State of Kansas

Department of Health and Environment

Notice of Hearing on Proposed Administrative Regulations

The Kansas Department of Health and Environment, Division of Public Health, Bureau of Community Health Systems, will conduct a public hearing at 10:00 a.m. Thursday, November 2, 2017, in the Azure Conference Room, fourth floor, Curtis State Office Building, 1000 SW Jackson, Topeka, Kansas, to consider the adoption of proposed amended regulations K.A.R. 28-35-135a, 28-35-135c, 28-35-135i, 28-35-135s, 28-35-135u, 28-35-140, 28-35-177a, 28-35-178i, 28-35-179a, 28-35-180a, 28-35-180b, 28-35-181h, 28-35-181i, 28-35-181k, 28-35-181m, 28-35-181o, 28-35-184a, 28-35-192a, 28-35-192c, 28-35-192g, 28-35-205b, 28-35-217b, 28-35-221a, 28-35-221b, 28-35-264, 28-35-288, 28-35-343, 28-35-344, 28-35-347, 28-35-362, and 28-35-504; the adoption of proposed new regulations K.A.R. 28-35-181t, 28-35-192h, 28-35-197b, and 28-35-700; and the proposed revocation of K.A.R. 28-35-197a and 28-35-230d, all regarding radiation control.

A summary of the proposed regulations and the estimated economic impact follows:

Summary of Regulations:

K.A.R. 28-35-135a. Definitions. Amended to meet Nuclear Regulatory Commission (NRC) compatibility requirements by removing the definition of "becquerel" and "curie," defined in 28-35-135b and 28-35-135c respectively, under the term "activity."

K.A.R. 28-35-135c. Definitions. Adds the definition of "consortium" for compatibility with NRC regulations.

K.A.R. 28-35-135i. Definitions. Adds the definitions of "Indian tribe" and "Indian tribal official" for compatibility with NRC regulations.

K.A.R. 28-35-135s. Definitions. Clarifies the definition of "survey" for compatibility with NRC regulations.

K.A.R. 28-35-135u. Definitions. Adds a description of "processing" to the definition of "unrefined or unprocessed ore" for compatibility with NRC regulations.

K.A.R. 28-35-140. Exemptions. Specifies exemptions for carriers for compatibility with NRC regulations.

K.A.R. 28-35-177a. General licenses; source material. Adopts the wording of the federal requirements for a general license for uranium and thorium in certain forms and quantities for compatibility with NRC regulations.

K.A.R. 28-35-178i. General licenses for certain units of radium-226. Adds descriptions of types of products that are issued a general license for certain units of radium-226 and clarifies language related to reports of damage, abandonment, disposal, export, and fee waiver for compatibility with NRC regulations.

K.A.R. 28-35-179a. Application for specific license; renewal or amendment. Adds essential information required for the license of a sealed source or device containing a sealed source for compatibility with NRC regulations.

K.A.R. 28-35-180a. General requirements for the issuance of specific licenses. Adds a description of minimization of introduction of residual radioactivity regulation for compatibility with NRC regulations.

K.A.R. 28-35-180b. Financial assurance for decommissioning. Adds descriptive information defining the criteria of a cost estimate, periodic adjustment timeframe of no longer than three years, and descriptor of prepayment terms for compatibility with NRC regulations.

K.A.R. 28-35-181h. Specific licenses to manufacture and distribute the devices specified in K.A.R. 28-35-178b. Adds the requirement to list certain devices or sources in the sealed source and device registry for compatibility with NRC regulations.

K.A.R. 28-35-181i. Special license to manufacture, distribute, assemble, or repair luminous safety devices for use in aircraft. Adopts by reference the comparable NRC regulation for compatibility with NRC regulations.

K.A.R. 28-35-181k. Specific licenses to manufacture and distribute ice detection devices. Adopts by reference the comparable NRC regulation for compatibility with NRC regulations.

K.A.R. 28-35-181m. Specific licenses to manufacture, prepare, or distribute radiopharmaceuticals containing radioactive material for medical use. Clarifies wording for designation of an authorized nuclear pharmacist, including positron emission tomography (PET) radioactive drugs for compatibility with NRC regulations.

K.A.R. 28-35-181o. Specific licenses to manufacture and distribute sources and devices for use as a calibration, transmission, or reference source or for certain medical uses. Adds the requirement to list certain devices or sources in the sealed source and device registry for compatibility with NRC regulations.

K.A.R. 28-35-181t. Requirements for license to initially transfer source material for use under the small quantities of source material general license. New regulation that adds requirements for transfer of source material for compatibility with NRC regulations.

K.A.R. 28-35-184a. Specific conditions on all licenses. Adds criteria for transfer of a license for compatibility with NRC regulations.

K.A.R. 28-35-192a. Exemptions; source material. Clarifies exemptions, adds a two percent by weight criteria for glassware, and adopts NRC regulatory language for depleted uranium for compatibility with NRC regulations.

K.A.R. 28-35-192c. Exceptions; other radioactive material. Replaces an incorrect reference to K.A.R. 28-35-197a with K.A.R. 28-35-197b for compatibility with NRC regulations.

K.A.R. 28-35-192g. Exemptions; exempt quantities. Replaces incorrect references to K.A.R. 28-35-197a with K.A.R. 28-35-198b and adds the word "owns" for compatibility with NRC regulations.

K.A.R. 28-35-192h. Certain industrial devices. New regulation that describes exemptions for certain industrial devices for compatibility with NRC regulations.

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K.A.R. 28-35-197a. Schedule B; exempt quantities of radioactive material. Revoked to allow for adoption of the NRC Schedule B in K.A.R. 28-35-197b for compatibility with NRC regulations.

K.A.R. 28-35-197b. Schedule B; exempt quantities of radioactive material. New regulation that adopts by reference Schedule B for compatibility with NRC regulations.

K.A.R. 28-35-205b. Alternate criteria for license termination. Adds a reference to financial assurance for compatibility with NRC regulations.

K.A.R. 28-35-217b. General monitoring requirements. Clarifies criteria for surveys and adds requirements for personnel dosimeters for compatibility with NRC regulations.

K.A.R. 28-35-221a. Procedures for picking up, transporting, receiving, and opening packages. Adds criteria for transporting radioactive material for compatibility with NRC regulations.

K.A.R. 28-35-221b. Appendix A; determination of A1, A2 and B quantities. Removes the table used to calculate activity limits that are used to regulate the transportation of radioactive materials and adopts by reference the NRC tables for compatibility with NRC regulations.

K.A.R. 28-35-230d. Reports of individual monitoring. Revoked to reflect programmatic updates to eliminate redundant and conflicting requirements for individual monitoring.

K.A.R. 28-35-264. General requirements. Corrects an adoption by reference date.

K.A.R. 28-35-288. Special requirements and exemptions for enclosed radiography. Corrects an error in numbering.

K.A.R. 28-35-343. Storage precautions. Deletes a portion of the regulation that was duplicated in K.A.R. 28-35-344.

K.A.R. 28-35-344. Transport precautions. Updates the wording for security requirements for transport of licensed materials for compatibility with NRC regulations.

K.A.R. 28-35-347. In-person inventory. Corrects programmatic inconsistency and sets the inventory period to six months.

K.A.R. 28-35-362. Notification of incidents, abandonment, and lost sources. Removes a reference to K.A.R. 28-35-364.

K.A.R. 28-35-504. Advance notification of shipment of certain types of licensed or registered material. Adds the requirement for notification of Indian tribes of shipments that cross the tribal boundaries for compatibility with NRC regulations.

K.A.R. 28-35-700. General requirements. Adopts by reference the NRC regulations for physical protection of by-product material for compatibility with NRC regulations.

Economic Impact

Cost to the agency: The estimated increased annual cost to the agency to implement these regulations is $2,993.00. The additional cost to the agency will be funded by fees received from licensees.

Cost to the public and regulated community: The estimated annual cost to the Kansas licensees who must implement the requirements of these regulations is $37,763.00. There is also an additional cost of $2,322.00 that will occur once every ten years for a licensee to perform a background reinvestigation of each of their employees who are allowed unescorted access to the sources.

Cost to other governmental agencies or units: There are two state agencies that will have increased costs similar to those of the regulated community.

The time period between the publication of this notice and the scheduled hearing constitutes a 60-day public comment period for the purpose of receiving written public comments on the proposed regulations. All interested parties may submit written comments prior to 5:00 p.m. on the day of the hearing to Kimberly Steves, Kansas Department of Health and Environment, Bureau of Community Health Systems, Radiation Control Program, 1000 SW Jackson, Suite 330, Topeka, KS 66612-1365, by email to Kim.Steves@ks.gov, or by fax to 785-296-0984. During the hearing, all interested parties will be given a reasonable opportunity to present their views orally on the proposed regulations as well as an opportunity to submit their written comments. In order to give each individual an opportunity to present their views, it may be necessary for the hearing officer to request that each presenter limit an oral presentation to an appropriate time frame.

Complete copies of the proposed regulations and the corresponding regulatory impact statement may be obtained from the Radiation Control Program website at http://www.kdheks.gov/radiation/radpubnotice.html or by contacting Kimberly Steves at the address above, 785-296-4359 or fax 785-296-0984. Questions pertaining to the proposed regulations should be directed to Kimberly Steves at the contact information above.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulations and the regulatory impact statement in an accessible format. Requests for accommodation to participate in the hearing should be made at least five working days in advance of the hearing by contacting Kimberly Steves.

Susan Mosier, MD, MBA, FACS
Secretary and State Health Officer

Doc. No. 045656

State of Kansas

Kansas Insurance Department

Permanent Administrative Regulation

Article 4.—ACCIDENT AND HEALTH INSURANCE

40-4-35. Medicare supplement policies; minimum standards. (a) The Kansas insurance department's "policy and procedure to implement medicare supplement insurance minimum standards," including the appendices, dated May 18, 2017, is hereby adopted by reference, except for sections 1, 2, 25, and 26 and page 651-120.

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