

PASSAGE OF LOW-LEVEL WASTE AMENDMENTS SHIFTS FOCUS TO STATE LEGISLATURES

The evening of December 19, 1985, only a few hours prior to adjournment, the United States Senate and the House of Representatives approved the Low-Level Radioactive Waste Amendments of 1985, extending the January 1, 1986, deadline by which the three states now handling the nation's low-level radioactive waste could have closed their sites to shipments from outside their states. President Ronald Reagan signed the legislation on January 15, and the seven pending regional interstate compacts were also approved.

Passage of this legislation, vital to the medical community, achieves one of the principal goals for 1985 of The Society of Nuclear Medicine (SNM) and the American College of Nuclear Physicians (ACNP). The difficulties which arose in negotiation and passage of this legislation, however, combined with the complexity of the provisions finally worked out, stand as clear warning that extension of the 1986 deadline by no means marks the end of the campaign to assure the availability of disposal sites for low-level medical wastes. If anything, it marks the beginning of a yet more difficult task—to achieve ratification of compacts and the development of sites in each region of the country.

The nuclear medicine community was heavily involved in the legislative action leading to passage of this act, and has been concerned about the issue since Congress passed the Low-Level Radioactive Waste Policy Act of 1980 (see *Newsline*: Jan. 1985, pp. 1-6; Mar. 1985, p. 224; May 1985, pp. 453-454; June 1985, p. 563; Aug. 1985, pp. 845-847; Dec. 1985, pp. 1366-1367; Jan. 1986, p. 16).

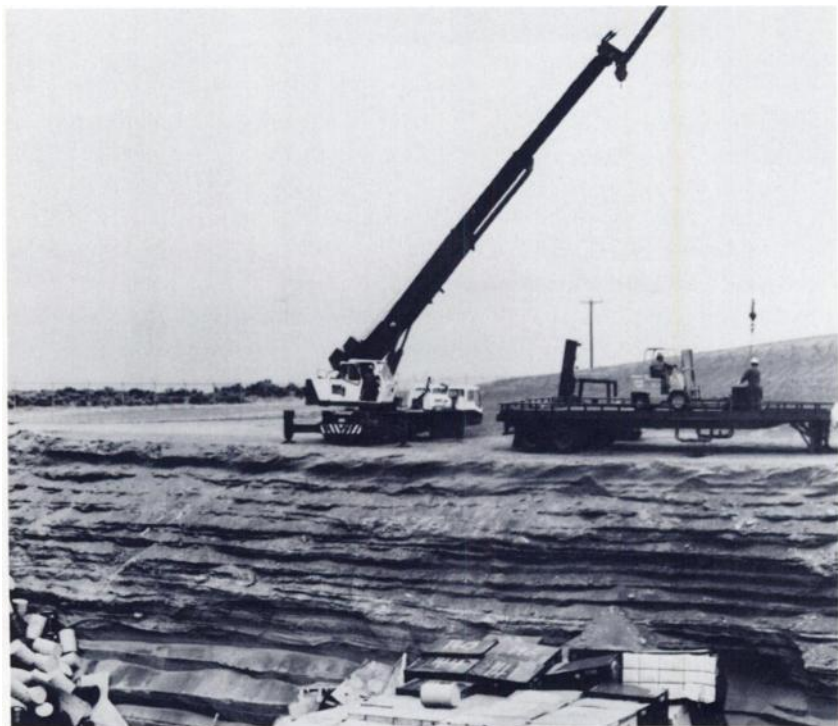
Representatives of the SNM and the ACNP testified before three dif-

ferent committees in the course of 1985 alone. The points stressed were: the need for continued access of medical institutions and radiopharmaceutical manufacturers to low-level waste disposal sites; that medical wastes should be exempt from mandatory volume reductions (since hospitals have already reduced the volume of radioactive wastes shipped for disposal); and that the conflicts faced by site operators in complying with US Nuclear Regulatory Commission (NRC) and US Environmental Protection Agency (EPA) conflicting regulations of "mixed wastes," subject to both the Resource Conservation and Recovery Act (RCRA) and the Atomic Energy Act, should be resolved.

Testimony by Stanley J. Goldsmith, MD, SNM president, Kenneth A.

McKusick, MD, ACNP president, and Capt. William H. Briner, Chairman of the SNM Government Relations Committee, were followed by letters to each member of the six different congressional committees and subcommittees which reviewed the legislation, keyed to the committee votes and the specific issues in dispute in each committee. Staff of the Conjoint SNM/ACNP Washington Office worked closely with the committee staff and legislative assistants to the Senators and Congressmen as the questions concerning future milestones, restrictions on emergency access, and the mixed waste issue were debated and voted upon.

The nuclear medicine community
(continued on page 448)



Barrels of low-level radioactive waste are being lowered into a trench at the Hanford disposal site in Richland, WA.
(Courtesy of US Ecology)

(continued from page 447)

achieved two of its three principal goals. First, not only was the January 1986 deadline extended, but new emergency access provisions were written into the legislation which should permit at least temporary access for medical generators if sites are closed in the future to generators in states which miss the revised milestones. [On the night the legislation passed, Rep. Edward J. Markey (D-MA), chairman of the Subcommittee on Energy Conservation and Power, said: "When the NRC is making a determination to grant emergency access on whether an alternative to ac-

cess exists, the NRC shall consider not only the threat to the public health and safety if activities which lead to the production of waste were curtailed or stopped. For example, if the cessation of operations at a concern which produces medical devices would mitigate the need for access, but would at the same time impact the quality of medical care available to the public, requiring the concern to cease operation would not be an alternative consistent with the public health and safety." On the Senate floor that same night, Sen. Alan K. Simpson (R-WY), chairman of the Subcommittee on Nuclear Regula-

tion, said: "The intent of the bill's language is that emergency access will only be granted by the NRC in rare circumstances when a real and immediate threat to public health and safety exists. There may be some benefits from the generation of low-level radioactive waste to the public health that the NRC must consider in making its determination of the need for emergency access. For example, the NRC would probably consider the benefits to the public health and safety brought about by the use of radiopharmaceutical products in cancer research and other critical medical research."] Second, the mandatory volume reduction provisions apply only to utility generators.

Unfortunately, the Senate and House were unable to resolve sharp differences about procedures to be followed by the EPA and the NRC in resolving the complex issue of joint regulation of mixed (radioactive and chemical) wastes. Action was postponed until after new hearings scheduled for this spring. The Richland, WA, site remains closed to liquid radioactive wastes in the interim. (The other two commercial low-level radioactive waste disposal sites in the United States are located in Beatty, NV, and Barnwell, SC.)

The new milestones to be met by states or the regional compacts to which they belong are:

By July 1, 1986, each state must either ratify compact legislation or indicate its intent to develop its own disposal site. The seven regional compacts approved by Congress cover 37 states. The 13 states not yet included in compacts are Arizona, California, Maine, Massachusetts, New Hampshire, New York, North Dakota, Pennsylvania, Rhode Island, South Dakota, Texas, Vermont, and West Virginia. If any of these states miss the July 1986 deadline, generators within those states are to be charged a penalty surcharge of \$20 per cubic foot (in addition to a new regular sur-



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charge of \$10 per cubic foot on all wastes in 1986) beginning on July 1. By January 1, 1987, generators may be denied access, depending on the governor's decision in the sited state.

- Subsequent milestones become tougher and the surcharges—both regular surcharges on all disposers and penalty surcharges on states which have missed their milestones—escalate sharply. By January 1, 1988, each compact region must identify the host state or individual states must have developed their own siting plans. By 1990, either a complete application must be filed or the governor of a state which is not a member of a compact must certify that the state will be able to take care of its own waste by January 1, 1993. By January 1992, the complete application from the compact region or the individual state must be filed. Generators in states missing any of these milestones will be charged a series of

escalating surcharges as high as \$120 per cubic foot. After January 1, 1989, any generator in a state or region missing the 1988 or 1990 milestones may also be denied access to existing disposal sites.

What are the implications of the new legislation for nuclear medicine departments?

- First, the cost of land burial of low-level wastes will escalate sharply. The regular surcharges go to \$20 per cubic foot in 1988 and \$40 per cubic foot in 1990. The penalty surcharges on regions or states not meeting their milestones rise to \$120 per cubic foot by 1992. All institutions need to continue to reduce the volume of waste shipped. Institutions, for example, shipping carcasses of research animals which contain low-level radioactivity may want to step up their explorations of incineration as an alternative to land disposal.

- Second, physicians and other

members of the nuclear medicine community should know what progress their state is making toward meeting the milestones and should become part of the political process in their own states. Many nuclear physicians and physicists are already active on state commissions or on *ad hoc* groups promoting compact legislation and the politically difficult siting decisions which are yet to come in their states. Nuclear medicine professionals can help this political process move ahead.

Most important, through participation nuclear medicine specialists will have a realistic view of whether their state is going to meet its milestones. If there is doubt, hospitals need to plan ahead for the eventuality of lost access.

State compact groups get one new assist from the legislation procedure. Of the regular (not the penalty) surcharges, 25% will be returned to the states or compact regions for their use in establishing their own disposal sites if they are meeting their milestones. For the first time, the compact commissions will have funding resources to put into their work.

- Third, the failure of the Congress to agree on a provision for reforming the regulation of "mixed waste" signals that this issue will not be easily resolved. Congressional supporters of EPA jurisdiction over hazardous chemical wastes continue to insist either that regulation be joint, or that NRC must follow all RCRA regulations applying to chemical wastes.

Albert Einstein once wrote, in a broader context, that mankind has been more successful in science and technology than in finding solutions to political problems. To paraphrase, a technologic solution to the mixed waste problem may come more easily than a political solution.

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SCIENCE, POLITICS, AND FEAR— LOW-LEVEL WASTE

A one-day seminar, "Science, Politics, and Fear: Facing the Spector of Low-Level Radioactive Wastes," will be held on April 14, 1986, at the New York Penta Hotel in New York City.

Cosponsored by the American Chemical Society's (ACS) Division of Chemistry and the Law and The New York Academy of Medicine, the meeting will include eight lectures and two panel discussions.

The keynote address on the biomedical community's perspective on low-level waste disposal will be delivered by Nobel laureate Rosalyn S. Yalow, PhD, senior scientist in the Nuclear Medicine Depart-

ment of the Veterans Administration Hospital in the Bronx, NY.

Letty G. Lutzker, MD, associate director of radiology at Woodhull Hospital in Brooklyn, NY, will speak on the "fallacy of a risk-free society." Dr. Lutzker is also a member of The Society of Nuclear Medicine's Government Relations Committee.

The seminar will be held during the 191st National Meeting of the ACS on April 13-18.

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