

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1436 Session of 2001

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

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES, NOVEMBER 19, 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. AND FOR <—
10 PROXIMITY TO STATE PARKS.

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15 SECTION 1. SHORT TITLE. ←
16 SECTION 2. LEGISLATIVE FINDINGS AND DECLARATION OF POLICY.
17 SECTION 3. DEFINITIONS.
18 SECTION 4. CONSTRUCTION OF ACT.
19 SECTION 5. MORATORIUM.
20 SECTION 6. HOST MUNICIPALITY AGREEMENTS.
21 SECTION 7. PROXIMITY TO STATE PARKS.
22 SECTION 8. ENFORCEMENT.
23 SECTION 9. CIVIL PENALTIES.
24 SECTION 10. REGULATIONS.
25 SECTION 11. SEVERABILITY.
26 SECTION 12. REPEALS.
27 SECTION 13. EFFECTIVE DATE.

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

30 ~~CHAPTER 1~~ ←

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 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 threats to public health~~
4 ~~and safety resulting from the operation of the facilities and~~
5 ~~from the transportation of waste to the facilities.~~

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

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

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

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

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

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

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

30 ~~(3) Conserve the environment and the natural resources~~

1 ~~of this Commonwealth.~~

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

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

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

14 ~~(7) Protect residents of the communities affected by~~
15 ~~commercial solid waste landfills and resource recovery~~
16 ~~facilities from unnecessary traffic problems, litter, odors,~~
17 ~~noise, dust and other threats to public health and safety~~
18 ~~which may result from the operation of the facilities and~~
19 ~~from the transportation of waste to the facilities.~~

20 ~~Section 103. Definitions.~~

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

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

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

9 ~~"Department."—The Department of Environmental Protection of~~
10 ~~the Commonwealth and its authorized representatives.~~

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

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

18 ~~"Host municipality."—A municipality other than the county~~
19 ~~which meets one of the following criteria:~~

20 ~~(1)—a commercial solid waste landfill or resource~~
21 ~~recovery facility or any portion of a permit area is located~~
22 ~~or proposed to be located within the municipality; or~~

23 ~~(2)—the municipality is located within one half mile of~~
24 ~~the footprint of a proposed or operating commercial solid~~
25 ~~waste landfill or resource recovery facility.~~

26 ~~"Host municipality agreement."—A written, legally binding~~
27 ~~document or documents executed by authorized officials of each~~
28 ~~host municipality and an owner or operator of a commercial solid~~
29 ~~waste landfill or resource recovery facility.~~

30 ~~"Municipal Waste Planning, Recycling and Waste Reduction~~

1 ~~Act."—The act of July 28, 1988 (P.L.556, No.101), known as the~~
2 ~~Municipal Waste Planning, Recycling and Waste Reduction Act.~~

3 ~~"Pennsylvania Municipalities Planning Code."—The act of July~~
4 ~~31, 1968 (P.L.805, No.247), known as the Pennsylvania~~
5 ~~Municipalities Planning Code.~~

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

8 ~~"Secretary."—The Secretary of Environmental Protection of~~
9 ~~the Commonwealth.~~

10 ~~"Semitrailer."—A trailer so constructed that some part of~~
11 ~~its weight rests upon or is carried by the towing vehicle.~~

12 ~~"Solid Waste Management Act."—The act of July 7, 1980~~
13 ~~(P.L.380, No.97), known as the Solid Waste Management Act.~~

14 ~~"Transporter."—The owner or operator of a towing vehicle~~
15 ~~used to transport municipal or residual waste.~~

16 ~~"Volume modification."—An application for permit~~
17 ~~modification filed by an owner or operator of a commercial solid~~
18 ~~waste landfill or resource recovery facility which requests an~~
19 ~~increased in average or maximum daily waste volume.~~

20 ~~Section 104.—Construction of act.~~

21 ~~This act shall be construed in pari materia with the Solid Waste~~
22 ~~Management Act, the Municipal Waste Planning, Recycling and~~
23 ~~Waste Reduction Act and sections 1935 A and 1936 A of the act of~~
24 ~~April 9, 1929 (P.L.177, No.175), known as The Administrative~~
25 ~~Code of 1929.~~

26 ~~Section 105.—Moratorium.~~

27 ~~(a) Permits relating to construction, expansion or~~
28 ~~operation.—For a period of two years following the effective~~
29 ~~date of this act, the department shall not accept an application~~
30 ~~for a permit or permit modification nor issue a permit or permit~~

1 ~~modification under the Solid Waste Management Act for the~~
2 ~~construction, expansion or operation of a municipal waste~~
3 ~~landfill, construction/demolition waste landfill, resource~~
4 ~~recovery facility or commercial residual waste disposal~~
5 ~~facility.~~

6 ~~(b) Permit modifications relating to daily volume. For a~~
7 ~~period of two years following the effective date of this act,~~
8 ~~the department shall not accept for review nor issue a permit~~
9 ~~modification that would result in an increase in average daily~~
10 ~~volume or maximum daily volume at a municipal waste landfill,~~
11 ~~construction/demolition waste landfill, resource recovery~~
12 ~~facility or commercial residual waste disposal facility.~~

13 ~~(c) Return of applications. Immediately following the~~
14 ~~effective date of this act, the department shall return the~~
15 ~~following applications and shall conduct no further review~~
16 ~~during the pendency of the moratorium established in subsections~~
17 ~~(a) and (b).~~

18 ~~(1) Applications for new municipal waste landfills,~~
19 ~~construction/demolition waste landfills, resource recovery~~
20 ~~facilities or commercial residual waste disposal facilities.~~

21 ~~(2) Applications for expansions of municipal waste~~
22 ~~landfills, construction/demolition waste landfills or~~
23 ~~commercial residual waste disposal facilities.~~

24 ~~(3) Applications for permit modifications to increase~~
25 ~~average daily volume or maximum daily volume at municipal~~
26 ~~waste landfills, construction/demolition waste landfills,~~
27 ~~resource recovery facilities or commercial residual waste~~
28 ~~disposal facilities.~~

29 ~~(d) Monitoring of remaining capacity. During the pendency~~
30 ~~of the moratorium established in this section and at all times~~

1 thereafter, the department shall monitor the remaining capacity
2 at all municipal waste landfills, construction/demolition waste
3 landfills, resource recovery facilities and commercial residual
4 waste disposal facilities. Following the expiration of the
5 moratorium, no permit modification application identified in
6 subsection (a) or (b) will be accepted by the department until
7 the remaining disposal capacity for the facility is five years
8 or less. Following the expiration of the moratorium, an
9 application for a new facility identified in subsection (a) will
10 not be accepted if the disposal capacity is greater than ten
11 years.

12 (c) Exceptions. This section shall not prohibit the review
13 or issuance of the following during the pendency of the
14 moratorium:

15 (1) A permit renewal or reissuance.

16 (2) A permit modification to allow the receipt of a
17 residual waste not previously approved by the department in
18 the facility's waste acceptance plan.

19 (3) An operational modification that does not affect
20 capacity.

21 (4) A permit amendment to increase the capacity of a
22 facility whose remaining capacity is five years or less to
23 increase its capacity to ten years or less.

24 (f) Special circumstances.—

25 (1) Notwithstanding any other provision of law or this
26 act to the contrary, the department may modify any permit
27 listed in subsection (a), (b) or (c) during the pendency of
28 the moratorium to allow increased maximum or average daily
29 waste volumes if the department:

30 (i) Finds in writing that the modification is

1 ~~within 30 days of execution.~~

2 ~~(ii) For a commercial solid waste landfill or~~
3 ~~resource recovery facility for which:~~

4 ~~(A) no host municipality agreement has been~~
5 ~~executed as of the effective date of this act; or~~

6 ~~(B) a host municipality agreement was executed~~
7 ~~on or before the effective date of this act but which~~
8 ~~agreement expires within two years of the effective~~
9 ~~date of this act,~~

10 ~~a host municipality agreement shall be executed by the~~
11 ~~owner or operator and the host municipality or~~
12 ~~municipalities within two years of the effective date of~~
13 ~~this act and submitted to the department for approval~~
14 ~~within 30 days of execution. The owner or operator of~~
15 ~~such a facility shall provide notice to the host~~
16 ~~municipality or municipalities pursuant to subsection~~
17 ~~(f)(1) within 60 calendar days of the effective date of~~
18 ~~this act.~~

19 ~~(iii) For any commercial solid waste landfill or~~
20 ~~resource recovery facility for which a permit under the~~
21 ~~Solid Waste Management Act, within 18 months prior to the~~
22 ~~effective date of this act:~~

23 ~~(A) has expired;~~

24 ~~(B) has expired but has been extended beyond its~~
25 ~~expiration date; or~~

26 ~~(C) has expired but has been reinstated; and~~
27 ~~for which a host municipality agreement was executed~~
28 ~~prior to the effective date of this act, a new or~~
29 ~~supplemental host municipality agreement shall be~~
30 ~~executed by the owner or operator and the host~~

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

16 ~~(iv) For any commercial solid waste landfill or~~
17 ~~resource recovery facility for which a host municipality~~
18 ~~agreement was executed prior to or on the effective date~~
19 ~~of this act but which has not begun to accept solid waste~~
20 ~~as of the effective date of this act, a new or~~
21 ~~supplemental host municipality agreement shall be~~
22 ~~executed by the owner or operator and the host~~
23 ~~municipality or municipalities within two years of the~~
24 ~~effective date of this act and submitted to the~~
25 ~~department for approval within 30 days of execution. The~~
26 ~~owner or operator of such a facility shall provide notice~~
27 ~~to the host municipality or municipalities pursuant to~~
28 ~~subsection (f)(1) within 60 calendar days of the~~
29 ~~effective date of this act.~~

30 ~~(v) A host municipality agreement in effect on the~~

1 ~~effective date of this act which was implemented by a~~
2 ~~vote which included the vote of an individual, who at the~~
3 ~~time the vote was taken, had been convicted of a felony,~~
4 ~~shall be null and void. It shall be presumed for the~~
5 ~~purposes of this act, that, in such a case, no host~~
6 ~~municipality agreement is currently in effect.~~

7 ~~(2) A new or supplemental host municipality agreement~~
8 ~~for each host municipality shall be executed in accordance~~
9 ~~with this section and submitted to the department for~~
10 ~~approval for any expansion modification or volume~~
11 ~~modification filed by an owner or operator of a commercial~~
12 ~~solid waste landfill or resource recovery facility after the~~
13 ~~effective date of this act unless the existing host~~
14 ~~municipality agreement contemplates and addresses the subject~~
15 ~~of the modification.~~

16 ~~(3) A host municipality agreement shall be executed in~~
17 ~~accordance with this section by an owner or operator and the~~
18 ~~host municipality or municipalities and shall be submitted to~~
19 ~~the department for approval for any new commercial solid~~
20 ~~waste landfill or resource recovery facility.~~

21 ~~(4) No host municipality agreement drawn up in~~
22 ~~accordance with this act shall be for a term of more than~~
23 ~~five years. Once the agreement has expired the solid waste~~
24 ~~landfill or resource recovery facility shall initiate the~~
25 ~~process for a new host municipality agreement in accordance~~
26 ~~with the provisions of this act.~~

27 ~~(b) Relationship to permit applications.—~~

28 ~~(1) 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 only be accepted as administratively complete under~~
3 ~~section 512(a) of the Municipal Waste Planning, Recycling and~~
4 ~~Waste Reduction Act and the regulations promulgated~~
5 ~~thereunder if it includes written evidence that the applicant~~
6 ~~is in compliance with the requirements of this section. Such~~
7 ~~written evidence shall be contained as part of the~~
8 ~~application and shall include evidence that a host~~
9 ~~municipality agreement that complies with this section is in~~
10 ~~effect or proof of written notice to the host municipality or~~
11 ~~municipalities pursuant to subsection (f)(1).~~

12 ~~(2) The department's processing and review of a permit~~
13 ~~application shall proceed concurrently with the period of~~
14 ~~negotiation and mediation of the host municipality agreement.~~
15 ~~Negotiation and mediation of a host municipality agreement~~
16 ~~also may proceed prior to the submission of a permit or major~~
17 ~~permit modification application to the department.~~

18 ~~(3) An application for a permit, volume modification or~~
19 ~~expansion modification for a commercial solid waste landfill~~
20 ~~or resource recovery facility which is submitted to the~~
21 ~~department for review after the effective date of this act~~
22 ~~shall be issued by the department only if a host municipality~~
23 ~~agreement that complies with this section has been executed~~
24 ~~by the applicant and each host municipality.~~

25 ~~(4) For any application which was submitted to the~~
26 ~~department on or before the effective date of this act, the~~
27 ~~department shall not issue the permit or permit modification~~
28 ~~until an executed host municipality agreement has been~~
29 ~~submitted to the department.~~

30 ~~(c) Public notice and public involvement requirements.~~

1 ~~(1) Within 30 calendar days from the date of receipt of~~
2 ~~a written notice of intent to develop a host municipality~~
3 ~~agreement pursuant to subsection (f)(1), each host~~
4 ~~municipality shall publish notice that discussions for~~
5 ~~developing a host municipality agreement with the commercial~~
6 ~~solid waste landfill or resource recovery facility have~~
7 ~~begun. The notice also shall describe the public involvement~~
8 ~~process that the host municipality will use to develop the~~
9 ~~agreement. The notice shall be published once in a newspaper~~
10 ~~of general circulation in the municipality where the facility~~
11 ~~or proposed facility is located. The public involvement~~
12 ~~process shall include the following:~~

13 ~~(i) The host municipality shall hold a special~~
14 ~~public hearing at which a proposed host municipality~~
15 ~~agreement is presented to the public and at which the~~
16 ~~public is provided an opportunity to provide oral and~~
17 ~~written testimony. Notice of the hearing shall be~~
18 ~~published in a newspaper of general circulation in the~~
19 ~~municipality not less than ten days nor more than 30 days~~
20 ~~prior to the hearing. A public comment period of no less~~
21 ~~than 30 calendar days shall be provided after the public~~
22 ~~hearing to accept written comments on the proposed host~~
23 ~~municipality agreement.~~

24 ~~(ii) The host municipality shall hold a special~~
25 ~~public meeting at which revisions to the proposed host~~
26 ~~municipality agreement are presented to the public by the~~
27 ~~municipality, including changes to the proposed host~~
28 ~~municipality agreement that were adopted after the public~~
29 ~~hearing and public comment period. The public shall be~~
30 ~~provided a reasonable opportunity to ask questions to the~~

1 ~~host municipality on the host municipality agreement and~~
2 ~~to provide public comment. Notice of the hearing shall be~~
3 ~~published in a newspaper of general circulation in the~~
4 ~~municipality not less than ten days nor more than 30 days~~
5 ~~prior to the hearing.~~

6 ~~(iii) The host municipality shall publish the~~
7 ~~decision on adopting or rejecting the final agreement~~
8 ~~within 30 calendar days of acting.~~

9 ~~(2) The public involvement process may contain~~
10 ~~additional public notice in a manner determined by the~~
11 ~~municipality to best inform the residents of the host~~
12 ~~municipality.~~

13 ~~(d) Contents of agreement.—~~

14 ~~(1) A host municipality agreement agreed to and executed~~
15 ~~by the parties pursuant to the negotiation and mediation~~
16 ~~process shall address the following:~~

17 ~~(i) The nature of the proposed facility.~~

18 ~~(ii) The site of the proposed facility or expansion~~
19 ~~of the existing facility.~~

20 ~~(iii) Measures to alleviate local issues, such as~~
21 ~~haul routes, traffic problems, litter, odors, noise, dust~~
22 ~~and any other threats to public health and safety that~~
23 ~~might result from the operation of the facility. Such~~
24 ~~local issues shall be identified by the host municipality~~
25 ~~during negotiation of the host municipality agreement.~~

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

1 ~~kind contributions.~~

2 ~~(v) The maximum and daily average waste volume to be~~
3 ~~received at the facility.~~

4 ~~(vi) The days and hours of operation of the~~
5 ~~facility.~~

6 ~~(vii) The availability of capacity at the facility~~
7 ~~for the disposal of solid waste generated within the host~~
8 ~~municipality.~~

9 ~~(viii) Activities to promote recycling, waste~~
10 ~~reduction and the proper management and disposal of solid~~
11 ~~waste generated within the host municipality.~~

12 ~~(ix) The process for resolution in a cooperative and~~
13 ~~nonbinding manner of complaints and other grievances~~
14 ~~concerning the construction and operation of the~~
15 ~~facility.~~

16 ~~(x) Provision for access to the facility and its~~
17 ~~records by the host municipality inspector.~~

18 ~~(2) A host municipality agreement agreed to and executed~~
19 ~~by the parties pursuant to the negotiation and mediation~~
20 ~~process may address the following:~~

21 ~~(i) The geographic origin of solid waste disposed at~~
22 ~~the facility and the amount of solid waste accepted for~~
23 ~~disposal based upon the geographic origin of the solid~~
24 ~~waste.~~

25 ~~(ii) Any applicable zoning or land development~~
26 ~~requirements or approvals pursuant to the provisions of~~
27 ~~the Municipalities Planning Code and implementing~~
28 ~~ordinances.~~

29 ~~(iii) Any other terms or conditions to which the~~
30 ~~parties agree should be included in the agreement.~~

1 ~~(3) The host municipality agreement shall contain a~~
2 ~~provision stating that if Congress enacts a law that places~~
3 ~~restrictions on out of State waste, the host municipality may~~
4 ~~renegotiate its host municipality agreement in regard to out-~~
5 ~~of State waste.~~

6 ~~(c) Department review of host municipality agreements.—~~

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

15 ~~(2) The department shall review the terms and conditions~~
16 ~~of the host municipality agreement that address subsection~~
17 ~~(d)(1)(iii), (v), (vi), (vii) and (viii) to ensure the terms~~
18 ~~and conditions of the host municipality agreement are not in~~
19 ~~conflict with the terms and conditions of the existing or~~
20 ~~proposed permit and applicable regulations. Where the~~
21 ~~department determines there is a conflict between the terms~~
22 ~~and conditions of the host municipality agreement and the~~
23 ~~terms and conditions of the regulations or existing or~~
24 ~~proposed permit, the more stringent or restrictive~~
25 ~~requirement or condition as determined by the department~~
26 ~~shall apply. In making its determination, the department~~
27 ~~shall consider any comments submitted by any affected or~~
28 ~~potentially affected party. The department shall modify the~~
29 ~~permit to incorporate any such term or condition, including~~
30 ~~any term or condition that is not addressed in the proposed~~

1 ~~or existing permit.~~

2 ~~(f) Process for negotiation and dispute resolution.—~~

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

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

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

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

30 ~~(g) Enforcement of host municipality agreement.—~~

1 ~~(1) The terms of a host municipality agreement shall be~~
2 ~~enforceable by the parties to the agreement. The courts of~~
3 ~~common pleas are hereby given jurisdiction over disputes~~
4 ~~between the host municipality and the facility owner or~~
5 ~~operator regarding the implementation or enforcement of a~~
6 ~~host municipality agreement.~~

7 ~~(2) A host municipality which is successful in an action~~
8 ~~brought under this subsection to enforce an agreement~~
9 ~~involving a facility owner or operator shall be awarded~~
10 ~~reasonable attorney fees and costs of litigation.~~

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

27 ~~(i) Relationship to other laws.—~~

28 ~~(1) To the extent the terms of a host municipality~~
29 ~~agreement differ from any existing ordinance adopted pursuant~~
30 ~~to section 304(b) of the Municipal Waste Planning, Recycling~~

1 ~~and Waste Reduction Act and concerning:~~

2 ~~(i) the hours and days during which vehicles may~~
3 ~~deliver waste to the commercial solid waste facility or~~
4 ~~resource recovery facility; or~~

5 ~~(ii) the routing of traffic to and from the~~
6 ~~commercial solid waste landfill or resource recovery~~
7 ~~facility, the host municipality shall amend the ordinance~~
8 ~~to comply with the agreement within 90 days of the~~
9 ~~adoption of the host municipality agreement.~~

10 ~~(2) Host municipality agreements shall be executed by~~
11 ~~the parties in the manner provided for in this act and shall~~
12 ~~not be subject to competitive bidding or other competitive~~
13 ~~procurement requirements.~~

14 ~~(3) The provisions of section 1305 of the Municipal~~
15 ~~Waste Planning, Recycling and Waste Reduction Act shall be~~
16 ~~applicable to any host benefit fee set forth in any host~~
17 ~~municipality agreement executed pursuant to this act.~~

18 ~~(4) Except as required by this section, the discussions~~
19 ~~for developing a host municipality agreement shall not be~~
20 ~~subject to the requirements of 65 Pa.C.S. Ch. 7 (relating to~~
21 ~~open meetings).~~

22 ~~Section 302. Transportation authorization and traffic safety.~~

23 ~~(a) General rule. It shall be unlawful for a transporter to~~
24 ~~transport solid waste to a municipal waste processing or~~
25 ~~disposal facility located in this Commonwealth in a towing~~
26 ~~vehicle and semitrailer combination with a fifth wheel hookup~~
27 ~~unless the transporter meets the requirements of this section.~~

28 ~~(b) Authorization fee.—~~

29 ~~(1) A transporter shall submit an annual authorization~~
30 ~~application on a form prescribed by the department and shall~~

1 ~~pay to the department an annual authorization fee for each~~
2 ~~semitrailer used in a towing vehicle and semitrailer~~
3 ~~combination subject to this section.~~

4 ~~(2) The annual authorization fee shall be \$100 for each~~
5 ~~semitrailer used in a towing vehicle and semitrailer~~
6 ~~combination subject to this section.~~

7 ~~(c) Transportation authorization. Within 30 calendar days~~
8 ~~of receipt of the authorization fee, the department shall issue~~
9 ~~a written authorization for the semitrailer to be used to~~
10 ~~transport solid waste.~~

11 ~~(d) Stickers. For each written authorization issued, the~~
12 ~~department shall provide the transporter with two stickers for~~
13 ~~each semitrailer indicating the authorization number and~~
14 ~~authorization expiration date for the semitrailer. The stickers~~
15 ~~shall be displayed prominently on the left front bulkhead and~~
16 ~~back of the semitrailer used to transport solid waste.~~

17 ~~(e) Duration. Written authorization shall be effective for~~
18 ~~one year after issuance.~~

19 ~~(f) Regulations.—~~

20 ~~(1) The department shall promulgate regulations~~
21 ~~implementing this section no later than one year after the~~
22 ~~effective date of this act.~~

23 ~~(2) The regulations in paragraph (1) may include a~~
24 ~~revision of the annual authorization fee under subsection~~
25 ~~(b)(2) for each semitrailer. The amount of the annual~~
26 ~~authorization fee shall be sufficient to cover the actual~~
27 ~~costs of the Commonwealth in implementing and enforcing this~~
28 ~~section.~~

29 ~~(g) Failure to comply. In carrying out the provisions of~~
30 ~~this section, the department may deny, suspend, modify or revoke~~

1 ~~any written authorization if it finds that any of the following~~
2 ~~has occurred:~~

3 ~~(1) The transporter or its agent has failed and~~
4 ~~continues to fail to comply with:~~

5 ~~(i) any provision of this act;~~

6 ~~(ii) the Solid Waste Management Act;~~

7 ~~(iii) the Municipal Waste Planning, Recycling and~~
8 ~~Waste Reduction Act;~~

9 ~~(iv) any other Federal or State statute relating to~~
10 ~~environmental protection or to the protection of the~~
11 ~~public health, safety and welfare;~~

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

13 ~~or~~

14 ~~(vi) any condition of any permit, license or other~~
15 ~~written authorization issued by the department.~~

16 ~~(2) The transporter has shown a lack of ability or~~
17 ~~intention to comply with:~~

18 ~~(i) any provision of this act;~~

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

20 ~~(iii) any rule, regulation or order of the~~
21 ~~department; or~~

22 ~~(iv) any condition of any permit or license issued~~
23 ~~by the department, as indicated by past or continuing~~
24 ~~violations. In the case of a corporate transporter, the~~
25 ~~department may deny the issuance of a written~~
26 ~~authorization if the department finds that a principal of~~
27 ~~the corporation was a principal of another corporation~~
28 ~~that committed past violations of this act.~~

29 ~~(h) Penalty.—~~

30 ~~(1) A person who violates subsection (a) commits a~~

1 ~~misdemeanor of the third degree and shall, upon conviction~~
2 ~~for the first offense, be sentenced to pay a fine of not less~~
3 ~~than \$5,000 nor more than \$10,000.~~

4 ~~(2) Upon a second or subsequent violation of subsection~~
5 ~~(a), a person commits a misdemeanor of the second degree and~~
6 ~~shall be sentenced to pay a fine of not less than \$10,000 nor~~
7 ~~more than \$25,000, and the court may order the operating~~
8 ~~privilege of the transporter to be suspended for a period of~~
9 ~~up to one year, or both.~~

10 ~~(i) Fees, fines and penalties to be paid into the Solid~~
11 ~~Waste Abatement Fund. All written authorization fees, fines and~~
12 ~~penalties collected under this section shall be paid into a~~
13 ~~restricted account within the Solid Waste Abatement Fund~~
14 ~~established under section 701 of the Solid Waste Management Act.~~
15 ~~The fees, fines and penalties also may be used to implement the~~
16 ~~written authorization program and to support efforts to inspect~~
17 ~~vehicles used to transport solid waste.~~

18 ~~(j) Forfeiture. A towing vehicle and semitrailer used in~~
19 ~~commission of an offense under subsection (a) shall be deemed~~
20 ~~contraband and may be forfeited to the department. The~~
21 ~~provisions of law relating to seizure, summary and judicial~~
22 ~~forfeiture and condemnation of intoxicating liquor shall apply~~
23 ~~to seizures and forfeitures under this section. Proceeds from~~
24 ~~the sale of forfeited towing vehicles and semitrailers shall be~~
25 ~~deposited in a restricted account within the Solid Waste~~
26 ~~Abatement Fund established under section 701 of the Solid Waste~~
27 ~~Management Act. The funds shall be used to implement the written~~
28 ~~authorization program and to support efforts to inspect vehicles~~
29 ~~used to transport solid waste.~~

30 ~~(k) Traffic impact studies for facilities.~~

1 in fee in a given case. In no event shall the fee exceed \$70
2 per ton or be increased in more than three consecutive six-
3 month periods.

4 (2) The target condition shall represent the difference
5 between the total trash target and the aggregate amount of
6 solid waste deposited in a six month period expressed in
7 tons. For purposes of this paragraph, "total trash target"
8 means an amount equal to either the number of residents in
9 this Commonwealth or 12,000,000, whichever is less.

10 (c) Alternative calculation. The municipal enhancement
11 consideration fee for an operator of a municipal waste landfill
12 and resource recovery facility that does not weigh solid waste
13 when it is received shall be calculated as if three cubic yards
14 were equal to one ton of solid waste.

15 (d) Waste weight requirement. On and after January 1, 2002,
16 each operator of a municipal waste landfill and resource
17 recovery facility that has received 30,000 or more cubic yards
18 of solid waste in the previous calendar year shall weigh all
19 solid waste when it is received. The scale used to weigh solid
20 waste shall conform to the requirements of 3 Pa.C.S. Ch. 41
21 (relating to weights and measures), and the regulations
22 promulgated pursuant thereto. The operator of the scale shall be
23 a licensed public weighmaster under 3 Pa.C.S. Ch. 41 and the
24 regulations promulgated pursuant thereto.

25 Section 502. Form and timing of municipal enhancement
26 consideration fee payment.

27 (a) Quarterly payments. Each operator of a municipal waste
28 landfill and resource recovery facility shall make the municipal
29 enhancement consideration fee payment quarterly. The fee shall
30 be paid on or before the 20th day of April, July, October and

1 ~~January for the three months ending the last day of March, June,~~
2 ~~September and December.~~

3 ~~(b) Quarterly reports.— Each municipal enhancement~~
4 ~~consideration fee payment shall be accompanied by a form~~
5 ~~prepared and furnished by the department and completed by the~~
6 ~~operator. The form shall state the total weight or volume of~~
7 ~~solid waste received by the facility during the payment period~~
8 ~~and provide any other aggregate information deemed necessary by~~
9 ~~the department to carry out the purposes of this chapter. The~~
10 ~~operator shall sign the form.~~

11 ~~(c) Timeliness of payment.— The operator shall be deemed to~~
12 ~~have made a timely payment of the municipal enhancement~~
13 ~~consideration fee if the operator complies with all of the~~
14 ~~following:~~

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

18 ~~(2) The required form accompanies the payment, and such~~
19 ~~form is complete and accurate.~~

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

24 ~~(d) Discount.— Any operator that makes a timely payment of~~
25 ~~the municipal enhancement consideration fee as provided in this~~
26 ~~section shall be entitled to credit and apply against the fee~~
27 ~~payable a discount of 1% of the amount of the fee collected.~~

28 ~~(e) Refunds.—~~

29 ~~(1) Any operator who believes he has overpaid the~~
30 ~~municipal enhancement consideration fee may file a petition~~

1 ~~for refund to the department. If the department determines~~
2 ~~that the operator has overpaid the fee, the department shall~~
3 ~~refund to the operator the amount due him, together with~~
4 ~~interest at a rate established pursuant to section 806.1 of~~
5 ~~the act of April 9, 1929 (P.L.343, No.176), known as The~~
6 ~~Fiscal Code, from the date of overpayment.~~

7 ~~(2) No refund of the municipal enhancement consideration~~
8 ~~fee shall be made unless the petition for the refund is filed~~
9 ~~with the department within six months of the date of the~~
10 ~~overpayment.~~

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

15 ~~Section 503. Collection and enforcement of fee.~~

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

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

30 ~~(c) Assessment notices.~~

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

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

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

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

30 ~~(5) Notwithstanding any other provision of law to the~~

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

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

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

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

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

27 ~~Section 504. Records.~~

28 ~~Each operator shall keep daily records of all deliveries of~~
29 ~~solid waste to the facility as required by the department,~~
30 ~~including, but not limited to, the name and address of the~~

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

6 ~~Section 505.— Surcharge.~~

7 ~~Notwithstanding the provisions of any law to the contrary:~~

8 ~~(1) The operator may collect the municipal enhancement~~
9 ~~consideration fee imposed by this chapter as a surcharge on~~
10 ~~any fee schedule established pursuant to law, ordinance,~~
11 ~~resolution or contract for solid waste processing or disposal~~
12 ~~operations at a facility.~~

13 ~~(2) Any person who collects or transports solid waste~~
14 ~~subject to a municipal waste landfill or resource recovery~~
15 ~~facility may impose a surcharge on any fee schedule~~
16 ~~established pursuant to law, ordinance, resolution or~~
17 ~~contract for the collection or transportation of solid waste~~
18 ~~to the facility. The surcharge shall be equal to the increase~~
19 ~~in disposal fees at the facility attributable to the~~
20 ~~municipal enhancement consideration fee. However, interest~~
21 ~~and penalties on the municipal enhancement consideration fee~~
22 ~~may not be collected as a surcharge.~~

23 ~~Section 506.— Municipal Enhancement Consideration Fee Fund.~~

24 ~~(a) Establishment.— All fees received by the department~~
25 ~~pursuant to this chapter shall be paid into the State Treasury~~
26 ~~into a special fund to be known as the Municipal Enhancement~~
27 ~~Consideration Fee Fund, which is hereby established.~~

28 ~~(b) Appropriation.— All moneys placed in the Municipal~~
29 ~~Enhancement Consideration Fee Fund are hereby appropriated to~~
30 ~~the department for the purposes set forth in this section. The~~

1 ~~department shall annually submit to the Governor for his~~
2 ~~approval estimates of amounts to be expended under this section.~~

3 ~~(c) Allocations. The department shall, to the extent~~
4 ~~practicable, allocate the moneys received by the Municipal~~
5 ~~Enhancement Consideration Fee Fund, including all interest~~
6 ~~generated thereon, in the following manner each year:~~

7 ~~(1) At least 10% shall be expended for fire and~~
8 ~~emergency.~~

9 ~~(2) At least 10% shall be expended on libraries.~~

10 ~~(3) At least 10% shall be expended on recycling~~
11 ~~development.~~

12 ~~(4) At least 10% shall be expended on early childhood~~
13 ~~tuition grants.~~

14 ~~(5) At least 10% shall be expended on Keystone~~
15 ~~Opportunity Zone development.~~

16 ~~(6) At least 10% shall be expended on agricultural and~~
17 ~~mining related grants to local watersheds.~~

18 ~~(7) At least 10% shall be expended on local Department~~
19 ~~of Transportation hazardous material elimination.~~

20 ~~(8) At least 10% shall be expended on grants for~~
21 ~~municipal improvements as approved by the Governor.~~

22 ~~(9) At least 10% shall be expended on a weed and seed~~
23 ~~program.~~

24 ~~(10) No more than 3% may be expended for collecting the~~
25 ~~municipal enhancement consideration fee and enforcement of~~
26 ~~this chapter.~~

27 ~~(d) Transfer. On the first day of the 16th year after the~~
28 ~~municipal enhancement consideration fee imposed by this chapter~~
29 ~~becomes effective, all moneys in the Municipal Enhancement~~
30 ~~Consideration Fee Fund that are not obligated shall be~~

1 transferred to the Solid Waste Abatement Fund and expended in
2 the same manner as other moneys in the Solid Waste Abatement
3 Fund. On the first day of the 19th year after the fee imposed by
4 this chapter becomes effective, all moneys in the recycling fund
5 that are not expended shall be transferred to the Solid Waste
6 Abatement Fund and expended in the same manner as other moneys
7 in the Solid Waste Abatement Fund.

8 (c) ~~Advisory committee.~~ The secretary shall establish a
9 ~~Municipal Enhancement Consideration Fee Advisory Committee~~
10 ~~composed of representatives of counties, other municipalities,~~
11 ~~municipal authorities, the municipal waste management industry,~~
12 ~~the municipal waste recycling industry, the municipal waste~~
13 ~~generating industry and the general public. The committee shall~~
14 ~~also include members of the General Assembly, one appointed by~~
15 ~~each of the following: the President pro tempore of the Senate,~~
16 ~~the Minority Leader of the Senate, the Speaker of the House of~~
17 ~~Representatives and the Minority Leader of the House of~~
18 ~~Representatives. The committee shall meet at least annually to~~
19 ~~recommend priorities on expenditures from the fund and to advise~~
20 ~~the secretary on associated activities concerning the~~
21 ~~administration of the fund. The department shall reimburse~~
22 ~~members of the committee for reasonable travel, hotel and other~~
23 ~~necessary expenses incurred in performance of their duties under~~
24 ~~this section.~~

25 (f) ~~Annual reports.~~ The department shall submit an annual
26 ~~report to the General Assembly on receipts to and disbursements~~
27 ~~from the Municipal Enhancement Consideration Fee Fund in the~~
28 ~~previous fiscal year, projections for revenues and expenditures~~
29 ~~in the coming fiscal year.~~

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 modifying, suspending or revoking written authorizations and orders requiring persons and municipalities to cease unlawful activities or operations of a 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, 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 specified, the person or municipality shall be guilty of contempt and shall be punished by the court in an appropriate manner and, for this purpose, application may be made by the department to the court.~~

1 ~~Section 702. Civil penalties.~~

2 ~~(a) Authority.~~

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

11 ~~(2) In determining the amount of the penalty, the~~
12 ~~department shall consider the willfulness of the violation,~~
13 ~~damage to air, water, land or other natural resources of this~~
14 ~~Commonwealth or their uses, cost or restoration and~~
15 ~~abatement, savings resulting to the person in consequence of~~
16 ~~the violation and other relevant factors.~~

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

24 ~~(b) Procedure.~~

25 ~~(1) When the department proposes to assess a civil~~
26 ~~penalty, it shall inform the person of the proposed amount of~~
27 ~~the penalty. The person charged with the penalty shall then~~
28 ~~have 30 calendar days to pay the proposed penalty in full or,~~
29 ~~if the person wishes to contest the amount of the penalty or~~
30 ~~the fact of the violation to the extent not already~~

1 ~~established, the person shall forward the proposed amount of~~
2 ~~the penalty to the Environmental Hearing Board within the 30-~~
3 ~~calendar day period for placement in an escrow account with~~
4 ~~the State Treasurer or any Commonwealth bank or post an~~
5 ~~appeal bond to the hearing board within 30 calendar days in~~
6 ~~the amount of the proposed penalty if the bond is executed by~~
7 ~~a surety licensed to do business in this Commonwealth and is~~
8 ~~satisfactory to the department.~~

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

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

23 ~~(4) The hearing board may waive the requirement to~~
24 ~~prepay the civil penalty or to post an appeal bond if the~~
25 ~~appellant demonstrates and the hearing board finds that the~~
26 ~~appellant is financially unable to pay. The hearing board~~
27 ~~shall issue an order within 30 calendar days of the date of~~
28 ~~the hearing to consider the appellant's alleged inability to~~
29 ~~pay.~~

30 ~~(5) The amount assessed after administrative hearing or~~

1 after waiver of administrative hearing shall be payable to
2 the Commonwealth and shall be collectible in any manner
3 provided by law for the collection of debts, including the
4 collection of interest at the legal rate, which shall run
5 from the date of assessment of the penalty.

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

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

22 (8) The notice of lien, filed pursuant to this
23 subsection, which affects the property of the person shall
24 create a lien with priority over all subsequent claims or
25 liens which are filed against the person, but it shall not
26 affect any valid lien, right or interest in the property
27 filed in accordance with established procedure prior to the
28 filing of a notice of lien under this subsection.

29 Section 703. Regulations.

30 The Environmental Quality Board shall have the power and its

1 ~~duty shall be to adopt the regulations of the department to~~
2 ~~accomplish the purposes and to carry out the provisions of this~~
3 ~~act.~~

4 ~~Section 704. Repeals.~~

5 ~~All acts and parts of acts are repealed insofar as they are~~
6 ~~inconsistent with this act.~~

7 ~~Section 705. Effective date.~~

8 ~~This act shall take effect immediately.~~

9 SECTION 1. SHORT TITLE. ←

10 THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE SOLID WASTE
11 CONTROL AND HOST MUNICIPALITY AGREEMENT ACT.

12 SECTION 2. LEGISLATIVE FINDINGS AND DECLARATION OF POLICY.

13 (A) LEGISLATIVE FINDINGS.--THE GENERAL ASSEMBLY HEREBY
14 DETERMINES, DECLARES AND FINDS THAT:

15 (1) SOLID WASTE PRACTICES CREATE PUBLIC HEALTH HAZARDS,
16 ENVIRONMENTAL POLLUTION AND NUISANCES AND CAN CAUSE
17 IRREPARABLE HARM TO THE PUBLIC HEALTH, SAFETY AND WELFARE.

18 (2) ALL ASPECTS OF SOLID WASTE MANAGEMENT, PARTICULARLY
19 THE DISPOSAL OF SOLID WASTE, POSE A CRITICAL THREAT TO THE
20 HEALTH, SAFETY AND WELFARE OF THE RESIDENTS OF THIS
21 COMMONWEALTH WHEN SOLID WASTE IS IMPROPERLY MANAGED.

22 (3) THE COMMONWEALTH IS RESPONSIBLE FOR THE PROTECTION
23 OF THE HEALTH, SAFETY AND WELFARE OF ITS RESIDENTS CONCERNING
24 SOLID WASTE MANAGEMENT.

25 (4) THE CONSTRUCTION AND EXPANSION OF COMMERCIAL SOLID
26 WASTE LANDFILLS AND RESOURCE RECOVERY FACILITIES USUALLY
27 CONSUMES NATURAL LANDS, THEREBY IMPINGING UPON WILDLIFE
28 HABITAT AND THE PUBLIC'S USE AND ENJOYMENT OF THE NATURAL
29 RESOURCES, INCLUDING AIR, WATER AND NATURAL SCENIC, HISTORIC
30 AND ESTHETIC VALUES OF THE ENVIRONMENT.

1 (5) CONCENTRATED TRAFFIC IN THE VICINITY OF COMMERCIAL
2 SOLID WASTE LANDFILLS AND RESOURCE RECOVERY FACILITIES CAN
3 CONTRIBUTE TO AND CAUSE SUBSTANTIAL HARM TO THIS
4 COMMONWEALTH'S ROADWAYS AND ENVIRONMENT AND TO THE HEALTH AND
5 SAFETY OF THE RESIDENTS OF THIS COMMONWEALTH.

6 (6) COMMUNITIES IN THE AREAS LOCATED NEAR AND ALONG THE
7 APPROACH ROUTES TO COMMERCIAL SOLID WASTE LANDFILLS AND
8 RESOURCE RECOVERY FACILITIES EXPERIENCE TRAFFIC PROBLEMS,
9 LITTER, ODORS, NOISE, DUST AND OTHER NUISANCES THAT ARE
10 THREATS TO PUBLIC HEALTH AND SAFETY RESULTING FROM THE
11 OPERATION OF THE FACILITIES AND FROM THE TRANSPORTATION OF
12 WASTE TO THESE FACILITIES.

13 (B) PURPOSES AND GOALS.--THE PURPOSES AND GOALS OF THIS ACT
14 ARE TO:

15 (1) PROVIDE MUNICIPALITIES ACROSS THIS COMMONWEALTH WITH
16 THE ABILITY TO CONTROL THE DISPOSAL OF SOLID WASTE IN THEIR
17 COMMUNITIES.

18 (2) ENHANCE THE PROTECTION OF THE PUBLIC HEALTH, SAFETY
19 AND WELFARE FROM THE SHORT-TERM AND LONG-TERM DANGERS
20 ASSOCIATED WITH THE DISPOSAL OF SOLID WASTE.

21 (3) IMPLEMENT SECTION 27 OF ARTICLE I OF THE
22 CONSTITUTION OF PENNSYLVANIA.

23 (4) CONSERVE THE ENVIRONMENT AND THE NATURAL RESOURCES
24 OF THIS COMMONWEALTH.

25 (5) LIMIT THE MAGNITUDE OF ENVIRONMENTAL AND
26 TRANSPORTATION PROBLEMS IN AND AROUND COMMUNITIES WHICH HOST
27 COMMERCIAL SOLID WASTE LANDFILLS OR RESOURCE RECOVERY
28 FACILITIES.

29 (6) PROVIDE FOR GREATER LOCAL INPUT FROM AFFECTED
30 RESIDENTS AND COMMUNITIES IN THE PLANNING OF COMMERCIAL SOLID

1 WASTE LANDFILLS AND RESOURCE RECOVERY FACILITIES.

2 (7) PROTECT RESIDENTS OF THE COMMUNITIES AFFECTED BY
3 COMMERCIAL SOLID WASTE LANDFILLS AND RESOURCE RECOVERY
4 FACILITIES FROM UNNECESSARY TRAFFIC PROBLEMS, LITTER, ODORS,
5 NOISE, DUST AND OTHER NUISANCES THAT ARE THREATS TO PUBLIC
6 HEALTH AND SAFETY WHICH MAY RESULT FROM THE OPERATION OF THE
7 FACILITIES AND FROM THE TRANSPORTATION OF WASTE TO THESE
8 FACILITIES.

9 SECTION 3. DEFINITIONS.

10 (A) GENERAL RULE.--UNLESS SPECIFICALLY DEFINED IN THIS
11 SECTION, THE TERMS IN THIS ACT HAVE THE SAME MEANING AS PROVIDED
12 IN THE ACT OF JULY 7, 1980 (P.L.380, NO.97), KNOWN AS THE SOLID
13 WASTE MANAGEMENT ACT, OR THE ACT OF JULY 28, 1988 (P.L.556,
14 NO.101), KNOWN AS THE MUNICIPAL WASTE PLANNING, RECYCLING AND
15 WASTE REDUCTION ACT, OR REGULATIONS OF THE DEPARTMENT OF
16 ENVIRONMENTAL PROTECTION PROMULGATED THEREUNDER.

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

20 "COMMERCIAL SOLID WASTE LANDFILL." A LANDFILL PERMITTED OR
21 PROPOSED FOR PERMITTING UNDER THE ACT OF JULY 7, 1980 (P.L.380,
22 NO.97), KNOWN AS THE SOLID WASTE MANAGEMENT ACT, FOR THE
23 DISPOSAL OF MUNICIPAL WASTE, RESIDUAL WASTE, CONSTRUCTION AND
24 DEMOLITION WASTE OR MIXED MUNICIPAL AND RESIDUAL WASTE,
25 INCLUDING MIXED MUNICIPAL OR RESIDUAL WASTE AND CONSTRUCTION AND
26 DEMOLITION DEBRIS. THE TERM DOES NOT INCLUDE A CAPTIVE RESIDUAL
27 WASTE FACILITY.

28 "DEPARTMENT." THE DEPARTMENT OF ENVIRONMENTAL PROTECTION OF
29 THE COMMONWEALTH AND ITS AUTHORIZED REPRESENTATIVES.

30 "EXPANSION MODIFICATION." AN APPLICATION FOR PERMIT

1 MODIFICATION FILED BY AN OWNER OR OPERATOR OF A COMMERCIAL SOLID
2 WASTE LANDFILL OR RESOURCE RECOVERY FACILITY WHICH REQUESTS AN
3 EXPANSION, EITHER Laterally OR VERTICALLY, OF A PERMIT AREA.

4 "HOST MUNICIPALITY." A MUNICIPALITY OTHER THAN THE COUNTY
5 WHICH MEETS ONE OF THE FOLLOWING CRITERIA:

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

9 (2) THE MUNICIPALITY IS LOCATED WITHIN ONE MILE OF ANY
10 PORTION OF A PERMIT AREA OF A PROPOSED OR OPERATING
11 COMMERCIAL SOLID WASTE LANDFILL OR RESOURCE RECOVERY
12 FACILITY.

13 "HOST MUNICIPALITY AGREEMENT." A WRITTEN, LEGALLY BINDING
14 DOCUMENT OR DOCUMENTS EXECUTED BY AUTHORIZED OFFICIALS OF EACH
15 HOST MUNICIPALITY AND AN OWNER OR OPERATOR OF A COMMERCIAL SOLID
16 WASTE LANDFILL OR RESOURCE RECOVERY FACILITY.

17 "MUNICIPAL WASTE PLANNING, RECYCLING AND WASTE REDUCTION
18 ACT." THE ACT OF JULY 28, 1988 (P.L.556, NO.101), KNOWN AS THE
19 MUNICIPAL WASTE PLANNING, RECYCLING AND WASTE REDUCTION ACT.

20 "PENNSYLVANIA MUNICIPALITIES PLANNING CODE." THE ACT OF JULY
21 31, 1968 (P.L.805, NO.247), KNOWN AS THE PENNSYLVANIA
22 MUNICIPALITIES PLANNING CODE.

23 "PERMIT." A PERMIT ISSUED PURSUANT TO THE ACT OF JULY 7,
24 1980 (P.L.380, NO.97), KNOWN AS THE SOLID WASTE MANAGEMENT ACT.

25 "SECRETARY." THE SECRETARY OF ENVIRONMENTAL PROTECTION OF
26 THE COMMONWEALTH.

27 "SOLID WASTE MANAGEMENT ACT." THE ACT OF JULY 7, 1980
28 (P.L.380, NO.97), KNOWN AS THE SOLID WASTE MANAGEMENT ACT.

29 "VOLUME MODIFICATION." AN APPLICATION FOR PERMIT
30 MODIFICATION FILED BY AN OWNER OR OPERATOR OF A COMMERCIAL SOLID

1 WASTE LANDFILL OR RESOURCE RECOVERY FACILITY WHICH REQUESTS AN
2 INCREASED IN AVERAGE OR MAXIMUM DAILY WASTE VOLUME.

3 SECTION 4. CONSTRUCTION OF ACT.

4 (A) LIBERAL CONSTRUCTION.--THIS ACT SHALL BE LIBERALLY
5 CONSTRUED SO AS BEST TO ACHIEVE AND EFFECTUATE THE GOALS AND
6 PURPOSES OF THIS ACT.

7 (B) PARI MATERIA.--THIS ACT SHALL BE CONSTRUED IN PARI
8 MATERIA WITH THE SOLID WASTE MANAGEMENT ACT, THE MUNICIPAL WASTE
9 PLANNING, RECYCLING AND WASTE REDUCTION ACT AND SECTIONS 1935-A
10 AND 1936-A OF THE ACT OF APRIL 9, 1929 (P.L.177, NO.175), KNOWN
11 AS THE ADMINISTRATIVE CODE OF 1929.

12 SECTION 5. MORATORIUM.

13 (A) PERMITS RELATING TO CONSTRUCTION, EXPANSION OR
14 OPERATION.--FOR A PERIOD OF TWO YEARS FOLLOWING THE EFFECTIVE
15 DATE OF THIS ACT, THE DEPARTMENT SHALL NOT ACCEPT AN APPLICATION
16 FOR A PERMIT OR PERMIT MODIFICATION NOR ISSUE A PERMIT OR PERMIT
17 MODIFICATION UNDER THE SOLID WASTE MANAGEMENT ACT FOR THE
18 CONSTRUCTION, EXPANSION OR OPERATION OF A MUNICIPAL WASTE
19 LANDFILL, CONSTRUCTION/DEMOLITION WASTE LANDFILL, RESOURCE
20 RECOVERY FACILITY OR COMMERCIAL RESIDUAL WASTE DISPOSAL
21 FACILITY.

22 (B) PERMIT MODIFICATIONS RELATING TO DAILY VOLUME.--FOR A
23 PERIOD OF TWO YEARS FOLLOWING THE EFFECTIVE DATE OF THIS ACT,
24 THE DEPARTMENT SHALL NOT ACCEPT FOR REVIEW NOR ISSUE A PERMIT
25 MODIFICATION THAT WOULD RESULT IN AN INCREASE IN AVERAGE DAILY
26 VOLUME OR MAXIMUM DAILY VOLUME AT A MUNICIPAL WASTE LANDFILL,
27 CONSTRUCTION/DEMOLITION WASTE LANDFILL, RESOURCE RECOVERY
28 FACILITY OR COMMERCIAL RESIDUAL WASTE DISPOSAL FACILITY.

29 (C) RETURN OF APPLICATIONS.---IMMEDIATELY FOLLOWING THE
30 EFFECTIVE DATE OF THIS ACT, THE DEPARTMENT SHALL RETURN THE

1 FOLLOWING APPLICATIONS AND SHALL CONDUCT NO FURTHER REVIEW
2 DURING THE PENDENCY OF THE MORATORIUM ESTABLISHED IN SUBSECTIONS
3 (A) AND (B).

4 (1) APPLICATIONS FOR NEW MUNICIPAL WASTE LANDFILLS,
5 CONSTRUCTION/DEMOLITION WASTE LANDFILLS, RESOURCE RECOVERY
6 FACILITIES OR COMMERCIAL RESIDUAL WASTE DISPOSAL FACILITIES.

7 (2) APPLICATIONS FOR EXPANSIONS OF MUNICIPAL WASTE
8 LANDFILLS, CONSTRUCTION/DEMOLITION WASTE LANDFILLS OR
9 COMMERCIAL RESIDUAL WASTE DISPOSAL FACILITIES.

10 (3) APPLICATIONS FOR PERMIT MODIFICATIONS TO INCREASE
11 AVERAGE DAILY VOLUME OR MAXIMUM DAILY VOLUME AT MUNICIPAL
12 WASTE LANDFILLS, CONSTRUCTION/DEMOLITION WASTE LANDFILLS,
13 RESOURCE RECOVERY FACILITIES OR COMMERCIAL RESIDUAL WASTE
14 DISPOSAL FACILITIES.

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

28 (E) EXCEPTIONS.--THIS SECTION SHALL NOT PROHIBIT THE REVIEW
29 OR ISSUANCE OF THE FOLLOWING DURING THE PENDENCY OF THE
30 MORATORIUM:

1 (1) A PERMIT RENEWAL OR REISSUANCE.

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

5 (3) AN OPERATIONAL MODIFICATION THAT DOES NOT AFFECT
6 CAPACITY.

7 (4) A PERMIT AMENDMENT TO INCREASE THE CAPACITY OF A
8 FACILITY WHOSE REMAINING CAPACITY IS FIVE YEARS OR LESS TO
9 INCREASE ITS CAPACITY TO TEN YEARS OR LESS.

10 (F) SPECIAL CIRCUMSTANCES.--

11 (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW OR THIS
12 ACT TO THE CONTRARY, THE DEPARTMENT MAY MODIFY ANY PERMIT
13 LISTED IN SUBSECTION (A), (B) OR (C) DURING THE PENDENCY OF
14 THE MORATORIUM TO ALLOW INCREASED MAXIMUM OR AVERAGE DAILY
15 WASTE VOLUMES IF THE DEPARTMENT:

16 (I) FINDS IN WRITING THAT THE MODIFICATION IS
17 NECESSARY TO PREVENT A PUBLIC HEALTH OR ENVIRONMENTAL
18 EMERGENCY.

19 (II) PUBLISHES NOTICE OF THE FINDING IN THE
20 PENNSYLVANIA BULLETIN.

21 (2) ACTION UNDER THIS SUBSECTION SHALL BE TAKEN IN
22 ACCORDANCE WITH SECTION 503(E) OF THE SOLID WASTE MANAGEMENT
23 ACT.

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

27 SECTION 6. HOST MUNICIPALITY AGREEMENTS.

28 (A) GENERAL RULE.--EACH HOST MUNICIPALITY MAY ENTER INTO
29 NEGOTIATIONS FOR THE DEVELOPMENT OF A HOST MUNICIPALITY
30 AGREEMENT. IF A HOST MUNICIPALITY AGREEMENT IS DEVELOPED, THE

1 GOVERNING BODY OF EACH HOST MUNICIPALITY SHALL VOTE TO ADOPT OR
2 REJECT THE AGREEMENT.

3 (B) PUBLIC NOTICE AND PUBLIC INVOLVEMENT REQUIREMENTS.--

4 (1) IF NEGOTIATIONS ARE ENTERED INTO, EACH HOST
5 MUNICIPALITY SHALL PUBLISH NOTICE THAT DISCUSSIONS FOR
6 DEVELOPING A HOST MUNICIPALITY AGREEMENT WITH THE COMMERCIAL
7 SOLID WASTE LANDFILL OR RESOURCE RECOVERY FACILITY HAVE
8 BEGUN. THE NOTICE ALSO SHALL DESCRIBE THE PUBLIC INVOLVEMENT
9 PROCESS THAT THE HOST MUNICIPALITY WILL USE TO DEVELOP THE
10 AGREEMENT. THE NOTICE SHALL BE PUBLISHED ONCE A WEEK FOR
11 THREE CONSECUTIVE WEEKS IN A NEWSPAPER OF GENERAL CIRCULATION
12 IN THE MUNICIPALITY WHERE THE FACILITY OR PROPOSED FACILITY
13 IS LOCATED. THE PUBLIC INVOLVEMENT PROCESS SHALL, AT A
14 MINIMUM, INCLUDE THE FOLLOWING:

15 (I) THE HOST MUNICIPALITY SHALL HOLD A SPECIAL
16 PUBLIC HEARING AT WHICH A PROPOSED HOST MUNICIPALITY
17 AGREEMENT IS PRESENTED TO THE PUBLIC AND AT WHICH THE
18 PUBLIC IS PROVIDED AN OPPORTUNITY TO PROVIDE ORAL AND
19 WRITTEN TESTIMONY. NOTICE OF THE HEARING SHALL BE
20 PUBLISHED IN A NEWSPAPER OF GENERAL CIRCULATION IN THE
21 MUNICIPALITY NOT LESS THAN TEN DAYS NOR MORE THAN 30 DAYS
22 PRIOR TO THE HEARING. A PUBLIC COMMENT PERIOD OF NO LESS
23 THAN 30 CALENDAR DAYS SHALL BE PROVIDED AFTER THE PUBLIC
24 HEARING TO ACCEPT WRITTEN COMMENTS ON THE PROPOSED HOST
25 MUNICIPALITY AGREEMENT.

26 (II) THE HOST MUNICIPALITY SHALL HOLD A SPECIAL
27 PUBLIC MEETING AT WHICH REVISIONS TO THE PROPOSED HOST
28 MUNICIPALITY AGREEMENT ARE PRESENTED TO THE PUBLIC BY THE
29 MUNICIPALITY, INCLUDING CHANGES TO THE PROPOSED HOST
30 MUNICIPALITY AGREEMENT THAT WERE ADOPTED AFTER THE PUBLIC

1 HEARING AND PUBLIC COMMENT PERIOD. THE PUBLIC SHALL BE
2 PROVIDED A REASONABLE OPPORTUNITY TO ASK QUESTIONS TO THE
3 HOST MUNICIPALITY ON THE HOST MUNICIPALITY AGREEMENT AND
4 TO PROVIDE PUBLIC COMMENT. NOTICE OF THE HEARING SHALL BE
5 PUBLISHED IN A NEWSPAPER OF GENERAL CIRCULATION IN THE
6 MUNICIPALITY NOT LESS THAN TEN DAYS NOR MORE THAN 30 DAYS
7 PRIOR TO THE HEARING.

8 (III) THE HOST MUNICIPALITY SHALL PUBLISH THE
9 DECISION ON ADOPTING OR REJECTING THE FINAL AGREEMENT
10 WITHIN 30 CALENDAR DAYS OF ACTING.

11 (2) THE PUBLIC INVOLVEMENT PROCESS MAY CONTAIN
12 ADDITIONAL PUBLIC NOTICE AND INVOLVEMENT IN A MANNER
13 DETERMINED BY THE MUNICIPALITY.

14 (C) CONTENTS OF AGREEMENT.--

15 (1) A HOST MUNICIPALITY AGREEMENT AGREED TO AND EXECUTED
16 BY THE PARTIES SHALL ADDRESS THE FOLLOWING:

17 (I) THE NATURE OF THE PROPOSED FACILITY.

18 (II) THE SITE OF THE PROPOSED FACILITY OR EXPANSION
19 OF THE EXISTING FACILITY.

20 (III) MEASURES TO ALLEVIATE LOCAL ISSUES, SUCH AS
21 HAUL ROUTES, TRAFFIC PROBLEMS, LITTER, ODORS, NOISE, DUST
22 AND ANY OTHER NUISANCES THAT MIGHT RESULT FROM THE
23 OPERATION OF THE FACILITY. SUCH LOCAL ISSUES SHALL BE
24 IDENTIFIED BY THE HOST MUNICIPALITY.

25 (IV) THE HOST BENEFIT FEE TO BE PAID BY THE OWNER OR
26 OPERATOR OF THE FACILITY TO THE HOST MUNICIPALITY, WHICH
27 FEE SHALL NOT BE LESS THAN THE STATUTORY MINIMUM FEE
28 ESTABLISHED UNDER THE MUNICIPAL WASTE PLANNING, RECYCLING
29 AND WASTE REDUCTION ACT AND ANY OTHER FINANCIAL AND IN-
30 KIND CONTRIBUTIONS.

1 (V) THE MAXIMUM AND DAILY AVERAGE WASTE VOLUME TO BE
2 RECEIVED AT THE FACILITY.

3 (VI) THE DAYS AND HOURS OF OPERATION OF THE
4 FACILITY.

5 (VII) THE AVAILABILITY OF CAPACITY AT THE FACILITY
6 FOR THE DISPOSAL OF SOLID WASTE GENERATED WITHIN THE HOST
7 MUNICIPALITY.

8 (VIII) ACTIVITIES TO PROMOTE RECYCLING, WASTE
9 REDUCTION AND THE PROPER MANAGEMENT AND DISPOSAL OF SOLID
10 WASTE GENERATED WITHIN THE HOST MUNICIPALITY.

11 (IX) THE PROCESS FOR RESOLUTION IN A COOPERATIVE AND
12 NONBINDING MANNER OF COMPLAINTS AND OTHER GRIEVANCES
13 CONCERNING THE CONSTRUCTION AND OPERATION OF THE
14 FACILITY.

15 (X) PROVISION FOR ACCESS TO THE FACILITY AND ITS
16 RECORDS BY THE HOST MUNICIPALITY INSPECTOR.

17 (XI) A STATEMENT THAT IF CONGRESS ENACTS A LAW THAT
18 PLACES RESTRICTIONS ON OUT-OF-STATE WASTE, THE HOST
19 MUNICIPALITY MAY RENEGOTIATE ITS HOST MUNICIPALITY
20 AGREEMENT IN REGARD TO OUT-OF-STATE WASTE.

21 (2) A HOST MUNICIPALITY AGREEMENT AGREED TO AND EXECUTED
22 BY THE PARTIES MAY ADDRESS ANY OTHER TERMS OR CONDITIONS TO
23 WHICH THE PARTIES AGREE SHOULD BE INCLUDED IN THE AGREEMENT.

24 (D) REQUIREMENT FOR HOST MUNICIPALITY AGREEMENT.--

25 (1) THE DEPARTMENT SHALL REVOKE THE PERMIT OF ANY
26 CURRENTLY PERMITTED COMMERCIAL SOLID WASTE LANDFILL OR
27 RESOURCE RECOVERY FACILITY THAT DOES NOT EXECUTE A HOST
28 MUNICIPALITY AGREEMENT IN ACCORDANCE WITH THE SCHEDULE
29 ESTABLISHED IN THIS SECTION.

30 (2) FOR A COMMERCIAL SOLID WASTE LANDFILL OR RESOURCE

1 RECOVERY FACILITY FOR WHICH A HOST MUNICIPALITY AGREEMENT WAS
2 EXECUTED PRIOR TO OR ON THE EFFECTIVE DATE OF THIS ACT,
3 EXCEPT AS PROVIDED IN PARAGRAPHS (3) AND (4), A NEW HOST
4 MUNICIPALITY AGREEMENT SHALL BE:

5 (I) EXECUTED BY THE OWNER OR OPERATOR AND THE HOST
6 MUNICIPALITY OR MUNICIPALITIES ON THE DATE THE EXISTING
7 HOST MUNICIPALITY AGREEMENT EXPIRES OR FIVE YEARS AFTER
8 THE EFFECTIVE DATE OF THIS ACT, WHICHEVER OCCURS FIRST;
9 AND

10 (II) SUBMITTED TO THE DEPARTMENT FOR REVIEW WITHIN
11 30 DAYS OF EXECUTION.

12 (3) FOR A COMMERCIAL SOLID WASTE LANDFILL OR RESOURCE
13 RECOVERY FACILITY FOR WHICH:

14 (I) NO HOST MUNICIPALITY AGREEMENT HAS BEEN EXECUTED
15 AS OF THE EFFECTIVE DATE OF THIS ACT; OR

16 (II) A HOST MUNICIPALITY AGREEMENT WAS EXECUTED ON
17 OR BEFORE THE EFFECTIVE DATE OF THIS ACT BUT WHICH
18 AGREEMENT EXPIRES WITHIN TWO YEARS OF THE EFFECTIVE DATE
19 OF THIS ACT,

20 A HOST MUNICIPALITY AGREEMENT SHALL BE EXECUTED BY THE OWNER
21 OR OPERATOR AND THE HOST MUNICIPALITY OR MUNICIPALITIES
22 WITHIN TWO YEARS OF THE EFFECTIVE DATE OF THIS ACT AND
23 SUBMITTED TO THE DEPARTMENT FOR REVIEW WITHIN 30 DAYS OF
24 EXECUTION.

25 (4) FOR ANY COMMERCIAL SOLID WASTE LANDFILL OR RESOURCE
26 RECOVERY FACILITY FOR WHICH A HOST MUNICIPALITY AGREEMENT WAS
27 EXECUTED PRIOR TO OR ON THE EFFECTIVE DATE OF THIS ACT BUT
28 WHICH HAS NOT BEGUN TO ACCEPT SOLID WASTE AS OF THE EFFECTIVE
29 DATE OF THIS ACT, A NEW HOST MUNICIPALITY AGREEMENT SHALL BE
30 EXECUTED BY THE OWNER OR OPERATOR AND THE HOST MUNICIPALITY

1 OR MUNICIPALITIES WITHIN TWO YEARS OF THE EFFECTIVE DATE OF
2 THIS ACT AND SUBMITTED TO THE DEPARTMENT FOR APPROVAL WITHIN
3 30 DAYS OF EXECUTION.

4 (5) A NEW HOST MUNICIPALITY AGREEMENT FOR EACH HOST
5 MUNICIPALITY SHALL BE EXECUTED IN ACCORDANCE WITH THIS
6 SECTION AND SUBMITTED TO THE DEPARTMENT FOR REVIEW FOR ANY
7 EXPANSION MODIFICATION OR VOLUME MODIFICATION FILED BY AN
8 OWNER OR OPERATOR OF A COMMERCIAL SOLID WASTE LANDFILL OR
9 RESOURCE RECOVERY FACILITY AFTER THE EFFECTIVE DATE OF THIS
10 ACT.

11 (6) A HOST MUNICIPALITY AGREEMENT SHALL BE EXECUTED IN
12 ACCORDANCE WITH THIS SECTION BY AN OWNER OR OPERATOR AND THE
13 HOST MUNICIPALITY OR MUNICIPALITIES AND SHALL BE SUBMITTED TO
14 THE DEPARTMENT FOR REVIEW FOR ANY NEW COMMERCIAL SOLID WASTE
15 LANDFILL OR RESOURCE RECOVERY FACILITY.

16 (E) RELATIONSHIP TO PERMIT APPLICATIONS.--

17 (1) AN APPLICATION FOR A PERMIT, VOLUME MODIFICATION OR
18 EXPANSION MODIFICATION FOR A COMMERCIAL SOLID WASTE LANDFILL
19 OR RESOURCE RECOVERY FACILITY WHICH IS SUBMITTED TO THE
20 DEPARTMENT FOR REVIEW AFTER THE EFFECTIVE DATE OF THIS ACT
21 SHALL ONLY BE ACCEPTED AS ADMINISTRATIVELY COMPLETE UNDER
22 SECTION 512(A) OF THE MUNICIPAL WASTE PLANNING, RECYCLING AND
23 WASTE REDUCTION ACT AND THE REGULATIONS PROMULGATED
24 THEREUNDER IF IT INCLUDES WRITTEN EVIDENCE THAT A HOST
25 MUNICIPALITY AGREEMENT COMPLIES WITH THE REQUIREMENTS OF THIS
26 SECTION AND HAS BEEN EXECUTED BY THE APPLICANT AND EACH HOST
27 MUNICIPALITY. SUCH WRITTEN EVIDENCE SHALL BE CONTAINED AS
28 PART OF THE APPLICATION.

29 (2) AN APPLICATION FOR A PERMIT, VOLUME MODIFICATION OR
30 EXPANSION MODIFICATION FOR A COMMERCIAL SOLID WASTE LANDFILL

1 OR RESOURCE RECOVERY FACILITY WHICH IS SUBMITTED TO THE
2 DEPARTMENT FOR REVIEW ON, BEFORE OR AFTER THE EFFECTIVE DATE
3 OF THIS ACT SHALL BE ISSUED BY THE DEPARTMENT ONLY IF A HOST
4 MUNICIPALITY AGREEMENT THAT COMPLIES WITH THIS SECTION HAS
5 BEEN EXECUTED BY THE APPLICANT AND EACH HOST MUNICIPALITY.
6 THE DEPARTMENT SHALL NOT ISSUE THE PERMIT OR PERMIT
7 MODIFICATION UNTIL AN EXECUTED HOST MUNICIPALITY AGREEMENT
8 HAS BEEN SUBMITTED TO THE DEPARTMENT.

9 (F) DEPARTMENT REVIEW OF HOST MUNICIPALITY AGREEMENTS.--

10 (1) FOR ALL HOST MUNICIPALITY AGREEMENTS SUBMITTED TO
11 THE DEPARTMENT FOR REVIEW UNDER THIS SECTION, THE DEPARTMENT
12 SHALL REVIEW EACH EXECUTED HOST MUNICIPALITY AGREEMENT TO
13 ENSURE THAT THE AGREEMENT ADDRESSES THE REQUIREMENTS OF
14 SUBSECTION (C)(1) AND ALSO TO ENSURE THAT THERE HAS BEEN
15 COMPLIANCE WITH THE PUBLIC NOTICE AND PUBLIC COMMENT
16 REQUIREMENTS OF SUBSECTION (B).

17 (2) THE DEPARTMENT SHALL REVIEW THE TERMS AND CONDITIONS
18 OF THE HOST MUNICIPALITY AGREEMENT THAT ADDRESS SUBSECTION
19 (C)(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 (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 ENFORCEMENT OF A HOST MUNICIPALITY
10 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 SHALL REIMBURSE
17 THE HOST MUNICIPALITY FOR COSTS INCURRED IN NEGOTIATING A HOST
18 MUNICIPALITY AGREEMENT UNDER THIS SECTION. COSTS COVERED SHALL
19 BE LIMITED TO COSTS INCURRED FOR PROFESSIONAL FEES FOR LAWYERS,
20 ENGINEERS AND OTHER PROFESSIONALS USED IN THE EFFORTS TO REACH
21 AN AGREEMENT. ANY REIMBURSEMENT SHALL BE PROVIDED FROM FUNDS IN
22 THE RECYCLING FUND ESTABLISHED BY SECTION 706 OF THE MUNICIPAL
23 WASTE PLANNING, RECYCLING AND WASTE REDUCTION ACT OR IN THE
24 SOLID WASTE ABATEMENT FUND ESTABLISHED UNDER SECTION 701 OF THE
25 SOLID WASTE MANAGEMENT ACT, UPON APPROVAL BY THE GOVERNOR.
26 REIMBURSEMENT SHALL NOT EXCEED \$50,000 FOR EACH HOST
27 MUNICIPALITY AGREEMENT. THE COMBINED TOTAL REIMBURSEMENT FROM
28 THE TWO FUNDS SHALL NOT EXCEED \$750,000 ANNUALLY OR \$2,500,000
29 OVER A FIVE-YEAR PERIOD FROM THE EFFECTIVE DATE OF THIS ACT.

30 (I) RELATIONSHIP TO OTHER LAWS.--

1 (1) TO THE EXTENT THE TERMS OF A HOST MUNICIPALITY
2 AGREEMENT DIFFER FROM ANY EXISTING ORDINANCE ADOPTED PURSUANT
3 TO SECTION 304(B) OF THE MUNICIPAL WASTE PLANNING, RECYCLING
4 AND WASTE REDUCTION ACT AND CONCERNING:

5 (I) THE HOURS AND DAYS DURING WHICH VEHICLES MAY
6 DELIVER WASTE TO THE COMMERCIAL SOLID WASTE FACILITY OR
7 RESOURCE RECOVERY FACILITY; OR

8 (II) THE ROUTING OF TRAFFIC TO AND FROM THE
9 COMMERCIAL SOLID WASTE LANDFILL OR RESOURCE RECOVERY
10 FACILITY,

11 THE HOST MUNICIPALITY SHALL AMEND THE ORDINANCE TO COMPLY
12 WITH THE AGREEMENT WITHIN 90 DAYS OF THE ADOPTION OF THE HOST
13 MUNICIPALITY AGREEMENT.

14 (2) HOST MUNICIPALITY AGREEMENTS SHALL BE EXECUTED BY
15 THE PARTIES IN THE MANNER PROVIDED FOR IN THIS ACT AND SHALL
16 NOT BE SUBJECT TO COMPETITIVE BIDDING OR OTHER COMPETITIVE
17 PROCUREMENT REQUIREMENTS.

18 (3) THE PROVISIONS OF SECTION 1305 OF THE MUNICIPAL
19 WASTE PLANNING, RECYCLING AND WASTE REDUCTION ACT SHALL BE
20 APPLICABLE TO ANY HOST BENEFIT FEE SET FORTH IN ANY HOST
21 MUNICIPALITY AGREEMENT EXECUTED PURSUANT TO THIS ACT.

22 (4) EXCEPT AS REQUIRED BY THIS SECTION, THE DISCUSSIONS
23 FOR DEVELOPING A HOST MUNICIPALITY AGREEMENT SHALL NOT BE
24 SUBJECT TO THE REQUIREMENTS OF 65 PA.C.S. CH. 7 (RELATING TO
25 OPEN MEETINGS).

26 SECTION 7. PROXIMITY TO STATE PARKS.

27 NO NEW MUNICIPAL WASTE OR RESIDUAL WASTE LANDFILL OR RESOURCE
28 RECOVERY FACILITY MAY BE PERMITTED TO OPERATE WITHIN 2,500 FEET
29 OF A PENNSYLVANIA STATE PARK.

30 SECTION 8. ENFORCEMENT.

1 (A) ORDERS.--

2 (1) THE DEPARTMENT MAY ISSUE ORDERS TO PERSONS AND
3 MUNICIPALITIES AS IT DEEMS NECESSARY TO AID IN THE
4 ENFORCEMENT OF THIS ACT. AN ORDER ISSUED UNDER THIS ACT SHALL
5 TAKE EFFECT UPON NOTICE UNLESS THE ORDER SPECIFIES OTHERWISE.

6 (2) AN APPEAL TO THE ENVIRONMENTAL HEARING BOARD SHALL
7 NOT ACT AS A SUPERSEDEAS.

8 (3) THE POWER OF THE DEPARTMENT TO ISSUE AN ORDER UNDER
9 THIS ACT IS IN ADDITION TO ANY OTHER REMEDY WHICH MAY BE
10 AFFORDED TO THE DEPARTMENT PURSUANT TO THIS ACT OR ANY OTHER
11 ACT.

12 (B) DUTY TO COMPLY WITH ORDERS OF DEPARTMENT.--IT SHALL BE
13 THE DUTY OF ANY PERSON AND MUNICIPALITY TO PROCEED DILIGENTLY TO
14 COMPLY WITH ANY ORDER ISSUED PURSUANT TO THIS SECTION. IF THE
15 PERSON OR MUNICIPALITY FAILS TO PROCEED DILIGENTLY OR FAILS TO
16 COMPLY WITH THE ORDER WITHIN THE TIME, IF ANY, AS MAY BE
17 SPECIFIED, THE PERSON OR MUNICIPALITY SHALL BE GUILTY OF
18 CONTEMPT AND SHALL BE PUNISHED BY THE COURT IN AN APPROPRIATE
19 MANNER AND, FOR THIS PURPOSE, APPLICATION MAY BE MADE BY THE
20 DEPARTMENT TO THE COURT.

21 SECTION 9. CIVIL PENALTIES.

22 (A) AUTHORITY.--

23 (1) IN ADDITION TO PROCEEDING UNDER ANY OTHER REMEDY
24 AVAILABLE AT LAW OR IN EQUITY FOR A VIOLATION OF ANY
25 PROVISION OF THIS ACT, ANY RULE OR REGULATION OF THE
26 DEPARTMENT OR ORDER OF THE DEPARTMENT, THE DEPARTMENT MAY
27 ASSESS A CIVIL PENALTY UPON A PERSON FOR THE VIOLATION. THE
28 PENALTY MAY BE ASSESSED WHETHER OR NOT THE VIOLATION WAS
29 WILLFUL OR NEGLIGENT.

30 (2) IN DETERMINING THE AMOUNT OF THE PENALTY, THE

1 DEPARTMENT SHALL CONSIDER THE WILLFULNESS OF THE VIOLATION,
2 DAMAGE TO AIR, WATER, LAND OR OTHER NATURAL RESOURCES OF THIS
3 COMMONWEALTH OR THEIR USES, COST OR RESTORATION AND
4 ABATEMENT, SAVINGS RESULTING TO THE PERSON IN CONSEQUENCE OF
5 THE VIOLATION AND OTHER RELEVANT FACTORS.

6 (3) THE MAXIMUM CIVIL PENALTY THAT MAY BE ASSESSED
7 PURSUANT TO THIS SECTION IS \$25,000 PER OFFENSE. EACH
8 VIOLATION FOR EACH SEPARATE DAY AND EACH VIOLATION OF ANY
9 PROVISION OF THIS ACT, ANY RULE OR REGULATION UNDER THIS ACT,
10 ANY ORDER OF THE DEPARTMENT OR ANY TERM OR CONDITION OF A
11 PERMIT OR PERMITS SHALL CONSTITUTE A SEPARATE AND DISTINCT
12 OFFENSE UNDER THIS SECTION.

13 (B) PROCEDURE.--

14 (1) WHEN THE DEPARTMENT PROPOSES TO ASSESS A CIVIL
15 PENALTY, IT SHALL INFORM THE PERSON OF THE PROPOSED AMOUNT OF
16 THE PENALTY. THE PERSON CHARGED WITH THE PENALTY SHALL THEN
17 HAVE 30 CALENDAR DAYS TO PAY THE PROPOSED PENALTY IN FULL OR,
18 IF THE PERSON WISHES TO CONTEST THE AMOUNT OF THE PENALTY OR
19 THE FACT OF THE VIOLATION TO THE EXTENT NOT ALREADY
20 ESTABLISHED, THE PERSON SHALL FORWARD THE PROPOSED AMOUNT OF
21 THE PENALTY TO THE ENVIRONMENTAL HEARING BOARD WITHIN THE 30-
22 CALENDAR DAY PERIOD FOR PLACEMENT IN AN ESCROW ACCOUNT WITH
23 THE STATE TREASURER OR ANY COMMONWEALTH BANK OR POST AN
24 APPEAL BOND TO THE HEARING BOARD WITHIN 30 CALENDAR DAYS IN
25 THE AMOUNT OF THE PROPOSED PENALTY IF THE BOND IS EXECUTED BY
26 A SURETY LICENSED TO DO BUSINESS IN THIS COMMONWEALTH AND IS
27 SATISFACTORY TO THE DEPARTMENT.

28 (2) IF THROUGH ADMINISTRATIVE OR FINAL JUDICIAL REVIEW
29 OF THE PROPOSED PENALTY IT IS DETERMINED THAT NO VIOLATION
30 OCCURRED OR THAT THE AMOUNT OF THE PENALTY SHALL BE REDUCED,

1 THE HEARING BOARD SHALL WITHIN 30 CALENDAR DAYS REMIT THE
2 APPROPRIATE AMOUNT TO THE PERSON WITH ANY INTEREST
3 ACCUMULATED BY THE ESCROW DEPOSIT.

4 (3) FAILURE TO FORWARD THE MONEY OR THE APPEAL BOND AT
5 THE TIME OF THE APPEAL SHALL RESULT IN A WAIVER OF ALL LEGAL
6 RIGHTS TO CONTEST THE VIOLATION OR THE AMOUNT OF THE CIVIL
7 PENALTY UNLESS THE APPELLANT ALLEGES FINANCIAL INABILITY TO
8 PREPAY THE PENALTY OR TO POST THE APPEAL BOND. THE HEARING
9 BOARD SHALL CONDUCT A HEARING TO CONSIDER THE APPELLANT'S
10 ALLEGED INABILITY TO PAY WITHIN 30 CALENDAR DAYS OF THE DATE
11 OF THE APPEAL.

12 (4) THE HEARING BOARD MAY WAIVE THE REQUIREMENT TO
13 PREPAY THE CIVIL PENALTY OR TO POST AN APPEAL BOND IF THE
14 APPELLANT DEMONSTRATES AND THE HEARING BOARD FINDS THAT THE
15 APPELLANT IS FINANCIALLY UNABLE TO PAY. THE HEARING BOARD
16 SHALL ISSUE AN ORDER WITHIN 30 CALENDAR DAYS OF THE DATE OF
17 THE HEARING TO CONSIDER THE APPELLANT'S ALLEGED INABILITY TO
18 PAY.

19 (5) THE AMOUNT ASSESSED AFTER ADMINISTRATIVE HEARING OR
20 AFTER WAIVER OF ADMINISTRATIVE HEARING SHALL BE PAYABLE TO
21 THE COMMONWEALTH AND SHALL BE COLLECTIBLE IN ANY MANNER
22 PROVIDED BY LAW FOR THE COLLECTION OF DEBTS, INCLUDING THE
23 COLLECTION OF INTEREST AT THE LEGAL RATE, WHICH SHALL RUN
24 FROM THE DATE OF ASSESSMENT OF THE PENALTY.

25 (6) IF ANY PERSON LIABLE TO PAY A PENALTY NEGLECTS OR
26 REFUSES TO PAY THE SAME AFTER DEMAND, THE AMOUNT, TOGETHER
27 WITH INTEREST AND ANY COSTS THAT MAY ACCRUE, SHALL CONSTITUTE
28 A DEBT OF THE PERSON, AS MAY BE APPROPRIATE, TO THE SOLID
29 WASTE ABATEMENT FUND. THE DEBT SHALL CONSTITUTE A LIEN ON ALL
30 PROPERTY OWNED BY THE PERSON WHEN A NOTICE OF LIEN

1 INCORPORATING A DESCRIPTION OF THE PROPERTY OF THE PERSON
2 SUBJECT TO THE ACTION IS FILED WITH THE PROTHONOTARY OF THE
3 COURT OF COMMON PLEAS WHERE THE PROPERTY IS LOCATED.

4 (7) THE PROTHONOTARY SHALL PROMPTLY ENTER UPON THE CIVIL
5 JUDGMENT OR ORDER DOCKET, AT NO COST TO THE DEPARTMENT, THE
6 NAME AND ADDRESS OF THE PERSON, AS MAY BE APPROPRIATE, AND
7 THE AMOUNT OF THE LIEN AS SET FORTH IN THE NOTICE OF LIEN.
8 UPON ENTRY BY THE PROTHONOTARY, THE LIEN SHALL ATTACH TO THE
9 REVENUES AND ALL REAL AND PERSONAL PROPERTY OF THE PERSON,
10 WHETHER OR NOT THE PERSON IS SOLVENT.

11 (8) THE NOTICE OF LIEN, FILED PURSUANT TO THIS
12 SUBSECTION, WHICH AFFECTS THE PROPERTY OF THE PERSON SHALL
13 CREATE A LIEN WITH PRIORITY OVER ALL SUBSEQUENT CLAIMS OR
14 LIENS WHICH ARE FILED AGAINST THE PERSON, BUT IT SHALL NOT
15 AFFECT ANY VALID LIEN, RIGHT OR INTEREST IN THE PROPERTY
16 FILED IN ACCORDANCE WITH ESTABLISHED PROCEDURE PRIOR TO THE
17 FILING OF A NOTICE OF LIEN UNDER THIS SUBSECTION.

18 SECTION 10. REGULATIONS.

19 THE ENVIRONMENTAL QUALITY BOARD SHALL HAVE THE POWER AND ITS
20 DUTY SHALL BE TO ADOPT THE REGULATIONS OF THE DEPARTMENT TO
21 ACCOMPLISH THE PURPOSES AND TO CARRY OUT THE PROVISIONS OF THIS
22 ACT.

23 SECTION 11. SEVERABILITY.

24 THE PROVISIONS OF THIS ACT ARE SEVERABLE. IF ANY PROVISION OF
25 THIS ACT OR ITS APPLICATION TO ANY PERSON OR CIRCUMSTANCE IS
26 HELD INVALID, THE INVALIDITY SHALL NOT AFFECT OTHER PROVISIONS
27 OR APPLICATIONS OF THIS ACT WHICH CAN BE GIVEN EFFECT WITHOUT
28 THE INVALID PROVISION OR APPLICATION.

29 SECTION 12. REPEALS.

30 ALL ACTS AND PARTS OF ACTS ARE REPEALED INSOFAR AS THEY ARE

1 INCONSISTENT WITH THIS ACT.

2 SECTION 13. EFFECTIVE DATE.

3 THIS ACT SHALL TAKE EFFECT IMMEDIATELY.