Public Law 99-240
99th Congress

99 STAT 1842

An Act

an. 15, 1986
H.R. 1083]

To amend the Low-Level Radioactive Waste Policy Act to improve procedures for the implementation of compacts providing for the establishment and operation of regional disposal facilities for low-level radioactive waste; to grant the consent of the Congress to certain interstate compacts on low-level radioactive waste; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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TITLE I—LOW-LEVEL RADIOACTIVE WASTE POLICY AMENDMENTS ACT OF 1985

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SEC. 101. SHORT TITLE.

This Title may be cited as the "Low-Level Radioactive Waste Policy Amendments Act of 1985".

SEC. 102. AMENDMENT TO THE LOW-LEVEL RADIOACTIVE WASTE POLICY ACT.

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1b–2021d,
1b note.

The Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021b et seq.) is amended by striking out sections 1, 2, 3, and 4 and inserting in lieu thereof the following:

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"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Low-Level Radioactive Waste Policy Act'.

JSC 2021b.

"SEC. 2. DEFINITIONS.

"For purposes of this Act:

"(1) AGREEMENT STATE.—The term 'agreement State' means a State that—

"(A) has entered into an agreement with the Nuclear Regulatory Commission under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021); and

"(B) has authority to regulate the disposal of low-level radioactive waste under such agreement.

"(2) ALLOCATION.—The term 'allocation' means the assignment of a specific amount of low-level radioactive waste disposal capacity to a commercial nuclear power reactor for which access is required to be provided by sited States subject to the conditions specified under this Act.

"(3) COMMERCIAL NUCLEAR POWER REACTOR.—The term 'commercial nuclear power reactor' means any unit of a civilian light-water moderated utilization facility required to be licensed under section 103 or 104b. of the Atomic Energy Act of 1954 (42 U.S.C. 2133 or 2134(b)).

"(4) COMPACT.—The term 'compact' means a compact entered into by two or more States pursuant to this Act.

"(5) COMPACT COMMISSION.—The term 'compact commission' means the regional commission, committee, or board established in a compact to administer such compact.

"(6) COMPACT REGION.—The term 'compact region' means the area consisting of all States that are members of a compact.

"(7) DISPOSAL.—The term 'disposal' means the permanent isolation of low-level radioactive waste pursuant to the requirements established by the Nuclear Regulatory Commission under applicable laws, or by an agreement State if such isolation occurs in such agreement State.

"(8) GENERATE.—The term 'generate', when used in relation to low-level radioactive waste, means to produce low-level radioactive waste.

"(9) LOW-LEVEL RADIOACTIVE WASTE.—The term 'low-level radioactive waste' means radioactive material that—

"(A) is not high-level radioactive waste, spent nuclear fuel, or byproduct material (as defined in section 11e.(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)(2))); and

"(B) the Nuclear Regulatory Commission, consistent with existing law and in accordance with paragraph (A), classifies as low-level radioactive waste.

"(10) NON-SITED COMPACT REGION.—The term 'non-sited compact region' means any compact region that is not a sited compact region.

"(11) REGIONAL DISPOSAL FACILITY.—The term 'regional disposal facility' means a non-Federal low-level radioactive waste disposal facility in operation on January 1, 1985, or subsequently established and operated under a compact.

"(12) SECRETARY.—The term 'Secretary' means the Secretary of Energy.

"(13) SITED COMPACT REGION.—The term 'sited compact region' means a compact region in which there is located one of the regional disposal facilities at Barnwell, in the State of South Carolina; Richland, in the State of Washington; or Beatty, in the State of Nevada.

South Carolina.
Washington.
Nevada.

"(14) STATE.—The term 'State' means any State of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

42 USC 2021c.

"SEC. 3. RESPONSIBILITIES FOR DISPOSAL OF LOW-LEVEL RADIOACTIVE WASTE.

"SECTION 3(a)(1) STATE RESPONSIBILITIES.—Each State shall be responsible for providing, either by itself or in cooperation with other States, for the disposal of—

"(A) low-level radioactive waste generated within the State (other than by the Federal Government) that consists of or contains class A, B, or C radioactive waste as defined by section 61.55 of title 10, Code of Federal Regulations, as in effect on January 26, 1983;

"(B) low-level radioactive waste described in subparagraph (A) that is generated by the Federal Government except such waste that is—

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"(i) owned or generated by the Department of Energy;

"(ii) owned or generated by the United States Navy as a result of the decommissioning of vessels of the United States Navy; or

"(iii) owned or generated as a result of any research, development, testing, or production of any atomic weapon; and

"(C) low-level radioactive waste described in subparagraphs (A) and (B) that is generated outside of the State and accepted for disposal in accordance with sections 5 or 6.

"(2) No regional disposal facility may be required to accept for disposal any material—

"(A) that is not low-level radioactive waste as defined by section 61.55 of title 10, Code of Federal Regulations, as in effect on January 26, 1983, or

"(B) identified under the Formerly Utilized Sites Remedial Action Program.

Nothing in this paragraph shall be deemed to prohibit a State, subject to the provisions of its compact, or a compact region from accepting for disposal any material identified in subparagraph (A) or (B).

"(b)(1) The Federal Government shall be responsible for the disposal of—

"(A) low-level radioactive waste owned or generated by the Department of Energy;

"(B) low-level radioactive waste owned or generated by the United States Navy as a result of the decommissioning of vessels of the United States Navy;

"(C) low-level radioactive waste owned or generated by the Federal Government as a result of any research, development, testing, or production of any atomic weapon; and

"(D) any other low-level radioactive waste with concentrations of radionuclides that exceed the limits established by the Commission for class C radioactive waste, as defined by section 61.55 of title 10, Code of Federal Regulations, as in effect on January 26, 1983.

"(2) All radioactive waste designated a Federal responsibility pursuant to subparagraph (b)(1)(D) that results from activities licensed by the Nuclear Regulatory Commission under the Atomic Energy Act of 1954, as amended, shall be disposed of in a facility licensed by the Nuclear Regulatory Commission that the Commission determines is adequate to protect the public health and safety.

"(3) Not later than 12 months after the date of enactment of this Act, the Secretary shall submit to the Congress a comprehensive report setting forth the recommendations of the Secretary for ensuring the safe disposal of all radioactive waste designated a Federal responsibility pursuant to subparagraph (b)(1)(D). Such report shall include—

"(A) an identification of the radioactive waste involved, including the source of such waste, and the volume, concentration, and other relevant characteristics of such waste;

"(B) an identification of the Federal and non-Federal options for disposal of such radioactive waste;

"(C) a description of the actions proposed to ensure the safe disposal of such radioactive waste;

"(D) a description of the projected costs of undertaking such actions;

"(E) an identification of the options for ensuring that the beneficiaries of the activities resulting in the generation of such radioactive wastes bear all reasonable costs of disposing of such wastes; and

"(F) an identification of any statutory authority required for disposal of such waste.

"(4) The Secretary may not dispose of any radioactive waste designated a Federal responsibility pursuant to paragraph (b)(1)(D) that becomes a Federal responsibility for the first time pursuant to such paragraph until ninety days after the report prepared pursuant to paragraph (3) has been submitted to the Congress. Prohibition. Report.

"SEC. 4. REGIONAL COMPACTS FOR DISPOSAL OF LOW-LEVEL RADIOACTIVE WASTE. 42 USC 2021d.

"(a) IN GENERAL.—

"(1) FEDERAL POLICY.—It is the policy of the Federal Government that the responsibilities of the States under section 3 for the disposal of low-level radioactive waste can be most safely and effectively managed on a regional basis. *Ante*, p. 1843.

"(2) INTERSTATE COMPACTS.—To carry out the policy set forth in paragraph (1), the States may enter into such compacts as may be necessary to provide for the establishment and operation of regional disposal facilities for low-level radioactive waste.

"(b) APPLICABILITY TO FEDERAL ACTIVITIES.—

"(1) IN GENERAL.—

"(A) ACTIVITIES OF THE SECRETARY.—Except as provided in subparagraph (B), no compact or action taken under a compact shall be applicable to the transportation, management, or disposal of any low-level radioactive waste designated in section 3(a)(1)(B) (i)–(iii). Prohibition.

"(B) FEDERAL LOW-LEVEL RADIOACTIVE WASTE DISPOSED OF AT NON-FEDERAL FACILITIES.—Low-level radioactive waste owned or generated by the Federal Government that is disposed of at a regional disposal facility or non-Federal disposal facility within a State that is not a member of a compact shall be subject to the same conditions, regulations, requirements, fees, taxes, and surcharges imposed by the compact commission, and by the State in which such facility is located, in the same manner and to the same extent as any low-level radioactive waste not generated by the Federal Government.

"(2) FEDERAL LOW-LEVEL RADIOACTIVE WASTE DISPOSAL FACILITIES.—Any low-level radioactive waste disposal facility established or operated exclusively for the disposal of low-level radioactive waste owned or generated by the Federal Government shall not be subject to any compact or any action taken under a compact. Prohibition.

"(3) EFFECT OF COMPACTS ON FEDERAL LAW.—Nothing contained in this Act or any compact may be construed to confer any new authority on any compact commission or State— Prohibition.

"(A) to regulate the packaging, generation, treatment, storage, disposal, or transportation of low-level radioactive waste in a manner incompatible with the regulations of the Nuclear Regulatory Commission or inconsistent with the regulations of the Department of Transportation; Transportation. Regulations.

"(B) to regulate health, safety, or environmental hazards from source material, byproduct material, or special nuclear material; Health. Safety. Pollution.

"(C) to inspect the facilities of licensees of the Nuclear Regulatory Commission;

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"(D) to inspect security areas or operations at the site of the generation of any low-level radioactive waste by the Federal Government, or to inspect classified information related to such areas or operations; or

"(E) to require indemnification pursuant to the provisions of chapter 171 of title 28, United States Code (commonly referred to as the Federal Tort Claims Act), or section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) (commonly referred to as the Price-Anderson Act), whichever is applicable.

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"(4) FEDERAL AUTHORITY.—Except as expressly provided in this Act, nothing contained in this Act or any compact may be construed to limit the applicability of any Federal law or to diminish or otherwise impair the jurisdiction of any Federal agency, or to alter, amend, or otherwise affect any Federal law governing the judicial review of any action taken pursuant to any compact.

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"(5) STATE AUTHORITY PRESERVED.—Except as expressly provided in this Act, nothing contained in this Act expands, diminishes, or otherwise affects State law.

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"(c) RESTRICTED USE OF REGIONAL DISPOSAL FACILITIES.—Any authority in a compact to restrict the use of the regional disposal facilities under the compact to the disposal of low-level radioactive waste generated within the compact region shall not take effect before each of the following occurs:

"(1) January 1, 1986; and

"(2) the Congress by law consents to the compact.

"(d) CONGRESSIONAL REVIEW.—Each compact shall provide that every 5 years after the compact has taken effect the Congress may by law withdraw its consent.

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"SEC. 5. LIMITED AVAILABILITY OF CERTAIN REGIONAL DISPOSAL FACILITIES DURING TRANSITION AND LICENSING PERIODS.

"(a) AVAILABILITY OF DISPOSAL CAPACITY.—

"(1) PRESSURIZED-WATER AND BOILING WATER REACTORS.—During the seven-year period beginning January 1, 1986 and ending December 31, 1992, subject to the provisions of subsections (b) through (g), each State in which there is located a regional disposal facility referred to in paragraphs (1) through (3) of subsection (b) shall make disposal capacity available for low-level radioactive waste generated by pressurized water and boiling water commercial nuclear power reactors in accordance with the allocations established in subsection (c).

"(2) OTHER SOURCES OF LOW-LEVEL RADIOACTIVE WASTE.—During the seven-year period beginning January 1, 1986 and ending December 31, 1992, subject to the provisions of subsections (b) through (g), each State in which there is located a regional disposal facility referred to in paragraphs (1) through (3) of subsection (b) shall make disposal capacity available for low-level radioactive waste generated by any source not referred to in paragraph (1).

"(3) ALLOCATION OF DISPOSAL CAPACITY.—

"(A) During the seven-year period beginning January 1, 1986 and ending December 31, 1992, low-level radioactive waste generated within a sited compact region shall be accorded priority under this section in the allocation of available disposal capacity at a regional disposal facility referred to in paragraphs (1) through (3) of subsection (b) and located in the sited compact region in which such waste is generated.

"(B) Any State in which a regional disposal facility referred to in paragraphs (1) through (3) of subsection (b) is located may, subject to the provisions of its compact, prohibit the disposal at such facility of low-level radioactive waste generated outside of the compact region if the disposal of such waste in any given calendar year, together with all other low-level radioactive waste disposed of at such facility within that same calendar year, would result in that facility disposing of a total annual volume of low-level radioactive waste in excess of 100 per centum of the average annual volume for such facility designated in subsection (b): *Provided, however,* That in the event that all three States in which regional disposal facilities referred to in paragraphs (1) through (3) of subsection (b) act to prohibit the disposal of low-level radioactive waste pursuant to this subparagraph, each such State shall, in accordance with any applicable procedures of its compact, permit, as necessary, the disposal of additional quantities of such waste in increments of 10 per centum of the average annual volume for each such facility designated in subsection (b).

Prohibition.

"(C) Nothing in this paragraph shall require any disposal facility or State referred to in paragraphs (1) through (3) of subsection (b) to accept for disposal low-level radioactive waste in excess of the total amounts designated in subsection (b).

Prohibition.

"(4) CESSATION OF OPERATION OF LOW-LEVEL RADIOACTIVE WASTE DISPOSAL FACILITY.—No provision of this section shall be construed to obligate any State referred to in paragraphs (1) through (3) of subsection (b) to accept low-level radioactive waste from any source in the event that the regional disposal facility located in such State ceases operations.

"(b) LIMITATIONS.—The availability of disposal capacity for low-level radioactive waste from any source shall be subject to the following limitations:

"(1) BARNWELL, SOUTH CAROLINA.—The State of South Carolina, in accordance with the provisions of its compact, may limit the volume of low-level radioactive waste accepted for disposal at the regional disposal facility located at Barnwell, South Carolina to a total of 8,400,000 cubic feet of low-level radioactive waste during the 7-year period beginning January 1, 1986, and ending December 31, 1992 (as based on an average annual volume of 1,200,000 cubic feet of low-level radioactive waste).

"(2) RICHLAND, WASHINGTON.—The State of Washington, in accordance with the provisions of its compact, may limit the volume of low-level radioactive waste accepted for disposal at the regional disposal facility located at Richland, Washington to a total of 9,800,000 cubic feet of low-level radioactive waste during the 7-year period beginning January 1, 1986, and ending December 31, 1992 (as based on an average annual volume of 1,400,000 cubic feet of low-level radioactive waste).

"(3) BEATTY, NEVADA.—The State of Nevada, in accordance with the provisions of its compact, may limit the volume of low-level radioactive waste accepted for disposal at the regional disposal facility located at Beatty, Nevada to a total of 1,400,000

cubic feet of low-level radioactive waste during the 7-year period beginning January 1, 1986, and ending December 31, 1992 (as based on an average annual volume of 200,000 cubic feet of low-level radioactive waste).

"(c) COMMERCIAL NUCLEAR POWER REACTOR ALLOCATIONS.—

"(1) AMOUNT.—Subject to the provisions of subsections (a) through (g) each commercial nuclear power reactor shall upon request receive an allocation of low-level radioactive waste disposal capacity (in cubic feet) at the facilities referred to in subsection (b) during the 4-year transition period beginning January 1, 1986, and ending December 31, 1989, and during the 3-year licensing period beginning January 1, 1990, and ending December 31, 1992, in an amount calculated by multiplying the appropriate number from the following table by the number of months remaining in the applicable period as determined under paragraph (2).

"Reactor Type	4-year Transition Period		3-year Licensing Period	
	In Sited Region	All Other Locations	In Sited Region	All Other Locations
PWR	1027	871	934	685
BWR	2300	1951	2091	1533

"(2) METHOD OF CALCULATION.—For purposes of calculating the aggregate amount of disposal capacity available to a commercial nuclear power reactor under this subsection, the number of months shall be computed beginning with the first month of the applicable period, or the sixteenth month after receipt of a full power operating license, whichever occurs later.

"(3) UNUSED ALLOCATIONS.—Any unused allocation under paragraph (1) received by a reactor during the transition period or the licensing period may be used at any time after such reactor receives its full power license or after the beginning of the pertinent period, whichever is later, but not in any event after December 31, 1992, or after commencement of operation of a regional disposal facility in the compact region or State in which such reactor is located, whichever occurs first.

"(4) TRANSFERABILITY.—Any commercial nuclear power reactor in a State or compact region that is in compliance with the requirements of subsection (e) may assign any disposal capacity allocated to it under this subsection to any other person in each State or compact region. Such assignment may be for valuable consideration and shall be in writing, copies of which shall be filed at the affected compact commissions and States, along with the assignor's unconditional written waiver of the disposal capacity being assigned.

"(5) UNUSUAL VOLUMES.—

"(A) The Secretary may, upon petition by the owner or operator of any commercial nuclear power reactor, allocate to such reactor disposal capacity in excess of the amount calculated under paragraph (1) if the Secretary finds and states in writing his reasons for so finding that making additional capacity available for such reactor through this paragraph is required to permit unusual or unexpected operating, maintenance, repair or safety activities.

"(B) The Secretary may not make allocations pursuant to subparagraph (A) that would result in the acceptance for disposal of more than 800,000 cubic feet of low-level radioactive waste or would result in the total of the allocations made pursuant to this subsection exceeding 11,900,000 cubic feet over the entire seven-year interim access period. Prohibition.

"(6) LIMITATION.—During the seven-year interim access period referred to in subsection (a), the disposal facilities referred to in subsection (b) shall not be required to accept more than 11,900,000 cubic feet of low-level radioactive waste generated by commercial nuclear power reactors. Prohibition.

"(d)(1) SURCHARGES.—The disposal of any low-level radioactive waste under this section (other than low-level radioactive waste generated in a sited compact region) may be charged a surcharge by the State in which the applicable regional disposal facility is located, in addition to the fees and surcharges generally applicable for disposal of low-level radioactive waste in the regional disposal facility involved. Except as provided in subsection (e)(2), such surcharges shall not exceed— Prohibition.

"(A) in 1986 and 1987, $10 per cubic foot of low-level radioactive waste;

"(B) in 1988 and 1989, $20 per cubic foot of low-level radioactive waste; and

"(C) in 1990, 1991, and 1992, $40 per cubic foot of low-level radioactive waste.

"(2) MILESTONE INCENTIVES.—

"(A) ESCROW ACCOUNT.—Twenty-five per centum of all surcharge fees received by a State pursuant to paragraph (1) during the seven-year period referred to in subsection (a) shall be transferred on a monthly basis to an escrow account held by the Secretary. The Secretary shall deposit all funds received in a special escrow account. The funds so deposited shall not be the property of the United States. The Secretary shall act as trustee for such funds and shall invest them in interest-bearing United States Government Securities with the highest available yield. Such funds shall be held by the Secretary until—

"(i) paid or repaid in accordance with subparagraph (B) or (C); or

"(ii) paid to the State collecting such fees in accordance with subparagraph (F).

"(B) PAYMENTS.—

"(i) JULY 1, 1986.—The twenty-five per centum of any amount collected by a State under paragraph (1) for low-level radioactive waste disposed of under this section during the period beginning on the date of enactment of the Low-Level Radioactive Waste Policy Amendments Act of 1985 and ending June 30, 1986, and transferred to the Secretary under subparagraph (A), shall be paid by the Secretary in accordance with subparagraph (D) if the milestone described in subsection (e)(1)(A) is met by the State in which such waste originated. *Ante*, p. 1842.

"(ii) JANUARY 1, 1988.—The twenty-five per centum of any amount collected by a State under paragraph (1) for low-level radioactive waste disposed of under this section during the period beginning July 1, 1986 and ending Decem-

ber 31, 1987, and transferred to the Secretary under subparagraph (A), shall be paid by the Secretary in accordance with subparagraph (D) if the milestone described in subsection (e)(1)(B) is met by the State in which such waste originated (or its compact region, where applicable).

"(iii) JANUARY 1, 1990.—The twenty-five per centum of any amount collected by a State under paragraph (1) for low-level radioactive waste disposed of under this section during the period beginning January 1, 1988 and ending December 31, 1989, and transferred to the Secretary under subparagraph (A), shall be paid by the Secretary in accordance with subparagraph (D) if the milestone described in subsection (e)(1)(C) is met by the State in which such waste originated (or its compact region, where applicable).

"(iv) The twenty-five per centum of any amount collected by a State under paragraph (1) for low-level radioactive waste disposed of under this section during the period beginning January 1, 1990 and ending December 31, 1992, and transferred to the Secretary under subparagrah (A), shall be paid by the Secretary in accordance with subparagraph (D) if, by January 1, 1993, the State in which such waste originated (or its compact region, where applicable) is able to provide for the disposal of all low-level radioactive waste generated within such State or compact region.

"(C) FAILURE TO MEET JANUARY 1, 1993 DEADLINE.—If, by January 1, 1993, a State (or, where applicable, a compact region) in which low-level radioactive waste is generated is unable to provide for the disposal of all such waste generated within such State or compact region—

"(i) each State in which such waste is generated, upon the request of the generator or owner of the waste, shall take title to the waste, shall be obligated to take possession of the waste, and shall be liable for all damages directly or indirectly incurred by such generator or owner as a consequence of the failure of the State to take possession of the waste as soon after January 1, 1993 as the generator or owner notifies the State that the waste is available for shipment; or

"(ii) if such State elects not to take title to, take possession of, and assume liability for such waste, pursuant to clause (i), twenty-five per centum of any amount collected by a State under paragraph (1) for low-level radioactive waste disposed of under this section during the period beginning January 1, 1990 and ending December 31, 1992 shall be repaid, with interest, to each generator from whom such surcharge was collected. Repayments made pursuant to this clause shall be made on a monthly basis, with the first such repayment beginning on February 1, 1993, in an amount equal to one thirty-sixth of the total amount required to be repaid pursuant to this clause, and shall continue until the State (or, where applicable, compact region) in which such low-level radioactive waste is generated is able to provide for the disposal of all such waste generated within such State or compact region or until January 1, 1996, whichever is earlier.

If a State in which low-level radioactive waste is generated elects to take title to, take possession of, and assume liability for such waste pursuant to clause (i), such State shall be paid such amounts as are designated in subparagraph (B)(iv). If a State (or, where applicable, a compact region) in which low-level radioactive waste is generated provides for the disposal of such waste at any time after January 1, 1993 and prior to January 1, 1996, such State (or, where applicable, compact region) shall be paid in accordance with subparagraph (D) a lump sum amount equal to twenty-five per centum of any amount collected by a State under paragraph (1): *Provided, however,* That such payment shall be adjusted to reflect the remaining number of months between January 1, 1993 and January 1, 1996 for which such State (or, where applicable, compact region) provides for the disposal of such waste. If a State (or, where applicable, a compact region) in which low-level radioactive waste is generated is unable to provide for the disposal of all such waste generated within such State or compact region by January 1, 1996, each State in which such waste is generated, upon the request of the generator or owner of the waste, shall take title to the waste, be obligated to take possession of the waste, and shall be liable for all damages directly or indirectly incurred by such generator or owner as a consequence of the failure of the State to take possession of the waste as soon after January 1, 1996, as the generator or owner notifies the State that the waste is available for shipment.

"(D) RECIPIENTS OF PAYMENTS.—The payments described in subparagraphs (B) and (C) shall be paid within thirty days after the applicable date—

"(i) if the State in which such waste originated is not a member of a compact region, to such State;

"(ii) if the State in which such waste originated is a member of the compact region, to the compact commission serving such State.

"(E) USES OF PAYMENTS.—

"(i) LIMITATIONS.—Any amount paid under subparagraphs (B) or (C) may only be used to—

"(I) establish low-level radioactive waste disposal facilities;

"(II) mitigate the impact of low-level radioactive waste disposal facilities on the host State;

"(III) regulate low-level radioactive waste disposal facilities; or

"(IV) ensure the decommissioning, closure, and care during the period of institutional control of low-level radioactive waste disposal facilities.

"(ii) REPORTS.—

"(I) RECIPIENT.—Any State or compact commission receiving a payment under subparagraphs (B) or (C) shall, on December 31 of each year in which any such funds are expended, submit a report to the Department of Energy itemizing any such expenditures.

"(II) DEPARTMENT OF ENERGY.—Not later than six months after receiving the reports under subclause (I), the Secretary shall submit to the Congress a summary of all such reports that shall include an assessment of the compliance of each such State or compact commission with the requirements of clause (i). Reports.

"(F) PAYMENT TO STATES.—Any amount collected by a State under paragraph (1) that is placed in escrow under subparagraph (A) and not paid to a State or compact commission under subparagraphs (B) and (C) or not repaid to a generator under subparagraph (C) shall be paid from such escrow account to such State collecting such payment under paragraph (1). Such payment shall be made not later than 30 days after a determination of ineligibility for a refund is made.

Prohibition.

"(G) PENALTY SURCHARGES.—No rebate shall be made under this subsection of any surcharge or penalty surcharge paid during a period of noncompliance with subsection (e)(1).

"(e) REQUIREMENTS FOR ACCESS TO REGIONAL DISPOSAL FACILITIES.—

"(1) REQUIREMENTS FOR NON-SITED COMPACT REGIONS AND NON-MEMBER STATES.—Each non-sited compact region, or State that is not a member of a compact region that does not have an operating disposal facility, shall comply with the following requirements:

"(A) By July 1, 1986, each such non-member State shall ratify compact legislation or, by the enactment of legislation or the certification of the Governor, indicate its intent to develop a site for the location of a low-level radioactive waste disposal facility within such State.

"(B) BY JANUARY 1, 1988.—

"(i) each non-sited compact region shall identify the State in which its low-level radioactive waste disposal facility is to be located, or shall have selected the developer for such facility and the site to be developed, and each compact region or the State in which its low-level radioactive waste disposal facility is to be located shall develop a siting plan for such facility providing detailed procedures and a schedule for establishing a facility location and preparing a facility license application and shall delegate authority to implement such plan;

"(ii) each non-member State shall develop a siting plan providing detailed procedures and a schedule for establishing a facility location and preparing a facility license application for a low-level radioactive waste disposal facility and shall delegate authority to implement such plan; and

"(iii) The siting plan required pursuant to this paragraph shall include a description of the optimum way to attain operation of the low-level radioactive waste disposal facility involved, within the time period specified in this Act. Such plan shall include a description of the objectives and a sequence of deadlines for all entities required to take action to implement such plan, including, to the extent practicable, an identification of the activities in which a delay in the start, or completion, of such activities will cause a delay in beginning facility operation. Such plan shall also identify, to the extent practicable, the process for (1) screening for broad siting areas; (2) identifying and evaluating specific candidate sites; and (3) characterizing the preferred site(s), completing all necessary environmental assessments, and preparing a license application for submission to the Nuclear Regulatory Commission or an Agreement State.

"(C) BY JANUARY 1, 1990.—

"(i) a complete application (as determined by the Nuclear Regulatory Commission or the appropriate agency of an agreement State) shall be filed for a license to operate a low-level radioactive waste disposal facility within each non-sited compact region or within each non-member State; or

"(ii) the Governor (or, for any State without a Governor, the chief executive officer) of any State that is not a member of a compact region in compliance with clause (i), or has not complied with such clause by its own actions, shall provide a written certification to the Nuclear Regulatory Commission, that such State will be capable of providing for, and will provide for, the storage, disposal, or management of any low-level radioactive waste generated within such State and requiring disposal after December 31, 1992, and include a description of the actions that will be taken to ensure that such capacity exists.

"(D) By January 1, 1992, a complete application (as determined by the Nuclear Regulatory Commission or the appropriate agency of an agreement State) shall be filed for a license to operate a low-level radioactive waste disposal facility within each non-sited compact region or within each non-member State.

"(E) The Nuclear Regulatory Commission shall transmit any certification received under subparagraph (C) to the Congress and publish any such certification in the Federal Register.

Federal Register publication.

"(F) Any State may, subject to all applicable provisions, if any, of any applicable compact, enter into an agreement with the compact commission of a region in which a regional disposal facility is located to provide for the disposal of all low-level radioactive waste generated within such State, and, by virtue of such agreement, may, with the approval of the State in which the regional disposal facility is located, be deemed to be in compliance with subparagraphs (A), (B), (C), and (D).

Contracts.

"(2) PENALTIES FOR FAILURE TO COMPLY.—

"(A) BY JULY 1, 1986.—If any State fails to comply with subparagraph (1)(A)—

"(i) any generator of low-level radioactive waste within such region or non-member State shall, for the period beginning July 1, 1986, and ending December 31, 1986, be charged 2 times the surcharge otherwise applicable under subsection (d); and

"(ii) on or after January 1, 1987, any low-level radioactive waste generated within such region or non-member State may be denied access to the regional disposal facilities referred to in paragraphs (1) through (3) of subsection (b).

"(B) BY JANUARY 1, 1988.—If any non-sited compact region or non-member State fails to comply with paragraph (1)(B)—

"(i) any generator of low-level radioactive waste within such region or non-member State shall—

"(I) for the period beginning January 1, 1988, and ending June 30, 1988, be charged 2 times the surcharge otherwise applicable under subsection (d); and

"(II) for the period beginning July 1, 1988, and ending December 31, 1988, be charged 4 times the surcharge otherwise applicable under subsection (d); and

"(ii) on or after January 1, 1989, any low-level radioactive waste generated within such region or non-member State may be denied access to the regional disposal facilities referred to in paragraphs (1) through (3) of subsection (b).

"(C) BY JANUARY 1, 1990.—If any non-sited compact region or non-member State fails to comply with paragraph (1)(C), any low-level radioactive waste generated within such region or non-member State may be denied access to the regional disposal facilities referred to in paragraphs (1) through (3) of subsection (b).

"(D) BY JANUARY 1, 1992.—If any non-sited compact region or non-member State fails to comply with paragraph (1)(D), any generator of low-level radioactive waste within such region or non-member State shall, for the period beginning January 1, 1992 and ending upon the filing of the application described in paragraph (1)(D), be charged 3 times the surcharge otherwise applicable under subsection (d).

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"(3) DENIAL OF ACCESS.—No denial or suspension of access to a regional disposal facility under paragraph (2) may be based on the source, class, or type of low-level radioactive waste.

"(4) RESTORATION OF SUSPENDED ACCESS; PENALTIES FOR FAILURE TO COMPLY.—Any access to a regional disposal facility that is suspended under paragraph (2) shall be restored after the non-sited compact region or non-member State involved complies with such requirement. Any payment of surcharge penalties pursuant to paragraph (2) for failure to comply with the requirements of subsection (e) shall be terminated after the non-sited compact region or non-member State involved complies with such requirements.

Termination.

"(f)(1) ADMINISTRATION.—Each State and compact commission in which a regional disposal facility referred to in paragraphs (1) through (3) of subsection (b) is located shall have authority—

"(A) to monitor compliance with the limitations, allocations, and requirements established in this section; and

"(B) to deny access to any non-Federal low-level radioactive waste disposal facilities within its borders to any low-level radioactive waste that—

"(i) is in excess of the limitations or allocations established in this section; or

"(ii) is not required to be accepted due to the failure of a compact region or State to comply with the requirements of subsection (e)(1).

"(2) AVAILABILITY OF INFORMATION DURING INTERIM ACCESS PERIOD.—

South Carolina. Washington. Nevada.

"(A) The States of South Carolina, Washington, and Nevada may require information from disposal facility operators, generators, intermediate handlers, and the Department of Energy that is reasonably necessary to monitor the availability of disposal capacity, the use and assignment of allocations and the applicability of surcharges.

South Carolina. Washington. Nevada.

"(B) The States of South Carolina, Washington, and Nevada may, after written notice followed by a period of at least 30 days, deny access to disposal capacity to any generator or intermediate handler who fails to provide information under subparagraph (A).

"(C) PROPRIETARY INFORMATION.—

"(i) Trade secrets, proprietary and other confidential information shall be made available to a State under this subsection upon request only if such State—

"(I) consents in writing to restrict the dissemination of the information to those who are directly involved in monitoring under subparagraph (A) and who have a need to know;

"(II) accepts liability for wrongful disclosure; and

"(III) demonstrates that such information is essential to such monitoring.

"(ii) The United States shall not be liable for the wrongful disclosure by any individual or State of any information provided to such individual or State under this subsection.

Prohibition. Government organization and employees. Commerce and trade.

"(iii) Whenever any individual or State has obtained possession of information under this subsection, the individual shall be subject to the same provisions of law with respect to the disclosure of such information as would apply to an officer or employee of the United States or of any department or agency thereof and the State shall be subject to the same provisions of law with respect to the disclosure of such information as would apply to the United States or any department or agency thereof. No State or State officer or employee who receives trade secrets, proprietary information, or other confidential information under this Act may be required to disclose such information under State law.

"(g) NONDISCRIMINATION.—Except as provided in subsections (b) through (e), low-level radioactive waste disposed of under this section shall be subject without discrimination to all applicable legal requirements of the compact region and State in which the disposal facility is located as if such low-level radioactive waste were generated within such compact region.

42 USC 2021f.

"SEC. 6. EMERGENCY ACCESS.

Health. Safety. Defense and national security.

"(a) IN GENERAL.—The Nuclear Regulatory Commission may grant emergency access to any regional disposal facility or non-Federal disposal facility within a State that is not a member of a compact for specific low-level radioactive waste, if necessary to eliminate an immediate and serious threat to the public health and safety or the common defense and security. The procedure for granting emergency access shall be as provided in this section.

"(b) REQUEST FOR EMERGENCY ACCESS.—Any generator of low-level radioactive waste, or any Governor (or, for any State without a Governor, the chief executive officer of the State) on behalf of any generator or generators located in his or her State, may request that

the Nuclear Regulatory Commission grant emergency access to a regional disposal facility or a non-Federal disposal facility within a State that is not a member of a compact for specific low-level radioactive waste. Any such request shall contain any information and certifications the Nuclear Regulatory Commission may require.

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"(c) DETERMINATION OF NUCLEAR REGULATORY COMMISSION.—

"(1) REQUIRED DETERMINATION.—Not later than 45 days after receiving a request under subsection (b), the Nuclear Regulatory Commission shall determine whether—

"(A) emergency access is necessary because of an immediate and serious threat to the public health and safety or the common defense and security; and

"(B) the threat cannot be mitigated by any alternative consistent with the public health and safety, including storage of low-level radioactive waste at the site of generation or in a storage facility obtaining access to a disposal facility by voluntary agreement, purchasing disposal capacity available for assignment pursuant to section 5(c) or ceasing activities that generate low-level radioactive waste.

te, p. 1846.

"(2) REQUIRED NOTIFICATION.—If the Nuclear Regulatory Commission makes the determinations required in paragraph (1) in the affirmative, it shall designate an appropriate non-Federal disposal facility or facilities, and notify the Governor (or chief executive officer) of the State in which such facility is located and the appropriate compact commission that emergency access is required. Such notification shall specifically describe the low-level radioactive waste as to source, physical and radiological characteristics, and the minimum volume and duration, not exceeding 180 days, necessary to alleviate the immediate threat to public health and safety or the common defense and security. The Nuclear Regulatory Commission shall also notify the Governor (or chief executive officer) of the State in which the low-level radioactive waste requiring emergency access was generated that emergency access has been granted and that, pursuant to subsection (e), no extension of emergency access may be granted absent diligent State action during the period of the initial grant.

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"(d) TEMPORARY EMERGENCY ACCESS.—Upon determining that emergency access is necessary because of an immediate and serious threat to the public health and safety or the common defense and security, the Nuclear Regulatory Commission may at its discretion grant temporary emergency access, pending its determination whether the threat could be mitigated by any alternative consistent with the public health and safety. In granting access under this subsection, the Nuclear Regulatory Commission shall provide the same notification and information required under subsection (c). Absent a determination that no alternative consistent with the public health and safety would mitigate the threat, access granted under this subsection shall expire 45 days after the granting of temporary emergency access under this subsection.

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"(e) EXTENSION OF EMERGENCY ACCESS.—The Nuclear Regulatory Commission may grant one extension of emergency access beyond the period provided in subsection (c), if it determines that emergency access continues to be necessary because of an immediate and serious threat to the public health and safety or the common defense and security that cannot be mitigated by any alternative consistent with the public health and safety, and that the generator of low-level radioactive waste granted emergency access and the State in which such low-level radioactive waste was generated have diligently though unsuccessfully acted during the period of the initial grant to eliminate the need for emergency access. Any extension granted under this subsection shall be for the minimum volume and duration the Nuclear Regulatory Commission finds necessary to eliminate the immediate threat to public health and safety or the common defense and security, and shall not in any event exceed 180 days.

"(f) RECIPROCAL ACCESS.—Any compact region or State not a member of a compact that provides emergency access to non-Federal disposal facilities within its borders shall be entitled to reciprocal access to any subsequently operating non-Federal disposal facility that serves the State or compact region in which low-level radioactive waste granted emergency access was generated. The compact commission or State having authority to approve importation of low-level radioactive waste to the disposal facility to which emergency access was granted shall designate for reciprocal access an equal volume of low-level radioactive waste having similar characteristics to that provided emergency access.

"(g) APPROVAL BY COMPACT COMMISSION.—Any grant of access under this section shall be submitted to the compact commission for the region in which the designated disposal facility is located for such approval as may be required under the terms of its compact. Any such compact commission shall act to approve emergency access not later than 15 days after receiving notification from the Nuclear Regulatory Commission, or reciprocal access not later than 15 days after receiving notification from the appropriate authority under subsection (f).

"(h) LIMITATIONS.—No State shall be required to provide emergency or reciprocal access to any regional disposal facility within its borders for low-level radioactive waste not meeting criteria established by the license or license agreement of such facility, or in excess of the approved capacity of such facility, or to delay the closing of any such facility pursuant to plans established before receiving a request for emergency or reciprocal access. No State shall, during any 12-month period, be required to provide emergency or reciprocal access to any regional disposal facility within its borders for more than 20 percent of the total volume of low-level radioactive waste accepted for disposal at such facility during the previous calendar year. Prohibitions.

"(i) VOLUME REDUCTION AND SURCHARGES.—Any low-level radioactive waste delivered for disposal under this section shall be reduced in volume to the maximum extent practicable and shall be subject to surcharges established in this Act.

"(j) DEDUCTION FROM ALLOCATION.—Any volume of low-level radioactive waste granted emergency or reciprocal access under this section, if generated by any commercial nuclear power reactor, shall be deducted from the low-level radioactive waste volume allocable under section 5(c).

Ante, p. 1846.

"(k) AGREEMENT STATES.—Any agreement under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021) shall not be applicable to the determinations of the Nuclear Regulatory Commission under this section. Prohibition.

SC 2021g. "SEC. 7. RESPONSIBILITIES OF THE DEPARTMENT OF ENERGY.

"(a) FINANCIAL AND TECHNICAL ASSISTANCE.—The Secretary shall, to the extent provided in appropriations Act, provide to those compact regions, host States, and nonmember States detemined by the Secretary to require assistance for purposes of carrying out this Act—

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"(1) continuing technical assistance to assist them in fulfilling their responsibilities under this Act. Such technical assistance shall include, but not be limited to, technical guidelines for site selection, alternative technologies for low-level radioactive waste disposal, volume reduction options, management techniques to reduce low-level waste generation, transportation practices for shipment of low-level wastes, health and safety considerations in the storage, shipment and disposal of low-level radioactive wastes, and establishment of a computerized database to monitor the management of low-level radioactive wastes; and

"(2) through the end of fiscal year 1993, financial assistance to assist them in fulfilling their responsibilities under this Act.

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"(b) REPORTS.—The Secretary shall prepare and submit to the Congress on an annual basis a report which (1) summarizes the progress of low-level waste disposal siting and licensing activities within each compact region, (2) reviews the available volume reduction technologies, their applications, effectiveness, and costs on a per unit volume basis, (3) reviews interim storage facility requirements, costs, and usage, (4) summarizes transportation requirements for such wastes on an inter- and intra-regional basis, (5) summarizes the data on the total amount of low-level waste shipped for disposal on a yearly basis, the proportion of such wastes subjected to volume reduction, the average volume reduction attained, and the proportion of wastes stored on an interim basis, and (6) projects the interim storage and final disposal volume requirements anticipated for the following year, on a regional basis.

SC 2021h. "SEC. 8. ALTERNATIVE DISPOSAL METHODS.

p. 1842.

"(a) Not later than 12 months after the date of enactment of the Low-Level Radioactive Waste Policy Amendments Act of 1985, the Nuclear Regulatory Commission shall, in consultation with the States and other interested persons, identify methods for the disposal of low-level radioactive waste other than shallow land burial, and establish and publish technical guidance regarding licensing of facilities that use such methods.

"(b) Not later than 24 months after the date of enactment of the Low-Level Radioactive Waste Policy Amendments Act of 1985, the Commission shall, in consultation with the States and other interested persons, identify and publish all relevant technical information regarding the methods identified pursuant to subsection (a) that a State or compact must provide to the Commission in order to pursue such methods, together with the technical requirements that such facilities must meet, in the judgment of the Commission, if pursued as an alternative to shallow land burial. Such technical information and requirements shall include, but need not be limited to, site suitability, site design, facility operation, disposal site closure, and environmental monitoring, as necessary to meet the performance objectives established by the Commission for a licensed low-level radioactive waste disposal facility. The Commission shall specify and publish such requirements in a manner and form deemed appropriate by the Commission.

"SEC. 9. LICENSING REVIEW AND APPROVAL. 42 USC 2021i.

"In order to ensure the timely development of new low-level radioactive waste disposal facilities, the Nuclear Regulatory Commission or, as appropriate, agreement States, shall consider an application for a disposal facility license in accordance with the laws applicable to such application, except that the Commission and the agreement state shall—

"(1) not later than 12 months after the date of enactment of the Low-Level Radioactive Waste Policy Amendments Act of 1985, establish procedures and develop the technical capability for processing applications for such licenses; *Ante*, p. 1842.

"(2) to the extent practicable, complete all activities associated with the review and processing of any application for such a license (except for public hearings) no later than 15 months after the date of receipt of such application; and

"(3) to the extent practicable, consolidate all required technical and environmental reviews and public hearings.

"SEC. 10. RADIOACTIVE WASTE BELOW REGULATORY CONCERN.

"(a) Not later than 6 months after the date of enactment of the Low-Level Radioactive Waste Policy Amendments Act of 1985, the Commission shall establish standards and procedures, pursuant to existing authority, and develop the technical capability for considering and acting upon petitions to exempt specific radioactive waste streams from regulation by the Commission due to the presence of radionuclides in such waste streams in sufficiently low concentrations or quantities as to be below regulatory concern.

"(b) The standards and procedures established by the Commission pursuant to subsection (a) shall set forth all information required to be submitted to the Commission by licensees in support of such petitions, including, but not limited to—

"(1) a detailed description of the waste materials, including their origin, chemical composition, physical state, volume, and mass; and

"(2) the concentration or contamination levels, half-lives, and identities of the radionuclides present. Health. Safety. Regulation.

Such standards and procedures shall provide that, upon receipt of a petition to exempt a specific radioactive waste stream from regulation by the Commission, the Commission shall determine in an expeditious manner whether the concentration or quantity of radionuclides present in such waste stream requires regulation by the Commission in order to protect the public health and safety. Where the Commission determines that regulation of a radioactive waste stream is not necessary to protect the public health and safety, the Commission shall take such steps as may be necessary, in an expeditious manner, to exempt the disposal of such radioactive waste from regulation by the Commission.".

TITLE II—OMNIBUS LOW-LEVEL RADIOACTIVE WASTE INTERSTATE COMPACT CONSENT ACT

Omnibus Low-Level Radioactive Waste Interstate Compact Consent Act. 42 USC 2021d note.

SEC. 201. SHORT TITLE.

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

Subtitle A—General Provisions

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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.

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SEC. 212. CONDITIONS OF CONSENT TO COMPACTS.

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

ctive date.

(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.

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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

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SEC. 221. NORTHWEST INTERSTATE COMPACT ON LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT.

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The consent of Congress is hereby given to the states of Alaska, Hawaii, Idaho, Montana, Oregon, Utah, Washington, and Wyoming to enter into the Northwest Interstate Compact on Low-level Radioactive Waste Management, and to each and every part and article thereof. Such compact reads substantially as follows:

"NORTHWEST INTERSTATE COMPACT ON LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT

"ARTICLE I—POLICY AND PURPOSE

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"The party states recognize that low-level radioactive wastes are generated by essential activities and services that benefit the citizens of the states. It is further recognized that the protection of the health and safety of the citizens of the party states and the most economical management of low-level radioactive wastes can be accomplished through cooperation of the states in minimizing the amount of handling and transportation required to dispose of such wastes and through the cooperation of the states in providing facilities that serve the region. It is the policy of the party states to undertake the necessary cooperation to protect the health and safety of the citizens of the party states and to provide for the most economical management of low-level radioactive wastes on a continuing basis. It is the purpose of this compact to provide the means for such a cooperative effort among the party states so that the protection of the citizens of the states and the maintenance of

"ARTICLE II—DEFINITIONS

"As used in this compact:

"(1) 'Facility' means any site, location, structure, or property used or to be used for the storage, treatment, or disposal of low-level waste, excluding federal waste facilities;

"(2) 'Low-level waste' means waste material which contains radioactive nuclides emitting primarily beta or gamma radiation, or both, in concentrations or quantities which exceed applicable federal or state standards for unrestricted release. Low-level waste does not include waste containing more than ten (10) nanocuries of transuranic contaminants per gram of material, nor spent reactor fuel, nor material classified as either high-level waste or waste which is unsuited for disposal by near-surface burial under any applicable federal regulations;

"(3) 'Generator' means any person, partnership, association, corporation, or any other entity whatsoever which, as a part of its activities, produces low-level radioactive waste;

"(4) 'Host state' means a state in which a facility is located.

"ARTICLE III—REGULATORY PRACTICES

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"Each party state hereby agrees to adopt practices which will require low-level waste shipments originating within its borders and destined for a facility within another party state to conform to the applicable packaging and transportation requirements and regulations of the host state. Such practices shall include:

"(1) Maintaining an inventory of all generators within the state that have shipped or expect to ship low-level waste to facilities in another party state;

"(2) Periodic unannounced inspection of the premises of such generators and the waste management activities thereon;

"(3) Authorization of the containers in which such waste may be shipped, and a requirement that generators use only that type of container authorized by the state;

"(4) Assurance that inspections of the carriers which transport such waste are conducted by proper authorities, and appropriate enforcement action taken for violations;

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"(5) After receiving notification from a host state that a generator within the party state is in violation of applicable packaging or transportation standards, the party state will take appropriate action to assure that such violations do not recur. Such action may include inspection of every individual low-level waste shipment by that generator.

Each party state may impose fees upon generators and shippers to recover the cost of the inspections and other practices under this article. Nothing in this article shall be construed to limit any party state's authority to impose additional or more stringent standards on generators or carriers than those required under this article.

"ARTICLE IV—REGIONAL FACILITIES

"(1) Facilities located in any party state, other than facilities established or maintained by individual low-level waste generators for the management of their own low-level waste, shall accept low-level waste generated in any party state if such waste has been packaged and transported according to applicable laws and