

of this act or of any rule, regulation or order of the department.

(b) The department may, in its order, require compliance with such conditions as are necessary to prevent or abate air pollution or effect the purposes of this act.

(c) An order issued under this section shall take effect upon notice, unless the order specifies otherwise. An appeal to the hearing board of the department's order shall not act as a supersedeas, provided, however, that, upon application and for cause shown, the hearing board may issue such a supersedeas under rules established by the hearing board.

(d) The authority of the department to issue an order under this section is in addition to any remedy or penalty which may be imposed pursuant to this act. The failure to comply with any such order is hereby declared to be a public nuisance.

(10.1 added July 9, 1992, P.L.460, No.95)

Section 10.2. Appealable Actions.--Any person aggrieved by an order or other administrative action of the department issued pursuant to this act or any person who participated in the public comment process for a plan approval or permit shall have the right, within thirty (30) days from actual or constructive notice of the action, to appeal the action to the hearing board in accordance with the act of July 13, 1988 (P.L.530, No.94), known as the Environmental Hearing Board Act, and 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of Commonwealth agencies).

(10.2 added July 9, 1992, P.L.460, No.95)

Section 10.3. Limitation on Action.--The provisions of any other statute to the contrary notwithstanding, actions for civil or criminal penalties under this act may be commenced at any time within a period of seven (7) years from the date the offense is discovered.

(10.3 added July 9, 1992, P.L.460, No.95)

Section 11. Powers Reserved to the Department Under Existing Laws.--Nothing in this act shall limit in any way whatever the powers conferred upon the department under laws other than this act, it being expressly provided that all such powers are preserved to the department and may be freely exercised by it. No court exercising general equitable jurisdiction shall be deprived of such jurisdiction even though a nuisance or condition detrimental to health is subject to regulation or other action by the board under this act.

(11 amended July 9, 1992, P.L.460, No.95)

Section 12. Powers Reserved to Political Subdivisions.--(a) Nothing in this act shall prevent counties, cities, towns, townships or boroughs from enacting ordinances with respect to air pollution which will not be less stringent than the provisions of this act, the Clean Air Act or the rules and regulations promulgated under either this act or the Clean Air Act. This act shall not be construed to repeal existing ordinances, resolutions or regulations of the aforementioned political subdivisions existing at the time of the effective date of this act, except as they may be less stringent than the provisions of this act, the Clean Air Act or the rules or regulations adopted under either this act or the Clean Air Act.

(b) The administrative procedures for the abatement, reduction, prevention and control of air pollution set forth in this act shall not apply to any county of the first or second class of the Commonwealth which has and implements an air pollution control program that, at a minimum, meets the requirements of this act, the Clean Air Act and the rules and

regulations promulgated under both this act and the Clean Air Act and has been approved by the department.

(b.1) Provisions of this act pertaining to dust control measures shall not apply to portions of highways in townships of the second class where no businesses or residences are located. ((b.1) added Nov. 28, 1995, P.L.645, No.68)

(c) (1) Whenever, either upon complaint made to or initiated by the department, the department finds that any person is in violation of air pollution control standards, or rules and regulations promulgated pursuant to the grant of authority made in subsection (b), the department shall give notification of that fact to that person and to the air pollution control agency of the county involved.

(2) If such violation continues to exist after said notification has been given, the department may take any abatement action provided for under the terms of this act.

(d) Whenever the department finds that violations of this act or the rules and regulations promulgated under this act are so widespread that such violations appear to result from a failure of the local county control agency involved to enforce those requirements, the department may assume the authority to enforce this act in that county.

(e) The department shall have the power to refuse approval, or to suspend or rescind approval, once given, to any county air pollution control agency if the department finds that such county agency is unable or unwilling to conduct an air pollution control program to abate or reduce air pollution problems within its jurisdiction in accordance with the requirements of this act, the Clean Air Act or the rules and regulations promulgated under both this act and the Clean Air Act.

(f) Whenever the department takes action under the provisions of subsections (d) or (e) of this section, it shall give written notification to the air pollution control agency of the county involved and such notification shall be an appealable action.

(g) Irrespective of subsection (b) above, and in order that the civil and criminal penalties and equitable remedies for air pollution violations shall be uniform throughout the Commonwealth, the penalties and remedies set forth in this act shall be the penalties and remedies available for enforcement of any municipal air pollution ordinances or regulations, and shall be available to any municipality, public official, or other person having standing to initiate proceedings for the enforcement of such municipal ordinances or regulations, and the amounts of the fines or civil penalties set forth herein shall be the amounts of the fines or civil penalties assessable and to be levied for violations of any municipal ordinances or regulations. It is hereby declared to be the purpose of this section to enunciate further that the purpose of this act is to provide additional and cumulative remedies to abate the pollution of the air of this Commonwealth. Any action for the assessment of civil penalties brought for the enforcement of a municipal air pollution ordinance or regulation shall be brought in accordance with the procedures set forth in such ordinance. Where any municipal ordinance or regulation does not provide a procedure for the assessment of civil penalties, the provisions related to assessment and collection of civil penalties of section 9.1 shall apply.

(h) Nothing in this act shall affect the Municipal Planning Code unless required by the Clean Air Act.

(12 amended July 9, 1992, P.L.460, No.95)

Section 12.1. Construction.--Nothing in this act shall be construed as estopping the Commonwealth, or any district attorney or solicitor of a municipality, from proceeding in courts of law or equity to abate pollutions forbidden under this act, or abate nuisances under existing law. It is hereby declared to be the purpose of this act to provide additional and cumulative remedies to abate the pollution of the air of this Commonwealth, and nothing contained in this act shall in any way abridge or alter rights of action or remedies now or hereafter existing in equity, or under the common law or statutory law, criminal or civil, nor shall any provision of this act, or the granting of any plan approval or permit under this act, or any act done by virtue of this act, be construed as estopping the Commonwealth, persons or municipalities, in the exercise of their rights under the common law or decisional law or in equity, from proceeding in courts of law or equity to suppress nuisances, or to abate any pollution now or hereafter existing, or enforce common law or statutory rights. No courts of this Commonwealth having jurisdiction to abate public or private nuisance shall be deprived of such jurisdiction to abate any private or public nuisance instituted by any person for the reason that such nuisance constitutes air pollution.

(12.1 amended July 9, 1992, P.L.460, No.95)

Section 13. Public Nuisances.--A violation of this act or of any rule or regulation promulgated under this act or any order, plan approval or permit issued by the department under this act shall constitute a public nuisance. The department shall have the authority to order any person causing a public nuisance to abate the public nuisance. In addition, the department or any Commonwealth agency which undertakes to abate a public nuisance may recover the expenses of abatement following the process for assessment and collection of a civil penalty contained in section 9.1. Whenever the nuisance is maintained or continued contrary to this act or any rule or regulation promulgated under this act or any order, plan approval or permit, the nuisance may be abatable in the manner provided by this act. Any person who causes the public nuisance shall be liable for the cost of abatement.

(13 amended July 9, 1992, P.L.460, No.95)

Section 13.1. Search Warrants.--Whenever an agent or employe of the department, charged with the enforcement of the provisions of this act, has been refused access to property, or has been refused the right to examine any air contamination source, or air pollution control equipment or device, or is refused access to or examination of books, papers and records pertinent to any matter under investigation, such agent or employe may apply for a search warrant to any Commonwealth official authorized by the laws of the Commonwealth to issue the same to enable him to have access, examine and seize such property, air contamination source, air pollution control equipment or device, or books, papers and records, as the case may be. It shall be sufficient probable cause to issue a search warrant that the inspection is necessary to properly enforce the provisions of this act.

(13.1 amended July 9, 1992, P.L.460, No.95)

Section 13.2. Confidential Information.--All records, reports or information obtained by the department or referred to at public hearings under the provisions of this act shall be available to the public, except that upon cause shown by any person that the records, reports or information, or a particular portion thereof, but not emission data, to which the department