

CHAPTER 15D

MIDWEST NUCLEAR COMPACT

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15D.1 Form of compact.

The midwest nuclear compact, hereinafter called "*the compact*", is hereby enacted and entered into with all other states legally joining therein, in the form substantially as follows:

1. *Article I—Policy and purpose.* The party states recognize that the proper employment of scientific and technological discoveries and advances in nuclear and related fields and direct and collateral application and adaptation of processes and techniques developed in connection therewith, properly correlated with the other resources of the region, can assist substantially in the industrial progress of the midwest and the further development of the economy of the region. They also recognize that optimum benefit from nuclear and related scientific or technological resources, facilities and skills requires systematic encouragement, guidance, assistance, and promotion from the party states on a cooperative basis. It is the policy of the party states to undertake such cooperation on a continuing basis. It is the purpose of this compact to provide the instruments and framework for such a cooperative effort in nuclear and related fields, to enhance the economy of the midwest and contribute to the individual and community well-being of the region's people.

2. *Article II — The board.*

a. There is hereby created an agency of the party states to be known as the "*midwest nuclear board*", hereinafter called "*the board*". The board shall be composed of one member from each party state designated or appointed in accordance with the law of the state which the member represents, and serving and subject to removal in accordance with such law. The law of each state also shall make specific provision for the appointment of alternates who are authorized and empowered to act for and on behalf of the board member in the member's absence. The designating or appointing authority promptly shall inform the board of the identity of its member thereon, designated alternate or alternates, and changes therein. If more than one alternate is designated, the designating authority also shall inform the board of the order in which the alternates are empowered to act.

b. The federal government may be represented on the board without vote, if provision is made by federal law for such representation.

c. The board members of the party states shall each be entitled to one vote on the board. No action of the board shall be binding unless taken at a meeting at which a majority of all members representing the party states are present and unless a majority of the total number of votes on the board are cast in favor thereof.

d. The board shall have a seal.

e. The board shall elect annually, from among its members, a chairperson, a vice chairperson, and a treasurer. The board shall appoint an executive director who shall serve at its pleasure and who also shall act as secretary, and who, together with the treasurer and such other personnel as the board may require, shall be bonded in such amounts as the board may require.

f. Irrespective of the civil service, personnel or other merit system laws of any of the party states, the executive director, with the approval of the board, shall appoint and remove or discharge such personnel as may be necessary for the performance of the board's functions.

g. The board may establish and maintain, independently or in conjunction with any one or more of the party states, a suitable retirement system for its full-time employees. Employees of the board shall be eligible for social security coverage in respect of old-age and survivors insurance provided that the board takes such steps as may be necessary pursuant to federal law to participate in such program of insurance as a governmental agency or unit. The board may establish and maintain or participate in such additional programs of employee benefits as may be appropriate.

h. The board may borrow, accept, or contract for the services of personnel from any state or the United States or any subdivision or agency thereof, from any interstate agency, or from any institution, person, firm or corporation.

i. The board may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any state or the United States, or any subdivision or agency thereof, or interstate agency, or from any institution, person, firm, or corporation, and may receive, utilize, and dispose of the same. Any arrangements pursuant to this paragraph or paragraph “h” of this article shall be detailed in the annual report of the board. Such report shall include the identity of the donor, lender or contractor, the nature of the transaction, and the conditions, if any.

j. The board may establish and maintain such facilities as may be necessary for the transacting of its business. The board may acquire, hold, and convey real and personal property and any interest therein.

k. The board shall adopt bylaws for the conduct of its business, and shall have the power to amend and rescind these bylaws. The board shall publish its bylaws in convenient form, and shall file a copy thereof, and of any amendment thereto, with the designated agency or officer in each of the party states.

l. The board annually shall make to the governor and legislature of each party state, a report covering the activities of the board for the preceding year, and embodying such recommendations as may have been adopted by the board. The board may issue such additional reports as it may deem desirable.

3. *Article III — Finance.*

a. The board shall submit to the governor or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that jurisdiction for presentation to the legislature thereof.

b. Each of the board’s budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. One-half of the total amount of each budget of estimated expenditures shall be apportioned among the party states in accordance with the ratio of their populations to the total population of the entire group of party states based on the last decennial federal census; one-quarter of each such budget shall be apportioned among the party states in equal shares; and one-quarter of each such budget shall be apportioned among the party states on the basis of the relative average per capita income of the inhabitants in each of the party states based on the latest computations published by the federal census-taking agency. Subject to appropriation by their respective legislatures, the board shall be provided with such funds by each of the party states as are necessary to provide the means of establishing and maintaining facilities, a staff of personnel, and such activities as may be necessary to fulfill the powers and duties imposed upon and entrusted to the board.

c. The board may meet any of its obligations in whole or in part with funds available to it under article II, paragraph “i” of this compact, provided that the board takes specific action setting aside such funds prior to the incurring of any obligation to be met in whole or in part in this manner. Except where the board makes use of funds available to it under article II, paragraph “i” hereof, the board shall not incur any obligation prior to the allotment of funds by the party jurisdictions adequate to meet the same.

d. Expenses and other reasonable costs for each member of the board in attending board meetings shall be met by the board.

e. The board shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the board shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the board shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the board.

f. The accounts of the board shall be open at any reasonable time for inspection by duly authorized representatives of the party states and by persons authorized by the board.

4. *Article IV — Advisory and technical committees.* The board may establish such advisory and technical committees as it may deem necessary, membership on which may

include representatives of industry, labor, commerce, agriculture, medicine, health and education; other professional, scientific, and civic groups and interests; officials of local, state and federal government; and representatives of the general public, and may cooperate with and use the services of any such committees and the organizations which they represent in furthering any of its activities under this compact.

5. *Article V — Powers.* The board shall have power to:

a. Encourage and promote cooperation among the party states in the development and utilization of nuclear and related technologies and their application to industry and other fields.

b. Ascertain and analyze on a continuing basis the position of the midwest with respect to the employment in industry of nuclear and related scientific findings and technologies.

c. Encourage the development and use of scientific advances and discoveries in nuclear facilities, energy, materials, products, by-products, and all other appropriate adaptations of scientific and technological advances and discoveries.

d. Collect, correlate, and disseminate information relating to civilian uses of nuclear energy, materials, and products, and other products and processes resulting from the application of related science and technology.

e. Conduct, or cooperate in conducting, programs of training for state and local personnel engaged in any aspects of:

(1) Nuclear industry, medicine, or education, or the promotion or regulation thereof.

(2) Applying nuclear scientific advances or discoveries, and any industrial, commercial or other processes resulting therefrom.

(3) The formulation or administration of measures designed to promote safety in any matter related to the development, use or disposal of nuclear energy, materials, products, by-products, installations, or wastes, or to safety in the production, use and disposal of any other substances peculiarly related thereto.

f. Organize and conduct, or assist and cooperate in organizing and conducting, demonstrations or research in any of the scientific, technological or industrial fields to which this compact relates.

g. Undertake such nonregulatory functions with respect to nonnuclear sources of radiation as may promote the economic development and general welfare of the midwest.

h. Study industrial, health, safety, and other standards, laws, codes, rules, regulations, and administrative practices in or related to nuclear fields.

i. Recommend such changes in, or amendments or additions to the laws, codes, rules, regulations, administrative procedures and practices or local laws or ordinances of the party states or their subdivisions in nuclear and related fields, as in its judgment may be appropriate. Any such recommendations shall be made through the appropriate state agency, with due consideration of the desirability of uniformity but shall also give appropriate weight to any special circumstances which may justify variations to meet local conditions.

j. Consider and make recommendations designed to facilitate the transportation of nuclear equipment, materials, products, by-products, wastes, and any other nuclear or related substances, in such manner and under such conditions as will make their availability or disposal practicable on an economic and efficient basis.

k. Consider and make recommendations with respect to the assumption of and protection against liability actually or potentially incurred in any phase of operations in nuclear and related fields.

l. Advise and consult with the federal government concerning the common position of the party states in respect to nuclear and related fields.

m. Cooperate with the atomic energy commission, the national aeronautics and space administration, the office of science and technology, or any agencies successor thereto, any other officer or agency of the United States, and any other governmental unit or agency or officer thereof, and with any private persons or agencies in any of the fields of its interest.

n. Act as licensee, contractor or subcontractor of the United States government or any party state with respect to the conduct of any research activity requiring such license or contract and operate such research facility or undertake any program pursuant thereto,

provided that this power shall be exercised only in connection with the implementation of one or more other powers conferred upon the board by this compact.

o. Prepare, publish and distribute, with or without charge, such reports, bulletins, newsletters, or other materials as it deems appropriate.

p. Ascertain from time to time such methods, practices, circumstances, and conditions as may bring about the prevention and control of nuclear incidents in the area comprising the party states, to coordinate the nuclear incident prevention and control plans and the work relating thereto of the appropriate agencies of the party states and to facilitate the rendering of aid by the party states to each other in coping with nuclear incidents. The board may formulate and, in accordance with need from time to time, revise a regional plan or regional plans for coping with nuclear incidents within the territory of the party states as a whole or within any subregion or subregions of the geographic area covered by this compact. Any nuclear incident plan in force pursuant to this paragraph shall designate the official or agency in each party state covered by the plan who shall coordinate requests for aid pursuant to article VI of this compact and the furnishing of aid in response thereto. Unless the party states concerned expressly otherwise agree, the board shall not administer the summoning and dispatching of aid, but this function shall be undertaken directly by the designated agencies and officers of the party states. However, the plan or plans of the board in force pursuant to this paragraph shall provide for reports to the board concerning the occurrence of nuclear incidents and the requests for aid on account thereof, together with summaries of the actual working and effectiveness of mutual aid in particular instances. From time to time, the board shall analyze the information gathered from reports of aid pursuant to article VI and such other instances of mutual aid as may have come to its attention, so that experience in the rendering of such aid may be available.

6. *Article VI — Mutual aid.*

a. Whenever a party state, or any state or local governmental authorities therein, request aid from any other party state pursuant to this compact in coping with a nuclear incident, it shall be the duty of the requested state to render all possible aid to the requesting state which is consonant with the maintenance of protection of its own people.

b. Whenever the officers or employees of any party state are rendering outside aid pursuant to the request of another party state under this compact, the officers or employees of such state shall, under the direction of the authorities of the state to which they are rendering aid, have the same powers, duties, rights, privileges and immunities as comparable officers and employees of the state to which they are rendering aid.

c. No party state or its officers or employees rendering outside aid pursuant to this compact shall be liable on account of any act or omission on their part while so engaged, or on account of the maintenance or use of any equipment or supplies in connection therewith.

d. All liability that may arise either under the laws of the requesting state or under the laws of the aiding state or under the laws of a third state on account of or in connection with a request for aid, shall be assumed and borne by the requesting state.

e. Any party state rendering outside aid pursuant to this compact shall be reimbursed by the party state receiving such aid for any loss or damage to, or expense incurred in the operation of any equipment answering a request for aid, and for the cost of all materials, transportation, wages, salaries and maintenance of officers, employees and equipment incurred in connection with such request: Provided that nothing herein contained shall prevent any assisting party state from assuming such loss, damage, expense or other cost or from loaning such equipment or from donating such services to the receiving party state without charge or cost.

f. Each party state shall provide for the payment of compensation and death benefits to injured officers and employees and the representatives of deceased officers and employees in case officers or employees sustain injuries or death while rendering outside aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within the state by or in which the officer or employee was regularly employed.

7. *Article VII — Supplementary agreements.*

a. To the extent that the board has not undertaken an activity or project which would be within its power under the provisions of article V of this compact, any two or more of

the party states, acting by their duly constituted administrative officials, may enter into supplementary agreements for the undertaking and continuance of such an activity or project. Any such agreement shall specify its purpose or purposes; its duration and the procedure for termination thereof or withdrawal therefrom; the method of financing and allocating the costs of the activity or project; and such other matters as may be necessary or appropriate. No such supplementary agreement entered into pursuant to this article shall become effective prior to its submission to and approval by the board. The board shall give such approval unless it finds that the supplementary agreement or the activity or project contemplated thereby is inconsistent with the provisions of this compact or a program or activity conducted by or participated in by the board.

b. Unless all of the party states participate in a supplementary agreement, any cost or costs thereof shall be borne separately by the states party thereto. The board, if requested, may administer or otherwise assist in the operation of any supplementary agreement.

c. No party to a supplementary agreement entered into pursuant to this article shall be relieved thereby of any obligation or duty assumed by said party state under or pursuant to this compact, except that timely and proper performance of such obligation or duty by means of the supplementary agreement may be offered as performance pursuant to the compact.

d. The provisions of this article shall apply to supplementary agreements and activities thereunder, but shall not be construed to repeal or impair any authority which officers or agencies of party states may have pursuant to other laws to undertake cooperative arrangements or projects.

8. *Article VIII — Other laws and relations.* Nothing in this compact shall be construed to:

a. Permit or require any person or other entity to avoid or refuse compliance with any law, rule, regulation, order or ordinance of a party state or subdivision thereof now or hereafter made, enacted or in force.

b. Limit, diminish, affect, or otherwise impair jurisdiction exercised by the atomic energy commission, any agency successor thereto, or any other federal department, agency or officer pursuant to and in conformity with any valid and operative Act of Congress; nor limit, diminish, affect, or otherwise impair jurisdiction exercised by any officer or agency of a party state, except to the extent that the provisions of this compact may provide therefor.

c. Alter the relations between and respective internal responsibilities of the government of a party state and its subdivisions.

d. Permit or authorize the board to exercise any regulatory authority or to own or operate any nuclear reactor for the commercial generation of electric energy; nor shall the board own or operate any nuclear facility or installation on a commercial or profit-making basis.

9. *Article IX — Eligible parties, entry into force and withdrawal.*

a. Any or all of the states of Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota and Wisconsin shall be eligible to become party to this compact.

b. As to any eligible party state, this compact shall become effective when its legislature shall have enacted the same into law: Provided that it shall not become initially effective until enacted into law by six states.

c. Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall become effective until two years after the governor of the withdrawing state shall have sent formal notice in writing to the governor of each other party state informing said governors of the action of the legislature in repealing the compact and declaring an intention to withdraw. A withdrawing state shall be liable for any obligations which it may have incurred on account of its party status up to the effective date of withdrawal, except that if the withdrawing state has specifically undertaken or committed itself to any performance of an obligation extending beyond the effective date of withdrawal it shall remain liable to the extent of such obligation.

10. *Article X — Severability and construction.* The provisions of this compact and of any supplementary agreement entered into hereunder shall be severable and if any phrase, clause, sentence or provision of this compact or such supplementary agreement is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid,

the validity of the remainder of this compact or such supplementary agreement and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact or any supplementary agreement entered into hereunder shall be held contrary to the constitution of any state participating therein, the compact or such supplementary agreement shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. The provisions of this compact and of any supplementary agreement entered into pursuant hereto shall be liberally construed to effectuate the purposes thereof.

[C73, 75, 77, 79, 81, §8B.1]

C93, §15D.1

2008 Acts, ch 1032, §201

Referred to in §15D.3

15D.2 Board member appointed by governor.

The member and any alternate member of the midwest nuclear board representing the state shall be appointed by the governor.

[C73, 75, 77, 79, 81, §8B.2]

C93, §15D.2

15D.3 Bylaws filed.

The midwest nuclear board shall file with the secretary of state copies of its bylaws and any amendments thereto as required under article II, paragraph "k" of the midwest nuclear compact established in section 15D.1.

[C73, 75, 77, 79, 81, §8B.3]

C93, §15D.3

2008 Acts, ch 1032, §201

15D.4 Workers' compensation.

The provisions of chapter 85 and any benefits payable thereunder shall apply and be payable to any persons dispatched to another state pursuant to article VI of the compact. If the aiding personnel are officers or employees of subdivisions of this state, they shall be entitled to the same workers' compensation or other benefits in case of injury or death to which they would have been entitled if injured or killed while engaged in coping with a nuclear incident in their jurisdictions of regular employment.

[C73, 75, 77, 79, 81, §8B.4]

C93, §15D.4