

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## SENATE BILL

No. 987

Session of  
1983

INTRODUCED BY BELL AND MOORE, SEPTEMBER 21, 1983

SENATOR BELL, CONSUMER PROTECTION AND PROFESSIONAL LICENSURE,  
AS AMENDED, MARCH 26, 1984

## AN ACT

1 Combining the radiation safety provisions of the Atomic Energy  
2 Development and Radiation Control Act and the Environmental  
3 Radiation Protection Act; empowering the Department of  
4 Environmental Resources to implement a comprehensive  
5 Statewide radiation protection program; further providing for  
6 THE POWER OF THE ENVIRONMENTAL QUALITY BOARD AND FOR THE <—  
7 duties of the Environmental Hearing Board; expanding the  
8 authority of the department to regulate other radiation  
9 sources and radiologic procedures; establishing fees; and  
10 providing penalties.

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18 The General Assembly of the Commonwealth of Pennsylvania  
19 hereby enacts as follows:

20 CHAPTER 1

21 GENERAL PROVISIONS

22 Section 101. Short title.

23 This act shall be known and may be cited as the Radiation  
24 Protection Act.

25 Section 102. Legislative findings.

26 The General Assembly hereby determines, declares and finds  
27 that, since radiation exposure has the potential for causing  
28 undesirable health effects, the citizens of the Commonwealth  
29 should be protected from unnecessary and harmful exposure  
30 resulting from ~~improper~~ use of radioactive materials, radiation <—

1 sources, accidents involving nuclear power and radioactive  
2 material transportation. It is the purpose of this act to:

3 (1) Establish and maintain a comprehensive program of  
4 radiation protection in the Department of Environmental  
5 Resources.

6 (2) Provide for the licensing and regulation in  
7 cooperation with the Federal Government, other State agencies  
8 and appropriate private entities, of radiologic equipment and  
9 procedures and the persons who administer radiologic  
10 procedures.

11 (3) Maintain a comprehensive environmental radiation  
12 monitoring program around nuclear power plants and at other  
13 locations throughout the Commonwealth.

14 (4) Establish a nuclear safety program to ~~include~~ <—  
15 ~~nuclear safety~~ MAKE evaluations of all nuclear power plants <—  
16 in the Commonwealth, SUCH EVALUATIONS RESTRICTED TO THE <—  
17 SPECIFIC USE OF THE SECRETARY OF ENVIRONMENTAL RESOURCES AND  
18 HIS DESIGNEES AUTHORIZED BY LAW FOR THE PURPOSE OF INFORMING  
19 THE GOVERNOR, THE GENERAL ASSEMBLY AND CONCERNED AND AFFECTED  
20 FEDERAL, STATE AND LOCAL GOVERNMENT ORGANIZATIONS. IT IS NOT  
21 THE INTENT OF THE ACT TO DUPLICATE OR CONFLICT WITH ANY  
22 ASPECT OF THE EXCLUSIVE FEDERAL REGULATORY AUTHORITY  
23 APPLICABLE TO NUCLEAR POWER PLANTS AND LICENSED PLANT  
24 OPERATORS BUT RATHER TO PROVIDE THE COMMONWEALTH WITH  
25 REQUISITE, QUALIFIED PROFESSIONAL NUCLEAR EXPERTISE TO  
26 MAINTAIN A COMPETENT AND CONTINUING AWARENESS OF NUCLEAR  
27 POWER PLANT ACTIVITIES THROUGHOUT THIS COMMONWEALTH AND TO  
28 EXCLUSIVELY EMPLOY THAT EXPERTISE FOR THE APPROPRIATE AND  
29 AUTHORIZED NEEDS OF THE COMMONWEALTH WHEN SUCH ACTIVITIES MAY  
30 HAVE A SIGNIFICANT POTENTIAL FOR CONSEQUENCES BEYOND THE SITE

1 OF A NUCLEAR POWER PLANT. ACCORDINGLY, EXCEPT AS EXPRESSLY  
2 AND DIRECTLY STATED, NONE OF THE PROVISIONS OF CHAPTER 3 ARE  
3 APPLICABLE TO NUCLEAR POWER PLANTS AND LICENSED PLANT  
4 OPERATORS.

5 (5) Maintain a technical emergency radiation response  
6 capability within the Department of Environmental Resources,  
7 in conjunction with the Pennsylvania Emergency Management  
8 Agency, to respond to accidents at nuclear power plants or at  
9 any other location throughout the Commonwealth.

10 (6) Assume licensing and regulatory responsibility for  
11 radioactive materials from the Federal Government. THIS ACT <—  
12 SHALL NOT AUTHORIZE THE DEPARTMENT TO LICENSE OR OPERATE LOW-  
13 LEVEL RADIOACTIVE WASTE DISPOSAL SITES.

14 (7) Carry out comprehensive remedial action programs.

15 (8) Establish fees.

16 Section 103. Definitions.

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

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

23 "Department." The Department of Environmental Resources and  
24 its authorized representatives.

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

28 "Person." An individual, corporation, firm, association,  
29 public utility, trust, estate, public or private institution,  
30 group, agency, political subdivision of the Commonwealth, any

1 other state or political subdivision or agency thereof and any  
2 legal successor, representative, agent or agency of the  
3 foregoing, other than the United States Nuclear Regulatory  
4 Commission or any successor thereto. In any provision of this  
5 act prescribing a fine, imprisonment or penalty, or any  
6 combination of the foregoing, the term "person" shall include  
7 the officers and directors of any corporation or other legal  
8 entity having officers and directors.

9 "Persons who administer radiologic procedures." Any person,  
10 other than a doctor of medicine, osteopathy, dentistry, podiatry  
11 or chiropractic, who intentionally administers radiation or  
12 radioactive material to other persons for medical purposes, and  
13 includes medical radiologic technologists, dental hygienists and  
14 assistants, radiation therapy technologists and nuclear medicine  
15 technologists.

16 "Radiation." Any ionizing radiation or electronic product  
17 radiation.

18 "Radiation source." An apparatus or material, OTHER THAN A  
19 NUCLEAR POWER REACTOR AND NUCLEAR FUEL LOCATED ON A PLANT SITE,  
20 emitting or capable of emitting radiation.

21 "Radiation source user." A person who owns or is responsible  
22 for a radiation source.

23 "Radiologic procedure." A healing arts procedure intended  
24 for use in the diagnosis or treatment of diseases or other  
25 conditions in humans, which is subject to standards established  
26 pursuant to the Consumer-Patient Radiation Health and Safety Act  
27 of 1981 (Public Law 97-35, 95 Stat. 598).

28 "Secretary." The Secretary of Environmental Resources or his  
29 authorized representative.

30 CHAPTER 2

FEDERAL-STATE AGREEMENTS

Section 201. Federal-State agreements.

The Governor, on behalf of this Commonwealth, is authorized to enter into agreements with Federal agencies for discontinuance of certain of the Federal Government's activities with respect to radiation ~~sources~~ PROTECTION and the assumption thereof by the Commonwealth.

CHAPTER 3

RADIATION PROTECTION

Section 301. Powers of Department of Environmental Resources.

(a) Regulation in general.--The department is hereby designated as the agency of the Commonwealth for the purpose of registration, licensing, regulation and control of radiation, radiologic procedures, radiation sources, users of radiation sources and persons who administer radiologic procedures, but, notwithstanding anything in this act to the contrary, shall not have the power to license OR REGULATE telecommunications equipment in duplication of any activity ~~preempted~~ REGULATED by the Federal Government.

(b) Employees.--In accordance with the law of this Commonwealth, the department shall employ, compensate and prescribe the powers and duties of such individuals as may be necessary to carry out the provisions of this act.

(c) Powers.--The department shall have the power to:

(1) Develop and conduct programs for evaluation of hazards associated with the use of radiation sources and with radiation source users.

(2) Develop and conduct comprehensive programs for the registration, licensing, control, ~~disposal~~ MANAGEMENT, regulation and inspection of radiation sources, radiation

1 source users and persons who administer radiologic  
2 procedures.

3 (3) Prevent and remedy hazards associated with the  
4 misuse of any device emitting electronic product radiation.

5 (4) Issue such orders or modifications thereof as may be  
6 necessary in conjunction with proceedings under this act.

7 (5) Carry out a comprehensive environmental radiation  
8 monitoring program around all nuclear power reactors AND <—  
9 OTHER NUCLEAR FUEL CYCLE OR RESEARCH FACILITIES, WHERE  
10 REQUIRED, and at all other locations throughout the  
11 Commonwealth deemed necessary by the department OR <—  
12 RECOMMENDED BY OTHER AGENCIES OF THE COMMONWEALTH.

13 ~~(6) Monitor, identify and assess safety issues~~ <—  
14 ~~associated with nuclear power for each nuclear power plant~~  
15 ~~site in the Commonwealth and to participate in matters before~~  
16 ~~the Nuclear Regulatory Commission or its successor and other~~  
17 ~~appropriate agencies and courts of the United States.~~

18 (6) USING PERSONNEL QUALIFIED BY EDUCATION, TRAINING AND <—  
19 EXPERIENCE, ENTER NUCLEAR POWER PLANTS AT TIMES AND IN  
20 NUMBERS AS ARE REASONABLE UNDER THE CIRCUMSTANCES TO OBSERVE,  
21 IDENTIFY AND ASSESS RADIATION SAFETY ISSUES FOR EACH NUCLEAR  
22 POWER PLANT SITE IN THE COMMONWEALTH.

23 (7) DEVELOP, PREPARE AND SUBMIT TO THE SENATE  
24 ENVIRONMENTAL RESOURCES AND ENERGY COMMITTEE AND HOUSE  
25 CONSERVATION COMMITTEE WITHIN TWO YEARS OF THE EFFECTIVE DATE  
26 OF THIS ACT A PLAN TO PROVIDE THE DEPARTMENT WITH INDEPENDENT  
27 MONITORING CAPABILITIES AT ALL NUCLEAR FACILITIES IN THE  
28 COMMONWEALTH IN ORDER TO IDENTIFY EVENTS REQUIRING REMEDIAL  
29 ACTION TO PROTECT THE PUBLIC FROM RADIATION EXPOSURE.

30 ~~(7)~~ (8) Prepare a technical emergency radiation response <—

1 plan for incorporation into the Pennsylvania Emergency  
2 Management Plan developed by the Pennsylvania Emergency  
3 Management Agency pursuant to Title 35 of the Pennsylvania  
4 Consolidated Statutes (relating to health and safety), and  
5 provide the capability for responding to emergencies at each  
6 nuclear power plant and at other important locations  
7 throughout the Commonwealth.

8 ~~(8)~~ (9) Make available technical staff and equipment to <—  
9 determine levels of radiation in the environment and identify  
10 emergency measures to protect the public from exposure to  
11 such radiation in the event of an accident at a nuclear power  
12 plant, a transportation accident involving radioactive  
13 materials or any other condition or occurrence which  
14 necessitates radiation emergency assistance at any location  
15 in the Commonwealth.

16 ~~(9)~~ (10) Advise the Governor, the General Assembly and <—  
17 the general public with regard to nuclear safety, nuclear  
18 emergencies, radioactive waste ~~disposal~~ MANAGEMENT, <—  
19 environmental monitoring results and other radiation control  
20 activities and consult and cooperate with the various  
21 departments, agencies and political subdivisions of the  
22 Commonwealth, the Federal Government, other states,  
23 interstate agencies, political subdivisions and with groups  
24 AND INDIVIDUALS, INCLUDING MEMBERS OF THE PUBLIC, concerned <—  
25 with radiation safety AND PARTICIPATE IN MATTERS BEFORE THE <—  
26 NUCLEAR REGULATORY COMMISSION OR ITS SUCCESSOR AND OTHER  
27 APPROPRIATE AGENCIES AND COURTS OF THE UNITED STATES.

28 ~~(10)~~ (11) Accept and administer loans, grants or other <—  
29 funds or gifts, conditional or otherwise, in furtherance of  
30 its functions, from any source, public or private, including



1 the Federal Government, ~~except that funds received from the~~ <—  
2 ~~Federal Government~~ PROVIDED ANY FUNDS RECEIVED shall be <—  
3 subject to appropriation by the General Assembly.

4 ~~(11)~~ (12) Encourage, participate in or conduct studies, <—  
5 investigations, training, research, remedial actions and  
6 demonstrations relating to control, ~~disposal~~ REGULATION and <—  
7 monitoring of radiation sources.

8 ~~(12)~~ (13) Collect and disseminate information related to <—  
9 nuclear power, the control of radiation sources, radiation  
10 protection, emergency response and the effects of radiation  
11 exposure.

12 ~~(13)~~ (14) Establish special advisory committees as may <—  
13 be necessary to assist the department in drafting rules and  
14 regulations and to advise the department regarding  
15 implementation of specific portions of the regulations or  
16 specific programs of the department. EACH COMMITTEE SHALL <—  
17 INCLUDE MEMBERS OF THE GENERAL PUBLIC. Members of these  
18 committees may be reimbursed by the department for reasonable  
19 and necessary expenses incurred in connection with their  
20 duties as approved by the secretary.

21 ~~(14)~~ (15) Issue registrations and licenses and specify <—  
22 the terms and conditions thereof. This is not intended to  
23 require registration and licenses OF FACILITIES AND <—  
24 ACTIVITIES within the exclusive jurisdiction of the Nuclear  
25 Regulatory Commission.

26 ~~(15)~~ (16) Require the payment of and collect fees <—  
27 established under Chapter 4.

28 ~~(16)~~ (17) Issue orders and institute proceedings in <—  
29 courts against any person or municipality to compel  
30 compliance with this act, any rule or regulation, any order

1 of the department or the terms and conditions of any  
2 registration or license.

3 ~~(17)~~ (18) Institute prosecutions against any person or <—  
4 municipality for violation of this act.

5 ~~(18)~~ (19) Assess civil penalties pursuant to section <—  
6 ~~308(e)~~ 309(E). <—

7 ~~(19)~~ (20) Prepare a report on environmental radiation <—  
8 levels, as determined by the monitoring program, on at least  
9 an annual basis. Copies of the report shall be submitted to  
10 the President pro tempore of the Senate and the Speaker of  
11 the House of Representatives of the General Assembly and  
12 shall be made available to the general public. The report  
13 shall also contain a description and analysis of any  
14 emergency responses or other actions taken by the department  
15 under this act and any other information about environmental  
16 radiation or radiation emergencies which the department deems  
17 to be of sufficient importance to call to the attention of  
18 the General Assembly and the citizens of the Commonwealth.

19 ~~(20)~~ (21) Administer a program, ~~including the~~ <—  
20 ~~disbursement of funds appropriated~~ FUNDED by the General <—  
21 Assembly, ~~of assistance for funding~~ TO ASSIST IN the <—  
22 decontamination of damaged nuclear power reactors.

23 ~~(21)~~ ~~Adopt such rules and regulations as necessary for~~ <—  
24 ~~the implementation of this act.~~

25 ~~(22)~~ ~~Adopt a reasonable fee system as authorized by~~  
26 ~~Chapter 4.~~

27 ~~(23)~~ (22) Do any and all other acts not inconsistent  
28 with any provision of this act which it may deem necessary or  
29 proper for the effective enforcement of this act.

30 SECTION 302. POWERS OF ENVIRONMENTAL QUALITY BOARD. <—

1 (A) POWERS AND DUTIES.--THE ENVIRONMENTAL QUALITY BOARD OR  
2 ITS SUCCESSOR SHALL HAVE THE POWER AND ITS DUTY SHALL BE TO  
3 ADOPT THE RULES AND REGULATIONS OF THE DEPARTMENT TO ACCOMPLISH  
4 THE PURPOSES AND CARRY OUT THE PROVISIONS OF THIS ACT.

5 (B) REVIEW OF FEE STRUCTURE.--THE ENVIRONMENTAL QUALITY  
6 BOARD OR ITS SUCCESSOR SHALL REVIEW EVERY FOUR YEARS THE FEE  
7 STRUCTURE AS AUTHORIZED BY CHAPTER 4.

8 Section ~~302~~ 303. Licensing and registration. <—

9 (a) Authority.--The department is authorized to license  
10 radiation source users and persons who administer radiologic  
11 procedures and register any radiation sources.

12 (b) Exemption.--The department shall be exempt from the  
13 licensing and registration requirements of this act and is  
14 authorized to exempt certain radiation sources and users from  
15 this act provided the department determines that such action  
16 will constitute an insignificant risk to the health and safety  
17 of the public and to persons exposed to radiation sources.

18 (c) Approval of transfer.--No license issued under this act  
19 and no right to possess or utilize radiation sources granted by  
20 any license shall be assigned, or in any manner disposed of,  
21 without the approval of the department.

22 (d) Terms and conditions of licenses.--The terms and  
23 conditions of all licenses ISSUED UNDER THIS ACT shall be <—  
24 subject to amendment, revision or modification by rules,  
25 regulations or orders issued in accordance with this act.

26 (e) Recognition of other licenses.--Rules and regulations  
27 promulgated under this act may provide for recognition of other  
28 state or Federal licenses.

29 Section ~~303~~ 304. Radiologic procedures. <—

30 (a) Standards.--The department is authorized to license

1 persons who administer radiologic procedures to ensure that  
2 these persons comply with minimum standards established pursuant  
3 to the Consumer-Patient Radiation Health and Safety Act of 1981  
4 (Public Law 97-35, 95 Stat. 598) for the certification and  
5 education of persons who administer radiologic procedures and  
6 such additional requirements as the department deems  
7 appropriate. To the maximum extent possible, the department  
8 shall ensure compliance with those standards and requirements  
9 employing existing programs of certification established by the  
10 Federal Government, other state or local agencies and private  
11 entities as recognized pursuant to § 981(b) of the Consumer-  
12 Patient Radiation Health and Safety Act of 1981.

13 (b) Existing regulations.--Any department, agency, board or  
14 commission of the Commonwealth which licenses or certifies  
15 persons who administer radiologic procedures, or which accredit  
16 or approve programs for the education of persons who administer  
17 radiologic procedures, shall modify their standards,  
18 accreditation, requirements or regulations to be at least as  
19 stringent as the standards or requirements established under  
20 this section. IN EVERY CASE, THE STANDARDS OR REQUIREMENTS  
21 ESTABLISHED SHALL BE EQUAL TO OR MORE STRINGENT THAN THOSE  
22 ESTABLISHED BY APPROPRIATE AGENCIES OF THE FEDERAL GOVERNMENT.

23 (c) Technical assistance.--The department shall provide  
24 technical assistance to any other state, local or private  
25 entities which license, certify or accredit persons or programs  
26 for persons who administer radiologic procedures to ensure  
27 compliance with minimum standards established pursuant to the  
28 Consumer-Patient Radiation Health and Safety Act of 1981.

29 Section ~~304~~ 305. Records.

30 (a) General rule.--Each person who possesses or uses any

1 radiation source shall maintain records relating to its receipt,  
2 storage, transfer or disposal, and such other records as the  
3 department may require, subject to any exemptions as may be  
4 provided by rules or regulations.

5 (b) Personnel radiation exposure records.--Each person who  
6 possesses or uses a radiation source shall maintain appropriate  
7 records of personnel radiation exposure, as mandated by the  
8 rules and regulations of the department. Copies of these records  
9 and those required to be kept by subsection (a) shall be  
10 submitted to the department on written request. Any person  
11 possessing or using a radiation source shall furnish UPON A <—  
12 REASONABLE REQUEST to each employee for whom personnel  
13 monitoring is required or to the employee's ~~physician~~ <—  
14 REPRESENTATIVE, a copy of the employee's personal exposure <—  
15 record ~~at such times~~ as the department, by rule or regulation, <—  
16 may prescribe.

17 Section ~~305~~ 306. Inspection. <—

18 (a) Authority.--The department or its duly authorized  
19 representatives shall have the power to enter at all reasonable  
20 times WITH SUFFICIENT PROBABLE CAUSE upon any public or private <—  
21 property, building, premise or place, for the purposes of  
22 determining compliance with this act, any license conditions or  
23 any rules, regulations or orders issued under this act. In the  
24 conduct of an investigation, the department or its duly  
25 authorized representatives shall have the authority to conduct  
26 tests, inspections or examinations of any radiation source, or  
27 of any book, record, document or other physical evidence related  
28 to the use of a radiation source.

29 (b) Search warrant.--An agent or employee of the department  
30 may apply for a search warrant, ~~to a court of common pleas~~ TO AN <—

1 ISSUING AUTHORITY, for the purposes of testing, inspecting or  
2 examining any radiation source or any public or private  
3 property, building, premise, place, book, record or other  
4 physical evidence related to the use of the radiation source. In <—  
5 ~~the event a judge of the court of common pleas is unavailable,~~  
6 ~~the department may apply for a search warrant to a district~~  
7 ~~justice or Philadelphia Municipal Court judge who may issue a~~  
8 ~~warrant as provided in this section.~~ A warrant shall be issued  
9 only upon probable cause. It shall be sufficient probable cause  
10 to show any of the following:

11 (1) The test, inspection or examination is pursuant to a  
12 general administrative plan to determine compliance with this  
13 act.

14 (2) The agent or employee has reason to believe that a  
15 violation of this act has occurred or may occur.

16 (3) The agent or employee has been refused access to the  
17 radiation source, property, building, premise, place, book,  
18 record, document or other physical evidence related to the  
19 use of the radiation source or has been prevented from  
20 conducting tests, inspections or examinations.

21 Section ~~306~~ 307. Conflicting laws. <—

22 Ordinances, resolutions or regulations now or hereafter in  
23 effect of the governing body of any agency or political  
24 subdivision of this Commonwealth relating to radiation or  
25 radiation sources shall be superseded by this act if such  
26 ordinances or regulations are not in substantial conformity with  
27 this act and any rules and regulations issued hereunder.

28 Section ~~307~~ 308. Prohibited uses and acts. <—

29 It shall be unlawful for any person to use, manufacture,  
30 produce, transport, transfer, bury, receive, acquire, own,

1 possess or dispose of any radiation source in violation of this  
2 act. It shall be unlawful for any person to operate an  
3 unregistered radiation source or to operate a radiation source  
4 or to administer a radiologic procedure without a license to do  
5 so where a license or registration is required by the department  
6 by rule or regulation.

7 Section ~~308~~ 309. Penalties.

<—

8 (a) Summary offense.--Any person, other than a municipal  
9 official exercising his official duties, who violates any  
10 provisions of this act or any rules or regulations or order  
11 promulgated or issued hereunder commits a summary offense and  
12 shall, upon conviction, be sentenced to pay a fine not less than  
13 \$100 and not more than \$1,000 for each separate offense and in  
14 default thereof shall be imprisoned for a term of not more than  
15 30 days. All summary proceedings under this act may be brought  
16 before any district justice or magistrate in the county where  
17 the offense was committed and to that end jurisdiction is hereby  
18 conferred upon district justices and magistrates, subject to  
19 appeal by either party in the manner provided by law.

20 (b) Misdemeanor.--Any person, other than a municipal  
21 official exercising his official duties, who violates any  
22 provision of this act or any rule or regulation or order  
23 promulgated or issued hereunder, commits a misdemeanor of the  
24 third degree and shall, upon conviction, be sentenced to pay a  
25 fine of not less than \$1,000 but not more than \$25,000 for each  
26 separate offense or imprisonment in the county jail for a period  
27 of not more than one year, or both.

28 (c) Felony.--Any person who intentionally, knowingly or  
29 recklessly violates any provision of this act, or any rule or  
30 regulation or order of the department or any term or condition

1 of any permit, and whose acts or omissions cause or create the  
2 possibility of a public nuisance or bodily harm to any person,  
3 commits a felony of the second degree and shall, upon  
4 conviction, be sentenced to pay a fine of not less than \$2,500  
5 but not more than \$100,000 per day for each violation, or to a  
6 term of imprisonment of not less than one year but not more than  
7 ten years, or both.

8 (d) Separate offense for each day.--Each day of continued  
9 violation of any provision of this act or any rule or regulation  
10 or order promulgated or issued pursuant to this act shall  
11 constitute a separate offense.

12 (e) Civil penalty.--In addition to proceeding under any  
13 other remedy available at law or in equity for a violation of  
14 this act or a regulation or order of the department promulgated  
15 or issued hereunder, the department may assess a civil penalty  
16 upon the person for the violation. This penalty may be assessed  
17 whether or not the violation was willful or negligent. The civil  
18 penalty shall not exceed \$25,000 plus \$5,000 for each day of  
19 continued violation. In determining the civil penalty, the  
20 department shall consider, where applicable, the willfulness of  
21 the violation, gravity of the violation, good faith of the  
22 person charged, history of the previous violations, danger to  
23 the public health and welfare, damage to the air, water, land or  
24 other natural resources of the Commonwealth or their uses, cost  
25 of restoration or abatement, savings resultant to the person in  
26 consequence of the violation and any other relevant facts. The  
27 person charged with the penalty shall then have 30 days to pay  
28 the proposed penalty in full or, if the person wishes to contest  
29 either the amount of the penalty or the fact of the violation,  
30 to file within a 30-day period an appeal of the action with the



1 Environmental Hearing Board. Failure to appeal within 30 days  
2 shall result in a waiver of all legal rights to contest the  
3 violation or the amount of the penalty. Civil penalties shall be  
4 payable to the Commonwealth of Pennsylvania and shall be  
5 collectible in any manner provided by law for collection of  
6 debts. If any person liable to pay a penalty neglects or refuses  
7 to pay the same after demand, the amount, together with interest  
8 and any costs that may accrue shall be a lien in favor of the  
9 Commonwealth upon the property, both real and personal, of the  
10 person, but only after same has been entered and docketed of  
11 record by the prothonotary of the county where the property is  
12 situated. The department may, at any time, transmit to  
13 prothonotaries of the respective counties certified copies of  
14 all such liens and it shall be the duty of each prothonotary to  
15 enter and docket the same of record in his office and to index  
16 the same as judgments are indexed, without requiring the payment  
17 of costs as a condition precedent to the entry thereof.

18 Section ~~309~~ 310. Enforcement and abatement. <—

19 (a) Public nuisance.--Any violation of this act or of any  
20 rule, regulation or order of the department or of any term or  
21 condition of any license or registration ISSUED UNDER THIS ACT <—  
22 shall constitute a public nuisance. Any person committing the  
23 violation shall be liable for the costs of abatement of the  
24 nuisance. The Environmental Hearing Board and every court of  
25 common pleas are hereby given jurisdiction over actions to  
26 recover the costs of the abatement.

27 (b) Orders.--In addition to other remedies provided under  
28 this act or any other act, to aid in the enforcement of this  
29 act, the department may issue orders to persons as it deems  
30 necessary TO PROTECT HEALTH AND SAFETY. These orders may include <—

1 an order modifying or revoking registrations or licenses, orders  
2 to cease unlawful activities or other acts involving radiation  
3 sources that are determined by the department to be detrimental  
4 to the public health and safety and such other orders as the  
5 department deems necessary to abate public nuisances. An order  
6 issued under this subsection shall take effect upon notice,  
7 unless the order specifies otherwise. An appeal to the  
8 Environmental Hearing Board shall not act as a supersedeas. It  
9 shall be the duty of any person to comply with any order issued  
10 under this subsection. Any person who fails to comply with an  
11 order issued under this subsection shall be guilty of contempt  
12 and shall be punished in an appropriate manner by the  
13 Commonwealth Court, which court is hereby granted jurisdiction,  
14 upon application by the department.

15 (c) Injunction.--In addition to any other remedies provided  
16 for in this act, the department may institute a suit in equity  
17 in the name of the Commonwealth for an injunction to restrain a  
18 violation of this act or the rules, regulations or orders  
19 adopted or issued hereunder, or to restrain the maintenance or  
20 threat of a public nuisance. In any such proceeding the court  
21 shall, upon motion by the department, issue a prohibitory or  
22 mandatory preliminary injunction if it finds that the defendant  
23 is engaging in unlawful conduct or is engaged in conduct which  
24 is causing immediate and irreparable harm to the public. The  
25 Commonwealth shall not be required to furnish bond or other  
26 security in connection with such proceedings.

27 (d) Impoundment, etc.--The department shall have the  
28 authority to impound any radiation source or to take other  
29 actions as are necessary to abate a public nuisance wherever the  
30 department believes that this action is necessary to protect the

1 health and safety of the public.

2 (e) Emergency order.--Whenever the secretary finds that an  
3 emergency exists requiring immediate action to protect the  
4 public health and safety, the secretary may issue an emergency  
5 order reciting the existence of the emergency and requiring that  
6 such action be taken as is necessary to meet the emergency. This  
7 order shall be effective immediately. Any person to whom this  
8 order is directed shall comply therewith immediately, unless a  
9 supersedeas is granted by the Environmental Hearing Board.

10 (F) REVOCATION OF LICENSES OR PERMITS.--REPEATED VIOLATIONS <—  
11 OF ANY PROVISIONS OF THIS ACT OR ANY RULES AND REGULATIONS OF  
12 THE DEPARTMENT PROMULGATED UNDER THE AUTHORITY OF THIS ACT OR  
13 NONPAYMENT OF FEES OR PENALTIES SHALL BE CAUSE FOR REVOCATION OF  
14 LICENSES OR PERMITS ISSUED BY THE DEPARTMENT UNDER THIS ACT.

15 Section ~~310~~ 311. Liberal construction. <—

16 The penalties and remedies prescribed by this act shall be  
17 deemed concurrent and the existence of or exercise of any remedy  
18 shall not prevent the department from exercising any other  
19 remedy at law or in equity. No provision of this act or any  
20 action taken by virtue of this act, including the granting of a  
21 registration or license, shall be construed as estopping the  
22 Commonwealth from proceeding in courts of law or equity to abate  
23 nuisances under existing law, nor shall this act in any other  
24 manner abridge or alter rights of action or remedies now or  
25 hereafter existing in equity or under the common law or  
26 statutory law, criminal or civil, exercised by the Commonwealth  
27 or any person to enforce their rights or to abate any nuisance,  
28 now or hereafter existing, in any court of competent  
29 jurisdiction.

30 CHAPTER 4

1 FEES

2 Section 401. Licensing and registration fees.

3 The department shall by rule and regulation set reasonable  
4 annual fees for the registration of radiation sources and the  
5 licensing of radiation source users and persons who administer  
6 radiologic procedures. These fees shall be in an amount at least  
7 sufficient to cover the costs of administering the programs.

8 Section 402. Nuclear power plant fees.

9 Each ~~nuclear power plant operator~~ CORPORATION OR OTHER <—  
10 ORGANIZATION who has received a NUCLEAR POWER REACTOR FACILITY <—  
11 construction permit or operating license from the United States  
12 Nuclear Regulatory Commission or any predecessor or successor  
13 thereto shall pay to the department within 30 days of the  
14 effective date of this act and ~~on~~ BY July 1 of each ~~succeeding~~ <—  
15 year an annual fee of \$150,000 per reactor, regardless of the  
16 number of reactors per site.

17 Section 403. Nonpayment of fees.

18 Nonpayment of fees within the prescribed time shall  
19 constitute a violation of this act and is subject to the  
20 penalties and enforcement provisions of section ~~308~~ 309. <—

21 Section 404. Radiation Protection Fund.

22 There is hereby established in the General Fund a restricted  
23 account to be known as the Radiation Protection Fund. Fees and  
24 penalties received under this act shall be deposited in this  
25 fund and are hereby appropriated to the department for  
26 expenditure to implement the purposes of this act.

27 CHAPTER 5

28 MISCELLANEOUS PROVISIONS

29 Section 501. Transition provisions.

30 All registrations, licenses and orders issued and regulations

1 promulgated under the act of January 28, 1966 (1965 P.L.1625,  
2 No.578), known as The Atomic Energy Development and Radiation  
3 Control Act, shall remain in full force unless and until  
4 modified, amended, suspended or revoked and all appropriations,  
5 allocations, personnel, agreements, leases, claims, demands and  
6 causes of action of any nature and equipment, files, records,  
7 real estate, personal property and all other materials owned,  
8 used, employed or expended in connection with that act by the  
9 Department of Commerce are hereby transferred to the Department  
10 of Environmental Resources.

11 Section 502. Repeals.

12 The following acts are repealed:

13 Act of January 28, 1966 (1965 P.L.1625, No.578), known as The  
14 Atomic Energy Development and Radiation Control Act.

15 Act of July 20, 1979 (P.L.151, No.49), known as the  
16 Environmental Radiation Protection Act.

17 Section 503. Effective date.

18 This act shall take effect immediately.