

**From:** Cindy Cardwell <Cindy.Cardwell@tdh.state.tx.us>  
**To:** "phl@nrc.gov" <phl@nrc.gov>  
**Date:** 1/8/02 1:04PM  
**Subject:** Proposed TX rule

Hi Paul,

I've attached for review a rule revision that we currently have proposed. The official end of the comment period is January 14 and I apologize for being so late with this...I lost track of it during the holidays. However, it should make things easier to know that its not a compatibility item and is a revision to a rule that's unique to us.

At the request of WCS, we're adding Am-241 in emission control dust to the existing rule we have for Cs-137 in emission control dust. Under very specific conditions, the contaminated material can be disposed of without regard to its radioactivity.

The rule will be going to the Board of Health for final adoption on February 22, 2002. If y'all have any hearburn with this, please let me know before January 28. After that date, the rule will be mailed to the Board members and any changes are severely frowned upon. Again, sorry for getting it to you late in the proposal period.

Hope your holidays were both safe and fun,  
Cindy

Josephine Piccone, Deputy Director  
Office of State and Tribal Programs  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

Dear Mrs. Piccone

Enclosed is a copy of the proposed revisions to the Texas Regulations for Control of Radiation, 25 Texas Administrative Code §289.202, Standards for Protection Against Radiation from Radioactive Material. The proposed revisions were made available for public comment on December 14, 2002, with a request for comments by January 14, 2002. We request NRC's comments by January 14, 2002. This proposed rule is provided for NRC comment for informational purposes only. It is a rule unique to the State of Texas and is not an item of compatibility with the NRC.

If you have any questions, please feel free to contact me at 512-834-6688, ext. 2239 or [Cindy.Cardwell@tdh.state.tx.us](mailto:Cindy.Cardwell@tdh.state.tx.us).

Sincerely,

Cynthia C. Cardwell, Deputy Director  
Standards Development  
Texas Department of Health  
Bureau of Radiation Control

Enclosures:  
As stated

LEGEND: (Final Amendments - No additional changes from proposed version)  
Regular Print = Final language incorporating all proposed changes for final adoption  
(No change) = No changes are being considered for the designated subdivision

'289.202. Standards for Protection Against Radiation from Radioactive Materials.

(a) - (ee) (No change.)

(ff) General requirements for waste management.

(1) (No change.)

(2) Upon agency approval, emission control dust and other material from electric arc furnaces or foundries contaminated as a result of inadvertent melting of cesium-137 or americium-241 sources may be transferred for disposal to a hazardous waste disposal facility authorized by the Texas Natural Resource Conservation Commission (Commission) or its successor, another state=<sup>s</sup> regulatory agency with jurisdiction to regulate hazardous waste as classified under Subtitle C of the Resource Conservation and Recovery Act (RCRA), or the EPA. The material may be transferred for disposal without regard to its radioactivity if the following conditions are met.

(A) Contaminated material described in paragraph (2) of this subsection, whether packaged or unpackaged (i.e., bulk), must be treated through stabilization to comply with all waste treatment requirements of the appropriate state or federal regulatory agency as listed in this paragraph. The treatment operations must be undertaken by either of the following:

(i) the owner/operator of the electric arc furnace or foundry licensed to possess, treat or transfer cesium-137 or americium-241 contaminated incident-related material; or

(ii) a service contractor licensed by the agency, NRC, or an agreement state to possess, treat, or transfer cesium-137 or americium-241 contaminated incident-related material.

(B) (No change.)

(C) The total cesium-137 or americium-241 activity contained in emission control dust and other incident-related materials to be transferred to a hazardous waste disposal facility has been specifically approved by NRC or the appropriate agreement state(s) and does not exceed the total activity associated with the inadvertent melting incident.

(D) - (F)

(G) The emission control dust and other incident-related materials that have been stabilized and packaged as described in subparagraph (F) of this paragraph shall contain pretreatment average concentrations of cesium-137 that do not exceed 130 pCi/g of material, above background, or

pretreatment average concentrations of americium-241 that do not exceed 3pCi/gm of material, above background.

(H) (No change.)

(I) The unpackaged stabilized material shall contain pretreatment average concentrations of cesium-137 that do not exceed 100 pCi/g of material, above background, or pretreatment average concentrations of americium-241 that do not exceed 3pCi/gm of material, above background.

(3) The licensee transferring the cesium-137 or americium-241 contaminated incident-related material must consult with the agency, the Commission or its successor, another state=s regulatory agency with jurisdiction to regulate hazardous waste as classified under RCRA, or the EPA and other authorized parties, including state and local governments, and obtain all necessary approvals, in addition to those of NRC and/or appropriate agreement states, for the transfers described in paragraph (2) of this subsection.

(4) Nothing in this subsection shall be or is intended to be construed as a waiver of any RCRA permit condition or term, of any state or local statute or regulation, or of any federal RCRA regulation.

(5) The total incident-related cesium-137 activity described in paragraph (2) of this subsection received by a facility over its operating life shall not exceed 1 Ci (37 GBq). The total incident-related americium-241 activity described in paragraph (2) of this subsection received by a facility over its operating life shall not exceed 30 mCi (1.11MBq). The agency will maintain a record of the total incident-related cesium-137 or americium-241 activity shipped by a person licensed by the agency. Upon consultation with the Commission, the agency will determine if the total incident-related activity received by a hazardous waste disposal facility over its operating life has reached 1 Ci (37 GBq) of cesium-137 or 30 mCi (1.11MBq) of americium-241. The agency will not approve shipments of cesium-137 or americium-241 contaminated incident-related material that will cause this limit to be exceeded.

(6) A person shall be specifically licensed to receive waste containing licensed material from other persons for:

(A) treatment prior to disposal;

(B) treatment by incineration;

(C) decay in storage;

(D) disposal at an authorized land disposal facility; or

(E) storage until transferred to a storage or disposal facility authorized to receive the waste.

(gg) - (qq) (No change.)

(rr) Records of individual monitoring results.

(1) (No change.)

(2) The licensee shall make entries of the records specified in paragraph (1) of this subsection at intervals not to exceed 1 year and by April 30 of the following year.

(3) - (5) (No change.)

(ss) - (ggg) (No change.)