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CHAPTER 60

ASSESSMENT OF GENERATORS FOR THE COST OF SITING AND DEVELOPING A LOW-LEVEL RADIOACTIVE WASTE DISPOSAL FACILITY

Authority

N.J.S.A. 13:1E-177 et seq., specifically 13:1E-181(o)-181.1;
N.J.S.A. 32:31 et seq.

Source and Effective Date

R.1992 d.109, effective March 2, 1992.
See: 23 N.J.R. 3410(b), 24 N.J.R. 840(a).

Executive Order No. 66(1978) Expiration Date

Chapter 60, Assessment of Generators for the Cost of Siting and Developing a Low-Level Radioactive Waste Disposal Facility, expires March 2, 1997.

Chapter Historical Note

Chapter 60, Assessment of Generators for the Cost of Siting and Developing a Low-Level Radioactive Waste Disposal Facility, was originally adopted as new rules by R.1992 d.109, effective March 2, 1992. See: Source and Effective Date.

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SUBCHAPTER 1. FEES AND REPORTING REQUIREMENTS

7:60-1.1 Scope

This subchapter establishes low-level radioactive waste reporting requirements and a process to annually assess generators for all the costs of siting, developing, licensing and constructing a low-level radioactive waste disposal facility, as well as the costs of implementing the Northeast Interstate Low-Level Radioactive Waste Management Compact, N.J.S.A. 32:31-1 et seq., and the Regional Low-Level Radioactive Waste Disposal Facility Siting Act, N.J.S.A. 13:1E-177 et seq.

7:60-1.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

“Activity” means the rate of disintegration (transformation) or decay of radioactive material. It is expressed in curies or becquerels, or their multiples.

“A(Y,G)” means the individual generator’s (G) annual activity (A) of low-level radioactive waste produced in New Jersey and disposed in a low-level radioactive waste disposal facility in a calendar year (Y), as compiled from the manifests and maintained in the U.S. Department of Energy’s National Information Management System.

“A(Y,NJ)” means the sum of all the individual generator’s (G) annual activity (A) of low-level radioactive waste produced in New Jersey (NJ) and disposed in a low-level radioactive waste disposal facility in a calendar year (Y), as compiled from the manifests and maintained in the U.S. Department of Energy’s National Information Management System.

“Assessment Budget” means that portion of the Board’s budget which shall be collected as fees from the generators.

“Becquerel” means the amount of a specific radionuclide or combination of radionuclides which disintegrates at the rate of one atom per second.

“Board” means the New Jersey Low-Level Radioactive Waste Disposal Facility Siting Board established pursuant to N.J.S.A. 13:1E-180.

“Curie” means the amount of a specific radionuclide or combination of radionuclides which disintegrates at the rate of 37 billion atoms per second. One curie equals 37 billion becquerels.

“DA(YR,G)” means the individual generator’s (G) annual activity (DA) of low-level radioactive waste produced in New Jersey and disposed in calendar year (YR) in a disposal facility subject to or developed to comply with the Federal Low-Level Radioactive Waste Policy Amendments Act, as compiled from manifests prepared in accordance with U.S. Nuclear Regulatory Commission regulations, standards and guidance, and reported in the U.S. Department of Energy’s National Information Management System.

“DA(YR,NJ)” means the sum of all the individual generator’s (NJ) annual activity (DA) of low-level radioactive waste produced in New Jersey and disposed in calendar year (YR) in a disposal facility subject to or developed to comply with the Federal Low-Level Radioactive Waste Policy Amendments Act, as compiled from manifests prepared in accordance with U.S. Nuclear Regulatory Commission regulations, standards and guidance, and reported in the U.S. Department of Energy’s National Information Management System.

“DEP” means the Department of Environmental Protection.

“Disposal” means the isolation of low-level radioactive waste from the biosphere for the hazardous life of the waste.

“DV(YR,G)” means the individual generator’s (G) annual volume (DV) of low-level radioactive waste produced in New Jersey and disposed in calendar year (YR) in a disposal facility subject to or developed to comply with the Federal Low-Level Radioactive Waste Policy Amendments Act, as compiled from manifests prepared in accordance with U.S. Nuclear Regulatory Commission regulations, standards and guidance, and reported in the U.S. Department of Energy’s National Information Management System.

“DV(YR,NJ)” means the sum of all the individual generator’s (NJ) annual volume (DV) of low-level radioactive waste produced in New Jersey and disposed in calendar year (YR) in a disposal facility subject to or developed to comply with the Federal Low-Level Radioactive Waste Policy Amendments Act, as compiled from manifests prepared in accordance with U.S. Nuclear Regulatory Commission regulations, standards and guidance, and reported in the U.S. Department of Energy’s National Information Management System.

“Fiscal Year” means July 1 through the following June 30.

“Generator” means any person, association, public utility, hospital, clinic, research laboratory, corporation, society, radiopharmaceutical facility, academic facility, or nuclear medical research facility that produces low-level radioactive waste, or any other entity identified by the Board that produces low-level radioactive waste, or that is licensed by the United States Nuclear Regulatory Commission to use, possess, handle or dispose of radioactive materials.

“Interim storage” means the holding, by or for a generator, whether at the generator’s facility or elsewhere, of low-level radioactive waste after initial collection of the waste from the users of radioactive materials, for treatment, processing and/or storage pending disposal at, or pending, during and after, treatment or processing prior to disposal at, a disposal facility subject to or developed to comply with the Federal Low-Level Radioactive Waste Policy Act Amendments.

“Low-level Radioactive Waste” means radioactive waste that is neither high-level waste, nor spent fuel, nor by-product material as defined in paragraph (2) of subsection (e) of 42 U.S.C. § 2014; and is classified by the Federal government as low-level waste, consistent with existing law; but does not include waste generated as a result of atomic energy defense activities of the Federal government, as defined in the “Low-Level Radioactive Waste Policy Act”, Pub.L. 96-573 (42 U.S.C. § 2021b et seq.) and the “Low-Level Radioactive Waste Policy Amendments Act of 1985”, Pub.L. 99-240 (42 U.S.C. § 2021b et seq.) or Federal research and development activities.

“Low-Level Radioactive Waste Disposal Facility Fund” means the fund established pursuant to N.J.S.A. 13:1E-181.2.

“Manifest” means the document accompanying each shipment of waste intended for disposal or treatment as low-level radioactive waste.

“Radioactive waste” means radioactive material which is discarded or intended to be discarded; or is accumulated, stored or physically, chemically or biologically treated prior to, or in lieu of, being discarded; or is applied to the land or placed on the land or contained in product that is applied to or placed on the land in a manner constituting disposal; or has served their intended purpose; or has an expired shelf life.

“SA(YR,G)” means the individual generator’s (G) annual activity (SA) of low-level radioactive waste produced in New Jersey, placed into interim storage during calendar year (YR) which is processed or in interim storage and counted for reporting purposes no later than March 31 of the following calendar year, as compiled from records maintained in compliance with U.S. Nuclear Regulatory Commission regulations, standards and guidance, and reported under N.J.A.C. 7:60-1.3.

“SA(YR,NJ)” means the sum of all the individual generator’s (NJ) annual activity (SA) of low-level radioactive waste produced in New Jersey, placed into interim storage during calendar year (YR) which is processed or in interim storage and counted for reporting purposes no later than March 31 of the following calendar year, as compiled from records maintained in accordance with U.S. Nuclear Regulatory Commission regulations, standards and guidance, and reported under N.J.A.C. 7:60-1.3.

“Small business” means any business which is resident in this State, independently owned and operated and not dominant in its field, and which employs fewer than 100 full-time employees.

“Storage” means the holding of waste for a temporary period of time, at the end of which the waste is either treated or disposed as low-level radioactive waste.

“Store for decay” or decay in storage means the holding, as authorized by the U.S. Nuclear Regulatory Commission, of waste for a defined period of time, at the end of which the waste is not low-level radioactive waste.

“SV(YR,G)” means the individual generator’s (G) annual volume (SV) of low-level radioactive waste produced in New Jersey, placed into interim storage during calendar year (YR) which is processed or in interim storage and counted for reporting purposes no later than March 31 of the following calendar year, as compiled from records maintained in compliance with U.S. Nuclear Regulatory Commission regulations, standards and guidance, and reported under N.J.A.C. 7:60-1.3.

“SV(YR,NJ)” means the sum of all the individual generator’s (NJ) annual volume (SV) of low-level radioactive waste produced in New Jersey, placed into interim storage during calendar year (YR) which is processed or in interim storage and counted for reporting purposes no later than March 31 of the following calendar year, as compiled from records maintained in accordance with U.S. Nuclear Regulatory Commission regulations, standards, and guidance, and reported under N.J.A.C. 7:60-1.3.

“Volume” means the volume of radioactive waste as measured by the outermost package or container in which the low-level radioactive waste is contained ready for storage or disposal. Volume shall be expressed in cubic feet or cubic meters.

“V(Y,G)” means the individual generator’s (G) annual volume (V) of low-level radioactive waste produced in New Jersey and disposed in a low-level radioactive waste disposal facility in a calendar year (Y), as compiled from the manifests and maintained in the U.S. Department of Energy’s National Information Management System.

“V(Y,NJ)” means the sum of all the individual generator’s (G) annual volume (V) of low-level radioactive waste produced in New Jersey (NJ) and disposed in a low-level radioactive waste disposal facility in a calendar year (Y), as compiled from the manifests and maintained in the U.S. Department of Energy’s National Information Management System.

Amended by R.1995 d.130, effective March 6, 1995.
See: 26 N.J.R. 4946(a), 27 N.J.R. 905(a).

7:60-1.3 Reporting requirements for generators

(a) By April 30 of each year, each generator shall provide to the Board certified information on the radioactive waste managed by the generator in the preceding calendar year.

1. The certification shall read as follows, Certification Statement: I certify under penalty of law that the information provided in this document is true, accurate and complete. I am aware that there are significant criminal penalties, including fines or imprisonment or both, for submitting false, inaccurate or incomplete information.

2. The certification required by (a)1 above shall be signed by one of the following as appropriate:

- i. For a corporation, by a principal executive officer of at least the level of vice president;
- ii. For a partnership or sole proprietorship, by a general partner or the proprietor, respectively; or
- iii. For a municipality, State, Federal or other public agency, by either the principal executive officer or ranking elected official.

(b) The Board will provide to the generators the form on which the information shall be recorded or notify the gener-

ators as to the form in which the information shall be provided.

(c) Each generator shall completely fill out the form and submit it to the Board. The report shall include, at a minimum, the following:

1. A copy of all permits, licenses and generator identification numbers to use, possess, handle or dispose of radioactive materials;

2. A description of each low-level radioactive waste stream, including volume, activity, radionuclides, waste characteristics and waste form, generated, disposed of, treated and/or stored on-site or sent for storage off-site during the previous calendar year;

3. The manner and conditions of disposal, treatment and/or storage of radioactive waste; the disposal/storage site name, location and the identity of the owner/operator thereof, including the date of disposal/storage;

4. Information on radioactive waste in storage, at the end of the reporting year, including type of waste, volume, activity, waste form, waste characteristics, container type, storage location, date waste was placed into storage, storage capacity used and unused storage capacity remaining;

5. Information on radioactive waste treated or processed, including treatment/processing methods, processor identity, volume, activity, waste form, waste characteristics, packaging and shipment destination;

6. Information on radioactive waste disposed, including disposal methods, processor/broker identity, volume, activity, waste form, waste characteristics, packaging and shipping information, and disposal destination;

7. Information on radioactive wastes for which there is written approval from the appropriate regulatory agency to dispose, or to store for decay then dispose, without regard to its radioactivity. The information shall include a description of the treatment/processing/storage/disposal procedure, waste stream, type of waste, volume, activity, waste form, waste characteristics, container type, treatment/processing/storage disposal site name, location and the identity of the owner/operator thereof, and date at which time the radioactive waste may be disposed without regard to its radioactivity;

8. A description of each low-level radioactive waste stream, including volume, activity, radionuclides, waste characteristics and waste form, expected to be generated annually in next five calendar years; and

9. Steps taken to reduce the volume and activity of radioactive waste generated at the facility.

(d) The report required by this section shall be submitted by the generator to:

NJ Low-Level Radioactive Waste
Disposal Facility Siting Board
CN 410
Trenton, New Jersey 08625-0410.

Amended by R.1995 d.130, effective March 6, 1995.
See: 26 N.J.R. 4946(a), 27 N.J.R. 905(a).

7:60-1.4 Establishment of annual budget

(a) The Board shall assess and collect from each generator an annual fee for the fiscal year (July 1 through June 30), starting with fiscal year 1992.

(b) At a public meeting to be held annually, the Board shall approve a budget for the next fiscal year. The Board shall provide public notice of the public meeting and the availability from the Board of the proposed budget for review, in the New Jersey Register and several newspapers with general circulation, at least 30 days prior to the date of the public meeting. At the public meeting, the Board will take comments on the proposed budget.

(c) In determining the portion of the annual budget which comprises the assessment budget, the Board shall take into consideration any surpluses which can be credited or deficits to be assessed and other available sources of funds. At a public meeting, the Board shall approve the assessment budget for the next fiscal year. The Board shall provide public notice of the public meeting, in the New Jersey Register and in several newspapers with general circulation, at least 30 days prior to the date of the public meeting. At the public meeting, the Board will take comments on the proposed assessment budget.

(d) The Board's approved budget shall be reviewed and approved by the New Jersey Department of Treasury.

(e) The Board shall cause an annual audit pursuant to N.J.S.A. 13:1E-181.3(b).

(f) The Board shall provide public notice of the availability from the Board of the approved budget, the assessment budget, the list of fees calculated in accordance with N.J.A.C. 7:60-1.6, and the results of the most recent annual audit, in the New Jersey Register and several newspapers with general circulation before sending out the bills.

Public Notice: Public meeting to approve the budget for 1992 and 1993.

See: 24 N.J.R. 1122(b).

Public Notice: Public meeting to approve the budget for fiscal year 1994.

See: 24 N.J.R. 4419(c).

Public Notice: Notice of availability of approved budget and list of fees for fiscal year 1994 and most recent annual audit.

See: 25 N.J.R. 1893(a).

Public Notice: Public meeting to approve FY1995 budget.

See: 25 N.J.R. 5702(b).

Public Notice: Availability of approved FY 1995 budget.

See: 26 N.J.R. 2149(a).

Amended by R.1995 d.130, effective March 6, 1995.

See: 26 N.J.R. 4946(a), 27 N.J.R. 905(a).

Public Notice: Notice of availability of approved budget for fiscal year 1996 and most recent annual audit.

See: 27 N.J.R. 1817(b).

7:60-1.5 Process for paying fees

(a) The Board shall notify each generator by April 15 of each year of its fee.

(b) Payment of all fees shall be made only by check or money order, payable to "Treasurer, State of New Jersey," and submitted to:

NJ Low-Level Radioactive Waste Disposal Facility
Fund
c/o Department of Environmental Protection
Bureau of Revenue
CN 417
Trenton, New Jersey 08625-0417.

(c) The fee shall be paid by May 15 of each year. Interest shall accrue on any unpaid portion of the annual fee beginning on May 16. The rate of interest shall be that established by the New Jersey Supreme Court for interest rates on judgments as set forth in the rules governing the Courts of the State of New Jersey. If the fee remains unpaid, the Board may preclude the generator from utilizing the low-level radioactive waste disposal facility.

(d) Fees shall not be pro-rated nor shall any refunds be made. However, for annual fees of greater than \$100,000, the payment of the fee may be made in four equal payments due May 15, July 15, October 15 and January 15 in addition to interest due on that payment.

(e) The Board shall take any other appropriate legal actions to collect all fees due to it.

(f) If the generator objects to the assessment, the Board shall recalculate the fee upon receipt of a request from the generator setting forth the basis for the recalculation in writing within 15 days of assessment of the fee. The Board or its designee will not recalculate a fee where the generator has failed to submit information required.

(g) If a generator qualifies as a small business, the Board shall limit the fee to no more than 1.000 percent of the annual gross revenues of the generator as reported in the most recent audited annual report filed with the Securities and Exchange Commission (or its financial equivalent). The generator seeking such limitation shall submit a request, in writing within 15 days of assessment of the fee, setting forth the basis for the fee reduction, proof of the generator's status as a small business, and a copy of its most recent audited annual report. The Board or its designee will not consider the request if the generator has failed to submit information required.

7:60-1.6 Fees for generators

(a) The annual fee for each generator shall be calculated according to this section.

(b) For the first assessment covering fiscal years 1992 and 1993 assessment budget, each generator's base fee shall be calculated using the following formula:

$$\left[\frac{1}{6} \left[\frac{V(1988,G)}{V(1988,NJ)} + \frac{V(1989,G)}{V(1989,NJ)} + \frac{V(1990,G)}{V(1990,NJ)} + \frac{A(1988,G)}{A(1988,NJ)} + \frac{A(1989,G)}{A(1989,NJ)} + \frac{A(1990,G)}{A(1990,NJ)} \right] \right]$$

multiplied by [93% of the Assessment Budget]

(c) For the second assessment covering fiscal year 1994 assessment budget, each generator's base fee shall be calculated using the following formula:

$$\left[\frac{1}{6} \left[\frac{V(1989,G)}{V(1989,NJ)} + \frac{V(1990,G)}{V(1990,NJ)} + \frac{V(1991,G)}{V(1991,NJ)} + \frac{A(1989,G)}{A(1989,NJ)} + \frac{A(1990,G)}{A(1990,NJ)} + \frac{A(1991,G)}{A(1991,NJ)} \right] \right]$$

multiplied by [93% of the Assessment Budget]

(d) For the third assessment covering fiscal year 1995 assessment budget, each generator's base fee shall be calculated using the following formula:

$$\left[\frac{1}{6} \left[\frac{V(1990,G)}{V(1990,NJ)} + \frac{V(1991,G)}{V(1991,NJ)} + \frac{V(1992,G)}{V(1992,NJ)} + \frac{A(1990,G)}{A(1990,NJ)} + \frac{A(1991,G)}{A(1991,NJ)} + \frac{A(1992,G)}{A(1992,NJ)} \right] \right]$$

multiplied by [93% of the Assessment Budget]

(e) For fiscal year 1996, each generator's base fee shall be calculated using the following formula:

$$\left[\frac{1}{6} \left[\frac{DV(1991,G)}{DV(1991,NJ)} + \frac{DV(1992,G)}{DV(1992,NJ)} + \frac{DV(1993,G)}{DV(1993,NJ)} + \frac{DA(1991,G)}{DA(1991,NJ)} + \frac{DA(1992,G)}{DA(1992,NJ)} + \frac{DA(1993,G)}{DA(1993,NJ)} \right] \right]$$

multiplied by [93% of the Assessment Budget]

(f) For fiscal year 1997, each generator's base fee shall be calculated using the following formula:

$$\left[\frac{1}{6} \left[\frac{DV(1992,G)}{DV(1992,NJ)} + \frac{DV(1993,G)}{DV(1993,NJ)} + \frac{DV(1994,G)}{DV(1994,NJ)} + \frac{SV(1994,G)}{SV(1994,NJ)} + \frac{DA(1992,G)}{DA(1992,NJ)} + \frac{DA(1993,G)}{DA(1993,NJ)} + \frac{DA(1994,G)}{DA(1994,NJ)} + \frac{SA(1994,G)}{SA(1994,NJ)} \right] \right]$$

multiplied by [93% of the Assessment Budget]

(g) For fiscal year 1998, each generator's base fee shall be calculated using the following formula:

$$\left[\frac{1}{6} \left[\frac{DV(1993,G)}{DV(1993,NJ)} + \frac{DV(1994,G)}{DV(1994,NJ)} + \frac{SV(1994,G)}{SV(1994,NJ)} + \frac{DV(1995,G)}{DV(1995,NJ)} + \frac{SV(1995,G)}{SV(1995,NJ)} + \frac{SA(1993,G)}{SA(1993,NJ)} + \frac{DA(1994,G)}{DA(1994,NJ)} + \frac{SA(1994,G)}{SA(1994,NJ)} + \frac{DA(1995,G)}{DA(1995,NJ)} + \frac{SA(1995,G)}{SA(1995,NJ)} \right] \right]$$

multiplied by [93% of the Assessment Budget]

(h) For fiscal year 1999, each generator's base fee shall be calculated using the following formula:

$$\left[\frac{1}{6} \left[\frac{DV(1994,G)}{DV(1994,NJ)} + \frac{SV(1994,G)}{SV(1994,NJ)} + \frac{DV(1995,G)}{DV(1995,NJ)} + \frac{SV(1995,G)}{SV(1995,NJ)} + \frac{DV(1996,G)}{DV(1996,NJ)} + \frac{SV(1996,G)}{SV(1996,NJ)} + \frac{DA(1994,G)}{DA(1994,NJ)} + \frac{SA(1994,G)}{SA(1994,NJ)} + \frac{DA(1995,G)}{DA(1995,NJ)} + \frac{SA(1995,G)}{SA(1995,NJ)} + \frac{DA(1996,G)}{DA(1996,NJ)} + \frac{SA(1996,G)}{SA(1996,NJ)} \right] \right]$$

multiplied by [93% of the Assessment Budget]

(i) For fiscal year 2000, each generator's base fee shall be calculated using the following formula:

$$\left[\frac{1}{6} \left[\frac{DV(1995,G)}{DV(1995,NJ)} + \frac{SV(1995,G)}{SV(1995,NJ)} + \frac{DV(1996,G)}{DV(1996,NJ)} + \frac{SV(1996,G)}{SV(1996,NJ)} + \frac{DV(1997,G)}{DV(1997,NJ)} + \frac{SV(1997,G)}{SV(1997,NJ)} + \frac{DA(1995,G)}{DA(1995,NJ)} + \frac{SA(1995,G)}{SA(1995,NJ)} + \frac{DA(1996,G)}{DA(1996,NJ)} + \frac{SA(1996,G)}{SA(1996,NJ)} + \frac{DA(1997,G)}{DA(1997,NJ)} + \frac{SA(1997,G)}{SA(1997,NJ)} \right] \right]$$

multiplied by [93% of the Assessment Budget]

(j) For fiscal year 2001, each generator's base fee shall be calculated using the following formula:

$$\left[\frac{1}{6} \left[\frac{DV(1996,G)}{DV(1996,NJ)} + \frac{SV(1996,G)}{SV(1996,NJ)} + \frac{DV(1997,G)}{DV(1997,NJ)} + \frac{SV(1997,G)}{SV(1997,NJ)} + \frac{DV(1998,G)}{DV(1998,NJ)} + \frac{SV(1998,G)}{SV(1998,NJ)} + \frac{DA(1996,G)}{DA(1996,NJ)} + \frac{SA(1996,G)}{SA(1996,NJ)} + \frac{DA(1997,G)}{DA(1997,NJ)} + \frac{SA(1997,G)}{SA(1997,NJ)} + \frac{DA(1998,G)}{DA(1998,NJ)} + \frac{SA(1998,G)}{SA(1998,NJ)} \right] \right]$$

multiplied by [93% of the Assessment Budget]

(k) For each assessment, each nuclear power plant unit will be assessed an additional fee, in addition to its base fee, calculated using the following formula:

Hope Creek Nuclear Generating Station:
2.544% of the Assessment Budget

Oyster Creek Nuclear Generating Station:
2.549% of the Assessment Budget

Salem I Nuclear Generating Station:
0.943% of the Assessment Budget

Salem II Nuclear Generating Station:
0.964% of the Assessment Budget

Amended by R.1995 d.130, effective March 6, 1995.
See: 26 N.J.R. 4946(a), 27 N.J.R. 905(a).

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