*** § 29-0303. Duties of the commission.**

1. The commission shall immediately commence the preparation of a siting and disposal method selection which shall, upon certification by the department, be the site or sites and method or methods for permanent disposal facilities which shall be constructed or operated by the energy research and development authority pursuant to section eighteen hundred fifty-four-c of the public authorities law.

2. The commission shall evaluate all reasonable alternative disposal methods including but not limited to deep vertical shaft mined disposal and above ground monitored retrievable disposal and issue a report providing full documentation of its evaluation of all disposal methods it has considered, and selecting and justifying a tentative preferred disposal method and any method-specific site selection criteria. After opportunity for review and comment by the citizen advisory committee and an independent technical and scientific evaluation panel established pursuant to subdivision eleven of this section, the commission shall issue a report and draft a generic, non-site specific, environmental impact statement selecting and justifying a preferred disposal method and any related method-specific site selection criteria. The commission shall select as its preferred disposal method that method which is projected best to meet applicable regulatory criteria and performance objectives and maintain exposure to the general public as low as reasonably achievable, taking into account engineering and economic feasibility compared to other available disposal methods. The preferred disposal method and accompanying draft generic environmental impact statement shall be submitted to the department as an application for decision. The standards and procedures by which the department shall administer the commission's application are set forth in subdivision four of section 70-0117 of this chapter and implementing regulations. Consistent with the department's decision on preferred disposal method or methods, the commission shall proceed to select the site or sites for permanent disposal facilities in accordance with subdivisions five through eight of this section.

3. The commission shall issue a report concerning all lands excluded

from consideration for siting permanent disposal facilities, which report shall include information sufficient to permit full independent review and evaluation by the citizen advisory committee and by an independent technical and scientific evaluation panel, established pursuant to subdivision eleven of this section, of the basis for such exclusion.

4. The commission shall also make available for full independent review and evaluation by the citizen advisory committee and by an independent technical and scientific evaluation panel, established pursuant to subdivision eleven of this section, the reports and other documents which serve as the basis for or otherwise provide its detailed explanation or justification for its decisions made prior to September first, nineteen hundred eighty-nine, to select or narrow the range of alternatives it was considering for sites for permanent disposal facilities.

5. Upon completing the preparation of its site and final disposal method selection, the commission shall submit its application for certification of this selection by the department pursuant to section 29-0105 of this article. The commission shall simultaneously deliver a copy of its draft environmental impact statement and application to the governor, the legislature, the chairman of the energy research and development authority, the citizen advisory committee and the county government of each county within which was located any portion of a site for which the commission conducted detailed characterization studies.

6. The site and disposal method selection and the application for certification, together with the department's certification thereof, shall be considered a single action for purposes of article eight of this chapter and judicial review. The commission shall prepare a draft environmental impact statement to accompany its application for certification, the scope of which must be approved by the department. For purposes of satisfying the requirements of article eight of this chapter, the department shall be the lead agency. The commission shall recommend a site specific mitigation program as part of the environmental impact statement that will serve as an additional measure

to offset adverse economic, social, and environmental impacts and serve as a form of compensation to the affected area.

7. The commission's site and disposal method selection shall identify a site or sites and appropriate disposal method or methods for permanent disposal facilities. Such site or sites shall not include the western New York nuclear service center. The commission shall take into account the following factors in the selection of the permanent disposal facility site or sites and disposal method or methods:

a. the nature and probability of the impacts on public health and safety, including predictable adverse effects from:

(i) accidents during transportation of low-level radioactive waste to such facilities;

(ii) contamination of ground or surface water by leaching and runoff from such facilities; and

(iii) fires or explosions from improper storage or disposal of volatile, combustible, or potentially explosive materials, if any, which may compose a portion of the low-level radioactive waste to be delivered to such facilities;

b. the nature of the probable environmental impacts, including the predictable adverse effects on the natural environment and ecology, scenic, historic, agricultural, cultural, and recreational values, water and air quality, and wildlife;

c. the potential for avoidance or mitigation of harm from the unanticipated release of low-level radioactive waste or contaminated materials;

d. the ability for retrieval or recovery of such waste;

e. differences in the density of population in the vicinity of the potential sites;

f. the adequacy of routes and means for transportation of low-level radioactive waste to such facilities;

g. the nature of the probable impact of such facilities on local governmental units within which such facilities would be located; and

h. the comparative economic implications, including those resulting from engineering considerations, of the potential site or sites and disposal methods for such facilities.

8. The commission shall select one site for a permanent disposal facility after consideration of all relevant public health and safety, environmental and economic factors, provided, however, that an additional site may be selected if the commission finds that the use of an additional site presents specific advantages with respect to such factors. To the extent the commission determines that different disposal methods are appropriate for different categories of low-level radioactive waste with differing physical or chemical characteristics, the commission may select more than one disposal method to be utilized at each particular site, specifying the particular disposal methods to be utilized at such site for particular categories of such waste; provided that utilization of the disposal methods selected at the site selected shall be capable of meeting or exceeding applicable requirements of state and federal regulations. The site or sites selected shall be of sufficient capacity to provide for disposal, using the selected disposal methods, of all low-level radioactive waste estimated by the commission to be generated in New York and to require disposal at low-level radioactive waste management facilities for a period of at least thirty years.

9. In performing its duties, the commission shall hold periodic meetings which shall be publicly noticed pursuant to article seven of the public officers law.

10. Whenever the commission makes a decision to:

(i) select, or narrow the range of alternatives it is considering for, disposal methods or sites for permanent disposal facilities,

(ii) establish the plans for pre-characterizing or characterizing, or otherwise gathering site-specific data for, candidate sites for

permanent disposal facilities, or

(iii) project the types, quantities, or activity levels of low-level radioactive wastes which might be disposed of at permanent disposal facilities,

it shall promptly issue a report or other document which serves as the basis for or otherwise provides its detailed explanation or justification for that decision. Such report or other document shall include information sufficient to permit full independent review and evaluation by the department, the citizen advisory committee and by an independent technical and scientific evaluation panel, established pursuant to subdivision eleven of this section, of the nature, sources, and quality of any specific data relied upon, the nature of assumptions made, and the specific analytical methods, procedures, or techniques employed, including modelling and calculations performed, and any other information and analyses upon which the commission would intend to rely in justifying its decisions to any reviewing body. The report shall be made available to the public upon request. The commission shall simultaneously have published in the state register, and send to any person who has requested to be placed on the commission's mailing list, notice of availability of that report or other document and provide a copy of the report or other document to the governor, the speaker of the assembly, the majority leader of the senate, the minority leader of the assembly, the minority leader of the senate, the citizen advisory committee, and any independent technical and scientific evaluation panel established pursuant to subdivision eleven of this section.

11. Pursuant to contract, the department of health shall arrange to have one or more independent panels of technical and scientific experts review and evaluate the commission's decision and report on its selection of a tentative preferred disposal method and decisions and report on lands excluded from consideration for siting permanent disposal facilities, issued in accordance with subdivisions two and three of this section, and each other decision made and related report issued by the commission pursuant to subdivision four or ten of this section. For each such commission decision and report, the independent technical and scientific evaluation panel or panels shall assess the nature, sources and quality of any specific data the commission relied

upon, the nature of assumptions made, and the specific analytical methods, procedures or techniques employed, including modelling and calculations performed, and any other information and analyses relied upon for the commission's decision. The department of health may engage more than one panel to assess a commission decision and report, in order to provide for complete coverage of those matters in the review and evaluation of that decision and report. Upon completion of each such review and evaluation, any independent technical and scientific evaluation panel shall provide a written report containing its findings, conclusions and recommendations to the commission, the citizen advisory committee, the department of health and the department of environmental conservation.

12. Whenever the commission receives written comments or a report from the citizen advisory committee or any independent technical and scientific evaluation panel established pursuant to subdivision eleven of this section, it shall provide a detailed written response, within a reasonable time, addressing the points made in the comments or report. Upon receipt of any such report the commission shall cause it to be made available to the public upon request and submitted to the governor, the majority leader of the senate, the speaker of the assembly, the minority leader of the senate and the minority leader of the assembly. Notice of such report shall be published by the commission in the state register and sent to any person who has requested to be placed on the commission's mailing list.

* NB Commission existence pursuant to § 29-0309