

Public Law 99-240, Title II

42 USC 2021d note

99 Stat 1909 (1985)

Omnibus Low-Level Radioactive Waste Interstate Compact Consent Act

(including the Atlantic Compact)

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SEC. 201. SHORT TITLE.

This Title may be cited as the "Omnibus Low-Level Radioactive Waste Interstate Compact Consent Act."

Subtitle A – General Provisions

SEC. 211. CONGRESSIONAL FINDING

The Congress hereby finds that each of the compacts set forth in subtitle B is in furtherance of the Low-Level Radioactive Waste Policy Act.

SEC. 212. CONDITIONS OF CONSENT TO COMPACTS

The consent of Congress to each of the compacts set forth in subtitle B –

1. shall become effective on the date of the enactment of this Act;
2. is granted subject to the provisions of the Low-Level Radioactive Waste Policy Act, as amended, and

3. is granted only for so long as the regional commission, committee, or board established in the compact complies with all of the provisions of such Act.

SEC. 213. CONGRESSIONAL REVIEW

The Congress may alter, amend, or repeal this Act with respect to any compact set forth in subtitle B after the expiration of the 10-year period following the date of the enactment of this Act, and at such intervals thereafter as may be provided in such compact.

Subtitle B – Congressional Consent to Compacts

[Note: Sec. 221, Northwest Compact; Sec. 222, Central Compact; Sec. 223, Southeast Compact; Sec. 224, Central Midwest Compact; Sec. 225, Midwest Compact; and Sec. 226, Rocky Mountain Compact are omitted from this facsimile of the law.]

SEC. 227. NORTHEAST INTERSTATE LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT COMPACT [Note: Also known as "Atlantic Interstate Low-Level Radioactive Waste Compact."]

In accordance with section 4(a)(2) of the Low-Level Radioactive Waste Policy Act, "42 USC 2021d" the consent of the Congress is hereby given to the States of Connecticut, New Jersey, Delaware, and Maryland to enter into the Northeast Interstate Low-Level Radioactive Waste Management Compact. Such compact is substantially as follows:

ARTICLE I. POLICY AND PURPOSE

There is hereby created the Northeast Interstate Low-Level Radioactive Waste Management Compact. The party states recognize that the Congress has declared that each state is responsible for providing for the availability of capacity, either within or outside its borders, for disposal of low-level radioactive waste generated within its borders, except for waste generated as a result of atomic energy defense activities of the federal government, as defined in the Low-Level Radioactive Waste Policy Act (P.L. 96-573, 'The Act'), or federal research and development activities. They also recognize that the management of low-level radioactive waste is handled most efficiently on a regional basis. The party states further recognize that the Congress of the United States, by enacting the Act has provided for and encouraged the development of regional low-level radioactive waste compacts to manage such waste. The party states recognize that the long-term, safe and efficient management of low-level radioactive waste generated within the region requires that sufficient capacity to manage such waste be properly provided.

In order to promote the health and safety of the region, it is the policy of the party states to: enter into a regional low-level radioactive waste management compact as a means of facilitating an interstate cooperative effort, provide for proper transportation of low-level waste generated in the region, minimize the number of facilities required to effectively and efficiently manage low-level radioactive waste generated in the region, encourage the reduction of the amounts of low-level waste generated in the region, distribute the costs,

benefits, and obligations of proper low-level radioactive waste management equitably among the party states, and ensure the environmentally sound and economical management of low-level radioactive waste.

ARTICLE II. DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

- a. 'commission' means the Northeast Interstate Low-Level Radioactive Waste Commission established pursuant to Article IV of this compact;
- b. 'custodial agency' means the agency of the government designated to act on behalf of the government owner of the regional facility;
- c. 'disposal' means the isolation of low-level radioactive waste from the biosphere inhabited by man and his food chains;
- d. 'facility' means a parcel of land, together with the structures, equipment and improvements thereon or appurtenant thereto, which is used or is being developed for the treatment, storage or disposal of low-level waste, but shall not include on-site treatment or storage by a generator;
- e. 'generator' means a person who produces or processes low-level waste, but does not include persons who only provide a service by arranging for the collection, transportation, treatment, storage or disposal of wastes generated outside the region;
- f. 'high-level waste' means 1) the highly radioactive material resulting from the reprocessing of spent nuclear fuel, including liquid waste produced directly in reprocessing and any solid material derived from such liquid waste that contains fission products in sufficient concentration; and 2) any other highly radioactive material determined by the federal government as requiring permanent isolation;
- g. 'host state' means a party state in which a regional facility is located or being developed;
- h. 'institutional control' means the continued observation, monitoring, and care of the regional facility following transfer of control of the regional facility from the operator to the custodial agency;
- i. 'low-level waste' means radioactive waste that 1) is neither high-level waste nor transuranic waste, nor spent nuclear fuel, nor by-product material as defined in section 11e (2) of the Atomic Energy Act of 1954 as amended; and 2) is classified by the federal government as low-level waste, consistent with existing law; but does not include waste generated as a result of atomic energy defense activities of the federal government, as defined in P.L. 96-573, or federal research and development activities;
- j. 'party state' means any state which is a signatory party in good standing to this compact;
- k. 'Person' means an individual, corporation, business enterprise or other legal entity, either public or private and their legal successors;
- l. 'post-closure observation and maintenance' means the continued monitoring of a closed regional facility to ensure the integrity and environmental safety of the site

- through compliance with applicable licensing and regulatory requirements;
prevention of unwarranted intrusion, and correction of problems;
- m. 'region' means the entire area of the party states;
 - n. 'regional facility' means a facility as defined in this section which has been designated or accepted by the Commission;
 - o. 'state' means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands or any other territory subject to the laws of the United States;
 - p. 'storage' means the holding of waste for treatment or disposal;
 - q. 'transuranic waste' means waste material containing radionuclides with an atomic number greater than 92 which are excluded from shallow land burial by the federal government;
 - r. 'treatment' means any method, technique or process, including storage for decay, designed to change the physical, chemical or biological characteristics or composition of any waste in order to render such waste safer for transport or disposal, amenable for recovery, convertible to another usable material or reduced in volume;
 - s. 'waste' means low-level radioactive waste as defined in this section;
 - t. 'waste management' means the storage, treatment, transportation, and disposal, where applicable, of waste.

ARTICLE III. RIGHTS AND OBLIGATIONS

- a. There shall be provided within the region one or more regional facilities which, together with such other facilities as may be made available to the region, will provide sufficient capacity to manage all wastes generated within the region.
 - 1. Regional facilities shall be entitled to waste generated within the region, unless otherwise provided by the Commission. To the extent regional facilities are available, no waste generated within a party state shall be exported to facilities outside the region unless such exportation is approved by the Commission and the affected host state(s).
 - 2. After January 1, 1986, no person shall deposit at a regional facility waste generated outside the region, and further, no regional facility shall accept waste generated outside the region, unless approved by the Commission and the affected host state(s).
- b. The rights, responsibilities and obligations of each party state to this compact are as follows:
 - 1. Each party state shall have the right to have all wastes generated within its borders managed at regional facilities, and shall have the right of access to facilities made available to the region through agreements entered into by the Commission pursuant to [Article IV\(i\)\(11\)](#). The right of access by a

generator within a party state to any regional facility is limited by the generator's adherence to applicable state and federal laws and regulations and the provisions of this compact.

2. To the extent not prohibited by federal law, each party state shall institute procedures which will require shipments of low-level waste generated within or passing through its borders to be consistent with applicable federal packaging and transportation regulations and applicable host state packaging and transportation regulations for management of low-level waste; provided, however, that these practices shall not impose unreasonable, burdensome impediments to the management of low-level waste in the region. Upon notification by a host state that a generator, shipper, or carrier within the party state is in violation of applicable packaging or transportation regulations, the party state shall take appropriate action to ensure that such violations do not recur.
 3. Each party state may impose reasonable fees upon generators, shippers, or carriers to recover the cost of inspections and other practices under this compact.
 4. Each party state shall encourage generators within its borders to minimize the volumes of waste requiring disposal.
 5. Each party state has the right to rely on the good faith performance by every other party state of acts which ensure the provision of facilities for regional availability and their use in a manner consistent with this compact.
 6. Each party state shall provide to the Commission any data and information necessary for the implementation of the Commission's responsibilities, and shall establish the capability to obtain any data and information necessary to meet its obligation as herein defined.
 7. Each party state shall have the capability to host a regional facility in a timely manner and to ensure the post-closure observation and maintenance, and institutional control of any regional facility within its borders.
 8. No non-host party state shall be liable for any injury to persons or property resulting from the operation of a regional facility or the transportation of waste to a regional facility; however, if the host state itself is the operator of the regional facility, its liability shall be that of any private operator.
- c. The rights, responsibilities and obligations of a host state are as follows:
1. To the extent not prohibited by federal law, a host state shall ensure the timely development and the safe operation, closure, post-closure observation and maintenance, and institutional control of any regional facility within its borders.
 2. In accordance with procedures established in [Articles V](#) and [IX](#), the host state shall provide for the establishment of a reasonable structure of fees sufficient to cover all costs related to the development, operation, closure, post-closure observation and maintenance, and institutional control of a regional facility. It may also establish surcharges to cover the regulatory costs, incentives, and compensation associated with a regional facility;

provided, however, that without the express approval of the Commission, no distinction in fees or surcharges shall be made between persons of the several states party to this compact.

3. To the extent not prohibited by federal law, a host state may establish requirements and regulations pertaining to the management of waste at a regional facility; provided, however, that such requirements shall not impose unreasonable impediments to the management of low-level waste within the region. Nor may a host state or a subdivision impose such restrictive requirements on the siting or operation of a regional facility that, alone or as a whole, they serve as unreasonable barriers or prohibitions to the siting or operation of such a facility.
4. Each host state shall submit to the Commission annually a report concerning each operating regional facility within its borders. The report shall contain projections of the anticipated future capacity and availability of the regional facility, a financial audit of its operations, and other information as may be required by the Commission; and in the case of regional facilities in institutional control or otherwise no longer operating, the host states shall furnish such information as may be required on the facilities still subject to their jurisdiction.
5. A host state shall notify the Commission immediately if any exigency arises which requires the permanent, temporary, or possible closure of any regional facility located therein at a time earlier than projected in its most recent annual report to the Commission. The Commission may conduct studies, hold hearings, or take such other measures to ensure that the actions taken are necessary and compatible with the obligations of the host state under this compact.

ARTICLE IV. THE COMMISSION

- a. There is hereby created the Northeast Interstate Low-Level Radioactive Waste Commission. The Commission shall consist of one member from each party state to be appointed by the Governor according to procedures of each party state, except that a host state shall have two members during the period that it has an operating regional facility. The Governor shall notify the Commission in writing of the identity of the member and one alternate, who may act on behalf of the member only in the member's absence.
- b. Each Commission member shall be entitled to one vote. No action of the Commission shall be binding unless a majority of the total membership cast their vote in the affirmative.
- c. The Commission shall elect annually from among its members a presiding officer and such other officers as it deems appropriate. The Commission shall adopt and publish, in convenient form, such rules and regulations as are necessary for due process in the performance of its duties and powers under this compact.
- d. The Commission shall meet at least once a year and shall also meet upon the call of the presiding officer, or upon the call of a party state member.

- e. All meetings of the Commission shall be open to the public with reasonable prior public notice. The Commission may, by majority vote, close a meeting to the public for the purpose of considering sensitive personnel or legal matters. All Commission actions and decisions shall be made in open meetings and appropriately recorded. A roll call vote may be required upon request of any party state or the presiding officer.
- f. The Commission may establish such committees as it deems necessary.
- g. The Commission may appoint, contract for, and compensate such limited staff as it determines necessary to carry out its duties and functions. The staff shall serve at the Commission's pleasure irrespective of the civil service, personnel or other merit laws of any of the party states or the federal government and shall be compensated from funds of the Commission.
- h. The Commission shall adopt an annual budget for its operations.
- i. The Commission shall have the following duties and powers:
 - 1. The Commission shall receive and act on the application of a non-party state to become an eligible state in accordance with [Article VII \(e\)](#).
 - 2. The Commission shall receive and act on the application of an eligible state to become a party state in accordance with [Article VII\(b\)](#).
 - 3. The Commission shall submit an annual report to and otherwise communicate with the governors and the presiding officer of each body of the legislature of the party states regarding the activities of the Commission.
 - 4. Upon request of party states, the Commission shall mediate disputes which arise between the party states regarding this compact.
 - 5. The Commission shall develop, adopt and maintain a regional management plan to ensure safe and effective management of waste within the region, pursuant to [Article V](#).
 - 6. The Commission may conduct such legislative or adjudicatory hearings, and require such reports, studies, evidence and testimony as are necessary to perform its duties and functions.
 - 7. The Commission shall establish by regulation, after public notice and opportunity for comment, such procedural regulations as deemed necessary to ensure efficient operation, the orderly gathering of information, and the protection of the rights of due process of affected persons.
 - 8. In accordance with the procedures and criteria set forth in Article V, the Commission shall accept a host state's proposed facility as a regional facility.

9. In accordance with the procedures and criteria set forth in [Article V](#), the Commission may designate, by a two-thirds vote, host states for the establishment of needed regional facilities. The Commission shall not exercise this authority unless the party states have failed to voluntarily pursue the development of such facilities.
10. The Commission may require of and obtain from party states, eligible states seeking to become party states, and non-party states seeking to become eligible states, data and information necessary for the implementation of Commission responsibilities.
11. The Commission may enter into agreements with any person, state, regional body, or group of states for the importation of waste into the region and for the right of access to facilities outside the region for waste generated within the region. Such authorization to import requires a two-thirds majority vote of the Commission, including an affirmative vote of the representatives of the host state in which any affected regional facility is located. This shall be done only after the Commission and the host state have made an assessment of the affected facilities' capability to handle such wastes and of relevant environmental, economic, and public health factors, as defined by the appropriate regulatory authorities.
12. The Commission may, upon petition, grant an individual generator or group of generators in the region the right to export wastes to a facility located outside the region. Such grant of right shall be for a period of time and amount of waste and on such other terms and conditions as determined by the Commission and approved by the affected host states.
13. The Commission may appear as an intervenor or party in interest before any court of law, federal, state or local agency, board or commission that has jurisdiction over the management of wastes. Such authority to intervene or otherwise appear shall be exercised only after a two-thirds vote of the Commission. In order to represent its views, the Commission may arrange for any expert testimony, reports, evidence or other participation as it deems necessary.
14. The Commission may impose sanctions, including but not limited to, fines, suspension of privileges and revocation of the membership of a party state in accordance with [Article VII](#). The Commission shall have the authority to revoke, in accordance with [Article VII\(g\)](#), the membership of a party state that creates unreasonable barriers to the siting of a needed regional facility or refuses to accept host state responsibilities upon designation by the Commission.
15. The Commission shall establish by regulation criteria for and shall review the fee and surcharge systems in accordance with [Articles V](#) and IX.

16. The Commission shall review the capability of party states to ensure the siting, operation, postclosure observation and maintenance, and institutional control of any facility within its borders.
 17. The Commission shall review the compact legislation every five years prior to federal congressional review provided for in the Act, and may recommend legislative action.
 18. The Commission has the authority to develop and provide to party states such rules, regulations and guidelines as it deems appropriate for the efficient, consistent, fair and reasonable implementation of the compact.
- j. There is hereby established a Commission operating account. The Commission is authorized to expend monies from such account for the expenses of any staff and consultants designated under [section \(g\)](#) of this Article and for official Commission business. Financial support of the Commission account shall be provided as follows:
1. Each eligible state, upon becoming a party state, shall pay \$70,000 to the Commission, which shall be used for administrative cost of the Commission.
 2. The Commission shall impose a 'commission surcharge' per unit of waste received at any regional facility as provided in [Article V](#).
 3. Until such time as at least one regional facility is in operation and accepting waste for management, or to the extent that revenues under paragraphs (1) and (2) of this section are unavailable or insufficient to cover the approved annual budget of the Commission, each party state shall pay an apportioned amount of the difference between the funds available and the total budget in accordance with the following formula:
 - a. 20 percent in equal shares;
 - b. 30 percent in the proportion that the population of the party state bears to the total population of all party states, according to the most recent U.S. census;
 - c. 50 percent in the proportion that the waste generated for management in each party state bears to the total waste generated for management in the region for the most recent calendar year in which reliable data are available, as determined by the Commission.
- k. The Commission shall keep accurate accounts of all receipts and disbursements. An independent certified public accountant shall annually audit all receipts and

disbursements of Commission accounts and funds and submit an audit report to the Commission. Such audit report shall be made a part of the annual report of the Commission required by [Article IV\(i\)\(3\)](#).

- l. The Commission may accept, receive, utilize and dispose for any of its purposes and functions any and all donations, loans, grants of money, equipment, supplies, materials and services (conditional or otherwise) from any state or the United States or any subdivision or agency thereof, or interstate agency, or from any institution, person, firm or corporation. The nature, amount and condition, if any, attendant upon any donation, loans, or grant accepted pursuant to this paragraph, together with the identity of the donor, grantor, or lender, shall be detailed in the annual report of the Commission. The Commission shall by rule establish guidelines for the acceptance of donations, loans, grants of money, equipment, supplies, materials and services. This shall provide that no donor, grantor or lender may derive unfair or unreasonable advantage in any proceeding before the Commission.
- m. The Commission herein established is a body corporate and politic, separate and distinct from the party states and shall be so liable for its own actions. Liabilities of the Commission shall not be deemed liabilities of the party states, nor shall members of the Commission be personally liable for action taken by them in their official capacity.
 1. The Commission shall not be responsible for any costs or expenses associated with the creation, operation, closure, post-closure observation and maintenance, and institutional control of any regional facility, or any associated regulatory activities of the party states.
 2. Except as otherwise provided herein, this compact shall not be construed to alter the incidence of liability of any kind for any act, omission, or course of conduct. Generators, shippers and carriers of wastes, and owners and operators of sites shall be liable for their acts, omissions, conduct, or relationships in accordance with all laws relating thereto.
- n. The United States district courts in the District of Columbia shall have original jurisdiction of all actions brought by or against the Commission. Any such action initiated in a state court shall be removed to the designated United States district court in the manner provided by Act of June 25, 1948 as amended (28 U.S.C. § 1446). This section shall not alter the jurisdiction of the United States Court of Appeals for the District of Columbia Circuit to review the final administrative decisions of the Commission as set forth in the paragraph below.
- o. The United States Court of Appeals for the District of Columbia Circuit shall have jurisdiction to review the final administrative decisions of the Commission.
 1. Any person aggrieved by a final administrative decision may obtain review of the decision by filing a petition for review within 60 days after the Commission's final decision.

2. In the event that review is sought of the Commission's decision relative to the designation of a host state, the Court of Appeals shall accord the matter an expedited review, and, if the Court does not rule within 90 days after a petition for review has been filed, the Commission's decision shall be deemed to be affirmed.
3. The courts shall not substitute their judgment for that of the Commission as to the decisions of policy or weight of the evidence on questions of fact. The Court may affirm the decision of the Commission or remand the case for further proceedings if it finds that the petitioner has been aggrieved because the finding, inferences, conclusions or decisions of the Commission are:
 - a. in violation of the Constitution of the United States;
 - b. in excess of the authority granted to the Commission by this compact;
 - c. made upon unlawful procedure to the detriment of any person;
 - d. arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.
4. The Commission shall be deemed to be acting in a legislative capacity except in those instances where it decides, pursuant to its rules and regulations, that its determinations are adjudicatory in nature.

ARTICLE V. HOST STATE SELECTION AND DEVELOPMENT AND OPERATION OF REGIONAL FACILITIES

- a. The Commission shall develop, adopt, maintain, and implement a regional management plan to ensure the safe and efficient management of waste within the region. The plan shall include the following:
 1. a current inventory of all generators within the region;
 2. a current inventory of all facilities within the region, including information on the size, capacity, location, specific waste being handled, and projected useful life of each facility;
 3. consistent with considerations for public health and safety as defined by appropriate regulatory authorities, a determination of the type and number of regional facilities which are presently necessary and projected to be necessary to manage waste generated within the region;

4. reference guidelines, as defined by appropriate regulatory authorities, for the party states for establishing the criteria and procedures to evaluate locations for regional facilities.
- b. The Commission shall develop and adopt criteria and procedures for reviewing a party state which volunteers to host a regional facility within its borders. These criteria shall be developed with public notice and shall include the following factors: the capability of the volunteering party state to host a regional facility in a timely manner and to ensure its postclosure observation and maintenance, and institutional control; and the anticipated economic feasibility of the proposed facility.
 1. Any party state may volunteer to host a regional facility within its borders. The Commission may set terms and conditions to encourage a party state to volunteer to be the first host state.
 2. Consistent with the review required above, the Commission shall, upon a two-thirds affirmative vote, designate a volunteering party state to serve as a host state.
 - c. If all regional facilities required by the regional management plan are not developed pursuant to section (b), or upon notification that an existing facility will be closed, or upon determination that an additional regional facility is or may be required, the Commission shall convene to consider designation of a host state.
 1. The Commission shall develop and adopt procedures for designating a party state to be a host state for a regional facility. The Commission shall base its decision on the following criteria:
 - a. the health, safety and welfare of citizens of the party states as defined by the appropriate regulatory authorities;
 - b. the environmental, economic, and social effects of a regional facility on the party states;

The Commission shall also base its decision on the following criteria:

 - c. economic benefits and costs;
 - d. the volumes and types of waste generated within each party state;
 - e. the minimization of waste transportation; and
 - f. the existence of regional facilities within the party states.
 2. Following its established criteria and procedures, the Commission shall designate by a two-thirds affirmative vote a party state to serve as a host state. A current host state shall have the right of first refusal for a succeeding regional facility.

3. The Commission shall conduct such hearings and studies, and take such evidence and testimony as is required by its approved procedures prior to designating a host state. Public hearings shall be held upon request in each candidate host state prior to final evaluation and selection.
 4. A party state which has been designated as a host state by the Commission and which fails to fulfill its obligations as a host state may have its privileges under the compact suspended or membership in the compact revoked by the Commission.
- d. Each host state shall be responsible for the timely identification of a site and the timely development and operation of a regional facility. The proposed facility shall meet geologic, environmental and economic criteria which shall not conflict with applicable federal and host state laws and regulations.
1. To the extent not prohibited by federal law, a host state may regulate and license any facility within its borders.
 2. To the extent not prohibited by Federal law, a host state shall ensure the safe operation, closure, postclosure observation and maintenance, and institutional control of a facility, including adequate financial assurance by the operator and adequate emergency response procedures. It shall periodically review and report to the Commission on the status of the postclosure and institutional control funds and the remaining useful life of the facility.
 3. A host state shall solicit comments from each party state and the Commission regarding the siting, operation, financial assurances, closure, post-closure observation and maintenance, and institutional control of a regional facility.
- e. A host state intending to close a regional facility within its borders shall notify the Commission in writing of its intention and reasons therefor.
1. Except as otherwise provided, such notification shall be given to the Commission at least five years prior to the scheduled date of closure.
 2. A host state may close a regional facility within its borders in the event of an emergency or if a condition exists which constitutes a substantial threat to public health and safety. A host state shall notify the Commission in writing within three days of its action and shall, within 30 working days, show justification for the closing.
 3. In the event that a regional facility closes before an additional or new facility becomes operational, the Commission shall make interim

arrangements for the storage or disposal of waste generated within the region until such time that a new regional facility is operational.

- f. Fees and surcharges shall be imposed equitably upon all users of a regional facility, based upon criteria established by the Commission.
 1. A host state shall, according to its lawful administrative procedures, approve fee schedules to be charged to all users of the regional facility within its borders. Except as provided herein, such fee schedules shall be established by the operator of a regional facility, under applicable state regulations, and shall be reasonable and sufficient to cover all costs related to the development, operation, closure, post-closure observation and maintenance, [and] institutional control of the regional facility. The host state shall determine a schedule for contributions to the post-closure observation and maintenance, and institutional control funds. Such fee schedules shall not be approved unless the Commission has been given reasonable opportunity to review and make recommendations on the proposed fee schedules.
 2. A host state may, according to its lawful administrative procedures, impose a state surcharge per unit of waste received at any regional facility within its borders. The state surcharge shall be in addition to the fees charged for waste management. The surcharge shall be sufficient to cover all reasonable costs associated with administration and regulation of the facility. The surcharge shall not be established unless the Commission has been provided reasonable opportunity to review and make recommendations on the proposed state surcharge.
 3. The Commission shall impose a commission surcharge per unit of waste received at any regional facility. The total monies collected shall be adequate to pay the costs and expenses of the Commission and shall be remitted to the Commission on a timely basis as determined by the Commission. The surcharge may be increased or decreased as the Commission deems necessary.
 4. Nothing herein shall be construed to limit the ability of the host state, or the political subdivision in which the regional facility is situated, to impose surcharges for purposes including, but not limited to, host community compensation and host community development incentives. Such surcharges shall be reasonable and shall not be imposed unless the Commission has been provided reasonable opportunity to review and make recommendations on the proposed surcharge. Such surcharge may be recovered through the approved fee and surcharge schedules provided for in this section.

ARTICLE VI. OTHER LAWS AND REGULATIONS

- a. Nothing in this compact shall be construed to abrogate or limit the regulatory responsibility or authority of the U.S. Nuclear Regulatory Commission or of an Agreement State under Section 274 of the Atomic Energy Act of 1954, as amended.
- b. The laws or portions of those laws of a party state that are not inconsistent with this compact remain in full force.
- c. Nothing in this compact shall make unlawful the continued development and operation of any facility already licensed for development or operation on the date this compact becomes effective.
- d. No judicial or administrative proceeding pending on the effective date of the compact shall be affected by the compact.
- e. Except as provided for in [Article III\(b\)\(2\)](#) and [\(c\)\(3\)](#), this compact shall not affect the relations between and the respective internal responsibilities of the government of a party state and its subdivisions.
- f. The generation, treatment, storage, transportation, or disposal of waste generated by the atomic energy defense activities of the federal government, as defined in P.L. 96-573, or federal research and development activities are not affected by this compact.
- g. To the extent that the rights and powers of any state or political subdivision to license and regulate any facility within its borders and to impose taxes, fees, and surcharges on the waste managed at that regional facility do not operate as an unreasonable impediment to the transportation, treatment or disposal of waste, such rights and powers shall not be diminished by this compact.
- h. No party state shall enact any law or regulation or attempt to enforce any measure which is inconsistent with this compact. Such measures may provide the basis for the Commission to suspend or terminate a party state's membership and privileges under this compact.
- i. All laws and regulations, or parts thereof of any party state or subdivision or instrumentality thereof which are inconsistent with this compact are hereby repealed and declared null and void. Any legal right, obligation, violation or penalty arising under such laws or regulations prior to the enactment of this compact, or not in conflict with it, shall not be affected.
- j. Subject to [Article III\(c\)\(2\)](#), no law or regulation of a party state or subdivision or instrumentality thereof may be applied so as to restrict or make more costly or inconvenient access to any regional facility by the generators of another party state than for the generators of the state where the facility is situated.
- k. No law, ordinance, or regulation of any party state or any subdivision or instrumentality thereof shall prohibit, suspend, or unreasonably delay, limit or restrict the operation of a siting or licensing agency in the designation, siting, or licensing of a regional facility. Any such provision in existence at the time of ratification of this compact is hereby repealed.

**ARTICLE VII. ELIGIBLE PARTIES, WITHDRAWAL, REVOCATION,
ENTRY INTO FORCE, TERMINATION**

- a. The initially eligible parties to this compact shall be the eleven states of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont. Initial eligibility will expire June 30, 1984.
- b. Each state eligible to become a party state to this compact shall be declared a party state upon enactment of this compact into law by the state, repeal of all statutes or statutory provisions that pose unreasonable impediments to the capability of the state to host a regional facility in a timely manner, and upon payment of the fees required by [Article IV\(j\)\(1\)](#). An eligible state may become a party to this compact by an executive order by the governor of the state and upon payment of the fees required by Article IV(j)(1). However, any state which becomes a party state by executive order shall cease to be a party state upon the final adjournment of the next general or regular session of its legislature, unless this compact has by then been enacted as a statute by the state and all statutes and statutory provisions that conflict with the compact have been repealed.
- c. The compact shall become effective in a party state upon enactment by that state. It shall not become initially effective in the region until enacted into law by three party states and consent given to it by the Congress.
- d. The first three states eligible to become party states to this compact which adopt this compact into law as required in Article VII(b) shall immediately, upon the appointment of their Commission members, constitute themselves as the Northeast Interstate Low-Level Radioactive Waste Commission. They shall cause legislation to be introduced in the Congress which grants the consent of the Congress to this compact, and shall do those things necessary to organize the Commission and implement the provisions of this compact.
 1. The Commission shall be the judge of the qualifications of the party states and of its members and of their compliance with the conditions and requirements of this compact and of the laws of the party states relating to the enactment of this compact.
 2. All succeeding states eligible to become party states to this compact shall be declared party states pursuant to the provisions of section (b) of this Article.
- e. Any state not expressly declared eligible to become a party state to this compact in section (a) of this Article may petition the Commission to be declared eligible. The Commission may establish such conditions as it deems necessary and appropriate to be met by a state requesting eligibility as a party state to this compact pursuant to the provisions of this section, including a public hearing on the application. Upon satisfactorily meeting such conditions and upon the affirmative vote of two-thirds of the Commission, including the affirmative vote of the representatives of the host states in which any affected regional facility is located, the petitioning state shall be eligible to become a party state to this compact and may become a party state in the same manner as those states declared eligible in section (a) of this Article.

- f. No state holding membership in any other regional compact for the management of low-level radioactive waste may become a member of this compact.
- g. Any party state which fails to comply with the provisions of this compact or to fulfill its obligations hereunder may have its privileges suspended or, upon a two-thirds vote of the Commission, after full opportunity for hearing and comment, have its membership in the compact revoked. Revocation shall take effect one year from the date the affected party state receives written notice from the Commission of its action. All legal rights of the affected party state established under this compact shall cease upon the effective date of revocation, except that any legal obligations of that party state arising prior to revocation will not cease until they have been fulfilled. As soon as practicable after a Commission decision suspending or revoking party state status, the Commission shall provide written notice of the action and a copy of the resolution to the governors and the presiding officer of each body of the state legislatures of the party states, and to chairmen of the appropriate committees of the Congress.
- h. Any party state may withdraw from this compact by repealing its authorization legislation, and all legal rights under this compact of the party state cease upon repeal. However, no such withdrawal shall take effect until five years after the Governor of the withdrawing state has given notice in writing of such withdrawal to the Commission and to the governor of each party state. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to that time.
 - 1. Upon receipt of the notification, the Commission shall, as soon as practicable, provide copies to the governors and the presiding officer of each body of the state legislatures of the party states, and to the chairmen of the appropriate committees of the Congress.
 - 2. 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 or until the prescheduled date of closure, whichever occurs first.
- i. This compact may be terminated only by the affirmative action of the Congress or by the repeal of all laws enacting the compact in each party state. The Congress may by law withdraw its consent every five years after the compact takes effect.
 - 1. The consent given to this compact by the Congress shall extend to any future admittance of new party states under sections (b) and (e) of this Article.
 - 2. The withdrawal of a party state from this compact under section (h) or the revocation of a state's membership in this compact under section (g) of this Article shall not affect the applicability of the compact to the remaining party states.

ARTICLE VIII. PENALTIES

- a. Each party state, consistent with federal and host state regulations and laws, shall enforce penalties against any person not acting as an official of a party state for violation of this compact in the party state. Each party state acknowledges that the shipment to a host state of waste packaged or transported in violation of applicable laws and regulations can result in the imposition of sanctions by the host state. These sanctions may include, but are not limited to, suspension or revocation of the violator's right of access to the facility in the host state.
- b. Without the express approval of the Commission, it shall be unlawful for any person to dispose of any low-level waste within the region except at a regional facility; provided, however, that this restriction shall not apply to waste which is permitted by applicable federal or state regulations to be discarded without regard to its radioactivity.
- c. Unless specifically approved by the Commission and affected host state(s) pursuant to [Article IV](#), it shall be a violation of this compact for: 1) any person to deposit at a regional facility waste not generated within the region; 2) any regional facility to accept waste not generated within the region; and 3) any person to export from the region waste generated within the region.
- d. Primary responsibility for enforcing provisions of the law will rest with the affected state or states. The Commission, upon a two-thirds vote of its members, may bring action to seek enforcement or appropriate remedies against violators of the provisions and regulations for this compact as provided for in [Article IV](#).

ARTICLE IX. COMPENSATION PROVISIONS

- a. The responsibility for ensuring compensation and cleanup during the operational and post-closure periods rests with the host state, as set forth herein.
 1. The host state shall ensure the availability of funds and procedures for compensation of injured persons, including facility employees, and property damage (except any possible claims for diminution of property values) due to the existence and operation of a regional facility, and for clean-up and restoration of the facility and surrounding areas.
 2. The state may satisfy this obligation by requiring bonds, insurance, compensation funds, or any other means or combination of means, imposed either on the facility operator or assumed by the state itself, or both. Nothing in this [A]rticle alters the liability of any person or governmental entity under applicable state and federal laws.
- b. The Commission shall provide a means of compensation for persons injured or property damaged during the institutional control period due to the radioactive and waste management nature of the regional facility. This responsibility may be met by a special fund, insurance, or other means.

1. The Commission is authorized, at its discretion, to impose a waste management surcharge, to be collected by the operator or owner of the regional facility; to establish a separate insurance entity, formed by but separate from the Commission itself, but under such terms and conditions as it decides, and exempt from state insurance regulation; to contract with this company or other entity for coverage; or to take any other measures, or combination of measures, to implement the goals of this section.
 2. The existence of this fund or other means of compensation shall not imply any liability by the Commission, the non-host party states, or any of their officials and staff, which are exempted from liability by other provisions of this compact. Claims or suits for compensation shall be directed against the fund, the insurance company, or other entity, unless the Commission, by regulation, directs otherwise.
- c. Notwithstanding any other provisions, the Commission fund, insurance, or other means of compensation shall also be available for third party relief during the operational and postclosure periods, as the Commission may direct, but only to the extent that no other funds, insurance, tort compensation, or other means are available from the host state or other entities, under section a. of this Article or otherwise; provided, that this Commission contribution shall not apply to clean-up or restoration of the regional facility and its environs during the operational and post-closure period.
 - d. The liability of the Commission's fund, insurance entity, or any other means of compensation shall be limited to the amount currently contained therein; provided that the Commission may set some lower limit to ensure the integrity and availability of the fund or other entity for liability.

The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision of this compact is declared by a federal court of competent jurisdiction to be contrary to the Constitution of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any other government, agency, person or circumstance shall not be affected thereby. The provisions of this compact shall be liberally construed to give effect to the purposes thereof."

Approved by Congress and signed by the President, January 15, 1986.