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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) Section Number: 341.10 Proposed Action: Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 10 and 34 of the Radiation Protection Act of 1990 [420 ILCS 40/10 and 34], Section 9 of the Illinois Low-Level Radioactive Waste Management Act [420 ILCS 20/9] and Section 70 of the Nuclear Safety Law of 2004 [20 ILCS 3310/70].
- 5) A Complete Description of the Subjects and Issues Involved: This proposed amendment is updating the references to the Federal transportation rules as required in RATS ID 2012-2 (77 FR 34194, Published June 11, 2012) and 2012-3 (77 FR 39899, Published July 6, 2012). These changes will include notifying tribal officials along transportation routes and updating quantities allowed for radioisotopes in packaging.

These changes are considered Compatibility B by the U.S. Nuclear Regulatory Commission and must be adopted essentially verbatim by the Agency in order to maintain its 'Agreement State' status. The changes must be adopted by the State by August 2015.

Section 31 of the Radiation Protection Act of 1990 [420 ILCS 40/31] provides that the Agency is exempt from rulemaking procedures in the Illinois Administrative Procedure Act when regulations that are identical in substance are necessary to implement, secure, or maintain federal authorization for a program. After consideration of comments from the appropriate federal agency, the Agency may adopt the verbatim text of the laws, regulations, or orders as necessary and appropriate for authorization or maintenance of the program. The NRC has reviewed the proposed amendments and has indicated that these amendments are needed to ensure compatibility with 10 CFR 71. Because this rulemaking is not subject to the Illinois Administrative Procedure Act, and in accordance with Section 31, this rulemaking will become effective following the first notice period immediately upon filing for adoption with the Secretary of State or at a date required or authorized by the relevant federal laws, regulations, or orders as stated in the notice of the rulemaking, and shall be published in the Illinois Register.

- 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 100.335: No

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- 7) Will this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes—see Section 341.10, Scope.
- 10) Are there any other proposed rulemaking 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:
- Traci Burton, Paralegal Assistant
Illinois Emergency Management Agency
1035 Outer Park Drive
Springfield, IL 62704
217/785-9860
- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities or not for profit corporations affected: The Agency believes that 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) Regulatory Agenda on which this rulemaking was summarized: January 2015
- | The full text of the Proposed Amendments begin 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 45 of the Radiation Protection Act of 1990 [420 ILCS 40/45], 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. _____, 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 November 14, 2014, published January 26, 2004 with corrections published February 10, 2004 and September 29, 2004 at 64 FR 58038,~~ exclusive of subsequent amendments or editions, 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 November 14, 2014, published October 1, 2003 and updates published September 13, 2004 at 69 FR 55113, October 1, 2004 at 69 FR 58841, November 4, 2004 at 69 FR 64461,~~

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~~December 8, 2004 at 69 FR 70902, December 20, 2004 at 69 FR 76043, January 24, 2005 at 70 FR 3302, February 24, 2005 at 70 FR 8956, April 15, 2005 at 70 FR 20018, June 8, 2005 at 70 FR 33378, June 13, 2005 at 70 FR 34065, June 14, 2005 at 70 FR 34381, July 28, 2005 at 70 FR 43638 and September 23, 2005 at 70 FR 56083,~~ exclusive of subsequent amendments or editions.

- 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 U.S. DOT 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;
 - 12) Previously approved package, 10 CFR 71.19(a) and (b);
 - 13) General license: USDOT specification container material, 10 CFR 71.20;

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- 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
 - 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) of this Section, the licensee shall conform to the standards and requirements of USDOT specified in subsection (a) of this Section

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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 Illinois Emergency Management Agency (Agency).

(Source: Amended at 39 Ill. Reg. _____, effective _____)