

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 558

To grant the consent of the Congress to the Texas Low-Level Radioactive  
Waste Disposal Compact.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 18, 1995

Mr. FIELDS of Texas (for himself, Mr. DELAY, Mr. LAUGHLIN, and Mr. HALL of Texas) introduced the following bill; which was referred to the Committee on Commerce

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## A BILL

To grant the consent of the Congress to the Texas Low-  
Level Radioactive Waste Disposal 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 “Texas Low-Level Ra-  
5 dioactive Waste Disposal Compact Consent Act”.

6 **SEC. 2. CONGRESSIONAL FINDING.**

7 The Congress finds that the compact set forth in sec-  
8 tion 5 is in furtherance of the Low-Level Radioactive  
9 Waste Policy Act (42 U.S.C. 2021b et seq.).

1 **SEC. 3. CONDITIONS OF CONSENT TO COMPACT.**

2 The consent of the Congress to the compact set forth  
3 in section 5—

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

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

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

12 **SEC. 4. CONGRESSIONAL REVIEW.**

13 The Congress may alter, amend, or repeal this Act  
14 with respect to the compact set forth in section 5 after  
15 the expiration of the 10-year period following the date of  
16 the enactment of this Act, and at such intervals thereafter  
17 as may be provided in such compact.

18 **SEC. 5. TEXAS LOW-LEVEL RADIOACTIVE WASTE DISPOSAL**  
19 **COMPACT.**

20 In accordance with section 4(a)(2) of the Low-Level  
21 Radioactive Waste Policy Act (42 U.S.C. 2021d(a)(2)),  
22 the consent of the Congress is given to the States of  
23 Texas, Maine, and Vermont to enter into the Texas Low-  
24 Level Radioactive Waste Disposal Compact. Such compact  
25 is substantially as follows:



1                                   “ARTICLE II. DEFINITIONS

2           “SEC. 2.01. As used in this compact, unless the con-  
3 text clearly indicates otherwise, the following definitions  
4 apply:

5                   “(1) ‘Act’ means the Low-Level Radioactive  
6 Waste Policy Act, as amended by the Low-Level Ra-  
7 dioactive Waste Policy Amendments Act of 1985 (42  
8 U.S.C. 2021b–2021j).

9                   “(2) ‘Commission’ means the Texas Low-Level  
10 Radioactive Waste Disposal Compact Commission  
11 established in Article III of this compact.

12                   “(3) ‘Compact facility’ or ‘facility’ means any  
13 site, location, structure, or property located in and  
14 provided by the host state for the purpose of man-  
15 agement or disposal of low-level radioactive waste for  
16 which the party states are responsible.

17                   “(4) ‘Disposal’ means the permanent isolation  
18 of low-level radioactive waste pursuant to require-  
19 ments established by the United States Nuclear Reg-  
20 ulatory Commission and the United States Environ-  
21 mental Protection Agency under applicable laws, or  
22 by the host state.

23                   “(5) ‘Generate,’ when used in relation to low-  
24 level radioactive waste, means to produce low-level  
25 radioactive waste.

1           “(6) ‘Generator’ means a person who produces  
2 or processes low-level radioactive waste in the course  
3 of its activities, excluding persons who arrange for  
4 the collection, transportation, management, treat-  
5 ment, storage, or disposal of waste generated outside  
6 the party states, unless approved by the commission.

7           “(7) ‘Host county’ means a county in the host  
8 state in which a disposal facility is located or is  
9 being developed.

10           “(8) ‘Host state’ means a party state in which  
11 a compact facility is located or is being developed.  
12 The State of Texas is the host state under this com-  
13 pact.

14           “(9) ‘Institutional control period’ means that  
15 period of time following closure of the facility and  
16 transfer of the facility license from the operator to  
17 the custodial agency in compliance with the appro-  
18 priate regulations for long-term observation and  
19 maintenance.

20           “(10) ‘Low-level radioactive waste’ has the  
21 same meaning as that term is defined in Section  
22 2(9) of the Act (42 U.S.C. 2021b(9)), or in the host  
23 state statute so long as the waste is not incompatible  
24 with management and disposal at the compact facil-  
25 ity.

1           “(11) ‘Management’ means collection, consoli-  
2           dation, storage, packaging, or treatment.

3           “(12) ‘Operator’ means a person who operates  
4           a disposal facility.

5           “(13) ‘Party state’ means any state that has  
6           become a party in accordance with Article VII of  
7           this compact. Texas, Maine, and Vermont are initial  
8           party states under this compact.

9           “(14) ‘Person’ means an individual, corpora-  
10          tion, partnership or other legal entity, whether pub-  
11          lic or private.

12          “(15) ‘Transporter’ means a person who trans-  
13          ports low-level radioactive waste.

14                   “ARTICLE III. THE COMMISSION

15          “SEC. 3.01. There is hereby established the Texas  
16          Low-Level Radioactive Waste Disposal Compact Commis-  
17          sion. The commission shall consist of one voting member  
18          from each party state except that the host state shall be  
19          entitled to six voting members. Commission members shall  
20          be appointed by the party state governors, as provided by  
21          the laws of each party state. Each party state may provide  
22          alternates for each appointed member.

23          “SEC. 3.02. A quorum of the commission consists of  
24          a majority of the members. Except as otherwise provided  
25          in this compact, an official act of the commission must  
26          receive the affirmative vote of a majority of its members.

1       “SEC. 3.03. The commission is a legal entity separate  
2 and distinct from the party states and has governmental  
3 immunity to the same extent as an entity created under  
4 the authority of Article XVI, Section 59, of the Texas  
5 Constitution. Members of the commission shall not be per-  
6 sonally liable for actions taken in their official capacity.  
7 The liabilities of the commission shall not be deemed li-  
8 abilities of the party states.

9       “SEC. 3.04. The commission shall:

10           “(1) Compensate its members according to the  
11 host state’s law.

12           “(2) Conduct its business, hold meetings, and  
13 maintain public records pursuant to laws of the host  
14 state, except that notice of public meetings shall be  
15 given in the non-host party states in accordance with  
16 their respective statutes.

17           “(3) Be located in the capital city of the host  
18 state.

19           “(4) Meet at least once a year and upon the  
20 call of the chair, or any member. The governor of  
21 the host state shall appoint a chair and vice-chair.

22           “(5) Keep an accurate account of all receipts  
23 and disbursements. An annual audit of the books of  
24 the commission shall be conducted by an independ-  
25 ent certified public accountant, and the audit report

1 shall be made a part of the annual report of the  
2 commission.

3 “(6) Approve a budget each year and establish  
4 a fiscal year that conforms to the fiscal year of the  
5 host state.

6 “(7) Prepare, adopt, and implement contin-  
7 gency plans for the disposal and management of low-  
8 level radioactive waste in the event that the compact  
9 facility should be closed. Any plan which requires  
10 the host state to store or otherwise manage the low-  
11 level radioactive waste from all the party states must  
12 be approved by at least four host state members of  
13 the commission. The commission, in a contingency  
14 plan or otherwise, may not require a non-host party  
15 state to store low-level radioactive waste generated  
16 outside of the state.

17 “(8) Submit communications to the governors  
18 and to the presiding officers of the legislatures of  
19 the party states regarding the activities of the com-  
20 mission, including an annual report to be submitted  
21 on or before January 31 of each year.

22 “(9) Assemble and make available to the party  
23 states, and to the public, information concerning  
24 low-level radioactive waste management needs, tech-  
25 nologies, and problems.

1           “(10) Keep a current inventory of all genera-  
2           tors within the party states, based upon information  
3           provided by the party states.

4           “(11) By no later than 180 days after all mem-  
5           bers of the commission are appointed under Section  
6           3.01 of this article, establish by rule the total vol-  
7           ume of low-level radioactive waste that the host state  
8           will dispose of in the compact facility in the years  
9           1995–2045, including decommissioning waste. The  
10          shipments of low-level radioactive waste from all  
11          non-host party states shall not exceed 20 percent of  
12          the volume estimated to be disposed of by the host  
13          state during the 50-year period. When averaged over  
14          such 50-year period, the total of all shipments from  
15          non-host party states shall not exceed 20,000 cubic  
16          feet a year. The commission shall coordinate the vol-  
17          umes, timing, and frequency of shipments from gen-  
18          erators in the non-host party states in order to as-  
19          sure that over the life of this agreement shipments  
20          from the non-host party states do not exceed 20 per-  
21          cent of the volume projected by the commission  
22          under this paragraph.

23          “SEC. 3.05. The commission may:

24                 “(1) Employ staff necessary to carry out its du-  
25                 ties and functions. The commission is authorized to

1 use to the extent practicable the services of existing  
2 employees of the party states. Compensation shall be  
3 as determined by the commission.

4 “(2) Accept any grants, equipment, supplies,  
5 materials, or services, conditional or otherwise, from  
6 the federal or state government. The nature, amount  
7 and condition, if any, of any donation, grant or  
8 other resources accepted pursuant to this paragraph  
9 and the identity of the donor or grantor shall be de-  
10 tailed in the annual report of the commission.

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

15 “(4) Adopt, by a majority vote, bylaws and  
16 rules necessary to carry out the terms of this com-  
17 pact. Any rules promulgated by the commission shall  
18 be adopted in accordance with the Administrative  
19 Procedure and Texas Register Act (Article 6252-  
20 13a, Vernon’s Texas Civil Statutes).

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

1           “(6) Enter into an agreement with any person,  
2           state, regional body, or group of states for the im-  
3           portation of low-level radioactive waste into the com-  
4           pact for management or disposal, provided that the  
5           agreement receives a majority vote of the commis-  
6           sion. The commission may adopt such conditions  
7           and restrictions in the agreement as it deems advis-  
8           able.

9           “(7) Upon petition, allow an individual genera-  
10          tor, a group of generators, or the host state of the  
11          compact, to export low-level waste to a low-level ra-  
12          dioactive waste disposal facility located outside the  
13          party states. The commission may approve the peti-  
14          tion only by a majority vote of its members. The  
15          permission to export low-level radioactive waste shall  
16          be effective for that period of time and for the speci-  
17          fied amount of low-level radioactive waste, and sub-  
18          ject to any other term or condition, as is determined  
19          by the commission.

20          “(8) Monitor the exportation outside of the  
21          party states of material, which otherwise meets the  
22          criteria of low-level radioactive waste, where the sole  
23          purpose of the exportation is to manage or process  
24          the material for recycling or waste reduction and re-

1 turn it to the party states for disposal in the com-  
2 pact facility.

3 “SEC. 3.06. Jurisdiction and venue of any action con-  
4 testing any action of the commission shall be in the United  
5 States District Court in the district where the commission  
6 maintains its office.

7 “ARTICLE IV. RIGHTS, RESPONSIBILITIES, AND  
8 OBLIGATIONS OF PARTY STATES

9 “SEC. 4.01. The host state shall develop and have  
10 full administrative control over the development, manage-  
11 ment and operation of a facility for the disposal of low-  
12 level radioactive waste generated within the party states.  
13 The host state shall be entitled to unlimited use of the  
14 facility over its operating life. Use of the facility by the  
15 non-host party states for disposal of low-level radioactive  
16 waste, including such waste resulting from decommission-  
17 ing of any nuclear electric generation facilities located in  
18 the party states, is limited to the volume requirements of  
19 Section 3.04(11) of Article III.

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

24 “SEC. 4.03. The initial states of this compact cannot  
25 be members of another low-level radioactive waste compact  
26 entered into pursuant to the Act.

1       “SEC. 4.04. The host state shall do the following:

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

5               “(2) Ensure, consistent with any applicable fed-  
6 eral and host state laws, the protection and preser-  
7 vation of the environment and the public health and  
8 safety in the siting, design, development, licensing,  
9 regulation, operation, closure, decommissioning, and  
10 long-term care of the disposal facilities within the  
11 host state.

12               “(3) Close the facility when reasonably nec-  
13 essary to protect the public health and safety of its  
14 citizens or to protect its natural resources from  
15 harm. However, the host state shall notify the com-  
16 mission of the closure within three days of its action  
17 and shall, within 30 working days of its action, pro-  
18 vide a written explanation to the commission of the  
19 closure, and implement any adopted contingency  
20 plan.

21               “(4) Establish reasonable fees for disposal at  
22 the facility of low-level radioactive waste generated  
23 in the party states based on disposal fee criteria set  
24 out in Sections 402.272 and 402.273, Texas Health  
25 and Safety Code. The same fees shall be charged for

1 the disposal of low-level radioactive waste that was  
2 generated in the host state and in the non-host  
3 party states. Fees shall also be sufficient to reason-  
4 ably support the activities of the Commission.

5 “(5) Submit an annual report to the commis-  
6 sion on the status of the facility, including projec-  
7 tions of the facility’s anticipated future capacity, and  
8 on the related funds.

9 “(6) Notify the Commission immediately upon  
10 the occurrence of any event which could cause a pos-  
11 sible temporary or permanent closure of the facility  
12 and identify all reasonable options for the disposal  
13 of low-level radioactive waste at alternate compact  
14 facilities or, by arrangement and Commission vote,  
15 at noncompact facilities.

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

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

22 “SEC. 4.05. Each party state shall do the following:

23 “(1) Develop and enforce procedures requiring  
24 low-level radioactive waste shipments originating  
25 within its borders and destined for the facility to

1 conform to packaging, processing, and waste from  
2 specifications of the host state.

3 “(2) Maintain a registry of all generators with-  
4 in the state that may have low-level radioactive  
5 waste to be disposed of at a facility, including, but  
6 not limited to, the amount of low-level radioactive  
7 waste and the class of low-level radioactive waste  
8 generated by each generator.

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

14 “(4) Provide the commission with any data and  
15 information necessary for the implementation of the  
16 commission’s responsibilities, including taking those  
17 actions necessary to obtain this data or information.

18 “(5) Pay for community assistance projects des-  
19 ignated by the host county in an amount for each  
20 non-host party state equal to 10 percent of the pay-  
21 ment provided for in Article V for each such state.  
22 One-half of the payment shall be due and payable to  
23 the host county on the first day of the month follow-  
24 ing ratification of this compact agreement by Con-  
25 gress and one-half of the payment shall be due and

1 payable on the first day of the month following the  
2 approval of a facility operating license by the host  
3 state's regulatory body.

4 “(6) Provide financial support for the commis-  
5 sion's activities prior to the date of facility operation  
6 and subsequent to the date of congressional ratifica-  
7 tion of this compact under Section 7.07 of Article  
8 VII. Each party state will be responsible for annual  
9 payments equalling its pro-rata share of the commis-  
10 sion's expenses, incurred for administrative, legal,  
11 and other purposes of the commission.

12 “(7) If agreed by all parties to a dispute, sub-  
13 mit the dispute to arbitration or other alternate dis-  
14 pute resolution process. If arbitration is agreed  
15 upon, the governor of each party state shall appoint  
16 an arbitrator. If the number of party states is an  
17 even number, the arbitrators so chosen shall appoint  
18 an additional arbitrator. The determination of a ma-  
19 jority of the arbitrators shall be binding on the party  
20 states. Arbitration proceedings shall be conducted in  
21 accordance with the provisions of 9 U.S.C. Sections  
22 1 to 16. If all parties to a dispute do not agree to  
23 arbitration or alternate dispute resolution process,  
24 the United States District Court in the district  
25 where the commission maintains its office shall have

1 original jurisdiction over any action between or  
2 among parties to this compact.

3 “(8) Provide on a regular basis to the commis-  
4 sion and host state—

5 “(A) an accounting of waste shipped and  
6 proposed to be shipped to the compact facility,  
7 by volume and curies;

8 “(B) proposed transportation methods and  
9 routes; and

10 “(C) proposed shipment schedules.

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

15 “SEC. 4.06. Each party state shall act in good faith  
16 and may rely on the good faith performance of the other  
17 party states regarding requirements of this compact.

18 “ARTICLE V. PARTY STATE CONTRIBUTIONS

19 “SEC. 5.01. Each party state, except the host state,  
20 shall contribute a total of \$25 million to the host state.  
21 Payments shall be deposited in the host state treasury to  
22 the credit of the low-level waste fund in the following man-  
23 ner except as otherwise provided. Not later than the 60th  
24 day after the date of congressional ratification of this com-  
25 pact, each non-host party state shall pay to the host state  
26 \$12.5 million. Not later than the 60th day after the date

1 of the opening of the compact facility, each non-host party  
2 state shall pay to the host state an additional \$12.5 mil-  
3 lion.

4       “SEC. 5.02. As an alternative, the host state and the  
5 non-host states may provide for payments in the same  
6 total amount as stated above to be made to meet the prin-  
7 cipal and interest expense associated with the bond indebt-  
8 edness or other form of indebtedness issued by the appro-  
9 priate agency of the host state for purposes associated  
10 with the development, operation, and post-closure monitor-  
11 ing of the compact facility. In the event the member states  
12 proceed in this manner, the payment schedule shall be de-  
13 termined in accordance with the schedule of debt repay-  
14 ment. This schedule shall replace the payment schedule  
15 described in Section 5.01 of this article.

16       “ARTICLE VI. PROHIBITED ACTS AND PENALTIES

17       “SEC. 6.01. No person shall dispose of low-level ra-  
18 dioactive waste generated within the party states unless  
19 the disposal is at the compact facility, except as otherwise  
20 provided in Section 3.05(7) of Article III.

21       “SEC. 6.02. No person shall manage or dispose of any  
22 low-level radioactive waste within the party states unless  
23 the low-level radioactive waste was generated within the  
24 party states, except as provided in Section 3.05(6) of Arti-  
25 cle III. Nothing herein shall be construed to prohibit the  
26 storage or management of low-level radioactive waste by

1 a generator, nor its disposal pursuant to 10 C.F.R. Part  
2 20.302.

3 “SEC. 6.03. Violations of this article may result in  
4 prohibiting the violator from disposing of low-level radio-  
5 active waste in the compact facility, or in the imposition  
6 of penalty surcharges on shipments to the facility, as de-  
7 termined by the commission.

8 “ARTICLE VII. ELIGIBILITY, ENTRY INTO EFFECT;  
9 CONGRESSIONAL CONSENT; WITHDRAWAL; EXCLUSION

10 “SEC. 7.01. The states of Texas, Maine, and Vermont  
11 are party states to this compact. Any other state may be  
12 made eligible for party status by a majority vote of the  
13 commission and ratification by the legislature of the host  
14 state, subject to fulfillment of the rights of the initial non-  
15 host party states under Section 3.04(11) of Article III and  
16 Section 4.01 of Article IV, and upon compliance with  
17 those terms and conditions for eligibility that the host  
18 state may establish. The host state may establish all terms  
19 and conditions for the entry of any state, other than the  
20 states named in this section, as a member of this compact;  
21 provided, however, the specific provisions of this compact,  
22 except for those pertaining to the composition of the com-  
23 mission and those pertaining to Section 7.09 of this arti-  
24 cle, may not be changed except upon ratification by the  
25 legislatures of the party states.

1       “SEC. 7.02. Upon compliance with the other provi-  
2 sions of this compact, a state made eligible under Section  
3 7.01 of this article may become a party state by legislative  
4 enactment of this compact or by executive order of the  
5 governor of the state adopting this compact. A state be-  
6 coming a party state by executive order shall cease to be  
7 a party state upon adjournment of the first general session  
8 of its legislature convened after the executive order is is-  
9 sued, unless before the adjournment, the legislature enacts  
10 this compact.

11       “SEC. 7.03. Any party state may withdraw from this  
12 compact by repealing enactment of this compact subject  
13 to the provisions herein. In the event the host state allows  
14 an additional state or additional states to join the com-  
15 pact, the host state’s legislature, without the consent of  
16 the non-host party states, shall have the right to modify  
17 the composition of the commission so that the host state  
18 shall have a voting majority on the commission, provided,  
19 however, that any modification maintains the right of each  
20 initial party state to retain one voting member on the com-  
21 mission.

22       “SEC. 7.04. If the host state withdraws from the  
23 compact, the withdrawal shall not become effective until  
24 five years after enactment of the repealing legislation and  
25 the non-host party states may continue to use the facility

1 during that time. The financial obligation of the non-host  
2 party states under Article V shall cease immediately upon  
3 enactment of the repealing legislation. If the host state  
4 withdraws from the compact or abandons plans to operate  
5 a facility prior to the date of any non-host party state pay-  
6 ment under Sections 4.05(5) and (6) of Article IV or Arti-  
7 cle V, the non-host party states are relieved of any obliga-  
8 tions to make the contributions. This section sets out the  
9 exclusive remedies for the non-host party states if the host  
10 state withdraws from the compact or is unable to develop  
11 and operate a compact facility.

12       “SEC. 7.05. A party state, other than the host state,  
13 may withdraw from the compact by repealing the enact-  
14 ment of this compact, but this withdrawal shall not be-  
15 come effective until two years after the effective date of  
16 the repealing legislation. During this two-year period the  
17 party state will continue to have access to the facility. The  
18 withdrawing party shall remain liable for any payments  
19 under Sections 4.05(5) and (6) of Article IV that were  
20 due during the two-year period, and shall not be entitled  
21 to any refund of payments previously made.

22       “SEC. 7.06. Any party state that substantially fails  
23 to comply with the terms of the compact or to fulfill its  
24 obligations hereunder may have its membership in the  
25 compact revoked by a seven-eighths vote of the commis-

1 sion following notice that a hearing will be scheduled not  
2 less than six months from the date of the notice. In all  
3 other respects, revocation proceedings undertaken by the  
4 commission will be subject to the Administrative Proce-  
5 dure and Texas Register Act (Article 6252–13a, Vernon’s  
6 Texas Civil Statutes), except that a party state may ap-  
7 peal the commission’s revocation decision to the United  
8 States District Court in accordance with Section 3.06 of  
9 Article III. Revocation shall take effect one year from the  
10 date such party state receives written notice from the com-  
11 mission of a final action. Written notice of revocation shall  
12 be transmitted immediately following the vote of the com-  
13 mission, by the chair, to the governor of the affected party  
14 state, all other governors of party states, and to the Unit-  
15 ed States Congress.

16       “SEC. 7.07. This compact shall take effect following  
17 its enactment under the laws of the host state and any  
18 other party state and thereafter upon the consent of the  
19 United States Congress and shall remain in effect until  
20 otherwise provided by federal law. If Texas and either  
21 Maine or Vermont ratify this compact, the compact shall  
22 be in full force and effect as to Texas and the other ratify-  
23 ing state, and this compact shall be interpreted as follows:

24               “(1) Texas and the other ratifying state are the  
25               initial party states.

1           “(2) The commission shall consist of two voting  
2           members from the other ratifying state and six from  
3           Texas.

4           “(3) Each party state is responsible for its pro-  
5           rata share of the commission’s expenses.

6           “SEC. 7.08. This compact is subject to review by the  
7           United States Congress and the withdrawal of the consent  
8           of Congress every five years after its effective date, pursu-  
9           ant to federal law.

10          “SEC. 7.09. The host state legislature, with the ap-  
11          proval of the governor, shall have the right and authority,  
12          without the consent of the non-host party states, to modify  
13          the provisions contained in Section 3.04(11) of Article III  
14          to comply with Section 402.219(c)(1), Texas Health &  
15          Safety Code, as long as the modification does not impair  
16          the rights of the initial non-host party states.

17          “ARTICLE VIII. CONSTRUCTION AND SEVERABILITY

18          “SEC. 8.01. The provisions of this compact shall be  
19          broadly construed to carry out the purposes of the com-  
20          pact, but the sovereign powers of a party shall not be in-  
21          fringed upon unnecessarily.

22          “SEC. 8.02. This compact does not affect any judicial  
23          proceeding pending on the effective date of this compact.

24          “SEC. 8.03. No party state acquires any liability, by  
25          joining this compact, resulting from the siting, operation,  
26          maintenance, long-term care or any other activity relating

1 to the compact facility. No non-host party state shall be  
2 liable for any harm or damage from the siting, operation,  
3 maintenance, or long-term care relating to the compact  
4 facility. Except as otherwise expressly provided in this  
5 compact, nothing in this compact shall be construed to  
6 alter the incidence of liability of any kind for any act or  
7 failure to act. Generators, transporters, owners and opera-  
8 tors of facility shall be liable for their acts, omissions, con-  
9 duct or relationships in accordance with applicable law.  
10 By entering into this compact and securing the ratification  
11 by Congress of its terms, no party state acquires a poten-  
12 tial liability under section 5(d)(2)(C) of the Act (42 U.S.C.  
13 Sec. 2021e(d)(2)(C)) that did not exist prior to entering  
14 into this compact.

15       “SEC. 8.04. If a party state withdraws from the com-  
16 pact pursuant to Section 7.03 of Article VII or has its  
17 membership in this compact revoked pursuant to section  
18 7.06 of Article VII, the withdrawal or revocation shall not  
19 affect any liability already incurred by or chargeable to  
20 the affected state under Section 8.03 of this article.

21       “SEC. 8.05. The provisions of this compact shall be  
22 severable and if any phrase, clause, sentence, or provision  
23 of this compact is declared by a court of competent juris-  
24 diction to be contrary to the constitution of any participat-  
25 ing state or of the United States or the applicability there-

1 of to any government, agency, person or circumstances is  
2 held invalid, the validity of the remainder of this compact  
3 and the applicability thereof to any government, agency,  
4 person, or circumstance shall not be affected thereby to  
5 the extent the remainder can in all fairness be given effect.  
6 If any provision of this compact shall be held contrary to  
7 the constitution of any state participating therein, the  
8 compact shall remain in full force and effect as to the state  
9 affected as to all severable matters.

10       “SEC. 8.06. Nothing in this compact diminishes or  
11 otherwise impairs the jurisdiction, authority, or discretion  
12 of either of the following:

13               “(1) The United States Nuclear Regulatory  
14 Commission pursuant to the Atomic Energy Act of  
15 1954, as amended (42 U.S.C. Sec. 2011 et seq.).

16               “(2) An agreement state under section 274 of  
17 the Atomic Energy Act of 1954, as amended (42  
18 U.S.C. Sec. 2021).

19       “SEC. 8.07. Nothing in this compact confers any new  
20 authority on the states or commission to do any of the  
21 following:

22               “(1) Regulate the packaging or transportation  
23 of low-level radioactive waste in a manner inconsis-  
24 tent with the regulations of the United States Nu-

1 clear Regulatory Commission or the United States  
2 Department of Transportation.

3 “(2) Regulate health, safety, or environmental  
4 hazards from source, by-product, or special nuclear  
5 material.

6 “(3) Inspect the activities of licensees of the  
7 agreement states or of the United States Nuclear  
8 Regulatory Commission.”.

○

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