

-STATUTE-

Nothing in this chapter shall preclude any Government agency now or hereafter authorized by law to engage in the production, marketing, or distribution of electric energy from obtaining a license under section 2133 of this title, if qualified under the provisions of said section, for the construction and operation of production or utilization facilities for the primary purpose of producing electric energy for disposition for ultimate public consumption.

-SOURCE-

(Aug. 1, 1946, ch. 724, title I, Sec. 273, as added Aug. 30, 1954, ch. 1073, Sec. 1, 68 Stat. 960; renumbered title I, Pub. L. 102-486, title IX, Sec. 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

-TRANS-

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See also Transfer of Functions notes set out under those sections.

-CITE-

42 USC Sec. 2021

01/02/01

-EXPCITE-

TITLE 42 - THE PUBLIC HEALTH AND WELFARE
CHAPTER 23 - DEVELOPMENT AND CONTROL OF ATOMIC ENERGY
Division A - Atomic Energy
SUBCHAPTER I - GENERAL PROVISIONS

-HEAD-

Sec. 2021. Cooperation with States

-STATUTE-

(a) Purpose

It is the purpose of this section -

(1) to recognize the interests of the States in the peaceful uses of atomic energy, and to clarify the respective responsibilities under this chapter of the States and the Commission with respect to the regulation of byproduct, source, and special nuclear materials;

(2) to recognize the need, and establish programs for, cooperation between the States and the Commission with respect to control of radiation hazards associated with use of such materials;

(3) to promote an orderly regulatory pattern between the Commission and State governments with respect to nuclear

development and use and regulation of byproduct, source, and special nuclear materials;

(4) to establish procedures and criteria for discontinuance of certain of the Commission's regulatory responsibilities with respect to byproduct, source, and special nuclear materials, and the assumption thereof by the States;

(5) to provide for coordination of the development of radiation standards for the guidance of Federal agencies and cooperation with the States; and

(6) to recognize that, as the States improve their capabilities to regulate effectively such materials, additional legislation may be desirable.

(b) Agreements with States

Except as provided in subsection (c) of this section, the Commission is authorized to enter into agreements with the Governor of any State providing for discontinuance of the regulatory authority of the Commission under subchapters V, VI, and VII of this division, and section 2201 of this title, with respect to any one or more of the following materials within the State -

(1) byproduct materials as defined in section 2014(e)(1) of this title;

(2) byproduct materials as defined in section 2014(e)(2) of this title;

(3) source materials;

(4) special nuclear materials in quantities not sufficient to form a critical mass.

During the duration of such an agreement it is recognized that the State shall have authority to regulate the materials covered by the agreement for the protection of the public health and safety from radiation hazards.

(c) Commission regulation of certain activities

No agreement entered into pursuant to subsection (b) of this section shall provide for discontinuance of any authority and the Commission shall retain authority and responsibility with respect to regulation of -

(1) the construction and operation of any production or utilization facility or any uranium enrichment facility;

(2) the export from or import into the United States of byproduct, source, or special nuclear material, or of any production or utilization facility;

(3) the disposal into the ocean or sea of byproduct, source, or special nuclear waste materials as defined in regulations or orders of the Commission;

(4) the disposal of such other byproduct, source, or special nuclear material as the Commission determines by regulation or order should, because of the hazards or potential hazards thereof, not be so disposed of without a license from the Commission.

The Commission shall also retain authority under any such agreement to make a determination that all applicable standards and requirements have been met prior to termination of a license for byproduct material, as defined in section 2014(e)(2) of this title. Notwithstanding any agreement between the Commission and any State pursuant to subsection (b) of this section, the Commission is authorized by rule, regulation, or order to require that the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source, byproduct, or special nuclear material shall not transfer possession or control of such product except pursuant to a license issued by the Commission.

(d) Conditions

The Commission shall enter into an agreement under subsection (b) of this section with any State if -

(1) The Governor of that State certifies that the State has a program for the control of radiation hazards adequate to protect the public health and safety with respect to the materials within the State covered by the proposed agreement, and that the State desires to assume regulatory responsibility for such materials; and

(2) the Commission finds that the State program is in accordance with the requirements of subsection (o) of this section and in all other respects compatible with the Commission's program for the regulation of such materials, and that the State program is adequate to protect the public health and safety with respect to the materials covered by the proposed agreement.

(e) Publication in Federal Register; comment of interested persons

(1) Before any agreement under subsection (b) of this section is signed by the Commission, the terms of the proposed agreement and of proposed exemptions pursuant to subsection (f) of this section shall be published once each week for four consecutive weeks in the Federal Register; and such opportunity for comment by interested persons on the proposed agreement and exemptions shall be allowed as the Commission determines by regulation or order to be appropriate.

(2) Each proposed agreement shall include the proposed effective date of such proposed agreement or exemptions. The agreement and exemptions shall be published in the Federal Register within thirty days after signature by the Commission and the Governor.

(f) Exemptions

The Commission is authorized and directed, by regulation or order, to grant such exemptions from the licensing requirements contained in subchapters V, VI, and VII of this division, and from its regulations applicable to licensees as the Commission finds necessary or appropriate to carry out any agreement entered into pursuant to subsection (b) of this section.

(g) Compatible radiation standards

The Commission is authorized and directed to cooperate with the States in the formulation of standards for protection against hazards of radiation to assure that State and Commission programs for protection against hazards of radiation will be coordinated and compatible.

(h) Consultative, advisory, and miscellaneous functions of Administrator of Environmental Protection Agency

The Administrator of the Environmental Protection Agency shall consult qualified scientists and experts in radiation matters, including the President of the National Academy of Sciences, the Chairman of the National Committee on Radiation Protection and Measurement, and qualified experts in the field of biology and medicine and in the field of health physics. The Special Assistant to the President for Science and Technology, or his designee, is authorized to attend meetings with, participate in the deliberations of, and to advise the Administrator. The Administrator shall advise the President with respect to radiation matters, directly or indirectly affecting health, including guidance for all Federal agencies in the formulation of radiation standards and in the establishment and execution of programs of cooperation with States. The Administrator shall also perform such other functions as the President may assign to him by Executive order.

(i) Inspections and other functions; training and other assistance

The Commission in carrying out its licensing and regulatory responsibilities under this chapter is authorized to enter into agreements with any State, or group of States, to perform inspections or other functions on a cooperative basis as the Commission deems appropriate. The Commission is also authorized to provide training, with or without charge, to employees of, and such other assistance to, any State or political subdivision thereof or group of States as the Commission deems appropriate. Any such provision or assistance by the Commission shall take into account the additional expenses that may be incurred by a State as a consequence of the State's entering into an agreement with the Commission pursuant to subsection (b) of this section.

(j) Reserve power to terminate or suspend agreements; emergency situations; State nonaction on causes of danger; authority exercisable only during emergency and commensurate with danger

(1) The Commission, upon its own initiative after reasonable notice and opportunity for hearing to the State with which an agreement under subsection (b) of this section has become effective, or upon request of the Governor of such State, may terminate or suspend all or part of its agreement with the State and reassert the licensing and regulatory authority vested in it under this chapter, if the Commission finds that (1) such termination or suspension is required to protect the public health

and safety, or (2) the State has not complied with one or more of the requirements of this section. The Commission shall periodically review such agreements and actions taken by the States under the agreements to ensure compliance with the provisions of this section.

(2) The Commission, upon its own motion or upon request of the Governor of any State, may, after notifying the Governor, temporarily suspend all or part of its agreement with the State without notice or hearing if, in the judgment of the Commission:

(A) an emergency situation exists with respect to any material covered by such an agreement creating danger which requires immediate action to protect the health or safety of persons either within or outside the State, and

(B) the State has failed to take steps necessary to contain or eliminate the cause of the danger within a reasonable time after the situation arose.

A temporary suspension under this paragraph shall remain in effect only for such time as the emergency situation exists and shall authorize the Commission to exercise its authority only to the extent necessary to contain or eliminate the danger.

(k) State regulation of activities for certain purposes

Nothing in this section shall be construed to affect the authority of any State or local agency to regulate activities for purposes other than protection against radiation hazards.

(l) Commission regulated activities; notice of filing; hearing

With respect to each application for Commission license authorizing an activity as to which the Commission's authority is continued pursuant to subsection (c) of this section, the Commission shall give prompt notice to the State or States in which the activity will be conducted of the filing of the license application; and shall afford reasonable opportunity for State representatives to offer evidence, interrogate witnesses, and advise the Commission as to the application without requiring such representatives to take a position for or against the granting of the application.

(m) Limitation of agreements and exemptions

No agreement entered into under subsection (b) of this section, and no exemption granted pursuant to subsection (f) of this section, shall affect the authority of the Commission under section 2201(b) or (i) of this title to issue rules, regulations, or orders to protect the common defense and security, to protect restricted data or to guard against the loss or diversion of special nuclear material. For purposes of section 2201(i) of this title, activities covered by exemptions granted pursuant to subsection (f) of this section shall be deemed to constitute activities authorized pursuant to this chapter; and special nuclear material acquired by any person pursuant to such an exemption shall be deemed to have been acquired pursuant to section 2073 of this title.

(n) ''State'' and ''agreement'' defined

As used in this section, the term ''State'' means any State, Territory, or possession of the United States, the Canal Zone, Puerto Rico, and the District of Columbia. As used in this section, the term ''agreement'' includes any amendment to any agreement.

(o) State compliance requirements: compliance with section 2113(b) of this title and health and environmental protection standards; procedures for licenses, rulemaking, and license impact analysis; amendment of agreements for transfer of State collected funds; proceedings duplication restriction; alternative requirements

In the licensing and regulation of byproduct material, as defined in section 2014(e)(2) of this title, or of any activity which results in the production of byproduct material as so defined under an agreement entered into pursuant to subsection (b) of this section, a State shall require -

(1) compliance with the requirements of subsection (b) of section 2113 of this title (respecting ownership of byproduct material and land), and

(2) compliance with standards which shall be adopted by the State for the protection of the public health, safety, and the environment from hazards associated with such material which are equivalent, to the extent practicable, or more stringent than, standards adopted and enforced by the Commission for the same purpose, including requirements and standards promulgated by the Commission and the Administrator of the Environmental Protection Agency pursuant to sections 2113, 2114, and 2022 of this title, and

(3) procedures which -

(A) in the case of licenses, provide procedures under State law which include -

(i) an opportunity, after public notice, for written comments and a public hearing, with a transcript,
(ii) an opportunity for cross examination, and
(iii) a written determination which is based upon findings included in such determination and upon the evidence presented during the public comment period and which is subject to judicial review;

(B) in the case of rulemaking, provide an opportunity for public participation through written comments or a public hearing and provide for judicial review of the rule;

(C) require for each license which has a significant impact on the human environment a written analysis (which shall be available to the public before the commencement of any such proceedings) of the impact of such license, including any activities conducted pursuant thereto, on the environment, which analysis shall include -

(i) an assessment of the radiological and nonradiological

impacts to the public health of the activities to be conducted pursuant to such license;

(ii) an assessment of any impact on any waterway and groundwater resulting from such activities;

(iii) consideration of alternatives, including alternative sites and engineering methods, to the activities to be conducted pursuant to such license; and

(iv) consideration of the long-term impacts, including decommissioning, decontamination, and reclamation impacts, associated with activities to be conducted pursuant to such license, including the management of any byproduct material, as defined by section 2014(e)(2) of this title; and

(D) prohibit any major construction activity with respect to such material prior to complying with the provisions of subparagraph (C).

If any State under such agreement imposes upon any licensee any requirement for the payment of funds to such State for the reclamation or long-term maintenance and monitoring of such material, and if transfer to the United States of such material is required in accordance with section 2113(b) of this title, such agreement shall be amended by the Commission to provide that such State shall transfer to the United States upon termination of the license issued to such licensee the total amount collected by such State from such licensee for such purpose. If such payments are required, they must be sufficient to ensure compliance with the standards established by the Commission pursuant to section 2201(x) of this title. No State shall be required under paragraph (3) to conduct proceedings concerning any license or regulation which would duplicate proceedings conducted by the Commission. In adopting requirements pursuant to paragraph (2) of this subsection with respect to sites at which ores are processed primarily for their source material content or which are used for the disposal of byproduct material as defined in section 2014(e)(2) of this title, the State may adopt alternatives (including, where appropriate, site-specific alternatives) to the requirements adopted and enforced by the Commission for the same purpose if, after notice and opportunity for public hearing, the Commission determines that such alternatives will achieve a level of stabilization and containment of the sites concerned, and a level of protection for public health, safety, and the environment from radiological and nonradiological hazards associated with such sites, which is equivalent to, to the extent practicable, or more stringent than the level which would be achieved by standards and requirements adopted and enforced by the Commission for the same purpose and any final standards promulgated by the Administrator of the Environmental Protection Agency in accordance with section 2022 of this title. Such alternative State requirements may take into account local or regional conditions, including geology,

topography, hydrology and meteorology.

-SOURCE-

(Aug. 1, 1946, ch. 724, title I, Sec. 274, as added Pub. L. 86-373, Sec. 1, Sept. 23, 1959, 73 Stat. 688; amended 1970 Reorg. Plan No. 3, Sec. 2(a)(7), 6(2), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. 2086; Pub. L. 95-604, title II, Sec. 204(a)-(e)(1), (f), Nov. 8, 1978, 92 Stat. 3036-3038; Pub. L. 96-295, title II, Sec. 205, June 30, 1980, 94 Stat. 787; Pub. L. 97-415, Sec. 19(a), Jan. 4, 1983, 96 Stat. 2078; renumbered title I and amended Pub. L. 102-486, title IX, Sec. 902(a)(6), (8), Oct. 24, 1992, 106 Stat. 2944.)

-REFTEXT-

REFERENCES IN TEXT

For definition of Canal Zone, referred to in subsec. (n), see section 3602(b) of Title 22, Foreign Relations and Intercourse.

-COD-

CODIFICATION

In subsec. (h) of this section, provisions for the establishment of a Federal Radiation Council and for the designation of its Chairman and members have been omitted and the Administrator of the Environmental Protection Agency has been substituted for the Council as the person charged with the responsibility of carrying out the functions of the Council pursuant to Reorg. Plan No. 3 of 1970, Sec. 2(a)(7), 6(2), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. 2086, set out in the Appendix to Title 5, Government Organization and Employees, which abolished the Federal Radiation Council and transferred its functions to the Administrator of the Environmental Protection Administration.

-MISC3-

AMENDMENTS

1992 - Subsec. (c)(1). Pub. L. 102-486, Sec. 902(a)(6), inserted before semicolon at end "'or any uranium enrichment facility'".

1983 - Subsec. (o). Pub. L. 97-415 inserted provisions relating to the adoption of equivalent alternative requirements by the States.

1980 - Subsec. (j). Pub. L. 96-295 designated existing provisions as par. (1) and added par. (2).

1978 - Subsec. (b). Pub. L. 95-604, Sec. 204(a), inserted in par. (1) "'as defined in section 2014(e)(1) of this title'" after "'byproduct materials'", added par. (2), and redesignated former pars. (2) and (3) as (3) and (4), respectively.

Subsec. (c). Pub. L. 95-604, Sec. 204(f), required the Commission to retain authority under the agreement to make a determination that all applicable standards and requirements have been met prior to termination of a license for byproduct material as defined in

section 2014(e)(2) of this title.

Subsec. (d)(2). Pub. L. 95-604, Sec. 204(b), inserted ''in accordance with the requirements of subsection (o) of this section and in all other respects'' before ''compatible''.

Subsec. (j). Pub. L. 95-604, Sec. 204(d), inserted ''all or part of'' after ''suspend'', designated provision requiring termination or suspension be necessary to protect the public health and safety as cl. (1), added cl. (2), and inserted provision requiring the Commission to periodically review the agreements and actions taken by the States under the agreements to ensure compliance with the provisions of this section.

Subsec. (n). Pub. L. 95-604, Sec. 204(c), inserted definition of ''agreement''.

Subsec. (o). Pub. L. 95-604, Sec. 204(e)(1), added subsec. (o).

EFFECTIVE DATE OF 1978 AMENDMENT

Section 204(e)(2) of Pub. L. 95-604, as added by Pub. L. 96-106, Sec. 22(d), Nov. 9, 1979, 93 Stat. 800, provided that: ''The provisions of the amendment made by paragraph (1) of this subsection (which adds a new subsection o. to section 274 of the Atomic Energy Act of 1954 (this section)) shall apply only to the maximum extent practicable during the three-year period beginning on the date of the enactment of this Act (Nov. 8, 1978).''

Amendment by Pub. L. 95-604 effective Nov. 8, 1978, see section 208 of Pub. L. 95-604, set out as a note under section 2014 of this title.

-TRANS-

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See also Transfer of Functions notes set out under those sections.

-MISC5-

STATE AUTHORITIES AND AGREEMENTS RESPECTING BYPRODUCT MATERIAL; ENTRY AND EFFECTIVE DATES OF AGREEMENTS

Section 204(g), (h) of Pub. L. 95-604, as amended by Pub. L. 96-106, Sec. 22(a), (b), Nov. 9, 1979, 93 Stat. 799; Pub. L. 97-415, Sec. 19(b), Jan. 4, 1983, 96 Stat. 2079, provided that:

''(g) Nothing in any amendment made by this section (amending this section) shall preclude any State from exercising any other authority as permitted under the Atomic Energy Act of 1954 (this chapter) respecting any byproduct material, as defined in section 11 e. (2) of the Atomic Energy Act of 1954 (section 2014(e)(2) of this title).

''(h)(1) During the three-year period beginning on the date of the enactment of this Act (Nov. 8, 1978), notwithstanding any other provision of this title (See Effective Date of 1978 Amendment note set out under section 2014 of this title), any State may exercise

any authority under State law (including authority exercised pursuant to an agreement entered into pursuant to section 274 of the Atomic Energy Act of 1954 (this section)) respecting (A) byproduct material, as defined in section 11 e. (2) of the Atomic Energy Act of 1954 (section 2014(e)(2) of this title), or (B) any activity which results in the production of byproduct material as so defined, in the same manner and to the same extent as permitted before the date of the enactment of this Act, except that such State authority shall be exercised in a manner which, to the extent practicable, is consistent with the requirements of section 274 o. of the Atomic Energy Act of 1954 (as added by section 204(e) of this Act) (subsec. (o) of this section). The Commission shall have the authority to ensure that such section 274 o. is implemented by any such State to the extent practicable during the three-year period beginning on the date of the enactment of this Act. Nothing in this section shall be construed to preclude the Commission or the Administrator of the Environmental Protection Agency from taking such action under section 275 of the Atomic Energy Act of 1954 (section 2022 of this title) as may be necessary to implement title I of this Act (section 7911 et seq. of this title).

''(2) An agreement entered into with any State as permitted under section 274 of the Atomic Energy Act of 1954 (this section) with respect to byproduct material as defined in section 11 e. (2) of such Act. (section 2014(e)(2) of this title), may be entered into at any time after the date of the enactment of this Act (Nov. 8, 1978) but no such agreement may take effect before the date three years after the date of the enactment of this Act.

''(3) Notwithstanding any other provision of this title (See Effective Date of 1978 Amendment note set out under section 2014 of this title), where a State assumes or has assumed, pursuant to an agreement entered into under section 274 b. of the Atomic Energy Act of 1954 (subsec. (b) of this section), authority over any activity which results in the production of byproduct material, as defined in section 11 e. (2) of such Act (section 2014(e)(2) of this title), the Commission shall not, until the end of the three-year period beginning on the date of the enactment of this Act (Nov. 8, 1978), have licensing authority over such byproduct material produced in any activity covered by such agreement, unless the agreement is terminated, suspended, or amended to provide for such Federal licensing. If, at the end of such three-year period, a State has not entered into such an agreement with respect to byproduct material, as defined in section 11 e. (2) of the Atomic Energy Act of 1954, the Commission shall have authority over such byproduct material: Provided, however, That, in the case of a State which has exercised any authority under State law pursuant to an agreement entered into under section 274 of the Atomic Energy Act of 1954 (this section), the State authority over such byproduct material may be terminated, and the Commission authority over such

material may be exercised, only after compliance by the Commission with the same procedures as are applicable in the case of termination of agreements under section 274j. of the Atomic Energy Act of 1954 (subsec. (j) of this section).''

FEDERAL COMPLIANCE WITH POLLUTION CONTROL STANDARDS

For provisions relating to the responsibility of the head of each Executive agency for compliance with applicable pollution control standards, see Ex. Ord. No. 12088, Oct. 13, 1978, 43 F.R. 47707, set out as a note under section 4321 of this title.

-EXEC-

EXECUTIVE ORDER NO. 12192

Ex. Ord. No. 12192, Feb. 12, 1980, 45 F.R. 9727, which established the State Planning Council on Radioactive Waste Management and provided for its membership, functions, etc., was revoked by Ex. Ord. No. 12379, Sec. 13, Aug. 17, 1982, 47 F.R. 36099, set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5, Government Organization and Employees.

-SECREP-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2021b, 2021f, 2022, 2296a-3, 5851, 7911, 7918, 7925, 7941, 10171 of this title; title 21 section 360jj; title 29 section 653.

-CITE-

42 USC Sec. 2021a

01/02/01

-EXPCITE-

TITLE 42 - THE PUBLIC HEALTH AND WELFARE
CHAPTER 23 - DEVELOPMENT AND CONTROL OF ATOMIC ENERGY
Division A - Atomic Energy
SUBCHAPTER I - GENERAL PROVISIONS

-HEAD-

Sec. 2021a. Storage or disposal facility planning

-STATUTE-

(a) Any person, agency, or other entity proposing to develop a storage or disposal facility, including a test disposal facility, for high-level radioactive wastes, non-high-level radioactive wastes including transuranium contaminated wastes, or irradiated nuclear reactor fuel, shall notify the Commission as early as possible after the commencement of planning for a particular proposed facility. The Commission shall in turn notify the Governor and the State legislature of the State of proposed situs whenever the Commission has knowledge of such proposal.

(b) The Commission is authorized and directed to prepare a report on means for improving the opportunities for State participation in the process for siting, licensing, and developing nuclear waste storage or disposal facilities. Such report shall include detailed consideration of a program to provide grants through the Commission to any State, and the advisability of such a program, for the purpose of conducting an independent State review of any proposal to develop a nuclear waste storage or disposal facility identified in subsection (a) of this section within such State. On or before March 1, 1979, the Commission shall submit the report to the Congress including recommendations for improving the opportunities for State participation together with any necessary legislative proposals.

-SOURCE-

(Pub. L. 95-601, Sec. 14, Nov. 6, 1978, 92 Stat. 2953.)

-REFTEXT-

REFERENCES IN TEXT

Commission, referred to in text, probably means the Nuclear Regulatory Commission in view of the fact that this section was enacted as part of the act authorizing appropriations for the Nuclear Regulatory Commission for fiscal year 1979.

-COD-

CODIFICATION

Section was enacted as part of an act authorizing appropriations to the Nuclear Regulatory Commission for fiscal year 1979, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

-MISC3-

PLAN FOR PERMANENT DISPOSAL OF WASTE FROM ATOMIC ENERGY DEFENSE ACTIVITIES; SUBMISSION OF PLAN TO CONGRESS NOT LATER THAN JUNE 30, 1983

Pub. L. 97-90, title II, Sec. 213, Dec. 4, 1981, 95 Stat. 1171, directed President to submit to Committees on Armed Services of Senate and of House of Representatives not later than June 30, 1983, a report setting forth his plans for permanent disposal of high-level and transuranic wastes resulting from atomic energy defense activities, such report to include, but not be limited to, for each State in which such wastes are stored in interim storage facilities on Dec. 4, 1981, specific estimates of amounts planned for expenditure in each of the next five fiscal years to achieve the permanent disposal of such wastes and general estimates of amounts planned for expenditure in fiscal years thereafter to achieve such purpose, and a thorough and detailed program management plan for the disposal of such wastes.

WEST VALLEY DEMONSTRATION PROJECT; RADIOACTIVE WASTE MANAGEMENT;
PROJECT ACTIVITIES; PUBLIC HEARINGS; REVIEW OF PROJECT AND
CONSULTATIONS; AUTHORIZATION OF APPROPRIATIONS; REPORT TO CONGRESS

Pub. L. 96-368, Oct. 1, 1980, 94 Stat. 1347, as amended by Pub.
L. 102-154, title I, Nov. 13, 1991, 105 Stat. 1000, provided that:

'Section 1. This Act may be cited as the 'West Valley
Demonstration Project Act'.

'Sec. 2. (a) The Secretary shall carry out, in accordance with
this Act, a high level radioactive waste management demonstration
project at the Western New York Service Center in West Valley, New
York, for the purpose of demonstrating solidification techniques
which can be used for preparing high level radioactive waste for
disposal. Under the project the Secretary shall carry out the
following activities:

'(1) The Secretary shall solidify, in a form suitable for
transportation and disposal, the high level radioactive waste at
the Center by vitrification or by such other technology which the
Secretary determines to be the most effective for solidification.

'(2) The Secretary shall develop containers suitable for the
permanent disposal of the high level radioactive waste solidified
at the Center.

'(3) The Secretary shall, as soon as feasible, transport, in
accordance with applicable provisions of law, the waste
solidified at the Center to an appropriate Federal repository for
permanent disposal.

'(4) The Secretary shall, in accordance with applicable
licensing requirements, dispose of low level radioactive waste
and transuranic waste produced by the solidification of the high
level radioactive waste under the project.

'(5) The Secretary shall decontaminate and decommission -

'(A) the tanks and other facilities of the Center in which
the high level radioactive waste solidified under the project
was stored,

'(B) the facilities used in the solidification of the waste,
and

'(C) any material and hardware used in connection with the
project,

in accordance with such requirements as the Commission may
prescribe.

'(b) Before undertaking the project and during the fiscal year
ending September 30, 1981, the Secretary shall carry out the
following:

'(1) The Secretary shall hold in the vicinity of the Center
public hearings to inform the residents of the area in which the
Center is located of the activities proposed to be undertaken
under the project and to receive their comments on the project.

'(2) The Secretary shall consider the various technologies
available for the solidification and handling of high level

radioactive waste taking into account the unique characteristics of such waste at the Center.

''(3) The Secretary shall -

''(A) undertake detailed engineering and cost estimates for the project,

''(B) prepare a plan for the safe removal of the high level radioactive waste at the Center for the purposes of solidification and include in the plan provisions respecting the safe breaching of the tanks in which the waste is stored, operating equipment to accomplish the removal, and sluicing techniques,

''(C) conduct appropriate safety analyses of the project, and

''(D) prepare required environmental impact analyses of the project.

''(4) The Secretary shall enter into a cooperative agreement with the State in accordance with the Federal Grant and Cooperative Agreement Act of 1977 (see section 6301 et seq. of Title 31, Money and Finance) under which the State will carry out the following:

''(A) The State will make available to the Secretary the facilities of the Center and the high level radioactive waste at the Center which are necessary for the completion of the project. The facilities and the waste shall be made available without the transfer of title and for such period as may be required for completion of the project.

''(B) The Secretary shall provide technical assistance in securing required license amendments.

''(C) The State shall pay 10 per centum of the costs of the project, as determined by the Secretary. In determining the costs of the project, the Secretary shall consider the value of the use of the Center for the project. The State may not use Federal funds to pay its share of the cost of the project, but may use the perpetual care fund to pay such share.

''(D) Submission jointly by the Department of Energy and the State of New York of an application for a licensing amendment as soon as possible with the Nuclear Regulatory Commission providing for the demonstration.

''(c) Within one year from the date of the enactment of this Act (Oct. 1, 1980), the Secretary shall enter into an agreement with the Commission to establish arrangements for review and consultation by the Commission with respect to the project: Provided, That review and consultation by the Commission pursuant to this subsection shall be conducted informally by the Commission and shall not include nor require formal procedures or actions by the Commission pursuant to the Atomic Energy Act of 1954, as amended (this chapter), the Energy Reorganization Act of 1974, as amended (section 5801 et seq. of this title), or any other law. The agreement shall provide for the following:

''(1) The Secretary shall submit to the Commission, for its review and comment, a plan for the solidification of the high level radioactive waste at the Center, the removal of the waste for purposes of its solidification, the preparation of the waste for disposal, and the decontamination of the facilities to be used in solidifying the waste. In preparing its comments on the plan, the Commission shall specify with precision its objections to any provision of the plan. Upon submission of a plan to the Commission, the Secretary shall publish a notice in the Federal Register of the submission of the plan and of its availability for public inspection, and, upon receipt of the comments of the Commission respecting a plan, the Secretary shall publish a notice in the Federal Register of the receipt of the comments and of the availability of the comments for public inspection. If the Secretary does not revise the plan to meet objections specified in the comments of the Commission, the Secretary shall publish in the Federal Register a detailed statement for not so revising the plan.

''(2) The Secretary shall consult with the Commission with respect to the form in which the high level radioactive waste at the Center shall be solidified and the containers to be used in the permanent disposal of such waste.

''(3) The Secretary shall submit to the Commission safety analysis reports and such other information as the Commission may require to identify any danger to the public health and safety which may be presented by the project.

''(4) The Secretary shall afford the Commission access to the Center to enable the Commission to monitor the activities under the project for the purpose of assuring the public health and safety.

''(d) In carrying out the project, the Secretary shall consult with the Administrator of the Environmental Protection Agency, the Secretary of Transportation, the Director of the United States Geological Survey, and the commercial operator of the Center.

''Sec. 3. (a) There are authorized to be appropriated to the Secretary for the project not more than \$5,000,000 for the fiscal year ending September 30, 1981.

''(b) The total amount obligated for the project by the Secretary shall be 90 per centum of the costs of the project.

''(c) The authority of the Secretary to enter into contracts under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.

''Sec. 4. Not later than February 1, 1981, and on February 1 of each calendar year thereafter during the term of the project, the Secretary shall transmit to the Speaker of the House of Representatives and the President pro tempore of the Senate an up-to-date report containing a detailed description of the

activities of the Secretary in carrying out the project, including agreements entered into and the costs incurred during the period reported on and the activities to be undertaken in the next fiscal year and the estimated costs thereof.

''Sec. 5. (a) Other than the costs and responsibilities established by this Act for the project, nothing in this Act shall be construed as affecting any rights, obligations, or liabilities of the commercial operator of the Center, the State, or any person, as is appropriate, arising under the Atomic Energy Act of 1954 (this chapter) or under any other law, contract, or agreement for the operation, maintenance, or decontamination of any facility or property at the Center or for any wastes at the Center. Nothing in this Act shall be construed as affecting any applicable licensing requirement of the Atomic Energy Act of 1954 or the Energy Reorganization Act of 1974 (section 5801 et seq. of this title). This Act shall not apply or be extended to any facility or property at the Center which is not used in conducting the project. This Act may not be construed to expand or diminish the rights of the Federal Government.

''(b) This Act does not authorize the Federal Government to acquire title to any high level radioactive waste at the Center or to the Center or any portion thereof.

''Sec. 6. For purposes of this Act:

''(1) The term 'Secretary' means the Secretary of Energy.

''(2) The term 'Commission' means the Nuclear Regulatory Commission.

''(3) The term 'State' means the State of New York.

''(4) The term 'high level radioactive waste' means the high level radioactive waste which was produced by the reprocessing at the Center of spent nuclear fuel. Such term includes both liquid wastes which are produced directly in reprocessing, dry solid material derived from such liquid waste, and such other material as the Commission designates as high level radioactive waste for purposes of protecting the public health and safety.

''(5) The term 'transuranic waste' means material contaminated with elements which have an atomic number greater than 92, including neptunium, plutonium, americium, and curium, and which are in concentrations greater than 10 nanocuries per gram, or in such other concentrations as the Commission may prescribe to protect the public health and safety.

''(6) The term 'low level radioactive waste' means radioactive waste not classified as high level radioactive waste, transuranic waste, or byproduct material as defined in section 11e. (2) of the Atomic Energy Act of 1954 (section 2014(e)(2) of this title).

''(7) The term 'project' means the project prescribed by section 2(a).

''(8) The term 'Center' means the Western New York Service Center in West Valley, New York.''

(For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103-7 (in which a report required under section 4 of Pub. L. 96-368, set out above, is listed in item 1 on page 84), see section 3003 of Pub. L. 104-66, as amended, and section 1(a)(4) (div. A, Sec. 1402(1)) of Pub. L. 106-554, set out as notes under section 1113 of Title 31, Money and Finance.)

-CITE-

42 USC Sec. 2021b

01/02/01

-EXPCITE-

TITLE 42 - THE PUBLIC HEALTH AND WELFARE
CHAPTER 23 - DEVELOPMENT AND CONTROL OF ATOMIC ENERGY
Division A - Atomic Energy
SUBCHAPTER I - GENERAL PROVISIONS

-HEAD-

Sec. 2021b. Definitions

-STATUTE-

For purposes of sections 2021b to 2021j of this title:

(1) Agreement State

The term ''agreement State'' means a State that -

(A) has entered into an agreement with the Nuclear Regulatory Commission under section 2021 of this title; 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 sections 2021b to 2021j of this title.

(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 2133 or 2134(b) of this title.

(4) Compact

The term ''compact'' means a compact entered into by two or more States pursuant to sections 2021b to 2021j of this title.

(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 2014(e)(2) of this title); 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.

(14) State

The term ''State'' means any State of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

-SOURCE-

(Pub. L. 96-573, Sec. 2, as added Pub. L. 99-240, title I, Sec. 102, Jan. 15, 1986, 99 Stat. 1842.)

-COD-

CODIFICATION

Section was enacted as part of the Low-Level Radioactive Waste Policy Act, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

-MISC3-

PRIOR PROVISIONS

A prior section 2021b, Pub. L. 96-573, Sec. 2, Dec. 22, 1980, 94 Stat. 3347, related to definitions respecting low-level radioactive waste policy as used in former sections 2021b to 2021d of this title, prior to repeal by Pub. L. 99-240, Sec. 102.

SHORT TITLE OF 1986 AMENDMENT

Section 101 of title I of Pub. L. 99-240 provided that: ''This Title (enacting this section and sections 2021c to 2021j of this title, repealing former sections 2021b to 2021d of this title, and enacting and repealing a provision set out as a note under this section) may be cited as the 'Low-Level Radioactive Waste Policy Amendments Act of 1985'.''

SHORT TITLE

Section 1 of Pub. L. 96-573, as added by Pub. L. 99-240, title I, Sec. 102, Jan. 15, 1986, 99 Stat. 1842, provided that: ''This Act (enacting sections 2021b to 2021j of this title) may be cited as the 'Low-Level Radioactive Waste Policy Act'.''

A prior section 1 of Pub. L. 96-573 which provided that Pub. L. 96-573 (enacting former sections 2021b to 2021d of this title) could be cited as the ''Low-Level Radioactive Waste Policy Act'' was repealed by Pub. L. 99-240, title I, Sec. 102, Jan. 15, 1986, 99 Stat. 1842.

-SECREf-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2021d, 2021e, 2021f, 2021g, 2023, 2297h of this title.

-CITE-

42 USC Sec. 2021c

01/02/01

-EXPCITE-

TITLE 42 - THE PUBLIC HEALTH AND WELFARE
CHAPTER 23 - DEVELOPMENT AND CONTROL OF ATOMIC ENERGY
Division A - Atomic Energy
SUBCHAPTER I - GENERAL PROVISIONS

-HEAD-

Sec. 2021c. Responsibilities for disposal of low-level radioactive waste

-STATUTE-

(a)(1) 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 -

(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 (FOOTNOTE 1) 2021e or 2021f of this title.

(FOOTNOTE 1) So in original. Probably should be ''section''.

(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 this chapter, 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 January 15, 1986, 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.

-SOURCE-

(Pub. L. 96-573, Sec. 3, as added Pub. L. 99-240, title I, Sec. 102, Jan. 15, 1986, 99 Stat. 1843.)

-REFTEXT-

REFERENCES IN TEXT

January 15, 1986, referred to in subsec. (b)(3), was in the original ''the date of enactment of this Act'' and was translated as meaning the date of enactment of Pub. L. 99-240 to reflect the probable intent of Congress.

-COD-

CODIFICATION

Section was enacted as part of the Low-Level Radioactive Waste Policy Act, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

-MISC3-

PRIOR PROVISIONS

A prior section 2021c, Pub. L. 96-573, Sec. 3, Dec. 22, 1980, 94 Stat. 3347, related to the applicability of low-level radioactive waste compacts, prior to repeal by Pub. L. 99-240, Sec. 102. See

section 2021d of this title.

-SECREP-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2021b, 2021d, 2021e, 2021f, 2021g, 2023 of this title.

-CITE-

42 USC Sec. 2021d

01/02/01

-EXPCITE-

TITLE 42 - THE PUBLIC HEALTH AND WELFARE

CHAPTER 23 - DEVELOPMENT AND CONTROL OF ATOMIC ENERGY

Division A - Atomic Energy

SUBCHAPTER I - GENERAL PROVISIONS

-HEAD-

Sec. 2021d. Regional compacts for disposal of low-level radioactive waste

-STATUTE-

(a) In general

(1) Federal policy

It is the policy of the Federal Government that the responsibilities of the States under section 2021c of this title for the disposal of low-level radioactive waste can be most safely and effectively managed on a regional basis.

(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 2021c(a)(1)(B)(i)-(iii) of this title.

(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.

(3) Effect of compacts on Federal law

Nothing contained in sections 2021b to 2021j of this title or any compact may be construed to confer any new authority on any compact commission or State -

(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;

(B) to regulate health, safety, or environmental hazards from source material, byproduct material, or special nuclear material;

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

(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 (commonly referred to as the Federal Tort Claims Act), or section 2210 of this title, whichever is applicable.

(4) Federal authority

Except as expressly provided in sections 2021b to 2021j of this title, nothing contained in sections 2021b to 2021j of this title 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.

(5) State authority preserved

Except as expressly provided in sections 2021b to 2021j of this title, nothing contained in sections 2021b to 2021j of this title expands, diminishes, or otherwise affects State law.

(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.

-SOURCE-

(Pub. L. 96-573, Sec. 4, as added Pub. L. 99-240, title I, Sec. 102, Jan. 15, 1986, 99 Stat. 1845.)

-REFTEXT-

REFERENCES IN TEXT

The Federal Tort Claims Act, referred to in subsec. (b)(3)(E), is classified generally to section 1346(b) and chapter 171 (Sec. 2671 et seq.) of Title 28, Judiciary and Judicial Procedure.

-COD-

CODIFICATION

Section was enacted as part of the Low-Level Radioactive Waste Policy Act, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

-MISC3-

PRIOR PROVISIONS

A prior section 2021d, Pub. L. 96-573, Sec. 4, Dec. 22, 1980, 94 Stat. 3348, related to policy of Federal Government concerning low-level radioactive waste disposal, implementation of that policy, and a report to Congress and the States to assist in carrying out the policy, prior to repeal by Pub. L. 99-240, Sec. 102.

TEXAS LOW-LEVEL RADIOACTIVE WASTE DISPOSAL COMPACT CONSENT ACT
Pub. L. 105-236, Sept. 20, 1998, 112 Stat. 1542, provided that:

'SECTION 1. SHORT TITLE.

'This Act may be cited as the 'Texas Low-Level Radioactive Waste Disposal Compact Consent Act'.

'SEC. 2. CONGRESSIONAL FINDING.

'The Congress finds that the compact set forth in section 5 is in furtherance of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021b et seq.).

'SEC. 3. CONDITIONS OF CONSENT TO COMPACT.

'The consent of the Congress to the compact set forth in section 5 -

'(1) shall become effective on the date of the enactment of this Act (Sept. 20, 1998);

'(2) is granted subject to the provisions of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021b et seq.); and

'(3) is granted only for so long as the regional commission established in the compact complies with all of the provisions of such Act.

'SEC. 4. CONGRESSIONAL REVIEW.

'The Congress may alter, amend, or repeal this Act with respect to the compact set forth in section 5 after the expiration of the 10-year period following the date of the enactment of this Act (Sept. 20, 1998), and at such intervals thereafter as may be provided in such compact.

'SEC. 5. TEXAS LOW-LEVEL RADIOACTIVE WASTE COMPACT.

'(a) Consent of Congress. - In accordance with section 4(a)(2) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021d(a)(2)), the consent of Congress is given to the States of Texas, Maine, and Vermont to enter into the compact set forth in subsection (b).

'(b) Text of Compact. - The compact reads substantially as follows: (Text of compact appears at 112 Stat. 1543)''.

SOUTHWESTERN LOW-LEVEL RADIOACTIVE WASTE DISPOSAL COMPACT CONSENT
ACT

Pub. L. 100-712, Nov. 23, 1988, 102 Stat. 4773, provided that:

'SECTION 1. SHORT TITLE.

'This Act may be cited as the 'Southwestern Low-Level Radioactive Waste Disposal Compact Consent Act'(.)

'SEC. 2. CONGRESSIONAL FINDING.

'The Congress finds that the compact set forth in section 5 is in furtherance of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021b-2021j).

'SEC. 3. CONDITIONS OF CONSENT TO COMPACT.

'The consent of the Congress to the compact set forth in section 5 -

'(1) shall become effective on the date of the enactment of this Act (Nov. 23, 1988);

'(2) is granted subject to the provisions of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021b-2021j); and

'(3) is granted only for so long as the regional commission established in the compact complies with all of the provisions of such Act.

'SEC. 4. CONGRESSIONAL REVIEW.

'The Congress may alter, amend, or repeal this Act with respect to the compact set forth in section 5 after the expiration of the 10-year period following the date of enactment of this Act (Nov. 23, 1988), and at such intervals thereafter as may be provided in such compact.

'SEC. 5. SOUTHWESTERN LOW-LEVEL RADIOACTIVE WASTE COMPACT.

'In accordance with section 4(a)(2) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021d(a)(2)), the consent of Congress is given to the states of Arizona, California, and any eligible states, as defined in article VII of the Southwestern Low-Level Radioactive Waste Disposal Compact, to enter into such compact. Such compact is substantially as follows: (Text of compact appears at 102 Stat. 4773)''.

APPALACHIAN STATES LOW-LEVEL RADIOACTIVE WASTE COMPACT CONSENT ACT
Pub. L. 100-319, May 19, 1988, 102 Stat. 471, provided that:

'SECTION 1. SHORT TITLE.

'This Act may be cited as the 'Appalachian States Low-Level
Radioactive Waste Compact Consent Act'.

'SEC. 2. CONGRESSIONAL FINDING.

'The Congress finds that the compact set forth in section 5 is
in furtherance of the Low-Level Radioactive Waste Policy Act (42
U.S.C. 2021b-2021j).

'SEC. 3. CONDITIONS OF CONSENT TO COMPACT.

'The consent of the Congress to the compact set forth in section
5 -

'(1) shall become effective on the date of the enactment of
this Act (May 19, 1988),

'(2) is granted subject to the provisions of the Low-Level
Radioactive Waste Policy Act (42 U.S.C. 2021b-2021j), and

'(3) is granted only for so long as the Appalachian States
Low-Level Radioactive Waste Commission, advisory committees, and
regional boards established in the compact comply with all the
provisions of such Act.

'SEC. 4. CONGRESSIONAL REVIEW.

'The Congress may alter, amend, or repeal this Act with respect
to the compact set forth in section 5 after the expiration of the
10-year period following the date of the enactment of this Act (May
19, 1988), and at such intervals thereafter as may be provided for
in such compact.

'SEC. 5. APPALACHIAN STATES LOW-LEVEL RADIOACTIVE WASTE COMPACT.

'In accordance with section 4(a)(2) of the Low-Level Radioactive
Waste Policy Act (42 U.S.C. 2021d(A)(2) (42 U.S.C. 2021d(a)(2))),
the consent of Congress is given to the States of Pennsylvania,
West Virginia, and any eligible States as defined in Article 5(A)
of the Appalachian States Low-Level Radioactive Waste Compact to
enter into such compact. Such compact is substantially as follows:
(Text of compact appears at 102 Stat. 471)''.

OMNIBUS LOW-LEVEL RADIOACTIVE WASTE INTERSTATE COMPACT CONSENT ACT
Pub. L. 99-240, title II, Jan. 15, 1986, 99 Stat. 1859, provided
that:

'SEC. 201. SHORT TITLE.

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

'SUBTITLE A - GENERAL PROVISIONS

'SEC. 211. CONGRESSIONAL FINDING.

'The Congress hereby finds that each of the compacts set forth
in subtitle B is in furtherance of the Low-Level Radioactive Waste
Policy Act (42 U.S.C. 2021b-2021j).

'SEC. 212. CONDITIONS OF CONSENT TO COMPACTS.

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

'(1) shall become effective on the date of the enactment of this Act (Jan. 15, 1986);

'(2) is granted subject to the provisions of the Low-Level Radioactive Waste Policy Act, as amended (42 U.S.C. 2021b-2021j); and

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

'SEC. 213. CONGRESSIONAL REVIEW.

'The Congress may alter, amend, or repeal this Act with respect to any compact set forth in subtitle B after the expiration of the 10-year period following the date of the enactment of this Act (Jan. 15, 1986), and at such intervals thereafter as may be provided in such compact.

'SUBTITLE B - CONGRESSIONAL CONSENT TO COMPACTS

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

'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: (Text of compact appears at 99 Stat. 1860.)

'SEC. 222. CENTRAL INTERSTATE LOW-LEVEL RADIOACTIVE WASTE COMPACT.

'The consent of Congress is hereby given to the states of Arkansas, Iowa, Kansas, Louisiana, Minnesota, Missouri, Nebraska, North Dakota, and Oklahoma to enter into the Central Interstate Low-Level Radioactive Waste Compact, and to each and every part and article thereof. Such compact reads substantially as follows: (Text of compact appears at 99 Stat. 1863.)

'SEC. 223. SOUTHEAST INTERSTATE LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT COMPACT.

'In accordance with section 4(a)(2) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021d(a)(2)), the consent of the Congress is hereby given to the States of Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia to enter into the Southeast Interstate Low-Level Radioactive Waste Management Compact. Such compact is substantially as follows: (Text of compact appears at 99 Stat. 1871; 103 Stat. 1289.)

'SEC. 224. CENTRAL MIDWEST INTERSTATE LOW-LEVEL RADIOACTIVE WASTE COMPACT.

'In accordance with section 4(a)(2) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021d(a)(2)), the consent of the Congress hereby is given to the States of Illinois and Kentucky to enter into the Central Midwest Interstate Low-Level Radioactive Waste Compact. Such compact is substantially as follows: (Text of compact appears at 99 Stat. 1880; 108 Stat. 4607.)

'SEC. 225. MIDWEST INTERSTATE LOW-LEVEL RADIOACTIVE WASTE
MANAGEMENT COMPACT.

'The consent of Congress is hereby given to the States of Iowa, Indiana, Michigan, Minnesota, Missouri, Ohio, and Wisconsin to enter into the Midwest Interstate Compact on Low-level Radioactive Waste Management. Such compact is as follows: (Text of compact appears at 99 Stat. 1892.)

'SEC. 226. ROCKY MOUNTAIN LOW-LEVEL RADIOACTIVE WASTE COMPACT.

'In accordance with section 4(a)(2) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021d(a)(2)), the consent of the Congress hereby is given to the States of Arizona, Colorado, Nevada, New Mexico, Utah, and Wyoming to enter into the Rocky Mountain Interstate Low-Level Radioactive Waste Compact. Such compact is substantially as follows: (Text of compact appears at 99 Stat. 1902.)

'SEC. 227. NORTHEAST INTERSTATE LOW-LEVEL RADIOACTIVE WASTE
MANAGEMENT COMPACT.

'In accordance with section 4(a)(2) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021d(a)(2)), the consent of the Congress is hereby given to the States of Connecticut, New Jersey, Delaware, and Maryland to enter into the Northeast Interstate Low-Level Radioactive Waste Management Compact. Such compact is substantially as follows: (Text of compact appears at 99 Stat. 1910.).'

-SECREP-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2021b, 2021e, 2021f, 2021g, 2023 of this title.

-CITE-

42 USC Sec. 2021e

01/02/01

-EXPCITE-

TITLE 42 - THE PUBLIC HEALTH AND WELFARE
CHAPTER 23 - DEVELOPMENT AND CONTROL OF ATOMIC ENERGY
Division A - Atomic Energy
SUBCHAPTER I - GENERAL PROVISIONS

-HEAD-

Sec. 2021e. Limited availability of certain regional disposal facilities during transition and licensing periods

-STATUTE-

(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) of this section, each State in which there is located a regional disposal facility referred to in paragraphs (1) through (3) of subsection (b) of this section 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) of this section.

(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) of this section, each State in which there is located a regional disposal facility referred to in paragraphs (1) through (3) of subsection (b) of this section 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) of this section 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) of this section 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) of this section: 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) of this section 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) of this section.

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

(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) of this section 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) of this section 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) of this section 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

PWR

4-year Transition Period -- In Sited Region: 1027
4-year Transition Period -- All Other Locations: 871
3-year Licensing Period -- In Sited Region: 934
3-year Licensing Period -- All Other Locations: 685

BWR

4-year Transition Period -- In Sited Region: 2300
4-year Transition Period -- All Other Locations: 1951
3-year Licensing Period -- In Sited Region: 2091
3-year Licensing Period -- All Other Locations: 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) of this section 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.

(6) Limitation

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

(d) Use of surcharge funds for milestone incentives; consequences of failure to meet disposal deadline

(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) of this section, such surcharges shall not exceed -

(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) of this section 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 January 15, 1986, 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) of this section is met by the State in which such waste originated.

(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 December 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) of this section 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) of this section 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 subparagraph (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.

(FOOTNOTE 1) So in original. Probably should be 'subparagraph'.

(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).

(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.

(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) of this section.

(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 sections 2021b to 2021j of this title. 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.

(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).

(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) of this section; 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) of this section.

(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) of this section; 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) of this section; 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) of this section.

(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) of this section.

(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) of this section.

(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 this subsection shall be terminated after the non-sited compact region or non-member State involved complies with such requirements.

(f) Monitoring of compliance and denial of access to non-Federal facilities for noncompliance; information requirements of certain States; proprietary information

(1) Administration

Each State and compact commission in which a regional disposal facility referred to in paragraphs (1) through (3) of subsection (b) of this section 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) of this section.

(2) Availability of information during interim access period

(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.

(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.

(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 sections 2021b to 2021j of this title may be required to disclose such information under State law.

(g) Nondiscrimination

Except as provided in subsections (b) through (e) of this section, 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.

-SOURCE-

(Pub. L. 96-573, Sec. 5, as added Pub. L. 99-240, title I, Sec. 102, Jan. 15, 1986, 99 Stat. 1846.)

-COD-

CODIFICATION

Section was enacted as part of the Low-Level Radioactive Waste Policy Act, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

-SECREP-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2021b, 2021c, 2021d, 2021f, 2021g, 2023 of this title.

-CITE-

42 USC Sec. 2021f

01/02/01

-EXPCITE-

TITLE 42 - THE PUBLIC HEALTH AND WELFARE
CHAPTER 23 - DEVELOPMENT AND CONTROL OF ATOMIC ENERGY
Division A - Atomic Energy
SUBCHAPTER I - GENERAL PROVISIONS

-HEAD-

Sec. 2021f. Emergency access

-STATUTE-

(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.

(c) Determination of Nuclear Regulatory Commission

(1) Required determination

Not later than 45 days after receiving a request under subsection (b) of this section, 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 2021e(c) of this title or ceasing activities that generate low-level radioactive waste.

(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) of this section, no extension of emergency access may be granted absent diligent State action during the period of the initial grant.

(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) of this section. 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.

(e) Extension of emergency access

The Nuclear Regulatory Commission may grant one extension of emergency access beyond the period provided in subsection (c) of this section, 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) of this section.

(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.

(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 sections 2021b to 2021j of this title.

(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 2021e(c) of this title.

(k) Agreement States

Any agreement under section 2021 of this title shall not be applicable to the determinations of the Nuclear Regulatory Commission under this section.

-SOURCE-

(Pub. L. 96-573, Sec. 6, as added Pub. L. 99-240, title I, Sec. 102, Jan. 15, 1986, 99 Stat. 1855.)

-COD-

CODIFICATION

Section was enacted as part of the Low-Level Radioactive Waste Policy Act, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

-SECREP-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2021b, 2021c, 2021d, 2021e, 2021g, 2023 of this title.

-CITE-

42 USC Sec. 2021g

01/02/01

-EXPCITE-

TITLE 42 - THE PUBLIC HEALTH AND WELFARE
CHAPTER 23 - DEVELOPMENT AND CONTROL OF ATOMIC ENERGY
Division A - Atomic Energy
SUBCHAPTER I - GENERAL PROVISIONS

-HEAD-

Sec. 2021g. Responsibilities of Department of Energy

-STATUTE-

(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 determined (FOOTNOTE 1) by the Secretary to require assistance for purposes of carrying out sections 2021b to 2021j of this title -

(FOOTNOTE 1) So in original. Probably should be ''determined''.

(1) continuing technical assistance to assist them in fulfilling their responsibilities under sections 2021b to 2021j of this title. 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 data-base 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 sections 2021b to 2021j of this title.

(b) Omitted

-SOURCE-

(Pub. L. 96-573, Sec. 7, as added Pub. L. 99-240, title I, Sec. 102, Jan. 15, 1986, 99 Stat. 1858.)

-COD-

CODIFICATION

Subsec. (b) of this section, which required the Secretary to prepare and submit to Congress on an annual basis a report on low-level waste disposal, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, item 2 on page 84 of House Document No. 103-7.

Section was enacted as part of the Low-Level Radioactive Waste Policy Act, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

-SECREP-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2021b, 2021d, 2021e, 2021f, 2023 of this title.

-CITE-

42 USC Sec. 2021h

01/02/01

-EXPCITE-

TITLE 42 - THE PUBLIC HEALTH AND WELFARE
CHAPTER 23 - DEVELOPMENT AND CONTROL OF ATOMIC ENERGY
Division A - Atomic Energy
SUBCHAPTER I - GENERAL PROVISIONS

-HEAD-

Sec. 2021h. Alternative disposal methods

-STATUTE-

(a) Not later than 12 months after January 15, 1986, 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 January 15, 1986, 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) of this section 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.

-SOURCE-

(Pub. L. 96-573, Sec. 8, as added Pub. L. 99-240, title I, Sec. 102, Jan. 15, 1986, 99 Stat. 1858.)

-COD-

CODIFICATION

Section was enacted as part of the Low-Level Radioactive Waste Policy Act, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

-SECREP-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2021b, 2021d, 2021e, 2021f, 2021g, 2023 of this title.

-CITE-

42 USC Sec. 2021i

01/02/01

-EXPCITE-

TITLE 42 - THE PUBLIC HEALTH AND WELFARE
CHAPTER 23 - DEVELOPMENT AND CONTROL OF ATOMIC ENERGY
Division A - Atomic Energy
SUBCHAPTER I - GENERAL PROVISIONS

-HEAD-

Sec. 2021i. Licensing review and approval

-STATUTE-

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 (FOOTNOTE 1) shall -

(FOOTNOTE 1) So in original. Probably should be ''States''.

(1) not later than 12 months after January 15, 1986, establish procedures and develop the technical capability for processing applications for such licenses;

(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.

-SOURCE-

(Pub. L. 96-573, Sec. 9, as added Pub. L. 99-240, title I, Sec. 102, Jan. 15, 1986, 99 Stat. 1859.)

-COD-

CODIFICATION

Section was enacted as part of the Low-Level Radioactive Waste Policy Act, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

-SECREf-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2021b, 2021d, 2021e, 2021f, 2021g, 2023 of this title.

-CITE-

42 USC Sec. 2021j

01/02/01

-EXPCITE-

TITLE 42 - THE PUBLIC HEALTH AND WELFARE
CHAPTER 23 - DEVELOPMENT AND CONTROL OF ATOMIC ENERGY
Division A - Atomic Energy
SUBCHAPTER I - GENERAL PROVISIONS

-HEAD-

Sec. 2021j. Radioactive waste below regulatory concern

-STATUTE-

(a) Not later than 6 months after January 15, 1986, 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) of this section 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.

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.

-SOURCE-

(Pub. L. 96-573, Sec. 10, as added Pub. L. 99-240, title I, Sec. 102, Jan. 15, 1986, 99 Stat. 1859.)

-COD-

CODIFICATION

Section was enacted as part of the Low-Level Radioactive Waste Policy Act, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.