



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB1479

Introduced 2/9/2007, by Sen. Deanna Demuzio

SYNOPSIS AS INTRODUCED:

420 ILCS 40/4
420 ILCS 40/31

from Ch. 111 1/2, par. 210-4
from Ch. 111 1/2, par. 210-31

Amends the Radiation Protection Act of 1990. Defines "identical in substance" regulations. Provides that the Illinois Emergency Management Agency is exempt from rulemaking procedures in the Illinois Administrative Procedure Act in situations that consist of identical in substance regulations that are necessary to implement, secure, or maintain federal authorization for a program. Provides that the Agency may make changes that are necessary for compliance with the Illinois Administrative Code and other technical changes in certain situations. Provides alternative requirements for the Agency to follow in rulemakings exempt from the requirements of the Illinois Administrative Procedure Act. Makes other changes. Effective immediately.

LRB095 04088 CMK 24126 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning safety.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Radiation Protection Act of 1990 is amended
5 by changing Sections 4 and 31 as follows:

6 (420 ILCS 40/4) (from Ch. 111 1/2, par. 210-4)

7 (Section scheduled to be repealed on January 1, 2011)

8 Sec. 4. Definitions. As used in this Act:

9 (a) "Accreditation" means the process by which the Agency
10 grants permission to persons meeting the requirements of this
11 Act and the Department's rules and regulations to engage in the
12 practice of administering radiation to human beings.

13 (a-2) "Agency" means the Illinois Emergency Management
14 Agency.

15 (a-3) "Assistant Director" means the Assistant Director of
16 the Agency.

17 (a-5) "By-product material" means: (1) any radioactive
18 material (except special nuclear material) yielded in or made
19 radioactive by exposure to radiation incident to the process of
20 producing or utilizing special nuclear material; and (2) the
21 tailings or wastes produced by the extraction or concentration
22 of uranium or thorium from any ore processed primarily for its
23 source material content, including discrete surface wastes

1 resulting from underground solution extraction processes but
2 not including underground ore bodies depleted by such solution
3 extraction processes.

4 (b) (Blank).

5 (c) (Blank).

6 (d) "General license" means a license, pursuant to
7 regulations promulgated by the Agency, effective without the
8 filing of an application to transfer, acquire, own, possess or
9 use quantities of, or devices or equipment utilizing,
10 radioactive material, including but not limited to by-product,
11 source or special nuclear materials.

12 (d-1) "Identical in substance" means the regulations
13 promulgated by the Agency would require the same actions with
14 respect to ionizing radiation, for the same group of affected
15 persons, as would federal laws, regulations, or orders if any
16 federal agency, including but not limited to the Nuclear
17 Regulatory Commission, Food and Drug Administration, or
18 Environmental Protection Agency, administered the subject
19 program in Illinois.

20 (d-3) "Mammography" means radiography of the breast
21 primarily for the purpose of enabling a physician to determine
22 the presence, size, location and extent of cancerous or
23 potentially cancerous tissue in the breast.

24 (d-7) "Operator" is an individual, group of individuals,
25 partnership, firm, corporation, association, or other entity
26 conducting the business or activities carried on within a

1 radiation installation.

2 (e) "Person" means any individual, corporation,
3 partnership, firm, association, trust, estate, public or
4 private institution, group, agency, political subdivision of
5 this State, any other State or political subdivision or agency
6 thereof, and any legal successor, representative, agent, or
7 agency of the foregoing, other than the United States Nuclear
8 Regulatory Commission, or any successor thereto, and other than
9 federal government agencies licensed by the United States
10 Nuclear Regulatory Commission, or any successor thereto.
11 "Person" also includes a federal entity (and its contractors)
12 if the federal entity agrees to be regulated by the State or as
13 otherwise allowed under federal law.

14 (f) "Radiation" or "ionizing radiation" means gamma rays
15 and x-rays, alpha and beta particles, high speed electrons,
16 neutrons, protons, and other nuclear particles or
17 electromagnetic radiations capable of producing ions directly
18 or indirectly in their passage through matter; but does not
19 include sound or radio waves or visible, infrared, or
20 ultraviolet light.

21 (f-5) "Radiation emergency" means the uncontrolled release
22 of radioactive material from a radiation installation which
23 poses a potential threat to the public health, welfare, and
24 safety.

25 (g) "Radiation installation" is any location or facility
26 where radiation machines are used or where radioactive material

1 is produced, transported, stored, disposed of, or used for any
2 purpose.

3 (h) "Radiation machine" is any device that produces
4 radiation when in use.

5 (i) "Radioactive material" means any solid, liquid, or
6 gaseous substance which emits radiation spontaneously.

7 (j) "Radiation source" or "source of ionizing radiation"
8 means a radiation machine or radioactive material as defined
9 herein.

10 (k) "Source material" means (1) uranium, thorium, or any
11 other material which the Agency declares by order to be source
12 material after the United States Nuclear Regulatory
13 Commission, or any successor thereto, has determined the
14 material to be such; or (2) ores containing one or more of the
15 foregoing materials, in such concentration as the Agency
16 declares by order to be source material after the United States
17 Nuclear Regulatory Commission, or any successor thereto, has
18 determined the material in such concentration to be source
19 material.

20 (l) "Special nuclear material" means (1) plutonium,
21 uranium 233, uranium enriched in the isotope 233 or in the
22 isotope 235, and any other material which the Agency declares
23 by order to be special nuclear material after the United States
24 Nuclear Regulatory Commission, or any successor thereto, has
25 determined the material to be such, but does not include source
26 material; or (2) any material artificially enriched by any of

1 the foregoing, but does not include source material.

2 (m) "Specific license" means a license, issued after
3 application, to use, manufacture, produce, transfer, receive,
4 acquire, own, or possess quantities of, or devices or equipment
5 utilizing radioactive materials.

6 (Source: P.A. 94-104, eff. 7-1-05.)

7 (420 ILCS 40/31) (from Ch. 111 1/2, par. 210-31)

8 (Section scheduled to be repealed on January 1, 2011)

9 Sec. 31. Rulemaking; exemptions.

10 (a) The provisions of the Illinois Administrative
11 Procedure Act are hereby expressly adopted and shall apply to
12 all administrative rules and procedures of the Agency under
13 this Act, except that in case of conflict between the Illinois
14 Administrative Procedure Act and this Act the provisions of
15 this Act shall control, and except that Section 5-35 of the
16 Illinois Administrative Procedure Act relating to procedures
17 for rule-making does not apply to the adoption of any rule
18 required by federal law in connection with which the Agency is
19 precluded by law from exercising any discretion.

20 (b) The Agency is exempt from rulemaking procedures in the
21 Illinois Administrative Procedure Act when regulations that
22 are identical in substance are necessary to implement, secure,
23 or maintain federal authorization for a program. After
24 consideration of comments from the appropriate federal agency,
25 the Agency may adopt the verbatim text of the laws,

1 regulations, or orders as necessary and appropriate for
2 authorization or maintenance of the program. In adopting
3 identical in substance regulations, the only changes that may
4 be made by the Agency to the federal laws, regulations, or
5 orders are those changes that are necessary for compliance with
6 the Illinois Administrative Code and technical changes that in
7 no way change the scope or meaning of any portion of the
8 regulations, except as follows:

9 (1) The Agency shall not adopt the equivalent of
10 federal laws, regulations, or orders that:

11 (a) are not applicable to persons or facilities in
12 Illinois;

13 (b) are appropriate only in federal
14 agency-administered programs; or

15 (c) govern actions to be taken by other federal
16 agencies or states.

17 (2) The Agency shall not adopt regulations prescribing
18 things that are outside the Agency's normal functions.

19 (3) If a federal agency regulation prescribes the
20 contents of a state regulation without setting forth the
21 regulation itself, which would be an integral part of any
22 regulation required to be adopted as an identical in
23 substance regulation as prescribed, the Agency shall adopt
24 a regulation as prescribed by the federal agency to the
25 extent possible and consistent with other relevant federal
26 agency regulations and existing State law.

1 (4) The Agency may incorporate federal agency laws,
2 regulations, or orders by reference if it is possible to do
3 so.

4 (5) The Agency may correct typographical and
5 grammatical errors that are apparent in identical in
6 substance regulations.

7 (6) For regulations required by the Nuclear Regulatory
8 Commission, the Agency may substitute the word
9 "radioactive" for the word "by-product" when referring to
10 radioactive material.

11 (c) For exempt rulemakings, the Agency shall: (i) publish
12 notice of the rulemaking in the Illinois Register; (ii)
13 specifically refer to the appropriate federal laws,
14 regulations, or orders; and (iii) follow the format reasonably
15 prescribed by the Secretary of State by rule. The regulations
16 adopted under this Section become effective immediately upon
17 filing with the Secretary of State or at a date required or
18 authorized by the relevant federal laws, regulations, or orders
19 as stated in the notice of the rulemaking.

20 (Source: P.A. 94-104, eff. 7-1-05.)

21 Section 99. Effective date. This Act takes effect upon
22 becoming law.