

## Vermont Statute

### Title 10: Conservation and Development

#### Chapter 162: Texas Low-Level Radioactive Waste Disposal Compact

##### **§ 7060. Entry into the compact**

The state shall be a member of the Texas Low-Level Radioactive Waste Disposal Compact. (Added 1993, No. 137 (Adj. Sess.), § 2.)

##### **§ 7061. Definitions**

(a) As used in this chapter:

(1) "Commission" means the Texas Low-Level Radioactive Waste Disposal Compact Commission.

(2) "Compact" or "compact agreement" means the Texas Low-Level Radioactive Waste Disposal Compact.

(3) "Compact facility," "disposal facility" and "facility" mean any site, location, structure or property within the state of Texas provided for the purposes of disposal of low-level radioactive waste, pursuant to the compact.

(4) "Generator" means a person who produces or processes low-level radioactive waste in the course of its activities.

(5) "Low-level radioactive waste" means radioactive waste material that is not high-level radioactive waste, spent nuclear fuel, transuranic waste or byproduct material, as defined in 42 U.S.C. § 2014(e)(2), the United States Atomic Energy Act of 1954, Section 11(e)(2), and that material the United States Nuclear Regulatory Commission, consistent with existing law, classifies as low-level radioactive waste.

(6) "Manage" means collection, consolidation, storage, packaging or treatment of low-level radioactive waste.

(b) In addition, terms defined in the compact shall have the same definition in this chapter, unless another meaning is clearly intended. (Added 1993, No. 137 (Adj. Sess.), § 2.)

##### **§ 7062. Member of the commission**

The governor shall appoint a person to represent the state on the commission established by Article III of the compact. The governor may appoint an alternate for the commission member appointed under this section. The commission member and

alternate, if appointed, shall serve at the pleasure of the governor. (Added 1993, No. 137 (Adj. Sess.), § 2.)

### **§ 7063. Compensation of the commission member**

The commission member and alternate are entitled to compensation at the rate established under 32 V.S.A. § 1010, and for reimbursement for actual and necessary expenses incurred in the performance of their duties. If a state employee is appointed as commission member or alternate, that state employee is not entitled to per diem compensation. (Added 1993, No. 137 (Adj. Sess.), § 2.)

### **§ 7064. Support of the compact commission member**

(a) The agency of natural resources, the agency of administration, the department of public service, the department of health, and the attorney general shall respond to requests of the commission member for data and information needed for commission activities.

(b) Expenses of any state agency for all actions and proceedings authorized under this chapter and the compact shall be allocated to the secretary of administration for billing under subdivision 7067(b)(3) of this title, including expenses for the use of additional personnel and regular employees. (Added 1993, No. 137 (Adj. Sess.), § 2.)

### **§ 7065. Compact responsibilities**

(a) For low-level radioactive waste, to the extent necessary to meet the requirements of the Texas Low-Level Radioactive Waste Disposal Compact, the secretary of natural resources shall do the following:

- (1) Develop and enforce procedures for packaging, processing, and waste form specifications for low-level radioactive waste shipments to the compact facility.
- (2) Develop and enforce procedures for minimization of the volume of low-level radioactive waste generated.
- (3) By no later than 180 days after the effective date of this chapter, establish the annual projected volume of low-level radioactive waste from each generator in Vermont to be disposed in the compact facility for the years 1995-2045, to determine compliance with section 3.04(11) of the compact agreement.
- (4) Collect, compile and distribute data and information required under this section.

(b) For low-level radioactive waste, as part of its present responsibilities under 18 V.S.A. chapter 32, the commissioner of health shall do the following:

(1) Maintain a registry of all generators of low-level radioactive waste within the state, including the amount and class of low-level radioactive waste generated by each generator.

(2) Maintain an accounting of waste shipped and proposed to be shipped to the compact facility by volume and curies, proposed transportation methods and routes, and proposed shipment schedules.

(c) The secretary of natural resources may do the following:

(1) Develop and enforce procedures for reports and manifests from generators of low-level radioactive waste within the state concerning the quantities, concentrations, and characteristics of waste generated and shipped; proposed transportation methods and routes; proposed shipment schedules; expected generation rates; packaging; and storage conditions and any other information reasonably necessary for the agency and the commission member to carry out their responsibilities.

(2) Adopt rules under chapter 25 of Title 3 for fulfilling the state responsibilities identified in this section and any other responsibilities established in the compact for low-level radioactive waste.

(d) The commission member, established under section 7062, shall report by January 15 each year to the house and senate committees on natural resources and energy. The report shall include: an evaluation of federal status and activities related to low-level radioactive waste storage and disposal, with special consideration to changes in federal law and regulation; the status of licensing the Texas facility; a summary of the costs of the compact; an evaluation of the effect on Vermont ratepayers; and a recommendation regarding continued participation in the compact. (Added 1993, No. 137 (Adj. Sess.), § 2.)

### **§ 7066. Requirements regarding radioactive waste disposal**

(a) Every generator of low-level radioactive waste in this state shall comply with the reporting requirements of this chapter.

(b) A generator of low-level radioactive waste in this state that existed, as a generator, on the effective date of the compact, including any nuclear plant, may not be discriminated

against with respect to access to disposal capacity at the compact facility.

(c) No generator of low-level radioactive waste in the state existing on the date of enactment of this section may increase its generation of waste in a year by more than 20 percent of the total annual volume of waste from all generators estimated for disposal by the secretary of natural resources, under subdivision 7065(a)(3) of this title, unless that generator receives a favorable determination from the secretary of natural resources that disposal capacity will be available as provided by section 3.04(11) of the compact agreement.

(d) Any person other than those generators identified in subsection (c) of this section who wishes to undertake an activity that will generate low-level radioactive waste in the state must first receive a favorable determination from the secretary of natural resources that disposal capacity will be available as provided by section 3.04(11) of the compact agreement.

(e) No generator of low-level radioactive waste may dispose of its low-level radioactive waste at the compact facility unless that generator has a current indemnification agreement with the state of Vermont. Federal generators of low-level radioactive waste shall be required to indemnify the state only to the extent permitted by federal law. Any indemnification agreement shall be reviewed by the attorney general before the state agrees to it. (Added 1993, No. 137 (Adj. Sess.), § 2.)

**§ 7067. Assessment of compact costs; low-level radioactive waste disposal compact fund**

(a) There is hereby created the low-level radioactive waste disposal compact fund, to be administered and expended by the secretary of administration in accordance with the provisions of this section. All balances in the fund at the end of any fiscal year shall be carried forward and remain a part of the fund. Interest earned by the fund shall be deposited into the fund.

(b) The secretary of administration shall assess the generators of low-level radioactive waste in the state for the full administrative costs of membership and participation in the compact, subject to Articles IV and V of that agreement, and for the state's costs incurred in carrying out the responsibilities of this chapter. Generators of low-level radioactive waste shall be assessed by the method established in subsection (c) of this section. Payments shall be dispensed from the state treasury only upon warrants issued by the commissioner of finance and management after receipt of proper statements describing expenses.

(1) Initial assessments.

(A) The secretary of administration shall make an initial assessment in the amount of \$12,500,000.00 within 30 days following ratification of the compact agreement by the Congress of the United States. The amount assessed shall be paid within 15 days of the assessment.

(B) The secretary of administration shall make a second assessment in the amount of \$12,500,000.00 within 30 days following the date of the opening of the compact facility in Texas. The amount assessed shall be paid within 15 days of the assessment.

(2) Host county assessments.

(A) The secretary of administration shall make an initial host county assessment in accordance with section 4.05, subsection (5) of the compact in the amount of \$1,250,000.00 no later than 30 working days following ratification of the compact agreement by the Congress of the United States. The amount assessed shall be paid within 15 days of assessment.

(B) The secretary of administration shall make a second host county assessment in the amount of \$1,250,000.00 no later than 30 working days following the approval of a facility operating license by the Texas natural resource conservation commission. The amount assessed shall be paid within 15 days of assessment.

(3) Compact commission and state expenses. On an annual basis or on any other schedule established by the commission, the secretary of administration shall assess the state's share of the administrative, legal and other expenses for the operation of the compact commission, as well as the state's costs incurred in carrying out the responsibilities of this chapter. Amounts assessed under this section shall be paid within 30 days of assessment.

(4) Uncommitted balance of the low-level radioactive waste fund. Any uncommitted balance of the low-level radioactive waste fund created under section 7013 of this title, shall be transferred to the fund established in subsection (a) of this section and shall be used to reduce, offset or eliminate the costs assessed under this subsection.

(5) Alternate payment schedule. In accordance with section 5.02 of the compact agreement and if so designated by the commission, the schedule for assessments by the secretary of administration to be forwarded to the Texas low-level radioactive waste disposal authority under subdivision (1) of this section shall be revised to conform to the payment schedule for the repayment of debt incurred for the construction of the compact facility. An amount may not be assessed pursuant to this subsection on

less than 30 days' notice and a payment may not be required in fewer than 15 days from the date of assessment.

(c) With respect to the funding of the assessment for payments identified in subsection (b) of this section, generators of low-level radioactive waste in the state shall be assessed proportionately on the basis of a three-year rolling total volume of generated wastes prepared for shipment (i.e., waste processed into disposal containers). The calculation shall use the last three complete calendar years at the time the assessment is made. Vermont Yankee decommissioning waste shall be accounted for by using a volume equal to 3/20 of the decommissioning waste volume estimate from the last completed Vermont Yankee decommissioning rate case before the Federal Energy Regulatory Commission. This 3/20 decommissioning waste volume shall be added to the three-year waste generated by Vermont Yankee prior to performing the calculation. Those generators generating less than five cubic feet of low-level radioactive waste for the rolling three-year period shall be exempt from this assessment.

(d) A generator of low-level radioactive waste in the state that did not contribute to the initial assessments identified in this section shall make such contributions at the end of the third calendar year after its first shipment of radioactive waste to the compact facility. A recalculation shall be made of the initial assessments under subsection (b) of this section if the new generator has generated more than five cubic feet of waste during the three-year period. The calculation described in subsection (c) of this section shall be recalculated, including the new generator's waste volume. The amount due from the new generator shall be distributed to the previous payees in proportion to their payment amount. If the new generator's waste is one percent of the recalculated total waste volume or greater, interest will also be included in the payment to the previous payees in an amount equal to the Vermont Yankee cost of money between the initial payments and the time the new generator payment is made. (Added 1993, No. 137 (Adj. Sess.), § 2.)

### **§ 7068. Enforcement**

Any person who violates this chapter or any rule adopted under this chapter or refuses to comply with any of the provisions of this chapter shall be subject to enforcement actions under chapters 201 and 211 of this title. (Added 1993, No. 137 (Adj. Sess.), § 2.)

§ 7069. Texas Low-Level Radioactive Waste Disposal Compact

The general assembly ratifies the Texas low-level radioactive waste disposal compact to provide access to facilities in the state of Texas for the permanent disposal of all low-level radioactive waste. The text is as follows:

## **TEXAS LOW-LEVEL RADIOACTIVE WASTE DISPOSAL COMPACT**

### **Article I. Policy and Purpose**

Sec. 1.01. The party states recognize a responsibility for each state to seek to manage low-level radioactive waste generated within its boundaries, pursuant to the Low-Level Radioactive Waste Policy Act, as amended by the Low-Level Radioactive Waste Policy Amendments Act of 1985 (42 U.S.C. Secs. 2021b-2021j). They also recognize that the United States Congress, by enacting the Act, has authorized and encouraged states to enter into compacts for the efficient management and disposal of low-level radioactive waste. It is the policy of the party states to cooperate in the protection of the health, safety, and welfare of their citizens and the environment and to provide for and encourage the economical management and disposal of low-level radioactive waste. It is the purpose of this compact to provide the framework for such a cooperative effort; to promote the health, safety, and welfare of the citizens and the environment of the party states; to limit the number of facilities needed to effectively, efficiently, and economically manage low-level radioactive waste and to encourage the reduction of the generation thereof; and to distribute the costs, benefits, and obligations among the party states; all in accordance with the terms of this compact.

### **Article II. Definitions**

Sec. 2.01. As used in this compact, unless the context clearly indicates otherwise, the following definitions apply:

- (1) "Act" means the Low-Level Radioactive Waste Policy Act, as amended by the Low-Level Radioactive Waste Policy Amendments Act of 1985 (42 U.S.C. Secs. 2021b-2021j).
- (2) "Commission" means the Texas Low-Level Radioactive Waste Disposal Compact Commission established in Article III of this compact.
- (3) "Compact facility" or "facility" means any site, location, structure, or property located in and provided by the host state for the purpose of management or disposal of low-level radioactive waste for which the party states are responsible.

(4) "Disposal" means the permanent isolation of low-level radioactive waste pursuant to requirements established by the United States Nuclear Regulatory Commission and the United States Environmental Protection Agency under applicable laws, or by the host state.

(5) "Generate," when used in relation to low-level radioactive waste, means to produce low-level radioactive waste.

(6) "Generator" means a person who produces or processes low-level radioactive waste in the course of its activities, excluding persons who arrange for the collection, transportation, management, treatment, storage, or disposal of waste generated outside the party states, unless approved by the commission.

(7) "Host county" means a county in the host state in which a disposal facility is located or is being developed.

(8) "Host state" means a party state in which a compact facility is located or is being developed. The State of Texas is the host state under this compact.

(9) "Institutional control period" means that period of time following closure of the facility and transfer of the facility license from the operator to the custodial agency in compliance with the appropriate regulations for long-term observation and maintenance.

(10) "Low-Level Radioactive Waste" has the same meaning as that term is defined in Section 2(9) of the Act (42 U.S.C. Sec. 2021b(9)), or in the host state statute so long as the waste is not incompatible with management and disposal at the compact facility.

(11) "Management" means collection, consolidation, storage, packaging, or treatment.

(12) "Operator" means a person who operates a disposal facility.

(13) "Party state" means any state that has become a party in accordance with Article VII of this compact. Texas, Maine, and Vermont are initial party states under this compact.

(14) "Person" means an individual, corporation, partnership or other legal entity, whether public or private.

(15) "Transporter" means a person who transports low-level radioactive waste.

### **Article III. The Commission**

Sec. 3.01. There is hereby established the Texas Low-Level Radioactive Waste Disposal Compact Commission. The commission shall consist of one voting member from each party state except that the host state shall be entitled to six voting members. Commission members shall be appointed by the party state governors, as provided by the laws of each party state. Each party state may provide alternates for each appointed member.

Sec. 3.02. A quorum of the commission consists of a majority of the members. Except as otherwise provided in this compact, an official act of the commission must receive the affirmative vote of a majority of its members.

Sec. 3.03. The commission is a legal entity separate and distinct from the party states and has governmental immunity to the same extent as an entity created under the authority of Article XVI, Section 59, of the Texas Constitution. Members of the commission shall not be personally liable for actions taken in their official capacity. The liabilities of the commission shall not be deemed liabilities of the party states.

Sec. 3.04. The commission shall:

- (1) Compensate its members according to the host state's law.
- (2) Conduct its business, hold meetings, and maintain public records pursuant to laws of the host state, except that notice of public meetings shall be given in the nonhost party states in accordance with their respective statutes.
- (3) Be located in the capital city of the host state.
- (4) Meet at least once a year and upon the call of the chair, or any member. The governor of the host state shall appoint a chair and vice-chair.
- (5) Keep an accurate account of all receipts and disbursements. An annual audit of the books of the commission shall be conducted by an independent certified public accountant, and the audit report shall be made a part of the annual report of the commission.
- (6) Approve a budget each year and establish a fiscal year that conforms to the fiscal year of the host state.
- (7) Prepare, adopt, and implement contingency plans for the disposal and management of low-level radioactive waste in the event that the compact facility should be closed. Any plan which requires the host state to store or otherwise manage the low-level radioactive waste from all the party

states must be approved by at least four host state members of the commission. The commission, in a contingency plan or otherwise, may not require a nonhost party state to store low-level radioactive waste generated outside the state.

(8) Submit communications to the governors and to the presiding officers of the legislatures of the party states regarding the activities of the commission, including an annual report to be submitted on or before January 31 of each year.

(9) Assemble and make available to the party states, and to the public, information concerning low-level radioactive waste management needs, technologies, and problems.

(10) Keep a current inventory of all generators within the party states, based upon information provided by the party states.

(11) By no later than 180 days after all members of the commission are appointed under Section 3.01 of this article, establish by rule the total volume of low-level radioactive waste that the host state will dispose of in the compact facility in the years 1995-2045, including decommissioning waste. The shipments of low-level radioactive waste from all nonhost party states shall not exceed 20 percent of the volume estimated to be disposed of by the host state during the 50-year period. When averaged over such 50-year period, the total of all shipments from nonhost party states shall not exceed 20,000 cubic feet a year. The commission shall coordinate the volumes, timing, and frequency of shipments from generators in the nonhost party states in order to assure that over the life of this agreement shipments from the nonhost party states do not exceed 20 percent of the volume projected by the commission under this paragraph.

Sec. 3.05. The commission may:

(1) Employ staff necessary to carry out its duties and functions. The commission is authorized to use to the extent practicable the services of existing employees of the party states. Compensation shall be as determined by the commission.

(2) Accept any grants, equipment, supplies, materials, or services, conditional or otherwise, from the federal or state government. The nature, amount and condition, if any, of any donation, grant or other resources accepted pursuant to this paragraph and the identity of the donor or grantor shall be detailed in the annual report of the commission.

(3) Enter into contracts to carry out its duties and authority, subject to projected resources. No contract made by the commission shall bind a party state.

(4) Adopt, by a majority vote, bylaws and rules necessary to carry out the terms of this compact. Any rules promulgated by the commission shall be adopted in accordance with the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

(5) Sue and be sued and, when authorized by a majority vote of the members, seek to intervene in administrative or judicial proceedings related to this compact.

(6) Enter into an agreement with any person, state, regional body, or group of states for the importation of low-level radioactive waste into the compact for management or disposal, provided that the agreement receives a majority vote of the commission. The commission may adopt such conditions and restrictions in the agreement as it deems advisable.

(7) Upon petition, allow an individual generator, a group of generators, or the host state of the compact, to export low-level radioactive waste to a low-level radioactive waste disposal facility located outside the party states. The commission may approve the petition only by a majority vote of its members. The permission to export low-level radioactive waste shall be effective for that period of time and for the specified amount of low-level radioactive waste, and subject to any other term or condition, as is determined by the commission.

(8) Monitor the exportation outside of the party states of material, which otherwise meets the criteria of low-level radioactive waste, where the sole purpose of the exportation is to manage or process the material for recycling or waste reduction and return it to the party states for disposal in the compact facility.

Sec. 3.06. Jurisdiction and venue of any action contesting any action of the commission shall be in the United States District Court in the district where the commission maintains its office.

#### **Article IV. Rights, Responsibilities and Obligations of Party States**

Sec. 4.01. The host state shall develop and have full administrative control over the development, management and operation of a facility for the disposal of low-level radioactive waste generated within the party states. The host state shall be entitled to unlimited use of the facility over

its operating life. Use of the facility by the nonhost party states for disposal of low-level radioactive waste, including such waste resulting from decommissioning of any nuclear electric generation facilities located in the party states, is limited to the volume requirements of Section 3.04(11) of Article III.

Sec. 4.02. Low-level radioactive waste generated within the party states shall be disposed of only at the compact facility, except as provided in Section 3.05(7) of Article III.

Sec. 4.03. The initial states of this compact cannot be members of another low-level radioactive waste compact entered into pursuant to the Act.

Sec. 4.04. The host state shall do the following:

(1) Cause a facility to be developed in a timely manner and operated and maintained through the institutional control period.

(2) Ensure, consistent with any applicable federal and host state laws, the protection and preservation of the environment and the public health and safety in the siting, design, development, licensing, regulation, operation, closure, decommissioning, and long-term care of the disposal facilities within the host state.

(3) Close the facility when reasonably necessary to protect the public health and safety of its citizens or to protect its natural resources from harm. However, the host state shall notify the commission of the closure within three days of its action and shall, within 30 working days of its action, provide a written explanation to the commission of the closure, and implement any adopted contingency plan.

(4) Establish reasonable fees for disposal at the facility of low-level radioactive waste generated in the party states based on disposal fee criteria set out in Sections 402.272 and 402.273, Texas Health and Safety Code. The same fees shall be charged for the disposal of low-level radioactive waste that was generated in the host state and in the nonhost party states. Fees shall also be sufficient to reasonably support the activities of the commission.

(5) Submit an annual report to the commission on the status of the facility, including projections of the facility's anticipated future capacity, and on the related funds.

(6) Notify the commission immediately upon the occurrence of any event that could cause a possible temporary or permanent closure of the facility and identify all reasonable options for the disposal of low-level

radioactive waste at alternate compact facilities or, by arrangement and commission vote, at noncompact facilities.

(7) Promptly notify the other party states of any legal action involving the facility.

(8) Identify and regulate, in accordance with federal and host state law, the means and routes of transportation of low-level radioactive waste in the host state.

Sec. 4.05. Each party state shall do the following:

(1) Develop and enforce procedures requiring low-level radioactive waste shipments originating within its borders and destined for the facility to conform to packaging, processing, and waste form specifications of the host state.

(2) Maintain a registry of all generators within the state that may have low-level radioactive waste to be disposed of at the facility, including, but not limited to, the amount of low-level radioactive waste and the class of the low-level radioactive waste generated by each generator.

(3) Develop and enforce procedures requiring generators within its borders to minimize the volume of low-level radioactive waste requiring disposal. Nothing in this compact shall prohibit the storage, treatment, or management of waste by a generator.

(4) Provide the commission with any data and information necessary for the implementation of the commission's responsibilities, including taking those actions necessary to obtain this data or information.

(5) Pay for community assistance projects designated by the host county in an amount for each nonhost party state equal to 10 percent of the payment provided for in Article V for each such state. One-half of the payment shall be due and payable to the host county on the first day of the month following ratification of this compact agreement by Congress and one-half of the payment shall be due and payable on the first day of the month following the approval of a facility operating license by the host state's regulatory body.

(6) Provide financial support for the commission's activities prior to the date of facility operation and subsequent to the date of congressional ratification of this compact under Section 7.07 of Article VII. Each party state will be responsible for annual payments equalling its pro rata share of the commission's expenses, incurred for administrative, legal, and other purposes of the commission.

(7) If agreed by all parties to a dispute, submit the dispute to arbitration or other alternate dispute resolution process. If arbitration is agreed upon, the governor of each party state shall appoint an arbitrator. If the number of party states is an even number, the arbitrators so chosen shall appoint an additional arbitrator. The determination of a majority of the arbitrators shall be binding on the party states. Arbitration proceedings shall be conducted in accordance with the provisions of 9 U.S.C. Sections 1 through 16. If all parties to a dispute do not agree to arbitration or alternate dispute resolution process, the United States District Court in the district where the commission maintains its office shall have original jurisdiction over any action between or among parties to this compact.

(8) Provide on a regular basis to the commission and host state:

- (A) an accounting of waste shipped and proposed to be shipped to the compact facility, by volume and curies;
- (B) proposed transportation methods and routes; and
- (C) proposed shipment schedules.

(9) Seek to join in any legal action by or against the host state to prevent nonparty states or generators from disposing of low-level radioactive waste at the facility.

Sec. 4.06. Each party state shall act in good faith and may rely on the good faith performance of the other party states regarding requirements of this compact.

## **Article V. Party State Contributions**

Sec. 5.01. Each party state, except the host state, shall contribute a total of \$25 million to the host state. Payments shall be deposited in the host state treasury to the credit of the low-level waste fund in the following manner except as otherwise provided. Not later than the 60th day after the date of congressional ratification of this compact, each nonhost party state shall pay to the host state \$12.5 million. Not later than the 60th day after the date of the opening of the compact facility, each nonhost party state shall pay to the host state an additional \$12.5 million.

Sec. 5.02. As an alternative, the host state and the nonhost states may provide for payments in the same total amount as stated above to be made to meet the principal and interest expense associated with the bond indebtedness or other form of indebtedness issued by the appropriate agency of the host state

for purposes associated with the development, operation, and post-closure monitoring of the compact facility. In the event the member states proceed in this manner, the payment schedule shall be determined in accordance with the schedule of debt repayment. This schedule shall replace the payment schedule described in Section 5.01 of this article.

#### Article VI. Prohibited Acts and Penalties

Sec. 6.01. No person shall dispose of low-level radioactive waste generated within the party states unless the disposal is at the compact facility, except as otherwise provided in Section 3.05(7) of Article III.

Sec. 6.02. No person shall manage or dispose of low-level radioactive waste within the party states unless the low-level radioactive waste was generated within the party states, except as provided in Section 3.05(6) of Article III. Nothing herein shall be construed to prohibit the storage or management of low-level radioactive waste by a generator, nor its disposal pursuant to 10 C.F.R. Section 20.302.

Sec. 6.03. Violations of this article may result in prohibiting the violator from disposing of low-level radioactive waste in the compact facility, or in the imposition of penalty surcharges on shipments to the facility, as determined by the commission.

#### Article VII. Eligibility; Entry into Effect; Congressional Consent; Withdrawal; Exclusion

Sec. 7.01. The states of Texas, Maine, and Vermont are party states to this compact. Any other state may be made eligible for party status by a majority vote of the commission and ratification by the legislature of the host state, subject to fulfillment of the rights of the initial nonhost party states under Section 3.04(11) of Article III and Section 4.01 of Article IV, and upon compliance with those terms and conditions for eligibility that the host state may establish. The host state may establish all terms and conditions for the entry of any state, other than the states named in this section, as a member of this compact; provided, however, the specific provisions of this compact, except for those pertaining to the composition of the commission and those pertaining to Section 7.09 of this article, may not be changed except upon ratification by the legislatures of the party states.

Sec. 7.02. Upon compliance with the other provisions of this compact, a state made eligible under Section 7.01 of this article may become a party state by legislative enactment of this compact or by executive order of the governor of the state adopting this compact. A state becoming a party state by executive order shall cease to be a party state upon adjournment of the first general session of its legislature convened after

the executive order is issued, unless before the adjournment, the legislature enacts this compact.

Sec. 7.03. Any party state may withdraw from this compact by repealing enactment of this compact subject to the provisions herein. In the event the host state allows an additional state or additional states to join the compact, the host state's legislature, without the consent of the nonhost party states, shall have the right to modify the composition of the commission so that the host state shall have a voting majority on the commission, provided, however, that any modification maintains the right of each initial party state to retain one voting member on the commission.

Sec. 7.04. If the host state withdraws from the compact, the withdrawal shall not become effective until five years after enactment of the repealing legislation and the nonhost party states may continue to use the facility during that time. The financial obligation of the nonhost party states under Article V shall cease immediately upon enactment of the repealing legislation. If the host state withdraws from the compact or abandons plans to operate a facility prior to the date of any nonhost party state payment under Sections 4.05(5) and (6) of Article IV or Article V, the nonhost party states are relieved of any obligations to make the contributions. This section sets out the exclusive remedies for the nonhost party states if the host state withdraws from the compact or is unable to develop and operate a compact facility.

Sec. 7.05. A party state, other than the host state, may withdraw from the compact by repealing the enactment of this compact, but this withdrawal shall not become effective until two years after the effective date of the repealing legislation. During this two-year period the party state will continue to have access to the facility. The withdrawing party shall remain liable for any payments under Sections 4.05(5) and (6) of Article IV that were due during the two-year period, and shall not be entitled to any refund of payments previously made.

Sec. 7.06. Any party state that substantially fails to comply with the terms of the compact or to fulfill its obligations hereunder may have its membership in the compact revoked by a seven-eighths vote of the commission following notice that a hearing will be scheduled not less than six months from the date of the notice. In all other respects, revocation proceedings undertaken by the commission will be subject to the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), except that a party state may appeal the commission's revocation decision to the United States District Court in accordance with Section 3.06 of Article III. Revocation shall take effect one year from the date such

party state receives written notice from the commission of a final action. Written notice of revocation shall be transmitted immediately following the vote of the commission, by the chair, to the governor of the affected party state, all other governors of party states, and to the United States Congress.

Sec. 7.07. This compact shall take effect following its enactment under the laws of the host state and any other party state and thereafter upon the consent of the United States Congress and shall remain in effect until otherwise provided by federal law. If Texas and either Maine or Vermont ratify this compact, the compact shall be in full force and effect as to Texas and the other ratifying state, and this compact shall be interpreted as follows:

- (1) Texas and the other ratifying state are the initial party states.
- (2) The commission shall consist of two voting members from the other ratifying state and six from Texas.
- (3) Each party state is responsible for its pro rata share of the commission's expenses.

Sec. 7.08. This compact is subject to review by the United States Congress and the withdrawal of the consent of Congress every five years after its effective date, pursuant to federal law.

Sec. 7.09. The host state legislature, with the approval of the governor, shall have the right and authority, without the consent of the nonhost party states, to modify the provisions contained in Section 3.04(11) of Article III to comply with Section 402.219(c)(1), Texas Health and Safety Code, as long as the modification does not impair the rights of the initial nonhost party states.

### **Article VIII. Construction and Severability**

Sec. 8.01. The provisions of this compact shall be broadly construed to carry out the purposes of the compact, but the sovereign powers of a party shall not be infringed upon unnecessarily.

Sec. 8.02. This compact does not affect any judicial proceeding pending on the effective date of this compact.

Sec. 8.03 No party state acquires any liability, by joining this compact, resulting from the siting, operation, maintenance, long-term care or any other activity relating to the compact facility. No nonhost party state shall be liable for any harm or damage from the siting, operation, maintenance, or long-term care relating to the compact facility. Except as otherwise

expressly provided in this compact, nothing in this compact shall be construed to alter the incidence of liability of any kind for any act or failure to act. Generators, transporters, owners and operators of the facility shall be liable for their acts, omissions, conduct or relationships in accordance with applicable law. By entering into this compact and securing the ratification by Congress of its terms, no party state acquires a potential liability under Section 5(d)(2)(C) of the Act (42 U.S.C. Sec. 2021e(d)(2)(C)) that did not exist prior to entering into this compact.

Sec. 8.04. If a party state withdraws from the compact pursuant to Section 7.03 of Article VII or has its membership in this compact revoked pursuant to Section 7.06 of Article VII, the withdrawal or revocation shall not affect any liability already incurred by or chargeable to the affected state under Section 8.03 of this article.

Sec. 8.05. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared by a court of competent jurisdiction 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 circumstances is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby to the extent the remainder can in all fairness be given effect. If any provision of this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters.

Sec. 8.06. Nothing in this compact diminishes or otherwise impairs the jurisdiction, authority, or discretion of either of the following:

- (1) the United States Nuclear Regulatory Commission pursuant to the Atomic Energy Act of 1954, as amended (42 U.S.C. Sec. 2011 et seq.); or
- (2) an agreement state under Section 274 of the Atomic Energy Act of 1954, as amended (42 U.S.C. Sec. 2021).

Sec. 8.07. Nothing in this compact confers any new authority on the states or commission to do any of the following:

- (1) Regulate the packaging or transportation of low-level radioactive waste in a manner inconsistent with the regulations of the United States Nuclear Regulatory Commission or the United States Department of Transportation.

(2) Regulate health, safety, or environmental hazards from source, byproduct, or special nuclear material.

(3) Inspect the activities of licensees of the agreement states or of the United States Nuclear Regulatory Commission. (Added 1993, No. 137 (Adj. Sess.), § 2.)

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