

§ 20.1403 Criteria for license termination under restricted conditions.

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

(a) The licensee can demonstrate that further reductions in residual radioactivity necessary to comply with the provisions of § 20.1402 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 must take into account consideration of any detriments, such as traffic accidents, expected to potentially result from decontamination and waste disposal;

(b) 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;

(c) 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—

(1) Funds placed into an account segregated from the licensee's assets and outside the licensee's administrative control as described in § 30.35(f)(1) of this chapter;

(2) Surety method, insurance, or other guarantee method as described in § 30.35(f)(2) of this chapter;

(3) A statement of intent in the case of Federal, State, or local Government licensees, as described in § 30.35(f)(4) of this chapter; or

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

(d) The licensee has submitted a decommissioning plan or License Termination Plan (LTP) to the Commission indicating the licensee's intent to decommission in accordance with §§ 30.36(d), 40.42(d), 50.82 (a) and (b), 70.38(d), or 72.54 of this chapter, 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.

(1) 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:

(A) 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;

(B) Will be enforceable; and

(C) Will not impose undue burdens on the local community or other affected parties.

(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;

(2) In seeking advice on the issues identified in § 20.1403(d)(1), 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 or disagreement among the participants on the issues; and

(e) 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—

- (1) 100 mrem (1 mSv) per year; or
- (2) 500 mrem (5 mSv) per year provided that the licensee—

- (i) Demonstrates that further reductions in residual radioactivity necessary to comply with the 100 mrem/y (1 mSv/y) value of paragraph (e)(1) 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 § 20.1403(b) and to assume and carry out responsibilities for any necessary control and maintenance of those controls. Acceptable financial assurance mechanisms are those in paragraph (c) of this section.

EFFECTIVE DATE NOTE: At 76 FR 35564, June 17, 2011, § 20.1403 was amended by removing paragraph (c)(2), redesignating paragraphs (c)(3) and (c)(4) as paragraphs (c)(2) and (c)(3), and revising paragraph (c)(1), effective Dec. 17, 2012. For the convenience of the user, the revised text is set forth as follows:

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* * * *

(c) * * *

(1) 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 1 percent real rate of return on investment;

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§ 20.1404 Alternate criteria for license termination.

(a) The Commission may terminate a license using alternate criteria greater than the dose criterion of §§ 20.1402, 20.1403(b), and 20.1403(d)(1)(i)(A), if the licensee—

(1) 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 subpart D, by submitting an analysis of possible sources of exposure;

(2) Has employed to the extent practical restrictions on site use according to the provisions of § 20.1403 in minimizing exposures at the site; and

(3) Reduces doses to ALARA levels, taking into consideration any detriments such as traffic accidents expected to potentially result from decontamination and waste disposal.

(4) Has submitted a decommissioning plan or License Termination Plan (LTP) to the Commission indicating the licensee's intent to decommission in accordance with §§ 30.36(d), 40.42(d), 50.82 (a) and (b), 70.38(d), or 72.54 of this chapter, 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 on the issues.

(b) The use of alternate criteria to terminate a license requires the approval of the Commission after consideration of the NRC staff's recommendations that will address any comments provided by the Environmental Protection Agency and any public comments submitted pursuant to § 20.1405.

EFFECTIVE DATE NOTE: At 76 FR 35564, June 17, 2011, § 20.1404 was amended by adding paragraph (a)(5), effective Dec. 17, 2012. For