

YORK COUNTY ORDINANCE NO. 1995-07

REGULATING THE SITING AND OPERATION OF LOW LEVEL RADIOACTIVE WASTE FACILITIES WITHIN THE COUNTY; ESTABLISHING THE POSITIONS OF ENVIRONMENTAL CONTROL OFFICER AND INSPECTOR; ESTABLISHING AN ENVIRONMENTAL ADVISORY COUNCIL, SETTING PROCEDURES FOR THE HANDLING OF SITING AND OPERATING PERMIT APPLICATIONS; ESTABLISHING PROCEDURES FOR SECTION 318 STUDY FUNDING; AND ESTABLISHING FEES, REMEDIES AND PENALTIES.

ARTICLE I: TITLE

Section 101.Title.

This Ordinance shall be known as the "York County Low Level Radioactive Waste Ordinance."

ARTICLE II: PURPOSES AND AUTHORITY

Section 201.Purposes.

The Purposes of this Ordinance shall be:

- A. To protect the health, safety and general welfare of all citizens of the County by preventing exposure to airborne radioactive substances, and to radioactive substances in all other media.
- B. To preserve the natural environmental qualities of all the land, flora and fauna within the County.
- C. To promote the sustainable economic well-being of the County by preservation of agriculture and agriculture-related activities.
- D. To promote the sustainable economic well-being of the County by preservation of camping, hunting, fishing and other recreational opportunities necessary to tourism.
- E. To preserve the values of a healthy environment for this and future generations.

- F. To protect against the infliction of psychological or emotional stress on County residents from the fear of exposure to radiation.

Section 202. Interpretation

This Ordinance shall be liberally interpreted to give priority to the purposes stated in Section 201 over such considerations as economics, especially the economics of the nuclear industry, or efficiency or scheduling factors at any level of government.

Section 203. Authority

This Ordinance is adopted pursuant to the authority to the County by all relevant state and Federal laws, including, but not limited to, the following:

- A. The Pennsylvania Constitution, Article I, Section 27;
- B. The Pennsylvania Municipalities Code and County Code;
- C. The Low Level Waste Disposal Act, Act of February 9, 1988, P.L. 31, Act No. 12, 35 P.S. Section 7130.101 et seq., as amended;
- D. Pennsylvania Air Pollution Control Act, Act of January 8, 1960, P.L. (1959) 2119, 35 P.S. Section 4001 et seq., as amended;
- E. The Appalachian States Low Level Radioactive Waste Compact Act of 1985, 35 P.S. Section 7125.1, et seq.;
- F. The Pennsylvania Low Level Radioactive Waste Disposal Regional Facility Act, Act of July 11, 1990, P.L. 436, Act No. 137, 35 P.S. Section 7131.101 et seq.;
- G. Clean Air Act as amended, 42 U.S.C. Section 7401 et seq. (especially sections 7416, 7422);
- H. The Energy Policy Act of 1992;
- I. The U.S. Pollution Prevention Act (1991);
- J. The National Environmental Policy Act of 1969, 42 U.S.C.A. Sections 4321 to 4370a.

ARTICLE III: DEFINITIONS

Section 301. Definitions.

The following terms shall have the meanings defined in this section wherever they are used in this Ordinance:

Above Ground Facility is a Facility above grade level constructed with triple dedicated engineered barriers isolating the contents from the biosphere.

Buffer Zone is the portion of the waste site that is controlled by the licensee and that lies under the waste units, and between the waste units and the site boundary.

Compact States are Pennsylvania, Delaware, Maryland and West Virginia.

Container is the first sealed leak-proof solid enclosure which encompasses the radioactive waste, and which may include a means for controlled bleeding of gaseous decay products into another container.

Containment means the isolation of radioactive waste substances and radiation from the biosphere by means of engineered barriers and waste site design.

County means the County of York.

Department means the Pennsylvania Department of Environmental Resources, or any successor agency.

Environmental Control Officer means an individual who is or shall become a permanent resident of the County, whose full compensation shall be reimbursed to the County by the operator. The basic minimum qualifications for employment shall include the highest appropriate formal training and experience available, and who shall remain current and abreast of issues and information affecting the disposal of nuclear waste.

Facility Records means all information regarding origin, contents, transport and other relevant data for all low level radioactive waste and mixed wastes at the Facility.

Fill means fill, grout or other material which is placed in void spaces between radioactive waste containers or waste modules within the waste unit to provide structural strength against subsidence or collapse.

Hazardous life means the amount of time it takes for the LLRW to decay to levels such that unrestricted use of the waste could not result in exposure to total radioactive levels higher than the radioactivity measured at the site prior to its use for storage.

Inspector means an individual appointed by and reporting to the County Commissioners to perform inspections of all activities at the waste Facility, as provided under Section 318 of the Low Level Radioactive Waste Disposal Act. The Inspector's full compensation shall be reimbursed in full to the County by the operator.

Institutional Control Period is the period of time during which active surveillance, monitoring and care is maintained, and which shall extend to thirty (30) years after the estimated hazardous life of the waste.

Leak Proof means the engineered design feature which eliminates the inflow or outflow of solid, liquid or gaseous material by any means, including selective absorption, adsorption or ion exchange, except into a container through a control valve.

Low Level Radioactive Waste or LLRW means radioactive waste as defined in Section 11(e)(2) of the Atomic Energy Act, codified as amended at 42 U.S.C Section 2014(e)(2), or in the LLRW Act or the Low Level Radioactive Waste Disposal Regional Facility Act, Act of July 11, 1990-107. 35 P.S. Section 7131.101, et seq., as amended.

LLRW Act means the Pennsylvania Low Level Radioactive Waste Disposal Act of February 9, 1988, P.L. 31, 35 P.S. Section 7130.101 et seq., as amended.

Mixed Waste means Low Level Radioactive Waste that either (1) contains hazardous waste listed in the Code of Federal Regulations 40 CFR Part 261, subpart D; or (2) exhibits any of the hazardous characteristics in 40 CFR Part 261, Subpart C.

Monitoring Zone means a ten (10) mile radius from the perimeter of the waste site.

Public Access to Information includes but is not limited to a public library containing historical and current information related to low level radioactive waste, preservation of the environment, protection of the people, flora and fauna, and all matters related to the health, safety and welfare of the County. It shall include copies of all required records and Facility records as defined herein. Public Access shall include whatever other measures of disseminating information to the public as shall from time to time be deemed necessary by the County Commissioners on advice from the Environmental Control Officer and/or the Environmental Advisory Council. All matters related to the establishment,

operation and/or maintenance of public access to information shall be determined by the County and shall be at the sole expense of the operator.

Required records means independent, daily water well, surface water, soil, gas and oil well, plant and continuous air sampling, as well as human and animal surveys or tests as shall be requested by any individual or health professional and recommended by the Environmental Advisory Council. Such required records shall be made regarding the waste Facility, waste site, and ten mile monitoring area. Copies shall be kept at the respective offices of the affected municipality(ies) and the County Planning Department, as well as being available through the Public Access to Information. Any costs associated with such required records shall be borne by the operator.

Significant threat means a threat of injury by violating any Federal or Pennsylvania environmental quality standard; contaminating groundwater, surface water, flora, fauna, or air so as to pose an immediate hazard to human health by exposure to any substance that causes injury, including but not limited to: genetic injury, long latency cancer, immuno-deficiency disorders, endocrine disorders; or that causes the death of fish or wildlife; or that may cause the extinction or threaten the viability of any endangered, or threatened species or species of concern; or that contributes to an accumulation of radioactive substances in fish or wildlife; or that may disrupt a food chain in an ecosystem.

Triple Dedicated Engineered Barrier means the three leak-proof structures, container, waste module and waste unit, each of which is independently required to insure the isolation of radioactive waste from the biosphere for the hazardous life of the waste.

Waste Facility means the area where radioactive waste is stored, including the site and all improvements thereon (including engineered units, buildings, laboratories and ancillary structures), but not including the buffer zone.

Waste Site means the property on which the waste Facility is located, including the buffer zone.

Waste Unit means the outer leak-proof engineered structure containing the waste modules, which in turn contain the waste containers.

Well sampling means the testing of piezometer wells drilled at appropriate distances around the perimeter of the waste Facility, as well as the testing of all public and private water wells within three miles of the boundary of the waste site.

ARTICLE IV: ADMINISTRATION

Section 401.Environmental Control Officer.

The County Commissioners shall appoint an Environmental Control Officer, who shall have the authority and whose duties shall be:

- A. To receive and to review all applications required under this Ordinance, and to make recommendations to the Environmental Advisory Council regarding the action to be taken thereon;
- B. To assure that the operator of any waste Facility that may be licensed under this Ordinance fully complies with all the provisions herein;
- C. To initiate and to prosecute all legal actions required to enforce this Ordinance;
- D. Periodically to review the information available to the public to assure that the information contained therein is current and relevant to the needs of the County;
- E. To conduct regular and periodic inspections, including unannounced inspections, to assure compliance with all the provisions of this Ordinance.
- F. To enter onto the waste Facility on demand and to have immediate and unrestricted access to any part of said Facility and its records to assure compliance with this Ordinance.
- G. To receive all fees and surcharges payable by the operator of the Facility to the County, and to review all reports relating to the same; to collect all such fees which may become delinquent; to collect all penalties assessed by the County;
- H. To assure that all studies required under the LLRW Disposal Act for the benefit of the County are performed in a timely, thorough and professional manner to safeguard the health and safety of the residents of the County; and
- I. Such other duties as may be from time to time imposed by the County.

The Environmental Control Officer may also serve as an Inspector.

Section 402. Inspectors.

The County shall appoint two Inspectors, who shall have the authority and whose duties shall be to perform inspections of all activities at the waste Facility under a written agreement with the Department. The Inspectors shall have the right of independent access to inspect any and all records and activities at the site and to carry out joint inspections with the Department. The Inspectors shall report their findings to the Environmental Control Officer.

Section 403. Environmental Advisory Council.

There is hereby created an Environmental Advisory Council, consisting of not more than seven residents of the County, who shall have the authority and whose duties shall be:

- A. To review all applications required under this Ordinance together with the Environmental Control Officer and to make recommendations thereon to the County Commissioners;
- B. To conduct a study on behalf of the County of any potentially suitable sites in any application; to apply for funding of said study and to expend the funds so provided for all necessary technical assistance, subject to approval of the County Commissioners, as provided in Section 318(a) of the Low Level Radioactive Waste Disposal Act;
- C. To conduct an evaluation of each license application; to make application for funding of such study, and to expend the funds so provided for all necessary technical assistance, subject to the approval of the County Commissioners, and to prepare and propose to the County findings regarding said applications for inclusion in licensing proceedings by the Department, as provided on Section 318(a) of the Low Level Radioactive Waste Disposal Act;
- D. To counsel and assist the Environmental Control Officer and the Inspectors in the performance of their duties;
- E. To study and make recommendations to the County for the adoption of ordinances and regulations necessary for the protection of the County, its land, flora and fauna, and the health of its residents; and
- F. To exercise such powers as would be otherwise granted to any Environmental Advisory Council established pursuant to the Act of December 21, 1973, P.L. 425, Act No. 148, 53 P.S. Section 11501 et seq., as amended.

Section 404.Surcharges

- A. The operator of a waste Facility shall establish and levy a surcharge, at a rate determined from time to time by resolution of the County, for all waste disposed at the Facility.
- B. On or before the tenth (10th) day of each month, the operator shall pay to the County all of the surcharges collected during the preceding calendar month. Each payment shall be accompanied by a report, in a form approved by the County, of the date, exact source, amount, radiological content, and surcharge for each deposit of LLRW waste, and its placement within the Facility.
- C. The County shall arrange an independent audit of the financial records of the Facility, paid for by the operator.
- D. The operator shall be financially responsible for all uncollected charges and surcharges.
- E. The County may on thirty (30) days notice amend the surcharge rate to meet any or all expenses permitted under Section 318(f) of the LLRW Act.
- F. _____ percent of the monies collected as surcharges shall be placed into a special account provided under Section 405 of this Ordinance.

Section 405.Special Account.

- A. All fees collected pursuant to Section 404(F) of this Ordinance shall be deposited into an account, designated LLRW Special Account, and shall be used for the following purposes:
 - 1. all fees, expenses and other costs of administering this Ordinance;
 - 2. compensation and expenses of the Environmental Control Officer, the Inspectors and other County employees in so far as their duties relate to the administration of this Ordinance;
 - 3. expenses of the Environmental Advisory Committee and its members;
and
 - 4. a reasonable fee for administration of this Account.

- B. The funds held in the LLRW Special Account shall not be available for payment of any costs associated with abatement of any public nuisances or radiation damage created by operation of the LLRW Facility, nor for payment of any penalties incurred by the operator for any reason.
- C. This Account shall be under the control and management of the County Commissioners.

ARTICLE V: SITING

Section 501. Requirement of Permit.

No waste Facility shall be constructed within the County without first obtaining a Siting Permit under this Ordinance.

Section 502. Application.

An application for a Siting Permit shall be made on a form provided by the County. The application shall be submitted at the same time as the applicant submits its Potentially Suitable Sites Application to the Environmental Quality Board under Section 307 of the LLRW Act. The application shall be accompanied by a non-refundable application fee of one million dollars (\$1,000,000.00). The application fee shall be deposited by the County to a special account and shall be used solely for the purposes of administering this Ordinance, including application completeness and pre-siting studies, but shall not be the sole source of income for the administration thereof.

An application for a Siting Permit under this Ordinance shall contain the following documentation:

- A. A site plan identifying the location and function of all structures on the waste site, including engineering drawings and specifications of each structure;
- B. Proof of ownership of the site, or a contract conveying rights to the site by the owner,
- C. A property survey of the site by a registered licensed surveyor showing contours of five-foot intervals, description of perimeter land use and zoning within a two-mile radius of the site, and proximity to any structure, or other feature such as stream or well, within one thousand (1,000) feet of the waste site;

- D. All necessary licenses and permits from State and Federal agencies, along with the associated application materials submitted to those agencies;
- E. A proposed emergency control and evacuation procedure plan, subject to such amendments and additions as the County may designate after public hearing;
- F. An environmental impact study as defined in N.E.P.A., Section 102(2)(c), 42 U.S.C. Section 4332, which shall also include, but not be limited to, consideration of the following: site-specific soil analysis on a 50' grid, core sample to bedrock; leachate analysis; titles, easements and dedications; oil, gas and mineral rights; hydrology of the site, groundwater, aquifers; fauna, habitat and migratory survey, with proof that no species of concern are present on the site; storage of fuel; security police, fire and medical qualifications; a radiation background study based on monthly sampling data for three years prior to the date of application; meteorology, topology and predicted deposition patterns of airborne pollution; and assessment of risk of experiencing one fatality per one million population attributable to the Facility, which must include calculations of maximum concentrations of contamination under emergency conditions, such as a worst case accident scenario or the failure of an air pollution control unit;
- G. Baseline health studies of the entire population of the County and of affected municipalities, whether or not within the County or the State, within ten (10) miles of any site boundary (including buffers), which shall have been conducted for three years immediately prior to the date of application. All data, while protecting the names and identifications of individuals, shall be made available free of charge to the County Commissioners, the Planning Commission, the Environmental Advisory Council, the Environmental Control Officer and to each medical Facility serving the affected area. Summaries of data, so written as to preserve the privacy of the individuals surveyed, shall be made available free of charge upon request to any resident of the County or the affected area. The health studies shall include data of a nature found to be significant by states and countries dealing with low level radiation contamination, e.g. the Belarus Government in studying the aftermath of the Chernobyl accident.
- H. An evaluation of the quantity and nature of all wastes proposed to be stored at the Facility, including the chemical and physical forms, specific isotopes, number of curies and half-lives.
- I. An evaluation of the applicant's financial qualifications, its affiliated companies, and its compliance history, including that of its affiliated companies.

- J. As soon as it is available, the site characterization by DER, showing with specificity how the site has been shown to satisfy State criteria as written into the LLRW Act and relevant DER regulations.

Section 503.Application Processing.

- A. The Siting Permit application shall be submitted to the Environmental Control Officer, who shall review the same to determine whether the application contains all of the necessary documents and the application fee. The ECO is authorized to use part or all of the application fee to hire engineers and other experts to review the application for safety and compliance, to determine whether the environmental impact study has thoroughly considered all criteria set forth, and to make other determinations deemed important to the completeness of the application. If the application is not deemed complete, the ECO shall return the application to the applicant with a written notification of its deficiencies. If the application is complete, the ECO shall refer the application to the Environmental Advisory Council, with copies to the County Commissioners, the County Planning Commission, the Solid Waste Coordinator, the Solid Waste Authority, the Conservation District, the Director of the County Emergency Management Agency, the Communications Control Officer and the Public Information Service.
- B. After review and study of the application, the Environmental Advisory Council shall submit its findings and recommendations to the County Commissioners. All other agencies named above may submit their findings to the Commissioners.
- C. The Commissioners shall give due consideration to all comments submitted by the various agencies, and especially by the Environmental Advisory Council, but shall not be bound thereby.
- D. The Environmental Advisory Council and the County Commissioners shall hold a series of at least three public hearings, over a period of at least sixty days, throughout the County on each application. At least one hearing shall be held in each affected municipality. The applicant shall appear at all such public hearings and shall answer all reasonable inquiries made by the Environmental Advisory Council, the County Commissioners, or members of the public present at any of the said hearings. The Environmental Advisory Council shall, and any citizen or citizen group may, provide independent expert witnesses and other

testimony for these hearings. The hearings shall be recorded and transcribed.

- E. The County Commissioners shall take action on the application within sixty (60) days after the decision on the Potentially Suitable Sites Application is made by the Environmental Quality Board, unless there remain unresolved issues. Any unresolved issues shall be brought by the County first to the EQB, then to a Court of proper jurisdiction for resolution.

Section 504. Minimum Site Requirements.

The minimum site requirements for any Facility shall be:

- A. The site shall have geological characteristics such that all applicable State and Federal emissions requirements may be met without the use of dedicated engineered barriers, other than the entrance described in Section 604(B) of this Ordinance;
- B. There shall be no active, inactive, or abandoned water, gas, oil or brine wells or other man-made underground structures within two miles of the periphery of the site, including the buffer areas.
- C. Surface features at the site shall be designated to direct water drainage away from waste units at velocities and gradients which will not result in erosion. No water shall drain from the waste site to any off-site location or into any aquifer without first being collected in an appropriate holding Facility and there tested and shown to be free from radiation and hazardous contaminants.
- D. No waste site shall be located in recharge zones for sources of public or private drinking water, the headwaters of any waterway, any currently designated or previously designated wetlands, flood plains, tidal coastal zone, or in the habitat for any threatened or endangered species (wildlife or vegetation), or species of special concern. The National Wetlands Inventory maps from the United States Department of Interior shall be used as a guide to wetlands locations for the sake of this Ordinance;
- E. No waste site shall be located in an agricultural security area as designated pursuant to Act 43 of 1981, the Agricultural Area Security Law, as amended;
- F. No waste site shall be located in any area disqualified by law or regulation.

ARTICLE VI: OPERATION

Section 601.Operating Permit.

No waste Facility shall be constructed or operated within the County unless an Operating Permit is first obtained and the non-refundable application fee paid pursuant to this Ordinance.

Section 602.Application.

When an operator submits a license application to the Department, the operator shall simultaneously make application to the County for an Operating Permit under this Ordinance. The application shall be on a form provided by the County and shall be accompanied by a non-refundable application fee of one million dollars (\$1,000,000.00). The application shall be accompanied by a complete copy of the license application filed with the Department. The application shall set out the chemical and physical forms, specific isotopes, half-life, and number of curies of each substance expected to be present in any radioactive air emissions, along with the appropriate formulas for calculating the weight equivalent to one curie, and the number of millirems associated with potential exposures to one curie of each substance. The application fee shall be deposited by the County into a separate account and shall be used solely for purposes of administration of this Ordinance.

Section 603.Processing Procedure.

- A. The application for the Operating Permit shall be filed with the Environmental Control Officer. The ECO shall review the application to determine whether it is complete and in full compliance with this Ordinance. If it is not complete, the ECO shall return the application to the operator with written notification of its deficiencies. If the application is complete, the ECO shall refer the document as specified in Section 503(A) of this Ordinance, and shall advertise an open Public Comment Period in a local newspaper of county-wide circulation.
- B. The Environmental Advisory Council shall evaluate the application and prepare and submit to the County Commissioners its findings and recommendations thereon.
- C. Upon receipt of the findings and recommendations of the Environmental Advisory Council, the County Commissioners shall further review the application and prepare and submit its findings and recommendations to the Department for inclusion in the licensing procedure.

- D. As part of its deliberations, the Commissioners shall advertise and hold at least three public hearings throughout the County over a period of at least sixty (60) days. The Environmental Advisory Council and the operator shall attend all such hearings and the operator shall provide such documentation and expert witnesses as may be necessary to fully answer all reasonable inquiries put forth therein by any member of any agency or of the public.

Section 604.Design Standards.

Every Facility subject to this Ordinance shall meet the following minimum design requirements:

- A. The waste Facility shall be designed for zero release of radioactivity and shall not permit liquid or gaseous infiltration through any engineered cover, bottom, side or entrance;
- B. The waste Facility shall be an above-grade Facility, mounded with earth and capped for tornado protection, with a sealed entrance permitting access so that leaking containers can be easily and safely located and removed or repaired;
- C. No containers or waste modules are to be covered by any type of material that could cause loss of integrity of the containers or the waste modules if recovery of the waste is undertaken.

Section 605.Minimum Operating Standards.

Every waste Facility subject to this Ordinance shall be operated in conformance with each of the following standards:

- A. No radioactive emissions into the outdoor atmosphere from any waste unit shall be permitted. Each waste container and module shall be monitored so as to minimize the possibility of any radioactivity from escaping, and so as to allow retrieval and removal of any leaking container prior to radioactive emissions escaping to the atmosphere, as in Section 604 of this Ordinance;
- B. The waste Facility shall be designed and operated to achieve containment for the hazardous life of the waste. Prior to construction, the waste Facility design shall be modeled and analyzed to demonstrate that its performance and its interaction with the environment at the waste site will conform to the requirements of this Ordinance. The Facility design shall demonstrate

complete radioactive containment, maintained for any maximum disruptive event, external or internal;

- C. The waste Facility design and operation shall be upgraded from time to time as safer technologies are devised and demonstrated to the satisfaction of the County. The County may hire consultants to investigate said technologies at the expense of the operator;
- D. The operator shall perform active and passive monitoring which shall detect any releases of radioactivity from the waste containers or the waste modules into the waste units to insure there shall be no releases from the waste units into the buffer zone during the entire Institutional Control Period. The operator shall provide the Environmental Control Officer with continuous verification of its performance of these monitoring requirements;
- E. The waste Facility shall accept only waste with physical and chemical properties for which it was designed and which it is capable of containing in isolation for the entire hazardous life of the waste as defined herein. All Facility records shall be retained for the Institutional Control period. Complete copies of all Facility records shall be forwarded to the ECO no later than the tenth of each month for the previous month, and immediately on request of the ECO;
- F. All classes of waste shall be segregated unless they were mixed as they were generated. Classes of wastes A, B, and C, and mixed wastes as defined in 10 CFR, Section 61.55 (1989), shall be contained for their full hazardous lives. No waste greater than class C shall be accepted even though it may have been diluted to a lower level of radioactivity;
- G. No radioactive materials generated outside the Appalachian Compact States and not designed as waste prior to shipment into Pennsylvania or other Compact states, but thereafter declared to be waste, shall be disposed of or stored in the County. No waste generated outside the United States shall be disposed of or stored in the County, even if the company generating the waste has its corporate headquarters, is incorporated, has offices or receives such waste at its facilities or through a port of entry in one of the Appalachian Compact States;
- H. In the event that radioactive substances from the waste Facility contaminate an area outside the waste site, the operator shall notify the Environmental Control Officer or any Inspector and the Emergency Management Agency

and shall promptly clean up all contamination and restore all such contaminated areas to their pre-existing and uncontaminated state;

- I. No LLRW Facility shall accept waste for more than thirty (30) years. No additional radioactive waste shall be stored, disposed of or treated anywhere in the County after that thirty (30) year period;
- J. Routine operations of the waste Facility shall be conducted solely between the hours of 9:00 am and 5:00 pm, Mondays through Fridays, excluding any legal holidays recognized by the Commonwealth of Pennsylvania;
- K. No waste shall be accepted at the Facility except during the hours of routine operations.
- L. The waste Facility shall at all times be operated in strict compliance with all applicable laws and regulations of all Federal, State, and local agencies having jurisdiction over the site, the operator or the activities at the site by the operator.

Section 606. Air Pollution Control Standards.

Any waste Facility subject to this Ordinance shall comply with the following minimum standards:

- A. No radioactive substance or waste generated by any government agency or pursuant to a Federal or State government contract or license, nor as defined by the Nuclear Regulatory Commission (NRC) Section 11(e)(92) of the Atomic Energy Act of 1954, codified as amended at 42 U.S.C. Section 2014(e)(2) in the Low Level Radioactive Waste Policy Act Amendment of 1985 and in effect as of January 1, 1986, or in the LLRW Act, nor any substance that may be redefined as being within an expanded exemption, as Below Regulatory Concern (BRC), or otherwise deregulated by the NRC or any other Federal agency, shall be received for treatment, recycled, incinerated, deposited in any sewer or be accepted in any waste Facility or in any other place in the County except in a LLRW Facility holding an Operating Permit under this Ordinance and having adequate safeguards to prevent the release of radioactive substances into the air, as defined herein.

- B. No operator shall cause or permit the direct or indirect release of radioactive substances into the air, whether in gaseous, particulate, mist, vapor or other form, or through any pathway, except in compliance with air pollution control standards included in the Operating Permit obtained under this Ordinance.
- C. No Operating Permit may be granted under this Ordinance where the Environmental Advisory Council determines that radioactive air emissions are expected to exceed zero in the worst-case scenario, nor where any radioactive emissions are expected routinely.

Section 607. Emergency Management Plan.

The operator shall develop, maintain and yearly upgrade a plan for responding to all anticipated emergency events which might occur at the Facility and in connection with transport connected therewith. The operator shall provide the Environmental Control Officer, the County Emergency Management Agency, the Emergency Management Coordinators for the affected municipalities, each fire company in the County, and Communications Control Office with copies of the plan and all amendments, updates and revisions thereto. The operator shall provide funds to the Emergency Management Agency for specialized training in emergency response and equipment for use of emergency response teams.

Section 608. Disclosure of Transporters.

On or before the tenth of each month the operator shall provide the Environmental Control Officer with a list of the names and business addresses of all persons, firms or corporations which provided transportation of wastes to the Facility the previous month, including a copy of all manifests. The Environmental Control Officer may request, and the operator shall provide, such information on a more frequent basis as the Environmental Control Officer deems necessary. Copies of such reports shall be provided to the Emergency Management Agency and the County Solid Waste Coordinator.

Section 609. Access to Records.

All required records and Facility records shall be available to the ECO and the Inspectors at all times. The operator shall provide reasonable assistance in locating, identifying and reviewing all information contained in any such records.

Section 610.Liability Insurance.

The operator shall provide, and maintain continuously in effect, a policy of general liability insurance, including liability for personal injury or property damage resulting from any release of radioactivity or other hazards into any part of the environment, in the minimum amount of one hundred million dollars (\$100,000,000.00) per occurrence. The County shall be identified as a party to be notified of any cancellation, expiration or change in said policy. The operator shall provide the Environmental Control Officer with proof of renewal at least thirty (30) days prior to renewal.

ARTICLE VII: FUNDING OF PRE-PERMITTING STUDIES

Section 701.Bonding.

- A. At the time of making application for a Siting Permit under this Ordinance, the applicant shall submit a bond in a form and with security approved by the County in the amount of two million dollars (\$2,000,000.00) as guaranty of reimbursement by the applicant of all reasonable expenses incurred by the County to evaluate the Potentially Suitable Sites Application and the application of the Siting Permit, as provided under Section 318(a) of the LLRW Act, to the extent that such expenses are not funded by the Department.

- B. At the time of the application for an Operating Permit, the applicant shall submit a bond, in a form and with security approved by the County, in the principal sum of three million dollars (\$3,000,000.00) as guaranty of reimbursement of all reasonable expenses incurred by the County to conduct an independent evaluation of the license application under Section 318(b) of the LLRW Act and the Operating Permit application under this Ordinance, to the extent that the funds are not made available by the Department.

Section 702.Reimbursement.

The applicant shall reimburse the County in full for all reasonable expenses, including engineering and consultant fees, attorney's fees, and all out-of-pocket expenses incurred by the County to perform the studies and evaluations provided under this Ordinance and under Section 318 of the LLRW Act within thirty (30) days after submission of a requisition.

Section 703. Nonpayment of Requisitions.

No permit required under this Ordinance shall be issued until all requisitions have been paid in full by the applicant.

ARTICLE VIII: FINANCIAL RESPONSIBILITY

Section 801. Financial Responsibility.

The operator shall, upon issuance of the Operating Permit and before beginning operations at the Facility, submit in a form, with security, and of an amount acceptable to the County, a performance bond to assure the County of the proper operation and closure of the Facility and of compliance with this Ordinance. This bond shall be in addition to any bond or other security demanded under any State or Federal law, regulation or agency. The County shall be named as a party to be notified should the bond be in any manner in jeopardy, whether through the activities of the operator, the bonding company or of any governmental entity.

ARTICLE IX: PENALTIES AND REMEDIES

Section 901. Civil Penalties.

- A. Any person, owner or operator who violates or causes a violation of any of the provisions of this Ordinance shall, upon conviction in a summary proceeding, be liable for a penalty of not more than \$1,000.00 for each separate offense and in default thereof, shall be imprisoned for a term of not more than ninety (90) days. Each day of a continuing violation shall be considered a separate offense. Each type of violation shall be considered a separate offense.
- B. Any person whose violation is of a nature that it may pose a significant threat as defined herein shall be liable for a penalty of not less than \$1,000.00 nor more than \$25,000.00 for each separate offense. Each day of a continuing violation shall be considered a separate offense.
- C. Any person who knowingly fails to report any release of radioactivity or radioactive materials, or who knowingly and willfully fails to remedy any violation that may pose a significant threat as defined herein may, in addition to the above civil penalties, be liable for criminal prosecution

commensurate to the risk of harm to the public and to the environment. These penalties may include imprisonment of any responsible employee or agent of the operator.

Section 902.Abatement.

The violation of any of the provisions of this Ordinance relating to the emission of pollutants into the environment surrounding the Facility shall be considered a public nuisance per se. The operator shall abate such nuisance immediately, and shall report it to the Environmental Control Officer. If the Environmental Control Officer or any Inspector finds such a nuisance and it has not been reported by the Operator, it shall be considered a major violation of this Ordinance.

Section 903.Injunctive Relief.

In addition to any other remedies provided under this Ordinance or any State or Federal law or by action of any State or Federal agency, the County shall have the right to pursue injunctive relief to halt and abate any release of pollutants from the Facility, to mitigate any damages therefrom, and to clean up the same. In the alternative, the County may halt, abate and clean up the release and be reimbursed by the operator for the same.

Section 904.Reimbursement of Litigation Costs.

By applying for a permit under this Ordinance, the applicant agrees to reimburse the County in full for all reasonable costs of litigation, including but not limited to investigative costs, attorney fees, and expert's fees incurred by the County in the successful prosecution of any legal remedy provided under this Ordinance.

Section 905.Termination of Permits.

If the operator is delinquent in the payment of any surcharges for a period of thirty (30) days, or if the operator is in default of any other provision of this Ordinance after notice and reasonable opportunity to cure said default, the Environmental Control Officer or the County may revoke the Operating Permit.

Section 906.Citizen's Suits.

- A. Nothing in this Ordinance shall be construed to limit the right of private citizens of the Commonwealth to pursue any civil action against the operator in the manner provided by law.

B. In any successful action to enforce provisions of this Ordinance, the Court may award reasonable attorney's fees and other litigation costs to any citizen or citizen's group in addition to any other relief awarded.

ARTICLE X: SEVERABILITY

Section 1001. Severability.

If any section or provision of this Ordinance is held to be invalid, such holding shall not affect the validity of the remaining provisions of the Ordinance.

ARTICLE XI: EFFECTIVE DATE

This Ordinance shall take effect immediately upon adoption.

ADOPTED this 25th day of January, 1995.

County of York:

Raymond Trent

John M. Minich

Attest:

Walter D. B. M.
Chief Clerk Board of Commissioners