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U.S. House of Representatives
Committee on Commerce
Room 2125, Rayburn House Office Building
Washington, DC 20515-6115

September 23, 1996

JAMES E. DERDERIAN CHIEF OF STAFF

The Honorable Shirley Ann Jackson
Chairman
Nuclear Regulatory Commission
11555 Rockville Pike
Rockville, Maryland 20852

Dear Chairman Jackson:

Enclosed is legislation which I understand has been approved by each of the legislatures and Governors of the States represented in the Midwest Interstate Low-Level Radioactive Waste Compact. The legislation makes amendments to the Midwest Compact's underlying statutory framework, as established by the Low-Level Radioactive Waste Policy Act (42 USC 2021b et seq.).

In an effort to be of assistance to the Subcommittee, I am requesting that you provide an analysis of the language and any comments you may have about the effect the amendments would have on the operation of the Compact. I would appreciate knowing of any concerns you may have on specific provisions of the proposed compact amendments, as well as any observations on possible conflicts between the proposed amendments and the underlying Federal statute.

Thank you for your assistance in this matter. If you have any questions in this regard, please feel free to contact Troy Timmons of the full Commerce Committee staff at 202/225-4441.

Sincerely,

Dan Schaefer

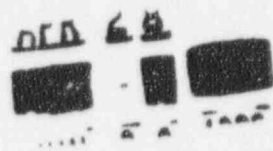
Chairman

Subcommittee on Energy and Power

DS/tdt

Enclosure

9611080266 961031
PDR COMMS NRCC
CORRESPONDENCE PDR



AN ACT

NOTE
This is the final version
of the bill that will be
transmitted to the Governor's
desk. Check House Index Department
for updated status (256 6646)

1 relating to the environment; adopting changes to the
2 Midwest Interstate Compact on Low-Level Radioactive
3 Waste; making conforming changes; amending Minnesota
4 Statutes 1994, sections 116C.831; 116C.832,
5 subdivision 1, and by adding a subdivision; 116C.833,
6 subdivision 2; 116C.834, subdivision 1, and by adding
7 a subdivision; 116C.835, subdivision 6; 116C.836,
8 subdivision 2; and 116C.842, by adding subdivisions;
9 proposing coding for new law in Minnesota Statutes,
10 chapter 116C; repealing Minnesota Statutes 1994,
11 sections 116C.832, subdivisions 2, 7, and 8; 116C.837;
12 116C.839; 116C.840, subdivision 3; 116C.841; 116C.842,
13 subdivisions 1, 2, and 3; 116C.845; 116C.846;
14 116C.847; and 116C.848.
15

16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

17 Section 1. Minnesota Statutes 1994, section 116C.831, is

18 amended to read:

19 116C.831 [MIDWEST INTERSTATE LOW-LEVEL RADIOACTIVE WASTE
20 COMPACT.]

21 The Midwest Interstate Low-Level Radioactive Waste Compact
22 is enacted into law and entered into with all jurisdictions
23 legally joining therein in the form substantially as follows:

24 ARTICLE I. POLICY AND PURPOSE

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

27 The states party to this compact recognize that the
28 Congress of the United States, by enacting the Low-Level
29 Radioactive Waste Policy Act (United States Code, title 42,
30 sections 2021b to 2021d 2021j), as amended through December

1 31, 1982 1985, has provided for and encouraged ~~the development~~ ~~of~~ ~~low-level radioactive waste compacts as a~~ ~~development~~ ~~of~~ ~~disposing of~~ such waste. The party states acknowledge that the
2 of low-level radioactive waste compacts as a ~~development~~ ~~of~~ ~~disposing of~~ such waste. The party states acknowledge that the
3 disposing of such waste. The party states acknowledge that the
4 Congress has declared that each state is responsible for
5 providing for the availability of capacity either within or
6 outside the state for the disposal of low-level radioactive
7 waste generated within its borders, except for waste generated
8 as a result of certain defense activities of the federal
9 government or federal research and development activities. The
10 party states also recognize that the ~~management~~ disposal of
11 low-level radioactive waste is handled most efficiently on a
12 regional basis; and, that the safe and efficient management of
13 low-level radioactive waste generated within the region requires
14 that sufficient capacity to ~~manage~~ dispose of such waste be
15 properly provided.

16 a. It is the policy of the party states to enter into a
17 regional low-level radioactive waste ~~management~~ disposal compact
18 for the purpose of:

19 1. Providing the instrument and framework for a
20 cooperative effort;

21 2. Providing sufficient facilities for the proper
22 ~~management~~ disposal of low-level radioactive waste generated in
23 the region;

24 3. Protecting the health and safety of the citizens of the
25 region;

26 4. Limiting the number of facilities required to
27 effectively and efficiently ~~manage~~ dispose of low-level
28 radioactive waste generated in the region;

29 5. Encouraging the source reduction ~~of the amounts of~~
30 ~~low-level radioactive waste generated in the region and the~~
31 environmentally sound treatment of waste that is generated to
32 minimize the amount of waste to be disposed of;

33 6. ~~Distributing~~ Ensuring that the costs, ~~benefits~~
34 expenses, liabilities, and obligations of successful low-level
35 radioactive waste ~~management equitably among the party states~~
36 and among disposal are paid by generators and other persons who

1 use ~~separate~~ compact facilities to ~~manage~~ dispose of their
2 waste; and

3 7. Ensuring that the obligations of low-level radioactive
4 waste disposal that are the responsibility of the party states
5 are shared equitably among them;

6 8. Ensuring that the party states that comply with the
7 terms of this compact and fulfill their obligations under it
8 share equitably in the benefits of the successful disposal of
9 low-level radioactive waste; and

10 9. Ensuring the ~~ecological~~ and environmentally sound,
11 economical ~~management~~, and secure disposal of low-level
12 radioactive wastes.

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

17 1. Expeditious enforcement of federal rules, regulations
18 and laws;

19 2. Imposition of sanctions against those found to be in
20 violation of federal rules, regulations and laws; and

21 3. Timely inspection of their licensees to determine their
22 compliance with these rules, regulations and laws.

23 ARTICLE II. DEFINITIONS

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

26 a. "Care" means the continued observation of a facility
27 after ~~closure~~ closing for the purposes of detecting a need for
28 maintenance, ensuring environmental safety, and determining
29 compliance with applicable licensure and regulatory requirements
30 and including the correction of problems which are detected as a
31 result of that observation.

32 b. "Close," "closed," or "closing" means that the compact
33 facility with respect to which any of those terms is used has
34 ceased to accept waste for disposal. "Permanently closed" means
35 that the compact facility with respect to which the term is used
36 has ceased to accept waste because it has operated for 20 years

1 or a longer period of time as authorized by article VI.1. of
2 this compact, its capacity has been reached, the Commission has
3 authorized it to close pursuant to article III.h.7. of this
4 compact, the host state of such facility has withdrawn from the
5 compact or had its membership revoked, or this compact has been
6 dissolved.

7 c. "Commission" means the Midwest Interstate Low-Level
8 Radioactive Waste Commission.

9 ~~cr--"Decommissioning"--means-the-measures-taken-at-the-end~~
10 ~~of-a-facility's-operating-life-to-assure-the-continued~~
11 ~~protection-of-the-public-from-any-residual-radioactivity-or~~
12 ~~other-potential-hazards-present-at-a-facility~~

13 d. "Compact facility" means a waste disposal facility that
14 is located within the region and that is established by a party
15 state pursuant to the designation of that state as a host state
16 by the Commission.

17 e. "Development" includes the characterization of
18 potential sites for a waste disposal facility, siting of such a
19 facility, licensing of such a facility, and other actions taken
20 by a host state prior to the commencement of construction of
21 such a facility to fulfill its obligations as a host state.

22 f. ~~"Disposal" means-the-isolation-of-waste-from-the~~
23 ~~biosphere-in-a-permanent-facility-designed-for-that-purpose with~~
24 regard to low-level radioactive waste, means the permanent
25 isolation of that waste in accordance with the requirements
26 established by the United States Nuclear Regulatory Commission
27 or the licensing agreement state.

28 ~~g. "Eligible state" means-a-state-qualified-to-be-a-party~~
29 ~~state-to-this-compact-as-provided-in-the-compact~~

30 g. "Disposal plan" means the plan adopted by the
31 Commission for the disposal of waste within the region.

32 h. "Facility" means a parcel of land or site, together
33 with the structures, equipment and improvements on or
34 appurtenant to the land or site, which is or has been used
35 ~~being developed~~ for the ~~treatment, storage or disposal of~~
36 low-level radioactive waste, which is being developed for that

1 purpose, or upon which the construction of improvements or
2 installation of equipment is occurring for that purpose.

3 i. "Final decision" means a final action of the
4 Commission determining the legal rights, duties, or privileges
5 of any person. "Final decision" does not include preliminary,
6 procedural, or intermediate actions by the Commission, actions
7 regulating the internal administration of the Commission, or
8 actions of the Commission to enter into or refrain from entering
9 into contracts or agreements with vendors to provide goods or
10 services to the Commission.

11 j. "Generator" means any person who first produces or
12 possesses low-level radioactive waste, including, without
13 limitation, any person who does so in the course of or incident
14 to manufacturing, power generation, processing, waste treatment,
15 waste storage, medical diagnosis and treatment, research, or
16 other industrial or commercial activity and who, to the extent
17 required by law, is licensed by the U.S. Nuclear Regulatory
18 Commission or a party state, to produce or possess such waste.
19 Generator does not include a person who provides a service by
20 arranging for the collection, transportation, treatment, storage
21 or disposal of wastes generated outside the region. If the
22 person who first produced an item or quantity of waste cannot be
23 identified, "generator" means the person first possessing the
24 waste who can be identified.

25 h. k. "Host state" means any state which is designated by
26 the Commission to host a regional compact facility or has hosted
27 a compact facility.

28 l. "Long-term care" means those activities taken by a host
29 state after a compact facility is permanently closed to ensure
30 the protection of air, land, and water resources and the health
31 and safety of all people who may be affected by the facility.

32 m. "Low-level radioactive waste" or "waste" means
33 radioactive waste that is not classified as high-level
34 radioactive waste, transuranic waste, spent nuclear fuel or
35 by-product material as defined in section 111(2) of the Atomic
36 Energy Act of 1954, (United States Code, title 42, section 2014).

1 ~~Management plan means the plan adopted by the~~
2 ~~Commission for the storage, transportation, treatment, and~~
3 ~~disposal of waste within the region~~ and that is class A, B, or
4 C low-level radioactive waste as defined in Code of Federal
5 Regulations, title 10, section 61.55, as that section existed on
6 January 26, 1983. Low-level radioactive waste or waste does not
7 include any such radioactive waste that is owned or generated by
8 the United States Department of Energy; by the United States
9 Navy as a result of the decommissioning of its vessels; or as a
10 result of any research, development, testing, or production of
11 any atomic weapon.

12 n. "Operates," "operational," or "operating" means that
13 the compact facility with respect to which any of those terms is
14 used accepts waste for disposal.

15 o. "Party state" means any eligible state which that
16 enacts the this compact into law, pays any eligibility fee
17 established by the Commission, and has not withdrawn from this
18 compact or had its membership in this compact revoked, provided
19 that a state that has withdrawn from this compact or had its
20 membership revoked again becomes a party state if it is
21 readmitted to membership in this compact pursuant to article
22 VIII.a. of this compact. Party state includes any host state.
23 Party state also includes any statutorily created administrative
24 departments, agencies, or instrumentalities of a party state,
25 but does not include municipal corporations, regional or local
26 units of government, or other political subdivisions of a party
27 state that are responsible for governmental activities on less
28 than a statewide basis.

29 p. "Person" means any individual,
30 corporation, association, business enterprise or other legal
31 entity either public or private and any legal successor,
32 representative, agent, or agency of that individual,
33 corporation, association, business enterprise, or other legal
34 entity. Person also includes the United States, states,
35 political subdivisions of states, and any department, agency, or
36 instrumentality of the United States or a state.

1 ~~or g.~~ "Region" means the area of the party states.
2 ~~or h.~~ ~~"Regional facility" means a facility which is located~~
3 ~~within the region and which is established by a party state~~
4 ~~pursuant to designation of that state as a host state by the~~
5 ~~Commission.~~
6 ~~or i.~~ "Site" means the geographic location of a facility.
7 ~~or j.~~ "State" means a state of the United States, the
8 District of Columbia, the Commonwealth of Puerto Rico, the
9 Virgin Islands or any other territorial possession of the United
10 States.

11 ~~or k.~~ "Storage" means the temporary holding of waste ~~for~~
12 ~~treatment or disposal.~~

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

19 ~~or m.~~ "Waste management," "manage waste," "management of
20 waste," "management," or "managed" means the
21 storage, ~~transportation~~ treatment, or disposal of waste.

ARTICLE III. THE COMMISSION

23 a. There is hereby created the Midwest Interstate
24 Low-Level Radioactive Waste Commission. The Commission consists
25 of one voting member from each party state. The Governor of
26 each party state shall notify the Commission in writing of its
27 member and any alternates. An alternate may act on behalf of
28 the member only in that member's absence. The method for
29 selection and the expenses of each Commission member shall be
30 the responsibility of the member's respective state.

31 b. Each Commission member is entitled to one vote. ~~No~~
32 Except as otherwise specifically provided in this compact, an
33 action of the Commission is binding unless if a majority of the
34 total membership casts its vote in the affirmative.
35 A party state may direct its member or alternate member of the
36 Commission how to vote or not vote on matters before the

1 Commission.

2 c. The Commission shall elect annually from among its
3 members a chairperson. The Commission shall adopt and publish,
4 in convenient form, bylaws, and policies which are not
5 inconsistent with this compact, including procedures for the use
6 of binding arbitration under article VI.c. of this compact and
7 procedures which substantially conform with the provisions
8 of the federal law on Administrative Procedure Act compiled at
9 United States Code, title 5, sections 500 to 559, ~~as amended~~
10 ~~through December 31, 1967~~, in regard to notice, conduct and
11 recording of meetings; access by the public to records;
12 provision of information to the public; conduct of adjudicatory
13 hearings; and issuance of decisions.

14 d. The Commission shall meet at least once annually and
15 shall also meet upon the call of the chairperson or a any other
16 Commission member.

17 e. All meetings of the Commission shall be open to the
18 public with reasonable advance notice. The Commission may, by
19 majority vote, close a meeting to the public for the purpose of
20 considering sensitive personnel or legal strategy matters.
21 However, all Commission actions and decisions shall be made in
22 open meetings and appropriately recorded.

23 f. The Commission may establish advisory committees for
24 the purpose of advising the Commission on any matters pertaining
25 to waste management.

26 g. The office of the Commission shall be in a party
27 state. The Commission may appoint or contract for and
28 compensate such limited staff necessary to carry out its duties
29 and functions. The staff shall have the responsibilities and
30 authority delegated to it by the Commission in its bylaws. The
31 staff shall serve at the Commission's pleasure with the
32 exception that staff hired as the result of securing federal
33 funds shall be hired and governed under applicable federal
34 statutes and regulations. In selecting any staff, the
35 Commission shall assure that the staff has adequate experience
36 and formal training to carry out the functions assigned to it by

1 the Commission.

2 h. The Commission may do any or all of the following:

3 1. ~~Enter into an agreement with any person, state, or~~
4 ~~group of states for the right to use regional facilities for~~
5 ~~waste generated outside of the region and for the right to use~~
6 ~~facilities outside the region for waste generated within the~~
7 ~~region. The right of any person to use a regional facility for~~
8 ~~waste generated outside of the region requires an affirmative~~
9 ~~vote of a majority of the Commission, including the affirmative~~
10 ~~vote of the member of the host state in which any assessed~~
11 ~~regional facility is located.~~

12 ~~or Approve the disposal of waste generated within the~~
13 ~~region at a facility other than a regional facility.~~

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

19 ~~or~~ 2. Review ~~the~~ any emergency ~~closure~~ closing of
20 a ~~regional compact~~ facility, determine the appropriateness of
21 that ~~closure~~ closing, and take whatever lawful actions are
22 necessary to ensure that the interests of the region are
23 protected.

24 ~~or~~ 3. Take any action which is appropriate and necessary
25 to perform its duties and functions as provided in this compact.

26 ~~or Suspend the privileges or revoke the membership of a~~
27 ~~party-state by a two-thirds vote of the membership in accordance~~
28 ~~with Article VIII.~~

29 4. Approve the disposal of naturally occurring and
30 accelerator produced radioactive material at a compact
31 facility. The Commission shall not approve the acceptance of
32 such material without first making an explicit determination of
33 the effect of the new waste stream on the compact facility's
34 maximum capacity. Such approval requires the affirmative vote
35 of a majority of the Commission, including the affirmative vote
36 of the member from the host state of the compact facility that

1 would accept the material for disposal. Any such host state
2 may, at any time, rescind its vote granting the approval and,
3 thereafter, additional naturally occurring and accelerator
4 produced radioactive material shall not be disposed of at a
5 compact facility unless the disposal is again approved. All
6 provisions of this compact apply to the disposal of naturally
7 occurring and accelerator produced radioactive material that has
8 been approved for disposal at a compact waste facility pursuant
9 to article III.h.4. of this compact.

10 5. Enter into contracts in order to perform its duties and
11 functions as provided in this compact.

12 6. When approved by the Commission, with the member from
13 each host state in which an affected compact facility is
14 operating or being developed or constructed voting in the
15 affirmative, enter into agreements to do any of the following:

16 a. Import for disposal within the region, waste generated
17 outside the region.

18 b. Export for disposal outside the region, waste generated
19 inside the region.

20 c. Dispose of waste generated within the region at a
21 facility within the region that is not a compact facility.

22 7. Authorize a host state to permanently close a compact
23 facility located within its borders earlier than otherwise would
24 be required by article VI.i. of this compact. Such a closing
25 requires the affirmative vote of a majority of the Commission,
26 including the affirmative vote of the member from the state in
27 which the affected compact facility is located.

28 1. The Commission shall do all of the following:

29 1. ~~Receive and act on the petition of a nonparty state to~~
30 ~~become an eligible state.~~

31 ~~2. Submit an annual report to, and otherwise communicate~~
32 ~~with, the governors and the appropriate officers of the~~
33 ~~legislative bodies of the party states regarding the activities~~
34 ~~of the Commission.~~

35 ~~3. Hear, negotiate and, as necessary, resolve by final~~
36 ~~decision disputes which may arise between the party states.~~

1 ~~regarding this compact.~~

2 ~~4~~ 2. Adopt and amend, by a two-thirds vote of the
3 membership, in accordance with the procedures and criteria
4 developed pursuant to article IV of this compact, a
5 regional ~~management~~ disposal plan which designates host states
6 for the establishment of needed ~~regional~~ compact facilities.

7 ~~5~~ 3. Adopt an annual budget.

8 4. Establish and implement a procedure for determining the
9 capacity of a compact facility. The capacity of a compact
10 facility shall be established as soon as reasonably practical
11 after the host state of the facility is designated and shall not
12 be changed thereafter without the consent of the host state.
13 The capacity of a compact facility shall be based on the
14 projected volume, radioactive characteristics, or both, of the
15 waste to be disposed of at the facility during the period set
16 forth in article VI.1. of this compact.

17 5. Provide a host state with funds necessary to pay
18 reasonable development expenses incurred by the host state after
19 it is designated to host a compact facility.

20 6. Establish and implement procedures for making payments
21 from the remedial action fund provided for in article III.p. of
22 this compact.

23 7. Establish and implement procedures to investigate any
24 complaint joined in by two or more party states regarding
25 another party state's performance of its obligations under this
26 compact.

27 8. Adopt policies promoting source reduction and the
28 environmentally sound treatment of waste in order to minimize
29 the amount of waste to be disposed of at compact facilities.

30 9. Establish and implement procedures for obtaining
31 information from generators regarding the volume and
32 characteristics of waste projected to be disposed of at compact
33 facilities and regarding generator activities with respect to
34 source reduction, recycling, and treatment of waste.

35 10. Prepare annual reports regarding the volume and
36 characteristics of waste projected to be disposed of at compact

1 facilities.

2 j. Funding of the budget of for the Commission shall be
3 provided as follows:

4 1. ~~Each state upon becoming a party state, shall pay~~
5 ~~\$50,000 or \$1,000 per cubic meter of waste shipped from that~~
6 ~~state in 1988, whichever is lower, to the Commission which shall~~
7 ~~be used for the administrative costs of the Commission.~~

8 ~~Each state hosting a regional facility shall levy~~
9 ~~surcharges on all users of the regional facility based upon the~~
10 ~~portion of the total volume and characteristics of wastes~~
11 ~~managed at that facility. The surcharges collected at all~~
12 ~~regional facilities shall~~ When no compact facility is
13 operating, the Commission may assess fees to be collected from
14 generators of waste in the region. The fees shall be reasonable
15 and equitable. The Commission shall establish and implement
16 procedures for assessing and collecting the fees. The
17 procedures may allow the assessing of fees against less than all
18 generators of waste in the region; provided that if fees are
19 assessed against less than all generators of waste in the
20 region, generators paying the fees shall be reimbursed the
21 amount of the fees, with reasonable interest, out of the
22 revenues of operating compact facilities.

23 2. When a compact facility is operating, funding for the
24 Commission shall be provided through a surcharge collected by
25 the host state as part of the fee system provided for in article
26 VI.j. The surcharge to be collected by the host state shall be
27 determined by the Commission and shall be reasonable and
28 equitable.

29 3. In the aggregate, the fees or surcharges, as the case
30 may be, shall be no more than is necessary to:

31 a. ~~Be sufficient to~~ Cover the annual budget of the
32 Commission;

33 b. ~~Represent the financial commitments of all party states~~
34 ~~to the Commission; and~~

35 c. ~~Be paid to the Commission; provided, however, that each~~
36 ~~host state collecting surcharges may retain a portion of the~~

~~1 collection sufficient to cover its administrative costs and~~
~~2 collection, and that the remainder be sufficient only to cover~~
~~3 the approved annual budget of the Commission.~~ Provide a host
4 state with the funds necessary to pay reasonable development
5 expenses incurred by the host state after it is designated to
6 host a compact facility;

7 c. Provide money for deposit in the remedial action fund
8 established pursuant to article III.p. of this compact; and

9 d. Provide money to be added to an inadequately funded
10 long-term care fund as provided in article VI.o. of this compact.

11 k. ~~The Commission shall keep accurate accounts of all~~
12 ~~receipts and disbursements~~ Financial statements of the
13 Commission shall be prepared according to generally accepted
14 accounting principles. The Commission shall contract with an
15 independent certified public accountant to annually audit ~~all~~
16 ~~receipts and disbursements of Commission funds~~ its financial
17 statements and to submit an audit report to the Commission. The
18 audit report shall be made a part of the annual report of the
19 Commission required by article III of this article compact.

20 1. The Commission may accept for any of its purposes and
21 functions and may utilize and dispose of any donations, grants
22 of money, equipment, supplies, materials and services from any
23 state or the United States (or any subdivision or agency
24 thereof), or interstate agency, or from any institution, person,
25 firm or corporation. The nature, amount, and condition, if any,
26 attendant upon any donation or grant accepted or received by the
27 Commission together with the identity of the donor, grantor or
28 lender, shall be detailed in the annual report of the Commission.

29 m. ~~The Commission is not liable for any costs associated~~
30 ~~with any of the following:~~

- 31 ~~1. The licensing and construction of any facility;~~
- 32 ~~2. The operation of any facility;~~
- 33 ~~3. The stabilization and closure of any facility;~~
- 34 ~~4. The care of any facility;~~
- 35 ~~5. The extended institutional control after care of any~~
36 ~~facility or~~

1 ~~6. The transportation of waste to any facility~~
2 ~~and~~ The Commission is a legal entity separate and
3 distinct from the party states ~~and is liable for its actions as~~
4 ~~a separate and distinct legal entity. Liabilities of the~~
5 ~~Commission are not liabilities of the party states.~~ Members of
6 the Commission and its employees are not personally liable for
7 actions taken by them in their official capacity.

8 ~~7. Except as provided under sections m and n of this~~
9 ~~article, nothing in this compact alters liability for any act,~~
10 ~~omission, course of conduct or liability resulting from any~~
11 ~~sewer or other relationships.~~

12 ~~8. Any person aggrieved by a final decision of the~~
13 ~~Commission may obtain judicial review of such decision in any~~
14 ~~court of competent jurisdiction by filing in such court a~~
15 ~~petition for review within 60 days after the Commission's final~~
16 ~~decision.~~ The Commission is not liable or otherwise responsible
17 for any costs, expenses, or liabilities resulting from the
18 development, construction, operation, regulation, closing, or
19 long-term care of any compact facility or any noncompact
20 facility made available to the region by any contract or
21 agreement entered into by the Commission under article III.h.6.
22 of this compact. Nothing in article III.m. of this compact
23 relieves the Commission of its obligations under article III of
24 this compact or under contracts to which it is a party. Any
25 liabilities of the Commission are not liabilities of the party
26 states.

27 n. Final decisions of the Commission shall be made, and
28 shall be subject to judicial review, in accordance with all of
29 the following conditions:

30 1. Every final decision shall be made at an open meeting
31 of the Commission. Before making a final decision, the
32 Commission shall provide an opportunity for public comment on
33 the matter to be decided. Each final decision shall be reduced
34 to writing and shall set forth the Commission's reasons for
35 making the decision.

36 2. Before making a final decision, the Commission may

1 conduct an adjudicatory hearing on the proposed decision.

2 3. Judicial review of a final decision shall be initiated
3 by filing a petition in the United States district court for the
4 district in which the person seeking the review resides or in
5 which the Commission's office is located not later than 60 days
6 after issuance of the Commission's written decision.
7 Concurrently with filing the petition for review with the court,
8 the petitioner shall serve a copy of the petition on the
9 Commission. Within five days after receiving a copy of the
10 petition, the Commission shall mail a copy of it to each party
11 state and to all other persons who have notified the Commission
12 of their desire to receive copies of such petitions. Any
13 failure of the Commission to so mail copies of the petition does
14 not affect the jurisdiction of the reviewing court. Except as
15 otherwise provided in article III.n.3. of this compact, standing
16 to obtain judicial review of final decisions of the Commission
17 and the form and scope of the review are subject to and governed
18 by United States Code, title 5, section 706.

19 4. If a party state seeks judicial review of a final
20 decision of the Commission that does any of the following, the
21 facts shall be subject to trial de novo by the reviewing court
22 unless trial de novo of the facts is affirmatively waived in
23 writing by the party state:

24 a. Imposes financial penalties on a party state;

25 b. Suspends the right of a party state to have waste
26 generated within its borders disposed of at a compact facility
27 or at a noncompact facility made available to the region by an
28 agreement entered into by the Commission under article III.h.6.
29 of this compact;

30 c. Terminates the designation of a party state as a host
31 state;

32 d. Revokes the membership of a party state in this
33 compact; or

34 e. Establishes the amounts of money that a party state
35 that has withdrawn from this compact or had its membership in
36 this compact revoked is required to pay under article VIII.e. of

1 this compact.

2 Any such trial de novo of the facts shall be governed by
3 the Federal Rules of Civil Procedure and the Federal Rules of
4 Evidence.

5 5. Preliminary, procedural, or intermediate actions by the
6 Commission that precede a final decision are subject to review
7 only in conjunction with review of the final decision.

8 6. Except as provided in article III.n.5. of this compact,
9 actions of the Commission that are not final decisions are not
10 subject to judicial review.

11 o. Unless approved by a majority of the Commission, with
12 the member from each host state in which an affected compact
13 facility is operating or is being developed or constructed
14 voting in the affirmative, no person shall do any of the
15 following:

16 1. Import waste generated outside the region for
17 management within the region;

18 2. Export waste generated within the region for disposal
19 outside the region;

20 3. Manage waste generated outside the region at a facility
21 within the region;

22 4. Dispose of waste generated within the region at a
23 facility within the region that is not a compact facility.

24 p. The Commission shall establish a remedial action fund
25 to pay the costs of reasonable remedial actions taken by a party
26 state if an event results from the development, construction,
27 operation, closing, or long-term care of a compact facility that
28 poses a threat to human health, safety, or welfare or to the
29 environment. The amount of the remedial action fund shall be
30 adequate to pay the costs of all reasonably foreseeable remedial
31 actions. A party state shall notify the Commission as soon as
32 reasonably practical after the occurrence of any event that may
33 require the party state to take a remedial action. The failure
34 of a party state to so notify the Commission does not limit the
35 rights of the party state under article III.p. of this compact.

36 If the moneys in the remedial action fund are inadequate to

1 pay the costs of reasonable remedial actions, the amount of the
2 deficiency is a liability with respect to which generators shall
3 provide indemnification under article VII.g. of this compact.
4 Generators who provide the required indemnification have the
5 rights of contribution provided in article VII.g. of this
6 compact. Article III.p. of this compact applies to any remedial
7 action taken by a party state regardless of whether the party
8 state takes the remedial action on its own initiative or because
9 it is required to do so by a court or regulatory agency of
10 competent jurisdiction.

11 q. If the Commission makes payment from the remedial
12 action fund provided for in article III.p. of this compact, the
13 Commission is entitled to obtain reimbursement under applicable
14 rules of law from any person who is responsible for the event
15 giving rise to the remedial action. Such reimbursement may be
16 obtained from a party state only if the event giving rise to the
17 remedial action resulted from the activities of that party state
18 as a generator of waste.

19 r. If this compact is dissolved, all moneys held by the
20 Commission shall be used first to pay for any ongoing or
21 reasonably anticipated remedial actions. Any remaining moneys
22 shall be distributed in a fair and equitable manner to those
23 party states that have operating or closed compact facilities
24 within their borders and shall be added to the long-term care
25 funds maintained by those party states.

26 ARTICLE IV. REGIONAL MANAGEMENT DISPOSAL PLAN

27 The Commission shall adopt and periodically update a
28 regional ~~management~~ disposal plan designed to ensure the safe
29 and efficient ~~management~~ disposal of waste generated within the
30 region. In adopting a regional waste ~~management~~ disposal plan,
31 the Commission shall do all of the following:

32 a. Adopt procedures for determining, consistent with
33 considerations for public health and safety, the type and number
34 of ~~regional~~ compact facilities which are presently necessary and
35 which are projected to be necessary to ~~manage~~ dispose of waste
36 generated within the region;

1 b. ~~Develop and consider policies promoting source~~
2 ~~reduction of waste generated within the region;~~
3 ~~or~~ Develop and adopt procedures and criteria for
4 identifying a party state as a host state for a ~~regional~~ compact
5 facility. In developing these criteria, the Commission shall
6 consider all of the following;

- 7 1. The health, safety, and welfare of the citizens of the
- 8 party states¹;
- 9 2. The existence of ~~regional~~ compact facilities within
- 10 each party state¹;
- 11 3. The minimization of waste transportation¹;
- 12 4. The volumes and types of wastes projected to be
- 13 generated within each party state¹;
- 14 5. The environmental, ~~economic, and ecological~~ impacts on
- 15 the air, land and water resources of the party states;
- 16 6. The economic impacts on the party states.

17 ~~or~~ c. Conduct such hearings, and obtain such reports,
18 studies, evidence and testimony required by its approved
19 procedures prior to identifying a party state as a host state
20 for a needed ~~regional~~ compact facility;

21 ~~or~~ d. Prepare a draft ~~management~~ disposal plan and any
22 update thereof, including procedures, criteria¹ and host states,
23 ~~including alternatives~~ which shall be made available in a
24 convenient form to the public for comment. Upon the request of a
25 party state, the Commission shall conduct a public hearing in
26 that state prior to the adoption or update of the
27 ~~management disposal~~ plan. The ~~management disposal~~ plan and
28 any update thereof shall include the commission's response to
29 public and party state comment.

30 ARTICLE V. RIGHTS AND OBLIGATIONS OF PARTY STATES

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

35 b. Except for waste attributable to radioactive material
36 or waste imported into the region in order to render the

1 material or waste amenable to transportation, storage, disposal,
2 or recovery, or in order to convert the waste or material to
3 another usable material, or to reduce it in volume or otherwise
4 treat it, each party state has the right to have all wastes
5 generated within its borders ~~managed~~ disposed of at ~~seasonal~~
6 compact facilities subject to the payment of all fees
7 established by the host state under article VI.f. of this
8 compact and to the provisions contained in article articles
9 VI.l., VI.s., VIII.d., IX.ed., and X of this compact. All party
10 states have an equal right of access to any facility made
11 available to the region by any agreement entered into by the
12 Commission pursuant to article III.h.6. of this compact, subject
13 to the provisions of articles VI.l., VI.s., VIII.d., and X of
14 this compact.

15 c. ~~Each party state shall negotiate for the right~~
16 ~~of access to a facility outside the region and may export waste~~
17 ~~outside the region subject to Commission approval under article~~
18 ~~III.~~ If a party state's right to have waste generated within
19 its borders disposed of at compact facilities, or at any
20 noncompact facility made available to the region by an agreement
21 entered into by the Commission under article III.h.6. of this
22 compact, is suspended, no waste generated within its borders by
23 any person shall be disposed of at any such facility during the
24 period of the suspension.

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

32 e. Each party state shall provide to the Commission any
33 data and information the Commission requires to implement its
34 responsibilities. Each party state shall establish the
35 capability to obtain any data and information required by the
36 Commission.

1 f. If, notwithstanding the sovereign immunity provision in
2 article VII.f.1. of this compact and the indemnification
3 provided for in articles III.p., VI.o., and VII.g. of this
4 compact, a party state incurs a cost as a result of an
5 inadequate remedial action fund or an exhausted long-term care
6 fund, or incurs a liability as a result of an action described
7 in article VI.f.1. of this compact and not described in article
8 VII.f.2. of this compact, the cost or liability shall be the pro
9 rata obligation of each party state and each state that has
10 withdrawn from this compact or had its membership in this
11 compact revoked. The Commission shall determine each state's
12 pro rata obligation in a fair and equitable manner based on the
13 amount of waste from each such state that has been or is
14 projected to be disposed of at the compact facility with respect
15 to which the cost or liability to be shared was incurred. No
16 state shall be obligated to pay the pro rata obligation of any
17 other state.

18 The pro rata obligations provided for in article V.f. of
19 this compact do not result in the creation of state debt.
20 Rather, the pro rata obligations are contractual obligations
21 that shall be enforced by only the Commission or an affected
22 party state.

23 g. If the party states make payment pursuant to article
24 V.f. of this compact, the surcharge or fee provided for in
25 article III.j. of this compact shall be used to collect the
26 funds necessary to reimburse the party states for those
27 payments. The Commission shall determine the time period over
28 which reimbursement shall take place.

29 ARTICLE VI. DEVELOPMENT AND OPERATION, AND CLOSING
30 OF COMPACT FACILITIES

31 a. Any party state may volunteer to become a host state,
32 and the Commission may designate that state as a host state ~~upon~~
33 ~~a two thirds vote of the members.~~

34 b. If not all regional compact facilities required by the
35 regional ~~management~~ disposal plan are not developed pursuant to
36 ~~action or upon notification that an existing regional~~

1 ~~facility will be closed~~ article VI.a. of this compact, the
2 Commission may designate a host state.

3 c. ~~Each party~~ After a state is designated as a host state
4 by the Commission, it is responsible for determining possible
5 ~~facility locations within its borders. The selection of a~~
6 ~~facility site shall not conflict with applicable federal and~~
7 ~~host state laws, regulations and rules not inconsistent with~~
8 ~~this compact and shall be based on factors including, but not~~
9 ~~limited to, geological, environmental and economic viability of~~
10 ~~possible facility locations.~~ the timely development and
11 operation of the compact facility it is designated to host. The
12 development and operation of the compact facility shall not
13 conflict with applicable federal and host state laws, rules, and
14 regulations, provided that the laws, rules, and regulations of a
15 host state and its political subdivisions shall not prevent, nor
16 shall they be applied so as to prevent, the host state's
17 discharge of the obligation set forth in article VI.c. of this
18 compact. The obligation set forth in article VI.c. of this
19 compact is contingent upon the discharge by the Commission of
20 its obligation set forth in article III.i.5. of this compact.

21 d. If a party state designated as a host state fails to
22 discharge the obligations imposed upon it by article VI.c. of
23 this compact, its host state designation may be terminated by a
24 two-thirds vote of the Commission with the member from the host
25 state of any then operating compact facility voting in the
26 affirmative. A party state whose host state designation has
27 been terminated has failed to fulfill its obligations as a host
28 state and is subject to the provisions of article VIII.d. of
29 this compact.

30 e. Any party state designated as a host state may request
31 the Commission to relieve that state of the responsibility to
32 serve as a host state. Except as set forth in article VI.d. of
33 this compact, the Commission may relieve a party state of this
34 its responsibility only upon a showing by the requesting party
35 state that, based upon criteria established by the Commission
36 that are consistent with any applicable federal criteria, no

1 feasible potential regional compact facility site ~~of the type it~~
2 ~~is designated as host~~ exists within its borders. A party state
3 relieved of its host state responsibility shall repay to the
4 Commission any funds provided to that state by the Commission
5 for the development of a compact facility, and also shall pay to
6 the Commission the amount the Commission determines is necessary
7 to ensure that the Commission and the other party states do not
8 incur financial loss as a result of the state being relieved of
9 its host state responsibility. Any funds so paid to the
10 Commission with respect to the financial loss of the other party
11 states shall be distributed forthwith by the Commission to the
12 party states that would otherwise incur the loss. In addition,
13 until the state relieved of its responsibility is again
14 designated as a host state and a compact facility located in
15 that state begins operating, it shall annually pay to the
16 Commission, for deposit in the remedial action fund, an amount
17 the Commission determines is fair and equitable in light of the
18 fact the state has been relieved of the responsibility to host a
19 compact facility, but continues to enjoy the benefits of being a
20 member of this compact.

21 ~~or After a state is designated a host state by the~~
22 ~~Commission, it is responsible for the timely development and~~
23 ~~operation of a regional facility~~

24 f. The host state shall select the technology for the
25 compact facility. If requested by the Commission, information
26 regarding the technology selected by the host state shall be
27 submitted to the Commission for its review. The Commission may
28 require the host state to make changes in the technology
29 selected by the host state if the Commission demonstrates that
30 the changes do not decrease the protection of air, land, and
31 water resources and the health and safety of all people who may
32 be affected by the facility. If requested by the host state,
33 any Commission decision requiring the host state to make changes
34 in the technology shall be preceded by an adjudicatory hearing
35 in which the Commission shall have the burden of proof.

36 g. A host state may assign to a private contractor the

1 responsibility, in whole or in part, to develop, construct,
2 operate, close, or provide long-term care for a compact
3 facility. Assignment of such responsibility by a host state to
4 a private contractor does not relieve the host state of any
5 responsibility imposed upon it by this compact. A host state
6 may secure indemnification from the contractor for any costs,
7 liabilities, and expenses incurred by the host state resulting
8 from the development, construction, operation, closing, or
9 long-term care of a compact facility.

10 ~~h.~~ To the extent permitted by federal and state law, a
11 host state shall regulate and license any facility within its
12 borders and ensure the ~~extended~~ long-term care of that facility.

13 ~~g. The Commission may designate a party state as a host~~
14 ~~state while a regional facility is in operation if the~~
15 ~~Commission determines that an additional regional facility is or~~
16 ~~may be required to meet the needs of the region. The Commission~~
17 ~~shall make this designation following the procedures established~~
18 ~~under article IV.~~

19 ~~h. Designation of a host state is for a period of 20 years~~
20 ~~as the life of the regional facility which is established under~~
21 ~~that designation, whichever is longer. Upon request of a host~~
22 ~~state, the Commission may modify the period of its designation.~~

23 i. A host state shall accept waste for disposal for a
24 period of 20 years from the date the compact facility in the
25 host state becomes operational, or until its capacity has been
26 reached, whichever occurs first. At any time before the compact
27 facility closes, the host state and the Commission may enter
28 into an agreement to extend the period during which the host
29 state is required to accept such waste or to increase the
30 capacity of the compact facility. Except as specifically
31 authorized by article VI.1.4. of this compact, the 20-year
32 period shall not be extended, and the capacity of the facility
33 shall not be increased, without the consent of the affected host
34 state and the Commission.

35 j. A host state ~~may~~ shall establish a ~~fee~~ system ~~for~~
36 of fees to be collected from the users of any ~~regional~~ compact

1 facility within its borders. The fee system, and the costs paid
2 through the system, shall be reasonable and equitable. ~~Also The~~
3 fee system shall be subject to the Commission's approval. The
4 fee system shall provide the host state with sufficient revenue
5 to ~~cover any~~ pay costs associated with the compact facility,
6 including, but not limited to, the ~~planning, siting, licensure~~
7 ~~operation, decommissioning, extended care and long-term~~
8 ~~liability associated with such facilities. This fee system may~~
9 ~~also include reasonable revenue beyond the costs incurred for~~
10 ~~the host state, subject to approval by the Commission. A host~~
11 ~~state shall submit an annual financial audit of the operation of~~
12 ~~the regional facility to the Commission~~ operation, closing,
13 long-term care, debt service, legal costs, local impact
14 assistance, and local financial incentives. The fee system also
15 shall be used to collect the surcharge provided in article
16 III.4.2. of this compact. The fee system ~~may~~ shall include
17 incentives for source reduction and ~~may~~ shall be based on the
18 hazard of the waste as well as the volume.

19 ~~or~~ k. A host state shall ensure that a ~~regional~~ compact
20 facility located within its borders ~~which~~ that is permanently
21 closed is properly decommissioned. ~~A host state shall also~~
22 ~~provide for the care of a closed or decommissioned regional~~
23 ~~facility within its borders so that the public health and safety~~
24 ~~of the state and region are ensured~~ cared for so as to ensure
25 protection of air, land, and water resources and the health and
26 safety of all people who may be affected by the facility.

27 ~~or~~ ~~A host state intending to close a regional facility~~
28 ~~located within its borders shall notify the Commission in~~
29 ~~writing of its intention and the reason. A satisfaction shall be~~
30 ~~given to the Commission at least five years prior to the~~
31 ~~intended date of closure.~~

32 1. The development of subsequent compact facilities shall
33 be as follows:

34 1. No compact facility shall begin operating until the
35 Commission designates the host state of the next compact
36 facility.

1 facility shall have failed in its obligations as a host state
2 and shall be subject to articles VI.d. and VIII.d. of this
3 compact. In addition, at the sole option of the host state of
4 the then operating compact facility, all waste generated by any
5 person within any party state that has not fully discharged its
6 obligations under article VI.i. of this compact, shall be denied
7 access to the then operating compact facility, and to any
8 noncompact facility made available to the region by any
9 agreement entered into by the Commission pursuant to article
10 III.h.6. of this compact, until the license is obtained. Denial
11 of access may be rescinded by the Commission, with the member
12 from the host state of the then operating compact facility
13 voting in the affirmative.

14 4. If, 20 years after a compact facility begins operating,
15 the next compact facility is not ready to begin operating, the
16 state designated to host the next compact facility shall have
17 failed in its obligation as a host state and shall be subject to
18 articles VI.d. and VIII.d. of this compact. If, at the time the
19 capacity of the then operating compact facility has been
20 reached, or 20 years after the facility began operating,
21 whichever occurs first, the next compact facility is not ready
22 to begin operating, the host state of the then operating compact
23 facility, without the consent of any other party state or the
24 Commission, may continue to operate the facility until a compact
25 facility in the next host state is ready to begin operating.
26 During any such period of continued operation of a compact
27 facility, all waste generated by any person within the state
28 designated to host the next compact facility shall be denied
29 access to the then operating compact facility and to any
30 noncompact facility made available to the region by any
31 agreement entered into by the Commission pursuant to article
32 III.h.6. of this compact. In addition, during such period, at
33 the sole option of the host state of the then operating compact
34 facility, all waste generated by any person within any party
35 state that has not fully discharged its obligations under
36 article VI.i. of this compact, shall be denied access to the

1 then operating compact facility and to any noncompact facility
2 made available to the region by any agreement entered into by
3 the Commission pursuant to article III.h.6. of this compact.
4 Denial of access may be rescinded by the Commission, with the
5 member from the host state of the then operating compact
6 facility voting in the affirmative. The provisions of article
7 VI.1.4. of this compact, shall not apply if their application is
8 inconsistent with an agreement between the host state of the
9 then operating compact facility and the Commission as authorized
10 in article VI.i. of this compact, or inconsistent with article
11 VI.p. or q. of this compact.

12 5. During any period that access is denied for waste
13 disposal pursuant to article VI.1.2., 3., or 4. of this compact,
14 the party state designated to host the next compact disposal
15 facility shall pay to the host state of the then operating
16 compact facility an amount the Commission determines is
17 reasonably necessary to ensure that the host state, or any
18 agency or political subdivision thereof, does not incur
19 financial loss as a result of the denial of access.

20 6. The Commission may modify any of the requirements
21 contained in articles VI.1.2. and 3. of this compact, if it
22 finds that circumstances have changed so that the requirements
23 are unworkable or unnecessarily rigid or no longer serve to
24 ensure the timely development of a compact facility. The
25 Commission may adopt such a finding by a two-thirds vote, with
26 the member from the host state of the then operating compact
27 facility voting in the affirmative.

28 m. This ~~section~~ compact shall not prevent an emergency
29 closing of a ~~regional~~ compact facility by a host state to
30 protect ~~the~~ air, land and water resources and the health and
31 safety of ~~its citizens~~ all people who may be affected by the
32 facility. ~~However~~ A host state ~~which~~ that has an emergency
33 closing of a ~~regional~~ compact facility shall notify the
34 Commission in writing within three working days of its action
35 and shall, within 30 working days of its action, demonstrate
36 justification for the closing.

~~1. If a regional facility closes before an additional or
2. new facility becomes operational, waste generated within the
3. region may be shipped temporarily to any location agreed on by
4. the Commission until a regional facility is operational.
5. A party state which is designated as a host state by
6. the Commission and fails to fulfill its obligations as a host
7. state may have its privileges under the compact suspended or
8. membership in the compact revoked by the Commission.~~

9. n. A party state that has fully discharged its obligations
10 under article VI.i. of this compact, shall not again be
11 designated a host state of a compact facility without its
12 consent until each party state has been designated to host a
13 compact facility and has fully discharged its obligations under
14 article VI.i. of this compact, or has been relieved under
15 article VI.e. of this compact, of its responsibility to serve as
16 a host state.

17. o. Each host state of a compact facility shall establish a
18 long-term care fund to pay for monitoring, security,
19 maintenance, and repair of the facility after it is permanently
20 closed. The expenses of administering the long-term care fund
21 shall be paid out of the fund. The fee system established by
22 the host state that establishes a long-term care fund shall be
23 used to collect moneys in amounts that are adequate to pay for
24 all long-term care of the compact facility. The moneys shall be
25 deposited into the long-term care fund. Except where the matter
26 is resolved through arbitration, the amount to be collected
27 through the fee system for deposit into the fund shall be
28 determined through an agreement between the Commission and the
29 host state establishing the fund. Not less than three years,
30 nor more than five years, before the compact facility it is
31 designated to host is scheduled to begin operating, the host
32 state shall propose to the Commission the amount to be collected
33 through the fee system for deposit into the fund. If, 180 days
34 after such proposal is made to the Commission, the host state
35 and the Commission have not agreed, either the Commission or the
36 host state may require the matter to be decided through binding

1 arbitration. The method of administration of the fund shall be
2 determined by the host state establishing the long-term care
3 fund, provided that moneys in the fund shall be used only for
4 the purposes set forth in article VI.o. of this compact, and
5 shall be invested in accordance with the standards applicable to
6 trustees under the laws of the host state establishing the
7 fund. If, after a compact facility is closed, the Commission
8 determines the long-term care fund established with respect to
9 that facility is not adequate to pay for all long-term care for
10 that facility, the Commission shall collect and pay over to the
11 host state of the closed facility, for deposit into the
12 long-term care fund, an amount determined by the Commission to
13 be necessary to make the amount in the fund adequate to pay for
14 all long-term care of the facility. If a long-term care fund is
15 exhausted and long-term care expenses for the facility with
16 respect to which the fund was created have been reasonably
17 incurred by the host state of the facility, those expenses are a
18 liability with respect to which generators shall provide
19 indemnification as provided in article VII.g. of this compact.
20 Generators that provide indemnification shall have contribution
21 rights as provided in article VII.g. of this compact.

22 p. A host state that withdraws from the compact or has its
23 membership revoked shall immediately and permanently close any
24 compact facility located within its borders, except that the
25 Commission and a host state may enter into an agreement under
26 which the host state may continue to operate, as a noncompact
27 facility, a facility within its borders that, before the host
28 state withdrew or had its membership revoked, was a compact
29 facility.

30 g. If this compact is dissolved, the host state of any
31 then operating compact facility shall immediately and
32 permanently close the facility, provided that a host state may
33 continue to operate a compact facility or resume operating a
34 previously closed compact facility, as a noncompact facility,
35 subject to all of the following requirements:

36 1. The host state shall pay to the other party states the

1 portion of the funds provided to that state by the Commission
2 for the development, construction, operation, closing, or
3 long-term care of a compact facility that is fair and equitable,
4 taking into consideration the period of time the compact
5 facility located in that state was in operation and the amount
6 of waste disposed of at the facility, provided that a host state
7 that has fully discharged its obligations under article VI.1. of
8 this compact shall not be required to make such payment;

9 2. The host state shall physically segregate waste
10 disposed of at the facility after this compact is dissolved from
11 waste disposed of at the facility before this compact is
12 dissolved;

13 3. The host state shall indemnify and hold harmless the
14 other party states from all costs, liabilities, and expenses,
15 including reasonable attorneys' fees and expenses, caused by
16 operating the facility after this compact is dissolved, provided
17 that this indemnification and hold harmless obligation shall not
18 apply to costs, liabilities, and expenses resulting from the
19 activities of a host state as a generator of waste;

20 4. Moneys in the long-term care fund established by the
21 host state that are attributable to the operation of the
22 facility before this compact is dissolved, and investment
23 earnings thereon, shall be used only to pay the cost of
24 monitoring, securing, maintaining, or repairing that portion of
25 the facility used for the disposal of waste before this compact
26 is dissolved. Such moneys and investment earnings, and any
27 moneys added to the long-term care fund through a distribution
28 authorized by article III.r. of this compact, also may be used
29 to pay the cost of any remedial action made necessary by an
30 event resulting from the disposal of waste at the facility
31 before this compact is dissolved.

32 r. Financial statements of a compact facility shall be
33 prepared according to generally accepted accounting principles.
34 The Commission may require the financial statements to be
35 audited on an annual basis by a firm of certified public
36 accountants selected and paid by the Commission.

1 s. Waste may be accepted for disposal at a compact
2 facility only if the generator of the waste has signed, and
3 there is on file with the Commission, an agreement to provide
4 indemnification to a party state, or employee of that state, for
5 all of the following:

6 1. Any cost of a remedial action described in article
7 III.p. of this compact, that, due to inadequacy of the remedial
8 action fund, is not paid as set forth in that provision;

9 2. Any expense for long-term care described in article
10 VI.o. of this compact, that, due to exhaustion of the long-term
11 care fund, is not paid as set forth in that provision;

12 3. Any liability for damages to persons, property, or the
13 environment incurred by a party state, or employee of that state
14 while acting within the scope of employment, resulting from the
15 development, construction, operation, regulation, closing, or
16 long-term care of a compact facility, or any noncompact facility
17 made available to the region by any agreement entered into by
18 the Commission pursuant to article III.h.6. of this compact, or
19 any other matter arising from this compact. The agreement also
20 shall require generators to indemnify the party state or
21 employee against all reasonable attorney's fees and expenses
22 incurred in defending any action for such damages. This
23 indemnification shall not extend to liability based on any of
24 the following:

25 a. The activities of the party states as generators of
26 waste;

27 b. The obligations of the party states to each other and
28 the Commission imposed by this compact or other contracts
29 related to the disposal of waste under this compact; or

30 c. Activities of a host state or employees thereof that
31 are grossly negligent or willful and wanton.

32 The agreement shall provide that the indemnification
33 obligation of generators shall be joint and several, except that
34 the indemnification obligation of the party states with respect
35 to their activities as generators of waste shall not be joint
36 and several, but instead shall be prorated according to the

1 amount of waste that each state had disposed of at the compact
2 facility giving rise to the liability. Such proration shall be
3 calculated as of the date of the event giving rise to the
4 liability. The agreement shall be in a form approved by the
5 Commission with the member from the host state of any then
6 operating compact facility voting in the affirmative. Among
7 generators there shall be rights of contribution based on
8 equitable principles, and generators shall have rights of
9 contribution against any other person responsible for such
10 damages under common law, statute, rule, or regulation, provided
11 that a party state that through its own activities did not
12 generate any waste disposed of at the compact facility giving
13 rise to the liability, an employee of such a party state, and
14 the Commission shall have no such contribution obligation. The
15 Commission may waive the requirement that the party state sign
16 and file such an indemnification agreement as a condition to
17 being able to dispose of waste generated as a result of the
18 party state's activities. Such a waiver shall not relieve a
19 party state of the indemnification obligation imposed by article
20 VII.g. of this compact.

21 ARTICLE VII. OTHER LAWS AND REGULATIONS

- 22 a. Nothing in this compact:
- 23 1. Abrogates or limits the applicability of any act of the
- 24 Congress or diminishes or otherwise impairs the jurisdiction of
- 25 any federal agency expressly conferred thereon by the Congress;
- 26 2. Prevents the enforcement of any other law of a party
- 27 state which is not inconsistent with this compact;
- 28 3. Prohibits any ~~storage~~ generator from storing or
- 29 ~~treatment of waste by the generator treating,~~ on its own
- 30 premises, waste generated by it within the region;
- 31 4. Affects any administrative or judicial proceeding
- 32 pending on the effective date of this compact;
- 33 5. Alters the relations between and the respective
- 34 internal responsibility of the government of a party state and
- 35 its subdivisions;
- 36 6. Affects the generation, treatment, storage, or disposal

1 of waste generated by the atomic energy defense activities of
2 the Secretary of the U.S. Department of Energy or successor
3 agencies or federal research and development activities as
4 described in section 31 of the Atomic Energy Act of 1954 (United
5 States Code, title 42, section 2051); or

6 7. Affects the rights and powers of any party state or its
7 political subdivisions, to the extent not inconsistent with this
8 compact, to regulate and license any facility or the
9 transportation of waste within its borders ~~as affects the rights~~
10 ~~and powers of any party state and its political subdivisions to~~
11 ~~tax or impose fees on the waste managed at any facility within~~
12 ~~its borders.~~

13 8. Requires a party state to enter into any agreement with
14 the U.S. Nuclear Regulatory Commission; or

15 9. ~~alters or limits liability of transporters of waste,~~
16 ~~owners and operators of sites for these acts, emissions, conduct~~
17 ~~or relationships in accordance with applicable laws~~ Limits,
18 expands, or otherwise affects the authority of a state to
19 regulate low-level radioactive waste classified by any agency of
20 the United States government as "below regulatory concern" or
21 otherwise exempt from federal regulation.

22 b. ~~For purposes of this compact, all state laws or parts~~
23 ~~of laws in conflict~~ If a court of the United States finally
24 determines that a law of a party state conflicts with this
25 compact, see hereby superseded, this compact shall prevail to the
26 extent of the conflict. The Commission shall not commence an
27 action seeking such a judicial determination unless commencement
28 of the action is approved by a two-thirds vote of the membership
29 of the Commission.

30 c. Except as authorized by this compact, no law, rule, or
31 regulation of a party state or of any of its subdivisions or
32 instrumentalities may be applied in a manner which discriminates
33 against the generators of another party state.

34 d. Except as provided in articles III.m. and VII.f. of
35 this compact, no provision of this compact shall be construed to
36 eliminate or reduce in any way the liability or responsibility,

1 whether arising under common law, statute, rule, or regulation,
2 of any person for penalties, fines, or damages to persons,
3 property, or the environment resulting from the development,
4 construction, operation, closing, or long-term care of a compact
5 facility, or any noncompact facility made available to the
6 region by any agreement entered into by the Commission pursuant
7 to article III.h.6. of this compact, or any other matter arising
8 from this compact. The provisions of this compact shall not
9 alter otherwise applicable laws relating to compensation of
10 employees for workplace injuries.

11 e. Except as provided in United States Code, title 28,
12 section 1251(a), the district courts of the United States have
13 exclusive jurisdiction to decide cases arising under this
14 compact. Article VII.e. of this compact does not apply to
15 proceedings within the jurisdiction of state or federal
16 regulatory agencies nor to judicial review of proceedings before
17 state or federal regulatory agencies. Article VII.e. of this
18 compact shall not be construed to diminish other laws of the
19 United States conferring jurisdiction on the courts of the
20 United States.

21 f. For the purposes of activities pursuant to this
22 compact, the sovereign immunity of party states and employees of
23 party states shall be as follows:

24 1. A party state or employee thereof, while acting within
25 the scope of employment, shall not be subject to suit or held
26 liable for damages to persons, property, or the environment
27 resulting from the development, construction, operation,
28 regulation, closing, or long-term care of a compact facility, or
29 any noncompact facility made available to the region by any
30 agreement entered into by the Commission pursuant to article
31 III.h.6. of this compact. This applies whether the claimed
32 liability of the party state or employee is based on common law,
33 statute, rule, or regulation.

34 2. The sovereign immunity granted in article VII.f.1. of
35 this compact, does not apply to any of the following:

36 a. Actions based upon the activities of the party states

1 as generators of waste. With regard to those actions, the
2 sovereign immunity of the party states shall not be affected by
3 this compact.

4 b. Actions based on the obligations of the party states to
5 each other and the Commission imposed by this compact, or other
6 contracts related to the disposal of waste under this compact.
7 With regard to those actions, the party states shall have no
8 sovereign immunity.

9 c. Actions against a host state, or employee thereof, when
10 the host state or employee acted in a grossly negligent or
11 willful and wanton manner.

12 g. If in any action described in article VII.f.1., and not
13 described in article VII.f.2. of this compact, it is determined
14 that, notwithstanding article VII.f.1. of this compact, a party
15 state, or employee of that state who acted within the scope of
16 employment, is liable for damages or has liability for other
17 matters arising under this compact as described in article
18 VI.s.3. of this compact, the generators who caused waste to be
19 placed at the compact facility with respect to which the
20 liability was incurred shall indemnify the party state or
21 employee against that liability. Those generators also shall
22 indemnify the party state or employee against all reasonable
23 attorney's fees and expenses incurred in defending against any
24 such action. The indemnification obligation of generators under
25 article VII.g. of this compact, shall be joint and several,
26 except that the indemnification obligation of party states with
27 respect to their activities as generators of waste shall not be
28 joint and several but instead shall be prorated according to
29 the amount of waste each state has disposed of at the compact
30 facility giving rise to the liability. Among generators, there
31 shall be rights of contribution based upon equitable principles,
32 and generators shall have rights of contribution against any
33 other person responsible for such damages under common law,
34 statute, rule, or regulation. A party state that through its
35 own activities did not generate any waste disposed of at the
36 compact facility giving rise to the liability, an employee of

1 such a party state, and the Commission shall have no
2 contribution obligation under article VII.g. of this compact.
3 Article VII.g. of this compact shall not be construed as a
4 waiver of the sovereign immunity provided for in article
5 VII.f.1. of this compact.

6 h. The sovereign immunity of a party state provided for in
7 article VII.f.1. of this compact, shall not be extended to any
8 private contractor assigned responsibilities as authorized in
9 article VI.g. of this compact.

10 ARTICLE VIII. ELIGIBLE PARTIES, WITHDRAWAL, REVOCATION,
11 SUSPENSION OF ACCESS, ENTRY INTO FORCE, AND TERMINATION

12 ~~a. Eligible parties to this compact are the states of~~
13 ~~Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland,~~
14 ~~Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio,~~
15 ~~South Dakota, Virginia and Wisconsin. Eligibility terminates on~~
16 ~~July 1, 1984.~~

17 ~~or~~ Any state not eligible for membership in the compact
18 may petition the Commission ~~for eligibility~~ to be eligible for
19 membership in the compact. The Commission may establish
20 appropriate eligibility requirements. These requirements may
21 include, but are not limited to, an eligibility fee or
22 designation as a host state. A petitioning state becomes
23 eligible for membership in the compact upon the approval of the
24 Commission, including the affirmative vote of ~~all the member~~
25 from each host state state in which a compact facility is
26 operating or being developed or constructed. Any state becoming
27 eligible upon the approval of the Commission becomes a member of
28 the compact ~~on the same manner as any state eligible for~~
29 ~~membership at the time this compact enters into force~~ when the
30 state enacts this compact into law and pays the eligibility fee
31 established by the Commission.

32 ~~c. An eligible state becomes a party state when the state~~
33 ~~enacts the compact into law and pays the membership fee required~~
34 ~~in article III.j.1.~~

35 ~~d.~~ b. The Commission is formed upon the appointment of
36 Commission members and the tender of the membership fee payable

1 to the Commission by three party states. The Governor of the
2 first state to enact this compact shall convene the initial
3 meeting of the Commission. The Commission shall cause
4 legislation to be introduced in the Congress which grants the
5 consent of the Congress to this compact, and shall take action
6 necessary to organize the Commission and implement the
7 provisions of this compact.

8 ~~or any c.~~ A party state that has fully discharged its
9 obligations under article VI.i. of this compact, or has been
10 relieved under article VI.e. of this compact, of its
11 responsibilities to serve as a host state, may withdraw from
12 this compact by repealing the authorizing legislation-but no
13 withdrawal may take effect until five years after the governor
14 of the withdrawing state gives notice in writing of the
15 withdrawal to the Commission and to the governor of each party
16 state and by receiving the unanimous consent of the Commission.
17 Withdrawal does not affect any liability already incurred by or
18 chargeable to a party state prior to the time of such
19 withdrawal. Any host state which grants a disposal permit for
20 waste generated in a withdrawing state shall void the permit
21 when the withdrawal of that state is effective; takes effect on
22 the date specified in the Commission resolution consenting to
23 withdrawal. All legal rights of the withdrawn state established
24 under this compact, including, but not limited to, the right to
25 have waste generated within its borders disposed of at compact
26 facilities, cease upon the effective date of withdrawal, but any
27 legal obligations of that party state under this compact,
28 including, but not limited to, those set forth in article
29 VIII.e. of this compact, continue until they are fulfilled.

30 ~~or d.~~ Any party state which that fails to comply with the
31 terms of this compact or fails to fulfill its obligations may
32 have reasonable financial penalties imposed
33 against it, the right to have waste generated within its borders
34 disposed of at compact facilities, or any noncompact facility
35 made available to the region by any agreement entered into by
36 the Commission pursuant to article III.h.6. of this compact,

1 suspended, or its membership in the compact revoked by the
2 ~~Commission in accordance with article 222 has~~ a two-thirds vote
3 of the Commission, provided that the membership of the party
4 state designated to host the next compact facility shall not be
5 revoked unless the member from the host state of any then
6 operating compact facility votes in the affirmative. Revocation
7 takes effect one year from on the date the affected party state
8 receives written notice from the Commission of its
9 action specified in the resolution revoking the party state's
10 membership. All legal rights of the affected revoked party
11 state established under this compact, including, but not limited
12 to, the right to have waste generated within its borders
13 disposed of at compact facilities, cease upon the effective date
14 of revocation, but any legal obligations of that party
15 state arising prior to revocation under this compact, including,
16 but not limited to, those set forth in article VIII.e. of this
17 compact, continue until they are fulfilled. The chairperson of
18 the Commission shall transmit written notice of a revocation of
19 a party state's membership in the compact, suspension of a party
20 state's waste disposal rights, or imposition of financial
21 penalties immediately following the vote of the Commission to
22 the governor of the affected party state, all other governors of
23 all the other party states, and the Congress of the United
24 States.

25 e. A party state that withdraws from this compact or has
26 its membership in the compact revoked before it has fully
27 discharged its obligations under article VI of this compact
28 forthwith shall repay to the Commission the portion of the funds
29 provided to that state by the Commission for the development,
30 construction, operation, closing, or long-term care of a compact
31 facility that the Commission determines is fair and equitable,
32 taking into consideration the period of time the compact
33 facility located in that host state was in operation and the
34 amount of waste disposed of at the facility. If at any time
35 after a compact facility begins operating, a party state
36 withdraws from the compact or has its membership revoked, the

1 withdrawing or revoked party state shall be obligated forthwith
2 to pay to the Commission the amount the Commission determines
3 would have been paid under the fee system established by the
4 host state of the facility to dispose of at the facility the
5 estimated volume of waste generated in the withdrawing or
6 revoked party state that would have been disposed of at the
7 facility from the time of withdrawal or revocation until the
8 time the facility is closed. Any funds so paid to the
9 Commission shall be distributed by the Commission to the persons
10 who would have been entitled to receive the funds had they
11 originally been paid to dispose of waste at the facility. Any
12 person receiving such funds from the Commission shall apply the
13 funds to the purposes to which they would have been applied had
14 they originally been paid to dispose of waste at the compact
15 facility. In addition, a withdrawing or revoked party state
16 forthwith shall pay to the Commission an amount the Commission
17 determines to be necessary to cover all other costs and damages
18 incurred by the Commission and the remaining party states as a
19 result of the withdrawal or revocation. The intention of
20 article VIII.e. of this compact is to eliminate any decrease in
21 revenue resulting from withdrawal of a party state or revocation
22 of a party state's membership, to eliminate financial harm to
23 the remaining party states, and to create an incentive for party
24 states to continue as members of the compact and to fulfill
25 their obligations. Article VIII.e. of this compact shall be
26 construed and applied so as to effectuate this intention.
27 f. Any party state whose right to have waste generated
28 within its borders disposed of at compact facilities is
29 suspended by the Commission shall pay to the host state of the
30 compact facility to which access has been suspended the amount
31 the Commission determines is reasonably necessary to ensure that
32 the host state, or any political subdivision thereof, does not
33 incur financial loss as a result of the suspension of access.
34 g. This compact becomes effective ~~July 1, 1969 or at any~~
35 ~~date subsequent to July 1, 1969~~ upon enactment by at least
36 three eligible states and consent to this compact by the

1 ~~Congress. However Article IX, section 4b, shall not take~~
 2 ~~effect until the Congress has by law consented to this compact.~~
 3 ~~The Congress shall have an opportunity to withdraw such consent~~
 4 ~~every five years. Failure of the Congress to affirmatively~~
 5 ~~withdraw its consent has the effect of renewing consent for an~~
 6 ~~additional five-year period.~~ The consent given to this compact
 7 by the Congress shall extend to any future admittance of new
 8 party states ~~under sections b and c of this article~~ and to the
 9 power of the Commission to regulate the shipment and
 10 disposal of waste from the region and disposal of naturally
 11 occurring and accelerator-produced radioactive material pursuant
 12 to article III of this compact. Amendments to this compact are
 13 effective when enacted by all party states and, if necessary,
 14 consented to by the Congress. To the extent required by section
 15 (4)(d) of "The Low-Level Radioactive Waste Policy Amendments Act
 16 of 1985," every five years after this compact has taken effect,
 17 the Congress by law may withdraw its consent.

18 h. The withdrawal of a party state from this compact ~~under~~
 19 ~~section 6 of this article~~, the suspension of waste disposal
 20 rights, the termination of a party state's designation as a host
 21 state, or the suspension or revocation of a state's membership
 22 in this compact ~~under section f. of this article~~ does not affect
 23 the applicability of this compact to the remaining party states.

24 i. ~~A state which has been designated by the Commission to~~
 25 ~~be a host state has 90 days from receipt by the Governor of~~
 26 ~~written notice of designation to withdraw from the compact~~
 27 ~~without any right to receive refund of any funds already paid~~
 28 ~~pursuant to this compact and without any further payment.~~
 29 ~~Withdrawal becomes effective immediately upon notice as provided~~
 30 ~~in section 6 of this article. A designated host state which~~
 31 ~~withdraws from the compact after 90 days and prior to fulfilling~~
 32 ~~its obligations shall be assessed a sum the Commission~~
 33 ~~determines to be necessary to cover the costs borne by the~~
 34 ~~Commission and remaining party states as a result of that~~
 35 ~~withdrawal.~~ This compact may be dissolved and the obligations
 36 arising under this compact may be terminated only as follows:

1 1. Through unanimous agreement of all party states
2 expressed in duly enacted legislation; or

3 2. Through withdrawal of consent to this compact by the
4 Congress under Article I, Section 10, of the United States
5 Constitution, in which case dissolution shall take place 120
6 days after the effective date of the withdrawal of consent.

7 Unless explicitly abrogated by the state legislation
8 dissolving this compact, or if dissolution results from
9 withdrawal of Congressional consent, the limitations of the
10 investment and use of long-term care funds in articles VI.o. and
11 VI.q.4. of this compact, the contractual obligations in article
12 V.f. of this compact, the indemnification obligations and
13 contribution rights in articles VI.o., VI.s., and VII.q. of this
14 compact, and the operation rights and indemnification and hold
15 harmless obligations in article VI.q. of this compact, shall
16 remain in force notwithstanding dissolution of this compact.

17 ARTICLE IX. PENALTIES AND ENFORCEMENT

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

21 b. ~~Unless otherwise authorized by the Commission pursuant~~
22 ~~to article III.h after January 1, 1986, it is a violation of~~
23 ~~this compact:~~

24 ~~1. For any person to deposit at a regional facility waste~~
25 ~~not generated within the region;~~

26 ~~2. For any regional facility to accept waste not generated~~
27 ~~within the region;~~

28 ~~3. For any person to export from the region waste which is~~
29 ~~generated within the region;~~

30 ~~4. For any person to dispose of waste at a facility other~~
31 ~~than a regional facility;~~

32 The parties to this compact intend that the courts of the
33 United States shall specifically enforce the obligations,
34 including the obligations of party states and revoked or
35 withdrawn party states, established by this compact.

36 c. The Commission, an affected party state, or both, may

1 obtain injunctive relief, recover damages, or both, to prevent
2 or remedy violations of this compact.

3 d. Each party state acknowledges that the ~~receipt by~~
4 transport into a host state of waste packaged or transported in
5 violation of applicable laws, rules and regulations may result
6 in the imposition of sanctions by the host state which may
7 include reasonable financial penalties assessed against any
8 generator, transporter, or collector responsible for the
9 violation, or suspension or revocation of the ~~violation right~~
10 ~~of~~ access to the compact facility in the host state by any
11 generator, transporter, or collector responsible for the
12 violation.

13 e. Each party state has the right to seek legal
14 recourse against any party state which acts in violation of this
15 compact.

16 f. This compact shall not be construed to create any cause
17 of action for any person other than a party state or the
18 Commission. Nothing in article IX.f. of this compact, shall
19 limit the right of judicial review set forth in article III.n.3.
20 of this compact, or the rights of contribution set forth in
21 articles III.p., VI.o., VI.s., and VII.g. of this compact.

22 ARTICLE X. SEVERABILITY AND CONSTRUCTION

23 The provisions of this compact shall be severable and if
24 any ~~phrase, clause, sentence or~~ provision of this compact is
25 ~~deleted~~ finally determined by a court of competent jurisdiction
26 to be contrary to the Constitution of any participating state or
27 of the United States or the ~~applicability~~ application thereof to
28 any ~~government, agency~~ person or circumstance is held invalid,
29 the validity of the remainder of this compact to that person or
30 circumstance and the applicability thereof of the entire compact
31 to any ~~government, agency~~ other person or circumstance shall
32 not be affected thereby. If any provision of this compact shall
33 be held contrary to the Constitution of any state participating
34 therein, the compact shall remain in full force and effect as to
35 the state affected as to all severable matters. If any
36 provision of this compact imposing a financial obligation upon a

1 party state, or a state that has withdrawn from this compact or
2 had its membership in this compact revoked, is finally
3 determined by a court of competent jurisdiction to be
4 unenforceable due to the state's constitutional limitations on
5 its ability to pay the obligation, then that state shall use its
6 best efforts to obtain an appropriation to pay the obligation,
7 and, if the state is a party state, its right to have waste
8 generated within its borders disposed of at compact facilities,
9 or any noncompact facility made available to the region by any
10 agreement entered into by the Commission pursuant to article
11 III.h.6. of this compact, shall be suspended until the
12 appropriation is obtained.

13 Sec. 2. Minnesota Statutes 1994, section 116C.832,
14 subdivision 1, is amended to read:

15 Subdivision 1. [TERMS DEFINED IN COMPACT.] The terms
16 defined in article II of the Midwest Interstate Low-Level
17 Radioactive Waste Compact have the meanings given them for the
18 purposes of sections 116C.833 to ~~116C.848~~ 116C.849.

19 Sec. 3. Minnesota Statutes 1994, section 116C.832, is
20 amended by adding a subdivision to read:

21 Subd. 5a. [COMMITTEE.] "Committee" means the facility
22 siting policy development committee established under section
23 116C.842.

24 Sec. 4. Minnesota Statutes 1994, section 116C.833,
25 subdivision 2, is amended to read:

26 Subd. 2. [SEMIANNUAL BIENNIAL REPORT.] In addition to
27 other duties specified in sections 116C.833 to 116C.843, the
28 commissioner shall report semiannually by January 31, 1997, and
29 biennially thereafter, to the governor and the legislature
30 concerning the activities of the Interstate Commission. The
31 report shall include any recommendations the commissioner deems
32 necessary to assure the protection of the interest of the state
33 in the proper functioning of the compact. The commissioner also
34 shall report to the governor and the legislature any time there
35 is a change in the status of a host state or other party states
36 in the compact.

1 Sec. 5. Minnesota Statutes 1994, section 116C.834,
2 subdivision 1, is amended to read:

3 Subdivision 1. [COSTS.] All costs incurred by the state to
4 carry out its responsibilities under the compact and under
5 sections 116C.833 to 116C.843 shall be paid by generators of
6 low-level radioactive waste in this state through fees assessed
7 by the pollution control agency. The agency shall assess the
8 fees in the manner provided in section ~~16A.128~~ 16A.1285. Fees
9 may be reasonably assessed on the basis of volume or degree of
10 hazard of the waste produced by a generator. Costs for which
11 fees may be assessed include, but are not limited to:

12 (a) the state contribution required to join the compact;

13 (b) the expenses of the Commission member and state agency
14 costs incurred to support the work of the Interstate Commission;
15 and

16 (c) ~~regulatory costs including but not limited to costs of~~
17 ~~adopting and enforcing regulations if the state enters into a~~
18 ~~limited agreement with the United States Nuclear Regulatory~~
19 ~~Commission to assume state regulation of transportation and~~
20 ~~packaging or disposal of low-level radioactive wastes~~
21 ~~(d) siting costs of a low-level radioactive waste facility~~
22 ~~under section 116C.842 and sections 116C.845 to 116C.848 to the~~
23 ~~extent that the costs are reasonably attributable to waste~~
24 ~~generated in this state and~~

25 ~~(e) any liability the state may incur as a party state to~~
26 ~~the compact.~~

27 Sec. 6. Minnesota Statutes 1994, section 116C.834, is
28 amended by adding a subdivision to read:

29 Subd. 1a. [STATE LIABILITIES.] Nothing in this section
30 shall be construed to require generators of low-level
31 radioactive waste to pay any financial obligation of the state
32 arising under article V, section f.; article VI, section e. or
33 1.5.; or article VIII, section d., e., or f. of the compact.

34 Sec. 7. Minnesota Statutes 1994, section 116C.835,
35 subdivision 6, is amended to read:

36 Subd. 6. [EFFECT ON STATE.] Nothing in this section shall

1 be construed to permit any action or remedy against the state
2 for violation of any provision of the compact. The sole
3 ~~remedy remedies~~ for such a violation ~~is-the-remedy~~ are those
4 ~~provided in article-III, section-hr6r-and-article-VIII, section~~
5 ~~fr-of the compact.~~

6 Sec. 8. Minnesota Statutes 1994, section 116C.836,
7 subdivision 2, is amended to read:

8 Subd. 2. [PROCEEDINGS AGAINST PARTY STATE OR COMMISSION.]
9 The attorney general, in the name of the state, may:

10 (a) initiate a proceeding against another party state ~~in~~
11 ~~the-manner as~~ provided in article ~~III~~ IX, section ~~tr3r e.~~ of
12 the compact, and may appeal the-decision decisions of the
13 Interstate Commission as provided in article III, section ~~or n.;~~
14 or

15 (b) initiate a proceeding in any court of competent
16 jurisdiction to review an action or decision of the Interstate
17 Commission, or to require the Commission to act or refrain from
18 acting under the terms of the compact in any matter affecting
19 the interest of the state.

20 Sec. 9. Minnesota Statutes 1994, section 116C.842, is
21 amended by adding a subdivision to read:

22 Subd. 1a. [FACILITY SITING POLICY DEVELOPMENT COMMITTEE.]
23 Following Minnesota's designation as a host state by the
24 Interstate Commission, and within 60 days after a compact
25 facility located in the host state immediately preceding
26 Minnesota begins operation, the governor shall, in consultation
27 with the commissioner, establish and appoint the membership of a
28 facility siting policy development committee. The committee
29 shall study the issues relevant to developing a facility and
30 make recommendations concerning appropriate facility siting
31 criteria and development requirements. The committee shall
32 number no more than 12 voting members, at least eight of whom
33 shall be individuals with expertise in a range of scientific
34 disciplines relevant to site development. The committee shall
35 include at least one representative each from local government
36 and generators of low-level radioactive waste, and two

1 representatives from public interest groups. In addition, the
2 environmental quality board, the Minnesota geological survey,
3 the departments of natural resources, transportation, and
4 health, and the agency shall have nonvoting membership on the
5 committee and shall provide information and technical assistance
6 to the committee as needed. The committee shall report its
7 findings and recommendations to the governor and the legislature
8 no later than one year following the establishment of the
9 committee.

10 Sec. 10. Minnesota Statutes 1994, section 116C.842, is
11 amended by adding a subdivision to read:

12 Subd. 2a. [ADMINISTRATION.] The environmental quality
13 board shall provide administrative assistance to the committee.

14 Sec. 11. Minnesota Statutes 1994, section 116C.842, is
15 amended by adding a subdivision to read:

16 Subd. 3a. [COMPENSATION.] The citizen members of the
17 committee shall be compensated as provided in section 15.0575.

18 Sec. 12. Minnesota Statutes 1994, section 116C.842, is
19 amended by adding a subdivision to read:

20 Subd. 3b. [TERMINATION.] The committee is terminated upon
21 reporting its recommendations to the governor and legislature in
22 accordance with subdivision 1a.

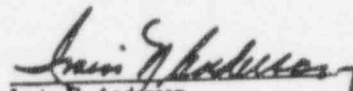
23 Sec. 13. [116C.849] [SITING CRITERIA.]

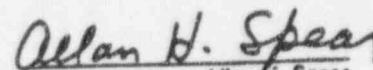
24 In making its facility siting policy recommendations to the
25 governor and the legislature, the committee shall consider
26 health, safety, and environmental protection above all other
27 siting criteria.

28 Sec. 14. [REPEALER.]

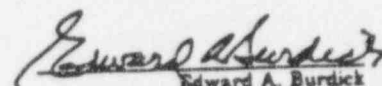
29 Minnesota Statutes 1994, sections 116C.832, subdivisions 2,
30 7, and 8; 116C.837; 116C.839; 116C.840, subdivision 3; 116C.841;
31 116C.842, subdivisions 1, 2, and 3; 116C.845; 116C.846;
32 116C.847; and 116C.848, are repealed.

This bill was passed in conformity to the rules of each house and the joint rules of the two houses as required by the Constitution of the State of Minnesota.

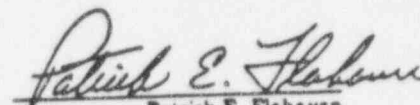

Irvin N. Anderson
Speaker of the House of Representatives.


Allan H. Spear
President of the Senate.

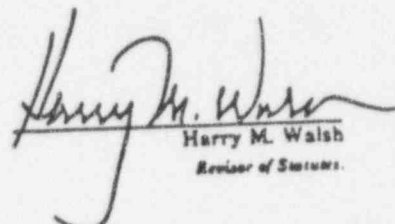
Passed the House of Representatives on March 28, 1996.


Edward A. Burdick
Chief Clerk, House of Representatives.

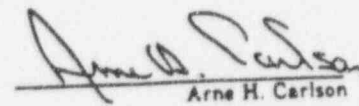
Passed the Senate on March 28, 1996.


Patrick E. Flahaven
Secretary of the Senate.

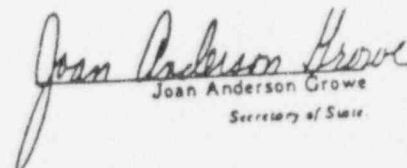
This bill is properly enrolled and was presented to the Governor on March 30, 1996.


Harry M. Walsh
Revisor of Statutes.

Approved on April 2, 1996, at 12:36 P.M.


Arne H. Carlson
Governor.

Filed on April 2, 1996.


Joan Anderson Grove
Secretary of State.