

**4731.3085 LICENSE EXPIRATION AND TERMINATION;
DECOMMISSIONING.**

Subpart 1. Expiration.

A. Except as provided under item C, a specific license expires at the end of the day on the expiration date stated in the license, unless the licensee has filed an application for renewal under part 4731.3090 not less than 30 days before the expiration date stated in the existing license or, for licenses under item C, 30 days before the deemed expiration date according to item C.

B. If an application for renewal has been filed at least 30 days before the expiration date stated in the existing license, or 30 days before the deemed expiration date under item C, the existing license expires at the end of the day on which the commissioner makes a final determination to deny the renewal application or, if the determination states an expiration date, the expiration date stated in the determination.

C. A specific license that has an expiration date after July 1, 1995, and is not one of the licenses described in item D, is deemed to have an expiration date that is five years after the expiration date stated in the current license.

D. The following specific licenses are not subject to, or otherwise affected by, item C:

(1) a specific license for which, on February 15, 1996, an evaluation or an emergency plan is required according to part 4731.3065, subpart 4, item A;

(2) a specific license whose holder is subject to the financial assurance requirements under part 4731.3080, and on February 15, 1996, the holder:

(a) has not submitted a decommissioning funding plan or certification of financial assurance for decommissioning; or

(b) has not received written notice that the decommissioning funding plan or certification of financial assurance for decommissioning is acceptable; and

(3) a specific license whose holder is on the list of contaminated sites maintained for the NRC's site decommissioning management plan (SDMP) and published in Site Decommissioning Management Plan, NUREG-1444, Supplement 1 (November 1995).

Subp. 2. Revocation. A specific license revoked by the commissioner expires at the end of the day on the date of the commissioner's final determination to revoke the license, on the expiration date stated in the determination, or as otherwise provided by a commissioner's order.

Subp. 3. **Termination notice.** A specific license continues in effect, beyond the expiration date if necessary, with respect to possession of radioactive material, until the commissioner notifies the licensee in writing that the license is terminated. During this time, the licensee must:

A. limit actions involving radioactive material to those related to decommissioning; and

B. continue to control entry to restricted areas until they are suitable for release according to this chapter.

Subp. 4. **Decommissioning.**

A. Within 60 days of any of the occurrences under item B, and consistent with the administrative directions under part 4731.0200, subpart 3, a licensee must provide notification to the commissioner in writing of such occurrence and:

(1) begin decommissioning the licensee's site or any separate building or outdoor area that contains residual radioactivity so that the building or outdoor area is suitable for release according to this chapter; or

(2) submit within 12 months of notification a decommissioning plan, if required under item E, and begin decommissioning upon approval of that plan.

B. Notice under item A is required when:

(1) the license has expired under subpart 1 or 2;

(2) the licensee has decided to permanently cease principal activities at the entire site or in any separate building or outdoor area that contains residual radioactivity such that the building or outdoor area is unsuitable for release according to this chapter;

(3) no principal activities have been conducted under the license for a period of 24 months; or

(4) no principal activities have been conducted for a period of 24 months in any separate building or outdoor area that contains residual radioactivity such that the building or outdoor area is unsuitable for release according to this chapter.

C. Coincident with the notification required under item A, the licensee must maintain in effect all decommissioning financial assurances established by the licensee under part 4731.3080 in conjunction with license issuance or renewal or as required under this part. The amount of the financial assurance must be increased, or may be decreased, as appropriate, to cover the detailed cost estimate for decommissioning established under item H, subitem (5). Following approval of the decommissioning plan, a licensee may reduce the amount of the financial assurance as decommissioning proceeds and radiological contamination is reduced at the site with the approval of the commissioner.

D. The commissioner may grant a request to extend the time periods established under item A if the commissioner determines that this relief is not detrimental to the public health and safety and is otherwise in the public interest. The request must be submitted no later than 30 days before notification under item A. The schedule for decommissioning in this subpart may not commence until the commissioner has made a determination on the request.

E. A decommissioning plan must be submitted if:

(1) required by a license condition; or

(2) the procedures and activities necessary to carry out decommissioning of the site or separate building or outdoor area have not been previously approved by the commissioner and the procedures could increase potential health and safety impacts to workers or the public, as in any of the following cases:

(a) procedures would involve techniques not applied routinely during cleanup and maintenance operations;

(b) workers would be entering areas not normally occupied where surface contamination and radiation levels are significantly higher than routinely encountered during operation;

(c) procedures could result in significantly greater airborne concentrations of radioactive materials than are present during operation; or

(d) procedures could result in significantly greater releases of radioactive material to the environment than those associated with operation.

F. The commissioner may approve an alternate schedule for submittal of a decommissioning plan required under this subpart if the commissioner determines that the alternative schedule is necessary to the effective conduct of decommissioning operations and presents no undue risk from the radiation to the public health and safety and is otherwise in the public interest.

G. Procedures such as those under item E, subitem (2), with potential health and safety impacts, may not be performed before approval of the decommissioning plan.

H. The proposed decommissioning plan for the site or separate building or outdoor area must include:

(1) a description of the conditions of the site or separate building or outdoor area sufficient to evaluate the acceptability of the plan;

(2) a description of planned decommissioning activities;

(3) a description of the methods used to ensure protection of workers and the environment against radiation hazards during decommissioning;

- (4) a description of the planned final radiation survey;
- (5) an updated detailed cost estimate for decommissioning, comparison of that estimate with present funds set aside for decommissioning, and a plan for ensuring the availability of adequate funds for completion of decommissioning; and
- (6) for decommissioning plans calling for completion of decommissioning later than 24 months after plan approval, a justification for the delay based on the criteria in item K.

I. The commissioner shall approve a proposed decommissioning plan if the information in the plan demonstrates that the decommissioning will be completed as soon as practicable and that the health and safety of the workers and the public will be adequately protected.

J. Except as provided in item K, a licensee must:

- (1) complete decommissioning of the site or separate building or outdoor area as soon as practicable but no later than 24 months following the initiation of decommissioning; and
- (2) request license termination as soon as practicable but no later than 24 months following the initiation of decommissioning, when decommissioning involves the entire site.

K. The commissioner may approve a request for an alternative schedule for completion of decommissioning of the site or separate building or outdoor area, and license termination if appropriate, if the commissioner determines that the alternative is warranted by consideration of the following:

- (1) whether it is technically feasible to complete decommissioning within the allotted 24-month period;
- (2) whether sufficient waste disposal capacity is available to allow completion of decommissioning within the allotted 24-month period;
- (3) whether a significant volume reduction in wastes requiring disposal will be achieved by allowing short-lived radionuclides to decay;
- (4) whether a significant reduction in radiation exposure to workers can be achieved by allowing short-lived radionuclides to decay; and
- (5) other site-specific factors that the commissioner may consider appropriate on a case-by-case basis, such as the regulatory requirements of other governmental agencies, lawsuits, groundwater treatment activities, monitored natural groundwater restoration, actions that could result in more environmental harm than deferring clean up, and other factors beyond the control of the licensee.

L. As the final step in decommissioning, the licensee must:

(1) certify the disposition of all licensed material, including accumulated wastes, by submitting a completed NRC Form 314 or equivalent information; and

(2) conduct a radiation survey of the premises where the licensed activities were carried out and submit a report of the results of the survey, unless the licensee demonstrates in some other manner that the premises are suitable for release according to part 4731.2100. The licensee must, as appropriate:

(a) for gamma radiation, report levels of radiation in units of microroentgens (millisieverts) per hour at one meter from surfaces;

(b) for radioactivity, including alpha and beta radiation, report levels of radiation in units of disintegrations per minute or microcuries (megabecquerels) per 100 square centimeters removable and fixed for surfaces, microcuries (megabecquerels) per milliliter for water, and picocuries (becquerels) per gram for solids such as soils or concrete; and

(c) specify the survey instruments used and certify that each instrument is properly calibrated and tested.

M. Specific licenses, including expired licenses, shall be terminated by written notice to the licensee when the commissioner determines that:

(1) radioactive material has been properly disposed of;

(2) reasonable effort has been made to eliminate residual radioactive contamination, if present;

(3) a radiation survey has been performed that demonstrates, or other information submitted by the licensee is sufficient to demonstrate, that the premises are suitable for release according to part 4731.2100; and

(4) records required under part 4731.3115, subparts 3 and 5, have been received.

Statutory Authority: *MS s 144.1202; 144.1203*

History: *29 SR 755*

Published Electronically: *March 12, 2009*