

AN ACT concerning safety.

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

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

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

(Section scheduled to be repealed on January 1, 2011)

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

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

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

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

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

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

(b) (Blank).

(c) (Blank).

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

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

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

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

radiation installation.

(e) "Person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this State, 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, and other than federal government agencies licensed by the United States Nuclear Regulatory Commission, or any successor thereto. "Person" also includes a federal entity (and its contractors) if the federal entity agrees to be regulated by the State or as otherwise allowed under federal law.

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

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

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

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

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

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

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

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

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

the foregoing, but does not include source material.

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

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

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

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

Sec. 31. Rulemaking; exemptions.

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

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

regulations, or orders as necessary and appropriate for authorization or maintenance of the program. For purposes of this Section only, the term "order" is defined as a legal directive by a federal agency regarding an issue, situation, or a specific action. In adopting identical in substance regulations, the only changes that may be made by the Agency to the federal laws, regulations, or orders are those changes that are necessary for compliance with the Illinois Administrative Code and technical changes that in no way change the scope or meaning of any portion of the regulations, except as follows:

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

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

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

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

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

(3) If a federal agency regulation prescribes the contents of a state regulation without setting forth the regulation itself, which would be an integral part of any regulation required to be adopted as an identical in substance regulation as prescribed, the Agency shall adopt a regulation as prescribed by the federal agency to the

extent possible and consistent with other relevant federal agency regulations and existing State law.

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

(5) The Agency may correct typographical and grammatical errors.

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

(c) For exempt identical in substance rulemakings, the Agency shall: (i) publish first notice of the rulemaking in the Illinois Register in accordance with the Illinois Administrative Procedure Act to provide public notice and opportunity for public comment; (ii) specifically refer to the appropriate federal laws, regulations, or orders; and (iii) follow the format reasonably prescribed by the Secretary of State by rule. The rulemakings adopted under this Section become effective following the first notice period immediately upon filing for adoption with the Secretary of State or at a date required or authorized by the relevant federal laws, regulations, or orders as stated in the notice of the rulemaking, and shall be published in the Illinois Register.

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

Section 99. Effective date. This Act takes effect upon

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becoming law.