
Tales of Congress: How the waste was won

In the last days of the 97th Congress, the Senate and the House finally enacted a high-level nuclear waste disposal plan and sent the measure to the President. A last-minute Senate filibuster was avoided when the bill was amended to allow states a stronger voice in site selection. The legislation now specifies that the Department of Energy cannot go ahead with a planned burial site unless both houses of Congress overturn any state objections.

As passed, the nuclear waste bill calls for the selection of a permanent burial site by mid-1987 from an initial list of five potential sites in at least three different geological formations. A second site must be picked by mid-1991, with granite formations in Wisconsin and New England as possible candidates. The government gains the authority to store spent nuclear fuel in existing federal facilities if utilities run out of space at their own nuclear plant sites. The Department of Energy must prepare plans for a "monitored retrievable storage" facility capable of holding nuclear wastes for up to 100 years in case a permanent burial site can't be located in time. Military nuclear waste disposal is subject to the same state veto procedures as civilian wastes, but it is exempted for two years from other requirements until the President decides whether military wastes should be handled separately.

The nuclear waste legislation was the result of several years of debate, hearings, delicate negotiations and intense lobbying by interest groups and the administration. Late in 1980, the Senate and the House failed to agree on how to handle military radioactive wastes, and the nuclear waste bills died with the end of the 96th Congress. The process began again a few months later in the next Congress. Rep.

Morris K. Udall (D-Ariz.), Sen. James A. McClure (R-Idaho) and others introduced new bills, which were assigned to various Senate and House committees and, in turn, to relevant subcommittees.

These subcommittees studied the legislation and held hearings at which representatives of the nuclear power industry, the Nuclear Regulatory Commission, the Department of Energy, environmental and other interested groups were invited to testify. Subcommittee members struggled with technical complexities and maneuvered to ensure their own states did not become targets as preferred burial sites. In "mark-up" sessions, various bills were combined and amended as required, and then were passed on to the parent committees. The process was repeated at the committee level with more hearings and mark-up sessions until the committees came up with one bill for debate on the Senate or House floor.

The Senate passed its nuclear waste bill last April (SN: 5/8/82, p. 308). Seven committees had a hand in fashioning the House bill, which then survived a battery of amendments when it finally reached the House floor late in November (SN: 12/11/82, p. 374). However, because the House and Senate bills differed, sensitive, private negotiations between House and Senate members were necessary, but were limited by the little time left in the session. The Senate made further changes as concessions to members like Sen. William Proxmire (D-Wis.), who had promised to hold up the bill unless his objections were met, and passed the bill by voice vote on Dec. 20. The House cleared the legislation late that night.

Recalcitrant legislators could have stalled the legislation at any time during

the intricate legislative process and frequently did. However, Sen. George Mitchell (D-Maine), the final speaker in the Senate debate, expressed the feelings of many when he said, "Although far from perfect, the bill represents a critical first step toward addressing the problem of nuclear waste. I will support the bill, with serious reservations, because nuclear wastes are a problem which it is our positive obligation to resolve."

Much other environmental legislation, some proposed by the administration, got caught somewhere in the legislative process and did not pass despite considerable debate and lobbying. An industry drive to amend the Federal Insecticide, Fungicide and Rodenticide Act (SN: 8/21/82, p. 117)—which would have streamlined the process for testing and registering new pesticides and restricted public access to pesticide companies' safety data—failed when the Senate Agriculture Committee couldn't arrange a compromise that satisfied farmers, the pesticide industry and environmental groups. The old law remains in effect. Clean Water Act amendments (SN: 6/19/82, p. 406), which included easing industry requirements for treating toxic wastewaters, also sank without a trace, as did an amendment that would have left vast areas of wetlands without federal protection (SN: 8/14/82, p. 105). Congress did pass provisions that barred the administration from issuing any new oil and gas exploration leases in wilderness or potential wilderness areas (SN: 2/27/82, p. 134; 11/20/82, p. 325).

Two years of bitter debate left Congress deadlocked over what to do about amending or reauthorizing the Clean Air Act. The Reagan administration had hoped to ease and simplify rules for areas where the air is already clean, to loosen standards that required reductions in carbon monoxide and nitrogen oxide emissions from automobiles, and to extend deadlines for communities to comply with air quality standards. Environmental and other groups fought to strengthen controls on hazardous air pollutants and on sulfur dioxide emissions implicated in acid rain formation (SN: 3/20/82, p. 200; 6/5/82, p. 373; 7/24/82, p. 58). The Senate Environment Committee managed to approve such a bill, but the House Energy Committee gave up during mark-up in August after it found it was unable to reach a satisfactory compromise. Even listing the legislation as a high priority for the post-election, lame-duck session failed to move the bill. Of greatest current concern is the Dec. 31, 1982, compliance deadline for states to meet national air quality standards. The Environmental Protection Agency has threatened to impose sanctions as specified by the law, which include a ban on new construction and the loss of highway and sewer funds in the affected communities. Currently, more than 400 counties across the nation do not meet the standards.

—I. Peterson

EPA lists dumpsites, resists Congress

The FMC Corp., from the early 1950s to the early 1970s, dumped solvents, paint sludges and plating wastes into an 11-acre, unlined landfill in Fridley, Minn. Chemicals leaking from the landfill contaminated the drinking-water supply for the cities of Fridley, Brooklyn Center and Minneapolis.

That FMC landfill is ranked the most threatening to human health and the environment on the recently released Environmental Protection Agency list of the 418 most dangerous hazardous-waste sites in the nation. All sites on the list are eligible for federal cleanup assistance under the Superfund plan—a \$1.6 billion program, 86 percent of which is financed by taxes on certain chemical and petroleum industries, that Congress enacted in December 1980. New Jersey (with 65 sites on the list), Michigan (with 46) and Pennsylvania (with 30) have the largest number of priority sites. Only Alaska, the District of

Columbia, Georgia, Hawaii, Nevada, the Virgin Islands and Wisconsin do not have any sites on the list.

Congress has been keeping a close eye on the EPA's implementation of the Superfund, raising questions about the agency's site selection procedure, its assessments of health risks and its enforcement of the law. Late last year, investigative panels from two House committees sought EPA documents related to enforcement of the Superfund legislation. But EPA Administrator Anne M. Gorsuch, acting on the orders of President Reagan and citing "executive privilege," refused to provide the documents. On Dec. 16, a House vote made Gorsuch the first Cabinet-level official to be held in contempt of Congress. In response, the Justice Department has filed a civil suit in federal court asking a judge to declare that the House request is unconstitutional. □