
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 676 Session of
2003

INTRODUCED BY FEESE, GORDNER, ALLEN, BAKER, BARD, CAPPELLI,
CAWLEY, CLYMER, CRAHALLA, CREIGHTON, DAILEY, DALLY,
FAIRCHILD, GEORGE, GRUCELA, HARPER, HERMAN, HESS, HORSEY,
KIRKLAND, LaGROTTA, LAUGHLIN, LEH, McILHATTAN, McNAUGHTON,
SATHER, STEIL, SURRA, THOMAS, TRUE, WANSACZ, WASHINGTON AND
YOUNGBLOOD, MARCH 5, 2003

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
MARCH 5, 2003

AN ACT

1 Requiring host municipality agreements for certain municipal and
2 residual waste facilities; and providing for a moratorium.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Solid Waste
7 Control and Host Municipality Agreement Act.

8 Section 2. Legislative findings and declaration of policy.

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

11 (1) Solid waste practices create public health hazards,
12 environmental pollution and nuisances and can cause
13 irreparable harm to the public health, safety and welfare.

14 (2) All aspects of solid waste management, particularly
15 the disposal of solid waste, pose a critical threat to the

1 health, safety and welfare of the residents of this
2 Commonwealth when solid waste is improperly managed.

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

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

12 (5) Concentrated traffic in the vicinity of commercial
13 solid waste landfills and resource recovery facilities can
14 contribute to and cause substantial harm to this
15 Commonwealth's roadways and environment and to the health and
16 safety of the residents of this Commonwealth.

17 (6) Communities in the areas located near and along the
18 approach routes to commercial solid waste landfills and
19 resource recovery facilities experience traffic problems,
20 litter, odors, noise, dust and other nuisances that are
21 threats to public health and safety resulting from the
22 operation of the facilities and from the transportation of
23 waste to these facilities.

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

26 (1) Provide municipalities across this Commonwealth with
27 the ability to control the disposal of solid waste in their
28 communities.

29 (2) Enhance the protection of the public health, safety
30 and welfare from the short-term and long-term dangers

1 associated with the disposal of solid waste.

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

4 (4) Conserve the environment and the natural resources
5 of this Commonwealth.

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

10 (6) Provide for greater local input from affected
11 residents and communities in the planning of commercial solid
12 waste landfills and resource recovery facilities.

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

20 Section 3. 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 "Host municipality." A municipality other than the county
16 which meets one of the following criteria:

17 (1) a commercial solid waste landfill or resource
18 recovery facility or any portion of a permit area is located
19 or proposed to be located within the municipality; or

20 (2) the municipality is located within one-half mile of
21 any portion of a permit area of a proposed or operating
22 commercial solid waste landfill or resource recovery
23 facility.

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

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

1 "Pennsylvania Municipalities Planning Code." The act of July
2 31, 1968 (P.L.805, No.247), known as the Pennsylvania
3 Municipalities Planning Code.

4 "Permit." A permit issued pursuant to the act of July 7,
5 1980 (P.L.380, No.97), known as the Solid Waste Management Act.

6 "Secretary." The Secretary of Environmental Protection of
7 the Commonwealth.

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

10 "Volume modification." An application for permit
11 modification filed by an owner or operator of a commercial solid
12 waste landfill or resource recovery facility which requests an
13 increased in average or maximum daily waste volume.

14 Section 4. Construction of act.

15 (a) Liberal construction.--This act shall be liberally
16 construed so as best to achieve and effectuate the goals and
17 purposes of this act.

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

23 Section 5. Moratorium.

24 (a) Permits relating to construction, expansion or
25 operation.--For a period of two years following the effective
26 date of this act, the department shall not accept an application
27 for a permit or permit modification nor issue a permit or permit
28 modification under the Solid Waste Management Act for the
29 construction, expansion or operation of a municipal waste
30 landfill, construction/demolition waste landfill, resource

1 recovery facility or commercial residual waste disposal
2 facility.

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

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

15 (1) Applications for new municipal waste landfills,
16 construction/demolition waste landfills, resource recovery
17 facilities or commercial residual waste disposal facilities.

18 (2) Applications for expansions of municipal waste
19 landfills, construction/demolition waste landfills or
20 commercial residual waste disposal facilities.

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

26 (d) Monitoring of remaining capacity.--During the pendency
27 of the moratorium established in this section and at all times
28 thereafter, the department shall monitor the remaining capacity
29 at all municipal waste landfills, construction/demolition waste
30 landfills, resource recovery facilities and commercial residual

1 waste disposal facilities. Following the expiration of the
2 moratorium, no permit modification application identified in
3 subsection (a) or (b) will be accepted by the department until
4 the remaining disposal capacity for the facility is five years
5 or less. Following the expiration of the moratorium, an
6 application for a new facility identified in subsection (a) will
7 not be accepted if the disposal capacity is greater than ten
8 years.

9 (e) Exceptions.--This section shall not prohibit the review
10 or issuance of the following during the pendency of the
11 moratorium:

12 (1) A permit renewal or reissuance.

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

16 (3) An operational modification that does not affect
17 capacity.

18 (4) A permit amendment to increase the capacity of a
19 facility whose remaining capacity is five years or less to
20 increase its capacity to ten years or less.

21 (f) Special circumstances.--

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

27 (i) Finds in writing that the modification is
28 necessary to prevent a public health or environmental
29 emergency.

30 (ii) Publishes notice of the finding in the

1 Pennsylvania Bulletin.

2 (2) Action under this subsection shall be taken in
3 accordance with section 503(e) of the Solid Waste Management
4 Act.

5 (g) Emergencies.--Nothing in this section shall supersede
6 any other authority of the Governor or the department to act in
7 the event of an emergency.

8 Section 6. Host municipality agreements.

9 (a) General rule.--Each host municipality may enter into
10 negotiations for the development of a host municipality
11 agreement. If a host municipality agreement is developed, the
12 governing body of each host municipality shall vote to adopt or
13 reject the agreement.

14 (b) Public notice and public involvement requirements.--

15 (1) If negotiations are entered into, each host
16 municipality shall publish notice that discussions for
17 developing a host municipality agreement with the commercial
18 solid waste landfill or resource recovery facility have
19 begun. The notice also shall describe the public involvement
20 process that the host municipality will use to develop the
21 agreement. The notice shall be published once a week for
22 three consecutive weeks in a newspaper of general circulation
23 in the municipality where the facility or proposed facility
24 is located. The public involvement process shall, at a
25 minimum, include the following:

26 (i) The host municipality shall hold a special
27 public hearing at which a proposed host municipality
28 agreement is presented to the public and at which the
29 public is provided an opportunity to provide oral and
30 written testimony. Notice of the hearing shall be

1 published in a newspaper of general circulation in the
2 municipality not less than ten days nor more than 30 days
3 prior to the hearing. A public comment period of no less
4 than 30 calendar days shall be provided after the public
5 hearing to accept written comments on the proposed host
6 municipality agreement.

7 (ii) The host municipality shall hold a special
8 public meeting at which revisions to the proposed host
9 municipality agreement are presented to the public by the
10 municipality, including changes to the proposed host
11 municipality agreement that were adopted after the public
12 hearing and public comment period. The public shall be
13 provided a reasonable opportunity to ask questions to the
14 host municipality on the host municipality agreement and
15 to provide public comment. Notice of the hearing shall be
16 published in a newspaper of general circulation in the
17 municipality not less than ten days nor more than 30 days
18 prior to the hearing.

19 (iii) The host municipality shall publish the
20 decision on adopting or rejecting the final agreement
21 within 30 calendar days of acting.

22 (2) The public involvement process may contain
23 additional public notice and involvement in a manner
24 determined by the municipality.

25 (c) Contents of agreement.--

26 (1) A host municipality agreement agreed to and executed
27 by the parties shall address the following:

28 (i) The nature of the proposed facility.

29 (ii) The site of the proposed facility or expansion
30 of the existing facility.

1 (iii) Measures to alleviate local issues, such as
2 haul routes, traffic problems, litter, odors, noise, dust
3 and any other nuisances that might result from the
4 operation of the facility. Such local issues shall be
5 identified by the host municipality.

6 (iv) The host benefit fee to be paid by the owner or
7 operator of the facility to the host municipality, which
8 fee shall not be less than the statutory minimum fee
9 established under the Municipal Waste Planning, Recycling
10 and Waste Reduction Act and any other financial and in-
11 kind contributions.

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

14 (vi) The days and hours of operation of the
15 facility.

16 (vii) The availability of capacity at the facility
17 for the disposal of solid waste generated within the host
18 municipality.

19 (viii) Activities to promote recycling, waste
20 reduction and the proper management and disposal of solid
21 waste generated within the host municipality.

22 (ix) The process for resolution in a cooperative and
23 nonbinding manner of complaints and other grievances
24 concerning the construction and operation of the
25 facility.

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

28 (xi) A statement that if Congress enacts a law that
29 places restrictions on out-of-State waste, the host
30 municipality may renegotiate its host municipality

1 agreement in regard to out-of-State waste.

2 (2) A host municipality agreement agreed to and executed
3 by the parties may address any other terms or conditions to
4 which the parties agree should be included in the agreement.

5 (d) Requirement for host municipality agreement.--

6 (1) The department shall revoke the permit of any
7 currently permitted commercial solid waste landfill or
8 resource recovery facility that does not execute a host
9 municipality agreement in accordance with the schedule
10 established in this section.

11 (2) For a commercial solid waste landfill or resource
12 recovery facility for which a host municipality agreement was
13 executed prior to or on the effective date of this act,
14 except as provided in paragraphs (3) and (4), a new host
15 municipality agreement shall be:

16 (i) executed by the owner or operator and the host
17 municipality or municipalities on the date the existing
18 host municipality agreement expires or five years after
19 the effective date of this act, whichever occurs first;
20 and

21 (ii) submitted to the department for review within
22 30 days of execution.

23 (3) For a commercial solid waste landfill or resource
24 recovery facility for which:

25 (i) no host municipality agreement has been executed
26 as of the effective date of this act; or

27 (ii) a host municipality agreement was executed on
28 or before the effective date of this act but which
29 agreement expires within two years of the effective date
30 of this act,

1 a host municipality agreement shall be executed by the owner
2 or operator and the host municipality or municipalities
3 within two years of the effective date of this act and
4 submitted to the department for review within 30 days of
5 execution.

6 (4) For any commercial solid waste landfill or resource
7 recovery facility for which a host municipality agreement was
8 executed prior to or on the effective date of this act but
9 which has not begun to accept solid waste as of the effective
10 date of this act, a new host municipality agreement shall be
11 executed by the owner or operator and the host municipality
12 or municipalities within two years of the effective date of
13 this act and submitted to the department for approval within
14 30 days of execution.

15 (5) A new host municipality agreement for each host
16 municipality shall be executed in accordance with this
17 section and submitted to the department for review for any
18 expansion modification or volume modification filed by an
19 owner or operator of a commercial solid waste landfill or
20 resource recovery facility after the effective date of this
21 act.

22 (6) A host municipality agreement shall be executed in
23 accordance with this section by an owner or operator and the
24 host municipality or municipalities and shall be submitted to
25 the department for review for any new commercial solid waste
26 landfill or resource recovery facility.

27 (e) 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 a host
6 municipality agreement complies with the requirements of this
7 section and has been executed by the applicant and each host
8 municipality. Such written evidence shall be contained as
9 part of the application.

10 (2) An application for a permit, volume modification or
11 expansion modification for a commercial solid waste landfill
12 or resource recovery facility which is submitted to the
13 department for review on, before or after the effective date
14 of this act shall be issued by the department only if a host
15 municipality agreement that complies with this section has
16 been executed by the applicant and each host municipality.
17 The department shall not issue the permit or permit
18 modification until an executed host municipality agreement
19 has been submitted to the department.

20 (f) Department review of host municipality agreements.--

21 (1) For all host municipality agreements submitted to
22 the department for review under this section, the department
23 shall review each executed host municipality agreement to
24 ensure that the agreement addresses the requirements of
25 subsection (c)(1) and also to ensure that there has been
26 compliance with the public notice and public comment
27 requirements of subsection (b).

28 (2) The department shall review the terms and conditions
29 of the host municipality agreement that address subsection
30 (c)(1)(iii), (v), (vi), (vii) and (viii) to ensure the terms

1 and conditions of the host municipality agreement are not in
2 conflict with the terms and conditions of the existing or
3 proposed permit and applicable regulations. Where the
4 department determines there is a conflict between the terms
5 and conditions of the host municipality agreement and the
6 terms and conditions of the regulations or existing or
7 proposed permit, the more stringent or restrictive
8 requirement or condition as determined by the department
9 shall apply. In making its determination, the department
10 shall consider any comments submitted by any affected or
11 potentially affected party. The department shall modify the
12 permit to incorporate any such term or condition, including
13 any term or condition that is not addressed in the proposed
14 or existing permit.

15 (g) Enforcement of host municipality agreement.--

16 (1) The terms of a host municipality agreement shall be
17 enforceable by the parties to the agreement. The courts of
18 common pleas are hereby given jurisdiction over disputes
19 between the host municipality and the facility owner or
20 operator regarding the enforcement of a host municipality
21 agreement.

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

26 (h) Reimbursement of host municipality costs.--At the
27 request of a host municipality, the department shall reimburse
28 the host municipality for costs incurred in negotiating a host
29 municipality agreement under this section. Costs covered shall
30 be limited to costs incurred for professional fees for lawyers,

1 engineers and other professionals used in the efforts to reach
2 an agreement. Any reimbursement shall be provided from funds in
3 the recycling fund established by section 706 of the Municipal
4 Waste Planning, Recycling and Waste Reduction Act or in the
5 Solid Waste Abatement Fund established under section 701 of the
6 Solid Waste Management Act, upon approval by the Governor.
7 Reimbursement shall not exceed \$50,000 for each host
8 municipality agreement. The combined total reimbursement from
9 the two funds shall not exceed \$750,000 annually or \$2,500,000
10 over a five-year period from the effective date of this act.

11 (i) Relationship to other laws.--

12 (1) To the extent the terms of a host municipality
13 agreement differ from any existing ordinance adopted pursuant
14 to section 304(b) of the Municipal Waste Planning, Recycling
15 and Waste Reduction Act and concerning:

16 (i) the hours and days during which vehicles may
17 deliver waste to the commercial solid waste facility or
18 resource recovery facility; or

19 (ii) the routing of traffic to and from the
20 commercial solid waste landfill or resource recovery
21 facility,

22 the host municipality shall amend the ordinance to comply
23 with the agreement within 90 days of the adoption of the host
24 municipality agreement.

25 (2) Host municipality agreements shall be executed by
26 the parties in the manner provided for in this act and shall
27 not be subject to competitive bidding or other competitive
28 procurement requirements.

29 (3) The provisions of section 1305 of the Municipal
30 Waste Planning, Recycling and Waste Reduction Act shall be

1 applicable to any host benefit fee set forth in any host
2 municipality agreement executed pursuant to this act.

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

7 Section 7. Enforcement.

8 (a) Orders.--

9 (1) The department may issue orders to persons and
10 municipalities as it deems necessary to aid in the
11 enforcement of this act. An order issued under this act shall
12 take effect upon notice unless the order specifies otherwise.

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

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

19 (b) Duty to comply with orders of department.--It shall be
20 the duty of any person and municipality to proceed diligently to
21 comply with any order issued pursuant to this section. If the
22 person or municipality fails to proceed diligently or fails to
23 comply with the order within the time, if any, as may be
24 specified, the person or municipality shall be guilty of
25 contempt and shall be punished by the court in an appropriate
26 manner and, for this purpose, application may be made by the
27 department to the court.

28 Section 8. Civil penalties.

29 (a) Authority.--

30 (1) In addition to proceeding under any other remedy

1 available at law or in equity for a violation of any
2 provision of this act, any rule or regulation of the
3 department or order of the department, the department may
4 assess a civil penalty upon a person for the violation. The
5 penalty may be assessed whether or not the violation was
6 willful or negligent.

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

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

20 (b) Procedure.--

21 (1) When the department proposes to assess a civil
22 penalty, it shall inform the person of the proposed amount of
23 the penalty. The person charged with the penalty shall then
24 have 30 calendar days to pay the proposed penalty in full or,
25 if the person wishes to contest the amount of the penalty or
26 the fact of the violation to the extent not already
27 established, the person shall forward the proposed amount of
28 the penalty to the Environmental Hearing Board within the 30-
29 calendar day period for placement in an escrow account with
30 the State Treasurer or any Commonwealth bank or post an

1 appeal bond to the hearing board within 30 calendar days in
2 the amount of the proposed penalty if the bond is executed by
3 a surety licensed to do business in this Commonwealth and is
4 satisfactory to the department.

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

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

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

26 (5) The amount assessed after administrative hearing or
27 after waiver of administrative hearing shall be payable to
28 the Commonwealth and shall be collectible in any manner
29 provided by law for the collection of debts, including the
30 collection of interest at the legal rate, which shall run

1 from the date of assessment of the penalty.

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

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

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

25 Section 9. Regulations.

26 The Environmental Quality Board shall have the power and its
27 duty shall be to adopt the regulations of the department to
28 accomplish the purposes and to carry out the provisions of this
29 act.

30 Section 10. Severability.

1 The provisions of this act are severable. If any provision of
2 this act or its application to any person or circumstance is
3 held invalid, the invalidity shall not affect other provisions
4 or applications of this act which can be given effect without
5 the invalid provision or application.

6 Section 11. Repeals.

7 All acts and parts of acts are repealed insofar as they are
8 inconsistent with this act.

9 Section 12. Effective date.

10 This act shall take effect immediately.