

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 496 Session of 2007

INTRODUCED BY GEORGE, MELIO, BENNINGTON, CALTAGIRONE, DeLUCA, DePASQUALE, FABRIZIO, FRANKEL, FREEMAN, HENNESSEY, JOSEPHS, MANN, MOYER, M. O'BRIEN, PETRONE, PYLE, READSHAW, RUBLEY, STABACK, J. TAYLOR, WALKO, WHEATLEY, YUDICHAK, BASTIAN, JAMES AND SIPTROTH, FEBRUARY 26, 2007

AS REPORTED FROM COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY, HOUSE OF REPRESENTATIVES, AS AMENDED, APRIL 25, 2007

AN ACT

1 Amending the act of July 10, 1984 (P.L.688, No.147), entitled  
2 "An act combining the radiation safety provisions of The  
3 Atomic Energy Development and Radiation Control Act and the  
4 Environmental Radiation Protection Act; empowering the  
5 Department of Environmental Resources to implement a  
6 comprehensive Statewide radiation protection program; further  
7 providing for the power of the Environmental Quality Board  
8 and for the duties of the Environmental Hearing Board;  
9 expanding the authority of the department to regulate other  
10 radiation sources; providing for radiation emergency  
11 response; establishing requirements for transport of spent  
12 reactor fuel; establishing fees; providing penalties; making  
13 repeals; and authorizing and directing the Department of  
14 Environmental Resources and the Governor to convey ownership  
15 to the Carl A. White Acid Mine Drainage Treatment Plant,  
16 situated in Washington Township, Indiana County,  
17 Pennsylvania, to the County of Indiana, subject to a right of  
18 reverter for stated conditions," further providing for  
19 definitions, for powers of Environmental Quality Board, for  
20 nuclear facility and transport fees, for creation of special  
21 funds, for response program and for transportation of  
22 radioactive materials; and making repeals.

23 The General Assembly of the Commonwealth of Pennsylvania  
24 hereby enacts as follows:

25 Section 1. Sections 103 and 302 of the act of July 10, 1984  
26 (P.L.688, No.147), known as the Radiation Protection Act, are

1 amended to read:

2 Section 103. Definitions.

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

6 "Abatement." Any action deemed necessary by the department  
7 to protect public health, safety or welfare, or public or  
8 private property, resulting from the use of a radiation source.

9 "Agency." The Pennsylvania Emergency Management Agency.

10 "Away-from-reactor spent nuclear fuel storage facility." A  
11 spent nuclear fuel storage facility located outside the site  
12 boundaries or property lines of a nuclear power reactor licensed  
13 under 10 CFR Pt. 50 (relating to domestic licensing of  
14 production and utilization facilities).

15 "Council." The Pennsylvania Emergency Management Council.

16 "Department." The Department of Environmental [Resources]  
17 Protection and its authorized representatives.

18 "Director." The Director of the Pennsylvania Emergency  
19 Management Agency.

20 "Electronic product radiation." Any radiation emitted by  
21 products subject to the Radiation Control for Health and Safety  
22 Act of 1968 (Public Law 90-602, 82 Stat. 1173).

23 "High-level waste."

24 (1) Irradiated reactor fuel;

25 (2) highly-radioactive material resulting from the  
26 reprocessing of spent nuclear fuel, including liquid waste  
27 produced directly in reprocessing and any solid material  
28 derived from such liquid waste that contains fission products  
29 in sufficient concentrations; or

30 (3) other highly radioactive material that the Nuclear

1 Regulatory Commission, consistent with existing Federal law,  
2 determines by rule requires permanent isolation.

3 "Large quantity of radioactive material." A single package  
4 or multiple packages in a single shipment of radioactive  
5 material which exceed any of the following limits:

6 (1) 1,000 Terabecquerels (TBq) (27,000 curies (Ci));

7 (2) 3,000 times the A sub1 or A sub2 limits for a  
8 radionuclide listed in Appendix A of 10 CFR Pt. 71 (relating  
9 to packaging and transportation of radioactive material);

10 (3) a radioactive material quantity of concern as  
11 defined by the Nuclear Regulatory Commission; or

12 (4) any radioactive material shipment where State  
13 notification is mandated by Federal law, regulation, order or  
14 other Federal requirement.

15 "NRC." The United States Nuclear Regulatory Commission or  
16 any predecessor or successor thereto.

17 "Person." An individual, corporation, firm, association,  
18 public utility, trust, estate, public or private institution,  
19 group, agency, political subdivision of the Commonwealth, any  
20 other state or political subdivision or agency thereof and any  
21 legal successor, representative, agent or agency of the  
22 foregoing, other than the United States Nuclear Regulatory  
23 Commission or any successor thereto. In any provision of this  
24 act prescribing a fine, imprisonment or penalty, or any  
25 combination of the foregoing, the term "person" shall include  
26 the officers and directors of any corporation or other legal  
27 entity having officers and directors.

28 ["PSP." The Pennsylvania State Police.]

29 "Radiation." Any ionizing radiation or electronic product  
30 radiation.

1 "Radiation source." An apparatus or material, other than a  
2 nuclear power reactor and nuclear fuel located on a plant site,  
3 emitting or capable of emitting radiation.

4 "Radiation source user." A person who owns or is responsible  
5 for a radiation source.

6 "Reactor fuel fabrication facility." A facility in which  
7 onsite operations include preparation of reactor fuel material  
8 with fissionable material such as uranium or plutonium, reactor  
9 fuel material research and development, formation of fuel  
10 material shapes, application of cladding, recovery of reactor  
11 fuel material or any other reactor fuel material manufacturing  
12 operation.

13 "Secretary." The Secretary of Environmental [Resources]  
14 Protection or his or her authorized representative.

15 "Spent nuclear fuel." Fuel that has been withdrawn from a  
16 nuclear reactor following irradiation, the constituent elements  
17 of which have not been separated by reprocessing.

18 "Transuranic waste." Radioactive waste containing more than  
19 3.7 kilobecquerels (KBq) (100 nanocuries) of alpha-emitting  
20 transuranic isotopes per gram of waste, with half-lives greater  
21 than 20 years, except for high-level waste.

22 Section 302. Powers of Environmental Quality Board.

23 (a) Powers and duties.--The Environmental Quality Board or  
24 its successor shall have the power and its duty shall be to  
25 adopt the rules and regulations of the department to accomplish  
26 the purposes and carry out the provisions of this act.

27 (b) Review of department fee structure.--The Environmental  
28 Quality Board or its successor shall review every [four] three  
29 years the fee structure as authorized by [sections 401 and  
30 402(b)] section 401.

1 Section 2. Section 402 of the act, repealed in part December  
2 18, 1992 (P.L.1638, No.180), is amended to read:

3 Section 402. Nuclear facility and transport fees.

4 (a) General rule.--Persons engaged in the business of  
5 producing electricity utilizing nuclear energy, operating  
6 facilities for storing away-from-reactor spent nuclear fuel [for  
7 others] or fabrication of nuclear reactor fuel or shipping spent  
8 nuclear fuel, high-level waste, transuranic waste or a large  
9 quantity of radioactive material shall pay fees to cover the  
10 costs of the programs related to their activities as required by  
11 this act.

12 (b.1) Department fees.--

13 (1) Within 30 days of the effective date of this  
14 subsection each person who has a current nuclear power  
15 reactor construction permit or operating license from the NRC  
16 for a site within this Commonwealth shall pay the department  
17 \$100,000 per nuclear power reactor site, regardless of the  
18 number of individual nuclear power reactors located at the  
19 site. By July 1, ~~2008~~ 2007, and July 1 of each year ←  
20 thereafter, each person who has a current nuclear power  
21 reactor construction permit or operating license from the NRC  
22 for a site within this Commonwealth shall pay the department  
23 an annual fee of \$550,000 per nuclear power reactor site,  
24 regardless of the number of individual nuclear power reactors  
25 located at the site. For the purposes of this subsection  
26 only, a nuclear power reactor site shall be deemed to be the  
27 location of one or more individual nuclear power reactors  
28 which still has spent nuclear fuel stored onsite, has not  
29 been fully dismantled and decommissioned pursuant to  
30 applicable Federal law and regulations, and has not been

1 granted license termination by the NRC.

2 (2) By July 1 of each year, each person who has applied  
3 for or currently holds a valid license from the NRC to  
4 operate an away-from-reactor spent nuclear fuel storage  
5 facility within this Commonwealth shall pay to the department  
6 an annual fee of \$250,000 per site.

7 (3) By July 1 of each year, each person who has approval  
8 from the Department of Energy, or has applied for or  
9 currently holds a valid license from the NRC, to operate a  
10 reactor fuel fabrication facility within this Commonwealth  
11 shall pay to the department an annual fee of \$250,000 per  
12 site.

13 (4) Prior to the date of a shipment that requires an  
14 escort, each shipper of spent nuclear fuel, high-level waste,  
15 transuranic waste or a large quantity of radioactive material  
16 who ships to, within, through or across this Commonwealth  
17 shall pay to the department a fee of \$500 per individual  
18 vehicle shipment or \$1,000 per railroad or river barge  
19 shipment.

20 (5) Every three years beginning in 2009, the department  
21 shall convene a working group consisting of personnel from  
22 the department selected by the secretary and an equal number  
23 of representatives from the nuclear facilities, selected by  
24 the owners of those facilities, to review the nuclear  
25 facility fees paid to the department, related issues that may  
26 have an impact on those fees and the expenditures made by the  
27 department in administering its radiation protection  
28 programs. This working group shall issue a report to the  
29 General Assembly outlining its findings of fact and its  
30 recommendations relative to the fees imposed by the

1 department pursuant to this section, including any individual  
2 or minority recommendations from members of the working  
3 group.

4 (b.2) Actual department cost recovery.--The following  
5 individual nuclear power reactors shall be subject to actual  
6 department cost recovery for decommissioning oversight  
7 responsibilities, with these costs to be tracked by site and  
8 invoiced to the person holding the NRC reactor license at the  
9 end of each Commonwealth fiscal quarter:

10 (1) Peach Bottom Atomic Power Station, Unit 1.

11 (2) Three Mile Island Nuclear Generating Station, Unit  
12 2.

13 The two individual nuclear power reactors specified in this  
14 subsection are not subject to the fees described in subsections  
15 (b.1)(1) and (c)(1.1).

16 (c) Agency fees.--

17 [(1) Each person who has received or has applied for a  
18 nuclear power reactor facility operating license from the NRC  
19 shall pay to the agency a one-time fee of \$200,000 per site  
20 within 30 days of the effective date of this act and an  
21 annual fee of \$100,000 per site payable by July 1 of each  
22 year, regardless of the number of power reactors per site.]

23 (1.1) (i) Within 30 days of the effective date of this  
24 paragraph each person who has a current nuclear power  
25 reactor construction permit or operating license from the  
26 NRC, for a site within this Commonwealth, shall pay the  
27 agency, regardless of the number of individual nuclear  
28 power reactors located at the site, \$100,000 to be  
29 collected and used by the agency in accordance with the  
30 provisions of 35 Pa.C.S. § 7320 (relating to radiological

1 emergency response preparedness, planning and recovery  
2 program) and \$50,000 to be collected and used by the  
3 agency for radiological emergency response equipment,  
4 planning, training and exercise costs involving nonagency  
5 personnel. By July 1, ~~2008~~ 2007, and July 1 of each year ←  
6 thereafter, each person who has a current nuclear power  
7 reactor construction permit or operating license from the  
8 NRC, for a site within this Commonwealth, shall pay the  
9 agency the following fees, regardless of the number of  
10 individual nuclear power reactors located at the site:

11 (A) \$200,000 to be collected and used by the  
12 agency in accordance with the provisions of 35  
13 Pa.C.S. § 7320.

14 (B) \$150,000 to be collected and used by the  
15 agency for radiological emergency response equipment,  
16 planning, training and exercise costs involving  
17 nonagency personnel.

18 (ii) Payments collected under this section shall be  
19 deposited into the Radiological Emergency Response  
20 Planning and Preparedness Program Fund established  
21 pursuant to 35 Pa.C.S. § 7320(c). For the purposes of  
22 this subsection only, a nuclear power reactor site shall  
23 be deemed to be the location of one or more individual  
24 nuclear power reactors which still has spent nuclear fuel  
25 stored onsite, has not been fully dismantled and  
26 decommissioned pursuant to applicable Federal law and  
27 regulations and has not been granted license termination  
28 by the NRC.

29 (2) [Each] By July 1 of each year, each person who has  
30 applied for or [received a valid] holds a current license

1 from the NRC to operate an away-from-reactor spent nuclear  
2 fuel storage facility within this Commonwealth shall pay to  
3 the agency an annual fee of [\$50,000 per site payable by July  
4 1 of each year] \$75,000 per site.

5 (3) [Each] By July 1 of each year, each person who has  
6 approval from the Department of Energy, or has applied for or  
7 [received a valid] holds a current license from the NRC to  
8 operate a reactor fuel fabrication facility within this  
9 Commonwealth shall pay to the agency an annual fee of  
10 [\$50,000 per site payable by July 1 of each year] \$75,000 per  
11 site.

12 (4) [Each] Prior to the proposed date of a shipment that  
13 requires an escort, each shipper of spent [reactor fuel]  
14 nuclear fuel, high-level waste, transuranic waste or a large  
15 quantity of radioactive material who ships to, within,  
16 through or across the boundaries of this Commonwealth shall  
17 pay to the agency a fee of [\$1,000 per shipment, payable  
18 prior to the proposed date of shipment.] \$2,500 per  
19 individual vehicle shipment or \$4,500 per railroad car or  
20 river barge shipment.

21 (5) Every three years beginning in ~~2011~~ 2009, the agency ←  
22 shall convene a working group consisting of personnel from  
23 the agency selected by the director and an equal number of  
24 representatives from the nuclear facilities, selected by the  
25 owners of those facilities, to review the nuclear facility  
26 fees paid to the agency, related issues that may have an  
27 impact on those fees and the expenditures made by the agency  
28 in administering its radiation protection programs. This  
29 working group shall issue a report to the General Assembly  
30 outlining its findings of fact and its recommendations

1 relative to the fees imposed by the agency pursuant to this  
2 section, including any individual or minority recommendations  
3 from members of the working group.

4 (d) [PSP] Pennsylvania State Police fees.--

5 (1) Each shipper of spent [reactor fuel] nuclear fuel,  
6 high-level waste, transuranic waste or a large quantity of  
7 radioactive material who ships to, within, through or across  
8 the Commonwealth shall reimburse the [PSP] Pennsylvania State  
9 Police for the actual costs, as determined by the  
10 Pennsylvania State Police, to provide escort service, [at the  
11 following rates: \$20 per hour per officer and 50¢ per mile  
12 for highway shipments. Rail shipments shall be based on a  
13 rate of \$25 per hour per officer.] If the shipment is  
14 canceled following [PSP] notification for escort service, the  
15 shipper shall compensate the [PSP] Pennsylvania State Police  
16 at an appropriate rate for [four] total hours of officers'  
17 time.

18 (2) [The PSP may adjust the rates by regulation as  
19 prevailing wage rates and transportation costs change.] The  
20 Pennsylvania State Police may establish a schedule of fees  
21 for escort, and revise such fees on an annual basis. Such  
22 fees shall be published in the Pennsylvania Bulletin.

23 (e) Penalties.--Any person violating any provision of this  
24 chapter shall be subject to the penalties and enforcement  
25 provisions of section 309(a) and (b).

26 Section 3. Sections 403 and 502 of the act are amended to  
27 read:

28 Section 403. Creation of special funds.

29 (a) Radiation Protection Fund.--There is hereby created in  
30 the General Fund a restricted account to be known as the

1 Radiation Protection Fund. Fees and penalties received under  
2 sections 401 [and 402(b)], 402(b.1)(1), (2), (3) and (4) and  
3 costs recovered under section 402(b.2) shall be deposited in  
4 this fund and are hereby appropriated to the department for the  
5 purpose of carrying out its powers and duties under this act.

6 (b) Radiation Emergency Response Fund.--There is hereby  
7 created in the General Fund a restricted account to be known as  
8 the Radiation Emergency Response Fund. Fees received under  
9 section [402(c)(1),] 402(c)(1.1), (2) and (3) shall be deposited  
10 in this fund as provided and are hereby appropriated to the  
11 agency for the purpose of carrying out its responsibilities  
12 under Chapter 5.

13 (c) Radiation Transportation Emergency Response Fund.--There  
14 is hereby created in the General Fund a restricted account to be  
15 known as the Radiation Transportation Emergency Response Fund.  
16 Fees received under section 402(c)(4) shall be deposited in this  
17 fund and are hereby appropriated to the agency for the purpose  
18 of carrying out its responsibilities under Chapter 6.  
19 Section 502. Response program.

20 In conjunction with the department, the agency shall develop  
21 a Radiation Emergency Response Program for incorporation into  
22 the Pennsylvania Emergency Management Plan [development]  
23 developed by the agency pursuant to Title 35 of the Pennsylvania  
24 Consolidated Statutes (relating to health and safety). Any  
25 volunteer organizations which are incorporated into the  
26 Radiation Emergency Response Program developed under the  
27 authority of this act shall be consulted prior to such  
28 incorporation. The Radiation Emergency Response Program shall  
29 include an assessment of potential nuclear accidents or  
30 incidents, the radiological consequences and necessary

1 protective measures required to mitigate the effects of such  
2 accidents or incidents. The program shall include, but not be  
3 limited to:

4 (1) Development of a detailed fixed nuclear emergency  
5 response plan for areas surrounding each nuclear electrical  
6 generation facility, nuclear fuel fabricator and away-from-  
7 reactor storage facility. The term "areas" shall be deemed to  
8 mean the emergency response zone designated by the [NCR] NRC  
9 Emergency Response Plan applicable to each such fixed nuclear  
10 facility.

11 (2) Notification by nuclear power facility operating  
12 licensees of municipalities within the areas set forth in  
13 paragraph (1) of unusual radioactivity as defined in section  
14 301(d).

15 (3) Training and equipping of State and local emergency  
16 response personnel.

17 (4) Periodical exercise of the accident scenarios  
18 designated in the NRC Emergency Response Plan applicable to  
19 each fixed nuclear facility.

20 (5) Procurement of specialized supplies and equipment.

21 (6) Provisions for financial assistance to  
22 municipalities, school districts, volunteer and State  
23 agencies as provided for in section 503.

24 (7) At a minimum, each nuclear power reactor owner shall  
25 provide to the department existing plant and radiological  
26 monitoring data collected by that owner, derived from  
27 equipment and monitoring methods installed by each owner in  
28 accordance with the requirements of its license by the  
29 Nuclear Regulatory Commission. By July 1, ~~2010~~ 2008, each <—  
30 plant owner shall enter into an agreement with the department

1 establishing the protocols for providing such data to the  
2 department through an expedited, secure process. Nothing in  
3 this section shall be construed to diminish or abrogate any  
4 existing agreement between the department and a plant owner  
5 to provide data for the purpose of monitoring plant and  
6 radiological conditions important to the protection of the  
7 general public.

8 Section 4. The heading of Chapter 6 of the act is amended to  
9 read:

10 CHAPTER 6

11 TRANSPORTATION OF [SPENT NUCLEAR FUEL] RADIATION ←—

12 RADIOACTIVE MATERIAL ←—

13 Section 5. Sections 601, 602, 603 and 604 of the act are  
14 amended to read:

15 Section 601. General rule.

16 It is unlawful for any person to transport upon the highways,  
17 waterways or rails of this Commonwealth any spent nuclear fuel,  
18 high-level waste, transuranic waste or a large quantity of  
19 radioactive material unless that person notifies the agency in  
20 advance [of transporting the spent nuclear fuel] in accordance  
21 with [10 C.F.R. 71.5(a) and (b).] 10 CFR Pt. 71 (relating to  
22 packaging and transportation of radioactive material) regarding  
23 advanced notification of shipment of irradiated reactor fuel and  
24 nuclear waste. Notification requirements for transuranic waste  
25 or a large quantity of radioactive material shall be the same as  
26 required for irradiated reactor fuel and nuclear waste.

27 Section 602. Escort requirements.

28 All shipments of spent nuclear fuel or high-level waste  
29 shipped to, within, through or across the boundaries of the  
30 Commonwealth shall be escorted by the Pennsylvania State Police.

1 All shipments of transuranic waste or large quantities of  
2 radioactive material shipped to, within, through or across the  
3 boundaries of this Commonwealth may, at the discretion of the  
4 Pennsylvania State Police in consultation with the department,  
5 be escorted by the Pennsylvania State Police.

6 Section 603. Authorization.

7 Spent nuclear fuel, high-level waste, transuranic waste or a  
8 large quantity of radioactive material shipments shall be  
9 authorized by the agency subject to the Commonwealth's authority  
10 to delay individual highway, waterway and rail shipments due to  
11 specific holiday [or safety], safety or security considerations  
12 including, but not limited to, weather, highway, waterway or  
13 rail conditions.

14 Section 604. Radiation Transportation Emergency Response Plan.

15 (a) Planning.--The agency shall develop the Transportation  
16 Emergency Response Plan to respond to accidents involving the  
17 shipment of spent [fuel] nuclear fuel, high-level waste,  
18 transuranic waste or a large quantity of radioactive material.

19 The plan shall:

20 (1) Incorporate local agencies and volunteer  
21 organizations along the preprescribed routes [for] of  
22 transport [of spent fuel].

23 (2) Incorporate any Commonwealth agency responsible for  
24 protection of the health and safety of the public as  
25 necessary and approved by the specific agency.

26 (b) Funding of State and local agencies.--Funds received  
27 under section 402(c)(4) shall be used to train and equip State  
28 and local agencies and volunteer organizations in accordance  
29 with regulations adopted by the council to implement the plan.

30 Section 6. Repeals are as follows:

1           (1) The General Assembly declares that the repeals under  
2 paragraph (2) are necessary to effectuate the amendment of  
3 sections 103, 302, 402, 403, 502 and 603 of the act.

4           (2) The following acts and parts of acts are repealed:

5                 (i) Sections 616-A(3) and 1904-A.2 of the act of  
6 April 9, 1929 (P.L.177, No.175), known as The  
7 Administrative Code of 1929.

8                 (ii) 35 Pa.C.S. § 7320(d).

9           (3) All other acts and parts of acts are repealed  
10 insofar as they are inconsistent with this act.

11 Section 7. This act shall take effect immediately.