

Governor's Office of Management and Budget

Alexis Sturm

Director



IL Regulatory Sunset Act Review of The Radiation Protection Act

March 18, 2021

To the Honorable JB Pritzker
Governor of Illinois

Governor Pritzker:

The Governor's Office of Management and Budget (GOMB), in compliance with the requirements set forth in the Illinois Regulatory Sunset Act (5 ILCS 80), has conducted a review of the Radiation Protection Act of 1990 (420 ILCS 40), which is scheduled to sunset on January 1, 2022. As a result of this review, GOMB makes the following recommendation:

The Radiation Protection Act of 1990 (420 ILCS 40) should be continued.

GOMB's examination of this Act was conducted taking into account the nine factors set out in Section 6 of the Illinois Regulatory Sunset Act. The following report details the criteria and data utilized to come to the above recommendation.

Very sincerely and respectfully,

Alexis Sturm
Director
Governor's Office of Management and Budget

Criteria (1) "The extent to which the agency or program has permitted qualified applicants to serve the public."

As of September 2019, there are 14,578 Medical Radiation Technology licenses issued, 2,165 Industrial Radiography licenses and 374 licensed Diagnostic Imaging Specialist/Therapeutic Radiological Physicists in Illinois.

License Type	2015	2016	2017	2018	2019
Medical Radiation Technology License	x	x	x	x	14,578
Industrial Radiography	x	x	x	x	2,165
Diagnostic Imaging Specialist/Therapeutic Radiological Physicist	x	x	x	x	374

The current licensure fee structure is as follows:

Type	Fee Amount
Medical Radiation Technology License Application fee	\$120
Medical Radiation Technology License Examination fee	\$140 (Limited Radiography only)
Medical Radiation Technology License Renewal fee	\$120
Industrial Radiography License Application fee	\$125
Industrial Radiography License Examination fee	\$150
Industrial Radiography License Renewal fee	\$125
Diagnostic Imaging Specialist/Therapeutic Radiological Physicist Application fee	\$200
Diagnostic Imaging Specialist/Therapeutic Radiological Physicist Renewal fee	\$150

Medical Radiation Technology

More than 75% of states have licensing laws covering the practice of radiologic technology. Many states use the American Registry of Radiologic Technologist (ARRT) certification exam as a basis for state licensure. Illinois requirements for certification are similar to other states' practices by accepting the successful completion of the ARRT exam as the basis for active status accreditation. Illinois also utilizes the limited scope exam offered through the ARRT and recognizes other credentialing entities as well. Other national examinations and certifications that are recognized by Illinois include the Nuclear Medicine Technology Certification Board and the American Chiropractic Registry of Radiologic Technologists.

Examinations appropriate to the category of accreditation include The American Registry of Radiologic Technologists, The Nuclear Medicine Technology Certification Board, the American Chiropractic Registry of Radiologic Technologists and the Certification Board for Radiology Practitioner Assistants. Specific testing requirements can be found in 32 Ill. Adm. Code 401.70(b). Exams are offered and administered on a regular basis through the specific credentialing entity. The exams are used nationwide by all licensing states as proof of qualification.

For the limited scope of diagnostic radiography, the exams are provided by the American Registry of Radiologic Technologists. The testing requirements can be found in 32 Ill. Adm. Code 401.70(b)(7). The Exams, which are utilized nationwide, are offered on a regular basis. The statutory citation for limited scope of diagnostic radiography examination is 420 ILCS 40/6(c).

Industrial Radiography

There are 10 other states besides Illinois and the American Society for Nondestructive Testing, Inc. (ASNT) that have nationally recognized certification programs. The states that currently regulate this profession have similar training and exam requirements. However, Illinois differs in the acceptance of reciprocity. Illinois requires operators in Illinois to possess an Illinois certification card. Most other states accept the possession of a valid card from any other certifying state.

Individuals are required to take an exam prior to certification and every 5 years thereafter in order to re-certify. A passing score of 70% is required. The exam is available through the Conference of Radiation Control Program Directors, Inc. (CRCPD). Alternate examinations are accepted if they are acceptable by the US Nuclear Regulatory Commission or the Conference of Radiation Control Program Directors, Inc. The Agency offers the exam on a monthly basis (except for July) in Springfield. Additionally, every other month the exam is offered in Des Plaines. The exams are provided through the CRCPD and administered/proctored by Agency personnel. The exams are used nationwide by those states that administer an Industrial Radiography Certification Program.

Diagnostic Imaging Specialist/Therapeutic Radiological Physicist

A number of other states regulate this profession but do so under a different title. Specific examination, registration, certification, etc. does vary from state to state. Illinois requirements are similar to other states' practices with regards to education and training.

Criteria (2) "The extent to which the trade, business, profession, occupation, or industry being regulated is being administered in a nondiscriminatory manner both in terms of employment and rendering of services."

IEMA affirms that employees conduct themselves in a nondiscriminatory manner with regard to registration, accreditation and licensing of the industry, and all IEMA employees are required to conduct themselves in a professional and ethical manner in conformity with all state and federal laws. Any state employee acting in a discriminatory manner is subject to discipline under the applicable state and federal statutes.

Criteria (3) "The extent to which the regulatory agency or program has operated in the public interest, and the extent to which its operation has been impeded or enhanced by existing statutes, procedures, and practices of any other department of state government, and any other circumstances, including budgetary resources, and personnel matters."

It is the goal of IEMA to administer an effective regulatory program to help reduce any unnecessary radiation exposure to the citizens of Illinois. Since the period of last review or extension of this act, the Agency has worked with other state agencies as necessary to carry out its goal. IEMA asserts that although budget and personnel constraints provide challenges, the Agency continues to strive to serve the Illinois citizens in the best manner possible with the resources that are available.

Criteria (4) "The extent to which the agency running the program has recommended statutory changes to the General Assembly that would benefit the public as opposed to the persons it regulates."

IEMA has successfully recommended changes to the Act throughout the years to protect the health and welfare of the citizens and environment, including pending legislation to extend the sunset date of this Act.

Criteria (5) "The extent to which the agency or program has required the persons it regulates to report to it concerning the impact of rules and decisions of the agency or the impact of the program on the public regarding improved service, economy of service, and availability of service."

IEMA has not actively taken any steps to encourage the public to report to the Agency concerning the impact of rules and decisions. However, IEMA promulgates all rules in accordance with the Illinois Administrative Procedure Act which provides a process for the public and regulated industry to comment. In addition, the Agency has posted numerous documents, as well as current and proposed regulations, on its website in an effort to provide information, with the goal of transparency, and to be sensitive to the needs of both the public and the regulated community.

Criteria (6) "The extent to which persons regulated by the agency or under the program have been required to assess the problems in their industry that affect the public."

The regulations of the Agency require facilities to operate radiation programs that are effective in helping reduce any unnecessary radiation exposure to the public and provide security for radioactive materials against criminal or terrorist acts. For example, before an entity can use radioactive material in Illinois, an application must be submitted to the Agency which describes, in detail, how the radioactive material will be used and how the public's safety will be protected. Entities that possess large quantities of radioactive materials must also have access authorization, physical security and transportation security programs. In addition, there are specified reporting requirements that licensees must follow to notify the Agency of events or matters that may negatively impact the general public. Regulated entities must also maintain records concerning such matters for inspection by the Agency.

Criteria (7) "The extent to which the agency or program has encouraged participation by the public in making its rules and decisions as opposed to participation solely by the persons it regulates and the extent to which such rules and decisions are consistent with statutory authority."

IEMA promulgates all regulations in accordance with the Illinois Administrative Procedure Act. This statute requires that the proposed regulations be published for review and comment by the public. Moreover, the Agency website provides public notice of all proposed rules as well as other reports and information notices.

Criteria (8) "The efficiency with which formal public complaints filed with the regulatory agency or under the program concerning persons subject to regulation have been processed to completion, by the executive director of the regulatory agencies or programs, by the Attorney General and by any other applicable department of the State government."

IEMA states that all allegations and complaints received by the Agency are addressed in a prompt and efficient manner. Matters involving individuals and facilities in violation of the Agency's regulations are subject to administrative remedies and may also be referred to the Attorney General's Office for prosecution as appropriate.

Criteria (9) "The extent to which changes are necessary in the enabling laws of the agency or program to adequately comply with the factors listed in this section."

IEMA believes the enabling legislation is appropriate. The Agency continually reviews the authority granted in the Radiation Protection Act and has proposed changes as needed to address issues.

Conclusion:

The Radiation Protection Act of 1990 protects the interests of the general public from the effects of ionizing radiation. The Act also regulates the industry that uses radiation on a daily basis for medical and industrial purposes.

It is the goal of IEMA to administer an effective regulatory program to help reduce any unnecessary radiation exposure to the citizens of Illinois. The Agency works with other state agencies as necessary to carry out its goal.

IEMA believes that the absence of the regulatory programs authorized under the Radiation Protection Act would have a significant negative effect on the health, safety and welfare of Illinois citizens. Under this Act, the Agency regulates over 32,000 radiation machines in approximately 11,000 medical and industrial facilities, licenses 1525 facilities that use radioactive material, and accredits over 14,500 individuals that apply ionizing radiation to patients in Illinois. Without such programs, these entities would be unregulated resulting in unnecessary exposure to the general public and the environment from ionizing radiation. In addition, the radioactive material would be potentially unsecured against criminal or terrorist acts. Finally, there have been 178 actual reported radiation events and allegations over the last five years that the Agency has investigated and enforced appropriate compliance actions. These events include excessive radiation doses to patients and users, illegal waste disposals and theft of material. Without the regulatory programs authorized under this Act, these events could have continued in perpetuity or possibly escalated beyond a point of reasonable recovery.

Consequent to the reasons listed, GOMB recommends the continuation of the Radiation Protection Act of 1990.