

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”.

(3) Not later than 12 months after January 15, 1986, the Secretary shall submit to the Congress a comprehensive report setting forth the recommendations of the Secretary for ensuring the safe disposal of all radioactive waste designated a Federal responsibility pursuant to subparagraph (b)(1)(D). Such report shall include—

(A) an identification of the radioactive waste involved, including the source of such waste, and the volume, concentration, and other relevant characteristics of such waste;

(B) an identification of the Federal and non-Federal options for disposal of such radioactive waste;

(C) a description of the actions proposed to ensure the safe disposal of such radioactive waste;

(D) a description of the projected costs of undertaking such actions;

(E) an identification of the options for ensuring that the beneficiaries of the activities resulting in the generation of such radioactive wastes bear all reasonable costs of disposing of such wastes; and

(F) an identification of any statutory authority required for disposal of such waste.

(4) The Secretary may not dispose of any radioactive waste designated a Federal responsibility pursuant to paragraph (b)(1)(D) that becomes a Federal responsibility for the first time pursuant to such paragraph until ninety days after the report prepared pursuant to paragraph (3) has been submitted to the Congress.

(Pub. L. 96-573, §3, as added Pub. L. 99-240, title I, §102, Jan. 15, 1986, 99 Stat. 1843.)

#### Editorial Notes

##### REFERENCES IN TEXT

The Atomic Energy Act of 1954, referred to in subsec. (b)(2), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

January 15, 1986, referred to in subsec. (b)(3), was in the original “the date of enactment of this Act” and was translated as meaning the date of enactment of Pub. L. 99-240 to reflect the probable intent of Congress.

##### 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.

##### PRIOR PROVISIONS

A prior section 2021c, Pub. L. 96-573, §3, Dec. 22, 1980, 94 Stat. 3347, related to the applicability of low-level radioactive waste compacts, prior to repeal by Pub. L. 99-240, §102. See section 2021d of this title.

#### § 2021d. Regional compacts for disposal of low-level radioactive waste

##### (a) In general

###### (1) Federal policy

It is the policy of the Federal Government that the responsibilities of the States under section 2021c of this title for the disposal of low-level radioactive waste can be most safely and effectively managed on a regional basis.

##### (2) Interstate compacts

To carry out the policy set forth in paragraph (1), the States may enter into such compacts as may be necessary to provide for the establishment and operation of regional disposal facilities for low-level radioactive waste.

##### (b) Applicability to Federal activities

###### (1) In general

###### (A) Activities of the Secretary

Except as provided in subparagraph (B), no compact or action taken under a compact shall be applicable to the transportation, management, or disposal of any low-level radioactive waste designated in section 2021c(a)(1)(B)(i)–(iii) of this title.

###### (B) Federal low-level radioactive waste disposed of at non-Federal facilities

Low-level radioactive waste owned or generated by the Federal Government that is disposed of at a regional disposal facility or non-Federal disposal facility within a State that is not a member of a compact shall be subject to the same conditions, regulations, requirements, fees, taxes, and surcharges imposed by the compact commission, and by the State in which such facility is located, in the same manner and to the same extent as any low-level radioactive waste not generated by the Federal Government.

##### (2) Federal low-level radioactive waste disposal facilities

Any low-level radioactive waste disposal facility established or operated exclusively for the disposal of low-level radioactive waste owned or generated by the Federal Government shall not be subject to any compact or any action taken under a compact.

##### (3) Effect of compacts on Federal law

Nothing contained in sections 2021b to 2021j of this title or any compact may be construed to confer any new authority on any compact commission or State—

(A) to regulate the packaging, generation, treatment, storage, disposal, or transportation of low-level radioactive waste in a manner incompatible with the regulations of the Nuclear Regulatory Commission or inconsistent with the regulations of the Department of Transportation;

(B) to regulate health, safety, or environmental hazards from source material, by-product material, or special nuclear material;

(C) to inspect the facilities of licensees of the Nuclear Regulatory Commission;

(D) to inspect security areas or operations at the site of the generation of any low-level radioactive waste by the Federal Government, or to inspect classified information related to such areas or operations; or

(E) to require indemnification pursuant to the provisions of chapter 171 of title 28 (commonly referred to as the Federal Tort Claims Act), or section 2210 of this title, whichever is applicable.

##### (4) Federal authority

Except as expressly provided in sections 2021b to 2021j of this title, nothing contained