

ILLINOIS REGISTER

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Licensing of Radioactive Material
- 2) Code Citation: 32 Ill. Adm. Code 330
- 3)

<u>Section Number:</u> 330.310	<u>Proposed Action:</u> Amendment
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- 4) Statutory Authority: Implementing and authorized by Section 10 and 11 of the Radiation Protection Act of 1990 [420 ILCS 40/10 and 11]
- 5) A Complete Description of the Subjects and Issues Involved: The Agency is amending Section 330.310 to incorporate, for compatibility, the United States Nuclear Regulatory Commission's (USNRC) changes to 10 CFR Parts 20, 30 and 40 pursuant to RATS ID #2011-1 (76 FR 35512, published June 17, 2011). The State must have these amendments in place by December 17, 2015. The USNRC has reviewed these proposed amendments and finds them compatible. The proposed amendments include requiring a person accepting transfer of licensed radioactive material to have the appropriate financial surety in order to possess such material and requiring a licensee to minimize contamination, including subsurface, from operations.
- 6) Any published studies or reports, along with the sources of underlying data, that were used when composing this rulemaking, in accordance with 1 Ill Adm. Code 100.335: No, this rule has been amended solely on the basis of compatibility with the USNRC's changes to 10 CFR Parts 20, 30 and 40 pursuant to RATS ID #2011-1 (76 FR 35512, published June 17, 2011).
- 7) Will this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: The requirements imposed by the proposed rulemaking are not expected to require local governments to establish, expand, or modify their activities in such a way as to necessitate additional expenditures from local revenues.

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- 12) Time, Place and Manner in which interested persons may comment on this Rulemaking:
Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. The Agency will consider fully all written comments on this proposed rulemaking submitted during the 45 day comment period. Comments should be submitted to:

Traci Burton
Paralegal Assistant
Illinois Emergency Management Agency
1035 Outer Park Drive
Springfield, Illinois 62704

217/524-0770
fax: 217/524-3698

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities or not-for-profit corporations affected: The Agency believes that this rulemaking will have no direct impact on any small businesses, small municipalities or not-for-profit corporations.
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2015

The full text of the Proposed Amendment begins on the next page:

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TITLE 32: ENERGY

CHAPTER II: ILLINOIS EMERGENCY MANAGEMENT AGENCY

SUBCHAPTER b: RADIATION PROTECTION

PART 330

LICENSING OF RADIOACTIVE MATERIAL

SUBPART A: GENERAL PROVISIONS

Section	
330.10	Purpose and Scope
330.20	Definitions
330.15	Incorporations by Reference
330.30	License Exemption - Source Material
330.40	License Exemption - Radioactive Materials Other Than Source Material

SUBPART B: TYPES OF LICENSES

Section	
330.200	Types of Licenses
330.210	General Licenses - Source Material
330.220	General Licenses - Radioactive Material Other Than Source Material

SUBPART C: SPECIFIC AND GENERAL LICENSES

Section	
330.240	Filing Applications for Specific Licenses
330.250	General Requirements for the Issuance of Specific Licenses
330.260	Special Requirements for Issuance of Certain Specific Licenses for Radioactive Materials
330.270	Special Requirements for Specific Licenses of Broad Scope
330.280	Special Requirements for a Specific License to Manufacture, Assemble, Repair, or Distribute Commodities, Products, or Devices that Contain Radioactive Material
330.290	Requirements for Emergency Plans
330.300	Issuance of Specific Licenses
330.310	Terms and Conditions of Specific and General Licenses
330.320	Renewal Requirements for Specific Licenses
330.325	Termination Requirements for Specific Licenses and Locations of Use
330.330	Renewal of Licenses

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330.340	Amendment of Licenses at Request of Licensee
330.350	Agency Action on Application to Renew or Amend
330.360	Persons Possessing a License for Source, Byproduct, or Special Nuclear Material in Quantities Not Sufficient to Form a Critical Mass on Effective Date of This Part (Repealed)
330.370	Persons Possessing Accelerator-Produced or Naturally-Occurring Radioactive Material on Effective Date of This Part (Repealed)
330.400	Transfer of Material
330.500	Modification and Revocation of Licenses
330.900	Reciprocal Recognition of Licenses
330.950	Nationally Tracked Sources

SUBPART D: TRANSPORTATION (Repealed)

330.1000	Transportation of Radioactive Materials (Repealed)
330.APPENDIX A	Exempt Concentrations
330.APPENDIX B	Exempt Quantities
330.APPENDIX C	Quantities of Radioactive Materials Requiring Consideration of the Need for an Emergency Plan for Responding to a Release
330.TABLE A	Group I (Repealed)
330.TABLE B	Group II (Repealed)
330.TABLE C	Group III (Repealed)
330.TABLE D	Group IV (Repealed)
330.TABLE E	Group V (Repealed)
330.TABLE F	Group VI (Repealed)
330.APPENDIX D	Limits for Broad Licenses (Section 330.270)
330.APPENDIX E	List of Specialty Board Certifications Recognized by the Agency Until October 24, 2007 (Repealed)
330.APPENDIX F	Nationally Tracked Source Thresholds
330.APPENDIX G	Financial Surety Arrangements (Section 330.250(c)(1)(D)) (Repealed)
330.APPENDIX H	Wording of Financial Surety Arrangements (Section 330.250(c)(1)(E)) Repealed

AUTHORITY: Implementing and authorized by the Radiation Protection Act of 1990 [420 ILCS 40].

SOURCE: Filed April 20, 1974, by the Department of Public Health; transferred to the Department of Nuclear Safety by P.A. 81-1516, effective December 3, 1980; amended at 5 Ill. Reg. 9586, effective September 10, 1981; codified at 7 Ill. Reg. 17492; recodified at 10 Ill. Reg.

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11268; amended at 10 Ill. Reg. 17315, effective September 25, 1986; amended at 15 Ill. Reg. 10632, effective July 15, 1991; amended at 18 Ill. Reg. 5553, effective March 29, 1994; emergency amendment at 22 Ill. Reg. 6242, effective March 18, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 14459, effective July 27, 1998; amended at 24 Ill. Reg. 8042, effective June 1, 2000; amended at 27 Ill. Reg. 5426, effective March 17, 2003; recodified from the Department of Nuclear Safety to the Illinois Emergency Management Agency at 27 Ill. Reg. 13641; amended at 30 Ill. Reg. 8928, effective April 28, 2006; amended at 32 Ill. Reg. 6462, effective April 7, 2008; amended at 32 Ill. Reg. 9199, effective June 13, 2008; amended at 33 Ill. Reg. 4918, effective March 23, 2009; amended at 35 Ill. Reg. 2931, effective February 7, 2011; amended at 35 Ill. Reg. 3969, effective February 28, 2011; emergency amendment at 35 Ill. Reg. 5654, effective March 21, 2011, for a maximum of 150 days; amended at 35 Ill. Reg. 9009, effective June 2, 2011; amended at 37 Ill. Reg. 5789, effective April 16, 2013; amended at 37 Ill. Reg. 7960, effective May 31, 2013; amended at 38 Ill. Reg. 21451, effective October 31, 2014; amended at 39 Ill. Reg. _____, effective _____.

Section 330.310 Terms and Conditions of Specific and General Licenses

- a) Each specific or general license issued pursuant to this Part shall be subject to all applicable license conditions, provisions of the Act [420 ILCS 40], and all applicable rules, regulations and orders of the Agency.
- b) Each person granted a general license by this Part shall provide information required by the Agency to track the location and use of generally-licensed radioactive material. Such information shall be in the format prescribed by the Agency, shall be complete and accurate, and shall be due within the time frame indicated on the notification. In accordance with 32 Ill. Adm. Code 310.50, the Agency may inspect and investigate premises, operations or personnel and have access to or copy records:
 - 1) Of a person who fails to provide information as required by this subsection (b); or
 - 2) For the purpose of evaluating past, current or potential hazards to the public health, workers or the environment resulting from radiation.
- c) No specific license issued or granted to any person pursuant to this Part and no right to possess or use radioactive material granted to any person by any specific license issued pursuant to this Part shall be transferred, assigned, or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through

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transfer of control of the specific license to any other person unless the Agency, after securing full information, first:

- 1) Finds that the proposed transfer, assignment or disposal is in accordance with the provisions of the Act; ~~and~~
- 2) Consents in writing to the proposed transfer, assignment or disposal; ~~and~~
- 3) Finds the transferee, when applicable, to be compliant with the requirements of 32 Ill. Admin. Code 326.

AGENCY NOTE: Agency consent is required prior to any transfer or assignment of a specific license. A purported transfer or assignment without prior written consent may subject the purported transferor or assignor to penalties for violating this Section. Likewise, a purported transferee or assignee may also be subject to penalties if it does not have a valid specific license and possesses radioactive material or performs activities requiring a valid specific license.

- d) Upon approval from the Agency under subsection (c)(2) of this Section for transfer, assignment or disposal of a specific license, the transferor shall ensure the following information is provided to the transferee:
 - 1) The radioactive material license and all documents referenced in the license;
 - 2) Records maintained in accordance with 32 Ill. Adm. Code 340, Subpart L, inventory records, and any other records required by subsections (k) and (l) of this Section; and
 - 3) Any other information required by the Agency pursuant to the approval granted.
- e) Each person licensed by the Agency pursuant to this Part shall confine use and possession of the material licensed to the locations and purposes authorized in the license ~~and, to the extent practical, conduct operations to minimize the introduction of residual radioactivity into the site and/or facility of operation, including the subsurface.~~
- f) Each person issued a specific license pursuant to this Part shall maintain the license in accordance with the requirements of Section 330.320 of this Part.

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- g) When temporary jobsites are authorized on a specific license, radioactive material may be used at temporary jobsites, in areas not under exclusive federal jurisdiction, throughout the State of Illinois.

AGENCY NOTE: Authorization for use of byproduct radioactive materials at jobsites under exclusive federal jurisdiction must be obtained from the U.S. Nuclear Regulatory Commission, either by filing an NRC Form-241 in accordance with 10 CFR 150.20(b), "Recognition of Agreement State Licenses", or by applying for a specific license from the NRC. Also, specific licenses issued by the Agency do not authorize activities in other states. Before radioactive materials can be used at a temporary jobsite in another state, a license must be obtained from the appropriate state or federal regulatory agency.

- h) Each person issued a specific license pursuant to this Part shall apply for an appropriate license amendment not later than 30 days after a Radiation Safety Officer permanently discontinues performance of duties under the license.
- i) Each specific licensee shall notify the Agency in writing not later than 60 days after principal activities involving the use of radioactive materials, other than sealed sources, at the site or in a separate building or outdoor area have not occurred for a period of 2 years, and the licensee has not decontaminated the site or area.

AGENCY NOTE: Principal activities are those originally authorized on the license for that site or location. For example, licensees could not store radioactive material in an otherwise unused building to avoid end-of-use decommissioning, unless storage was a principal activity for that building.

This notification shall include a description of the location of the site, building or outdoor area and a plan for reclaiming or decommissioning these facilities (including a proposed schedule) for release in accordance with applicable regulations. The notification shall include an evaluation of any changes, if required, to financial assurance arrangements submitted in accordance with 32 Ill. Adm. Code 326. Upon approval of the plan by the Agency, implementation shall begin within 6 months and be completed within 24 months after approval (unless the Agency approves a different schedule).

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AGENCY NOTE: 32 Ill. Adm. Code 340.1310 requires licensees to notify the Agency no less than 30 days before vacating or relinquishing possession or control of premises that may have been contaminated with radioactive material.

- j) Notification of Bankruptcy
 - 1) Each specific or general licensee shall notify the Agency, in writing, immediately following the filing of a voluntary or involuntary petition for bankruptcy under any chapter of Title 11 (Bankruptcy) of the United States Code by or against:
 - A) The licensee;
 - B) An entity (as the term is defined in 11 USC 101(14)) controlling the licensee or listing the license or licensee as property of the estate; or
 - C) An affiliate (as the term is defined in 11 USC 101(2)) of the licensee.
 - 2) This notification shall indicate:
 - A) The bankruptcy court in which the petition for bankruptcy was filed;
 - B) The date of the filing of the petition;
 - C) The chapter under which the bankruptcy petition has been filed;
 - D) The name, address and phone number of the bankruptcy trustee (if a trustee has been named at the time of the notification);
 - E) Whether the licensed radiation source remains in the possession and control of the licensee and whether any change in possession or control is expected or contemplated;
 - F) The name of the person in possession and control of the licensed radiation source if the licensee no longer maintains possession or control; and

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- G) Whether the Agency has been named in the bankruptcy petition either as a creditor or in some other capacity.
- k) Recordkeeping Requirements for Potentially Contaminated Areas. Except for areas containing only sealed sources, provided the sources have not leaked, or no contamination remains after any leakage, and except for areas where only radioactive materials with half-lives less than 90 days were used or stored, each specific licensee shall keep:
 - 1) Records of spills or other unusual occurrences involving the spread of contamination in and around the facility, equipment or site, when contamination remains after any cleanup procedures or when there is reasonable likelihood the contaminants may have spread to inaccessible areas (as in the case of possible seepage into porous materials such as concrete). These records must include the location and any known information on identification of involved radionuclides, quantities, chemical and physical forms, and concentrations.
 - 2) Drawings and subsequent modifications of structures and equipment in restricted areas where radioactive materials are used or stored, and of locations of possible inaccessible contamination, such as buried or enclosed pipes, that may be subject to contamination. If required drawings are referenced, each relevant document need not be indexed individually. If drawings are not available, the licensee shall substitute appropriate records of available information concerning these areas and locations.
- l) Each licensee shall maintain the following records, if applicable:
 - 1) Records of all areas where low-level radioactive wastes were buried, including areas previously authorized by and documented pursuant to 10 CFR 20.2108.
 - 2) Records of the Agency-approved cost estimate for the amount certified for reclaiming and the associated reclamation plan, for licensees required by 32 Ill. Adm. Code 326 to secure financial assurance arrangements.
 - 3) All records required to be maintained pursuant to 32 Ill. Adm. Code Chapter II, Subchapters b and d.

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- m) To lawfully obtain termination for a specific license, each licensee shall meet the termination requirements of this Part.

(Source: Amended at 39 Ill. Reg. _____, effective _____)