

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1276 Session of
2006

INTRODUCED BY D. WHITE, FERLO, BOSCOLA, PUNT, CORMAN,
WASHINGTON, ERICKSON, RAFFERTY, LEMMOND, GORDNER, MUSTO,
PILEGGI, ORIE AND PICCOLA, JUNE 30, 2006

REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, JUNE 30, 2006

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
27 amended to read:

1 Section 103. Definitions.

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

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

8 "Agency." The Pennsylvania Emergency Management Agency.

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

14 "Council." The Pennsylvania Emergency Management Council.

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

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

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

22 "High-level waste."

23 (1) Irradiated reactor fuel;

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

29 (3) other highly radioactive material that the Nuclear
30 Regulatory Commission, consistent with existing Federal law,

1 determines by rule requires permanent isolation.

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

5 (1) 1,000 Terabecquerels (TBq) (27,000 curies (Ci));

6 (2) 3,000 times the A sub1 or A sub2 limits for a
7 radionuclide listed in Appendix A of 10 CFR Pt. 71 (relating
8 to packaging and transportation of radioactive material);

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

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

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

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

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

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

30 "Radiation source." An apparatus or material, other than a

1 nuclear power reactor and nuclear fuel located on a plant site,
2 emitting or capable of emitting radiation.

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

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

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

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

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

21 Section 302. Powers of Environmental Quality Board.

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

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

30 Section 2. Section 402 of the act, repealed in part December

1 18, 1992 (P.L.1638, No.180), is amended to read:

2 Section 402. Nuclear facility and transport fees.

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

11 (b.1) Department fees.--

12 (1) Within 30 days of the effective date of this
13 subsection each person who has a current nuclear power
14 reactor construction permit or operating license from the NRC
15 for a site within this Commonwealth shall pay the department
16 \$100,000 per nuclear power reactor site, regardless of the
17 number of individual nuclear power reactors located at the
18 site. By July 1, 2006, and by July 1 of each year thereafter,
19 each person who has a current nuclear power reactor
20 construction permit or operating license from the NRC for a
21 site within this Commonwealth shall pay the department an
22 annual fee of \$550,000 per nuclear power reactor site,
23 regardless of the number of individual nuclear power reactors
24 located at the site. For the purposes of this subsection
25 only, a nuclear power reactor site shall be deemed to be the
26 location of one or more individual nuclear power reactors
27 which still has spent nuclear fuel stored onsite, has not
28 been fully dismantled and decommissioned pursuant to
29 applicable Federal law and regulations, and has not been
30 granted license termination by the NRC.

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

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

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

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

1 or minority recommendations from members of the working
2 group.

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

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

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

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

15 (c) Agency fees.--

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

22 (1.1) Within 30 days of the effective date of this
23 paragraph each person who has a current nuclear power reactor
24 construction permit or operating license from the NRC, for a
25 site within this Commonwealth, shall pay the agency,
26 regardless of the number of individual nuclear power reactors
27 located at the site, \$100,000 to be collected and used by the
28 agency in accordance with the provisions of 35 Pa.C.S. § 7320
29 (relating to radiological emergency response preparedness,
30 planning and recovery program) and \$50,000 to be collected

1 and used by the agency for radiological emergency response
2 equipment, planning, training and exercise costs involving
3 nonagency personnel. By July 1, 2006, and by July 1 of each
4 year thereafter, each person who has a current nuclear power
5 reactor construction permit or operating license from the
6 NRC, for a site within this Commonwealth, shall pay the
7 agency the following fees, regardless of the number of
8 individual nuclear power reactors located at the site:

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

11 (ii) \$150,000 to be collected and used by the agency
12 for radiological emergency response equipment, planning,
13 training and exercise costs involving nonagency
14 personnel.

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

25 (2) [Each] By July 1 of each year, each person who has
26 applied for or [received a valid] holds a current license
27 from the NRC to operate an away-from-reactor spent nuclear
28 fuel storage facility within this Commonwealth shall pay to
29 the agency an annual fee of [\$50,000 per site payable by July
30 1 of each year] \$75,000 per site.

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

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

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

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

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

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

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

22 Section 3. Sections 403 and 502 of the act are amended to
23 read:

24 Section 403. Creation of special funds.

25 (a) Radiation Protection Fund.--There is hereby created in
26 the General Fund a restricted account to be known as the
27 Radiation Protection Fund. Fees and penalties received under
28 sections 401 [and 402(b)], 402(b.1)(1), (2), (3) and (4) and
29 costs recovered under section 402(b.2) shall be deposited in
30 this fund and are hereby appropriated to the department for the

1 purpose of carrying out its powers and duties under this act.

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

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

16 In conjunction with the department, the agency shall develop
17 a Radiation Emergency Response Program for incorporation into
18 the Pennsylvania Emergency Management Plan [development]
19 developed by the agency pursuant to Title 35 of the Pennsylvania
20 Consolidated Statutes (relating to health and safety). Any
21 volunteer organizations which are incorporated into the
22 Radiation Emergency Response Program developed under the
23 authority of this act shall be consulted prior to such
24 incorporation. The Radiation Emergency Response Program shall
25 include an assessment of potential nuclear accidents or
26 incidents, the radiological consequences and necessary
27 protective measures required to mitigate the effects of such
28 accidents or incidents. The program shall include, but not be
29 limited to:

30 (1) Development of a detailed fixed nuclear emergency

1 response plan for areas surrounding each nuclear electrical
2 generation facility, nuclear fuel fabricator and away-from-
3 reactor storage facility. The term "areas" shall be deemed to
4 mean the emergency response zone designated by the [NCR] NRC
5 Emergency Response Plan applicable to each such fixed nuclear
6 facility.

7 (2) Notification by nuclear power facility operating
8 licensees of municipalities within the areas set forth in
9 paragraph (1) of unusual radioactivity as defined in section
10 301(d).

11 (3) Training and equipping of State and local emergency
12 response personnel.

13 (4) Periodical exercise of the accident scenarios
14 designated in the NRC Emergency Response Plan applicable to
15 each fixed nuclear facility.

16 (5) Procurement of specialized supplies and equipment.

17 (6) Provisions for financial assistance to
18 municipalities, school districts, volunteer and State
19 agencies as provided for in section 503.

20 (7) At a minimum, each nuclear power reactor owner shall
21 provide to the department existing plant and radiological
22 monitoring data collected by that owner, derived from
23 equipment and monitoring methods installed by each owner in
24 accordance with the requirements of its license by the
25 Nuclear Regulatory Commission. By July 1, 2008, each plant
26 owner shall enter into an agreement with the department
27 establishing the protocols for providing such data to the
28 department through an expedited, secure process. Nothing in
29 this section shall be construed to diminish or abrogate any
30 existing agreement between the department and a plant owner

1 to provide data for the purpose of monitoring plant and
2 radiological conditions important to the protection of the
3 general public.

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

6 CHAPTER 6

7 TRANSPORTATION OF [SPENT NUCLEAR FUEL] RADIATION MATERIAL

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

10 Section 601. General rule.

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

22 Section 602. Escort requirements.

23 All shipments of spent nuclear fuel or high-level waste
24 shipped to, within, through or across the boundaries of the
25 Commonwealth shall be escorted by the Pennsylvania State Police.
26 All shipments of transuranic waste or large quantities of
27 radioactive material shipped to, within, through or across the
28 boundaries of this Commonwealth may, at the discretion of the
29 Pennsylvania State Police in consultation with the department,
30 be escorted by the Pennsylvania State Police.

1 Section 603. Authorization.

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

9 Section 604. Radiation Transportation Emergency Response Plan.

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

14 The plan shall:

15 (1) Incorporate local agencies and volunteer
16 organizations along the prescribed routes [for] of
17 transport [of spent fuel].

18 (2) Incorporate any Commonwealth agency responsible for
19 protection of the health and safety of the public as
20 necessary and approved by the specific agency.

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

25 Section 6. (a) The General Assembly declares that the
26 repeals under subsection (b)(1) and (2) are necessary to
27 effectuate the amendments of the act.

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

29 (1) Sections 616-A(3) and 1904-A.2 of the act of April
30 9, 1929 (P.L.177, No.175), known as The Administrative Code

1 of 1929.

2 (2) 35 Pa.C.S. § 7320(d).

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

5 Section 7. This act shall take effect immediately.