

AN ACT concerning government.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Central Midwest Radioactive Waste Compact Act is amended by changing Section 1 as follows:

(45 ILCS 140/1) (from Ch. 127, par. 63v-1)

Sec. 1. The State of Illinois ratifies and approves the following compact:

ARTICLE I. POLICY AND PURPOSE

There is created the Central Midwest Interstate Low-Level Radioactive Waste Compact.

The states party to this compact recognize that the Congress of the United States, by enacting the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021), has provided for and encouraged the development of low-level radioactive waste compacts as a tool for managing such waste. The party states also recognize that the management of low-level radioactive waste is handled most efficiently on a regional basis; and, that the safe and efficient management of low-level radioactive waste generated within the region requires that sufficient capacity to manage such waste be properly provided.

a) It is the policy of the party states to enter into a regional low-level radioactive waste management compact for the purpose of:

1) providing the instrument and framework for a cooperative effort;

2) providing sufficient facilities for the proper management of low-level radioactive waste generated in the region;

3) protecting the health and safety of the citizens of the region;

4) limiting the number of facilities required to manage low-level radioactive waste generated in the region effectively and efficiently;

5) promoting the volume and source reduction of low-level radioactive waste generated in the region;

6) distributing the costs, benefits and obligations of successful low-level radioactive waste management equitably among the party states and among generators and other persons who use regional facilities to manage their waste;

7) ensuring the ecological and economical management of low-level radioactive waste, including the prohibition of shallow-land burial of waste; and

8) promoting the use of above-ground facilities and other disposal technologies providing greater and safer confinement of low-level radioactive waste than shallow-land burial facilities.

b) Implicit in the Congressional consent to this compact is the expectation by the Congress and the party states that the appropriate federal agencies will actively assist the Compact Commission and the individual party states to this compact by:

1) expeditious enforcement of federal rules, regulations and laws;

2) imposition of sanctions against those found to be in violation of federal rules, regulations and laws; and

3) timely inspection of their licensees to determine their compliance with these rules, regulations and laws.

ARTICLE II. DEFINITIONS

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

a) "Commission" means the Central Midwest Interstate Low-Level Radioactive Waste Commission.

b) "Decommissioning" means the measures taken at the end of a facility's operating life to assure the continued protection of the public from any residual radioactivity or other potential hazards present at a facility.

c) "Disposal" means the isolation of waste from the biosphere in a permanent facility designed for that purpose.

d) "Eligible state" means either the State of Illinois or the Commonwealth of Kentucky.

e) "Extended care" means the continued observation of a

facility after closure for the purpose of detecting a need for maintenance, ensuring environmental safety, and determining compliance with applicable licensure and regulatory requirements and includes undertaking any action or clean-up necessary to protect public health and the environment from radioactive releases from a regional facility.

f) "Facility" means a parcel of land or site, together with the structures, equipment and improvements on or appurtenant to the land or site, which is used or is being developed for the treatment, storage or disposal of low-level radioactive waste.

g) "Generator" means a person who produces or possesses low-level radioactive waste in the course of or incident to manufacturing, power generation, processing, medical diagnosis and treatment, research, or other industrial or commercial activity and who, to the extent required by law, is licensed by the U.S. Nuclear Regulatory Commission or a party state, to produce or possess such waste.

h) "Host state" means any party state that is designated by the Commission to host a regional facility.

i) "Institutional control" means those activities carried out by the host state to physically control access to the disposal site following transfer of control of the disposal site from the disposal site operator to the state or federal government. These activities must include, but need not be limited to, environmental monitoring, periodic surveillance,

minor custodial care, and other necessary activities at the site as determined by the host state, and administration of funds to cover the costs for these activities. The period of institutional control will be determined by the host state, but institutional control may not be relied upon for more than 100 years following transfer of control of the disposal site to the state or federal government.

j) "Long-term liability" means the financial obligation to compensate any person for medical and other expenses incurred from damages to human health, personal injuries suffered from damages to human health and damages or losses to real or personal property, and to provide for the costs for accomplishing any necessary corrective action or clean-up on real or personal property caused by radioactive releases from a regional facility.

k) "Low-level radioactive waste" or "waste" means radioactive waste not classified as (1) high-level radioactive waste, (2) transuranic waste, (3) spent nuclear fuel, or (4) ~~byproduct~~ ~~by product~~ material as defined in Sections Section 11e(2), 11e(3), and 11e(4) of the Atomic Energy Act of 1954 (42 U.S.C. 2014). This definition shall apply notwithstanding any declaration by the federal government, a state, or any regulatory agency that any radioactive material is exempt from any regulatory control.

l) "Management plan" means the plan adopted by the Commission for the storage, transportation, treatment and

disposal of waste within the region.

m) "Manifest" means a shipping document identifying the generator of waste, the volume of waste, the quantity of radionuclides in the shipment, and such other information as may be required by the appropriate regulatory agency.

n) "Party state" means any eligible state which enacts the compact into law and pays the membership fee.

o) "Person" means any individual, corporation, business enterprise or other legal entity, either public or private, and any legal successor, representative, agent or agency of that individual, corporation, business enterprise, or legal entity.

p) "Region" means the geographical area of the party states.

q) "Regional facility" means any facility as defined in Article II (f) that is (1) located within the region, and (2) established by a party state pursuant to designation of that state as a host state by the Commission.

r) "Shallow-land burial" means a land disposal facility in which radioactive waste is disposed of in or within the upper 30 meters of the earth's surface; however, this definition shall not include an enclosed, engineered, strongly structurally enforced and solidified bunker that extends below the earth's surface.

s) "Site" means the geographic location of a facility.

t) "Source reduction" means those administrative practices

that reduce the radionuclide levels in low-level radioactive waste or that prevent the generation of additional low-level radioactive waste.

u) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands or any other territorial possession of the United States.

v) "Storage" means the temporary holding of waste for treatment or disposal.

w) "Treatment" means any method, technique or process, including storage for radioactive decay, designed to change the physical, chemical or biological characteristics or composition of any waste in order to render the waste safer for transport or management, amenable to recovery, convertible to another usable material or reduced in volume.

x) "Volume reduction" means those methods including, but not limited to, biological, chemical, mechanical and thermal methods used to reduce the amount of space that waste materials occupy and to put them into a form suitable for storage or disposal.

y) "Waste management" means the source and volume reduction, storage, transportation, treatment or disposal of waste.

ARTICLE III. THE COMMISSION

a) There is created the Central Midwest Interstate

Low-Level Radioactive Waste Commission. Upon the eligible states becoming party states, the Commission shall consist of two voting Commissioners from each state eligible to be designated a host state under Article VI(b), one voting Commissioner from any other party state, and for each regional facility, one non-voting Commissioner who is an elected official of local government and a resident of the county where that regional facility is located. The Governor of each party state shall notify the Commission in writing of its Commissioners and any alternates.

b) Each voting Commissioner is entitled to one vote. No action of the Commission is binding unless a majority of the voting membership casts its vote in the affirmative. In addition, no agreement by the Commission under Article III(i)(1), Article III(i)(2), or Article III(i)(3) is valid unless all voting Commissioners from the party state in which the facility where the waste would be sent is located cast their votes in the affirmative.

c) The Commission shall elect annually from among its members a chairperson. The Commission shall adopt and publish, in convenient form, by-laws and policies that are not inconsistent with this compact, including procedures that conform with the provisions of the Federal Administrative Procedure Act (5 U.S.C. ss. 500 to 559) to the greatest extent practicable in regard to notice, conduct and recording of meetings; access by the public to records; provision of

information to the public; conduct of adjudicatory hearings; and issuance of decisions.

d) The Commission shall meet at least once annually and shall also meet upon the call of any voting Commissioner.

e) All meetings of the Commission and its designated committees shall be open to the public with reasonable advance notice. The Commission may, by majority vote, close a meeting to the public for the purpose of considering sensitive personnel or legal strategy matters. However, all Commission actions and decisions shall be made in open meetings and appropriately recorded. A roll call may be required upon request of any voting Commissioner.

f) The Commission may establish advisory committees for the purpose of advising the Commission on any matters pertaining to waste management, waste generation and source and volume reduction.

g) The Office of the Commission shall be in Illinois. The Commission may appoint or contract for and compensate such staff necessary to carry out its duties and functions. The staff shall serve at the Commission's pleasure with the exception that staff hired as the result of securing federal funds shall be hired and governed under applicable federal statutes and regulations. In selecting any staff, the Commission shall assure that the staff has adequate experience and formal training to carry out the functions assigned to it by the Commission.

h) All files, records and data of the Commission shall be open to reasonable public inspection and may be copied upon payment of reasonable fees to be established where appropriate by the Commission, except for information privileged against introduction in judicial proceedings. Such fees may be waived or shall be reduced substantially for not-for-profit organizations.

i) The Commission may:

1) Enter into an agreement with any person to allow waste from outside the region to be disposed of at facilities in the region. However, no such agreement shall be effective unless and until ratified by a law enacted by the party state to which the waste would be sent for disposal.

2) Enter into an agreement with any person to allow waste described in Article VII(a)(6) to be treated, stored, or disposed of at regional facilities. However, no such agreement shall be effective unless and until ratified by a law enacted by the host state of the regional facility where the waste would be sent for treatment, storage, or disposal.

3) Enter into an agreement with any person to allow waste from outside the region to be treated or stored at facilities in the region. However, any such agreement shall be revoked as a matter of law if, within one year of the effective date of the agreement, a law is enacted ordering the revocation by the party state where the waste would be sent for treatment or storage.

4) Approve, or enter into an agreement with any person for, the export of waste from the region.

5) Approve the disposal of waste generated within the region at a facility in the region other than a regional facility, subject to the limitations of Articles V(f) and VII(a)(6).

6) Require that waste generated within the region be treated or stored at available regional facilities, subject to the limitations of Articles V(f), VII(a)(3) and VII(a)(6).

7) Appear as an intervenor or party in interest before any court of law or any federal, state or local agency, board or commission in any matter related to waste management. In order to represent its views, the Commission may arrange for any expert testimony, reports, evidence or other participation.

8) Review the emergency closure of a regional facility, determine the appropriateness of that closure, and take whatever actions are necessary to ensure that the interests of the region are protected, provided that a party state with a total volume of waste recorded on low-level radioactive waste manifests for any year that is less than 10 percent of the total volume recorded on such manifests for the region during the same year shall not be designated a host state or be required to store the region's waste. In determining the 10 percent exclusion, there shall not be included waste recorded on low-level radioactive waste manifests by a person whose principal business is providing a service by arranging for the

collection, transportation, treatment, storage or disposal of such waste.

9) Take any action which is appropriate and necessary to perform its duties and functions as provided in this compact.

10) Suspend the privileges or revoke the membership of a party state.

j) The Commission shall:

1) Submit within 10 days of its execution to the governor and the appropriate officers of the legislative body of the party state in which any affected facility is located a copy of any agreement entered into by the Commission under Article III(i)(1), Article III(i)(2) or Article III(i)(3).

2) Submit an annual report to, and otherwise communicate with, the governors and the appropriate officers of the legislative bodies of the party states regarding the activities of the Commission. The annual report shall include a description of the status of the activities taken pursuant to any agreement entered into by the Commission under Article III(i)(1), Article III(i)(2) or Article III(i)(3) and any violation of any provision thereof, and a description of the source, volume, activity, and current status of any waste from outside the region or waste described under Article VII(a)(6) that was treated, stored or disposed of in the region in the previous year.

3) Hear, negotiate, and, as necessary, resolve by final decision disputes which may arise between the party states

regarding this compact.

4) Adopt and amend, as appropriate, a regional management plan that plans for the establishment of needed regional facilities.

5) Adopt an annual budget.

k) Funding of the budget of the Commission shall be provided as follows:

1) Each state, upon becoming a party state, shall pay \$50,000 to the Commission which shall be used for the administrative costs of the Commission.

2) Each state hosting a regional facility shall levy surcharges on each user of the regional facility based upon its portion of the total volume and characteristics of wastes managed at that facility. The surcharges collected at all regional facilities shall:

A) be sufficient to cover the annual budget of the Commission; and

B) be paid to the Commission, provided, however, that each host state collecting surcharges may retain a portion of the collection sufficient to cover its administrative costs of collection.

1) The Commission shall keep accurate accounts of all receipts and disbursements. The Commission shall contract with an independent certified public accountant to annually audit all receipts and disbursements of Commission funds and to submit an audit report to the Commission. The audit report

shall be made a part of the annual report of the Commission required by this Article.

m) The Commission may accept for any of its purposes and functions and may utilize and dispose of any donations, grants of money, equipment, supplies, materials and services 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 or grant accepted or received by the Commission together with the identity of the donor, grantor or lender, shall be detailed in the annual report of the Commission. The Commission shall establish guidelines for the acceptance of donations, grants, equipment, supplies, materials and services and shall review such guidelines annually.

n) The Commission is not liable for any costs associated with any of the following:

- 1) the licensing and construction of any facility;
- 2) the operation of any facility;
- 3) the stabilization and closure of any facility;
- 4) the extended care of any facility;
- 5) the institutional control, after extended care of any facility; or
- 6) the transportation of waste to any facility.

o) The Commission is a legal entity separate and distinct from the party states and is liable for its actions as a

separate and distinct legal entity. Commissioners are not personally liable for actions taken by them in their official capacity.

p) Except as provided under Article III(n), Article III(o), Article VI(p) and Article VI(q), nothing in this compact alters liability for any action, omission, course of conduct or liability resulting from any causal or other relationships.

q) Any person aggrieved by a final decision of the Commission which adversely affects the legal rights, duties or privileges of such person, may petition a court of competent jurisdiction, within 60 days after the Commission's final decision, to obtain judicial review of said final decision.

ARTICLE IV. REGIONAL MANAGEMENT PLAN

The Commission shall adopt a regional management plan designed to ensure the safe and efficient management of waste generated within the region. In adopting a regional waste management plan the Commission shall:

a) Adopt procedures for determining, consistent with considerations of public health and safety, the type and number of regional facilities which are presently necessary and which are projected to be necessary to manage waste generated within the region.

b) Develop and adopt policies promoting source and volume reduction of waste generated within the region.

c) Develop alternative means for the treatment, storage and disposal of waste, other than shallow-land burial or underground injection well.

d) Prepare a draft regional management plan that shall be made available in a convenient form to the public for comment. The Commission shall conduct one or more public hearings in each party state prior to the adoption of the regional management plan. The regional management plan shall include the Commission's response to public and party state comment.

ARTICLE V. RIGHTS AND OBLIGATIONS OF PARTY STATES

a) Each party state shall act in good faith in the performance of acts and courses of conduct which are intended to ensure the provision of facilities for regional availability and usage in a manner consistent with this compact.

b) Other than the provisions of Article V(f) and VII(a)(6), each party state has the right to have all wastes generated within its borders managed at regional facilities. This right shall be subject to the provisions of this Compact. All party states have an equal right of access to any facility outside the region made available to the region by any agreement entered into by the Commission pursuant to Article III(i)(4).

c) Party states or generators may negotiate for the right of access to a facility outside the region and may export waste

outside the region subject to Commission approval under Article III(i)(4).

d) To the extent permitted by federal law, each party state may enforce any applicable federal and state laws, regulations and rules pertaining to the packaging and transportation of waste generated within or passing through its borders. Nothing in this Section shall be construed to require a party state to enter into any agreement with the U.S. Nuclear Regulatory Commission.

e) Each party state shall provide to the Commission any data and information the Commission requires to implement its responsibilities. Each party state shall establish the capability to obtain any data and information required by the Commission.

f) Waste originating from the Maxey Flats nuclear waste disposal site in Fleming County, Kentucky shall not be shipped to any facility in Illinois for storage, treatment or disposal. Disposition of these wastes shall be the sole responsibility of the Commonwealth of Kentucky and such waste shall not be subject to the provisions of Article IX(b)(3) and (4) of this compact.

ARTICLE VI. DEVELOPMENT AND OPERATION OF FACILITIES

a) Any party state may volunteer to become a host state, and the Commission may designate that state as a host state.

b) If all regional facilities required by the regional

management plan are not developed pursuant to Article VI(a), or upon notification that an existing regional facility will be closed, the Commission may designate a party state as a host state. A party state shall not be designated as a host state for any regional facility under this Article VI(b) unless that state's total volume of waste recorded on low-level radioactive waste manifests for any year is more than 10% of the total volume recorded on those manifests for the region during the same year. In determining the 10% exclusion, there shall not be included waste recorded on low-level radioactive waste manifests by a person whose principal business is providing a service by arranging for the collection, transportation, treatment, storage or disposal of such waste, or waste described in Article VII(a) (6).

c) Each party state designated as a host state is responsible for determining possible facility locations within its borders. The selection of a facility site shall not conflict with applicable federal and host state laws, regulations and rules not inconsistent with this compact and shall be based on factors including, but not limited to, geological, environmental, engineering and economic viability of possible facility locations.

d) Any party state designated as a host state may request the Commission to relieve that state of the responsibility to serve as a host state. The Commission may relieve a party state of this responsibility upon a showing by the requesting party

state that no feasible potential regional facility site of the type it is designated to host exists within its borders or for other good cause shown and consistent with the purposes of the Compact.

e) After a state is designated a host state by the Commission, it is responsible for the timely development and operation of a regional facility.

f) To the extent permitted by federal and state law, a host state shall regulate and license any facility within its borders and ensure the extended care of that facility.

g) The Commission may designate a party state as a host state while a regional facility is in operation if the Commission determines that an additional regional facility is or may be required to meet the needs of the region.

h) Designation of a host state is for a period of 20 years or the life of the regional facility which is established under that designation, whichever is shorter. Upon request of a host state, the Commission may modify the period of its designation.

i) A host state may establish a fee system for any regional facility within its borders. The fee system shall be reasonable and equitable. This fee system shall provide the host state with sufficient revenue to cover any costs including, but not limited to, the planning, siting, licensure, operation, pre-closure corrective action or clean-up, monitoring, inspection, decommissioning, extended

care and long-term liability, associated with such facilities. This fee system may provide for payment to units of local government affected by a regional facility for costs incurred in connection with such facility. This fee system may also include reasonable revenue beyond the costs incurred for the host state, subject to approval by the Commission. The fee system shall include incentives for source or volume reduction and may be based on the hazard of the waste. A host state shall submit an annual financial audit of the operation of the regional facility to the Commission.

j) A host state shall ensure that a regional facility located within its borders which is permanently closed is properly decommissioned. A host state shall also provide for the extended care of a closed or decommissioned regional facility within its borders so that the public health and safety of the state and region are ensured, unless, pursuant to the federal Nuclear Waste Policy Act of 1982, the federal government has assumed title and custody of the regional facility and the federal government thereby has assumed responsibility to provide for the extended care of such facility.

k) A host state intending to close a regional facility located within its borders shall notify the Commission in writing of its intention and the reasons. Notification shall be given to the Commission at least five years prior to the intended date of closure. This Section shall not prevent an

emergency closing of a regional facility by a host state to protect its air, land and water resources and the health and safety of its citizens. However, a host state which has an emergency closing of a regional facility shall notify the Commission in writing within 3 working days of its action and shall, within 30 working days of its action, demonstrate justification for the closing.

l) If a regional facility closes before an additional or new facility becomes operational, waste generated within the region may be shipped temporarily to any location agreed on by the Commission until a regional facility is operational, provided that the region's waste shall not be stored in a party state with a total volume of waste recorded on low-level radioactive waste manifests for any year which is less than 10% of the total volume recorded on the manifests for the region during the same year. In determining the 10% exclusion, there shall not be included waste recorded on low-level radioactive waste manifests by a person whose principal business is providing a service by arranging for the collection, transportation, treatment, storage or disposal of such waste, or waste described in Article VII(a) (6).

m) A party state which is designated as a host state by the Commission and 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.

n) The host state shall create an "Extended Care and

Long-Term Liability Fund" and shall allocate sufficient fee revenues, received pursuant to Article VI(i), to provide for the costs of:

1) decommissioning and other procedures required for the proper closure of a regional facility;

2) monitoring, inspection and other procedures required for the proper extended care of a regional facility;

3) undertaking any corrective action or clean-up necessary to protect human health and the environment from radioactive releases from a regional facility;

4) compensating any person for medical and other expenses incurred from damages to human health, personal injuries suffered from damages to human health and damages or losses to real or personal property, and accomplishing any necessary corrective action or clean-up on real or personal property caused by radioactive releases from a regional facility; the host state may allocate monies in this Fund in amounts as it deems appropriate to purchase insurance or to make other similar financial protection arrangements consistent with the purposes of this Fund; this Article VI(n) shall in no manner limit the financial responsibilities of the site operator under Article VI(o), the party states under Article VI(p), or any person who sends waste to a regional facility, under Article VI(q).

o) The operator of a regional facility shall purchase an amount of property and third-party liability insurance deemed

appropriate by the host state, pay the necessary periodic premiums at all times and make periodic payments to the Extended Care and Long-Term Liability Fund as set forth in Article VI(n) for such amounts as the host state reasonably determines is necessary to provide for future premiums to continue such insurance coverage, in order to pay the costs of compensating any person for medical and other expenses incurred from damages to human health, personal injuries suffered from damages to human health and damages or losses to real or personal property, and accomplishing any necessary corrective action or clean-up on real or personal property caused by radioactive releases from a regional facility. In the event of such costs resulting from radioactive releases from a regional facility, the host state should, to the maximum extent possible, seek to obtain monies from such insurance prior to using monies from the Extended Care and Long-Term Liability Fund.

p) All party states shall be liable for the cost of extended care and long-term liability in excess of monies available from the Extended Care and Long-Term Liability Fund, as set forth in Article VI(n) and from the property and third-party liability insurance as set forth in Article VI(o). A party state may meet such liability for costs by levying surcharges upon generators located in the party state. The extent of such liability shall be based on the proportionate share of the total volume of waste placed in the regional

facility by generators located in each such party state. Such liability shall be joint and several among the party states with a right of contribution between the party states. However, this Section shall not apply to a party state with a total volume of waste recorded on low-level radioactive waste manifests for any year that is less than 10% of the total volume recorded on such manifests for the region during the same year.

q) Any person who sends waste from outside the region or waste described in Article VII(a)(6) for treatment, storage or disposal at a regional facility shall be liable for the cost of extended care and long-term liability of that regional facility in excess of the monies available from the Extended Care and Long-Term Liability Fund as set forth in Article VI(n) and from the property and third-party liability insurance as set forth in Article VI(o). The extent of the liability for the person shall be based on the proportionate share of the total volume of waste sent by that person to the regional facility.

ARTICLE VII. OTHER LAWS AND REGULATIONS

a) Nothing in this compact:

1) abrogates or limits the applicability of any act of Congress or diminishes or otherwise impairs the jurisdiction of any federal agency expressly conferred thereon by the Congress;

2) prevents the enforcement of any other law of a party state which is not inconsistent with this compact;

3) prohibits any storage or treatment of waste by the generator on its own premises;

4) affects any administrative or judicial proceeding pending on the effective date of this compact;

5) alters the relations between the respective internal responsibility of the government of a party state and its subdivisions;

6) establishes any right to the treatment, storage or disposal at any facility in the region or provides any authority to prohibit export from the region of waste that is owned or generated by the United States Department of Energy, owned or generated by the United States Navy as a result of the decommissioning of vessels of the United States Navy, or owned or generated as the result of any research, development, testing or production of any atomic weapon; or

7) affects the rights and powers of any party state or its political subdivisions, to the extent not inconsistent with this compact, to regulate and license any facility or the transportation of waste within its borders or affects the rights and powers of any state or its political subdivisions to tax or impose fees on the waste managed at any facility within its borders;

8) requires a party state to enter into any agreement with the U.S. Nuclear Regulatory Commission; or

9) alters or limits liability of transporters of waste and owners and operators of sites for their acts, omissions, conduct or relationships in accordance with applicable laws.

b) For purposes of this compact, all state laws or parts of laws in conflict with this compact are hereby superseded to the extent of the conflict.

c) No law, rule, regulation, fee or surcharge of a party state, or of any of its subdivisions or instrumentalities, may be applied in a manner which discriminates against the generators of another party state.

d) No person who provides a service by arranging for collection, transportation, treatment, storage or disposal of waste from outside the region shall be allowed to dispose of any waste, regardless of origin, in the region unless specifically permitted under an agreement entered into by the Commission in accordance with the requirements of Article III(i)(1).

ARTICLE VIII. ELIGIBLE PARTIES, WITHDRAWAL, REVOCATION,
ENTRY INTO FORCE, TERMINATION

a) Eligible parties to this compact are the State of Illinois and Commonwealth of Kentucky. Eligibility terminates on April 15, 1985.

b) An eligible state becomes a party state when the state enacts the compact into law and pays the membership fee required in Article III(k)(1).

c) The Commission is formed upon the appointment of the Commissioners and the tender of the membership fee payable to the Commission by the eligible states. The Governor of Illinois shall convene the initial meeting of the Commission. The Commission shall cause legislation to be introduced in the Congress which grants the consent of the Congress to this compact, and shall take action necessary to organize the Commission and implement the provisions of this compact.

d) Other than the special circumstances for withdrawal in Section (f) of this Article, either party state may withdraw from this compact at any time by repealing the authorizing legislation, but no withdrawal may take effect until 5 years after the Governor of the withdrawing state gives notice in writing of the withdrawal to the Commission and to the Governor of the other state. Withdrawal does not affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal. Any host state which grants a disposal permit for waste generated in a withdrawing state shall void the permit when the withdrawal of that state is effective.

e) This compact becomes effective July 1, 1984, or at any date subsequent to July 1, 1984, upon enactment by the eligible states. However, Article IX(b) shall not take effect until the Congress has by law consented to this compact. The Congress shall have an opportunity to withdraw such consent every 5 years. Failure of the Congress affirmatively to

withdraw its consent has the effect of renewing consent for an additional 5 year period. The consent given to this compact by the Congress shall extend to the power of the region to ban the shipment of waste into the region pursuant to Article III(i)(1) and to prohibit exportation of waste generated within the region under Article III(i)(4).

f) A state which has been designated a host state may withdraw from the compact. The option to withdraw must be exercised within 90 days of the date the Governor of the designated state receives written notice of the designation. Withdrawal becomes effective immediately after notice is given in the following manner. The Governor of the withdrawing state shall give notice in writing to the Commission and to the Governor of each party state. A state which withdraws from the compact under this Section forfeits any funds already paid pursuant to this compact. A designated host state which withdraws from the compact after 90 days and prior to fulfilling its obligations shall be assessed a sum the Commission determines to be necessary to cover the costs borne by the Commission and remaining party states as a result of that withdrawal.

ARTICLE IX. PENALTIES

a) Each party state shall prescribe and enforce penalties against any person who is not an official of another state for violation of any provision of this compact.

b) Unless authorized by the Commission pursuant to Article III(i), or otherwise provided in this compact, after January 1, 1986 it is a violation of this compact:

1) for any person to deposit at a facility in the region waste from outside the region;

2) for any facility in the region to accept waste from outside the region;

3) for any person to export from the region waste that is generated within the region;

4) for any person to dispose of waste at a facility other than a regional facility;

5) for any person to deposit at a regional facility waste described in Article VII(a)(6); or

6) for any regional facility to accept waste described in Article VII(a)(6).

c) It is a violation of this compact for any person to treat or store waste at a facility other than a regional facility if such treatment or storage is prohibited by the Commission under Article III(i)(6).

d) Each party state acknowledges that the receipt by a host state of waste packaged or transported in violation of applicable laws, rules or regulations may result in the imposition of sanctions by the host state which may include suspension or revocation of the violator's right of access to the facility in the host state.

e) Each party state has the right to seek legal recourse

against any party state which acts in violation of this compact.

ARTICLE X. SEVERABILITY AND CONSTRUCTION

The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared by a court of competent jurisdiction to be contrary to the Constitution of any participating state or the United States, or if 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 government, agency, person or circumstance shall not be affected thereby. If any provision of this compact shall be held contrary to the Constitution of any state participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters.

(Source: P.A. 90-655, eff. 7-30-98.)

Section 10. The Radioactive Waste Compact Enforcement Act is amended by changing Section 15 as follows:

(45 ILCS 141/15)

Sec. 15. Definitions. In this Act:

"Commission" means the Central Midwest Interstate Low-Level Radioactive Waste Commission.

"Compact" means the Central Midwest Interstate Low-Level

Radioactive Waste Compact.

"Disposal" means the isolation of waste from the biosphere in a permanent facility designed for that purpose.

"Facility" means a parcel of land or site, together with the structures, equipment, and improvements on or appurtenant to the land or site, that is used or is being developed for the treatment, storage or disposal of low-level radioactive waste.

"Low-level radioactive waste" or "waste" means radioactive waste not classified as (1) high-level radioactive waste, (2) transuranic waste, (3) spent nuclear fuel, or (4) byproduct ~~by-product~~ material as defined in Sections Section 11e(2), 11e(3), and 11e(4) of the Atomic Energy Act (42 U.S.C. 2014). This definition shall apply notwithstanding any declaration by the federal government, a ~~or any~~ state, or any regulatory agency that any radioactive material is exempt from any regulatory control.

"Management plan" means the plan adopted by the Commission for the storage, transportation, treatment and disposal of waste within the region.

"Person" means any individual, corporation, business enterprise or other legal entity, public or private, and any legal successor, representative, agent or agency of that individual, corporation, business enterprise, or legal entity.

"Region" means the geographical area of the State of Illinois and the Commonwealth of Kentucky.

"Regional Facility" means any facility as defined in this

Act that is (1) located in Illinois, and (2) established by Illinois pursuant to designation of Illinois as a host state by the Commission.

"Storage" means the temporary holding of radioactive material for treatment or disposal.

"Treatment" means any method, technique or process, including storage for radioactive decay, designed to change the physical, chemical, or biological characteristics of the radioactive material in order to render the radioactive material safe for transport or management, amenable to recovery, convertible to another usable material, or reduced in volume.

(Source: P.A. 87-1166.)

Section 15. The Illinois Low-Level Radioactive Waste Management Act is amended by changing Section 3 as follows:

(420 ILCS 20/3) (from Ch. 111 1/2, par. 241-3)

Sec. 3. Definitions.

"Agency" means the Illinois Emergency Management Agency.

"Broker" means any person who takes possession of low-level waste for purposes of consolidation and shipment.

"Compact" means the Central Midwest Interstate Low-Level Radioactive Waste Compact.

"Decommissioning" means the measures taken at the end of a facility's operating life to assure the continued protection

of the public from any residual radioactivity or other potential hazards present at a facility.

"Director" means the Director of the Illinois Emergency Management Agency.

"Disposal" means the isolation of waste from the biosphere in a permanent facility designed for that purpose.

"Facility" means a parcel of land or site, together with structures, equipment and improvements on or appurtenant to the land or site, which is used or is being developed for the treatment, storage or disposal of low-level radioactive waste.

"Facility" does not include lands, sites, structures or equipment used by a generator in the generation of low-level radioactive wastes.

"Generator" means any person who produces or possesses low-level radioactive waste in the course of or incident to manufacturing, power generation, processing, medical diagnosis and treatment, research, education or other activity.

"Hazardous waste" means a waste, or combination of wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious, irreversible, or incapacitating reversible, illness; or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed, and which has been identified, by

characteristics or listing, as hazardous under Section 3001 of the Resource Conservation and Recovery Act of 1976, P.L. 94-580 or under regulations of the Pollution Control Board.

"High-level radioactive 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 the liquid waste that contains fission products in sufficient concentrations; and

(2) the highly radioactive material that the Nuclear Regulatory Commission has determined, on the effective date of this Amendatory Act of 1988, to be high-level radioactive waste requiring permanent isolation.

"Low-level radioactive waste" or "waste" means radioactive waste not classified as (1) high-level radioactive waste, (2) transuranic waste, (3) spent nuclear fuel, or (4) byproduct material as defined in Sections ~~Section~~ 11e(2), 11e(3), and 11e(4) of the Atomic Energy Act of 1954 (42 U.S.C. 2014). This definition shall apply notwithstanding any declaration by the federal government, a state, or any regulatory agency that any radioactive material is exempt from any regulatory control.

"Mixed waste" means waste that is both "hazardous waste" and "low-level radioactive waste" as defined in this Act.

"Person" means an individual, corporation, business enterprise or other legal entity either public or private and any legal successor, representative, agent or agency of that

individual, corporation, business enterprise, or legal entity.

"Post-closure care" means the continued monitoring of the regional disposal facility after closure for the purposes of detecting a need for maintenance, ensuring environmental safety, and determining compliance with applicable licensure and regulatory requirements, and includes undertaking any remedial actions necessary to protect public health and the environment from radioactive releases from the facility.

"Regional disposal facility" or "disposal facility" means the facility established by the State of Illinois under this Act for disposal away from the point of generation of waste generated in the region of the Compact.

"Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment of low-level radioactive waste.

"Remedial action" means those actions taken in the event of a release or threatened release of low-level radioactive waste into the environment, to prevent or minimize the release of the waste so that it does not migrate to cause substantial danger to present or future public health or welfare or the environment. The term includes, but is not limited to, actions at the location of the release such as storage, confinement, perimeter protection using dikes, trenches or ditches, clay cover, neutralization, cleanup of released low-level radioactive wastes, recycling or reuse, dredging or

excavations, repair or replacement of leaking containers, collection of leachate and runoff, onsite treatment or incineration, provision of alternative water supplies and any monitoring reasonably required to assure that these actions protect human health and the environment.

"Scientific Surveys" means, collectively, the Illinois State Geological Survey and the Illinois State Water Survey of the University of Illinois.

"Shallow land burial" means a land disposal facility in which radioactive waste is disposed of in or within the upper 30 meters of the earth's surface. However, this definition shall not include an enclosed, engineered, structurally re-enforced and solidified bunker that extends below the earth's surface.

"Storage" means the temporary holding of waste for treatment or disposal for a period determined by Agency regulations.

"Treatment" means any method, technique or process, including storage for radioactive decay, designed to change the physical, chemical or biological characteristics or composition of any waste in order to render the waste safer for transport, storage or disposal, amenable to recovery, convertible to another usable material or reduced in volume.

"Waste management" means the storage, transportation, treatment or disposal of waste.

(Source: P.A. 98-346, eff. 8-14-13.)

Section 20. The Radioactive Waste Tracking and Permitting Act is amended by changing Section 10 as follows:

(420 ILCS 37/10)

Sec. 10. Definitions.

(a) "Agency" means the Illinois Emergency Management Agency.

(b) "Director" means the Director of the Illinois Emergency Management Agency.

(c) "Disposal" means the isolation of waste from the biosphere in a permanent facility designed for that purpose.

(d) "Facility" means a parcel of land or a site, together with structures, equipment, and improvements on or appurtenant to the land or site, that is used or is being developed for the treatment, storage, or disposal of low-level radioactive waste.

(e) "Low-level radioactive waste" or "waste" means radioactive waste not classified as (1) high-level radioactive waste, (2) transuranic waste, (3) spent nuclear fuel, or (4) byproduct ~~by-product~~ material as defined in Sections ~~Section~~ 11e(2), 11e(3), and 11e(4) of the Atomic Energy Act (42 U.S.C. 2014). This definition shall apply notwithstanding any declaration by the federal government, ~~or~~ a state, or any regulatory agency that any radioactive material is exempt from any regulatory control.

(f) "Person" means an individual, corporation, business enterprise, or other legal entity, public or private, or any legal successor, representative, agent, or agency of that individual, corporation, business enterprise, or legal entity.

(g) "Regional facility" or "disposal facility" means a facility that is located in Illinois and established by Illinois, under designation of Illinois as a host state by the Commission for disposal of waste.

(h) "Storage" means the temporary holding of waste for treatment or disposal for a period determined by Agency regulations.

(i) "Treatment" means any method, technique, or process, including storage for radioactive decay, that is designed to change the physical, chemical, or biological characteristics or composition of any waste in order to render the waste safer for transport, storage, or disposal, amenable to recovery, convertible to another usable material, or reduced in volume.

(Source: P.A. 95-777, eff. 8-4-08.)

Section 99. Effective date. This Act takes effect upon becoming law.