

## CHAPTER 116C

## ENVIRONMENTAL QUALITY BOARD

116C.03	Creation of the environmental quality board; membership; chairman; staff.	116C.833	Compact commission member.
116C.24	Definitions.	116C.834	Assessment of generators.
116C.25	Environmental permits coordination unit.	116C.835	Enforcement of compact and laws.
116C.32	Rules; cooperation.	116C.836	Actions concerning interstate commission and party states.
116C.33	Conflict with federal requirements.	116C.837	Review of state authority to enforce compact.
116C.34	Bureau of business licenses.	116C.838	Effect on existing state law.
116C.65	Judicial review.	116C.839	Advisory committee.
116C.81	Coordination of water resource management and planning; definitions.	116C.840	Duty to provide information.
116C.82	Duties of board.	116C.841	Audit review.
116C.831	Midwest Interstate Low-Level Radioactive Waste Compact.	116C.842	Contingent provisions.
116C.832	Definitions.	116C.843	Congressional conditions on compact consent.

**116C.03 CREATION OF THE ENVIRONMENTAL QUALITY BOARD; MEMBERSHIP; CHAIRMAN; STAFF.**

*[For text of subd 1, see M.S.1982]*

Subd. 2. The board shall include as permanent members the commissioner of the department of energy, planning and development, the director of the pollution control agency, the commissioner of natural resources, the commissioner of agriculture, the commissioner of health, the commissioner of transportation, and a representative of the governor's office designated by the governor. The governor shall appoint five members from the general public to the board, subject to the advice and consent of the senate. At least two of the five public members shall have knowledge of and be conversant in water management issues in the state.

*[For text of subds 2a to 6, see M.S.1982]*

**History:** 1983 c 301 s 119

**116C.24 DEFINITIONS.**

*[For text of subds 1 and 2, see M.S.1982]*

Subd. 2a. "Commissioner" means the commissioner of energy and economic development.

Subd. 3. "Coordination unit" means the bureau of business licenses established pursuant to sections 116J.73 to 116J.76.

*[For text of subds 4 to 8, see M.S.1982]*

**History:** 1983 c 289 s 34,35

**116C.25 ENVIRONMENTAL PERMITS COORDINATION UNIT.**

The commissioner of energy and economic development shall direct the bureau of business licenses to act as the coordination unit to implement and administer the provisions of sections 116C.22 to 116C.34. The commissioner shall employ necessary staff to work for the coordination unit on a continuous basis.

**History:** 1983 c 289 s 36

**116C.32 RULES; COOPERATION.**

The commissioner shall as soon as practicable adopt rules, not inconsistent with rules of procedure established by the office of administrative hearings, to implement the provisions of sections 116C.22 to 116C.34, including master application procedures, notice procedures, and public hearing procedures and costs.

**History:** 1983 c 289 s 37

**116C.33 CONFLICT WITH FEDERAL REQUIREMENTS.**

*[For text of subd 1, see M.S.1982]*

Subd. 2. The commissioner, to the limited extent necessary to comply with procedural requirements of federal statutes relating to permit systems operated by the state, may modify the notice, timing, hearing, and related procedural matters provided in sections 116C.22 to 116C.34.

**History:** 1983 c 289 s 38

**116C.34 BUREAU OF BUSINESS LICENSES.**

Subdivision 1. The bureau of business licenses shall establish and maintain an information and referral system to assist the public in the understanding and compliance with the requirements of state and local governmental regulations concerning the use of natural resources and protection of the environment. The system shall provide a telephone information service and disseminate printed materials. The bureau shall provide assistance to regional development commissions desiring to create a permit information center.

Subd. 2. The bureau shall:

(a) Identify all existing state licenses, permit certifications, approvals, compliance schedules, or other programs which pertain to the use of natural resources and to protection of the environment.

(b) Standardize permit titles and assign designation codes to all such permits which would thereafter be imprinted on all permit forms.

(c) Develop permit profiles including applicable rules and regulations, copies of all appropriate permit forms, statutory mandate and legislative history, names of individuals administering the program, permit processing procedures, documentation of the magnitude of the program and of geographic and seasonal distribution of the workload, and estimated application processing time.

(d) Identify the public information procedures currently associated with each permit program.

(e) Identify the data monitored or acquired through each permit and ascertain current users of that data.

(f) Recommend revisions to the list of natural resource management and development permits contained in Minnesota Statutes 1974, section 116D.04, subdivision 5.

(g) Recommend legislative or administrative modifications of existing permit programs to increase their efficiency and utility.

Subd. 3. The auditor of each county shall post in a conspicuous place in his office the telephone numbers of the bureau of business licenses and the permit information center in the office of the applicable regional development commission; copies of any master applications or permit applications forwarded to the

auditor pursuant to section 116C.27, subdivision 1; and copies of any information published by the bureau or an information center pursuant to subdivision 1.

**History:** 1983 c 289 s 39

### 116C.65 JUDICIAL REVIEW.

Any utility, party or person aggrieved by the issuance of a certificate or emergency certificate of site compatibility or transmission line construction permit from the board or a certification of continuing suitability filed by a utility with the board or by a final order in accordance with any rules promulgated by the board, may appeal to the court of appeals in accordance with chapter 14. The appeal shall be filed within 60 days after the publication in the state register of notice of the issuance of the certificate or permit by the board or certification filed with the board or the filing of any final order by the board.

**History:** 1983 c 247 s 54

### 116C.81 COORDINATION OF WATER RESOURCE MANAGEMENT AND PLANNING; DEFINITIONS.

Subdivision 1. **Application.** For the purposes of section 116C.82 and this section the terms defined in this section have the meanings given them.

Subd. 2. **Board.** "Board" means the environmental quality board.

Subd. 3. **Southern Minnesota rivers basin.** "Southern Minnesota rivers basin" means the area within the watersheds of rivers and streams tributary to the Minnesota river, and the areas within the watersheds of rivers tributary to the Mississippi river on the westerly side of the Mississippi south of its confluence with the Minnesota river.

**History:** 1983 c 301 s 120

### 116C.82 DUTIES OF BOARD.

Subdivision 1. **Water planning.** The board shall:

(1) coordinate public water resource management and regulation activities among the state agencies having jurisdiction in the area;

(2) initiate, coordinate, and continue to develop comprehensive long-range water resources planning in furtherance of the plan adopted by the water planning board entitled "A Framework for a Water and Related Land Resources Strategy for Minnesota, 1979";

(3) coordinate water planning activities of local, regional, and federal bodies with state water planning and integrate these plans with state strategies; and

(4) administer federal water resources planning with multiagency interests.

Subd. 2. **Southern Minnesota rivers basin.** The board shall guide the creation and implementation of a comprehensive environmental conservation and development plan for the southern Minnesota rivers basin. The board shall coordinate state and local interests with respect to the study in southwestern Minnesota under Public Law Number 87-639. The board shall appoint an advisory council to advise the board concerning its responsibilities under this subdivision. The council shall consist of 11 members who are residents of the basin and appointed by the governor. The council is subject to the provisions of section 15.059, except that the council shall expire June 30, 1987. The council shall make recommendations to the board by June 30, 1985, concerning the establishment of a statewide

advisory council to advise the board on water resources planning, regulation, and management.

Subd. 3. **Governor's representative.** The board chairperson shall represent the governor on interstate water resources organizations.

**History:** 1983 c 301 s 121

### 116C.831 MIDWEST INTERSTATE LOW-LEVEL RADIOACTIVE WASTE COMPACT.

The Midwest Interstate Low-Level Radioactive Waste Compact is enacted into law and entered into with all jurisdictions legally joining therein in the form substantially as follows:

#### ARTICLE I. POLICY AND PURPOSE

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

The states party to this compact recognize that the Congress of the United States, by enacting the Low-Level Radioactive Waste Policy Act (42 United States Code 2021b to 2021d), as amended through December 31, 1982, has provided for and encouraged the development of low-level radioactive waste compacts as a tool for managing such waste. The party states acknowledge that the Congress has declared that each state is responsible for providing for the availability of capacity either within or outside the state for the disposal of low-level radioactive waste generated within its borders, except for waste generated as a result of certain defense activities of the federal government or federal research and development activities. The party states also recognize that the management of low-level radioactive waste is handled most efficiently on a regional basis; and, that the safe and efficient management of low-level radioactive waste generated within the region requires that sufficient capacity to manage such waste be properly provided.

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

1. Providing the instrument and framework for a cooperative effort;
2. Providing sufficient facilities for the proper management of low-level radioactive waste generated in the region;
3. Protecting the health and safety of the citizens of the region;
4. Limiting the number of facilities required to effectively and efficiently manage low-level radioactive waste generated in the region;
5. Encouraging the reduction of the amounts of low-level radioactive waste generated in the region;
6. Distributing the costs, benefits, and obligations of successful low-level radioactive waste management equitably among the party states, and among generators and other persons who use regional facilities to manage their waste; and
7. Ensuring the ecological and economical management of low-level radioactive wastes.

b. Implicit in the Congressional consent to this compact is the expectation by the Congress and the party states that the appropriate federal agencies will actively assist the Compact Commission and the individual party states to this compact by:

1. Expedient enforcement of federal rules, regulations and laws;

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

## ARTICLE II. DEFINITIONS

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

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

b. "Commission" means the Midwest Interstate Low-Level Radioactive Waste Commission.

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

d. "Disposal" means the isolation of waste from the biosphere in a permanent facility designed for that purpose.

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

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

g. "Generator" means any person who produces or possesses low-level radioactive waste in the course of or incident to manufacturing, power generation, processing, medical diagnosis and treatment, research, or other industrial or commercial activity and who, to the extent required by law, is licensed by the U.S. Nuclear Regulatory Commission or a party state, to produce or possess such waste. Generator does not include a person who provides a service by arranging for the collection, transportation, treatment, storage or disposal of wastes generated outside the region.

h. "Host state" means any state which is designated by the Commission to host a regional facility.

i. "Low-level radioactive waste" or "waste" means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel or by-product material as defined in section 11(e)(2) of the Atomic Energy Act of 1954, (42 United States Code 2014).

j. "Management plan" means the plan adopted by the Commission for the storage, transportation, treatment, and disposal of waste within the region.

k. "Party state" means any eligible state which enacts the compact into law.

l. "Person" means any individual, corporation, business enterprise or other legal entity either public or private and any legal successor, representative, agent or agency of that individual, corporation, business enterprise, or legal entity.

m. "Region" means the area of the party states.

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

- o. "Site" means the geographic location of a facility.
- p. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands or any other territorial possession of the United States.
- q. "Storage" means the temporary holding of waste for treatment or disposal.
- r. "Treatment" means any method, technique or process, including storage for radioactive decay, designed to change the physical, chemical or biological characteristics or composition of any waste in order to render the waste safer for transport or management, amenable to recovery, convertible to another usable material, or reduced in volume.
- s. "Waste management" means the storage, transportation, treatment, or disposal of waste.

### ARTICLE III. THE COMMISSION

a. There is hereby created the Midwest Interstate Low-Level Radioactive Waste Commission. The Commission consists of one voting member from each party state. The Governor of each party state shall notify the Commission in writing of its member and any alternates. An alternate may act on behalf of the member only in that member's absence. The method for selection and the expenses of each Commission member shall be the responsibility of the member's respective state.

b. Each Commission member is entitled to one vote. No action of the Commission is binding unless a majority of the total membership cast their vote in the affirmative.

c. The Commission shall elect annually from among its members a chairperson. The Commission shall adopt and publish, in convenient form, bylaws, and policies which are not inconsistent with this compact, including procedures which substantially conform with the provisions of federal law on administrative procedure compiled at 5 United States Code 500 to 559, as amended through December 31, 1982, in regard to notice, conduct and recording of meetings; access by the public to records; provision of information to the public; conduct of adjudicatory hearings; and issuance of decisions.

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

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

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

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

h. The Commission may:

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

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

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

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

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

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

i. The Commission shall:

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

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

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

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

5. Adopt an annual budget.

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

1. Each state, upon becoming a party state, shall pay \$50,000 or \$1,000 per cubic meter of waste shipped from that state in 1980, whichever is lower, to the Commission which shall be used for the administrative costs of the Commission;

2. Each state hosting a regional facility shall levy surcharges on all users of the regional facility based upon its portion of the total volume and characteristics of wastes managed at that facility. The surcharges collected at all regional facilities shall:

a. Be sufficient to cover the annual budget of the Commission;

b. Represent the financial commitments of all party states to the Commission; and

c. Be paid to the Commission, provided, however, that each host state collecting surcharges may retain a portion of the collection sufficient to cover its administrative costs of collection, and that the remainder be sufficient only to cover the approved annual budget of the Commission.

k. The Commission shall keep accurate accounts of all receipts and disbursements. The Commission shall contract with an independent certified public

accountant to annually audit all receipts and disbursements of Commission funds, and to submit an audit report to the Commission. The audit report shall be made a part of the annual report of the Commission required by this article.

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

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

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

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

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

o. Any person aggrieved by a final decision of the Commission may obtain judicial review of such decision in any court of competent jurisdiction by filing in such court a petition for review within 60 days after the Commission's final decision.

#### ARTICLE IV. REGIONAL MANAGEMENT PLAN

The Commission shall adopt a regional management plan designed to ensure the safe and efficient management of waste generated within the region. In adopting a regional waste management plan the Commission shall:

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

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

c. Develop and adopt procedures and criteria for identifying a party state as a host state for a regional facility. In developing these criteria, the Commission shall consider all the following:

1. The health, safety, and welfare of the citizens of the party states.
2. The existence of regional facilities within each party state.
3. The minimization of waste transportation.
4. The volumes and types of wastes generated within each party state.



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

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

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

#### ARTICLE V. RIGHTS AND OBLIGATIONS OF PARTY STATES

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

b. Each party state has the right to have all wastes generated within its borders managed at regional facilities subject to the provisions contained in article IX.c. All party states have an equal right of access to any facility made available to the region by any agreement entered into by the Commission pursuant to article III.

c. Party states or generators may negotiate for the right of access to a facility outside the region and may export waste outside the region subject to Commission approval under article III.

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

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

#### ARTICLE VI. DEVELOPMENT AND OPERATION OF FACILITIES

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

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

c. Each party state designated as a host state is responsible for determining possible facility locations within its borders. The selection of a facility site shall not conflict with applicable federal and host state laws, regulations and rules not inconsistent with this compact and shall be based on factors including, but not limited to, geological, environmental and economic viability of possible facility locations.

d. Any party state designated as a host state may request the Commission to relieve that state of the responsibility to serve as a host state. The Commission may relieve a party state of this responsibility only upon a showing by the

requesting party state that no feasible potential regional facility site of the type it is designated to host exists within its borders.

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

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

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

h. Designation of a host state is for a period of 20 years or the life of the regional facility which is established under that designation, whichever is longer. Upon request of a host state, the Commission may modify the period of its designation.

i. A host state may establish a fee system for any regional facility within its borders. The fee system shall be reasonable and equitable. This fee system shall provide the host state with sufficient revenue to cover any costs, including but not limited to the planning, siting, licensure operation, decommissioning, extended care and long-term liability, associated with such facilities. This fee system may also include reasonable revenue beyond the costs incurred for the host state, subject to approval by the Commission. A host state shall submit an annual financial audit of the operation of the regional facility to the Commission. The fee system may include incentives for source reduction and may be based on the hazard of the waste as well as the volume.

j. A host state shall ensure that a regional facility located within its borders which is permanently closed is properly decommissioned. A host state shall also provide for the care of a closed or decommissioned regional facility within its borders so that the public health and safety of the state and region are ensured.

k. A host state intending to close a regional facility located within its borders shall notify the Commission in writing of its intention and the reasons. Notification shall be given to the Commission at least five years prior to the intended date of closure. This section shall not prevent an emergency closing of a regional facility by a host state to protect its air, land and water resources and the health and safety of its citizens. However, a host state which has an emergency closing of a regional facility shall notify the Commission in writing within three working days of its action and shall, within 30 working days of its action, demonstrate justification for the closing.

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

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

## ARTICLE VII. OTHER LAWS AND REGULATIONS

a. Nothing in this compact:

1. Abrogates or limits the applicability of any act of Congress or diminishes or otherwise impairs the jurisdiction of any federal agency expressly conferred thereon by the Congress;
2. Prevents the enforcement of any other law of a party state which is not inconsistent with this compact;
3. Prohibits any storage or treatment of waste by the generator on its own premises;
4. Affects any administrative or judicial proceeding pending on the effective date of this compact;
5. Alters the relations between and the respective internal responsibility of the government of a party state and its subdivisions;
6. Affects the generation, treatment, storage, or disposal of waste generated by the atomic energy defense activities of the Secretary of the U.S. Department of Energy or successor agencies or federal research and development activities as described in section 31 of the Atomic Energy Act of 1954 (42 United States Code 2051); or
7. Affects the rights and powers of any party state or its political subdivisions to the extent not inconsistent with this compact, to regulate and license any facility or the transportation of waste within its borders or affects the rights and powers of any party state and its political subdivisions to tax or impose fees on the waste managed at any facility within its borders;
8. Requires a party state to enter into any agreement with the U.S. Nuclear Regulatory Commission;
9. Alters or limits liability of transporters of waste, owners and operators of sites for their acts, omissions, conduct or relationships in accordance with applicable laws.
  - b. For purposes of this compact, all state laws or parts of laws in conflict with this compact are hereby superseded to the extent of the conflict.
  - c. No law, rule or regulation of a party state or of any of its subdivisions or instrumentalities may be applied in a manner which discriminates against the generators of another party state.

#### ARTICLE VIII. ELIGIBLE PARTIES, WITHDRAWAL, REVOCATION, ENTRY INTO FORCE, TERMINATION

- a. Eligible parties to this compact are the states of Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, Virginia and Wisconsin. Eligibility terminates on July 1, 1984.
- b. Any state not eligible for membership in the compact may petition the Commission for eligibility. The Commission may establish appropriate eligibility requirements. These requirements may include, but are not limited to, an eligibility fee or designation as a host state. A petitioning state becomes eligible for membership in the compact upon the approval of the Commission, including the affirmative vote of all host states. Any state becoming eligible upon the approval of the Commission becomes a member of the compact in the same manner as any state eligible for membership at the time this compact enters into force.
- c. An eligible state becomes a party state when the state enacts the compact into law and pays the membership fee required in article III.j.1.
- d. The Commission is formed upon the appointment of Commission members and the tender of the membership fee payable to the Commission by three

party states. The Governor of the first state to enact this compact shall convene the initial meeting of the Commission. The Commission shall cause legislation to be introduced in the Congress which grants the consent of the Congress to this compact, and shall take action necessary to organize the Commission and implement the provisions of this compact.

e. Any party state may withdraw from this compact by repealing the authorizing legislation but no withdrawal may take effect until five years after the governor of the withdrawing state gives notice in writing of the withdrawal to the Commission and to the governor of each party state. Withdrawal does not affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal. Any host state which grants a disposal permit for waste generated in a withdrawing state shall void the permit when the withdrawal of that state is effective.

f. Any party state which fails to comply with the terms of this compact or fails to fulfill its obligations may have its privileges suspended or its membership in the compact revoked by the Commission in accordance with article III.h.6. Revocation takes effect one year from the date the affected party state receives written notice from the Commission of its action. All legal rights of the affected party state established under this compact cease upon the effective date of revocation but any legal obligations of that party state arising prior to revocation continue until they are fulfilled. The chairperson of the Commission shall transmit written notice of a revocation of a party state's membership in the compact immediately following the vote of the Commission to the governor of the affected party state, all other governors of the party states and the Congress of the United States.

g. This compact becomes effective July 1, 1983, or at any date subsequent to July 1, 1983, upon enactment by at least three eligible states. However, article IX, section (b) shall not take effect until the Congress has by law consented to this compact. The Congress shall have an opportunity to withdraw such consent every five years. Failure of the Congress to affirmatively withdraw its consent has the effect of renewing consent for an additional five year period. The consent given to this compact by the Congress shall extend to any future admittance of new party states under sections b. and c. of this article and to the power of the Commission to ban the shipment of waste from the region pursuant to article III.

h. The withdrawal of a party state from this compact under section e. of this article or the suspension or revocation of a state's membership in this compact under section f. of this article does not affect the applicability of this compact to the remaining party states.

i. A state which has been designated by the Commission to be a host state has 90 days from receipt by the Governor of written notice of designation to withdraw from the compact without any right to receive refund of any funds already paid pursuant to this compact, and without any further payment. Withdrawal becomes effective immediately upon notice as provided in section e. of this article. A designated host state which withdraws from the compact after 90 days and prior to fulfilling its obligations shall be assessed a sum the Commission determines to be necessary to cover the costs borne by the Commission and remaining party states as a result of that withdrawal.

#### ARTICLE IX. PENALTIES

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

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

1. For any person to deposit at a regional facility waste not generated within the region;
2. For any regional facility to accept waste not generated within the region;
3. For any person to export from the region waste which is generated within the region; or
4. For any person to dispose of waste at a facility other than a regional facility.

c. Each party state acknowledges that the receipt by a host state of waste packaged or transported in violation of applicable laws, rules and regulations may result in the imposition of sanctions by the host state which may include suspension or revocation of the violator's right of access to the facility in the host state.

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

#### ARTICLE X. SEVERABILITY AND CONSTRUCTION

The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared 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 circumstance 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. 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.

**History:** 1983 c 353 s 1

#### 116C.832 DEFINITIONS.

Subdivision 1. **Terms defined in compact.** The terms defined in article II of the Midwest Interstate Low-Level Radioactive Waste Compact have the meanings given them for the purposes of sections 116C.833 to 116C.843.

Subd. 2. **Advisory committee.** "Advisory committee" means the advisory committee established under section 116C.839.

Subd. 3. **Agency.** "Agency" means the pollution control agency.

Subd. 4. **Compact.** "Compact" means the Midwest Interstate Low-Level Radioactive Waste Compact.

Subd. 5. **Director.** "Director" means the director of the pollution control agency.

Subd. 6. **Interstate commission.** "Interstate commission" means the Midwest Interstate Low-Level Radioactive Waste Commission.

**History:** 1983 c 353 s 2

#### 116C.833 COMPACT COMMISSION MEMBER.

Subdivision 1. **Director.** The director of the pollution control agency shall serve as Minnesota's voting member of the interstate commission. The director shall tender the state's membership fee to the interstate commission by August 1,

1983, or, if the Commission has not come into existence by August 1, 1983, when the first meeting of the commission is convened as provided in the compact.

**Subd. 2. Semiannual report.** In addition to other duties specified in sections 116C.833 to 116C.843, the director shall report semiannually to the governor and the legislature concerning the activities of the interstate commission. The report shall include any recommendations the director deems necessary to assure the protection of the interest of the state in the proper functioning of the compact. The director also shall report to the governor and the legislature any time there is a change in the status of a host state or other party states in the compact.

**History:** 1983 c 353 s 3

#### 116C.834 ASSESSMENT OF GENERATORS.

**Subdivision 1. Costs.** All costs incurred by the state to carry out its responsibilities under the compact and under sections 116C.833 to 116C.843 shall be paid by generators of low-level radioactive waste in this state through fees assessed by the pollution control agency. The agency shall assess the fees in the manner provided in section 16A.128. Fees may be reasonably assessed on the basis of volume or degree of hazard of the waste produced by a generator. Costs for which fees may be assessed include, but are not limited to:

- (a) the state contribution required to join the compact;
- (b) the expenses of the Commission member and costs incurred to support the work of the interstate commission;
- (c) regulatory costs, including but not limited to costs of adopting and enforcing regulations if the state enters into a limited agreement with the U.S. Nuclear Regulatory Commission to assume state regulation of transportation and packaging, or disposal, of low-level radioactive wastes; and
- (d) any liability the state may incur as a party state to the compact.

**Subd. 2. Collection and deposit.** Fees assessed under subdivision 1 shall be collected by the commissioner of revenue. All money received pursuant to this subdivision shall be deposited in the general fund.

**History:** 1983 c 353 s 4

#### 116C.835 ENFORCEMENT OF COMPACT AND LAWS.

**Subdivision 1. Criminal penalties.** Any person who willfully or negligently violates any provision of the compact upon conviction is guilty of a misdemeanor, and is subject to a fine of not more than \$2,500 in the event of a willful violation or not more than \$300 in the event of a negligent violation. A second conviction of the same provision after a first conviction is punishable by a fine of not more than \$50,000, or by imprisonment for not more than two years, or both.

Any person who knowingly fails to provide information requested under section 116C.840 or who knowingly makes any false statement, representation, or certification of any information requested under section 116C.840 is subject to a fine of not more than \$10,000, or imprisonment for not more than six months, or both.

**Subd. 2. Civil penalties.** Any person who violates any provision of the compact or of section 116C.834 or 116C.840 shall forfeit and pay to the state a penalty, in an amount to be determined by the court, of not more than \$10,000 per day of violation. The civil penalties provided in this subdivision may be recovered by a civil action brought by the attorney general in the name of the state.

Subd. 3. **Injunction.** Any violation of the provisions of the compact may be enjoined as provided by law in an action, in the name of the state, brought by the attorney general.

Subd. 4. **Action to compel performance.** In any action to compel performance of an obligation created by the compact the court may require any person who is adjudged responsible to do and perform any and all acts and things within his power which are reasonably necessary to fulfill the obligation.

Subd. 5. **Recovery of litigation costs and expenses.** In any action brought by the attorney general, in the name of the state for civil penalties, injunctive relief, or in an action to compel compliance, if the state prevails and if the violation was willful, the state, in addition to other penalties provided in this section, may be allowed an amount determined by the court to be the reasonable value of all or a part of the litigation expenses incurred by the state. All amounts recovered by the state under the provisions of subdivisions 1 to 5 shall be deposited in the general fund.

Subd. 6. **Effect on state.** Nothing in this section shall be construed to permit any action or remedy against the state for violation of any provision of the compact. The sole remedy for such a violation is the remedy provided in article III, section h.6. and article VIII, section f. of the compact.

**History:** 1983 c 353 s 5

#### **116C.836 ACTIONS CONCERNING INTERSTATE COMMISSION AND PARTY STATES.**

Subdivision 1. **Enforcement of commission decisions.** A final decision of the interstate commission in any matter within its jurisdiction may be enforced by the attorney general in the name of the state in any court of competent jurisdiction.

Subd. 2. **Proceedings against party state or commission.** The attorney general, in the name of the state, may:

(a) initiate a proceeding against another party state in the manner provided in article III, section i.3. of the compact, and may appeal the decision of the interstate commission as provided in article III, section o.; or

(b) initiate a proceeding in any court of competent jurisdiction to review an action or decision of the interstate commission, or to require the Commission to act or refrain from acting under the terms of the compact in any matter affecting the interest of the state.

**History:** 1983 c 353 s 6

#### **116C.837 REVIEW OF STATE AUTHORITY TO ENFORCE COMPACT.**

The advisory committee shall review the authority of the state to enforce the compact, including the control of shipment of waste under article IX, section b of the compact. The governor shall report to the advisory committee any recommendations on possible agreement state status with the U.S. Nuclear Regulatory Commission in order to enforce the compact. The advisory committee shall recommend any legislative changes which it determines necessary and desirable to assure adequate state authority to enforce the compact.

**History:** 1983 c 353 s 7

**116C.838 EFFECT ON EXISTING STATE LAW.**

Except as otherwise provided in section 116C.842, subdivision 4, it is the intent of this state as a party to the compact to apply and enforce its laws and rules relating to environmental review, siting of facilities, and protection of the environment and public health with respect to the location, construction, and regulation of any regional low-level radioactive waste facility in this state.

**History:** 1983 c 353 s 8

**116C.839 ADVISORY COMMITTEE.**

An advisory committee is created to consult with and advise the director, the governor, and the legislature on low-level radioactive waste issues. The advisory committee shall consist of three representatives chosen by the speaker of the house; three senators chosen by the senate committee on committees; the director; the commissioner of health; the commissioner of transportation; the commissioner of department of natural resources; and the chairperson of the environmental quality board. The committee shall elect a chairperson from among its members.

The advisory committee may appoint a technical task force on low-level radioactive waste, including but not limited to any members of the public with special expertise in low-level radioactive waste, state agency personnel, and generators representing the medical, industrial, and commercial organizations in the state which ship wastes to regional facilities.

**History:** 1983 c 353 s 9

**116C.840 DUTY TO PROVIDE INFORMATION.**

**Subdivision 1. Required information.** Any generators of low-level radioactive waste and any person engaged in transporting or disposing of low-level radioactive waste, when requested by the agency or any member, employee, or agent thereof who is authorized by the agency, shall furnish information needed by the agency to carry out its responsibilities under the compact and under sections 116C.833 to 116C.843.

**Subd. 2. Classification.** Except as otherwise provided in this subdivision, data obtained from any person pursuant to subdivision 1 is public data as defined in section 13.02. Upon certification by the generator that the data relates to sales figures, processes, or methods of production unique to that person, or information which would tend to affect adversely the competitive position of that person, the agency shall classify the data as nonpublic data as defined in section 13.02. The agency may disclose data classified as nonpublic under this subdivision to the interstate commission, when relevant in any proceeding under section 116C.835, or when necessary to carry out its responsibilities under sections 116C.833 to 116C.843.

**Subd. 3. Review by advisory committee.** When the agency requests information under this section, it shall notify the advisory committee of the types of information requested and the parties to whom the request was made. The advisory committee may review the reasonableness of any request for information under this section and make recommendations to the agency.

**History:** 1983 c 353 s 10



**116C.841 AUDIT REVIEW.**

The legislative audit commission shall review the annual report prepared by the interstate commission regarding its audit activities and the annual financial audit of the operation of the low-level radioactive waste facility prepared by the host state, and shall present their review to the director, the governor, the legislature, and the advisory committee.

**History:** 1983 c 353 s 11

**116C.842 CONTINGENT PROVISIONS.**

**Subdivision 1. Report.** In the event Minnesota is designated by the interstate commission to be a host state for a regional low-level radioactive waste facility, the director within 14 days shall report to the governor, the legislature, and the advisory committee with recommendations for further action.

**Subd. 2. Option for withdrawal.** In the event Minnesota is designated by the interstate commission to be a host state for a regional low-level radioactive waste facility, the advisory committee shall report to the governor and the legislature within 30 days with its recommendations whether or not Minnesota should exercise its option to withdraw from the compact. It is the intent of the legislature that, if the legislature is not or will not be in session so that action cannot be taken in a timely manner and if the advisory committee recommends withdrawal from the compact, the governor shall convene a special legislative session for the purpose of acting on the advisory committee's recommendation.

**Subd. 3. Development of a siting process.** In the event that Minnesota is designated by the interstate commission to be host state for a regional low-level radioactive waste facility, the agency shall develop a siting process and report to the governor, the advisory committee, and the legislature with recommendations for legislation including siting criteria, procedures for public participation, licensing, regulation, and bonding requirements. The siting process which is recommended shall include bonding requirements sufficient to cover any costs of monitoring the facility and providing for its safety and security in the event that the licensee discontinues operation, management, or supervision of the facility for so long as the materials stored or treated at the facility pose a threat to the public health.

**Subd. 4. Certain law not applicable.** In the event that Minnesota is designated by the interstate commission to be a host state for a regional low-level radioactive waste facility, the provisions of sections 116C.71 to 116C.74 shall not apply to the authorization or siting of that facility, or transportation of wastes to that facility.

**History:** 1983 c 353 s 12

**116C.843 CONGRESSIONAL CONDITIONS ON COMPACT CONSENT.**

In the event that congressional consent to the compact carries with it conditions that materially change the provisions agreed to by the party states, the state reserves the option to terminate further participation in the compact.

**History:** 1983 c 353 s 13