



MATTHEW G. BEVIN
GOVERNOR

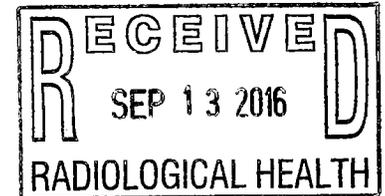
CHARLES G. SNAVELY
SECRETARY

ENERGY AND ENVIRONMENT CABINET

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R. BRUCE SCOTT
DEPUTY SECRETARY

September 6, 2016



Steve Harrison, Director
Office of Radiological Health
109 Governor Street, 7th Floor
Richmond, VA 23219

RE: NOTICE REGARDING KENTUCKY LAW PROHIBITING DISPOSAL OF TENORM WASTE

Dear Director Harrison:

A recent joint investigation by the Kentucky Energy and Environment Cabinet ("EEC") and the Kentucky Cabinet for Health and Family Services (CHFS) determined Technologically Enhanced Naturally Occurring Radioactive Material (TENORM) generated in other states was disposed of in municipal solid waste landfills in Kentucky in violation of Kentucky law. Consistent with its general power to provide for prevention of water, land, and air pollution, EEC provides this notice and clarification of Kentucky's laws governing the disposal of imported TENORM.

When reviewing any plans or proposals submitted to your agency regarding the final disposition of TENORM generated in your state, please be advised that Kentucky law 1) strictly prohibits any person from importing TENORM into Kentucky for disposal from any state other than Illinois, and 2) no solid or special waste disposal facility in Kentucky is permitted to accept imported TENORM waste for disposal in contravention of Kentucky law. For your convenience, further explanation of the relevant Kentucky law is below.

Kentucky Revised Statute (KRS) 211.859 adopts the Central Midwest Interstate Low-Level Radioactive Waste Compact ("Central Compact") as Kentucky law. Article III of the Central Compact establishes the Central Midwest Interstate Low-Level Radioactive Waste Commission (the "Commission"). Article V tasks the Commission with establishing a Regional Management Plan for the management of radioactive wastes. Article VII of the Central Compact prohibits any person who collects, transports, treats or disposes of radioactive wastes generated outside of the compact region from disposing of those wastes in the Central Compact region. Because Kentucky and Illinois are the only party states to the Central Compact, they constitute the entirety of the Central Compact region ("Central Region").

As required by the Central Compact, the Commission drafted a Regional Management Plan (the "Plan") with policy guidance in 1999. The Plan specifically states naturally occurring radioactive materials (NORM) and TENORM fall within the definition of low level radioactive wastes that are subject to the Commission's authority. Consistent with its authority to limit interstate commerce of radioactive wastes, the Commission adopted the expressed policy prohibiting the importation of TENORM in concentrations higher than 5 pCi/g into the Central Region. Consistent with the Plan, KRS 211.863(2)(g) and (3) strictly prohibit the importation of low level radioactive wastes and NORM into Kentucky in contravention of the Commission's policies. Pursuant to its authority, and consistent with the Plan, the Kentucky Cabinet for Health and Family Services defined TENORM in regulation as NORM "which has been separated to various degrees from the original ore or other material, refining or implementing it." See 902 KAR 100:030 Section 1 (301).

KRS 224.40-305 requires that all waste sites or facilities obtain a permit from EEC prior to construction or operation. The EEC's Division of Waste Management (DWM) is responsible for permitting waste sites and facilities that manage and dispose of solid, special, and hazardous wastes in Kentucky. No solid or special waste permit issued by DWM authorizes the disposal of wastes in violation of Kentucky or local laws. See 401 KAR 47:100 Section 4 and 401 KAR 45:030 Section 4. Consistent with KRS Chapter 211 and the regulations promulgated pursuant thereto, no waste site or facility that has a permit issued by DWM is permitted to accept TENORM imported into Kentucky for disposal inconsistent with the policies of the Commission.

If you have questions regarding this notice, please feel free to contact the Assistant Director for the Division of Waste Management Jon Maybriar at (502) 782-6702 or Jon.Maybriar@ky.gov.

Sincerely,


Charles G. Snavely
Cabinet Secretary