

## RADIOLOGICAL HEALTH STATUTES RELATED TO FINANCIAL ASSURANCE

(NOTE: The information contained in this document was current as of July 2012 but is subject to change without notice. It is provided here only as a convenience. For the most complete and up-to-date legal information, please access Tennessee Code Annotated [here](#).)

### **68-202-402. Specific licensee bond -- Additional requirements -- Private ownership or operation.**

(a) The commissioner may require the posting of a bond by an existing specific licensee by amendment to an existing license or by a person making application for a new specific license to assure the availability of funds to the state in the event of abandonment, insolvency or other inability of the specific licensee to meet the requirements of the commissioner regarding a public health hazard created by the presence of radioactive sources at a site occupied by the licensee or formerly under its possession, ownership or control. The commissioner is authorized to establish by rule or regulation, or order based upon such rule or regulation, the bonding requirements by classes of specific licensees and by range of monetary amounts. In establishing such requirements, the commissioner shall give due consideration to the probable extent of contamination, the amount of possible property damage, the costs of removal and disposal of sources of radiation used by the specific licensee, the costs of reclamation of the property in the event of abandonment, insolvency, or other inability of the specific licensee to perform such services to the satisfaction of the commissioner.

(b) In the event it is determined that there is a reasonable probability that a licensed facility will eventually cease to operate while containing, storing, or otherwise possessing radioactive sources on the premises which will require continuing and perpetual care or surveillance over the facility to protect the public health, safety, or welfare, the commissioner may require a specific licensee to deposit sums, in addition to posting bond, in such amounts and under such circumstances as the commissioner shall determine as necessary by rule, regulation, or order based upon such rule or regulation, in a trust fund maintained as the perpetual care trust fund in the name of the state. In establishing such additional requirements, the commissioner shall give due consideration to the nature of the licensed radioactive material, the size and type of facility to be decommissioned, and the anticipated expenses of perpetual care and surveillance.

(c) No private person shall be precluded by reason of criteria established under subsections (a) and (b) from ownership or operation of facilities containing, storing or otherwise possessing radioactive sources where such person can provide assurance of financial responsibility and continuity of operation consistent with the degree and duration of risks associated with the possession of radioactive sources. The commissioner is authorized to promulgate rules and regulations to establish criteria for determining adequacy of assurance of financial responsibility and continuity of operation.

### **68-202-403. Sufficiency of bond.**

An acceptable bond shall be a bond issued by a fidelity or surety company authorized to do business in this state, a personal bond supported by such collateral as the commissioner shall deem to be satisfactory, or a cash bond in an amount to be determined by the commissioner.

**68-202-404. Payment and life of bond.**

(a) The bonds obtained by specific licensees shall be payable to the state of Tennessee and shall remain effective for a reasonable period of time, to be determined by the commissioner, following the expiration of the license covered by the bond.

(b) The commissioner may revoke any existing specific license or withhold the issuance of a new specific license pending the furnishing by the applicant of an acceptable bond.

**68-202-405. Forfeiture and disposition of bond -- Trust fund.**

(a) At any time during the life of a bond, the commissioner may order forfeiture of the bond based upon the commissioner's determination of abandonment, insolvency, or other inability of the specific licensee to perform to the satisfaction of the commissioner.

(b) All forfeited bonds shall be deposited in a special account in the name of the state entitled "the radiation reclamation trust fund."

(c) All moneys deposited in such fund may be expended by the commissioner as the commissioner considers necessary to assure the protection of the public health, safety or welfare.

(d) Following the decontamination, removal and disposal of radioactive sources, and the reclamation of the premises, any funds remaining from the forfeited bond shall accrue to the state and shall not be refundable to the specific licensee.

(e) The moneys which are deposited in the radiation reclamation trust fund and the perpetual care trust fund shall not be used for normal operating expenses of the department but shall be expended only for the decontamination, the removal and disposal of radioactive materials, the reclamation of sites or facilities, and the perpetual care and surveillance of sites or facilities where the specific licensee has abandoned, defaulted, or otherwise refused to perform the above services to the satisfaction of the commissioner.

(f) Moneys accumulated in the radiation reclamation trust fund or the perpetual care trust fund may be transferred by the commissioner whenever it is determined by the commissioner that the transfer of such funds is required to provide services at abandoned, inoperative, decommissioned facilities, or at contaminated sites to protect the public health, safety or welfare.