

SUBCHAPTER B: RADIOACTIVE SUBSTANCE FEES
§§336.101 - 336.103, 336.105 - 336.107, 336.109 - 336.114
Effective June 25, 2015

§336.101. Purpose and Scope.

(a) This subchapter establishes fees for licensing, commercial disposal, emergency response activities including training, and other regulatory services and provides for their payment.

(b) Except as otherwise specifically provided, this subchapter applies to any person who is:

(1) an applicant for or holder of a radioactive material license issued under this chapter; or

(2) the holder of a fixed nuclear facility construction permit or operating license issued by the United States Nuclear Regulatory Commission under 10 Code of Federal Regulations Part 50 (Domestic Licensing of Production and Utilization Facilities); or

(3) the operator of any other fixed nuclear facility.

Adopted January 11, 2012

Effective February 2, 2012

§336.102. 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) **Emergency response**--The application of those capabilities necessary for the protection of the public and the environment from the effects of an accidental or uncontrolled release of radioactive materials, including the equipping, training, and periodic retraining of response personnel.

(2) **Fixed nuclear facility**--

(A) Any nuclear reactor(s) at a single site;

(B) Any facility designed or used for the assembly or disassembly of nuclear weapons; or

(C) Any other facility using special nuclear material for which emergency response activities, including training, are conducted to protect the public health and safety or the environment.

Adopted July 29, 1998

Effective September 3, 1998

§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 this chapter (relating to Licensing Requirements for Near-Surface Land Disposal of Low-Level Radioactive Waste) shall be accompanied by a nonrefundable application processing fee of \$500,000. If the commission's costs in processing an application under Subchapter H of this chapter exceed the \$500,000 application processing fee, the commission may assess and collect additional fees from the applicant to recover the costs. Recoverable costs include costs incurred by the commission for administrative review, technical review, and hearings associated with the application.

(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 this chapter. 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.

(c) A holder of a license for a low-level radioactive waste disposal site issued under Subchapter H of this chapter 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 the resident inspectors as provided by §336.743 of this title (relating to Resident Inspector). The executive director shall invoice for the amount of the costs incurred quarterly. Payment shall be made within 30 days following the date of the invoice.

(d) An application for a major amendment of a license issued under Subchapter H of this chapter must be accompanied by an application fee of \$50,000.

(e) An application for renewal of a license issued under Subchapter H of this chapter must be accompanied by an application fee of \$300,000.

(f) The compact waste disposal facility license holder shall remit to the commission 5% of the gross receipts from compact waste received at the compact waste disposal facility and any federal facility waste received at the federal facility waste disposal facility. Payment shall be made within 30 days of the end of each quarter. The

end of each quarter is the last day of the months of November, February, May, and August.

(g) The compact waste disposal facility license holder shall remit directly to the host county 5% of the gross receipts from compact waste received at the compact waste disposal facility and any federal facility waste received at the federal facility waste disposal facility as required in Texas Health and Safety Code, §401.244. Payment shall be made within 30 days of the end of each quarter. The end of each quarter is the last day of the months of November, February, May, and August.

Adopted January 11, 2012

Effective February 2, 2012

§336.105. Schedule of Fees for Other Licenses.

(a) Each application for a license under Subchapter F of this chapter (relating to Licensing of Alternative Methods of Disposal of Radioactive Material), Subchapter G of this chapter (relating to Decommissioning Standards), Subchapter K of this chapter (relating to Commercial Disposal of Naturally Occurring Radioactive Material Waste from Public Water Systems), Subchapter L of this chapter (relating to Licensing of Source Material Recovery and By-product Material Disposal Facilities), or Subchapter M of this chapter (relating to Licensing of Radioactive Substances Processing and Storage Facilities) must be accompanied by an application fee as follows:

- (1) facilities regulated under Subchapter F of this chapter: \$50,000;
- (2) facilities regulated under Subchapter G of this chapter: \$10,000;
- (3) facilities regulated under Subchapter K of this chapter: \$50,000;

(4) facilities regulated under Subchapter L of this chapter: \$463,096 for conventional mining; \$322,633 for in situ mining; \$325,910 for heap leach; and \$374,729 for disposal only; or

(A) if the application fee is not sufficient to cover costs incurred by the commission, then the applicant shall submit a supplemental fee to recover the actual costs incurred by the commission for review of the application and any hearings associated with an application for commercial by-product material disposal under Subchapter L of this chapter in accordance with Texas Health and Safety Code, §401.301(g);

(B) the executive director shall invoice for the amount of the costs incurred quarterly. Payment shall be made within 30 days following the date of the invoice;

(5) facilities regulated under Subchapter M of this chapter: \$3,830 for Waste Processing - Class I Exempt; \$39,959 for Waste Processing - Class I; \$94,661 for Waste Processing - Class II; and \$273,800 for Waste Processing - Class III.

(b) An annual license fee shall be paid for each license issued under Subchapters F, G, K, L, and M of this chapter. The amount of each annual fee is as follows:

(1) facilities regulated under Subchapter F of this chapter: \$25,000;

(2) facilities regulated under Subchapter G of this chapter: \$8,400;

(3) facilities regulated under Subchapter K of this chapter: \$25,000;

(4) facilities regulated under Subchapter L of this chapter that are operational: \$60,929.50; or

(A) if the annual fee is not sufficient to cover costs incurred by the commission, a holder of a license for commercial by-product material disposal issued under Subchapter L of this chapter shall submit a supplemental license fee sufficient to recover the actual costs incurred by the commission. This fee shall recover for the state the actual expenses arising from the regulatory activities associated with the license in accordance with Texas Health and Safety Code, §401.412(d);

(B) the executive director shall invoice for the amount of the costs incurred quarterly. Payment shall be made within 30 days following the date of the invoice;

(5) facilities regulated under Subchapter L of this chapter that are in closure: \$60,929.50;

(6) facilities regulated under Subchapter L of this chapter that are in post-closure: \$52,011.50 for conventional mining; \$26,006 for in situ mining; and \$52,011.50 for disposal only;

(7) facilities regulated under Subchapter L of this chapter, if additional noncontiguous source material recovery facility sites are authorized under the same license, the annual fee shall be increased by 25% for each additional site and 50% for sites in closure;

(8) facilities regulated under Subchapter L of this chapter, if an authorization for disposal of by-product material is added to a license, the annual fee shall be increased by 25%;

(9) facilities regulated under Subchapter L of this chapter, the following one-time fees apply if added after an environmental assessment has been completed on a facility:

(A) \$28,658 for in situ wellfield on noncontiguous property;

(B) \$71,651 for in situ satellite;

(C) \$11,235 for wellfield on contiguous property;

(D) \$50,756 for non-vacuum dryer; or

(E) \$71,651 for disposal (including processing, if applicable) of by-product material; or

(10) facilities regulated under Subchapter M of this chapter: \$3,830 for Waste Processing - Class I Exempt; \$39,959 for Waste Processing - Class I; \$94,661 for Waste Processing - Class II; and \$273,800 for Waste Processing - Class III.

(c) An application for a major amendment of a license issued under Subchapter F, G, K, L, or M of this chapter must be accompanied by an application fee of \$10,000.

(d) An application for renewal of a license issued under Subchapter F, G, K, L, or M of this chapter must be accompanied by an application fee of \$35,000.

(e) Upon permanent cessation of all disposal activities and approval of the final decommissioning plan, holders of licenses issued under Subchapter F, K, L, or M of this chapter shall use the applicable fee schedule for subsections (b) and (c) of this section.

(f) For any application for a license issued under this chapter, the commission may assess and collect additional fees from the applicant to recover costs. Recoverable costs include costs incurred by the commission for administrative review, technical review, and hearings associated with the application. 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.

(g) If a licensee remitted a biennial licensing fee to the Texas Department of State Health Services during the one year period prior to June 17, 2007, the licensee is not subject to an annual fee under subsection (b) of this section until the expiration of the second year for which the biennial fee was paid.

(h) The commission may charge an additional 5% of annual fee assessed under subsection (b) of this section and §336.103 of this title (relating to Schedule of Fees for Subchapter H Licenses). The fee is non-refundable and will be deposited to the perpetual care account.

(1) The fees collected by the agency in accordance with this subsection shall be deposited to the credit of the Environmental Radiation and Perpetual Care Account, until the fees collectively total \$500,000.

(2) If the balance of fees collected in accordance with this subsection is subsequently reduced to \$350,000 or less, the agency shall reinstitute assessment of the fee until the balance reaches \$500,000.

(i) The holder of a license authorizing disposal of a radioactive substance from other persons shall remit to the commission 5% of the holder's gross receipts received from disposal operations under a license. Payment shall be made within 30 days of the end of each quarter. The end of each quarter is the last day of the months of November, February, May, and August. This subsection does not apply to the disposal of compact waste or federal facility waste.

(j) The holder of a license authorizing disposal of a radioactive substance from other persons shall remit directly to the host county 5% of the gross receipts disposal operations under a license as required in Texas Health and Safety Code, §401.271(2). Payment shall be made within 30 days of the end of each quarter. The end of each quarter is the last day of the months of November, February, May, and August. This subsection does not apply to the disposal of compact waste or federal facility waste.

Adopted June 3, 2015

Effective June 25, 2015

§336.106. Annual Fees for Emergency Response Activities, Including Training.

Each holder of a fixed nuclear facility construction permit or operating license issued by the United States Nuclear Regulatory Commission or an operator of any other fixed nuclear facility shall submit an annual fee for the services received. This fee shall recover for the State the actual expenses arising from emergency response activities, including training. Costs of activities benefiting more than one facility shall be prorated. The executive director shall send an invoice after completion of emergency response activities held before August 31 of each year. Payment shall be made within 30 days following the date of the invoice.

Adopted May 14, 1997

Effective June 5, 1997

§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 Licenses) shall be due on or before October 31st of each year.

(b) The period covered by each annual fee set forth in §336.105(b) of this title shall be the 12 months preceding the fee payment due date, except fees may be prorated for a period less than 12 months to accommodate the due date established in subsection (a) of this section.

Adopted February 11, 2009

Effective March 12, 2009

§336.109. Fees after Request for Termination of License.

(a) If a licensee requests termination of a license, the amount of the annual fee due on the next fee payment due date may be prorated based on the number of months completed through the month of the termination request out of the 12-month period covered by the annual fee. As an example, if a licensee requests termination of a license on August 20 and the next annual fee is due on or before November 30, the annual fee for that year may be prorated as 9/12 of the applicable fee amount. After the next annual fee due date, the annual fee may be waived pending the final determination on the termination request. The annual fee may be prorated or waived as provided in this subsection if the executive director has reasonable basis to find, from information provided by the licensee, that the licensee has satisfied the applicable requirements for decommissioning and closure. If the executive director has insufficient information or finds that the licensee has not satisfied the requirements for decommissioning and closure, the annual fee shall not be prorated or waived and shall be the full amount.

(b) If an annual fee has been prorated or waived under subsection (a) of this section and the executive director later determines, before making the final determination on the request for termination, that the licensee has not met the decommissioning and closure requirements, then any amount of annual fees not paid due to proration or waiving shall be payable immediately upon notice to the licensee.

(c) The commission may not terminate a license for which the licensee has not paid any outstanding fees prescribed by this subchapter until the fees are paid.

Adopted May 14, 1997

Effective June 5, 1997

§336.110. Nonrefundable Fees.

(a) Fee payments set forth in this subchapter are not refundable, except as provided in subsection (b) of this section. Fee payments for applications or amendment

applications as set forth in this subchapter shall be charged irrespective of the commission's disposition of the application or a withdrawal of the application by the applicant.

(b) If the executive director determines that a license application or an amendment application is not administratively complete, the application and any accompanying application fee may be returned to the applicant.

Adopted May 14, 1997

Effective June 5, 1997

§336.111. Method of Payment of Fees.

Fee payments prescribed by this subchapter shall be made in cash or by check or money order made payable to the Texas Commission on Environmental Quality. The payments may be made by personal delivery to the Financial Administration Cashier Office, Texas Commission on Environmental Quality, in Austin, Texas, or mailed to the Texas Commission on Environmental Quality, Cashier's Office, MC 214, P.O. Box 13088, Austin, Texas 78711-3088.

Adopted December 17, 2003

Effective January 8, 2004

§336.112. Failure to Pay Prescribed Application Fees.

In any case where an applicant for a license or a license amendment has failed to pay the application fee or amendment application fee prescribed in this subchapter, the executive director shall not process that application until this fee is paid in full. If the applicable fee is not paid in full, the executive director may find that the application or amendment application is not administratively complete and may return the application to the applicant.

Adopted May 14, 1997

Effective June 5, 1997

§336.113. Failure to Pay Prescribed Annual Fees.

(a) A licensee failing to make payment of the fees when due under this chapter shall be assessed penalties and interest in accordance with Chapter 12 of this title (relating to Payment of Fees).

(b) In any case where the executive director finds that a licensee has failed to pay a fee prescribed by this subchapter by the due date, the executive director may implement compliance procedures.

(c) In any case where the executive director finds that a fixed nuclear facility has failed to pay fees for emergency response activities, including training, within 90 days following the date of the invoice, the executive director may recommend and the commission may issue an order to show cause why those services should not be terminated.

Adopted December 17, 2003

Effective January 8, 2004

§336.114. Fee for Fixed Nuclear Facilities.

The commission may set and collect an annual fee from the operator of each nuclear reactor or other fixed nuclear facility in the state that uses special nuclear material. The amount of fees collected may not exceed the actual expenses that arise from emergency planning and implementation and environmental surveillance activities.

Adopted February 11, 2009

Effective March 12, 2009