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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 987

Session of  
1983

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INTRODUCED BY BELL AND MOORE, SEPTEMBER 21, 1983

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AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,  
JUNE 27, 1984

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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; AND AUTHORIZING AND DIRECTING <—  
13 THE DEPARTMENT OF ENVIRONMENTAL RESOURCES AND THE GOVERNOR TO  
14 CONVEY OWNERSHIP TO THE CARL A. WHITE ACID MINE DRAINAGE  
15 TREATMENT PLANT, SITUATED IN WASHINGTON TOWNSHIP, INDIANA  
16 COUNTY, PENNSYLVANIA, TO THE COUNTY OF INDIANA, SUBJECT TO A  
17 RIGHT OF REVERTER FOR STATED CONDITIONS.

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<—

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

19 CHAPTER 1

20 GENERAL PROVISIONS

21 Section 101. Short title.

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

24 Section 102. Legislative findings.

25 The General Assembly hereby determines, declares and finds  
26 that, since radiation exposure has the potential for causing  
27 undesirable health effects, the citizens of the Commonwealth  
28 should be protected from unnecessary and harmful exposure  
29 resulting from use of radioactive materials, radiation sources,  
30 accidents involving nuclear power and radioactive material

1 transportation. It is the purpose of this act to:

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

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

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

13 (4) Establish a nuclear safety program to make  
14 evaluations of all nuclear power plants in the Commonwealth,  
15 such evaluations restricted to the specific use of the  
16 Secretary of Environmental Resources and his designees  
17 authorized by law for the purpose of informing the Governor,  
18 the General Assembly and concerned and affected Federal,  
19 State and local government organizations. It is not the  
20 intent of the act to duplicate or conflict with any aspect of  
21 the exclusive Federal regulatory authority applicable to  
22 nuclear power plants and licensed plant operators but rather  
23 to provide the Commonwealth with requisite, qualified  
24 professional nuclear expertise to maintain a competent and  
25 continuing awareness of nuclear power plant activities  
26 throughout this Commonwealth and to exclusively employ that  
27 expertise for the appropriate and authorized needs of the  
28 Commonwealth when such activities may have a significant  
29 potential for consequences beyond the site of a nuclear power  
30 plant. Accordingly, except as expressly and directly stated,

1 none of the provisions of Chapter 3 are applicable to nuclear  
2 power plants and licensed plant operators.

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

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

12 (7) Carry out comprehensive remedial action programs.

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

16 (9) ESTABLISH A RADIATION TRANSPORTATION EMERGENCY  
17 RESPONSE PLAN AND PROCEDURES FOR NOTIFICATION OF SPENT  
18 NUCLEAR FUEL SHIPMENTS, PENNSYLVANIA STATE POLICE ESCORT AND  
19 ESTABLISHING FEES.

20 ~~(8)~~ (10) Establish fees. <—

21 (11) PROVIDE FOR NOTIFICATION BY NUCLEAR POWER FACILITY <—  
22 OPERATING LICENSEES OF MUNICIPALITIES WITHIN THE VICINITY OF  
23 NUCLEAR POWER FACILITIES OF UNUSUAL RADIOACTIVITY.

24 Section 103. Definitions.

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

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

1 "AGENCY." THE PENNSYLVANIA EMERGENCY MANAGEMENT AGENCY. <—  
2 "COUNCIL." THE PENNSYLVANIA EMERGENCY MANAGEMENT COUNCIL.  
3 "Department." The Department of Environmental Resources and  
4 its authorized representatives.  
5 "DIRECTOR." THE DIRECTOR OF THE PENNSYLVANIA EMERGENCY <—  
6 MANAGEMENT AGENCY.  
7 "Electronic product radiation." Any radiation emitted by  
8 products subject to the Radiation Control for Health and Safety  
9 Act of 1968 (Public Law 90-602, 82 Stat. 1173).  
10 "NRC." THE UNITED STATES NUCLEAR REGULATORY COMMISSION OR <—  
11 ANY PREDECESSOR OR SUCCESSOR THERETO.  
12 "Person." An individual, corporation, firm, association,  
13 public utility, trust, estate, public or private institution,  
14 group, agency, political subdivision of the Commonwealth, any  
15 other state or political subdivision or agency thereof and any  
16 legal successor, representative, agent or agency of the  
17 foregoing, other than the United States Nuclear Regulatory  
18 Commission or any successor thereto. In any provision of this  
19 act prescribing a fine, imprisonment or penalty, or any  
20 combination of the foregoing, the term "person" shall include  
21 the officers and directors of any corporation or other legal  
22 entity having officers and directors.  
23 ~~"Persons who administer radiologic procedures." Any person,~~ <—  
24 ~~other than a doctor of medicine, osteopathy, dentistry, podiatry~~  
25 ~~or chiropractic, who intentionally administers radiation or~~  
26 ~~radioactive material to other persons for medical purposes, and~~  
27 ~~includes medical radiologic technologists, dental hygienists and~~  
28 ~~assistants, radiation therapy technologists and nuclear medicine~~  
29 ~~technologists.~~  
30 "PSP." THE PENNSYLVANIA STATE POLICE. <—

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

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

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

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

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

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

18 CHAPTER 2

19 FEDERAL-STATE AGREEMENTS

20 Section 201. Federal-State agreements.

21 The Governor, on behalf of this Commonwealth, is authorized  
22 to enter into agreements with Federal agencies for  
23 discontinuance of certain of the Federal Government's activities  
24 with respect to radiation protection and the assumption thereof  
25 by the Commonwealth.

26 CHAPTER 3

27 RADIATION PROTECTION

28 Section 301. Powers AND DUTIES of Department of <—  
29 Environmental Resources.

30 (a) Regulation in general.--The department is hereby

1 designated as the agency of the Commonwealth for the purpose of  
2 registration, licensing, regulation and control of radiation,  
3 radiologic procedures, radiation sources AND users of radiation <—  
4 ~~sources and persons who administer radiologic procedures,~~ but, <—  
5 notwithstanding anything in this act to the contrary, shall not  
6 have the power to license or regulate telecommunications  
7 equipment in duplication of any activity regulated by the  
8 Federal Government.

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

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

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

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

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

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

26 ~~(5) Carry out a comprehensive environmental radiation~~ <—  
27 ~~monitoring program around all nuclear power reactors and~~  
28 ~~other nuclear fuel cycle or research facilities, where~~  
29 ~~required, and at all other locations throughout the~~  
30 ~~Commonwealth deemed necessary by the department or~~



1 ~~recommended by other agencies of the Commonwealth.~~

2 (5) CARRY OUT A COMPREHENSIVE PROGRAM OF MONITORING <—  
3 LEVELS OF RADIOACTIVITY IN PENNSYLVANIA'S ENVIRONMENT  
4 INCLUDING ALL APPROPRIATE TESTS FOR ALPHA, BETA AND GAMMA  
5 LEVELS IN ALL APPROPRIATE MEDIA. SITES TO BE MONITORED SHALL  
6 INCLUDE, BUT NOT BE LIMITED TO, NUCLEAR POWER REACTOR SITES,  
7 OTHER NUCLEAR FUEL CYCLE OR RESEARCH FACILITIES, OTHER SITES  
8 WITH A SUBSTANTIAL POTENTIAL FOR ENVIRONMENTAL RADIOACTIVITY  
9 CONTAMINATION, AND OTHER LOCATIONS IN THE COMMONWEALTH  
10 RECOMMENDED BY OTHER AGENCIES OF THE COMMONWEALTH.

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

16 (7) Develop, prepare and submit to the Senate  
17 Environmental Resources and Energy Committee and House  
18 Conservation Committee within two years of the effective date  
19 of this act a plan to provide the department with independent  
20 monitoring capabilities at all nuclear facilities in the  
21 Commonwealth in order to identify events requiring remedial  
22 action to protect the public from radiation exposure.

23 (8) Prepare a technical emergency radiation response  
24 plan for incorporation into the Pennsylvania Emergency  
25 Management Plan developed by the Pennsylvania Emergency  
26 Management Agency pursuant to Title 35 of the Pennsylvania  
27 Consolidated Statutes (relating to health and safety), and  
28 provide the capability for responding to emergencies at each  
29 nuclear power plant and at other important locations  
30 throughout the Commonwealth.

1           (9) Make available technical staff and equipment to  
2 determine levels of radiation in the environment and identify  
3 emergency measures to protect the public from exposure to  
4 such radiation in the event of an accident at a nuclear power  
5 plant, a transportation accident involving radioactive  
6 materials or any other condition or occurrence which  
7 necessitates radiation emergency assistance at any location  
8 in the Commonwealth.

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

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

26           (12) Encourage, participate in or conduct studies,  
27 investigations, training, research, remedial actions and  
28 demonstrations relating to control, regulation and monitoring  
29 of radiation sources.

30           (13) Collect and disseminate information related to

1 nuclear power, the control of radiation sources, radiation  
2 protection, emergency response and the effects of radiation  
3 exposure.

4 (14) Establish special advisory committees as may be  
5 necessary to assist the department in drafting rules and  
6 regulations and to advise the department regarding  
7 implementation of specific portions of the regulations or  
8 specific programs of the department. Each committee shall  
9 include members of the general public. Members of these  
10 committees may be reimbursed by the department for reasonable  
11 and necessary expenses incurred in connection with their  
12 duties as approved by the secretary.

13 (15) Issue registrations and licenses and specify the  
14 terms and conditions thereof. This is not intended to require  
15 registration and licenses of facilities and activities within  
16 the exclusive jurisdiction of the Nuclear Regulatory  
17 Commission.

18 (16) Require the payment of and collect fees established  
19 under Chapter 4.

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

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

26 (19) Assess civil penalties pursuant to section ~~309(e)~~ <—  
27 308(E). <—

28 (20) Prepare a report on environmental radiation levels,  
29 as determined by the monitoring program, on at least an  
30 annual basis. Copies of the report shall be submitted to the

1 President pro tempore of the Senate and the Speaker of the  
2 House of Representatives of the General Assembly and shall be  
3 made available to the general public. The report shall also  
4 contain a description and analysis of any emergency responses  
5 or other actions taken by the department under this act and  
6 any other information about environmental radiation or  
7 radiation emergencies which the department deems to be of  
8 sufficient importance to call to the attention of the General  
9 Assembly and the citizens of the Commonwealth.

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

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

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

24 Section 302. Powers of Environmental Quality Board.

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

29 (b) Review of fee structure.--The Environmental Quality  
30 Board or its successor shall review every four years the fee

1 structure as authorized by ~~Chapter 4~~ SECTIONS 401 AND 402(B). <—

2 Section 303. Licensing and registration.

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

6 (b) Exemption.--The department shall be exempt from the  
7 licensing and registration requirements of this act and is  
8 authorized to exempt certain radiation sources and users from  
9 this act provided the department determines that such action  
10 will constitute an insignificant risk to the health and safety  
11 of the public and to persons exposed to radiation sources.

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

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

20 (e) Recognition of other licenses.--Rules and regulations  
21 promulgated under this act may provide for recognition of other  
22 state or Federal licenses.

23 ~~Section 304. Radiologic procedures.~~ <—

24 ~~(a) Standards. The department is authorized to license~~  
25 ~~persons who administer radiologic procedures to ensure that~~  
26 ~~these persons comply with minimum standards established pursuant~~  
27 ~~to the Consumer Patient Radiation Health and Safety Act of 1981~~  
28 ~~(Public Law 97-35, 95 Stat. 598) for the certification and~~  
29 ~~education of persons who administer radiologic procedures and~~  
30 ~~such additional requirements as the department deems~~

1 ~~appropriate. To the maximum extent possible, the department~~  
2 ~~shall ensure compliance with those standards and requirements~~  
3 ~~employing existing programs of certification established by the~~  
4 ~~Federal Government, other state or local agencies and private~~  
5 ~~entities as recognized pursuant to § 981(b) of the Consumer-~~  
6 ~~Patient Radiation Health and Safety Act of 1981.~~

7 ~~(b) Existing regulations. Any department, agency, board or~~  
8 ~~commission of the Commonwealth which licenses or certifies~~  
9 ~~persons who administer radiologic procedures, or which accredit~~  
10 ~~or approve programs for the education of persons who administer~~  
11 ~~radiologic procedures, shall modify their standards,~~  
12 ~~accreditation, requirements or regulations to be at least as~~  
13 ~~stringent as the standards or requirements established under~~  
14 ~~this section. In every case, the standards or requirements~~  
15 ~~established shall be equal to or more stringent than those~~  
16 ~~established by appropriate agencies of the Federal Government.~~

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

23 Section ~~305~~ 304. Records.

<—

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

29 (b) Personnel radiation exposure records.--Each person who  
30 possesses or uses a radiation source shall maintain appropriate

1 records of personnel radiation exposure, as mandated by the  
2 rules and regulations of the department. Copies of these records  
3 and those required to be kept by subsection (a) shall be  
4 submitted to the department on written request. Any person  
5 possessing or using a radiation source shall furnish upon a  
6 reasonable request to each employee for whom personnel  
7 monitoring is required or to the employee's representative, a  
8 copy of the employee's personal exposure record as the  
9 department, by rule or regulation, may prescribe.

10 Section ~~306~~ 305. Inspection.

<—

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

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

30 (1) The test, inspection or examination is pursuant to a

1 general administrative plan to determine compliance with this  
2 act.

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

5 (3) The agent or employee has been refused access to the  
6 radiation source, property, building, premise, place, book,  
7 record, document or other physical evidence related to the  
8 use of the radiation source or has been prevented from  
9 conducting tests, inspections or examinations.

10 Section ~~307~~ 306. Conflicting laws.

<—

11 Ordinances, resolutions or regulations now or hereafter in  
12 effect of the governing body of any agency or political  
13 subdivision of this Commonwealth relating to radiation or  
14 radiation sources shall be superseded by this act if such  
15 ordinances or regulations are not in substantial conformity with  
16 this act and any rules and regulations issued hereunder.

17 Section ~~308~~ 307. Prohibited uses and acts.

<—

18 It shall be unlawful for any person to use, manufacture,  
19 produce, transport, transfer, bury, receive, acquire, own,  
20 possess or dispose of any radiation source in violation of this  
21 act. It shall be unlawful for any person to operate an  
22 unregistered radiation source or to operate a radiation source  
23 or to administer a radiologic procedure without a license to do  
24 so where a license or registration is required by the department  
25 by rule or regulation.

26 Section ~~309~~ 308. Penalties.

<—

27 (a) Summary offense.--Any person, other than a municipal  
28 official exercising his official duties, who violates any  
29 provisions of this act or any rules or regulations or order  
30 promulgated or issued hereunder commits a summary offense and



1 shall, upon conviction, be sentenced to pay a fine not less than  
2 \$100 and not more than \$1,000 for each separate offense and in  
3 default thereof shall be imprisoned for a term of not more than  
4 30 days. All summary proceedings under this act may be brought  
5 before any district justice or magistrate in the county where  
6 the offense was committed and to that end jurisdiction is hereby  
7 conferred upon district justices and magistrates, subject to  
8 appeal by either party in the manner provided by law.

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

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

28 (d) Separate offense for each day.--Each day of continued  
29 violation of any provision of this act or any rule or regulation  
30 or order promulgated or issued pursuant to this act shall

1 constitute a separate offense.

2 (e) Civil penalty.--In addition to proceeding under any  
3 other remedy available at law or in equity for a violation of  
4 this act or a regulation or order of the department promulgated  
5 or issued hereunder, the department may assess a civil penalty  
6 upon the person for the violation. This penalty may be assessed  
7 whether or not the violation was willful or negligent. The civil  
8 penalty shall not exceed \$25,000 plus \$5,000 for each day of  
9 continued violation. In determining the civil penalty, the  
10 department shall consider, where applicable, the willfulness of  
11 the violation, gravity of the violation, good faith of the  
12 person charged, history of the previous violations, danger to  
13 the public health and welfare, damage to the air, water, land or  
14 other natural resources of the Commonwealth or their uses, cost  
15 of restoration or abatement, savings resultant to the person in  
16 consequence of the violation and any other relevant facts. The  
17 person charged with the penalty shall then have 30 days to pay  
18 the proposed penalty in full or, if the person wishes to contest  
19 either the amount of the penalty or the fact of the violation,  
20 to file within a 30-day period an appeal of the action with the  
21 Environmental Hearing Board. Failure to appeal within 30 days  
22 shall result in a waiver of all legal rights to contest the  
23 violation or the amount of the penalty. Civil penalties shall be  
24 payable to the Commonwealth of Pennsylvania and shall be  
25 collectible in any manner provided by law for collection of  
26 debts. If any person liable to pay a penalty neglects or refuses  
27 to pay the same after demand, the amount, together with interest  
28 and any costs that may accrue shall be a lien in favor of the  
29 Commonwealth upon the property, both real and personal, of the  
30 person, but only after same has been entered and docketed of

1 record by the prothonotary of the county where the property is  
2 situated. The department may, at any time, transmit to  
3 prothonotaries of the respective counties certified copies of  
4 all such liens and it shall be the duty of each prothonotary to  
5 enter and docket the same of record in his office and to index  
6 the same as judgments are indexed, without requiring the payment  
7 of costs as a condition precedent to the entry thereof.

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

9 (a) Public nuisance.--Any violation of this act or of any  
10 rule, regulation or order of the department or of any term or  
11 condition of any license or registration issued under this act  
12 shall constitute a public nuisance. Any person committing the  
13 violation shall be liable for the costs of abatement of the  
14 nuisance. The Environmental Hearing Board and every court of  
15 common pleas are hereby given jurisdiction over actions to  
16 recover the costs of the abatement.

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

1 order issued under this subsection shall be guilty of contempt  
2 and shall be punished in an appropriate manner by the  
3 Commonwealth Court, which court is hereby granted jurisdiction,  
4 upon application by the department.

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

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

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

30 (f) Revocation of licenses or permits.--Repeated violations

1 of any provisions of this act or any rules and regulations of  
2 the department promulgated under the authority of this act or  
3 nonpayment of fees or penalties shall be cause for revocation of  
4 licenses or permits issued by the department under this act.

5 Section ~~311~~ 310. Liberal construction.

<—

6 The penalties and remedies prescribed by this act shall be  
7 deemed concurrent and the existence of or exercise of any remedy  
8 shall not prevent the department from exercising any other  
9 remedy at law or in equity. No provision of this act or any  
10 action taken by virtue of this act, including the granting of a  
11 registration or license, shall be construed as estopping the  
12 Commonwealth from proceeding in courts of law or equity to abate  
13 nuisances under existing law, nor shall this act in any other  
14 manner abridge or alter rights of action or remedies now or  
15 hereafter existing in equity or under the common law or  
16 statutory law, criminal or civil, exercised by the Commonwealth  
17 or any person to enforce their rights or to abate any nuisance,  
18 now or hereafter existing, in any court of competent  
19 jurisdiction.

## 20 CHAPTER 4

### 21 FEES

22 Section 401. Licensing and registration fees.

23 The department shall by rule and regulation set reasonable  
24 annual fees for the registration of radiation sources and the  
25 licensing of radiation source users. ~~and persons who administer~~  
26 ~~radiologic procedures.~~ These fees shall be in an amount at least  
27 sufficient to cover the costs of administering the programs.

<—

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

<—

29 ~~Each corporation or other organization who has received a~~  
30 ~~nuclear power reactor facility construction permit or operating~~

~~license from the United States Nuclear Regulatory Commission or  
any predecessor or successor thereto shall pay to the department  
within 30 days of the effective date of this act and by July 1  
of each year an annual fee of \$150,000 per reactor, regardless  
of the number of reactors per site.~~

~~Section 403. Nonpayment of fees.~~

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

~~Section 404. Radiation Protection Fund.~~

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

SECTION 402. NUCLEAR FACILITY FEES. <—

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

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

(C) AGENCY FEES.--

(1) EACH PERSON WHO HAS RECEIVED OR HAS APPLIED FOR A

1 NUCLEAR POWER REACTOR FACILITY OPERATING LICENSE FROM THE NRC  
2 SHALL PAY TO THE AGENCY A ONE-TIME FEE OF \$200,000 PER SITE  
3 WITHIN 30 DAYS OF THE EFFECTIVE DATE OF THIS ACT AND AN  
4 ANNUAL FEE OF \$100,000 PER SITE PAYABLE BY JULY 1 OF EACH  
5 YEAR, REGARDLESS OF THE NUMBER OF POWER REACTORS PER SITE.

6 (2) EACH PERSON WHO HAS APPLIED FOR OR RECEIVED A VALID  
7 LICENSE FROM THE NRC TO OPERATE AN AWAY-FROM-REACTOR SPENT  
8 FUEL STORAGE FACILITY SHALL PAY TO THE AGENCY AN ANNUAL FEE  
9 OF \$50,000 PER SITE PAYABLE BY JULY 1 OF EACH YEAR.

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

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

18 (D) PSP FEES.--

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

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

29 (E) PENALTIES.--ANY PERSON VIOLATING ANY PROVISION OF THIS  
30 CHAPTER SHALL BE SUBJECT TO THE PENALTIES AND ENFORCEMENT

1 PROVISIONS OF SECTION 309(A) AND (B).

2 SECTION 403. CREATION OF SPECIAL FUNDS.

3 (A) RADIATION PROTECTION FUND.--THERE IS HEREBY CREATED IN  
4 THE GENERAL FUND A RESTRICTED ACCOUNT TO BE KNOWN AS THE  
5 RADIATION PROTECTION FUND. FEES AND PENALTIES RECEIVED UNDER  
6 SECTIONS 401 AND 402(B) SHALL BE DEPOSITED IN THIS FUND AND ARE  
7 HEREBY APPROPRIATED TO THE DEPARTMENT FOR THE PURPOSE OF  
8 CARRYING OUT ITS POWERS AND DUTIES UNDER THIS ACT.

9 (B) RADIATION EMERGENCY RESPONSE FUND.--THERE IS HEREBY  
10 CREATED IN THE GENERAL FUND A RESTRICTED ACCOUNT TO BE KNOWN AS  
11 THE RADIATION EMERGENCY RESPONSE FUND. FEES RECEIVED UNDER  
12 SECTION 402(C)(1), (2) AND (3) SHALL BE DEPOSITED IN THIS FUND  
13 AS PROVIDED AND ARE HEREBY APPROPRIATED TO THE AGENCY FOR THE  
14 PURPOSE OF CARRYING OUT ITS RESPONSIBILITIES UNDER CHAPTER 5.

15 (C) RADIATION TRANSPORTATION EMERGENCY RESPONSE FUND.--THERE  
16 IS HEREBY CREATED IN THE GENERAL FUND A RESTRICTED ACCOUNT TO BE  
17 KNOWN AS THE RADIATION TRANSPORTATION EMERGENCY RESPONSE FUND.  
18 FEES RECEIVED UNDER SECTION 402(C)(4) SHALL BE DEPOSITED IN THIS  
19 FUND AND ARE HEREBY APPROPRIATED TO THE AGENCY FOR THE PURPOSE  
20 OF CARRYING OUT ITS RESPONSIBILITIES UNDER CHAPTER 6.

21 CHAPTER 5

22 RADIATION EMERGENCY RESPONSE PROGRAM

23 SECTION 501. DECLARATION OF POLICY.

24 IT IS THE POLICY OF THE GENERAL ASSEMBLY TO PROTECT THE  
25 PEOPLE OF THE COMMONWEALTH AGAINST ADVERSE HEALTH EFFECTS  
26 RESULTING FROM RADIATION ACCIDENTS BY ESTABLISHING A MECHANISM  
27 FOR EMERGENCY PREPAREDNESS TO MITIGATE THE EFFECTS OF SUCH  
28 ACCIDENTS. THE GENERAL ASSEMBLY FINDS THAT IT IS APPROPRIATE FOR  
29 THE NUCLEAR INDUSTRY IN THE COMMONWEALTH TO BEAR THE COSTS  
30 ASSOCIATED WITH PREPARING AND IMPLEMENTING PLANS TO DEAL WITH



1 THE EFFECTS OF NUCLEAR ACCIDENTS OR INCIDENTS.

2 SECTION 502. RESPONSE PROGRAM.

3 IN CONJUNCTION WITH THE DEPARTMENT, THE AGENCY SHALL DEVELOP  
4 A RADIATION EMERGENCY RESPONSE PROGRAM FOR INCORPORATION INTO  
5 THE PENNSYLVANIA EMERGENCY MANAGEMENT PLAN DEVELOPMENT BY THE  
6 AGENCY PURSUANT TO TITLE 35 OF THE PENNSYLVANIA CONSOLIDATED  
7 STATUTES (RELATING TO HEALTH AND SAFETY). ANY VOLUNTEER  
8 ORGANIZATIONS WHICH ARE INCORPORATED INTO THE RADIATION  
9 EMERGENCY RESPONSE PROGRAM DEVELOPED UNDER THE AUTHORITY OF THIS  
10 ACT SHALL BE CONSULTED PRIOR TO SUCH INCORPORATION. THE  
11 RADIATION EMERGENCY RESPONSE PROGRAM SHALL INCLUDE AN ASSESSMENT  
12 OF POTENTIAL NUCLEAR ACCIDENTS OR INCIDENTS, THE RADIOLOGICAL  
13 CONSEQUENCES AND NECESSARY PROTECTIVE MEASURES REQUIRED TO  
14 MITIGATE THE EFFECTS OF SUCH ACCIDENTS OR INCIDENTS. THE PROGRAM  
15 SHALL INCLUDE, BUT NOT BE LIMITED TO:

16 (1) DEVELOPMENT OF A DETAILED FIXED NUCLEAR EMERGENCY  
17 RESPONSE PLAN FOR AREAS SURROUNDING EACH NUCLEAR ELECTRICAL  
18 GENERATION FACILITY, NUCLEAR FABRICATOR AND AWAY-FROM-REACTOR  
19 STORAGE FACILITY. THE TERM "AREAS" SHALL BE DEEMED TO MEAN  
20 THE EMERGENCY RESPONSE ZONE DESIGNATED BY THE NCR EMERGENCY  
21 RESPONSE PLAN APPLICABLE TO EACH SUCH FIXED NUCLEAR FACILITY.

22 (2) NOTIFICATION BY NUCLEAR POWER FACILITY OPERATING  
23 LICENSEES OF MUNICIPALITIES WITHIN THE AREAS SET FORTH IN  
24 PARAGRAPH (1) OF UNUSUAL RADIOACTIVITY AS DEFINED IN SECTION  
25 301(D).

26 ~~(2)~~ (3) TRAINING AND EQUIPPING OF STATE AND LOCAL  
27 EMERGENCY RESPONSE PERSONNEL.

28 ~~(3)~~ (4) PERIODICAL EXERCISE OF THE ACCIDENT SCENARIOS  
29 DESIGNATED IN THE NRC EMERGENCY RESPONSE PLAN APPLICABLE TO  
30 EACH FIXED NUCLEAR FACILITY.

1           ~~(4)~~ (5)   PROCUREMENT OF SPECIALIZED SUPPLIES AND           <—  
2   EQUIPMENT.

3           ~~(5)~~ (6)   PROVISIONS FOR FINANCIAL ASSISTANCE TO           <—  
4   MUNICIPALITIES, SCHOOL DISTRICTS, VOLUNTEER AND STATE  
5   AGENCIES AS PROVIDED FOR IN SECTION 503.

6   SECTION 503.   FINANCIAL ASSISTANCE PROGRAM.

7       (A)   GENERAL PROVISIONS.--APPLICATIONS BY MUNICIPALITIES,  
8   SCHOOL DISTRICTS, VOLUNTEER ORGANIZATIONS AND STATE AGENCIES TO  
9   PAY PERSONNEL, CONDUCT TRAINING OR PURCHASE PROTECTIVE SUPPLIES  
10   AND EQUIPMENT PRINCIPALLY REQUIRED TO CARRY OUT THE PURPOSES OF  
11   CHAPTERS 5 AND 6 SHALL BE MADE TO THE AGENCY WHICH SHALL MAKE  
12   THE DISBURSEMENTS PURSUANT TO REGULATIONS PROMULGATED BY THE  
13   COUNCIL.

14       (B)   REIMBURSEMENT PROVISIONS.--MUNICIPALITIES, SCHOOL  
15   DISTRICTS, VOLUNTEER ORGANIZATIONS AND STATE AGENCIES MAY APPLY  
16   FOR REIMBURSEMENT OF COSTS NOT PREVIOUSLY RECOUPED OR TO BE  
17   REIMBURSED FROM OTHER SOURCES WHICH WERE REQUIRED TO BE  
18   EXPENDED, AS A DIRECT RESULT OF THE PREPARATION, ESTABLISHMENT  
19   AND TESTING OF EMERGENCY RESPONSE PLANS SURROUNDING EACH NUCLEAR  
20   ELECTRICAL GENERATION FACILITY, FOR PERSONNEL COSTS, TRAINING  
21   EXPENSES, AND PROTECTIVE SUPPLIES AND EQUIPMENT ON OR AFTER  
22   MARCH 28, 1979.

23       (C)   REPORTS.--ON SEPTEMBER 1 OF EACH YEAR, THE AGENCY SHALL  
24   SUBMIT A REPORT ON ITS OPERATIONS FOR THE PRECEDING FISCAL YEAR  
25   TO THE GOVERNOR AND THE GENERAL ASSEMBLY. THE REPORT SHALL  
26   INCLUDE A SUMMARY OF THE ACTIVITIES OF THE RADIATION EMERGENCY  
27   RESPONSE PROGRAM AND ACTIVITIES PURSUANT TO SHIPMENTS OF SPENT  
28   FUEL, AS PROVIDED FOR IN CHAPTERS 5 AND 6, RESPECTIVELY, AS WELL  
29   AS A PROPOSED OPERATING BUDGET, FINANCIAL STATEMENT AND A  
30   LISTING OF APPLICATIONS RECEIVED AND DISBURSEMENTS OR

REIMBURSEMENTS MADE TO MUNICIPALITIES, SCHOOL DISTRICTS,  
VOLUNTEER ORGANIZATIONS AND STATE AGENCIES PURSUANT TO CHAPTERS  
5 AND 6 AND AN ANALYSIS OF THE ADEQUACY OF FEES ESTABLISHED  
PURSUANT TO SECTION 402(C).

## CHAPTER 6

### TRANSPORTATION OF SPENT NUCLEAR FUEL

#### SECTION 601. GENERAL RULE.

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

#### SECTION 602. ESCORT REQUIREMENTS.

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

#### SECTION 603. AUTHORIZATION.

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

#### SECTION 604. RADIATION TRANSPORTATION EMERGENCY RESPONSE PLAN.

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

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

(2) INCORPORATE ANY COMMONWEALTH AGENCY RESPONSIBLE FOR  
PROTECTION OF THE HEALTH AND SAFETY OF THE PUBLIC AS

1       NECESSARY AND APPROVED BY THE SPECIFIC AGENCY.

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

6                               CHAPTER 5 7                               <—

7                               MISCELLANEOUS PROVISIONS

8   Section ~~501~~ 701.   Transition provisions.                               <—

9       All registrations, licenses and orders issued and regulations  
10   promulgated under the act of January 28, 1966 (1965 P.L.1625,  
11   No.578), known as The Atomic Energy Development and Radiation  
12   Control Act, shall remain in full force unless and until  
13   modified, amended, suspended or revoked and all appropriations,  
14   allocations, personnel, agreements, leases, claims, demands and  
15   causes of action of any nature and equipment, files, records,  
16   real estate, personal property and all other materials owned,  
17   used, employed or expended in connection with that act by the  
18   Department of Commerce are hereby transferred to the Department  
19   of Environmental Resources.

20   Section ~~502~~ 702.   Repeals.   <—

21       The following acts are repealed:

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

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

26   SECTION 703.   CONVEYANCE.   <—

27       (A)   AUTHORITY.--THE DEPARTMENT OF ENVIRONMENTAL RESOURCES,  
28   WITH THE APPROVAL OF THE GOVERNOR, IS HEREBY AUTHORIZED AND  
29   DIRECTED ON BEHALF OF THE COMMONWEALTH TO CONVEY OWNERSHIP IN  
30   THE BUILDING NAMED THE CARL A. WHITE ACID MINE DRAINAGE

1 TREATMENT PLANT, SITUATED IN WASHINGTON TOWNSHIP, INDIANA  
2 COUNTY, PENNSYLVANIA, HEREINAFTER REFERRED TO AS THE PLANT, TO  
3 THE COUNTY OF INDIANA, PENNSYLVANIA FOR THE FOLLOWING PURPOSES:  
4 THE COUNTY OF INDIANA, OR ITS DESIGNEE, SHALL UTILIZE ALL OR  
5 PART OF THE PLANT, WHICH IS CURRENTLY SHUT DOWN, TO TREAT BRINES  
6 PRODUCED FROM OIL AND GAS WELLS, WITH THE TREATMENT OF BRINES  
7 PRODUCED FROM OIL AND GAS WELLS IN THE COMMONWEALTH TO BE GIVEN  
8 PRIORITY IN ALL RESPECTS; AND, IF AND WHEN DIRECTED BY THE  
9 DEPARTMENT, SHALL UTILIZE A MAXIMUM OF 50% OF THE PLANT TO TREAT  
10 ABANDONED MINE ACID DISCHARGE FLOWING IN THE CROOKED CREEK  
11 WATERSHED. IF AND WHEN THE DEPARTMENT SHALL DEEM TREATMENT OF  
12 SUCH ABANDONED MINE ACID DISCHARGE TO BE FEASIBLE, IT SHALL  
13 NOTIFY THE COUNTY OF INDIANA, OR ITS DESIGNEE, OF THE QUANTITY  
14 OF SUCH DISCHARGES TO BE TREATED AND THE REQUIRED QUALITY OF THE  
15 EFFLUENT; PROVIDED, HOWEVER, THAT SUCH TREATMENT SHALL NOT  
16 REQUIRE THE UTILIZATION OF MORE THAN 50% OF THE PLANT.

17 (B) REVERSION.--IF, FOR ANY REASON WHATSOEVER, THE COUNTY OF  
18 INDIANA, OR ITS DESIGNEE, SHALL DISCONTINUE THE UTILIZATION OF  
19 THE CARL A. WHITE ACID MINE DRAINAGE TREATMENT PLANT FOR THE  
20 TREATMENT OF OIL AND GAS WELL BRINES, OR SHALL FAIL TO TREAT ANY  
21 ABANDONED MINE ACID DISCHARGES WHICH THE DEPARTMENT HAS  
22 DETERMINED TO BE NECESSARY AND FEASIBLE TO TREAT, THEN, AND IN  
23 THAT EVENT, OWNERSHIP AND POSSESSION OF THE PLANT SHALL REVERT  
24 TO THE DEPARTMENT, AND THE DEPARTMENT SHALL HAVE THE OPTION OF  
25 CONTINUING THE OPERATION OF THE PLANT FOR THE TREATMENT OF  
26 ABANDONED MINE ACID DISCHARGE, OR OF DISMANTLING THE PLANT. IF,  
27 IN THE EVENT OF SUCH REVERTER, THE DEPARTMENT SHALL ELECT TO  
28 CONTINUE THE OPERATION OF THE PLANT FOR THE TREATMENT OF  
29 ABANDONED MINE ACID DISCHARGE, IT SHALL SO NOTIFY THE COUNTY OF  
30 INDIANA, OR ITS DESIGNEE, AND THE PLANT SHALL BE RETURNED TO THE

1 DEPARTMENT IN THE SAME CONDITION THAT IT WAS IN WHEN TRANSFERRED  
2 TO THE COUNTY. THE COUNTY, OR ITS DESIGNEE, SHALL BEAR ANY COSTS  
3 FOR RETURNING THE PLANT TO SAID CONDITION.

4 (C) APPROVAL AND EXECUTION.--THE AGREEMENT OF OWNERSHIP  
5 SHALL BE APPROVED AS PROVIDED BY LAW AND SHALL BE EXECUTED BY  
6 THE SECRETARY OF ENVIRONMENTAL RESOURCES IN THE NAME OF THE  
7 COMMONWEALTH OF PENNSYLVANIA.

8 Section ~~503~~ ~~703~~ 704. Effective date.

<—

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

<—