
ILLINOIS REGISTER

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Radioactive Materials Transportation
- 2) Code Citation: 32 Ill. Adm. Code 341
- 3)

<u>Section Number:</u> 341.10	<u>Proposed Action:</u> Amendment
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- 4) Statutory Authority: Implementing and authorized by Section 10, 11, 11.5 and 12 of the Radiation Protection Act of 1990 [420 ILCS 40/10, 11, 11.5 and 12], and Section 9 of the Illinois Low-Level Radioactive Waste Management Act [420 ILCS 20/9] and by Section 70 of the Nuclear Safety Law of 2004 [20 ILCS 3310/70].
- 5) A Complete Description of the Subjects and Issues Involved: After reviewing IEMA's last amendments to Part 341 to comply with RATS ID 2015-3, the U.S. Nuclear Regulatory Commission identified an issue with IEMA's rules regarding the 10 CFR 71 incorporation by reference. The Agency is proposing this amendment to Part 341 to fix the issue and maintain compatibility with 10 CFR 71 as required by the USNRC. The Agency is also proposing an amendment to comply with RATS ID 2019-2.
- 6) Any published studies or reports, along with the sources of underlying data, that were used when composing this rulemaking, in accordance with 1 Ill Adm. Code 100.355: No
- 7) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: The requirements imposed by the proposed rulemaking are not expected to require local governments to establish, expand or modify their activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place and Manner in which interested persons may comment on this proposed Rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. The Agency will consider fully all written comments on this proposed rulemaking submitted during the 45 day comment period. Comments should be submitted to:

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13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities or not for profit corporations affected: The Agency believes this rulemaking will have no direct impact on any small businesses, small municipalities or not for profit corporations.
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None

14) Small Business Impact Analysis:

- A) Types of business subject to the proposed rule:
 - 54 Professional, Scientific, and Technical Services
- B) Categories that the agency reasonably believe the rulemaking will impact, including:
 - ii. regulatory requirements

15) Regulatory Agenda on which this rulemaking was summarized: July 2019

The full text of the Proposed Amendment begins on the next page:

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TITLE 32: ENERGY

CHAPTER II: ILLINOIS EMERGENCY MANAGEMENT AGENCY

SUBCHAPTER b: RADIATION PROTECTION

PART 341

RADIOACTIVE MATERIALS TRANSPORTATION

Section

341.10	Scope
341.20	Incorporations by Reference
341.25	Definitions
341.30	General License
341.40	Records
341.50	Reports

AUTHORITY: Implementing and authorized by Section 10, 11, 11.5 and 12 of the Radiation Protection Act of 1990 [420 ILCS 40/10, 11, 11.5 and 12], and Section 9 of the Illinois Low-Level Radioactive Waste Management Act [420 ILCS 20/9], and by Section 70 of the Nuclear Safety Law of 2004 [20 ILCS 3310/70].

SOURCE: Adopted at 10 Ill. Reg. 17616, effective September 25, 1986; amended at 11 Ill. Reg. 5219, effective March 13, 1987; amended at 12 Ill. Reg. 2434, effective January 15, 1988; amended at 18 Ill. Reg. 4196, effective March 3, 1994; recodified from the Department of Nuclear Safety to the Illinois Emergency Management Agency at 27 Ill. Reg. 13641; old Part repealed and new Part adopted at 29 Ill. Reg. 6911, effective May 2, 2005; amended at 30 Ill. Reg. 9160, effective April 28, 2006; amended at 39 Ill. Reg. 9928, effective July 1, 2015; amended at 42 Ill. Reg. 7537, effective April 4, 2018; amended at 43 Ill. Reg. _____, effective _____.

Section 341.10 Scope

- a) This Part applies to each licensee who transports licensed material outside the site where the licensee is authorized to possess and use the material or who transports the material on public highways or who delivers the material to a carrier for transport. The licensee shall comply with the regulations in this Part, the applicable requirements of the U.S. Nuclear Regulatory Commission (NRC) in 10 CFR 71, in effect as of ~~December 30, 2019~~July 13, 2015, and the applicable requirements of the U.S. Department of Transportation (USDOT) regulations appropriate to the mode of transport in 49 CFR 170-189, in effect as of ~~December 30, 2019~~July 13, 2015.

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AGENCY NOTE: Where the words “NRC”, “Commission”, “Nuclear Regulatory Commission”, “United States Nuclear Regulatory Commission” or “Administrator of the appropriate Regional Office” appear in 10 CFR 71, substitute the words “Illinois Emergency Management Agency (Agency or IEMA)” except when used in 10 CFR 71.5(b), 71.10, 71.17(c)(3) and (e), 71.85(c), 71.88(a)(4), 71.93(c), 71.95, 71.97(c), (c)(3)(iii) and (f). In addition, the terms “certificate of compliance, compliance holder or applicant” apply to the NRC as they are the sole authority for issuing a package Certificate of Compliance.

- b) When the licensee is not in areas under the jurisdiction of USDOT or NRC, but is in an area of jurisdiction of the State of Illinois as described in subsection (a) of this Section, the licensee shall comply with the following portions of USDOT and NRC regulations, as applicable:
- 1) Packaging, 49 CFR 173, subparts A, B and I;
 - 2) Marking and labeling, 49 CFR 172, subpart D, paragraphs 172.400-172.407, 172.436-172.440 and subpart E;
 - 3) Placarding, 49 CFR 172, subpart F, paragraphs 172.500-172.519 and 172.556; and appendices B and C;
 - 4) Shipping papers and emergency information, 49 CFR 172, subparts C and G;
 - 5) Accident reporting, 49 CFR 171.15 and 171.16;
 - 6) Hazardous material shipper/carrier requirements, 49 CFR 107, subpart G;
 - 7) Hazardous material employee training, 49 CFR 172, subpart H;
 - 8) Definitions, 10 CFR 71.4;
 - 9) Transportation of licensed material, 10 CFR 71.5;
 - 10) Exemptions for low level material, 10 CFR 71.14(a);
 - 11) General license: NRC-approved package, 10 CFR 71.17;

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- 12) Previously approved package, 10 CFR 71.19(a) and (b);
 - 13) General license: USDOT specification container material, 10 CFR 71.20;
 - 14) General license: Use of foreign approved package, 10 CFR 71.21;
 - 15) General license: Fissile material, 10 CFR 71.22;
 - 16) External radiation standards for all packages, 10 CFR 71.47;
 - 17) Assumptions as to unknown properties, 10 CFR 71.83;
 - 18) Preliminary determinations, 10 CFR 71.85;
 - 19) Routine determinations, 10 CFR 71.87;
 - 20) Air transportation of plutonium, 10 CFR 71.88;
 - 21) Opening instructions, 10 CFR 71.89;
 - 22) Advance notification of shipment of irradiated reactor fuel and nuclear waste, 10 CFR 71.97;
 - 23) Quality assurance requirements, 10 CFR 71.101(a), (b), (c), (f) and (g);
 - 24) Quality assurance organization, 10 CFR 71.103;
 - 25) Quality assurance program, 10 CFR 71.105; and
 - 26) Determination of A₁ and A₂, 10 CFR 71, appendix A.
- c) The licensee shall also comply with USDOT regulations pertaining to the following modes of transportation:
- 1) Rail, 49 CFR 174, subparts A-D and K;
 - 2) Air, 49 CFR 175;
 - 3) Vessel, 49 CFR 176, subparts A-F and M; and

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- 4) Public highway, 49 CFR 177 and 390-397.
- d) If USDOT regulations are not applicable to a shipment of licensed material as described in subsection (a), the licensee shall conform to the standards and requirements of USDOT specified in subsection (a) to the same extent as if the shipment or transportation were subject to USDOT regulations. A request for modification, waiver or exemption from those requirements, and any notification referred to in those requirements, must be filed with, or made to, the Agency.
- e) Common and contract carriers, freight forwarders, warehousemen and the U.S. Postal Service are exempt from the requirements for a license set forth in 420 ILCS 40/10, 11 and 12 and in 32 Ill. Adm. Code 330, 335, 337, 346, 350 and 351 to the extent that they transport or store byproduct material in the regular course of carriage for another or storage incident to that carriage.

(Source: Amended at 43 Ill. Reg. _____, effective _____).