

9. POLICY POSITION

HAZARDOUS WASTES

Background

In 1980 Congress enacted the Comprehensive Environmental Response Compensation and Liability Act establishing the Hazardous Substance Response Trust Fund (or Superfund).

The U.S. Environmental Protection Agency has inventoried almost 26,000 hazardous waste sites in the United States. There currently are 951 hazardous waste sites either on the National Priorities List (NPL) or proposed for inclusion on the NPL making the sites eligible for Superfund remedial action.

As a result of increased regulatory activity under the Superfund Amendments and Reauthorization Act of 1986 (SARA), the NPL is expected to grow to 2,500 sites by 1988 and, according to the Congressional Office of Technology Assessment, as many as 10,000 sites could ultimately be added to the NPL.

The average cost to clean up a hazardous waste site is \$9 million. The EPA estimates that the average cleanup costs will increase to between \$30 million and \$50 million per site and may exceed \$300 million at sites with severe groundwater problems. The litigation expenses, exclusive of response costs, involved in the typical multi-party Superfund case are approximately \$7.75 million.

Studies have indicated that through utilization of arbitration and mediation techniques, assuming all parties participate, the average multi-party Superfund case could be settled for less than \$1 million. On average a private cleanup of a Superfund site costs two-thirds of government cleanup. SARA promotes agreements rather than law suits by encouraging potential responsible parties to pay for hazardous waste cleanups themselves.

Recommendation

The Southern Legislative Conference supports, within existing state hazardous waste programs, the establishment of special state Superfund arbitration and mediation teams to facilitate rapid private response to, and cleanup of, toxic waste sites and expeditious settlement of Superfund disputes.

The basis for the team's arbitration and mediation activities is; 1) the encouragement of reasonable parties to conduct remedial studies; 2) the provision to responsible parties with information about the hazardous waste site and suggestion of the allocation of liability; 3) the quick settlement with minor contributors of low toxic wastes; and 4) the release of responsible parties from future liability if they agree to fund or conduct cleanup of the site.