

July 9, 2021

INFORMATION NOTICE: KS IN 2021-02 Reciprocity Short Notice

ADDRESSEES

All radioactive materials licensees entering Kansas under reciprocity.

PURPOSE

The Kansas Department of Health and Environment (KDHE) is issuing this Information Notice to ensure reciprocity licensees are aware of Kansas regulations pertaining to notifications of entry into Kansas to perform licensed activities.

DESCRIPTION OF CIRCUMSTANCES

KDHE is observing repeated violations by reciprocal licensees of K.A.R. 28-35-194a(a)(4) pertaining to the requirement for five-day notification of KDHE prior to engaging in licensed activity in Kansas.

DISCUSSION

In accordance with K.A.R. 28-35-194a(a)(4), written notification to KDHE is required at least five days prior to any entry into the State of Kansas by reciprocal licensees to perform specific activities requiring a radioactive materials license. Each request for a waiver of the five-day requirement will be evaluated separately based on the information provided and may be denied at the discretion of KDHE. Short notice provided by the reciprocal licensee's client is not considered an adequate hardship unless the client can demonstrate some type of emergency or incident which requires the short notice. Reciprocal licensees are advised to ensure that Kansas clients are informed of the regulations pertaining to reciprocity and are aware of the five-day notification requirement. Entry without advance written approval when providing fewer than five-days' notice will result in the issuance of citations which could include additional enforcement actions up to civil penalty, termination of reciprocity agreement and/or denial of further entry into the State of Kansas.

The purpose of this regulation is to ensure that adequate time is provided to KDHE to review and approve the reciprocity entry into the state, and to allow for radioactive materials inspections of the reciprocal licensee to be scheduled.

REGULATION

28-35-194a. Reciprocal recognition of licenses. (a) Subject to other provisions in this regulation, any person may apply for a general license to conduct activities within this state without obtaining a specific license from the secretary, if all the following conditions are met:

(1) The person possesses a specific license issued by the nuclear regulatory commission or an agreement state, other than this state, that authorizes the proposed activities.

(2) The person does not conduct any activities authorized by any general license issued under this regulation for a period totaling more than 180 days in a calendar year.

(3) The specific license does not limit the activity authorized to a specified installation or location.

(4) The person notifies the department in writing at least five days before engaging in the activity. The notification shall indicate the location, period, and type of proposed possession and use within the state and shall be accompanied by a copy of the specific license. If, for a specific case, the five-day period would impose an undue hardship, the person may, upon application to the department, obtain permission by letter, facsimile, or electronic communication to proceed.

(5) The person complies with all applicable regulations of the secretary and with all the terms and conditions of the specific license, except any term or condition of the license that is inconsistent with these regulations.

(6) The person supplies any information requested by the department.

(7) The person does not transfer or dispose of radioactive material possessed or used under the general license provided in this regulation except by transfer to a person who meets either of the following conditions:

(A) Is specifically licensed by the department or the nuclear regulatory commission to receive the material; or

(B) is exempt from the requirements for a license for that material under K.A.R. 28-35-192a, 28-35-192b, 28-35-192c, 28-35-192d, 28-35-192e, 28-35-192f, or 28-35-192g.

(b) Any person who holds a specific license issued by the nuclear regulatory commission, or an agreement state that authorizes the person to manufacture, transfer, install, or service a device described in K.A.R. 28-35-178b within areas subject to the jurisdiction of the licensing body is issued a general license to manufacture, install, transfer, or service those devices in this state subject to the following requirements:

(1) The person shall satisfy the requirements of K.A.R. 28-35-184a(e)(1) and (2).

(2) The device shall be manufactured, labeled, installed, and serviced in accordance with the provisions of the specific license issued to the person by the nuclear regulatory commission or the agreement state.

(3) The person shall ensure that any labels required to be affixed to the device, under regulations of the authority that licensed the manufacture of the device, and that bear the statement "Removal of this label is prohibited" are affixed to the device.

(4) The person shall furnish to each general licensee to whom the person transfers the device, or on whose premises the person installs the device, a copy of the general license issued in K.A.R. 28-35-178b.

(c) Acceptance of any specific license recognized under this regulation or any product distributed pursuant to such a license may be withdrawn, limited, or qualified by the secretary, upon determining that the action is necessary in order to protect health or minimize danger to life or property. (Authorized by and implementing K.S.A. 48-1607; effective, T-86-37, Dec. 11, 1985; effective May 1, 1986; amended March 18, 2011.)

CONTACT

For questions or additional information, please contact the KDHE Radiation Control Program at (785) 296-1560 or by E-mail at kdhe.radreciprocity@ks.gov.