Kansas Administrative Regulations

Department of Health and Environment

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

28-35-203. Schedule G; Criteria relating to use of financial tests and parent company guarantees for providing reasonable assurance of funds for decommissioning.

(a) Each applicant or licensee providing assurance of the availability of funds for decommissioning based on a parent company guarantee that funds will be available for decommissioning costs based on a demonstration that the parent company passes a financial test shall meet the following standards:

(b) Each licensee or applicant applying to the department for recognition of a parent company guarantee for the purposes of complying with the requirements of K.A.R. 28-35-180b shall be required to show that the parent company guarantee meets the following criteria:

(1) Each parent company shall meet two of the following three ratios:

(A) A ratio of total liabilities to net worth that is less than 2.0;

(B) a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities that is greater than 0.1; or

(C) a ratio of current assets to current liabilities that is greater than 1.5.

(2) Each parent company shall have net working capital and tangible net worth each of which is equal a minimum of six times the current decommissioning cost estimates, or the prescribed amount if a certification is used based on the requirements of K.A.R. 28-35-180b.

(3) Each parent company shall have assets located in the United States amounting to at least 90 percent of the company's total assets or at least six times the current decommissioning cost estimates, or at least six times the prescribed amount if a certification is used based on the requirements of K.A.R. 28-35-180b.

(4) Each parent company shall have the following:

(A) A current rating for the company's most recent bond issuance of AAA, AA, A, or BBB as issued by standard and poor's or Aaa, Aa, A, or Baa as issued by moody's;

(B) a tangible net worth at least six times the current decommissioning cost estimate, or the prescribed amount if a certification is used based on the requirements of K.A.R. 28-35-180b;

(C) a tangible net worth of at least $10 million; and

(D) assets located in the United States amounting to at least 90 percent of the company's total assets or at least six times the current decommissioning cost estimates, or at least six times the prescribed amount if certification is used based on the requirements of K.A.R. 28-35-180b.

(c) The parent company's independent certified public accountant shall compare the data used by the parent company in the financial test, which shall be derived from the independently audited, year-end financial statements for the latest fiscal year, with the amounts in the financial statement. If any matters come to the auditor's attention that cause the auditor to believe that the data specified in the financial test should be adjusted and that the company no longer passes the test, the licensee shall notify the department within 90 days of the date the auditor identifies the matter.

(d) After the initial financial test, the parent company shall be required to pass the test within 90 days after the close of each succeeding fiscal year.

(1) If the parent company no longer meets the requirements of subsection (a), the licensee shall notify the department of the licensee's intent to establish alternate financial assurance as specified in these regulations.

(2) The notice shall be sent by certified mail within 90 days after the end of the fiscal year for which the year-end financial data shows that the parent company no longer meets the financial test requirements.

(3) The licensee shall provide alternate financial assurance within 120 days after the end of a fiscal year for which the year-end financial data shows that the parent company no longer meets the financial test requirements.

(e) Each parent company guarantee obtained by an applicant or licensee shall contain terms that provide the following information:

(1) The parent company guarantee shall remain in force unless the guarantor sends notice of cancellation by certified mail to the licensee and the department. The guarantee shall not be canceled during the 120 days beginning on the date of receipt of the notice of cancellation by both the licensee and the department, as evidenced by the return receipts.

(2) If the licensee fails to provide alternate financial assurance within 90 days after receipt of a notice of cancellation of the parent company guarantee by the licensee and the department, the guarantor shall provide the alternative financial assurance in the name of the licensee.

(3) The parent company guarantee and financial test provisions shall remain in effect until the secretary has terminated the license.

(4) If a trust is established for decommissioning costs, the trustee and trust shall be acceptable to the secretary. An acceptable trustee may be an appropriate state or federal government agency or an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency. (Authorized by and implementing K.S.A. 48-1607; effective Nov. 1, 1996; amended July 27, 2007.)

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