

**WAC 246-235-075 Financial assurance and recordkeeping for decommissioning.** (1) Each applicant for one of the following licenses shall submit a decommissioning funding plan as described in this section:

(a) A specific license authorizing receipt of radioactive waste for the purpose of volume reduction, repackaging or interim storage.

(b) Receipt of contaminated articles, scrap material, equipment, or clothing to be decontaminated at the licensee's facility.

(c) A specific license authorizing the possession and use of radioactive material of half-life greater than 120 days and in quantities for unsealed material exceeding  $10^3$  times and for sealed forms exceeding  $10^{10}$  times the applicable quantities set forth in WAC 246-221-300 Appendix B (for a combination of nuclides the unity rule applies. A decommissioning funding plan will be required if R is greater than 1, where R is defined as the sum of the ratios of the quantity for sealed and unsealed forms of each nuclide compared to the applicable value derived from WAC 246-221-300).

(d) A specific license authorizing possession and use of source material in readily dispersible form and in quantities greater than 370 megabecquerels (10 millicuries).

(2) Each decommissioning funding plan must be submitted for review and approval and must contain the following:

(a) A description of the facility and areas within the facility likely to require decommissioning as a result of routine operation.

(b) A description of methods and general procedures for performing facility decontamination, maintaining security, and performing a final radiation survey.

(c) A detailed cost estimate for decommissioning facilities impacted by the activities authorized in the specific license reflecting:

(i) The cost of an independent contractor to perform all decommissioning activities;

(ii) The cost of meeting WAC 246-246-020, Radiological criteria for unrestricted use, or the cost of meeting WAC 246-246-030, Criteria for license termination under restricted conditions, and WAC 246-246-040, Alternate criteria for license termination;

(iii) Any previous spills of radioactive material;

(iv) An adequate contingency factor;

(v) A means for adjusting cost estimates and associated funding levels periodically over the life of the facility or facilities;

(vi) Anticipated labor, equipment, and material costs;

(vii) Anticipated waste volume;

(viii) Anticipated volume of on-site subsurface material containing residual radioactivity requiring remediation or disposal;

(ix) Anticipated packaging, transportation, and waste disposal cost of decommissioning;

(x) Routine costs for packaging, transportation, and waste disposal;

(xi) On-site disposal; and

(xii) Use of settling or evaporation ponds.

(d) A description of the method of assuring funds for decommissioning, pursuant to subsection (4) of this section, including means for adjusting levels periodically over the life of the facility or facilities.

(e) Identification of and justification for the key assumptions used and applied in the decommissioning cost estimate.

(f) A commitment to clean up accidental spills promptly and to begin decommissioning of the facility or facilities within 12 months of ceasing operation involving radioactive material.

(3) Each cost estimate for decommissioning must include identification and justification of all key assumptions used in the plan and cost estimate.

(4) Each applicant shall submit a certification that financial assurance for decommissioning meets the amount of the approved decommissioning cost estimate prior to commencement of the use of any radioactive materials. The applicant or licensee shall provide a signed original of the financial instrument obtained to satisfy the financial surety requirement unless a previously submitted and accepted financial instrument continues to cover the plan and cost estimate for decommissioning. That financial instrument must be one or more of the following approved methods:

(a) Prepayment. Prepayment is the deposit of sufficient funds to pay decommissioning costs. Funds must be deposited prior to the start of operation into an account segregated from licensee assets and outside the licensee's administrative control. Prepayment may be in the form of a trust, escrow account, government fund, certificate of deposit, or deposit of government securities. The funding must be stipulated specifically for the purpose of decommissioning.

(b) A surety method, insurance, or other guarantee method. These methods guarantee that decommissioning costs will be paid should the licensee default. A surety method may be in the form of a surety bond, letter of credit, or line of credit. Any surety method or insurance used to provide financial assurance for decommissioning must contain the following conditions:

(i) The surety method or insurance must be open-ended or, if written for a specified term, such as five years, must be renewed automatically unless 90 days or more prior to the renewal date, the issuer notifies the department, the beneficiary, and the licensee of its intention not to renew. The surety method or insurance must also require that the full face amount be paid to the beneficiary automatically prior to the expiration without proof of forfeiture if the licensee fails to provide a replacement acceptable to the department within 30 days after receipt of notification of cancellation.

(ii) The surety method or insurance must be payable to a trust established for decommissioning costs. Funds must be placed into a trust segregated from the licensee's assets, 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 real rate of return on investment. The trustee and trust must be acceptable to the department. Acceptable trustees include an appropriate state or federal government agency or an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

(iii) The surety method or insurance must remain in effect until the department has terminated the license.

(c) An external sinking fund in which deposits are made at least annually, coupled with a surety method or insurance, the value of which may decrease by the amount being accumulated in the sinking fund. An external sinking fund is a fund established and maintained by setting aside funds periodically in an account segregated from licensee assets and outside the licensee's administrative control. The total amount of funds in the external sinking fund must be sufficient to pay decommissioning costs at the time termination of operation is ex-

pected. An external sinking fund may be in the form of a trust, escrow account, government fund, certificate of deposit, or deposit of government securities. The surety or insurance provisions must be as stated in subsection (4)(b) of this section.

(d) Statement of intent. In the case of state or local government licensees, a statement of intent containing a cost estimate for decommissioning and indicating that funds for decommissioning will be obtained when necessary.

(e) Other methods of financial assurance as approved by the department. The department may approve other financial mechanisms submitted by the applicant or licensee if the alternate method meets, at a minimum, the requirements of 10 C.F.R. 30.35 and associated NRC guidance.

(5)(a) The applicant or licensee shall submit to the department for approval, an initial or updated decommissioning funding plan with a detailed cost estimate prior to license issuance and shall submit an updated plan at intervals not to exceed three years.

(b) The decommissioning funding plan must be resubmitted with adjustments as necessary to account for changes in costs and the extent of contamination. The amount of the financial assurance may not be adjusted downward until the updated decommissioning funding plan is approved. The information submitted with the original or prior approved decommissioning funding plan must be updated and submitted with the adjusted decommissioning funding plan. It must specifically address the effect of the following events on decommissioning costs:

- (i) Facility modifications;
- (ii) Changes in authorized possession limits;
- (iii) Changes in process;
- (iv) Spills of radioactive material and actual remediation costs that exceed the previous cost estimate;
- (v) Spills of radioactive material producing additional residual radioactivity in on-site subsurface material;
- (vi) Waste inventory increase above the amount previously estimated;
- (vii) Waste disposal costs increase above the amount previously estimated;
- (viii) On-site disposal;
- (ix) Use of settling or evaporation ponds; and
- (x) Any alteration which might affect the overall cost of decommissioning.

(c) The applicant or licensee shall incorporate department comments into the decommissioning funding plan including its cost estimate and shall revise its financial surety accordingly.

(d) Applicants shall obtain the appropriate financial assurance as approved by the department prior to receipt of licensed material. The department may issue a new license if the applicant agrees to comply with the decommissioning funding plan as approved. If the applicant defers execution of the financial instrument until after the license has been issued, a signed original of the financial instrument obtained to satisfy the requirements of this section must be submitted to the department before receipt of licensed material.

(e) Licensees shall implement the financial assurance requirements within 30 days of receiving department approval of the initial or updated decommissioning funding plan. Licensees shall submit copies of the financial surety within 30 days of securing the surety and annually thereafter.

(6) Each person licensed under this chapter shall keep records of information important to the safe and effective decommissioning of the facility in an identified location until the site is released for unrestricted use. Before licensed activities are transferred or assigned in accordance with WAC 246-232-050(2), licensees shall transfer all records described in this subsection to the new licensee. In this case, the new licensee will be responsible for maintaining these records until the license is terminated by the department. If records of relevant information are kept for other purposes, reference to these records and their locations may be used.

(a) An application for transfer of license must include:

(i) The identity, technical, and financial qualifications of the proposed transferee; and

(ii) Financial assurance for decommissioning information required by WAC 246-235-075.

(b) Information the department considers important to decommissioning consists of:

(i) Records of spills or other unusual occurrences involving the spread of contamination in and around the facility, equipment, or site, including subsurface residual radioactivity. These records may be limited to instances when contamination remains after any cleanup procedures or when there is reasonable likelihood that contaminants may have spread to inaccessible areas as in the case of possible seepage into porous materials such as concrete. These records must include any known information on identification of involved nuclides, quantities, forms, and concentrations.

(ii) As-built drawings and modifications of structures and equipment in restricted areas where radioactive materials are used or stored, and of locations of possible inaccessible contamination such as buried pipes which may be subject to contamination. If required drawings are referenced, each relevant document need not be indexed individually. If drawings are not available, the licensee shall substitute appropriate records of available information concerning these areas and locations.

(iii) Except for areas containing only sealed sources (provided the sources have not leaked or no contamination remains after any leak) or depleted uranium used only for shielding or as penetrators in unused munitions, or radioactive materials having only half-lives of less than 65 days, a list contained in a single document and updated every two years, of the following:

(A) All areas designated and formerly designated as restricted areas as defined under WAC 246-220-010;

(B) All areas outside of restricted areas that require documentation under (b)(i) of this subsection;

(C) All areas outside of restricted areas where current and previous wastes have been buried as documented under WAC 246-221-230 (8)(a); and

(D) All areas outside of restricted areas which contain material such that, if the license expired, the licensee would be required to either decontaminate the area to meet the criteria for decommissioning in chapter 246-246 WAC or apply for approval for disposal under WAC 246-221-180. Records of the cost estimate performed for the decommissioning funding plan or of the amount certified for decommissioning, and records of the funding method used for assuring funds if either a funding plan or certification is used.

[Statutory Authority: RCW 70A.388.040 and 70A.388.110. WSR 22-19-084, § 246-235-075, filed 9/20/22, effective 10/21/22. Statutory Authority: RCW 70.98.050. WSR 15-06-015, § 246-235-075, filed 2/23/15, effective 3/26/15; WSR 13-24-025, § 246-235-075, filed 11/22/13, effective 12/23/13. Statutory Authority: RCW 70.98.095 and 70.98.050. WSR 07-03-049, § 246-235-075, filed 1/12/07, effective 2/12/07. Statutory Authority: RCW 70.98.050. WSR 00-07-085, § 246-235-075, filed 3/15/00, effective 4/15/00; WSR 99-15-105, § 246-235-075, filed 7/21/99, effective 8/21/99. Statutory Authority: RCW 70.98.050 and 70.98.080. WSR 97-08-095, § 246-235-075, filed 4/2/97, effective 5/3/97; WSR 92-06-008 (Order 245), § 246-235-075, filed 2/21/92, effective 3/23/92.]