

## **4.2 Regulatory Requirements Program Elements**

This section of Indiana's application addresses how Indiana has developed and will maintain regulations related to radioactive materials. The State of Indiana is incorporating the requirements and relevant Parts of the Code of Federal Regulations (CFR) by reference to maintain compatibility with The United States Nuclear Regulatory Commission (NRC) regulations. The Indiana Radioactive Materials Rules (290 IAC Article 3) refers to the Parts incorporated by Reference, and the exceptions to incorporation. A complete copy of the Indiana Radioactive Materials Rules is attached as Appendix 4.2-1. Parts 19, 20, 30, 31, 32, 33, 34, 35, 36, 37, 39, 40, 61, 70, 71, 150, 170, and 171 of the CFR are incorporated by reference with the exception of those sections reserved to the NRC or otherwise stated in the rule. Indiana has received the April 7th comment letter. While the comments and changes are not reflected in this rulemaking, Indiana will address them in the next rulemaking session. (Appendix #4.2-2)

By incorporating these parts of the CFR by reference as amended using the authority granted by IC 4-22-2-21, the State of Indiana will remain compatible in Compatibility Categories A, B, C, and D as well as all program elements identified as having a health and safety role.

Indiana Standards for Protection Against Radiation are based on those of 10 CFR 20, including the dose limits for occupationally exposed persons and members of the public; limits on the concentration and quantity of materials released to the environment; technical definitions and terminology, units of radioactivity and radiation dose, radiation symbols, labels, and warning signs.

Indiana has adopted those regulatory requirements designated by the NRC with significant transboundary implications. These provide the requirements that affect the movement of materials across State borders, provide certain other regulations, such as the concentrations of materials where the end user is exempt from licensing, and other requirements where a consistent nationwide approach is necessary.

By incorporating Parts of the CFR by reference, Indiana's regulations will provide what is needed for an orderly pattern of regulation, avoiding conflict, duplication, gaps, or other conditions that would jeopardize an orderly pattern in the regulations of agreement material on a nationwide basis and will not result in undesirable consequences.

Indiana's regulations cover all categories of material being requested under the Agreement, and do not claim any intent to regulate materials or activities over which the NRC retains jurisdiction.

### **4.2.1 Standards for Protection Against Radiation**

Indiana has adopted those NRC requirements designated as Compatibility Category A as defined in the Handbook to Management Directive 5.9. The NRC program elements in Category A are those that are basic radiation protection standards and scientific terms and definitions that are necessary to understand radiation protection concepts. The program elements adopted by the State of Indiana are essentially identical to those of the NRC and provide uniformity in the regulation of agreement material. This is because the State is incorporating by reference Parts 19, 20, 30, 31, 32, 33, 34, 35, 37, 39, 40, 61, 70, 71, 150, 170, and 171 of the Code of Federal Regulations (CFR), except for those sections exclusively reserved for the NRC.

The State of Indiana has incorporated, by reference, the applicable section of 10 CFR 20, regarding Standards for Protection Against Radiation. Future amendments are incorporated by reference in accordance with IC 10-19-12-5(c)(3) and IC 4-22-2-21 whenever the NRC's regulations change.

#### **4.2.2 Regulatory Requirements with Significant Transboundary Implications**

Indiana has adopted those regulatory requirements that satisfy the criteria for Compatibility Category B as defined in the Handbook to Management Directive 5.9. The NRC program elements in Category B are those that apply to activities that have direct and significant transboundary implications. The program elements adopted by the state of Indiana are essentially identical to those of the NRC and provide uniformity in the regulation of agreement material.

#### **4.2.3 Regulatory Requirements Needed for an orderly Pattern of Regulation**

Indiana has adopted those regulatory requirements that satisfy the criteria for Compatibility Category C as defined in the Handbook to Management Directive 5.9. The NRC program elements in Category C are those that do not meet the criteria of Category A or B, but the essential objectives of which an Agreement State should adopt to avoid conflict, duplication, gaps, or other conditions that would jeopardize an orderly pattern in the regulation of agreement material on a nationwide basis. The program elements adopted by the State of Indiana embody the essential objectives of those of the NRC and provide uniformity in the regulation of agreement material. This is because the State is incorporating by reference Parts 19, 20, 30, 31, 32, 33, 34, 35, 36, 37, 39, 40, 61, 70, 71, 150, 170, and 171 of the Code of Federal Regulations (CFR), except for those sections exclusively reserved for the NRC.

The State of Indiana is incorporating the required parts of 10 CFR by reference to eliminate the possibility of duplications, gaps, or other conflicts in regulation, including duplications, gaps, or conflicts between the State and the NRC, State agencies, or State and local agencies. NRC staff has reviewed the State of Indiana regulations for adequacy and compatibility categories as identified in NRC's MD 5.9.

Duplications, gaps, and conflicts between the State and other State agencies, or State and local agencies are reduced through IC 10-19-12-5:

*Section 5(e) The department shall coordinate the registration, regulation, and use of radiation generating equipment under subsection (d). The department shall do the following in carrying out the duties of this subsection:*

*Section 5(e)(1) Consult with and review regulations and procedures of a state agency or department that regulates, in part, radiation or radiation generating equipment to prevent unnecessary duplication, inconsistencies, or gaps in regulatory requirements.*

*Section 5(e)(2) Review, before and after, the holding of any public hearing required under the provisions of this chapter prior to promulgation, the proposed rules and regulations of any state agencies that relate to the use and control of radiation, to assure that the rules and regulations are consistent with other agencies. Proposed rules and regulations are not effective until thirty (30) days after submission to the department, unless either the governor or the department waives all or part of the thirty (30) day period. The waiting period runs concurrently with any other waiting period required by state law.*

*Section 5(e)(3) Consult with state agencies in an effort to resolve inconsistencies if the department determines that a proposed rule or regulation is inconsistent with an existing rule or regulation.*

Preventing duplications, gaps, and conflicts between State agencies is addressed at IC 10-19-12-13 which states that:

*Section 13 Ordinances, resolutions, or regulations, now or hereafter in effect, of the governing body of a municipality or county or of state agencies, other than the department under section 5 of this chapter, relating to byproduct, source, and special nuclear materials shall be superseded by this chapter.*

Indiana, in requesting an Agreement to regulate byproduct and/or source material as provided in the Atomic Energy Act (AEA), as amended, shall not have jurisdiction over areas under NRC jurisdiction on the date that the Agreement becomes effective. An orderly pattern of regulation ensures a transfer of regulatory authority to the State of Indiana from the Nuclear Regulatory Commission; on the date the Agreement becomes effective. IC Codes 10-19-12-5 and 10-19-12-13 ensure that state programs and regulations avoid conflict, duplication, gaps, or other conditions that would jeopardize an orderly pattern in the regulation of agreement material on a nationwide basis, and that, if not adopted, would result in undesirable consequences.

#### **4.2.4 Regulatory Requirements that have a Particular Health and Safety Significance**

Indiana has adopted those regulations that satisfy the criteria for the health and safety category as defined in the Handbook to Management Directive 5.9. These are NRC program elements that are not required for compatibility (i.e., Category H&S), but that have been identified as having a health and safety role (i.e., adequacy) in the regulation of agreement material within the State. Failures could lead to an exposure to an individual in excess of the basic radiation protection standard in Category A if it is essential objectives were not adopted.

Although not required for compatibility, Indiana adopts program elements and their essential objectives in this category, because of particular health and safety considerations. The State of Indiana incorporates health and safety elements that embody the basic health and safety aspects of the NRC's program elements because the State of Indiana is incorporating by reference Parts 19, 20, 30, 31, 32, 33, 34, 35, 36, 37, 39, 40, 61, 70, 71, 150, 170, and 171 of the Code of Federal Regulations (CFR), except for those sections exclusively reserved for the NRC. Incorporation is found in the Indiana Radioactive Material Rules. The Rule in its entirety is attached as Appendix 4.2-1.

##### **SA 700 Section 4.2.1.2**

The state regulations satisfy the criteria for adequacy and compatibility categories as identified in NRC's MD 5.9.

The state regulations apply to all materials covered by the Agreement. The State regulations will apply to all sources of ionizing radiation by incorporating by reference 10 CFR 20 for total occupational dose to individuals for radioactive materials and non-radioactive material sources of radiation.

The State adopts the NRC regulations by reference with exceptions and disclaims any intent to regulate materials or activities which over the NRC retains jurisdiction.

**Indiana Department of Homeland Security  
Radioactive Materials Control Program**



**Appendix #4.2-1  
Indiana Administrative Code  
Title 290 Article 3  
Standards For Protection Against Radiation**

## ARTICLE 3. STANDARDS FOR PROTECTION AGAINST RADIATION

### Rule 1. General Provisions

#### 290 IAC 3-1-1 Applicability

Authority: IC 10-19-12-6; IC 10-19-12-14

Affected: IC 10-19-12

Sec. 1. (a) This article, except as otherwise specifically provided, applies to all persons that use, store, produce, transport, possess, or dispose of radioactive materials within the state of Indiana.

(b) This article does not apply to any person to the extent a person is subject to regulation by the NRC. (*Department of Homeland Security; 290 IAC 3-1-1*)

#### 290 IAC 3-1-2 Reconciliation of differences

Authority: IC 10-19-12-6; IC 10-19-12-14

Affected: IC 5-14-3; IC 10-19-12; IC 10-19-12-18

Sec. 2. To reconcile differences between this article and the incorporated language, the following words and phrases shall be substituted for the language in the incorporated material as follows:

(1) Unless otherwise specified in this section, a reference to "department" means the Indiana department of homeland security.

(2) A reference to "NRC", "Commission", "Regional Office", "Director, Office of Nuclear Material Safety and Safeguards or his/her designee", "United States Nuclear Regulatory Commission", "U.S. Nuclear Regulatory Commission", "Administrator of the appropriate Regional Office", "Regional Administrator", or "Atomic Energy Commission", means the Indiana department of homeland security, except when used in:

(A) the definition of "Agreement State" in 10 CFR 30.4, 35.2, 37.5, 40.4, 70.4, and 150.3;

(B) the definition of "Sealed Source and Device Registry" in 10 CFR 32.2 and 35.2;

(C) 10 CFR 35, when referring to the NRC's Medical Uses Licensee Toolkit web page;

(D) the reference to master material license or licensee in 10 CFR 35;

(E) the definition of "Fingerprint orders" in 10 CFR 37.5;

(F) 10 CFR 37.25(b)(2);

(G) 10 CFR 37.27(a) and (c);

(H) 10 CFR 37.29(a)(1) and (a)(7);

(I) 10 CFR 37.31(d);

(J) the reference to the NRC's license verification system in 10 CFR 37.71(a) through (c);

(K) 10 CFR 39.63(l);

(L) 10 CFR 40.4;

(M) 10 CFR 40.35(f);

(N) 10 CFR 61.55(a)(2)(iv);

(O) 10 CFR 70.19(a)(2), (a)(3), and (c)(3);

(P) 10 CFR 71.17(e);

(Q) 10 CFR 71.88(a)(4);

(R) 10 CFR 71.93(c);

(S) The definitions of "Certificate Holder" and "Certificate of Compliance" in 10 CFR 71.4.

(3) A reference to "NRC or Agreement State", "Commission or the licensing agency of an Agreement State", "Commission or the appropriate agency of an Agreement State", "Commission or the Atomic Energy Commission or an Agreement State", "Atomic Energy Commission, the Commission, or an Agreement State", "with the Commission or with an Agreement State", "U.S. Nuclear Regulatory Commission or the legally binding requirements issued by Agreement States", "Commission or Agreement State", or "Commission or an Agreement State" means the "Indiana Department of Homeland Security, the NRC, or Agreement State".

(4) A reference to "or equivalent Agreement State regulations" means "NRC regulations in Chapter 10 of the Code of Federal Regulations, or equivalent Agreement State regulations". A reference to "or equivalent Agreement State requirements" means "NRC requirements, or equivalent Agreement State requirements". A reference to "comparable provisions of an Agreement State" means "comparable provisions of the NRC or of an Agreement State". A reference to "an Agreement State" means "an Agreement State or the NRC". A reference to "equivalent regulations of an Agreement State" means "NRC regulations in Chapter 10 of the Code of Federal Regulations, or equivalent regulations of an Agreement State".

(5) A reference to the Advisory Committee on the Medical Uses of Isotopes (ACMUI) is deemed to be a reference to the department's radiation advisory committee.

(6) Any notifications, communications, reports, correspondence, or oath and affirmations referenced in the incorporated sections of the Code of Federal Regulations shall be directed to the department using the contact information specified in section 4 of this rule. However:

(A) fingerprints for FBI criminal history records check and related fees shall be submitted to the NRC in accordance with 10 CFR 37.27;

(B) the submission required before the first use of an NRC approved package shall be sent in accordance with 10 CFR 71.17(c)(3), to the NRC, ATTN: Document Control Desk, Director, Division of Spent Fuel Storage and Transportation, Office of Nuclear Material Safety and Safeguards, using the appropriate methods listed in 10 CFR 71.1(a), the licensee's name and license number, and the package identification number specified in the package approval.

(7) Any requirement to use an NRC form may also be satisfied by use of an equivalent form approved by the department.

(8) In 10 CFR 30.32(g); 31.5(b)(1)(ii); 31.5(c)(3)(ii); 31.5(c)(5); 31.5(c)(13)(iv); 31.6; 31.7(a); ; 31.8(b); 31.8(c)(3); 31.10(a); 31.10(b)(1); 31.11(c)(4); 31.11(d)(1); 31.12(c)(4); 32.51a(b); 32.51a(b)(1) and (4); 32.51a(e); 32.52(b); 32.52(b)(7); 32.55(d); 32.56; 32.62(e); 32.74(a)(3); 34.89(b)(12); 39.41(f); 39.51; 39.75(e); 40.25(b); 40.25(d)(3); 40.35(d)(2) and (e)(2); 40.55(d)(2); 170.31, Table 1, Category 16, "Reciprocity"; 170.31(1); and 171.17(b)(2), a reference made to "an Agreement State", or "non-Agreement State" means "an Agreement State or the NRC".

(9) In 10 CFR 31.6 and 31.8(a)(1), where the words "any non-agreement state" or "offshore waters" are used, substitute the words "State of Indiana".

(10) In 10 CFR 39.51, where the phrase "or by an Agreement State" is used, substitute the words "by the NRC or by an Agreement State".

(11) In 10 CFR 70.19(a)(1), a reference to "a non-agreement State" means "the State of Indiana".

(12) In 10 CFR 37.77(a)(1), the following language is preserved: "The contact information, including telephone and mailing addresses, of governors and governors' designees, is available on the NRC's Web site at <https://scp.nrc.gov/special/designee.pdf>. A list of the contact information is also available upon request from the Director, Division of Materials Safety, Security, State, and Tribal Programs, Office of Nuclear Materials Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001." [Note: NRC website relocated at [www.nrc.gov/materials/adv-notification-designees.html](http://www.nrc.gov/materials/adv-notification-designees.html).] Additionally, the language in 10 CFR 37.77(d) is preserved.

(13) Required statements for labeling referenced in 10 CFR are preserved.

(14) In 10 CFR 71.97(c)(3)(ii) and (iii) and in 71.97(f) the language is preserved.

(15) In 10 CFR 30.12 and 30.41(b)(1), the definition of "Department of Energy" in 10 CFR 40.4 and 70.4; 40.11; 40.14(c); 40.51(b)(1); 70.11; and 70.42(b)(1); the word "Department" means "U.S. Department of Energy".

(16) In 10 CFR 30.41(b)(2), 40.51(b)(2), and 70.42(b)(2), "agency in any Agreement State" means "agency in any Agreement State or agency under NRC jurisdiction".

(17) In 10 CFR 30.41(b)(4), 40.51(b)(4), and 70.42(b)(4), a reference made to "any person in an Agreement State, subject to the jurisdiction of that State, who has been exempted from the licensing requirements and regulations of that State" means "any person in an Agreement State or in NRC jurisdiction, subject to the jurisdiction of that State or the NRC, who has been exempted from the licensing requirements and regulation of that State or the NRC".

(18) For purposes of 10 CFR Part 71, Subpart H, and 10 CFR 170 and 171 only, the terms "certificate of compliance", "compliance holder", "certificate holder", or "applicant for certificate of

compliance" apply to the NRC as they are the sole authority for issuing a package certificate of compliance.

(19) In 10 CFR 150.20, the words:

(A) "non-agreement states", "areas of exclusive federal jurisdiction within agreement states", or "offshore waters" used in (a)(1)(i), (ii), (iii); (b), (b)(3), and (b)(4) mean "The State of Indiana";

(B) "agreement state license" means "agreement state license of Nuclear Regulatory Commission license";

(C) "license issued by an agreement state" means "license issued by an agreement state or the Nuclear Regulatory Commission"; and

(D) "license from an agreement state" means "license from an agreement state of the Nuclear Regulatory Commission".

(20) In 10 CFR 19.15; 19.16; 30.12; 30.13; 30.14; 30.15; 30.18; 30.19; 30.20; 30.21; 30.22; 30.34; 30.41(b)(3); 30.61(b); 40.31(d); 40.32(a); 40.41(a), (b), and (e)(4); 40.51(b)(3); 40.71; 70.21(b); 70.31(a); 70.32(a)(3); 70.32(b)(5); 70.36; 70.42(b)(3); 70.81; and 150.20(b), a reference to "the Act", "Atomic Energy Act of 1954", "act", "Section 81 of the Act", "Section 81 and 82 of the Act", or "section 182 of the Act", means IC 10-19-12, entitled, "Nuclear Regulatory Agreement".

(21) References to parts of Chapter 10 of the Code of Federal Regulations that remain under the NRC's regulatory authority (e.g., 10 CFR Parts 50, 52, 54, 60, 63, 72, 76, and 110; and the phrase "common defense and security") are not incorporated.

(22) In 10 CFR 19.11(a)(4); 30.10(b); 40.10(b); 70.10(b); and 71.8(c), the reference to 10 CFR 2, subpart B is replaced with IC 10-19-12-18 (equivalent state regulations and provisions).

(23) In 10 CFR 40.31(c), the reference to 10 CFR Parts 2 and 9, relating to public records, is replaced with IC 5-14-3. Similarly, in 10 CFR 70.21(d), the reference to part 2 is replaced with IC 5-14-3.

(24) In 10 CFR 30.32(f); 30.33; 40.31(f); and 40.32(e), the reference to 10 CFR Part 51 is replaced with IC 13 (equivalent state regulations and provisions).

(25) In 10 CFR 71.101(c)(1), using an appropriate method listed in 71.1(a), each licensee shall file a description of its quality assurance program, including a discussion of which requirements of this subpart are applicable and how they will be satisfied, by submitting the description to the address specified in section 4(a) of this rule.

(26) In 10 CFR 61.55(a)(2)(iv), the reference to "part 60 or 63 of this chapter" is replaced with "10 CFR 60 or 63".

(27) In 10 CFR 39.11, the reference to the definition of "person" in 10 CFR 30.4 is a reference to the definition of "person" in IC 10-19-12.

(28) In 10 CFR 31.2; 31.5(b)(10); 31.7(b); 31.8(c); 31.11(f); 31.12(b); 40.13; 40.22(d); and 70.19(c), the reference to "21 of this chapter" is replaced by "10 CFR Part 21".

(29) In 10 CFR 34.45(a)(9) and 10 CFR 39.63(l), the phrase "as required by part 21 of this chapter" is excluded.

(30) Any reference to "part 73 of this chapter" is a reference to 10 CFR Part 73.

(31) In 10 CFR 150.20, "74.11, 74.15, and 74.19 of this chapter" is replaced by "10 CFR 74.11, 74.15, and 74.19".

*(Department of Homeland Security; 290 IAC 3-1-2)*

### 290 IAC 3-1-3 Definitions

Authority: IC 10-19-12-6; IC 10-19-12-14

Affected: IC 4-21.5; IC 4-22; IC 10-19-2-1; IC 10-19-12

Sec. 3. The following definitions apply throughout this article:

- (1) "Civil penalty" means any monetary penalty levied on a licensee or registrant because of violations of statutes, regulations, licenses, or registration certificates, but does not include criminal penalties.
- (2) "Closure" or "site closure" means all activities performed at a waste disposal site, such as stabilization and contouring, to ensure that the site is in a stable condition so that only minor custodial care, surveillance, and monitoring are necessary at the site after termination of a licensed operation.
- (3) "Decommissioning" means final operational activities at a facility to dismantle site structures, decontaminate site surfaces and remaining structures, stabilize and contain residual radioactive material, and carry out any other activities to prepare the site for postoperational care.
- (4) "Department" means the department of homeland security established by IC 10-19-2-1.
- (5) "Disposal of low-level radioactive waste" means the isolation of that waste from the biosphere by emplacement in a land burial facility.
- (6) "General license" means a license effective under regulations promulgated by the department, without the filing of an application with the department, or the issuance of licensing documents to particular persons to transfer, acquire, own, possess, or use quantities of, or devices or equipment using, radioactive material.
- (7) "Government agency" means any board, commission, department, agency, authority, or other entity, by whatever name designated, exercising a portion of the executive, administrative, or legislative power of the state.
- (8) "High-level radioactive waste" means:
  - (A) irradiated reactor fuel;
  - (B) liquid wastes resulting from the operation of the first cycle solvent extraction system, or equivalent, and the concentrated wastes from subsequent extraction cycles, or equivalent, in a facility for reprocessing irradiated reactor fuel; and
  - (C) solids into which those liquid wastes have been converted.

(9) "Ionizing radiation" means gamma rays and x-rays, alpha and beta particles, high-speed electrons, neutrons, protons, and other nuclear particles, but not sound or radio waves, or visible, infrared, or ultraviolet light.

(10) "Low-level radioactive waste" means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or byproduct material.

(11) "Nonionizing radiation" means the following:

(A) Any electromagnetic radiation, other than ionizing electromagnetic radiation.

(B) Any sonic, ultrasonic, or infrasonic wave.

(12) "Radiation" means ionizing radiation and nonionizing radiation.

(13) "Radiation generating equipment" means a manufactured product or device, or component part of the product or device, or a machine or system that during operation can generate or emit radiation, except those that emit radiation only from radioactive material.

(14) "Radioactive material" means material (solid, liquid, or gas) that emits ionizing radiation spontaneously. It includes accelerator produced, byproduct, naturally occurring, source, and special nuclear materials.

(15) "Registration" means registration with the department in accordance with the Indiana Administrative Procedure Act, IC 4-21.5 and IC 4-22.

(16) "Source material milling" means any processing of ore, including underground solution extraction of unmined ore, primarily for the purpose of extracting or concentrating uranium or thorium that results in the production of source material mill tailings.

(17) "Source material mill tailings" means the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content, including discrete surface wastes resulting from underground solution extraction processes, but not including underground ore bodies depleted by those solution extraction processes.

(18) "Sources of radiation" means collectively, radioactive material and radiation generating equipment.

(19) "Specific license" means a license, issued to a named person upon application filed under the regulations promulgated under this article, to use, manufacture, produce, transfer, receive, acquire, or possess quantities of, or devices or equipment using, radioactive material.

(20) "Spent nuclear fuel" means irradiated nuclear fuel that has undergone at least one (1) year of decay since being used as a source of energy in a power reactor. Spent fuel includes the special nuclear material, byproduct material, source material, and other radioactive material associated with fuel assemblies.

(21) "Transuranic waste" means radioactive waste containing alpha emitting transuranic elements, with radioactive half-lives greater than five (5) years, exceeding ten (10) nanocuries per gram.

*(Department of Homeland Security; 290 IAC 3-1-3)*

## 290 IAC 3-1-4 Communications

Authority: IC 10-19-12-6; IC 10-19-12-14

Affected: IC 10-19-2.1-1; IC 10-19-12

Sec. 4. (a) In accordance with IC 10-19-2.1-1, and except where specifically stated otherwise, all notifications, correspondence, communications, reports, or oath and affirmation certifications required to be submitted under this article shall be submitted electronically in writing and addressed to the department at [rmcp@dhs.in.gov](mailto:rmcp@dhs.in.gov). Submissions made by paper shall be made out to:

Indiana Department of Homeland Security

Radioactive Materials Control Program

302 West Washington Street, Room E208

Indianapolis, IN 46204

(b) In case of an emergency, or when an immediate or a twenty-four (24) hour notification is required, the notification shall be made telephonically to (317) 233-6611. (*Department of Homeland Security; 290 IAC 3-1-4*)

## 290 IAC 3-1-5 Implementation

Authority: IC 10-19-12-6; IC 10-19-12-14

Affected: IC 10-19-12

Sec. 5. On the date the state of Indiana becomes an agreement state as published in the Federal Register, a person that possesses a general or specific license issued by the NRC for source, byproduct, or special nuclear material, in quantities not sufficient to form a critical mass, is deemed to possess a like license issued under this section. The license expires on the earlier of ninety (90) days after the department receives a notice of expiration of the license, or the date of expiration specified in the NRC license. (*Department of Homeland Security; 290 IAC 3-1-5*)

## 290 IAC 3-1-6 Inspections

Authority: IC 10-19-12-6; IC 10-19-12-14

Affected: IC 10-19-11-3; IC 10-19-12

Sec. 6. (a) Requirements regarding inspections are as required by the materials incorporated by reference.

(b) This section does not limit the authority granted in IC 10-19-11-3. (*Department of Homeland Security; 290 IAC 3-1-6*)

#### 290 IAC 3-1-7 Violation

Authority: IC 10-19-12-6; IC 10-19-12-14

Affected: IC 10-19-12-15; IC 10-19-12-18

Sec. 7. Violations of this article may be enforced by IC 10-19-12-15 and IC 10-19-12-18. (*Department of Homeland Security; 290 IAC 3-1-7*)

#### 290 IAC 3-1-8 Records

Authority: IC 10-19-12-6; IC 10-19-12-14

Affected: IC 10-19-12

Sec. 8. Unless otherwise stated in this article, requirements regarding records are as required by the material incorporated by reference. In addition, for the purpose of this article, records shall be provided in the form of printed materials or electronic records capable of producing legible, accurate, and complete records during the required retention period. Records may not be provided on microform. The licensee shall maintain adequate safeguards against tampering with and loss of records. Records, such as letters, drawings, and specification, must include all pertinent information, such as stamps, initials, and signatures. (*Department of Homeland Security; 290 IAC 3-1-8*)

#### 290 IAC 3-1-9 Reports

Authority: IC 10-19-12-6; IC 10-19-12-14

Affected: IC 10-19-12

Sec. 9. (a) Unless otherwise stated in this article, requirements regarding reports of theft or loss of licensed material are as required by the materials incorporated by reference.

(b) The requirement in 10 CFR 20.2201(a)(1)(ii) and (b)(1) is modified from thirty (30) to fifteen (15) days.

(c) Reports required by 10 CFR 20.2201 must include, to the extent that the information is available at the time of notification, the following information:

- (1) The name of the person making the report and their call-back telephone number.
- (2) The time and date of the event.
- (3) The exact location of the event, if available.

*(Department of Homeland Security; 290 IAC 3-1-9)*

#### 290 IAC 3-1-10 Vacating premises

Authority: IC 10-19-12-6; IC 10-19-12-14

Affected: IC 10-19-12

Sec. 10. Each specific licensee shall, not less than thirty (30) days before vacating or relinquishing possession or control of a premises, which may have been contaminated with radioactive material as a result of the licensee's activities, notify the department in writing of the intent to vacate. When deemed necessary by the department, the licensee shall decontaminate the premises in such a manner as the department may specify. *(Department of Homeland Security; 290 IAC 3-1-10)*

## **Rule 2. Standards for Protection Against Radiation**

#### 290 IAC 3-2-1 Applicability

Authority: IC 10-19-12-6; IC 10-19-12-14

Affected: IC 10-19-12

Sec. 1. (a) This article, except as otherwise specifically provided, applies to all persons that use, store, produce, transport, possess, or dispose of radioactive materials within the state of Indiana.

(b) This article does not apply to any person to the extent a person is subject to regulation by the NRC.

(c) The requirements of this rule are in addition to, and not in substitution for, other requirements of this article. The provisions of 290 IAC 3-3 through 290 IAC 3-18 also apply. *(Department of Homeland Security; 290 IAC 3-2-1)*

290 IAC 3-2-2 Incorporated material

Authority: IC 10-19-12-6; IC 10-19-12-14

Affected: IC 10-19-12

Sec. 2. (a) Except as provided in this rule, and to the extent that the provisions are not inconsistent with this article, 10 CFR Part 20 is incorporated by reference.

(b) The following requirements of 10 CFR Part 20 are not incorporated in this article:

(1) 20.1001

(2) 20.1002

(3) 20.1003 (Definitions of "Byproduct material", "Commission", "Decommission", "Department", "Generally applicable environmental radiation standards", "Source material", and "Special Nuclear Material")

(4) 20.1007

(5) 20.1008

(6) 20.1009

(7) 20.1205

(8) 20.1406(b)

(9) 20.1905(g)

(10) 20.2106(d)

(11) 20.2109

(12) 20.2110

(13) 20.2203(c) and (d)

(14) 20.2206(a)(1), (3), (4), (5), and (6)

(15) 20.2401

(16) 20.2402

(17) Appendix D to 10 CFR Part 20

(18) Appendix F to 10 CFR Part 20

*(Department of Homeland Security; 290 IAC 3-2-1)*

**Rule 3. Notices, Instructions, and Reports to Workers; Inspections and Compliance Procedures**

290 IAC 3-3-1 Applicability

Authority: IC 10-19-12-6; IC 10-19-12-14

Affected: IC 10-19-12

Sec. 1. (a) This article, except as otherwise specifically provided, applies to all persons that use, store, produce, transport, possess, or dispose of radioactive materials within the state of Indiana.

(b) This article does not apply to any person to the extent a person is subject to regulation by the NRC.

(c) The requirements of this rule are in addition to, and not in substitution for, other requirements of this article. The provisions of 290 IAC 3-2 and 290 IAC 3-4 through 290 IAC 3-18 also apply. (*Department of Homeland Security; 290 IAC 3-3-1*)

290 IAC 3-3-2 Incorporated material

Authority: IC 10-19-12-6; IC 10-19-12-14

Affected: IC 10-19-12

Sec. 2. (a) Except as provided in this rule, and to the extent that the provisions are not inconsistent with this article, 10 CFR Part 19 is incorporated by reference.

(b) The following requirements of 10 CFR Part 19 are not incorporated in this rule:

- (1) 19.1
- (2) 19.2
- (3) 19.5
- (4) 19.8
- (5) Any references to 10 CFR 52 in 19.11(a)
- (6) 19.11(b) and (e)
- (7) 19.14(a)

(8) 19.18

(9) 19.20

(10) 19.30

(11) 19.32

(12) 19.40

*(Department of Homeland Security; 290 IAC 3-3-2)*

#### **Rule 4. Rules of General Applicability to Domestic Licensing of Byproduct Material**

##### 290 IAC 3-4-1 Applicability

Authority: IC 10-19-12-6; IC 10-19-12-14

Affected: IC 10-19-12

Sec. 1. (a) This article, except as otherwise specifically provided, applies to all persons that use, store, produce, transport, possess, or dispose of radioactive materials within the state of Indiana.

(b) This article does not apply to any person to the extent a person is subject to regulation by the NRC.

(c) The requirements of this rule are in addition to, and not in substitution for, other requirements of this article. The provisions of 290 IAC 3-2, 290 IAC 3-3, and 290 IAC 3-5 through 290 IAC 3-18 also apply. *(Department of Homeland Security; 290 IAC 3-4-1)*

##### 290 IAC 3-4-2 Incorporated material

Authority: IC 10-19-12-6; IC 10-19-12-14

Affected: IC 10-19-12

Sec. 2. (a) Except as provided in this rule, and to the extent that the provisions are not inconsistent with this article, 10 CFR Part 30 is incorporated by reference.

(b) The following requirements of 10 CFR Part 30 are not incorporated in this rule:

(1) 30.1

(2) 30.3(b), (c), and (d)

(3) 30.4 (Paragraph (2) of the definition of "Commencement of Construction", and paragraph (9)(ii) of the definition of "Construction", "Byproduct material", "Decommission", "Government agency", "Person", "Production facility", "Source material", "Special nuclear material", and "Utilization facility")

(4) 30.6

(5) 30.7

(6) 30.8

(7) 30.11(b) and (c)

(8) 30.21(c)

(9) 30.34(d); (e)(1) and (3); and (k)

(10) 30.41(b)(6)

(11) 30.52

(12) 30.55

(13) 30.63

(14) 30.64

*(Department of Homeland Security; 290 IAC 3-4-2)*

## **Rule 5. General Domestic Licenses for Byproduct Material**

### 290 IAC 3-5-1 Applicability

Authority: IC 10-19-12-6; IC 10-19-12-14

Affected: IC 10-19-12

Sec. 1. (a) This article, except as otherwise specifically provided, applies to all persons that use, store, produce, transport, possess, or dispose of radioactive materials within the state of Indiana.

(b) This article does not apply to any person to the extent a person is subject to regulation by the NRC.

(c) The requirements of this rule are in addition to, and not in substitution for, other requirements of this article. The provisions of 290 IAC 3-2 through 290 IAC 3-4 and 290 IAC 3-6 through 290 IAC 3-18 also apply. (*Department of Homeland Security; 290 IAC 3-5-1*)

290 IAC 3-5-2 Incorporated material

Authority: IC 10-19-12-6; IC 10-19-12-14

Affected: IC 10-19-12

Sec. 2. (a) Except as provided in this rule, and to the extent that the provisions are not inconsistent with this article, 10 CFR Part 31 is incorporated by reference.

(b) The following requirements of 10 CFR Part 31 are not incorporated in this rule:

(1) 31.1

(2) 31.3

(3) 31.4

(4) 31.5(a), excluding "Federal"

(5) 31.13

(6) 31.14

(7) 31.15

(8) 31.16

(9) 31.17

(10) 31.18

(11) 31.19

(12) 31.20

(13) 31.21

(14) 31.22

(15) 31.23

(*Department of Homeland Security; 290 IAC 3-5-2*)

**Rule 6. Specific Domestic Licenses to Manufacture or Transfer Certain Items Containing Byproduct Material**

## 290 IAC 3-6-1 Applicability

Authority: IC 10-19-12-6; IC 10-19-12-14

Affected: IC 10-19-12

Sec. 1. (a) This article, except as otherwise specifically provided, applies to all persons that use, store, produce, transport, possess, or dispose of radioactive materials within the state of Indiana.

(b) This article does not apply to any person to the extent a person is subject to regulation by the NRC.

(c) The requirements of this rule are in addition to, and not in substitution for, other requirements of this article. The provisions of 290 IAC 3-2 through 290 IAC 3-5 and 290 IAC 3-7 through 290 IAC 3-18 also apply. (*Department of Homeland Security; 290 IAC 3-6-1*)

## 290 IAC 3-6-2 Incorporated material

Authority: IC 10-19-12-6; IC 10-19-12-14

Affected: IC 10-19-12

Sec. 2. (a) Except as provided in this rule, and to the extent that the provisions are not inconsistent with this article, 10 CFR Part 32 is incorporated by reference.

(b) The following requirements of 10 CFR Part 32 are not incorporated in this rule:

- (1) 32.1
- (2) 32.3
- (3) 32.8
- (4) 32.11
- (5) 32.12
- (6) 32.14
- (7) 32.15
- (8) 32.16
- (9) 32.18

- (10) 32.19
- (11) 32.20
- (12) 32.21
- (13) 32.21a
- (14) 32.22
- (15) 32.23
- (16) 32.25
- (17) 32.26
- (18) 32.27
- (19) 32.28
- (20) 32.29
- (21) 32.30
- (22) 32.31
- (23) 32.32
- (24) 32.210(a) through (h)
- (25) 32.211
- (26) 32.301
- (27) 32.303

*(Department of Homeland Security; 290 IAC 3-6-2)*

290 IAC 3-6-3 Requirements for license to manufacture, prepare, or transfer for commercial distribution of radioactive drugs containing material for medical use under 290 IAC 3-13

Authority: IC 10-19-12-6; IC 10-19-12-14

Affected: IC 10-19-12

Sec. 3. In addition to the provisions of 10 CFR 32.72(b)(4), an individual may function as an authorized nuclear pharmacist only if they are licensed as a pharmacist by the Indiana board of pharmacy. *(Department of Homeland Security; 290 IAC 3-6-3)*

290 IAC 3-6-4 Registration of product information

Authority: IC 10-19-12-6; IC 10-19-12-14

Affected: IC 10-19-12

Sec. 4. The department does not administer a sealed source and device registration program. A manufacturer or an initial distributor of a sealed source or device containing a sealed source that is subject to this article shall submit a request for evaluation of radiation safety information about its product and for its registration to the NRC under 10 CFR 32.210. (*Department of Homeland Security; 290 IAC 3-6-4*)

#### **Rule 7. Specific Domestic Licenses of Broad Scope for Byproduct Material**

290 IAC 3-7-1 Applicability

Authority: IC 10-19-12-6; IC 10-19-12-14

Affected: IC 10-19-12

Sec. 1. (a) This article, except as otherwise specifically provided, applies to all persons that use, store, produce, transport, possess, or dispose of radioactive materials within the state of Indiana.

(b) This article does not apply to any person to the extent a person is subject to regulation by the NRC.

(c) The requirements of this rule are in addition to, and not in substitution for, other requirements of this article. The provisions of 290 IAC 3-2 through 290 IAC 3-6 and 290 IAC 3-8 through 290 IAC 3-18 also apply. (*Department of Homeland Security; 290 IAC 3-7-1*)

290 IAC 3-7-2 Incorporated material

Authority: IC 10-19-12-6; IC 10-19-12-14

Affected: IC 10-19-12

Sec. 2. (a) Except as provided in this rule, and to the extent that the provisions are not inconsistent with this article, 10 CFR Part 33 is incorporated by reference.

(b) The following requirements of 10 CFR Part 33 are not incorporated in this rule:

(1) 33.1

(2) 33.8

(3) 33.21

(4) 33.23

*(Department of Homeland Security; 290 IAC 3-7-2)*

## **Rule 8. Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations**

### 290 IAC 3-8-1 Applicability

Authority: IC 10-19-12-6; IC 10-19-12-14

Affected: IC 10-19-12; IC 16-41-35

Sec. 1. (a) This rule establishes radiation safety requirements for persons using sources of radiation for industrial radiography operations.

(b) Except for industrial radiation machines regulated under IC 16-41-35, the requirements in this rule apply to all licensees or registrants that use sources of radiation for industrial radiography; provided, however, that nothing in this rule shall apply to the use of sources of radiation in the healing arts.

(c) The requirements of this rule are in addition to, and not in substitution for, other requirements of this article. The provisions of 290 IAC 3-2 through 290 IAC 3-7 and 290 IAC 3-9 through 290 IAC 3-18 also apply. *(Department of Homeland Security; 290 IAC 3-8-1)*

### 290 IAC 3-8-2 Incorporated material

Authority: IC 10-19-12-6; IC 10-19-12-14

Affected: IC 10-19-12

Sec. 2. (a) Except as provided in this rule, and to the extent that the provisions are not inconsistent with this article, 10 CFR Part 34 is incorporated by reference.

(b) The following provisions of 10 CFR Part 34 are not incorporated in this rule:

(1) 34.1

(2) 34.8

(3) 34.87

(4) 34.121

(5) 34.123

*(Department of Homeland Security; 290 IAC 3-8-2)*

#### 290 IAC 3-8-3 Reconciliation of differences

Authority: IC 10-19-12-6; IC 10-19-12-14

Affected: IC 10-19-12

Sec. 3. To reconcile differences between this rule and the incorporated sections of 10 CFR Part 34, the following words and phrases shall be substituted for the language in 10 CFR Part 34 as follows:

(1) A reference to "licensee" is deemed to include "registrant".

(2) A reference to "license" is deemed to include "registration".

(3) A referenced to "licensed" is deemed to include "registered".

*(Department of Homeland Security; 290 IAC 3-8-3)*

### **Rule 9. Medical Use of Radioactive Material**

#### 290 IAC 3-9-1 Applicability

Authority: IC 10-19-12-6; IC 10-19-12-14

Affected: IC 10-19-12

Sec. 1. (a) This article, except as otherwise specifically provided, applies to all persons that use, store, produce, transport, possess, or dispose of radioactive materials within the state of Indiana.

(b) This article does not apply to any person to the extent a person is subject to regulation by the NRC.

(c) The requirements of this rule are in addition to, and not in substitution for, other requirements of this article. The provisions of 290 IAC 3-2 through 290 IAC 3-8 and 290 IAC 3-10 through 290 IAC 3-18 also apply. (*Department of Homeland Security; 290 IAC 3-9-1*)

#### 290 IAC 3-9-2 Incorporated material

Authority: IC 10-19-12-6; IC 10-19-12-14

Affected: IC 10-19-12

Sec. 2. (a) Except as provided in this rule, and to the extent that the provisions are not inconsistent with this article, 10 CFR Part 35 is incorporated by reference.

(b) The following provisions of 10 CFR Part 35 are not incorporated in this rule:

(1) 35.1

(2) 35.8

(3) 35.11(c)(1)

(4) 35.13(a)(1)

(5) 35.4001

(6) 35.4002

(*Department of Homeland Security; 290 IAC 3-9-2*)

#### 290 IAC 3-9-3 Reports

Authority: IC 10-19-12-6; IC 10-19-12-14

Affected: IC 10-19-12

Sec. 3. (a) In addition to the requirements outlined in 10 CFR 35 Subpart M, the licensee shall notify the department by telephone upon discovery, but not later than the next business day, that:

(1) a patient or human research subject has departed from the licensee's facility without authorization under 10 CFR 35.75; or

(2) a patient or human research subject containing radioactive material has died, and it is possible that any individual could receive an effective dose equivalent to exceeding the dose limits set forth in 10 CFR 20.1301 as a result of the deceased's body.

(b) In addition to the requirements outlined in 10 CFR 35 Subpart M, the licensee shall submit a written report to the department within thirty (30) days after the discovery of an event listed in subsection (a). The written report must include:

- (1) the licensee's name;
- (2) the date and time of the unauthorized departure or date of death, as appropriate;
- (3) the date and time when patient release was expected to occur, if applicable;
- (4) the address of the patient's or human research subject's home or anticipated destination following the unauthorized departure, if applicable;
- (5) the radionuclide, chemical and physical form, and calculated activity at the time of the unauthorized departure or death;
- (6) the apparent reason or reasons for the unauthorized departure or death before the authorized release, if applicable;
- (7) the names (or titles) and address or addresses of known individuals who might have received a TEDE exceeding five (5) mSv (one-half (0.5) rem); and
- (8) a description of any changes in the licensee's patient release criteria or patient instructions that are designed to avoid a recurrence of such an event.

*(Department of Homeland Security; 290 IAC 3-9-3)*

### **Rule 10. Licenses and Radiation Safety Requirements for Irradiators**

290 IAC 3-10-1 Applicability

Authority: IC 10-19-12-6; IC 10-19-12-14

Affected: IC 10-19-12

Sec. 1. (a) This rule establishes the requirement for the issuance of a license authorizing radioactive materials in irradiators used to irradiate objects or material using gamma radiation. This rule also establishes radiation safety requirements for operating irradiators.

(b) This rule applies to panoramic irradiators that have either dry or wet storage of the radioactive sealed sources, and to underwater irradiators in which both the source and product being irradiated are under water. Irradiators whose dose rate exceeds five (5) grays (500 rads) per hour at one (1) meter from the radioactive sealed sources in air or water, as applicable for the irradiator type, are covered by this rule.

(c) The requirements set out in this rule do not apply to self-contained dry source storage irradiators in which both the source and area subject to irradiation are contained within a device

and are not accessible by personnel, medical radiology or teletherapy, radiography (the irradiation of materials for nondestructive testing purposes), gauging, or open-field (agricultural) irradiations.

(d) The requirements of this rule are in addition to, and not in substitution for, other requirements of this article. The provisions of 290 IAC 3-2 through 290 IAC 3-9 and 290 IAC 3-11 through 290 IAC 3-18 also apply.

(e) Nothing in this rule relieves the licensee from complying with other applicable federal, state, and local regulations governing the siting, zoning, land use, and building code requirements for industrial facilities. (*Department of Homeland Security; 290 IAC 3-10-1*)

#### 290 IAC 3-10-2 Incorporated material

Authority: IC 10-19-12-6; IC 10-19-12-14

Affected: IC 10-19-12

Sec. 2. (a) Except as provided in this rule, and to the extent that the provisions are not inconsistent with this article, 10 CFR Part 36 is incorporated by reference.

(b) The following provisions of 10 CFR Part 36 are not incorporated in this rule:

(1) 36.1(a)

(2) 36.2 (paragraph (2) of the definition of "Commencement of Construction", and paragraph (9)(ii) of the definition "Construction").

(3) 36.8

(4) 36.91

(5) 36.93

(*Department of Homeland Security; 290 IAC 3-10-2*)

#### 290 IAC 3-10-3 Reconciliation of differences

Authority: IC 10-19-12-6; IC 10-19-12-14

Affected: IC 10-19-12

Sec. 3. To reconcile difference between this rule and the incorporated sections of 10 CFR Part 36, the following words and phrases shall be substituted for the language in 10 CFR Part 36 as follows:

(1) A reference to "licensee" is deemed to include "registrant".

(2) A reference to "license" is deemed to include "registration".

(3) A reference to "licensed" is deemed to include "registered".

*(Department of Homeland Security; 290 IAC 3-10-3)*

### **Rule 11. Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material**

#### 290 IAC 3-11-1 Applicability

Authority: IC 10-19-12-6; IC 10-19-12-14

Affected: IC 10-19-12

Sec. 1. (a) This article, except as otherwise specifically provided, applies to all persons that use, store, produce, transport, possess, or dispose of radioactive materials within the state of Indiana.

(b) This article does not apply to any person to the extent a person is subject to regulation by the NRC.

(c) The requirements of this rule are in addition to, and not in substitution for, other requirements of this article. The provisions of 290 IAC 3-2 through 290 IAC 3-10 and 290 IAC 3-12 through 290 IAC 3-18 also apply. *(Department of Homeland Security; 290 IAC 3-11-1)*

#### 290 IAC 3-11-2 Incorporated material

Authority: IC 10-19-12-6; IC 10-19-12-14

Affected: IC 10-19-12

Sec. 2. (a) Except as provided in this rule, and to the extent that the provisions are not inconsistent with this article, 10 CFR Part 37 is incorporated by reference.

(b) The following requirements of 10 CFR Part 37 are not incorporated in this rule:

(1) 37.1

(2) 37.3

(3) 37.5 (definition of "Byproduct material", "Commission", "Government Agency", and "Person")

(4) 37.7

(5) 37.13

(6) 37.101

(7) 37.107

(8) 37.109

*(Department of Homeland Security; 290 IAC 3-11-2)*

## **Rule 12. Licenses for Well Logging and Radiation Safety Requirements for Well Logging Operations**

290 IAC 3-12-1 Applicability

Authority: IC 10-19-12-6; IC 10-19-12-14

Affected: IC 10-19-12

Sec. 1. (a) This rule prescribes requirements for the issuance of a license authorizing the use of sources of radiation in well logging in a single well. This rule also prescribes radiation safety requirements for persons using sources of radiation in these operations.

(b) This rule applies to all licensees that use sources of radiation for well logging operations, including mineral logging, radioactive markers, or subsurface tracer studies.

(c) The requirements set out in this rule do not apply to the issuance of a license authorizing the use of sources of radiation in tracer studies involving multiple wells, such as field flooding studies, or to the use of sources of radiation auxiliary to well logging but not lowering into wells.

(d) The requirements of this rule are in addition to, and not in substitution for, other requirements of this article. The provisions of 290 IAC 3-2 through 290 IAC 3-11 and 290 IAC 3-13 through 290 IAC 3-18 also apply. *(Department of Homeland Security; 290 IAC 3-12-1)*

290 IAC 3-12-2 Incorporated material

Authority: IC 10-19-12-6; IC 10-19-12-14

Affected: IC 10-19-12

Sec. 2. (a) Except as provided in this rule, and to the extent that the provisions are not inconsistent with this article, 10 CFR Part 39 is incorporated by reference.

(b) The following provisions of 10 CFR Part 39 are not incorporated in this rule:

(1) 39.1

(2) 39.8

(3) 39.101

(4) 39.103

*(Department of Homeland Security; 290 IAC 3-12-2)*

**Rule 13. Domestic Licensing of Source Material**

290 IAC 3-13-1 Applicability

Authority: IC 10-19-12-6; IC 10-19-12-14

Affected: IC 10-19-12

Sec. 1. (a) This article, except as otherwise specifically provided, applies to all persons that use, store, produce, transport, possess, or dispose of radioactive materials within the state of Indiana.

(b) This article does not apply to any person to the extent a person is subject to regulation by the NRC.

(c) The requirements of this rule are in addition to, and not in substitution for, other requirements of this article. The provisions of 290 IAC 3-2 through 290 IAC 3-12 and 290 IAC 3-14 through 290 IAC 3-18 also apply. *(Department of Homeland Security; 290 IAC 3-13-1)*

290 IAC 3-13-2 Incorporated material

Authority: IC 10-19-12-6; IC 10-19-12-14

Affected: IC 10-19-12

Sec. 2. (a) Except as provided in this rule, and to the extent that the provisions are not inconsistent with this article, 10 CFR Part 40 is incorporated by reference.

(b) The following requirements of 10 CFR Part 40 are not incorporated in this rule:

(1) 40.1

(2) 40.2

(3) 40.2a

(4) 40.4 (definition of "Byproduct material", "Reconciliation", paragraph (2) in the definition of "Commencement of Construction", "Commission", paragraph (9)(ii) in the definition of "Construction", "Decommission", "Foreign obligations", "Government agency", "Persons", "Source material", and "Special nuclear material")

(5) 40.5

(6) 40.7

(7) 40.8

(8) 40.12(b)

(9) 40.13(c)(5)(iv)

(10) 40.20(b) and (c)

(11) 40.22(a), excluding "Federal"

(12) 40.23

(13) 40.26

(14) 40.27

(15) 40.28

(16) 40.31(g) and (j) through (m)

(17) 40.32(d) and (g), and any portion of (e) that applies to uranium enrichment and uranium hexafluoride facilities

(18) 40.33

(19) 40.35(f)

(20) 40.38

(21) 40.41(d), (e)(1) and (3), (g), and (h)

- (22) 40.51(b)(6)
- (23) 40.52
- (24) 40.53
- (25) 40.56
- (26) 40.64
- (27) 40.66
- (28) 40.67
- (29) 40.81
- (30) 40.82
- (31) Criterion 11A through F and 12 of Appendix A  
*(Department of Homeland Security; 290 IAC 3-13-2)*

#### **Rule 14. Licensing Requirements for Land Disposal of Radioactive Waste**

##### 290 IAC 3-14-1 Applicability

Authority: IC 10-19-12-6; IC 10-19-12-14

Affected: IC 10-19-12

Sec. 1. (a) This article, except as otherwise specifically provided, applies to all persons that use, store, produce, transport, possess, or dispose of radioactive materials within the state of Indiana.

(b) This article does not apply to any person to the extent a person is subject to regulation by the NRC.

(c) The requirements of this rule are in addition to, and not in substitution for, other requirements of this article. The provisions of 290 IAC 3-2 through 290 IAC 3-13 and 290 IAC 3-15 through 290 IAC 3-18 also apply. *(Department of Homeland Security; 290 IAC 3-14-1)*

##### 290 IAC 3-14-2 Incorporated material

Authority: IC 10-19-12-6; IC 10-19-12-14

Affected: IC 10-19-12

Sec. 2. (a) Except as provided in this rule, and to the extent that the provisions are not inconsistent with this article, 10 CFR Part 61 is incorporated by reference.

(b) The following requirements of 10 CFR Part 61 are not incorporated in this rule:

- (1) 61.1
- (2) 61.2 (definition of "Commission", "Government agency", and "Person")
- (3) 61.3
- (4) 61.4
- (5) 61.5
- (6) 61.6
- (7) 61.7
- (8) 61.8
- (9) 61.9
- (10) 61.9a
- (11) 61.9b
- (12) 61.10
- (13) 61.11
- (14) 61.12
- (15) 61.13
- (16) 61.14
- (17) 61.15
- (18) 61.16
- (19) 61.20
- (20) 61.21
- (21) 61.22
- (22) 61.23(a) through (l)
- (23) 61.24
- (24) 61.25
- (25) 61.26

(26) 61.27  
(27) 61.28  
(28) 61.29  
(29) 61.30  
(30) 61.31  
(31) 61.32  
(32) 61.40  
(33) 61.41  
(34) 61.42  
(35) 61.43  
(36) 61.44  
(37) 61.50  
(38) 61.51  
(39) 61.52  
(40) 61.53  
(41) 61.54  
(42) 61.58  
(43) 61.59  
(44) 61.61  
(45) 61.62  
(46) 61.63  
(47) 61.70  
(48) 61.71  
(49) 61.72  
(50) 61.73  
(51) 61.80  
(52) 61.81  
(53) 61.82  
(54) 61.83  
(55) 61.84

*(Department of Homeland Security; 290 IAC 3-14-2)*

## **Rule 15. Specific Domestic Licenses of Special Nuclear Material**

### 290 IAC 3-15-1 Applicability

Authority: IC 10-19-12-6; IC 10-19-12-14

Affected: IC 10-19-12

Sec. 1. (a) This article, except as otherwise specifically provided, applies to all persons that use, store, produce, transport, possess, or dispose of radioactive materials within the state of Indiana.

(b) This article does not apply to any person to the extent a person is subject to regulation by the NRC.

(c) The requirements of this rule are in addition to, and not in substitution for, other requirements of this article. The provisions of 290 IAC 3-2 through 290 IAC 3-14 and 290 IAC 3-16 through 290 IAC 3-18 also apply. *(Department of Homeland Security; 290 IAC 3-15-1)*

### 290 IAC 3-15-2 Incorporated material

Authority: IC 10-19-12-6; IC 10-19-12-14

Affected: IC 10-19-12

Sec. 2. (a) Except as provided in this rule, and to the extent that the provisions are not inconsistent with this article, 10 CFR Part 70 is incorporated by reference.

(b) The following requirements of 10 CFR Part 70 are not incorporated in this rule:

(1) 70.1

(2) 70.2

(3) 70.4 (paragraph (2) in the definition of "Commencement of Construction", "Commission", paragraph (9)(ii) in the definition of "Construction", "Decommission", "Government agency", "Person", "Source material", and "Special nuclear material")

(4) 70.5

- (5) 70.7
- (6) 70.8
- (7) 70.13
- (8) 70.14
- (9) 70.20a
- (10) 70.20b
- (11) 70.21(a)(1), (c), (f), (g), and (h)
- (12) 70.22 (b), (c), and (f) through (n)
- (13) 70.23(a)(1), (a)(6) through (a)(12), and (b)
- (14) 70.23a
- (15) 70.24
- (16) 70.25(a)(1), (c), (d), and (f)
- (17) 70.31(c), (d), and (e)
- (18) 70.32(a)(1), (4), (5), (6), and (7); (b)(1), (3), and (4); and (c) through (k)
- (19) 70.37
- (20) 70.40
- (21) 70.42(b)(6)
- (22) 70.44
- (23) 70.51(c)
- (24) 70.52
- (25) 70.55(c)
- (26) 70.59
- (27) 70.60
- (28) 70.61
- (29) 70.62
- (30) 70.64
- (31) 70.65
- (32) 70.66
- (33) 70.72
- (34) 70.73

(35) 70.74

(36) 70.76

(37) 70.82

(38) 70.91

(39) 70.92

(40) Appendix A to Part 70

*(Department of Homeland Security; 290 IAC 3-15-2)*

### **Rule 16. Packaging and Transportation of Radioactive Material**

290 IAC 3-16-1 Applicability

Authority: IC 10-19-12-6; IC 10-19-12-14

Affected: IC 10-19-12

Sec. 1. (a) This rule establishes requirements for packaging, preparation for shipment, and transportation of licensed material.

(b) The packaging and transportation of licensed material are also subject to the requirements of other agencies (e.g., the U.S. Department of Transportation, U.S. Nuclear Regulatory Commission, and U.S. Postal Service) having jurisdiction over means of transport.

(c) The requirements of this rule are in addition to, and not in substitution for, other requirements of this article. The provisions of 290 IAC 3-2 through 290 IAC 3-15, 290 IAC 3-17, and 290 IAC 3-18 also apply.

(d) This rule applies to any licensee authorized by specific or general license issued by the department to receive, possess, use, or transfer licensed material, if the licensee delivers that material to a carrier for transport, transports the material outside the site of usage as specified in the department license, or transports that material on public highways. No provision of this rule authorizes the possession of licensed material. *(Department of Homeland Security; 290 IAC 3-16-1)*

290 IAC 3-16-2 Incorporated material

Authority: IC 10-19-12-6; IC 10-19-12-14

Affected: IC 10-19-12

Sec. 2. (a) Except as provided in this rule, and to the extent that the provisions are not inconsistent with this article, 10 CFR Part 71 is incorporated by reference.

(b) The following provisions of 10 CFR Part 71 are not incorporated in this rule:

(1) 71.0(a), (b), (d), (e), (f), and (g)

(2) 71.1

(3) 71.6

(4) 71.9

(5) 71.10

(6) 71.11

(7) 71.14(b)

(8) 71.16

(9) 71.18

(10) 71.19

(11) 71.24

(12) 71.25

(13) 71.31

(14) 71.33

(15) 71.35

(16) 71.37

(17) 71.38

(18) 71.39

(19) 71.41

(20) 71.43

(21) 71.45

(22) 71.51

(23) 71.53

(24) 71.55

(25) 71.57

- (26) 71.59
- (27) 71.61
- (28) 71.63
- (29) 71.64
- (30) 71.65
- (31) 71.70
- (32) 71.71
- (33) 71.73
- (34) 71.74
- (35) 71.75
- (36) 71.77
- (37) 71.85(a), (b), and (c)
- (38) 71.91(b)
- (39) 71.99
- (40) 71.100
- (41) 71.101 (c)(2), (d), and (e)
- (42) 71.107
- (43) 71.109
- (44) 71.111
- (45) 71.113
- (46) 71.115
- (47) 71.117
- (48) 71.119
- (49) 71.121
- (50) 71.123
- (51) 71.125

*(Department of Homeland Security; 290 IAC 3-16-2)*

**Rule 17. Exemptions and Continued Regulatory Authority in Agreement States and in Offshore Waters Under Section 274**

#### 290 IAC 3-17-1 Applicability

Authority: IC 10-19-12-6; IC 10-19-12-14

Affected: IC 10-19-12

Sec. 1. (a) This article, except as otherwise specifically provided, applies to all persons that use, store, produce, transport, possess, or dispose of radioactive materials within the state of Indiana.

(b) This article does not apply to any person to the extent a person is subject to regulation by the NRC.

(c) The requirements of this rule are in addition to, and not in substitution for, other requirements of this article. The provisions of 290 IAC 3-2 through 290 IAC 3-16, 290 IAC 3-17, and 290 IAC 3-18 also apply. (*Department of Homeland Security; 290 IAC 3-17-1*)

#### 290 IAC 3-17-2 Incorporated material

Authority: IC 10-19-12-6; IC 10-19-12-14

Affected: IC 10-19-12

Sec. 2. (a) Except as provided in this rule, and to the extent that the provisions are not inconsistent with this article, 10 CFR Part 150 is incorporated by reference.

(b) The following requirements of 10 CFR Part 150 are not incorporated in this rule:

(1) 150.1

(2) 150.2

(3) 150.3 (definitions of "Byproduct material", "Commission", "Foreign obligations", "Government Agency", "Person", "Production Facility", "Reconciliation", "Source material", "Special Nuclear Material", and "Utilization facility")

(4) 150.4

(5) 150.7

(6) 150.8

(7) 150.10

- (8) 150.14
- (9) 150.15
- (10) 150.15a
- (11) 150.16
- (12) 150.17
- (13) 150.17a
- (14) 150.19
- (15) 150.21
- (16) 150.30
- (17) 150.31
- (18) 150.32
- (19) 150.33

*(Department of Homeland Security; 290 IAC 3-17-2)*

#### 290 IAC 3-17-3 Medical use limitation

Authority: IC 10-19-12-6; IC 10-19-12-14

Affected: IC 10-19-12

Sec. 3. The department will not accept any applications for reciprocity under this rule for activities authorized by regulations equivalent to 290 IAC 3-13 entitled "Medical Use of Radioactive Material". These activities will only be authorized under a specific license issued by the department.  
*(Department of Homeland Security; 290 IAC 3-17-3)*

#### **Rule 18. Fees**

#### 290 IAC 3-18-1 Applicability

Authority: IC 10-19-12-6; IC 10-19-12-14

Affected: IC 10-19-12

Sec. 1. This section applies to any person that is an applicant for, or holder of, a radioactive materials license issued under this article, "Standards for Protection Against Radiation".  
*(Department of Homeland Security; 290 IAC 3-18-1)*

290 IAC 3-18-2 Incorporated material

Authority: IC 10-19-12-6; IC 10-19-12-14

Affected: IC 10-19-12

Sec. 2. (a) Except as provided in this rule, and to the extent that the provisions are not inconsistent with this article, 10 CFR Parts 170 and 171 are incorporated by reference.

(b) The following provisions of 10 CFR Parts 170 and 171 are not incorporated in this rule:

- (1) 170.1
- (2) 170.2
- (3) 170.3
- (4) 170.4
- (5) 170.5
- (6) 170.8
- (7) 170.11(a)
- (8) 170.12(c)(1), (c)(3), and (d) through (f)
- (9) 170.21
- (10) 170.51
- (11) 171.1
- (12) 171.3
- (13) 171.5
- (14) 171.7
- (15) 171.8
- (16) 171.9
- (17) 171.11(b) and (d)
- (18) 171.13
- (19) 171.15
- (20) 171.16(a)(1)(v) and (a)(2)
- (21) 171.17(a)

(22) 171.19

(23) 171.23

(24) 171.25

(25) 171.26

(26) In 10 CFR 170.31 and 171.16, the following categories of materials licenses and types of fees are also not incorporated:

(A) 1.A.

(B) 1.B.

(C) 1.E.

(D) 1.F.

(E) 2.A.(1) and (2).

(F) 2.A.(4).

(G) 2.C.

(H) 3.D.

(I) 3.H.

(J) 4.A.

(K) 8.

(L) 9.

(M) 10.

(N) 11.

(O) 12.

(P) 13.

(Q) 15.

(R) 17.

(S) 18.

*(Department of Homeland Security; 290 IAC 3-18-2)*

290 IAC 3-18-3 Radioactive materials fees

Authority: IC 10-19-12-6; IC 10-19-12-14

Affected: IC 10-19-12

Sec. 3. (a) Annual license fees for radioactive materials are those set forth in 10 CFR 170, and other radioactive materials fees as described in 10 CFR 171:

(1) No refund shall be made if a license is terminated or suspended.

(2) If, by amendment or otherwise, a license changes to another fee category, the fee for the new category will take effect on the anniversary date of the license.

(b) Fees shall be paid using a method approved by the department.

(c) An initial application for a license must be accompanied by the appropriate fees set forth in 10 CFR 170. Thereafter, if the department approves the license application, the department shall issue an annual fee invoice in accordance with the appropriate fee schedule in 10 CFR Part 171 on a quarterly basis. The invoice quarter will be based on the month of license issuance. Invoices will be issued during the quarter prior. Fees shall be paid by the last day of the quarter as shown on the license fee invoice. This subsection does not apply to full cost recovery licenses.

(d) An application for reciprocal recognition of a license must be accompanied by the fees set forth in 10 CFR 170 and 10 CFR 171.

(e) The department shall not accept an initial application for a license or reciprocal recognition of a license before payment of the fees required by subsections (c) and (d).

(f) If a single license authorizes more than one (1) activity (e.g., human use and irradiator activities), annual fees will be assessed for each fee category applicable to the license. If a person holds more than one (1) license, the total annual fee assessed will be the cumulative total of the annual fees applicable to each license held.

(g) Special provisions for calculating annual fees during the agreement state transition period:

(1) The annual fees for the NRC licenses that are transferred to the state of Indiana on the date the state of Indiana becomes an agreement state shall be invoiced during the next invoice quarter based on the month of license issuance.

(2) During the first year after the date the department attains agreement state status, the annual fee for each NRC license transferred to the state of Indiana shall be prorated, based on the schedule of fees in 10 CFR 171, for the period from the date agreement state status is attained until the license's next invoice quarter.

*(Department of Homeland Security; 290 IAC 3-18-3)*

#### 290 IAC 3-18-4 Eligibility for waiver of annual fee

Authority: IC 10-19-12-6; IC 10-19-12-14

Affected: IC 10-19-12

Sec. 4. (a) A broad-scope (academic or medical) licensee that provides in-kind services to the department or performs services under an accepted written agreement with the department, or both, which are valued at an equal or greater amount than their annual license fee, shall submit a written request for a waiver from payment of the annual license fee. Upon approval by the department, this waiver only remains in effect for the annual licensing period. A new waiver must be submitted for each subsequent annual licensing period.

(b) A licensee that is a governmental agency of the state of Indiana shall submit a written request for a waiver from payment of the annual license fee. Upon approval by the department, this waiver remains in effect until the expiration of the license. A new waiver request must be submitted with each subsequent license renewal.

(c) Revocation of the annual fee waiver:

(1) Upon written notice of noncompliance to the licensee, the department may revoke any waiver, approved under subsection (a) or (b), for failure to provide or perform the services under the accepted written agreement.

(2) The department may also invoice the licensee for any difference between the originally waived annual fee and the value of services already performed during that annual licensing period.

*(Department of Homeland Security; 290 IAC 3-18-4)*

#### 290 IAC 3-18-5 Reciprocity fees

Authority: IC 10-19-12-6; IC 10-19-12-14

Affected: IC 10-19-12

Sec. 5. (a) An annual application to operate in Indiana under reciprocity must be accompanied by the applicable fee listed in 10 CFR 170.31, Table 1. Reciprocity fees are nonrefundable. There will be no prorating of reciprocity fees.

(b) A reciprocity application shall not be considered before payment of the full amount specified. Reciprocity applications for which no remittance is received shall be returned to the applicant.

(c) No additional reciprocity fees are required for the same category of activity during the remainder of that calendar year. All reciprocity authorizations expire December 31 of the year in which the application was submitted. Any additional reciprocity activity beyond December 31 of that year requires a new reciprocity application.

(d) A person holding a specific license issued by the NRC or any agreement state and issued by the agency having jurisdiction where the licensee maintains an office for directing the licensed activity, and where radiation safety records are normally maintained and is applying for reciprocity for the sole purpose of providing federally sponsored radiation training, the licensee may request in writing that the required reciprocity fee be waived. (*Department of Homeland Security; 290 IAC 3-18-5*)

**Indiana Department of Homeland Security  
Radioactive Materials Control Program**



**Appendix #4.2-2  
Letter to OGC addressing April 2025 comments**

Adelaide S. Giantelli, Chief  
State Agreement and Liaison Programs Branch  
Division of Materials Safety, Security, State,  
and Tribal Programs  
Office of Nuclear Material Safety  
and Safeguards

Dear Branch Chief Giantelli,

In response to the January 21, 2026, letter regarding revisions to Indiana regulations 290 IAC 3-1 through 3-18, Indiana acknowledges the letter from April 7, 2025 (ML25049A263). We commit to incorporating the changes...provided to us to Indiana regulations 290 IAC 3-1 through 3-18 next time Indiana regulations 290 IAC 3-1 through 3-18 is revised in our next rulemaking session. During this time Indiana will address both the one comment for compatibility and the 14 editorial comments. Once this is complete, Indiana will send it to the NRC for review at [AgreementStateRegs.Resource@nrc.gov](mailto:AgreementStateRegs.Resource@nrc.gov). We have also addressed this concern in procedure *4.2 Regulatory Requirements Program Elements* of Indiana's final application.

If you have any questions, please feel free to contact me at 317-464-7043 or [ceckstein@dhs.in.gov](mailto:ceckstein@dhs.in.gov) or Patrick Turner of my staff at 317-914-9507 or [paturner@dhs.in.gov](mailto:paturner@dhs.in.gov).

Respectfully,  
Courtney Eckstein, MPH  
Radiation Programs Director