

POLICY POSITION

HAZARDOUS WASTE CAPACITY ASSURANCE

BACKGROUND

It is a requirement under Section 104(c)(9) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Pub. L. No. 96-510, 94 Stat. 2767, 42 U.S.C. 9601 et seq., as amended and the Superfund Amendments and Reauthorization Act of 1986, Pub. L. 99-499, 1000 Stat. 1613, as amended, as a condition of receiving non-emergency federal remedial action funding after October 17, 1989, that each state assure that it has adequate capacity to manage the hazardous waste generated in the state and expected to be generated in the state for the next twenty years. Most participants in the capacity assurance planning process agree that the capacity assurance planning mandated in Section 104(K) of the Superfund Amendments and Reauthorization Act of 1986 (SARA) was not intended to be utilized to provide "equity" among the states with regard to hazardous waste management facilities. The statute and the legislative history indicate that the primary purpose of the statute was to prevent the proliferation of Superfund sites by requiring the establishment of "adequate" capacity for the proper management of hazardous wastes. Most environmental protection policy-makers view the withholding of Superfund monies as placing an unreasonable risk on the public health and safety, thus making such a provision an inappropriate and potentially unenforceable mechanism. It is the consensus that the process as it is presently structured is unrealistic and unimplementable and will likely not achieve the goals for such process.

RECOMMENDATION

The Southern Legislative Conference urges the U.S. Environmental Protection Agency (EPA) to convene a task force involving legislative representatives of both net importing and net exporting states, the Agency and other affected parties to develop proposed legislation to create an effective process for planning for needed hazardous waste management capacity and to develop and submit to Congress a reasonable strategy and legislation for addressing the "equity" issue during the reauthorization of the Resource Conservation and Recovery Act.

Further, the Southern Legislative Conference urges EPA to place a greater emphasis on addressing waste minimization/waste reduction in the Capacity Assurance Plan. Such emphasis should allow legitimate waste minimization/waste reduction efforts to reduce capacity shortfalls to be given as much weight as siting new facilities to address shortfalls and prevent the nonproliferation of unneeded capacity.

Adopted by the Southern Legislative Conference, August 11, 1992, Miami Beach, Florida.

Sponsored by: Representative Bruce Hanson, Mississippi

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