

June 23, 2005

Paul H. Lohaus, Director  
Office of State and Tribal Programs  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001

**Re: DRAFT PROPOSED RULE "10 CFR PARTS 30, 31, 32, AND 150:  
EXEMPTIONS FROM LICENSING, GENERAL LICENSES, AND  
DISTRIBUTION OF BYPRODUCT MATERIAL: LICENSING AND  
REPORTING REQUIREMENTS" (STP-05-042, RIN: 3150 - AH41)**

Dear Mr. Lohaus:

The Illinois Emergency Management Agency (Agency), Division of Nuclear Safety hereby submits its comments on the proposed revision to 10 CFR 30, 31, 32 and 150. The letter requests comment on the proposed regulations for exemptions from licensing, general license distribution/transfer requirements and certain other reporting requirements.

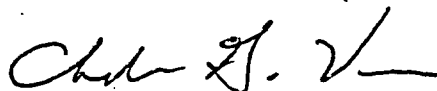
The majority of these changes reference manufacturing and distribution of exempt quantities that are reserved for NRC jurisdiction. However, Illinois has a significant stake in the general license changes and has the following comments:

1. The rule should note that Agreement States still have the authority to license distribution of NARM material in exempt quantities. NARM has been under discussion for inclusion under NRC jurisdiction recently and could be a point of confusion.
2. Illinois heartily agrees with the proposal to prohibit bundling exempt sources to circumvent the general and specific licensing distribution process. However, the language used on the label should state that exempt quantities "shall" not be combined. We have recovered devices in Illinois assembled in this manner, and the sources were found to be leaking since they had not been properly evaluated and prototype tested for certain environments.

3. In 10 CFR 31.5(c)(8)(iii), the Agency supports NRC's efforts to clarify the provisions for transferring generally licensed devices to specific licenses including the associated reporting requirements.
4. In 10 CFR 31.5(c)(10), NRC proposes to relax reporting requirements for losses and thefts of general license devices. This is directly tied to the inconsistencies noted nationally for registration of general license devices. Illinois requires registration of devices at more restrictive activity limits than NRC. We believe that our general licensing process is one of the best in the nation and provides a high degree of accountability for radioactive materials consistent with other national efforts in this area (Department of Homeland Security, DOE, etc). We believe we should maintain reporting requirements for thefts and losses of radioactive material to a similar standard especially regarding "thefts" as this potentially reflects malicious intent and trends should be scrutinized for these. In both respects, either for registration or reporting, Illinois is not restricting distribution or trade. Clearly, in Illinois, registration takes place after the initial sale of the device and reports for losses/thefts are certainly incumbent upon the licensee not the distributor. In addition, setting general licensed devices apart from other products could easily lead to reporting lost/stolen sources of the same activity for one form of licensee but not the other (sources of 800  $\mu$ Ci Am-241 under general license would not need to be reported but an 800  $\mu$ Ci Am-241 on a specific license would).

The Agency appreciates the opportunity to comment on this important rule change. Accountability of radioactive material is extremely important under current circumstances, and Illinois continues to work with the U.S. NRC and the licensed community to ensure the protection of public health and safety.

Sincerely,



Joseph G. Klinger, Head  
Radioactive Materials

cc: Catherine Mattsen ✓  
U.S. Nuclear Regulatory Commission