

## CHAPTER 33-10-04.2

### STANDARDS FOR PRETECTION AGAINST RADIATION

Dale Patrick, Manager Radiation Control Program – ND Department of Health

*Please refer to pages 95 through 98 of your materials.*

1. The rule changes are **not the result** of statutory changes made by the Legislative Assembly.
2. These rule additions are the result of an inadvertent omission during the last revision of the rules to put back in place requirements for decommissioning equipment and facilities where unsealed sources of radioactive materials are or have been used.
3. Notification of public hearing for rulemaking was published in 52 newspapers statewide and the public hearing was on June 11<sup>th</sup> in the fourth floor conference room of the Gold Seal Building.
4. There were no written comments submitted and no one appeared in opposition or in favor of the rule changes.
5. Approximate cost of public notice and public hearing was \$1,800.00.
6. The last rule revision inadvertently omitted the last portion of the rules (33-10-04.2-07. Additional requirements – Vacating premises). This portion of the rules relates to the release for unrestricted access when a facility that used unsealed sources of radioactive materials was closed or abandoned. This portion of the rules will assure that members of the public or that successive property owners do not receive a radiation exposure that is above background radiation levels.
7. A regulatory analysis was required and was submitted to the Attorney General for his opinion a copy of which is provided.

8. Economic impact statement of impact on small entities was not required.
9. These rules will have no fiscal effect on the state revenues and expenditures and do not affect of funds controlled by the Department of Health.
10. There are no takings in these amendments.
11. These rules were not adopted as emergency rules.



Wayne Stenehjem  
ATTORNEY GENERAL

STATE OF NORTH DAKOTA  
**OFFICE OF ATTORNEY GENERAL**

STATE CAPITOL  
600 E BOULEVARD AVE DEPT 125  
BISMARCK, ND 58505-0040  
(701) 328-2210 FAX (701) 328-2226  
www.ag.nd.gov

OPINION

April 24, 2014

**RECEIVED**

**APR 29 2014**

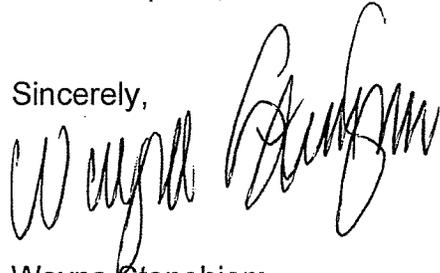
EHS Chief's Office

Mr. L. David Glatt  
Chief, Environmental Health Section  
918 E Divide Ave  
Bismarck, ND 58501-1947

Dear Mr. Glatt:

The Office of Attorney General has examined the proposed amendments to N.D.A.C. ch. 33-10-04.2 concerning standards for protection against radiation, along with the notice of the proposed rules, the publication of that notice, and the filing of that notice with the Legislative Council. This office has also determined that 1) a written record of the agency's consideration of any comments to the proposed rules was made, 2) a regulatory analysis was not issued nor requested, 3) a takings assessment was not prepared, 4) a small entity regulatory analysis and an economic impact statement were not prepared because the rules were required in order to conform to previously adopted standards<sup>1</sup>, and 5) the proposed rules are within the agency's statutory authority.

These administrative rules are in substantial compliance with N.D.C.C. ch. 28-32 and are hereby approved as to their legality. Upon final adoption, these rules may be filed with the Legislative Council.

Sincerely,  


Wayne Stenehjem  
Attorney General

vkk

cc: John Walstad, Legislative Council

<sup>1</sup> This rule change does not create an additional impact on any entity, including small entities, but rather serves to clarify the pre-existing adoption of 10 C.F.R. pt. 20, subpart b, as found in existing N.D.A.C. § 33-10-04.2-01.