

This is an amendment to 20.3.3.318 NMAC, Sub-Section A effective XX/XX/2022.

20.3.3.318 EXPIRATION AND TERMINATION OF LICENSES AND DECOMMISSIONING OF SITES AND SEPARATE BUILDINGS OR OUTDOOR AREAS:

A. The term of a specific license is five years unless the department granted a different term. Except as provided in Subsection B of this section, each specific license expires at the end of the day on the expiration date stated in the license unless the licensee has filed an application for renewal under 20.3.3.319 NMAC not less than 30 days before the expiration date stated in the existing license. If an application for renewal has been filed at least 30 days before the expiration date stated in the existing license, the existing license expires at the end of the day on which the department makes a final determination to deny the renewal application or, if the determination states an expiration date, the expiration date stated in the determination.

B. If the licensee failed to pay outstanding annual fees to the department as required by 20.3.16 NMAC, the specific license expires at the end of the day on the expiration date stated in the license. The licensee shall follow the requirements in Subsection F through L [M] of this section for termination of the specific license, or apply for a license pursuant to 20.3.3.307 NMAC after the outstanding annual fee(s) has been paid.

C. Each specific license revoked by the department expires at the end of the day on the date of the department's final determination to revoke the license, or on the expiration date stated in the determination, or as otherwise provided by department order.

D. Expiration of the specific license does not relieve the licensee from the requirements in 20.3 NMAC. All license provisions continue in effect, beyond the expiration date if necessary, with respect to possession of radioactive material until the department notifies the licensee in writing that the license is terminated. During this time, the licensee shall:

(1) limit actions involving radioactive material to those related to decommissioning; and
(2) continue to control entry to restricted areas until they are suitable for release in accordance with department requirements.

E. Within 60 days of the occurrence of any of the following, each licensee shall provide notification to the department in writing of such occurrence, and either begin decommissioning its site, or any separate building or outdoor area that contains residual radioactivity so that the building or outdoor area is suitable for release in accordance with department requirements, or submit within 12 months of notification a decommissioning plan, if required by Subsection H of this section, and begin decommissioning upon approval of that plan if:

(1) the license has expired or has been revoked pursuant to Subsections A, B or C of this section; or

(2) the licensee has decided to permanently cease principal activities, as defined in 20.3.3.7 NMAC, at the entire site or in any separate building or outdoor area that contains residual radioactivity such that the building or outdoor area is unsuitable for release in accordance with department requirements; or

(3) no principal activities under the license have been conducted for a period of 24 months; or

(4) no principal activities have been conducted for a period of 24 months in any separate building or outdoor area that contains residual radioactivity such that the building or outdoor area is unsuitable for release in accordance with department requirements.

F. Coincident with the notification required by Subsection E of this section, the licensee shall maintain in effect all decommissioning financial assurances established by the licensee pursuant to 20.3.3.311 NMAC in conjunction with a license issuance or renewal or as required by this section. The amount of the financial assurance must be increased, or may be decreased, as appropriate, to cover the detailed cost estimate for decommissioning established pursuant to Subparagraph (e) of Paragraph (4) of Subsection H of this section.

G. The department may grant a request to extend the time periods established in Subsection E of this section, if the department determines that this relief is not detrimental to the public health and safety and is otherwise in the public interest. The request must be submitted no later than 30 days before notification pursuant to Subsection E of this section. The schedule for decommissioning set forth in Subsection E of this section may not commence until the department has made a determination on the request.

H. Decommissioning Plan.

(1) A decommissioning plan must be submitted if required by license condition or if the procedures and activities necessary to carry out decommissioning of the site or separate building or outdoor area have not been previously approved by the department and these procedures could increase potential health and safety impacts to workers or to the public, such as in any of the following cases:

(a) procedures would involve techniques not applied routinely during cleanup or

maintenance operations;

(b) workers would be entering areas not normally occupied where surface contamination and radiation levels are significantly higher than routinely encountered during operation;

(c) procedures could result in significantly greater airborne concentrations of radioactive materials than are present during operation; or

(d) procedures could result in significantly greater releases of radioactive material to the environment than those associated with operation.

(2) The department may approve an alternate schedule for submittal of a decommissioning plan required pursuant to Subsection E of this section if the department determines that the alternative schedule is necessary to the effective conduct of decommissioning operations and presents no undue risk from radiation to the public health and safety and is otherwise in the public interest.

(3) Procedures, such as those listed in Paragraph (1) of this subsection, with potential health and safety impacts may not be carried out prior to approval of the decommissioning plan.

(4) The proposed decommissioning plan for the site or separate building or outdoor area must include:

(a) a description of the conditions of the site or separate building or outdoor area sufficient to evaluate the acceptability of the plan;

(b) a description of planned decommissioning activities;

(c) a description of methods used to ensure protection of workers and the environment against radiation hazards during decommissioning;

(d) a description of the planned final radiation survey;

(e) an updated detailed cost estimate for decommissioning, comparison of that estimate with present funds set aside for decommissioning, and a plan for assuring the availability of adequate funds for completion of decommissioning; and

(f) for decommissioning plans calling for completion of decommissioning later than 24 months after plan approval, the plan shall include a justification for the delay based on the criteria in Subsection J of this section.

(5) The proposed decommissioning plan will be approved by the department if the information therein demonstrates that the decommissioning will be completed as soon as practicable and that the health and safety of workers and the public will be adequately protected.

I. Deadline for Decommissioning.

(1) Except as provided in Subsection J of this section, licensees shall complete decommissioning of the site or separate building or outdoor area as soon as practicable but no later than 24 months following the initiation of decommissioning.

(2) Except as provided in Subsection J of this section, when decommissioning involves the entire site, the licensee shall request license termination as soon as practicable but no later than 24 months following the initiation of decommissioning.

J. The department may approve a request for an alternative schedule for completion of decommissioning of the site or separate building or outdoor area, and license termination if appropriate, if the department determines that the alternative is warranted by consideration of the following:

(1) whether it is technically feasible to complete decommissioning within the allotted 24-month period;

(2) whether sufficient waste disposal capacity is available to allow completion of decommissioning within the allotted 24-month period;

(3) whether a significant volume reduction in wastes requiring disposal will be achieved by allowing short-lived radionuclides to decay;

(4) whether a significant reduction in radiation exposure to workers can be achieved by allowing short-lived radionuclides to decay; and

(5) other site-specific factors which the department may consider appropriate on a case-by-case basis, such as the regulatory requirements of other government agencies, lawsuits, ground-water treatment activities, monitored natural ground-water restoration, actions that could result in more environmental harm than deferred cleanup, and other factors beyond the control of the licensee.

K. As the final step in decommissioning, the licensee shall:

(1) certify the disposition of all licensed material, including accumulated wastes, by submitting a completed *certificate - disposition of radioactive material* form or equivalent information; and

(2) conduct a radiation survey of the premises where the licensed activities were carried out

and submit a report of the results of this survey, unless the licensee demonstrates in some other manner that the premises are suitable for release in accordance with the criteria for decommissioning in 20.3.4.426 NMAC; the licensee shall, as appropriate:

(a) report levels of gamma radiation in units of millisievert (microrentgen) per hour at one meter from surfaces, and report levels of radioactivity, including alpha and beta, in units of megabecquerels (disintegrations per minute or microcuries) per 100 square centimeters, removable and fixed, for surfaces, megabecquerels (microcuries) per milliliter for water, and becquerels (picocuries) per gram for solids such as soils or concrete; and

(b) specify the survey instrument(s) used and certify that each instrument is properly calibrated and tested.

L. Specific licenses, including expired licenses, will be terminated by written notice to the licensee when the department determines that:

- (1) radioactive material has been properly disposed;
- (2) reasonable effort has been made to eliminate residual radioactive contamination, if present; and
- (3) a radiation survey has been performed which demonstrates that the premises are suitable for release in accordance with the criteria for decommissioning in 20.3.4.426 NMAC; or other information submitted by the licensee is sufficient to demonstrate that the premises are suitable for release in accordance with the criteria for decommissioning in 20.3.4.426 NMAC; and
- (4) records required by Subsections D and F of 20.3.3.326 NMAC, have been received by the department.

[20.3.3.318 NMAC - Rp, 20.3.3.318 NMAC, A, XX/XX/2022]