

Texas Commission on Environmental Quality

Interoffice Memorandum

To: Commissioners

Date: October 31, 2016

Thru: Richard A. Hyde, P.E., Executive Director

Thru:  Brent Wade, Deputy Director
Office of Waste

From: Charles Maguire, Division Director  10/28/16
Radioactive Materials Division

Subject: Rulemaking Draft Concept and Initiation Memo
Chapter 336, Radioactive Substance Rules

Suggested short title: Schedule of Cost Recovery Fees for Subchapter H Licenses

Introduction and reason(s) for the rulemaking:

Title 30 Texas Administrative Code (TAC) §336.103(c) requires a holder of a license for a low-level radioactive waste disposal site issued under Chapter 336, Subchapter H, to pay an annual license fee for the services received from the Texas Commission on Environmental Quality (TCEQ). The rulemaking would remove the word "quarterly" to allow flexibility for the Radioactive Materials Division and the Financial Administration Division to invoice cost recoverable activities by TCEQ on an as needed basis.

Scope of the proposed rule:

This rulemaking will remove the word "quarterly" from §336.103(c) where it requires the executive director to invoice for the amount of the recoverable costs incurred quarterly.

Potential controversial concerns and legislative interest:

No controversial concerns or legislative interest has been identified.

Potential alternatives:

The alternative would be to not change the rule, which would continue a more frequent invoicing schedule.

Effect on the:

A) Regulated community:

A revised invoice schedule would be less burdensome on licensees. Additionally, since license amendment actions have decreased in frequency, the necessity for reporting cost recoverable activities on a quarterly basis has dissipated.

B) Public:

No impact is expected with a revised invoice schedule.

C) Agency programs:

A revised invoice schedule would provide a streamlined administrative process for TCEQ and is more appropriate considering that the licensee is approaching five years in operation.

Proposed schedule and constraints:

Anticipated Proposal Date: January 18, 2017

Anticipated Public Comment Period: February 3, 2017 - March 6, 2017

Anticipated Adoption Date: May 10, 2017

Planned stakeholder involvement:

There are no stakeholder meetings planned for this rulemaking project; however, a rule public hearing will be offered during the rulemaking process.

Statutory authority:

The rule is proposed under the Texas Radiation Control Act (TRCA), Texas Health and Safety Code (THSC), Chapter 401; THSC §401.011, which provides the commission authority to regulate and license the disposal of radioactive substances, the commercial processing and storage of radioactive substances, and the recovery and processing of source material; THSC §401.051, which authorizes the commission to adopt rules and guidelines relating to control of sources of radiation; THSC §401.103, which authorizes the commission to adopt rules and guidelines that provide for licensing and registration for the control of sources of radiation; THSC §401.104, which requires the commission to provide rules for licensing for the disposal of radioactive substances; and THSC §401.106, which authorizes the commission to adopt rules to exempt a source of radiation from the licensing requirements provided by the TRCA. The rule is proposed as authorized by Texas Water Code (TWC) §5.103, which provides the commission with the authority to adopt rules necessary to carry out its powers and duties under the TWC and other laws of the state.

Direction and Guidance: [*To be completed at ED briefing.*]

Rule or Non-Rule Project number: 2017-003-336-WS

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Attachments:
None.

NOTE: TR will submit electronic notice to the following after ED Briefing:

Marshall Coover
Erin Chancellor
Stephen Tatum
Jim Rizk
Office of General Counsel