

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 987

Session of
1983

INTRODUCED BY BELL AND MOORE, SEPTEMBER 21, 1983

AS REPORTED FROM COMMITTEE ON MINES AND ENERGY MANAGEMENT,
HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 18, 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~~; PROVIDING FOR RADIATION <—
10 EMERGENCY RESPONSE; ESTABLISHING REQUIREMENTS FOR TRANSPORT
11 OF SPENT REACTOR FUEL; establishing fees; ~~and~~ providing <—
12 penalties; AND MAKING REPEALS. <—

TABLE OF CONTENTS

13 Chapter 1. General Provisions

14 Section 101. Short title.

15 Section 102. Legislative findings.

16 Section 103. Definitions.

17 Chapter 2. Federal-State Agreements

18 Section 201. Federal-State agreements.

19 Chapter 3. Radiation Protection

20 Section 301. Powers AND DUTIES of Department of Environmental <—

1 Resources.

2 Section 302. Powers of Environmental Quality Board.

3 Section 303. Licensing and registration.

4 ~~Section 304. Radiologic procedures.~~

5 ~~Section 305. Records.~~

6 ~~Section 306. Inspection.~~

7 ~~Section 307. Conflicting laws.~~

8 ~~Section 308. Prohibited uses and acts.~~

9 ~~Section 309. Penalties.~~

10 ~~Section 310. Enforcement and abatement.~~

11 ~~Section 311. Liberal construction.~~

12 SECTION 304. RECORDS.

13 SECTION 305. INSPECTION.

14 SECTION 306. CONFLICTING LAWS.

15 SECTION 307. PROHIBITED USES AND ACTS.

16 SECTION 308. PENALTIES.

17 SECTION 309. ENFORCEMENT AND ABATEMENT.

18 SECTION 310. LIBERAL CONSTRUCTION.

19 Chapter 4. Fees

20 Section 401. Licensing and registration fees.

21 ~~Section 402. Nuclear power plant fees.~~

22 ~~Section 403. Nonpayment of fees.~~

23 ~~Section 404. Radiation Protection Fund.~~

24 ~~Chapter 5. Miscellaneous Provisions~~

25 ~~Section 501. Transition provisions.~~

26 ~~Section 502. Repeals.~~

27 ~~Section 503. Effective date.~~

28 SECTION 402. NUCLEAR FACILITY FEES.

29 SECTION 403. CREATION OF SPECIAL FUNDS.

30 CHAPTER 5. RADIATION EMERGENCY RESPONSE PROGRAM

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1 SECTION 501. DECLARATION OF POLICY.
2 SECTION 502. RESPONSE PROGRAM.
3 SECTION 503. FINANCIAL ASSISTANCE PROGRAM.
4 CHAPTER 6. TRANSPORTATION OF SPENT NUCLEAR FUEL
5 SECTION 601. GENERAL RULE.
6 SECTION 602. ESCORT REQUIREMENTS.
7 SECTION 603. AUTHORIZATION.
8 SECTION 604. RADIATION TRANSPORTATION EMERGENCY RESPONSE PLAN.
9 CHAPTER 7. MISCELLANEOUS PROVISIONS
10 SECTION 701. TRANSITION PROVISIONS.
11 SECTION 702. REPEALS.
12 SECTION 703. EFFECTIVE DATE.

13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 CHAPTER 1
16 GENERAL PROVISIONS

17 Section 101. Short title.

18 This act shall be known and may be cited as the Radiation
19 Protection Act.

20 Section 102. Legislative findings.

21 The General Assembly hereby determines, declares and finds
22 that, since radiation exposure has the potential for causing
23 undesirable health effects, the citizens of the Commonwealth
24 should be protected from unnecessary and harmful exposure
25 resulting from use of radioactive materials, radiation sources,
26 accidents involving nuclear power and radioactive material
27 transportation. It is the purpose of this act to:

28 (1) Establish and maintain a comprehensive program of
29 radiation protection in the Department of Environmental
30 Resources.

1 (2) Provide for the licensing and regulation in
2 cooperation with the Federal Government, other State agencies
3 and appropriate private entities of radiologic equipment and
4 procedures. ~~and the persons who administer radiologic~~ <—
5 ~~procedures.~~

6 (3) Maintain a comprehensive environmental radiation
7 monitoring program around nuclear power plants and at other
8 locations throughout the Commonwealth.

9 (4) Establish a nuclear safety program to make
10 evaluations of all nuclear power plants in the Commonwealth,
11 such evaluations restricted to the specific use of the
12 Secretary of Environmental Resources and his designees
13 authorized by law for the purpose of informing the Governor,
14 the General Assembly and concerned and affected Federal,
15 State and local government organizations. It is not the
16 intent of the act to duplicate or conflict with any aspect of
17 the exclusive Federal regulatory authority applicable to
18 nuclear power plants and licensed plant operators but rather
19 to provide the Commonwealth with requisite, qualified
20 professional nuclear expertise to maintain a competent and
21 continuing awareness of nuclear power plant activities
22 throughout this Commonwealth and to exclusively employ that
23 expertise for the appropriate and authorized needs of the
24 Commonwealth when such activities may have a significant
25 potential for consequences beyond the site of a nuclear power
26 plant. Accordingly, except as expressly and directly stated,
27 none of the provisions of Chapter 3 are applicable to nuclear
28 power plants and licensed plant operators.

29 (5) Maintain a technical emergency radiation response
30 capability within the Department of Environmental Resources,

1 in conjunction with the Pennsylvania Emergency Management
2 Agency, to respond to accidents at nuclear power plants or at
3 any other location throughout the Commonwealth.

4 (6) Assume licensing and regulatory responsibility for
5 radioactive materials from the Federal Government. This act
6 shall not authorize the department to license or operate low-
7 level radioactive waste disposal sites.

8 (7) Carry out comprehensive remedial action programs.

9 (8) ESTABLISH IN THE PENNSYLVANIA EMERGENCY MANAGEMENT <—
10 AGENCY A COMPREHENSIVE RADIATION EMERGENCY RESPONSE PROGRAM
11 SUPPORTED BY FEES FROM THE NUCLEAR INDUSTRY.

12 (9) ESTABLISH A RADIATION TRANSPORTATION EMERGENCY
13 RESPONSE PLAN AND PROCEDURES FOR NOTIFICATION OF SPENT
14 NUCLEAR FUEL SHIPMENTS, PENNSYLVANIA STATE POLICE ESCORT AND
15 ESTABLISHING FEES.

16 ~~(8)~~ (10) Establish fees. <—

17 Section 103. Definitions.

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

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

24 "AGENCY." THE PENNSYLVANIA EMERGENCY MANAGEMENT AGENCY. <—

25 "COUNCIL." THE PENNSYLVANIA EMERGENCY MANAGEMENT COUNCIL.

26 "Department." The Department of Environmental Resources and
27 its authorized representatives.

28 "DIRECTOR." THE DIRECTOR OF THE PENNSYLVANIA EMERGENCY <—
29 MANAGEMENT AGENCY.

30 "Electronic product radiation." Any radiation emitted by

1 products subject to the Radiation Control for Health and Safety
2 Act of 1968 (Public Law 90-602, 82 Stat. 1173).

3 "NRC." THE UNITED STATES NUCLEAR REGULATORY COMMISSION OR <—
4 ANY PREDECESSOR OR SUCCESSOR THERETO.

5 "Person." An individual, corporation, firm, association,
6 public utility, trust, estate, public or private institution,
7 group, agency, political subdivision of the Commonwealth, any
8 other state or political subdivision or agency thereof and any
9 legal successor, representative, agent or agency of the
10 foregoing, other than the United States Nuclear Regulatory
11 Commission or any successor thereto. In any provision of this
12 act prescribing a fine, imprisonment or penalty, or any
13 combination of the foregoing, the term "person" shall include
14 the officers and directors of any corporation or other legal
15 entity having officers and directors.

16 ~~"Persons who administer radiologic procedures." Any person,~~ <—
17 ~~other than a doctor of medicine, osteopathy, dentistry, podiatry~~
18 ~~or chiropractic, who intentionally administers radiation or~~
19 ~~radioactive material to other persons for medical purposes, and~~
20 ~~includes medical radiologic technologists, dental hygienists and~~
21 ~~assistants, radiation therapy technologists and nuclear medicine~~
22 ~~technologists.~~

23 "PSP." THE PENNSYLVANIA STATE POLICE. <—

24 "Radiation." Any ionizing radiation or electronic product
25 radiation.

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

29 "Radiation source user." A person who owns or is responsible
30 for a radiation source.

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

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

"SPENT NUCLEAR FUEL." FUEL THAT HAS BEEN WITHDRAWN FROM A
NUCLEAR REACTOR FOLLOWING IRRADIATION, THE CONSTITUENT ELEMENTS
OF WHICH HAVE NOT BEEN SEPARATED BY REPROCESSING.

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 protection and the assumption thereof
by the Commonwealth.

CHAPTER 3

RADIATION PROTECTION

Section 301. Powers AND DUTIES 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 AND 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 regulated by the

1 Federal Government.

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

6 (c) Powers AND DUTIES.--The department shall have the power <—
7 AND ITS DUTIES SHALL BE to: <—

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

11 (2) Develop and conduct comprehensive programs for the
12 registration, licensing, control, management, regulation and
13 inspection of radiation sources AND radiation source users. <—
14 ~~and persons who administer radiologic procedures.~~ <—

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

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

19 ~~(5) Carry out a comprehensive environmental radiation~~ <—
20 ~~monitoring program around all nuclear power reactors and~~
21 ~~other nuclear fuel cycle or research facilities, where~~
22 ~~required, and at all other locations throughout the~~
23 ~~Commonwealth deemed necessary by the department or~~
24 ~~recommended by other agencies of the Commonwealth.~~

25 (5) CARRY OUT A COMPREHENSIVE PROGRAM OF MONITORING <—
26 LEVELS OF RADIOACTIVITY IN PENNSYLVANIA'S ENVIRONMENT
27 INCLUDING ALL APPROPRIATE TESTS FOR ALPHA, BETA AND GAMMA
28 LEVELS IN ALL APPROPRIATE MEDIA. SITES TO BE MONITORED SHALL
29 INCLUDE, BUT NOT BE LIMITED TO, NUCLEAR POWER REACTOR SITES,
30 OTHER NUCLEAR FUEL CYCLE OR RESEARCH FACILITIES, OTHER SITES

1 WITH A SUBSTANTIAL POTENTIAL FOR ENVIRONMENTAL RADIOACTIVITY
2 CONTAMINATION, AND OTHER LOCATIONS IN THE COMMONWEALTH
3 RECOMMENDED BY OTHER AGENCIES OF THE COMMONWEALTH.

4 (6) Using personnel qualified by education, training and
5 experience, enter nuclear power plants at times and in
6 numbers as are reasonable under the circumstances to observe,
7 identify and assess radiation safety issues for each nuclear
8 power plant site in the Commonwealth.

9 (7) Develop, prepare and submit to the Senate
10 Environmental Resources and Energy Committee and House
11 Conservation Committee within two years of the effective date
12 of this act a plan to provide the department with independent
13 monitoring capabilities at all nuclear facilities in the
14 Commonwealth in order to identify events requiring remedial
15 action to protect the public from radiation exposure.

16 (8) Prepare a technical emergency radiation response
17 plan for incorporation into the Pennsylvania Emergency
18 Management Plan developed by the Pennsylvania Emergency
19 Management Agency pursuant to Title 35 of the Pennsylvania
20 Consolidated Statutes (relating to health and safety), and
21 provide the capability for responding to emergencies at each
22 nuclear power plant and at other important locations
23 throughout the Commonwealth.

24 (9) Make available technical staff and equipment to
25 determine levels of radiation in the environment and identify
26 emergency measures to protect the public from exposure to
27 such radiation in the event of an accident at a nuclear power
28 plant, a transportation accident involving radioactive
29 materials or any other condition or occurrence which
30 necessitates radiation emergency assistance at any location

1 in the Commonwealth.

2 (10) Advise the Governor, the General Assembly and the
3 general public with regard to nuclear safety, nuclear
4 emergencies, radioactive waste management, environmental
5 monitoring results and other radiation control activities and
6 consult and cooperate with the various departments, agencies
7 and political subdivisions of the Commonwealth, the Federal
8 Government, other states, interstate agencies, political
9 subdivisions and with groups and individuals, including
10 members of the public, concerned with radiation safety and
11 participate in matters before the Nuclear Regulatory
12 Commission or its successor and other appropriate agencies
13 and courts of the United States.

14 (11) Accept and administer loans, grants or other funds
15 or gifts, conditional or otherwise, in furtherance of its
16 functions, from any source, public or private, including the
17 Federal Government, provided any funds received shall be
18 subject to appropriation by the General Assembly.

19 (12) Encourage, participate in or conduct studies,
20 investigations, training, research, remedial actions and
21 demonstrations relating to control, regulation and monitoring
22 of radiation sources.

23 (13) Collect and disseminate information related to
24 nuclear power, the control of radiation sources, radiation
25 protection, emergency response and the effects of radiation
26 exposure.

27 (14) Establish special advisory committees as may be
28 necessary to assist the department in drafting rules and
29 regulations and to advise the department regarding
30 implementation of specific portions of the regulations or

1 specific programs of the department. Each committee shall
2 include members of the general public. Members of these
3 committees may be reimbursed by the department for reasonable
4 and necessary expenses incurred in connection with their
5 duties as approved by the secretary.

6 (15) Issue registrations and licenses and specify the
7 terms and conditions thereof. This is not intended to require
8 registration and licenses of facilities and activities within
9 the exclusive jurisdiction of the Nuclear Regulatory
10 Commission.

11 (16) Require the payment of and collect fees established
12 under Chapter 4.

13 (17) Issue orders and institute proceedings in courts
14 against any person or municipality to compel compliance with
15 this act, any rule or regulation, any order of the department
16 or the terms and conditions of any registration or license.

17 (18) Institute prosecutions against any person or
18 municipality for violation of this act.

19 (19) Assess civil penalties pursuant to section ~~309(e)~~ <—
20 308(E). <—

21 (20) Prepare a report on environmental radiation levels,
22 as determined by the monitoring program, on at least an
23 annual basis. Copies of the report shall be submitted to the
24 President pro tempore of the Senate and the Speaker of the
25 House of Representatives of the General Assembly and shall be
26 made available to the general public. The report shall also
27 contain a description and analysis of any emergency responses
28 or other actions taken by the department under this act and
29 any other information about environmental radiation or
30 radiation emergencies which the department deems to be of

sufficient importance to call to the attention of the General Assembly and the citizens of the Commonwealth.

(21) Administer a program, funded by the General Assembly, to assist in the decontamination of damaged nuclear power reactors.

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

(D) NOTIFICATION.--WHENEVER THE DEPARTMENT, IN THE COURSE OF ITS POWERS AND DUTIES AS SET FORTH IN SUBSECTION (C), DETERMINES THAT LEVELS OF RADIATION EXCEED THE NORMAL RANGE OF RADIOACTIVITY IN A GIVEN AREA, THE DEPARTMENT SHALL IMMEDIATELY NOTIFY THE GOVERNOR, THE AGENCY AND THE NRC AND SHALL ALSO REPORT ITS FINDINGS TO THE PUBLIC AND IT SHALL SUBSEQUENTLY SUBMIT A DETAILED REPORT ON THE OCCURRENCE TO BOTH THE GOVERNOR AND THE NRC AND SHALL MAKE SUCH REPORT PUBLIC. <—

Section 302. Powers of Environmental Quality Board.

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

(b) Review of fee structure.--The Environmental Quality Board or its successor shall review every four years the fee structure as authorized by ~~Chapter 4~~ SECTIONS 401 AND 402(B). <—

Section 303. Licensing and registration.

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

(b) Exemption.--The department shall be exempt from the licensing and registration requirements of this act and is

1 authorized to exempt certain radiation sources and users from
2 this act provided the department determines that such action
3 will constitute an insignificant risk to the health and safety
4 of the public and to persons exposed to radiation sources.

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

9 (d) Terms and conditions of licenses.--The terms and
10 conditions of all licenses issued under this act shall be
11 subject to amendment, revision or modification by rules,
12 regulations or orders issued in accordance with this act.

13 (e) Recognition of other licenses.--Rules and regulations
14 promulgated under this act may provide for recognition of other
15 state or Federal licenses.

16 ~~Section 304. Radiologic procedures.~~

<—

17 ~~(a) Standards. The department is authorized to license~~
18 ~~persons who administer radiologic procedures to ensure that~~
19 ~~these persons comply with minimum standards established pursuant~~
20 ~~to the Consumer Patient Radiation Health and Safety Act of 1981~~
21 ~~(Public Law 97-35, 95 Stat. 598) for the certification and~~
22 ~~education of persons who administer radiologic procedures and~~
23 ~~such additional requirements as the department deems~~
24 ~~appropriate. To the maximum extent possible, the department~~
25 ~~shall ensure compliance with those standards and requirements~~
26 ~~employing existing programs of certification established by the~~
27 ~~Federal Government, other state or local agencies and private~~
28 ~~entities as recognized pursuant to § 981(b) of the Consumer~~
29 ~~Patient Radiation Health and Safety Act of 1981.~~

30 ~~(b) Existing regulations. Any department, agency, board or~~

~~commission of the Commonwealth which licenses or certifies persons who administer radiologic procedures, or which accredit or approve programs for the education of persons who administer radiologic procedures, shall modify their standards, accreditation, requirements or regulations to be at least as stringent as the standards or requirements established under this section. In every case, the standards or requirements established shall be equal to or more stringent than those established by appropriate agencies of the Federal Government.~~

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

~~Section 305 304. Records.~~

<—

(a) General rule.--Each person who possesses or uses any radiation source shall maintain records relating to its receipt, storage, transfer or disposal, and such other records as the department may require, subject to any exemptions as may be provided by rules or regulations.

(b) Personnel radiation exposure records.--Each person who possesses or uses a radiation source shall maintain appropriate records of personnel radiation exposure, as mandated by the rules and regulations of the department. Copies of these records and those required to be kept by subsection (a) shall be submitted to the department on written request. Any person possessing or using a radiation source shall furnish upon a reasonable request to each employee for whom personnel monitoring is required or to the employee's representative, a

1 copy of the employee's personal exposure record as the
2 department, by rule or regulation, may prescribe.

3 Section ~~306~~ 305. Inspection.

<—

4 (a) Authority.--The department or its duly authorized
5 representatives shall have the power to enter at all reasonable
6 times with sufficient probable cause upon any public or private
7 property, building, premise or place, for the purposes of
8 determining compliance with this act, any license conditions or
9 any rules, regulations or orders issued under this act. In the
10 conduct of an investigation, the department or its duly
11 authorized representatives shall have the authority to conduct
12 tests, inspections or examinations of any radiation source, or
13 of any book, record, document or other physical evidence related
14 to the use of a radiation source.

15 (b) Search warrant.--An agent or employee of the department
16 may apply for a search warrant, to an issuing authority, for the
17 purposes of testing, inspecting or examining any radiation
18 source or any public or private property, building, premise,
19 place, book, record or other physical evidence related to the
20 use of the radiation source. A warrant shall be issued only upon
21 probable cause. It shall be sufficient probable cause to show
22 any of the following:

23 (1) The test, inspection or examination is pursuant to a
24 general administrative plan to determine compliance with this
25 act.

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

28 (3) The agent or employee has been refused access to the
29 radiation source, property, building, premise, place, book,
30 record, document or other physical evidence related to the

1 use of the radiation source or has been prevented from
2 conducting tests, inspections or examinations.

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

4 Ordinances, resolutions or regulations now or hereafter in
5 effect of the governing body of any agency or political
6 subdivision of this Commonwealth relating to radiation or
7 radiation sources shall be superseded by this act if such
8 ordinances or regulations are not in substantial conformity with
9 this act and any rules and regulations issued hereunder.

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

11 It shall be unlawful for any person to use, manufacture,
12 produce, transport, transfer, bury, receive, acquire, own,
13 possess or dispose of any radiation source in violation of this
14 act. It shall be unlawful for any person to operate an
15 unregistered radiation source or to operate a radiation source
16 or to administer a radiologic procedure without a license to do
17 so where a license or registration is required by the department
18 by rule or regulation.

19 Section ~~309~~ 308. Penalties. <—

20 (a) Summary offense.--Any person, other than a municipal
21 official exercising his official duties, who violates any
22 provisions of this act or any rules or regulations or order
23 promulgated or issued hereunder commits a summary offense and
24 shall, upon conviction, be sentenced to pay a fine not less than
25 \$100 and not more than \$1,000 for each separate offense and in
26 default thereof shall be imprisoned for a term of not more than
27 30 days. All summary proceedings under this act may be brought
28 before any district justice or magistrate in the county where
29 the offense was committed and to that end jurisdiction is hereby
30 conferred upon district justices and magistrates, subject to

1 appeal by either party in the manner provided by law.

2 (b) Misdemeanor.--Any person, other than a municipal
3 official exercising his official duties, who violates any
4 provision of this act or any rule or regulation or order
5 promulgated or issued hereunder, within two years after having
6 been convicted of any summary offense under this act, commits a
7 misdemeanor of the third degree and shall, upon conviction, be
8 sentenced to pay a fine of not less than \$1,000 but not more
9 than \$25,000 for each separate offense or imprisonment in the
10 county jail for a period of not more than one year, or both.

11 (c) Felony.--Any person who intentionally, knowingly or
12 recklessly violates any provision of this act, or any rule or
13 regulation or order of the department or any term or condition
14 of any permit, and whose acts or omissions cause or create the
15 possibility of a public nuisance or bodily harm to any person,
16 commits a felony of the second degree and shall, upon
17 conviction, be sentenced to pay a fine of not less than \$2,500
18 but not more than \$100,000 per day for each violation, or to a
19 term of imprisonment of not less than one year but not more than
20 ten years, or both.

21 (d) Separate offense for each day.--Each day of continued
22 violation of any provision of this act or any rule or regulation
23 or order promulgated or issued pursuant to this act shall
24 constitute a separate offense.

25 (e) Civil penalty.--In addition to proceeding under any
26 other remedy available at law or in equity for a violation of
27 this act or a regulation or order of the department promulgated
28 or issued hereunder, the department may assess a civil penalty
29 upon the person for the violation. This penalty may be assessed
30 whether or not the violation was willful or negligent. The civil

1 penalty shall not exceed \$25,000 plus \$5,000 for each day of
2 continued violation. In determining the civil penalty, the
3 department shall consider, where applicable, the willfulness of
4 the violation, gravity of the violation, good faith of the
5 person charged, history of the previous violations, danger to
6 the public health and welfare, damage to the air, water, land or
7 other natural resources of the Commonwealth or their uses, cost
8 of restoration or abatement, savings resultant to the person in
9 consequence of the violation and any other relevant facts. The
10 person charged with the penalty shall then have 30 days to pay
11 the proposed penalty in full or, if the person wishes to contest
12 either the amount of the penalty or the fact of the violation,
13 to file within a 30-day period an appeal of the action with the
14 Environmental Hearing Board. Failure to appeal within 30 days
15 shall result in a waiver of all legal rights to contest the
16 violation or the amount of the penalty. Civil penalties shall be
17 payable to the Commonwealth of Pennsylvania and shall be
18 collectible in any manner provided by law for collection of
19 debts. If any person liable to pay a penalty neglects or refuses
20 to pay the same after demand, the amount, together with interest
21 and any costs that may accrue shall be a lien in favor of the
22 Commonwealth upon the property, both real and personal, of the
23 person, but only after same has been entered and docketed of
24 record by the prothonotary of the county where the property is
25 situated. The department may, at any time, transmit to
26 prothonotaries of the respective counties certified copies of
27 all such liens and it shall be the duty of each prothonotary to
28 enter and docket the same of record in his office and to index
29 the same as judgments are indexed, without requiring the payment
30 of costs as a condition precedent to the entry thereof.

1 Section ~~310~~ 309. Enforcement and abatement.

2 (a) Public nuisance.--Any violation of this act or of any
3 rule, regulation or order of the department or of any term or
4 condition of any license or registration issued under this act
5 shall constitute a public nuisance. Any person committing the
6 violation shall be liable for the costs of abatement of the
7 nuisance. The Environmental Hearing Board and every court of
8 common pleas are hereby given jurisdiction over actions to
9 recover the costs of the abatement.

10 (b) Orders.--In addition to other remedies provided under
11 this act or any other act, to aid in the enforcement of this
12 act, the department may issue orders to persons as it deems
13 necessary to protect health and safety. These orders may include
14 an order modifying or revoking registrations or licenses, orders
15 to cease unlawful activities or other acts involving radiation
16 sources that are determined by the department to be detrimental
17 to the public health and safety and such other orders as the
18 department deems necessary to abate public nuisances. An order
19 issued under this subsection shall take effect upon notice,
20 unless the order specifies otherwise. An appeal to the
21 Environmental Hearing Board shall not act as a supersedeas. It
22 shall be the duty of any person to comply with any order issued
23 under this subsection. Any person who fails to comply with an
24 order issued under this subsection shall be guilty of contempt
25 and shall be punished in an appropriate manner by the
26 Commonwealth Court, which court is hereby granted jurisdiction,
27 upon application by the department.

28 (c) Injunction.--In addition to any other remedies provided
29 for in this act, the department may institute a suit in equity
30 in the name of the Commonwealth for an injunction to restrain a

1 violation of this act or the rules, regulations or orders
2 adopted or issued hereunder, or to restrain the maintenance or
3 threat of a public nuisance. In any such proceeding the court
4 shall, upon motion by the department, issue a prohibitory or
5 mandatory preliminary injunction if it finds that the defendant
6 is engaging in unlawful conduct or is engaged in conduct which
7 is causing immediate and irreparable harm to the public. The
8 Commonwealth shall not be required to furnish bond or other
9 security in connection with such proceedings.

10 (d) Impoundment, etc.--The department shall have the
11 authority to impound any radiation source or to take other
12 actions as are necessary to abate a public nuisance wherever the
13 department believes that this action is necessary to protect the
14 health and safety of the public.

15 (e) Emergency order.--Whenever the secretary finds that an
16 emergency exists requiring immediate action to protect the
17 public health and safety, the secretary may issue an emergency
18 order reciting the existence of the emergency and requiring that
19 such action be taken as is necessary to meet the emergency. This
20 order shall be effective immediately. Any person to whom this
21 order is directed shall comply therewith immediately, unless a
22 supersedeas is granted by the Environmental Hearing Board.

23 (f) Revocation of licenses or permits.--Repeated violations
24 of any provisions of this act or any rules and regulations of
25 the department promulgated under the authority of this act or
26 nonpayment of fees or penalties shall be cause for revocation of
27 licenses or permits issued by the department under this act.

28 Section ~~311~~ 310. Liberal construction.

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29 The penalties and remedies prescribed by this act shall be
30 deemed concurrent and the existence of or exercise of any remedy

1 shall not prevent the department from exercising any other
2 remedy at law or in equity. No provision of this act or any
3 action taken by virtue of this act, including the granting of a
4 registration or license, shall be construed as estopping the
5 Commonwealth from proceeding in courts of law or equity to abate
6 nuisances under existing law, nor shall this act in any other
7 manner abridge or alter rights of action or remedies now or
8 hereafter existing in equity or under the common law or
9 statutory law, criminal or civil, exercised by the Commonwealth
10 or any person to enforce their rights or to abate any nuisance,
11 now or hereafter existing, in any court of competent
12 jurisdiction.

13 CHAPTER 4

14 FEES

15 Section 401. Licensing and registration fees.

16 The department shall by rule and regulation set reasonable
17 annual fees for the registration of radiation sources and the
18 licensing of radiation source users. ~~and persons who administer~~ <—
19 ~~radiologic procedures.~~ These fees shall be in an amount at least
20 sufficient to cover the costs of administering the programs.

21 ~~Section 402. Nuclear power plant fees.~~ <—

22 ~~Each corporation or other organization who has received a~~
23 ~~nuclear power reactor facility construction permit or operating~~
24 ~~license from the United States Nuclear Regulatory Commission or~~
25 ~~any predecessor or successor thereto shall pay to the department~~
26 ~~within 30 days of the effective date of this act and by July 1~~
27 ~~of each year an annual fee of \$150,000 per reactor, regardless~~
28 ~~of the number of reactors per site.~~

29 ~~Section 403. Nonpayment of fees.~~

30 ~~Nonpayment of fees within the prescribed time shall~~

1 ~~constitute a violation of this act and is subject to the~~
2 ~~penalties and enforcement provisions of section 309.~~
3 ~~Section 404. Radiation Protection Fund.~~

4 ~~There is hereby established in the General Fund a restricted~~
5 ~~account to be known as the Radiation Protection Fund. Fees and~~
6 ~~penalties received under this act shall be deposited in this~~
7 ~~fund and are hereby appropriated to the department for~~
8 ~~expenditure to implement the purposes of this act.~~

9 SECTION 402. NUCLEAR FACILITY FEES. <—

10 (A) GENERAL RULE.--PERSONS ENGAGED IN THE BUSINESS OF
11 PRODUCING ELECTRICITY UTILIZING NUCLEAR ENERGY, OPERATING
12 FACILITIES FOR STORING AWAY-FROM-REACTOR SPENT NUCLEAR FUEL FOR
13 OTHERS OR FABRICATION OF NUCLEAR FUEL OR SHIPPING SPENT NUCLEAR
14 FUEL SHALL PAY FEES TO COVER THE COSTS OF THE PROGRAMS RELATED
15 TO THEIR ACTIVITIES AS REQUIRED BY THIS ACT.

16 (B) DEPARTMENT FEES.--EACH PERSON WHO HAS RECEIVED A NUCLEAR
17 POWER REACTOR FACILITY CONSTRUCTION PERMIT OR OPERATING LICENSE
18 FROM THE NRC SHALL PAY TO THE DEPARTMENT WITHIN 30 DAYS OF THE
19 EFFECTIVE DATE OF THIS ACT AND BY JULY 1 OF EACH YEAR AN ANNUAL
20 FEE OF \$150,000 PER POWER REACTOR, REGARDLESS OF THE NUMBER OF
21 REACTORS PER SITE.

22 (C) AGENCY FEES.--

23 (1) EACH PERSON WHO HAS RECEIVED OR HAS APPLIED FOR A
24 NUCLEAR POWER REACTOR FACILITY OPERATING LICENSE FROM THE NRC
25 SHALL PAY TO THE AGENCY A ONE-TIME FEE OF \$200,000 PER SITE
26 WITHIN 30 DAYS OF THE EFFECTIVE DATE OF THIS ACT AND AN
27 ANNUAL FEE OF \$100,000 PER SITE PAYABLE BY JULY 1 OF EACH
28 YEAR, REGARDLESS OF THE NUMBER OF POWER REACTORS PER SITE.

29 (2) EACH PERSON WHO HAS APPLIED FOR OR RECEIVED A VALID
30 LICENSE FROM THE NRC TO OPERATE AN AWAY-FROM-REACTOR SPENT

FUEL STORAGE FACILITY SHALL PAY TO THE AGENCY AN ANNUAL FEE
OF \$50,000 PER SITE PAYABLE BY JULY 1 OF EACH YEAR.

(3) EACH PERSON WHO HAS APPLIED FOR OR RECEIVED A VALID
LICENSE FROM THE NRC TO OPERATE A RECTOR FUEL FABRICATION
FACILITY SHALL PAY TO THE AGENCY AN ANNUAL FEE OF \$50,000 PER
SITE PAYABLE BY JULY 1 OF EACH YEAR.

(4) EACH SHIPPER OF SPENT REACTOR FUEL TO, WITHIN,
THROUGH OR ACROSS THE BOUNDARIES OF THIS COMMONWEALTH SHALL
PAY TO THE AGENCY A FEE OF \$1,000 PER SHIPMENT, PAYABLE PRIOR
TO THE PROPOSED DATE OF SHIPMENT.

(D) PSP FEES.--

(1) EACH SHIPPER OF SPENT REACTOR FUEL TO, WITHIN,
THROUGH OR ACROSS THE COMMONWEALTH SHALL REIMBURSE THE PSP
FOR ESCORT SERVICE AT THE FOLLOWING RATES: \$20 PER HOUR PER
OFFICER AND 50¢ PER MILE FOR HIGHWAY SHIPMENTS. RAIL
SHIPMENTS SHALL BE BASED ON A RATE OF \$25 PER HOUR PER
OFFICER. IF THE SHIPMENT IS CANCELED FOLLOWING PSP
NOTIFICATION, THE SHIPPER SHALL COMPENSATE THE PSP AT AN
APPROPRIATE RATE FOR FOUR HOURS OF OFFICERS' TIME.

(2) THE PSP MAY ADJUST THE RATES BY REGULATION AS
PREVAILING WAGE RATES AND TRANSPORTATION COSTS CHANGE.

(E) PENALTIES.--ANY PERSON VIOLATING ANY PROVISION OF THIS
CHAPTER SHALL BE SUBJECT TO THE PENALTIES AND ENFORCEMENT
PROVISIONS OF SECTION 309(A) AND (B).

SECTION 403. CREATION OF SPECIAL FUNDS.

(A) RADIATION PROTECTION FUND.--THERE IS HEREBY CREATED IN
THE GENERAL FUND A RESTRICTED ACCOUNT TO BE KNOWN AS THE
RADIATION PROTECTION FUND. FEES AND PENALTIES RECEIVED UNDER
SECTIONS 401 AND 402(B) SHALL BE DEPOSITED IN THIS FUND AND ARE
HEREBY APPROPRIATED TO THE DEPARTMENT FOR THE PURPOSE OF

1 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), (2) AND (3) SHALL BE DEPOSITED IN THIS FUND
6 AS PROVIDED AND ARE HEREBY APPROPRIATED TO THE AGENCY FOR THE
7 PURPOSE OF CARRYING OUT ITS RESPONSIBILITIES UNDER CHAPTER 5.

8 (C) RADIATION TRANSPORTATION EMERGENCY RESPONSE FUND.--THERE
9 IS HEREBY CREATED IN THE GENERAL FUND A RESTRICTED ACCOUNT TO BE
10 KNOWN AS THE RADIATION TRANSPORTATION EMERGENCY RESPONSE FUND.
11 FEES RECEIVED UNDER SECTION 402(C)(4) SHALL BE DEPOSITED IN THIS
12 FUND AND ARE HEREBY APPROPRIATED TO THE AGENCY FOR THE PURPOSE
13 OF CARRYING OUT ITS RESPONSIBILITIES UNDER CHAPTER 6.

14 CHAPTER 5

15 RADIATION EMERGENCY RESPONSE PROGRAM

16 SECTION 501. DECLARATION OF POLICY.

17 IT IS THE POLICY OF THE GENERAL ASSEMBLY TO PROTECT THE
18 PEOPLE OF THE COMMONWEALTH AGAINST ADVERSE HEALTH EFFECTS
19 RESULTING FROM RADIATION ACCIDENTS BY ESTABLISHING A MECHANISM
20 FOR EMERGENCY PREPAREDNESS TO MITIGATE THE EFFECTS OF SUCH
21 ACCIDENTS. THE GENERAL ASSEMBLY FINDS THAT IT IS APPROPRIATE FOR
22 THE NUCLEAR INDUSTRY IN THE COMMONWEALTH TO BEAR THE COSTS
23 ASSOCIATED WITH PREPARING AND IMPLEMENTING PLANS TO DEAL WITH
24 THE EFFECTS OF NUCLEAR ACCIDENTS OR INCIDENTS.

25 SECTION 502. RESPONSE PROGRAM.

26 IN CONJUNCTION WITH THE DEPARTMENT, THE AGENCY SHALL DEVELOP
27 A RADIATION EMERGENCY RESPONSE PROGRAM FOR INCORPORATION INTO
28 THE PENNSYLVANIA EMERGENCY MANAGEMENT PLAN DEVELOPMENT BY THE
29 AGENCY PURSUANT TO TITLE 35 OF THE PENNSYLVANIA CONSOLIDATED
30 STATUTES (RELATING TO HEALTH AND SAFETY). ANY VOLUNTEER

1 ORGANIZATIONS WHICH ARE INCORPORATED INTO THE RADIATION
2 EMERGENCY RESPONSE PROGRAM DEVELOPED UNDER THE AUTHORITY OF THIS
3 ACT SHALL BE CONSULTED PRIOR TO SUCH INCORPORATION. THE
4 RADIATION EMERGENCY RESPONSE PROGRAM SHALL INCLUDE AN ASSESSMENT
5 OF POTENTIAL NUCLEAR ACCIDENTS OR INCIDENTS, THE RADIOLOGICAL
6 CONSEQUENCES AND NECESSARY PROTECTIVE MEASURES REQUIRED TO
7 MITIGATE THE EFFECTS OF SUCH ACCIDENTS OR INCIDENTS. THE PROGRAM
8 SHALL INCLUDE, BUT NOT BE LIMITED TO:

9 (1) DEVELOPMENT OF A DETAILED FIXED NUCLEAR EMERGENCY
10 RESPONSE PLAN FOR AREAS SURROUNDING EACH NUCLEAR ELECTRICAL
11 GENERATION FACILITY, NUCLEAR FABRICATOR AND AWAY-FROM-REACTOR
12 STORAGE FACILITY. THE TERM "AREAS" SHALL BE DEEMED TO MEAN
13 THE EMERGENCY RESPONSE ZONE DESIGNATED BY THE NCR EMERGENCY
14 RESPONSE PLAN APPLICABLE TO EACH SUCH FIXED NUCLEAR FACILITY.

15 (2) TRAINING AND EQUIPPING OF STATE AND LOCAL EMERGENCY
16 RESPONSE PERSONNEL.

17 (3) PERIODICAL EXERCISE OF THE ACCIDENT SCENARIOS
18 DESIGNATED IN THE NRC EMERGENCY RESPONSE PLAN APPLICABLE TO
19 EACH FIXED NUCLEAR FACILITY.

20 (4) PROCUREMENT OF SPECIALIZED SUPPLIES AND EQUIPMENT.

21 (5) PROVISIONS FOR FINANCIAL ASSISTANCE TO
22 MUNICIPALITIES, SCHOOL DISTRICTS, VOLUNTEER AND STATE
23 AGENCIES AS PROVIDED FOR IN SECTION 503.

24 SECTION 503. FINANCIAL ASSISTANCE PROGRAM.

25 (A) GENERAL PROVISIONS.--APPLICATIONS BY MUNICIPALITIES,
26 SCHOOL DISTRICTS, VOLUNTEER ORGANIZATIONS AND STATE AGENCIES TO
27 PAY PERSONNEL, CONDUCT TRAINING OR PURCHASE PROTECTIVE SUPPLIES
28 AND EQUIPMENT PRINCIPALLY REQUIRED TO CARRY OUT THE PURPOSES OF
29 CHAPTERS 5 AND 6 SHALL BE MADE TO THE AGENCY WHICH SHALL MAKE
30 THE DISBURSEMENTS PURSUANT TO REGULATIONS PROMULGATED BY THE

1 COUNCIL.

2 (B) REIMBURSEMENT PROVISIONS.--MUNICIPALITIES, SCHOOL
3 DISTRICTS, VOLUNTEER ORGANIZATIONS AND STATE AGENCIES MAY APPLY
4 FOR REIMBURSEMENT OF COSTS NOT PREVIOUSLY RECOUPED OR TO BE
5 REIMBURSED FROM OTHER SOURCES WHICH WERE REQUIRED TO BE
6 EXPENDED, AS A DIRECT RESULT OF THE PREPARATION, ESTABLISHMENT
7 AND TESTING OF EMERGENCY RESPONSE PLANS SURROUNDING EACH NUCLEAR
8 ELECTRICAL GENERATION FACILITY, FOR PERSONNEL COSTS, TRAINING
9 EXPENSES, AND PROTECTIVE SUPPLIES AND EQUIPMENT ON OR AFTER
10 MARCH 28, 1979.

11 (C) REPORTS.--ON SEPTEMBER 1 OF EACH YEAR, THE AGENCY SHALL
12 SUBMIT A REPORT ON ITS OPERATIONS FOR THE PRECEDING FISCAL YEAR
13 TO THE GOVERNOR AND THE GENERAL ASSEMBLY. THE REPORT SHALL
14 INCLUDE A SUMMARY OF THE ACTIVITIES OF THE RADIATION EMERGENCY
15 RESPONSE PROGRAM AND ACTIVITIES PURSUANT TO SHIPMENTS OF SPENT
16 FUEL, AS PROVIDED FOR IN CHAPTERS 5 AND 6, RESPECTIVELY, AS WELL
17 AS A PROPOSED OPERATING BUDGET, FINANCIAL STATEMENT AND A
18 LISTING OF APPLICATIONS RECEIVED AND DISBURSEMENTS OR
19 REIMBURSEMENTS MADE TO MUNICIPALITIES, SCHOOL DISTRICTS,
20 VOLUNTEER ORGANIZATIONS AND STATE AGENCIES PURSUANT TO CHAPTERS
21 5 AND 6 AND AN ANALYSIS OF THE ADEQUACY OF FEES ESTABLISHED
22 PURSUANT TO SECTION 402(C).

23 CHAPTER 6

24 TRANSPORTATION OF SPENT NUCLEAR FUEL

25 SECTION 601. GENERAL RULE.

26 IT IS UNLAWFUL FOR ANY PERSON TO TRANSPORT UPON THE HIGHWAYS
27 OR RAILS OF THIS COMMONWEALTH ANY SPENT NUCLEAR FUEL UNLESS THAT
28 PERSON NOTIFIES THE AGENCY IN ADVANCE OF TRANSPORTING THE SPENT
29 NUCLEAR FUEL IN ACCORDANCE WITH 10 C.F.R. 71.5(A) AND (B).

30 SECTION 602. ESCORT REQUIREMENTS.

1 ALL SHIPMENTS OF SPENT NUCLEAR FUEL TO, WITHIN, THROUGH OR
2 ACROSS THE BOUNDARIES OF THE COMMONWEALTH SHALL BE ESCORTED BY
3 THE PENNSYLVANIA STATE POLICE.

4 SECTION 603. AUTHORIZATION.

5 SPENT NUCLEAR FUEL SHIPMENTS SHALL BE AUTHORIZED SUBJECT TO
6 THE COMMONWEALTH'S AUTHORITY TO DELAY INDIVIDUAL HIGHWAY AND
7 RAIL SHIPMENTS DUE TO SPECIFIC HOLIDAY OR SAFETY CONSIDERATIONS
8 INCLUDING, BUT NOT LIMITED TO, WEATHER, HIGHWAY OR RAIL
9 CONDITIONS.

10 SECTION 604. RADIATION TRANSPORTATION EMERGENCY RESPONSE PLAN.

11 (A) PLANNING.--THE AGENCY SHALL DEVELOP THE TRANSPORTATION
12 EMERGENCY RESPONSE PLAN TO RESPOND TO ACCIDENTS INVOLVING THE
13 SHIPMENT OF SPENT FUEL. THE PLAN SHALL:

14 (1) INCORPORATE LOCAL AGENCIES AND VOLUNTEER
15 ORGANIZATIONS ALONG THE PREPRESCRIBED ROUTES FOR TRANSPORT OF
16 SPENT FUEL.

17 (2) INCORPORATE ANY COMMONWEALTH AGENCY RESPONSIBLE FOR
18 PROTECTION OF THE HEALTH AND SAFETY OF THE PUBLIC AS
19 NECESSARY AND APPROVED BY THE SPECIFIC AGENCY.

20 (B) FUNDING OF STATE AND LOCAL AGENCIES.--FUNDS RECEIVED
21 UNDER SECTION 402(C)(4) SHALL BE USED TO TRAIN AND EQUIP STATE
22 AND LOCAL AGENCIES AND VOLUNTEER ORGANIZATIONS IN ACCORDANCE
23 WITH REGULATIONS ADOPTED BY THE COUNCIL TO IMPLEMENT THE PLAN.

24 CHAPTER 5 7

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25 MISCELLANEOUS PROVISIONS

26 Section ~~501~~ 701. Transition provisions.

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27 All registrations, licenses and orders issued and regulations
28 promulgated under the act of January 28, 1966 (1965 P.L.1625,
29 No.578), known as The Atomic Energy Development and Radiation
30 Control Act, shall remain in full force unless and until

1 modified, amended, suspended or revoked and all appropriations,
2 allocations, personnel, agreements, leases, claims, demands and
3 causes of action of any nature and equipment, files, records,
4 real estate, personal property and all other materials owned,
5 used, employed or expended in connection with that act by the
6 Department of Commerce are hereby transferred to the Department
7 of Environmental Resources.

8 Section ~~502~~ 702. Repeals.

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9 The following acts are repealed:

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

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

14 Section ~~503~~ 703. Effective date.

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15 This act shall take effect ~~immediately~~ IN 15 DAYS.

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