



Atlantic Compact Commission

(Northeast Interstate Low-Level Radioactive Waste Commission)

1201 Main Street
Suite 820
Columbia, SC 29201

(803) 737-1928
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COMMISSIONERS

BENJAMIN A. JOHNSON
Chairman
South Carolina

KEVIN T.A. McCARTHY
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RICHARD J. SULLIVAN
New Jersey

THOMAS W. WEEKS
South Carolina

ALTERNATE COMMISSIONERS

JOHN CLARK
South Carolina

LEONARD F. D'AMICO
Connecticut

MICHAEL J. HOGAN
New Jersey

HANK STALLWORTH
South Carolina

MEMBER STATES

**SOUTH CAROLINA
NEW JERSEY
CONNECTICUT**

Date: December 20, 2000

To: LLRW Generators of New Jersey and Connecticut and Other Interested Parties

Re: Northeast Interstate Low-Level Radioactive Waste Commission Office Relocation/Formation of Atlantic Interstate Low-Level Radioactive Waste Compact – ‘Atlantic Compact Commission’

Background

In 1980, Congress passed the “*Low-Level Radioactive Waste Policy Act*”, P.L. 96-573, which mandated that each state would be responsible for management of low-level radioactive waste (LLRW) generated within its borders and encouraged states to enter into interstate compacts to facilitate regional LLRW management. Since 1985, when the Northeast Compact was ratified by Congress, the states of Connecticut and New Jersey have been compact partners. Pursuant to the *Regional Management Plan* of the Northeast Compact, Connecticut and New Jersey have been working toward siting a full-service LLRW disposal facility in each state capable of disposing an equitable portion of the region’s waste.

Concurrently, the Commission was actively involved in ensuring safe management of LLRW in the Northeast Compact region. The Commission: maintained and updated the region’s management plan; maintained a database of generator’s out-of-region processing requirements; negotiated and executed several interregional access agreements (and amendments thereto); sponsored workshops on a variety of issues, including interim storage preparation when no disposal capacity was available; monitored each state’s siting efforts; and continually explored alternatives for LLRW minimization and management.

During much of this time, a significant portion of the region’s LLRW continued to be disposed at the commercial LLRW disposal facility in Barnwell County, South Carolina. Generators also had access to the Envirocare of Utah facility for certain waste types. However, there were periods of time during which access to the Barnwell facility was denied to LLRW generators in the Northeast Compact region. In late 1998, South Carolina Governor-elect Jim Hodges indicated that he would explore options with regard to the future of the Barnwell LLRW disposal facility.

① PHL
② FCC
③ SLD
④ PR (hww file)

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OSP

OSP-006 Template
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The Northeast Compact Commission contacted Governor-elect Hodges in December 1998 and expressed continued interest in the future of the Barnwell facility as a disposal option for generators in the Northeast Compact region.

During 1999, the Commission made presentations to, and maintained a dialogue with, the South Carolina Nuclear Waste Task Force appointed by Governor Hodges regarding a possible alliance between the states of Connecticut, New Jersey and South Carolina. In December, 1999, the South Carolina Nuclear Waste Task Force recommended that South Carolina join the states of Connecticut and New Jersey in what would be referred to as the Atlantic Interstate Low-Level Radioactive Waste Compact.

On April 28, 2000, Governor Hodges petitioned the Northeast Compact Commission for a declaration that South Carolina be eligible for membership in the Northeast Compact (a copy of this petition is enclosed as Exhibit A) and subsequently signed the requisite legislation in South Carolina.

By Order dated June 13, 2000 (a copy of this order is enclosed as Exhibit B), the Commissioners of the Northeast Compact unanimously granted South Carolina's petition.

By July 1, 2000, all conditions in the Order had been satisfied for South Carolina to join the Northeast Interstate Low-Level Radioactive Waste Management Compact. Under the Order (please refer to Exhibit B), generators in Connecticut and New Jersey have been allocated 800,000 cubic feet of disposal capacity at the Barnwell facility, and the designation of Connecticut and New Jersey as host states has been revoked and rescinded. Therefore, Connecticut and New Jersey no longer need to pursue siting of LLRW disposal facilities within their borders.

Atlantic Compact Commission

The Atlantic Compact Commission is comprised of four Commissioners: Benjamin A. Johnson (Chairman) and Thomas W. Weeks representing South Carolina, Kevin T.A. McCarthy representing Connecticut and Richard J. Sullivan representing New Jersey. The four Alternate Commissioners are John Clark and Hank Stallworth representing South Carolina, Leonard D'Amico representing Connecticut and Michael Hogan representing New Jersey.

Under the terms of the Order, the Commission office is being relocated to South Carolina. The Northeast Interstate Low-Level Radioactive Waste Commission will also be known as the Atlantic Compact Commission. Effective immediately, please change your records to reflect the new address and contact information shown below:

Old Address

~~703 Hebron Avenue
Glastonbury, CT 06033~~

New Address

1201 Main Street, Suite 820
Columbia, SC 29201

The Commission's new telephone number is (803) 737-1928 and new fax number is (803) 737-9846.

It has been a pleasure working with generators in Connecticut and New Jersey, and I look forward to my continued role as Connecticut Commissioner to the Atlantic Compact Commission.

Sincerely,

A handwritten signature in cursive script that reads "Kevin T.A. McCarthy". The signature is written in black ink and is positioned below the word "Sincerely,".

Kevin T.A. McCarthy
Connecticut Commissioner

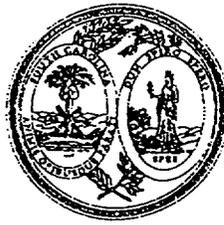


Exhibit A

State of South Carolina

Office of the Governor

JIM HODGES
GOVERNOR

POST OFFICE Box 11829
COLUMBIA 29211

April 28, 2000

The Honorable Kevin McCarthy
Chairman
Northeast Low-Level Radioactive Waste
Compact Commission
703 Hebron Avenue
Glastonbury, CT 06033

Dear Mr. McCarthy:

This letter and the attachment constitute a petition for declaration of the State of South Carolina as an eligible state for membership in the Northeast Interstate Low-Level Radioactive Waste Management Compact, which will also become known as the Atlantic Compact.

As you know, the South Carolina General Assembly is currently considering legislation that would enable the State to join the Compact upon terms and conditions that are mutually agreeable to South Carolina and the current member states. While the legislation has not yet been passed by the General Assembly, I am submitting the membership petition at this time in order to allow the Compact Commission adequate time to consider the petition prior to our targeted membership date of July 1, 2000.

This petition and any subsequent approval of the petition notwithstanding, South Carolina's membership in the Compact remains contingent upon (1) the Compact Commission's declaration that the State of South Carolina is eligible to join the Compact, (2) enactment by South Carolina of the necessary enabling legislation, and (3) certification by the Governor that the Compact Commission has taken specific actions that may be identified in law by the General Assembly as conditions precedent for South Carolina's membership.

I believe that South Carolina's membership in the Atlantic Compact will provide significant benefits to each of the member states and their citizens.

The Honorable Kevin McCarthy
Chairman
Northeast Low-Level Radioactive Waste
Compact Commission
Page 2
April 28, 2000

If you have any questions regarding this petition for membership or need additional information, please feel free to contact Jim Stuckey of my staff.

Sincerely,



Jim Hodges

Attachment:

*Attachment to Petition from the State of South Carolina
for Membership in the Atlantic Compact
April 28, 2000*

cc: The Honorable John Drummond, President Pro Tempore of the Senate
The Honorable Phil Leventis, Chairman, Senate Agriculture and Natural
Resources Committee
The Honorable David H. Wilkins, Speaker of the House of
Representatives
The Honorable Charles R. Sharpe, Chairman, House Agriculture,
Natural Resources, and Environmental Affairs Committee.

**Attachment to
Petition from the State of South Carolina
for Membership in the Atlantic Compact
April 28, 2000**

Consistent with proposed rules of the Northeast Interstate Low-Level Radioactive Waste Management Compact (also known hereafter as the Atlantic Compact), at Title 10, Part 1800.13, Code of the Federal Regulations (65 Federal Register 13702 et seq.), I, Jim Hodges, Governor of South Carolina, hereby attest to the following:

- a) Upon the admittance of South Carolina to the Atlantic Compact, South Carolina will become the voluntary host state for a regional disposal facility for low-level radioactive waste. South Carolina will continue to be the voluntary host state until all currently licensed nuclear power stations within the region have been fully decommissioned and their licenses (including any licenses for storage of spent nuclear fuel under 10 CFR part 72) have been terminated, unless otherwise relieved of such responsibilities under any applicable provisions, regulations, orders or policies of the Compact.
- b) It is agreed and understood that South Carolina will remain the sole host state for a regional disposal facility, so long as South Carolina remains a member of the Compact.
- c) South Carolina warrants that all current information indicates that the regional disposal facility in Barnwell County has adequate capacity to accommodate 800,000 cubic feet of waste from generators located within the borders of the existing Compact states.
- d) South Carolina warrants that it will establish a maximum uniform rate schedule for regional generators. The maximum uniform rate schedule, including all surcharges (except new surcharges imposed pursuant to Article V.f.3 of the compact) shall not exceed the approximate rates, excluding any access fees, generally available to regional generators on September 7, 1999. The maximum uniform rate schedule will include a methodology for calculating disposal fees for large components. The rate schedule will be adjusted annually based on the most recent changes in the most nearly applicable Producer Price Index published by the Bureau of Labor Statistics, or a successor index. Any disposal rates contained in a valid written agreement that were applicable to a regional generator on September 7, 1999, that differ from rates in the maximum uniform rate schedule will continue to be honored through the term of such agreement. In addition to the maximum uniform rate schedule, South Carolina may approve special

disposal rates for regional waste that are lower than rates in the maximum uniform rates schedule for regional generators. This warranty is different from but effectively equivalent to criterion (d) of the Compact's proposed rules, at 10 CFR 1800.13(d).

- e) South Carolina agrees that regional waste generators may, at their discretion, export low-level radioactive waste to treatment, processing, management and disposal facilities located outside the region.
- f) South Carolina agrees with the other party states that the Commission may authorize importation of waste from non-regional generators for the purpose of disposal at the Barnwell regional disposal facility only if South Carolina grants approval in accordance with Compact procedures. South Carolina agrees and will take steps necessary to ensure that the importation of waste from outside the region does not jeopardize the availability of 800,000 cubic feet of disposal capacity for the existing Compact states. South Carolina agrees that regional generators shall not pay higher disposal fees than non-regional generators. Any special rates charged for disposal of non-regional waste that are lower than applicable rates for regional waste will be made available to regional generators. Applicable information and data necessary to allow regional generators to verify that they are not paying higher fees than non-regional generators will be made available as described in South Carolina law.
- g) In addition to the express limitations on non-host state and compact commission liability provided in the Northeast Interstate Low-Level Radioactive Waste Management Compact, South Carolina will indemnify the Atlantic Compact Commission or any of the other party states for any damages incurred solely because of South Carolina's membership in the Compact and for any damages associated with any injury to persons or property during the institutional control period resulting from the radioactive and waste management operations of the regional facility. South Carolina agrees that this indemnification obligation will survive the termination of its membership in the Compact.
- h) Consistent with the schedule provided in draft regulations at 10 CFR Part 1800.13 (65 FR 13702), South Carolina agrees that the initial incentive payment of \$12 million will be returned to the existing party states, with interest, on a pro rata basis if, for any reason, the regional disposal facility ceases to be available to generators in the existing party states for a period of more than six months (other than periods that have been expressly approved and authorized by the Commission) or is unavailable for disposal of 800,000 cubic feet of waste from generators within the borders of the existing states.
- i) South Carolina agrees with the other party states that once South Carolina has been admitted to the Compact pursuant to 10 CFR Part 1800, the

declaration of any other state as an eligible party state will require the unanimous consent of all members of the Commission.



Jim Hodges

NORTHEAST INTERSTATE LOW-LEVEL
RADIOACTIVE WASTE COMMISSION

In Re: Petition of South Carolina for)
 Declaration as an Eligible State)

ORDER

I. Background

On April 28, 2000, Governor Jim Hodges, on behalf of the State of South Carolina ("South Carolina"), petitioned the Northeast Interstate Low-Level Radioactive Waste Commission (the "Commission") for a declaration that South Carolina is eligible for membership in the Northeast Interstate Low-Level Radioactive Waste Management Compact (the "Compact"). On May 3, 2000, the Commission directed publication of a notice of South Carolina's petition and initiation of an adjudicatory proceeding to act upon the petition. After appropriate notice and in accordance with its rules, the Commission solicited written comments on the petition and held public hearings in Bridgeport, Connecticut, on May 25, 2000.

As required by § 1800.12(a) of the Commission's rules, South Carolina's petition addressed each of the conditions for eligibility specified in § 1800.13 of the Commission's rules. The petition indicated, however, that "the South Carolina General Assembly is currently considering legislation that would enable the State to join the Compact upon terms and conditions that are mutually agreeable to South Carolina and the current member states." On May 25, 2000, the General Assembly passed the "Atlantic Interstate Low-Level Radioactive Waste Compact Implementation Act," Ratification Number 376 (Act Number pending) (the "Act"), and on June 6, 2000, the

Governor signed it, and it became law. Thus, the Commission has assessed South Carolina's petition in light of the provisions in the Act.¹

As required by §§ 1800.12(c) and 1800.13 of the Commission's rules, this Order compares South Carolina's commitments, as reflected in its petition and the Act, with the criteria that the Commission established for declaring a state eligible for membership in the Compact. Based on this analysis (summarized below) and the public comments received, pursuant to § 1800.12(d) of the Commission's rules, the Commission accepts the petition with conditions and declares that South Carolina is eligible for membership in the Compact, subject to its compliance with the conditions specified in this Order.

II. Evaluation of the Petition Against Conditions and Criteria for Eligibility

A. Agreement to Become Voluntary Host State -- § 1800.13(a)

To be eligible for Compact membership, a state must agree that it will be the voluntary host state upon admission to the Compact and will continue to be the voluntary host state for at least that period of time until all currently licensed nuclear power stations within the region have been fully decommissioned and their licenses (including any licenses for storage of spent nuclear fuel under 10 CFR Part 72) have been terminated. South Carolina agrees that, upon admittance to the Compact, it will become the voluntary host state and will continue in that capacity until all currently licensed nuclear power

¹Section 48-46-70 of the Act incorporates the Compact "by reference, and all terms and conditions contained therein shall have full force and effect as if set forth herein in their entirety." The South Carolina Supreme Court has held that such incorporation by reference is equivalent to setting forth the referenced federal statute verbatim. Santee Mills v. Query, 122 S.C. 158, 166; 115 S.E. 202, 205 (1922); see University of South Carolina v. Mehlman, 245 S.C. 180, 186; 139 S.E.2d 771, 774 (1964); Att. Gen. Opp., 1987 S.C. AG Lexis 255 (February 12, 1987) at 3-4. The Commission is satisfied that Section 48-46-70 of the Act constitutes enactment of the Compact into law by South Carolina.

stations within the region have been fully decommissioned and their licenses have been terminated, “unless otherwise relieved of such responsibilities under any applicable provisions, regulations, orders or policies of the Compact.”

South Carolina’s agreement to this condition, including its proviso, is acceptable to the Commission. The Compact and the Commission’s rules do permit declaration of a new eligible party state if that state agrees to become the voluntary host state and all of the existing states’ assent. See 10 CFR § 1800.13(i). Thus, South Carolina’s proviso is consistent with the Compact and the Commission’s regulations and does not change the intent of § 1800.13(a).

B. Agreement to Be Sole Host State – § 1800.13(b)

To be eligible for Compact membership, a state must agree that, so long as the petitioning state remains within the Compact, it will be the sole host state. South Carolina agrees that it will remain the sole host state for a regional disposal facility so long as South Carolina remains a member of the Compact. Any state has the right to withdraw from the Compact with five year’s notice, but no withdrawal shall affect any liability already incurred by or chargeable to a party state prior to such notice. Compact, Art. VII.h. Moreover, “[a] regional facility in a withdrawing state shall remain available to the region for five years after the date the Commission receives written notification of the intent to withdraw. . . .” Compact Art. VII.h.1. Within these constraints that are a part of the Compact statute, South Carolina’s acceptance of this condition is satisfactory. By this Order, the Commission also revokes and rescinds all prior designations of any other state as a host state.

C. Available Disposal Capacity -- § 1800.13(c)

To be eligible for Compact membership, a state must warrant the availability of a regional disposal facility that will accommodate 800,000 cubic feet of waste from generators located within the borders of the existing party states. South Carolina warrants that “all current information indicates that the regional disposal facility in Barnwell County has adequate capacity to accommodate 800,000 cubic feet of waste from generators located within the borders of the existing Compact states.” Sections 48-46-50(C) and 48-46-60(A)(5)(b) of the Act also provide for up to 800,000 cubic feet of disposal capacity for Connecticut and New Jersey generators. In addition, the Commission sponsored an independent technical study to determine whether the Barnwell County facility has sufficient capacity so that South Carolina can warrant the availability of 800,000 cubic feet for Connecticut and New Jersey generators.² On the basis of this study and South Carolina’s warranty, the Commission concludes that the petition satisfies this condition.

D. Uniform Fee Schedule -- § 1800.13(d)

To be eligible for Compact membership, a state must agree to establish a uniform fee schedule for waste disposal at the regional disposal facility that shall apply to all generators within the region. That uniform fee schedule, including all surcharges (except new surcharges imposed pursuant to Article V.f.3. of the Compact), shall not exceed the average fees that generators within the existing party states paid for disposal at the

²Because New Jersey and Connecticut each have four nuclear power plant units, it is reasonable at this time to allocate the available disposal capacity evenly between generators in the two states (i.e., 400,000 cubic feet for each state’s generators). This allocation may be revised, however, if the commissioners from New Jersey and Connecticut agree to a revision.

Barnwell, South Carolina, facility at the end of calendar year 1999, adjusted annually based on an acceptable inflation index.

South Carolina's petition makes the following warranty:

[I]t will establish a maximum uniform rate schedule for regional generators. The maximum uniform rate schedule, including all surcharges (except new surcharges imposed pursuant to Article V.f.3 of the compact) shall not exceed the approximate rates, excluding any access fees, generally available to regional generators on September 7, 1999. The maximum uniform rate schedule will include a methodology for calculating disposal fees for large components. The rate schedule will be adjusted annually based on the most recent changes in the most nearly applicable Producer Price Index published by the Bureau of Labor Statistics or a successor index. Any disposal rates contained in a valid written agreement that were applicable to a regional generator on September 7, 1999, that differ from rates in the maximum uniform rate schedule will continue to be honored through the term of such agreement. In addition to the maximum uniform rate schedule, South Carolina may approve special disposal rates for regional waste that are lower than rates in the maximum uniform rate schedule for regional generators.

As South Carolina acknowledges, this warranty is different from the criterion in § 1800.13(d). South Carolina's warranty does, however, reflect the terms of Sections 48-46-40(A)(2)-(5) and (6)(e) of the Act. The Commission has assessed this portion of the petition in light of the principles underlying this condition and the implementation details that are reflected in the Act. The Commission concludes that South Carolina's warranty meets the requirements of the rules.

First, the "maximum uniform rate schedule" referenced in the petition and in Section 48-46-40(A)(2) of the Act applies to all regional generators. Moreover, to the extent that the South Carolina Budget and Control Board (the "Board") (the South Carolina body that sets disposal rates) approves special disposal rates that are lower than the maximum uniform rate schedule, those rates will be available to all regional generators. See Sections 48-46-40(A)(5) and (6)(e) of the Act. Thus, the Commission finds that South Carolina has agreed to establish a uniform fee schedule for waste

disposal at the regional disposal facility that shall apply to all generators within the region.

Second, the petition and the Act base the maximum uniform rate schedule on the “approximate” disposal rates that were generally applicable to regional generators on September 7, 1999. The Commission understands that as of September 7, 1999, a general rate schedule applied broadly to waste shipped to the Barnwell facility. Appendix A to this Order reflects that general rate schedule. The Commission further understands that the Board intends to adopt the rate schedule in Appendix A as the maximum uniform rate schedule. South Carolina has further warranted informally that disposal rates contained in valid written agreements with regional generators will continue to be honored through at least June 30, 2001. The Commission finds that these fees do not exceed the average fees that generators within Connecticut and New Jersey paid for disposal at the Barnwell, South Carolina, facility at the end of calendar year 1999, and the Commission expressly conditions its conclusion with regard to this criterion on South Carolina’s adoption of these fees prior to July 1, 2000.

Third, South Carolina warrants that the maximum uniform rate schedule will be adjusted annually based on the most recent changes in the most nearly applicable Producer Price Index published by the Bureau of Labor Statistics or a successor index. That warranty is also contained in Section 48-46-40(A)(4) of the Act. The widely recognized and used Producer Price Index provides a reasonable basis for adjusting the disposal rate schedule. Thus, the Commission finds that South Carolina has designated an acceptable index to satisfy this criterion.

Fourth, South Carolina warrants that the maximum uniform rate schedule shall include all surcharges (except new surcharges imposed pursuant to Article V.f.3 of the Compact), and regional generators shall not be assessed any access fees. The Act also provides that the maximum uniform rate schedule includes the administrative surcharges specified in Section 48-46-60(B) and the extended custody and maintenance surcharges

in Section 13-7-30(4). Section 48-46-40(A)(2) of the Act. The only surcharges that are not included as part of the maximum uniform rate schedule are those to cover the Commission's costs and expenses, as authorized by Compact Article V.f.3. See Section 48-46-60(C) of the Act. The Commission finds that South Carolina's warranties regarding surcharges are satisfactory.

In sum, the Commission concludes that so long as the Board adopts disposal fees that are consistent with this Order, South Carolina's petition meets the criterion for a uniform disposal fee schedule.

E. Export of Waste from the Region -- § 1800.13(e)

To be eligible for Compact membership, a petitioning state must agree that regional generators shall be permitted to process or dispose of waste at sites outside the Compact boundaries based solely on the judgment and discretion of each regional generator. South Carolina agrees that regional waste generators may, at their discretion, export low-level radioactive waste to treatment, processing, management and disposal facilities located outside the region. Moreover, the Act requires that the Compact Commission "authoriz[e] each regional generator, at the generator's discretion, to ship waste to disposal facilities located outside the Atlantic Compact region." Section 48-46-60(A)(3) of the Act. The Commission finds that South Carolina's petition meets this criterion.

F. Importation of Waste into the Region -- § 1800.13(f)

To be eligible for Compact membership, a state must agree that the Commission may authorize importation of waste from non-regional generators for the purpose of disposal only if the host state approves and such importation does not jeopardize the warranted availability of 800,000 cubic feet of disposal capacity for waste produced by

generators within the existing party states. A new party state must also agree that regional generators shall not pay higher fees than non-regional generators and that all books and records related to the establishment or collection of fees shall be available for Commission review.

South Carolina agrees that the Commission may authorize importation of waste from non-regional generators for the purpose of disposal at the Barnwell regional disposal facility if South Carolina grants approval in accordance with Compact procedures. South Carolina further warrants that it "will take steps necessary to ensure that the importation of waste from outside the region does not jeopardize the availability of 800,000 cubic feet of disposal capacity for" Connecticut and New Jersey generators. These agreements are also reflected in the Act. Section 48-46-50(D) requires South Carolina's representatives on the Commission to cast their votes to authorize importation of waste into the region for purposes of disposal at a regional facility in South Carolina so long as importation is not more than 550,000 cubic feet of waste through the fiscal year 2008. After fiscal year 2008, however, South Carolina's representatives are barred from voting to approve importation of waste. Section 48-46-50(D) of the Act. As noted previously, the Commission's independent study has determined that there is sufficient capacity at the Barnwell County facility to accommodate this level of importation and still assure 800,000 cubic feet for Connecticut and New Jersey generators. Thus, South Carolina's assurances satisfy this criterion.

With regard to the disposal rates for regional generators versus non-regional generators, South Carolina

agrees that regional generators shall not pay higher disposal fees than non-regional generators. Any special rates charged for disposal of non-regional waste that are lower than applicable rates for regional waste will be made available to regional generators. Applicable information and data necessary to allow regional generators to verify that they are not paying

higher fees than non-regional generators will be made available as described in South Carolina law.

This commitment to the lowest rates for regional generators is reflected expressly in Section 48-46-40(A)(6)(d) of the Act, which provides that “[r]egional generators shall not pay disposal rates that are higher than disposal rates for nonregional generators in any fiscal quarter.” Section 48-46-40(A)(6)(c) establishes the “maximum uniform rate schedule” for regional generators as the default rate for non-regional generators. To the extent that non-regional generators are offered lower, special rates, however, Section 48-46-40(A)(6)(e) provides that the special rate will be disclosed to the Commission and all regional generators within one business day of the non-regional generator’s acceptance, and “the disposal rate for all regional generators shall be revised to equal the special rate for the nonregional generator.” Moreover, the Commission may initiate proceedings under the Act that will effectively make the books and records of the site operator available to the Commission. See Sections 48-46-40(A)(3) and 48-46-40(B)(11) of the Act. The Commission finds that the Act and South Carolina’s petition satisfy the criteria related to importation of waste.

G. Indemnification – § 1800.13(g)

To be eligible for Compact membership, in addition to the express limitations on non-host state and Commission liability provided in the Compact (e.g., Articles III.B.(8), IV.M.), a petitioning state must agree to indemnify the Commission, Connecticut, and New Jersey for any damages incurred solely because of the new state’s membership in the Compact and for any damages associated with any injury to persons or property during the institutional control period as a result of the radioactive waste and waste management operations of any regional facility. The petitioning state must agree that this indemnification obligation will survive the termination of the petitioning state’s membership in the Compact.

By enacting the Compact (Section 48-46-70 of the Act), South Carolina accepts the limitations on the liability of non-host states and the Commission. In addition, South Carolina agrees that it will indemnify the Commission, Connecticut, and New Jersey for any damages incurred solely because of South Carolina's membership in the Compact and for any damages associated with any injury to persons or property during the institutional control period resulting from radioactive and waste management operations of the regional facility. See Section 48-46-70 of the Act. South Carolina also agrees that this indemnification obligation will survive the termination of its membership in the Compact. The Commission finds that these commitments meet this requirement in the rule.

H. Incentive Payments -- § 1800.13(h)

To be eligible for Compact membership, a petitioning state must agree that any incentive payments made by the existing party states as an inducement for a state to join the Compact will be returned to the existing party states, with interest, on a specified pro rata schedule if, for any reason, the regional disposal facility ceases to be available to generators in the existing party states for a period of more than six months (other than periods that have been expressly approved and authorized by the Commission) or is unavailable for disposal of 800,000 cubic feet of waste from generators within the borders of the existing states. South Carolina agrees to this provision in its entirety, and its petition is satisfactory on this criterion.

I. Additional Party States -- § 1800.13(i)

To be eligible for Compact membership, a state must agree that once a new party state has been admitted to membership in the Compact, declaration of any other state as an eligible party state will require the unanimous consent of all members of the

Commission. South Carolina agrees to this provision of the rule, and its petition is satisfactory on this point.

III. Declaration of South Carolina's Eligibility as Party State

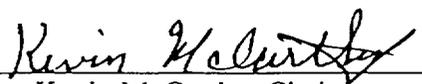
Based on the Compact, the Commission's rules, South Carolina's petition, and the Act, and subject to the conditions set forth in this Order, the Commission finds that South Carolina has agreed to all of the Commission's criteria, and the Commission hereby declares that, pursuant to Article VII.e. of the Compact, South Carolina is eligible to become a party state. The Commission further reiterates and formally adopts the following binding policies that shall guide the Commission's actions:

- A. Unless revised by the unanimous consent of all members of the Commission, generators in New Jersey and Connecticut shall be allocated a total of 800,000 cubic feet of disposal capacity at the Barnwell, South Carolina facility;
- B. Unless revised by the unanimous consent of the Commissioners from New Jersey and Connecticut, New Jersey and Connecticut shall be allocated 400,000 cubic feet of disposal capacity for generators in each state (subject to an overall allocation of 800,000 for both states);
- C. Notwithstanding any prior orders designating a host state, pursuant to Article V.b.1 of the Compact, South Carolina is hereby designated as a volunteer host state for the region's disposal facility and shall remain the sole host state so long as it remains in the Compact;
- D. As the volunteer host state, and consistent with criteria established by the Commission, South Carolina may enter into agreements on behalf of the Compact with any person for the importation of waste into the region for purposes of disposal, to the extent that such agreements do not preclude the disposal facility from accepting all regional waste that can reasonably be projected to require disposal at the regional disposal facility (including the 800,000 cubic feet of capacity allocated to generators in Connecticut and New Jersey);
- E. Each regional generator, at the generator's discretion, shall be permitted to ship waste to disposal facilities located outside the Atlantic Compact region;

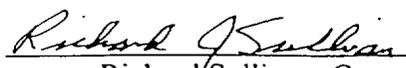
- F. South Carolina may proceed with plans to establish disposal rates for low-level radioactive waste disposal in a manner consistent with the Act and with Appendix A to this Order;
- G. On or before July 1, 2000, the Commission shall issue a payment of twelve million dollars to the State of South Carolina (less a deduction of seventy thousand dollars, which shall be credited as full payment of South Carolina's membership dues in the Atlantic Compact under Article IV.j.1 of the Compact), but a pro rata portion of the payment shall be returned pursuant to the schedule in § 1800.13(h) of the Commission's rules if the disposal facility becomes unavailable for an extended period;
- H. Within six months of South Carolina's membership, the Commission's headquarters and office shall be relocated to the host state for the regional disposal facility, and, to the extent practicable, the Commission shall hold a majority of its meetings in the host state.
- I. South Carolina shall indemnify the Commission, Connecticut, and New Jersey for any damages incurred solely because of South Carolina's membership in the Compact and for any damages associated with any injury to persons or property during the institutional control period as a result of the radioactive waste and waste management operations of the Barnwell facility; and
- J. No other state shall be admitted to membership in the Compact without the unanimous consent of all members of the Commission.

Therefore, upon satisfaction of the conditions in this Order and the Compact statute, including crediting the \$70,000 fee to the Commission as required by Article IV.j.1 of the Compact, South Carolina shall be a member of the Compact.

This Order is hereby approved and entered by the unanimous vote of the Commission on June 13, 2000.



Kevin McCarthy, Chairman



Richard Sullivan, Commissioner

Uniform Schedule of Maximum Disposal Rates for Atlantic Compact Regional Waste

EFFECTIVE JULY 1, 2000

1. BASE DISPOSAL CHARGES (not including surcharges)

A. Standard and Special-Nuclear-Material Waste:

a.)	<u>Weight – Density Range</u>	<u>Rate</u>
i.)	Equal to or greater than 120 lbs./ft ³	\$ 4.40 per pound
ii.)	Equal to or greater than 75 lbs./ft ³ and less than 120 lbs./ft ³	\$ 4.84 per pound
iii.)	Equal to or greater than 60 lbs./ft ³ and less than 75 lbs./ft ³	\$ 5.94 per pound
iv.)	Equal to or greater than 45 lbs./ft ³ and less than 60 lbs./ft ³	\$ 7.70 per pound
v.)	Less than 45 lbs./ft ³	\$ 7.70 per pound times the ratio of 45 lbs./ft ³ divided by package density
b.1)	Millicurie charge, or	\$.33 per millicurie
b.2)	Millicurie charge	\$.66 per millicurie for radionuclides with greater than 5-year half lives

Note: Option b.1 will apply unless generator specifically elects option b.2 for all of its shipments at the beginning of a fiscal year.

B.	Biological Waste	\$ 1.00 per pound in addition to above rates
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NOTE 1: MAXIMUM MILLICURIE CHARGE IS \$132,000.00 PER SHIPMENT.

NOTE 2: THE MINIMUM CHARGE PER SHIPMENT, EXCLUDING SURCHARGES AND SPECIFIC OTHER CHARGES, IS \$1,000.00.

2.	EXTENDED-CARE FUND	Included in Rates
3.	SITE STABILIZATION AND CLOSURE FUND	Included in Rates

4. SURCHARGES

A. Dose Rate Surcharge

Dose Level	<u>Multiplier of Base Weight Rate</u>
0 mR/hr - 200 mR/hr	1.00
>200 mR/hr - 1 R/hr	1.08
>1R/hr - 2R/hr	1.12
>2R/hr - 3R/hr	1.17
>3R/hr - 4R/hr	1.22
>4R/hr - 5R/hr	1.27
>5R/hr - 10R/hr	1.32
>10R/hr - 25R/hr	1.37
>25R/hr - 50R/hr	1.42
>50R/hr	1.48

B. Irradiated Hardware Charges (applicable only where shipment requires shut-down of other disposal operations)

Per Shipment \$50,000.00

C. Irradiated Cask-Handling Fee Included in Item 4.B

D. Special Nuclear Material Surcharge \$10 per gram

E. Atlantic Compact Commission administrative surcharge \$4 per cubic foot
(Subject to change during year)

5. MISCELLANEOUS

A. Large components (e.g., steam generators, reactor pressure vessels, coolant pumps)

Disposal fees for large components (e.g., steam generators, reactor pressure vessels, reactor coolant pumps) are based on the generally applicable rates, in their entirety, except that the weight and volume used to determine density and weight related charges is calculated as follows:

1. For packages where the large component shell qualifies as the disposal vault per DHEC regulations, weight and volume calculations are based on all sub-components and material contained within the inside surface of the large component shell, including all internals and any stabilization media injected by the shipper, but excluding the shell itself and all incidental external attachments required for shipping and handling; and

2. For packages with a separate shipping container that qualifies as the disposal vault per DHEC regulations, weight and volume calculations are based on the large component, all sub-components and material contained within the inside surface of the shipping container, including any stabilization media injected by the shipper (including that between the large component and the shipping container), but excluding the shipping container itself and all incidental external attachments required for shipping and handling.

B. Transport vehicles with additional shielding features may be subject to an additional handling fee which will be provided upon request.

C. Decontamination services, if required: \$150 per man hour, plus supplies at current CNS rate.

Appendix A

- D. Customers may be charged for all special services as described in the Barnwell Site Disposal Criteria.
- E. Terms of payment are net 30 days upon presentation of invoices. A per-month service charge of one and one-half percent (1½%) shall be levied on accounts not paid within thirty (30) days.
- F. Company purchase orders or a written letter of authorization in form and substance acceptable to CNS shall be received before receipt of radioactive waste material at the Barnwell Disposal Site and shall refer to CNS Radioactive Material License, the Barnwell Site Disposal Criteria and subsequent changes thereto.
- G. All shipments shall receive a CNS shipment identification number and conform to the Prior Notification Plan.
- H. All radioactive waste shall be packaged in accordance with Department of Transportation and Nuclear Regulatory Commission Regulations in Title 49 and Title 10 of the Code of Federal Regulations, Chem-Nuclear Systems, L.L.C.'s South Carolina Radioactive Material Licenses, Chem-Nuclear Systems, L.L.C.'s Barnwell Site Disposal Criteria, and amendments thereto.