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STATE OF WEST VIRGINIA

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1987



ENROLLED

Committee Substitute for
SENATE BILL NO. 226

(By Senator *Shorse, et al*)



PASSED *March 12,* 1987

In Effect *ninety days from* Passage



★ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 226

(SENATORS SHARPE, PALUMBO AND SHAW, *original sponsors*)

[Passed March 12, 1987; in effect ninety days from passage.]

AN ACT to amend and reenact sections one and ten, article one-h, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to enacting the Appalachian States Low-Level Radioactive Waste Compact and amending same; and fiscal implementation.

Be it enacted by the Legislature of West Virginia:

That sections one and ten, article one-h, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted 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

★2nd Enrollment

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 U.S.C.
13 Sections 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. Sections 2021 (a)
19 (1) (A)), each state is responsible for providing for the
20 capacity for disposal of low-level radioactive waste
21 generated within its 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) "Broker" means any intermediate person who
36 handles, treats, processes, stores, packages, ships or
37 otherwise has responsibility for or possesses low-level
38 waste obtained from a generator.

39 (b) "Carrier" means a person who transports low-level
40 waste to a regional facility.

41 (c) "Commission" means the Appalachian States Low-
42 Level Radioactive Waste Commission.

43 (d) "Disposal" means the isolation of low-level waste
44 from the biosphere.

45 (e) "Facility" means any real or personal property,
46 within the region, and improvements thereof or thereon,
47 and any and all plant, structures, machinery, and

48 equipment, acquired, constructed, operated or maintained
49 for the management or disposal of low-level waste.

50 (f) "Generate" means to produce low-level waste
51 requiring disposal.

52 (g) "Generator" means a person whose activity results
53 in the production of low-level waste requiring disposal.

54 (h) "Hazardous life" means the time required for
55 radioactive materials to decay to safe levels, as defined by
56 the time period for the concentration of radioactive
57 materials within a given container or package to decay to
58 maximum permissible concentrations as defined by federal
59 law or by standards to be set by a host state, whichever is
60 more restrictive.

61 (i) "Host state" means Pennsylvania or any other party
62 state so designated by the Commission in accordance with
63 Article 3 of this Compact.

64 (j) "Institutional control period" means the time of the
65 continued observation, monitoring and care of the regional
66 facility following transfer of control from the operator to
67 the custodial agency.

68 (k) "Low-level waste" means radioactive waste that:

69 (1) Is neither high-level waste or transuranic waste, nor
70 spent nuclear fuel, nor by-product material as defined in
71 Section 11 (e)(2) of the Atomic Energy Act of 1954 as
72 amended; and

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

78 (l) "Management" means the reduction, collection,
79 consolidation, storage, packaging or treatment of low-level
80 waste.

81 (m) "Operator" means a person who operates a regional
82 facility.

83 (n) "Party state" means any state that has become a
84 party in accordance with Article 5 of this Compact.

85 (o) "Person" means an individual, corporation,
86 partnership or other legal entity, whether public or private.

87 (p) "Region" means the combined geographical area
88 within the boundaries of the party states.

89 (q) "Regional facility" means a facility within any party

90 state which has been approved by the Commission for the
91 disposal of low-level waste.

92 (r) "Shallow-land burial" means the disposal of low-
93 level radioactive waste directly in subsurface trenches
94 without additional confinement in engineered structures or
95 by proper packaging in containers as determined by the law
96 of the host state.

97 (s) "Transuranic waste" means low-level waste
98 containing radionuclides with an atomic number greater
99 than 92 which are excluded from shallow-land burial by the
100 federal government.

101

Article 2

102

The Commission

103 (A) Creation and Organization.

104 (1) Creation — There is hereby created the Appalachian
105 States Low-Level Radioactive Waste Commission. The
106 Commission is hereby created as a body corporate and
107 politic, with succession for the duration of this Compact, as
108 an agency and instrumentality of the governments of the
109 respective signatory parties, but separate and distinct from
110 the respective signatory party states. The Commission shall
111 have central offices located in Pennsylvania.

112 (2) Commission Membership — The Commission shall
113 consist of two voting members from each party state to be
114 appointed according to the laws of each party state, and two
115 additional voting members from each host state to be
116 appointed according to the laws of each host state. Upon
117 selection of the site of the regional facility, an additional
118 voting member shall be appointed to the Commission who
119 shall be a resident of the county or municipality where the
120 facility is to be located. The appointing authority of each
121 party state shall notify the Commission in writing of the
122 identities of the members and of any alternates. An
123 alternate may vote and act in the member's absence. No
124 member shall have a financial interest in any industry
125 which generates low-level radioactive waste, any low-level
126 radioactive waste regional facility or any related industry
127 for the duration of the member's term. No more than one-
128 half the members and alternates from any party state shall
129 have been employed by or be employed by a low-level waste
130 generator or related industry upon appointment to or
131 during their tenure of office: *Provided*, That no member
132 shall have been employed by or be employed by a regional
133 facility operator. No member or alternate from any party

134 state shall accept employment from any regional facility
135 operator or brokers for at least three years after leaving
136 office.

137 (3) Compensation — Members of the Commission and
138 alternates shall serve without compensation from the
139 Commission but may be reimbursed for necessary expenses
140 incurred in and incident to the performance of their duties.

141 (4) Voting Power — Each Commission member is
142 entitled to one vote. Unless otherwise provided in this
143 Compact, affirmative votes by a majority of a host state's
144 members are necessary for the Commission to take any
145 action related to the regional facility and the disposal and
146 management of low-level waste within that host state.

147 (5) Organization and Procedure.

148 (a) The Commission shall provide for its own
149 organization and procedures, and shall adopt bylaws not
150 inconsistent with this Compact and any rules and
151 regulations necessary to implement this Compact. It shall
152 meet at least once a year in the county selected to host a
153 regional facility and shall elect a chairman and vice-
154 chairman from among its members. In the absence of the
155 chairman, the vice-chairman shall serve.

156 (b) All meetings of the Commission shall be open to the
157 public with at least fourteen days advance notice, except
158 that the chairman may convene an emergency meeting with
159 less advance notice. Each municipality and county selected
160 to host a regional facility shall be specifically notified in
161 advance of all Commission meetings. All meetings of the
162 Commission shall be conducted in a manner that
163 substantially conforms to the federal Administrative
164 Procedure Act. The Commission may, by a two-thirds vote,
165 including approval of a majority of each host state's
166 Commission members, hold an Executive Session closed to
167 the public for the purpose of: Considering or discussing
168 legally privileged or proprietary information; to consider
169 dismissal, disciplining of, or hearing complaints or charges
170 brought against an employee or other public agent unless
171 such person requests such public hearing; or to consult with
172 its attorney regarding information or strategy in connection
173 with specific litigation. The reason for the Executive
174 Session must be announced at least fourteen days prior to
175 the Executive Session except that the chairman may
176 convene an emergency meeting with less advance notice in

177 which case the reason for the Executive Session must be
178 announced at the open meeting immediately subsequent to
179 the Executive Session. All action taken in violation of this
180 open meeting provision shall be null and void.

181 (c) Detailed written minutes shall be kept of all
182 meetings of the Commission. All decisions, files, records
183 and data of the Commission except for information
184 privileged against introduction in judicial proceedings,
185 personnel records, and minutes of a properly convened
186 Executive Session shall be open to public inspection subject
187 to a procedure that substantially conforms to the Freedom
188 of Information Act (Public Law 89-554, 5 U.S.C. 552) and
189 applicable West Virginia law, and may be copied upon
190 request and payment of fees which shall be no higher than
191 necessary to recover copying costs.

192 (d) The Commission shall select an appropriate staff,
193 including an executive director, to carry out the duties and
194 functions assigned by the Commission. Notwithstanding
195 any other provision of law, the Commission may hire and/or
196 retain its own legal counsel.

197 (e) Any person aggrieved by a final decision of the
198 Commission which adversely affects the legal rights, duties
199 or privileges of such person, may petition a court of
200 competent jurisdiction, within sixty days after the
201 Commission's final decision, to obtain judicial review of
202 said final decisions.

203 (f) Liabilities of the Commission shall not be deemed
204 liabilities of the party states. Members of the Commission
205 shall not be personally liable for actions taken in their
206 official capacity.

207 (B) Powers and Duties.

208 (1) The Commission:

209 (a) Shall conduct research and establish regulations to
210 promote a reasonable reduction of volume and curie
211 content of low-level wastes generated in the region. The
212 regulations shall be reviewed and, if necessary, revised by
213 the Commission at least annually.

214 (b) Shall ensure, to the extent authorized by federal law,
215 that low-level wastes are safely disposed of within the
216 region, except that the Commission shall have no power or
217 authority to license, regulate or otherwise develop a
218 regional facility, such powers and authority being reserved
219 for the host state(s) as permitted under the law.

220 (c) Shall designate as "host states" any party state
221 which generates twenty-five percent or more of
222 Pennsylvania's volume or total curie content of low-level
223 waste generated based on a comparison of averages over
224 three successive years, as determined by the Commission.
225 This determination shall be based on volume or total curie
226 content, whichever is greater.

227 (d) Shall ensure, to the extent authorized by federal law,
228 that low-level waste packages brought into the regional
229 facility for disposal conform to applicable state and federal
230 regulations. Low-level waste brokers or generators who
231 violate these regulations will be subject to a fine or other
232 penalty imposed by the Commission, including restricted
233 access to a regional facility. The Commission may impose
234 such fines and/or penalties in addition to any other penalty
235 levied by the party states pursuant to Article 4(D).

236 (e) Shall establish such advisory committees as it deems
237 necessary for the purpose of advising the Commission on
238 matters pertaining to the management and disposal of low-
239 level waste.

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

243 (g) Shall prepare contingency plans for management
244 and disposal of low-level waste in the event any regional
245 facility should be closed or otherwise unavailable.

246 (h) Shall examine all records of operators of regional
247 facilities pertaining to operating costs, profits or the
248 assessment or collection of any charge, fee or surcharge, and
249 may make recommendations to the host state(s) which shall
250 review the recommendations in accordance with its (their)
251 own sovereign laws.

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

255 (j) Shall assemble and make available to the party states
256 and to the public, information concerning low-level waste
257 management and disposal needs, technologies and
258 problems.

259 (k) Shall keep current and annual inventories of all
260 generators by name and quantity of low-level waste
261 generated within the region, based upon information
262 provided by the party states. Inventory information shall

263 include both volume in cubic feet and total curie content of
264 the low-level waste and all available information on
265 chemical composition and toxicity of such wastes.

266 (l) Shall keep an inventory of all regional facilities and
267 specialized facilities, including but not necessarily
268 restricted to, information on their size, capacity, and
269 location, as well as specific wastes capable of being
270 managed, and the projected useful life of each regional
271 facility.

272 (m) Shall make and publish an annual report to the
273 governors of the signatory party states and to the public
274 detailing its programs, operations and finances, including
275 copies of the annual budget and the independent audit
276 required by this Compact.

277 (n) Notwithstanding any other provision of this
278 Compact to the contrary, may, with the unanimous
279 approval of the Commission members of the host state(s),
280 enter into temporary agreements with nonparty states or
281 other regional boards for the emergency disposal of low-
282 level waste at the regional facility, if so authorized by law(s)
283 of the host state(s), or other disposal facilities located in
284 states that are not parties to this agreement.

285 (o) Shall promulgate regulations, pursuant to host state
286 law, to specifically govern and define exactly what would
287 constitute an emergency situation and exactly what
288 restrictions and limitations would be placed on temporary
289 agreements.

290 (p) Shall not accept any donations, grants, equipment,
291 supplies, materials or services, conditional or otherwise,
292 from any source, except from any federal agency and from
293 party states which are certified as being legal and proper
294 under the laws of the donating party state.

295 (C) Budget and Operation.

296 (1) The Commission shall establish a fiscal year which
297 conforms to the fiscal year of the Commonwealth of
298 Pennsylvania.

299 (2) Upon legislative enactment of this Compact by two
300 party states and each year until the regional facility
301 becomes available, the Commission shall adopt a current
302 expense budget for its fiscal year. The budget shall include
303 the Commission's estimated expenses for administration.
304 Such expenses shall be allocated to the party states
305 according to the following formula:

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

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

312 The party states will include the amounts allocated above
313 in their respective budgets, subject to such review and
314 approval as may be required by their respective budgetary
315 processes. Such amounts shall be due and payable to the
316 Commission in quarterly installments during the fiscal
317 year.

318 (3) For continued funding of its activities, the
319 Commission shall submit an annual budget request to each
320 party state for funding, based upon the percentage of the
321 region's waste generated in each state in the region, as
322 reported in the latest available annual inventory required
323 under Article 2 (B) (1) (k). The percentage of waste shall be
324 based on volume of waste or total curie content as
325 determined by the Commission.

326 (4) The Commission shall prepare and include in the
327 annual report a budget showing anticipated receipts and
328 disbursements for the ensuing year.

329 (5) Annual Independent Audit.

330 (a) As soon as practicable after the closing of the fiscal
331 year, an audit shall be made of the financial accounts of the
332 Commission. The audit shall be made by qualified certified
333 public accountants selected by the Commission, who have
334 no personal direct or indirect interest in the financial
335 affairs of the Commission or any of its officers or employees.
336 The report of audit shall be prepared in accordance with
337 accepted accounting practices and shall be filed with the
338 chairman and such other officers as the Commission shall
339 direct. Copies of the report shall be distributed to each
340 Commission member and shall be made available for public
341 distribution.

342 (b) Each signatory party by its duly authorized officers
343 shall be entitled to examine and audit at any time all of the
344 books, documents, records, files and accounts and all other
345 papers, things or property of the Commission. The
346 representatives of the signatory parties shall have access to
347 all books, documents, records, accounts, reports, files and

348 all other papers, things or property belonging to or in use by
349 the Commission and necessary to facilitate the audit; and,
350 they shall be afforded full facilities for verifying
351 transactions with the balances or securities held by
352 depositaries, fiscal agents and custodians.

353

Article 3

354

Rights, Responsibilities

355

and Obligations of Party States

356 (A) There shall be regional facilities sufficient to
357 dispose of the low-level waste generated within the region.
358 Each regional facility shall be capable of disposing of such
359 low-level waste but in the form(s) required by regulations
360 or license conditions. Specialized facilities for particular
361 types of low-level waste management reduction or
362 treatment may not be developed in any party state unless
363 they are in accordance with the laws and regulations of such
364 state and applicable federal laws and regulations.

365 (B) Each party state shall have equal access as other
366 party states to regional facilities located within the region
367 and accepting low-level waste: *Provided*, That the host
368 state may close the regional facility located within its
369 borders when necessary for public health and safety.
370 However, a host state shall send notification to the
371 Commission in writing within three (3) days of its action,
372 and shall, within thirty (30) working days, provide in
373 writing the reasons for the closing.

374 (C) Pennsylvania and party states which generated
375 twenty-five percent or more of the volume or curies of
376 low-level waste generated by Pennsylvania based on a
377 comparison of averages over the three years, one thousand
378 nine hundred eighty-two through one thousand nine
379 hundred eighty-four, are designated as "initial host states"
380 and are required to develop and host low-level waste sites
381 as regional facilities. The percentage of waste from each
382 state shall be determined by cubic foot volume or total curie
383 content, whichever is greater.

384 (D) Party states which generated less than twenty-five
385 percent of the volume or curies of low-level waste generated
386 by Pennsylvania based on a comparison of averages over the
387 years one thousand nine hundred eighty-two through one
388 thousand nine hundred eighty-four shall be exempt from
389 initial host state responsibilities. These states shall
390 continue to be exempt as long as they generate less than the

391 twenty-five percent threshold over successive three-year
392 periods. Once a state generates an average of twenty-five
393 percent or more of the volume or curies generated by
394 Pennsylvania over a successive three-year period, it shall be
395 designated as a "host state" for a thirty-year period by the
396 Commission and shall immediately initiate development of
397 a regional facility to be operational within five years. Such
398 host state shall be prepared to accept at its regional facility
399 low-level waste at least equal to that generated in the state.
400 With Commission approval, any party state may volunteer
401 to host a regional facility. The percentage of waste from
402 each state shall be determined by either a cubic foot volume
403 or total curie content, whichever is greater.

404 (E) Pennsylvania and other host states are obligated to
405 develop regional facilities for the duration of this Compact.
406 All regional facilities shall be designed for at least a thirty-
407 year useful life. At the end of the facility's life, normal
408 closure and maintenance procedures shall be initiated in
409 accordance with the applicable requirements of the host
410 state and the federal government. Each host state's
411 obligation for operating regional facilities shall remain as
412 long as the state continues to produce over a three-year
413 period twenty-five percent or more of the volume or curies
414 of low-level waste generated by Pennsylvania.

415 (F) Each host state shall:

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

418 (2) Ensure by law, consistent with applicable state and
419 federal law, the protection and preservation of public
420 health, safety and environmental quality in the siting,
421 design, development, licensure or other regulation,
422 operation, closure, decommissioning long-term care and
423 the institutional control period of the regional facility
424 within the state. To the extent authorized by federal law, a
425 host state may adopt more stringent laws, rules or
426 regulations than required by federal law.

427 (3) Ensure and maintain a manifest system which
428 documents all waste-related activities of generators,
429 brokers, carriers and related activities of generators,
430 brokers, carriers and operators, and establish the chain of
431 custody of waste from its initial generation to the end of its
432 hazardous life. Copies of all such manifests shall be
433 submitted to the Commission on a timely basis.

434 (4) Ensure that charges for disposal of low-level waste
435 at the regional facility are sufficient to fully fund the safe
436 disposal and perpetual care of the regional facility and that
437 charges are assessed without discrimination as to the party
438 state of origin.

439 (5) Submit an annual report to the Commission on the
440 status of the regional facility which contains projections of
441 the anticipated future capacity.

442 (6) Notify the Commission immediately if any exigency
443 arises requiring the possible temporary or permanent
444 closure of a regional facility within the state at a time
445 earlier than was projected in the state's most recent annual
446 report to the Commission.

447 (7) Require that the institutional control period of any
448 disposal facility be at least as long as the hazardous life, as
449 defined in Article 1(h), of the radioactive materials that are
450 disposed at that facility.

451 (8) Prohibit the use of any shallow land burial, as
452 defined in Article 1(r), and develop alternative means for
453 treatment, storage and disposal of low-level waste.

454 (9) Establish by law, to the extent not prohibited by
455 federal law, requirements for financial responsibility,
456 including, but not limited to:

457 (a) Requirements for the purchase and maintenance of
458 adequate insurance by generators, brokers, carriers and
459 operators of the regional facility;

460 (b) Requirements for the establishment of a long-term
461 care fund to be funded by a fee placed on generators to pay
462 for preventative or corrective measures of low-level waste
463 to the regional facility; and

464 (c) Any further financial responsibility requirements
465 that shall be submitted by generators, brokers, carriers and
466 operators as deemed necessary by the host state.

467 (G) Each party state:

468 (1) Shall appropriate its portion of the Commission's
469 initial and annual budgets as set out in Article 2 (C) (2) and
470 (3).

471 (2) To the extent authorized by federal law shall develop
472 and enforce procedures requiring low-level waste
473 shipments originating within its borders and destined for a
474 regional facility to conform to volume reduction, packaging
475 and transportation requirements and regulations as well as
476 any other requirements specified by the regional facility.
477 Such procedures shall include, but are not limited to:

478 (i) Periodic inspections of packaging and shipping
479 practices;

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

482 (iii) Appropriate enforcement actions with respect to
483 violations.

484 (3) To the extent authorized by federal law, shall after
485 receiving notification from a host state, or other person that
486 a person in a party state has violated volume reduction,
487 packaging, shipping or transportation requirements or
488 regulations, take appropriate action to ensure that
489 violations do not recur. Appropriate action shall include,
490 but is not limited to, the requirement that a bond be posted
491 by the violator to pay the cost of repackaging at the regional
492 facility and the requirement that future shipments be
493 inspected. Appropriate action may also include suspension
494 of the violator's use of the regional facility. Should such
495 suspension be imposed, the suspension shall remain in
496 effect until such time as the violator has, to the satisfaction
497 of the party state imposing such suspension, complied with
498 the appropriate requirements or regulations upon which
499 the suspension was based and has taken appropriate action
500 to ensure that such violation or violations do not recur.

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

503 (H) In the event of liability arising from the operation of
504 any regional facility and during and after closure of that
505 facility, each party state shall share in that liability in an
506 amount equal to that state's share of the region's low-level
507 waste disposed of at the facility. If such liability arises from
508 negligence, malfeasance or neglect on the part of a host
509 state or any party state, then any other host or party state(s)
510 may make any claim allowable under law for that
511 negligence, malfeasance or neglect. If such liability arises
512 from a particular waste shipment or shipments to, or
513 quantity of waste or condition at, the regional facility, then
514 any host or party state may make any claim allowable under
515 law for such liability. The percentage of waste shall be
516 based on volume of waste or total curie content.

517 (I) A party state which fails to fulfill its obligations,
518 including timely funding of the Commission may have its
519 privileges under the Compact suspended or its membership
520 in the Compact revoked by the Commission and be subject

521 to any other legal and equitable remedies available to the
522 party states.

523

Article 4

524

Prohibited Acts and Penalties

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

528 (B) After establishment of the regional facility or
529 facilities, it shall be unlawful for any person to dispose of
530 any low-level waste within the region unless the waste was
531 generated within the region or unless authorized to do so
532 both by the Commission and by law of the host state in
533 which said disposal takes place. For the purposes of this
534 Compact, waste generated within the region excludes
535 radioactive material shipped from outside the party states
536 to a waste management facility within the region. In
537 determining whether to grant such authorization, the
538 factors to be considered by the Commission shall include,
539 but not be limited to, the following:

540 (1) The impact on the health, safety and environmental
541 quality of the citizens of the party states;

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

544 (3) The availability of a regional facility appropriate for
545 the safe disposal of the type of low-level waste involved.

546 (C) Any and all low-level waste generated within the
547 region shall be disposed of at a regional facility, except for
548 specific cases agreed upon by the Commission, with the
549 affirmative votes by a majority of the Commission members
550 of the host state(s) affected by the decision.

551 (D) Generators, brokers and carriers of wastes, and
552 owners and operators of sites shall be liable for their acts,
553 omissions, conduct or relationships in accordance with all
554 laws relating thereto. The party states shall impose a fine
555 for any violation in an amount equal to the present and
556 future costs associated with correcting any harm caused by
557 the violation and shall assess punitive fines or penalties if it
558 is deemed necessary. In addition, the host state shall bar any
559 person who violates host state or federal regulations from
560 using the regional facility until that person demonstrates to
561 the satisfaction of the host state their ability and
562 willingness to comply with the law.

563 (E) No commissioner, officer or employee shall:

564 (1) Be financially interested, either directly or
565 indirectly, in a contract, sale, purchase, lease or transfer of
566 real or personal property to which the Commission is a
567 party.

568 (2) Solicit or accept money or any other thing of value in
569 addition to the expenses paid to him by the Commission for
570 services performed within the scope of his official duties.

571 (3) Offer money or anything of value for or in
572 consideration of obtaining an appointment, promotion or
573 privilege in his employment with the Commission.

574 (F) Any officer or employee who shall willfully violate
575 any of the provisions of this article shall forfeit his office or
576 employment.

577 (G) Any contract or agreement knowingly made in
578 contravention of this section is void.

579 (H) Officers and employees of the Commission shall be
580 subject, in addition to the provisions of this section, to such
581 criminal and civil sanctions for misconduct in office as may
582 be imposed by federal law and the law of the signatory state
583 in which such misconduct occurs.

584 **Article 5**
585 **Eligibility, Entry into Effect,**
586 **Congressional Consent, Withdrawal**

587 (A) Only the states of Pennsylvania, West Virginia,
588 Delaware and Maryland, are eligible to become parties to
589 this Compact. (B) An eligible state may become a party
590 state by legislative enactment of this Compact or by
591 executive order of the governor adopting this Compact:
592 *Provided*, That a state becoming a party state by executive
593 order shall cease to be a party state upon adjournment of the
594 first general session of its legislature convened thereafter,
595 unless the legislature shall have enacted this Compact
596 before such adjournment.

597 (C) This Compact shall take effect when it has been
598 enacted by the legislatures of Pennsylvania and one or more
599 eligible states. However, subsections (B) and (C) of Article 4
600 shall not take effect until Congress has consented to this
601 Compact. Every fifth year after such consent has been
602 given, Congress may withdraw consent.

603 (D) A party state may withdraw from the Compact by
604 repealing the enactment of this Compact, but no such
605 withdrawal shall become effective until two years after

606 enactment of the repealing legislation. If the withdrawing
607 state is a host state, any regional facility in that state shall
608 remain available to receive low-level waste generated
609 within the region until five years after the effective date of
610 the withdrawal.

611 **Article 6**

612 **Construction and Severability**

613 (A) The provisions of this Compact shall be broadly
614 construed to carry out the purposes of the Compact, but the
615 sovereign powers of a party state shall not unnecessarily be
616 infringed.

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

§29-1H-10. Fiscal implementation.

1 The term "budgetary processes" in Article 2(C)(2) of the
2 Compact shall be construed to include the presentation by
3 the Commission of its proposed budget for each fiscal
4 period to the Budget Office of the Department of Finance
5 and Administration for study and consideration, and each
6 such budget shall include a statement of moneys required to
7 administer, manage and support the Commission during
8 the ensuing fiscal period. The statement shall include any
9 request for appropriation of funds by the state of West
10 Virginia and shall be accompanied by a tabulation of
11 similar requests which the Commission makes or expects to
12 make to each other signatory party, and the formula or
13 factors upon which such respective requests are based. The
14 governor is authorized to take such action as may be
15 necessary and proper in his discretion to effectuate the
16 Compact, and the initial organization and operation of the
17 Commission, and the Legislature may appropriate such
18 funds as it considers necessary to carry out the provisions of
19 this article.

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

Bruce O. Williams
.....
Chairman Senate Committee

Bernard V. Kelly
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Todd C. Willis
.....
Clerk of the Senate

Donald J. Kopp
.....
Clerk of the House of Delegates

Ann Tomblin
.....
President of the Senate

Tom Hall
.....
Speaker House of Delegates

The within *approved* this the *18th*
day of *March* 1987.

Lucre. Phares
.....
Governor



PRESENTED TO THE
GOVERNOR

Date 3/17/87

Time 4:17 p.m.