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26:2D-1. Short title

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

L.1958, c. 116, p. 592, s. 1.

26:2D-2. Definitions

As used in this act, unless the context indicates another or different meaning or intent: (a)

"Commission" means the Commission on Radiation Protection created pursuant to this act;

(b) "Department" means the Department of Environmental Protection;

(c) "Unnecessary radiation" means the use or presence of electromagnetic radiation including microwave, infrared, visible, ultraviolet, X-ray, and gamma ray; sonic, infrasonic, or ultrasonic waves; and particle radiation including alphas, betas, high energy electrons, neutrons, protons and other atomic or nuclear particles in such manner as to be or tend to be injurious or dangerous to the health of the people or the industrial or agriculture potential of the State, or to the ecology of the State and its wildlife.

L.1958, c. 116, p. 592, s. 2. Amended by L.1971, c. 372, s. 1, eff. Dec. 30, 1971; L.1981, c. 296, s. 1, eff. Oct. 9, 1981.

26:2D-3. Commission on Radiation Protection

There is hereby created in the Department of Environmental Protection the Commission on Radiation Protection, which shall consist of 10 members, three of whom shall be the Commissioner of Environmental Protection, the Commissioner of Health, and the Commissioner of Labor, or their designees, who shall serve ex-officio and seven members with scientific training in medicine, radiology, nonionizing radiation, infrasonics, ultrasonics, radiation physics, medical physics, epidemiology, atomic energy or biology or engineering, to be appointed by the Governor, with the advice and consent of the Senate.

L. 1958, c. 116, p. 593, s. 3. Amended by L. 1971, c. 372, s. 3, eff. Dec. 30, 1971; L. 1986, c. 28, s. 2, eff. June 17, 1986.

26:2D-4. Commissioners' terms

Commissioners appointed by the Governor shall be appointed for a term of four years commencing on July 1 of the year of appointment, except that of those first appointed, two shall be appointed for terms of one year, one for a term of two years, one for a term of three years, and one for a term of four years, which terms shall commence on July 1, 1958. Of the two commissioners first appointed to the commission pursuant to the provisions of this 1986 amendatory act, one commissioner shall serve a term of four years and one

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commissioner shall serve a term of two years. Each commissioner shall hold over after the expiration of his term until his successor has been appointed and has qualified. Vacancies shall be filled for the unexpired terms only in the manner provided for the original appointments.

L. 1958, c. 116, p. 593, s. 4. Amended by L. 1986, c. 28, s. 3, eff. June 17, 1986.

26:2D-5. Compensation of commissioners

Commissioners shall serve without compensation but shall be entitled to be reimbursed for expenses necessarily incurred in the performance of their duties.

L.1958, c. 116, p. 593, s. 5.

26:2D-6. Organization, officers

The commission annually shall organize as soon as possible after July 1, and shall elect a chairman, vice-chairman and a secretary from its own membership. Five members of the commission shall constitute a quorum to transact its business. Codes, rules and regulations shall be adopted, amended or repealed by an affirmative vote of at least six members.

L. 1958, c. 116, p. 593, s. 6. Amended by L. 1971, c. 372, s. 3, eff. Dec. 30, 1971; L. 1986, c. 28, s. 4, eff. June 17, 1986.

26:2D-7. Promulgation of codes, rules or regulations

The commission shall have the power to formulate, adopt, promulgate, amend and repeal codes, rules and regulations as may be necessary to prohibit and prevent unnecessary radiation in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c. 410 (C. 52:14B-1 et seq.).

L.1958, c. 116, p. 594, s. 7. Amended by L.1981, c. 296, s. 2, eff. Oct. 9, 1981.

26:2D-8. Review of policies and program of department of health

It shall be the duty of the commission to review the policies and program of the department as developed under authority of this act; to make recommendations thereon to the department; to provide the department with such technical advice and assistance as may be requested by the department.

L.1958, c. 116, p. 594, s. 8.

26:2D-9. Duties of department

The department shall:

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- a. Administer this act and codes, rules or regulations promulgated by the commission;
- b. Provide the commission with the necessary personnel required to carry out its duties
- c. Develop comprehensive policies and programs for the evaluation and determination of hazards associated with the use of radiation, and for their amelioration;
- d. Advise, consult, and cooperate with other agencies of the State, the Federal Government, other states and interstate agencies, and with affected groups, political subdivisions and industries;
- e. Accept and administer according to law loans, grants or other funds or gifts from the Federal Government and from other sources, public or private, for carrying out its functions under this act;
- f. Encourage, participate in or conduct studies, investigations, training, research and demonstrations relating to the control of radiation hazards, the measurement of radiation, the effects on health of exposure to radiation and related problems as it may deem necessary or advisable for the discharge of its duties under this act;
- g. Collect and disseminate health education information relating to radiation protection;
- h. Require registration of sources of radiation, and require records concerning sources of radiation to be kept in such manner as may be prescribed by codes, rules or regulations of the commission;
- i. Review plans and specifications on the design and shielding for radiation sources submitted pursuant to codes, rules or regulations of the commission for the purpose of determining possible radiation hazards
- j. Enter and inspect any building or place for the purpose of investigating an actual or suspected source of radiation and ascertaining compliance with this act or any rule, regulation or order promulgated or issued pursuant thereto and inspect radiation sources, their shielding and immediate surroundings and records concerning their operation for the determination of any possible radiation hazard;
- k. Have power, to be exercised subject to codes, rules and regulations of the commission, to require, issue, renew, amend, suspend and revoke licenses for the construction, operation or maintenance of sources of radiation including byproduct materials, source materials and special nuclear materials in quantities not sufficient to form a critical mass. The codes, rules and regulations may provide for recognition of other State or Federal licenses, subject to the registration requirements prescribed by or under the authority of this act;
- l. Have the power in accordance with a fee schedule adopted as a rule or regulation in

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accordance with the "Administrative Procedure Act," , P.L.1968, c. 410 (C. 52-14B-1 et seq.), to establish and charge fees for any of the services it performs, which fees shall be annual or periodic as the department shall determine. The fees charged by the department pursuant to this section shall be based on criteria contained in the fee schedule. The criteria shall reflect the actual or projected expense incurred by the department in the performance of the service for which the fee is charged;

- m. Be empowered to issue orders for the implementation and enforcement of the provisions of this act or of any rule or regulation promulgated pursuant hereto.

L.1958, c. 116, p. 594, s. 9. Amended by L.1961, c. 124, p. 742, s. 1; L.1971, c. 155, s. 2, eff. June 1, 1971; L.1981, c. 296, s. 3, eff. Oct. 9, 1981.

26:2D-9.1. Agreements with federal government; assumption of regulatory authority by state.

The Governor, on behalf of the State, may enter into agreements with the Federal Government providing for discontinuance by the Federal Government and assumption by the State of the authority, in the interest of the protection of the public from radiation hazards, to regulate sources of radiation including by-product materials, source materials and special nuclear materials in quantities not sufficient to form a critical mass. Subject to the terms of such agreements, regulatory authority assumed by the State by virtue of such agreements shall be exercised by the department in the manner provided in this act and as may be further provided by codes, rules and regulations of the commission promulgated pursuant to this act.

L.1961, c. 124, p. 745, s. 3.

26:2D-9.2. Agreements with federal government or other states or agencies; performance of functions on co-operative basis

The department may (a) enter into agreements, subject to the approval of the Governor, with the Federal Government, other States or interstate agencies to perform inspections and other radiation protection functions on a co-operative basis with the Federal Government, other States or interstate agencies; and (b) subject to available appropriations, make its personnel available for participation in training programs of the Federal Government and otherwise secure assistance from the Federal Government to maintain and improve the department's administration of this act.

L.1961, c. 124, p. 745, s. 4.

26:2D-10. Prevention of exposure to unnecessary radiation

All sources of radiation shall be shielded, transported, handled, used and kept in such manner as to prevent all users thereof and all persons within effective range thereof from being exposed to unnecessary radiation.

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L.1958, c. 116, p. 595, s. 10.

26:2D-11.1. Embargo of articles with radiation hazards; tagging; prohibition of use, sale or disposal, or impoundment; disposal or return; conditions

Notwithstanding any other remedy available to the department, whenever an agent of the department finds or has probable cause to believe that any material, machine, appliance, apparatus or device, or any part thereof, is a radiation hazard or danger of such nature as to constitute a threat to public health or welfare, or is being operated in a manner as to result in such a threat, he may embargo such article by affixing thereto a tag or other appropriate marking, giving notice that such article is, or is suspected to be, a radiation hazard or danger and has been detained or embargoed, and warning all persons not to use, remove or dispose of such article by sale or otherwise until permission for use, removal or disposal is given by the department, or he may cause any material, machine, appliance, apparatus or device to be secured or impounded. It shall be a violation of this act for any person to remove or dispose of such detained or embargoed article by sale or otherwise without such permission.

Within 10 days after embargoing or impounding any source of radiation, the department shall give notice to the person causing the violation or hazardous condition prescribing circumstances under which the source of radiation will be returned to the custody of the person. If the person, within a reasonable time as may be fixed by the department, does not furnish satisfactory evidence to the department of present and intended future compliance with the conditions, the rights of the person, with respect to the source of radiation so secured or impounded, shall become the property of the State to be disposed of by the department on behalf of the State in any manner consistent with public health and safety.

L.1971, c. 372, s. 4, eff. Dec. 30, 1971. Amended by L.1981, c. 296, s. 5, eff. Oct. 9, 1981.

26:2D-11.2. Embargo; hearing; stay; conditions

Any person aggrieved by an embargo imposed under the provisions of this act who shall apply therefor within 30 days after the imposition of such embargo, shall be granted a hearing before the department. Pending the determination by the department before or after such hearing, the department may stay the operation of the embargo upon such terms and conditions, including performance bonds, as it may deem proper.

L.1971, c. 372, s. 5, eff. Dec. 30, 1971.

26:2D-12. Emergency orders; hearing

Whenever the department finds that an emergency exists requiring immediate action to protect the public health or welfare, it may issue an order reciting the existence of such an emergency and requiring that such action be taken as it deems necessary to meet the emergency. Such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately, but, on application to the department, shall

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be afforded a hearing within 5 days. On the basis of such hearing the department may continue such order in effect or revoke, amend or modify such order.

L.1958, c. 116, p. 596, s. 12.

26:2D-13. Actions to prevent violations; injunctions; penalties

The department may bring a civil action in the Superior Court to prevent the violation of the provisions of this act or codes, rules or regulations promulgated by the commission and orders of the department and said court may proceed in the action in a summary manner or otherwise and may restrain in all such cases any person or legal entity from violating any of the provisions of this act or said codes, rules, regulations or orders.

Any person who violates the provisions of this act or any rule, regulation or order promulgated or issued pursuant hereto or uses, removes, or disposes of any property in violation of an embargo imposed under the provisions of this act shall be liable to a penalty of not more than \$2,500.00 to be collected in a civil action by 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 has been 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 is authorized and empowered to compromise and settle any claim for a penalty under this section in an amount in the discretion of the department as may appear appropriate and equitable under all of the circumstances.

L.1958, c. 116, p. 596, s. 13. Amended by L.1981, c. 296, s. 4, eff. Oct. 9, 1981.

26:2D-14. Service of notice

Any notice, order or other instrument issued pursuant to this act may be served personally or by mailing a copy thereof by certified mail directed to the person or legal entity affected.

L.1958, c. 116, p. 596, s. 14.

26:2D-15. Existing remedies not impaired

No existing civil or criminal remedy for any action which is a violation of any code, rule or regulation of the commission shall be excluded or impaired by this act.

L.1958, c. 116, p. 596, s. 15.

26:2D-16. Review

Any code, or rule or regulation of the commission or determination or finding of the department shall be reviewable in the Superior Court by a proceeding in lieu of prerogative writ.

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L.1958, c. 116, p. 596, s. 16.

26:2D-17. Approval of local regulations

No ordinance, resolution or regulation concerning unnecessary radiation adopted by any municipality, county or local board of health shall be effective until a certified copy of such ordinance or regulation has been submitted to the commission and approved by the commissioner of the department. Such ordinances or regulations may not be approved unless the same shall be consistent with this act or any code, rule or regulation issued pursuant hereto.

L.1958, c. 116, p. 597, s. 17.

26:2D-18. Radioactive materials; transportation or storage or detention pending transit; certificate of handling.

No person shall transport into or through the State, or store, hold or detain pending or during such transit, any of the following materials without first having obtained a certificate of handling from the department:

- a. Plutonium isotopes in any quantity and form exceeding two grams or 20 curies, whichever is less;
- b. Uranium enriched in the isotope U-235 exceeding 25 atomic per cent of the total uranium content in quantities where the U-235 content exceeds one kilogram;
- c. Any of the actinides the activity of which exceeds 20 curies
- d. Spent reactor fuel elements or mixed fission products associated with such spent fuel elements the activity of which exceeds 20 curies;
- e. Any quantity of radioactive material which exceeds 20 curies; or
- f. Any lesser quantity of radioactive material which, when combined with any other quantity of such material, exceeds 20 curies.

L.1977, c. 233, s. 1, eff. Sept. 26, 1977.

26:2D-19. Submission of information and issuance of certificate

- a. Any person seeking to obtain such a certificate shall submit to the department, not less than 7 business days prior to the storage or transporting of any of the materials specified in section 1 of this act, the following information:

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- 1) Name of shipper,
 - 2) Name of carrier,
 - 3) Type and quantity of radioactive material,
 - 4) Date and time of shipment,
 - 5) Starting point, scheduled route, and destination,
 - 6) Location and manner of storage, and
 - 7) Other information required by the department.
- b. The department, after consultation with the Chief of the State Police, shall issue the "certificate of handling" upon a finding that the storage or transporting of such material shall be accomplished in a manner necessary to protect public health and safety of the citizens of the State. The department, in its discretion, may require changes in the location or manner of storage or changes in dates, routes or time of transporting such material if necessary to maximize protection to public health and safety.

L.1977, c. 233, s. 2, eff. Sept. 26, 1977.

26:2D-20. Discharge or threat of discharge of radioactivity; prevention or abatement; recovery of costs

In the event of a discharge of radioactivity, or threat thereof, resulting from a radiation source in storage or transit in this State, the department may recover from any shipper, carrier, bailor, bailee, or any other person responsible for the storage or transportation of such radiation source, the costs incurred by the department for the prevention or abatement of such discharge or the removal of the effects thereof.

L.1977, c. 233, s. 3, eff. Sept. 26, 1977.

26:2D-21. Rules and regulations

Without limiting or impairing in any way the powers heretofore provided by the act to which this act is a supplement, the commission is hereby empowered and directed to adopt, pursuant to the provisions of the "Administrative Procedure Act" P.L.1968, c. 410 (C.52:14B-1 et seq.) such rules and regulations necessary to carry out the provisions of this act.

L.1977, c. 233, s. 4, eff. Sept. 26, 1977.

26:2D-22. Violations; penalties; crime of fourth degree; enforcement

Any person who violates any provision of this act shall be liable to the penalties contained in P.L.1958, c. 116. Any person who violates any provision of this act shall be guilty of a crime of the fourth degree. The State Police shall, and any local police department may, enforce the provisions of P.L.1977, c. 233 (C. 26:2D-18 et seq.).

L.1977, c. 233, s. 5, eff. Sept. 26, 1977. Amended by L.1981, c. 296, s. 6, eff. Oct. 9,

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26:2D-23. Obstruction, hindrance, delay or interference of personnel of department in performance of duties

No person shall obstruct, hinder, delay or interfere with, by force or otherwise, the performance by the department, its personnel or any of its authorized agents of any duty under the provisions of this act or refuse to permit the personnel or authorized agents to perform their duties by refusing them upon proper presentation of a written order of the department, entrance to any premises at reasonable hours.

L.1981, c. 296, s. 7, eff. Oct. 9, 1981.

26:2D-23.1. Radioactive materials prohibited from transportation or storage in transit

It shall be unlawful for any person to transport or store in transit the following radioactive materials in any county in New Jersey which has an average population density exceeding 1,000 persons per square mile as measured in the most recent decennial census:

- a. Plutonium isotopes in any quantity and form exceeding 20 curies;
- b. Uranium enriched in the isotope U-235 exceeding 25 atomic per cent of the total uranium content in quantities where the U-235 content exceeds 1 kilogram;
- c. Any of the actinides (i.e., elements with atomic number 89 or greater) the activity of which exceeds 20 curies; or
- d. Spent reactor fuel elements or mixed fission products associated with such spent fuel elements the activity of which exceeds 20 curies.

Any quantity of radioactive material specified as "Low Specific Activity" by the Nuclear Regulatory Commission in 10 CFR Part 71, entitled "Packaging of Radioactive Material for Transport" shall be exempt from the provisions of this act.

L.1983, c. 345, s. 1.

26:2D-23.2. Designation or definition of additional categories or subcategories

The department may, pursuant to the "Administrative Procedure Act" P.L.1968, c. 410 (C. 52:14B-1 et seq.), designate or define any categories or subcategories of radioactive material covered under this act, except radiopharmaceuticals and radioactive substances, the principal purpose of which is associated with the manufacture of the radiopharmaceuticals, to be banned from areas designated by the department. The department shall only do so where it finds that such material may create an unwarranted hazard to public safety and where the transportation of the material in the area is not essential to the public welfare.

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L.1983, c. 345, s. 2.

26:2D-23.3. Certificates of handling

Notwithstanding the provisions of sections 1 and 2 of this act, the department may issue "certificates of handling" on a case-by-case basis for radioactive materials covered under this act:

- a. For compelling reasons involving urgent public policy or national security interests which transcend public health and safety concerns;
- b. For research or development activities, medical therapy, or educational purposes which the department determines do not pose significant threats to public health and safety;
- c. For the transportation of fresh or non-irradiated nuclear fuel to any nuclear generating facility upon a finding by the department that there is no feasible alternate route or mode of transportation which involves less risk to the public; or
- d. For the transportation of spent or irradiated nuclear fuel from any nuclear electricity generating facility upon a finding by the department that there is no feasible alternate route or mode of transportation or method of disposition which involves less risk to the public health and safety; provided, however, that no certificate of handling shall be issued for the transportation of any spent or irradiated nuclear fuel in New Jersey unless the department and the State Police have jointly determined that adequate safety precautions have been taken by the transporter and that adequate emergency response capabilities exist to protect the public during such transportation, and the department has further determined that the shipment of such fuel is secured by a limit of insurance or other form of indemnification, either by law or privately obtained, which is appropriate for the protection of the public in view of the risks associated with such transportation.

L.1983, c. 345, s. 3.

26:2D-23.4. Violations; penalties

Any person who violates the provisions of this act shall, in addition to any penalties imposed pursuant to section 13 of P.L.1958, c. 116 (C. 26:2D-13), have all certificates of handling in the possession of that person revoked and shall be ineligible to receive any certificate of handling for 3 years.

L.1983, c. 345, s. 4.

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26:2D-24. Legislative findings and declarations

The Legislature hereby finds and declares that the citizens of the State of New Jersey are entitled to the maximum protection practicable from the harmful effects of excessive and improper exposure to ionizing radiation; that the protection can be increased by requiring appropriate training and experience of persons operating medical equipment emitting ionizing radiation and requiring them to operate the equipment under the specific direction of a licensed practitioner; and that it is therefore necessary to establish standards of education, training and experience for these operators and to provide for the appropriate examination and certification thereof.

L.1981, c. 295, s. 1, eff. Oct. 9, 1981.