

Title 33**ENVIRONMENTAL QUALITY****Part XV. Radiation Protection****Chapter 3. Licensing of ByproductRadioactive Material****Subchapter D. Specific Licenses****§325. General Requirements for the Issuance of Specific Licenses**

A. – D.5. ...

6. Each decommissioning funding plan shall be submitted for review and approval and contain a detailed cost estimate for decommissioning, in an amount reflecting: the cost of an independent contractor to perform all decommissioning activities; the cost of meeting the criteria in Clause 332.D.1.iii of this Chapter for unrestricted use, provided that, if the applicant or licensee can demonstrate its ability to meet the provisions of Subsection 332.F of this Chapter, the cost estimate may be based on meeting the criteria in Subsection 332.F of this Chapter; the volume of onsite subsurface material containing residual radioactivity that will require remediation to meet the criteria for license termination; and an adequate contingency factor. The decommissioning funding plan shall also include identification of and justification for using the key assumptions contained in the decommissioning cost estimate and a description of the method of assuring funds for decommissioning from Paragraph D.7 of this Section, including means of adjusting cost estimates and associated funding levels periodically over the life of the facility. Cost estimates shall be adjusted at intervals not to exceed three years. The decommissioning funding plan shall also contain a certification by the licensee that financial assurance for decommissioning has been provided in the amount of the cost estimate for decommissioning and a signed original of the financial instrument obtained to satisfy the requirements of Paragraph D.7 of this Section. At the time of license renewal and at intervals not to exceed three (3) years, the decommissioning funding plan shall 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 shall update the information submitted with the original or prior approved plan, and shall specifically consider the effect of the following events on decommissioning costs: spills of radioactive material producing additional residual radioactivity in onsite subsurface material; waste inventory increasing above the amount previously estimated; waste disposal costs increasing above the amount previously estimated; facility modifications; changes in authorized possession limits; actual remediation costs that exceed the previous cost estimate; onsite disposal; and use of a settling pond.

7. – 8.d.iv. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104.B.

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§331. Specific Terms and Conditions of Licenses

A. – B. ...

1. An application for transfer of license shall include the identity, technical and financial qualifications of the proposed transferee, and financial assurance for decommissioning information required by this Chapter.

C. – F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2571 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2527 (October 2005), LR 33:2180 (October 2007), amended by the Office of the Secretary, Legal Division, LR 40:1928 (October 2014), LR 41:**.

§332. Expiration and Termination of Licenses and Decommissioning of Sites and Separate Buildings or Outdoor Areas

A. – E.2. ...

F. A site will be considered acceptable for license termination under restricted conditions if:

1. the licensee can demonstrate that further reductions in residual radioactivity necessary to comply with the provisions of Clause D.1.e.iii of this Section would result in net public or environmental harm or were not being made because the residual levels associated with restricted conditions are ALARA. Determination of the levels which are ALARA shall take into account consideration of any detriments, such as traffic accidents, expected to potentially result from decontamination and waste disposal;

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 25 mrem (0.25 mSv) per year;

3. 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. Acceptable financial assurance mechanisms are:

a. funds placed into a trust segregated from the licensee's assets and outside the licensee's administrative control, and in which the adequacy of the trust funds is to be assessed based on an assumed annual one percent (1%) real rate of return on investment;

b. a statement of intent in the case of federal, state, or local government licensees, as described in Subparagraph 325.D.7.d of this Chapter; or

c. when a governmental entity is assuming custody and ownership of a site, an arrangement that is deemed acceptable by such governmental entity;

4. the licensee has submitted a decommissioning plan or License Termination Plan (LTP) to the department indicating the licensee's intent to decommission in accordance with Subparagraph D.6.a of this Section, and specifying that the licensee intends to decommission by restricting use of the site. The licensee shall document in the LTP or decommissioning plan how the advice of individuals and institutions in the community who may be affected by the decommissioning has been sought and incorporated, as appropriate, following analysis of that advice;

a. licensees proposing to decommission by restricting use of the site shall seek advice from such affected parties regarding the following matters concerning the proposed decommissioning:

i. whether provisions for institutional controls proposed by the licensee will provide reasonable assurance that the TEDE from residual radioactivity distinguishable from background to the average member of the critical group will not exceed 25 mrem (0.25 mSv) TEDE per year; will be enforceable; and will not impose undue burdens on the local community or other affected parties; and

ii. whether 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;

b. in seeking advice on the issues identified in Subparagraph F.4.a of this Section, the licensee shall provide for:

i. participation by representatives of a broad cross section of community interests who may be affected by the decommissioning;

ii. an opportunity for a comprehensive, collective discussion on the issues by the participants represented; and

iii. a publicly available summary of the results of all such discussions, 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; and

5. 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:

a. 100 mrem (1 mSv) per year; or

b. 500 mrem (5 mSv) per year provided the licensee;

i. _____ demonstrates that further reductions in residual radioactivity necessary to comply with the 100 mrem/y (1 mSv/y) value of Subparagraph F.5.a of this Section are not technically achievable, would be prohibitively expensive, or would result in net public or environmental harm;

ii. _____ makes provisions for durable institutional controls;

iii. _____ provides sufficient financial assurance to enable a responsible government entity or independent third party, including a governmental custodian of a site, both to carry out periodic rechecks of the site no less frequently than every 5 years to assure that the institutional controls remain in place as necessary to meet the criteria of Paragraph F.2 of this Section and to assume and carry out responsibilities for any necessary control and maintenance of those controls. Acceptable financial assurance mechanisms are those in Paragraph F.3 of this Section.

G. _____ Alternate Criteria for License Termination

1. _____ The department may terminate a license using alternate criteria greater than the dose criterion in this Section if the licensee:

a. _____ provides assurance that public health and safety would continue to be protected, and that it is unlikely that the dose from all man-made sources combined, other than medical, would be more than the 1 mSv/y (100 mrem/y) limit of LAC 33:XV.421 and 422, by submitting an analysis of possible sources of exposure;

b. _____ has employed to the extent practical restrictions on site use according to the provisions of Subsection F of this Section in minimizing exposures at the site;

c. _____ reduces doses to ALARA levels, taking into consideration any detriments such as traffic accidents expected to potentially result from decontamination and waste disposal;

d. _____ has submitted a decommissioning plan or License Termination Plan (LTP) to the department indicating the licensee's intent to decommission in accordance with Subparagraph D.6.a of this Section, and specifying that the licensee proposes to decommission by use of alternate criteria. The licensee shall document in the decommissioning plan or LTP how the advice of individuals and institutions

in the community who may be affected by the decommissioning has been sought and addressed, as appropriate, following analysis of that advice. In seeking such advice, the licensee shall provide for:

i. participation by representatives of a broad cross section of community interests who may be affected by the decommissioning;

ii. an opportunity for a comprehensive, collective discussion on the issues by the participants represented; and

iii. a publicly available summary of the results of all such discussions, 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; and

e. has provided sufficient financial assurance in the form of a trust fund 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.

2. The use of alternate criteria to terminate a license requires the approval of the department after consideration of the staff's recommendations that will address any comments provided by the Nuclear Regulatory Commission, the Environmental Protection Agency, and any public comments submitted in accordance with Subsection H of this Section.

H. Public Notification and Public Participation

1. Upon the receipt of an LTP or decommissioning plan from the licensee, or a proposal by the licensee for release of a site in accordance with Subsections F or G of this Section, or whenever the department deems such notice to be in the public interest, the department shall:

a. notify and solicit comments from:

i. 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

ii. the Environmental Protection Agency for cases where the licensee proposes to release a site in accordance with Subsections G of this Section; and

b. publish a notice in the *Louisiana Register* and in a forum, such as local newspapers, letters to state or local organizations, or other appropriate forum, that is readily accessible to individuals in the vicinity of the site, and solicit comments from affected parties.

I. Minimization of Contamination

1. Applicants for licenses, other than early site permits and manufacturing licenses under 10 CFR 52 and renewals, whose applications are submitted after August 20, 1997, shall describe in the application how facility design and procedures for operation will minimize, to the extent practicable, contamination of the facility and the environment, facilitate eventual decommissioning, and minimize, to the extent practicable, the generation of radioactive waste.

2. Licensees shall, to the extent practical, conduct operations to minimize the introduction of residual radioactivity into the site, including the subsurface, in accordance with the existing radiation protection requirements in LAC 33:XV.406 and radiological criteria for license termination in this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.

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Chapter 4. Standards for Protection against Radiation

Subchapter C. Surveys and Monitoring

§430. General

A. Each licensee or registrant shall make, or cause to be made, surveys of areas, including the subsurface, that:

1. ~~are~~ may be necessary for the licensee or registrant to comply with this Chapter; and

2. are ~~necessary~~reasonable under the circumstances to evaluate:
 - a. the magnitude and extent of radiation levels;
 - b. ...
 - c. the potential radiological hazards of the radiation levels and residual

radioactivity detected that could be present.

B. – D. ...

E. Notwithstanding LAC 33:XV.472.A, records from surveys describing the location and amount of subsurface residual radioactivity identified at the site shall be kept with records important for decommissioning, and such records shall be retained in accordance with LAC 33:XV.325.D.8, as applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.

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