

The Texas Natural Resource Conservation Commission (commission) proposes to amend §305.54, concerning Additional Requirements for Radioactive Material Licenses.

EXPLANATION OF PROPOSED RULE

The purpose of these rules is to implement Senate Bill (SB) 1857, 75th Legislature, 1997. On July 20, 1997, SB 1857 transferred jurisdiction over licensing of source material and disposal of by-product material from the commission to the Texas Department of Health (TDH).

Section 305.54(e) (relating to Additional Requirements for Radioactive Material Licenses) is proposed to be amended to delete language concerning the source material licensing and by-product disposal jurisdiction transferred to the TDH by SB 1857.

FISCAL NOTE

Stephen Minick, Strategic Planning and Appropriations Division, has determined that for the first five-year period the sections as proposed are in effect, there will be no significant fiscal implications for state government as a result of administration or enforcement of the rules. There are no fiscal implications for units of local government.

PUBLIC BENEFIT

Mr. Minick has also determined that for the first five years the sections as proposed are in effect, the public benefit anticipated as a result of enforcement of and compliance with the sections will be clarification of existing regulations relating to regulation of radioactive substances. Compliance with

the proposed state regulations will result in no significant costs to affected parties. There are no direct fiscal implications anticipated for small businesses.

DRAFT REGULATORY IMPACT ANALYSIS

The commission has reviewed the proposed rulemaking in light of the regulatory analysis requirements of Texas Government Code §2001.0225 and has determined that the rulemaking is not subject to §2001.0225 because it does not meet the definition of a “major environmental rule” as defined in the act, and it does not meet any of the four applicability requirements listed in §2001.0225(a).

Although this rule is to protect the environment and reduce the risk to human health from environmental exposure, this is not a major environmental rule because it does not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state.

In addition, this rule does not exceed a standard set by federal law, exceed an express requirement of state law, exceed a requirement of a delegation agreement, or adopt a rule solely under the general powers of the agency. The rule adds federal requirements that are necessary to maintain compatibility with the rules of the Nuclear Regulatory Commission.

TAKINGS IMPACT ASSESSMENT

The Commission has prepared a Takings Impact Assessment for these rules pursuant to Texas Government Code §2007.043. The following is a summary of that Assessment. The specific purpose of the rules is to remove commission rule language related to the source material licensing and by-product disposal jurisdiction transferred to the Texas Department of Health (TDH) by Senate Bill (SB) 1857, 75th Legislature, 1997. The rules will substantially advance this specific purpose by removing commission rule language related to the source material licensing and by-product disposal jurisdiction transferred to the TDH. Promulgation and enforcement of these rules will not burden private real property which is the subject of the rules because they merely delete commission rule language on a jurisdiction transferred to the TDH by statute.

COASTAL MANAGEMENT PROGRAM CONSISTENCY REVIEW

The executive director has reviewed the proposed rulemaking and found that the rule is neither identified in Coastal Coordination Act Implementation Rules, 31 TAC §505.11, nor will it affect any action/authorization identified in Coastal Coordination Act Implementation Rules, 31 TAC §505.11. Therefore, the proposal is not subject to the Coastal Management Program.

SUBMITTAL OF COMMENTS

Written comments may be mailed to Bettie Bell, Texas Natural Resource Conservation Commission, Office of Policy and Regulatory Development, MC 205, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512) 239-4808. All comments must be received by May 25, 1998 and should reference

Rule Log Number 97154-336-WS. Comments received by 5:00 p.m. on that date will be considered by the commission prior to any final action on the proposal. For further information, please contact Kathy Vail at (512) 239-6637.

STATUTORY AUTHORITY

This amendment is proposed under the Texas Radiation Control Act (TRCA), Texas Health and Safety Code §§401.011, 401.051, and 401.412, and Texas Water Code §5.103, which give the commission the authority to adopt rules necessary to carry out its responsibilities to regulate and license the disposal of radioactive substances.

These amendments implement Health and Safety Code Chapter 401 (relating to Radioactive Materials and Other Sources of Radiation).

SUBCHAPTER C : APPLICATION FOR PERMIT

§305.54

§305.54. Additional Requirements for Radioactive Material Licenses.

(a) - (d) (No change.)

[(e) For applications under Chapter 336, Subchapter G of this title (relating to Licensing Requirements for Source Material (Uranium or Thorium) Recovery and Processing Facilities), an application shall include an environmental report containing the results of a one-year pre-operational monitoring program. For a renewal application, the environmental report shall include the results of the operational monitoring program.]