, supplies, equipment, materials and printing, set forth  
11 a minimum percentage of recycled content for the goods,  
12 supplies, equipment, materials and printing that must be  
13 certified by a bidder in order to qualify for the preference  
14 in this paragraph. For goods, supplies, equipment, materials  
15 and printing for which the Environmental Protection Agency  
16 has adopted procurement guidelines under the Resource  
17 Conservation and Recovery Act of 1976 (Public Law 94-580, 42  
18 U.S.C. § 6901 et seq.), as amended, the minimum percentage of  
19 recycled content shall not be less than is specified in such  
20 guidelines. A person may submit a bid that does not certify  
21 that the goods, supplies, equipment, materials or printing  
22 contain such minimum percentage of recycled content. Every  
23 bidder for the purchase of goods, supplies, equipment,  
24 materials and printing which certifies that the goods,  
25 supplies, equipment, materials and printing subject to the  
26 bid contain the minimum percentage of recycled content that  
27 is set forth in the invitation for bids shall be granted a  
28 preference equal to 5% of the bid amount against any bidder  
29 that has not so certified.

30 (2) Establish specifications for bids for public

1 contracts that require all bidders to propose that a stated  
2 minimum percentage of goods, supplies, equipment, materials  
3 or printing to be used for the contract be made from recycled  
4 material.

5 (3) Upon evaluation of bids opened for a public contract  
6 for goods, supplies, equipment, materials or printing, the  
7 agency shall identify the lowest responsible bidder. Where  
8 there is a tie for lowest responsible bidder, the agency  
9 shall consider, as one factor in determining to whom to award  
10 the contract, which of the bids provides for the greatest  
11 weight of recycled content in the goods, supplies, equipment,  
12 materials or printing, or such other measure of recycled  
13 content as may be set forth in the invitation for bids.

14 (c) Other laws.--The options set forth in this section may  
15 be exercised, notwithstanding any other provision of law to the  
16 contrary.

17 Section 1509. Recycling at educational institutions.

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

1 section 1505.

2 Section 1510. Lead acid batteries.

3 (a) Certain disposal prohibited.--No person may place a used  
4 lead acid battery in mixed municipal solid waste, discard or  
5 otherwise dispose of a lead acid battery except by delivery to  
6 an automotive battery retailer or wholesaler, to a secondary  
7 lead smelter permitted by the Environmental Protection Agency,  
8 or to a collection or recycling facility authorized under the  
9 laws of this Commonwealth.

10 (b) Disposal by dealers.--No automotive battery retailer  
11 shall dispose of a used lead acid battery except by delivery to  
12 a secondary lead smelter permitted by the Environmental  
13 Protection Agency, or to a collection or recycling facility  
14 authorized under the laws of this Commonwealth, or to the agent  
15 of a battery manufacturer or wholesaler for delivery to a  
16 secondary lead smelter permitted by the Environmental Protection  
17 Agency, or a collection or recycling facility authorized under  
18 the laws of this Commonwealth.

19 (c) Collection for recycling.--Any person selling or  
20 offering for sale at retail lead acid batteries shall:

21 (1) Accept, at the point of transfer, in a quantity at  
22 least equal to the number purchased, used lead acid batteries  
23 from customers in exchange for new batteries purchased.

24 (2) Post written notice which must be at least 8 1/2  
25 inches by 11 inches in size and must contain the universal  
26 recycling symbol and the following language:

27 (i) "It is illegal to discard a motor vehicle or  
28 other lead acid battery."

29 (ii) "Recycle your used batteries."

30 (iii) "State law requires us to accept used motor

1 vehicle or other lead acid batteries for recycling, in  
2 exchange for new batteries purchased."

3 (d) Lead acid battery wholesalers.--Any person selling new  
4 lead acid batteries at wholesale shall accept, at the point of  
5 transfer, used lead acid batteries from customers in a quantity  
6 at least equal to the number purchased. A person accepting  
7 batteries in transfer from an automotive battery retailer shall  
8 be allowed a period not to exceed 90 days to remove batteries  
9 from the retail point of collection.

10 (e) Inspection of automotive battery retailers.--The  
11 department shall produce, print and distribute the notices  
12 required by subsection (d) to all places where lead acid  
13 batteries are offered for sale at retail. The department may  
14 inspect any place, building or premises governed by this act.  
15 authorized employees of the department may issue warnings and  
16 citations to persons who fail to comply with the requirements of  
17 this section. Failure to post the required notice following  
18 warning shall subject a civil penalty of \$25 per day,  
19 collectible by the department.

20 (f) Enforcement.--The Department of Environmental Resources  
21 shall enforce this section.

22 Section 1511. Recycled paper products.

23 (a) General rule.--The Department of General Services shall,  
24 to the fullest extent possible when contracting for paper or  
25 paper products, purchase or approve for purchase only such paper  
26 or paper products that are manufactured or produced from  
27 recycled paper as specified in subsection (b).

28 (b) Implementation.--The provisions of subsection (a) shall  
29 be implemented by the Department of General Services so that, of  
30 the total volume of paper purchased, recycled paper composes at



1 least 10% of the volume in 1989, at least 25% of the volume in  
2 1991 and at least 40% of the volume in 1993.

3 (c) Newsprint.--In the case of the purchase of newsprint and  
4 newsprint products, at least 40% of the secondary waste paper  
5 material used in recycled newsprint shall be postconsumer  
6 newspaper waste.

7 (d) Application of section.--This section shall not apply to  
8 the purchase of paper containers for food or beverages.

9 (e) Definitions.--As used in this section, the following  
10 words and phrases shall have the meanings given to them in this  
11 subsection:

12 "Postconsumer waste." Any product generated by a business or  
13 consumer which has served its intended end use, and which has  
14 been separated from solid waste for the purposes of collection,  
15 recycling and disposition and which does not include secondary  
16 waste material or demolition waste.

17 "Recycled paper." Any paper having a total weight consisting  
18 of not less than 20% secondary waste paper material in 1989, not  
19 less than 30% of said material in 1991, not less than 40% of  
20 said material in 1993, and not less than 50% of said material in  
21 1996 and thereafter, and not less than 10% postconsumer waste  
22 beginning in 1996.

23 "Secondary waste paper material." Paper waste generated  
24 after the completion of a papermaking process, such as  
25 postconsumer waste material, envelope cuttings, bindery  
26 trimmings, printing waste, cutting and other converting waste,  
27 butt rolls and mill wrappers. The term shall not include fibrous  
28 waste generated during the manufacturing process, such as fibers  
29 recovered from wastewater or trimmings of paper machine rolls,  
30 fibrous by-products of harvesting, extractive or woodcutting

1 process, or forest residue such as bark.

2 Section 1512. Household Hazardous Waste Collection and Disposal  
3 Grant Program.

4 (a) Administration.--It shall be the duty of the department  
5 to administer a Household Hazardous Waste Collection and  
6 Disposal Grant Program for households, farms, schools and small  
7 businesses, to be known as the Right-Way-to-Throw-Away Program.

8 (b) Grants.--It shall be the duty of the department to  
9 administer specifically appropriated funds for a grant program  
10 to municipalities for the establishment and operation of  
11 household hazardous waste collection programs. The department  
12 shall establish guidelines for the awarding of such grants and  
13 shall give priority to those programs operated by counties,  
14 multicounty agencies, cities of the first and second class and  
15 current municipal programs.

16 (c) Registration; department approval.--No municipality  
17 shall establish a program for the collection and management of  
18 household hazardous wastes until the program has been registered  
19 with and approved by the department. Each municipality shall  
20 also maintain and submit records to the department as required  
21 under the guidelines or regulations promulgated under subsection  
22 (d).

23 (d) Powers and duties of the department.--The department  
24 shall have the power and its duty shall be to:

25 (1) Administer the Right-Way-to-Throw-Away Program  
26 established pursuant to this section.

27 (2) Determine the types and amounts of household  
28 hazardous waste to be handled in the program and the size of  
29 the business establishments eligible for inclusion as  
30 entities.

1           (3) License a collection contractor or contractors as  
2 defined and provided for in this section.

3           (4) Establish guidelines for the registration and  
4 operations of household hazardous waste collection programs  
5 within 90 days from the effective date of this act. The  
6 guidelines shall terminate after a period of one year or upon  
7 promulgation by the Environmental Quality Board of  
8 regulations for these activities, whichever occurs first.

9           (5) Inspect all such collection sites operated pursuant  
10 to this section to insure that such collection is performed  
11 in a safe and environmentally sound manner.

12           (6) Require records to be submitted to the department by  
13 the municipality or collection contractor identifying types  
14 and amounts of household hazardous waste collected, entities  
15 submitting household hazardous waste and the points of  
16 ultimate disposition.

17           (7) Submit an annual report to the General Assembly  
18 summarizing the operation and costs of the program, including  
19 location of sites, types and amounts of waste collected,  
20 entities disposing of waste at the collection sites, and the  
21 methods utilized for disposal of the wastes.

22           (8) Develop a fee schedule for eligible small  
23 businesses, with provisions exempting nonprofit entities from  
24 the payment of fees.

25           (e) Collection contractor responsibilities.--

26           (1) Qualifications.--No collection contractor may be  
27 selected to operate a collection program or site unless the  
28 contractor can demonstrate to the satisfaction of the  
29 department its ability to collect, package, transport and  
30 dispose of hazardous waste collected under this program

1 consistent with the requirements of Articles IV, V and VI of  
2 the Solid Waste Management Act and regulations promulgated  
3 thereunder and guidelines or regulations under this act.

4 (2) Ineligibility.--A collection contractor shall not be  
5 eligible to operate a collection program or collection site  
6 if the department finds that such person has shown a lack of  
7 ability or a lack of intent to comply with the Solid Waste  
8 Management Act or other environmental laws of this  
9 Commonwealth, other states or the United States.

10 (3) Requirements of the Solid Waste Management Act.--In  
11 addition to the requirements of this act, the contractor  
12 selected to operate a collection program shall be deemed to  
13 be a generator of hazardous waste under the Solid Waste  
14 Management Act and subject to the requirements and penalties  
15 provided in Article IV, V and VI of that act.

16 (f) Limit on amount.--No eligible entity shall deposit more  
17 than 100 kilograms of waste at any one scheduled collection  
18 event.

19 (g) Exclusions.--The following waste shall not be accepted  
20 at a collection point:

- 21 (1) Radioactive waste.
- 22 (2) Biologically active waste.
- 23 (3) Gas cylinders and aerosol cans.
- 24 (4) Explosives and ordinance materials.

25 (h) Public awareness.--The department shall administer a  
26 program of public information relating to the need for and  
27 promotion of the collection days to encourage citizen  
28 participation and inform citizens of the importance of proper  
29 disposal of hazardous waste. The department shall, within one  
30 year of the effective date of this act, establish a toll-free

1 telephone line to provide information to the public on matters  
2 relating to household hazardous waste management.

3 (i) Sites.--Collection events may be conducted on sites  
4 selected by the sponsoring entity or entities. Such sites may be  
5 on public or private property, including, but not limited to,  
6 property owned, leased or controlled by the Commonwealth, its  
7 agencies or its political subdivisions. Written permission to  
8 use the site for the conduct of the event shall be obtained from  
9 the owner prior to the event.

10 (j) Liability.--An owner who, without charge, permits any  
11 property to be used as a site for a collection event shall not  
12 be liable for any damage, harm or injury to any person or  
13 property which results from the use of the property as a site  
14 for a collection event.

15 (k) Definitions.--As used in this section, the following  
16 words and phrases shall have the meanings given to them in this  
17 subsection:

18 "Collection contractor." A person licensed by the department  
19 and retained by a municipality to operate a household hazardous  
20 waste collection program.

21 "Household hazardous waste." Any waste that would be  
22 considered hazardous under the Solid Waste Management Act, but  
23 for the fact that it is produced in quantities smaller than  
24 those regulated under that act and is generated by persons not  
25 otherwise covered by that act. At the discretion of the  
26 department, the term may include used oil.

27 "Owner." The possession of fee interest; a tenant, lessee,  
28 occupant, or person in contact; or the Commonwealth, its  
29 agencies and its political subdivisions.

30 "Small business." Any commercial establishment not regulated

1 under the Resource Conservation and Recovery Act of 1976 (Public  
2 Law 94-580, 42 U.S.C. § 6901 et seq.).

3 CHAPTER 17

4 ENFORCEMENT AND REMEDIES

5 Section 1701. Unlawful conduct.

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

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

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

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

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

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

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

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

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

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

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

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

13 (c) Unlawful conduct.--It shall be unlawful to sell or offer  
14 for sale beverages connected to each other by plastic beverage  
15 carriers where the carrier is not a degradable plastic beverage  
16 carrier. The department shall certify whether a plastic beverage  
17 carrier meets the standards of degradability as defined in this  
18 act.

19 Section 1702. Enforcement orders.

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

1 afforded to the department pursuant to this act or any other  
2 act.

3 (b) Compliance.--It shall be the duty of any person to  
4 proceed diligently to comply with any order issued pursuant to  
5 subsection (a). If such person fails to proceed diligently or  
6 fails to comply with the order within such time, if any, as may  
7 be specified, such person shall be guilty of contempt and shall  
8 be punished by the court in an appropriate manner, and for this  
9 purpose, application may be made by the department to the  
10 Commonwealth Court, which is hereby granted jurisdiction.  
11 Section 1703. Restraining violations.

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

29 (b) Jurisdiction.--In addition to any other remedies  
30 provided for in this act, upon relation of any district attorney



1 of any county affected, or upon relation of the solicitor of any  
2 county or municipality affected, an action in equity may be  
3 brought in a court of competent jurisdiction for an injunction  
4 to restrain any and all violations of this act or the  
5 regulations promulgated pursuant thereto, or to restrain any  
6 public nuisance.

7 (c) Concurrent remedies.--The penalties and remedies  
8 prescribed by this act shall be deemed concurrent, and the  
9 existence of or exercise of any remedy shall not prevent the  
10 department from exercising any other remedy hereunder, at law or  
11 in equity.

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

16 Section 1704. Civil penalties.

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

1 relevant factors. If the violation leads to issuance of a  
2 cessation order, a civil penalty shall be assessed.

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

21 (c) Amount.--The maximum civil penalty which may be assessed  
22 pursuant to this section is \$10,000 per violation. Each  
23 violation for each separate day and each violation of any  
24 provision of this act, any regulation promulgated hereunder, any  
25 order issued hereunder, or the terms or conditions of any  
26 approved municipal waste management plan shall constitute a  
27 separate offense under this section.

28 (d) Statute of limitations.--Notwithstanding any other  
29 provision of law to the contrary, there shall be a statute of  
30 limitations of five years upon actions brought by the

1 Commonwealth under this section.

2 Section 1705. Criminal penalties.

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

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

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

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

7 Section 1706. Existing rights and remedies preserved;  
8 cumulative remedies authorized.

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

1 Section 1707. Production of materials; recordkeeping  
2 requirements.

3 (a) Authority of department.--The department and its agents  
4 and employees shall:

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

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

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

25 (b) Warrants.--An agent or employee of the department may  
26 apply for a search warrant to any Commonwealth official  
27 authorized to issue a search warrant for the purposes of  
28 inspecting or examining any property, building, premises, place,  
29 book, record or other physical evidence; of conducting tests; or  
30 of taking samples of any solid waste. The warrant shall be

1 issued upon probable cause. It shall be sufficient probable  
2 cause to show any of the following:

3 (1) The inspection, examination, test or sampling is  
4 pursuant to a general administrative plan to determine  
5 compliance with this act.

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

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

12 Section 1708. Withholding of State funds.

13 In addition to any other penalties provided in this act, the  
14 department may notify the State Treasurer to withhold payment of  
15 all or any portion of funds payable to the municipality by the  
16 department from the General Fund or any other fund if the  
17 municipality has engaged in any unlawful conduct under section  
18 1701. Upon notification, the State Treasurer shall hold in  
19 escrow such moneys due to such municipality until such time as  
20 the department notifies the State Treasurer that the  
21 municipality has complied with such requirement or schedule.

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

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

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

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

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

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

17 Section 1711. Remedies of citizens.

18 (a) Authority to bring civil action.--Except as provided in  
19 subsection (c), any aggrieved person may commence a civil action  
20 on his own behalf against any person who is alleged to be in  
21 violation of this act.

22 (b) Jurisdiction.--The Environmental Hearing Board is hereby  
23 given jurisdiction over citizen suit actions brought under this  
24 section against the department. Actions against any other  
25 persons under this section may be taken in a court of competent  
26 jurisdiction. Such jurisdiction is in addition to any rights of  
27 action now or hereafter existing in equity, or under the common  
28 law or statutory law.

29 (c) Notice.--No action may be commenced under this section  
30 prior to 60 days after the plaintiff has given notice of the

1 violation to the secretary, to the host municipality and to any  
2 alleged violator of the act, of other environmental protection  
3 acts, or of the regulation or order of the department which has  
4 allegedly been violated, nor shall any action be commenced under  
5 this section if the secretary has commenced and is diligently  
6 prosecuting an administrative action before the Environmental  
7 Hearing Board, or a civil or criminal action in a court of the  
8 United States or a state to require compliance with such permit,  
9 standard, regulation, condition, requirement, prohibition or  
10 order.

11 (d) Award of costs.--The Environmental Hearing Board or a  
12 court of competent jurisdiction, in issuing any final order in  
13 any action brought pursuant to subsection (a), may award costs  
14 of litigation, including reasonable attorney and expert witness  
15 fees, to any party, whenever the board or court determines such  
16 award is appropriate.

17 Section 1712. Affirmative defense.

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

29 (b) Requirements.--A municipality may not assert the  
30 affirmative defense provided by this section if it has failed:



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

3           (2) To exercise its best efforts to implement the  
4 program required by section 1501 for at least two years after  
5 it was required to establish and implement the program.

6           (c) Construction.--Nothing in this section shall be  
7 construed or understood:

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

11           (2) To create an affirmative defense for any person  
12 other than a municipality.

13           (3) To modify or affect existing statutory and case law  
14 concerning affirmative defenses to department actions, except  
15 as expressly provided in subsection (a).

16           (d) Exemption.--If the department approves a request, the  
17 municipality shall be exempt from the requirements of this  
18 section on and after the date of the department's approval.  
19 However, the municipality shall immediately pay to the  
20 department an amount equal to the depreciated value of any  
21 capital equipment, buildings, or other structures or facilities  
22 that were constructed or obtained through departmental grants  
23 under section 902. The municipality shall pay to the department  
24 within 5 years an amount equal to the depreciated value of any  
25 capital equipment purchased with funds provided by the  
26 department under section 902, less any contribution by the  
27 municipality for the purchase of such capital equipment, or the  
28 municipality shall convey within 90 days such capital equipment  
29 to the department.

30 Section 1713. Public information.

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

5 (b) Confidentiality.--The department may, upon request,  
6 designate records, reports or information as confidential when  
7 the person providing the information demonstrates all of the  
8 following:

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

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

14 (c) Separation of information.--When submitting information  
15 under this act, a person shall designate the information which  
16 the person believes is confidential or shall submit that  
17 information separately from other information being submitted.  
18 Section 1714. Whistleblower provisions.

19 (a) Adverse action prohibited.--No employer may discharge,  
20 threaten, or otherwise discriminate or retaliate against an  
21 employee regarding the employee's compensation, terms,  
22 conditions, location or privileges of employment because the  
23 employee makes a good faith report or is about to report,  
24 verbally or in writing, to the employer or appropriate authority  
25 an instance of waste or wrongdoing under this act.

26 (b) Remedies.--The remedies, penalties and enforcement  
27 procedures for violations of this section shall be as provided  
28 in the act of December 12, 1986 (P.L.1559, No.169), known as the  
29 Whistleblower Law.

30 (c) Definitions.--As used in this section, the following

1 words and phrases shall have the meanings given to them in this  
2 subsection:

3 "Appropriate authority." A Federal, State or local  
4 government body, agency or organization having jurisdiction over  
5 criminal law enforcement, regulatory violations, professional  
6 conduct or ethics, or waste; or a member, officer, agent,  
7 representative or supervisory employee of the body, agency or  
8 organization. The term includes, but is not limited to, the  
9 Office of Attorney General, the Department of the Auditor  
10 General, the Treasury Department, the General Assembly and  
11 committees of the General Assembly having the power and duty to  
12 investigate criminal law enforcement, regulatory violations,  
13 professional conduct or ethics, or waste.

14 "Employee." A person who performs a service for wages or  
15 other remuneration under a contract of hire, written or oral,  
16 express or implied, for an employer, whether or not the employer  
17 is a public body.

18 "Employer." A person supervising one or more employees,  
19 including the employee in question; a superior of that  
20 supervisor; or an agent of a public body.

21 "Good faith report." A report of conduct defined in this act  
22 as wrongdoing or waste which is made without malice or  
23 consideration of personal benefit and which the person making  
24 the report has reasonable cause to believe is true.

25 "Public body." All of the following:

26 (1) A State officer, agency, department, division,  
27 bureau, board, commission, council, authority or other body  
28 in the executive branch of State government.

29 (2) A county, city, township, regional governing body,  
30 council, school district, special district or municipal

1 corporation, or a board, department, commission, council or  
2 agency.

3 (3) Any other body which is created by Commonwealth or  
4 political subdivision authority or which is funded in any  
5 amount by or through Commonwealth or political subdivision  
6 authority or a member or employee of that body.

7 "Waste." An employer's conduct or omissions which result in  
8 substantial abuse, misuse, destruction or loss of funds or  
9 resources belonging to or derived from Commonwealth or political  
10 subdivision sources.

11 "Whistleblower." A person who witnesses or has evidence of  
12 wrongdoing or waste while employed and who makes a good faith  
13 report of the wrongdoing or waste, verbally or in writing, to  
14 one of the person's superiors, to an agent of the employer or to  
15 an appropriate authority.

16 "Wrongdoing." A violation which is not of a merely technical  
17 or minimal nature of a Federal or State statute or regulation,  
18 of a political subdivision ordinance or regulation or of a code  
19 of conduct or ethics designed to protect the interest of the  
20 public or the employer.

21 Section 1715. Additional penalties.

22 (a) Vehicle forfeiture.--Any vehicle or conveyance used for  
23 transportation of disposal of solid waste in the commission of  
24 an offense under section 610(1) of the Solid Waste Management  
25 shall be deemed contraband and forfeited to the department. The  
26 provisions of law relating to the seizure, summary and judicial  
27 forfeiture, and condemnation of intoxicating liquor shall apply  
28 to seizures and forfeitures under this section. Proceeds from  
29 the sale of forfeited vehicles or conveyances shall be deposited  
30 in the Solid Waste Abatement Fund.

1 (b) Responsibility for cost.--The operator of any vehicle or  
2 conveyance forfeited under subsection (a) shall be responsible  
3 for any costs incurred in properly disposing of waste in the  
4 vehicle or conveyance.

5 CHAPTER 19

6 MISCELLANEOUS PROVISIONS

7 Section 1901. Report to General Assembly.

8 The Secretary of Environmental Resources shall prepare a  
9 report to the General Assembly concerning the implementation of  
10 this act and the success of county and municipal recycling  
11 programs. This report shall be transmitted to the General  
12 Assembly no later than April 1, 1991, and shall be revised, and  
13 modified if necessary, at least once every three years  
14 thereafter.

15 Section 1902. Severability.

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

21 Section 1903. Repeals.

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

26 (b) Inconsistent repeals.--

27 (1) Except as provided in section 501(b) of this act,  
28 the first through fourth sentences of section 201(b) and  
29 section 201(c), (d) and (e) of the act of July 7, 1980  
30 (P.L.380, No.97), known as the Solid Waste Management Act,

1 are repealed insofar as they are inconsistent with this act.

2 (2) All acts and parts of acts inconsistent with section  
3 1505 are hereby repealed to the extent of the inconsistency.

4 (c) Effect of repealers.--All orders, permits, licenses,  
5 decisions and actions of the department under the repealed  
6 provisions of the Solid Waste Management Act, including  
7 technical or preliminary approvals of solid waste management  
8 plans, shall remain in effect unless and until modified,  
9 repealed, suspended, superseded or otherwise changed under the  
10 terms of this act and the regulations promulgated under this  
11 act.

12 Section 1904. Effective date.

13 This act shall take effect as follows:

14 (1) The provisions of Chapters 7 and 9 shall take effect  
15 in 90 days.

16 (2) The remainder of this act shall take effect in 60  
17 days.