

May 30, 2006

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

Dear Mr. Wright:

We have reviewed the final revisions to the Illinois Administrative Code Title 32: Energy, Chapter II: Division of Nuclear Safety, Subchapter b: Radiation Protection as received by our office on April 4, 2006. These regulations were reviewed by comparison to the equivalent Nuclear Regulatory Commission (NRC) rules in 10 CFR Parts 20, 30, 31, 32, 35 and 36; and the requirements of the 15 comments identified during our earlier review of the proposed regulations. We discussed our review of the regulations with Gibb Vinson on May 25, 2006.

As noted in All Agreement States letter STP-05-072, dated September 28, 2005, NRC staff will continue to review Agreement State GL Device proposed and final rules but will hold in abeyance any determination on those rules and compatibility of those rules, if the Agreement State has the essential elements of the NRC's rule and is more restrictive than the NRC's rule. For Agreement States without a GL Device rule or a GL Device rule less restrictive than the NRC rules, the staff will factor this determination into results of the NRC's review of the State's proposed and final rules and the compatibility findings during Integrated Materials Performance Evaluation Program (IMPEP) reviews.

As a result of our review against the GL Device Rule Compatibility Category B designation, we have eight comments as listed in the enclosure. Comments 1, 2, 3, 7 and 8 indicate that the State's regulations are more restrictive than the NRC's regulations, and there is no corrective action required for these comments at this time. However, Comments 4, 5 and 6 indicate that the State's regulations are less restrictive than the NRC's regulations, and they need to be addressed in the State's future rulemaking process. We request that when a final amended version of Illinois regulations are adopted and published in response to our comments, that 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*.

As a result of our review of the other rules, we have no comments. Please note that we have limited our review to regulations required for compatibility and/or health and safety. We have determined that the regulations, as adopted, meet the compatibility and health and safety categories established in the Office of State and Tribal Programs (STP) Procedure SA-200.

Gary N. Wright

(2)

May 30, 2006

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.hsr.d.ornl.gov/nrc/rulemaking.htm>.

If you have any questions regarding the review results, the compatibility and health and safety categories, or any of the NRC regulations used in the review, please contact me, or Richard Blanton at (301) 415-2322 or by e-mail at rb@nrc.gov.

Sincerely,

IRA By KNSchneider For

Dennis Rathbun, Deputy Director
Office of State and Tribal Programs

Enclosures:
As stated

Gary N. Wright

(2)

May 30, 2006

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IRA By KNSchneider For

Dennis Rathbun, Deputy Director
Office of State and Tribal Programs

Enclosures:
As stated

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COMPATIBILITY COMMENTS ON ILLINOIS FINAL 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>The Illinois rule requires records be retained for 5 years. This is more stringent than NRC rule requirement of three years.</p> <p>Illinois' rule has the essential elements of the NRC, but is more restrictive than the NRC's GL rule. As noted in the September 28, 2005 All Agreement States Letter STP-05-072, the determination on this provision will be held in abeyance until such time that the NRC completes its review and response to the Organization of Agreement State on compatibility changes for the GL rule.</p>
2	330.220(b) (3)(E)	§31.5(c)(5)	2001-1	<p>Certain detecting, measuring, gauging, or controlling devices and certain devices for producing light or an ionized atmosphere.</p> <p>The Illinois rule provides 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 is more stringent than NRC rule requirement of 30 days.</p> <p>Illinois' rule has the essential elements of the NRC, but is more restrictive than the NRC's GL rule. As noted in the September 28, 2005 All Agreement States Letter STP-05-072, the determination on this provision will be held in abeyance until such time that the NRC completes its review and response to the Organization of Agreement State on compatibility changes for the GL rule.</p>

STATE SECTION	NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
3	330.220(b) (3)(I)(iii)	§31.5(c)(8)	2001-1	<p data-bbox="1015 170 1490 306">Certain detecting, measuring, gauging, or controlling devices and certain devices for producing light or an ionized atmosphere.</p> <p data-bbox="1015 344 1511 575">The Illinois rule 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 data-bbox="1015 613 1503 1010">Illinois' rule has the essential elements of the NRC, but is more restrictive than the NRC's GL rule. As noted in the September 28, 2005 All Agreement States Letter STP-05-072, the determination on this provision will be held in abeyance until such time that the NRC completes its review and response to the Organization of Agreement State on compatibility changes for the GL rule.</p>
4	330.220(b) (3)(K)	§31.5(c)(10)	2001-1	<p data-bbox="1015 1041 1490 1178">Certain detecting, measuring, gauging, or controlling devices and certain devices for producing light or an ionized atmosphere.</p> <p data-bbox="1015 1215 1495 1310">The Illinois rule does not require reporting of radiation incidents, theft or loss of devices.</p> <p data-bbox="1015 1348 1511 1514">Illinois needs to add the requirements to report radiation incidents, and the theft or loss of devices to meet the compatibility B designation assigned to 10 CFR31.5(c)(10).</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
5	330.220(b)	§31.5(c)(11)	2001-1	B	<p>Certain detecting, measuring, gauging, or controlling devices and certain devices for producing light or an ionized atmosphere.</p> <p>The Illinois rule does not specifically require licensee response to written requests to provide information relating to the general license.</p> <p>Illinois needs to add a requirement to respond to written requests to provide information relating to the general license to meet the compatibility B designation assigned to 10 CFR 31.5(c)(11).</p>
6	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>The Illinois rule requires registration of devices based on different criteria than in 10 CFR 31.5(c)(13)(i). This approach could result in the situation in which a new device would be captured by the NRC rule, but would not be captured by the Illinois rule.</p> <p>Illinois needs to revise the registration criteria, to capture the same devices captured by the language in 10 CFR 31.5(c)(13)(i) in order to meet the compatibility designation B assigned to 10 CFR 31.5(c)(13)(i).</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
7	330.900(a) & (b)	§31.6	2001-1	B	<p>General license to install devices generally licensed in § 31.5.</p> <p>The comment on the draft rule was not addressed in the final rule. The comment was:</p> <p>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.</p> <p>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>Illinois’ rule has the essential elements of the NRC, but is more restrictive than the NRC’s GL rule. As noted in the September 28, 2005 All Agreement States Letter STP-05-072, the determination on this provision will be held in abeyance until such time that the NRC completes its review and response to the Organization of Agreement State on compatibility changes for the GL rule. the Petition for Rulemaking and request for change in compatibility.</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
8	330.900(c)	§31.6	2001-1	B	<p>General license to install devices generally licensed in § 31.5.</p> <p>The comment on the draft rule was not addressed in the final rule. The comment was:</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 The Illinois requirements are more restrictive than NRC requirements given the limitations imposed by the Compatibility Category B designation.</p> <p>Illinois’ rule has the essential elements of the NRC, but is more restrictive than the NRC’s GL rule. As noted in the September 28, 2005 All Agreement States Letter STP-05-072, the determination on this provision will be held in abeyance until such time that the NRC completes its review and response to the Organization of Agreement State on compatibility changes for the GL rule.</p>

STATE REGULATION STATUS

State: Illinois
 [7 reviewed identified by a i
 at the beginning of the equivalent NRC requirement.]

Tracking Ticket Number: 6-96
 Date: 5/30/2006

NRC Chronology Identification	FR Notice (Date Due For State Implementation)	RATS ID	Proposed (P) / Final (F) ¹ Rule ¹ / License Condition (LC) 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 8/23/05 ML052370399	
ASNT Certification of Radiographers-Part 34	56 FR 11504; (none)	1991-2	F ML051220064	N 8/23/05 ML052370399	
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	7/23/97 N 11/17/05 ML053210292	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 8/23/05 ML052370399	
i Quality Management Program and Misadministrations-Part 35	56 FR 34104; (1/27/95)	1992-1	F ML060970127	N 5/30/06 ML06510195	
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	F ML060250219	N 3/7/06 ML060660001	
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
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
i 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	F ML060970127	N 5/30/06 ML06510195	
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

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Low-Level Waste Shipment Manifest Information and Reporting-Parts 20, 61	60 FR 15649; 60 FR 25983 (3/1/98)	1995-3	F ML060250219	N 3/7/06 ML060660001	
Performance Requirements for Radiography Equipment-Part 34	60 FR 28323; (6/30/98)	1995-4	F ML051220064	N 8/23/05 ML052370399	
Radiation Protection Requirements: Amended Definitions and Criteria-Parts 19, 20	60 FR 36038; (8/14/98)	1995-5	F ML060250219	N 3/7/06 ML060660001	
Clarification of Decommissioning Funding Requirements-Parts 30, 40, 70	60 FR 38235; (11/24/98)	1995-6	F ML051220062	N 8/23/05 ML052370399	
i Medical Administration of Radiation and Radioactive Materials-Parts 20, 35	60 FR 48623; (10/20/98)	1995-7	F ML060970127	N 5/30/06 ML06510195	
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	N 8/23/05 ML052370399	
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	F ML060250219	N 3/7/06 ML060660001	
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
i Criteria for the Release of Individuals Administered Radioactive Material-Parts 20, 35	62 FR 4120; (5/29/00)	1997-3	F ML060970127	N 5/30/06 ML06510195	
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 8/23/05 ML052370399	
Radiological Criteria for License Termination-Parts 20, 30, 40, 70	62 FR 39058; (8/20/00)	1997-6	F ML051220062	N 8/23/05 ML052370399	
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	F ML060250219	N 3/7/06 ML060660001	

NRC Chronology Identification	FR Notice (Date Due For State Implementation)	RATS ID	Proposed (P) / Final (F) ¹ Rule ¹ / License Condition (LC) ML # ⁵	NRC Review / Y, N ² / Date / ML # ⁵	Final State Regulation ¹ (Effective Date)
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	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 8/23/05 ML052370399	
i Minor Corrections, Clarifying Changes, and a Minor Policy Change-Parts 20, 35, 36	63 FR 39477; 63 FR 45393 (10/26/01)	1998-5	F ML060970127	N 5/30/06 ML06510195	
Transfer for Disposal and Manifests: Minor Technical Conforming Amendment-Part 20	63 FR 50127; (11/20/01)	1998-6	F ML060250219	N 3/7/06 ML060660001	
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
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
Energy Compensation Sources for Well Logging and Other Regulatory Clarifications-Part 39	65 FR 20337; (5/17/03)	2000-1	F ML051220064	N 8/23/05 ML052370399	
New Dosimetry Technology-Parts 34, 36, 39	65 FR 63749; (1/8/04)	2000-2	F ML 060250219 F ML051220064	N 3/7/06 ML060660001 (Part 36 only) N 8/23/05 ML052370399 (Parts 34 and 39 only)	
i Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material-Parts 30, 31, 32	65 FR 79162; (2/16/04)	2001-1	F ML060970127	Y 5/30/06 ML06510195	
Revision of the Skin Dose Limit-Part 20	67 FR 1629; (4/5/05)	2002-1	F ML060250219	Y 3/7/06 ML060660001	
i Medical Use of Byproduct Material-Parts 20, 32, 35	67 FR 20249; (10/24/05)	2002-2	F ML060970127	N 5/30/06 ML06510016	

NRC Chronology Identification	FR Notice (Date Due For State Implementation)	RATS ID	Proposed (P) / Final (F) ¹ Rule ¹ / License Condition (LC) 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	F ML052710117	N 11/17/05 ML053210292	
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; 71 FR 1926 (4/29/08)	2005-2			
Increased Controls for Risk Significant Radioactive Sources (NRC Order EA-05-090) ⁶	70 FR 72128; (12/1/05)	2005-3	LC MI_052990499	10/31/05 MI_053050005	

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
6. By letter dated September 2, 2005, from Paul H. Lohaus, Director, Office of State and Tribal Programs, Agreement States were given 90 days to issue legally binding requirements satisfying the requirements of NRC Order EA-05-090