**Section 326.100 Surety Bond as a Financial Assurance Arrangement**

If a licensee elects to satisfy the requirement of Section 326.90 of this Part by securing a surety bond, that bond shall conform to the following requirements:

a) The surety company issuing the bond shall be among those listed as acceptable sureties or reinsurers on federal bonds in Circular 570 of the U.S. Department of the Treasury, entitled "Surety Companies Acceptable On Federal Bonds", revised to the latest revision issued by the U.S. Department of the Treasury.

AGENCY NOTE: For the licensee's information, Circular 570 entitled "Surety Companies Acceptable On Federal Bonds" is updated every July and the Agency will accept the bonds on the latest July revision date issued by the U.S. Department of the Treasury.

b) The wording of the surety bond shall contain the substantive provisions specified in Appendix B of this Part. Additional conditions may be agreed to between the licensee and the surety company so long as no requirement of this Part is avoided or altered and no additional requirements are placed upon the Agency.

c) The surety bond shall guarantee that:

1) Funds will be available, whenever required by the Agency, in order to terminate the license in accordance with the requirements of 32 Ill. Adm. Code 330;

2) The surety waives notification of amendments to licenses, applicable laws, statutes, rules and regulations and agrees that no such amendment shall in any way alleviate its obligation on the bond; and

3) The licensee shall provide alternative financial assurance arrangements as specified in Section 326.170 of this Part prior to cancellation or termination of the bond.

d) Under the terms of the bond, the surety shall become liable on the bond obligation when the licensee fails to perform as guaranteed by the bond. Upon a determination by the Agency that the licensee has failed to so perform, the surety shall perform reclaiming to the satisfaction of the State as guaranteed by the bond or shall pay the amount of the penal sum to the Agency.

e) The penal sum of the bond shall be in an amount, after considering other financial assurance arrangements established in accordance with this Part, sufficient to provide the necessary funds in order to terminate the license in accordance with the requirements of 32 Ill. Adm. Code 330.

f) The surety may cancel the bond by sending notice of cancellation by certified mail, return receipt requested, to the licensee and to the Agency. Cancellation shall not occur, however, during the 180 days beginning on the date after receipt of the notice of cancellation by both the licensee and the Agency, as evidenced by the return receipts. During this period, the licensee shall obtain replacement financial assurance as provided in Section 326.170 of this Part. Upon notification by the Agency that the licensee has failed to obtain replacement financial assurance approved by the Agency, the surety shall pay the amount of the penal sum to the Agency.

g) The surety shall not be liable for the deficiency in the performance of reclaiming after the Agency has determined satisfactory reclaiming has occurred.

h) The licensee may terminate the bond by sending written notice to the surety, provided, however, that no such notice shall become effective until the surety receives written authorization from the Agency for the termination of the bond. The Agency shall not authorize termination until the licensee has either provided replacement financial assurance arrangements in accordance with Section 326.170 of this Part or the Agency has determined satisfactory reclaiming has occurred.

i) The bond shall be accompanied by a letter from the licensee referring to the bond by number, issuing institution and date and providing the following information: the radioactive material license numbers, names and addresses of the facilities and the amount of funds for each license assured for reclaiming of the facilities by the surety bond.

(Source: Amended at 29 Ill. Reg. 20781, effective December 16, 2005)