3701-39-02.1 **Standards for handling radioactive material.**

(A) In accordance with section 3748.21 of the Revised Code, this rule does not apply to any person to the extent that the person is subject to regulation by the United States nuclear regulatory commission. As used in this rule, naturally occurring radioactive material (NORM) means any nuclide that is radioactive in its natural physical state, but does not include source material, byproduct material, or special nuclear material. As used in this rule, technologically enhanced means the chemical properties or physical state of natural sources of radiation have been altered or the potential exposure pathways of natural sources of radiation to humans have been altered to increase the human radiation exposure. In all cases where special nuclear material is referenced, that term shall refer to quantities not sufficient to form a critical mass.

(B) The following activities are exempt from licensure, unless the director determines that the dose received by an average member of the critical group would exceed the dose limit specified in rule 3701:1-38-22(B) of the Administrative Code:

(1) The handling, distribution, or processing of:

(a) Soil containing technologically enhanced radium-226 or radium-228 with a radon emanation rate less than 0.74 becquerels (twenty picocuries) per square meter per second, provided that the concentration of technologically enhanced radium-226 or radium-228 in the soil, averaged over any one hundred square meters, and averaged over the first fifteen centimeters of soil below the surface, does not exceed one becquerel (twenty-seven picocuries) per gram;

(b) Soil containing technologically enhanced radium-226 or radium-228 with a radon emanation rate equal to or greater than 0.74 becquerels (twenty picocuries) per square meter per second provided that the concentration of technologically enhanced radium-226 or radium-228 in the soil, averaged over any one hundred square meters, and averaged over the first fifteen centimeters of soil below the surface does not exceed 0.185 becquerel (five picocuries) per gram;

(c) Media, other than soil, containing technologically enhanced radium-226 or radium-228 with a radon emanation rate less than 0.74 becquerels (twenty picocuries) per square meter per second provided that the concentration of technologically enhanced radium-226 or radium-228 does not exceed one becquerel (twenty-seven picocuries) per gram;

(d) Media, other than soil, containing technologically enhanced radium-226 or radium-228 with a radon emanation rate is equal to or greater than 0.74 becquerels (twenty picocuries) per square meter per second provided that the concentration of technologically enhanced radium-226 or radium-228 does not exceed 0.185 becquerel (five picocuries) per gram;

(e) Soil containing NORM other than technologically enhanced radium-226 or radium-228 provided that the concentration of NORM averaged over any one hundred square meters, and averaged over the first fifteen

centimeters of soil below the surface is five becquerels (one hundred thirty-five picocuries) per gram or less;

(f) Media, other than soil, containing NORM other than technologically enhanced radium-226 or radium-228 provided that the concentration of NORM is five becquerels (one hundred thirty-five picocuries) per gram or less; or

(g) Materials in the recycling process contaminated with scale or residue not otherwise exempted or other equipment containing NORM with a radiation exposure level that does not exceed 0.25 micrograys (twenty-five microrads) per hour above background at any accessible point.

(2) 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:

(a) Potassium or potassium compounds that have not been isotopically enriched in the radionuclide potassium-40;

(b) Fossil fuel or byproducts from fossil fuel combustion, including bottom ash, fly ash, and flue-gas emission control byproducts; or

(c) Material used for building construction, industrial processing, sandblasting, metal casings, or other NORM in which the radionuclide content has not been concentrated to a level higher than is found in its natural state, or zirconium-bearing sands and products produced from those sands provided that the radioactive constituent is consistent with the radioactive levels stated in the material safety data sheet accompanying the zirconium-bearing materials,

(3) The wholesale and retail commercial distribution, including custom blending, possession, and use of the following products or materials or the recycling of equipment or containers used to produce, contain, or transport these products as follows:

(a) Phosphate or potash fertilizer;

(b) Phosphogypsum for agricultural uses if such commercial distribution and uses meet the requirements of 40 C.F.R. 61.204, 40 C.F.R. 61.207, and 40 C.F.R. 61.208 as specified in appendix E to this rule; or

(c) Materials used for building construction if the materials contain NORM that has not been concentrated to higher levels than found in its natural state.

The exemptions contained in this paragraph do not apply to the manufacture of phosphate or potash fertilizer.

(4) The possession, storage, use, transportation, or commercial distribution of natural gas and natural gas products or of crude oil and crude oil products containing NORM. The exemptions contained in this paragraph do not apply

to the processing of natural gas or crude oil or the manufacture of natural gas products or crude oil products containing NORM.

(5) Possession of produced waters from crude oil or natural gas production provided that the produced waters are reinjected in a well approved by the United States environmental protection agency or discharged under the authority of the United States environmental protection agency.

(6) The possession, storage, use, transportation or commercial distribution of compressed gases and compressed gas products containing NORM. The exemptions contained in this paragraph do not apply to the processing of compressed gas or compressed gas products containing NORM.

(C) Information provided by a licensee or applicant for a license or license renewal that constitutes a "trade secret" as defined in section 1333.61 of the Revised Code is not subject to public disclosure in accordance with sections 1333.61 to 1333.69 of the Revised Code.

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