

CHAPTER 446a

RADIATION AND RADIOACTIVE MATERIALS

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Sec. 22a-148. (Formerly Sec. 19-24). Regulation of sources of ionizing radiation and radioactive materials. (a) As used in this section, “ionizing radiation” includes gamma rays, x-rays, alpha and beta particles, neutrons, protons, high-speed electrons and other atomic or nuclear particles, but does not include sound or radio waves or light of wave lengths ranging from infrared to ultraviolet inclusive, and “radioactive materials” includes any materials, solid, liquid or gas, that emit ionizing radiation spontaneously.

(b) No person, firm, corporation, town, city or borough shall operate or cause to be operated any source of ionizing radiation or shall produce, transport, store, possess or dispose of radioactive materials except under conditions which comply with regulations or with orders imposed by the Commissioner of Energy and Environmental Protection for the protection of the public health and preservation of the environment. Such regulations or orders shall be based to the extent deemed practicable by said department on the regulations of the United States Atomic Energy Commission, issued under authority granted to said commission by the Atomic Energy Act of 1954 and entitled “Standards for Protection against Radiation”, or, if such regulations should be deemed inappropriate by the Commissioner of Energy and Environmental Protection, on the latest recommendations of the National Committee on Radiation, as published by the United States Department of Commerce, National Bureau of Standards. No regulation pertaining to radiation sources and radioactive materials proposed to be issued by the commissioner shall become effective until thirty days after it has been submitted to the Coordinator of Atomic Development Activities unless, upon a finding of emergency need, the governor by order waives all or any part of said thirty-day period. In no case shall any source of ionizing radiation be utilized otherwise than at the lowest practical level consistent with the best use of the radiation facilities or radioactive materials involved.

(c) (1) Except as hereinafter provided, each person, firm, corporation, town, city and borough conducting or planning to conduct any operation within the scope of this section shall register with the Commissioner of Energy and Environmental Protection on forms provided for the purpose and shall reregister annually in January. Such registration shall be accompanied by a fee of two hundred dollars. The commissioner may require registrants to state the type or types of sources of radiation involved, the maximum size or rating of each source, the qualifications of the supervisory personnel, the protective measures contemplated by the registrant and such other information as it determines to be necessary. After initial registration, reregistration shall be required for any radiation installation or mobile source of radiation at any other time when any

increase is contemplated in the number of sources, the source strength, the output or the types of radiation energy involved. The act of registration shall not be interpreted to imply approval by the commissioner of the manner in which the activities requiring registration are carried out. (2) The activities described below are exempted from the registration requirements of this section: (A) The production, transportation, storage, use and disposal of naturally occurring radioactive materials of equivalent specific radioactivity not exceeding that of natural potassium; (B) the production, transportation, storage, use and disposal of other radioactive materials in quantities insufficient to involve risk of radiologic damage to a person; (C) the operation of equipment that is primarily not intended to produce radiation and that, by nature of design, does not produce radiation at the point of nearest approach in quantities sufficient to produce radiologic damage to a person; (D) the transportation of any radioactive material in conformity with regulations of the Interstate Commerce Commission or other agency of the federal government having jurisdiction.

(1957, P.A. 154, S. 1–3; 1967, P.A. 550, S. 10; 1971, P.A. 872, S. 411, 412; P.A. 89-201, S. 1; P.A. 90-231, S. 3, 28; P.A. 91-369, S. 23, 36; June 30 Sp. Sess. P.A. 03-6, S. 122; P.A. 11-80, S. 1.)

History: 1967 act repealed this section effective as of effective date of agreement between governor and United States government in accordance with Sec. 19-25c; 1971 act replaced health department in Subsecs. (b) and (c) with commissioner of environmental protection and deleted reference to public health code, adding reference to orders for the preservation of the environment in Subsec. (b); Sec. 19-24 transferred to Sec. 22a-148 in 1983; P.A. 89-201 deleted Subsec. (c)(2)(A) re exemption from registration of devices emitting x-rays for diagnostic or therapeutic purposes and relettered the remaining Subparas. accordingly; P.A. 90-231 amended Subsec. (c) to require a registration fee of \$100 and provided that on and after July 1, 1992, the fee shall be prescribed by regulations; P.A. 91-369 amended Subsec. (c) to restate commissioner's authority to adopt regulations setting the fees required by this section; June 30 Sp. Sess. P.A. 03-6 amended Subsec. (c) to increase annual registration fee from \$100 to \$200 and to delete provisions re regulations to prescribe amount of fees, effective August 20, 2003; pursuant to P.A. 11-80, “Commissioner of Environmental Protection” was changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection”, effective July 1, 2011.

See Sec. 22a-27i re exemption of municipality for one year.

See Sec. 22a-150 re registration of x-ray devices.

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Sec. 22a-149. (Formerly Sec. 19-25). Use of radioactive material or isotopes to be registered. Hospitals having special facilities for the use of naturally occurring radioactive material, or radioactive isotopes for the diagnosis or treatment of diseases, for research or for other applications, shall register such information with the Commissioner of Energy and Environmental Protection.

(1955, S. 2062d; 1967, P.A. 550, S. 10; 1971, P.A. 872, S. 413; P.A. 11-80, S. 1.)

History: 1967 act repealed this section effective as of effective date of agreement between governor and United States government in accordance with Sec. 19-25c; 1971 act replaced department of health with commissioner of environmental protection; Sec. 19-25 transferred to Sec. 22a-149 in 1983; pursuant to P.A. 11-80, “Commissioner of Environmental Protection” was changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection”, effective July 1, 2011.

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Sec. 22a-150. (Formerly Sec. 19-25a). Registration of x-ray devices. The Commissioner of Energy and Environmental Protection shall, by regulation, require registration of devices emitting x-rays used for diagnostic or therapeutic purposes by or under the supervision of a person or persons licensed to practice medicine, surgery, chiropractic, naturopathy, dentistry, podiatry or veterinary medicine and surgery, as authorized by law. The commissioner shall charge a registration fee of one hundred ninety dollars biennially for each such device, except that hospitals operated by the state or a municipality shall be exempt from payment of the fee.

(1963, P.A. 623; 1971, P.A. 872, S. 414; P.A. 78-239, S. 2, 8; P.A. 80-123, S. 1, 2; P.A. 81-309, S. 1, 2; P.A. 89-201, S. 2; P.A. 90-231, S. 2, 28; P.A. 91-369, S. 24, 36; P.A. 99-102, S. 40; June 30 Sp. Sess. P.A. 03-6, S. 123; June Sp. Sess. P.A. 09-3, S. 407; P.A. 11-80, S. 1.)

History: 1971 act replaced public health council and department of health with commissioner of environmental protection; P.A. 78-239 made registration of devices emitting x-rays mandatory rather than optional; P.A. 80-123 set registration fee at \$15

per device, rather than at not more than \$15 for one such device, plus not more than \$5 for each additional device at the same location during any portion of the year; P.A. 81-309 increased the registration fee for devices emitting x-rays from \$15 to \$30, effective July 1, 1981, and applicable to registrations occurring on or after July 1, 1981; Sec. 19-25a transferred to Sec. 22a-150 in 1983; P.A. 89-201 replaced provision exempting state-aided hospitals from provisions of section with provision exempting hospitals operated by state or a municipality from payment of fee; P.A. 90-231 increased the registration fee to \$75 and provided that on and after July 1, 1992, the fees shall be prescribed by regulations; P.A. 91-369 restated commissioner's authority to adopt regulations setting the fees required by this section; P.A. 99-102 deleted obsolete reference to osteopathy; June 30 Sp. Sess. P.A. 03-6 increased biennial registration fee from \$75 to \$150 and deleted provisions re regulation to prescribe amount of fees, effective August 20, 2003; June Sp. Sess. P.A. 09-3 increased registration fee from \$150 to \$190; pursuant to P.A. 11-80, "Commissioner of Environmental Protection" was changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection", effective July 1, 2011.

See Sec. 22a-27i re exemption of municipality for one year.

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Sec. 22a-151. (Formerly Sec. 19-25b). Ionizing radiation: Definitions. As used in sections 22a-151 to 22a-158, inclusive:

(1) "By-product material" means radioactive material as defined in Section 11e of Public Law 85-256 (Act of September 2, 1957) and Public Law 89-645 (Act of October 13, 1966), as amended or as interpreted or modified by duly promulgated regulations of the United States Atomic Energy Commission pursuant thereto;

(2) "Ionizing radiation" means gamma rays and x-rays, alpha and beta particles, high speed electrons, neutrons, protons and other nuclear particles, but not sound or radio waves, or visible, infrared or ultra violet light. The Commissioner of Energy and Environmental Protection shall be empowered to make regulations amending or modifying this definition;

(3) "General license" means a license effective pursuant to regulations promulgated by the Commissioner of Energy and Environmental Protection without the filing of an application for, or issuance of a licensing document for, the transfer, transport, acquisition, ownership, possession or use of quantities of, or devices or equipment

utilizing by-product, source, special nuclear materials or other radioactive material occurring naturally or produced artificially;

(4) “Specific license” means a license, issued after application, to use, manufacture, produce, transfer, transport, receive, acquire, own, or possess quantities of, or devices or equipment utilizing by-product, source, special nuclear materials or other radioactive material occurring naturally or produced artificially;

(5) “Person” means any individual, corporation, limited liability company, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state or political subdivision or agency thereof, and any legal successor, representative, agent or agency of any of the foregoing, other than the United States Atomic Energy Commission or any successor thereto, and other than agencies of the government of the United States licensed by the United States Atomic Energy Commission or any successor thereto;

(6) “Registration” means registration in conformance with the requirements of section 22a-148. The issuance of a specific license pursuant to sections 22a-151 to 22a-158, inclusive, shall be deemed to satisfy fully any registration requirements set forth in said section;

(7) “Source material” means material as defined in Section 11z of Public Law 85-256 (Act of September 2, 1957) and Public Law 89-645 (Act of October 13, 1966), as amended or as interpreted or modified by duly promulgated regulations of the United States Atomic Energy Commission pursuant thereto;

(8) “Special nuclear material” means material as defined in Section 11aa of Public Law 85-256 (Act of September 2, 1957) and Public Law 89-645 (Act of October 13, 1966), as amended or as interpreted or modified by duly promulgated regulations of the United States Atomic Energy Commission pursuant thereto.

(1967, P.A. 550, S. 1; 1971, P.A. 872, S. 415, 416; P.A. 95-79, S. 95, 189; P.A. 11-80, S. 1.)

History: 1971 act replaced public health council with commissioner of environmental protection in Subdivs. (2) and (3); Sec. 19-25b transferred to Sec. 22a-151 in 1983; P.A. 95-79 redefined “person” to include a limited liability company, effective May 31, 1995; pursuant to P.A. 11-80, “Commissioner of Environmental Protection” was changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection” in Subdivs. (2) and (3), effective July 1, 2011.

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Sec. 22a-152. (Formerly Sec. 19-25c). Agreements with federal government. The Governor, on behalf of this state, is authorized to enter into agreements with the government of the United States providing for discontinuance of certain of the programs of the government of the United States with respect to sources of ionizing radiation and the assumption thereof by this state, as provided for in the Atomic Energy Act of 1954, as amended.

(1967, P.A. 550, S. 2.)

History: Sec. 19-25c transferred to Sec. 22a-152 in 1983.

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Sec. 22a-153. (Formerly Sec. 19-25d). Duties of Commissioner of Energy and Environmental Protection. Consultants to Governor. (a) The Commissioner of Energy and Environmental Protection shall supervise and regulate in the interest of the public health and safety the use of ionizing radiation within the state.

(b) Said commissioner may employ, subject to the provisions of chapter 67, and prescribe the powers and duties of such persons as may be necessary to carry out the provisions of sections 22a-151 to 22a-158, inclusive.

(c) Said commissioner shall make such regulations as may be necessary to carry out the provisions of said sections.

(d) The Governor is authorized to employ such consultants, experts and technicians as he shall deem necessary for the purpose of conducting investigations and reporting to him on matters connected with the implementation of the provisions of said sections.

(1967, P.A. 550, S. 3; 1971, P.A. 872, S. 417; P.A. 11-80, S. 1.)

History: 1971 act replaced commissioner of health and public health council with commissioner of environmental protection; Sec. 19-25d transferred to Sec. 22a-153 in 1983; pursuant to P.A. 11-80, "Commissioner of Environmental Protection" was

changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection” in Subsec. (a), effective July 1, 2011.

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Sec. 22a-154. (Formerly Sec. 19-25e). Licensing of sources of ionizing radiation. (a) The Commissioner of Energy and Environmental Protection may provide by regulation for general or specific licensing of by-product, source, special nuclear materials and other sources of ionizing radiation, or devices or equipment utilizing such materials, and for amendment, suspension, or revocation of licenses issued pursuant thereto.

(b) Said commissioner may exempt certain sources of ionizing radiation or kinds of uses or users from the licensing requirements set forth in this section when he makes a finding that the exemption of such sources of ionizing radiation or kinds of uses or users will not constitute a significant risk to the occupational and public health and safety.

(c) Until such time as regulations governing licensing are promulgated in pursuance of an agreement between the government of the United States and this state as authorized by section 22a-152, registration shall be deemed to satisfy any licensing requirements arising under sections 22a-151 to 22a-158, inclusive.

(1967, P.A. 550, S. 4; 1971, P.A. 872, S. 418; P.A. 11-80, S. 1.)

History: 1971 act replaced public health council and commissioner of health with commissioner of environmental protection; Sec. 19-25e transferred to Sec. 22a-154 in 1983; pursuant to P.A. 11-80, “Commissioner of Environmental Protection” was changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection” in Subsec. (a), effective July 1, 2011.

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Sec. 22a-155. (Formerly Sec. 19-25f). Issuance, modification or revocation of orders re radiation and radioactive materials. Service of orders. Hearing request. Modification or extension of order. Appeal. (a) The Commissioner of Energy and Environmental Protection may issue, modify or revoke any order to correct or abate any violation of sections 22a-148 to 22a-158, inclusive, including any license issued

pursuant to said sections and any regulation adopted pursuant to said sections. Any such order may include remedial measures that are necessary to correct or abate such violations.

(b) Any order issued pursuant to subsection (a) of this section shall be served by certified mail, return receipt requested, or by service by a state marshal or indifferent person. If a state marshal or indifferent person serves such order, a true copy of such order shall be served, and the original, with a return of such service endorsed thereon, shall be filed with the commissioner. Such order shall be deemed to be issued on the date of service or on the date such order is deposited in the mail, as applicable. Any order issued pursuant to subsection (a) of this section shall state the basis on which such order is issued and shall specify a reasonable time for compliance.

(c) Any order issued pursuant to subsection (a) of this section shall be final unless a person aggrieved by such order files a written request for a hearing before the commissioner not later than thirty days after the date of issuance of such order. Upon the receipt of any such request for a hearing, the commissioner shall hold a hearing as soon as practicable thereafter. After any such hearing, the commissioner shall consider all supporting and rebutting evidence and affirm, modify or revoke such order in the commissioner's discretion and shall so notify the recipient of the order by certified mail, return receipt requested, of the commissioner's determination.

(d) The commissioner may, after a hearing held pursuant to subsection (c) of this section, or at any time after the issuance of an order pursuant to subsection (a) of this section, modify such order or extend the time for compliance with such order, provided the commissioner determines such modification or extension is advisable or necessary. Any such modification or extension shall be deemed to be a revision of the existing order and shall not constitute a new order. No person may request a hearing pursuant to subsection (c) of this section or take appeal to the Superior Court pursuant to subsection (e) of this section on such modification or extension.

(e) Any person aggrieved by a final order of the commissioner issued pursuant to this section may appeal such order to the superior court for the judicial district of New Britain in accordance with the provisions of section 4-183.

(1967, P.A. 550, S. 5; 1971, P.A. 870, S. 48; 872, S. 419; P.A. 76-436, S. 375, 681; P.A. 07-217, S. 111; P.A. 11-80, S. 1; P.A. 13-205, S. 3.)

History: 1971 acts replaced superior court with court of common pleas, effective September 1, 1971, except that courts with cases pending retain jurisdiction unless pending matters deemed transferable, and replaced public health council and commissioner of health with commissioner of environmental protection; P.A. 76-436 replaced court of common pleas with superior court, effective July 1, 1978; Sec. 19-25f

transferred to Sec. 22a-155 in 1983; P.A. 07-217 made a technical change in Subsec. (b), effective July 12, 2007; pursuant to P.A. 11-80, “Commissioner of Environmental Protection” was changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection” in Subsec. (a), effective July 1, 2011; P.A. 13-205 amended Subsec. (a) by replacing former provisions with provision re authority of commissioner to issue, modify or revoke orders to correct or abate violations of Secs. 22a-148 to 22a-158, amended Subsec. (b) by replacing former provisions with provisions re service of orders, added Subsec. (c) re hearing requests, added Subsec. (d) re authority of commissioner to modify or extend time for compliance with an order, and added Subsec. (e) re appeal of orders.

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Sec. 22a-156. (Formerly Sec. 19-25g). Injunctions against violations. Orders. Section 22a-156 is repealed, effective October 1, 2013.

(1967, P.A. 550, S. 6; 1971, P.A. 872, S. 420; P.A. 11-80, S. 1; P.A. 13-205, S. 14.)

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Sec. 22a-157. (Formerly Sec. 19-25h). Prohibited acts. No person shall use, manufacture, produce, transport, transfer, receive, acquire, own or possess any source of ionizing radiation, unless exempt, licensed or registered in accordance with the provisions of sections 22a-148 to 22a-158, inclusive.

(1967, P.A. 550, S. 7; P.A. 13-205, S. 4.)

History: Sec. 19-25h transferred to Sec. 22a-157 in 1983; P.A. 13-205 replaced reference to Sec. 22a-151 with reference to Sec. 22a-148.

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Sec. 22a-158. (Formerly Sec. 19-25i). Records. (a) The Commissioner of Energy and Environmental Protection shall require each person who possesses or uses a source

of ionizing radiation to maintain records relating to its receipt, storage, transfer or disposal, as well as such other records as the commissioner may require, subject to such exemptions as may be provided by regulation.

(b) The commissioner shall promulgate regulations requiring each person who possesses or uses a source of ionizing radiation to maintain appropriate records showing the radiation exposure of all individuals for whom personnel monitoring is required by said regulations.

(1967, P.A. 550, S. 8; 1971, P.A. 872, S. 421; P.A. 11-80, S. 1.)

History: 1971 act replaced commissioner of health and public health council with commissioner of environmental protection; Sec. 19-25i transferred to Sec. 22a-158 in 1983; pursuant to P.A. 11-80, “Commissioner of Environmental Protection” was changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection” in Subsec. (a), effective July 1, 2011.

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Sec. 22a-158a. Cease and desist orders. Suspension or revocation of registration. Hearing. The Commissioner of Energy and Environmental Protection may issue a cease and desist order in accordance with section 22a-7 for any violation of sections 22a-148 to 22a-158, inclusive, and may suspend or revoke any registration issued by the commissioner pursuant to section 22a-148 or 22a-150, upon a showing of cause after a hearing held in accordance with chapter 54.

(P.A. 13-205, S. 5.)

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Sec. 22a-158b. Action to enjoin act, practice or omission that constitutes violation. (a) Whenever, in the judgment of the Commissioner of Energy and Environmental Protection, any person has engaged in or is about to engage in any act, practice or omission that constitutes, or will constitute, a violation of any provision of this chapter, or any regulation adopted or order issued pursuant to this chapter, the Attorney General may, at the request of the commissioner, bring an action in the superior court for the judicial district of New Britain for an order enjoining such act,

practice or omission. Such order may require remedial measures and direct compliance. Upon a showing by the commissioner that such person has engaged in or is about to engage in any such act, practice or omission, the court may issue a permanent or temporary injunction, restraining order or other order, as appropriate.

(b) Any action brought by the Attorney General pursuant to this section shall have precedence in the order of trial as provided in section 52-191.

(P.A. 13-205, S. 6.)

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Sec. 22a-158c. Criminally negligent violations. Knowingly making false statements. Fines. Imprisonment. Subsequent convictions. (a) Any person who, with criminal negligence, violates any provision of this chapter, including, but not limited to, any regulation, license or order adopted or issued pursuant to this chapter, or who, with criminal negligence, makes any false statement, representation or certification in any application, registration, notification or other document filed or required to be maintained pursuant to this chapter, shall be fined not more than twenty-five thousand dollars per day for each day of violation or be imprisoned not more than one year, or both. A subsequent conviction for any such violation shall carry a fine of not more than fifty thousand dollars per day for each day of violation or imprisonment for not more than two years, or both.

(b) Any person who knowingly makes any false statement, representation or certification in any application, registration, notification or other document filed or required to be maintained pursuant to this chapter shall be fined not more than fifty thousand dollars per day for each day of violation or be imprisoned not more than three years, or both. A subsequent conviction for any such violation shall carry a fine of not more than fifty thousand dollars per day for each day of violation or imprisonment for not more than ten years, or both.

(P.A. 13-205, S. 7.)

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Sec. 22a-159. (Formerly Sec. 19-25j). New England Compact on Radiological Health Protection.

Article I. Enactment.

This compact shall become effective when enacted into law by any two or more of the states of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont. Thereafter it shall become effective with respect to any other aforementioned state upon its enacting this compact into law. Any state not mentioned in this article which is contiguous to any party state may become a party to this compact by enacting the same.

Article II. Duties of States.

(a) It shall be the duty of each party state to formulate and put into effect an intrastate radiation incident plan which is compatible with the interstate radiation incident plan formulated pursuant to this compact.

(b) Whenever the compact administrator of a party state requests aid from the compact administrator of any other party state pursuant to this compact, it shall be the duty of the requested state to render all possible aid to the requesting state which is consonant with the maintenance of protection of its own people. The compact administrator of a party state may delegate any or all of his authority to request aid or respond to requests for aid pursuant to this compact to one or more subordinates, in order that requests for aid and responses thereto shall not be impeded by reason of the absence or unavailability of the compact administrator. Any compact administrator making such a delegation shall inform all the other compact administrators thereof, and also shall inform them of the identity of the subordinate or subordinates to whom the delegation has been made.

(c) Each party state shall maintain adequate radiation protection personnel and equipment to meet normal demands for radiation protection within its borders.

Article III. Liability.

(a) Whenever the officers or employees of any party state are rendering outside aid pursuant to the request of another party state under this compact, the officers or employees of such state shall, under the direction of the authorities of the state to which they are rendering aid, have the same powers, duties, rights, privileges and immunities as comparable officers and employees of the state to which they are rendering aid.

(b) No party state or its officers or employees rendering outside aid pursuant to this compact shall be liable on account of any act or omission on their part while so engaged, or on account of the maintenance or use of any equipment or supplies in connection therewith.

(c) All liability that may arise either under the laws of the requesting state or under the laws of the aiding state or under the laws of a third state, on account of or in connection with a request for aid, shall be assumed and borne by the requesting state.

(d) Any party state rendering outside aid to cope with a radiation incident shall be reimbursed by the party state receiving such aid for any loss or damage to, or expense incurred in the operation of any equipment answering a request for aid, and for the cost of all materials, transportation and maintenance of officers, employees and equipment incurred in connection with such request: provided that nothing herein contained shall prevent any assisting party state from assuming such loss, damage, expense or other cost or from loaning such equipment or from donating such services to the receiving party state without charge or cost.

(e) Each party state shall provide for the payment of compensation and death benefits to injured officers and employees and the representatives of deceased officers and employees in case officers or employees sustain injuries or are killed while rendering outside aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within the state for or in which the officer or employee was regularly employed.

Article IV. Facilities, Equipment and Personnel.

(a) Whenever a department, agency or officer of a party state responsible for and having control of facilities or equipment designed for or useful in radiation control, radiation research, or any other phase of a radiological health program or programs determines that such a facility or item of equipment is not being used to its full capacity by such party state, or that temporarily it is not needed for current use by such state, a department, agency or officer may, upon request of an appropriate department, agency or officer of another party state, make such facility or item of equipment available for use by such requesting department, agency or officer. Unless otherwise required by law, the availability and use resulting therefrom may be with or without charge, at the discretion of the lending department, agency or officer. Any personal property made available pursuant to this paragraph may be removed to the requesting state, but no such property shall be made available, except for a specified period and pursuant to written agreement. Except when necessary to meet an emergency, no supplies or materials intended to be consumed prior to return shall be made available pursuant to this paragraph.

(b) In recognition of the mutual benefits, in addition to those resulting from article IV, accruing to the party states from the existence and flexible use of professional or technical personnel having special skills or training related to radiation protection, such personnel may be made available to a party state by appropriate departments, agencies and officers of other party states: Provided that the borrower reimburses such party state regularly employing the personnel in question for any cost of making such personnel available, including a prorated share of the salary or other compensation of the personnel involved.

(c) Nothing in this article shall be construed to limit or to modify in any way the provisions of article IV of this compact.

Article V. Compact Administrators.

Each party state shall have a compact administrator who shall be the head of the state agency having principal responsibility for radiation protection, and who:

1. Shall coordinate activities pursuant to this compact in and on behalf of his state.
2. Serving jointly with the compact administrators of the other party states, shall develop and keep current an interstate radiation incident plan; consider such other matters as may be appropriate in connection with programs of cooperation in the field of radiation protection and allied areas of common interest; and formulate procedures for claims and reimbursement under the provisions of article IV.

Article VI. Other Responsibilities and Activities.

Nothing in this compact shall be construed to:

1. Authorize or permit any party state to curtail or diminish its radiation protection program, equipment, services or facilities.
2. Limit or restrict the powers of any state ratifying the same to provide for the radiological health protection of the public and individuals, or to prohibit the enactment or enforcement of state laws, rules or regulations intended to provide for such radiological health protection.
3. Affect any existing or future cooperative relationship or arrangement between federal, state or local governments and a party state or states.

Article VII. Withdrawal.

Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the governor of the withdrawing state has given notice in writing of the withdrawal to the governors of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

Article VIII. Construction and Severability.

It is the legislative intent that the provisions of this compact be reasonably and liberally construed. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be unconstitutional or the applicability thereof, to any state, agency, person or circumstances is held invalid, the constitutionality of the remainder of this compact and the applicability thereof, to any other state, agency, person or circumstance shall not be affected thereby.

(1969, P.A. 663, S. 1.)

History: Sec. 19-25j transferred to Sec. 22a-159 in 1983.

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Sec. 22a-160. (Formerly Sec. 19-25k). Formulation and maintenance of radiation incident plan. The Commissioner of Energy and Environmental Protection, who shall be the compact administrator for the state, shall formulate and keep current a radiation incident plan for this state, in accordance with the duty assumed pursuant to article II (a) of the compact.

(1969, P.A. 663, S. 2; P.A. 73-63, S. 1, 2; P.A. 11-80, S. 1.)

History: P.A. 73-63 replaced commissioner of health with commissioner of environmental protection; Sec. 19-25k transferred to Sec. 22a-160 in 1983; pursuant to P.A. 11-80, “Commissioner of Environmental Protection” was changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection”, effective July 1, 2011.

See Sec. 22a-135 re reporting of nuclear incidents.

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Sec. 22a-161. Northeast Interstate Low-Level Radioactive Waste Management Compact.

ARTICLE I. POLICY AND PURPOSE

Sec. 1.1. There is hereby created the Northeast Interstate Low-Level Radioactive Waste Management Compact. The party states recognize that the Congress has declared that each state is responsible for providing for the availability of capacity, either within or outside its borders, for disposal of low-level radioactive waste generated within its borders, except for waste generated as a result of atomic energy defense activities of the federal government, as defined in the Low-Level Radioactive Waste Policy Act (P.L. 96-573, "The Act"), or federal research and development activities. They recognize that the management of low-level radioactive waste is handled most efficiently on a regional basis. The party states further recognize that the Congress of the United States, by enacting the Act has provided for and encouraged the development of regional low-level radioactive waste compacts to manage such waste. The party states further recognize that the long-term, safe and efficient management of low-level radioactive waste generated within the region requires that sufficient capacity to manage such waste be properly provided.

In order to promote the health and safety of the region, it is the policy of the party states to: Enter into a regional low-level radioactive waste management compact as a means of facilitating an interstate cooperative effort; provide for proper transportation of low-level waste generated in the region; minimize the number of facilities required to effectively and efficiently manage low-level radioactive waste generated in the region; encourage the reduction of the amounts of low-level waste generated in the region, distribute the costs, benefits and obligations of proper low-level radioactive waste management equitably among the party states and ensure the environmentally sound and economical management of low-level radioactive waste.

ARTICLE II. DEFINITIONS

Sec. 2.1. As used in this compact, unless the context clearly requires a different construction:

(a) "Commission" means the Northeast Interstate Low-level Radioactive Waste Commission established pursuant to Article IV of this compact;

(b) "Custodial agency" means the agency of the government designated to act on behalf of the government owner of the regional facility;

(c) “Disposal” means the isolation of low-level radioactive waste from the biosphere inhabited by man and his food chains;

(d) “Facility” means a parcel of land, together with the structures, equipment and improvements thereon or appurtenant thereto, which is used or is being developed for the treatment, storage or disposal of low-level waste, but does not include on-site treatment or storage by a generator;

(e) “Generator” means a person who produces or processes low-level waste, but does not include persons who only provide a service by arranging for the collection, transportation, treatment, storage or disposal of wastes generated outside the region;

(f) “High-level waste” means (1) the highly radioactive material resulting from the reprocessing of spent nuclear fuel, including liquid waste produced directly in reprocessing and any solid material derived from such liquid waste that contains fission products in sufficient concentration and (2) any other highly radioactive material determined by the federal government as requiring permanent isolation;

(g) “Host state” means a party state in which a regional facility is located or being developed;

(h) “Institutional control” means the continued observation, monitoring and care of the regional facility following transfer of control of the regional facility from the operator to the custodial agency;

(i) “Low-level waste” means radioactive waste that (1) is neither high-level waste nor transuranic waste, nor spent nuclear fuel, nor by-product material, as defined in Section 11e (2) of the Atomic Energy Act of 1954, as amended; and (2) is classified by the federal government as low-level waste, consistent with existing law, but does not include waste generated as a result of atomic energy defense activities of the federal government, as defined in P.L. 96-573, or federal research and development activities;

(j) “Party state” means any state which is a signatory party in good standing to this compact;

(k) “Person” means an individual, corporation, limited liability company, business enterprise or other legal entity, either public or private and their legal successors;

(l) “Postclosure observation and maintenance” means the continued monitoring of a closed regional facility to ensure the integrity and environmental safety of the site through compliance with applicable licensing and regulatory requirements, prevention of unwarranted intrusion and correction of problems;

(m) “Region” means the entire area of the party states;

(n) “Regional facility” means a facility as defined in this section which has been designated or accepted by the commission;

(o) “State” means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands or any other territory subject to the laws of the United States;

(p) “Storage” means the holding of waste for treatment or disposal;

(q) “Transuranic waste” means waste material containing radionuclides with an atomic number greater than 92 which are excluded from shallow land burial by the federal government;

(r) “Treatment” means any method, technique or process, including storage for decay, designed to change the physical, chemical or biological characteristics or composition of any waste in order to render such waste safer for transport or disposal, amenable for recovery, convertible to another usable material or reduced in volume;

(s) “Waste” means low-level radioactive waste as defined in this article;

(t) “Waste management” means the storage, treatment, transportation and disposal, where applicable, of waste.

ARTICLE III. RIGHTS AND OBLIGATIONS

Sec. 3.1. There shall be provided within the region one or more regional facilities which, together with such other facilities as may be made available to the region, will provide sufficient capacity to manage all wastes generated within the region. Regional facilities shall be entitled to waste generated within the region, unless otherwise provided by the commission. To the extent regional facilities are available, no waste generated within a party state shall be exported to facilities outside the region unless such exportation is approved by the commission and the affected host state or states. After January 1, 1986, no person shall deposit at a regional facility waste generated outside the region, and further, no regional facility shall accept waste generated outside the region, unless approved by the commission and the affected host state or states.

Sec. 3.2. The rights, responsibilities and obligations of each party state to this compact are as follows:

(a) Each party state shall have the right to have all wastes generated within its borders managed at regional facilities, and shall have the right of access to facilities made available to the region through agreements entered into by the commission pursuant to subsection (c) of section 4.3 of Article IV. The right of access by a generator within a

party state to any regional facility is limited by the generator's adherence to applicable state and federal laws and regulations and the provisions of this compact;

(b) To the extent not prohibited by federal law, each party state shall institute procedures which will require shipments of low-level waste generated within or passing through its borders to be consistent with applicable federal packaging and transportation regulations and applicable host state packaging and transportation regulations for management of low-level waste; provided that these practices shall not impose unreasonable or burdensome impediments to the management of low-level waste in the region. Upon notification by a host state that a generator, shipper or carrier within the party state is in violation of applicable packaging or transportation regulations, the party state shall take appropriate action to ensure that such violations do not recur;

(c) Each party state may impose reasonable fees upon generators, shippers or carriers to recover the cost of inspections and other practices under this compact;

(d) Each party state shall encourage generators within its borders to minimize the volumes of waste requiring disposal;

(e) Each party state has the right to rely on the good faith performance by every other party state of acts which ensure the provision of facilities for regional availability and their use in a manner consistent with this compact;

(f) Each party state shall provide to the commission any data and information necessary for the implementation of the commission's responsibilities, and shall establish the capability to obtain any data and information necessary to meet its obligation as herein defined;

(g) Each party state shall have the capability to host a regional facility in a timely manner and to ensure the postclosure observation and maintenance and institutional control of any regional facility within its borders; and

(h) No party state that is not a host state shall be liable for any injury to persons or property resulting from the operation of a regional facility or the transportation of waste to a regional facility. If the host state itself is the operator of the regional facility, its liability shall be that of any private operator.

Sec. 3.3. The rights, responsibilities and obligations of a host state are as follows:

(a) To the extent not prohibited by federal law, a host state shall ensure the timely development and the safe operation, closure, postclosure observation and maintenance and institutional control of any regional facility within its borders;

(b) The host state shall provide for the establishment of a reasonable structure of fees sufficient to cover all costs related to the development, operation, closure, postclosure observation and maintenance and institutional control of a regional facility in accordance with the procedures established in Articles V and IX. It may also establish surcharges to cover the regulatory costs, incentives and compensation associated with a regional facility; provided that without the express approval of the commission, no distinction in fees or surcharges shall be made between persons of the several states party to this compact;

(c) A host state may establish to the extent not prohibited by federal law requirements and regulations pertaining to the management of waste at a regional facility, provided that such requirements shall not impose unreasonable impediments to the management of low-level waste within the region. A host state or subdivision thereof shall not impose restrictive requirements on the siting or operation of a regional facility that, alone or as a whole, would serve as unreasonable barriers or prohibitions to the siting or operation of such a facility;

(d) Each host state shall submit to the commission annually a report concerning each operating regional facility within its borders. The report shall contain projections of the anticipated future capacity and availability of the regional facility, a financial audit of its operation, and other information as may be required by the commission; and in the case of regional facilities in institutional control or otherwise no longer operating, the host states shall furnish such information as may be required on the facilities still subject to their jurisdiction; and

(e) A host state shall notify the commission immediately if any exigency arises which requires the permanent, temporary or possible closure of any regional facility located therein at a time earlier than projected in its most recent annual report to the commission. The commission may conduct studies, hold hearings or take such other measures to ensure that the actions taken are necessary and compatible with the obligations of the host state under this compact.

ARTICLE IV. THE COMMISSION

Sec. 4.1. There is hereby created the Northeast Interstate Low-Level Radioactive Waste Commission. The commission shall consist of one member from each party state to be appointed by the governor according to procedures of each party state, except that a host state shall have two members during the period that it has an operating regional facility. The governor shall notify the commission in writing of the identity of the member and one alternate, who may act on behalf of the member only in the member's absence. Each commission member shall be entitled to one vote. No action of the commission shall be binding unless a majority of the total membership cast their vote

in the affirmative. The commission shall elect annually from among its members a presiding officer and such other officers as it deems appropriate. The commission shall adopt and publish, in convenient form, such rules and regulations as are necessary for due process in the performance of its duties and powers under this compact. The commission shall meet at least once a year and shall also meet upon the call of the presiding officer, or upon the call of a party state member. All meetings of the commission shall be open to the public with reasonable prior public notice. The commission may, by majority vote, close a meeting to the public for the purpose of considering sensitive personnel or legal matters. All commission actions and decisions shall be made in open meetings and appropriately recorded. A roll call vote may be required upon request of any party state or the presiding officer. The commission may establish such committees as it deems necessary. The commission may appoint, contract for and compensate such limited staff as it determines necessary to carry out its duties and functions. The staff shall serve at the commission's pleasure notwithstanding the provisions of the civil service, personnel or other merit laws of any of the party states or the federal government and shall be compensated from funds of the commission. The commission shall adopt an annual budget for its operations.

Sec. 4.2. The commission shall have the following duties and powers:

(a) To receive and act on the application of a nonparty state to become an eligible state in accordance with the provisions of section 7.3 of Article VII;

(b) To receive and act on the application of an eligible state to become a party state in accordance with section 7.2 of Article VII;

(c) To submit an annual report to and otherwise communicate with the governors and the presiding officer of each body of the legislature of the party states regarding the activities of the commission;

(d) To mediate disputes arising between the party states regarding this compact upon request of party states;

(e) To develop, adopt and maintain a regional management plan to ensure safe and effective management of waste within the region, pursuant to Article V;

(f) To conduct such legislative or adjudicatory hearings and require such reports, studies, evidence and testimony as it deems necessary to perform its duties and functions;

(g) To establish by regulation, after public notice and opportunity for comment, such procedures as it deems necessary to ensure efficient operation, the orderly gathering of information and the protection of the rights of due process of affected persons;

(h) To accept a host state's proposed facility as a regional facility in accordance with the procedures and criteria set forth in Article V;

(i) To designate, by a two-thirds vote, host states for the establishment of needed regional facilities in accordance with the procedures and criteria set forth in Article V. The commission shall not exercise this authority unless the party states have failed to voluntarily pursue the development of such facilities;

(j) To require of and obtain from party states, eligible states seeking to become eligible states and nonparty states seeking to become eligible states, data and information necessary for the implementation of commission responsibilities;

(k) To enter into agreements with any person, state, regional body or group of states for the importation of waste into the region and for the right of access to facilities outside the region for wastes generated within the region. Such authorization to import shall require a two-thirds majority vote of the commission, including an affirmative vote of the representatives of the host state in which any affected regional facility is located. The authorization shall be after the commission and the host state have made an assessment of the affected facilities' capability to handle such wastes and an assessment of relevant environmental, economic and public health factors, as defined by the appropriate regulatory authorities;

(l) To grant upon petition an individual generator or group of generators in the region the right to export wastes to a facility located outside the region. Such grant of right shall be for a period of time and amount of waste and on such other terms and conditions as determined by the commission and approved by the affected host states;

(m) To appear as an intervenor or party in interest before any court of law, federal, state or local agency, board or commission that has jurisdiction over the management of wastes. Such authority to intervene or otherwise appear shall be exercised only after a two-thirds majority vote of the commission. In order to represent its views, the commission may arrange for any expert testimony, reports, evidence or other participation as it deems necessary;

(n) To impose sanctions, including but not limited to fines, suspension of privileges or revocation of the membership of a party state in accordance with Article VII. The commission shall have the authority to revoke, in accordance with section 7.2 of Article VII, the membership of a party state that creates unreasonable barriers to the siting of a needed regional facility or refuses to accept host state responsibilities upon designation by the commission;

(o) To establish by regulation criteria for fee and surcharge systems and the review of such systems in accordance with Articles V and IX;

(p) To review the capability of party states to ensure the siting, operation, postclosure observation and maintenance and institutional control of any facility within its borders;

(q) To review the compact legislation every five years prior to federal congressional review provided for in the act and to recommend legislative action; and

(r) To develop and provide to party states such rules, regulations and guidelines as it deems appropriate for the efficient, consistent, fair and reasonable implementation of the compact.

Sec. 4.3. There is established a commission operating account. The commission may expend moneys from such account for the expenses of any staff and consultants designated under the provisions of subsection (g) of section 4.2 of this article and for official commission business. Financial support for the commission account shall be provided as follows: Each eligible state, upon becoming a party state, shall pay seventy thousand dollars to the commission, which shall be used for administrative costs of the commission. The commission shall impose a "commission surcharge" per unit of waste received at any regional facility as provided in Article V. Until such time as at least one regional facility is in operation and accepting waste for management, or to the extent that revenues under this section are unavailable or insufficient to cover the approved annual budget of the commission, each party state shall pay an apportioned amount of the difference between the funds available and the total budget in accordance with the following formula:

(a) Twenty per cent in equal shares;

(b) Thirty per cent in the proportion that the population of the party state bears to the total population of all party states, according to the most recent United States census; and

(c) Fifty per cent in the proportion that the waste generated for management in the region for the most recent calendar year in which reliable data are available, as determined by the commission.

Sec. 4.4. The commission shall keep accurate accounts of all receipts and disbursements. An independent certified public accountant shall annually audit all receipts and disbursements of commission accounts and funds and submit an audit report to the commission. Such audit report shall be made a part of the annual report of the commission required by section 4.2 of Article IV.

Sec. 4.5. The commission, for any of its purposes and functions, may accept, receive, utilize and dispose for any of its purposes and functions any and all donations, loans, grants of money, equipment, supplies, materials and services, conditional or otherwise,

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, loan or grant accepted pursuant to this section, together with the identity of the donor, grantor, or lender, shall be detailed in the annual report of the commission. The commission shall by rule establish guidelines for the acceptance of donations, loans, grants of money, equipment, supplies, materials and services which shall provide that no donor, grantor or lender may derive unfair or unreasonable advantage in any proceeding before the commission.

Sec. 4.6. The commission herein established in a body corporate and politic, separate and distinct from the party states and shall be so liable for its own actions. Liabilities of the commission shall not be deemed to be liabilities of the party states, nor shall members of the commission be personally liable for action taken by them in their official capacity. The commission shall not be responsible for any costs or expenses associated with the creation, operation, closure, postclosure observation and maintenance and institutional control of any regional facility or any associated regulatory activities of the party states. Except as otherwise provided herein, this compact shall not be construed to alter the incidence of liability of any kind for any act, omission or course of conduct. Generators, shippers and carriers of wastes and owners and operators of sites shall be liable for their acts, omissions, conduct or relationships in accordance with all laws relating thereto.

Sec. 4.7. The United States district courts in the District of Columbia shall have original jurisdiction of all actions brought by or against the commission. Any such action initiated in a state court shall be removed to the designated United States district court in the manner provided by act on June 25, 1948, as amended (28 USC 1446). This section shall not alter the jurisdiction of the United States Court of Appeals for the District of Columbia Circuit to review the final administrative decisions of the commission as set forth in the paragraph below.

Sec. 4.8. The United States Court of Appeals for the District of Columbia Circuit shall have jurisdiction to review the final administrative decisions of the commission. Any person aggrieved by a final administrative decision may obtain review of the decision by filing a petition for review within sixty days after the commission's final decision. In the event that review is sought of the commission's decision relative to the designation of a host state, the Court of Appeals shall accord the matter an expedited review, and, if the court does not rule within ninety days after a petition for review has been filed, the commission's decision shall be deemed to be affirmed. The court shall not substitute its judgment for that of the commission as to the decisions of policy or weight of the evidence on questions of fact. The court may affirm the decision of the commission or remand the case for further proceedings if it finds that the petitioner has been aggrieved because the finding, inferences, conclusions or decisions of the

commission are: (1) In violation of the Constitution of the United States; (2) in excess of the authority granted to the commission by this compact; (3) made upon unlawful procedure to the detriment of any person; or (4) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

Sec. 4.9. The commission shall be deemed to be acting in a legislative capacity except in those instances where it decides, pursuant to its rules and regulations, that its determinations are adjudicatory in nature.

ARTICLE V. HOST STATE SELECTION AND DEVELOPMENT AND OPERATION OF REGIONAL FACILITIES

Sec. 5.1. The commission shall develop, adopt, maintain and implement a regional management plan to ensure the safe and efficient management of waste within the region. The plan shall include the following:

(a) A current inventory of all generators within the region; a current inventory of all facilities within the region, including information on the size, capacity, location, specific waste being handled, and projected useful life of each facility;

(b) A determination of the type and number of regional facilities which are presently necessary and projected to be necessary to manage waste generated within the region consistent with considerations for public health and safety as defined by appropriate regulatory authorities; and

(c) Reference guidelines, as defined by appropriate regulatory authorities, for the party states for establishing the criteria and procedures to evaluate locations for regional facilities.

Sec. 5.2. The commission shall develop and adopt criteria and procedures for reviewing a party state which volunteers to host a regional facility within its borders. These criteria shall be developed with public notice and shall include the following factors: The capability of the volunteering party state to host a regional facility in a timely manner and to ensure its postclosure observation and maintenance and institutional control, and the anticipated economic feasibility of the proposed facility. Any party state may set terms and conditions to encourage a party state to volunteer to be the first host state. Consistent with the review required above, the commission shall, upon a two-thirds affirmative vote, designate a volunteering party state to serve as a host state.

Sec. 5.3. If all regional facilities required by the regional management plan are not developed pursuant to section 5.2 of this Article, or upon notification that an existing

facility is to be closed, or upon determination that an additional regional facility is or may be required, the commission shall convene to consider designation of a host state.

Sec. 5.4. The commission shall develop and adopt procedures for designating a party state to be a host state for a regional facility. The commission shall base its decision on the following criteria: The health, safety and welfare of citizens of the party states as defined by the appropriate regulatory authorities; the environmental, economic and social effects of a regional facility on the party states; economic benefits and costs; the volumes and types of waste generated within each party state; the minimization of waste transportation, and the existence of regional facilities within the party states. Following its established criteria and procedures, the commission shall designate by a two-thirds affirmative vote a party state to serve as a host state. A current host state shall have the right of first refusal for a succeeding regional facility. The commission shall conduct such hearings and studies, and take such evidence and testimony as is required by its approved procedures prior to designating a host state. Public hearings shall be held upon request in each candidate host state prior to final evaluation and selection. A party state which has been designated as a host state by the commission and which 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.

Sec. 5.5. Each host state shall be responsible for the timely identification of a site and the timely development and operation of a regional facility. The proposed facility shall meet geological, environmental and economic criteria which shall not conflict with applicable federal and host state laws and regulations. To the extent not prohibited by federal law, a host state may regulate and license any facility within its borders. To the extent not prohibited by federal law, a host state shall ensure the safe operation, closure, postclosure observation and maintenance and institutional control of a facility, including adequate financial assurances by the operator and adequate emergency response procedures. It shall periodically review and report to the commission on the status of the postclosure and institutional control funds and the remaining useful life of the facility. A host state shall solicit comments from each party state and the commission regarding the siting, operation, financial assurances, closure, postclosure observation and maintenance and institutional control of a regional facility.

Sec. 5.6. A host state intending to close a regional facility within its borders shall notify the commission in writing of its intention and the reasons therefor. Except as otherwise provided, such notification shall be given to the commission at least five years prior to the scheduled date of closure. A host state may close a regional facility within its borders in the event of an emergency or if a condition exists which constitutes a substantial threat to public health and safety. A host state shall notify the commission in writing within three days of its action and shall, within thirty working days, show justification for the closing. In the event that a regional facility closes before an

additional or new facility becomes operational, the commission shall make interim arrangements for the storage or disposal of waste generated within the region until such time as a new regional facility is operational.

Sec. 5.7. Fees and surcharges shall be imposed equitably upon all users of a regional facility, based upon criteria established by the commission. A host state shall, according to its lawful administrative procedures, approve fee schedules to be charged to all users of the regional facility within its borders. Except as provided herein, such fee schedules shall be established by the operator of a regional facility, under applicable state regulations, and shall be reasonable under applicable state regulations and shall be reasonable and sufficient to cover all costs related to the development, operation, closure, postclosure observation and maintenance and institutional control of the regional facility. The host state shall determine a schedule for contributions to the postclosure observation and maintenance and institutional control funds. Such fee schedules shall not be approved unless the commission has been given reasonable opportunity to review and make recommendations on the proposed fee schedules. A host state may, according to its lawful administrative procedures, impose a state surcharge per unit of waste received at any regional facility within its borders. The state surcharge shall be in addition to the fees charged for water management. The surcharge shall be sufficient to cover all reasonable costs associated with administration and regulation of the facility. The surcharge shall not be established unless the commission has been provided reasonable opportunity to review and make recommendations on the proposed state surcharge. The commission shall impose a commission surcharge per unit of waste received at any regional facility. The total moneys collected shall be adequate to pay the costs and expenses of the commission and shall be remitted to the commission on a timely basis as determined by the commission. The surcharge may be increased or decreased as the commission deems necessary. Nothing herein shall be construed to limit the ability of the host state, or the political subdivision in which the regional facility is situated, to impose surcharges for purposes including, but not limited to, host community compensation and host community development incentives. Such surcharges shall be reasonable and shall not be imposed unless the commission has been provided reasonable opportunity to review and make recommendations on the proposed surcharge. Such surcharge may be recovered through the approved fee and surcharge schedules provided for in this section.

ARTICLE VI. OTHER LAWS AND REGULATIONS

Sec. 6.1. Nothing in this compact shall be construed to abrogate or limit the regulatory responsibility or authority of the U.S. Nuclear Regulatory Commission or of an agreement state under Section 274 of the Atomic Energy Act of 1954, as amended. The laws or portions of those laws of a party state that are not inconsistent with this compact

remain in full force. Nothing in this compact shall make unlawful the continued development and operation of any facility already licensed for development or operation on the date this compact becomes effective. No judicial or administrative proceeding pending on the effective date of the compact shall be affected by the compact. Except as provided in sections 3.2 and 3.3 of Article III, this compact shall not affect the relations between and the respective internal responsibilities of the government of a party state and its subdivisions. The generation, treatment, storage, transportation or disposal of waste generated by the atomic energy defense activities of the federal government, as defined in P.L. 96-573, or federal research and development activities are not affected by this compact. To the extent that the rights and powers of any state or political subdivisions to license and regulate any facility within its borders and to impose taxes, fees, and surcharges on the waste managed at that regional facility do not operate as an unreasonable impediment to the transportation, treatment or disposal of waste, such rights and powers shall not be diminished by this compact. No party state shall enact any law or regulation or attempt to enforce any measure which is inconsistent with this compact. Such measures may provide the basis for the commission to suspend or terminate a party state's membership and privileges under this compact. Any legal right, obligation, violation or penalty arising under such laws or regulations prior to the enactment of this compact, or not in conflict with it, shall not be affected. Subject to Sec. 3.3 of Article III, no law or regulation of a party state or subdivision or instrumentality thereof may be applied so as to restrict or make more costly or inconvenient access to any regional facility by the generators of another party state than for the generators of the state where the facility is situated. No law, ordinance or regulation of any party state or any subdivision or instrumentality thereof shall prohibit, suspend, unreasonably delay, limit or restrict the operation of a siting or licensing agency in the designation, siting or licensing of a regional facility.

ARTICLE VII. ELIGIBLE PARTIES, WITHDRAWAL, REVOCATION, ENTRY INTO FORCE, TERMINATION

Sec. 7.1. The initially eligible party states to this compact shall be Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island and Vermont. Initial eligibility shall expire June 30, 1984.

Sec. 7.2. Each state eligible to become a party state to this compact shall be declared a party state upon enactment of this compact into law by the state, repeal of all statutes or statutory provisions that pose unreasonable impediments to the capability of the state to host a regional facility in a timely manner and upon payment of the fees required by section 4.3 of Article IV. An eligible state may become a party to this compact by an executive order by the governor of the state and upon payment of the fees required by section 4.3 of Article IV. Any state which becomes a party state by executive order shall

cease to be a party state upon the final adjournment of the next general or regular session of its legislature, unless this compact has by then been enacted as a statute by the state and all statutes and statutory provisions that conflict with the compact have been repealed. The compact shall become effective in a party state upon enactment by that state. It shall not become initially effective in the region until enacted into law by three party states and consent is given to it by the Congress.

Sec. 7.3. The first three states eligible to become party states to this compact which adopt this compact into law as required by section 7.2 of this Article shall immediately, upon the appointment of their commission members, constitute themselves as the Northeast Interstate Low-Level Radioactive Waste Commission. They shall cause legislation to be introduced in the Congress which grants the consent of the Congress to this compact and shall do those things necessary to organize the commission and implement the provisions of this compact. The commission shall be the judge of the qualifications of the party states and of its members and of their compliance with the conditions and requirements of this compact and of the laws of the party states relating to the enactment of this compact. All succeeding states eligible to become party states to this compact shall be declared party states pursuant to section 7.2 of this Article. Any state not expressly declared eligible to become a party state to this compact in section 7.1 of this Article may petition the commission to be declared eligible. The commission may establish such conditions as it deems necessary and appropriate to be met by a state requesting eligibility as a party state to this compact pursuant to this section, including a public hearing on the application. Upon satisfactorily meeting such conditions and upon the affirmative vote of two-thirds of the commission, including the affirmative vote of the representatives of the host states in which any affected regional facility is located, the petitioning state shall be eligible to become a party state to this compact and may become a party state in the same manner as those states declared eligible by section 7.1 of this Article. No state holding membership in any other regional compact for the management of low-level radioactive waste may become a member of this compact. Any party state which fails to comply with the provisions of this compact or to fulfill its obligations hereunder may have its privileges suspended or, upon a two-thirds vote of the commission, after full opportunity for hearing and comment, have its membership in the compact revoked. Revocation shall take 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 shall cease upon the effective date of revocation, except that any legal obligations of that party state arising prior to revocation shall not cease until they have been fulfilled. As soon as practicable after a commission decision suspending or revoking party state status, the commission shall provide written notice of the action and a copy of the resolution to the governors and the presiding officers of each body of the state legislatures of the party states and to the chairmen of the appropriate committee of the Congress.

Sec. 7.4. Any party state may withdraw from this compact by repealing its authorization legislation and all legal rights under this compact of the party state shall cease upon repeal. However, no such withdrawal shall take effect until five years after the governor of the withdrawing state has given notice in writing of such withdrawal to the commission and to the governor of each party state. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to that time. Upon receipt of the notification, the commission shall, as soon as practicable, provide copies to the governors and the presiding officer of each body of the state legislatures of the party states and to the chairmen of the appropriate committees of the Congress. A regional facility in a withdrawing state shall remain available to the region for five years after the date the commission receives written notification of the intent to withdraw or until the prescheduled date of closure, whichever occurs first. This compact may be terminated only by the affirmative action of the Congress or by the repeal of all laws enacting the compact in each party state. The Congress may by law withdraw its consent every five years after the compact takes effect. The consent given to this compact by the Congress shall extend to any future admittance of new party states pursuant to sections 7.2 and 7.3 of this Article. The withdrawal of a party state from this compact pursuant to section 7.4 or the revocation of a state's membership in this compact pursuant to section 7.3 of this Article shall not affect the applicability of the compact to the remaining party states.

ARTICLE VIII. PENALTIES

Sec. 8.1. Each party state, consistent with federal and host state regulations and laws, shall enforce penalties against any person not acting as an official of a party state for violation of this compact in the party state. Each party state acknowledges that the shipment to a host state of waste packaged or transported in violation of applicable laws and regulations can result in the imposition of sanctions by the host state. These sanctions may include, but are not limited to, suspension or revocation of the violator's right of access to the facility in the host state.

Sec. 8.2. Without the express approval of the commission, it shall be unlawful for any person to dispose of any low-level waste within the region except at a regional facility; provided that this restriction shall not apply to waste which is permitted by applicable federal or state regulations to be discarded without regard to its radioactivity.

Sec. 8.3. Unless specifically approved by the commission and any affected host state or states pursuant to Article IV, it shall be a violation of this compact for any person to deposit at a regional facility waste not generated within the region, for any regional facility to accept waste not generated within the region and for any person to export from the region waste generated within the region. Primary responsibility for enforcing

provisions of the law shall rest with the affected state or states. The commission, upon a two-thirds vote of its members, may bring action to seek enforcement or appropriate remedies against violators of the provisions and regulations for this compact as provided for in Article IV.

ARTICLE IX. COMPENSATION PROVISIONS

Sec. 9.1. The responsibility for ensuring compensation and cleanup during the operational and postclosure periods of a regional facility rests with the host state, as set forth herein. The host state shall ensure the availability of funds and procedures for compensation of injured persons, including facility employees, and property damage, except any claims for diminution of property values, due to the existence and operation of a regional facility, and for cleanup and restoration of the facility and surrounding areas. The host state may satisfy this obligation by requiring bonds, insurance, compensation funds, or any other means or combination of means, imposed either on the facility operator or assumed by the state itself, or both. Nothing in this Article shall alter the liability of any person or governmental entity under applicable state and federal laws.

Sec. 9.2. The commission shall provide a means of compensation for persons injured or property damaged during the institutional control period due to the radioactive and waste management nature of the regional facility. This responsibility may be met by a special fund, insurance or other means. The commission is authorized, at its discretion, to impose a waste management surcharge, to be collected by the operator or owner of the regional facility; to establish a separate insurance entity, formed by but separate from the commission itself, but under such terms and conditions as it decides, and exempt from state insurance regulation; to contract with this company or other entity for coverage or to take any other measures, or combination of measures, and to implement the goals of this section. The existence of this fund or other means of compensation shall not imply any liability by the commission, the nonhost party states or any of their officials and staff, which are exempt from liability by other provisions of this compact. Claims or suits for compensation shall be directed against the fund, the insurance company or other entity, unless the commission, by regulation, directs otherwise. Notwithstanding any other provisions, the commission fund, insurance or other means of compensation shall also be available for third party relief during the operational and postclosure period, as the commission may direct, but only to the extent that no other funds, insurance, tort compensation or other means are available from the host state or other entities, under section 9.1 of this Article or otherwise; provided, that this commission contribution shall not apply to cleanup or restoration of the regional facility and its environs during the operational and postclosure period. The liability of the commission's fund, insurance entity or any other means of compensation shall be

limited to the amount currently contained therein; provided that the commission may set some lower limit to ensure the integrity and availability of the fund or other entity for liability.

ARTICLE X. SEVERABILITY AND CONSTRUCTION

Sec. 10.1. The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision of this compact is declared by a federal court of competent jurisdiction to be contrary to the Constitution 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 other government, agency, person or circumstance shall not be affected thereby. The provisions of this section shall be liberally construed to give effect to the purposes thereof.

(June Sp. Sess. P.A. 83-2, S. 1; P.A. 95-79, S. 96, 189.)

History: P.A. 95-79 amended Art. II to redefine “person” to include a limited liability company, effective May 31, 1995.

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Sec. 22a-161a. Commission membership. The Governor shall appoint one member to the Northeast Interstate Low-Level Radioactive Waste Commission.

(June Sp. Sess. P.A. 83-2, S. 2.)

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Sec. 22a-161b. Governor's powers. The Governor shall have all powers necessary or incidental to implement the provisions of the Northeast Interstate Low-Level Radioactive Waste Management Compact.

(June Sp. Sess. P.A. 83-2, S. 3.)

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Sec. 22a-161c. Storage, treatment and disposal of radioactive waste. Notwithstanding the provisions of section 22a-137 or any other law or regulation to the contrary, section 22a-161 shall govern the storage, treatment and disposal of low-level radioactive waste.

(June Sp. Sess. P.A. 83-2, S. 4.)

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Sec. 22a-161d. Municipal approval required for disposal of waste generated outside Compact. The Connecticut commissioner of the Northeast Interstate Low-Level Radioactive Waste Compact shall not take any action which accepts for disposal any low-level radioactive waste which was generated outside the Northeast Interstate Low-Level Radioactive Waste Compact unless approval for such disposal is granted, in writing, by the chief elected official of the municipality in which a low-level radioactive waste disposal facility is located.

(P.A. 92-45, S. 3, 7; P.A. 06-76, S. 8.)

History: P.A. 06-76 deleted “as defined in section 22a-163a” re low-level radioactive waste.

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Sec. 22a-162. Standards for the operation of sources of nonionizing radiation. (a) For the purpose of preventing possible harmful effects in human beings from exposure to electromagnetic fields in the radio frequency range, as defined in ANSI/IEEE C95.1-1992, “IEEE standards for safety levels with respect to human exposure to radio frequency electromagnetic fields, 3 kHz to 300 GHz”, as amended from time to time, the Commissioner of Energy and Environmental Protection may, by regulations adopted in accordance with the provisions of chapter 54, adopt the standards

recommended by ANSI/IEEE C95.1-1992, “safety levels with respect to human exposure to radio frequency electromagnetic fields, 3 kHz to 300 GHz”, as amended from time to time.

(b) Notwithstanding subsection (a) of this section, the following sources of nonionizing radiation shall be exempt from the standards: (1) Nonfixed sources such as portable, hand-held or mobile sources; (2) sources marketed as consumer products; (3) scientific or medical sources operating at frequencies designated for scientific or medical purposes by the Federal Communications Commission; (4) sources which have an effective radiated power of seven watts or less; and (5) sources of nonionizing radiation, as recommended in ANSI/IEEE C95.1-1992, as amended from time to time. The Commissioner of Energy and Environmental Protection may, by regulations adopted in accordance with the provisions of chapter 54, exempt sources of nonionizing radiation from the standards.

(P.A. 84-383, S. 1, 5; P.A. 94-89, S. 10; P.A. 11-80, S. 1.)

History: P.A. 94-89 amended Subsec. (a) to delete a specific frequency defining the regulated electromagnetic field range and provided instead for the definition contained in ANSI/IEEE C95.1-1992, as amended, and amended Subsec. (b) to provide exemptions recommended by ANSI/IEEE C95.1-1992; pursuant to P.A. 11-80, “Commissioner of Environmental Protection” was changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection”, effective July 1, 2011.

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Sec. 22a-162a. Compliance with standards. On and after the effective date of the standards adopted in accordance with section 22a-162, no person shall operate a new source of nonionizing radiation in the radio frequency spectrum in excess of the standards. Any source of nonionizing radiation in the radio frequency spectrum operating on or before the effective date of the standards shall comply with the standards upon determination by the commissioner that such source compromises the purposes of section 22a-162.

(P.A. 84-383, S. 2, 5; P.A. 94-89, S. 11.)

History: P.A. 94-89 deleted a reference to a specific frequency range for purposes of the requirements of this section.

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Secs. 22a-163 to 22a-165h. Connecticut Hazardous Waste Management Service: Low-level radioactive waste. Low-Level Radioactive Waste Management Fund. Sections 22a-163 to 22a-165h, inclusive, are repealed, effective October 1, 2006.

(P.A. 87-540, S. 1–21, 25, 26; P.A. 88-230, S. 1, 12; 88-243, S. 1, 3; 88-361, S. 1–20, 22, 26, 27, 29; P.A. 89-330, S. 1–9; P.A. 90-98, S. 1, 2; 90-271, S. 15, 24; P.A. 91-63, S. 1, 2; 91-326, S. 1, 2, 4; 91-337, S. 4–12, 14, 15; 91-407, S. 21; June 26 Sp. Sess. P.A. 91-1, S. 1–4; P.A. 92-45, S. 1, 2, 4–7; 92-235, S. 5, 6; P.A. 93-142, S. 4, 7, 8; 93-174, S. 1–6; 93-381, S. 9, 39; P.A. 95-79, S. 97, 189; 95-220, S. 4–6; 95-250, S. 1; 95-257, S. 12, 21, 58; P.A. 96-211, S. 1, 5, 6; June Sp. Sess. P.A. 01-9, S. 61–63, 131; P.A. 03-19, S. 63; P.A. 06-76, S. 31.)

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