

25 TEXAS ADMINISTRATIVE CODE

§289.203

Notices, Instructions, and Reports to Workers; Inspections

Texas Regulations for Control of Radiation

(revisions effective October 1, 2011 are shown as **shaded** text)

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§289.203. Notices, Instructions, and Reports to Workers; Inspections.

(a) Scope and purpose. This section establishes requirements for notices, instructions, and reports by licensees or registrants to individuals engaged in activities under a license or certificate of registration, and options available to such individuals in connection with agency inspections of licensees or registrants to ascertain compliance with the provisions of the Texas Radiation Control Act (Act), Health and Safety Code, Chapter 401, and rules, orders, licenses, and certificates of registration issued thereunder regarding radiological working conditions. The requirements in this section apply to all persons who receive, possess, use, or transfer sources of radiation licensed by or registered with the agency in accordance with this chapter.

(b) Posting of notices to workers.

(1) Each licensee or registrant shall post current copies of the following documents:

(A) the requirements in this section and in §289.202 of this title (relating to Standards for Protection Against Radiation from Radioactive Materials) or §289.231 of this title (relating to General Provisions and Standards for Protection Against Machine-Produced Radiation), as applicable;

(B) the license, certificate of registration, conditions or documents incorporated into the license or certificate of registration by reference, and amendments thereto;

(C) the operating procedures applicable to work under the license or certificate of registration; and

(D) any notice of violation involving radiological working conditions or order that has:

(i) been issued in accordance with §289.201 of this title (relating to General Provisions for Radioactive Material), §289.205 of this title (relating to Hearing and Enforcement Procedures), and §289.231 of this title; and

(ii) not been labeled "withhold from public disclosure under Government Code, §552.101," or equivalent phrase, in accordance with §289.252(ii) of this title (relating to Licensing of Radioactive Material).

(2) If posting of a document specified in paragraph (1) of this subsection is not practicable, the licensee or registrant shall post a notice that describes the document and states where it may be examined.

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(3) Each licensee or registrant shall post RC Form 203-1, "Notice to Employees," as contained in subsection (i) of this section, or an equivalent document containing at least the same wording as RC Form 203-1.

(4) Documents, notices, or forms posted in accordance with this subsection shall:

(A) appear in a sufficient number of places to permit individuals engaged in work under the license or certificate of registration to observe them on the way to or from any particular work location to which the document applies;

(B) shall be conspicuous; and

(C) shall be replaced if defaced or altered.

(c) Instructions to workers.

(1) All individuals likely to receive in a year an occupational dose in excess of 100 millirem (1 millisievert) shall be:

(A) kept informed of the storage, transfer, or use of sources of radiation in the licensee's or registrant's workplace;

(B) instructed in the health protection problems associated with exposure to sources of radiation, in precautions or procedures to minimize exposure, and in the purposes and functions of protective devices employed;

(C) instructed in, and instructed to observe, to the extent within the worker's control, the applicable provisions of agency requirements, licenses, and certificates of registration, for the protection of personnel from exposures to sources of radiation occurring in such areas;

(D) instructed of their responsibility to report promptly to the licensee or registrant any condition that may constitute, lead to, or cause a violation of agency requirements, license conditions, or certificate of registration conditions, or unnecessary exposure to sources of radiation;

(E) instructed in the appropriate response to warnings made in the event of any unusual occurrence or malfunction that may involve exposure to sources of radiation; and

(F) advised as to the radiation exposure reports that workers may request in accordance with subsection (d) of this section.

(2) The extent of these instructions shall be commensurate with potential radiological health protection problems associated with the source(s) of radiation in the workplace.

(d) Notifications and reports to individuals.

(1) Radiation exposure data for an individual and the results of any measurements, analyses, and calculations of radioactive material deposited or retained in the body of an individual shall be made available to the individual as specified in this section. The information reported shall include data and results obtained in accordance with agency requirements, orders, license or certificate of registration conditions, as shown in records maintained by the licensee or registrant in accordance with §289.202 or §289.231 of this title, as applicable. Each notification and report shall:

(A) be in writing;

(B) include appropriate identifying data such as the name of the licensee or registrant, the name of the individual, and the individual's identification number;

(C) include the individual's exposure information; and

(D) contain the following statement: "This report is furnished to you under the provisions of the Texas Regulations for Control of Radiation, 25 Texas Administrative Code §289.203. You should preserve this report for further reference."

(2) Each licensee or registrant shall provide an annual written report to advise each worker of the worker's dose, received in that monitoring year, as shown in records maintained by the licensee or registrant in accordance with §289.202(q), §289.202(rr) or §289.231(dd) of this title, as applicable, if:

(A) the individual's occupational dose exceeds 100 mrem (1 mSv) total effective dose equivalent or 100 mrem (1 mSv) to any individual organ or tissue; or

(B) the individual requests his or her annual dose report in writing.

(3) At the written request of a worker formerly engaged in activities controlled by the licensee or registrant, each licensee or registrant shall furnish a written report of the worker's exposure to sources of radiation. The report shall include the dose record for each year the worker was required to be monitored in accordance with §289.202(q) or §289.231(n) of this title, as applicable. Such report shall be furnished within 30 days from the date of the request, or within 30 days after the dose of the individual has been determined by the licensee or registrant, whichever is later. The report shall cover the period of time that the worker's activities involved exposure to sources of radiation and the dates and locations of work under the license or certificate of registration in which the worker participated during this period.

(4) When a licensee or registrant is required in accordance with §289.202(xx), (yy), and (zz) or §289.231(hh) and (ii) of this title, as applicable, to report to the agency any exposure of an individual to sources of radiation, the licensee or the registrant shall also provide the individual a written report of that individual's exposure data included therein. Such reports shall be transmitted at a time not later than the transmittal to the agency.

(5) At the written request of a worker who is terminating employment with the licensee or registrant in work involving exposure to sources of radiation during the current year, each licensee or registrant shall provide at termination to each such worker, or to the worker's designee, a written report regarding the radiation dose received by that worker from operations of the licensee or registrant during the current year or fraction thereof. If the most recent individual monitoring results are not available at that time, a written estimate of the dose shall be provided together with a clear indication that this is an estimate. When the final individual monitoring results are available, those written results shall be provided to the worker or the worker's designee.

(e) Presence of representatives of licensees or registrants and workers during inspection.

(1) Each licensee or registrant shall afford to the agency at all reasonable times opportunity to inspect materials, machines, activities, facilities, premises, and records in accordance with this chapter.

(2) During an inspection, agency inspectors may consult privately with workers as specified in subsection (f) of this section. The licensee or registrant may accompany agency inspectors during other phases of an inspection.

(3) If, at the time of inspection, an individual has been authorized by the workers to represent them during agency inspections, the licensee or registrant shall notify the inspectors of such authorization and shall give the workers' representative an opportunity to accompany the inspectors during the inspection of physical working conditions.

(4) Each workers' representative shall be routinely engaged in work under control of the licensee or registrant and shall have received instructions as specified in subsection (c) of this section.

(5) Different representatives of licensees or registrants and workers may accompany the inspectors during different phases of an inspection if there is no resulting interference with the conduct of the inspection. However, only one workers' representative at a time may accompany the inspectors.

(6) With the approval of the licensee or registrant and the workers' representative, an individual who is not routinely engaged in work under control of the licensee or registrant, for example, a consultant to the licensee or registrant or to the workers' representative, shall be afforded the opportunity to accompany agency inspectors during the inspection of physical working conditions.

(7) Notwithstanding the other provisions of this section, agency inspectors are authorized to refuse to permit accompaniment by any individual who deliberately interferes with a fair and orderly inspection. With regard to any area containing proprietary information, the workers' representative for that area shall be an individual previously authorized by the licensee or registrant to enter that area.

(f) Consultation with workers during inspections.

(1) Agency inspectors may consult privately with workers concerning matters of occupational radiation protection and other matters related to applicable provisions of agency regulations and licenses and/or certificates of registration to the extent the inspectors deem necessary for the conduct of an effective and thorough inspection.

(2) During the course of an inspection any worker may bring privately to the attention of the inspectors, either orally or in writing, any past or present condition which that individual has reason to believe may have contributed to or caused any violation of the Act, the requirements in this chapter, license or certificate of registration conditions, or any unnecessary exposure of an individual to radiation from any source of radiation under the licensee's or registrant's control. Any such notice in writing shall comply with the requirements of subsection (g)(1) of this section.

(3) The provisions of paragraph (2) of this subsection shall not be interpreted as authorization to disregard instructions in accordance with subsection (c) of this section.

(g) Requests by workers for inspections.

(1) Any worker or representative of workers who believes that a violation of the Act, the requirements of this chapter, or license or certificate of registration conditions exists or has occurred in work under a license or certificate of registration with regard to radiological working conditions in which the worker is engaged, may request an inspection by giving notice of the alleged violation to the agency. Any such notice shall be in writing, shall set forth the specific grounds for the notice, and shall be signed by the worker or representative of the workers. A copy shall be provided to the licensee or registrant by the agency no later than at the time of inspection except that, upon the request of the worker giving such notice, the worker's name and the name(s) of individual(s) referred to therein shall not appear in such copy or on any record published, released, or made available by the agency, except for good cause shown.

(2) If, upon receipt of such notice, the agency determines that the request meets the requirements set forth in paragraph (1) of this subsection, and that there are reasonable grounds to believe that the alleged violation exists or has occurred, an inspection shall be made as soon as practicable to determine if such alleged violation exists or has occurred. Inspections in accordance with this section need not be limited to matters referred to in the request.

(3) No licensee or registrant, contractor or subcontractor of a licensee or registrant shall discharge or in any manner discriminate against any worker because of the following:

(A) such worker has filed any request or instituted or caused to be instituted any proceeding under this chapter;

(B) such worker has testified or is about to testify in any such proceeding;

or

(C) because of the exercise by such worker on behalf of that individual or others of any option afforded by this section.

(h) Inspections not warranted.

(1) If the agency determines, with respect to a request under subsection (g) of this section, that an inspection is not warranted because there are no reasonable grounds to believe that a violation exists or has occurred, the agency shall notify the requestor in writing of such determination. The requestor may obtain review of such determination in accordance with the provisions of the Act and the Government Code, Chapters 2001 and 2002.

(2) If the agency determines that an inspection is not warranted because the requirements of subsection (g)(1) of this section have not been met, the agency shall notify the requestor in writing of such determination. Such determination shall be without prejudice to the filing of a new request meeting the requirements of subsection (g)(1) of this section.

(i) Notice to employees. The following form, RC Form 203-1, or an equivalent as stated in subsection (b)(3) of this section, shall be posted.

NOTICE TO EMPLOYEES

TEXAS REGULATIONS FOR CONTROL OF RADIATION

The Department of State Health Services has established standards for your protection against radiation hazards, in accordance with the Texas Radiation Control Act, Health and Safety Code, Chapter 401.

YOUR EMPLOYER'S RESPONSIBILITY

Your employer is required to-

1. Apply these rules to work involving sources of radiation.
2. Post or otherwise make available to you a copy of the Department of State Health Services rules, licenses, certificates of registration, notices of violations, and operating procedures that apply to your work, and explain their provisions to you.

YOUR RESPONSIBILITY AS A WORKER

You should familiarize yourself with those provisions of the rules and the operating procedures that apply to your work. You should observe the rules for your own protection and protection of your co-workers.

WHAT IS COVERED BY THESE RULES

1. Limits on exposure to sources of radiation in restricted and unrestricted areas;
2. Measures to be taken after accidental exposure;
3. Individual monitoring devices, surveys and equipment;
4. Caution signs, labels, and safety interlock equipment;
5. Exposure records and reports;
6. Options for workers regarding agency inspections; and
7. Related matters.

REPORTS ON YOUR RADIATION EXPOSURE HISTORY

1. The rules require that your employer give you a written report if you receive an exposure in excess of any applicable limit as stated in the rules, license, or certificate of registration. The basic limits for exposure to employees are stated in 25 Texas Administrative Code (TAC)

POSTING REQUIREMENT

Copies of this notice shall be posted in a sufficient number of places in every establishment where employees are employed in activities licensed or registered, in accordance with 25 TAC §289.252 (relating to Licensing of Radioactive Material) and 25 TAC §289.226 (relating to Registration of Radiation Machine Use and Services), to permit employees to observe a copy on the way to or from their place of employment.

Applicable sections of 25 TAC Chapter 289 may be reviewed online, at www.dshs.state.tx.us/radiation/rules.shtm. Our license and/or certificate of registration and any associated documents, our operating procedures, and any "Notice of Violation" or order issued by the agency may be reviewed at the following location:

§289.202(f), (k), (l), and (m) (relating to Standards for Protection Against Radiation from Radioactive Materials) and 25 TAC §289.231(m) (relating to General Provisions and Standards for Protection Against Machine-Produced Radiation). These subsections specify limits on exposure to radiation and exposure to concentrations of radioactive material in air and water.

2. If you work where individual monitoring devices are provided in accordance with 25 TAC §289.202 or §289.231:

(a) your employer must furnish to you an annual written report of your exposure to radiation if:

- (1) the individual's occupational dose exceeds 100 mrem (1 mSv) total effective dose equivalent or 100 mrem (1 mSv) to any individual organ or tissue; or
- (2) the individual requests his or her annual dose report in writing.

(b) your employer must give you a written report, upon termination of your employment, of your radiation exposures if you request the information on your radiation exposure in writing.

INSPECTIONS

All licensed or registered activities are subject to inspection by representatives of the Department of State Health Services. In addition, any worker or representative of the workers who believe that there is a violation of the Texas Radiation Control Act, the rules issues thereunder, or the terms of the employer's license or registration with regard to radiological working conditions in which the worker is engaged, may request an inspection by sending a notice of the alleged violation to the Department of State Health Services. The request must state the specific grounds for the notice, and must be signed by the worker or the representative of the workers. During inspections, agency inspectors may confer privately with workers, and any worker may bring to the attention of the inspectors any past or present condition that the individual believes contributed to or caused any violation as described above.