
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2044 Session of
2001

Report of the Committee of Conference

To the Members of the House of Representatives and Senate:

We, the undersigned, Committee of Conference on the part of the House of Representatives and Senate for the purpose of considering House Bill No. 2044, entitled:

"An act AMENDING TITLE 27 (ENVIRONMENTAL RESOURCES) OF THE PENNSYLVANIA CONSOLIDATED STATUTES, CONSOLIDATING THE ENVIRONMENTAL LABORATORY ACCREDITATION ACT; AND MAKING REPEALS,"

respectfully submit the following bill as our report:

DAVID G. ARGALL

DWIGHT EVANS

CHRIS ROSS

(Committee on the part of the House of Representatives.)

MARY JO WHITE

DAVID J. BRIGHTBILL

(Committee on the part of the Senate.)

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AN ACT

1 Amending Title 27 (Environmental Resources) of the Pennsylvania
2 Consolidated Statutes, consolidating the Environmental
3 Laboratory Accreditation Act; providing for whistleblower
4 protection; establishing a waste transportation safety
5 program, the Waste Transportation Safety Account and a
6 disposal fee for municipal waste landfills; providing for
7 deposit of the disposal fee, for surcharge and for allocation
8 from Environmental Stewardship Fund; imposing penalties; and
9 making repeals.

10 The General Assembly of the Commonwealth of Pennsylvania
11 hereby enacts as follows:

12 Section 1. Part IV heading of Title 27 of the Pennsylvania
13 Consolidated Statutes is amended and the part is amended by
14 adding a chapter to read:

15 PART IV

16 ENVIRONMENTAL PROTECTION

17 [(Reserved)]

18 CHAPTER 41

19 ENVIRONMENTAL LABORATORY ACCREDITATION

20 Sec.

21 4101. Scope of chapter.

22 4102. Definitions.

23 4103. Establishment of program.

24 4104. Powers and duties.

25 4105. Powers and duties of Environmental Quality Board.

26 4106. Requirements of certificate of accreditation.

27 4107. Interim requirements.

28 4108. Advisory committee.

29 4109. Unlawful conduct.

30 4110. Penalties.

31 4111. Records.

32 4112. Whistleblower protection.

33 4113. Continuation of existing rules and regulations.

1 § 4101. Scope of chapter.

2 This chapter deals with environmental laboratory
3 accreditation.

4 § 4102. Definitions.

5 The following words and phrases when used in this chapter
6 shall have the meanings given to them in this section unless the
7 context clearly indicates otherwise:

8 "Accreditation." A determination by the Department of
9 Environmental Protection that an environmental laboratory is
10 capable of performing one or more classes of testing or analysis
11 of environmental samples in accordance with this chapter.

12 "Certificate of accreditation." A document issued by the
13 Department of Environmental Protection certifying that an
14 environmental laboratory has met standards for accreditation.

15 "Department." The Department of Environmental Protection of
16 the Commonwealth.

17 "Environmental Hearing Board." The board established under
18 the act of July 13, 1988 (P.L.530, No.94), known as the
19 Environmental Hearing Board Act.

20 "Environmental laboratory." A facility engaged in the
21 testing or analysis of environmental samples.

22 "Environmental Quality Board." The board established under
23 section 1920-A of the act of April 9, 1929 (P.L.177, No.175),
24 known as The Administrative Code of 1929.

25 "Environmental sample." A solid, liquid, gas or other
26 specimen taken for the purpose of testing or analysis as
27 required by an environmental statute.

28 "Environmental statute." A statute administered by the
29 Department of Environmental Protection relating to the
30 protection of the environment or of public health, safety and

1 welfare.

2 "Laboratory supervisor." A technical supervisor of an
3 environmental laboratory who supervises laboratory procedures
4 and reporting of analytical data.

5 "NELAC." The National Environmental Laboratory Accreditation
6 Conference.

7 "NELAP." The National Environmental Laboratory Accreditation
8 Program.

9 "Secretary." The Secretary of Environmental Protection of
10 the Commonwealth.

11 § 4103. Establishment of program.

12 (a) Establishment.--The department shall establish an
13 accreditation program for environmental laboratories.

14 (b) Accreditation.--An environmental laboratory must be
15 accredited under this chapter and be in compliance with all the
16 provisions of this chapter in order to generate data or perform
17 analyses to be used to comply with an environmental statute.

18 (c) Testing and analysis.--All testing and analysis
19 requirements of an environmental statute shall be performed by
20 an environmental laboratory accredited under this chapter.
21 Testing and analysis shall be performed in accordance with the
22 requirements of this chapter, the environmental statutes and any
23 conditions imposed by the department.

24 § 4104. Powers and duties.

25 The department shall have the following powers and duties:

26 (1) Establish, administer and enforce an environmental
27 laboratory accreditation program which shall include
28 accreditation standards necessary for a State certification
29 program. The program shall also include a NELAP accreditation
30 program for those laboratories seeking this certification.

1 The program may also include any other specific broad-based
2 Federal or State accreditation program for certification.

3 (2) Issue, renew, deny, revoke, suspend or modify
4 certificates of accreditation to environmental laboratories
5 in accordance with regulations adopted by the Environmental
6 Quality Board.

7 (3) Impose terms or conditions on accreditation as
8 necessary to implement and enforce this chapter.

9 (4) Conduct inspections and tests or samplings,
10 including the examination and copying of records and data
11 pertinent to a matter under investigation. Duly authorized
12 agents and employees of the department may at reasonable
13 times enter and examine property, facilities, operations and
14 activities subject to regulation under this chapter.

15 (5) Issue orders and initiate proceedings as necessary
16 to implement and enforce this chapter.

17 (6) Require a fee for the processing of an application
18 for a certificate of accreditation, including the issuance,
19 renewal, modification or other action relating to the
20 certificate, in an amount sufficient to pay the department's
21 cost of implementing and administering the accreditation
22 program.

23 (7) Provide technical assistance and advice to persons
24 and environmental laboratories subject to this chapter.

25 (8) Contract with third parties to inspect and monitor
26 environmental laboratories.

27 (9) Cooperate with appropriate Federal, State,
28 interstate and local government units and private
29 organizations to implement this chapter.

30 (10) Allow the use of experimental procedures on a case-

1 by-case basis to satisfy the testing or analysis requirements
2 established under an environmental statute.

3 (11) Seek approval as an accrediting authority from
4 NELAP.

5 § 4105. Powers and duties of Environmental Quality Board.

6 (a) General rule.--The Environmental Quality Board shall
7 adopt regulations as necessary to implement this chapter, to
8 include the establishment of:

9 (1) Testing or analysis to be conducted by an
10 environmental laboratory.

11 (2) Allowable fees for environmental laboratories.

12 (3) Requirements for education, training and experience
13 of laboratory supervisors.

14 (4) Criteria and procedures to be used by the department
15 to accredit environmental laboratories, which may include
16 proficiency test samples and onsite audits.

17 (b) Accreditation.--An environmental laboratory shall be
18 accredited pursuant to this chapter and in compliance with the
19 provisions of this chapter in order to generate the data and
20 perform analysis to be used to comply with an environmental
21 statute.

22 (c) General certificate program.--The Environmental Quality
23 Board may adopt regulations that establish a general certificate
24 of accreditation program or certificates of accreditation by
25 rule.

26 (d) Unique needs.--To the extent possible, the Environmental
27 Quality Board shall establish requirements and procedures that
28 address the unique needs of small businesses, municipalities,
29 municipal authorities and in-house laboratories.

30 § 4106. Requirements of certificate of accreditation.

1 (a) Forms.--Applications, certificates and other documents
2 shall be in a form prescribed by the department.

3 (b) General requirements.--An environmental laboratory shall
4 have the staff, management structure, equipment, quality
5 assurance and quality control procedures and recordkeeping
6 procedures necessary to ensure that the environmental laboratory
7 generates valid and accurate test results in accordance with all
8 conditions of accreditation and this chapter.

9 (c) Laboratory supervisor.--Testing, analysis and reporting
10 of data by an accredited laboratory shall be under the direct
11 supervision of a laboratory supervisor. The laboratory
12 supervisor shall certify that each test or analysis is accurate
13 and valid and that the test or analysis was performed in
14 accordance with all conditions of accreditation. The department
15 may disqualify a laboratory supervisor who is responsible for
16 the submission of inaccurate test or analysis results.

17 (d) Access to records and data.--An accredited laboratory
18 shall provide the department with access to inspect records and
19 data maintained under this chapter and to conduct tests and
20 sampling related to inspections.

21 § 4107. Interim requirements.

22 (a) Registration.--All environmental laboratories shall
23 register with the department by October 2, 2002, on a
24 registration form prepared by the department. An environmental
25 laboratory which begins testing or analysis of environmental
26 samples after this date shall register with the department
27 before beginning operations.

28 (b) Time for application.--All environmental laboratories
29 shall apply for accreditation within six months after the
30 Environmental Quality Board establishes an accreditation

1 requirement by regulation for a type of laboratory. The
2 submission of an application shall provide interim authorization
3 to continue operations until the department takes final action
4 on the application.

5 (c) NELAP accreditation.--An environmental laboratory may
6 apply to the department for NELAP accreditation after the
7 department is approved as an accrediting authority by NELAP. The
8 department may grant NELAP accreditation to a laboratory that
9 meets the requirements of this chapter and the most current
10 version of the NELAC standards that are hereby incorporated by
11 reference.

12 (d) Temporary fees.--Until regulations are promulgated under
13 this chapter, the following fees shall be charged:

14 (1) Five thousand dollars for the processing of an
15 application for NELAP accreditation.

16 (2) Fifty dollars for the processing of an application
17 for registration.

18 § 4108. Advisory committee.

19 The secretary shall appoint a Laboratory Accreditation
20 Advisory Committee to provide technical assistance under this
21 chapter. The committee shall consist of 11 members, including
22 the following:

23 (1) One representative of a municipal authority.

24 (2) One representative from a commercial environmental
25 laboratory.

26 (3) One representative from an industrial environmental
27 laboratory.

28 (4) One representative from an academic laboratory.

29 (5) One representative from a small environmental
30 laboratory.

- 1 (6) One environmental engineer.
- 2 (7) One member of an association of community water
3 supply systems.
- 4 (8) One member of an association of wastewater systems.
- 5 (9) One member with technical expertise in the testing
6 and analysis of environmental samples.
- 7 (10) Two members of the general public.

8 § 4109. Unlawful conduct.

9 (a) General rule.--It shall be unlawful for a person to
10 violate or to cause or assist in the violation of this chapter,
11 to fail to comply with an order or condition of accreditation
12 within the time specified by the department or to hinder,
13 obstruct, prevent or interfere with the department in the
14 performance of its duties under this chapter.

15 (b) Refusal of accreditation.--The department may refuse to
16 issue a certificate of accreditation to an environmental
17 laboratory which has demonstrated a lack of intention or ability
18 to comply with this chapter or engaged in unlawful conduct or
19 which has an employee, officer, contractor, agent or other
20 person set forth in regulation who has engaged in unlawful
21 activity under this chapter unless the applicant demonstrates to
22 the satisfaction of the department that the unlawful conduct is
23 being or has been corrected.

24 (c) Denial of access.--It shall be unlawful for an
25 accredited laboratory or other person subject to regulation
26 under this chapter to deny the department access to make
27 inspections and conduct tests or sampling, including the
28 examination and copying of books, papers, records and data
29 pertinent to any matter under investigation pursuant to this
30 chapter. Failure to provide the department with access shall

1 result in the immediate suspension of any accreditation of the
2 laboratory. Upon notice from the department, the laboratory
3 shall immediately cease testing or analysis of environmental
4 samples. The department may revoke an accreditation for failure
5 to provide the department with access to make inspections and
6 conduct tests or sampling, including the examination and copying
7 of books, papers, records and data pertinent to any matter under
8 investigation pursuant to this chapter.

9 (d) Notice.--The environmental laboratory shall notify each
10 of its customers in writing within 72 hours of receipt of the
11 department's notice if the department suspends or revokes in
12 whole or in part a certificate of accreditation. The notice
13 shall be on a form and in a manner approved by the department.

14 § 4110. Penalties.

15 (a) Criminal penalties.--

16 (1) A person who knowingly, willfully or recklessly
17 misrepresents that a test or an environmental sample is
18 accurate or was performed in accordance with procedures
19 authorized pursuant to this chapter commits a misdemeanor of
20 the third degree and, upon conviction, shall be subject to a
21 fine of not less than \$1,250 nor more than \$12,500 or to
22 imprisonment for a period of not more than one year, or both,
23 for each separate offense.

24 (2) A person who knowingly, willfully or recklessly
25 performs or reports an inaccurate test or analysis of an
26 environmental sample commits a misdemeanor of the third
27 degree and shall, upon conviction, be subject to a fine of
28 not less than \$1,250 nor more than \$12,500 or to imprisonment
29 for a period of not more than one year, or both, for each
30 separate offense.

1 (3) A person who knowingly, willfully or recklessly
2 misrepresents that an environmental laboratory holds a
3 certificate of accreditation under this chapter commits a
4 misdemeanor of the third degree and shall, upon conviction,
5 be subject to a fine of not less than \$1,250 nor more than
6 \$12,500 or to imprisonment for a period of not more than one
7 year, or both, for each separate offense.

8 (b) Administrative penalties.--

9 (1) In addition to any other remedy available at law or
10 equity, the department may assess an administrative penalty
11 for a violation of this chapter. The penalty may be assessed
12 whether or not the violation was willful or negligent. When
13 determining the amount of the penalty, the department shall
14 consider the willfulness of the violation, the damage or
15 injury or threat of damage or injury to public health or the
16 environment, the costs to the department for investigation
17 and enforcement, the economic benefit of the violation to the
18 person and other related factors. The department shall inform
19 the person of the amount of the penalty. The administrative
20 penalty shall not exceed \$5,000 per day per violation.

21 (2) Every day a violation continues shall be a separate
22 violation.

23 (3) The amount of the penalty assessed after a hearing
24 before the Environmental Hearing Board or after waiver of the
25 right to appeal the assessment shall be payable to the
26 Commonwealth and collectable in any manner provided at law
27 for collection of debts. If any person liable to pay any such
28 penalty neglects or refuses to pay the penalty after demand,
29 the amount of the penalty, together with interest and cost
30 that may accrue, shall constitute a judgment in favor of the

1 department upon the property of such person from the date it
2 has been entered and docketed of record by the prothonotary
3 of the county in which the property is situated. The
4 department may at any time transmit to the prothonotaries of
5 any county in which the person holds property certified
6 copies of all such judgments, and it shall be the duty of
7 each prothonotary to enter and docket the judgment of record
8 in his or her office and to index the judgment as judgments
9 are indexed, without requiring the payment of costs by the
10 department.

11 (c) Concurrent penalties.--Penalties and other remedies
12 under this chapter shall be concurrent and shall not prevent the
13 department from exercising any other available remedy at law or
14 equity.

15 (d) Rebuttable presumption.--Failure of an environmental
16 laboratory or laboratory supervisor to maintain adequate records
17 or proficiency test samples as required creates a rebuttable
18 presumption that the test or analysis was not conducted as
19 required.

20 (e) Falsifying results.--It shall be unlawful to falsify the
21 results of testing or analysis of environmental samples or to
22 violate the provisions of 18 Pa.C.S. § 4903 (relating to false
23 swearing) or 4904 (relating to unsworn falsification to
24 authorities) in the context of the submission of the results of
25 testing and analysis of environmental samples under an
26 environmental statute.

27 § 4111. Records.

28 Records required under this chapter shall be maintained for
29 five years unless otherwise specified in regulation.

30 § 4112. Whistleblower protection.

1 An employee of an environmental laboratory covered by this
2 chapter shall be deemed to be an employee under the act of
3 December 12, 1986 (P.L.1559, No.169), known as the Whistleblower
4 Law, in regard to good faith reports of potential violations of
5 this chapter. Environmental laboratories covered by this chapter
6 shall be deemed to be an employer under the Whistleblower Law in
7 regard to good faith reports of potential violations of this
8 chapter.

9 § 4113. Continuation of existing rules and regulations.

10 All existing rules and regulations promulgated pursuant to
11 any environmental statute remain in full force and effect until
12 superseded and repealed by the rules and regulations promulgated
13 pursuant to this chapter.

14 Section 2. Title 27 is amended by adding chapters to read:

15 CHAPTER 62

16 WASTE TRANSPORTATION SAFETY

17 Sec.

18 6201. Short title of chapter.

19 6202. Definitions.

20 6203. Establishment of program.

21 6204. Waste Transportation Safety Program.

22 6205. Compliance history review.

23 6206. Responsibilities of municipal or residual waste
24 processing or disposal facilities.

25 6207. Enforcement.

26 6208. Penalties.

27 6209. Construction of chapter.

28 § 6201. Short title of chapter.

29 This chapter shall be known and may be cited as the Waste
30 Transportation Safety Act.

1 § 6202. Definitions.

2 The following words and phrases when used in this chapter
3 shall have the meanings given to them in this section unless the
4 context clearly indicates otherwise:

5 "Combination." Two or more vehicles physically
6 interconnected in tandem.

7 "Department." The Department of Environmental Protection of
8 the Commonwealth and its authorized representatives.

9 "Law enforcement officer." A Pennsylvania State Police
10 officer or a police officer certified pursuant to 53 Pa.C.S. Ch.
11 21 Subch. D (relating to municipal police education and
12 training).

13 "Motor carrier vehicle." As defined in 75 Pa.C.S. § 102
14 (relating to definitions). For purposes of this chapter, the
15 terms "truck," "truck tractor" and "combination" refer to
16 vehicles used to transport municipal or residual waste.

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 "Owner." A person other than a lienholder having the
21 property right in or title to a vehicle.

22 "Qualified Commonwealth employee." Any of the following who
23 have completed training in the inspection or weighing of
24 vehicles as required by 75 Pa.C.S. Chs. 47 (relating to
25 inspection of vehicles) and 49 (relating to size, weight and
26 load):

27 (1) A law enforcement officer.

28 (2) A qualified Department of Transportation employee.

29 "Secretary." The Secretary of Environmental Protection of
30 the Commonwealth.

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

3 "Transportation." The offsite removal of municipal and
4 residual waste any time after generation.

5 "Transporter." The owner of a public or private waste
6 transportation vehicle. An individual driving a waste
7 transportation vehicle who is not the owner is not a
8 "transporter" for purposes of this chapter.

9 "Waste trailer." A vehicle having a registered weight in
10 excess of 10,000 pounds used to carry waste and designed to be
11 towed by a motor vehicle.

12 "Waste transportation vehicle." Public and private motor
13 carrier vehicles and waste trailers, as defined in this chapter,
14 regularly used in transporting municipal or residual waste to a
15 processing or disposal facility in this Commonwealth. The term
16 does not include vehicles currently registered by the department
17 pursuant to 25 Pa.Code § 285.225 (relating to transportation of
18 residential septage).

19 § 6203. Establishment of program.

20 (a) Establishment.--A Waste Transportation Safety Program is
21 established to protect the public health, safety and welfare and
22 the environment.

23 (b) Duties.--The Waste Transportation Safety Program shall:

24 (1) Ensure the responsible and safe transportation of
25 municipal or residual waste to processing and disposal
26 facilities by requiring written authorization from the
27 department.

28 (2) Prohibit a waste processing or disposal facility
29 from accepting municipal or residual waste from a waste
30 transportation vehicle engaged in commerce without a valid

1 authorization sticker issued by the department.

2 (3) Provide the department with the authority to deny or
3 revoke written authorization where the agency finds that the
4 transporter has failed or continues to fail to comply with
5 applicable laws and regulations.

6 (4) Establish a transportation authorization fee for the
7 administration and enforcement of this chapter.

8 (c) Relationship to other laws.--Notwithstanding anything to
9 the contrary in this chapter, the Solid Waste Management Act or
10 the Municipal Waste Planning, Recycling and Waste Reduction Act,
11 no county and no municipality may implement a municipal waste or
12 residual waste transportation authorization or licensing program
13 after the effective date of this chapter.

14 § 6204. Waste Transportation Safety Program.

15 (a) Written authorization required.--It shall be unlawful
16 for a transporter to operate a waste transportation vehicle
17 without obtaining written authorization from the department.

18 (b) Interim written application.--

19 (1) Within 120 days of the effective date of this
20 chapter, a transporter currently doing business in the
21 Commonwealth shall submit an application for interim written
22 authorization on a form prescribed by the department. This
23 form shall be accompanied by a fee of \$100 per truck, or, in
24 the case of a combination, \$50 per truck tractor and \$50 per
25 waste trailer. Each application shall also be accompanied by
26 a copy of the official base State registration provided for
27 in 75 Pa.C.S. § 6144 (relating to vehicle registration and
28 licensing), evidence of the current official certificate of
29 inspection and a current certificate of insurance.

30 (2) A transporter seeking to do business in this

1 Commonwealth after the effective date of this chapter shall
2 submit an application for interim written authorization on a
3 form prescribed by the department. This form shall be
4 accompanied by a fee of \$100 per truck, or, in the case of a
5 combination, \$50 per truck tractor and \$50 per waste trailer.
6 Each application shall also be accompanied by a copy of the
7 official base State registration provided for in 75 Pa.C.S. §
8 6144, evidence of the current official certificate of
9 inspection and a current certificate of insurance.

10 (c) Interim written authorization.--Within 60 days of
11 receipt of the fee and documentation required under subsection
12 (b), the department shall issue and provide the transporter with
13 an interim written authorization and authorization stickers for
14 each truck, truck tractor and waste trailer. The authorization
15 stickers shall indicate the transporter's interim written
16 authorization number. An authorization sticker shall be
17 displayed prominently on the left front side of the truck or
18 truck tractor and an authorization sticker shall be displayed
19 prominently on the back of the truck or waste trailer. Each
20 waste transportation vehicle shall carry a copy of the interim
21 written authorization issued to the transporter by the
22 department and, upon request, present the interim written
23 authorization to the department or a qualified Commonwealth
24 employee.

25 (d) Term of interim written authorization.--The interim
26 written authorization shall be valid until the transporter
27 receives final authorization, unless suspended or revoked by the
28 department.

29 (e) Compliance history.--Upon notification from the
30 department, the transporter shall submit on a form provided by

1 the department documentation of compliance history in conformity
2 with section 6205 (relating to compliance history review).

3 (f) Final written authorization.--Upon evaluation of the
4 transporter's compliance history under section 6205, the
5 department shall make a determination on the issuance of a final
6 written authorization. The final written authorization shall
7 include the transporter's written authorization number, the
8 expiration date and authorization stickers for each truck, truck
9 tractor and waste trailer.

10 (g) Term of final written authorization.--The final written
11 authorization shall be valid for one year unless suspended or
12 revoked by the department. The terms and conditions of an
13 expired written authorization shall automatically continue when
14 the following conditions are met:

15 (1) The transporter has submitted a timely renewal
16 application in accordance with subsection (h).

17 (2) The department is unable, through no fault of the
18 transporter, to issue or deny a written authorization prior
19 to the expiration date of the previous written authorization.

20 (h) Final written authorization application renewal.--Ninety
21 days prior to expiration of final written authorization, a
22 transporter shall submit an application for renewal of its final
23 written authorization on a form prescribed by the department,
24 accompanied by a fee of \$100 per truck, or in the case of a
25 combination \$50 per truck tractor and a \$50 per waste trailer.
26 Each application shall also be accompanied by a copy of the
27 official base State registration, the current official
28 certificate of inspection, and a current certificate of
29 insurance pursuant to 75 Pa.C.S. (relating to vehicles), for
30 each truck, truck tractor and waste trailer. After publishing a

1 notice in the Pennsylvania Bulletin, no later than July 1 and
2 effective no earlier than January 1 of the following year, the
3 department shall evaluate and may modify the written
4 authorization annual fee in an amount sufficient to cover the
5 actual costs of the department, Pennsylvania State Police and
6 the Department of Transportation in implementing and enforcing
7 this chapter. The annual fee paid to the department by a
8 transporter shall not exceed \$200 per truck, or, in the case of
9 a combination, \$100 per truck tractor and \$100 per waste
10 trailer.

11 (i) Transfer of written authorization.--Written
12 authorization for a waste transportation vehicle may be
13 transferred to another owner in accordance with the procedures
14 in this section.

15 (j) Procedure for transfer.--In order to use the waste
16 transportation vehicle to transport municipal or residual waste
17 to a processing or disposal facility in this Commonwealth, the
18 new owner shall be deemed to have interim written authorization
19 upon the submission and receipt by the department of a complete
20 application fee as set forth in subsection (b). The interim
21 written authorization shall remain in effect until the
22 department issues or denies final written authorization based
23 upon a review of the new owner's compliance history information
24 as required by this section.

25 (k) Powers and duties of Environmental Quality Board.--The
26 Environmental Quality Board shall have the power and duty to
27 adopt regulations to accomplish the purposes and to carry out
28 the provisions of this chapter.

29 (l) Restricted account.--All fees, fines and penalties
30 collected under the provisions of this chapter shall be paid

1 into the State Treasury in a separate restricted account known
2 as the Waste Transportation Safety Account, which is hereby
3 established. The Waste Transportation Safety Account shall be
4 administered by the department for the administration and
5 enforcement of the Waste Transportation Safety Program,
6 including the inspection of waste transportation vehicles and
7 reimbursing the Pennsylvania State Police and the Department of
8 Transportation for their costs in administering and enforcing
9 this chapter.

10 § 6205. Compliance history review.

11 (a) Transporter noncompliance.--In carrying out the
12 provisions of this chapter, the department may deny, suspend,
13 modify or revoke any written authorization if it finds or
14 receives findings from the Pennsylvania State Police or the
15 Department of Transportation that:

16 (1) The transporter has failed or continues to fail to
17 comply with any provision of:

18 (i) this chapter;

19 (ii) the Solid Waste Management Act;

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

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

25 (v) any rule or regulation of the department;

26 (vi) any order of the department; or

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

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

- 1 (i) any provision of this chapter;
- 2 (ii) any of the acts referred to in this subsection;
- 3 (iii) any rule or regulation of the department or
- 4 order of the department; or
- 5 (iv) any condition of any permit or license issued
- 6 by the department as indicated by past or continuing
- 7 violations.

8 (b) Related corporations.--In the case of a corporate
9 transporter the department may deny, suspend, modify or revoke a
10 written authorization if the department finds that a corporation
11 is related to another past or present corporation which
12 committed violations of the Solid Waste Management Act and this
13 chapter. A corporation is related to another corporation if they
14 have common principals or have parent or subsidiary corporation
15 relationships.

16 § 6206. Responsibilities of municipal or residual waste
17 processing or disposal facilities.

18 (a) General rule.--No municipal or residual waste processing
19 or disposal facility shall accept municipal or residual waste
20 from a waste transportation vehicle without a current
21 authorization sticker issued by the department. Failure to
22 comply with this provision shall result in a penalty assessment
23 of \$2,000 against the operator of the processing or disposal
24 facility.

25 (b) Disposition.--All penalty assessments collected under
26 this section shall be paid into the Waste Transportation Safety
27 Account.

28 § 6207. Enforcement.

29 (a) Authority of qualified Commonwealth employees.--A
30 qualified Commonwealth employee shall be authorized to assist

1 the department in enforcing provisions of this chapter. The
2 authority granted under this section shall be exercised only
3 when the employee is in uniform and is conducting an inspection
4 of a vehicle, as described in 75 Pa.C.S. Chs. 47 (relating to
5 inspection of vehicles) and 49 (relating to size, weight and
6 load).

7 (b) Training of qualified Commonwealth employees.-- The
8 Department of Transportation may train and qualify Commonwealth
9 employees to inspect waste transportation vehicles as authorized
10 under this section and as provided for in 75 Pa.C.S. Chs. 47 and
11 49. The Department of Transportation shall have the power to
12 adopt regulations to implement this subsection, as necessary.

13 (c) Disposition.--All fines and penalties collected as a
14 result of violations of this chapter shall be paid into the
15 Waste Transportation Safety Account.

16 § 6208. Penalties.

17 (a) Criminal penalties.--A transporter who violates the
18 provisions of this chapter commits a misdemeanor of the third
19 degree and, upon conviction for the first offense, shall pay a
20 penalty of not less than \$5,000 nor more than \$10,000. Upon the
21 second or subsequent conviction of an offense under this
22 chapter, a transporter commits a misdemeanor of the second
23 degree and shall pay a penalty of not less than \$10,000 nor more
24 than \$25,000, and the court may order the operating privilege of
25 the transporter to be suspended for a period of up to one year,
26 or both.

27 (b) Civil penalties.--

28 (1) In addition to proceeding under any other remedy
29 available at law or in equity for a violation of any
30 provision of this chapter, the regulations promulgated

1 hereunder, any order of the department issued under this
2 chapter or any term or condition of a written authorization,
3 the department may assess a civil penalty upon a transporter.
4 Such penalty may be assessed whether or not the violation was
5 willful or negligent. In determining the amount of the
6 penalty, the department shall consider the willfulness of the
7 violation, the effect on waste transportation safety, damage
8 to the natural resources of this Commonwealth or their uses,
9 cost of restoration and abatement, savings resulting to the
10 violator in consequence of such violation, deterrence of
11 future violations and other relevant factors. If the
12 violation leads to the issuance of a cessation order, a civil
13 penalty shall be assessed.

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

1 the department within 30 days shall result in a waiver of all
2 legal rights to contest the violation or the amount of the
3 penalty.

4 (3) The maximum civil penalty which may be assessed
5 pursuant to this chapter is \$10,000 per violation. Each
6 violation for each separate day and each violation of any
7 provision of the chapter, any regulation promulgated
8 hereunder, any order issued under this chapter or the terms
9 or conditions of any written authorization shall constitute a
10 separate offense under this chapter.

11 (4) Notwithstanding any other provisions of law to the
12 contrary, there shall be a statute of limitations of five
13 years upon actions brought by the Commonwealth under this
14 chapter.

15 (c) Enforcement orders.--

16 (1) The department may issue orders to such
17 transporters, counties and municipalities as it deems
18 necessary to aid in the enforcement of this chapter. Such
19 orders may include, but shall not be limited to, orders
20 modifying, suspending or revoking written authorizations and
21 orders requiring transporters, counties and municipalities to
22 cease unlawful activities or operations of a waste
23 transportation vehicle which in the course of operation is in
24 violation of this chapter, any rule or regulation of the
25 department or any terms and conditions of a written
26 authorization issued under this chapter. An order issued
27 under this chapter shall take effect upon notice unless the
28 order specifies otherwise. An appeal to the Environmental
29 Hearing Board shall not act as a supersedeas. The power of
30 the department to issue an order under this chapter is in

1 addition to any other remedy which may be afforded to the
2 department pursuant to this chapter or any other act.

3 (2) It shall be the duty of any transporter to proceed
4 diligently to comply with any order issued pursuant to this
5 section. If such transporter fails to proceed diligently or
6 fails to comply with the order within such time, if any, as
7 may be specified, such transporter commits contempt and shall
8 be punished by the court in an appropriate manner, and, for
9 this purpose, application may be made to the Commonwealth
10 Court, which is hereby granted jurisdiction.

11 (d) Injunctions.--

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

28 (2) In addition to any other remedies provided for in
29 this chapter, an action in equity may be brought in a court
30 of competent jurisdiction for an injunction to restrain any

1 and all violations of this chapter or the regulations
2 promulgated under this chapter.

3 (3) Actions instituted under this section may be filed
4 in the appropriate court of common pleas or in the
5 Commonwealth Court, which courts are hereby granted
6 jurisdiction to hear such actions.

7 (e) Concurrent remedies.--The penalties and remedies
8 provided in this chapter shall be deemed concurrent and
9 cumulative with all other existing provisions of law or equity.
10 The existence or exercise of any remedy shall not prevent the
11 department from exercising any other remedy under this chapter
12 at any law or in equity.

13 (f) Forfeiture of waste transportation vehicle.--

14 (1) A waste transportation vehicle shall be deemed
15 contraband and forfeited to the department if it is
16 transporting municipal or residual waste to a processing or
17 disposal facility in this Commonwealth without a written
18 authorization if the transporter applied for and was denied
19 the written authorization for that vehicle. The waste
20 transportation vehicle forfeiture provisions established in
21 this subsection shall also apply to a waste transportation
22 vehicle used by a transporter who, after receiving notice
23 from the department to obtain written authorization, fails to
24 obtain written authorization under the requirements of the
25 Waste Transportation Safety Program. The provisions of law
26 relating to seizure, summary and judicial forfeiture and
27 condemnation of intoxicating liquor shall apply to seizures
28 and forfeitures under this chapter. Proceeds from the sale of
29 forfeited waste transportation vehicles shall be deposited in
30 the Waste Transportation Safety Account.

1 to process residue and nonprocessable waste from a resource
2 recovery facility that is disposed of at the municipal waste
3 landfill and is in addition to the fee established in section
4 701 of the Municipal Waste Planning, Recycling and Waste
5 Reduction Act.

6 (b) Exceptions.--The fee established under this section
7 shall not apply to the following:

8 (1) Process residue and nonprocessable waste that is
9 permitted for beneficial use or for use as alternate daily
10 cover at a municipal waste landfill.

11 (2) Solid waste from a hazardous waste treatment
12 facility that is converted into nonhazardous waste and
13 disposed of at a municipal waste landfill.

14 § 6302. Deposit of disposal fee.

15 (1) For the fiscal year 2002-2003, fees received by the
16 department pursuant to section 6301 (relating to disposal fee
17 for municipal waste landfills) shall be paid into the State
18 Treasury as follows:

19 (i) The first \$50,000,000 in fees collected shall be
20 deposited into the Environmental Stewardship Fund
21 established in Chapter 61 (relating to environmental
22 stewardship and watershed protection).

23 (ii) Any fees collected thereafter shall be
24 deposited in the General Fund.

25 (2) For the fiscal year 2003-2004 and beyond, all fees
26 collected shall be deposited into the Environmental
27 Stewardship Fund established in Chapter 61 (relating to
28 environmental stewardship and watershed protection).

29 § 6303. Surcharge.

30 (a) Owners and operators.--The owner or operator of a

1 municipal waste landfill which collects and remits the fee
2 established pursuant to section 6301 (relating to disposal fee
3 for municipal waste landfills) may pass through and collect the
4 fee from any person who delivered the waste to the municipal
5 waste landfill as a surcharge in accordance with section 705 of
6 the Municipal Waste Planning, Recycling and Waste Reduction Act
7 on any fee schedule established pursuant to law, ordinance,
8 resolution or contract for solid waste disposal operations at
9 the municipal waste landfill.

10 (b) Transporters and transfer stations.--The transporter or
11 transfer station that is charged a fee or surcharge pursuant to
12 section 6302 (relating to deposit of disposal fee) or subsection
13 (a) may pass through and obtain the fee from the generator of
14 such waste as a surcharge in accordance with section 705 of the
15 Municipal Waste Planning, Recycling and Waste Reduction Act on
16 any fee schedule established pursuant to law, ordinance,
17 resolution or contract for solid waste collection, transfer,
18 transport and delivery.

19 § 6304. Sunset.

20 No fee or surcharge shall be imposed under this chapter on
21 and after July 1, 2012.

22 § 6305. Allocation for Environmental Stewardship Fund.

23 For fiscal years 2002-2003 through 2006-2007, the department
24 shall utilize 10% of the money allocated annually to it under
25 section 6104(d) (relating to fund) to provide grants for safe
26 drinking water projects and wastewater treatment projects.

27 Grants under this section shall be made for the same purposes
28 and shall be subject to the same limitations as grants
29 authorized in section 6110 (relating to environmental
30 infrastructure grants to water and wastewater treatment

1 facilities).

2 § 6306. Adjustments.

3 When the Governor's proposed budget for the upcoming fiscal
4 year, as submitted pursuant to section 12 of Article VIII of the
5 Constitution of Pennsylvania, contains a revision to the revenue
6 estimate for the current year of at least 3% less than the
7 official revenue estimate for the current year, the funds
8 deposited pursuant to section 6302(2) (relating to deposit of
9 disposal fee) may be adjusted by transferring or redirecting up
10 to 25% of these deposits to the General Fund.

11 Section 3. The act of April 2, 2002 (P.L.225, No.25), known
12 as the Environmental Laboratory Accreditation Act, is repealed.

13 Section 4. The addition of 27 Pa.C.S. Ch. 41 is a
14 continuation of the act of April 2, 2002 (P.L.225, No.25), known
15 as the Environmental Laboratory Accreditation Act. The following
16 apply:

17 (1) All actions taken under the Environmental Laboratory
18 Accreditation Act are valid under 27 Pa.C.S. Ch. 41.

19 (2) Orders and determinations, which were made under the
20 Environmental Laboratory Accreditation Act and which are in
21 effect on the effective date of section 2 of this act shall
22 remain valid until vacated or modified under 27 Pa.C.S.
23 Ch.41.

24 (3) Regulations which were promulgated under the
25 Environmental Laboratory Accreditation Act and which are in
26 effect on the effective date of section 2 of this act shall
27 remain valid until amended under 27 Pa.C.S. Ch. 41.

28 (4) Any difference in language between 27 Pa.C.S. Ch. 41
29 and the Environmental Laboratory Accreditation Act is
30 intended only to conform to the style of the Pennsylvania

1 Consolidated Statutes and is not intended to change or affect
2 the legislative intent, judicial construction or
3 administration and implementation of the Environmental
4 Laboratory Accreditation Act.

5 Section 5. This act shall take effect as follows:

6 (1) The addition of 27 Pa.C.S. §§ 6204(a) and 6206(a)
7 shall take effect in 180 days.

8 (2) The addition of 27 Pa.C.S. Ch. 63 shall take effect
9 in 10 days.

10 (3) This section shall take effect immediately.

11 (4) The remainder of this act shall take effect in 60
12 days.