

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2018-0213-04	REGULATORY ACTION NUMBER 2019-0201-03SR	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	

ENDORSED - FILED
in the office of the Secretary of State
of the State of California

MAR 18 2019

3:08PM

2019 FEB -1 A 10:53
OFFICE OF
ADMINISTRATIVE LAW

AGENCY WITH RULEMAKING AUTHORITY
California Department of Public Health

AGENCY FILE NUMBER (if any)
DPH-13-001

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER 2018 08-2	PUBLICATION DATE 2/23/2018

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Compatibility with NRC Regulations	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2018-0709-01
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SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT 30220
	AMEND 30108.1, 30192.6, 30194, 30210, 30210.1 , 30230 , 30257, 30295, 30373
	REPEAL 30210.1

30293

per agency request 3/18/19 TB

3. TYPE OF FILING	<input checked="" type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input checked="" type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		
	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)		
	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> File & Print <input type="checkbox"/> Other (Specify) _____		
	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> Print Only		

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)
June 1 - June 16, 2018; November 16 - December 1, 2018

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)
 Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)) Effective on filing with Secretary of State \$100 Changes Without Regulatory Effect Effective other (Specify) _____

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

Department of Finance (Form STD. 399) (SAM §6660) Fair Political Practices Commission State Fire Marshal

Other (Specify) California Health & Human Services Agency

7. CONTACT PERSON Veronica Rollin	TELEPHONE NUMBER (916) 445-2529	FAX NUMBER (Optional) (916) 636-6220	E-MAIL ADDRESS (Optional) veronica.rollin@cdph.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE 	DATE 1/31/19
TYPED NAME AND TITLE OF SIGNATORY Keith Van Wagner, Assistant Chief Counsel	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

MAR 18 2019

Office of Administrative Law

TITLE 17. California Code of Regulations
Division 1. Chapter 5, Subchapter 4.0
Group 1.5. Registration of Sources of Radiation
Article 1. Registration Procedure

Amend Section 30108.1 to read as follows:

§ 30108.1. Registration and General Provisions for Persons Possessing Devices Under Sections 30192.1 and 30192.6.

(a) A person required to register pursuant to sections 30192.1(d)(1) or 30192.6(~~bc~~)(1) shall, within 30 calendar days of taking possession of a device or product, submit to the Department the following:

(1) and (2) *No Change to Text.*

(3) For persons possessing devices subject to section 30192.6:

(A) A statement that the registrant has, pursuant to section 30192.6(~~bc~~)(3), developed, implemented, and will continue to maintain procedures designed to establish physical control over the depleted uranium described in section 30192.6(a), and designed also so as to prevent transfer of such depleted uranium in any form, including metal scrap, to persons not authorized to receive the depleted uranium; and

(B) The name~~Name~~, title, and telephone number, if different than the number specified in subsection (a)(1), of the individual appointed pursuant to section 30192.6(~~bc~~)(4);

(4) *No Change to Text.*

(b) and (c) *No Change to Text.*

Note: Authority cited: Sections 114975, 115000 and 131200, Health and Safety Code.
Reference: Sections 115000, 115060, 115065, 115230, 115235, 131050, 131051 and 131052, Health and Safety Code.

Group 2. Licensing of Radioactive Materials
Article 4. Licenses

Amend Section 30192.6 to read as follows:

§ 30192.6. General Licenses - Depleted Uranium.

~~(a) A general license is hereby issued to any person to receive, acquire, transfer, possess or use depleted uranium contained in industrial products or devices, for the purpose of providing a concentrated mass of the product or device, when such products or devices are manufactured pursuant to a specific license authorizing distribution to general licensees.~~

(a) A general license is hereby issued to receive, acquire, possess, use, or transfer, in accordance with subsections (b), (c) and (d), depleted uranium contained in industrial products or devices for the purpose of providing a concentrated mass in a small volume of the product or device.

(b) The general license issued pursuant to subsection (a) applies only to industrial products or devices which have been manufactured or initially transferred and labeled in accordance with a specific license authorizing distribution to general licensees, an equivalent specific license issued by an Agreement State other than this State, or a specific license issued by the United States Nuclear Regulatory Commission (NRC) under section 40.34 of title 10, Code of Federal Regulations, Part 40.

~~(b)c~~ Persons who receive, acquire, use, transfer or possess depleted uranium under the general license issued pursuant to subsection (a) shall:

(1) through (5) *No Change to Text.*

(6) Transfer or dispose of such depleted uranium only by transfer in accordance with sections 30210 and 30210.1section 30210. In the case where the transferee receives the depleted uranium pursuant to the general license issued in subsection (a), the transferor shall furnish the transferee a copy of this section and section 30108.1. In the case where the transferee receives the depleted uranium pursuant to a general license contained in an Agreement State's or the NRC's regulation equivalent to this section, the transferor shall furnish the transferee a copy of this section and section

30108.1, accompanied by a note explaining that use of the product or device is regulated by that Agreement State or the NRC under requirements substantially the same as those in this section; and

- (7) *No Change to Text.*
- (ed) *No Change to Text.*

Note: Authority cited: Sections 114975, 115000 and 131200, Health and Safety Code.
Reference: Sections 114965, 114970, 114985(g), 115060, 115165, 115230, 115235, 131050, 131051 and 131052, Health and Safety Code.

Amend Section 30194 to read as follows:

§ 30194. Approval of Applications and Specific Terms and Conditions for Specific Licenses.

- (a) through (f) *No change to text.*

(g) ~~As provided by Section 30195.1, certain applications~~Applications for specific licenses filed under Group 2 shall include information and material addressing, as applicable, the provisions of sections 30194.1, 30195, 30195.1, 30195.2, 30195.3, 30196 and 30220. ~~contain a proposed decommissioning funding plan or a certification of financial assurance for decommissioning.~~

Note: Authority cited: Sections 114975, 115000 and 131200, Health and Safety Code.
Reference: Sections 114965, 114970, 115060, 115165, 115230, 115235, 131050, 131051 and 131052, Health and Safety Code.

Group 2. Licensing of Radioactive Materials
Article 5. Transfer of Material

Amend Section 30210 to read as follows:

§ 30210. Authorization for Transfer of Radioactive Material.

- ~~(a) A licensee may transfer radioactive material only to persons listed below and only following acceptance of such transfer:~~
 - ~~(1) the Department;~~

~~(2) any person who is exempt from this regulation to the extent permitted under such exemption; or~~

~~(3) any person licensed or authorized to receive the material by the United States Nuclear Regulatory Commission, the Department, or any other Agreement State.~~

~~(b) This section does not authorize the commercial distribution of radioactive material other than those items listed in Section 30192 through 30192.6, except when such distribution is authorized by a specific license.~~

(a) A licensee may only transfer radioactive material in accordance with this section.

(b) Except as otherwise provided in the license and subject to subsection (c), any licensee may transfer radioactive material:

(1) To the Department;

(2) To the U.S. Department of Energy;

(3) To the agency of any Agreement State that regulates radioactive material pursuant to an agreement with the United States Nuclear Regulatory Commission (NRC) under section 274 of the Atomic Energy Act of 1954, Title 42, United States Code, section 2021(b) (formerly section 274(b));

(4) To any person exempt, as specified in Article 3 of this Group, from the licensing requirements of this regulation, to the extent permitted under such exemption;

(5) 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, to the extent permitted under such exemption;

(6) To any person licensed or authorized to receive radioactive material by the Department, the NRC, or any other Agreement State; or

(7) As otherwise authorized by the Department in writing.

(c) Before transferring radioactive material to a specific licensee of the Department, the NRC, or an Agreement State, the licensee transferring the material shall verify by one of the following methods that the transferee's license authorizes the receipt of the type, form, and quantity of radioactive material to be transferred:

(1) The transferor may have in his possession, and read, a current copy of the transferee's specific license;

(2) The transferor may have in his possession a written certification by the transferee that he is authorized by license to receive the type, form, and quantity of radioactive material to be transferred, specifying the license number, issuing agency and expiration date;

(3) For emergency shipments, the transferor may accept oral certification by the transferee that he is authorized by license to receive the type, form, and quantity of radioactive material to be transferred, specifying the license number, issuing agency and expiration date, only if the oral certification is confirmed in writing within 10 days;

(4) The transferor may obtain other sources of information, compiled by a reporting service from official records of the NRC or the licensing agency of an Agreement State, as to the identity of licensees and the scope and expiration dates of licenses; or

(5) When none of the methods of verification described in paragraphs (1) to (4), inclusive, are readily available, or when a transferor desires to verify that information received by one of those methods is correct or up-to-date, the transferor may obtain and document confirmation from the Department, the NRC or the licensing agency of an Agreement State that the transferee is licensed to receive the radioactive material.

(d) This section does not authorize the commercial distribution of radioactive material other than those items listed in sections 30192 through 30192.7, except when such distribution is authorized by a specific license.

~~Note: Authority cited: Sections 102, 208 and 25811, Health and Safety Code.
Reference: Sections 25801, 25802, 25815, 25855, 25875 and 25876, Health and Safety Code.~~

Note: Authority cited: Sections 114975, 115000 and 131200, Health and Safety Code.
Reference: Sections 114965, 114970, 115060, 115165, 115235, 131050, 131051 and 131052, Health and Safety Code.

Group 2. Licensing of Radioactive Materials
Article 5. Transfer of Material

Repeal Section 30210.1:

§ 30210.1. Verification Required.

~~(a) Before transferring radioactive material to a licensee, the licensee transferring the material shall verify license authorization for the receipt of the type, form and quantity of radioactive material to be transferred.~~

~~(b) The transferrer shall utilize methods of verification and maintain records of verification required by subsection (a) as specified in 10CFR30.41 (38FR33968).~~

Note: (1) Authority cited: Sections 208 and 25811, Health and Safety Code.
Reference: Sections 25801, 25802, 25811, 25815, 25855, 25875 and 25876, Health and Safety Code.

(2) Copies of Title 10, Code of Federal Regulations - Energy, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Group 2. Licensing of Radioactive Material

Repeal Article 6:

~~**Article 6. Enforcement**~~

Adopt Article 6 to read as follows:

Article 6. Physical Protection of Radioactive Material

Adopt Section 30220 within Article 6 to read as follows:

§ 30220. Special Requirements for Issuance of Specific Licenses – Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material.

(a) In addition to meeting the requirements set forth in sections 30194, 30194.1, 30195, 30195.1, 30195.2, 30195.3 and 30196, specific licenses shall be issued only if the applicant submits documentation demonstrating that it is capable of complying, and following issuance of the license will continue to comply, with the regulations governing the physical protection of category 1 and category 2 quantities of radioactive material in Title 10, Code of Federal Regulations (10 CFR), Part 37 and Appendix A of 10 CFR

Part 37 (January 1, 2016), which are hereby incorporated by reference with the following exceptions.

(1) Title 10, CFR sections 37.1, 37.3, 37.7, 37.9, 37.11(a) & (b), 37.13, 37.105, 37.107, and 37.109 are not incorporated by reference.

(2) The term “government agency” found in 10 CFR 37.5 is not incorporated by reference.

(3) Part 73, as referenced in sections 37.21, 37.25, and 37.27 of 10 CFR 37, is not incorporated by reference, except that a licensee may meet the applicable provision by compliance with Part 73 as referenced.

(4) Except as follows, any reference to the United States Nuclear Regulatory Commission (NRC) or any component thereof shall be deemed to be a reference to the Department:

(A) Section 37.5 of 10 CFR 37. The reference to the NRC found in the term “fingerprint orders” shall be deemed to include both the NRC and the Department, as applicable. The term “agreement state” found within the definition of “fingerprint orders” shall be as defined in paragraph (6);

(B) Section 37.25 of 10 CFR 37, subject to paragraph (3). The reference to the NRC found in the definition of “security orders” in Section 37.25(b)(2) shall remain a reference to the NRC;

(C) Section 37.27 of 10 CFR 37, subject to paragraph (3). Licensees shall comply with all submittals and processes specified in 10 CFR 37.27 by submitting and corresponding directly to the NRC as required by 10 CFR 37.27; and

(D) Section 37.71 of 10 CFR 37. Any reference to the NRC shall be deemed to include the NRC, the Department, and any Agreement State, as applicable, except that any reference to “NRC’s license verification system” remains a reference to the NRC.

(5) Reference to 10 CFR 30.41(d) found in 10 CFR 37.71 shall be deemed to be a reference to section 30210(c) of this subchapter.

(6) For purposes of this section, any reference to the below identified federal term found within 10 CFR 37.5 shall be deemed to be a reference to the below identified Department term that is defined as specified in the following table:

<u>Federal term found within 10 CFR 37.5</u>	<u>Department term</u>
<u>Act</u>	<u>“Act” as defined in section 30100.</u>
<u>Agreement State</u>	<u>“Agreement State” as defined in section 30100.</u>
<u>Becquerel</u>	<u>“Becquerel” as defined in 10 CFR 20.1005 incorporated by reference in section 30253.</u>
<u>Byproduct material</u>	<u>“Radioactive material” as defined in section 30100.</u>
<u>Curie</u>	<u>“Curie” as defined in 10 CFR 20.1005 incorporated by reference in section 30253.</u>
<u>License</u>	<u>“License” as defined in section 30100.</u>
<u>Person</u>	<u>“Person” as defined in section 30100.</u>

(7) Title 10, CFR sections 37.101 and 37.103 are substituted with section 30293.

Note: (1) Authority cited: Sections 114975, 115000 and 131200, Health and Safety Code. Reference: Sections 114965, 114970, 115060, 115165, 115230, 115235, 131050, 131051 and 131052, Health and Safety Code.

Note: (2) A copy of Title 10, Code of Federal Regulations-Energy is for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Copies can also be obtained at: <https://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR>.

Group 3. Standards for Protection Against Radiation
Article 2. Notices, Instructions, and Reports to Workers; Inspections and Investigations

Amend Section 30257 to read as follows:

§ 30257. Bankruptcy Notification.

(a) Each general licensee required to register pursuant to sections 30192.1(d)(1) or 30192.6(b)(1), and each specific licensee, shall notify the Department in writing immediately following the filing of a voluntary or involuntary petition for bankruptcy under any chapter of title 11 (Bankruptcy) of the United States Code (11 U.S.C.) by or against:

(1) The licensee;

(2) An entity (as that term is defined in 11 U.S.C. 101 (15)) controlling the licensee or listing the license or licensee as property of the estate; or

(3) An affiliate (as that term is defined in 11 U.S.C. 101 (2)) of the licensee.

(b) The notification to the Department shall indicate:

(1) The bankruptcy court in which the petition for bankruptcy was filed; and

(2) The date of the filing of the petition.

Note: Authority cited: Sections 114975, 115000 and 131200, Health and Safety Code.
Reference: Sections 114965, 114970, 115060, 115175, 115205, 115230, 115235, 131050, 131051 and 131052, Health and Safety Code.

Group 3. Standards for Protection Against Radiation
Article 3.1. Records and Notification

Amend Section 30293 to read as follows:

§ 30293. Records.

(a) Each user shall keep records showing the receipt, transfer, and disposal of each source of radiation which is subject to licensure or registration pursuant to groups 1.5 and 2 of this subchapter as follows:

(1) *No change to text.*

(2) The user who transferred the source of radiation shall retain each record of transfer for three years after each transfer unless a specific requirement in another part of the regulations in this subchapter dictates otherwise, except that if the source of radiation is source material, as defined in Health and Safety Code section 114985(e),

the user shall retain each record of transfer until the Department terminates each license that authorizes the activity that is subject to the recordkeeping requirement.

(3) *No change to text.*

(b) through (g) *No change to text.*

Note: Authority cited: Sections 100275 and 115000, Health and Safety Code.
Reference: Sections 114965, 114970, 115105, 115110, 115230 and 115235, Health and Safety Code.

Amend Section 30295 to read as follows:

§ 30295. Notification of Incidents.

(a) Each user shall notify the Department as soon as possible but not later than four hours after the discovery of an event that prevents immediate protective actions necessary to avoid exposures to radiation or radioactive materials that could exceed regulatory limits or releases of licensed material that could exceed regulatory limits (events may include but are not limited to fires, explosions, and toxic gas releases).

(b) through (d) *No Change to Text.*

Note: Authority cited: Sections 114975, 115000, ~~131050, 131051~~ and 131200, Health and Safety Code. Reference: Sections 114965, 114970, 115105, 115110, ~~and 115230,~~ 115235, 131050, 131051 and 131052, Health and Safety Code.

Group 4. Transportation of Radioactive Material
Article 1. Requirements for Transportation of Radioactive Material

Amend Section 30373 to read as follows:

§ 30373. Transportation Regulations.

(a) Except as authorized in a general license or a specific license, or as exempted in this subchapter, a licensee may not deliver radioactive material to a carrier for transport, or transport radioactive material. Licensees authorized to receive, possess, use or transfer radioactive material shall, if they deliver radioactive material to a carrier for transport, transport it radioactive material outside the site of usage as

specified in the specific license, or transport radioactive material on public highways, comply with, as appropriate to the mode of transport, title 10, Code of Federal Regulations, part 71 (10 CFR 71) and Appendix A (as of January 1, 2016~~January 1, 2007~~), which is hereby incorporated by reference with the following exceptions:

(1) 10 CFR 71, sections 71.0 through 71.3, 71.6, 71.7, 71.9 through ~~71.13~~71.12, 71.14(b), 71.16, 71.18, 71.19, 71.24, 71.25, 71.31 through 71.45, 71.51 through 71.81, 71.85(a)-(c), 71.91(b), 71.93, 71.95, 71.99, 71.100, 71.101(c)(2), (d), (e), and (f), 71.103~~(a)-(c)~~ through (f), and 71.107 through 71.131 are not incorporated by reference;

(2) Any references to the United States Nuclear Regulatory Commission or any component thereof shall be deemed to be a reference to the “Department” as defined in section 30100, except for ~~the reference found in the definition of “certificate of compliance” in 10 CFR 71.4;~~

(A) The reference found in the definition of “certificate of compliance” in 10 CFR 71.4 and any reference, within the provisions incorporated by reference in subsection (a), to a certificate of compliance, a certificate holder or applicant for a certificate of compliance; and

(B) References found in 10 CFR 71.5(b), 71.17(c)(3) and (e), 71.88(a)(4) and 71.97(c), (c)(3)(iii) and (f);

(3) The terms “Close reflection by water,” “Containment system,” “Maximum normal operating pressure,” “Optimum interspersed hydrogenous moderation,” “Spent nuclear fuel or spent fuel,” and “State” found in 10 CFR 71.4 are not incorporated by reference;

(4) When the term “licensed material” is used within the material incorporated by this section, it shall mean any radioactive material including source material, special nuclear material, or byproduct material received, possessed, used, transferred or disposed of under a general or specific license issued by the NRC, or by any other Agreement State or by any state that has been either provisionally or finally designated as a Licensing State by the Conference of Radiation Control Program Directors, Inc.;
and

(5) Federal Department of Transportation regulations as of January 1, 2016, 2007 referenced in 10 CFR 71.5, are hereby incorporated by reference;

(6) Notwithstanding paragraph (1), 10 CFR 71.85(a) through (c) is incorporated by reference only for the purpose of requiring the licensee, as specified in 10 CFR 71.85(d), to ascertain that the determinations specified in 10 CFR 71.85(a) through (c) have been made. This paragraph may not be construed to incorporate by reference 10 CFR 71.85(a) through (c) so as to establish, imply, or otherwise infer any authority over or control of a certificate holder, as defined in 10 CFR 71.4, by the Department;

(7) Title 10, CFR section 71.8 is substituted with section 30105 of this subchapter; and

(8) Title 10, CFR section 71.13 is substituted with subsection (c) of this section.

(b) Persons are exempt from this regulation to the extent that they transport any radioactive material or offer any radioactive material to a carrier for transportation where such transportation is subject to the exclusive jurisdiction of the United States Federal Government.

(c) Physicians are exempt from the requirements of this section to the extent that they transport radioactive material for use in the practice of medicine. However, any physician operating under this exemption shall possess a specific license issued pursuant to section 30195 authorizing human use of radioactive material.

Note: (1) Authority cited: Sections 114765, 114820, 115000 and 131200, Health and Safety Code. Reference: Sections 114740, 114765, 115230, 115235, 131050, 131051 and 131052, Health and Safety Code.

Note: (2) Copies of Title 10, Code of Federal Regulations-Energy, and Title 49, Code of Federal Regulations-Transportation, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Copies can also be obtained at:<http://www.access.gpo.gov/nara/cfr/cfr-table-search.html#page1>
<https://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR>.