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93rd General Assembly **A Bill**
Regular Session, 2021 HOUSE BILL 1154

By: Representative Ladyman
By: Senator D. Wallace

For An Act To Be Entitled

AN ACT TO AMEND AND UPDATE THE ARKANSAS CODE REGARDING REGULATION OF IONIZING RADIATION TO COMPLY WITH FEDERAL LAWS AND REGULATIONS; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND AND UPDATE THE ARKANSAS CODE REGARDING REGULATION OF IONIZING RADIATION TO COMPLY WITH FEDERAL LAWS AND REGULATIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 20-21-202(3), concerning the purpose of the subchapter regarding ionizing radiation, amended to read as follows:

(3) To establish procedures for assumption and performance of certain regulatory responsibilities with respect to ~~by-product, source, and special nuclear materials~~ radioactive materials and radiation equipment and to provide for registration of ~~persons providing radiation machine installation~~ service personnel; and

SECTION 2. Arkansas Code § 20-21-203 is amended to read as follows:

20-21-203. Definitions.

As used in this subchapter:

(1) "Accelerator or particle accelerator, medical" means a device used to impart kinetic energy of not greater than one hundred

megaelectronvolts (100 MeV) to electrically charged particles such as electrons, protons, deuterons, and helium ions, and which is used for medical purposes;

(2) "Accelerator or particle accelerator, nonmedical" means a device used to impart kinetic energy of not greater than one hundred megaelectronvolts (100 MeV) to electrically charged particles such as electrons, protons, deuterons, and helium ions, and which is not used for medical purposes;

(3) "Accelerator-produced radioactive material" means any material made radioactive, so as to emit radiation spontaneously, by a particle accelerator;

~~(4) [Repealed.]~~

~~(5)~~(4) "Assembler" means any person who is engaged in the business of installing or offering to install radiation machines or components associated with radiation machines;

~~(6) [Repealed.]~~

~~(7)~~(5) "By-product material" means:

(A) Any ~~any~~ radioactive material, except special nuclear material, yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material;

(B) The tailings or wastes produced by the extraction or concentration of uranium or thorium from ore processed primarily for its source material content, including discrete surface wastes resulting from uranium solution extraction processes. Underground ore bodies depleted by these solution extraction operations do not constitute by-product material within this definition;

(C)(i) 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; or

(ii) Any material that:

(a) Has been made radioactive by use of a particle accelerator; and

(b) Is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity; and

(D) Any discrete source of naturally occurring radioactive

material, other than source material, that:

(i) The United States Nuclear Regulatory Commission, in consultation with the Administrator of the United States Environmental Protection Agency, the United States Secretary of Energy, the United States Secretary of Homeland Security, and the head of any other appropriate federal agency, determines would pose a threat similar to the threat posed by a discrete source of radium-226 to the public health and safety or the common defense and security; and

(ii) Before, on, or after August 8, 2005, is extracted or converted after extraction for use in a commercial, medical, or research activity;

~~(8)~~(6) "Calibration sources – consulting services" means any individual, group of individuals, or company possessing a sealed radioactive source used for the calibration of radiation-measuring instruments or ~~radiation machines~~ devices as authorized by a radioactive material license;

~~(9) "Category I-A hospital" means a hospital or medical center that meets one (1) of the following criteria:~~

~~(A) Has a nuclear medicine department, one (1) or more X-ray machines, and one (1) or more particle accelerator units; or~~

~~(B) Has a nuclear medicine department, eleven (11) or more X-ray machines, and one (1) or more teletherapy units;~~

~~(10) "Category I-B hospital" means a hospital or medical center that has a nuclear medicine department, has ten (10) or fewer X-ray machines, and has one (1) or more teletherapy units;~~

~~(11) "Category II-A hospital" means a hospital or medical center that meets one (1) of the following criteria:~~

~~(A) Has a nuclear medicine department and eleven (11) or more X-ray machines;~~

~~(B) Has a nuclear medicine department and one (1) or more particle accelerator units;~~

~~(C) Has one (1) or more X-ray machines and one (1) or more particle accelerator units; or~~

~~(D) Has eleven (11) or more X-ray machines and one (1) or more teletherapy units;~~

~~(12) "Category II-B hospital" means a hospital or medical center that meets one (1) of the following criteria:~~

~~(A) Has a nuclear medicine department and ten (10) or fewer X-ray machines;~~

~~(B) Has a nuclear medicine department and one (1) or more teletherapy units; or~~

~~(C) Has ten (10) or fewer X-ray machines and one (1) or more teletherapy units;~~

~~(13) "Category III hospital" means a hospital or medical center that meets one (1) of the following criteria:~~

~~(A) Has a nuclear medicine department;~~

~~(B) Has one (1) or more X-ray machines; or~~

~~(C) Has one (1) or more teletherapy units;~~

~~(14) "Chiropractor" means a person licensed by the Arkansas State Board of Chiropractic Examiners;~~

~~(15)~~(7) "Civil penalty" means any monetary penalty levied on a licensee or registrant because of violation of statutes, ~~regulations~~ rules, licenses, or registration certificates but does not include criminal penalties;

(8) "Closure" means all activities performed at a waste disposal site, such as stabilization and contouring, to assure that the site is in a stable condition so that only minor custodial care, surveillance, and monitoring are necessary at the site following termination of licensed operation;

~~(16)~~(9) "Decommissioning" means final operational activities at a facility to dismantle site structures, to decontaminate site surfaces and remaining structures, to stabilize and contain residual radioactive material, and to carry out any other activities to prepare the site for post-operational care;

~~(17)~~(10) "Dental radiographic unit" means any X-ray device that is subject to the requirements for intraoral dental radiographic systems set forth in the rules for control of sources of ionizing radiation promulgated by the State Board of Health;

~~(18) [Repealed.]~~

~~(19)~~(11) "Gas chromatograph and X-ray fluorescence devices" means analytical laboratory instruments designed for qualitative and quantitative analysis using radioactive material as a component of the instrument detector or as a fluorescence excitation source;

~~(20)(A)~~(12)(A) "General license" means a license effective pursuant to rules promulgated by the State Radiation Control Agency without the filing of an application with the Department of Health or the issuance of licensing documents to particular persons to transfer, acquire, own, possess, or use quantities of radioactive material or devices or equipment utilizing radioactive material.

(B) "Specific license" means a license issued to a named person upon application filed pursuant to rules promulgated under this subchapter to use, manufacture, produce, transfer, receive, acquire, own, or possess quantities of radioactive material or equipment utilizing radioactive material.

(C) "Academic broad license" means any radioactive material license issued to a college or university and subject to the special requirements for "specific licenses of broad scope" as set forth in the rules for control of sources of ionizing radiation promulgated by the State Board of Health.

(D) "Academic radioactive material license" means any radioactive material license issued to a college or university, excluding academic broad licenses;

~~(21)~~(13) "High-level radioactive waste" means:

(A) Irradiated reactor fuel;

(B) Liquid wastes resulting from the operation of the first cycle solvent extraction system, or equivalent, and the concentrated wastes from subsequent extraction cycles, or equivalent, in a facility for reprocessing irradiated reactor fuel; and

(C) Solids into which such liquid wastes have been converted;

~~(22)~~(14) "Industrial units" means X-ray machines used within the manufacturing industry and other industries and in industrial radiography;

~~(23)~~(15) "In vitro laboratory testing" means nonhuman use of radioactive material for laboratory testing in accordance with a general license authorized by the rules for control of sources of ionizing radiation promulgated by the State Board of Health;

~~(24)~~(16) "Ionizing radiation" means gamma rays and X-rays, alpha and beta particles, high-speed electrons, neutrons, protons, and other nuclear particles, but ~~it~~ does not include sound or radio waves or visible,

infrared, or ultraviolet light;

~~(25)~~(17) "Irradiator" means a device or facility which contains and uses sealed sources for the irradiation of objects or materials;

~~(26)~~(18) "Low-level radioactive waste" means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or by-product material as defined in Section 11e. (2) of the Atomic Energy Act of 1954;

~~(27)~~(19) "Mobile nuclear medicine service" means the transportation and medical use of by-product material and diagnostic instrumentation;

~~(28)~~(20) "Naturally occurring radioactive material" means any material of natural origin that emits radiation spontaneously, excluding uranium, thorium, and the tailings produced in their extraction or concentration;

~~(29)~~(21) "Nuclear gauge" means a device that uses radioactive material as a means of measurement or testing;

~~(30)~~(22) "Nuclear medicine" means human use of radioactive material for diagnostic or therapeutic purposes, not including radioisotope teletherapy;

~~(31)~~(23) "Nuclear pharmacy" means a facility licensed by the Arkansas State Board of Pharmacy for the purpose of compounding and dispensing prescription drugs which contain or are intended to be used with radioactive material. In addition, the facility is intended to provide service for more than one (1) medical licensee;

~~(32) "Others", as used in the contexts of registration, means any X-ray machine which is not otherwise included in the definitions in this section;~~

~~(33)~~(24) "Panoramic wet source storage irradiator" means a controlled human access irradiator in which the sealed source is contained in a storage pool, usually containing water, and in which the sealed source is fully shielded when not in use. The sealed source is exposed within a radiation room that is maintained as inaccessible during use by interlocked controls;

~~(34)~~(25) "Person" means:

(A) Any ~~any~~ individual, corporation, partnership, firm, *association, trust, estate, public or private institution, group, agency* of

this state, political subdivision of this state, of any other state~~,~~ or political subdivision or agency thereof~~,~~; and

(B) Any ~~any~~ legal successor, representative, agent, or agency of the foregoing, ~~other than the United States Atomic Energy Commission, or any successor thereto, and other than United States Government agencies licensed by the United States Atomic Energy Commission, or any successor thereto~~ but not including United States Government agencies;

~~(35)~~(26) "Physician" means ~~any individual possessing a valid physician's and surgeon's certificate issued by this state~~ a doctor of medicine or doctor of osteopathy licensed by the Arkansas State Medical Board to prescribe drugs in the practice of medicine;

~~(36) "Podiatrist" means a person licensed by the Arkansas Board of Podiatric Medicine;~~

~~(37)~~(27) "Private practice" means any use of radioactive material subject to the requirements for licensing of individual physicians for human use of radioactive materials as set forth in the rules for control of sources of ionizing radiation promulgated by the State Board of Health~~,~~ ~~excluding those installations subject to the requirements for X-ray and electron therapy systems with energies of one megaelectronvolt (1 MeV) and above and for teletherapy as set forth in the same rules~~;

~~(38)~~(28) "Radiation equipment" means any manufactured product or device, or component part of a product or device, or any machine or system which during operation can generate or emit ionizing radiation, except those which emit radiation only from radioactive material;

~~(39)~~(29)(A) "Radioactive material" means any material, whether solid, liquid, or gas, which emits ionizing radiation spontaneously.

(B) "Radioactive material" includes ~~accelerator-produced,~~ by-product, naturally occurring, source, and special nuclear materials;

~~(40)~~(30) "Radioactive waste management" means storage, treatment, or disposal of radioactive wastes;

~~(41)~~(31) "Radiography" means the examination of the macroscopic structure of materials by nondestructive methods utilizing sources of ionizing radiation;

~~(42)~~(32)(A) "Radioisotope teletherapy" means the use of radiation from a sealed radioactive source for medical treatment.

(B) "Radioisotope teletherapy" ~~This~~ does not include

radiation from sealed radioactive sources implanted within individuals or on-surface contact with individuals;

~~(43)~~(33) "Reciprocity" means the reciprocal recognition of licenses, registrations, or the equivalent issued by the United States Nuclear Regulatory Commission or any agreement state other than Arkansas, subject to provisions for reciprocal recognition of licenses, registrations, or the equivalent as set forth in the rules for control of sources of ionizing radiation promulgated by the State Board of Health;

~~(44)~~(34) "Registration" means registration with the Department of Health ~~by any person possessing any source of ionizing radiation~~ in accordance with rules ~~and standards adopted by the Department of Health~~ promulgated by the State Board of Health;

~~(45)~~(35) "Service personnel" means any person who is engaged in the business of offering or performing:

(A) Repair or service of radiation machines and associated radiation machine components;

(B) Repair or service of devices containing radioactive material;

~~(B)~~(C) Calibration of radiation machines;

~~(C)~~(D) Calibration of radiation instrumentation or devices; or

~~(D)~~(E) Furnishing personnel dosimetry services to State Radiation Control Agency licensees or registrants;

(36)(A) "Source material" means:

(i) Uranium, thorium, or any combination thereof, in any physical or chemical form; or

(ii) Ores that contain by weight one-twentieth of one percent (0.05%) or more of uranium, thorium, or any combination thereof.

(B) "Source material" does not include special nuclear material;

(37) "Sources of radiation" means, collectively, radioactive material and radiation equipment;

~~(46)~~(38) "Special nuclear material" means:

(A) Plutonium, ~~uranium 233~~ uranium-233, uranium enriched in the isotope 233 or in the isotope 235, and any other material ~~which the Governor declares by order to be special nuclear material after~~ that the

United States ~~Atomic Energy Commission, or any successor thereto, has determined the material to be such~~ Nuclear Regulatory Commission under the provisions of § 51 of the Atomic Energy Act of 1954, as amended, determines to be special nuclear material but does not include source material; or

(B) Any material artificially enriched by any of the foregoing but does not include source material;

(39)(A) "Spent nuclear fuel" means fuel that has been withdrawn from a nuclear reactor following irradiation, has undergone at least one (1) *year's decay* since being used as a source of energy in a power reactor, and has not been chemically separated into its constituent elements by reprocessing.

(B) "Spent nuclear fuel" includes special nuclear material, by-product material, source material, and other radioactive material associated with fuel assemblies;

~~(47) "Source material" means:~~

~~(A) Uranium, thorium, or any other material which the Governor declares by order to be source material after the United States Atomic Energy Commission, or any successor thereto, has determined the material to be such; or~~

~~(B) Ores containing one (1) or more of the foregoing materials, in such concentration as the Governor declares by order to be source material after the United States Atomic Energy Commission, or any successor thereto, has determined the material in such concentration to be source material;~~

~~(48) "Sources of radiation" means, collectively, radioactive material and radiation equipment;~~

(40) *"Transuranic waste"* means radioactive waste containing alpha-emitting transuranic elements, with radioactive half-lives greater than five (5) years, in excess of ten (10) nanocuries per gram;

~~(49)~~(41) "Veterinary medicine radiographic systems" means any X-ray device that is subject to the requirements for veterinary medicine radiographic installations set forth in the rules for control of sources of ionizing radiation promulgated by the State Board of Health;

~~(50)~~(42) "Wireline service operation" means any evaluation or *mechanical service which is performed in ~~the well bore~~ a wellbore, using devices on a wireline; and*

~~(51)~~(43) "X-ray tube" means any electron tube which is designed to be used primarily for the production of X-rays.

SECTION 3. Arkansas Code § 20-21-207 is amended to read as follows:

20-21-207. State Radiation Control Agency — Powers and duties generally.

(a) For the protection of the occupational and public health and safety, the State Radiation Control Agency shall:

(1) Develop programs for evaluation and control of hazards associated with the use of sources of ionizing radiation;

(2) Develop programs, with due regard for compatibility with federal programs, for regulation of ~~by-product, source, and special nuclear materials~~ radioactive material and for regulation of radiation equipment;

(3) Formulate, adopt, promulgate, and repeal codes and rules which may provide for licensing or registration relating to control, storage, or disposal of sources of ionizing radiation with due regard for compatibility with the regulatory programs of the United States Government;

(4) Issue such orders or modifications as may be necessary in *connection with proceedings under this subchapter. This power is intended for use in conjunction with any licensing or registration authority;*

(5) Advise, consult, and cooperate with other agencies of the state, the United States Government, other states and interstate agencies, political subdivisions, and groups concerned with control of sources of ionizing radiation;

(6) Have the authority to accept and administer loans, grants, or other funds or gifts, conditional or otherwise, in furtherance of its functions, from the United States Government and from other sources, public or private;

(7) Encourage, participate in, or conduct studies, investigations, training, research, and demonstrations relating to control of sources of ionizing radiation; and

(8) Collect and disseminate information relating to control of sources of ionizing radiation, including:

(A) Maintenance of a file of all license or registration applications, issuances, denials, amendments, transfers, renewals, modifications, suspensions, and revocations;

(B) Maintenance of a file of general license registrants possessing sources of ionizing radiation requiring registration under this subchapter and any administrative or judicial action pertaining thereto; and

(C) Maintenance of a file of all rules and regulations *relating to regulation of sources of ionizing ~~radiations~~ radiation, pending or promulgated, and proceedings thereon~~;~~.*

~~(9)(A)~~(b)(1) ~~Be~~ The State Radiation Control Agency is authorized to acquire by purchase, acceptance, or condemnation, for and on behalf of the *State of Arkansas, any lands, buildings, and grounds where radioactive by-products and wastes produced by industrial, medical,* agricultural, scientific, or other organizations can be concentrated, stored, or otherwise disposed of in a manner consistent with ~~the~~ public health and safety.

~~(B)~~(2) The State Radiation Control Agency may exercise its power to condemn as prescribed by law for condemnation by the Arkansas *Department of Transportation in § 27-67-301 et seq.~~;~~*

(3) The State Radiation Control Agency shall not approve any application for a license to receive radioactive waste from other persons for disposal on land not owned by the state or the United States Government.

~~(10)(A) Allow the Secretary of the Department of Health or his or her authorized representative to require the posting of a bond by licensees to provide funds in the event of abandonment, default, or other inability of the licensee to meet the requirements of the State Radiation Control Agency. The State Radiation Control Agency may establish bonding requirements by classes of licensee and by range of monetary amounts. In establishing the requirements, the State Radiation Control Agency shall give consideration to the potential for contamination, injury, cost of disposal, and reclamation of the property.~~

(c)(1)(A) For licensed activities involving commercial burial of *radioactive waste, the State Radiation Control Agency shall, and for other classes of licensed activity the State Radiation Control Agency may, establish by rule standards and procedures to ensure that the licensee will provide an adequate surety or other financial arrangement to permit the completion of all requirements established by the State Radiation Control Agency for the decontamination, closure, decommissioning, and reclamation of sites, structures, and equipment used in conjunction with such licensed activity, in case the licensee should default for any reason in performing*

such requirements.

(B)(i) ~~The State Radiation Control Agency shall deposit the proceeds from all forfeited bonds into a special fund known as and called the "Radiation Reclamation Fund".~~ All sureties required under subdivision (c)(1)(A) of this section that are forfeited shall be paid to the State Radiation Control Agency for deposit by the Treasurer of State in a special fund called the "Radiation Site Closure and Reclamation Fund".

(ii) All moneys in ~~the Radiation Reclamation Fund~~ the Radiation Site Closure and Reclamation Fund are appropriated to ~~the State Radiation Control Agency for use in effectuating protection of public health and safety~~ and may be expended by the State Radiation Control Agency as *necessary to complete such requirements on which licensees have defaulted*.

(iii) Moneys in ~~the Radiation Reclamation Fund~~ the Radiation Site Closure and Reclamation Fund shall not be used for normal operating expenses of the State Radiation Control Agency.

~~(C) A bond deemed acceptable in Arkansas shall be a bond issued by a fidelity or surety company authorized to do business in Arkansas, a personal bond secured by such collateral as the secretary deems satisfactory, a cash bond, or a letter of credit.~~

~~*(D)(i) All state, local, or other governmental agencies or subdivisions shall be exempt from the requirements of this subdivision (l0).*~~

~~(ii) The secretary may exempt classes of licensees from the requirements of this section when a finding is made that the exemption will not result in a significant risk to the public health and safety; and~~

~~(11)(A)~~(2)(A) ~~Allow~~ The State Radiation Control Agency shall allow the ~~secretary~~ Secretary of the Department of Health or his or her authorized representative to require a licensee to deposit funds on an annual, semiannual, or quarterly basis into a trust fund established for the exclusive purpose set out in this subdivision ~~(11)~~(c)(2).

(B) The Perpetual Maintenance Fund shall be defined so as to embrace each of the following:

(i) A source of revenue to provide for ~~perpetual care and~~ the continuing long-term surveillance, maintenance, and other care of a radioactive waste concentration, storage, and disposal site as described in ~~subdivision (9)~~ subsection (b) of this section or a source of revenue to

provide for ~~perpetual care and~~ the continuing long-term surveillance, maintenance, and other care of a formerly licensed activity still containing or having associated with it radioactive material, the activity having ceased to operate by reason of default, abandonment, or decommissioning;

(ii) The Perpetual Maintenance Fund shall have two (2) inputs:

(a) Fees which are contributed by the lessee or licensee resulting from the operation of concentrating, storing, or disposing of radioactive material as set forth in ~~subdivision (9)~~ subsection (b) of this section; and

(b)(l) Moneys accrued as interest on a trust fund established by a licensee.

(2) ~~These funds~~ All trust fund moneys including moneys accrued as interest on the trust fund, shall be automatically transferred to the Perpetual Maintenance Fund in the event of default, abandonment, or decommissioning;

(iii) Moneys in the Perpetual Maintenance Fund shall be appropriated to the State Radiation Control Agency for use in a way consonant with this subchapter, including such items as ~~perpetual care, maintenance, and surveillance~~ long-term site surveillance, maintenance, and other care; and

(iv) All licensee contributions to the Perpetual Maintenance Fund shall be payable to the secretary and deposited by the Treasurer of State.

~~(B)~~(C)(i) To provide for the proper care and surveillance of licensed sites subject to subdivision ~~(11)(A)~~ (c)(2)(B)(i) of this section, the state shall have the right to acquire by gift, transfer, purchase, or condemnation from another government agency or private person any lands, buildings, and grounds necessary to fulfill the purposes of this section.

(ii) Any gift, transfer, purchase, or condemnation shall be subsequently subject to be approved and accepted by the state.

~~(C) To effectuate the provisions of this subchapter, the State Radiation Control Agency, by lease or license with any person, may provide for the operation of a site. Any lessee or licensee operating under the provisions of this subdivision (11) shall be subject to subdivision (10)~~

~~of this section.~~

(D)(i) The funds required by this subdivision ~~(11)~~ (c)(2) shall be established at such rate that interest on the sum of all funds reasonably anticipated as payable shall provide an annual amount equal to the anticipated reasonable costs necessary to maintain, monitor, and otherwise supervise and care for the lands and facilities as required in the interest of public health and safety.

(ii) In arriving at the rate of funds to be deposited, the State Radiation Control Agency shall consider the nature of the licensed material, size and type of activity, estimated future receipts, and estimated future expenses of maintenance, monitoring, and supervision.

(E)(i) Recognizing that ultimate responsibility to protect the public health and safety must be reposed in a solvent government, without regard to the existence of any particular agency or department ~~thereof~~, all lands, buildings, and grounds acquired by the state under subdivision ~~(11)(B)~~ (c)(2)(C) of this section shall be owned in fee simple absolute by the state for purposes stated in subdivision ~~(11)(B)~~ (c)(2)(C) of this section.

(ii) All radioactive material received at the site and located therein at time of acquisition of ownership by the state becomes the property of the state.

(F)(i) If a person licensed by any governmental agency other than the State of Arkansas desires to transfer a site to the state for the purpose of administering or providing ~~perpetual~~ long-term care, a lump-sum deposit shall be made to a trust fund.

(ii) The amount of the deposit shall be determined by the secretary, taking into consideration the factors stated in subdivision ~~(11)(D)~~ (c)(2)(D) of this section.

(3) The sureties or other financial arrangements and funds required by subdivisions (c)(1) and (2) of this section shall be established in amounts sufficient to ensure compliance with those standards, if any, established by the United States Nuclear Regulatory Commission pertaining to closure, decommissioning, reclamation, and long-term site surveillance and care of such facilities and sites.

(4) All state, local, or other governmental agencies or subdivisions shall be exempt from the requirements of subdivisions (c)(1) and (2) of this section.

(5) The State Radiation Control Agency may by contract, agreement, lease, or license with any person, including another state agency, provide for the decontamination, closure, decommissioning, reclamation, surveillance, or other care of a site subject to subsection (c) of this section as needed to carry out the purposes of this section.

SECTION 4. Arkansas Code § 20-21-209 is amended to read as follows:

20-21-209. State Radiation Control Agency — Recognition of other licenses or registrations.

Rules promulgated pursuant to this subchapter may provide for recognition of other state or federal licenses or registrations, or equivalents, as the State Radiation Control Agency may deem desirable, subject to such licensing or registration requirements as the agency may prescribe.

SECTION 5. Arkansas Code § 20-21-213 is amended to read as follows:

20-21-213. Licensing and registration requirements generally.

(a) The State Radiation Control Agency shall provide by rule for ~~general or specific~~ licensing of ~~accelerator-produced material, by-product material, source material, special nuclear material~~ radioactive material, or devices or equipment utilizing such material, and for licensing or registration of radiation equipment.

(b) The rule shall provide for amendment, suspension, or revocation of *licenses and registrations*.

(c) The rule shall provide that:

(1) Each application for a specific license, or license or registration of radiation equipment, shall be in writing and shall state such information as the agency by rule may determine to be necessary to decide the technical~~, insurance,~~ and financial qualifications or any other qualifications of the applicant as the agency may deem reasonable and necessary to protect the occupational and public health and safety;

(2) The agency may at any time after the filing of the application and before the expiration of the license or registration require further written statements and may make such inspections as the agency may deem necessary in order to determine whether the license or registration should be granted or denied or whether the license or registration should be

modified, suspended, or revoked;

(3) All applications and statements shall be signed by the applicant, ~~or~~ licensee, or registrant;

(4) The agency may require any applications or statements to be made under oath or affirmation;

(5) Each license or registration shall be in ~~such~~ a form and contain ~~such~~ terms and conditions as the agency may by rule prescribe;

(6) ~~No license issued under this subchapter and no right to possess or utilize sources of ionizing radiation granted by any license shall be assigned or in any manner disposed of~~ *No license or registration issued under this subchapter nor any right under a license or registration shall be transferred, assigned, or in any manner disposed of unless the agency shall, after securing full information, find that the transfer is in accordance with the provisions of this subchapter and shall give its consent in writing;*

(7) The terms and conditions of all licenses or registrations shall be subject to amendment, revision, or modification by rules or orders issued in accordance with this subchapter;

(8) Licenses issued by the agency shall:

~~(A) Be nontransferable;~~

~~(B)~~(A) Be renewed every five (5) to ten (10) years based on risk factors as determined by the agency; and

~~(C)~~(B) Expire at a time specified by the agency; and

(9) Registrations issued shall:

~~(A) Be nontransferable;~~

~~(B)~~(A) Be renewed at a time specified by the agency; and

~~(C)~~(B) Expire one (1) year after issuance or at a time specified by the agency.

SECTION 6. Arkansas Code §§ 20-21-215 — 20-21-218 are amended to read as follows:

20-21-215. Licensing and registration requirements — Recognition of other licenses or registrations.

Rules promulgated pursuant to this subchapter may provide for recognition of other state or federal licenses or registrations, or equivalents, as the State Radiation Control Agency ~~shall~~ may deem desirable, subject to such licensing or registration requirements as the agency may

prescribe.

~~20-21-216. Licensing and registration requirements -- Termination.~~

~~(a) Any radioactive materials license issued or renewed after July 4, 1983, for any activity which results in the production of radioactive material shall contain such terms and conditions as the State Radiation Control Agency determines to be necessary to assure that before termination of the license:~~

~~(1) The licensee will comply with decontamination, decommissioning, and reclamation standards prescribed by the agency, which shall be equivalent to or more stringent than those of the United States Nuclear Regulatory Commission or any successor thereto, for sites at which ores were processed primarily for their source material content and at which the radioactive material is deposited;~~

~~(2) Ownership of any disposal site and the radioactive material which resulted from the licensed activity shall be transferred to either the United States or the state, if this state exercises the option to acquire land used for the disposal of the radioactive material; and~~

~~(3) Any license which is in effect on July 4, 1983, and which is subsequently terminated without renewal shall comply with subdivisions (a)(1) and (2) of this section upon termination.~~

~~(b) The agency shall require by rule or order that, before the termination of any license which is issued after July 4, 1983, title to the land including any interests therein other than land held in trust by the United States for any Indian tribe or owned by an Indian tribe subject to a restriction against alienation imposed by the United States, or land already owned by the United States or by this state, which is used pursuant to the license for the disposal of radioactive material shall be transferred to either the United States or to the state, unless the United States Nuclear Regulatory Commission or any successor thereto determines before the termination that transfer of title to the land and the material is not necessary or desirable to protect the public health, safety, or welfare, or to minimize danger to life or property.~~

~~(c) If transfer of the title to the radioactive material and land to the state is required, the agency, following the United States Nuclear Regulatory Commission's determination that the licensee has complied with~~

~~applicable standards and requirements under his or her license, shall assume title to the material or land and maintain the material and land in such manner as will protect the public health and safety and the environment.~~

~~(d) The agency may undertake such monitoring, maintenance, and emergency measures as are necessary to protect the public health and safety for those materials and property for which it has assumed custody pursuant to this subchapter.~~

~~(e) The transfer of title to land or radioactive materials to the United States or to this state shall not relieve any licensee of liability for any fraudulent or negligent acts done before the transfer.~~

~~(f) Other than administrative and legal costs incurred by the United States or by this state in carrying out the transfer, radioactive materials or land transferred to the United States or to the state in accordance with this section shall be transferred without cost.~~

20-21-217. Licensing and registration requirements — Compliance with standards — Fees.

~~(a) In licensing and regulation of radioactive material or of any activity which results in the production of radioactive materials so defined, the State Radiation Control Agency shall require compliance with applicable standards promulgated by the State Radiation Control Agency which are equivalent to or more stringent than standards adopted and enforced by the United States Nuclear Regulatory Commission for the same purpose, including requirements and standards promulgated by the United States Environmental Protection Agency.~~

~~(b)~~(a) Until the State Board of Health promulgates rules under subsection ~~(d)~~ (c) of this section, the State Radiation Control Agency may charge and collect the following annual fees associated with licensing and registration of sources of ionizing radiation:

(1) Hospitals or medical centers:

(A) Category I-A $900.00

(B) Category I-B 700.00

(C) Category II-A 650.00

(D) Category II-B 450.00

(E) Category III 200.00

(2) Radioactive material licenses:

(A) Private practice, other than teletherapy units or particle accelerators $100.00

(B) Radiography:

(i) In plant .....350.00 for first bay

.....500.00 for 2 or more bays

(ii) Field 1,000.00

(C) Wireline service operation ..300.00 for 1 to 3 sources

.....500.00 for 4 or more sources

(D) Academic:

(i) Broad 500.00

(ii) Other 200.00

(E) Gas chromatograph devices and lead analyzers ..100.00

(F) Nuclear gauges .....300.00 for 1 to 5 gauges

.....500.00 for 6 or more gauges

(G) Particle accelerators, nonmedical 200.00

(H) In vitro laboratory testing 25.00

(I) Irradiators 1,000.00

(J) Nuclear pharmacy 1,000.00

(K) Mobile nuclear medicine service 1,200.00

(L) Consultants 250.00

(3) General licensed devices: Initial registration and annual fees for the receipt, possession, or use of radioactive material under a general license or a license obtained through reciprocity, as defined by the State Radiation Control Agency, shall be as follows:

(A) Certain measuring, gauging, and controlling devices

.....$300.00

(B) Generally licensed gas chromatographs 200.00

(C) Static elimination devices 100.00

(D) Source material devices 500.00

(E) Devices containing depleted uranium 500.00

(F) Public safety devices containing radioactive material

.....50.00

(G) All other general license registrations other than those specified above 150.00

(4) Other:

(A) Medical, therapy, nonhospital unit

.....$250.00 for first unit
.....175.00 for each additional unit
(B) Particle accelerator, medical, nonhospital unit
.....450.00 for first unit
.....300.00 for each additional unit
(C) State Board of Health Rules ~~and Regulations~~ for Control of Sources of Ionizing Radiation
.....0.00 for first copy
.....30.00 for each additional copy
(D) Naturally occurring radioactive material license
.....2,500.00
(E) Amendment to existing license .....50.00 per amendment

(5) Reciprocity:

(A) Naturally occurring radioactive material $2,500.00
(B) Radiography, field 1,000.00
(C) Wireline 500.00
(D) Nuclear gauge 500.00
(E) Consultant 100.00

(6) Late fees: A late fee equal to ten percent (10%) of the applicable fee shall be charged for fees not received within sixty (60) days of the invoiced due date and for every sixty (60) days thereafter.

~~(c)~~(b) The State Radiation Control Agency may charge and collect the following annual fees associated with X-ray registrations:

(1) All X-ray units, sixty-five dollars ($65.00) per tube up to a maximum of two hundred sixty dollars ~~($260.00)~~ ($260); and

(2) Vendor services providing radiation equipment services or radiation safety services, or both, sixty-five dollars ($65.00).

~~(d)(1)~~(c)(1) For the fees under subsection ~~(b)~~ (a) of this section, the board shall adopt rules to establish fees at a level to sustain operations of the State Radiation Control Agency's mandated programs.

(2) The fees shall not:

(A) Conflict with federal program schedules; or

(B) Exceed twenty-five percent (25%) of the fees that would be levied by the United States Nuclear Regulatory Commission if the United States Nuclear Regulatory Commission were to regulate the State Radiation Control Agency's mandated programs.

~~(e)~~(d) Each application for reciprocal recognition of an out-of-state license or of an out-of-state registration shall be accompanied by the applicable annual fee, provided that no fee has been submitted during the calendar year of the application.

~~(f)(1)~~(e)(1) The annual fee shall be based upon the calendar year, January 1 through December 31, with fees for any given year due by December 31 of the previous year.

(2)(A) Applications for new licenses or registrations shall be accompanied by the appropriate fees.

(B) An applicant ~~The applicants~~ shall be charged for a full calendar year regardless of the month the license or registration is issued.

(3) Applications for amendments to licenses or registration certificates which result in a change to a more costly category shall be accompanied by a fee equal to the difference between the fee for the current category and the one to which the amended license or certificate will escalate.

(4) Fee payments shall be by check, draft, or money order made payable to the Department of Health.

(5) In any case in which the State Radiation Control Agency finds that an applicant for a new license or new certificate of registration has failed to pay the fee prescribed in this section, the State Radiation Control Agency shall not process that application until the fee is paid.

(6) In any case in which the State Radiation Control Agency finds that a person has failed to pay a fee prescribed by this section within ninety (90) days of the date due, the State Radiation Control Agency may issue an order to show cause why that registration, license, or other service should not be revoked, suspended, or terminated, as appropriate.

~~(g)~~(f) Annual fees shall not be required for those applicants, licensees, registrants, or other applicable persons whose use of sources of radiation is certified as financed solely by the General Revenue Fund Account of the State Apportionment Fund.

~~(h)~~(g) All fees levied and collected under this section are declared to be special revenues and shall be deposited into the State Treasury, there to be credited to the Public Health Fund.

~~(i)~~(h) Subject to the rules as may be implemented by the Chief Fiscal

Officer of the State, the disbursing officer for the department may transfer all unexpended funds relative to licensing and registration for use of radioactive materials and X-ray equipment that pertain to fees collected, as certified by the Chief Fiscal Officer of the State, to be carried forward and made available for expenditures for the same purpose for any following fiscal year.

20-21-218. Records.

(a)(1) The State Radiation Control Agency shall require each person who manufactures, possesses, distributes, sells, installs, repairs, 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 may require subject to such exemptions as may be provided by rule.

(2) The agency shall require each person who manufactures, possesses, distributes, sells, installs, repairs, or uses a source of ionizing radiation, or who furnishes personnel dosimetry services for agency licensees or registrants to maintain appropriate records showing the radiation exposure of all individuals for whom personnel monitoring is required by rules of the agency.

(b)(1) Copies of all records required by subsection (a) of this section shall be submitted to the agency upon request. The agency shall obtain these required records from each person who manufactures, possesses, distributes, sells, installs, repairs, or uses a source of ionizing radiation and from service personnel.

(2) ~~Any person possessing or using a source of ionizing radiation shall furnish to each~~ To each employee for whom personnel monitoring is required, a copy of the employee's personal exposure record~~, as follows:~~ shall be given at the frequency required by rule.

~~(A) Annually;~~

~~(B) At any time the employee has received excessive exposure; and~~

~~(C) Upon termination of employment.~~

SECTION 7. Arkansas Code § 20-21-222(a), concerning administrative proceedings related to ionizing radiation, is amended to read as follows:

(a) Under this subchapter:

(1) In any proceeding for the issuance or modification of rules relating to control of sources of ionizing radiation, the State Radiation Control Agency shall provide an opportunity for public participation through written comments or a public hearing, or both;

(2) In any proceeding for the denial of an application for a license or registration or for revocation, suspension, or modification of a license or registration, the agency shall provide to the applicant, ~~or~~ licensee, or registrant an opportunity for a hearing on the record;

(3) In any proceeding for ~~licensing ores processed primarily for their source material content or disposal of radioactive material or for~~ licensing commercial burial of radioactive ~~wastes~~ waste, the agency shall provide:

(A) An opportunity, after public notice, for written comments and a public hearing with a transcript;

(B) An opportunity for cross examination; and

(C) A written determination of the action to be taken ~~which~~ that is based upon findings included in the determination and upon evidence presented during the public comment period;

(4)(A) In any proceeding for ~~licensing ores processed primarily for their source material content, for disposal of radioactive material, or for~~ licensing commercial burial of radioactive ~~*wastes*~~ *waste*, the agency shall prepare for each licensed activity that has a significant impact on the human environment a written analysis of the impact of the activity on the environment ~~for each licensed activity which has a significant impact on the human environment~~.

(B) The environmental impact analysis shall be available to the public before the commencement of hearings held pursuant to subdivision (a)(3) of this section and shall include:

~~(A)~~(i) An assessment of the radiological and nonradiological impacts to the public health;

~~(B)~~(ii) An assessment of any impact on any waterway and groundwater;

~~(C)~~(iii) Consideration of alternatives, including alternative sites and engineering methods, to the activities to be conducted; and

~~(D)~~(iv) Consideration of the long-term impacts including

decommissioning, decontamination, and reclamation of facilities and sites associated with the licensed activities and management of any radioactive materials which will remain on the site after the decommissioning, decontamination, ~~*or*~~ *and reclamation;* and

(5) The agency shall prohibit any major construction with respect to any activity for which an environmental impact analysis is required by subdivision (a)(4) of this section before completion of such ~~*an*~~ analysis.

/s/Ladyman

APPROVED: 3/4/21