



## Ohio Administrative Code Rule 3701:1-43-07 Exemptions.

Effective: May 15, 2023

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(A) Persons who receive, possess, use, process, transfer, distribute, or dispose of TENORM are exempt from the requirements of this chapter with respect to any combination of radium-226 and radium-228 if the materials contain, or are contaminated at, concentrations less than one hundred eighty-five becquerel per kilogram (five picocuries per gram) excluding natural background. The progeny of the exempt TENORM radium-226 and radium-228 are also exempt. Manufacture of consumer or retail products at concentrations greater than one hundred eighty-five becquerel per kilogram (five picocuries per gram) is regulated pursuant to paragraph (C) of rule 3701:1-43-10 and rule 3701:1-43-11 of the Administrative Code.

(B) Persons who receive products or materials containing TENORM distributed in accordance with a specific license issued by the director pursuant to paragraph (A) of rule 3701:1-43-03 of the Administrative Code, or by an equivalent license issued by another state, are exempt from this chapter with regard to those products or materials.

(C) Persons who receive, possess, use, process, transfer and distribute, including preparation of custom blends for distribution, phosphate or potash ore-based fertilizers containing TENORM are exempt from this chapter.

(D) Persons who receive, possess, use, process, transfer, dispose into a permitted landfill, or distribute, including preparation of custom blends for distribution, zirconia, zircon, and products of zirconia and zircon containing TENORM are exempt from this chapter provided that the radioactive constituent is consistent with the radioactivity levels stated in the safety data sheet accompanying the zirconium-bearing materials. A facility that manufactures zirconium metal from ore or chemically processes zirconia or zircon resulting in increased environmental mobility of TENORM is not exempt from this chapter.

(E) Persons who possess TENORM waste regulated by the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA 42 USC 9601 to 9628 as amended, as



published in the United States Code, 2006 edition) or by the Resource Conservation and Recovery Act (RCRA 42 USC 6901 et seq. as amended, as published in the United States Code, 2006 edition) are exempt from this chapter for the TENORM waste regulated by either of these federal acts.

(F) Other persons who possess or use TENORM will be exempt when the director makes a determination, upon his or her own initiative or upon request for such determination, that the reasonably maximally exposed individual will not receive a public dose with a total effective dose equivalent (TEDE) of more than one millisievert (0.1 rem) in one year from all licensed or registered sources of radiation including TENORM.

(G) Persons who receive, possess, use, transfer, distribute, or dispose of materials in the recycling process contaminated with scale or residue not otherwise exempted or other equipment containing TENORM with a radiation exposure level that does not exceed 0.5 microsieverts (fifty microrem) per hour, including background at any accessible point are hereby exempt from the requirements of this chapter.

(H) Persons engaged in the manufacture, wholesale or retail commercial distribution, use, or disposal of the following products or materials, or the recycling of equipment used to produce, contain, or transport the following materials are exempt from the requirements of this chapter:

- (1) Potassium or potassium compounds that have not been isotopically enriched in the radionuclide potassium-40;
- (2) Fossil fuel or byproducts from fossil fuel combustion, including bottom ash, fly ash, and flue-gas emission control byproducts; or
- (3) Material used for building construction, industrial processing, sandblasting, metal castings, or other material in which the radionuclide content has not been concentrated to a level higher than is found in its natural state.

(I) Persons who receive, possess, use, process, transfer, or dispose of TENORM or TENORM waste from oil and gas wells and production operations within the state are exempt from the requirements of this chapter in that they are subject to the regulatory oversight of the Ohio department of natural



resources in accordance with section 1509.02 of the Revised Code. This exemption does not apply to service providers performing radiological decontamination of scale containing TENORM in pipe and other equipment.

(J) Persons who receive, possess, use, process, transfer, or dispose of waste water facility sludges that contain TENORM, are exempt from the requirements of this chapter in that they are subject to regulatory oversight by the Ohio environmental protection agency in accordance with section 6111.03 of the Revised Code.

(K) Persons who possess, store, use, transport, or commercially distribute compressed gases and compressed gas products containing TENORM are exempt from the requirements of this chapter. The exemptions contained in this paragraph do not apply to a facility that processes compressed gas or compressed gas products containing TENORM.