



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

October 17, 2019

Mr. Dale Patrick, Manager
Radiation Control Program
North Dakota Department of Environmental Quality
918 E. Divide Avenue
Bismarck, ND 58501-1947

Dear Mr. Patrick:

We have reviewed your email dated June 18, 2019, transmitting the North Dakota enacted legislation in Senate Bill 2327 which transfers the North Dakota Agreement Program from the Department of Health to the Department of Environmental Quality.

As a result of our review, we understand that the enacted Senate Bill 2327 transfers all authority, powers and duties of the Agreement State Program from the Department of Health to the newly created Department of Environmental Quality. The authorities, powers and duties affecting the Agreement State Program were not amended when transferred between the two Departments.

As a result of our review, we have no comments.

With the transfer of authority from the Department of Health to the Department of Environmental Quality, the statutory citation for the Governor's authority to enter into an Agreement has changed. The Section 274b. Agreement between the State of North Dakota and the Atomic Energy Commission (now the Nuclear Regulatory Commission) that went into effect on September 1, 1969, cites Section 23-20.1-05 of Chapter 23-20.1 of the North Dakota Century Code as the authority for the Governor to enter into an Agreement with the Commission. With the transfer of authority, the Governor's authority to enter into an Agreement in the updated statute is now § 23.1-03-10. We bring this matter to your attention if the occasion arises in the future where the State of North Dakota amends the Agreement to either assume or return certain authorities, this would provide an opportunity to revise the citation on the Governor's authority.

The State Regulation Status (SRS) Data Sheet summarizes our knowledge of the status of other North Dakota regulations and legally binding requirements, as indicated. Please let us know if you note any inaccuracies, or have any comments on the information contained in the SRS Data Sheet. This letter, including the SRS Data Sheet, is posted on the Office of Nuclear Material Safety and Safeguards Web site: <http://scp.nrc.gov/rulemaking.html>.

State: North Dakota

Tracking Ticket Number: 19-33

Date: 10/17/2019

[1 amendment(s) reviewed identified by a *at the beginning of the equivalent NRC requirement.]

| RATS ID | NRC Chronology Identification | Date Due for State Adoption | Incoming Letter | Outgoing Package | Notes |
|---------|---|-----------------------------|----------------------|--|--|
| 1991-1 | Safety Requirements for Radiographic Equipment Part 34 55 FR 843 (Superceded by 1997-5) | 01/10/1994 | Final ML031010635 | No Comments 04/28/2003 ML031220151 | North Dakota adopted Final Regulations equivalent to RATS ID: 1997-5. |
| 1991-2 | ASNT Certification of Radiographers Part 34 56 FR 11504 (Superceded by 1997-5) | none | Final ML031010635 | No Comments 04/28/2003 ML031220151 | North Dakota adopted Final Regulations equivalent to RATS ID: 1997-5. |
| 1991-3 | Standards for Protection Against Radiation Part 20 56 FR 23360; 56 FR 61352; 57 FR 38588; 57 FR 57877; 58 FR 67657; 59 FR 41641; 60 FR 20183; | 01/01/1994 | Final | No Comments 10/17/97 | |
| 1991-4 | Notification of Incidents Parts 20, 30, 31, 34, 39, 40 and 70 56 FR 64980; | 10/15/1994 | Final ML031010635 | No Comments 04/28/2003 ML031220151 | |
| 1992-1 | Quality Management Program and Misadministrations Part 35 56 FR 34104 (Superceded by 2002-2) | 01/27/1995 | Final ML031010635 | No Comments 04/28/2003 ML031220151 | North Dakota adopted Final Regulations equivalent to RATS ID: 2002-2. |
| 1992-2 | Eliminating the Recordkeeping Requirements for Departures from Manufacturer's Instructions Parts 30 and 35 57 FR 45566 | none | Not Required | Not Required | These regulation changes are not required to be adopted for purposes of Compatibility. |

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|---------|--|-----------------------------|-----------------------------|--|--|
| 1993-1 | Decommissioning Recordkeeping and License Termination: Documentation Additions [Restricted areas and spill sites] Parts 30 and 40 58 FR 39628 | 10/25/1996 | Final ML031010635 | No Comments 04/28/2003 ML031220151 | |
| 1993-2 | Licensing and Radiation Safety Requirements for Irradiators Part 36 58 FR 7715 | 07/01/1996 | Not Applicable ⁱ | Not Applicable | North Dakota does not have any licensees subject to these regulations. (See SECY-95-112) |
| 1993-3 | Definition of Land Disposal and Waste Site QA Program Part 61 58 FR 33886 | 07/22/1996 | Not Applicable ¹ | Not Applicable | North Dakota does not have any licensees subject to these regulations. (See SECY-95-112) |
| 1994-1 | Self-Guarantee as an Additional Financial Mechanism Parts 30, 40 and 70 58 FR 68726; 59 FR 1618 | none | Not Required | Not Required | These regulation changes are not required to be adopted for purposes of Compatibility. |
| 1994-2 | Uranium Mill Tailings Regulations: Conforming NRC Requirements to EPA Standards Part 40 59 FR 28220 | 07/01/1997 | Not Applicable | Not Applicable | North Dakota does not have authority to regulate this material under its Agreement. |
| 1994-3 | Timeliness in Decommissioning Material Facilities Parts 30, 40 and 70 59 FR 36026 | 08/15/1997 | Final ML031010635 | No Comments 04/28/2003 ML031220151 | |
| 1995-1 | Preparation, Transfer for Commercial Distribution, and Use of Byproduct Material for Medical Use Parts 30, 32 and 35 59 FR 61767; 59 FR 65243; 60 FR 322 | 01/01/1998 | Final ML031010635 | No Comments 04/28/2003 ML031220151 | |

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|---------|---|-----------------------------|----------------------|--|---|
| 1995-2 | Frequency of Medical Examinations for Use of Respiratory Protection Equipment Part 20 60 FR 7900 | 03/13/1998 | Final ML031010635 | No Comments 04/28/2003 ML031220151 | |
| 1995-3 | Low-Level Waste Shipment Manifest Information and Reporting Parts 20 and 61 60 FR 15649; 60 FR 25983 | 03/01/1998 | Final ML031010635 | No Comments 04/28/2003 ML031220151 | |
| 1995-4 | Performance Requirements for Radiography Equipment Part 34 60 FR 28323 (Superceded by 1997-5) | 06/30/1998 | Final ML031010635 | No Comments 04/28/2003 ML031220151 | North Dakota has adopted Final Regulations equivalent to RATS ID: 1997-5. |
| 1995-5 | Radiation Protection Requirements: Amended Definitions and Criteria Parts 19 and 20 60 FR 36038 | 08/14/1998 | Final ML031010635 | No Comments 04/28/2003 ML031220151 | |
| 1995-6 | Clarification of Decommissioning Funding Requirements Parts 30, 40 and 70 60 FR 38235 | 11/24/1998 | Final ML031010635 | No Comments 04/28/2003 ML031220151 | |
| 1995-7 | Medical Administration of Radiation and Radioactive Materials Parts 20 and 35 60 FR 48623 (Superceded by 2002-2 and 2005-2) | 10/20/1998 | Final ML031010635 | No Comments 04/28/2003 ML031220151 | North Dakota has not yet adopted Final Regulations equivalent to RATS ID: 2005-2. |

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|---------|---|-----------------------------|----------------------|--|--|
| 1996-1 | Compatibility with the International Atomic Energy Agency Part 71 60 FR 50248; 61 FR 28724 (Superceded by 2004-1) | 04/01/1999 | Final ML031010635 | No Comments 04/28/2003 ML031220151 | North Dakota has not yet adopted Final Regulations equivalent to RATS ID: 2004-1. |
| 1996-2 | One Time Extension of Certain Byproduct, Source and Special Nuclear Materials Licenses Parts 30, 40 and 70 61 FR 1109 | 02/15/1999 | Not Required | Not Required | These regulation changes are not required to be adopted for purposes of Compatibility. |
| 1996-3 | Termination or Transfer of Licensed Activities: Record Keeping Requirements Parts 20, 30, 40, 61 and 70 61 FR 24669 | 06/17/1999 | Final ML031010635 | No Comments 04/28/2003 ML031220151 | |
| 1997-1 | Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act Part 20 61 FR 65120 | 01/9/2000 | Final ML031010635 | No Comments 04/28/2003 ML031220151 | |
| 1997-2 | Recognition of Agreement State Licenses in Areas Under Exclusive Federal Jurisdiction Within an Agreement State Part 150 62 FR 1662 | 02/27/2000 | Final ML031010635 | No Comments 04/28/2003 ML031220151 | |
| 1997-3 | Criteria for the Release of Individuals Administered Radioactive Material Parts 20 and 35 62 FR 4120 | 05/29/2000 | Final ML031010635 | No Comments 04/28/2003 ML031220151 | |

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|---------|--|-----------------------------|----------------------|--|---|
| 1997-4 | Fissile Material Shipments and Exemptions Part 71 62 FR 5907 (Superceded by 2004-1) | 02/10/2000 | Not Required | Not Required | These regulation changes are not required to be adopted for purposes of Compatibility. (See STP-97-078) |
| 1997-5 | Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiography Operations Parts 30, 34, 71 and 150 62 FR 28947 | 06/27/2000 | Final ML031010635 | No Comments 04/28/2003 ML031220151 | |
| 1997-6 | Radiological Criteria for License Termination Parts 20, 30, 40 and 70 62 FR 39057 | 08/20/2000 | Final ML031010635 | No Comments 04/28/2003 ML031220151 | |
| 1997-7 | Exempt Distribution of a Radioactive Drug Containing One Microcurie of Carbon-14 Urea Part 30 62 FR 63634 | 01/02/2001 | Final ML031010635 | No Comments 04/28/2003 ML031220151 | |
| 1998-1 | Deliberate Misconduct by Unlicensed Persons Parts 30, 40, 61, 70, 71 and 150 63 FR 1890; 63 FR 13773 | 02/12/2001 | Final ML031010635 | No Comments 04/28/2003 ML031220151 | |
| 1998-2 | Self-Guarantee of Decommissioning Funding by Nonprofit and Non-Bond-Issuing Licensees Parts 30, 40 and 70 63 FR 29535 | 07/01/2001 | Final ML031010635 | No Comments 04/28/2003 ML031220151 | These regulation changes are not required to be adopted for purposes of Compatibility. |

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|---------|--|-----------------------------|----------------------|--|---|
| 1998-3 | License Term for Medical Use Licenses Part 35 63 FR 31604 (Superceded by 2002-2) | 07/10/2001 | Not Required | Not Required | These regulation changes are not required to be adopted for purposes of Compatibility. (See STP-98-074) North Dakota has adopted Final Regulations equivalent to RATS ID: 2002-2. |
| 1998-4 | Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations Part 34 63 FR 37059 | 07/09/2001 | Final ML031010635 | No Comments 04/28/2003 ML031220151 | |
| 1998-5 | Minor Corrections, Clarifying Changes, and a Minor Policy Change Parts 20, 32, 35, 36 and 39 63 FR 39477; 63 FR 45393 | 10/26/2001 | Final ML031010635 | No Comments 04/28/2003 ML031220151 | |
| 1998-6 | Transfer for Disposal and Manifests: Minor Technical Conforming Amendment Part 20 63 FR 50127 | 11/20/2001 | Final ML031010635 | No Comments 04/28/2003 ML031220151 | |
| 1999-1 | Radiological Criteria for License Termination of Uranium Recovery Facilities Part 40 64 FR 17506 | 06/11/2002 | Not Applicable | Not Applicable | North Dakota does not have authority to regulate this material under its Agreement. |
| 1999-2 | Requirements for Those Who Possess Certain Industrial Devices Containing Byproduct Material to Provide Requested Information Part 31 64 FR 42269 | 10/04/2002 | Final ML031010635 | No Comments 04/28/2003 ML031220151 | These regulation changes are not required to be adopted for purposes of Compatibility. |

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| 1999-3 | Respiratory Protection and Controls to Restrict Internal Exposure Part 20 64 FR 54543; 64 FR 55524 | 02/02/2003 | Final ML031010635 | No Comments 04/28/2003 ML031220151 | |
| 2000-1 | Energy Compensation Sources for Well Logging and Other Regulatory Clarifications Part 39 65 FR 20337 | 05/17/2003 | Final ML031010635 | No Comments 04/28/2003 ML031220151 | |
| 2000-2 | New Dosimetry Technology Parts 34, 36 and 39 65 FR 63750 | 01/08/2004 | Final ML031010635 | No Comments 04/28/2003 ML031220151 | |
| 2001-1 | Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material Parts 30, 31 and 32 65 FR 79162 | 02/16/2004 | Final ML031010635 | No Comments 08/31/2006 ML062410064 | |
| 2002-1 | Revision of the Skin Dose Limit Part 20 67 FR 16298 | 04/05/2005 | Final ML031010635 | No Comments 04/28/2003 ML031220151 | |
| 2002-2 | Medical Use of Byproduct Material Parts 20, 32 and 35 67 FR 20249 | 10/24/2005 | Final ML031010635 | No Comments 04/28/2003 ML031220151 | |
| 2003-1 | Financial Assurance for Materials Licensees Parts 30, 40 and 70 68 FR 57327 | 12/03/2006 | Final ML110420074 | No Comments 03/15/2011 ML110590610 | |

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|---------|---|-----------------------------|--|---|-------|
| 2004-1 | Compatibility With IAEA Transportation Safety Standards and Other Transportation Safety Amendments Part 71 69 FR 3697 | 10/01/2007 | Final ML110420074 | No Comments 03/15/2011 ML110590610 | |
| 2005-1 | Security Requirements for Portable Gauges Containing Byproduct Material Part 30 70 FR 2001 | 07/11/2008 | Final ML110420074 | No Comments 03/15/2011 ML110590610 | |
| 2005-2 | Medical Use of Byproduct Material - Recognition of Specialty Boards Part 35 70 FR 16336; 71 FR 1926 | 04/29/2008 | Final ML110420074 | No Comments 03/15/2011 ML110590610 | |
| 2005-3 | Increased Controls for Risk-Significant Radioactive Sources (NRC Order EA-05-090) 70 FR 72128 | 12/01/2005 | License Condition ML052620195 | No Comments 09/26/2005 ML052690322 | |
| 2006-1 | Minor Amendments Parts 20, 30, 32, 35, 40 and 70 71 FR 15005 | 03/27/2009 | Final ML110420074 | No Comments 03/15/2011 ML110590610 | |
| 2006-2 | National Source Tracking System - Serialization Requirements Part 32 with reference to Part 20 Appendix E 71 FR 65685 | 02/06/2007 | Final ML110420074 Revised Final ML15237A398 | Comments 03/15/2011 ML110590610 No Comments 10/08/2015 ML15237A396 | |

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|---------|--|-----------------------------|---|--|-------|
| 2006-3 | National Source Tracking System Part 20 71 FR 65685, 72 FR 59162 | 01/31/2009 | Final ML110420074 License Condition ML083430028 | No Comments 03/15/2011 ML110590610 No Comments 12/18/2008 ML083440096 | |
| 2007-1 | Medical Use of Byproduct Material - Minor Corrections and Clarifications Parts 32 and 35 72 FR 45147, 72 FR 54207 | 10/29/2010 | Final ML110420074 | No Comments 03/15/2011 ML110590610 | |
| 2007-2 | Exemptions From Licensing, General Licenses, and Distribution of Byproduct Material: Licensing and Reporting Requirements Parts 30, 31, 32 and 150 72 FR 58473 | 12/17/2010 | Final ML110420074 | No Comments 03/15/2011 ML110590610 | |
| 2007-3 | Requirements for Expanded Definition of Byproduct Material Parts 20, 30, 31, 32, 33, 35, 61 and 150 72 FR 55864 | 11/30/2010 | Final ML15314A101 Final ML15314A101 | Comments 03/15/2011 ML110590610 No Comments 12/10/2015 ML15313A416 | |
| 2007-4 | Order Imposing Fingerprinting Requirements and Criminal History Records Check Requirements for Unescorted Access to Certain Radioactive Material NRC Order EA-07-305 72 FR 70901 | 06/05/2008 | License Condition ML081130312 | No Comments 05/02/2008 ML081230204 | |

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|---------|--|-----------------------------|---|--|-------|
| 2008-1 | Occupational Dose Records, Labeling Containers, and Total Effective Dose Equivalent Parts 19 and 20 72 FR 68043 | 02/15/2011 | Final ML110420074 | No Comments 03/15/2011 ML110590610 | |
| 2009-1 | Medical Use of Byproduct Material – Authorized User Clarification Part 35 74 FR 33901 | 09/28/2012 | Final ML110420074 | No Comments 03/15/2011 ML110590610 | |
| 2011-1 | Decommissioning Planning Parts 20, 30, 40 and 70 76 FR 35512 | 12/17/2015 | Proposed ML15314A104 Final ML17209A376 | No Comments 12/10/2015 ML15313A416 No Comments 08/11/2017 ML17209A375 | |
| 2011-2 | Licenses, Certifications, and Approvals for Materials Licensees Parts 30, 36, 39, 40, 70 and 150 76 FR 56951 | 11/14/2014 | Proposed ML15314A107 Final ML16280A186 | Comments 12/10/2015 ML15313A416 No Comments 10/25/2016 ML16280A170 | |
| 2012-1 | Change of Compatibility Parts 31.5 and 31.6 (See RATS ID: 2001-1 for Rule text) 77 FR 3640 | 01/25/2015 | Proposed ML15314A110 Final ML16280A186 | Comment 12/10/2015 ML15313A416 No Comments 10/25/2016 ML16280A170 | |

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|---------|---|-----------------------------|---|--|-------|
| 2012-2 | Advance Notification to Native American Tribes of Transportation of Certain Types of Nuclear Waste Part 71 77 FR 34194 | 08/10/2015 | Proposed ML15314112 Final ML17209A376 | No Comments 12/10/2015 ML15313A416 No Comments 08/11/2017 ML17209A375 | |
| 2012-3 | Technical Corrections Parts 30, 34, 40 and 71 77 FR 39899 | 08/06/2015 | Proposed ML15314A113 Final ML17209A376 | No Comments 12/10/2015 ML15313A416 No Comments 08/11/2017 ML17209A375 | |
| 2012-4 | Requirements for Distribution of Byproduct Material Parts 30, 31, 32, 40 and 70 77 FR 43666 | 10/23/2015 | Proposed ML15314A114 Final ML16280A186 | Comments 12/10/2015 ML15313A416 No Comments 10/25/2016 ML16280A170 | |

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|---------|--|-----------------------------|--|---|--------------|
| 2013-1 | Physical Protection of Byproduct Material Parts 20, 30, 32, 33, 34, 35, 36, 37, 39 and 71 78 FR 16922 | 03/19/2016 | Proposed ML15314A116 License Condition ML16060A156 Final ML16280A186 | No Comments 12/10/2015 ML15313A416 Comments 03/01/2016 ML16060A064 No Comments 10/25/2016 ML16280A170 | Part 37 only |
| 2013-2 | Distribution of Source Material to Exempt Persons and to General Licensees and Revision of General License and Exemptions, Parts 30, 40 and 70 78 FR 32310 | 08/27/2016 | Proposed ML15314A117 Final ML16280A186 | Comments 12/10/2015 ML15313A416 No Comments 10/25/2016 ML16280A170 | |
| 2015-1 | Domestic Licensing of Special Nuclear Material – Written Reports and Clarifying Amendments Part 70 79 FR 57721, 80 FR 143 | 01/26/2018 | Proposed ML17227A178 Final ML18003B246 | No Comments 09/18/2017 ML17227A193 No Comments 02/08/2018 ML18003B232 | |

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| 2015-2 | Safeguards Information - Modified Handling Categorization, Change for Materials Facilities Parts 30, 37, 73 and 150 79 FR 58664, 80 FR 3865 | 01/28/2018 | Proposed ML15314A119 Final ML17209A376 | No Comments 12/10/2015 ML15313A416 No Comments 08/11/2017 ML17209A375 | |
| 2015-3 | Revisions to Transportation Safety Requirements and Harmonization with International Atomic Energy Agency Transportation Requirements Part 71 80 FR 33987 | 07/13/2018 *extended to 08/15/2020 See STC 17-060 | Proposed ML17227A178 Final ML18003B246 Revised Final ML19015A276 | Comments 09/18/2017 ML17227A193 Comments 02/08/2018 ML18003B232 No Comments 01/28/2019 ML19015A272 | |
| 2015-4 | Miscellaneous Corrections, Parts 37 and 40 80 FR 45841 | 09/02/2018 | Proposed ML15314A121 Final ML17209A376 | No Comments 12/10/2015 ML15313A416 No Comments 08/11/2017 ML17209A375 | |
| 2015-5 | Miscellaneous Corrections, Parts 19, 20, 30, 32, 37, 40, 61, 70, 71 and 150 80 FR 74974 | 12/31/2018 | Proposed ML17227A178 Final ML18003B246 | Comments 09/18/2017 ML17227A193 No Comments 02/08/2018 ML18003B232 | |

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|---------|--|-----------------------------|----------------------|--|-------|
| 2018-1 | Medical Use of Byproduct Material – Medical Event Definitions, Training and Experience, and Clarifying Amendments Parts 30, 32 and 35 | 01/14/2022 | | | |
| 2018-2 | Miscellaneous Corrections - Organizational Changes Parts 37, 40. 70 and 71 | 12/21/2021 | | | |
| N/A | Requirements for Vacating Premises Part 20 | N/A | Final ML14150A078 | No Comments 07/15/2014 ML14149A400 | |
| *N/A | Enacted Legislation transferring Agreement Program from Department of Health to Department of Environmental Quality | N/A | Final ML19270E623 | No Comments 10/17/2019 ML19270E498 | |

ⁱ IMPEP Team: verify that North Dakota does not have any licensees subject to these regulations during each review.