

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1436 Session of 2001

INTRODUCED BY S. H. SMITH, HERSHEY, BARD, BASTIAN, BELARDI, CALTAGIRONE, CAPPELLI, CAWLEY, FAIRCHILD, HENNESSEY, HERMAN, HESS, LEH, McILHATTAN, McNAUGHTON, PIPPY, PRESTON, ROHRER, ROSS, RUBLEY, SATHER, SAYLOR, B. SMITH, E. Z. TAYLOR, THOMAS, TRELLO AND DALLY, APRIL 25, 2001

AS REPORTED FROM COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 12, 2001

AN ACT

1 Requiring host municipality agreements for certain municipal and
2 residual waste facilities; and PROVIDING FOR A MORATORIUM; <—
3 establishing transportation and safety requirements,
4 including a fee and registration for vehicles that collect
5 and transport municipal and residual waste to certain
6 municipal and residual waste disposal and processing
7 facilities; IMPOSING A MUNICIPAL ENHANCEMENT CONSIDERATION <—
8 FEE ON THE DEPOSIT OF CERTAIN SOLID WASTE; AND ESTABLISHING
9 THE MUNICIPAL ENHANCEMENT CONSIDERATION FEE FUND.

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26 SECTION 705. EFFECTIVE DATE.

27 The General Assembly of the Commonwealth of Pennsylvania  
28 hereby enacts as follows:

29 ~~Section 1. Short title.~~

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30 CHAPTER 1

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PRELIMINARY PROVISIONS

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SECTION 101. SHORT TITLE.

This act shall be known and may be cited as the Solid Waste Host Municipality Agreement and Transportation Safety Act.

Section ~~2~~ 102. Legislative findings and declaration of policy. <—

(a) Legislative findings.--The General Assembly hereby determines, declares and finds that:

(1) Improper solid waste practices create public health hazards, environmental pollution and nuisances and cause irreparable harm to the public health, safety and welfare.

(2) All aspects of solid waste management, particularly the disposition of solid waste, pose a critical threat to the health, safety and welfare of the residents of this Commonwealth when solid waste is improperly managed.

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

(4) The construction and expansion of commercial solid waste landfills and resource recovery facilities usually consumes natural lands, thereby impinging upon wildlife habitat and the public's use and enjoyment of the natural resources, including air, water and natural scenic, historic and esthetic values of the environment.

(5) Concentrated traffic in the vicinity of commercial solid waste landfills and resource recovery facilities can contribute to and cause substantial harm to this Commonwealth's roadways and environment and to the health and safety of the residents of this Commonwealth when traffic is improperly managed.

(6) Communities in the areas located near and along the

1 approach routes to commercial solid waste landfills and  
2 resource recovery facilities experience traffic problems,  
3 litter, odors, noise, dust and other ~~nuisances~~ THREATS TO ←  
4 PUBLIC HEALTH AND SAFETY resulting from the operation of the  
5 facilities and from the transportation of waste to the  
6 facilities.

7 (7) Commercial solid waste landfills tend to locate in  
8 rural and sparsely populated areas.

9 (8) Commercial solid waste landfills located more than  
10 15 driving miles from a four-lane, divided highway cause  
11 significant traffic harms and present unique issues.

12 (9) Joint inspections of vehicles by the Department of  
13 Environmental Protection, the Pennsylvania State Police and  
14 the Department of Transportation consistently indicate that  
15 over 25% of the waste vehicles inspected have violations of  
16 the act of July 7, 1980 (P.L.380, No.97), known as the Solid  
17 Waste Management Act, and the act of July 28, 1988 (P.L.556,  
18 No.101), known as the Municipal Waste Planning, Recycling and  
19 Waste Reduction Act.

20 (10) Inspections by the Pennsylvania State Police and  
21 the Department of Transportation consistently indicate  
22 vehicle safety and weight control violations are pervasive in  
23 the waste hauling industry.

24 (b) Purposes and goals.--The purposes and goals of this act  
25 are to:

26 (1) Enhance the protection of the public health, safety  
27 and welfare from the short-term and long-term dangers of  
28 transportation and disposal of solid waste.

29 (2) Implement section 27 of Article I of the  
30 Constitution of Pennsylvania.

1 (3) Conserve the environment and the natural resources  
2 of this Commonwealth.

3 (4) Limit the magnitude of environmental and  
4 transportation problems in and around communities which host  
5 commercial solid waste landfills or resource recovery  
6 facilities.

7 (5) Provide for greater local input from affected  
8 residents and communities in the planning of commercial solid  
9 waste landfills and resource recovery facilities.

10 (6) Require written authorization from the Department of  
11 Environmental Protection for transporting municipal or  
12 residual waste to municipal waste processing and disposal  
13 facilities in order to enhance the safe transportation of  
14 waste.

15 (7) Protect residents of the communities affected by  
16 commercial solid waste landfills and resource recovery  
17 facilities from unnecessary traffic problems, litter, odors,  
18 noise, dust and other ~~nuisances~~ THREATS TO PUBLIC HEALTH AND ←  
19 SAFETY which may result from the operation of the facilities  
20 and from the transportation of waste to the facilities.

21 Section 3 103. Definitions. ←

22 (a) General rule.--Unless specifically defined in this  
23 section, the terms in this act have the same meaning as provided  
24 in the act of July 7, 1980 (P.L.380, No.97), known as the Solid  
25 Waste Management Act, or the act of July 28, 1988 (P.L.556,  
26 No.101), known as the Municipal Waste Planning, Recycling and  
27 Waste Reduction Act, or regulations of the Department of  
28 Environmental Protection promulgated thereunder.

29 (b) Definitions.--As used in this section, the following  
30 words and phrases shall have the meanings given to them in this

1 subsection:

2 "Commercial solid waste landfill." A landfill permitted or  
3 proposed for permitting under the act of July 7, 1980 (P.L.380,  
4 No.97), known as the Solid Waste Management Act, for the  
5 disposal of municipal waste, residual waste, CONSTRUCTION AND <—  
6 DEMOLITION WASTE or mixed municipal and residual waste,  
7 including mixed municipal or residual waste and construction and  
8 demolition debris. The term does not include a landfill used for <—  
9 ~~the exclusive disposal of construction and demolition waste or~~  
10 ~~debris or a captive residual waste facility.~~

11 "Department." The Department of Environmental Protection of  
12 the Commonwealth and its authorized representatives.

13 "Expansion modification." An application for permit  
14 modification filed by an owner or operator of a commercial solid  
15 waste landfill or resource recovery facility which requests an  
16 expansion, either laterally or vertically, of a permit area.

17 "Gross vehicle weight." The combined weight of a vehicle or  
18 combination of vehicles, including a towing vehicle, semitrailer  
19 and the vehicle load, excluding the driver's weight.

20 "Host municipality." A municipality other than the county  
21 ~~within which a commercial solid waste landfill or resource <—~~  
22 ~~recovery facility or any portion of a permit area is located or~~  
23 ~~is proposed to be located.~~ WHICH MEETS ONE OF THE FOLLOWING <—

24 CRITERIA:

25 (1) A COMMERCIAL SOLID WASTE LANDFILL OR RESOURCE  
26 RECOVERY FACILITY OR ANY PORTION OF A PERMIT AREA IS LOCATED  
27 OR PROPOSED TO BE LOCATED WITHIN THE MUNICIPALITY; OR

28 (2) THE MUNICIPALITY IS LOCATED WITHIN ONE-HALF MILE OF  
29 THE FOOTPRINT OF A PROPOSED OR OPERATING COMMERCIAL SOLID  
30 WASTE LANDFILL OR RESOURCE RECOVERY FACILITY.

1 "Host municipality agreement." A written, legally binding  
2 document or documents executed by authorized officials of each  
3 host municipality and an owner or operator of a commercial solid  
4 waste landfill or resource recovery facility.

5 "Municipal Waste Planning, Recycling and Waste Reduction  
6 Act." The act of July 28, 1988 (P.L.556, No.101), known as the  
7 Municipal Waste Planning, Recycling and Waste Reduction Act.

8 "Pennsylvania Municipalities Planning Code." The act of July  
9 31, 1968 (P.L.805, No.247), known as the Pennsylvania  
10 Municipalities Planning Code.

11 "Permit." A permit issued pursuant to the act of July 7,  
12 1980 (P.L.380, No.97), known as the Solid Waste Management Act.

13 "Secretary." The Secretary of Environmental Protection of  
14 the Commonwealth.

15 "Semitrailer." A trailer so constructed that some part of  
16 its weight rests upon or is carried by the towing vehicle.

17 "Solid Waste Management Act." The act of July 7, 1980  
18 (P.L.380, No.97), known as the Solid Waste Management Act.

19 "Transporter." The owner or operator of a towing vehicle  
20 used to transport municipal or residual waste.

21 "Volume modification." An application for permit  
22 modification filed by an owner or operator of a commercial solid  
23 waste landfill or resource recovery facility which requests an  
24 increased in average or maximum daily waste volume.

25 Section 4 104. Construction of act. <—

26 ~~(a) Liberal construction. This act shall be liberally <—~~  
27 ~~construed so as best to achieve and effectuate the goals and~~  
28 ~~purposes of this act.~~

29 ~~(b) Pari materia. This act shall be construed in pari~~  
30 ~~materia with the Solid Waste Management Act, the Municipal Waste~~

1 Planning, Recycling and Waste Reduction Act and sections 1935-A  
2 and 1936-A of the act of April 9, 1929 (P.L.177, No.175), known  
3 as The Administrative Code of 1929.

4 ~~Section 5. Host municipality agreements.~~ <—

5 SECTION 105. MORATORIUM. <—

6 (A) PERMITS RELATING TO CONSTRUCTION, EXPANSION OR  
7 OPERATION.--FOR A PERIOD OF TWO YEARS FOLLOWING THE EFFECTIVE  
8 DATE OF THIS ACT, THE DEPARTMENT SHALL NOT ACCEPT AN APPLICATION  
9 FOR A PERMIT OR PERMIT MODIFICATION NOR ISSUE A PERMIT OR PERMIT  
10 MODIFICATION UNDER THE SOLID WASTE MANAGEMENT ACT FOR THE  
11 CONSTRUCTION, EXPANSION OR OPERATION OF A MUNICIPAL WASTE  
12 LANDFILL, CONSTRUCTION/DEMOLITION WASTE LANDFILL, RESOURCE  
13 RECOVERY FACILITY OR COMMERCIAL RESIDUAL WASTE DISPOSAL  
14 FACILITY.

15 (B) PERMIT MODIFICATIONS RELATING TO DAILY VOLUME.--FOR A  
16 PERIOD OF TWO YEARS FOLLOWING THE EFFECTIVE DATE OF THIS ACT,  
17 THE DEPARTMENT SHALL NOT ACCEPT FOR REVIEW NOR ISSUE A PERMIT  
18 MODIFICATION THAT WOULD RESULT IN AN INCREASE IN AVERAGE DAILY  
19 VOLUME OR MAXIMUM DAILY VOLUME AT A MUNICIPAL WASTE LANDFILL,  
20 CONSTRUCTION/DEMOLITION WASTE LANDFILL, RESOURCE RECOVERY  
21 FACILITY OR COMMERCIAL RESIDUAL WASTE DISPOSAL FACILITY.

22 (C) RETURN OF APPLICATIONS.---IMMEDIATELY FOLLOWING THE  
23 EFFECTIVE DATE OF THIS ACT, THE DEPARTMENT SHALL RETURN THE  
24 FOLLOWING APPLICATIONS AND SHALL CONDUCT NO FURTHER REVIEW  
25 DURING THE PENDENCY OF THE MORATORIUM ESTABLISHED IN SUBSECTIONS  
26 (A) AND (B).

27 (1) APPLICATIONS FOR NEW MUNICIPAL WASTE LANDFILLS,  
28 CONSTRUCTION/DEMOLITION WASTE LANDFILLS, RESOURCE RECOVERY  
29 FACILITIES OR COMMERCIAL RESIDUAL WASTE DISPOSAL FACILITIES.

30 (2) APPLICATIONS FOR EXPANSIONS OF MUNICIPAL WASTE



1 LANDFILLS, CONSTRUCTION/DEMOLITION WASTE LANDFILLS OR  
2 COMMERCIAL RESIDUAL WASTE DISPOSAL FACILITIES.

3 (3) APPLICATIONS FOR PERMIT MODIFICATIONS TO INCREASE  
4 AVERAGE DAILY VOLUME OR MAXIMUM DAILY VOLUME AT MUNICIPAL  
5 WASTE LANDFILLS, CONSTRUCTION/DEMOLITION WASTE LANDFILLS,  
6 RESOURCE RECOVERY FACILITIES OR COMMERCIAL RESIDUAL WASTE  
7 DISPOSAL FACILITIES.

8 (D) MONITORING OF REMAINING CAPACITY.--DURING THE PENDENCY  
9 OF THE MORATORIUM ESTABLISHED IN THIS SECTION AND AT ALL TIMES  
10 THEREAFTER, THE DEPARTMENT SHALL MONITOR THE REMAINING CAPACITY  
11 AT ALL MUNICIPAL WASTE LANDFILLS, CONSTRUCTION/DEMOLITION WASTE  
12 LANDFILLS, RESOURCE RECOVERY FACILITIES AND COMMERCIAL RESIDUAL  
13 WASTE DISPOSAL FACILITIES. FOLLOWING THE EXPIRATION OF THE  
14 MORATORIUM, NO PERMIT MODIFICATION APPLICATION IDENTIFIED IN  
15 SUBSECTION (A) OR (B) WILL BE ACCEPTED BY THE DEPARTMENT UNTIL  
16 THE REMAINING DISPOSAL CAPACITY FOR THE FACILITY IS FIVE YEARS  
17 OR LESS. FOLLOWING THE EXPIRATION OF THE MORATORIUM, AN  
18 APPLICATION FOR A NEW FACILITY IDENTIFIED IN SUBSECTION (A) WILL  
19 NOT BE ACCEPTED IF THE DISPOSAL CAPACITY IS GREATER THAN TEN  
20 YEARS.

21 (E) EXCEPTIONS.--THIS SECTION SHALL NOT PROHIBIT THE REVIEW  
22 OR ISSUANCE OF THE FOLLOWING DURING THE PENDENCY OF THE  
23 MORATORIUM:

24 (1) A PERMIT RENEWAL OR REISSUANCE.

25 (2) A PERMIT MODIFICATION TO ALLOW THE RECEIPT OF A  
26 RESIDUAL WASTE NOT PREVIOUSLY APPROVED BY THE DEPARTMENT IN  
27 THE FACILITY'S WASTE ACCEPTANCE PLAN.

28 (3) AN OPERATIONAL MODIFICATION THAT DOES NOT AFFECT  
29 CAPACITY.

30 (4) A PERMIT AMENDMENT TO INCREASE THE CAPACITY OF A

1 FACILITY WHOSE REMAINING CAPACITY IS FIVE YEARS OR LESS TO  
2 INCREASE ITS CAPACITY TO TEN YEARS OR LESS.

3 (F) SPECIAL CIRCUMSTANCES.--

4 (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW OR THIS  
5 ACT TO THE CONTRARY, THE DEPARTMENT MAY MODIFY ANY PERMIT  
6 LISTED IN SUBSECTION (A), (B) OR (C) DURING THE PENDENCY OF  
7 THE MORATORIUM TO ALLOW INCREASED MAXIMUM OR AVERAGE DAILY  
8 WASTE VOLUMES IF THE DEPARTMENT:

9 (I) FINDS IN WRITING THAT THE MODIFICATION IS  
10 NECESSARY TO PREVENT A PUBLIC HEALTH OR ENVIRONMENTAL  
11 EMERGENCY.

12 (II) PUBLISHES NOTICE OF THE FINDING IN THE  
13 PENNSYLVANIA BULLETIN.

14 (2) ACTION UNDER THIS SUBSECTION SHALL BE TAKEN IN  
15 ACCORDANCE WITH SECTION 503(E) OF THE SOLID WASTE MANAGEMENT  
16 ACT.

17 (G) EMERGENCIES.--NOTHING IN THIS SECTION SHALL SUPERSEDE  
18 ANY OTHER AUTHORITY OF THE GOVERNOR OR THE DEPARTMENT TO ACT IN  
19 THE EVENT OF AN EMERGENCY.

20 CHAPTER 3

21 HOST MUNICIPALITY AGREEMENTS

22 SECTION 301. HOST MUNICIPALITY AGREEMENTS.

23 (a) Requirement for host municipality agreement.--

24 (1) A commercial solid waste landfill or resource  
25 recovery facility shall ~~develop~~ INITIATE THE PROCESS FOR a <—  
26 new or supplemental host municipality agreement in accordance  
27 with this section as follows:

28 (i) For a commercial solid waste landfill or  
29 resource recovery facility for which a host municipality  
30 agreement was executed prior to or on the effective date

1 of this act, except as provided in subparagraphs (ii),  
2 (iii) and (iv), a new or supplemental host municipality  
3 agreement shall be:

4 (A) executed by the owner or operator and the  
5 host municipality or municipalities on the date the  
6 existing host municipality agreement expires or five  
7 years after the effective date of this act, whichever  
8 occurs first; and

9 (B) submitted to the department for approval  
10 within 30 days of execution.

11 (ii) For a commercial solid waste landfill or  
12 resource recovery facility for which:

13 (A) no host municipality agreement has been  
14 executed as of the effective date of this act; or

15 (B) a host municipality agreement was executed  
16 on or before the effective date of this act but which  
17 agreement expires within two years of the effective  
18 date of this act,

19 a host municipality agreement shall be executed by the  
20 owner or operator and the host municipality or  
21 municipalities within two years of the effective date of  
22 this act and submitted to the department for approval  
23 within 30 days of execution. The owner or operator of  
24 such a facility shall provide notice to the host  
25 municipality or municipalities pursuant to subsection  
26 (f)(1) within 60 calendar days of the effective date of  
27 this act.

28 (iii) For any commercial solid waste landfill or  
29 resource recovery facility for which a permit under the  
30 Solid Waste Management Act, within 18 months prior to the

1 effective date of this act:

2 (A) has expired;

3 (B) has expired but has been extended beyond its  
4 expiration date; or

5 (C) has expired but has been reinstated; and  
6 for which a host municipality agreement was executed  
7 prior to the effective date of this act, a new or  
8 supplemental host municipality agreement shall be  
9 executed by the owner or operator and the host  
10 municipality or municipalities within two years of the  
11 effective date of this act and submitted to the  
12 department for approval within 30 days of execution. The  
13 owner or operator of such a facility shall provide notice  
14 to the host municipality or municipalities pursuant to  
15 subsection (f)(1) within 60 calendar days of the  
16 effective date of this act. Notwithstanding the  
17 provisions of subsection (b)(3), for any such facility,  
18 no permit or permit modification shall be issued by the  
19 department until a new or supplemental agreement has been  
20 executed in compliance with this section by the owner or  
21 operator and each host municipality, whether the  
22 application for such permit or permit modification was  
23 submitted on, before or after the effective date of this  
24 act.

25 (iv) For any commercial solid waste landfill or  
26 resource recovery facility for which a host municipality  
27 agreement was executed prior to or on the effective date  
28 of this act but which has not begun to accept solid waste  
29 as of the effective date of this act, a new or  
30 supplemental host municipality agreement shall be

1           executed by the owner or operator and the host  
2           municipality or municipalities within two years of the  
3           effective date of this act and submitted to the  
4           department for approval within 30 days of execution. The  
5           owner or operator of such a facility shall provide notice  
6           to the host municipality or municipalities pursuant to  
7           subsection (f)(1) within 60 calendar days of the  
8           effective date of this act.

9           (V) A HOST MUNICIPALITY AGREEMENT IN EFFECT ON THE           <—  
10          EFFECTIVE DATE OF THIS ACT WHICH WAS IMPLEMENTED BY A  
11          VOTE WHICH INCLUDED THE VOTE OF AN INDIVIDUAL, WHO AT THE  
12          TIME THE VOTE WAS TAKEN, HAD BEEN CONVICTED OF A FELONY,  
13          SHALL BE NULL AND VOID. IT SHALL BE PRESUMED FOR THE  
14          PURPOSES OF THIS ACT, THAT, IN SUCH A CASE, NO HOST  
15          MUNICIPALITY AGREEMENT IS CURRENTLY IN EFFECT.

16          (2) A new or supplemental host municipality agreement  
17          for each host municipality shall be executed in accordance  
18          with this section and submitted to the department for  
19          approval for any expansion modification or volume  
20          modification filed by an owner or operator of a commercial  
21          solid waste landfill or resource recovery facility after the  
22          effective date of this act unless the existing host  
23          municipality agreement contemplates and addresses the subject  
24          of the modification.

25          (3) A host municipality agreement shall be executed in  
26          accordance with this section by an owner or operator and the  
27          host municipality or municipalities and shall be submitted to  
28          the department for approval for any new commercial solid  
29          waste landfill or resource recovery facility.

30          (4) NO HOST MUNICIPALITY AGREEMENT DRAWN UP IN           <—

1 ACCORDANCE WITH THIS ACT SHALL BE FOR A TERM OF MORE THAN  
2 FIVE YEARS. ONCE THE AGREEMENT HAS EXPIRED THE SOLID WASTE  
3 LANDFILL OR RESOURCE RECOVERY FACILITY SHALL INITIATE THE  
4 PROCESS FOR A NEW HOST MUNICIPALITY AGREEMENT IN ACCORDANCE  
5 WITH THE PROVISIONS OF THIS ACT.

6 (b) Relationship to permit applications.--

7 (1) An application for a permit, volume modification or  
8 expansion modification for a commercial solid waste landfill  
9 or resource recovery facility which is submitted to the  
10 department for review after the effective date of this act  
11 shall only be accepted as administratively complete under  
12 section 512(a) of the Municipal Waste Planning, Recycling and  
13 Waste Reduction Act and the regulations promulgated  
14 thereunder if it includes written evidence that the applicant  
15 is in compliance with the requirements of this section. Such  
16 written evidence shall be contained as part of the  
17 application and shall include evidence that a host  
18 municipality agreement that complies with this section is in  
19 effect or proof of written notice to the host municipality or  
20 municipalities pursuant to subsection (f)(1).

21 (2) The department's processing and review of a permit  
22 application shall proceed concurrently with the period of  
23 negotiation,~~mediation and arbitration~~ AND MEDIATION of the <—  
24 host municipality agreement. Negotiation,~~mediation and~~ <—  
25 ~~arbitration~~ AND MEDIATION of a host municipality agreement <—  
26 also may proceed prior to the submission of a permit or major  
27 permit modification application to the department.

28 (3) An application for a permit, volume modification or  
29 expansion modification for a commercial solid waste landfill  
30 or resource recovery facility which is submitted to the

1 department for review after the effective date of this act  
2 shall be issued by the department only if a host municipality  
3 agreement that complies with this section has been executed  
4 by the applicant and each host municipality. ~~For any~~ ←  
5 ~~application which was submitted to the department on or~~  
6 ~~before the effective date of this act, the department shall~~  
7 ~~not withhold issuance of the permit or permit modification~~  
8 ~~provided the applicant executed a host municipality agreement~~  
9 ~~prior to the effective date of this act or the applicant~~  
10 ~~provided notice to the host municipality or municipalities~~  
11 ~~pursuant to subsection (f)(1) and is proceeding with the~~  
12 ~~requirements of this section to execute a host municipality~~  
13 ~~agreement.~~

14 (4) FOR ANY APPLICATION WHICH WAS SUBMITTED TO THE ←  
15 DEPARTMENT ON OR BEFORE THE EFFECTIVE DATE OF THIS ACT, THE  
16 DEPARTMENT SHALL NOT ISSUE THE PERMIT OR PERMIT MODIFICATION  
17 UNTIL AN EXECUTED HOST MUNICIPALITY AGREEMENT HAS BEEN  
18 SUBMITTED TO THE DEPARTMENT.

19 (c) Public notice and public involvement requirements.--

20 (1) Within 30 calendar days from the date of receipt of  
21 a written notice of intent to develop a host municipality  
22 agreement pursuant to subsection (f)(1), each host  
23 municipality shall publish notice that discussions for  
24 developing a host municipality agreement with the commercial  
25 solid waste landfill or resource recovery facility have  
26 begun. The notice also shall describe the public involvement  
27 process that the host municipality will use to develop the  
28 agreement. The notice shall be published once a week for ←  
29 ~~three consecutive weeks~~ in a newspaper of general circulation  
30 in the area MUNICIPALITY where the facility or proposed ←

1 facility is located. The public involvement process shall  
2 include the following:

3 (i) ~~A~~ THE HOST MUNICIPALITY SHALL HOLD A special <—  
4 public hearing at which a ~~draft~~ PROPOSED HOST <—  
5 MUNICIPALITY agreement is presented to the public and at  
6 which the public is provided an opportunity to provide  
7 oral and written testimony. ~~The hearing shall be~~ <—  
8 ~~scheduled by the host municipality with a minimum of 30~~  
9 ~~calendar days' public notice prior to the hearing date.~~  
10 NOTICE OF THE HEARING SHALL BE PUBLISHED IN A NEWSPAPER <—  
11 OF GENERAL CIRCULATION IN THE MUNICIPALITY NOT LESS THAN  
12 TEN DAYS NOR MORE THAN 30 DAYS PRIOR TO THE HEARING. A  
13 public comment period of no less than 30 calendar days  
14 shall be provided after the public hearing to accept  
15 written comments on the ~~draft~~ PROPOSED HOST MUNICIPALITY <—  
16 agreement.

17 (ii) ~~A~~ THE HOST MUNICIPALITY SHALL HOLD A special <—  
18 public meeting at which revisions to the ~~draft~~ PROPOSED <—  
19 HOST MUNICIPALITY agreement are presented to the public  
20 by the municipality, including changes to the ~~draft~~ <—  
21 PROPOSED HOST MUNICIPALITY agreement that were adopted <—  
22 after the public hearing and public comment period. The  
23 public shall be provided a reasonable opportunity to ask  
24 questions to the host municipality on the host  
25 municipality agreement and to provide public comment. ~~The~~ <—  
26 ~~meeting shall be scheduled by the host municipality with~~  
27 ~~a minimum of 30 calendar days' public notice prior to the~~  
28 ~~meeting date.~~ NOTICE OF THE HEARING SHALL BE PUBLISHED IN <—  
29 A NEWSPAPER OF GENERAL CIRCULATION IN THE MUNICIPALITY  
30 NOT LESS THAN TEN DAYS NOR MORE THAN 30 DAYS PRIOR TO THE



1 HEARING.

2 (iii) The host municipality shall publish the  
3 decision on adopting or rejecting the final agreement  
4 within 30 calendar days of acting.

5 (2) The public involvement process may contain  
6 additional public notice in a manner determined by the  
7 municipality to best inform the residents of the host  
8 municipality.

9 (d) Contents of agreement.--

10 (1) A host municipality agreement agreed to and executed  
11 by the parties pursuant to the negotiation and mediation  
12 process shall address the following:

13 (i) The nature of the proposed facility.

14 (ii) The site of the proposed facility or expansion  
15 of the existing facility.

16 (iii) Measures to alleviate local issues, such as  
17 haul routes, traffic problems, litter, odors, noise, dust  
18 and any other ~~nuisances~~ THREATS TO PUBLIC HEALTH AND ←  
19 SAFETY that might result from the operation of the  
20 facility. Such local issues shall be identified by the  
21 host municipality during negotiation of the host  
22 municipality agreement.

23 (iv) The host benefit fee to be paid by the owner or  
24 operator of the facility to the host municipality, which  
25 fee shall not be less than the statutory minimum fee  
26 established under the Municipal Waste Planning, Recycling  
27 and Waste Reduction Act and any other financial and in-  
28 kind contributions.

29 (v) The maximum and daily average waste volume to be  
30 received at the facility.

1 (vi) The days and hours of operation of the  
2 facility.

3 (vii) The availability of capacity at the facility  
4 for the disposal of solid waste generated within the host  
5 municipality.

6 (viii) Activities to promote recycling, waste  
7 reduction and the proper management and disposal of solid  
8 waste generated within the host municipality.

9 (ix) The process for resolution in a cooperative and  
10 nonbinding manner of complaints and other grievances  
11 concerning the construction and operation of the  
12 facility.

13 (x) Provision for access to the facility and its  
14 records by the host municipality inspector.

15 (2) A host municipality agreement agreed to and executed  
16 by the parties pursuant to the negotiation and mediation  
17 process may address the following:

18 (i) The geographic origin of solid waste disposed at  
19 the facility and the amount of solid waste accepted for  
20 disposal based upon the geographic origin of the solid  
21 waste.

22 (ii) Any applicable zoning or land development  
23 requirements or approvals pursuant to the provisions of  
24 the Municipalities Planning Code and implementing  
25 ordinances.

26 (iii) Any other terms or conditions to which the  
27 parties agree should be included in the agreement.

28 ~~(3) The host municipality agreement may not address the~~ <—  
29 ~~specifications or requirements for cover and revegetation,~~  
30 ~~storm water management, water quality protection and~~

1 ~~monitoring, liners and leachate management or gas management.~~

2 (3) THE HOST MUNICIPALITY AGREEMENT SHALL CONTAIN A <—  
3 PROVISION STATING THAT IF CONGRESS ENACTS A LAW THAT PLACES  
4 RESTRICTIONS ON OUT-OF-STATE WASTE, THE HOST MUNICIPALITY MAY  
5 RENEGOTIATE ITS HOST MUNICIPALITY AGREEMENT IN REGARD TO OUT-  
6 OF-STATE WASTE.

7 (e) Department review of host municipality agreements.--

8 (1) For all host municipality agreements submitted to  
9 the department for approval under this section, the  
10 department shall review each executed host municipality  
11 agreement to ensure that the agreement addresses the  
12 requirements of subsection (d)(1) or that an agreement has  
13 been executed as a result of ~~binding arbitration pursuant to~~ <—  
14 ~~subsection (f)(7), whichever is applicable~~ NEGOTIATION, and <—  
15 also to ensure that there has been compliance with the public  
16 notice and public comment requirements of subsection (c).

17 (2) The department shall review the terms and conditions  
18 of the host municipality agreement that address subsection  
19 (d)(1)(iii), (v), (vi), (vii) and (viii) to ensure the terms  
20 and conditions of the host municipality agreement are not in  
21 conflict with the terms and conditions of the existing or  
22 proposed permit and applicable regulations. Where the  
23 department determines there is a conflict between the terms  
24 and conditions of the host municipality agreement and the  
25 terms and conditions of the regulations or existing or  
26 proposed permit, the more stringent or restrictive  
27 requirement or condition AS DETERMINED BY THE DEPARTMENT <—  
28 shall apply. IN MAKING ITS DETERMINATION, THE DEPARTMENT <—  
29 SHALL CONSIDER ANY COMMENTS SUBMITTED BY ANY AFFECTED OR  
30 POTENTIALLY AFFECTED PARTY. The department shall modify the

1 permit to incorporate any such term or condition, including  
2 any term or condition that is not addressed in the proposed  
3 or existing permit.

4 (f) Process for negotiation and dispute resolution.--

5 (1) The owner or operator of a commercial solid waste  
6 landfill or resource recovery facility shall provide written  
7 notice to each host municipality of its intent to develop a  
8 host municipality agreement pursuant to the requirements of  
9 this section. For a maximum period of 180 calendar days from  
10 the date of receipt of the written notice of intent to  
11 develop a host municipality agreement, the owner or operator  
12 of the commercial solid waste landfill or resource recovery  
13 facility and the host municipality or municipalities shall  
14 engage in good faith negotiations to arrive at a host  
15 municipality agreement.

16 (2) (i) If the parties are unable to reach an agreement  
17 on all of the required terms and provisions of a host  
18 municipality agreement, the parties shall engage in good  
19 faith mediation, with a neutral mediator to be mutually  
20 agreed upon and selected by the parties, for a period of  
21 no more than 90 calendar days from the end of the  
22 negotiation period with regard to the terms and  
23 provisions on which an agreement cannot be reached.

24 (ii) The mediator shall act as a facilitator and  
25 shall not have the ability or authority to legally bind  
26 either party.

27 (iii) The costs of the mediator shall be borne  
28 equally by the parties. If the parties cannot agree upon  
29 a mediator within 20 calendar days after the expiration  
30 of the negotiation period, the mediation period shall

1 immediately terminate.

2 ~~(3) If a host municipality agreement is not executed~~ <—  
3 ~~within the combined negotiation period and mediation period,~~  
4 ~~then the parties shall set forth in writing to each other,~~  
5 ~~within 20 calendar days of the expiration or termination of~~  
6 ~~the mediation period, the issues, terms and provisions on~~  
7 ~~which agreement has been reached and the issues, terms and~~  
8 ~~provisions that remain in dispute, and the disputed issues~~  
9 ~~shall be submitted for binding arbitration.~~

10 ~~(4) The arbitration shall be heard by an arbitration~~  
11 ~~board to consist of three persons: one appointed by the~~  
12 ~~municipality, one appointed by the owner or operator of the~~  
13 ~~facility and one to be agreed upon by the municipality and~~  
14 ~~the owner or operator of the facility. The arbitration board~~  
15 ~~members selected individually by the municipality and the~~  
16 ~~owner or operator shall be named within 30 calendar days from~~  
17 ~~the date of the parties' exchange of written statements of~~  
18 ~~issues in dispute. The remaining arbitrator shall be mutually~~  
19 ~~selected by the parties within 15 calendar days after the~~  
20 ~~appointment of the two arbitrators by the municipality and~~  
21 ~~the owner or operator.~~

22 ~~(5) If the third arbitrator cannot be agreed upon by the~~  
23 ~~parties within the prescribed time period, then the selected~~  
24 ~~arbitrators shall request the American Arbitration~~  
25 ~~Association or any successor in function to furnish a list of~~  
26 ~~three members of said association who are residents of this~~  
27 ~~Commonwealth from which the third arbitrator shall be~~  
28 ~~selected by the selected arbitrators. The arbitrator~~  
29 ~~appointed by the owner or operator shall eliminate one of the~~  
30 ~~three suggested arbitrators within ten calendar days of~~

1 ~~receipt of the recommendations and, thereafter, the~~  
2 ~~arbitrator appointed by the municipality shall eliminate one~~  
3 ~~of the three suggested arbitrators within ten calendar days~~  
4 ~~thereafter. The individual whose name remains on the list~~  
5 ~~shall be the third arbitrator and shall act as the chairman~~  
6 ~~of the board of arbitration.~~

7 ~~(6) The board of arbitration shall commence arbitration~~  
8 ~~proceedings within 60 calendar days after the date of~~  
9 ~~appointment of the final board member and shall conclude the~~  
10 ~~arbitration proceedings within 120 calendar days after the~~  
11 ~~date the third arbitrator is selected. The board of~~  
12 ~~arbitrators shall render its determination on all issues~~  
13 ~~before it within 30 calendar days after the conclusion of the~~  
14 ~~arbitration proceedings.~~

15 ~~(7) The determination of the board of arbitration shall~~  
16 ~~be final and binding on the parties and, together with the~~  
17 ~~issues, terms and provisions mutually agreed to by the~~  
18 ~~parties during the exchange of mutual statements, shall~~  
19 ~~constitute the host municipality agreement, and each party~~  
20 ~~shall execute the agreement.~~

21 ~~(8) The final determination of the board of arbitration~~  
22 ~~may be appealed only in accordance with and subject to 42~~  
23 ~~Pa.C.S. §§ 7314 (relating to vacating award by court) and~~  
24 ~~7315 (relating to modification or correction of award by~~  
25 ~~court).~~

26 ~~(9) Each party shall bear the costs of the arbitrator~~  
27 ~~selected by that party and the costs of presenting the~~  
28 ~~party's position to the board of arbitration. The parties~~  
29 ~~shall bear equally the costs of the third arbitrator and all~~  
30 ~~other costs of arbitration.~~

1           ~~(10) In reaching its decision, the board of arbitration~~  
2 ~~shall consider the following factors:~~

3           ~~(i) The effect of the commercial solid waste~~  
4 ~~landfill or resource recovery facility on surrounding~~  
5 ~~land uses and the community.~~

6           ~~(ii) The effect of the commercial solid waste~~  
7 ~~landfill or resource recovery facility traffic on use and~~  
8 ~~safety of local roads and the existence of alternative~~  
9 ~~routes to the landfill.~~

10           ~~(iii) Measures to be taken by the commercial solid~~  
11 ~~waste landfill or resource recovery facility to mitigate~~  
12 ~~its effects on surrounding uses and the community and, in~~  
13 ~~the case of existing facilities, any past mitigation~~  
14 ~~measures.~~

15           ~~(iv) Needs of the host municipality for commercial~~  
16 ~~solid waste landfill or resource recovery facility~~  
17 ~~capacity, the cost to the landfill to reserve capacity,~~  
18 ~~the nature of local waste and limitations on the ability~~  
19 ~~of the landfill to accept that waste.~~

20           ~~(v) The extent to which the issues raised by the~~  
21 ~~host municipality are addressed by existing regulations~~  
22 ~~or guidance of the department, other applicable law or~~  
23 ~~the conditions of a permit, if any.~~

24           ~~(xi) The burden on the owner or operator to~~  
25 ~~administer any matter requested by the host municipality,~~  
26 ~~including the burden of undertaking activities to promote~~  
27 ~~recycling, waste reduction and waste management in the~~  
28 ~~host municipality.~~

29           ~~(11) Only the following components of the host~~  
30 ~~municipality agreement shall be subject to determination by~~

1 ~~the board of arbitration:~~

2 ~~(i) Measures to alleviate local issues such as haul~~  
3 ~~routes, traffic problems, litter, odors, noise, dust and~~  
4 ~~any other nuisances that might result from the operation~~  
5 ~~of the facility.~~

6 ~~(ii) The host benefit fee to be paid by the owner or~~  
7 ~~operator of the facility to the host municipality. The~~  
8 ~~fee determined by the board of arbitration shall not be~~  
9 ~~less than the statutory minimum fee established under the~~  
10 ~~Municipal Waste Planning, Recycling and Waste Reduction~~  
11 ~~Act and shall not exceed 125% of the average fee paid by~~  
12 ~~similar facilities within the same geographical region,~~  
13 ~~taking into consideration the size and nature of the~~  
14 ~~facility. For purposes of this subparagraph, the term~~  
15 ~~"same geographical region" means the area defined by a~~  
16 ~~circle drawn around the facility in question with a~~  
17 ~~radius of 75 miles.~~

18 ~~(iii) The days and hours of operation of the~~  
19 ~~facility.~~

20 ~~(iv) The availability of capacity at the facility~~  
21 ~~for the disposal of solid waste generated within the host~~  
22 ~~municipality.~~

23 ~~(v) Activities to promote recycling, waste reduction~~  
24 ~~and the proper management and disposal of solid waste~~  
25 ~~within the host municipality.~~

26 ~~(vi) The process for resolution in a cooperative and~~  
27 ~~nonbinding manner of complaints and other grievances~~  
28 ~~concerning the construction and operation of the~~  
29 ~~facility.~~

30 ~~(12) The parties at any time during the negotiation or~~



1 ~~mediation periods may by mutual written consent agree to~~  
2 ~~terminate negotiations and proceed directly to arbitration.~~

3 ~~(g) Enforcement. The terms of a host municipality agreement~~

4 (G) ENFORCEMENT OF HOST MUNICIPALITY AGREEMENT.-- <—

5 (1) THE TERMS OF A HOST MUNICIPALITY AGREEMENT shall be  
6 enforceable by the parties to the agreement. The courts of  
7 common pleas are hereby given jurisdiction over disputes  
8 between the host municipality and the facility owner or  
9 operator regarding the implementation or enforcement of a  
10 host municipality agreement.

11 (2) A HOST MUNICIPALITY WHICH IS SUCCESSFUL IN AN ACTION <—  
12 BROUGHT UNDER THIS SUBSECTION TO ENFORCE AN AGREEMENT  
13 INVOLVING A FACILITY OWNER OR OPERATOR SHALL BE AWARDED  
14 REASONABLE ATTORNEY FEES AND COSTS OF LITIGATION.

15 (h) Reimbursement of host municipality costs.--At the  
16 request of a host municipality, the department ~~may~~ SHALL <—  
17 reimburse the host municipality for costs incurred in  
18 ~~negotiating, mediating and arbitrating~~ AND MEDIATING a host <—  
19 municipality agreement under this section. Costs covered shall  
20 be limited to costs incurred for professional fees for lawyers,  
21 mediators, ~~arbitrators,~~ engineers and other professionals used <—  
22 in the efforts to reach an agreement. Any reimbursement shall be  
23 provided from funds in the recycling fund established by section  
24 706 of the Municipal Waste Planning, Recycling and Waste  
25 Reduction Act or in the Solid Waste Abatement Fund established  
26 under section 701 of the Solid Waste Management Act, upon  
27 approval by the Governor. Reimbursement shall not exceed \$50,000  
28 for each host municipality agreement. The combined total  
29 reimbursement from the two funds shall not exceed \$750,000  
30 annually or \$2,500,000 over a five-year period from the

1 effective date of this act.

2 (i) Relationship to other laws.--

3 (1) ~~The TO THE EXTENT THE~~ terms of a host municipality ~~agreement shall supersede and replace~~ DIFFER FROM any ~~existing ordinance adopted pursuant to section 304(b) of the~~ ~~Municipal Waste Planning, Recycling and Waste Reduction Act~~ ~~and concerning:~~ <—

8 (i) the hours and days during which vehicles may  
9 deliver waste to the commercial solid waste facility or  
10 resource recovery facility; or

11 (ii) the routing of traffic to and from the  
12 commercial solid waste landfill or resource recovery  
13 facility,

14 ~~to the extent the ordinance is inconsistent or in conflict~~ <—  
15 ~~with the terms of the host municipality agreement.~~ THE HOST <—  
16 MUNICIPALITY SHALL AMEND THE ORDINANCE TO COMPLY WITH THE  
17 AGREEMENT WITHIN 90 DAYS OF THE ADOPTION OF THE HOST  
18 MUNICIPALITY AGREEMENT.

19 (2) Host municipality agreements shall be executed by  
20 the parties in the manner provided for in this act and shall  
21 not be subject to competitive bidding or other competitive  
22 procurement requirements.

23 (3) The provisions of section 1305 of the Municipal  
24 Waste Planning, Recycling and Waste Reduction Act shall be  
25 applicable to any host benefit fee set forth in any host  
26 municipality agreement executed pursuant to this act.

27 (4) EXCEPT AS REQUIRED BY THIS SECTION, THE DISCUSSIONS <—  
28 FOR DEVELOPING A HOST MUNICIPALITY AGREEMENT SHALL NOT BE  
29 SUBJECT TO THE REQUIREMENTS OF 65 PA.C.S. CH. 7 (RELATING TO  
30 OPEN MEETINGS).

1 Section 6 302. Transportation authorization and traffic safety. <—

2 (a) General rule.--It shall be unlawful for a transporter to  
3 transport solid waste to a municipal waste processing or  
4 disposal facility located in this Commonwealth in a towing  
5 vehicle and semitrailer combination with a fifth wheel hookup  
6 unless the transporter meets the requirements of this section.

7 (b) ~~Registration~~ AUTHORIZATION fee.-- <—

8 (1) A transporter shall submit an annual ~~registration~~ <—  
9 AUTHORIZATION application on a form prescribed by the <—  
10 department and shall pay to the department an annual  
11 ~~registration~~ AUTHORIZATION fee for each semitrailer used in a <—  
12 towing vehicle and semitrailer combination subject to this  
13 section.

14 (2) The annual ~~registration~~ AUTHORIZATION fee shall be <—  
15 \$100 for each semitrailer used in a towing vehicle and  
16 semitrailer combination subject to this section.

17 (c) ~~Authorization~~ TRANSPORTATION AUTHORIZATION.--Within 30 <—  
18 calendar days of receipt of the ~~registration~~ AUTHORIZATION fee, <—  
19 the department shall issue a written authorization for the  
20 semitrailer to be used to transport solid waste.

21 (d) Stickers.--For each written authorization issued, the  
22 department shall provide the transporter with two stickers for  
23 each semitrailer indicating the authorization number and  
24 authorization expiration date for the semitrailer. The stickers  
25 shall be displayed prominently on the left front bulkhead and  
26 back of the semitrailer used to transport solid waste.

27 (e) Duration.--Written authorization shall be effective for  
28 one year after issuance.

29 ~~(f) Regulations. Subject to subsection (1)(3), the~~ <—  
30 ~~department shall promulgate regulations implementing this~~

1 (F) REGULATIONS.--

<—

2 (1) THE DEPARTMENT SHALL PROMULGATE REGULATIONS  
3 IMPLEMENTING THIS section no later than one year after the  
4 effective date of this act.

5 (2) THE REGULATIONS IN PARAGRAPH (1) MAY INCLUDE A  
6 REVISION OF THE ANNUAL AUTHORIZATION FEE UNDER SUBSECTION  
7 (B)(2) FOR EACH SEMITRAILER. THE AMOUNT OF THE ANNUAL  
8 AUTHORIZATION FEE SHALL BE SUFFICIENT TO COVER THE ACTUAL  
9 COSTS OF THE COMMONWEALTH IN IMPLEMENTING AND ENFORCING THIS  
10 SECTION.

<—

11 (g) Failure to comply.--In carrying out the provisions of  
12 this section, the department may deny, suspend, modify or revoke  
13 any written authorization if it finds that any of the following  
14 has occurred:

15 (1) The transporter or its agent has failed and  
16 continues to fail to comply with:

17 (i) any provision of this act;

18 (ii) the Solid Waste Management Act;

19 (iii) the Municipal Waste Planning, Recycling and  
20 Waste Reduction Act;

21 (iv) any other Federal or State statute relating to  
22 environmental protection or to the protection of the  
23 public health, safety and welfare;

24 (v) any rule, regulation or order of the department;

25 or

26 (vi) any condition of any permit, license or other  
27 written authorization issued by the department.

28 (2) The transporter has shown a lack of ability or  
29 intention to comply with:

30 (i) any provision of this act;

1 (ii) any of the acts referred to in paragraph (1);

2 (iii) any rule, regulation or order of the  
3 department; or

4 (iv) any condition of any permit or license issued  
5 by the department, as indicated by past or continuing  
6 violations. In the case of a corporate transporter, the  
7 department may deny the issuance of a written  
8 authorization if the department finds that a principal of  
9 the corporation was a principal of another corporation  
10 that committed past violations of this act.

11 (h) Penalty.--

12 (1) A person who violates subsection (a) commits a  
13 misdemeanor of the third degree and shall, upon conviction  
14 for the first offense, be sentenced to pay a fine of not less  
15 than \$5,000 nor more than \$10,000.

16 (2) Upon a second or subsequent violation of subsection  
17 (a), a person commits a misdemeanor of the second degree and  
18 shall be sentenced to pay a fine of not less than \$10,000 nor  
19 more than \$25,000, and the court may order the operating  
20 privilege of the transporter to be suspended for a period of  
21 up to one year, or both.

22 (i) Fees, fines and penalties to be paid into the Solid  
23 Waste Abatement Fund.--All written authorization fees, fines and  
24 penalties collected under this section shall be paid into a  
25 restricted account within the Solid Waste Abatement Fund  
26 established under section 701 of the Solid Waste Management Act.  
27 The fees, fines and penalties also may be used to implement the  
28 written authorization program and to support efforts to inspect  
29 vehicles used to transport solid waste.

30 (j) Forfeiture.--A towing vehicle and semitrailer used in

1 commission of an offense under ~~this section~~ SUBSECTION (A) shall ←  
2 be deemed contraband and may be forfeited to the department. The  
3 provisions of law relating to seizure, summary and judicial  
4 forfeiture and condemnation of intoxicating liquor shall apply  
5 to seizures and forfeitures under this section. Proceeds from  
6 the sale of forfeited TOWING VEHICLES AND semitrailers shall be ←  
7 deposited in a restricted account within the Solid Waste  
8 Abatement Fund established under section 701 of the Solid Waste  
9 Management Act. The funds shall be used to implement the written  
10 authorization program and to support efforts to inspect vehicles  
11 used to transport solid waste.

12 ~~(k) Traffic impact studies for certain facilities.~~ ←

13 ~~(1) If the entrance to a commercial solid waste~~  
14 ~~landfill, resource recovery facility or a commercial solid~~  
15 ~~waste landfill or resource recovery facility for which a~~  
16 ~~permit, permit reissuance or major permit modification is~~  
17 ~~sought, is not within 15 driving miles from a four lane,~~  
18 ~~divided highway as measured by the approved approach routes~~  
19 ~~to the facility, then the Department of Transportation shall~~  
20 ~~prepare a traffic impact study and submit the results of such~~  
21 ~~study to the department within 240 calendar days of the~~  
22 ~~effective date of this act.~~

23 (K) TRAFFIC IMPACT STUDIES FOR FACILITIES.-- ←

24 (1) THE DEPARTMENT OF TRANSPORTATION SHALL PREPARE A  
25 TRAFFIC IMPACT STUDY FOR ALL COMMERCIAL SOLID WASTE  
26 LANDFILLS, RESOURCE RECOVERY FACILITIES OR COMMERCIAL SOLID  
27 WASTE LANDFILLS OR RESOURCE RECOVERY FACILITIES FOR WHICH A  
28 PERMIT, PERMIT REISSUANCE OR MAJOR PERMIT MODIFICATION IS  
29 SOUGHT. THE DEPARTMENT OF TRANSPORTATION SHALL SUBMIT THE  
30 RESULTS OF SUCH STUDY TO THE DEPARTMENT WITHIN 240 CALENDAR

1 DAYS OF THE EFFECTIVE DATE OF THIS SUBSECTION.

2 (2) In the department's review of such study, the impact  
3 of traffic and transportation to the existing or proposed  
4 facility shall be deemed a significant harm subject to  
5 heightened scrutiny by the department and which harm may only  
6 be overcome if the permittee, in the case of an existing  
7 facility, or applicant, in the case of a pending application,  
8 can demonstrate that the benefits of the project to the  
9 public clearly outweigh all of the known and potential harms.

10 ~~(1) Transporter compliance study and report.~~ ←

11 ~~(1) Within 24 months from the effective date of this~~  
12 ~~act, the department shall complete a study of transporter~~  
13 ~~compliance. The study shall include one motor vehicle~~  
14 ~~compliance inspection at or in close proximity to the site of~~  
15 ~~each commercial solid waste landfill and each resource~~  
16 ~~recovery facility in the Commonwealth during each of the two~~  
17 ~~calendar years following the effective date of this act. As a~~  
18 ~~part of each inspection, the department shall determine~~  
19 ~~compliance with the requirements of the Solid Waste~~  
20 ~~Management Act, the Municipal Waste Planning, Recycling and~~  
21 ~~Waste Reduction Act, vehicle safety requirements and weight~~  
22 ~~requirements by each vehicle delivering solid waste to a~~  
23 ~~commercial solid waste landfill or resource recovery facility~~  
24 ~~during the working day.~~

25 ~~(2) Within 30 months from the effective date of this~~  
26 ~~act, the department shall report the results of the~~  
27 ~~transporter compliance study to the General Assembly. The~~  
28 ~~report shall provide numerical and statistical information~~  
29 ~~for each inspection in sufficient detail to identify and~~  
30 ~~quantify the violations found. For safety related violations,~~

1 ~~the report shall provide numerical and statistical~~  
2 ~~information identifying and quantifying the class of vehicle,~~  
3 ~~the driver violations and identifying and quantifying the~~  
4 ~~specific mechanical systems involved in vehicle violations.~~  
5 ~~The report also shall detail the annual registration fees~~  
6 ~~collected and fines and penalties imposed and collected, and~~  
7 ~~the direct and indirect costs to implement the annual~~  
8 ~~registration program and inspection program.~~

9 ~~(3) Upon the completion of study and submission of the~~  
10 ~~report to the General Assembly, the department shall have the~~  
11 ~~power and duty to promulgate regulations to require the~~  
12 ~~payment of an annual registration fee for each semitrailer~~  
13 ~~used in a towing vehicle and semitrailer combination subject~~  
14 ~~to this section. The amount of the annual registration fee~~  
15 ~~shall be sufficient to cover the actual costs of the~~  
16 ~~department in implementing and enforcing this section.~~

17 ~~Section 7. Enforcement.~~

18 CHAPTER 5

19 MUNICIPAL ENHANCEMENT CONSIDERATION FEES

20 SECTION 501. MUNICIPAL ENHANCEMENT CONSIDERATION FEE.

21 (A) ESTABLISHMENT.--A MUNICIPAL ENHANCEMENT CONSIDERATION  
22 FEE IS IMPOSED FOR EACH TON OF SOLID WASTE THAT IS DISPOSED OF  
23 AT A MUNICIPAL WASTE LANDFILL AND RESOURCE RECOVERY FACILITY.  
24 THE OPERATOR OF THE LANDFILL OR FACILITY SHALL PAY SUCH FEE.

25 (B) AMOUNT OF FEE.--

26 (1) THE FEE AUTHORIZED BY THIS SECTION SHALL BE EQUAL TO  
27 \$10 PER TON, SUBJECT TO INCREMENTAL INCREASES OF \$10 WHEN THE  
28 TARGET CONDITION SET FORTH IN PARAGRAPH (2) IS EXCEEDED AND  
29 INCREMENTAL DECREASES OF \$10 WHEN THE TARGET CONDITION IS NOT  
30 EXCEEDED. THE DEPARTMENT SHALL HAVE THE DISCRETION TO



1 DETERMINE THE AMOUNT OF THE INCREMENTAL INCREASE OR DECREASE  
2 IN FEE IN A GIVEN CASE. IN NO EVENT SHALL THE FEE EXCEED \$70  
3 PER TON OR BE INCREASED IN MORE THAN THREE CONSECUTIVE SIX-  
4 MONTH PERIODS.

5 (2) THE TARGET CONDITION SHALL REPRESENT THE DIFFERENCE  
6 BETWEEN THE TOTAL TRASH TARGET AND THE AGGREGATE AMOUNT OF  
7 SOLID WASTE DEPOSITED IN A SIX-MONTH PERIOD EXPRESSED IN  
8 TONS. FOR PURPOSES OF THIS PARAGRAPH, "TOTAL TRASH TARGET"  
9 MEANS AN AMOUNT EQUAL TO EITHER THE NUMBER OF RESIDENTS IN  
10 THIS COMMONWEALTH OR 12,000,000, WHICHEVER IS LESS.

11 (C) ALTERNATIVE CALCULATION.--THE MUNICIPAL ENHANCEMENT  
12 CONSIDERATION FEE FOR AN OPERATOR OF A MUNICIPAL WASTE LANDFILL  
13 AND RESOURCE RECOVERY FACILITY THAT DOES NOT WEIGH SOLID WASTE  
14 WHEN IT IS RECEIVED SHALL BE CALCULATED AS IF THREE CUBIC YARDS  
15 WERE EQUAL TO ONE TON OF SOLID WASTE.

16 (D) WASTE WEIGHT REQUIREMENT.--ON AND AFTER JANUARY 1, 2002,  
17 EACH OPERATOR OF A MUNICIPAL WASTE LANDFILL AND RESOURCE  
18 RECOVERY FACILITY THAT HAS RECEIVED 30,000 OR MORE CUBIC YARDS  
19 OF SOLID WASTE IN THE PREVIOUS CALENDAR YEAR SHALL WEIGH ALL  
20 SOLID WASTE WHEN IT IS RECEIVED. THE SCALE USED TO WEIGH SOLID  
21 WASTE SHALL CONFORM TO THE REQUIREMENTS OF 3 PA.C.S. CH. 41  
22 (RELATING TO WEIGHTS AND MEASURES), AND THE REGULATIONS  
23 PROMULGATED PURSUANT THERETO. THE OPERATOR OF THE SCALE SHALL BE  
24 A LICENSED PUBLIC WEIGHMASTER UNDER 3 PA.C.S. CH. 41 AND THE  
25 REGULATIONS PROMULGATED PURSUANT THERETO.

26 SECTION 502. FORM AND TIMING OF MUNICIPAL ENHANCEMENT  
27 CONSIDERATION FEE PAYMENT.

28 (A) QUARTERLY PAYMENTS.--EACH OPERATOR OF A MUNICIPAL WASTE  
29 LANDFILL AND RESOURCE RECOVERY FACILITY SHALL MAKE THE MUNICIPAL  
30 ENHANCEMENT CONSIDERATION FEE PAYMENT QUARTERLY. THE FEE SHALL

1 BE PAID ON OR BEFORE THE 20TH DAY OF APRIL, JULY, OCTOBER AND  
2 JANUARY FOR THE THREE MONTHS ENDING THE LAST DAY OF MARCH, JUNE,  
3 SEPTEMBER AND DECEMBER.

4 (B) QUARTERLY REPORTS.--EACH MUNICIPAL ENHANCEMENT  
5 CONSIDERATION FEE PAYMENT SHALL BE ACCOMPANIED BY A FORM  
6 PREPARED AND FURNISHED BY THE DEPARTMENT AND COMPLETED BY THE  
7 OPERATOR. THE FORM SHALL STATE THE TOTAL WEIGHT OR VOLUME OF  
8 SOLID WASTE RECEIVED BY THE FACILITY DURING THE PAYMENT PERIOD  
9 AND PROVIDE ANY OTHER AGGREGATE INFORMATION DEEMED NECESSARY BY  
10 THE DEPARTMENT TO CARRY OUT THE PURPOSES OF THIS CHAPTER. THE  
11 OPERATOR SHALL SIGN THE FORM.

12 (C) TIMELINESS OF PAYMENT.--THE OPERATOR SHALL BE DEEMED TO  
13 HAVE MADE A TIMELY PAYMENT OF THE MUNICIPAL ENHANCEMENT  
14 CONSIDERATION FEE IF THE OPERATOR COMPLIES WITH ALL OF THE  
15 FOLLOWING:

16 (1) THE ENCLOSED PAYMENT IS FOR THE FULL AMOUNT OWED  
17 PURSUANT TO THIS SECTION AND NO FURTHER DEPARTMENTAL ACTION  
18 IS REQUIRED FOR COLLECTION.

19 (2) THE REQUIRED FORM ACCOMPANIES THE PAYMENT, AND SUCH  
20 FORM IS COMPLETE AND ACCURATE.

21 (3) THE LETTER TRANSMITTING THE PAYMENT THAT IS RECEIVED  
22 BY THE DEPARTMENT IS POSTMARKED BY THE UNITED STATES POSTAL  
23 SERVICE ON OR PRIOR TO THE FINAL DAY ON WHICH THE PAYMENT IS  
24 TO BE RECEIVED.

25 (D) DISCOUNT.--ANY OPERATOR THAT MAKES A TIMELY PAYMENT OF  
26 THE MUNICIPAL ENHANCEMENT CONSIDERATION FEE AS PROVIDED IN THIS  
27 SECTION SHALL BE ENTITLED TO CREDIT AND APPLY AGAINST THE FEE  
28 PAYABLE A DISCOUNT OF 1% OF THE AMOUNT OF THE FEE COLLECTED.

29 (E) REFUNDS.--

30 (1) ANY OPERATOR WHO BELIEVES HE HAS OVERPAID THE

1 MUNICIPAL ENHANCEMENT CONSIDERATION FEE MAY FILE A PETITION  
2 FOR REFUND TO THE DEPARTMENT. IF THE DEPARTMENT DETERMINES  
3 THAT THE OPERATOR HAS OVERPAID THE FEE, THE DEPARTMENT SHALL  
4 REFUND TO THE OPERATOR THE AMOUNT DUE HIM, TOGETHER WITH  
5 INTEREST AT A RATE ESTABLISHED PURSUANT TO SECTION 806.1 OF  
6 THE ACT OF APRIL 9, 1929 (P.L.343, NO.176), KNOWN AS THE  
7 FISCAL CODE, FROM THE DATE OF OVERPAYMENT.

8 (2) NO REFUND OF THE MUNICIPAL ENHANCEMENT CONSIDERATION  
9 FEE SHALL BE MADE UNLESS THE PETITION FOR THE REFUND IS FILED  
10 WITH THE DEPARTMENT WITHIN SIX MONTHS OF THE DATE OF THE  
11 OVERPAYMENT.

12 (F) ALTERNATIVE PROOF OF PAYMENT.--FOR PURPOSES OF THIS  
13 SECTION, PRESENTATION OF A RECEIPT INDICATING THAT THE PAYMENT  
14 WAS MAILED BY REGISTERED OR CERTIFIED MAIL ON OR BEFORE THE DUE  
15 DATE SHALL BE EVIDENCE OF TIMELY PAYMENT.

16 SECTION 503. COLLECTION AND ENFORCEMENT OF FEE.

17 (A) INTEREST.--IF AN OPERATOR FAILS TO MAKE A TIMELY PAYMENT  
18 OF THE MUNICIPAL ENHANCEMENT CONSIDERATION FEE REQUIRED BY THIS  
19 CHAPTER, THE OPERATOR SHALL PAY INTEREST ON THE UNPAID AMOUNT  
20 DUE AT THE RATE ESTABLISHED PURSUANT TO SECTION 806 OF THE ACT  
21 OF APRIL 9, 1929 (P.L.343, NO.176), KNOWN AS THE FISCAL CODE,  
22 FROM THE LAST DAY FOR TIMELY PAYMENT TO THE DATE PAID.

23 (B) ADDITIONAL PENALTY.--IN ADDITION TO THE INTEREST  
24 PROVIDED IN SUBSECTION (A), IF AN OPERATOR FAILS TO MAKE TIMELY  
25 PAYMENT OF THE MUNICIPAL ENHANCEMENT CONSIDERATION FEE, THERE  
26 SHALL BE ADDED TO THE AMOUNT OF FEE ACTUALLY DUE 5% OF THE  
27 AMOUNT OF SUCH FEE, IF THE FAILURE TO FILE A TIMELY PAYMENT IS  
28 FOR NOT MORE THAN ONE MONTH, WITH AN ADDITIONAL 5% FOR EACH  
29 ADDITIONAL MONTH, OR FRACTION THEREOF, DURING WHICH SUCH FAILURE  
30 CONTINUES, NOT EXCEEDING 25% IN THE AGGREGATE.

1 (C) ASSESSMENT NOTICES.--

2 (1) IF THE DEPARTMENT DETERMINES THAT ANY OPERATOR HAS  
3 NOT MADE A TIMELY PAYMENT OF THE MUNICIPAL ENHANCEMENT  
4 CONSIDERATION FEE, IT SHALL SEND THE OPERATOR A WRITTEN  
5 NOTICE OF THE AMOUNT OF THE DEFICIENCY WITHIN 30 DAYS OF  
6 DETERMINING SUCH DEFICIENCY. WHEN THE OPERATOR HAS NOT  
7 PROVIDED A COMPLETE AND ACCURATE STATEMENT OF THE WEIGHT OR  
8 VOLUME OF SOLID WASTE RECEIVED AT THE FACILITY FOR THE  
9 PAYMENT PERIOD, THE DEPARTMENT MAY ESTIMATE THE WEIGHT OR  
10 VOLUME IN ITS NOTICE.

11 (2) THE OPERATOR CHARGED WITH THE DEFICIENCY SHALL HAVE  
12 30 DAYS TO PAY THE DEFICIENCY IN FULL OR, IF THE OPERATOR  
13 WISHES TO CONTEST THE DEFICIENCY, FORWARD THE AMOUNT OF THE  
14 DEFICIENCY TO THE DEPARTMENT FOR PLACEMENT IN AN ESCROW  
15 ACCOUNT WITH THE STATE TREASURER OR ANY BANK IN THIS  
16 COMMONWEALTH, OR POST AN APPEAL BOND IN THE AMOUNT OF THE  
17 DEFICIENCY. SUCH BOND SHALL BE EXECUTED BY A SURETY LICENSED  
18 TO DO BUSINESS IN THIS COMMONWEALTH AND BE SATISFACTORY TO  
19 THE DEPARTMENT. FAILURE TO FORWARD THE MONEY OR THE APPEAL  
20 BOND TO THE DEPARTMENT WITHIN 30 DAYS SHALL RESULT IN A  
21 WAIVER OF ALL LEGAL RIGHTS TO CONTEST THE DEFICIENCY.

22 (3) IF, THOROUGH ADMINISTRATIVE OR JUDICIAL REVIEW OF  
23 THE DEFICIENCY, IT IS DETERMINED THAT THE AMOUNT OF  
24 DEFICIENCY SHALL BE REDUCED, THE DEPARTMENT SHALL WITHIN 30  
25 DAYS REMIT THE APPROPRIATE AMOUNT TO THE OPERATOR, WITH ANY  
26 INTEREST ACCUMULATED BY THE ESCROW DEPOSIT.

27 (4) THE AMOUNT DETERMINED AFTER ADMINISTRATIVE HEARING  
28 OR AFTER WAIVER OF ADMINISTRATIVE HEARING SHALL BE PAYABLE TO  
29 THE COMMONWEALTH AND SHALL BE COLLECTIBLE IN THE MANNER  
30 PROVIDED BY LAW.

1 (5) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE  
2 CONTRARY, THERE SHALL BE A STATUTE OF LIMITATIONS OF FIVE  
3 YEARS UPON ACTIONS BROUGHT BY THE COMMONWEALTH PURSUANT TO  
4 THIS SECTION.

5 (6) IF ANY AMOUNT DUE HEREUNDER REMAINS UNPAID 30 DAYS  
6 AFTER RECEIPT OF NOTICE THEREOF, THE DEPARTMENT MAY ORDER THE  
7 OPERATOR OF THE FACILITY TO CEASE RECEIVING ANY SOLID WASTE  
8 UNTIL THE AMOUNT OF THE DEFICIENCY IS COMPLETELY PAID.

9 (D) FILING OF APPEALS.--NOTWITHSTANDING ANY OTHER PROVISION  
10 OF LAW, ALL APPEALS OF FINAL DEPARTMENT ACTIONS CONCERNING THE  
11 MUNICIPAL ENHANCEMENT CONSIDERATION FEE, INCLUDING, BUT NOT  
12 LIMITED TO, PETITIONS FOR REFUNDS, SHALL BE FILED WITH THE  
13 ENVIRONMENTAL HEARING BOARD.

14 (E) CONSTRUCTIVE TRUST.--ALL MUNICIPAL ENHANCEMENT  
15 CONSIDERATION FEES COLLECTED BY AN OPERATOR AND HELD BY SUCH  
16 OPERATOR PRIOR TO PAYMENT TO THE DEPARTMENT SHALL CONSTITUTE A  
17 TRUST FUND FOR THE COMMONWEALTH, AND SUCH TRUST SHALL BE  
18 ENFORCEABLE AGAINST SUCH OPERATOR, ITS REPRESENTATIVES AND ANY  
19 PERSON RECEIVING ANY PART OF SUCH FUND WITHOUT CONSIDERATION OR  
20 WITH KNOWLEDGE THAT THE OPERATOR IS COMMITTING A BREACH OF THE  
21 TRUST. ANY PERSON RECEIVING PAYMENT OF LAWFUL OBLIGATION OF THE  
22 OPERATOR FROM SUCH FUND SHALL BE PRESUMED TO HAVE RECEIVED THE  
23 SAME IN GOOD FAITH AND WITHOUT ANY KNOWLEDGE OF THE BREACH OF  
24 TRUST.

25 (F) REMEDIES CUMULATIVE.--THE REMEDIES PROVIDED TO THE  
26 DEPARTMENT IN THIS SECTION ARE IN ADDITION TO ANY OTHER REMEDIES  
27 PROVIDED AT LAW OR IN EQUITY.

28 SECTION 504. RECORDS.

29 EACH OPERATOR SHALL KEEP DAILY RECORDS OF ALL DELIVERIES OF  
30 SOLID WASTE TO THE FACILITY AS REQUIRED BY THE DEPARTMENT,

1 INCLUDING, BUT NOT LIMITED TO, THE NAME AND ADDRESS OF THE  
2 HAULER, THE SOURCE OF THE WASTE, THE KIND OF WASTE RECEIVED AND  
3 THE WEIGHT OR VOLUME OF THE WASTE. A COPY OF THESE RECORDS SHALL  
4 BE MAINTAINED AT THE SITE BY THE OPERATOR FOR NO LESS THAN FIVE  
5 YEARS AND SHALL BE MADE AVAILABLE TO THE DEPARTMENT AND THE HOST  
6 MUNICIPALITY FOR INSPECTION, UPON REQUEST.

7 SECTION 505. SURCHARGE.

8 NOTWITHSTANDING THE PROVISIONS OF ANY LAW TO THE CONTRARY:

9 (1) THE OPERATOR MAY COLLECT THE MUNICIPAL ENHANCEMENT  
10 CONSIDERATION FEE IMPOSED BY THIS CHAPTER AS A SURCHARGE ON  
11 ANY FEE SCHEDULE ESTABLISHED PURSUANT TO LAW, ORDINANCE,  
12 RESOLUTION OR CONTRACT FOR SOLID WASTE PROCESSING OR DISPOSAL  
13 OPERATIONS AT A FACILITY.

14 (2) ANY PERSON WHO COLLECTS OR TRANSPORTS SOLID WASTE  
15 SUBJECT TO A MUNICIPAL WASTE LANDFILL OR RESOURCE RECOVERY  
16 FACILITY MAY IMPOSE A SURCHARGE ON ANY FEE SCHEDULE  
17 ESTABLISHED PURSUANT TO LAW, ORDINANCE, RESOLUTION OR  
18 CONTRACT FOR THE COLLECTION OR TRANSPORTATION OF SOLID WASTE  
19 TO THE FACILITY. THE SURCHARGE SHALL BE EQUAL TO THE INCREASE  
20 IN DISPOSAL FEES AT THE FACILITY ATTRIBUTABLE TO THE  
21 MUNICIPAL ENHANCEMENT CONSIDERATION FEE. HOWEVER, INTEREST  
22 AND PENALTIES ON THE MUNICIPAL ENHANCEMENT CONSIDERATION FEE  
23 MAY NOT BE COLLECTED AS A SURCHARGE.

24 SECTION 506. MUNICIPAL ENHANCEMENT CONSIDERATION FEE FUND.

25 (A) ESTABLISHMENT.--ALL FEES RECEIVED BY THE DEPARTMENT  
26 PURSUANT TO THIS CHAPTER SHALL BE PAID INTO THE STATE TREASURY  
27 INTO A SPECIAL FUND TO BE KNOWN AS THE MUNICIPAL ENHANCEMENT  
28 CONSIDERATION FEE FUND, WHICH IS HEREBY ESTABLISHED.

29 (B) APPROPRIATION.--ALL MONEYS PLACED IN THE MUNICIPAL  
30 ENHANCEMENT CONSIDERATION FEE FUND ARE HEREBY APPROPRIATED TO

1 THE DEPARTMENT FOR THE PURPOSES SET FORTH IN THIS SECTION. THE  
2 DEPARTMENT SHALL ANNUALLY SUBMIT TO THE GOVERNOR FOR HIS  
3 APPROVAL ESTIMATES OF AMOUNTS TO BE EXPENDED UNDER THIS SECTION.

4 (C) ALLOCATIONS.--THE DEPARTMENT SHALL, TO THE EXTENT  
5 PRACTICABLE, ALLOCATE THE MONEYS RECEIVED BY THE MUNICIPAL  
6 ENHANCEMENT CONSIDERATION FEE FUND, INCLUDING ALL INTEREST  
7 GENERATED THEREON, IN THE FOLLOWING MANNER EACH YEAR:

8 (1) AT LEAST 10% SHALL BE EXPENDED FOR FIRE AND  
9 EMERGENCY.

10 (2) AT LEAST 10% SHALL BE EXPENDED ON LIBRARIES.

11 (3) AT LEAST 10% SHALL BE EXPENDED ON RECYCLING  
12 DEVELOPMENT.

13 (4) AT LEAST 10% SHALL BE EXPENDED ON EARLY CHILDHOOD  
14 TUITION GRANTS.

15 (5) AT LEAST 10% SHALL BE EXPENDED ON KEYSTONE  
16 OPPORTUNITY ZONE DEVELOPMENT.

17 (6) AT LEAST 10% SHALL BE EXPENDED ON AGRICULTURAL AND  
18 MINING RELATED GRANTS TO LOCAL WATERSHEDS.

19 (7) AT LEAST 10% SHALL BE EXPENDED ON LOCAL DEPARTMENT  
20 OF TRANSPORTATION HAZARDOUS MATERIAL ELIMINATION.

21 (8) AT LEAST 10% SHALL BE EXPENDED ON GRANTS FOR  
22 MUNICIPAL IMPROVEMENTS AS APPROVED BY THE GOVERNOR.

23 (9) AT LEAST 10% SHALL BE EXPENDED ON A WEED AND SEED  
24 PROGRAM.

25 (10) NO MORE THAN 3% MAY BE EXPENDED FOR COLLECTING THE  
26 MUNICIPAL ENHANCEMENT CONSIDERATION FEE AND ENFORCEMENT OF  
27 THIS CHAPTER.

28 (D) TRANSFER.--ON THE FIRST DAY OF THE 16TH YEAR AFTER THE  
29 MUNICIPAL ENHANCEMENT CONSIDERATION FEE IMPOSED BY THIS CHAPTER  
30 BECOMES EFFECTIVE, ALL MONEYS IN THE MUNICIPAL ENHANCEMENT

1 CONSIDERATION FEE FUND THAT ARE NOT OBLIGATED SHALL BE  
2 TRANSFERRED TO THE SOLID WASTE ABATEMENT FUND AND EXPENDED IN  
3 THE SAME MANNER AS OTHER MONEYS IN THE SOLID WASTE ABATEMENT  
4 FUND. ON THE FIRST DAY OF THE 19TH YEAR AFTER THE FEE IMPOSED BY  
5 THIS CHAPTER BECOMES EFFECTIVE, ALL MONEYS IN THE RECYCLING FUND  
6 THAT ARE NOT EXPENDED SHALL BE TRANSFERRED TO THE SOLID WASTE  
7 ABATEMENT FUND AND EXPENDED IN THE SAME MANNER AS OTHER MONEYS  
8 IN THE SOLID WASTE ABATEMENT FUND.

9 (E) ADVISORY COMMITTEE.--THE SECRETARY SHALL ESTABLISH A  
10 MUNICIPAL ENHANCEMENT CONSIDERATION FEE ADVISORY COMMITTEE  
11 COMPOSED OF REPRESENTATIVES OF COUNTIES, OTHER MUNICIPALITIES,  
12 MUNICIPAL AUTHORITIES, THE MUNICIPAL WASTE MANAGEMENT INDUSTRY,  
13 THE MUNICIPAL WASTE RECYCLING INDUSTRY, THE MUNICIPAL WASTE  
14 GENERATING INDUSTRY AND THE GENERAL PUBLIC. THE COMMITTEE SHALL  
15 ALSO INCLUDE MEMBERS OF THE GENERAL ASSEMBLY, ONE APPOINTED BY  
16 EACH OF THE FOLLOWING: THE PRESIDENT PRO TEMPORE OF THE SENATE,  
17 THE MINORITY LEADER OF THE SENATE, THE SPEAKER OF THE HOUSE OF  
18 REPRESENTATIVES AND THE MINORITY LEADER OF THE HOUSE OF  
19 REPRESENTATIVES. THE COMMITTEE SHALL MEET AT LEAST ANNUALLY TO  
20 RECOMMEND PRIORITIES ON EXPENDITURES FROM THE FUND AND TO ADVISE  
21 THE SECRETARY ON ASSOCIATED ACTIVITIES CONCERNING THE  
22 ADMINISTRATION OF THE FUND. THE DEPARTMENT SHALL REIMBURSE  
23 MEMBERS OF THE COMMITTEE FOR REASONABLE TRAVEL, HOTEL AND OTHER  
24 NECESSARY EXPENSES INCURRED IN PERFORMANCE OF THEIR DUTIES UNDER  
25 THIS SECTION.

26 (F) ANNUAL REPORTS.--THE DEPARTMENT SHALL SUBMIT AN ANNUAL  
27 REPORT TO THE GENERAL ASSEMBLY ON RECEIPTS TO AND DISBURSEMENTS  
28 FROM THE MUNICIPAL ENHANCEMENT CONSIDERATION FEE FUND IN THE  
29 PREVIOUS FISCAL YEAR, PROJECTIONS FOR REVENUES AND EXPENDITURES  
30 IN THE COMING FISCAL YEAR.



CHAPTER 7

MISCELLANEOUS PROVISIONS

SECTION 701. ENFORCEMENT.

(a) Orders.--

(1) The department may issue orders to persons and municipalities as it deems necessary to aid in the enforcement of this act. These orders may include, but shall not be limited to, ~~orders to enforce the terms of a host municipality agreement,~~ orders modifying, suspending or revoking written authorizations and orders requiring persons and municipalities to cease unlawful activities or operations of a ~~commercial solid waste landfill or resource recovery facility or~~ transportation vehicle which in the course of its operation is in violation of any provision of this act, any rule or regulation of the department or any terms and conditions of a written authorization issued under this act, ~~a host municipality agreement or a permit.~~ An order issued under this act shall take effect upon notice unless the order specifies otherwise.

(2) An appeal to the Environmental Hearing Board shall not act as a supersedeas.

(3) The power of the department to issue an order under this act is in addition to any other remedy which may be afforded to the department pursuant to this act or any other act.

(b) Duty to comply with orders of department.--It shall be the duty of any person and municipality to proceed diligently to comply with any order issued pursuant to this section. If the person or municipality fails to proceed diligently or fails to comply with the order within the time, if any, as may be

1 specified, the person or municipality shall be guilty of  
2 contempt and shall be punished by the court in an appropriate  
3 manner and, for this purpose, application may be made by the  
4 department to the court.

5 Section § 702. Civil penalties. <—

6 (a) Authority.--

7 (1) In addition to proceeding under any other remedy  
8 available at law or in equity for a violation of any  
9 provision of this act, ~~any provision of a host municipality~~ <—  
10 ~~agreement~~, any rule or regulation of the department or order  
11 of the department or any term or condition of any written  
12 authorization issued by the department, the department may  
13 assess a civil penalty upon a person for the violation. The  
14 penalty may be assessed whether or not the violation was  
15 willful or negligent.

16 (2) In determining the amount of the penalty, the  
17 department shall consider the willfulness of the violation,  
18 damage to air, water, land or other natural resources of this  
19 Commonwealth or their uses, cost or restoration and  
20 abatement, savings resulting to the person in consequence of  
21 the violation and other relevant factors.

22 (3) The maximum civil penalty that may be assessed  
23 pursuant to this section is \$25,000 per offense. Each  
24 violation for each separate day and each violation of any  
25 provision of this act, any rule or regulation under this act,  
26 any order of the department or any term or condition of a  
27 permit or permits shall constitute a separate and distinct  
28 offense under this section.

29 (b) Procedure.--

30 (1) When the department proposes to assess a civil

1 penalty, it shall inform the person of the proposed amount of  
2 the penalty. The person charged with the penalty shall then  
3 have 30 calendar days to pay the proposed penalty in full or,  
4 if the person wishes to contest the amount of the penalty or  
5 the fact of the violation to the extent not already  
6 established, the person shall forward the proposed amount of  
7 the penalty to the Environmental Hearing Board within the 30-  
8 calendar day period for placement in an escrow account with  
9 the State Treasurer or any Commonwealth bank or post an  
10 appeal bond to the hearing board within 30 calendar days in  
11 the amount of the proposed penalty if the bond is executed by  
12 a surety licensed to do business in this Commonwealth and is  
13 satisfactory to the department.

14 (2) If through administrative or final judicial review  
15 of the proposed penalty it is determined that no violation  
16 occurred or that the amount of the penalty shall be reduced,  
17 the hearing board shall within 30 calendar days remit the  
18 appropriate amount to the person with any interest  
19 accumulated by the escrow deposit.

20 (3) Failure to forward the money or the appeal bond at  
21 the time of the appeal shall result in a waiver of all legal  
22 rights to contest the violation or the amount of the civil  
23 penalty unless the appellant alleges financial inability to  
24 prepay the penalty or to post the appeal bond. The hearing  
25 board shall conduct a hearing to consider the appellant's  
26 alleged inability to pay within 30 calendar days of the date  
27 of the appeal.

28 (4) The hearing board may waive the requirement to  
29 prepay the civil penalty or to post an appeal bond if the  
30 appellant demonstrates and the hearing board finds that the

1 appellant is financially unable to pay. The hearing board  
2 shall issue an order within 30 calendar days of the date of  
3 the hearing to consider the appellant's alleged inability to  
4 pay.

5 (5) The amount assessed after administrative hearing or  
6 after waiver of administrative hearing shall be payable to  
7 the Commonwealth and shall be collectible in any manner  
8 provided by law for the collection of debts, including the  
9 collection of interest at the legal rate, which shall run  
10 from the date of assessment of the penalty.

11 (6) If any person liable to pay a penalty neglects or  
12 refuses to pay the same after demand, the amount, together  
13 with interest and any costs that may accrue, shall constitute  
14 a debt of the person, as may be appropriate, to the Solid  
15 Waste Abatement Fund. The debt shall constitute a lien on all  
16 property owned by the person when a notice of lien  
17 incorporating a description of the property of the person  
18 subject to the action is filed with the prothonotary of the  
19 court of common pleas where the property is located.

20 (7) The prothonotary shall promptly enter upon the civil  
21 judgment or order docket, at no cost to the department, the  
22 name and address of the person, as may be appropriate, and  
23 the amount of the lien as set forth in the notice of lien.  
24 Upon entry by the prothonotary, the lien shall attach to the  
25 revenues and all real and personal property of the person,  
26 whether or not the person is solvent.

27 (8) The notice of lien, filed pursuant to this  
28 subsection, which affects the property of the person shall  
29 create a lien with priority over all subsequent claims or  
30 liens which are filed against the person, but it shall not

1 affect any valid lien, right or interest in the property  
2 filed in accordance with established procedure prior to the  
3 filing of a notice of lien under this subsection.

4 Section 9 703. Regulations. <—

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

9 ~~Section 10. Severability.~~ <—

10 ~~The provisions of this act are severable. If any provision of~~  
11 ~~this act or its application to any person or circumstance is~~  
12 ~~held invalid, the invalidity shall not affect other provisions~~  
13 ~~or applications of this act which can be given effect without~~  
14 ~~the invalid provision or application.~~

15 Section 11 704. Repeals. <—

16 All acts and parts of acts are repealed insofar as they are  
17 inconsistent with this act.

18 Section 12 705. Effective date. <—

19 ~~This act shall take effect as follows:~~ <—

20 ~~(1) Section 6(a) shall take effect upon the adoption of~~  
21 ~~final regulations by the department pursuant to section 6(f).~~

22 ~~(2) The remainder of this act shall take effect~~  
23 ~~immediately.~~

24 THIS ACT SHALL TAKE EFFECT IMMEDIATELY. <—