

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

SENATOR M. WHITE, ENVIRONMENTAL RESOURCES AND ENERGY, IN SENATE,
AS AMENDED, JUNE 26, 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 LICENSING AND REGISTRATION FEES, for powers ←
20 of Environmental Quality Board, for nuclear facility and
21 transport fees, for creation of special funds, for response
22 program and for transportation of radioactive materials; and
23 making repeals.

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

26 Section 1. Sections 103 and ~~302~~, 302 AND 401 of the act of ←

1 July 10, 1984 (P.L.688, No.147), known as the Radiation
2 Protection Act, are amended to read:

3 Section 103. Definitions.

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

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

10 "Agency." The Pennsylvania Emergency Management Agency.

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

16 "Council." The Pennsylvania Emergency Management Council.

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

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

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

24 "High-level waste."

25 (1) Irradiated reactor fuel;

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

1 (3) other highly radioactive material that the Nuclear
2 Regulatory Commission, consistent with existing Federal law,
3 determines by rule requires permanent 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 Nuclear Regulatory Commission; or

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

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

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

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

30 "Radiation." Any ionizing radiation or electronic product

1 radiation.

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

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

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

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

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

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

23 Section 302. Powers of Environmental Quality Board.

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

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

1 402(b)] section 401.

2 SECTION 401. LICENSING AND REGISTRATION FEES. <—

3 THE [DEPARTMENT] ENVIRONMENTAL QUALITY BOARD SHALL, BY RULE
4 AND REGULATION, SET REASONABLE ANNUAL FEES FOR THE REGISTRATION
5 OF RADIATION SOURCES AND THE LICENSING OF RADIATION SOURCE
6 USERS. THESE FEES SHALL BE IN AN AMOUNT AT LEAST SUFFICIENT TO
7 COVER THE DEPARTMENT'S COSTS OF ADMINISTERING THE PROGRAMS.

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

10 Section 402. Nuclear facility and transport fees.

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

19 (b.1) Department fees.--

20 (1) Within 30 days of the effective date of this
21 subsection each person who has a current nuclear power
22 reactor construction permit or operating license from the NRC
23 for a site within this Commonwealth shall pay the department
24 \$100,000 per nuclear power reactor site, regardless of the
25 number of individual nuclear power reactors located at the
26 site. By July 1, 2007, and July 1 of each year thereafter,
27 each person who has a current nuclear power reactor
28 construction permit or operating license from the NRC for a
29 site within this Commonwealth shall pay the department an
30 annual fee of \$550,000 per nuclear power reactor site,

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

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

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

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

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

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

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

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

18 (2) Three Mile Island Nuclear Generating Station, Unit
19 2.

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

23 (c) Agency fees.--

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

30 (1.1) (i) Within 30 days of the effective date of this

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

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

24 (B) \$150,000 to be collected and used by the
25 agency for radiological emergency response equipment,
26 planning, training and exercise costs involving
27 nonagency personnel.

28 (ii) Payments collected under subparagraph (i)(A)
29 shall be deposited into the Radiological Emergency
30 Response Planning and Preparedness Program Fund

1 established pursuant to 35 Pa.C.S. § 7320(c). Payments
2 collected under subparagraph (i)(B) shall be deposited
3 into the Radiation Emergency Response Fund. For the
4 purposes of this subsection only, a nuclear power reactor
5 site shall be deemed to be the location of one or more
6 individual nuclear power reactors which still has spent
7 nuclear fuel stored onsite, has not been fully dismantled
8 and decommissioned pursuant to applicable Federal law and
9 regulations and has not been granted license termination
10 by the NRC.

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

17 (3) [Each] By July 1 of each year, each person who has
18 approval from the Department of Energy, or has applied for or
19 [received a valid] holds a current license from the NRC to
20 operate a reactor fuel fabrication facility within this
21 Commonwealth shall pay to the agency an annual fee of
22 [\$50,000 per site payable by July 1 of each year] \$75,000 per
23 site.

24 (4) [Each] Prior to the proposed date of a shipment that
25 requires an escort, each shipper of spent [reactor fuel]
26 nuclear fuel, high-level waste, transuranic waste or a large
27 quantity of radioactive material who ships to, within,
28 through or across the boundaries of this Commonwealth shall
29 pay to the agency a fee of [\$1,000 per shipment, payable
30 prior to the proposed date of shipment.] \$2,500 per

1 individual vehicle shipment or \$4,500 per railroad car or
2 river barge shipment.

3 (5) Every three years beginning in 2009, the agency
4 shall convene a working group consisting of personnel from
5 the agency selected by the director and an equal number of
6 representatives from the nuclear facilities, selected by the
7 owners of those facilities, to review the nuclear facility
8 fees paid to the agency, related issues that may have an
9 impact on those fees and the expenditures made by the agency
10 in administering its radiation protection programs. This
11 working group shall issue a report to the General Assembly
12 outlining its findings of fact and its recommendations
13 relative to the fees imposed by the agency pursuant to this
14 section, including any individual or minority recommendations
15 from members of the working group.

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

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

30 (2) [The PSP may adjust the rates by regulation as

1 prevailing wage rates and transportation costs change.] The
2 Pennsylvania State Police may establish a schedule of fees
3 for escort, and revise such fees on an annual basis. Such
4 fees shall be published in the Pennsylvania Bulletin.

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

8 Section 3. Sections 403 and 502 of the act are amended to
9 read:

10 Section 403. Creation of special funds.

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

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

25 (c) Radiation Transportation Emergency Response Fund.--There
26 is hereby created in the General Fund a restricted account to be
27 known as the Radiation Transportation Emergency Response Fund.
28 Fees received under section 402(c)(4) shall be deposited in this
29 fund and are hereby appropriated to the agency for the purpose
30 of carrying out its responsibilities under Chapter 6.

1 Section 502. Response program.

2 In conjunction with the department, the agency shall develop
3 a Radiation Emergency Response Program for incorporation into
4 the Pennsylvania Emergency Management Plan [development]
5 developed by the agency pursuant to Title 35 of the Pennsylvania
6 Consolidated Statutes (relating to health and safety). Any
7 volunteer organizations which are incorporated into the
8 Radiation Emergency Response Program developed under the
9 authority of this act shall be consulted prior to such
10 incorporation. The Radiation Emergency Response Program shall
11 include an assessment of potential nuclear accidents or
12 incidents, the radiological consequences and necessary
13 protective measures required to mitigate the effects of such
14 accidents or incidents. The program shall include, but not be
15 limited to:

16 (1) Development of a detailed fixed nuclear emergency
17 response plan for areas surrounding each nuclear electrical
18 generation facility, nuclear fuel fabricator and away-from-
19 reactor storage facility. The term "areas" shall be deemed to
20 mean the emergency response zone designated by the [NCR] NRC
21 Emergency Response Plan applicable to each such fixed nuclear
22 facility.

23 (2) Notification by nuclear power facility operating
24 licensees of municipalities within the areas set forth in
25 paragraph (1) of unusual radioactivity as defined in section
26 301(d).

27 (3) Training and equipping of State and local emergency
28 response personnel.

29 (4) Periodical exercise of the accident scenarios
30 designated in the NRC Emergency Response Plan applicable to

1 each fixed nuclear facility.

2 (5) Procurement of specialized supplies and equipment.

3 (6) Provisions for financial assistance to
4 municipalities, school districts, volunteer and State
5 agencies as provided for in section 503.

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

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

22 CHAPTER 6

23 TRANSPORTATION OF [SPENT NUCLEAR FUEL]

24 RADIOACTIVE MATERIAL

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

27 Section 601. General rule.

28 It is unlawful for any person to transport upon the highways,
29 waterways or rails of this Commonwealth any spent nuclear fuel,
30 high-level waste, transuranic waste or a large quantity of

1 radioactive material unless that person notifies the agency in
2 advance [of transporting the spent nuclear fuel] in accordance
3 with [10 C.F.R. 71.5(a) and (b).] 10 CFR Pt. 71 (relating to
4 packaging and transportation of radioactive material) regarding
5 advanced notification of shipment of irradiated reactor fuel and
6 nuclear waste. Notification requirements for transuranic waste
7 or a large quantity of radioactive material shall be the same as
8 required for irradiated reactor fuel and nuclear waste.

9 Section 602. Escort requirements.

10 All shipments of spent nuclear fuel or high-level waste
11 shipped to, within, through or across the boundaries of the
12 Commonwealth shall be escorted by the Pennsylvania State Police.
13 All shipments of transuranic waste or large quantities of
14 radioactive material shipped to, within, through or across the
15 boundaries of this Commonwealth may, at the discretion of the
16 Pennsylvania State Police in consultation with the department,
17 be escorted by the Pennsylvania State Police.

18 Section 603. Authorization.

19 Spent nuclear fuel, high-level waste, transuranic waste or a
20 large quantity of radioactive material shipments shall be
21 authorized by the agency subject to the Commonwealth's authority
22 to delay individual highway, waterway and rail shipments due to
23 specific holiday [or safety], safety or security considerations
24 including, but not limited to, weather, highway, waterway or
25 rail conditions.

26 Section 604. Radiation Transportation Emergency Response Plan.

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

1 The plan shall:

2 (1) Incorporate local agencies and volunteer
3 organizations along the prescribed routes [for] of
4 transport [of spent fuel].

5 (2) Incorporate any Commonwealth agency responsible for
6 protection of the health and safety of the public as
7 necessary and approved by the specific agency.

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

12 Section 6. Repeals are as follows:

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

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

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

20 (ii) 35 Pa.C.S. § 7320(d).

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

23 Section 7. This act shall take effect immediately.