



January 7, 2019

Michelle R. Beardsley, Health Physicist
State Regulation Review Coordinator
U.S. Nuclear Regulatory Commission
ASPB/MSTRINMSS
Washington, DC 20555

Dear Ms. Beardsley:

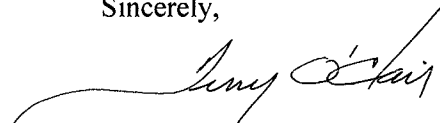
Attached is a copy of the lead in page to Chapter 33-10-13.1 of the North Dakota Radiological Health Rules. You will note that revisions to this page have been made and became effective and were published as of October 1, 2018 to incorporate the changes necessitated as a result of the NRC review as identified below.

<u>RATS ID</u>	<u>Summary of Change</u>	<u>State Section</u>
N/A	Remove 10 CFR 71.20	33-10-13.1-01
2015-3	Remove 10 CFR 71.91(b)	33-10-13.1-01.1
2015-3	Remove 10 CFR 71.101(c)(1)	33-10-13.1-01.3
2015-3	Add new Paragraph 33-10-13.1-01.4 to indicate that "certificate of compliance, compliance holder or applicant" apply to the NRC	33-10-13.1-01.4

We believe adoption of these changes address the comments in your letter dated February 8, 2018 and satisfy the compatibility and health and safety categories established in the office of Nuclear Material Safety and Safeguards (NMSS) Procedure SA-200.

If you have any questions, please feel free to contact me at (701) 328-5188 or Dale Patrick of my staff at (701) 328-5199 or dpatrik@nd.gov.

Sincerely,



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

TLO/DPP:saj

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, 71.21, 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 December 1, 2015, with the following exceptions:

1. Not adopted by reference are 10 Code of Federal Regulations 71.0(d), 71.14(b), 71.85 (a)-(c), 71.91(b), and 71.101(c)(2), (d), and (e).
2. Requirements in 10 Code of Federal Regulations part 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), and (c)(3)(iii), and (f).
4. The terms "certificate of compliance, compliance holder or applicant" used in 10 Code of Federal Regulations 71.91(c) and (d), 71.101(a)-(c), 71.103(a), and 71.135 apply only to the United States nuclear regulatory commission as the nuclear regulatory commission is the sole authority for issuing a package's certificate of compliance.
5. 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.
6. 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 part 71.

History: Effective January 1, 2011; amended effective October 1, 2016; January 1, 2018; October 1, 2018.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 28-32-02