

103^D CONGRESS
2^D SESSION

H. R. 4814

IN THE SENATE OF THE UNITED STATES

OCTOBER 4 (legislative day, SEPTEMBER 12), 1994

Received

AN ACT

To grant the consent of the Congress to amendments to the Central Midwest Interstate Low-Level Radioactive Waste Compact.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Central Midwest Inter-
5 state Low-Level Radioactive Waste Compact Amendments
6 Consent Act of 1994”.

1 **SEC. 2. CONDITIONS OF CONSENT TO COMPACT AMEND-**
2 **MENTS.**

3 The consent of the Congress to the compact amend-
4 ments set forth in section 3—

5 (1) shall become effective on the date of the en-
6 actment of this Act;

7 (2) is granted subject to the provisions of the
8 Low-Level Radioactive Waste Policy Act (42 U.S.C.
9 2021b et seq.); and

10 (3) is granted only for so long as the regional
11 commission established in the amended compact
12 complies with all of the provisions of such Act.

13 **SEC. 3. CONSENT OF CONGRESS TO COMPACT AMEND-**
14 **MENTS.**

15 In accordance with section 4(a)(2) of the Low-Level
16 Radioactive Waste Policy Act (42 U.S.C. 2021d(a)(2)),
17 the consent of the Congress is hereby given to amend-
18 ments made by the States of Illinois and Kentucky to the
19 Central Midwest Interstate Low-Level Radioactive Waste
20 Compact, which compact was consented to by the Con-
21 gress in section 224 of the Omnibus Low-Level Radio-
22 active Waste Interstate Compact Consent Act (Pub. L.
23 99-240; 42 U.S.C. 2021 note). The amendments to which
24 such consent is given are substantially as follows:

25 (1) The 2d undesignated paragraph of article I
26 of the compact is amended to read as follows:

1 “The states party to this compact recognize that the
2 Congress of the United States, by enacting the Low-Level
3 Radioactive Waste Policy Act (42 U.S.C. 2021), has pro-
4 vided for and encouraged the development of low-level ra-
5 dioactive waste compacts as a tool for managing such
6 waste. The party states also recognize that the manage-
7 ment of low-level radioactive waste is handled most effi-
8 ciently on a regional basis; and, that the safe and efficient
9 management of low-level radioactive waste generated with-
10 in the region requires that sufficient capacity to manage
11 such waste be properly provided.”.

12 (2) Section (k) of article II of the compact is
13 amended to read as follows:

14 “k) ‘Low-level radioactive waste’ or ‘waste’ means ra-
15 dioactive waste not classified as (1) high-level radioactive
16 waste, (2) transuranic waste, (3) spent nuclear fuel, or
17 (4) by-product material as defined in Section 11e. (2) of
18 the Atomic Energy Act of 1954. This definition shall apply
19 notwithstanding any declaration by the federal govern-
20 ment, a state or any regulatory agency that any radio-
21 active material is exempt from any regulatory control.”.

22 (3) Section (q) of article II of the compact is
23 amended to read as follows:

24 “q) ‘Regional facility’ means any facility as defined
25 in Article II(f) that is (1) located within the region, and

1 (2) established by a party state pursuant to designation
2 of that state as a host state by the Commission.”.

3 (4) Sections (a) and (b) of article III of the
4 compact are amended to read as follows:

5 “a) There is created the Central Midwest Interstate
6 Low-Level Radioactive Waste Commission. Upon the eligi-
7 ble states becoming party states, the Commission shall
8 consist of two voting Commissioners from each state eligi-
9 ble to be designated a host state under Article VI(b), one
10 voting Commissioner from any other party state, and for
11 each regional facility, one non-voting Commissioner who
12 is an elected official of local government and a resident
13 of the county where that regional facility is located. The
14 Governor of each party state shall notify the Commission
15 in writing of its Commissioners and any alternates.

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

24 (5) Sections (d) and (e) of article III of the
25 compact are amended to read as follows:

1 “d) The Commission shall meet at least once annually
2 and shall also meet upon the call of any voting Commis-
3 sioner.

4 “e) All meetings of the Commission and its des-
5 igned committees shall be open to the public with rea-
6 sonable advance notice. The Commission may, by majority
7 vote, close a meeting to the public for the purpose of con-
8 sidering sensitive personnel or legal strategy matters.
9 However, all Commission actions and decisions shall be
10 made in open meetings and appropriately recorded. A roll
11 call may be required upon request of any voting Commis-
12 sioner.”.

13 (6) Section (g) of article III of the compact is
14 amended to read as follows:

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

1 (7) Sections (i) and (j) of article III of the com-
2 pact are amended to read as follows:

3 “i) The Commission may:

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

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

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

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

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

7 “6) Require that waste generated within the re-
8 gion be treated or stored at available regional facili-
9 ties, subject to the limitations of Articles V(f),
10 VII(a)(3) and VII(a)(6).

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

17 “8) Review the emergency closure of a regional
18 facility, determine the appropriateness of that clo-
19 sure, and take whatever actions are necessary to en-
20 sure that the interests of the region are protected,
21 provided that a party state with a total volume of
22 waste recorded on low-level radioactive waste mani-
23 fests for any year that is less than 10 percent of the
24 total volume recorded on such manifests for the re-
25 gion during the same year shall not be designated a

1 host state or be required to store the region's waste.
2 In determining the 10 percent exclusion, there shall
3 not be included waste recorded on low-level radio-
4 active waste manifests by a person whose principal
5 business is providing a service by arranging for the
6 collection, transportation, treatment, storage or dis-
7 posal of such waste.

8 "9) Take any action which is appropriate and
9 necessary to perform its duties and functions as pro-
10 vided in this compact.

11 "10) Suspend the privileges or revoke the mem-
12 bership of a party state.

13 "j) The Commission shall:

14 "1) Submit within 10 days of its execution to
15 the governor and the appropriate officers of the leg-
16 islative body of the party state in which any affected
17 facility is located a copy of any agreement entered
18 into by the Commission under Article III(i)(1), Arti-
19 cle III(i)(2) or Article III(i)(3).

20 "2) Submit an annual report to, and otherwise
21 communicate with, the governors and the appro-
22 priate officers of the legislative bodies of the party
23 states regarding the activities of the Commission.
24 The annual report shall include a description of the
25 status of the activities taken pursuant to any agree-

1 ment entered into by the Commission under Article
2 III(i)(1), Article III(i)(2) or Article III(i)(3) and any
3 violation of any provision thereof, and a description
4 of the source, volume, activity, and current status of
5 any waste from outside the region or waste described
6 under Article VII(a)(6) that was treated, stored, or
7 disposed of in the region in the previous year.

8 “3) Hear, negotiate, and, as necessary, resolve
9 by final decision disputes which may arise between
10 the party states regarding this compact.

11 “4) Adopt and amend, as appropriate, a re-
12 gional management plan that plans for the establish-
13 ment of needed regional facilities.

14 “5) Adopt an annual budget.”.

15 (8) Sections (o) and (p) of article III of the
16 compact are amended to read as follows:

17 “o) The Commission is a legal entity separate and
18 distinct from the party states and is liable for its actions
19 as a separate and distinct legal entity. Commissioners are
20 not personally liable for actions taken by them in their
21 official capacity.

22 “p) Except as provided under Article III(n), Article
23 III(o), Article VI(p) and Article VI(q), nothing in this
24 compact alters liability for any action, omission, course of

1 conduct or liability resulting from any causal or other rela-
2 tionships.”.

3 (9) Sections (b) and (c) of article V of the com-
4 pact are amended to read as follows:

5 “b) Other than the provisions of Article V(f) and
6 VII(a)(6), each party state has the right to have all wastes
7 generated within borders managed at regional facilities.
8 This right shall be subject to the provisions of this Com-
9 pact. All party states have an equal right of access to any
10 facility outside the region made available to the region by
11 any agreement entered into by the Commission pursuant
12 to Article III(i)(4).

13 “c) Party states or generators may negotiate for the
14 right of access to a facility outside the region and may
15 export waste outside the region subject to Commission ap-
16 proval under Article III(i)(4).”.

17 (10) Section (f) of article V of the compact is
18 amended to read as follows:

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

1 (11) Section (b) of article VI of the compact is
2 amended to read as follows:

3 “b) If all regional facilities required by the regional
4 management plan are not developed pursuant to Article
5 VI(a), or upon notification that an existing regional facil-
6 ity will be closed, the Commission may designate a party
7 state as a host state. A party state shall not be designated
8 as a host state for any regional facility under this Article
9 VI(b) unless that state’s total volume of waste recorded
10 on low-level radioactive waste manifests for any year is
11 more than 10% of the total volume recorded on such mani-
12 fests for the region during the same year. In determining
13 the 10% exclusion, there shall not be included waste re-
14 corded on low-level radioactive waste manifests by a per-
15 son whose principal business is providing a service by ar-
16 ranging for the collection, transportation, treatment, stor-
17 age or disposal of such waste, or waste described in Article
18 VII(a)(6).”.

19 (12) Section (c) of article VI of the compact is
20 repealed.

21 (13) Section (e) of article VI of the compact is
22 amended to read as follows:

23 “e) Any party state designated as a host state may
24 request the Commission to relieve that state of the respon-
25 sibility to serve as a host state. The Commission may re-

1 lieve a party state of this responsibility upon a showing
2 by the requesting party state that no feasible potential re-
3 gional facility site of the type it is designated to host exists
4 within its borders or for other good cause shown and con-
5 sistent with the purposes of this Compact.”.

6 (14) Sections (l) and (m) of article VI of the
7 compact are amended to read as follows:

8 “l) A host state intending to close a regional facility
9 located within its borders shall notify the Commission in
10 writing of its intention and the reasons. Notification shall
11 be given to the Commission at least five years prior to
12 the intended date of closure. This Section shall not pre-
13 vent an emergency closing of a regional facility by a host
14 state to protect its air, land and water resources and the
15 health and safety of its citizens. However, a host state
16 which has an emergency closing of a regional facility shall
17 notify the Commission in writing within 3 working days
18 of its action and shall, within 30 working days of its ac-
19 tion, demonstrate justification for the closing.

20 “m) If a regional facility closes before an additional
21 or new facility becomes operational, waste generated with-
22 in the region may be shipped temporarily to any location
23 agreed on by the Commission until a regional facility is
24 operational, provided that the region’s waste shall not be
25 stored in a party state with a total volume of waste re-

1 corded on low-level radioactive waste manifests for any
2 year which is less than 10% of the total volume recorded
3 on the manifests for the region during the same year. In
4 determining the 10% exclusion, there shall not be included
5 waste recorded on low-level radioactive waste manifests by
6 a person whose principal business is providing a service
7 by arranging for the collection, transportation, treatment,
8 storage or disposal of such waste, or waste described in
9 Article VII(a)(6).”.

10 (15) Sections (o) through (q) of article VI of
11 the compact are amended to read as follows:

12 “o) The host state shall create an ‘Extended Care
13 and Long-Term Liability Fund’ and shall allocate suffi-
14 cient fee revenues, received pursuant to Article VI(i), to
15 provide for the costs of:

16 “1) decommissioning and other procedures re-
17 quired for the proper closure of a regional facility;

18 “2) monitoring, inspection and other procedures
19 required for the proper extended care of a regional
20 facility;

21 “3) undertaking any corrective action or clean-
22 up necessary to protect human health and the envi-
23 ronment from radioactive releases from a regional
24 facility; and

1 “4) compensating any person for medical and
2 other expenses incurred from damages to human
3 health, personal injuries suffered from damages to
4 human health and damages or losses to real or per-
5 sonal property, and accomplishing any necessary cor-
6 rective action or clean-up on real or personal prop-
7 erty caused by radioactive releases from a regional
8 facility; the host state may allocate monies in this
9 Fund in amounts as it deems appropriate to pur-
10 chase insurance or to make other similar financial
11 protection arrangements consistent with the pur-
12 poses of this Fund; this Article VI(n) shall in no
13 manner limit the financial responsibilities of the site
14 operator under Article VI(o), the party states under
15 Article VI(p), or any person who sends waste to a
16 regional facility, under Article VI(q).

17 “p) The operator of a regional facility shall purchase
18 an amount of property and third-party liability insurance
19 deemed appropriate by the host state, pay the necessary
20 periodic premiums at all times and make periodic pay-
21 ments to the Extended Care and Long-Term Liability
22 Fund as set forth in Article VI(n) for such amounts as
23 the host state reasonably determines is necessary to pro-
24 vide for future premiums to continue such insurance cov-
25 erage, in order to pay the costs of compensating any per-

1 son for medical and other expenses incurred from damages
2 to human health, personal injuries suffered from damages
3 to human health and damages or losses to real or personal
4 property, and accomplishing any necessary corrective ac-
5 tion or clean-up on real or personal property caused by
6 radioactive releases from a regional facility. In the event
7 of such costs resulting from radioactive releases from a
8 regional facility, the host state should, to the maximum
9 extent possible, seek to obtain monies from such insurance
10 prior to using monies from the Extended Care and Long-
11 Term Liability Fund.

12 “q) All party states shall be liable for the cost of ex-
13 tended care and long-term liability in excess of monies
14 available from the Extended Care and Long-Term Liabil-
15 ity Fund, as set forth in Article VI(n) and from the prop-
16 erty and third-party liability insurance as set forth in Arti-
17 cle VI(o). A party state may meet such liability for costs
18 by levying surcharges upon generators located in the party
19 state. The extent of such liability shall be based on the
20 proportionate share of the total volume of waste placed
21 in the regional facility by generators located in each such
22 party state. Such liability shall be joint and several among
23 the party states with a right of contribution between the
24 party states. However, this Section shall not apply to a
25 party state with a total volume of waste recorded on low-

1 level radioactive waste manifests for any year that is less
2 than 10% of the total volume recorded on such manifests
3 for the region during the same year.”.

4 (16) Sections (d) through (q) of article VI of
5 the compact are redesignated as sections (c) through
6 (p), respectively.

7 (17) Article VI of the compact is amended by
8 adding at the end the following new section:

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

20 (18) Section (a)(6) of article VII of the com-
21 pact is amended to read as follows:

22 “6) establishes any right to the treatment, stor-
23 age or disposal at any facility in the region or pro-
24 vides any authority to prohibit export from the re-
25 gion of waste that is owned or generated by the

1 United States Department of Energy, owned or gen-
2 erated by the United States Navy as a result of the
3 decommissioning of vessels of the United States
4 Navy, or owned or generated as the result of any re-
5 search, development, testing or production of any
6 atomic weapon; or”.

7 (19) Section (d) of article VII of the compact
8 is amended to read as follows:

9 “d) No person who provides a service by arranging
10 for collection, transportation, treatment, storage or dis-
11 posal of waste from outside the region shall be allowed
12 to dispose of any waste, regardless of origin, in the region
13 unless specifically permitted under an agreement entered
14 into by the Commission in accordance with the require-
15 ments of Article III(i)(1).”.

16 (20) Section (c) of article VIII of the compact
17 is amended to read as follows:

18 “c) The Commission is formed upon the appointment
19 of the Commissioners and the tender of the membership
20 fee payable to the Commission by the eligible states. The
21 Governor of Illinois shall convene the initial meeting of
22 the Commission. The Commission shall cause legislation
23 to be introduced in the Congress which grants the consent
24 of the Congress to this compact, and shall take action nec-

1 essary to organize the Commission and implement the pro-
2 visions of this compact.”.

3 (21) Section (e) of article VIII of the compact
4 is amended to read as follows:

5 “e) This compact becomes effective July 1, 1984, or
6 at any date subsequent to July 1, 1984, upon enactment
7 by the eligible states. However, Article IX(b) shall not
8 take effect until the Congress has by law consented to this
9 compact. The Congress shall have an opportunity to with-
10 draw such consent every 5 years. Failure of the Congress
11 affirmatively to withdraw its consent has the effect of re-
12 newing consent for an additional 5 year period. The con-
13 sent given to this compact by the Congress shall extend
14 to the power of the region to ban the shipment of waste
15 into the region pursuant to Article III(i)(1) and to pro-
16 hibit exportation of waste generated within the region
17 under Article III(i)(4).”.

18 (22) Section (b) of article IX of the compact is
19 amended to read as follows:

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

23 “1) for any person to deposit at a facility in the
24 region waste from outside the region;

1 “2) for any facility in the region to accept
2 waste from outside the region;

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

5 “4) for any person to dispose of waste at a fa-
6 cility other than a regional facility;

7 “5) for any person to deposit at a regional fa-
8 cility waste described in Article VII(a)(6); or

9 “6) for any regional facility to accept waste de-
10 scribed in Article VII(a)(6).”.

11 (23) Article IX of the compact is amended by
12 redesignating sections (c) and (d) as sections (d)
13 and (e), respectively, and by inserting after section
14 (b) the following new section:

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

 Passed the House of Representatives October 3,
1994.

Attest: DONNALD K. ANDERSON,
Clerk.

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