

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, 5, 6, 7, 7a, 9, 10, 11, 11.5, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 24.5, 24.7, 25, 25.1, 25.2, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 43, 44, 45, and 49 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(Section scheduled to be repealed on January 1, 2011)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 ~~Department of Nuclear Safety~~ 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). ~~"Department" means the Department of Nuclear Safety in the State of Illinois.~~

(c) (Blank). ~~"Director" means the Director of the Department of Nuclear Safety.~~

(d) "General license" means a license, pursuant to regulations promulgated by the Agency ~~Department~~, 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-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 ~~Department~~ 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 ~~Department~~ 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 ~~Department~~ 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. 91-188, eff. 7-20-99; 91-340, eff. 7-29-99; 92-16, eff. 6-28-01.)

(420 ILCS 40/5) (from Ch. 111 1/2, par. 210-5)

(Section scheduled to be repealed on January 1, 2011)

Sec. 5. Limitations on application of radiation to human beings and requirements for radiation installation operators providing mammography services.

(a) No person shall intentionally administer radiation to a human being unless such person is licensed to practice a treatment of human ailments by virtue of the Illinois Medical, Dental or Podiatric Medical Practice Acts, or, as physician assistant, advanced practice nurse, technician, nurse, or other assistant, is acting under the supervision, prescription or direction of such licensed person. However, no such physician assistant, advanced practice nurse, technician, nurse, or other assistant acting under the supervision of a person licensed under the Medical Practice Act of 1987, shall administer radiation to human beings unless accredited by the Agency ~~Department of Nuclear Safety~~, except that persons enrolled in a course of education approved by the Agency ~~Department of Nuclear Safety~~ may apply ionizing radiation to human beings as required by their course of study when under the direct supervision of a person licensed under the Medical Practice Act of 1987. No person authorized by this Section to apply ionizing radiation shall apply such radiation except to those parts of the human body specified in the Act under which such person or his supervisor is licensed. No person may operate a radiation installation where ionizing radiation is administered to human beings unless all persons who administer ionizing radiation in that radiation installation are licensed, accredited, or exempted in accordance with this Section. Nothing in this Section shall be deemed to relieve a person from complying with the provisions of Section 10.

(b) In addition, no person shall provide mammography

services unless all of the following requirements are met:

(1) the mammography procedures are performed using a radiation machine that is specifically designed for mammography;

(2) the mammography procedures are performed using a radiation machine that is used solely for performing mammography procedures;

(3) the mammography procedures are performed using equipment that has been subjected to a quality assurance program that satisfies quality assurance requirements which the Agency ~~Department~~ shall establish by rule;

(4) beginning one year after the effective date of this amendatory Act of 1991, if the mammography procedure is performed by a radiologic technologist, that technologist, in addition to being accredited by the Agency ~~Department~~ to perform radiography, has satisfied training requirements specific to mammography, which the Agency ~~Department~~ shall establish by rule.

(c) Every operator of a radiation installation at which mammography services are provided shall ensure and have confirmed by each mammography patient that the patient is provided with a pamphlet which is orally reviewed with the patient and which contains the following:

(1) how to perform breast self-examination;

(2) that early detection of breast cancer is maximized through a combined approach, using monthly breast self-examination, a thorough physical examination performed by a physician, and mammography performed at recommended intervals;

(3) that mammography is the most accurate method for making an early detection of breast cancer, however, no diagnostic tool is 100% effective;

(4) that if the patient is self-referred and does not have a primary care physician, or if the patient is unfamiliar with the breast examination procedures, that the patient has received information regarding public

health services where she can obtain a breast examination and instructions.

(Source: P.A. 93-149, eff. 7-10-03.)

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

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

Sec. 6. Accreditation of administrators of radiation; Limited scope accreditation; Rules and regulations; Education.

(a) The Agency ~~Department~~ shall promulgate such rules and regulations as are necessary to establish accreditation standards and procedures, including a minimum course of education and continuing education requirements in the administration of radiation to human beings, which are appropriate to the classification of accreditation and which are to be met by all physician assistants, advanced practice nurses, nurses, technicians, or other assistants who administer radiation to human beings under the supervision of a person licensed under the Medical Practice Act of 1987. Such rules and regulations may provide for different classes of accreditation based on evidence of national certification, clinical experience or community hardship as conditions of initial and continuing accreditation. The rules and regulations of the Agency ~~Department~~ shall be consistent with national standards in regard to the protection of the health and safety of the general public.

(b) The rules and regulations shall also provide that persons who have been accredited by the Agency ~~Department~~, in accordance with the Radiation Protection Act, without passing an examination, will remain accredited as provided in Section 43 of this Act and that those persons may be accredited, without passing an examination, to use other equipment, procedures, or supervision within the original category of accreditation if the Agency ~~Department~~ receives written assurances from a person licensed under the Medical Practice Act of 1987, that the person accredited has the necessary skill and qualifications for such additional equipment procedures or

supervision. The Agency ~~Department~~ shall, in accordance with subsection (c) of this Section, provide for the accreditation of nurses, technicians, or other assistants, unless exempted elsewhere in this Act, to perform a limited scope of diagnostic radiography procedures of the chest, the extremities, skull and sinuses, or the spine, while under the supervision of a person licensed under the Medical Practice Act of 1987.

(c) The rules or regulations promulgated by the Agency ~~Department~~ pursuant to subsection (a) shall establish standards and procedures for accrediting persons to perform a limited scope of diagnostic radiography procedures. The rules or regulations shall require persons seeking limited scope accreditation to register with the Agency ~~Department~~ as a "student-in-training," and declare those procedures in which the student will be receiving training. The student-in-training registration shall be valid for a period of 16 months, during which the time the student may, under the supervision of a person licensed under the Medical Practice Act of 1987, perform the diagnostic radiography procedures listed on the student's registration. The student-in-training registration shall be nonrenewable.

Upon expiration of the 16 month training period, the student shall be prohibited from performing diagnostic radiography procedures unless accredited by the Agency ~~Department~~ to perform such procedures. In order to be accredited to perform a limited scope of diagnostic radiography procedures, an individual must pass an examination offered by the Agency ~~Department~~. The examination shall be consistent with national standards in regard to protection of public health and safety. The examination shall consist of a standardized component covering general principles applicable to diagnostic radiography procedures and a clinical component specific to the types of procedures for which accreditation is being sought. The Agency ~~Department~~ may assess a reasonable fee for such examinations to cover the costs incurred by the Department in conjunction with offering the examinations.

(d) The Agency ~~Department~~ shall by rule or regulation exempt from accreditation physician assistants, advanced practice nurses, nurses, technicians, or other assistants who administer radiation to human beings under supervision of a person licensed to practice under the Medical Practice Act of 1987 when the services are performed on employees of a business at a medical facility owned and operated by the business. Such exemption shall only apply to the equipment, procedures and supervision specific to the medical facility owned and operated by the business.

(Source: P.A. 93-149, eff. 7-10-03.)

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

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

Sec. 7. Administrators of radiation; application for accreditation and renewal; fees; Fund. Applications for accreditation and renewal shall be made upon forms prescribed and furnished by the Agency ~~Department~~ and shall be accompanied by the required fees. Each such application for accreditation or renewal shall be accompanied by such proof of compliance with the applicable requirements as the Agency ~~Department~~ may by rule require. Accreditation shall be renewed every 2 years, or for a lesser period as established by rule for accreditation based upon conditions of community hardship. The Agency ~~Department~~ may deny an application for accreditation or renewal, or may suspend or revoke accreditation under standards and procedures established by the Agency ~~Department~~.

Except as provided in Section 6, the Agency ~~Department~~ shall not impose an examination fee. The Agency ~~Department~~ shall by rule establish application fees for accreditation or renewal.

(Source: P.A. 90-391, eff. 8-15-97.)

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

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

Sec. 7a. Certification of Industrial Radiographers.

(a) Beginning January 1, 1993, no person may perform industrial radiography unless he or she is certified by the Department of Nuclear Safety or its successor, the Illinois Emergency Management Agency, to perform industrial radiography. The Agency ~~Department~~ shall promulgate regulations establishing standards and procedures for certification of industrial radiographers. The regulations may include, without limitation, provisions specifying a minimum course of study and requiring that individuals seeking certification pass an examination administered or approved by the Agency ~~Department~~. Industrial radiography certification shall be valid for 5 years, except that certifications for industrial radiography trainees shall be valid for 2 years. The Agency ~~Department~~ shall establish by regulation standards and procedures for renewal of certification. The regulations shall provide that certification for industrial radiography trainees shall be nonrenewable.

(b) The ~~Department's~~ regulations of the Department of Nuclear Safety, as the predecessor agency of the Illinois Emergency Management Agency, shall ~~also~~ provide for provisional certification of persons who performed industrial radiography before January 1, 1993. In order to obtain provisional certification, the industrial radiographer must apply to the Department no later than January 1, 1993. Provisional certification shall be valid for 2 years, provided that a person who has obtained a provisional certification must take an examination that is administered or approved by the Department within 12 months of the date on which the provisional certification was issued. Upon passing the examination, the Department shall certify the individual as an industrial radiographer. Provisional certification shall be nonrenewable.

(c) The Agency ~~Department~~ may, by regulation, assess certification fees and fees to recover the cost of examining applicants for certification.

(d) The Agency ~~Department~~ may suspend or revoke the

certification of an industrial radiographer, or take other action as provided in Sections 36 and 38 of this Act, if a certified industrial radiographer violates this Act or any rule or regulation promulgated under this Act, or otherwise endangers the safety of himself, his co-workers, or members of the general public. It shall be a violation of this Act for any person to allow an individual who is not a certified industrial radiographer to perform industrial radiography.

(Source: P.A. 87-604; 87-1166.)

(420 ILCS 40/9) (from Ch. 111 1/2, par. 210-9)

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

Sec. 9. Rules and regulations. No person shall use radiation in contravention of such rules and regulations as the Agency ~~Department~~ may make relating to the control of ionizing radiation. The Agency ~~Department~~ shall promulgate rules to provide specific standards for (1) determining what financial surety arrangements are required for license approval; (2) determining when an application for license is for an activity which adversely affects the environment, how it will approve such license, and what conditions it will impose before approval; (3) determining to what maximum level a licensee must remove radiation contamination; (4) determining when a product contains a high degree of utility and a low probability of uncontrolled disposal and dispersal; (5) providing what constitutes an emergency for the purposes of waiving notice requirements for out-of-state licensees; and (6) authorizing the injection of radioactive material into potable aquifers.

(Source: P.A. 86-1341.)

(420 ILCS 40/10) (from Ch. 111 1/2, par. 210-10)

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

Sec. 10. Licensing of certain sources of ionizing radiation.

(1) The Agency ~~Department~~ shall provide by rule or regulation for general or specific licensing of by-product

materials, source materials, special nuclear materials, or devices or equipment utilizing or producing such materials. Such rule or regulation shall provide for amendment, suspension, or revocation of licenses.

(2) The Agency ~~Department~~ is authorized to require registration of other sources of ionizing radiation.

(3) The Agency ~~Department~~ is authorized to exempt certain sources of ionizing radiation or kinds of uses or users from the licensing requirements set forth in this section when the Agency ~~Department~~ makes a finding that the exemption of such sources of ionizing radiation or kinds of uses or users will not constitute a significant risk to health and safety of the public.

(4) The Agency ~~Department~~ is authorized to enforce rules pertaining to labeling, handling, packaging, transferring and transporting radiation sources.

(5) The Agency ~~Department~~ is authorized to require licensees, including those conducting activities involving by-product material as defined in subsection (a-5)(2) of Section 4 or possessing such material, to provide adequate financial assurances such as surety bonds, cash deposits, certificates of deposit, or deposits of government securities to protect the State against costs in the event of site abandonment or failure of a licensee to meet the Agency's ~~Department's~~ requirements, as well as the costs of site reclamation and long-term site monitoring and maintenance. In the event that custody of by-product material as defined in subsection (a-5)(2) of Section 4, and the site at which such material is disposed of, is transferred to the Federal Government, any financial assurances collected for reclamation and long-term monitoring and maintenance for that site shall be transferred to the Federal Government.

(6) The Agency ~~Department~~ is authorized to promulgate rules establishing radiation exposure limits for given population groups, including differential exposure limits based on age.

(7) The Agency ~~Department~~ is authorized to promulgate rules

to provide specific standards for what training or equivalent experience it will require of a physician before approving a specific license for human use of sealed radiation sources.

(8) Rules and regulations promulgated to implement this Act may provide for recognition of other State or Federal licenses as the Agency ~~Department~~ may deem desirable, subject to such registration requirements as the Agency ~~Department~~ may prescribe.

(9) This Section shall not be applicable to radiation sources or materials regulated by the U.S. Nuclear Regulatory Commission until an agreement or agreements have been entered into pursuant to Section 11 of this Act.

(10) In the licensing and the regulation of by-product material as defined in subsection (a-5) (2) of Section 4, or of any activity which results in the production of such by-product material, the Agency ~~Department~~ shall provide by rule or regulation, and shall require compliance with, standards for the protection of the public health and safety and the environment which are equivalent to, to the extent practicable, or more stringent than, standards adopted and enforced by the U.S. Nuclear Regulatory Commission for the same purpose, including requirements and standards promulgated by the U.S. Environmental Protection Agency.

(11) Not later than 30 days after submission to the Agency ~~Department~~ of an application for a new license for a fixed location facility or a license amendment for a new location for a facility, the Agency ~~Department~~ shall provide written notice of the application to the municipality where the facility is to be located. If the facility is to be located in an unincorporated area, the notice shall be provided to the county in which the facility is to be located and to each municipality located within one and one-half miles of the facility. As used in this subsection, "fixed location facility" or "facility" means a parcel of land or a site, including the structures, equipment, and improvements on or appurtenant to the land or site, that is to be used by the applicant for the utilization,

manufacture, storage, or distribution of licensed radioactive materials or devices or equipment utilizing or producing licensed radioactive materials, but shall not include a temporary job site.

(Source: P.A. 90-359, eff. 8-10-97; 91-340, eff. 7-29-99.)

(420 ILCS 40/11) (from Ch. 111 1/2, par. 210-11)

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

Sec. 11. Federal-State Agreements.

(1) The Governor, on behalf of this State, is authorized to enter into agreements with the Federal Government providing for discontinuance of certain of the Federal Government's responsibilities with respect to sources of ionizing radiation and the assumption thereof by this State, including, but not limited to, agreements concerning by-product material as defined in Section 11(e)(2) of the Atomic Energy Act of 1954, 42 U.S.C. 2014(e)(2).

(2) Any person who, on the effective date of an agreement under subsection (1) above, possesses a license issued by the Federal Government governing activities for which the Federal Government, pursuant to such agreement, is transferring its responsibilities to this State shall be deemed to possess the same pursuant to a license issued under this Act, which shall expire 90 days after receipt from the Department of Nuclear Safety (or its successor agency, the Illinois Emergency Management Agency) of a notice of expiration of such license, or on the date of expiration specified in the Federal license, whichever is earlier.

(3) At such time as Illinois enters into a Federal-State Agreement in accordance with the provisions of this Act, the Agency ~~Department~~ shall license and collect license fees from persons operating radiation installations, including installations involving the use or possession of by-product material as defined in subsection (a-5)(2) of Section 4 and installations having such devices or equipment utilizing or producing radioactive materials but licensure shall not apply

to any x-ray machine, including those located in an office of a licensed physician or dentist. The Agency ~~Department~~ may also collect license fees from persons authorized by the Agency ~~Department~~ to engage in decommissioning and decontamination activities at radiation installations including installations licensed to use or possess by-product material as defined in subsection (a-5)(2) of Section 4. The license fees collected from persons authorized to use or possess by-product material as defined in subsection (a-5)(2) of Section 4 or to engage in decommissioning and decontamination activities at radiation installations where such by-product material is used or possessed may include fees sufficient to cover the expenses incurred by the Department in conjunction with monitoring unlicensed properties contaminated with by-product material as defined in subsection (a-5)(2) of Section 4 and overseeing the decontamination of such unlicensed properties.

The Agency ~~Department~~ may impose fees for termination of licenses including, but not limited to, licenses for refining uranium mill concentrates to uranium hexafluoride; licenses for possession and use of source material at ore buying stations, at ion exchange facilities and at facilities where ore is processed to extract metals other than uranium or thorium; and licenses authorizing the use or possession of by-product material as defined in subsection (a-5)(2) of Section 4. The Agency ~~Department~~ may also set license fees for licenses which authorize the distribution of devices, products, or sealed sources involved in the production, utilization, or containment of radiation. After a public hearing before the Agency ~~Department~~, the fees and collection procedures shall be prescribed under rules and regulations for protection against radiation hazards promulgated under this Act.

(4) The Agency ~~Department~~ is authorized to enter into agreements related to the receipt and expenditure of federal grants and other funds to provide assistance to states and compact regions in fulfilling responsibilities under the

federal Low-Level Radioactive Waste Policy Act, as amended.

(Source: P.A. 91-86, eff. 7-9-99; 91-340, eff. 7-29-99; 92-16, eff. 6-28-01.)

(420 ILCS 40/11.5)

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

Sec. 11.5. State regulation of federal entities. The Agency ~~Department~~ is authorized to regulate federal entities (and their contractors) and radiation sources operated or possessed by federal entities (or their contractors) if the federal entities agree to be regulated by the State or the regulation is otherwise allowed under federal law. The Agency ~~Department~~ may, by rule, establish fees to support the regulation.

(Source: P.A. 91-188, eff. 7-20-99.)

(420 ILCS 40/12) (from Ch. 111 1/2, par. 210-12)

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

Sec. 12. State licensure of the use, manufacture or distribution of radioactive materials or devices or equipment utilizing or producing such materials not regulated by the United States Nuclear Regulatory Commission. Except as otherwise provided in this Act, no person shall utilize, manufacture, or distribute radioactive materials or devices or equipment utilizing or producing such materials in this State with the exception of those materials or devices regulated by the Nuclear Regulatory Commission, without first securing a license. After public hearing, the Agency ~~Department~~ shall adopt rules and regulations for:

- (1) The issuance of licenses;
- (2) The utilization, manufacture and distribution of such radioactive materials or devices or equipment utilizing or producing such materials; and
- (3) The amendment, suspension or revocation of licenses.

The Agency ~~Department~~ may, by rule and regulation, exempt certain sources of radiation or kinds of radiation or users

from the licensure and fee requirements of this Section when the Department makes a finding that such exemption will not constitute a significant risk to the health and safety of the public. State, county, and municipal governmental agencies and educational institutions shall be subject to licensure, but are exempt from fee requirements of this Section.

Applications for licenses shall be made upon forms prescribed and furnished by the Agency ~~Department~~ and shall be accompanied by the fees provided herein. Licenses shall expire according to a schedule determined by the Agency ~~Department~~.

Application and license fees shall be set by rule of the Agency ~~Department~~.

This Section shall not apply to any x-ray machine including those located in an office of a licensed physician or dentist.

(Source: P.A. 91-188, eff. 7-20-99.)

(420 ILCS 40/13) (from Ch. 111 1/2, par. 210-13)

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

Sec. 13. Custody of by-product disposal sites; storage and disposal fee.

(1) Any radioactive materials license which authorizes any activity that results in the production of by-product material as defined in subsection (a-5)(2) of Section 4 or which authorizes the possession of such by-product material, and which is subsequently terminated without renewal, shall be terminated in compliance with this Section and the rules and regulations promulgated pursuant thereto.

(2) Any radioactive materials license issued or renewed after August 5, 1988, which authorizes any activity that results in the production of by-product material as defined in subsection (a-5)(2) of Section 4 or which authorizes the possession of such by-product material shall contain such terms and conditions as the Agency ~~Department~~ determines to be necessary to assure that, prior to termination of such license:

(A) The licensee will comply with prerequisites for termination including, but not limited to,

decontamination, decommissioning and reclamation requirements prescribed by the Agency ~~Department~~ which shall be equivalent to, to the extent practicable, or more stringent than, those of the U.S. Nuclear Regulatory Commission for sites at which ores were processed primarily for their source material content, and at which such by-product material as defined in subsection (a-5)(2) of Section 4 is deposited.

(B) If the State exercises the option to acquire land used for the disposal of by-product material as defined in subsection (a-5)(2) of Section 4, ownership of the land and such by-product material which resulted from the licensed activity shall, subject to the provisions of this Act, be transferred to the State.

(3) The Agency ~~Department~~ shall:

(A) Require by rule, regulation or order that, prior to the termination of any license, title to both the land which is used under such license for disposal of by-product material as defined in subsection (a-5)(2) of Section 4, and the by-product material as defined in subsection (a-5)(2) of Section 4, shall be transferred to the United States or the State unless, prior to such termination, the U.S. Nuclear Regulatory Commission determines that transfer of title to such land and such by-product material is not necessary or desirable to protect the public health, safety or welfare.

(B) Terminate radioactive materials licenses that authorize any activity that results in the production of by-product material as defined in subsection (a-5)(2) of Section 4 or that authorize the possession of such material, only if, prior to termination of such licenses, the licensee has completed decontamination of all properties that have been identified as being contaminated with by-product material at the licensed site and the U.S. Nuclear Regulatory Commission has determined that all applicable standards and requirements pertaining to such

material have been met.

(C) In the event title is transferred to the State in accordance with paragraph (B) of subsection (2) of this Section, maintain the by-product material as defined in subsection (a-5)(2) of Section 4 and the land used for disposal of such by-product material in such a manner as to protect the public health and safety and the environment.

(D) Undertake such monitoring, maintenance and emergency measures as are necessary, determined on its own initiative or by the U.S. Nuclear Regulatory Commission, to protect the public health and safety from those materials and property for which the State has assumed custody pursuant to this Act.

(4) The transfer of title to land used for disposal of by-product material as defined in subsection (a-5)(2) of Section 4 or such by-product material to the United States or the State shall not relieve any licensee of liability for any breach of contract, tort or fraudulent or negligent act or omission prior to such transfer.

(5) By-product material as defined in subsection (a-5)(2) of Section 4 and land transferred to the United States or the State in accordance with this Section shall be transferred without cost to the United States or the State, other than administrative and legal costs incurred by the United States or the State in carrying out such transfer.

(6) In accordance with the provisions of the Uranium Mill Tailings Radiation Control Act of 1978, the use of the surface or subsurface estates, or both, of the land transferred to the United States or the State pursuant to paragraph (B) of subsection (2) of this Section is prohibited unless the Commission permits such use after first determining that the use would not endanger the public health, safety or welfare or the environment.

(Source: P.A. 91-340, eff. 7-29-99.)

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

Sec. 14. Radiation Protection Advisory Council. There shall be created a Radiation Protection Advisory Council consisting of 7 members to be appointed by the Governor on the basis of demonstrated interest in and capacity to further the purposes of this Act and who shall broadly reflect the varied interests in and aspects of atomic energy and ionizing radiation within the State. The Director of the Department of Labor and the Chairman of the Commerce Commission or their representatives shall be ex-officio members of the Council.

Each member of the Council shall be appointed for a 4 year term and shall continue to serve until a successor is appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed shall continue to serve until a successor is appointed. The Chairman of the Council shall be selected by and from the Council membership. The Council members shall serve without compensation but shall be reimbursed for their actual expenses incurred in line of duty. The Council shall meet as often as the Chairman deems necessary, but upon request of 4 or more members it shall be the duty of the Chairman to call a meeting of the Council.

It shall be the duty of the Council to assist in the formulation of and to review the policies and program of the Agency ~~Department~~ as developed under authority of this Act and to make recommendations thereon and to provide the Agency ~~Department~~ with such technical advice and assistance as may be requested. The Council may employ such professional, technical, clerical and other assistants, without regard to the civil service laws or the "Personnel Code" of this State, as it deems necessary to carry out its duties.

Individuals who serve on advisory boards of the Department of Nuclear Safety or its successor agency, the Illinois Emergency Management Agency, shall be defended by the Attorney General and indemnified for all actions alleging a violation of any duty arising within the scope of their service on such

board. Nothing contained herein shall be deemed to afford defense or indemnification for any willful or wanton violation of law. Such defense and indemnification shall be afforded in accordance with the terms and provisions of the State Employee Indemnification Act.

(Source: P.A. 91-172, eff. 7-16-99.)

(420 ILCS 40/15) (from Ch. 111 1/2, par. 210-15)

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

Sec. 15. Radiologic Technologist Accreditation Advisory Board.

(a) There shall be created a Radiologic Technologist Accreditation Advisory Board consisting of 13 members to be appointed by the Governor on the basis of demonstrated interest in and capacity to further the purposes of this Act: one physician licensed to practice medicine in all its branches specializing in nuclear medicine; one physician licensed to practice medicine in all its branches specializing in diagnostic radiology; one physician licensed to practice medicine in all its branches specializing in therapeutic radiology; 3 physicians licensed to practice medicine in all its branches who do not specialize in radiology; one medical radiation physicist; one radiologic technologist (radiography); one radiologic technologist (nuclear medicine); one radiologic technologist (therapy); one chiropractor; one person accredited by the Agency ~~Department~~ to perform a limited scope of diagnostic radiography procedures; and one registered nurse. The Assistant Director ~~of the Department of Nuclear Safety~~ or his representative shall be an ex officio member of the Board with voting privileges in case of a tie. The Board may appoint consultants to assist in administering this Act.

(b) Any person serving on the Board who is a practitioner of a profession or occupation required to be accredited pursuant to this Act, shall be the holder of an appropriate accreditation issued by the State, except in the case of the initial Board members.

(c) Each member of the Board shall be appointed for a 3 year term and shall continue to serve until a successor is appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed shall continue to serve until a successor is appointed. No more than 2 successive terms shall be served by a Board member.

(d) The Chairman of the Board shall be selected by and from the Board membership.

(e) The Board members shall serve without compensation but shall be reimbursed for their actual expenses incurred in line of duty.

(f) All members of the Board shall be legal residents of the State and shall have practiced for a minimum period of 2 years immediately preceding appointment.

(g) The Board shall meet as often as the Chairman deems necessary, but upon request of 7 or more members it shall be the duty of the Chairman to call a meeting of the Board.

(h) The Board shall advise, consult with and make recommendations to the Agency ~~Department~~ with respect to accreditation requirements to be promulgated by the Agency ~~Department~~; however, the actions of the Board shall be advisory only with respect to the Agency ~~Department~~.

(i) Individuals who serve on advisory boards of the Department of Nuclear Safety or its successor agency, the Illinois Emergency Management Agency, shall be defended by the Attorney General and indemnified for all actions alleging a violation of any duty arising within the scope of their service on such advisory board. Nothing contained herein shall be deemed to afford defense or indemnification for any willful or wanton violation of law. Such defense and indemnification shall be afforded in accordance with the terms and provisions of the State Employees Indemnification Act.

(Source: P.A. 90-655, eff. 7-30-98; 91-172, eff. 7-16-99.)

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

Sec. 16. Functions and powers of Agency ~~Department~~. The Agency ~~Department~~ shall administer this Act and promulgate by codes, rules, regulations, or orders such standards and instructions to govern the possession and use of any radiation source as the Agency ~~Department~~ may deem necessary or desirable to protect the public health, welfare and safety.

(Source: P.A. 86-1341.)

(420 ILCS 40/17) (from Ch. 111 1/2, par. 210-17)

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

Sec. 17. The Agency ~~Department~~ shall develop comprehensive policies and programs for the evaluation and determination of exposures associated with the use of radiation, and for their control.

(Source: P.A. 86-1341.)

(420 ILCS 40/18) (from Ch. 111 1/2, par. 210-18)

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

Sec. 18. The Agency ~~Department~~ shall hold public hearings, receive pertinent and relevant proof from any party in interest who appears before the Agency ~~Department~~, make findings of facts and determinations, all with respect to the violations of the provisions of this Act or codes, rules, regulations or orders issued pursuant thereto. The Department of Nuclear Safety shall, within one year of September 7, 1990 (the effective date of Public Act 86-1341) ~~this Act~~, adopt rules which prescribe the standards used by the Department in determining when amendments to pleadings shall be allowed to join or dismiss any party, or to delete, modify or add allegations or defenses before the completion of an administrative hearing. The Agency ~~Department~~ shall allow only attorneys licensed and registered to practice in this State to appear before it in administrative hearings, except that a natural person may appear on his or her own behalf.

(Source: P.A. 86-1341.)

(420 ILCS 40/19) (from Ch. 111 1/2, par. 210-19)

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

Sec. 19. The Agency ~~Department~~ shall institute or cause to be instituted in the circuit court proceedings to compel compliance with the provisions of this Act or codes, rules, regulations or orders issued pursuant thereto.

(Source: P.A. 86-1341.)

(420 ILCS 40/20) (from Ch. 111 1/2, par. 210-20)

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

Sec. 20. The Agency ~~Department~~ shall 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.

(Source: P.A. 86-1341.)

(420 ILCS 40/21) (from Ch. 111 1/2, par. 210-21)

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

Sec. 21. The Agency ~~Department~~ shall 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.

(Source: P.A. 86-1341.)

(420 ILCS 40/22) (from Ch. 111 1/2, par. 210-22)

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

Sec. 22. The Agency ~~Department~~ shall encourage, participate in, or conduct studies, investigations, training, research, and demonstrations relating to the control or measurement of radiation, the effects on health of exposure to radiation, and related problems as it may deem necessary or advisable in the discharge of its duties under this Act.

(Source: P.A. 86-1341.)

(420 ILCS 40/23) (from Ch. 111 1/2, par. 210-23)

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

Sec. 23. The Agency ~~Department~~ shall collect, maintain and disseminate health education information relating to radiation.

(Source: P.A. 86-1341.)

(420 ILCS 40/24) (from Ch. 111 1/2, par. 210-24)

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

Sec. 24. The Agency ~~Department~~ shall with respect to radiation installations and radiation sources, responsibility for which has been transferred by the Federal Government to this State, review and approve plans and specifications for radiation installations and radiation sources admitted pursuant to codes, rules or regulations promulgated under this Act.

(Source: P.A. 86-1341.)

(420 ILCS 40/24.5)

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

Sec. 24.5. Mammography installation; federal and State programs.

(a) The Agency ~~Department~~ may, with approval by the Secretary of the U.S. Department of Health and Human Services, exercise the powers, duties, and responsibilities of an accreditation body under the federal Mammography Quality Standards Act of 1992. The Agency ~~Department~~ may promulgate rules and incorporate into the rules standards that may be necessary for the Agency ~~Department~~ to qualify as an accreditation body. The Agency ~~Department~~ may, by rule, establish reasonable fees to be paid to the Agency ~~Department~~ by mammography installations for accreditation by the Agency ~~Department~~.

(b) The Agency ~~Department~~ may implement a State program to carry out the certification program requirements provided for in the Mammography Quality Standards Act of 1992. The Agency ~~Department~~ may promulgate rules and enter into agreements as

necessary to implement the provisions of this Section. The Agency ~~Department~~ may, by rule, establish reasonable fees to be paid to the Agency ~~Department~~ by mammography installations for certification by the Agency ~~Department~~.

(Source: P.A. 91-339, eff. 7-29-99.)

(420 ILCS 40/24.7)

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

Sec. 24.7. Registration requirement; fees. Beginning January 1, 2000, the Department of Nuclear Safety or its successor agency, the Illinois Emergency Management Agency, is authorized to require every operator of a radiation installation to register the installation with the Department or the Agency before the installation is placed in operation. The Agency ~~Department~~ is authorized to exempt certain radiation sources from registration by rule when the Agency ~~Department~~ makes a determination that the exemption of such sources will not constitute a significant risk to health and safety of the public. Whenever there is a change in a radiation installation that affects the registration information provided to the Department or the Agency, including discontinuation of use or disposition of radiation sources, the operator of such installation shall, within 30 days, give written notice to the Department or the Agency detailing the change.

Beginning January 1, 2000, every radiation installation operator using radiation machines shall register annually in a manner and form prescribed by the Department of Nuclear Safety or its successor agency, the Illinois Emergency Management Agency, and shall pay the Department or the Agency an annual registration fee for each radiation machine. The Agency ~~Department~~ shall by rule establish the annual registration fee to register and inspect radiation installations based on the type of facility and equipment possessed by the registrant. The Agency ~~Department~~ shall bill the operator for the registration fee as soon as practical after January 1. The registration fee shall be due and payable within 60 days of the date of billing.

If after 60 days the registration fee is not paid, the Agency ~~Department~~ may issue an order directing the operator of the installation to cease use of all radiation machines or take other appropriate enforcement action as provided in Section 36 of this Act. Fees collected under this Section are not refundable.

Registration of any radiation installation shall not imply approval of manufacture, storage, use, handling, operation, or disposal of radiation sources, but shall serve merely as notice to the Agency ~~Department of Nuclear Safety~~ of the location and character of radiation sources in this State.

(Source: P.A. 91-340, eff. 7-29-99.)

(420 ILCS 40/25) (from Ch. 111 1/2, par. 210-25)

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

Sec. 25. Radiation inspection and testing; fees.

(a) The Agency ~~Department~~ shall inspect and test radiation installations and radiation sources, their immediate surroundings and records concerning their operation to determine whether or not any radiation resulting therefrom is or may be detrimental to health. For the purposes of this Section, "radiation installation" means any location or facility where radiation machines are used. The inspection and testing frequency of a radiation installation shall be based on the installation's class designation in accordance with subsection (f).

Inspections of mammography installations shall also include evaluation of the quality of mammography phantom images produced by mammography equipment. The Agency ~~Department~~ shall promulgate rules establishing procedures and acceptance standards for evaluating the quality of mammography phantom images.

Beginning on the effective date of this amendatory Act of 1997 and until June 30, 2000, the fee for inspection and testing shall be paid yearly at an annualized rate based on the classifications and frequencies set forth in subsection (f).

The annualized fee for inspection and testing shall be based on the rate of \$55 per radiation machine for machines located in dental offices and clinics and used solely for dental diagnosis, located in veterinary offices and used solely for diagnosis, or located in offices and clinics of persons licensed under the Podiatric Medical Practice Act of 1987 and shall be based on the rate of \$80 per radiation machine for all other radiation machines. The Department of Nuclear Safety may adopt rules detailing the annualized rate structure. For the year beginning January 1, 2000, the annual fee for inspection and testing of Class D radiation installations shall be \$25 per radiation machine. The Department is authorized to bill the fees listed in this paragraph as part of the annual fee specified in Section 24.7 of this Act.

Beginning July 1, 2000, the Department of Nuclear Safety or its successor agency, the Illinois Emergency Management Agency, shall establish the fees under Section 24.7 of this Act by rule, provided that no increase of the fees shall take effect before January 1, 2001.

(b) (Blank).

(c) (Blank).

(d) (Blank).

(e) (Blank).

(f) For purposes of this Section, radiation installations shall be divided into 4 classes:

Class A - Class A shall include dental offices and veterinary offices with radiation machines used solely for diagnosis and all installations using commercially manufactured cabinet radiographic/fluoroscopic radiation machines. Operators of Class A installations shall have their radiation machines inspected and tested every 5 years by the Agency ~~Department~~.

Class B - Class B shall include offices or clinics of persons licensed under the Medical Practice Act of 1987 or the Podiatric Medical Practice Act of 1987 with radiation machines used solely for diagnosis and all installations

using spectroscopy radiation machines, noncommercially manufactured cabinet radiographic/fluoroscopic radiation machines, portable radiographic/fluoroscopic units, non-cabinet baggage/package fluoroscopic radiation machines and electronic beam welders. Operators of Class B installations shall have their radiation machines inspected and tested every 2 years by the Agency ~~Department~~.

Class C - Class C shall include installations using diffraction radiation machines, open radiography radiation machines, closed radiographic/fluoroscopic radiation machines and radiation machines used as gauges. Test booths, bays, or rooms used by manufacturing, assembly or repair facilities for testing radiation machines shall be categorized as Class C radiation installations. Operators of Class C installations shall have their radiation machines inspected and tested annually by the Agency ~~Department~~.

Class D - Class D shall include all hospitals and all other facilities using mammography, computed tomography (CT), or therapeutic radiation machines. Each operator of a Class D installation shall maintain a comprehensive radiation protection program. The individual or individuals responsible for implementing this program shall register with the Department of Nuclear Safety or its successor agency, the Illinois Emergency Management Agency, in accordance with Section 25.1. As part of this program, the registered individual or individuals shall conduct an annual performance evaluation of all radiation machines and oversee the equipment-related quality assurance practices within the installation. The registered individual or individuals shall determine and document whether the installation's radiation machines are being maintained and operated in accordance with standards promulgated by the Agency ~~Department~~. Class D installation shall be inspected annually by the Agency ~~Department~~.

(f-1) Radiation installations for which more than one class is applicable shall be assigned the classification requiring the most frequent inspection and testing.

(f-2) Radiation installations not classified as Class A, B, C, or D shall be inspected according to frequencies established by the Agency ~~Department~~ based upon the associated radiation hazards, as determined by the Agency ~~Department~~.

(g) The Agency ~~Department~~ is authorized to maintain a facility for the purpose of calibrating radiation detection and measurement instruments in accordance with national standards. The Agency ~~Department~~ may make calibration services available to public or private entities within or outside of Illinois and may assess a reasonable fee for such services.

(Source: P.A. 91-188, eff. 7-20-99; 91-340, eff. 7-29-99; 92-16, eff. 6-28-01.)

(420 ILCS 40/25.1)

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

Sec. 25.1. Beginning January 1, 2000, each individual responsible for implementing a comprehensive radiation protection program for Class D installations, as described in Section 25(f) of this Act, shall be required to register with the Department of Nuclear Safety or its successor agency, the Illinois Emergency Management Agency. Application for registration shall be made on a form prescribed by the Agency ~~Department~~ and shall be accompanied by the required application fee. The Agency ~~Department~~ shall approve the application and register an individual if the individual satisfies criteria established by rule of the Agency ~~Department~~. The Agency ~~Department~~ shall assess registered individuals an annual registration fee. The Agency ~~Department~~ shall establish by rule application and registration fees. The application and registration fees shall not be refundable.

(Source: P.A. 91-340, eff. 7-29-99.)

(420 ILCS 40/25.2)

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

Sec. 25.2. Installation and servicing of radiation machines.

(a) Beginning January 1, 2002, a service provider who installs or services radiation machines in the State of Illinois must register with the Department of Nuclear Safety or its successor agency, the Illinois Emergency Management Agency. An operator of a radiation installation that is registered under Section 24.7 is not required to register under this Section to service the radiation machines that it owns or leases.

(b) A service provider who installs a radiation machine in the State of Illinois must report the installation to the Agency ~~Department~~.

(c) A service provider who services a radiation machine in a radiation installation in the State of Illinois that is not registered under Section 24.7 must report the service to the Agency ~~Department~~.

(d) The Agency ~~Department~~ is authorized to adopt rules to implement this Section, including rules assessing application and annual registration fees. Application and registration fees are not refundable.

(Source: P.A. 92-273, eff. 8-7-01.)

(420 ILCS 40/26) (from Ch. 111 1/2, par. 210-26)

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

Sec. 26. The Agency ~~Department~~ shall cause an investigation to be made upon receipt of information concerning a violation of the provisions of this Act or of any codes, rules, or regulations promulgated thereunder.

(Source: P.A. 86-1341.)

(420 ILCS 40/27) (from Ch. 111 1/2, par. 210-27)

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

Sec. 27. The Agency ~~Department~~ is authorized to enter at all reasonable times upon any private or public property for

the purpose of determining whether or not there is compliance with or violation of the provisions of this Act and rules and regulations issued thereunder. The Agency ~~Department~~ may inspect and investigate premises, operations, and personnel and have access to and copy records for the purpose of evaluating past, current, and potential hazards to the public health, workers, or the environment resulting from radiation. Entry into areas under the jurisdiction of the Federal Government shall be effected only with the concurrence of the Federal Government or its duly designated representative.

(Source: P.A. 91-340, eff. 7-29-99.)

(420 ILCS 40/28) (from Ch. 111 1/2, par. 210-28)

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

Sec. 28. (a) The Agency ~~Department~~ shall require each person who possesses or uses a source of ionizing radiation to maintain records relating to its receipt, storage, transfer or disposal and such other records as the Agency ~~Department~~ may require, subject to such exemptions as may be provided by rules or regulations.

(b) Unless they are transferred directly to the patient or the patient's physician, mammography images or films shall be retained by the provider of the mammography service for a minimum of 60 months. Mammography images or films transferred to a patient's physician shall be retained by the physician for a minimum of 60 months. These retention periods are a minimum and shall not reduce any other medical record retention requirements established by statute or regulation.

(Source: P.A. 86-1341; 87-604.)

(420 ILCS 40/29) (from Ch. 111 1/2, par. 210-29)

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

Sec. 29. The Agency ~~Department~~ shall require each person who possesses or uses a source of ionizing radiation to maintain appropriate records showing the radiation exposure of all individuals for whom personnel monitoring is required by

rules and regulations of the Agency ~~Department~~. Except as otherwise provided by law, copies of these records and those required to be kept by Section 25 shall be submitted to the Agency ~~Department~~ on request. Any person possessing or using a source of ionizing radiation shall furnish to each employee for whom personnel monitoring is required a copy of such employee's personal exposure record at any time such employee has been exposed to radiation in excess of limits prescribed by the Agency ~~Department~~, upon termination of employment, and annually at his request.

(Source: P.A. 86-1341.)

(420 ILCS 40/30) (from Ch. 111 1/2, par. 210-30)

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

Sec. 30. The Agency ~~Department~~ shall issue such orders or modifications thereof as may be necessary in connection with proceedings under Section 10 and other provisions of this Act and the regulations promulgated by the Agency ~~Department~~.

(Source: P.A. 86-1341.)

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

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

Sec. 31. The provisions of the Illinois Administrative Procedure Act are hereby expressly adopted and shall apply to all administrative rules and procedures of the Agency ~~Department~~ 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 ~~Department~~ is precluded by law from exercising any discretion.

(Source: P.A. 88-45.)

(420 ILCS 40/32) (from Ch. 111 1/2, par. 210-32)

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

Sec. 32. Radiation emergency contingency plan. The Agency ~~Department~~ shall develop for its use, or for the use of ~~by the Illinois Emergency Management Agency or~~ its successor, a comprehensive contingency plan for the protection of public health, welfare and safety during a radiation emergency.

(Source: P.A. 86-1341; 87-895.)

(420 ILCS 40/33) (from Ch. 111 1/2, par. 210-33)

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

Sec. 33. Agreements and training programs.

(1) The Agency ~~Department~~ is authorized to enter into an agreement or agreements with the Federal Government, other States, interstate agencies, or other State agencies whereby this State will perform, on a co-operative basis with the Federal Government, other States, interstate agencies, or other State agencies, inspections or other functions relating to control of sources of ionizing radiation or relating to the State role provided for in the Federal Facility Compliance Act of 1992.

(2) The Agency ~~Department~~ may institute training programs for the purpose of qualifying personnel to carry out the provisions of this Act, and may make said personnel available for participation in any program or programs of the Federal Government, other States or interstate agencies in furtherance of the purposes of this Act.

(Source: P.A. 88-616, eff. 9-9-94.)

(420 ILCS 40/34) (from Ch. 111 1/2, par. 210-34)

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

Sec. 34. All intrastate and interstate carriers of irradiated nuclear reactor fuel in the State of Illinois are hereby required to notify the Agency ~~Department of Nuclear Safety~~ 24 hours prior to any transportation of irradiated nuclear reactor fuel within this State of the proposed route, the place and time of entry into the State, and the amount and

the source of the fuel. The Agency ~~Department~~ shall immediately notify the State Police, which shall notify the sheriff of those counties along the route of such shipment.

For the purpose of this subsection, a "carrier" is any entity charged with transportation of such irradiated reactor fuel from the nuclear steam-generating facility to a storage facility.

For the purpose of this subsection, "irradiated reactor fuel" is any nuclear fuel assembly containing fissile-bearing material that has been irradiated in and removed from a nuclear reactor facility.

(Source: P.A. 86-1341.)

(420 ILCS 40/35) (from Ch. 111 1/2, par. 210-35)

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

Sec. 35. Radiation Protection Fund.

(a) All moneys received by the Agency ~~Department~~ under this Act shall be deposited in the State treasury and shall be set apart in a special fund to be known as the "Radiation Protection Fund". All monies within the Radiation Protection Fund shall be invested by the State Treasurer in accordance with established investment practices. Interest earned by such investment shall be returned to the Radiation Protection Fund. Monies deposited in this Fund shall be expended by the Assistant Director pursuant to appropriation only to support the activities of the Agency ~~Department~~ under this Act and as provided in the Laser System Act of 1997 and the Radon Industry Licensing Act.

(b) On August 15, 1997, all moneys remaining in the Federal Facilities Compliance Fund shall be transferred to the Radiation Protection Fund.

(Source: P.A. 90-209, eff. 7-25-97; 90-262, eff. 7-30-97; 90-391, eff. 8-15-97; 90-655, eff. 7-30-98.)

(420 ILCS 40/36) (from Ch. 111 1/2, par. 210-36)

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

Sec. 36. Order for violation abatement and public hearing. Whenever the Agency ~~Department~~ believes upon examination of records or inspection and examination of a radiation installation or a radiation source as constructed, operated or maintained that there has been a violation of any of the provisions of this Act or any rules or regulations promulgated under this Act, the Agency ~~Department~~ may:

- (1) order the discontinuance of such violation;
- (2) suspend or revoke a license or registration issued by the Department of Nuclear Safety or its successor agency, the Illinois Emergency Management Agency;
- (3) impose a civil penalty, not to exceed \$10,000 for such violation, provided each day the violation continues shall constitute a separate offense;
- (4) order the decontamination of any property or structure which has been contaminated as a result of such violation;
- (5) restrict access to any property which has been contaminated as a result of such violation; or
- (6) impound, order the impounding of, or confiscate radiation sources possessed by operators or other persons engaging in such violation and order the owner of the radiation sources to reimburse the Agency ~~Department~~ for any costs incurred by the Department of Nuclear Safety or the Agency in conjunction with the transfer, storage, treatment or disposal of the radiation sources.

The Agency ~~Department~~ shall also have the authority to take any of the actions specified in paragraphs (4), (5) or (6) of this Section if a licensee seeks to terminate a license issued by the Department of Nuclear Safety or its successor agency, the Illinois Emergency Management Agency, pursuant to this Act or to otherwise abandon a radiation installation.

Any such actions by the Agency ~~Department~~ shall be based on standards and procedures established by rules of the Agency ~~Department~~. Under such rules, the Agency ~~Department~~ may provide that all or a portion of the cost of such actions be assessed

to operators of radiation installations or other persons responsible for the violation or contamination.

The civil penalties and costs assessed under this Section shall be recoverable in an action brought in the name of the people of the State of Illinois by the Attorney General.

In any order issued to an offending party under this Section, the Agency Department shall include a summary of its findings which give evidence of the violation. Any party affected by an order of the Department of Nuclear Safety or its successor agency, the Illinois Emergency Management Agency, shall have the right to a hearing before the Agency Department; however, a written request for such a hearing shall be served on the Agency Department within 10 days of notice of such order. In the absence of receipt of a request for hearing the affected party shall be deemed to have waived his right to a hearing.

No order of the Agency Department issued under this Section, except an order issued pursuant to Section 38 herein, shall take effect until the Agency Department shall find upon conclusion of such hearing that a condition exists which constitutes a violation of any provision of this Act or any code, rule or regulation promulgated under this Act except in the event that the right to public hearing is waived as provided herein in which case the order shall take effect immediately.

(Source: P.A. 91-340, eff. 7-29-99.)

(420 ILCS 40/37) (from Ch. 111 1/2, par. 210-37)

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

Sec. 37. Administrative Review Law. The provisions of the Administrative Review Law, and the rules adopted pursuant thereto, shall apply to and govern all proceedings for judicial review of final administrative decisions of the Department of Nuclear Safety or its successor agency, the Illinois Emergency Management Agency, hereunder. The term "administrative decision" is defined as in Section 3-101 of the Code of Civil

Procedure.

(Source: P.A. 86-1341.)

(420 ILCS 40/38) (from Ch. 111 1/2, par. 210-38)

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

Sec. 38. Authority of Agency ~~Department~~ in cases constituting an immediate threat to health.

(a) Notwithstanding any other provision of this Act, whenever the Agency ~~Department~~ finds that a condition exists that constitutes an immediate threat to health, the Agency ~~Department~~ is authorized to do all of the following:

(1) Enter onto public or private property and take possession of sources of radiation that pose an immediate threat to health.

(2) Enter an order for abatement of a violation of any provisions of this Act or any code, rule, regulation, or order promulgated under this Act that requires immediate action to protect the public health or welfare, which order shall recite the existence of the immediate threat and the findings of the Agency ~~Department~~ pertaining to the threat. The order shall direct a response that the Agency ~~Department~~ determines appropriate under the circumstances, including but not limited to all of the following:

(A) Discontinuance of the violation.

(B) Decontamination of any property or structure that has been contaminated as a result of the violation.

(C) Restriction of access to property that has been contaminated as a result of the violation.

(D) Impounding of radiation sources possessed by a person engaging in the violation.

Such order shall be effective immediately but shall include notice of the time and place of a public hearing before the Agency ~~Department~~ to be held within 30 days of the date of such order to assure the justification of such order. On the basis of such hearing the Agency ~~Department~~

shall continue such order in effect, revoke it or modify it. Any party affected by an order of the Agency ~~Department~~ shall have the right to waive the public hearing proceedings.

(3) Direct the Attorney General to obtain an injunction against any person responsible for causing or allowing the continuance of the immediate threat to health.

(b) In responding to an immediate threat to health, as defined in subsection (a), the Agency ~~Department~~ is authorized to request the assistance of other units of government, including agencies of the federal government, and to assume reasonable costs of other units of government as agreed by the Agency ~~Department~~. The Agency ~~Department~~ is authorized to assess the costs of its response and the response of its predecessor agency, the Department of Nuclear Safety, against the person or persons responsible for the creation or continuation of the threat. The costs may include costs for personnel, equipment, transportation, special services, and treatment, storage, and disposal of sources of radiation, including costs incurred by the Agency or the Department and costs incurred by other units of government that assist the Agency or the Department. If the Agency ~~Department~~ is unable to determine who is responsible for the creation or continuation of the threat, the costs shall be assessed against the owner of the property and shall constitute a lien against the property until paid. Any person assessed costs under this subsection shall have the right to a hearing before the Agency ~~Department~~ provided a written request for a hearing is served on the Agency ~~Department~~ within 10 days of notice of the assessment. In the absence of receipt of a request for a hearing, the affected party shall be deemed to have waived the right to a hearing.

(Source: P.A. 89-143, eff. 7-14-95.)

(420 ILCS 40/39) (from Ch. 111 1/2, par. 210-39)

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

Sec. 39. Violations.

(a) Any person who shall violate any of the provisions of, or who fails to perform any duty imposed by this Act, or who violates any determination or order of the Department of Nuclear Safety or its successor agency, the Illinois Emergency Management Agency, promulgated pursuant to this Act, is guilty of a Class A misdemeanor; provided each day during which a violation continues shall constitute a separate offense; and in addition thereto, such person may be enjoined from continuing such violation as hereinafter provided.

(b) (1) A person who knowingly makes a false material statement to a Department of Nuclear Safety or Agency employee during the course of official Department or Agency business or in an application for accreditation, certification, registration, or licensure under this Act is guilty of a Class A misdemeanor for a first offense and is guilty of a Class 4 felony for a second or subsequent offense.

(2) A person who knowingly alters a credential, certificate, registration, or license issued by the Department of Nuclear Safety or its successor agency, the Illinois Emergency Management Agency, for the purpose of evading a requirement of this Act is guilty of a Class A misdemeanor for a first offense and is guilty of a Class 4 felony for a second or subsequent offense.

(c) The penalties provided herein shall be recoverable in an action brought in the name of the People of the State of Illinois by the Attorney General.

(Source: P.A. 90-275, eff. 7-30-97.)

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

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

Sec. 40. Injunctive relief. It shall be the duty of the Attorney General upon the request of the Agency ~~Department~~ to bring an action for an injunction against any person violating the provisions of this Act, or violating any order or

determination of the Department of Nuclear Safety or its successor agency, the Illinois Emergency Management Agency.

(Source: P.A. 86-1341.)

(420 ILCS 40/43) (from Ch. 111 1/2, par. 210-43)

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

Sec. 43. Reinstatement of existing licenses; Force and effect of existing rules.

All licenses, accreditations, registrations, and exemptions in effect on the date of this Act becomes law and issued pursuant to the Radiation Protection Act, are reinstated for the balance of the term for which last issued. All rules in effect on the date this Act becomes law and promulgated pursuant to the Radiation Protection Act, shall remain in full force and effect on the effective date of this Act without being promulgated again by the Department of Nuclear Safety, except to the extent any rule or regulation is inconsistent with any provision of this Act.

(Source: P.A. 86-1341.)

(420 ILCS 40/44) (from Ch. 111 1/2, par. 210-44)

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

Sec. 44. Protection of powers. The powers, duties and functions vested in the Agency ~~Department~~ under the provisions of this Act shall not be construed to affect in any manner the powers, duties, and functions vested in the Agency ~~Department~~ under any other provisions of law.

(Source: P.A. 86-1341.)

(420 ILCS 40/45)

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

Sec. 45. Subpoena power; confidentiality; witness fees; enforcement; punishment.

(a) The Agency ~~Department~~, by its Assistant Director or a person designated by the Assistant Director, may, at the Assistant Director's instance or on the written request of

another party to an administrative proceeding or investigation administered under this Act or under any other Act administered by the Agency as the successor agency to the Department of Nuclear Safety, subpoena witnesses to attend and give testimony before the hearing officer designated to preside over the proceeding or investigation and subpoena the production of books, papers, or records that the Assistant Director or a person designated by the Assistant Director deems relevant or material to any such administrative proceeding or investigation.

(b) Any patient records disclosed pursuant to a properly issued subpoena shall remain confidential and exempt from inspection and copying under the Freedom of Information Act and protected from disclosure under the provisions of Part 21 of Article VIII of the Code of Civil Procedure, with the exception that such patient records shall be admissible in any administrative proceeding before the Agency ~~Department~~ when necessary to substantiate violations of this Act or any other Act administered by the Agency as the successor agency to the Department of Nuclear Safety and rules thereunder. Prior to admission of such records into evidence or their being made a part of any contested case file, all information indicating the identity of the patient shall be removed and deleted.

(c) The fees of witnesses for attendance and travel shall be the same as the fees for witnesses before the circuit court of this State. Those fees shall be paid when the witness is excused from further attendance. When a witness is subpoenaed at the instance of the Agency ~~Department~~, those fees shall be paid in the same manner as other administrative expenses of the Agency ~~Department~~. When a witness is subpoenaed at the instance of a party to a proceeding other than the Agency ~~Department~~, the Agency ~~Department~~ may require that the cost of service of the subpoena or subpoena duces tecum and the fee of the witness be borne by the party at whose instance the witness is summoned. In such a case, the Agency ~~Department~~, in its discretion, may require a deposit to cover the cost of the

service and witness fees. A subpoena or subpoena duces tecum issued under this Section may be served in the same manner as a subpoena issued out of a circuit court or may be served by United States registered or certified mail, addressed to the person concerned at the person's last known address, and proof of that mailing shall be sufficient for the purposes of this Section.

(d) Any person who, without lawful authority, fails to appear in response to a subpoena or to answer any question or to produce any books, papers, records, or any other documents relevant or material to such administrative proceeding or investigation is guilty of a Class A misdemeanor. Each violation shall constitute a separate and distinct offense. In addition to initiating criminal proceedings, the Agency ~~Department~~, through the Attorney General, may seek enforcement of any such subpoena by any circuit court of this State.

(Source: P.A. 89-624, eff. 8-9-96.)

(420 ILCS 40/49)

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

Sec. 49. Remediation of Ottawa radiation sites. In order to accomplish a cost-effective remediation that is protective of the public health, the Agency ~~Department~~ shall have the following powers regarding the sites designated as the Ottawa radiation sites on the National Priorities List under the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended:

(1) to cooperate with and receive the assistance of other State agencies including, but not limited to, the Illinois Attorney General, the Department of Natural Resources, the Department of Transportation, and the Environmental Protection Agency;

(2) to enter into contracts; and

(3) to accept by gift, donation, or bequest and to purchase any interests in lands, buildings, grounds, and rights-of-way in, around, or adjacent to the Ottawa

radiation sites and, upon completion of remediation, to transfer property to the Department of Natural Resources.
(Source: P.A. 92-387, eff. 8-16-01.)

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

INDEX

Statutes amended in order of appearance

420 ILCS 40/4	from Ch. 111 1/2, par. 210-4
420 ILCS 40/5	from Ch. 111 1/2, par. 210-5
420 ILCS 40/6	from Ch. 111 1/2, par. 210-6
420 ILCS 40/7	from Ch. 111 1/2, par. 210-7
420 ILCS 40/7a	from Ch. 111 1/2, par. 210-7a
420 ILCS 40/9	from Ch. 111 1/2, par. 210-9
420 ILCS 40/10	from Ch. 111 1/2, par. 210-10
420 ILCS 40/11	from Ch. 111 1/2, par. 210-11
420 ILCS 40/11.5	
420 ILCS 40/12	from Ch. 111 1/2, par. 210-12
420 ILCS 40/13	from Ch. 111 1/2, par. 210-13
420 ILCS 40/14	from Ch. 111 1/2, par. 210-14
420 ILCS 40/15	from Ch. 111 1/2, par. 210-15
420 ILCS 40/16	from Ch. 111 1/2, par. 210-16
420 ILCS 40/17	from Ch. 111 1/2, par. 210-17
420 ILCS 40/18	from Ch. 111 1/2, par. 210-18
420 ILCS 40/19	from Ch. 111 1/2, par. 210-19
420 ILCS 40/20	from Ch. 111 1/2, par. 210-20
420 ILCS 40/21	from Ch. 111 1/2, par. 210-21
420 ILCS 40/22	from Ch. 111 1/2, par. 210-22
420 ILCS 40/23	from Ch. 111 1/2, par. 210-23
420 ILCS 40/24	from Ch. 111 1/2, par. 210-24
420 ILCS 40/24.5	
420 ILCS 40/24.7	
420 ILCS 40/25	from Ch. 111 1/2, par. 210-25
420 ILCS 40/25.1	
420 ILCS 40/25.2	
420 ILCS 40/26	from Ch. 111 1/2, par. 210-26
420 ILCS 40/27	from Ch. 111 1/2, par. 210-27
420 ILCS 40/28	from Ch. 111 1/2, par. 210-28
420 ILCS 40/29	from Ch. 111 1/2, par. 210-29
420 ILCS 40/30	from Ch. 111 1/2, par. 210-30
420 ILCS 40/31	from Ch. 111 1/2, par. 210-31

420 ILCS 40/32	from Ch. 111 1/2, par. 210-32
420 ILCS 40/33	from Ch. 111 1/2, par. 210-33
420 ILCS 40/34	from Ch. 111 1/2, par. 210-34
420 ILCS 40/35	from Ch. 111 1/2, par. 210-35
420 ILCS 40/36	from Ch. 111 1/2, par. 210-36
420 ILCS 40/37	from Ch. 111 1/2, par. 210-37
420 ILCS 40/38	from Ch. 111 1/2, par. 210-38
420 ILCS 40/39	from Ch. 111 1/2, par. 210-39
420 ILCS 40/40	from Ch. 111 1/2, par. 210-40
420 ILCS 40/43	from Ch. 111 1/2, par. 210-43
420 ILCS 40/44	from Ch. 111 1/2, par. 210-44
420 ILCS 40/45	
420 ILCS 40/49	