

Robert J. Huston, *Chairman*
R. B. "Ralph" Marquez, *Commissioner*
John M. Baker, *Commissioner*
Jeffrey A. Saitas, *Executive Director*



TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

Protecting Texas by Reducing and Preventing Pollution

January 14, 2000

Mr. Paul H. Lohaus, Director
U.S. Nuclear Regulatory Commission
Office of State Programs
Document Control Desk
P1-37
Washington, D.C. 20555

Re: Request for Comments on Revisions to 30 TAC 336

Dear Mr. Lohaus:

Attached for your review and comments is a draft of revisions to 30 TAC 336. These revisions have three major goals: (1) to implement House Bill (HB)1172; (2) to implement the recommendations of the Texas Natural Resource Conservation Commission's (TNRCC) Business Process Review (BRP); and (3) to improve readability and understanding by reorganizing the chapter, putting requirements into plain English, and eliminating redundancies and conflicts within the rules. Specific changes related to each goal are discussed below.

First, the changes related to HB 1172 include: amending the definition of low-level radioactive waste to be compatible with the Nuclear Regulatory Commission's (NRC) definition; implementing the TNRCC's new exemption from rule authority; adding an exemption for on-site low-level radioactive waste disposal that was licensed before September 9, 1989; and adding exemptions from licensing requirements for facilities involved in Voluntary Cleanup Program or Superfund cleanups.

Second, Business Process Review changes are part of an agency-wide effort to make programs consistent wherever possible. Most of the process language in 30 TAC 336 can be modified to be more consistent with the rest of the agency. The TNRCC Commissioners believe that having one consistent process in the agency for all programs will be easier for both the regulated community, the public and the agency. Major changes are that the radiation program will use the definitions for major and minor amendment as used by the rest of the agency; and the application process will be moved to 30 TAC 281 and 305. These changes should be especially helpful for persons who have multiple permits/licenses from the TNRCC.

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Mr. Paul H. Lohaus, Director

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Last, there has been a great effort to make Chapter 336 more understandable and readable. The chapter has been partially reorganized. Subchapter C will be repealed, with those subsections being moved to more appropriate locations, or eliminated if redundant. Discrepancies between sections have been corrected. For example, Subchapter C reporting requirements are moved to and merged with Subchapter D reporting requirements and the applications process moved to and merged with the agency's application process requirements in 30 TAC 305. The disposal requirements in Subchapter D have been moved to form a new Subchapter C, which will be called "General Disposal Requirements". All of the decommissioning requirements have been moved to Subchapter G, including inactive disposal site cleanup requirements. We have also made distinctions between exemptions and extra-jurisdictional matters (§§336.1 and 336.5).

In addition to the reorganization, wording in some areas has been clarified. These changes include putting requirements into plain English, thereby resolving problems where the intent of the rule is unclear; eliminating or simplifying unnecessary or repetitive language; breaking long, complicated sections into shorter subsections; and shortening sentences for readability.

In this package, we did not: (1) make any substantive changes or corrections unless a provision clearly conflicted with statutory requirements (eg. recordkeeping requirements in Texas Health and Safety Code §§401.057-058) or a change was needed to implement the BPR-PIT recommendations; (2) address whether rules are Texas Department of Health or TNRCC jurisdiction and therefore should or should not be in the rules; (3) address new NRC compatibility issues, beyond the definition of low-level radioactive waste; or (4) make any changes that affect the status quo with regards to naturally occurring radioactive material (NORM) waste disposal. Unaddressed NRC compatibility issues will be handled in a future rulemaking.

Repealed language is indicated by ~~strikeout~~, and new language is redline/underline. Language within *{{redlined, italicized brackets}}* are for information only and will be later used to help draft the preamble. This rule package will be discussed at the January 29, 2000, meeting of the Texas Radiation Advisory Board, at which time we will ask for permission to solicit public comment on the proposal. In order for us to incorporate your comments into the proposal, which will be submitted to the commission in March 2000 to ask for permission to publish the proposal for public comment, please submit your comments to Ms. Kathy Vail of my staff at

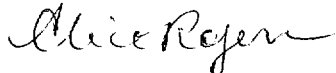
Mr. Paul H. Lohaus, Director

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the address below, Mail Code 131 (MC131) by Monday, February 21, 2000. If you have any questions, please contact Ms. Vail at 512-239-6637, or by email at "kvail@tnrcc.state.tx.us". Thank you for your assistance.

Sincerely,



Alice Hamilton Rogers, Manager
UIC and Radioactive Waste Section
Texas Natural Resource Conservation Commission

AHR/KV/jb

Attachments

cc: Ms. Kathy Vail, TNRCC
TRAB Members

I:\URW\KVAIL\RATION - 1.NRC

Robert J. Huston, *Chairman*
R. B. "Ralph" Marquez, *Commissioner*
John M. Baker, *Commissioner*
Jeffrey A. Saitas, *Executive Director*



TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

Protecting Texas by Reducing and Preventing Pollution

January 14, 2000

Mr. Jack S Krohmer Ph.D.
P.O. Drawer LL
George West, TX 78022

Re: Request for Comments on Revisions to 30 TAC 336

Dear Mr. Krohmer:

Attached for your review and comments is a draft of revisions to 30 TAC 336. These revisions have three major goals: (1) to implement House Bill (HB)1172; (2) to implement the recommendations of the Texas Natural Resource Conservation Commission's (TNRCC) Business Process Review (BRP); and (3) to improve readability and understanding by reorganizing the chapter, putting requirements into plain English, and eliminating redundancies and conflicts within the rules. Specific changes related to each goal are discussed below.

First, the changes related to HB 1172 include: amending the definition of low-level radioactive waste to be compatible with the Nuclear Regulatory Commission's (NRC) definition; implementing the TNRCC's new exemption from rule authority; adding an exemption for on-site low-level radioactive waste disposal that was licensed before September 9, 1989; and adding exemptions from licensing requirements for facilities involved in Voluntary Cleanup Program or Superfund cleanups.

Second, Business Process Review changes are part of an agency-wide effort to make programs consistent wherever possible. Most of the process language in 30 TAC 336 can be modified to be more consistent with the rest of the agency. The TNRCC Commissioners believe that having one consistent process in the agency for all programs will be easier for both the regulated community, the public and the agency. Major changes are that the radiation program will use the definitions for major and minor amendment as used by the rest of the agency; and the application process will be moved to 30 TAC 281 and 305. These changes should be especially helpful for persons who have multiple permits/licenses from the TNRCC.

Last, there has been a great effort to make Chapter 336 more understandable and readable. The chapter has been partially reorganized. Subchapter C will be repealed, with those subsections being moved to more appropriate locations, or eliminated if redundant. Discrepancies between sections have been corrected. For example, Subchapter C reporting requirements are moved to and merged with Subchapter D reporting requirements and the applications process moved to and merged with the agency's application process requirements

Mr. Jack Krohmer
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In addition to the reorganization, wording in some areas has been clarified. These changes include putting requirements into plain English, thereby resolving problems where the intent of the rule is unclear; eliminating or simplifying unnecessary or repetitive language; breaking long, complicated sections into shorter subsections; and shortening sentences for readability.

In this package, we did not: (1) make any substantive changes or corrections unless a provision clearly conflicted with statutory requirements (eg. recordkeeping requirements in Texas Health and Safety Code §§401.057-058) or a change was needed to implement the BPR-PIT recommendations; (2) address whether rules are Texas Department of Health or TNRCC jurisdiction and therefore should or should not be in the rules; (3) address new NRC compatibility issues, beyond the definition of low-level radioactive waste; or (4) make any changes that affect the status quo with regards to naturally occurring radioactive material (NORM) waste disposal. Unaddressed NRC compatibility issues will be handled in a future rulemaking.

Repealed language is indicated by ~~strikeout~~, and new language is redline/underline. Language within *{{redlined, italicized brackets}}* are for information only and will be later used to help draft the preamble. This rule package will be discussed at the January 29, 2000, meeting of the Texas Radiation Advisory Board, at which time we will ask for permission to solicit public comment on the proposal. If you have any questions, please contact Ms. Kathy Vail, of my staff at 512-239-6637, or by email at "kvail@tnrcc.state.tx.us". Thank you for your assistance.

Sincerely,



Alice Hamilton Rogers, Manager
UIC and Radioactive Waste Section
Texas Natural Resource Conservation Commission

AHR/KV/jb

Attachments

**SUBCHAPTER F. PUBLIC NOTICE OF RADIOACTIVE MATERIAL
LICENSE APPLICATIONS**

§39.302

Effective September 23, 1999

{{ repeal - obsolete, no applications were pending as of September 1, 1999}}

§39.301. Notice of Declaration of Administrative Completeness:

~~When an application under Chapter 336 of this title (relating to Radioactive Substance Rules) has been declared administratively complete, the chief clerk shall mail notice in accordance with the requirements of this subchapter.~~

~~Adopted May 14, 1997~~

~~Effective June 5, 1997~~

§39.302. Applicability

~~Applicability. This subchapter applies to applications for radioactive material licenses, under Chapter 336 of this title, that are declared administratively complete before September 1, 1999. Any applications that are declared administratively complete on or after September 1, 1999 are subject to Subchapter M of this chapter (relating to Public Notice of Radioactive Material License Applications).~~

~~Adopted September 2, 1999~~

~~Effective September 23, 1999~~

§39.303. Notice of License Applications Upon Completion of Technical Review.

~~(a) When the executive director has completed the technical review of an application for a license, major amendment, or renewal of a license issued under Chapter 336 of this title (relating to Radioactive Substance Rules) or for minor amendments issued under Chapter 336, Subchapter H of this title (relating to Licensing Requirements for Near Surface Land Disposal of Radioactive Waste), notice shall be mailed and published in accordance with the requirements of this subchapter. The deadline to file public comment, protests, or hearing requests is 30 days after publication.~~

~~(b) For an application for minor amendment to a license issued under Chapter 336, Subchapter F of this title (relating to Alternative Methods of Disposal of Radioactive Material), notice shall be mailed in accordance with the requirements of this subchapter. The deadline to file public comment, protests, or hearing requests is ten days after mailing.~~

~~Adopted July 29, 1998~~

~~Effective September 3, 1998~~

§39.305. Mailed Notice for Radioactive Material Licenses:

~~When notice by mail is required under this subchapter, the chief clerk shall mail notice to:~~

~~_____ (1) the mayor and health authorities of the city in which the facility is or will be located;~~

~~_____ (2) the county judge and health authorities of the county in which the facility is or will be located;~~

~~_____ (3) any person who submitted a written request in advance to be notified of any licensing action on this type of license;~~

~~_____ (4) the applicant;~~

~~_____ (5) each owner of property adjacent to the proposed site. For the purposes of determining property ownership under this subsection, the applicant shall provide the chief clerk the names of the relevant landowners from the county tax rolls that are available no more than 30 days before the date of newspaper publication of the notice; and~~

~~_____ (6) any other person the chief clerk or executive director may elect to include.~~

~~Adopted July 29, 1998~~

~~Effective September 3, 1998~~

~~§39.307. Published Notice.~~

~~_____ (a) For applications under Chapter 336, Subchapter F of this title (relating to Alternative Methods of Disposal of Radioactive Material), when notice is required to be published under this subchapter, the applicant shall publish notice at least once in a newspaper of largest general circulation in the county in which the facility is located.~~

~~_____ (b) For applications for a new license, renewal license or major amendment to a license issued under Chapter 336, Subchapter II of this title (relating to Licensing Requirements for Near-Surface Land Disposal of Radioactive Waste), when notice is required to be published under this subchapter, the applicant shall publish notice in a newspaper published in the county or counties in which the facility is or will be located. If no newspaper is published in the county or counties in which the facility is or will be located, a written copy of the notice shall be posted at the courthouse door and five other public places in the immediate locality to be affected. The notice shall be posted for at least 31 days.~~

~~_____ (c) In addition to published notice requirements in subsection (b) of this section, for an amendment of a license under Chapter 336, Subchapter II of this title, the chief clerk shall publish notice once in the Texas Register.~~

~~Adopted July 29, 1998~~

~~Effective September 3, 1998~~

~~§39.309. Notice of Contested Case Hearing on Application.~~

~~———— (a) The requirements of this section apply when an application is referred to the State Office of Administrative Hearings (SOAH) for a contested case hearing under Chapter 80 of this title (relating to Contested Case Hearings).~~

~~———— (b) For applications under Chapter 336, Subchapter F of this title (relating to Licensing of Alternative Methods of Disposal), notice shall be mailed no later than 30 days before the hearing. For applications under Chapter 336, Subchapter H of this title (relating to Licensing Requirements for Near-Surface Land Disposal of Radioactive Waste), notice shall be mailed no later than 31 days before the hearing.~~

~~Adopted July 29, 1998~~ ~~Effective September 3, 1998~~

~~§39.311. Proof and Certification of Notice.~~

~~———— (a) Notice shall be mailed by certified mail, return receipt requested. Proof of mailing to the proper address on the return receipt shall be accepted as conclusive evidence of the fact of the mailing.~~

~~———— (b) The applicant shall file proof of publication with the chief clerk within 30 days after publication. Acceptance of an affidavit executed by the publisher accompanied by a printed copy of the notice as published creates a rebuttable presumption of compliance with the requirement to publish notice.~~

~~———— (c) The applicant shall file proof of posting with the chief clerk within 30 days of posting. Proof of posting may be made by the return affidavit of the sheriff or constable, or, by the affidavit of a credible person made on a copy of the posted notice showing the fact of the posting.~~

~~Adopted May 14, 1997~~ ~~Effective June 5, 1997~~

~~§39.313. Public Notification and Public Participation.~~

~~———— Upon the receipt of a license termination plan or decommissioning plan from the licensee, or a proposal by the licensee for release of a site under §336.607 of this title (relating to Criteria for License Termination under Restricted Conditions) or §336.609 of this title (relating to Alternate Criteria for License Termination), or whenever the commission deems notice to be in the public interest, the commission shall:~~

~~———— (1) notify and solicit comments from:~~

~~_____ (A) local and state governments in the vicinity of the site and any Indian Nation or other indigenous people that have treaty or statutory rights that could be affected by the decommissioning; and~~

~~_____ (B) the United States Environmental Protection Agency for cases where the licensee proposes to release a site under §336.609 of this title (relating to Alternate Criteria for License Termination); and~~

~~_____ (2) publish a notice in the *Texas Register* and in a forum, such as local newspapers, letters to state or local organizations, or other appropriate forum, that is readily accessible to individuals in the vicinity of the site, and solicit comments from affected parties.~~

~~Adopted July 29, 1998~~

~~Effective September 3, 1998~~

**SUBCHAPTER M : PUBLIC NOTICE FOR RADIOACTIVE
MATERIAL LICENSES**

§§39.701-39.703, 39.705, 39.707, 39.709, 39.711, 39.713

§39.701. Applicability

Any license application under Chapter 336 of this title (relating to Radioactive Substance Rules) ~~that is declared administratively complete on or after September 1, 1999~~ is subject to this subchapter and applicable requirements under subchapter H of this chapter (relating to Applicability and General Provisions). *{{remove obsolete provision}}*

§39.702. no change

§39.703. Notice of License Applications Upon Completion of Technical Review. *{{simplification of notice title and HB 1172}}*

(a) When the executive director has completed the technical review of an application for a license, major amendment, or renewal of a license issued under Chapter 336 of this title (relating to Radioactive Substance Rules) or for a minor amendment issued under Chapter 336, Subchapter H of this title (relating to Licensing Requirements for Near-Surface Land Disposal of Low-Level Radioactive Waste), notice shall be mailed and published under this subchapter. The deadline to file public comment, protests, or hearing requests is 30 days after publication.

(b) no change

§39.705. no change

§39.707. Published Notice. *{{HB 1172}}*

(a) no change

(b) For applications for a new license, renewal license, or major amendment to a license issued under Chapter 336, Subchapter H of this title (relating to Licensing Requirements for Near-Surface Land Disposal of Low-Level Radioactive Waste), when notice is required to be published under this subchapter, the applicant shall publish notice in a newspaper published in the county or counties in which the facility is or will be located. If no newspaper is published in the county or counties in which the facility is or will be located, a written copy of the notice shall be posted at the courthouse door and five other public places in the immediate locality to be affected. The notice shall be posted for at least 31 days.

(c) no change

§39.709. Notice of Contested Case Hearing on Application. {{HB 1172}}

(a) no change

(b) For applications under Chapter 336, Subchapter F of this title (relating to Alternative Methods of Disposal of Radioactive Material), notice shall be mailed no later than 30 days before the hearing. For applications under Chapter 336, Subchapter H of this title (relating to Licensing Requirements for Near-Surface Land Disposal of Low-Level Radioactive Waste), notice shall be mailed no later than 31 days before the hearing.

(c) no change

§39.711 - 713. no change

SUBCHAPTER C : ACTION BY THE EXECUTIVE DIRECTOR
§§50.31, 50.33, 50.35, 50.37, 50.39, 50.41, 50.43, 50.45

§50.31. Purpose and Applicability.

(a) no change

(b) This subchapter applies to applications for new permits, or to renew, modify, amend, correct, endorse, or transfer permits and to applications seeking orders that have the effect of issuing, renewing, modifying, amending, or transferring permits. Except as provided by subsection (c) of this section, this subchapter applies to:

- (1) air quality permits under Chapter 116 of this title (relating to Control of Air Pollution by Permits for New Construction or Modification);
- (2) appointments to the board of directors of districts created by special law;
- (3) certificates of adjudication;
- (4) certificates of convenience and necessity;
- (5) district matters under Chapters 49 - 66 of the Texas Water Code;
- (6) districts' proposed impact fees, charges, assessments, or contributions approvable under Local Government Code, Chapter 395;
- (7) extensions of time to commence or complete construction;
- (8) industrial and hazardous waste permits;
- (9) municipal solid waste permits;
- (10) on-site waste water disposal system permits;
- (11) ~~radioactive waste~~ or radioactive material permits or licenses; *{{HB 1172 - low-level radioactive waste is a subset of radioactive material}}*
- (12) rate matters for water and wastewater utilities under Texas Water Code, Chapters 11, 12, or 13;

- (13) underground injection control permits;
- (14) water rights permits;
- (15) wastewater permits;
- (16) weather modification measures permits;
- (17) driller licenses under Texas Water Code, Chapter 32;
- (18) pump installer licenses under Texas Water Code, Chapter 33;
- (19) irrigator or installer registrations under Texas Water Code, Chapter 34; and
- (20) municipal management district matters under Local Government Code, Chapter

375.

- (c) no change
- (d) no change

SUBCHAPTER A : APPLICATIONS PROCESSING
§§281.1-281.32

§281.2. No change

§281.5. Application for Wastewater Discharge, Underground Injection, Municipal Solid Waste, Radioactive Material, Hazardous Waste and Industrial Solid Waste Management Permits. *{{consistency}}*

Applications for wastewater discharge, underground injection, municipal solid waste, radioactive material, hazardous waste and industrial solid waste management permits must include:

- provided;
- (1) complete application form(s), signed and notarized, and appropriate copies
 - (2) the payment of fees, if applicable;
 - (3) the verified legal status of the applicant;
 - (4) the signature of the applicant, checked against agency requirements;
 - (5) the attachment of technical reports and supporting data required by the application;
 - (6) a list of adjacent and potentially affected landowners and their addresses along with a map locating the property owned by these persons; and
 - (7) any other information as the executive director or the commission may reasonably require.

§281.21. Draft Permit, Technical Summary, Fact Sheet, and Compliance Summary.

- (a) no change
- (b) no change
- (c) no change
- (d) no change

(f) Additional conditions for radioactive material licenses:

(1) When the executive director is considering an application and determines that the licensed activity may have a significant effect on the human environment, the executive director shall prepare or have prepared a written analysis of the effect on the environment. The executive director shall prepare a written environmental analysis of a proposed license activity as required by Chapter 336 of this title (relating to Radioactive Substance Rules); and
{{consistency from §336.203}}

(2) The executive director shall make the environmental analysis available to the applicant and the public. An environmental analysis, shall be included as part of the record of the commission's proceedings. {{consistency from §336.203}}

§281.23. Application Amendment. {{consistency}}

(a) No amendments to an application which would constitute a major amendment under the terms of §305.62 of this title (relating to Amendment) ~~or Chapter 336 of this title (relating to Radioactive Substance Rules)~~ can be made by the applicant after the chief clerk has issued notice of the application and draft permit, unless new notice is issued which includes a description of the proposed amendments to the application. For purposes of this section, an attempted transfer of an application shall constitute an amendment requiring additional notice.

(b) no change.

SUBCHAPTER A : GENERAL PROVISIONS
§§305.1-305.3

§305.1. Scope and Applicability.

(a) The provisions of this chapter set the standards and requirements for applications, permits, and actions by the commission to carry out the responsibilities for management of waste disposal activities under the Texas Water Code, Chapters 26, 27, and 28, and the Texas Health and Safety Code, Chapters 361 and 401, and the Texas Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7. *{{consistency and correction of citation}}*

(b) no change

§305.2. Definitions.

The definitions contained in the Texas Water Code, §§26.001, 27.002, and 28.001, ~~and the Texas Solid Waste Disposal Act, the Texas Health and Safety Code, §§ 361.003, and 401.003, Texas Civil Statutes, Article 4477-7, §2,~~ shall apply to this chapter. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. *{{consistency and correction of citation}}*

Application - A formal written request for commission action relative to a permit, either on commission forms or other approved writing, together with all materials and documents submitted to complete the application.

Bypass - The intentional diversion of a waste stream from any portion of a treatment facility.

Class I sludge management facility - Any publicly owned treatment works (POTW) identified under 40 Code of Federal Regulations, §403.10(a) as being required to have an approved pretreatment program and any other treatment works treating domestic sewage classified as a Class I sludge management facility by the regional administrator in conjunction with the executive director because of the potential for its sludge use or disposal practices to adversely affect public health and the environment.

Component - Any constituent part of a unit or any group of constituent parts of a unit which are assembled to perform a specific function (e.g. a pump seal, pump, kiln liner, kiln thermocouple).

Continuous discharge - A discharge which occurs without interruption throughout the operating hours of the facility, except for infrequent shutdowns for maintenance, process changes, or other similar activities.

Corrective action management unit or CAMU - An area within a facility that is designated by the commission under 40 Code of Federal Regulations Part 264, Subpart S, for the purpose of implementing corrective action requirements under §335.167 of this title (relating to

Corrective Action for Solid Waste Management Units) and the Texas Solid Waste Disposal Act, Texas Health & Safety Code Annotated (Vernon Pamphlet 1993), §361.303 (relating to Corrective Action). A CAMU shall only be used for the management of remediation wastes pursuant to implementing such corrective action requirements at the facility.

CWA - Clean Water Act (formerly referred to as the Federal Water Pollution and Control Act or Federal Water Pollution Control Act Amendments of 1972) Public Law 92-500, as amended by Public Law 95-217, Public Law 95-576, Public Law 96-483, and Public Law 97-117, 33 United States Code 1251 et seq.

Daily average concentration - The arithmetic average of all effluent samples, composite or grab as required by this permit, within a period of one calendar month, consisting of at least four separate representative measurements.

(A) For domestic wastewater treatment plants - When four samples are not available in a calendar month, the arithmetic average (weighted by flow) of all values in the previous four consecutive month period consisting of at least four measurements shall be utilized as the daily average concentration.

(B) For all other wastewater treatment plants - When four samples are not available in a calendar month, the arithmetic average (weighted by flow) of all values taken during the month shall be utilized as the daily average concentration.

Daily average flow - The arithmetic average of all determinations of the daily discharge within a period of one calendar month. The daily average flow determination shall consist of determinations made on at least four separate days. If instantaneous measurements are used to determine the daily discharge, the determination shall be the average of all instantaneous measurements taken during a 24-hour period or during the period of daily discharge if less than 24 hours. Daily average flow determination for intermittent discharges shall consist of a minimum of three flow determinations on days of discharge.

Direct discharge - The discharge of a pollutant.

Discharge Monitoring Report (DMR) - The Environmental Protection Agency (EPA) uniform national form, including any subsequent additions, revisions, or modifications for the reporting of self-monitoring results by permittees.

Disposal - The discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid, liquid, or hazardous waste into or on any land, or into or adjacent to any water in the state so that such waste or any constituent thereof may enter the environment or be emitted into the air or discharged into or adjacent to any waters, including groundwaters.

Disposal facility - A facility or part of a facility at which solid waste is intentionally placed into or on any land or water, and at which waste will remain after closure. The term disposal facility does not include a corrective action management unit into which remediation wastes are placed.

Effluent limitation - Any restriction imposed on quantities, discharge rates, and concentrations of pollutants which are discharged from point sources into waters in the state.

Environmental Protection Agency (EPA) - The United States Environmental Protection Agency.

Facility - Includes:

(A) all contiguous land and fixtures, structures, or appurtenances used for storing, processing, treating, or disposing of waste, or for injection activities. A facility may consist of several storage, processing, treatment, disposal, or injection operational units;

(B) for the purpose of implementing corrective action under §335.167 of this title (relating to Corrective Action for Solid Waste Management Units), all contiguous property under the control of the owner or operator seeking a permit for the storage, processing, and/or disposal of hazardous waste. This definition also applies to facilities implementing corrective action under the Texas Solid Waste Disposal Act, Texas Health & Safety Code Annotated (Vernon Pamphlet 1993), §361.303 (relating to Corrective Action).

Facility mailing list - The mailing list for a facility seeking a Class I injection well UIC permit. The facility mailing list, which is described in 40 CFR, §120.10(c)(viii), is maintained by the Texas Natural Resource Conservation Commission in accordance with §305.103(b).

Functionally equivalent component - A component which performs the same function or measurement and which meets or exceeds the performance specifications of another component.

Indirect discharger - A nondomestic discharger introducing pollutants to a publicly owned treatment works.

Injection well permit - A permit issued pursuant to the Texas Water Code, Chapter 27.

Land disposal facility - includes landfills, waste piles, surface impoundments, land farms and injection wells.

National Pollutant Discharge Elimination System (NPDES) (NODES) - The national program for issuing, amending, terminating, monitoring, and enforcing permits, and imposing and enforcing pretreatment requirements, under CWA, §§307, 402, 318, and 405. The term includes an approved program.

New discharger -

(A) Any building, structure, facility, or installation:
(i) from which there is or may be a discharge of pollutants;
(ii) that did not commence the discharge of pollutants at a particular site prior to August 13, 1979;
(iii) which is not a new source; and
(iv) which has never received a finally effective NODES permit for discharges at that site.

(B) This definition includes an indirect discharger which commences discharging into water of the United States after August 13, 1979. It also includes any existing mobile point source (other than an offshore or coastal oil and gas exploratory drilling rig or a coastal oil and gas developmental drilling rig) such as a seafood processing rig, seafood processing vessel, or aggregate plant, that begins discharging at a site for which it does not have a permit.

New source - Any building structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced:

(A) after promulgation of standards of performance under CWA, §306; or

(B) after proposal of standards of performance in accordance with CWA, §306, which are applicable to such source, but only if the standards are promulgated in accordance with §306 within 120 days of their proposal.

Operator - The person responsible for the overall operation of a facility.

Outfall - The point or location where waterborne waste is discharged from a sewer system, treatment facility, or disposal system into or adjacent to water in this state.

Owner - The person who owns a facility or part of a facility.

Permit - A written document issued by the commission which, by its conditions, may authorize the permittee to construct, install, modify or operate, in accordance with stated limitations, a specified facility for waste discharge, for solid waste storage, processing or disposal, for radioactive material disposal, or for underground injection, and includes a wastewater discharge permit, a solid waste permit, a radioactive materials disposal license, and an injection well permit. *{{consistency, see 30 TAC 3.2(24)}}*

Person - An individual, corporation, organization, government, governmental subdivision or agency, business trust, estate, partnership, or any other legal entity or association.

Primary industry category - Any industry category listed in 40 Code of Federal Regulations Part 122 Appendix A, adopted by reference by §305.532(d) of this title (relating to Adoption of Appendices by Reference).

Process wastewater - Any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product.

Processing - The extraction of materials, transfer or volume reduction, conversion to energy, or other separation and preparation of waste for reuse or disposal, and includes the treatment or neutralization of hazardous waste so as to render such waste nonhazardous, safer for transport, or amenable to recovery, storage or volume reduction. The meaning of "transfer" as used here, does not include the conveyance or transport off-site of solid waste by truck, ship, pipeline or other means.

Publicly owned treatment works (POTW) - Any device or system used in the treatment (including recycling and reclamation) of municipal sewage or industrial wastes of a liquid nature which is owned by the state or a municipality. This definition includes sewers, pipes, or other conveyances only if they convey wastewater to a POTW providing treatment.

Radioactive material - A naturally -occurring or artificially-produced solid, liquid, or gas that emits radiation spontaneously. ~~A material which is identified as a radioactive material under Texas Civil Statutes, Article 4590f, as amended, and the rules adopted by the Texas Board of Health pursuant thereto.~~ *{{consistency with Chapter 336 and TRCA}}*

Recommencing discharger - A source which recommences discharge after terminating operations.

Regional administrator - Except when used in conjunction with the words "State Director," or when referring to EPA approval of a state program, where there is a reference in the EPA regulations adopted by reference in this chapter to the "regional administrator" or to the "director," the reference is more properly made, for purposes of state law, to the executive director of the Texas Natural Resource Conservation Commission, or to the Texas Natural Resource Conservation Commission, consistent with the organization of the agency as set forth in the Texas Water Code,

Chapter 5, Subchapter B. When used in conjunction with the words "State Director" in such regulations, regional administrator means the Regional Administrator for the Region VI Office of the EPA or his or her authorized representative. A copy of 40 Code of Federal Regulations Part 122 is available for inspection at the library of the Texas Natural Resource Conservation Commission, located in Room B-20 of the Stephen F. Austin State Office Building, 1700 North Congress, Austin.

Remediation waste - All solid and hazardous wastes, and all media (including groundwater, surface water, soils, and sediments) and debris, which contain listed hazardous wastes or which themselves exhibit a hazardous waste characteristic, that are managed for the purpose of implementing corrective action requirements under §335.167 of this title (relating to Corrective Action for Solid Waste Management Units) and the Texas Solid Waste Disposal Act, Texas Health & Safety Code Annotated (Vernon Pamphlet 1993), §361.303 (relating to Corrective Action). For a given facility, remediation wastes may originate only from within the facility boundary, but may include waste managed in implementing corrective action for releases beyond the facility boundary under the Texas Solid Waste Disposal Act, Texas Health & Safety Code Annotated (Vernon Pamphlet 1993), §361.303 (relating to Corrective Action), §335.166(5) of this title (relating to Corrective Action Program), or §335.167(c) of this title (relating to Corrective Action for Solid Waste Management Units).

Schedule of compliance - A schedule of remedial measures included in a permit, including an enforceable sequence of interim requirements (e.g., actions, operations, or milestone events) leading to compliance with the CWA and regulations.

Severe property damage - Substantial physical damage to property, damage to treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a discharge. Severe property damage does not mean economic loss caused by delays in production.

Sewage sludge - The solids, residues, and precipitate separated from or created in sewage or municipal waste by the unit processes of a treatment works.

Site - The land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.

Solid waste permit - A permit issued pursuant to Texas Civil Statutes, Article 4477-7, as amended.

Storage - The holding of waste for a temporary period, at the end of which the waste is processed, recycled, disposed of, or stored elsewhere.

Texas Pollutant Discharge Elimination System (TPDES) - The state program for issuing, amending, terminating, monitoring, and enforcing permits, and imposing and enforcing pretreatment requirements, under CWA, §§307, 402, 318, and 405, the Texas Water Code, and Texas Administrative Code regulations.

Toxic pollutant - Any pollutant listed as toxic under the CWA, §307(a) or, in the case of sludge use or disposal practices, any pollutant identified in regulations implementing CWA, §405(d).

Treatment works treating domestic sewage - A POTW or any other sewage sludge or wastewater treatment devices or systems, regardless of ownership (including federal facilities), used in the storage, treatment, recycling, and reclamation of sewage or municipal waste, including land

dedicated for the disposal of sewage sludge. This definition does not include septic tanks or similar devices.

Variance - Any mechanism or provision under the CWA, §301 or §316, or under Chapter 308 of this title (relating to Criteria and Standards for the Texas Pollutant Discharge Elimination System) which allows modification to or waiver of the generally applicable effluent limitation requirements or time deadlines of the CWA or this title.

Wastewater discharge permit - A permit issued pursuant to the Texas Water Code, Chapter 26.

Wetlands - Those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas and constitute water in the state.

§305.3. No change

SUBCHAPTER C : APPLICATION FOR PERMIT
§305.41 - 305.54

§305.41 no change

§305.42. Application Required.

(a) no change

(b) no change

(c) An application for a new, amended, or renewed radioactive material license under Chapter 336 of this title (relating to Radioactive Substance Rules) shall consist of one signed original and five copies. The executive director may request additional copies. Copies of an application for a low-level radioactive waste disposal license under Chapter 336, Subchapter H of this title (relating to Licensing Requirements for Near-Surface Land Disposal of Low-Level Radioactive Waste) shall be retained by the applicant for distribution in accordance with written instructions from the executive director. *{{HB 1172 and clarification}}*

(d) no change

§§305.43-44 no change

§305.45. Contents of Application for Permit. *{{consistency with agency}}*

(a) Forms for permit applications will be made available by the executive director. ~~Except for applications under Chapter 336 of this title (relating to Radioactive Substance Rules), each~~ Each application for permit shall include the following: *{{consistency with agency}}*

(1) no change

(2) no change

(3) no change

(4) no change

(5) no change

(6) no change

(7) no change

(8) supplementary technical report. A supplementary technical report shall be submitted in connection with an application. The report shall be prepared either by a Texas registered professional engineer, or by a qualified person who is competent and experienced in the field to which the application relates and thoroughly familiar with the operation or project for which the application is made. The report shall include the following:

(A) a general description of the facilities and systems used for or in connection with the collection, transportation, treatment, and disposal of waste, or used in connection with an injection activity;

(B) for each outfall, injection well, place of deposit, or place of disposal:

(i) the volume and rate of disposal of the defined waste or of fluid injection, including appropriate averages, the maximum rates of disposal or injection over representative periods of time, and detailed information regarding patterns of disposal or injection; and

(ii) the physical, ~~and~~ chemical, ~~and~~ radiological properties of the defined waste or the injection fluids; the characteristics of the waste or the injection fluid; the chemical, physical, thermal, organic, bacteriological, or radioactive properties or characteristics, as applicable, described in enough detail to allow evaluation of the water and environmental quality considerations involved; *{{consistency}}*

(C) Such other information as reasonably may be required by the executive director for an adequate understanding of the project or operation, and which is necessary to provide the commission an adequate opportunity to make the considerations required by §331.121 of this title (relating to Class I Wells), §331.122 of this title (relating to Class III Wells), §305.50 of this title (relating to Additional Requirements for an Application for a Hazardous or Industrial Solid Waste Permit), §305.48 of this title (relating to Additional Contents of Applications for Waste Discharge Permits), §305.54 of this title (relating to Additional Requirements for Radioactive Material Licenses), §336.207 of this title (relating to General Requirements for the Issuance of a License), §336.513 of this title (relating to Technical Requirements for Active Disposal Sites), §336.617 of this title (relating to Technical Requirements for Inactive Disposal Sites), Chapter 336, Subchapter H, of this title (relating to Licensing Requirements for Near-Surface Land Disposal of Low-Level Radioactive Waste), and Chapter 330, Subchapter E, of this title (relating to Municipal Solid Waste Permit Procedures). *{{consistency}}*

(b) no change

~~(e) An application for a radioactive material license shall include the information specified in the applicable subchapter of Chapter 336 of this title.~~ *{{redundant with changes to (a)(8)(C)}}*

§§305.47-53 no change

§305.54. Additional Requirements for Radioactive Material Licenses.

(a) no change.

~~(b) An application for a license shall contain proposed written specifications relating to the operations of the facility and any disposition of radioactive material. *{{redundant with technical requirements}}*~~

~~(b) (e)~~ If the applicant is a corporation under the Texas Business Corporation Act, written verification (either affidavit or tax receipt) shall be submitted with the application to confirm that no tax owed the State under Chapter 171, Tax Code, is delinquent. *{{renumbering}}*

~~(c) (d)~~ An application shall include information on ownership of the land on which the proposed project will be located, ownership of the proposed facilities, buildings, structures, and equipment, and ownership of properties adjacent to the proposed site. *{{renumbering}}*

(d) An application for a license may include a request for a license authorizing one or more activities provided the application specifies the additional activities for which licenses are requested and complies with commission rules as to applications for those licenses. The commission may require the issuance of separate specific licenses for those activities. *{{consistency, from 336.201}}*

(e) The commission or executive director may at any time after the filing of the original application, and before the expiration of the license, require further statements or data to enable the commission to determine whether the application should be granted or denied or whether a license should be amended, renewed, or revoked. *{{consistency, from 336.201}}*

(f) Applicants for licenses other than renewals, shall describe in the application how facility design and procedures for operation will minimize, to the extent practicable, contamination of the facility and the environment, facilitate eventual decommissioning, and minimize, to the extent practicable, the generation of low-level radioactive waste. *{{consistency, from 336.201, deleted date because it is obsolete}}*

**SUBCHAPTER D : AMENDMENTS, RENEWALS, TRANSFERS,
CORRECTIONS, REVOCATION, AND SUSPENSION OF PERMITS
§§305.61-305.72**

§305.62. Amendment.

(a) no change

(b) Application for amendment. An application for amendment shall include all requested changes to the permit. Information sufficient to review the application shall be submitted in the form and manner and under the procedures specified in Subchapter C §§305.41-305.53 of this chapter title (relating to Application for Permit). The application shall include a statement describing the reason for the requested changes. *{{to include Additional Requirements for Radioactive Material Licenses, BPR consistency}}*

(c) Types of amendments.

(1) A major amendment is an amendment that changes a substantive term, provision, requirement, or a limiting parameter of a permit.

(A) In case of a license issued under Chapter 336 (relating to Radioactive Substance Rules), a major amendment may also include an amendment for which the executive director has prepared a written environmental analysis or has determined that an environmental analysis is required.

(B) In case of a license issued under Subchapter H of Chapter 336 of this title (relating to Licensing Requirements for Near-Surface Land Disposal of Low-Level Radioactive Waste), a major amendment may also include:

(i) a change in the type or concentration limits of wastes to be received or disposed;

(ii) receipt of waste from other states not authorized in the existing license;

(iii) a change in the operator of the facility;

(iv) closure and the final closure plan for the disposal site; or

(v) transfer of the license to the custodial agency.

{{BPR change for consistency - from §336.2 - definition of major amendment}}

(2) no change

(d) no change

(e) no change

(f) no change

(g) no change

(h) no change.

~~(i) Amendment of radioactive material license. An application for amendment of a radioactive material license shall be filed with the executive director in accordance with Chapter 336 of this title (relating to Radioactive Substance Rules). An application for amendment shall specify how the license is to be amended and the basis for such amendment. {{consistency}}~~

§305.63. Renewal.

(a) no change

~~(b) This section does not apply to applications for renewal of radioactive material licenses under Chapter 336 of this title (relating to Radioactive Substance Rules). {{consistency}}~~

§305.67. Revocation and Suspension upon Request or Consent.

(a) no change

(b) no change

(c) The executive director may terminate a radioactive material license in accordance with this section, if the licensee has complied with the applicable decommissioning requirements under Chapter 336 (relating to Radioactive Substance Rules). {{consistency}}

SUBCHAPTER F : PERMIT CHARACTERISTICS AND CONDITIONS

§305.121. Applicability.

The provisions of this subchapter establish the characteristics and standards for permits issued for injection wells, waste discharge, radioactive material disposal, and solid waste management, including sewage sludge. *{{consistency}}*

§305.122. no change

§305.123. Reservation in Granting Permit.

Every permit is subject to further orders and rules of the commission. In accordance with the procedures for amendments and orders, the commission may incorporate into permits already granted, any condition, restriction, limitation, or provision reasonably necessary for the administration and enforcement of Texas Water Code Chapters 26, 27, and 28, and the Texas Health and Safety Code, Chapters 361 and 401. ~~and the Texas Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7.~~ *{{consistency and correcting citation}}*

§305.124. no change

§305.125. Standard Permit Conditions.

Conditions applicable to all permits issued under this chapter, and which shall be incorporated into each permit expressly or by reference to this chapter are:

- (1) no change
- (2) no change
- (3) no change
- (4) no change
- (5) no change
- (6) no change
- (7) no change
- (8) no change

(9) The permittee shall report any noncompliance to the executive director which may endanger human health or safety, or the environment.

(A) Such information shall be provided orally within 24 hours from the time the permittee becomes aware of the noncompliance. A written submission shall also be provided within five days of the time the permittee becomes aware of the noncompliance. The written submission shall contain a description of the noncompliance and its cause; the potential danger to human health or safety, or the environment; the period of noncompliance, including exact dates and times; if the noncompliance has not been corrected, the time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance, and to mitigate its adverse effects.

(B) The following must be reported within 24 hours under this paragraph.

(i) any unanticipated bypass which exceeds any effluent limitation in a TPDES permit.

(ii) violation of a maximum daily discharge limitation for any pollutants listed in a TPDES permit to be reported within 24 hours.

(C) Holders of radioactive material licenses issued under Chapter 336 (relating to Radioactive Substance Rules) shall report noncompliances to the executive director according to the requirements of Chapter 336. {{consistency}}

(10) Inspection and entry shall be allowed under Texas Water Code Chapters 26-28, Health and Safety Code §§361.032-361.033, ~~and 361.037, and 401.063,~~ and 40 Code of Federal Regulations (CFR) §122.41(i). The statement in Texas Water Code §26.014 that commission entry of a facility shall occur in accordance with an establishment's rules and regulations concerning safety, internal security, and fire protection is not grounds for denial or restriction of entry to any part of the facility, but merely describes the commission's duty to observe appropriate rules and regulations during an inspection. *{{consistency, redundant with §336.215 and 336.742- OK with Dale Kohler}}*

(11) Monitoring and reporting requirements are as follows: *{{consistency - OK with Dale Kohler}}*

(A) Monitoring samples and measurements shall be taken at times and in a manner so as to be representative of the monitored activity.

(B) Except as otherwise required by Chapter 336 of this title (relating to Radioactive Substance Rules) or for records of monitoring information required by a permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by 40 CFR Part 503), monitoring and reporting records, including strip charts and records of calibration and maintenance, copies of all records required by the permit, records of all data used to complete the application for this permit, and the certification required by 40

CFR §264.73(b)(9) shall be retained at the facility site for a period of three years from the date of the record or sample, measurement, report, application, or certification. This period shall be extended at the request of the executive director. *consistency*

(C) Records of monitoring activities shall include:

- (i) date, time and place of sample or measurement;
- (ii) identity of individual who collected the sample or made the measurement;
- (iii) date of analysis;
- (iv) identity of the individual and laboratory who performed the analysis;
- (v) the technique or method of analysis; and
- (vi) the results of the analysis or measurement.

(12) no change

(13) no change

(14) no change

(15) no change

(16) no change

(17) no change

(18) no change

(19) no change

(20) no change

(21) Notice of Bankruptcy. *consistency from §336.219 - language from Denise Espinosa - Bankruptcy Section - OK'd by Waste Permits and MSW Permits*

(A) Each permittee shall notify the executive director, in writing, immediately following the filing of a voluntary or involuntary petition for bankruptcy under any chapter of Title 11 (Bankruptcy) of the United States Code (11 U.S.C.) by or against:

(i) the permittee;

(ii) an entity (as that term is defined in 11 U.S.C. 101(14)) controlling the permittee or listing the permit or permittee as property of the estate; or

(iii) an affiliate (as that term is defined in 11 U.S.C. 101(2)) of the permittee.

(B) This notification must indicate:

(i) the name of the permittee;

(ii) the permit number(s);

(iii) the bankruptcy court in which the petition for bankruptcy was filed; and

(iv) the date of filing of the petition.

§305.127. Conditions to be Determined for Individual Permits.

Conditions to be determined on a case-by-case basis according to the criteria set forth herein, and when applicable, incorporated into the permit expressly or by reference, are:

(1) Duration.

(A) no change

(B) no change

(C) no change

(D) no change

(E) no change

(F) no change

consistency (G) Radioactive Material Licenses.

(i) Licenses issued under Chapter 336 Subchapter H shall be for a fixed term not to exceed 20 years;

(ii) Other radioactive material licenses shall be for a fixed term not to exceed 10 years. *{for consistency with RCRA and UIC permits - the only statutory requirement is to review the financial qualifications of the licensee once every five years}*

(2) no change

(3) no change

(4) Requirements for individual programs.

(A) Requirements to provide for and assure compliance with standards set by the rules of the commission and the laws of Texas shall be determined and included in permits on a case-by-case basis to reflect the best method for attaining such compliance. Each permit shall contain terms and conditions as the commission determines necessary to protect human health and safety, and the environment. Reference is made to Chapter 330 of this title (relating to Municipal Solid Waste) for municipal solid waste facility standards, to Chapter 331 of this title (relating to Underground Injection Control) for injection well standards, to Chapter 335 of this title (relating to Industrial Solid Waste and Municipal Hazardous Waste) for solid waste facility standards, to Chapter 336 of this title (relating to Radioactive Substance Rules) for radioactive material disposal standards, and to Chapter 309 of this title (relating to Effluent Standards) for waste discharge standards and to Chapter 329 of this title (relating to Drilled or Mined Shafts) for drilled or mined shaft standards. *consistency*

(B) no change

(C) New, amended, modified, or renewed permits shall incorporate any applicable requirements contained in Chapter 331 of this title (relating to Underground Injection Control) for injection well standards, Chapter 335 of this title (relating to Industrial Solid Waste and Municipal Hazardous Waste) for solid waste facility standards, Chapter 336 of this title (relating to Radioactive Substance Rules) for radioactive material disposal standards, Chapter 309 of this title (relating to Effluent Standards) waste discharge standards) and Chapter 329 of this title (relating to Drilled or Mined Shafts) for drilled or mined shaft standards. *consistency*

(5) no change

(6) no change

§§305.128-129 no change

SUBCHAPTER A : GENERAL PROVISIONS

§336.1. Scope and General Provisions.

(a) Except as otherwise specifically provided, the rules in this chapter ~~Chapter 336 of this title (relating to Radioactive Substance Rules)~~ apply to all persons who dispose of radioactive substances, except by-product material defined by §336.2(13)(B) of this title (relating to Definitions).

(1) However, nothing in these rules shall apply to any person to the extent that person is subject to regulation by the United States Nuclear Regulatory Commission (USNRC) or to radioactive material in the possession of federal agencies.

(2) This chapter does not apply to any United States Department of Energy contractor or subcontractor or any United States Nuclear Regulatory Commission contractor or subcontractor of the following categories operating within the State, with the exception of any applicable fee set forth in Subchapter B of Chapter 336 of this title (relating to Radioactive Substance Fees), to the extent that such contractor or subcontractor under his contract receives, possesses, uses, transfers, or acquires sources of radiation:

(A) prime contractors performing work for the United States Department of Energy at a United States government-owned or controlled site, including the transportation of radioactive material to or from the site and the performance of contract services during temporary interruptions of transportation;

(B) prime contractors of the United States Department of Energy performing research in or development, manufacture, storage, testing, or transportation of atomic weapons or components thereof;

(C) prime contractors of the United States Department of Energy using or operating nuclear reactors or other nuclear devices in a United States government-owned vehicle or vessel; and

(D) any other prime contractor or subcontractor of the United States Department of Energy or the United States Nuclear Regulatory Commission when the State and the United States Nuclear Regulatory Commission jointly determine that:

(i) the exemption of the prime contractor or subcontractor is authorized by law; and

(ii) under the terms of the contract or subcontract, there is adequate assurance that the work thereunder can be accomplished without undue risk to the public health and safety or the environment. *{{moved from §336.5}}*

(3) Radioactive material that is transferred out of the possession of the federal government is subject to state jurisdiction. *{{clarification}}*

(4) The rules of this chapter do not apply to transportation of radioactive materials. This provision does not exempt a transporter from other applicable requirements. *{{from §336.5(b), clarification, transportation is not an exemption because these rules apply only to disposal. Transportation is not under TNRCC jurisdiction.}}*

(5) The rules in this chapter do not apply to the disposal of radiation machines as defined in this subchapter or electronic devices which produce non-ionizing radiation.

(b) Regulation by the State of Texas of source material, byproduct material, and special nuclear material in quantities not sufficient to form a critical mass is subject to the provisions of the agreement between the State of Texas and the USNRC and to Part 150 of Title 10 Code of Federal Regulations (10 CFR Part 150) (relating to Exemptions and Continued Regulatory Authority in Agreement States and in Offshore Waters Under Section 274). (A copy of the Texas agreement, "Articles of Agreement between the United States Atomic Energy Commission and the State of Texas for Discontinuance of Certain Commission Regulatory Authority and Responsibility Within the State Pursuant to Section 274 of the Atomic Energy Act of 1954, as Amended" (Agreement), may be obtained from the UIC and Radioactive Waste Section, MC 131, Waste Permits Industrial and Hazardous Waste Division, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.) Under the Agreement and 10 CFR Part 150, the USNRC retains certain regulatory authorities over source material, byproduct material, and special nuclear material in the State of Texas. Persons in the State of Texas are not exempt from the regulatory requirements of the USNRC with respect to these retained authorities.

(c) no change

(d) Each person licensed by the commission under this subchapter shall confine possession, and use, and disposal of licensed radioactive material to the locations and purposes authorized in the license.

(e) no change

(f) No person may: *{{clarification of existing rules}}*

(1) dispose of low-level radioactive waste on-site, except as authorized under §336.501(b) of this title (relating to Scope and General Provisions);

(2) receive low-level radioactive waste from other persons for the purpose of disposal, except for a public entity specifically licensed for the disposal of low-level radioactive waste; or

(3) dispose of radioactive materials other than low-level radioactive waste, except for diffuse NORM waste having concentrations of less than 2000 pCi/g radium 226 or 228 on-site..

(g) For the purpose of this chapter, any time the term "low-level radioactive waste" is used, the provision also applies to accelerator-produced radioactive material. *{{clarification - accelerator-produced radioactive material is currently included in the definition of radioactive waste. To maintain compatibility with NRC definition of LLRW, accelerator product is proposed to be removed from the definition. This provision will maintain the status quo with regards to regulation of accelerator produced radioactive material}}*

§336.2. Definitions.

The following words and terms when used in this chapter shall have the following meanings, or as described in Chapter 3 of this title (relating to Definitions), unless the context clearly indicates otherwise. Additional definitions used only in a certain subchapter will be found in that subchapter.

(1) **Absorbed dose** - The energy imparted by ionizing radiation per unit mass of irradiated material. The units of absorbed dose are the rad and the gray (Gy).

(2) **Accelerator-produced radioactive material** - Any material made radioactive by exposing it to the radiation from a particle accelerator.

(3) **Activity** - The rate of disintegration (transformation) or decay of radioactive material. The units of activity are the curie (Ci) and the becquerel (Bq).

(4) **Adult** - An individual 18 or more years of age.

(5) **Agreement state** - Any state with which the United States Nuclear Regulatory Commission (USNRC) or the Atomic Energy Commission has entered into an effective agreement under the Atomic Energy Act of 1954, §274b, as amended through October 24, 1992 (Pub.L. 102-486).

(6) **Airborne radioactive material** - Any radioactive material dispersed in the air in the form of dusts, fumes, particulates, mists, vapors, or gases.

(7) **Airborne radioactivity area** - A room, enclosure, or area in which airborne radioactive materials, composed wholly or partly of licensed material, exist in concentrations:

(A) in excess of the derived air concentrations (DACs) specified in §336.359, Appendix B, Table I, Column 1, of this title (relating to Annual Limits on Intake (ALI) and Derived Air Concentrations (DAC) of Radionuclides for Occupational Exposure; Effluent Concentrations; Concentrations for Release to Sanitary Sewerage); or

(B) to a degree that an individual present in the area without respiratory protective equipment could exceed, during the hours an individual is present in a week, an intake of 0.6% of the ALI or 12 DAC-hours.

(8) **Annual limit on intake (ALI)** - The derived limit for the amount of radioactive material taken into the body of an adult worker by inhalation or ingestion in a year. ALI is the smaller value of intake of a given radionuclide in a year by the "reference man" that would result in a committed effective dose equivalent of 5 rems (0.05 sievert) or a committed dose equivalent of 50 rems (0.5 sievert) to any individual organ or tissue. ALI values for intake by ingestion and by inhalation of selected radionuclides are given in Table I, Columns 1 and 2, of §336.359, Appendix B, of this title.

(9) **As low as is reasonably achievable (ALARA)** - Making every reasonable effort to maintain exposures to radiation as far below the dose limits in this chapter as is practical, consistent with the purpose for which the licensed activity is undertaken, taking into account the state of technology, the economics of improvements in relation to the state of technology, the economics of improvements in relation to benefits to the public health and safety, and other societal and socioeconomic considerations, and in relation to utilization of ionizing radiation and licensed radioactive materials in the public interest.

(10) **Background radiation** - Radiation from cosmic sources; non-technologically enhanced naturally-occurring radioactive material, including radon (except as a decay product of source or special nuclear material) and global fallout as it exists in the environment from the testing of nuclear explosive devices or from past nuclear accidents such as Chernobyl that contribute to background radiation and are not under the control of the licensee. "Background radiation" does not include radiation from radioactive materials regulated by the commission, Texas Department of Health, USNRC, or an Agreement State.

(11) **Becquerel (Bq)** - See §336.4 of this title (relating to Units of Radioactivity).

(12) **Bioassay** - The determination of kinds, quantities, or concentrations, and, in some cases, the locations of radioactive material in the human body, whether by direct measurement (in vivo counting) or by analysis and evaluation of materials excreted or removed from the human body. For purposes of the rules in this chapter, "radiobioassay" is an equivalent term.

(13) **Byproduct material** -

(A) A radioactive material, other than special nuclear material, that is produced in or made radioactive by exposure to radiation incident to the process of producing or using special nuclear material; or and *compatibility with federal*

(B) The tailings or wastes produced by or resulting from the extraction or concentration of uranium or thorium from ore processed primarily for its source material content, including discrete surface wastes resulting from uranium solution extraction processes, and other tailings having similar radiological characteristics. Underground ore bodies depleted by these solution extraction processes do not constitute "byproduct material" within this definition.

(xx) Captured facility - A manufacturing or production facility that generates waste that is routinely stored, processed, or disposed of on a shared basis in an integrated waste management unit owned, operated by, and located within a contiguous manufacturing complex. *based upon TSWDA §361.003(4) for consistency with other agency programs - phrase used in definition of "commercial facility"*

(14) **CFR** - Code of Federal Regulations.

(15) **Class** - A classification scheme for inhaled material according to its rate of clearance from the pulmonary region of the lung. Materials are classified as D, W, or Y, which applies to a range of clearance half-times: for Class D (Days) of less than 10 days, for Class W (Weeks) from 10 to 100 days, and for Class Y (Years) of greater than 100 days. For purposes of the rules in this chapter, "lung class" and "inhalation class" are equivalent terms.

(16) **Collective dose** - The sum of the individual doses received in a given period of time by a specified population from exposure to a specified source of radiation.

(xx) Commercial facility - Any waste management facility that accepts waste from others for a charge, except for a captured facility or a facility that accepts waste only from other facilities owned or effectively controlled by the same person. *based upon TSWDA §361.003(4) - for consistency with other agency programs, used in 336.211(d) and MOU with TDH*

(17) **Committed dose equivalent ($H_{T,50}$) (CDE)** - The dose equivalent to organs or tissues of reference (T) that will be received from an intake of radioactive material by an individual during the 50-year period following the intake.

(18) **Committed effective dose equivalent ($H_{E,50}$) (CEDE)** - The sum of the products of the weighting factors applicable to each of the body organs or tissues that are irradiated and the committed dose equivalent to each of these organs or tissues.

(19) **Critical group** - The group of individuals reasonably expected to receive the greatest exposure to residual radioactivity for any applicable set of circumstances.

(20) **Curie (Ci)** - See §336.4 of this title.

(21) **Declared pregnant woman** - A woman who has voluntarily informed her employer, in writing, of her pregnancy and the estimated date of conception.

(22) **Decommission** - To remove (as a facility) safely from service and reduce residual radioactivity to a level that permits:

(A) release of the property for unrestricted use and termination of license; or

(B) release of the property under restricted conditions and termination of the license.

(23) **Deep-dose equivalent (H_d) (which applies to external whole-body exposure)** - The dose equivalent at a tissue depth of 1 centimeter (1,000 milligrams/square centimeter).

(24) **Depleted uranium** - The source material uranium in which the isotope uranium-235 is less than 0.711%, by weight, of the total uranium present. Depleted uranium does not include special nuclear material.

(25) **Derived air concentration (DAC)** - The concentration of a given radionuclide in air which, if breathed by the "reference man" for a working year of 2,000 hours under conditions of light work (inhalation rate of 1.2 cubic meters of air/hour), results in an intake of one ALI. DAC values are given in Table I, Column 3, of §336.359, Appendix B, of this title.

(26) **Derived air concentration-hour (DAC-hour)** - The product of the concentration of radioactive material in air (expressed as a fraction or multiple of the derived air concentration for each radionuclide) and the time of exposure to that radionuclide, in hours. A licensee may take 2,000 DAC-hours to represent one ALI, equivalent to a committed effective dose equivalent of 5 rems (0.05 sievert).

(xx) Disposal - means with regards to low-level radioactive waste, the isolation or removal of low-level radioactive waste from mankind and mankind's environment without intent to retrieve that low-level radioactive waste later; {{HB 1172}}

(27) **Distinguishable from background** - The detectable concentration of a radionuclide is statistically different from the background concentration of that radionuclide in the vicinity of the site or, in the case of structures, in similar materials using adequate measurement technology, survey, and statistical techniques.

(28) **Dose** - A generic term that means absorbed dose, dose equivalent, effective dose equivalent, committed dose equivalent, committed effective dose equivalent, total organ dose

equivalent, or total effective dose equivalent. For purposes of the rules in this chapter, "radiation dose" is an equivalent term.

(29) **Dose equivalent (H_T)** - The product of the absorbed dose in tissue, quality factor, and all other necessary modifying factors at the location of interest. The units of dose equivalent are the rem and sievert (Sv).

(30) **Dose limits** - The permissible upper bounds of radiation doses established in accordance with the rules in this chapter. For purposes of the rules in this chapter, "limits" is an equivalent term.

(31) **Dosimetry processor** - An individual or organization that processes and evaluates individual monitoring devices in order to determine the radiation dose delivered to the monitoring devices.

(32) **Effective dose equivalent (H_E)** - The sum of the products of the dose equivalent to each organ or tissue (H_T) and the weighting factor (w_T) applicable to each of the body organs or tissues that are irradiated.

(33) **Embryo/fetus** - The developing human organism from conception until the time of birth.

(34) **Entrance or access point** - Any opening through which an individual or extremity of an individual could gain access to radiation areas or to licensed radioactive materials. This includes portals of sufficient size to permit human access, irrespective of their intended use.

(35) **Exposure** - Being exposed to ionizing radiation or to radioactive material.

(36) **Exposure rate** - The exposure per unit of time.

(37) **External dose** - That portion of the dose equivalent received from any source of radiation outside the body.

(38) **Extremity** - Hand, elbow, arm below the elbow, foot, knee, and leg below the knee. The arm above the elbow and the leg above the knee are considered part of the whole body.

(39) **Eye dose equivalent** - The external dose equivalent to the lens of the eye at a tissue depth of 0.3 centimeter (300 milligrams/square centimeter).

(40) **General license** - An authorization granted by an agency under its rules which is effective without the filing of an application with that agency or the issuance of a licensing document to the particular person.

(41) **Generally applicable environmental radiation standards** - Standards issued by the United States Environmental Protection Agency under the authority of the Atomic Energy Act of 1954, as amended through October 4, 1996, that impose limits on radiation exposures or levels, or concentrations or quantities of radioactive material, in the general environment outside the boundaries of locations under the control of persons possessing or using radioactive material.

(42) **Gray (Gy)** - See §336.3 of this title (relating to Units of Radiation Exposure and Dose).

(43) **High radiation area** - An area, accessible to individuals, in which radiation levels could result in an individual receiving a dose equivalent in excess of 0.1 rem (1 millisievert) in 1 hour at 30 centimeters from any source of radiation or from any surface that the radiation penetrates.

(44) **Individual** - Any human being.

(45) **Individual monitoring** - The assessment of:

(A) dose equivalent by the use of individual monitoring devices; or

(B) committed effective dose equivalent by bioassay or by determination of the time-weighted air concentrations to which an individual has been exposed, that is, DAC-hours; or

(C) dose equivalent by the use of survey data.

(46) **Individual monitoring devices** - Devices designed to be worn by a single individual for the assessment of dose equivalent. For purposes of the rules in this chapter, "individual monitoring equipment," "personnel dosimeter," and "dosimeter" are equivalent terms. Examples of individual monitoring devices are film badges, thermoluminescent dosimeters (TLDs), pocket ionization chambers, and personal ("lapel") air sampling devices.

(47) **Inhalation class** - See "Class."

(48) **Inspection** - An official examination and/or observation including, but not limited to, records, tests, surveys, and monitoring to determine compliance with the Texas Radiation Control Act (TRCA) and rules, orders, and license conditions of the commission.

(49) **Internal dose** - That portion of the dose equivalent received from radioactive material taken into the body.

(50) **Land disposal facility** - The land, buildings and structures, and equipment which are intended to be used for the disposal of low-level radioactive wastes into the subsurface of the land. For purposes of this chapter, a "geologic repository" as defined in 10 CFR 60.2 as amended through October 27, 1988 (53 FedReg 43421) (relating to Definitions - high-level radioactive wastes in geologic repositories) is not considered a "land disposal facility."

(51) **License** - See "Specific license."

(52) **Licensed material** - Radioactive material received, possessed, used, processed, transferred, or disposed of under a license issued by the commission

(53) **Licensee** - Any person who holds a license issued by the commission in accordance with the TRCA and the rules in this chapter. For purposes of the rules in this chapter, "radioactive material licensee" is an equivalent term. Unless stated otherwise, "licensee" as used in the rules of this chapter means the holder of a "specific license."

(54) **Licensing state** - Any state with rules equivalent to the Suggested State Regulations for Control of Radiation relating to, and having an effective program for, the regulatory control of naturally-occurring or accelerator-produced radioactive material (NARM) and which has been designated as such by the Conference of Radiation Control Program Directors, Inc.

(55) **Lost or missing licensed radioactive material** - Licensed material whose location is unknown. This definition includes material that has been shipped but has not reached its planned destination and whose location cannot be readily traced in the transportation system.

(56) **Low-level radioactive waste** - See "~~Radioactive waste.~~"

(A) Except as provided by Subsection (B), low-level radioactive waste means radioactive material that:

(i) is discarded or unwanted and is not exempt by a Texas Department of Health rule adopted under the Texas Health and Safety Code, Chapter 401, §401.106 ;

(ii) is waste, as that term is defined by 10 CFR Section 61.2; and

(iii) is subject to:

(I) concentration limits established under this chapter; and

(II) disposal criteria established under this chapter.

(B) Low-level radioactive waste does not include:

(i) high-level radioactive waste defined by 10 CFR 60.2;

(ii) spent nuclear fuel as defined by 10 CFR 72.3;

(iii) by product material as defined by (13)(B) of this section;

(iv) NORM waste; or

(vii) oil and gas NORM waste.

(C) When used in this subsection, the references to 10 CFR sections mean those CFR sections as they existed on September 1, 1999, as required by Texas Health and Safety Code §401.005.

~~{{HB1172}}~~

(57) Lung class - See "Class."

~~(58) Major amendment - {{BPR recommendation - use agency definition with changes, see §305.62(c)}}}~~

~~(A) An amendment to a license issued under Subchapter F of Chapter 336 of this title (relating to Licensing of Alternative Methods of Disposal of Radioactive Material) which:~~

~~(i) authorizes a transfer of a license to another person;~~

~~(ii) authorizes enlargement of the disposal area beyond that authorized in the existing license or addition of disposal areas; or~~

~~(iii) authorizes a substantive change in the nature of the wastes to be disposed of or the method of disposal.~~

~~(B) An amendment to a license issued under Subchapter II of Chapter 336 of this title (relating to Licensing Requirements for Near-Surface Land Disposal of Radioactive Waste) which:~~

~~(i) authorizes a change in the type or concentration limits of wastes to be received;~~

~~(ii) authorizes receipt of wastes from other states not authorized in the existing license;~~

~~(iii) authorizes a change in the operator of the facility;~~

~~(iv) authorizes closure and the final closure plan for the disposal site;~~
or

~~(v) transfers the license to the custodial agency.~~

~~(C) Any other amendment for which the executive director has prepared a written environmental analysis or has determined that an environmental analysis is required.~~

(59) Member of the public - Any individual except when that individual is receiving an occupational dose.

(60) **Minor** - An individual less than 18 years of age.

~~(61) **Minor amendment** - Any amendment to a license issued under this chapter which is not defined as a major amendment in this section and does not have a significant impact or effect on the human environment. {{BPR recommendation - use agency definition in 305.62}}~~

(62) **Monitoring** - The measurement of radiation levels, radioactive material concentrations, surface area activities, or quantities of radioactive material and the use of the results of these measurements to evaluate potential exposures and doses. For purposes of the rules in this chapter, "radiation monitoring" and "radiation protection monitoring" are equivalent terms.

(63) **Naturally-occurring or accelerator-produced radioactive material (NARM)** - Any naturally-occurring or accelerator-produced radioactive material except source material or special nuclear material.

(64) **Naturally-occurring radioactive material (NORM) waste** - Solid, liquid, or gaseous material or combination of materials, excluding source material, special nuclear material, and byproduct material, that:

- (A) in its natural physical state spontaneously emits radiation;
- (B) is discarded or unwanted; and
- (C) is not exempt under rules of the Texas Department of Health adopted under Health and Safety Code, §401.106;

(65) **Near-surface disposal facility** - A land disposal facility in which low-level radioactive waste is disposed of in or within the upper 30 meters of the earth's surface.

(66) **Nonstochastic effect** - A health effect, the severity of which varies with the dose and for which a threshold is believed to exist. Radiation-induced cataract formation is an example of a nonstochastic effect. For purposes of the rules in this chapter, "deterministic effect" is an equivalent term.

(67) **Occupational dose** - The dose received by an individual in the course of employment in which the individual's assigned duties involve exposure to radiation and/or to radioactive material from licensed and unlicensed sources of radiation, whether in the possession of the licensee or other person. Occupational dose does not include dose received from background radiation, as a patient from medical practices, from voluntary participation in medical research programs, or as a member of the public.

(68) **Oil and gas naturally-occurring radioactive material (NORM) waste** - Naturally-occurring radioactive material (NORM) waste that constitutes, is contained in, or has contaminated oil and gas waste as that term is defined in the Texas Natural Resources Code §91.1011.

(xx) On-site - The same or geographically contiguous property that may be divided by public or private rights-of-way, provided the entrance and exit between the properties is at a cross-roads intersection, and access is by crossing, as opposed to going along, the right-of-way. Noncontiguous properties owned by the same person but connected by a right-of-way that the property owner controls and to which the public does not have access, is also considered on-site property.
{{moved from 336.502(3), based upon 40 CFR §260.10 - for consistency with other agency programs}}

(69) **Personnel monitoring equipment** - See "Individual monitoring devices."

(70) **Planned special exposure** - An infrequent exposure to radiation, separate from and in addition to the annual occupational dose limits.

(71) **Principal activities** - Activities authorized by the license which are essential to achieving the purpose(s) for which the license is issued or amended. Storage during which no licensed material is accessed for use or disposal and activities incidental to decontamination or decommissioning are not principal activities.

(72) **Public dose** - The dose received by a member of the public from exposure to radiation and/or radioactive material released by a licensee, or to any other source of radiation under the control of the licensee. It does not include occupational dose or doses received from background radiation, as a patient from medical practices, or from voluntary participation in medical research programs.

(73) **Quality factor (Q)** - The modifying factor listed in Table I or II of §336.3 of this title that is used to derive dose equivalent from absorbed dose.

(74) **Quarter (Calendar quarter)** - A period of time equal to one-fourth of the year observed by the licensee (approximately 13 consecutive weeks), providing that the beginning of the first quarter in a year coincides with the starting date of the year and that no day is omitted or duplicated in consecutive quarters.

(75) **Rad** - See §336.3 of this title.

(76) **Radiation** - Alpha particles, beta particles, gamma rays, x-rays, neutrons, high-speed electrons, high-speed protons, and other particles capable of producing ions. For purposes of the rules in this chapter, "ionizing radiation" is an equivalent term. Radiation, as used in this chapter, does not include non-ionizing radiation, such as radio- or microwaves or visible, infrared, or ultraviolet light.

(77) **Radiation and Perpetual Care Fund** - A fund established in the treasury of the State of Texas for the purposes set forth in the TRCA §401.305.

(78) **Radiation area** - Any area, accessible to individuals, in which radiation levels could result in an individual receiving a dose equivalent in excess of 0.005 rem (0.05 millisievert) in 1 hour at 30 centimeters from the source of radiation or from any surface that the radiation penetrates.

(79) **Radiation machine** - Any device capable of producing ionizing radiation except those devices with radioactive material as the only source of radiation.

(80) **Radioactive material** - A naturally-occurring or artificially-produced solid, liquid, or gas that emits radiation spontaneously.

(81) **Radioactive substance** - Includes byproduct material, radioactive material, low-level radioactive waste, source material, special nuclear material, source of radiation, and naturally occurring radioactive material (NORM) waste, excluding oil and gas NORM waste. *{{conforming change §401.003(19) - definition of radioactive substance}}*

~~(82) **Radioactive waste** - Radioactive material other than byproduct material as defined in subparagraph (B) of the definition of "byproduct material" of this section, uranium ore, NORM waste, or oil and gas NORM waste, that is discarded or unwanted and is not exempt under rules of the Texas Department of Health adopted under Health and Safety Code, §401.106, or would require processing before it could have beneficial reuse. For purposes of the rules in this chapter, radioactive waste also excludes waste classified as high-level radioactive waste, transuranic waste, or spent nuclear fuel. For purposes of the rules in this chapter, radioactive waste means "low-level radioactive waste" as that term is used in 10 CFR Part 61 as amended through May 9, 1995 (60 FedReg 24552) (relating to Licensing Requirements for Land Disposal of Radioactive Waste). For purposes of the rules in this chapter, "radioactive waste" and "low-level radioactive waste" are equivalent terms. For purposes of the rules in this chapter, radioactive waste and low-level radioactive waste include accelerator-produced radioactive material. *{{repeal, new definition of low-level radioactive waste for compatibility with NRC per HB 1172}}*~~

(83) **Radioactivity** - The disintegration of unstable atomic nuclei with the emission of radiation.

(84) **Radiobioassay** - See "Bioassay."

(85) **Reference man** - A hypothetical aggregation of human physical and physiological characteristics determined by international consensus. These characteristics may be used by researchers and public health workers to standardize results of experiments and to relate biological insult to a common base. A description of "reference man" is contained in the International

Commission on Radiological Protection report, ICR Publication 23, "Report of the Task Group on Reference Man."

(86) **Rem** - See §336.3 of this title.

(87) **Residual radioactivity** - Radioactivity in structures, materials, soils, groundwater, and other media at a site resulting from activities under the licensee's control. This includes radioactivity from all licensed and unlicensed sources used by the licensee, but excludes background radiation. It also includes radioactive materials remaining at the site as a result of routine or accidental releases of radioactive material at the site and previous burials at the site, even if those burials were made in accordance with the provisions of 10 CFR Part 20.

(88) **Respiratory protection equipment** - An apparatus, such as a respirator, used to reduce an individual's intake of airborne radioactive materials. For purposes of the rules in this chapter, "respiratory protective device" is an equivalent term.

(89) **Restricted area** - An area, access to which is limited by the licensee for the purpose of protecting individuals against undue risks from exposure to radiation and radioactive materials. Restricted area does not include areas used as residential quarters, but separate rooms in a residential building may be set apart as a restricted area.

(90) **Roentgen (R)** - See §336.3 of this title.

(91) **Sanitary sewerage** - A system of public sewers for carrying off waste water and refuse, but excluding sewage treatment facilities, septic tanks, and leach fields owned or operated by the licensee.

(92) **Sealed source** - Radioactive material that is permanently bonded or fixed in a capsule or matrix designed to prevent release and dispersal of the radioactive material under the most severe conditions that are likely to be encountered in normal use and handling.

(93) **Shallow-dose equivalent (H_s) (which applies to the external exposure of the skin or an extremity)** - The dose equivalent at a tissue depth of 0.007 centimeter (7 milligrams/square centimeter) averaged over an area of 1 square centimeter.

(94) **SI** - The abbreviation for the International System of Units.

(95) **Sievert (Sv)** - See §336.3 of this title.

(96) **Site boundary** - That line beyond which the land or property is not owned, leased, or otherwise controlled by the licensee.

(97) **Source material** -

(A) Uranium or thorium, or any combination thereof, in any physical or chemical form; or

(B) Ores that contain, by weight, 0.05% or more of uranium, thorium, or any combination thereof. Source material does not include special nuclear material.

(98) **Special form radioactive material** - Radioactive material which is either a single solid piece or is contained in a sealed capsule that can be opened only by destroying the capsule and which has at least one dimension not less than 5 millimeters and which satisfies the test requirements of 10 CFR 71.75 as amended through September 28, 1995 (60 FedReg 50264) (relating to Transportation of License Material).

(99) **Special nuclear material** -

(A) Plutonium, uranium-233, uranium enriched in the isotope 233 or in the isotope 235, and any other material that the USNRC, under the provisions of the Atomic Energy Act of 1954, §51, as amended through November 2, 1994 (Pub.L. 103-437), determines to be special nuclear material, but does not include source material; or

(B) Any material artificially enriched by any of the foregoing, but does not include source material.

(100) **Special nuclear material in quantities not sufficient to form a critical mass** - uranium enriched in the isotope 235 in quantities not exceeding 350 grams of contained uranium-235; uranium-233 in quantities not exceeding 200 grams; plutonium in quantities not exceeding 200 grams; or any combination of these in accordance with the following formula: For each kind of special nuclear material, determine the ratio between the quantity of that special nuclear material and the quantity specified above for the same kind of special nuclear material. The sum of such ratios for all of the kinds of special nuclear material in combination shall not exceed 1. For example, the following quantities in combination would not exceed the limitation: (175 grams contained U-235/350 grams) + (50 grams U-233/200 grams) + (50 grams Pu/200 grams) = 1.

(101) **Specific license** - A licensing document issued by an agency upon an application filed under its rules. For purposes of the rules in this chapter, "radioactive material license" is an equivalent term. Unless stated otherwise, "license" as used in this chapter means a "specific license."

(102) **State** - The State of Texas.

(103) **Stochastic effect** - A health effect that occurs randomly and for which the probability of the effect occurring, rather than its severity, is assumed to be a linear function of dose

without threshold. Hereditary effects and cancer incidence are examples of stochastic effects. For purposes of the rules in this chapter, "probabilistic effect" is an equivalent term.

(104) **Survey** - An evaluation of the radiological conditions and potential hazards incident to the production, use, transfer, release, disposal, and/or presence of radioactive materials or other sources of radiation. When appropriate, this evaluation includes, but is not limited to, physical examination of the location of radioactive material and measurements or calculations of levels of radiation or concentrations or quantities of radioactive material present.

(105) **Termination** - As applied to a license, a release by the commission of the obligations and authorizations of the licensee under the terms of the license. It does not relieve a person of duties and responsibilities imposed by law.

(106) **Total effective dose equivalent (TEDE)** - The sum of the deep-dose equivalent for external exposures and the committed effective dose equivalent for internal exposures.

(107) **Total organ dose equivalent (TODE)** - The sum of the deep-dose equivalent and the committed dose equivalent to the organ receiving the highest dose as described in §336.346(a)(6) of this title (relating to Records of Individual Monitoring Results).

(108) **Type A quantity (for packaging)** - A quantity of radioactive material, the aggregate radioactivity of which does not exceed A_1 for special form radioactive material or A_2 for normal form radioactive material, where A_1 and A_2 are given in or may be determined by procedures in Appendix A to 10 CFR Part 71 as amended through September 28, 1995 (60 FedReg 50264) (relating to Packaging and Transportation of Radioactive Material).

(109) **Type B quantity (for packaging)** - A quantity of radioactive material greater than a Type A quantity.

(110) **Unrefined and unprocessed ore** - Ore in its natural form before any processing, such as grinding, roasting, beneficiating, or refining.

(111) **Unrestricted area** - Any area that is not a restricted area.

(112) **Very high radiation area** - An area, accessible to individuals, in which radiation levels could result in an individual receiving an absorbed dose in excess of 500 rads (5 grays) in 1 hour at 1 meter from a source of radiation or from any surface that the radiation penetrates. (At very high doses received at high dose rates, units of absorbed dose (rad and gray) are appropriate, rather than units of dose equivalent (rem and sievert).)

(113) **Violation** - An infringement of any provision of the TRCA or of any rule, order, or license condition of the commission issued under the TRCA or this chapter.

(114) **Week** - Seven consecutive days starting on Sunday.

(115) **Weighting factor (w_T) for an organ or tissue (T)** - The proportion of the risk of stochastic effects resulting from irradiation of that organ or tissue to the total risk of stochastic effects when the whole body is irradiated uniformly. For calculating the effective dose equivalent, the values of w_T are: Figure 1: 30 TAC §336.2(a)(115) (No change.)

(116) **Whole body** - For purposes of external exposure, head, trunk including male gonads, arms above the elbow, or legs above the knee.

(117) **Worker** - An individual engaged in activities under a license issued by the commission and controlled by a licensee, but does not include the licensee.

(118) **Working level (WL)** - Any combination of short-lived radon daughters in 1 liter of air that will result in the ultimate emission of 1.3×10^5 million electron volts (MeV) of potential alpha particle energy. The short-lived radon daughters are: for radon-222: polonium-218, lead-214, bismuth-214, and polonium-214; and for radon-220: polonium-216, lead-212, bismuth-212, and polonium-212.

(119) **Working level month (WLM)** - An exposure to 1 working level for 170 hours (2,000 working hours per year divided by 12 months per year is approximately equal to 170 hours per month).

(120) **Year** - The period of time beginning in January used to determine compliance with the provisions of the rules in this chapter. The licensee may change the starting date of the year used to determine compliance by the licensee provided that the change is made at the beginning of the year and that no day is omitted or duplicated in consecutive years.

§336.3-4 no change

§336.5. Exemptions.

(a) **General provision.** ~~The commission may, upon application therefor or upon its own initiative, grant those exemptions or exceptions~~ exempt a source of radiation or a kind of use or user from the application of a rule requirements of the rules in this chapter if as it determines that the exemption is ~~are~~ authorized by law and will not result in a significant and ~~due~~ risk to public health and safety or property or the environment. Persons requesting an exemption shall submit an application to the agency:

- (1) using the process in Chapter 90 of this title (relating to Regulatory Flexibility), including the submittal of any fees;
 - (2) the nature of the request;
 - (3) a legal analysis to demonstrate that the exemption may be authorized by law; and;
 - (4) a technical analysis that the exemption will not result in a significant risk to public health and safety or the environment, except that in lieu of the showing required in §90.10(b)(2) of this title (relating to Application for a Regulatory Flexibility Order), the application must contain a detailed explanation, including a demonstration as appropriate, that the proposed exemption is:
 - (A) not prohibited by law, including any requirement for a federally approved or authorized program; and
 - (B) at least as protective of the environment and the public health as the method or standard prescribed by the commission rule that would otherwise apply.
- {{implementation of HB 1172}}*

~~(b) Carriers. Common and contract carriers, freight forwarders, and warehousemen are exempt from commission rules in this chapter to the extent that they transport or store radioactive materials in the regular course of carriage for another person or storage incident thereto. Private carriers are exempt from commission rules in this chapter to the extent that they transport radioactive materials. Common and contract carriers, freight forwarders, warehousemen, and private carriers are subject to applicable rules of the United States Department of Transportation, the United States Postal Service or, for intrastate transportation, the Texas Department of Health. Packaging and transportation of radioactive material are also subject to applicable rules of the United States Nuclear Regulatory Commission (10 CFR Part 71, Packaging and Transportation of Radioactive Material). *{{transportation cannot be an exemption because Chapter 336 applies only to disposal and transportation is not under TNRCC jurisdiction. Section moved to §336.1(a)(4) and simplified}}*~~

~~(c) United States Department of Energy contractors and United States Nuclear Regulatory Commission contractors. Any United States Department of Energy contractor or subcontractor or any United States Nuclear Regulatory Commission contractor or subcontractor of the following categories operating within the State is exempt from the rules in this chapter, with the exception of any applicable fee set forth in Subchapter B of Chapter 336 of this title (relating to Radioactive Substance Fees), to the extent that such contractor or subcontractor under his contract receives, possesses, uses, transfers, or acquires sources of radiation:~~

- ~~(1) prime contractors performing work for the United States Department of Energy at a United States government-owned or controlled site, including the transportation of radioactive material to or from the site and the performance of contract services during temporary interruptions of transportation;~~

~~(2) prime contractors of the United States Department of Energy performing research in or development, manufacture, storage, testing, or transportation of atomic weapons or components thereof;~~

~~(3) prime contractors of the United States Department of Energy using or operating nuclear reactors or other nuclear devices in a United States government-owned vehicle or vessel; and~~

~~(4) any other prime contractor or subcontractor of the United States Department of Energy or the United States Nuclear Regulatory Commission when the State and the United States Nuclear Regulatory Commission jointly determine that:~~

~~(A) the exemption of the prime contractor or subcontractor is authorized by law; and~~

~~(B) under the terms of the contract or subcontract, there is adequate assurance that the work thereunder can be accomplished without undue risk to the public health and safety or the environment. *{{moved to 336.1(a)(2)}*~~

(b) A person who is subject to an order issued under Texas Health & Safety Code §§361.188 or 361.272, for sites subject to Texas Health & Safety Code Subchapter F, Chapter 361, or an agreement entered into under Texas Health & Safety Code §361.606, is exempt from the requirement to obtain a license or other authorization from the commission. This provision does not exempt the person from complying with technical standards under this chapter. The exemption applies only to the assessment and remediation of the contamination at the site. *{{directly from HB1172}}*

(c) Waste, that is exempted from licensing requirements by the Texas Department of Health under Texas Health and Safety Code, Chapter 401, §401.106(a), is exempted from the requirements of this chapter. *{{clarification, this includes from the recordkeeping requirements for disposal}}*

§336.6. No change

§336.11. No change

SUBCHAPTER B : RADIOACTIVE SUBSTANCE FEES
§§336.101 - 336.103, §§336.105 - 336.107, §§336.109 - 336.113

§336.101. no change

§336.103. Schedule of Fees for Subchapter H Licenses.

(a) An application for a low-level radioactive waste disposal site license under Subchapter H of Chapter 336 of this title (relating to Licensing Requirements for Near-Surface Land Disposal of Low-Level Radioactive Waste) shall be accompanied by an application fee of \$415,000. The application fee covers the cost of processing of the application. The applicant may pay the application fee in two equal installments. The first payment shall be made upon submission of the application, and the balance shall be paid no more than 12 months later. *{{HB 1172 implementation}}*

(b) An applicant shall submit an annual fee for the actual costs incurred by the commission for hearings associated with an application for a low-level radioactive waste disposal site under Subchapter H of Chapter 336 of this title. The executive director shall send an invoice for the amount of the costs incurred during the period September 1 through August 31 of each year. Payment shall be made within 30 days following the date of the invoice. *{{HB 1172 implementation}}*

(c) A holder of a license for a low-level radioactive waste disposal site issued under Subchapter H of Chapter 336 of this title shall submit an annual license fee for the services received. This fee shall recover for the State the actual expenses arising from the regulatory activities associated with the license. This fee shall include reimbursement for the salary and other expenses of a resident inspector as provided by §336.743 of this title (relating to Resident Inspector). The executive director shall send an invoice for the amount of the costs incurred during the period September 1 through August 31 of each year. Payment shall be made within 30 days following the date of the invoice. *{{HB 1172 implementation}}*

§336.105. Schedule of Fees for Other Subchapter ~~F~~ Licenses.

(a) ~~Application fee.~~—Each application for a license under Subchapter F of Chapter 336 of this title (relating to Licensing of Alternative Methods of Disposal of Radioactive Material) or Subchapter G of this title (relating to Decommissioning Standards) shall be accompanied by an application fee as follows:

(1) facilities licensed under Subchapter G ~~facility at which active disposal operations have ceased:~~ \$10,000; or

(2) facilities licensed under Subchapter F ~~proposed facility with active disposal operations:~~ \$20,000.

(b) ~~Annual license fees.~~—An annual license fee shall be paid for each license issued under Subchapter F and G of Chapter 336 of this title. The amount of each annual fee shall be as follows:

(1) ~~facilities licensed under Subchapter G: licensed facility at which active disposal operations have ceased:~~ \$8,400; or

(2) ~~facilities licensed under Subchapter F: licensed facility with active disposal operations:~~ \$28,900.

(c) ~~Fees for certain amendment requests.~~—An application for a major amendment of a license issued under Subchapter F or Subchapter G of this chapter ~~Chapter 336 of this title~~ shall be accompanied by an application fee as set forth in this subsection ~~if the amendment involves expansion of previously authorized disposal facilities or addition of disposal facilities.~~ The amount of the amendment application fee shall be \$10,000.

{{reflects movement of license to decommission inactive disposal sites to Subchapter G, does not reflect an actual change in fees}}

§336.107. Annual License Fee Due Date and Period Covered.

(a) Payment for annual fees set forth in §336.105(b) of this title (relating to Schedule of Fees for Other Subchapter F Licenses) shall be due in full each year on or before the last day of the expiration month of the license. As an example, if the license expires on May 31, 1999, annual fees are due on or before May 31 of each year.

(b) The period covered by each annual fee set forth in §336.105(b) of this title shall be the twelve months preceding the fee payment due date.

§336.109 - §336.113. no change

**SUBCHAPTER C : ADDITIONAL APPLICATION, OPERATION, AND
LICENSE REQUIREMENTS**
**§§336.201, 336.203, 336.205, 336.207, 336.209-336.211,
336.213, 336.215, 336.219**

~~§336.201. Additional Application Requirements. {{moved to 305.54}}~~

~~(a) Unless otherwise specified, an application for a license under this chapter shall be filed and processed according to the rules of the commission. Information provided by an applicant for a license shall be complete and accurate.~~

~~(b) An application for a license may include a request for a license authorizing one or more activities provided the application specifies the additional activities for which licenses are requested and complies with commission rules as to applications for those licenses. The commission may require the issuance of separate specific licenses for those activities.~~

~~(c) The commission or executive director may at any time after the filing of the original application, and before the expiration of the license, require further statements or data to enable the commission to determine whether the application should be granted or denied or whether a license should be modified or revoked.~~

~~(d) Applicants for licenses other than renewals, after August 20, 1997, shall describe in the application how facility design and procedures for operation will minimize, to the extent practicable, contamination of the facility and the environment, facilitate eventual decommissioning, and minimize, to the extent practicable, the generation of radioactive waste.~~

Adopted July 29, 1998

Effective September 3, 1998

~~§336.203. Environmental Analysis. {{moved to 281.21(f)}}}~~

~~(a) When the executive director is considering an application under Subchapter H of Chapter 336 of this title (relating to Licensing Requirements for Near-Surface Land Disposal of Radioactive Waste) and determines that the licensed activity may have a significant effect on the human environment, the executive director shall prepare or have prepared a written analysis of the effect on the environment.~~

~~(b) An environmental analysis, if prepared, shall be included as part of the record of the commission's proceedings.~~

Adopted July 29, 1998

Effective September 3, 1998

~~§336.205. Transfer of Radioactive Material. {{moved to 336.205 and merged with 336.338}}~~

~~(a) The licensee shall not transfer source material, byproduct material, or other licensed radioactive material except as authorized under the rules in this subchapter.~~

~~(b) Except as otherwise provided in the license and subject to the provisions of subsections (c) and (d) of this section, a licensee may transfer source material, byproduct material, or other licensed radioactive material:~~

~~(1) to the executive director (A licensee may transfer material to the executive director only after receiving prior approval from the executive director. If the material to be transferred is special nuclear material, the quantity must not be sufficient to form a critical mass.);~~

~~(2) to the United States Department of Energy;~~

~~(3) to any person exempt from the licensing requirements of the Texas Radiation Control Act and the rules in this chapter or exempt from the licensing requirements of the United States Nuclear Regulatory Commission or an Agreement State, to the extent permitted by these exemptions;~~

~~(4) to any person authorized to receive this material under terms of a specific license or a general license or its equivalent issued by the commission, the Texas Department of Health, the United States Nuclear Regulatory Commission, or any Agreement State or to any person otherwise authorized to receive this material by the federal government or any agency thereof, the commission, the Texas Department of Health, or any Agreement State; or~~

~~(5) as otherwise authorized by the commission in writing.~~

~~(c) Before transferring source material, byproduct material, or other radioactive material to a specific licensee of the commission, the Texas Department of Health, the United States Nuclear Regulatory Commission, or an Agreement State or to a general licensee who is required to register with the Texas Department of Health, the United States Nuclear Regulatory Commission, or an Agreement State prior to receipt of the source material, byproduct material, or other radioactive material, the licensee transferring the material shall verify that the transferee's license authorizes the receipt of the type, form, and quantity of radioactive material to be transferred.~~

~~(d) The following methods for the verification required by subsection (c) of this section are acceptable:~~

~~(1) The transferor may possess and have read a current copy of the transferee's specific license or certificate of registration;~~

~~(2) The transferor may possess a written certification by the transferee that the transferee is authorized by the license or certificate of registration to receive the type, form, and quantity of radioactive material to be transferred, specifying the license or certificate of registration number, issuing agency, and expiration date;~~

~~_____ (3) For emergency shipments, the transferor may accept oral certification by the transferee that the transferee is authorized by license or certificate of registration to receive the type, form, and quantity of radioactive material to be transferred, specifying the license or certificate of registration number, issuing agency, and expiration date, provided that the oral certification is confirmed in writing within 10 days;~~

~~_____ (4) The transferor may obtain other sources of information compiled by a reporting service from official records of the commission, the Texas Department of Health, the United States Nuclear Regulatory Commission, or an Agreement State as to the identity of licensees and registrants and the scope and expiration dates of licenses and registrations; or~~

~~_____ (5) When none of the methods of verification described in paragraphs (1) - (4) of this subsection are readily available or when a transferor desires to verify that information received by one of these methods is correct or up-to-date, the transferor may obtain and record confirmation from the commission, the Texas Department of Health, the United States Nuclear Regulatory Commission, or an Agreement State that the transferee is licensed to receive the source material, byproduct material, or other radioactive material.~~

~~(e) Transportation of radioactive material may also be subject to applicable rules of the United States Department of Transportation, United States Postal Service, United States Nuclear Regulatory Commission, or Texas Department of Health.~~

~~_____ (f) The licensee shall keep records showing the transfer of any source material, byproduct material, or other radioactive material.~~

Adopted May 14, 1997

Effective June 5, 1997

~~§336.207. Preparation of Radioactive Material for Transport. {{moved to 336.332}}~~

~~(a) No licensee may deliver any source material, byproduct material, or other licensed radioactive material to a carrier for transport, unless:~~

~~_____ (1) The licensee complies with the applicable requirements of the rules, appropriate to the mode of transport, of the United States Department of Transportation insofar as those rules relate to the packing of radioactive material and to the monitoring, marking, and labeling of those packages or containers;~~

~~(2) The licensee has established procedures for opening and closing packages and containers in which radioactive material is transported to provide safety and to assure that, prior to the delivery to a carrier for transport, each package or container is properly closed for transport; and~~

~~(3) Prior to delivery of a package or container to a carrier for transport, the licensee shall assure that any special instructions needed to safely open the package or container are sent to or have been made available to the consignee.~~

~~(b) For the purpose of subsection (a) of this section, licensees who transport their own licensed material as private carriers are considered to have delivered the material to a carrier for transport.~~

Adopted May 14, 1997

Effective June 5, 1997

~~§336.209. Records and Reports. {{moved to and merged with 336.341}}~~

~~(a) Each licensee shall maintain records showing the receipt, transfer, and disposal of all source material, byproduct material, or other licensed radioactive material. Each licensee shall also maintain any records and make any reports as may be required by the conditions of the license, by the rules in this chapter, or by orders of the commission. Copies of any records or reports required by the license, rules, or orders shall be submitted to the executive director or commission on request. All records and reports required by the license, rules, or orders shall be complete and accurate.~~

~~(b) The licensee shall retain each record that is required by the rules in this chapter or by license conditions for the period specified by the appropriate rule or license condition. If a retention period is not otherwise specified, each record shall be maintained until the commission terminates each pertinent license requiring the record.~~

~~(c) If there is a conflict between the commission's rules, license condition, or other written approval or authorization from the executive director pertaining to the retention period for the same type of record, the longest retention period specified takes precedence.~~

~~(d) Each record required by this chapter shall be legible throughout the specified retention period. The record shall be the original or a reproduced copy or a microform, provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period. The record may also be stored in electronic media with the capability for producing legible, accurate, and complete records during the required retention period. Records, such as letters, drawings, and specifications, shall include all pertinent information, such as stamps, initials, and signatures. The licensee shall maintain adequate safeguards against tampering with and loss of records. {{moved to 336.339}}~~

~~(e) The executive director may require the licensee to provide the commission with copies of all records prior to termination of the license.~~

~~(f) The requirements of this section do not apply to licenses issued under Subchapter H of Chapter 336 of this title (relating to Licensing Requirements for Near-Surface Land Disposal of Radioactive Waste).~~

Adopted July 29, 1998

Effective September 3, 1998

~~§336.210. Complaints. {{repeal for consistency with agency, HSC 401.392 was repealed by 1997 legislature, see Enforcement SOP}}~~

~~(a) The executive director shall keep an information file concerning each complaint filed relating to a person licensed by the commission.~~

~~————(b) Written complaints shall be handled by the executive director in accordance with Health and Safety Code §401.392.~~

~~————(c) If a written complaint is filed relating to a license not covered by subsection (b) of this section, the executive director at least as frequently as quarterly and until final disposition of the complaint shall notify parties to the complaint of the status of the complaint unless notice would jeopardize an undercover investigation.~~

Adopted May 14, 1997

Effective June 5, 1997

~~§336.211. Reporting Requirements for Incidents. {{moved to 336.335 and merged with 336.351}}~~

~~This section sets forth the incident reporting requirements for licenses issued under Subchapter F of Chapter 336 of this title (relating to Licensing of Alternative Methods of Disposal of Radioactive Material):~~

~~————(1) Immediate report. Each licensee shall notify the executive director or staff as soon as possible but not later than 4 hours after the discovery of an event that prevents immediate protective actions necessary to avoid exposures to radiation or radioactive materials that could exceed regulatory limits or releases of radioactive materials that could exceed limits (e.g., events may include fires, explosions, toxic gas releases, etc.):~~

~~————(2) Twenty-four hour report. Each licensee shall notify the executive director or staff within 24 hours after the discovery of any of the following events involving licensed material:~~

~~————(A) an unplanned contamination event that:~~

~~————(i) requires access to the contaminated area, by workers or the public, to be restricted for more than 24 hours by imposing additional radiological controls or by prohibiting entry into the area;~~

~~(ii) involves a quantity of material greater than five times the lowest annual limit on intake specified in §336.359, Appendix B, of this title (relating to Annual Limits on Intake (ALI) and Derived Air Concentrations (DAC) of Radionuclides for Occupational Exposure; Effluent Concentrations; Concentrations for Release to Sanitary Sewerage); and~~

~~_____ (iii) has access to the area restricted for a reason other than to allow isotopes with a half-life of less than 24 hours to decay prior to decontamination;~~

~~_____ (B) an event in which equipment is disabled or fails to function as designed when:~~

~~_____ (i) the equipment is required by rule or license condition to prevent releases exceeding regulatory limits, to prevent exposures to radiation and radioactive materials exceeding regulatory limits, or to mitigate the consequences of an accident;~~

~~_____ (ii) the equipment is required to be available and operable when it is disabled or fails to function; and~~

~~_____ (iii) no redundant equipment is available and operable to perform the required safety function;~~

~~_____ (C) an event that requires unplanned medical treatment at a medical facility of an individual with spreadable radioactive contamination on the individual's clothing or body; or~~

~~(D) an unplanned fire or explosion damaging any radioactive material or any device, container, or equipment containing radioactive material when:~~

~~_____ (i) the quantity of material involved is greater than five times the lowest annual limit on intake specified in §336.359, Appendix B, of this title; and~~

~~_____ (ii) the damage affects the integrity of the radioactive material or its container.~~

~~(3) Preparation and submission of reports. Reports made by licensees in response to the requirements of this section must be made as follows:~~

~~_____ (A) Telephone report. Licensees shall make reports required by paragraphs (1) and (2) of this subsection by telephone, accompanied by a facsimile, to the executive director or staff. To the extent that the information is available at the time of notification, the information provided in these reports must include:~~

- ~~_____ (i) the caller's name and telephone number;~~
- ~~_____ (ii) a description of the event, including date and time;~~
- ~~_____ (iii) the exact location of the event;~~
- ~~_____ (iv) the isotopes, quantities, and chemical and physical form of the radioactive material involved; and~~
- ~~_____ (v) any personnel radiation exposure data available.~~

~~_____ (B) Written report. Each licensee who makes a report required by paragraphs (1) and (2) of this subsection shall submit a written follow-up report to the executive director within 30 days of the initial report. Written reports prepared under other regulations may be submitted to fulfill this requirement if the reports contain all of the necessary information. These written reports must be sent to the executive director or staff. The reports must include the following:~~

- ~~_____ (i) a description of the event, including the probable cause and the manufacturer and model number (if applicable) of any equipment that failed or malfunctioned;~~
- ~~_____ (ii) the exact location of the event;~~
- ~~_____ (iii) the isotopes, quantities, and chemical and physical form of the radioactive material involved;~~
- ~~_____ (iv) date and time of the event;~~
- ~~_____ (v) corrective actions taken or planned and the results of any evaluations or assessments; and~~
- ~~_____ (vi) the extent of exposure of individuals to radiation or to radioactive materials without identification of individuals by name.~~

Adopted July 29, 1998

Effective September 3, 1998

~~§336.213. Tests. {{moved to 336.336}}~~

~~(a) Each licensee shall perform, upon instructions from the executive director, or shall permit the executive director to perform such tests as the executive director deems appropriate or necessary for the administration of the rules in this chapter, including, but not limited to, tests of:~~

- ~~_____ (1) source material, byproduct material, or other licensed radioactive material;~~

~~(2) facilities where these materials are used, stored, or disposed;~~

~~(3) radiation detection and monitoring instruments; and~~

~~(4) other equipment and devices used in connection with utilization, storage, or disposal of source material, byproduct material, or other licensed radioactive material.~~

~~(b) The requirements of this section do not apply to licenses issued under Subchapter H of Chapter 336 of this title (relating to Licensing Requirements for Near-Surface Land Disposal of Radioactive Waste).~~

Adopted July 29, 1998

Effective September 3, 1998

~~§336.215. Inspections. {{repealed for consistency with 305.125(10) - redundant with 336.742}}~~

~~(a) Each licensee shall afford the executive director, at all reasonable times, opportunity to inspect source material, byproduct material, or other licensed radioactive material, and the premises and facilities where these materials are used, stored, or disposed.~~

~~(b) Each licensee shall make available to the executive director for inspection, upon reasonable notice, records or reports maintained under the rules of this chapter, the conditions of the license, or orders of the commission. Authorized representatives of the executive director may copy and take away copies of, for the executive director's use, any record or report required to be kept under the rules of this chapter, the conditions of the license, or orders of the commission.~~

~~(c) The requirements of this section do not apply to licenses issued under Subchapter H of Chapter 336 of this title (relating to Licensing Requirements for Near-Surface Land Disposal of Radioactive Waste).~~

Adopted May 14, 1997

Effective June 5, 1997

~~§336.219. Notice of Bankruptcy. {{moved to 305.125(21) - language from Denise Espinosa to apply to all programs, OK'd with W. Harry, and J. Forehand}}~~

~~(a) Each licensee shall notify the executive director, in writing, immediately following the filing of a voluntary or involuntary petition for bankruptcy under any chapter of Title 11 (Bankruptcy) of the United States Code (11 U.S.C.) by or against:~~

~~(1) the licensee;~~

~~(2) an entity (as that term is defined in 11 U.S.C. 101(14)) controlling the licensee or listing the license or licensee as property of the estate; or~~

~~_____ (3) an affiliate (as that term is defined in 11 U.S.C. 101(2)) of the licensee.~~

~~(b) This notification must indicate:~~

~~_____ (1) the bankruptcy court in which the petition for bankruptcy was filed, and~~

~~_____ (2) the date of filing of the petition.~~

Adopted May 14, 1997

Effective June 5, 1997

SUBCHAPTER C: GENERAL DISPOSAL REQUIREMENTS

{{Note: this is an all new chapter, moved mostly from Subchapter D}}

§336.201. Purpose and Scope.

This subchapter establishes general disposal requirements for all radioactive materials, except byproduct material defined by §336.2(13)(B) of this title (relating to Definitions) and oil and gas NORM waste. *{{TRCA 401.104(b)}}*

§336.203. License Required.

(a) No person may dispose of radioactive material unless that person has a license from the TNRCC, or an exemption from the Texas Department of Health under Texas Health and Safety Code, Chapter 401, §401.106(a). *{{§§401.101 and 401.104(b) TRCA}}*

(b) A person commits a violation under the Texas Water Code, Chapter 7, §7.101, if the person causes, suffers, allows or permits a violation of a statute, rule, order, or license. *{{from TWC 7.101}}*

(c) A person commits an offense under Texas Health and Safety Code, Chapter 401, §401.383, if the person intentionally or knowingly disposes of low-level radioactive waste without a license issued under this chapter.
{{from §401.383 TRCA}}

(d) A person commits an offense under Texas Health and Safety Code, Chapter 401, §401.382, if the person intentionally or knowingly disposes of radioactive material, other than low-level radioactive waste, without a license issued under this chapter.
{{from §§401.101 and 382 TRCA}}

§336.205. Application Requirements. *{{Consistency with agency processes}}*

(a) Applications shall be submitted according to the requirements of 30 TAC 305 (relating to Consolidated Permits), unless otherwise indicated.

(b) An application for a license, or amendment of a license shall be accompanied by the appropriate fee, specified in Subchapter B of this title (relating to Radioactive Substance Fees).

§336.207. General Requirements for Issuance of a License. *{{from §336.504 - HSC 401.108 and 110}}*

An application may be approved if the commission determines that the requirements set forth in the applicable subchapter and Chapter 305 Subchapter C (relating to Application for Permit) have been met and that:

(1) The applicant is qualified by training and experience to conduct the proposed radioactive material disposal activities in accordance with the rules in this chapter in such a manner as to protect and minimize danger to the public health and safety and the environment;

(2) The applicant's proposed equipment, facilities, and procedures are adequate to protect and minimize danger to the public health and safety and the environment;

(3) The issuance of the license will not be inimical to public health and safety nor have a long-term detrimental impact on the environment; and

(4) If applicable, the applicant has demonstrated financial capability to conduct the proposed activity, including all costs associated with decommissioning, decontamination, disposal, reclamation, and any long-term care and surveillance.

§336.209. Issuance of License. *{{modified from §336.505, broadened to rules of the agency because Chapters 281 and 305 also apply now}}*

Upon a determination that an application meets the requirements of the Texas Health and Safety Code, Chapter 401 and the rules of this agency, the commission may issue a license authorizing the proposed activity.

§336.211. General Requirements for Radioactive Material Waste Disposal. *{{from §336.331}}*

(a) Unless otherwise exempted, a licensee shall dispose of licensed material, as appropriate to the type of licensed material, only:{{§20.2001}}

(1) by transfer to an authorized recipient as provided in §336.331(g) and (h) of this title (relating to Transfer of Radioactive Material) or in Subchapter H of this chapter (relating to Licensing Requirements for Near-Surface Land Disposal of Low-Level Radioactive Waste);

(2) by transfer to a recipient authorized in another state by license issued by the United States Nuclear Regulatory Commission or an Agreement State or to the United States Department of Energy;

(3) by decay in storage and subsequent disposal as a solid waste;

(4) by release in effluents within the limits specified in §336.313 of this title (relating to Dose Limits for Individual Members of the Public);

(5) as authorized under §336.213 of this title (relating to Method of Obtaining

Approval of Proposed Disposal Procedures),

(6) as authorized under §336.215 of this title (relating to Disposal by Release into Sanitary Sewerage), or

(7) as authorized under §336.225 of this title (relating to Disposal of Specific Wastes) ; or

(8) as specifically authorized by commission license issued under this chapter.

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

(1) treatment prior to disposal;

(2) treatment by incineration;

(3) decay in storage; or

(4) disposal at a land disposal facility.

{{based on 10 CFR 20.2001(b) - level C compatibility}}

(c) The processing and storage of radioactive material is subject to applicable rules of the Texas Department of Health, except as provided in subsection (d) of this section. *{{clarification of 336.331(b)}*

(d) The receipt, storage, and /or processing of radioactive materials, except for by-product under the jurisdiction of the TDH and oil and gas NORM, received at a licensed commercial radioactive material disposal facility for the explicit purpose of disposal at that facility shall be subject to the applicable rules of 25 TAC §289.101(d)(1) (relating to Memorandum of Understanding Between the Texas Department of Health and the Texas Natural Resource Conservation Commission Regarding Radiation Control Functions). *{{ clarification, from MOU with TDH, 25 TAC 289.101(d)(1), adopted by reference §7.118}}*

(e) Low-level radioactive waste disposed of in Texas may only be disposed of at a publically-owned compact facility licensed by the TNRCC, except as provided in subsections (1) and (2).. *{{TRCA 401.203}}*

(1) However, the commission may authorize the continued on-site disposal of low-level radioactive waste at an existing licensed facility which began operations before September 1, 1989, if, after evaluation of the specific characteristics of the waste, the disposal site, and the method of disposal, the commission determines that the continuation of the disposal activity

does not constitute a significant risk to public health and safety and to the environment. *{{HB 1172}} {{based on §401.106(c) TRCA}}*

- (2) Persons subject to (1) above, shall be licensed under Subchapter F of this chapter (relating to Licensing of Alternative Methods of Disposal of Radioactive Material). *{{status quo - how Solutia is currently licensed}}*

§336.213. Method of Obtaining Approval of Proposed Disposal Procedures. *{{clarification and major rewrite - from §336.332 and 10 CFR 20.2002}}*

(a) A person who plans to dispose of radioactive material, shall submit an application for a license or exemption according to 30 TAC 305 (relating to Consolidated Permits) and the applicable subchapter in this chapter. *{{clarification of application process - see old §336.332(c)}}*

(b) A person holding a license issued under this chapter may request changes to the license by requesting amendment of the license, according to 30 TAC 305 Subchapter D (relating to Amendments, Renewals, Transfers, Corrections, Revocation, and Suspension of Permits). *{{clarification of §336.332(b)}}*

(c) If this chapter does not specifically authorize a proposed disposal procedure, a person may file an application for a license or license amendment under Subchapter F (relating to Licensing of Alternative Methods of Disposal of Radioactive Material) for approval of on-site disposal of radioactive material, generated in the person's activities. *{{clarification of §336.332(a) and (d), redundant with new exemption authority - removed approval without a license, redundant with old (d)}}*

{{note: provision (d) has been removed because its redundant with Ch. 305 Subchapter C - which is the place where all application requirements are listed}}

§336.215. Disposal by Release into Sanitary Sewerage. *{{from §336.333 & 10 CFR §20.2003}}*

A licensee may discharge licensed material into sanitary sewerage if each of the following conditions is satisfied:

(1) The material is readily soluble in water, or is readily dispersible biological material; and

(2) The quantity of licensed or other radioactive material that the licensee releases into the sewer in 1 month divided by the average monthly volume of water released into the sewer by the licensee does not exceed the concentration listed in Table III of §336.359, Appendix B, of this title (relating to Annual Limits on Intake (ALI) and Derived Air Concentrations (DAC) of Radionuclides for Occupational Exposure; Effluent Concentrations; Concentrations for

Release to Sanitary Sewerage); and

(3) If more than one radionuclide is released, the licensee shall determine the fraction of the limit in Table III of §336.359, Appendix B, of this title represented by discharges into sanitary sewerage by dividing the actual monthly average concentration of each radionuclide released by the licensee into the sewer by the concentration of that radionuclide listed in Table III of §336.359, Appendix B, of this title, and the sum of the fractions for all of the radionuclides released shall not exceed 1; and

(4) The total quantity of licensed and other radioactive material that the licensee releases into the sanitary sewerage in a year does not exceed 5 curies (185 gigabecquerels) of hydrogen-3, 1 curie (37 gigabecquerels) of carbon-14, and 1 curie (37 gigabecquerels) of all other radioactive materials combined.

§336.217. Disposal by Burial in Soil. *{{from 336.334 - no federal equivalent, changed cross-references.}}*

No licensee may dispose of radioactive material by burial in soil except as provided by:

- (1) §336.225 of this title (relating to Disposal of Specific Wastes);
- (2) specific license issued under the applicable subchapter of this chapter; or
- (3) an exemption issued under §336.5(a) (relating to Exemptions).

§336.219. Disposal by Release into Septic Tanks. *{{from §336.335, changed to reference Subchapter F}}*

No licensee may discharge radioactive material into a septic tank system except by specific license issued by the commission under Subchapter F of this chapter (relating to Alternative Methods of Disposal of Radioactive Material).

§336.221 Treatment or Disposal by Incineration. *{{from §336.336 - just changing for readability and cross-references - 10 CFR §20.2004}}*

(a) Treatment of radioactive material by incineration, except in a form and concentration specified by §336.225 of this title (relating to Disposal of Specific Wastes), may be subject to applicable rules of the Texas Department of Health.

(b) Ash residue waste containing radioactive material shall be disposed of in accordance with §336.211 of this title (relating to General Requirements for Waste Disposal).

§336.223 Disposal in UIC Class I injection wells. {{clarification}}

A person may dispose of radioactive material by injection, only into an UIC Class I injection well that is:

- (1) permitted under Chapter 331 of this title (relating to Underground Injection Control);
and
(2) specifically licensed under this chapter for radioactive material waste disposal.

§336.225. Disposal of Specific Wastes. {{from §336.337, corrected cross-references and modified to remove general license and transportation requirements that TNRCC has no jurisdiction over}}

(a) A licensee may dispose of the following licensed material as if it were not radioactive: {{20.2005}}

(1) 0.05 microcurie (1.85 kilobecquerels), or less, of hydrogen-3, carbon-14, or iodine-125 per gram of medium used for liquid scintillation counting or in vitro clinical or in vitro laboratory testing; and

(2) 0.05 microcurie (1.85 kilobecquerels), or less, of hydrogen-3, carbon-14, or iodine-125 per gram of animal tissue, averaged over the weight of the entire animal.

(b) A licensee shall not dispose of tissue under subsection (a)(2) of this section in a manner that would permit its use either as food for humans or as animal feed.

(c) A licensee may, upon commission approval under subsection (d) of this section, dispose of licensed material listed in §336.365, Appendix H, of this title (relating to Radionuclide Concentration and Annual Activity Limits for Disposal in a Type I Municipal Solid Waste Facility or a Hazardous Waste Facility), provided that the licensed material does not exceed the specified concentration and annual activity limits, in a Type I municipal solid waste facility as defined in the commission's rules in Chapter 330 of this title (relating to Municipal Solid Waste), unless the licensed material is hazardous waste, or is combined with hazardous waste, as defined in Chapter 330 of this title. Licensed material listed in §336.365, Appendix H, of this title which does not exceed the specified concentration and annual activity limits and which is hazardous waste, or is combined with hazardous waste, may be disposed of at a hazardous waste disposal facility in accordance with the commission's rules in Chapter 335 of this title (relating to Industrial Solid Waste and Municipal Hazardous Waste). Disposals at a Type I municipal solid waste facility or a hazardous waste disposal facility must comply with other requirements for those facilities as set forth in Chapters 330 or 335 of this title, respectively. {{correction of cross reference}}

(d) A licensee may apply for commission authorization, by license amendment, for the disposal of licensed material under subsection (c) of this section by submitting procedures for the

following to the agency:

- (1) physical delivery of the material to the disposal facility;
- (2) surveys to be performed for compliance with subsection (e)(1) of this section;
- (3) maintaining secure packaging during transportation to the site; and
- (4) maintaining records of any disposals made under this subsection.

(e) Each licensee who disposes of licensed material under subsections (a)-(d) of this section shall:

- (1) make surveys adequate to assure that the limits specified in subsection (a) or (c) of this section are not exceeded; and
- (2) remove or otherwise obliterate or obscure all labels, tags, or other markings which would indicate that the material or contents is radioactive.

(f) Each licensee who disposes of licensed material under subsections (a) - (d) of this section shall maintain records in accordance with §336.338 of this title (relating to General Recordkeeping Requirements for Disposal) {correct cross reference, and modified because TNRCC doesn't have general license authority. }

§336.229. Prohibition of Dilution. *{{Clarification of existing policy- check with TDH on this, see if they want to adopt similar language}}*

No person may dilute or reduce the concentration of radioactive constituents in order to meet exemption levels established under the Texas Health and Safety Code, Chapter 401, §401.106, or change the waste's classification or disposal requirements. Radioactive material that has been treated, stabilized, mixed, or diluted for any reason, including, but not limited to RCRA Land Disposal Restrictions (LDR) treatment, shall be subject to the disposal regulations it would have been subject to prior to treatment.

SUBCHAPTER D : STANDARDS FOR PROTECTION AGAINST RADIATION
§§336.301 - 336.356, §§336.358 - 336.365, §336.367 and §336.368

§336.301. Purpose and Scope.

(a) This subchapter establishes standards for protection against ionizing radiation resulting from activities conducted under licenses issued by the commission and to establish minimum standards for all persons who dispose of radioactive materials. *{{clarification - some provisions apply to persons not just licensees}}*

(b) no change

(c) no change

(d) Nothing in this subchapter relieves the licensee from complying with other applicable federal, state, and local regulations governing any other toxic or hazardous properties of materials that may be disposed of under the rules in this chapter. *{{moved from 336.340}}*

§336.302. - 307 No change

§336.308. Determination of Internal Exposure.

(a) no change

(b) no change

(c) no change

(d) If the licensee chooses to assess intakes of Class Y material using the measurements given in subsection (a)(2) or (3) of this section, the licensee may delay the recording and reporting of the assessments for periods up to 7 months, unless otherwise required by §336.335 of this title (relating to Reporting Requirements for Incidents) ~~§336.351 of this title (relating to Notification of Incidents)~~ or §336.352 of this title (relating to Reports of Exposures, Radiation Levels, and Concentrations of Radioactive Material Exceeding the Limits). This delay permits the licensee to make additional measurements basic to the assessments.

(e)- (h) no change

§336.309-312 no change

§336.313. Dose Limits for Individual Members of the Public.

(a) Each licensee shall conduct operations so that:

(1) The total effective dose equivalent to individual members of the public from the licensed operation does not exceed 0.1 rem (1 millisievert) in a year, exclusive of the dose contribution from the licensee's disposal of radioactive material into sanitary sewerage in accordance with §336.215 §336.333 of this title (relating to Disposal by Release into Sanitary Sewerage); and

(2) The dose in any unrestricted area from external sources does not exceed 0.002 rem (0.02 millisievert) in any 1 hour.

(b)-(e) no change

§336.314-330 no change

§336.331. Transfer of Radioactive Material. *{{from 336.205 - 10 CFR 61.80(k) and 70.42 - Per CD - merged with 336.338 }}*

(a) The licensee shall not transfer source material, byproduct material, or other licensed radioactive material except as authorized under the rules in this subchapter.

(b) Except as otherwise provided in the license and subject to the provisions of subsections (c) and (d) of this section, a licensee may transfer source material, byproduct material, or other licensed radioactive material:

(1) to the agency (A licensee may transfer material to the agency only after receiving prior approval from the agency. If the material to be transferred is special nuclear material, the quantity must not be sufficient to form a critical mass.);

(2) to the United States Department of Energy;

(3) to any person exempt from licensing requirements by the Texas Department of Health under the Texas Health and Safety Code, Chapter 401, §401.106(a), the rules in this chapter, or exempt from the licensing requirements of the United States Nuclear Regulatory Commission or an Agreement State, to the extent permitted by those exemptions;

(4) to any person authorized to receive this material under terms of a specific license or a general license or its equivalent issued by the commission, the Texas Department of Health, the United States Nuclear Regulatory Commission, or any Agreement State or to any person otherwise authorized to receive this material by the federal government or any agency thereof, the commission, the Texas Department of Health, or any Agreement State; or

(5) as otherwise authorized by the commission in writing. {{from 336.205(b) with clarifications}}

(c) Before transferring source material, byproduct material, or other radioactive material to a specific licensee of the commission, the Texas Department of Health, the United States Nuclear Regulatory Commission, or an Agreement State or to a general licensee who is required to register with the Texas Department of Health, the United States Nuclear Regulatory Commission, or an Agreement State prior to receipt of the source material, byproduct material, or other radioactive material, the licensee transferring the material shall verify that the transferee's license authorizes the receipt of the type, form, and quantity of radioactive material to be transferred. {{from 336.205(c)}}

(d) The following methods for the verification required by subsection (c) of this section are acceptable:

(1) The transferor may possess and have read a current copy of the transferee's specific license or certificate of registration;

(2) The transferor may possess a written certification by the transferee that the transferee is authorized by the license or certificate of registration to receive the type, form, and quantity of radioactive material to be transferred, specifying the license or certificate of registration number, issuing agency, and expiration date;

(3) For emergency shipments, the transferor may accept oral certification by the transferee that the transferee is authorized by license or certificate of registration to receive the type, form, and quantity of radioactive material to be transferred, specifying the license or certificate of registration number, issuing agency, and expiration date, provided that the oral certification is confirmed in writing within 10 days;

(4) The transferor may obtain other sources of information compiled by a reporting service from official records of the commission, the Texas Department of Health, the United States Nuclear Regulatory Commission, or an Agreement State as to the identity of licensees and registrants and the scope and expiration dates of licenses and registrations; or

(5) When none of the methods of verification described in paragraphs (1) - (4) of this subsection are readily available or when a transferor desires to verify that information received by one of these methods is correct or up-to-date, the transferor may obtain and record confirmation from the commission, the Texas Department of Health, the United States Nuclear

Regulatory Commission, or an Agreement State that the transferee is licensed to receive the source material, byproduct material, or other radioactive material. {{from 336.205(d)}}

(e) Transportation of radioactive material may also be subject to applicable rules of the United States Department of Transportation, United States Postal Service, United States Nuclear Regulatory Commission, or Texas Department of Health. {{from 336.205(e)}}

(f) The licensee shall keep records showing the transfer of any source material, byproduct material, or other radioactive material. {{from 336.205(f)}}

(g) Transfer of low-level radioactive waste by a waste generator, waste collector, or waste processor who ships this waste either directly, or indirectly through a collector or processor, to a licensed land disposal facility may also be subject to applicable rules of the Texas Department of Health. A commission licensee who transfers low-level radioactive waste for disposal at a licensed land disposal facility may also be subject to applicable rules of the Texas Department of Health with respect to transfers. {{moved from §336.338(a)}}

(h) A licensed land disposal facility operator shall use and comply with the requirements of §336.363, Appendix F, of this title (relating to Requirements for Receipt of Low-Level Radioactive Waste for Disposal at Licensed Land Disposal Facilities and Uniform Manifests). {{moved from §336.338(b)- deleted obsolete requirements}}

§336.331. General Requirements for Waste Disposal:

~~————— (a) Unless otherwise exempted, a licensee shall dispose of licensed material, as appropriate to the type of licensed material, only:~~

~~————— (1) by transfer to an authorized recipient as provided in §336.338 of this title (relating to Transfer for Disposal at Licensed Land Disposal Facility and Manifests) or in Subchapter H of this chapter (relating to Licensing Requirements for Near-Surface Land Disposal of Radioactive Waste);~~

~~————— (2) by transfer to a recipient authorized in another state by license issued by the United States Nuclear Regulatory Commission or an Agreement State or to the United States Department of Energy;~~

~~————— (3) by decay in storage;~~

~~————— (4) by release in effluents within the limits specified in §336.313 of this title (relating to Dose Limits for Individual Members of the Public);~~

~~————— (5) as authorized under §336.332 of this title (relating to Method of Obtaining Approval of Proposed Disposal Procedures), §336.333 of this title (relating to Disposal by~~

~~Release into Sanitary Sewerage), or §336.337 of this title (relating to Disposal of Specific Wastes), or~~

~~_____ (6) as specifically authorized by commission license issued under this chapter.~~

~~_____ (b) A person who receives waste containing licensed material from other persons for processing or storage before disposal is subject to applicable rules of the Texas Department of Health, except as provided in subsection (c) of this section.~~

~~_____ (c) Processing or storage of waste containing licensed material from other persons at a disposal facility by a person licensed for disposal under Subchapter H of Chapter 336 of this title shall be regulated in accordance with the provisions of §336.11, Appendix A, of this title (relating to Memorandum of Understanding Between the Texas Department of Health and the Texas Natural Resource Conservation Commission Regarding Radiation Control Functions).
{{moved to 336.211}}~~

§366.332. Preparation of Radioactive Material for Transport. *{{from 336.207}}*

(a) No licensee may deliver any source material, byproduct material, or other licensed radioactive material to a carrier for transport, unless:

(1) The licensee complies with the applicable requirements of the rules, appropriate to the mode of transport, of the United States Department of Transportation insofar as those rules relate to the packing of radioactive material and to the monitoring, marking, and labeling of those packages or containers;

(2) The licensee has established procedures for opening and closing packages and containers in which radioactive material is transported to provide safety and to assure that, prior to the delivery to a carrier for transport, each package or container is properly closed for transport; and

(3) Prior to delivery of a package or container to a carrier for transport, the licensee shall assure that any special instructions needed to safely open the package or container are sent to or have been made available to the consignee.

(b) For the purpose of subsection (a) of this section, licensees who transport their own licensed material as private carriers are considered to have delivered the material to a carrier for transport.

§336.332. Method of Obtaining Approval of Proposed Disposal Procedures:

~~_____ (a) A person may file an application with the executive director for approval of proposed procedures, not otherwise authorized in this chapter, to dispose of radioactive material generated in the person's activities. Each application shall include:~~

~~_____ (1) a description of the radioactive material involved, including the quantities and types of radioactive material, the levels of radioactivity, and the physical and chemical properties important to risk evaluation;~~

~~_____ (2) a description of the proposed manner and conditions of disposal;~~

~~_____ (3) an analysis and evaluation of pertinent information on the nature of the environment, including topographical, geological, meteorological, and hydrological characteristics and use of groundwater and surface water in the general area;~~

~~_____ (4) the nature and location of other potentially affected facilities;~~

~~_____ (5) analyses and procedures to ensure that doses are maintained as low as is reasonable achievable and within the dose limits of this subchapter; and~~

~~_____ (6) any other information the executive director may require.~~

~~_____ (b) A person holding a license issued under Chapter 336 of this title may apply for approval of proposed disposal procedures in accordance with subsection (a) of this section by requesting amendment of the license.~~

~~_____ (c) A person applying for a license to be issued under Chapter 336 of this title may request approval of proposed disposal procedures in accordance with subsection (a) of this section as part of the license application.~~

~~_____ (d) A person not subject to licensing under Subchapter H of Chapter 336 of this title may request approval of proposed disposal procedures in accordance with subsection (a) of this section either by filing an application for a license under Subchapter F of Chapter 336 of this title or by requesting approval without a license. In some cases, approval of a limited disposal which meets the standards of this subchapter may be granted by the executive director to a person without a license, as authorized by law. Requests for approval without a license must be reviewed by the executive director on a case-by-case basis.~~

~~_____ (e) Notwithstanding the provisions of this section, the commission shall not approve any application for a license to receive radioactive waste from other persons for disposal on land not owned by the state or the federal government. The commission shall not issue a license to dispose of radioactive waste received from others except to a public entity specifically authorized by law for radioactive waste disposal.~~

~~*{{moved to 336.213 and changed for clarification and integration with agency application review process}}*~~

{{336.333 available}}

~~§336.333. Disposal by Release into Sanitary Sewerage:~~

~~————— A licensee may discharge licensed material into sanitary sewerage if each of the following conditions is satisfied:~~

~~————— (1) The material is readily soluble in water, or is readily dispersible biological material; and~~

~~————— (2) The quantity of licensed or other radioactive material that the licensee releases into the sewer in 1 month divided by the average monthly volume of water released into the sewer by the licensee does not exceed the concentration listed in Table III of §336.359, Appendix B, of this title (relating to Annual Limits on Intake (ALI) and Derived Air Concentrations (DAC) of Radionuclides for Occupational Exposure, Effluent Concentrations, Concentrations for Release to Sanitary Sewerage); and~~

~~————— (3) If more than one radionuclide is released, the licensee shall determine the fraction of the limit in Table III of §336.359, Appendix B, of this title represented by discharges into sanitary sewerage by dividing the actual monthly average concentration of each radionuclide released by the licensee into the sewer by the concentration of that radionuclide listed in Table III of §336.359, Appendix B, of this title, and the sum of the fractions for all of the radionuclides released shall not exceed 1; and~~

~~————— (4) The total quantity of licensed and other radioactive material that the licensee releases into the sanitary sewerage in a year does not exceed 5 curies (185 gigabecquerels) of hydrogen-3, 1 curie (37 gigabecquerels) of carbon-14, and 1 curie (37 gigabecquerels) of all other radioactive materials combined.~~
{{moved to 336.215}}

~~§336.334. Disposal by Burial in Soil:~~

~~————— No licensee may dispose of radioactive material by burial in soil except as provided by §336.337 of this title (relating to Disposal of Specific Wastes) or by specific license authorization by the commission under §336.332 of this title (relating to Method of Obtaining Approval of Proposed Disposal Procedures), Subchapter F of Chapter 336 of this title (relating to Licensing of Alternative Methods of Disposal of Radioactive Material), or Subchapter H of Chapter 336 of this title (relating to Licensing Requirements for Near-Surface Land Disposal of Radioactive Waste)~~
{{moved to new C}}

§336.335 Reporting Requirements for Incidents. *{{from 10 CFR Parts 30.50, 40.60, Part 40 Appendix A and merged with 336.351 - 10 CFR §20.2202}}*

(a) Immediate notification. Each licensee shall notify the executive director or staff as soon as possible but not later than 4 hours after the discovery of an event that prevents immediate protective actions necessary to avoid exposures to radiation or radioactive materials that could exceed regulatory limits or releases of radioactive materials that could exceed limits (e.g., events may include fires, explosions, toxic gas releases, etc.). *{{from 336.211}}*
Notwithstanding any other requirements for notification, each licensee shall immediately report to the executive director or staff each event involving licensed radioactive material possessed by the licensee that may have caused or threatens to cause any of the following conditions:
{{from 336.351(b) - 10 CFR §20.2202}}

(1) an individual to receive:

(A) a total effective dose equivalent of 25 rems (0.25 sievert) or more;

(B) an eye dose equivalent of 75 rems (0.75 sievert) or more; or

(C) a shallow-dose equivalent to the skin or extremities or a total organ dose equivalent of 250 rads (2.5 grays) or more; or

(2) the release of radioactive material, inside or outside of a restricted area, so that, had an individual been present for 24 hours, the individual could have received an intake 5 times the annual limit on intake (ALI). This provision does not apply to locations where personnel are not normally stationed during routine operations, such as hot-cells or process enclosures. *{{from 336.351(b) - 10 CFR §20.2202}}*

(b) Twenty-four hour notification. Each licensee shall, within 24 hours of discovery of the event, report to the executive director or staff any event involving loss of control of licensed material possessed by the licensee that may have caused, or threatens to cause, any of the following conditions:

(1) an individual to receive, in a period of 24 hours:

(A) total effective dose equivalent exceeding 5 rems (0.05 sievert);

(B) an eye dose equivalent exceeding 15 rems (0.15 sievert); or

(C) a shallow-dose equivalent to the skin or extremities or a total organ dose equivalent exceeding 50 rems (0.5 sievert); or

(2) the release of radioactive material, inside or outside of a restricted area, so that, had an individual been present for 24 hours, the individual could have received an intake in

excess of one ALI. This provision does not apply to locations where personnel are not normally stationed during routine operations, such as hot-cells or process enclosures; or {{from 336.351(b) - 10 CFR §20.2202}}

(3) an unplanned contamination event that:

(A) requires access to the contaminated area, by workers or the public, to be restricted for more than 24 hours by imposing additional radiological controls or by prohibiting entry into the area;

(B) involves a quantity of material greater than five times the lowest annual limit on intake specified in §336.359, Appendix B, of this title (relating to Annual Limits on Intake (ALI) and Derived Air Concentrations (DAC) of Radionuclides for Occupational Exposure; Effluent Concentrations; Concentrations for Release to Sanitary Sewerage); and

(C) has access to the area restricted for a reason other than to allow isotopes with a half-life of less than 24 hours to decay prior to decontamination; or

(4) an event in which equipment is disabled or fails to function as designed when:

(A) the equipment is required by rule or license condition to prevent releases exceeding regulatory limits, to prevent exposures to radiation and radioactive materials exceeding regulatory limits, or to mitigate the consequences of an accident;

(B) the equipment is required to be available and operable when it is disabled or fails to function; and

(C) no redundant equipment is available and operable to perform the required safety function; or

(5) an event that requires unplanned medical treatment at a medical facility of an individual with spreadable radioactive contamination on the individual's clothing or body; or

(6) an unplanned fire or explosion damaging any radioactive material or any device, container, or equipment containing radioactive material when:

(A) the quantity of material involved is greater than five times the lowest annual limit on intake specified in §336.359, Appendix B, of this title; and

(B) the damage affects the integrity of the radioactive material or its container.

{{from 336.211}}

(c) Preparation and submission of reports. Reports made by licensees in response to the requirements of this section must be made as follows: {{from 336.211}}

(1) Telephone report. Licensees shall make reports required by paragraphs (a) and (b) of this section by telephone, accompanied by a facsimile, to the executive director or staff. To the extent that the information is available at the time of notification, the information provided in these reports must include: {{from 336.211}}

(A) the caller's name and telephone number;

(B) a description of the event, including date and time;

(C) the exact location of the event;

(D) the isotopes, quantities, and chemical and physical form of the radioactive material involved; and

(E) any personnel radiation exposure data available.

(2) Written report. Each licensee who makes a report required by paragraphs (a) and (b) of this section shall submit a written follow-up report to the executive director within 30 days of the initial report. Written reports prepared under other regulations may be submitted to fulfill this requirement if the reports contain all of the necessary information. These written reports must be sent to the executive director or staff. The reports must include the following: {{from 336.211}}

(A) a description of the event, including the probable cause and the manufacturer and model number (if applicable) of any equipment that failed or malfunctioned;

(B) the exact location of the event;

(C) the isotopes, quantities, and chemical and physical form of the radioactive material involved;

(D) date and time of the event;

(E) corrective actions taken or planned and the results of any evaluations or assessments; and

(F) the extent of exposure of individuals to radiation or to radioactive materials. {{modified from 336.211}} The licensee shall prepare the report so that names of individuals are stated in a separate and detachable part of the report. {{modified for consistency with 336.211 above, from 336.351 - 10 CFR 20.2202}}

(e) Confirmation of notification. Licensees shall make the reports required by subsections (a) and (b) of this section by telephone and shall confirm the telephone report within 24 hours by telegram, mailgram, or facsimile. {{from 336.351 - 10 CFR 20.2202}}

(g) Exception to notification. The provisions of this section do not apply to doses that result from planned special exposures, provided those doses are within the limits for planned special exposures and are reported under §336.353 of this title (relating to Reports of Planned Special Exposures). {{from 336.351 - 10 CFR 20.2202}}

~~§336.335. Disposal by Release into Septic Tanks.~~

~~———— No licensee may discharge radioactive material into a septic tank system except by specific license authorization by the commission under §336.332 of this title (relating to Method of Obtaining Approval of Proposed Disposal Procedures).
{{moved to 336.219}}~~

§336.336. Tests. {{from 336.213 - 10 CFR 30.53}}

(a) Each licensee shall perform, upon instructions from the executive director, or shall permit the executive director to perform such tests as the executive director deems appropriate or necessary for the administration of the rules in this chapter, including, but not limited to, tests of:

- (1) source material, byproduct material, or other licensed radioactive material;
- (2) facilities where these materials are used, stored, or disposed;
- (3) radiation detection and monitoring instruments; and

(4) other equipment and devices used in connection with utilization, storage, or disposal of source material, byproduct material, or other licensed radioactive material.

(b) The requirements of this section do not apply to licenses issued under Subchapter H of Chapter 336 of this title (relating to Licensing Requirements for Near-Surface Land Disposal of Low-Level Radioactive Waste).

~~§336.336. Treatment or Disposal by Incineration.~~

~~———— Treatment of radioactive material by incineration, except in a form and concentration specified by §336.337 of this title (relating to Disposal of Specific Wastes), may be subject to~~

~~applicable rules of the Texas Department of Health. Ash residue waste containing radioactive material shall be disposed of in accordance with §336.331 of this title (relating to General Requirements for Waste Disposal).~~
~~{{moved to 336.221}}~~

~~{{336.337 available}}~~

~~**§336.337. Disposal of Specific Wastes:**~~

~~_____ (a) A licensee may dispose of the following licensed material as if it were not radioactive:~~

~~_____ (1) 0.05 microcurie (1.85 kilobecquerels), or less, of hydrogen-3, carbon-14, or iodine-125 per gram of medium used for liquid scintillation counting or in vitro clinical or in vitro laboratory testing; and~~

~~_____ (2) 0.05 microcurie (1.85 kilobecquerels), or less, of hydrogen-3, carbon-14, or iodine-125 per gram of animal tissue, averaged over the weight of the entire animal.~~

~~_____ (b) A licensee shall not dispose of tissue under subsection (a)(2) of this section in a manner that would permit its use either as food for humans or as animal feed.~~

~~_____ (c) A licensee may, upon commission approval under subsection (b) of this section, dispose of licensed material listed in §336.365, Appendix H, of this title (relating to Radionuclide Concentration and Annual Activity Limits for Disposal in a Type I Municipal Solid Waste Facility or a Hazardous Waste Facility), provided that the licensed material does not exceed the specified concentration and annual activity limits, in a Type I municipal solid waste facility as defined in the commission's rules in Chapter 330 of this title (relating to Municipal Solid Waste); unless the licensed material is hazardous waste, or is combined with hazardous waste, as defined in Chapter 330 of this title. Licensed material listed in §336.365, Appendix H, of this title which does not exceed the specified concentration and annual activity limits and which is hazardous waste, or is combined with hazardous waste, may be disposed of at a hazardous waste disposal facility in accordance with the commission's rules in Chapter 335 of this title (relating to Industrial Solid Waste and Municipal Hazardous Waste). Disposals at a Type I municipal solid waste facility or a hazardous waste disposal facility must comply with other requirements for those facilities as set forth in Chapters 330 or 335 of this title, respectively.~~

~~_____ (d) A licensee may apply for commission authorization, by license amendment, for the disposal of licensed material under subsection (c) of this section by submitting procedures for the following to the executive director:~~

~~_____ (1) physical delivery of the material to the disposal facility;~~

~~_____ (2) surveys to be performed for compliance with subsection (e)(1) of this section;~~

~~_____ (3) maintaining secure packaging during transportation to the site; and~~

~~_____ (4) maintaining records of any disposals made under this subsection.~~

~~_____ (e) Each licensee who disposes of licensed material under subsections (a)-(d) of this section shall:~~

~~_____ (1) make surveys adequate to assure that the limits specified in subsection (a) or (c) of this section are not exceeded; and~~

~~_____ (2) remove or otherwise obliterate or obscure all labels, tags, or other markings which would indicate that the material or contents is radioactive.~~

~~_____ (f) Each licensee who disposes of licensed material under subsections (a)-(d) of this section shall maintain records in accordance with §336.348 of this title (relating to Records of Waste Disposal). General licensees under this subsection are exempt from the other requirements of this subchapter and of Subchapter E of Chapter 336 of this title (relating to Notices, Instructions, and Reports to Workers and Inspections) with respect to the disposal authorized under this subsection.~~

~~_____ (g) Material disposed of under this section is exempt from the requirements of §336.207 of this title (both relating to Preparation of Radioactive Material for Transport).
{{moved to 336.225}}~~

§336.338. General Recordkeeping Requirements for Disposal

(a) Each person who possesses or uses a source of radiation shall maintain:

(1) records of the disposal of sources of radiation. Each person shall also maintain records of the disposal of sources of radiation by burial in soil including burials authorized under the Atomic Energy Act by the Atomic Energy Commission or the Nuclear Regulatory Commission and by the Texas Department of Health rules before May 1977.
~~{{moved from 336.348 and revised to be consistent with TRCA 401.057(a)(1)}}~~

(2) appropriate records that show the radiation exposure of each individual for whom personnel monitoring is required by the agency's rules, licenses, registrations, and orders; and
~~{{TRCA 401.057(a)(2)}}~~

(3) other records the agency requires.

(b) Copies of records required to be maintained under subsection (a) shall be submitted to the agency on request.
~~{{TRCA 401.057(b)}}~~

(c) A person who possesses or uses a source of radiation shall furnish to each employee for whom personnel monitoring is required a copy of the employee's personal

exposure record at any time the employee has received exposure that exceeds the maximum permissible levels provided by the agency's rules and on termination of employment. The person shall furnish to an employee on request a copy of the employee's annual exposure record. {{TRCA 401.057(d)}}}

~~§336.338. Transfer for Disposal at Licensed Land Disposal Facility and Manifests.~~
{{moved to new 336.331 and merged with 336.205}}

~~—— (a) Transfer of low-level radioactive waste by a waste generator, waste collector, or waste processor who ships this waste either directly, or indirectly through a collector or processor, to a licensed land disposal facility may also be subject to applicable rules of the Texas Department of Health. A commission licensee who transfers low-level radioactive waste for disposal at a licensed land disposal facility may also be subject to applicable rules of the Texas Department of Health with respect to transfers.~~

~~—— (b) Beginning March 1, 1998, a licensed land disposal facility operator shall use and comply with the requirements of §336.363, Appendix F, of this title (relating to Requirements for Receipt of Low-Level Radioactive Waste for Disposal at Licensed Land Disposal Facilities and Uniform Manifests). Before March 1, 1998, a land disposal facility operator shall use and comply with the requirements of §336.361, Appendix D, of this title (relating to Requirements for Receipt of Low-Level Radioactive Waste for Disposal at Licensed Land Disposal Facilities and Manifests); unless the land disposal facility operator elects to use and comply with the requirements of §336.363, Appendix F of this title. Before March 1, 1998, a licensed land disposal facility operator may require that shipments of waste received at the facility have the uniform manifest prescribed in §336.363, Appendix F of this title, or the manifest prescribed in §336.361, Appendix D of this title.~~

§336.339. Form of Records

Each record required by this subchapter shall be legible throughout the specified retention period. The record shall be the original or a reproduced copy or a microform, provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period. The record may also be stored in electronic media with the capability for producing legible, accurate, and complete records during the required retention period. Records, such as letters, drawings, and specifications, shall include all pertinent information, such as stamps, initials, and signatures. The licensee shall maintain adequate safeguards against tampering with and loss of records. {{10 CFR 20.2110 moved from 336.349, duplicative of 336.209(d)}}}

~~§336.339. Texas Department of Health Inspection and Regulation of Shipments of Radioactive Waste.~~

~~_____ (a) Each shipment of radioactive waste to a licensed land disposal facility in Texas is subject to inspection by the Texas Department of Health before shipment.~~

~~_____ (b) Shipment and transportation of radioactive waste to a licensed land disposal facility in Texas are subject to applicable rules of the Texas Department of Health, United States Department of Transportation, and United States Nuclear Regulatory Commission: {{modified and moved to 336.701(f)}}~~

{{336.340 available}}

~~§336.340. Compliance with Environmental and Health Protection Regulations:~~

~~_____ Nothing in this subchapter relieves the licensee from complying with other applicable federal, state, and local regulations governing any other toxic or hazardous properties of materials that may be disposed of under the rules in this chapter: {{move to 336.301(d)}}~~

§336.341. General Recordkeeping Requirements for Licensees Recordkeeping.

(a) Each licensee shall use the units curie, rad, and rem, including multiples and subdivisions, and shall clearly indicate the units of all quantities on records required by this subchapter. Disintegrations per minute may be indicated on records of surveys performed to determine compliance with §336.605 of this title (relating to Surface Contamination Limits for Facilities, Equipment, and Materials) and §336.364, Appendix G, of this title (relating to Acceptable Surface Contamination Levels).

(b) Notwithstanding the requirements of subsection (a) of this section, information on shipment manifests for wastes received at a licensed land disposal facility, as required by ~~§336.331(h) §336.338(b)~~ of this title (relating to Transfer of Radioactive Material) (~~relating to Transfer for Disposal at Licensed Land Disposal Facility and Manifests~~), shall be recorded in International System of Units (SI) units (becquerel, gray, and sievert) or in SI and units as specified in subsection (a) of this section.

(c) no change

(d) Each licensee shall maintain records showing the receipt, transfer, and disposal of all source material, byproduct material, or other licensed radioactive material. Each licensee shall also maintain any records and make any reports as may be required by the conditions of the license, by the rules in this chapter, or by orders of the commission. Copies of any records or reports required by the license, rules, or orders shall be submitted to the agency on request. All records and reports required by the license, rules, or orders shall be complete and accurate.
{{from 336.209(a)}}

(e) The licensee shall retain each record that is required by the rules in this chapter or by license conditions for the period specified by the appropriate rule or license condition. If a retention period is not otherwise specified, each record shall be maintained until the commission terminates each pertinent license requiring the record. {{from 336.209(b)}}}

(f) If there is a conflict between the commission's rules, license condition, or other written approval or authorization from the executive director pertaining to the retention period for the same type of record, the longest retention period specified takes precedence. {{from 336.209(c)}}}

(g) The executive director may require the licensee to provide the commission with copies of all records prior to termination of the license. {{from 336.209(e)}}}

§336.342 - 347 No change.

{{336.348-349 available}}

~~§336.348. Records of Waste Disposal.~~

~~————(a) Each licensee shall maintain records of the disposal of licensed materials made under §336.332 of this title (relating to Method of Obtaining Approval of Proposed Disposal Procedures), §336.333 of this title (relating to Disposal by Release into Sanitary Sewerage), §336.336 of this title (relating to Treatment or Disposal by Incineration), §336.337 of this title (relating to Disposal of Specific Wastes); made by transfer to an authorized recipient under §336.331(a)(1) and (2) of this title (relating to General Requirements for Waste Disposal); or made under license authorization issued under this chapter. Each licensee shall also maintain records of the disposal of licensed materials by burial in soil, including burials authorized by Texas Department of Health rules before May 1977.~~

~~————(b) The licensee shall retain the records required by subsection (a) of this section until the commission terminates each pertinent license requiring the record. This includes records required under the standards for protection against radiation in effect before January 1, 1994. {{revised and moved to 336.338}}~~

~~§336.349. Form of Records.~~

~~————Each record required by this subchapter shall be legible throughout the specified retention period. The record shall be the original or a reproduced copy or a microform, provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period. The record may also be stored in electronic media with the capability for producing legible, accurate, and complete records during the required retention period. Records, such as letters, drawings, and~~

~~specifications, shall include all pertinent information, such as stamps, initials, and signatures. The licensee shall maintain adequate safeguards against tampering with and loss of records. {{20.2110}} {{moved to 336.339}}~~

§336.350. No change

~~{{336.351 available}}~~

~~**§336.351. Notification of Incidents:**
{{move to and merged with 336.335}}~~

~~(a) Immediate notification. Notwithstanding any other requirements for notification, each licensee shall immediately report to the executive director or staff each event involving licensed radioactive material possessed by the licensee that may have caused or threatens to cause any of the following conditions:~~

~~_____ (1) an individual to receive:~~

~~_____ (A) a total effective dose equivalent of 25 rems (0.25 sievert) or more;~~

~~_____ (B) an eye dose equivalent of 75 rems (0.75 sievert) or more; or~~

~~_____ (C) a shallow dose equivalent to the skin or extremities or a total organ dose equivalent of 250 rads (2.5 grays) or more; or~~

~~(2) the release of radioactive material, inside or outside of a restricted area, so that, had an individual been present for 24 hours, the individual could have received an intake 5 times the annual limit on intake (ALI). This provision does not apply to locations where personnel are not normally stationed during routine operations, such as hot-cells or process enclosures.~~

~~(b) Twenty-four hour notification. Each licensee shall, within 24 hours of discovery of the event, report to the executive director or staff any event involving loss of control of licensed material possessed by the licensee that may have caused, or threatens to cause, any of the following conditions:~~

~~_____ (1) an individual to receive, in a period of 24 hours:~~

~~_____ (A) total effective dose equivalent exceeding 5 rems (0.05 sievert);~~

~~_____ (B) an eye dose equivalent exceeding 15 rems (0.15 sievert); or~~

~~_____ (C) a shallow dose equivalent to the skin or extremities or a total organ dose equivalent exceeding 50 rems (0.5 sievert); or~~

~~(2) the release of radioactive material, inside or outside of a restricted area, so that, had an individual been present for 24 hours, the individual could have received an intake in excess of one ALI. This provision does not apply to locations where personnel are not normally stationed during routine operations, such as hot-cells or process enclosures.~~

~~(c) Format of notification. The licensee shall prepare any report filed with the executive director or staff under this section so that names of individuals who may have received exposure to radiation or radioactive material are stated in a separate and detachable part of the report.~~

~~(d) Confirmation of notification. Licensees shall make the reports required by subsections (a) and (b) of this section by telephone and shall confirm the telephone report within 24 hours by telegram, mailgram, or facsimile.~~

~~(e) Exception to notification. The provisions of this section do not apply to doses that result from planned special exposures, provided those doses are within the limits for planned special exposures and are reported under §336.353 of this title (relating to Reports of Planned Special Exposures).~~

§336.352. Reports of Exposures, Radiation Levels, and Concentrations of Radioactive Material Exceeding the Limits.

(a) Reportable events. In addition to the notification required by §336.335 of this title (relating to Reporting Requirements for Incidents) ~~§336.351 of this title (relating to Notification of Incidents)~~, each licensee shall submit a written report to the executive director within 30 days after learning of any of the following occurrences:

(1) any incident for which notification is required by §336.335 ~~§336.351~~ of this title; or

(2) doses in excess of any of the following:

(A) the occupational dose limits for adults in §336.305 of this title (relating to Occupational Dose Limits for Adults);

(B) the occupational dose limits for minors in §336.311 of this title (relating to Occupational Dose Limits for Minors);

(C) the limits for an embryo/fetus of a declared pregnant woman in §336.312 of this title (relating to Dose to an Embryo/Fetus);

(D) the limits for an individual member of the public in §336.313 of this title (relating to Dose Limits for Individual Members of the Public); or

(E) any applicable limit in the license; or

(F) the ALARA constraints for air emissions established under §336.304(d); or

(3) levels of radiation or concentrations of radioactive material in:

(A) a restricted area in excess of applicable limits in the license; or

(B) an unrestricted area in excess of 10 times any applicable limit set forth in this subchapter or in the license, whether or not involving exposure of any individual in excess of the limits in §336.313 of this title; or

(4) for licensees subject to the provisions of the United States Environmental Protection Agency's generally applicable environmental radiation standards in 40 CFR Part 190 as amended through January 13, 1977 (42 FedReg 2860) (relating to Environmental Radiation Protection Standards for Nuclear Power Operations), levels of radiation or releases of radioactive material in excess of those standards or of license conditions related to those standards.

(b) no change

§336.353- 354 No change

§336.355. Reports of Individual Monitoring.

(a) Each person licensed by the commission to receive low-level radioactive waste from other persons for disposal under Subchapter H of Chapter 336 of this title (relating to Licensing Requirements for Near-Surface Land Disposal of Low-Level Radioactive Waste) shall submit an annual report of the results of individual monitoring carried out by the licensee for each individual for whom monitoring was required by §336.316 of this title (relating to Conditions Requiring Individual Monitoring of External and Internal Occupational Dose) during that year. The licensee may include additional data for individuals for whom monitoring was provided but not required. The licensee shall use the form "Occupational Exposure Record for a Monitoring Period" (see §336.368, Appendix K of this title (relating to Occupational Exposure Record for a Monitoring Period)) or a clear and legible record containing all the information required by that form.

(b) no change

§336.356- 360. No change

~~§336.361. Appendix D. Requirements for Receipt of Low-Level Radioactive Waste for Disposal at Licensed Land Disposal Facilities and Manifests. *{{repeal - obsolete - applies only to pre-March 1, 1998 actions}}*~~

~~(a) Manifest. The operator of a licensed low-level radioactive waste land disposal facility shall not receive for disposal any waste which does not have a completed shipment manifest which meets the requirements of 10 CFR 61.80 as amended through December 27, 1982 (47 FedReg 57463) and 10 CFR 20.2006 as amended through March 27, 1995 (60 FedReg 15663), including all prescribed information and certifications. The manifest required by this subsection may be shipping papers used to meet United States Department of Transportation or United States Environmental Protection Agency regulations or the requirements of the land disposal facility, provided all the required information is included. Copies of manifests required by this subsection may be legible carbon copies or legible photocopies.~~

~~(b) Control and tracking:~~

~~(1) The licensed land disposal facility operator shall acknowledge receipt of the waste within 1 week of receipt by returning a signed copy of the manifest or equivalent documentation to the shipper. The shipper to be notified is that who last possessed the waste and transferred the waste to the operator. The returned copy of the manifest or equivalent documentation shall indicate any discrepancies between materials listed on the manifest and materials received.~~

~~(2) The land disposal facility operator shall maintain copies of all completed manifests or equivalent documentation until the license is terminated. This includes those manifests or equivalent documents required under the standards for protection against radiation in effect before January 1, 1994.~~

~~(3) The land disposal facility operator shall notify the shipper (i.e., the generator, collector, or processor), the Texas Department of Health, and the executive director when any shipment or part of a shipment has not arrived within 60 days after the advance manifest was received.~~

336.362-367 No change

**SUBCHAPTER E : NOTICES, INSTRUCTIONS, AND REPORTS
TO WORKERS AND INSPECTIONS**
§§336.401-336.410

§336.401- 404. no change

§336.405. Notifications and Reports to Individuals.

(a) no change

(b) no change

(c) no change

(d) When a licensee is required under §336.335 of this title (relating to Reporting Requirements for Incidents) ~~§336.351 of this title (relating to Notification of Incidents)~~, §336.352 of this title (relating to Reports of Exposures, Radiation Levels, and Concentrations of Radioactive Material Exceeding the Limits), §336.353 of this title (relating to Reports of Planned Special Exposures), or §336.355 of this title (relating to Reports of Individual Monitoring) to report to the executive director any exposure of an individual to radiation or radioactive material, the licensee shall also provide the individual a report of that individual's exposure data. This report must be transmitted at a time not later than the transmittal to the executive director.

(e) no change

§336.406-410 no change

**SUBCHAPTER F : LICENSING OF ALTERNATIVE METHODS OF DISPOSAL OF
RADIOACTIVE MATERIAL**

§336.501. Scope and General Provisions.

(a) This subchapter establishes alternative the criteria, terms and conditions under which the commission may issue, amend or renew a license for on-site disposal of radioactive material generated in the person's activities, not otherwise specifically authorized in this chapter, or waste or to decommission an inactive disposal site. This subchapter does not apply to disposal of diffuse NORM waste having concentrations of radium-226 or radium-228 of less than 2,000 pCi/g.
{{decommissioning of inactive sites moved to subchapter G, second phrase redundant to 336.1(f)}}}

(b) ~~Except as provided by this subsection,, Notwithstanding the other provisions of this subchapter,~~ the commission shall not authorize new or additional facilities or the expansion of existing facilities for the on-site disposal of low-level radioactive material ~~or waste, except to a public entity specifically authorized by law for low-level radioactive waste disposal. The commission may, on request or its own initiative, authorize, under this subchapter, on-site disposal of low-level radioactive waste on a specific basis at any site at which low-level radioactive waste disposal operations began before September 1, 1989, if after evaluation of the specific characteristics of the waste, the disposal site, and the method of disposal, the commission finds that the continuation of the disposal activity will not constitute a significant risk to the public health and safety and to the environment. {{HB 1172}}~~
~~In the case of an existing commission license that authorizes on-site disposal of radioactive material or shall not amend or renew the license to authorize the addition or expansion of disposal facilities.~~

~~(c) Any person who owns, operates, controls, or possesses an inactive disposal site and who does not hold a current radioactive material license for the inactive disposal site shall apply for a license to decommission by January 1, 2000. Any decommissioning performed to fulfill this provision shall be performed by an individual who is qualified and licensed to perform the activities, ensuring that all appropriate radiation protection standards for workers and the public are met, including the maintenance of records. {{moved to 336.615}}}~~

~~(1) If the site meets the requirements for unrestricted use of §336.603 of this title, (relating to Radiological Criteria for Unrestricted Use), the owner shall submit to the executive director the information required by §336.603(c) of this title before January 1, 2000. Once the executive director verifies that the criteria have been met, the executive director will certify in writing that the owner is in compliance with the regulations and will not require any further cleanup, unless there is new evidence that the decommissioning standards for unrestricted use were not met and that residual radioactivity remaining at the site could result in significant threat to public health and safety.~~

~~(2) If a site is decommissioned for unrestricted use under §336.603 of this title before January 1, 2000, a license is not required. If decommissioning is completed before January 1, 2000, proof of decommissioning must be submitted to the agency before January 1, 2000, or the owner shall submit an application for license by that date. Once the executive director verifies that the criteria have been met, the executive director will certify in writing that the owner is in compliance with the regulations and will not require any further cleanup, unless there is new evidence that the decommissioning standards for unrestricted use were not met and that residual radioactivity remaining at the site could result in significant threat to public health and safety.~~

~~(3) If a site does not meet the requirements for unrestricted use and the owner does not decommission before January 1, 2000, or if the owner plans to decommission under §336.607 of this title (relating to Criteria for License Termination under Restricted Conditions) or §336.609 of this title (relating to Alternate Criteria for License Termination), the owner shall apply for a license to decommission by January 1, 2000. The applicant shall provide the information required by this subchapter using a form provided by the agency.~~

~~(d) Any person whose possession of disposed radioactive material is authorized by the Texas Department of Health is exempt from the requirements of this subchapter. This subchapter does not apply to persons licensed or subject to licensing under Subchapter H of Chapter 336 of this title (relating to Licensing Requirements for Near-Surface Land Disposal of Radioactive Waste). *{{first sentence conflicts with current NRC regulations -- sites that were previously authorized by TDH are now subject to NRC new decommissioning standards and are currently being decommissioned under the inactive disposal site provisions in (c), these provisions are recommended to be moved to Subchapter G to be with the rest of the decommissioning rules (TDH agrees with this assessment); second sentence is redundant to (a) which limits licensing under this subchapter to on-site disposal for which there are no standards in the chapter}}*~~

~~(c)(e) No person authorized to dispose of radioactive material or waste under this subchapter may receive radioactive material or waste for the purpose of disposal from other persons, sources, other facilities owned or operated by the applicant or licensee, or any other off-site locations. *{{radioactive waste is a subset of radioactive material}}*~~

~~§336.502. Definitions.~~

~~Terms used in this subchapter are defined in §336.2 of this title (relating to Definitions). Additional terms used in this subchapter have the following definitions:~~

~~(1) Inactive disposal site — A site or facility that: *{{moved to 336.602}}*~~

~~(A) contains radioactive material or waste disposed of below the surface, or soils or structures contaminated with radioactive material or waste; and~~

~~_____ (B) no longer disposes or will dispose of, or accepts or will accept for the purpose of disposal, additional radioactive material or waste.~~

~~_____ (2) Funding plan a plan equivalent to the decommissioning funding plan of 10 Code of Federal Regulations §30.35 (relating to Financial assurance and recordkeeping for decommissioning) and §40.36 (relating to Financial assurance and recordkeeping for decommissioning), submitted by the holder of an existing license before the development of a detailed decommissioning plan. The funding plan includes:~~

~~_____ (A) an initial cost estimate for decommissioning;~~

~~_____ (B) a description of the financial mechanism(s) utilized; and~~

~~_____ (C) a certification by the licensee that a signed original of the financial assurance mechanism for decommissioning was submitted to the executive director. *{{ moved to 336.602}}*~~

~~(2) On-site—The same or geographically contiguous property that may be divided by public or private rights-of-way, provided the entrance and exit between the properties is at a cross-roads intersection, and access is by crossing, as opposed to going along, the right-of-way. Noncontiguous properties owned by the same person but connected by a right-of-way that the property owner controls and to which the public does not have access, is also considered on-site property. *{{ moved to Subchapter A - Definitions}}*~~

~~**§336.503. Filing of Application.** *{{redundant with 336.205}}*~~

~~_____ (a) An application for a license, or for renewal or amendment of a license shall contain the information prescribed in §336.512 of this title (relating to Technical Requirements for Inactive Disposal Sites) or §336.513 of this title (relating to Technical Requirements for Active Disposal Sites), as appropriate, and demonstrate how the technical requirements and performance objectives have been met.~~

~~_____ (b) An application for a license, or amendment of a license shall be accompanied by the appropriate fee as specified in §336.105 of this title (relating to Schedule of Fees for Subchapter F Licenses).~~

~~**§336.504. General Requirements for Issuance of a License.** *{{moved to §336.207}}*~~

~~_____ An application may be approved if the commission determines that the requirements set forth in §336.503 of this title (relating to Filing of Application) have been met and that:~~

~~_____ (1) The applicant is qualified by reason of training and experience to conduct the proposed radioactive material disposal activities in accordance with the rules in this chapter in such a manner as to protect and minimize danger to the public health and safety and the environment;~~

~~_____ (2) The applicant's proposed equipment, facilities, and procedures are adequate to protect and minimize danger to the public health and safety and the environment;~~

~~_____ (3) The issuance of the license will not be inimical to public health and safety nor have a long-term detrimental impact on the environment;~~

~~_____ (4) If applicable, the applicant has demonstrated financial capability to conduct the proposed activity, including all costs associated with decommissioning, decontamination, disposal, reclamation, and any long-term care and surveillance; and~~

~~_____ (5) The applicant satisfies any applicable special requirements in this subchapter.~~

~~**§336.505. Issuance of License.** *{{moved to §336.209}}*~~

~~_____ Upon a determination that an application meets the requirements of the Texas Radiation Control Act and the rules of this chapter, the commission may issue a license authorizing the proposed activity.~~

~~**§336.512. Technical Requirements for Inactive Disposal Sites.** *{{moved to §336.617}}*~~

~~_____ (a) Content of license application. An applicant for a license to authorize possession of disposed radioactive material and subsequent decommissioning of an inactive disposal site shall submit the following, using the application form provided by the agency:~~

~~_____ (1) the information required by §336.332 of this title (relating to Method of Obtaining Approval of Proposed Disposal Procedures). This information shall include the applicant's evaluation of relevant information which must demonstrate that the disposal site has no undue impact on public health or safety or the environment; *{{duplicative}}*~~

~~_____ (2) information on the concentration and total activity of each radionuclide disposed of, packaging of the wastes, the characteristics of the disposal site (e.g., geological, hydrological, and topographical), as-built disposal trench or landfill construction, final cover construction, and depth of burial of wastes. This information shall be as complete and accurate as possible based on the full extent of information available to the applicant about the previous disposal activities;~~

~~_____ (3) a description of any radiological monitoring performed at the site and the resulting data;~~

~~(4) the technical qualifications and identity of personnel responsible for radiation safety functions at the site;~~

~~(5) a description of the methods of restricting access to the site (e.g., fencing) and any permanent site markers;~~

~~(6) information on land ownership and any covenants on land use imposed by recorded title documents;~~

~~(7) a decommissioning plan that meets the standards in Subchapter G of this chapter (relating to Decommissioning Standards), including an evaluation of the alternative of disposing of the radioactive material at a licensed disposal facility;~~

~~(8) information regarding financial assurance for decommissioning as provided for in §336.514 of this title (relating to Financial Assurance for Decommissioning); and~~

~~(9) for license applications other than renewals, a description of how facility design and procedures for operation minimize, to the extent practicable, contamination of the facility and the environment, facilitate eventual decommissioning, and minimize, to the extent practicable, the generation of radioactive wastes.~~

~~(b) Content of application for renewal of license:~~

~~(1) An applicant for renewal of a license authorizing possession of disposed radioactive material in an inactive disposal site or to decommission an inactive disposal site shall submit information using the application form provided by the agency on:~~

~~(A) the current conditions of the site (e.g., site stability and any maintenance performed at the site);~~

~~(B) any radiological monitoring performed at the site by the licensee and the resulting data;~~

~~(C) the methods of restricting access to the site;~~

~~(D) any changes in or additions to the procedures or information contained in previous applications;~~

~~(E) the technical qualifications and identity of personnel responsible for radiation safety functions at the site;~~

~~(F) a decommissioning plan that meets the standards in Subchapter G of this chapter, if not previously submitted, including an evaluation of the alternative of disposing of the radioactive material at a licensed disposal facility; and~~

~~(G) financial assurance for decommissioning as provided for in §336.514 of this title (relating to Financial Assurance for Decommissioning):~~

~~(2) The executive director may request additional information, such as that required by subsection (a) of this section, if this information was not previously provided for the site or is not current:~~

~~(c) Performance objectives. The applicant's submittal shall include sufficient information to enable the executive director to assess the potential hazard to public health and safety and to determine whether the disposal site will have a significant impact on the environment. The executive director shall evaluate existing inactive disposal sites on a case-by-case basis and may consider the following general criteria and performance objectives in making the evaluation:~~

~~(1) Radiation exposure and release of radioactive materials from a disposal site shall be maintained as low as is reasonably achievable. Reasonable assurance must be provided that the potential dose to an individual on or near the site will be within acceptable limits. The estimated committed effective dose equivalent resulting from a radiological assessment of a site will usually be the determining factor in the granting of authorization for a disposal site. If the projected dose to a member of the public exceeds 25 millirems per year, the executive director shall consider other factors in determining whether to grant authorization for the site, including, but not limited to, the use of institutional controls to restrict access for a specified period of time:~~

~~(2) The location and characteristics of a site shall be such as to preclude potential offsite migration or transport of radioactive materials or ready access to critical exposure pathways:~~

~~(3) The general topography of the disposal site shall be compatible with its use for waste burial. As an example, surface features shall direct surface water drainage away from the disposal site. Wastes must not be buried in locations which, once covered, would tend to collect surface water. The characteristics of the site shall minimize to the extent practicable the potential for erosion and contact of percolating or standing water with wastes:~~

~~(4) Water-bearing strata shall be a minimum of 10 feet below the depth at which waste is buried:~~

~~(5) Waste shall be emplaced in a manner that minimizes the void spaces between packages and permits the void spaces to be filled:~~

~~_____ (6) Void spaces between waste packages shall be filled with earth or other material to reduce future subsidence within the fill.~~

~~_____ (7) Cover design shall minimize water infiltration to the extent practicable, direct percolating or surface water away from the disposed waste, and resist degradation by surface geologic processes and biotic activity.~~

~~_____ (8) In general, a site authorized under this subchapter shall be located, designed, operated, and closed so that long-term isolation and custodial care for long-term stability would not be required beyond the time the licensee can reasonably be expected to occupy the site. If a site does not meet this objective, requirements for long-term care shall be evaluated.~~

~~_____ (9) The location of a disposal site shall be compatible with the uses of surrounding environs (both the applicant's and adjacent properties).~~

§336.513. Technical Requirements for Active Disposal Sites.

~~(a) Content of license application:~~ An applicant for a license to authorize disposal of radioactive material shall submit the information required in 30 TAC 305 (relating to Consolidated Permits) and the following: *{{clarification}}*

~~(1) the information required by §336.332 of this title (relating to Method of Obtaining Approval of Proposed Disposal Procedures). This information shall include the applicant's evaluation of relevant information which demonstrates that the disposal site has no undue impact on public health or safety or the environment; *{{redundant with 305.45}}*~~

~~(1)(2) no change~~

~~(2)(3) no change~~

~~(3)(4) no change~~

~~(4)(5) no change~~

~~(6) a map of the proposed disposal location, which also shows the applicant's property boundaries and locations of nearby residences, water wells, surface water, previous waste burial sites, etc.; *{{redundant with §305.45(a)(6)}*~~

~~(5)(7) no change~~

(b) no change

(c) no change

~~§336.514. Financial Assurance for Decommissioning. {{moved to 336.619}}~~

~~(a) A financial assurance mechanism or combination of mechanisms in accordance with Subchapter I of this chapter (relating to Financial Assurance) is required for all entities currently licensed or proposed to be licensed. Federal, State or local government licensees may submit a statement of intent containing a cost estimate for decommissioning based upon the appropriate criteria listed below and indicating that funds for decommissioning will be obtained when necessary.~~

~~(b) Applicants for a new license to decommission an inactive disposal site shall submit with the application a signed statement regarding how the applicant will provide financial assurance for decommissioning using one or more of the mechanisms specified in Subchapter I of this chapter. The amount of financial assurance shall be based upon the detailed cost estimate included in the decommissioning plan submitted with the application. The financial assurance for decommissioning shall be provided at least 30 days prior to license issuance and be effective upon license issuance.~~

~~(c) Holders of licenses issued before January 1, 1998 shall submit a funding plan before January 1, 1998. Each funding plan must contain:~~

~~(1) a cost estimate for decommissioning;~~

~~(A) Each holder of a license authorizing the disposal of unsealed radioactive material with a half life greater than 120 days and in quantities exceeding 10^5 times the applicable quantities set forth in §336.521, Appendix A, of this title (relating to Radionuclide Quantities for Use in Determining Financial Assurance for Decommissioning) or when a combination of isotopes is involved if R divided by 10^5 is greater than 1 (unity rule), where R is defined as the sum of the ratios of the quantity of each isotope to the applicable value in §336.521, Appendix A of this title, shall submit a certification of financial assurance for decommissioning in an amount at least equal to \$750,000, in accordance with the criteria set forth in this subchapter and Subchapter I of this chapter;~~
or

~~(B) Each holder of a license authorizing disposal of radioactive material with a half life greater than 120 days shall provide certification of financial assurance for decommissioning based on the quantity of material as follows:~~

~~(i) \$750,000—greater than 10^4 but less than or equal to 10^5 times the applicable quantities in §336.521, Appendix A, of this title, in unsealed form. (For a combination of isotopes, if R , as defined in subsection (c)(1)(A), divided by 10^4 is greater than 1 but R divided by 10^5 is less than or equal to 1.); or~~

~~_____ (ii) \$150,000 greater than 10^3 but less than or equal to 10^4 times the applicable quantities in §336.521, Appendix A of this title in unsealed form. (For a combination of isotopes, if R, as defined in subsection (c)(1)(A) of this section, divided by 10^3 is greater than 1 but R divided by 10^4 is less than or equal to 1.)~~

~~_____ (C) Notwithstanding the requirements of subparagraph (A) and (B) of this paragraph,~~

~~_____ (i) each holder for a license authorizing the disposal of more than 100 millicuries of source material in a readily dispersible form shall submit certification that financial assurance has been provided in the amount of \$750,000.~~

~~_____ (ii) each holder for a license authorizing the disposal of quantities of source material greater than 10 millicuries but less than or equal to 100 millicuries in a readily dispersible form shall submit certification that financial assurance has been provided in the amount of \$150,000;~~

~~_____ (2) a description of the financial assurance mechanism of assuring funds for decommissioning as specified in Subchapter I of this chapter, including means for adjusting cost estimates and associated funding levels annually over the life of the facility; and~~

~~_____ (3) a certification by the licensee that a signed original of the financial assurance mechanism for decommissioning, in accordance with criteria set forth in this section and Subchapter I of this chapter, has been submitted to the executive director in the amount specified in paragraph (1) of this subsection.~~

~~_____ (d) Holders of existing licenses for inactive disposal sites shall, as part of the license renewal process, submit a signed statement adjusting the amount of financial assurance based upon the detailed cost estimate included in the decommissioning plan submitted with the renewal application. The adjusted amount of financial assurance for decommissioning shall be effective upon license renewal.~~

~~_____ (e) Holders of licenses for active disposal sites shall submit a signed statement adjusting the amount of financial assurance based upon the detailed cost estimate included in the decommissioning plan submitted no later than the date specified in §336.519(c) of this title (relating to Expiration and Termination of Licenses).~~

~~§336.515. Recordkeeping for Decommissioning. {{moved to 336.621}}~~

~~_____ Each person licensed under this subchapter shall keep records of information important to the safe and effective decommissioning of the facility in an identified location until the license is terminated~~

~~by the commission. If records of relevant information are kept for other purposes, reference to these records and their locations may be used. Information important to decommissioning consists of:~~

~~————— (1) records of spills or other unusual occurrences involving the spread of contamination in and around the disposal facility, equipment, or site. These records may be limited to instances when contamination remains after any cleanup procedures or when there is reasonable likelihood that contaminants may have spread to inaccessible areas, as in the case of possible seepage into porous materials such as concrete. These records must include any known information on identification of involved nuclides, quantities, forms, and concentrations.~~

~~————— (2) as-built drawings and modifications of structures and equipment in restricted areas where radioactive materials are disposed of and of locations of possible inaccessible contamination (e.g., buried pipes) that may be subject to contamination. If required drawings are referenced, each relevant document need not be indexed individually. If drawings are not available, the licensee shall substitute appropriate records of available information concerning these areas and locations.~~

~~————— (3) except for areas containing only radioactive materials having half-lives of less than 65 days, a list contained in a single document and updated every two years of the following:~~

~~————— (A) all areas designated as restricted areas, as defined in §336.2 of this title (relating to Definitions), and all areas formerly designated as restricted areas under rules in effect before January 1, 1994;~~

~~————— (B) all areas outside of restricted areas that require documentation under paragraph (1) of this subsection;~~

~~————— (C) all areas outside of restricted areas where current and previous wastes have been buried as documented under §336.348 of this title (relating to Records of Waste Disposal); and~~

~~————— (D) all areas outside of restricted areas which contain material such that, if the license expired, the licensee must be required to either decontaminate the area to unrestricted release levels or apply for approval for disposal under §336.332 of this title (relating to Method of Obtaining Approval of Proposed Disposal Procedures).~~

~~————— (4) records of the cost estimate performed for the funding plan or of the amount certified for decommissioning, and records of the financial assurance mechanism used for assuring funds.~~

~~§336.517. Financial Assurance for Control and Maintenance. {{moved to 336.623}}~~

~~———— (a) An applicant or licensee required to demonstrate financial assurance for control and maintenance of a site shall maintain financial assurance for control and maintenance upon license issuance and during the decommissioning period. The applicant or licensee shall provide sufficient financial assurance 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. The financial assurance mechanism(s) for control and maintenance shall comply with Subchapter I of this chapter (relating to Financial Assurance) including increasing annually the financial assurance amount for inflation or whenever modifications to the control and maintenance activities or changes to the amount being demonstrated causes the amounts for control and maintenance to increase.~~

~~———— (b) Prior to license termination, the licensee shall deposit a sum of cash acceptable to the executive director into the Texas Treasury Safekeeping Control and Maintenance account to assume and carry out responsibilities for any necessary surveillance, monitoring, control, maintenance and other care of the decommissioned disposal site on a continual basis during the institutional control period. Upon receipt of the deposit, the executive director shall release the existing financial assurance mechanism(s) for control and maintenance. If a deposit is not made into the Control and Maintenance account, the executive director shall draw on the existing financial assurance mechanism(s) and deposit the cash into the Texas Safekeeping Treasury Control and Maintenance account.~~

~~**§336.519. Expiration and Termination of Licenses. {{moved to 336.625}}**~~

~~———— (a) Each license expires at the end of the day on the expiration date stated in the license unless the licensee has filed an application for renewal not less than 30 days before the expiration date stated in the existing license. If an application for renewal in proper form has been filed at least 30 days before the expiration date stated in the existing license, the existing license shall not expire until the application has been finally determined by the commission. For the purposes of this section, "proper form" shall mean that the application includes the information required by §336.512 of this title (relating to Technical Requirements for Inactive Disposal Sites) or §336.513 of this title (relating to Technical Requirements for Active Disposal Sites). The existing license expires at the end of the day on which the commission makes a final determination to deny the renewal application or, if the determination states an expiration date, the expiration date stated in the determination.~~

~~———— (b) Each license revoked by the commission expires at the end of the day on the date of the commission's final determination to revoke the license, or on the expiration date stated in the determination, or as otherwise provided by commission order.~~

~~———— (c) Each license continues in effect, beyond the expiration date if necessary, with respect to possession of source material, byproduct material, or other radioactive material until the commission notifies the licensee in writing that the license is terminated. During this time, the licensee shall:~~

~~_____ (1) limit actions involving source material, byproduct material, or other radioactive material to those related to decommissioning; and~~

~~_____ (2) continue to control entry to restricted areas until they are suitable for release in accordance with commission requirements.~~

~~_____ (d) Within 60 days of the occurrence of any of the following, each licensee of an active disposal site shall provide written notification to the executive director:~~

~~_____ (1) The license has expired under subsection (a) or (b) of this section; or~~

~~_____ (2) The licensee has decided to permanently cease principal activities at the entire site or in any separate building or outdoor area that contains residual radioactivity such that the building or outdoor area is unsuitable for unrestricted release in accordance with commission requirements; or~~

~~_____ (3) No principal activities under the license have been conducted for a period of 24 months; or~~

~~_____ (4) No principal activities have been conducted for a period of 24 months in any separate building or outdoor area that contains residual radioactivity such that the building or outdoor area is unsuitable for release in accordance with commission requirements.~~

~~_____ (e) The licensee of an active disposal site shall either:~~

~~_____ (1) within 60 days of the occurrence for which notification is required by subsection (d) of this section, begin decommissioning its site or any separate building or outdoor area that contains residual radioactivity, according to an approved decommissioning plan, so that the building or outdoor area is suitable for release in accordance with commission requirements; or~~

~~_____ (2) if no decommissioning plan has been submitted, submit a decommissioning plan to the executive director, including a signed statement adjusting the amount of financial assurance based upon the detailed cost estimate included in the decommissioning plan, within 12 months of the notification required by subsection (d) of this section and request an amendment of the license to incorporate the plan into the license; and~~

~~_____ (3) begin decommissioning within 60 days of the approval of that plan by the commission.~~

~~_____ (f) The licensee of an inactive disposal site licensed under §336.501(e) of this title (relating to Scope and General Provisions), shall provide notice of and begin decommissioning within 90 days of license renewal. The owner or operator of an unlicensed inactive disposal site must apply for a license to decommission the site and begin decommissioning with 90 days of license approval.~~

~~(g) All licensees shall follow a commission-approved closure plan for decontamination, decommissioning, restoration, and reclamation of buildings and the site.~~

~~(1) Coincident with the notification required by subsections (d) or (f) of this section, the licensee shall continue to maintain in effect all decommissioning financial assurance until the license is terminated by the commission.~~

~~(2) The amount of the financial assurance must be increased, or may be decreased, as appropriate, to cover the detailed cost estimate for decommissioning established under §336.613(f)(5) of this title (relating to Additional Requirements).~~

~~(3) Any licensee who has not provided financial assurance to cover the detailed cost estimate submitted with the decommissioning plan shall do so on or before January 1, 1998.~~

~~(4) Following approval of the decommissioning plan, with the approval of the executive director, a licensee may reduce the amount of the financial assurance as decommissioning proceeds and radiological contamination is reduced at the site.~~

~~(h) The executive director may grant in writing a request to extend the time periods established in subsections (d), (e) or (f) of this section, or to delay or postpone the decommissioning process, if the executive director determines that this relief is not detrimental to the public health and safety and is otherwise in the public interest. The request must be submitted in writing no later than 30 days before notification under subsection (d) or (f) of this section. The schedule for decommissioning set forth in subsection (e) or (f) of this section may not commence until the executive director has made a determination on the request.~~

~~(i) Licenses, including expired licenses, will be terminated by the commission by written notice to the licensee when the executive director determines that:~~

~~(1) Source material, byproduct material, and other radioactive material has been properly disposed;~~

~~(2) Reasonable effort has been made to eliminate residual radioactive contamination, if present;~~

~~(3) The site is suitable for release.~~

~~(A) A radiation survey has been performed which demonstrates that the premises are suitable for release in accordance with commission requirements; or~~

~~(B) Other information submitted by the licensee is sufficient to demonstrate that the premises are suitable for release in accordance with commission requirements;~~

~~_____ (4) The licensee has paid any outstanding fees required by Subchapter B of Chapter 336 of this title (relating to Radioactive Substance Fees) and has resolved any outstanding notice(s) of violation issued to the licensee; and~~

~~_____ (5) The licensee has complied with all other applicable decommissioning criteria required by Subchapter G of this chapter (relating to Decommissioning Standards).~~

~~_____ (j) A licensee may request that a subsite or a portion of a licensed area be released for unrestricted use before full license termination as long as release of the area of concern will not adversely impact the remaining unaffected areas and will not be recontaminated by ongoing authorized activities. When the licensee is confident that the area of concern will be acceptable to the state for release for unrestricted use, a written request for release for unrestricted use and agency confirmation of close-out work performed must be submitted to the executive director. The request should include a comprehensive report, accompanied by survey and sample results which show contamination is less than the limits specified in §336.603 of this title (relating to Radiological Criteria for Unrestricted Use), and an explanation of how ongoing authorized activities will not adversely affect the area proposed to be released. Upon confirmation by the executive director that the area of concern is indeed releasable for unrestricted use, the licensee may apply for a license amendment, if required.~~

~~§336.521. Appendix A. Radionuclide Quantities for Use in Determining Financial Assurance for Decommissioning: *{{moved to 336.627}}*~~

_____ Radionuclide Quantities _____ for Use in Determining Financial _____ Assurance for Decommissioning	
_____ Radioactive Material	_____ Microcuries
_____ Americium-241	_____ 0.01
_____ Antimony-122	_____ 100
_____ Antimony-124	_____ 10
_____ Antimony-125	_____ 10
_____ Arsenic-73	_____ 100
_____ Arsenic-74	_____ 10
_____ Arsenic-76	_____ 10
_____ Arsenic-77	_____ 100
_____ Barium-131	_____ 10
_____ Barium-133	_____ 10
_____ Barium-140	_____ 10
_____ Bismuth-210	_____ 1

Bromine-82	10
Cadmium-109	10
Cadmium-115m	10
Cadmium-115	100
Calcium-45	10
Calcium-47	10
Carbon-14	100
Cerium-141	100
Cerium-143	100
Cerium-144	1
Cesium-131	1,000
Cesium-134m	100
Cesium-134	1
Cesium-135	10
Cesium-136	10
Cesium-137	10
Chlorine-36	10
Chlorine-38	10
Chromium-51	1,000
Cobalt-58m	10
Cobalt-58	10
Cobalt-60	1
Copper-64	100
Dysprosium-165	10
Dysprosium-166	100
Erbium-169	100
Erbium-171	100
Europium-152 (9.2 hr)	100
Europium-152 (13 yr)	1
Europium-154	1
Europium-155	10
Fluorine-18	1,000
Gadolinium-153	10
Gadolinium-159	100
Gallium-72	10
Germanium-71	100
Gold-198	100
Gold-199	100
Hafnium-181	10
Holmium-166	100
Hydrogen-3	1,000
Indium-113m	100

Indium-114m	10
Indium-115m	100
Indium-115	10
Iodine-125	1
Iodine-126	1
Iodine-129	0.1
Iodine-131	1
Iodine-132	10
Iodine-133	1
Iodine-134	10
Iodine-135	10
Iridium-192	10
Iridium-194	100
Iron-55	100
Iron-59	10
Krypton-85	100
Krypton-87	10
Lanthanum-140	10
Lutetium-177	100
Manganese-52	10
Manganese-54	10
Manganese-56	10
Mercury-197m	100
Mercury-197	100
Mercury-203	10
Molybdenum-99	100
Neodymium-147	100
Neodymium-149	100
Nickel-59	100
Nickel-63	10
Nickel-65	100
Niobium-93m	10
Niobium-95	10
Niobium-97	10
Osmium-185	10
Osmium-191m	100
Osmium-191	100
Osmium-193	100
Palladium-103	100
Palladium-109	100
Phosphorus-32	10
Platinum-191	100

Platinum-193m	100
Platinum-193	100
Platinum-197m	100
Platinum-197	100
Plutonium-239	0.01
Polonium-210	0.01
Potassium-42	10
Praseodymium-142	100
Praseodymium-143	100
Promethium-147	10
Promethium-149	10
Radium-226	0.01
Rhenium-186	100
Rhenium-188	100
Rhodium-103m	100
Rhodium-105	100
Rubidium-86	10
Rubidium-87	10
Ruthenium-97	100
Ruthenium-103	10
Ruthenium-105	10
Ruthenium-106	1
Samarium-151	10
Samarium-153	100
Scandium-46	10
Scandium-47	100
Scandium-48	10
Selenium-75	10
Silicon-31	100
Silver-105	10
Silver-110m	1
Silver-111	100
Sodium-24	10
Strontium-85	10
Strontium-89	1
Strontium-90	0.1
Strontium-91	10
Strontium-92	10
Sulfur-35	100
Tantalum-182	10
Technetium-96	10
Technetium-97m	100

Techneium-97	100
Techneium-99m	100
Techneium-99	10
Tellurium-125m	10
Tellurium-127m	10
Tellurium-127	100
Tellurium-129m	10
Tellurium-129	100
Tellurium-131m	10
Tellurium-132	10
Terbium-160	10
Thallium-200	100
Thallium-201	100
Thallium-202	100
Thallium-204	10
Thorium (natural) [†]	100
Thulium-170	10
Thulium-171	10
Tin-113	10
Tin-125	10
Tungsten-181	10
Tungsten-185	10
Tungsten-187	100
Uranium (natural) ^²	100
Uranium-233	0.01
Uranium-234, uranium-235	0.01
Vanadium-48	10
Xenon-131m	1,000
Xenon-133	100
Xenon-135	100
Ytterbium-175	100
Yttrium-90	10
Yttrium-91	10
Yttrium-92	100
Yttrium-93	100
Zinc-65	10
Zinc-69m	100
Zinc-69	1,000
Zirconium-93	10
Zirconium-95	10
Zirconium-97	10
Any alpha-emitting radionuclide	

_____	not listed above or mixtures	
_____	of alpha emitters of unknown	
_____	composition	0.01
_____	Any radionuclide other than	
_____	alpha-emitting radionuclides	
_____	not listed above or mixtures	
_____	of beta emitters of unknown	
_____	composition	0.1

Notes:

- ~~1. Based on alpha disintegration rate of thorium-232, thorium-230, and their daughter products.~~
- ~~2. Based on alpha disintegration rate of uranium-238, uranium-234, and uranium-235.~~

SUBCHAPTER G : DECOMMISSIONING STANDARDS

§336.601. Applicability.

(a) The criteria in this subchapter apply to the decommissioning of facilities regulated under Subchapter F of this chapter (relating to Licensing of Alternative Methods of Disposal of Radioactive Material), the inactive disposal sites regulated under this subchapter, and to the ancillary surface facilities that support low-level radioactive waste disposal activities at facilities licensed under Subchapter H of this chapter (relating to Licensing Requirements for Near-surface Land Disposal of Low-Level Radioactive Waste).

(b) This subchapter also establishes the criteria under which a facility may be licensed for decommissioning. ~~Licensees who have submitted a decommissioning plan to the commission and have received commission approval of the plan before the effective date of these criteria may decommission according to the regulations in place at the time of filing of the plan or according to these criteria.~~
{repeal old as obsolete, new reflects inactive sites moved from Subchapter F}

(c) no change

(d) no change

§336.602. Definitions.

Terms used in this subchapter are defined in §336.2 of this title (relating to Definitions).
Additional terms used in this subchapter have the following definitions:

(1) Control and maintenance - a term, analogous to post-closure, for licenses that have been terminated under restricted conditions only, that is the period of time that begins upon license termination and continues until the level of contamination at the site reaches the level required under §336.603 (relating to Radiological Criteria for Unrestricted Use) without institutional controls.
{{term used in Subchapter G and financial assurance provisions}}

(2) Inactive disposal site - A site or facility that:

(A) contains radioactive material disposed of below the surface, or soils or structures contaminated with radioactive material; and

(B) no longer disposes or will dispose of, or accepts or will accept for the purpose of disposal, additional radioactive material. *{{modified from 336.502}}*

(3) Institutional control - restrictions placed upon a facility or site that are:

(A) proprietary institutional controls which are put in place by the property owner, such as deed restrictions;

(B) governmental institutional controls, which are based on a government's sovereign or police powers, such as zoning, water well-use restrictions, and building permit requirements; and

(C) physical controls such as fences, markers, earthen covers, radiological monitoring and maintenance for those controls. Physical controls must be used in combination with some type of legal instrument. *{{from NRC guidance document - term used in decommissioning rules}}*

(4) Funding plan - a plan, equivalent to the decommissioning funding plan of 10 Code of Federal Regulations §30.35 (relating to Financial Assurance and Recordkeeping for Decommissioning) and §40.36 (relating to Financial Assurance and Recordkeeping for Decommissioning), submitted by the holder of an existing license before the development of a detailed decommissioning plan. The funding plan includes:

(A) an initial cost estimate for decommissioning;

(B) a description of the financial mechanism(s) utilized; and

(C) a certification by the licensee that a signed original of the financial assurance mechanism for decommissioning was submitted to the executive director. *{{from 336.502}}*

§336.603-§336.611. no change

§336.613. Additional Requirements.

(a) The requirements of this section do not apply to licenses issued under Subchapter H of this chapter (relating to Licensing Requirements for Near-surface Land Disposal of Low-Level Radioactive Waste). ~~apply only to licenses issued under Subchapter F of this chapter (relating to Licensing of Alternative Methods of Disposal of Radioactive Material).~~

(b) A decommissioning plan shall be submitted with the license application required by §336.615 of this title relating to (Inactive Disposal Sites) §336.501(e) of this title (relating to Scope and General Provisions). Holders of licenses of inactive disposal sites shall submit a decommissioning plan with the renewal application. Holders of licenses of active disposal sites shall submit a decommissioning plan no later than the date specified in §336.625(e)(2) of this title §336.519(e)(2) of this title (relating to Expiration and Termination of Licenses).

(c) The executive director may approve an alternate schedule for submittal of a decommissioning plan required under §336.625(e)(2) ~~§336.519(e)(2)~~ of this title if the executive director determines that:

(1) the alternative schedule is necessary for the effective conduct of decommissioning operations; and

(2) presents no undue risk from radiation to the public health and safety and is otherwise in the public interest.

(d) - (l) no change

§336.615. Inactive Disposal Sites. *{moved from §336.501(c)}*

Any person who owns, operates, controls, or possesses an inactive disposal site and who does not hold a current radioactive material license for the inactive disposal site shall apply for a license to decommission by January 1, 2000. Any decommissioning performed to fulfill this provision shall be performed by an individual who is qualified and licensed to perform the activities, ensuring that all appropriate radiation protection standards for workers and the public are met, including the maintenance of records.

(1) If the site meets the requirements for unrestricted use of §336.603 of this title, (relating to Radiological Criteria for Unrestricted Use), the owner shall submit to the executive director the information required by §336.603(c) of this title before January 1, 2000. Once the executive director verifies that the criteria have been met, the executive director will certify in writing that the owner is in compliance with the regulations and will not require any further cleanup, unless there is new evidence that the decommissioning standards for unrestricted use were not met and that residual radioactivity remaining at the site could result in significant threat to public health and safety.

(2) If a site is decommissioned for unrestricted use under §336.603 of this title before January 1, 2000, a license is not required. If decommissioning is completed before January 1, 2000, proof of decommissioning must be submitted to the agency before January 1, 2000, or the owner shall submit an application for license by that date. Once the executive director verifies that the criteria have been met, the executive director will certify in writing that the owner is in compliance with the regulations and will not require any further cleanup, unless there is new evidence that the decommissioning standards for unrestricted use were not met and that residual radioactivity remaining at the site could result in significant threat to public health and safety.

(3) If a site does not meet the requirements for unrestricted use and the owner does not decommission before January 1, 2000, or if the owner plans to decommission under §336.607 of this title (relating to Criteria for License Termination under Restricted Conditions) or §336.609 of this title

(relating to Alternate Criteria for License Termination), the owner shall apply for a license to decommission by January 1, 2000. The applicant shall provide the information required by this subchapter using a form provided by the agency.

§336.617. Technical Requirements for Inactive Disposal Sites. *{{moved unchanged except for (a) from §336.512}}*

(a) An applicant for a license to authorize possession of disposed radioactive material and subsequent decommissioning of an inactive disposal site shall submit the information required in 30 TAC 305 (relating to Consolidated Permits), and the following, using the application form provided by the agency:

(1) information on the concentration and total activity of each radionuclide disposed of, packaging of the wastes, the characteristics of the disposal site (e.g., geological, hydrological, and topographical), as-built disposal trench or landfill construction, final cover construction, and depth of burial of wastes. This information shall be as complete and accurate as possible based on the full extent of information available to the applicant about the previous disposal activities;

(2) a description of any radiological monitoring performed at the site and the resulting data;

(3) the technical qualifications and identity of personnel responsible for radiation safety functions at the site;

(4) a description of the methods of restricting access to the site (e.g., fencing) and any permanent site markers;

(5) information on land ownership and any covenants on land use imposed by recorded title documents;

(6) a decommissioning plan that meets the standards in Subchapter G of this chapter (relating to Decommissioning Standards), including an evaluation of the alternative of disposing of the radioactive material at a licensed disposal facility;

(7) information regarding financial assurance for decommissioning as provided for in §336.619 of this title (relating to Financial Assurance for Decommissioning); and

(8) for license applications other than renewals, a description of how facility design and procedures for operation minimize, to the extent practicable, contamination of the facility and the environment, facilitate eventual decommissioning, and minimize, to the extent practicable, the generation of radioactive wastes.

(b) Content of application for renewal of license.

(1) An applicant for renewal of a license authorizing possession of disposed radioactive material in an inactive disposal site or to decommission an inactive disposal site shall submit information using the application form provided by the agency on:

(A) the current conditions of the site (e.g., site stability and any maintenance performed at the site);

(B) any radiological monitoring performed at the site by the licensee and the resulting data;

(C) the methods of restricting access to the site;

(D) any changes in or additions to the procedures or information contained in previous applications;

(E) the technical qualifications and identity of personnel responsible for radiation safety functions at the site;

(F) a decommissioning plan that meets the standards in Subchapter G of this chapter, if not previously submitted, including an evaluation of the alternative of disposing of the radioactive material at a licensed disposal facility; and

(G) financial assurance for decommissioning as provided for in §336.619 of this title (relating to Financial Assurance for Decommissioning).

(2) The executive director may request additional information, such as that required by subsection (a) of this section, if this information was not previously provided for the site or is not current.

(c) The applicant's submittal shall include sufficient information to enable the executive director to assess the potential hazard to public health and safety and to determine whether the disposal site will have a significant impact on the environment. The executive director shall evaluate existing inactive disposal sites on a case-by-case basis and may consider the following general criteria and performance objectives in making the evaluation:

(1) Radiation exposure and release of radioactive materials from a disposal site shall be maintained as low as is reasonably achievable. Reasonable assurance must be provided that the potential dose to an individual on or near the site will be within acceptable limits. The estimated committed effective dose equivalent resulting from a radiological assessment of a site will usually be the determining factor in the granting of authorization for a disposal site. If the projected dose to a

member of the public exceeds 25 millirems per year, the executive director shall consider other factors in determining whether to grant authorization for the site, including, but not limited to, the use of institutional controls to restrict access for a specified period of time.

(2) The location and characteristics of a site shall be such as to preclude potential offsite migration or transport of radioactive materials or ready access to critical exposure pathways.

(3) The general topography of the disposal site shall be compatible with its use for waste burial. As an example, surface features shall direct surface water drainage away from the disposal site. Wastes must not be buried in locations which, once covered, would tend to collect surface water. The characteristics of the site shall minimize to the extent practicable the potential for erosion and contact of percolating or standing water with wastes.

(4) Water-bearing strata shall be a minimum of 10 feet below the depth at which waste is buried.

(5) Waste shall be emplaced in a manner that minimizes the void spaces between packages and permits the void spaces to be filled.

(6) Void spaces between waste packages shall be filled with earth or other material to reduce future subsidence within the fill.

(7) Cover design shall minimize water infiltration to the extent practicable, direct percolating or surface water away from the disposed waste, and resist degradation by surface geologic processes and biotic activity.

(8) In general, a site authorized under this subchapter shall be located, designed, operated, and closed so that long-term isolation and custodial care for long-term stability would not be required beyond the time the licensee can reasonably be expected to occupy the site. If a site does not meet this objective, requirements for long-term care shall be evaluated.

(9) The location of a disposal site shall be compatible with the uses of surrounding environs (both the applicant's and adjacent properties).

§336.619. Financial Assurance for Decommissioning. *{moved essentially unchanged, except for cross-references, from 336.514}*

(a) A financial assurance mechanism or combination of mechanisms in accordance with Chapter 37 of this title (relating to Financial Assurance) is required for all entities currently licensed or proposed to be licensed. Federal, State or local government licensees may submit a statement of intent

containing a cost estimate for decommissioning based upon the appropriate criteria listed below and indicating that funds for decommissioning will be obtained when necessary.

(b) Applicants for a new license to decommission an inactive disposal site shall submit with the application a signed statement regarding how the applicant will provide financial assurance for decommissioning using one or more of the mechanisms specified in Subchapter I of this chapter. The amount of financial assurance shall be based upon the detailed cost estimate included in the decommissioning plan submitted with the application. The financial assurance for decommissioning shall be provided at least 30 days prior to license issuance and be effective upon license issuance.

(c) Holders of licenses issued before January 1, 1998 shall submit a funding plan before January 1, 1998. Each funding plan must contain:

(1) a cost estimate for decommissioning:

(A) Each holder of a license authorizing the disposal of unsealed radioactive material with a half-life greater than 120 days and in quantities exceeding 10^5 times the applicable quantities set forth in §336.627, Appendix A, of this title (relating to Radionuclide Quantities for Use in Determining Financial Assurance for Decommissioning) or when a combination of isotopes is involved if R divided by 10^5 is greater than 1 (unity rule), where R is defined as the sum of the ratios of the quantity of each isotope to the applicable value in §336.627, Appendix A of this title, shall submit a certification of financial assurance for decommissioning in an amount at least equal to \$750,000, in accordance with the criteria set forth in this subchapter and Subchapter I of this chapter;
or

(B) Each holder of a license authorizing disposal of radioactive material with a half-life greater than 120 days shall provide certification of financial assurance for decommissioning based on the quantity of material as follows:

(i) \$750,000--greater than 10^4 but less than or equal to 10^5 times the applicable quantities in §336.627, Appendix A, of this title, in unsealed form. (For a combination of isotopes, if R, as defined in subsection (c)(1)(A), divided by 10^4 is greater than 1 but R divided by 10^5 is less than or equal to 1.); or

(ii) \$150,000--greater than 10^3 but less than or equal to 10^4 times the applicable quantities in §336.627, Appendix A of this title in unsealed form. (For a combination of isotopes, if R, as defined in subsection (c)(1)(A) of this section, divided by 10^3 is greater than 1 but R divided by 10^4 is less than or equal to 1.).

(C) Notwithstanding the requirements of subparagraph (A) and (B) of this paragraph.

(i) each holder for a license authorizing the disposal of more than 100 millicuries of source material in a readily dispersible form shall submit certification that financial assurance has been provided in the amount of \$750,000.

(ii) each holder for a license authorizing the disposal of quantities of source material greater than 10 millicuries but less than or equal to 100 millicuries in a readily dispersible form shall submit certification that financial assurance has been provided in the amount of \$150,000;

(2) a description of the financial assurance mechanism of assuring funds for decommissioning as specified in Subchapter I of this chapter, including means for adjusting cost estimates and associated funding levels annually over the life of the facility; and

(3) a certification by the licensee that a signed original of the financial assurance mechanism for decommissioning, in accordance with criteria set forth in this section and Subchapter I of this chapter, has been submitted to the executive director in the amount specified in paragraph (1) of this subsection.

(d) Holders of existing licenses for inactive disposal sites shall, as part of the license renewal process, submit a signed statement adjusting the amount of financial assurance based upon the detailed cost estimate included in the decommissioning plan submitted with the renewal application. The adjusted amount of financial assurance for decommissioning shall be effective upon license renewal.

(e) Holders of licenses for active disposal sites shall submit a signed statement adjusting the amount of financial assurance based upon the detailed cost estimate included in the decommissioning plan submitted no later than the date specified in §336.519(e) of this title (relating to Expiration and Termination of Licenses).

§336.621. Recordkeeping for Decommissioning. *{moved essentially unchanged except for cross-references from §336.515 and clarification of (3)(D)}*

Each person licensed under this chapter shall keep records of information important to the safe and effective decommissioning of the facility in an identified location until the license is terminated by the commission. If records of relevant information are kept for other purposes, reference to these records and their locations may be used. Information important to decommissioning consists of:

(1) records of spills or other unusual occurrences involving the spread of contamination in and around the disposal facility, equipment, or site. These records may be limited to instances when contamination remains after any cleanup procedures or when there is reasonable likelihood that contaminants may have spread to inaccessible areas, as in the case of possible seepage

into porous materials such as concrete. These records must include any known information on identification of involved nuclides, quantities, forms, and concentrations.

(2) as-built drawings and modifications of structures and equipment in restricted areas where radioactive materials are disposed of and of locations of possible inaccessible contamination (e.g., buried pipes) that may be subject to contamination. If required drawings are referenced, each relevant document need not be indexed individually. If drawings are not available, the licensee shall substitute appropriate records of available information concerning these areas and locations.

(3) except for areas containing only radioactive materials having half-lives of less than 65 days, a list contained in a single document and updated every two years of the following:

(A) all areas designated as restricted areas, as defined in §336.2 of this title (relating to Definitions), and all areas formerly designated as restricted areas under rules in effect before January 1, 1994;

(B) all areas outside of restricted areas that require documentation under paragraph (1) of this subsection;

(C) all areas outside of restricted areas where current and previous wastes have been buried as documented under §336.338 of this title (relating to General Recordkeeping Requirements for Disposal); and

(D) all areas outside of restricted areas which contain material such that, if the license expired, the licensee must be required to decontaminate the area to unrestricted release levels. *{{compatibility with decommissioning standards}}*

(4) records of the cost estimate performed for the funding plan or of the amount certified for decommissioning, and records of the financial assurance mechanism used for assuring funds.

§336.623. Financial Assurance for Control and Maintenance. *{unchanged from §336.517}*

(a) An applicant or licensee required to demonstrate financial assurance for control and maintenance of a site shall maintain financial assurance for control and maintenance upon license issuance and during the decommissioning period. The applicant or licensee shall provide sufficient financial assurance 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. The financial assurance mechanism(s) for control and maintenance shall comply with Subchapter I of this chapter (relating to Financial Assurance) including increasing annually the financial assurance amount

for inflation or whenever modifications to the control and maintenance activities or changes to the amount being demonstrated causes the amounts for control and maintenance to increase.

(b) Prior to license termination, the licensee shall deposit a sum of cash acceptable to the executive director into the Texas Treasury Safekeeping Control and Maintenance account to assume and carry out responsibilities for any necessary surveillance, monitoring, control, maintenance and other care of the decommissioned disposal site on a continual basis during the institutional control period. Upon receipt of the deposit, the executive director shall release the existing financial assurance mechanism(s) for control and maintenance. If a deposit is not made into the Control and Maintenance account, the executive director shall draw on the existing financial assurance mechanism(s) and deposit the cash into the Texas Safekeeping Treasury Control and Maintenance account.

§336.625. Expiration and Termination of Licenses. *{unchanged except for cross-references from 336.519}*

(a) Each license expires at the end of the day on the expiration date stated in the license unless the licensee has filed an application for renewal not less than 30 days before the expiration date stated in the existing license. If an application for renewal in proper form has been filed at least 30 days before the expiration date stated in the existing license, the existing license shall not expire until the application has been finally determined by the commission. For the purposes of this section, "proper form" shall mean that the application includes the information required by §336.617 of this title (relating to Technical Requirements for Inactive Disposal Sites) or §336.513 of this title (relating to Technical Requirements for Active Disposal Sites). The existing license expires at the end of the day on which the commission makes a final determination to deny the renewal application or, if the determination states an expiration date, the expiration date stated in the determination.

(b) Each license revoked by the commission expires at the end of the day on the date of the commission's final determination to revoke the license, or on the expiration date stated in the determination, or as otherwise provided by commission order.

(c) Each license continues in effect, beyond the expiration date if necessary, with respect to possession of source material, byproduct material, or other radioactive material until the commission notifies the licensee in writing that the license is terminated. During this time, the licensee shall:

(1) limit actions involving source material, byproduct material, or other radioactive material to those related to decommissioning; and

(2) continue to control entry to restricted areas until they are suitable for release in accordance with commission requirements.

(d) Within 60 days of the occurrence of any of the following, each licensee of an active disposal site shall provide written notification to the executive director:

(1) The license has expired under subsection (a) or (b) of this section; or

(2) The licensee has decided to permanently cease principal activities at the entire site or in any separate building or outdoor area that contains residual radioactivity such that the building or outdoor area is unsuitable for unrestricted release in accordance with commission requirements; or

(3) No principal activities under the license have been conducted for a period of 24 months; or

(4) No principal activities have been conducted for a period of 24 months in any separate building or outdoor area that contains residual radioactivity such that the building or outdoor area is unsuitable for release in accordance with commission requirements.

(e) The licensee of an active disposal site shall either:

(1) within 60 days of the occurrence for which notification is required by subsection (d) of this section, begin decommissioning its site or any separate building or outdoor area that contains residual radioactivity, according to an approved decommissioning plan, so that the building or outdoor area is suitable for release in accordance with commission requirements; or

(2) if no decommissioning plan has been submitted, submit a decommissioning plan to the executive director, including a signed statement adjusting the amount of financial assurance based upon the detailed cost estimate included in the decommissioning plan, within 12 months of the notification required by subsection (d) of this section and request an amendment of the license to incorporate the plan into the license; and

(3) begin decommissioning within 60 days of the approval of that plan by the commission.

(f) The licensee of an inactive disposal site licensed under §336.615 of this title (relating to Inactive Disposal Sites), shall provide notice of and begin decommissioning within 90 days of license renewal. The owner or operator of an unlicensed inactive disposal site must apply for a license to decommission the site and begin decommissioning with 90 days of license approval.

(g) All licensees shall follow a commission-approved closure plan for decontamination, decommissioning, restoration, and reclamation of buildings and the site.

(1) Coincident with the notification required by subsections (d) or (f) of this section, the licensee shall continue to maintain in effect all decommissioning financial assurance until the license is terminated by the commission.

(2) The amount of the financial assurance must be increased, or may be decreased, as appropriate, to cover the detailed cost estimate for decommissioning established under §336.613(f)(5) of this title (relating to Additional Requirements).

(3) Any licensee who has not provided financial assurance to cover the detailed cost estimate submitted with the decommissioning plan shall do so on or before January 1, 1998.

(4) Following approval of the decommissioning plan, with the approval of the executive director, a licensee may reduce the amount of the financial assurance as decommissioning proceeds and radiological contamination is reduced at the site.

(h) The executive director may grant in writing a request to extend the time periods established in subsections (d), (e) or (f) of this section, or to delay or postpone the decommissioning process, if the executive director determines that this relief is not detrimental to the public health and safety and is otherwise in the public interest. The request must be submitted in writing no later than 30 days before notification under subsection (d) or (f) of this section. The schedule for decommissioning set forth in subsection (e) or (f) of this section may not commence until the executive director has made a determination on the request.

(i) Licenses, including expired licenses, will be terminated by the commission by written notice to the licensee when the executive director determines that:

(1) Source material, byproduct material, and other radioactive material has been properly disposed;

(2) Reasonable effort has been made to eliminate residual radioactive contamination, if present;

(3) The site is suitable for release.

(A) A radiation survey has been performed which demonstrates that the premises are suitable for release in accordance with commission requirements; or

(B) Other information submitted by the licensee is sufficient to demonstrate that the premises are suitable for release in accordance with commission requirements;

(4) The licensee has paid any outstanding fees required by Subchapter B of Chapter 336 of this title (relating to Radioactive Substance Fees) and has resolved any outstanding notice(s) of violation issued to the licensee; and

(5) The licensee has complied with all other applicable decommissioning criteria required by this subchapter.

(j) A licensee may request that a subsite or a portion of a licensed area be released for unrestricted use before full license termination as long as release of the area of concern will not adversely impact the remaining unaffected areas and will not be recontaminated by ongoing authorized activities. When the licensee is confident that the area of concern will be acceptable to the state for release for unrestricted use, a written request for release for unrestricted use and agency confirmation of close-out work performed must be submitted to the executive director. The request should include a comprehensive report, accompanied by survey and sample results which show contamination is less than the limits specified in §336.603 of this title (relating to Radiological Criteria for Unrestricted Use), and an explanation of how ongoing authorized activities will not adversely affect the area proposed to be released. Upon confirmation by the executive director that the area of concern is indeed releasable for unrestricted use, the licensee may apply for a license amendment, if required.

§336.627. Appendix A. Radionuclide Quantities for Use in Determining Financial Assurance for Decommissioning. {moved unchanged from 336.521}

Radionuclide Quantities
for Use in Determining Financial
Assurance for Decommissioning

<u>Radioactive Material</u>	<u>Microcuries</u>
<u>Americium-241</u>	<u>0.01</u>
<u>Antimony-122</u>	<u>100</u>
<u>Antimony-124</u>	<u>10</u>
<u>Antimony-125</u>	<u>10</u>
<u>Arsenic-73</u>	<u>100</u>
<u>Arsenic-74</u>	<u>10</u>
<u>Arsenic-76</u>	<u>10</u>
<u>Arsenic-77</u>	<u>100</u>
<u>Barium-131</u>	<u>10</u>
<u>Barium-133</u>	<u>10</u>
<u>Barium-140</u>	<u>10</u>
<u>Bismuth-210</u>	<u>1</u>

<u>Bromine-82</u>	<u>10</u>
<u>Cadmium-109</u>	<u>10</u>
<u>Cadmium-115m</u>	<u>10</u>
<u>Cadmium-115</u>	<u>100</u>
<u>Calcium-45</u>	<u>10</u>
<u>Calcium-47</u>	<u>10</u>
<u>Carbon-14</u>	<u>100</u>
<u>Cerium-141</u>	<u>100</u>
<u>Cerium-143</u>	<u>100</u>
<u>Cerium-144</u>	<u>1</u>
<u>Cesium-131</u>	<u>1,000</u>
<u>Cesium-134m</u>	<u>100</u>
<u>Cesium-134</u>	<u>1</u>
<u>Cesium-135</u>	<u>10</u>
<u>Cesium-136</u>	<u>10</u>
<u>Cesium-137</u>	<u>10</u>
<u>Chlorine-36</u>	<u>10</u>
<u>Chlorine-38</u>	<u>10</u>
<u>Chromium-51</u>	<u>1,000</u>
<u>Cobalt-58m</u>	<u>10</u>
<u>Cobalt-58</u>	<u>10</u>
<u>Cobalt-60</u>	<u>1</u>
<u>Copper-64</u>	<u>100</u>
<u>Dysprosium-165</u>	<u>10</u>
<u>Dysprosium-166</u>	<u>100</u>
<u>Erbium-169</u>	<u>100</u>
<u>Erbium-171</u>	<u>100</u>
<u>Europium-152 (9.2 hr)</u>	<u>100</u>
<u>Europium-152 (13 yr)</u>	<u>1</u>
<u>Europium-154</u>	<u>1</u>
<u>Europium-155</u>	<u>10</u>
<u>Fluorine-18</u>	<u>1,000</u>
<u>Gadolinium-153</u>	<u>10</u>
<u>Gadolinium-159</u>	<u>100</u>
<u>Gallium-72</u>	<u>10</u>
<u>Germanium-71</u>	<u>100</u>
<u>Gold-198</u>	<u>100</u>
<u>Gold-199</u>	<u>100</u>
<u>Hafnium-181</u>	<u>10</u>
<u>Holmium-166</u>	<u>100</u>
<u>Hydrogen-3</u>	<u>1,000</u>
<u>Indium-113m</u>	<u>100</u>

<u>Indium-114m</u>	<u>10</u>
<u>Indium-115m</u>	<u>100</u>
<u>Indium-115</u>	<u>10</u>
<u>Iodine-125</u>	<u>1</u>
<u>Iodine-126</u>	<u>1</u>
<u>Iodine-129</u>	<u>0.1</u>
<u>Iodine-131</u>	<u>1</u>
<u>Iodine-132</u>	<u>10</u>
<u>Iodine-133</u>	<u>1</u>
<u>Iodine-134</u>	<u>10</u>
<u>Iodine-135</u>	<u>10</u>
<u>Iridium-192</u>	<u>10</u>
<u>Iridium-194</u>	<u>100</u>
<u>Iron-55</u>	<u>100</u>
<u>Iron-59</u>	<u>10</u>
<u>Krypton-85</u>	<u>100</u>
<u>Krypton-87</u>	<u>10</u>
<u>Lanthanum-140</u>	<u>10</u>
<u>Lutetium-177</u>	<u>100</u>
<u>Manganese-52</u>	<u>10</u>
<u>Manganese-54</u>	<u>10</u>
<u>Manganese-56</u>	<u>10</u>
<u>Mercury-197m</u>	<u>100</u>
<u>Mercury-197</u>	<u>100</u>
<u>Mercury-203</u>	<u>10</u>
<u>Molybdenum-99</u>	<u>100</u>
<u>Neodymium-147</u>	<u>100</u>
<u>Neodymium-149</u>	<u>100</u>
<u>Nickel-59</u>	<u>100</u>
<u>Nickel-63</u>	<u>10</u>
<u>Nickel-65</u>	<u>100</u>
<u>Niobium-93m</u>	<u>10</u>
<u>Niobium-95</u>	<u>10</u>
<u>Niobium-97</u>	<u>10</u>
<u>Osmium-185</u>	<u>10</u>
<u>Osmium-191m</u>	<u>100</u>
<u>Osmium-191</u>	<u>100</u>
<u>Osmium-193</u>	<u>100</u>
<u>Palladium-103</u>	<u>100</u>
<u>Palladium-109</u>	<u>100</u>
<u>Phosphorus-32</u>	<u>10</u>
<u>Platinum-191</u>	<u>100</u>

<u>Platinum-193m</u>	<u>100</u>
<u>Platinum-193</u>	<u>100</u>
<u>Platinum-197m</u>	<u>100</u>
<u>Platinum-197</u>	<u>100</u>
<u>Plutonium-239</u>	<u>0.01</u>
<u>Polonium-210</u>	<u>0.01</u>
<u>Potassium-42</u>	<u>10</u>
<u>Praseodymium-142</u>	<u>100</u>
<u>Praseodymium-143</u>	<u>100</u>
<u>Promethium-147</u>	<u>10</u>
<u>Promethium-149</u>	<u>10</u>
<u>Radium-226</u>	<u>0.01</u>
<u>Rhenium-186</u>	<u>100</u>
<u>Rhenium-188</u>	<u>100</u>
<u>Rhodium-103m</u>	<u>100</u>
<u>Rhodium-105</u>	<u>100</u>
<u>Rubidium-86</u>	<u>10</u>
<u>Rubidium-87</u>	<u>10</u>
<u>Ruthenium-97</u>	<u>100</u>
<u>Ruthenium-103</u>	<u>10</u>
<u>Ruthenium-105</u>	<u>10</u>
<u>Ruthenium-106</u>	<u>1</u>
<u>Samarium-151</u>	<u>10</u>
<u>Samarium-153</u>	<u>100</u>
<u>Scandium-46</u>	<u>10</u>
<u>Scandium-47</u>	<u>100</u>
<u>Scandium-48</u>	<u>10</u>
<u>Selenium-75</u>	<u>10</u>
<u>Silicon-31</u>	<u>100</u>
<u>Silver-105</u>	<u>10</u>
<u>Silver-110m</u>	<u>1</u>
<u>Silver-111</u>	<u>100</u>
<u>Sodium-24</u>	<u>10</u>
<u>Strontium-85</u>	<u>10</u>
<u>Strontium-89</u>	<u>1</u>
<u>Strontium-90</u>	<u>0.1</u>
<u>Strontium-91</u>	<u>10</u>
<u>Strontium-92</u>	<u>10</u>
<u>Sulfur-35</u>	<u>100</u>
<u>Tantalum-182</u>	<u>10</u>
<u>Technetium-96</u>	<u>10</u>
<u>Technetium-97m</u>	<u>100</u>

<u>Technetium-97</u>	<u>100</u>
<u>Technetium-99m</u>	<u>100</u>
<u>Technetium-99</u>	<u>10</u>
<u>Tellurium-125m</u>	<u>10</u>
<u>Tellurium-127m</u>	<u>10</u>
<u>Tellurium-127</u>	<u>100</u>
<u>Tellurium-129m</u>	<u>10</u>
<u>Tellurium-129</u>	<u>100</u>
<u>Tellurium-131m</u>	<u>10</u>
<u>Tellurium-132</u>	<u>10</u>
<u>Terbium-160</u>	<u>10</u>
<u>Thallium-200</u>	<u>100</u>
<u>Thallium-201</u>	<u>100</u>
<u>Thallium-202</u>	<u>100</u>
<u>Thallium-204</u>	<u>10</u>
<u>Thorium (natural)¹</u>	<u>100</u>
<u>Thulium-170</u>	<u>10</u>
<u>Thulium-171</u>	<u>10</u>
<u>Tin-113</u>	<u>10</u>
<u>Tin-125</u>	<u>10</u>
<u>Tungsten-181</u>	<u>10</u>
<u>Tungsten-185</u>	<u>10</u>
<u>Tungsten-187</u>	<u>100</u>
<u>Uranium (natural)²</u>	<u>100</u>
<u>Uranium-233</u>	<u>0.01</u>
<u>Uranium-234, uranium-235</u>	<u>0.01</u>
<u>Vanadium-48</u>	<u>10</u>
<u>Xenon-131m</u>	<u>1,000</u>
<u>Xenon-133</u>	<u>100</u>
<u>Xenon-135</u>	<u>100</u>
<u>Ytterbium-175</u>	<u>100</u>
<u>Yttrium-90</u>	<u>10</u>
<u>Yttrium-91</u>	<u>10</u>
<u>Yttrium-92</u>	<u>100</u>
<u>Yttrium-93</u>	<u>100</u>
<u>Zinc-65</u>	<u>10</u>
<u>Zinc-69m</u>	<u>100</u>
<u>Zinc-69</u>	<u>1,000</u>
<u>Zirconium-93</u>	<u>10</u>
<u>Zirconium-95</u>	<u>10</u>
<u>Zirconium-97</u>	<u>10</u>
<u>Any alpha-emitting radionuclide</u>	

<u>not listed above or mixtures of alpha emitters of unknown composition</u>	<u>0.01</u>
<u>Any radionuclide other than alpha-emitting radionuclides not listed above or mixtures of beta emitters of unknown composition</u>	<u>0.1</u>

Notes:

1. Based on alpha disintegration rate of thorium-232, thorium-230, and their daughter products.
2. Based on alpha disintegration rate of uranium-238, uranium-234, and uranium-235.

**SUBCHAPTER H : LICENSING REQUIREMENTS FOR NEAR-SURFACE
LAND DISPOSAL OF LOW-LEVEL RADIOACTIVE WASTE**

§336.701. Scope and General Provisions.

(a) This subchapter establishes, for near-surface land disposal of low-level radioactive waste and accelerator-produced radioactive material, the procedures, criteria, and terms and conditions upon which the commission issues a license for the disposal of low-level radioactive wastes and accelerator-produced radioactive material received from other persons. The rules in this subchapter apply to disposal of low-level radioactive waste and accelerator-produced radioactive material as defined in §336.2 of this title (relating to Definitions). For the purpose of this subchapter, the term "low-level radioactive waste" includes accelerator-produced radioactive material. If there is a conflict between the rules of the commission and the rules of this subchapter, the rules of this subchapter shall prevail. No person may engage in disposal of low-level radioactive waste received from other persons except as authorized in a specific license issued under this subchapter. A licensee under this subchapter may conduct processing of low-level radioactive waste received for disposal at the licensed site, incidental to the disposal of that waste, in accordance with provisions of the commission license which authorizes the disposal.

(b) A licensee authorized to dispose of low-level radioactive waste under the rules in this subchapter shall not accept for disposal:

(1) high-level radioactive waste as defined in 10 CFR 60.2 as amended through October 27, 1988 (53 FedReg 43421) (relating to Definitions - high-level radioactive wastes in geologic repositories);

(2) byproduct material as defined in §336.2(13)(B), ~~subparagraph (B)~~ of this title (relating to Definitions), ~~except as provided in subsection (c) of this section; {{TNRCC has no jurisdiction, correcting cite}}~~

~~(3) waste containing transuranic radionuclides in concentrations of 10 or more nanocuries per gram. This limit of 10 nanocuries per gram of transuranics shall not be equaled or exceeded in waste disposed of at a land disposal facility licensed under the rules in this subchapter, notwithstanding the concentration limits for transuranics specified in §336.362, Appendix E, of this title (relating to Classification and Characteristics of Low-Level Radioactive Waste);~~ *{{per Arnoldo's recommendation HB 1172 compatibility}}*

~~(3)(4)~~ spent or irradiated nuclear fuel; or

~~(4)~~ ~~(5)~~ waste that is not generally acceptable for near-surface disposal as specified in §336.362, Appendix E, of this title.

~~(e) A licensee authorized to dispose of radioactive waste under the rules in this subchapter may accept in any one calendar year, from January 1 through December 31 of each year, byproduct material as defined in §336.2, subparagraph (B) of this title, in a total quantity not exceeding 10,000 kilograms and containing no more than five millicuries of radium-226, provided that the near-surface disposal license specifically authorizes by license condition the acceptance for disposal of such byproduct material in quantities as provided for in this subsection. {{per Arnoldo's note: TNRCC does not have jurisdiction over this type of byproduct}}~~

~~(c)~~ ~~(d)~~ In addition to the requirements of this subchapter, all licensees, unless otherwise specified, are subject to the requirements of Subchapters A-E and G of this chapter (relating to General Provisions; Radioactive Substance Fees; General Disposal Requirements; ~~Additional Application, Operation, and License Requirements~~; Standards for Protection Against Radiation; Notices, Instructions, and Reports to Workers and Inspections; and Decommissioning Standards).

~~(d)~~ ~~(e)~~ Requirements for On-site disposal of low-level radioactive waste at any site authorized under §336.501(b) of this title (relating to Scope and General Provisions), by an individual waste generator are set forth in Subchapter C-D of this chapter (relating to General Disposal Requirements) and Subchapter F of this chapter (relating to Licensing of Alternative Methods of Disposal of Radioactive Material), and this disposal is not subject to licensing under this subchapter. The license requirements are found in Subchapter F of this chapter (relating to Licensing of Alternative Methods of Disposal of Radioactive Material). *{{clarification}}*

~~(e)~~ Shipment and transportation of low-level radioactive waste to a licensed land disposal facility in Texas is subject to applicable rules of the Texas Department of Health, United States Department of Transportation, and United States Nuclear Regulatory Commission. Each shipment of low-level radioactive waste to a licensed land disposal facility in Texas is subject to inspection by the Texas Department of Health before shipment. *{{moved from 336.339}}*

§336.702. Definitions.

Terms used in this subchapter are defined in §336.2 of this title (relating to Definitions). Additional terms used in this subchapter have the following definitions:

(1) - (5) no change

~~(6) Disposal - The isolation of radioactive waste from the biosphere inhabited by man and containing his food chains by emplacement in a land disposal facility.~~ *{{redundant with disposal definition in Subchapter A}}*

(7) - (21) no change *{{except to renumber}}*

(22) **Waste** - See "low-level radioactive waste" as defined in 336.2 of this title. ~~[Radioactive waste, or low-level radioactive waste, as defined in §336.2 of this title (relating to Definitions) which is acceptable for disposal in a land disposal facility. Notwithstanding the definitions in §336.2 of this title, the term "waste" as used in this subchapter includes transuramics in concentrations less than 10 nanocuries per gram, as provided in §336.701(b)(3) of this title (relating to Scope and General Provisions), and byproduct material which meets the limitations of §336.701(e) of this title.]~~ *{{from 10 CFR 61.2, compatibility level B - state must adopt essentially the same as NRC, also HB 1172}}*

§336.703-704 no change

§336.705. Content of Application.

An application for a license to receive, possess, and dispose of waste from other persons by near-surface land disposal shall consist of, but is not limited to, the information set forth in 30 TAC 305 of this title (relating to Consolidated Permits), §336.706 of this title (relating to General Information), §336.707 of this title (relating to Specific Technical Information), §336.708 of this title (relating to Environmental Information), §336.709 of this title (relating to Technical and Environmental Analyses), §336.710 of this title (relating to Institutional Information), and §336.711 of this title (relating to Financial Information).

336.706-717. no change

§336.718. Application for Renewal or Closure.

(a) Any expiration date on a license applies only to the above ground activities and to the authority to dispose of waste. Failure to renew the license shall not relieve the licensee of responsibility for completing site closure, post-closure observation, and transfer of the license to the custodial agency. An application for renewal or an application for closure under §336.719 of this title (relating to Content of Application for Closure) shall be filed at least 30 days before license expiration.

(b) Applications for renewal of a license shall be filed in accordance with 30 TAC 305 of this title (relating to Consolidated Permits), §336.705 of this title (relating to Content of Application), §336.706 of this title (relating to General Information), §336.707 of this title (relating to Specific Technical Information), §336.708 of this title (relating to Environmental Information), §336.709 of this title (relating to Technical and Environmental Analyses), §336.710 of this title (relating to Institutional Information), §336.711 of this title (relating to Financial Information) and the rules of the commission. Applications for closure shall be filed in accordance with §336.719 of this title (relating to Content of Application for Closure) and the rules of the commission.

(c) In any case in which a licensee has timely filed an application for renewal of a license, the license for continued receipt and disposal of licensed materials shall not expire until the commission has taken final action on the application for renewal.

~~§336.742. Inspections of Land Disposal Facilities.~~ *{{redundant with 336.215}}*

~~(a) Each licensee shall afford the executive director, at all reasonable times, opportunity to inspect waste not yet disposed of and the premises, equipment, operations, and facilities in which wastes are received, possessed, handled, processed, stored, or disposed of.~~

~~(b) Each licensee shall make available to the executive director for inspection, upon reasonable notice, records and reports maintained under the rules in this chapter, the conditions of the license, or orders of the commission. Authorized representatives of the executive director may copy and take away copies of, for the executive director's use, any record or report required to be kept pursuant to the rules in this chapter, the conditions of the license, or orders of the commission.~~

336.743 no change