

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 782 Session of
2007

INTRODUCED BY M. WHITE, BAKER, MUSTO, PUNT, CORMAN, GORDNER,
STOUT, FERLO, BRUBAKER, RAFFERTY, COSTA, FONTANA, PICCOLA,
RHOADES, C. WILLIAMS, WOZNIAK, EARLL, BROWNE, FUMO AND STACK,
APRIL 23, 2007

REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, APRIL 23, 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 licensing and registration fees, for nuclear facility and
21 transport fees, for creation of special funds, for response
22 program and for transportation of radioactive material; and
23 making repeals.

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

26 Section 1. Sections 103, 302 and 401 of the act of July 10,
27 1984 (P.L.688, No.147), known as the Radiation Protection Act,

1 are 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 United

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

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

7 (1) 1,000 Terabecquerels (TBq) (27,000 curies (Ci));

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

11 (3) a radioactive material quantity of concern as
12 defined by the United States Nuclear Regulatory Commission;
13 or

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

17 "NRC." The United States Nuclear Regulatory Commission or
18 any predecessor or successor thereto.

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

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

1 "Radiation." Any ionizing radiation or electronic product
2 radiation.

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

6 "Radiation source user." A person who owns or is responsible
7 for a radiation source.

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

15 "Secretary." The Secretary of Environmental [Resources]
16 Protection or his authorized representative.

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

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

24 Section 302. Powers of Environmental Quality Board.

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

29 (b) Review of department fee structure.--The Environmental
30 Quality Board or its successor shall review every [four] three

1 years the fee structure as authorized by [sections 401 and
2 402(b)] section 401.

3 Section 401. Licensing and registration fees.

4 The [department] Environmental Quality Board shall, by rule
5 and regulation, set reasonable annual fees for the registration
6 of radiation sources and the licensing of radiation source
7 users. These fees shall be in an amount at least sufficient to
8 cover the department's costs of administering the programs.

9 Section 2. Section 402 of the act, repealed in part December
10 18, 1992 (P.L.1638, No.180), is amended to read:

11 Section 402. Nuclear facility and transport fees.

12 (a) General rule.--Persons engaged in the business of
13 producing electricity utilizing nuclear energy, operating
14 facilities for storing away-from-reactor spent nuclear fuel [for
15 others] or fabrication of nuclear reactor fuel or shipping spent
16 nuclear fuel, high-level waste, transuranic waste or a large
17 quantity of radioactive material shall pay fees to cover the
18 costs of the programs related to their activities as required by
19 this act.

20 (b.1) Department fees.--

21 (1) Within 30 days of the effective date of this
22 subsection each person who has a current nuclear power
23 reactor construction permit or operating license from the NRC
24 for a site within this Commonwealth shall pay the department
25 \$100,000 per nuclear power reactor site, regardless of the
26 number of individual nuclear power reactors located at the
27 site. By July 1, 2007, and by July 1 of each year thereafter,
28 each person who has a current nuclear power reactor
29 construction permit or operating license from the NRC for a
30 site within this Commonwealth shall pay the department an

1 annual fee of \$550,000 per nuclear power reactor site,
2 regardless of the number of individual nuclear power reactors
3 located at the site. For the purposes of this subsection
4 only, a nuclear power reactor site shall be deemed to be the
5 location of one or more individual nuclear power reactors
6 which still has spent nuclear fuel stored onsite, has not
7 been fully dismantled and decommissioned pursuant to
8 applicable Federal law and regulations, and has not been
9 granted license termination by the NRC.

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

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

21 (4) Prior to the date of a shipment that requires an
22 escort, each shipper of spent nuclear fuel, high-level waste,
23 transuranic waste or a large quantity of radioactive material
24 who ships to, within, through or across this Commonwealth
25 shall pay to the department a fee of \$500 per individual
26 vehicle shipment or \$1,000 per railroad or river barge
27 shipment.

28 (5) Every three years beginning in 2009, the department
29 shall convene a working group consisting of personnel from
30 the department selected by the secretary and an equal number

1 of representatives from the nuclear facilities, selected by
2 the owners of those facilities, to review the nuclear
3 facility fees paid to the department, related issues that may
4 have an impact on those fees and the expenditures made by the
5 department in administering its radiation protection
6 programs. This working group shall issue a report to the
7 General Assembly outlining its findings of fact and its
8 recommendations relative to the fees imposed by the
9 department pursuant to this section, including any individual
10 or minority recommendations from members of the working
11 group.

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

- 18 (1) Peach Bottom Atomic Power Station, Unit 1.
19 (2) Three Mile Island Nuclear Generating Station, Unit
20 2.

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

24 (c) Agency fees.--

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

1 (1.1) Within 30 days of the effective date of this
2 paragraph each person who has a current nuclear power reactor
3 construction permit or operating license from the NRC, for a
4 site within this Commonwealth, shall pay the agency,
5 regardless of the number of individual nuclear power reactors
6 located at the site, \$100,000 to be collected and used by the
7 agency in accordance with the provisions of 35 Pa.C.S. § 7320
8 (relating to radiological emergency response preparedness,
9 planning and recovery program) and \$50,000 to be collected
10 and used by the agency for radiological emergency response
11 equipment, planning, training and exercise costs involving
12 nonagency personnel. By July 1, 2007, and by July 1 of each
13 year thereafter, each person who has a current nuclear power
14 reactor construction permit or operating license from the
15 NRC, for a site within this Commonwealth, shall pay the
16 agency the following fees, regardless of the number of
17 individual nuclear power reactors located at the site:

18 (i) \$200,000 to be collected and used by the agency
19 in accordance with the provisions of 35 Pa.C.S. § 7320.

20 (ii) \$150,000 to be collected and used by the agency
21 for radiological emergency response equipment, planning,
22 training and exercise costs involving nonagency
23 personnel.

24 Payments collected under this section shall be deposited into
25 the Radiological Emergency Response Planning and Preparedness
26 Program Fund established pursuant to 35 Pa.C.S. § 7320(c). For
27 the purposes of this subsection only, a nuclear power reactor
28 site shall be deemed to be the location of one or more
29 individual nuclear power reactors which still has spent nuclear
30 fuel stored onsite, has not been fully dismantled and

1 decommissioned pursuant to applicable Federal law and
2 regulations and has not been granted license termination by the
3 NRC.

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

10 (3) [Each] By July 1 of each year, each person who has
11 approval from the Department of Energy, or has applied for or
12 [received a valid] holds a current license from the NRC to
13 operate a reactor fuel fabrication facility within this
14 Commonwealth shall pay to the agency an annual fee of
15 [\$50,000 per site payable by July 1 of each year] \$75,000 per
16 site.

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

26 (5) Every three years beginning in 2009, the agency
27 shall convene a working group consisting of personnel from
28 the agency selected by the director and an equal number of
29 representatives from the nuclear facilities, selected by the
30 owners of those facilities, to review the nuclear facility

1 fees paid to the agency, related issues that may have an
2 impact on those fees and the expenditures made by the agency
3 in administering its radiation protection programs. This
4 working group shall issue a report to the General Assembly
5 outlining its findings of fact and its recommendations
6 relative to the fees imposed by the agency pursuant to this
7 section, including any individual or minority recommendations
8 from members of the working group.

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

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

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

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

1 Section 3. Sections 403 and 502 of the act are amended to
2 read:

3 Section 403. Creation of special funds.

4 (a) Radiation Protection Fund.--There is hereby created in
5 the General Fund a restricted account to be known as the
6 Radiation Protection Fund. Fees and penalties received under
7 sections 401 [and 402(b)], 402(b.1)(1), (2), (3) and (4) and
8 costs recovered under section 402(b.2) shall be deposited in
9 this fund and are hereby appropriated to the department for the
10 purpose of carrying out its powers and duties under this act.

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

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

24 Section 502. Response program.

25 In conjunction with the department, the agency shall develop
26 a Radiation Emergency Response Program for incorporation into
27 the Pennsylvania Emergency Management Plan [development]
28 developed by the agency pursuant to Title 35 of the Pennsylvania
29 Consolidated Statutes (relating to health and safety). Any
30 volunteer organizations which are incorporated into the

1 Radiation Emergency Response Program developed under the
2 authority of this act shall be consulted prior to such
3 incorporation. The Radiation Emergency Response Program shall
4 include an assessment of potential nuclear accidents or
5 incidents, the radiological consequences and necessary
6 protective measures required to mitigate the effects of such
7 accidents or incidents. The program shall include, but not be
8 limited to:

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

16 (2) Notification by nuclear power facility operating
17 licensees of municipalities within the areas set forth in
18 paragraph (1) of unusual radioactivity as defined in section
19 301(d).

20 (3) Training and equipping of State and local emergency
21 response personnel.

22 (4) Periodical exercise of the accident scenarios
23 designated in the NRC Emergency Response Plan applicable to
24 each fixed nuclear facility.

25 (5) Procurement of specialized supplies and equipment.

26 (6) Provisions for financial assistance to
27 municipalities, school districts, volunteer and State
28 agencies as provided for in section 503.

29 (7) At a minimum, each nuclear power reactor owner shall
30 provide to the department existing plant and radiological

1 monitoring data collected by that owner, derived from
2 equipment and monitoring methods installed by each owner in
3 accordance with the requirements of its license by the
4 Nuclear Regulatory Commission. By July 1, 2008, each plant
5 owner shall enter into an agreement with the department
6 establishing the protocols for providing such data to the
7 department through an expedited, secure process. Nothing in
8 this section shall be construed to diminish or abrogate any
9 existing agreement between the department and a plant owner
10 to provide data for the purpose of monitoring plant and
11 radiological conditions important to the protection of the
12 general public.

13 Section 4. The heading of Chapter 6 of the act is amended to
14 read:

15 CHAPTER 6

16 TRANSPORTATION OF [SPENT NUCLEAR FUEL] RADIOACTIVE MATERIAL

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

19 Section 601. General rule.

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

1 Section 602. Escort requirements.

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

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

10 Section 603. Authorization.

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

18 Section 604. Radiation Transportation Emergency Response Plan.

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

23 The plan shall:

24 (1) Incorporate local agencies and volunteer
25 organizations along the prescribed routes [for] of
26 transport [of spent fuel].

27 (2) Incorporate any Commonwealth agency responsible for
28 protection of the health and safety of the public as
29 necessary and approved by the specific agency.

30 (b) Funding of State and local agencies.--Funds received

1 under section 402(c)(4) shall be used to train and equip State
2 and local agencies and volunteer organizations in accordance
3 with regulations adopted by the council to implement the plan.

4 Section 6. (a) The General Assembly declares that the
5 repeals under subsection (b)(1) and (2) are necessary to
6 effectuate the amendments of the act which are contained in this
7 act.

8 (b) The following acts and parts of acts are repealed:

9 (1) Sections 616-A(3) and 1904-A.2 of the act of April
10 9, 1929 (P.L.177, No.175), known as The Administrative Code
11 of 1929.

12 (2) 35 Pa.C.S. § 7320(d).

13 (c) All other acts and parts of acts are repealed insofar as
14 they are inconsistent with this act.

15 Section 7. This act shall take effect immediately.