

TCEQ Radioactive Substance Rule Update Crosswalk

Change to TCEQ Section	Title	NRC Section	Compatibility Category	Summary of Change	Differences Yes/No	Significant Yes/No	RATS ID	If Difference, Why or Why Not Was a Comment Generated
N/A	N/A	§19.17(a)	C	In § 19.17(a), remove the phrase "Office of Information Services" and add in its place the phrase "Office of the Chief Information Officer".	N/A	N/A	2015-5	
N/A	N/A	§20.1007	C	In part 20, wherever it may occur, remove the phrase "Office of Information Services" and add in its place the phrase "Office of the Chief Information Officer".	N/A	N/A	2015-5	
§336.352	Reports of Exposures, Radiation Levels, and Concentrations of Radioactive Material Exceeding the Limits.	§20.2203(d)	D	In part 20, wherever it may occur, remove the phrase "Office of Information Services" and add in its place the phrase "Office of the Chief Information Officer".	Y	N	2015-5	This phrase is not used in the corresponding TCEQ rule.
§336.363	Appendix F. Requirements for Receipt of Low-Level Radioactive Waste for Disposal at Licensed Land Disposal Facilities and Uniform Manifests.	§20, Appendix G	B	In part 20, wherever it may occur, remove the phrase "Office of Information Services" and add in its place the phrase "Office of the Chief Information Officer".	Y	N	2015-5	This phrase is not used in the corresponding TCEQ rule.
N/A	N/A	§30.6(a)(3)	D	In § 30.6(a)(3), remove the phrase "Office of Information Services" and add in its place the phrase "Office of the Chief Information Officer".	N/A	N/A	2015-5	N/A
N/A	N/A	§32.1(c)(1)	NRC	In § 32.1(c)(1), remove the word "tribe" wherever it may occur, and add in its place the word "Tribe".	N/A	N/A	2015-5	N/A
N/A	N/A	§37.7(c)	D	In part 37, wherever it may occur, remove the phrase "Office of Information Services" and add in its place the phrase "Office of the Chief Information Officer".	N/A	N/A	2015-5	N/A
§336.357(e)(3)(A)	Procedures for processing of fingerprint checks.	§37.27(c)(1)	B	In part 37, wherever it may occur, remove the phrase "Office of Information Services" and add in its place the phrase "Office of the Chief Information Officer".	Y	Y	2015-5	See rule change
§336.357(u)(1)(A)	Procedures for submitting advance notification.	§37.77(a)(1)	B	In § 37.77(a)(1), remove the Web site address "https://nrc.stp.ornl.gov/special/designee.pdf" and add in its place the Web site address "https://scp.nrc.gov/special/designee.pdf".	Y	Y	2015-5	See rule change
N/A	N/A	10 CFR Part 40	NRC	In part 40, wherever it may occur, remove the word "tribe" and add in its place the word "Tribe".	N/A	N/A	2015-5	N/A
N/A	N/A	§40.5(a)(3)	D	In § 40.5(a)(3), remove the phrase "Office of Information Services" and add in its place the phrase "Office of the Chief Information Officer".	N/A	N/A	2015-5	N/A

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§336, Subchapter H	Licensing Requirements for Near-Surface Land Disposal of Low-Level Radioactive Waste	10 CFR Part 61	H&S, D	In part 61, wherever they may occur, remove the word "tribe" and add in its place the word "Tribe", remove the word "tribes" and add in its place the word "Tribes", and remove the word "tribal" and add in its place the word "Tribal".	Y	N	2015-5	The word "tribe" is not used in the corresponding TCEQ rule.
N/A	N/A	§61.4	D	In § 61.4, remove the phrase "Office of Information Services" and add in its place the phrase "Office of the Chief Information Officer".	N/A	N/A	2015-5	
N/A	N/A	§70.5(a)(3)	D	In § 70.5(a)(3), remove the phrase "Office of Information Services" and add in its place the phrase "Office of the Chief Information Officer".	N/A	N/A	2015-5	
N/A	N/A	§71.1(a)	D	In § 71.1(a), remove the phrase "Office of Information Services" and add in its place the phrase "Office of the Chief Information Officer".	N/A	N/A	2015-5	Responsibility of Texas Department of State Health Services (DSHS)
N/A	N/A	§71.4	B	In § 71.4, in the definition of Indian Tribe, remove the word "tribe" wherever it may occur, and add in its place the word "Tribe".	N/A	N/A	2015-5	Responsibility of DSHS
N/A	N/A	§71.97(c)(3)(ii)	B	In § 71.97, revise paragraph (c)(3)(ii) to read as follows: Contact information for each State, including telephone and mailing addresses of governors and governors' designees, and participating Tribes, including telephone and mailing addresses of Tribal officials and Tribal official's designees, is available on the NRC Web site at: https://scp.nrc.gov/special/designee.pdf .	N/A	N/A	2015-5	Responsibility of DSHS
N/A	N/A	§150.4	D	In § 150.4, remove the phrase "Office of Information Services" and add in its place the phrase "Office of the Chief Information Officer".	N/A	N/A	2015-5	
N/A	N/A	§150.15(B)(6)	NRC	In § 150.15a(b)(6), remove the word "tribe" wherever it may occur, and add in its place the word "Tribe".	N/A	N/A	2015-5	
§336.341(f)	341(f): General Recordkeeping Requirements for Licensees.	§40.61(a)(2)	C	In § 40.61(a)(2), remove the first use of the word "or" and replace it with the word "of" to read as follows: The licensee who transferred the material shall retain each record of transfer of source or byproduct material until the Commission terminates each license that authorizes the activity that is subject to the recordkeeping requirement.	N	N/A	2015-4	The error in 10 CFR corrected by this change does not occur in the corresponding TCEQ rule. Therefore, no change is needed.
§336.357(c)(2)(B)	Reviewing officials	§37.23(b)(2)	B	In § 37.23 (b)(2), remove the incorrect reference "§ 37.25(b)" and replace it with the correct reference "§ 37.25(c)" to read as follows: The licensee shall recertify that the reviewing official	Y	Y	2015-4	See rule change.

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				is deemed trustworthy and reliable every 10 years in accordance with § 37.25(c).				
N/A	N/A	§30.6	D	N/A	N/A	N/A	2013-2	Responsibility of DSHS
§336.1105 (35)	Definitions	§40.4	B	In §40.4, the definition of <i>Unrefined and unprocessed ore</i> is revised to read as follows: <i>Unrefined and unprocessed ore</i> means ore in its natural form prior to any processing, such as grinding, roasting or beneficiating, or refining. Processing does not include sieving or encapsulation of ore or preparation of samples for laboratory analysis.	Y	Y	2013-2	See rule change.
N/A	N/A	§40.5	D	N/A	N/A	N/A	2013-2	Responsibility of DSHS
N/A	N/A	§40.8	D	N/A	N/A	N/A	2013-2	Responsibility of DSHS
N/A	N/A	§40.13(c)	B	In §40.13(c), introductory text, is revised to read as follows: Any person is exempt from the requirements for a license set forth in section 62 of the Act and from the regulations in this part and parts 19, 20, and 21 of this chapter to the extent that such person receives, possesses, uses, or transfers:	N/A	N/A	2013-2	Responsibility of DSHS
N/A	N/A	§40.13(c)(2)(i)	B	Section 40.13(c)(2)(i) is revised to read as follows: Glazed ceramic tableware manufactured before August 27, 2013, provided that the glaze contains not more than 20 percent by weight source material;	N/A	N/A	2013-2	Responsibility of DSHS
N/A	N/A	§40.13(c)(2)(iii)	B	Section 40.13(c)(2)(iii) is revised to read as follows: Glassware containing not more than 2 percent by weight source material or, for glassware manufactured before August 27, 2013, 10 percent by weight source material; but not including commercially manufactured glass brick, pane glass, ceramic tile, or other glass or ceramic used in construction;	N/A	N/A	2013-2	Responsibility of DSHS
N/A	N/A	§40.13(c)(5)(i)	B	Section 40.13(c)(5)(i) is removed.	N/A	N/A	2013-2	Responsibility of DSHS
N/A	N/A	§40.13(c)(5)(ii)-(iv)	B	In §40.13, paragraphs (c)(5)(ii) through (iv) are redesignated as paragraphs (c)(5)(i) through (iii).	N/A	N/A	2013-2	Responsibility of DSHS
N/A	N/A	§40.13(c)(5)(v)	NRC	In §40.13, paragraphs (c)(5)(v) is redesignated as paragraphs (c)(5)(iv).	N/A	N/A	2013-2	Responsibility of DSHS
N/A	N/A	§40.13(c)(7)	B	In §40.13, paragraph (c)(7) is revised as follows: (7) Thorium or uranium contained in or on finished optical lenses and mirrors, provided that each lens or mirror does not contain more than 10 percent by weight thorium or uranium	N/A	N/A	2013-2	Responsibility of DSHS

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				<p>or, for lenses manufactured before August 27, 2013, 30 percent by weight of thorium; and that the exemption contained in this paragraph does not authorize either:</p> <p>(i) The shaping, grinding or polishing of such lens or mirror or manufacturing processes other than the assembly of such lens or mirror into optical systems and devices without any alteration of the lens or mirror;</p> <p>(2) or The receipt, possession, use, or transfer of uranium or thorium contained in contact lenses, or in spectacles, or in eyepieces in binoculars or other optical instruments.</p>				
N/A	N/A	§40.13(c)(10)	B	<p>In §40.13, paragraph (c)(10) is added: No person may initially transfer for sale or distribution a product containing source material to persons exempt under this paragraph (c), or equivalent regulations of an Agreement State, unless authorized by a license issued under § 40.52 to initially transfer such products for sale or distribution.</p> <p>(i) Persons initially distributing source material in products covered by the exemptions in this paragraph (c) before August 27, 2013, without specific authorization may continue such distribution for 1 year beyond this date. Initial distribution may also be continued until the Commission takes final action on a pending application for license or license amendment to specifically authorize distribution submitted no later than 1 year beyond this date.</p> <p>(ii) Persons authorized to manufacture, process, or produce these materials or products containing source material by an Agreement State, and persons who import finished products or parts, for sale or distribution must be authorized by a license issued under § 40.52 for distribution only and are exempt from the requirements of parts 19 and 20 of this chapter, and § 40.32(b) and (c).</p>	N/A	N/A	2013-2	Responsibility of DSHS
N/A	N/A	§40.13(d)	B	Section 40.13(d) is removed.	N/A	N/A	2013-2	Responsibility of DSHS
N/A	N/A	§40.13 Footnote 2	B	In §40.13, Footnote 2 is revised as follows: The requirements specified in paragraphs (c)(5)(i) and (ii) of this section need not be met by counterweights manufactured prior to Dec. 31, 1969, provided that such counterweights were manufactured under a specific license issued by	N/A	N/A	2013-2	Responsibility of DSHS

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				the Atomic Energy Commission and were impressed with the legend required by §40.13(c)(5)(ii) in effect on June 30, 1969.				
N/A	N/A	§40.22(a)	B	Section 40.22, paragraph (a) is revised to read as follows: A general license is hereby issued authorizing commercial and industrial firms; research, educational, and medical institutions; and Federal, State, and local government agencies to receive, possess, use, and transfer uranium and thorium, in their natural isotopic concentrations and in the form of depleted uranium, for research, development, educational, commercial, or operational purposes in the following forms and quantities:	N/A	N/A	2013-2	Responsibility of DSHS
N/A	N/A	§40.22(a)(1) – (4)	B	Section 40.22, paragraph (a)(1) through (a)(4) are added as follows: (1) No more than 1.5 kg (3.3 lb) of uranium and thorium in dispersible forms (e.g., gaseous, liquid, powder, etc.) at any one time. Any material processed by the general licensee that alters the chemical or physical form of the material containing source material must be accounted for as a dispersible form. A person authorized to possess, use, and transfer source material under this paragraph may not receive more than a total of 7 kg (15.4 lb) of uranium and thorium in any one calendar year. Persons possessing source material in excess of these limits as of August 27, 2013, may continue to possess up to 7 kg (15.4 lb) of uranium and thorium at any one time for one year beyond this date, or until the Commission takes final action on a pending application submitted on or August 27, 2014, for a specific license for such material; and receive up to 70 kg (154 lb) of uranium or thorium in any one calendar year until December 31, 2014, or until the Commission takes final action on a pending application submitted on or before August 27, 2014, for a specific license for such material; and (2) No more than a total of 7 kg (15.4 lb) of uranium and thorium at any one time. A person authorized to possess, use, and transfer source material under this paragraph may not receive more than a total of 70 kg (154 lb) of uranium and thorium in any one calendar year. A person may not alter the chemical or physical form of the source material possessed under this	N/A	N/A	2013-2	Responsibility of DSHS

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				<p>paragraph unless it is accounted for under the limits of paragraph (a)(1) of this section; or</p> <p>(3) No more than 7 kg (15.4 lb) of uranium, removed during the treatment of drinking water, at any one time. A person may not remove more than 70 kg (154 lb) of uranium from drinking water during a calendar year under this paragraph; or</p> <p>(4) No more than 7 kg (15.4 lb) of uranium and thorium at laboratories for the purpose of determining the concentration of uranium and thorium contained within the material being analyzed at any one time. A person authorized to possess, use, and transfer source material under this paragraph may not receive more than a total of 70 kg (154 lb) of source material in any one calendar year.</p>				
N/A	N/A	§ 40.22(b)	B	Section 40.22, paragraph (b) is revised to read as follows: Any person who receives, possesses, uses, or transfers source material in accordance with the general license in paragraph (a) of this section:	N/A	N/A	2013-2	Responsibility of DSHS
N/A	N/A	§40.22(b)(1) – (3)	B	<p>Section 40.22, paragraph (b)(1) through (b)(3) are added as follows:</p> <p>(1) Is prohibited from administering source material, or the radiation therefrom, either externally or internally, to human beings except as may be authorized by the NRC in a specific license.</p> <p>(2) Shall not abandon such source material. Source material may be disposed of as follows:</p> <p>(i) A cumulative total of 0.5 kg (1.1 lb) of source material in a solid, non-dispersible form may be transferred each calendar year, by a person authorized to receive, possess, use, and transfer source material under this general license to persons receiving the material for permanent disposal. The recipient of source material transferred under the provisions of this paragraph is exempt from the requirements to obtain a license under this part to the extent the source material is permanently disposed. This provision does not apply to any person who is in possession of source material under a specific license issued under this chapter; or</p> <p>(ii) In accordance with § 20.2001 of this chapter.</p> <p>(3) Is subject to the provisions in §§40.1 through 40.10, 40.41(a) through (e), 40.46, 40.51, 40.56,</p>	N/A	N/A	2013-2	Responsibility of DSHS

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				40.60 through 40.63, 40.71, and 40.81.				
N/A	N/A	§40.22(b)(4)	D	N/A	N/A	N/A	2013-2	Responsibility of DSHS
N/A	N/A	§40.22(b)(5)	B	Section 40.22, paragraph (b)(5) is added as follows: Shall not export such source material except in accordance with part 110 of this chapter.	N/A	N/A	2013-2	Responsibility of DSHS
N/A	N/A	§40.22(c)	C	Section 40.22, paragraph (c) is added as follows: Any person who receives, possesses, uses, or transfers source material in accordance with paragraph (a) of this section shall conduct activities so as to minimize contamination of the facility and the environment. When activities involving such source material are permanently ceased at any site, if evidence of significant contamination is identified, the general licensee shall notify the Director of the Office of Federal and State Materials and Environmental Management Programs by an appropriate method listed in § 40.5(a) about such contamination and may consult with the NRC as to the appropriateness of sampling and restoration activities to ensure that any contamination or residual source material remaining at the site where source material was used under this general license is not likely to result in exposures that exceed the limits in § 20.1402 of this chapter.	N/A	N/A	2013-2	Responsibility of DSHS
N/A	N/A	§40.22(d)	B	Section 40.22, paragraph (d) is revised to read as follows: Any person who receives, possesses, uses, or transfers source material in accordance with the general license granted in paragraph (a) of this section is exempt from the provisions of parts 19, 20, and 21 of this chapter to the extent that such receipt, possession, use, and transfer are within the terms of this general license, except that such person shall comply with the provisions of §§ 20.1402 and 20.2001 of this chapter to the extent necessary to meet the provisions of paragraphs (b)(2) and (c) of this section. However, this exemption does not apply to any person who also holds a specific license issued under this chapter.	N/A	N/A	2013-2	Responsibility of DSHS
N/A	N/A	§40.22(e)	B	Section 40.22, paragraph (e) is added as follows: No person may initially transfer or distribute source material to persons generally licensed under paragraph (a)(1) or (2) of this section, or equivalent regulations of an Agreement State,	N/A	N/A	2013-2	Responsibility of DSHS

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				unless authorized by a specific license issued in accordance with § 40.54 or equivalent provisions of an Agreement State. This prohibition does not apply to analytical laboratories returning processed samples to the client who initially provided the sample. Initial distribution of source material to persons generally licensed by paragraph (a) of this section before August 27, 2013, without specific authorization may continue for 1 year beyond this date. Distribution may also be continued until the Commission takes final action on a pending application for license or license amendment to specifically authorize distribution submitted on or August 27, 2014.				
N/A	N/A	§40.32(f)	D	N/A	N/A	N/A	2013-2	Responsibility of DSHS
N/A	N/A	§40.52	NRC	<p>Section 40.52 is added as follows:</p> <p>An application for a specific license to apply source material to, incorporate source material into, manufacture, process, or produce the products specified in § 40.13(c) or to initially transfer for sale or distribution any products containing source material for use under § 40.13(c) or equivalent provisions of an Agreement State will be approved if:</p> <p>(a) The applicant satisfies the general requirements specified in § 40.32. However, the requirements of § 40.32(b) and (c) do not apply to an application for a license to transfer products manufactured, processed, or produced in accordance with a license issued by an Agreement State or to the import of finished products or parts.</p> <p>(b) The applicant submits sufficient information regarding the product pertinent to the evaluation of the potential radiation exposures, including:</p> <p>(1) Chemical and physical form and maximum quantity of source material in each product;</p> <p>(2) Details of construction and design of each product, if applicable. For coated lenses, this must include a description of manufacturing methods that will ensure that the coatings are unlikely to be removed under the conditions expected to be encountered during handling and use;</p> <p>(3) For products with applicable quantity or concentration limits, quality control procedures</p>	N/A	N/A	2013-2	Responsibility of DSHS

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				<p>to be followed in the fabrication of production lots of the product and the quality control standards the product will be required to meet;</p> <p>(4) The proposed method of labeling or marking each unit, and/or its container with the identification of the manufacturer or initial transferor of the product and the source material in the product; and</p> <p>(5) The means of providing radiation safety precautions and instructions relating to handling, use, and storage of products to be used under § 40.13(c)(1)(i) and (c)(1)(iii).</p> <p>(c) Each product will contain no more than the quantity or the concentration of source material specified for that product in § 40.13(c).</p>				
N/A	N/A	§40.53	NRC	<p>Section 40.53 is added as follows:</p> <p>(a) Each person licensed under §40.52 shall ensure that the quantities or concentrations of source material do not exceed any applicable limit in § 40.13(c).</p> <p>(b) Each person licensed under §40.52 shall ensure that each product is labeled as provided in the specific exemption under § 40.13(c) and as required by their license. Those distributing products to be used under §§ 40.13(c)(1)(i) and (iii) or equivalent regulations of an Agreement State shall provide radiation safety precautions and instructions relating to handling, use, and storage of these products as specified in the license.</p> <p>(c)(1) Each person licensed under §40.52 shall file a report with the Director, Office of Federal and State Materials and Environmental Management Programs by an appropriate method listed in § 40.5(a), including in the address: ATTN: Document Control Desk/Exempt Distribution.</p> <p>(2) The report must clearly identify the specific licensee submitting the report and include the license number of the specific licensee and indicate that the products are transferred for use under § 40.13(c), giving the specific paragraph designation, or equivalent regulations of an Agreement State.</p> <p>(3) The report must include the following information on products transferred to other persons for use under § 40.13(c) or equivalent regulations of an Agreement State:</p>	N/A	N/A	2013-2	Responsibility of DSHS

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				<p>(i) A description or identification of the type of each product and the model number(s), if applicable;</p> <p>(ii) For each type of source material in each type of product and each model number, if applicable, the total quantity of the source material; and</p> <p>(iii) The number of units of each type of product transferred during the reporting period by model number, if applicable.</p> <p>(4) The licensee shall file the report, covering the preceding calendar year, on or before January 31 of each year. Licensees who permanently discontinue activities authorized by the license issued under § 40.52 shall file a report for the current calendar year within 30 days after ceasing distribution.</p> <p>(5) If no transfers of source material have been made to persons exempt under § 40.13(c) or the equivalent regulations of an Agreement State, during the reporting period, the report must so indicate.</p> <p>(6) The licensee shall maintain all information concerning transfers that support the reports required by this section for 1 year after each transfer is included in a report to the Commission.</p>				
N/A	N/A	§40.54	B	<p>Section 40.54 is added as follows: An application for a specific license to initially transfer source material for use under § 40.22, or equivalent regulations of an Agreement State, will be approved if:</p> <p>(a) The applicant satisfies the general requirements specified in § 40.32; and</p> <p>(b) The applicant submits adequate information on, and the Commission approves the methods to be used for quality control, labeling, and providing safety instructions to recipients.</p>	N/A	N/A	2013-2	Responsibility of DSHS
N/A	N/A	§40.55(a)	B	<p>Section 40.55(a) is added as follows: Each person licensed under § 40.54 shall label the immediate container of each quantity of source material with the type of source material and quantity of material and the words, "radioactive material."</p>	N/A	N/A	2013-2	Responsibility of DSHS
N/A	N/A	§40.55(b)	B	<p>Section 40.55(b) is added as follows: Each person licensed under §40.54 shall ensure that the quantities and concentrations of source material are as labeled and indicated in any transfer records.</p>	N/A	N/A	2013-2	Responsibility of DSHS

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N/A	N/A	§40.55(c)	B	<p>Section 40.55(c) is added as follows:</p> <p>(c) Each person licensed under §40.54 shall provide the information specified in this paragraph to each person to whom source material is transferred for use under § 40.22 or equivalent provisions in Agreement State regulations. This information must be transferred before the source material is transferred for the first time in each calendar year to the particular recipient. The required information includes:</p> <p>(1) A copy of §§ 40.22 and 40.51, or relevant equivalent regulations of the Agreement State.</p> <p>(2) Appropriate radiation safety precautions and instructions relating to handling, use, storage, and disposal of the material.</p>	N/A	N/A	2013-2	Responsibility of DSHS
N/A	N/A	§40.55(d)	B	<p>Section 40.55(d) is added as follows:</p> <p>(d) Each person licensed under § 40.54 shall report transfers as follows:</p> <p>(1) File a report with the Director, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555. The report shall include the following information:</p> <p>(i) The name, address, and license number of the person who transferred the source material;</p> <p>(ii) For each general licensee under § 40.22 or equivalent Agreement State provisions to whom greater than 50 grams (0.11 lb) of source material has been transferred in a single calendar quarter, the name and address of the general licensee to whom source material is distributed; a responsible agent, by name and/or position and phone number, of the general licensee to whom the material was sent; and the type, physical form, and quantity of source material transferred; and</p> <p>(iii) The total quantity of each type and physical form of source material transferred in the reporting period to all such generally licensed recipients.</p> <p>(2) File a report with each responsible Agreement State agency that identifies all persons, operating under provisions equivalent to § 40.22, to whom greater than 50 grams (0.11 lb) of source material has been transferred within a single calendar quarter. The report shall include the following information specific to</p>	N/A	N/A	2013-2	Responsibility of DSHS

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				<p>those transfers made to the Agreement State being reported to:</p> <p>(i) The name, address, and license number of the person who transferred the source material; and</p> <p>(ii) The name and address of the general licensee to whom source material was distributed; a responsible agent, by name and/or position and phone number, of the general licensee to whom the material was sent; and the type, physical form, and quantity of source material transferred.</p> <p>(iii) The total quantity of each type and physical form of source material transferred in the reporting period to all such generally licensed recipients within the Agreement State.</p> <p>(3) Submit each report by January 31 of each year covering all transfers for the previous calendar year. If no transfers were made to persons generally licensed under § 40.22 or equivalent Agreement State provisions during the current period, a report shall be submitted to the Commission indicating so. If no transfers have been made to general licensees in a particular Agreement State during the reporting period, this information shall be reported to the responsible Agreement State agency upon request of the agency.</p>				
N/A	N/A	40.55(e)	C	Section 40.55(e) is added as follows: Each person licensed under §40.54 shall maintain all information that supports the reports required by this section concerning each transfer to a general licensee for a period of 1 year after the event is included in a report to the Commission or to an Agreement State agency.	N/A	N/A	2013-2	Responsibility of DSHS
N/A	N/A	§40.82	D	N/A	N/A	N/A	2013-2	Responsibility of DSHS
N/A	N/A	§70.5	D	N/A	N/A	N/A	2013-2	Responsibility of DSHS
N/A	N/A	§30.34(h)(1)(ii)	H&S	<p>In §30.34, paragraph (h)(1)(ii) was revised to remove the reference "11 U.S.C. 101(14)" and add, in its place, the reference "11 U.S.C. 101(15)."</p> <p>(ii) An entity (as that term is defined in 11 U.S.C. 101(15)) controlling the licensee or listing the license or licensee as property of the estate; or</p>	N/A	N/A	2013-2	Responsibility of DSHS
N/A	N/A	§34.20(a)(1)	B	In §34.20(a)(1), the address for the American National Standards Institute is updated as follows: This publication may be purchased from	N/A	N/A	2012-3	

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				the American National Standards Institute, Inc., 25 West 43rd Street, New York, New York 10036; Telephone: (212) 642- 4900.				
§336.1129(h) (8)	Technical Requirements.	Part 40, Appendix A, Criterion 4(d)	C	The eight paragraph of Criterion 4(d) is revised to read as follows: Rock covering of slopes may be unnecessary where top covers are very thick (on the order of 10 m or greater); impoundment slopes are very gentle (on the order of 10 h:1v or less); bulk cover materials have inherently favorable erosion resistance characteristics; and, there is negligible drainage catchment area upstream of the pile and good wind protection as described in points (a) and (b) of this Criterion.	Y	N	2012-3	No change is necessary to maintain compatibility category C.
§336.1113(2) (A)	Specific Terms and Conditions of Licenses.	Part 40, Appendix A, Criterion 8A	C	The third sentence of Criterion 8A is revised to read as follows: The appropriate NRC regional office as indicated in appendix D to 10 CFR part 20 of this chapter, or the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, must be immediately notified of any failure in a tailings or waste retention system that results in a release of tailings or waste into unrestricted areas, or of any unusual conditions (conditions not contemplated in the design of the retention system) that if not corrected could indicate the potential or lead to failure of the system and result in a release of tailings or waste into unrestricted areas.	Y	Y	2012-3	See rule change.
N/A	N/A	Part 71, Appendix A, Table A-1	B	In Table A-1, the entries for Bi-205, Cm-248, Eu-150 (long lived), and Te-132(a) and footnote b were revised to read as follows: See the table at the end of the document.	N/A	N/A	2012-3	Responsibility of DSHS
§336.1105 (10)	Definitions	§40.4, Definition: Commencement of construction, and of construction, paragraph 1	C	In § 40.4, the definition for the term "commencement of construction" is revised as follows: <i>Commencement of construction</i> means taking any action defined as "construction" or any other activity at the site of a facility subject to the regulations in this part that has a reasonable nexus to: (1) Radiological health and safety; or	Y	Y	June 27, 2016 letter/ 2011-2	See rule change.
§336.1105 (10)	Definitions	§40.4, Definition: Commencement of construction, and of	C	In § 40.4, the definition for the term "construction" is added in alphabetical order to read as follows: <i>Construction</i> means the installation of wells associated with radiological operations (e.g., production, injection, or monitoring well	Y	Y	June 27, 2016 letter/ 2011-2	See rule change.

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		construction, paragraph 1-8, 9(i)		<p>networks associated with in-situ recovery or other facilities), the installation of foundations, or in- place assembly, erection, fabrication, or testing for any structure, system, or component of a facility or activity subject to the regulations in this part that are related to radiological safety or security. The term “construction” does not include:</p> <p>(1) Changes for temporary use of the land for public recreational purposes;</p> <p>(2) Site exploration, including necessary borings to determine foundation conditions or other preconstruction monitoring to establish background information related to the suitability of the site, the environmental impacts of construction or operation, or the protection of environmental values;</p> <p>(3) Preparation of the site for construction of the facility, including clearing of the site, grading, installation of drainage, erosion and other environmental mitigation measures, and construction of temporary roads and borrow areas;</p> <p>(4) Erection of fences and other access control measures that are not related to the safe use of, or security of, radiological materials subject to this part;</p> <p>(5) Excavation;</p> <p>(6) Erection of support buildings (e.g., construction equipment storage sheds, warehouse and shop facilities, utilities, concrete mixing plants, docking and unloading facilities, and office buildings) for use in connection with the construction of the facility;</p> <p>(7) Building of service facilities (e.g., paved roads, parking lots, railroad spurs, exterior utility and lighting systems, potable water systems, sanitary sewerage treatment facilities, and transmission lines);</p> <p>(8) Procurement or fabrication of components or portions of the proposed facility occurring at other than the final, in-place location at the facility; or</p> <p>(9) Taking any other action that has no reasonable nexus to:</p> <p>(i) Radiological health and safety, or .</p>				
§336.1105 (10)	Definition	§150.31(b)(3)(iv)	C	In § 150.31, paragraph (b)(3)(iv) is revised to read as follows: Prohibit commencement of	Y	Y	June 27,	See rule change.

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Change to TCEQ Section	Title	NRC Section	Compati-bility Category	Summary of Change	Differences Yes/No	Signif-icant Yes/No	RATS ID	If Difference, Why or Why Not Was a Comment Generated
				<p>construction with respect to such material prior to complying with the provisions of paragraph (b)(3)(C)(iii) of this section. As used in this paragraph:</p> <p>(A) The term <i>commencement of construction</i> means taking any action defined as “construction” or any other activity at the site of a facility subject to the regulations in this part that has a reasonable nexus to radiological health and safety.</p> <p>(1) The term <i>construction</i> means the installation of foundations, or in-place assembly, erection, fabrication, or testing for any structure, system, or component of a facility or activity subject to the regulations in this part that have a reasonable nexus to radiological safety or security. The term “construction” does not include: Changes for temporary use of the land for public recreational purposes;</p> <p>(2) Site exploration, including necessary borings to determine foundation conditions or other preconstruction monitoring to establish background information related to the suitability of the site, the environmental impacts of construction or operation, or the protection of environmental values;</p> <p>(3) Preparation of the site for construction of the facility, including clearing of the site, grading, installation of drainage, erosion and other environmental mitigation measures, and construction of temporary roads and borrow areas;</p> <p>(4) Erection of fences and other access control measures that are not related to the safe use of or security of radiological materials subject to this part;</p> <p>(5) Excavation;</p> <p>(6) Erection of support buildings (e.g., construction equipment storage sheds, warehouse and shop facilities, utilities, concrete mixing plants, docking and unloading facilities, and office buildings) for use in connection with the construction of the facility;</p> <p>(7) Building of service facilities (e.g., paved roads, parking lots, railroad spurs, exterior utility and lighting systems, potable water systems, sanitary sewerage treatment facilities, and transmission lines);</p>			2016 letter/ 2011-2	

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				(8) Procurement or fabrication of components or portions of the proposed facility occurring at other than the final, in- place location at the facility; or Taking any other action which has no reasonable nexus to radiological health and safety.				
§336.607(3), refers to §37.9020, rules for trust funds are in 30 TAC §37.201	607(3): Criteria for License Termination under Restricted Conditions.	§20.1403(c)(1)	C	In § 20.1403, paragraph (c)(1) is revised to read as follows: Funds placed into a trust segregated from the licensee's assets and outside the licensee's administrative control, and inwhich the adequacy of the trust funds is to be assessed based on an assumed annual 1 percent realrate of return on investment;	Y	Y	2011-1	TCEQ rules for trust funds assure the adequacy of the trust fund through other mechanisms than a specified real rate of return on investment (see 30 TAC §37.201) which achieve the same objective as the NRC rule, thus satisfying compatibility category C. 30 TAC §336.607(3) also references Subchapter T of 30 TAC §37 for low level radioactive waste (LLRW) disposal sites. However, 10 CFR §20.1403(c)(3) applies to the LLRW disposal site since the U.S. Department of Energy will take ownership of the federal disposal site and the State of Texas will take ownership of the Compact disposal site.
§336.607(3), refers to §37.9020	607(3): Criteria for License Termination under Restricted Conditions.	§20.1403(c)(2)	C	In §20.1403, paragraph (c)(2) is removed: (c)(2) Surety method, insurance, or other guarantee method as described in §30.35(f)(2) of this chapter; [paragraph (c)(3) is redesignated as paragraph (c)(2), and paragraph (c)(4) is redesignated as paragraph (c)(3)]	Y	Y	2011-1	To be compatible at Category C with this rule, the TCEQ does not need to remove the surety method, insurance, or other guarantee methods for financial assurance from its

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Change to TCEQ Section	Title	NRC Section	Compatibility Category	Summary of Change	Differences Yes/No	Significant Yes/No	RATS ID	If Difference, Why or Why Not Was a Comment Generated
								rule. The rulemaking announcement in the Federal Register (76 FR 3512, June 17, 2011, page 35523) for RATS 2011-1 stated that these methods were removed because they were rarely used by the licensees and because of their relative risk in bankruptcy. The relative bankruptcy risk is mitigated by the TCEQ through the establishment of the Environmental Radiation and Perpetual Care Account, which is described in Texas Health and Safety Code, §401.306. Also, please note that TCEQ does not have any current licensees terminated under restricted conditions.
§336.607(3), refers to §37.9020	607(3): Criteria for License Termination under Restricted Conditions.	§20.1404(a)(5)	C	In § 20.1404, paragraph (a)(5) is added to read as follows: Has provided sufficient financial assurance in the form of a trust fund to enable an independent third party, including a governmental custodian of a site, to assume and carry out responsibilities for any necessary control and maintenance of the site.	Y	Y	2011-1	Change in rule corresponds to change in rule §20.1403(c)(2) (only trust fund allowed as financial assurance instrument). Please see comment for §20.1403(c)(2).
§336.356	Soil and Vegetation Contamination Limits	§20.1406(c)	C	In § 20.1406, paragraph (c) is added to read as follows: Licensees shall, to the extent practical, conduct operations to minimize the introduction of residual radioactivity into the site, including the subsurface, in accordance with the existing radiation protection requirements in Subpart B and radiological criteria for license termination in Subpart E of this part.	Y	N	September 10, 2016 letter/ 2011-1	Rule will be modified in next rulemaking in accordance with the September 10, 2016 letter.

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§336.315(a)	General Requirements for Surveys and Monitoring	§20.1501(a)	H&S	In § 20.1501, paragraphs (b) and (c) are redesignated as paragraphs (c) and (d), paragraphs (a) introductory text, (a)(2)(ii) and (a)(2)(iii) are revised, and a new paragraph (b) is added to read as follows: a) Each licensee shall make or cause to be made, surveys of areas, including the subsurface, that -- (2) *** (ii) Concentrations or quantities of residual radioactivity; and (ii) The potential radiological hazards of the radiation levels and residual radioactivity detected.	Y	Y	2011-1	See rule change.
N/A	N/A	§20.1501(b)	H&S	In § 20.1501, paragraphs (b) and (c) are redesignated as paragraphs (c) and (d), paragraphs (a) introductory text, (a)(2)(ii) and (a)(2)(iii) are revised, and a new paragraph (b) is added to read as follows: (b) Notwithstanding § 20.2103(a) of this part, records from surveys describing the location and amount of subsurface residual radioactivity identified at the site must be kept with records important for decommissioning, and such records must be retained in accordance with §§ 30.35(g), 40.36(f), 50.75(g), 70.25(g), or 72.30(d), as applicable.	N/A	N/A	2011-1	
§305.64(b)	Transfer of Permits	§30.34(b)(2)	C	In § 30.34, paragraph (b) is redesignated as paragraph (b)(1) and a new paragraph (b)(2) is added to read as follows: (2) An application for transfer of license must include: (i) The identity, technical and financial qualifications of the proposed transferee; and (ii) Financial assurance for decommissioning information required by § 30.35.	Y	N	2011-1	Any differences are only in the wording used, not in what is required to be submitted to the regulatory agency.
N/A	N/A	§30.35(c)(6)	D	N/A	N/A	N/A	2011-1	No equivalent rule
§336.619(c)	Financial Assurance for Decommissioning	30.35(d)	D	No Change to the text of §30.35(d)	N/A	N/A	2011-1	
§336.602(4)	Definitions	§30.35(e)	H&S	In § 30.35, paragraphs (e), is revised: (1) Each decommissioning funding plan must be submitted for review and approval and must contain – (i) A detailed cost estimate for decommissioning, in an amount reflecting: (A) The cost of an independent contractor to perform all decommissioning activities; (B) The cost of meeting the 10 CFR 20.1402 criteria for unrestricted use, provided that, if the	Y	N	2011-1	The definition of funding plan in the TCEQ rules state that it is equivalent to the decommissioning funding plan of 10 CFR §30.35. Therefore no change is needed to maintain

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Change to TCEQ Section	Title	NRC Section	Compatibility Category	Summary of Change	Differences Yes/No	Significant Yes/No	RATS ID	If Difference, Why or Why Not Was a Comment Generated
				<p>applicant or licensee can demonstrate its ability to meet the provisions of 10 CFR 20.1403, the cost estimate may be based on meeting the 10 CFR 20.1403 criteria;</p> <p>(C) The volume of onsite subsurface material containing residual radioactivity that will require remediation to meet the criteria for license termination; and</p> <p>(D) An adequate contingency factor.</p> <p>(ii) Identification of and justification for using the key assumptions contained in the DCE;</p> <p>(iii) A description of the method of assuring funds for decommissioning from paragraph (f) of this section, including means for adjusting cost estimates and associated funding levels periodically over the life of the facility;</p> <p>(iv) A certification by the licensee that financial assurance for decommissioning has been provided in the amount of the cost estimate for decommissioning; and</p> <p>(v) A signed original of the financial instrument obtained to satisfy the requirements of paragraph (f) of this section (unless a previously submitted and accepted financial instrument continues to cover the cost estimate for decommissioning).</p> <p>(2) At the time of license renewal and at intervals not to exceed 3 years, the decommissioning funding plan must be resubmitted with adjustments as necessary to account for changes in costs and the extent of contamination. If the amount of financial assurance will be adjusted downward, this can not be done until the updated decommissioning funding plan is approved. The decommissioning funding plan must update the information submitted with the original or prior approved plan, and must specifically consider the effect of the following events on decommissioning costs:</p> <p>(i) Spills of radioactive material producing additional residual radioactivity in onsite subsurface material;</p> <p>(ii) Waste inventory increasing above the amount previously estimated;</p> <p>(iii) Waste disposal costs increasing above the amount previously estimated;</p> <p>(iv) Facility modifications;</p> <p>(v) Changes in authorized possession limits;</p> <p>(vi) Actual remediation costs that exceed the</p>				<p>compatibility category H&S.</p>

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Change to TCEQ Section	Title	NRC Section	Compatibility Category	Summary of Change	Differences Yes/No	Significant Yes/No	RATS ID	If Difference, Why or Why Not Was a Comment Generated
				previous cost estimate; (vii) Onsite disposal; and Use of a settling pond.				
§37	Financial Assurance	30.35(f)	D	N/A	N/A	N/A	2011-1	
§37	Financial Assurance	30.35(h)	D	N/A	N/A	N/A	2011-1	
§37	Financial Assurance	Appendix A to Part 30	D	N/A	N/A	N/A	2011-1	
§37	Financial Assurance	Appendix C to Part 30	D	N/A	N/A	N/A	2011-1	
§37	Financial Assurance	Appendix D to Part 30	D	N/A	N/A	N/A	2011-1	
§37	Financial Assurance	Appendix E to Part 30	D	N/A	N/A	N/A	2011-1	
§607(4)	Criteria for License Termination under Restricted Conditions.	40.36(c)(5)	D	N/A	N/A	N/A	2011-1	
§336.1125	1125: Financial Assurance Requirements.	§40.36(d)	H&S	In § 40.36, paragraph (d) is revised to read as follows: (1) Each decommissioning funding plan must be submitted for review and approval and must contain – (i) A detailed cost estimate for decommissioning, in an amount reflecting: (A) The cost of an independent contractor to perform all decommissioning activities; (B) The cost of meeting the 10 CFR 20.1402 criteria for unrestricted use, provided that, if the applicant or licensee can demonstrate its ability to meet the provisions of 10 CFR 20.1403, the cost estimate may be based on meeting the 10 CFR 20.1403 criteria; (C) The volume of onsite subsurface material containing residual radioactivity that will require remediation; and (D) An adequate contingency factor. (ii) Identification of and justification for using the key assumptions contained in the DCE; (iii) A description of the method of assuring funds for decommissioning from paragraph (e) of this section, including means for adjusting cost estimates and associated funding levels periodically over the life of the facility; (iv) A certification by the licensee that financial assurance for decommissioning has been provided in the amount of the cost estimate for decommissioning; and (v) A signed original, or if permitted, a copy, of the	Y	N	2011-1	The current TCEQ rules for the decommissioning plans for source material recovery and by-product material disposal facilities cover the essential objectives as was modified in the NRC rulemaking in regards to health and safety and thus no change is required in the TCEQ rule to be compatible with the H&S category.

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				<p>financial instrument obtained to satisfy the requirements of paragraph (e) of this section (unless a previously submitted and accepted financial instrument continues to cover the cost estimate for decommissioning).</p> <p>(2) At the time of license renewal and at intervals not to exceed 3 years, the decommissioning funding plan must be resubmitted with adjustments as necessary to account for changes in costs and the extent of contamination. If the amount of financial assurance will be adjusted downward, this can not be done until the updated decommissioning funding plan is approved. The decommissioning funding plan must update the information submitted with the original or prior approved plan, and must specifically consider the effect of the following events on decommissioning costs:</p> <ul style="list-style-type: none"> (i) Spills of radioactive material producing additional residual radioactivity in onsite subsurface material; (ii) Waste inventory increasing above the amount previously estimated; (iii) Waste disposal costs increasing above the amount previously estimated; (iv) Facility modifications; (v) Changes in authorized possession limits; (vi) Actual remediation costs that exceed the previous cost estimate; (vii) Onsite disposal; and <p>Use of a settling pond.</p>				
§37	Financial Assurance	40.36(e)	D	N/A	N/A	N/A	2011-1	
§37	Financial Assurance	40.36(g)	D	N/A	N/A	N/A	2011-1	
§305.64(b)	Transfer of Permits	§40.46(b)	C	<p>In § 40.46, the current paragraph is designated as paragraph (a) and a new paragraph (b) is added to read as follows:</p> <p>(b) An application for transfer of license must include:</p> <ul style="list-style-type: none"> (1) The identity, technical and financial qualifications of the proposed transferee; and (2) Financial assurance for decommissioning information required by § 40.36 or Appendix A to this part, as applicable. 	Y	N	2011-1	Any differences are only in the wording used, not in what is required to be submitted to the regulatory agency.
§336.1125; 30 TAC 37, Subchapter T.	1125: Financial Assurance Requirements; Subchapter T: Financial Assurance	Appendix A to Part 40, Criterion 9	C	<p>In Appendix A to Part 40, Section II, Criterion 9 is revised to read as follows:</p> <p>(a) Financial surety arrangements must be established by each mill operator before the</p>			2011-1	The current TCEQ rule still meets the essential objectives of the NRC modifications in

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	for Radioactive Substances and Aquifer Restoration			<p>commencement of operations to assure that sufficient funds will be available to carry out the decontamination and decommissioning of the mill and site and for the reclamation of any tailings or waste disposal areas. The amount of funds to be ensured by such surety arrangements must be based on Commission-approved cost estimates in a Commission-approved plan, or a proposed revision to the plan submitted to the Commission for approval, if the proposed revision contains a higher cost estimate, for</p> <p>(1) Decontamination and decommissioning of mill buildings and the milling site to levels which allow unrestricted use of these areas upon decommissioning, and</p> <p>(2) The reclamation of tailings and/or waste areas in accordance with technical criteria delineated in Section I of this appendix.</p> <p>(b) Each cost estimate must contain –</p> <p>(1) A detailed cost estimate for decontamination, decommissioning, and reclamation, in an amount reflecting:</p> <p>(i) The cost of an independent contractor to perform the decontamination, decommissioning and reclamation activities; and</p> <p>(ii) An adequate contingency factor;</p> <p>(2) An estimate of the amount of radioactive contamination in onsite subsurface material;</p> <p>(3) Identification of and justification for using the key assumptions contained in the DCE; and</p> <p>(4) A description of the method of assuring funds for decontamination, decommissioning, and reclamation.</p> <p>(c) The licensee shall submit this plan in conjunction with an environmental report that addresses the expected environmental impacts of the milling operation, decommissioning and tailings reclamation, and evaluates alternatives for mitigating these impacts. The plan must include a signed original of the financial instrument obtained to satisfy the surety arrangement requirements of this criterion (unless a previously submitted and approved financial instrument continues to cover the cost estimate for decommissioning). The surety arrangement must also cover the cost estimate and the payment of the charge for long-term surveillance and control required by Criterion 10 of this section.</p>				<p>criterion 9 to satisfy compatibility category C.</p>

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				<p>(d) To avoid unnecessary duplication and expense, the Commission may accept financial sureties that have been consolidated with financial or surety arrangements established to meet requirements of other Federal or state agencies and/or local governing bodies for decommissioning, decontamination, reclamation, and long-term site surveillance and control, provided such arrangements are considered adequate to satisfy these requirements and that the portion of the surety which covers the decommissioning and reclamation of the mill, mill tailings site and associated areas, and the long-term funding charge is clearly identified and committed for use in accomplishing these activities.</p> <p>(e) The licensee's surety mechanism will be reviewed annually by the Commission to assure that sufficient funds would be available for completion of the reclamation plan if the work had to be performed by an independent contractor.</p> <p>(f) The amount of surety liability should be adjusted to recognize any increases or decreases resulting from:</p> <ol style="list-style-type: none"> (1) Inflation; (2) Changes in engineering plans; (3) Activities performed; (4) Spills, leakage or migration of radioactive material producing additional contamination in onsite subsurface material that must be remediated to meet applicable remediation criteria; (5) Waste inventory increasing above the amount previously estimated; (6) Waste disposal costs increasing above the amount previously estimated; (7) Facility modifications; (8) Changes in authorized possession limits; (9) Actual remediation costs that exceed the previous cost estimate; (10) Onsite disposal; and (11) Any other conditions affecting costs. <p>(g) Regardless of whether reclamation is phased through the life of the operation or takes place at the end of operations, an appropriate portion of surety liability must be retained until final compliance with the reclamation plan is determined.</p> <p>The appropriate portion of surety liability retained</p>				

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				<p>until final compliance with the reclamation plan is determined will be at least sufficient at all times to cover the costs of decommissioning and reclamation of the areas that are expected to be disturbed before the next license renewal. The term of the surety mechanism must be open ended, unless it can be demonstrated that another arrangement would provide an equivalent level of assurance.</p> <p>This assurance would be provided with a surety instrument which is written for a specified time (e.g., 5 years) and which must be automatically renewed unless the surety notifies the beneficiary (the Commission or the State regulatory agency) and the principal (the licensee) with reasonable time (e.g., 90 days) before the renewal date of their intention not to renew. In such a situation the surety requirement still exists and the licensee would be required to submit an acceptable replacement surety within a brief time to allow at least 60 days for the regulatory agency to collect.</p> <p>(i) Proof of forfeiture must not be necessary to collect the surety. In the event that the licensee cannot provide an acceptable replacement surety within the required time, the surety shall be automatically collected before its expiration. The surety instrument must provide for collection of the full face amount immediately on demand without reduction for any reason, except for trustee fees and expenses provided for in a trust agreement, and that the surety will not refuse to make full payment. The conditions described previously would have to be clearly stated on any surety instrument which is not open-ended, and must be agreed to by all parties. Financial surety arrangements generally acceptable to the Commission are:</p> <ol style="list-style-type: none"> (1) Trust funds; (2) Surety bonds; (3) Irrevocable letters of credit; and <p>Combinations of the financial surety arrangements or other types of arrangements as may be approved by the Commission. If a trust is not used, then a standby trust must be set up to receive funds in the event the Commission or State regulatory agency exercises its right to collect the surety. The surety arrangement and the surety or trustee, as applicable, must be acceptable to the Commission.</p>				

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				Self insurance, or any arrangement which essentially constitutes self insurance (e.g., a contract with a State or Federal agency), will not satisfy the surety requirement because this provides no additional assurance other than that which already exists through license requirements.				
N/A	N/A	70.25(c)(5)	D	N/A	N/A	N/A	2011-1	N/A
N/A	N/A	§70.25(d)	D	No Change to the text of §70.25(d)	N/A	N/A	2011-1	Responsibility of DSHS
N/A	N/A	§70.25(e)	H&S	In § 70.25, paragraph (e) is revised as follows: (1) Each decommissioning funding plan must be submitted for review and approval and must contain – (i) A detailed cost estimate for decommissioning, in an amount reflecting: (A) The cost of an independent contractor to perform all decommissioning activities; (B) The cost of meeting the 10 CFR 20.1402 criteria for unrestricted use, provided that, if the applicant or licensee can demonstrate its ability to meet the provisions of 10 CFR 20.1403, the cost estimate may be based on meeting the 10 CFR 20.1403 criteria; (C) The volume of onsite subsurface material containing residual radioactivity that will require remediation; and (D) An adequate contingency factor. (ii) Identification of and justification for using the key assumptions contained in the DCE; (iii) A description of the method of assuring funds for decommissioning from paragraph (f) of this section, including means for adjusting cost estimates and associated funding levels periodically over the life of the facility; (iv) A certification by the licensee that financial assurance for decommissioning has been provided in the amount of the cost estimate for decommissioning; and (v) A signed original, or, if permitted, a copy, of the financial instrument obtained to satisfy the requirements of paragraph (f) of this section (unless a previously submitted and accepted financial instrument continues to cover the cost estimate for decommissioning). (2) At the time of license renewal and at intervals not to exceed 3 years, the decommissioning funding plan must be resubmitted with	N/A	N/A	2011-1	Responsibility of DSHS

TCEQ Radioactive Substance Rule Update Crosswalk

Change to TCEQ Section	Title	NRC Section	Compatibility Category	Summary of Change	Differences Yes/No	Significant Yes/No	RATS ID	If Difference, Why or Why Not Was a Comment Generated
				<p>adjustments as necessary to account for changes in costs and the extent of contamination. If the amount of financial assurance will be adjusted downward, this can not be done until the updated decommissioning funding plan is approved. The decommissioning funding plan must update the information submitted with the original or prior approved plan, and must specifically consider the effect of the following events on decommissioning costs:</p> <ul style="list-style-type: none"> (i) Spills of radioactive material producing additional residual radioactivity in onsite subsurface material; (ii) Waste inventory increasing above the amount previously estimated; (iii) Waste disposal costs increasing above the amount previously estimated; (iv) Facility modifications; (v) Changes in authorized possession limits; (vi) Actual remediation costs that exceed the previous cost estimate; (vii) Onsite disposal; and <p>(B) Use of a settling pond.</p>				
N/A	N/A	§70.25(f)	D	N/A	N/A	N/A	2011-1	Responsibility of DSHS
N/A	N/A	§70.25(h)	D	N/A	N/A	N/A	2011-1	Responsibility of DSHS
N/A	N/A	§70.36	C	<p>In § 70.36, the current paragraph is designated as paragraph (a) and a new paragraph (b) is added to read as follows:</p> <p>(b) An application for transfer of license must include:</p> <ul style="list-style-type: none"> (1) The identity, technical and financial qualifications of the proposed transferee; and (2) Financial assurance for decommissioning information required by § 70.25. 	N/A	N/A	2011-1	Responsibility of DSHS
§336.1127(c)	Long-term Care and Maintenance Requirements	Part 40, Appendix A	C	Change the assumed annual real interest rate from 2.0 percent to 1.0 percent.	Y	Y	October 3, 2013 Letter/ 1999-1	See rule change.
§336.2(158)	Definition: Total Effective Dose Equivalent (TEDE)	20.1003	A	Added two sets of parenthesis around “for external exposure” and for “for internal exposure”.	Y	N	May 13, 2014 Letter/ 2008-1	See rule change.
§336.2(7)	Definition: Agreement State	§37.5	B	TCEQ needs to add the sentence “Non-agreement State means any other State” and remove the phrase “through October 24, 1992	Y	Y	January 13, 2016 Letter/	See rule change.

TCEQ Radioactive Substance Rule Update Crosswalk

Change to TCEQ Section	Title	NRC Section	Compatibility Category	Summary of Change	Differences Yes/No	Significant Yes/No	RATS ID	If Difference, Why or Why Not Was a Comment Generated
				(Public Law 102-486)" in order to meet the Compatibility Category B designation assigned to 10 CFR 37.5.			2013-1	
§336.2(24)	Definition: Category 2 quantity of radioactive material	§37.5	B	In order to meet the Compatibility Category B designation assigned to 10 CFR 37.5, TCEQ needs to add the sentence: "Category 2 quantities of radioactive material do not include the radioactive material contained in any fuel assembly, subassembly, fuel rod, or fuel pellet."	Y	Y	January 13, 2016 Letter/ 2013-1	See rule change.
§336.357(e) (3)(A) & (B)	Procedures for processing of fingerprint checks.	§37.27(c)	B	TCEQ needs to update the address in 336.357(e)(3)(A) and (B) and phone number in 336.357(e)(3)(B). TCEQ needs to change the phone number from 301-492-3531 to 301- 415-7513 in the following statement " <i>For guidance on making electronic payments, contact the Security Branch, Division of Facilities and Security at 301-415-7513.</i> ..." TCEQ needs to update the address to Division of Facilities and Security, 11545 Rockville Pike, ATTN: Criminal History Program/Mail Stop T-03B46M, Rockville, Maryland 20852-2738.	Y	Y	January 13, 2016 Letter/ 2013-1	See rule change.
§336.357(g) (4)	Protection of information.	§37.31(a)-(d)	B	TCEQ needs to change "NRC" to "commission" in 336.357(g)(4) in order to meet the Compatibility Category B designation assigned to 10 CFR 37.31(d).	Y	Y	January 13, 2016 Letter/ 2013-1	See rule change.
§336.357(i) (1)(C)	Security program	§37.41(a)	B	in order to meet the Compatibility Category B designation assigned to 10 CFR 37.41(a), TCEQ's regulations in 336.357(i)(1)(C) needs to indicate that TCEQ is to receive the written notification, not the NRC, i.e., TCEQ needs to change 336.357(i)(1)(C) to read, "Any licensee that has not previously implemented the Security Orders or been subject to the provisions of this subsection and subsections (j) – (q) of this section shall provide written notification to <u>the commission NRC regional office specified in § 30.6 of this chapter</u> at least 90 days before aggregating radioactive material to a quantity that equals or exceeds the category 2 threshold"	Y	Y	January 13, 2016 Letter/ 2013-1	See rule change.
§336.357(j) (1)(A), §336.357 (j)(A)(I) & §336.357(j) (1)(A)(ii)	General security program requirements.	§37.43(a)	B	TCEQ needs to change the phrase "this subsection" found in §336.357(j)(1)(A), §336.357(j)(A)(i), & §336.357(j)(A)(ii) to the phrase "subsection (i) of this section, this subsection, and subsections (k)-(q) of this section" in order to meet the Compatibility Category B designation assigned to 10 CFR 37.43(a)	Y	Y	January 13, 2016 Letter/ 2013-1	See rule change.

TCEQ Radioactive Substance Rule Update Crosswalk

Change to TCEQ Section	Title	NRC Section	Compatibility Category	Summary of Change	Differences Yes/No	Significant Yes/No	RATS ID	If Difference, Why or Why Not Was a Comment Generated
§336.357(j)(3)(C)(iii)	Training	§37.43(c)(1)-(c)(3)	B	In order to meet the Compatibility Category B designation assigned to 37.43(c)(1)-(c)(3), TCEQ's regulations in 336.357(j)(3)(C)(iii) needs to delete "NRC" and insert "commission".	Y	Y	January 13, 2016 Letter/ 2013-1	See rule change.
§336.357(q)(1) & (q)(2)	Reporting of events.	§37.57(a) & (b)	C	In order to meet the Compatibility Category C designation assigned to 10 CFR 37.57(a) and (b), TCEQ regulations in 336.357(q)(1) and (q)(2) should not require reporting to NRC in addition to the commission., i.e., TCEQ needs to delete "...and the NRC's Operations Center at (301) 816-5100".	Y	Y	January 13, 2016 Letter/ 2013-1	See rule change.
§336.357(q)(3)	Reporting of events.	§37.57(c)	C	In order to meet the Compatibility Category C designation assigned to 10 CFR 37.57(c), TCEQ regulations should not require reporting to NRC in addition to the commission, i.e., 336.357(q)(3) should read, "...by a written report submitted to the executive director and the NRC by an appropriate method listed in 10 CFR §37.7. The report must include sufficient information for NRC commission analysis and evaluation....".	Y	Y	January 13, 2016 Letter/ 2013-1	See rule change.
§336.357(u)(1), (u)(3) and (u)(4)	(1): Procedures for submitting advance notification (3): Revision notice (4): Cancellation notice	§37.77(a)-(d)	B	In order to meet the Compatibility Category B designation assigned to 10 CFR 37.77(a)-(d): 1) TCEQ needs to delete the old FSME address and insert the new NMSS address in the following statement, "A list of the contact information is also available upon request from the Director, Division of Intergovernmental Liaison and Rulemaking, Office of Federal and State Materials and Environmental Management Programs, Director, Division of Material, State, Tribal, and Rulemaking Programs, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission... " 2) TCEQ's regulation for advanced notification needs to be changed to indicate that the advanced notification for those shipments initially made by an Agreement State licensee, should go to the commission and not the NRC. 3) In 336.357(u)(1)(C), TCEQ needs to delete NRC and insert the commission in the following statement "A notification delivered by any means other than mail must reach NRC <u>the commission</u> at least 4 days before..."	Y	Y	January 13, 2016 Letter/ 2013-1	See rule change.
§336.357(u)	Advance notification of shipment of category 1 quantities of radioactive material	§37.77(f)	C	In order to meet the Compatibility Category C designation assigned to 37.77(f), TCEQ needs to add a new paragraph 336.357(u)(6) which is equivalent to "Protection of information. State officials, State employees, and other individuals,	Y	Y	January 13, 2016 Letter/ 2013-1	See rule change.

TCEQ Radioactive Substance Rule Update Crosswalk

Change to TCEQ Section	Title	NRC Section	Compatibility Category	Summary of Change	Differences Yes/No	Significant Yes/No	RATS ID	If Difference, Why or Why Not Was a Comment Generated
				whether or not licensees of the commission, NRC, or an Agreement State, who receive schedule information of the kind specified in 336.357(u)(2) shall protect that information against unauthorized disclosure as specified in 336.357(j)(4)”				
§336.357(w)(1)-(7)	Reporting of events	§37.81(a)-(g)	B	<p>In order to meet the Compatibility Category B designation assigned to 10 CFR 37.81(a)-(g):</p> <p>1) TCEQ’s regulations in 336.357(w)(1) - (w)(7) should require that licensee events be reported to the commission, not to both the commission and the NRC.</p> <p>2) TCEQ needs to delete references to NRC notification, as indicated below: “The initial telephonic notification required by paragraphs (1) - (4) of this subsection must be followed within a period of 30 days by a written report submitted to the executive director and NRC by an appropriate method listed in 10 CFR §37.7. A written report is not required for notifications on suspicious activities required by paragraphs (3) and (4) of this subsection. In addition, the licensee shall provide one copy of the written report addressed to the Director, Division of Security Policy, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.”</p>	Y	Y	January 13, 2016 Letter/ 2013-1	See rule change.
§336.357(z)	Category 1 and category 2 radioactive materials.	10 CFR 37, Appendix A	B	<p>TCEQ’s regulation omits “≥ 1.0” from the summation equation in 336.357(z).</p> <p>TCEQ needs to add the above to their regulation in order to meet the Compatibility Category B designation assigned to Appendix A of Part 37.</p> <p>Note: TCEQ acknowledged this omission in their letter dated August 21, 2014, and stated that they will correct this error during the public comment period.</p>	N	N/A	January 13, 2016 Letter/ 2013-1	This had been corrected before receiving the letter dated January 13, 2016.