

PART X
NOTICES, INSTRUCTIONS, AND REPORTS TO WORKERS: INSPECTIONS

RHB 10.1 Purpose and Scope. This Part establishes requirements for notices, instructions, and reports by registrants to individuals employed by them, and options available to such individuals in connection with Department inspections of registrants to ascertain compliance with the provisions of the Act and regulations issued thereunder regarding radiological working conditions. The regulations in this Part apply to all persons who receive, possess, use, own, or transfer radiation producing equipment registered by the Department pursuant to the regulation in Part II.

RHB 10.2 Posting of Notices to Workers.

10.2.1 Each registrant shall post current copies of the following documents: 1) the regulations in this Part and in Part III; 2) "Notice to Employees" Form SC-RHA-20; 3) any notice of violation involving radiological working conditions; or order issued pursuant to Part I and any response from the registrant.

10.2.2 If posting of a document is not practicable, the registrant may post a notice which describes the document and states where it may be examined.

10.2.3 Documents, notices of forms posted pursuant to this section shall appear in a sufficient number of places to permit individuals engaged in work associated with the X-ray equipment to observe them on the way to or from any equipment location to which the document applies, shall be conspicuous, and shall be replaced if defaced or altered.

10.2.4 Department documents posted pursuant to RHB10.2.3, of this section shall be posted within five (5) working days after receipt of the documents from the Department; the registrant's response, if any, shall be posted within five (5) working days after dispatch from the registrant. Such document shall remain posted for a minimum of five (5) working days or until action correcting the violation has been completed, whichever is later.

RHB 10.3 Instructions to Workers. All individuals working in or frequenting any portion of a restricted area shall be kept informed of the use of x-ray equipment or of radiation in portions of the unrestricted area; shall be instructed in the health protection problems associated with exposure to such x-ray equipment or radiation, in precautions or procedures to minimize exposure, and in the purposes and functions of protective devices employed; shall be instructed in, and instructed to observe, to the extent within the worker's control, the applicable provisions of Department regulations for the protection of personnel from radiation occurring in such areas; shall be instructed of their responsibility to report promptly to the registrant any conditions which may lead to or cause a violation of Department regulations or unnecessary exposure to radiation; shall be instructed in the appropriate response to warnings made in the event of an unusual occurrence or malfunction that may involve exposure to radiation; and shall be advised as to the radiation exposure requests which workers may request pursuant to RHB 10.4. The extent of these instructions shall be commensurate with potential radiological health protection problems in the restricted area.

RHB 10.4 Notification and Reports to Individuals.

10.4.1 Radiation exposure data for an individual and the results of any measurements, analyses, and calculations of radiation exposure to the body of an individual shall be reported to the individual as specified in this section. The information reported shall include data and results obtained pursuant to Department regulations, orders, or inspections. Each notification and report shall: be in writing; include appropriate identifying data such as the name of the registrant, the name of the individual, the individual's social security

number; include the individual's exposure information; and contain the following statement: "This report is furnished to you under the provisions of the South Carolina Department of Health and Environmental Control's Radiation Control Regulations. You should preserve this report for future reference."

10.4.2 At the request of any worker, each registrant shall advise such worker annually of the worker's exposure to radiation as shown in records maintained by the registrant pursuant to RHB 3.22.

10.4.3 At the request of the worker formerly engaged in work controlled by the registrant, each registrant shall furnish to the worker a report of the workers' exposure to radiation. Such report shall be furnished within 30 days from the time the request is made, or within 30 days after the exposure of the individual has been determined by the registrant, whichever is later; shall cover, within the period of time specified in the request, each calendar quarter in which the workers' activities involved exposure to radiation from x-ray producing equipment registered by the Department; and shall include the dates and locations of work under the registrant in which the worker participated during this period.

10.4.4 When a registrant is required pursuant to RHB 3.25 or 3.26 to report to the Department any exposure of an individual to radiation, the registrant shall also provide the individual a report on his exposure data included therein. Such reports shall be transmitted at a time not later than the transmittal to the Department.

RHB 10.5 Presence of Registrants and Workers During Inspections.

10.5.1 Each registrant shall afford to the Department, at all reasonable times, opportunity to inspect machines, activities, facilities, premises, and records pursuant to these regulations.

10.5.2 During an inspection, Department inspectors may consult privately with workers as specified in RHB 10.6. The registrant may accompany Department inspectors during other phases of an inspection.

10.5.3 If, at any time of inspection, an individual has been authorized by the workers to represent them during Department inspections, the registrant shall notify the inspectors of such authorization and shall give the workers' representative an opportunity to accompany the inspectors during the inspection of the physical working conditions.

10.5.4 Each workers' representative shall be routinely engaged in work under control of the registrant and shall have received instructions as specified in RHB 10.3. With approval of the registrant, the workers' representative may be an individual who is not routinely engaged in work under control of the registrant, for example, a consultant to the registrant or to the workers' representative shall be afforded the opportunity to accompany Department inspectors during the inspection of physical working conditions.

10.5.5 Different representatives of 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.

10.5.6 Notwithstanding the other provisions of this section, Department 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 the area shall be an individual previously authorized by the registrant to enter that area.

RHB 10.6 Consultation with Workers During Inspection.

10.6.1 Department inspectors may consult privately with workers concerning matters of occupational radiation protection and other matters related to the extent of an effective and thorough inspection.

10.6.2 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 the worker has reason to believe may have contributed to or caused any violation of the Act, or these regulations, or any unnecessary exposure of an individual to radiation from x-ray producing equipment under the registrant's control. Any such notice in writing shall comply with the requirements of RHB 10.7.1.

10.6.3 The provisions of RHB 10.6.2 of this section shall not be interpreted as authorization to disregard instructions pursuant to RHB 10.3

RHB 10.7 Request by Workers for Inspections.

10.7.1 Any worker or representative of workers who believes that a violation of the Act, or these regulations exists or has occurred in work under a registrant 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 Department. Any such notice shall be in writing and shall set forth the specific grounds for the notice. A copy shall be provided to the registrant by the Department no later than at the time of inspection.

10.7.2 If, upon receipt of such notice, the Director of Health Regulation or the Chief of the Bureau of Radiological Health determines that the complaint meets the requirements set forth in RHB 10.7.1 of this section, and that there are reasonable grounds to believe that the alleged violation exists or has occurred, he shall cause an inspection to be made as soon as practicable, to determine if such alleged violation exists or has occurred. Inspections pursuant to this section need not be limited to matters referred to in this complaint.

10.7.3 No registrant shall discharge or in any manner discriminate against any worker because such worker has filed any complaint or instituted or caused to be instituted any proceeding under these regulations or has testified or is about to testify in any such proceeding or because of the exercise by such worker on behalf of the worker or others of any option afforded by this Part.

RHB 10.8 Inspections not Warranted. Informal Review.

10.8.1 If the Chief of the Bureau of Radiological Health determines, with respect to a complaint under RHB10.7 that an inspection is not warranted because there are no reasonable grounds to believe that a violation exists or has occurred, the Bureau Chief shall notify the complainant, if identified, in writing of such determination. The complainant, if identified, may obtain a review of such determination by submitting a written statement of position with the Director of Health Regulation, who will provide the registrant with a copy of such statement by certified mail, excluding, at the request of the complainant, the name of the complainant. The registrant may submit an opposing written statement of position with the Bureau of Radiological Health who will provide the complainant with a copy of such statements by certified mail. Upon the request of the complainant, the Bureau of Radiological Health may hold an informal conference in which the complainant and the registrant may orally present their views. An informal conference may also be held at the request of the registrant, but disclosure of the identity of the complainant will be made only following receipt written authorization from the complainant. After considering all written or oral views present, the Director of Health Regulation shall affirm, modify, or reverse the determination of the Chief of the Bureau of Radiological Health and furnish the complainant and the registrant a written notification of the decision and the reason therefore.

10.8.2 If the Chief of the Bureau of Radiological Health determines that an inspection is not warranted because the requirements of RHB 10.7.1 have not been met, he shall notify the complainant in writing of such determination. Such determination shall be without prejudice to the filing of a new complaint meeting the requirements of RHB 10.7.1.

RHB 10.9 Right to inspect and investigate. The Department of Health and Environmental Control is the state agency responsible for the control and regulation of radiation sources. Section 13-7-40(A), S.C. Code of Laws (1976, as amended). By statute, the Department is authorized to enter, at all reasonable times, private or public property for the purpose of determining whether or not there is compliance with or violation of the provisions of its regulations. Section 13-7-40(A), S.C. Code of Laws (1976, as amended). Because the Department is authorized by law to enter and inspect property in order to determine compliance with Department regulations, such entry and inspection falls under the health oversight activities exception of Health Insurance Portability and Accountability Act (HIPAA). Therefore, where protected health information is necessary for determining compliance with Department regulations, protected health information may be used and disclosed to the Department without the subject's authorization under HIPAA.