

REFERENCE TITLE: radiation regulatory agency; DEQ

State of Arizona  
Senate  
Forty-eighth Legislature  
Second Regular Session  
2008

# SB 1124

Introduced by  
Senator Blendu

AN ACT

AMENDING SECTIONS 26-305.01, 26-305.02, 30-651, 30-652, 30-722, 41-1804, 41-3016.13 AND 49-104, ARIZONA REVISED STATUTES; RELATING TO THE RADIATION REGULATORY AGENCY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 26-305.01, Arizona Revised Statutes, is amended to  
3 read:

4 26-305.01. Nuclear emergency plan: duties of division and  
5 director

6 A. The division is designated the lead agency and has the overall and  
7 primary responsibility for development of a state plan for off-site response  
8 to an emergency caused by an accident at a commercial nuclear generating  
9 station.

10 B. The director shall develop the plan by appointing a coordinator and  
11 response group and working in consultation with designated representatives  
12 from the following:

- 13 1. THE radiation regulatory agency IN THE DEPARTMENT OF ENVIRONMENTAL  
14 QUALITY.
- 15 2. THE Arizona department of agriculture.
- 16 3. THE department of health services.
- 17 4. THE department of public safety.
- 18 5. THE department of transportation.
- 19 6. THE division of military affairs within the department of emergency  
20 and military affairs.
- 21 7. THE department of commerce.
- 22 8. THE Arizona corporation commission.
- 23 9. THE department of environmental quality.
- 24 10. Any other agencies or offices deemed necessary by the division of  
25 emergency management.

26 Sec. 2. Section 26-305.02, Arizona Revised Statutes, is amended to  
27 read:

28 26-305.02. Hazardous materials emergency management program:  
29 emergency planning and community right-to-know:  
30 duties of the division and director

31 A. The division is designated the lead agency for developing and  
32 implementing a state hazardous materials emergency management program.

33 B. The director shall appoint a coordinator to work in consultation  
34 with designated representatives from the following agencies and departments  
35 in the development and implementation of the hazardous materials emergency  
36 management program:

- 37 1. The department of environmental quality.
- 38 2. The department of health services.
- 39 3. The department of public safety.
- 40 4. The department of transportation.
- 41 5. The Arizona department of agriculture.
- 42 6. The corporation commission.
- 43 7. The industrial commission.
- 44 8. The office of state fire marshal.
- 45 9. The office of state mine inspector.

1           10. The radiation regulatory agency **IN THE DEPARTMENT OF ENVIRONMENTAL**  
2 **QUALITY**.

3           11. Other agencies or offices deemed necessary by the director.

4           C. Nothing in this article shall be construed to change or alter the  
5 existing regulatory authority or provisions of law relating to the agencies  
6 and departments listed in subsection B of this section.

7           D. The division is designated as the lead agency for implementing  
8 title III of the superfund amendments and reauthorization act of 1986  
9 (P.L. 99-499). The director shall plan, program and budget the Arizona  
10 emergency response commission activities and administer any monies received  
11 under section 26-343, subsection G.

12           Sec. 3. Section 30-651, Arizona Revised Statutes, is amended to read:  
13 **30-651. Definitions**

14           In this chapter, unless the context otherwise requires:

15           1. "Agency" means the radiation regulatory agency **IN THE DEPARTMENT OF**  
16 **ENVIRONMENTAL QUALITY**.

17           2. "Atomic energy" means all forms of energy released in the course of  
18 nuclear transformations, nuclear fission and nuclear fusion.

19           3. "Board" means the radiation regulatory hearing board.

20           4. "By-product material" means any radioactive material, except  
21 special nuclear material, yielded in or made radioactive by exposure to the  
22 radiation incident to the process of producing or utilizing special nuclear  
23 material and the tailings or wastes produced by the extraction or  
24 concentration of uranium ore thorium from any ore processed primarily for its  
25 source material content.

26           5. "Diagnostic mammography" means an X-ray imaging of the breast  
27 performed on persons who have symptoms or physical signs indicative of breast  
28 disease.

29           6. "Director" means the director of the ~~radiation regulatory agency~~  
30 **DEPARTMENT OF ENVIRONMENTAL QUALITY**.

31           7. "Electronic product" means:

32           (a) Any machine or device designed to produce a beam of ionizing  
33 radiation as the result of the operation of an electronic circuit or  
34 component.

35           (b) Class IIIb and IV lasers, as classified by the United States food  
36 and drug administration.

37           (c) Radio frequency heaters, dryers and sealers.

38           (d) Any device employing a source of radio frequency electromagnetic  
39 radiation within a protective enclosure and used for heating or curing  
40 materials in industrial or manufacturing applications and in restaurants or  
41 food vending establishments. This subdivision does not include microwave  
42 ovens manufactured as consumer products and used for home food preparation.

43           (e) Microwave and shortwave diathermy.

1 (f) Mercury vapor, metal halide and high-pressure sodium lamps used  
2 for commercial lighting and industrial manufacturing processes or sunlamps  
3 used in commercial establishments for the intentional irradiation of humans.

4 (g) Therapeutic ultrasound devices.

5 (h) Industrial ultrasonic welders and sealers.

6 8. "Electronic product radiation" means:

7 (a) Any ionizing or nonionizing electromagnetic or particulate  
8 radiation ~~which~~ THAT is emitted from an electronic product.

9 (b) Any sonic, infrasonic or ultrasonic wave ~~which~~ THAT is emitted  
10 from an electronic product as the result of the operation of an electronic  
11 circuit in the product.

12 9. "Ionizing radiation" means gamma rays and X-rays, alpha and beta  
13 particles, high speed electrons, neutrons, protons and other nuclear  
14 particles or rays.

15 10. "Operation" means adjustments or procedures by the user required  
16 for the equipment to perform its intended functions.

17 11. "Person" means any individual, corporation, partnership, firm,  
18 association, trust, estate, public or private institution, group, agency or  
19 political subdivision of this state, or any other state or political  
20 subdivision or agency of such state, and any legal successor, representative,  
21 agent, or agency of the foregoing, other than the United States nuclear  
22 regulatory commission or any successor, and other than federal government  
23 agencies and any other entities licensed by the United States nuclear  
24 regulatory commission or any successor.

25 12. "Radiation" means:

26 (a) Ionizing radiation, including gamma rays, X-rays, alpha and beta  
27 particles, high speed electrons, neutrons, protons and other nuclear  
28 particles or rays.

29 (b) Any electromagnetic radiation ~~which~~ THAT may be produced by the  
30 operation of an electronic product.

31 (c) Any sonic, ultrasonic or infrasonic wave ~~which~~ THAT may be  
32 produced by the operation of an electronic product.

33 13. "Radiation machine" means any manufactured devices or products  
34 producing any of the following:

35 (a) X-rays for medical, industrial, research and development or  
36 educational purposes.

37 (b) Electromagnetic radiation from an electronic product.

38 (c) Laser devices classified as class IIIb or IV by the United States  
39 food and drug administration.

40 (d) Diathermy machines.

41 14. "Radioactive material" means any material or materials, solid,  
42 liquid or gaseous, that emit radiation spontaneously.

43 15. "Screening mammography" means X-ray imaging of the breast of  
44 asymptomatic persons.

1 16. "Service" means major adjustments or repairs, usually requiring  
2 specialized training or tools, or both.

3 17. "Source material" means:

4 (a) Uranium, thorium or any other material ~~which~~ THAT the governor  
5 declares by order to be source material after the United States nuclear  
6 regulatory commission or any successor has determined the material to be  
7 source material.

8 (b) Ores containing one or more of the materials, as provided in  
9 subdivision (a) of this paragraph, in such concentration as the governor  
10 declares by order to be source material after the United States nuclear  
11 regulatory commission or any successor has determined the material in such  
12 concentration to be source material.

13 18. "Sources of radiation" means radioactive materials, radiation  
14 machines and electronic products.

15 19. "Special nuclear material" means:

16 (a) Plutonium, uranium 233, uranium enriched in the isotope 233 or in  
17 the isotope 235 and any other material ~~which~~ THAT the governor declares by  
18 order to be special nuclear material after the United States nuclear  
19 regulatory commission or any successor has determined the material to be  
20 such, but does not include source material.

21 (b) Any material artificially enriched by any of the material provided  
22 in subdivision (a) of this paragraph, but does not include source material.

23 Sec. 4. Section 30-652, Arizona Revised Statutes, is amended to read:

24 30-652. Radiation regulatory agency; director's duties

25 A. There is established a radiation regulatory agency **IN THE**  
26 **DEPARTMENT OF ENVIRONMENTAL QUALITY.**

27 ~~B. The governor shall appoint a director pursuant to section 38-211 to~~  
28 ~~administer the agency to serve at the pleasure of the governor. The director~~  
29 ~~is entitled to receive compensation as determined under section 38-611.~~

30 ~~C.~~ B. The director shall:

31 1. Administer and enforce this chapter and the rules and regulations  
32 promulgated under this chapter.

33 2. Subject to title 41, chapter 4, articles 5 and 6, employ, determine  
34 the conditions of employment and specify the duties of inspectors, technical  
35 assistants and other employees of the agency.

36 3. Subject to title 41, chapter 4, articles 5 and 6, employ persons to  
37 act as investigators as deemed necessary by the agency to assist the agency  
38 in carrying out the powers and duties prescribed in this chapter.

39 4. Employ consultants or persons possessing technical expertise as  
40 deemed necessary to assist the agency in carrying out the agency's powers and  
41 duties prescribed in this chapter.

42 Sec. 5. Section 30-722, Arizona Revised Statutes, is amended to read:

43 30-722. Administration

44 A. The radiation regulatory agency is designated as the agency  
45 responsible for performing any administrative and enforcement duties assigned

1 to this state by the southwestern low-level radioactive waste disposal  
2 compact except those duties specifically assigned to the governor.

3 B. The payment of any monies by this state to the southwestern  
4 low-level radioactive waste commission under the compact shall be from an  
5 appropriation made to the radiation regulatory agency ~~which~~ THAT is not a  
6 line item in the ~~radiation regulatory agency's~~ DEPARTMENT OF ENVIRONMENTAL  
7 QUALITY'S budget.

8 Sec. 6. Section 41-1804, Arizona Revised Statutes, is amended to read:  
9 41-1804. Guidelines committee; duties

10 A. The department of public safety, in consultation with the  
11 department of emergency and military affairs, government information  
12 technology agency, department of health services, department of agriculture,  
13 ~~Arizona~~ radiation regulatory agency, IN THE department of environmental  
14 quality, state department of corrections, Arizona fire chiefs' association,  
15 Arizona police chiefs' association, Arizona sheriffs' associations, Arizona  
16 association of counties, Arizona league of cities and towns and  
17 representatives from every Indian tribal nation, shall convene a consulting  
18 committee to establish guidelines related to the critical infrastructure  
19 information system.

20 B. The committee shall:

21 1. Develop the type of information to be included in the critical  
22 infrastructure information system.

23 2. Develop critical infrastructure information technology standards to  
24 be used by all entities participating in the statewide critical  
25 infrastructure information system.

26 3. Determine the order in which critical infrastructure shall be added  
27 to the system when funding is received.

28 4. Develop guidelines on how the information shall be made available.  
29 These guidelines shall include detailed procedures and security measures to  
30 ensure that the information is only made available to the government or a  
31 private entity that either owns the critical infrastructure or is responding  
32 to an incident involving the critical infrastructure.

33 Sec. 7. Section 41-3016.13, Arizona Revised Statutes, is amended to  
34 read:

35 41-3016.13. Radiation regulatory agency and radiation  
36 regulatory hearing board; termination July 1,  
37 2016

38 A. The radiation regulatory agency IN THE DEPARTMENT OF ENVIRONMENTAL  
39 QUALITY and THE radiation regulatory hearing board terminate on July 1, 2016.

40 B. Title 30, chapter 4 is repealed on January 1, 2017.

41 Sec. 8. Section 49-104, Arizona Revised Statutes, is amended to read:  
42 49-104. Powers and duties of the department and director

43 A. The department shall:

44 1. Formulate policies, plans and programs to implement this title AND  
45 TITLE 30, CHAPTERS 4 AND 5 to protect the environment.

- 1           2. Stimulate and encourage all local, state, regional and federal  
2 governmental agencies and all private persons and enterprises that have  
3 similar and related objectives and purposes, cooperate with those agencies,  
4 persons and enterprises and correlate department plans, programs and  
5 operations with those of the agencies, persons and enterprises.
- 6           3. Conduct research on its own initiative or at the request of the  
7 governor, the legislature or state or local agencies pertaining to any  
8 department objectives.
- 9           4. Provide information and advice on request of any local, state or  
10 federal agencies and private persons and business enterprises on matters  
11 within the scope of the department.
- 12          5. Consult with and make recommendations to the governor and the  
13 legislature on all matters concerning department objectives.
- 14          6. Promote and coordinate the management of air resources to assure  
15 their protection, enhancement and balanced utilization consistent with the  
16 environmental policy of this state.
- 17          7. Promote and coordinate the protection and enhancement of the  
18 quality of water resources consistent with the environmental policy of this  
19 state.
- 20          8. Encourage industrial, commercial, residential and community  
21 development that maximizes environmental benefits and minimizes the effects  
22 of less desirable environmental conditions.
- 23          9. Assure the preservation and enhancement of natural beauty and  
24 man-made scenic qualities.
- 25          10. Provide for the prevention and abatement of all water and air  
26 pollution including that related to particulates, gases, dust, vapors, noise,  
27 radiation, odor, nutrients and heated liquids in accordance with article 3 of  
28 this chapter and chapters 2 and 3 of this title.
- 29          11. Promote and recommend methods for the recovery, recycling and reuse  
30 or, if recycling is not possible, the disposal of solid wastes consistent  
31 with sound health, scenic and environmental quality policies.
- 32          12. Prevent pollution through the regulation of the storage, handling  
33 and transportation of solids, liquids and gases that may cause or contribute  
34 to pollution.
- 35          13. Promote the restoration and reclamation of degraded or despoiled  
36 areas and natural resources.
- 37          14. Assist the department of health services in recruiting and training  
38 state, local and district health department personnel.
- 39          15. Participate in the state civil defense program and develop the  
40 necessary organization and facilities to meet wartime or other disasters.
- 41          16. Cooperate with the Arizona-Mexico commission in the governor's  
42 office and with researchers at universities in this state to collect data and  
43 conduct projects in the United States and Mexico on issues that are within  
44 the scope of the department's duties and that relate to quality of life,  
45 trade and economic development in this state in a manner that will help the

1 Arizona-Mexico commission to assess and enhance the economic competitiveness  
2 of this state and of the Arizona-Mexico region.

3 B. The department, through the director, shall:

4 1. Contract for the services of outside advisers, consultants and  
5 aides reasonably necessary or desirable to enable the department to  
6 adequately perform its duties.

7 2. Contract and incur obligations reasonably necessary or desirable  
8 within the general scope of department activities and operations to enable  
9 the department to adequately perform its duties.

10 3. Utilize any medium of communication, publication and exhibition  
11 when disseminating information, advertising and publicity in any field of its  
12 purposes, objectives or duties.

13 4. Adopt procedural rules that are necessary to implement the  
14 authority granted under this title, but that are not inconsistent with other  
15 provisions of this title.

16 5. Contract with other agencies including laboratories in furthering  
17 any department program.

18 6. Use monies, facilities or services to provide matching  
19 contributions under federal or other programs that further the objectives and  
20 programs of the department.

21 7. Accept gifts, grants, matching monies or direct payments from  
22 public or private agencies or private persons and enterprises for department  
23 services and publications and to conduct programs that are consistent with  
24 the general purposes and objectives of this chapter. Monies received  
25 pursuant to this paragraph shall be deposited in the department fund  
26 corresponding to the service, publication or program provided.

27 8. Provide for the examination of any premises if the director has  
28 reasonable cause to believe that a violation of any environmental law or rule  
29 exists or is being committed on the premises. The director shall give the  
30 owner or operator the opportunity for its representative to accompany the  
31 director on an examination of those premises. Within forty-five days after  
32 the date of the examination, the department shall provide to the owner or  
33 operator a copy of any report produced as a result of any examination of the  
34 premises.

35 9. Supervise sanitary engineering facilities and projects in this  
36 state, authority for which is vested in the department, and own or lease land  
37 on which sanitary engineering facilities are located, and operate the  
38 facilities, if the director determines that owning, leasing or operating is  
39 necessary for the public health, safety or welfare.

40 10. Adopt and enforce rules relating to approving design documents for  
41 constructing, improving and operating sanitary engineering and other  
42 facilities for disposing of solid, liquid or gaseous deleterious matter.

43 11. Define and prescribe reasonably necessary rules regarding the water  
44 supply, sewage disposal and garbage collection and disposal for subdivisions.  
45 The rules shall:

1 (a) Provide for minimum sanitary facilities to be installed in the  
2 subdivision and may require that water systems plan for future needs and be  
3 of adequate size and capacity to deliver specified minimum quantities of  
4 drinking water and to treat all sewage.

5 (b) Provide that the design documents showing or describing the water  
6 supply, sewage disposal and garbage collection facilities be submitted with a  
7 fee to the department for review and that no lots in any subdivision be  
8 offered for sale before compliance with the standards and rules has been  
9 demonstrated by approval of the design documents by the department.

10 12. Prescribe reasonably necessary measures to prevent pollution of  
11 water used in public or semipublic swimming pools and bathing places and to  
12 prevent deleterious conditions at such places. The rules shall prescribe  
13 minimum standards for the design of and for sanitary conditions at any public  
14 or semipublic swimming pool or bathing place and provide for abatement as  
15 public nuisances of premises and facilities that do not comply with the  
16 minimum standards. The rules shall be developed in cooperation with the  
17 director of the department of health services and shall be consistent with  
18 the rules adopted by the director of the department of health services  
19 pursuant to section 36-136, subsection H, paragraph 10.

20 13. Prescribe reasonable rules regarding sewage collection, treatment,  
21 disposal and reclamation systems to prevent the transmission of sewage borne  
22 or insect borne diseases. The rules shall:

23 (a) Prescribe minimum standards for the design of sewage collection  
24 systems and treatment, disposal and reclamation systems and for operating the  
25 systems.

26 (b) Provide for inspecting the premises, systems and installations and  
27 for abating as a public nuisance any collection system, process, treatment  
28 plant, disposal system or reclamation system that does not comply with the  
29 minimum standards.

30 (c) Require that design documents for all sewage collection systems,  
31 sewage collection system extensions, treatment plants, processes, devices,  
32 equipment, disposal systems, on-site wastewater treatment facilities and  
33 reclamation systems be submitted with a fee for review to the department and  
34 may require that the design documents anticipate and provide for future  
35 sewage treatment needs.

36 (d) Require that construction, reconstruction, installation or  
37 initiation of any sewage collection system, sewage collection system  
38 extension, treatment plant, process, device, equipment, disposal system,  
39 on-site wastewater treatment facility or reclamation system conform with  
40 applicable requirements.

41 14. Prescribe reasonably necessary rules regarding excreta storage,  
42 handling, treatment, transportation and disposal. The rules shall:

43 (a) Prescribe minimum standards for human excreta storage, handling,  
44 treatment, transportation and disposal and shall provide for inspection of  
45 premises, processes and vehicles and for abating as public nuisances any

1 premises, processes or vehicles that do not comply with the minimum  
2 standards.

3 (b) Provide that vehicles transporting human excreta from privies,  
4 septic tanks, cesspools and other treatment processes ~~shall~~ be licensed by  
5 the department subject to compliance with the rules.

6 15. Perform the responsibilities of implementing and maintaining a data  
7 automation management system to support the reporting requirements of title  
8 III of the superfund amendments and reauthorization act of 1986 (P.L. 99-499)  
9 and title 26, chapter 2, article 3.

10 16. Approve remediation levels pursuant to article 4 of this chapter.

11 C. The department may charge fees to cover the costs of all permits  
12 and inspections it performs to ~~insure~~ ENSURE compliance with rules adopted  
13 under section 49-203, subsection A, paragraph 6, except that state agencies  
14 are exempt from paying the fees. Monies collected pursuant to this  
15 subsection shall be deposited in the water quality fee fund established by  
16 section 49-210.

17 D. The director may:

18 1. If ~~he has~~ THERE IS reasonable cause to believe that a violation of  
19 any environmental law or rule exists or is being committed, inspect any  
20 person or property in transit through this state and any vehicle in which the  
21 person or property is being transported and detain or disinfect the person,  
22 property or vehicle as reasonably necessary to protect the environment if a  
23 violation exists.

24 2. Authorize in writing any qualified officer or employee in the  
25 department to perform any act that the director is authorized or required to  
26 do by law.

27 Sec. 9. Succession

28 A. As provided by this act, the department of environmental quality  
29 succeeds to the authority, powers, duties and responsibilities of the  
30 radiation regulatory agency.

31 B. This act does not alter the effect of any actions that were taken  
32 or impair the valid obligations of the radiation regulatory agency in  
33 existence on the effective date of this act.

34 C. Administrative rules and orders that were adopted by the radiation  
35 regulatory agency continue in effect until superseded by administrative  
36 action by the department of environmental quality.

37 D. All administrative matters, contracts and judicial and  
38 quasi-judicial actions, whether completed, pending or in process, of the  
39 radiation regulatory agency on the effective date of this act are transferred  
40 to and retain the same status with the department of environmental quality.

41 E. All certificates, licenses, registrations, permits and other  
42 indicia of qualification and authority that were issued by the radiation  
43 regulatory agency retain their validity for the duration of their terms of  
44 validity as provided by law.

1           F. All equipment, records, furnishings and other property, all data  
2 and investigative findings and all appropriated monies of the radiation  
3 regulatory agency that remain unexpended and unencumbered on the effective  
4 date of this act are transferred to the department of environmental quality.

5           G. All personnel who are under the state personnel system and employed  
6 by the radiation regulatory agency are transferred to comparable positions  
7 and pay classifications in the respective administrative units of the  
8 department of environmental quality on the effective date of this act.