
The

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To promote the exchange of views and information on radioactive waste management

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HOUSE ADOPTS COMPACT CONSENT BILL, COMPACTS, BY VOTE OF 378 - 0

Taking action under a "suspension of the rules" on Monday, December 9, the House adopted by a 378-0 vote an Interior-Commerce reconciled version of compact consent legislation, HR 1083, and the seven compacts (NW, CS, RM, SE, MW, CM, NE).

The legislation as adopted reflects, for the most part, Interior's version of the legislation, and includes from the Commerce proposal:

- a surcharge rebate program, but with a 40% rebate for meeting the final milestone instead of the 50% rebate initially proposed in the Commerce version;
- a mixed waste provision that for all practical purposes provides for dual jurisdiction by NRC and EPA, but gives NRC the sole responsibility for communicating with LLRW site operators. Currently operating LLRW sites are exempted from obtaining a Part B permit for one year; operators are required to comply with subtitle C requirements as soon as practical. [Editors Note: A provision calling for a mixed waste federal guidance document in the version of the reconciled bill included in the Dec. 4 Congressional Record was eliminated.]
- emergency access provisions that give the NRC the authority to provide emergency access to operating facilities, but under restrictions more reflective of Commerce than Interior.
- providing authority to the Secretary of Energy to allocate up to 794,792 cubic feet of disposal capacity for "unusual volumes of waste" from utility actions.
- a utility volume allocation scheme for the aggregate seven-year period, broken into two phases, and also set on an annual basis.

(A full Info Brief will be included in the final 1985 edition to be released immediately following Congress' adjournment.)

3RD RANKED CHEM-NUCLEAR WINS OUT IN CALIFORNIA

Though Pacific Nuclear Systems' proposal to develop and operate a LLRW site in California did end up being ranked as the top proposal, (after Westinghouse had dropped out of the process), as many observers had predicted, PNS was eliminated from consideration during negotiations with the state health department this past week when Morris-Knudsen, their joint venture partner in the proposal, dropped out. PNS tried in vain to stay in negotiations, but the state informed them on Friday, December 6, that Morris-Knudsen's departure significantly altered their proposal and thus the state would begin negotiations with Chem-Nuclear, the next ranked contractor, to determine if an agreement could be reached on their selection as the licensee designate. Mike Jump, the President of Chem-Nuclear, reported that he expects that his firm will successfully reach agreement with the state by the end of the mandated five-day negotiation period, which is sometime this week.

CHEM-NUCLEAR PULLS OUT OF SOUTH DAKOTA...

Though Chem-Nuclear officials maintained that they would continue to pursue development of a LLRW site in South Dakota following defeat of the initiative that would have allowed the state to participate in the Dakotas compact, the firm has now announced that it is stopping all work on the initial site because of technical considerations.

IN HLW . . .

FEDERAL APPEALS COURT TELLS DOE TO FUND NEVADA PROPOSED HLW SITE DRILLING PLANS

The Federal Appeals Court has overturned a lower court decision that upheld DOE's authority to withhold funds from the State of Nevada to support the state's intent to undertake their own on-site drilling at the site of the proposed HLW repository. The Court decided that, under HLW financial assistance guidelines and the Nuclear Waste Policy Act, DOE is required to fund the state's request for support of the proposed drilling activity. When contacted by the Exchange, DOE had not decided on its next course of action. It has until December 16 to file for rehearing before the full court panel of judges, or possibly seek action at the Supreme Court level.

DEFENSE HLW FEE CONTRIBUTIONS . . .

In an exclusive interview with the Exchange (to be published in full in the next edition), Ben Rusche reported that final agreement on Defense's contribution to the HLW fund had not yet been agreed to. He noted that costs for covering defense waste now residing in Idaho was an issue, but did not commit to a specific date for final issuance of the fee proposal in the Federal Register.

UTILITY HLW FEE CONTRIBUTIONS . . .

A three judge panel of the Federal Appeals Court of the District of Columbia has reversed a lower court ruling that would have required that utilities pay the HLW fee for electricity generated for on-site use.

The DOE had ruled that the utilities were required to pay the 1 mil fee for all electricity generated. Wisconsin Electric Power challenged that interpretation, but the lower court decided in DOE's favor. In issuing its opinion overturning the lower court ruling, the Appeals Court affirmed the utility's view of the Nuclear Waste Policy Act that the fee should only be paid for electricity actually sold. The Court noted that DOE had already reversed its early interpretation of the Act, and therefore there was no support for DOE's current contention that taxing only electricity sales would penalize the more efficient plants.

SENATE STAFF BURNING MIDNIGHT OIL PONDERING COURSE OF ACTION ON COMPACTS

Though the Senate Public Works and Environment Committee reported out a compact bill and the seven compacts, (less a mixed waste provision, and containing language, that gave DOE full responsibility for all waste above currently designated class C waste, not favored by Senator Dominici), and staff were involved in a long night of negotiations with Judiciary and Energy personnel, as of this morning (Tuesday, December 10) no decision had been made on the next step. From the information received, as of noon today, a reconciled Senate bill should be completed by late afternoon. The big question still unresolved, as this article is being written, is whether the Senate reconciled bill will be introduced in the Senate instead of the House-adopted version. A "new" Senate version would necessitate a conference or require the House to adopt the Senate version.

The next move is up to Senator Thurmond and will depend on whether Congress looks like it will adjourn on Friday or stay in until early next week. South Carolina is definitely not pleased with the "relaxed" emergency access provisions and the 40% rebate in the House version. It would prefer the original Interior version on emergency access and a 25% rebate. Governor Riley arrived in Washington in the morning to push for resolution of the issues.

If Congress looks like it will remain in session till early next week, the Senate version should be acted upon by Wednesday or Thursday, then a conference will be convened. If not, the Senate should pass the House adopted version on Thursday.

REP. BARTON'S HLW LIABILITY PROPOSAL, SUPPORTED BY CHAIRMAN UDALL, SURPRISES HOST STATES, KILLS VUCANOVICH AMENDMENT

At the Dec. 3, House Interior Price-Anderson mark-up, in a move that surprised the proposed HLW host states, Texas Representative Barton introduced an amendment to the Interior version of Price-Anderson reauthorization proposing to put HLW activities, including storage transport and disposal, under the Price-Anderson provisions, as would be agreed to by the Subcommittee.

At today's (Dec. 10) mark-up the Subcommittee decided to support Rep. Barton's proposed language with an amendment from Rep. Huckaby and reported the P-A bill out of Subcommittee. The Barton-Huckaby amendments put HLW activities under the P-A scheme as adopted by the Committee, with Huckaby's language providing that each nuclear reactor would be assessed a retrospective premium up to a maximum amount of \$20 million for each nuclear incident to cover public liability claims, and that the Federal Government would assume unlimited liability. The extent to which utilities or the Federal Government would be responsible for compensating for the claims made, would be determined by a Compensation Commission proposed to be established by the Udall P-A bill.

The amendment was supported by Chairman Udall, which was not a surprise since there were indications for some time that Mr. Udall was inclined to this approach if HLW liability provisions were folded into the overall P-A scheme rather than covered under a separate set of conditions.

SITE SELECTION FOR A SECOND ROUND REPOSITORY ...

In his interview with the Exchange, Ben Rusche also noted that the report narrowing the potential sites for the second repository would not be released until January. He, however, remains committed to releasing the first round EAs in February.

MAJOR CHANGES AT NRC...

On Tuesday, December 10, NRC Executive Director Bill Dirks announced that he will retire this spring. Chairman Palladino, whose term in up this June, will also leave the Commission. All bets are on Commissioner Zech to assume the Chairman's post.

Details on these stories, plus other news, a detailed information brief on the compact legislation and an exclusive interview with Ben Rusche will be included in the final 1985 edition to be released within a day of Congress' adjourning.

!ANNOUNCEMENT!

If you want to know what Congress did on the compact consent bill (if it passes), how the agencies are going to proceed to implement their programs and the manner in which the site operators will respond, plan to attend the one and one-half day....

**RADIOACTIVE EXCHANGE WORKSHOP AND BRIEFING SESSION:
The 1985 Low-Level Waste Policy Act Amendments
Hyatt-Regency Hotel
Washington, D.C.**

February 12 - 14, 1985

Participants will include key Congressional staff, top agency officials, compact officials, executives from US Ecology and Chem-Nuclear and more! More information forthcoming.

Participation will be limited to 170 paid registrants. Registration fee for Exchange subscribers: \$395.00; Non-subscribers: \$475.00. Please call our offices (202) 362-9756 for more information and to reserve your place. (If by remote chance the compact bill does not pass, the Workshop will not be held.)
