

**RATIONALE FOR DEVELOPMENT OF NEW DRAFT NATURALLY OCCURRING
RADIOACTIVE MATERIAL (NORM)/TECHNOLOGICALLY ENHANCED NATURALLY
OCCURRING RADIOACTIVE MATERIAL (TENORM) RULE
25 TEXAS ADMINISTRATIVE CODE (TAC) §289.259**

**Texas Department of State Health Services (DSHS)
Radiation Control Program
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The DSHS Radiation Control Program (Agency) last revised the current NORM rule in April 1999. It is now being amended to incorporate updated industry terminology, exemption concentration limits, general and specific license requirements and to clarify repetitive, conflicting, and ambiguous language in the existing rule. The title is changed to better reflect what the rule specifically addresses and to incorporate current industry terminology such as TENORM.

Some current NORM rule requirements have been omitted in the new draft rule to avoid duplication. The scope in new Draft §289.259(b) requires that licensees also comply with other rule sections (e.g. §§289.201, 289.202, 289.252) in addition to the NORM/TENORM rule which address general provisions and definitions, record keeping and retention, occupational dose, dose to members of the public, and specific license application requirements.

The Agency does not address disposal requirements in the new draft rule because this is regulated under the authority of the Railroad Commission of Texas (RRC) and the Texas Commission of Environmental Quality (TCEQ).

The new draft rule does not define "maintenance" because the Agency has determined that the dose-based assessment to the worker and/or member of the public, in relation to health and safety, takes precedence over the scope of each facility's operations.

For purposes of the new draft rule, items considered NORM, include but are not limited to, rocks, soil, granite, etc., are exempt only with regard to possession, use, and/or transfer but not with regard to manufacturing and processing. NORM requirements were retained in the draft rule to avoid being in conflict with RRC and TCEQ NORM rules since both of these agencies' current NORM rules do not address TENORM.

Concerning the exemptions limits specified in §289.259(d), these new exemption limits are consistent with other states that regulate NORM/TENORM and the current Conference of Radiation Control Program Directors (CRCPD), Suggested State Regulations, Part N.

Regarding the general license requirements in §289.259(f), and the specific license requirements in §289.259(g), that licensees ensure that no worker or member of the public shall receive a radiation dose in excess of 0.1 rem (1 millisievert) total effective dose equivalent annually, are not new requirements. General and specific licensees have been required to comply with 25 TAC §289.202 (relating to Standards for Protection Against Radiation from Radioactive Materials), specifically occupational dose limits and dose limits for members of the public since 10 Code of Federal Regulations Part 20 was revised in 1993. Per 25 TAC §289.201 (relating to General Provisions for Radioactive Material), "member of the public" is defined as any individual, except when that individual is receiving an occupational dose. While an individual may be a worker at a facility, he/she is a member of the public if the worker is not considered a radiation worker. A radiation worker is an individual engaged in work under a specific license issued by the Agency. The new draft rule merely clarifies an existing requirement and therefore does not generate new costs to the licensee for making a health and safety assessment of the dose to workers and/or members of the public. However, if the licensee chooses not to perform the assessment and instead contract a company to do the assessment, then a cost will be incurred.

To clarify §289.259(f)(2), if the Agency determines that the licensee is unable to demonstrate that the dose limits to members of the public are not being exceeded, then the Agency may require any person authorized by a general license to apply for and obtain a specific license.

Recycling is retained as a generally licensed activity, since there is insufficient documentation on radiation exposure from the recycling process to require a change to specific licensing, except in individual cases where a determination may be made that the dose limits to the public are being exceeded.