



KAREN L. SMITH, MD, MPH  
Director and State Public Health Officer

State of California—Health and Human Services Agency  
California Department of Public Health



EDMUND G. BROWN JR.  
Governor

November 20, 2015

To: All California Radioactive Materials Licensees Authorized to Possess Radioactive Material in Quantities of Concern Requiring Increased Controls or Who are Recipients of US Nuclear Regulatory Commission Service Provider Fingerprinting Orders

Subject: Implementation of Title 10, Code of Federal Regulations, Part 37 (10 CFR 37) and rescission of the Orders dated November 15, 2005 and June 5, 2008

Attached please find an administrative amendment to your radioactive materials license. As you recall, following the terrorist attacks that occurred in the United States on September 11, 2001, the US Nuclear Regulatory Commission (NRC) issued a series of orders to radioactive materials licensees requiring the implementation of compensatory measures, additional security measures and/or increased controls (ICs) to enhance the protection of radioactive materials in quantities of concern. In order to remain compatible with the NRC, the Radiologic Health Branch (RHB) then issued its “Order to Implement Increased Controls Over Certain Radioactive Sources” dated November 15, 2005 and its “Implementation of Fingerprinting and Criminal History Record Checks for Unescorted Access to Radioactive Materials in Quantities of Concern” dated June 5, 2008.

The NRC’s 10 CFR 37 incorporates lessons learned following implementation of the IC and Fingerprinting Orders, including knowledge gained from licensee input. To maintain compatibility with the NRC, the California Department of Public Health (CDPH) is implementing relevant sections of 10 CFR 37, as published January 1, 2015, by modifying all Increased Controls licenses with appropriate Legally Binding Requirements. Licensees shall be compliant with 10 CFR 37 beginning March 19, 2016.

The aforementioned orders dated November 15, 2005 (“Order to Implement Increased Controls Over Certain Radioactive Sources”) and June 5, 2008 (“Implementation of Fingerprinting and Criminal History Record Checks for Unescorted Access to Radioactive Materials in Quantities of Concern”) remain in effect through March 18, 2016. Starting on March 19, 2016, these orders are hereby rescinded and replaced with the implementation of the new 10 CFR 37 requirements. However, implementation of 10 CFR 37, in accordance with the Legally Binding Requirement, earlier than March 19, 2016, is acceptable.



The Radiologic Health Branch will not consider such early implementation to violate the December 15, 2005 or June 5, 2008 Orders.

The NRC will likewise be rescinding their Orders to California panoramic irradiators, manufacturers and distributors (M&D), licensees transporting radioactive materials in quantities of concern, and non-M&D service providers. These licenses will also be modified by CDPH with the appropriate Legally Binding Requirement implementing 10 CFR 37, also to be effective beginning March 19, 2016.

To assist you in understanding the new 10 CFR 37 regulations and implementing the changes, please access the NRC website at:

<http://www.nrc.gov/security/byproduct/10-cfr-part-37.html>.

The NRC website contains Rule and Guidance information pertaining to 10 CFR 37. This Guidance will be utilized by CDPH in implementing the 10 CFR 37 Legally Binding Requirements. The Guidance document "Part 37 rule/Security order comparison (Enclosure 2 to SECY-11-070)" should be of particular value to you in comparing the requirements under 10 CFR 37 to the requirements under the earlier Orders.

If you have any questions regarding this information notice, please contact Ira Schneider at (916) 440-7976, or by email at [ira.schneider@cdph.ca.gov](mailto:ira.schneider@cdph.ca.gov).

Sincerely,

*Signature on file.*

Gonzalo L. Perez, Chief  
California Department of Public Health  
Radiologic Health Branch  
Encl. Administrative Amendment

### Legally Binding Requirement

Commencing March 19, 2016, the licensee shall comply with Title 10, Code of Federal Regulations (10 CFR), Part 37 except as follows:

(1) 10 CFR sections 37.1, 37.3, 37.7, 37.9, 37.11(a) & (b), 37.13, 37.73(a), (b), (d), & (e), 37.105, 37.107, and 37.109 are excluded.

(2) The term “government agency” found in 10 CFR 37.5 is excluded.

(3) 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) 10 CFR 37.27. Licensees shall comply with all submittals and processes specified in 10 CFR 37.27 by submitting and corresponding directly to NRC as required by 10 CFR 37.27. In lieu of the address given in 10 CFR 37.27(c), licensees shall submit fingerprint cards or records to Director, Division of Facilities and Security, U.S. NRC, 11545 Rockville Pike, Rockville, Maryland 20852-2738, ATTN: Criminal History Program, Mail Stop T-03B46M; and

(B) 10 CFR 37.71. The reference to NRC in subdivisions (a) and (b) shall be deemed to include both the NRC and the Department, as applicable. The reference to NRC in subdivision (c) shall be deemed to be a reference to the appropriate jurisdictional entity (e.g. NRC, Department, or some other Agreement State) when a licensee transfers radioactive material to a licensee of that jurisdiction.

(4) In lieu of section 30210.1, the licensee shall comply with 10 CFR 30.41(d) as referenced in 10 CFR 37.71.

(5) 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:

<b>Federal term found within 10 CFR 37.5</b>	<b>Department term</b>
Act	“Act” as defined in title 17, California Code of Regulations (17 CCR), section 30100.
Agreement State	“Agreement State” as defined in 17 CCR 30100.
Becquerel	“Becquerel” as defined in 10 CFR 20.1005 incorporated by reference in 17 CCR 30253.
Byproduct material	“Radioactive material” as defined in 17 CCR 30100.
Curie	“Curie” as defined in 10 CFR 20.1005 incorporated by reference in 17 CCR 30253.
License	“License” as defined in 17 CCR 30100.
Person	“Person” as defined in 17 CCR 30100.

(6) In lieu of complying with 10 CFR 37.101 and 37.103, the licensee shall instead comply with 17 CCR 30293.

(7) Reports of events or notifications required in 10 CFR 37.41, 37.45, 37.57, 37.77(a) - (d), and 37.81 shall be submitted to the Department in lieu of NRC as follows:

CDPH

Radiologic Health Branch

Radioactive Material Licensing

ATT: Increased Controls Program

MS 7610

PO Box 997414

Sacramento, CA 95899-7414

Telephone notification shall be made to the local RHB Inspection Office. Local RHB Inspection Office telephone numbers are:

Northern California: (510) 620-3416 or (510) 620-3419

Southern California: (714) 524-1409 or (714) 524-1203

Los Angeles County: (213) 351-7897 or (213) 351-7387

San Diego County: (858) 694-3621 or (858) 694-3616