



2003-12

**EXECUTIVE ORDER TO TRANSFER FUNCTIONS OF THE DEPARTMENT
OF NUCLEAR SAFETY TO THE ILLINOIS EMERGENCY MANAGEMENT
AGENCY**

WHEREAS, nuclear power generates a significant amount of electricity and is essential to the industry and economy of Illinois; and

WHEREAS, the threat of terrorist attacks in the United States is real, as witnessed by the events of September 11, 2001. The unfortunate threat of terrorism places nuclear facilities potentially at risk; and

WHEREAS, Illinois' preparedness to respond to terrorist attacks is a priority of the highest magnitude for the State; and

WHEREAS, any emergency response to a terrorist threat or other potential disaster involving nuclear power facilities necessitates centralized coordination and communication among various entities at the State level; and

WHEREAS, there are a number of existing executive agencies directly responsible to the Governor which have rights, powers, duties and responsibilities that involve, in significant part, the preparedness for and response to emergencies involving nuclear facilities and power. Streamlining and consolidating the functions of certain of these agencies in a single agency

enables the State to realize more efficient communication and use of informational resources, and to provide more efficient use of specialized expertise and facilities. Consolidation also improves accessibility and accountability, eliminates redundancy, and simplifies the organizational structure of the Executive Branch, promoting more effective sharing of best practices and state of the art technology, among other things; and

WHEREAS, Article V, Section 11 of the Constitution of the State of Illinois, as implemented by the Executive Reorganization Implementation Act, 15 ILCS 15/1, authorizes the Governor, by executive order, to reorganize agencies directly responsible to the Governor by (a) the transfer of the whole or any part of any agency, or of the whole or any part of the functions thereof, to the jurisdiction and control of any other agency, (b) the consolidation or coordination of the whole or any part of any other agency, or of the whole or any part of the functions thereof, with the whole or any part of any other agency or the functions thereof, (c) the consolidation or coordination of any part of any agency or the functions thereof with any other part of the same agency or the functions thereof, (d) the abolition of the whole or any part of any agency which does not have, or upon the taking effect of such reorganization will not have, any functions, and (e) the establishment of a new agency to perform all or any part of the functions of an existing agency or agencies; and

WHEREAS, the foregoing benefits can be achieved by transferring the functions of the Department of Nuclear Safety to the Illinois Emergency Management Agency and then abolishing the Department of Nuclear Safety.

THEREFORE, pursuant to the powers vested in me by Article V, Section 11 of the Illinois Constitution, I hereby order the following:

I. TRANSFER

- A. All the powers, duties, rights and responsibilities vested in the Department of Nuclear Safety shall be transferred to the Illinois Emergency Management Agency, effective July 1, 2003. The statutory powers, duties, rights and responsibilities of the Department of Nuclear Safety derive from 20 ILCS 2005/2005-1 et seq.
- B. Whenever any provision of an Executive Order or any Act or section thereof transferred by this Executive Order provides for membership of the Director of the Department of Nuclear Safety on any council, commission, board or other entity, the Assistant Director of Illinois Emergency Management Agency or his/her designee(s) shall serve in that place. If more than one such commissioner/director is required by law to serve on any council, commission, board or other entity, an equivalent number of representatives of the Illinois Emergency Management Agency shall so serve.

II. EFFECT OF TRANSFER

- A. The Department of Nuclear Safety, and all offices, bureaus and divisions thereof are hereby abolished.

- B. The rights of the employees, the State and its agencies under the Personnel Code and applicable collective bargaining agreements or under any pension, retirement or annuity plan shall not be affected by this Executive Order. Personnel in the Department of Nuclear Safety shall continue their service within the Illinois Emergency Management Agency. All personnel shall initially constitute probationary employees under the Personnel Code. The Department of Central Management Services shall establish a procedure for qualification and retention of personnel in accordance with the Personnel Code. The Director of Nuclear Safety shall be transferred to the Illinois Emergency Management Agency and be made the Assistant Director of the Illinois Emergency Management Agency.
- C. All books, records, papers, documents, property (real and personal), contracts, unexpended appropriations and pending business pertaining to the powers, duties, rights and responsibilities transferred by this Executive Order from the Department of Nuclear Safety to the Illinois Emergency Management Agency, including but not limited to material in electronic or magnetic format and necessary computer hardware and software, shall be delivered to the Illinois Emergency Management Agency pursuant to the direction of the Director of the Illinois Emergency Management Agency.

IV. SAVINGS CLAUSE

- A. The rights, powers and duties transferred to the Illinois Emergency Management Agency by this Executive Order shall be vested in and shall be exercised by the Illinois Emergency Management Agency. Each act done in exercise of such rights, powers and duties shall have the same legal effect as if done by the Department of Nuclear Safety, its divisions, officers or employees.
- B. Every person or corporation shall be subject to the same obligations and duties and any penalties, civil or criminal, arising therefrom, and shall have the same rights arising from the exercise of such powers, duties, rights and responsibilities as had been exercised by the Department of Nuclear Safety, its divisions, officers or employees.
- C. Every officer of the Illinois Emergency Management Agency shall, for any offense, be subject to the same penalty or penalties, civil or criminal, as are prescribed by existing law for the same offense by any officer whose powers or duties were transferred under this Executive Order.
- D. Whenever reports or notices are now required to be made or given or papers or documents furnished or served by any person to or upon the agencies and offices transferred by this Executive Order, the same shall be made, given, furnished or served in the same manner to or upon the Illinois Emergency Management Agency.

- E. This Executive Order shall not affect any act done, ratified or canceled or any right occurring or established or any action or proceeding had or commenced in an administrative, civil or criminal cause regarding the Department of Nuclear Safety before this Executive Order takes effect, but such actions or proceedings may be prosecuted and continued by the Illinois Emergency Management Agency.
- F. Any rules of the Department of Nuclear Safety that are in full force on the effective date of this Executive Order and that have been duly adopted by the agencies reorganized shall become the rules of the Illinois Emergency Management Agency. This Executive Order shall not affect the legality of any such rules in the Illinois Administrative Code. Any proposed rulings filed with the Secretary of State by the Department of Nuclear Safety that are pending in the rulemaking process on the effective date of this Executive Order, shall be deemed to have been filed by the Illinois Emergency Management Agency. As soon as practicable hereafter, the Illinois Emergency Management Agency shall revise and clarify the rules transferred to it under this Executive Order to reflect the reorganization of rights, power and duties effected by this Order, using the procedures for recodification of rules available under the Illinois Administrative Procedures Act, except that existing title, part, and section numbering for the affected rules may be retained.

The Illinois Emergency Management Agency may propose and adopt under the Illinois Administrative Act such other rules of the reorganized agencies that will now be administered by the Illinois Emergency Management Agency.

V. SEVERABILITY

If any provision of this Executive Order or its application to any person or circumstance is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

VI. EFFECTIVE DATE

This Executive Order shall become effective on the 61st day after its delivery to the General Assembly.

ROD R. BLAGOJEVICH
Governor

Issued by the Governor: _____, 2003
Filed with the Secretary of State: _____, 2003