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ENROLLED

Committee Substitute for
SENATE BILL NO. 279

(By Mrs. *Sears & Falumbo*)

PASSED *April 12* 1985

In Effect *from* Passage



ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 279

(MRS. SPEARS AND MR. PALUMBO, *original sponsors*)

(Originating in the Committee on Government Organization.)

[Passed April 12, 1985; in effect from passage.]

AN ACT to amend chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article one-h, relating generally to approving, ratifying and enacting into law the "Appalachian States Low-Level Radioactive Waste Compact" and making the state of West Virginia a party thereto; creating the "Appalachian States Low-Level Radioactive Waste Commission"; providing for the appointment of said commissioners for certain terms by the governor; providing for all necessary and incidental powers of the commission for carrying out the compact; authorizing and directing all officers of this state to do what is necessary or incidental to carry out the compact; giving the director of health primary responsibility; powers to be supplemental and not a limitation upon other powers; authorizing and directing the state and its subdivisions to cooperate with the director of health; authorizing the director of health to promulgate rules and regulations; authorizing the director of health, the attorney general and certain county prosecutors to seek injunctions of violations

without bond, lack of remedy at law or exhaustion of administrative remedies; authorizing the director of health to remedy certain conditions arising from violations; authorizing the director of health and the attorney general to prosecute actions for judgments for the costs of remedial actions; authorizing punitive fines and penalties; providing for actions in circuit court as contested cases pursuant to the administrative procedure act; subpoena power; providing criminal felonies, misdemeanors; imprisonment and fines as penalties for violations of the compact, this article or rules and regulations promulgated pursuant to the compact or this article; this article and the compact to prevail over inconsistent laws of this state; appropriations; and when article effective.

Be it enacted by the Legislature of West Virginia:

That chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article one-h, to read as follows:

ARTICLE 1H. APPALACHIAN STATES LOW-LEVEL RADIOACTIVE WASTE COMPACT.

§29-1H-1. Appalachian states low-level radioactive waste compact approved.

1 The following Appalachian States Low-Level
2 Radioactive Waste Compact, which has been negotiated by
3 representatives of the Commonwealth of Pennsylvania, and
4 the states of West Virginia, Delaware and Maryland, is
5 hereby approved, ratified, adopted, enacted into law, and
6 entered into by the state of West Virginia as a party state
7 thereto, namely:

8 APPALACHIAN STATES LOW-LEVEL
9 RADIOACTIVE WASTE COMPACT

10 **Preamble**

11 WHEREAS, The United States Congress, by enacting the
12 Low-Level Radioactive Waste Policy Act (42
13 U.S.C. §§2021b-2021d) has encouraged the use of interstate
14 compacts to provide for the establishment and operation of
15 facilities for regional management of low-level radioactive
16 waste; and

17 WHEREAS, Under section 4 (a) (1) (A) of the Low-Level
18 Radioactive Waste Policy Act (42 U.S.C. §§2021 (a) (1) (A)),
19 each state is responsible for providing for the capacity for
20 disposal of low-level radioactive waste generated within its
21 borders;

22 WHEREAS, To promote the health, safety and welfare of
23 residents within the Commonwealth of Pennsylvania and
24 the states of West Virginia, Delaware and Maryland, the
25 aforementioned states wish to enter into a compact for the
26 regional management of low-level radioactive waste;

27 Now, therefore, the Commonwealth of Pennsylvania and
28 the states of West Virginia, Delaware and Maryland hereby
29 agree to enter into the Appalachian States Low-Level
30 Radioactive Waste Compact.

31 **Article 1**

32 **Definitions**

33 As used in this compact, unless the context clearly
34 indicates otherwise:

35 (a) "Carrier" means a person who transports low-level
36 waste to a regional facility.

37 (b) "Commission" means the Appalachian States Low-
38 Level Radioactive Waste Commission.

39 (c) "Disposal" means the isolation of low-level waste
40 from the biosphere or other such activity for the disposition
41 of low-level waste that meets applicable federal and state
42 laws and regulations.

43 (d) "Facility" means any real or personal property,
44 within the region, and improvements thereof or thereon,
45 and any and all plant, structures, machinery and
46 equipment, acquired, constructed, operated or maintained
47 for the management or disposal of low-level waste.

48 (e) "Generate" means to produce low-level waste
49 requiring disposal.

50 (f) "Generator" means a person whose activity results in
51 the production of low-level waste requiring disposal.

52 (g) "Host state" means Pennsylvania or other party
53 state so designated by the Commission in accordance with
54 Article 3 of this compact.

55 (h) "Low-level waste" means radioactive waste that:

56 (1) Is neither high-level waste or transuranic waste, nor
57 spent nuclear fuel, nor by-product material as defined in

58 Section 11 (e) (2) of the Atomic Energy Act of 1954 as
59 amended; and

60 (2) Is classified by the federal government as low-level
61 waste, consistent with existing law; but does not include
62 waste generated as a result of atomic energy defense
63 activities of the federal government, as defined in Public
64 Law 96-573, or federal research and development activities.

65 (i) "Management" means the reduction, collection,
66 consolidation, storage, packaging or treatment of low-level
67 waste.

68 (j) "Operator" means a person who operates a regional
69 facility.

70 (k) "Party state" means any state that has become a
71 party in accordance with Article 5 of this compact.

72 (l) "Person" means an individual, corporation,
73 partnership or other legal entity, whether public or private.

74 (m) "Region" means the combined geographical area
75 within the boundaries of the party states.

76 (n) "Regional facility" means a facility within any party
77 state which has been approved by the Commission for the
78 disposal of low-level waste.

79 (o) "Transuranic waste" means low-level waste
80 containing radionuclides with an atomic number greater
81 than 92 which are excluded from shallow-land burial by the
82 federal government.

83 Article 2

84 The Commission

85 (A) Creation and Organization.

86 (1) There is hereby created the Appalachian States
87 Low-Level Radioactive Waste Commission. The
88 Commission is hereby created as a body corporate and
89 politic, with succession for the duration of this compact, as
90 an agency and instrumentality of the governments of the
91 respective signatory parties, but separate and distinct from
92 the respective signatory party states. The Commission shall
93 have central offices located in Pennsylvania.

94 (2) Commission Membership—The Commission shall
95 consist of two voting members from each party state to be
96 appointed according to the laws of each party state, and two
97 additional voting members from each host state to be
98 appointed according to the laws of each host state. The
99 appointing authority of each party state shall notify the

100 Commission in writing of the identities of the members and
101 of any alternates. An alternate may act in the member's
102 absence.

103 (3) Compensation—Members of the Commission and
104 alternates shall serve without compensation from the
105 Commission but may be reimbursed for necessary expenses
106 incurred in and incident to the performance of their duties.

107 (4) Voting Power—Each Commission member is
108 entitled to one vote. The affirmative vote of a majority of all
109 members is necessary for the Commission to take any
110 action. Notwithstanding this provision and unless
111 otherwise provided in this compact, affirmative votes by a
112 majority of a host state's members are necessary for the
113 Commission to take any action related to the regional
114 facility and the disposal and management of low-level
115 waste within that host state.

116 (5) Organization and Procedure.

117 (a) The Commission shall provide for its own
118 organization and procedures, and shall adopt bylaws not
119 inconsistent with this compact and any rules and
120 regulations necessary to implement this compact. It shall
121 meet at least once a year and shall elect a chairman from
122 among its members. In the absence of the chairman, the
123 alternate shall serve.

124 (b) All meetings of the Commission shall be open to the
125 public with reasonable advance notice. The Commission
126 may, by a majority vote, including approval of a majority of
127 each host state's Commission members, hold an Executive
128 Session closed to the public for the purpose of: Considering
129 or discussing legally privileged or proprietary information;
130 to consider dismissal, disciplining of, or hearing complaints
131 or charges brought against an employee or other public
132 agent unless such person requests such public hearing; or to
133 consult with its attorney regarding information or strategy
134 in connection with specific litigation. The reason for the
135 Executive Session must be announced during the open
136 meeting occurring immediately prior to the Executive
137 Session or at the open meeting immediately subsequent to
138 the Executive Session. All action taken in violation of this
139 open meeting provision shall be null and void.

140 (c) Detailed written minutes shall be kept of all
141 meetings of the Commission. All decisions, files, records

142 and data of the Commission shall be open to reasonable
143 public inspection and may be copied upon request and
144 payment of reasonable fees to be established by the
145 Commission, except for information privileged against
146 introduction in judicial proceedings, personnel records,
147 proprietary information as determined by the Commission,
148 and minutes of a properly convened Executive Session.

149 (d) The Commission shall select an appropriate staff,
150 including an executive director, to carry out the duties and
151 functions assigned by the Commission. Notwithstanding
152 any other provision of law the Commission may hire and/or
153 retain its own legal counsel.

154 (e) Any person aggrieved by a final decision of the
155 Commission which adversely affects the legal rights, duties
156 or privileges of such person, may petition a court of
157 competent jurisdiction, within sixty days after the
158 Commission's final decision, to obtain judicial review of
159 said final decisions.

160 (f) Liabilities of the Commission shall not be deemed
161 liabilities of the party states. Members of the Commission
162 shall not be personally liable for actions taken in their
163 official capacity.

164 (B) Powers and Duties.

165 (1) The Commission:

166 (a) Should encourage reduction of the amount of low-
167 level waste generated and low-level waste requiring
168 disposal within the region.

169 (b) Shall do whatever is reasonably necessary to ensure
170 that low-level wastes are safely disposed of within the
171 region except that the Commission shall have no power or
172 authority to license, regulate or otherwise develop a
173 regional facility, such powers and authority being reserved
174 for the host state(s) as permitted under the law.

175 (c) Shall designate as "host states" any party state
176 which generates twenty-five percent or more of
177 Pennsylvania's volume of low-level waste generated based
178 on a comparison of averages over three successive years, as
179 determined by the Commission.

180 (d) Shall ensure that low-level waste packages brought
181 into the regional facility for disposal conform to applicable
182 state and federal regulations. Low-level waste handlers,
183 shippers or generators who persistently violate these

184 regulations will be subject to a fine or other penalty
185 imposed by the Commission, including restricted access to a
186 regional facility. The Commission may impose such fines
187 and/or penalties in addition to any other penalty levied by
188 the party states pursuant to Article 4 (D).

189 (e) May establish such advisory committees as it deems
190 necessary for the purpose of advising the Commission on
191 matters pertaining to the management of low-level waste.

192 (f) May contract to accomplish its duties and effectuate
193 its powers subject to projected available resources. No
194 contract made by the Commission shall bind a party state.

195 (g) Shall prepare contingency plans for management of
196 low-level waste in the event any regional facility should be
197 closed.

198 (h) May examine all records of operators of regional
199 facilities pertaining to operating costs, profits or the
200 assessment or collection of any charge, fee or surcharge, and
201 may make recommendations to the host state(s) which shall
202 review the recommendations in accordance with its (their)
203 own sovereign laws.

204 (i) Shall have the power to sue and be sued subject to
205 Article 2 (A) (5) (e) and may seek to intervene in any
206 administrative or judicial proceeding.

207 (j) May accept any donations, grants, equipment,
208 supplies, materials or services, conditional or otherwise
209 from any source. The nature, amount and condition, if any,
210 attendant upon any donation, grants or other resources
211 accepted pursuant to this subsection, together with the
212 identity of the donor or grantor, shall be detailed in the
213 annual report of the Commission. Before the Commission
214 may accept any donation, grant, equipment, supplies,
215 materials or services, such gift shall be reviewed by
216 Commission Counsel to study the legality and propriety of
217 such gifts. If the Commission Counsel determines that the
218 receipt of such a gift would be contrary to applicable law or
219 would present a conflict of interest, the Commission shall
220 not accept such gift.

221 (k) Shall assemble and make available to the party
222 states and to the public, information concerning low-level
223 waste management needs, technologies and problems.

224 (l) Shall keep current and annual inventories of all
225 generators by name and quantity generated within the

226 region, based upon information provided by the party
227 states.

228 (m) Shall keep an inventory of all regional disposal
229 facilities, including, but not necessarily restricted to,
230 information on their size, capacity and location, as well as
231 specific wastes capable of being managed, and the
232 projected useful life of each regional facility.

233 (n) Shall make and publish an annual report to the
234 governors of the signatory party states and to the public
235 detailing its programs, operations and finances, including
236 copies of the annual budget and the independent audit
237 required by this compact.

238 (o) Notwithstanding any other provision of this
239 compact to the contrary, may, with the approval of a
240 majority of the Commission members of the host state(s),
241 enter into agreements with non-party states or other
242 regional boards for the disposal of low-level waste at the
243 regional facility, if so authorized by law(s) of the host
244 state(s), or other disposal facilities located in states that are
245 not parties to this agreement.

246 (C) Budget and Operation.

247 (1) The Commission shall establish a fiscal year which
248 conforms to the fiscal year of the Commonwealth of
249 Pennsylvania.

250 (2) Upon legislative enactment of this compact by two
251 party states and each year until the regional facility
252 becomes available, the Commission shall adopt a current
253 expense budget for its fiscal year. The budget shall include
254 the Commission's estimated expenses for administration.
255 Such expenses shall be allocated to the party states
256 according to the following formula:

257 Each designated initial host state will be allocated costs
258 equal to twice the costs of the other party states, but such
259 costs will not exceed two hundred thousand dollars.

260 Each remaining party state will be allocated a cost of one
261 half the cost of the initial host state, but such costs will not
262 exceed one hundred thousand dollars.

263 The party states will include the amounts allocated above
264 in their respective budgets, subject to such review and
265 approval as may be required by their respective budgetary
266 processes. Such amounts shall be due and payable to the

267 Commission in quarterly installments during the fiscal
268 year:

269 (3) For continued funding of its activities, the
270 Commission shall submit an annual budget request to each
271 party state for funding, based upon the percentage of the
272 region's waste generated in each state in the region, as
273 reported in the latest available annual inventory required
274 under Article 2 (B) (1) (1).

275 (4) The Commission shall prepare and include in the
276 annual report a budget showing anticipated receipts and
277 disbursements for the ensuing year.

278 (5) Annual Independent Audit.

279 (a) As soon as practicable after the closing of the fiscal
280 year, an audit shall be made of the financial accounts of the
281 Commission. The audit shall be made by qualified certified
282 public accountants selected by the Commission, who have
283 no personal direct or indirect interest in the financial
284 affairs of the Commission or any of its officers or employees.
285 The report of audit shall be prepared in accordance with
286 accepted accounting practices and shall be filed with the
287 chairman and such other officers as the Commission shall
288 direct. Copies of the report shall be distributed to each
289 Commission member and shall be made available for public
290 distribution.

291 (b) Each signatory party by its duly authorized officers
292 shall be entitled to examine and audit at any time all of the
293 books, documents, records, files, and accounts and all other
294 papers, things, or property of the Commission. The
295 representatives of the signatory parties shall have access to
296 all books, documents, records, accounts, reports, files and
297 all other papers, things, or property belonging to or in use
298 by the Commission and necessary to facilitate the audit;
299 and, they shall be afforded full facilities for verifying
300 transactions with the balances or securities held by
301 depositaries, fiscal agents and custodians.

302 **Article 3**

303 **Rights, Responsibilities and** 304 **Obligations of Party States**

305 (A) There shall be regional facilities sufficient to
306 dispose of the low-level waste generated within the region.
307 Each regional facility shall be capable of disposing of such
308 low-level waste but in the form(s) required by regulations
309 or license conditions. Specialized facilities for particular

310 types of low-level waste management or disposal may be
311 developed in any party state in accordance with the laws
312 and regulations of such state and applicable federal laws
313 and regulations.

314 (B) Each party state shall have equal access as other
315 party states to regional facilities located within the region
316 and accepting low-level waste: *Provided*, That the host
317 state may close the regional facility located within its
318 borders when necessary for public health and safety.
319 However, a host state shall send notification to the
320 Commission in writing within three (3) days of its action,
321 and shall, within thirty (30) working days, provide in
322 writing the reasons for the closing.

323 (C) Pennsylvania and party states which generated
324 twenty-five percent or more of the volume of low-level
325 waste generated by Pennsylvania based on a comparison of
326 averages over the three years one thousand nine hundred
327 eighty-two through one thousand nine hundred eighty-four
328 are designated as "initial host states" and are required to
329 develop and host low-level waste sites as regional facilities.

330 (D) Party states which generated less than twenty-five
331 percent of the volume of low-level waste generated by
332 Pennsylvania based on a comparison of averages over the
333 years one thousand nine hundred eighty-two through one
334 thousand nine hundred eighty-four shall be exempt from
335 initial host state responsibilities. These states shall
336 continue to be exempt as long as they generate less than the
337 twenty-five percent threshold over successive three-year
338 periods. Once a state generates twenty-five percent or more
339 of the volume generated by Pennsylvania over a successive
340 three-year period, it shall be designated as a "host state" for
341 a thirty-year period by the Commission. Such host state
342 shall be prepared to accept at its regional facility low-level
343 waste at least equal to that generated in the state. With
344 Commission approval, any party state may volunteer to
345 host a low-level waste disposal facility.

346 (E) Pennsylvania and other host states are obligated to
347 develop regional facilities for the duration of this compact.
348 All regional facilities shall be designated for at least a
349 thirty-year useful life. At the end of the facility's life,
350 normal closure and maintenance procedures shall be
351 initiated in accordance with the applicable requirements of

352 the host state and the federal government. Each host state's
353 obligation for operating regional facilities shall remain as
354 long as the state continues to produce over a three-year
355 period twenty-five percent or more of the volume of low-
356 level waste generated by Pennsylvania.

357 (F) Each host state shall:

358 (1) Cause a regional facility to be sited and developed on
359 a timely basis.

360 (2) Ensure by law, consistent with applicable state and
361 federal law, the protection and preservation of public
362 health and safety in the siting, design, development,
363 licensure, or other regulation, operation, closure,
364 decommissioning and long-term care of the regional facility
365 within the state.

366 (3) Ensure that charges for disposal of low-level waste
367 at the regional facility are reasonably sufficient to ensure
368 the safe disposal and perpetual care of the regional facility
369 and that charges are assessed without discrimination as to
370 the party state of origin.

371 (4) Submit an annual report to the Commission on the
372 status of the regional facility which contains projections of
373 the anticipated future capacity.

374 (5) Notify the Commission immediately if any exigency
375 arises requiring the possible temporary or permanent
376 closure of a regional facility within the state at a time
377 earlier than was projected in the state's most recent annual
378 report to the Commission.

379 (G) Each party state:

380 (1) Shall appropriate its portion of the Commission's
381 initial and annual budgets as set out in Article 2 (C) (2) and
382 (3).

383 (2) To the extent authorized by federal law shall develop
384 and enforce procedures requiring low-level waste
385 shipments originating within its borders and destined for a
386 regional facility to conform to volume reduction, packaging
387 and transportation requirements and regulations as well as
388 any other requirements specified by the regional facility.
389 Such procedures shall include but are not limited to:

390 (i) Periodic inspections of packaging and shipping
391 practices;

392 (ii) Periodic inspections of low-level waste containers
393 while in custody of carriers; and

394 (iii) Appropriate enforcement actions with respect to
395 violations.

396 (3) To the extent authorized by federal law, shall after
397 receiving notification from a host state that a person in a
398 party state has violated volume reduction, packaging,
399 shipping or transportation requirements or regulations,
400 take appropriate action to ensure that violations do not
401 recur. Appropriate action may include, but is not limited to,
402 the requirement that a bond be posted by the violator to pay
403 the cost of repackaging at the regional facility and the
404 requirement that future shipments be inspected.

405 (4) Shall maintain a registry of all generators and
406 quantities generated within the state.

407 (H) In the event of liability arising from the operation of
408 any regional facility and during and after closure of that
409 facility, each party state shall share in that liability in an
410 amount equal to that state's share of the region's low-level
411 waste disposed of at the facility. If such liability arises from
412 negligence, malfeasance or neglect on the part of a host
413 state or any party state, then any other host or party state(s)
414 may make any claim allowable under law for that
415 negligence, malfeasance or neglect. If such liability arises
416 from a particular waste shipment or shipments to, or
417 quantity of waste or condition at, the regional facility, then
418 any host or party state may make any claim allowable under
419 law for such liability.

420 (I) A party state which fails to fulfill its obligations,
421 including timely funding of the Commission may have its
422 privileges under the Compact suspended or its membership
423 in the Compact revoked by the Commission and be subject
424 to any other legal and equitable remedies available to the
425 party states.

426

Article 4

427

Prohibited Acts and Penalties

428 (A) It shall be unlawful for any person to dispose of
429 low-level waste within the region except at a regional
430 facility unless authorized by the Commission.

431 (B) After establishment of the regional facility or
432 facilities, it shall be unlawful for any person to dispose of
433 any low-level waste within the region unless the waste was
434 generated within the region or unless authorized to do so
435 both by the Commission and by law of the host state in

436 which said disposal takes place. For the purposes of this
 437 Compact, waste generated within the region excludes
 438 radioactive material shipped from outside the party states
 439 to a waste management facility within the region. In
 440 determining whether to grant such authorization, the
 441 factors to be considered by the Commission shall include,
 442 but not be limited to, the following:

443 (1) The impact on the health and safety of the citizens of
 444 the party states;

445 (2) The impact of importing waste on the available
 446 capacity and projected life of the regional facility;

447 (3) The economic impact on the regional facility; and

448 (4) The availability of a regional facility appropriate for
 449 the safe disposal of the type of low-level waste involved.

450 (C) Following the establishment of a regional facility,
 451 any and all low-level waste generated within the region
 452 shall be disposed of at a regional facility, except for specific
 453 cases agreed upon by the Commission, with the affirmative
 454 votes by a majority of the Commission members of the host
 455 state(s) affected by the decision.

456 (D) Generators, shippers and carriers of wastes, and
 457 owners and operators of sites shall be liable for their acts,
 458 omissions, conduct or relationships in accordance with all
 459 laws relating thereto. The party states may impose a fine for
 460 any violation in an amount equal to the present and future
 461 costs associated with correcting any harm caused by the
 462 violation and may assess punitive fines or penalties if it is
 463 deemed necessary. In addition, the host state may bar any
 464 person who violates host state or federal regulations from
 465 using the regional facility until that person demonstrates to
 466 the satisfaction of the host state their ability and
 467 willingness to comply with the law.

468 **Article 5**

469 **Eligibility, Entry into Effect,**

470 **Congressional Consent, Withdrawal**

471 (A) The states of Pennsylvania, West Virginia, Delaware
 472 and Maryland, are initially eligible to become parties to this
 473 Compact. Other states may be made eligible by unanimous
 474 consent of the party states in accordance with the laws of
 475 each party state: *Provided*, That such states be contiguous
 476 to Pennsylvania.

477 (B) An eligible state may become a party state by

478 legislative enactment of this compact or by executive order
479 of the governor adopting this compact: *Provided*, That a
480 state becoming a party state by executive order shall cease
481 to be a party state upon adjournment of the first general
482 session of its Legislature convened thereafter, unless the
483 Legislature shall have enacted this Compact before such
484 adjournment.

485 (C) This Compact shall take effect when it has been
486 enacted by the Legislatures of Pennsylvania and one or
487 more eligible states. However, subsections (B) and (C) of
488 Article 4 shall not take effect until Congress has consented
489 to this Compact. Every fifth year after such consent has
490 been given, Congress may withdraw consent.

491 (D) A party state may withdraw from the Compact by
492 repealing the enactment of this Compact, but no such
493 withdrawal shall become effective until two years after
494 enactment of the repealing legislation. If the withdrawing
495 state is a host state, any regional facility in that state shall
496 remain available to receive low-level waste generated
497 within the region until five years after the effective date of
498 the withdrawal.

499 **Article 6**

500 **Construction and Severability**

501 (A) The provisions of this Compact shall be broadly
502 construed to carry out the purposes of the Compact, but the
503 sovereign powers of a party state shall not unnecessarily be
504 infringed.

505 (B) If any part or application of this Compact is held
506 invalid, the remainder, or its application to other situations
507 or persons, shall not be affected.

§29-1H-2. Appointment of members of Commission.

1 In pursuance of Article 2 of the Compact, the governor of
2 the state of West Virginia, by and with the advice and
3 consent of the Senate, shall appoint two persons as
4 members of the Appalachian States Low-Level Radioactive
5 Waste Commission from the state of West Virginia, each of
6 whom shall be a resident and citizen of the state. The term of
7 the member of the Commission first appointed shall be two
8 years and of the other shall be four years, and their
9 successors shall be appointed by the governor, by and with
10 the advice and consent of the Senate, for terms of four years

11 each. Each member of the Commission shall hold office
12 until his successor has been appointed and qualified.
13 Vacancies occurring in the office of any such member for
14 any reason or cause shall be filled by appointment by the
15 governor, by and with the advice and consent of the Senate,
16 for the unexpired term.

**§29-1H-3. Powers of Commission, duties of state officers,
departments, etc.**

1 There is hereby granted to the Commission and members
2 of the Commission all of the powers provided for in the
3 Compact and all the powers necessary or incidental to the
4 carrying out of the Compact in every particular. All officers
5 of this state are hereby authorized and directed to do all
6 things falling within their respective provinces and
7 jurisdiction necessary to or incidental to the carrying out of
8 the Compact in every particular, it being hereby declared to
9 be the policy of this state to perform and carry out the
10 Compact and to accomplish the purposes thereof. The
11 director of health shall have the primary responsibility
12 therefor.

**§29-1H-4. Powers granted herein supplemental to other
powers vested in Commission.**

1 Any powers herein granted to the Commission shall be
2 regarded as in aid of and supplemental to and in no case a
3 limitation upon any of the powers vested in the Commission
4 by other laws of this state, by the other party states, by
5 Congress or the terms of the Compact.

**§29-1H-5. Cooperation of state agencies, boards, departments,
subdivisions, etc.**

1 The departments, boards, agencies, commissions, officers
2 and employee of the state and its subdivisions are
3 authorized and directed to cooperate with the director of
4 health in the furtherance of any of his activities pursuant to
5 the Appalachian States Low-Level Radioactive Waste
6 Compact and the provisions of this article.

§29-1H-6. Rules and regulations.

1 The director of health is authorized to promulgate and
2 adopt rules and regulations as are necessary and incidental

3 to the carrying out of the Compact and this article. Such
4 authorization shall include, without limitation, rules and
5 regulations necessary and incidental to carrying out
6 subsection two, section (g), article three of the Compact.
7 Such rules and regulations shall be promulgated only in
8 accordance with article three, section twenty-nine-a of this
9 code.

§29-1H-7. Enforcement.

1 (a) Following the establishment of a regional facility
2 pursuant to the Appalachian States Low-Level Radioactive
3 Waste Compact, the director of health, the attorney general
4 or the prosecuting attorney of any county in which a
5 violation occurs may seek in the name of the state an
6 injunction against any person in violation of any of the
7 provisions of said Compact, this article or the rules and
8 regulations promulgated pursuant to said Compact or this
9 article. In seeking such an injunction it is not necessary for
10 the state to post bond nor to allege or prove at any stage of
11 the proceeding that irreparable harm will occur if the
12 injunction is not issued or that the remedy of the law is
13 inadequate. An application for injunctive relief under this
14 section may be filed and relief granted notwithstanding the
15 fact that all administrative remedies provided for have not
16 been exhausted or invoked against the person or persons
17 against whom such relief is sought.

18 (b) The director of health is hereby authorized to
19 remedy or to contract to remedy any condition he deems a
20 threat to public health and safety arising from a violation of
21 the Appalachian States Low-Level Radioactive Waste
22 Compact, this article or the rules and regulations
23 promulgated pursuant to the Compact or this article and to
24 proceed pursuant to subsection (c) of this section to recover
25 judgment for the costs thereof.

26 (c) Pursuant to section (d), Article 4 of the Appalachian
27 States Low-Level Radioactive Waste Compact, the director
28 of health and the attorney general are hereby authorized to
29 prosecute actions for judgments pursuant to subsection (b)
30 of this section. The director of health and the attorney
31 general are further authorized to institute actions to assess
32 punitive fines or penalties pursuant to section (d), Article 4
33 of the Compact for violations of the Compact, this article or

34 rules or regulations promulgated pursuant to the Compact
35 or this article. Such actions may be brought at the option of
36 the state in the circuit court of any county in which a
37 violation occurred or may be brought as a contested case
38 pursuant to chapter twenty-nine-a of this code. In any
39 action brought under the provisions of chapter twenty-
40 nine-a of this code, the director of health or the attorney
41 general shall have the power to issue subpoenas and
42 subpoenas duces tecum on behalf of the state or any
43 interested party. The punitive fines and penalties may not
44 exceed the fines provided in section eight of this article and
45 may only be sought in lieu thereof.

§29-1H-8. Penalties.

1 (a) Any person who after the establishment of a regional
2 facility pursuant to the Appalachian States Low-Level
3 Radioactive Waste Compact violates or causes to be
4 violated the provisions of section (a) or section (b), Article 4
5 of the Compact or any of the provisions of or regulations
6 regarding packaging and transportation promulgated
7 pursuant to subsection two, section (g), Article 3 of the
8 Compact is guilty of a felony, and upon conviction thereof,
9 shall be fined not less than one thousand dollars nor more
10 than twenty-five thousand dollars for each day of violation,
11 or imprisoned in the penitentiary not less than one nor more
12 than five years, or both fined and imprisoned. If the
13 conviction is for a violation committed after a first
14 conviction of such person under this subsection, the person
15 shall be guilty of a felony, and upon conviction thereof,
16 shall be fined not less than five thousand dollars nor more
17 than fifty thousand dollars for each day of violation, or shall
18 be imprisoned not less than two nor more than ten years, or
19 both fined and imprisoned.

20 (b) Any person who after the establishment of a regional
21 facility pursuant to this Compact violates or causes to be
22 violated the provisions of any rules and regulations
23 regarding volume reduction promulgated pursuant to
24 subsection two, section (g), Article 3 of the Compact is
25 guilty of a misdemeanor and, upon conviction thereof, shall
26 be fined not less than one hundred dollars nor more than
27 twenty-five hundred dollars for each day of such violation,
28 or imprisoned in the county jail not less than one nor more

29 than five months, or both fined and imprisoned. If the
30 conviction is for a violation committed after a first
31 conviction of such person under this subsection, the person
32 shall be guilty of a felony, and, upon conviction thereof,
33 shall be fined not less than one thousand dollars nor more
34 than twenty-five thousand dollars for each day of such
35 violation, or shall be imprisoned not less than two nor more
36 than ten years, or both fined and imprisoned.

§29-1H-9. Conflicting laws.

1 In the event the provisions of the Appalachian States
2 Low-Level Radioactive Waste Compact, this article or any
3 rules and regulations lawfully promulgated thereunder
4 shall be or become inconsistent with any other provisions of
5 this code, the provisions of the Appalachian States Low-
6 Level Radioactive Waste Compact and this article and the
7 rules and regulations lawfully promulgated thereunder
8 shall prevail to the extent of such inconsistency and the
9 conflicting provisions shall be null and void to the extent of
10 such inconsistency.

§29-1H-10. Appropriations.

1 The Legislature may appropriate such funds as it
2 considers necessary to carry out the provisions of this
3 article.

§29-1H-11. When article effective.

1 This article shall take effect and become operative and
2 the Compact be executed for and on behalf of this state only
3 from and after the approval, ratification and adoption, and
4 entering into thereof by the Commonwealth of
5 Pennsylvania.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

David Estess
.....
Chairman Senate Committee

Floyd Fuller
.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

Judd C. Nichols
.....
Clerk of the Senate

Donald L. Hogg
.....
Clerk of the House of Delegates

Don Tomlin
.....
President of the Senate

Joseph P. Wright
.....
Speaker House of Delegates

The within *approved* this the *2nd*
Day
day of, 1985.

Reha. Harvey Jr.
.....
Governor

PRESENTED TO THE
GOVERNOR

Date 4/30/85

Time 6:34 p.m.