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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**HOUSE BILL**

**No. 1743** Session of  
1989

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INTRODUCED BY ITKIN AND J. L. WRIGHT, JUNE 20, 1989

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SENATOR FISHER, ENVIRONMENTAL RESOURCES AND ENERGY, IN SENATE,  
AS AMENDED, JUNE 20, 1990

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AN ACT

1 Creating a fee system to cover the costs related to the  
2 establishment of a low-level radioactive waste disposal  
3 regional facility in Pennsylvania; and regulating certain  
4 low-level waste.

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

14 CHAPTER 1

15 GENERAL PROVISIONS

16 Section 101. Short title.

17 This act shall be known and may be cited as the Low-Level  
18 Radioactive Waste Disposal Regional Facility Act.

19 Section 102. Legislative findings and purpose.

20 (a) Findings.--The General Assembly finds:

21 (1) That the Low-Level Radioactive Waste Policy  
22 Amendments Act of 1985 and the Appalachian States Low-Level  
23 Radioactive Waste Compact Law, adopted pursuant thereto,  
24 requires the Commonwealth to timely provide a regional  
25 facility for disposal of low-level radioactive waste  
26 generated within Compact member states; that the waste  
27 generators are required, under the terms of the Appalachian  
28 States Low-Level Radioactive Waste Compact Law and the Low-  
29 Level Radioactive Waste Disposal Act, to pay the costs of  
30 developing, establishing, and operating the low-level

1 radioactive waste disposal facility; and that such costs  
2 associated with preconstruction development of the facility  
3 are estimated to be approximately \$33,000,000.

4 (2) That those activities which generate low-level  
5 radioactive wastes requiring disposal contribute to the  
6 health and welfare of the citizens of the Compact member  
7 states, and advance payment of funds by certain waste  
8 generators will enhance the timely availability of a disposal  
9 site and reduce the costs of waste disposal.

10 (b) Purpose.--The General Assembly therefore establishes  
11 that the purposes of this act are as follows:

12 (1) To establish a low-level radioactive waste disposal  
13 regional facility siting fund which would:

14 (i) Require nuclear power reactor constructors and  
15 operators situated in this Commonwealth to pay to the  
16 Department of Environmental Resources funds to be  
17 utilized for reasonable and proper expenses, subject to  
18 limitations set forth herein, that are incurred by the  
19 department, its consultants, and the selected regional  
20 facility operator in execution of activities required by  
21 section 307 of the Low-Level Radioactive Waste Disposal  
22 Act.

23 (ii) Authorize and encourage other potential users  
24 of the regional facility to make voluntary payments to  
25 the department for the purposes stated in subparagraph  
26 (i).

27 (2) To provide for the recovery of an equitable portion  
28 of funds advanced by persons described under paragraph (1) by  
29 allowing them credits against surcharges to be billed to all  
30 waste depositors by the department.

1 Section 103. Definitions.

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

5 "Appalachian States Low-Level Radioactive Waste Compact Law."  
6 The act of December 22, 1985 (P.L.539, No.120).

7 "Business concern." Any corporation, association, firm,  
8 partnership, trust or other form of commercial organization.

9 "Contractor." A person who enters into a contract with the  
10 department TO IMPLEMENT THE LOW-LEVEL RADIOACTIVE WASTE DISPOSAL <—  
11 ACT.

12 "Contributor." A person who is mandated to make or who is  
13 voluntarily making contributions to the fund.

14 "DEBT LIABILITY." AN OBLIGATION TO REPAY FUNDS ADVANCED FOR <—  
15 THE OVERALL OPERATIONS OR THE ACQUISITION OR REFINANCING OF  
16 MAJOR ASSETS OF A CONTRACTOR OR CONTRIBUTOR, EXCLUDING THE  
17 OBLIGATION TO REPAY NONAFFILIATED SUPPLIERS OF MATERIALS,  
18 EQUIPMENT, SUPPLIES OR INVENTORY ENTERED INTO IN THE ORDINARY  
19 COURSE OF BUSINESS.

20 "Department." The Department of Environmental Resources of  
21 the Commonwealth.

22 "Disclosure statement." A statement submitted to the  
23 department by a contributor or contractor as provided for in  
24 chapter 5.

25 "Fund." The Regional Facility Siting Fund created by this  
26 act.

27 "Key employee." Any person employed by the contractor or the  
28 contributor in a supervisory capacity or empowered to make  
29 discretionary decisions with respect to the radioactive waste  
30 operations of the business concern but shall not include

1 employees exclusively engaged in the physical or mechanical  
2 collection, transportation, treatment, storage or disposal of  
3 radioactive waste.

4 "Low-Level Radioactive Waste Disposal Act." The act of  
5 February 9, 1988 (P.L.31, No.12).

6 "Low-Level Radioactive Waste Policy Amendments Act of 1985."  
7 Public Law 99-240, 99 Stat. 1842, 42 U.S.C. § 2021b et seq.

8 "Waste depositor." Any person disposing of low-level  
9 radioactive waste in the regional facility during the operative  
10 period of this act.

11 Section 104. Regulation of certain waste.

12 Low-level radioactive waste, as defined in the Low-Level  
13 Radioactive Waste Disposal Act, generated by any government  
14 agency or pursuant to a government contract or license, which  
15 was classified by the United States Nuclear Regulatory  
16 Commission as low-level radioactive waste as of January 1, 1989,  
17 whether or not such waste has been deregulated to below  
18 regulatory concern by the United States Nuclear Regulatory  
19 Commission or other Federal agency, shall only be disposed of at  
20 a ~~commercial~~ waste facility licensed BY OR OPERATED BY OR FOR A <—  
21 FEDERAL GOVERNMENT AGENCY OR LICENSED BY A STATE UNDER AN  
22 AGREEMENT WITH SUCH AN AGENCY, for disposal of radioactive waste  
23 ~~by the Commonwealth of Pennsylvania~~. Unless required under <—  
24 Federal law, the Commonwealth does not assume responsibility or  
25 ownership over these wastes by retaining jurisdiction over their  
26 storage and disposal.

27 CHAPTER 3

28 REGIONAL FACILITY SITING FUND

29 Section 301. Regional Facility Siting Fund.

30 (a) Establishment.--There shall be established within the

1 State Treasury an interest-bearing, non-lapsing, restricted  
2 account to be known as the Regional Facility Siting Fund.

3 (b) Deposits.--All mandated and voluntary contributions  
4 under this act, together with actual interest earned on these  
5 contributions by the State Treasurer, shall be deposited into  
6 the fund. Separate accounting of contributions and actual  
7 interest earned thereon shall be continuously maintained for  
8 purposes of implementing sections 306 and 310.

9 (c) Appropriation and purpose.--Moneys in the fund are  
10 hereby appropriated and, upon authorization of the Governor, may  
11 be expended by the department on a continuing basis solely for  
12 the following purposes:

13 (1) Reimbursement of expenses incurred by the regional  
14 facility operator for regional facility site selection,  
15 regional facility design and land purchase activities, but  
16 not to include any profit.

17 (2) Fees paid by the department to consultants for the  
18 purpose of assisting the department in the implementation of  
19 the Low-Level Radioactive Waste Disposal Act.

20 (3) Cost of the department for its expenses incurred in  
21 the implementation of the Low-Level Radioactive Waste  
22 Disposal Act.

23 (d) Disbursements.--Each disbursement from the fund shall be  
24 deemed to be made from both contributions, and actual interest  
25 earned thereon, in the same proportion as each bears to the  
26 fund's total balance at the time of such disbursement.  
27 Section 302. Fund contribution.

28 (a) Maximum fund contribution.--The sum of \$33,000,000,  
29 exclusive of interest earned or imputed, shall be the maximum  
30 amount to be paid by mandated fund contributors. The actual

1 amounts to be paid by mandated fund contributors shall be  
 2 ratably reduced to the extent that the department determines  
 3 that an amount less than \$33,000,000 suffices for the purposes  
 4 of this act, to the extent of voluntary contributions received  
 5 or reasonably anticipated, or to the extent of actual  
 6 commitment, for the purposes of this act, of financial resources  
 7 by persons or organizations other than mandated or voluntary  
 8 contributors. It is the intent of this section that no funds  
 9 significantly in excess of those reasonably required to  
 10 effectuate the purposes of this act be paid into the fund.

11 (b) Mandated fund contributors.--

12 (1) Each person who is constructing or is operating in  
 13 Pennsylvania, pursuant to a construction permit or operating  
 14 license issued by the United States Nuclear Regulatory  
 15 Commission, one or more of the nine nuclear power reactor  
 16 facilities identified in this subsection, which are expected  
 17 to produce electric energy for commercial purposes and low-  
 18 level radioactive waste for significant portions of the  
 19 functional life of the regional facility, shall pay to the  
 20 department a mandated contribution in the form of a fee for  
 21 each such reactor facility in the amount and at such time as  
 22 follows:

Date of required payment	Fee per reactor
Not later than the 30th day	
following the effective date	
of this act.....	\$933,000
<del>July 1, 1990.....</del>	<del>\$1,200,000</del>
<del>July 1, 1991.....</del>	<del>\$933,000</del>
<del>July 1, 1992.....</del>	<del>\$333,000</del>
<del>July 1, 1993.....</del>	<del>\$264,000</del>

<—

1 JULY 1, 1991.....\$1,200,000  
 2 JULY 1, 1992.....\$933,000  
 3 JULY 1, 1993.....\$597,000

4 (2) The provisions of this subsection shall be  
 5 applicable to the following nuclear power reactor facilities,  
 6 which are producing or are reasonably anticipated to produce  
 7 electric energy for commercial purposes and are generating or  
 8 are reasonably anticipated to generate low-level radioactive  
 9 waste throughout a significant portion of the functional life  
 10 of the regional facility:

- 11 (i) Beaver Valley - No. 1
- 12 (ii) Beaver Valley - No. 2
- 13 (iii) Limerick - No. 1
- 14 (iv) Limerick - No. 2
- 15 (v) Peach Bottom - No. 2
- 16 (vi) Peach Bottom - No. 3
- 17 (vii) Susquehanna - No. 1
- 18 (viii) Susquehanna - No. 2
- 19 (ix) Three Mile Island - No. 1

20 (c) Voluntary fund contributors.--Any person, other than one  
 21 required to make fund contributions pursuant to subsection (b),  
 22 in an Appalachian States Compact member state who anticipates  
 23 future use of the regional facility may, in one or more of the  
 24 annual payment periods specified in subsection (b), make a  
 25 voluntary contribution to the fund by payment to the department.  
 26 Unless clearly stated otherwise, for the purposes of this act  
 27 generally, and for the purposes of section 303 specifically, a  
 28 person making such a voluntary contribution shall, to the extent  
 29 of that contribution, be regarded without distinction as a  
 30 mandated contributor. Such designation does not obligate or



1 require future contributions by such persons. Voluntary  
2 contributions shall be applied by the department to reduce the  
3 fees of mandated contributors on a pro rata basis.

4 (d) Contributor reconciliation accounts.--At all times  
5 during the effective period of this act, the department shall  
6 maintain a reconciliation ledger consisting of a reconciliation  
7 account for each person making a contribution under this  
8 section. Contributions by such person, and the imputed  
9 interested accrued pursuant to subsection (e), shall be promptly  
10 debited to the contributor's reconciliation account. Fee  
11 payments, and imputed interest thereon, by a person who is a  
12 mandated contributor for more than one nuclear power reactor  
13 facility shall, for the purposes of this act, be merged in a  
14 single reconciliation account in the name of such person.

15 (e) Imputed interest.--Mandated and voluntary contributions  
16 made under this section shall accrue imputed interest. Such  
17 interest shall be computed on an annual basis for the period  
18 beginning with the time of receipt of a contribution and ending  
19 on each successive June 30th. Such interest shall be simple  
20 annual interest at a rate equal to the rate then being imposed  
21 by the Department of Revenue for unpaid State taxes due and  
22 payable to the Commonwealth. It is the intent of this subsection  
23 to properly recognize the time value of funds contributed so as  
24 to allow for inclusion of that additional imputed interest in  
25 fixing surcharges provided for by section 303. Accordingly,  
26 withdrawal from the fund and expenditure by the department of  
27 funds contributed under this section shall not be credited  
28 against, deducted from, or otherwise cause to diminish the debit  
29 balance of contributors' reconciliation accounts on which  
30 imputed interest is accrued under this subsection. The imputed

1 interest required by this subsection is a separate and distinct  
2 calculation for the purpose of implementing section 303 and  
3 shall not, for any purpose or in any circumstance, be regarded  
4 as the actual interest on amounts in the fund which may be  
5 earned pursuant to section 301(a).

6 (f) Final value of contributions.--For the purposes of  
7 determining surcharges and otherwise administering the  
8 provisions of section 303, the debit balance in each  
9 contributor's reconciliation account as of June 30, 1994,  
10 together with imputed interest accrued thereon, shall be  
11 regarded as the final reconciliation account value of each  
12 contributor, and the sum of all such contributor's final  
13 reconciliation account values shall be regarded as the final  
14 reconciliation control account value. No further imputed  
15 interest shall be accrued after that date on the final  
16 reconciliation account value of each contributor's account.

17 ~~(g) Host Municipal Long Term Residual Radioactive Waste~~ <—  
18 ~~Disposal Fund.~~

19 ~~(1) In addition to the fees otherwise collected under~~  
20 ~~this section, each person who is constructing or operating a~~  
21 ~~facility in this Commonwealth shall pay an additional fee in~~  
22 ~~the amount of 10% of the fee established under the schedule~~  
23 ~~contained in subsection (b). These funds shall be paid into~~  
24 ~~an interest bearing, nonlapsing, restricted account to be~~  
25 ~~known as the Host Municipal Long Term Residual Radioactive~~  
26 ~~Waste Disposal Fund, which is hereby established in the State~~  
27 ~~Treasury. All moneys in this account, including all interest~~  
28 ~~earned thereon, are hereby appropriated to the department on~~  
29 ~~a continuing basis specifically and only for the purpose of~~  
30 ~~making the payments provided in this section. No costs shall~~

1 ~~be deducted for expenses of administration of the disposal~~  
2 ~~fund.~~

3 ~~(2) At the time of decommissioning of any of the nuclear~~  
4 ~~power reactor facilities listed in subsection (b)(2), payment~~  
5 ~~in an amount determined by dividing the balance of the~~  
6 ~~disposal fund by the number of remaining reactor facilities~~  
7 ~~shall be made to the host municipality in which the nuclear~~  
8 ~~power reactor facility is located. A host municipality may~~  
9 ~~expend money received under this subsection for any purpose~~  
10 ~~for which the municipality is otherwise authorized by law to~~  
11 ~~expend funds.~~

12 ~~(3) As used in this subsection, the term "decommission"~~  
13 ~~means the time at which a nuclear power reactor facility is~~  
14 ~~permanently removed from the service of providing power.~~

15 (G) HOST MUNICIPALITY LOW-LEVEL RADIOACTIVE WASTE FUND.-- <—

16 (1) EACH PERSON WHO IS CONSTRUCTING OR IS OPERATING ONE  
17 OR MORE OF THE NINE NUCLEAR POWER REACTOR FACILITIES  
18 IDENTIFIED IN SUBSECTION (B) SHALL PAY TO THE HOST  
19 MUNICIPALITY OF EACH SUCH FACILITY FIVE ANNUAL PAYMENTS OF  
20 \$36,000 FOR EACH SUCH FACILITY. THE FIRST SUCH ANNUAL PAYMENT  
21 SHALL BE PAID 30 DAYS AFTER THE FIRST DAY THE REGIONAL  
22 FACILITY BEGAN OPERATION AND WAS CAPABLE OF ACCEPTING FOR  
23 DISPOSAL WASTE FROM ANY WASTE DEPOSITOR. EACH OF THE  
24 REMAINING FOUR ANNUAL PAYMENTS SHALL BE PAID AT THE END OF  
25 FOUR SUCCESSIVE 12-MONTH PERIODS FOLLOWING THE DATE ON WHICH  
26 THE FIRST ANNUAL PAYMENT WAS MADE.

27 (2) FOR THE PURPOSES OF THIS SECTION ONLY, THE TERM  
28 "HOST MUNICIPALITY" SHALL MEAN THE MUNICIPALITY OTHER THAN  
29 THE COUNTY WITHIN WHICH ONE OR MORE OF THE NINE NUCLEAR POWER  
30 REACTOR FACILITIES IS LOCATED. IN THE EVENT THAT SUCH A

1 FACILITY IS LOCATED WITHIN MORE THAN ONE SUCH HOST  
2 MUNICIPALITY, EACH ANNUAL PAYMENT SHALL BE EQUALLY DIVIDED  
3 AMONG THEM. A HOST MUNICIPALITY MAY EXPEND MONEY RECEIVED  
4 UNDER THIS SUBSECTION FOR ANY PURPOSE FOR WHICH THE  
5 MUNICIPALITY IS OTHERWISE AUTHORIZED BY LAW TO EXPEND FUNDS.

6 Section 303. Reconciliation of control account.

7 (a) Intent.--It is the intent of this section to provide a  
8 procedure to assure that each fund contributor be provided  
9 credits, to the extent of its final reconciliation account  
10 value, against surcharges to be imposed on all waste depositors  
11 under section 315(c) of the Low-Level Radioactive Waste Disposal  
12 Act.

13 (b) Reconciliation period for final reconciliation control  
14 account.--The final reconciliation account value of each  
15 contributor shall be reconciled over ten annual reconciliation  
16 periods against any surcharges on waste depositors imposed by  
17 the department under section 315(c) of the Low-Level Radioactive  
18 Waste Disposal Act. The first annual reconciliation period shall  
19 commence with the first day of the first month of the fifth  
20 calendar quarter during which waste is deposited in the regional  
21 facility.

22 (c) Reconciliation credits.--For each annual reconciliation  
23 period, the department shall determine the revenue required by  
24 all surcharges to be imposed under section 315(c) of the Low-  
25 Level Radioactive Waste Disposal Act and add to such requirement  
26 an additional amount equal to one-tenth of the final  
27 reconciliation control account value, the sum to be termed the  
28 annual reconciliation period revenue. An annual reconciliation  
29 period surcharge rate applicable to current reconciliation  
30 period disposal operations shall be then determined by dividing

1 the annual reconciliation period revenue by the total volume and  
2 waste classification of waste deposited in the regional facility  
3 by all waste depositors during the preceding 12 months. The  
4 annual surcharge rate thus determined shall be multiplied by the  
5 volume and waste classification of waste deposited at the  
6 regional facility in the current reconciliation period by each  
7 waste depositor and the resulting surcharge assessed upon each  
8 such waste depositor. The surcharge assessment of such a waste  
9 depositor who is a fund contributor shall be credited in an  
10 amount up to one-tenth of its final reconciliation account  
11 value. If, in any reconciliation period, the applicable  
12 surcharge assessment shall be less than one-tenth of the fund  
13 contributor's final reconciliation account value, the difference  
14 may be carried over and usable as additional credit against  
15 applicable surcharges in the next reconciliation period or  
16 alternatively applied to any permit fee imposed under section  
17 315(a) of the Low-Level Radioactive Waste Disposal Act.

18 Section 304. Records and audits.

19 (a) Records.--In addition to the particular records and  
20 accounts specified elsewhere in this act, the department, at all  
21 times during the effective period of this act, shall maintain  
22 such additional records and accounts in such form and manner as  
23 will allow detailed review, examination and audit, by the  
24 Auditor General, of all monetary transactions pursuant to this  
25 act.

26 (b) Fiscal audits.--Within 120 days following June 30 of  
27 each of the fiscal years 1990 through 1994 and the fiscal year  
28 in which the facility begins licensed operations, the department  
29 shall furnish to each fund contributor three copies of a  
30 financial audit performed in accordance with generally accepted

1 auditing standards compatible with the most intensive current  
2 practices of the Department of the Auditor General. Such audit  
3 shall be performed by the Department of the Auditor General.

4 (c) Expenses.--The department may withdraw from the fund  
5 such amounts as are reasonably necessary and proper for  
6 reimbursement of audit costs.

7 Section 305. Default.

8 (a) Default.--For the purposes of this act, a default shall  
9 be deemed to be a material failure to timely make available for  
10 waste deposition a functioning regional facility conforming in  
11 all material respects to applicable law. In addition to any  
12 other such circumstance or set of circumstances, any of the  
13 following ~~may~~ SHALL be deemed to be a default: <—

14 (1) Termination of the contract to be entered into by  
15 the department on or about May 1, 1990, with a regional  
16 facility operator, prior to submittal to the DEPARTMENT OR <—  
17 THE appropriate Federal agency of a license application for  
18 such a facility.

19 (2) Failure by the regional facility operator to  
20 commence physical construction of a regional facility by  
21 January 1, 1996, at a site having final approval of the  
22 Secretary of Environmental Resources.

23 (3) Failure by the department to move forward to site  
24 approval and to operate a site where there has been a default  
25 by the regional facility operator.

26 (b) Declaration of default.--The Appalachian States Compact  
27 Commission may declare a default when a majority of both  
28 mandatory and voluntary fund contributors request such, setting  
29 forth in a written declaration, the circumstances constituting  
30 the default.

1 (c) Special rights and remedies.--

2 (1) Upon the declaration of default, the rights and  
3 remedies specified in this subsection shall be available to  
4 fund contributors, and duties specified by this subsection  
5 shall be imposed on the department.

6 (2) Each fund contributor shall, within 60 days of  
7 declaration of default, be refunded a pro rata amount of  
8 unexpended contributions, including actual interest earned  
9 thereon, remaining in the fund in the proportion that each  
10 contributor's contributions to the date bears to the total  
11 contributions of all contributors to that date. Contributions  
12 in transit or received by the department on or after that  
13 date shall not be deposited in the fund, but shall be  
14 returned to the sender.

15 (3) The department shall refund to fund contributors all  
16 moneys, including the portion thereof attributable to actual  
17 interest earned thereon, previously released to the facility  
18 operator to the extent that the department has or will  
19 receive any or all of such moneys as a result of the default.  
20 From time to time, upon recovery of reasonable amounts of  
21 such moneys, the department shall refund these moneys to each  
22 fund contributor in the same pro rata proportion stated in  
23 paragraph (2).

24 (d) Remedies preserved.--Nothing in this section shall be in  
25 any way construed to limit the rights and remedies available to  
26 a fund contributor at law or equity. In no event shall the  
27 department or the Commonwealth be liable for unrecovered  
28 expended portions of the fund.

29 Section 306. Withdrawal from Compact.

30 In the event that a Compact member state withdraws from the

1 Compact before June 30, 1994, any person in such Compact member  
2 state who has made voluntary contributions shall be entitled to  
3 a refund of such contributions, not to include any actual  
4 interest earned on such contributions. The department may,  
5 pursuant to section 303, impose additional fees on mandated  
6 contributors sufficient to provide the amount to be refunded.  
7 This refund shall be paid when such additional fees become  
8 available to the department.

9 Section 307. Participation in regulatory proceedings.

10 (a) Department.--Upon request of any admitted party to a  
11 regulatory proceeding, including a contributor that is a public  
12 utility, the department may agree to appear in proceedings  
13 before or present appropriate submittals to that contributor's  
14 public utility regulatory body regarding the contributor's  
15 contribution to the fund. A contributor making such request  
16 shall compensate the department for its actual costs for travel,  
17 lodging and other out-of-pocket or administrative expenses  
18 incurred in compliance with this request.

19 (b) Affidavit.--If the department does not appear, it may  
20 submit an affidavit providing information relative to such  
21 contributions and surcharges relating to the fund and made or  
22 imposed under this act.

23 Section 308. Retention of records.

24 The department shall retain, in a reasonably accessible form  
25 and place, all records pertaining to contributions, surcharges  
26 and reconciliations made under this act for a period of seven  
27 years beyond its termination. The department shall permit access  
28 to all records pertaining to contributions, surcharges and  
29 reconciliations made under this act.

30 Section 309. Construction.



1 This act shall be construed in pari materia with the  
2 Appalachian States Low-Level Radioactive Waste Compact Law and  
3 the Low-Level Radioactive Waste Disposal Act.

4 Section 310. Expiration of fund.

5 The fund shall expire one year following the last day of the  
6 tenth annual reconciliation period pursuant to section 303.  
7 Unexpended amounts then remaining in the fund attributable to  
8 actual contributions, and exclusive of actual interest earned on  
9 such contributions, shall be refunded to each contributor in the  
10 proportion that each contributor's contributions to the fund  
11 bears to the total of all such contributions. Unexpended amounts  
12 then remaining in the fund attributable to actual interest  
13 earned on contributions shall be transferred to the Low-Level  
14 Waste Fund, as established under the Low-Level Radioactive Waste  
15 Disposal Act.

16 CHAPTER 5

17 DISCLOSURE STATEMENTS

18 Section 501. Requirements.

19 In addition to any procedure, condition or information  
20 requirement of the Low-level Radioactive Waste Disposal Act,  
21 every contractor or contributor shall file the disclosure  
22 statement required under this chapter with ~~the department and~~ <—  
23 the Attorney General.

24 Section 502. Content.

25 The disclosure statement shall include the following:

26 ~~(1) The full name, business address and social security~~ <—  
27 ~~number of the contractor or contributor, or, if the~~  
28 ~~contractor or contributor is a business concern, of any~~  
29 ~~officers, directors, partners or key employees thereof and~~  
30 ~~all persons or business concerns holding any equity in or~~

1 ~~debt liability of that business concern. If the business~~  
2 ~~concern is a publicly traded corporation, the disclosure~~  
3 ~~statement shall include all persons or business concerns~~  
4 ~~holding more than 5% of the equity in or debt liability of~~  
5 ~~that business concern, except that, where the debt liability~~  
6 ~~is held by a chartered lending institution, the contractor or~~  
7 ~~contributor need only supply the name and business address of~~  
8 ~~the lending institution.~~

9 ~~(2) The full name, business address and social security~~  
10 ~~number of all officers, directors or partners of any business~~  
11 ~~concern disclosed in the statement and the names and~~  
12 ~~addresses of all persons holding any equity in or the debt~~  
13 ~~liability of any business concern so disclosed. If the~~  
14 ~~business concern is a publicly traded corporation, the~~  
15 ~~disclosure statement shall include all persons or business~~  
16 ~~concerns holding more than 5% of the equity in or debt~~  
17 ~~liability of that business concern, except that, where the~~  
18 ~~debt liability is held by a chartered lending institution,~~  
19 ~~the contractor or contributor need only supply the name and~~  
20 ~~business address of the lending institution.~~

21 (1) THE FULL NAME, BUSINESS ADDRESS AND FEDERAL TAX <—  
22 IDENTIFICATION NUMBER OF A CONTRACTOR OR CONTRIBUTOR OR, IF  
23 THE CONTRACTOR OR CONTRIBUTOR IS A BUSINESS CONCERN, THE FULL  
24 NAME, BUSINESS ADDRESS AND SOCIAL SECURITY NUMBER OF ALL  
25 OFFICERS, DIRECTORS, PARTNERS OR KEY EMPLOYEES THEREOF, AND  
26 EVERY PERSON HOLDING ANY EQUITY IN OR DEBT LIABILITY OF THAT  
27 BUSINESS CONCERN. IF SUCH BUSINESS CONCERN OR ITS PARENT  
28 ORGANIZATION IS A PUBLICLY TRADED CORPORATION OR THE BUSINESS  
29 CONCERN IS A SUBSIDIARY OF A PUBLICLY TRADED CORPORATION, THE  
30 DISCLOSURE STATEMENT, WITH RESPECT TO THE IDENTITY OF ITS

1 EQUITY OR DEBT HOLDERS, NEED ONLY IDENTIFY THE BENEFICIAL  
2 OWNERS OF MORE THAN 5% OF THE EQUITY IN OR DEBT LIABILITY OF  
3 SUCH BUSINESS CONCERN, EXCEPT THAT:

4 (I) WHERE THE DEBT LIABILITY OF SUCH BUSINESS  
5 CONCERN OR ITS PARENT ORGANIZATION OR SUBSIDIARY IS HELD  
6 BY A CHARTERED LENDING INSTITUTION, THE CONTRACTOR OR  
7 CONTRIBUTOR NEED ONLY SUPPLY THE NAME AND BUSINESS  
8 ADDRESS OF THE LENDING INSTITUTION; OR

9 (II) WHERE A CLASS OF EQUITY SECURITIES OF SUCH  
10 BUSINESS CONCERN OR ITS PARENT ORGANIZATION OR SUBSIDIARY  
11 IS REGISTERED ON A NATIONAL SECURITIES EXCHANGE, THE  
12 CONTRACTOR OR CONTRIBUTOR WILL BE DEEMED IN COMPLIANCE  
13 WITH ALL THE PROVISIONS OF THIS SECTION REQUIRING THE  
14 DISCLOSURE OF ITS EQUITY AND DEBT LIABILITIES OF ITSELF,  
15 ITS PARENT ORGANIZATION AND SUBSIDIARIES, IF THE BUSINESS  
16 CONCERN SUPPLIES COPIES OF ANY FILINGS RECEIVED BY IT,  
17 ITS PARENT ORGANIZATION AND SUBSIDIARIES, OF SCHEDULE 13-  
18 D OR SCHEDULE 13-G PURSUANT TO THE SECURITIES EXCHANGE  
19 ACT OF 1934 (48 STAT 881 15 U.S.C. § 78M(G)(1)).

20 (2) THE FULL NAME, BUSINESS ADDRESS AND SOCIAL SECURITY  
21 NUMBER OF ALL OFFICERS, DIRECTORS OR PARTNERS OF ANY BUSINESS  
22 CONCERN DISCLOSED IN THE STATEMENT AND THE NAMES AND  
23 ADDRESSES OF ALL PERSONS HOLDING ANY EQUITY IN OR DEBT  
24 LIABILITY OF ANY BUSINESS CONCERN SO DISCLOSED. IF SUCH  
25 BUSINESS CONCERN OR ITS PARENT ORGANIZATION IS A PUBLICLY  
26 TRADED CORPORATION OR IF THE BUSINESS CONCERN IS A SUBSIDIARY  
27 OF A PUBLICLY TRADED CORPORATION, THE DISCLOSURE STATEMENT,  
28 WITH RESPECT TO THE IDENTITY OF THE BUSINESS CONCERN'S EQUITY  
29 OR DEBT HOLDERS, NEED ONLY IDENTIFY THE BENEFICIAL OWNERS OF  
30 MORE THAN 5% OF THE EQUITY IN OR DEBT LIABILITY OF SUCH

1 BUSINESS CONCERN; EXCEPT THAT:

2 (I) WHERE THE DEBT LIABILITY OF SUCH BUSINESS  
3 CONCERN OR ITS PARENT ORGANIZATION OR SUBSIDIARY IS HELD  
4 BY A CHARTERED LENDING INSTITUTION, THE CONTRACTOR OR  
5 CONTRIBUTOR NEED ONLY SUPPLY THE NAME AND BUSINESS  
6 ADDRESS OF THE LENDING INSTITUTION; OR

7 (II) WHERE A CLASS OF EQUITY SECURITIES OF SUCH  
8 BUSINESS CONCERN OR ITS PARENT ORGANIZATION OR SUBSIDIARY  
9 IS REGISTERED ON A NATIONAL SECURITIES EXCHANGE, THE  
10 CONTRACTOR OR CONTRIBUTOR WILL BE DEEMED IN COMPLIANCE  
11 WITH ALL THE PROVISIONS OF THIS SECTION REQUIRING THE  
12 DISCLOSURE OF ITS EQUITY AND DEBT LIABILITIES OF ITSELF,  
13 ITS PARENT ORGANIZATION AND SUBSIDIARIES, IF THE BUSINESS  
14 CONCERN SUPPLIES COPIES OF ANY FILINGS RECEIVED BY IT,  
15 ITS PARENT ORGANIZATION AND SUBSIDIARIES, OF SCHEDULE 13-  
16 D OR SCHEDULE 13-G PURSUANT TO THE SECURITIES EXCHANGE  
17 ACT OF 1934.

18 (3) The full name and business address of any company  
19 which collects, transports, treats, stores or disposes of  
20 radioactive waste and in which the contractor or contributor  
21 holds an equity interest.

22 (4) A description of experience and credentials in,  
23 including any past or present licenses for, the collection,  
24 transportation, treatment, storage or disposal of radioactive  
25 waste possessed by the contractor or contributor, or, if the  
26 contractor or contributor is a business concern, by the key  
27 employees, officers, directors or partners thereof.

28 ~~(5) A listing and explanation of any notices of~~ <—  
29 ~~violation or prosecution, administrative orders or license~~  
30 ~~revocations which were issued by any State or Federal~~

1 authority in the ten years immediately preceding and which  
2 are pending or have resulted in a finding or a settlement of  
3 a violation of any law or rule and regulation by the  
4 contractor or contributor, or, if the contractor or  
5 contributor is a business concern, by any key employee,  
6 officer, director or partner thereof.

7 (6) A listing and explanation of any judgment of  
8 liability or conviction which was rendered pursuant to any  
9 State or Federal statute or local ordinance, against the  
10 contractor or contributor, or, if the contractor or  
11 contributor is a business concern, against any key employee,  
12 officer, director or partner thereof.

13 (7) A listing of all labor unions and trade and business  
14 associations with which the contractor or contributor had a  
15 collective bargaining agreement during the preceding ten  
16 years.

17 (8) A listing of any agencies outside this Commonwealth  
18 which had regulatory responsibility over the contractor or  
19 contributor in connection with his collection,  
20 transportation, treatment, storage or disposal of radioactive  
21 waste.

22 (9) Any other information the Attorney General or the  
23 department may require that relates to the competency,  
24 reliability or good character of the contractor or  
25 contributor.

26 (5) A LISTING AND EXPLANATION OF ANY CIVIL JUDGMENT OR <—  
27 JUDGMENT OF SENTENCE WHICH WAS RENDERED WITHIN THE PREVIOUS  
28 TEN YEARS, PURSUANT TO ANY FEDERAL OR STATE STATUTE, OR  
29 AGAINST ANY PERSON REQUIRED TO BE LISTED ON THE DISCLOSURE  
30 FORM, EXCEPT FOR ANY VIOLATION OF 75 PA.C.S. (RELATING TO

1 VEHICLES) OR OFFENSE COMMITTED PRIOR TO THE AGE OF 18 FOR A  
2 NATURAL PERSON UNLESS THE NATURAL PERSON WAS TRIED AS AN  
3 ADULT, FOR THE FOLLOWING OFFENSES:

4 (I) MURDER.

5 (II) KIDNAPPING.

6 (III) GAMBLING.

7 (IV) ROBBERY.

8 (V) BRIBERY.

9 (VI) EXTORTION.

10 (VII) CRIMINAL USURY.

11 (VIII) ARSON.

12 (IX) BURGLARY.

13 (X) THEFT AND RELATED CRIMES.

14 (XI) FORGERY AND FRAUDULENT PRACTICES.

15 (XII) FRAUD IN THE OFFERING, SALE OR PURCHASE OF  
16 SECURITIES.

17 (XIII) ALTERATION OF MOTOR VEHICLE IDENTIFICATION  
18 NUMBERS.

19 (XIV) UNLAWFUL MANUFACTURE, PURCHASE, USE OR  
20 TRANSFER OF FIREARMS.

21 (XV) UNLAWFUL POSSESSION OR USE OF DESTRUCTIVE  
22 DEVICES OR EXPLOSIVES.

23 (XVI) VIOLATION OF FEDERAL OR STATE LAWS GOVERNING  
24 THE SALE OR DISTRIBUTION OF CONTROLLED SUBSTANCES.

25 (XVII) VIOLATIONS OF THIS ACT.

26 (XVIII) PERJURY, FALSE SWEARING OR RELATED OFFENSES.

27 (XIX) VIOLATIONS OF 18 PA.C.S. § 911 (RELATING TO  
28 CORRUPT ORGANIZATIONS).

29 (XX) VIOLATION OF 18 U.S.C. CH. 96 (RELATING TO THE  
30 RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS).

1 (XXI) FAILURE TO PAY FEDERAL OR STATE TAXES.  
2 (XXII) VIOLATION OF THE ACT OF OCTOBER 28, 1983  
3 (P.L.176, NO.45), KNOWN AS THE ANTIBID-RIGGING ACT.  
4 (XXIII) VIOLATION OF FEDERAL OR STATE ANTI-TRUST  
5 STATUTES BY THE CONTRACTOR OR CONTRIBUTOR OR ITS OFFICERS  
6 OR MEMBERS OF THE BOARD OF DIRECTORS.

7 (6) WITH THE EXCEPTION OF AGENCIES OF THIS COMMONWEALTH,  
8 A LISTING OF ANY AGENCY, FEDERAL OR STATE, THAT HAS HAD OR  
9 HAS REGULATORY RESPONSIBILITY OVER THE CONTRACTOR OR  
10 CONTRIBUTOR IN CONNECTION WITH ITS COLLECTION,  
11 TRANSPORTATION, TREATMENT, STORAGE OR DISPOSAL OF LOW-LEVEL  
12 RADIOACTIVE WASTE.

13 (7) ANY OTHER INFORMATION THE ATTORNEY GENERAL MAY  
14 REQUIRE THAT RELATES TO THE CRIMINAL RECORD, COMPETENCY,  
15 RELIABILITY OR CHARACTER OF THE CONTRACTOR OR CONTRIBUTOR.  
16 Section 503. Procedure.

17 (a) Investigative report.--The Attorney General shall,  
18 within 120 days of the receipt of the disclosure statement from  
19 the contractor or contributor prepare and transmit to the  
20 department an investigative report on the contractor or  
21 contributor, based in part upon the disclosure statement, except  
22 that this deadline may be extended for a reasonable period of  
23 time, for good cause, by the ~~department and the~~ Attorney <—  
24 General. THE INVESTIGATIVE REPORT PREPARED BY THE ATTORNEY <—  
25 GENERAL SHALL BE EVALUATED BY THE DEPARTMENT PURSUANT TO  
26 SECTIONS 308(G) AND 310(C) OF THE LOW-LEVEL RADIOACTIVE WASTE  
27 DISPOSAL ACT UNDER THE CONTINUING OBLIGATION OF THE DEPARTMENT  
28 TO EVALUATE THE COMPLIANCE HISTORY OF THE CONTRACTOR AND  
29 CONTRIBUTORS COVERED BY THIS ACT. In preparing this report, the  
30 Attorney General may request and receive criminal history

1 information from the Federal Bureau of Investigation AND THE <—  
2 PENNSYLVANIA STATE POLICE.

3 (b) Duty of contractors and contributors.--All contractors  
4 and contributors shall have the continuing duty to provide any  
5 assistance or information requested by the ~~department or the~~ <—  
6 Attorney General and to cooperate in any inquiry or  
7 investigation conducted by the Attorney General and in any  
8 inquiry, investigation, or hearing conducted by the department.  
9 If, upon issuance of a formal request to answer any inquiry or  
10 produce information, evidence or testimony, any contractor or  
11 contributor refuses to comply, the agreement or contract with  
12 that person may be revoked by the department.

13 (c) Fee.--The Attorney General may charge and collect, in  
14 accordance with a fee schedule adopted by regulation, such fees  
15 from contractors and contributors as may be necessary to cover  
16 the costs of enforcing this act. The fee shall be calculated on  
17 the basis of \$100 per each individual required to be listed in  
18 the disclosure statement or shown to have a beneficial interest  
19 other than an equity interest or debt liability in the business  
20 of the contractor or the contributor. THE ATTORNEY GENERAL MAY <—  
21 REVISE THE FEE BY REGULATION.

22 ~~(d) Changes and additions. If any of the information <—~~  
23 ~~required to be included in the disclosure statement changes, or~~  
24 ~~if any additional information should be added after the filing~~  
25 ~~of the statement, the contractor or contributor shall provide~~  
26 ~~that information to the department and Attorney General, in~~  
27 ~~writing, within 30 days of the change or addition.~~

28 ~~Section 504. Rules and regulations.~~

29 ~~The department with the advice of the Attorney General and in~~  
30 ~~the manner provided by law, shall promulgate the rules and~~



1 ~~regulations necessary to carry out this chapter.~~

2 (D) DISCLOSURE STATEMENT CHANGES.--THE CONTRACTOR OR <—  
3 CONTRIBUTOR SHALL PROVIDE TO THE ATTORNEY GENERAL, IN WRITING,  
4 ANY CHANGES TO INFORMATION IN THE DISCLOSURE STATEMENT OR ANY  
5 SUPPLEMENTAL INFORMATION, WITHIN 30 DAYS OF ANY CHANGE IN  
6 INFORMATION CONTAINED IN THE DISCLOSURE STATEMENT OR RECEIPT OF  
7 THE SUPPLEMENTAL INFORMATION. IF A CLASS OF EQUITY SECURITIES OF  
8 THE CONTRACTOR OR CONTRIBUTOR, OR ITS PARENT ORGANIZATION OR A  
9 SUBSIDIARY OF A PUBLICLY TRADED CORPORATION, IS REGISTERED ON A  
10 NATIONAL SECURITIES EXCHANGE, THE CONTRACTOR OR CONTRIBUTOR WILL  
11 BE DEEMED IN COMPLIANCE WITH THE REQUIREMENTS OF THIS  
12 SUBSECTION, AS TO REVISED AND SUPPLEMENTAL DISCLOSURE OF HOLDERS  
13 OF ITS EQUITY AND DEBT LIABILITIES, IF IT SUPPLIES TO THE  
14 ATTORNEY GENERAL, WITHIN 30 DAYS OF THE RECEIPT THEREOF, COPIES  
15 OF ANY RELEVANT SCHEDULE 13-D OR SCHEDULE 13-G RECEIVED BY THE  
16 CONTRACTOR OR CONTRIBUTOR, OR ITS PARENT ORGANIZATION OR A  
17 SUBSIDIARY OF A PUBLICLY TRADED CORPORATION.

18 (E) ENFORCEMENT.--

19 (1) ALL CONTRACTORS, CONTRIBUTORS AND PERSONS REQUIRED  
20 BY SECTION 502(2) TO BE LISTED ON THE DISCLOSURE FORM HAVE A  
21 DUTY TO COOPERATE IN PROVIDING TESTIMONY, BOOKS, PAPERS,  
22 CORRESPONDENCE, MEMORANDA, AGREEMENTS OR ANY OTHER DOCUMENTS  
23 OR TESTIMONY NEEDED TO COMPLY WITH THIS CHAPTER.

24 (2) THE ATTORNEY GENERAL, FOR THE PURPOSE OF ANY  
25 INVESTIGATION UNDER THIS CHAPTER, BELIEVING THAT A PERSON OR  
26 ENTITY MAY BE IN POSSESSION, CUSTODY OR CONTROL OF  
27 DOCUMENTARY EVIDENCE OR MAY HAVE INFORMATION RELEVANT TO THE  
28 SUBJECT MATTER OF THIS CHAPTER, MAY ADMINISTER OATHS OR  
29 AFFIRMATIONS, SUBPOENA WITNESSES, COMPEL THEIR ATTENDANCE,  
30 TAKE EVIDENCE AND REQUIRE THE PRODUCTION OF ANY BOOKS,

1 PAPERS, CORRESPONDENCE, MEMORANDA, AGREEMENTS OR ANY OTHER  
2 DOCUMENTS OR RECORDS WHICH THE ATTORNEY GENERAL DEEMS  
3 RELEVANT TO THE INQUIRY.

4 (3) A REQUEST FOR INFORMATION SHALL STATE THE SUBJECT  
5 MATTER OF THE INVESTIGATION, AND SHALL DESCRIBE THE MATERIAL  
6 TO BE PRODUCED WITH REASONABLE PARTICULARITY SO AS TO FAIRLY  
7 IDENTIFY THE DOCUMENTS DEMANDED, PROVIDE A RETURN DATE WITHIN  
8 WHICH THE MATERIAL IS TO BE PRODUCED AND IDENTIFY THE MEMBER  
9 OF THE ATTORNEY GENERAL TO WHOM THE MATERIAL SHOULD BE GIVEN.

10 (4) THE ATTORNEY GENERAL MAY INVOKE THE AID OF A COURT  
11 OF RECORD OF THE COMMONWEALTH FOR FAILURE TO OBEY A SUBPOENA  
12 OF A WITNESS APPEARING BEFORE THE ATTORNEY GENERAL OR HIS  
13 REPRESENTATIVE, AND THE COURT MAY THEREUPON ISSUE AN ORDER  
14 REQUIRING THE PERSON SUBPOENAED TO OBEY THE SUBPOENA OR GIVE  
15 EVIDENCE OR PRODUCE THE BOOKS, RECORDS, ACCOUNTS, PAPERS,  
16 DOCUMENTS OR FILES RELATIVE TO THE MATTER IN QUESTION.  
17 FAILURE TO OBEY AN ORDER MAY BE PUNISHED BY THE COURT AS A  
18 CONTEMPT. ANY MOTION TO CHALLENGE A SUBPOENA SHALL BE FILED  
19 WITH THE COURT OF RECORD. ANY APPEAL OF THE DECISION OF THE  
20 ISSUING AUTHORITY SHALL BE TO THE APPROPRIATE COURT OF  
21 RECORD.

22 (5) IF A CONTRACTOR OR CONTRIBUTOR, AFTER A DILIGENT  
23 EFFORT, CANNOT OBTAIN THE COOPERATION OF PERSONS REQUIRED BY  
24 SECTION 502(2) TO BE LISTED ON THE DISCLOSURE FORM TO PROVIDE  
25 THE INFORMATION REQUIRED BY THIS CHAPTER AND THE INFORMATION  
26 IS NOT AVAILABLE FROM OTHER SOURCES ACCESSIBLE TO THE PUBLIC,  
27 THE CONTRACTOR OR CONTRIBUTOR SHALL PROVIDE THE NAME OR NAMES  
28 OF SUCH PERSONS TO THE ATTORNEY GENERAL. THE CONTRACTOR OR  
29 CONTRIBUTOR SHALL PROVIDE AN EXPLANATION OF THE INFORMATION  
30 REQUESTED, THE STEPS TAKEN TO OBTAIN THE INFORMATION AND THE

1 RESPONSE OF THE PERSON BEING ASKED TO PROVIDE THE  
2 INFORMATION. THE ATTORNEY GENERAL MAY USE THE AUTHORITY  
3 CONTAINED IN THIS SECTION TO OBTAIN THE INFORMATION REQUIRED  
4 TO BE INCLUDED ON THE DISCLOSURE FORM.

5 SECTION 504. RULES AND REGULATIONS.

6 THE ENVIRONMENTAL QUALITY BOARD, FOR THE DEPARTMENT, AND THE  
7 ATTORNEY GENERAL SHALL HAVE THE AUTHORITY TO PROMULGATE ANY  
8 RULES OR REGULATIONS NECESSARY TO IMPLEMENT THE RESPONSIBILITIES  
9 GIVEN EACH OF THESE AGENCIES UNDER THIS CHAPTER.

10 CHAPTER 11

11 MISCELLANEOUS PROVISIONS

12 Section 1101. Effective date.

13 This act shall take effect immediately.