

TITLE 32: ENERGY
CHAPTER II: ILLINOIS EMERGENCY MANAGEMENT AGENCY
SUBCHAPTER b: RADIATION PROTECTION

PART 400
NOTICES, INSTRUCTIONS AND REPORTS TO WORKERS; INSPECTIONS

Section

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AUTHORITY: Implementing and authorized by Sections 16 and 29 of the Radiation Protection Act of 1990 [420 ILCS 40/16 and 29].

SOURCE: Adopted at 10 Ill. Reg. 17496, effective September 25, 1986; amended at 11 Ill. Reg. 15629, effective September 11, 1987; amended at 13 Ill. Reg. 13581, effective August 11, 1989; amended at 16 Ill. Reg. 11531, effective July 7, 1992; amended at 18 Ill. Reg. 3132, effective February 22, 1994; amended at 23 Ill. Reg. 14479, effective January 1, 2000; recodified from the Department of Nuclear Safety to the Illinois Emergency Management Agency at 27 Ill. Reg. 13641; amended at 33 Ill. Reg. 4333, effective March 9, 2009.

Section 400.10 Purpose and Scope

- a) This Part establishes requirements for notices, instructions and reports by licensees or registrants to individuals engaged in activities under a license or registration and options available to those individuals in connection with the Illinois Emergency Management Agency (Agency) inspections of licensees or registrants to ascertain compliance with the provisions of the Radiation Protection Act of 1990 [420 ILCS 40] (the Act) and regulations, orders and licenses issued under that Act regarding radiological working conditions.
- b) This Part shall apply to:
 - 1) All persons who receive, possess, use, own or transfer sources of radiation registered with or licensed by the Agency pursuant to 32 Ill. Adm. Code: Chapter II, Subchapters b and d.

- 2) Inspection and testing of radiation machines and associated operating procedures by the Agency.
- 3) Inspection of licensed activities by Agency inspectors.

(Source: Amended at 33 Ill. Reg. 4333, effective March 9, 2009)

Section 400.110 Posting of Notices to Workers

- a) Each licensee or registrant shall post current copies of the following documents:
 - 1) The provisions in this Part and in 32 Ill. Adm. Code 340;
 - 2) The certificate of registration, the license, the license conditions and any documents incorporated into the license by reference and amendments to these documents;
 - 3) The operating procedures applicable to activities under the license or registration; and
 - 4) Any notice of violation involving radiological working conditions, proposed imposition of civil penalty or order issued pursuant to 32 Ill. Adm. Code 310 and any response from the licensee or registrant.
- b) If the posting of a document specified in subsection (a)(1), (2) or (3) of this Section is not practicable, the licensee or registrant may post a notice that describes the documents and states where they may be examined.
- c) Agency Form KLA.001 "Notice to Employees" shall be posted by each licensee or registrant.
- d) Agency documents posted pursuant to subsection (a)(4) of this Section shall be posted within 5 working days after receipt of the documents from the Agency; the licensee's or registrant's response, if any, shall be posted within 5 working days after dispatch from the licensee or registrant. The documents shall remain posted for a minimum of 5 working days or until action correcting the violation has been completed, whichever is later.
- e) Documents, notices or forms posted pursuant to this Section shall appear in a sufficient number of places to permit individuals engaged in work under the license or registration to observe them on the way to or from any particular work location to which the document applies, shall be conspicuous and shall be

replaced if defaced or altered.

(Source: Amended at 33 Ill. Reg. 4333, effective March 9, 2009)

Section 400.120 Instructions to Workers

- a) All individuals working in, or the performance of whose duties requires access to, any portion of a restricted area or who frequent areas where radioactive material is used or stored:
 - 1) Shall be kept informed of the storage, transfer or use of sources of radiation in such portions of the restricted area;
 - 2) Shall be instructed in the health protection problems associated with exposure to radiation or radioactive material, in the risks of radiation exposure to the embryo and fetus, in precautions or procedures to minimize exposure and in the purposes and functions of protective devices employed;
 - 3) Shall be instructed in, and instructed to observe to the extent within the worker's control, the conditions of the license, the provisions of this Part and 32 Ill. Adm. Code: Chapter II, Subchapters b and d for the protection of personnel from exposures to radiation or radioactive material occurring in such areas;
 - 4) Shall be instructed to report promptly to the licensee or registrant any condition that may constitute, lead to or cause a violation of the Act, the conditions of the license, the provisions of this Part or 32 Ill. Adm. Code: Chapter II, Subchapters b and d or unnecessary exposure (i.e., exposure that results when prescribed safety measures are not followed) to radiation or radioactive material;
 - 5) Shall be instructed in the appropriate response to warnings made in the event of any unusual occurrence or malfunction that may involve exposure to radiation or radioactive material; and
 - 6) Shall be advised as to the radiation exposure reports that workers are furnished pursuant to Section 400.130.
- b) These instructions shall be of sufficient detail to avoid radiological health protection problems and shall be given directly to each worker either in writing or in an orientation course, with the workers signing a statement that they have received the information listed in subsection (a) and understand it. Training shall

be provided initially before assigning duties involving radioactive material and following changes in duties or procedures or potential radiation hazards. Refresher training that covers all of the required topics shall be provided at intervals not to exceed 12 months.

(Source: Amended at 33 Ill. Reg. 4333, effective March 9, 2009)

Section 400.130 Notifications and Reports to Individuals

- a) Notifications and reports provided to individuals in accordance with this Section shall include data and results obtained pursuant to this Part, orders or license conditions as shown in records maintained by the licensee or registrant pursuant to 32 Ill. Adm. Code 340.1160(a) and (d). Each notification and report shall:
 - 1) Be in writing;
 - 2) Include the name of the licensee or registrant, the name of the individual and the individual's social security number;
 - 3) Include the individual's dose information; and
 - 4) Contain the following statement:

"This report is furnished to you under the provisions of the Illinois Emergency Management Agency Regulations for Radiation Protection (32 Ill. Adm. Code 400). You should preserve this report for further reference."
- b) Each licensee or registrant shall make dose information available to workers as shown in records maintained by the licensee or registrant under the provisions of 32 Ill. Adm. Code 340.1160. The licensee or registrant shall provide an annual report to each individual monitored under 32 Ill. Adm. Code 340.520 of the dose received in that monitoring year if:
 - 1) The individual's occupational dose exceeds 1 mSv (100 mrem) TEDE or 1 mSv (100 mrem) to any individual organ or tissue; or
 - 2) The individual requests his or her annual dose report.
- c) At the request of a worker, each licensee or registrant shall furnish to the worker upon termination of employment a report of the worker's dose. The report shall be furnished within 30 days from the time the request is made, or within 30 days after termination of employment or within 30 days after the individual's dose has

been determined by the licensee or registrant, whichever is later. The report shall cover all periods of time in which the worker was required to be monitored pursuant to 32 Ill. Adm. Code 340.520 and shall include the dates and locations of work under the license or registration in which the worker participated.

- d) When a licensee or registrant is required pursuant to 32 Ill. Adm. Code 340.1220, 340.1230 or 340.1240 to report to the Agency any dose received by an individual, the licensee or the registrant shall also provide the individual a report of the dose information included in the report to the Agency. The reports shall be transmitted at a time not later than the transmittal to the Agency.
- e) At the request of a worker who is terminating employment with the licensee or registrant in work involving radiation dose during the current year, or of a worker who, while employed by another person, is terminating a work assignment involving radiation dose in the licensee's or registrant's facility during the current year, each licensee or registrant shall provide to each such worker, or to the worker's designee, at termination, a written report regarding the radiation dose received by that worker from operations of the licensee or registrant during the current year or fraction of a year, or provide a written estimate of that dose if the finally-determined personnel monitoring results are not available at that time. Estimated doses shall be clearly indicated. If an estimate of dose is provided, the actual radiation dose records shall be provided to the worker when these records become available to the licensee or registrant.

AGENCY NOTE: The reporting requirements of subsections (b), (c) and (e) of this Section apply only to workers who are required to be monitored pursuant to 32 Ill. Adm. Code 340.520.

(Source: Amended at 33 Ill. Reg. 4333, effective March 9, 2009)

Section 400.140 Presence of Representatives of Licensees or Registrants and Workers During Inspection

- a) Pursuant to Section 400.160 and 32 Ill. Adm. Code 310.50, each licensee or registrant shall afford the Agency at all reasonable times the opportunity to inspect such materials, machines, activities, facilities, premises and records as the Agency determines are necessary to establish compliance with the requirements of the license and the provisions of 32 Ill. Adm. Code: Chapter II, Subchapters b and d. Reasonable times shall be any time the facility is operational. The inspection may be announced or unannounced. Materials licensees shall be inspected at least as frequently as they would have been inspected by the U.S. Nuclear Regulatory Commission (NRC) if the licensees were regulated by the NRC, but no more frequently than once in a calendar quarter. Radiation machines

shall be inspected in accordance with Section 25 of the Act. Inspection of licensees and radiation machines may be conducted more frequently than once per calendar quarter if, in the past three years, there has been a condition at the facility that required emergency response; or if the Agency has received a complaint, the investigation of which results in a more frequent inspection; or if the Agency has documented a violation of the Act or Section 400.160 or 32 Ill. Adm. Code 310.50 at the facility and additional inspections are necessary to establish that the violation has been abated.

- b) During an inspection, Agency inspectors may consult privately with workers as specified in Section 400.150. The licensee or registrant may accompany Agency inspectors during other phases of an inspection.
- c) If, at the time of inspection, an individual has been authorized by the workers to represent them during inspections, the licensee or registrant shall notify the Agency inspectors of that authorization and shall give the workers' representative an opportunity to accompany the inspectors during the inspection of physical working conditions.
- d) Each workers' representative shall be routinely engaged in work under control of the licensee or registrant and shall have received instructions as specified in Section 400.120.
- e) Different representatives of licensees or registrants and workers may accompany the Agency inspectors during different phases of an inspection if there is no resulting interference with the conduct of the inspection. However, only one workers' representative at a time may accompany the inspectors.
- f) With the approval of the licensee or registrant and the workers' representative, an individual who is not routinely engaged in work under control of the licensee or registrant, for example, a consultant to the licensee or registrant or to the workers' representative, shall be afforded the opportunity to accompany Agency inspectors during the inspection of physical working conditions.
- g) Notwithstanding the other provisions of this Section, Agency inspectors are authorized to refuse to permit accompaniment by any individual who deliberately interferes with a fair and orderly inspection. With regard to areas containing information classified by an agency of the U.S. Government in the interest of national security, an individual who accompanies an inspector may have access to the classified information only if authorized to do so. With regard to any area containing proprietary information, i.e., trade secrets and commercial or financial information that is privileged or confidential or when disclosure of the information may cause competitive harm, the workers' representative for that area

shall be an individual previously authorized by the licensee or registrant to enter that area.

(Source: Amended at 33 Ill. Reg. 4333, effective March 9, 2009)

Section 400.150 Consultation with Workers During Inspections

- a) Agency inspectors may consult privately with workers concerning matters of occupational radiation protection and other matters related to the activities of the licensee or registrant that bear upon compliance with the conditions of the license or the provisions of this Part or 32 Ill. Adm. Code: Chapter II, Subchapters b and d.
- b) During the course of an inspection, or at any other time, any worker may bring privately to the attention of the Agency or its inspectors, either orally or in writing, any past or present condition that the worker has reason to believe may have contributed to or caused any violation of the Act, the provisions of this Part or 32 Ill. Adm. Code: Chapter II, Subchapters b and d or license condition, or any unnecessary exposure (i.e., exposure that results when prescribed safety measures are not followed) of an individual to sources of radiation under the licensee's or registrant's control. Any notice in writing shall comply with the requirements of Section 400.160(a). If a worker seeks an opportunity to speak to an inspector during an Agency inspection, the licensee or registrant shall permit the worker that opportunity.

AGENCY NOTE: The provisions of subsection (b) of this Section shall not be interpreted as authorization to disregard instructions pursuant to Section 400.120.

(Source: Amended at 33 Ill. Reg. 4333, effective March 9, 2009)

Section 400.160 Requests by Workers for Inspections

- a) Any worker or representative of workers believing that a violation of the Act, the provisions of this Part or 32 Ill. Adm. Code: Chapter II, Subchapters b and d, or license conditions exists or has occurred, or that an unnecessary exposure to radiation or radioactive material has occurred in work under a license or registration with regard to radiological working conditions in which the worker is engaged, may request an inspection by giving notice of the alleged violation to the Agency. The notice shall be in writing, shall set forth the circumstances describing the perceived violation or condition and shall be signed by the worker or representative of the workers. A copy of the notice shall be provided to the licensee or registrant by the Agency no later than at the time of inspection except that, upon the request of the worker giving the notice, the worker's name and the

name of individuals referred to in the notice shall not appear in the copy or on any record published, released or made available by the Agency, except for good cause shown, such as when necessary in the course of enforcement actions.

- b) If conditions stated on the face of the complaint indicate there is or has been a violation or the possibility of a violation, the Agency shall conduct an inspection as soon as practicable to determine if the alleged violation exists or has occurred. Inspections made pursuant to this Section need not be limited to matters referred to in the complaint.
- c) No licensee or registrant shall discharge or in any manner discriminate against any worker because the worker has filed any complaint, or has instituted or caused to be instituted any proceedings under this Part, or has testified or is about to testify in any such proceeding, or because of the exercise by the worker on behalf of himself or herself or others of any option afforded by this Part. Furthermore, each licensee and registrant shall instruct its contractors and subcontractors not to discharge or in any manner discriminate against any worker because the worker has filed any complaint, or has instituted or caused to be instituted any proceedings under this Part, or has testified or is about to testify in any such proceeding, or because of the exercise by the worker on behalf of himself or herself or others any option afforded by this Part. Any worker who believes that he or she has been so discharged or discriminated against may file a complaint with the Agency alleging a violation of this subsection.

(Source: Amended at 33 Ill. Reg. 4333, effective March 9, 2009)

Section 400.170 Inspections Not Warranted; Informal Review

- a) Review of Determination that No Inspection Is Warranted
 - 1) If the Bureau of Radiation Safety determines, pursuant to Section 400.160, that an inspection is not warranted, the Bureau of Radiation Safety shall notify the complainant in writing within 60 days after receipt of the complaint. The complainant may obtain review of the determination by submitting a written statement of position with the Agency. The Agency shall provide the licensee or registrant with a copy of the statement by certified mail, excluding, at the request of the complainant, the name of the complainant. The licensee or registrant may submit an opposing written statement of position with the Agency. The Agency shall provide the complainant with a copy of the statement by certified mail.
 - 2) Upon the request of the complainant or the licensee or registrant, the Agency shall hold an informal conference in which the complainant and

the licensee or registrant may orally present their views. If a conference is requested by the complainant, the presence of the licensee or registrant at the conference shall be subject to the concurrence of the complainant. If the conference is requested by the licensee or registrant, the presence or disclosure of the identity of the complainant shall be made only pursuant to written authorization from the complainant. After considering all written and oral views presented, the Agency shall affirm, modify or reverse the determination of the Office of Radiation Safety and furnish the complainant and the licensee or registrant a written notification of the decision and the reason for that decision.

- b) If the Agency determines that an inspection is not warranted because the requirements of Section 400.160(a) have not been met, the complainant shall be notified in writing, within 30 days after receipt of the complaint, of the determination. The determination shall be without prejudice to the filing of a new complaint meeting the requirements of Section 400.160(a).

(Source: Amended at 33 Ill. Reg. 4333, effective March 9, 2009)