

From: [McGill, Richard](#)
To: [Brown, Don](#)
Cc: [Leoni, Carlie M.](#)
Subject: FW: 35 IAC 1010 RE: First Notice Documents from JCAR
Date: Friday, July 22, 2022 3:38:00 PM
Attachments: [image001.png](#)
[Part 1010 Bd staff resp 072222 to JCAR 1st-notice changes R18-28.pdf](#)
[35-1010-JCAR r01.pdf](#)

Good afternoon, Mr. Clerk:

Please docket this email exchange with JCAR, including the two attachments, as a public comment in R18-28.

Thank you.

Richard R. McGill, Jr.
Senior Attorney for Research & Writing
Illinois Pollution Control Board
60 E. Van Buren St., Suite 630
Chicago, Illinois 60605
richard.mcgill@illinois.gov (312) 814-6983



From: McGill, Richard
Sent: Friday, July 22, 2022 3:36 PM
To: 'JonathanE@ilga.gov' <JonathanE@ilga.gov>
Subject: 35 IAC 1010 RE: First Notice Documents from JCAR

Good afternoon, Jonathan:

I've attached two documents. The first document contains Board staff responses to your proposed Part 1010 changes emailed to me on June 21, 2022. The second document is the JCAR line-numbered r01 referenced in your changes and our responses. Our responses include related changes prompted by your suggestions.

Thank you for your careful review. Please let me know if you have any questions.

Best regards,

Richard

Richard R. McGill, Jr.
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From: Eastvold, Jonathan C. <JonathanE@ilga.gov>
Sent: Tuesday, June 21, 2022 3:58 PM
To: McGill, Richard <Richard.McGill@illinois.gov>
Subject: [External] RE: First Notice Documents from JCAR

That's funny; I wrote a list and forgot to send it.

Here's what I've got on file. Thanks for asking.

Rulemaking: Procedures for Reporting Releases of Radionuclides at Nuclear Power Plants
(35 Ill. Adm. Code 1010; 46 Ill. Reg. 6896)

Changes:

1. In line 25, delete "/13.6 and 27".
2. In line 36, strike "/13.6".
3. Strike line 59.
4. Strike line 62 and add "10 CFR Chapter I.".
5. In line 64, strike "Licensee controlled" and add "Licensee-controlled".
6. In line 75, strike "Station generated" and add "Station-generated".
7. In line 76, strike "and". After "contain" strike the comma.
8. In line 77, strike the comma.
9. In line 88, strike the comma.
10. In lines 97-98, strike "adjudged" and add "determined to be".
11. In line 97, change "the" to "that".
12. In line 97, strike "of this Part as a whole or".
13. In lines 110 and 111, strike "station generated" and add "station-generated".
14. In lines 114-115, change "station generated" to "station-generated".

15. In line 115, delete the comma.
16. In line 117, strike subsection label "a)", pull text up to the end of line 115, and add "either".
17. In line 118, strike "of".
18. In line 118, strike "licensee controlled" and add "licensee-controlled".
19. In line 119, strike the period.
20. In line 121, strike subsection label "b)", pull text up to the end of line 119, and add "or".
21. In line 128, delete "Reporting" and reinstate "Reports". Strike "under" and add "by".
22. In line 128, change "done" to "made".
23. In lines 132 and 136, change "done" to "made".

Lines 141-142: Add actual addresses.

Line 152: How can a telephone report be signed?

24. In line 152, strike ", signature,".
25. In lines 152-153, strike "Principal Executive Officer" and add "principal executive officer".
26. In line 153, strike "Principal Executive Officer's" and add "principal executive officer's".
27. In line 161, strike "station generated" and add "station-generated".
28. In lines 204-205, strike "if samples have been taken, the measured and modeled extents of the release if known" and add "and any follow-up samples".
29. In line 220, strike "Principal Executive Officer" and add "principal executive officer".
30. In line 221, strike "Principal Executive Officer's" and add "principal executive officer's".

Lines 226-227: Why are hard copies still necessary?

jce
5/9/2022

From: McGill, Richard <Richard.McGill@illinois.gov>
Sent: Tuesday, June 21, 2022 15:31
To: Eastvold, Jonathan C. <JonathanE@ilga.gov>
Subject: RE: First Notice Documents from JCAR

Good afternoon, Jonathan:

I'm checking to see whether you have any suggested changes concerning 35 IAC 1010—Procedures for Reporting Releases of Radionuclides at Nuclear Power Plants (46 Ill. Reg. 6896 (May 6, 2022)). If you already emailed suggested changes to Part 1010 and I've overlooked them, please forgive me and re-send.

Thank you.

Best regards,

Richard

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Illinois Pollution Control Board
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From: Eastvold, Jonathan C. <JonathanE@ilga.gov>
Sent: Friday, May 6, 2022 4:16 PM
To: McGill, Richard <Richard.McGill@illinois.gov>
Subject: [External] FW: First Notice Documents from JCAR

Richard –

Below are a number of suggested changes for this rulemaking. The line numbers correspond to the numbers in the attached document.

Thanks for your consideration.

Jonathan

PROPOSED FIRST NOTICE CHANGES

Agency: Pollution Control Board

Rulemaking: Radiation Hazards (35 Ill. Adm. Code 1000; 46 Ill. Reg. 6867)

Changes:

1. In line 69, delete "must comply" and strike "with" and "this Part".
2. In line 70, delete "and".
3. In line 72, change "the lowest radiation" to "making every reasonable effort to maintain exposures to radiation as far below the dose limits in this part as is practical consistent with the purpose for which the licensed activity is undertaken, taking into account the state of technology, the economics of improvements in relation to state of technology, the economics of improvements in relation to benefits to the public health and safety, and other societal and socioeconomic considerations, and in relation to utilization of nuclear energy and licensed materials in the public interest (10 CFR 20.1003 (2022))".
4. In line 73, strike existing text and delete added text.
5. Strike lines 74-76.
6. In line 91, after "1000.202" add a comma.
7. In line 105, delete "1".
8. In line 106, strike "*et seq.*".
9. In lines 110-111, strike existing text and delete added text.
10. Before line 121, add "\"IEMA\" means the Illinois Emergency Management Agency's Bureau of Nuclear Facility Safety.".
11. In line 142, strike "highspeed" and add "high-speed".
12. In line 145, strike "means" and add "mean".
13. In line 149, strike "an".
14. In line 151, strike "upon" and add "on".
15. In line 152, strike "upon".
16. In line 167, after "in" add "the".
17. In lines 172 and 178, strike "access to which" and add "to which access".
18. In line 226, strike "as to create" and add "in a way that creates". After "in" add "the".
19. In line 228, change "an" to "a dose to the whole body greater than 0.5 rem in any single year".
20. In line 229, after "account" strike the comma.

21. In line 230, delete "receiving" and strike all existing text except the semicolon.
22. In line 233, after "area" add "receiving a dose greater than 2 millirems in any single hour".
23. In line 234, strike the comma.
24. In lines 234-235, strike "receiving a dose in excess of 2 millirems in any one hour".
25. In line 238, after "area" add "receiving a dose greater than 100 millirems in any 7 consecutive days".
26. In line 238, after "by" add "the".
27. In line 239, strike the comma.
28. In lines 239-240, strike "receiving a dose in excess of 100 millirems in any seven consecutive days".
29. In line 247, strike "so as to" and add "that".
30. In line 247, after "to" add "the".
31. In line 248, after "concentration" add "limits".
32. In line 249, strike "of".
33. In line 269, strike "which" and add "that".
34. In line 277, strike "that" and add "the".
35. In line 277, strike "producing" and add "that produces".
36. In line 286, strike "which" and add "that".
37. In line 289, strike "refers" and add "is the unit used to refer".
38. In line 294, strike "that" and add "who".
39. In line 295, after "whether" add "or not".
40. In line 295, strike "may or may not" and add "is". Strike "be".
41. In line 302, after "any" add "uranium".
42. In lines 302-303, strike "through utilization of" and add "using".
43. In line 309, strike "is conducted".
44. In line 310, after "Part" add "is conducted".

45. In line 317, strike ", but" and add "Uranium fuel cycle".
46. In line 319, strike "nonuranium" and add "non-uranium".
47. In line 319, strike "by-product" and add "byproduct".
48. In line 326, change "assure" to "ensure".
49. In line 333, after "operations" add a comma.
50. In line 339, strike "halfives" and add "half-lives".
51. In line 347, strike "the Department" and add "IEMA".
52. In lines 352, 355-356, 360, and 363, delete "incorporated by reference in Section 1000.202".
53. In line 354, after "amendments" add "to that permit".
54. In line 367, after "reports" add "conducted by or for that person and".
55. In line 368, after "in" add "the".
56. In line 369, after "into" add "the".
57. In line 369, delete "conducted by or for such person".
58. In line 375, after "notify" add "IEMA".
59. In line 376, strike all existing text and delete all added text.
60. In line 380, strike "in excess of" and add "exceeding".
61. In the table after 397, in the 3rd from last and 5th from last rows, strike "radio- active" and add "radioactive".
62. In the table after 397, in the bottom row, strike ", which" and add "that".
63. In line 412, after "milligrams" add "of".
64. In line 420, after "as" add "a".
65. In line 422, change "Where" to "When".
66. In line 429, strike "such" and add "the".
67. In line 432, strike "MPC's" and add "MPCs".
68. In line 438, reinstate "for" and strike "of".

69. In line 441, strike "lieu" and add "place".
70. In line 448, strike the comma.
71. In line 451, strike "which" and add "that".
72. In lines 469 and 472, strike "than".

From: Knudson, Cheryl J.
Sent: Thursday, May 5, 2022 14:34
To: Richard.McGill@illinois.gov
Cc: Eastvold, Jonathan C. <JonathanE@ilga.gov>
Subject: RE: First Notice Documents from JCAR

First Notice documents are attached for your review:

- [Notice Page](#)
- [1st Notice – Numbered Line Version](#)
- [Agency vs. JCAR r01](#)

If you have any questions or concerns, please contact Jonathan Eastvold @ 217-524-9010.

Thank you,
Cheryl

Cheryl Knudson
Joint Committee on Administrative Rules
Illinois General Assembly
700 Stratton Building
Springfield, IL 62706

217.785.8993
cherylk@ilga.gov

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From: Eastvold, Jonathan C. <JonathanE@ilga.gov>
Sent: Tuesday, June 21, 2022 3:58 PM
To: McGill, Richard <Richard.McGill@illinois.gov>
Subject: [External] RE: First Notice Documents from JCAR

That's funny; I wrote a list and forgot to send it.

Here's what I've got on file. Thanks for asking. 😊

Board staff responses and related changes (7/22/22) appear in bold, red font below.

Rulemaking: Procedures for Reporting Releases of Radionuclides at Nuclear Power Plants (35 Ill. Adm. Code 1010; 46 Ill. Reg. 6896)

Changes:

1. In line 25, delete "/13.6 and 27". **Disagree. Because the sentence refers not to the Act generally but rather to specific sections of the Act, we must cite those specific sections.**
2. In line 36, strike "/13.6". **Disagree. See No. 1.**
3. Strike line 59. **Disagree. Part 1010 uses “L” in “pCi/L”. “Ci” and “pCi” are also defined.**
4. Strike line 62 and add "10 CFR Chapter I.". **Agree.**
5. In line 64, strike "Licensee controlled" and add "Licensee-controlled". **Agree.**
6. In line 75, strike "Station generated" and add "Station-generated". **Agree.**
7. In line 76, strike "and". After "contain" strike the comma. **Agree.**
8. In line 77, strike the comma. **Agree.**
9. In line 88, strike the comma. **Agree.**
10. In lines 97-98, strike "adjudged" and add "determined to be". **Disagree. The word “adjudged” indicates judicial action and is used in the recently adopted severability provision at 35 Ill. Adm. Code 845.160. And as the phrase “adjudged invalid” also appears in line 98, changing that phrase in lines 97-98 might suggest a different meaning.**
11. In line 97, change "the" to "that". **Agree for first “the”.**

12. In line 97, strike "of this Part as a whole or". **Disagree. The language accounts for the different ways in which a court might rule and is used in the recently adopted severability provision at 35 Ill. Adm. Code 845.160. Striking this phrase could be viewed as a substantive change and therefore is beyond this rulemaking's scope.**
13. In lines 110 and 111, strike "station generated" and add "station-generated". **Agree.**
14. In lines 114-115, change "station generated" to "station-generated".
 - a. **Agree.**
 - b. **In line 114, after "if" add "the".**
15. In line 115, delete the comma. **There's no comma in line 115. Agree to delete colon.**
16. In line 117, strike subsection label "a)", pull text up to the end of line 115, and add "either". **Agree.**
17. In line 118, strike "of". **Agree.**
18. In line 118, strike "licensee controlled" and add "licensee-controlled". **Agree.**
19. In line 119, strike the period. **Agree.**
20. In line 121, strike subsection label "b)", pull text up to the end of line 119, and add "or". **Agree.**
21. In line 128, delete "Reporting" and reinstate "Reports". Strike "under" and add "by". **Agree.**
22. In line 128, change "done" to "made". **Agree.**
23. In lines 132 and 136, change "done" to "made".
 - a. **The word "done" does not appear in line 132 or 136. Agree to strike "given" and add "made".**
 - b. **In line 146, reinstate "required". Strike "under" and add "by".**

Lines 141-142: Add actual addresses. **Those addresses are not in this rulemaking record but presumably would be provided through the electronic report form required by subsection (a)(3).**

Line 152: How can a telephone report be signed? **Logically, the signature requirement applies only to electronic reports. But to avoid any potential ambiguity, after "signature" add "(in electronic reports)".**

24. In line 152, strike ", signature,". **Disagree. See above.**

25. In lines 152-153, strike "Principal Executive Officer" and add "principal executive officer". **Agree.**
26. In line 153, strike "Principal Executive Officer's" and add "principal executive officer's". **Agree.**
27. In line 161, strike "station generated" and add "station-generated". **Agree.**
28. In lines 204-205, strike "if samples have been taken, the measured and modeled extents of the release if known" and add "and any follow-up samples". **Disagree. This change could be viewed as substantive and therefore is beyond this rulemaking's scope.**
29. In line 220, strike "Principal Executive Officer" and add "principal executive officer". **Agree.**
30. In line 221, strike "Principal Executive Officer's" and add "principal executive officer's". **Agree.**

Lines 226-227: Why are hard copies still necessary? **IEPA's and IEMA's reasons for hard copies were not addressed in this rulemaking record.**

jce
5/9/2022

1st Notice

JCAR351010-2206896r01

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE I: ATOMIC RADIATION
CHAPTER I: POLLUTION CONTROL BOARD

PART 1010
PROCEDURES FOR REPORTING RELEASES OF
RADIONUCLIDES AT NUCLEAR POWER PLANTS

SUBPART A: GENERAL PROVISIONS

Section	
1010.100	Purpose
1010.102	Applicability
1010.104	Scope
1010.106	Definitions
1010.108	Severability

SUBPART B: REPORTING

1010.200	Evaluation of Releases
1010.202	Reporting of Releases
1010.204	Follow-up Written Report

AUTHORITY: Implementing and authorized by Sections 13.6 and 27 of the Environmental Protection Act [415 ILCS 5/13.6 and 27].

SOURCE: Adopted at 32 Ill. Reg. 7789, effective May 2, 2008; amended in R18-28 at 46 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 1010.100 Purpose

This Part prescribes standards for detecting and reporting unpermitted releases of radionuclides from nuclear power plants under Section 13.6 of the Illinois Environmental Protection Act [415 ILCS 5/13.6].

(Source: Amended at 46 Ill. Reg. _____, effective _____)

Section 1010.106 Definitions

Except as stated in this Section, or unless a different meaning of a word or term is clear from the context, the definition of words or terms in this Part will be the same as that applied to the same words or terms in the Illinois Environmental Protection Act [415 ILCS 5].

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"Act" means the Illinois Environmental Protection Act [415 ILCS 5].

"Agency" means the Illinois Environmental Protection Agency.

"Curie" or "Ci" means the quantity of radioactive material producing 37 billion nuclear transformations per second.

"Groundwater" means underground water which occurs within the saturated zone and geologic materials where the fluid pressure in the pore space is equal to or greater than atmospheric pressure. [415 ILCS 5/3.210]

"IEMA" means the Illinois Emergency Management Agency.

"L" means liter.

"Licensee" means the holder of a license issued for a nuclear power plant under chapter I of title 10 of the Code of Federal Regulations.

"Licensee controlled area" means the land or property that is owned, leased, or otherwise controlled by the licensee.

"Picrocurie" or "pCi" means the quantity of radioactive material producing 2.22 nuclear transformations per minute. One pCi is one trillionth (10^{-12}) of one curie.

"Person" is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, State agency, or any other legal entity, or their legal representative, agent, or assigns. [415 ILCS 5/3.315]

"Station generated liquids" means liquids used in, or as a part of, the power generation process at a nuclear power plant and that contain, or potentially could contain, radionuclides.

"Surface water" means all water that is open to the atmosphere and subject to surface runoff.

"Unpermitted release of a radionuclide" means any spilling, leaking, emitting, discharging, escaping, leaching, or disposing of a radionuclide into groundwater, surface water, or soil that is not permitted under State or federal law or regulation. [415 ILCS 5/13.6(c)]. "Unpermitted release of a radionuclide" does not include the discharge of a radionuclide from a point source at a designated process water or cooling water outfall identified in the nuclear power plant's National Pollutant Discharge Elimination System permit, if the discharge is

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89 authorized in the nuclear power plant's United States Nuclear Regulatory
90 Commission operating license.

91
92 (Source: Amended at 46 Ill. Reg. _____, effective _____)
93

94 **Section 1010.108 Severability**

95
96 If any provision in this Part or its application to any person or under any circumstances is
97 adjudged invalid, the adjudication will not affect the validity of this Part as a whole or of any
98 portion not adjudged invalid.

99
100 (Source: Amended at 46 Ill. Reg. _____, effective _____)
101

102 **SUBPART B: REPORTING**

103
104 **Section 1010.200 Evaluation of Releases**

105
106 Within 24 hours after an unpermitted release of a radionuclide from a nuclear power plant into
107 groundwater, surface water, or soil, the licensee must evaluate the release in compliance with
108 this Section to determine whether it must be reported. The evaluation must be based on the
109 volumes of station generated liquids and concentrations or quantities of radionuclides released,
110 not on the volumes of station generated liquids and concentrations or quantities of radionuclides
111 remaining after the initiation or completion of response actions. The licensee must report the
112 release in compliance with Section 1010.202 if unpermitted release of station generated liquids:

- 113
114 a) result in tritium concentrations of 200 pCi/L or more outside of the licensee
115 controlled area.
116
117 b) contain tritium at quantities of 0.002 curies or more.

118
119 (Source: Amended at 46 Ill. Reg. _____, effective _____)
120

121 **Section 1010.202 Reporting of Releases**

- 122
123 a) Reporting required under Section 1010.200 must be done within 24 hours after
124 the release to both the Agency and IEMA in compliance with the following:
125
126 1) Reports to the Agency must be given by telephone and electronically. The
127 Agency's telephone number for reporting environmental emergencies is 1-
128 217-782-3637.
129
130 2) Reports to IEMA must be given by telephone and electronically. IEMA's
131 telephone number for reporting emergencies is 1-800-782-7860, or, if
132 calling from outside Illinois, 1-217-782-7860.

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- 3) Electronic reports must be submitted on forms and in a format prescribed by the Agency, and must be submitted to addresses prescribed by the Agency and IEMA. The Agency must consult with IEMA in developing the forms and format for electronic reports required under this Section.
- b) Reporting under Section 1010.200 must include the following information using the best data available at the time of the report:
 - 1) The name and address of the nuclear power plant where the release occurred;
 - 2) The name, signature, and telephone number of the Principal Executive Officer for the nuclear power plant or the Principal Executive Officer's authorized agent;
 - 3) The specific location of the release;
 - 4) The time and duration of the release;
 - 5) An estimate of the volume and radionuclide concentrations (in pCi/L) of station generated liquids released, and an estimate of the flow rate if the release is ongoing;
 - 6) Identification of the radionuclides released and an estimate of the quantities released (in curies);
 - 7) Whether the release was to groundwater, surface water, or soil, and a description of the area into which the release occurred (e.g., field, ditch, stream, or other description) and the size of the area affected;
 - 8) The actions taken to respond to, contain, and mitigate the release;
 - 9) The known and anticipated impacts to human health and the environment, including groundwater and surface water resources, due to the release;
 - 10) The names, addresses, and telephone numbers of persons at the nuclear power plant who may be contacted for further information regarding the release; and
 - 11) The name and mailing address of the licensee of the nuclear power plant.
- c) The Agency must post copies of the electronic reports it receives under this Section on the Agency's website.

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(Source: Amended at 46 Ill. Reg. _____, effective _____)

Section 1010.204 Follow-up Written Report

A licensee who reports a release under this Part must provide to the Agency and to IEMA a follow-up written report of the release within five business days after reporting the release.

- a) The follow-up report must confirm and update the information provided by the licensee under Section 1010.202 utilizing the best data available and must also include the following information:
 - 1) Copies of all lab analyses used to confirm the presence of, or conducted in response to, the release if lab analyses have been conducted;
 - 2) Plan view and, if available, geological cross-section maps showing the location of the release, the locations of samples taken to confirm the release if samples have been taken, the locations of samples taken in response to the release if samples have been taken, the measured and modeled extents of the release if known, the groundwater flow direction if known, groundwater contours if known, the boundary of the licensee controlled area, and structures, roads, and other surface features;
 - 3) An estimate of the volume and radionuclide concentrations (in pCi/L) of station generated liquids released but not recovered;
 - 4) An estimate of the quantities (in curies) of radionuclides released but not recovered;
 - 5) An updated description of activities taken in response to the release;
 - 6) If additional activities in response to the release are planned, a description of those activities; and
 - 7) The name and signature of the Principal Executive Officer for the nuclear power plant or the Principal Executive Officer's authorized agent.
- b) The follow-up report must be submitted electronically on forms and in a format prescribed by the Agency and must be submitted to addresses prescribed by the Agency and IEMA. Within five business days after submission of the electronic follow-up report, hard copies of the follow-up report must be submitted to the Agency and IEMA at the following addresses:

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221 Bureau of Water
222 Groundwater Section
223 1021 North Grand Avenue East
224 P.O. Box 19276
225 Springfield, IL 62794-9276
226

227 Illinois Emergency Management Agency
228 Division of Nuclear Safety
229 Bureau of Environmental Safety
230 1035 Outer Park Drive
231 Springfield, IL 62704
232

233 c) The Agency must consult with IEMA in developing the forms and format for
234 reports required under this Section.
235

236 d) The Agency must post copies of the follow-up reports it receives under this
237 Section on the Agency's website.
238

239 (Source: Amended at 46 Ill. Reg. _____, effective _____)