

4731.3215 GENERAL LICENSE; DETECTING, MEASURING, GAUGING, CONTROLLING, AND OTHER DEVICES.

Subpart 1. **License issued.** Commercial and industrial firms; research, educational, and medical institutions; individuals in the conduct of their business; and state or local government agencies are issued a general license to acquire, receive, possess, use, or transfer, according to this part, radioactive material contained in devices designed and manufactured for:

A. detecting, measuring, gauging, or controlling thickness, density, level, interface location, radiation, leakage, or qualitative or quantitative chemical composition; or

B. producing light or an ionized atmosphere.

Subp. 2. **Applicability.**

A. The general license under subpart 1 applies only to radioactive material contained in devices that have been manufactured or initially transferred and labeled according to:

(1) a specific license issued under part 4731.3330;

(2) an equivalent specific license issued by the NRC or an agreement state;

or

(3) an equivalent specific license issued by a state with provisions comparable to part 4731.3330.

B. The devices must have been received from one of the specific licensees described in item A or through a transfer made under subpart 3, item M.

Subp. 3. **Requirements.** A person who acquires, receives, possesses, uses, or transfers radioactive material in a device according to the general license issued under subpart 1 must:

A. ensure that all labels that are affixed to the device at the time of receipt and that bear a statement that removal of the label is prohibited are maintained on the device and must comply with all instructions and precautions provided by the labels;

B. ensure that the device is tested for leakage of radioactive material and proper operation of the on-off mechanism and indicator, if any, at no longer than six-month intervals or at such other intervals as are specified in the label, except:

(1) devices containing only krypton need not be tested for leakage of radioactive material;

(2) devices containing only tritium or not more than 100 microcuries of other beta- or gamma-emitting material or ten microcuries of alpha-emitting material need not be tested for any purpose; and

(3) devices held in storage in the original shipping container prior to initial installation need not be tested for any purpose;

C. ensure that the tests under item B and other testing, installation, servicing, and removal from installation involving the radioactive material, its shielding, or its containment are performed:

(1) according to the instructions provided by the labels; or

(2) by a person holding a specific license issued under parts 4731.3000 to 4731.3175 or 4731.3300 to 4731.3420 or issued by the NRC or an agreement state to perform such activities;

D. maintain records showing compliance with items B and C. The records must include:

(1) the results of the tests;

(2) the dates the tests were performed; and

(3) the names of persons performing the tests, installation, servicing, and removal from installation of radioactive material and its shielding or containment;

E. retain the records under item D as follows:

(1) each record of a test for leakage or radioactive material required by item B must be retained for three years after the next required leak test is performed or until the sealed source is transferred or disposed of;

(2) each record of a test of the on-off mechanism and indicator required by item B must be retained for three years after the next required test of the on-off mechanism and indicator is performed or until the sealed source is transferred or disposed of; and

(3) each record showing compliance with item C must be retained for three years from the date of the recorded event or until the device is transferred or disposed of;

F. immediately suspend operation of the device if there is a failure of or damage to or any indication of a possible failure of or damage to the shielding of the radioactive material or the on-off mechanism or indicator or upon the detection of 0.005 microcurie (185 Bq) or more removable radioactive material until the device has been repaired by the manufacturer or other person holding a specific license issued under parts 4731.3000 to 4731.3175 or 4731.3300 to 4731.3420 or issued by the NRC or an agreement state to repair the device. The device and any radioactive material from the device may only be disposed

of by transfer to a person authorized by a specific license to receive the radioactive material contained in the device or as otherwise approved by the commissioner;

G. within 30 days, furnish to the commissioner a report containing a brief description of any event under item F and the remedial actions taken and, in the case of detection of 0.005 microcurie or more of removable radioactive material or failure of or damage to a source likely to result in contamination of the premises or environs, a plan for ensuring that the premises and environs are acceptable for unrestricted use. Under these circumstances, the criteria under part 4731.2105, subpart 2, may be applicable, as determined by the commissioner on a case-by-case basis;

H. not abandon the device containing radioactive material;

I. not export the device containing radioactive material, except according to Code of Federal Regulations, title 10, part 110;

J. transfer or dispose of the device containing radioactive material only:

(1) by export as provided in item I;

(2) by transfer to another general licensee as authorized under item M;

(3) to a person authorized to receive the device by a specific license issued under parts 4731.3000 to 4731.3175 or 4731.3300 to 4731.3420 or under equivalent regulations of the NRC or an agreement state that authorizes waste collection; or

(4) as otherwise approved under item L;

K. within 30 days of a transfer under item J, report to the commissioner:

(1) the identification of the device by manufacturer's or initial transferor's name, model number, and serial number;

(2) the name, address, and license number of the person receiving the device. No license number is required if the device is exported; and

(3) the date of the transfer;

L. obtain written approval from the commissioner before transferring the device to another specific licensee not specifically identified in item J; however, a holder of a specific license may transfer a device for possession and use under its own specific license without prior approval, if the holder:

(1) verifies that the specific license authorizes the possession and use, or applies for and obtains an amendment to the license authorizing the possession and use;

(2) removes, alters, covers, or clearly and unambiguously augments the existing label, otherwise required by subpart 3, item A, so that the device is labeled in

compliance with part 4731.2330; however, the manufacturer, model number, and serial number must be retained;

(3) obtains the manufacturer's or initial transferor's information concerning maintenance that would be applicable under the specific license, such as leak testing procedures; and

(4) reports the transfer under item K;

M. transfer the device to another general licensee only if:

(1) the device remains in use at a particular location, in which case the transferor must give the transferee a copy of this part and parts 4731.2600, 4731.2610, 4731.3115, and 4731.3200 and any safety documents identified in the label of the device. Within 30 days of the transfer, the transferor must report to the commissioner:

(a) the manufacturer's or initial transferor's name;

(b) the model number and the serial number of the device transferred;

(c) the transferee's name and mailing address for the location of use;

and

(d) the name, title, and telephone number of the responsible individual identified by the transferee under item P to have knowledge of and authority to take actions to ensure compliance with the appropriate rules and requirements; or

(2) the device is held in storage by an intermediate person in the original shipping container at its intended location of use prior to initial use by a general licensee;

N. comply with parts 4731.2600 and 4731.2610 for reporting radiation incidents, theft, and loss of licensed material, but is exempt from the remainder of parts 4731.1000 to 4731.1090 and 4731.2000 to 4731.2950 and Code of Federal Regulations, title 10, part 21;

O. respond to written requests from the commissioner to provide information relating to the general license within 30 calendar days of the date of the request, or other time specified in the request. If the general licensee cannot provide the requested information within the allotted time, the general licensee must, within the same time period, request a longer period to supply the information by submitting a letter to the commissioner and provide written justification as to why it cannot comply;

P. appoint an individual responsible for having knowledge of the appropriate rules and requirements and the authority for taking required actions to comply with appropriate rules and requirements. The general licensee, through the appointed individual, must ensure the day-to-day compliance with appropriate rules and requirements. The appointment does not relieve the general licensee of any of the general licensee's responsibility in this regard;

Q. report changes to the mailing address for the location of use, including change in name of the general licensee, to the commissioner within 30 days of the effective date of the change. For a portable device, a report of address change is required only for a change in the device's primary place of storage; and

R. not hold devices that are not in use for more than two years. If a device with shutters is not being used, the shutters must be locked in the closed position. The testing required under item B need not be performed during the period of storage only. When a device is put back into service or transferred to another person, and has not been tested within the required test interval, the device must be tested for leakage before use or transfer and the shutters must be tested before use. Devices kept in standby for future use are excluded from the two-year time limit if the general licensee performs quarterly physical inventories of these devices while they are in standby.

Subp. 3a. Registration of generally licensed devices.

A. A person to whom subpart 3 applies shall register generally licensed devices according to items B and C. These devices contain:

- (1) at least ten millicuries (370 MBq) of cesium-137;
- (2) at least 0.1 millicurie (3.7 MBq) of strontium-90;
- (3) at least one millicurie (37 MBq) of cobalt-60;
- (4) at least 0.1 millicurie (3.7 MBq) of radium-226; or
- (5) at least one millicurie (37 MBq) of americium-241 or any other transuranic (any other element with an atomic number greater than uranium-92) based on the activity indicated on the label.

B. If in possession of a device meeting the criteria of item A, a person to whom subpart 3 applies must register the device annually with the commissioner and pay the fee required under Minnesota Statutes, section 144.1205.

(1) Registration must be done by verifying, correcting, or adding to the information provided in a request for registration received from the commissioner. Registration information must be submitted to the commissioner within 30 days of the date of the request for registration or as otherwise indicated in the request.

(2) A general licensee holding devices meeting the criteria of item A is subject to the bankruptcy notification requirement under part 4731.3075, subpart 4. Each address for a location of use under item C, subitem (4), represents a separate general license and requires a separate registration and fee.

(3) Persons generally licensed by an agreement state with respect to devices meeting the criteria in item A are not subject to registration under this item if the devices are

used in areas subject to the commissioner's jurisdiction for a period of less than 180 days in any calendar year. The commissioner shall not request registration information from such licensees.

C. In registering devices under item B, a person to whom subpart 3 applies must furnish the following information and any other information specifically requested by the commissioner:

- (1) name and mailing address of the general licensee;
- (2) the following information about each device:
 - (a) the manufacturer or initial transferor;
 - (b) the model number;
 - (c) the serial number; and
 - (d) the radioisotope and activity, as indicated on the label;
- (3) name, title, and telephone number of the responsible person designated as a representative of the general licensee under subpart 3, item P;
- (4) address or location at which each device is used or stored. For portable devices, the address of the primary place of storage must be furnished;
- (5) certification by the responsible representative of the general licensee that the information concerning the device has been verified through a physical inventory and checking of label information; and
- (6) certification by the responsible representative of the general licensee that the responsible representative is aware of the requirements of the general license.

Subp. 4. **Limitation.** The general license issued under subpart 1 does not authorize the manufacture or import of devices containing radioactive material.

Statutory Authority: *MS s 144.1202; 144.1203*

History: *29 SR 755; 32 SR 831; 33 SR 1440*

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