

REPORT OF THE SOLID WASTE COMMISSION

ON

HAZARDOUS WASTES

TO

THE GOVERNOR

AND

THE GENERAL ASSEMBLY OF VIRGINIA



SENATE DOCUMENT NO. 7

**COMMONWEALTH OF VIRGINIA
RICHMOND
1984**

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REPORT OF THE
SOLID WASTE COMMISSION
TO
THE GOVERNOR AND THE GENERAL ASSEMBLY OF VIRGINIA
RICHMOND, VIRGINIA

JANUARY 1984

TO: The Honorable Charles S. Robb, Governor of Virginia
and
The General Assembly of Virginia

The Solid Waste Commission was created by the 1973 General Assembly in Senate Bill No. 856 directing the Commission to study the management of solid waste and to advise the Governor and Legislature. As defined by the Commission, its objectives are:

- To analyze the problems associated with the management of all types of solid wastes and report findings;
- To develop recommendations and implement programs designed to improve waste management; and
- To sponsor legislation to improve solid waste management.

As specified by legislation, the Commission is composed of six State legislators, seven citizens with technical expertise, and two citizens representing an environmental interest. The legislators are assigned to the Commission by the Speaker of the House or the Senate Committee on Privileges and Elections. Citizen appointments are made by the Governor, normally for four-year terms. A chairman is elected biannually among the members of the Commission. The current chairman, Dr. Robert F. Testin, is one of seven citizen-technical appointees.

The responsibilities of the Solid Waste Commission are met through the activities of working committees formed to address specific waste management issues. In addition, the member legislators form the Legislative Committee, providing valuable support to the Commission in the Senate and House of Delegates. Committees and their membership are as follows:

Hazardous Waste Committee

Mr. R. E. Dorer - Chairman
Sen. Joseph V. Gartlan, Jr.
Dr. Michael Markels, Jr.
Mr. William T. Reed, III
Del. James W. Robinson

Low-Level Waste Committee

Del. R. Beasley Jones - Chairman
Mr. Martin R. Adams
Del. C. Richard Cranwell
Mr. Frank H. Miller, Jr.
Dr. Robert F. Testin

Resource Recovery Committee

Mr. Callis H. Atkins - Chairman
Del. Frank D. Hargrove
Del. R. Beasley Jones
Mr. Frank H. Miller, Jr.
Mr. Jonathan M. Murdoch-Kitt
Mr. David M. Rothwell

Legislative Committee

Sen. Stanley C. Walker - Chairman
Sen. Joseph V. Gartlan, Jr.
Del. C. Richard Cranwell
Del. Frank D. Hargrove
Del. R. Beasley Jones
Del. James W. Robinson

Program Committee

Dr. Robert F. Testin - Chairman
Mr. Callis H. Atkins
Mr. Jonathan M. Murdoch-Kitt

The Commission office in the General Assembly Building houses the Commission's executive director and a secretary. This staff provides daily liaison with other State offices, such as the Health Department and the Governor's Office, and administration of the Commission's work program.

The body of this report is a summary of the current status on each of the major waste management topics as briefly stated below.

1. Hazardous Waste. Continuing the study of hazardous waste facility siting legislation pursuant to S.J.R. No. 37, the Commission

prepared and distributed a draft siting bill. Six public hearings were held in locations across the state to solicit comment on the siting process. There was a significant amount of participation in the hearings from a variety of interest groups. Both written and oral comments were received and considered. The draft bill was revised to incorporate comments and considered for recommendation to the 1984 General Assembly.

2. Low-Level Radioactive Waste. The Commission continues to sponsor a public participation program to involve Virginians in the State's developing role for management of low-level radioactive waste (LLW). Responding to suggestions from the public, the Commission recommended delay of a study to select sites suitable for underground disposal of LLW being conducted by the State Health Department to provide for a study of alternatives to shallow land burial as a method of disposal.

As provided by the Federal Low-Level Radioactive Waste Policy Act, eight eligible states organized the Southeast Compact to provide for regional management of LLW. The Compact has established a sixteen-member commission to carry out the mission of the Compact. Virginia members of the Southeast Compact Commission appointed by the Governor are Sen. Joseph V. Gartlan, Jr., also a member of the Solid Waste Commission, and Mr. Timothy J. Sullivan, Executive Assistant to the Governor. Formal approval of the Southeast Compact is now before the U.S. Congress.

3. High Level Radioactive Waste. In accordance with the Federal Nuclear Waste Policy Act, the U.S. Department of Energy (DOE) is identifying sites for the location of two repositories for the permanent disposal of high level radioactive waste. Virginia is one of the seventeen states being screened to determine the location of crystalline rock formations suitable for the siting of the second repository. The DOE is required to perform the site identification in consultation with state legislatures and governors. As directed by the Speaker of the House, the Solid Waste Commission has become the legislative contact for the issue. The Commission will prepare to advise the Legislature of Virginia's status in the future siting decisions.

4. Resource Recovery. An increasing number of resource recovery efforts in public and private sectors indicates a favorable climate for recycling and waste-to-energy activities that are economically viable and beneficial to health and environment. The Commission plans to intensify its efforts in 1984 to ensure that Virginia localities are informed of practical resource recovery alternatives.

Detailed reports of these four topics and a discussion of plans for the coming year follow.

HAZARDOUS WASTE

The 1982 General Assembly enacted Senate Joint Resolution No. 15 requesting the Solid Waste Commission to conduct a study to evaluate siting legislation for hazardous waste disposal facilities in Virginia and to report the need for such legislation during the 1983 Session.

In the report to the 1983 General Assembly, the Commission stated reasons that a hazardous waste facility is needed, briefly:

- 1) To protect public health and safety;
- 2) To prevent degradation of the environment;
- 3) To protect industries reliant on responsible management of wastes; and
- 4) To prevent industries from locating in other states because of a lack of acceptable hazardous waste sites.

The Commission also reported that unsolicited testimony from numerous municipal, industrial, and environmental organizations indicated the need for a hazardous waste facility in Virginia. Similarly, a survey of waste generators conducted by the State Health Department indicated that the generation of hazardous waste is likely to increase and that the cost of disposal out of state is two to five times higher than the cost for waste disposal in Virginia. However, the survey did not demonstrate that the need for such a facility was of immediate or "crisis" nature.

From this assorted evidence, the Solid Waste Commission has concluded that it would be prudent for Virginia to develop an appropriate siting process and enact the necessary legislation rather than react to a crisis situation.

The Commission continued its study with a review of siting processes in twenty-five states, then prepared and distributed a discussion bill to solicit public comment. A public hearing conducted on the discussion bill provided significant insight on what was desired in a siting process. Local and state officials, public interest groups, and industry participants advocated the development of hazardous waste facility siting legislation with broader local participation than currently provided in the statutory

authority given the State Board of Health to acquire property for management of hazardous waste. Testimony was presented that encouraged broader provisions for the affected locality's involvement in the siting decision.

Because of the apparent lack of an immediate need for action in the acquisition of Virginia sites for hazardous waste disposal, the complexity of the issue, the questions of local government versus overall needs of the Commonwealth, as well as the long-term need for action to protect public health and the environment while preserving a climate conducive to industrial development, the Commission requested that the General Assembly provide for the continuation of the study for one more year. The General Assembly agreed to the study's continuation and extension of the moratorium on acquisition of hazardous waste facility siting.

Relying on testimony received and experiences in other states, the Commission directed its efforts toward the preparation of comprehensive legislation to address the Commonwealth's needs for a hazardous waste facility siting process. During the course of the study, the Commission worked with interest groups to improve its understanding of the position of various parties affected by a siting decision. The Toxics Roundtable with its representation of industrial, environmental, and civic organizations provided insights particularly beneficial to the Commission.

The Commission's committee on hazardous waste management held five meetings in 1983 to prepare a draft siting bill. In June, the committee presented a draft to the Commission which approved distribution to solicit public review and comments. The Commission conducted a series of seven public hearings across the state to encourage a response to the draft and to broaden participation in the design of a siting process. The hearing schedule was as follows:

| | |
|-----------------|--------------|
| Richmond | August 24 |
| Chesapeake | August 24 |
| Alberta | August 24 |
| Abingdon | September 12 |
| Roanoke | September 13 |
| Manassas | September 15 |
| Charlottesville | September 15 |

Significant participation provided the Commission with assurances that the draft embraced the basic tenets desired by the public in a siting process for hazardous waste facilities. Comments on the draft most frequently related to these issues:

- Participation of affected community and neighboring community in siting process
- Clarification of the proposed siting certification process as distinct from the Board of Health's authority to issue permits for facility operation
- State override of local land use control, and local authority to enforce terms of agreement
- Encouragement for alternatives to landfilling of hazardous waste
- Exemptions to the Freedom of Information Act provided to local government preparing to negotiate a siting agreement
- Creation of a new board responsible for siting decisions.

The comments were considered and incorporated as appropriate in the Commission's revision of the draft.

As proposed, the siting bill establishes a process to provide for rational siting of proper waste treatment facilities. Recognizing that the impacts could be significant to a locality, the proposal encourages mediation between the initiator and the local government and provides for mitigation and compensation. Informed public participation is encouraged through early notification, public briefing meetings, and public hearings.

The draft bill creates a process in which a siting board will grant or deny certification of a site for a hazardous waste facility as proposed by an applicant, either public or private.

The first requirement is the development of criteria for approval of hazardous waste facility sites. The bill states that the criteria are to prevent or minimize a facility causing any significant adverse risks to public health, safety, or welfare or impacts to the environment.

The adoption of criteria readies the siting board to receive a proposal for a hazardous waste facility.

Steps of the siting process are briefly outlined below.

- 1) Applicant submits notice of intent.
- 2) The siting board distributes copies of notice and Siting Bill to representatives of the affected community; and a public briefing meeting is held in the locality.
- 3) Applicant submits a draft impact analysis.
- 4) The siting board distributes copies of the draft impact analysis, receives public comment, and prepares comments that are then forwarded to the applicant.
- 5) Applicant submits final impact analysis.
- 6) Applicant submits application for certification of site approval and distributes copies to government officials and affected property owners.
- 7) Local government submits a report of completed negotiations with the applicant.
- 8) The siting board grants or denies a draft certification of site approval.
- 9) If draft certification is granted, the siting board distributes copies and conducts a public hearing.
- 10) The siting board votes to grant or deny certification of site approval.

The State's decision supersedes local ordinances that are inconsistent with the certification. Terms of certification may include specific stipulations of the locality as negotiated with the applicant for a siting agreement. If the applicant is a State agency, it may purchase the property before the process is completed but it cannot acquire the property through the use of eminent domain before the certification of site approval has been granted.

An important feature of this draft bill is the provision of the Technical Assistance Fund. The State will make moneys from the Fund available to affected localities to assist with the cost of technical assistance in reviewing a facility proposal. Appropriations by the

General Assembly, wholly or partly from fees to be levied on applicants, are indicated as the source of revenue for the Technical Assistance Fund.

The draft siting bill represents significant effort to develop a workable decision making process that balances the roles of the numerous interested parties, encourages public participation and protects the interests of the Commonwealth.

LOW-LEVEL RADIOACTIVE WASTE

In 1979, the temporary closing of two of the three commercial low-level radioactive waste (LLW) disposal sites quickly demonstrated the immediate need for additional disposal facilities in the U.S. The ensuing disposal crisis (brought about by the Governors of the three states with disposal sites) prompted efforts to distinguish appropriate roles for Federal and state governments in LLW management. Considering the need for an immediate disposal solution, a strong Federal role was certainly an option. Yet the states argued that siting should be a state responsibility. Federal and state government expressed a willingness to share the responsibility but a desire to separate their roles.

The following year the U.S. Congress enacted the Low-Level Radioactive Waste Policy Act, developed from the recommendations for intergovernmental cooperation supported by the National Conference of State Legislatures, the National Governors' Association, and the President's State Planning Council on Radioactive Waste Management. The Act established these policies for management of low-level radioactive waste:

- Each state is responsible for providing access to disposal of LLW generated within its borders;
- Interstate compacts may be established by groups of states for the purpose of regional management of LLW;
- Compacts require Congressional consent; and
- Regional compacts may restrict the use of its disposal facilities to waste generated within the boundaries of the compact region after January 1, 1986.

The Low-Level Radioactive Waste Policy Act provides no funds for the states to establish the disposal capacity, yet technical assistance is available through the U.S. Department of Energy (DOE). DOE is coordinating efforts among the states to ensure achievement of a national approach based on state initiative.

After the passage of the Act, multistate meetings were held to discuss the formation of compacts for LLW disposal. Virginia participated

in meetings to consider negotiating with a group of Midwestern states, the mid-Atlantic region, and the Southeastern states.

Virginia, primarily through the Governor's Office, also has considered managing its LLW independently of arrangements with other states. After considering both the technical and policy objectives, it was concluded that compacting would provide significant advantages over a single state approach. This conclusion was based on several findings, including:

- 1) The President's State Planning Council on Radioactive Waste Management determined that fifty state disposal facilities were neither needed nor desired.
- 2) In 1980, the National Governors' Association concluded that while LLW management should be a state responsibility, the creation of regional waste management systems by means of interstate compacts offers the best promise of creating new disposal capacity.
- 3) The Low-Level Radioactive Waste Policy Act encourages a regional approach by stating, "low-level radioactive waste can be most safely and efficiently managed on a regional basis." The Act also provides for the creation of interstate compacts which after January 1, 1986 may exclude wastes generated outside of the region. It is uncertain if a single state would have similar authority.
- 4) To ensure that management of LLW remains a state responsibility, not overcome by a Federally imposed solution, the individual states need to cooperate in finding a national solution.
- 5) The volume of waste from a single state would result in a significantly higher disposal cost than the larger amount of waste from a region. The full burden of closure and monitoring to be borne by generators (and consumers) of a single state facility would be significantly greater than those costs shared among generators of several states.
- 6) Compacting assures each state that at most it will receive waste for a limited time period rather than operating a site indefinitely.

The preference for Virginia's participation with the Southeastern states became apparent. The Commission understood that the regional waste stream was sufficient for viable operation of a disposal facility. Also, one of the three operating disposal facilities was within the borders of the region and would provide uninterrupted disposal during the transition toward implementation of the new national disposal policy. Moreover, the cooperative relationship with the Southeastern states in other matters was thought to strengthen the yet unproven interstate arrangements for LLW management.

Virginia, represented by the staff of the Solid Waste Commission and the State Health Department, joined with the seven other Southeastern states to draft language for the formation of the Southeastern Compact.

In mid-1981, Virginia was voted out of the Southeast Compact negotiations by the other participating states for not adequately demonstrating a commitment to resolving LLW management problems within the state. Faced with a 1986 deadline restricting access to existing disposal facilities (as provided by the Federal legislation), Virginia contracted with Dames & Moore, Inc. to undertake a technical siting study to locate suitable LLW disposal sites in Virginia. Under the direction of the Virginia State Department of Health, the study began in June 1982 and was originally scheduled for completion in the fall of 1983.

In August of 1982, the Virginia Solid Waste Commission was awarded a grant from the U.S. Department of Energy to conduct a public participation program to accompany Virginia's siting efforts. The activities of the public participation program were to coordinate with the progress and release of information from the State Health Department's technical siting study. The objectives of the public participation program are detailed as follows:

- To provide a process that will be acceptable to the Nuclear Regulatory Commission in considering a license to operate a facility;
- To involve the public in site selection early and deeply;
- To communicate to the public both the risks and the benefits of a potential facility;

- To understand the various points of view held by public groups; and
- To allow the Commonwealth to conduct the site selection in a less defensive posture.

Through the public participation program, the Solid Waste Commission committed to the inclusion of the public in the decisions for safe management of Virginia's LLW.

Through these actions, Virginia reaffirmed the Commonwealth's commitment to low-level radioactive waste management by state initiative, as provided in the 1980 Federal Policy Act, and Virginia was readmitted to the Southeast Compact negotiations in October 1982. Meanwhile, the Southeast Compact had made some changes to the Compact language, and state legislatures which had approved the agreement in 1982 were asked to approve new Compact language in 1983. The Solid Waste Commission's legislative members introduced the revised language which was approved by the 1983 General Assembly, allowing Virginia to participate as a member of the Southeast Compact for regional management of LLW.

In 1983, the Solid Waste Commission sought to realign the State's LLW activities within the Compact organization. Being readmitted to the Compact negotiations had removed the need for a facility in Virginia by 1986 and required Virginia to reassess its plan of action for meeting the mandates of the 1980 Policy Act.

In response to input from the public participation program, the Solid Waste Commission in April recommended to the Governor and the State Health Department that the siting study be delayed to allow for an examination of methods other than shallow land burial. (The siting study's screening criteria were based on geophysical criteria for shallow land burial of LLW. This disposal method was assumed to be most appropriate because of its proven capabilities at existing disposal operations.) The action was prompted by the public's expressed concern that, as the only southeastern state conducting a siting study, Virginia was appearing to volunteer to host the next regional disposal facility and was not fully evaluating potentially feasible alternatives to shallow

land burial. The Commission acknowledged this concern and realized that the course of action undertaken when Virginia was outside of the Compact needed to be reexamined. After receiving the Commission's recommendation, the Governor and the State Health Department announced their agreement that the siting study would be delayed pending resolution of these issues.

Then the Commission reviewed ways to proceed with a study of alternative disposal methods. After considering the costs and implications of a Virginia study, the Commission agreed that the evaluation of the regional waste stream and the determination of suitable technologies are activities appropriate for the Southeast Compact. The decision was made with the awareness that the Compact language provides for the identification of a host state, and not for the actual siting of a facility or the requirement of a specific type of facility. The Commission has formally requested the Virginia members of the Southeast Compact Commission to pursue a study of disposal alternatives through the Compact organization. In the meantime, the Commission plans to sponsor a public workshop to provide opportunities for discussion on topics such as alternative disposal methods.

The Solid Waste Commission intends to follow closely the developing organization of the Southeast Compact Commission and to continue encouraging public participation in the State's newly defined role in management of low-level radioactive waste.

HIGH LEVEL RADIOACTIVE WASTE

Early in 1983, the U.S. Congress enacted the Nuclear Waste Policy Act establishing a long-term national program for the permanent disposal of commercial radioactive wastes. The program provides a comprehensive national approach to the disposal of high level radioactive waste (HLW).

The legislation requires the U.S. Department of Energy (DOE) to recommend a site for a first HLW repository by March 1987 and a site for a second repository by March 1990. The siting process is required to be conducted in consultation with the affected states, and the Department of Energy has designed an open information program to strengthen cooperation with state officials.

The DOE has informed State officials that Virginia is one of seventeen states being studied to determine if any of its crystalline rock formation is potentially suitable for the second HLW repository. In May, the Speaker of the House of Delegates designated the Solid Waste Commission as the legislative contact for DOE's Crystalline Rock Project.

During 1983, Crystalline Rock Project draft reports on environmental and socioeconomic characteristics in the Southeastern region were reviewed. Comments were coordinated with the State Health Department which conducted a technical review of the Southeastern region reports for the Executive Branch. The Southeastern region includes most of Virginia, Maryland, and North Carolina, and roughly half of South Carolina and Georgia. The portion of Virginia being examined includes the Blue Ridge Mountains, the entire Piedmont region and a few counties in Tidewater.

The Solid Waste Commission invited a DOE representative to speak at its September meeting. From the presentation and discussion that followed, the Commission concluded that although the participation of state legislatures is not specifically prescribed, the involvement of Virginia's Legislature is essential for representation of the public in this critical issue.

In addition, legislative members and Commission staff have attended HLW briefings sponsored by the National Conference of State Legislatures and the Southern Legislative Conference.

DOE's screening of states for suitable crystalline rock formations is progressing toward the identification of twenty areas in eight to ten states. This identification is expected to be announced in 1985. Meanwhile, the Solid Waste Commission will continue to track the screening activities, taking opportunities to comment on the methodology and policy implications. The Commission will be prepared to advise the Legislature of Virginia's status in the coming siting decisions.

RESOURCE RECOVERY

The Solid Waste Commission continued its interest in resource recovery in 1983.

Previously, the Commission has reviewed resource recovery methods in Virginia and throughout the nation and published the results of these efforts to enable Virginia localities to examine their own resource recovery potential. This task has been partially assumed by the State Office of Emergency and Energy Services (OEES). Funded by a grant from the U.S. Department of Energy, OEES is now developing a workbook that will provide interested jurisdictions with a format to determine the technical and economic feasibility of waste-to-energy projects. OEES intends to complete the workbook by mid-1984. In addition, consultation services will be available to assist interested localities that appear to have potential for a waste-to-energy project.

The Resource Recovery Committee reports that successful operations are underway in several areas of the Commonwealth, including the ones described below, all of which have been observed by one or more members of the Commission:

Hampton/NASA/USAF Refuse-Fired Steam Facility began operation in 1980 and has operated successfully at or above design capacity of 200 tons per day. The City of Hampton operates the facility and benefits from the use of its waste; NASA receives the steam power. The facility was presented the 1983 Power Magazine Environmental Award.

The Consumat System Refuse-Fired Steam Plant in Salem is now in its sixth year of operation. The plant burns 100 tons of refuse per day (80 tons from the City of Salem and 20 tons from other sources). Steam generated by the plant is sold to Mohawk Rubber Company.

The Harrisonburg Plant has been operational since December 1982 at 100 tons per day capacity on two units. Currently one unit is operating at 58 tons per day, but operations expect sufficient refuse to operate both units this winter. Steam is sold to James Madison

University. Harrisonburg does not have city control of disposal and must compete with landfills.

At Ft. Eustis, the U.S. Army operates a modular system that burns 40 tons of refuse daily. Steam is used at the Army post.

The Norfolk Naval Shipyard in Portsmouth operates a plant burning 80 tons of refuse per day and generating steam used at the shipyard.

The U.S. Navy Station in Norfolk began generating steam from refuse in 1967. The facility has a capacity of 140 tons per day. The steam augments the heating system at the naval station.

Resource recovery projects are being planned in several other jurisdictions. Among locations with projects that have made significant progress are the Southeastern Public Service Authority involving the cities of Norfolk, Chesapeake, Suffolk, Franklin, Portsmouth, and Virginia Beach, and the counties of Isle of Wight and Southampton; Fairfax County; the city of Bristol and Washington County; James City and York counties; and Henrico County.

The Solid Waste Commission recognizes the efforts of individual State agencies to recycle, reuse and recover materials.

The Department of Alcoholic Beverage Control collects, bails, and sells its merchandise boxes. In 1983, 4.9 million pounds of bailed boxes were sold, netting a \$45,777 profit.

The Department of General Services' Division of Purchases and Supply has established a minimum recycled paper content for paper purchases other than office paper. Recycled paper is available for purchase by agencies for office use; however, the cost has deterred significant use.

The State Water Control Board, through a Federal grant, publicized the risk to water quality from improper disposal of used automotive oil and established an oil recycling program. The Office of Emergency & Energy Services now coordinates household oil recycling. Hundreds of service stations are participating as collection points for used automotive oil.

During the coming year, the Commission's Resource Recovery Committee will survey all Virginia jurisdictions regarding the status of resource recovery plans and operations. A similar survey, conducted in 1982, provided an inventory of activities in the state. The Resource Recovery Committee will consider revision of the survey and ways to enhance public awareness of the information.

PLANS FOR 1984

During 1984, the Solid Waste Commission plans the continuation of tasks from 1983 as well as the commencement of new activities.

The Commission will continue to sponsor the public participation program on low-level radioactive waste through July 1984 when the DOE grant expires. A major activity planned for the public participation program in the Spring is an informational workshop. The workshop is intended to bring the public up to date on the Southeast Compact and its progress, to provide technical and policy information and to offer opportunities for Virginians to have an open exchange with national experts in low-level radioactive waste management.

When the public participation program grant expires, the Commission will prepare a report on the program's effectiveness. This examination of the public participation program should benefit LLW management activities in other states and assist Virginia's future efforts in continuing to meet its LLW management responsibilities.

The Solid Waste Commission will continue to follow the progress of the U.S. Department of Energy's siting study for a high level radioactive waste repository. The Commission will assist the representation of the Virginia Legislature in this sensitive matter.

During 1983, the LLW issues and development of the hazardous waste facilities siting bill dominated the Commission's agenda. In 1984, the Solid Waste Commission will renew its efforts in resource recovery. The Commission will survey all Virginia jurisdictions to report the status of resource recovery projects throughout the Commonwealth. The public will be encouraged to make use of the technical expertise in resource recovery among the Commission membership.

During 1984, the Commission intends to broaden its communication with the numerous State agencies with responsibilities related to waste management.

The Commission also plans to review the adequacy of existing State and local authority to regulate transportation of hazardous waste, low-level radioactive waste, and high level radioactive waste. In addition, the Commission will also review the present authority of State agencies to regulate land disposal, particularly that of hazardous waste, on public and private property.

SENATE JOINT RESOLUTION NO. 37

Requesting the Virginia Solid Waste Commission to continue its study to evaluate siting legislation for hazardous waste disposal facilities in Virginia.

Agreed to by the Senate, February 2, 1983
Agreed to by the House of Delegates, February 15, 1983

WHEREAS, at the present time there are extremely limited sites in Virginia for hazardous waste treatment and disposal; and

WHEREAS, these sites are operated under federal Environmental Protection Agency interim status permits because final federal standards for hazardous waste treatment and disposal facilities will not be available until approximately 1984; and

WHEREAS, Virginia will need to develop hazardous waste treatment and disposal facilities to provide adequate capacity for wastes generated within its borders; and

WHEREAS, siting legislation for the careful and expeditious location of these facilities needs to be evaluated with possible legislation to be developed to ensure that the process is undertaken in an appropriate manner; and

WHEREAS, the question of ownership, construction, permitting, operation, liability, and long-term care and maintenance as well as the siting of hazardous waste treatment and disposal facilities needs to be evaluated carefully before proceeding; and

WHEREAS, the Virginia Solid Waste Commission has undertaken a preliminary study to evaluate various siting proposals for hazardous waste disposal facilities but, due to the complexity of the issue, has been unable to complete its efforts; now therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the Virginia Solid Waste Commission is hereby requested to continue its study to evaluate siting legislation for hazardous waste disposal facilities in Virginia and to make a report to the Governor and General Assembly as to the need for legislation in the 1984 Session; and, be it

RESOLVED FURTHER, That the Virginia Solid Waste Commission may continue to utilize ad hoc committees to assist in a continuing capacity in the evaluation of siting legislation for hazardous waste treatment and disposal facilities; and, be it

RESOLVED FINALLY, That it is the sense of the General Assembly that the Board of Health should not issue a state permit for any privately owned or operated off-site hazardous waste treatment and disposal facility nor should the Board exercise the right to eminent domain for the acquisition of any state-owned hazardous waste treatment and disposal facility during the pendency of the study provided for herein.

Eighty-sixth Congress of the United States of America

AT THE SECOND SESSION

*Began and held at the City of Washington on Thursday, the third day of January,
one thousand nine hundred and eighty*

An Act

To set forth a Federal policy for the disposal of low-level radioactive wastes, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Low-Level Radioactive Waste Policy Act".

DEFINITIONS

SEC. 2. As used in this Act—

(1) The term "disposal" means the isolation of low-level radioactive waste pursuant to requirements established by the Nuclear Regulatory Commission under applicable laws.

(2) The term "low-level radioactive waste" means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or byproduct material as defined in section 11 e. (2) of the Atomic Energy Act of 1954.

(3) The term "State" means any State of the United States, the District of Columbia, and, subject to the provisions of Public Law 96-205, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(4) For purposes of this Act the term "atomic energy defense activities of the Secretary" includes those activities and facilities of the Department of Energy carrying out the function of—

- (i) Naval reactors development and propulsion,
- (ii) weapons activities, verification and control technology,
- (iii) defense materials production,
- (iv) inertial confinement fusion,
- (v) defense waste management, and

(vi) defense nuclear materials security and safeguards (all as included in the Department of Energy appropriations account in any fiscal year for atomic energy defense activities).

GENERAL PROVISIONS

SEC. 3. (a) Compacts established under this Act or actions taken under such compacts shall not be applicable to the transportation, management, or disposal of low-level radioactive waste from atomic energy defense activities of the Secretary or Federal research and development activities.

(b) Any facility established or operated exclusively for the disposal of low-level radioactive waste produced by atomic energy defense activities of the Secretary or Federal research and development

activities shall not be subject to compacts established under this Act or actions taken under such compacts.

LOW-LEVEL RADIOACTIVE WASTE DISPOSAL

SEC. 4. (a)(1) It is the policy of the Federal Government that—

(A) each State is responsible for providing for the availability of capacity either within or outside the State for the disposal of low-level radioactive waste generated within its borders except for waste generated as a result of defense activities of the Secretary or Federal research and development activities; and

(B) low-level radioactive waste can be most safely and efficiently managed on a regional basis.

(2)(A) To carry out the policy set forth in paragraph (1), the States may enter into such compacts as may be necessary to provide for the establishment and operation of regional disposal facilities for low-level radioactive waste.

(B) A compact entered into under subparagraph (A) shall not take effect until the Congress has by law consented to the compact. Each such compact shall provide that every 5 years after the compact has taken effect the Congress may by law withdraw its consent. After January 1, 1986, any such compact may restrict the use of the regional disposal facilities under the compact to the disposal of low-level radioactive waste generated within the region.

(b)(1) In order to assist the States in carrying out the policy set forth in subsection (a)(1), the Secretary shall prepare and submit to Congress and to each of the States within 120 days after the date of the enactment of this Act a report which—

(A) defines the disposal capacity needed for present and future low-level radioactive waste on a regional basis;

(B) defines the status of all commercial low-level radioactive waste disposal sites and includes an evaluation of the license status of each such site, the state of operation of each site, including operating history, an analysis of the adequacy of disposal technology employed at each site to contain low-level radioactive wastes for their hazardous lifetimes, and such recommendations as the Secretary considers appropriate to assure protection of the public health and safety from wastes transported to such sites;

(C) evaluates the transportation requirements on a regional basis and in comparison with performance of present transportation practices for the shipment of low-level radioactive wastes, including an inventory of types and quantities of low-level wastes, and evaluation of shipment requirements for each type of waste and an evaluation of the ability of generators, shippers, and carriers to meet such requirements; and

(D) evaluates the capability of the low-level radioactive waste disposal facilities owned and operated by the Department of Energy to provide interim storage for commercially generated low-level waste and estimates the costs associated with such interim storage.

(2) In carrying out this subsection, the Secretary shall consult with the Governors of the States, the Nuclear Regulatory Commission, the Environmental Protection Agency, the United States Geological Survey, and the Secretary of Transportation, and such other agencies and departments as he finds appropriate.