

1 AN ACT concerning government.

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

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

6 (45 ILCS 140/1) (from Ch. 127, par. 63v-1)

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

9 ARTICLE I. POLICY AND PURPOSE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 ARTICLE II. DEFINITIONS

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

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

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

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

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

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

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

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

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

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

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

1 minor custodial care, and other necessary activities at the
2 site as determined by the host state, and administration of
3 funds to cover the costs for these activities. The period of
4 institutional control will be determined by the host state,
5 but institutional control may not be relied upon for more than
6 100 years following transfer of control of the disposal site
7 to the state or federal government.

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

16 k) "Low-level radioactive waste" or "waste" means
17 radioactive waste not classified as (1) high-level radioactive
18 waste, (2) transuranic waste, (3) spent nuclear fuel, or (4)
19 byproduct ~~by product~~ material as defined in Sections ~~Section~~
20 11e(2), 11e(3), and 11e(4) of the Atomic Energy Act of 1954 (42
21 U.S.C. 2014). This definition shall apply notwithstanding any
22 declaration by the federal government, a state, or any
23 regulatory agency that any radioactive material is exempt from
24 any regulatory control.

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

1 disposal of waste within the region.

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

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

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

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

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

19 r) "Shallow-land burial" means a land disposal facility in
20 which radioactive waste is disposed of in or within the upper
21 30 meters of the earth's surface; however, this definition
22 shall not include an enclosed, engineered, strongly
23 structurally enforced and solidified bunker that extends below
24 the earth's surface.

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

26 t) "Source reduction" means those administrative practices

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

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

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

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

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

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

24 ARTICLE III. THE COMMISSION

25 a) There is created the Central Midwest Interstate

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

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

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

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

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

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

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

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

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

8 i) The Commission may:

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

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

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

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

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

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

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

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

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

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

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

7 j) The Commission shall:

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

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

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

1 regarding this compact.

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

5 5) Adopt an annual budget.

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

8 1) Each state, upon becoming a party state, shall pay
9 \$50,000 to the Commission which shall be used for the
10 administrative costs of the Commission.

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

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

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

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

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

3 m) The Commission may accept for any of its purposes and
4 functions and may utilize and dispose of any donations, grants
5 of money, equipment, supplies, materials and services from any
6 state or the United States (or any subdivision or agency
7 thereof), or interstate agency, or from any institution,
8 person, firm or corporation. The nature, amount and condition,
9 if any, attendant upon any donation or grant accepted or
10 received by the Commission together with the identity of the
11 donor, grantor or lender, shall be detailed in the annual
12 report of the Commission. The Commission shall establish
13 guidelines for the acceptance of donations, grants, equipment,
14 supplies, materials and services and shall review such
15 guidelines annually.

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

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

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

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

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

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

14 ARTICLE IV. REGIONAL MANAGEMENT PLAN

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

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

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

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

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

10 ARTICLE V. RIGHTS AND OBLIGATIONS OF PARTY STATES

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

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

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

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

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

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

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

22 ARTICLE VI. DEVELOPMENT AND OPERATION OF FACILITIES

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

25 b) If all regional facilities required by the regional

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

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

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

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

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

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

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

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

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

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

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

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

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

8 1) If a regional facility closes before an additional or
9 new facility becomes operational, waste generated within the
10 region may be shipped temporarily to any location agreed on by
11 the Commission until a regional facility is operational,
12 provided that the region's waste shall not be stored in a party
13 state with a total volume of waste recorded on low-level
14 radioactive waste manifests for any year which is less than
15 10% of the total volume recorded on the manifests for the
16 region during the same year. In determining the 10% exclusion,
17 there shall not be included waste recorded on low-level
18 radioactive waste manifests by a person whose principal
19 business is providing a service by arranging for the
20 collection, transportation, treatment, storage or disposal of
21 such waste, or waste described in Article VII(a) (6).

22 m) A party state which is designated as a host state by the
23 Commission and fails to fulfill its obligations as a host
24 state may have its privileges under the compact suspended or
25 membership in the compact revoked by the Commission.

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

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

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

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

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

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

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

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

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

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

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

20 ARTICLE VII. OTHER LAWS AND REGULATIONS

21 a) Nothing in this compact:

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

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

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

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

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

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

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

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

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

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

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

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

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

22 ARTICLE IX. PENALTIES

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

1 b) Unless authorized by the Commission pursuant to Article
2 III(i), or otherwise provided in this compact, after January
3 1, 1986 it is a violation of this compact:

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

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

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

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

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

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

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

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

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

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

3 ARTICLE X. SEVERABILITY AND CONSTRUCTION

4 The provisions of this compact shall be severable and if
5 any phrase, clause, sentence or provision of this compact is
6 declared by a court of competent jurisdiction to be contrary
7 to the Constitution of any participating state or the United
8 States, or if the applicability thereof to any government,
9 agency, person or circumstance is held invalid, the validity
10 of the remainder of this compact and the applicability thereof
11 to any government, agency, person or circumstance shall not be
12 affected thereby. If any provision of this compact shall be
13 held contrary to the Constitution of any state participating
14 therein, the compact shall remain in full force and effect as
15 to the state affected as to all severable matters.

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

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

19 (45 ILCS 141/15)

20 Sec. 15. Definitions. In this Act:

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

23 "Compact" means the Central Midwest Interstate Low-Level

1 Radioactive Waste Compact.

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

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

8 "Low-level radioactive waste" or "waste" means radioactive
9 waste not classified as (1) high-level radioactive waste, (2)
10 transuranic waste, (3) spent nuclear fuel, or (4) byproduct
11 ~~by-product~~ material as defined in Sections ~~Section~~ 11e(2),
12 11e(3), and 11e(4) of the Atomic Energy Act (42 U.S.C. 2014).
13 This definition shall apply notwithstanding any declaration by
14 the federal government, a ~~or any~~ state, or any regulatory
15 agency that any radioactive material is exempt from any
16 regulatory control.

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

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

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

26 "Regional Facility" means any facility as defined in this

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

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

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

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

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

16 (420 ILCS 20/3) (from Ch. 111 1/2, par. 241-3)

17 Sec. 3. Definitions.

18 "Agency" means the Illinois Emergency Management Agency.

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

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

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

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

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

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

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

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

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

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

1 characteristics or listing, as hazardous under Section 3001 of
2 the Resource Conservation and Recovery Act of 1976, P.L.
3 94-580 or under regulations of the Pollution Control Board.

4 "High-level radioactive waste" means:

5 (1) the highly radioactive material resulting from the
6 reprocessing of spent nuclear fuel including liquid waste
7 produced directly in reprocessing and any solid material
8 derived from the liquid waste that contains fission
9 products in sufficient concentrations; and

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

14 "Low-level radioactive waste" or "waste" means radioactive
15 waste not classified as (1) high-level radioactive waste, (2)
16 transuranic waste, (3) spent nuclear fuel, or (4) byproduct
17 material as defined in Sections ~~Section~~ 11e(2), 11e(3), and
18 11e(4) of the Atomic Energy Act of 1954 (42 U.S.C. 2014). This
19 definition shall apply notwithstanding any declaration by the
20 federal government, a state, or any regulatory agency that any
21 radioactive material is exempt from any regulatory control.

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

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

1 individual, corporation, business enterprise, or legal entity.

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

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

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

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

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

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

9 "Shallow land burial" means a land disposal facility in
10 which radioactive waste is disposed of in or within the upper
11 30 meters of the earth's surface. However, this definition
12 shall not include an enclosed, engineered, structurally
13 re-enforced and solidified bunker that extends below the
14 earth's surface.

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

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

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

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

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

3 (420 ILCS 37/10)

4 Sec. 10. Definitions.

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

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

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

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

16 (e) "Low-level radioactive waste" or "waste" means
17 radioactive waste not classified as (1) high-level radioactive
18 waste, (2) transuranic waste, (3) spent nuclear fuel, or (4)
19 byproduct ~~by-product~~ material as defined in Sections ~~Section~~
20 11e(2), 11e(3), and 11e(4) of the Atomic Energy Act (42 U.S.C.
21 2014). This definition shall apply notwithstanding any
22 declaration by the federal government, ~~or~~ a state, or any
23 regulatory agency that any radioactive material is exempt from
24 any regulatory control.

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

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

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

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

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

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