

dent pro tempore of the Senate an up-to-date report containing a detailed description of the activities of the Secretary in carrying out the project, including agreements entered into and the costs incurred during the period reported on and the activities to be undertaken in the next fiscal year and the estimated costs thereof.

“SEC. 5. (a) Other than the costs and responsibilities established by this Act for the project, nothing in this Act shall be construed as affecting any rights, obligations, or liabilities of the commercial operator of the Center, the State, or any person, as is appropriate, arising under the Atomic Energy Act of 1954 [this chapter] or under any other law, contract, or agreement for the operation, maintenance, or decontamination of any facility or property at the Center or for any wastes at the Center. Nothing in this Act shall be construed as affecting any applicable licensing requirement of the Atomic Energy Act of 1954 or the Energy Reorganization Act of 1974 [section 5801 et seq. of this title]. This Act shall not apply or be extended to any facility or property at the Center which is not used in conducting the project. This Act may not be construed to expand or diminish the rights of the Federal Government.

“(b) This Act does not authorize the Federal Government to acquire title to any high level radioactive waste at the Center or to the Center or any portion thereof.

“SEC. 6. For purposes of this Act:

“(1) The term ‘Secretary’ means the Secretary of Energy.

“(2) The term ‘Commission’ means the Nuclear Regulatory Commission.

“(3) The term ‘State’ means the State of New York.

“(4) The term ‘high level radioactive waste’ means the high level radioactive waste which was produced by the reprocessing at the Center of spent nuclear fuel. Such term includes both liquid wastes which are produced directly in reprocessing, dry solid material derived from such liquid waste, and such other material as the Commission designates as high level radioactive waste for purposes of protecting the public health and safety.

“(5) The term ‘transuranic waste’ means material contaminated with elements which have an atomic number greater than 92, including neptunium, plutonium, americium, and curium, and which are in concentrations greater than 10 nanocuries per gram, or in such other concentrations as the Commission may prescribe to protect the public health and safety.

“(6) The term ‘low level radioactive waste’ means radioactive waste not classified as high level radioactive waste, transuranic waste, or byproduct material as defined in section 11e. (2) of the Atomic Energy Act of 1954 [section 2014(e)(2) of this title].

“(7) The term ‘project’ means the project prescribed by section 2(a).

“(8) The term ‘Center’ means the Western New York Service Center in West Valley, New York.”

[For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103-7 (in which a report required under section 4 of Pub. L. 96-368, set out above, is listed in item 1 on page 84), see section 3003 of Pub. L. 104-66, as amended, and section 1(a)(4) [div. A, §1402(1)] of Pub. L. 106-554, set out as notes under section 1113 of Title 31, Money and Finance.]

### § 2021b. Definitions

For purposes of sections 2021b to 2021j of this title:

#### (1) Agreement State

The term “agreement State” means a State that—

(A) has entered into an agreement with the Nuclear Regulatory Commission under section 2021 of this title; and

(B) has authority to regulate the disposal of low-level radioactive waste under such agreement.

#### (2) Allocation

The term “allocation” means the assignment of a specific amount of low-level radioactive waste disposal capacity to a commercial nuclear power reactor for which access is required to be provided by sited States subject to the conditions specified under sections 2021b to 2021j of this title.

#### (3) Commercial nuclear power reactor

The term “commercial nuclear power reactor” means any unit of a civilian light-water moderated utilization facility required to be licensed under section 2133 or 2134(b) of this title.

#### (4) Compact

The term “compact” means a compact entered into by two or more States pursuant to sections 2021b to 2021j of this title.

#### (5) Compact commission

The term “compact commission” means the regional commission, committee, or board established in a compact to administer such compact.

#### (6) Compact region

The term “compact region” means the area consisting of all States that are members of a compact.

#### (7) Disposal

The term “disposal” means the permanent isolation of low-level radioactive waste pursuant to the requirements established by the Nuclear Regulatory Commission under applicable laws, or by an agreement State if such isolation occurs in such agreement State.

#### (8) Generate

The term “generate”, when used in relation to low-level radioactive waste, means to produce low-level radioactive waste.

#### (9) Low-level radioactive waste

##### (A) In general

The term “low-level radioactive waste” means radioactive material that—

(i) is not high-level radioactive waste, spent nuclear fuel, or byproduct material (as defined in section 2014(e)(2) of this title); and

(ii) the Nuclear Regulatory Commission, consistent with existing law and in accordance with paragraph (A), classifies as low-level radioactive waste.

##### (B) Exclusion

The term “low-level radioactive waste” does not include byproduct material (as defined in paragraphs (3) and (4) of section 2014(e) of this title).

#### (10) Non-sited compact region

The term “non-sited compact region” means any compact region that is not a sited compact region.

#### (11) Regional disposal facility

The term “regional disposal facility” means a non-Federal low-level radioactive waste dis-

posal facility in operation on January 1, 1985, or subsequently established and operated under a compact.

**(12) Secretary**

The term “Secretary” means the Secretary of Energy.

**(13) Sited compact region**

The term “sited compact region” means a compact region in which there is located one of the regional disposal facilities at Barnwell, in the State of South Carolina; Richland, in the State of Washington; or Beatty, in the State of Nevada.

**(14) State**

The term “State” means any State of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(Pub. L. 96-573, §2, as added Pub. L. 99-240, title I, §102, Jan. 15, 1986, 99 Stat. 1842; amended Pub. L. 109-58, title VI, §651(e)(3)(B), Aug. 8, 2005, 119 Stat. 808.)

**Editorial Notes**

**CODIFICATION**

Section was enacted as part of the Low-Level Radioactive Waste Policy Act, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

**CONSTITUTIONALITY**

For constitutionality of certain provisions of Low-Level Radioactive Waste Policy Act [sections 2021b to 2021j of this title], see Congressional Research Service, *The Constitution of the United States of America: Analysis and Interpretation, Table of Laws Held Unconstitutional in Whole or in Part by the Supreme Court of the United States.*

**PRIOR PROVISIONS**

A prior section 2021b, Pub. L. 96-573, §2, Dec. 22, 1980, 94 Stat. 3347, related to definitions respecting low-level radioactive waste policy as used in former sections 2021b to 2021d of this title, prior to repeal by Pub. L. 99-240, §102.

**AMENDMENTS**

2005—Par. (9). Pub. L. 109-58 designated existing provisions as subpar. (A), inserted heading, redesignated former subpars. (A) and (B) as cls. (i) and (ii), respectively, and added subpar. (B).

**Statutory Notes and Related Subsidiaries**

**SHORT TITLE OF 1986 AMENDMENT**

Pub. L. 99-240, title I, §101, Jan. 15, 1986, 99 Stat. 1842, provided that: “This Title [enacting this section and sections 2021c to 2021j of this title, repealing former sections 2021b to 2021d of this title, and enacting and repealing a provision set out as a note under this section] may be cited as the ‘Low-Level Radioactive Waste Policy Amendments Act of 1985’.”

**SHORT TITLE**

Pub. L. 96-573, §1, as added by Pub. L. 99-240, title I, §102, Jan. 15, 1986, 99 Stat. 1842, provided that: “This Act [enacting sections 2021b to 2021j of this title] may be cited as the ‘Low-Level Radioactive Waste Policy Act’.”

A prior section 1 of Pub. L. 96-573, which provided that Pub. L. 96-573 [enacting former sections 2021b to 2021d of this title] could be cited as the “Low-Level Radioactive Waste Policy Act”, was repealed by Pub. L. 99-240, title I, §102, Jan. 15, 1986, 99 Stat. 1842.

**§ 2021c. Responsibilities for disposal of low-level radioactive waste**

(a)(1) Each State shall be responsible for providing, either by itself or in cooperation with other States, for the disposal of—

(A) low-level radioactive waste generated within the State (other than by the Federal Government) that consists of or contains class A, B, or C radioactive waste as defined by section 61.55 of title 10, Code of Federal Regulations, as in effect on January 26, 1983;

(B) low-level radioactive waste described in subparagraph (A) that is generated by the Federal Government except such waste that is—

(i) owned or generated by the Department of Energy;

(ii) owned or generated by the United States Navy as a result of the decommissioning of vessels of the United States Navy; or

(iii) owned or generated as a result of any research, development, testing, or production of any atomic weapon; and

(C) low-level radioactive waste described in subparagraphs (A) and (B) that is generated outside of the State and accepted for disposal in accordance with sections<sup>1</sup> 2021e or 2021f of this title.

(2) No regional disposal facility may be required to accept for disposal any material—

(A) that is not low-level radioactive waste as defined by section 61.55 of title 10, Code of Federal Regulations, as in effect on January 26, 1983, or

(B) identified under the Formerly Utilized Sites Remedial Action Program.

Nothing in this paragraph shall be deemed to prohibit a State, subject to the provisions of its compact, or a compact region from accepting for disposal any material identified in subparagraph (A) or (B).

(b)(1) The Federal Government shall be responsible for the disposal of—

(A) low-level radioactive waste owned or generated by the Department of Energy;

(B) low-level radioactive waste owned or generated by the United States Navy as a result of the decommissioning of vessels of the United States Navy;

(C) low-level radioactive waste owned or generated by the Federal Government as a result of any research, development, testing, or production of any atomic weapon; and

(D) any other low-level radioactive waste with concentrations of radionuclides that exceed the limits established by the Commission for class C radioactive waste, as defined by section 61.55 of title 10, Code of Federal Regulations, as in effect on January 26, 1983.

(2) All radioactive waste designated a Federal responsibility pursuant to subparagraph (b)(1)(D) that results from activities licensed by the Nuclear Regulatory Commission under the Atomic Energy Act of 1954, as amended, shall be disposed of in a facility licensed by the Nuclear Regulatory Commission that the Commission determines is adequate to protect the public health and safety.

<sup>1</sup> So in original. Probably should be “section”.