

**4731.0780 FINANCIAL ASSURANCE AND RECORD KEEPING FOR DECOMMISSIONING.**

Subpart 1. **Applicability.** This part establishes criteria for providing financial assurance for decommissioning, except for licenses authorizing the receipt, possession, and use of source material for uranium or thorium milling or radioactive material at sites formerly associated with such milling, for which financial assurance requirements are set forth in part 4731.0580.

Subp. 2. **More than 100 mCi.** An applicant for a specific license authorizing the possession and use of more than 100 millicuries (3.7 GBq) of source material in a readily dispersible form must submit a decommissioning funding plan according to subpart 4.

Subp. 3. **Between ten mCi and 100 mCi.**

A. An applicant for a specific license authorizing possession and use of quantities of source material greater than ten millicuries (370 MBq) but less than or equal to 100 millicuries (3.7 GBq) in a readily dispersible form must:

(1) submit a decommissioning funding plan according to subpart 4; or

(2) submit a certification that financial assurance for decommissioning has been provided in the amount of \$225,000, using one of the methods described under subpart 5. The certification may state that the appropriate assurance will be obtained after the application has been approved and the license issued but before the receipt of licensed material.

B. If an applicant defers execution of the financial instrument until after the license has been issued, a signed original of the financial instrument obtained to satisfy the requirements of subpart 5 must be submitted to the commissioner before receipt of licensed material.

C. If an applicant does not defer execution of the financial instrument, the applicant must submit to the commissioner, as part of the certification, a signed original of the financial instrument obtained to satisfy the requirements of subpart 5.

D. A holder of a specific license:

(1) issued on or after July 27, 1990, which is covered by subpart 1 or 2, shall provide financial assurance for decommissioning according to this part; and

(2) issued before July 27, 1990, and of a type described in subpart 1 shall submit a decommissioning funding plan as described in subpart 5 or a certification of financial assurance for decommissioning in an amount at least equal to \$1,125,000 according to this part. If the licensee submits the certificate of financial assurance rather than a decommissioning funding plan, the licensee shall include a decommissioning

funding plan in any application for license renewal. Licensees required to submit the \$1,125,000 amount must do so by December 2, 2004.

**Subp. 4. Funding plan requirements.**

A. Each decommissioning funding plan must be submitted for review and approval and must contain:

(1) a detailed cost estimate for decommissioning, in an amount reflecting:

(a) the cost of an independent contractor to perform all decommissioning activities;

(b) the cost of meeting the criteria in part 4731.2100, subpart 2, for unrestricted use, provided that, if the applicant or licensee can demonstrate its ability to meet the provisions of part 4731.2100, subpart 3, the cost estimate may be based on meeting the criteria in part 4731.2100, subpart 3;

(c) the volume of on-site subsurface material containing residual radioactivity that will require remediation; and

(d) an adequate contingency factor;

(2) identification of and justification for using the key assumptions contained in the DCE;

(3) a description of the method of assuring funds for decommissioning from subpart 5, including means for adjusting cost estimates and associated funding levels periodically over the life of the facility;

(4) a certification by the licensee that financial assurance for decommissioning has been provided in the amount of the cost estimate for decommissioning; and

(5) a signed original, or if permitted, a copy, of the financial instrument obtained to satisfy the requirements of subpart 5, unless a previously submitted and accepted financial instrument continues to cover the cost estimate for decommissioning.

B. At the time of license renewal and at intervals not to exceed three years, the decommissioning funding plan must be resubmitted with adjustments as necessary to account for changes in costs and the extent of contamination. If the amount of financial assurance will be adjusted downward, this cannot be done until the updated decommissioning funding plan is approved. The decommissioning funding plan must update the information submitted with the original or prior approved plan, and must specifically consider the effect of the following events on decommissioning costs:

(1) spills of radioactive material producing additional residual radioactivity in on-site subsurface material;

- (2) waste inventory increasing above the amount previously estimated;
- (3) waste disposal costs increasing above the amount previously estimated;
- (4) facility modifications;
- (5) changes in authorized possession limits;
- (6) actual remediation costs that exceed the previous cost estimate;
- (7) on-site disposal; and
- (8) use of a settling pond.

**Subp. 5. Financial assurance requirements.**

A. Financial assurance for decommissioning must be provided by one of the methods described in items B to F.

B. Prepayment is the deposit prior to the start of operation into an account segregated from licensee assets and outside the licensee's administrative control of cash or liquid assets such that the amount of funds would be sufficient to pay decommissioning costs. Prepayment may be in the form of a trust, escrow account, government fund, certificate of deposit, or deposit of government securities.

C. A surety method, insurance, or other guarantee method guarantees that decommissioning costs will be paid. A surety method may be in the form of a surety bond, letter of credit, or line of credit. A parent company guarantee of funds for decommissioning costs based on a financial test may be used if the guarantee and test comply with part 4731.3155, but may not be used in combination with other financial methods to satisfy the requirements of this part. For commercial corporations that issue bonds, a guarantee of funds by the applicant or licensee for decommissioning costs based on a financial test may be used if the guarantee and test comply with part 4731.3165. For commercial corporations that do not issue bonds, a guarantee of funds by the applicant or licensee for decommissioning costs may be used if the guarantee and test comply with part 4731.3170. For nonprofit entities, such as colleges, universities, and nonprofit hospitals, a guarantee of funds by the applicant or licensee may be used if the guarantee and test comply with part 4731.3175. A guarantee by the applicant or licensee may not be used in combination with other financial methods used to satisfy this part or in any situation where the applicant or licensee has a parent company holding majority control of the voting stock of the company. Any surety method or insurance used to provide financial assurance for decommissioning must:

- (1) be open-ended or, if written for a specified term, such as five years, must be renewed automatically unless 90 days or more before the renewal date, the issuer notifies the commissioner, the beneficiary, and the licensee of its intention not to renew;

(2) provide that the full face amount be paid to the beneficiary automatically before the expiration without proof of forfeiture if the licensee fails to provide a replacement acceptable to the commissioner within 30 days after receipt of notification of cancellation;

(3) be payable to a trust established for decommissioning costs. The trustee and trust must be acceptable to the commissioner. An acceptable trustee includes an appropriate state or federal government agency or an entity that has authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency; and

(4) remain in effect until the commissioner terminates the license.

D. An external sinking fund in which deposits are made at least annually, coupled with a surety method or insurance, the value of which may decrease by the amount being accumulated in the sinking fund, may be used as a method of financial assurance. The surety or insurance provisions must be as stated in item C. An external sinking fund:

(1) is a fund established and maintained by setting aside funds periodically in an account segregated from licensee assets and outside the licensee's administrative control in which the total amount of funds would be sufficient to pay decommissioning costs at the time termination of operation is expected; and

(2) may be in the form of a trust, escrow account, government fund, certificate of deposit, or deposit of government securities.

E. In the case of federal, state, or local government licensees, a statement of intent containing a cost estimate for decommissioning or an amount according to subpart 3 and indicating that funds for decommissioning will be obtained when necessary may be used as a method of financial assurance.

F. When a governmental entity assumes custody and ownership of a site, an arrangement that is deemed acceptable by the governmental entity may be used as a method of financial assurance.

#### Subp. 6. **Record keeping.**

A. A licensee must keep records of information important to the decommissioning of a facility in an identified location until the site is released for unrestricted use.

B. Before licensed activities are transferred or assigned according to part 4731.0785, subpart 1, item A, a licensee must transfer all records described in this subpart to the new licensee. The new licensee is responsible for maintaining the records until the license is terminated.

C. If records important to the decommissioning of a facility are kept for other purposes, reference to the records and their location may be used.

D. Information the commissioner considers important to decommissioning are:

(1) records of spills or other unusual occurrences involving the spread of contamination in and around the facility, equipment, or site, which:

(a) may be limited to instances when contamination remains after cleanup procedures or when there is reasonable likelihood that contaminants may have spread to inaccessible areas, as in the case of possible seepage into porous materials such as concrete; and

(b) must include any known information on identification of involved nuclides, quantities, forms, and concentrations;

(2) as-built drawings and modifications of structures and equipment in restricted areas where radioactive materials are used or stored and of locations of possible inaccessible contamination, such as buried pipes, that may be subject to contamination. If required drawings are referenced, each relevant document need not be indexed individually. If drawings are not available, the licensee must substitute appropriate records of available information concerning these areas and locations;

(3) a list of the following, contained in a single document and updated every two years:

(a) all areas designated and formerly designated as restricted areas;

(b) all areas outside of restricted areas that require documentation under subitem (1);

(c) all areas outside of restricted areas where current and previous wastes have been buried as documented under part 4731.2560; and

(d) all areas outside of restricted areas that contain material such that, if the license expired, the licensee would be required to either decontaminate the area to meet the criteria for decommissioning under part 4731.2100 or apply for approval for disposal under part 4731.2410; and

(4) records of:

(a) the cost estimate performed for the decommissioning funding plan or of the amount certified for decommissioning; and

(b) the funding method used for assuring funds if either a funding plan or certification is used.

**Statutory Authority:** *MS s 144.1201; 144.1202; 144.1203; 144.1204; 144.1205*

**History:** *29 SR 755; 32 SR 831; 40 SR 145*

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