

Subchapter XI — Inspection by the Department

HFS 157.89 Inspection requirements.

(1) ACCESS BY DEPARTMENT INSPECTORS. The department may inspect a licensee's or registrant materials, machines, devices, activities, facilities, premises and records under this chapter at any reasonable time.

(2) PRESENCE OF REPRESENTATIVES OF LICENSEE OR REGISTRANT DURING INSPECTION.

(a) A licensee, registrant or designee may accompany department inspectors during an inspection.

(b) If, at the time of inspection, an individual has been authorized by the workers to represent them during department inspections, a licensee or registrant shall notify the inspectors of that authorization and shall permit the workers' representative to accompany the inspectors during the inspection of physical working conditions.

(c) Each workers' representative shall be routinely engaged in work under control of the licensee or registrant and shall have received instructions as specified in s. HFS 157.88 (2).

(d) Different representatives of a licensee or registrant or workers may accompany the department's inspectors during different phases of an inspection if there is no interference with the conduct of the inspection, but only one workers' representative at a time may accompany the inspectors.

(e) With the approval of a licensee or registrant and the workers' representative, an individual who is not routinely engaged in work under control of the licensee or registrant, such as a consultant to the licensee or registrant or to the workers' representative, may accompany department inspectors during the inspection of physical working conditions.

(f) Department inspectors may refuse to permit any individual who deliberately interferes with a fair and orderly inspection to accompany them on the inspection. An individual may accompany an inspector in areas containing information classified by an agency of the U.S. government in the interest of national security only if the individual is authorized to do so by the licensee or registrant. The workers' representative may enter an area containing proprietary information only if the representative has been previously authorized by the licensee or registrant to enter that area.

(3) CONSULTATION WITH WORKERS DURING INSPECTIONS.

(a) Department inspectors may consult privately with workers to the extent the inspectors deem necessary for the conduct of an effective and thorough inspection.

(b) Consultation with a worker under par. (a) may be written or oral and concern any past or present condition that the worker believes contributed to, caused or may cause a violation of ss. 254.31 to 254.45, Stats., this chapter or a condition of the license, or any unnecessary exposure of an individual to sources of radiation under the licensee's or registrant's control. Written information received by inspectors under this paragraph shall comply with the requirements of sub. (4).

(4) REQUEST BY WORKERS FOR AN INSPECTION.

(a) A worker or workers' representative who believes that a violation of ss. 254.31 to 254.45, Stats., this chapter or a condition of a license exists or has occurred may request an inspection by the department. The request shall be in writing, set forth the reasons for the request and be signed by the worker or workers' representative. The department shall provide a copy of the request to the licensee or registrant at the time of inspection granted under sub. (5). Upon request of the worker giving notice, the department shall remove from the licensee's or registrant's copy of the request the worker or workers' representative's name and the names of other individuals.

(b) No licensee, registrant, contractor or subcontractor of a licensee or registrant may discharge or in any manner discriminate against any worker or workers' representative because the worker or workers' representative has filed a complaint under this subsection or instituted or caused to be instituted a proceeding under this chapter or has testified or is about to testify in any proceeding under this chapter, or because of the exercise by the worker on behalf of himself or herself or others of any right established under this subchapter.

Note: Requests may be made in writing to: Department of Health and Family Services, Radiation Protection Section, PO Box 2659, Madison WI 53701-2659.

(5) INSPECTION WARRANTED. If after reviewing a request submitted under sub. (4), the department determines it is probable an alleged violation has occurred, the department shall conduct an inspection as soon as is practicable. An inspection under this subsection need not be limited to an allegation set forth in a request under sub. (4).

(6) INSPECTION NOT WARRANTED.

(a) If after reviewing a request submitted under sub. (4), the department decides not to conduct an inspection, the department shall notify the worker or workers' representative in writing of that determination.

(b) A worker or workers' representative may request a review of a decision under par. (a) by submitting a written request for review and statement of position to the department. The department shall send by certified mail to the licensee or registrant a copy of the statement of position received by the department under this paragraph.

(c) The licensee or registrant may submit to the department a written response to a statement of position submitted under par.

(b). The department shall send by certified mail to the worker or workers' representative a copy of the response received by the department under this paragraph.

(d) Upon the request of the worker or workers' representative or the licensee or registrant, the department may hold an informal conference in which the worker or the workers' representative and the licensee or registrant may orally present their views on the reason for the initial request for inspection. Disclosure of the identity of the worker or the workers' representative may be made only following receipt of written authorization from the worker or the workers' representative. After considering all written and oral views presented, the department shall affirm, modify or reverse the original determination and furnish the worker or the workers' representative and the licensee or registrant a written notice of the decision and the reason for the decision.

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