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26:2D-37. Short title

This act shall be known and may be cited as "The Radiation Accident Response Act."

L.1981, c. 302, s. 1, eff. Oct. 27, 1981.

26:2D-38. Legislative findings and determinations

The Legislature hereby finds and determines that the citizens of the State of New Jersey are entitled to the maximum protection possible from any and all threats to their health and welfare which may result from a radiation accident at a nuclear facility or during the transportation of radioactive material; that existing emergency response capabilities to abate these threats are dispersed among various State and local agencies and private organizations and limited in geographic scope; and that the dangers posed by these accidents can best be minimized by the development and implementation of a comprehensive and coherent response plan to coordinate and guide all necessary and appropriate resources and personnel into a unified course of action.

L.1981, c. 302, s. 2, eff. Oct. 27, 1981.

26:2D-39. Definitions

As used in this act:

- a. "Department" means the Department of Environmental Protection;
- b. "Division" means the Division of State Police in the Department of Law and Public Safety;
- c. "Nuclear facility" means any facility which would pose a threat to the health and welfare of the public in the event of a radiation accident, including, but not limited to, atomic fission or fusion electric generating facilities, nuclear fuel fabrication plants, nuclear fuel reprocessing plants, nuclear waste handling and disposal facilities, and any other facility requiring a certificate of handling pursuant to P.L.1977, c. 233;
- d. "Plan" means the State Radiation Emergency Response Plan mandated by section 4 of this act;
- e. "Radiation accident" means any occurrence or event during the operation and maintenance of any nuclear facility or during the transportation of radioactive material, which results in the release of unnecessary radiation, as defined in section 1 of P.L.1958, c. 116 (C. 26:2D-1);
- f. "Operator" means the company or corporation operating a nuclear electric generating facility, when the company or corporation is a public electric utility authorized to petition the Board of Public Utilities to recover expenses directly related to the operation of a

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nuclear electric generating facility in New Jersey; however, when the facility is being operated by an affiliate or associated corporation of a public electric utility, "operator" means the public electric utility and not the affiliated or associated corporation.

L.1981, c. 302, s. 3, eff. Oct. 27, 1981. Amended by L.1984, c. 98, s. 1, eff. July 1, 1985.

26:2D-40. State radiation emergency response plan; preparation and adoption; revision and update

The department and the division, after consultation with the Departments of Health, Energy, and Transportation and after careful review of all relevant guidelines established by the Federal Emergency Management Agency, shall, within 18 months of the effective date of this act, jointly prepare or cause to be prepared and adopt a State Radiation Emergency Response Plan. The plan shall be based upon planning criteria, objectives, requirements, responsibilities and concepts of operation for the implementation of all necessary and appropriate protective or remedial measures to be taken with respect to a radiation accident, or threatened radiation accident, at a nuclear facility or during the transportation of radioactive material, including but not limited to, the designation of all counties and municipalities which shall prepare radiation emergency response plans, the establishment and implementation of appropriate training programs for all personnel who may be involved in any aspect of radiation emergency planning and response, the establishment of an emergency operations headquarters proximate to the site of each nuclear facility from which emergency response operations can be coordinated efficiently and effectively, the development and installation of a mechanism to monitor all temporary circumstances or conditions such as road repairs, utility activities, and floods, which may impede or preclude implementation of the emergency response plan and apprise all relevant emergency response personnel thereof, the preparation and updating of an inventory of temporary housing facilities which may be required in the event of a radiation accident, the development and administration of a communications system to efficiently and effectively discharge all responsibilities and duties in the event of a radiation accident, the preparation of a public emergency response plan for residents of the affected area, the establishment of procedures and practices to review and monitor potential threats from nuclear facilities in neighboring states and to coordinate emergency response plans with any such plans established for such out-of-State-facilities, and a public emergency notification and public information and educational program to furnish all citizens who may be affected with information as they may require to act safely and prudently. The plan shall be revised and updated at least bi-annually; provided, however, that a thorough revision and updating shall be undertaken and completed at least 6 months prior to the projected commencement of operations of any new nuclear facility. The criteria, objectives, requirements, concepts of operation, and designations shall be published by the department and division within 3 months of the effective date of this act.

L.1981, c. 302, s. 4, eff. Oct. 27, 1981.

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26:2D-41. Municipality with nuclear facilities or designation as affected municipality; local radiation emergency response plan

Every municipality in each county wherein is located one or more nuclear facilities or which is designated as an affected municipality within 6 months of the adoption of the designation and in conformity with the criteria and objectives, requirements, responsibilities, and concepts of operation established, shall prepare and submit to the county wherein it is located, a local radiation emergency response plan. The local radiation emergency response plans shall be submitted through the county for approval by the division and the department. The local plans shall be reviewed at least once every 18 months and revised, subject to county approval. Any municipality required to prepare an emergency response plan pursuant to this section may apply to the department for financial and technical assistance therefor.

L.1981, c. 302, s. 5, eff. Oct. 27, 1981.

26:2D-42. County emergency response plans

Every county wherein is located one or more nuclear facilities or which is designated as an affected county, shall, within 6 months of the designation and in conformity with criteria and guidelines established, prepare and submit to the department and the division a county radiation emergency response plan which coordinates and supplements and, if necessary, replaces radiation emergency response plans of municipalities within its jurisdiction. The county emergency response plan shall, after initial approval, be updated at least every 18 months.

L.1981, c. 302, s. 6, eff. Oct. 27, 1981.

26:2D-43. Powers and duties of department

The department is authorized and directed to:

- a. Carry out all duties and responsibilities established by any memorandum of understanding between the department and the division necessary or incident to the implementation of the plan;
- b. Assess any danger attendant to a radiation accident, provide immediate public health and safety and other technical guidance, and coordinate on-site radiation emergency abatement procedures;
- c. Provide public health and safety and other technical advice and guidance as it may deem appropriate with respect to the preparation and implementation of the plan;
- d. Review, approve or modify, in cooperation with the division, all radiation

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emergency response plans and procedures developed or modified pursuant to this act;

- e. Conduct, in cooperation with the division, public hearings annually in each designated county to determine the adequacy and effectiveness of the plan;
- f. Direct, in cooperation with the division, the testing and evaluation of all plans developed pursuant to this act upon their adoption, and annually thereafter, to assure that all personnel with emergency response duties and responsibilities effectively carry out their assigned tasks;
- g. Develop and implement a comprehensive monitoring strategy which shall include, but not necessarily be limited to, the daily monitoring of levels of radioactivity in the environment; and
- h. Seek and apply for funds, grants, and other forms of financial assistance from the Federal Emergency Management Agency and any other public and private sources to support the purposes and provisions of this act.

L.1981, c. 302, s. 7, eff. Oct. 27, 1981.

26:2D-44. Powers and duties of division

The division is authorized and directed to:

- a. Carry out all duties and responsibilities established by any memorandum of understanding between the department and the division necessary or incident to the implementation of the plan;
- b. Exercise operational control during any threatened or actual radiation emergency;
- c. Review, approve or modify, in cooperation with the department, all radiation emergency response plans and procedures developed or modified pursuant to this act;
- d. Direct, in cooperation with the department, the testing and evaluation of all emergency response plans developed pursuant to this act upon their adoption, and annually thereafter, to assure that all personnel with emergency response duties and responsibilities effectively carry out their assigned tasks.

L.1981, c. 302, s. 8, eff. Oct. 27, 1981.

26:2D-45. Duties of department of health

The Department of Health shall, within 1 year of the effective date of this act:

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- a. Complete and update annually a study of the public health aspects of nuclear emergency response planning, which study shall include, but not necessarily be limited to, an evaluation of existing medical facilities and personnel to determine the State's present capacity to respond to any radiation threat to public health; an evaluation of the evacuation plans of hospitals and other health care facilities and alternate sources of care for patients; and an inventory of the standby plans, capacity, and distribution of all prophylactic or preventive supplies and equipment deemed medically advisable for use, as well as an evaluation of the feasibility and desirability of the State purchase and distribution of potassium iodide in order to minimize the adverse effects of the radiation accident. The results of the study, and any recommendations, shall be submitted to the department and the division for their use in preparing the plan and relevant portions of such study shall be submitted by the department to the municipalities charged with developing local emergency response plans to assist them in the preparation of such plans;
- b. Establish standards and criteria to identify those persons at greatest health risk in the event of radiation exposure so that they may be afforded maximum protection;
- c. Develop a plan for medical services to evacuees en route and at the sites of temporary shelter, and submit such plan to the department and the division for incorporation into the plan;
- d. Develop and implement appropriate training programs for emergency medical personnel, health facility managers, and health officers;
- e. Develop and implement, in cooperation with the division and the department, public educational programs concerning the effects and hazards of radiation.

L.1981, c. 302, s. 9, eff. Oct. 27, 1981.

26:2D-46. Duties of department of transportation

The Department of Transportation shall, within 1 year of the effective date of this act:

- a. Complete a study evaluating all means of transportation serving affected counties and municipalities and, in conjunction with the Department of Health, develop an inventory of emergency transport vehicles. Such study shall be submitted to the department and the division, and relevant portions thereof shall be submitted by the department to municipalities charged with developing local emergency response plans for their use in preparing emergency response plans;
- b. Prepare and submit to the department and the division for inclusion in the plan, and annually update, a radiation emergency transportation plan, which plan shall include, but not be limited to, the designation, construction, and maintenance of primary and secondary routes to be used by radiation emergency response personnel and the general public in the event of a radiation accident or threatened radiation accident, and the development of traffic management procedures sufficient to assure rapid access to

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and from any affected county or municipality.

L.1981, c. 302, s. 10, eff. Oct. 27, 1981.

26:2D-47. Duties of department of energy

The Department of Energy shall, within 1 year of the effective date of this act:

- a. Complete a study and evaluation of all existing emergency energy supplies available to the State and accessible to affected counties and municipalities in the event of a radiation accident or threatened radiation accident, and submit such study to the department and the division, and relevant portions shall be submitted by the department thereof to municipalities charged with developing local emergency response plans for their use in preparing emergency response plans; and
- b. Develop and submit to the department and the division, for inclusion in the plan, and update annually, an emergency energy supply plan to assure that any area affected by a radiation accident or threatened radiation accident, will have access to sufficient energy supplies to implement any emergency response plans or procedures.

L.1981, c. 302, s. 11, eff. Oct. 27, 1981.

26:2D-48. Assessment against operator of nuclear electric generating facility; levy and payment

- a. In order to defray the expenses of local, county and State agencies in discharging their responsibilities under this act, including those costs associated with the development, testing and updating of the Emergency Radiation Response Plans and for the acquisition and maintenance of any equipment necessary to carry out their responsibilities, the State Treasurer shall annually make an assessment against the operator of each nuclear electric generating facility located in New Jersey;
- b. The assessment against the operator of a single nuclear electric generating facility shall not exceed \$2,750,000 (in 2003 dollars adjusted by the CPI) and, in the case of an operator of two or more nuclear electric generating facilities, the assessment shall not exceed \$5,500,000 (in 2003 dollars adjusted by the CPI), and shall be assessed in an amount equal to the sum of the amounts in paragraphs (1) and (2) of this subsection and determined annually by the State Treasurer on or before June 30 in the following manner:
 - 1) The total amount appropriated to the various local, county and State agencies by law for the purpose of discharging their responsibilities under P.L. 1981, c.302 (C.26:2D-37 et seq.) for the State's next fiscal year for costs related directly to a particular nuclear electric generating facility shall be assessed against the operator of that particular nuclear electric generating facility.
 - 2) All other amounts appropriated to the State agencies by law for the purpose of

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discharging their responsibilities under P.L. 1981, c.302 (C.26:2D-37 et seq.) for the next fiscal year shall be assessed equally against each operator of a nuclear electric generating facility. The assessment prescribed above shall be levied by the State Treasurer not later than July 1, and shall be paid within 30 days after mailing by first class mail to the affected operator of the nuclear electric generating facility notice thereof and a statement of the amount;

- c. The assessments shall be appropriated through the regular appropriation process in accordance with a joint budget to be submitted by the division and the department;
- d. Any costs of a local, county or State agency incurred in discharging its responsibilities under P.L. 1981, c.302 (C.26:2D-37 et seq.), not reasonably required to carry out the purposes of P.L. 1981, c.302 (C.26:2D-37 et seq.) or not generally associated with or related to the operation of nuclear electric generating facilities located in New Jersey, shall not be included in any such assessment or appropriation;
- e. "CPI" means the annual Consumer Price Index for a calendar year as determined year to year using the decimal increase in the September through August, 12-month average for the previous year of the Consumer Price Index for All Urban Consumers (CPI-U), as published by the United States Department of Labor.

Amended by L. 2006, c. 35, s.1, eff. Eff 7/8/2006.

L.1981, c.302, s.12, eff. Oct. 27, 1981; amended by L. 1984, c.98, s.2, eff. 7/1/1985; c. 34, s.43.

26:2D-48.1 Additional assessment for provision of supplemental security.

To defray the costs incurred by the State in providing supplemental security, the State Treasurer shall annually make an assessment against the operator of each nuclear electric generating facility located in New Jersey.

The amount of the assessment shall be determined by the State Treasurer. In making that determination, the State Treasurer shall include the salaries of the State Police and State National Guard personnel assigned supplemental security duties, the costs of all necessary specialized equipment and training, and all other expenditures directly related to having the State provide supplemental security at each nuclear electric generating facility. The amount of the assessment so determined shall not exceed the actual aggregate costs incurred by the State in providing supplemental security at these facilities.

To the greatest extent practicable, the State Treasurer shall apportion the assessment among the operators to reflect the actual costs incurred by the State in providing supplemental security at each particular nuclear electric generating facility.

The assessment apportioned each operator shall be due and payable at a time and in a manner prescribed by the State Treasurer.

Added by L. 2006, c. 35, s. 2, eff. 7/8/2006.

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26:2D-48.2 Operator not liable for assessment under certain circumstances.

Commencing with the Fiscal Year 2008, an operator of a nuclear electric generating facility shall not be liable for an assessment under section 2 of P.L.2006, c.35 (C.26:2D-48.1) if, prior to the commencement of any fiscal year, the Attorney General, after reviewing the findings and recommendations of the Director of the New Jersey Office of Homeland Security and Preparedness and the Superintendent of State Police, determines that the operator has an approved, privately funded security program in operation at its facility.

Added by L. 2006, c. 35, s. 3, eff. 7/8/2006.

26:2D-49. Objections; hearing

Within 15 days after the date of mailing a statement as provided in this act, the operator of a nuclear electric generating facility against which the statement is rendered may file with the State Treasurer its objections thereto. Not less than 30 nor more than 60 days after giving notice thereof to the objecting utility, the State Treasurer shall hold a hearing on the objections.

L.1981, c.302, s.13, eff. 10/27/1981; amended by L.1984, c.98, s.3, eff. 7/1/1985.

26:2D-50. Determination by state treasurer; amended, invalid or valid statement

If, after the hearing, the State Treasurer finds that any part of the charge against the objecting operator of a nuclear electric generating facility is excessive, erroneous, or invalid, he shall transmit to the operator of a nuclear electric generating facility, by registered mail, an amended statement in accordance with the findings, which shall have the same force and effect as an original statement. If the State Treasurer finds the entire statement invalid, he shall notify the objecting operator of a nuclear electric generating facility, by registered mail, of the determination, and the original statement shall be null and void. If the State Treasurer finds that the statement as rendered is neither excessive, erroneous, unlawful nor invalid, in whole or in part, he shall transmit notice thereof to the objecting utility by registered mail.

L.1981, c. 302, s. 14, eff. Oct. 27, 1981. Amended by L.1984, c. 98, s. 4, eff. July 1, 1985.

26:2D-51. Prohibition of action to restrain or delay payment; refund after payment

No action or proceeding shall be maintained in any court for the purpose of restraining or delaying the collection or payment of a statement rendered in compliance with the provisions of this act. An operator of a nuclear electric generating facility against which a statement is rendered shall pay the amount thereof, and after the payment may, in the manner provided by this act, at any time within two years from the date of the payment, bring against the State an action at law to recover the amount paid, with legal interest thereon from the date of payment, upon the ground that the assessment was excessive, erroneous, or invalid in whole or in part.

L.1981, c. 302, s. 15, eff. Oct. 27, 1981. Amended by L.1984, c. 98, s. 5, eff. July 1, 1985.

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26:2D-52. Failure to pay or file objections

If any affected operator of a nuclear electric generating facility, to which a statement for the amount assessed against it as provided in this act has been rendered, fails to pay the amount within 30 days, or fails to file with the State Treasurer objections to the statement as provided herein, the State Treasurer shall proceed to collect the amount stated to be due, with legal interest, by seizure and sale of any goods or chattels, including stocks, securities, bank accounts, evidences of debt and accounts receivable belonging to the affected operator of a nuclear electric generating facility anywhere within the State.

L.1981, c. 302, s. 16, eff. Oct. 27, 1981. Amended by L.1984, c. 98, s. 6, eff. July 1, 1985.

26:2D-53. Rules and regulations

The department and the division are authorized in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c. 410 (C. 52:14B-1 et seq.), to jointly promulgate, adopt, and enforce any rules and regulations necessary or appropriate to carry out the purposes and intent of this act.

L.1981, c. 302, s. 17, eff. Oct. 27, 1981.

26:2D-54. Inspection of buildings and places

The department and the division shall have the authority to enter and inspect any building or place for the purpose of determining compliance or noncompliance with the provisions of this act, any rules or regulations adopted pursuant thereto, or the plan.

L.1981, c. 302, s. 18, eff. Oct. 27, 1981.

26:2D-55. Continuance and expiration of existing state radiation emergency plan

The existing State Radiation Emergency Plan, as contained in the PIPAG Manual (Procedures for Implementing Protective Action Guides), or any other radiation emergency plan approved pursuant to State or federal law shall continue in full force and effect until all emergency response plans required by this act are adopted.

L.1981, c. 302, s. 19, eff. Oct. 27, 1981. Amended by L.1984, c. 98, s. 7, eff. July 1, 1985.

26:2D-56. Severability

If any section, part, phrase, or provision of this act or the application thereof to any person be adjudged invalid by any court of competent jurisdiction, the judgment shall be confined in its operation to the section, part, phrase, provision, or application directly involved in the controversy in which the judgment shall have been rendered and it shall not affect or impair the validity of the remainder of this act or the application thereof to other persons.

L.1981, c. 302, s. 20, eff. Oct. 27, 1981.

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26:2D-57. Violations; penalty; injunction

Any person who willfully violates this act or any rule, or regulation promulgated pursuant hereto, including the State Radiation Emergency Response Plan, shall be liable to a penalty of not more than \$2,500.00 for each offense, to be collected by the department and the division in a summary proceeding under "the penalty enforcement law" (N.J.S. 2A:58-1 et seq.) or in any case before a court of competent jurisdiction wherein injunctive relief is requested. If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate and distinct offense. The department and the division are authorized to compromise and settle any claim for penalty under this section in an amount in their discretion as may appear appropriate in all these circumstances.

L.1981, c. 302, s. 21, eff. Oct. 27, 1981.

26:2D-58. Advice of Governor's advisory council for emergency services

In implementing the provisions of this act, the department and the division shall seek the advice of the Governor's Advisory Council for Emergency Services established pursuant to P.L.1972, c. 133.

L.1981, c. 302, s. 22, eff. Oct. 27, 1981.