AN ACT concerning nuclear safety.

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

Section 5. The Regulatory Sunset Act is amended by changing Section 4.21 and by adding Section 4.31 as follows:

(5 ILCS 80/4.21)

Sec. 4.21. Acts repealed on January 1, 2011. The following Acts are repealed on January 1, 2011:

The Fire Equipment Distributor and Employee Regulation Act of 2000.

~~The Radiation Protection Act of 1990.~~

(Source: P.A. 91-752, eff. 6-2-00; 91-835, eff. 6-16-00; 92-16, eff. 6-28-01.)

(5 ILCS 80/4.31 new)

Sec. 4.31. Act repealed on January 1, 2021. The following Act is repealed on January 1, 2021:

The Radiation Protection Act of 1990.

Section 10. The Radiation Protection Act of 1990 is amended by changing Sections 4, 25 and 25.1 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(Section scheduled to be repealed on January 1, 2011)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 Agency'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; (3) any discrete source of radium-226 that is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity; (4) any material that has been made radioactive by use of a particle accelerator and is produced, extracted, or converted after extraction before, on, or after August 8, 2005, for use for a commercial, medical, or

research activity; and (5) any discrete source of naturally occurring radioactive material, other than source material, that is extracted or converted after extraction for use in commercial, medical, or research activity before, on, or after August 8, 2005, and which the U.S. Nuclear Regulatory Commission, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Energy, the Secretary of Homeland Security, and the head of any other appropriate Federal agency, determines would pose a threat to the public health and safety or the common defense and security similar to the threat posed by a discrete source or radium-226.

(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; 95-511, eff. 8-28-07; 95-777, eff. 8-4-08.)

(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 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. Radiation

installations shall be inspected according to frequencies established by the Agency based upon the associated radiation hazards, as determined by the Agency. ~~The inspection and testing frequency of a radiation installation shall be based on the installation's class designation in accordance with subsection (f).~~

(a-5) Inspections of mammography installations shall ~~also~~ include evaluation of the quality of mammography phantom images produced by mammography equipment. The Agency 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) (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.~~

~~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.~~

~~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.~~

~~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. Class D installation shall be inspected annually by the Agency.~~

(f-1) (Blank). ~~(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) (Blank). ~~(f-2) Radiation installations not classified as Class A, B, C, or D shall be inspected according to frequencies established by the Agency based upon the associated radiation hazards, as determined by the Agency.~~

(g) The Agency is authorized to maintain a facility for the purpose of calibrating radiation detection and measurement instruments in accordance with national standards. The Agency 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. 94-104, eff. 7-1-05.)

(420 ILCS 40/25.1)

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

Sec. 25.1. Each ~~Beginning January 1, 2000, each~~ individual

responsible for implementing a comprehensive radiation protection program for all hospitals and other facilities using mammography, computed tomography (CT), or therapeutic radiation machines ~~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 and shall be accompanied by the required application fee. The Agency shall approve the application and register an individual if the individual satisfies criteria established by rule of the Agency. The Agency shall assess registered individuals an annual registration fee. The Agency shall establish by rule application and registration fees. The application and registration fees shall not be refundable.

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

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