

AN ACT

Combining the radiation safety provisions of The Atomic Energy Development and Radiation Control Act and the Environmental Radiation Protection Act; empowering the Department of Environmental Resources to implement a comprehensive Statewide radiation protection program; further providing for the power of the Environmental Quality Board and for the duties of the Environmental Hearing Board; expanding the authority of the department to regulate other radiation sources; providing for radiation emergency response; establishing requirements for transport of spent reactor fuel; establishing fees; providing penalties; making repeals; and authorizing and directing the Department of Environmental Resources and the Governor to convey ownership to the Carl A. White Acid Mine Drainage Treatment Plant, situated in Washington Township, Indiana County, Pennsylvania, to the County of Indiana, subject to a right of reverter for stated conditions.

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

CHAPTER 1 GENERAL PROVISIONS

Section 101. Short title.

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

Section 102. Legislative findings.

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

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

(2) Provide for the licensing and regulation in cooperation with the Federal Government, other State agencies and appropriate private entities of radiologic equipment and procedures.

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

(4) Establish a nuclear safety program to make evaluations of all nuclear power plants in the Commonwealth, such evaluations restricted to the specific use of the Secretary of Environmental Resources and his designees authorized by law for the purpose of informing the Governor, the General Assembly and concerned and affected Federal, State and local government organizations. It is not the intent of the act to duplicate or conflict with any aspect of the exclusive Federal regulatory

authority applicable to nuclear power plants and licensed plant operators but rather to provide the Commonwealth with requisite, qualified professional nuclear expertise to maintain a competent and continuing awareness of nuclear power plant activities throughout this Commonwealth and to exclusively employ that expertise for the appropriate and authorized needs of the Commonwealth when such activities may have a significant potential for consequences beyond the site of a nuclear power plant. Accordingly, except as expressly and directly stated, none of the provisions of Chapter 3 are applicable to nuclear power plants and licensed plant operators.

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

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

(7) Carry out comprehensive remedial action programs.

(8) Establish in the Pennsylvania Emergency Management Agency a comprehensive radiation emergency response program supported by fees from the nuclear industry.

(9) Establish a Radiation Transportation Emergency Response Plan and Procedures for notification of spent nuclear fuel shipments, Pennsylvania State Police escort and establishing fees.

(10) Establish fees.

(11) Provide for notification by nuclear power facility operating licensees of municipalities within the vicinity of nuclear power facilities of unusual radioactivity.

Compiler's Note: The Department of Environmental Resources, referred to in this section, was abolished by Act 18 of 1995. Its functions were transferred to the Department of Conservation and Natural Resources and the Department of Environmental Protection.

Compiler's Note: The Secretary of Environmental Resources, referred to in this section, was abolished by Act 18 of 1995. The functions of the secretary were transferred to the Secretary of Conservation and Natural Resources and the Secretary of Environmental Protection.

Section 103. Definitions.

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

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

"Agency." The Pennsylvania Emergency Management Agency.

"Away-from-reactor spent nuclear fuel storage facility." A spent nuclear fuel storage facility located outside the site boundaries or property lines of a nuclear power reactor

licensed under 10 CFR Pt. 50 (relating to domestic licensing of production and utilization facilities).

"Council." The Pennsylvania Emergency Management Council.

"Department." The Department of Environmental Protection and its authorized representatives.

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

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

"High-level waste."

(1) Irradiated reactor fuel;

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

(3) other highly radioactive material that the Nuclear Regulatory Commission, consistent with existing Federal law, determines by rule requires permanent isolation.

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

(1) 1,000 terabecquerels (TBq) (27,000 curies (Ci));

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

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

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

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

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

("PSP" deleted by amendment)

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

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

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

"Reactor fuel fabrication facility." A facility in which onsite operations include preparation of reactor fuel material with fissionable material such as uranium or plutonium,

reactor fuel material research and development, formation of fuel material shapes, application of cladding, recovery of reactor fuel material or any other reactor fuel material manufacturing operation.

"Secretary." The Secretary of Environmental Protection or his or her authorized representative.

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

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

(103 amended July 13, 2007, P.L.95, No.31)

Compiler's Note: The Department of Environmental Resources, referred to in the def. of "department," was abolished by Act 18 of 1995. Its functions were transferred to the Department of Conservation and Natural Resources and the Department of Environmental Protection.

Compiler's Note: The Secretary of Environmental Resources, referred to in the def. of "secretary," was abolished by Act 18 of 1995. The functions of the secretary were transferred to the Secretary of Conservation and Natural Resources and the Secretary of Environmental Protection.

CHAPTER 2 FEDERAL-STATE AGREEMENTS

Section 201. Federal-State agreements.

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

CHAPTER 3 RADIATION PROTECTION

Section 301. Powers and duties of Department of Environmental Resources.

(a) Regulation in general.--The department is hereby designated as the agency of the Commonwealth for the purpose of registration, licensing, regulation and control of radiation, radiologic procedures, radiation sources and users of radiation sources but, notwithstanding anything in this act to the contrary, shall not have the power to license or regulate telecommunications equipment in duplication of any activity regulated by the Federal Government.

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

(c) Powers and duties.--The department shall have the power and its duties shall be to:

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

(2) Develop and conduct comprehensive programs for the registration, licensing, control, management, regulation and inspection of radiation sources and radiation source users.

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

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

(5) Carry out a comprehensive program of monitoring levels of radioactivity in Pennsylvania's environment, including all appropriate tests for alpha, beta and gamma levels in all appropriate media. Sites to be monitored shall include, but not be limited to, nuclear power reactor sites, other nuclear fuel cycle or research facilities, other sites with a substantial potential for environmental radioactivity contamination and other locations in the Commonwealth recommended by other agencies of the Commonwealth.

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

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

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

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

(10) Advise the Governor, the General Assembly and the general public with regard to nuclear safety, nuclear emergencies, radioactive waste management, environmental monitoring results and other radiation control activities and consult and cooperate with the various departments, agencies and political subdivisions of the Commonwealth, the Federal Government, other states, interstate agencies,

political subdivisions and with groups and individuals, including members of the public, concerned with radiation safety and participate in matters before the Nuclear Regulatory Commission or its successor and other appropriate agencies and courts of the United States.

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

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

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

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

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

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

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

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

(19) Assess civil penalties pursuant to section 308(e).

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

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

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

(d) Notification.--Whenever the department, in the course of its powers and duties as set forth in subsection (c), determines that levels of radiation exceed the normal range of radioactivity in a given area, the department shall immediately notify the Governor, the agency and the NRC and shall also report its findings to the public and it shall subsequently submit a detailed report on the occurrence to both the Governor and the NRC and shall make such report public.

Compiler's Note: The Department of Environmental Resources, referred to in this section, was abolished by Act 18 of 1995. Its functions were transferred to the Department of Conservation and Natural Resources and the Department of Environmental Protection.

Section 302. Powers of Environmental Quality Board.

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

(b) Review of department fee structure.--The Environmental Quality Board or its successor shall review every three years the fee structure as authorized by section 401.

(302 amended July 13, 2007, P.L.95, No.31)

Compiler's Note: Section 502(c) of Act 18 of 1995, which created the Department of Conservation and Natural Resources and renamed the Department of Environmental Resources as the Department of Environmental Protection, provided that the Environmental Quality Board shall have the powers and duties currently vested in it, except as vested in the Department of Conservation and Natural Resources by Act 18 of 1995, which powers and duties include those set forth in section 302.

Section 303. Licensing and registration.

(a) Authority.--The department is authorized to license radiation source users and register any radiation sources.

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

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

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

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

Section 304. Records.

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

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

Section 305. Inspection.

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

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

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

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

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

Section 306. Conflicting laws.

Ordinances, resolutions or regulations now or hereafter in effect of the governing body of any agency or political

subdivision of this Commonwealth relating to radiation or radiation sources shall be superseded by this act if such ordinances or regulations are not in substantial conformity with this act and any rules and regulations issued hereunder.

Section 307. Prohibited uses and acts.

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

Section 308. Penalties.

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

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

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

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

(e) Civil penalty.--In addition to proceeding under any other remedy available at law or in equity for a violation of this act or a regulation or order of the department promulgated or issued hereunder, the department may assess a civil penalty upon the person for the violation. This penalty

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

Section 309. Enforcement and abatement.

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

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

in an appropriate manner by the Commonwealth Court, which court is hereby granted jurisdiction, upon application by the department.

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

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

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

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

Section 310. Liberal construction.

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

CHAPTER 4 FEES

Section 401. Licensing and registration fees.

The Environmental Quality Board shall, by rule and regulation, set reasonable annual fees for the registration of

radiation sources and the licensing of radiation source users. These fees shall be in an amount at least sufficient to cover the department's costs of administering the programs.

(401 amended July 13, 2007, P.L.95, No.31)

Section 402. Nuclear facility and transport 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 or fabrication of nuclear reactor fuel or shipping spent nuclear fuel, high-level waste, transuranic waste or a large quantity of radioactive material shall pay fees to cover the costs of the programs related to their activities as required by this act.

((b) repealed Dec. 18, 1992, P.L.1638, No.180)

(b.1) Department fees.--

(1) Within 30 days of the effective date of this subsection, each person who has a current nuclear power reactor construction permit or operating license from the NRC for a site within this Commonwealth shall pay the department \$100,000 per nuclear power reactor site, regardless of the number of individual nuclear power reactors located at the site. By July 1, 2007, and July 1 of each year thereafter, each person who has a current nuclear power reactor construction permit or operating license from the NRC for a site within this Commonwealth shall pay the department an annual fee of \$650,000 per nuclear power reactor site, regardless of the number of individual nuclear power reactors located at the site. For the purposes of this subsection only, a nuclear power reactor site shall be deemed to be the location of one or more individual nuclear power reactors which still has spent nuclear fuel stored onsite, has not been fully dismantled and decommissioned pursuant to applicable Federal law and regulations and has not been granted license termination by the NRC. ((1) amended Oct. 27, 2014, P.L.2908, No.190)

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

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

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

(5) Every three years beginning in 2009, the department shall convene a working group consisting of personnel from the department selected by the secretary and an equal

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

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

- (1) Peach Bottom Atomic Power Station, Unit 1.
- (2) Three Mile Island Nuclear Generating Station, Unit

2.

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

(c) Agency fees.--

((1) deleted by amendment)

(1.1) (i) By July 1, 2007, and July 1 of each year thereafter through July 1, 2014, each person who has a current nuclear power reactor construction permit or operating license from the NRC for a site within this Commonwealth shall pay the agency the following fees, regardless of the number of individual nuclear power reactors located at the site:

(A) \$200,000 to be collected and used by the agency in accordance with the provisions of 35 Pa.C.S. § 7320 (relating to radiological emergency response preparedness, planning and recovery program).

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

(i.1) By July 1, 2015, and July 1 of each year thereafter, each person who has a current nuclear power reactor construction permit or operating license from the NRC for a site within this Commonwealth shall pay the agency the following fees, regardless of the number of individual nuclear power reactors located at the site:

(A) \$275,000 to be collected and used by the agency in accordance with the provisions of 35 Pa.C.S. § 7320.

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

(ii) Payments collected under subparagraphs (i)(A) and (i.1)(A) shall be deposited into the Radiological Emergency Response Planning and Preparedness Program

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

((1.1) amended Oct. 27, 2014, P.L.2908, No.190)

(2) By July 1 of each year, each person who has applied for or holds a current license from the NRC to operate an away-from-reactor spent nuclear fuel storage facility within this Commonwealth shall pay to the agency an annual fee of \$75,000 per site.

(3) By July 1 of each year, each person who has approval from the Department of Energy or has applied for or holds a current license from the NRC to operate a reactor fuel fabrication facility within this Commonwealth shall pay to the agency an annual fee of \$75,000 per site.

(4) Prior to the proposed date of a shipment that requires an escort, each shipper of spent nuclear fuel, high-level waste, transuranic waste or a large quantity of radioactive material who ships to, within, through or across the boundaries of this Commonwealth shall pay to the agency a fee of \$2,500 per individual vehicle shipment or \$4,500 per railroad car or river barge shipment.

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

(d) Pennsylvania State Police fees.--

(1) Each shipper of spent nuclear fuel, high-level waste, transuranic waste or a large quantity of radioactive material who ships to, within, through or across the Commonwealth shall reimburse the Pennsylvania State Police for the actual costs, as determined by the Pennsylvania State Police, to provide escort service. If the shipment is canceled following notification for escort service, the shipper shall compensate the Pennsylvania State Police at an appropriate rate for total hours of officers' time.

(2) The Pennsylvania State Police may establish a schedule of fees for escort and revise such fees on an annual basis. Such fees shall be published in the Pennsylvania Bulletin.

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

(402 amended July 13, 2007, P.L.95, No.31)

Compiler's Note: Section 2 of Act 190 of 2014, which amended section 402(b.1)(1), provided that the amendment shall apply to annual fees due on or after July 1, 2015.

Compiler's Note: Section 15 of Act 67 of 1990 provided that section 402(d)(1) is repealed insofar as it relates to fee payments.

Section 403. Creation of special funds.

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

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

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

(403 amended July 13, 2007, P.L.95, No.31)

CHAPTER 5 RADIATION EMERGENCY RESPONSE PROGRAM

Section 501. Declaration of policy.

It is the policy of the General Assembly to protect the people of the Commonwealth against adverse health effects resulting from radiation accidents by establishing a mechanism for emergency preparedness to mitigate the effects of such accidents. The General Assembly finds that it is appropriate for the nuclear industry in the Commonwealth to bear the costs associated with preparing and implementing plans to deal with the effects of nuclear accidents or incidents.

Section 502. Response program.

In conjunction with the department, the agency shall develop a Radiation Emergency Response Program for incorporation into the Pennsylvania Emergency Management Plan developed by the agency pursuant to Title 35 of the Pennsylvania Consolidated Statutes (relating to health and safety). Any volunteer organizations which are incorporated into the Radiation Emergency Response Program developed under the authority of this act shall be consulted prior to such incorporation. The Radiation Emergency Response Program shall

include an assessment of potential nuclear accidents or incidents, the radiological consequences and necessary protective measures required to mitigate the effects of such accidents or incidents. The program shall include, but not be limited to:

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

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

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

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

(5) Procurement of specialized supplies and equipment.

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

(7) At a minimum, each nuclear power reactor owner shall provide to the department existing plant and radiological monitoring data collected by that owner, derived from equipment and monitoring methods installed by each owner in accordance with the requirements of its license by the NRC. By July 1, 2008, each plant owner shall enter into an agreement with the department establishing the protocols for providing such data to the department through an expedited, secure process.

Nothing in this section shall be construed to diminish or abrogate any existing agreement between the department and a plant owner to provide data for the purpose of monitoring plant and radiological conditions important to the protection of the general public.

(502 amended July 13, 2007, P.L.95, No.31)

Section 503. Financial assistance program.

(a) General provisions.--Applications by municipalities, school districts, volunteer organizations and State agencies to pay personnel, conduct training or purchase protective supplies and equipment principally required to carry out the purposes of Chapters 5 and 6 shall be made to the agency which shall make the disbursements pursuant to regulations promulgated by the council.

(b) Reimbursement provisions.--Municipalities, school districts, volunteer organizations and State agencies may apply for reimbursement of costs not previously recouped or to be reimbursed from other sources which were required to be expended, as a direct result of the preparation, establishment and testing of emergency response plans surrounding each nuclear electrical generation facility, for personnel costs, training expenses and protective supplies and equipment on or after March 28, 1979.

(c) Reports.--On September 1 of each year, the agency shall submit a report on its operations for the preceding fiscal year to the Governor and the General Assembly. The report shall include a summary of the activities of the Radiation Emergency Response Program and activities pursuant to shipments of spent fuel, as provided for in Chapters 5 and 6, respectively, as well as a proposed operating budget, financial statement and a 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 RADIOACTIVE MATERIAL
(Hdg. amended July 13, 2007, P.L.95, No.31)

Section 601. General rule.

It is unlawful for any person to transport upon the highways, waterways or rails of this Commonwealth any spent nuclear fuel, high-level waste, transuranic waste or a large quantity of radioactive material unless that person notifies the agency in advance in accordance with 10 CFR Pt. 71 (relating to packaging and transportation of radioactive material) regarding advanced notification of shipment of irradiated reactor fuel and nuclear waste. Notification requirements for transuranic waste or a large quantity of radioactive material shall be the same as required for irradiated reactor fuel and nuclear waste.

(601 amended July 13, 2007, P.L.95, No.31)

Section 602. Escort requirements.

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

(602 amended July 13, 2007, P.L.95, No.31)

Section 603. Authorization.

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

(603 amended July 13, 2007, P.L.95, No.31)

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 nuclear fuel, high-level waste, transuranic waste or a large quantity of radioactive material. The plan shall:

(1) Incorporate local agencies and volunteer organizations along the prescribed routes of transport.

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

(b) Funding of State and local agencies.--Funds received under section 402(c)(4) shall be used to train and equip State and local agencies and volunteer organizations in accordance with regulations adopted by the council to implement the plan. (604 amended July 13, 2007, P.L.95, No.31)

CHAPTER 7 MISCELLANEOUS PROVISIONS

Section 701. Transition provisions.

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

Compiler's Note: The Department of Commerce, referred to in this section, was renamed the Department of Community and Economic Development by Act 58 of 1996.

Compiler's Note: The Department of Environmental Resources, referred to in this section, was abolished by Act 18 of 1995. Its functions were transferred to the Department of Conservation and Natural Resources and the Department of Environmental Protection.

Section 702. Repeals.

The following acts are repealed:

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

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

Section 703. Conveyance.

(a) Authority.--The Department of Environmental Resources, with the approval of the Governor, is hereby authorized and directed on behalf of the Commonwealth to convey ownership in the building named the Carl A. White Acid Mine Drainage Treatment Plant, situated in Washington Township, Indiana County, Pennsylvania, hereinafter referred to as the plant, to the County of Indiana, Pennsylvania for the following purposes: The County of Indiana, or its designee, shall utilize all or part of the plant, which is currently shut down, to treat brines produced from oil and gas wells, with the treatment of brines produced from oil and gas wells in the Commonwealth to be given priority in all respects; and, if and when directed by the department, shall utilize a maximum of

50% of the plant to treat abandoned mine acid discharge flowing in the Crooked Creek Watershed. If and when the department shall deem treatment of such abandoned mine acid discharge to be feasible, it shall notify the County of Indiana, or its designee, of the quantity of such discharges to be treated and the required quality of the effluent; provided, however, that such treatment shall not require the utilization of more than 50% of the plant.

(b) Reversion.--If, for any reason whatsoever, the County of Indiana, or its designee, shall discontinue the utilization of the Carl A. White Acid Mine Drainage Treatment Plant for the treatment of oil and gas well brines, or shall fail to treat any abandoned mine acid discharges which the department has determined to be necessary and feasible to treat, then, and in that event, ownership and possession of the plant shall revert to the department, and the department shall have the option of continuing the operation of the plant for the treatment of abandoned mine acid discharge or of dismantling the plant. If, in the event of such reverter, the department shall elect to continue the operation of the plant for the treatment of abandoned mine acid discharge, it shall so notify the County of Indiana, or its designee, and the plant shall be returned to the department in the same condition that it was in when transferred to the county. The county, or its designee, shall bear any costs for returning the plant to said condition.

(c) Approval and execution.--The agreement of ownership shall be approved as provided by law and shall be executed by the Secretary of Environmental Resources in the name of the Commonwealth of Pennsylvania.

Compiler's Note: The Department of Environmental Resources, referred to in subsec. (a), was abolished by Act 18 of 1995. Its functions were transferred to the Department of Conservation and Natural Resources and the Department of Environmental Protection.

Compiler's Note: The Secretary of Environmental Resources, referred to in subsec. (c), was abolished by Act 18 of 1995. The functions of the secretary were transferred to the Secretary of Conservation and Natural Resources and the Secretary of Environmental Protection.

Section 704. Effective date.

This act shall take effect in 15 days.