

CHAPTER 116

(SB 248)

AN ACT relating to radiation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 211.862 is amended to read as follows:

As used in KRS 211.861 to 211.869, unless the compact requires otherwise:

- (1) "Commission" means the Central Midwest Interstate Low-Level Radioactive Waste Commission;
- (2) "Cabinet" means the Cabinet for Health and Family Services;
- (3) "Compact" means the Central Midwest Interstate Low-Level Radioactive Waste Compact;
- (4) "Disposal" means the isolation of waste from the biosphere in a permanent facility designed for that purpose;
- (5) "Facility" means a parcel of land or site, together with the structures, equipment, and improvements on, or appurtenant to, the land or site, that is used or is being developed for the treatment, storage, or disposal of low-level radioactive waste;
- (6) "Low-level radioactive waste" or "waste" means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or by-product material as defined in Section 11e(2) of the Federal Atomic Energy Act. This definition shall apply regardless of any declaration by the federal government or any state that any radioactive material is exempt from any regulatory control;
- (7) "Management plan" means the plan adopted by the commission for the storage, transportation, treatment, and disposal of waste within the region;
- (8) "Naturally-occurring radioactive material" (NORM) means *any of the primordial radionuclides or radioactivity present in soils, rocks, and materials, that are not concentrated or disturbed as a result of human activities*~~[naturally occurring materials not regulated under the Atomic Energy Act of 1954, as amended, whose radionuclide concentrations have been increased by or as a result of human practices. Naturally occurring radioactive material does not include the natural radioactivity of rocks or soils, or background radiation, but instead refers to materials whose radioactivity is technologically enhanced by controllable practices (or by past human practices)];~~
- (9) "Person" means any individual, corporation, business enterprise, or other legal entity, public or private, and any legal successor, representative, agent or agency of that individual, corporation, business enterprise, or legal entity;
- (10) "Region" means the geographical area of the state of Illinois and the Commonwealth of Kentucky;
- (11) "Regional facility" means any facility as defined in this section that is located in Kentucky, and established by Kentucky pursuant to designation of Kentucky as a host state by the commission;
- (12) "Storage" means the temporary holding of radioactive material for treatment or disposal; ~~and~~
- (13) ***"Technologically-enhanced naturally-occurring radioactive material" or "TENORM" means:***
 - (a) *Naturally occurring radioactive material with a radionuclide concentration that has been increased by human activities above levels encountered in the natural state; or*
 - (b) *Naturally occurring radioactive material made more accessible by human activity.*

TENORM does not include the natural radioactivity of rocks or soils or source material, byproduct material, or special nuclear material as defined in 42 U.S.C. secs. 2011 et seq. and relevant federal regulations implemented by the Nuclear Regulatory Commission; and
- (14) "Treatment" means any method, technique, or process, including storage for radioactive decay, designed to change the physical, chemical, or biological characteristics of the radioactive material in order to render the radioactive material safe for transport or management, amenable to recovery, convertible to another usable material, or reduced in volume.

➔Section 2. KRS 211.863 is amended to read as follows:

- (1) Unless otherwise authorized by the commission:
 - (a) After July 15, 1998, no person shall deposit at a facility in Kentucky any low-level radioactive waste not generated within the region.
 - (b) After July 15, 1998, no person shall accept at a facility in Kentucky low-level radioactive waste not generated within the region.
 - (c) No person shall deposit at any regional facility in Kentucky any low-level radioactive waste that is owned or generated by the United States Department of Energy, owned or generated by the United States Navy as a result of decommissioning of vessels of the United States Navy, or owned or generated as the result of any research, development, testing, or production of any atomic weapon.
 - (d) No person shall accept at any regional facility in Kentucky any low-level radioactive waste that is owned or generated by the United States Department of Energy, owned or generated by the United States Navy as a result of decommissioning of vessels of the United States Navy, or owned or generated as the result of any research, development, testing, or production of any atomic weapon.
 - (e) No person shall export from the region low-level radioactive waste that is generated in Kentucky, other than low-level radioactive waste that is owned or generated by the United States Department of Energy, owned or generated by the United States Navy as a result of decommissioning of vessels of the United States Navy, or owned or generated as the result of any research, development, testing, or production of any atomic weapon.
 - (f) No person shall dispose of low-level radioactive waste in Kentucky except at a regional disposal facility.
 - (g) No person who provides a service by arranging for the collection, transportation, treatment, storage, or disposal of low-level radioactive waste from outside the region shall dispose of any low-level radioactive waste, regardless of origin, at a facility in Kentucky without prior specific approval by the commission.
- (2) No person shall treat or store low-level radioactive waste at a facility other than a regional facility, if the treatment or storage is prohibited by the commission.
- (3) ***Technologically-enhanced*** naturally-occurring radioactive material (***TENORM***) ***and naturally-occurring radioactive material*** (NORM) as defined in KRS 211.862~~(8)~~ shall be the exclusive regulatory responsibility of the states, except that no person shall import ***technologically-enhanced*** naturally occurring radioactive material (***TENORM***)~~(NORM)~~ from outside the region for disposal in Kentucky, ***arrange for disposal of***, or dispose of such imported material in Kentucky, if the imports or disposal are inconsistent with policies of the commission.
- (4) Any low-level radioactive waste which is not the responsibility of the Commonwealth of Kentucky or the Central Midwest Interstate Low-Level Radioactive Waste Commission pursuant to 42 U.S.C. sec. 2297h-11 shall be exempt from the provisions of KRS 211.861 to 211.869 and from the provisions of KRS 211.859.
- (5) ***Drill cuttings generated from wells permitted and regulated by the Energy and Environment Cabinet pursuant to KRS Chapter 353 that contain naturally-occurring radioactive materials that have been made more accessible shall not be regulated as TENORM under this chapter.***
- (6) ***Except as provided in subsection (5) of this section, the cabinet may, by executive order or administrative regulation, regulate as tenorm any naturally occurring radioactive material made more accessible by human activity, or naturally occurring radioactive material that has radionuclide concentrations increased by human activities above levels encountered in the natural state.***

Signed by Governor March 27, 2017.