

August 23, 2005

Gary N. Wright, Assistant Director
Illinois Emergency Management Agency
1035 Outer Park Drive
Springfield, IL 62704

Dear Mr. Wright:

We have reviewed the proposed changes to the Illinois regulation, 32 Ill. Adm. Codes: Part 330, "Licensing of Radioactive Material" received by our office on May 2, 2005. These regulations were reviewed by comparison to the equivalent Nuclear Regulatory Commission (NRC) rules in 10 CFR Parts 30, 31, 32, and the requirements of the one amendment identified in the enclosed State Regulation Status (SRS) Data Sheet. We discussed our review of the regulations with Gibb Vinson on August 23, 2005.

As a result of our review, we have 15 comments that have been identified in the enclosure. Please note that we have limited our review to regulations required for compatibility and/or health and safety. Under our current procedure, an NRC finding that the Illinois regulations meet the compatibility and health and safety categories of the equivalent NRC regulation may only be made based on a review of the final Illinois regulations. However, we have determined that if your proposed regulations were adopted, incorporating our comments and without other significant change, they would meet the compatibility and health and safety categories established in the Office of State and Tribal Programs (STP) Procedure [SA-200](#).

As noted in the enclosure, the comments address Illinois' proposed regulations for Generally Licensed (GL) devices. Please note that we have a Petition For Rulemaking from the Organization of Agreement States (OAS) currently under review by NRC staff, and a request from OAS and the State of Florida to change the Compatibility Category assigned to sections of the GL rule. Staff is examining whether there may be need for additional guidance to Agreement States regarding the status of some Agreement State GL rules during the interim time the NRC will require to complete action on the Petition and request. We will correspond separately with you on this issue in the near future.

We request that when the proposed regulations are adopted and published as final regulations, a copy of the "as published" regulations be provided to us for review. As requested in STP Procedure [SA-201](#), "Review of State Regulatory Requirements," please highlight the final changes and provide a copy to STP.

The SRS Data Sheet summarizes our knowledge of the status of other Illinois regulations, as indicated. Please let us know if you note any inaccuracies, or have any comments on the information contained in the SRS Data Sheet. This letter, including the SRS Data Sheet, is posted on the STP website: <http://www.hrsd.ornl.gov/nrc/rulemaking.htm>.

Mr. Gary Wright

-2-

August 23, 2005

If you have any questions regarding the comments, the compatibility and health and safety categories, or any of the NRC regulations used in the review, please contact me, or Jenny Tobin at (301)415-2328 or by e-mail at jct1@nrc.gov.

Sincerely,

IRA By KNSchneider Forl

Dennis Rathbun, Deputy Director
Office of State and Tribal Programs

Enclosures:
As stated

If you have any questions regarding the comments, the compatibility and health and safety categories, or any of the NRC regulations used in the review, please contact me, or Jenny Tobin at (301)415-2328 or by e-mail at jct1@nrc.gov.

Sincerely,

IRA By KNSchneider For

Dennis Rathbun, Deputy Director
Office of State and Tribal Programs

Enclosures: As stated

SISP Review Complete

- Publicly Available Non-Publicly Available
- Non-Sensitive Sensitive

Distribution:

DIR RF[5-189] DCD (SP07) PDR(YES_✓) Response to Incoming Document: **ML051220064**

Jim Lynch, RSAO RBlanton, ASPO BUsilton Illinois File Name: C:\NRC\Regs\IL 5-189.wpd

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OFFICE	STP		STP		OGC		STP:DD	
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DATE	07/29/05*		07/29/05*		08/17/05*		08/23/05*	

ML052360596

Official Record

COMPATIBILITY COMMENTS ON ILLINOIS PROPOSED REGULATIONS

STATE SECTION	NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
1	330.220(b)(3)(D)	31.5(c)(4)	2001-1	<p>Certain detecting, measuring, gauging, or controlling devices and certain devices for producing light or an ionized atmosphere</p> <p>Illinois has a 5 year recordkeeping retention period for the elements of 10 CFR 31.5(c)(4). This is more restrictive than the 3 year recordkeeping requirements required in 10 CFR 31.5(c)(4).</p> <p>Illinois needs to change the the record retention requirements in 330.220(b)(3)(D) from 5 years to 3 years to meet the Compatibility Category B designation assigned to Section 10 CFR 31.5(c)(4).</p>
2	330.220(b)(3)(K)	31.5(c)(10)	2001-1	<p>Certain detecting, measuring, gauging, or controlling devices and certain devices for producing light or an ionized atmosphere</p> <p>Illinois had the reporting requirements in 330.220(b)(3)(K), but deleted it. These requirements were not found elsewhere in Illinois' regulations.</p> <p>Illinois needs to add the reporting requirements to 330.220(b)(3)(K) to meet the Compatibility Category B designation assigned to Section 10 CFR 31.5(c)(10).</p>
3	330.220(b)	31.5(c)(11)	2001-1	<p>Certain detecting, measuring, gauging, or controlling devices and certain devices for producing light or an ionized atmosphere</p> <p>Illinois omitted the requirements for response to written requests from the Agency regarding general licensee information.</p> <p>Illinois needs to add the requirements for response to written requests from the Agency regarding general licensee information to 330.220(b) to meet the Compatibility Category B designation assigned to Section 10 CFR 31.5(c)(11).</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
4	330.220(b)(3)(E)	31.5(c)(5)	2001-1	B	<p>Certain detecting, measuring, gauging, or controlling devices and certain devices for producing light or an ionized atmosphere</p> <p>Illinois has a time period of 5 days for filing a report with the Agency if 185 Bq or more of removable radioactive material is detected by a leak test. This time period of 5 days is more restrictive than that of the 30 day time period required by NRC.</p> <p>Illinois needs to change the time period for reporting leak test results indicating more than 185 Bq of removable radioactive material to their Agency from 5 days to 30 days in 330.220(b)(3)(E) to meet the Compatibility Category B designation assigned to Section 10 CFR 31.5(c)(5).</p>
5	330.220(b)(3)(E)	31.5(c)(5)	2001-1	B	<p>Certain detecting, measuring, gauging, or controlling devices and certain devices for producing light or an ionized atmosphere</p> <p>Illinois makes no reference to the use of Radiological Criteria for Unrestricted Use in 10 CFR 20.1402 as a means for determining when a site can be used after contamination.</p> <p>Illinois needs to add a reference in 330.220(b)(3)(E) to the Criteria For Unrestricted Use in 10 CFR 20.1402 (or Illinois equivalent) to meet the Compatibility Category B designation assigned to Section 10 CFR 31.5(c)(5).</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
6	330.220(b)(3)(l)(iii)	31.5(c)(8)	2001-1	B	<p>Certain detecting, measuring, gauging, or controlling devices and certain devices for producing light or an ionized atmosphere</p> <p>Illinois requires the transferee to provide a receipt to the transferor providing the serial number of the device as well as the date that it was received. There is no requirement for this in 10 CFR 31.5(c)(8).</p> <p>Illinois needs to remove the requirement of a transferee receipt in 330.220(b)(3)(l)(iii) to meet the Compatibility Category B designation assigned to Section 10 CFR 31.5(c)(8).</p>
7	330.220(b)(3)(L)(ii)	31.5(c)(9)(ii)	2001-1	B	<p>Certain detecting, measuring, gauging, or controlling devices and certain devices for producing light or an ionized atmosphere</p> <p>Illinois omitted the phrase “by an intermediate person” for devices held in storage.</p> <p>Illinois needs to add the phrase “by an intermediate person” to 330.220(b)(3)(L)(ii) to meet the Compatibility Category B designation assigned to Section 10 CFR 31.5(c)(9).</p>
8	330.220(b)(4)(A)(i)	31.5(c)(13)(i)	2001-1	B	<p>Certain detecting, measuring, gauging, or controlling devices and certain devices for producing light or an ionized atmosphere</p> <p>Illinois allows for registration of different quantities and amounts of byproduct/source material in 330.220(b)(4)(A)(i).</p> <p>Illinois needs to adopt the registration requirements of 10 CFR 31.5(c)(13)(i) to 330.220(b)(4)(A)(i) to meet the Compatibility Category B designation assigned to Section 10 CFR 31.5(c)(13).</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
9	330.220(b)(4)(A)	31.5(c)(13)(i)	2001-1	B	<p>Certain detecting, measuring, gauging, or controlling devices and certain devices for producing light or an ionized atmosphere</p> <p>Illinois omitted the requirement that “Each address for a location of use, as described under paragraph (c)(13)(iii)(D) of this section, represents a separate general licensee and requires a separate registration and fee.”</p> <p>Illinois needs to add this requirement to 330.220(b)(4)(A) to meet the Compatibility Category B designation to Section 10 CFR 31.5(c)(13)(i).</p>
10	330.220(b)(4)(C)	31.5(c)(13)(ii)	2001-1	B	<p>Certain detecting, measuring, gauging, or controlling devices and certain devices for producing light or an ionized atmosphere</p> <p>Illinois omitted the annual registration requirements, the fee reference to 10 CFR 170.31 (or Illinois equivalent), and that the general licensee is subject to the bankruptcy notification in requirement in 330.310(j)1.</p> <p>Illinois needs to add the annual registration requirements, the fee reference to 10 CFR 170.31 (or Illinois equivalent), and the requirement of the general licensee to be subject to the bankruptcy notification requirement in 330.310(j)1 to 330.220(b)(4)(C) to meet the Compatibility Category B designation to Section 10 CFR 31.5(c)(13)(ii).</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
11	330.220(b)(4)(C)(iv)	31.5(c)(13)(iii)(D)	2001-1	B	<p>Certain detecting, measuring, gauging, or controlling devices and certain devices for producing light or an ionized atmosphere</p> <p>Illinois omitted the phrase “For portable devices, the address of the primary place of storage.” from 330.220(b)(4)(C)(iv).</p> <p>Illinois needs to add this phrase to 330.220(b)(4)(C)(iv) to meet the Compatibility Category B designation assigned to Section 10 CFR 31.5(c)(13)(iii)(D).</p>
12	330.220(b)(4)(D)	31.5(c)(14)	2001-1	B	<p>Certain detecting, measuring, gauging, or controlling devices and certain devices for producing light or an ionized atmosphere</p> <p>Illinois omitted the phrase “For a portable device, a report of address change is only required for a change in the device's primary place of storage.”</p> <p>Illinois needs to add this phrase to 330.220(b)(4)(D) to meet the Compatibility Category B designation assigned to Section 10 CFR 31.5(c)(14).</p>

STATE SECTION	NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
13	330.900(a)(b))	31.6	2001-1	<p data-bbox="1015 142 1481 210">General license to install devices generally licensed in § 31.5</p> <p data-bbox="1015 247 1511 1444">Section 330.900 combines section 10 CFR 31.6, General license to install devices generally licensed in 31.5, and section 10 CFR 150.20, Recognition of Agreement State Licenses, which contains the requirements for reciprocity recognition of specific licenses through issuance of a general license. By combining these sections, tied together by the phrase “In addition to the provisions of subsection (a) of this section”, the Illinois rule contains additional, more restrictive provisions than are required by Section 10 CFR 31.6. The Illinois regulation requires prior notification, a 180 day reciprocity period, an additional separate report to be filed within 30 days of the end of the calendar quarter by a licensee transferring or installing a generally licensed device, and that the holder of the specific license shall furnish to each general licensee to whom he transfers or on whose premises he installs such a device a copy of the general license contained in Section 330.220(b) of this Part or in equivalent regulations of the Agency having jurisdiction over the manufacture and distribution of the device. These requirements are more restrictive than NRC requirements given the limitations imposed by the Compatibility Category B designation.</p> <p data-bbox="1015 1482 1481 1608">Illinois needs to revise Section 330.900 to meet the Compatibility Category B designation assigned to Section 10 CFR 31.6.</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
14	330.900(c)	31.6	2001-1	B	<p>General license to install devices generally licensed in § 31.5</p> <p>Illinois states that they have the right to “withdraw, limit, or qualify its acceptance of” any specific license issued by NRC or another state, or any product distributed pursuant to that license, if the “Agency determines that had that person been licensed in Illinois by the Agency, the license would have been subject to action under Section 330.500 (Modification and Revocation of Licenses) or 310.90 (Impounding). NRC has no specific license revocation provisions for GL servicers and installers in 10 CFR 31.6</p> <p>Illinois needs to revise Section 330.900(c) to omit this language to meet the Compatibility Category B designation assigned to Section 10 CFR 31.6.</p>
15	N/A	32.52(a)(5)	2001-1	B	<p>Same: material transfer reports and records</p> <p>Illinois omitted the reporting requirements of 32.52(a)(5).</p> <p>Illinois needs to add the reporting requirements to 330.280(n) to meet the Compatibility Category B designation to 10 CFR 32.52(a)(5).</p>

STATE REGULATION STATUS

State: Illinois

[One amendment reviewed and identified by a ★ at the beginning of each equivalent NRC regulation.]

Tracking Ticket Number: 5-189

Date: August 23, 2005

NRC Chronology Identification	FR Notice (Date Due For State Implementation)	RATS ID	Proposed (P) / Final (F) ¹ Rule ¹ / ML # ⁵	NRC Review / Y, N ² / Date / ML # ⁵	Final State Regulation ¹ (Effective Date)
Safety Requirements for Radiographic Equipment-Part 34	55 FR 843; (1/10/94)	1991-1	F ML051220064	N	
ASNT Certification of Radiographers-Part 34	56 FR 11504; (none)	1991-2	F ML051220064	N	
Standards for Protection Against Radiation-Part 20	56 FR 23360; 56 FR 61352; 57 FR 38588; 57 FR 57877; 58 FR 67657; 59 FR 41641; 60 FR 20183; (1/1/94)	1991-3	F-Y	7/23/97	1/1/94
Notification of Incidents-Parts 20, 30, 31, 34, 39, 40, 70	56 FR 64980; (10/15/94)	1991-4	F ML051220064	N	
Quality Management Program and Misadministrations-Part 35	56 FR 34104; (1/27/95)	1992-1	P ML051240343	N 6/30/05 ML051870423	
Eliminating the Recordkeeping Requirements for Departures from Manufacturer's Instructions-Parts 30,35	57 FR 45566; (none)	1992-2			Not required ³
Decommissioning Recordkeeping and License Termination: Documentation Additions [Restricted areas and spill sites]-Parts 30, 40	58 FR 39628; (10/25/96)	1993-1	F-N	8/21/00	6/1/00
Licensing and Radiation Safety Requirements for Irradiators-Part 36	58 FR 7715; (7/1/96)	1993-2			Not applicable SECY-95-112 ³
Definition of Land Disposal and Waste Site QA Program-Part 61	58 FR 33886; (7/22/96)	1993-3			Not applicable SECY-95-112 ⁴
Self-Guarantee as an Additional Financial Mechanism-Parts 30, 40, 70	58 FR 68726; 59 FR 1618 (none)	1994-1	F-N	8/21/00	6/1/00
Uranium Mill Tailings Regulations: Conforming NRC Requirements to EPA Standards-Part 40	59 FR 28220; (7/1/97)	1994-2			Not applicable SECY-95-112 ⁴ unless States authorizes future U-Mill licensee
Timeliness in Decommissioning Material Facilities-Parts 30, 40, 70	59 FR 36026; (8/15/97)	1994-3	F-N	8/21/00	6/1/00
Preparation, Transfer for Commercial Distribution, and Use of Byproduct Material for Medical Use-Parts 30, 32, 35	59 FR 61767; 59 FR 65243 60 FR 322; (1/1/98)	1995-1	P ML051240343	N 6/30/05 ML051870423	

NRC Chronology Identification	FR Notice (Date Due For State Implementation)	RATS ID	Proposed (P) / Final (F)¹ Rule¹ / ML #⁵	NRC Review / Y, N² / Date / ML #⁵	Final State Regulation¹ (Effective Date)
Frequency of Medical Examinations for Use of Respiratory Protection Equipment-Part 20	60 FR 7900; (3/13/98)	1995-2			Not applicable SECY-95-112 ⁴ no licensees in State
Low-Level Waste Shipment Manifest Information and Reporting-Parts 20, 61	60 FR 15649; 60 FR 25983 (3/1/98)	1995-3	P-Y	11/24/99	
Performance Requirements for Radiography Equipment-Part 34	60 FR 28323; (6/30/98)	1995-4	F ML051220064	N	
Radiation Protection Requirements: Amended Definitions and Criteria-Parts 19, 20	60 FR 36038; (8/14/98)	1995-5	P ML051240343	N 6/30/05 ML051870423	
Clarification of Decommissioning Funding Requirements-Parts 30, 40, 70	60 FR 38235; (11/24/98)	1995-6	F ML051220062		
Medical Administration of Radiation and Radioactive Materials-Parts 20, 35	60 FR 48623; (10/20/98)	1995-7	P ML051240343	N 6/30/05 ML051870423	
10 CFR Part 71: Compatibility with the International Atomic Energy Agency-Part 71	60 FR 50248; 61 FR 28723 (4/1/99)	1996-1	F ML051220062		
One Time Extension of Certain Byproduct, Source and Special Nuclear Materials Licenses-Parts 30, 40, 70	61 FR 1109; (none)	1996-2			Not required ³
Termination or Transfer of Licensed Activities: Recordkeeping Requirements-Parts 20, 30, 40, 61, 70	61 FR 24669; (6/17/99)	1996-3	F-N	8/21/00	6/1/00
Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act-Part 20	61 FR 65120; (1/9/00)	1997-1	P ML051240343	N 6/30/05 ML051870423	
Recognition of Agreement State Licenses in Areas Under Exclusive Federal Jurisdiction Within an Agreement State-Part 150	62 FR 1662; (2/27/00)	1997-2	F-N	8/21/00	6/1/00
Criteria for the Release of Individuals Administered Radioactive Material-Parts 20, 35	62 FR 4120; (5/29/00)	1997-3	P ML051240343	N 6/30/05 ML051870423	
Fissile Material Shipments and Exemptions-Part 71	62 FR 5907; (none)	1997-4			Not required ³
Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiography Operations-Parts 30, 34, 71, 150	62 FR 28948; (6/27/00)	1997-5	F ML051220064	N	
Radiological Criteria for License Termination-Parts 20, 30, 40, 70	62 FR 39058; (8/20/00)	1997-6	F ML051220062	N	

NRC Chronology Identification	FR Notice (Date Due For State Implementation)	RATS ID	Proposed (P) / Final (F)¹ Rule¹ / ML #⁵	NRC Review / Y, N² / Date / ML #⁵	Final State Regulation¹ (Effective Date)
Exempt Distribution of a Radioactive Drug Containing One Microcurie of Carbon-14 Urea-Part 30	62 FR 63634; (1/02/01)	1997-7	F-N	5/26/00	7/27/98
Deliberate Misconduct by Unlicensed Persons-Parts 30, 40, 61, 70, 71, 150	63 FR 1890; 63 FR 13773 (2/12/01)	1998-1	P ML051240343	N 6/30/05 ML051870423	
Self-Guarantee of Decommissioning Funding by Nonprofit and Non-Bond-Issuing Licensees- Parts 30, 40, 70	63 FR 29535; (none)	1998-2	F-N	8/21/00	6/1/00 Not required ³
License Term for Medical Use Licenses-Part 35	63 FR 31604; (none)	1998-3			Not required ³
Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations-Part 34	63 FR 37059; (7/9/01)	1998-4	F ML051220064	N	
Minor Corrections, Clarifying Changes, and a Minor Policy Change-Parts 20, 35, 36	63 FR 39477; 63 FR 45393 (10/26/01)	1998-5	P ML051240343	N 6/30/2005 ML051870423	
Transfer for Disposal and Manifests: Minor Technical Conforming Amendment-Part 20	63 FR 50127; (11/20/01)	1998-6	P ML051240343	N 6/30/2005 ML051870423	
Radiological Criteria for License Termination of Uranium Recovery Facilities-Part 40	64 FR 17506; (6/11/02)	1999-1			Not applicable SECY-95-112 ⁴ unless State authorizes future U-Mill licensee
Requirements for Those Who Possess Certain Industrial Devices Containing Byproduct Material to Provide Requested Information-Part 31	64 FR 42269; (none)	1999-2			Not required ³
Respiratory Protection and Controls to Restrict Internal Exposure-Part 20	64 FR 54543; 64 FR 55525 (2/2/03)	1999-3			Not applicable SECY-95-112 ⁴ no licensees in State
Energy Compensation Sources for Well Logging and Other Regulatory Clarifications-Part 39	65 FR 20337; (5/17/03)	2000-1	F ML051220064	N	
New Dosimetry Technology-Parts 34, 36, 39	65 FR 63749; (1/8/04)	2000-2	F ML051220064	N	
★ Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material-Parts 30, 31, 32	65 FR 79162; (2/16/04)	2001-1	P ML051220064	Y 8/23/05 ML052360596	
Revision of the Skin Dose Limit-Part 20	67 FR 1629; (4/5/05)	2002-1	P ML051240343	N 6/30/05 ML051870423	
Medical Use of Byproduct Material-Parts 20, 32, 35	67 FR 20249; (10/24/05)	2002-2	P ML051240343	N 6/30/05 ML051870423	

NRC Chronology Identification	FR Notice (Date Due For State Implementation)	RATS ID	Proposed (P) / Final (F) ¹ Rule ¹ / ML # ⁵	NRC Review / Y, N ² / Date / ML # ⁵	Final State Regulation ¹ (Effective Date)
Financial Assurance for Materials Licensees – Parts 30, 40, 70	68 FR 57327 12/3/06	2003-1			
Compatibility with IAEA Transportation Safety Standards and Other Transportation Safety Amendments - Part 71	69 FR 3697; (10/01/07)	2004-1			
Security Requirements for Portable Gauges Containing Byproduct Material - Part 30	70 FR 2001; (7/11/08)	2005-1			
Medical Use of Byproduct Material - Recognition of Specialty Boards - Part 35	70 FR 16336; (4/29/08)	2005-2			

1. Or other generic Legally Binding Requirements.
2. (Y/N) Y means “Yes,” there are comments in the review letter that the State needs to address. N means “No,” there are no comments in the review letter.
3. Not required means these regulations are not required for purposes of compatibility.
4. A State need not adopt a specific regulation if the State has no licensees that would be subject to that regulation. See: “Final Policy Statement on Adequacy and Compatibility of Agreement State Programs,” III.1. Time Frame for Adoption of Compatible State Regulations, p. 6, SECY-95-112, May 3, 1995.
5. ADAMS ML Number