



TEXAS DEPARTMENT OF STATE HEALTH SERVICES

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March 22, 2015

Ms. Pamela Henderson, Deputy Director
Division of 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:

Attached are copies of the following final rule revisions to the Texas Regulations for Control of Radiation, Title 25, Texas Administrative Code (TAC), which will become effective on March 22, 2015. The final changes to the regulations are shown as **shaded text** and correspond to the table starting on page 4 that identifies the equivalent amendments to NRC's regulations.

§289.202 relating to Standards for Protection Against Radiation from Radioactive Materials

§289.251 relating to Exemptions, General Licenses, and General License Acknowledgements

§289.252 relating to Licensing of Radioactive Material

§289.253 relating to Radiation Safety Requirements for Well Logging Service Operations and Tracer Studies

§289.255 relating to Radiation Safety Requirements and Licensing and Registration Procedures for Industrial Radiography

§289.256 relating to Medical and Veterinary Use of Radioactive Material

§289.257 relating to Packaging and Transportation of Radioactive Material

Also, attached are §289.201 relating to General Provisions for Radioactive Material wherein the department corrects a rule reference error to maintain compatibility and §289.258 relating to Licensing and Radiation Safety Requirements for Irradiators.

Although an item of compatibility for RATS ID 2011-2 was addressed in §289.258, no revisions were made.

Please see the following chart that identifies the outstanding required changes in order for Texas to meet NRC compatibility. Included in the chart are NRC requirements that, for the State of Texas, were formerly found in §289.260 relating to Licensing of Uranium Recovery and Byproduct Material Disposal Facilities. This rule language involves areas that are now under the regulatory authority of the Texas Commission on Environmental Quality (TCEQ). The items in Title 10, Code of Federal Regulations (CFR), Part 40, have been re-addressed for any requirements that may still be under the jurisdiction of the Texas Department of State Health Services (DSHS).

<u>Rats ID</u>	<u>NRC Title</u>	<u>State Section</u>
1993-1	Decommissioning Recordkeeping and License Termination: Documentation Additions	§289.260(h) now TCEQ rule
1999-1	Radiological Criteria for License Termination of Uranium Recovery Facilities	§289.260(o)(16) now TCEQ rule
2002-2	Medical Use of Byproduct Material	§289.202 §289.256
2004-1	Compatibility with IAEA Transportation Safety Standards and Other Transportation Safety Amendments	§289.257
2005-2	Medical Use of Byproduct Material - Recognition of Specialty Boards	§289.256
2006-1	Minor Amendments	§289.256
2007-2	Exemptions from Licensing, General Licenses, and Distribution of Byproduct Material: Licensing and Reporting Requirements	§289.251
2007-3	Requirements for Expanded Definition of Byproduct Material	§289.251
2011-1	Decommissioning Planning	§289.202 §289.252
2011-2	Licenses, Certifications, and Approvals for Materials Licensees	§289.252 §289.253 §289.258
2012-2	Advance Notification to Native American Tribes of Transportation of Certain Types of Nuclear Waste	§289.257
2012-3	Technical Corrections	§289.251 §289.252 §289.255 §289.257
2012-4	Requirements for Distribution of Byproduct Material	§289.252

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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 Management Programs (FSME) Procedure SA-200, with the exception of the following noted items.

Three items are not compatible with NRC regulations regarding the definitions for Authorized Medical Physicist, Authorized Nuclear Pharmacist, and Authorized User. Excluding the restrictive language in Texas regulations would put the program in conflict with Texas state law. These requirements are legally binding. The following table provides Texas' specific rationale for promulgating a regulation that is not compatible with NRC's regulations.

If you have any questions, please feel free to contact Chuck Flynn at 512-834-6770, ext. 2821, or Chuck.Flynn@dshs.state.tx.us; or Richard Ratliff at 512-834-6688, ext. 6679, or Richard.Ratliff@dshs.state.tx.us.

Sincerely,

Chuck Flynn, Manager
Radiation Group
Policy, Standards, and Quality Assurance Unit
Division for Regulatory Services
Department of State Health Services

 3/17/2015

Richard A. Ratliff, P.E., L.M.P.
Agreement State Director and
Radiation Safety Licensing Branch Manager
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 3-17-15

Attachments