

BYLAWS
OF THE
APPALACHIAN STATES LOW-LEVEL RADIOACTIVE WASTE
COMMISSION

Revised

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ARTICLE I Definition and Scope

Section One: Name

The organization shall be known as the Appalachian States Low-Level Radioactive Waste Commission, hereinafter referred to as the "Commission".

Section Two: Controlling Statutes; State Law

Public Law 100-319, known as the "Appalachian States Low-Level Radioactive Waste Compact Consent Act," and Public Law 96-573, known as the "Low-Level Radioactive Waste Policy Act," as amended by Public Law 99-240, known as the "Low-Level Radioactive Waste Policy Amendments Act of 1985," and as the foregoing shall be further amended from time to time (the "Controlling Statutes"), shall govern the Commission in carrying out its powers and duties. The Commission may also look to the laws of each Party State for guidance in the administration of the Commission, but, except to the extent provided in the Compact, the Commission shall not be bound by the statutes, regulations and other laws of any individual Party State.

Section Three: Definitions

The following words and phrases when used in these Bylaws shall have the meanings given to them in this Section unless the context clearly indicates otherwise:

"Act." The act of May 19, 1988 (P.L. 100-319), known as the "Appalachian States Low-Level Radioactive Waste Compact Consent Act."

"Alternate." Any Person appointed according to the laws of a Party State to act or vote in the absence of a duly appointed Member of the Commission.

"Broker." Any intermediate Person who handles, treats, processes, stores, packages, ships or otherwise has responsibility for or possesses low-level radioactive waste obtained from a Generator.

"Business." Any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, joint stock company, receivership, trust or any other legal entity organized on a for-profit basis.

"Commission." The Appalachian States Low-Level Radioactive Waste Commission as authorized by the Act.

"Compact." The Appalachian States Low-Level Radioactive Waste Compact as approved by the Act.

"Employment" or "Employed." Any relationship existing at the time of or any time within the period of 5 years prior to the date of appointment of a Member or Alternate (other than a Public Official) whereby a Member or Alternate is or has been engaged by a Business or other Person for

the purpose of rendering services in exchange for monetary remuneration or any other Thing of Value. The term includes, without limitation, a relationship defined by an employment or other contractual agreement (other than a contract for services rendered on an independent contractor basis) and an at-will employment situation. The receipt by a Member or Alternate (other than a Public Official) of any payment or Thing of Value under a pension, health care or other employee benefit plan within the aforesaid 5 year period shall also constitute Employment, or cause the Member or Alternate to be Employed, within the meaning of this definition. For purposes of the Compact and these Bylaws, service in the capacity as a Public Official shall not constitute Employment, nor shall a Public Official be deemed Employed, by any branch of government of any Party State.

“Financial Interest.” Any legal or equitable interest comprising more than (I) three (3) percent of the equity or other ownership interests of a Business (1% or more in the case of a corporation whose stock is regularly traded on an established securities market) or (ii) three (3) percent of the aggregate outstanding indebtedness of a Business (1% or more in the case of a corporation whose securities are regularly traded on an established securities market).

“Generator.” A person whose activity results in the production of low-level radioactive waste requiring disposal.

“Host State.” The Commonwealth of Pennsylvania or other Party State so designated by the Commission in accordance with Article III of the Act.

“Indemnifiable Capacity.” Any and all past or present service with the Commission by an Indemnifiable Representative.

“Indemnifiable Representative.” Any and all Members, Alternates, employees or agents of the Commission and any other person designated as an Indemnifiable Representative by the Commission.

“Liability.” Any damage, judgment, amount paid in settlement, fine, penalty, punitive damages, excise tax assessed with respect to any employee benefit plan, or cost or expense of any nature (including, without limitation, reasonable attorneys’ fees and disbursements).

“Low-Level Radioactive Waste.” Radioactive waste that:

- (a) is neither high-level waste or transuranic waste, nor spent nuclear fuel, nor by-product material as defined in Section 11(e)(2) of the Atomic Energy Act of 1954 as amended; and
- (b) is classified by the Federal Government as low-level waste, consistent with existing law; but does not include waste generated as a result of atomic energy defense activities of the Federal Government, as defined in Public Law 96-573, or Federal research and development activities.

“Member.” Any Person appointed according to the laws of a Party State as that state’s official representative to the Commission.

“Newspaper of General Circulation.” A newspaper issued at least once a week which is intended for general distribution and circulation, and is sold at fixed prices per copy per day, per week, per month, or per annum, to subscribers and readers without regard to business, trade, profession or class.

“Party State.” The states of Delaware, Maryland and West Virginia, and the Commonwealth of Pennsylvania which have become a party to the Compact in accordance with Article V of the Act.

“Person.” An individual, corporation, partnership or other legal entity, whether public or private.

“Proceeding.” Any threatened, pending or completed action, suit, appeal or other civil, criminal, administrative or investigative proceeding, whether formal or informal, and whether brought by or in the right of the Commission, a class of its Members or otherwise.

“Public Official.” Any individual elected by the public or elected or appointed by a governmental body of any Party State, or an appointed official in the Executive, Legislative or Judicial Branch of any Party State or any political subdivision thereof.

“Regional Facility.” A facility within any Party State which has been approved by the Commission for the disposal of Low-Level Radioactive Waste.

“Related Industry.” Any Business which regularly and for a fee transports, stores, treats, handles or disposes of Low-Level Radioactive Waste (including, without limitation, disposal at a Regional Facility) for any Generator or other Person.

“Thing of Value.” Any gift, loan, payment, contribution, offer of employment or other item having monetary or economic value, excluding (i) meals and beverages of reasonable value which are received in the presence of the donor or sponsoring Person, (ii) unsolicited gifts of nominal value or trivial items of informational value, (iii) reasonable expenses for food, travel and lodging for a meeting at which the recipient participates in a panel discussion or speaking engagement at a meeting during the normal course of performance of the recipient’s official duties, (iv) gifts that are purely private and personal in nature, (v) gifts from relatives by blood or marriage, or a member of the same household or (vi) any other thing of a de minimis value where circumstances indicate that the thing was not given to influence the recipient in the exercise of his or her official duties.

Section Four: Purpose of Bylaws

It is the purpose of these Bylaws to govern and facilitate the operations and policies of the Commission in accordance with the provisions of the Act. In the event of a conflict between these Bylaws and the Act, the Act shall govern.

Section Five: Official Seal

The Executive Director shall, upon approval of the Commission, purchase a seal for the Commission and provide for the custody thereof. The seal of the Commission shall be affixed to or imprinted upon all official reports of the Commission, certificates of copies of records or papers, official copies of minutes of meetings and any other instrument which by law is required to be under seal.

Section Six: Principal Office

The Commission's principal office shall be located in Harrisburg, Pennsylvania.

**ARTICLE II
Organization**

Section One: Status

The Commission is a body corporate and politic, with succession for the duration of the Compact, and is an agency and instrumentality of the governments of the respective signatory Party States, but separate and distinct from the respective signatory Party States.

Section Two: Powers and Duties

The Commission **shall** have the powers and duties set forth in the Controlling Statutes, and shall have full power and authority to conduct, manage and direct the business and affairs of the Commission.

Section Three: Compact Eligibility

Only the States of Pennsylvania, West Virginia, Delaware and Maryland are eligible to become parties to the Compact.

Section Four: Commission Membership

Only Party States shall be eligible to participate in Commission membership. The Commission shall consist of two voting Members from each Party State to be appointed according to the laws of each Party State and two additional voting Members from each Host State to be appointed according to the laws of each Host State. Upon selection of the site of the Regional Facility, an additional voting Member shall be appointed to the Commission who shall be a resident of the county or municipality where the facility is to be located. The appointing authority of each Party State shall notify the Commission in writing of the identities of the Members and of any Alternates. An Alternate may vote and act in the Member's absence.

Section Five: Tenure

Each Party State shall determine the length of term for which its Members and Alternates shall be appointed.

Section Six: Vacancies

Vacancies on the Commission shall be filled according to the laws of the Party State for which the Member served.

Section Seven: Conflict of Interest

- (a) No Member, Alternate or employee shall have a Financial Interest in any Business which generates Low-Level Radioactive Waste, any Regional Facility or any Business involved in any Related Industry for the duration of the individual's term of office or period of employment with the Commission.
- (b) No more than one-half of the Members and Alternates from any Party State shall have been Employed by or be Employed by a Generator or a Business involved in a Related Industry upon appointment to or during their tenure of office; provided, that no Member shall have been Employed by or be Employed by a Person which operates a Regional Facility.
- (c) No Member, Alternate, or employee shall accept Employment from any Regional Facility operator or Brokers for a period of at least three years after leaving office.
- (d) No Commission Member, Alternate, officer or employee shall:
 - (1) be financially interested, either directly or indirectly, in a contract, sale, purchase, lease or transfer of real or personal property to which the Commission is a party;
 - (2) Solicit or accept money or any other Thing of Value in addition to the expenses paid to him by the Commission for services performed within the scope of his official duties; or
 - (3) offer money or any Thing of Value for or in consideration of obtaining an appointment, promotion or privilege in his employment with the Commission.
- (e) Any officer or employee who shall willfully violate any of the provisions of this Section shall forfeit his office or employment.
- (f) Any contract or agreement made on behalf of the Commission and knowingly made in contravention of this Section is void.

- (g) Officers and employees of the Commission shall be subject, in addition to the provisions of this Section, to such criminal and civil sanctions for misconduct in office as may be imposed by Federal law and the law of the Party State in which such misconduct occurs.
- (h) Each Member, Alternate and employee shall file with the Commission a Statement of Financial Information for the preceding calendar year on a form prescribed by the Commission no later than May 1 of each year. The Statement of Financial Information shall only include appropriate and necessary questions to enforce Section Seven of Article II.

Section Eight: Withdrawal of Membership

A Party State may withdraw from the Compact by repealing the enactment of the Compact in its state, but such withdrawal shall not become effective until two years following enactment of the repealing legislation. If the withdrawing state is a Host State, any Regional Facility in that state shall remain available to receive Low-Level Radioactive Waste generated within the region for a period of five years following the effective date of the withdrawal.

ARTICLE III Voting

Section One: Quorum

A quorum shall consist of a majority of the voting Members of the Commission or their duly appointed Alternates. No official action shall be taken by the Commission at any meeting unless a quorum is present. ~~and at least four (4) voting Members or their Alternates are physically present at the publicly-announced meeting Place.~~ A Member or Alternate shall be considered present for purposes of a quorum if the Member or Alternate is (i) physically present, or (ii) participates via teleconference or other telecommunication means, as long as the Member or Alternate participating by such means can hear and be heard by all other participants and is recognized by the presiding officer in accordance with Section Six of this Article.

Section Two: Voting

Each Commission Member shall be entitled to one vote. No action of the Commission shall be binding unless a majority of the total membership cast their vote in the affirmative, except as follows:

- (a) A majority vote of the Commission Members and a majority vote of the Host State's Members shall be necessary for the Commission to take any action related to the Host State's Regional Facility and management of Low-Level Radioactive Waste within that Host State.
- (b) A two-thirds vote of the Commission and a majority vote of the Host State's Members shall be necessary for the Commission to hold an executive session closed to the public for the purpose of:

- (1) considering or discussing legally privileged or proprietary information;
 - (2) considering the dismissal or discipline of, or complaints or charges brought against an employee or other agent of the Commission unless such person requests a public hearing; or
 - (3) consulting with the Commission's attorney regarding information or strategy in connection with specific litigation.
- (c) A two-thirds vote of the Commission shall be necessary to amend or repeal the Bylaws of the Commission.

Section Three: Voting in the Absence of a Commission Member

If a Commission Member is absent at a meeting that Member's designated Alternate may attend, participate and vote on behalf of the Member.

Section Four: Proxy Votes

No Member or Alternate may vote by proxy on any matter before the Commission for action.

Section Five: Notational Voting

- (a) Votes may be cast by facsimile transmission or mail by the use of notational voting whereby the Members and Alternates vote individually and separately upon a recommended written motion, proposal, resolution, rule, regulation, report, or order prepared by the staff or a member and approved by the Chairman for the purposes set forth in subparagraph (b).
- (b) Notational voting may only be used to expedite decision making, adopt a written opinion or report which explains or documents a decision made by the Commission, or to remove uncontested or noncontroversial matters from the agenda of public meetings. Notational voting for the purpose of avoiding the public discussion of significant issues or to conceal the actual casting of votes by Members and Alternates shall not be allowed.
- (c) The Executive Director shall send a ballot to each Member and Alternate who shall execute and return the ballot to the Executive Director within the time period specified on the ballot. Each ballot executed by an Alternate shall designate the Member for whom such Alternate is voting. A ballot cast by an Alternate shall not be counted if the designated Member returns his or her executed ballot, or indicates in writing his or her desire to abstain from voting within the designated time period. A ballot of any Alternate which does not include a designation of the Member for whom he or she is voting shall not be counted under any circumstances.
- (d) The Executive Director shall notify the Members and Alternates of the results of the notational vote in writing within thirty (30) days from the request for a notational vote.

- (e) At the first public meeting following the taking of a notational vote, an announcement shall be made that matters have been considered by notational voting, and the record of votes cast by individual members upon the matters shall be entered upon the minutes of the meeting.

Section Six: Participation by Telephone Conference

~~So long as there are at least four (4) voting Members or their Alternates physically present at the publicly announced meeting place,~~ Members and Alternates may participate in the annual meeting or any regular or special meeting by telephone conference or other telecommunication means, and may speak to—and vote upon any matters which may come before the Commission at such meeting. If a Member or Alternate participates by telephone conference or other telecommunication means, the Member or Alternate so participating must be able to hear and be heard by all other participants. The presiding officer shall confirm at the call to order at the beginning of the meeting that all participants can hear all other participants. A Member or Alternate participating by telephone conference or other telecommunication means shall identify himself or herself by full name, State and position (as Member or Alternate) (i) at the call of the roll, and (ii) before speaking to any matter. After a Member or Alternate has so identified himself or herself under (i) or (ii), above, the presiding officer shall recognize the Member or Alternate.

Section Seven: Recording of Votes

Upon the demand of any Commission Member, the vote on any matter before the Commission shall be taken in such manner as to show how each Commission Member voted, and a record thereof shall appear in the minutes of the meeting.

Section Eight: Official Voting Record

All votes of the Commission shall be recorded by the Secretary, shall become part of the official record, and shall be made available to the public upon request.

ARTICLE IV Meetings

Section One: Annual and Regular Meetings

The Commission shall hold its annual meeting once per calendar year. The annual meeting shall be held in the county selected to host a Regional Facility or, if none, at any location in the Host State selected by the Chairman. The Chairman shall determine the time and place for the annual meeting.

In addition to the annual meeting, regular meetings of the Commission shall be held at such time and place as shall be designated from time to time by resolution of the Commission.

Section Two: Special Meetings

In addition to annual and regular meetings, the Commission shall also meet for special or emergency meetings upon the call of the Chairman, by petition of a majority of the Commission Members, or upon the call of at least two Commission Members of a Host State. Such meetings shall be held at a time and place to be determined by the Chairman.

Section Three: Notice of Meetings

- (a) All meetings of the Commission shall be open to the public with at least fourteen (14) calendar days notice, except that the Chairman may convene an emergency meeting with less advance notice. Each municipality and county selected to host a Regional Facility shall be specifically notified by mail at least fourteen (14) calendar days in advance of all Commission meetings.
- (b) Notice of all meetings, except emergency meetings, shall be sent to all persons on the Public Notice List described in Section Four of Article IV, published in the Federal Register as required by the Federal Administrative Procedures Act, and published in at least two newspapers of general circulation in each Party State and in a newspaper of general circulation which is published and circulated in the county where a Regional Facility is located. The notice must include the place, date, time and purpose of the meeting.
- (c) All meetings of the Commission shall be conducted in accordance with Rules of Procedure as may be adopted from time to time, which Rules shall substantially conform to the Administrative Procedure Act (5 U.S.C. Ch. 5, Subch. II, and Ch. 7).
- (d) The reason for an executive session must be announced at least 14 calendar days prior to the executive session as provided for in Subsection (b) of this Section, except that the Chairman may convene an emergency meeting with less advance notice, in which case the reason for the executive session must be announced at the open meeting immediately subsequent to the executive session.
- (e) The Executive Director shall provide written notice of all annual meetings, special meetings and executive sessions to Commission Members and Alternates. This notice must be sent at least fourteen (14) calendar days prior to the meeting to which it refers. However, in the event of an emergency meeting actual notice may be provided by mail or telecommunication to Commission Members and Alternates with as much notice as is practicable. All notices must include the date, time and place of the meeting and must include a tentative agenda that will be considered or discussed at the meeting.
- (f) Before or at any meeting of the Commission, a Member or Alternate may waive notice in writing of such meeting. Such waiver shall be deemed equivalent to the giving of such notice.

- (g) All action taken in violation of the open meeting provisions in the Act shall be null and void. Section Four: Public Notice List

Section Four: Public Notice List

The Executive Director shall maintain a “Public Notice List” of names and addresses of all persons and organizations that have requested notice of regular and special meetings. An organization that requests to be placed on the Public Notice List shall designate an individual to receive notices of meetings. All notices must include the date, time and place of the meeting and must include a tentative agenda that will be considered or discussed at the meeting. The Executive Director shall periodically update the Public Notice List by mailing to persons on the list a questionnaire asking whether the person wishes to continue to receive notices of meetings. The Executive Director may delete from the mailing list any person who has failed to respond to the questionnaire.

Section Five: Agenda

The Executive Director, with the approval of the Chairman, shall be responsible for preparing an agenda for all meetings. Commission Members may place items on the agenda by notifying the Executive Director at least ten (10) days prior to an annual meeting. Items may be placed on the agenda for a special meeting in the same manner as for an annual meeting, except that the Executive Director at his discretion may waive the time deadlines set forth in this Section.

Section Six: Rules of Procedure

The rules contained in the current edition of “Robert’s Rules of Order Newly Revised” shall govern the Commission in all cases to which they are applicable and in which they are not inconsistent with the Act and these Bylaws and any special rules of order that the Commission may adopt.

Section Seven: Order of Business

The order of business at the annual and regular meetings shall be substantially as follows:

- (a) Call to Order;
- (b) Roll Call and Introductions;
- (c) Adoption or Modification of the Agenda;
- (d) Approval of the Minutes of the Previous Meeting;
- (e) Report of the Chairman;
- (f) Report of the Executive Director;
- (g) Reports of Committees;

- (h) Unfinished Business;
- (i) New Business;
- (j) Public Comment;
- (k) Next Regularly Scheduled Meeting or Announcement of Special Meeting;
- (l) Adjournment

The order of business may be changed or altered with respect to any meeting by a majority vote of the Members of the Commission.

Section Eight: Minutes

The Executive Director shall prepare and distribute to Members and Alternates the written minutes of each meeting promptly after the meeting. The minutes of any meeting may be approved without reading whenever they have been distributed at least twenty-four hours prior to the time of approval. The minutes shall record the final votes of each Commission Member relating to any Commission decision. The Executive Director shall furnish copies of the approved minutes to each Commission Member and Alternate and shall make the minutes, except minutes from an executive session, available to the public as soon as practicable after the meeting.

Section Nine: Conferences

- (a) A quorum of the Members of the Commission may participate in a training program or seminar which is organized and conducted for the sole purpose of providing information to the Members on matters directly related to their official responsibilities and such programs and seminars shall not constitute “meetings” subject to notice requirements in Section Three.
- (b) A conference may be organized by the Members, staff, or other persons, groups or organizations and may be attended either solely by Members and staff of the Commission or may include other persons, groups or organizations.
 - (1) A conference attended by a quorum of Members where a significant or substantial amount of discussion of Commission business is anticipated shall constitute a “meeting” subject to the notice requirements as provided in Section Three.
 - (2) A conference is not a “meeting” subject to the notice requirements in Section Three if the purpose and predominant activity for which the conference is held is to provide information to the Members in order to conduct future deliberations or take future formal action. Incidental discussions regarding Commission business may permissibly occur at conferences; however, Members shall avoid discussions

at conferences which directly or indirectly indicate how Members will vote upon matters subject to official action by the Commission.

- (3) Notice requirements are not necessary where less than a quorum of Members are present at a conference.

Section Ten: Committees

The Commission may establish such committees as it deems necessary for the purpose of advising the Commission on any and all matters of interest to the Commission and as may be appropriate under the terms of the Act. The Chairman shall appoint all committee members, shall designate a member of each committee to act as Chairman, and shall establish the duration of each committee's existence.

Section Eleven: Resolutions

The Commission shall act on matters of general or permanent significance by resolution. Draft resolutions shall be prepared by the Executive Director at his discretion or at the request of any Commission Member or Alternate. At least one copy of each resolution in writing shall be provided to each Commission Member and Alternate for their review prior to considering the resolution at any meeting. Matters of a temporary nature or of mainly internal significance may be acted upon by motion, without formal resolution.

ARTICLE V Officers and Employees

Section One: Officers

The principal officers of the Commission shall be the Chairman, Vice-Chairman, and the Secretary/Treasurer.

The Chairman and the Vice-Chairman shall be elected as provided in Section Three of Article V. The Executive Director shall serve as the non-elected Secretary/Treasurer of the Commission. However, the Executive Director shall not be a Member of the Commission nor have voting privileges.

Section Two: Chairman and Vice-Chairman

At its regular annual meeting, the Commission shall elect from among its Members a Chairman and a Vice-Chairman.

The Chairman shall preside over all Commission meetings, appoint the membership of all committees, serve as an ex-officio member of all committees, officially represent the Commission or appoint someone to officially represent the Commission, call Commission meetings, notify appointing authorities of vacancies in the Commission, and perform such other duties as may normally be performed by a presiding officer.

The Vice-Chairman shall preside over all Commission meetings in the absence of the Chairman, and shall perform the duties of the Chairman in the event of a vacancy in that office until such time that an election can be held in accordance with Section Three of Article V.

Section Three: Election of Chairman and Vice-Chairman

- (a) The Chairman and the Vice-Chairman shall be elected at the annual meeting. All elected officials shall be chosen by a public vote of the Members to be counted by the Secretary/Treasurer in the presence of the Members at the annual meeting.
- (b) All elected officers shall begin serving from the close of business at the annual meeting at which they are elected until the close of business at the annual meeting at which time their successors are elected.
- (c) An elected officer may serve an unlimited number of terms, except that no person shall continue to serve as an elected officer if that person ceases to be a Member of the Commission.
- (d) In the event of a vacancy in the office of Chairman a special meeting shall be called for the purpose of electing a replacement. Such replacement shall serve until the election of officers at the next annual meeting.
- (e) In the event of a vacancy in the office of Vice-Chairman, the Chairman shall appoint a replacement to serve until the election of officers at the next annual meeting. A special meeting may be called as provided for in Section Two of Article IV to elect a replacement.

Section Four: Executive Director

- (a) The Commission shall appoint an Executive Director who shall serve as the Commission's chief executive officer and administrator pursuant to an employment agreement to be negotiated between the Commission and the Executive Director, which agreement may include, but need not be limited to, provisions that the Executive Director be employed at the compensation, pleasure and discretion of the Commission. No Commission employee, including, without limitation, the Executive Director, shall be subject to the civil service or other statutes providing for the classification, hiring or regulation of public employees of any of the Party States or of the federal government. Under the direction and supervision of the Commission, the Executive Director shall:
 - (1) serve as the nonelected Secretary/Treasurer of the Commission;
 - (2) hire, manage and remove or discharge such Commission staff as may be necessary for the performance of the Commission's functions;
 - (3) prepare a staffing plan for the office;

- (4) supervise all Commission staff and their work including assigning functions, powers and duties and modifying such assignments as needed;
- (5) delegate to staff such powers as are deemed necessary for efficient administration;
- (6) establish such office rules of procedures as may be necessary for the orderly transaction of daily business;
- (7) prescribe, install and maintain a system of accounts, and audit and approve bills, claims and demands and warrant their payment;
- (8) prepare proposed operating policies, resolutions, and meeting agendas for Commission approval;
- (9) effectuate and enforce all policies and resolutions adopted by the Commission;
- (10) plan and staff Commission meetings;
- (11) prepare an annual budget request under the terms of the Act and the Compact authorizing statutes in each of the Party States;
- (12) prepare an annual report and include in the annual report a budget showing anticipated receipts and disbursements for the ensuing year,
- (13) prepare an inventory of all Regional Facilities and specialized facilities as required by the Act;
- (14) prepare and keep current and annual inventories of all Generators and waste generated within the region;
- (15) coordinate the Commission's plans and programs with federal, state, regional, county, and local governments and other relevant agencies;
- (16) negotiate contracts, leases and intergovernmental arrangements for and on behalf of the Commission;
- (17) execute, without prior approval of the Commission or Chairman, contracts and leases with a value of \$10,000 or less for and on behalf of the Commission;
- (18) execute, with prior written approval of the Chairman, contracts with a value greater than \$10,000 for and on behalf of the Commission;
- (19) execute, with prior written approval of the Commission, contracts for legal, auditing or technical services, or intergovernmental arrangements for and on behalf of the Commission;

- (20) carry out the duties and requirements prescribed in the Act and the Commission's Bylaws; and
 - (21) diligently perform other duties and responsibilities associated with the position of Executive Director as the Commission may require.
- (b) Notwithstanding anything to the contrary in these Bylaws, in the event that the office of Executive Director becomes vacant, and until the Commission appoints a new Executive Director: (1) the Chairman shall act as Executive Director of the Commission; (2) the Vice Chairman shall act as Secretary/Treasurer of the Commission; and (3) any act that, under these Bylaws, requires joint action or agreement of the Chairman and the Secretary/Treasurer, or of the Chairman and the Executive Director, shall be taken solely with the joint action or agreement of the Chairman and the Vice Chairman.

ARTICLE VI

Finances and Accounting

Section One: Fiscal Year

The fiscal year of the Commission shall begin on the first (1st) day of July and shall end on the thirtieth (30th) day of June of the following calendar year.

Section Two: Annual Budget

The Executive Director shall prepare a proposed annual budget which includes all anticipated sources and amounts of income and all anticipated expenses. The Commission, after consultation with the Executive Director, shall adopt an annual budget at its annual meeting. The annual budget may be amended by the Commission as necessary.

Following the adoption of the annual budget by the Commission, the Executive Director shall transmit a certified copy of such budget to the principal budget officer of each of the party states, at such time and in such manner, as may be required under their Compact authorizing statute and respective budgetary procedures. The Executive Director shall also certify and transmit together with such budget a statement of the amount apportioned to each Party State pursuant to the Act.

In accordance with the provisions of applicable state law, each Party State shall take appropriate steps to ensure its share of the annual budget is funded as provided by the Act.

Section Three: Accounting Procedures

Orderly and accurate methods of accounting shall be used when handling all funds received and disbursed by the Commission. The Commission's accounts shall be recorded and maintained based upon generally accepted accounting principles.

Section Four: Acceptance of Donations and Grants of Money

The Commission shall not accept any donations, grants, equipment, supplies, materials or services, conditional or otherwise, from any source, except from any Federal agency or from any Party State which are certified by the appropriate agency in the donating Party State as being legal and proper under the laws of the donating Party State. The nature, amount and condition of the donation or grant, and the identity of the donor, grantor or lender shall be reported in the annual report of the Commission. Any such donation, grant or money, equipment, supplies, materials or services may be accepted on behalf of the Commission by the Executive Director.

Section Five: Commission Funds

The Secretary/Treasurer shall have custody of all monies, funds and securities of the Commission and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Commission. The Secretary/Treasurer, with the approval of the Chairman, is authorized to:

- (a) select or designate depositories for Commission funds and open appropriate checking, deposit and other accounts necessary or appropriate to the transaction of Commission business;
- (b) invest Commission funds in investments which are permitted for investment of Commonwealth of Pennsylvania moneys under Section 301.1 of the Pennsylvania Fiscal Code (Pa. Stat. Ann. tit. 72, § 301.1), or in such other investments as may be approved or directed by the Commission from time to time (collectively "Authorized Investments");
- (c) otherwise manage all funds, monies and securities of the Commission; and
- (d) contract with qualified third party financial or investment advisors, brokers, consultants or managers for the investment in Authorized Investments of Commission funds, or the performance of any other fiscal duties of the Secretary/Treasurer under this section.

Section Six: Responsibility for Signing Commission Checks and Drafts

All checks, drafts or other documents for the withdrawal of funds of the Commission shall be signed and approved by the Executive Director, the Chairman, or the Chairman's designee. Any such check, draft or other document which is not a transfer to another Commission financial or investment account and is in excess of \$10,000, shall be approved and countersigned by two authorized persons, one of whom shall be the Chairman. Endorsement of checks to be deposited to the credit of the Commission shall be by either the Executive Director, Chairman, or the Chairman's designee.

Section Seven: Budget Adjustments

The Executive Director may make adjustments between budget accounts or sub-accounts by amounts not to exceed \$10,000. Adjustments between budget accounts or sub-accounts by amounts greater than \$10,000 may be made by the Executive Director with the approval of the Chairman.

Any transfer of funds made pursuant to this Section shall be reported by the Executive Director to the Commission at its next meeting. The Executive Director shall not, however, increase the total budget or transfer funds to an unbudgeted project without the approval of the Commission, or in the case of an emergency, the approval of the Chairman.

Section Eight: Compensation of Commission Members and Alternates

Members and Alternates of the Commission shall serve without compensation from the Commission. Members and Alternates shall be reimbursed by the Commission for necessary expenses incurred in and incident to the performance of their duties according to rules for expense reimbursement for Commission employees contained in the Commission's Administrative Manual. However, an Alternate shall not be eligible for reimbursement from the Commission if the Alternate's respective Member also attends a Commission meeting or function. This exception may be waived by a majority vote of the Commission.

Section Nine: Audit

- (a) As soon as practicable after the closing of the fiscal year, an audit shall be made of the financial accounts of the Commission. The audit shall be made by qualified certified public accountants selected by the Commission and who shall have no personal direct or indirect interest in the financial affairs of the Commission or any of its officers or employees. The audit report shall be prepared in accordance with generally accepted accounting principles and shall be filed with the Chairman and such other officers as the Commission shall direct. Copies of the report shall be distributed to each Commission Member and shall be made available for public distribution.
- (b) Each Party State, by its duly authorized officers, shall be entitled to examine and audit at any time all of the books, documents, records, files and accounts and all other papers, things or property of the Commission. The representatives of the Party States shall have access to all books, documents, records, accounts, reports, files and all other papers, things or property belonging to or in use by the Commission and necessary to facilitate the audit; and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents and custodians.

Section Ten: Bonding

All officers and staff of the Commission who handle or have access to the funds of the Commission shall be bonded in such amounts as the Commission shall determine. The

Commission may secure either a blanket or individual bond. The premium for such bond shall be paid by the Commission.

ARTICLE VII Liability and Legal Defense

Section One: Liability

- (a) Members and Alternates of the Commission shall not be personally liable for actions taken in their official capacity.
- (b) Liabilities of the Commission shall not be deemed liabilities of the Party States.

Section Two: Permissive Indemnification

The Commission may indemnify, to the extent permitted under these bylaws, any Indemnifiable Representative who was or is a party, or who is threatened to be made such a party, to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (including an action by or in the right of the Commission) by reason of the fact that he or she is serving as or has served in an Indemnifiable Capacity. Indemnification shall be provided against all Liability actually and reasonably incurred by him or her in connection with such action, suit or proceeding, if he or she acted in good faith and in a manner he or she reasonably believed to be not opposed to the best interests of the Commission and, with respect to any criminal proceeding, had no reasonable cause to believe his or her conduct was unlawful. An Indemnifiable Representative may not, however, be indemnified, whether or not involving an action in such person's official capacity, if the Commission determines that such person improperly received personal benefit or where the Indemnifiable Representative's conduct constitutes willful misconduct or recklessness. The termination of any action or proceeding by judgment, order, settlement or conviction or upon a plea of nolo contendere or its equivalent shall not of itself create a presumption that an Indemnifiable Representative did not act in good faith and in a manner that he or she reasonably believed to be not opposed to, the best interests of the Commission and, with respect to any criminal proceeding, had reasonable cause to believe that his or her conduct was unlawful.

Section Three: Mandatory Indemnification

To the extent that an Indemnifiable Representative has been successful on the merits or otherwise in defense of any action or proceeding set out in Section Two of this Article, or in defense of any claim, issue or matter therein, he or she will be indemnified to the extent of available funds against Liability actually and reasonably incurred by him or her in connection therewith.

Section Four: Advancing Expenses

Expenses (including reasonable attorneys' fees) incurred by an Indemnifiable representative in defending any civil, criminal, administrative or investigative action, suit or proceeding may be paid by the Commission in advance of the final disposition of such action, suit or proceeding, as authorized in the manner provided in Section Five of this Article, upon receipt of written undertaking by or on behalf of such person to repay such amount if it shall ultimately be determined that he or she is not entitled to be indemnified by the Commission as authorized in this Article.

Section Five: Procedure for Effecting Indemnification

- (a) Unless ordered by a court of competent jurisdiction, any indemnification under Section two of this Article shall be made by the Commission only as authorized in the specific case upon a determination that indemnification of the Indemnifiable Representative is proper in the circumstances because he or she met the applicable standard set forth in those sections.
- (b) The determination shall be made:
 - (1) by the Members by a majority vote of the total membership of the Commission, including a majority vote of Members who were not parties to the action, suit or proceeding; or
 - (2) by independent legal counsel in a written opinion, if such majority votes are not obtainable or if obtainable and a majority vote of the total membership of the Commission, including a majority vote of Members who were not parties to the action, suit or proceeding so directs.
- (c) In the event the Commission determines to indemnify an Indemnifiable Representative for costs and expenses, including reasonable attorneys' fees, incurred in connection with defense of an action or proceeding, the Commission may, at its discretion, select counsel to defend the Indemnifiable Representative. In the event the Indemnifiable Representative chooses not to utilize counsel selected by the Commission, the Commission shall not indemnify the Indemnifiable Representative against legal fees and expenses.

Section Six: Securing of Indemnification Obligations

To further effect, satisfy or secure the indemnification obligations provided herein or otherwise, the Commission may maintain insurance; obtain a letter of credit; act as self-insurer; create a reserve, trust, escrow, cash collateral or other fund or account; enter into an indemnification agreement; pledge or grant a security interest in any assets or properties of the Commission; or use any other mechanism or arrangement whatsoever in such amounts, at such costs, and upon such other terms and conditions as the Commission shall deem appropriate. The Commission's liability to meet its indemnification obligations shall be limited to any or all measures taken by the Commission under this section and any Commission funds that the Commission shall choose

to provide at its sole discretion. The Commission shall take reasonable steps to meet its potential indemnification obligations.

Section Seven: Discharge of Duty

An Indemnifiable Representative shall be deemed to have discharged such person's duty to the Commission if he or she has relied in good faith on information, opinions, reports or statements, including financial statements and other financial data, prepared or presented by an individual or individuals who are believed to be reliable and competent. An Indemnifiable Representative shall not be considered to be acting in good faith if he or she has knowledge concerning the matter in question that would cause his or her reliance on a person or information to be unwarranted.

Section Eight : Scope of Indemnification

The indemnification rights of Indemnifiable Representatives may, at the discretion of the Commission inure to the benefit of the heirs, executors and administrators of such person.

Section Nine: Nonwaiver of Sovereign Immunity

Nothing contained in this Article shall represent or be construed as a waiver of or limitation on the scope or extent of the sovereign or official immunity of the Commission or any Indemnifiable Representative.

**ARTICLE VIII
Annual Report**

By no later than October 31 following the fiscal year just ended, the Commission shall make an annual report to the Commission Members and Alternates and to the Governor and the presiding officer of each body of the legislature of the Party States regarding the activities of the Commission during the preceding fiscal year. The annual report shall summarize all actions, decisions and resolutions approved by the Commission; summarize the status of regional waste facilities and disposal within the Compact; include a copy of the annual Commission audit required by Section Nine of Article VI of these Bylaws; and include the nature, amount and condition, if any, of any donation or grant received by the Commission together with the identity of the donor, grantor, or lender. The Executive Director shall provide written notice of the availability of the annual report to all persons on the Public Notice List maintained pursuant to Section Four of Article IV and shall provide a copy of the annual report upon request. The Executive director may charge and collect a reasonable fee for a copy of the report to recover printing, handling and postage costs.

**ARTICLE IX
Administrative Manual**

Section One: Administrative Manual

The Commission shall adopt an Administrative Manual that is a compilation of the rules and personnel policies applicable to the employees of the Appalachian States Low-Level Radioactive Waste Commission. Promulgation and enforcement of these rules and policies are intended to insure that there is equitable treatment of all employees, uniformity in the matter of attendance and leave, efficient conduct of the Commission's business, and proper selection and retention of qualified applicants.

Section Two: Amendments to the Administrative Manual

The Executive Director, with the approval of the Chairman, may make temporary amendments to the Administrative Manual to comply with applicable local, state and federal laws or in the best interests of the Commission. However, any amendment to the Administrative Manual must be approved by a majority vote of the Commission no later than the next meeting to make the amendment official. My temporary amendment disapproved by the Commission shall be null and void as of the date the Commission disapproved the temporary amendment.

ARTICLE X General Provisions

Section One: Inspection of Commission Records

All decisions, files, records and data of the Commission, except for information privileged against introduction in judicial proceedings, personnel records and minutes of a properly convened executive session, shall be open to public inspection subject to a procedure that substantially conforms to the Freedom of Information Act (Public Law 89-554, 5 U.S.C. § 552) and applicable Pennsylvania law. The Executive Director is authorized to charge reasonable fees for the preparation, copying and release of Commission records. Such fees shall bear a reasonable relationship to the costs associated with generating and handling the record or copy thereof.

Section Two: Nondiscrimination

The Commission shall not discriminate against any person because of race, color, religious creed, handicap, ancestry, national origin, age, or sex.

Section Three: Policies and Procedures

The Commission may adopt such other policies and procedures that are not in conflict with the Act or these Bylaws as it deems necessary to perform its powers and duties.

Section Four: Amendment of Bylaws

These Bylaws may be revised or amended by a two-thirds vote of the Commission at the annual meeting of the Commission or at any special meeting of the Commission called for that purpose; provided that notice of the proposed amendment, repeal, or replacement has been mailed to each Commission member not less than fourteen (14) days prior to the meeting at which such amendment, repeal or replacement are to be considered. Such notice shall include the full text

of the motion or resolution by which the amendment, repeal or replacement is proposed to be made.

Section Five: Severability

If any term, condition, clause or provision of these Bylaws shall be determined or declared to be void or invalid in law or otherwise, then only that term, condition, clause or provision shall be stricken from these Bylaws, and in all other respects these Bylaws shall be valid and continue in full force, effect and operation. If any part is found to be in conflict with the Act, the Act shall prevail and all other provisions of these Bylaws shall remain in full force, effect and operation.