

CHAPTER 1050**URBAN RENEWAL – CENTURY FARM EXCLUSION***H.F. 2177*

AN ACT relating to the exclusion of century farms from economic development areas for purposes of urban renewal and providing for the Act's applicability.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 403.17, subsection 9, Code 1995, is amended to read as follows:

9. "Economic development area" means an area of a municipality designated by the local governing body as appropriate for commercial and industrial enterprises or housing and residential development for low and moderate income families, including single or multifamily housing. If an urban renewal plan for an urban renewal area is based upon a finding that the area is an economic development area and that no part contains slum or blighted conditions, then the division of revenue provided in section 403.19 and stated in the plan shall be limited to twenty years from the calendar year following the calendar year in which the city first certifies to the county auditor the amount of any loans, advances, indebtedness, or bonds which qualify for payment from the division of revenue provided in section 403.19. Such ~~designated area designated before July 1, 1994,~~ shall not include land which is part of a century farm, unless the owner of the century farm agrees to include the century farm in the urban renewal area. For the purposes of this subsection, "century farm" means a farm in which at least forty acres of such farm has been held in continuous ownership by the same family for one hundred years or more.

Sec. 2. **APPLICABILITY.** Notwithstanding 1994 Iowa Acts, chapter 1182, section 15, this Act applies to economic development areas designated before, on, or after the effective date of this Act.

Approved April 4, 1996

CHAPTER 1051**MIDWEST INTERSTATE LOW-LEVEL RADIOACTIVE WASTE COMPACT***S.F. 2219*

AN ACT relating to the midwest interstate compact on low-level radioactive waste and establishing a penalty.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 457B.1, Code 1995, is amended to read as follows:

457B.1 LOW-LEVEL RADIOACTIVE WASTE COMPACT.

The midwest interstate low-level radioactive waste compact is entered into and enacted into law with all jurisdictions legally joining therein, in the form substantially as follows:

ARTICLE I – POLICY AND PURPOSE

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

The states party to this compact recognize that the congress of the United States, by enacting the Low-Level Radioactive Waste Policy Act (~~42 U.S.C. § 2021~~), as amended by the Low-Level Radioactive Waste Policy Amendments Act of 1985, 42 U.S.C. § 2021b-j, has

provided for and encouraged the development of low-level radioactive waste compacts as a tool for ~~managing disposing of~~ such waste. The party states acknowledge that the congress declared that each state is responsible for providing for the availability of capacity either within or outside the state for the disposal of low-level radioactive waste generated within its borders, except for waste generated as a result of certain defense activities of the federal government or federal research and development activities. The party states also recognize that the ~~management disposal~~ of low-level radioactive waste is handled most efficiently on a regional basis; and that the safe and efficient management of low-level radioactive waste generated within the region requires that sufficient capacity to ~~manage dispose of~~ such waste be properly provided.

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

1. Providing the instrument and framework for a cooperative effort;
2. Providing sufficient facilities for the proper ~~management disposal~~ of low-level radioactive waste generated in the region;
3. Protecting the health and safety of the citizens of the region;
4. Limiting the number of facilities required to effectively and efficiently ~~manage dispose of~~ low-level radioactive waste generated in the region;
5. Encouraging the ~~source reduction of the amounts of low-level radioactive waste generated in the region and the environmentally sound treatment of waste that is generated to minimize the amount of waste to be disposed of;~~

6. ~~Distributing~~ Ensuring that the costs, ~~benefits~~ expenses, liabilities, and obligations of successful low-level radioactive waste ~~management equitably among the party states and among disposal are paid by generators and other persons who use regional compact facilities to manage dispose of~~ their waste; and

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

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

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

b. Implicit in the congressional consent to this compact is the expectation by the congress and the party states that the appropriate federal agencies will actively assist the compact commission and the individual party states to this compact by:

1. Expedient enforcement of federal rules, regulations, and laws;
2. Imposition of sanctions against those found to be in violation of federal rules, regulations, and laws; and
3. Timely inspection of their licensees to determine their compliance with these rules, regulations, and laws.

ARTICLE II - DEFINITIONS

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

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

b. "Close", "closed", or "closing" means that the compact facility with respect to which any of those terms are used has ceased to accept low-level radioactive waste for disposal. "Permanently closed" means that the compact facility with respect to which the term is used has ceased to accept low-level radioactive waste because a compact facility has operated for twenty years or a longer period of time as authorized by article VI, section i, its

capacity has been reached, the commission has authorized it to close pursuant to article III, section h, subsection 7, the host state of such facility has withdrawn from the compact or had its membership revoked, or this compact has been dissolved.

b. c. "Commission" means the midwest interstate low-level radioactive waste commission.

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

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

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

d. f. "Disposal" means the isolation of waste from the biosphere in a permanent facility designed for that purpose with regard to low-level radioactive waste, means the permanent isolation of that waste in accordance with the requirements established by the United States nuclear regulatory commission or the licensing agreement state.

e. "Eligible state" means a state qualified to be a party state to this compact as provided in article VIII.

g. "Disposal plan" means the plan adopted by the commission for the disposal of low-level radioactive waste within the region.

f. h. "Facility" means a parcel of land or site, together with the structures, equipment, and improvements on or appurtenant to the land or site, which is or has been used or is being developed for the treatment, storage, or disposal of low-level radioactive waste, which is being developed for that purpose, or upon which the construction of improvements or installation of equipment is occurring for that purpose.

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

g. j. "Generator" means a person who first produces or possesses low-level radioactive waste, including, without limitation, any person who does so in the course of or incident to manufacturing, power generation, processing, waste treatment, waste storage, medical diagnosis and treatment, research, or other industrial or commercial activity and who, to the extent required by law, is licensed by the United States nuclear regulatory commission or a party state, to produce or possess such waste. "Generator" does not include a person who provides a service by arranging for the collection, transportation, treatment, storage, or disposal of wastes generated outside the region. If the person who first produced an item or quantity of low-level radioactive waste cannot be identified, "generator" means the person first possessing the low-level radioactive waste who can be identified.

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

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

i. m. "Low-level radioactive waste" or "waste" means radioactive waste that is not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or by product material as defined in section 11(e)(2) of the Atomic Energy Act of 1954 and that is Class A, B, or C low-level radioactive waste as defined in 10 C.F.R. § 61.55, as that section existed

on January 26, 1983. “Low-level radioactive waste” or “waste” does not include any such radioactive waste that is owned or generated by the United States department of energy; by the United States navy as a result of the decommissioning of its vessels; or as a result of research, development, testing, or production of an atomic weapon.

~~j. “Management plan” means the plan adopted by the commission for the storage, transportation, treatment, and disposal of waste within the region.~~

n. “Operates”, “operational”, or “operating” means that the compact facility with respect to which any of those terms is used accepts low-level radioactive waste for disposal.*

k. o. “Party state” means any an eligible state which that enacts the this compact into law, pays any eligibility fee established by the commission, and has not withdrawn from this compact or had its membership in this compact revoked, provided that a state that has withdrawn from this compact or had its membership revoked becomes a party state if it is readmitted to membership in this compact pursuant to article VIII, section a. “Party state” includes a host state. “Party state” also includes statutorily created administrative departments, agencies, or instrumentalities of a party state, but does not include municipal corporations, regional or local units of government, or other political subdivisions of a party state that are responsible for governmental activities on less than a statewide basis.

l. p. “Person” means any individual, corporation, association, business enterprise, or other legal entity either public or private and any legal successor, representative, agent, or agency of that individual, corporation, association, business enterprise, or other legal entity. “Person” also includes the United States, states, political subdivisions of states, and any department, agency, or instrumentality of the United States or a state.

~~m. q. “Region” means the area of the party states.~~

~~n. “Regional facility” means a facility which is located within the region and which is established by a party state pursuant to designation of that state as a host state by the commission.~~

~~o. r. “Site” means the geographic location of a facility.~~

p. s. “State” means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands or any other territorial possession of the United States.

~~q. t. “Storage” means the temporary holding of low-level radioactive waste for treatment or disposal.~~

r. u. “Treatment” means any method, technique or process, including storage for radioactive decay, designed to change the physical, chemical or biological characteristics or composition of any low-level radioactive waste in order to render the low-level radioactive waste safer for transport or management, amenable to recovery, convertible to another usable material or reduced in volume.

s. v. “Waste management”, “manage waste”, “management of waste”, “management”, or “managed” means the storage, transportation, treatment, or disposal of low-level radioactive waste.

ARTICLE III – THE COMMISSION

a. There is created the midwest interstate low-level radioactive waste commission. The commission consists of one voting member from each party state. The governor of each party state shall notify the commission in writing of its member and any alternates. An alternate may act on behalf of the member only in that member’s absence. The method for selection and the expenses of each commission member shall be the responsibility of the member’s respective state.

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

*According to enrolled Act

c. The commission shall elect annually from among its members a chairperson. The commission shall adopt and publish, in convenient form, bylaws and policies which are not inconsistent with this compact, including procedures for the use of binding arbitration under article VI, section o, and procedures which substantially conform with the provisions of the federal Administrative Procedure Act (5 U.S.C. §§ 500 to 559) in regard to notice, conduct, and recording of meetings; access by the public to records; provision of information to the public; conduct of adjudicatory hearings; and issuance of decisions.

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

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

f. The commission may establish advisory committees for the purpose of advising the commission on any matters pertaining to waste management.

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

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

~~1. Enter into an agreement with any person, state, or group of states for the right to use regional facilities for waste generated outside the region and for the right to use facilities outside the region for waste generated within the region. The right of any person to use a regional facility for waste generated outside of the region requires an affirmative vote of a majority of the commission, including the affirmative vote of the member of the host state in which any affected regional facility is located.~~

~~2. Approve the disposal of waste generated within the region at a facility other than a regional facility.~~

~~3. 1.~~ Appear as an intervenor or party in interest before any court of law or any federal, state, or local agency, board, or commission in any matter related to waste management. In order to represent its views, the commission may arrange for any expert testimony, reports, evidence, or other participation.

~~4. 2.~~ Review the any emergency closure closing of a regional compact facility, determine the appropriateness of that closure closing, and take whatever lawful actions are necessary to ensure that the interests of the region are protected.

~~5. 3.~~ Take any action which is appropriate and necessary to perform its duties and functions as provided in this compact.

~~6. Suspend the privileges or revoke the membership of a party state by a two-thirds vote of the membership in accordance with article VIII.~~

4. Approve the disposal of naturally occurring and accelerator-produced radioactive material at a compact facility. The commission shall not approve the acceptance of such material without first making an explicit determination of the effect of the new low-level radioactive waste stream on the compact facility's maximum capacity. Such approval requires the affirmative vote of a majority of the commission, including the affirmative vote of the member from the host state of the compact facility that would accept the material for disposal. Any such host state may at any time rescind its vote granting the approval and, thereafter, additional naturally occurring and accelerator-produced radioactive material shall not be disposed of at a compact facility unless the disposal is again approved. All provisions of this compact apply to the disposal of naturally occurring and accelerator-

produced radioactive material that has been approved for disposal at a compact waste facility pursuant to this subsection.

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

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

(a) Import for disposal within the region low-level radioactive waste generated outside the region.

(b) Export for disposal outside the region low-level radioactive waste generated inside the region.

(c) Dispose of low-level radioactive waste generated within the region at a facility within the region that is not a compact facility.

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

i. The commission shall do all of the following:

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

2. 1. Submit an annual report to, and otherwise communicate with, the governors and the appropriate officers of the legislative bodies of the party states regarding the activities of the commission.

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

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

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

4. Establish and implement a procedure for determining the capacity of a compact facility. The capacity of a compact facility shall be established as soon as reasonably practical after the host state of the compact facility is designated and shall not be changed thereafter without the consent of the host state. The capacity of a compact facility shall be based on the projected volume, radioactive characteristics, or both, of the low-level radioactive waste to be disposed of at the compact facility during the period set forth in article VI, section i.

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

6. Establish and implement procedures for making payments from the remedial action fund provided for in section p.

7. Establish and implement procedures to investigate a complaint joined in by two or more party states regarding another party state's performance of its obligations.

8. Adopt policies promoting source reduction and the environmentally sound treatment of low-level radioactive waste in order to minimize the amount of low-level radioactive waste to be disposed of at compact facilities.

9. Establish and implement procedures for obtaining information from generators regarding the volume and characteristics of low-level radioactive waste projected to be disposed of at compact facilities and regarding generator activities with respect to source reduction, recycling, and treatment of low-level radioactive waste.

10. Prepare annual reports regarding the volume and characteristics of low-level radioactive waste projected to be disposed of at compact facilities.

j. Funding of the budget of for the commission shall be provided as follows:

1. Each state, upon becoming a party state, shall pay fifty thousand dollars or one thousand dollars per cubic meter shipped from that state in 1980, whichever is lower, to the

~~commission which shall be used for the administrative costs of the commission. When no compact facility is operating, the commission may assess fees to be collected from generators of low-level radioactive waste in the region. The fees shall be reasonable and equitable. The commission shall establish and implement procedures for assessing and collecting the fees. The procedures may allow the assessing of fees against less than all generators of low-level radioactive waste in the region; provided that if fees are assessed against less than all generators of waste in the region, generators paying the fees shall be reimbursed the amount of the fees, with reasonable interest, out of the revenues of operating compact facilities.~~

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

~~2. 3. Each state hosting a regional facility shall levy surcharges on all users of the regional facility based upon its portion of the total volume and characteristics of wastes managed at that facility. The In the aggregate, the fees or surcharges collected at all regional facilities, as the case may be, shall be no more than is necessary to:~~

~~(a) Be sufficient to cover Cover the annual budget of the commission; and,
(b) Represent the financial commitments of all party states to the commission; and
(c) Be paid to the commission, provided, that each host state collecting surcharges may retain a portion of the collection sufficient to cover its administrative costs of collection, and that the remainder be sufficient only to cover the approved annual budget of the commission.~~

(b) Provide a host state with the funds necessary to pay reasonable development expenses incurred by the host state after it is designated to host a compact facility.

(c) Provide moneys for deposit in the remedial action fund established pursuant to section p.

(d) Provide moneys to be added to an inadequately funded long-term care fund as provided in article VI, section o.

~~k. The commission shall keep accurate accounts of all receipts and disbursements. Financial statements of the commission shall be prepared according to generally accepted accounting principles. The commission shall contract with an independent certified public accountant to annually audit all receipts and disbursements of commission funds, its financial statements and to submit an audit report to the commission. The audit report shall be made a part of the annual report of the commission required by this article.~~

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

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

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

n. 1. m. The commission is a legal entity separate and distinct from the party states and is liable for its actions as a separate and distinct legal entity. Liabilities of the commission are not liabilities of the party states. Members of the commission and its employees are not personally liable for actions taken by them in their official capacity. The commission is not

liable or otherwise responsible for any costs, expenses, or liabilities resulting from the development, construction, operation, regulation, closing, or long-term care of any compact facility or any noncompact facility made available to the region by any contract or agreement entered into by the commission under section h, subsection 6. Nothing in this section relieves the commission of its obligations under this article or under contracts to which it is a party. Any liabilities of the commission are not liabilities of the party states.

~~2. Except as provided under section m and section n, subsection 1, nothing in this compact alters liability for any act, omission, course of conduct, or liability resulting from any causal or other relationships.~~

~~o. Any person aggrieved by a final decision of the commission may obtain judicial review of such decision in any court of jurisdiction by filing in such court a petition for review within sixty days after the commission's final decision.~~

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

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

2. Before making a final decision, the commission may conduct an adjudicatory hearing on the proposed decision.

3. Judicial review of a final decision shall be initiated by filing a petition in the United States district court for the district in which the person seeking the review resides or in which the commission's office is located not later than sixty days after issuance of the commission's written decision. Concurrently with filing the petition for review with the court, the petitioner shall serve a copy of the petition on the commission. Within five days after receiving a copy of the petition, the commission shall mail a copy of it to each party state and to all other persons who have notified the commission of their desire to receive copies of such petitions. Any failure of the commission to so mail copies of the petition does not affect the jurisdiction of the reviewing court. Except as otherwise provided in this subsection, standing to obtain judicial review of final decisions of the commission and the form and scope of the review are subject to and governed by 5 U.S.C. § 706.

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

(a) Imposes financial penalties on a party state.

(b) Suspends the right of a party state to have waste generated within its borders disposed of at a compact facility or at a noncompact facility made available to the region by an agreement entered into by the commission under section h, subsection 6.

(c) Terminates the designation of a party state as a host state.

(d) Revokes the membership of a party state in this compact.

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

Any such trial de novo of the facts shall be governed by the federal rules of civil procedure and the federal rules of evidence.

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

6. Except as provided in subsection 5, actions of the commission that are not final decisions are not subject to judicial review.

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

1. Import low-level radioactive waste generated outside the region for disposal within the region.

2. Export low-level radioactive waste generated within the region for disposal outside the region.

3. Manage low-level radioactive waste generated outside the region at a facility within the region.

4. Dispose of low-level radioactive waste generated within the region at a facility within the region that is not a compact facility.

p. The commission shall establish a remedial action fund to pay the costs of reasonable remedial actions taken by a party state if an event results from the development, construction, operation, closing, or long-term care of a compact facility that poses a threat to human health, safety, or welfare or to the environment. The amount of the remedial action fund shall be adequate to pay the costs of all reasonably foreseeable remedial actions. A party state shall notify the commission as soon as reasonably practical after the occurrence of any event that may require the party state to take a remedial action. The failure of a party state to notify the commission does not limit the rights of the party state under this section.

If the moneys in the remedial action fund are inadequate to pay the costs of reasonable remedial actions, the amount of the deficiency is a liability with respect to which generators shall provide indemnification under article VII, section g. Generators who provide the required indemnification have the rights of contribution provided in article VII, section g. This section applies to remedial action taken by a party state regardless of whether the party state takes the remedial action on its own initiative or because it is required to do so by a court or regulatory agency of competent jurisdiction.

q. If the commission makes payment from the remedial action fund provided for in section p, the commission is entitled to obtain reimbursement under applicable rules of law from any person who is responsible for the event giving rise to the remedial action. Reimbursement may be obtained from a party state only if the event giving rise to the remedial action resulted from the activities of that party state as a generator of waste.

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

ARTICLE IV - REGIONAL MANAGEMENT DISPOSAL PLAN

The commission shall adopt and periodically update a regional management disposal plan designed to ensure the safe and efficient management disposal of low-level radioactive waste generated within the region. In adopting a regional low-level radioactive waste management disposal plan, the commission shall do all of the following:

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

~~b. Develop and consider policies promoting source reduction of waste generated within the region;~~

e. ~~b.~~ Develop and adopt procedures and criteria for identifying a party state as a host state for a regional compact facility. In developing these criteria, the commission shall consider all of the following:

1. The health, safety, and welfare of the citizens of the party states.
2. The existence of regional compact facilities within each party state.
3. The minimization of low-level radioactive waste transportation.
4. The volumes and types of low-level radioactive wastes projected to be generated within each party state.

5. The environmental, economic, and ecological impacts on the air, land, and water resources of the party states.

6. The economic impacts on the party states.

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

~~e. d.~~ Prepare a draft management disposal plan and any update thereof, including procedures, criteria, and host states, including alternatives, which shall be made available in a convenient form to the public for comment. Upon the request of a party state, the commission shall conduct a public hearing in that state prior to the adoption or update of the management disposal plan. The management disposal plan and any update thereof shall include the commission's response to public and party state comment.

ARTICLE V – RIGHTS AND OBLIGATIONS OF PARTY STATES

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

b. Each Except for low-level radioactive waste attributable to radioactive material or low-level radioactive waste imported into the region in order to render the material or low-level radioactive waste amenable to transportation, storage, disposal, or recovery, or in order to convert the low-level radioactive waste or material to another usable material, or to reduce it in volume or otherwise treat it, each party state has the right to have all low-level radioactive wastes generated within its borders managed disposed of at regional compact facilities subject to the payment of all fees established by the host state under article VI, section j, and to the provisions contained in article VI, sections l and s, article VIII, section d, article IX, section sections c and d and article X. All party states have an equal right of access to any facility made available to the region by any agreement entered into by the commission pursuant to article III, section h, subsection 6, subject to the provisions of article VI, sections l and s, article VIII, sections c and d, and article X.

~~c. Party states or generators may negotiate for the right of access to a facility outside the region and may export waste outside the region subject to commission approval under article III. If a party state's right to have waste generated within its borders disposed of at compact facilities, or at any noncompact facility made available to the region by an agreement entered into by the commission under article III, section h, subsection 6, is suspended, low-level radioactive waste generated within its borders by any person shall be* disposed of at any such facility during the period of the suspension.~~

d. To the extent permitted by federal law, each party state may enforce any applicable federal and state laws, regulations, and rules pertaining to the packaging and transportation of waste generated within or passing through its borders. Nothing in this section shall be construed to require a party state to enter into any agreement with the United States nuclear regulatory commission.

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

f. If, notwithstanding the sovereign immunity provision in article VII, section f, subsection 1, and the indemnification provided for in article III, section p, article VI, section o, and article VII, section g, a party state incurs a cost as a result of an inadequate remedial action fund or an exhausted long-term care fund, or incurs a liability as a result of an action described in article VII, section f, subsection 1, and not described in article VII, section f, subsection 2, the cost or liability shall be the pro rata obligation of each party state and each state that has withdrawn from this compact or had its membership in this compact revoked. The commission shall determine each state's pro rata obligation in a fair

* The words "shall not be" probably intended

and equitable manner based on the amount of low-level radioactive waste from each such state that has been or is projected to be disposed of at the compact facility with respect to which the cost or liability to be shared was incurred. No state shall be obligated to pay the pro rata obligation of any other state.

The pro rata obligations provided for in this section do not result in the creation of state debt. Rather, the pro rata obligations are contractual obligations that shall be enforced by only the commission or an affected party state.

g. If the party states make payment pursuant to this section, the surcharge or fee provided for in article III, section j, shall be used to collect the funds necessary to reimburse the party states for those payments. The commission shall determine the time period over which reimbursement shall take place.

ARTICLE VI - DEVELOPMENT, AND OPERATION, AND CLOSING OF COMPACT FACILITIES

a. A party state may volunteer to become a host state, and the commission may designate that state as a host state ~~upon a two-thirds vote of its members.~~

b. If not all regional compact facilities required by the regional management disposal plan are not developed pursuant to section a, or upon notification that an existing regional facility will be closed, the commission may designate a host state.

c. ~~Each party~~ After a state is designated as a host state by the commission, it is responsible for determining possible facility locations within its borders the timely development and operation of the compact facility it is designated to host. The selection of a facility site shall not conflict with applicable federal and host state laws, regulations, and rules not inconsistent with this compact and shall be based on factors including, but not limited to, geological, environmental, and economic viability of possible facility locations. The development and operation of the compact facility shall not conflict with applicable federal and host state laws, rules, and regulations, provided that the laws, rules, and regulations of a host state and its political subdivisions shall not prevent, nor shall they be applied so as to prevent, the host state's discharge of the obligation set forth in this section. The obligation set forth in this section is contingent upon the discharge by the commission of its obligation set forth in article III, section i, subsection 5.

d. If a party state designated as a host state fails to discharge the obligations imposed upon it by section c, its host state designation may be terminated by a two-thirds vote of the commission with the member from the host state of any then operating compact facility voting in the affirmative. A party state whose host state designation has been terminated has failed to fulfill its obligations as a host state and is subject to the provisions of article VIII, section d.

~~d. e.~~ Any party state designated as a host state may request the commission to relieve that state of the responsibility to serve as a host state. The Except as set forth in section d, the commission may relieve a party state of this its responsibility only upon a showing by the requesting party state that, based upon criteria established by the commission that are consistent with applicable federal criteria, no feasible potential regional compact facility site of the type it is designated to host exists within its borders. A party state relieved of its host state responsibility shall repay to the commission any funds provided to that state by the commission for the development of a compact facility, and also shall pay to the commission the amount the commission determines is necessary to ensure that the commission and the other party states do not incur financial loss as a result of the state being relieved of its host state responsibility. Any funds so paid to the commission with respect to the financial loss of the other party states shall be distributed forthwith by the commission to the party states that would otherwise incur the loss. In addition, until the state relieved of its responsibility is again designated as a host state and a compact facility located in that state begins operating, it shall annually pay to the commission, for deposit

in the remedial action fund, an amount the commission determines is fair and equitable in light of the fact the state has been relieved of the responsibility to host a compact facility, but continues to enjoy the benefits of being a member of this compact.

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

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

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

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

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

~~h. Designation of a host state is for a period of twenty years or the life of the regional facility which is established under that designation, whichever is longer. Upon request of a host state, the commission may modify the period of its designation.~~

i. A host state shall accept waste for disposal for a period of twenty years from the date the compact facility in the host state becomes operational, or until its capacity has been reached, whichever occurs first. At any time before the compact facility closes, the host state and the commission may enter into an agreement to extend the period during which the host state is required to accept such waste or to increase the capacity of the compact facility. Except as specifically authorized by section 1, subsection 4, the twenty-year period shall not be extended, and the capacity of the facility shall not be increased, without the consent of the affected host state and the commission.

~~i. j. A host state may shall establish a fee system for of fees to be collected from the users of any regional compact facility within its borders. The fee system, and the costs paid through the system, shall be reasonable and equitable. The fee system shall be subject to the commission's approval. This The fee system shall provide the host state with sufficient revenue to cover any pay costs associated with the compact facility, including, but not limited to the planning, siting, licensure, operation, decommissioning, extended care, and long term liability, associated with such facilities closing, long-term care, debt service, legal costs, local impact assistance, and local financial incentives. This fee system may also include reasonable revenue beyond the costs incurred for the host state, subject to approval by the commission. A host state shall submit an annual financial audit of the operation of the regional facility to the commission. The fee system also shall be used to collect the surcharge provided in article III, section j, subsection 2. The fee system may shall include incentives for source reduction and may shall be based on the hazard of the low-level radioactive waste as well as the volume.~~

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

~~k.~~ ~~A host state intending to close a regional facility located within its borders shall notify the commission in writing of its intention and the reasons. Notification shall be given to the commission at least five years prior to the intended date of closure.~~

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

1. No compact facility shall begin operating until the commission designates the host state of the next compact facility.

2. The following actions shall be taken by the state designated to host the next compact facility within the specified number of years after the compact facility it is intended to replace begins operation:

(a) Within three years, enact legislation providing for the development of the next compact facility.

(b) Within seven years, initiate site characterization investigations and tests to determine licensing suitability for the next compact facility.

(c) Within eleven years, submit a license application for the next compact facility that the responsible licensing authority deems complete.

If a host state fails to take any of these actions within the specified time, all low-level radioactive waste generated by a person within that state shall be denied access to the then operating compact facility, and to any noncompact facility made available to the region by any agreement entered into by the commission pursuant to article III, section h, subsection 6, until the action is taken. Denial of access may be rescinded by the commission, with the member from the host state of the then operating compact facility voting in the affirmative. A host state that fails to take any of these actions within the specified time has failed to fulfill its obligations as a host state and is subject to the provisions of this section, and article VIII, section d.

3. Within fourteen years after a compact facility begins operating, the state designated to host the next compact facility shall have obtained a license from the responsible licensing authority to construct and operate the compact facility the state has been designated to host. If the license is not obtained within the specified time, all low-level radioactive waste generated by any person within the state designated to host the next compact facility shall be denied access to the then operating compact facility, and to any noncompact facility made available to the region by any agreement entered into by the commission pursuant to article III, section h, subsection 6, until the license is obtained. The state designated to host the next compact facility shall have failed in its obligations as a host state and shall be subject to section d, and article VIII, section d. In addition, at the sole option of the host state of the then operating compact facility, all low-level radioactive waste generated by any person within any party state that has not fully discharged its obligations under section i, shall be denied access to the then operating compact facility, and to a noncompact facility made available to the region by an agreement entered into by the commission pursuant to article III, section h, subsection 6, until the license is obtained. Denial of access may be rescinded by the commission, with the member from the host state of the then operating compact facility voting in the affirmative.

4. If twenty years after a compact facility begins operating, the next compact facility is not ready to begin operating, the state designated to host the next compact facility shall have failed in its obligation as a host state and shall be subject to section d, and article VIII, section d. If at the time the capacity of the then operating compact facility has been reached, or twenty years after the facility began operating, whichever occurs first, the next compact facility is not ready to begin operating, the host state of the then operating compact facility,

without the consent of any other party state or the commission, may continue to operate the facility until a compact facility in the next host state is ready to begin operating. During any such period of continued operation of a compact facility, all low-level radioactive waste generated by any person within the state designated to host the next compact facility shall be denied access to the then operating compact facility and to a noncompact facility made available to the region by an agreement entered into by the commission pursuant to article III, section h, subsection 6. In addition, during such period, at the sole option of the host state of the then operating compact facility, all low-level radioactive waste generated by any person within any party state that has not fully discharged its obligations under section i, shall be denied access to the then operating compact facility and to any noncompact facility made available to the region by any agreement entered into by the commission pursuant to article III, section h, subsection 6. Denial of access may be rescinded by the commission, with the member from the host state of the then operating compact facility voting in the affirmative. The provisions of this subsection shall not apply if their application is inconsistent with an agreement between the host state of the then operating compact facility and the commission as authorized in section i, or inconsistent with section p or q.

5. During any period that access is denied for low-level radioactive waste disposal pursuant to section l, subsection 2, 3, or 4, the party state designated to host the next compact disposal facility shall pay to the host state of the then operating compact facility an amount the commission determines is reasonably necessary to ensure that the host state, or an agency or political subdivision thereof, does not incur financial loss as a result of the denial of access.

6. The commission may modify any of the requirements contained in section l, subsections 2 and 3, if it finds that circumstances have changed so that the requirements are unworkable or unnecessarily rigid or no longer serve to ensure the timely development of a compact facility. The commission may adopt such a finding by a two-thirds vote, with the member from the host state of the then operating compact facility voting in the affirmative.

m. This section compact shall not prevent an emergency closing of a regional compact facility by a host state to protect its air, land, and water resources and the health and safety of its citizens all people who may be affected by the compact facility. However, a host state which that has an emergency closing of a regional compact facility shall notify the commission in writing within three working days of its action and shall, within thirty working days of its action, demonstrate justification for the closing.

~~l. If a regional facility closes before an additional or new facility becomes operational, waste generated within the region may be shipped temporarily to any location agreed on by the commission until a regional facility is operational.~~

~~m. A party state which is designated as a host state by the commission and fails to fulfill its obligations as a host state may have its privileges under the compact suspended or membership in the compact revoked by the commission.~~

n. A party state that has fully discharged its obligations under section i shall not again be designated a host state of a compact facility without its consent until each party state has been designated to host a compact facility and has fully discharged its obligations under section i, or has been relieved under section e, of its responsibility to serve as a host state.

o. Each host state of a compact facility shall establish a long-term care fund to pay for monitoring, security, maintenance, and repair of the facility after it is permanently closed. The expenses of administering the long-term care fund shall be paid out of the fund. The fee system established by the host state that establishes a long-term care fund shall be used to collect moneys in amounts that are adequate to pay for all long-term care of the compact facility. The moneys shall be deposited into the long-term care fund. Except where the matter is resolved through arbitration, the amount to be collected through the fee

system for deposit into the fund shall be determined through an agreement between the commission and the host state establishing the fund. Not less than three years, nor more than five years, before the compact facility it is designated to host is scheduled to begin operating, the host state shall propose to the commission the amount to be collected through the fee system for deposit into the fund. If, one hundred eighty days after such proposal is made to the commission, the host state and the commission have not agreed, either the commission or the host state may require the matter to be decided through binding arbitration. The method of administration of the fund shall be determined by the host state establishing the long-term care fund, provided that moneys in the fund shall be used only for the purposes set forth in this section, and shall be invested in accordance with the standards applicable to trustees under the laws of the host state establishing the fund. If, after a compact facility is closed, the commission determines the long-term care fund established with respect to that compact facility is not adequate to pay for all long-term care for that compact facility, the commission shall collect and pay over to the host state of the closed compact facility, for deposit into the long-term care fund, an amount determined by the commission to be necessary to make the amount in the fund adequate to pay for all long-term care of the compact facility. If a long-term care fund is exhausted and long-term care expenses for the compact facility with respect to which the fund was created have been reasonably incurred by the host state of the compact facility, those expenses are a liability with respect to which generators shall provide indemnification as provided in article VII, section g. Generators that provide indemnification shall have contribution rights as provided in article VII, section g.

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

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

1. The host state shall pay to the other party states the portion of the funds provided to that state by the commission for the development, construction, operation, closing, or long-term care of a compact facility that is fair and equitable, taking into consideration the period of time the compact facility located in that state was in operation and the amount of waste disposed of at the compact facility, provided that a host state that has fully discharged its obligations under section i, shall not be required to make such payment.

2. The host state shall physically segregate low-level radioactive waste disposed of at the compact facility after this compact is dissolved from low-level radioactive waste disposed of at the compact facility before this compact is dissolved.

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

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

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

s. Low-level radioactive waste may be accepted for disposal at a compact facility only if the generator of the low-level radioactive waste has signed, and there is on file with the commission, an agreement to provide indemnification to a party state, or employee of that state, for all of the following:

1. Any cost of a remedial action described in article III, section p, that, due to inadequacy of the remedial action fund, is not paid as set forth in that provision.

2. Any expense for long-term care described in section o that, due to exhaustion of the long-term care fund, is not paid as set forth in that provision.

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

(a) The activities of the party states as generators of waste.

(b) The obligations of the party states to each other and the commission imposed by this compact or other contracts related to the disposal of low-level radioactive waste under this compact.

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

The agreement shall provide that the indemnification obligation of generators shall be joint and several, except that the indemnification obligation of the party states with respect to their activities as generators of low-level radioactive waste shall not be joint and several, but instead shall be prorated according to the amount of waste that each state had disposed of at the compact facility giving rise to the liability. Such proration shall be calculated as of the date of the event giving rise to the liability. The agreement shall be in a form approved by the commission with the member from the host state of any then operating compact facility voting in the affirmative. Among generators there shall be rights of contribution based on equitable principles, and generators shall have rights of contribution against another person responsible for such damages under common law, statute, rule, or regulation, provided that a party state that through its own activities did not generate any low-level radioactive waste disposed of at the compact facility giving rise to the liability, an employee of such a party state, and the commission shall not have a contribution obligation. The commission may waive the requirement that the party state sign and file such an indemnification agreement as a condition to being able to dispose of low-level radioactive waste generated as a result of the party state's activities. Such a waiver shall not relieve a party state of the indemnification obligation imposed by article VII, section g.

ARTICLE VII – OTHER LAWS AND REGULATIONS

a. Nothing in this compact:

1. Abrogates or limits the applicability of any act of congress or diminishes or otherwise impairs the jurisdiction of any federal agency expressly conferred thereon by the congress;

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

3. ~~Prohibits any storage generator from storing or treatment of waste by the generator treating, on its own premises, low-level radioactive waste generated by it within the region;~~

4. Affects any administrative or judicial proceeding pending on the effective date of this compact;

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

6. Affects the generation, treatment, storage, or disposal of waste generated by the atomic energy defense activities of the secretary of the United States department of energy or successor agencies or federal research and development activities as ~~defined described~~ in 42 U.S.C. § ~~2051~~ 2021; ~~or~~

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

8. Requires a party state to enter into any agreement with the United States nuclear regulatory commission.

9. ~~Alters or limits liability of transporters of waste, owners, and operators of sites for their acts, omissions, conduct, or relationships in accordance with applicable laws. Limits, expands, or otherwise affects the authority of a state to regulate low-level radioactive waste classified by any agency of the United States government as below regulatory concern or otherwise exempt from federal regulation.~~

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

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

d. ~~Except as provided in article III, section m, and section f of this article, no provision of this compact shall be construed to eliminate or reduce in any way the liability or responsibility, whether arising under common law, statute, rule, or regulation, of any person for penalties, fines, or damages to persons, property, or the environment resulting from the development, construction, operation, closing, or long-term care of a compact facility, or a noncompact facility made available to the region by an agreement entered into by the commission pursuant to article III, section h, subsection 6, or other matter arising from this compact. The provisions of this compact shall not alter otherwise applicable laws relating to compensation of employees for workplace injuries.~~

e. ~~Except as provided in 28 U.S.C. § 1251(a), the district courts of the United States have exclusive jurisdiction to decide cases arising under this compact. This section does not apply to proceedings within the jurisdiction of state or federal regulatory agencies or to judicial review of proceedings before state or federal regulatory agencies. This section shall not be construed to diminish other laws of the United States conferring jurisdiction on the courts of the United States.~~

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

1. ~~A party state or employee thereof, while acting within the scope of employment, shall not be subject to suit or held liable for damages to persons, property, or the environment resulting from the development, construction, operation, regulation, closing, or long-term care of a compact facility, or any noncompact facility made available to the region by any agreement entered into by the commission pursuant to article III, section h, subsection~~

6. This applies whether the claimed liability of the party state or employee is based on common law, statute, rule, or regulation.

2. The sovereign immunity granted in subsection 1 does not apply to any of the following:

(a) Actions based upon the activities of the party states as generators of low-level radioactive waste. With regard to those actions, the sovereign immunity of the party states shall not be affected by this compact.

(b) Actions based on the obligations of the party states to each other and the commission imposed by this compact, or other contracts related to the disposal of low-level radioactive waste under this compact. With regard to those actions, the party states shall have no sovereign immunity.

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

g. If in an action described in section f, subsection 1, and not described in section f, subsection 2, it is determined that, notwithstanding section f, subsection 1, a party state, or employee of that state who acted within the scope of employment, is liable for damages or has liability for other matters arising under this compact as described in article VI, section s, subsection 3, the generators who caused waste to be placed at the compact facility with respect to which the liability was incurred shall indemnify the party state or employee against that liability. Those generators also shall indemnify the party state or employee against all reasonable attorney's fees and expenses incurred in defending against any such action. The indemnification obligation of generators under this section shall be joint and several, except that the indemnification obligation of party states with respect to their activities as generators of waste shall not be joint and several, but instead shall be prorated according to the amount of waste each state has disposed of at the compact facility giving rise to the liability. Among generators, there shall be rights of contribution based upon equitable principles, and generators shall have rights of contribution against another person responsible for damages under common law, statute, rule, or regulation. A party state that through its own activities did not generate low-level radioactive waste disposed of at the compact facility giving rise to the liability, an employee of a party state, and the commission shall have no contribution obligation under this section. This section shall not be construed as a waiver of the sovereign immunity provided for in section f, subsection 1.

h. The sovereign immunity of a party state provided for in section f, subsection 1, shall not be extended to a private contractor assigned responsibilities as authorized in article VI, section g.

ARTICLE VIII – ELIGIBLE PARTIES, WITHDRAWAL, REVOCATION, SUSPENSION OF ACCESS, ENTRY INTO FORCE, AND TERMINATION

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

b. a. ~~Any state not eligible for membership in the compact may petition the commission for eligibility to be eligible for membership in the compact. The commission may establish appropriate eligibility requirements. These requirements may include, but are not limited to, an eligibility fee or designation as a host state. A petitioning state becomes eligible for membership in the compact upon the approval of the commission, including the affirmative vote of all the member from each host states state in which a compact facility is operating or being developed or constructed. Any state becoming eligible upon the approval of the commission becomes a member of the compact in the same manner as any state eligible for membership at the time this compact enters into force when the state enacts this compact into law and pays the eligibility fee established by the commission.~~

e. ~~An eligible state becomes a party state when the state enacts the compact into law and pays the membership fee required in article III, section j, subsection 1.~~

d. b. The commission is formed upon the appointment of commission members and the tender of the membership fee payable to the commission by three party states. The governor of the first state to enact this compact shall convene the initial meeting of the commission. The commission shall cause legislation to be introduced in the congress which grants the consent of the congress to this compact, and shall take action necessary to organize the commission and implement the provisions of this compact.

e. c. Any A party state that has fully discharged its obligations under article VI, section i, or has been relieved under article VI, section e, of its responsibilities to serve as a host state, may withdraw from this compact by repealing the authorizing legislation but no withdrawal may take effect until five years after the governor of the withdrawing state gives notice in writing of the withdrawal to the commission and to the governor of each party state and by receiving the unanimous consent of the commission. Withdrawal does not affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal takes effect on the date specified in the commission resolution consenting to withdrawal. Any host state which grants a disposal permit for waste generated in a withdrawing state shall void the permit when the withdrawal of that state is effective. All legal rights of the withdrawn state established under this compact, including, but not limited to, the right to have low-level radioactive waste generated within its borders disposed of at compact facilities, cease upon the effective date of withdrawal, but any legal obligations of that party state under this compact, including, but not limited to, those set forth in section e continue until they are fulfilled.

f. d. Any party state which that fails to comply with the terms of this compact or fails to fulfill its obligations may have its privileges reasonable financial penalties imposed against it, may have the right to have low-level radioactive waste generated within its borders disposed of at compact facilities, or a noncompact facility made available to the region by an agreement entered into by the commission pursuant to article III, section h, subsection 6, suspended, or may have its membership in the compact revoked by the commission in accordance with article III, section h, subsection 6 a two-thirds vote of the commission, provided that the membership of the party state designated to host the next compact facility shall not be revoked unless the member from the host state of a then operating compact facility votes in the affirmative. Revocation takes effect one year from on the date the affected party state receives written notice from the commission of its action specified in the resolution revoking the party state's membership. All legal rights of the affected revoked party state established under this compact, including, but not limited to, the right to have low-level radioactive waste generated within its borders disposed of at compact facilities, cease upon the effective date of revocation, but any legal obligations of that party state arising prior to revocation under this compact, including, but not limited to, those set forth in section e continue until they are fulfilled. The chairperson of the commission shall transmit written notice of a revocation of a party state's membership in the compact, suspension of a party state's low-level radioactive waste disposal rights, or imposition of financial penalties immediately following the vote of the commission to the governor of the affected party state, all other governors of all the other party states, and the congress of the United States.

e. A party state that withdraws from this compact or has its membership in the compact revoked before it has fully discharged its obligations under article VI forthwith shall repay to the commission the portion of the funds provided to that state by the commission for the development, construction, operation, closing, or long-term care of a compact facility that the commission determines is fair and equitable, taking into consideration the period of time the compact facility located in that host state was in operation and the amount of low-level radioactive waste disposed of at the compact facility. If at any time after a compact facility begins operating, a party state withdraws from the compact or has its membership revoked, the withdrawing or revoked party state shall be obligated forthwith to pay to the commission, the amount the commission determines would have been paid under the fee

system established by the host state of the compact facility, to dispose of at the compact facility the estimated volume of low-level radioactive waste generated in the withdrawing or revoked party state that would have been disposed of at the compact facility from the time of withdrawal or revocation until the time the compact facility is closed. Any funds so paid to the commission shall be distributed by the commission to the persons who would have been entitled to receive the funds had they originally been paid to dispose of low-level radioactive waste at the facility. Any person receiving funds from the commission shall apply the funds to the purposes to which they would have been applied had they originally been paid to dispose of low-level radioactive waste at the compact facility. In addition, a withdrawing or revoked party state forthwith shall pay to the commission an amount the commission determines to be necessary to cover all other costs and damages incurred by the commission and the remaining party states as a result of the withdrawal or revocation. The intention of this section is to eliminate a decrease in revenue resulting from withdrawal of a party state or revocation of a party state's membership, to eliminate financial harm to the remaining party states, and to create an incentive for party states to continue as members of the compact and to fulfill their obligations. This section shall be construed and applied so as to effectuate this intention.

f. Any party state whose right to have low-level radioactive waste generated within its borders disposed of at compact facilities is suspended by the commission, shall pay to the host state of the compact facility to which access has been suspended the amount the commission determines is reasonably necessary to ensure that the host state, or any political subdivision thereof, does not incur financial loss as a result of the suspension of access.

g. This compact becomes effective July 1, 1983, or at any date subsequent to July 1, 1983, upon enactment by at least three eligible states and consent to this compact by the congress. However, article IX, section b shall not take effect until the congress has by law consented to this compact. The congress shall have an opportunity to withdraw such consent every five years. Failure of the congress to affirmatively withdraw its consent has the effect of renewing consent for an additional five-year period. The consent given to this compact by the congress shall extend to any future admittance of new party states under sections b and e of this article and to the power of the region commission to ban regulate the shipment and disposal of waste from the region and disposal of naturally occurring and accelerator-produced radioactive material pursuant to article III this compact. Amendments to this compact are effective when enacted by all party states and, if necessary, consented to by the congress. To the extent required by the Low-Level Radioactive Waste Policy Amendments Act of 1985, 42 U.S.C. § 2021(d)(4)(d), every five years after this compact has taken effect, the congress by law may withdraw its consent.

h. The withdrawal of a party state from this compact under section e of this article, the suspension of low-level radioactive waste disposal rights, the termination of a party state's designation as a host state, or the revocation of a state's membership in this compact under section f of this article does not affect the applicability of this compact to the remaining party states.

i. A state which has been designated by the commission to be a host state has ninety days from receipt by the governor of written notice of designation to withdraw from the compact without any right to receive refund of any funds already paid pursuant to this compact, and without any further payment. Withdrawal becomes effective immediately upon notice as provided in section e. A designated host state which withdraws from the compact after ninety days and prior to fulfilling its obligations shall be assessed a sum the commission determines to be necessary to cover the costs borne by the commission and remaining party states as a result of that withdrawal. This compact may be dissolved and the obligations arising under this compact may be terminated only as follows:

1. Through unanimous agreement of all party states expressed in duly enacted legislation; or
2. Through withdrawal of consent to this compact by the congress under article I, section

10, of the United States Constitution, in which case dissolution shall take place one hundred twenty days after the effective date of the withdrawal of consent.

Unless explicitly abrogated by the state legislation dissolving this compact, or if dissolution results from withdrawal of congressional consent, the limitations on the investment and use of long-term care funds in article VI, section o and section q, subsection 4, the contractual obligations in article V, section f, the indemnification obligations and contribution rights in article VI, sections o and s, and article VII, section g, and the operation rights indemnification and hold-harmless obligations in article VI, section q, shall remain in force notwithstanding dissolution of this compact.

ARTICLE IX – PENALTIES AND ENFORCEMENT

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

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

- ~~1. For any person to deposit at a regional facility waste not generated within the region;~~
- ~~2. For any regional facility to accept waste not generated within the region;~~
- ~~3. For any person to export from the region waste which is generated within the region;~~

~~or~~

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

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

c. The commission, an affected party state, or both may obtain injunctive relief, recover damages, or both to prevent or remedy violations of this compact.

~~e. d.~~ Each party state acknowledges that the receipt by transport into a host state of low-level radioactive waste packaged or transported in violation of applicable laws, rules, and regulations may result in the imposition of sanctions by the host state which may include reasonable financial penalties assessed against any generator, transporter, or collector responsible for the violation, or suspension or revocation of ~~the violator's right of~~ access to the compact facility in the host state by a generator, transporter, or collector responsible for the violation.

~~d. e.~~ Each party state has the right to seek legal recourse against any a party state which acts in violation of this compact.

f. This compact shall not be construed to create a cause of action for a person other than a party state or the commission. Nothing in this section shall limit the right of judicial review set forth in article III, section n, subsection 3, or the rights of contribution set forth in article III, section p, article VI, sections o and s, and article VII, section g.

ARTICLE X – SEVERABILITY AND CONSTRUCTION

The provisions of this compact shall be severable and if any ~~phrase, clause, sentence, or~~ provision of this compact is ~~declared finally determined~~ by a court of competent jurisdiction to be contrary to the constitution of ~~any a~~ participating state or of the United States or the ~~applicability application~~ thereof to ~~any government, agency, a person, or circumstance~~ is held invalid, the validity of the remainder of this compact to that person or circumstance and the applicability ~~thereof of the entire compact~~ to ~~any government, agency, other person, or circumstance~~ shall not be affected thereby. If ~~any a~~ provision of this compact shall be held contrary to the constitution of ~~any a~~ state participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters. If any provision of this compact imposing a financial obligation upon a party state, or a state that has withdrawn from this compact or had its membership in this compact revoked, is finally

determined by a court of competent jurisdiction to be unenforceable due to the state's constitutional limitations on its ability to pay the obligation, then that state shall use its best efforts to obtain an appropriation to pay the obligation, and, if the state is a party state, its right to have low-level radioactive waste generated within its borders disposed of at compact facilities, or a noncompact facility made available to the region by an agreement entered into by the commission pursuant to article III, section h, subsection 6, shall be suspended until the appropriation is obtained.

Approved April 4, 1996

CHAPTER 1052

DEPARTMENT OF INSPECTIONS AND APPEALS – MISCELLANEOUS PROVISIONS H.F. 2230

AN ACT relating to the duties of the department of inspections and appeals concerning liens on improper provider payments from the department of human services, the administration of certain health care statutes, and the conducting of audits.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 10A.104, subsection 9, Code Supplement 1995, is amended to read as follows:

9. Administer and enforce this chapter, and chapters 99B, 135B, 135C, 135G, 135H, 135J, 137A, 137B, 137C, 137D, and 137E.

Sec. 2. Section 10A.108, subsection 1, unnumbered paragraph 1, Code 1995, is amended to read as follows:

If a person refuses or neglects to repay benefits or provider payments inappropriately obtained from the department of human services, the amount inappropriately obtained, including any interest, penalty, or costs attached to the amount, constitutes a debt and is a lien in favor of the state upon all property and any rights or title to or interest in property, whether real or personal, belonging to the person for the period established in subsection 2, with the exception of property which is exempt from execution pursuant to chapter 627.

Sec. 3. Section 10A.302, subsections 1 and 5, Code 1995, are amended by striking the subsections.

Approved April 4, 1996