

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4814

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

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## IN THE HOUSE OF REPRESENTATIVES

JULY 22, 1994

Mr. DURBIN (for himself, Mr. BAESLER, Mr. YATES, Mr. BARLOW, Mr. HASTERT, Mr. COSTELLO, Mr. EWING, Mr. SANGMEISTER, Mr. HYDE, Mr. PORTER, Mr. FAWELL, Mr. MICHEL, and Mr. MANZULLO) introduced the following bill; which was referred jointly to the Committees on Energy and Commerce and Natural Resources

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## A BILL

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 1993”.

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

3 The consent of the Congress is hereby given to  
4 amendments made by the States of Illinois and Kentucky  
5 to the Central Midwest Interstate Low-Level Radioactive  
6 Waste Compact, which compact was consented to by the  
7 Congress in section 224 of the Omnibus Low-Level Radio-  
8 active Waste Interstate Compact Consent Act (Pub. L.  
9 99-240; 42 U.S.C. 2021 note). The amendments to which  
10 such consent is given are substantially as follows:

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

13 “The states party to this compact recognize that the  
14 Congress of the United States, by enacting the Low-Level  
15 Radioactive Waste Policy Act (42 U.S.C. 2021), has pro-  
16 vided for and encouraged the development of low-level ra-  
17 dioactive waste compacts as a tool for managing such  
18 waste. The party states also recognize that the manage-  
19 ment of low-level radioactive waste is handled most effi-  
20 ciently on a regional basis; and, that the safe and efficient  
21 management of low-level radioactive waste generated with-  
22 in the region requires that sufficient capacity to manage  
23 such waste be properly provided.”.

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

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

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

11       “q) ‘Regional facility’ means any facility as defined  
12 in Article II(f) that is (1) located within the region, and  
13 (2) established by a party state pursuant to designation  
14 of that state as a host state by the Commission.”.

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

17       “a) There is created the Central Midwest Interstate  
18 Low-Level Radioactive Waste Commission. Upon the eligi-  
19 ble states becoming party states, the Commission shall  
20 consist of two voting Commissioners from each state eligi-  
21 ble to be designated a host state under Article VI(b), one  
22 voting Commissioner from any other party state, and for  
23 each regional facility, one non-voting Commissioner who  
24 is an elected official of local government and a resident  
25 of the county where that regional facility is located. The

1 Governor of each party state shall notify the Commission  
2 in writing of its Commissioners and any alternates.

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

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

13 “d) The Commission shall meet at least once annually  
14 and shall also meet upon the call of any voting Commis-  
15 sioner.

16 “e) All meetings of the Commission and its des-  
17 igned committees shall be open to the public with rea-  
18 sonable advance notice. The Commission may, by majority  
19 vote, close a meeting to the public for the purpose of con-  
20 sidering sensitive personnel or legal strategy matters.  
21 However, all Commission actions and decisions shall be  
22 made in open meetings and appropriately recorded. A roll  
23 call may be required upon request of any voting Commis-  
24 sioner.”.

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

3           “g) The Office of the Commission shall be in Illinois.  
4           The Commission may appoint or contract for and com-  
5           pensate such staff necessary to carry out its duties and  
6           functions. The staff shall serve at the Commission’s pleas-  
7           ure with the exception that staff hired as the result of  
8           securing federal funds shall be hired and governed under  
9           applicable federal statutes and regulations. In selecting  
10          any staff, the Commission shall assure that the staff has  
11          adequate experience and formal training to carry out the  
12          functions assigned to it by the Commission.”.

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

15          “i) The Commission may:

16                 “1) Enter into an agreement with any person  
17                 to allow waste from outside the region to be disposed  
18                 of at facilities in the region. However, no such  
19                 agreement shall be effective unless and until ratified  
20                 by a law enacted by the party state to which the  
21                 waste would be sent for disposal.

22                 “2) Enter into an agreement with any person  
23                 to allow waste described in Article VII(a)(6) to be  
24                 treated, stored, or disposed of at regional facilities.  
25                 However, no such agreement shall be effective unless

1 and until ratified by a law enacted by the host state  
2 of the regional facility to which the waste would be  
3 sent for treatment, storage, or disposal.

4 “3) Enter into an agreement with any person  
5 to allow waste from outside the region to be treated  
6 or stored at facilities in the region. However, any  
7 such agreement shall be revoked as a matter of law  
8 if, within one year of the effective date of the agree-  
9 ment, a law is enacted ordering such revocation by  
10 the party state to which the waste would be sent for  
11 treatment or storage.

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

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

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

22 “7) Appear as an intervenor or party in interest  
23 before any court of law or any federal, state or local  
24 agency, board or commission in any matter related  
25 to waste management. In order to represent its

1 views, the Commission may arrange for any expert  
2 testimony, reports, evidence or other participation.

3 “8) Review the emergency closure of a regional  
4 facility, determine the appropriateness of that clo-  
5 sure, and take whatever actions are necessary to en-  
6 sure that the interests of the region are protected,  
7 provided that a party state with a total volume of  
8 waste recorded on low-level radioactive waste mani-  
9 fests for any year that is less than 10 percent of the  
10 total volume recorded on such manifests for the re-  
11 gion during the same year shall not be designated a  
12 host state or be required to store the region’s waste.  
13 In determining the 10 percent exclusion, there shall  
14 not be included waste recorded on low-level radio-  
15 active waste manifests by a person whose principal  
16 business is providing a service by arranging for the  
17 collection, transportation, treatment, storage or dis-  
18 posal of such waste.

19 “9) Take any action which is appropriate and  
20 necessary to perform its duties and functions as pro-  
21 vided in this compact.

22 “10) Suspend the privileges or revoke the mem-  
23 bership of a party state.

24 “j) The Commission shall:

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

7           “2) Submit an annual report to, and otherwise  
8           communicate with, the governors and the appro-  
9           priate officers of the legislative bodies of the party  
10          states regarding the activities of the Commission.  
11          The annual report shall include a description of the  
12          status of the activities taken pursuant to any agree-  
13          ment entered into by the Commission under Article  
14          III(i)(1), Article III(i)(2) or Article III(i)(3) and any  
15          violation of any provision thereof, and a description  
16          of the source, volume, activity, and current status of  
17          any waste from outside the region or waste described  
18          under Article VII(a)(6) that was treated, stored, or  
19          disposed of in the region in the previous year.

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

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

1           “5) Adopt an annual budget.”.

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

4           “o) The Commission is a legal entity separate and  
5 distinct from the party states and is liable for its actions  
6 as a separate and distinct legal entity. Commissioners are  
7 not personally liable for actions taken by them in their  
8 official capacity.

9           “p) Except as provided under Article III(n), Article  
10 III(o), Article VI(p) and Article VI(q), nothing in this  
11 compact alters liability for any action, omission, course of  
12 conduct or liability resulting from any causal or other rela-  
13 tionships.”.

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

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

24           “c) Party states or generators may negotiate for the  
25 right of access to a facility outside the region and may

1 export waste outside the region subject to Commission ap-  
2 proval under Article III(i)(4).”.

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

5 “f) Waste originating from the Maxey Flats nuclear  
6 waste disposal site in Fleming County, Kentucky shall not  
7 be shipped to any facility in Illinois for storage, treatment  
8 or disposal. Disposition of these wastes shall be the sole  
9 responsibility of the Commonwealth of Kentucky and such  
10 waste shall not be subject to the provisions of Articles  
11 IX(b)(3) and (4) of this compact.”.

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

14 “b) If all regional facilities required by the regional  
15 management plan are not developed pursuant to Article  
16 VI(a), or upon notification that an existing regional facil-  
17 ity will be closed, the Commission may designate a party  
18 state as a host state. A party state shall not be designated  
19 as a host state for any regional facility under this Article  
20 VI(b) unless that state’s total volume of waste recorded  
21 on low-level radioactive waste manifests for any year is  
22 more than 10% of the total volume recorded on such mani-  
23 fests for the region during the same year. In determining  
24 the 10% exclusion, there shall not be included waste re-  
25 corded on low-level radioactive waste manifests by a per-

1 son whose principal business is providing a service by ar-  
2 ranging for the collection, transportation, treatment, stor-  
3 age or disposal of such waste, or waste described in Article  
4 VII(a)(6).”.

5 (12) Section (c) of article VI of the compact is  
6 repealed.

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

9 “e) Any party state designated as a host state may  
10 request the Commission to relieve that state of the respon-  
11 sibility to serve as a host state. The Commission may re-  
12 lieve a party state of this responsibility upon a showing  
13 by the requesting party state that no feasible potential re-  
14 gional facility site of the type it is designated to host exists  
15 within its borders or for other good cause shown and con-  
16 sistent with the purposes of this Compact.”.

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

19 “l) A host state intending to close a regional facility  
20 located within its borders shall notify the Commission in  
21 writing of its intention and the reasons. Notification shall  
22 be given to the Commission at least five years prior to  
23 the intended date of closure. This Section shall not pre-  
24 vent an emergency closing of a regional facility by a host  
25 state to protect its air, land and water resources and the

1 health and safety of its citizens. However, a host state  
2 which has an emergency closing of a regional facility shall  
3 notify the Commission in writing within 3 working days  
4 of its action and shall, within 30 working days of its ac-  
5 tion, demonstrate justification for the closing.

6 “m) If a regional facility closes before an additional  
7 or new facility becomes operational, waste generated with-  
8 in the region may be shipped temporarily to any location  
9 agreed on by the Commission until a regional facility is  
10 operational, provided that the region’s waste shall not be  
11 stored in a party state with a total volume of waste re-  
12 corded on low-level radioactive waste manifests for any  
13 year which is less than 10% of the total volume recorded  
14 on the manifests for the region during the same year. In  
15 determining the 10% exclusion, there shall not be included  
16 waste recorded on low-level radioactive waste manifests by  
17 a person whose principal business is providing a service  
18 by arranging for the collection, transportation, treatment,  
19 storage or disposal of such waste, or waste described in  
20 Article VII(a)(6).”.

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

23 “o) The host state shall create an ‘Extended Care  
24 and Long-Term Liability Fund’ and shall allocate suffi-

1 cient fee revenues, received pursuant to Article VI(i), to  
2 provide for the costs of:

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

5 “2) monitoring, inspection and other procedures  
6 required for the proper extended care of a regional  
7 facility;

8 “3) undertaking any corrective action or clean-  
9 up necessary to protect human health and the envi-  
10 ronment from radioactive releases from a regional  
11 facility; and

12 “4) compensating any person for medical and  
13 other expenses incurred from damages to human  
14 health, personal injuries suffered from damages to  
15 human health and damages or losses to real or per-  
16 sonal property, and accomplishing any necessary cor-  
17 rective action or clean-up on real or personal prop-  
18 erty caused by radioactive releases from a regional  
19 facility; the host state may allocate monies in this  
20 Fund in amounts as it deems appropriate to pur-  
21 chase insurance or to make other similar financial  
22 protection arrangements consistent with the pur-  
23 poses of this Fund; this Article VI(n) shall in no  
24 manner limit the financial responsibilities of the site  
25 operator under Article VI(o), the party states under

1 Article VI(p), or any person who sends waste to a  
2 regional facility, under Article VI(q).

3 “p) The operator of a regional facility shall purchase  
4 an amount of property and third-party liability insurance  
5 deemed appropriate by the host state, pay the necessary  
6 periodic premiums at all times and make periodic pay-  
7 ments to the Extended Care and Long-Term Liability  
8 Fund as set forth in Article VI(n) for such amounts as  
9 the host state reasonably determines is necessary to pro-  
10 vide for future premiums to continue such insurance cov-  
11 erage, in order to pay the costs of compensating any per-  
12 son for medical and other expenses incurred from damages  
13 to human health, personal injuries suffered from damages  
14 to human health and damages or losses to real or personal  
15 property, and accomplishing any necessary corrective ac-  
16 tion or clean-up on real or personal property caused by  
17 radioactive releases from a regional facility. In the event  
18 of such costs resulting from radioactive releases from a  
19 regional facility, the host state should, to the maximum  
20 extent possible, seek to obtain monies from such insurance  
21 prior to using monies from the Extended Care and Long-  
22 Term Liability Fund.

23 “q) All party states shall be liable for the cost of ex-  
24 tended care and long-term liability in excess of monies  
25 available from the Extended Care and Long-Term Liabil-

1 ity Fund, as set forth in Article VI(n) and from the prop-  
2 erty and third-party liability insurance as set forth in Arti-  
3 cle VI(o). A party state may meet such liability for costs  
4 by levying surcharges upon generators located in the party  
5 state. The extent of such liability shall be based on the  
6 proportionate share of the total volume of waste placed  
7 in the regional facility by generators located in each such  
8 party state. Such liability shall be joint and several among  
9 the party states with a right of contribution between the  
10 party states. However, this Section shall not apply to a  
11 party state with a total volume of waste recorded on low-  
12 level radioactive waste manifests for any year that is less  
13 than 10% of the total volume recorded on such manifests  
14 for the region during the same year.”.

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

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

20 “q) Any person who sends waste from outside the re-  
21 gion or waste described in Article VII(a)(6) for treatment,  
22 storage or disposal at a regional facility shall be liable for  
23 the cost of extended care and long-term liability of that  
24 regional facility in excess of the monies available from the  
25 Extended Care and Long-Term Liability Fund as set forth

1 in Article VI(n) and from the property and third-party li-  
2 ability insurance as set forth in Article VI(o). The extent  
3 of the liability for the person shall be based on the propor-  
4 tionate share of the total volume of waste sent by that  
5 person to the regional facility.”.

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

8 “6) establishes any right to the treatment, stor-  
9 age or disposal at any facility in the region or pro-  
10 vides any authority to prohibit export from the re-  
11 gion of waste that is owned or generated by the  
12 United States Department of Energy, owned or gen-  
13 erated by the United States Navy as a result of the  
14 decommissioning of vessels of the United States  
15 Navy, or owned or generated as the result of any re-  
16 search, development, testing or production of any  
17 atomic weapon; or”.

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

20 “d) No person who provides a service by arranging  
21 for collection, transportation, treatment, storage or dis-  
22 posal of waste from outside the region shall be allowed  
23 to dispose of any waste, regardless of origin, in the region  
24 unless specifically permitted under an agreement entered

1 into by the Commission in accordance with the require-  
2 ments of Article III(i)(1).”.

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

5           “c) The Commission is formed upon the appointment  
6 of the Commissioners and the tender of the membership  
7 fee payable to the Commission by the eligible states. The  
8 Governor of Illinois shall convene the initial meeting of  
9 the Commission. The Commission shall cause legislation  
10 to be introduced in the Congress which grants the consent  
11 of the Congress to this compact, and shall take action nec-  
12 essary to organize the Commission and implement the pro-  
13 visions of this compact.”.

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

16           “e) This compact becomes effective July 1, 1984, or  
17 at any date subsequent to July 1, 1984, upon enactment  
18 by the eligible states. However, Article IX(b) shall not  
19 take effect until the Congress has by law consented to this  
20 compact. The Congress shall have an opportunity to with-  
21 draw such consent every 5 years. Failure of the Congress  
22 affirmatively to withdraw its consent has the effect of re-  
23 newing consent for an additional 5 year period. The con-  
24 sent given to this compact by the Congress shall extend  
25 to the power of the region to ban the shipment of waste

1 into the region pursuant to Article III(i)(1) and to pro-  
2 hibit exportation of waste generated within the region  
3 under Article III(i)(4).”.

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

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

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

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

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

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

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

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

21 (23) Article IX of the compact is amended by  
22 redesignating sections (c) and (d) as sections (d)  
23 and (e), respectively, and by inserting after section  
24 (b) the following new section:

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

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HR 4814 IH——2