

Bryan W. Shaw, Ph.D., *Chairman*
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Zak Covar, *Executive Director*



Texas Commission on Environmental Quality
Protecting Texas by Reducing and Preventing Pollution

January 22, 2013

Ms. Pamela Henderson, Deputy Director
Division Materials Safety and State Agreements
Office of Federal and State Materials and
Environmental Management Programs
U.S. Nuclear Regulatory Commission
T8-E24
Washington, D.C. 20555-0001

Dear Ms. Henderson:

Enclosed is a copy of the proposed revisions to the rules of the Texas Commission on Environmental Quality (TCEQ) in Title 30 Texas Administrative Code (TAC) Chapter 336 (relating to Radioactive Substance Rules). The proposed revisions will be made available for public comment on February 15, 2013 with a request for comments by March 18, 2013. We request NRC's comments by March 18, 2013. The proposed rules create an exemption from TCEQ licensing requirements for the disposal of certain radioactive tracers used in the exploration, development or production of oil or gas resources. The proposed rules do not correspond to any NRC regulation.

We believe that adoption of these revisions satisfies the compatibility and health and safety categories established in the Office of Federal and State Materials and Environmental Programs (FSME) Procedure SA-200. A rule cross walk is included for your convenience.

If you have any questions, please feel free to contact me at 512-239-5308 or Hans Weger of my staff at 512-239-6465 or Hans.Weger@tceq.texas.gov.

Sincerely,


Charles W. Maguire, Director
Radioactive Materials Division

CWM/nlc

Enclosures: Rule Proposal
Cross walk

TCEQ Radioactive Substance Rule Update

| Change to TCEQ Section | Title | NRC Section | Compatibility Category | Summary of Change | Differences Yes/No | Significant Yes/No | RATS ID |
|-------------------------------|---|--------------------|-------------------------------|--|---------------------------|---------------------------|----------------|
| 336.227 | General Licensing Requirements – Subchapter C | NA | NA | Exemption for disposal of radioactive tracer material used in oil and gas exploration or production operations | NA | NA | NA |

§336.227. Radioactive Tracers Used in the Exploration, Development or Production of Oil or Gas or Geothermal Resources.

(a) Disposal of radioactive tracer materials used in the exploration, development or production of oil or gas or geothermal resources is exempt from licensing requirements for the disposal of radioactive substances under this chapter if the radioactive tracer materials are disposed of in accordance with this section.

(b) Radioactive tracers are eligible for exemption under this section if:

(1) the possession, transportation, and use of the radioactive tracers are licensed or otherwise authorized by the Texas Department of State Health Services;

(2) the non-water soluble radioactive tracers are in fluids that have been retrieved from a well used in the exploration, development or production of oil or gas or geothermal resources and such well is permitted or otherwise authorized by the Railroad Commission of Texas;

(3) the total concentration of radioactivity for all isotopes disposed does not exceed 1,000 picocuries per gram (pCi/g), and the half-life of each isotope is 120 days or less; and

(4) the radioactive tracers are non-water soluble.

(c) A person may dispose of radioactive tracers that are eligible for exemption under subsection (b) of this section in an on-site disposal pit that is permitted by the Railroad Commission of Texas for the disposal of oil and gas waste and is covered by at least two feet of clean soil.

(d) A person may dispose of radioactive tracers that are eligible for exemption under subsection (b) of this section in a Class II injection well permitted by the Railroad Commission of Texas for the disposal of oil and gas waste if the permit specifically authorizes the disposal of radioactive tracers.

(e) Any person who disposes of radioactive tracers exempted from licensing requirements under this section must maintain records related to the disposal, including method and location of disposal, identity of specific isotopes, estimated volume of the radioactive tracers, and total concentration of radioactivity for the isotopes disposed, and dates of disposal. The executive director may request records related to disposal of tracer materials under this section at any time.