

## Low-Level Radioactive Waste Policy Act

### 42 U.S.C. §§2021b-2021j

**Each state** shall be responsible, by itself or in cooperation with other states, for disposal of certain low-level radioactive waste generated within its borders or accepted by it for disposal. [42 U.S.C. §2021c(a)] “**Low-level radioactive waste**” is defined as radioactive material that is not high-level radioactive waste, spent nuclear fuel, or byproduct material as defined by the Atomic Energy Act of 1954, and that has been classified by the **Nuclear Regulatory Commission** (NRC) as low-level radioactive waste. [42 U.S.C. §2021b(9)]

The federal government shall be responsible for disposal of certain low-level radioactive waste owned or generated by the **Department of Energy** or the **U.S. Navy**, or owned or generated by the **federal government** in connection with **atomic weapon production**, and for certain waste with radionuclide concentrations exceeding certain levels. [42 U.S.C. §2021c(b)(1)]

The Act states that it is the policy of the federal government that the responsibilities of states for disposal of low-level radioactive waste can best be achieved on a regional basis. Therefore, the Act authorizes states to enter into **compacts** to establish and operate regional disposal facilities. [42 U.S.C. §2021d(a)]

States that enter into compacts must still regulate the handling and disposal of low-level radioactive waste in a manner consistent with the regulations of the NRC and the Department of Transportation. [42 U.S.C. §2021d(b)(3)(A)]

Before a compact restricting the use of regional disposal facilities to disposal of waste generated within the region is effective, **Congress must consent** to the compact by law. Every five years thereafter, Congress may withdraw its consent. [42 U.S.C. §2021d(c), (d)]

The Act establishes certain rules pertaining to the allocation of limited disposal capacity of certain existing disposal facilities while state and regional facilities are being developed. [42 U.S.C. §2021e(a)-(c)]

States that have not entered into compacts must develop their own sites for the disposal of their low-level radioactive waste. [42 U.S.C. §2021e(e)(1)]

The Act establishes a system of **incentive payments** whereby states, before they develop their own disposal facilities or enter into regional compacts, pay **surcharges** for disposal of waste at existing facilities. As the states move toward establishing their own facilities or regional facilities, portions of the surcharges are repaid to the states or compact commissions. [42 U.S.C. §2021e(d)]

If states and compact regions do not develop sufficient **capacity** to dispose of all their low-level radioactive waste by January 1, 1993, the states where the waste was generated must **take title** to the waste or forfeit a portion of such surcharges. [42 U.S.C. §2021e(d)(2)(C)]

The Act imposes certain **penalties** on low-level radioactive waste generators—including surcharges and exclusion from specified disposal sites—if the state where the waste was generated fails to enter into a compact or take steps toward developing a state facility, or if the compact region within which the waste was generated fails to develop a regional disposal site. [42 U.S.C. §2021e(e)(2)]

The NRC may grant **emergency access** to any state or regional disposal facility if necessary to eliminate an immediate and serious threat to the public health and safety or the common defense and security. The Act establishes the procedures for such emergency access. [42 U.S.C. §2021f]

The Act provides for expedited consideration by the NRC or “agreement states” of license applications for new low-level radioactive waste disposal facilities. [42 U.S.C. §2021i] The term “agreement states” is defined by 42 U.S.C. §2021b(1).

The NRC shall establish standards and procedures for **exempting** from regulation radioactive waste streams with such low concentrations of radionuclides as to be below regulatory concern. [42 U.S.C. §2021j]