



February 9, 2011

Terrence Reis, Deputy Director
Division Materials Safety and State Agreements
Office of Federal and State Materials and
Environmental Management Programs
U.S. Nuclear Regulatory Commission
T8-E24
Washington, D.C. 20555-0001

Dear Mr. Reis:

Enclosed is a copy of the final revisions to the North Dakota Radiological Health Rules effective January 1, 2011. The final regulations are the required NRC rules, as of January 1, 2010, adopted by reference. Please note that Chapter 15 in the original package was removed. Chapters 16 through 22 were renumbered to 15 through 21. The Rats IDs reviewed in the draft submittal are as follows:

Rats ID	Title	State Section
2004-1	Compatibility with IAEA Transportation Safety Standards and Other Transportation Safety Amendments	33-10-13.1
2005-1	Security Requirements for Portable Gauges Containing Byproduct Material	33-10-22
2005-2	Medical Use of Byproduct Materials – Recognition of Specialty Boards	33-10-07.2
2005-3	Increased Controls for Risk-Significant Radioactive Sources	Lic. Condition
2006-1	Minor Amendments	33-10-04.2 33-10-07.2 33-10-16 33-10-17 33-10-20 33-10-21
2006-2	National Source Tracking System – Serialization Requirements	33-10-04.2 33-10-20
2006-3	National Source Tracking System	33-10-04.2
2007-1	Medical Use of Byproduct Material – Minor Corrections and Classifications	33-10-07.2 33-10-20

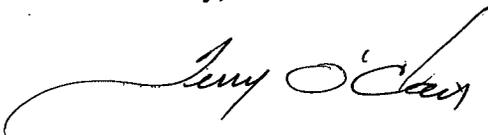
Rats ID	Title	State Section
2007-2	Exemptions from Licensing, General Licenses, and Distribution of Byproduct Material: Licensing and Reporting Requirements	33-10-18 33-10-19 33-10-20 22-10-21
2007-3	Requirements for Expanded Definition of Byproduct Material	33-10-03.1 33-10-04.2 33-10-07.2 33-10-18 33-10-19 33-10-20 33-10-21
2007-4	Order Imposing Fingerprinting Requirements and Criminal History Records Check Requirements for Unescorted Access to Certain Radioactive Materials	Lic. Condition
2008-1	Occupational Dose Records, Labeling Containers, and Total Effective Dose Equivalent	33-10-04.2 33-10-10.1

Not included in the September 23, 2008, draft rules review were Rats IDs 2003-1 and 2009-1. Since the NRC rules are adopted by reference as of January 1, 2010, we believe these two Rats IDs should also be considered for inclusion with this update.

We believe that adoption of these revisions satisfies the compatibility and health and safety categories established in the Office of Federal and State Materials and Environmental Management Programs (FSME) Procedure SA-200.

If you have any questions, please feel free to contact me at (701)328-5188 or Dan Harman of my staff at (701)328-5188 or dharman@nd.gov.

Sincerely,



Terry L. O'Clair, P.E.
Director
Division of Air Quality

TLO/DEH:saj
Enc:

CHAPTER 33-10-03.1
RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING OF
BYPRODUCT MATERIAL

Section

33-10-03.1-01

Adoption by Reference of Several Sections in 10 Code of Federal Regulations Part 30

33-10-03.1-01. Adoption by reference of several sections in 10 Code of Federal Regulations part 30. 10 Code of Federal Regulations 30.1, 30.2, 30.3, 30.4, 30.7, 30.9, 30.10, 30.11, 30.12, 30.13, 30.14, 30.15, 30.18, 30.19, 30.20, 30.21, 30.31, 30.32, 30.33, 30.34, 30.35, 30.36, 30.37, 30.38, 30.39, 30.41, 30.50, 30.51, 30.52, 30.53, 30.61, 30.62, 30.70, 30.71, and 30.72 and appendix A through appendix E to part 30 are adopted by reference as they exist on January 1, 2010, with the following exceptions:

1. Not adopted by reference is 10 Code of Federal Regulations 30.21(c), 30.34(d), 30.34(e)(1), 30.34(e)(3), and 30.41(b)(6).
2. Requirements in 10 Code of Federal Regulations 30 that apply to "byproduct material" also apply to naturally occurring or accelerator-produced radioactive material.
3. Where the words "NRC", "commission", "nuclear regulatory commission", "United States nuclear regulatory commission", "NRC regional office", or "administrator of the appropriate regional office" appear in 10 Code of Federal Regulations part 30, substitute the words "North Dakota state department of health" except when used in 10 Code of Federal Regulations 30.12, 30.21(c), 30.34(h)(1), and 30.50(c)(1).
4. 10 Code of Federal Regulations 30.7 employee protection also applies to violations of North Dakota Century Code chapters 23-20 and 23-20.1.
5. "Act" includes North Dakota Century Code chapters 23-20 and 23-20.1.
6. North Dakota state form number 8418, "application for radioactive material license", must be used instead of NRC form 313 as specified in 10 Code of Federal Regulations 30.
7. North Dakota state form number 8414, "notice to employees", must be posted instead of United States nuclear regulatory commission form 3 that is specified in 10 Code of Federal Regulations 30.
8. North Dakota State department of health radioactive material license replaces NRC form 374, "byproduct material license", as specified in 10 Code of Federal Regulations 30.

9. North Dakota state form number 18941, "certificate: disposition of radioactive material", must be used instead of NRC form 314 as specified in 10 Code of Federal Regulations 30.
10. For references to 10 Code of Federal Regulations part 170, see chapter 33-10-11 for applicable fee schedules.

History: Effective January 1, 2011.

General Authority: NDCC 23-20.1-04

Law Implemented: NDCC 23-20.1-03, 23-20.1-04

CHAPTER 33-10-04.2
STANDARDS FOR PROTECTION AGAINST RADIATION

Section	
33-10-04.2-01	Adoption by Reference of Several Sections in 10 CFR Part 20
33-10-04.2-02	Individuals Working With Medical Fluoroscopic Equipment
33-10-04.2-03	Location of Individual Monitoring Devices
33-10-04.2-04	Effective Dose Equivalent Determination During Medical Fluoroscopy
33-10-04.2-05	Radiation Machine Security and Prevention of Unauthorized Use
33-10-04.2-06	Radiation Machine Labels

33-10-04.2-01. Adoption by reference of several sections in 10 CFR part 20. 10 Code of Federal Regulations 20.1001, 20.1002, 20.1003, 20.1004, 20.1005, 20.1008, 20.1101, 20.1201, 20.1202, 20.1203, 20.1204, 20.1206, 20.1207, 20.1208, 20.1301, 20.1302, 20.1401, 20.1402, 20.1403, 20.1404, 20.1405, 20.1406, 20.1501, 20.1502, 20.1601, 20.1602, 20.1701, 20.1702, 20.1703, 20.1704, 20.1705, 20.1801, 20.1802, 20.1901, 20.1902, 20.1903, 20.1904, 20.1905, 20.1906, 20.2001, 20.2002, 20.2003, 20.2004, 20.2005, 20.2006, 20.2007, 20.2008, 20.2101, 20.2102, 20.2103, 20.2104, 20.2105, 20.2106, 20.2107, 20.2108, 20.2110, 20.2201, 20.2202, 20.2203, 20.2204, 20.2205, 20.2206, 20.2207, 20.2301, and 20.2302, appendix A through C to part 20, appendix E to part 20, and appendix G to part 20 are adopted by reference as they exist on January 1, 2010, with the following exceptions:

1. Not adopted by reference are 20.1905(g), 20.2203(c), and 20.2206(a)(1), (a)(3), (a)(4), and (a)(5).
2. All of the requirements in chapter 33-10-04.2 apply to both licensees and registrants. A reference in 10 CFR part 20 to "license" includes "registration", a reference to "licensee" includes "registrant", a reference to "licensed" includes "registered", a reference to "licensed material(s)" includes "registered source of radiation", and a reference to "licensed radioactive material" includes "registered source of radiation". "Registrant" means any person who is registered with the department and is legally obligated to register with the department pursuant to article 33-10 and North Dakota Century Code chapter 23-20.1. "Registration" means the notification of the North Dakota state department of health of possession of a source of radiation and the furnishing of information with respect thereto, in accordance with North Dakota Century Code chapter 23-20.
3. Where the words "NRC", "commission", "administrator of the appropriate NRC regional office", "administrator of the nearest commission regional office", or "NRC regional office" appear in 10 CFR part 20, substitute the words "North Dakota state department of health".

4. Requirements in 10 CFR 20 that apply to "byproduct material" also apply to naturally occurring or accelerator-produced radioactive material.
5. "Act" includes North Dakota Century Code chapters 23-20 and 23-20.1.
6. North Dakota state form number 19443, "occupational radiation exposure history", must be used instead of NRC form 4 as specified in 10 CFR 20.
7. North Dakota state form number 8416, "current occupational radiation exposure", must be used instead of NRC form 5 as specified in 10 CFR 20.
8. NRC form 748 shall not be used as described in 10 CFR 20.
9. The words "in the Federal Register and" shall be omitted from 10 CFR 20.1405(b).

History: Effective January 1, 2011.

General Authority: NDCC 23-20.1-04

Law Implemented: NDCC 23-20.1-03, 23-20.1-04

33-10-04.2-02. Individuals working with medical fluoroscopic equipment. Each registrant shall provide dose monitoring and shall monitor occupational exposure to ensure compliance for:

1. Occupational dose limits to adults pursuant to 10 CFR 20.1201.
2. Occupational dose limits to minors pursuant to 10 CFR 20.1207.
3. The dose equivalent to an embryo/fetus pursuant to 10 CFR 20.1208.

History: Effective January 1, 2011.

General Authority: NDCC 23-20.1-04

Law Implemented: NDCC 23-20.1-03, 23-20.1-04

33-10-04.2-03. Location of individual monitoring devices. Each licensee or registrant shall ensure that individuals who are required to monitor occupational doses in accordance with 10 CFR 20.1502 wear individual monitoring devices as follows:

1. An individual monitoring device used for monitoring the dose to the whole body shall be worn at the unshielded location of the whole body likely to receive the highest exposure. When a protective apron is worn, the location of the individual monitoring device is typically at the neck (collar);
2. An individual monitoring device used for monitoring the dose to an embryo or fetus of a declared pregnant woman, pursuant to 10 CFR

20.1208, shall be located at the waist under any protective apron being worn by the woman;

3. An individual monitoring device used for monitoring the lens dose equivalent, to demonstrate compliance with subparagraph a of 10 CFR 20.1201, shall be located at the neck (collar), outside any protective apron being worn by the monitored individual, or at an unshielded location closer to the eye; and
4. An individual monitoring device used for monitoring the dose to the extremities, to demonstrate compliance with subparagraph b of 10 CFR 20.1201, shall be worn on the extremity likely to receive the highest exposure. Each individual monitoring device shall be oriented to measure the highest dose to the extremity being monitored.

History: Effective January 1, 2011.

General Authority: NDCC 23-20.1-04

Law Implemented: NDCC 23-20.1-03, 23-20.1-04

33-10-04.2-04. Effective dose equivalent determination during medical fluoroscopy. When a protective apron is worn while working with medical fluoroscopic equipment and monitoring is conducted as specified in subdivision d, the effective dose equivalent for external radiation shall be determined as follows:

1. When only one individual monitoring device is used and it is located at the neck (collar) outside the protective apron, the reported deep dose equivalent shall be the effective dose equivalent for external radiation.
2. When only one individual monitoring device is used and it is located at the neck (collar) outside the protective apron, and the reported dose exceeds twenty-five percent of the limit specified in 10 CFR 20.1201, the reported deep dose equivalent value multiplied by three-tenths shall be the effective dose equivalent for external radiation.
3. When two individual monitoring devices are worn, one under the protective apron at the waist and the other outside the protective apron at the neck (collar), the effective dose equivalent for external radiation shall be assigned the value of the sum of the deep dose equivalent reported for the individual monitoring device located at the waist under the protective apron multiplied by one and five-tenths and the deep dose equivalent reported for the individual monitoring device located at the neck (collar) outside the protective apron multiplied by four-hundredths.
4. Subdivisions b and c only apply when all of the following conditions are met:
 - a. The individual monitoring devices have not been exposed to radiation from radioactive material.

- b. Leaded glasses, a thyroid shield, and a wraparound protective apron have been worn whenever using the medical fluoroscopic equipment.
- c. The area around the medical fluoroscopic equipment has been equipped with lead shielding or transparent protective barriers for control of scattered radiation.
- d. The medical fluoroscopic procedures have been performed in a way that minimizes beam on time, such as utilizing last image hold.
- e. Users of the medical fluoroscopic equipment must have had formal training in radiation safety and operation of medical fluoroscopic equipment.
- f. Performance of the medical fluoroscopic equipment must be monitored and maintained via a quality assurance program.
- g. Patient and staff radiation exposures from medical fluoroscopic equipment must be monitored and actions taken to correct problems.

History: Effective January 1, 2011.

General Authority: NDCC 23-20.1-04

Law Implemented: NDCC 23-20.1-03, 23-20.1-04

33-10-04.2-05. Radiation machine security and prevention of unauthorized use.

- 1. The registrant shall secure registered radiation machines from unauthorized removal.
- 2. The registrant shall use devices or administrative procedures to prevent unauthorized use of registered radiation machines.

History: Effective January 1, 2011.

General Authority: NDCC 23-20.1-04

Law Implemented: NDCC 23-20.1-03, 23-20.01-04

33-10-04.2-06. Radiation machine labels. Each registrant shall ensure that each radiation machine is labeled in a conspicuous manner which cautions individuals that radiation is produced when it is energized.

History: Effective January 1, 2011.

General Authority: NDCC 23-20.1-04

Law Implemented: NDCC 23-20.1-03, 23-20.1-04

CHAPTER 33-10-05.1
RADIATION SAFETY REQUIREMENTS FOR INDUSTRIAL RADIOGRAPHIC
OPERATIONS

Section

33-10-05.1-01 Adoption by Reference of Several Sections in 10 Code of
Federal Regulations Part 34

33-10-05.1-01. Adoption by reference of several sections in 10 Code of Federal Regulations part 34. 10 Code of Federal Regulations 34.1, 34.3, 34.11, 34.13, 34.20, 34.21, 34.23, 34.25, 34.27, 34.29, 34.31, 34.33, 34.35, 34.41, 34.42, 34.43, 34.45, 34.46, 34.47, 34.49, 34.51, 34.53, 34.61, 34.63, 34.65, 34.67, 34.69, 34.71, 34.73, 34.75, 34.79, 34.81, 34.83, 34.85, 34.87, 34.89, 34.101, and 34.111 and appendix A to part 34 are adopted by reference as they exist on January 1, 2010, with the following exceptions:

1. All of the requirements in chapter 33-10-05.1 apply to both licensees and registrants. A reference in 10 Code of Federal Regulations part 34 to "license" includes "registration", a reference to "licensee" includes "registrant", a reference to "licensed" includes "registered", and a reference to "licensed material" includes "registered source of radiation". "Registrant" means any person who is registered with the department and is legally obligated to register with the department pursuant to article 33-10 and North Dakota Century Code chapter 23-20.1. "Registration" means the notification of the North Dakota state department of health of possession of a source of radiation and the furnishing of information with respect thereto, in accordance with North Dakota Century Code chapter 23-20.
2. Where the words "NRC", "commission", "nuclear regulatory commission", "United States nuclear regulatory commission", "NRC regional administrator", "NRC regional office", "administrator of the appropriate nuclear regulatory commission's regional office", or "NRC's office of nuclear material safety and safeguards, division of industrial and medical nuclear safety" appear in 10 Code of Federal Regulations part 34, substitute the words "North Dakota state department of health".
3. Requirements in 10 Code of Federal Regulations 34 that apply to "byproduct material" also apply to naturally occurring or accelerator-produced radioactive material.
4. North Dakota state form number 8418, "application for radioactive material license", must be used instead of NRC form 313 as specified in 10 Code of Federal Regulations 34.

5. For references to 10 Code of Federal Regulations parts 170 and 171, see chapter 33-10-11 for applicable fee schedules.

History: Effective January 1, 2011.

General Authority: NDCC 23-20.1-04

Law Implemented: NDCC 23-20.1-03, 23-20.1-04

CHAPTER 33-10-07.2
MEDICAL USE OF BYPRODUCT MATERIAL

Section

33-10-07.2-01

Adoption by Reference of Several Sections in 10 Code of
Federal Regulations Part 35

33-10-07.2-01. Adoption by reference of several sections in 10 Code of Federal Regulations part 35. 10 Code of Federal Regulations 35.1, 35.2, 35.5, 35.6, 35.7, 35.10, 35.11, 35.12, 35.13, 35.14, 35.15, 35.18, 35.19, 35.24, 35.26, 35.27, 35.40, 35.41, 35.49, 35.50, 35.51, 35.55, 35.57, 35.59, 35.60, 35.61, 35.63, 35.65, 35.67, 35.69, 35.70, 35.75, 35.80, 35.92, 35.100, 35.190, 35.200, 35.204, 35.290, 35.300, 35.310, 35.315, 35.390, 35.392, 35.394, 35.396, 35.400, 35.404, 35.406, 35.410, 35.415, 35.432, 35.433, 35.457, 35.490, 35.491, 35.500, 35.590, 35.600, 35.604, 35.605, 35.610, 35.615, 35.630, 35.632, 35.633, 35.635, 35.642, 35.643, 35.645, 35.647, 35.652, 35.655, 35.657, 35.690, 35.1000, 35.2024, 35.2026, 35.2040, 35.2041, 35.2060, 35.2061, 35.2063, 35.2067, 35.2070, 35.2075, 35.2080, 35.2092, 35.2204, 35.2310, 35.2404, 35.2406, 35.2432, 35.2433, 35.2605, 35.2610, 35.2630, 35.2632, 35.2642, 35.2643, 35.2645, 35.2647, 35.2652, 35.2655, 35.3045, 35.3047, and 35.3067 are adopted by reference as they exist on January 1, 2010, with the following exceptions:

1. Not adopted by reference are 35.11(c)(1) and 35.13(2)(1).
2. Requirements in 10 Code of Federal Regulations 35 that apply to "byproduct material" also apply to naturally occurring or accelerator-produced radioactive material.
3. Where the words "NRC", "commission", "NRC regional office", or "director, office of nuclear material safety and safeguards" appear in 10 Code of Federal Regulations part 35, substitute the words "North Dakota state department of health".
4. "Act" includes North Dakota Century Code chapters 23-20 and 23-20.1.
5. North Dakota state form number 8418, "application for radioactive material license", must be used instead of NRC form 313 as specified in 10 Code of Federal Regulations 34.
6. For references to 10 Code of Federal Regulations parts 170 and 171, see chapter 33-10-11 for applicable fee schedules.

History: Effective January 1, 2011.

General Authority: NDCC 23-20.1-04

Law Implemented: NDCC 23-20.1-03, 23-20.1-04

CHAPTER 33-10-10.1
NOTICES, INSTRUCTIONS, AND REPORTS TO WORKERS - INSPECTIONS

Section

33-10-10.1-01 Adoption by Reference of Several Sections in 10 Code of Federal Regulations Part 19

33-10-10.1-01. Adoption by reference of several sections in 10 Code of Federal Regulations part 19. 10 Code of Federal Regulations 19.1, 19.2, 19.3, 19.5, 19.11, 19.12, 19.13, 19.14, 19.15, 19.16, 19.17, 19.18, 19.20, 19.31, and 19.32 are adopted by reference as they exist on January 1, 2010, with the following exceptions:

1. Not adopted by reference is 10 Code of Federal Regulations 19.14(a).
2. All of the requirements in chapter 33-10-10.1 apply to both licensees and registrants. A reference in 10 Code of Federal Regulations part 19 to "license" includes "registration", a reference to "licensee" includes "registrant", a reference to "licensed" includes "registered", and a reference to "licensed radioactive material" includes "registered source of radiation". "Registrant" means any person who is registered with the department and is legally obligated to register with the department pursuant to article 33-10 and North Dakota Century Code chapter 23-20.1. "Registration" means the notification of the North Dakota state department of health of possession of a source of radiation and the furnishing of information with respect thereto, in accordance with North Dakota Century Code chapter 23-20.
3. Where the words "NRC", "commission", "nuclear regulatory commission", "United States nuclear regulatory commission", "administrator of the appropriate commission regional office", "administrator of the appropriate regional office", "regional office administrator", "executive director for operations", "regional administrator of the appropriate United States nuclear regulatory commission regional office", or "agency" appear in 10 Code of Federal Regulations part 19, substitute the words "North Dakota state department of health".
4. "Act" includes North Dakota Century Code chapters 23-20 and 23-20.1.
5. State form number 8414, "notice to employees", must be posted in place of United States nuclear regulatory commission form 3 that is specified in 10 Code of Federal Regulations 19.

6. Where 10 Code of Federal Regulations part 19 specifies contacting the United States nuclear regulatory commission, contact the North Dakota state department of health.

History: Effective January 1, 2011.

General Authority: NDCC 23-20.1-04

Law Implemented: NDCC 23-20.1-03, 23-20.1-04

CHAPTER 33-10-12.1
LICENSES AND RADIATION SAFETY REQUIREMENTS FOR WELL LOGGING

Section

33-10-12.1-01

Adoption by Reference of Several Sections in 10 Code of
Federal Regulations Part 39

33-10-12.1-01. Adoption by reference of several sections in 10 Code of Federal Regulations part 39. 10 Code of Federal Regulations 39.1, 39.2, 39.11, 39.13, 39.15, 39.17, 39.31, 39.33, 39.35, 39.37, 39.39, 39.41, 39.43, 39.45, 39.47, 39.49, 39.51, 39.53, 39.55, 39.61, 39.63, 39.65, 39.67, 39.69, 39.71, 39.73, 39.75, 39.77, and 39.91 are adopted by reference as they exist on January 1, 2010, with the following exceptions:

1. All of the requirements in chapter 33-10-12.1 apply to both licensees and registrants. A reference in 10 Code of Federal Regulations part 39 to "license" includes "registration", a reference to "licensee" includes "registrant", a reference to "licensed" includes "registered", a reference to "licensed material" includes "registered source of radiation", and a reference to "licensed radioactive materials" includes "registered source of radiation". "Registrant" means any person who is registered with the department and is legally obligated to register with the department pursuant to article 33-10 and North Dakota Century Code chapter 23-20.1. "Registration" means the notification of the North Dakota state department of health of possession of a source of radiation and the furnishing of information with respect thereto, in accordance with North Dakota Century Code chapter 23-20.
2. Where the words "NRC", "commission", or "NRC regional office" appear in 10 Code of Federal Regulations part 39, substitute the words "North Dakota state department of health".
3. Requirements in 10 Code of Federal Regulations 39 that apply to "byproduct material" also apply to naturally occurring or accelerator-produced radioactive material.
4. North Dakota state form number 8418, "application for radioactive material license", must be used instead of NRC form 313 as specified in 10 Code of Federal Regulations 39.
5. For references to 10 Code of Federal Regulations part 170, see chapter 33-10-11 for applicable fee schedules.

History: Effective January 1, 2011.

General Authority: NDCC 23-20.1-04

Law Implemented: NDCC 23-20.1-03, 23-20.1-04

CHAPTER 33-10-13.1
PACKAGING AND TRANSPORTATION OF RADIOACTIVE MATERIAL

Section

33-10-13.1-01

Adoption by Reference of Several Sections in 10 Code of
Federal Regulations Part 71

33-10-13.1-01. Adoption by reference of several sections in 10 Code of Federal Regulations part 71. 10 Code of Federal Regulations 71.0, 71.3, 71.4, 71.5, 71.7, 71.8, 71.9, 71.10, 71.12, 71.13, 71.14, 71.15, 71.17, 71.20, 71.21, 71.22, 71.23, 71.47, 71.81, 71.83, 71.85, 71.87, 71.88, 71.89, 71.91, 71.93, 71.95, 71.97, 71.101, 71.103, 71.105, 71.127, 71.129, 71.131, 71.133, 71.135, and 71.137 and appendix A to part 71 are adopted by reference as they exist on January 1, 2010, with the following exceptions:

1. Not adopted by reference are 10 Code of Federal Regulations 71.0(d), 71.14(b), and 71.101(c)(2), (d), and (e).
2. Requirements in 10 Code of Federal Regulations 71 that apply to "licensed material" or "byproduct material" also apply to naturally occurring or accelerator-produced radioactive material.
3. Where the words "NRC", "commission", "nuclear regulatory commission", "United States nuclear regulatory commission", or "administrator of the appropriate regional office" appear in 10 Code of Federal Regulations part 71, substitute the words "North Dakota state department of health" except when used in 10 Code of Federal Regulations 71.5(b), 71.10, 71.17(b), (c)(3), and (e), 71.85(c), 71.88(a)(4), 71.93(c), 71.95, 71.97(c), (c)(3)(iii), and (f), and 71.101(c)(1).
4. 10 Code of Federal Regulations 71.9 employee protection also applies to violations of North Dakota Century Code chapters 23-20 and 23-20.1.
5. State form number 8414, "notice to employees", must be posted instead of United States nuclear regulatory commission form 3 that is specified in 10 Code of Federal Regulations 71.

History: Effective January 1, 2011.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 28-32-02

CHAPTER 33-10-14.1
LICENSES AND RADIATION SAFETY REQUIREMENTS FOR IRRADIATORS

Section

33-10-14.1-01 Adoption by Reference of Several Sections in 10 Code of
Federal Regulations Part 36

33-10-14.1-01. Adoption by reference of several sections in 10 Code of Federal Regulations part 36. 10 Code of Federal Regulations 36.1, 36.2, 36.11, 36.13, 36.15, 36.17, 36.19, 36.21, 36.23, 36.25, 36.27, 36.29, 36.31, 36.33, 36.35, 36.37, 36.39, 36.41, 36.51, 36.53, 36.55, 36.57, 36.59, 36.61, 36.63, 36.65, 36.67, 36.69, 36.81, and 36.83 are adopted by reference as they exist on January 1, 2010, with the following exceptions:

1. Requirements in 10 Code of Federal Regulations 36 that apply to "byproduct material" also apply to naturally occurring or accelerator-produced radioactive material.
2. Where the words "NRC", "commission", or "NRC regional office" appear in 10 Code of Federal Regulations part 36, substitute the words "North Dakota state department of health".
3. "Act" includes North Dakota Century Code chapters 23-20 and 23-20.1.
4. North Dakota state form number 8418, "application for radioactive material license", must be used instead of NRC form 313 as specified in 10 Code of Federal Regulations 36.
5. For references to 10 Code of Federal Regulations 170 and 171, see chapter 33-10-11 for applicable fee schedules.

History: Effective January 1, 2011.

General Authority: NDCC 23-20.1-04

Law Implemented: NDCC 23-20.1-03, 23-20.1-09.1

CHAPTER 33-10-16
DOMESTIC LICENSING OF SOURCE MATERIAL

Section

33-10-16-01

Adoption by Reference of Several Sections in 10 Code of
Federal Regulations Part 40

33-10-16-01. Adoption by reference of several sections in 10 Code of Federal Regulations, part 40. 10 Code of Federal Regulations 40.1, 40.2, 40.3, 40.4, 40.7, 40.9, 40.10, 40.11, 40.12, 40.13, 40.14, 40.20, 40.21, 40.22, 40.25, 40.26, 40.31, 40.32, 40.34, 40.35, 40.36, 40.41, 40.42, 40.43, 40.44, 40.45, 40.46, 40.51, 40.60, 40.61, 40.62, 40.63, 40.65, and 40.71 and appendix A to part 40 are adopted by reference as they exist on January 1, 2010, with the following exceptions:

1. Not adopted by reference are 10 Code of Federal Regulations 40.12(b); 40.31(j), (k), and (l); and 40.32(d) and (g) and those portions of paragraph (e) which apply to uranium enrichment and uranium hexafluoride facilities, 40.41(d),(e)(1), (e)(3), and (g); and 40.51(b)(6); and appendix A, criterion 11A through F and criterion 12.
2. Requirements in 10 Code of Federal Regulations part 40 that apply to "byproduct material" also apply to naturally occurring or accelerator-produced radioactive material.
3. Where the words "NRC", "commission", "nuclear regulatory commission", "United States nuclear regulatory commission", "NRC regional administrator", or "administrator of the appropriate regional office" appear in 10 Code of Federal Regulations part 40, substitute the words "North Dakota state department of health" except when used in 10 Code of Federal Regulations 40.11.
4. 10 Code of Federal Regulations 40 employee protection also applies to violations of North Dakota Century Code chapters 23-20 and 23-20.1.
5. "Act" includes North Dakota Century Code chapters 23-20 and 23-20.1.
6. North Dakota state form number 8414, "notice to employees", must be posted instead of NRC form 3 that is specified in 10 Code of Federal Regulations 40.
7. North Dakota state form number 16092, "registration certificate: use of depleted uranium under general license", must be used instead of nuclear regulatory commission form 244 that is specified in 10 Code of Federal Regulations part 40.
8. North Dakota state form number 8418, "application for radioactive material license", must be used instead of NRC form 313 as specified in 10 Code of Federal Regulations part 40.

9. North Dakota state form number 18941, "certificate: disposition of radioactive material", must be used instead of NRC form 314 as specified in 10 Code of Federal Regulations part 40.
10. For references to 10 Code of Federal Regulations parts 170 and 171, see chapter 33-10-11 for applicable fee schedules.

History: Effective January 1, 2011.

General Authority: NDCC 23-20.1-04

Law Implemented: NDCC 23-20.1-03, 23-20.1-04

CHAPTER 33-10-17
DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

Section

33-10-17-01

Adoption by Reference of Several Sections in 10 Code of
Federal Regulations Part 70

33-10-17-01. Adoption by reference of several sections in 10 Code of Federal Regulations part 70. 10 Code of Federal Regulations 70.1, 70.2, 70.3, 70.4, 70.7, 70.9, 70.10, 70.11, 70.12, 70.17, 70.18, 70.19, 70.20, 70.21, 70.22, 70.23, 70.25, 70.31, 70.32, 70.33, 70.34, 70.35, 70.36, 70.38, 70.39, 70.41, 70.42, 70.50, 70.51, 70.56, and 70.81 are adopted by reference as they exist on January 1, 2010, with the following exceptions:

1. The following are not adopted by reference: 10 Code of Federal Regulations 70.1(c), (d), and (e); 70.20a; 70.20b; 70.21(a)(1), (c), (f), (g), and (h); 70.22(b), (c), (f), (g), (h), (i), (j), (k), (l), (m), and (n); 70.23(a)(6), (a)(7), (a)(8), (a)(9), (a)(10), (a)(11), (a)(12), and (b); 70.23a; 70.25(a)(1); 70.31(c), (d), and (e); 70.32(a)(1), (a)(4), (a)(5), (a)(6), (a)(7), (b)(1), (b)(3), (b)(4), (c), (d), (e), (f), (g), (h), (i), (j), and (k); 70.42(b)(6); and 70.51(c).
2. Requirements in 10 Code of Federal Regulations part 70 that apply to "byproduct material" also apply to naturally occurring or accelerator-produced radioactive material.
3. Where the words "NRC", "commission", "nuclear regulatory commission", "United States nuclear regulatory commission", "NRC regional administrator", "NRC regional office", "administrator of the appropriate nuclear regulatory commission's regional office", "administrator of the appropriate regional office", or "nuclear regulatory commission's office of nuclear material safety and safeguards, division of industrial and medical nuclear safety" appear in 10 Code of Federal Regulations part 70, substitute the words "North Dakota state department of health".
4. 10 Code of Federal Regulations 70.7 employee protection also applies to violations of North Dakota Century Code chapters 23-20 and 23-20.1.
5. "Act" includes North Dakota Century Code chapters 23-20 and 23-20.1.
6. North Dakota state form number 8418, "application for radioactive material license", must be used instead of nuclear regulatory commission form 313 as specified in 10 Code of Federal Regulations 70.
7. North Dakota state form number 8414, "notice to employees", must be posted instead of United States nuclear regulatory commission form 3 that is specified in 10 Code of Federal Regulations 70.

8. For references to 10 Code of Federal Regulations part 170, section 33-10-11 for applicable fee schedules.

History: Effective January 1, 2011.

General Authority: NDCC 23-20.1-04

Law Implemented: NDCC 23-20.1-03, 23-20.1-04

CHAPTER 33-10-18
GENERAL DOMESTIC LICENSES FOR BYPRODUCT MATERIAL

Section

33-10-18-01

Adoption by Reference of Several Sections in 10 Code of
Federal Regulations Part 31

33-10-18-01. Adoption by reference of several sections in 10 Code of Federal Regulations part 31. 10 Code of Federal Regulations 31.1, 31.2, 31.3, 31.5, 31.6, 31.7, 31.8, 31.9, 31.10, 31.11, and 31.12 are adopted by reference as they exist on January 1, 2010, with the following exceptions:

1. Not adopted by reference are 10 Code of Federal Regulations 31.3(b) and (c) and 31.6(a).
2. Requirements in 10 Code of Federal Regulations 31 that apply to "byproduct material" also apply to naturally occurring or accelerator-produced radioactive material.
3. Where the words "NRC", "commission", "nuclear regulatory commission", "United States nuclear regulatory commission", or "director of nuclear material safety and safeguards" appear in 10 Code of Federal Regulations part 31, substitute the words "North Dakota state department of health" except when used in 10 Code of Federal Regulations 31.8(c)(2) and 31.11(d)(2).
4. North Dakota state form number 8423, "certificate - in vitro testing with radioactive material under general license", must be used instead of nuclear regulatory commission form 483 as specified in 10 Code of Federal Regulations 31.
5. References in 10 Code of Federal Regulations 31 to specific licenses issued by an agreement state also include specific licenses issued by the United States nuclear regulatory commission.

History: Effective January 1, 2011.

General Authority: NDCC 23-20.1-04

Law Implemented: NDCC 23-20.1-03, 23-20.1-04

CHAPTER 33-10-19
RECIPROCAL RECOGNITION OF LICENSES

Section

33-10-19-01

Adoption by Reference of Several Sections in 10 Code of
Federal Regulations Part 150

33-10-19-01. Adoption by reference of several sections in 10 Code of Federal Regulations part 150. 10 Code of Federal Regulations 150.1, 150.2, 150.3, 150.11, 150.20, 150.31, and 150.32 are adopted by reference as they exist on January 1, 2010, with the following exceptions:

1. Not adopted by reference is 10 Code of Federal Regulations 150.3 foreign obligations.
2. Requirements in 10 Code of Federal Regulations 150 that apply to "byproduct material" also apply to naturally occurring or accelerator-produced radioactive material.
3. Where the words "NRC", "commission", "nuclear regulatory commission", "regional administrator", "United States nuclear regulatory commission", "region", or "regional administrator of the United States nuclear regulatory commission regional office" appear in 10 Code of Federal Regulations part 150, substitute the words "North Dakota state department of health" except when used in section 150.5.
4. "Act" includes North Dakota Century Code chapters 23-20 and 23-20.1.
5. North Dakota state form number 58230, "radioactive material reciprocity request", must be used instead of nuclear regulatory commission form 241 as specified in 10 Code of Federal Regulations 150.
6. Where the words "non-agreement states", "areas of exclusive federal jurisdiction within agreement states", or "offshore waters" are used in 10 Code of Federal Regulations 150.20(a)(1)(i), (ii), (iii), (b), (b)(3), and (b)(4) substitute the words "state of North Dakota".
7. Where the words "agreement states license" are used in 10 Code of Federal Regulations 150.20 also add the words "nuclear regulatory commission license". Where the words "license issued by an agreement state" are used in 10 Code of Federal Regulations 150.20 also add the words "license issued by the nuclear regulatory commission". Where the words "license from an agreement state" are used in 10 Code of Federal Regulations 150.20 also add the words "license from the nuclear regulatory commission".
8. The words "for the first time in a calendar year" are stricken from 10 Code of Federal Regulations 150.20(b)(1).

9. For references to 10 Code of Federal Regulations part 170, see chapter 33-10-11 for applicable fee schedules.

History: Effective January 1, 2011.

General Authority: NDCC 23-20.1-04

Law Implemented: NDCC 23-20.1-03, 23-20.1-04

CHAPTER 33-10-20
SPECIFIC DOMESTIC LICENSES TO MANUFACTURE OR TRANSFER
CERTAIN ITEMS CONTAINING BYPRODUCT MATERIAL

Section

33-10-20-01

Adoption by Reference of Several Sections in 10 Code of Federal Regulations Part 32

33-10-20-01. Adoption by reference of several sections in 10 Code of Federal Regulations part 32. 10 Code of Federal Regulations 32.1, 32.2, 32.3, 32.13, 32.17, 32.24, 32.51, 32.51(a), 32.52, 32.53, 32.54, 32.55, 32.56, 32.57, 32.58, 32.59, 32.61, 32.62, 32.71, 32.72, 32.74, 32.101, 32.102, 32.103, and 32.110 are adopted by reference as they exist on January 1, 2010, with the following exceptions:

1. Not adopted by reference is 10 Code of Federal Regulations 32.1(c)(1).
2. Requirements in 10 Code of Federal Regulations 32 that apply to "byproduct material" also apply to naturally occurring or accelerator-produced radioactive material.
3. Where the words "NRC", "commission", "NRC regional office", or "director of nuclear material safety and safeguards" appear in 10 Code of Federal Regulations part 32, substitute the words "North Dakota state department of health" except when used in 32.51(a)(3)(iii), 32.54(a), 32.58, 32.71(d), 32.72(b)(5), and 32.74(a)(3).
4. North Dakota state form number 8418, "application for radioactive material license", must be used instead of nuclear regulatory commission form 313 as specified in 10 Code of Federal Regulations 32.
5. For references to 10 Code of Federal Regulations part 170, see chapter 33-10-11 for applicable fee schedules.

History: Effective January 1, 2011.

General Authority: NDCC 23-20.1-04

Law Implemented: NDCC 23-20.1-03, 23-20.1-04

CHAPTER 33-10-21
SPECIFIC DOMESTIC LICENSES OF BROAD SCOPE FOR BYPRODUCT
MATERIAL

Section

33-10-21-01

Adoption by Reference of Several Sections in 10 Code
Federal Regulations Part 33

33-10-21-01. Adoption by reference of several sections in 10 Code of Federal Regulations part 33. 10 CFR 33.1, 33.11, 33.12, 33.13, 33.14, 33.15, 33.16, 33.17, and 33.100 are adopted by reference as they exist on January 1, 2010, with the following exceptions:

1. Requirements in 10 Code of Federal Regulations 33 that apply to "byproduct material" also apply to naturally occurring or accelerator-produced radioactive material.
2. Where the word "commission" appears in 10 Code of Federal Regulations part 33, substitute the words "North Dakota state department of health".
3. "Act" includes North Dakota Century Code chapters 23-20 and 23-20.1.
4. North Dakota state form number 8418, "application for radioactive material license", must be used instead of nuclear regulatory commission form 313 as specified in 10 Code of Federal Regulations 33.
5. For references to 10 Code of Federal Regulations part 170, see chapter 33-10-11 for applicable fee schedules.

History: Effective January 1, 2011.

General Authority: NDCC 23-20.1-04

Law Implemented: NDCC 23-20.1-03, 23-20.1-04