



January 19, 2024

Ms. Theresa V. Clark, Deputy Director
Division of Material Safety, Security, State
and Tribal Programs
Office of Nuclear Material Safety
and Safeguards
U.S. Nuclear Regulatory Commission
T8-E18
Washington, D.C. 20555-0001

Dear Ms. Clark:

Attached is a copy of the proposed revisions to the Texas Regulations for Control of Radiation, 25 Texas Administrative Code (TAC), §289.201, concerning General Provisions for Radioactive Material; §289.202, concerning Standards for Protection Against Radiation from Radioactive Material; §289.253, concerning Radiation Safety Requirements for Well Logging Service Operations and Tracer Studies; §289.255, concerning Radiation Safety Requirements and Licensing and Registration Procedures for Industrial Radiography; §289.256, concerning Medical and Veterinary Use of Radioactive Material; §289.257, concerning Packaging and Transportation of Radioactive Material; and §289.258, concerning the Licensing and Radiation Safety Requirements for Irradiators. The draft revisions were made available for public comment from June 12 – 26, 2023. Comments on the informal draft rules from stakeholders were considered in the development of the proposed rule. The single public comment received, which was outside the scope of the presented draft changes, was reviewed by program staff on June 29, 2023. Separately, seven comments from Texas Health and Human Services (HHS) staff were reviewed and resulted in changes to the proposed rule. These updates add a provision to allow medical licensees to revise their radiation protection programs without department approval when meeting specific conditions. The updates also modify the “individual monitoring device” definition, add a “pocket dosimeter” definition, and correct the reference to procedural requirements when not using a surface casing during well logging operations. Updates apply uniform radiation safety committee membership requirements for all applicable licensees, remove an obsolete release criterion limit for patients treated with temporary eye plaques, remove the definition of “licensing state,” and clarify the application of §289.255(u)(8)(G) to “radiographic operations.” The amended regulations are identified by underlined text for new text and ~~brackets and strike-through~~ for deleted text.

The following chart identifies the outstanding required changes that have been addressed in these proposed rules to ensure NRC compatibility requirements are met:

RATS ID	NRC Title	State Section
2020 - 1	Individual Monitoring Devices 10 CFR Parts 34, 36, and 39	§§289.201 – 202, 289.253, 289.255, and 289.258
2020 - 3	Miscellaneous Corrections	§289.256 and §289.257
2021 - 1	Miscellaneous Corrections	§289.202 and §289.256

The following items address issues noted as “compatibility comments” that were enclosed with the NRC letter to Texas of July 29, 2021:

1. *Comment #3: §289.256(ii)(4) was erroneously changed to reference “subsection (www) of this section” during Texas’ rule revision process. A rule change request is pending to update §289.256(ii)(5) to reflect a reference to reporting requirements of §289.256(www) and correct the error applied to paragraph (4).*

The proposed preamble to these amended rules is attached to be used as an adjunct to the NRC review. We believe the final adoption of these revisions will satisfy the compatibility and health and safety categories established in the Office of Nuclear Material Safety and Safeguards (NMSS) Procedure SA-200.

The following are two issues that we would like the NRC to address:

1. The proposed changes to §§289.253, 289.255, and 289.258 remove the requirement for National Voluntary Laboratory Accreditation Program (NVLAP) processing of individual monitoring devices as required by RATS ID 2020-1. Of note, both Texas and NRC definitions of “individual monitoring device” and “dosimeter” include “pocket dosimeter” as an example of such devices. Some licensees may interpret this as authorization to use electronic personal dosimeters or pocket dosimeters to meet the updated requirements of 10 CFR Parts 36 and 39 which removed the NVLAP processing requirement. We understand that this is not likely the intent of the change, but we propose updating the definition of “individual monitoring device” to remove the reference to “pocket dosimeters” and “personal air sampling devices” and add discrete definitions of those devices as necessary. This may mitigate confusion regarding the type of dosimetry that must be used for personnel monitoring during well logging and irradiator operations.

2. The proposed rules have undergone extensive edits to comply with the Texas HHS plain language policy, which extends this writing practice to regulatory statute. This has been done with the intention of maintaining compliance with compatibility requirements of SA-200.

Ms. Theresa Clark
January 19, 2024
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If you have any questions, please get in touch with Brian Vamvakias at 512-834-6655; Brian.Vamvakias@dshs.texas.gov; or Lisa Bruedigan at 512-924-6862, or Lisa.Bruedigan@dshs.texas.gov.

Sincerely,

Lisa Bruedigan

Lisa Bruedigan
Director, Radiation Section
Consumer Protection Division
Texas Department of State Health Services

Attachments