Kansas Administrative Regulations

Department of Health and Environment

Article 35.—Radiation—Part 3. Licensing of Sources of Radiation.

28-35-205a. License termination under restricted conditions.

A site may be considered by the secretary to be acceptable for license termination under restricted conditions if all of the following conditions are met:

(a)(1) The licensee demonstrates that further reductions in residual radioactivity necessary to comply with the provisions of K.A.R. 28-35-205(a) would result in public or environmental harm or were not being made because the residual levels associated with restricted conditions are ALARA. The demonstration shall reflect the licensee's consideration of any detriment that could result from decontamination and waste disposal; and

(2) the licensee has made provisions for legally enforceable institutional controls that provide reasonable assurance that the TEDE from residual radioactivity distinguishable from background to the average member of the critical group will not exceed 0.25 millisievert or 25 mrem per year, including that from groundwater sources of drinking water.

(b) The licensee has provided sufficient financial assurance to enable an independent third party, including a governmental custodian of a site, to assume and carry out responsibilities for any necessary control and maintenance of the site. Each of the following financial assurance mechanisms shall be acceptable:

(1) Funds placed into an account segregated from the licensee's assets and outside the licensee's administrative control as specified in K.A.R. 28-35-180b;

(2) a surety method, insurance policy, or other guarantee method as described in K.A.R. 28-35-180b;

(3) a statement of intent in the case of federal, state, or local government licensees, as described in K.A.R. 28-35-180b; or

(4) when a governmental entity is assuming custody and ownership of a site, an arrangement that is deemed acceptable by the governmental entity.

(c) The licensee has submitted a decommissioning plan to the department indicating the licensee's intent to decommission in accordance with K.A.R. 28-35-204 and specifying that the licensee intends to decommission by restricting the use of the site. The licensee shall document in the decommissioning plan how the advice of individuals and institutions in the community who could be affected by the decommissioning has been sought and incorporated, as appropriate, following analysis of that advice.

(1) Each licensee proposing to decommission by restricting the use of the site shall seek advice from the affected parties regarding the following matters concerning the proposed decommissioning:

(A) Whether the provisions for institutional controls proposed by the licensee will provide reasonable assurance of the following:

(i) That the TEDE from residual radioactivity distinguishable from background to the average member of the critical population will not exceed the applicable limit specified in part 4 of these regulations;

(ii) that the controls are enforceable; and

(iii) that the controls do not impose undue burdens on the local community or other affected parties; and

(B) whether or not the licensee has provided sufficient financial assurance to enable an independent third party, including a governmental custodian of a site, to assume and carry out the responsibilities for any necessary control and maintenance of the site.

(2) In seeking advice on the issues identified in this subsection, the licensee shall provide for the following:

(A) Participation by representatives of a broad cross section of community interests who could be affected by the decommissioning;

(B) an opportunity for a comprehensive, collective discussion of the issues by the participants represented; and

(C) a publicly available summary of the results of all discussions specified in paragraph (c)(2)(B), including a description of the individual viewpoints of the participants on the issues and the extent of agreement and disagreement among the participants on the issues.

(d) Residual radioactivity at the site has been reduced so that if the institutional controls were no longer in effect, there is reasonable assurance that the TEDE from residual radioactivity distinguishable from background to the average member of the critical group is as low as reasonably achievable and would not exceed either of the following:

(1) 1 millisievert (100 mrem) per year; or

(2) 5 millisieverts (500 mrem) per year if the licensee demonstrates the following:

(A) Further reductions in residual radioactivity necessary to comply with the limit specified in paragraph (d)(1) are not technically achievable, would be prohibitively expensive, or would result in additional public or environmental harm;

(B) provisions for ongoing, enforceable institutional controls exist; and

(C) sufficient financial assurance exists to enable a responsible government entity or independent third party, including a governmental custodian of a site, to carry out periodic rechecks of the site at least every five years to ensure that the institutional controls remain in place as necessary to meet the requirements in this regulation and to assume and carry out the responsibilities for any necessary controls and maintenance of those controls. The financial assurance mechanisms shall be those specified in subsection (b).

(e)(1) If the department receives a decommissioning plan from the licensee or a proposal by the licensee for the release of a site pursuant to this regulation or K.A.R. 28-35-205b, the following shall be notified by the department and solicited for comments:

(A) The local and state governments in the vicinity of the site and any Indian nation or other indigenous people that have treaty or statutory rights that could be affected by the decommissioning; and

(B) the EPA, if the licensee proposes to release a site pursuant to K.A.R. 28-35-205b.

(2) Subsequent notifications and solicitations for comments of the entities specified in paragraphs (e)(1)(A) and (B) may be made by the department if the secretary deems these actions to be in the public interest.

(3) The notifications specified in this subsection shall be published in the Kansas register and in a forum, which may consist of a local newspaper, letter to a state or local organization, or other appropriate forum, that is readily accessible to individuals in the vicinity of the site, and solicit comments from affected parties.
(Authorized by and implementing K.S.A. 48-1607; effective Dec. 30, 2005.)

***** Authenticated Kansas Administrative Regulation *****